

THE CONGRESSIONAL GLOBE: 28
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CONTAINING

THE DEBATES AND PROCEEDING

OF

THE FIRST SESSION

OF

THE THIRTY-NINTH CONGRESS.

BY F. & J. RIVES.

CITY OF WASHINGTON:
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THE CONGRESSIONAL GLOBE.

THIRTY-NINTH CONGRESS. FIRST SESSION.

IN SENATE.

MONDAY, December 4, 1865.

This being the day prescribed by the Constitution of the United States for the meeting of Congress, the Senate assembled in the Senate Chamber, in the Capitol, at the city of Washington.

The following Senators were present. From the State of

Maine—Hon. William Pitt Fessenden and Hon. Lot M. Morrill.

New Hampshire—Hon. Daniel Clark.

Vermont—Hon. Solomon Foot.

Massachusetts—Hon. Charles Sumner and Hon. Henry Wilson.

Rhode Island—Hon. Henry B. Anthony and Hon. William Sprague.

Connecticut—Hon. James Dixon and Hon. La Fayette S. Foster.

New York—Hon. Ira Harris and Hon. Edwin D. Morgan.

New Jersey—Hon. William Wright.

Pennsylvania—Hon. Charles R. Buckalew and Hon. Edgar Cowan.

Delaware—Hon. George Read Riddle and Hon. Willard Saulsbury.

Maryland—Hon. J. A. J. Creswell and Hon. Reverdy Johnson.

Kentucky—Hon. James Guthrie.

Ohio—Hon. John Sherman and Hon. Benjamin F. Wade.

Indiana—Hon. Henry S. Lane.

Illinois—Hon. Lyman Trumbull.

Missouri—Hon. B. Gratz Brown.

Michigan—Hon. Zachariah Chandler and Hon. Jacob M. Howard.

Wisconsin—Hon. James R. Doolittle and Hon. Timothy O. Howe.

Iowa—Hon. James W. Grimes.

California—Hon. John Conness and Hon. James A. McDougall.

Minnesota—Hon. Daniel S. Norton and Hon. Alexander Ramsey.

Oregon—Hon. James W. Nesmith and Hon. George H. Williams.

Kansas—Hon. Samuel C. Pomeroy.

West Virginia—Hon. Peter G. Van Winkle and Hon. Waitman T. Willey.

Nevada—Hon. James W. Nye and Hon. William M. Stewart.

The PRESIDENT *pro tempore* [Hon. LA FAYETTE S. FOSTER] at twelve o'clock called the Senate to order.

PRAYER.

Rev. EDGAR H. GRAY, the Chaplain to the Senate for the Thirty-Ninth Congress, offered the following prayer:

Glory be to Thy name, O God, that the Republic still lives, the nation survives, the country is safe! Glory be to Thy name that our

heroic efforts have been crowned with victory, so that the desolations of war have ceased, and the ground no longer shakes beneath the tread of armies! Glory be to Thy name that we are permitted to recognize God in the dispensations of His providence and His grace in dealing with us! We praise Thee with thanksgiving that the statue of Freedom now looks down from our Capitol upon an entire nation of free men, and that we are permitted by the dispensations of Thy providence, and the way being prepared, to give liberty to the captive, the opening of the prison to them that are bound, and to proclaim the acceptable year of our God. O Lord, we bless Thee that Thy servants are permitted to convene in these halls of legislation under circumstances so auspicious to deliberate upon matters grave and important to the interests of the nation. Grant, we pray Thee, that all their deliberations and enactments may be such as to secure the divine approval, and insure the unanimous acquiescence of our people, and command the respect of the nations of the earth. O Lord, grant that the afflictive dispensations of Thy providence, and the public bereavements which the nation and the Senate have suffered since they last convened, may be preëminently sanctified to our good. And bless, we pray Thee, our President and the ministers of State associated with him in authority, and endue them richly with wisdom and strength adequate to their great responsibilities. And grant that the principles of our free and glorious Government may be established upon an everlasting basis, and come, Thou Ancient of days, and reign over us forever. Amen.

The PRESIDENT *pro tempore* took the chair.

CREDENTIALS.

Mr. FOOT. Mr. President, I present the credentials of Hon. LUKE P. POLAND, appointed by the Executive of the State of Vermont, to fill the vacancy which recently occurred in the representation from that State in this body. I move that the credentials be read, the prescribed oaths administered to Mr. POLAND by the Chair, and that he be admitted to his seat.

The credentials were read, and the oaths prescribed by law having been administered to Mr. POLAND, he took his seat in the Senate.

Mr. WRIGHT. Mr. President, I desire to present the credentials of Hon. JOHN P. STOCKTON, of New Jersey, elected a Senator by the Legislature of that State to serve for six years from the 4th of March last. I ask that the credentials be read.

The Secretary read the credentials.

Mr. WRIGHT. Mr. Stockton is present, and is ready to be qualified.

The PRESIDENT *pro tempore*. Mr. Stockton will be good enough to come forward and take the oaths prescribed by the Constitution and laws.

Mr. COWAN. Before the oaths are administered, I beg leave to present the protest of several members of the Legislature of New Jersey, protesting against the right of Mr. STOCKTON to take his seat here as a Senator. I do not desire to raise the question as to whether he may not be sworn, because I believe his credentials are *prima facie* sufficient for that purpose, but I desire that these papers may be laid before the Senate and referred to the Committee on the Judiciary when that committee shall be organized, in order that the prayer of the memorialists may be heard and such order taken upon it as the Senate in their wisdom may decree.

The PRESIDENT *pro tempore*. The protest will be received.

Mr. COWAN. I move that it lie on the table until the Committee on the Judiciary be organized.

The PRESIDENT *pro tempore*. The protest will be received and laid on the table. If no objection be made, Mr. STOCKTON will be good enough to come forward and take the oaths prescribed by the Constitution and laws.

The prescribed oaths were then administered to Mr. STOCKTON, and he took his seat in the Senate.

BILLS INTRODUCED.

Mr. WADE. Is it in order to introduce a bill?

The PRESIDENT *pro tempore*. It is in order if there be no objection. It requires a day's notice under the rules, but it can be received if there be no objection.

Mr. WADE. I ask leave to introduce a bill of which no notice has been given.

The PRESIDENT *pro tempore*. Is any objection made?

Mr. JOHNSON. What is the title of the bill?

The PRESIDENT *pro tempore*. The title of the bill will be read.

The Secretary read it as follows:

A bill (S. No. 1) to regulate the elective franchise in the District of Columbia.

Mr. McDOUGALL. I object.

Mr. WADE. Objection being made, I give notice that I shall introduce it to-morrow.

The PRESIDENT *pro tempore*. The Chair did not hear the objection.

Mr. McDOUGALL. Then I could not make myself audible. I want to know what the bill is.

The PRESIDENT *pro tempore*. Does the Senator from California object to the introduction of the bill?

Mr. McDOUGALL. I will not; I will look at it afterwards.

Mr. WADE. If there be no objection, I move that it lie on the table until the committees are appointed.

The PRESIDENT *pro tempore*. The bill having had its first reading, will lie on the table as a matter of course.

Mr. WADE. I move that the bill be printed. The motion was agreed to.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce the following bills and joint resolution, which were severally read the first time by their titles, and ordered to be printed:

A bill (S. No. 2) to preserve the right of trial by jury by securing impartial jurors in the courts of the United States.

A bill (S. No. 3) to carry out the principles of a republican form of government in the District of Columbia.

A bill (S. No. 4) to prescribe an oath to maintain a republican form of government in the rebel States.

A bill (S. No. 5) in part execution of the guarantee of a republican form of government in the Constitution of the United States.

A bill (S. No. 6) supplying appropriate legislation to enforce the amendment to the Constitution prohibiting slavery.

A bill (S. No. 7) to enforce the guarantee of a republican form of government in certain States whose governments have been usurped or overthrown.

A joint resolution (S. R. No. 1) proposing an amendment to the Constitution of the United States.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 8) to reorganize the judiciary of the United States; which was read the first time, and ordered to lie on the table and be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 9) to maintain the freedom of the inhabitants in the States declared in insurrection and rebellion by the proclamation of the President of the 1st of July, 1862; which was read the first time, and ordered to lie on the table and be printed.

ANTI-SLAVERY AMENDMENT.

Mr. SUMNER submitted the following concurrent resolution declaratory of the adoption of the constitutional amendment abolishing slavery; which was ordered to lie on the table and be printed:

Whereas the Congress, by a vote of two thirds of both Houses, did heretofore propose to the Legislatures of the several States, for ratification, an amendment to the Constitution in the following words, to wit:

"ARTICLE XIII.

"Sec. 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

"Sec. 2. Congress shall have power to enforce this article by appropriate legislation."

And whereas, at the time when such amendment was submitted as well as since, there were sundry States which, by reason of rebellion, were without Legislatures, so that, while the submission was made in due constitutional form, it was not, as it could not be, made to all the States, but to "the Legislatures of the several States," in obedience both to the letter and spirit of the provision of the Constitution authorizing amendments, there being a less number of Legislatures of States than there were States; and whereas, since the Constitution expressly authorizes amendments to be made, any construction thereof which would render the making of amendments at times impossible, must violate both its letter and its spirit; and whereas, to require the ratification to be by States without Legislatures as well as by "the Legislatures of the States," in order to be pronounced valid, would put it in the power of a long-continued rebellion to suspend, not only the peace of the nation, but its Constitution also; and whereas, from the terms of the Constitution, and the nature of the case, it belongs to the two Houses of Congress to determine when such ratification is complete; and whereas more than three fourths of the Legislatures to which the proposition was made have ratified such amendment: Now, therefore,

Be it resolved by the Senate, (the House of Representatives concurring,) That the amendment abolishing slavery has become, and is, a part of the Constitution of the United States.

Resolved, That notwithstanding the foregoing resolution, and considering the great public interest which attaches to this question, the Legislatures which have not ratified the amendment, be permitted to express their concurrence therein by the usual form of ratification to be returned in the usual manner.

Resolved, That no one of the States, to the Legislature of which such amendment could not be submitted, by reason of its being in rebellion against the United States, and having no Legislature, be permitted to resume its relations, and have its Legislature acknowledged, and its Senators and Representatives admitted, until its Legislature shall have first ratified such amendment in recognition of the accomplished fact.

RESTORATION OF REBEL STATES.

Mr. SUMNER submitted for consideration the following resolutions; which lie over under the rules:

Resolutions declaratory of the duty of Congress in respect to guarantees of the national security and the national faith in the rebel States.

Resolved, That, in order to provide proper guarantees for security in the future, so that peace and prosperity shall surely prevail, and the plighted faith of the nation shall be preserved, it is the first duty of Congress to take care that no State declared to be in rebellion shall be allowed to resume its relations to the Union until after the satisfactory performance of five several conditions, which conditions precedent must be submitted to a popular vote, and be sanctioned by a majority of the people of each State respectively, as follows:

(1.) The complete reestablishment of loyalty, as shown by an honest recognition of the unity of the Republic, and the duty of allegiance to it at all times, without mental reservation or equivocation of any kind.

(2.) The complete suppression of all oligarchical pretensions, and the complete enfranchisement of all citizens, so that there shall be no denial of rights on account of color or race; but justice shall be impartial, and all shall be equal before the law.

(3.) The rejection of the rebel debt, and at the same time the adoption, in just proportion, of the national debt and the national obligations to Union soldiers, with solemn pledges never to join in any measure, direct or indirect, for their repudiation, or in any way tending to impair the national credit.

(4.) The organization of an educational system for the equal benefit of all without distinction of color or race.

(5.) The choice of citizens for office, whether State or national, of constant and undoubted loyalty, whose conduct and conversation shall give assurance of peace and reconciliation.

Resolved, That in order to provide these essential safeguards, without which the national security and the national faith will be imperiled, States cannot be precipitated back to political power and independence; but they must wait until these conditions are in all respects fulfilled.

CONDITIONS OF RESTORATION.

Mr. SUMNER submitted the following resolutions for consideration; which were ordered to be printed:

Resolutions declaratory of the duty of Congress, especially in respect to loyal citizens in rebel States.

Whereas it is provided by the Constitution that "the United States shall guaranty to every State in this Union a republican form of government;" and whereas there are certain States where, by reason of rebellion, there are no State governments recognized by Congress; and whereas, because of the failure of such States respectively to maintain State governments, it has become the duty of Congress, standing in the place of guarantor, where the principal has made a lapse, to provide governments, republican in form, for such States respectively: Now, therefore, in order to declare the duty of Congress,

(1.) Resolved, That whenever a convention is called in any of such States for the organization of a government, the following persons have a right to be represented therein, namely, the citizens of the State who have taken no part in the rebellion; especially all those whose exclusion from the ballot enabled the rest to carry the State into the rebellion, and still more especially those who became soldiers in the armies of the Union, and by their valor on the battlefield turned the tide of war and made the Union triumphant; and Congress must refuse to sanction the proceedings of any convention composed of delegates chosen by men recently in arms against the Union, and excluding men who periled their lives in its defense; unless its proceedings have been first approved by those hereby declared to be entitled to participate therein.

(2.) Resolved, That the Constitution of the United States being supreme over State laws and State constitutions in respect of these matters upon which it speaks, and the duty being now imposed by it on Congress to legislate for the establishment of government in such States respectively, it is hereby declared that no supposed State law or State constitution can be set up as an impediment to the national power in the discharge of this duty.

(3.) Resolved, That since, also, it has become the duty of Congress to determine what is a republican form of government, it is hereby declared that no government of a State recently in rebellion can be accepted as republican, where large masses of citizens who have been always loyal to the United States are excluded from the elective franchise, and especially where the wounded soldier of the Union, with all his kindred and race, and also the kindred of others whose bones whiten the battle-fields where they died for their country, are thrust away from the polls to give place to the very men by whose hands wound and death were inflicted; more particularly where, as in some of those States, the result would be to disfranchise the majority of the citizens who were always loyal, and give to the oligarchical minority recently engaged in carrying on the rebellion the power to oppress the loyal majority, even to the extent of driving them from their homes and depriving them of all opportunity of livelihood.

(4.) Resolved, That in all those cases where, by reason of rebellion, there is a lapse in the State government, and it becomes the duty of Congress to provide a government for the State, no government can be accepted as "a republican form of govern-

ment" where a large proportion of native-born citizens, charged with no crime and no failure of duty, is left wholly unrepresented, although compelled to pay taxes; and especially where a particular race is singled out and denied all representation, although compelled to pay taxes; more especially where such race constitutes the majority of the citizens, and where the enfranchised minority has forfeited its rights by rebellion; and more especially still where, by such exclusion, the oligarchical enemies of the Republic can practically compel it to break faith with national soldiers and national creditors to whose generosity it was indebted during a period of peril.

NOTICES OF BILLS.

Mr. BROWN gave notice of his intention to ask leave to introduce bills of the following titles:

A bill to authorize the construction of a bridge across the Mississippi river at the city of St. Louis; and

A bill to reimburse the State of Missouri for moneys expended in arming, equipping, and provisioning a militia force to aid in suppressing the rebellion, and for moneys otherwise expended in behalf of the United States.

HOOR OF MEETING.

On motion of Mr. FOOT, it was

Ordered, That the hour of the daily meeting of the Senate be twelve o'clock, meridian, until otherwise ordered.

RECESS.

Mr. POMEROY. If there is no business before the Senate, I move that the Senate do now adjourn.

Mr. FESSENDEN. I hope the Senator will not press an adjournment. Perhaps the other House may organize soon.

Mr. POMEROY. I withdraw the motion to adjourn and move that the Senate take a recess for half an hour.

Mr. CLARK. Say till one o'clock.

Mr. POMEROY. I accept that suggestion.

The PRESIDENT *pro tempore*. It is moved and seconded that the Senate take a recess until one o'clock.

Mr. SUMNER. Before that is put, I suggest that the better motion would be to adjourn. I believe it is the habit to adjourn early on the first day. I move that the Senate do now adjourn.

Mr. FESSENDEN. The same motion was made by the honorable Senator from Kansas, and was withdrawn on the suggestion that perhaps in a short time we should hear of the organization of the House.

Mr. SUMNER. I did not know it had been made.

The PRESIDENT *pro tempore*. Is the motion to adjourn withdrawn?

Mr. FESSENDEN. The ordinary course is to wait a little while.

Mr. SUMNER. I withdraw the motion.

The PRESIDENT *pro tempore*. It is moved that the Senate take a recess until one o'clock.

The motion was agreed to.

The PRESIDENT *pro tempore* resumed the chair at one o'clock p. m.

NOTIFICATION TO THE HOUSE.

Mr. FOOT. I move that the Senate adjourn. It seems probable that the other House will not be organized in time to enable us to inform the President to-day of the assembling of the two Houses, and their readiness to receive his communications.

Mr. TRUMBULL. Would it not be better first to make a motion directing that notification of our assembling be given to the other House?

Mr. FESSENDEN. I think that is not usual.

Mr. TRUMBULL. It is usual; at least it has been for the last four Congresses. I have looked into the precedents for ten years past, and the practice at the first session of each Congress has been for the Senate to meet and qualify its members, and then to pass an order directing the Secretary to inform the House of Representatives that the Senate has met and is ready to proceed to business, and then sometimes some little business has transpired and the Senate has adjourned until next day.

Mr. SUMNER. There is no objection to that.

Mr. FOOT. None at all. I withdraw the motion to adjourn, with a view to the introduction of the motion indicated.

Mr. TRUMBULL. I move, then, that the Secretary be directed to inform the House of Representatives that a quorum of the Senate has assembled, and that the Senate is ready to proceed to business.

The motion was agreed to.

Mr. FOOT. I now repeat the motion to adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, December 4, 1865.

This being the day prescribed by the Constitution for the meeting of Congress, the members of the House of Representatives assembled in their Hall, and at twelve o'clock, m., were called to order by Hon. EDWARD McPHERSON, Clerk of the last House of Representatives.

ORGANIZATION OF THE HOUSE.

The CLERK said: The hour having arrived for the meeting of the Thirty-Ninth Congress, the Clerk of the last House of Representatives will proceed, as required by law, to read by States the roll of members-elect. Gentlemen are requested to respond as their names are called.

The roll was then called, and the following members answered to their names:

MAINE.

John Lynch, John H. Rice,
Sidney Perham, Frederick A. Pike,
James G. Blaine.

NEW HAMPSHIRE.

Gilman Marston, James W. Patterson.
Edward H. Rollins.

VERMONT.

Frederick E. Woodbridge, Portus Baxter.
Justin S. Morrill.

MASSACHUSETTS.

Thomas D. Eliot, Nathaniel P. Banks,
Oakes Ames, George S. Boutwell,
Alexander H. Rice, John D. Baldwin,
Samuel Hooper, William B. Washburn,
John B. Alley, Henry L. Dawes.

RHODE ISLAND.

Thomas A. Jenckes, Nathan F. Dixon.

CONNECTICUT.

Henry C. Deming, Augustus Brandegee,
Samuel L. Warner, John H. Hubbard.

NEW YORK.

Stephen Tabor, Calvin T. Halburd,
Teunis G. Bergen, James M. Marvin,
James Humphrey, Demas Hubbard,
Nelson Taylor, Addison H. Laffin,
Henry J. Raymond, Roscoe Conkling,
John W. Chanler, Sidney T. Holmes,
James Brooks, Thomas T. Davis,
William A. Darling, Theodore M. Pomeroy,
William Radford, Daniel Morris,
Charles H. Winfield, Giles W. Hotchkiss,
John H. Ketcham, Hamilton Ward,
Edwin N. Hubbard, Roswell Hart,
Charles Goodyear, Burt Van Horn,
John A. Griswold, James M. Humphrey,
Robert S. Hale, Henry Van Aernam.

NEW JERSEY.

John F. Starr, Andrew J. Rogers,
William A. Newell, Edwin R. V. Wright,
Charles Sitgreaves.

PENNSYLVANIA.

Samuel J. Randall, Ulysses Mercur,
Charles O'Neill, George F. Miller,
Leonard Myers, Adam J. Glossbrenner,
William D. Kelley, Abraham A. Barker,
M. Russell Thayer, Stephen F. Wilson,
Benjamin M. Boyer, Glenni W. Scofield,
John M. Broomall, Charles V. Culver,
Sydenham E. Aucona, John L. Dawson,
Thaddeus Stevens, James K. Moorhead,
Myer Strouse, Thomas Williams,
Philip Johnson, George V. Lawrence,
Charles Denison.

DELAWARE.

John A. Nicholson.

MARYLAND.

Hiram McCullough, Charles E. Phelps.
John L. Thomas.

OHIO.

Benjamin Eggleston, Hezekiah S. Bundy,
Rutherford B. Hayes, William E. Finck,
Robert C. Schenck, Columbus Delano,
William Lawrence, Martin Welker,
Frank C. Le Blond, Tobias A. Plants,
Reader W. Clarke, John A. Bingham,
Samuel Shellabarger, Ephraim R. Eckley,
James R. Hubbell, Rufus P. Spalding,
Ralph P. Buckland, James A. Garfield,
James M. Ashley.

KENTUCKY.

L. S. Trimble, Green Clay Smith,
Burwell C. Ritter, George S. Shanklin,
Henry Grider, William H. Randall,
Aaron Harding, Samuel McKee.

INDIANA.

William E. Niblack, Ebenezer Dumont,
Michael C. Kerr, Godlove S. Orth,
Ralph Hill, Schuyler Colfax,
John H. Farquhar, Joseph H. Defrees,
George W. Julian, Thomas N. Stillwell.

ILLINOIS.

John Wentworth, Shelby M. Cullom,
John F. Farnsworth, Lewis W. Ross,
Elihu B. Washburne, Anthony Thornton,
Abner C. Harding, Samuel S. Marshall,
Ebon C. Ingersoll, Jehu Baker,
Burton C. Cook, Andrew J. Kuykendall,
Henry P. H. Bromwell, Samuel W. Moulton.

MISSOURI.

John Hogan, Robert T. Van Horn,
Henry T. Blow, Benjamin F. Loan,
Thomas E. Noell, John F. Benjamin,
John R. Kelso, George W. Anderson,
Joseph W. McClurg.

MICHIGAN.

Fernando C. Beaman, Thomas W. Ferry,
Charles Upson, Rowland E. Trowbridge,
John W. Longyear, John F. Driggs.

IOWA.

James F. Wilson, Josiah B. Grinnell,
Hiram Price, John A. Kasson,
William B. Allison, Asahel W. Hubbard.

WISCONSIN.

Halbert E. Paine, Charles A. Eldridge,
Ithamar C. Sloan, Philletus Sawyer,
Amasa Cobb, Walter D. McIndoe.

CALIFORNIA.

Donald C. McRuer, John Bidwell.
William Higby.

MINNESOTA.

William Windom, Ignatius Donnelly.

OREGON.

James H. D. Henderson.

KANSAS.

Sidney Clarke.

WEST VIRGINIA.

Chester D. Hubbard, Kellian V. Whaley.
George R. Latham.

NEW MEXICO.

J. Francisco Chaves, Arthur A. Denny.

NEBRASKA.

Phineas W. Hitchcock, Allen A. Bradford.

DAKOTA.

Walter A. Barleigh, E. D. Holbrook.

The following Members and Delegates failed to answer to their names:

Hons. MORGAN JONES, of New York; FRANCIS THOMAS and BENJAMIN G. HARRIS, of Maryland; LOVELL H. ROUSSEAU, of Kentucky; DANIEL W. VOORHEES, of Indiana; DELOS E. ASHLEY, of Nevada; WILLIAM H. HOOPER, of Utah; JOHN N. GOODWIN, of Arizona; and SAMUEL McLEAN, of Montana.

During the call of the roll, when the Clerk had reached the name of Hon. WILLIAM E. NIBLACK, of Indiana,

Mr. MAYNARD rose and said: Mr. Clerk, I beg to say that in calling the roll of mem-

The CLERK. The Clerk will be compelled

to object to any interruption of the call of the roll.

Mr. MAYNARD. Does the Clerk decline to hear me?

The CLERK. I decline to have any interruption of the call of the roll.

The call of the roll was then concluded.

The CLERK stated that, one hundred and seventy-six members having answered to their names, a quorum was present.

Mr. MORRILL. I move that the House do now proceed to the election of a Speaker of the Thirty-Ninth Congress.

Mr. MAYNARD. Before that motion is put—

Mr. STEVENS. I call the gentleman to order.

The CLERK. The Clerk rules, as a matter of order, that he cannot recognize any gentleman whose name is not upon his roll.

Mr. BROOKS. Mr. Clerk, I hope that motion will not prevail until it be settled who are members of this House—whether the honorable gentleman from Tennessee, [Mr. MAYNARD,] holding in his hand, I presume, the certificate of the Governor of that State, is entitled to be heard on his credentials or not. I trust that we shall not proceed to any revolutionary step like that without at least hearing from the honorable gentleman from Tennessee. For, if Tennessee is not in the Union, and has not been in the Union, and is not a loyal State, and the people of Tennessee are aliens and foreigners to this Union, by what right does the President of the United States usurp his place in the White House and in the capital of the country when an alien, as he must be, a foreigner, and not from a State in the Union?

I trust there will not be such rapidity of motion as that proposed: I trust that the honorable gentleman from Tennessee will be permitted to be heard. For, if a precedent can be established by the Clerk, and he can make a rule to exclude members from the floor of this House by his mere arbitrary will, this then ceases to be a Congress, and the Clerk of the House, but a servant of the House, is omnipotent over its organization. Is not the State of Tennessee in the Union?

Mr. WENTWORTH. I call the gentleman to order. I ask, what is the question before the House?

The CLERK. The question before the House is, Shall the House proceed to the election, *via voce*, of a Speaker? on which the gentleman from New York is entitled to the floor.

Mr. BROOKS. The honorable gentleman from Illinois, when he is better acquainted with me in this House, will soon learn that I always proceed in order, and never deviate from the rules. [Laughter.]

Mr. Clerk, in the organization of the House it becomes necessary first to know who has a right to vote as to that organization. If the delegation from Tennessee—especially if the honorable gentleman from Tennessee, who would address the House if permitted by the Clerk, is not a loyal man and is not from a State in the Union, what man then is loyal? In the darkest and most doubtful period of the war, when an exile from his own State, I heard his eloquent voice on the banks of the St. Lawrence arousing the people of my own State to discharge their duties to the country. Yet there are honorable gentlemen who will not allow him to be heard upon this floor, although holding in his hand a certificate from the Governor of the State of Tennessee.

And then there is a State of Virginia which the Clerk has not read; I mean the old State of Virginia, and not Western Virginia—the State over which Governor Fairpoint presides, over which he has presided, and to which position he was elected during the war, whose loyalty no man doubts, and who is as much the Governor of that State as the Governor of Pennsylvania is Governor of the State of Pennsylvania. By what right has the Virginia delegation been excluded by the Clerk of the House? I wish the Clerk would tell me. He has given no reason for such exclusion, and I should be happy to

yield the floor for a moment to enable him to state why both Tennessee and Virginia have been excluded from the list he has made.

The CLERK. With the consent of the gentleman I will state that if it be the desire of the House to have my reasons, I will give them; but I have not felt justified or called upon to give any reasons; I have acted in accordance with my views of duty, and I am willing to let the record stand.

Mr. STEVENS. It is not necessary. We know all.

Mr. WENTWORTH. I call for the question.

The CLERK. The gentleman from New York is upon the floor.

Mr. BROOKS. I know that it is known to all in one quarter, but that it is not known to many in other quarters in this House, why this exclusion has been made. The State of Louisiana was here upon the floor of the House last year, by the admission of gentlemen from that State. The record is in the Congressional Globe; and now Louisiana is excluded. A Republican House, a Republican majority, permitted two members from Louisiana upon the floor of this House to vote for its Speaker; and now the Clerk of the House assumes the responsibility of excluding the State of Louisiana. Why this subversion of all precedents, as well as this overthrow of all law? Why did the Republican majority in the last Congress permit Louisiana to be represented and to vote for Speaker, and this year exclude Louisiana from the roll of the Clerk? Why this inconsistency of action, as well as this absurdity? We know all, says the honorable gentleman from Pennsylvania, and the House is to be content with the declaration of the gentleman, "We know all!"

Mr. WASHBURNE, of Illinois. The gentleman from New York will understand that the Clerk of the last House of Representatives put the names of those two gentlemen from Louisiana upon the roll, and they did, in fact, vote for Speaker; but afterward the House refused to permit them to be sworn in as members.

Mr. BROOKS. Not until after the organization of the House—not until after the Speaker was chosen.

Mr. WASHBURNE, of Illinois. They were never members of the House.

Mr. BROOKS. But they voted for Speaker of the House, and were permitted here, as the record shows, to vote for Speaker, though the point was first made by the gentleman from Pennsylvania, [Mr. STEVENS,] and then withdrawn.

We know all the reasons, says the gentleman from Pennsylvania, and we do not want to hear them recited. Why, this is not parliamentary propriety, if it is even decency. I should know but little if I had not the record before me of the resolution adopted by the Republican majority of this House, that Tennessee, Louisiana, and Virginia were to be excluded, and excluded without debate. Why without debate? Are gentlemen afraid to face debate? Are their reasons of such a character that they dare not present them to the country, and have to resort to the extraordinary step of side-way legislation in a private caucus to enact a joint resolution to be forced upon this House without debate, confessing that there are no reasons whatever to support this position except their absolute power and authority and control over this House?

Mr. STEVENS. I rise to a point of order. It has once been held by this House that until the House is organized no question is in order except to proceed to the election of a Speaker, or to adjourn. I call the gentleman to order.

The CLERK. The question pending is a motion to proceed to the election of Speaker, which is a debatable proposition, on which the gentleman from New York is entitled to the floor.

Mr. BROOKS. And I am debating that question. I trust gentlemen will not be so impatient, even if there is debate. Let us hear. "Strike, but hear!"

Sir, that resolution shows why the Clerk of

this House has taken the step that he has taken, and why all this action is to be carried on without any debate whatever. In the whole history of this country, throughout the revolutionary period of the last four years, there is no record whatever of violence like this upon the minority of this House or upon a large portion of our common country in the exclusion of fifty-odd members from the floor of this House, and without debate.

If the gentleman from Pennsylvania, who has interrupted me, would but inform me at what period he intends to press this resolution of which he is to be the organ, I would be happy to be informed by him.

Mr. STEVENS. I have no objection to answer the gentleman. I propose to press it at the proper time. [Laughter and applause.]

Mr. BROOKS. Talleyrand, the great diplomatist, said that language was given to man to conceal ideas; and we all know the gentleman's ingenuity in the use of language.

The proper time! When will that be? Why, as soon as the Speaker is in his seat, and the rules of order can be enforced. The proper time is in anticipation of the message of the President of the United States, to throw himself into collision with such forthcoming message. That is the proper time for an effort to silence the Executive of this country, and to nullify the exposition which he may make to this House, and the recommendations he may submit to the Congress of the United States. That is the proper time, and no other is the proper time. The resolution is introduced for that express period of time, and is to be pressed at that exact moment, to go before the country as the sentiment of the House, as a quasi condemnation of the action of the President of the United States. Sir, I am not his vindicator, supporter, or defender, except upon the record he presents a course of principles consistent with my own; and so far, I am. But I say that in the whole history of this country, in a crisis like this, no effort was ever made like this in a private caucus to pass a joint resolution condemnatory of the forthcoming message of the President of the United States.

I do not choose longer to occupy the attention of the House, but before I sit down I propose to move, as an amendment, that the honorable gentleman from Tennessee, [Mr. MAYNARD,] be allowed to present the credentials of the members from Tennessee, and that their names be put upon the roll.

Mr. STEVENS. I make the point of order that that amendment is not in order, not being germane to the original motion.

The CLERK. The Clerk considers that a good point of order, and rules out the amendment.

Mr. STEVENS. I now call the previous question.

Mr. MAYNARD. I appeal to the gentleman from Pennsylvania to listen to me for a moment.

Mr. STEVENS. I cannot yield to any gentleman who does not belong to this body—who is an outsider.

Mr. BROOKS. I have not yielded the floor. The CLERK. The gentleman from New York is still upon the floor.

Mr. JOHNSON. I appeal to the gentleman to yield to me for a moment.

Mr. BROOKS. I will yield to the gentleman for a few moments.

Mr. FARNSWORTH. I object to the floor being yielded.

Mr. JOHNSON. I ask permission for but a moment.

The CLERK. There is objection to the gentleman from New York [Mr. Brooks] yielding the floor for any purpose except for the purpose of explanation.

Mr. BROOKS. I do not know for what purpose the gentleman from Pennsylvania [Mr. JOHNSON] desires me to yield the floor.

The CLERK. The gentleman from New York is bound to know for what purpose he yields the floor.

Mr. JOHNSON. Is the Clerk in position to know for what purpose—

Mr. FARNSWORTH. I object to the gentleman from New York [Mr. Brooks] yielding the floor, unless he yields it unconditionally.

Mr. BROOKS. I think I have the right, under parliamentary rules, to yield the floor for explanation.

The CLERK. Inasmuch as the gentleman from Pennsylvania [Mr. JOHNSON] has not been involved in the debate, the presumption is that it is not for purposes of explanation he desires the floor; and, under the rules, it is not in order for a member to yield the floor for any other purpose, when objection is made.

Mr. BROOKS. I will ask if the gentleman from Pennsylvania [Mr. JOHNSON] desires the floor for the purpose of explanation.

Mr. JOHNSON. Not for personal explanation precisely, but I do desire the floor for an explanation.

Mr. BROOKS. I understand the Clerk to rule that the honorable gentleman from Pennsylvania [Mr. JOHNSON] has not the right to an explanation.

The CLERK. The gentleman from New York [Mr. Brooks] has the right to yield the floor to the gentleman from Pennsylvania [Mr. JOHNSON] for the purpose of personal explanation only, objection having been made to the yielding the floor for any other purpose.

Mr. STEVENS. The gentleman cannot have anything to explain. As he has not spoken there is nothing to explain, nothing to patch up.

Mr. BROOKS. I do not see the relevancy of that remark. I desire to know, Mr. Clerk, first, whether I can yield the floor temporarily to the gentleman from Pennsylvania [Mr. JOHNSON] for the purpose of explanation; or second, whether I can yield the remaining portion of my time to him.

The CLERK. Under the rules of the House the gentleman from New York [Mr. Brooks] cannot yield the remaining portion of his time to any member if objection is made to his doing so; nor can he yield to any other member, except for purposes of personal explanation in relation to the pending proposition. The gentleman from Pennsylvania, [Mr. JOHNSON,] as I understand, has stated that he did not rise for the purpose of explanation. Hence by his own statement he is precluded from taking the floor.

Mr. JOHNSON. I do not desire the floor for the purpose of personal explanation, but I desire to ask an explanation of the gentleman from New York, [Mr. Brooks.]

The CLERK. The gentleman has no right to ask the floor for any such purpose if objection is made. Objection has been made, and the gentleman from New York [Mr. Brooks] has the floor upon the pending question.

Mr. BROOKS. I will yield the floor unconditionally for the purpose of order and decorum. After the decision of the Clerk, and without acquiescing in its parliamentary propriety or justice, I can only lament that a precedent like this should be established for future organizations of the House, when some other majority may have the control.

Mr. STEVENS. I call for the previous question.

Mr. JOHNSON. I rise to a question of order. I rise to propound a question to the Clerk.

The CLERK. Such a question is not a question of order.

Mr. JOHNSON. The Clerk will hear me through. It is in relation to making up the roll, which, being necessary to the proper organization of the House, is and must be in order.

The CLERK. The question the gentleman from Pennsylvania [Mr. JOHNSON] indicates has no relation to the pending proposition, which is the motion of the member from Pennsylvania [Mr. STEVENS] to proceed to the election of Speaker, and upon that motion the previous question has been called.

Mr. JOHNSON. I rise, then, to a further question. I propose to submit a motion which I maintain takes precedence of the motion of my colleague, [Mr. STEVENS.]

The CLERK. The gentleman will indicate his motion.

Mr. JOHNSON. I move that the Clerk of

the House be directed to place upon the roll the names of the gentlemen holding credentials from the Governor of Tennessee as members-elect of this House.

The CLERK. That motion is not in order, the previous question having been demanded.

The demand for the previous question was then seconded, and the main question ordered.

The question was upon the motion of Mr. STEVENS to proceed to the election of Speaker; and it was agreed to.

The CLERK. Nominations are now in order for the office of Speaker.

Mr. MORRILL nominated Mr. SCHUYLER COLFAX, of Indiana.

Mr. WINFIELD nominated Mr. JAMES BROOKS, of New York.

The CLERK appointed to act as tellers, Messrs. MORRILL of Vermont, DAWSON of Pennsylvania, SMITH of Kentucky, and FINCK of Ohio.

The House proceeded to vote *viva voce* for Speaker, with the following result, which was announced by Mr. MORRILL on behalf of the tellers:

Whole number of votes cast, 175; necessary to a choice, 88; of which—

Mr. Colfax received.....139
Mr. Brooks..... 36

The following is the vote in detail:

For Mr. Colfax—Messrs. Alley, Allison, Ames, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clark, Cobb, Conkling, Cook, Cullom, Culver, Darling, Davis, Dawes, Deftrees, Delano, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, James Humphrey, Ingersoll, Jencks, Julian, Kasson, Kelley, Kelso, Ketchum, Kuykendall, Laffin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McRuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, Noell, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Smith, Spalding, Starr, Stevens, Stillwell, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge.

For Mr. Brooks—Messrs. Ancona, Bergen, Boyer, Chanler, Dawson, Denison, Eldridge, Finck, Gloss-brenner, Goodyear, Grider, Aaron Harding, Hogan, Edwin N. Hubbell, James M. Humphrey, Johnson, Kerr, Le Blond, Marshall, McCullough, Niblack, Nicholson, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Strouse, Tabor, Taylor, Thornton, Trimble, Winfield, and Wright.

The CLERK announced that SCHUYLER COLFAX, one of the Representatives from the State of Indiana, having received a majority of all the votes given, was duly elected Speaker of the House of Representatives for the Thirty-Ninth Congress. [Applause.]

Whereupon, at the suggestion of the Clerk, Mr. MORRILL and Mr. BROOKS conducted Mr. COLFAX to the chair, when he addressed the House as follows:

Gentlemen of the House of Representatives: The reassembling of Congress, marking, as it does, the procession of our national history, is always regarded with interest by the people for whom it is to legislate. But it is not unsafe to say that millions more than ever before, North, South, East, and West, are looking to the Congress which opens its session to-day, with an earnestness and solicitude unequalled on similar occasions in the past. The Thirty-Eighth Congress closed its constitutional existence with the storm-cloud of war still lowering over us; and, after a nine months' absence, Congress resumes its legislative authority in these council halls, rejoicing that from shore to shore in our land there is peace.

Its duties are as obvious as the sun's pathway in the heavens. Representing, in its two branches, the States and the people, its first and highest obligation is to guaranty to every State a republican form of government. The rebellion having overthrown constitutional State governments in many States, it is yours

to mature and enact legislation which, with the concurrence of the Executive, shall establish them anew on such a basis of enduring justice as will guaranty all necessary safeguards to the people, and afford, what our Magna Charta, the Declaration of Independence, proclaims is the chief object of government—protection to all men in their inalienable rights. [Applause.] The world should witness, in this great work, the most inflexible fidelity, the most earnest devotion, to the principles of liberty and humanity, the truest patriotism, and the wisest statesmanship.

Heroic men, by hundreds of thousands, have died that the Republic might live. The emblems of mourning have darkened White House and cabin alike. But the fires of civil war have melted every fetter in the land, and proved the funeral pyre of slavery. [Applause.] It is for you, Representatives, to do your work as faithfully and as well as did the fearless saviors of the Union on their more dangerous arena of duty. Then we may hope to see the vacant and once abandoned seats around us gradually filling up, until this Hall shall contain Representatives from every State and district; their hearts devoted to the Union for which they are to legislate, jealous of its honor, proud of its glory, watchful of its rights, and hostile to its enemies. And the stars on our banner, that paled when the States they represented arrayed themselves in arms against the nation, will shine with a more brilliant light of loyalty than ever before.

Invoking the guidance of Him who holds the destiny of nations in the hollow of His hand, I enter again upon the duties of this trying position, with a heart filled with gratitude to you for the unusually flattering manner in which it has been bestowed, and cheered by the hope that it betokens your cordial support and assistance in all its grave responsibilities.

I am now ready to take the oath of office prescribed by law.

Mr. WASHBURN, of Illinois, having served longest as a member of the House, was designated by the Clerk to administer to the Speaker-elect the oath prescribed by law; which was done in the following form:

I, Schuyler Colfax, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever, under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

The SPEAKER then proceeded to administer to the Members and Delegates present the oath prescribed by law.

Mr. WILSON, of Iowa. Mr. Speaker, for the purpose of saving time in the organization of the House, I offer the following resolution:

Resolved, That the following-named persons are hereby declared to be officers of the House of Representatives for and during the Thirty-Ninth Congress, and until their successors are duly qualified: Edward McPherson, of the State of Pennsylvania, Clerk; N. G. Ordway, of the State of New Hampshire, Sergeant-at-Arms; Ira Goodenow, of the State of New York, Doorkeeper; and Josiah Given, of the State of Ohio, Postmaster.

Mr. RANDALL, of Pennsylvania. I object.

Mr. WILSON, of Iowa. I move to suspend the rules for the purpose of introducing my resolution.

Mr. RANDALL, of Pennsylvania. One word.

The SPEAKER. The question is not debatable. Does the gentleman from Iowa yield?

Mr. WILSON, of Iowa. I decline to yield.

Mr. RANDALL, of Pennsylvania. Some of us desire to vote for candidates not named in that resolution, and therefore I hope that the gentleman from Iowa will withdraw his res-

olution. If he does not, I will be compelled to offer an amendment, so that we may go upon the record in some way.

Mr. WILSON, of Iowa. I decline to yield for that purpose.

The question was taken, and it was decided in the affirmative.

So the rules were suspended.

Mr. RANDALL, of Pennsylvania. I desire to offer an amendment to the resolution.

Mr. WILSON. I do not yield for that purpose, but call for the previous question.

The previous question was seconded, and the main question ordered.

Mr. RANDALL, of Pennsylvania. I move that the resolution be laid upon the table.

The motion was disagreed to.

The question then recurred on the adoption of the resolution.

Mr. JOHNSON demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 138, nays 35, not voting 9; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clark, Cobb, Conkling, Cook, Cullom, Culver, Darling, Davis, Dawes, Deftrees, Delano, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, James Humphrey, Ingersoll, Jencks, Julian, Kasson, Kelley, Kelso, Ketchum, Kuykendall, Laffin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McRuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, Noell, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Smith, Spalding, Starr, Stevens, Stillwell, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—138.

NAYS—Messrs. Ancona, Bergen, Boyer, Brooks, Chanler, Dawson, Denison, Eldridge, Finck, Gloss-brenner, Goodyear, Grider, Aaron Harding, Hogan, Edwin N. Hubbell, James M. Humphrey, Johnson, Kerr, Le Blond, Marshall, McCullough, Niblack, Nicholson, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Strouse, Tabor, Taylor, Thornton, Trimble, and Winfield—35.

NOT VOTING—Messrs. Delos R. Ashley, Baker, Harris, Jones, Rousseau, Sitgreaves, Francis Thomas, Voorhees, and Wright—9.

So the resolution was adopted.

During the call of the roll,

A message was received from the Senate by JOHN W. FORNEY, its Secretary, notifying the House that a quorum of that body was present, and ready to proceed to the public business.

HON. ITHAMAR C. SLOAN, not being present when the members from his State were sworn in, was, by unanimous consent, permitted during roll-call to take the usual oath.

The vote was then announced as above recorded.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The Clerk, Sergeant-at-Arms, Doorkeeper, and Postmaster were qualified by taking the usual oath of office.

RULES OF THE HOUSE.

Mr. WASHBURN, of Illinois. I send to the Clerk's table a resolution, which I ask may be adopted.

The Clerk read, as follows:

Resolved, That the rules of the House of Representatives of the Thirty-Eighth Congress shall be the rules of the House of Representatives until otherwise ordered.

Resolved further, That a committee of five, to consist of the Speaker and four members to be named by him, be appointed, to whom shall be referred the rules of the House, who shall be authorized to report at any time such amendments on the revision of the same that they may think proper.

Mr. WASHBURN, of Illinois. I demand the previous question.

Mr. HIGBY. Will the gentleman from Illinois yield to me a moment?

Mr. WASHBURNE, of Illinois. For what purpose?

Mr. HIGBY. To offer an amendment.

Mr. WASHBURNE, of Illinois. I will hear it read.

The Clerk read the amendment; which was to add to the resolution the following:

Resolved further, That a standing committee of nine members, to be called the Committee on Mines and Mining, be appointed, who shall consider and report on all questions relative to mines and mining that may be referred to them.

Mr. HIGBY. I will say that last session the Senate established a committee of precisely the character I have indicated.

Mr. WASHBURNE, of Illinois. If the gentleman had attended to the reading of the resolution, he would have seen that the same resolution which provides for the adoption of the rules also provides for a committee to report any further rules. I suggest to him that if this resolution shall pass, and that committee be appointed—as it will be—he can present this rule, which he proposes, to its consideration, and there will be no question about it.

Mr. JOHNSON. I rise to a question of order. I would inquire whether it is in order to discuss the motion which is pending.

The SPEAKER. It is; the previous question not having been moved.

Mr. WASHBURNE, of Illinois. I renew my demand for the previous question upon the resolution.

Mr. HIGBY. I will not press the matter now.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was adopted.

Mr. WASHBURNE, of Illinois, moved that the vote last taken be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NOTIFICATION TO THE SENATE.

Mr. WASHBURNE, of Illinois, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That a message be sent to the Senate, informing that body that a quorum of the House has assembled, and elected SCHUYLER COLFAX, one of the Representatives from the State of Indiana, Speaker, and is now ready to proceed to business.

Mr. WASHBURNE, of Illinois, moved that the vote last taken be reconsidered; and also moved that the motion to reconsider do lie on the table.

The latter motion was agreed to.

COMMITTEE TO WAIT ON THE PRESIDENT.

Mr. WASHBURNE, of Illinois, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That a committee of three be appointed, on the part of the House, to join such committee as may be appointed on the part of the Senate, to wait upon the President of the United States, to inform him that a quorum of the two Houses of Congress has assembled, and that Congress is ready to receive any communication he may make.

The SPEAKER subsequently appointed Mr. WASHBURNE of Illinois, Mr. BROOKS, and Mr. KELLEY, as such committee.

Mr. WASHBURNE, of Illinois, moved that the vote last taken be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GRADE OF GENERAL.

Mr. WASHBURNE, of Illinois. I desire to give notice of the introduction of a bill to revive the grade of general in the United States Army.

The SPEAKER. That will have to be done in writing, under the rule.

CONSTITUTIONAL AMENDMENT.

Mr. WASHBURNE, of Illinois. I am requested by the Secretary of State to ask the House to listen to a telegraphic dispatch which he has just received.

No objection being made, the dispatch was read, as follows:

MONTGOMERY, ALABAMA, December 2, 1865.

Hon. WILLIAM H. SEWARD:

The amendment is adopted by an overwhelming vote. I will send you an authenticated copy at an early day. Please see that Alabama is announced as the twenty-seventh State. L. E. PARSONS.

The reading of the resolution was followed by applause in the Hall and galleries.

RECONSTRUCTION.

Mr. STEVENS. I offer the following resolution, and call the previous question upon it:

Resolved by the Senate and House of Representatives in Congress assembled, That a joint committee of fifteen members shall be appointed, nine of whom shall be members of the House and six members of the Senate, who shall inquire into the condition of the States which formed the so-called confederate States of America, and report whether they or any of them are entitled to be represented in either House of Congress, with leave to report at any time by bill or otherwise; and until such report shall have been made and finally acted upon by Congress, no member shall be received into either House from any of the said so-called confederate States; and all papers relating to the representation of the said States shall be referred to the said committee without debate.

Mr. ASHLEY, of Ohio. I ask the gentleman from Pennsylvania to allow me to offer an amendment, to insert the words "and all resolutions touching the question." [Cries of "Oh, no!"]

Mr. ELDRIDGE. Has unanimous consent been given for the introduction of the resolution?

The SPEAKER. It has not.

Mr. ELDRIDGE. I object to its introduction.

Mr. STEVENS. I move to suspend the rules so as to enable me to introduce the resolution.

Mr. JOHNSON. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

The question was taken; and there were—yeas 129, nays 35, not voting 18; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clark, Cobb, Conkling, Cook, Cullom, Culver, Darling, Davis, Dawes, Deftrees, Delano, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Ferry, Griswold, Hale, Abner C. Harding, Hart, Hayes, Higby, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James K. Hubbell, Hulburd, James Humphrey, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketchum, Kuykendall, Ladin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marvin, McClurg, McIndoe, McKee, McKuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Pomeroy, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—129.

NAYS—Messrs. Ancona, Bergen, Boyer, Brooks, Chanler, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Hogan, Edwin N. Hubbell, James M. Humphrey, Johnson, LeBlond, Marshall, McCullough, Niblack, Nicholson, Noel, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Strouse, Tabor, Taylor, Thornton, Trimble, Winfield, and Wright—35.

NOT VOTING—Messrs. Delos R. Ashley, Barker, Farquhar, Garfield, Harris, Henderson, Jones, Kerr, Marston, William H. Randall, Raymond, Rousseau, Shanklin, Sitgreaves, Smith, Stillwell, Francis Thomas, and Voorhees—18.

So, (two thirds voting in favor thereof,) the resolution was received.

Mr. STEVENS. I now move the previous question.

Mr. DAWSON. I rise to inquire if it would not be in order to move to postpone the resolution until after the receipt of the President's message?

The SPEAKER. It would be in order if the previous question were not sustained.

Mr. DAWSON. Then I move to lay the resolution on the table; and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 37, nays 133, not voting 12; as follows:

YEAS—Messrs. Ancona, Bergen, Boyer, Brooks,

Chanler, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Hogan, Edwin N. Hubbell, James M. Humphrey, Johnson, George V. Lawrence, LeBlond, Marshall, McCullough, Niblack, Nicholson, Noel, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Shanklin, Strouse, Tabor, Taylor, Thornton, Trimble, Winfield, and Wright—37.

NAYS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blow, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clark, Cobb, Conkling, Cook, Cullom, Culver, Darling, Davis, Dawes, Deftrees, Delano, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Griswold, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James K. Hubbell, Julian, Kasson, Kelley, Kelso, Ketchum, Kuykendall, Ladin, Latham, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McKuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Smith, Spalding, Starr, Stevens, Stillwell, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—133.

NOT VOTING—Messrs. Delos R. Ashley, Blaine, Garfield, Harris, Hart, Jones, Kerr, Raymond, Rousseau, Sitgreaves, Francis Thomas, and Voorhees—12.

So the House refused to lay the resolution on the table.

The question then recurred upon seconding the demand for the previous question.

The previous question was seconded, and the main question ordered; which was upon agreeing to the concurrent resolution submitted by Mr. STEVENS.

Mr. ANCONA called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 133, nays 36, not voting 13; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blow, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clark, Cobb, Conkling, Cook, Cullom, Culver, Darling, Davis, Dawes, Deftrees, Delano, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Ferry, Garfield, Griswold, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James K. Hubbell, Hulburd, James Humphrey, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketchum, Kuykendall, Ladin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McKuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Smith, Spalding, Starr, Stevens, Stillwell, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—133.

NAYS—Messrs. Ancona, Bergen, Boyer, Brooks, Chanler, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Hogan, James M. Humphrey, Johnson, Kerr, LeBlond, McCullough, Niblack, Nicholson, Noel, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Strouse, Tabor, Taylor, Thornton, Trimble, Winfield, and Wright—36.

NOT VOTING—Messrs. Delos R. Ashley, James M. Ashley, Blaine, Farquhar, Harris, Edwin N. Hubbell, Jones, Marshall, Plants, Rousseau, Sloan, Francis Thomas, Voorhees, and William B. Washburn—13.

So the resolution was adopted.

Mr. STEVENS moved to reconsider the vote by which the concurrent resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. SCHENCK moved that the House do now adjourn.

Mr. NIBLACK. I ask the gentleman from Ohio [Mr. SCHENCK] to withdraw that motion, in order to give me an opportunity to offer a resolution.

Mr. SCHENCK. I cannot do it.

The question was taken upon the motion to adjourn; and there were—ayeas fifty-eight, noes not counted.

So the House refused to adjourn.

Mr. NIBLACK. I ask consent to submit the following resolution:

Resolved, That pending the question as to the admission of persons claiming to have been elected Representatives to the present Congress from the States lately in rebellion against the United States Government, such persons shall be entitled to the privileges of the floor of the House.

Mr. WILSON, of Iowa, objected.

Mr. NIBLACK. I move to suspend the rules, and upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

Pending the question upon suspending the rules,

Mr. STEVENS moved that the House adjourn.

The question was taken; and there were—ayes 85, noes 68.

So (at ten minutes to three o'clock p. m.) the House adjourned.

IN SENATE.

TUESDAY, December 5, 1865.

Prayer by Rev. EDGAR H. GRAY, Chaplain of the Senate.

The Journal of yesterday was read and approved.

Hon. THOMAS A. HENDRICKS, of Indiana, and Hon. JAMES H. LANE, of Kansas, appeared in their seats to-day.

ORGANIZATION OF THE HOUSE.

Mr. EDWARD McPHERSON, Clerk of the House of Representatives, appeared below the bar and delivered the following message:

Mr. President, I am directed by the House of Representatives to inform the Senate that a quorum of the House has assembled, that it has elected SCHUYLER COLFAX, one of the Representatives from Indiana, Speaker, and is now ready to proceed to business.

I am also directed to inform the Senate that the House of Representatives has passed a resolution for the appointment of a committee on its part, to join such committee as may be appointed by the Senate, to wait upon the President of the United States and inform him that a quorum of each House has assembled, and that Congress is ready to receive any communication he may be pleased to make; and it has appointed Mr. ELIOT B. WASHBURN of Illinois, Mr. JAMES BROOKS of New York, and Mr. WILLIAM D. KELLEY of Pennsylvania, the committee on its part.

I am also directed to present to the Senate a concurrent resolution of the House for the appointment of a joint committee of fifteen members for the purpose of considering the condition of the so-called confederate States of America.

Mr. WADE. I move that the Senate concur in the concurrent resolution just received from the House.

Mr. SAULSBURY. I move that that resolution be referred to the Committee on the Judiciary, which will take precedence of the motion of the Senator from Ohio.

Mr. GRIMES. Mr. President—

The PRESIDENT *pro tempore*. Does the Senator from Delaware give way to the Senator from Iowa?

Mr. SAULSBURY. I wish to state that my motion relates to the resolution which provides for the appointment of a committee of fifteen. I move to refer that resolution to the Committee on the Judiciary, when that committee shall be appointed, and that until that time it lie upon the table.

Mr. GRIMES. I ask the Senators to withdraw their motions until I can offer an order to be adopted by the Senate in order to perfect the organization of the two bodies.

The PRESIDENT *pro tempore*. Does the Senator from Ohio withdraw his motion for that purpose?

Mr. WADE. I will withdraw it with that view.

NOTIFICATION TO THE PRESIDENT.

Mr. GRIMES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That a committee consisting of two mem-

bers be appointed, to join such committee as may be appointed by the House of Representatives, to wait on the President of the United States and inform him that a quorum of each House has assembled, and that Congress is ready to receive any communication he may be pleased to make.

The PRESIDENT *pro tempore*. How shall this committee be appointed?

Several SENATORS. By the Chair.

The PRESIDENT *pro tempore*. Such order will be entered if there be no objection.

Mr. GRIMES and Mr. WRIGHT were appointed the committee.

JOINT COMMITTEE ON RECONSTRUCTION.

The PRESIDENT *pro tempore*. The resolution from the House of Representatives will now be read.

The Secretary read, as follows:

Resolved by the Senate and House of Representatives in Congress assembled, That a joint committee of fifteen members shall be appointed, nine of whom shall be members of the House and six members of the Senate, who shall inquire into the condition of the States which formed the so-called confederate States of America, and report whether they or any of them are entitled to be represented in either House of Congress, with leave to report at any time by bill or otherwise; and until such report shall have been made and finally acted upon by Congress, no member shall be received into either House from any of the said so-called confederate States; and all papers relating to the representation of the said States shall be referred to the said committee without debate.

Mr. JOHNSON. I believe that under the rule that that resolution, if there be any objection to considering it on the day of its reception, lies over one day.

The PRESIDENT *pro tempore*. Such is the rule of the Senate.

Mr. JOHNSON. I object to the consideration of it.

The PRESIDENT *pro tempore*. Objection being made, the resolution will be laid aside.

SENATORS FROM MISSISSIPPI.

Mr. COWAN. Mr. President, I beg leave to present the credentials of William L. Sharkey and James L. Alcorn, who have been elected members of the Senate by the Legislature of Mississippi. I am instructed by those gentlemen to offer these credentials to the Senate without saying further. I therefore ask that they may lie upon the table and await the further action of the body.

The PRESIDENT *pro tempore*. Does the Senator ask for the reading of the credentials?

Mr. COWAN. Yes, sir.

The PRESIDENT *pro tempore*. The credentials will be read.

The Secretary read, as follows:

THE STATE OF MISSISSIPPI.

To all to whom these presents shall come, greeting:

Whereas it appears by the certificate of the secretary of the Senate and clerk of the House of Representatives, on file in the office of the secretary of state, that James C. Alcorn was on Thursday, the 19th day of October, in the year of our Lord one thousand eight hundred and sixty-five, in a joint committee of both Houses of the Legislature of the State of Mississippi, duly and constitutionally elected to the office of Senator in the Congress of the United States of America, for the term commencing March 5, 1865:

Now know ye, that in consequence thereof, and by virtue of the constitution and laws of this State, we do authorize and empower him the said James L. Alcorn to execute and fulfill the duties of that office according to law; and to have and to hold said office, with all the powers, privileges, and emoluments to the same of right appertaining for the term commencing March 5, 1865.

In testimony whereof I, Benjamin G. Humphreys, Governor of the State aforesaid, have caused [L. S.] these letters to be made patent and the great seal of the State to be hereunto affixed.

Given under my hand at the city of Jackson, the 31st day of October, in the year of our Lord one thousand eight hundred and sixty-five, and of the sovereignty of the State of Mississippi the forty-seventh. BENJAMIN G. HUMPHREYS.

By the Governor:

C. A. BROUGHER,
Secretary of State.

The credentials of Mr. Sharkey are in the same form, for the term commencing March 5 [4] 1863.

The credentials were ordered to lie on the table.

RECONSTRUCTION OF REBELLIOUS STATES.

Mr. FOOT. I offer certain resolutions of the Legislature of the State of Vermont. I ask that they be read, laid on the table, and printed.

The Secretary read them, as follows:

Joint resolutions in relation to the reconstruction of the States recently in rebellion against the United States.

Resolved, That it is the sense of the General Assembly of this State, that in the reconstruction of the governments of the States lately in rebellion against the Government and authority of the United States, the moral power and legal authority vested in the Federal Government should be executed, to secure equal rights, without respect to color, to all citizens residing in those States, including herein the right of elective franchise.

Resolved, That the secretary of state is hereby instructed to transmit a copy of these resolutions to the President of the United States, to the Governors of the several States, and also a copy to each one of our Senators and Representatives in Congress, who are hereby requested to present the same to both Houses in Congress.

JOHN W. STEWART,

Speaker of the House of Representatives.

A. B. GARDNER,

President of the Senate.

The joint resolutions were ordered to lie on the table, and be printed.

BILLS INTRODUCED.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 10) for the survey and sale of the mineral lands of the United States; which was read twice by its title, laid on the table, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 11) to restore Lieutenant Joseph Fyffe to his grade in active service in the Navy; which was read the first time by its title, and ordered to lie on the table and be printed.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce the following bills; which were read twice by their titles, laid on the table, and ordered to be printed:

A bill (S. No. 12) to define the jurisdiction of the district and circuit courts of the United States for the districts of California, Oregon, and Nevada; and

A bill (S. No. 13) concerning appeals, writs of error, and injunctions.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 14) in relation to the qualification of jurors in certain cases; which was read twice by its title, laid on the table, and ordered to be printed.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce the following bills; which were read a first time by their titles, and ordered to lie on the table:

A bill (S. No. 15) to repeal certain laws and ordinances in the District of Columbia, and for other purposes; and

A bill (S. No. 16) for the relief of Josiah O. Armes.

Mr. SHERMAN, (at twenty-two minutes past twelve o'clock.) I move that the Senate take a recess until one o'clock.

The motion was agreed to.

On reassembling at one o'clock,

Mr. DOOLITTLE. As I understand, there has been some delay about the committee of the other House being ready to perform the duty of waiting on the President, I move that the recess be extended until two o'clock.

The motion was agreed to.

The Senate again resumed its session at two o'clock.

PRESIDENT'S ANNUAL MESSAGE.

Mr. GRIMES. Mr. President, the joint committee of the two Houses of Congress, who were authorized to wait upon the President of the United States and inform him that the two Houses were organized and ready to receive any communication he might be pleased to make to them, have discharged that duty, and have been instructed by him to say that he will immediately communicate with each House in writing.

Mr. ROBERT JOHNSON, the President's Secretary, presently appeared below the bar and said:

Mr. President, I am directed by the President of the United States to deliver to the Senate a message in writing.

The document having been handed to the Chair and opened, was announced to be the President's annual message.

The Secretary (Hon. JOHN W. FORNEY) read the message. [The message will be published in the Appendix.]

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the annual message of the President of the United States, with the accompanying documents, be printed; and that five thousand additional copies of the message be printed for the use of the Senate.

FINANCE REPORT.

The PRESIDENT *pro tempore* laid before the Senate the annual report of the Secretary of the Treasury on the finances; which was ordered to lie on the table.

Mr. DOOLITTLE. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, December 5, 1865.

The House met at twelve o'clock, m.

The Journal of yesterday was read and approved.

DELEGATE FROM IDAHO.

Mr. BEAMAN announced that Mr. E. D. HOLBROOK, Delegate-elect from the Territory of Idaho, was in attendance and ready to take the oath of office; whereupon Mr. HOLBROOK presented himself and was duly qualified.

DRAWING FOR SEATS.

Mr. KASSON introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Clerk of the House forthwith place in a box the name of each Member and Delegate of the House of Representatives written on a separate slip of paper; that he then proceed, in the presence of the House, to draw from said box, one at a time, the said slips of paper, and as each is drawn he shall announce the name of the Member or Delegate upon it, who shall choose his seat for the present session: *Provided*, That before said drawing shall commence the Speaker shall cause every seat to be vacated, and shall see that every seat continues vacant until it is selected under this order; and that every seat, after having been selected, shall be deemed vacant if left unoccupied before the calling of the roll is finished.

In execution of the order of the House, the Members and Delegates retired outside the Hall, and, as their names were drawn, reappeared and selected their seats.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had adopted the following resolution:

Resolved, That a committee of two members be appointed, to join such committee as may be appointed by the House of Representatives, to wait upon the President of the United States and inform him that a quorum of each House has assembled, and that Congress is ready to receive any communication he may be pleased to make.

Ordered, That Mr. GRIMES and Mr. WRIGHT be the committee on the part of the Senate.

QUALIFICATION OF A MEMBER.

Mr. J. L. THOMAS announced that his colleague, Mr. FRANCIS THOMAS, a Representative-elect from the State of Maryland, was in attendance, and ready to take the oath of office; whereupon Mr. FRANCIS THOMAS presented himself, and was duly qualified.

CONTESTED SEATS.

Mr. RAYMOND. I rise to a question of privilege. I desire to present the memorial of William E. Dodge, of New York, claiming the seat on this floor for the eighth congressional district of New York, now held by Hon. JAMES BROOKS. I move that the memorial be referred to the Committee of Elections, when appointed.

The SPEAKER. The memorial will be so referred. In this connection, the Chair lays before the House the petition of Augustus C. Baldwin, claiming the seat for the fifth district of Michigan, now occupied by Hon. R. E. TROWBRIDGE.

Mr. WASHBURN, of Illinois. I move the reference of that petition to the Committee of Elections, when appointed.

The SPEAKER. If there be no objection, the petition will be so referred.

REPORT OF THE SECRETARY OF THE TREASURY.

The SPEAKER, by unanimous consent, laid before the House the annual report of the Secretary of the Treasury on the state of the finances; which was laid on the table, and ordered to be printed.

ELECTION OF CHAPLAIN.

Mr. GRINNELL. I move that the House now proceed to the election of a Chaplain of the House for the Thirty-Ninth Congress.

The motion was agreed to.

Mr. GRISWOLD. I desire to present, for the position of Chaplain of this House, the name of Rev. C. B. Boynton, a gentleman whose qualifications and claims, were they known to this House, would, I am sure, meet with ready recognition. Mr. Boynton has recently removed to this city from Ohio. He is a Congregational clergyman, and a gentleman of splendid abilities. He is now engaged in writing a history of the American Navy during the war just closed. He is in all respects a man eminently worthy to occupy the position of Chaplain of this House. With pen and voice, in the pulpit and out of the pulpit, he has, during the war, rendered the country signal and unremitting service. He has given three sons to the Army, one of whom served with great distinction as colonel of an Ohio regiment. I desire to assure gentlemen of this House who may not be acquainted with Mr. Boynton that he will, if elected, make a most acceptable Chaplain. I take pleasure in presenting his name as a candidate.

Mr. O'NEILL. I nominate Rev. Thomas H. Stockton, of Philadelphia. It is needless for me to say anything in commendation of this gentleman. He was formerly the Chaplain of this House, and as such distinguished himself by his faithfulness, eloquence, and piety. He is well known throughout the country as one of its most eminent divines. He is one of the leading ministers of the Methodist Protestant church. I need not say that he is a thoroughly loyal gentleman. I hope that the House will elect him as its Chaplain.

Mr. SMITH. I desire to place in nomination Rev. Charles B. Parsons, of Lexington, Kentucky. Following the course of gentlemen who have preceded me, I will say that Mr. Parsons is a true, devoted, loyal man, a gentleman and a Christian, and the most eloquent divine to whom I ever listened. He belongs to the Methodist Episcopal church, in which he has rendered good service for the last twenty-five or thirty years, and during the last four years has signalized himself by his efforts on behalf of the Government of the United States.

I hope that the House will have the liberality to give us at least one man south of Mason and Dixon's line, because north of that line there cannot be found a better, a truer, an abler, or a more eloquent man than Mr. Parsons. I may here remark, that the most beautiful, most appropriate, most eloquent address delivered upon the death of President Lincoln was delivered by Mr. Parsons. If this House will but hear him preach, listen to his exhortations to do right, and follow them, the legislation of this body will redound to the interest and honor of the Republic.

Mr. ELDRIDGE. I desire to inquire whether any one of the gentlemen who have been nominated has the eminent qualification of not preaching politics in the pulpit on the Sabbath. [Laughter.]

Mr. WASHBURN, of Illinois. I propose that the gentleman from Wisconsin [Mr. ELDRIDGE] define what he calls "politics."

Mr. FARNSWORTH. I desire to nominate Rev. L. C. Matlock, of Illinois. He is a very worthy clergyman, a gentleman of most excellent character, and an eloquent speaker. He was at one time the president of a university in our State. After the breaking out of the

rebellion he was chosen chaplain of a regiment, and served in that capacity for about one year, when, believing that he could serve the country, and serve, too, the soldiers with whom he was associated as well, if not better, in another capacity, he raised a company, which he took into another regiment, of which he was elected major, and commissioned as such by the Governor of Illinois. For the last two years he has been fighting the rebels, giving them hard blows in the field. He is both a praying and a fighting patriot. He has shown his loyalty where it cost a man something to be loyal—in the battle's front; and, as a soldier, he has in no instance been charged with sully the cloth of his ministerial profession. He has not thrown aside his dignity or his manhood, but comes out of the war, at its termination, pure as he went in. This loyal and eloquent minister of the Gospel and soldier of the Republic I nominate for the position of Chaplain of this House.

Mr. KELLEY. Mr. Speaker, I rise, with the indulgence of the House, for the purpose of seconding the nomination of Rev. Thomas H. Stockton, so eloquently presented by my colleague, [Mr. O'NEILL.]

Mr. Stockton will be remembered by many of the members of the present House as the Chaplain of the Thirty-Seventh Congress; and all such will remember him as one whose life, in its simplicity and purity, illustrated the religion he preached. He is a man as remarkable for his learning and eloquence as for his piety. It has been my privilege to know him for many years; and I may point, as an illustration of his power, to the prayer delivered by him at the consecration of the field at Gettysburg.

I rose to recall him to the recollection of those who witnessed the manner in which he performed his duties here. This I have done, but before taking my seat I may be permitted to suggest to my distinguished friend from Kentucky [Mr. SMITH] that I was a little surprised to hear from him an appeal bounded by Mason and Dixon's line. Sir, that line no longer exists in the political phraseology of this country. It has been obliterated by patriotic blood; and I hope we will hear no further reference to it as an appeal by which to influence the administration of the patronage and honors of this Government. We are henceforth one people, undivided by a line marking a land of freedom on one side and a land of slavery on the other. [Applause.]

The SPEAKER. The Chair will state that no manifestation of applause or disapprobation can be tolerated in the galleries; and he now instructs the doorkeepers, who have charge of the several doors, to eject any person they see expressing approval or dissent of what occurs upon the floor of this House. This is a deliberative body, and while all persons are welcome to the galleries, they must respect the proprieties of the place and the occasion.

Mr. MOORHEAD. I rise for the purpose of nominating Rev. James Presley, of the United Presbyterian church, for the office of Chaplain of the Thirty-Ninth Congress. Mr. Presley preached in this Hall last winter, and I have no doubt the old members heard him, for I know members of Congress generally attend church, and as generally attend at the Capitol. I have no doubt, then, that many of the gentlemen present well recollect the eloquent Dr. Presley who delivered an address in this Hall. For loyalty, patriotism, and eloquence he is not exceeded by any man in the Union.

Mr. STEVENS. I nominate Rev. James G. Butler, of the Lutheran church. I learn he has done more good than any other man. And I will say for the Rev. Mr. Stockton, in addition to what others have already said, that he is the most eloquent man in the United States since the fall of Henry Ward Beecher. [Laughter.]

Mr. DELANO. Mr. Speaker, let me add to the long list of nominations already before the House, by suggesting the name of Rev. J. H. C. Bonté, of Georgetown, District of Columbia,

and in pursuance of the custom in reference to these nominations, I will say that Mr. Bonté entered the service as chaplain of the forty-second Ohio regiment, and faithfully discharged the duties of that position until his health failed. Since then he has been, in pursuance of his profession, in Iowa and at Georgetown, and I will say in one word, that if the House will come to know him as well as I do, they will find him a man of marked ability, of decided piety, and unwavering loyalty.

Mr. PRICE. I nominate as candidate for Chaplain of the House of Representatives, Rev. B. H. Nadal, of this city, and should have done so without saying a word, if the precedent had not been established of saying something as a reason why a nomination should be made and an election should take place.

On the platform, in the pulpit, with his pen, before the commencement of the war and during its continuance, he has not failed or faltered to be the foremost on the right side, and in the right cause.

A VOICE. A good man.

Mr. PRICE. My friend on the left says he is a good man. Yes, he is an honest man, which is the noblest work of God, and the kind of man we ought to have as Chaplain of this House.

Mr. COBB seconded the nomination of Dr. Nadal.

Mr. MILLER. I desire, Mr. Speaker, to nominate Rev. John Walker Jackson, of Harrisburg, Pennsylvania, for Chaplain of this House. Mr. Jackson is an earnest divine of the Methodist persuasion, a loyal man, and patriot. During the four years of the war he did good service, both in and out of the pulpit, in behalf of his country. He worked incessantly to encourage young men to enlist, in order to replenish our army and crush out the rebellion. He is just such a man as will reflect credit on the Thirty-Ninth Congress by his election as Chaplain of this House.

Mr. DRIGGS. I rise to nominate Rev. B. H. Nadal.

The SPEAKER. He has already been nominated.

Mr. DRIGGS. Very well; the mention of the name is sufficient.

Mr. JOHNSON. I have a nomination to make. If I were going to vote for a fighting man, I would nominate General Grant; but I do not intend to vote for a fighting man, and therefore I nominate Rev. John Chambers, of Philadelphia.

CONTESTED-ELECTION PAPERS.

The SPEAKER, by unanimous consent, laid before the House the petition and evidence in the contested-election case of S. H. Boyd vs. John R. Kelso, from the fourth congressional district of Missouri; which were laid on the table, and ordered to be referred to the Committee of Elections, when appointed.

The SPEAKER also laid before the House the papers in the contested-election case of William E. Dodge vs. James Brooks, from the eighth congressional district of New York; which were laid on the table, and ordered to be referred to the Committee of Elections, when appointed.

ELECTION OF CHAPLAIN—AGAIN.

The SPEAKER appointed as tellers on the election of Chaplain, Messrs. PRICE of Iowa, GRISWOLD of New York, DELANO of Ohio, and JOHNSON of Pennsylvania.

The tellers took their places at the Clerk's desk.

Mr. RANDALL, of Pennsylvania. Is it in order to second a nomination?

The SPEAKER. It is not, as the tellers have taken their places.

Mr. RANDALL, of Pennsylvania. I was about to second the nomination of Rev. Mr. Chambers, and to say in his behalf that he is a Christian gentleman.

The House then proceeded to vote *viva voce* for Chaplain, with the following result, which was announced by Mr. GRISWOLD on behalf of the tellers.

Whole number of votes cast, 168; necessary to a choice, 85; of which—

C. B. Boynton received.....	89
Thomas H. Stockton.....	22
John Chambers.....	15
B. H. Nadal.....	14
J. G. Butler.....	9
James Presley.....	6
Charles B. Parsons.....	5
J. H. C. Bonté.....	3
J. C. Matlock.....	2
John Walker Jackson.....	2
Henry Slicer.....	1

The following is the vote in detail:

For Mr. Boynton—Messrs. Alley, Allison, Ames, James M. Ashley, Baldwin, Banks, Beaman, Benjamin, Bidwell, Blaine, Boutwell, Brandegee, Buckland, Bundy, Reader W. Clarke, Sidney Clark, Conkling, Cook, Cullom, Darling, Davis, Dawes, Deming, Dixon, Dumont, Eggleston, Eldridge, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Goodyear, Grinnell, Griswold, Hale, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Hulburd, James Humphrey, Ingersoll, Jenckes, Julian, Kasson, Ketchum, Lullin, Longyear, Marvin, McKuer, Morrill, Morris, Paine, Perham, Phelps, Plants, Pomeroy, Radford, Raymond, Alexander H. Rice, John H. Rice, Sawyer, Schenck, Shellabarger, Sitzgreaves, Spaulding, Stillwell, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Warner, William B. Washburn, Welker, Wentworth, Whaley, James F. Wilson, Windom, Winfield, and Woodbridge.

For Mr. Stockton—Messrs. Baker, Bingham, Broomall, Culver, Donnelly, Eckley, Grider, Aaron Harding, James R. Hubbell, Kelley, Kerr, Mercer, Myers, Newell, O'Neill, Titter, Shankle, Starr, Thayer, Thornton, Trowbridge, and Wright.

For Mr. Chambers—Messrs. Ancona, Bergen, Boyer, Chanler, Dawson, Demiss, Glossbrenner, Johnson, Marshall, McCullough, Niblack, Nicholson, Samuel J. Randall, Strouse, and Rogers.

For Mr. Nadal—Messrs. Baxter, Cobb, Defrees, Driggs, Chester D. Hubbard, Marston, McIndoe, Orth, Patterson, Pike, Price, Rollins, Sloan, and John L. Thomas.

For Mr. Butler—Messrs. Anderson, Kelso, Loan, McClurg, Neall, Seofield, Stevens, Taylor, and Francis Thomas.

For Mr. Presley—Messrs. Barker, Broomall, Abner C. Harding, George V. Lawrence, Moorhead, and Williams.

For Mr. Parsons—Messrs. Latham, McKee, Ross, Smith, and William H. Randall.

For Mr. Bonté—Messrs. Blow, Dolano, and William Lawrence.

For Mr. Matlock—Messrs. Kuykendall and Moulton.

For Mr. Jackson—Messrs. Miller, and Stephen F. Wilson.

For Mr. Slicer—Mr. Hogan.

The SPEAKER announced that Rev. C. B. BOYNTON, having received a majority of all the votes given, was duly elected Chaplain of the House of Representatives of the Thirty-Ninth Congress.

INDIANA CONTESTED ELECTION.

Mr. ORTH presented the memorial of W. D. Washburne, contesting the seat of Hon. D. W. VOORHEES, as a member of the House from the seventh district of Indiana, together with the evidence in the case; and moved that they be referred to the Committee of Elections, when appointed.

The motion was agreed to.

APPORTIONMENT OF REPRESENTATION.

Mr. SCHENCK, in pursuance of previous notice, introduced a joint resolution proposing an amendment to the Constitution of the United States, to apportion Representatives according to the number of voters in the several States; which was read a first and second time.

Mr. SCHENCK. It had been my purpose to propose that this resolution should be made the special order for some early day; but upon reflection, considering how serious a thing it is to offer an amendment to the Constitution, and how gravely it ought to be considered, how carefully every word should be weighed, I prefer to move, as I now do, that it be referred to the Committee on the Judiciary, when appointed, and be printed.

The motion was agreed to.

Mr. DAVIS. I desire to offer a resolution. Mr. STEVENS. Had we not better proceed to call the States in their order?

The SPEAKER. That is the regular order, and it will be reached by objecting to the resolution.

Mr. STEVENS. Then I object; I desire that the States shall be called.

The SPEAKER then proceeded, as the regular order of business, to call the States and Territories for resolutions, under which call

bills and joint resolutions could be introduced for reference, commencing with the State of Maine.

GENERAL BANKRUPT LAWS.

Mr. JENCKES submitted the following resolution, upon which he demanded the previous question:

Resolved, That a committee, to consist of nine members, be appointed by the Speaker, to continue during the Thirty-Ninth Congress, to take into consideration the subject of establishing uniform laws on the subject of bankruptcies throughout the United States, and to whom shall be referred all memorials and other communications on said subject, with leave to report thereon by bill or otherwise.

The previous question was seconded and the main question ordered; and being put, the resolution was adopted.

Mr. JENCKES moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

EMPLOYÉS OF THE HOUSE.

Mr. DAVIS submitted the following resolution, upon which he demanded the previous question:

Resolved, (as the sense of this House,) That the appointment of the sons of members of the House to any office under the Clerk, Doorkeeper, Sergeant-at-Arms or Postmaster thereof is improper, and the same is therefore prohibited.

On seconding the previous question no quorum voted.

Tellers were ordered, and Messrs. DAVIS and SPALDING were appointed.

The House divided, and the tellers reported—ayes 112, noes 2.

So the previous question was seconded.

The main question was ordered, and being put, the resolution was adopted.

Mr. DAVIS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

OFFICE OF PROVOST MARSHAL GENERAL.

Mr. CONKLING submitted the following resolution, upon which he demanded the previous question:

Resolved, That the Committee on Military Affairs be instructed to inquire whether the office of Provost Marshal General, and offices subordinate thereto, cannot now advantageously be dispensed with, and such business as remains at that bureau be turned over to some necessary and permanent bureau of the War Department.

The previous question was seconded, and the main question ordered; and being put, the resolution was adopted.

Mr. CONKLING moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRIVILEGE OF THE FLOOR.

Mr. RAYMOND submitted the following resolution, upon which he demanded the previous question:

Resolved, That W. E. Dodge, claimant for the seat now held by Hon. JAMES BROOKS, from the eighth congressional district of New York, be entitled to the privilege of the floor pending the decision of his claims.

Mr. JOHNSON. I would like to move to amend the resolution so as to include the two contestants from the sixteenth district of Pennsylvania.

Mr. ORTH. I hope the contestants from Indiana will be included also.

Mr. RAYMOND. I will accept the amendments.

Mr. STEVENS. I suggest to the gentleman from New York that he so modify his resolution as to include all contestants for seats from the loyal States.

Mr. RAYMOND. I would inquire of the gentleman from Pennsylvania if all the cases to which he refers have already been brought before the House for its action?

Mr. STEVENS. No, sir; there are several that are to come.

Mr. RAYMOND. I prefer then that a vote be taken on my resolution, as I offered it, and subsequently one can be offered to cover all the cases which the gentleman refers to.

Mr. STEVENS. I have no objection to that.

The previous question was seconded, and the main question ordered; and being put, the resolution was adopted.

NEW JERSEY COAST.

Mr. NEWELL submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire whether any further, and what, means are necessary for the better preservation of life and property from shipwreck along the coast of New Jersey between Sandy Hook and Great Egg Harbor, and that they report by bill or otherwise.

PUBLIC DEBT.

Mr. RANDALL, of Pennsylvania, submitted the following resolution, upon which he demanded the previous question:

Resolved, (as the sense of this House.) That the public debt created during the late rebellion was contracted upon the faith and honor of the nation; that it is sacred and inviolate, and must and ought to be paid, principal and interest; and that any attempt to repudiate, or in any manner to impair or scale the said debt, should be universally discontenanced by the people, and promptly rejected by Congress if proposed.

The previous question was seconded, and the main question ordered; which was upon agreeing to the resolution.

Mr. BRANDEGEE called for the yeas and nays.

The yeas and nays were ordered.

The question was then taken upon agreeing to the resolution; and it was decided in the affirmative—yeas 162, nays 1, not voting 19; as follows:

YEAS—Messrs. Alley, Allison, Ames, Ancona, Anderson, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bergen, Bidwell, Bingham, Blaine, Blow, Boutwell, Boyer, Brandegee, Bromwell, Broome, Buckland, Bundy, Chandler, Rector W. Clarke, Sidney Clark, Cobb, Conkling, Cook, Cullom, Culver, Darling, Davis, Dawes, Dawson, DeForest, Delano, Deming, Denison, Dives, Donnelly, Driggs, Dumont, Eckley, Eggleston, Elliot, Barnsworth, Fessenden, Ferry, Fink, Garfield, Glossbrenner, Goodyear, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Hogan, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbard, James H. Hubbard, Hubbard, James Humphrey, James M. Humphrey, Ingersoll, Jencks, Johnson, Julian, Kasson, Kelley, Kelso, Kerr, Ketchum, Kuykendall, Ladd, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Maxson, Marvin, McClure, McCullough, McIndoe, McKee, McKim, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, Niblack, Nicholson, Noell, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Platts, Pomeroy, Price, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, Rogers, Rollins, Ross, Sawyer, Schenck, Scofield, Shanklin, Shellabarger, Sitgreaves, Sloan, Smith, Spalding, Starr, Stevens, Stillwell, Strouse, Tabor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Upson, Bart Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburne, Welker, Wentworth, Whaley, Williams, James F. Wilson, Windom, Winfield, and Wright—162.

NAYS—Mr. Trimble—1.

NOT VOTING—Messrs. Delos R. Ashley, Brooks, Eldridge, Grider, Aaron Harding, Harris, Jones, Le Blond, Lynch, Marshall, John H. Rice, Mifflin, Rousseau, Taylor, Van Aernam, Robert T. Van Horn, Voorhees, Stephen F. Wilson, and Woodbridge—19.

So the resolution was agreed to.

REBEL DEBT.

Mr. STEVENS introduced the following joint resolution; which was read a first and second time, and ordered to be referred to the Committee on the Judiciary, when the same shall have been appointed:

Resolved, by the Senate and House of Representatives of the United States in Congress assembled, That the following amendment to the Constitution of the United States shall be proposed, and when ratified by the Legislatures of three fourths of the States shall be valid to all intents and purposes as part of the Constitution of the United States:

Neither the United States nor any State in the Union shall ever assume, or pay any part of the debt of the so-called confederate States of America, or of any State, contracted to carry on war with the United States.

EXPORT DUTIES.

Mr. STEVENS also introduced the following joint resolution; which was read a first and second time, and ordered to be referred to the

Committee on the Judiciary, when the same shall have been appointed:

Resolved, by the Senate and House of Representatives in Congress assembled, That the following amendment to the Constitution of the United States shall be proposed, and when ratified by the Legislatures of three fourths of the States shall be valid to all intents and purposes as part of the Constitution of the United States:

Amend the ninth section of the first article by expunging so much thereof as says, "No tax or duty shall be laid on articles exported from any State."

APPORTIONMENT OF REPRESENTATION.

Mr. STEVENS also introduced the following joint resolution; which was read a first and second time, and ordered to be referred to the Committee on the Judiciary, when the same shall have been appointed:

Resolved, by the House of Representatives, (the Senate concurring,) That the following amendment to the Constitution of the United States shall be proposed to the several States, and when ratified by the Legislatures of three fourths of the States shall be valid to all intents and purposes as part of the Constitution of the United States:

Representatives shall be apportioned among the States which may be within the Union according to their respective legal voters; and for this purpose none shall be deemed as legal voters who are not either natural-born citizens or naturalized foreigners. Congress shall provide for ascertaining the number of said voters. A true census of the legal voters shall be taken at the same time with the regular census.

EQUALITY BEFORE THE LAW.

Mr. STEVENS also introduced the following joint resolution; which was read a first and second time, and ordered to be referred to the Committee on the Judiciary, when the same shall have been appointed:

Resolved, by the Senate and House of Representatives in Congress assembled, That the following amendment to the Constitution of the United States shall be proposed, and when ratified by the Legislatures of three fourths of the States shall be valid to all intents and purposes as part of the Constitution of the United States:

ARTICLE XIII. All national and State laws shall be equally applicable to every citizen, and no discrimination shall be made on account of race and color.

Mr. STEVENS moved that the several joint resolutions just introduced by him be printed.

The motion was agreed to.

PHILIP EPSTEIN, HERMAN SOMERS, ETC.

Mr. JOHNSON submitted the following resolution:

Resolved, That the Secretary of War be directed to communicate to this House all the papers and testimony relating to the claim of Philip Epstein, Herman Somers, M. David, Julius Louis, and Henry Steen, recently investigated by Colonel Nicodemus, under direction of the War Department.

Mr. WASHBURNE, of Illinois. I would like to know the particular object of having these papers copied and sent here.

Mr. JOHNSON. My object is to introduce a bill for the claim. It has been investigated by Colonel Nicodemus, by direction of the Secretary of War. But under the rules of the Department the parties are not permitted to examine that record. I desire to have these papers brought here for the purpose of enabling me to submit a bill to the Committee of Claims.

Mr. WASHBURNE, of Illinois. I do not know the peculiar facts of the case, but I would suggest to the gentleman from Pennsylvania [Mr. JOHNSON] to modify his resolution so that it shall read, "if not incompatible with the public interest."

Mr. JOHNSON. I have no objection to that, and will modify my resolution accordingly. The resolution as modified was then agreed to.

SUFFRAGE IN THE DISTRICT OF COLUMBIA.

Mr. KELLEY, in pursuance of previous notice, introduced a bill extending the right of suffrage in the District of Columbia; which was read a first and second time, and referred to the Committee on the Judiciary.

COMMUNICATION FROM THE PRESIDENT.

Mr. WASHBURNE, of Illinois, from the joint committee of both Houses appointed to wait upon the President of the United States and inform him that both Houses were organized and prepared to receive any communication he desired to make, reported that the committee had performed that duty, and that the President had

stated that he would communicate by message to both Houses immediately.

ANNUAL MESSAGE OF THE PRESIDENT.

A message in writing was received from the President of the United States, by Colonel ROBERT JOHNSON, his Private Secretary.

The SPEAKER, by unanimous consent, laid before the House the annual message of the President of the United States, which was read. [The message will be published in the Appendix.]

PRINTING OF PRESIDENT'S MESSAGE.

Mr. WASHBURNE, of Illinois. I move that the annual message of the President be referred to the Committee of the Whole on the state of the Union, and that the usual number of extra copies of the message and accompanying documents be printed. On that motion I demand the previous question.

Several MEMBERS. What is the usual number?

Mr. WASHBURNE, of Illinois. Twenty thousand.

Mr. SCHENCK. Make it fifty thousand.

Mr. WASHBURNE, of Illinois. The motion necessarily goes to the Committee on Printing, who can fix any number they please.

Mr. SCHENCK. We may as well indicate our preference for a larger number.

Mr. WASHBURNE, of Illinois. Very well; I accept the suggestion of the gentleman from Ohio, [Mr. SCHENCK,] and modify my motion so as to name fifty thousand as the number to be printed. I renew my demand for the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the motion of Mr. WASHBURNE, of Illinois, was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DECEASE OF PRESIDENT LINCOLN.

Mr. WASHBURNE, of Illinois. I ask unanimous consent to offer the following resolution, which is in accordance with the precedents in cases of similar melancholy character:

Resolved, That a committee of one member from each State represented in this House be appointed on the part of this House to join such committee as may be appointed on the part of the Senate, to consider and report by what token of respect and affection it may be proper for the Congress of the United States to express the deep sensibility of the nation to the event of the decease of their late President, Abraham Lincoln, and that so much of the message of the President as refers to that melancholy event be referred to said committee.

There being no objection, the resolution was considered and agreed to.

BASIS OF CONGRESSIONAL REPRESENTATION.

Mr. BROOMALL introduced a joint resolution to alter the Constitution of the United States, so as to base the representation in Congress upon the number of electors, instead of the population, of the several States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

PENNSYLVANIA CONTESTED-ELECTION CASE.

Mr. WILLIAMS submitted the following resolution, and demanded the previous question on its adoption:

Resolved, That the certificates and all other papers relating to the election in the sixteenth congressional district of Pennsylvania be referred to the Committee of Elections, (when appointed,) with instructions to report at as early a day as practicable which of the claimants to the vacant seat from that district has *prima facie* the right thereto, reserving to the other party the privilege of contesting the case on its merits without prejudice from lapse of time or want of notice.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. ASHLEY, of Ohio, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ADJOURNMENT OVER.

Mr. MORRILL moved that when the House adjourns to-morrow, it will, with the concurrence of the Senate, adjourn until Monday next. The motion was agreed to. And then (at ten minutes to four o'clock p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, December 6, 1865.

Prayer by Rev. EDGAR H. GRAY, Chaplain of the Senate.

The Journal of yesterday was read and approved.

Hon. RICHARD YATES, of Illinois, appeared in his seat to-day.

STANDING COMMITTEES.

Mr. ANTHONY. I move that the Senate proceed to the election of the standing committees.

The motion was agreed to.

Mr. ANTHONY. I move to suspend the rule, by unanimous consent, which requires the election of the chairmen of the committees to be made by ballot, and that they be made by nomination.

The PRESIDENT *pro tempore*. Is the motion objected to? No objection being made, that will be considered the sense of the Senate, and the rule will be suspended.

Mr. ANTHONY. I move that the following list of committees be appointed:

On Foreign Relations—Messrs. Sumner, (chairman,) Doolittle, Harris, Henderson, Wade, Johnson, and Buckalew.

On Finance—Messrs. Fessenden, (chairman,) Sherman, Cowan, Van Winkle, Morgan, Williams, and Guthrie.

On Commerce—Messrs. Chandler, (chairman,) Morrill, Morgan, Howe, Foot, Lane of Kansas, and Nesmith.

On Manufactures—Messrs. Sprague, (chairman,) Dixon, Pomeroy, Riddle, and Wright.

On Agriculture—Messrs. Sherman, (chairman,) Lane of Kansas, Creswell, Cowan, and Guthrie.

On Military Affairs and the Militia—Messrs. Wilson, (chairman,) Lane of Indiana, Howard, Nesmith, Sprague, Brown, and Doolittle.

On Naval Affairs—Messrs. Grimes, (chairman,) Anthony, Willey, Ramsey, Cragin, Nye, and Hendricks.

On the Judiciary—Messrs. Trumbull, (chairman,) Harris, Clark, Poland, Stewart, and Hendricks.

On Post Offices and Post Roads—Messrs. Dixon, (chairman,) Ramsey, Conness, Buckalew, Pomeroy, Van Winkle, and Anthony.

On Public Lands—Messrs. Pomeroy, (chairman,) Stewart, Creswell, Hendricks, Grimes, Harris, and Wright.

On Private Land Claims—Messrs. Harris, (chairman,) Howard, Poland, Riddle, and Stockton.

On Indian Affairs—Messrs. Doolittle, (chairman,) Lane of Kansas, Trumbull, Clark, Norton, Nesmith, and Buckalew.

On Pensions—Messrs. Lane of Indiana, (chairman,) Van Winkle, Foot, Yates, Wilson, Davis, and Stockton.

On Revolutionary Claims—Messrs. Ramsey, (chairman,) Chandler, Wilson, Nesmith, and Wright.

On Claims—Messrs. Clark, (chairman,) Howe, Anthony, Henderson, Williams, Norton, and Davis.

On the District of Columbia—Messrs. Morrill, (chairman,) Wade, Willey, Sumner, Henderson, Yates, and Riddle.

On Patents and the Patent Office—Messrs. Cowan, (chairman,) Lane of Indiana, Poland, Norton, and Guthrie.

On Public Buildings and Grounds—Messrs. Foot, (chairman,) Brown, Trumbull, Grimes, and Hendricks.

On Territories—Messrs. Wade, (chairman,) Lane of Kansas, Yates, Norton, Nye, Cragin, and Davis.

On the Pacific Railroad—Messrs. Howard, (chairman,) Sherman, Morgan, Conness, Brown, Yates, Cragin, Ramsey, and Stewart.

To Audit and Control the Contingent Expenses of the Senate—Messrs. Brown, (chairman,) Foot, and Sherman.

On Engrossed Bills—Messrs. Willey, (chairman,) Lane of Indiana, and Sumner.

On Mines and Mining—Messrs. Conness, (chairman,) Stewart, Chandler, Morgan, Creswell, Buckalew, and Guthrie.

Joint Committee on Printing—Messrs. Anthony, (chairman,) Brown, and Riddle.

Joint Committee on Enrolled Bills—Messrs. Nye, (chairman,) Howe, and Cowan.

Joint Committee on the Library—Messrs. Howe, (chairman,) Fessenden, and Howard.

The motion was agreed to, and the standing committees are thus constituted.

ADDITIONAL COMMITTEE CLERKS.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the part of the Senate on the Library, and the Committee to Audit and Control the Contingent Expenses of the Senate, respectively, be authorized to employ a clerk.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. McPHERSON, its Clerk, announcing that the House had passed a concurrent resolution proposing an adjournment from the 6th to the 11th instant.

BILLS REFERRED.

On motion by Mr. WADE, the bill (S. No. 1) introduced by him, to regulate the elective franchise in the District of Columbia, was read a second time by its title, and referred to the Committee on the District of Columbia.

On motion by Mr. HARRIS, the bill (S. No. 8) introduced by him, to reorganize the judiciary of the United States, was read a second time by its title, and referred to the Committee on the Judiciary.

On motion by Mr. DOOLITTLE, the bill (S. No. 14) introduced by him, in relation to the qualification of jurors in certain cases, was taken from the table, and referred to the Committee on the Judiciary.

On motion by Mr. SHERMAN, the bill (S. No. 10) introduced by him, for the survey and sale of the mineral lands of the United States, was taken from the table, and referred to the Committee on Public Lands.

On motion by Mr. STEWART, the following bills, introduced by him, were taken from the table, and referred to the Committee on the Judiciary:

A bill (S. No. 12) to define the jurisdiction of the district and circuit courts of the United States for the districts of California, Oregon, and Nevada; and

A bill (S. No. 13) concerning appeals, writs of error, and injunctions.

On motion by Mr. SUMNER, the bill (S. No. 3) introduced by him, to carry out the principles of a republican form of government in the District of Columbia, was read the second time, and referred to the Committee on the District of Columbia.

ADJOURNMENT TO MONDAY.

Mr. DOOLITTLE. A concurrent resolution has been received from the House of Representatives providing for an adjournment over to Monday. Perhaps we might as well take that up now and dispose of it. I move that that resolution be taken up.

There being no objection, the Senate proceeded to consider the following resolution of the House of Representatives:

Resolved, (the Senate concurring,) That when the House adjourns on Wednesday, the 6th of December, instant, it stand adjourned until Monday the 11th instant.

Mr. FOOT. That only adjourns the House of Representatives. I move that it be amended so as to embrace both Houses.

The amendment was agreed to.

The resolution, as amended, was adopted.

PETITIONS AND MEMORIALS.

Mr. GRIMES. I present the petition of Edward R. Hutchins, and a large number of other assistant and acting assistant surgeons of the United States Navy attached to the South Atlantic blockading squadron, asking for an increase of compensation. I desire to state that this petition, in consequence of some derangement of the mails, did not reach me until shortly after the adjournment of the last session of Congress; and this is the reason why it was not presented at an earlier date. I move its reference to the Committee on Naval Affairs.

The motion was agreed to.

Mr. SUMNER presented resolutions of the Legislature of the State of Massachusetts in favor of an appropriation for the preservation of the harbor of Provincetown, and the construction of a military railroad from Orleans to Provincetown; which were referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. FOOT presented the petition of Alton Nelson, praying for an increase of his pension; which was referred to the Committee on Pensions.

He also presented the petition of Barney Cain, praying that the bounty may be paid him which would have been due his deceased son, Henry N. Cain, a private in the eighth regiment Vermont volunteers; had he lived to have been mustered out of the United States service; which was referred to the Committee on Pensions.

Mr. MORGAN presented the memorial of James A. Scrymser, Alfred Pell, jr., Alexander Hamilton, jr., Oliver K. King, Maturin L. Delafield, William F. Smith, and James M. Digges, composing "The International Ocean Telegraph Company," praying for authority to establish telegraphic communication between the city of New York and the West India islands; which was referred to the Committee on Commerce.

He also presented the petition of Mary C. Hamilton, widow of Foster Hamilton, late a captain in the second regiment of United States dragoons, praying that half pay may be granted her for life, and that arrears from the 3d day of June, 1863, may be paid her; which was referred to the Committee on Pensions.

He also presented a petition of the executors of Rembrandt Peale, artist, praying Congress to purchase the painting entitled "Washington before Yorktown;" which was referred to the Joint Committee on the Library.

REFERENCE OF PRESIDENT'S MESSAGE.

On motion of Mr. SUMNER, it was *Ordered*, That so much of the President's message as relates to foreign relations, be referred to the Committee on Foreign Relations.

On motion of Mr. POMEROY, it was *Ordered*, That so much of the President's message as relates to the homestead law and the public lands, be referred to the Committee on Public Lands.

On motion of Mr. CHANDLER, it was *Ordered*, That so much of the President's message as refers to commerce between the several States, be referred to the Committee on Commerce.

On motion of Mr. WILSON, it was *Ordered*, That so much of the President's message as relates to military affairs, be referred to the Committee on Military Affairs and the Militia.

RESOLUTIONS OF CONNECTICUT.

Mr. DIXON presented the following resolutions of the Legislature of Connecticut; which were read:

STATE OF CONNECTICUT,
General Assembly, May Session, A. D. 1865.

Grateful to Almighty God, who has brought the American people safely through the perils of civil war, and has opened before them a prospect of peace, prosperity, and power, the General Assembly of Connecticut, considering the present condition of public affairs, thinks fit to declare as follows:

1. The American people are a nation, and not a confederacy of nations.
2. The States have certain constitutional rights which ought to be preserved inviolate; but, as between the nation and the States, the nation is sovereign, and the States are not.
3. All men within the limits of the United States ought to be absolutely free; and no permanent discrimination in rights and privileges ought to exist between different classes of free men.

4. Treason against a republican government is the greatest of crimes, and ought to be treated as such. Nevertheless, a humane and generous policy ought to be exercised by the national Government toward the misguided masses of the southern people who were not primarily responsible for the late rebellion.

5. The public opinion of Europe in reference to the domestic affairs of this country must henceforth be of little value to the American people.

6. The Government of the United States, in settling upon its domestic policy, and especially in deciding what course it will pursue toward the leaders of the rebellion, ought not to be influenced by the wishes, the advice, the warnings, the entreaties, or the public opinion of foreign nations, but ought, on the contrary, to look with jealousy and suspicion upon all attempts from such quarters to affect its actions.

7. In its diplomacy, the Government of the United States ought, while courteous, to be frank. It ought not to make pretenses of friendship toward nations which have manifested hatred of this country during its late distresses. But peace, with friendship toward our friends, and peace, without friendship toward those who are not our friends, ought to be maintained at all times, if possible, as the true and permanent policy of the United States.

8. Andrew Johnson, President of the United States, by his great abilities, his undoubted patriotism, and his eminent public services, has entitled himself to the confidence of the nation; and since he is manifestly surrounded by many and great difficulties, and is compelled to adopt experimental policies without assurance of their success, he ought to be sustained in the exercise of great freedom of action; and in all his efforts to tranquilize the country, to maintain its peace and dignity, and to promote its welfare, he ought to receive a frank and generous support from the people.

His Excellency, the Governor, is hereby requested to cause a copy of these declarations to be transmitted to the President of the United States, and a like copy to each of the Senators and Representatives of this State in Congress.

HOUSE OF REPRESENTATIVES, July 19, 1865.

Passed, JOHN R. BUCK, Clerk.

SENATE, July 20, 1865.

Passed, W. T. ELMER, Clerk.
Approved, July 21, 1865.

OFFICE OF SECRETARY OF STATE.

I hereby certify that the foregoing is a true copy of record in this office.

In testimony whereof I have hereunto set my hand and affixed the seal of said State, at Hartford, [L. S.] this 30th day of August, A. D. 1865.

J. H. TRUMBULL,
Secretary of State.

The resolutions were ordered to lie on the table, and be printed.

BILLS INTRODUCED.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 17) to regulate commerce among the several States; which was read twice by its title, and referred to the Committee on Commerce.

Mr. CLARK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 18) for the relief of Ambrose Morrison, of Nashville, Tennessee; which was read twice by its title, and referred to the Committee on Claims.

OFFICERS PAID ILLEGALLY.

Mr. SUMNER. I offer the following resolution of inquiry addressed to the Secretary of the Treasury:

Whereas it is provided by act of Congress that every person in the civil, military, or naval departments of the public service, excepting the President of the United States, shall, before entering upon the duties of his office and before being entitled to any of the salary or other emoluments thereof, take and subscribe a certain oath in prescribed form, and it is further provided in another act of Congress (February 9, 1863, chapter 25, section 2) that "no money shall be paid from the Treasury of the United States to any person acting as an officer, civil, military, or naval, as salary in any office, which office is not authorized by some previously existing law, unless where such office shall be subsequently sanctioned by law; and whereas it is reported that, notwithstanding these acts of Congress, certain persons have been allowed to enter upon the duties of office and to receive the salary and emoluments thereof, without taking the prescribed oath, and certain other persons have been appointed to offices "not authorized by any previously existing law;" Therefore,

Resolved, That the Secretary of the Treasury be requested, so far as the records of his Department allow, to furnish to the Senate the names of any persons who have been permitted to enter upon the duties of office, and to receive the salary and emoluments thereof, without taking the oath prescribed by Congress; also, the titles of such offices, with an account of the salary and emoluments thereof, and out of what fund the same have been paid; also, the names of any persons who have been appointed to any office "not au-

thorized by some previously existing law," and if the same have received any salary, what it was, and out of what fund it has been paid.

The PRESIDENT *pro tempore*. Does the Senator ask for the present consideration of the resolution?

Mr. SUMNER. I do.

Mr. JOHNSON. I object.

The PRESIDENT *pro tempore*. Objection being made, the resolution lies over under the rule.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a resolution for the appointment of a joint committee of the two Houses to consider and report on a proper token of respect and affection to be adopted by Congress on the occasion of the death of the late President, Abraham Lincoln.

RECONSTRUCTION.

Mr. DOOLITTLE. I move that so much of the President's message as relates to the subject of the restoration or reconstruction of the States, be referred to the Committee on the Judiciary.

Mr. SUMNER. I hesitate to adopt that order at this moment. The Senator is quite aware that there is already on the table a resolution from the House of Representatives to which, perhaps, that part of the message would more properly be referred, should we concur with the House. I think, therefore, that the proposition of the Senator had better lie on the table for the present until the Senate acts on the House resolution; and if the Senate should concur with the House resolution, then it will be a question whether, upon the whole, that portion of the message should not go to the joint committee.

Mr. DOOLITTLE. In relation to the joint resolution from the other House, I am of opinion that that also had better go to the Committee on the Judiciary for consideration. There are some important questions involved in the resolutions—legal questions and constitutional questions—which may lead to a discussion at this early stage of the session, without its being adequately considered by any committee. In answer to what my friend from Massachusetts says, I think it would be wise, perhaps, to let that resolution go to that committee for consideration. They will be prepared, probably, with their report when the Senate returns after its adjournment. The Senator can hardly expect, I think, to take up the House resolution, if it leads to discussion, and dispose of it to-day, when we are about to adjourn till Monday, tomorrow being Thanksgiving day. It had better be referred to the Committee on the Judiciary.

Mr. WILSON. I move that the Senate do now adjourn.

Mr. JOHNSON. I hope that the honorable member will withdraw that for a moment.

Mr. WILSON. Certainly.

Mr. JOHNSON. I objected to the consideration of the resolution of inquiry proposed by the honorable member from Massachusetts [Mr. SUMNER] only because it did not provide that the Secretary should give the reasons for the course which he is supposed to have pursued. If the Senate have no objection, I have none to considering the resolution now, meaning to offer an amendment which will obviate the objection I had.

Mr. SUMNER. I have had an opportunity of conferring with the Senator from Maryland, and I am ready to accept his amendment.

The PRESIDENT *pro tempore*. That resolution is not now before the Senate; the question is on the motion of the Senator from Wisconsin, but this resolution may be now interposed by unanimous consent.

Mr. DOOLITTLE. Very well.

Mr. FESSENDEN. I think it had better lie over until we meet again.

Mr. JOHNSON. I have no objection to that.

Mr. WILSON. I renew my motion that the Senate adjourn.

Mr. HENDRICKS. I ask the Senator from

Massachusetts if we ought not to have a report from the House of Representatives whether our amendment to their resolution about adjourning over is concurred in. ["Certainly."] We ought not to adjourn until we know whether the other House concurs in the amendment of the Senate to that resolution.

The PRESIDENT *pro tempore*. Does the Senator from Massachusetts press the motion to adjourn?

Mr. WILSON. I have no doubt the House of Representatives will concur in that amendment of ours, and I desire to get an adjournment.

The PRESIDENT *pro tempore*. The Chair will suggest that if the motion to adjourn now prevails, it will be the duty of the Chair to pronounce the Senate adjourned until to-morrow at twelve o'clock.

Mr. WILSON. I withdraw the motion.

COMMITTEE SERVICE.

Mr. LANE, of Kansas. I desire to resign my place as a member of the Committee on Commerce, with the consent of the Senate.

The PRESIDENT *pro tempore*. The Senator from Kansas moves that he be excused as one of the members of the Committee on Commerce. The question is on that motion.

The motion was agreed to.

Mr. CRESWELL. If agreeable to the Senate, I propose to resign my position upon the Committee on Public Lands. I move that I be excused from service upon that committee.

The motion was agreed to.

Mr. CHANDLER. I move that the vacancy in the Committee on Commerce occasioned by the resignation of Mr. LANE, of Kansas, be filled by the Chair.

The motion was agreed to by unanimous consent.

Mr. POMEROY. I move that the vacancy in the Committee on Public Lands occasioned by the resignation of Mr. CRESWELL be also filled by the Chair.

The motion was agreed to by unanimous consent.

INDIAN MASSACRES.

Mr. POMEROY submitted the following resolutions; which were referred to the Committee on Indian Affairs, and ordered to be printed:

Resolutions concerning Indian massacres upon the frontier.

Whereas ineffectual efforts have been made during the past season to treat with and conciliate the hostile Indians upon our western border and upon traveled routes to the mountains and the Pacific; and whereas recent demonstrations of hostility upon the lines of our communication between the States and mountain Territories, embracing both the valley of the Platte and the Smoky Hill, and producing interruption, if not suspension, of communication and commerce across the continent, resulting in the massacre and murder of many of our active, pioneering, and adventurous fellow-citizens; and also the mutilation and death of whole coach loads of unarmed travelers, embracing men, women, and children: Therefore,

Resolved, That the mild, conciliatory, and even magnanimous conduct of our Government toward these savages, not being understood or appreciated by them, but only construed to be weakness and cowardice, should now be followed by the most vigorous and decisive measures until these hostile tribes are effectually punished for their crimes, and whipped into a wholesome restraint and submission to the authority of the United States.

2. *Resolved*, That the greatly increasing demand for communication and peaceful travel and commerce to our western mountains and the Pacific, resulting from the discovery of gold and precious metals, as well as the surveying and constructing of a Pacific railroad, renders it peculiarly urgent and of national importance that these routes of communication be and remain entirely uninterrupted.

MEMORIAL OF PRESIDENT LINCOLN.

Mr. FOOT. Mr. President, I wish to call up the resolution from the House of Representatives relative to proceedings of fitting and appropriate respect to the memory of the late President of the United States.

The PRESIDENT *pro tempore*. If there be no objection, that resolution will be taken up and read.

The Secretary read the House resolution, as follows:

Resolved, That a committee of one member from each State represented in this House, be appointed on

the part of this House, to join such committee as may be appointed on the part of the Senate, to consider and report by what token of respect and affection it may be proper for the Congress of the United States to express the deep sensibility of the nation to the event of the decease of their late President, Abraham Lincoln; and that so much of the message of the President as refers to that melancholy event be referred to said committee.

Mr. FOOT. I move that the Senate concur in that resolution.

The motion was agreed to.

Mr. FOOT. I now move that a committee of six be appointed by the Chair, to join such committee as may be appointed by the House of Representatives, in relation to the proceedings of respect to the memory of the late President of the United States.

Mr. LANE, of Kansas. The committee of the House is one from each State, I understand. I suggest to the Senator from Vermont whether six is a sufficient representation for the Senate as compared with the House. I should like to have that committee on the part of the Senate larger.

Mr. TRUMBULL. I have referred to the only precedent in our history of the decease of a President of the United States during the recess of Congress, and the proceedings which have taken place in the House of Representatives now are in precise accordance with what then took place in the House on the motion of John Quincy Adams, the oldest member of the House. A committee was appointed from that body to join such committee as should be appointed on the part of the Senate, and the Senate thereupon concurred in the resolution and appointed a committee of six to unite with the committee of the House. Of course that is not binding now, but the motion of the Senator from Vermont is in accordance with what was done in the only melancholy event of that kind which has transpired in our history before. There is no objection to a larger committee that I am aware of. I merely state that this is what was done on a former occasion.

Mr. LANE, of Kansas. I should like to see the committee large enough to allow all sections of the country to be represented, and I will move that the committee on the part of the Senate consist of thirteen instead of six. I hope, under the circumstances connected with the death of this President, that the Senate will concur in this amendment and permit every portion of the country to be represented.

The PRESIDENT *pro tempore*. As an amendment to the motion of the Senator from Vermont, the Senator from Kansas moves that the number of the committee be increased, and that instead of six the committee consist of thirteen members on the part of the Senate.

The amendment was agreed to; there being, on a division—ayes 19, noes 16.

The motion, as amended, was agreed to.

ADJOURNMENT TO MONDAY.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced the concurrence of the House in the amendment of the Senate to the concurrent resolution relative to an adjournment from the 6th instant to Monday, the 11th instant.

Mr. FOOT. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 6, 1865.

The House met at twelve o'clock, m. Rev. C. B. BOXTON, Chaplain-closet of the House, opened with prayer, as follows:

Almighty God! God of our fathers and of us, we give Thee thanks that the Congress of the United States is permitted to gather here and once more represent and legislate for a united country: not only united, but purified and strengthened by her trials and her sorrows, and to remain, as we trust, through Thy grace henceforth one and inseparable forever. We thank Thee that not one star is missing from the flag that floats over us; and that that ban-

ner, more loved and honored everywhere than before, is recognized over the whole land as the symbol of proper authority, and is the sufficient guardian now of every foot of our territory.

We thank Thee that the deadly strife is over; that time is already softening away many of the asperities of the war, healing the wounds in many hearts, and lifting somewhat the shadow from the households where the pall of death has been.

We thank Thee, O God, that the Congress of the United States represents now virtually one great, free Union; that by organic law virtually now freedom is universal throughout the whole land; that there is no longer a chain, nor a slave, nor a master, legally, in the whole country; and we pray Thee, O God, to give unto this Congress the wisdom and the courage of our fathers to carry out all such measures as are needed to make this gift of freedom not one of empty formality, but carrying with it all the rights and privileges of manhood.

We thank Thee, O God, that free institutions have been put on trial before the world; and now that the issue has been so triumphant a vindication of them, we bless Thee, O God, that the trial was so severe that none can doubt hereafter the power or the stability of the Republic.

And now we invoke Thy blessing upon these legislators. Fill them, we pray Thee, with wisdom from on high, and grant to them individually every blessing that they need. Grant unto the President of the United States especially grace, wisdom, and strength, rightly to discharge the heavy responsibilities which are laid upon him; and bless also all those who are associated with him in the executive departments of the Government.

Remember, O Lord, our wounded and crippled soldiers everywhere, and let not the country forget their sufferings or their merits. Remember all who mourn, and give them consolation. And may this whole land be so pervaded by the spirit of the Gospel that our institutions shall be based now upon those holy principles of truth and of righteousness proclaimed by our Lord and Saviour, and this be a Republic filling with its power and its influence a continent, and sending over the world the blessed power, the recovering power, of a free and Christian nation.

And unto Thee, O God of our fathers, we will give all the praise and the glory forever. Amen.

The Journal of yesterday was read and approved.

The Chaplain-closet, Rev. C. B. BOXTON, then took the oath prescribed by law.

Mr. ELIOT asked unanimous consent to submit a resolution.

Mr. WASHBURNE, of Illinois, objected.

CURRENCY REPORT.

The SPEAKER laid before the House the report of the Comptroller of the Currency, which was ordered to be referred to the Committee on Banking and Currency, when appointed.

CONTESTED-ELECTION CASE.

The SPEAKER also, by unanimous consent, laid before the House the papers in the contest for the seat of Hon. C. DELANO, a Representative from the thirtieth congressional district of Ohio, by Charles Follett; which were ordered to be referred to the Committee of Elections, when appointed.

THE WIDOW OF ABRAHAM LINCOLN.

Mr. STEVENS asked unanimous consent to introduce a bill for the relief of Mrs. Mary Lincoln, widow of the late President of the United States.

The bill, which was read for information, directs that the Secretary of the Treasury pay, out of any money in the Treasury not otherwise appropriated, to Mrs. Mary Lincoln, widow of Abraham Lincoln, late President of the United States, or, in the event of her death before payment, then to the legal representatives of the said Abraham Lincoln, the sum of \$25,000;

provided, that any sum of money which shall have been paid to the personal representatives of the said Abraham Lincoln since his death, on account of his salary as President of the United States, shall be deducted from the said sum of \$25,000.

Mr. STEVENS. If there is no objection to its introduction, I will ask that the bill be put upon its passage. If there is objection, I will wait for another occasion.

No objection being made, the bill was introduced and read a first and second time by its title.

The SPEAKER. The question is upon ordering the bill to be engrossed and read a third time.

Mr. WENTWORTH. I hardly know in what way I shall address the House, being somewhat embarrassed by the manner in which the bill is introduced. Mrs. Lincoln is a constituent of mine, and I have been in consultation with the Illinois delegation, and with the administrator of the estate, in reference to the subject-matter the gentleman from Pennsylvania has presented in his bill; and I hold in my hand—

Mr. STEVENS. I will say to the gentleman from Illinois that it was thought to be in accordance with established usage that the old chairman of the Committee of Ways and Means should introduce the bill. I beg leave to withdraw the bill.

Mr. WASHBURNE, of Illinois. I see no necessity for that.

Mr. WENTWORTH. I hope the gentleman will allow me to conclude my remarks.

Mr. STEVENS. Certainly.

Mr. WENTWORTH. I trust the gentleman from Pennsylvania knows me too well to suppose I have any feeling of delicacy as to where this bill originates. It was only in reference to Mrs. Lincoln's present position and her necessities, that I deemed it my duty to consult the administrator of the estate before I made any motion upon the subject. I consulted the Illinois delegation yesterday, and nothing would have pleased me and the administrator better than to have made my venerable friend the organ of introducing this bill to the House. But the bill of the gentleman is not in the shape in which, I am sure, the members of this House, if they knew all the circumstances, would wish to have it pass.

Now, if my friend from Pennsylvania will be so kind as to substitute for his bill the one I hold in my hand, I will be much obliged to him.

Mr. STEVENS. I am very sorry I introduced the bill, and I hope my friend will move to refer it to a select committee.

Mr. WENTWORTH. I ask that the substitute may be read.

The substitute, which was read for information, appropriates, out of any money in the Treasury not otherwise appropriated, the sum of ——— dollars for the relief of Mrs. Mary Lincoln, the widow of the late President of the United States, in full for his salary, and in consideration of the circumstances under which he came to his death.

Mr. STEVENS. Now, I hope the gentleman from Illinois will move that both bills be referred to a select committee.

Mr. WENTWORTH. I hope my friend from Pennsylvania will withdraw his bill and accept my substitute, and let it go to a select committee of one from each State. That was the motion I was going to make. I want the gentleman to father my bill.

Mr. STEVENS. I will withdraw my bill, with the consent of the House.

Mr. WENTWORTH. If the gentleman withdraws his bill, will it be in order to offer mine before the State of Illinois is called for resolutions?

The SPEAKER. It will be by unanimous consent.

Mr. STEVENS withdrew his bill by unanimous consent.

Mr. WENTWORTH. I ask unanimous consent now to introduce my bill, that it may

be read a first and second time, and referred to a select committee of one from each State.

Mr. SPALDING. As there seems to be no harmony among the gentlemen over the way, I object.

EXECUTIVE DEPARTMENT.

Mr. THAYER, in pursuance of previous notice, introduced a bill to amend the act declaring the officer who shall act as President of the United States in case of vacancies in the offices both of President and Vice President, approved March 1, 1792; which was read a first and second time, referred to the Committee on the Judiciary, when appointed, and ordered to be printed.

PENSIONS.

Mr. STEVENS introduced a joint resolution permitting wounded soldiers to accept office or employment under the Government and receive their pensions at the same time; which was read a first and second time.

Mr. STEVENS. I ask that the joint resolution be put upon its passage.

The joint resolution was read. It provides that the acceptance of office or employment under the Government by wounded soldiers shall not deprive them of their pensions, any law to the contrary notwithstanding.

Mr. GARFIELD. I wish to ask whether that resolution covers the cases of persons in the military service. There is the Veteran Reserve corps, and if a man is holding a commission, or is in the military service, I do not think he ought to receive a pension at the same time. The language of the resolution seems to me too general. It says that any wounded soldier in the service of the Government shall not be prevented by that service from drawing a pension. It seems to me that the language ought to be corrected, and I suggest that the resolution had better be referred to the Committee on Invalid Pensions.

Mr. STEVENS. I will move to amend the resolution so as to except those in the military service of the United States.

Mr. KELLEY. It seems to me that the resolution should embrace another class, if I remember its phraseology aright. There are many widows of soldiers, and some mothers, who have pensions, who live by their needles, and have found work in the arsenals, making clothing for our soldiers; and I learn that their pensions have been stopped by reason of such employment. I would like the resolution to be made broad enough to cover all such persons.

Mr. STEVENS. I have no objection to that.

Mr. KELLEY. I am quite sure my colleague will amend it in that respect.

Mr. STEVENS. I am quite willing that the resolution shall be so amended. I move that it be referred to the Committee on Invalid Pensions, when appointed.

The motion was agreed to.

DISTRIBUTION OF DOCUMENTS.

Mr. MOORHEAD. I offer the following resolution, which is a copy of a resolution adopted at the commencement of the last Congress:

Resolved, That all public documents of which extra copies have been ordered to be printed for distribution, and which have not been delivered to the persons entitled thereto under the resolution of the last House of Representatives, shall now be delivered, by the officer having possession of the same, to the Representatives in this House of those districts whose former Representatives have not drawn the documents to which such districts were respectively entitled according to the rate of distribution established.

Mr. JOHNSON. I desire to say to the House that I think that resolution would operate unjustly in certain particular cases. I know some members of the last Congress who have endeavored, by all the means in their power, to get their books for distribution, and have been unable to do so. The printing being done by the Printing Bureau, it has been delayed, and necessarily delayed, by the vast amount of printing required to be done by the Departments; and gentlemen, although they have

done everything in their power to get the books they were entitled to to distribute in their districts, have been unable to do so; and now, when they are about to be delivered to them, I think it is unfair to have them taken out of their hands and put into the hands of others.

I know that there are gentlemen of this class in town now who are anxious to have their books. I have done everything in my power to get my own. Of course this resolution would not affect me, but I have not got more than half my books. I know that some members have not got more than one hundred copies of the Agricultural Report, when they are entitled to seven hundred copies. This resolution would do injustice to those parties. If they had neglected to ask for them it would be different, and they ought to forfeit them, but when they have repeatedly asked for them, but have not been furnished with them, they ought not to be compelled to forfeit them.

The SPEAKER. The resolution giving rise to debate, it goes over under the rule.

Mr. WOODBRIDGE. I was not in my seat when the State of Vermont was called, and I now ask leave to present a resolution.

Mr. WASHBURNE, of Illinois. I shall have to withdraw my objection to the request of the gentleman from Massachusetts, [Mr. ELIOT,] or else to make the same objection now.

Mr. WOODBRIDGE. I hope the gentleman will withdraw it.

Mr. WASHBURNE, of Illinois. Well, I withdraw the objection to the request of the gentleman from Massachusetts.

FREEDMEN'S AFFAIRS.

Mr. ELIOT, by unanimous consent, submitted the following resolution; which was read, considered and agreed to:

Resolved, That a committee of nine members be appointed by the Speaker, to which so much of the President's message as relates to freedmen shall be referred, and all reports and papers concerning freedmen shall be referred to them, with liberty to report by bill or otherwise.

Mr. ELIOT moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

JOINT RESOLUTIONS OF VERMONT.

Mr. WOODBRIDGE, by unanimous consent, presented joint resolutions from the State of Vermont, in relation to the reconstruction of the States recently in rebellion against the United States; which were laid upon the table, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had agreed to the resolution of the House of Representatives, providing for an adjournment, with an amendment, in which he was directed to ask the concurrence of the House.

Mr. WASHBURNE, of Illinois. I hope the resolution will be taken up by unanimous consent, and the amendment be concurred in. It simply gives the Senate the same privilege that we ask for ourselves.

There being no objection, the resolution was taken up, and the amendment of the Senate was concurred in as follows:

Before the word "House," insert "Senate and;" so that the resolution will read:

Resolved, (the Senate concurring,) That when the Senate and House adjourn on Wednesday, the 6th of December instant, they stand adjourned until Monday, the 11th instant.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

WAR EXPENDITURES OF STATES.

Mr. HOOPER, of Massachusetts, submitted the following resolution:

Resolved, That a committee of one from each State be appointed to consider and report, by bill or other-

wise, if any and what action should be taken to repay to the several States the amounts of money advanced and paid by them for expenditures connected with the late war.

Mr. BROOKS. Let me suggest to the gentleman from Massachusetts that that subject ought to be referred to the Committee of Ways and Means. I do not wish to press any objection, however, if he has maturely considered the subject; but it is intimately connected with the Ways and Means, and a resolution of this character, it seems to me, ought to have that direction.

Mr. HOOPER, of Massachusetts. I call the attention of the gentleman from New York to the fact that the constitution of the Committee of Ways and Means, as it existed last session, has been changed, and it seems to me that this subject would more appropriately go to a special committee.

Mr. BROOKS. As the gentleman appears to have considered the subject, I will not press my objection.

Mr. HOOPER, of Massachusetts. It strikes me that a committee of one from each State would be the most suitable one for such a subject.

Mr. GARFIELD. I hope that resolution will not pass. It seems to me that we have appropriate committees to which all such subjects should be referred.

The SPEAKER. As the resolution gives rise to debate it will go over under the rule.

EXPORT DUTIES.

Mr. BINGHAM introduced a joint resolution providing for an amendment of the Constitution of the United States by repealing the clause forbidding the laying of taxes or duties on articles exported from any State; which was read a first and second time, referred to the Committee on the Judiciary, when appointed, and ordered to be printed.

REBEL DEBT.

Mr. BINGHAM also introduced a joint resolution providing for an amendment to the Constitution of the United States forbidding the payment or assumption by the United States or by any State of any debt which has been or may hereafter be contracted in aid of any rebellion against the United States; which was read a first and second time, and ordered to be referred to the Committee on the Judiciary, when appointed, and to be printed.

EQUALITY BEFORE THE LAW.

Mr. BINGHAM also introduced a joint resolution to amend the Constitution of the United States so as to empower Congress to pass all necessary and proper laws to secure to all persons in every State of the Union equal protection in their rights, life, liberty, and property; which was read a first and second time, and ordered to be referred to the Committee on the Judiciary, when appointed, and to be printed.

USE OF THE HALL OF THE HOUSE.

Mr. GARFIELD submitted the following resolution, and demanded the previous question:

Resolved, That the use of the Hall of the House of Representatives be granted to the American Freedmen's Aid Commission for a public meeting on Wednesday evening, December 13, 1865.

The previous question was seconded, and the main question ordered; which was upon agreeing to the resolution.

The question was taken; and there were—yeas 64, nays 41.

Before the result of the vote was announced, Mr. BRANDEGEE called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 99, nays 58, not voting 25; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Bidwell, Bingham, Blaine, Blow, Boutwell, Broomall, Buckland, Bundy, Elsie Clark, Cobb, Conkling, Cook, Culver, Dawes, DeForest, Delano, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Ferry, Garfield, Grinnell, Hale, Abner C. Harding, Hart, Hayes, Holmes, Hooper,

Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hubbard, James Humphrey, Julian, Kelley, Ketchum, Laffin, George V. Lawrence, William Lawrence, Loan, Longyear, Marston, Marvin, McClurg, McKee, McKuer, Mercier, Miller, Moorhead, Morris, Moulton, Neell, Orth, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Shellabarger, Spalding, Thayer, Upson, Van Aernam, Lurt Van Horn, Ward, Warner, William B. Washburn, Welker, Wentworth, Williams, Stephen F. Wilson, and Windom—39.

NAYS—Messrs. Ancona, Benjamin, Bergen, Boyer, Brandegee, Bromwell, Brooks, Reader W. Clarke, Callom, Darling, Davis, Dawson, Denison, Eldridge, Farnsworth, Finck, Glessbrenner, Goodyear, Grider, Griswold, Aaron Harding, Henderson, Hill, Hogan, Edwin N. Hubbell, James M. Humphrey, Ingersoll, Johnson, Kasson, Kerr, Kuykendall, Latham, Le Bond, Marshall, McCullough, Morrill, Niblack, Nicholson, Phelps, Raymond, Litter, Rogers, Ross, Shanklin, Sitzgreaves, Smith, Stevens, Stillwell, Strouse, Tabor, Taylor, Thornton, Trimble, Trowbridge, Elihu B. Washburne, Whaley, James F. Wilson, and Winfield—58.

NOT VOTING—Messrs. Delos R. Ashley, Chanler, Farquhar, Harris, Higby, Jencks, Jones, Kelso, Lynch, McIndoe, Myers, Newell, O'Neill, Radford, Samuel J. Randall, Rousseau, Scofield, Sloan, Starr, Francis Thomas, John L. Thomas, Robert T. Van Horn, Voorhees, Woodbridge, and Wright—25.

So the resolution was agreed to.

QUALIFICATION OF A MEMBER.

Mr. ORTH. I desire to state that Hon. Lovell H. Rousseau, Representative-elect from the fifth district of the State of Kentucky, is now present and ready to take the oath of office.

Mr. ROUSSEAU then presented himself and was duly qualified.

NAVAL STATION ON LAKE ERIE.

Mr. SPALDING submitted the following resolution, upon which he demanded the previous question:

Resolved, That the Committee on Naval Affairs, when appointed, be directed to inquire into the expediency of establishing a naval depot at some suitable point on the southern shore of Lake Erie.

The previous question was seconded, and the main question ordered; which was upon agreeing to the resolution.

The resolution was agreed to.

Mr. SPALDING moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MEXICO.

Mr. GARFIELD submitted the following resolution of inquiry, and asked unanimous consent for its consideration at the present time:

Resolved, That the President be requested, if not incompatible with the public service, to communicate to this House any information in possession of any of the Executive Departments of the Government in reference to a so-called decree by the French agent in Mexico, under date of September 5, A. D. 1865, establishing slavery or peonage in that republic; and also what action, if any, has been taken by the Government of the United States in reference thereto.

Mr. DEMING rising to debate the resolution, it goes over under the rule.

PRIVILEGES OF THE FLOOR.

Mr. ORTH submitted the following resolution, and demanded the previous question upon its passage:

Resolved, That Henry D. Washburn, of Indiana, contesting the seat of Hon. DANIEL W. VOORHEES, be admitted to the privileges of the floor pending such contest.

The previous question was seconded, and the main question ordered; which was upon agreeing to the resolution.

The question was taken, and the resolution was agreed to.

Mr. ORTH moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PAYMENT OF BOUNTIES.

Mr. NIBLACK submitted the following resolution, and demanded the previous question upon its passage:

Resolved, That the Committee on Military Affairs, when appointed, be instructed to inquire into the expediency of providing by law for the payment of bounties, in proportion to the time served, to those

who volunteered in the late war for the suppression of the rebellion, and were honorably discharged before the expiration of two years without bounty. Also, to inquire into the expediency of equalizing bounties, so far as practicable, as between those who volunteered as aforesaid, and report by bill or otherwise.

The previous question was seconded, and the main question ordered; which was upon agreeing to the resolution.

The question was taken, and the resolution agreed to.

PILOTS IN THE NAVY OF THE UNITED STATES.

Mr. KERR submitted the following resolution, and demanded the previous question on its passage:

Resolved, That the Committee on Naval Affairs, when appointed, be instructed to inquire into the justice and expediency of providing by law that all pilots engaged in the gunboat or other naval service of the Government during the late war, shall be deemed to have been officers within the terms of the rules and regulations of the service on that subject, and entitled to the same extra pay and rations as other officers in the same service whose monthly compensation was the same; and that the said committee report by bill or otherwise.

The previous question was seconded, and the main question ordered; which was upon agreeing to the resolution.

The question was taken, and the resolution agreed to.

GENERAL IN UNITED STATES ARMY.

Mr. WASHBURN, of Illinois, in pursuance of previous notice, introduced a bill to revive the grade of general in the United States Army; which was read a first and second time, and ordered to be referred to the Committee on Military Affairs, when appointed.

DISTRIBUTION OF DOCUMENTS.

Mr. MOULTON introduced the following resolution, on which he demanded the previous question:

Resolved, That all books and public documents of which extra copies have been ordered to be printed for distribution, and which have not been delivered to the persons entitled thereto, under the resolution of the last House of Representatives, shall now be delivered, by the officer having possession of the same, to the Representatives in this House of those districts whose former Representatives have not drawn the documents to which such districts were respectively entitled according to the rate of distribution established.

The previous question was seconded.

Mr. JOHNSON. I move that the resolution be laid on the table.

The motion of Mr. JOHNSON was not agreed to.

Mr. STEVENS. I think there ought to be several exceptions to this resolution—

The SPEAKER. The subject is not debatable, the previous question having been seconded. The question now is on ordering the main question.

Mr. STEVENS. I hope the matter will be allowed to go over.

The main question was ordered; and under the operation thereof the resolution was agreed to.

Mr. CONKLING moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had concurred in the resolution of the House relative to the appointment of a joint committee to consider and report on the subject of a suitable token of respect and affection to the memory of the late President Lincoln.

AMENDMENT TO THE CONSTITUTION.

Mr. FARNSWORTH introduced a joint resolution to amend the Constitution of the United States; which was read a first and second time, and ordered to be referred to the Committee on the Judiciary, when appointed.

EQUALITY BEFORE THE LAW.

Mr. FARNSWORTH introduced the following resolutions, on which he demanded the previous question:

Resolved, (as the sense of this House,) That, as all just powers of government are derived from the con-

sent of the governed, that cannot be regarded as a just Government which denies to a large portion of its citizens, who share both its pecuniary and military burdens, the right to express either their consent or dissent to the laws which subject them to taxation and to military duty, and which refuses them full protection in the enjoyment of their inalienable rights.

Resolved, That in imposing taxes upon the people of the United States, none are excepted therefrom on account of color; so, too, in the laws enacted by Congress for enrolling and drafting into the military service of the Government those liable to military duty, no exemption because of color has been allowed; and while we have rewarded the foreigner, who is ignorant of our language and institutions, and who has but just landed upon our shores, with the right of citizenship for a brief service in the armies of the United States, good faith, as well as impartial justice, demands of this Government that it secure to the colored soldiers of the Union their equal rights and privileges as citizens of the United States.

Resolved, That we agree with the President of the United States that "mercy without justice is a crime;" and the admitting of rebels and traitors, upon whose hands the blood of slain patriots has scarcely dried, and upon whose hearts is the damning crime of starving to death loyal men taken as prisoners in battle, to the rights of citizenship and of suffrage, while we deny those rights to the loyal black man, who fought for the Union, and who fed and protected our starving soldiers, is a fit illustration of that truism.

Mr. JOHNSON. I believe that those resolutions are divisible, and I ask that they be divided.

The SPEAKER. The question is now upon sustaining the previous question. Should it be sustained, the resolutions can afterward be divided, and each one voted upon separately, if any gentleman desires it.

Mr. BRANDEGEE. Are the resolutions in order now, if debate is to be had upon them?

The SPEAKER. If the previous question should not be sustained, and debate should arise, the resolutions will go over under the rules.

On seconding the demand for the previous question there were, on a division—ayes 41, noes 51.

Mr. FARNSWORTH demanded tellers. Tellers were ordered, and Messrs. FARNSWORTH and DAWSON were appointed.

The House divided; and the tellers reported—ayes 45, noes 68.

So the previous question was not seconded.

Messrs. CONKLING and BRANDEGEE proposed to debate the resolution, and it accordingly went over under the rules.

MILITARY ACADEMY IN THE WEST.

Mr. CULLOM submitted the following resolution, and demanded the previous question on its adoption:

Resolved, That the Committee on Military Affairs, when appointed, be instructed to inquire into the expediency of establishing a national military school in some of the States of the great Northwest.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

HONOR TO THE LATE PRESIDENT.

Mr. INGERSOLL submitted the following resolution, and demanded the previous question on its adoption:

Resolved, That the committee to be appointed under the resolution providing for the appointment of a joint committee of one from each State to take into consideration what token of respect and affection it may be proper for the Congress of the United States to express concerning the event of the decease of the late President, Abraham Lincoln, be directed to take into consideration the expediency of providing for the completion of the Washington monument, with a view to the dedication of said monument to the commemoration of the virtues and patriotism of those great and good men, George Washington and Abraham Lincoln.

The House divided on seconding the demand for the previous question, and there were—ayes 26, noes 35; no quorum voting.

The SPEAKER ordered tellers, and appointed Messrs. FARNSWORTH and INGERSOLL.

Mr. INGERSOLL withdrew the demand for the previous question.

Mr. FARNSWORTH proposed to debate the resolution, and it accordingly went over under the rules.

MRS. MARY LINCOLN.

Mr. INGERSOLL introduced a bill for the relief of Mrs. Mary Lincoln, widow of the late President of the United States; which was read a first and second time.

Mr. WENTWORTH. I move to refer that bill to a select committee of one from each State; and I will say that if the members knew the motives I have for doing so, I am sure they would not object. I can say no more.

Mr. HOGAN. There is already a committee of one from each State, to which matters pertaining to the late President have been referred, and I move that this be referred to the same committee.

Mr. WENTWORTH. I do hope that my old friend, a former citizen of Illinois, will not press his motion. I ask him to withdraw it; and I know he would if he knew my motives in asking the reference that I do.

Mr. HOGAN. I concur fully in the object of the bill, and desire to see its accomplishment. I wish to see something done, and speedily, in reference to that matter. But I do not desire to see such large committees multiplied unnecessarily; and if this be referred to the other committee, it having authority over the matter, it could report on it at once. However, I do not insist upon it if the gentleman desires me to withdraw it.

Mr. WENTWORTH. I hope the gentleman will withdraw his motion.

Mr. HOGAN. I do.

Mr. WENTWORTH's motion was then agreed to.

Mr. ALLEY moved that the House adjourn.

The motion was agreed to; and then, (at twenty minutes past one o'clock p. m.,) the House adjourned until Monday next.

IN SENATE.

MONDAY, December 11, 1865.

Prayer by Rev. EDGAR H. GRAY, Chaplain of the Senate.

The Journal of Wednesday last was read and approved.

Hon. GARRETT DAVIS, of Kentucky, appeared in his seat to-day.

MEMORIAL OF PRESIDENT LINCOLN.

The PRESIDENT *pro tempore*. The committee on the resolution of the two Houses to adopt some token of respect for the memory of the late President of the United States, will consist, on the part of the Senate, of Mr. FOOT, Mr. YATES, Mr. WADE, Mr. FESSENDEN, Mr. WILSON, Mr. DOOLITTLE, Mr. LANE of Kansas, Mr. HARRIS, Mr. NESMITH, Mr. LANE of Indiana, Mr. WILLEY, Mr. BUCKALEW, and Mr. HENDERSON.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial from the Union State Central Committee of Pennsylvania, praying that the Constitution of the United States may be amended so as to forever prohibit Congress or any convention or other authority from assuming, paying, or agreeing to pay, or taxing the people to pay, any part of the debt or liability incurred in opposition to the General Government; so that Congress shall never repudiate any part of the debt contracted by the General Government; so that Congress shall have power to levy and collect duties on exports; so that representation in Congress shall be allowed to the lawfully-qualified voters in each of said States; and so that no State of the Union shall ever be permitted to withdraw therefrom without the consent of all the rest; which was referred to the Committee on the Judiciary.

He also presented a memorial from the Sisters of Mercy of the city of Chicago, in the State of Illinois, praying for an appropriation of \$20,000 for the enlargement and improvement of the Mercy Hospital in the city of Chicago; which was referred to the Committee on Claims.

He also presented a resolution of the convention of the State of North Carolina in favor of a repeal of the act of July 2, 1862, requiring the test oath therein mentioned as a qualification for a seat in Congress or to hold office under the Government of the United States; which was referred to the Committee on the Judiciary.

Mr. FESSENDEN presented a petition of citizens of New England, praying for the repeal of the law taxing State banks ten per cent. on their issues; which was referred to the Committee on Finance.

He also presented the petition of Charles E. José, praying that he may be allowed to withdraw certain goods in bond for consumption; which was referred to the Committee on Commerce.

Mr. SUMNER. I offer the memorial of the Freedmen's Aid Association of the United States, united as they now are in what is called the American Freedmen's Aid Commission, in which, after setting forth the merits and the operations of the Freedmen's Bureau, they ask Congress that it would be pleased to continue and sustain it in such a way that it may exert a powerful and beneficent influence over the affairs of those wards of the nation until such time as the desired end may be attained by State enactment. As the whole subject of the freedmen is now in the hands of the War Department, I presume that this memorial should go to the Committee on Military Affairs and the Militia. I therefore ask its reference to that committee.

The PRESIDENT *pro tempore*. It will be so referred if there be no objection.

Mr. MORGAN presented a memorial of marine insurance companies of New York city, praying Congress to make an appropriation to restore the lights at Cape Florida, Fort Jupiter, and Cape Carnaveral, on the coast of Florida, which were destroyed during the rebellion; which was referred to the Committee on Commerce.

Mr. WILSON presented the petition of John Francis Cooke and twenty-five hundred others, colored citizens of the District of Columbia, praying that Congress may confer upon them the right of suffrage; which was referred to the Committee on the District of Columbia.

Mr. GRIMES presented a petition of J. W. Brooks, president of the Burlington and Missouri River Railroad Company; W. W. Walker, vice president of the Cedar Rapids and Missouri River Railroad Company; John A. Dix, president of the Mississippi and Missouri Railroad Company; and Platt Smith, vice president of the Dubuque and Sioux City Railroad Company, praying for a modification of the law of Congress which requires the completion of these roads within a specific time in order to secure the lands granted; which was referred to the Committee on Public Lands.

Mr. ANTHONY presented a petition of officers of the United States steamers Key West, Tawab, and Elfin, destroyed by fire in the action at Johnsville, Tennessee, November 4, 1864, and of the officers of the steamer Undine, captured off Paris Landing, Tennessee river, praying for remuneration for losses of personal property sustained by them in the destruction of those vessels; which was referred to the Committee on Naval Affairs.

Mr. NYE presented the memorial of J. B. Rittenhouse, late paymaster of the Pacific squadron stationed at Panama, with the proceedings of a court of inquiry or investigation, praying for relief from responsibility for money of which he was robbed; which was referred to the Committee on Naval Affairs.

Mr. RAMSEY presented the petition of Dyer J. Pettijohn, late a second lieutenant in the first regiment Minnesota volunteers, praying that an act may be passed authorizing him to receive the pay and emoluments of that office; which was referred to the Committee on Military Affairs and the Militia.

Mr. LANE, of Indiana, presented a petition from soldiers of Montgomery county, Indiana, who, under the act of July 22, 1861, received a bounty of \$100, praying that they may be placed on the same footing with those who volunteered at a later period of the war, and may receive an additional bounty of \$200; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILLIAMS. I present the petition of

Charles M. Carter and a large number of citizens of the State of Oregon, representing that numerous disasters have occurred at sea along the Pacific coast in consequence of the criminal negligence and disregard of law by the owners and managers of steamships, suggesting various amendments to the existing laws, and praying for additional legislation to protect passengers on such steamships. I move that it be referred to the Committee on Commerce.

The motion was agreed to.

REFERENCE OF PRESIDENT'S MESSAGE.

On motion of Mr. FESSENDEN, it was

Ordered, That so much of the President's message as relates to the subject of finances and the currency, be referred to the Committee on Finance.

STATE OF WEST VIRGINIA.

The PRESIDENT *pro tempore* submitted a communication from the Governor of the State of Virginia, transmitting an act of the General Assembly of that State entitled "An act to repeal the second section of an act passed on the 18th day of May, 1862, entitled 'An act giving the consent of the Legislature of Virginia to the formation and erection of a new State within the jurisdiction of this State;' also repealing the act of January 31, 1863, entitled 'An act giving the consent of the State of Virginia to the county of Berkeley being admitted into and becoming part of the State of West Virginia;' also repealing the act of February 4, 1863, entitled 'An act giving consent to the admission of certain counties into the new State of West Virginia, upon certain conditions,' and withdrawing consent to the transfer of jurisdiction over the several counties in each of said acts mentioned;" which was ordered to lie on the table, and be printed.

NOTICES OF BILLS.

Mr. MORGAN gave notice of his intention to ask leave to introduce a bill to grant to James A. Scrymser, Alfred Pell, jr., and others, composing the International Ocean Telegraphic Company, the right to establish telegraphic communication between the city of New York and the West India islands; and also a bill to amend the several acts relating to officers employed in the examination of imported merchandise in the district of New York.

Mr. NYE gave notice of his intention to ask leave to introduce a bill to change the eastern and southern boundary of the State of Nevada so as to include additional territory to be taken from Utah and Arizona; and also a bill to facilitate the speedy completion of the Pacific railroad.

BILLS INTRODUCED.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 19) to warrant and confirm the land titles of grantees under the field orders of Major General Sherman, at Savannah, January 16, 1865.

The bill was read twice by its title.

Mr. SUMNER. I move that the bill be referred to the Committee on Military Affairs, and that an order to print it be made.

Mr. DOOLITTLE. This question of conferring or confirming land titles, it seems to me, is very much a legal question, and ought to go to the Committee on the Judiciary, and not to the Committee on Military Affairs. I am not a member of the Judiciary Committee, while I am upon the Committee on Military Affairs; but I am satisfied that this is a question which should go to the Committee on the Judiciary.

Mr. SUMNER. Let me remind my friend that this bill concerns, in the first place, the freedmen in South Carolina. On that account it ought to go to the Committee on Military Affairs. In the second place, it concerns a military order made by Major General Sherman, in January last, at Savannah, under the spur of a military necessity, for the national good. It is a military question, and, as I humbly submit, the good faith of this country is now pledged to all these grantees under

that military order. I think, therefore, sir, that the Military Committee of this body, that has in charge, first, the freedmen, and, secondly, military questions, ought to proceed with its consideration.

Mr. DOOLITTLE. The bill now presented, if I correctly understand it from its title, is a bill which provides for conferring legal title by act of Congress. Now, the question of legal title to land, as it seems to me, is always of necessity a very grave legal or constitutional question, and the Committee on the Judiciary is organized with a view to the consideration of such questions, but the Military Committee is not. If it was a bill in reference to the government of the freedmen upon these lands, if it was in reference to the organization of the freedmen in companies, or putting them under officers, it would be a very different thing; it would be a military affair altogether. Having made this suggestion, I move to amend the motion of reference by substituting the Committee of the Judiciary for the Committee on Military Affairs.

The amendment was agreed to—ayes twenty-three, noes not counted.

The bill was referred to the Committee on the Judiciary, and ordered to be printed.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 20) granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast by the southern route; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 21) to establish a Mining Bureau; which was read twice by its title, referred to the Committee on Mines and Mining, and ordered to be printed.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 22) supplementary to the several acts relating to pensions; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 23) giving the consent of Congress to the annexation of the counties of Berkeley and Jefferson, formerly of the State of Virginia, to the State of West Virginia; which was read twice by its title, referred to the Committee on Territories, and ordered to be printed.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 24) to amend section five of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July 4, 1864;" which was read twice by its title, and referred to the Committee on Pensions.

Mr. SUMNELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 25) to provide for the adjustment and satisfaction of claims of American citizens for spoiliations committed by the French prior to the 31st day of July, 1801; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 2) for the restoration of Commanders William Reynolds and Melancton B. Woolsey, of the United States Navy, to the active list from the reserved list; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 3) in relation to the present condition of Mexico, and the policy of the Government of the United States in reference thereto; which was read twice by its title, referred to the Committee on Foreign Relations, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 4) to prevent the sale of notes, bonds, scrip, and other evidences of debt issued by the so-called confederate States, or

any one of them, in aid of the rebellion; which was read twice by its title, and referred to the Committee on the Judiciary.

EMPEROR OF MEXICO.

Mr. CHANDLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to communicate to the Senate, if not inconsistent with the public interest, any correspondence or other information in possession of the Government, in regard to a barbarous decree, issued by the so-called Emperor of Mexico, under date of October 3, 1865, ordering all Mexicans, who bravely defend the sacred cause of their independence, either in the battle-field or otherwise, to be shot without any form of trial, and what representations, if any, have been made by the Government on that subject.

CONDITION OF SOUTHERN STATES.

Mr. COWAN submitted the following resolution:

Resolved, That the President of the United States be, and is hereby, requested to furnish to the Senate information of the state of that portion of the Union lately in rebellion; whether the rebellion has been suppressed and the United States put again in possession of the States in which it existed; whether the United States courts are restored, post offices reestablished, and the revenues collected; and also whether the people of those States have reorganized their State governments, and whether they are yielding obedience to the laws and Government of the United States.

Mr. SUMNER. I think that had better lie over and be printed.

The PRESIDENT *pro tempore*. Is its consideration objected to?

Mr. SUMNER. I object to it.

The PRESIDENT *pro tempore*. It lies over under the rule.

FURNISHING OF PRESIDENT'S HOUSE.

Mr. RIDDLE. I offer the following resolution:

Resolved, That the Committee on Finance be requested to report a bill at the earliest possible moment, making an appropriation of ——— dollars for the proper and decent fitting up and furnishing of the President's House.

Mr. FESSENDEN. I would suggest to my friend that that is a matter which will properly come in an appropriation bill from the House of Representatives. We are not in the habit of originating appropriation bills in the Senate. We have the power, I think, but the other House has always objected to it. In a short time, no doubt, the subject will properly be before us.

Mr. RIDDLE. I anticipated the objection, and I am well aware that the distinguished Senator from Maine is right in the suggestion he makes, but if he will tell me how I can introduce this subject to the notice of the other House at an early day, I shall be obliged to him. I visited the White House, or Executive Mansion, as it is called, last week, and it is a disgrace to the country. My only object is to have the matter brought to the notice of the House of Representatives in order that they may make an appropriation for this purpose at an early day.

Mr. FESSENDEN. I think, then, this may be considered as notice, without our passing the resolution.

Mr. RIDDLE. I want to bring it to the notice of the House.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

Mr. FESSENDEN. I think it had better lie over.

The PRESIDENT *pro tempore*. The resolution will lie over under the rule.

PENSION LAWS.

Mr. LANE, of Indiana, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Pensions be instructed to inquire into the expediency of repealing the first section of "An act supplementary to the several acts in relation to pensions," approved March 3, 1865, and report by bill or otherwise.

FRENCH OCCUPATION OF MEXICO.

Mr. HOWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President is respectfully requested to communicate to the Senate, if not incompatible

with the public interests, all correspondence, not yet officially published, between our Government and that of France touching the occupation by French troops of the republic of Mexico, and the establishment of a monarchy there.

OFFICERS PAID ILLEGALLY.

Mr. SUMNER. I move to take up for consideration the resolution which I offered on Wednesday last; and which was objected to by the Senator from Maryland, [Mr. JOHNSON,] who wished to make a slight amendment to it.

Mr. DOOLITTLE. If that resolution will not give rise to debate I have no objection to its coming up now; but when the Senate adjourned on Wednesday last, it adjourned while a motion was pending, made by myself, to refer a portion of the President's message to the Committee on the Judiciary. I had the floor at that time and gave way to a motion to adjourn. I prefer to go on with the regular order of business, but if this resolution is not to lead to debate, I shall not object to its now being taken up.

Mr. SUMNER. I do not think it will lead to debate. I do not propose to discuss it.

Mr. DOOLITTLE. I have no objection to its being taken up.

Mr. SUMNER's motion was agreed to; and the Senate proceeded to consider the following resolution submitted by him on the 6th instant:

Whereas it is provided by act of Congress that every person, in the civil, military, or naval departments of the public service, excepting the President of the United States, shall, before entering upon the duties of his office, and before being entitled to any of the salary or other emoluments thereof, take and subscribe a certain oath in prescribed form, and it is further provided in another act of Congress (February 9, 1863, chapter twenty-five, section two) that "no money shall be paid from the Treasury of the United States to any person acting as an officer, civil, military, or naval, as salary in any office, which office is not authorized by some previously existing law, unless where such office shall be subsequently sanctioned by law; and whereas it is reported that, notwithstanding these acts of Congress, certain persons have been allowed to enter upon the duties of office and to receive the salary and emoluments thereof, without taking the prescribed oath, and certain other persons have been appointed to offices "not authorized by any previously existing law;" Therefore,

Resolved, That the Secretary of the Treasury be requested, so far as the records of his Department allow, to furnish to the Senate the names of any persons who have been permitted to enter upon the duties of office, and to receive the salary and emoluments thereof, without taking the oath prescribed by Congress; also, the titles of such offices, with an account of the salary and emoluments thereof, and out of what fund the same have been paid; also, the names of any persons who have been appointed to any office "not authorized by some previously existing law," and if the same have received any salary, what it was, and out of what fund it has been paid.

Mr. JOHNSON. The objection that I thought the resolution, when offered by the Senator from Massachusetts, obnoxious to, was that it rather assumed the fact that the acts mentioned in it had been done by the Secretary under the authority of the President, and did not request the Secretary to give his reasons for such things, if they had occurred. I proposed, therefore, after hearing it on Wednesday, merely to amend it so as to get rid of those particular objections; but upon reading the resolution carefully afterward, it appeared to me that it would be better to strike out the whole preamble. It seems to me rather in the nature of an indictment against the Secretary and against the President. I offer, therefore, as a substitute for the resolution, the paper that I send to the Chair.

The PRESIDENT *pro tempore*. The following amendment of the resolution is moved by the Senator from Maryland: to strike out the preamble and all of the resolution after the word "resolved" and insert:

That the Secretary of the Treasury be requested to inform the Senate whether there are any persons in the civil, military, or naval service of the United States, except the President of the United States, who are discharging the respective duties of such offices, and who are receiving the pay and emoluments thereof, without having complied with the provisions of acts of Congress, (February 9, 1863, chapter twenty-five, section two;) and if there be, that he state his reasons for the same.

Mr. SUMNER. I should like to have that amendment read again.

The Secretary again read it.

Mr. JOHNSON, (to Mr. SUMNER.) You have no objection to that.

Mr. SUMNER. But it does not meet one part of the case, does it?

Mr. JOHNSON. I intended it to meet it all; I do not know whether it does or not.

Mr. SUMNER. For instance, it does not meet the statute introduced by the Senator from Illinois, [Mr. TRUMBULL,] providing that no person shall receive any salary for an office which has not been established by law.

Mr. JOHNSON. That I will add. I thought it did.

Mr. SUMNER. If the Senator will follow the words in my resolution, I have no objection; I merely wish to get the facts.

Mr. JOHNSON. Let the resolution be laid on the table for a moment until I can perfect my amendment.

The PRESIDENT *pro tempore*. It will be laid aside by common consent.

PRINTING OF FINANCE REPORT.

Mr. ANTHONY. While the Senator from Maryland is preparing his amendment, I move that the report of the Secretary of the Treasury on the state of the finances, which lies upon the table, be printed.

The motion was agreed to.

Mr. ANTHONY. I now move that five thousand extra copies of that report be printed for the use of the Senate, which motion will go to the Committee on Printing under the rules.

It was so referred.

RECONSTRUCTION.

Mr. DOOLITTLE. I now call up the motion which was pending at the time of the adjournment on Wednesday last, to refer so much of the President's message as relates to the subject of reconstruction to the Committee on the Judiciary.

Mr. SUMNER. I think we had better finish the resolution that is under consideration; and upon the whole, I think that the Senator from Maryland had better withdraw his proposition and let the vote be taken on the resolution as offered.

Mr. JOHNSON. I cannot do that.

Mr. SUMNER. Or let him introduce the words which he proposed the other day, and which I was perfectly ready to accept.

Mr. ANTHONY. Senators evidently wish some time to perfect that resolution. I move that the Senate do now adjourn.

Mr. DOOLITTLE. I hope the honorable Senator will allow me to call up the motion to refer.

Mr. ANTHONY. If it is to lead to debate, I think we had better adjourn; if not, I shall not object.

Mr. DOOLITTLE. I propose to make some remarks on that motion.

Mr. ANTHONY. I think the Senator had better allow the Senate to adjourn. I move that the Senate do now adjourn.

The question being put, there were, on a division—ayes 16, noes 16.

The PRESIDENT *pro tempore*. The Chair votes in the affirmative, and the Senate stands adjourned until to-morrow at twelve o'clock meridian.

HOUSE OF REPRESENTATIVES.

Monday, December 11, 1865.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of Wednesday last was read and approved.

MEMBER SWORN IN.

Mr. NIBLACK. I rise to a question of privilege. My colleague, DANIEL W. VOORHEES, is now present, and I move that he be sworn in.

Hon. DANIEL W. VOORHEES was then duly qualified by taking the oath prescribed by law.

COMMITTEES.

The SPEAKER stated that the committees would be announced at the expiration of the morning hour.

ORDER OF BUSINESS.

The SPEAKER also stated that the first business in order would be the call on States for bills on leave, commencing with the State

of Maine, to be referred to the appropriate committees, without debate, and not to be brought back by a motion to reconsider.

REIMBURSEMENT OF LOYAL STATES.

Mr. BLAINE. I introduce a bill to reimburse the loyal States for advances made and debts contracted in support of the war for the preservation of the Union, and move that it be referred to a select committee of seven.

I desire to state, with the unanimous consent of the House, that the same subject was embraced in the resolution of the gentleman from Massachusetts [Mr. HOOPER] offered on Wednesday last; and it is by arrangement with him that I offer this bill, and make the motion I do. I desire to make my acknowledgments to the gentleman from Massachusetts for the magnanimity and courtesy he has shown in waiving his parliamentary rights in order that I may retain my connection with a measure originally introduced by me in the Thirty-Eighth Congress.

The SPEAKER. Select committee of seven or nine? Committees are generally of five or nine.

Mr. KASSON. At the proper time I propose to move the reference of the bill to a select committee of one from each State, and will state the reasons why it should be done.

Mr. BLAINE. I move a select committee of seven, and upon that I demand the previous question.

The bill was read a first and second time.

The bill provides that, whereas during the war for the preservation of the Union, the loyal States, and the counties, cities, towns, and townships within those States, made large pecuniary advances, and contracted in many instances oppressive debts, all in support of a common cause and all an equitable charge on the Treasury of the United States, therefore there shall be reimbursed to each of the loyal States a sum equal to \$ ——— for each man duly enlisted and mustered from said States into the military or naval service of the United States during the late war; that the amount to be thus reimbursed shall be in bonds of the United States, bearing six per cent. interest, payable semi-annually, and redeemable at the pleasure of the United States after ten years from the date of issue and payable in thirty years; that each State on the receipt of said bonds shall apply them or their proceeds in good faith, first, to the liquidation of whatever State debt may have been contracted in support of the war; second, in an equitable manner to the reimbursement of counties, cities, towns, townships, and other municipal corporations for advances made or debts incurred in the support of the war; and third, the residue, if there be any, in such manner as the State Legislatures may determine; that the Secretary of the Treasury shall prepare and deliver said bonds to each State before the 1st day of ———, A. D. 1866, and that the receipt of such bonds shall be in full liquidation and payment of all claims from said State growing out of the late war.

Mr. KASSON. I ask the gentleman from Maine to withdraw the previous question for a moment to allow me to say a few words.

The SPEAKER. If the bill is debated, it will go over under the rule.

Mr. KASSON. I do not wish to debate the bill, but to say a word upon the question of reference. I desire the bill referred to a committee of one from each State in order that the condition of the expenditures of the several States, which is widely different, and which expenditures require an appropriation by Congress, may be represented on the committee.

Mr. BLAINE. I insist upon my demand for the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was referred to a select committee of seven.

Mr. BLAINE moved that the vote last taken be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LAWS, ETC., OF THE DISTRICT OF COLUMBIA.

Mr. PATTERSON introduced a bill to repeal certain laws and ordinances in the District of Columbia, and for other purposes; which was read a first and second time, and referred to the Committee for the District of Columbia, when appointed.

CONDITION OF RECENT REBEL STATES.

Mr. ELIOT introduced a joint resolution declaring the condition of the States recently in rebellion and the powers of Congress in relation to them; which was read a first and second time, and referred to the select committee of fifteen on the rebellious States, when appointed.

AMENDMENT TO THE CONSTITUTION.

Mr. JENCKES introduced a joint resolution proposing an amendment to the Constitution of the United States; which was read a first and second time, and referred to the Committee on the Judiciary, when appointed.

SYSTEM OF BANKRUPTCY.

Mr. JENCKES also introduced a bill to establish a uniform system of bankruptcy throughout the United States; which was read a first and second time, and referred to a select committee of five, to be appointed.

STANDARD OF VOTING FOR FEDERAL OFFICERS.

Mr. HUBBARD, of Connecticut, introduced a joint resolution amendatory of the Constitution, establishing a standard of voting for Federal officers; which was read a first and second time, referred to the Committee on the Judiciary, when appointed, and ordered to be printed.

BOUNTIES TO SOLDIERS, ETC.

Mr. WARD introduced a bill giving bounty lands and money to the United States soldiers who served in the late rebellion; which was read a first and second time, referred to the Committee on Military Affairs, to be appointed, and ordered to be printed.

JETHRO BONNEY.

Mr. DAVIS, in pursuance of previous notice, introduced a bill for the relief of Jethro Bonney; which was read a first and second time, and referred to the Committee on Invalid Pensions, when appointed.

AMENDMENT TO THE CONSTITUTION.

Mr. DELANO, in pursuance of previous notice, introduced a joint resolution submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States; which was read a first and second time, and referred to the Committee on the Judiciary, when appointed.

DELEGATE FROM ARIZONA.

Mr. ASHLEY, of Ohio, presented the petition of Charles D. Poston, asking to be admitted as Delegate from the Territory of Arizona; which was referred to the Committee of Elections, when appointed.

PUBLIC LANDS.

Mr. ASHLEY, of Ohio, in pursuance of previous notice, introduced a bill to develop and reclaim public lands requiring irrigation, and to encourage agriculture; which was read a first and second time, and referred to the Committee on Public Lands, when appointed.

AMENDMENT OF THE CONSTITUTION.

Mr. STEVENS, in pursuance of previous notice, introduced a joint resolution to amend the Constitution of the United States; which was read a first and second time, and referred to the Committee on the Judiciary, when appointed, and ordered to be printed.

COMMUNICATION AMONG THE STATES.

Mr. GARFIELD, in pursuance of previous notice, introduced a bill to facilitate commercial, postal, and military communication among the several States; which was read a first and second time, and referred to the Committee on Commerce, when appointed.

MEXICAN AFFAIRS.

Mr. SCHENCK, in pursuance of previous notice, introduced a joint resolution in relation

to the course pursued by the Emperor of the French and the Emperor Maximilian in the affairs of Mexico; which was read a first and second time, referred to the Committee on Foreign Affairs, when appointed, and ordered to be printed.

The following is the joint resolution:

Whereas in a letter of instructions, dated July 3, 1862, directed to General Forcy, commanding the French forces in Mexico, the Emperor of the French indicated his policy concerning the affairs of the continent, by declaring that it was his intention to establish a monarchy in Mexico "which would restore to the Latin race on this side of the Atlantic all its strength and prestige, guaranty security to the French West India colonies, and those of Spain; secure the interest and establish the influence of France in the center of America, and prevent the United States from taking possession of the Gulf of Mexico, from which they would command the Antilles and South America, and so become the only dispenser of the products of the New World;" and whereas, in pursuance of said policy, an attempt has been made to establish a monarchy in Mexico contrary to the wishes of its people, and to support Maximilian in his usurpation by European soldiery; and whereas, among other acts contrary to the spirit of the age and of humanity, the so-called Emperor of Mexico, by a decree and regulations dated September 5, 1865, practically established slavery in his dominions, and by a decree dated October 3, 1865, has violated the usages of civilized warfare by denying to the Mexican republican troops the rights of belligerents, and ordering their execution wherever found in twenty-four hours after capture: Therefore,

Be it resolved by the Senate and House of Representatives of the United States in Congress assembled, 1. That we contemplate the present condition of affairs in the republic of Mexico with the most profound solicitude. 2. That the attempt to subvert one of the republican Governments of this continent by a foreign Power, and to establish on its ruins a monarchy sustained solely by European bayonets, is opposed to the declared policy of the United States Government, offensive to our people, and contrary to the spirit of our institutions.

Resolved, That the President of the United States be requested to take such steps concerning this grave matter as will vindicate the recognized policy and protect the honor and interests of our Government.

CONFISCATION ACT.

Mr. JULIAN, in pursuance of previous notice, introduced a bill to repeal a portion of the "joint resolution explanatory of an act to suppress insurrection; to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862; which was read a first and second time, and referred to the Committee on the Judiciary, when appointed.

SUFFRAGE IN THE DISTRICT OF COLUMBIA.

Mr. JULIAN also, in pursuance of previous notice, introduced a bill to extend the right of suffrage in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia, when appointed.

CATTLE DISEASE.

Mr. WENTWORTH, in pursuance of previous notice, introduced a bill to prevent the spread of foreign diseases among the cattle of the United States; which was read a first and second time by its title.

Mr. WENTWORTH. If the House will indulge me, I will say that if it is of any importance to pass this bill at all, the last news from Europe shows that it ought to be passed this very hour.

The SPEAKER. Under the rules, the bill must be referred to a committee without debate. It cannot be passed at this time, even by unanimous consent.

Mr. WENTWORTH. I ask that the bill be read. I have been to the Treasury Department on this subject, and the bill was drawn up under the eye of that Department.

The bill was read. The first section prohibits the importation of cattle into the United States, and makes it the duty of the Secretary of the Treasury to establish such regulations as will give the law full and immediate effect, and to send copies of them to the proper officers in this country, and to all officers or agents of the United States in foreign countries. The second section provides that whenever the President shall have given thirty days' notice by proclamation that no further danger is to be apprehended from the spread of foreign infectious or contagious diseases among cattle,

this law shall be of no force, and cattle may be imported in the same way as before its passage.

Mr. WENTWORTH. I will ask to have the bill referred to the Committee on Commerce, with power to report at any time.

The SPEAKER. That is in the nature of a suspension of the rules, and the rule is imperative, that, during the morning hour on this day, the rules cannot be suspended.

Mr. WASHBURN, of Illinois. I suggest to my colleague that he postpone the matter for the present; when the proper time comes he will have no difficulty in getting the House to take the bill up.

The SPEAKER. The rule is imperative that bills introduced during the morning hour of Monday must be referred to their appropriate committees, and cannot be recalled by a motion to reconsider.

Mr. WENTWORTH. Can I withdraw it?

The SPEAKER. Certainly.

Mr. WENTWORTH. Then I will withdraw it, and refer it to a committee of one for the present.

EQUALIZATION OF BOUNTIES.

Mr. BROMWELL introduced a bill to equalize bounties to non-commissioned officers, musicians, and privates in the volunteer service of the United States, and for the relief of certain officers therein mentioned; which was read a first and second time, and referred to the Committee on Military Affairs.

FEDERAL COURTS.

Mr. ANDERSON introduced a joint resolution in reference to the Federal courts; which was read a first and second time, and referred to the Committee on the Judiciary.

AMENDMENT OF THE CONSTITUTION.

Mr. BENJAMIN introduced a joint resolution for amending section nine of article one of the Constitution of the United States; which was read a first and second time, and referred to the Committee on the Judiciary, and ordered to be printed.

RECONSTRUCTION.

Mr. ELIOT. I move that the joint resolution introduced by me a few minutes since, being a joint resolution declaring the condition of States recently in rebellion, and the powers of Congress in relation thereto, be referred to the joint committee on that subject.

Mr. JOHNSON. I raise the point of order that there is no such joint committee yet authorized. Where a committee is authorized by law, I take it such bills or joint resolutions must be referred to it.

The SPEAKER. The Chair overrules the point of order. The rule has been followed heretofore that when a joint committee is authorized by either House, and is awaiting the action of the other House, subjects can be referred to that committee even before the concurrence of the other House. If the committee should not be raised, then the whole committee will fall.

The motion was agreed to, and the joint resolution referred accordingly.

LAND TITLES IN ST. LOUIS.

Mr. BLOW introduced a bill authorizing documentary evidence of titles to be furnished to owners of certain lands in the city of St. Louis; which was read a first and second time, and referred to the Committee on Private Land Claims.

UNITED STATES JUDICIARY.

Mr. WILSON introduced a bill to amend the judicial system of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

BURLINGTON AND MISSOURI RIVER RAILROAD.

Mr. WILSON also introduced a bill to extend the time for the completion of the Burlington and Missouri River railroad; which was read a first and second time, and referred to the Committee on the Pacific Railroad.

THIRTY-SEVENTH IOWA REGIMENT.

Mr. WILSON also introduced a bill for the relief of the members of the thirty-seventh regiment of Iowa volunteer infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

RAILROADS IN IOWA.

Mr. HUBBARD, of Iowa, introduced a bill extending the time for the completion of certain railroads in the State of Iowa; which was read a first and second time, and referred to the Committee on the Pacific Railroad.

MISSISSIPPI RIVER.

Mr. ALLISON introduced a bill to construct a canal to improve the Upper rapids and Lower or Des Moines rapids of the Mississippi river; which was read a first and second time, referred to the Committee on Roads and Canals, and ordered to be printed.

MILITARY ROAD IN OREGON.

Mr. HENDERSON introduced a bill granting lands to the State of Oregon to build a military road; which was read a first and second time, and referred to the Committee on Military Affairs.

MAIL ROUTE IN OREGON.

Mr. HENDERSON also introduced a bill to establish a mail route from Auburn to Clarks-ville, in Oregon; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

WEST VIRGINIA.

Mr. LATHAM introduced a joint resolution giving the consent of Congress to the transfer of the counties of Berkeley and Jefferson from the State of Virginia to the State of West Virginia; which was read a first and second time, and referred to the Committee on the Judiciary.

The call of States and Territories for bills and joint resolutions having been concluded—

The SPEAKER announced that the next business in order would be the resumption of the call of States for resolutions, commencing with the State of Illinois.

TRANSPORTATION OF AGRICULTURAL PRODUCTS.

Mr. COOK submitted the following resolution, upon which he called the previous question:

Resolved, That the Committee on Roads and Canals be instructed to inquire what legislation, if any, is necessary to increase the facilities for the transportation of the agricultural products of the western States to the sea-board, and to cheapen the cost of such transportation, either by aiding and encouraging the opening of new channels of communication, or of increasing those already existing; and that they report by bill or otherwise.

The previous question was seconded, and the main question ordered; which was upon agreeing to the resolution.

The question was taken, and the resolution agreed to.

CATTLE DISEASE—AGAIN.

Mr. WENTWORTH. I now ask the unanimous consent of the House to proceed to the consideration of the bill I introduced a little while ago, to prevent the importation of cattle into the United States.

The House proceeded to the consideration of the bill.

The question was upon ordering the bill to be engrossed and read the third time.

Mr. WENTWORTH. I demand the previous question.

The previous question was seconded, and the main question ordered, under the operation of which the bill was ordered to be engrossed and read a third time; and being engrossed, the bill was read the third time.

The question was upon the passage of the bill.

Mr. WENTWORTH. Upon that question I call the previous question.

Mr. ELDRIDGE. I would ask the gentleman from Illinois [Mr. WENTWORTH] if this bill prevents the importation of cattle from Canada?

Mr. WENTWORTH. I think the greatest danger to be apprehended is from Canada.

Mr. ELDRIDGE. And this bill is intended to cover that?

Mr. WENTWORTH. Yes, sir; it covers the whole ground.

Mr. MORRILL. I think it proper to state that whatever law we might pass upon this subject can have no effect upon the importation of cattle from Canada, until March 16, 1866, when the reciprocity treaty will be terminated.

Mr. WENTWORTH. Very well; if the law does not have that effect, it will do no harm. The last news from the old country is very alarming, and if we want to do anything, it must be done at once.

Mr. CONKLING. I understand that treaties, while they subsist rank, in their binding obligation, the laws of Congress. There is a treaty which covers this subject, and in addition to the suggestion of the gentleman from Vermont [Mr. MORRILL] I want to inquire of my friend from Illinois [Mr. WENTWORTH] whether it is worth while to pass a sweeping bill in the very teeth of the reciprocity treaty, when a simple proviso would save the impropriety in appearance and in fact?

Mr. WENTWORTH. In reply to the gentleman from New York, [Mr. CONKLING,] I will say that this bill, if enacted, will be enforced under the direction of the Secretary of the Treasury, who is doubtless familiar with all our treaty obligations, and will respect them in carrying out the law. What I desire is, that we shall do all we can to stop the spread of the cattle disease into this country.

Mr. NIBLACK. I desire to suggest to the gentleman from Illinois whether he had not better allow the bill to be referred, so that it may be so amended as to provide for keeping out of the country the cholera as well as the cattle disease.

Mr. WENTWORTH. I insist upon my call for the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was passed.

Mr. WENTWORTH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

IMPROVEMENT OF MISSISSIPPI RIVER, ETC.

Mr. HOGAN submitted the following resolution, on which he demanded the previous question:

Resolved, That the Committee on Commerce, when appointed, be, and they are hereby, instructed to inquire into the expediency of providing for the improvement of those great interior arteries of trade, the Mississippi river and its upper tributaries, by the removal of obstructions to their successful navigation, so as to facilitate the transit of the valuable productions of its valley to the markets of the world, and report by bill or otherwise.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

ENFORCEMENT OF THE MONROE DOCTRINE.

Mr. VAN HORN, of Missouri, submitted the following preamble and resolution, on which he demanded the previous question:

Whereas the rights of foreign Powers to territorial possessions on this continent ceased with those of discovery; that the successful establishment of this Republic over so large a portion of the continent determined the form of government best adapted to the people inhabiting it; that it is the duty of neighboring States to assist each other in guarding rights and interests common to all; that conquest and subjugation cannot be recognized as a security for mere pecuniary grievances by American States; and that the forcible seizure of Mexico by foreign troops, the seating of a foreign emperor on a throne erected on the ruins of that republic, and his retention by foreign bayonets, is in violation of all these, and cannot be permitted by the United States without failing in the highest duties of a powerful State; Therefore

Resolved, That the Committee on Foreign Relations be instructed to inquire into and report what measures and means may be necessary, on the part of the United States, to restore to the Mexican people the free and unrestricted right to choose their own form of government, and of giving effect to the unanimous voice of the people of this nation, that no foreign Power shall impose despotic government upon any State or people of this continent.

Mr. STEVENS. Mr. Speaker—

The SPEAKER. The gentleman from Missouri [Mr. VAN HORN] demands the previous

question on the resolution. If it gives rise to debate it must go over under the rules.

Mr. STEVENS. I ask the gentleman from Missouri to withdraw his call for one moment till I can make a suggestion.

Mr. VAN HORN, of Missouri. I yield to the gentleman for a moment.

Mr. STEVENS. It seems to me that if we adopt this resolution in its present form, we affirm all the principles embodied in the preamble. If it were merely a resolution of inquiry, it would be a very different thing. I beg to suggest to the gentleman from Missouri that he had better let the resolution go over for the present, so that we may have an opportunity to consider it.

Mr. WASHBURN, of Illinois. The resolution having given rise to discussion, I suppose, Mr. Speaker, it has gone over already.

The SPEAKER. It has not gone over, the gentleman from Missouri not having surrendered the floor.

Mr. STEVENS. By his permission, I took the floor from him.

The SPEAKER. If any gentleman objects, the Chair will arrest discussion, and the resolution will go over.

Mr. STEVENS. I do not want to object, but I think the gentleman had better let the resolution go over.

Mr. WASHBURN, of Illinois. Will not the vote on the preamble be taken separately?

The SPEAKER. It will. The previous question will exhaust itself upon the resolution. The preamble will then come up on a separate vote.

The previous question was not seconded; there being, on a division—ayes 34, noes 83.

Mr. CONKLING rose to debate the resolution, and it went over under the rules.

NEGRO SUFFRAGE.

Mr. NOELL submitted the following resolution, and demanded the previous question on its adoption:

Resolved, That the House of Representatives will not exclude the members of Congress elected in any of the States recently in rebellion because of the fact that the negroes, as a class, were excluded from voting at the election of said members.

Mr. WASHBURN, of Illinois. I hope that the call for the previous question will not be seconded.

Mr. JENCKES. I hope that the resolution will be laid upon the table.

The House divided; and there were—ayes 29, noes 127.

So the previous question was not seconded.

Mr. WASHBURN, of Illinois, proposing to debate the resolution, it accordingly went over under the rules.

Mr. DUMONT. I rise to a point of order. I make the point that the resolution is not in order as it conflicts with the resolution passed by the House for the appointment of a joint committee.

The SPEAKER. The Chair overrules the point of order for two reasons: in the first place it was not made in time; and in the second place the Senate have not yet concurred in the resolution, and therefore the committee has not been raised. By its terms the resolution requires the concurrence of both Houses.

MICHIGAN CONTESTED-ELECTION CASE.

Mr. BEAMAN submitted the following resolution, on which he demanded the previous question:

Resolved, That Augustus C. Baldwin, claimant for the seat held by Hon. R. E. TROWBRIDGE, from the fifth congressional district of Michigan, be entitled to the privilege of the floor pending the decision of his claim.

Mr. JOHNSON. I believe it is customary to add that he be permitted to speak to the question when it comes before the House.

Mr. BEAMAN. I suppose that will follow, but I have no objection to modify my resolution as suggested.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution, as modified, was adopted.

Mr. BEAMAN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

JURORS IN THE DISTRICT.

Mr. WILSON introduced a bill to amend an act entitled "An act providing for the selection of jurors to serve in the several courts of the District of Columbia;" which was read a first and second time.

Mr. WILSON. I merely wish to say, for the information of the House, that no court can be held in this District until this bill becomes a law. I demand the previous question.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

SOLDIERS' ORPHANS' HOME OF IOWA.

Mr. PRICE introduced a joint resolution that the buildings, sheds, furniture, and other property now at Camp Kinsman, near Davenport, Scott county, Iowa, be donated to the Soldiers' Orphans' Home of Iowa; which was read a first and second time.

Mr. PRICE demanded the previous question.

The previous question was seconded, and the main question ordered.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PRICE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NON-RESIDENT WESTERN LANDHOLDERS.

Mr. KASSON submitted the following resolution, on which he demanded the previous question:

Resolved, That the Committee on Public Lands inquire and report upon the expediency of releasing on the part of the United States so much of the articles of the fundamental compact with the new States, respectively, as restricts their right of discriminating in respect to the taxation of lands of non-resident proprietors, and so enable the States to conform their policy in respect to unimproved lands held for speculation to the principle adopted by Congress in the measure known as the "homestead act."

Mr. DAWSON. Mr. Speaker, that is a most important resolution, affecting seriously, as it does, private interests all over the country, and demands the most careful consideration that justice be not done. We ought to frown upon any hurried legislation on the subject.

Mr. KASSON. It is only a resolution of inquiry.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. KASSON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MINING ON THE PUBLIC LANDS.

Mr. KASSON introduced a resolution instructing certain committees to report to the House a bill regulating mining on the public lands of the United States.

Pending the reading—

Mr. WASHBURN, of Illinois, inquired whether the morning hour had expired.

The SPEAKER. It has.

Mr. WASHBURN, of Illinois. Then I call for the regular order of business.

PRIVILEGES OF THE FLOOR.

The SPEAKER announced, as the first business in order, the motion of Mr. NIBLACK, laid over from last Monday, to suspend the rules

in order to allow him to offer the following resolution:

Resolved, That pending the question as to the admission of persons claiming to have been elected Representatives to the present Congress from the States lately in rebellion against the United States Government, such persons shall be entitled to the privileges of the floor of the House.

Upon the motion to suspend the rules, the yeas and nays had been ordered.

COMMITTEES OF THE HOUSE.

The SPEAKER. Pending this question, the Speaker will announce the standing and select committees ordered by the House. The Speaker desires to state that last Monday the senior member of the House, the gentleman from Illinois, [Mr. WASHBURN], offered a resolution to be referred to a committee of one from each State in regard to tokens of respect and affection growing out of the death of the late President. Subsequently, another gentleman from Illinois [Mr. WENTWORTH] offered a bill for the relief of the widow of the late President, which was also ordered to be referred to a committee of one from each State. The Chair is informed by the latter gentleman [Mr. WENTWORTH] that he desires that his colleague, the senior member from Illinois, [Mr. WASHBURN], shall be appointed a member of that committee; which will obviate the necessity of making two committees of one from each State.

Mr. WENTWORTH. That is in accordance with my request and wish.

The SPEAKER. The Chair will then announce that committee, and then the other committees ordered by the House.

The said committees were then announced, as follows:

Select Committee of one from each State represented, on the Death of President Lincoln—Messrs. Elihu B. Washburne of Illinois, James G. Blaine of Maine, James W. Patterson of New Hampshire, Justin S. Morrill of Vermont, Nathaniel P. Banks of Massachusetts, Thomas A. Jenckes of Rhode Island, Henry C. Deming of Connecticut, John A. Griswold of New York, Edwin V. R. Wright of New Jersey, Thaddeus Stevens of Pennsylvania, John A. Nicholson of Delaware, Francis Thomas of Maryland, Robert C. Schenck of Ohio, George S. Shanklin of Kentucky, Godlove S. Orth of Indiana, Joseph W. McClurg of Missouri, Fernando C. Beaman of Michigan, John A. Kasson of Iowa, Ithamar C. Sloan of Wisconsin, William Higby of California, William Windom of Minnesota, James H. D. Henderson of Oregon, Sidney Clark of Kansas, and Kellian V. Whaley of West Virginia.

STANDING COMMITTEES.

Committee of Elections—Henry L. Dawes of Massachusetts, Glenni W. Scofield of Pennsylvania, Portus Baxter of Vermont, Charles Upson of Michigan, Samuel S. Marshall of Illinois, Halbert E. Paine of Wisconsin, Samuel Shellabarger of Ohio, Joseph W. McClurg of Missouri, and William Radford of New York.

Of Ways and Means—Justin S. Morrill of Vermont, Samuel Hooper of Massachusetts, James Brooks of New York, James A. Garfield of Ohio, John Wentworth of Illinois, Roscoe Conkling of New York, James K. Moorhead of Pennsylvania, William B. Allison of Iowa, and John Hogan of Missouri.

On Appropriations—Thaddeus Stevens of Pennsylvania, Henry J. Raymond of New York, Henry T. Blow of Missouri, John A. Kasson of Iowa, Daniel W. Voorhees of Indiana, John F. Farnsworth of Illinois, Rufus P. Spaulding of Ohio, William Higby of California, and Edwin V. R. Wright of New Jersey.

On Banking and Currency—Theodore M. Pomeroy of New York, Samuel Hooper of Massachusetts, Charles V. Culver of Pennsylvania, Ralph P. Buckland of Ohio, Aaron Harding of Kentucky, John Lynch of Maine, Joseph H. Defrees of Indiana, Chester D. Hubbard of West Virginia, and Samuel J. Randall of Pennsylvania.

On the Pacific Railroad—Hiram Price of Iowa, Thaddeus Stevens of Pennsylvania, Ignatius Donnelly of Minnesota, Oakes Ames of

Massachusetts, James Brooks of New York, Benjamin F. Loan of Missouri, Sidney Clark of Kansas, John Bidwell of California, and James H. D. Henderson of Oregon.

Of Claims—Columbus Delano of Ohio, Giles W. Hotchkiss of New York, William B. Washburn of Massachusetts, Ithamar C. Sloan of Wisconsin, William E. Niblack of Indiana, Samuel McKee of Kentucky, Hamilton Ward of New York, Abraham A. Barker of Pennsylvania, and Anthony Thornton of Illinois.

On Commerce—Elihu B. Washburne of Illinois, Thomas D. Eliot of Massachusetts, Nathan F. Dixon of Rhode Island, Charles O'Neill of Pennsylvania, John W. Longyear of Michigan, James Humphrey of New York, John L. Thomas of Maryland, Benjamin Eggleston of Ohio, and James M. Humphrey of New York.

On the Public Lands—George W. Julian of Indiana, John F. Driggs of Michigan, Adam J. Glossbrenner of Pennsylvania, Ignatius Donnelly of Minnesota, Ephraim R. Eckley of Ohio, Sidney T. Holmes of New York, Donald C. McRuer of California, George W. Anderson of Missouri, and Stephen Tabor of New York.

On the Post Office and Post Roads—John B. Alley of Massachusetts, John H. Farquhar of Indiana, William E. Finck of Ohio, Donald C. McRuer of California, Thomas W. Ferry of Michigan, Philip Johnson of Pennsylvania, Andrew J. Kuykendall of Illinois, Demas Hubbard of New York, and John R. Kelso of Missouri.

For the District of Columbia—Ebon C. Ingersoll of Illinois, Ebenezer Dumont of Indiana, Thomas T. Davis of New York, John D. Baldwin of Massachusetts, Hiram McCullough of Maryland, Amasa Cobb of Wisconsin, Martin Welker of Ohio, Ulysses Mercier of Pennsylvania, and George S. Shanklin of Kentucky.

On the Judiciary—James S. Wilson of Iowa, George S. Boutwell of Massachusetts, Francis Thomas of Maryland, Thomas Williams of Pennsylvania, Frederick E. Woodbridge of Vermont, Daniel Morris of New York, Andrew J. Rogers of New Jersey, William Lawrence of Ohio, and Burton C. Cook of Illinois.

On Revolutionary Claims—Kellian V. Whaley of West Virginia, William A. Newell of New Jersey, Charles A. Eldridge of Wisconsin, John L. Thomas of Maryland, Stephen F. Wilson of Pennsylvania, Burt Van Horn of New York, Reader W. Clarke of Ohio, Rowland E. Trowbridge of Michigan, and Lawrence S. Trimble of Kentucky.

On Public Expenditures—Calvin T. Hubbard of New York, John M. Broomall of Pennsylvania, Asahel W. Hubbard of Iowa, Edward H. Rollins of New Hampshire, Morgan Jones of New York, Green Clay Smith of Kentucky, Samuel L. Warner of Connecticut, Tobias A. Plants of Ohio, and John A. Nicholson of Delaware.

On Private Land Claims—M. Russell Thayer of Pennsylvania, Giles W. Hotchkiss of New York, Jehu Baker of Illinois, Rutherford B. Hayes of Ohio, Charles Goodyear of New York, Thomas E. Noell of Missouri, George S. Boutwell of Massachusetts, Frederick E. Woodbridge of Vermont, and Michael C. Kerr of Indiana.

On Manufactures—James K. Moorhead of Pennsylvania, Oakes Ames of Massachusetts, Hezekiah S. Bundy of Ohio, Lawrence S. Trimble of Kentucky, Robert S. Hale of New York, Abner C. Harding of Illinois, Philetus Sawyer of Wisconsin, Chester D. Hubbard of West Virginia, and Edwin N. Hubbell of New York.

On Agriculture—John Bidwell of California, Josiah B. Grinnell of Iowa, Thomas N. Stillwell of Indiana, Portus Baxter of Vermont, James R. Hubbell of Ohio, Burwell C. Ritter of Kentucky, Rowland E. Trowbridge of Michigan, George V. Lawrence of Pennsylvania, and Tannis G. Bergen of New York.

On Indian Affairs—William Windom of Minnesota, Walter D. McIndoe of Wisconsin, Charles Denison of Pennsylvania, Asahel W.

Hubbard of Iowa, Sidney Clark of Kansas, Roswell Hart of New York, Lewis W. Ross of Illinois, James H. D. Henderson of Oregon, and Robert T. Van Horn of Missouri.

On Military Affairs—Robert C. Schenck of Ohio, Henry C. Deming of Connecticut, Gilman Marston of New Hampshire, Lovell H. Rousseau of Kentucky, John A. Bingham of Ohio, Sydenham E. Ancona of Pennsylvania, John H. Ketchum of New York, James G. Blaine of Maine, and Charles Sitgreaves of New Jersey.

On the Militia—Green Clay Smith of Kentucky, Abner C. Harding of Illinois, Ralph P. Buckland of Ohio, Robert S. Hale of New York, Thomas E. Noell of Missouri, Charles E. Phelps of Maryland, John H. Farquhar of Indiana, Thomas W. Ferry of Michigan, and Benjamin M. Boyer of Pennsylvania.

On Naval Affairs—Alexander H. Rice of Massachusetts, John A. Griswold of New York, Frederick A. Pike of Maine, William D. Kelley of Pennsylvania, Augustus Brandegee of Connecticut, Charles A. Eldridge of Wisconsin, Charles E. Phelps of Maryland, William A. Darling of New York, and Francis C. Le Blond of Ohio.

On Foreign Affairs—Nathaniel P. Banks of Massachusetts, Henry J. Raymond of New York, Godlove S. Orth of Indiana, William H. Randall of Kentucky, John L. Dawson of Pennsylvania, James W. Patterson of New Hampshire, William A. Newell of New Jersey, Shelby M. Cullom of Illinois, and Charles H. Winfield of New York.

On the Territories—James M. Ashley of Ohio, Fernando C. Beaman of Michigan, John H. Rice of Maine, Henry Grider of Kentucky, James M. Marvin of New York, Myer Strouse of Pennsylvania, Ralph Hill of Indiana, Samuel W. Moulton of Illinois, and John F. Starr of New Jersey.

On Revolutionary Pensions—Walter D. McIndoe of Wisconsin, Hiram Price of Iowa, Benjamin M. Boyer of Pennsylvania, Charles Goodyear of New York, Charles Upson of Michigan, Augustus Brandegee of Connecticut, William B. Washburn of Massachusetts, Martin Welker of Ohio, and Sidney T. Holmes of New York.

On Invalid Pensions—Sidney Perham of Maine, Thomas N. Stillwell of Indiana, Nelson Taylor of New York, John F. Driggs of Michigan, Henry Van Aernam of New York, George V. Lawrence of Pennsylvania, Philetus Sawyer of Wisconsin, John F. Benjamin of Missouri, and Aaron Harding of Kentucky.

On Roads and Canals—Fernando C. Beaman of Michigan, Burt Van Horn of New York, John H. Hubbard of Connecticut, Lovell H. Rousseau of Kentucky, John Wentworth of Illinois, Thomas T. Davis of New York, George F. Miller of Pennsylvania, Joseph H. Defrees of Indiana, and William E. Finck of Ohio.

On Patents—Thomas A. Jenckes of Rhode Island, Leonard Myers of Pennsylvania, John W. Chanler of New York, John H. Hubbard of Connecticut, and Henry P. H. Broomwell of Illinois.

On Public Buildings and Grounds—John H. Rice of Maine, John F. Starr of New Jersey, Stephen F. Wilson of Pennsylvania, Francis C. Le Blond of Ohio, and George R. Latham of West Virginia.

On Revision and Unfinished Business—Glenni W. Scofield of Pennsylvania, James F. Wilson of Iowa, James M. Ashley of Ohio, Alexander H. Rice of Massachusetts, and Theodore M. Pomeroy of New York.

On Mileage—George W. Anderson of Missouri, Gilman Marston of New Hampshire, Tobias A. Plants of Ohio, Henry Grider of Kentucky, and Andrew J. Kuykendall of Illinois.

Of Accounts—Edward H. Rollins of New Hampshire, John M. Broomall of Pennsylvania, Ephraim R. Eckley of Ohio, Michael C. Kerr of Indiana, and Hamilton Ward of New York.

On Coinage, Weights, and Measures—John A. Kasson of Iowa, Charles H. Winfield of New York, Thomas Williams of Pennsylvania,

Hezekiah S. Bundy of Ohio, and Henry L. Dawes of Massachusetts.

On Expenditures in the State Department—Frederick A. Pike of Maine, Henry P. H. Bromwell of Illinois, Samuel J. Randall of Pennsylvania, Roswell Hart of New York, and Samuel Shellabarger of Ohio.

On Expenditures in the Treasury Department—James M. Marvin of New York, Charles V. Culver of Pennsylvania, Ralph Hill of Indiana, Shelby M. Cullom of Illinois, and Burwell C. Ritter of Kentucky.

On Expenditures in the War Department—Henry C. Deming of Connecticut, Rhamar C. Sloan of Wisconsin, George F. Miller of Pennsylvania, Edwin N. Hubbell of New York, and James R. Hubbell of Ohio.

On Expenditures in the Navy Department—James Humphrey of New York, George W. Julian of Indiana, Samuel W. Moulton of Illinois, Samuel L. Warner of Connecticut, and Charles Denison of Pennsylvania.

On Expenditures in the Post Office Department—John Baker of Illinois, Leonard Myers of Pennsylvania, William A. Darling of New York, Benjamin Eggleston of Ohio, and Andrew J. Rogers of New Jersey.

On Expenditures in the Interior Department—Ebenezer Dumont of Indiana, Myer Strouse of Pennsylvania, John F. Benjamin of Missouri, William B. Allison of Iowa, and Samuel McKee of Kentucky.

On Expenditures on the Public Buildings—John W. Longyear of Michigan, John D. Baldwin of Massachusetts, Nathan F. Dixon of Rhode Island, Philip Johnson of Pennsylvania, and William H. Randall of Kentucky.

Joint Committee on the Library—Rutherford B. Hayes of Ohio, William D. Kelley of Pennsylvania, and Calvin T. Hulburd of New York.

Joint Committee on Printing—Addison H. Laffin of New York, Reader W. Clarke of Ohio, and George R. Latham of West Virginia.

Joint Committee on Enrolled Bills—Amasa Cobb of Wisconsin, and Adam J. Glossbrenner of Pennsylvania.

SELECT COMMITTEES.

On the Rules—The Speaker, and Messrs. Elihu B. Washburne of Illinois, Nathaniel P. Banks of Massachusetts, John L. Dawson of Pennsylvania, and Henry J. Raymond of New York.

On Bankrupt Law—Messrs. Thomas A. Jenckes of Rhode Island, Rufus P. Spalding of Ohio, Francis Thomas of Maryland, John W. Chandler of New York, M. Russell Thayer of Pennsylvania, Henry T. Blow of Missouri, John Lynch of Maine, Anthony Thornton of Illinois, and John B. Alley of Massachusetts.

On Freedmen—Messrs. Thomas D. Eliot of Massachusetts, William D. Kelley of Pennsylvania, Godlove S. Orth of Indiana, John A. Bingham of Ohio, Nelson Taylor of New York, Benjamin F. Loan of Missouri, Josiah B. Grinnell of Iowa, Halbert E. Paine of Wisconsin, and Samuel S. Marshall of Illinois.

PRIVILEGE OF THE FLOOR.

The question then recurred on the motion of Mr. NIBLACK, coming over from last Monday, to suspend the rules to enable him to introduce a resolution, on which the yeas and nays had been ordered.

The question was taken; and there were—yeas 89, nays 110, not voting 33; as follows:

YEAS—Messrs. Ancona, Blow, Boyer, Brooks, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Hogan, Edwin N. Hubbell, James R. Hubbell, James M. Humphrey, Johnson, Kerr, Le Blond, Marshall, Niblack, Neell, Radford, Raymond, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Smith, Stillwell, Tabor, Taylor, Francis Thomas, Trimble, Voorhes, Whaley, and Wright—39.

NAYS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Sidney Clark, Cobb, Conklin, Cook, Callom, Davis, Dawes, Defrees, Delano, Dixon, Briggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, James Humphrey, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelse, Kuykendall, Latham,

William Lawrence, Loan, Longyear, Lynch, Marvin, McClurg, McIndoe, McKee, McRuer, Mercier, Miller, Moorhead, Morris, Moulton, Myers, O'Neill, Paine, Patterson, Perham, Phelps, Pike, Plants, Price, Alexander H. Rice, Rollins, Sawyer, Seofield, Shellabarger, Sloan, Spalding, Stevens, Thayer, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elijah B. Washburne, William B. Washburne, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—110.

NOT VOTING—Messrs. Delos R. Ashley, Barker, Baxter, Bergen, Chanler, Reader W. Clarke, Culver, Darling, Deming, Donnelly, Griswold, Harris, Chester D. Hubbard, Jones, Ketchum, Laffin, George V. Lawrence, Marston, McCullough, Morrill, Newell, Nicholson, Orth, Pomeroy, Samuel J. Randall, William H. Randall, John H. Rice, Schenck, Starr, Strouse, John L. Thomas, Thornton, and Winfield—33.

So the rules were not suspended, two thirds not voting in favor thereof.

Subsequent to the calling of the roll—
Mr. SCHENCK stated that he should have voted in the negative had he been in during the call of the roll.

CLERKS TO COMMITTEES.

Mr. WASHBURNE, of Illinois. I am requested by several of the chairmen of committees to offer the usual resolution authorizing the appointment of clerks. I therefore offer the following resolution, and upon it demand the previous question:

Resolved, That the committees of the House who were entitled to clerks last Congress, shall be entitled to clerks this Congress, at the usual compensation; and that the Committees on Banking and Currency and on Appropriations shall also be entitled to clerks at the same rate of compensation.

Mr. ELIOT. I hope the gentleman from Illinois will withdraw his demand for the previous question, in order that I may offer an amendment. There is another committee that needs a clerk.

Mr. WASHBURNE, of Illinois. I do not withdraw the previous question for that purpose. After the gentleman's special committee shall have organized and ascertained that they need a clerk, they can come to the House at any time and get one.

Mr. ELIOT. It is obvious that the committee on freedmen's affairs must have a clerk.

Mr. WASHBURNE, of Illinois. I prefer the resolution in the usual shape, but I shall not oppose the assignment of a clerk to that committee when they ask for one.

Mr. ELIOT. I hope the House will not second the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. ASHLEY, of Ohio, moved that the vote last taken be reconsidered; and also moved that the motion to reconsider be laid on the table. The latter motion was agreed to.

OFFICIAL REPORTING.

Mr. BANKS. I offer the following resolution, which involves a matter of the privileges of the House, and upon it I demand the previous question:

Resolved, That the select committee upon rules, of which the Speaker of the House is chairman, be instructed to consider and report what relation the reporters of the official proceedings published in the Globe bear to the House, and whether any further regulation is necessary to secure a full and just report of its proceedings.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

TREASURER'S REPORT.

The SPEAKER laid before the House a report from the Treasurer of the United States transmitting copies of his accounts for the third and fourth quarters of 1863, and the first and second quarters of 1864; which was laid upon the table, and ordered to be printed.

REPORT OF THE LIEUTENANT GENERAL.

Mr. WASHBURNE, of Illinois, submitted the following resolution, which was referred, under the law, to the Committee on Printing:

Resolved, That twenty-five thousand copies of the report of the Lieutenant General be printed for the use of the House.

HEALTH OF WASHINGTON.

Mr. JOHNSON, by unanimous consent, sub-

mitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee for the District of Columbia be instructed to inquire into the expediency of making such improvements in the drainage of this city, and especially the Washington canal, as may conduce to the health of the city; and that they report by bill or otherwise.

RECONSTRUCTION.

Mr. ELDRIDGE asked the unanimous consent of the House to offer the following resolution:

Resolved, That there is no warrant or authority in the Constitution of the United States for any State or States to secede, and that all resolves or ordinances to that end or for that purpose are absolutely null and void; and that the war having defeated the attempt to thus divide and break up the Union, it is of vital importance to the Republic and to all the States thereof that the States recently in revolt, and each and every one of them, should resume their appropriate and constitutional position and functions in the Union without delay; and to this end, laying aside all party feeling and all personal or other animosity, waiving all minor differences and seeking earnestly to maintain and preserve the Union of our fathers, we will cordially sustain and support the President in every and all constitutional efforts and policy of restoration, believing that thereby the political, commercial, financial, and general prosperity of the whole country will be most substantially and permanently subserved.

Mr. THAYER. I object.

ARMORY AT HARPER'S FERRY.

Mr. LATHAM, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of rebuilding and reestablishing the United States armory at Harper's Ferry, West Virginia; and whether the public interests would be better subserved by reestablishing said armory or by selling the property there belonging to the United States; and that said committee report by bill or otherwise.

CLAIMS FOR ARMY SUPPLIES.

Mr. KERR, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of so amending the law of July 4, 1864, entitled "An act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished to the Army of the United States," as to require the officers therein named to examine and certify for payment, if just, the claims of loyal citizens in States not heretofore in rebellion, for quartermasters' stores or subsistence supplies actually furnished to said Army, whether the same were receipted for or taken without receipt by the officer whose particular duty and business it was, under the rules of said Army, to take the same, or was taken by some other officer or person in such Army, and actually used by said Army, and to report by bill or otherwise.

EQUALIZATION OF BOUNTIES.

Mr. SHELLABARGER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be directed to inquire into and report to this House, by bill or otherwise, upon the propriety of providing by law for securing to soldiers and sailors who have served the Government in the late war against the rebellion, and who have received no bounties, or relatively small bounties, such additional bounty as will render as nearly as practicable the bounties paid to all such soldiers and sailors equal in proportion to the time of service.

MEXICAN AFFAIRS.

Mr. STEVENS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the President be requested, if not incompatible with the public interest, to communicate to this House any correspondence or other information in the possession of the Government relative to the present condition of affairs in the sister republic of Mexico, and especially any letters of the minister from said republic, or the French minister at Washington, thereto.

SLAVERY IN MEXICO.

Mr. GARFIELD, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the President be requested, if not incompatible with the public service, to communicate to this House any information in the possession of any of the Executive Departments of the Government in reference to a so-called decree, by Maximilian, the French agent in Mexico, under date of September 5, 1865, reestablishing slavery or peonage in that republic, and also what action, if any, has been taken by the Government of the United States with reference thereto.

Mr. GARFIELD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

On motion of Mr. STEVENS, leave of absence was granted to Mr. MILLER from Wednesday next until the following Friday.

SAFETY OF RAILROAD TRAVEL.

Mr. WILSON, by unanimous consent, submitted the following resolution:

Resolved, That the Committee on Commerce be instructed to inquire what legislation is necessary for the safety and protection of persons traveling upon railroads in the United States, and report by bill or otherwise.

The question was taken, and the resolution agreed to.

EXCUSED FROM SERVING ON A COMMITTEE.

Mr. DAVIS asked to be excused from serving on the Committee for the District of Columbia. Leave was granted accordingly.

On motion of Mr. STEVENS, the House (at two o'clock and ten minutes) then adjourned.

IN SENATE.

TUESDAY, December 12, 1865.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Treasurer of the United States, transmitting, in obedience to law, copies of his accounts with the United States for the third and fourth quarters of the year 1863, and the first and second quarters of the year 1864, as adjusted by the accounting officers of the Treasury; which was referred to the Committee on Finance.

He also laid before the Senate a communication from the Secretary of the Interior, transmitting, in obedience to law, copies of the accounts for the first quarter of 1865 of the superintendent and agents having in charge the refugee Creek, Choctaw, Chickasaw, and Seminole Indians; which was referred to the Committee on Indian Affairs.

PETITIONS AND MEMORIALS.

Mr. COWAN presented the petition of fifteen petty officers and twenty-six seamen of the Western flotilla, praying for prize money or compensation for captures made at Island No. 10, Memphis, and other places on the Mississippi river; which was referred to the Committee on Naval Affairs.

He also presented the petition of soldiers in the recent war, praying for the necessary legislation to equalize the bounties of those who first responded to their country's call with the bounties of those who enlisted near the close of the war; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition numerously signed by citizens of Pennsylvania, praying that internal taxation and duties on foreign imports may be so adjusted as to secure the amplest protection to the labor and industry of the country in all their branches; which was referred to the Committee on Finance.

Mr. POMEROY. I ask leave to present the petition and accompanying papers in the case of Captain F. A. Patterson, late of the third Virginia cavalry. Having been taken prisoner before he was mustered into the service, he prays that he may be allowed his compensation until the date of his discharge. I move the reference of the papers to the Committee on Claims.

The motion was agreed to.

Mr. NESMITH presented a petition of citizens of Oregon, praying that a pension may be granted to Henry Noland; which was referred to the Committee on Pensions.

Mr. WILLIAMS presented a memorial of the Legislative Assembly of the State of Ore-

gon, urging the negotiation of a treaty between the United States and the Sandwich Islands, by which the leading exports from the Pacific coast, with some exceptions, and the staple productions of those islands, may be admitted into the ports of each country free of duty; which was referred to the Committee on Foreign Relations.

Mr. ANTHONY presented the petition of Archibald C. Cray, praying for an appropriation for the pay alleged to be due his father as an officer in the revolutionary war; which, with his papers on file, was referred to the Committee on Revolutionary Claims.

BILLS INTRODUCED.

Mr. MORGAN, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 26) granting to the International Ocean Telegraph Company the right and privilege to establish telegraphic communication between the city of New York and the West India islands; which was read twice by its title, and referred to the Committee on Commerce.

Mr. CLARK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 27) to provide for the election of a register of deeds for the county of Washington, in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. LANE, of Kansas, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 28) to provide for the consolidation of the Indian tribes and to establish civil government in the Indian Territory; which was read twice by its title, and referred to the Committee on Territories.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 29) to amend the act of March 3, 1863, granting lands to the State of Kansas to aid in the construction of certain railroads in said State; and also supplementary to the act of July 4, 1864, of the same import; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 30) to create an additional land district in the State of Oregon; which was read twice by its title, and referred to the Committee on Public Lands.

J. A. RHOMBERG AND COMPANY.

Mr. GRIMES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be directed to communicate to the Senate all the facts in regard to the seizure of property, for a violation of the revenue laws of the United States, belonging to J. A. Rhomberg & Co., of Dubuque, Iowa; upon what terms a settlement was effected with said Rhomberg & Co.; and under what authority of law the corn seized by the United States as the property of said Rhomberg & Co. was converted into whisky and afterward delivered to them without requiring the duty imposed thereon by law to be paid by them.

WRIT OF HABEAS CORPUS.

Mr. DAVIS. I ask leave to present a resolution with a view to its reference to the Committee on the Judiciary:

Whereas the Constitution of the United States declares, "the privilege of the writ of *habeas corpus* shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require it;" and whereas Congress, by an act passed 3d March, 1863, provided "that during the present rebellion, the President of the United States, whenever, in his judgment, the public safety may require it, is authorized to suspend the privilege of the writ of *habeas corpus* in any case throughout the United States, or any part thereof;" and in pursuance of said act the President did, the 15th day of September, 1863, make proclamation "that the privilege of the writ of *habeas corpus* is suspended throughout the United States, in the several cases before mentioned, and that this suspension will continue throughout the duration of the said rebellion, or until this proclamation shall, by a subsequent one, to be issued by the President of the United States, be modified or revoked;" and whereas there are now no cases of invasion or rebellion in the State of Kentucky, or anywhere in the United States, by reason of which the public safety requires the continued suspension of the writ of *habeas corpus*: Therefore,

Be it resolved, That the privilege of the writ of *habeas corpus*, by the operation and effect of the Constitution of the United States, now stands rightfully

restored in the State of Kentucky, and throughout the whole of the United States, and every citizen may claim, as his birthright, the benefit of this writ of American liberty.

The PRESIDENT *pro tempore*. The question is upon the resolution.

Mr. SUMNER. I object to its consideration.

Mr. CLARK. I think it had better lie over. The PRESIDENT *pro tempore*. The present consideration of the resolution being objected to, it lies over under the rules.

Mr. DAVIS. Will the Senator from Massachusetts permit me to appeal to his courtesy? I do not ask for the present consideration of the resolution. I merely ask to have it referred to the Committee on the Judiciary.

Mr. SUMNER. I have no objection to that. I take it, there is no objection to its reference.

The PRESIDENT *pro tempore*. Is the objection to the present consideration of the resolution withdrawn?

Mr. SUMNER. It is.

The PRESIDENT *pro tempore*. The objection to the present consideration of the resolution being withdrawn, it is moved that the resolution be referred to the Committee on the Judiciary.

Mr. DAVIS. Mr. President, I will at this time say a short word on the resolution which I have submitted.

It is no attack upon the President, and it covers no hostile feeling to his administration. I am fully sensible of the stupendous difficulties that beset him in his efforts to restore tranquility, fraternity, and security to the whole people of the United States, and all his proper efforts in this great work have my fullest sympathy, and will receive my earnest support. My constituency generally, nine tenths of them at least, and most certainly I myself, am most desirous to sustain his administration; and if I cannot do it in the whole, as much of his policy and measures as my sense of duty will allow. I and the people I represent are desirous to judge of his administration, not only justly, but indulgently. So far as I deem his policy and measures to be constitutional and wise, I will support them earnestly. When I doubt, he shall have the benefit of my doubts; and though dissenting from him concerning essentials, I will refrain from open opposition to him as to them. But where my judgment is satisfied that he is wrong on important principles and concerns, I will openly and decidedly, but courteously, oppose his measures. I will know no more difference in the frankness and decision of my opposition to his measures of that character, than I manifested to similar measures of his predecessor.

Mr. President, to my mental vision the present condition and near prospect for our country are exceedingly unpromising. I do not know that there is any near deliverance, or well-grounded hope for it. Certainly if there is, that hope and deliverance hang upon Andrew Johnson. No man had ever a more important part to play. If he prove able and strong, and just and patriotic, the mass of the people of Kentucky and of the whole United States will rally to his support; and with their assistance he can rescue the country from the terrible fate that threatens it. But if he should be too weak, or treacherous to the mighty responsibility that has been devolved upon him by Providence, there seems now to be no deliverance. Let the true men of the country everywhere hope that he will have the wisdom, virtue, and courage to meet responsibilities that are so fearful in their magnitude, and if he shows the proper disposition and fortitude they will stand by him to save us from anarchy and despotism.

The PRESIDENT *pro tempore*. Will the Senator from Kentucky be good enough to suspend his remarks for a moment to enable the Chair to receive a message from the House of Representatives?

Mr. DAVIS. I am through, sir. I merely wanted to make this disclaimer.

The PRESIDENT *pro tempore*. The Chair did not mean to interrupt the Senator but tem-

porarily. The Chair understands the Senator from Kentucky as having concluded his remarks. The question is on the motion to refer the resolution of the Senator from Kentucky to the Committee on the Judiciary.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 23) to prevent the spread of foreign diseases among the cattle of the United States;

A bill (H. R. No. 24) to amend an act entitled "An act providing for the selection of jurors to serve in the several courts of the District of Columbia;" and

A joint resolution (H. R. No. 18) granting certain public property to the Soldiers' Orphans' Home of Iowa.

QUARTERMASTER GENERAL'S REPORT.

Mr. ANTHONY submitted the following resolution, which was referred to the Committee on Printing:

Resolved, That one thousand copies of the report of the Quartermaster General be printed for the use of the quartermaster's department.

JOINT COMMITTEE ON RECONSTRUCTION.

Mr. ANTHONY. I move that the Senate take up the resolution from the House of Representatives, appointing a committee to inquire into the condition of the States which formed the so-called confederate States of America.

The motion was agreed to; and the Senate proceeded to consider the following resolution from the House of Representatives:

Be it resolved by the Senate and House of Representatives in Congress assembled, That a joint committee of fifteen members shall be appointed, nine of whom shall be members of the House and six members of the Senate, who shall inquire into the condition of the States which formed the so-called confederate States of America, and report whether they, or any of them, are entitled to be represented in either House of Congress; with leave to report at any time, by bill or otherwise; and until such report shall have been made, and finally acted on by Congress, no member shall be received into either House from any of the said so-called confederate States; and all papers relating to the representation of said States shall be referred to the said committee without debate.

Mr. ANTHONY. I move to amend the enacting clause of the resolution, which now reads as a joint resolution, so as to make it a concurrent resolution, inasmuch as a joint resolution goes to the President for his signature.

The PRESIDENT *pro tempore*. It is moved that the enacting or resolving clause of the resolution be amended so as to change it from a joint resolution to a concurrent resolution. The resolution now reads, "Resolved by the Senate and House of Representatives in Congress assembled." It is proposed to amend the clause so as to read, "Resolved by the Senate, (the House of Representatives concurring.)"

Mr. FOOT. It should be the other way, "Resolved by the House of Representatives, (the Senate concurring,)" the resolution having originated in the House.

The PRESIDENT *pro tempore*. That will be the form.

Mr. SAULSBURY. Will the resolution go to a committee? If not, I move to refer it to the Committee on the Judiciary.

The PRESIDENT *pro tempore*. The question now is on the amendment of the resolving clause of the resolution. It is competent for the Senator to move its reference. A motion to refer is in order if made.

Mr. ANTHONY. I hope the Senator from Delaware will allow this amendment to be made, if he does not object to it, and one other amendment which I shall propose, and then his motion will be in order.

Mr. SAULSBURY. Very well.

The PRESIDENT *pro tempore*. The question is on the amendment to the form of the resolution, changing it from a joint to a concurrent resolution.

The amendment was agreed to.

Mr. ANTHONY. I move further to amend the resolution by striking out all after the word "otherwise."

The words proposed to be stricken out were read, as follows:

"And until such report shall have been made, and finally acted on by Congress, no member shall be received into either House from any of the said so-called confederate States; and all papers relating to the representation of said States shall be referred to the said committee without debate."

Mr. HOWARD. Mr. President, I cannot vote for that amendment. I prefer the resolution as it came from the House of Representatives, because, whether the concurrent resolution has or has not the effect of law, it certainly contains within itself a pledge on the part of the two Houses, given the one to the other, that until the report of this important committee shall have been presented, we will not readmit any of the rebel States either by the recognition of their Senators or of their Representatives. I think, sir, the country expects nothing less than this at our hands. I think that portion of the loyal people of the United States who have sacrificed so much of blood and treasure in the prosecution of the war, and who secured to us the signal victory which we have achieved over the rebellion, have a right to at least this assurance at our hands, that neither House of Congress will recognize as States any one of the rebel States until the event to which I have alluded.

Sir, what is the present position and status of the rebel States? In my judgment they are simply conquered communities, subjugated by the arms of the United States—communities in which the right of self-government does not now exist. Why? Because they have been for the last four years hostile, to the most surprising unanimity hostile, to the authority of the United States, and have during that period been waging a bloody war against that authority. They are simply conquered communities; and we hold them, as we know well, as the world knows to-day, not by their own free will and consent as members of the Union, but solely by virtue of our superior military power, which is exerted to that effect throughout the length and breadth of the rebel States. There is in those States no rightful authority, according to my view, at this time but that of the United States, and every political act, every governmental act exercised within their limits, must necessarily be exercised and performed under the sanction and by the will of the conqueror.

In short, sir, they are not to-day loyal States; their population are not willing to-day, if we are rightly informed, to perform peaceably, quietly, and efficiently the duties which pertain to the population of a State in the Union and of the Union; and for one, I cannot consent to recognize them, even indirectly, as entitled to be represented in either House of Congress at this time. The time has not yet come, in my judgment, to do this, and I object to the amendment for the reason that it leaves the implication—and the implication will be drawn and clearly understood by the public—that one or the other House of Congress may, whenever it sees fit, readmit Senators or Representatives from a rebel State as it sees fit, without the concurrence of the other House, and I hold it to be utterly incompetent for the Senate, under the present condition of things, and for the House of Representatives, under the same condition, to admit Senators or Representatives into Congress without the consent of both Houses and the formal recognition of the fact that hostilities have ceased and that loyalty is restored in the rebel States.

I think, sir, that under present circumstances it is due to the country that we should give them the assurance, such as the House of Representatives has given in the resolution they have sent to us, that we will not thus hastily readmit to seats in the legislative bodies here the representatives of constituencies who are still hostile to the authority of the United States, and unwilling to cooperate with us in our legislation. I think, sir, that such constituencies are not entitled to be represented here. I ask

for the yeas and nays on the amendment which is now pending.

The yeas and nays were ordered.

Mr. ANTHONY. Supposing that this amendment might not provoke any debate, I forbore to state the purpose with which I offered it. The Senator from Michigan in his remarks has not touched the reasons why I proposed the amendment. It is from no opposition to what I understand to be the purpose of the words stricken out. That purpose I understand to be that both Houses shall act in concert in any measures which they may take for the reconstruction of the States lately in rebellion. I think that that object is eminently desirable; and not only that the two Houses shall act in concert, but that Congress shall act in concert with the Executive; that all branches of the Government shall approach this great question in a spirit of comprehensive patriotism, with confidence in each other, with a conciliatory temper toward each other, and that each branch of the Government and all persons in each branch of the Government will be ready, if necessary, to concede something of their own views in order to meet the views of those who are equally charged with the responsibility of public affairs.

Mr. President, the words proposed to be stricken out refer to the joint committee of the two Houses of Congress matters which the Constitution confides to each House separately. Each House is made by the Constitution the judge of the elections, returns, and qualifications of its own members. Under this resolution, I apprehend, it would be necessary to refer to this joint committee the credentials of persons claiming seats in this body, referring them not only to a committee composed in part of others than members of this body, but composed of a majority of others than members of this body. I know it may be argued that this contemplates the reference only of the question whether a State has a right to be represented, not the question whether a person claiming to represent it has a right to represent it; and perhaps that construction might obtain; but at least the resolution, as it reads, is open to a doubtful construction, and that the Senate should avoid.

There is one other reason why I move this amendment, and that is that the resolution provides that papers shall be referred to this committee without debate. This is contrary to the practice of the Senate. The House of Representatives has found it necessary, for the orderly transaction of its business, to put limitations upon debate, hence the previous question and the hour rule; but the Senate has always resisted every proposition of this kind, and has submitted to any inconvenience rather than check free discussion. Senators around me, who were here in the minority, felt that the right of debate was a very precious one to them at that time; and as it was not taken from them, they are not disposed to take it from the minority now. I myself should have no objection to limiting debate if I thought the Senate would agree with me.

In the watches of this Chamber I have often wished that some divine power would temper the strength of lungs in the speaker to the endurance of the ears of the hearers; but the opinion of the Senate on that point has been too often and too decidedly expressed to leave any doubt of its policy; therefore, I thought it was best that that portion of the resolution should be stricken out. The purpose of all that is stricken out can be effected by the separate action of the two Houses, if they shall so elect. The House of Representatives having passed this resolution by a great vote, will undoubtedly adopt in a separate resolution what is here stricken out; and except so far as relates to the credentials of Senators, and so far as relates to the restriction upon debate, I shall, if this amendment be adopted and the resolution passed, offer a resolution substantially declaring it to be the opinion of the Senate that, until this committee reports, presuming it will report in a reasonable time, no action should

be taken upon the representation of the States lately in rebellion.

Mr. DOOLITTLE. Mr. President, under other circumstances perhaps I should say nothing upon this motion of the honorable Senator from Rhode Island to amend the resolution of the House of Representatives; but as the honorable Senator from Michigan makes earnest objection to the adoption of the amendment and has demanded the yeas and nays of the Senate upon it, I certainly am not only at liberty to express my views, but I feel that to do so is a duty to myself, to the Senate, and to the country; and I shall discharge that duty in as brief terms as I can.

In my own judgment, sir, all of these great questions concerning reconstruction, pacification, and restoration of civil government in the southern States, representation in this body, or anything which concerns our Federal relations with the several States, ought to be referred to the Committee on the Judiciary. Such has been the practice of this Government from the beginning. Great questions of constitutional law, questions concerning the relations of the Union to the States and the States to the Union, and above all, and without any exception, all questions relating to representation in this body, to its membership, have always been referred to the Judiciary Committee.

The Judiciary Committee is constituted for the very purpose of considering such questions, and for no other purpose. From its very organization, the Senate designs to make that committee its constitutional adviser—not that its opinions are to be conclusive or controlling on the vote of any member of this body, like the opinion of the bench of judges in the House of Lords; but its members are chosen in consideration of their high professional ability, their long experience, and well-known standing as jurists, in order that their report upon constitutional questions may be entitled to the highest consideration. And, sir, if you look into the organization of the Judiciary Committee appointed by the Senate at the present session, what is it? There is the Senator from Illinois, [Mr. TRUMBULL,] for years a judge of the supreme court of that State before he entered this body, who for ten years and more has been a faithful, laborious, distinguished member of that committee, and for the last four years its chairman. And there sits my honorable friend from New York, [Mr. HARRIS,] for twenty years before he came here, known and distinguished among the able jurists and judges of that great State.

There is upon that committee also the honorable Senator from Maryland, [Mr. JOHNSON,] whom I do not now see in his seat, who, for a quarter of a century and more, has borne a high national reputation as among the ablest jurists of this or any country, twice a Senator, once the Attorney General of the United States. And there is the honorable Senator from Vermont [Mr. POLAND,] He has, it is true, just entered this body, but his reputation as a jurist preceded his coming, and he comes here to fill the place in this Chamber, and is put upon this Judiciary Committee to fill the place of him, of whom I will say without disparagement to any that he was the ablest jurist of us all—the late distinguished Senator from Vermont, [Mr. COLLAMER,] And there is the Senator from New Hampshire, [Mr. CLARK,] from the far East, and the Senator from Nevada [Mr. STEWART] from the Pacific coast, and the Senator from Indiana [Mr. HENDRICKS] from the central region, each of whom stands eminent in the profession in the State which he represents, and all of whom are recognized here among the ablest jurists of this body.

Mr. President, there is nothing in the history of the Senate, there is nothing in the constitution of this committee, which would send these great constitutional questions for advisement and consideration to any other committee than the Committee on the Judiciary. To place their consideration in the hands of a committee which is beyond the control of the Senate, is to distrust ourselves; and to vote to send

their consideration to any other committee is equivalent to a vote of want of confidence in the Judiciary Committee.

But, sir, some gentlemen have said and urged with great pertinacity, if not with force, that from courtesy, a sense of propriety toward the other House in this peculiar case, we ought to consent to send the consideration of this question to a joint committee of the two Houses. When my friends with whom I have associated in political action have urged this consideration upon me, in order to secure harmonious action, I confess that I have so far yielded my judgment as to give way to the appointment of a joint committee, provided that in that joint committee, as it should be established by the two Houses, the Senate should maintain its equality, and there should be no substantial objection to the powers conferred upon the committee itself.

This brings me to the consideration of the joint resolution as it came from the House of Representatives; and I ask that it be read.

The Secretary read the resolution as it was passed by the House of Representatives.

Mr. DOOLITTLE. Mr. President, the resolution as it came from the House of Representatives to the Senate was a joint resolution, and, if passed by this body in that form, would have required the signature of the President, and in that event it would have become the law of the land, binding upon both Houses of Congress and upon the whole Government, until repealed by the joint action of the two Houses with the concurrence of the Executive. That, however, by the amendment first offered by the Senator from Rhode Island, has been obviated, and by the language of the resolution as it now stands amended it is a resolution of concurrence only, not requiring, according to the practice of the Government, the signature of the President.

But, sir, I object to this resolution in the first place, because upon these great questions which are to go to the joint committee the Senate does not stand upon an equality with the House. This resolution provides that, of the joint committee of fifteen, nine shall be appointed by the House of Representatives, six only by the Senate, giving to the House portion of the committee a majority of three. We all know that in joint committees the members vote, not as the representatives of the two Houses, but *per capita*. The vote of a member of the committee from the House weighs precisely the same as the vote of a member of the committee from the Senate; so that to all intents and purposes, if we pass this concurrent resolution, which we cannot repeal but by the concurrence of the other House, we place the consideration of these grave questions in the hands of a committee which we cannot control and in which we have no equal voice.

Mr. President, another objection to the resolution as it came from the House, and a strong reason why I favor the amendment proposed by the Senator from Rhode Island, is that the resolution in its terms reaches even beyond the present Congress. Sir, have you carefully studied this language, which would seem almost to have been employed for the purpose rather of disguising its hidden meaning than of giving full utterance to the truth? The resolution provides that, in case this committee shall for any reason make no report, or if for any reason Congress, which includes both Houses, shall not take final action thereon, the restrictive clause goes into effect as a law, and what is its provision? It provides by law that, in the happening of that contingency, that failure to act, no one of the eleven States of the United States shall send a Representative to either House of Congress. It would be binding on the Senate until repealed, beyond the present Congress; it would bind us in the next Congress and bind us in the Congress after that. It would be of perpetual binding obligation forever until repealed by act of Congress.

Sir, what would have been thought of the joint resolution raising the committee on the conduct of the war if there had been contained

in it a provision similar to this, which the Senator from Rhode Island moves to strike out, and which the Senator from Michigan insists shall be retained, and upon which he calls the yeas and nays of the Senate? Suppose that in that joint resolution there had been a provision declaring that until the joint committee on the conduct of the war should make their final report, and Congress should take final action thereon, neither House of Congress should take any action on the subject of carrying on the war, and that every paper relating to that subject should be referred to that committee without debate? Monstrous as such a proposition would have been, it might perhaps have been within the purview of the Constitution for us to adopt it; but on the subject of representation in this body, it is not within our constitutional power to delegate our power to any other body, or to any committee which we ourselves do not control.

Mr. President, I believe that under the Constitution, upon all subjects of legislation but one, the two Houses are equal and coordinate branches of Congress. That one relates to their representation in the bodies, to their membership, that which constitutes their existence, which is essential to their life and their independence. That is confided to each House, and to each House alone, to act for itself. It judges for itself upon the elections, returns, and qualifications of its members. It judges, it admits, it punishes, it expels. It cannot share that responsibility with any other department of the Government. It can no more share it with the other House than it can share it with the Supreme Court or with the President. It is a matter over which its jurisdiction is exclusive of every other jurisdiction. It is a matter in which its decisions, right or wrong, are absolute and without appeal. Sir, in my opinion the Senate of the United States cannot give to a committee beyond its control this question of the representation in this body, without a loss of its self-respect, its dignity, its independence; without an abandonment of its constitutional duty and a surrender of its constitutional powers.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is the resolution of the Senator from Massachusetts, [Mr. SUMNER,] an amendment being moved to it by the Senator from Maryland, [Mr. JOHNSON.]

Mr. TRUMBULL. I move to lay that aside until the Senator from Wisconsin finishes his remarks.

Mr. SUMNER. I observe that the Senator from Maryland is not in his seat, and therefore I should not think of proceeding with that resolution.

Mr. FESSENDEN. Let us go on and close this.

The PRESIDENT *pro tempore*. The Senator from Wisconsin will proceed with his remarks if there be no objection. The unfinished business of yesterday will be laid aside.

Mr. DOOLITTLE. Mr. President, there is another provision in this resolution as it stands. It not only takes from the Senate all power to act over this subject until this committee shall report and Congress shall take final action, but it declares that we shall refer every paper to the committee without debate. Yes, sir, the Senate of the United States is to be led like a lamb to the slaughter, bound hand and foot, shorn of its constitutional power, and gagged, dumb, like the sheep brought to the block! Is this the condition to which the Senator from Michigan proposes to reduce the Senate of the United States by insisting upon such a provision as that contained in the resolution as it comes from the House of Representatives?

Mr. President, there is a still graver objection to this resolution as it stands. The provision that, "until such report shall have been made and finally acted on by Congress, no member shall be received into either House from any of the so-called confederate States," is a

provision which, by law, excludes those eleven States from their representation in the Union. Sir, pass that resolution as it stands, and let it receive the signature of the President, and you have accomplished what the rebellion could not accomplish, what the sacrifice of half a million men could not accomplish in warring against this Government—you have dissolved the Union by act of Congress. Sir, are we prepared to sanction that? I trust never.

The Senator from Michigan talks about the *status* of these States. He may very properly raise the question whether they have any Legislatures that are capable of electing Senators to this body. That is a question of fact to be considered; but as to whether they are States, and States still within the Union, notwithstanding their civil form of government has been overturned by the rebellion and their Legislatures have been disorganized—that they are still States in this Union is the most sacred truth and the dearest truth to every American heart, and it will be maintained by the American people against all opposition, come from what quarter it may. Sir, the flag that now floats on the top of this Capitol bears thirty-six stars. Every star represents a State in this Union. I ask the Senator from Michigan, does that flag, as it floats there, speak the nation's truth to our people and to the world, or is it a hypocritical, flaunting lie? That flag has been borne at the head of our conquering legions through the whole South, planted at Vicksburg, planted at Columbia, Savannah, Charleston, Sumter; the same old flag which came down before the rebellion at Sumter was raised up again, and it still bore the same glorious stars; "not a star obscured," not one.

Mr. FESSENDEN. Were not some of those stars obscured?

Mr. DOOLITTLE. No, sir. These people have been disorganized in their civil governments in consequence of the war; the rebels overturned civil government in the first place, and we entered with our armies and captured the rebellion; but did that destroy the States? Not at all. We entered the States to save them, not to destroy them. Our constitutional duty is to save them, and save every one of them, and not to destroy them. The guarantee in the Constitution is a guarantee to the States, and to every one of the States, and the obligation that rests upon us is to guaranty to South Carolina a republican form of government as a State in this Union, and not as a Territory. The doctrine of the territorial condition of these States, that they are mere conquered, subjugated territories, as if we had conquered Canada or Mexico, will not stand argument for a moment. It is utterly at war with the ground on which we stand and have stood from the beginning. The ground we occupied was this: that no State nor the people of any State had any power to withdraw from the Union. They could not do it peacefully; they undertook to do it by arms; we crushed the attempt; we trampled their armies under our feet; we captured the rebellion; the States are ours; and we entered them to save, and not to destroy.

Mr. President, I do not wish to be drawn now into the discussion of these questions at length. I may have an opportunity on some other occasion to do so. I simply now am stating the objections which I had to this resolution as it came from the House of Representatives. It degrades the Senate; it robs it of its constitutional power; it puts the control of a question which is exclusively ours into the hands of the other House; it dissolves the Union by law of Congress.

Mr. President, I have no idea the House of Representatives had any such intention. I am bound always to speak with respect of the House of Representatives and of the intentions of that body. I simply say—

The PRESIDENT *pro tempore*. The Chair will suggest that it is not within the rules of order for the proceedings of the House of Representatives to be discussed here.

Mr. DOOLITTLE. Would it be in order

to make a statement that the resolution was passed without debate in the other House?

The PRESIDENT *pro tempore*. The Chair thinks not.

Mr. DOOLITTLE. That is all I designed to say, that it passed that House without debate. I do not mean any disrespect to the House.

But, Mr. President, there was another assemblage in Washington which took place not long since, and whose proceedings are published to the world and known of all men, of which I suppose I can speak with entire freedom: I refer to a certain assemblage whose proceedings are published as the proceedings of a caucus of gentlemen in the city of Washington. I suppose no rule of the Senate requires me to speak in any other terms of those published proceedings than to speak the truth. To that I am willing to be bound. By the published proceedings of that assemblage, it would seem that on a Saturday night, without any discussion whatever, a certain resolution, which reads word for word just like this resolution which is sent here from the House of Representatives, was adopted in that caucus under the leadership of a certain gentleman—I will not speak of him as a member of the House, but as a man known to history—who resides in the State of Pennsylvania.

I refer to Hon. Thaddeus Stevens. His history is known to all men; and one thing we know of him certainly, that he is most bitterly, uncompromisingly hostile to the policy of the present Administration on the subject of reconstruction. He goes with him who goes the farthest, holding that even the State of Tennessee is an alien State at war with the United States; and if I am not misinformed, in the convention at Baltimore, which nominated Messrs. Lincoln and Johnson for President and Vice President, he objected to the nomination of Andrew Johnson because he was an alien enemy! Sir, I have seen nothing in the history of that gentleman to lead me to suppose that he has in any respect changed his opinions, for it is not long since we read a speech of his delivered in the State of Pennsylvania, marked with his usual ability, with his great boldness, with that cool assurance which sometimes almost rises to the sublime, in which he proposed, if I do not mistake, almost the entire and universal confiscation of the whole of the southern States.

Now, Mr. President, of the doings of that assemblage in connection with the resolution I feel at perfect liberty to speak without violating the rules of this House. I will not speak with disrespect even of that assemblage; I have not done so; I do not intend to do so. I simply say that within three minutes, by the clock, after the hour when that assemblage was called, Thaddeus Stevens had moved his committee on resolutions and was withdrawing with his committee from the body to make his report, and within ten minutes, without any discussion, without any consideration whatever, it was by that cool tact and talent of his pressed through the body and declared to be unanimously adopted. Why this hot haste, sir? What necessity of this hot haste? Who does not know that the leader of that assemblage did not desire to wait, nor did he dare to wait, until the President had spoken to the country in his annual message.

The Constitution of the United States requires the President from time to time to give to Congress information of the state of the Union. Who has any right to presume that the President will not furnish the information which his constitutional duty requires? He has at his control all the agencies which are necessary. There is the able Cabinet who surround him, with all the officers appointed under them: the postmasters under the Post Office Department, the Treasury agents under the Treasury Department, and almost two hundred thousand men under the control of the War Department in every part of this "disaffected" region, who can bring to the President information from every quarter of all the transactions that exist there. Why, I ask, had this assemblage the

right to presume that the President would not furnish the information which the Constitution required? Sir, we are here claiming to be the friends of the late lamented President, and the friends of him upon whom by his death the responsibilities of power have fallen. We aided in their election. They were nominated at Baltimore after the great experiment of reconstruction had already begun. Mr. Lincoln had already for months, for almost a year, been pursuing substantially the same policy of reconstruction which has since been followed by his successor. Andrew Johnson was himself one of the agencies which had been employed by Mr. Lincoln in the State of Tennessee in the hope of restoring civil government there; and it was under these circumstances, not with the approval of all men at Washington, but with the approval of the great masses of the people of this country, that Abraham Lincoln was renominated as President, and that Andrew Johnson was nominated to be Vice President of the United States, and they were triumphantly indorsed and sustained by the people; and I tell Senators now, in my opinion—I speak with all respect to other gentlemen—that the President of the United States will be sustained, in the views which he takes in his message, by the people of this country as certain as the revolutions of the earth; and it is our duty to act harmoniously with him, to sustain him, to hold up his hands, to strengthen his heart, to speak to him words of faith, friendship, and courage.

Mr. President, I know that in all these southern States there are a thousand things to give us pain, sometimes alarm, but notwithstanding the bad appearance which from time to time presents itself in the midst of that boiling caldron of passion and excitement which the war has left still raging there, the real progress which we have made has been most wonderful. I say to you, Senators, it is my deliberate opinion that if, when we adjourned last spring, an angel from the skies could have come down here and told us that at our meeting now, our country would be in so hopeful a condition as it is, we would not have believed it; it would have been beyond our credence, beyond our belief. I am one of those who look forward with hope, for I believe God reigns and rules in the affairs of mankind. I look beyond the excitement of the hour and all the outbreathing passion which sometimes shows itself in the South, which leads them to make enactments in their Legislatures which are disgraceful to themselves, and can never be sanctioned by the people of this country, and also in spite of all the excitement of the North, I behold the future full of confidence and hope. We have only to come up like men, and stand as the real friends of the country and the Administration, and give to the policy of the President a fair and substantial trial, and all will be well.

Mr. FESSENDEN. Mr. President, I am very sorry that this debate has sprung up. I think it exceedingly out of place, with regard to the manner in which it has been conducted, and some of the topics which have been spoken of. I do not, in saying this, wish to be considered as finding fault with any gentleman, because every Senator must judge for himself as to what it is advisable for him to say, and it is not for any other Senator to arraign him on that point. But it sometimes happens that things which are foreign to the question are said which ought not to be suffered to pass without a little comment.

Now, sir, allow me to say that when this resolution was first promulgated in the newspapers as having been agreed upon, I approved it because I sympathized with its object and purpose. I did not examine it particularly; but, looking simply at what it was designed for, it met my approbation simply for this reason: that this question of the readmission, if you please to call it so, (it is not worth while to stand about words,) of these confederate States, so called, and all the questions connected with that subject, I conceived to be of infinite importance, requiring calm and serious consideration, and

I believed that the appointment of a committee, carefully selected by the two Houses, to take that subject into consideration, was not only wise in itself, but an imperative duty resting upon the representatives of the people in the two branches of Congress. For myself, I was not prepared to act upon that question at once. I am not one of those who pin their faith upon anybody, however eminent in position, or conceive themselves obliged on a question of great national importance to follow out anybody's opinions simply because he is in a position to make those opinions, perhaps, somewhat more imperative than any other citizen of the Republic. Talk about the Administration! Sir, we are a part of the Administration, and a very important part of it. I have no idea of abandoning the prerogatives, the rights, and the duties of my position in favor of anybody, however that person or any number of persons may desire it. In saying this, I am not about to express an opinion upon the subject any further than I have expressed it, and that is, that in questions of such infinite importance as this, involving the integrity and welfare of the Republic in all future time, we are solemnly bound, and our constituents will demand of us, that we examine them with care and fidelity, and act on our own convictions, and not upon the convictions of others.

I have said I was in favor of this resolution when I first read it, for the reason that it looked to a purpose which I approve—calm and deliberate consideration before action; but when I came to read it over more carefully and hear the opinions of others, I came to the conclusion, for the reasons that have been given by my honorable friend from Rhode Island, that the resolution perhaps went a little too far. It was important to have a committee by which this subject should be investigated, composed of members of the two Houses, for the reason, among others, that it is very important that the two Houses should act in harmony, that one House should not take action that would be at variance with the action of the other, and that, after investigation of the subject, it would result, as I believe, from the constitution of Congress, that the two Houses would act in harmony, on the same principles, and with the same views, and neither would act hastily. Therefore, the committee was important, and a committee that should be carefully chosen, as I said before, and deliberate well and advise well; and I did not conceive that a little delay, that a few weeks' time, or even a few months' time, if necessary, given to that subject, would be misspent. We had better spend a little time now than take a step to be repented of in all our after lives and in all the future life of the Republic.

The points to which attention has been called by the honorable mover of the amendment are precisely those to which I objected. While I approved the committee, I did not think, in the first place, that we should change the order of proceeding and the long-tried rules of the Senate, especially the one with regard to debate. It has always been open here on every subject. Every Senator was at liberty to speak as much and as long as he pleased within the rules of order upon every subject open to debate in the Senate. I was very unwilling that that should be changed. If the House of Representatives, for its own convenience and in order to accomplish business, finds it necessary to adopt another rule, that rule can be adopted by the House as applicable to its own proceedings, but not here; and hence I was opposed to that particular provision, and thought it unwise so far as we were concerned.

My judgment was that everything that was necessary could be accomplished by the mere appointment of a joint committee of the two Houses; that it was not necessary to provide that all the credentials of members should be referred to that committee. There was an apparent constitutional objection to it; and there is much force in the argument that if that should be done, and the provision retained that no action should be had until there was a report from

that committee, constituted as the committee is to be, each House is putting into the hands of the other a power to control its action in a matter which, by the Constitution, is left to itself. I might have been willing even to strain a little upon that point had I conceived that there was any danger; but, sir, when we come to look at it, a committee is appointed by the ordinary rules of proceeding; everything relating to the proper subject-matter, referred to that committee goes there; no harm would happen from a discussion in this body on that subject; it would very soon be settled, and we should avoid the apparent difficulty that arose with reference to what was our constitutional duty. I was not frightened by any idea that it was necessary now to tie up this body or that body by a joint rule which could not be altered without the assent of the other, because, on such a subject, a majority at any time will rule. If this body chooses at any time to become false to its duty, it will find a way to accomplish the wrong; and so will it be with the House of Representatives.

If the members of that body are, as I believe they will be, firm in their convictions of right and what the good of the country requires, there is no need of putting them under the control of the Senate in order to keep them so. Hence I agree with the honorable Senator who moved this amendment that it is best to strike out that clause, and simply appoint a committee, and then if the Senate chooses to pass a rule of its own to refer all the papers on this subject, even credentials, to that committee, so be it; it will have the control of that subject; and if the House of Representatives, on the other hand, chooses to do the same thing, so be it; it will have the control of its own action, and we have accomplished the great purpose, which is, to put the consideration of the question which lies at the foundation of this subject of the admission of members into the hands of a joint committee to be thoroughly consulted upon and considered. That is the only ground upon which my judgment coincides with that of the honorable Senator from Rhode Island.

My friend from Michigan [Mr. HOWARD] will allow me to say to him that I do not think the question of whether the men who may present themselves as members are fit to come in now, or whether the States of which they profess to be the representatives are fit to come in now and act with us and ought to be admitted to do so, is involved in this question at all. He has argued it as if by striking out this portion of the resolution we had settled that. By no manner of means. If it would do so, I would vote with him. We are only settling, on the contrary, that that question shall be deferred until a committee of both branches have thoroughly considered it and reported to this body; and certainly I shall go with him as long as I believe that committee is doing its duty in opposing action upon the subject committed to it until it is ready to enlighten us with the information it may have received and the conclusions to which it may have arrived. I say this simply to bar the inference that by this action in amending it any one who may vote for it means to say or intimate that he is ready to act upon that question now and admit anybody from any of these so-called confederate States. Certainly I am not one of them, and yet I shall vote with the honorable Senator from Rhode Island.

On the other hand, I do not agree with the honorable Senator from Wisconsin that by passing a simple resolution raising a committee of our own body, and referring to it certain papers, if we conclude to do so, we are infringing upon the rights of anybody or making an intimation with regard to any policy that the President may have seen fit to adopt and recommend to the country. Sir, I trust there are no such things as exclusive friends of the President among us, or gentlemen who desire to be so considered. I have as much respect for the President of the United States probably as any man. I acted with him long, and I might express the favorable opinions which I entertain of him here if they would not be out of place

and in bad taste in this body. That I am disposed and ready to support him to the best of my ability, as every gentleman around me is, in good faith and with kind feeling in all that he may desire that is consistent with my views of duty to the country, giving him credit for intentions as good as mine, and with ability far greater, I am ready to asseverate.

But, sir, I do not agree with the doctrine, and I desire to enter my dissent to it now and here, that, because a certain line of policy has been adopted by one branch of the Government, or certain views are entertained by one branch of the Government, therefore, for that reason alone and none other, that is to be tried, even if it is against my judgment; and I do not say that it is or is not. That is a question to be considered. I have a great respect, not for myself, perhaps, but for the position which I hold as a Senator of the United States; and no measure of Government, no policy of the President, or of the head of a Department, shall pass me, while I am a Senator, if I know it, until I have examined it and given my assent to it; not on account of the source from which it emanates, but on account of its own intrinsic merits, and because I believe it will result in the good of my country. That is my duty as a Senator, and I fear no misconstruction at home on this subject or any other. I have represented the State from which I come too long to fear anything of that kind. If I act against the prejudices or preconceived opinions of that people, they are always ready to hear me, and hear my reasons, and if they are satisfactory to them, to give me credit for them, and, if not satisfactory, at least to give me credit for good intentions; and that is all I ask of anybody.

Now, therefore, sir, I hope that, laying aside all these matters which are entirely foreign, we shall act upon this resolution simply as a matter of business. No one has a right to complain of it that we raise a committee for certain purposes of our own when we judge it to be necessary. It is an imputation upon nobody; it is an insult to nobody; it is not anything which any sensible man could ever find fault with, or be disposed to do so. It is our judgment, our deliberate judgment, our friendly judgment—a course of action adopted from regard to the good of the community, and that good of the community comprehends the good of every individual in it.

Allow me to say, sir, in closing, one thing which I may as well say now in the beginning of the session, because it is the principle which I intend shall guide my action, and I hope will guide the action of all of us. We have just gone through a state of war. While we were in it it became necessary all around to do certain things for which perhaps no strict warrant will be found; contrary, at any rate, to previous experience. That I admit most distinctly. Sir, I defended them from the beginning. I laid down the principle that the man who, placed in a position such as the President and other officers occupied, would not, in a time of war, and when his country was in peril, put his own reputation at hazard as readily as he would anything else in order to do his duty, was not fit for his place. I upheld many things then that perhaps I would not uphold now because they are not necessary. The time must come when the Senate and House of Representatives, the Congress, must revert to its own original position. I do not think there will be the slightest danger; I have no apprehension of any; but if I act upon different principles now and hereafter in a state of peace, from those which I adopted and defended before, I wish everybody to understand the reason for it. In all countries, in all nations in a time of extreme peril, extreme and somewhat questionable measures are inevitable.

Mr. JOHNSON. The Senator does not understand me as holding a different doctrine, because I maintained that on the floor of the Senate.

Mr. FESSENDEN. I trust not. But in time of peace, when we live under a written Constitution, it is our duty to come back as

fast, as possible; to forget, if necessary, any precedent which might, if made in times like these, have occasioned very serious difficulty and trouble.

Now, sir, I have said this; it is as much out of place as anything I complained of in other gentlemen; but I took the occasion simply because it presented itself, and it would seem somewhat connected with what has taken place. I trust we shall adopt the amendment proposed by the honorable Senator from Rhode Island, and I believe that if the resolution be passed in that form it will accomplish all it is desirable to accomplish and be entirely satisfactory.

Mr. HOWARD. At the suggestion of some of my friends I withdraw the call for the yeas and nays.

The PRESIDENT *pro tempore*. The yeas and nays having been ordered by the Senate, the call can only be withdrawn by unanimous consent. The Chair hears no objection. The question is on the amendment proposed by the Senator from Rhode Island.

The amendment was agreed to.

Mr. COWAN. I propose to amend the resolution by striking out the word "nine" in the second line and inserting the word "six." I know of no reason, if this committee be appointed at all, why the House of Representatives should have any advantage over the Senate in the number of the persons who are to compose the committee. They are not superior in any respect that I know of except in numbers, and that ought not to be available here to give them an advantage. I propose, therefore, that that word "nine" be stricken out and "six" inserted, so that the two bodies will have an equal representation in the committee, if it is to be formed.

Mr. ANTHONY. I believe the uniform rule in the appointment of joint committees has been to place upon them a larger number of members of the House of Representatives than of the Senate. Gentlemen who are better parliamentarians than I am, and better acquainted with the precedents of Congress, will be able to correct me if I am wrong. I believe in the committee on the conduct of the war there were more members from the House than from the Senate.

Mr. WADE. Four to three.

Mr. ANTHONY. In the joint committee which has been raised to report in what manner the nation shall testify its reverence and affection for the memory of our late President, the Representatives outnumber the Senators. This resolution, therefore, follows the usual precedents, and I do not see why there should be any exception to the usual precedents in this case.

Mr. COWAN. As I understand, this is a novel proceeding, and no precedent can be of any avail in governing our action upon it; we are free to determine it upon principles of reason. I have heard no reason in the world given why the House of Representatives should have nine persons to inquire into the condition of the so-called confederate States while we should only have six. I think, myself, that three members from each House would be better than fifteen or twelve; they would be more readily got together. But I do not object to six members from the Senate, and I think the same number should be from the House. I think we are entitled to an equal representation upon the committee. I know no reason to the contrary; and as the proceeding is a novel one, no precedent can be of any avail to govern our action upon it. The function of the committee is simply to inquire, and there is no reason why we should not have the same weight in making that inquiry as the House of Representatives.

Mr. ANTHONY. The resolution, as it is amended, is not a novel one; it is an ordinary resolution of inquiry, to raise a joint committee such as has been frequently raised by the two Houses. The resolution as it came from the House of Representatives was undoubtedly a novel one, and if it had not been amended by striking out the very important provision which

has just been stricken out, then I should think it very proper that the Senate should be equally represented with the House; but as it is now a mere resolution of inquiry, I do not see any reason why it should not follow the precedents of other resolutions of inquiry.

Mr. TRUMBULL. I should like to inquire of the Senator from Pennsylvania whether, where joint committees are raised in this way, he has examined to see whether the committee of each House does not vote separately as a unit, and not the members *per capita*; whether any report can be made from this joint committee unless it is sanctioned by a majority of the members of the committee from the Senate as well as a majority of those from the House. I understand that in committees of conference, which usually consist of three persons on the part of the Senate and three on the part of the House, it requires a majority of each to make a report; that is to say, the three members from the Senate uniting with one member from the House cannot make a report from such a committee, but you must have two members of the House and two members of the Senate to make a report from a joint committee of conference. If that rule obtains—and I ask the question for information—the number of the committee is perhaps not so material as it would be if the members from this body voted *per capita*. If they do so vote, of course the control of the committee, the House of Representatives having nine members upon it and the Senate but six, would be entirely in the power of the House, should they, in their investigations, conclude so to act.

Mr. COWAN. I have no doubt the rule, as stated by the honorable Senator from Illinois, prevails in committees of conference; but this is not a committee of conference; this is a joint committee, and there, I understand, the votes are taken *per capita*. I suppose the members of this committee will not be distinguished in the committee as representing one or the other of the two bodies, but they will be representatives of the bodies jointly, as the word itself would imply; and that is one of the reasons why I desire that the bodies should be upon equal footing. This committee, if I understand it, is simply to report facts to the bodies; it is to determine nothing. It is to inquire into the condition of affairs in the lately rebellious States, and report the facts to these bodies in order that their action upon the same may be intelligible. It is very much the same as the appointment of a master in chancery to report facts, or a commissioner to report evidence; and acting jointly, the members of this committee will be not only ancillary in their action to one House, but they will be ancillary in their action to both, and will report to both and for the benefit of both; and therefore I desire that they shall be upon an equal footing.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Pennsylvania, to strike out "nine" and insert "six."

Mr. COWAN and Mr. JOHNSON called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 14, nays 20; as follows:

YEAS—Messrs. Buckalew, Cowan, Dixon, Doolittle, Guthrie, Hendricks, Johnson, Lane of Kansas, Nesmith, Norton, Riddle, Saulsbury, Stockton, and Wright—14.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Groswell, Fessenden, Foot, Foster, Grimes, Harris, Howe, Lane of Indiana, Morgan, Morrill, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Van Winkle, Wade, Wiley, Williams, Wilson, and Yates—20.

ABSENT—Messrs. Cragin, Davis, Henderson, Howard, McDougall, and Trumbull—5.

So the amendment was rejected.

The PRESIDENT *pro tempore*. The question is on the adoption of the resolution.

Mr. SAULSBURY. I do not want to discuss the merits of this resolution. Many of its objectionable features have been got rid of by the adoption of amendments; but still, as it exists now, it is very objectionable to my mind. It is for the appointment of a commit-

tee of the two Houses to determine and to report upon, what? The right of representation of eleven States in this body. What determines the rights of those States to representation here? Is it the views of the members of the House of Representatives? Do we stand in need of any light, however bright it may be, that may come from that distinguished quarter? Are we going to ask them to illuminate us by wisdom, and to report the fact to us whether those States are entitled to representation on this floor?

Mr. President, on the first day of your assemblage after the battle of Manassas you and they declared, by joint resolution, that the object for which the war was waged was for no purpose of conquest or subjugation, but it was to preserve the Union of the States and to maintain the rights, dignity, and equality of the several States unimpaired. While that war was being waged there was no action, either of this House or of the House of Representatives, declaring that when it was over the existence of those States should be ignored or their right to representation in Congress denied. Throughout the whole contest the battle-cry was "the preservation of the Union" and "the Union of the States." If there was a voice then raised that those States had ceased to have an existence in this body, it was so feeble as to be passed by and totally disregarded.

Sir, suppose this committee should report that those States are not entitled to representation in this body, are you bound by their action? Is there not a higher law, the supreme law of the land, which says, if they be States that they shall each be entitled to two Senators on this floor? And shall a report of a joint committee of the two Houses override and overrule the fundamental law of the land? Sir, it is dangerous as a precedent, and I protest against it as an humble member of this body. If they be not States, then the object avowed for which the war was waged was false.

But, sir, I do not intend to discuss the question now. I shall take occasion before the session is over perhaps to discuss it somewhat elaborately. But regarding it as a dangerous precedent, I call for the yeas and nays on the passage of the resolution.

The yeas and nays were ordered.

Mr. DOOLITTLE. I feel called upon to say in relation to this matter, that inasmuch as the Senate and House of Representatives are not put upon a footing of equality in the committee, I am constrained to vote against the resolution. As my friends around me all know, I have uniformly stated to them that I could not vote for the resolution if they were not put upon a footing of equality.

Mr. HENDRICKS. On this subject I desire to say but one word. I shall vote against this resolution because it refers to a joint committee a subject which, according to my judgment, belongs exclusively to the Senate. I know that the resolution no longer provides in express terms that the Senate, pending the continuance of the investigation of this committee, will not consider the question of credentials from these States, but in effect it amounts to that. The question is to be referred to the committee, and according to usage, and it would seem to be the very purpose of reference that the body shall not consider the subject while the question is before them. I could not vote for a resolution that refers to a joint committee a subject that this body alone can decide. If there are credentials presented here, this body must decide the question whether the person presenting the credentials is entitled to a seat; and how can this body be influenced by any committee other than a committee that it shall raise itself?

Mr. TRUMBULL. If I understood the resolution as the Senator from Indiana does, I should certainly vote with him; but I do not so understand it as it has been amended. That was the very objection to the resolution in the form in which it came from the House of Representatives, but as it has been amended it is simply a resolution that a joint committee be

raised to inquire into the condition of the States which formed the so-called confederate States of America, and to report whether they or any of them are entitled to be represented in either House of Congress, with leave to report at any time by bill or otherwise. It is true, as the Senator says, that after having raised this committee, the Senate will not be likely to take action in regard to the admission of the Senators from any of these States until the committee shall have had a reasonable time at least to act and report; but it is very desirable that we should have joint action upon this subject. It would produce a very awkward and undesirable state of things in the mind, I doubt not, of the Senator from Indiana himself, if the House of Representatives were to admit members from one of the lately rebellious States and the Senate were to refuse to receive Senators from the same State.

We all know that the State organizations in certain States of the Union have been usurped and overthrown. This is a fact of which we must officially take notice. There was a time when the Senator from Indiana, as well as myself, would not have thought of receiving a Senator from the Legislature or what purported to be the Legislature of South Carolina. When the people of that State, by their representatives, undertook to withdraw from the Union and set up an independent government in that State in hostility to the Union, when the body acting as a Legislature there was avowedly acting against this Government, neither he nor I would have received representatives from it. That was a usurpation which by force of arms we have put down. Now the question arises, has a State government since been inaugurated there entitled to representation? Is not that a fair subject of inquiry? Ought we not to be satisfied upon that point? We do not make such an inquiry in reference to members that come from States which have never undertaken to deny their allegiance to the Government of the United States. Having once been admitted as States, they continue so until by some positive act they throw off their allegiance, and assume an attitude of hostility to the Government, and make war upon it; and while in that condition I know we should all object that they, of course, could not be represented in the Congress of the United States. Now, is it not a proper subject for inquiry to ascertain whether they have assumed a position in harmony with the Government; and is it not proper that that inquiry should be made the subject of joint action?

I think we could get at it in another way as well perhaps as by this joint committee. We could, by instituting a committee of our own, or by referring this subject to a committee of our own, have it investigated and have a resolution reported, as was done by the Judiciary Committee of the Senate last session when a report was made, not in favor of admitting to seats the persons claiming seats and who presented credentials, but in favor of recognizing as legitimate and lawful, and entitled to representation, an organization which was set up after the rebellion had been put down in one of the rebel States. If that resolution had been passed by the Senate, it would have gone to the House of Representatives, and in that way we should have had concurrent action. I think we might have it without this joint committee, and perhaps quite as well; but the House of Representatives have desired a joint committee on this subject; we all desire joint action, coöperation. All the friends of the Union, all men who desire to see harmony and good feeling restored between all parts of the Union, must desire harmonious action between the different branches of Congress and all departments of the Government.

The House of Representatives thought, in sending us this resolution, that the best way to accomplish that was through a joint committee. If I supposed it divested the Senate of its constitutional prerogative to judge of the elections, returns, and qualifications of its own members, I could not support it. I never would have supported this resolution as it came from the

House of Representatives, because it would not bear investigation. It is not susceptible, in my judgment, of the construction which my friend from Rhode Island in his liberality was disposed to put upon it, when he suggested that it might be questionable whether credentials went to this committee. As the resolution was framed, and as it came from the House of Representatives, it provided that until a report should have been made by this committee and finally acted on by Congress, "no member shall be received into either House from any of the so-called confederate States," expressly providing that no member should be received in either House; "and all papers relating to the representation of said States shall be referred to said committee without debate," sending the credentials to a joint committee; that is, raising a committee of the two Houses to determine whether persons would be entitled to seats in either House, which would certainly be a very extraordinary proceeding, and one not warranted by the Constitution. But as the resolution is altered I do not think it susceptible of the construction which the Senator from Indiana puts upon it. I should have said nothing but for his remarks, and I have only said this much to preclude the idea that I would vote for a resolution which took from either House the constitutional prerogative which the Constitution in express terms has conferred.

Mr. DIXON. I desire to offer a proviso by way of amendment, and I will only say that without such proviso I cannot vote for the resolution. My amendment is, after the words "bill or otherwise" to insert:

Provided, That nothing herein contained shall be construed as to limit, restrict, or impair the right of each House at all times to judge of the elections, returns, and qualifications of its own members.

I ask for the yeas and nays upon this amendment.

The yeas and nays were ordered.

Mr. TRUMBULL. I certainly think this amendment unnecessary, but I have no sort of objection to it. It does not alter the resolution. For one, I am entirely willing that this proviso shall go upon the resolution; but certainly there is no necessity for it.

Mr. SUMNER. It is simply introducing the words of the Constitution. Nothing in this resolution, I take it, can set aside the Constitution. The Senator from Connecticut does not suppose that a concurrent resolution of this body can overturn the Constitution of the United States?

Mr. DIXON. Of course not.

Mr. ANTHONY. I hope the Senator from Connecticut will withdraw that amendment. I do not see any need of it.

Mr. JOHNSON. It will do no harm.

Mr. ANTHONY. It will do no harm, and it would do no harm to provide that this resolution shall not reduce the salary of the President of the United States. This amendment is quite as unnecessary as that would be.

Mr. GUTHRIE. I wish to ask the friends of this resolution if it is contemplated that this committee shall take evidence and report that evidence to the two Houses. If they are only to take what is open to every member of the Senate, the fact that the rebellion has been suppressed; the fact that the President of the United States has appointed officers to collect the taxes, and in some instances judges and other officers; that he has sent the post office into all the States: that there have been found enough individuals loyal to the country to accept the offices; the fact that the President has issued his proclamation to all these States appointing provisional governors; that they have all elected conventions; that the conventions have rescinded the ordinances of secession; that most of them have amended their constitutions and abolished slavery; and the Legislatures of some of them have passed the amendment to the Constitution on the subject of slavery—if they are only to take these facts which are open and clear to us all, I can see no necessity for such a committee. My principal objection to the resolution is, that this committee can give us no in-

formation which we do not now possess, coupled with the fact that the loyal conservative men of the United States, North, South, East, and West do most earnestly desire that we shall so act that there shall be no longer a doubt that we are the United States of America in full accord and harmony with each other.

I know it has been said that the President had no authority to do these things. I read the Constitution and the laws of this country differently. He is to "take care that the laws be faithfully executed;" he is to suppress insurrection and rebellion. The power is put in his hands, and I do not see why, when he marches into a rebel State, he has not authority to put down a rebel government and put up a government that is friendly to the United States, and in accordance with it; I do not see why he cannot do that while the war goes on, and I do not see why he may not do it after the war is over. The people in those States lie at the mercy of the nation. I see no usurpation in what he has done, and if the work is well done, I, for one, am ready to accept it. Are we to send out a commission to see what the men whom he has appointed have done? It is said that they are not to be relied on; that they have been guilty of treason, and we will not trust them. I hope that no such ideas will prevail here. I think this will be a cold shock to the warm feelings of the nation for restoration, for equal privileges and equal rights. They were in insurrection. We have suppressed that insurrection. They are now States of the Union; and if they come here according to the laws of the States, they are entitled, in my judgment, to representation, and we have no right to refuse it. They are in a minority, and they would be in a minority even if they meant now what they felt when they raised their arms against the Government; but they do not, and of those whom they will send here to represent them, nineteen out of twenty will be just as loyal as any of us—even some of those who took up arms against us.

I really hope to see some one move a modification of the test oath, so that those who have repented of their disloyalty may not be excluded, for I really believe that a great many of those who took up arms honestly and wished to carry out the doctrine of secession, and who have succumbed under the force of our arms and the great force of public opinion, can be trusted a great deal more than those who did not fight at all.

To conclude, gentlemen, I see no great harm in this resolution except the procrastination that will result from it, and that will give us nothing but what we have before us.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Connecticut, [Mr. Dixon,] on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 12, nays 31; as follows:

YEAS.—Messrs. Buckalew, Cowan, Dixon, Doolittle, Guthrie, Hendricks, Johnson, Nesmith, Riddle, Salisbury, Stockton, and Wright—12.

NAYS.—Messrs. Anthony, Brown, Chandler, Clark, Conness, Creswell, Fessenden, Foot, Foster, Grimes, Harris, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Norton, Poland, Pomeroy, Ramsey, Sherman, Spurgeon, Sumner, Trumbull, Van Winkle, Wade, Wiley, Williams, Wilson, and Yates—31.

ABSENT.—Messrs. Cragin, Davis, Henderson, McDougall, NYC, and Stewart—6.

So the amendment was rejected.

The PRESIDENT *pro tempore*. The question is on the passage of the resolution, on which the yeas and nays have been ordered.

Mr. DOOLITTLE. The amendments which have been made to the resolution remove many of the most serious objections which existed in my mind to it as it came from the House of Representatives; but there is still one objection to it, and that is the inequality of the Senate with the other House upon the committee to consider these great questions, which is insuperable in my mind, and constrains me to vote against it, and to separate on this occasion from many of those with whom I usually act on such questions.

Mr. JOHNSON. I should like to know from those more conversant with the practice of

these committees, how a vote is to be taken in committee, whether it is to be taken *per capita*, or whether the members of each branch vote separately. If the vote is to be taken *per capita*, we put ourselves entirely in the power of the House of Representatives, they having nine members of the committee and we only six. As the resolution stands, with that disparity, I shall be obliged to vote against it.

Mr. GRIMES. I think we can select six who will take care of the interests of the Senate.

Mr. JOHNSON. But they are to make a report; the object is to make a report, and that report will enable us to act understandingly on a subject over which we have exclusive jurisdiction; but it may be a report against the opinion of all the members of the Senate on the committee. I think, therefore, it would be better for the Senate to reconsider the question as to the number of members of the committee, so that whatever may come from the committee will be the judgment of a majority of an equal number, six or nine, of each House.

Mr. ANTHONY. If the committee consisted of an equal number from each House we should be in the same predicament, without a report. Neither House would have a majority, and a report could not be made without the assent of some members from the other House.

Mr. JOHNSON. But this is no report, and I want a report.

Mr. ANTHONY. It is competent for the Senate to receive the views of a minority of a committee at any time.

Mr. JOHNSON. That is not binding in any way. The object is to get a report.

The PRESIDENT *pro tempore*. The question is on concurring in the resolution as amended, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 33, nays 11; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Creswell, Fessenden, Foot, Foster, Grimes, Harris, Howard, Howe, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Norton, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Wado, Willey, Williams, Wilson, and Yates—33.

NAYS—Messrs. Buckalew, Cowan, Dixon, Doolittle, Guthrie, Hendricks, Johnson, Riddle, Saulsbury, Stockton, and Wright—11.

ABSENT—Messrs. Cragin, Davis, Henderson, McDougall, and Nesmith—5.

So the resolution, as amended, was concurred in, as follows:

Resolved by the House of Representatives, (the Senate concurring.) That a joint committee of fifteen members shall be appointed, nine of whom shall be members of the House and six members of the Senate, who shall inquire into the condition of the States which formed the so-called confederate States of America, and report whether they, or any of them, are entitled to be represented in either House of Congress, with leave to report at any time by bill or otherwise.

WITHDRAWAL OF PAPERS.

Mr. COWAN. I beg leave to call up for consideration a resolution of inquiry that I offered yesterday, requesting the President to furnish information as to the condition of the southern States of the Union.

Mr. CHANDLER. I move that the Senate do now adjourn.

Mr. TRUMBULL. Will the Senator waive that motion to allow me to withdraw some papers?

Mr. CHANDLER. I withdraw the motion for that purpose.

Mr. TRUMBULL. I ask leave to withdraw from the files of the Senate the memorial of Aaron Van Camp and Virginius P. Chapin, praying for indemnity for the illegal seizure of property in the Navigators' Islands. No adverse action has ever taken place. The parties desire leave to withdraw the papers, I believe, with a view of presenting them elsewhere.

Leave was granted.

CONDITION OF SOUTHERN STATES.

Mr. WILSON. Mr. President—

Mr. COWAN. I think my motion has precedence. I have not yielded the floor to other motions.

Mr. WILSON. A motion to adjourn was made.

Mr. COWAN. That motion has been withdrawn.

The PRESIDENT *pro tempore*. The motion of the Senator from Pennsylvania is certainly before the body.

Mr. WILSON. I desire to make a motion which can be disposed of in a moment.

Mr. COWAN. My resolution ought not to take more than a moment. It is the first resolution of inquiry that I have seen attempted to be throttled in this way, in my experience in this body. If the Senate do not require the information that this resolution seeks to give to them, it is proper that it should be met squarely and voted down. In fact I have never before seen a resolution of inquiry here invite even to debate. I desire that the body should consider it; I offered it respectfully, and I desire for it a respectful consideration.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Pennsylvania to proceed to the consideration of the resolution indicated by him.

Mr. CONNESS. What is the resolution?

The PRESIDENT *pro tempore*. It will be read for information.

The Secretary read the resolution submitted yesterday by Mr. COWAN, as follows:

Resolved, That the President of the United States be, and is hereby, requested to furnish to the Senate information of the state of that portion of the Union lately in rebellion; whether the rebellion has been suppressed and the United States put again in possession of the States in which it existed; whether the United States courts are restored, post offices reestablished, and the revenues collected; and also whether the people of those States have reorganized their State governments, and whether they are yielding obedience to the laws and Government of the United States.

The motion to take up the resolution was agreed to, and the Senate proceeded to its consideration.

Mr. SUMNER. I move to amend the resolution by inserting at the end of it these words:

And at the same time to furnish to the Senate copies of such reports as he may have received from officers or agents appointed to visit this portion of the Union, including especially any reports of Hon. John Covode and Major General Carl Schurz.

Mr. COWAN. I have no objection to the amendment.

The PRESIDENT *pro tempore*. It is in the power of the Senator to accept the amendment, the Senate not having acted on the resolution; the amendment is therefore a part of the resolution.

The resolution as modified was agreed to.

HOUSE BILLS REFERRED.

The bill (H. R. No. 23) to prevent the spread of foreign diseases among the cattle of the United States was read twice by its title, and referred to the Committee on Agriculture.

The bill (H. R. No. 24) to amend an act entitled "An act providing for the selection of jurors to serve in the several courts of the District of Columbia" was read twice by its title, and referred to the Committee on the District of Columbia.

IOWA SOLDIERS' ORPHANS' HOME.

The joint resolution (H. R. No. 18) granting certain public property to the Soldiers' Orphans' Home of Iowa, was read twice by its title.

Mr. GRIMES. I move that the Senate proceed to the consideration of that joint resolution at this time; and on that motion I desire simply to say that the resolution merely grants the right of the United States to certain barracks at Camp Kinsman, near Davenport, in the State of Iowa, to an orphans' asylum, an asylum established for the benefit of the orphans of soldiers, and they are now in possession. The barracks were erected by the State, but were taken possession of by the United States and occupied by the military authorities of the United States until recently. By the reading of the resolution it will be discovered that it only grants what little territory there may be there and the lumber of which the barracks are constructed. The orphans are already in pos-

session, and I am told by one of my colleagues in the House of Representatives that there are two or three hundred of them, a number in excess even of the accommodations the barracks afford.

Mr. TRUMBULL. The object of this joint resolution certainly meets my approbation, but I wish to say to the Senator from Iowa that if it is passed without consideration it will set a precedent for numerous just such cases. Charitable institutions all over the United States are applying for barracks and other public property.

The PRESIDENT *pro tempore*. The Chair will state that if the Senator proposes to object to the consideration of the joint resolution, debate is not in order. If the Senator debates the resolution, he will be considered as waiving objection, and it will be open to discussion.

Mr. TRUMBULL. I suppose that on a motion to proceed to the consideration of a resolution, it is proper to state reasons why we should not proceed to consider it.

The PRESIDENT *pro tempore*. The resolution is not yet properly before the Senate. The question now is simply whether there is an objection to its present consideration. It came from the House of Representatives, has had two readings without objection, and the Senator from Iowa asks for its present consideration. To that any Senator may object, and if objection be made debate is not in order; but if objection be waived, of course debate is in order upon the question of its reference or its passage.

Mr. TRUMBULL. Do I understand the President that the resolution is before the Senate on its passage?

The PRESIDENT *pro tempore*. Not at all. It is before the Senate for consideration, unless its consideration be objected to. That is, it is before the Senate to be considered, either to be referred, or passed, or otherwise disposed of.

Mr. TRUMBULL. I move to refer it.

The PRESIDENT *pro tempore*. There is no need to refer it; it will be laid aside on objection.

Mr. TRUMBULL. But I suppose it is competent to move that the resolution be referred to the Committee on the District of Columbia.

The PRESIDENT *pro tempore*. Certainly.

Mr. TRUMBULL. I make that motion, and now I will say what I desired to say, which was simply that this will be opening the door for a very large class of cases, and I submit to the Senator from Iowa whether we had not better at once have a general bill donating to the several States where they are situated, or to charitable institutions that desire to take possession of this property, the different barracks that are no longer needed by the Government. I have no objection to the object of this joint resolution; I do not know but that the best disposition which can be made of this species of public property of the United States in the loyal States will be to turn it over in this way; but I assure the Senator from Iowa that there will be a great many such applications as this. If the Senate is prepared to pass the measure without consideration, if Senators think proper to let it go through and establish the precedent, I shall not object, having called the attention of the Senate to it. I now withdraw my motion to refer.

Mr. CHANDLER. I now renew my motion that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, December 12, 1865.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

CONTESTED ELECTION.

The SPEAKER laid before the House evidence in the contested-election case of Boyd vs. Kelso, in the fourth congressional district of Missouri; which was referred to the Committee of Elections.

PUBLIC PRINTING.

The SPEAKER also laid before the House a letter from the Superintendent of Public Printing, asking additional appropriations for the service of the fiscal year ending the 30th of June, 1866; which was referred to the Committee on Appropriations, and ordered to be printed.

PROTECTION OF AMERICAN SEAMEN.

The SPEAKER also laid before the House a communication from the Secretary of State, transmitting an abstract of the returns of collectors of customs, pursuant to the act of May 28, 1796, for the relief and protection of American seamen, during the year ending September 30, 1865; which was laid upon the table, and ordered to be printed.

SOUTHERN REFUGEE INDIANS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting accounts of superintendents and agents in charge of southern refugee Indians, for the first quarter of 1865; which was laid upon the table, and ordered to be printed.

AMENDMENT OF THE CONSTITUTION.

The SPEAKER also presented a memorial of the Union State Central Committee of Pennsylvania, asking certain amendments to the Constitution of the United States; which was referred to the Committee on the Judiciary.

STATE OF WEST VIRGINIA.

The SPEAKER also laid before the House a communication from the Governor of the State of Virginia, transmitting an act of the General Assembly of that State entitled "An act to repeal the second section of an act passed on the 13th day of May, 1862, entitled 'An act giving the consent of the Legislature of Virginia to the formation and erection of a new State within the jurisdiction of this State;' also repealing the act of January 31, 1863, entitled 'An act giving the consent of the State of Virginia to the county of Berkeley being admitted into and becoming part of the State of West Virginia;' also repealing the act of February 4, 1863, entitled 'An act giving consent to the admission of certain counties into the new State of West Virginia, upon certain conditions,' and withdrawing consent to the transfer of jurisdiction over the several counties in each of said acts mentioned;" which was referred to the Committee on the Judiciary, and ordered to be printed.

CONTESTED ELECTION.

Mr. DAWES presented certain papers in reference to an election in the sixteenth congressional district of Pennsylvania; which were referred to the Committee of Elections.

ORDER OF BUSINESS.

Mr. ELIOT. I desire to ask unanimous consent to submit a resolution in reference to a committee.

Mr. JOHNSON. I object, and call for the regular order of business.

The SPEAKER. The first business in order is the call upon committees for reports, beginning with the select committee on the death of the late President, Abraham Lincoln.

The committees were called, but no reports were made.

MINERAL LANDS.

Mr. KASSON. I desire to call up the resolution I submitted yesterday in relation to mineral lands, and which was not then acted on. I have modified it so that it is now a resolution of inquiry.

The resolution was read, as follows:

Resolved, That the Committee on Public Lands, or such other committee as shall have charge of the subject, be instructed to inquire into the expediency of reporting for the action of the House a bill to regulate mining on the public lands of the United States, embracing the following provisions in substance:

1. That the fee of all lands of the United States, containing gold, silver, copper, lead, iron, or coal, shall remain perpetually in the United States, unless divested by virtue of words of an act of Congress, expressly applicable to mineral lands.

2. That the privilege of discovering, developing, and extracting the natural wealth of the mines shall be open and free to all citizens of the United States, and to all aliens who shall have declared their intentions to become citizens; and the rights they shall acquire by virtue hereof may be disposed of at will; but in both cases, of acquisition and of disposition, always subject to the regulations by this or by any subsequent act of Congress provided.

3. The actual discoverer of any such mine, or mineral deposit, to designate by suitable mark a point on the lode, or deposit, as the center, and to be entitled to claim, occupy, and develop, or dispose of, one mineral section (or claim) each way from the center, without other cost to him than the fee of the recorder for recording his description of the lode or mine, and certifying his claim thereto, and the sections and claims to be consecutively numbered each way from the center.

4. Each mineral section (or claim) to consist of five hundred lineal feet, in the direction of the lode, and of—feet on each side of the lode: *Provided*, In no case to exceed one half the distance to the nearest lode on either side thereof, whether discovered or not at the time the claim is made or is transferred. In case of intersecting lodes, the claimant first working the intersection to work both lodes where conjoined, but no further.

5. Claimants subsequent to the discoverer to be entitled to claim in the order of filing their claims with the recorder, and on payment to the recorder, for the use of the United States, and in addition to the recorder's fee, of the sum of—dollars for each claim, on any one lode, to be allowed to be entered by the same person.

6. Transfers of claims to be by deed signed, acknowledged, and delivered, and stamped with the proper revenue stamp, in the same manner as deeds of real estate, and subject to the same revenue laws, and to be valid against innocent purchasers only from date of filing for record.

7. Record books, and surveyors and recorders of mineral claims to be provided for, and offices for the record thereof established in proper districts, compensation to be limited to fees, and the fees regulated.

8. All claims to mineral sections to be considered abandoned, and to revert to the United States, and to become liable anew to claim, if not opened and development commenced in good faith within—years from the filing of the claim, and if not thereafter worked continuously for at least—months in every year, whether by the original claimant or by any assignee; the new claimant, in such cases of abandonment, to be allowed at his own request, and upon proper payment as before, to file his claim, alleging abandonment and by what claimant abandoned. Cases of contest to be decided by the courts, by the usual course of law, and at the suit of either party to determine the right of possession. No abandonment to be presumed in case of succession to a claim by a person under age, after the death of the claimant of record, until the lapse of time of abandonment after attaining his majority.

9. The claimant in possession to make returns, after development commenced, to the United States assessor, of the amount of gold and silver obtained, and of the quantity and value of other valuable products of his mineral sections, respectively, and of the actual cost of production of the same, and to pay on the net balance of value to the collector of the district a tax equal to the income tax, for the time being, fixed by law; and the amount of tax due the United States to be a lien on such mineral section until paid by the same, or a subsequent claimant or assignee.

10. These regulations to apply to all discoveries, and to all claims filed for record on and after January 1, 1866; and saving the rights of assignees for value to all claims on lodes, of which the development in good faith shall not then have been commenced. But discoverers and claimants, and their assignees, who shall then have begun the development in good faith of mineral sections to which their claim is recognized as valid by the actual mining regulations in force in any mining district, or having such claims on lodes actually developed, to be confirmed in the extent of their claims thus obtained; but otherwise subject to the same limitations of title, payments, duties, and liabilities as if their several sections so obtained were now first obtained under these regulations, and directly from the United States; original certificates of claims, as also upon abandoned claims, to be issued by the United States.

11. The Commissioner of Public Lands, under the direction of the Secretary of the Interior, to be charged with the administration of the laws regulating mining, and to be authorized to establish proper regulations to carry them into effect; except that so much as applies to the returns and assessments and collection for revenue purposes, shall be administered and regulations established by the Commissioner of Internal Revenue, under direction of the Secretary of the Treasury, and any fraud or deception in making returns for revenue purposes shall cause the forfeiture and reversion to the United States of all the rights of the claimant guilty thereof, and the claim affected thereby may thereafter be treated as abandoned.

12. The payments for claims, and the internal revenue collected on the mineral products aforesaid, shall be separately accounted for at the Treasury, and until the Union Pacific railroad shall be completed, shall constitute a fund to be appropriated *pro tanto* to the payment of interest accruing on the bonds of the United States issued or to be issued in aid of that work.

The question was taken, and the resolution agreed to.

EQUALIZATION OF BOUNTIES.

Mr. HUBBARD, of Iowa, submitted the

following resolution, upon which he called the previous question:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of providing by law for securing to the soldiers who enlisted in 1861 and 1862, and served the Government in the late war against the rebellion, such additional bounties as will make, as nearly as can be, their bounties equal to those paid to soldiers who enlisted in 1864, according to the time of service.

The previous question was seconded, and the main question ordered; which was upon agreeing to the resolution.

The question was taken, and the resolution agreed to.

COMPENSATION OF POSTMASTERS.

Mr. GRINNELL submitted the following:

Resolved, That to afford equitable compensation to postmasters in the new States, the Committee on the Post Office and Post Roads be requested to inquire into the expediency of amending the postal laws by a substitution of commission in lieu of salary.

The question was taken, and the resolution agreed to.

REPRESENTATIVES FROM TENNESSEE.

Mr. RAYMOND. I rise to a question of privilege. I desire to present to the House, certificates signed by the Governor, and bearing the seal of the State of Tennessee, certifying that certain persons therein named are elected in due conformity with the laws of that State and of the United States, and are therefore entitled to their seats as members of this House. I present these papers simply that they may come before the House.

Mr. STEVENS. I rise to a question of order. I do not mean to oppose the main object of the gentleman from New York, [Mr. RAYMOND.] But I hold that this is not a question of privilege. The State of Tennessee is not known to this House nor to Congress. If the gentleman will put his proposition in another shape, and not present it as a question of privilege, I will not object to it. But if he presents it as a question of privilege, I make the point of order that it is not such a question.

The SPEAKER. The Chair overrules the point of order raised by the gentleman from Pennsylvania, [Mr. STEVENS.] The Chair has examined the precedents of previous Congresses, especially since the rebellion commenced, and finds that the usage of the House has been uniform that claimants of seats have their credentials presented as a question of privilege. It is then for the House to determine what shall be done with them. The presentation of the credentials does not involve the question of their reference. It is for the House to determine whether they shall be laid on the table or referred. But a claimant to a seat, with papers *prima facie* indicating his election, is entitled, as a question of privilege, to have them presented.

Mr. WASHBURN, of Illinois. As I understand, the object of the gentleman from New York is to get the papers before the House, with the view of having them referred to the special joint committee of fifteen, when appointed.

Mr. RAYMOND. I will explain my object. As I have already stated, I propose simply to bring these papers before the House, and get them in a position to be acted upon. There are, in my judgment, many considerations connected with the position of the State of Tennessee, with her past conduct during the rebellion, and her present attitude toward the national Government, which commend the case of her Representatives to early consideration on the part of this House. I do not wish to make any remarks upon the subject to explain what those considerations are. I am quite willing to move such a disposition of these papers as may meet the general wishes of my friends around me, whether it be to lay them upon the table, send them to the Committee of Elections, or refer them to the joint committee of fifteen, when that committee shall be appointed. The disposition which may be made of them is a matter of indifference to me. I will move, to see whether it meets the views of the House, that these papers, together with

other credentials from the same State now on the files of the Clerk, be referred to the joint committee of fifteen, when the same shall be appointed. On that motion I demand the previous question.

Mr. JOHNSON. I call for the reading of the credentials.

The SPEAKER. Does the gentleman desire that all the certificates shall be read, or only one?

Mr. JOHNSON. One will be sufficient, if they are alike.

Mr. RAYMOND. I understand that the certificates are precisely similar in form.

The Clerk read, as follows:

STATE OF TENNESSEE, EXECUTIVE DEPARTMENT,
NASHVILLE, November 13, 1865.

To all who shall see these presents, greeting:

I, William G. Brownlow, Governor of the State of Tennessee, do hereby certify that, at a general election, opened and held in said State, on the first Thursday, August, A. D. 1865, for the purpose of electing Representatives of the State of Tennessee in the Thirty-Ninth Congress of the United States, Horace Maynard, of the county of Knox, was regularly elected, in accordance with the laws of the State of Tennessee and of the United States, Representative in said Congress from the second congressional district, composed of the counties of Claiborne, Union, Knox, Campbell, Scott, Morgan, Anderson, Blount, Monroe, Polk, McMinn, Bradley, and Roane.

And I do therefore commission the said Horace Maynard Representative in Congress as aforesaid, during the term, and with all the powers, privileges, and emoluments appertaining.

In testimony whereof, I have hereunto subscribed my name and caused the great seal of the State [L.S.] of Tennessee to be affixed, at the department in the city of Nashville, this 13th day of November, 1865. W. G. BROWNLOW.

By the Governor:
A. J. FLETCHER, Secretary of State.

Mr. BINGHAM. I beg leave to make an appeal to my honorable friend from New York to withdraw his demand for the previous question that I may make a suggestion which I hope may meet his acceptance, and thereby avoid any controversy at present with regard to this subject, while it will perhaps accomplish the object which he has in view.

Mr. RAYMOND. I waive, for the present, my demand for the previous question.

Mr. BINGHAM. I merely wish to make an appeal to the gentleman. I do not desire to defeat his purpose to demand the previous question. I ask him to consider the propriety of substituting for the motion which he has offered something like this:

Resolved, That the joint committee of fifteen, when appointed, be instructed to inquire and report to this House whether the State of Tennessee, hitherto declared in insurrection against the Government of the United States, has organized a constitutional government, republican in form, and conformable to the Constitution and laws of the United States, and is entitled to representation in the Congress of the United States.

Mr. FINCK. Mr. Speaker, I desire to make a suggestion to the gentleman from New York.

Mr. BINGHAM. If the gentleman [Mr. FINCK] please, I am addressing myself to the gentleman from New York at present, and I ask him to consider the propriety of presenting his proposition in the way suggested, for the reason that it must be obvious to the gentleman's mind, on a moment's reflection, that to receive and refer credentials of these gentlemen, as Representatives from the State of Tennessee, will be to declare by implication that Tennessee is entitled to representation in Congress, without inquiry into the fact whether in Tennessee there is a constitutional State government. We want the joint committee first to report on that question as a question of fact. That is a question for the Congress of the United States, and it can only be decided by Congress, as the gentleman knows. If Congress decide there is such State government, then I am, for one, ready to admit her Representatives, if duly elected and qualified.

Mr. FINCK. I ask the gentleman from New York to yield to me.

Mr. RAYMOND. I do, for a suggestion.

Mr. FINCK. I wish, as my colleague has done already, to make a suggestion. I suggest that the gentleman from New York withdraw his motion, and; instead, move that the gentlemen, whose credentials have just been pre-

sented and read, shall be at once sworn in as members of this House.

Mr. RAYMOND. That I must decline to do. In reply to the point, or rather the request, made by the gentleman from Ohio, [Mr. BINGHAM,] it is due to frankness to say, that for my own part I have no such doubts as those he professes for himself. I do not personally, therefore, see the necessity for making the inquiry which he specifies.

Mr. BINGHAM. The gentleman will excuse me. I do not express myself as having doubts. I have no opinion to express on that subject at present; but I ask the gentleman to consider that the Congress of the United States, in the progress of the rebellion, has set one remarkable precedent for our consideration touching this matter. Virginia was declared in insurrection, as was Tennessee. The Congress of the United States, when the question was raised whether the State of Virginia had reorganized, decided that question as a Congress; and afterward it resulted that a new State, formed within the State of Virginia by the consent of such reorganized State government, was admitted to representation in the Senate and House as a State of the Union.

Mr. DRIGGS. I rise to a question of order: that the resolution appointing a committee of fifteen expressly declares, by the consent of this House, all papers relating to the seats of members from the southern States shall be referred to that committee without debate.

Several MEMBERS. That resolution has not passed.

The SPEAKER. The Chair overrules the point of order on the ground that the resolution, by its terms, requires the concurrence of both Houses before it can go into force. This House has intimated what is its desire, but the resolution is not binding on either House until agreed to by both. What will be its language when it shall be agreed to by both Houses the Chair cannot now determine. Matters may be referred to them, but the resolution is not binding on either House as yet.

Mr. STEVENS. I wish to suggest to the gentleman that his resolution is precisely the resolution appointing that committee. I do not see any particular objection to refer it.

Mr. GRIDER. Mr. Speaker, I do not feel myself otherwise than as inclined to organize the House according to the ordinary way, and without delay. The party who presents his claim to a seat upon this floor has had his credentials read. There can be no objection to them. They are in form. It is a plain question whether Mr. Maynard, who has been a member of this House for years, I think during the whole rebellion, shall be again entitled to his seat upon this floor, with his colleagues, under a regular certificate of election from the Governor of Tennessee, and having been regularly elected by the people of that State. And there is nobody contesting his right to a seat. I hope, therefore, that we will go at once to the proposition whether Mr. Maynard and his colleagues shall be permitted to take their seats or not.

Mr. RAYMOND. I renew my demand for the previous question.

Mr. RANDALL, of Pennsylvania: I desire to make a suggestion to the gentleman from New York which I think will meet his views entirely.

Mr. RAYMOND. I withdraw the demand for the previous question to hear the suggestion.

Mr. RANDALL, of Pennsylvania. His proposition proposes to refer the matter to a joint committee. Now, the Constitution provides that we shall be the judges of the qualification of our own members. I suggest, therefore, that he shall modify his motion so as to refer to a committee of this House of nine members.

Mr. JOHNSON. I inquire of the Chair whether a motion to refer to the Committee of Elections will take precedence of a motion to refer to a committee which has not yet a legal existence?

The SPEAKER. If the resolution of the

gentleman from New York be voted down it will be in order, but not till then.

Mr. INGERSOLL. I wish to make a suggestion to the gentleman from New York. As the joint committee has not yet been appointed, and as the condition upon which that committee is to act, if appointed, is not yet known, would it not be well to postpone the consideration of this subject for one week until that committee is formed? If that motion would be in order, I will move to postpone the whole subject one week.

Mr. WASHBURNE, of Illinois. I rise to a question of order. It is that the gentleman from New York cannot yield the floor any further without he yields it unconditionally.

The SPEAKER. The gentleman may yield it for the purpose of personal explanation, or explanation of the pending measure. The Chair will have the rule read.

The Clerk read the rule, as follows:

"While a member is occupying the floor he may yield it to another for an explanation of the pending measure, as well as for personal explanation."

Mr. RAYMOND. Personally, I have no choice as to which committee these credentials should go. If I could follow the bent of my own inclinations I would move their reference to the Election Committee, which I regard as the proper committee to take charge of them. Nor do I suppose our action is at all bound by the concurrent resolution which passed this House, and remains without the action of the Senate. But I feel it is due, out of deference to the opinions members of this House have expressed upon the subject, and also to the action the Senate may take, to move a reference to the joint committee. This subject will be duly considered by that committee, and then it will be open to our action.

As to the matter being postponed one week, I will say that my object is to secure the earliest possible action upon the papers and the questions they involve.

Mr. SMITH. Will the gentleman yield to me to make an inquiry?

Mr. RAYMOND. I will.

Mr. SMITH. I understood the gentleman, when he presented the credentials, to say that the gentlemen claiming seats from Tennessee occupied a different position from others. No other credentials from any of the States lately in rebellion have been presented. These come regularly, and the gentleman suggested that his own preference would be to have them referred to the Committee of Elections. Now, would it not be best, and will not the House consent, under the peculiar circumstances, to refer these papers to the Committee of Elections? That strikes me as the proper committee, because this is a very peculiar case.

The State of Tennessee has done everything that the Government of the United States would demand. She has repudiated the rebel debt; she has passed the constitutional amendment; she has rendered null and void all the ordinances of secession; and she has sent here to represent her men who have been in the war on the side of the Government from 1862 to its close, and who have shown their devotion to the Union to be equal to that of any man in either House of Congress. Every one of those who have been elected can come before the bar of the House and take the oath prescribed by the laws of the country.

I ask the gentleman from New York to move the reference of the credentials to the Committee of Elections, that they may be acted on at once, and those gentlemen received into this body.

Mr. RAYMOND. I renew my demand for the previous question.

The previous question was seconded, and the main question ordered to be put.

Mr. HARDING, of Kentucky. Is a division of the question in order?

The SPEAKER. In what respect?

Mr. HARDING, of Kentucky. On the question of reception and reference.

The SPEAKER. It is not. It is entirely too late to raise the question of reception.

Mr. FINCK. I call for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 126, nays 42, not voting 14; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blow, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clark, Cobb, Conkling, Cook, Cullom, Darling, Davis, DeFrees, Delano, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farquhar, Ferry, Garfield, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Hulburd, James Humphrey, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketchum, Kuykendall, Ladin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McKuer, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Thayer, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—126.

NAYS—Messrs. Ancona, Bergen, Boyer, Brooks, Chanler, Dawes, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Hogan, James R. Hubbell, James M. Humphrey, Johnson, Kerr, Le Blond, Marshall, McCullough, Niblack, Nicholson, Noell, Phelps, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Smith, Tabor, Taylor, Francis Thomas, John L. Thomas, Thornton, Trimble, Voorhees, and Winfield—42.

NOT VOTING—Messrs. Delos R. Ashley, Blaine, Culver, Farnsworth, Grinnell, Harris, Jones, Kasson, Pomeroy, Sitzgreaves, Stillwell, Strouse, Robert T. Van Horn, and Wright—14.

So the credentials were referred to the joint committee, when appointed.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the motion was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PRIVILEGES OF THE FLOOR.

Mr. STEVENS. I offer the following resolution:

Resolved, That, until otherwise ordered, N. G. Taylor, Horace Maynard, William B. Stokes, Edmund Cooper, William B. Campbell, Samuel M. Arnell, Isaac R. Hawkins, and John W. Leftwich be invited to occupy seats in the Hall of the House of Representatives.

Mr. RAYMOND. I rise to a point of order. I would inquire whether a resolution of this sort is in order?

The SPEAKER. Not, excepting by unanimous consent. It is not a question of privilege, but the Chair would not overrule it unless some gentleman objected to it.

Mr. BROOKS. I will not object to that resolution if the gentleman will modify it so as to include all the southern delegations. [Cries of "No!" "No!"]

Mr. WILSON, of Iowa. I object to the resolution.

RECONSTRUCTION.

Mr. ELDRIDGE submitted the following resolution, upon which he demanded the previous question:

Resolved, That there is no warrant or authority in the Constitution of the United States for any State or States to secede, and that all resolves or ordinances to that end or for that purpose are absolutely null and void; and that the war having defeated the attempt to thus divide and break up the Union, it is of vital importance to the Republic and to all the States thereof that the States recently in revolt, and each and every one of them, should resume their appropriate and constitutional position and functions in the Union without delay; and to this end, laying aside all party feeling and all personal or other animosity, waiving all minor differences and seeking earnestly to maintain and preserve the Union of our fathers, we will cordially sustain and support the President in every and all constitutional efforts and policy of restoration, believing that thereby the political, commercial, financial, and general prosperity of the whole country will be most substantially and permanently subserved.

Mr. WASHBURN, of Illinois. Will the gentleman from Wisconsin withdraw the previous question for the purpose of debate?

Mr. ELDRIDGE. Not quite.

Mr. WASHBURN, of Illinois. Then I hope the House will not second the demand for the previous question.

Mr. ELDRIDGE. I call for tellers on seconding the previous question.

Tellers were ordered, and Messrs. ELDRIDGE, and WASHBURN, of Illinois, were appointed.

The House divided, and the tellers reported—ayes 35, noes 108.

So the House refused to second the demand for the previous question.

Mr. WASHBURN, of Illinois, rising to debate the resolution it went over under the rule.

PRIVILEGE OF THE HOUSE.

Mr. SLOAN submitted the following resolution, upon which he demanded the previous question:

Whereas N. G. Taylor, Horace Maynard, William B. Stokes, Edmund Cooper, William B. Campbell, Samuel M. Arnell, Isaac R. Hawkins, and John W. Leftwich, have maintained their allegiance to the United States throughout the late rebellion, some of them bearing arms in the United States service, appear to have been elected by the people of Tennessee to represent certain congressional districts thereof, and are now present with their credentials, claiming seats as members of this House: Therefore,

Resolved, That said claimants be allowed the privileges of the floor of the House pending their claim to seats.

Mr. WILSON, of Iowa, moved that the resolution be laid upon the table.

Mr. FINCK demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 90, nays 63, not voting 29; as follows:

YEAS—Messrs. Alley, Allison, Anderson, James M. Ashley, Baker, Baldwin, Banks, Barker, Beaman, Benjamin, Bidwell, Bingham, Boutwell, Brandegee, Bromwell, Broomall, Bundy, Reader W. Clarke, Sidney Clark, Cobb, Cook, DeFrees, Deming, Dixon, Driggs, Dumont, Eckley, Eggleston, Eliot, Grinnell, Abner C. Harding, Hayes, Henderson, Higby, Hill, Hooper, Hotchkiss, Demas Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ladin, William Lawrence, Loan, Longyear, Marston, Marvin, McClurg, McKee, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, John H. Rice, Rollins, Schenck, Scofield, Spalding, Starr, Stevens, Thayer, Upson, Van Aernam, Burt Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—90.

NAYS—Messrs. Ancona, Blow, Brooks, Chanler, Darling, Davis, Dawes, Dawson, Denison, Eldridge, Farquhar, Finck, Glossbrenner, Goodyear, Grider, Griswold, Hale, Aaron Harding, Hogan, Chester D. Hubbard, Edwin N. Hubbell, James R. Hubbell, James M. Humphrey, Johnson, Kasson, Kerr, Ketchum, Kuykendall, Latham, George V. Lawrence, Le Blond, Marshall, McCullough, McIndoe, McCluer, Niblack, Nicholson, Noell, Phelps, Radford, Samuel J. Randall, William H. Randall, Raymond, Ritter, Ross, Rousseau, Sawyer, Shanklin, Shellabarger, Sitzgreaves, Sloan, Smith, Stillwell, Tabor, Francis Thomas, John L. Thomas, Thornton, Trimble, Trowbridge, Voorhees, Whaley, Winfield, and Woodbridge—63.

NOT VOTING—Messrs. Ames, Delos R. Ashley, Barker, Bergen, Blaine, Boyer, Buckland, Conkling, Cullom, Culver, Delano, Donnelly, Farnsworth, Ferry, Garfield, Harris, Hart, Holmes, Asahel W. Hubbard, James Humphrey, Jones, Lynch, Pomeroy, Alexander H. Rice, Rogers, Strouse, Taylor, Robert T. Van Horn, and Wright—29.

So the resolution was laid upon the table.

During the roll-call,

Mr. JOHNSON said: My colleague, Mr. BOYER, has been called away from his desk by the intelligence of the death of a member of his family. If he had been here, he would undoubtedly have voted "no."

The result of the vote having been announced as above recorded,

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the resolution was laid upon the table; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. COBB submitted the following resolution, upon which he called the previous question:

Resolved, That until otherwise ordered, Messrs. Nathaniel G. Taylor, Horace Maynard, William B. Stokes, Edmund Cooper, William B. Campbell, Samuel M. Arnell, Isaac R. Hawkins, and John W. Leftwich be invited to occupy seats in the Hall of the House of Representatives.

The question was upon seconding the demand for the previous question.

Mr. WILSON, of Iowa. I move to lay the resolution upon the table.

Mr. FINCK. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

Mr. CONKLING. I would appeal to the gentleman from Iowa [Mr. WILSON] to withdraw his motion to lay on the table, and let us take a vote directly on the resolution.

The SPEAKER. There are now two undebatable motions pending: the motion to lay the resolution on the table, and the call for the previous question.

Mr. JOHNSON. I object to any withdrawal of the motion to lay on the table.

The question was upon the motion of Mr. WILSON to lay the resolution of Mr. COBB upon the table.

The question was then taken; and it was decided in the negative—yeas 41, nays 125, not voting 16; as follows:

YEAS—Messrs. Ames, James M. Ashley, Baker, Barker, Baxter, Benjamin, Bidwell, Boutwell, Brandegee, Bromwell, Broomall, Sidney Clark, Cobb, Deming, Dixon, Farnsworth, Abner C. Harding, Hayes, Higby, Asahel W. Hubbard, Ingersoll, Jenckes, Kelley, Kelso, Latham, William Lawrence, Loan, McClurg, Mercur, Moulton, Price, Schenck, Spalding, Starr, Warner, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, and Stephen F. Wilson—41.

NAYS—Messrs. Alley, Allison, Ancona, Anderson, Banks, Beaman, Bergen, Bingham, Blow, Brooks, Buckland, Bundy, Chanler, Conkling, Cook, Cullom, Darling, Davis, Dawes, Dawson, DeFrees, Delano, Denison, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eldridge, Farquhar, Ferry, Finck, Garfield, Glossbrenner, Goodyear, Grider, Grinnell, Griswold, Hale, Aaron Harding, Hart, Henderson, Hill, Hogan, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, James Humphrey, James M. Humphrey, Johnson, Julian, Kasson, Kerr, Ketchum, Kuykendall, Ladin, George V. Lawrence, Le Blond, Longyear, Lynch, Marshall, Marvin, McCullough, McIndoe, McKee, McKuer, Miller, Moorhead, Morrill, Morris, Myers, Newell, Niblack, Nicholson, Noell, O'Neill, Orth, Paine, Perham, Phelps, Pike, Plants, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rogers, Rollins, Ross, Rousseau, Sawyer, Scofield, Shanklin, Shellabarger, Sitzgreaves, Sloan, Smith, Stevens, Stillwell, Tabor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Voorhees, Ward, Elihu B. Washburne, Whaley, Windom, Winfield, and Woodbridge—125.

NOT VOTING—Messrs. Delos R. Ashley, Baldwin, Blaine, Boyer, Reader W. Clarke, Culver, Eliot, Harris, Jones, Marston, Patterson, Pomeroy, Strouse, Taylor, Robert T. Van Horn, and Wright—16.

So the motion to lay on the table was not agreed to.

The question recurred upon seconding the demand for the previous question.

The previous question was seconded, and the main question ordered; which was upon agreeing to the resolution.

Upon this question Mr. SPALDING called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 132, nays 35, not voting 15; as follows:

YEAS—Messrs. Allison, Ancona, Anderson, James M. Ashley, Baldwin, Banks, Baker, Beaman, Bergen, Bingham, Blow, Brooks, Buckland, Bundy, Chanler, Cobb, Conkling, Cook, Cullom, Darling, Davis, Dawes, Dawson, DeFrees, Delano, Denison, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eldridge, Eliot, Farquhar, Ferry, Finck, Garfield, Glossbrenner, Goodyear, Grider, Grinnell, Griswold, Hale, Aaron Harding, Hart, Hayes, Henderson, Hill, Hogan, Holmes, Hooper, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, James Humphrey, James M. Humphrey, Johnson, Julian, Kasson, Kerr, Ketchum, Kuykendall, Ladin, George V. Lawrence, Le Blond, Longyear, Lynch, Marshall, Marvin, McIndoe, McKee, McKuer, Miller, Morrill, Morris, Myers, Newell, Niblack, Nicholson, Noell, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rogers, Rollins, Ross, Rousseau, Sawyer, Scofield, Shanklin, Shellabarger, Sitzgreaves, Sloan, Smith, Stevens, Stillwell, Tabor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Voorhees, Ward, Elihu B. Washburne, Welker, Whaley, Windom, Winfield, and Woodbridge—132.

NAYS—Messrs. Ames, Baker, Barker, Benjamin, Bidwell, Boutwell, Brandegee, Bromwell, Broomall, Reader W. Clarke, Sidney Clark, Deming, Dixon, Farnsworth, Abner C. Harding, Higby, Ingersoll, Jenckes, Kelley, Kelso, Latham, William Lawrence, Loan, McCullough, Mercur, Moulton, Price, Schenck, Spalding, Starr, Warner, William B. Washburn, Wentworth, Williams, and James F. Wilson—35.

NOT VOTING—Messrs. Alley, Delos R. Ashley, Blaine, Boyer, Culver, Harris, Asahel W. Hubbard,

Jones, Marston, McClurg, Pomeroy, Strouse, Taylor, Stephen F. Wilson, and Wright—15.

So the resolution was agreed to.

Mr. COBB moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Resolutions from the State of Wisconsin being still in order,

Mr. PAINE rose.

Mr. WASHBURNE, of Illinois. I move that the House do now adjourn.

Mr. FARNSWORTH. I ask my colleague to give way to me one moment, that I may offer a resolution.

Mr. WASHBURNE, of Illinois. I yield to my colleague for that purpose.

The SPEAKER. The resolution of the gentleman from Illinois [Mr. FARNSWORTH] can be entertained by unanimous consent. If objection be made, the Chair will be obliged to recognize the gentleman from Wisconsin, [Mr. PAINE,] as resolutions from that State are the regular order.

TAXATION OF DOMESTIC WINES.

Mr. FARNSWORTH, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire whether it was not the intention of Congress, in excepting wines made from currants, berries, and rhubarb, from the specific tax, to exclude them from the payment of any tax; and that the committee report by bill or otherwise.

The SPEAKER. The question now recurs upon the motion of the gentleman from Illinois [Mr. WASHBURNE] that the House adjourn.

Mr. WASHBURNE, of Illinois. I yield to the gentleman from Minnesota, [Mr. WINDOM,] to allow him to offer a resolution.

CLERK TO COMMITTEE ON APPROPRIATIONS.

Mr. WINDOM. I ask unanimous consent to offer the following resolution:

Resolved, That the salary of the clerk to the Committee on Appropriations shall be the same as was paid to the clerk of the Committee of Ways and Means.

The SPEAKER. Is there objection to the introduction of the resolution?

Mr. SLOAN. I object.

The SPEAKER. Objection being made, the resolution is not before the House.

Mr. WASHBURNE, of Illinois. I renew my motion to adjourn.

Mr. RICE, of Massachusetts. I ask the gentleman to yield one moment to allow me to introduce a joint resolution.

Mr. WASHBURNE, of Illinois. I will do so.

WILLIAM REYNOLDS AND M. B. WOOLSEY.

Mr. RICE, of Massachusetts. I ask unanimous consent to introduce a joint resolution for the restoration of Commanders William Reynolds and Melancton B. Woolsey, United States Navy, to the active list from the reserved list.

Mr. SLOAN. Is this in order under the regular call of the States?

The SPEAKER. It is not, except by unanimous consent.

Mr. SLOAN. I object.

The SPEAKER. Then the joint resolution cannot be received. The question recurs on the motion to adjourn.

Mr. SPALDING. I ask the gentleman from Illinois [Mr. WASHBURNE] to yield to me for one moment, that I may introduce a simple resolution of reference.

Mr. SLOAN. I object, and demand the regular order.

The question being taken on the motion to adjourn, it was not agreed to.

NAVIGATION OF THE LAKES, ETC.

Mr. PAINE submitted the following resolution, on which he demanded the previous question:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of revising the laws regulating the commerce and navigation of the lakes and rivers on the northern frontier of the United States, so as to remove all unnecessary re-

straint upon such commerce and navigation, and at the same time provide additional safeguards against frauds upon the revenue; and to report by bill or otherwise.

Mr. SPALDING. I desire to move an amendment to that resolution.

The SPEAKER. That cannot be done at present, the previous question being demanded.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

FURNISHING THE PRESIDENT'S HOUSE.

Mr. SLOAN submitted the following resolution, on which he demanded the previous question:

Resolved, That the Committee on Appropriations be requested to consider at an early period an appropriation for the proper furnishing and repairing of the President's House.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. COBB moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

SALARY OF CLERK OF COMMITTEE.

Mr. McINDOE submitted the following resolution, on which he demanded the previous question:

Resolved, That the salary of the clerk to the Committee on Appropriations shall be the same as was paid to the clerk to the Committee of Ways and Means.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. STEVENS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

REGISTRY LAWS.

Mr. SPALDING submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be directed to inquire into the expediency of so amending the registry laws as to admit the registering of any ship or vessel actually owned by a citizen of the United States without reference to the place of construction, subject to such rules as may be imposed by the Secretary of the Treasury.

ILLINOIS SOLDIERS' ORPHANS' HOME.

Mr. INGERSOLL. I ask leave to introduce and put on its passage a joint resolution donating certain Government property in Illinois to the Soldiers' Orphans' Home of that State.

Mr. JOHNSON. I object unless it be referred to a committee.

Mr. INGERSOLL. I withdraw it for the present.

COMMITTEE ON MINES AND MINING.

Mr. HIGBY submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the committee on rules be requested to consider the expediency of appointing a standing committee to be called "the Committee on Mines and Mining," whose duty it shall be to consider and report on all questions relating to mines and mining which may be referred to them; and report their conclusion to the House at as early a day as possible.

ABRAHAM LINCOLN.

Mr. DONNELLY submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Territories be directed to inquire into the propriety of affixing the name of Lincoln to some one of the Territories of the West.

PACIFIC STATES AND TERRITORIES.

Mr. HENDERSON submitted the following resolution; which was read, considered, and agreed to:

Resolved, That it is the duty as well as the true policy of the General Government to encourage the development of the resources of our Pacific States and Territories, by encouraging the building of military railroads in them; by protecting the lives and property of their inhabitants against Indian depredations;

by extending to them convenient and liberal mail facilities; by affording greater security to life and commerce in their ocean navigation; and by a generous and liberal policy toward their mining interest.

THOMAS HURLEY.

Mr. GARFIELD introduced a bill for the relief of Thomas Hurley; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MUTUAL HOMESTEAD PROTECTION COMPANY.

Mr. SMITH introduced a bill to incorporate the United States Mutual Protection Homestead Company; which was read a first and second time, and referred to the Committee on the Judiciary.

INVALID PENSIONS.

Mr. WARD introduced a bill declaring certain transfers void, and requiring an oath in pension cases; which was read a first and second time, and referred to the Committee on Invalid Pensions.

And then, on motion of Mr. DRIGGS, the House (at a quarter past two o'clock p. m.) adjourned.

IN SENATE.

WEDNESDAY, December 13, 1865.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

Hon AARON H. CRAGIN, of New Hampshire, appeared in his seat to-day.

COMMITTEE SERVICE.

Mr. WILSON was, on his motion, excused from further service upon the Committee on Pensions and the Committee on Revolutionary Claims.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the memorial of F. Afton, of St. Josephs, Missouri, praying for the passage of a law prohibiting the circulation of gold and silver as a currency, making legal-tender Treasury notes the permanent internal currency of the country, and that gold and silver be purchased and reserved for Government purposes; which was referred to the Committee on Finance.

Mr. POLAND presented the petition of John Nabb and Sarah Nabb, of the city of Burlington, Vermont, praying for compensation for property belonging to them in Charleston, South Carolina, which property was wasted and destroyed during the bombardment and occupation of that city by the forces of the United States; which was referred to the Committee on Claims.

Mr. CLARK presented the petition of William Cook, praying for compensation for the use by the Government of a lot of land owned by him in the city of Washington, being lot No. 42 in square No. 184; which was referred to the Committee on Claims.

SENATORS FROM LOUISIANA.

Mr. GUTHRIE. I am requested by the delegation from Louisiana to present a remonstrance against the admission of certain persons as Senators from that State. I ask that it be read and laid on the table. I presume it will be followed up by a more regular remonstrance.

The PRESIDENT *pro tempore*. The communication will be read, if there be no objection.

The Secretary read, as follows:

NEW ORLEANS, December 9, 1865.

Received Washington, December 10, 1865.

To JACOB BARKER and others,

Members of Congress from Louisiana:

Joint resolution—

Mr. GRIMES. I object to the reading of that paper. It is not addressed to the Senate. It seems it is addressed to Jacob Barker, and presented here to influence the action of the Senate.

Mr. GUTHRIE. I take it for granted there is no just objection to it although it is addressed to Jacob Barker. The delegation from Louisiana request that I shall file it here. Agreeably

to that request, I do so. I ask for no action upon it, supposing really that they will follow it by a more formal remonstrance. It can do no harm to allow it to be received and laid on the table.

Mr. GRIMES. It will be time enough to read the remonstrance whenever they shall present a more formal one. In the first place, it is a violation of the rules of this body that any petition shall be read except a petition that emanates from a State. Then, in the next place, it is not addressed to this body at all, but is addressed to Jacob Barker and other persons who claim to be the representatives of the State of Louisiana, and is signed by a man who has already certified under his own signature that certain other persons have been legally elected as Senators of the United States from this same State of Louisiana.

The PRESIDENT *pro tempore*. The Chair will suggest that, under the rule of the Senate, when a paper is presented and its reading asked for, if the reading be objected to, it is to be decided by the Senate without debate. The Chair understands the Senator from Kentucky to present a paper and ask for its reading, to which the Senator from Iowa objects. The question is, Shall the paper be read?

The question being put, the Senate refused to allow the paper to be read.

The communication was ordered to lie on the table.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. POMEROY, it was

Ordered, That the memorial of Francis A. Gibbons and F. X. Kelly, praying to be reimbursed for money advanced and materials furnished in the construction of light-houses in California and Oregon, be withdrawn from the files of the Senate, and referred to the Committee on Claims.

On motion of Mr. GRIMES, it was

Ordered, That the petition and papers in the case of John Agnall be withdrawn from the files of the Senate, and referred to the Committee on Claims.

NOTICE OF A BILL.

Mr. MORGAN gave notice of his intention to ask leave to introduce a bill to establish a coinage department in the United States assay office in the city of New York.

BILLS INTRODUCED.

Mr. BROWN, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 31) to reimburse the State of Missouri for moneys expended for the United States in enrolling, equipping, and provisioning militia forces to aid in suppressing the rebellion; which was read twice by its title.

Mr. BROWN. As that is a very important bill, I ask that it may be ordered to be printed, and referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 5) submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 32) to prevent the absence of territorial officers from their official duties; which was read twice by its title, referred to the Committee on Territories, and ordered to be printed.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 6) authorizing the President to divert certain funds heretofore appropriated, and cause the same to be used for immediate subsistence and clothing, &c., for destitute Indians and Indian tribes; which was read twice by its title, and referred to the Committee on Indian Affairs.

COMPENSATION DUE SENATOR COLLAMER.

Mr. FOOT. I offer the following resolution, which, under the rules of the Senate, goes to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and

he is hereby, directed to pay, out of the contingent fund of the Senate, to Mrs. Mary N. Collamer, widow of Hon. Jacob Collamer, deceased, late a Senator from the State of Vermont, the amount of compensation due the deceased at the time of his death.

The PRESIDENT *pro tempore*. Under the rules this resolution will be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

TELEGRAPHIC CONGRESSIONAL REPORTS.

Mr. GRIMES. I offer the following resolution of inquiry, and ask for its present consideration:

Resolved, That the Committee on the Library on the part of the Senate be instructed to inquire and report to the Senate what action, if any, may be necessary to secure more accurate reports of the proceedings of this body for publication by the Associated Press.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRIMES. It has been suggested to me that I ought to insert the word "telegraphic" before the word "reports." I do not know but that that amendment ought to be made.

The PRESIDENT *pro tempore*. The resolution is in the hands of the Senator for purposes of modification. If he requests that modification to be made, the resolution will be so modified.

Mr. GRIMES. This resolution is simply a resolution of inquiry, directing the Committee on the Library on the part of the Senate to ascertain whether some steps may not be taken to secure accurate reports of the proceedings of the Senate. I suppose it is known to everybody that the first impressions that are created on the public mind as to our transactions here are created by the short telegraphic dispatches that are sent to the press of New York and also published in our city papers here; for, as I understand, the reports that are published in the morning papers of Washington are the same that are sent forward the preceding evening to be published in the papers in Baltimore, Philadelphia, New York, and elsewhere. I need not remind Senators that those reports are exceedingly inaccurate, that they give no proper idea whatever to the public as to what business is transacted here, or as to what may have been the arguments that were submitted by gentlemen who were for or against any given proposition. I think I need do no more to convince anybody of that fact than to refer to the telegraphic dispatches that were sent from this city last night as to the proceedings of Congress yesterday. I confess that I voted yesterday with the majority of the Senate on the question then before us; but the arguments submitted by Senators who advocated the side with which I voted—for I was a silent member then as I am usually—seem to have been withheld, while arguments that were submitted by other gentlemen are very copiously given. I do not say that this was in consequence of any improper conduct on the part of the telegraphic reporter; I do not believe that it was, for I do not believe that any man can sit here in our gallery and undertake to give an abstract of a speech that a Senator is delivering here, because he cannot tell what is the drift and scope of the speech, what it is likely to be, whether it is to be one minute long or thirty minutes long, and he may put down upon his paper that part of the remarks that may be most immaterial, and that is sent forward to New York and elsewhere as being the drift and scope and extent of the speech; whereas if we could make an arrangement with a competent reporter to take up the speeches after they have been delivered during the day and make out an abstract from them, taking a whole speech together, having heard the whole of it, then we might convey to the public mind some proper idea of what was said and what was done here.

Mr. FESSENDEN. I happen to be a member of the Committee on the Library; and I wish to say in advance that though I am perfectly willing to inquire into the matter, I do not see that there is anything we can possibly do with reference to it. The Associated Press and the telegraphic reports are entirely inde-

pendent of us; we cannot control them in any way. They report what they please, as much as they please, and as little as they please, and we have no remedy that I am aware of, although I hope that my friend, the chairman of the committee, will be able to discover one, because in my judgment a remedy is very much needed. With regard to myself, individually, I do not know that I have ever had the honor of having anything that I have said correctly reported. Very little that I have said here has ever been reported at all by the Associated Press. Of that I do not complain; that probably is owing to the worthlessness of the matter; but the trouble with regard to myself and many other members has been that there was no idea conveyed of what we did say. Now, take for instance the debate which took place yesterday: my friend from Wisconsin, [Mr. DOOLITTLE,] who took one side of the question pretty much alone, was reported at length; while with regard to myself, I believe the first remark was that Mr. FESSENDEN was opposed to doing anything in support of the Administration—that is about the amount of it, though it is not exactly so expressed—and for the singular reason that the Senate was part of the Administration! I think Senators will bear me witness that I did not say any such thing, or convey any such idea.

I must say that, so far as I have observed them, the reports of the Associated Press have been utterly worthless, and worse than worthless, for they either convey no idea to the country of what takes place here, or if they do it is generally an incorrect idea. I do not know to what this is owing. I presume there is no design in it. I have been told that certain members take care to write out an abstract of their own remarks and to furnish it to the telegraphic reporter, and that such abstracts are sent when furnished. If that is the case, the result is that where a speech is thus prepared for publication, the reply to it does not stand an equal chance with the speech itself of being disseminated.

The effect upon Senators, however, is of no consequence comparatively; the effect upon the country is of great consequence. The debate yesterday was very full for the subject-matter, but as it has gone out to the country and all over the country, the inevitable inference would be that we were charged here with unfriendliness to the Administration and not supporting the President's policy, and that the only reply we made was substantially that we did not want to support it, for that is about the amount of it—an utterly false and untrue statement, as all gentlemen present must know.

While I say that I am not aware that we can do anything to help ourselves in this matter, it is well that the country should understand, in the first place, that the Senate is not in any degree responsible for the reports that are made of its proceedings by the Associated Press, and in the next place that the Senate disclaims the correctness of the reports as made. If they go out from this body in the way they have gone out heretofore, to the extent of my observation, it should be understood that the Senate does not consider itself as represented in any way by the reports that are thus made. I certainly do not wish to be so considered, because really while I pay very little attention and care very little about being reported at all, I do not want to be put entirely in a false position before the country, but I do not see that I can help myself.

Mr. DOOLITTLE. Mr. President, I agree entirely in the object of my honorable friend from Iowa [Mr. GRIMES] in the introduction of this resolution. I introduced a similar resolution in the last Congress with only this difference, that my resolution was referred to the Committee on Printing, and this is directed to the Committee on the Library. But I do not agree with my honorable friend from Maine [Mr. FESSENDEN] in saying that we have no power in our hands to correct this great evil, for I admit that it has been in the proceedings of the Senate a great evil that the first telegraphic impressions of what is done here have carried only half what has been done. Sometimes one

speech is reported in full and another speech is left out altogether; and we all know that the truth half told is a falsehood always. I believe it is in our power to correct it. Inasmuch as we are at great expense to have the proceedings of this body published in the *Globe*, now under the operation of the telegraphic system, when we know that the great mass of the people read only telegraphic reports, we can take hold of the matter of the telegraphic reporting of the proceedings of this body and have it right and according to the truth, and if it be necessary we can have the agents of this Associated Press submit their report for correction to the reporter of the Senate, or we can ourselves employ some person who can condense the proceedings every day in behalf of the Senate and make a faithful, true account of everything that is said and done, and have that furnished for the telegraphic dispatch.

Mr. WILSON. Suppose they do not choose to print it?

Mr. DOOLITTLE. Then we will not let them have the privilege of reporting at all. We will shut them from the gallery, and not allow any telegraphic dispatches to be made of the proceedings in the Senate. Sir, we are not powerless; we have the power, if we choose, to appoint a reporter who shall make telegraphic reports of the proceedings of this body. However, I will not go into the discussion of that matter. I am glad the question is brought up and is to go to the Committee on the Library, and I hope they will take hold of it and have it made right. As to the telegraphic report of what proceeded here yesterday, I have not seen it at all, and certainly I hope my honorable friend from Maine did not mean to intimate, in anything that he has said, that I had furnished anything of my speech to the telegraphic reporters.

Mr. FESSENDEN. I did not mean it for anybody in particular. I merely said that I had heard that some gentlemen had been in the habit of doing it. I did not find any fault with it, because, if they feel as we have felt, that the ordinary reports convey no sort of correct idea of what is said here, they are right in wishing, if anything is said about their remarks, that it be correctly said.

Mr. DOOLITTLE. I have never done anything of that kind in my life.

Mr. BROWN. I do not rise to insist on the importance of a report of this character, because I believe that every Senator has felt the necessity of it very fully. I simply wish to make one suggestion in regard to it, and that is, that if the Senate will authorize a report to be made by its own reporter, there is no doubt that the demand for it throughout the country will be such as to compel the Associated Press to adopt it. It will be known everywhere that there is an authentic report of the proceedings of the Senate of the United States, and telegraphic companies and newspapers will be governed by the demand which will be for the authentic document. I think, therefore, that it will be perfectly possible for us to obviate this difficulty in the manner that has been suggested by the Senator from Iowa.

Mr. WILSON. I doubt very much whether we can correct the evil complained of. We are at the mercy of the press of the country that employ their own letter-writers here and employ their own reporters. This matter has been suggested before, and some of the leading journals of the country came out and stated that the country took but little interest in the debates of Congress, that they had to report the proceedings, the business done, and that they had of necessity to make the reports of the debates very brief. Now, sir, I undertake to say that if Senators' speeches are to be reported very briefly, they will always be so reported as not to be correctly understood by the country. I think every person who has addressed public meetings and had mere abstracts of his speeches made has always felt that he was not well understood by those who read the report of his speech. I never addressed a public meeting in my life and was so reported, that something

was not reported contrary to what I should have liked to have it reported. But, sir, I think, with all the difficulty, that our reports have been singularly unfortunate; at any rate during the last two or three years, and never more so than in the case of the report of yesterday's proceedings, and it does seem to me to be almost inexcusable. I am glad, however, that the matter is called up; if anything can be done, if we can have abstracts of our debates properly reported and sent over the country, it will be some advantage, for the people of the country rely upon telegraphic reports and not upon the debates as published in the *Globe*. Very few persons see that, or care anything about it. In fact the telegraph, while it carries news all over the country, carries far less information of the doings of Congress than existed before we had any telegraphs at all. I have not a doubt that the people of the country understand less the daily doings of Congress than they did when they waited for the regular reports that came along a few days after and were published in the public press. They do not so well understand our proceedings as they did before; but we have got to accept this state of things, and it does not do much good to find fault. I am glad, however, that this motion is made; possibly something may come of it.

Mr. ANTHONY. The Senator from Wisconsin has referred to the fact that at the last Congress this subject was entertained by the Senate and referred to the Committee on Printing. I will state to the Senate what disposition that committee made of it. We addressed letters to the representatives of the Associated Press and to some of the leading newspapers to ascertain if they would take an official report of the proceedings of the Senate if furnished to them by our own reporters; but they declined to do it. The ground which they stated was that it would place the press in the power of the Senate, that they wished to have their own reports. I suppose one reason was an apprehension that the expense would be much heavier than their present arrangement. I suppose there is another reason. Some of the very large and exceedingly rich newspaper establishments in New York are not particularly desirous that the report of the Associated Press shall be very long, so that it may be necessary for the public to find a more extended report in the special dispatches which they can afford to pay for, and which the weaker papers cannot afford to pay for. But I think it is only justice to those who report the proceedings of the Senate to state that after this inquiry which we made the reports were very much improved.

It is the object of the press of course, it is the object of any newspaper that undertakes to print the proceedings of Congress, to print them as accurately as possible; and the inaccuracies of which Senators very justly complain, I have no doubt, are inadvertent, and are inseparable from the system of making an abstract of a debate as it goes on. No man can do that. As the Senator from Iowa has observed, when a Senator gets up to speak the reporter does not know whether he is to speak five minutes or two hours; and if he makes an abstract and sends off a little at a time as the speaker goes on, he may find at the conclusion that he has sent off the least important part of the speech, and then there is no time for the more important. Then, again, a speech that is made in the early part of the day has a much better chance to be reported than one that is made late; and for the benefit of those Senators who are in the habit of detaining us pretty late here I beg to suggest that their speeches are not near as apt to be reported, and cannot be as accurately reported, as they would be if they spoke in the early part of the day and allowed us to adjourn about dinner time. [Laughter.] The only way to make an accurate report of the proceedings of a legislative body is to commence after the body has adjourned and then make the abstract. If the Senate will appoint reporters to do that duty, and will also pay the expenses of telegraphing

that report, the newspapers would all be very glad to take it; but otherwise I do not see how we can get much improvement upon the present system.

While I am up, I will say a word upon the practice to which my friend from Maine alluded—I believe he disavowed any intention to stigmatize it as improper—on the part of some Senators to give abstracts of their speeches to the reporters. As I never make speeches, of course I need make no disavowal of such a practice on my part; but I think it is a good practice. If a gentleman makes a speech here, he of course desires that if reported at all it shall be reported correctly. He may be indifferent to its being reported at all; but he does not want to be reported (as the Senator from Maine says he has been) as having said the reverse of what he did say. I think it is a very excellent plan for a Senator to write eight or ten lines giving the substance of what he said, or at least the side upon which he spoke or the points he made, and hand that to the telegraphic reporter, in which case I have no doubt it would always be forwarded.

Mr. POMEROY. I only desire to say that I sympathize very much with what has been said. In my own State there is scarcely anything published of the proceedings of Congress except the telegraphic dispatches of the Associated Press. I would not complain particularly in regard to those dispatches if they simply stated the facts; but I find myself reported as voting on a side that I never voted on; I find myself reported as being on committees that I never was on; I find myself reported as being left off committees that I am on. My complaint is that facts are not reported correctly; not simply that what we say is not properly represented, for I never expect to say very much, and it is of very little consequence to me whether they report my remarks correctly or not; but what I do and the way I vote I do want to be reported correctly about, for what a man does I consider vastly more important than what he says, and when I vote or act I certainly want to be reported correctly.

Mr. JOHNSON. I ask for the reading of the resolution.

The Secretary read it, as follows:

Resolved, That the Committee on the Library on the part of the Senate be instructed to inquire and report to the Senate what action, if any, may be necessary to secure more accurate telegraphic reports of the proceedings of this body for publication by the Associated Press.

Mr. JOHNSON. I have no possible objection to the passage of the resolution, but I do not see exactly how what is proposed to be done under it can be accomplished.

Mr. GRIMES. That is what we are going to inquire.

Mr. JOHNSON. I understand. I merely rise for the purpose of expressing my own opinion on what I understand to be the object of the Senator from Iowa. Every man has a right to be in the gallery; every man has a right to send anything to the press that he thinks proper, responsible only for the abuse of that right to the party whom he may injure. We can exclude from the gallery, of course, a particular reporter, but others will take his place; or the same man may come in, not in the capacity of a reporter, and send to the press what he thinks right. I think, perhaps, we shall involve ourselves in very serious difficulty by adopting a course of that kind, if that should be the course adopted, because it would bring, I apprehend, upon the Senate the general animadversion of the press; it would be considered as an interference with the freedom of the press.

In common with everybody, I have noticed the very incorrect reports that frequently get into the papers by means of the telegraph; but so far as the reports of the Senate are presented to the public by the reporters who are on the floor of the Senate, I suppose we will all admit that reports never were more accurate and more just. There has been no partiality, as far as I am aware, shown in those reports to any member of the Senate, and no exhibition

of any prejudice against any member of the Senate. Everything has been put down exactly as it occurred. So far as I am concerned, perhaps if I had been consulted, I should rather have had omitted some things that did occur.

But I merely suggest, as matter to be considered by the committee, the difficulties which seem to me to exist in adopting any rule which will effectually cure the mischief which the country is now sustaining, and the injury which perhaps the Senate to a certain extent is suffering. I do not think, however, the mischief is very great. I do not think any member of the Senate suffers very materially by these telegraphic reports. His course is known to his own people finally. What his conduct has been, they in some way or other become familiar with, and they are sure to approve it if they think it is right. They will not listen long to any misrepresentation that may be made by any of the reporters in the gallery, or anybody else.

Mr. GRIMES. The idea never entered into my head to expel anybody from the gallery. I believe the Senator from Wisconsin suggested that under certain circumstances that might be done.

Mr. JOHNSON. That is what I heard.

Mr. GRIMES. But I never contemplated any such proposition, and did not entertain any such idea when I submitted the resolution. I have no doubt that it is possible to make short telegraphic reports as accurate as the Senator has very truly said are the reports that are prepared by Mr. Sutton, and under his direction, and I do not know but that it is just as important to the country, to our constituents, and to ourselves, that the reports that go out from here and are published all through the country weeks and months in advance of the more accurate and more voluminous reports that are to follow should not be also as accurate as they are. It is for the Committee on the Library to ascertain whether or not it will not be possible to make more accurate brief reports. I believe the Senator from Missouri is right in the opinion which he expressed here that if we cause accurate reports to be made after the transactions of the day have ceased, by the stenographers who have an opportunity to see and hear exactly what has been done during the day, so that the editors of newspapers throughout the country will know that it is possible to get accurate reports, then they will be very apt to pay for those reports, and to print them rather than to print erroneous ones, such as they have hitherto been in the habit of printing. It is for the purpose of investigating that subject, not to foreclose anybody's judgment upon it, that I introduced the resolution.

Mr. FESSENDEN. I think the honorable Senator from Maryland is mistaken in supposing that these things do no harm. They do very serious injury for a while, though after a time they can be undoubtedly corrected. I can give him an instance in my own case. I very seldom read them, but my attention has been sometimes called to them, and then I have done so. A certain gentleman who resides in Massachusetts, and is a very distinguished lecturer on all subjects connected with government, went to my town to deliver a lecture. He came out in the presence of my own townsmen, friends, and relations, and made a most bitter attack upon me for, as he said, opposing the proper payment of colored soldiers. He indulged in a regular tirade upon my conduct on that occasion. As it happened, the Globe had been received by one or two friends there, and after he got through a friend of mine went to him and said, "Mr. So-and-So, have you read Mr. Fessenden's speech on that subject?" "Oh, no, sir, I have not read it." "Where do you get your information?" Said he, "I get it from the Associated Press." "Well," was the reply, "here is the speech; if you will read it you will find that the statement of the Associated Press is altogether untrue; there is no correctness about it at all." Well, he said, he relied upon that, he made his speech upon that. It created so much excitement in my city among a certain class of people that I was

obliged to request the editor of a paper there to publish my remarks in full as reported in the Globe, which he did; and that put an end to it, though I believe the gentleman who delivered the lecture is not satisfied to this day that he is not right and is not usually, I believe, when he has made a very severe attack on an individual.

Mr. DOOLITTLE. I can state an instance of the same kind. When the question of abolishing slavery in the District of Columbia was pending here, some person assuming to give an account of the proceedings of the Senate telegraphed to one of the newspapers that circulates throughout the northwestern section of the country that I opposed emancipation in the District of Columbia, and, though subsequently some of the newspapers published my remarks on the occasion and my votes on it, there are hundreds of people who believe to this day that such is the fact, so that these first reports which are published as the telegraphic reports of the proceedings of the Senate have really more influence in forming the public mind than the regular reports that are published in the Globe, and therefore there is a necessity, or at all events a very great propriety, that those reports should be correct in the first instance.

In reference to what was said about expelling persons from the Senate gallery, I certainly would not be understood as saying that I had any intention to expel any one; but when the question was put to me what power have we, I answered that if any man using this Chamber misrepresents the proceedings here and publishes a false account of them, we have it certainly in our power to deny him the privilege of being in the Senate Chamber or sitting in the gallery; that was all I said.

Mr. ANTHONY. I agree with what has been said by all the Senators who have spoken, that it is very desirable that we should have more accurate reports than we ever have had or ever can have under the present system. There is just one way to do it, and that is to pay for it. If the Senate desires to have prepared at the close of each day's session an abstract of the day's proceedings, and then to pay the expense of telegraphing it, the country will see the proceedings as they take place; but I do not believe anything short of that will accomplish the object. Rather than expel the reporters from the gallery, I would invite them to take seats in front of the Clerk's desk, for it is almost impossible for them in the gallery to hear with perfect accuracy what is said on the floor. I have wondered that the Associated Press has not applied for permission to seat a reporter on the floor of the Senate. I think it is almost as important that the reporter of the Associated Press should have a seat there as that the reporters of the Globe should have.

Mr. COWAN. I hope that if this subject is referred to a committee, that committee will inquire into the propriety of a law requiring all those who set themselves up to enlighten the community and report facts to sign their names at the end of that which they write, and that they be responsible for what they say and report.

Mr. SUMNER. That is Louis Napoleon's plan.

Mr. COWAN. That is the mode in France. He who undertakes to write for a newspaper there must put his name down, so that the people may know who he is and what his means of information are, what his character may be for truth and veracity, what may be his motives for misrepresentation. That would to some extent furnish a remedy for that of which gentlemen complain, of which I never have complained.

There is now, however, an arrangement which I think will obviate some of this difficulty. I understand that the publishers of the Globe are willing to furnish to members copies of the Daily Globe in lieu of those bound copies of the Congressional Globe which they usually furnish long after the session has closed, and which are hardly ever read by anybody. If copies of the Daily Globe are now circulated to the country press they will be enabled to correct any misrepresentations or any errors that

occur through the medium of the Associated Press dispatches.

Mr. ANTHONY. That will not remedy it, because the Daily Globe cannot be sent by telegraph, and it is the first impression upon the mind which lasts.

Mr. COWAN. The Daily Globe will enable editors to correct their means of information, to correct errors in it.

Mr. ANTHONY. But they are too busy with the errors of to-day to correct those of yesterday.

Mr. COWAN. Then I suppose the mistake is incurable.

Mr. SAULSBURY. As the Associated Press seems to have no defender on this floor, I am inclined on this occasion to follow the example which I sometimes set in courts of justice, and volunteer to act in its behalf. I am under no obligations to the Associated Press or any other papers in the United States that I know of; but the conclusion at which I have arrived, after listening to all this debate is that if the Associated Press have not reported the gentlemen on the other side correctly, they have done them a great favor. Their charge against the Associated Press is that they have reported them exactly contrary to what they did say. If that be true, I think they are under great obligations to the Associated Press. [Laughter.] Take the example, for instance, of my friend from Wisconsin, [Mr. DOOLITTLE.] He says that when the subject of abolishing slavery in the District of Columbia was before this body the Associated Press reported him as being opposed to that measure. If the country only believed that, I think it was doing the Senator a great favor. If the people can only believe that five or ten years hence, I apprehend that honorable Senator will stand much higher in public estimation as a legislator than he does now, however high he worthily stands now. I think, therefore, that if the reports be in fact incorrect, if the exact words spoken on this floor have not been given, the intention of the reporters has been good, and unwittingly they have done gentlemen very great service.

The resolution was agreed to.

REPORTS FROM COMMITTEES.

Mr. MORRILL. The Committee on the District of Columbia, to whom was referred the bill (H. R. No. 24) to amend an act entitled "An act providing for the selection of jurors to serve in the several courts of the District of Columbia," have instructed me to report it back and recommend its passage. I ask for its present consideration.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the bill? It requires unanimous consent.

Mr. DAVIS. I object.

CATTLE DISEASE.

Mr. SHERMAN. The Committee on Agriculture, to whom was referred the bill (H. R. No. 23) to prevent the spread of foreign diseases among the cattle of the United States, have directed me to report it back without amendment. As the bill is of a nature which ought to be passed promptly, if at all, I ask for its immediate consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. Its first section prohibits the importation of cattle, and makes it the duty of the Secretary of the Treasury to make such regulations as will give the law full and immediate effect, and to send copies of them to the proper officers in this country, and to all officers or agents of the United States in foreign countries. The second section provides that when the President shall give thirty days' notice, by proclamation, that no further danger is to be apprehended from the spread of foreign infectious or contagious diseases among cattle, the act shall be of no force, and cattle may be imported in the same way as before its passage.

Mr. POMEROY. I suggest whether there ought not to be some time allowed before this prohibition goes into effect. There are parties who have given orders for cattle and for other

animals that may be now on the passage and almost ready to land. I know of some such myself. They gave these orders under the law as it then existed, as they had the right to do. Now we come in and say that they shall not land them; the cattle shall not be received. It occurs to me that this law should not go into effect under thirty or sixty days, so as to give parties engaged in this business a little notice. I would suggest some amendment of that kind. I know that the Senator from Massachusetts has a large constituency engaged in this work, and that they are now about to land a large amount of cattle. It would be a great hardship to them for Congress to come in and pass a law prohibiting the importation, just as they were about to receive their cattle. I think there ought to be some notice given, thirty or sixty days.

Mr. CLARK. I inquire of the Senator from Kansas if it would not be a greater hardship to have those cattle come in if they be diseased.

Mr. POMEROY. That might be, but we have no evidence that any disease has come to this country; of late I mean. There was a disease brought here some years ago I know, but during the last four or five years there has been no disease that I know of introduced.

Mr. CLARK. Very true, we have no evidence that they are diseased or will be diseased, but it is the risk that they may be diseased that we want to avoid.

Mr. POMEROY. You might as well pass a law that nobody shall come here because he may bring cholera. You might as well pass an act that no immigrants shall come to this country and no vessels.

Mr. CLARK. We put them in quarantine. Mr. POMEROY. Then provide in this bill that there shall be an inspection of the cattle that shall arrive, during the next thirty days, if you please.

Mr. SHERMAN. The necessity of this bill is founded on facts of general notoriety. It is well known that in England and in Germany the cattle disease is prevailing to an alarming extent, destroying whole flocks and herds, and immense quantities of valuable property. This is a mere temporary measure intended to guard against the spread of the disease in the United States. The measure has been called for by the agricultural societies from almost every State in the Union. Perhaps the Senator from Massachusetts will remember that a few years ago the importation of a single cow into that State destroyed a very large amount of property. There is no way by which we can establish a quarantine of cattle; it would be idle to undertake a system of quarantine; and this measure has been devised merely for the purpose of guarding against an immediate danger. It is temporary in its character. As soon as the danger passes away, proclamation will be made by the President, and the regulations provided for by this act will cease.

The bill was passed, after some little consideration, in the House of Representatives, unanimously, and I trust it will be passed here. If it is passed at all, it ought to be passed immediately and to take effect immediately. To give a notice of sixty days or even thirty days, to allow cattle now on the way to arrive here, might probably be more just to the importer, but it might endanger the property of thousands and millions of our own citizens. It is better that the importers shall suffer a little hardship and reexport the cattle if on the way. I do not think there is any serious difficulty in the way, nor that any serious injury will be done by the passage of the bill as it is.

Mr. SUMNER. I should like to ask the Senator from Ohio if he has considered whether this bill during the two coming weeks may not interfere with the reciprocity treaty?

Mr. SHERMAN. That has been considered: the objection was made in the House of Representatives. I do not think the reciprocity treaty prevents us from excluding the importation of any article. The reciprocity treaty merely provides that certain articles of

commerce imported from Canada to this country shall be relieved from the duty that would be imposed if they were imported from some other country. That is the effect of the treaty. It is supposed that this does not interfere with the treaty; but if it does, the second clause of the first section authorizes the Secretary of the Treasury to make such regulations as will obviate any difficulty of that kind. I do not think it is an infraction of the treaty to prohibit the importation of cattle as a mere sanitary measure, because the meaning of the treaty is simply to give certain articles, the products of Canada, the privilege of being imported free of duty; and that does not prevent the Government of the United States from prohibiting the importation of a particular article entirely for sanitary or other purposes.

Mr. SUMNER. I will simply observe to the Senator from Ohio that if the difficulty to which I referred arising out of the treaty has been anticipated, as seems to be the case, I have nothing further to say. I had proposed to suggest the insertion of these words after the prohibitory words in the first section: "so far as the same can be done without violating treaty stipulations with any foreign Power;" but the Senator calls the attention of the Senate to the second clause of the first section which seems to give to the Secretary of the Treasury sufficient power to reach this difficulty. It is with that understanding, therefore, that I shall not press the point any further.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS REFERRED.

On motion of Mr. SUMNER, the bill (S. No. 2) to preserve the right of trial by jury by securing impartial jurors in the courts of the United States, and the joint resolution (S. R. No. 1) proposing an amendment to the Constitution of the United States, were severally taken from the table, read a second time by their titles, and referred to the Committee on the Judiciary.

On motion of Mr. SHERMAN, the bill (S. No. 11) to restore Lieutenant Joseph Hyffe to his grade in active service in the Navy, was taken from the table, read the second time by its title, and referred to the Committee on Naval Affairs.

OFFICERS PAID ILLEGALLY.

Mr. SUMNER. I now ask the Senate to take up the resolution on the table to which the Senator from Maryland objected the other day, that we may make an amendment in it, according to his suggestion, and pass it.

The motion was agreed to; and the Senate resumed the consideration of the following resolution:

Whereas it is provided by act of Congress that every person, in the civil, military, or naval departments of the public service, excepting the President of the United States, shall, before entering upon the duties of his office, and before being entitled to any of the salary or other emoluments thereof, take and subscribe a certain oath in prescribed form, and it is further provided in another act of Congress (February 9, 1863, chapter twenty-five, section two) that "no money shall be paid from the Treasury of the United States to any person acting as an officer, civil, military, or naval, as salary in any office, which office is not authorized by some previously existing law, unless where such office shall be subsequently sanctioned by law;" and whereas it is reported that, notwithstanding these acts of Congress, certain persons have been allowed to enter upon the duties of office and to receive the salary and emoluments thereof, without taking the prescribed oath, and certain other persons have been appointed to offices "not authorized by any previously existing law;" Therefore,

Resolved, That the Secretary of the Treasury be requested, so far as the records of his Department allow, to furnish to the Senate the names of any persons who have been permitted to enter upon the duties of office, and to receive the salary and emoluments thereof, without taking the oath prescribed by Congress; also, the titles of such offices, with an account of the salary and emoluments thereof, and out of what fund the same have been paid; also, the names of any persons who have been appointed to any office "not authorized by some previously existing law," and if the same have received any salary, what it was, and out of what fund it has been paid.

The pending question was on the amendment of Mr. JOHNSON to strike out the preamble and

also all of the resolution after the word "resolved," and to insert the following in lieu thereof:

That the Secretary of the Treasury be requested to inform the Senate whether there are any persons in the civil, military, or naval service of the United States, except the President of the United States, who are discharging the respective duties of such offices, and who are receiving the pay and emoluments thereof, without having complied with the provisions of the acts of Congress of February 9, 1863, chapter twenty-five, section two, and if there be, that he state his reasons for the same; and also whether there be any persons appointed to any offices "not authorized by some previously existing law," and receiving salary, and if so, what it was, and out of what fund it has been paid, and the reasons for the same.

Mr. SUMNER. I propose to strike out all of the resolution after the word "resolved" and insert what I send to the Chair, which embodies completely the idea of the Senator from Maryland.

Mr. JOHNSON. The Senator from Massachusetts may alter the resolution as he proposes. I have seen that alteration and it meets the objection that I had to the original resolution. I therefore withdraw, with the permission of the Senate, the amendment that I proposed the other day.

The PRESIDENT *pro tempore*. The amendment proposed by the Senator from Maryland is withdrawn, and the following modification of the resolution is offered by the Senator from Massachusetts: to strike out all after the word "resolved" and insert what will be read.

The Secretary read, as follows:

That the Secretary of the Treasury and the Secretary of War be requested, so far as the records of their respective Departments allow, to inform the Senate whether any persons have been permitted to enter upon the duties of office and to receive the salary and emoluments thereof, without taking the oath prescribed by Congress; or, if they have taken it, adding thereto explanations; and also, whether persons have been appointed to any office "not authorized by some previously existing law;" and if any persons have been so permitted or appointed, then to report if the same have received any salary or emoluments, and what they were, and out of what fund they have been paid, with the reasons for such permission or appointment; and also the explanations, if any, assigned by such parties at the time of taking such prescribed oath.

The resolution, as modified, was adopted.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 20) requesting the President to suspend any order mustering out the officers of the Veteran Reserve corps until Congress shall take some legislative action in regard to the corps; in which the concurrence of the Senate was requested.

The message further announced that the House of Representatives had concurred in the amendment of the Senate to the resolution of the House for a joint committee to inquire into the condition of the States which formed the so-called confederate States of America.

The message further announced that the Speaker of the House of Representatives had appointed the committee on the part of the House, under the resolution for a joint committee to consider and report by what token of respect it may be proper for Congress to express the sensibility of the nation on the death of the late President, Abraham Lincoln, as follows:

ELIHU B. WASHBURN of Illinois, JAMES G. BLAINE of Maine, JAMES W. PATTERSON of New Hampshire, JUSTIN S. MORRILL of Vermont, N. P. BANKS of Massachusetts, THOMAS A. JENCKES of Rhode Island, HENRY C. DEMING of Connecticut, JOHN A. CRISWOLD of New York, E. R. V. WRIGHT of New Jersey, THADDEUS STEVENS of Pennsylvania, J. A. NICHOLSON of Delaware, FRANCIS THOMAS of Maryland, ROBERT C. SCHENCK of Ohio, G. S. SHANKLIN of Kentucky, GODLOVE S. ORTH of Indiana, J. W. McCLURG of Missouri, F. C. BEAMAN of Michigan, J. A. KASSON of Iowa, I. C. SLOAN of Wisconsin, WILLIAM HIGBY of California, WILLIAM WINDOM of Minnesota, JAMES H. D. HENDERSON of Oregon, SIDNEY CLARKE of Kansas, and KELLIAN V. WHALEY of West Virginia.

PROTECTION OF FREEDMEN.

Mr. WILSON. I move to take up Senate bill No. 9, to maintain the freedom of the inhabitants in the States declared in insurrection and rebellion by the proclamation of the President of the 1st of July, 1862.

The motion was agreed to.

Mr. WILSON. I should like to have the bill read.

Mr. COWAN. Has that bill been referred to any committee?

Mr. WILSON. No, sir, it has not. It may be referred if Senators desire it, but I do not wish to have it referred.

The PRESIDENT *pro tempore*. The reading of the bill is asked for. It will be read.

The Secretary read it, as follows:

Be it enacted, &c., That all laws, statutes, acts, ordinances, rules, and regulations, of any description whatsoever, heretofore in force or held valid in any of the States which were declared to be in insurrection and rebellion by the proclamation of the President of the 1st of July, 1862, whereby or wherein any inequality of civil rights and immunities among the inhabitants of said States is recognized, authorized, established, or maintained, by reason or in consequence of any distinctions or differences of color, race, or descent, or by reason or in consequence of a previous condition or status of slavery or involuntary servitude of such inhabitants, be, and are hereby, declared null and void, and it shall be unlawful to institute, make, ordain, or establish, in any of the aforesaid States declared to be in insurrection and rebellion, any such law, statute, act, ordinance, rule, or regulation, or to enforce or to attempt to enforce the same.

SEC. 2. *And be it further enacted*, That any person who shall violate either of the provisions of this act shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than \$500 nor exceeding \$10,000, and by imprisonment not less than six months nor exceeding five years; and it shall be the duty of the President to enforce the provisions of this act.

The PRESIDENT *pro tempore*. The bill is now before the Senate as in Committee of the Whole, and is open to amendment.

Mr. COWAN. I move the reference of the bill to the proper committee, the Committee on the Judiciary I should think. I object to its consideration now.

Mr. WILSON. Before the question is taken on the motion of reference, I desire very briefly to explain the bill and the reason for its introduction. The bill is based upon the proclamation of the President of July 1, 1862, which declared certain States to be in insurrection and rebellion. The proclamation of the President of the 22d of September, 1862, declaring emancipation, pledged the faith of the Government of the United States that the executive government, including the Army and Navy, would maintain the freedom of the persons declared to be free; and this pledge was repeated in the proclamation of the 1st of January, 1863. The Government of the United States, therefore, stands pledged to three and a half millions of persons to maintain their freedom. Whatever differences of opinion may exist in regard to the right of suffrage, I am sure there can be no difference of opinion among honest and just men in regard to maintaining the civil rights and immunities of these freedmen; they should stand at any rate like the non-voting white population of those States.

It has been said that the slave codes and the laws of these States in regard to persons of color fell with slavery, but in fact those laws are being executed, and in some of them in the most merciless manner. In several of these States new laws are being framed containing provisions wholly inconsistent with the freedom of the freedmen. A bill is pending before the Legislature of South Carolina making these freedmen servants, providing that the persons for whom they labor shall be their masters, that the relation between them shall be the relation of master and servant. The bill, as originally reported, provided that the freedmen might be educated; but that provision has already been stricken out, and the bill now lies over waiting for events here. That bill makes the colored people of South Carolina serfs, a degraded class, the slaves of society.

The Senate of Georgia, the telegraph tells us this morning, has passed a bill containing degrading and arbitrary provisions. It regulates

contracts between master and servant. It provides that if over one month, the contract must be made in writing. Work hours, from sunrise to sunset. The servant is responsible for damaging the master's property. Wages are forfeited by leaving. The employer may discharge servants for disobedience, drunkenness, immorality, or want of respect. Leaving services or enticing servants away is a misdemeanor, punishable by a fine of \$600 or imprisonment for four months.

In Mississippi the Legislature passed a bill in which it is provided—

"That if the laborer shall quit the service of the employer before expiration of his term of service, without just cause, he shall forfeit his wages for that year, up to the time of quitting."

That every civil officer shall, and every person may, arrest and carry back to his or her legal employer any freedman, free negro, or mulatto, who shall have quit the service of his or her employer before the expiration of his term of service without good cause, and said officer or person shall be entitled to receive, for arresting and carrying back every deserting employé aforesaid, the sum of five dollars, and ten cents per mile from the place of arrest to the place of delivery, and the same shall be held by the employer, and held as a set off for so much against the wages of said deserting employé, provided that said arrested party after being so returned may appeal to a justice of the peace or member of the board of police of the county, who, on notice to the alleged employer, shall try summarily whether said appellant is legally employed by the alleged employer, and has good cause to quit said employer; either party shall have the right of appeal to the county court, pending which the alleged deserter shall be remanded to the alleged employer, or otherwise disposed of as shall be right and just, and the decision of the county court shall be final.

That upon the affidavit made by the employer of any freedman, free negro, or mulatto, or any other credible person before any justice of the peace, or member of the board of police, that any freedman, free negro, or mulatto, legally employed by said employer has legally deserted said employment, such justice of the peace or member of the board of police shall issue his warrant or warrants, returnable before himself or other such officer, directed to any sheriff, constable, or special deputy, commanding him to arrest said deserter and return him to said employer, and the like proceedings shall be as provided in the previous section; and it shall be lawful for any officer to whom such warrant shall be directed to execute said warrant in any county in this State, and that said warrant may be transmitted without indorsement to any like officer of another county, to be executed and returned as aforesaid, and the said employer shall pay the costs of said warrants and arrest and return, and which shall be set off for so much against the wages of said deserter.

"That if any person shall, or shall attempt to, persuade, entice, or cause any freedman, free negro, or mulatto to desert from the legal employment of any person before the expiration of his term of service, or shall employ any such deserting freedman, free negro, or mulatto, or shall give or sell to any such deserting freedman, free negro, or mulatto, any food, raiment, or other thing, he shall be guilty of a misdemeanor, and, upon conviction, he shall be fined not less than twenty-five dollars and not more than two hundred dollars and the costs; and if said fine and costs shall not be immediately paid, the court shall sentence said convict to not exceeding two months' imprisonment in the county jail, and he shall, moreover, be liable to the party injured in damages: *Provided*, If any person shall, or shall attempt to, persuade, entice, or cause any freedman, free negro, or mulatto, to desert from the legal employment of any person, with the view to employ said freedman, free negro, or mulatto without the limits of the State, such person, on conviction, shall be fined not less than fifty dollars and not more than five hundred dollars and the costs, and if said fine and costs shall not be immediately paid, the court shall sentence said convict to not exceeding six months' imprisonment in the county jail."

This arbitrary and inhuman act makes the freedmen the slaves of society, and it is far better to be the slave of one man than to be the slave of arbitrary law. This act also forbids the leasing of lands or houses outside of the cities, thus making them landless and homeless. A gentleman of rare intelligence, writing from that State, says:

"I regret to state that, under the civil power, deemed by all the inhabitants of Mississippi to be paramount, the condition of the freedmen in many portions of the country has become deplorable and painful in the extreme. I must give it as my deliberate opinion that the freedmen are to-day, in the vicinity where I am now writing, worse off in most respects than when they were held as slaves. If matters are permitted to continue on as they now seem likely to be, it needs no prophet to predict a rising on the part of the colored population, and a terrible scene of bloodshed and desolation. Nor can any one blame the negroes if this proves to be the result. I have heard since my arrival here of numberless atrocities that have been perpetrated upon the freedmen. It is sufficient to state that the old overseers are in power again. The object of the southerners appears to be to make good their often-repeated assertions to the effect that the negroes would die if they were freed; to make it so they seem

determined to goad them to desperation in order to have an excuse to turn upon and annihilate them."

A bill is now pending in the Legislature of Louisiana, which provides—

"That any adult freedman or woman shall furnish themselves with a comfortable home and visible means of support within twenty days after the passage of this act."

That any freedman or woman failing to obtain a home and support, as provided in the first section of this act, shall be immediately arrested by any sheriff or constable in any parish, or sheriff, constable, or police officer in any city or town in said parish where said freedman may be, and by them delivered over to the recorder of the parish in which they are arrested, and by him hired out by public advertisement to some citizen, being the highest bidder, for the remainder of the year in which they are hired.

"That every freedman or woman who contracts, will have a book countersigned by the recorder of the parish where he lives, when he or she first engaged their services after the passage of this act, in which will be recorded their name, age, and place where he or she last lived, and a certificate of his or her character and habits, and the length of time and to whom engaged, and the name of the employer. In case of his changing his employer, the consent of his former employer shall be entered on said book, before he shall be employed by any other person."

"That in case of the death of the employer, his heirs, or he who acquires his property, is bound by the contract with the laborers in the condition the deceased was, and the laborer on his part is bound to the new proprietor according to the terms of the previous contract. In case of the laborer leaving his employer's service without his consent, when taken will be assigned to labor on some public work without compensation until his employer reclaims him."

"General conversation will not be allowed during working hours; for any disobedience a fine of one dollar; failing to obey reasonable orders, neglect of duty, and living home without permission, will be deemed disobedience. No live stock will be allowed the laborers without the permission of the employer; all lost time from work hours (unless in case of sickness) the laborers will be charged twenty-five cents per hour; all lost time from home without leave will be charged at the rate of two dollars per day. All difficulties arising between the employers and laborers will be settled by the former, and if not satisfactory to the laborers an appeal may be had to the nearest justice of the peace, and two freeholders, citizens, one of said citizens to be selected by the employer and the other by the laborer."

"That any laborer contracting by the day, week, month, or year, or for a term of years, who leaves his employer without his consent, the employer shall have right to obtain a warrant from any judge or justice of the peace, directed to a sheriff or constable, who shall immediately arrest said laborer and deliver him to his employer."

Abraham Lincoln, in that proclamation that made his name dear to our common humanity, made the slaves of Louisiana free, forever free. Has that State a right to enact a measure to demean, degrade, enslave the men Abraham Lincoln made free?

I have prepared this bill to declare these laws in the States in insurrection and rebellion null and void, and if the bill should pass, the Army and the Freedmen's Bureau can arrest the execution of these arbitrary laws. The execution of these laws is arrested now in some places, but they are executed in the large portions of the States in insurrection and rebellion in a most oppressive and arbitrary manner. Our right to annul those laws I do not think anybody can question. Our right to declare void laws that practically make slaves of men we have declared to be free in those rebel States cannot be questioned. This bill is not based on the constitutional amendment, but on the fact that these States are in insurrection and rebellion. They have been so declared; they are legally so now. We have a right to declare these laws null and void, and I think, as a matter of humanity, we ought at once to do it. The crimes, the wrongs, the outrages that are perpetrated upon these hapless freedmen are shocking to our common humanity. I have letters from many of our officers, men of the highest character, setting forth the condition of affairs in many of these States. There are other Senators who have received letters and communications from men of character, describing outrages and cruelties that are perpetrated upon these freedmen.

This bill has been drawn with great care. I have submitted it, severally, to six eminent lawyers—two of them are hardly surpassed by any lawyers in the country. They pronounce it clearly constitutional. Our right to pass this bill I cannot doubt; I never met a man who doubted it. The right is as clear as any right we have to legislate for anything. As a

matter of humanity, to protect these people, we ought promptly to pass this bill, and annul these laws now. Let us pass it at once as an act of humanity and justice, and then we can calmly proceed in our legislation to reorganize, reconstruct, and bring into the Union these States; but while these cruelties and wrongs are being perpetrated, I feel that Congress and all branches of the Government are incurring the indignation of men and the judgments of Almighty God.

In Mississippi rebel State forces, men who were in the rebel armies, are traversing the State, visiting the freedmen, disarming them, perpetrating murders and outrages upon them; and the same things are done in other sections of the country. The power to abrogate such laws is ours; we have the right to do it; and as a matter of humanity; and we ought not to adjourn over Christmas until we have declared such laws to be null and void. I am told by eminent gentlemen connected with the Freedmen's Bureau that where they have the power they arrest the execution of these laws, but as the laws exist they are enforced in the greater portions of those States. If we now declare those laws to be null and void, I have no idea that any attempt whatever will be made to enforce them, and the freedmen will be relieved from this intolerable oppression. Sir, these outrages are carried so far in some portions of the rebel States as to lead judicious men upon the spot to believe and to write that there is great danger that at Christmas there will be bloody outbreaks. Those people are being driven to desperation. There is no doubt of the fact that in a great portion of those States the high hopes, the confidence, and the joy expressed last spring by the freedmen, have passed away; that silence and sorrow pervade that section of the country; and that they are becoming distrustful and discontented. God grant that the high-raised expectations of these loyal and deserted people may not be blasted. God forbid that we should violate our plighted faith.

Now, sir, I should be willing to have this bill referred but for the loss of time that will be occasioned thereby. I think a measure of this character we ought to pass, and pass instantly, as a matter of justice and humanity. I have no desire whatever to say any harsh things of that portion of our country, nor of the men who have been engaged in the rebellion. I do not ask their property or their blood; I do not wish to disgrace or degrade them; but I do not wish that they shall be permitted to disgrace, degrade, or oppress anybody else. I offer this bill as a matter of humanity, as a measure that the needs of that section of the country imperatively demand at our hands. I believe that if it should pass, it will receive the sanction of nineteen twentieths of the loyal people of the country. Men may differ about the power or expediency of giving them the right of suffrage; but how any humane, just, and Christian man can for a moment permit the laws that are on the statute-books of the States in insurrection and rebellion, and the laws that are now pending before their Legislatures to be executed upon men whom we have declared to be free, I cannot comprehend. Therefore, sir, I have introduced this bill, and I should be glad to have it put upon its passage at once. I have consulted with eminent gentlemen connected with the Freedmen's Bureau, and they believe that it will be an immense relief.

Mr. JOHNSON. Do I understand the honorable member as objecting to the reference of the bill to the Committee on the Judiciary, or to any other committee?

Mr. WILSON. I should be glad to have the bill passed now. I am not going to make a fight over the question of reference, but I should be glad to have action upon it at once. The bill has been very carefully drawn, and very carefully examined by some of the foremost minds of this country. I believe it to be entirely constitutional, and to be well drawn, and I should like to have it put on its passage. I

think we ought to act on this subject before the holidays.

Mr. JOHNSON. There are questions that I think this bill will give rise to, on which it is very desirable that the deliberation of the Senate should be very calmly advised. The bill may have been very carefully prepared, and may have received the sanction of some very intelligent and able men; but I am not alone of the members of the Senate who have only for the first time seen the bill this morning, and I confess that on glancing at the bill now, I do not exactly understand what would be, if it became a law, the extent of its operation; nor do I see how it would accomplish the purpose the honorable member from Massachusetts has in view. There are no particular laws designated in the bill to be repealed. All laws existing before these States got into a condition of insurrection, by which any difference or inequality is created or established, are to be repealed. What is to be the effect of that repeal upon such laws as they exist? In some of those States by the constitution or by the laws, (and the constitution is equally a law,) persons of the African race are excluded from certain political privileges. Are they to be repealed, and at once, by force of that repeal, are they to be placed exactly upon the same footing in regard to all political privileges with that which belongs to the other class of citizens? Very many of those laws are laws passed under the police power, which has always been conceded as a power belonging to the States—laws supposed to have been necessary in order to protect the States themselves from insurrection. Are they to be repealed absolutely?

As I said, too, the bill will not accomplish the purpose of the honorable member if I comprehend it. It only repeals the laws which have heretofore been passed. If these States are in the Union, (about which at the proper time I shall have a word to say,) or when they come into the Union, they will have the same right to pass police laws that has been recognized as their right from the beginning of the Government to the present day. No member of this Senate, I am sure, will differ with the honorable Senator from Massachusetts in the wish that there should be no injustice perpetrated which the authorities of the United States can prevent. No man feels more anxious certainly than I do that the rights incident to the condition of freedom, which is now, as I, personally, am glad to believe, the condition of the black race, should not be violated; but I do not know that there is any more pressing need for extraordinary legislation to prevent outrages upon that class, by anything which is occurring in the southern States, than there is for preventing outrages in the loyal States. Crimes are being perpetrated every day in the very justly-esteemed State from which the honorable member comes. Hardly a paper fails to give us an account of some most atrocious and horrible crime. Murders shock the sense of that community and the sense of the United States very often; and it is not peculiar to Massachusetts. Moral by her education, and loving freedom and hating injustice as much as the people of any other State, she yet is unable to prevent a violation of every principle of human rights, but we are not for that reason to legislate for her.

As I have said, Mr. President, it is not my purpose to inquire into the question (about which there are honest differences of opinion) whether the States which were in insurrection are now States of the Union. I have now, and I have had from the first, a very decided opinion that they are States in the Union, and that they never could have been placed out of the Union without the consent of their sister States. The insurrection terminated, the authority of the Government thereby reinstated, *eo instanti* they were invested with all the rights belonging to them originally; I mean as States. Whether the individual citizens of those States have forfeited their own rights by committing treason or by the commission of any other offense is another inquiry; but in my judgment our sole

authority for the acts which we have done during the last four years, the measures which we have adopted in raising armies, was the authority communicated to Congress by that clause in the Constitution of the United States which gives to Congress the power to suppress insurrection. If the power can only be referred to that clause, in my opinion—speaking, I repeat it, with great deference to the judgment of others—the moment the insurrection was terminated, there was no power whatever left in the Congress of the United States over those States; and I am glad to see, if I understand his message—a message, by the by, which, in common with almost the entire country, I admire as one of the ablest, if not the ablest, message that has ever emanated from the executive department of the Government; a message calculated to do immense benefit in the country itself by calming and settling the feelings and the controversies which existed; and a message which is still more calculated, if possible, to place us high in the estimation of the nations of the world—I am glad, I was about to say, to find that in the view I have just expressed I have the concurrence of the President of the United States.

Now, as to these outrages that are said to be perpetrated, (and no doubt to a certain extent it is true,) in the southern States, permit me to say as my own impression, from my knowledge of the people of those States as they now are—I mean the educated portion of those States; the men who have heretofore been in the councils of the country; men who have been the ornaments of civil life in the past, but who have gone astray; they have done so without abandoning at all any of the high moral principles by which their lives were antecedently characterized, and I believe as solemnly as I believe any truth that there is not more humanity now to be found in the humanest (if there be any difference) of the loyal States than is to be found in the States recently in insurrection. They are—and I speak from knowledge derived from conversation with many of the leaders who were engaged in the war—they are now as anxious to return as in their insanity they were anxious to leave us. They have seen the error of their course; they have seen that there was no safety except under the Union of the United States; they have seen that there is to be safety under the protection of the Government of the United States; and they are longing, passionately longing, for an opportunity to return among us and be again with us, brothers.

I have referred to this, Mr. President, merely for the purpose of guarding against an impression which the well-known authority of the honorable member from Massachusetts and his supposed means of information might carry with it, that these States and the men of these States are almost semi-barbarous. It is a mistake. That there are exceptions, I admit. There ever are exceptions. They are to be found in this District, which is especially under your protection by the Constitution of the United States, and they are to be found everywhere else. Crimes are being committed which startle with their enormity, even here. That constitutes no reason, in my judgment, why we should resort to legislation of this description; that is to say, legislation which repeals at once every law to be found upon the statute-books of these States by which supposed inequality has been produced between the different races that may be the inhabitants of those States.

Mr. COWAN. I simply wish to say that I have not moved this reference because I did not sympathize with the design or desire the attainment of the end contemplated by the Senator from Massachusetts. I am in favor, and exceedingly desirous that by some means or other the natural rights of all people in the country shall be secured to them, no matter what their color or complexion may be, and may be secured to them in such a way as that States themselves cannot hereafter wrest them away from them. I am in favor of the position that the courts of the country shall be

open to everybody, Jews, Gypsies, Chinese, negroes, all men of every color and condition, and that they shall be competent as witnesses, unless excluded by crime or want of that religious belief which does exclude in some States of the Union; but I doubt whether the proper mode to attain that end is by legislation in Congress. I think the only way that it can be attained, and securely attained, is by an amendment of the Constitution, and I am in favor of that measure, and that I believe can be carried through during the next month. I think there is a disposition everywhere in the country, even in the southern States, to accord these rights to all men, and when it is done, it is proper that it be well done. I therefore desire that this bill should be referred to the Judiciary Committee, in order that it may undergo an examination in that committee, and that it may be seen whether there is any merit in it whatever. I am afraid there is not, that it would be a mere temporary remedy, and that we would lose more by usurping the power to meddle with it in our legislative capacity than we would gain by its operation in relieving from the difficulties which are suggested.

Mr. WILSON. The Senator from Maryland seems to think that I cast imputations upon the people in the rebel States. Sir, I have no desire to indulge in any harsh criticisms upon the people of that section of the country. We have had bitter contests over the mighty issues of years. The cause of liberty and the cause of country has triumphed; the men who went into rebellion have been defeated in battle; they have been conquered and subjugated; they are at the mercy of the Government of the United States to-day. Now, I repeat what I have said on this floor before, I never entertained an unkind feeling toward the people of that section of my country.

Mr. JOHNSON. I hope the honorable member does not suppose that I am under that impression. I certainly did not mean to intimate it, for I know to the contrary.

Mr. WILSON. I thank the Senator for his explanation; but I will say that I have never entertained a feeling of bitterness or of unkindness to the southern people; that in spite of all that has taken place, I have always regarded those people as my countrymen; wrong and deluded, but still my countrymen. Nor do I wish to impose upon them anything that may be degrading or unmanly; but I wish to protect all the people there of every race, the poorest and the humblest; and while I would not impose any degradations upon them, I would not permit them to impose any degradations upon others.

Sir, I deny the right of these States to pass these laws against men who are citizens of the United States. They are free, and, in the language of Attorney General Bates—

"Every citizen of the United States is a component member of the nation, with rights and duties under the Constitution and laws of the United States, which cannot be abridged or destroyed by the laws of any particular State. The laws of the State, if they conflict with the laws of the nation, are of no force."

But these old slave codes still exist; they are executed in four fifths of the rebel territory to day, and four or five of those States are passing other codes inhuman, unchristian, and inconsistent with the idea that these freedmen have rights. These freedmen are as free as I am, to work when they please, to play when they please, to go where they please, to work at what they please, and to use the product of their labor, and those States have no right to pass such laws as are now pending and have just been passed in some of them.

But, sir, the Senator from Maryland says that cruelties and great crimes are committed in all sections of the country. I know it, but we have not cruel and inhuman laws to be enforced. Sir, armed men are traversing portions of the rebel States to-day enforcing these black laws upon men whom we have made free and to whom we stand pledged before man and God to maintain their freedom. A few months ago these freedmen were joyous, hopeful, confident. To-day they are distrustful, silent, and sad, and this condition has grown out of the

wrongs and cruelties and oppressions that have been perpetrated upon them. The evidence of all, or nearly all of the officers of the United States, of the Freedmen's Bureau, and of the Army, goes to prove that great outrages and wrongs are perpetrated upon these people. I do not think we ought to stand here quibbling over the authority to interfere.

These States have been declared to be in insurrection and rebellion, and they are legally in insurrection and rebellion now. That is the decision of Congress, of the President, and of the Supreme Court. I think we ought to act promptly and act at once, and tell these men who have been for four years in rebellion against the country that we have emancipated three and a half million people by the proclamation of the President, and that the President is pledged, and that the Army and Navy are pledged, to maintain their freedom.

I believe that the constitutional amendment has been adopted, and that under the second section of that amendment we have the power to pass not only a bill that shall apply these provisions to the rebel States, but to Kentucky, to Maryland, to Delaware, and to all the loyal States. But this bill is confined entirely to the States declared by the President to be in insurrection and rebellion, and applies to that population whom we have made free by presidential proclamation.

Sir, the law of Mississippi makes every one of these men whom we have made free practically a slave, and he is in a worse condition to-day than he was when he was a slave, because his master had some interest in protecting and caring for him. To turn these freedmen over to the tender mercies of men who hate them for their fidelity to the country is a crime that will bring the judgment of Heaven upon us.

The evidence is before us; we cannot shut our eyes to facts. The condition of the freedmen is worse to-day than on the day General Lee surrendered to General Grant. Their spirits are less buoyant; they are less hopeful, less confident of their future; and we owe it here in Congress to say that these laws shall never more be enforced, and that these States, at least while they are in rebellion, shall not have power to pass any laws to oppress men whom we have declared free, and to whom we have given the pledged faith of the Republic.

Mr. SHERMAN. Mr. President, I sympathize heartily with the purpose of the bill of the Senator from Massachusetts. I believe it is the duty of Congress to give to the freedmen of the southern States ample protection in all their natural rights. With me it is a question simply of time and manner. I submit to the Senator from Massachusetts whether this is the time for the introduction of this bill. I believe it would be wiser to postpone all action upon this subject until the proclamation of the Secretary of State shall announce that the constitutional amendment is a part of the supreme law of the land. When that is done, there will then be, in my judgment, no doubt of the power of Congress to pass this bill, and to make it definite and general in its terms. The bill now necessarily relates only to the States included in the proclamation of the President. It excludes the States of Kentucky, Delaware, Maryland, West Virginia, and other portions of the South, which were excepted in that proclamation. The moment the constitutional amendment is adopted, then our legislation on this subject may be general throughout the United States. Under the joint resolution proposing that amendment, there is no doubt of the power of Congress over this subject. I must confess my surprise at one or two recent dispatches issued from high officers of the Government in regard to the construction of the constitutional amendment. To me it is plain and obvious. The first section provides that—

"Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

This section secures to every man within

the United States liberty in its broadest terms. The second section provides that—

"Congress shall have power to enforce this article by appropriate legislation."

Here is not only a guarantee of liberty to every inhabitant of the United States, but an express grant of power to Congress to secure this liberty by appropriate legislation. Now, unless a man may be free without the right to sue and be sued, to plead and be impleaded, to acquire and hold property, and to testify in a court of justice, then Congress has the power, by the express terms of this amendment, to secure all these rights. To say that a man is a freeman and yet is not able to assert and maintain his right, in a court of justice, is a negation of terms. Therefore the power is expressly given to Congress to secure all their rights of freedom by appropriate legislation. The reason why this power was given is also drawn from the history of a clause of the Constitution. By this clause of the Constitution, one which has always been a part of our fundamental law, it is provided that—

"The citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States."

This clause gives to the citizen of Massachusetts, whatever may be his color, the right of a citizen of South Carolina, to come and go precisely like any other citizen. There never was any doubt about the construction of this clause of the Constitution—that is, that a man who was recognized as a citizen of one State had the right to go anywhere within the United States and exercise the immunity of a citizen of the United States; but the trouble was in enforcing this constitutional provision. In the celebrated case of Mr. Hoar, who went to South Carolina, he was driven out, although he went there to exercise a plain constitutional right, and although he was a white man of undisputed character. This constitutional provision was in effect a dead letter to him. The reason was that there was no provision in the Constitution by which Congress could enforce this right. Although here was a guarantee that the citizen of one State should have the rights of a citizen in all the States, yet there was no express power conferred upon Congress to secure this right, and no law has ever yet been framed that secured the right of a citizen to travel wherever he chose within the limits of the United States.

To avoid this very difficulty, that of a guarantee without a power to enforce it, this second section of the constitutional amendment was adopted, which does give to Congress in clear and express terms the right to secure, by appropriate legislation, to every person within the United States, liberty. It seems to me, therefore, as a question of time, it is better to postpone all legislation on this subject until the constitutional amendment is declared to be a part of the fundamental law.

Then, as I have said, it is a question of manner. When this question comes to be legislated upon by Congress I do not wish it to be left to the uncertain and ambiguous language of this bill. I think that the rights which we desire to secure to the freedmen of the South should be distinctly specified. The bill provides that all laws, statutes, acts, ordinances, rules, and regulations, of any description whatsoever, heretofore in force or held valid in any of the States which were declared to be in insurrection and rebellion by the proclamation of the President of the 1st of July, 1862, whereby or wherein any inequality of civil rights and immunities among the inhabitants of said States is recognized, authorized, established, or maintained, by reason or in consequence of any distinctions or differences of color, race, or descent, or by reason or in consequence of a previous condition or status of slavery or involuntary servitude of such inhabitants, be, and are hereby, declared null and void, &c.

There is scarcely a State in the Union that does not make distinctions on account of color. Is it wise for us to legislate in regard to all these various subjects without having a full comprehension of what they are? In nearly

every State in the Union there is some distinction. In the State of New York a certain portion of the negro population is allowed to vote, and a certain portion are excluded from voting—those who have not property. In the State of Ohio all those who are nearer white than black are allowed to vote; those nearer black than white are excluded from voting. These are distinctions contained in the laws of what were called the free States—all are free now. Is it the purpose of this bill to wipe out all these distinctions?

I have said that the language of this bill is not sufficiently definite and distinct to inform the people of the United States of precisely the character of rights intended to be secured by it to the freedmen of the southern States. The bill in its terms applies only to those States which were declared to be in insurrection; and the same criticism would apply to this part of it that I have already made, that it is not general in its terms.

It seems to me that when we legislate on this subject we should secure to the freedmen of the southern States certain rights, naming them, defining precisely what they should be. For instance, we could agree that every man should have the right to sue and be sued in any court of justice. No man can be said to be free within the language of the first clause until he has a right to sue and be sued, and to maintain his rights. So with the right to testify, an incident, an inevitable incident to liberty, without which liberty would be but a name. It seems to me even the exclusion of persons from testifying because they have been guilty of a crime is indefensible. I would receive the testimony of anything that could articulate; and sometimes objects without life are the most important elements of testimony. We should secure to these freedmen the right to acquire and hold property, to enjoy the fruits of their own labor, to be protected in their homes and family, the right to be educated, and to go and come at pleasure. These are among the natural rights of free men.

It seems to me, therefore, that when we come to legislate on this subject, it should be in clear and precise language, naming and detailing precisely the rights that these men shall be secured in, so that in the southern States there shall be hereafter no dispute or controversy. And I think we should at as early a day as possible announce to the people lately in insurrection precisely what we mean to do with them. In my judgment the Congress of the United States has now to impose conditions upon which those States shall be restored to their old relations to and in the Union. I want to see these conditions gravely considered, deliberately discussed, and fixed after debate; and I wish to see them plainly prescribed either by amendments to the Constitution or in some definite way, that the people of the southern States may know precisely what we intend to demand of them; and then when we have made our demands we shall be satisfied if they comply with them.

For the present, therefore, I think it would be better to refer this bill and postpone any definite legislation on the subject until the committee already provided for by the resolution of the two Houses shall have reported, or at least until after the constitutional amendment shall be declared a part of the Constitution of the United States by the proclamation of the Secretary of State.

Mr. SAULSBURY. I do not wish to go beyond the limits of propriety in discussing this question, and I should not say a word had it not been for some of the extraordinary and alarming principles avowed here to-day. The honorable Senator from Massachusetts who has introduced this bill, having relation upon its face entirely to the States which are denominated "States lately in rebellion," has expressed the opinion that Congress has the power by its legislation to enter my State and to legislate for my people and for the people of Maryland and for the people of other States which it is not pretended have ever been in revolt; and we are now told that this power is to be de-

rived from the closing paragraph of the act for the amendment of the Constitution. I wish the country to note the fact that when that proposed amendment was before this body there was no Senator then, according to my recollection, that avowed this doctrine.

Gentlemen told us that they simply wished to amend the Constitution so as to get clear of slavery, but no Senator then, according to my recollection, stated to the country that it was meant under this latter clause of that act to give to the General Government the powers of a consolidated Government, to wipe out the States of this Union from existence, and to vest in Congress the power to legislate for the States. I know, sir, that it was said by a distinguished modern patriot in New York that the old Union should not exist, but they meant to tear down the old house and build up a new one; but not even he avowed, nor did any other man, while the subject was under discussion, that it was intended to confer upon Congress, by the passage of that act, power to enter the States and legislate for the people of the States.

Sir, has it come to this, that simply because there has been a revolt in the southern States, and that revolt has been suppressed, we are to forget the lessons of the past, disregard all the experience of the past, all the teachings of the past, and now to blot out entirely our former system of government, and in an insane effort to elevate the African race to the dignity of the white race, to destroy all the rights guaranteed to us by our own State constitutions?

Mr. President, I know that some of us who scented danger in the distance were charged by the public press and otherwise with being disunionists; but the legislation proposed and the legislation which is to be carried through Congress, if it shall be carried through Congress, gives evidence to the country who in fact are the real disunionists of the land. And now, sir, before I sit down allow me to ask this question, why should there be such an anxiety to press upon and degrade the southern people now that the war is over? The history of the world does not show an example where there has been such a sudden and universal acquiescence in the change of the relations of any people to a Government as has been recently exhibited in these southern States. They appealed to arms for the assertion of what they thought or said they thought were their rights; the decision has been against them. Point me, if you can, to the example in history where any people, from the institution of civil government to this present hour, have so generally and so suddenly acquiesced in the changed relations which the war has produced. There is no such example.

They are charged still with being "disloyal." That is a word that I do not know the meaning of when applied to a republican form of government, and I do not wish ever to know the meaning of it. It has no proper place in a republican dictionary as applied to a republican Government. I have met many gentlemen from the South, and I have yet to hear the first man of them who is not earnestly anxious that his State should assume its former relations to the General Government. There has been perfect acquiescence in everything which the President of the United States has demanded, and certainly he has made very great demands indeed. He has asked them to ratify the constitutional amendment. They have done it. He has asked them to abolish slavery. They have done it. And yet, sir, although there is not a particle of resistance from the Potomac to the Rio Grande, or from the Ohio to the Gulf of Mexico, although peace reigns throughout the whole land, we are still told that the rebellion exists. How? Is there any war going on? Is there any opposition to the exercise of the Federal authority? Rebellion is an act.

The honorable Senator from Massachusetts says the President proclaimed that these States were in rebellion. Suppose he did; if the President who made that proclamation were alive to-day and could continue to live and ex-

ercise power for a thousand years, could he continue the rebellion simply because he had issued a proclamation that was still in existence unrevoked by him? Has it come to this, that the fact of the existence of a rebellion is to depend on the word of a President? I thought that rebellion meant resistance to authority, that it meant conflict; but no, the doctrine now is that the President having once said that a rebellion exists, that rebellion continues to exist forever unless the President says it shall cease! Sir, such is not the judgment of the people of this country. Everybody knows that war has ceased, and the rebellion as it is called has ceased. Your judges have so decided. It was so decided only yesterday in one of the courts of this country. What, sir, the President's proclamation to be the evidence of the existence of a rebellion! Verily, during the last four or five years we have had wonderful examples of presidential power; but I never dreamed that that power was so omnipotent that he could create a rebellion by proclamation and continue it for all time by proclamation.

But, sir, on the question immediately before the Senate I wish to say that I am in favor of the proposed reference to the Judiciary Committee, because if it be true that it was the intention of the framers of the constitutional amendment to give such a power as is now claimed to Congress, and if this bill is meant to carry out that assumed power, I should like to have the judgment of the Judiciary Committee on that subject. It is contrary to what the Secretary of State telegraphed to the provisional governor of South Carolina. It is contrary, as we all know, to the spirit and intention of the President's message and his uniform declarations. And here I will take occasion to say that while I did not support Andrew Johnson for the Vice Presidency of the United States, yet as far as he conducts the Government in accordance with the Constitution of the United States, recognizing the States of this Union as composing the Union, recognizing the rights of those States as political communities, I will give him a cordial support in every proper measure of his administration; where he is wrong I will oppose him.

Mr. TRUMBULL. I do not rise, sir, with a view of discussing the bill under consideration: it is one relating to questions of a very grave character, and ought not to pass without due consideration. The Senator from Massachusetts tells us that it has been submitted to distinguished lawyers, and they all conceded its propriety, and nobody disputes the power of Congress to pass it. Doubtless that was their opinion and is the opinion of the Senator from Massachusetts. Perhaps it would be my opinion upon investigation. I will not undertake to say, at this time, what the powers of the Congress of the United States may be over the people in the lately rebellious States.

There was a time between the suppression of the rebellion and the institution of any kind of government in those States when it was absolutely necessary that some power or other to prevent anarchy should have control. The Senator from Delaware, and I believe the Senator from Maryland, said the rebellion was over, but at the time that the rebellion ceased there was no organized government whatever in most of the rebel States; and was the Government of the United States to withdraw its forces and leave the people in a state of anarchy for the time being? Surely not. As a consequence of the rebellion and of the authority clearly vested in the Government of the United States to put down the rebellion, in my judgment the Government had the right, in the absence of any local governments, to control and govern the people till State organizations could be set up by the people which should be recognized by the Federal Government as loyal and true to the Constitution. It must be so. It is a necessity of the condition of things.

But, sir, I do not propose at this time to discuss this bill. It is one, I think, of too much importance to be passed without a reference to

some committee. The bill does not go far enough, if what we have been told to-day in regard to the treatment of freedmen in the southern States is true. The bill, perhaps, also may be premature in the sense stated by the Senator from Ohio. We have not yet the official information of the adoption of the constitutional amendment. That that amendment will be adopted, there is very little question; until it is adopted there may be some question (I do not say how the right is) as to the authority of Congress to pass such a bill as this, but after the adoption of the constitutional amendment there can be none.

The second clause of that amendment was inserted for some purpose, and I would like to know of the Senator from Delaware for what purpose? Sir, for the purpose, and none other, of preventing State Legislatures from enslaving, under any pretense, those whom the first clause declared should be free. It was inserted expressly for the purpose of conferring upon Congress authority by appropriate legislation to carry the first section into effect. What is the first section? It declares that throughout the United States and all places within their jurisdiction slavery nor involuntary servitude shall exist; and then the second section declares that Congress shall have authority by appropriate legislation to carry this provision into effect. What that "appropriate legislation" is, is for Congress to determine, and nobody else.

Mr. SAULSBURY. I wish to ask the honorable Senator a question, with his consent, first answering his own. He asks me for what purpose that second section was introduced. I do not know; I had nothing to do with it. And now I wish to ask the honorable Senator whether, when it was before this body for adoption, he avowed in his advocacy of it that it was meant for such purposes as are now claimed.

Mr. TRUMBULL. I never understood it in any other way.

Mr. SAULSBURY. Did you state it to the Senate?

Mr. TRUMBULL. I do not know that I stated it to the Senate. I might as well have stated to the Senator from Delaware that the clause which declared that slavery should not exist anywhere within the United States means that slavery should not exist within the United States! I could make it no plainer by repetition or illustration than the statement itself makes it. I reported from the Judiciary Committee the second section of the constitutional amendment for the very purpose of conferring upon Congress authority to see that the first section was carried out in good faith, and for none other; and I hold that under that second section Congress will have the authority, when the constitutional amendment is adopted, not only to pass the bill of the Senator from Massachusetts, but a bill that will be much more efficient to protect the freedman in his rights. We may, if deemed advisable, continue the Freedmen's Bureau, clothe it with additional powers, and if necessary back it up with a military force, to see that the rights of the men made free by the first clause of the constitutional amendment are protected. And, sir, when the constitutional amendment shall have been adopted, if the information from the South be that the men whose liberties are secured by it are deprived of the privilege to go and come when they please, to buy and sell when they please, to make contracts and enforce contracts, I give notice that, if no one else does, I shall introduce a bill and urge its passage through Congress that will secure to those men every one of these rights: they would not be freedmen without them. It is idle to say that a man is free who cannot go and come at pleasure, who cannot buy and sell, who cannot enforce his rights. These are rights which the first clause of the constitutional amendment meant to secure to all; and to prevent the very evil which the Senator from Delaware suggests to-day, that Congress would not have power to secure them, the second section of the amendment was added.

There were some persons who thought it was unnecessary to add the second clause. It was said by some that wherever a power was conferred upon Congress there was also conferred authority to pass the necessary laws to carry that power into effect under the general clause in the Constitution of the United States which declares that Congress shall have authority to pass all laws necessary and proper for carrying into execution any of the powers conferred by the Constitution. I think Congress would have had the power, even without the second clause, to pass all laws necessary to give effect to the provision making all persons free; but it was intended to put it beyond cavil and dispute, and that was the object of the second clause, and I cannot conceive how any other construction can be put upon it.

Now, sir, I trust this bill may be referred, because I think that a bill of this character should not pass without deliberate consideration and without going to some of the committees of the Senate. But the object which is had in view by this bill I heartily sympathize with, and when the constitutional amendment is adopted I trust we may pass a bill, if the action of the people in the southern States should make it necessary, that will be much more sweeping and efficient than the bill under consideration. I will not sit down, however, without expressing the hope that no such legislation may be necessary. I trust that the people of the South, who in their State constitutions have declared that slavery shall no more exist among them, will by their own legislation make that provision effective. I trust there may be a feeling among them in harmony with the feeling throughout the country, and which shall not only abolish slavery in name, but in fact, and that the legislation of the slave States in after years may be as effective to elevate, enlighten, and improve the African as it has been in past years to enslave and degrade him.

Mr. SAULSBURY. The honorable Senator says that this second clause of the act proposing the amendment to the Constitution was intended to obviate the very evil which the Senator from Delaware now indulges in. The Senator from Delaware is not given to caviling; he generally speaks what he thinks and thinks what he speaks; but this idea is not original with me. I do not claim to be the author of this doubt. Your own Secretary of State telegraphed to the provisional governor of South Carolina, Mr. Perry, when he urged that it might be contended that Congress had this power under that clause of that act, that his objection was "querulous," that the clause was restrictive in its character; in other words, that it was not meant to confer and could not be understood as conferring upon Congress any such power as that now claimed, but that it was in fact restrictive in its character. The Secretary of State is presumed always to be honest in what he says; he never cavils, everything he says he means, I suppose, and he has put an interpretation upon this clause in perfect accordance with that which I myself have advanced.

Sir, we hear much about that amendment; and one word upon that subject and I have done.

It is said that the constitutional amendment is adopted. It requires three fourths of the States to adopt the amendment. With my theory of this Government and the State governments, I might say it was adopted, having now received the ratification perhaps of three fourths of all the States; but how honorable Senators who hold that these southern States are not in the Union, are not States, and have not the power of self-government, can contend that the constitutional amendment is adopted by and through the action of the people down South, I cannot imagine. It requires the votes of three fourths of the States; but how can votes in its favor be regarded by the honorable Senator from Massachusetts, and others of like opinion, when they come from communities which he and they say are not States, are not entitled to the control of their own

domestic affairs, not entitled to legislate for themselves? It seems that they are States for one purpose and not States for any other purpose. As far as the interests of the black man are concerned, if their action be favorable to him, they are States, but for no other purpose. I have listened to a great deal of illogical reasoning in the last four or five years, and I confess this is a pretty good specimen.

Mr. HOWARD. I move that the Senate do now adjourn.

Mr. MORRILL. I hope the Senator from Michigan will withdraw his motion, to enable us to take up a little bill I reported this morning relative to jurors in this District.

Mr. HOWARD. I withdraw the motion for that purpose.

DISTRICT OF COLUMBIA JURORS.

Mr. MORRILL. I ask unanimous consent for the consideration at this time of House bill No. 24, which I reported this morning from the Committee on the District of Columbia. Objection was made to it this morning, but I am satisfied there will be no objection now.

By unanimous consent, the bill (H. R. No. 24) to amend an act entitled "An act providing for the selection of jurors to serve in the several courts of the District of Columbia," was considered as in Committee of the Whole.

It provides that if at any time it shall occur that all of the names in the box provided for in the fourth section of the act to which this bill is an amendment shall have been drawn out at any term of the court before the 1st of February next ensuing, the court, or any judge thereof, may order the marshal to summon from the body of Washington county twenty-three citizens, having the qualification of jurors, as provided in that act, to serve as grand jurors, and twenty-six citizens having such qualifications, to act as petit jurors, or either, as may be needed at any subsequent term of court to be held between the time of happening of the contingency named and the 1st of February then next ensuing; and vacancies in either grand or petit jurors so ordered to be summoned may be filled up by other persons summoned by the marshal upon the order of the court. As all the names in the jury-box provided for by the fourth section of the act to which this bill is an amendment were, at the late term of the supreme court of the District of Columbia, sitting for the trial of crimes and misdemeanors, drawn from the box, the bill also proposes to empower the judge assigned to hold the December term of the court for the year 1865, to order the marshal to summon from the body of Washington county twenty-three citizens, having the qualifications of jurors, as provided for in that act, to act as grand jurors for that term, and twenty-six citizens, having such qualifications, to act as petit jurors.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

HOUSE BILLS REFERRED.

The joint resolution from the House of Representatives (H. R. No. 20) requesting the President to suspend any order mustering out the officers of the Veteran Reserve corps until Congress shall take some legislative action in regard to the corps, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. GRIMES. There is a little joint resolution which was yesterday left in a very uncertain state, proposing to donate the camp equipage at Camp Kinsman. I move that it be taken up and referred to the Military Committee.

The motion was agreed to; and the joint resolution (H. R. No. 18) granting certain public property to the Soldiers' Orphans' Home of Iowa, was referred to the Committee on Military Affairs and the Militia.

Mr. HOWARD. I renew my motion. The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 13, 1865.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had concurred in the joint resolution of the House for the appointment of a joint committee of fifteen members to inquire into the condition of the States which formed the so-called confederate States, with sundry amendments, in which the concurrence of the House was requested.

EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Navy, transmitting a statement of appropriations for the naval service for the fiscal year ending June 30, 1865, expenditures, balances, &c., required by the second section of the act of May 1, 1820; which was laid on the table, and ordered to be printed.

The SPEAKER then proceeded, as the regular order of business, to call the committees for reports.

CONTESTED-ELECTION PAPERS.

Mr. DAWES, from the Committee of Elections, reported the following resolution; which was read, considered, and agreed to:

Resolved, That all the papers in the several cases of contested elections now or hereafter referred to the Committee of Elections, be printed in whole or in part, in the discretion of said committee, and under its direction.

VETERAN RESERVE CORPS.

Mr. SCHENCK, from the Committee on Military Affairs, reported a joint resolution requesting the President of the United States to suspend any order mustering out the officers of the Veteran Reserve corps until Congress shall take some legislative action in regard to the corps; and upon the resolution demanded the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was read a first and second time.

The question being on ordering the resolution to be engrossed and read a third time—

Mr. SCHENCK demanded the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. FARNSWORTH. I would like to ask the gentleman from Ohio a question, and that is, whether the men of the Veteran Reserve corps have been mustered out, and whether it is proposed to continue the officers after the men are all mustered out?

Mr. SCHENCK. The men are nearly all mustered out. It was submitted, as a question, to the officers and men to vote whether they would be discharged from the service or not. This was done under an order of the War Department. The men, as all the men of the regular Army, with perhaps here and there an exception, and as all the sailors on board the several ships of war would do if an opportunity were offered, either for the sake of a holiday or for the sake of getting rid of the service, voted almost unanimously to go out, leaving the officers of the corps, the organization of which has not yet been broken up, still in service.

About one half of these officers are now employed by the Government; and from the Freedmen's Bureau and other quarters applications are made from time to time to put upon duty numbers of these officers, which requests are usually complied with on the part of the War Office.

What is now proposed is, that the officers of

that corps who are unemployed shall not be summarily dismissed from the service, but that some little time shall be given by a suspension of the order dismissing them from service until Congress shall take some action in respect to the future disposition to be made of the corps, either by incorporating it into the regular Army, or giving it an organization and permitting it to fill up its numbers as a part of that regular Army, or permitting its officers to return to private life.

This corps consists of officers, eighty-five per cent. of whom during the rebellion have been actually wounded, but who have recovered so far as to permit them to enter the service again.

A percentage of from ten to fifteen, making up the whole of the remainder, consists of those who have been disabled by sickness contracted in the service, but from which they have since recovered so as to be fit for duty, and it is proposed not to turn out upon the world under any action that has taken place these officers, many of them men of family, with persons dependent upon them for support, which must be given in some way until there is time for Congress to act and determine what disposition shall be made of the corps, whether it shall be retained as a part of the regular Army or not. That is the whole scope and purpose of the resolution, which is temporary in its character.

Mr. STEVENS. I was just going to ask the gentleman a question upon that very point. I understand now that this is not intended as a permanent arrangement, but only until the committee shall have time to look into the matter.

Mr. SCHENCK. The Committee on Military Affairs propose that Congress shall ask the President to suspend action merely until there can be an opportunity of looking into the subject and determining as to the disposition to be made in the future of this corps.

Mr. FARNSWORTH. I have no objection to that course, but it occurred to me that from the fact that this Veteran Reserve corps had been organized entirely by orders from the War Department, and was made up wholly from the volunteer service, the men were entitled of right to be discharged from the service when the war was over. Nearly all of them had enlisted for the war against the rebellion, and it was their right to be discharged. It seems to me, therefore, that the submission of the question to the men to vote whether they would be discharged or not was a very singular proceeding. It was the right of the men to be discharged under the contract they had made with the Government, and it strikes me as a very singular proceeding to ask that the officers shall be kept in the service of the Government when there are no men to command. The men of their regiments and companies have been mustered out; there are not even skeletons left for the officers of these regiments to command, and this is a proposition to continue them in the service to draw their pay from the Treasury.

The men who composed the Veteran Reserve corps were wounded men also; they had been serving the Government at twelve dollars a month. These officers are getting all the way from one hundred to two hundred and fifty dollars a month, and have been receiving it all this time, and I do not think that Congress ought to be asked to continue them in the service any longer than they have men to command.

Mr. CONKLING. I would like to ask the gentleman from Ohio a question, and to say a word.

Mr. SCHENCK. I yield to the gentleman for that purpose.

Mr. CONKLING. I understand, as has been already suggested by the gentleman from Illinois, [Mr. FARNSWORTH,] that this corps sprang from the action of the War Department and is not subject to the discretion and good sense of that Department, and I would like to inquire whether the intervention of Congress now in this way will not be taken by the chairman of the Military Committee as an indication on the part of Congress that this corps, as

far as it still exists, is to be perpetuated. I would like to know whether in the contemplation of the Military Committee this resolution, if it passes, does not tend to the perpetuation of this corps?

Mr. SCHENCK. I could not, perhaps, better reply to the inquiry made by the honorable gentleman from New York, [Mr. CONKLING,] than to refer him to the language of the resolution, which proposes a temporary suspension, and only asks that it may take place until there shall be time to investigate the subject and for Congress to take some legislative action which may determine the future disposition to be made of this corps. That is the whole scope of the resolution.

Mr. CONKLING. I do not forget the language of the resolution when I seek the information which I do, and my point the gentleman from Ohio does not altogether take. The proposition is this: this is a subject now, and has been from the beginning, wholly in the discretion of the War Department, to do what it deems wise and best in all respects, and I ask him whether the interposition by a resolution, even with this phraseology, is not an intimation to the Department from Congress that, in the judgment of Congress, this corps ought to be continued by way of paving the way to a permanent establishment; whether that is not the fair tendency, if not the design, of this resolution?

Mr. SCHENCK. I think not, but the gentleman is as capable of drawing an inference as I am. I can only reply that it was unanimously concluded by the members of the Military Committee, all being present excepting some two or three, under existing circumstances to ask a suspension of action by the War Department, through the President, upon this subject, because they happened to be aware of the fact that unless that request was made, the Secretary of War would feel it his duty to dismiss these officers now from the service after the action that has taken place by the vote of the privates, and that in a summary manner.

Mr. FARNSWORTH. I would ask the gentleman whether, in his opinion, these officers could not be found and commissioned if necessary hereafter?

Mr. SCHENCK. It is more than improbable they could be found; and if found, in what condition I will not undertake to say. The gentleman is as capable of judging as myself whether or not an officer wounded in the service of the country, whose services it has been thought proper to retain because of his merits, who has upon his hands a wife and half a dozen children, if turned loose without employment of any kind, can be recovered for the public service some months, or years even, hereafter.

In reply to what was rather the argument than the inquiry of the gentleman from Illinois, [Mr. FARNSWORTH,] I will say that it was probably the right of the privates to determine each for himself whether he would remain in the service or not, when the question was submitted to him by an order from the War Department. Each private may have felt that he had that right, because when they were transferred from the volunteer organizations, to which they formerly belonged, to this corps, they naturally expected that they would go out with the expiration of the terms of service of the several regiments from which they had been transferred. So it was the right of each officer to vote to go out when the question was submitted to him. But the question of right does not, in the first place, apply in this case at all to the privates, because there is nothing contemplated here in reference to the privates.

So far as the officers are concerned, while the naked right exists now and did exist to go out, they not having elected to go out, the question of expediency now arises, what shall be done with them? As a question of expediency, I hold that these men have a claim not only upon the sympathy, but the justice of the Government, not to turn them out of the service in a summary manner, but to wait for a little while, at least until Congress shall advisedly take some action in regard to this corps, whether to retain it in

its present organization, or to incorporate it in some other organization of the service, or some other action. That is the whole extent and scope of this resolution; that they shall be temporarily retained, or that a request shall be made to the President to retain them temporarily, with a view to enable Congress to consider the subject and take some order in the shape of legislation in regard to the matter.

Mr. CONKLING. If I have not interrupted the gentleman from Ohio [Mr. SCHENCK] too much already, I wish to make a further remark. If the whole purpose of the resolution is to hold this subject in impartial abeyance for action, the objection to it is no doubt slight, and I am willing to assume good reason exists for its adoption.

I will add, however, that having had recent occasion to see a considerable body, selected by chance, from officers of the Veteran Reserve corps, I certainly cannot quite agree that the officers of that corps, as a body, fall within the considerations of sympathy suggested by the gentleman from Ohio, [Mr. SCHENCK.] On the contrary, I am bound to avow the belief that, so far as a large part of the officers not mustered out are concerned, they are a body of men quite as able, to say the least, to maintain and care for themselves as other persons now or lately in the military service, and out of the service, for whom nothing is proposed. No doubt there is a large percentage of exceptions to what I state. But I am sure I speak within bounds when I say that this corps, as it now stands, while containing many men to whom the remarks of the gentleman from Ohio [Mr. SCHENCK] are applicable, also contains a large number of men to whom those considerations have no application at all. And for one, when the time shall come to vote upon the question whether all these officers as a body are to be retained permanently in the service, or to be mustered out, if it must be wholly one way or wholly the other, I shall vote to muster them out as a measure of retrenchment and economy.

Mr. SCHENCK. The remarks of the gentleman from New York [Mr. CONKLING] take something of the form of argument and statement, as well as of inquiry. I shall not, however, undertake to reply to the extent of being drawn into a discussion of the merits of this body of officers to whom reference is made by the resolution. In the first place, I can only say, as to the future disposition to be made of this corps, I have not for one made up my mind what is the best legislation upon that subject. Whether to retain the corps as a body, or incorporate it in the regular Army, or to have a revision of it and an examination of those who at present constitute those officers, with a view to an admission of a portion of them; all of that I leave to be considered, discussed, and acted upon by Congress hereafter. The resolution proposes only that they shall not now be dismissed in a summary way, but that Congress should take time to determine what shall be done.

Now, as to the general merits of the officers in this corps, I have only to say that the conclusions which the gentleman from New York [Mr. CONKLING] and myself have respectively reached upon this subject are very dissimilar. I hold that they are a body of men, taken as a whole, of exceedingly meritorious character. Eighty-five per cent. of those of whom this body consists have been wounded more or less severely in the public service, in fighting to put down the rebellion. It is a body of men who have proved themselves to the country and to the Government as entitled to both sympathy and justice from that country, and from the Government representing the country. I hold that if any class of men is entitled to the gratitude of this country, for services actually rendered, it is this body of men, whose character as a body the gentleman now calls in question.

But taking the gentleman's own proposition, that there is a large percentage of meritorious officers included in this body, that very fact is

a reason why they should not be summarily and as a whole turned out until there shall be some opportunity, under the legislation of Congress, for culling out those who are meritorious, and giving them the opportunity to remain in the service.

Mr. CONKLING. I am sure that the gentleman from Ohio does not intend to put me in a false position.

Mr. SCHENCK. Certainly not.

Mr. CONKLING. He does so most emphatically when he represents me as calling in question the character of these gentlemen or any of them. All I mean to say is, that this corps includes a great many men who do not fall especially within the purview of the gentleman's remarks; not that I question the character of a single man in the corps, and not that I deny any part of the meed of praise which the gentleman wishes to bestow.

Mr. SCHENCK. I may have misunderstood the gentleman. I certainly did understand him to take the ground that at least a large majority of this corps are as capable of earning their living in some other way as any other class of men, and had no more claims upon the Government.

Mr. CONKLING. Not a majority—a considerable number.

Mr. SCHENCK. But, however that may be, I say that, upon the gentleman's own admission, a very considerable number—I think his words were "a large percentage"—are entitled to the respect, the sympathy, the gratitude, the justice of the Government for services performed. This admission is sufficient to make out my case, and show that we ought not to turn out in a summary way a body of men that includes within it any considerable percentage having that character, but that we can afford at least to wait a little while, and not put them in a position to require that they should apply for what I suppose the gentleman himself will admit they cannot receive while in the public service—pensions for the wounds which they have received and the disability they have incurred. Instead of putting them upon the pension list, I propose to keep them in the service for a little while until Congress can act on the subject understandingly; and I hope such action will be taken promptly.

Mr. WASHBURNE, of Illinois. Will the gentleman allow me to ask a question?

Mr. SCHENCK. Certainly.

Mr. WASHBURNE, of Illinois. If this joint resolution should not pass, will not this whole matter be within the discretion of the Secretary of War, and cannot that officer, if he please, keep these men in the service until Congress shall act?

Mr. SCHENCK. I will answer that question by saying that the Secretary of War has no desire to dismiss these men summarily from the service; but, though it is within his power to retain them, he feels that, unless some intimation be made to him of a desire on the part of Congress that he shall wait until there can be some legislation on the subject, he will be obliged to muster them out, at least so many as are unemployed, even before legislation can be had. It is with the full concurrence of the Secretary of War, and after consultation with him on behalf of the Committee on Military Affairs, that this resolution is now offered.

The question being upon the passage of the joint resolution,

Mr. WASHBURNE, of Illinois, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 111, nays 50, not voting 21; as follows:

YEAS—Messrs. Allison, Ancona, James M. Ashley, Baker, Banks, Barker, Baxter, Beaman, Bidwell, Bingham, Blaine, Blow, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Davis, Delano, Deming, Dixon, Donnelly, Briggs, Eckley, Eggleston, Eliot, Farquhar, Ferry, Garfield, Grinnell, Hale, Hayes, Henderson, Higby, Hill, Holmes, Aschel W. Hubbard, Chester D. Hubbard, Denas Hubbard, James H. Hubbell, Ingersoll, Jenckes, Kelley, Kelso, Kerr, Ketcham, Kuykendall,

Laffin, Latham, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, Mercur, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Plants, Price, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Seofield, Shellabarger, Sitgreaves, Smith, Spalding, Starr, Stevens, Stillwell, Taylor, Thayer, John L. Thomas, Thornton, Trowbridge, Van Aernam, Burt Van Horn, Robert T. Van Horn, Voorhees, Ward, Warner, William B. Washburn, Welker, Wentworth, Whaley, Williams; Stephen F. Wilson; Windom, Winfield, Woodbridge, and Wright—111.

NAYS—Messrs. Alley, Ames, Anderson, Baldwin, Bergen, Boutwell, Boyer, Brandegee, Brooks, Chandler, Conkling, Callom, Darling, Dawson, DeFrees, Denison, Eldridge, Farnsworth, Finck, Glossbrenner, Grider, Aaron Harding, Abner C. Harding, Hart, Hogan, Hotchkiss, John H. Hubbard, Hulburd, James Humphrey, James M. Humphrey, Johnson, George V. Lawrence, Le Blond, Marshall, McCullough, McCuer, Moorhead, Niblack, Nicholson, Noell, Phelps, Radford, Ritter, Rogers, Ross, Shanklin, Taber, Trimble, Elihu B. Washburne, and James F. Wilson—50.

NOT VOTING—Messrs. Delos R. Ashley, Benjamin, Culver, Dawes, Dumont, Goodyear, Griswold, Harris, Hooper, Edwin N. Hubbell, Jones, Julian, Kasson, Miller, Pike, Pomeroy, Rousseau, Sloan, Strouse, Francis Thomas, and Upson—21.

So the joint resolution was passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

HUNDRED DAYS' MEN.

Mr. DARLING submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be directed to inquire into the propriety of allowing pensions to the surviving representatives of soldiers called into the service of the United States for the period of one hundred days, or less, and who died while in said service; said committee to report by bill or otherwise.

REGULAR ORDER.

Mr. WASHBURNE, of Illinois. I call for the regular order of business.

The SPEAKER. The regular order of business is the call of committees for reports.

Mr. DAVIS. I ask the gentleman to yield to me to submit a resolution of inquiry.

Mr. WASHBURNE, of Illinois. I dislike to object to gentlemen, but if we adhere to the regular order of business I think we will get along better. I will yield to the gentleman, and hear his resolution read.

DUTY ON SALT.

Mr. DAVIS. I submit the following resolution:

Resolved, That the Committee of Ways and Means be instructed to consider the expediency of increasing the tariff or duty on foreign salt imported into the United States, by the amount of the duty imposed by the act of 1864, to provide for internal revenue, on salt manufactured in the United States, and to report by bill or otherwise at an early date.

Mr. ANCONA. I object.

INDIANA CONTESTED-ELECTION CASE.

Mr. ORTH presented additional testimony in the Indiana contested-election case of Washburne against Voorhees, and moved that it be referred to the Committee of Elections.

The motion was agreed to.

KENTUCKY SOLDIERS' HOME.

The SPEAKER proceeded to call committees for reports.

Mr. SMITH, from the Committee on the Militia, reported the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Militia be, and are hereby, directed to inquire into the condition of the Government property at Harrodsburg, Kentucky, and whether or not said property can be procured by the State of Kentucky as a home for her disabled and wounded soldiers; and said committee shall have power to report by bill or otherwise.

MISSOURI STATE MILITIA.

The SPEAKER then proceeded to call on the States for resolutions.

Mr. LOAN submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of placing the troops known as the Missouri State militia on

an equality with the other volunteer soldiers in the service of the United States; and that the committee have leave to report by bill or otherwise.

DAKOTA CAVALRY.

Mr. BURLEIGH submitted the following resolution:

Whereas it is represented that certain volunteers from the Territory of Dakota, known as companies A and B of the Dakota cavalry, were mustered into the service of the United States, along with their horses and equipments, supplied with their own private means, and that in pursuance of an order from the War Department, said horses were afterward taken into the possession of the Government, and there retained by them until the discharge of said companies, or lost or destroyed in the service, without compensation; Therefore,

Resolved, That the Committee on Military Affairs be instructed to inquire into the facts, and if they shall find them substantially true as stated, report a bill providing such compensation as may be just to the said owners.

Mr. WASHBURN, of Illinois. I do not wish that resolution to go to the Committee on Military Affairs in that way. It is a direct instruction to that committee, if they find such and such to be the facts, to report a bill without regard to the law. I suggest to the gentleman to modify his resolution so that the committee shall be instructed to inquire into the whole subject.

Mr. BURLEIGH. I accept that modification of my resolution.

The resolution as modified was adopted.

The SPEAKER stated the next business in order to be the consideration of resolutions calling for executive information laid over one day under the rules.

MEXICO.

A resolution submitted by Mr. GARFIELD requesting the President, if not incompatible with the public service, to communicate to this House any information in possession of any of the Executive Departments of the Government in reference to a so-called decree by the French agent in Mexico, under date of September 5, A. D. 1865, establishing slavery or peonage in that republic; and also what action, if any, has been taken by the Government of the United States in reference thereto.

The SPEAKER stated that a similar resolution had already been passed.

The resolution was laid upon the table.

DISTRIBUTION OF PUBLIC DOCUMENTS.

The SPEAKER stated that the next business in order was the consideration of resolutions on which debate had arisen, and which had been laid over under the rule.

A resolution, submitted by Mr. MOORHEAD, directing that all public documents of which extra copies have been ordered to be printed for distribution, and which have not been delivered to the persons entitled thereto under the resolution of the last House of Representatives, shall now be delivered, by the officer having possession of the same, to the Representatives in this House of those districts whose former Representatives have not drawn the documents to which such districts were respectively entitled according to the rate of distribution established.

A similar resolution having been adopted, the resolution was laid upon the table.

REIMBURSEMENT OF LOYAL STATES.

A resolution, submitted by Mr. HOOPER, directing the appointment of a committee of one from each State to consider and report, by bill or otherwise, if any and what action should be taken to repay to the several States the amounts of money advanced and paid by them for expenditures connected with the late war.

On motion of Mr. HOOPER, the resolution was referred to the select committee on the subject raised on motion of Mr. BLAINE.

EQUALITY OF CIVIL RIGHTS.

The next resolution taken from the Speaker's table was a resolution offered by Mr. FARNSWORTH, on the 6th instant, declaring that as all just powers of government are derived from the consent of the governed, that cannot be regarded as a just Government which denies to a large portion of its citizens, who share both its

pecuniary and military burdens, the right to express either their consent or dissent to the laws which subject them to taxation and to military duty, and which refuses them full protection in the enjoyment of their inalienable rights. That in imposing taxes upon the people of the United States none are excepted therefrom on account of color; so, too, in the laws enacted by Congress for enrolling and drafting into the military service of the Government those liable to military duty, no exemption because of color has been allowed; and while we have rewarded the foreigner, who is ignorant of our language and institutions, and who has but just landed upon our shores, with the right of citizenship for a brief service in the armies of the United States, good faith, as well as impartial justice, demands of this Government that it secure to the colored soldiers of the Union their equal rights and privileges as citizens of the United States. That we agree with the President of the United States that "mercy without justice is a crime;" and the admitting of rebels and traitors, upon whose hands the blood of slain patriots has scarcely dried, and upon whose hearts is the damning crime of starving to death loyal men taken as prisoners in battle, to the rights of citizenship and of suffrage, while we deny those rights to the loyal black man, who fought for the Union, and who fed and protected our starving soldiers, is a fit illustration of that truism.

Mr. FARNSWORTH. I do not propose to ask the House to take action on that resolution now, and I will move that it be referred to the joint committee of fifteen when appointed.

Mr. CHANLER. Is debate in order?

The SPEAKER. It is.

Mr. FARNSWORTH. I intended to move the previous question.

The SPEAKER. But the gentleman did not do it.

Mr. CHANLER. I regret exceedingly that the gentleman forgot to do what he intended—to move the previous question to prevent debate; but such a resolution as that cannot pass without rebuke from this side of the House, and unprepared as we are to meet it, we are forced, from his omission to discharge his duty toward the colored soldiers, to meet him at once.

He proposes to refer to the select committee of fifteen this resolution, a question entirely distinct from the purpose for which that committee is raised, and to place it side by side with the most important question ever referred by this House. These men, whom he and we all know to be yet in a condition of transition, he wishes to put upon a footing equal to those who not only in this war, but in every war, have carried the arms of this Government, and have secured to it under the national banner victories as great as those achieved by any nation, and greater by far than those achieved by the race of which the gentleman from Illinois is the champion.

I will not attempt at this time to assail the motive of the gentleman in giving to the black soldier his right and claim to the admiration of the white man. My object is to assail none, but I wish to appear here as the advocate of those the gentleman has assailed, and upon the threshold of this session to see that no stigma shall be cast upon the foreigners who may not have understood our language or known our laws, and this side of the House remain silent.

The merits of this question the gentleman from Illinois is better able to describe than myself. We know the services the black soldier has rendered to this Government, and when the time comes for rewarding him for his past services by those emoluments which are bestowed upon the brave and the suffering I will not be wanting in that hour. But there is, and undoubtedly will be, a difference between us as to the amount of reward to be meted out. I do not, with that gentleman, consider that the problem of the negro race is solved. I am not prepared at once to raise them from the humble pedestal upon which they now stand, to that high point of public approbation which the foreigners in this country have won for themselves

through generations of toil, suffering, and oppression. I take issue with the gentleman on that point. He assumes that the problem is solved, and that the black man is our equal. I deny the proposition, but I do not mean thereby to deprecate the black man. I waive all such comparisons; but I deem this resolution an act of positive injustice in its wording; and I hope I am not using too strong language in saying that I deem it an insult to the white citizens of the United States.

Mr. STEVENS. I would inquire if the morning hour has expired?

The SPEAKER. It has.

Mr. STEVENS. I am sorry to interrupt the gentleman, but I must move that the House proceed to business upon the Speaker's table.

The SPEAKER. The motion is in order, but the gentleman from New York will be entitled to the floor when this subject is resumed. The Chair will have the rule read.

The Clerk read from Barclay's Manual, as follows:

"It is the invariable practice to permit a member, upon the expiration of the morning hour, to take the floor, even though another may be occupying it, to make a motion to proceed to business upon the Speaker's table."

Mr. CHANLER. I am content.

Mr. FARNSWORTH. I hope that the gentleman from New York does not desire to occupy further time. If he does not I appeal to the gentleman from Pennsylvania to allow the resolution to be referred to the committee.

Mr. CHANLER. I must be excused from yielding for that purpose. We, upon this side of the House, have very few opportunities of being heard, and I do not want to lose the chance.

Mr. FARNSWORTH. How much more time has the gentleman from New York?

The SPEAKER. Fifty-five minutes.

Mr. STEVENS. I must insist on my motion.

The question was taken, and Mr. STEVENS's motion was agreed to.

RECONSTRUCTION.

The SPEAKER stated that the only business on the Speaker's table was the amendments of the Senate to the concurrent resolution of the House for the appointment of a joint committee on the subject of reconstruction.

The amendments of the Senate were read, as follows:

In line one strike out the word "Senate;" and in line two, after the word "Representatives," strike out the words "in Congress assembled" and insert in lieu thereof "the Senate concurring;" and in line fifteen strike out all after the word "otherwise" to the end of the resolution, so that the resolution will read:

Resolved by the House of Representatives, (the Senate concurring,) That a joint committee of fifteen members shall be appointed, nine of whom shall be members of the House and six members of the Senate, who shall inquire into the condition of the States which formed the so-called confederate States of America, and report whether they, or any of them, are entitled to be represented in either House of Congress, with leave to report at any time by bill or otherwise.

Mr. STEVENS. I rise to move that the House concur in the amendments of the Senate. It is proper that I should say one word. The Senate took what to them appeared to be the proper view of their prerogatives, and though they did not seem to differ with us as to the main object, the mode of getting at it with them was essential, and they very properly put the resolution in the shape they considered right.

They have changed the form of the resolution so as not to require the assent of the President; and they have also considered that each House should determine for itself as to the reference of papers by its own action at the time. To this I see no objection, and while moving to concur, I will say now that when it is in order I shall move, or some other gentleman will move when his State is called, a resolution precisely similar or very nearly similar to the provision which the Senate has stricken out, only applicable to the House alone. I merely give that notice now. I cannot move it as an amendment to this resolution, because that would send

the resolution back to the other House, which is not desirable. I now move the previous question.

Mr. RAYMOND. Will the gentleman from Pennsylvania waive the previous question long enough to allow me to make of him or of the Speaker a single inquiry?

Mr. STEVENS. Certainly.

Mr. RAYMOND. I understood him to say that the Senate had so changed the form of this resolution as to avoid the necessity of getting for it the signature of the President.

Mr. STEVENS. I understand it so.

Mr. RAYMOND. I wish to inquire, not being versed in the usages of the House or its rules, whether this clause of the Constitution does not apply. It is the seventh section of the first article of the Constitution:

"Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill."

I do not understand how that can be evaded. It is possible that the usages of the House may dispense with it.

Mr. STEVENS. Under the usage of the House, a resolution in this form is never sent to the President, and it was not desired that this resolution should be. I know it has not been the practice heretofore to send such resolutions to the President.

Mr. RAYMOND. I did not wish to make a point on it. I rose simply for information, as the point is entirely new to me.

The SPEAKER. The Chair did not understand the gentleman as making the point. The Chair would decide the point, if made as a point of order—the precedents are all one way—but the Chair does not decide points of order except when made.

Mr. STEVENS. I understand that the matter has been understood to be controlled by another section of the Constitution, which authorizes each House to make rules for its own government. I call the previous question.

The previous question was seconded, and the main question ordered; and being put, the amendments of the Senate were agreed to.

Mr. STEVENS moved to reconsider the vote by which the amendments of the Senate were agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. STEVENS. Will it be in order for me now to offer an independent resolution in regard to this subject?

The SPEAKER. Only by unanimous consent.

Mr. BROOKS. We will not object on our side.

Mr. STEVENS. I will not offer it now.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, informing the House that the Senate had passed House bill No. 23, entitled "An act to prevent the spread of foreign diseases among the cattle of the United States."

EQUALITY OF CIVIL RIGHTS—AGAIN.

The House resumed the consideration of the resolution submitted by Mr. FARNSWORTH, upon which Mr. CHANLER was entitled to the floor.

Mr. CHANLER. Mr. Speaker, in my humble opinion, by resolutions of this kind it is sought to reduce this contest between the two races down to a legislative enactment. The reference of it to such a committee as this may be philanthropic or it may not. But so far as it is the act of a member of the Military Committee I deem it unnecessary; I think I can satisfy the House that it is unnecessary, from a reference to the record of the struggle we have but just gone through in regard to black troops.

The organization of the Army, so far as the black soldier is concerned, is entirely in the hands of the Executive of the United States. He holds that organization of black troops en-

tirely in his control, as firmly as any despot may control the armies of any European monarchy. The gentlemen of the Military Committee will correct me if I am in error when I say that a simple act of Congress authorizing the Executive to call the black man into the service of the armies of the United States for the purposes of labor, empowered the President of the United States to raise the hordes of negro troops which now stand enrolled in the service of this Government. I do not propose to make objection to the past; I do not assail the merit of those soldiers; but I ask the members of this House to reflect upon the necessity of such a proposition as this; when, under an act of Congress, in time of war, a black army could be set on foot, why do you need a select committee to consider this subject? If it was sufficient, by the simple act of the Secretary of War issuing a general order, to enroll these black troops, let them now stand upon their merits, and let their services be rewarded by those who called them into existence as soldiers. Let them take their turn and their chance with the Veteran Reserve corps; with the privates of that corps which have been mustered out of service and are now discharging their duties as private citizens. That is the right way. They fought for this Government, and have suffered as much as the blacks have suffered. I draw no distinction of color. The gentleman from Illinois [Mr. FARNSWORTH] who introduced this resolution has deemed it proper to load it with opprobrium of those who have done their duty as well as any black soldier who ever served. He made the comparison, and all the merit of the distinction is his.

But to pass on, with regard to the necessity of this resolution. Until you have established in your military system a perfect equality from your private soldier up to the highest officer allowed by law, and until these people shall come before you recognized by general enactment, I deem this reference to the select committee a special job for the particular purpose of inflaming public passion and public prejudice. It belongs to no system pertaining to the organization of the Army, but belongs rather to that institution known as "the nigger in the fence." It belongs to all those extraordinary enactments for the purpose of keeping up a sectional prejudice against an established existing power in another section, and which have fed the Republican party into its present fat proportions. It enables them to-day, while arousing the prejudices of the people in peculiar sections, to hold the power of the Government at their will.

From a political point of view, this resolution is particularly unnecessary at this time. The administration of power is so completely in the hands of the Republican party that, I take it, it is needless for them, as a political job, to agitate this question. If I understand this resolution, it is a most dangerous one, and, I think, will prove a fatal petard to the engineer who introduced it. If such a resolution as that is necessary to come from a member of the Military Committee, if it is desirable for the party to which he belongs, and the people whom he represents, that he should mark his career here, and the career of his party, as antagonistic to the white population of the country, who, though born abroad, are united to us by every bond of civilization, blood, and historic association, I can only say that the introduction of such a resolution is more fatal to him and his party than to the white foreigner or those who hold the negro as his inferior. This side of the House can lose nothing by the passage of this resolution, but may gain much. I admire the cool moral courage which prompted its introduction, while I deprecate the prejudice that gave it birth. By the introduction of this resolution, the gentleman inaugurates a system which sprung up in time of war, and which, if the policy of the Administration is uttered by the Executive, is to be the policy of this Government and of both branches of Congress.

If the policy of the Administration as announced by the Executive in his message is to become a fixed policy of the party which raised

him to power, or is to become the established policy of this Government in its domestic relations, I look upon the passage of this resolution as throwing down the gauntlet to that portion of this nation in which the black population largely predominates, where society is in chaos, and where the black race will be found; if gentlemen will take the trouble to learn, falling back into a system of semi-barbarism. The gentleman will find that, while he seeks to force upon one section of this Union the prejudices of another, he is not adding to that system of reorganization of society which it is the duty of every member on this floor to advocate and by every means in his power to advance.

But, sir, this question of colored troops means more than meets the ear. It means an established police, whose ramifications shall reach to the remotest corners of this land, whose different parts shall be under the control of the central Government, not for the purpose of maintaining that equal justice and that harmony of administration which are essential in all representative forms of Government, but for the purpose of putting the heel of central power upon that portion of the white race recently in rebellion, but now begging humbly for readmission to the protection of this Government.

I look upon such measures as these as dangerous to the peace and welfare of the country; as distracting the councils of the nation, and dividing the dominant race, who have held in their hands the sovereignty of this Government, which was won by their fathers, inherited by them, and, I hope, is to be handed down by us in its purity, for the government of our own race as well as those whom destiny may have put beneath us. I am willing, sir, to raise the black man to every honorable position for which his capacities fit him; but I am opposed to any effort which shall, by taking him from the position in society to which he has been accustomed, expose him to dangers which he is not fitted to meet.

These are my opinions. I know that they militate against the prejudices of those who believe that there is no difference between races or colors of men. I believe that, on this subject, the declaration of the Constitution of this Government is plain. "The people of the United States" means that race to which we who now constitute the Congress of the United States belong. I hope that the purity of the white race, the representation of the white race, and the sovereignty of this people as a white people will be maintained boldly, in the face of prejudice and in the face of obloquy.

Sir, this resolution is premature, not only as a matter of policy, as I have already remarked, but from the condition of that race. Those who have studied the history of the American Government for the last four years must have observed, as a wonderful proof of the innate prejudice of a certain portion of this people, that while every exertion has been made to protect the black man, every opportunity has been taken to sacrifice the life of the red man. If this love of so-called "equality," this intensified philanthropy which has so agitated the political nerves of a certain portion of the people of this country is sincere, why have their efforts been so restricted? Why have they not raised up the black man to a position at least equal to that of the Indian, who fights for himself and defies your arms? While using the armies of the United States to keep the Indian in subjection, you are endeavoring to raise the negro to an equality with the white race, for which he is not fit; an effort illogical, unphilosophical, and which must finally fail. Until the negro is elevated by education and culture to a grade of intelligence which he has never yet shown the ability to attain, you are unwise in seeking to place him in a position, the duties of which he cannot comprehend, and to expose him to dangers with which he is not competent to cope.

Sir, the character of this resolution is at this time prophetic. I am happy that, incidentally, we are afforded this indication whereby the members on this side of the House, and the

sound-thinking people of the whole country may understand that the rights of one portion of our citizens, who have been invited by our legislation to make their homes here are to be stricken down—that, in one word, immigration is to be checked until the black man, by the aid of the central Government, is able to compete with the white labor of the country. If this resolution means anything in behalf of the black man, it means that while you are blindly seeking to do a good thing toward the negro, you are doing a very great injury to all classes of society in this country. That resolution, sir, does not bear the stamp of the wisdom and the policy of this Government which raised this country into first rank among nations, and has extended its area from ocean to ocean, for, sir, if it belonged to the wise legislation of the past, it would provide that the foreigner seeking our shores should have every advantage. It would have promised him a happy future, a home, and all those charms which the western world can afford to those who are fortunate enough to have homes in its midst. It would have avoided the odious comparison between foreigners and negroes, and at least have been silent on the ignorance of foreigners. There was a time, not very remote, when Illinois was a Territory, and when these very ignorant foreigners, alluded to by the resolution, wandered in that direction under the promise of homes and encouragement held out to them by a wise and patriotic policy. The people of the West then sent out their emissaries to the farthest land to induce men to come here and settle; yes, sir, men ignorant of our language, ignorant of our laws, and deficient, perhaps, in many of those sterling qualities which characterize the favorite class of the gentleman from Illinois. They were invited here and dealt kindly with notwithstanding their ignorance of our language; and I believe that one of the noblest monuments that policy has developed is Illinois, rich in the abundance of the products of her soil. She owes much to these very ignorant foreigners. They were the Germans to whom the gentleman must allude as ignorant of our language; they were many of them ignorant Irishmen, these hosts of industrious men who have brought his native State, or rather his section, to its present glorious fertility and beauty. Yet the gentleman now in the American Congress rises up and denounces the ignorance of our language and our laws of these same foreigners as a matter with which they are to be branded! Yet these immigrants and their sons have laid the foundation of the glory of this mighty nation. We know now many of our monuments of greatness we are indebted to them for, and yet the gentleman talks in this high-flown way of these foreigners who are ignorant of our language and our laws. Why, sir, we and our laws and our institutions are the result of immigration. This land is the refuge of white men from all parts of the earth, and they have been allowed to take for their assistance the various elements of civilization, whether the negro or Indian, for the purpose of carrying out some great and hidden design of the Ruler of the universe.

By what right does the gentleman from Illinois brand his fellow-men, who, two generations later than himself and his ancestors, have come to find liberty and homes in the United States of North America? Is it philanthropy? Is it patriotism? On the contrary, is it not prejudice?

Mr. Speaker, I have no doubt the gentleman agrees with me perfectly in what I have said. I believe that in his bosom he knows this is a nation for the white race. I believe that brave officer, who has fought, and I have no doubt is willing to fight again for our institutions, knows that when his blood is shed it is to hand down to his children the proud title of being American citizens. He does not mean to declare that there is no pride in his breast of race or color. He does not look upon himself as the inferior of the black man. Why, sir, if he went to the shores of Africa, and met an African chief arrayed in barbaric splendor, and could not speak the language of the country, he would, accord-

ing to the theory of his resolution, if not able to speak the African language, be the black man's inferior. And there are countries where the gentleman would be arraigned for ignorance if he were incapable of speaking no other language than his own—countries high in civilization. If I understand the gentleman correctly, every man who does not understand the English language is inferior to himself. That seems to be the logic of that resolution. Now, when it is found necessary for these lovers of African liberty and African civilization to seek refuge from the miserable prejudices which they entertain of the white race, I hope they will take a sail to Congo river, and there pitch their tents, recline in the shade, and surround themselves with the peculiar fascinations and privileges of Africa, where Venus allows no limit to her power, and love rules every minute of the hour. There they will find full scope for their prejudices in behalf of the black race.

Sir, we have had enough of this love and zeal for the black race. It is an epidemic akin to the black vomit. It has generated in our streets into a sort of yellow fever. We have a color a shade lighter, but no better because of the mixture of white blood. If there is morality, dignity, and common pride of manhood in the people of this country, there will be need of some stronger enactment than resolutions such as this to protect the black man. You are trifling, gentlemen; with a mighty power. You are insulting the noblest pride of man, and that, too, for party purposes. If you think the humble immigrant comes to this country with less pride than you, if you think he will sacrifice the dignity of his race, you are mistaken.

I regret and shall always regret those manifestations of outrage by which the white man rules this continent. I regret the outrages which the British empire committed against those who recently rose in Jamaica. Two or three thousand human beings have been sacrificed in a brutal and summary manner. For what? Was it philanthropy, or was it simply British cruelty, or was it prejudice of color? Whatever view you may take of it, one thing is certain, the black race is doomed if you array the white man against him, as this resolution does. Arouse the passions of the immigrants to this country against the humble laborer of the South, and what will be the result? The first field to be cultivated will be the field of battle, and the extermination of this race, which you pretend to protect, will be the certain and inevitable result.

And yet in the face of all this, the resolution of the gentleman from Illinois leads off in an attack upon the policy of this Administration after a most happy change in its treatment of the freedmen. You propose by again altering that policy to array one race against the other, and to form two hostile parties on every field of industry and labor in this country, and to drive the negro where no white man will follow to compete with him; or else to stop immigration and limit the number of hands which shall advance the civilization of one section while you cramp that of the other. It tends to no good. If men ignorant of our language are to be turned from our shores, and the negro, ignorant of nearly everything, is to be protected by the Administration, I would ask the wisecracks of philanthropy who propose such measures as this, where they are to find the crops for export, the cotton for our manufactories, and the white men to meet the necessities of war as well as to fulfill the duties of peace?

I leave it to those who advance such a measure to explain the matter. I have met it as I would meet such a resolution at any time, promptly with opposition. I regret that I felt myself called upon to delay the action of the House, but I deemed it an important question. And I regret I was called upon to take up so important a subject with so little opportunity to arrange the arguments which in abler hands will perfectly and fully meet the case.

While I admire the coolness with which the party in the majority on this floor advance every dogma of their principles, I must thank

the gentleman from Illinois [Mr. FARNSWORTH] for his most admirable forgetfulness which allowed me to state my views, and apologize to the House for the delay which I have caused.

Mr. FARNSWORTH. I presume the House and the country have been greatly edified by the highly eloquent speech of the gentleman from New York, and I hope the House is now prepared to refer the resolution to the committee indicated in my motion. I now call for the previous question.

The previous question was seconded, and the main question ordered to be put.

Mr. JOHNSON. I call for the yeas and nays.

Mr. ANCONA. I move that the resolution be laid on the table, and on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 43, nays 113, not voting 26; as follows:

YEAS—Messrs. Ancona, Benjamin, Bergen, Boyer, Brooks, Chandler, Dawson, Denison, Eldridge, Finck, Glossbrenner, Grider, Aaron Harding, Hogan, Chester D. Hubbard, James M. Humphrey, Johnson, Kerr, Latham, Le Blond, Marshall, McCullough, Niblack, Nicholson, Nocli, Phelps, Samuel J. Randall, William H. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Smith, Tabor, Taylor, John L. Thomas, Thornton, Trimble, Whaley, Winfield, and Wright—43.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Baker, Baldwin, Banks, Baxter, Beaman, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Broomwell, Broomall, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Davis, Deming, Dixon, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, James Humphrey, Ingersoll, Jonckes, Julian, Kelley, Kelso, Ketcham, Kuykendall, Laffin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McRuer, Mercier, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Patterson, Perham, Pike, Plants, Price, Alexander H. Rice, John H. Rice, Rollins, Schenck, Seofield, Shelbarger, Sloan, Spalding, Starr, Stevens, Thayer, Francis Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—113.

NQT VOTING—Messrs. Delos R. Ashley, James M. Ashley, Barker, Buckland, Culver, Dawes, De-frees, Delano, Donnelly, Dumont, Goddard, Harris, Hotchkiss, Edwin N. Hubbell, Jones, Kasson, Miller, Paine, Pomeroy, Radford, Raymond, Sawyer, Stillwell, Strouse, Robert T. Van Horn, and Voorhees—26.

So the resolution was not laid on the table.

The question recurred on the motion to refer the resolution to the select committee, on which the yeas and nays had been demanded.

Mr. JOHNSON withdrew the demand for the yeas and nays.

The motion to refer was agreed to.

Mr. FARNSWORTH moved to reconsider the vote by which the resolution was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

HONOR TO THE LATE PRESIDENT.

The next business in order was the consideration of the following resolution, submitted by Mr. INGERSOLL on the 6th instant, and laid over under the rule, debate arising thereon:

Resolved, That the committee to be appointed under the resolution providing for the appointment of a joint committee of one from each State, to take into consideration what token of respect and affection it may be proper for the Congress of the United States to express concerning the event of the decease of the late President, Abraham Lincoln, be directed to take into consideration the expediency of providing for the completion of the Washington monument, with a view to the dedication of said monument to the commemoration of the virtues and patriotism of those great and good men, George Washington and Abraham Lincoln.

Mr. INGERSOLL moved that the resolution be referred to the select committee named in the resolution.

The motion was agreed to.

WITHDRAWAL OF PAPERS.

Mr. ANCONA. I ask leave to withdraw from the files of the House the memorial and accompanying papers of Mrs. A. S. Henry, widow of the late Major William S. Henry.

Mr. WASHBURN, of Illinois. For what

purpose are they to be withdrawn? It is not the custom of the House to give permission to have papers withdrawn without notice of what use is to be made of them, and without copies being left. Does the gentleman desire to refer them to another committee or to the Court of Claims?

Mr. ANCONA. They may be presented to the House hereafter in the shape of a claim. Application has been made to me to withdraw the papers, I presume for the purpose of presenting another claim.

Mr. WASHBURN, of Illinois. It has never been the habit of the House to give such permission unless copies are left.

The SPEAKER. The usage is to withdraw the original papers, but leave copies.

Mr. ANCONA. Well, I have no objection to taking that course.

Leave was then granted for the withdrawal of the papers, copies being left.

SOPHIA SCHIMMELPENNIG.

Mr. ANCONA, by unanimous consent, and in pursuance of previous notice, introduced a bill for the relief of Sophia Schimmelpennig; which was read a first and second time, and referred to the Committee on Invalid Pensions.

REPORT OF LIEUTENANT GENERAL.

Mr. WENTWORTH, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Printing, to whom has been referred the question of the numbers of Lieutenant General Grant's report to be printed, inquire into the propriety of printing a certain number in the German language.

INDIAN AFFAIRS IN ARIZONA.

Mr. WINDOM, by unanimous consent, and in pursuance of previous notice, introduced a bill for the better organization of Indian affairs in Arizona Territory; which was read a first and second time, and referred to the Committee on Indian Affairs.

COMMISSARIES OF SUBSISTENCE.

Mr. KASSON, by unanimous consent, and in pursuance of previous notice, introduced a joint resolution for the relief of certain commissaries of subsistence of the United States Army; which was read a first and second time, and referred to the Committee on Military Affairs.

PRESIDENT'S MESSAGE IN GERMAN.

Mr. WRIGHT, by unanimous consent, submitted the following resolution; which was referred, under the law, to the Committee on Printing:

Resolved, That, as there are many persons who have proved themselves patriotic and loyal men in the recent effort to sustain the national life, but who have a limited knowledge of the English language, and yet desire to read the message of our patriotic President, ten thousand copies additional of the President's message be printed for distribution in the German language.

SALE OF MINERAL LANDS.

Mr. JULIAN, by unanimous consent, and in pursuance of previous notice, introduced a bill to provide for the subdivision and sale of the gold and silver lands of the United States, and others containing valuable minerals, for the coining of the products of such lands, and for other purposes; which was read a first and second time, and referred to the Committee on Public Lands.

WILLIAM REYNOLDS AND M. B. WOOLSEY.

Mr. RICE, of Massachusetts, by unanimous consent, and in pursuance of previous notice, introduced a joint resolution for the restoration of Commanders William Reynolds and Melancton B. Woolsey, United States Navy, to the active list from the retired list; which was read a first and second time, and referred to the Committee on Naval Affairs.

GOODS IN BOND.

Mr. RICE, of Massachusetts, by unanimous consent, also introduced a joint resolution authorizing the entry for consumption of goods in bond, on payment of their respective rates of duty; which was read a first and second time,

and referred to the Committee of Ways and Means.

LUCRETIA M. PERRY.

Mr. BRANDEGEE, by unanimous consent, introduced a joint resolution for the relief of Lucretia M. Perry, widow of the late Nathaniel S. Perry, United States Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

BOUNTY LANDS.

Mr. KUYKENDALL, by unanimous consent, introduced a bill to extend the benefits of the bounty land act of March 3, 1855, to the soldiers, sailors, and seamen of the United States who served in the late war of 1861; which was read a first and second time, and referred to the Committee on Military Affairs.

EIGHT HOUR SYSTEM OF LABOR.

Mr. NIBLACK, by unanimous consent, submitted the following:

Resolved, That the Committee on the Judiciary be instructed to inquire into the propriety and expediency of providing, by law, for the adoption of what is known as the eight-hour system of labor in all matters and places to which the jurisdiction of Congress extends; and to report by bill or otherwise.

The question was taken, and the resolution agreed to.

PACIFIC RAILROAD.

Mr. BIDWELL, by unanimous consent, submitted the following:

Resolved, That in view of the magnitude and importance of the Pacific railroad as a means by which to secure the rapid and permanent settlement of our new States and Territories; the development of their vast resources, agricultural and mineral; a reliable postal communication between the Atlantic and Pacific within our borders; as well as ample and efficient military protection of all classes, settlers, travelers, and miners, against Indian hostilities; and as a bond of union between the East and the West, uniting them in closer relationship, socially, politically, and commercially, any unnecessary delay in the progress and completion of this great work will be a matter of public concern; and the committee having charge of the Pacific railroad are hereby instructed to inquire what action, if any, is required on the part of Congress to expedite the same; and that they have leave to report by bill or otherwise.

The resolution was agreed to.

LOSSES BY THE WAR.

Mr. BOUTWELL, by unanimous consent, submitted the following:

Resolved, That the Committee on the Judiciary be instructed to consider and report whether any of the inhabitants of the States declared to be in insurrection, by the proclamations of the President, dated August 16, 1861, and July 1, 1862, are entitled to compensation for any losses of property occasioned by the operations of the armies of the United States employed in the suppression of the rebellion.

The resolution was agreed to.

ELECTIVE FRANCHISE.

Mr. BOUTWELL, by unanimous consent, also introduced a joint resolution proposing an amendment to the Constitution of the United States.

Mr. JOHNSON. Let it be read, for we have so many proposed amendments to the Constitution that I want to know what this can be.

The joint resolution was then read a first and second time. It provides for an amendment to the Constitution of the United States, so "that no State shall make any distinction in the exercise of the elective franchise on account of race or color."

The joint resolution was referred to the Committee on the Judiciary, and ordered to be printed.

UNITED STATES COMMISSIONERS.

Mr. SCOFIELD, by unanimous consent, introduced a bill to extend the jurisdiction of United States commissioners; which was read a first and second time, and referred to the Committee on the Judiciary.

SOLDIERS' ORPHANS' HOME, ILLINOIS.

Mr. INGERSOLL. I ask unanimous consent to introduce a joint resolution donating certain Government property in Illinois to the Soldiers' Orphans' Home of that State; and I ask its consideration at this time.

Mr. DAVIS. I object.

Mr. INGERSOLL. Let it be read for information.

The joint resolution was read. It provides that the barracks and all other camp equipment at the various military camps within the State of Illinois, except at Rock Island, shall be donated to the Soldiers' Orphans' Home of said State; and that all such property shall be transferred and delivered to the said Soldiers' Orphans' Home as soon as the Government can dispense with the use of the same.

Mr. DAVIS. I must object to its consideration at this time.

Mr. INGERSOLL. Then I ask leave to introduce it and have it referred.

No objection was made, and the joint resolution was read a first and second time, and referred to the Committee on Military Affairs.

CHARLOTTE BENCE.

Mr. WILSON, of Iowa. I ask leave to introduce a bill, which I ask to have read, and upon which I ask the House to act at this time.

The bill was for the relief of Charlotte Bence, widow of Philip H. Bence, late captain of company F, thirtieth regiment Iowa volunteer infantry, and provides for placing her name on the pension roll at the rate of twenty dollars per month, from the 1st of October, 1864, and for and during her widowhood.

Mr. WILSON, of Iowa. I ask that the bill may be considered and acted upon at the present time.

Mr. DAVIS and Mr. LE BLOND objected.

Mr. WILSON, of Iowa. I trust that the gentlemen will withdraw their objections until I can explain the bill.

Mr. LE BLOND. I cannot consent that the bill shall be acted on now. Let it go to the proper committee and be examined. If it be reported formally, I suppose there will be no objection to its passage.

Mr. WILSON, of Iowa. I hope, then, that the bill will be received for the purpose of reference.

There being no objection to the introduction of the bill, it was read a first and second time, and referred to the Committee on Invalid Pensions.

REMISSION OF MILITARY SENTENCES.

Mr. HARDING, of Illinois. I ask unanimous consent to offer the following resolution:

Resolved, That the Committee on Military Affairs inquire into the justice and expediency of paying to soldiers whose pay has been withheld in pursuance of the sentences of military courts and orders, upon conviction for minor offenses, the amounts due to them up to the time of conviction, and report by bill or otherwise.

Mr. DAVIS. I object.

Mr. THAYER. I move that the House adjourn.

The motion was agreed to; and thereupon (at thirty-five minutes past two o'clock p. m.) the House adjourned.

IN SENATE.

THURSDAY, December 14, 1865.

The Chaplain, Rev. EDGAR H. GRAY, offered the following prayer:

O Thou who art from everlasting to everlasting, God, the same yesterday, to-day, and forever: Thy years fail not; Thy days have no end. What is man that Thou art mindful of him, or the son of man that Thou dost visit him? Thou hast made him a little lower than the angels, and yet hast crowned him with life and immortality beyond the grave. O God, we pray that all the dispensations of Thy providence may be sanctified to our good, and that we may be made to realize that our term of existence is brief upon earth; that man cometh up like the flower and is soon cut down; the wind passeth over him, and he is gone; the places that know him now shall know him no more forever. So teach us to number our days that we may apply our hearts unto wisdom and become wise unto everlasting life. Guide and direct us in the discharge of all the responsibilities resting upon us, and when we have discharged our duty and fulfilled our mission and

accomplished our sojournings here upon earth, may we die lamented by the good and go up on high to receive the approbation of the Judge, "Well done, good and faithful servant; enter thou into the joy of thy Lord forever." Amen.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Navy, transmitting, in obedience to law, a statement prepared by the Second Comptroller of the Treasury, showing the appropriations for the naval service for the year ending June 30, 1865, the expenditures for the same period, and the balances on hand; which was referred to the Committee on Naval Affairs.

ADJOURNMENT TO MONDAY.

Mr. HARRIS. I rise to make a motion to which, I suppose, there will be no objection. It is, that when the Senate adjourns to-day, it adjourn to meet on Monday next.

Mr. FESSENDEN. I suggest whether it is not advisable to postpone that motion for a little time. I have had an intimation that some matters may come in from the other House that may require to be acted on at once, and the delay of a day might be of importance.

Mr. HARRIS. I made the motion now, because I supposed the Senator from Vermont [Mr. Foor] would present resolutions which would perhaps preclude the making of such a motion.

Mr. FESSENDEN. I only make the suggestion. I do not object to the motion. It is for the Senate to decide.

The motion was agreed to.

COMMITTEE SERVICE.

Mr. LANE, of Indiana. There is a vacancy upon the Committee on Pensions, occasioned by the withdrawal of the Senator from Massachusetts, [Mr. Wilson.] I move that the Chair be authorized to fill the vacancy.

The motion was agreed to by unanimous consent.

EIGHT-HOUR LABOR SYSTEM.

Mr. BROWN. I desire to offer a resolution: *Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law for the adoption of the eight-hour system of labor in all employments and places to which the jurisdiction of Congress extends, so far as the same may be practicable, and to report by bill or otherwise.

This is simply a resolution of inquiry, and I presume there will be no objection to its passage.

Mr. TRUMBULL. I do not know that I have any objection to the resolution. It is one, however, instructing a committee to report upon the rightfulness or propriety of adopting an eight-hour labor system, and I think it had better go to some other committee than the Judiciary Committee.

Mr. JOHNSON. It presents no question of law, and is not at all suited, I think, to the Judiciary Committee.

Mr. WILSON. I suggest that it go to the Committee on Naval Affairs. I think that is the appropriate committee, because the application of such a system, so far as the Government is concerned, would be in the navy-yards and naval stations.

Mr. TRUMBULL. That is a very proper suggestion.

Mr. GRIMES. I think the resolution had better not be adopted at all. I do not think the question is one that comes properly before us at this time. All these things, I believe, are regulated by the laws of the particular States; and so far as the navy-yards are concerned, we have a law on the statute book that the men employed in the navy-yards shall work the same number of hours as similar employes in the private ship-yards around the navy-yard, so that we are dependent in regard to this matter in our different yards entirely upon the legislation of the different States, and that is the way it ought to be.

Mr. BROWN. Mr. President, I do not wish to enter into the discussion of the merits of the

question at this time. I seldom hear an objection to a mere resolution of inquiry that is presented, which proposes a reference to a committee. I think the Senator from Iowa yesterday expressed himself as somewhat surprised that any objection should be taken to a simple resolution of inquiry addressed to a committee. I think that the Judiciary Committee is the proper committee to which this question should go, and I should be glad to have it referred to it. The committee, if it sees proper, can report in any manner it chooses, by bill or otherwise, or ask to be discharged. The question can then come up for discussion on its merits.

Mr. TRUMBULL. I move that the resolution be referred to the Committee on Naval Affairs.

Mr. GRIMES. I merely inquire as to whether it is usual to instruct a committee to report. I believe we instruct them to inquire or request them to inquire; but is it the habit of the Senate in a resolution of reference to require a committee to report?

The PRESIDENT *pro tempore*. The Chair thinks it is in order to introduce a resolution of that sort.

Mr. GRIMES. I believe it has not been the usual practice.

Mr. BROWN. I do not desire to press the resolution this morning.

Mr. CONNESS. I object to its consideration this morning.

The PRESIDENT *pro tempore*. The Chair did not understand that there was any objection to its consideration, and having been debated to such an extent, it would seem the objection has been waived, and the Chair thinks it too late now to object to the consideration of the resolution.

Mr. BROWN. Let it be passed over informally.

The PRESIDENT *pro tempore*. It will be laid aside if there be no objection.

DEATH OF SENATOR COLLAMER.

Mr. FOOT. Mr. President, I rise to ask the Senate to suspend, for this day, its deliberations upon public affairs, that we may offer fitting and appropriate tribute to the character and the memory of one who has long been associated with us in the national councils, but who is with us now no more. Since our assembling here at this present session, we have all had occasion to remark—none of us can have failed to remark—the absence of one of our number; one whom we have long been accustomed to meet and to hold counsel with in these halls. An elder brother, who has long mingled with us in our deliberations here; a wise and discreet statesman; a learned and judicious counselor; a pure patriot; a just and an upright man, has been removed from among us by the hand of death. A venerable form, long familiar to our sight, has been taken away out of our presence. I bring no new message to this body—for it has already been heralded throughout the country—yet none the less sad, in making the formal announcement to the Senate of the death of my late colleague, Hon. Jacob COLLAMER. It is eminently fit and becoming, Mr. President, as it is also in accordance with an approved and sacred custom, that we pause for an hour in the ordinary routine of our daily labors, that we may consecrate that hour to the virtues and the memory of a deceased and lamented associate, who has shared so long and so largely in our regards, and in the public confidence, for his mature wisdom and for his great moral excellence.

"Your colleague, Judge COLLAMER, is dead!" was the startling telegraphic message I received at my home about five weeks ago. He expired at his residence in Woodstock, Vermont, on the evening of the 9th of November past, after a brief illness of little more than a single week, at his own home, in the midst of his own affectionate and devoted household, in the full exercise of his intellectual faculties, with an abiding and unshaken faith in the Christian religion, and in the cherished hope of a blissful immortality.

But three weeks before his decease he visited Montpelier, the capital of the State, some fifty miles distant from his residence, to attend the funeral services of a younger and favorite brother. Having paid the last sad offices of respect and affection to a brother's memory, he returned to his own home; but alas! only to lay himself down soon to die. By this dispensation, so sudden and so sad, the Senate of the United States has lost one of the oldest, most experienced, and most trusted of its members; the country one of the ablest and purest of its statesmen; society, and the church of which he was a member, one of their worthiest and brightest exemplars; my own State, her most eminent citizen; and this day there is mourning through all her borders.

JACOB COLLAMER was born in Troy, in the State of New York, the 8th day of January, A. D. 1791, and was, therefore, at the time of his decease, in the seventy-fifth year of his age, and in the number of his years was the senior member of this body. In early childhood he was removed, with his father's family, to Burlington, Vermont. There his early life was spent. There he was educated. There his academic years were passed. He entered the University of Vermont at the age of fifteen, where he graduated in 1810, with credit and commendation for good conduct and scholarship, thus giving early promise and hope to his friends of future eminence and usefulness. This promise and these hopes were not doomed to disappointment.

Immediately upon the conclusion of his collegiate course he entered the law office of the late Judge Aldis, of St. Albans, then an eminent and leading lawyer at the bar in the State. Having passed through the usual preparatory course of legal studies, he was admitted to the bar in 1813, and entered at once upon his professional career. After remaining a few months at St. Albans, and thence stopping for a year or two in the town of Randolph, he finally settled at Royalton, in the county of Windsor, where he resided during the whole period of his active professional career, and until he removed to Woodstock, in the same county, in 1836, where he continued till the time of his death. Here his advancement in professional business and reputation was alike rapid and gratifying, and soon placed him in the front ranks of the leading men of his time at the bar. Forensic laurels, fresh and fair, gathered thick and fast upon his youthful brow, and he became at once the compeer, as he was the contemporary, of Prentiss and Phelps, and Royce and Bates; of Van Ness and Upham; of Skinner and Hall and Everett, and early took rank even with the senior and more advanced champions of the profession, like Daniel Chipman and David Edmond, and Chauncey Langdon, and Horatio Seymour, and Charles K. Williams, and Jonathan H. Hubbard, and Charles Marsh, and William C. Bradley, who had long held supremacy at the bar in our State. It was in a school of practice like this; it was in contact and collision with minds like these, that his own powers were quickened and invigorated, and in which he was early trained and disciplined to habits of close application and study, and which became the fixed habit of his life, and was, indeed, one of the chief elements of his success, and which enabled him to reach and to maintain the post of eminence and distinction, awarded to him by the popular judgment, in the front ranks of the legal profession.

During the period of his active professional practice, although his time and attention were chiefly engrossed in his professional duties, yet, besides holding for several years the local offices of register of probate, and of State's attorney for the county of Windsor, he was, at four different times, elected by the people of Royalton to the popular branch of the State Legislature. He served through the several sessions, devoting himself, with his accustomed vigilance and fidelity, to the interests of his constituents and of the State, and took a prominent and influential part in the debates and the business of the body of which he was a member.

In January, A. D. 1836, and while then a judge upon the bench, he was a delegate from his town to the constitutional convention then holden at Montpelier, to consider and to act upon certain proposed amendments to the State constitution, the most important of which was a proposition to abolish the old "Gubernatorial Council," so called, and in its stead to constitute a legislative branch having coordinate powers with the House of Representatives, to be called "the Senate." This proposition was vigorously opposed in the convention, and brought out a protracted and perhaps the ablest parliamentary discussion ever had in the State upon any single question. The convention contained an unusual number of the leading and foremost men of the State. Judge COLLAMER led the debate in the affirmative of the question. The proposition was carried; and I feel myself authorized to say, mainly through his influence.

In 1833, and after a successful and even brilliant career at the bar of just twenty years, he was placed, by vote of the Legislature, upon the bench of the supreme court of the State, a position for which he possessed peculiar and pre-eminent qualifications, and which he held by successive elections nine years, and until he was returned by the people of his congressional district to the national House of Representatives. As a judge upon the bench he added luster to the reputation he had already acquired as a lawyer at the bar. He possessed intellectual and moral qualities most essential and requisite to the best discharge of the duties of a high judicial magistracy—a clear and discriminating mind, an impartial judgment, strong practical good sense, a profound and instinctive sense of right and wrong, patience of investigation, an inflexible integrity, and a sincere and earnest desire to reach a just and correct conclusion. He held the scales of justice, therefore, with a firm and even hand. All these qualities were brought into practical application, and were beautifully exemplified throughout his whole judicial career; and when he retired from the bench he laid aside the judicial ermine untarnished, and "without spot or wrinkle or any such thing."

From the bench he was transferred by the voice of the people of his district to the United States House of Representatives, where he took his seat in 1843, succeeding Horace Everett, long a distinguished member of that body. By successive elections, he continued an active and useful member of the House, though most of the time in a small political minority, until March, 1849, when he was called to the Cabinet of President Taylor as one of his confidential and constitutional advisers, and placed at the head of the General Post Office Department. Under his judicious and energetic administration, the vast and complicated machinery of that Department was brought into system and order and efficiency. He held this position until the death of President Taylor in July, 1850, when, with all his associates in the Cabinet, of whom the distinguished Senator from Maryland, [Mr. JOHNSON,] now present, was one, he resigned his place, and returned, a private citizen, to his home in Vermont.

He was not long permitted, however, to remain in the quietude of private life. The people of his State still demanded his services in a public capacity, and in the following October he was chosen, by the Legislature, presiding judge of the court in the judicial circuit in which he resided. He held this office through four years by successive legislative elections, discharging its duties with "all diligence and fidelity," and to the entire popular acceptance and approval, when in October, 1854, he was elected to the Senate of the United States, and he took his seat as a member of this body the first Monday of December, 1855. He was re-elected to his seat here in 1860, with an almost unprecedented degree of unanimity. He has been with us and of us just ten years. His course through all this decade, embracing, as it does, perhaps, the most important period in the history of the Republic, is familiar to us all—it is familiar to all the country. During this period,

and on this forum, where grave questions of State; where questions of peace and war; where questions of foreign and domestic policy; where questions of trade and commerce; questions of finance and revenue and taxation; here where every variety of question pertaining to governmental administration, is presented for consideration, for discussion, and for final determination—here, in this forum, he has won for himself a national reputation, an honorable and an enduring name, as a learned and able Senator; as a wise and discreet counselor; as a judicious and upright legislator; in short, as a Christian statesman—and a Christian statesman, it has been well and truly said, is the glory of his country—who has borne himself erect and above reproach through all this career, and kept himself "unspotted from the world." By the very constitution of his nature he revolted at every form and species of fraud and corruption, or of wrong and injustice. No man ever ventured to approach him with the offer of a price for his honor. Jobbers in iniquity came not into his presence. Purity of motive and integrity of purpose, unsullied and unassailed, were alike the law and the rule of his life, in public or in private action. All of us who have known him longest and known him best, will, with one accord, concede to him the possession, in an eminent degree, of what Cicero commends as the *bona Senatoris prudentia*—the "wisdom of a good Senator."

It is no less our duty, Mr. President, than it is our grateful privilege, in the midst of this sorrow, in this high place, and in the presence of the American people—if I may borrow the language of another on a like occasion—to pay the tribute of our recognition of the national loss, in the removal of those to whom we have been accustomed to look, especially in times of doubt and difficulty, for direction and for counsel. Such a loss is the more deeply felt, occurring at a period like the present, when questions novel and of paramount importance, growing out of a new and changed condition of public affairs, are to be considered and determined—questions vital to the best interests of the country, and involving the highest welfare, and even the very integrity and faith of the Government. The national heart has been laden with mourning and grief at the loss of many gallant and noble and patriotic sons of the Republic—numbering in its list of the mighty dead the chosen Chief Magistrate of your country—during this passing year now drawing to its close, to whom we were all looking for counsel and for guidance in these times of perplexity and trial. In the midst of these great bereavements, we have only to bow in humble submission to the will of Him who chastiseth "not willingly," and who "doeth all things well." It is only left to us to cherish the memories of the good and great who have been taken from us, to imbibe the spirit of their teachings, and to follow on, so far forth as we may do it, in the light of their examples.

Like most of the distinguished men of our time, and especially of our country; like most of those who have risen to the high places of power and trust; like most of the men who stand at the head of affairs in the various departments of life, whether political, professional, literary, commercial, or other pursuit; like most of the men who in our day and country have made their impress upon society, and who have written their own history upon the times in which they lived—like these men, JACOB COLLAMER was emphatically the author and the arbiter of his own fortunes. He owed nothing at all to the fortuitous aids or the accidental circumstances of birth or fortune or family patronage. Under God, he made his own fame and his own fortunes. With his own hands he cleared the rugged pathway which led him up to the entrance door of the temple of honor and renown. He made his own good name, and made it known and honorable among men. With the advantage of a gifted mind, and with a resolute purpose to fulfill the great end of his being—the service of God and his country—by application and industry, by energy and perse-

verance, and an honest and an honorable life of well-doing, he formed his own character and won his own distinction, and left it as a rich inheritance to his children, and as an example to those who shall come up after him.

Other and like examples abound through all our history. So did Daniel Webster, in whom the son of an humble Salisbury farmer among the granite hills of New Hampshire becomes in after years, and by popular appellation, the "great expounder of the American Constitution;" the great American Senator; the great American statesman, who stands, by the common recognition of mankind, as the intellectual monarch of his age. So did Abraham Lincoln—*clarum nomen*—the poor Kentucky boy; the martyr President, who, under God, had saved a country and redeemed a race; the martyr President, who, having saved his country from the great rebellion of all history, and redeemed a race from the bondage of centuries, falling by the assassin hand of treason, went down to the grave amid a nation's tears, and amid the requiem of a nation's wailing, yet bearing with him to the tomb more of the world's affections, more of its sympathies, and more of its honors too, than were ever accorded to other man, or prince, or potentate of earth; and whose highest eulogium is spoken in the universal lamentation. And so—I beg pardon, if in the least I offend against the proprieties of this occasion, or of this presence—so did Andrew Johnson, the humble mechanic from the mountains of North Carolina, who now, by the will of the American people, and by a providential dispensation, wields the power and challenges the homage of the first magistrate of the nation, and on whose will or word to-day, more than of other living man, hang the destinies of this American Republic. These are great examples. These are illustrious examples. Our history is full of them. They are as beacon-lights along the dim and crowded pathway of human life. They are for instruction, for guidance, for encouragement, for inspiration to the rising and the coming generation of American youth.

"The fame which a man wins for himself is best; That he may call his own."

JACOB COLLAMER was endowed with a rare combination of intellectual and moral qualities of a high order; a capacious mind, at once active, clear, and discriminating—a mind, too, in which the analytic powers and the reflective faculties were largely developed; and he was also gifted with a retentive memory. He was capable of fixed and continuous application of his mind to the examination and analysis of whatever question he took in hand. These faculties were all sharpened and strengthened by varied reading and acquirement, and by habits of careful study and reflection. He possessed, in a remarkable degree, the power of condensation, and of arranging the various points or propositions involved in any subject under discussion in the most clear and logical order, and which enabled him to present them with great force and perspicuity to the minds of others. He always secured respectful attention and deference to his opinions, whether in public debate or in private discussion, for the clearness and force with which he presented his views. He often enforced or illustrated an idea or proposition by the timely introduction of some apt and racy and often amusing anecdote.

If he was not always eloquent, he was always instructive. If he was not an orator in its ordinary acceptance, he was more and better than a mere orator. He was a reasoner—a clear and logical reasoner. He was an excellent talker—an excellent public as well as private or social talker. He had the faculty of making himself understood, and consequently of making his subject understood. He addressed himself to the reason and the understanding, rather than to the impulses or the fancies of men. It was his aim and his effort to convince the judgment by force of argument, rather than to move the passions by the appeals of eloquence, or to please the fancy by

the beauties of rhetoric. If he had not the highest order of what, in popular phrase, is called genius, he had more solid common sense than any man of genius, and was master of its practical use.

A thoughtful and conscientious man as he was, he spoke always and only from the convictions of his own judgment. His opinions, especially upon grave and important questions, were not hastily formed nor inconsiderately expressed, but only after the most careful and mature reflection. Hence his opinions always commanded great respect and deference, and carried with them a corresponding weight and influence. His opinions, especially upon legal and constitutional questions, or upon questions of international law, were always received with profound deference and regard. His intelligent and independent judgment, his strong, practical good sense, and his unbending integrity of purpose, imparted to all his opinions uncommon weight and value.

His whole life, public and professional, whether at the bar or upon the bench; whether in a high executive department or in the halls of legislation, has been assiduously devoted to the cause of truth and justice. Few public men have left a more excellent or a more honorable record.

With his high intellectual endowments were happily blended the kindlier affections of the heart; and to all these were superadded the purer and holier graces of a Christian faith and of a consistent Christian life. In 1825 he made public profession of his faith in the Gospel of Christ and united with the Congregational church in Royalton, then the place of his residence. Through all these forty years, his life, in all its varied modes, no less in the public than in the private walks of society; no less in the national councils than in the social and domestic circle, furnishes a practical and beautiful illustration of the beneficent influence and power of the religion he professed.

The loss of such a man is indeed a loss to the nation; it is a loss to the State; it is a loss to society. But we have only to know that it is God's doing, and "be still." This bereavement I hardly need to say, Mr. President, falls with terrible and crushing severity upon an interesting and stricken family household. But I am not at liberty to enter the sanctuary of this grief. I may not lift the curtain which veils from public view the deep sorrow which sitteth and weepeth there.

Mr. President, he whose death we now lament is gone to be with us here no more. His work on earth is done. He strikes a golden harp among the seraphim on high. His precepts and his example are left to us for our instruction and our profit. Happy, indeed, will it be, if we shall so profit by them that we shall be ready, as he was ready, for the final summons, in that hour which is coming to us all, and to some of us is not far off, when this world and its worthlessness shall fade from our sinking vision.

Mr. President, I offer the following resolutions:

Resolved, That the Senate has received with deep sensibility the announcement of the death of Hon. JACOB COLLAMER, late a Senator of the United States from the State of Vermont.

Resolved, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of Hon. JACOB COLLAMER, will go into mourning by wearing crape on the left arm for thirty days.

Resolved, That as a further mark of respect for the memory of the deceased, the Senate do now adjourn.

Ordered, That the Secretary communicate these resolutions to the House of Representatives.

Mr. HARRIS. Mr. President, it is not for Vermont to mourn alone; New York claims the privilege of standing by her side in this hour of her affliction, of bending with her in grief over the grave of her illustrious Senator. He was the son of Vermont by adoption, of New York by birth. The elevated position he so long occupied, the extensive influence he so long wielded, the honor awarded to him by all, may justly excite the pride of both his native and his adopted State. A man of sin-

gular worth and rare virtue has been lost to both.

As Senators, we may well unite in paying our tribute of respect to the memory of one so justly honored, and pause in our deliberations to bestow our homage upon one so justly beloved. The Senate has, indeed, lost one of its ablest statesmen, one of its purest patriots. In honoring such a man, we honor ourselves.

When we met in this Chamber a few days ago, I am sure the thought was present to every mind that one of our number was not here; that one seat had been made vacant; that the oldest, the most experienced, and, perhaps, the wisest of our body, was gone. It is hard for us to believe that the venerable form so familiar to us here will no longer stand in our midst; that he who so lately was the object of our reverence has already been carried away into sepulchral darkness; that we shall never again listen to words of wisdom and patriotism from his lips. Those who knew him best will miss him most. In the Senate, where his counsels had been so prominent, his death will be felt as no common bereavement. We do well to mourn his loss.

How frequently, Mr. President, we have been called to honor the Senate's dead, to pay the homage which friendship is ever prompt to offer to those who have been our associates in the nation's council! This is the eighth occasion, since I became a member of this body, when the Senate has paused to render its public tribute to the memory of its dead. The eloquence of Douglas and Baker is no longer heard in these Halls. Bingham and Pearce and Thomson and Bowden and Hicks no longer appear in their wonted places. Thus, one after another, familiar faces disappear, and the great and the good pass from among us. But of them all, not one will be more missed from the Senate than he to whose memory we now pay the last tribute of affection and respect.

It is not my purpose to speak in detail of the life or the character or the public services of our lamented friend. To do so would be to repeat what has been so well and so beautifully said by the Senator who has preceded me, in the eloquent eulogy to which we have just listened. He has traced the course of Judge COLLAMER from the earliest beginning of his career to his latest hour; showing how by his energy, his intellectual power, and his moral worth, he reached the high position he so long occupied.

I did not know him, as did the Senator from Vermont, when in the prime and freshness of his life. When we first met the hand of time had touched him. But even then I saw enough to realize what he might have been when in the full maturity and vigor of his manhood. He had passed the allotted period of human life; yet even his latest years were devoted, with equal fidelity and success, to the service of his country; and to the last he continued to exhibit the fruits of a mind well disciplined by early habits of industry, and well furnished with the rich stores of a long experience. In him were happily combined those elements which constitute a sound and judicious statesman. A man of great personal dignity, he was justly esteemed for the excellence of his judgment and the purity of his character. His most prominent characteristics were, I think, sound discretion, clear discernment, good common sense, and great honesty of purpose. No purer patriot ever participated in the councils of the nation.

He did not often occupy the attention of the Senate in debate, but when he did rise to speak he was sure to receive the most respectful and earnest attention. Such was the directness and force of his argument, so affluent were his resources, both of wisdom and experience, so minute was his knowledge of public affairs, that all present, Senators and spectators, became eager and instructed listeners.

He had looked upon life with an observing eye. No man was more thoroughly conversant with the great interests of the country. His memory seemed almost exhaustless, and from

its treasures he was ever ready to draw instruction for the benefit of others. It was, however, in his private and friendly intercourse that I learned most to admire him. I count it among the felicities of my life that I was permitted to know him, and in some degree to enjoy his friendship.

But he has been taken from us in the midst of his usefulness. His sun went down in brightness. No twilight obscured its setting. When his appointed time had come, disease, "not tardy to perform its destined office," dismissed him from earth, and he has gone to his heavenly rest.

Judge COLLAMER was happy in the circumstances of his death. Of him it may be said, as it was of John Quincy Adams, that "no excesses of a profligate youth, no vices of middle life, had shattered and hurried to a premature dissolution the body in which his incorruptible spirit resided." Nothing in his habits of life interfered with nature, to whose gentle influences it was left to destroy gradually, and to restore in a good old age to its parent dust, the perishable part of our friend. The law of mortality, which knows no exception among the passing generations of our race, was executed, in his case, with as much tenderness and reserve, so to speak, as is ever permitted by Providence.

He was not left to be an object of compassion to his friends and admirers. No painful contrasts forced them to revert in memory to better days. But, with a mind unimpaired, with an interest in life unabated, with a self-command which protracted sickness had not destroyed, he passed to his rest. Thus we pay our last tribute to the memory of one whose life has been long, and useful, and illustrious. In private life he was without reproach. As a lawyer, he was an ornament to his noble profession. As a judge, he was learned and upright. As a Senator, he occupied the front rank among the statesmen of our country. There may have been those whose career has been more brilliant and dazzling, but there have been few whose labors have been more useful, or who have secured for themselves a reputation more enviable or enduring. We all respected and admired him while living, and now, that he is dead, we render our sincere homage to his memory. Never again will he grace this Chamber with his presence; never again shall we hear his voice. He has passed through the vicissitudes of a long and eventful life. He has met and manfully fulfilled the duties allotted to him upon earth. Death came to him in the ripeness of his years and his fame. No stain rests upon his honored name. His life was full of moral beauty, and with mingled feelings of reverence and love we commemorate his virtue and lament his loss.

Mr. JOHNSON. Mr. President, the loss of such a man as JACOB COLLAMER to the public councils at any time would have been deeply lamented. In the existing condition of the country the feeling is deepened, and the event justly esteemed a serious calamity. He had been so long in the public service, his course was so well known, the character of his mind so frequently and so favorably illustrated, his wisdom so uniformly exhibited, and during our recent perils and the complications consequent upon them, his patriotism as well as his wisdom was so conspicuous and comprehensive, that wherever his death became known it was recognized as a great national affliction. And so it is. Valuable as we, his associates especially, know were his teachings and example during the past four years, now that the shock of arms has ceased, the flow of fraternal blood arrested, and the authority of the Government everywhere reinstated, there yet remain questions of great interest to be adjusted, upon which his advice would have been of great importance. From my intimate knowledge of him, I deplore his loss the more because I am satisfied that he would have greatly assisted us in so solving those questions as to make our Union more perfect than it ever has been—

making it a Union supported by the hearts of the people as well as by the force of constitutional obligation. The measures calculated to effect at the earliest moment this great and priceless result require high intellectual and moral qualities—qualities so elevated as to be inaccessible to the weaknesses and prejudices which are often, to the impairing of their usefulness, seen to control even cultivated minds. It is from the general conviction that these qualities were possessed by our deceased associate, that the voice of regret at his decease was so general.

The universal sentiment seemed to be that under the guidance of wisdom such as his, all would be well; that his exposition of the policy suited to the vital difficulties of the hour would be so clear and statesmanlike as materially to influence the deliberations of Congress, inform and satisfy the public judgment, and hasten their safe and speedy settlement. And well might this impression prevail, for to such a work the mind of Judge COLLAMER was admirably adapted. Nature had endowed him with excellent mental capacity, and he had cultivated it with great care and diligence. His knowledge of the institutions and history of our country was alike exact and profound. He had studied them not only in their details, but in their philosophy. He came, therefore, to the consideration of all measures of public policy with great advantages. Impressed with the conviction that our institutions, if administered as our fathers designed, contained every power necessary to secure individual liberty and the public welfare, he was, whether in war or in peace, for keeping every department of the Government within the limits prescribed by the Constitution. To transcend these under any exigency he overreputed as inadmissible and dangerous. With a mind strongly conservative by nature and training, while doing full justice to the different opinions of others, he at all times opposed as a solemn duty measures or principles projected or maintained by any department of the Government which he believed were unwarranted by the Constitution. This he exhibited in strong terms in his admirable and exhaustive speech of the 12th of February, 1862, on the Treasury-note bill. Referring to the doctrine of necessity as justifying or excusing the exercise of powers not delegated by the Constitution, he said:

"I do not know how other members of the Senate look upon the obligation of their oath to support the Constitution of the United States. To me it is an oath registered in heaven as well as upon earth, and there is no necessity that, in my estimation, will justify me in the breach of it. I think those men who are now risking their lives upon the high places of the field to support the Constitution, are not to be treated in this Hall by us with the concession that we are ready, if the necessity calls for it, to break it. All that our rebel enemies are engaged in is the overthrow of the Constitution, and all that we are contending for is its maintenance and preservation."

In the debate, too, on the confiscation bill, his view on an important question of public law is also illustrative of him. The doctrine he announced on that occasion, though not held by all statesmen of the present day, is now of great practical moment as well as of vital interest to thousands of our citizens.

Referring to the asserted obligation of the people of the South to submit to the authority of the *de facto* governments which prevailed there, and to the legal consequences of such submission, he observed:

"However loyal their feelings, a government *de facto* is over them. They cannot get away. They have nowhere to go. They have nothing to go with. What would you have a man there to do? What has this nation a right to demand of him?"

And among other instances, relying upon what he justly characterized as the "bright and high" example of Chief Justice Hale in taking office under the usurped government of Cromwell, he stated that in his opinion a citizen otherwise loyal did not commit treason by submitting to or even by holding office under a *de facto* government; and his concluding words upon this subject were these:

"Such, sir, is the respect paid by the world, and especially that part of the world from which we spring, to a *de facto* government, and the nations of the earth deal with them as governments, no matter what the usurpation."

I have no purpose, and certainly the present would be a very unfit occasion to indulge it if I had, to examine into the correctness of this proposition or its application to the late rebellion. The speech is referred to as was the one before quoted, because it accounts in part, I think, for the impression so widely entertained that a conservative and enlightened statesman in the inscrutable providence of God had been taken from us at an epoch in our country's history when his services could not have failed to be of great value. But irrespective of all particular exhibitions of it, it was not surprising to those who knew Judge COLLAMER in advance that he proved so well fitted to the duties of the important positions to which his State called him. An habitual student, with a mind perfectly honest, with a long experience at the bar and on the bench of his own State, (a bench ever distinguished for ability and learning,) he came to the councils of the General Government thoroughly prepared to meet their highest demands, and this the result proved. From the first he ranked among the ablest of our jurists and statesmen, and continued to maintain that rank to the last. As long as the nine volumes of the Vermont Reports of cases during his judicial career remain, the exactness and depth of his legal knowledge will serve to guide and inform the profession and promote everywhere the cause of enlightened jurisprudence; and while the debates of Congress during the period of his service in either branch are left, we who are yet here, and those who shall succeed us, will find in his speeches lessons full of instruction and replete with patriotism on almost every question of public policy or of constitutional law that can arise. In the purity of his life, too, the industry with which he discharged his various official functions; in his freedom from prejudice, his constant regard to the rights and interests of all the States, and in his uniform courtesy to his associates, we have an example at all times to be honored and followed.

Mr. President, it was my good fortune to have been associated with him, not only in the Senate, but for some fourteen months in the executive councils during the administration of General Taylor. Before that period I only knew him as a distinguished public servant; but in those months our relations became, to my great benefit and gratification, intimate, leading to a friendship which it is a great pleasure to me now to remember was never even for a moment disturbed. Those who were acquainted with his administration of the Post Office Department during that time know that it was in all respects admirable. Its vast and complicated business, throughout his administration, was never more ably conducted. I feel that it is unnecessary, in the presence in which I stand, to say more of his public career. No praise of it, however great, would those who have been with him in this Chamber consider exaggerated. And for the same reason would it be idle for me to do more than to allude to his social qualities, for these we all knew and delighted in. The public business of the day ended, its cares dismissed, and private intercourse resumed, which of us does not recollect that his conversation was always instructive, friendly, and entertaining? To allude to it even affords but a melancholy pleasure, as it so forcibly reminds us of the great private affliction we have sustained. But in our bereavement we are not without consolation. The sad evil did not occur until our friend had served his country most faithfully and well, and particularly during the last four years of its severe trial with unsurpassed ability and the purest patriotism.

It is a further consolation that it did not occur until the crisis of our nation's peril had favorably terminated; until the fratricidal blow aimed at its life by wicked ambition, proving for a time able to mislead the honest masses of the South, was so utterly defeated and crushed that its renewal is impossible, and until the authority of the Constitution and laws was restored and submitted to in every part of the land. Our consolation, however, would have been the greater if he had been suffered to re-

main until he could have seen established that stronger bond of union than Constitution and laws alone can give, which is to be found in mutual sympathy and affection; until he had seen us again, and more perfectly than ever, one people, acknowledging the same political principles, influenced by the same motives, and impelled by the same purpose of working out, under and by virtue of the governments of the union and of the States, a prosperity and renown greater than we have possessed in the past, and abandoning forever the heresy of secession, and abolishing the special institution, (the causes, direct or indirect, of the late convulsion,) resolved to make our Union, to which we owe all of our happiness, individual and social, that we have heretofore enjoyed or can hope for, not only firmer than ever, but, as far as human effort can accomplish it, make it perpetual.

If this additional privilege had been vouchsafed him by Providence, our departed associate and friend would, I believe, have left the world without other pang than that acute one which is inseparable from the sundering of domestic ties, (ties never stronger than in his case,) and in the full assurance, which takes from death its sting and from the grave its victory, of that judgment in mercy which a firm belief in the truth of the Christian dispensation assures him who holds it will be awarded to a well-spent and religious life on earth.

Mr. FESSENDEN. Mr. President, among the distinguished men who, during the past ten years, have occupied these seats, I regarded Senator COLLAMER as having no superior. He was not among those, if any such may be found, selected through his own skill in political combinations, in reward for party services, to advance the interests of personal followers, or on account of individual popularity. With great directness, not to say abruptness, of speech, extreme tenacity of opinion and purpose, and apparently a somewhat proportionate disregard of the opinions of others when differing from his own, he was not likely to gather around him, and retain the attachment of, a party devoted to himself, or to interest large numbers of men in his individual success. Notwithstanding these obstacles in his political path, few among our eminent public men have been more successful in attracting and retaining the confidence and regard of the people among whom he lived, and inspiring with profound respect those with whom it was his fortune to be associated in the conduct of public affairs.

That this was so may be accounted for in some measure by the character of the people whom he so long and so ably represented, and in a still greater degree by the possession of intellectual and moral qualities which overshadowed all such trifling defects, if so they may be considered. The small but noble State of which he was a most distinguished citizen has long been accustomed to look for its official representatives among those most eminent for virtue in private, and for capacity for usefulness in public life. It has ever seemed to act upon the idea that public trust should be confided to the most faithful, and public honors conferred upon the most capable and deserving of its sons. Thence it has followed not only that its domestic affairs have been well and ably conducted, but that its weight in the councils of the nation has been largely disproportioned to the extent of its territory and the number of its people.

Mr. COLLAMER was the possessor of qualities which could not fail to attract the attention and to secure the confidence of a people able and disposed to estimate men at their true value. Though his love of approbation was largely developed, he was more anxious to deserve than to receive it. Ambitious to secure the respect of others, he never forgot that without his own it would be worthless. Gifted by nature with great quickness of apprehension, discriminating powers of a high order, a just thinker, an admirable logician, and withal a student both from taste and habit, he could not but

become an able lawyer, more distinguished, perhaps, for the exactness of his professional learning than for the extent of its range. That learning, however, embraced all the subjects coming within the sphere of his practice, and involved with the pursuits of those among whom he lived, and whose interests he was called upon to protect.

Carrying to the bench of his State such habits of study and thought, and such intellectual powers, and with them a most delicate conscientiousness, he could not be otherwise than an eminent and upright magistrate—eminent even among the able and learned men who, from its earliest history, have adorned its judicial annals, and given to American law character and renown. It is not, however, for me to speak of him at length, either as counselor or judge, inasmuch as I never happened to witness his efforts at the bar or upon the bench. Yet, though living in another, and not an adjoining, State, his professional and judicial reputation was such as could not be confined within the limits of his circuit, and his name had been familiar to me long before it was my good fortune to meet him where, upon a broader theater, and at a great crisis in his country's history, requiring the exercise of the best powers of the human mind, he was destined to perform a most useful and honorable part.

Our lamented associate brought to the Senate, at the commencement of the Thirty-Fourth Congress, a rich experience in legislation, gathered in the halls of his adopted State, and in the national House of Representatives. With a man like him time never was suffered to pass unimproved. Intrusted with public affairs, to make himself familiar with all that pertained to them, to master the details of business, and to guard with vigilance the public interests, were to him solemn and religious duties. To this end he spared no labor, however severe, and shrunk from no task however burdensome. With such habits, and thus ripe in intellect and experience, he commenced his senatorial career, not, like many others, with everything to learn, but fully armed, master of his weapons, and ready for the great conflict upon which he was about to enter. Time never finds a great occasion without finding also, earlier or later, the men fitted to meet it. Familiar with his country's history, learned in its laws, thoroughly imbued with its principles of government, in the best sense a patriot, thoughtful and wise in council, firm in purpose, and spotless in character, our associate and friend was admirably fitted to meet the duties of a perilous hour. How well and bravely those duties were performed we can all bear witness. Spared to see the clouds of civil war which had so long darkened over his beloved country finally dissipated, and the sun of peace rising in unobscured brilliancy, he passed away from earth too soon, as it would seem to our imperfect vision, and while very much to which his sagacity and prudence might have largely contributed still remains to be done.

Conspicuous in the debates of the Senate, Mr. COLLAMER, though of prepossessing personal appearance and ready in speech, was not remarkable for oratorical power, and at no pains to ornament his discourse with rhetorical illustration. His remarks were always suited to the occasion, and confined strictly to the question in debate. Plain, simple, and unpretending in manner and style, always severely logical and master of his subject, he was invariably heard with attention, and with the expectation, never disappointed, that new light would be cast upon the question, however elaborately it might have been previously discussed by others. His speeches were well considered, but never assumed the shape of orations, carefully written out, adorned with rhetorical flourish, and "pointed with inverted commas." The closest was to him a place for prayer and thought, for forgiveness of injuries, real or fancied, and for the cultivation of good-will to man, rather than a laboratory of vituperation, open or covert, whether of men or measures. Quick at repartee and somewhat impatient of interruption, his

retorts were sometimes caustic, but had no tinge of malice. If their sting was felt it left no wound; while the rich vein of humor, which never failed, and an inexhaustible fund of apposite and amusing anecdote, always illustrative and most happily related, rendered his efforts alike interesting to a miscellaneous audience and instructive to his associates.

You and I, Mr. President, have long known and felt how delightful our lamented friend was in private and social intercourse, how playful and genial was his wit, how fertile he was of anecdote, how keen of observation, and how instructive his conversation, both in lighter and graver moods. No one of his associates in this Chamber can, better than myself, bear testimony to his kindness of heart, his readiness to impart information and give the advantage of his learning and wisdom to those about him whenever sought or needed. Seated by his side, session after session, for many years, I habitually asked his advice and sought his aid whenever embarrassed by doubt or difficulty. The patience with which he listened, and the ready kindness with which he responded, imparting from his rich store all that was needful, compelling me to make his thoughts my own, could not but secure my gratitude and win my affection. I venerated and loved the man as one regards an elder brother, upon whose superior knowledge and wisdom, and unselfish singleness of heart, he feels that he may, in all emergencies, safely rely; and I grieve for his loss as one laments the breaking of a link in that chain of life's pleasures which he feels to be growing shorter and shorter day by day.

At a period like the present, calling for so much wise experience and unselfish devotion in our national councils, the loss of such a man cannot but be severely felt. And yet, in the inscrutable ways of Providence, it well happens that the termination of no single life is ever permitted to produce more than a momentary ripple upon the great ocean of human affairs. Whatever impress the individual may make upon the time in which he lived is soon trodden out by myriads of advancing footsteps. Other hands take up the unfinished work, and it goes on without any perceptible stay or interruption. The noblest ambition of man is, therefore, to perform well and faithfully the part assigned to him, and he is fortunate if content with what he may receive, and humbly thankful if spared responsibilities beyond his ability to bear. It may be truly said of our departed friend that he was true to his own conceptions of duty, both in public and private life. And if he was not without a love for worldly distinction and eminent place, that love was subordinate always to his convictions of right, and his highest aim was to serve faithfully, and to divine acceptance, as a Christian soldier, in the great battle of life.

Mr. DIXON. Mr. President, the Nestor of the American Senate has been called from the scene where his counsels have been so often heard, and his wisdom was so justly honored. Whatever of eloquence, of learning, of skill in debate may remain in this body, the death of Judge COLLAMER leaves a void here which will not easily be supplied. Whoever aspires to fill his peculiar place, and exert a similar influence, must possess not only equal abilities and a character as pure, but a judgment enlightened like his by the lessons, and a mind stored with the fruits, of a long and varied experience.

If, in our estimate of the dead, we are sometimes liable to pass beyond the measure of a just appreciation, we may be assured that whatever language of eulogy is applied to him, we are in little danger of exceeding a correct judgment of his merits. In the Senate, and wherever else he was called to act, he was a man so marked and peculiar that his superiority in many striking respects was at once acknowledged. It was my good fortune to know him somewhat intimately; first in the House of Representatives, and more lately in the Senate. While in both these positions he

was conspicuous among the celebrated and able men with whom he was associated in public affairs, there were certain qualities, intellectual and moral, in which he was not surpassed by any of the distinguished men of his time. And, first of all, he was a just man. His integrity was a pervading and governing characteristic of his nature; which not only controlled his conduct, but shaped his sentiments and opinions, so that he seemed gifted with an unerring judgment of right and wrong. Enlightened by this high sense of justice, his reasoning faculties could scarcely fail in the attainment of truth; and for him to refuse its acknowledgment or resist its sway was an impossibility. Hence it was that in those intellectual processes for which he was so distinguished, he seemed never to be contending merely for polemic victory, but rather to be illuminating, by the light of his unclouded reason, the path which his controlling sense of justice compelled him to pursue. It was impossible to follow him in the steps of his irrefutable logic, without being struck by his perfect sincerity, as well as by the strength of his reasoning; and the arguments by which his own mind was convinced seldom failed to convince his hearers. Thus as an advocate he compelled the assent of courts and juries to his propositions. But it was as a judge that he seemed in his peculiarly appropriate sphere. Here, his high sense of right and his unrivaled reasoning powers, combined to render his legal judgments almost infallible; and the suitors to whom justice was dispensed by him seldom complained even of his adverse decisions.

To us our venerated and deeply-lamented friend was chiefly known by his punctual and constant attendance and his faithful labors in this body, in the business and debates of which he took a leading part. Here for many years we have listened to his words of wisdom, and have been guided by the light which he shed upon every subject which he discussed; yet I cannot recall an instance in which he exerted those great abilities, with which he was intrusted for the good of mankind, for the purposes of ostentation or self-display. The arts of eloquence he apparently little esteemed. These, with the graces of rhetoric and the felicities of expression, he left entirely to others, satisfying himself with a plainness of language, and often with a homeliness of phrase, which sometimes gave an added strength to his unanswerable reasoning. In the midst, however, of his closest argumentation, the flash of wit, the quaint stroke of humor, the apt and illustrative anecdote, would occasionally vary the current of thought and relieve the attention which might otherwise have been wearied by the severe and exact logic to which he usually so rigidly adhered. Nor should it be forgotten that, with all his power in debate, he was generous and considerate of others. No harsh or unkind word ever escaped his lips. He seldom indulged even in repartee, passing in silence any attack, real or supposed, upon himself, and applying his powers only to the subject-matter of his discourse. As he was respected, so he was respectful and courteous in debate, treating others with the same consideration and regard which all conceded to his own pure character and superior abilities.

In the truest and best sense of the word Judge COLLAMER was a conservative. To conserve, to defend, to uphold and maintain the Government, the Union, the Constitution, the laws of the United States, this was his constant effort, the mission and the labor of his life. He did not believe, however, that true conservatism consists in upholding ancient error, or persisting in wrongs because they seem by the lapse of time to have become irremediable, or by custom and usage to have grown inviolable. On the contrary, he thought that what is good in a Government may best be defended and preserved by seeking the proper occasion to correct abuses and rectify mistakes. A genuine conservative, he was not the blind advocate of existing evils, nor the stubborn apologist of the past. He knew when to yield to unavoidable

able vicissitudes, when to favor necessary changes, when to originate improvements and suggest alterations, as well as when to resist the visionary schemes of reckless innovators. He sustained no policy merely because it was old; he favored no measure merely because it was new.

I have spoken of Judge COLLAMER as he was seen in the performance of his public duties. There was another side of his character in which the persuasive advocate, the inflexible judge, the wise and politic statesman was seen in a more genial and winning light. In the unrestrained intercourse of private life and the flow of ordinary conversation there was a charm in his society which those who knew him intimately cannot soon forget. The judge and the Senator were forgotten in the brilliant and delightful companion, the generous and sympathizing friend, the wise, the candid, the far-seeing man.

In the fullness of his years, after a life of usefulness and of honor, and in the assurance of a Christian hope of a blessed immortality, he has gone to his reward. Of those who survive him, of those who in coming years are to succeed him here and elsewhere, there are few who can equal him in ability and in virtue. His intellectual and his moral traits partook of the antique mold, rather than of the modern type of character. Yet though rare and peculiar, they are not inimitable, and to the noble and aspiring youth of our country, whose hearts beat high with the love of civil liberty, and who are fired with a generous ambition to benefit and exalt the human race, they furnish an example worthy of earnest emulation and full of the highest encouragement. They may see him in youth studious, laborious, and virtuous; in manhood exerting all his powers for the good of mankind; and in his ripened age, still in the full possession of his faculties, and conscientiously performing all his duties, crowned with public honors and the respect and affection of a grateful people. They may learn, also, from his life, that the greatest talents do not eclipse the higher and purer light of a truly Christian character; and they cannot fail to perceive the superiority of moral over intellectual greatness, when they observe that with all his preëminent abilities, the most striking characteristic of JACOB COLLAMER was his perfect integrity.

Mr. RIDDLE. In sorrow for the necessity, with pleasure for the privilege which the sad necessity has created, I, Mr. President, second the resolutions before us.

Eulogy is not my forte. Obituaries are to me unpleasant. Eulogies I would not attempt; obituaries sometimes become an imperative duty. If perchance the one is blended with the other, it shows at least that the heart is holding such dominion over the mind as to impel utterance to honest sentiments.

In the death of JACOB COLLAMER, I think Vermont has lost one of her brightest jewels, the Senate one of its most courteous members, and the country one of its greatest statesmen. He was great in feeling, great in thought, great in principle, and great in action. The compeers of Calhoun, Clay, Webster, and Wright, by his demise are nearly, if not entirely, extinct.

But for the illumination of their minds, reflected by the archives of our country, we would be left comparatively in the dark to grapple with the difficulties which surround us; hence the greater the loss. Would that he had lived to aid in the great work of reconstruction which we are, I hope, about to inaugurate.

My first acquaintance with Mr. COLLAMER was in 1849 or 1850, when he was Postmaster General of the United States, the duties of which office he discharged with signal ability and general satisfaction. I do confess that the impressions which he made upon me at that time were different from those of later days when we became better acquainted and more intimate. He was apparently an austere man, but there was as little of harshness or rigidity in his composition as of any man who ever lived. Honesty,

dignity, and self-possession, prominent characteristics of the man, naturally created such an impression, and especially upon a young man who differed with him materially upon most political questions, and who was predisposed to oppose his administration. This apparent austerity in a measure separated us, but the union, like the welded link in the chain, only united us more strongly when made.

An epitome of his life I would gladly give you, but that has been furnished by his surviving and venerable colleague. It may, nevertheless, be proper for me to allude, I trust it will be considered modestly, to his deportment as a Senator, his position as a jurist, and his character as a statesman. Some men when they acquire the position of Senator, (I use the word "acquire" without wishing it to be literally applied to the deceased,) seek popularity rather than labor to direct to proper channels the popularity which their good acts and position have created. This is the rock, mark my word for it, upon which Great Britain is bound to split. In other words, some men embrace the "isms" of the day—I use the manufactured word "isms," not knowing any other so comprehensive—rather than breast the storm which such "isms" naturally engender, and which must ultimately destroy every vestige of republican institutions if persevered in. Judge COLLAMER was not of this class; and in this respect he must have elevated himself in the estimation of the honorable men of Vermont. He believed, and I think correctly, that if our ship of State was to be stranded, it would be by fanaticism, and the denial to the States of their reserved rights under the Federal Constitution. His last speech before this body justifies me making such a declaration; but political expressions, or even expressions which lean that way, are not relevant to this occasion. I may, however, be permitted to add, that "his solid qualities as a man, and his evident desire to observe the right as a guide in political matters, won for him many friends, even among those who, like myself, differed from him essentially in the conclusions to which he arrived." I have thus, Mr. President, merely briefly alluded to his views to show that a great man can, to a great extent, shake off the shackles of party, be sustained by an honest constituency, and shine out, in the estimation of an enlightened world, as a patriot and statesman. Such was Judge COLLAMER. No Senator ever doubted his honesty; no Senator ever questioned his integrity; and when he arose to address you, Mr. President, he was recognized, as he should have been, over many of us, in consequence of his age, experience, ability, and acknowledged statesmanship. If this be a compliment, God grant his friends may duly appreciate it.

I speak, sir, perhaps, apparently with too much feeling, but it fortified I was his companion upon his return home after the adjournment of the last Congress. I may say that during our last journey I learned to know him better, and, if possible, respect him more. I knew he was unfamiliar with selfishness. His laudable ambition was satiated. His country, with which I may say he was born, was his adopted child. He had grown up with it. In boyhood he fought its early battles; in manhood he contended for its institutions; and in old age, when death was dawning upon him, he enunciated the noblest principles of his life, and the only principles which can save this Government. I leave to Senators and the country to judge what these principles are.

Before to-day I did not know Judge COLLAMER's religious views. I knew he was spiritually inclined, and I believe no man can be great without such inclination. It is the gem from which true greatness grows, cultivate it as you may. It enlarges the heart, brightens the intellect, and gives true nobility to the soul. It is equally certain that many assume it for base and mercenary purposes, and they are the pests upon society; but Judge COLLAMER, I may say, and let the remark not appear sacrilegious, it assumed. He was honest enough to admit his errors; bold enough to confront his enemies;

conscientious enough to concede his faults; and humble enough to pray to his God for forgiveness.

During the journey to which I have alluded I advanced the idea that although man was mortal, government, the creature of man upon this earth, properly regulated, might become immortal; that morality and love for the neighbor were the essential attributes of lasting power and sovereignty, and that sovereignty maintained under such instincts would become immortal. To this the judge partially dissented, but expressed a desire to read a work upon the subject, a copy of which I sent him a few months before he died.

He also expressed a desire to read the works of Emanuel Swedenborg, whom he considered as one of the greatest men and writers of his age, but feeling as it were that his days were numbered, he said to me in a suppressed tone, "It is too late to commence such an undertaking." Thus we parted, and parted forever, unless to meet in the same mansion in another and better world.

May the Green Mountain boys of Vermont decorate his grave with the verdure and natural grandeur of their hills; and may the constitutional principles which he enunciated and advocated be indelibly impressed upon their minds! I would want this, to use a paradox, be an unwritten inscription upon his tomb.

Mr. SUMNER. Mr. President, since Henry Clay left this Chamber by the gate of death no Senator has passed that way, crowned with the same honorable years as Mr. COLLAMER; nor has any Senator passed that way, whose departure created such a blank in the public councils, unless we except Mr. Douglas. He was our most venerable associate; but his place here had not shrunk with time. He was, when we last saw him, as important to our debates and to our conclusions as he had ever been. He still possessed all those peculiar powers of argument and illustration, seasoned with a New England salt, which he had from the beginning. He was not so old, that he was not often the life of the body.

When he came into the Senate, it was after long and various experience as lawyer, judge, Representative in the other House, member of the Cabinet and then again as judge, in all which characters he had been single, pure, honest, faithful, and laborious. Though little of a traveler, he had seen much. He had also read much, and he had done much. But all the results of observation, study, and action had so passed into his nature as to become a part of himself. If he expressed an opinion even on law, it seemed to come from himself, and not from books. He was the authority. And yet he was fond of books, whether in his own profession, or in other departments of study.

His fidelity assumed the form of accuracy in all that he said or did. He spoke accurately, and he was especially accurate with his pen. Perhaps nobody was apter in the style or language of legislation. He was an excellent draughtsman, although, without doubt, too professional for a taste not exclusively professional,—indulging in traditional phrases and those favorite superfluities of the lawyer, said and aforesaid. The great act of July 13, 1861, which gave to the war for the suppression of the rebellion its first congressional sanction, and invested the President with new powers, was drawn by him. It was he that set in motion the great ban, not yet lifted, by which the rebel States were shut out from the communion of the Union. This is a landmark in our history, and it might properly be known by the name of its author, as "Collamer's statute."

All who ever sat with him in the committee-room will long remember the carefulness with which he gave his counsels and the completeness with which he explained them. Perhaps his wisdom and facility in business were nowhere more manifest. I seize this occasion to confess most gratefully my own personal obligations to him in this interesting relation.

The same character which appeared in the

committee-room showed itself in conversation, enlivened by a constant humor. He too had his "little story" for illustration; but in this respect he differed from the late President as one of his own Vermont mountains differs from an outstretched and laughing prairie of the West. In manner he was Socratic. The curious observer, fond of tracing resemblances, might say, that in his head, and even in his general appearance, he was not unlike the received image of Socrates; while his colloquial powers might recall Socrates again, as he is pictured by the affectionate Xenophon, "handling all who conversed with him just as he pleased." He had also the same antique simplicity, and I doubt not he would have followed the wise man of Athens bare-foot in the waters of the Ilissus. I would not push this resemblance too far, and I use it only for illustration and not for parallel. And yet as I bring to mind our departed friend, he seems to assume this classical form. Call him, then, if you please, the Green Mountain Socrates.

Debate, except on the highest occasions, is only conversation in public. With him it was conversation always. He spoke, as he conversed, with the same pith and humor, and with the same facility. But his facility did not tempt him. In this gilded amphitheater, where the speaker is sacrificed to the galleries, as of old the gladiator was sacrificed to make a Roman holiday, he declined all display, and simply conversed, and such was the desire to hear him that we gathered near to catch his words. He was not a frequent speaker, and he never spoke except when he had something to say; nor did he speak for effect abroad, but only for effect in the debate. Of course, he was too honest and too considerate of the Senate, to speak without the preparation of reflection and study. Though at times earnest, he was never bitter. He never dropped into the debate any poisoned ingredients.

Sometimes he spoke with much effect, especially on matters of law or finance or business. On the great question which for a generation overshadowed all others, and finally wrapped the country in the "living cloud of war," he was sincerely anti-slavery, but with certain short-comings, which, in this impartial tribute, ought not to be concealed. His lenity toward our monster enemy showed itself unconsciously when he spoke of malignant rebels as "those southern gentlemen who had seceded;" and then again when at an earlier date he spoke of "two civilizations;" but he bore kindly the reply that civilization was only on one side. And yet on two occasions in this Chamber he strove for the right very bravely, so that his position was historic. One of these was many years ago, shortly after he came into the Senate. The other was only last year. The historian and the biographer will describe these scenes. One of them is the fit subject of art.

The earliest of these occasions was when, under the influence of the President of that day, backed by Jefferson Davis in the Cabinet, an illegal government was set up in a distant Territory, which, in defiance of the people there, proceeded to institute an infamous Black Code borrowed from slavery. The President countenanced the illegal government and smiled upon the Black Code. The representatives of slavery in both Houses of Congress, with their northern allies, indifferent to human rights and greedy only of political power, sustained the President in his disregard of that fundamental principle of the Declaration of Independence, that "government stands on the consent of the governed." The contest was unequal. On the one side was a struggling people, insulted and despoiled of their rights; on the other side was the President with all the vast powers of this Republic, with patronage less than now but very prevailing, and with a great political party which gave to him an unhesitating support. The contest reached this Chamber. Naturally it came before the Committee on Territories, where happily the good cause was represented by JACOB COLLAMER of Vermont. The interest increased with each

day, and when the committee reported, a scene ensued without example among us.

The reports of committees are usually handed in and ordered to be printed; but now at the call of a Senator from South Carolina the report of the committee, whitewashing incredible outrages, was read by the chairman at the desk of the Secretary of the Senate. The chairman left his seat for this purpose, and stood face to face with the Senate. For two hours the apology for that usurpation, which had fastened a Black Code upon an inoffensive people, sounded in this Chamber, while the partisans of slavery gloated over the seeming triumph. There was a hush of silence, and there was sadness also with some who saw clearly the unpardonable turpitude of the sacrifice. Mr. COLLAMER followed with a minority report, signed by himself alone, which he read at the desk of the Secretary, standing face to face with the Senate. Jesse D. Bright was at the time our President, but he had installed in the chair on that momentous occasion none other than that most determined artificer of treason and drill-sergeant of the rebellion, John Slidell, who sat behind, like Mephistopheles looking over the shoulder of Truth, while the patriot Senator standing before gravely unfolded the enormities which had been perpetrated. Few who were present then now remain; but none who were present then can fail to recall the scene. The report which Mr. COLLAMER read belongs to the history of the country. But the scene comes clearly within the domain of art. In the long life of our departed friend it was his brightest and most glorious moment, beyond anything of honor or power, whether in the Cabinet or on the bench. For what is office compared to the priceless opportunity, nobly employed, of standing as a buttress for human rights?

The other signal occasion, when he showed much of the same character and was surely inspired by the same sentiment, was during the last year, when the illustrious President, who now sleeps in immortality, undertook, in disregard of Congress and solely by executive power, to institute civil governments throughout that region of the Union where civil governments had been overthrown—imitating in the agencies he employed the Cromwellian system of ruling by "major generals." The case of distant and oppressed Kansas was revived. Who can forget the awakened leonine energy of the aged Senator, when, contrary to his custom, he interrupted another in debate to declare his judgment against the power of the President to institute permanent civil governments "to last beyond the war." The dividing line was clear. The President might exercise a temporary military power; but Congress must lay the foundations of permanent peace. This simple principle was, of course, only the corollary of that rule of Jefferson, which has become one of the common-places of our political system, asserting "the supremacy of the civil over the military authority." The eggs of crocodiles can produce only crocodiles, and it is not easy to see how the eggs laid by military power can be hatched into an American State.

This interjected judgment was afterward developed in a speech, which, for sententious wisdom and solid sense, is, perhaps, the best he ever delivered. It is not long, but, like the Roman sword, it is effective from its very shortness. He spoke with the authority of years, but he spoke also with another peculiar authority, for it was he who drew the act of Congress which placed the rebel States under the ban. Positively, earnestly, and most persuasively he insisted that Congress should not abdicate its control of this question. His conclusion was repeated again and again. It was for Congress, he said, to say when that state of things existed which would entitle the rebel States to perform their functions as integral parts of the Union. It was for Congress to decide this question, and not for the President, except so far as the President unites in an act of Congress by his signature. And he asked, "When will and when ought Congress to admit these States as being in their normal condition?" To which he an-

swers, "It is not enough that they stop their hostility and are repentant. They should present fruits meet for repentance. They should furnish to us by their actions some evidence that the condition of loyalty and obedience is their true condition again, and Congress must pass upon it; *otherwise we have no securities*. And I insist that the President by making peace with them, if you please, by surceasing military operations *does not alter their status until Congress passes upon it.*" Then again filled with the thought, he exclaims, "The great essential thing now to insist upon is that Congress shall do nothing which can in any way create a *doubt* about our power over the subject." And still pleading against executive interference, he says, "I believe that when reestablishing the condition of peace with that people, Congress, representing the United States, has power in ending this war as any other war to get some security for the future. It would be a strange thing if it were not true that this nation in ending a civil as well as a foreign war could close it and make peace by obtaining, if not indemnity for the past, *at least some security for future peace.*" This was the last speech of our patriot Senator. It is his dying legacy to his country. Let all, from President to citizen, heed its words. The aspiration so often expressed to-day that he had lived to take part in the restoration of the rebel States is fulfilled. He lives in his declared opinions, which are now echoed from the tomb.

Say not that I err, because here, at his funeral, seeking to do him honor, I exhibit him bravely standing face to face with executive power, wielded by a President who was instigated by Jefferson Davis, and then again bravely standing face to face with executive power, wielded by the gentle hand of Abraham Lincoln. In the first case it was to save an outraged people; in the other case, it was to vindicate the powers of the people of the United States in Congress assembled to provide guarantees and safeguards against that wickedness and perjury which had deluged his beloved country with blood. Say not that I err, because now, at his funeral, anxious that his best actions should not be forgotten, I commemorate this championship. He is dead, but the good he has done cannot die. And hereafter faithful Senators, struggling with executive power, will catch a new inspiration from his example. A bishop of the church tells us that "all is not lost while there is a man left to reprove error and bear testimony to the truth; and the man who does it with becoming spirit may stop a Prince or Senate in full career, and recover the day." But where this spirit has been shown—where an honored associate has earned this title to fame—I insist that it shall be made known. The battles of regiments are inscribed on their colors. I now inscribe on the colors of JACOB COLLAMER the civic battles which he fought. Swords of honor are placed on the coffins of lamented generals. I now place on the coffin of a lamented Senator the simple truthful record of his acts.

Mr. POLAND. Mr. President, I had intended not to occupy the attention of the Senate by any observations of my own upon this occasion. My distinguished colleague, who was for so many years associated in public life with Judge COLLAMER, not only in this, but also in the other House of Congress, was so eminently fitted, both in thoughts and words, to do justice to his fame and memory, and to express the deep regret and grief of the people of our State at his loss, that I did not feel at liberty to weaken what he might say by any feeble utterance of my own. The knowledge, too, that other distinguished members of this body, long associated with Judge COLLAMER, not only as Senators, but in other high departments of the public service, would address the Senate upon the announcement of his decease, was an additional circumstance urging me to silence. But more mature consideration has brought me, within a very few hours, to a different determination, and to the belief that in justice to myself, as the successor of Judge COLLAMER to a seat in this branch of Congress, and to the people of

the State which so highly trusted and honored him, my own feeble voice ought to be added to the general mourning over his lamented decease.

My colleague and other Senators who have addressed us at the present time, have far better knowledge of the career of my lamented predecessor, as a statesman and a member of the General Government, than myself, for they were associated with him, and witnessed his daily labors in those great departments, while my knowledge was merely that of the people at large, derived from the published proceedings and debates, and the current history of public affairs. This reason alone is ample why I should not trespass upon a theme already so sufficiently and eloquently presented.

But the greatness and usefulness of my predecessor consisted not alone in his distinguished services to his State and nation in the two Houses of Congress, and as a Cabinet minister. He was eminently distinguished as a lawyer and a judge; and in these respects I doubtless knew him better than any other member of this body except my colleague; and the few words I desire to say will relate mainly to his professional and judicial character and reputation. Professional reputation and fame, however well earned and deserved, (except at a few favorite points, and in the national tribunals,) is always local in its character, and extends little, if any, beyond the sphere of its actual administration; hardly ever outside the lines of a State.

And the same is true of judicial reputation, earned upon the bench of the State courts, unless the judicial career of the recipient extends over an unusual period of time. The reason for this is sufficiently apparent from the fact that the professional and judicial labors of lawyers and judges are generally bestowed upon matters of mere private concern and individual interest, and however important and useful to the parties themselves, excite but little interest in the public mind. Much the larger part of Judge COLLAMER's professional life had passed before I knew him personally, for he had been already three years upon the bench of our supreme court when I came to the bar in 1836. From that time until his retirement from the bench in 1842, I was a practitioner before the court of which he was a member. During the short period that elapsed between his retirement from the lower House of Congress, and his return to the bench in 1850, he resumed the practice of his profession; and during that time I was a member of the supreme court of the State. Under the new organization of the judiciary of the State in 1850, Judge COLLAMER was made judge of the second judicial circuit, and held that office until his election to the Senate in 1854. During this period I held the same office for the fourth judicial circuit, and it was during this time only that I was ever brought into very intimate personal relations with him.

I learn from members of the profession who were contemporary with Judge COLLAMER in the earlier portion of his professional career, that his excellent natural abilities, together with his thorough and accurate knowledge of the law, obtained by close application and study; his diligence and faithfulness in attending to the interests of his clients, and especially his unswerving honesty and integrity, soon brought to him large professional employment, and that his sphere of practice and reputation steadily enlarged up to the time he left the bar for the bench. He was ever exact and thorough in his preparation, to the smallest details, and in the conduct of trials was always watchful that no proper presentation or argument beneficial to his client should be omitted. Nor did he ever fail to see and to avail himself of all proper advantage given him, either by the weakness of his adversary's cause or by any lack of professional skill shown in its support. But his practice of the law was honorable and manly; he never sought advantage for his client's cause by the use of craft and cunning, so often resorted to by less scrupulous members of the profes-

sion. But it was more in his character as an advocate that his peculiar and characteristic fairness was exhibited. He always presented every legitimate argument in favor of his cause forcibly and effectively.

But he never resorted to subtle and ingenious sophistries to disguise and conceal a dishonest cause, or to entrap and bewilder the triers. His style and manner as an advocate, especially before juries, were peculiarly his own. His presentation of a cause to a jury was as cool, deliberate, and dispassionate as his argument of a dry question of law before the court or a question of public affairs in the Senate. He never appealed to the passions or prejudices of his auditors, whoever they were, but sought always to move and convince their judgments. He abhorred and detested every form of deceit and falsehood in others, and disdained the use of it himself.

Such an advocate was of course ever listened to with the highest respect, and his arguments received all that consideration to which his ability and candor so well entitled them.

Judge COLLAMER came to the bench a ripe, thoroughly trained lawyer. His popularity as a judge was all that could have been expected from a man of his talents and attainments. He was especially fortunate and gifted as a presiding judge at jury trials. His ready and accurate knowledge of the law, his keen and quick apprehension, his extensive acquaintance with men, and the motives and incentives to human conduct, and especially his strong and intuitive love of justice, enabled him at once to master a case, and detect the true from the false, and, without apparent effort, to make the truth of the case manifest to others. His manner and deportment upon the bench were always kind and considerate; he listened patiently to even slow and plodding counselors, endeavoring to explain and illustrate what he already saw clearly.

He was ever prompt, fearless, and inflexible in his decisions, with nothing of timidity or favoritism, always so painful when exhibited on the bench. It is saying no more than the truth, that he was one of the most efficient and satisfactory *nisi prius* judges who have ever sat upon the bench.

His published opinions while a judge of the supreme court are models of judicial compositions. For accuracy of learning, terseness of statement, clearness and comprehensiveness of style, I do not know where they are excelled.

Had Judge COLLAMER remained upon the bench to the end of his life, like Chief Justice Shaw of Massachusetts, or Chief Justice Gibson of Pennsylvania, I have no doubt his judicial fame would have equaled that of those eminent jurists.

I have no need to speak of the character of Judge COLLAMER in his more private and personal relations, or his rare and generous qualities and gifts as a social companion. All who were ever associated with him in any capacity will ever retain a loving remembrance of his kind and genial nature, his keen and pleasant wit, his love and fund of anecdote. His duties as a husband and father, as a citizen and Christian, were ever faithfully and conscientiously fulfilled.

In brief, sir, I have never known any man who came nearer attaining the full measure of what I believe to have been the great object of my predecessor in the performance of all the duties of life, from the humblest to the highest, to be a just man before God and his fellow-men.

The people of his and my State have ever held him in the highest respect; they mourn his loss in common with the whole nation, and they will ever cherish in their hearts the memory of his wisdom and his virtues.

Fortunate may each of us consider himself, if at the end of the journey of life he be able to leave behind him a reputation so full of usefulness, and a character so pure and unsullied.

The resolutions were unanimously adopted; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, December 14, 1865.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

JURORS IN DISTRICT OF COLUMBIA.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed, without amendment, the bill (H. R. No. 24) entitled "An act providing for the selection of jurors to serve in the several courts of the District of Columbia."

COMMITTEE FOR DISTRICT OF COLUMBIA.

The SPEAKER announced the appointment of Mr. ROSWELL HART, of New York, as a member of the Committee for the District of Columbia, in place of Mr. DAVIS, excused.

REIMBURSEMENT OF LOYAL STATES.

The SPEAKER also announced the appointment of the following-named members as the special committee on the subject of the reimbursement of the loyal States for advances made and debts contracted in support of the war for the preservation of the Union:

MESSRS. JAMES G. BLAINE of Maine, SAMUEL HOOPER of Massachusetts, BENJAMIN F. LOAN of Missouri, BENJAMIN M. BOYER of Pennsylvania, WILLIAM A. DARLING of New York, TOBIAS A. PLANTS of Ohio, and WILLIAM A. NEWELL of New Jersey.

RECONSTRUCTION.

The SPEAKER also announced the appointment of the following named as members on the part of the House of the joint committee to inquire into the condition of the late so-called confederate States, and their right to representation in Congress:

MESSRS. THADDEUS STEVENS of Pennsylvania, ELIHU B. WASHBURN of Illinois, JUSTIN S. MORRILL of Vermont, HENRY GRIDER of Kentucky, JOHN A. BINGHAM of Ohio, ROSCOE CONKLING of New York, GEORGE S. BOUTWELL of Massachusetts, HENRY T. BLOW of Missouri, and ANDREW J. ROGERS of New Jersey.

REPRESENTATIVES OF DAVID G. BATES.

Mr. PRICE, by unanimous consent, introduced a bill for the relief of the legal representatives of David G. Bates; which was read a first and second time, and referred to the Committee of Claims.

ADJOURNMENT OVER THE HOLIDAYS.

Mr. WASHBURN, of Illinois. I have been requested, Mr. Speaker, by several gentlemen to bring up the question of the adjournment of Congress over the holidays. I will, by the consent of the House, offer a resolution, leaving the dates blank, and get an expression of the sentiment of the House on this subject. I think we may as well determine at this time when and for how long Congress will adjourn over. I will state frankly that my own proposition would be to adjourn over from to-day until the 8th or 9th of January.

There being no objection, Mr. WASHBURN, of Illinois, submitted the following resolution:

Resolved, (the Senate concurring,) That when the two Houses of Congress adjourn on the — day of December, they will adjourn to meet on the — day of January next.

Mr. STEVENS. The gentleman leaves blanks in his resolution, and I move that when we adjourn for the holidays we shall adjourn from the 21st of December to the 4th of January, from Thursday until Thursday, being two weeks. I move to fill the blanks in that way.

Mr. WILSON. I suggest to the gentleman from Pennsylvania to make it the 9th of January.

Mr. WASHBURN, of Illinois. In order to test the sense of the House, I move that when the House adjourns to-day, it adjourn to meet on the 9th of January.

Mr. STEVENS. My proposition is to adjourn from the 21st of December to the 4th of January.

Mr. JOHNSON. I understand the original

proposition to be, that when we adjourn to-day we adjourn to meet on the 9th of January.

The SPEAKER. That is the original proposition.

Mr. JOHNSON. I desire to say that we may as well at once vote to include all of the holidays and be done with them. I am for the 9th of January, which will include the 8th of January, a day much thought of in my section of the country, and generally celebrated in the right way. I prefer to take in all the holidays at once, and thus leave gentlemen who live at a great distance from the capital to spend the holidays at home.

Mr. RADFORD. You might as well include the 4th of July.

Mr. JOHNSON. They do not know anything in New York of the 4th of July; it is "played out."

Those of us who live within twelve hours' ride of the capital do not consider it material whether we take two or three little adjournments, or take them altogether. I prefer to favor those who live at a distance by taking all of the holidays at once.

Mr. FARNSWORTH. For the same reason we ought to include the 22d of February. For my own part I am for voting now and adjourning next summer. It is said there is nothing to do now; but, sir, we have just as much to do now as we will when we come back from the holidays. No business will be digested during the holidays; the Houses will not be in session; committees will not meet; members will not be here; and no reports will be ready then any more than they are now. We will get together after several weeks' absence in the same condition as when we adjourned, and we will have lost two or three weeks of the healthiest and best season for work. The result will be that we will be sweltering here during the months of July and August, with every prospect that we will be visited in spring by a deadly epidemic which has already visited Asia and Europe.

It seems to me that it is folly on the part of Congress to adjourn now. Why not continue our session, and adjourn over Christmas and New Year's day, or several days for the holidays? We can adjourn again on the 8th of January. Why not continue our sessions and work during the healthy season of the year, when we are vigorous and in good condition, rather than to stay here and swelter during the month of August. I have never been here a long session but that the members toward the adjournment have regretted the adjournment over the holidays, and that they had not staid here and worked. I should like to get an expression of the members who think with me—who are in favor of working now and adjourning early.

Mr. SPALDING. I am opposed to this whole practice of adjourning over the holidays and consuming some two or three weeks of valuable time. When I came here, I came prepared to spend the session of Congress and to do the work intrusted to us, but I am willing to accommodate my western friends who came with the expectation of returning to visit their friends during the holidays. I am willing to vote for a reasonable time. The sense of the committee of which I am a member was taken this morning, and we agreed to vote for an adjournment of two weeks, from the 21st of December to the 4th of January. That is as long a time as was ever given, and as long a time as in reason can be asked.

I reiterate what has been so well said by the gentleman from Illinois, that we are losing the most valuable time for work by adjourning over two or three weeks now when we can work every hour and day, whereas when the warm season begins we shall be sweltering here and shall regret we did not work when the season admitted. I hope that the majority of this House will not consent to adjourn for a longer period than two weeks. I will vote for that; if it is to exceed that, I will vote against the whole measure.

Mr. KELLEY obtained the floor.

Mr. STEVENS. Will my colleague yield a moment, that I may modify my amendment? Mr. KELLEY. I will.

Mr. STEVENS. I will modify the amendment, and make it read "that when the House adjourns on Wednesday, the 20th," so that we need not meet on Thursday. Many members want to reach home before Sunday, and I have great respect for their scruples. While I am up, I will say that I shall be very sorry if the House adjourns over from this week or the beginning of next, for the reason that the Committee of Ways and Means are expected, and indeed are ordered by the rules of the House, to report the principal appropriation bills within thirty days after the meeting of Congress. So far, we have not been able to do anything for want of the estimates. We are very anxious to get in those bills before the holidays, and put them on file, in order that members may examine them. We cannot do that if we adjourn before next Wednesday.

Mr. KELLEY. If the 8th of January is to be kept as a holiday, it seems to me we might as well adjourn to the 9th, as to the 4th. It comes on Monday, and we might as well adjourn until Tuesday as Monday of that week.

But it was not to that point that I rose. I rose as promptly as I could at the close of the remarks of my colleague [Mr. JOHNSON] to ask him for a little information. He told us that the 4th of July was played out. I wanted to know where that was done, whether it was at Vicksburg or at Gettysburg.

Mr. JOHNSON. I told the gentleman from New York [Mr. RADFORD] the 4th of July was played out. It was played out at Gettysburg. My colleague did not help to play it out.

Mr. WASHBURN, of Illinois. I now demand the previous question on the propositions before the House.

The previous question was seconded, and the main question ordered to be put.

The first question being on the amendment offered by Mr. WILSON to the amendment of Mr. STEVENS, and there being, on a division—ayes 98, noes 58—

Mr. FARNSWORTH demanded the yeas and nays.

Mr. PIKE. I hope the gentleman will withdraw that demand, and take the yeas and nays upon the main proposition.

Mr. FARNSWORTH. I will withdraw the demand.

Mr. SPALDING. I renew it.

Mr. WRIGHT. I rise to a question of order. I do not understand how an amendment to an amendment can be in order when it embraces the precise proposition of the original resolution.

The SPEAKER. That would be a good point of order if the facts were so, but unfortunately that is not a correct statement of the case. The original proposition fixed two periods of time, one for adjournment, and one for reassembling. The amendment of the gentleman from Pennsylvania fixes two different periods of time; and the amendment of the gentleman from Iowa proposes to change the time of reassembling only as fixed in the amendment of the gentleman from Pennsylvania. The Chair therefore overrules the point of order.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 87, nays 71, not voting 24; as follows:

YEAS—Messrs. Allison, Ancona, James M. Ashley, Banks, Barker, Baxter, Beaman, Bidwell, Blaine, Boutwell, Boyer, Brandegee, Bromwell, Brooks, Broomall, Sidney Clarke, Conkling, Cook, Cullom, Darling, Davis, Dawson, Delano, Denison, Denison, Dixon, Donnelly, Eckley, Eggleston, Eldridge, Farquhar, Finck, Glossbrenner, Grider, Grinnell, Hale, Aaron Harding, Hart, Hayes, Hill, Holmes, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Hulburd, James M. Humphrey, Ingersoll, Jencks, Johnson, Julian, Kelley, Kuykendall, Le Blond, Longyear, Marvin, McCullough, McIndoe, Moorhead, Myers, Niblack, Nicholson, Orth, Paine, Patterson, Perham, Price, Rousseau, Sawyer, Shanklin, Sloan, Starr, Stevens, Stillwell, Strouse, Taber, Taylor, Francis Thomas, Trimble, Trowbridge, Upson, Van Aernam, Elihu B. Washburne, Welker, Wentworth, Whaley, Williams, James F. Wilson, and Winfield—87.

NAYS—Messrs. Alley, Ames, Baker, Baldwin, Benjamin, Bergen, Bingham, Blow, Buckland, Bundy, Reader W. Clarke, Cobb, Dawes, Defrees, Briggs, Eliot, Farnsworth, Ferry, Griswold, Hale, Abner C. Harding, Henderson, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, James Humphrey, Kasson, Kelso, Kerr, Ketcham, Latham, Latham, George V. Lawrence, William Lawrence, Loan, Lynch, Marshall, McKee, McKuer, Mercier, Morris, Moulton, Newell, O'Neill, Phelps, Pike, Plants, Samuel J. Randall, William H. Randall, Raymond, John H. Rice, Ritter, Rogers, Rollins, Ross, Scofield, Shellabarger, Sitgreaves, Smith, Spalding, Stevens, Thayer, John L. Thomas, Van Aernam, Burt Van Horn, Voorhees, Ward, Warner, William B. Washburn, Windom, and Wright—71.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, Chanler, Culver, Dumont, Garfield, Goodyear, Harris, Higby, Hogan, Hooper, Edwin N. Hubbell, Jones, Marston, McClurg, Miller, Morrill, Noell, Pomeroy, Schenck, Thornton, Robert T. Van Horn, Stephen F. Wilson, and Woodbridge—24.

So the amendment to the amendment was agreed to.

ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same, namely:

An act (H. R. No. 24) to amend an act entitled "An act providing for the selection of jurors to serve in the several courts of the District of Columbia;" and

An act (H. R. No. 28) to prevent the spread of foreign diseases among the cattle of the United States.

ADJOURNMENT OVER.

The question recurred on agreeing to Mr. STEVENS's amendment as amended; and being put, the said amendment was agreed to.

Mr. PIKE. I now demand the yeas and nays on the adoption of the resolution as amended, and I hope it will be voted down.

Mr. WASHBURN, of Illinois. I hope it will not.

The yeas and nays were ordered.

Mr. ROLLINS moved that the resolution be laid upon the table.

Mr. FARNSWORTH demanded the yeas and nays.

The yeas and nays were not ordered.

The question was taken, and the House refused to lay the resolution upon the table.

The question was then taken on agreeing to the concurrent resolution as amended; and it was decided in the affirmative—yeas 90, nays 67, not voting 25; as follows:

YEAS—Messrs. Allison, Ancona, James M. Ashley, Banks, Barker, Baxter, Beaman, Bidwell, Blaine, Blow, Boutwell, Boyer, Brownwell, Brooks, Broomall, Sidney Clarke, Conkling, Cook, Cullom, Darling, Davis, Dawson, Denison, Denison, Dixon, Donnelly, Driggs, Eckley, Eggleston, Eldridge, Farquhar, Finck, Glossbrenner, Grider, Grinnell, Hale, Aaron Harding, Hart, Hayes, Hill, Holmes, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Hulburd, James M. Humphrey, Ingersoll, Jencks, Johnson, Julian, Kelley, Kuykendall, Le Blond, Longyear, Marvin, McCullough, McIndoe, Moorhead, Myers, Newell, Niblack, Nicholson, Orth, Paine, Patterson, Perham, Price, Rousseau, Sawyer, Shanklin, Sloan, Starr, Stevens, Stillwell, Strouse, Taber, Taylor, Francis Thomas, Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Elihu B. Washburne, Welker, Williams, James F. Wilson, Stephen F. Wilson, Winfield, and Woodbridge—90.

NAYS—Messrs. Alley, Ames, Baker, Baldwin, Benjamin, Bergen, Bingham, Blow, Buckland, Bundy, Reader W. Clarke, Cobb, Dawes, Defrees, Eliot, Farnsworth, Ferry, Griswold, Abner C. Harding, Henderson, Hogan, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, James Humphrey, Kasson, Kelso, Kerr, Ketcham, Latham, Latham, George V. Lawrence, William Lawrence, Loan, Lynch, Marshall, McKee, McKuer, Mercier, Morris, Moulton, O'Neill, Phelps, Pike, Plants, Samuel J. Randall, William H. Randall, Raymond, John H. Rice, Ritter, Rogers, Rollins, Ross, Scofield, Shellabarger, Sitgreaves, Smith, Spalding, Thayer, John L. Thomas, Thornton, Voorhees, Ward, Warner, William B. Washburn, Windom, and Wright—67.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, Brandegee, Chanler, Culver, Delano, Dumont, Garfield, Goodyear, Harris, Higby, Hooper, Chester D. Hubbard, Jones, Marston, Miller, Morrill, Noell, Pomeroy, Radford, Alexander H. Rice, Schenck, Robert T. Van Horn, Wendworth, and Whaley—25.

So the concurrent resolution was adopted.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURNE, of Illinois. I move that when the House adjourns to-day it adjourn to meet on Monday next.

Mr. STEVENS. I hope the House will not do that. Let us meet to-morrow and receive reports of committees. I do not care if anything else is done. Perhaps we can go into Committee of the Whole on the state of the Union on the President's message.

Mr. WASHBURNE, of Illinois. I will waive the motion until we see if we can get through with the call of committees.

Mr. HARDING, of Kentucky. I renew the motion that when the House adjourns it adjourn to meet on Monday next.

The question was taken, and the motion was disagreed to.

EXECUTIVE COMMUNICATION.

The SPEAKER laid before the House a communication from the Secretary of War, transmitting papers and testimony relating to the claims of Philip Epstein and others, recently investigated by Colonel Nicodemus, in compliance with a resolution of the House; which was laid on the table, and ordered to be printed.

The SPEAKER then proceeded to call the committees for reports.

REFURNISHING THE PRESIDENT'S HOUSE.

Mr. STEVENS, from the Committee on Appropriations, reported a bill making appropriation for refurnishing and repairing the President's House; which was read a first and second time.

Mr. STEVENS. I ask that by unanimous consent the rule requiring the bill to be considered in Committee of the Whole be dispensed with, and that it be considered in the House now.

No objection was made.

The bill was read. It appropriates \$30,000, or as much thereof as shall be necessary, for refurnishing the President's House and repairing the same.

Mr. STEVENS. I will simply say that we have reported the amount which was contained in the deficiency bill which failed between the two Houses. They find it absolutely necessary to have more than the usual amount—which is \$20,000—for the house is now, owing to circumstances which have occurred, almost totally unfurnished, and this sum is absolutely necessary. I move the previous question.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PENSION APPROPRIATION BILL.

Mr. STEVENS also, from the Committee on Appropriations, reported a bill making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th of June, 1867.

The bill was read a first and second time.

Mr. STEVENS. I will move that this bill be made the special order in Committee of the Whole for to-morrow.

Mr. WASHBURNE, of Illinois. I suppose this bill is in conformity with the recommendations of the Secretary of the Interior. If so, we might as well consider it now as at any other time.

Mr. STEVENS. Very well. I am desirous to have the bill passed at once. It is drawn in accordance with the estimates. I will, therefore, withdraw my motion to make it a special order, and ask that it be considered at the present time.

No objection was made.

The bill was read at length. It provides the following appropriations:

For invalid pensions under various acts, \$500,000. For revolutionary pensions and pen-

sions of widows, children, mothers, and sisters of soldiers, per acts of March 18, 1818; May 15, 1828; June 7, 1832; July 4, 1836; July 7, 1838; March 3, 1843; July 21 and 29, 1848; February 3, 1853; June 3, 1858, and July 14, 1862, \$9,800,000. For Navy pensions of widows, children, mothers, and sisters, per acts of August 11, 1848, and July 14, 1862, \$140,000.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. JOHNSON. Is debate in order now?

The SPEAKER. The gentleman from Pennsylvania [Mr. STEVENS] who reported the bill is entitled to the floor.

Mr. STEVENS. I will give way to my colleague [Mr. JOHNSON] if he desires to make any remarks upon this bill.

Mr. JOHNSON. I desire to say a few words upon this subject. I was not aware this bill was coming before the House at this time. I certainly have no objection to the passage of this bill. It is, I presume, a bill making appropriations for the payment of those annuities and bounties provided for by law. But I desire to say that I am very well satisfied in my own mind that our pension laws need revision. The amount now payable to pensioners, under the law, is too small. Eight dollars a month will not support and maintain a person who is dependent upon the Government bounty. There is also a class of persons dependent upon the Government for this bounty who are not, in my judgment, now provided for by law. Our examining surgeons throughout the country, I find, very uniformly recommend, when a party has lost a limb, a leg, or an arm, that it be regarded as a full disability. Certainly it is a full disability so far as enabling the party to obtain for himself a livelihood.

But there is another class of persons who are still more disabled, certainly more disabled so far as obtaining a livelihood is concerned. They actually need and must have the help of others, even to help them to sit at the table. They are those without arms or without legs, or totally blind, perhaps. Yet those parties can receive only eight dollars a month, and that is not enough; they should have more. And I will take this opportunity of saying that unless some other gentleman shall move in the matter, I shall, at the earliest convenient day, introduce a bill which will increase the lower grade of pensions, giving parties more than eight dollars a month for what is now called full disability, and providing for that particular class of persons who are unable to take care of themselves, who are disabled beyond the power of taking care of themselves. That is all I desire to say on the subject at this time.

Mr. STEVENS. The remarks of the gentleman are not quite pertinent, although that is a matter of no great importance. We are now making appropriations under the law as it stands. We could not alter the law by a provision of an appropriation bill. The remarks of the gentleman are very well as suggestions to the committee who have that subject in charge. I will say to the gentleman that I am very glad he is willing, now the war is over, although he was not quite willing while the war was going on, to aid those who are the victims of the war. I shall vote for what he has suggested, to double the pensions as they now stand; and I shall also vote to make them payable out of the forfeited estates of those who have created the necessity for those pensions. I now call the previous question.

The previous question was seconded, and the main question ordered; which was upon ordering the bill to be engrossed and read a third time.

The question was taken, and the bill ordered to be engrossed and read a third time; and being engrossed, it was read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MILITARY ACADEMY APPROPRIATION.

Mr. STEVENS also, from the Committee on Appropriations, reported a bill making appropriations for the support of the Military Academy for the year ending June 30, 1867.

The bill was read a first and second time.

On motion of Mr. STEVENS, the bill was referred to the Committee of the Whole on the state of the Union, and made the special order for the 12th of January, 1866, and from day to day until disposed of, and ordered to be printed.

BRIDGE OVER HUDSON RIVER.

Mr. DAVIS, by unanimous consent, introduced a bill to declare a certain bridge over the Hudson river a public highway.

Mr. GRISWOLD. I wish to say to my colleague [Mr. DAVIS] that, out of courtesy to him, I have refrained from objecting to the introduction of this bill; but I deem it proper to notify him that I shall oppose the passage of the measure, as the question is one in which my constituents feel a deep interest.

The bill was read a first and second time, and referred to the Committee on Roads and Canals.

REPORT OF LIEUTENANT GENERAL GRANT.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution:

Resolved, That fifty thousand extra copies of the official report of Lieutenant General Grant, without covers, be printed for the use of the House; and that in addition to the above, there be printed of the same one thousand copies with covers for the use of the headquarters of the armies of the United States.

Mr. WASHBURNE, of Illinois. I think that the gentleman from New York, [Mr. LAFLIN,] had better make the number a little larger. This report is very much in demand. It is so long that the country papers have not been able to print it at all; and very few of the city papers outside of New York have printed it. I would suggest to the gentleman to make the number fifty thousand.

Mr. LAFLIN. In view of the suggestion of the gentlemen from Illinois, it is perhaps proper that I should make an explanation.

The members of the Committee on Printing are as anxious as any members of this House to do all credit to the character of this report. They agree that it is a most important and interesting report; yet they feel that, in reference to this subject of public printing, they have a duty to perform which they cannot neglect. It is time that we should enter upon a system of retrenchment; and anxious as we are to pay a compliment both to the subject and the author of this report, we feel that we cannot, at this time, too much study economy. We have investigated this subject, and we have found that, in offering this resolution calling for twenty thousand copies, we exceed by one hundred per cent. any demand on the part of the House for the printing of any document of a similar character during the past four years. I may state also that, as appears from a statement of the Superintendent of Public Printing, every copy of this report will cost, without covers, seven cents, and with covers, ten cents.

We would have been very glad to report in favor of even the very large number which the gentleman from Illinois [Mr. WASHBURNE] at first proposed—two hundred and fifty thousand, which would have involved an expense of nearly \$25,000—if the state of our finances would have permitted it; but, sir, when we bear in mind that, in no department of the public service have our expenses increased so rapidly, and in the judgment of many with so little reason, as in the department of public printing, we think it high time for us to stop and consider whether it is not possible to inaugurate a more economical system. Let me say to members of the House that they may prepare themselves to find the Superintendent of Public Printing, when he shall submit his report, making an extra requisition of over \$600,000; and the House may have reason to be gratified if the expenditures for public printing during the past year have not been nearer \$2,000,000 than \$1,500,000.

Now, sir, if we intend to enter upon a system of retrenchment, let us begin at the very start. Here is a document, the interest and importance of which I am willing to acknowledge; but by consenting to print so large a number as has been proposed, which is five times the number of copies of any similar document ever printed by the House, we should inaugurate a precedent which, I know, would be urged with power and effect, not only upon the committee, but upon the House, during the whole session. In some way we must economize in our expenditures for public printing. This resolution, even in the shape submitted by the committee, provides for an expenditure one hundred per cent. greater than former expenditures in similar cases. We have this document without covers, because covers cost three cents apiece. Now, I submit to the House whether, with this state of facts, it becomes us in this early period of the session to inaugurate a system which, if carried out to the end of the session, will increase our public printing from \$1,500,000 to over \$3,000,000. I demand the previous question.

The previous question was seconded, and the main question ordered.

Mr. WASHBURN, of Illinois. Does not the gentleman yield for the purpose of allowing me to submit my amendment?

Mr. LAFLIN. I decline to yield for that purpose.

The resolution was adopted.

Mr. SPALDING moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CLERK TO A COMMITTEE.

Mr. ELIOT, from the select committee on freedmen, reported the following resolution, on which he demanded the previous question:

Resolved, That the select committee on freedmen be authorized to employ a clerk at the usual compensation.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

WAR DEBTS OF LOYAL STATES.

Mr. BLAINE, from the select committee on the war debts of the loyal States, reported the following resolution, on which he demanded the previous question:

Resolved, That the select committee on the war debts of the loyal States be allowed to employ a clerk during the present session, or until he is discharged, at the usual compensation.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. BLAINE. Mr. Speaker, with the consent of the House, I desire to make a statement. There was a little confusion in regard to the number which should compose that committee, between the gentlemen from Iowa, [Mr. WILSON,] and the gentleman from Illinois, [Mr. WASHBURN.] It was my intention to have yielded to the number of nine, and not to the number of twenty-three. I think that the various interests involved in the matter would be fully answered and better satisfied if, by unanimous consent of the House, the Speaker were allowed to add two members to that committee.

Mr. WASHBURN, of Illinois. With such an excellent committee as it is, I think it is quite large enough.

Mr. BLAINE. I move to add two members to it.

Mr. WASHBURN, of Illinois, objected, but afterward withdrew his objection.

The motion was agreed to.

The SPEAKER proceeded to call the States and Territories for bills and resolutions.

COURTS IN WASHINGTON TERRITORY.

Mr. DENNY introduced a bill in relation to the courts in Washington Territory; which was read a first and second time.

Mr. DENNY asked that the bill be put on its passage.

Mr. WILSON. I suggest to the gentleman to move the reference of the bill to the Committee on the Judiciary. This subject has been considered during the last two Congresses, and there has been much conflict of views in regard to it. I make that motion.

Mr. DENNY. I have no objection to a reference of the bill to the Committee on the Judiciary, if that be deemed the best way to accomplish the object I have in view. The subject is one of great importance to my constituents, and if it be referred to that committee, I hope that it will be reported back as expeditiously as possible.

Mr. WILSON. There is no provision in the bill for any notice being given of the times and places of holding courts in that Territory. That of itself should send the bill to that committee to be properly amended.

Mr. DENNY. I ask that the committee have leave to report at any time.

There being no objection it was so ordered. The bill was then referred to the Committee on the Judiciary.

CUSTOM-HOUSE AT JERSEY CITY.

Mr. WRIGHT introduced a bill making an appropriation for a custom-house and warehouse at Jersey City, in the State of New Jersey; which was read a first and second time, and referred to the Committee on Commerce.

PACIFIC RAILROAD.

Mr. CLARKE, of Kansas, introduced a bill to amend the act of March 3, 1853, granting land to the State of Kansas to aid in the construction of certain railroads in said State, and an act supplementary to the act of July 4, 1864, of the same import; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

EQUALIZATION OF BOUNTIES.

Mr. CLARKE, of Kansas, also introduced a bill to equalize bounties to soldiers of the Army of the United States during the rebellion; which was read a first and second time, and referred to the Committee on Military Affairs.

TREASON.

Mr. HENDERSON submitted the following resolution, on which he demanded the previous question:

Resolved, That treason against the United States Government is a crime that ought to be punished.

Mr. WENTWORTH demanded the yeas and nays.

The previous question was seconded, and the main question ordered.

Mr. DAVIS. I move that it be referred to the select committee of fifteen.

The SPEAKER. That motion is not in order during the pendency of the previous question.

The yeas and nays were ordered.

Mr. HALE moved that the resolution be laid upon the table.

The motion was disagreed to.

The question was put; and it was decided in the affirmative—yeas 152, nays 0, not voting 30; as follows:

YEAS—Messrs. Alley, Ames, Ancona, Anderson, James M. Ashley, Baker, Baldwin, Banks, Barker, Beaman, Benjamin, Bergen, Bidwell, Bingham, Blow, Boutwell, Boyer, Bromwell, Brooks, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Davis, Dawes, Dawson, Defrees, Denning, Denison, Dixon, Donnelly, Driggs, Eckley, Eggleston, Eldridge, Eliot, Farquhar, Ferry, Finck, Glossbrenner, Grider, Grinnell, Griswold, Hale, Aaron Harding, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hogan, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbard, James R. Hubbard, Hubert, James Humphrey, James M. Humphrey, Ingersoll, Jenckes, Johnson, Julian, Kasson, Kelley, Kelso, Kerr, Ketcham, Kaykendall, George V. Lawrence, William Lawrence, Le Blond, Loan, Longyear, Lynch, Marshall, Marston, Marvin, McClurg, McCullough, Melndoe, McKee, McKuer, Mercer, Moorhead, Morrill, Morris, Myers, Nicholson, Neill, O'Neill, Orth, Paine, Perham, Pike, Plants, Price, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Ritter, Rogers, Rollins, Ross, Rousseau, Sawyer, Seefeldt, Shanklin, Shellabarger, Sitgreaves, Sloan, Smith, Spalding, Starr, Stevens, Strouse, Taber, Taylor, Thayer, John L. Thomas, Thornton, Trimble, Trowbridge, Upson,

Van Aernam, Burt Van Horn, Voorhees, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, Winfield, and Woodbridge—152.

NAYS—0.

NOT VOTING—Messrs. Allison, Delos R. Ashley, Baxter, Blaine, Brandegee, Chandler, Culver, Delano, Dumont, Farnsworth, Garfield, Goodyear, Harris, Hill, Jones, Ladin, Latham, Miller, Moulton, Newell, Niblack, Patterson, Phelps, Pomeroy, Raymond, Schonck, Stillwell, Francis Thomas, Robert T. Van Horn, and Wright—30.

So the resolution was unanimously adopted.

During the call of the roll, Mr. VOORHEES stated that Mr. NIBLACK was unexpectedly absent; that if present he would give the resolution a very cordial support.

ADJOURNMENT OVER.

Mr. WASHBURN, of Illinois. I rise to a privileged motion. All the committees have been called for reports. To-morrow is private bill day, and I presume no reports from the committee on private bills will be ready; and with the consent of the gentleman from Pennsylvania, [Mr. STEVENS,] I move that when the House adjourns to-day, it adjourn to meet on Monday next.

Mr. PRICE called for tellers on the motion. Tellers were not ordered.

The motion was agreed to.

BUREAU OF EDUCATION.

Mr. DONNELLY introduced the following resolution, upon which he demanded the previous question:

Whereas republican institutions can find permanent safety only upon the basis of the universal intelligence of the people; and whereas the great disasters which have afflicted the nation and desolated one half its territory are traceable, in a great degree, to the absence of common schools and general education among the people of the lately rebellious States: Therefore,

Resolved, That the joint committee on reconstruction be instructed to inquire into the expediency of establishing in the capital a national Bureau of Education, whose duty it shall be to enforce education, without regard to race or color, upon the population of all such States as shall fall below a standard to be established by Congress; and to inquire whether such a bureau should not be made an essential and permanent part of any system of reconstruction.

The previous question was seconded.

Mr. SCOFIELD. Is this a concurrent resolution?

The SPEAKER. It is not.

Mr. SCOFIELD. It instructs a joint committee.

The SPEAKER. Either House can instruct a joint committee.

Mr. JOHNSON moved to lay the resolution on the table, and demanded the yeas and nays, and tellers upon the yeas and nays.

Tellers were ordered, and Mr. JOHNSON and Mr. DONNELLY were appointed.

The House divided, and the tellers reported—ayes twenty-nine, noes not counted.

So the yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 37, nays 113, not voting 32; as follows:

YEAS—Messrs. Ancona, Bergen, Boyer, Brooks, Dawson, Denning, Denison, Eldridge, Finck, Glossbrenner, Grider, Aaron Harding, Edwin N. Hubbard, James M. Humphrey, Johnson, Kerr, Le Bond, Marshall, McCullough, Niblack, Nicholson, Neill, Radford, William H. Randall, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Smith, Strouse, Taber, Thornton, Trimble, Voorhees, Winfield, and Wright—37.

NAYS—Messrs. Alley, Allison, Ames, James M. Ashley, Baker, Baldwin, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blow, Boutwell, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Darling, Davis, Dawes, Dixon, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farquhar, Ferry, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hubert, James Humphrey, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Kaykendall, Ladin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Marston, Marvin, McClurg, Melndoe, McKee, McKuer, Mercer, Moorhead, Morrill, Morris, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Plants, Price, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Seefeldt, Shellabarger, Sloan, Spalding, Stevens, Stillwell, Thayer, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—113.

NOT VOTING—Messrs. Anderson, Delos R. Ashley,

Banks, Blaine, Brandegee, Chanler, Conkling, Callom, Culver, DeFrees, Delano, Dumont, Farnsworth, Garfield, Goodyear, Harris, Hogan, Jones, Kasson, Lynch, Miller, Newell, Pike, Pomeroy, Samuel J. Randall, Rousseau, Schenck, Starr, Taylor, Francis Thomas, John L. Thomas, and Robert T. Van Horn—32.

So the House refused to lay the resolution on the table.

The main question was ordered to be put; and being put, the resolution was adopted.

SALARY OF ASSISTANT DOORKEEPER.

Mr. VAN HORN, of New York, asked unanimous consent to offer the following resolution:

Resolved, That the salary of O. S. Buxton, first assistant doorkeeper of this House for the Thirty-Ninth Congress, be made equal to that of the reading clerk.

Several MEMBERS called for the regular order of business.

MEMBERS OF A COMMITTEE APPOINTED.

The SPEAKER announced that, in accordance with the order of the House of to-day, he had appointed Messrs. GREEN CLAY SMITH of Kentucky, and THOMAS W. FERRY of Michigan, as additional members of the select committee on the war debts of the loyal States.

The call of the States and Territories for resolutions was then resumed.

RAILROAD FACILITIES.

Mr. SLOAN submitted the following resolution; upon which he demanded the previous question;

Resolved, That the Committee on Roads and Canals be directed to inquire whether persons visiting the national capital from the West are subjected to any unnecessary inconvenience or obstacles in passing through the city of Baltimore, and to report to this House at an early day whether it would be just and expedient to authorize the Northern Central Railroad Company of Pennsylvania to extend their road to this city.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. SLOAN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DISTRICT OF COLUMBIA.

Mr. COBB submitted the following resolution, upon which he demanded the previous question:

Resolved, That the Committee on the Judiciary be, and they are hereby, directed to inquire whether the act of Congress by which so much of the District of Columbia as lies south of the Potomac was retroceded to the State of Virginia, is not void as being in conflict with the provisions of the Constitution of the United States; and if so, what legislation is proper or necessary to enable the Government to resume its jurisdiction over that portion of said District; and that they may report by bill or otherwise.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. COBB moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

APPOINTMENTS IN THE REGULAR ARMY.

Mr. PAINE submitted the following resolution; which was read, and referred to the Committee on Military Affairs:

Whereas, during the late rebellion more than one million volunteer soldiers and one hundred thousand volunteer officers have, by meritorious services in the field, entitled themselves to the gratitude of the nation, and many hundreds of such officers and soldiers have, by study and experience, become qualified for any commission in the regular Army, and many so qualified have been partially disabled by wounds or otherwise, and are yet capable of performing most of the duties required of officers in time of peace, and many of those required in time of war;

Resolved, That justice demands that in case of any increase of the standing Army within five years from January 1, 1866, all new commissions below the commission of Lieutenant general shall be granted to such meritorious and capable volunteer officers and soldiers as have not heretofore held commissions in the regular Army, and that such as have been partially disabled and are yet capable of performing the duties necessary in peace and war shall be preferred in granting such commissions.

RECONSTRUCTION.

Mr. WILSON, of Iowa, submitted the follow-

ing resolution, upon which he demanded the previous question:

Resolved, That all papers which may be offered relative to the representation of the late so-called confederate States of America, or either of them, shall be referred to the joint committee of fifteen without debate, and no members shall be admitted from either of said so-called States until Congress shall declare such States or either of them entitled to representation.

Mr. HALE. I appeal to the gentleman to allow me to offer an amendment.

Mr. WILSON, of Iowa. I cannot do that.

Mr. HALE. I wish to offer an amendment excepting the claimants from the State of Tennessee from the operation of that rule.

Mr. WILSON, of Iowa. I cannot agree to except the claimants from Tennessee. The committee can pass upon their cases first if they see proper.

Mr. JOHNSON. I move to lay the resolution upon the table, and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. KASSON. Before the vote is taken, I wish to inquire if this resolution is not the end of the resolution of the House which was cut off by the Senate?

The SPEAKER. The Chair cannot answer that question. It is in the nature of debate.

Mr. BROOKS. It is the same, precisely the same resolution.

The question was taken; and it was decided in the negative—yeas 42, nays 109, not voting 31; as follows:

YEAS—Messrs. Ancona, Bergen, Boyer, Brooks, Dawson, Denison, Eldridge, Finck, Glossbrenner, Grider, Hale, Aaron Harding, Hogan, Edwin N. Hubbard, James M. Humphrey, Johnson, Kerr, Le Blond, Marshall, Niblack, Nicholson, Noel, Phelps, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Smith, Strouse, Taber, Francis Thomas, John L. Thomas, Thornton, Trimble, Voorhees, Whaley, Winfield, and Wright—42.

NAYS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Callom, Darling, Deming, Dixon, Donnelly, Briggs, Eckley, Eggleston, Eliot, Farquhar, Ferry, Grinnell, Griswold, Abner C. Hubbard, Hart, Hayes, Henderson, Higby, Hull, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hubbard, Ingersoll, Jencks, Kelly, Keitcham, Kuykendall, Latin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McRuer, Mercer, Moorhead, Morrill, Morris, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Scofield, Schellbarger, Spalding, Starr, Stevens, Stillwell, Thayer, Trowbridge, Van Aorman, Burt Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—109.

NOT VOTING—Messrs. Delos R. Ashley, Barker, Blow, Bromwell, Chanler, Culver, Davis, Dawes, DeFrees, Delano, Dumont, Farnsworth, Garfield, Goodyear, Harris, James Humphrey, Jones, Julian, Kasson, Kelso, McCullough, Miller, Newell, Pomeroy, William H. Randall, Raymond, Schenck, Sloan, Taylor, Upson, and Robert T. Van Horn—31.

So the motion to lay the resolution on the table was disagreed to.

The question recurred upon seconding the call for the previous question.

Mr. WARD. I was out of the Hall when this resolution was offered. I ask that it may be again read.

The resolution was again read.

Mr. ELDRIDGE. I rise to a question of order. I understand that this resolution, which it is attempted to pass here, is in violation of the Constitution and of the law of Congress which requires the Speaker of this House to administer the oath of office to the Representatives of States as they appear.

The SPEAKER. The Chair overrules both points of order. The question is upon seconding the demand for the previous question.

Mr. KELLEY. I would ask the consent of the House that a letter from Governor Brown be read to the House.

Objections were made by members on both sides of the House.

Mr. STEVENS. Pass the resolution, and then read the letter.

Mr. SMITH. I rise to a point of order. In the first place I desire to inquire whether, when the resolution was returned from the Senate day

before yesterday, and the House concurred in an amendment of the resolution, and a motion was made to reconsider that vote, which motion was laid on the table, therefore deciding clearly what the opinion of this House was in regard to that motion—I inquire now, as my point of order, whether it is fair and proper for a resolution, rejected by both the Senate and the House, to be pushed through at this time?

The SPEAKER. It is not in the province of the Chair to decide what is fair or unfair for the House to do. The House themselves must determine that question. The Chair rules that it is not a good point of order.

Mr. DAVIS. I rise to a question of order. In my judgment, it seems that there is another constitutional objection to the passage of this resolution. The Constitution of the United States provides that each House—

Mr. STEVENS. I call the gentleman to order. The gentleman has made no point of order. The Chair has nothing to do with what is constitutional and what is not, in this matter.

The SPEAKER. The gentleman from New York [Mr. DAVIS] will state his point of order, and then the Chair will decide it.

Mr. DAVIS. Is it in order for this House to pass a resolution which is already in conflict, in my judgment, with the provisions of the Constitution of the United States? [Laughter.] I desire simply to submit this proposition for the consideration of gentlemen of this House. The Constitution provides that each House shall be the judge of the elections, returns, and qualifications of its own members. As it seems to me, when Representatives come here claiming to be—

Mr. SLOAN. I call the gentleman to order.

The SPEAKER. The gentleman from New York [Mr. Davis] is not stating his point of order. He must state it briefly, and the Chair will decide it with equal brevity.

Mr. DAVIS. I submit to the House the propriety of passing a resolution which appears to be in violation of the Constitution of the United States.

Mr. KELLEY. I call the gentleman to order.

The SPEAKER. The gentleman from New York [Mr. Davis] is not in order.

Mr. KASSON. I wish to submit a question which I believe to be a question of order, involving the meaning of the word "papers" in this resolution. I submit that it is not in order to refer the credentials of members of this House to a committee of the Senate. I believe the same question was raised in the Senate. I ask a decision on that point, whether the word "papers" in this resolution involves credentials of members of this House.

Mr. WASHBURNE, of Illinois. I suppose the Speaker will decide that question when the question properly comes up for decision.

The SPEAKER. The Chair does not regard it as a point of order upon this resolution. The Chair has no objection to state, if the House desire, what his decision would be upon such a question when it shall come up.

Mr. BROOKS. Let us hear the opinion of the Chair.

Mr. STEVENS. We better vote upon the resolution now.

The SPEAKER. The Chair will decide that point when it comes up.

Mr. BROOKS. I wish to ask a question which may govern my vote upon this subject. I would ask whether the gentleman from Iowa, [Mr. WILSON,] who presented this resolution, considers "papers" to include credentials or not. Papers are one thing, and credentials altogether another thing. Papers may be presented and referred to anybody. Papers are very unimportant, but credentials from States are matters of very great importance. Does the gentleman, by this resolution of his, propose to refer the credentials of Representatives from the State of Tennessee, for instance, to this committee composed of members of the Senate as well as of the House?

Mr. WASHBURNE, of Illinois. I rise to a point of order—that this debate is all out of order pending the call of the previous question.

The SPEAKER. The Chair can make no decision except on points of order; and these various suggestions are not points of order.

Mr. THAYER. Mr. Speaker—

The SPEAKER. Does the gentleman rise to a point of order?

Mr. THAYER. No, sir; simply to appeal to the gentleman from Iowa [Mr. WILSON] to allow me to make a suggestion.

The SPEAKER. The gentleman from Illinois [Mr. WASHBURN] has objected to further debate.

Mr. THAYER. I simply desire to make a suggestion in regard to the phraseology of the resolution.

Mr. STEVENS. It is very good as it is.

Mr. THAYER. I do not appeal to the gentleman from Pennsylvania, [Mr. STEVENS;] I appeal to the gentleman from Iowa.

The SPEAKER. The Chair will state that, the previous question having been seconded, the resolution cannot now be modified except by unanimous consent, because the House may desire to take a vote upon the proposition in the exact shape in which it was introduced.

Mr. THAYER. It is quite apparent that, if the resolution pass in its present shape, it will bind this House not to receive members unless—

The SPEAKER. Debate is not in order. The Chair must arrest all debate and conversation, unless gentlemen rise to legitimate points of order.

The previous question was seconded, there being, on a division—ayes ninety-three, noes not counted.

The main question was ordered, which was upon agreeing to the resolution.

Mr. ANCONA called the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 107, nays 56, not voting 19; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Broome, Buckland, Bundy, Sidney Clarke, Cobb, Colfax, Conkling, Cook, Cullom, DeFrees, Deming, Dixon, Donnelly, Driggs, Eckley, Eliot, Ferry, Grinnell, Abner C. Harding, Hart, Hayes, Henderson, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Kuykendall, Laflin, George V. Lawrence, William Lawrence, Loan, Longyear, Marston, Marvin, McClurg, McIndoe, McKee, McBuer, Mercer, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Seaford, Shollabarger, Sloan, Spaulding, Starr, Steves, Thayer, Trowbridge, Upson, Van Arnam, Burt Van Horn, Ward, Warner, Elibu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—107.

NAYS—Messrs. Ancona, Bergen, Blow, Boyer, Brooks, Darling, Davis, Dawson, Denison, Eldridge, Farquhar, Finck, Glossbrenner, Grider, Griswold, Hale, Aaron Harding, Hill, Hogan, Edwin N. Hubbell, James R. Hubbell, James Humphrey, James M. Humphrey, Johnson, Kasson, Kerr, Latham, Lo Blond, Marshall, Niblack, Nicholson, Noel, Phelps, Redford, Samuel J. Randall, William H. Randall, Raymond, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Smith, Stillwell, Strouse, Taber, Taylor, Francis Thomas, John L. Thomas, Thornton, Trimble, Voorhees, Whaley, Winfield, and Wright—56.

NOT VOTING—Messrs. Delos R. Ashley, Bundy, Chanler, Reader W. Clarke, Culver, Dawes, Delano, Dumont, Eggleston, Farnsworth, Garfield, Goodyear, Harris, Jones, Lynch, McCullough, Miller, Pomeroy, Schenck, Robert T. Van Horn, and Woodbridge—19.

So the resolution was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the House agreed to the resolution; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DECEASE OF SENATOR COLLAMER.

A message from the Senate, by Mr. FORNEY, its Secretary, communicated resolutions adopted by the Senate relative to the decease of Hon. JACOB COLLAMER, late a Senator from the State of Vermont.

On motion of Mr. MORRILL, the resolutions were taken from the table and read, as follows:

Resolved, unanimously, That the Senate has received with the deepest sensibility the announcement of the

death of Hon. JACOB COLLAMER, late a Senator of the United States from the State of Vermont.

Resolved, unanimously, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of Hon. JACOB COLLAMER, will go into mourning by wearing crape on the left arm for thirty days.

Resolved, unanimously, That as a further mark of respect for the memory of the deceased, the Senate do now adjourn.

Mr. MORRILL. Mr. Speaker, the resolutions just received from the Senate announce, what recurs with painful regularity, that death has again thinned our numbers, and that we, members of Congress, sooner, perhaps, than others in different walks of life, are doomed to an early dismissal from among the living. In this instance, it is true that our deceased friend, the late Senator from Vermont, had reached fullness of years and of honors, but his constitution had been so admirably preserved that those of us who had recently associated with him were glad to believe he had yet many years in store of useful and lustrous service. His sudden departure surprised the country and his colleagues as much as his own family, and he will be as sincerely lamented by the public as by his friends and relatives. It was my happiness to have been admitted to his intimacy, and I shall speak of him in terms of affection, my feelings not allowing me to do less, but at the same time, as he would himself have most desired, with entire justice.

Hon. JACOB COLLAMER would have been seventy-five years old had he lived until the 8th of January next, having been born at Troy, New York, January 8, 1791. With his father, a soldier of the Revolution, he moved to Burlington, Vermont, where he received his education, and graduated at the Vermont University in the class of 1810. After being admitted to the bar in 1813, he made a brief campaign in the last war with England, as a lieutenant of artillery in the detached militia of the United States service, and there was no portion of his history to which he referred with more pride. Having settled in Royalton, he represented the town, while successfully pursuing his profession, in the State Legislature in 1821, 1822, 1827, and 1828, was member of the State constitutional convention in 1836, and was made associate justice of the supreme court of Vermont in 1838. He was continued on the bench until 1842, when he was elected a member of the House of Representatives in the Congress of the United States. Re-elected in 1844 and 1846, he was, at the expiration of his service in this House, immediately called to the Cabinet of President Taylor. Upon the death of the President he resigned his place in 1850. The same year he was again placed as judge in the supreme court of Vermont, and so remained until 1854, when he was elected a Senator of the United States for six years from 1855. At the expiration of the term he was re-elected. At his first entrance upon his duties in the Senate he was placed upon the Committee on Territories, of which Judge Douglas was chairman, and made the celebrated reply of the minority (March 12, 1856) to the report of that distinguished gentleman on the Territories of Nebraska and Kansas. The compact statement of facts, the logical deductions therefrom, and the powerful condensation of the summing up at the conclusion, at once established his reputation in that body of which he became so marked a member. At the close of his career he held the position of chairman of the Committee on the Post Office and Post Roads, chairman of the Joint Committee on the Library, and was also member of the Committee on the Judiciary. He received the honorary degree of LL.D. from the Vermont University in 1849 and from Dartmouth College in 1857. Suffering from a sharp attack of congestion of the lungs, induced by a cold caught while returning from the funeral of a brother, Senator COLLAMER died, from an organic disease of the heart, on the evening of Thursday, November 9 last, at his residence in Woodstock, attended by the love and watchful solicitude of a devoted family, where the pastor of his church, on the following Sabbath, performed impressive funeral services, without pomp or show, and

where the people of the town and the bereaved family, as the sun was slowly sinking in the west, followed him with tears and sorrow to his quiet tomb.

His constant elevation produced no change in the modesty of his demeanor, and there was no station, in this long recital of his public employments, which he did not fitly fill and adorn.

At the start in life, young COLLAMER was a Jeffersonian Republican. Later, when parties assumed other names, he was a Whig, and always distinguished for the thoroughness with which he examined all questions, for his moderation, for the courtesy with which he ever treated political opponents, and for his scorn, which he took no pains to conceal, of demagogues. Though stoutly maintaining his own predilections, he reviled with cruel words neither parties nor persons, and now, that his course is run, he is at peace with all the world.

As a judge, he was distinguished for swiftness in the dispatch of business, for ability and stern impartiality, and for the perspicacity of his opinions, as orally delivered or as recorded in reports. While in office, though habitually urbane, he never forgot the gravity and dignity of his judicial position, which sometimes gave the impression of *hauteur* not actually felt. He was a good disciplinarian, and, therefore, occasionally curt, as when the time of the court was unnecessarily consumed by illogical or irrelevant speeches, and the unfortunate members of the bar, or partial observers, may have thought he was sour and cold, when he was really, to those who knew him, a man of excellent humor, and as appreciative of merit as of demerit. While he had a full grasp and comprehension of the principles of law, his memory never failed to supply instances in which those principles had been illustrated, and applied. Under his administration, jurors had little difficulty in the solution of nice questions of law and fact, however intimately blended; and the authority of jurors under his guidance and teachings suffered no depreciation, but their functions and capacity appeared to be vindicated upon every trial. In a State which has not been deficient in eminent jurists, including such men as Chipman, Chase, Van Ness, Phelps, Prentiss, and Williams in the past, not to say anything of the living, the name of COLLAMER is, and will be, ranked as a worthy peer. He was an upright judge.

It will be remembered that the Cabinet of General Taylor, in its high order of character and ability, has rarely, if ever, been surpassed in the history of our country, and it was, in fact, what cabinets were designed to be, the wise council of the President. Among such distinguished associates it is fair to say the late Senator was not dwarfed by contrast with any. In the discharge of the practical duties of his Department he is still remembered by official veterans yet lingering there for his untiring devotion and intelligent application to that business of the Government which comes to the knowledge and touches the daily accommodations of more persons than that of any or all other of the Executive Departments. By his report it appears that the excess of the revenues of the General Post Office over the expenditures in 1849 was \$400,000, but soon after it ceased to be even self-sustaining, presenting annual deficits until the present year. While Postmaster General he organized a division in his Department to attend to all foreign mails, foreign postal arrangements, and ocean steamship lines. The existing postal treaty with Great Britain, at his entrance, just agreed upon, was carried out by him, and all the details for that purpose perfected. The various subsequent international postal arrangements show the wisdom of such treaties, and they are still executed in the Department according to the original plan. The administration of the office while in the hands of Mr. COLLAMER met with no complaint, which is the highest compliment this extended and ever-extending Department can achieve.

While in the Senate he commanded the confidence of all its members, and the measures

he introduced were not only easily carried in the committees of which he was chairman, but when they were brought into the Senate nearly always passed without even a division. He participated in all the important debates, bringing those acceptable offerings which aid in the solution of subjects under discussion; and, without making any dazzling display, or aspiring to any domination, justly wielded a large influence over his fellow-members. If he was not their Mentor, there was no other Senator whose counsel upon all subjects was more frequently sought, or more generously appreciated.

Nature had dealt liberally with him, having given to him a fine figure as well as a full and well-poised mind; and in his youth the graces of his person bespoke favor. In his age he not only spoke like a Senator, but with the mastery of a piercing eye, that "spoke audience ere the tongue," looked like one, and, as such, his words were accepted as wise among wise men. In his conversation he led, when he led at all, with useful topics for discussion, and then pursued them with unflinching animation, not monopolizing all the time, but ever and anon showing himself an engaged and gentle listener, as ready to be pleased with the wit of others as with his own. An hour with him produced no impression of a sermon or a comedy, but his sense and humor were so commingled that those who enjoyed such intercourse felt that neither the one nor the other could have been more dignified and useful, nor more pleasant and exhilarating. To all his natural advantages, to all his varied experience, he added patient industry and force of character. He decided nothing by intuition—not looking for Jupiter to come to his aid from the clouds—but, helping himself, he always diligently studied subjects as they came up in all their parts and relations; so that his opinions, whether in the social circle, on the bench, or in the Senate, far from being crude or extravagant, were the fruit of wise reflection, and no man reasoned more independently, or was less afraid to stand alone.

Senator COLLAMER was not a wide and desultory reader, though well versed in history and standard literature—including many quaint and rare old books—but he was a very diligent and conscientious student of the books he loved, retaining forever any mastery he had once acquired over them, and among them none were more thoroughly read and inwardly digested than the Bible. A model in the regularity of his habits, modest and republican in his style of living—in his tastes as well as principles—he maintained a character of spotless purity in all the relations of life, public and private, and his own home was made happy by his presence. His piety was unaffected, and he was a regular attendant wherever he dwelt upon divine worship. He was liberal and public spirited in proportion to his means, though an economical manager of his own affairs, as he was of those of his country. In his own State at the time of his decease he was regarded as her foremost man, and his loss will be mourned by the nation as the loss of one of its great men.

I believe he desired to be regarded as a Christian statesman, and any terms added to these he would have considered as terms of diminution. He preferred to be quietly right rather than to be conspicuous and wrong. He sought to convince, not to be eloquent. He was impressive rather than impulsive. He appealed to the reason of men, and did not aim to excite their temper. He tried to make his audience understand the weight of the argument, not to please them with the beatitudes of rhetoric. The truths to which he gave utterance were calculated in their naked simplicity, sometimes in their puritanic, gritty homeliness of phrase, to stand the tests of all time, but he took no care to embalm his works with the ornaments of the schools, or the spoils of literature in order to win that fame which style often secures even to shallow thinkers. It was breadth of view and not felicity of diction he aimed at. He borrowed little from others. His intellectual structures were built of timber he had

freshly cut and hewn on his own domains, redolent of the perfume of the forest, and were not piled up from dead drift-wood quotations which float on the surface of learning, so tempting to merely literary wreckers. Though always bravely in earnest and self-conscious of his power, he had no hot blood, teeming with a luxuriant progeny of hyperbole and fancy, but his unembellished words always kept on a level with his argument, clear, cogent, and inspiring the hearer with the idea that the speaker was wiser, freighted with more thought upon the subject, than himself. Knowing that the human mind wearies with long-continued attention, he was accustomed to enliven his speech with an occasional apposite anecdote, of which he possessed a wonderful opulence, but they were always chaste and never delayed the argument. They were single flashes of wit which shed light over the subject in hand, while the speaker and hearer were a long way further on in their journey. Though it was obvious that he had a keen relish for wit, he more worshiped the light which shines forever than the momentary brilliancy of the meteor, and was more truly great in the irresistible logic with which he was wont to intrench himself and bid defiance to opponents.

He scrutinized novelties, and was slow to exchange a present inheritance for future prospects. But, if he was not an innovator, he was ready to sustain and defend any well-considered and substantial improvement. Conservative from natural temperament, as well as age and experience, he yet never was unwilling to strike at any tangible evil or governmental abuse.

The Constitution of his country he had read with profound attention, and upholding it in all its parts, mainly in accordance with the school of Madison, he strove to be the guardian of the natural rights of the people as well as the just authority of the Government. He loved liberty and revered law. Loving his own State dearly, and watchful of all her rights, he never hesitated to subordinate her sovereignty to that of the nation. His merits in the Senate, as a constitutional lawyer of ample learning and uncommon sagacity, were cheerfully acknowledged there; and his fame, if it did not leap over, extended as wide as the boundaries of our country.

Though his views were usually in harmony with those of the people of his own State, the transcendent regard they had for him and his exalted character permitted him to differ with them upon some questions, as they felt, whatever differences there might be, that they were the result of patriotic and independent opinions of a full-grown man.

He abhorred war considered as a trade or profession, was jealous of the superseding of laws by military rule, and had serious forebodings as to its influence on public morals; but he had large faith in the American people, in their intelligence and traditions; and, in responding to the wager of battle by a wicked and rebellious people, he was for the energetic and full exercise of the military power of the country. Chary of legislative weapons, he had no doubt at all of the efficiency of martial resources.

In the Senate others may have excelled him in learning, in genius, in sarcasm, in oratory, but no one surpassed him in stores of knowledge, in admirable clearness of statement, in lofty purpose, in direct and vigorous argument, nor in that combination of sound opinions which make the intelligent statesman.

Such a life—with no words his friends could wish to blot; with no acts that do not contribute to his praise, closing with his country's plaudit, "Well done, thou good and faithful servant," triumphantly closing with the Christian's hope in the resurrection—appeals to us by the force of its illustrious example, that we may so make up our final record, that those who survive us may be able to say, as we do now, "Behold, with no remembered sins of youth, here are the splendors of an age, a long age of good works."

I offer the following resolutions:

Resolved, That the House of Representatives of the

United States has received with the deepest sensibility the intelligence of the death of JACOB COLLAMER, late a Senator in Congress from the State of Vermont.

Resolved, That the members and officers of this House, as a proper mark of respect for the personal character and long and faithful services of Hon. JACOB COLLAMER, will go into mourning by wearing crape upon the left arm for the period of thirty days.

Resolved, As a further mark of respect for the deceased, this House do now adjourn.

Mr. WOODBRIDGE. Mr. Speaker, after the remarks of my distinguished colleague, who has so justly analyzed the character of the late Judge COLLAMER, it will not be appropriate for me to detain the House longer than to pay the tribute of love to the memory of my departed friend.

Judge COLLAMER was for many years a leading lawyer in Vermont. He looked upon law as the perfection of human reason, and studied it as the highest and most perfect science. Hence he spurned the garbage of the outer courts. He never touched the offals of the sacrifice, but worshipped at the inner shrine of the temple whose architectural proportions are just; whose parts are orderly and harmonious; where justice is found married to law, and controversy guided by the spirit of truth, rather than the spirit of victory. By well-directed study he became one of the finest judicial scholars of the age, and when called from the bar to the bench sustained an equal rank with the scholarly and accomplished Prentiss, the metaphysical Williams, and the distinguished Phelps, whose legal powers were as measureless as those of Daniel Webster.

As a judge Mr. COLLAMER was without fear and without reproach; and his opinions are models for their elegance and simplicity of diction, their unerring logic, and their freedom from any of that party bias which sometimes soils the ermine of the bench.

His career as a Senator is known to the whole country. In the most distinguished body of the nation he had no rival in spotless integrity and purity of character, and no superior in debate. It has never been my fortune to know a man who could state a proposition more clearly, and enforce it with more unerring and unanswerable logic than Judge COLLAMER; and when he made an argument every Senator knew that he spoke the honest convictions of his own enlightened judgment. In the great struggle through which we have passed, he calmly waited the logic of events, or more properly speaking the indications of God, and then fearlessly urged the policy which he deemed to be right.

As a lawyer, as a judge, as a Representative in Congress, as Postmaster General, as Senator, he was always unswerving by private or party interests, and preserved a reputation as spotless as a child.

The crowning glory of Judge COLLAMER's character was after all best exhibited at home. You all recollect the sweetness of his face. He seemed, as Sydney Smith said of Horner, to have the ten commandments written there. He was a devoted husband and father, a kind and generous neighbor, and in the highest sense of the word a Christian gentleman.

And now that he has gone across the silent gulf which separates the living from the dead, the pleadings of his life are heard. It is for us to reverently listen. Let us imitate his virtues; so that when we are called to join our fathers it may be said of us, as it can be safely said of our lamented friend, the world is better that he has lived.

Mr. RAYMOND. I regret to say, sir, that I am entirely unprepared to commemorate in any fitting terms the character and services of the eminent Senator whose demise has been announced. Indeed, after what has been so well and fully said of his life and public services by those from his own State who knew him so thoroughly and loved him so well, I should feel that any extended remarks from me were simply beside the proprieties of the occasion. But I trust the House will bear with me while, in a few words, I comply with the request of those of his own State upon this

floor, that I will at least express my own sympathy with them in their loss, and my concurrence in their estimate of his character.

It was my good fortune to know the late Senator COLLAMER for many years last past. It was one of the most pleasing incidents of the annual festival of our university commencement, to those of us who were then in college, that he was to be present, as he was always present when commencement day came round, to rehearse to us the history of the troubles through which he had to pass to achieve the education to which he attributed his success in life, and to give to us, as no one could do so well, those counsels and suggestions of which we all stood so much in need. I learned then to admire his character and to love him for his kind consideration toward us, so much his juniors, so eager, so ready always to profit by his example and to learn from his counsels. It was not my fortune in after life to know him intimately. I used to see him only as we see each other in the casual meetings of public life. The more I saw him the more I honored him, the more profoundly I respected the great gifts he brought to the public service, and the high moral considerations by which his public actions were always guided.

His mind was clear, acute, and strong. He never failed to discriminate accurately between all the views of every subject he discussed. His logic was clear, and strong as the English language could frame. There was nothing in his discharge of public duty that ever was low or narrow. He always rose to the level of every subject, and he did it without an effort, for the highest subjects were only upon the level upon which his mind constantly moved. He was entirely free from the small ambitions and smaller jealousies that too often encroach upon the large generousities that alone give dignity to the details of a public life. In everything that he did he consulted the dictates of his conscience. He acted in public as in private with a view to what he believed to be justice and truth, and the highest good of those in whose behalf he spoke or acted.

Senator COLLAMER was not given merely to theorising on public affairs; I think, if I have not mistaken the tendency, drift, and principle of his public action, that he looked upon Governments and the offices of Government as experimental in their nature; and the question which guided his conduct was not what ought to be done on the highest theory we can frame, "What would I do if I could have my own way in everything?" but "What is the best thing on the whole, which, under the present circumstances, it is competent to accomplish?"

He was, therefore, as far removed as possible from that class of public men whom the French were accustomed to designate *doctrinaires*. He was a practical, direct, straightforward statesman in the largest and best sense of that great and noble word.

I think Senator COLLAMER, moreover, showed largely, perhaps was to a certain extent the cause of, that moderation, that steady conservatism in tone and temper, which has always characterized the noble State from which he came. It has always seemed to me that Vermont, more thoroughly and more truly even than any other State of the Union, presents a perfect model of a republican commonwealth. I know of no State certainly—and my acquaintance with it has been somewhat intimate—where I believe the great principles of social equality obtain a more thorough foothold than in that Green Mountain State. I know of none in which the personal and civil rights of every human being obtain a more prompt, a more thorough, a more cordial recognition.

And I should state, equally to the honor of that noble State, that she is always steady in the judgment of public affairs; and Senator COLLAMER shared her steadiness of judgment and action, never carried away by mere caprice or gusts of public temper. He was still always profoundly respectful and deferential to that settled and permanent tendency and conviction of the public mind which, perhaps, is the surest

test of political truth to which any person in public or private life can possibly refer.

Vermont, Mr. Speaker, has been fortunate in the character of her public men, from a time beyond which my memory does not reach in her history. She has always had in her public councils men who conferred luster upon her, and gathered honor to themselves by the manner in which they met every duty which devolved upon them. Some of their names in various departments of the public service have been cited by the honorable gentlemen whose words preceded me. They are names that will live in history. They are names that reflect honor upon the professions with which they were connected; and Vermont still has in the public service in both Houses in this Congress, in the diplomatic service of the country, in the press, and everywhere else where public action can promote the public good, men whose names will be remembered for the good thus done the world.

But among them all she has no name—and it would be the highest wish I could wish her that in some future day she might have some name, though I feel how vain that wish is—that will occupy a higher place in the respect of all who knew him, and a more profound position in the love and esteem of those who are immediately acquainted with him, than that of JACOB COLLAMER.

Mr. GRIDER. I take pleasure in bearing some tribute of respect to the distinguished Senator who has lately departed from this life. I had the honor at an early day, in this Hall, to be associated with JACOB COLLAMER. I had the honor of a personal acquaintance with him, and living with him in the same mess. I had opportunities at least of becoming acquainted personally with his temper, with his qualifications, and with his private and individual feelings, as well as with his public convictions in the position he then occupied, and I felt that it was due to Judge COLLAMER to bear some testimony to that high appreciation which we always entertained as to his qualifications in every position in which the country placed him.

Judge COLLAMER was not a man of display. He needs no eulogy from any individual upon this floor. He has marked his character upon the records of his country. Long in public life, he proved himself competent and true and faithful in every position to which he was appointed. But I need not speak of his record. It is before the country. It is recognized with delight and pleasure, not only in his own neighborhood, but well understood and gratefully appreciated in the West.

Mr. Speaker, you have already heard delineated the variety of position which he occupied; and well may his friends appeal to the public records, and to the conflicts which have occurred in political life, and ask where Judge COLLAMER has been derelict, and when there was ever imputed to him any feeling but one of patriotic devotion to his country, and devotion to the highest interests of humanity.

Gentlemen who were familiar with him all know that he was not a man of rhetoric and poetry. He was a man of logic, of argument, of discrimination, of integrity, and of firmness. He studied what he said, said what he thought, and executed his purposes with regard, not to the approbation of men upon the right hand or upon the left, but with regard to that approbation which is better and higher than all—the approbation of his own conscience, in view of that eternal responsibility that awaits us all beyond the grave.

Sir, I loved JACOB COLLAMER. I have seen him in the social circle. I have seen him in the highest circles of this Government. I had the honor to be a messmate of his when Taney and McLean and Story and a host of other distinguished men formed, as it were, a family circle. I heard their interchange of thought and conversation. I had an opportunity to contrast and determine the quality of Judge COLLAMER'S mind and his attainments; and they were prominent and distinguished. He

was always ready, always quick to discern, to discriminate, to enounce, to illustrate; he was peculiarly favored in the quality of his mind for pointed, clear illustration.

But, gentlemen, as I have said, his history is upon the record. Let me make one remark as to his personal qualities. He was gentle and kind and affable to all around him—to the humble and poor as well as others. Judge COLLAMER had a hand of congratulation to give to every man whom he believed to be an honest man; and yet, while he was thus condescending and affable, he felt that he himself was a man in attainments, in consideration, and in importance, equal to the highest.

In the social circle no one was so interesting, so illustrative, with such a fund of anecdote and instruction, and so full of kindness and gentleness. Not an angry word did I ever hear fall from him. But, gentlemen, allow me to say that, according to my convictions, we ought to estimate his character more from other considerations which have not, on my part, at least, been mentioned. He was not only a man of integrity and morality, but he was a Christian man and a Christian gentleman, and in this fact I trust his friends, and especially the home circle, may find the power of submission and the power of being cheered and consoled. A Christian gentleman, as he was, his death, although it may be to his country and his family a bereavement and a loss, to him it was a great gain.

I may be excused for stating a fact, for facts are illustrative of character more than words. When I had the honor to be in Congress—in the House—with Judge COLLAMER, we had a congressional prayer meeting. I remember distinctly that Judge COLLAMER, as a Christian gentleman, was uniformly there and participated in the devotional exercises. They were of frequent occurrence, and he used to attend, and Judge McLean, and a circle of the distinguished men of the bench and Legislature of that day. I have, therefore, the right to hope and to infer, and to cheer the disconsolate and the bereaved with the enunciation, that though he has left us, and his services are no longer ours, or his kind cheer for his family circle, yet to him it was but a glorious exchange, and in that exchange we may find the highest consolation, not only here in this Hall, but everywhere throughout the country, and more peculiarly in the family circle, where, I hope, his wife and his friends may be cheered with the bright prospect that they shall, according to Christian principles, meet him again and recognize him as a purified angel—no more amidst the conflict and labors of human existence, but pure and holy and blest as the angels of God.

Mr. ALLEY. Mr. Speaker, I rise to express my cordial concurrence in the resolutions now under consideration, and before the question is put I wish to add a few words to what has already been said in honor of the memory of the distinguished Senator whose decease has been announced.

To those of us who have listened, as many of us have so often, to his words of eloquence and wisdom at the other end of the Capitol, nothing which I can say can add anything to their appreciation of his great attainments, vast resources, practical wisdom, high character, and eminent usefulness. But to those who did not know him so well it may not be unimportant to hear in addition to the fitting tributes already spoken something more of the characteristics which so distinguished the able Senator and patriot whose death we so deeply mourn, from another whose good fortune it was to know him somewhat intimately. It happened to me upon my first entrance into Congress to be placed upon a committee of this House, upon which I have served several years since, corresponding in name and duties with one in the other branch of Congress, of which Judge COLLAMER was the head. It gave me a most excellent opportunity, as well as great pleasure to witness, sometimes in counsel with others, but more frequently in private consulta-

tion, his excellent sense, sound judgment, practical wisdom, and incorruptible integrity. Few men comprehended so easily, in fact I have scarcely met one, that could elucidate so clearly and fully the most abstruse and difficult propositions. His simple and clear statement of any subject, was in itself almost a demonstration. The clearness of his perceptions was indeed truly remarkable. Without ostentation or display, he communicated his stores of knowledge and wisdom most cheerfully, to willing and grateful listeners.

I have heard some of his associates in the Senate, and scores of others remark, that he was the wisest man in that august body. And all who knew him will agree that he was, at least, among the very best and greatest of those eminent men; and who could desire for his fame higher praise than this! But it was not as a Senator merely, or the wisdom which he displayed as a legislator, which constituted his only or chief claim to high distinction. He had the reputation, as has already been stated, of being a great lawyer in no ordinary sense—for he was not only learned in the principles and technicalities of the law, but it is admitted that he understood and comprehended the true spirit of the law better, and in greater degree, than many of the most distinguished lawyers of the land. To say that one is a great lawyer, in the highest sense, as was justly said of him, is to say that he was a great man. I know that it is not unfrequent, upon such an occasion as this, for partial friends to indulge in exaggerated praise, and high-wrought eulogium, but it is but simple justice to say of the late Senator from Vermont, that he was wise, pure, and patriotic in as eminent degree as any of the public men now upon the stage of action. And to a nice sense of justice, he added a mature judgment in the consideration of all subjects, formed upon careful examination and reflection. He was amiable in temper, and that, together with an originating mind, stored so full as it was by study and culture, made him a great favorite of all with whom he came in contact. He attained great influence, not by frequent and much speaking, but by solid reasoning and dispassionate argument. He never relied upon anything for success but legitimate and argumentative appeals to the understanding alone.

Such was JACOB COLLAMER: the wise Senator, the able statesman, the great lawyer. But he is gone, and we shall never behold him again on earth. How melancholy the reflection, that one so learned, so able, and so useful, and withal so beloved, should be thus removed from this great field of usefulness and honor, to be seen no more forever! Such lessons teach us, how little of lasting enjoyment is to be found in struggles and toils for honor and fame, except the purpose of such efforts is to secure noble ends. Ambition for place and power, when inspired by a desire to accomplish the greatest good to mankind, is not unworthy the highest aspirations of the great and good. But how suggestive the thought and the truth, that—

"When fame's loud trump hath blown its noblest blast,

Though loud the sound, the echo sleeps at last;
And glory, like the phoenix midst the fires,
Exhales her odors, blazes, and expires."

The frequent recurrence of such scenes as these admonish us how slight is our grasp upon life, and that we, too, must soon be called from the labors and struggles of earth to render an account of our stewardship while here; and well shall it be with us if we shall be able to present as good a record, "when time with us shall be no more," for faithfulness and duty well performed, as fell to the lot of our departed friend.

Mr. WENTWORTH. I am unwilling that the West should be unheard on this occasion; and I have no other apology to offer for my remarks now except that I regret that some abler man from the West had not deemed that the privilege devolved upon him.

I entered Congress at the same time with Judge COLLAMER in 1843, and I had not long been associated with him before I marked him

as a man of signal ability, and destined to take that high rank which has been so unanimously accorded him. I concur in all the noble traits of character which the gentlemen who have so eloquently preceded me have enlarged upon. But there are some points which they have overlooked that I deem too prominent to be omitted and do justice to so great a man. He distinguished himself for his kindness and fatherly care of the new States. While he scrupulously canvassed all our measures and opposed those which he deemed extravagant, yet he may have been considered a very liberal man to us, and I could mention many works of western improvement that stand out as monuments of his justice and foresight.

Judge COLLAMER was an economical man, and carefully investigated every claim that was brought before Congress, and those of his fellow-members who had not examined them never had any fears in following him if he only assured them that he had carefully examined the matter. He looked as I do upon economy, as one of the best safeguards of our Government, and as one of the essential requisites of a statesman. He thought that no man should be more liberal of the public money than he was of his own. He viewed economy in public affairs as nothing more nor less than strict honesty. The same sterling economy which characterized him in the legislative department he practiced in the executive department. As Postmaster General he tolerated no extravagance, and when I have said this, I need not say his Department was tainted with no corruption. And if the history of the Post Office Department is ever written, his administration will be noted as economical, cheap, and honest, and he will stand equal to, if not ahead in this respect, of the purest men who have ever adorned the national Post Office.

As to his ability I have only to quote my own case to show what effect he was capable of producing upon minds that were even prejudiced against his views. I was here during the last inauguration ceremonies, and when I came here I had not the views that I now have with reference to the reconstruction of the States. I had a conversation with one of the ablest men in this country upon that subject, and I might add, with a gentleman now occupying what I consider the highest position in this Republic. His views and mine at parting did not exactly coincide. His last words were, "I would like to have you read the late speech of Senator COLLAMER, if you have not done so." As I had not, he took particular pains to send to his own library and got for me the only copy he had, which he prized very highly, and trusted to his good fortune to get another. To that speech I owe the convictions which have dictated the votes which I have cast upon this floor. That speech convinced me, and I know no other way for a public man to vote than in accordance with his convictions, leaving the consequences, not to the dictation of selfish organizers of political parties, but to that Creator to whom a man is as much responsible for his official as for his private acts.

The gentleman from New York [Mr. RAYMOND] has told us that Judge COLLAMER was conservative. Until those words, I had not made up my mind to address the House on this occasion. I deemed it my duty then to define Judge COLLAMER's conservatism. He was for preserving his Government, and he was for destroying everything that stood in the way of commending that Government to the protection and blessing of divine Providence. He was a conservative of the right and a radical destructive of the wrong. The gentleman from New York might have said of him that he was a radical conservative. He knew no expediency, he knew no policy, as against the equality of all mankind before the law; and that is the sense in which an immense majority of this House can be called conservatives.

The gentleman from Kentucky [Mr. GRIDER] spoke of Mr. COLLAMER as a conscientiously religious man, and he might have added that his religion was of that kind which made him

believe and carry into actual practice the belief that men should be as equal before the bar of his country as they were before the bar of God. Judge COLLAMER met the black man on earth as he knew he would meet him in heaven:

The resolutions of Mr. MORRELL were then adopted.

And the House (at four o'clock and ten minutes p. m.) adjourned until twelve m. on Monday next.

IN SENATE.

MONDAY, December 18, 1865.

Prayer by the Chaplain, Rev. EDGAR H. GRAY. The Journal of Thursday last was read and approved.

Hon. JOHN B. HENDERSON, of Missouri, appeared in his seat to-day.

PETITIONS AND MEMORIALS.

Mr. RAMSEY presented the petition of officers and men of the United States transport Union, praying for compensation for losses of clothing while in the active service of the Government; which was referred to the Committee on Military Affairs and the Militia.

Mr. GRIMES presented the petition of Commander George Henry Preble, of the United States Navy, praying that Congress may pass a law directing the accounting officers of the Treasury to allow him the same compensation that would have been allowed him if the order discharging him from the naval service had never been made; which was referred to the Committee on Naval Affairs.

He also presented the petition of P. A. Wheeler, acting captain and assistant quartermaster of the United States volunteers, alleging that, without any omission of duty on his part, he was robbed of \$2,240 and all his commissary and quartermaster papers for July and August, 1865, and praying that a bill may be passed for his relief; which was referred to the Committee on Claims.

Mr. WILSON presented the petition of Brevel Brigadier General William S. Tilton, and other volunteer officers of the Commonwealth of Massachusetts, praying Congress to repeal the first section of the act approved March 3, 1865, prohibiting persons from receiving pensions who are receiving full salary from any office under the Government; which was referred to the Committee on Pensions.

He also presented the petition of Charles Fosdick Fletcher, praying for the construction of a railroad to the Pacific on the southern route; which was referred to the Committee on the Pacific Railroad.

Mr. MORGAN presented the petition of Alpheus Fobes, United States pension agent in New York, praying for the passage of an act to refund money stolen from him; which was referred to the Committee on Pensions.

Mr. BROWN presented the petition of Major Elisha W. Dunn, paymaster in the United States Navy, alleging that he was stationed at the naval depot at Mound City, and lost all his papers, vouchers, &c., by fire, and praying that he may be settled with in the usual manner on equitable terms by the accounting officers of the Treasury Department; which was referred to the Committee on Naval Affairs.

Mr. HARRIS presented a memorial of citizens of New York, praying for a uniform system of general organization for invalid officers and soldiers of the war; which was referred to the Committee on Military Affairs and the Militia.

Mr. SUMNER presented the petition of Philip Fraser, judge of the district court for the northern district of Florida, praying for additional compensation; which was referred to the Committee on the Judiciary.

Mr. SPRAGUE presented the petition of Samuel Graves, late a private in the ninth regiment Rhode Island volunteers, praying for an invalid pension; which was referred to the Committee on Pensions.

Mr. SPRAGUE. I present also the petition of David Baker, Mowry & Steere, Samuel

True, and Nathaniel Crowell, owners of the brig Sabao, praying for remuneration for the loss of their vessel destroyed by the rebels. This case occurred in 1862. The Government chartered a vessel for the transportation of supplies from Maine to Fortress Monroe. The vessel reported to and was considered under the direction of the military authorities. While in that position, the rebel steamer Merrimac so called, with the steamship Jamestown, made a raid and destroyed the vessel and cargo. While the military and the Treasury Department of the Government are paying enormous claims in the rebel States, it seems to me Congress should take care of the claims of loyal citizens of the loyal States. I move the reference of the petition to the Committee on Claims.

The motion was agreed to.

Mr. MORRILL presented the petition of G. B. Smith, and many other citizens of Maine, praying that soldiers who obtained pensions in consequence of injuries received in the war of 1812, may be allowed back pay from the date of their discharge to the date of their pension certificates; which was referred to the Committee on Pensions.

He also presented the petition of Sarah L. Spring and Harriet Spring, praying for the half pay to which William Barker was entitled under the resolve of Congress of the 21st of October, 1780, granting half pay to the surviving officers of the Revolution; which was referred to the Committee on Revolutionary Claims.

Mr. HOWE presented the petition of sundry citizens of Wisconsin, praying for the passage of a law equalizing the bounties of soldiers; which was referred to the Committee on Military Affairs and the Militia.

Mr. CRAGIN presented the petition of Frank H. Evans, a pensioner who has lost his right arm, praying for an increase of pension to enlisted men who have lost an arm or leg in the service, from eight to fifteen dollars per month; which was referred to the Committee on Pensions.

Mr. SUMNER. I present the petition of Bridget Stone, of Shrewsbury, in Massachusetts, the widow of a revolutionary soldier, representing that on applying for a pension she has been denied on the ground that there is a certain failure of evidence in her case, but the papers show that she clearly comes within the equity of the statute. The case is one of singular interest; the papers are full; and I ask respectfully the attention of the committee to it. I move its reference to the Committee on Pensions.

The motion was agreed to.

Mr. BROWN. I desire to present certain exhibits, papers, and statements connected with a bill which was referred at the last meeting to the Committee on Military Affairs—a bill for the reimbursement of the State of Missouri for certain moneys expended in paying for her militia troops. In connection with these papers is a very brief statement of the facts, of the origin of the claim, the amount, and the exhibits on which it is predicated. I ask that the statement may be printed; the exhibits it is not necessary to publish. It will facilitate very much the action of the committee and of members of the Senate. It is very brief.

The motion to print was agreed to; and the papers were referred to the Committee on Military Affairs and the Militia.

PAY TO NAVAL OFFICERS.

Mr. GRIMES. I present a memorial signed by Vice Admiral David G. Farragut and about eleven hundred other commissioned officers of the United States Navy—all, I believe, or nearly all now in the country—who represent that their pay was established free from tax at a period when the currency was gold and silver; that even at that time it was not more than sufficient to meet their necessary expenses, and left them without the prospect of providing for old age or misfortune; that since that period the cost of the necessaries of life has more than doubled in many instances; that this increase of cost has been provided for in civil employments by

a corresponding increase of salary, while the memorialists, compelled by the discipline of the Navy to preserve the appearance of officers at whatever cost, have been forced in many instances to incur debts or to suffer family privations which they have endeavored to conceal from the public during the rebellion, with the hope that after its suppression either the cost of the necessaries of life would be reduced to the former amount, or that Congress, in a sense of justice and humanity, would make such an addition to their pay as would enable them to maintain that appearance before their fellow-citizens and the representatives of foreign countries which the universal sentiment requires of our officers. They therefore pray that Congress will increase their compensation. I move that the memorial be referred to the Committee on Naval Affairs.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills, in which the concurrence of the Senate was requested:

A bill (H. R. No. 35) making appropriation for refurnishing and repairing the President's House; and

A bill (H. R. No. 36) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1867.

The message further announced that the House of Representatives had passed a concurrent resolution proposing an adjournment of Congress from Wednesday, December 20, 1865, until Tuesday, January 9, 1866.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills; which thereupon received the signature of the President *pro tempore* of the Senate:

A bill (H. R. No. 23) to prevent the spread of foreign diseases among the cattle of the United States; and

A bill (H. R. No. 24) to amend an act entitled "An act providing for the selection of jurors to serve in the several courts of the District of Columbia."

REPORTS FROM COMMITTEES.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a resolution to print one thousand copies of the report of the Quartermaster General for the use of his department, reported it back without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That one thousand copies of the report of the Quartermaster General be printed for the use of the quartermaster's department.

He also, from the same committee, to whom was referred a resolution to print two hundred and fifty additional copies of the annual reports of the superintendents of the Insane Asylum and of the Columbia Institute for the Deaf and Dumb, for the use of those officers, reported it back without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That two hundred and fifty additional copies of the annual reports of the superintendents of the Insane Asylum and of the Columbia Institute for the Deaf and Dumb be printed for the use of those officers respectively.

Mr. BROWN, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred a resolution to pay to the widow of Hon. Jacob Collamer the amount of compensation due him at the time of his death, reported it back without amendment, and, by unanimous consent, it was read the second time, considered as in Committee of the Whole, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved, That the Secretary of the Senate be and he is hereby directed to pay out of the contingent

fund of the Senate, to Mrs. Mary N. Collamer, widow of Hon. Jacob Collamer, deceased, late a Senator from the State of Vermont, the amount of compensation due the deceased at the time of his death.

DESTITUTE INDIANS.

Mr. DOOLITTLE. The Committee on Indian Affairs, to whom was referred Senate joint resolution No. 6, have had the same under consideration, and have directed me to report it back, with a recommendation that it pass with amendments; and have also desired me to ask the unanimous consent of the Senate to put the resolution on its passage at the present time.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 6) authorizing the President to divert certain funds heretofore appropriated, and cause the same to be used for immediate subsistence and clothing, &c., for destitute Indians and Indian tribes. The resolution authorizes the President of the United States to cause to be expended, under the direction of the Secretary of the Interior, for immediate subsistence and clothing of destitute Indians and Indian tribes, and for agricultural implements and seeds, a sum not exceeding \$1,000,000 of the unexpended balance in the Treasury of appropriations heretofore made to enable the President of the United States to carry into effect the act of March 3, 1819, and any other acts now in force "for the suppression of the slave trade," and the accounts of such expenditure are to be laid before Congress during its present session.

The first amendment of the committee was in line eleven, after the word "tribes," to insert the words "within the southern superintendency."

The amendment was agreed to.

The next amendment was in line fourteen, to strike out "one million," and insert "five hundred thousand."

The amendment was agreed to.

The next amendment was to add at the end of the joint resolution the following proviso:

And provided also, That all articles to be furnished to said destitute Indians and Indian tribes shall be delivered to them on or before the 1st day of July next.

The amendment was agreed to.

Mr. DOOLITTLE. I will state to the Senate in a word the object of this resolution. As chairman of the Committee on Indian Affairs, I have received a communication from the Secretary of the Interior urgently recommending the immediate action of Congress on this subject. Accompanying his letter of recommendation is also a letter of recommendation of the Commissioner of Indian Affairs, and with that is also a letter from the superintendent of the southern superintendency. From these letters I will read two or three extracts to the Senate. Mr. Sell, the superintendent, writes as follows:

WASHINGTON, D. C., November 8, 1865.

Sir: I desire to present for your consideration the destitution of the Indians in the southern superintendency, and the imperative necessity for providing immediate means for supplying the loyal, as well as those who have been disloyal, with the necessaries of life sufficient to prevent starvation and suffering.

Your department is fully advised as to the destitution of the Indians referred to, both as to clothing and subsistence, and unless means are provided to meet pressing necessities great suffering must be the result.

The utter helplessness of said Indians is consequent upon a state of war, during which they have been robbed of all available means to help themselves. They are now returning to a desolate country with assurances that the Government will aid them until they can provide the means for helping themselves.

There are of loyal refugee Indians that have been and are being fed, 19,070, which require for subsistence during the approaching winter, the fourth quarter 1865, and first quarter 1866, not far from fifteen cents per head, being less than one half Army rations, amounting to.....\$520,611
For clothing for 20,570 loyal refugee Indians, at \$14 each, which includes 1,509 Indians who have the means of subsistence, but unable to obtain clothing..... 287,980

Total.....\$808,591

For the disloyal portion—6,000 Cherokees, 4,000

Creeks, 700 Seminoles, 1,000 Reserve Indians, in all 11,700, at ten cents per head for rations— \$212,940
Will amount to 163,880
Clothing at \$14 each. 336,740

Total. \$376,740

Hon. D. N. COOLEY,

Commissioner of Indian Affairs.

The whole estimates are \$1,185,000. Mr. President, we have here the urgent recommendation of the Commissioner of Indian Affairs for the appropriation of the sum of \$1,000,000 for this purpose; we have the urgent recommendation of the Secretary of the Interior, not precisely specifying any particular amount, but urging the necessity of our immediate action on the subject. The committee in taking up the subject, without fixing upon the precise amount that would or might be necessary, took into consideration the fact that we are now in the beginning of a long session, and at the beginning of winter, and determined to recommend the appropriation of the use of \$500,000 only at the present time, hoping that by the proper administration of that sum, these Indians may be saved from starvation, and if it should become necessary, before the close of this long session we can make another appropriation.

I ought to say a word in relation to the fund out of which it is proposed to appropriate this sum. There is \$1,200,000 appropriated, and now under the control of the Interior Department, for the purpose specified in the resolution, the suppression of the slave trade, and the Secretary of the Interior was of opinion, and after hearing him the committee were of opinion, that it would be better for us to appropriate \$500,000 of that sum for the support of these destitute Indians, as it might prove less embarrassing to the Treasury than a direct appropriation of an additional sum of \$500,000.

Mr. President, I have stated, in short, the case. I have no doubt that it is meritorious and ought to receive the immediate action of Congress.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in. The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

MEMORIAL OF PRESIDENT LINCOLN.

Mr. FOOT. The joint committee appointed to consider and report by what token of respect and affection it may be proper for the Congress of the United States to express the deep sensibility of the nation to the event of the decease of their late President, Abraham Lincoln, report the following resolutions; and as I presume they will give rise neither to debate nor objection, I ask for their present consideration:

Whereas the melancholy event of the violent and tragic death of Abraham Lincoln, late President of the United States, having occurred during the recess of Congress, and the two Houses sharing in the general grief and desiring to manifest their sensibility upon the occasion of the public bereavement: Therefore,

Be it resolved by the Senate, (the House of Representatives concurring,) That the two Houses of Congress will assemble in the Hall of the House of Representatives, on Monday, the 12th day of February next, that being his anniversary birthday, at the hour of twelve meridian, and that, in the presence of the two Houses there assembled, an address upon the life and character of Abraham Lincoln, late President of the United States, be pronounced by Hon. Edwin M. Stanton; and that the President of the Senate *pro tempore* and the Speaker of the House of Representatives be requested to invite the President of the United States, the heads of the several Departments, the Judges of the Supreme Court, the representatives of foreign Governments near this Government, and such officers of the Army and Navy as have received the thanks of Congress who may then be at the seat of Government, to be present on the occasion.

And be it further resolved, That the President of the United States be requested to transmit a copy of these resolutions to Mrs. Lincoln, and to assure her of the profound sympathy of the two Houses of Congress for her deep personal affliction, and of their sincere condolence for the late national bereavement.

The resolutions were considered by unanimous consent, and agreed to *nem. con.*

GENERAL GRANT'S REPORT.

Mr. SHERMAN submitted the following resolution: which was referred to the Committee on Printing:

Resolved, That ten thousand extra copies of the report of Lieutenant General Grant be printed for the use of the Senate.

NAVY REGISTER.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That three thousand copies of the Navy Register of the United States for the year 1865 be printed for the use of the Senate.

TRANSFERS OF NATIONALITY OF VESSELS.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into and report upon the manner in which American vessels, transferred during the rebellion to British owners, are now being refurnished with American registers, and, if the same be not in accordance with law, what legislation, if any, is necessary to prevent such transactions.

APPOINTMENT OF PENSION AGENTS.

Mr. LANE, of Kansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Pensions be instructed to inquire as to the expediency of providing by law for the appointment of pension agents by the President, with the advice and consent of the Senate; to report by bill or otherwise.

ADDRESSES ON MR. COLLAMER'S DEATH.

Mr. FOOT submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That there be published, in pamphlet form, for the use of the Senate, six thousand copies of the addresses made by the members of the Senate and members of the House of Representatives upon the occasion of the announcement of the death of Hon. Jacob Collamer.

BILLS INTRODUCED.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 33) in relation to the Court of Claims; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 34) in relation to the qualification of jurors and to writs of error in certain cases; which was read twice by its title.

Mr. DOOLITTLE. This bill is substantially a substitute for a bill which I offered on a former occasion, with an additional provision. That bill had reference to the qualifications of jurors in criminal cases in the courts of the United States, providing for obtaining jurors in those cases of great publicity where it is now almost impossible under the rulings of the courts to obtain a jury. The old law of the jury called men because they knew all about the transaction, but latterly such men have been entirely excluded, and therefore the most intelligent persons are often excluded from sitting on a jury. But this bill contains an additional provision giving a writ of error to the Supreme Court of the United States in the case of a trial for treason. I desire that this bill shall be referred to the Committee on the Judiciary, and I call the attention of my honorable friend, the chairman of that committee, to the bill and to the statement I make, that it is intended rather as a substitute for the bill heretofore introduced by me and referred to that committee.

The bill was referred to the Committee on the Judiciary.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 35) to grant one million acres of public lands for the benefit of public schools in the District of Columbia; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 36) quieting doubts in relation to the validity of certain locations of lands in the State of Missouri, made by virtue of certificates issued under the act of Congress of February 17, 1815; which was read twice by its title, and referred to the Committee on Private Land Claims.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 37) making a grant of lands in alternate sections to aid in the construction and extension of the Iron Mountain railroad from Pilot Knob,

in the State of Missouri, to Helena, in Arkansas; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. BROWN, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 38) to authorize the construction of a bridge across the Mississippi river at the city of St. Louis, State of Missouri, and at the city of East St. Louis, State of Illinois; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. MORGAN, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 39) to amend the acts relating to officers employed in the examination of imported merchandise in the district of New York; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. NYE, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 40) to adjust the boundary lines between California, Nevada, Oregon, and Utah; which was read twice by its title, and referred to the Committee on Territories.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 41) explanatory of certain joint resolutions therein named, giving bounties to persons enlisting in the regular or volunteer service of the United States; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 42) to amend an act to incorporate the Guardian Society and reform juvenile offenders in the District of Columbia, approved July 1, 1862; and also to amend an act granting certain privileges to the Guardian Society, approved June 30, 1864; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 43) to prescribe the mode of settling the accounts of the clerk of the supreme court of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 44) to incorporate the National Protection Insurance Company of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 45) concerning the judicial courts of the United States; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

REORGANIZATION OF THE REGULAR ARMY.

Mr. WILSON submitted the following resolution:

Resolved, That the Committee on Military Affairs and the Militia be instructed to inquire into the expediency of instituting boards of examination, to be composed of distinguished officers of the regular and volunteer forces, with the view of retiring any officers of the regular Army who have not rendered meritorious service during the late war, or shall be found in any way incompetent or inefficient in the discharge of their duties, and of filling the vacancies so created by careful selection from officers of the regular Army, the Veteran Reserve Corps, and the volunteer forces, most distinguished for services in the field or elsewhere during the war, whose grade shall be determined without regard to present rank or arm of service, but with sole regard to qualifications and meritorious services.

By unanimous consent, the Senate proceeded to consider the resolution.

Mr. WILSON. I will simply state that this is merely a resolution of reference to the Committee on Military Affairs. It was understood during the war that at its close the Army would be reorganized, and that distinguished volunteer officers would have a fair opportunity to go into the regular Army. We have been through the greatest school of this century; we have a great number of capital officers both in the regular Army and in the volunteers, and it seems to me the nation ought to avail itself of

this trained talent. We have certainly many officers in the regular Army that have not been heard of during the war; and as things now stand, many of the most distinguished generals who have commanded divisions and corps must go back to their lineal rank in the Army, and be under the command of men who outrank them who have rendered no service during the war, or none to speak of. Again, the volunteer officers, no matter how much they may have done for the country—and there are thousands of most accomplished officers who have served during the war and made historic names—must go into the regular Army, if they enter it, as second lieutenants, at the foot of the list, behind men many of whom have not heard a gun fired during the war. I do not commit myself to any positive action, but I think the subject ought to be looked into carefully, and therefore I offer this resolution of inquiry.

Mr. HENDRICKS. While the Senator is upon this subject, I wish to make an inquiry of him. Some days since the House of Representatives passed a joint resolution requesting the President to take no action prejudicial to the Veteran Reserve corps until the pleasure of Congress in regard to that corps should be made known. That resolution was referred to the Military Committee of this body. I wish to ask the Senator whether it is probable that committee will make a report before the recess. I do not know whether it is possible that the Administration will take any action after the House of Representatives has expressed so decidedly its desire on the subject; but still as that resolution is a mere request, I think it ought not to remain very long in committee; I cannot see a necessity for that.

While I am up, I beg leave to say that I am sure the country feels great interest in the fortunes of that corps as the only portion of the volunteer service that is likely to find its way as a body into the regular Army. It is impossible now to say, as Congress will have to consider that question, what number of that corps can be retained. That will depend, no doubt, upon the decision of Congress in respect to the size of the regular Army, but I am anxious to see the House resolution passed before the recess. A few days since I received a letter from a very gallant officer in the State of Indiana, who is a member of that corps, in which he says:

"I am selected by the officers from Indiana who are represented in the Veteran Reserve corps, to ask your assistance in our behalf in Congress. It is our desire to be retained in the Army, and think we are entitled to some consideration and help from the powers that be, as we are the wounded and maimed officers of the volunteer army, who from the circumstances of war have been rendered many of us unfit for the active duties of life.

"The fate of our cause will soon be presented to you members of Congress to determine whether you will retain or turn us out upon the world, objects of charity."

This letter thus far, I think, expresses the feeling of a large body of that corps, if not the entire official force, and I appreciate the sentiment of these gallant men that they prefer a support from the Government for the discharge of a duty rather than to depend upon a pension.

Mr. WILSON. In reply to the Senator from Indiana, I will say that the committee have had that subject under consideration, and have sent to the War Department for information in regard to the number of officers, their rank, and condition, the number of men, and such other matters as are necessary to guide intelligent action, and we shall probably have the information in a very short time. I will say further that there are many meritorious officers in the Veteran Reserve corps, and I have no doubt the feeling of the country and of Congress is kindly toward them, but there are thousands of officers that have served in the field during the war and been wounded who must not be overlooked, and the question is one requiring a great deal of care and examination.

The resolution was agreed to.

PAPERS WITHDRAWN.

Mr. POMEROY. I ask that the Committee on Claims, to whom were referred the papers in

the case of Francis A. Gibbons and F. X. Kelly, may be discharged from their further consideration, and that the parties may be allowed to withdraw their papers. The parties desire to withdraw the papers from the consideration of the Senate. They are now in the hands of the Committee on Claims. On a motion which I made some days ago the papers were referred to that committee. I think there was some mistake about it. They now want to withdraw their papers.

The motion was agreed to. The committee was discharged from the further consideration of the papers, and leave was granted to the parties to withdraw them.

On motion of Mr. WILLEY, it was

Ordered, That the petition and other papers of the heirs of Major Andrew Russell, of the revolutionary war, be taken from the files of the Senate and referred to the Committee on Revolutionary Claims.

On motion of Mr. NORTON, it was

Ordered, That the petition and other papers in the cases of Jean Hudri's heirs, Ana de Roblas y Robaldo, and Thomas Laurent, be withdrawn from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. FESSENDEN, it was

Ordered, That the petition and other papers in the case of Ephraim Hunt be taken from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. CLARK, it was

Ordered, That the petition and other papers in the case of the Ameskeag Manufacturing Company, praying compensation for three regimental cook wagons furnished by order of Major General Fremont, commanding the Western department, and the petition and other papers of Frank Pugsley, praying compensation for services rendered the United States Government, as a soldier, from October 17, 1861, to October 24, 1862, be taken from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. RAMSEY, it was

Ordered, That the papers in the case of Joshua D. Todd, late of the United States Navy, be withdrawn from the files and referred to the Committee on Naval Affairs.

COMMITTEE SERVICE.

Mr. RAMSEY. I move that the President *pro tempore* be authorized to fill the vacancy upon the Committee on Revolutionary Claims.

The motion was agreed to.

The PRESIDENT *pro tempore* appointed Mr. CRESWELL to fill the vacancy upon the Committee on Commerce, and Mr. WILSON to fill that upon the Committee on Public Lands.

PENSION APPROPRIATION BILL.

The bill (H. R. No. 86) making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th of June, 1867, was read twice by its title, and referred to the Committee on Finance.

PRESIDENT'S HOUSE.

The bill (H. R. No. 35) making appropriation for refurnishing and repairing the President's House, was read twice by its title.

Mr. FESSENDEN. I ask that the bill be taken up and acted on now; it is very easily understood, and there is an urgent necessity for making the appropriation, in order that the work of repair and refurnishing may go on. The President's House is in a very bad condition, and it should be attended to at once. I make the suggestion after consulting with several members of the Committee on Finance.

By unanimous consent, the bill was considered as in Committee of the Whole. It proposes to appropriate \$30,000, or so much of that sum as may be necessary, for refurnishing and repairing the President's House.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 13th instant, information in relation to persons in the employment of the Government under the War Department who have not taken the oath prescribed by law, and to persons appointed to offices not authorized by law; which was ordered to lie on the table, and be printed.

ADJOURNMENT FOR THE HOLIDAYS.

Mr. WILSON. I move to take up the resolution from the House of Representatives in regard to an adjournment.

Mr. FESSENDEN. I have no objection to its being taken up, but I shall interpose an objection to its second reading to-day.

Mr. WILSON. There is no object in taking it up if it cannot be read a second time to-day.

Mr. ANTHONY. I think it had better be taken up and read.

Mr. FESSENDEN. That will not advance it at all.

Mr. WILSON. I withdraw the motion.

EXECUTIVE SESSION.

Mr. TRUMBULL. As there is an occasion for an executive session, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, December 18, 1865.

The House met at twelve o'clock m. Prayer by Rev. B. F. MORRIS, of Cincinnati, Ohio.

The Journal of Thursday last was read and approved.

MEMBER AND DELEGATES QUALIFIED.

Mr. BENJAMIN G. HARRIS, a Representative-elect from the State of Maryland, appeared and was duly qualified.

Mr. HOLBROOK announced that Mr. SAMUEL McLEAN, Delegate-elect from the Territory of Montana, was in attendance and ready to take the oath prescribed by law; whereupon Mr. McLEAN presented himself and was duly qualified.

Mr. WASHBURN, of Illinois, announced that Mr. WILLIAM H. HOOPER, Delegate-elect from the Territory of Utah, was in attendance, and ready to take the oath prescribed by law; whereupon Mr. Hooper presented himself and was duly qualified.

REPORTS FROM COMMITTEES.

The SPEAKER. The first business in order is the calling of committees for reports, to go upon the Calendar, and not to be brought back by a motion to reconsider.

W. J. MORRIS.

Mr. DELANO, from the Committee of Claims, presented an adverse report upon the petition of W. J. Morris, of Benton, Illinois, praying for remuneration for losses and services while acting as a scout and spy during the late war.

The petition and accompanying papers were laid upon the table.

Mr. DELANO. I move that the petitioner have leave to withdraw the petition and accompanying papers, on filing copies of them.

The motion was agreed to.

The call of committees having been concluded,

The SPEAKER announced as the next business in order, the calling of States for resolutions, commencing with the State of Iowa, and proceeding in inverted order.

REPRESENTATIVE FROM ARKANSAS.

Mr. SMITH. I rise to a privileged question, and present the credentials of James M. Johnson, claiming to have been elected as a member of Congress from the third district of the State of Arkansas. I ask that they be referred to the select committee on reconstruction. In connection with these papers I introduce a resolution, on which I call the previous question.

The SPEAKER. The credentials will be referred to the select committee on reconstruction. The gentleman from Kentucky [Mr. SMITH] submits, also, as a question of privilege, a resolution which will be read.

The Clerk read, as follows:

Resolved, That James M. Johnson, a member-elect to the Thirty-Ninth Congress from the third district of the State of Arkansas, be admitted to the privileges of the floor of the House during the pendency of his claim as a member thereof.

Mr. ASHLEY, of Ohio. I object to that. The SPEAKER. The Chair decides that this is not a question of privilege.

Mr. SMITH. I offered it in conjunction with the credentials.

The SPEAKER. That, however, did not make it a question of privilege. Persons claiming seats here cannot have the privileges of the floor granted to them as a question of privilege. It is a question of privilege to present credentials.

Mr. SMITH. Then I ask unanimous consent to introduce the resolution.

The SPEAKER. Unanimous consent cannot be asked during the morning hour on Monday.

ASSUMPTION OF REBEL DEBT, ETC.

The SPEAKER proceeded with the call of States for resolutions, beginning with the State of Iowa; when

Mr. PRICE submitted the following resolution:

Whereas policy, propriety, and duty, all require that the Representatives of a free and loyal constituency should, at the opening of the first Congress after the suppression of the rebellion, see that, in the reorganization and readmission of the States recently in arms against the Government, no possible safeguard be left unprovided which will prevent in the future a recurrence of the troubles of the past; and whereas an attempt to assume the rebel debt in some shape, and also to repudiate the national debt in some manner, are among the possibilities of the future; and whereas the most effectual way of preventing either or all of these would be so to amend the Constitution of the United States as to preclude for all time to come any chance of either of these results: Therefore,

Be it resolved, That, in the opinion of this House, the Constitution of the United States should be so amended, and that no State which has recently been in rebellion against the General Government ought to be entitled to a representation in Congress until such State, by its Legislature or other properly constituted authority, has adopted said amendment.

The SPEAKER. In accordance with the resolution of the House, this resolution will be referred to the joint committee on reconstruction without debate.

INDIAN TRIBES.

Mr. HUBBARD, of Iowa, introduced a bill to provide for the consolidation of the Indian tribes, and to establish civil governments in the Indian territories; which was read a first and second time, and referred to the Committee on Indian Affairs.

ILLINOIS LANDS.

Mr. ALLISON introduced joint resolutions directing the Secretary of the Interior to require the State of Illinois to pay to the United States the proceeds of certain lands granted to said State by act, approved September 20, 1850, for railroad purposes, and directing the sale of certain lands in said State belonging to the United States; which were read a first and second time, and referred to the Committee on the Judiciary.

POLYGAMISTS.

Mr. GRINNELL introduced a bill to prohibit the payment of money to polygamists in the employ of the Government of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

S. L. SANDERS.

Mr. GRINNELL also introduced a bill for the relief of S. L. Sanders; which was read a first and second time, and referred to the Committee on Military Affairs.

SOUTHERN NATIONAL BANKS.

Mr. WILSON, of Iowa, submitted the following resolution, on which he demanded the previous question:

Resolved, That the Committee on Banking and Currency be instructed to inquire and report to the House whether any order has been issued or arrangement made, whereby national banks in the southern States should have preference in the preparation and delivery of their circulation over national banks in other States, and report all the facts connected therewith.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PACIFIC RAILROAD.

Mr. HUBBARD, of Iowa, submitted the following resolution, on which he demanded the previous question:

Resolved, That the Committee on the Pacific Railroad be instructed to inquire into the expediency of providing by law, so far as may be necessary on the part of Congress, for the appointment of one or more Government directors in companies organized for the construction of branches of the Pacific railroad.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. HUBBARD, of Iowa, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

NATIONAL CURRENCY.

Mr. PRICE introduced a bill to amend section sixteen of an act entitled "An act to provide a national currency," &c.; which was read a first and second time, and referred to the Committee on Banking and Currency.

NAVAL DEPOT.

Mr. FERRY introduced a bill to establish a naval yard and depot of arms at Grand Haven, in the State of Michigan; which was read a first and second time, and referred to the Committee on Naval Affairs.

FREEDMEN.

Mr. LOAN submitted the following resolution, on which he demanded the previous question:

Resolved, That the select committee on freedmen be instructed to inquire into the expediency of some immediate legislation securing to the freedmen and the colored citizens of the States recently in rebellion the political and civil rights of other citizens of the United States; and have leave to report by bill or otherwise.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. LOAN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

SURVEY OF THE MISSISSIPPI RIVER.

Mr. BLOW submitted the following resolution, on which he demanded the previous question:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of a survey of the Mississippi river and its tributaries, with a view to the future systematic improvement of the same as navigable streams; also to ascertain whether the United States Coast Survey cannot expeditiously and economically make such survey; and report by bill or otherwise.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

NAVY-YARD ON THE MISSISSIPPI.

Mr. BLOW also submitted the following resolution, on which he demanded the previous question:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of establishing a navy-yard on the Mississippi river, or upon one of its tributaries, in accordance with the recommendation of the commission appointed under the joint resolution of Congress, approved June 30, 1864; and report by bill or otherwise.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

CLASS RULE.

Mr. BAKER introduced the following preamble and resolution, upon which he demanded the previous question:

Whereas class rule and aristocratic principles of government have burdened well nigh all Europe with enormous public debts and standing armies, which press as a grievous incubus on the people, absorbing their substance, impeding their culture, and impairing their happiness; and whereas the class rule and aristocratic element of slaveholding which found a place in our Republic has proved itself, in like manner, hurtful to our people, by degrading labor and prohibiting popular education in a large section of the country; by striving to rend our Union in fragments; by causing the blood of hundreds of thousands of patriots to flow, and by compelling the people to impose on themselves a debt of European magnitude in defense of liberty, nationality, and civilization on this continent: Therefore,

Resolved, (as the sense of this House,) That once for all we should have done with class rule and aristocracy as a privileged power before the law in this nation; no matter where or in what form they may appear; and that, in restoring the normal relations of the States lately in rebellion, it is the high and sacred duty of the Representatives of the people to proceed upon the true, as distinguished from the false, democratic principle, and to realize and secure the largest attainable liberty to the whole people of the Republic, irrespective of class or race.

The previous question was seconded, and the main question ordered.

Mr. BAKER. I demand the yeas and nays on the adoption of the resolution.

Mr. JOHNSON. I desire to inquire of the gentleman from Illinois whether this resolution includes the codfish aristocracy? [Laughter.]

The SPEAKER. That is in the nature of debate, and is not in order.

Mr. INGERSOLL. I rise to a question of order. I believe this resolution refers to the reconstruction of the States lately in rebellion, and therefore must go to the joint committee of fifteen.

The SPEAKER. The Chair overrules the point of order. The resolution adopted by the House is that all papers which may be offered relative to the representation of the late so-called confederate States, or either of them, shall be referred to that committee.

Mr. JOHNSON. I rise to a point of order. It is, that if this resolution includes the codfish aristocracy, it should not go to the joint committee.

The SPEAKER. The Chair overrules the point of order. [Laughter.]

The yeas and nays were ordered.

Mr. J. HUMPHREY. I move that the resolution be laid on the table.

The motion was agreed to.

Mr. JOHNSON moved that the vote last taken be reconsidered; and also moved that the motion to reconsider be laid on the table.

Mr. WENTWORTH. The motion to lay on the table was not understood here. I hope the gentleman from Pennsylvania will withdraw the motion to lay on the table. My colleague [Mr. BAKER] is a new member, and I hope no advantage will be taken of that, and that he may be allowed a vote by yeas and nays.

Mr. JOHNSON. It is too late to withdraw the motion.

The motion to lay the motion to reconsider on the table was not agreed to.

The motion to reconsider the vote by which the resolution was laid on the table was agreed to.

The SPEAKER. The question recurs on the motion to lay the resolution on the table.

Mr. BAKER. On that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 35, nays 103, not voting 41; as follows:

YEAS—Messrs. Aneona, Bergen, Boyer, Chanler, Dawson, Denison, Eldridge, Finck, Grider, Hale, Aaron Harding, Harris, Hoggan, Johnson, Kerr, Marshall, McCullough, Moorhead, Niblack, Nicholson, Neill, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Strouse, Taber, Thornton, Trimble, Voorhees, and Whaley—35.

NAYS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blow, Boutwell, Brandegee, Brownell, Broomall, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, DeFrees, Delano, Deming, Dixon, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Samuel Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hubbard, Ingersoll, Julian, Kelley, Kelo, Kuykendall, Ladin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McKee, McRuer, Mercer, Miller, Morrill, Moulton, O'Neill, Orth, Paine, Pearson, Perham, Pike, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Starr, Stevens, Stillwell, Thayer, Trow-

bridge, Upson, Van Aernam, Burt Van Horn, Ward, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, and James F. Wilson—106.

NOT VOTING—Messrs. Delos R. Ashley, Blaine, Brooks, Buckland, Culver, Davis, Dawes, Donnelly, Dumont, Glossbrenner, Goodyear, Griswold, Asahel W. Hubbard, Edwin N. Hubbell, James Humphrey, James M. Humphrey, Jenckes, Jones, Kasson, Ketcham, Le Blond, McIndoe, Morris, Myers, Newell, Phelps, Plants, Pomeroy, William H. Randall, Raymond, Sloan, Smith, Taylor, Francis Thomas, John L. Thomas, Robert T. Van Horn, Warner, Stephen F. Wilson, Windom, Winfield, Woodbridge, and Wright—41.

So the House refused to lay the resolution upon the table.

The **SPEAKER**. The question recurs on agreeing to the resolution.

Mr. **BEAMAN**. I rise to a privileged motion. I move to reconsider the vote by which the main question was ordered.

No quorum voting on a division.

The **SPEAKER** ordered tellers; and appointed Mr. **BEAMAN** and Mr. **BAKER**.

Mr. **CONKLING**. I wish to inquire of the Chair whether, if the vote by which the main question was ordered is reconsidered, it will then be in order to move to refer the resolution to the joint committee of fifteen.

The **SPEAKER**. It will be.

Mr. **CONKLING**. Then I hope it will be reconsidered.

Mr. **FARNSWORTH**. If it is not reconsidered, will it be in order to adopt the resolution?

The **SPEAKER**. It will be.

The tellers took their places, and the House having divided, the tellers reported—ayes 81, noes 24.

So the motion to reconsider was agreed to.

The question recurred upon seconding the demand for the previous question, and being put, the House refused to second the demand.

Mr. **CONKLING** moved that the resolution be referred to the joint committee on reconstruction, and on that motion demanded the previous question.

The previous question was seconded, and the main question ordered; and being put, the motion was agreed to.

Mr. **CONKLING** moved to reconsider the vote by which the resolution was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

DISTRIBUTION OF SURPLUS ARMS.

Mr. **INGERSOLL** submitted the following resolution, upon which he demanded the previous question:

Resolved, That the Committee on the Militia are hereby instructed to inquire into the expediency of providing, by law, for the equitable distribution of the surplus arms of the United States among the several States which have never been in rebellion.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

TRIAL OF JEFFERSON DAVIS.

Mr. **MOULTON** submitted the following resolution, upon which he demanded the previous question:

Resolved, That if it is not incompatible with the public interest, the President be, and is hereby, respectfully requested to communicate to this House why Jefferson Davis, who is said to be confined at Fortress Monroe, has not been tried for his treason against the Government, and, if any, what obstacles are in the way of a speedy trial of this great criminal.

The **SPEAKER**. This resolution being a call for executive information, requires unanimous consent for its consideration on this day.

Mr. **ROGERS**. I object.

The **SPEAKER**. The resolution goes over under the rule.

JUDGMENT LIENS.

Mr. **CULLOM** submitted the following resolution, upon which he demanded the previous question:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of so amending the law of Congress in relation to judgment liens as that judgment in the circuit courts of the United States shall not become liens upon real estate until such judgments are filed for record in the county wherein such real estate may lie.

The previous question was seconded, and the

main question ordered; and under the operation thereof the resolution was agreed to.

REPEAL OF THE FISHING BOUNTIES.

Mr. **WASHBURN**, of Illinois, in pursuance of previous notice, introduced a bill to repeal the fishing bounties; which was read a first and second time, and referred to the Committee on Commerce.

CUSTOM-HOUSE AT CAIRO.

Mr. **KUYKENDALL** submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of building a custom-house and post office building in the city of Cairo, in the State of Illinois, with leave to report by bill or otherwise.

BRIDGE OVER THE MISSISSIPPI.

Mr. **HARDING**, of Illinois, in pursuance of previous notice, introduced a joint resolution declaring the railroad bridge and ferry over the Mississippi river to be a post route and national highway of commerce; which was read a first and second time, and referred to the Committee on Roads and Canals.

RICHARD A. SMITH.

Mr. **FARNSWORTH**, in pursuance of previous notice, introduced a bill to authorize the Commissioner of Internal Revenue to make certain credits to Richard A. Smith; which was read a first and second time, and referred to the Committee of Claims.

SUFFRAGE IN THE STATES.

Mr. **THORNTON** submitted the following preamble and resolution, upon which he demanded the previous question:

Whereas, at the first movement toward independence, the Congress of the United States instructed the several States to institute governments of their own, and left each State to decide for itself the conditions for the enjoyment of the elective franchise; and whereas during the period of the Confederacy there continued to exist a very great diversity in the qualifications of electors in the several States; and whereas the Constitution of the United States recognizes these diversities when it enjoins that in the choice of members of the House of Representatives, the electors in each State shall have the qualifications requisite for the electors of the most numerous branch of the State Legislature; and whereas, after the formation of the Constitution, it remained, as before, the uniform usage of each State to enlarge the body of its electors according to its own judgment; and whereas so fixed was the reservation in the habits of the people, and so unquestioned has been the interpretation of the Constitution, that during the civil war the late President never harbored the purpose, certainly never avowed the purpose of disregarding it; Therefore,

Resolved, That any extension of the elective franchise to persons in the States, either by act of the President or Congress, would be an assumption of power which nothing in the Constitution of the United States would warrant, and that to avoid every danger of conflict, the settlement of this question should be referred to the several States.

Mr. **CONKLING**. I rise to a question of order. It is that under the resolution of the House that resolution belongs to the joint committee on reconstruction.

The **SPEAKER**. The Chair overrules the point of order. The resolution which directed the appointment of the joint committee reads, "All papers that may be offered relative to the representation of the late so-called confederate States," &c. This resolution refers to the elective franchise, and not to representation.

Mr. **CONKLING**. If the previous question is not seconded, will a motion be in order to refer the resolution to the joint committee on reconstruction?

The **SPEAKER**. If the previous question is not seconded, the resolution would go over under the rule, if any member shall rise to debate it.

Mr. **WASHBURN**, of Illinois. I move to lay the resolution on the table.

Mr. **DRIGGS**. I desire to debate the resolution.

The **SPEAKER**. It is not in order to rise to debate the resolution pending a call for the previous question.

The question was on the motion of Mr. **WASHBURN**, of Illinois, to lay the preamble and resolution on the table.

Mr. **ANCONA** called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 111, nays 46, not voting 25; as follows:

YEAS—Messrs. Alley Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blow, Boutwell, Brandegee, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Conkling, Cook, Darling, Dawes, DeFrees, Delano, Deming, Dixon, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Garfield, Grinnell, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, James Humphrey, Jenckes, Julian, Kelsey, Kelso, Ketcham, Latham, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McKuer, Mercier, Miller, Moorhead, Morrill, Moulton, Myers, Newell, O'Neill, Paine, Patterson, Perham, Pike, Plants, Price, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Sefton, Shellabarger, Spalding, Starr, Stevens, Thayer, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, and Stephen F. Wilson—111.

NAYS—Messrs. Ancona, Bergen, Boyer, Bromwell, Brooks, Chanler, Dawson, Denison, Eldridge, Farquhar, Finck, Goodyear, Grider, Aaron Harding, Hill, Hogan, Chester D. Hubbard, Edwin N. Hubbell, Ingersoll, Johnson, Kerr, Kuykendall, Marshall, McCullough, Niblack, Nicholson, Noel, Orth, Radford, Samuel J. Randall, William H. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Smith, Stillwell, Strouse, Taber, Taylor, Thornton, Trimble, Whaley, and Wright—46.

NOT VOTING—Messrs. Delos R. Ashley, Blaine, Cobb, Cullom, Culver, Davis, Donnelly, Ferry, Glossbrenner, Griswold, Harris, James M. Humphrey, Jones, Kasson, Le Blond, Morris, Phelps, Pomeroy, Sloan, Francis Thomas, John L. Thomas, Voorhees, Windom, Winfield, and Woodbridge—25.

So the preamble and resolution were laid on the table.

MEXICO.

Mr. **ORTH**, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be requested, if not incompatible with the public interest, to communicate to this House any correspondence or other information in possession of the executive department in regard to the steps taken at any time by the so-called Emperor of Mexico, or by any European Power, to obtain from the Government of the United States a recognition of the so-called empire of Mexico; also, what action, if any, has been taken, or what correspondence, if any, has been had in the premises by the Government of the United States.

Mr. **ORTH** moved to reconsider the vote by which the House agreed to the resolution; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

EXECUTIVE COMMUNICATIONS.

The **SPEAKER** laid before the House a communication from the Secretary of the Interior, transmitting accounts of Indian agents; which was laid on the table, and ordered to be printed.

Also, a communication from the Secretary of the Treasury, transmitting statements of disbursements of the contingent fund in the various offices of that Department during the year ending June 30, 1865, as required by act of Congress of August 26, 1842; which was referred to the Committee on the Expenditures of the Treasury Department, and ordered to be printed.

LAWS OF DAKOTA TERRITORY.

The **SPEAKER** also laid before the House a copy of the laws of Dakota Territory; which was referred to the Committee on Territories.

AGRICULTURAL COLLEGES.

Mr. **KERR** introduced a bill to amend the fifth section of the act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, so as to extend the time within which the provisions of said act shall be accepted and such colleges established; which was read a first and second time, and referred to the Committee on Agriculture.

COURT OF CLAIMS.

Mr. **KERR** also introduced a bill to amend

an act entitled "An act to restrict the jurisdiction of the Court of Claims, and provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished to the Army of the United States," approved July 4, 1864; which was read a first and second time, and referred to the Committee on Military Affairs.

RECONSTRUCTION.

Mr. STILLWELL submitted the following preamble and resolution; which were referred, under the rule, to the joint committee on reconstruction:

Whereas the war for the preservation of the Union and the Constitution is now over, the absurd doctrine of secession, and its counterpart insurrection and rebellion, have been put down by the strong arm of the Government, peace and union being the object, and that having been obtained: Therefore,

Resolved, That the people who have been in rebellion against the Government, and who have submitted to the laws of the United States, adopted a republican form of government, repealed the ordinance of secession, passed the constitutional amendment forever prohibiting slavery, repudiated the rebel war debt, and passed laws protecting the freedmen in his liberty, the representatives of that people elected to Congress having received their certificates of election from their respective Governors should be received as members of the Thirty-Ninth Congress, when they shall take the oath prescribed by Congress, known as the test oath, without any unnecessary delay.

COMMITTEE CLERK.

Mr. DUMONT submitted the following resolution:

Resolved, That the Committee on the Expenditures of the Interior Department be, and is hereby, authorized to employ a clerk.

Mr. WASHBURNE, of Illinois. I must object to that. That committee has never had a clerk, according to my recollection.

Mr. STEVENS. It seems to me that that committee has no need for a clerk.

The SPEAKER. The resolution giving rise to debate, it goes over under the rules.

CLERKS OF FEDERAL COURTS.

Mr. DUMONT submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law that no person shall be appointed a clerk of a district or circuit court of the United States who is of kin, or related by blood or marriage, to the judge thereof.

Mr. DUMONT moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENFORCEMENT OF TEST OATH.

Mr. HILL submitted the following resolution, on which he demanded the previous question:

Resolved, That the act of July 2, 1862, prescribing an oath to be taken and subscribed by persons elected or appointed to office under the Government of the United States, before entering upon the duties of such office, is of binding force and effect on all departments of the public service, and should in no instance be dispensed with.

On seconding the demand for the previous question, there were, on a division—ayes 60, noes 30; no quorum voting.

The SPEAKER, under the rules, ordered tellers, and appointed Messrs. HILL and Brooks. The House divided; and the tellers reported—ayes ninety-eight, noes not counted.

So the previous question was seconded. The main question was ordered, which was on agreeing to the resolution.

Mr. FINCK. I move that the resolution be laid on the table.

Mr. ELDRIDGE. I demand the yeas and nays on that motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 32, nays 125, not voting 25; as follows:

YEAS—Messrs. Ancona, Bergen, Boyer, Brooks, Chanler, Dawson, Denison, Eldridge, Finck, Grider, Aaron Harding, Harris, Hogan, Edwin H. Hubbell, Johnson, Kerr, Latham, Marshall, McCullough, Niblack, Nicholson, Nott, Samuel J. Randall, Ritter, Rogers, Ross, Shunklin, Sitgreaves, Strouse, Taber, Thornton, and Trimble—32.

NAYS—Messrs. Alley, Allison, Ames, Anderson,

James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blow, Boutwell, Brandegee, Brownell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Combs, Cook, Cullom, Darling, Davis, Dawes, DeForest, Delano, Deming, Dixon, Driggs, Dumont, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, James Humphrey, Ingersoll, Jencks, Julian, Kasson, Kelley, Kelso, Ketchum, Jewkendall, Lakin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McRuer, Mercut, Miller, Moorhead, Morrill, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Rousseau, Sawyer, Schenck, Scofield, Shellabarger, Smith, Spaulding, Starr, Stevens, Stillwell, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, William F. Wilson, and Stephen F. Wilson—125.

NOT VOTING—Messrs. Dolos R. Ashley, Blaine, Cobb, Culver, Donnelly, Eckley, Glossbrenner, Goodyear, Griswold, Chester D. Hubbard, James M. Humphrey, Jones, Le Blond, Morris, Moulton, Pomeroy, Radford, Sloan, Taylor, Francis Thomas, Voorhees, Windom, Winfield, Woodbridge, and Wright—25.

So the House refused to lay the resolution on the table.

The question then recurred on agreeing to the resolution, on which the main question had been ordered.

The resolution was agreed to.

Mr. HILL moved to reconsider the vote on agreeing to the resolution; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the President's message, so that the different subjects embraced in that document may be distributed among the various committees.

Mr. HOOPER, of Massachusetts. I ask the gentleman from Pennsylvania [Mr. STEVENS] to yield to me for a moment, that I may submit a resolution from the special committee on the reimbursement of the loyal States.

Mr. STEVENS. I yield to the gentleman.

STATE CONTRIBUTIONS OF SOLDIERS.

Mr. HOOPER, of Massachusetts. I am instructed by the committee on the reimbursement of loyal States, to submit the following resolution:

Resolved, That the Secretary of War be requested to furnish, for the information of the House, a statement of the number of men furnished by each State since April 1, 1861, on the different calls for men for the military service, who were required for periods of three months or more, stating the number furnished by each State for each period; also the number of men accreditd to each State upon the basis of three years' service as a standard of computation.

The SPEAKER. This being a resolution of inquiry addressed to one of the Executive Departments, unanimous consent is necessary for its consideration at the present time.

There being no objection, the resolution was considered, and agreed to.

JUDICIAL EXPENSES.

Mr. DAWSON introduced a supplement to the act of August 16, 1856, regulating the fees, costs, and other judicial expenses of the Government in the States, Territories, and District of Columbia; which was read a first and second time, and referred to the Committee on the Judiciary.

RIVER AND HARBOR IMPROVEMENT BILL.

Mr. ELIOT submitted the following resolution, on which he demanded the previous question:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of reporting to the House a general bill providing appropriations for necessary improvements and repairs of harbors upon the sea and lake coast and in navigable rivers.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. FORNEY, its Secretary, notifying the House

that that body had passed a concurrent resolution relative to the death of Abraham Lincoln, late President of the United States, and a joint resolution (S. No. 6) authorizing the President to divert certain funds heretofore appropriated, and cause the same to be used for immediate subsistence, clothing, &c., for destitute Indians and Indian tribes, in which he was directed to ask the concurrence of the House; and also that that body had passed House bill No. 35, making appropriation for refurbishing and repairing the President's House.

ESTIMATES OF APPROPRIATIONS.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution:

Resolved, That one thousand copies of the report of the Secretary of the Treasury, with the accompanying documents, and one hundred and fifty of the estimates of appropriations be printed for the use of the Treasury Department.

The resolution was adopted.

Mr. LAFLIN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

LAND TITLES.

Mr. BIDWELL introduced a bill to quiet the title to certain lands ceded by the United States to the States; which was read a first and second time, and referred to the Committee on Public Lands.

ABRAHAM LINCOLN.

Mr. WASHBURNE, of Illinois, moved that the House take up the message from the Senate relative to the death of the late President.

The motion was agreed to.

The SPEAKER laid before the House the following:

IN SENATE OF THE UNITED STATES. December 18, 1865.

Whereas the melancholy event of the violent and tragic death of Abraham Lincoln, late President of the United States, having occurred during the recess of Congress, and the two Houses sharing in the general grief, and desiring to manifest their sensibility upon the occasion of the public bereavement: Therefore,

Be it resolved by the Senate, (the House of Representatives concurring), That the two Houses of Congress will assemble in the Hall of the House of Representatives on Monday, the 12th day of February next, that being his anniversary birthday, at the hour of twelve meridian; and that in the presence of the two Houses then assembled, an address upon the life and character of Abraham Lincoln, late President of the United States, be pronounced by Hon. Edwin M. Stanton; and that the President of the Senate *pro tempore*, and the Speaker of the House of Representatives be requested to invite the President of the United States, the heads of the several Departments, the Judges of the Supreme Court, the representatives of foreign Governments near this Government, and such officers of the Army and Navy as have received the thanks of Congress who may then be at the seat of Government, to be present on the occasion.

And be it further resolved, That the President of the United States be requested to transmit a copy of those resolutions to Mrs. Lincoln, and to assure her of the profound sympathy of the two Houses of Congress for her deep personal affliction, and of their sincere condolence for the late national bereavement.

Attest: JOHN W. FORNEY,
Secretary.

Mr. WASHBURNE, of Illinois, moved that the resolutions be concurred in.

The resolutions were unanimously concurred in.

Mr. WASHBURNE, of Illinois. I am directed by the joint committee on the subject, to report back the following resolution, and to move that it be laid upon the table:

Resolved, That the committee be appointed under the resolution pending for the appointment of a joint committee of one from each State to take into consideration "what token of respect and affection it may be proper for the Congress of the United States to express concerning the event of the decease of the late President, Abraham Lincoln," and directed to take into consideration the expediency of providing for the completion of the Washington monument, with a view to the dedication of said monument to the commemoration of the virtues and patriotism of those great and good men, George Washington and Abraham Lincoln.

The motion was agreed to.

MRS. MARY LINCOLN.

Mr. WASHBURNE, of Illinois, from the same committee, reported back House bill No. 14, for the relief of Mrs. Mary Lincoln, widow

of the late President of the United States, with an amendment.

The bill provides that there shall be appropriated — dollars for the relief of Mrs. Mary Lincoln, the widow of the late President of the United States, in full for his salary, and in consideration of the circumstances under which he came to his death.

The amendment of the committee was as follows:

Strike out all after the enacting clause and insert: That the Secretary of the Treasury pay out of any money in the Treasury not otherwise appropriated, to Mrs. Mary Lincoln, widow of the late Abraham Lincoln, late President of the United States, or in the event of her death before payment, then to the legal representatives of the said Abraham Lincoln, the sum of \$25,000: *Provided always*, That any sum of money which shall have been paid to the present representatives of the said Abraham Lincoln since his death on account of his salary as President, shall be deducted from the said sum of \$25,000.

Mr. WASHBURN, of Illinois. I only desire to state that the amendment follows precisely the precedent in the case of Mrs. Harrison. I will ask the previous question if no gentleman desires the floor.

Mr. WENTWORTH. I desire to offer an amendment.

Mr. WASHBURN, of Illinois. I yield to the gentleman.

Mr. WENTWORTH. The facts of this case are so well known to every member of the House, that it is unnecessary for me to argue the motion which I shall present to the House. The people of these United States elected Mr. Lincoln for four years. An assassin—the last of the great rebellion—prevented him from receiving those four years' salary. The members of this House are as well prepared to vote upon my amendment now as they would be after I had made a speech, for I am wholly inadequate to do justice to the subject. I therefore move that there be substituted for the sum of \$25,000 the amount which the people of the United States voted to the late President—\$100,000.

Mr. WASHBURN, of Illinois. I now renew the demand for the previous question.

The previous question was seconded, and the main question was ordered to be put; and under the operation thereof the amendment to the amendment was rejected, and the amendment to the bill was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. WASHBURN, of Illinois, moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. STEVENS obtained the floor.

Mr. WILSON, of Iowa. I ask the gentleman from Pennsylvania to allow me to make a report.

Mr. STEVENS. I will if there is no objection.

No objection was made.

EQUAL SUFFRAGE IN DISTRICT OF COLUMBIA.

Mr. WILSON, of Iowa. I ask unanimous consent to report back from the Committee on the Judiciary a bill extending the right of suffrage in the District of Columbia.

Mr. ANCONA. I object.

Mr. WILSON, of Iowa. Then I move to suspend the rules. I will say it is not my intention to put this bill upon its passage now, but, in pursuance of the instructions of the committee to me, to ask that it be set down for consideration at some future day.

The bill, which was read for information, provides that from all laws and parts of laws prescribing the qualification of electors for any office in the District of Columbia, the word "white" shall be stricken out; also, that from and after the passage of the bill no person shall be disqualified from voting at any election held in the District of Columbia on account of color; also, that all acts of Congress, and all laws of the State of Maryland in force in the District of Columbia, and all ordinances of the cities of Washington and Georgetown inconsistent with

the provisions of the bill, shall be repealed and annulled.

Mr. JOHNSON. I desire to inquire of the gentleman from Iowa what time he proposes to set down for the consideration of this bill?

Mr. WILSON, of Iowa. I propose, in pursuance of the instructions of the committee to me, to ask the House to set this bill down as a special order for Wednesday, the 10th of January.

Mr. JOHNSON. Gentlemen on this side of the House would like to know what opportunity will be afforded for debate at that time.

Mr. WILSON, of Iowa. So far as I am concerned I will allow liberal opportunity for debate on both sides of the House. I have no disposition to stifle discussion.

Mr. JOHNSON. I do not know that I shall ask the privilege of debate for myself, but I have no doubt gentlemen on this side of the House will ask a reasonable time for discussion.

Mr. WILSON, of Iowa. So far as I am concerned I shall not object to that.

The SPEAKER. Is there objection to the committee reporting the bill?

Mr. ELDRIDGE. I object.

Mr. WILSON, of Iowa. I move to suspend the rules.

The motion was agreed to.

Mr. WILSON, of Iowa, thereupon reported the bill, and it was read a first and second time by its title.

Mr. WILSON, of Iowa. I move that the bill be made the special order for Wednesday, the 10th of January, after the morning hour, and from day to day until disposed of.

The motion was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. WILSON, of Iowa. I ask that the bill be printed.

No objection being made, the bill was ordered to be printed.

Mr. STEVENS. I must now insist on my motion.

The question was taken, and the motion was agreed to.

So the rules were suspended, and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURN, of Illinois, in the chair,) and proceeded to the consideration of the

PRESIDENT'S ANNUAL MESSAGE.

Mr. STEVENS. I offer the following resolutions, which I send up, to distribute the President's message.

The resolutions were read, as follows:

Resolved, That so much of the annual message of the President of the United States to the two Houses of Congress at the present session, together with the accompanying documents, as relates to the finances, to the receipts into the Treasury and the public expenditures, to the revision of the revenue, to the public debt, and the ways and means of supporting and meeting all the public liabilities of the Government, be referred to the Committee of Ways and Means.

Resolved, That so much of said message and accompanying documents as relates to carrying on the several Departments of the Government, to the necessary appropriations therefor, to deficiencies in the appropriations, and to mail transportation by ocean steamers, be referred to the Committee on Appropriations.

Resolved, That so much of said message and accompanying documents as relates to banks and banking, and currency, be referred to the Committee on Banking and Currency.

Resolved, That so much of said message and accompanying documents as relates to commerce be referred to the Committee on Commerce.

Resolved, That so much of said message and accompanying documents as relates to the public domain be referred to the Committee on Public Lands.

Resolved, That so much of said message and accompanying documents as relates to the Post Office Department be referred to the Committee on the Post Office and Post Roads.

Resolved, That so much of said message and accompanying documents as relates to the reestablishment of the courts in districts where their authority has been interrupted, and to all judicial proceedings, be referred to the Committee on the Judiciary.

Resolved, That so much of said message and accompanying documents as relates to the public expenditures be referred to the Committee on Public Expenditures.

Resolved, That so much of said message and accompanying documents as relates to agriculture, and to

the Department of Agriculture, be referred to the Committee on Agriculture.

Resolved, That so much of said message and accompanying documents as relates to the management of Indian affairs be referred to the Committee on Indian Affairs.

Resolved, That so much of said message and accompanying documents as relates to the Army of the United States, to provisions for a peace establishment and to coast and lake defenses, be referred to the Committee on Military Affairs.

Resolved, That so much of said message and accompanying documents as relates to the Navy of the United States be referred to the Committee on Naval Affairs.

Resolved, That so much of said message and accompanying documents as relates to our foreign affairs, together with the accompanying correspondence, be referred to the Committee on Foreign Affairs.

Resolved, That so much of said message and accompanying documents as relates to the Territories of the United States be referred to the Committee on Territories.

Resolved, That so much of said message and accompanying documents as relates to pensions and the Pension Bureau be referred to the Committee on Invalid Pensions.

Resolved, That so much of said message and accompanying documents as relates to the expenditures in connection with the State Department be referred to the Committee on Expenditures in the State Department.

Resolved, That so much of said message and accompanying documents as relates to expenditures in connection with the Treasury Department be referred to the Committee on Expenditures in the Treasury Department.

Resolved, That so much of said message and accompanying documents as relates to expenditures in connection with the War Department be referred to the Committee on Expenditures in the War Department.

Resolved, That so much of said message and accompanying documents as relates to expenditures in connection with the Navy Department be referred to the Committee on Expenditures in the Navy Department.

Resolved, That so much of said message and accompanying documents as relates to the expenditures in connection with the Post Office Department be referred to the Committee on Expenditures in the Post Office Department.

Resolved, That so much of said message and accompanying documents as relates to the militia be referred to the Committee on the Militia.

Resolved, That so much of said message and accompanying documents as relates to the Pacific railroad be referred to the Committee on the Pacific Railroad.

Resolved, That so much of said message and accompanying documents as relates to roads and canals be referred to the Committee on Roads and Canals.

Resolved, That so much of said message and accompanying documents as relates to the District of Columbia be referred to the Committee for the District of Columbia.

Mr. STEVENS. There has been one thing omitted. I move to amend the resolutions by adding the following:

Resolved, That so much of the President's message and accompanying documents as relates to the subject of reconstruction be referred to the joint committee on reconstruction.

The question was taken, and the amendment adopted.

The resolutions as amended were then agreed to.

RECONSTRUCTION.

Mr. STEVENS. A candid examination of the power and proper principles of reconstruction can be offensive to no one, and may possibly be profitable by exciting inquiry. One of the suggestions of the message which we are now considering has special reference to this. Perhaps it is the principle most interesting to the people at this time. The President assumes, what no one doubts, that the late rebel States have lost their constitutional relations to the Union, and are incapable of representation in Congress, except by permission of the Government. It matters but little, with this admission, whether you call them States out of the Union, and now conquered territories, or assert that because the Constitution forbids them to do what they did do, that they are therefore only dead as to all national and political action, and will remain so until the Government shall breathe into them the breath of life anew and permit them to occupy their former position. In other words, that they are not out of the Union, but are only dead carcasses lying within the Union. In either case, it is very plain that it requires the action of Congress to enable them to form a State government and send representatives to Congress. Nobody, I believe, pretends that with their old constitutions and frames of government they can be permitted to claim their old rights under the Constitution. They have torn their constitutional

States into atoms, and built on their foundations fabrics of a totally different character. Dead men cannot raise themselves. Dead States cannot restore their own existence "as it was." Whose especial duty is it to do it? In whom does the Constitution place the power? Not in the judicial branch of Government, for it only adjudicates and does not prescribe laws. Not in the Executive, for he only executes and cannot make laws. Not in the Commander-in-Chief of the armies, for he can only hold them under military rule until the sovereign legislative power of the conqueror shall give them law.

There is fortunately no difficulty in solving the question. There are two provisions in the Constitution, under one of which the case must fall. The fourth article says:

"New States may be admitted by the Congress into this Union."

In my judgment this is the controlling provision in this case. Unless the law of nations is a dead letter, the late war between two acknowledged belligerents severed their original compacts, and broke all the ties that bound them together. The future condition of the conquered power depends on the will of the conqueror. They must come in as new States or remain as conquered provinces. Congress—the Senate and House of Representatives, with the concurrence of the President—is the only power that can act in the matter. But suppose, as some dreaming theorists imagine, that these States have never been out of the Union, but have only destroyed their State governments so as to be incapable of political action; then the fourth section of the fourth article applies, which says:

"The United States shall guaranty to every State in this Union a republican form of government."

Who is the United States? Not the judiciary; not the President; but the sovereign power of the people, exercised through their representatives in Congress, with the concurrence of the Executive. It means the political Government—the concurrent action of both branches of Congress and the Executive. The separate action of each amounts to nothing, either in admitting new States or guarantying republican governments to lapsed or outlawed States. Whence springs the preposterous idea that either the President, or the Senate, or the House of Representatives, acting separately, can determine the right of States to send members or Senators to the Congress of the Union?

To prove that they are and for four years have been out of the Union for all legal purposes, and being now conquered, subject to the absolute disposal of Congress, I will suggest a few ideas and adduce a few authorities. If the so-called "confederate States of America" were an independent belligerent, and were so acknowledged by the United States and by Europe, or had assumed and maintained an attitude which entitled them to be considered and treated as a belligerent, then, during such time, they were precisely in the condition of a foreign nation with whom we were at war; nor need their independence as a nation be acknowledged by us to produce that effect. In the able opinion delivered by that accomplished and loyal jurist, Mr. Justice Grier, in the prize cases, all the law on these points is collected and clearly stated. (2 Black, page 66.) Speaking of civil wars, and following Vattel, he says:

"When the party in rebellion occupy and hold in a hostile manner a certain portion of territory; have declared their independence; have cast off their allegiance; have organized armies; have commenced hostilities against their former sovereign, the world acknowledges them as belligerents, and the contest a war."

And

"The parties belligerent in a public war are independent nations. But it is not necessary, to constitute war, that both parties should be acknowledged as independent nations or foreign States. A war may exist where one of the belligerents claims sovereign rights as against the other."

The idea that the States could not and did not make war because the Constitution forbids it, and that this must be treated as a war of individuals, is a very injurious and groundless fallacy.

Individuals cannot make war. They may commit murder, but that is no war. Communities, societies, States, make war. Phillimore says, (volume three, page 68:)

"War between private individuals who are members of a society cannot exist. The use of force in such a case is trespass and not war."

But why appeal to reason to prove that the seceded States made war as States, when the conclusive opinion of the Supreme Court is at hand? In the prize cases already cited, the Supreme Court say:

"Hence, in organizing this rebellion, they have acted as States claiming to be sovereign over all persons and property within their respective limits, and asserting a right to absolve their citizens from their allegiance to the Federal Government. Several of these States have combined to form a new confederacy, claiming to be acknowledged by the world as a sovereign State. Their right to do so is now being decided by wagers of battle. The ports and territory of each of these States are held in hostility to the General Government. It is no loose, unorganized insurrection, having no defined boundary or possession. It has a boundary marked by lines of bayonets, and which can be crossed only by force. South of this line is enemies' territory, because it is claimed and held in possession by an organized hostile and belligerent power."

Again, the court say, what I have been astonished that any one should doubt:

"The proclamation of blockade is itself official and conclusive evidence to the court that a state of war existed."

Now, what was the legal result of such war?

"The conventions, the treaties, made with a nation are broken or annulled by a war arising between the contracting parties."—Vattel, 372; Halleck, 371, section 23.

If gentlemen suppose that this doctrine applies only to national and not to civil wars, I beg leave to refer them to Vattel, page 423. He says:

"A civil war breaks the bands of society and government, or at least suspends their force and effect; it produces in the nation two independent parties, who consider each other as enemies, and acknowledge no common judge. These two parties must therefore be considered as thenceforward constituting, at least for a time, two separate bodies; two distinct societies. They stand, therefore, in precisely the same predicament as two nations who engage in a contest, and being unable to come to an agreement, have recourse to arms."

At page 427:

"And when a nation becomes divided into two parties absolutely independent, and no longer acknowledge a common superior, the State is dissolved, and the war between the two parties stands on the same ground, in every respect, as a public war between two different nations."

But must the belligerent be acknowledged as an independent nation, as some contend? That is answered in the case referred to in 2 Black, as follows:

"It is not the less a civil war, with belligerent parties in hostile array, because it may be called an 'insurrection' by one side, and the insurgents be considered as rebels or traitors. It is not necessary that the independence of the revolted province or State be acknowledged in order to constitute it a party belligerent in a war, according to the law of nations."

This doctrine, so clearly established by publicists, and so distinctly stated by Mr. Justice Grier, has been frequently reiterated since by the Supreme Court of the United States. In Mr. Alexander's case (2 Wallace, 419) the present able Chief Justice, delivering the opinion of the court, says:

"We must be governed by the principle of public law so often announced from this bench as applicable to civil and international wars, that all the people of each State or district in insurrection against the United States must be regarded as enemies until by the action of the Legislature and Executive, or otherwise, that relation is thoroughly and permanently changed."

After such clear and repeated decisions it is something worse than ridiculous to hear men of respectable standing attempting to nullify the law of nations, and declare the Supreme Court of the United States in error, because, as the Constitution forbids it, the States could not go out of the Union in fact. A respectable gentleman was lately reciting this argument, when he suddenly stopped and said, "Did you hear of that atrocious murder committed in our town? A rebel deliberately murdered a Government official." The person addressed said, "I think you are mistaken." "How so? I saw it myself." "You are wrong, no murder was or could be committed, for the law forbids it."

The theory that the rebel States, for four

years a separate power and without representation in Congress, were all the time here in the Union, is a good deal less ingenious and respectable than the metaphysics of Berkeley, which proved that neither the world nor any human being was in existence. If this theory were simply ridiculous it could be forgiven; but its effect is deeply injurious to the stability of the nation. I cannot doubt that the late confederate States are out of the Union to all intents and purposes for which the conqueror may choose so to consider them.

But on the ground of estoppel, the United States have the clear right to elect to adjudge them out of the Union. They are estopped both by matter of record and matter in pais. One of the first resolutions passed by seceded South Carolina in January, 1861, is as follows:

"Resolved, unanimously, That the separation of South Carolina from the Federal Union is final, and she has no further interest in the Constitution of the United States; and that the only appropriate negotiations between her and the Federal Government are as to their mutual relations as foreign States."

Similar resolutions appear upon all their State and confederate government records. The speeches of their members of congress, their generals and executive officers, and the answers of their government to our shameful sueings for peace, went upon the defiant ground that no terms would be offered or received except upon the prior acknowledgment of the entire and permanent independence of the confederate States. After this, to deny that we have a right to treat them as a conquered belligerent, severed from the Union in fact, is not argument but mockery. Whether it be our interest to do so is the only question hereafter and more deliberately to be considered.

But suppose these powerful but now subdued belligerents, instead of being out of the Union, are merely destroyed, and are now lying about, a dead corpse, or with animation so suspended as to be incapable of action, and wholly unable to heal themselves by any unaided movements of their own. Then they may fall under the provision of the Constitution which says "the United States shall guaranty to every State in the Union a republican form of government." Under that power can the judiciary, or the President, or the Commander-in-Chief of the Army, or the Senate or House of Representatives, acting separately, restore them to life and readmit them into the Union? I insist that if each acted separately, though the action of each was identical with all the others, it would amount to nothing. Nothing but the joint action of the two Houses of Congress and the concurrence of the President could do it. If the Senate admitted their Senators, and the House their members, it would have no effect on the future action of Congress. The Fortieth Congress might reject both. Such is the ragged record of Congress for the last four years.

In Luther vs. Borden (7 Howard, 1-42) the Supreme Court say:

"Under this article of the Constitution [the one above cited] it rests with Congress to decide what government is the established one in a State. For as the United States guaranty to each State a republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not."

Congress alone can do it. But Congress does not mean the Senate, or the House of Representatives, and President, all acting severally. Their joint action constitutes Congress. Hence a law of Congress must be passed before any new State can be admitted; or any dead ones revived. Until then no member can be lawfully admitted into either House. Hence it appears with how little knowledge of constitutional law each branch is urged to admit members separately from these destroyed States. The provision that "each House shall be the judge of the elections, returns, and qualifications of its own members," has not the most distant bearing on this question. Congress must create States and declare when they are entitled to be represented. Then each House must judge whether the members presenting themselves from a recog-

nized State possess the requisite qualifications of age, residence, and citizenship; and whether the election and returns are according to law. The Houses, separately, can judge of nothing else. It seems amazing that any man of legal education could give it any larger meaning.

It is obvious from all this that the first duty of Congress is to pass a law declaring the condition of these outside or defunct States, and providing proper civil governments for them. Since the conquest they have been governed by martial law. Military rule is necessarily despotic, and ought not to exist longer than is absolutely necessary. As there are no symptoms that the people of these provinces will be prepared to participate in constitutional government for some years, I know of no arrangement so proper for them as territorial governments. There they can learn the principles of freedom and eat the fruit of foul rebellion. Under such governments, while electing members to the Territorial Legislatures, they will necessarily mingle with those to whom Congress shall extend the right of suffrage. In Territories Congress fixes the qualifications of electors; and I know of no better place nor better occasion for the conquered rebels and the conqueror to practice justice to all men, and accustom themselves to make and to obey equal laws.

As these fallen rebels cannot at their option reënter the heaven which they have disturbed, the garden of Eden which they have deserted, and flaming swords are set at the gates to secure their exclusion, it becomes important to the welfare of the nation to inquire when the doors shall be reopened for their admission.

According to my judgment they ought never to be recognized as capable of acting in the Union, or of being counted as valid States, until the Constitution shall have been so amended as to make it what its framers intended; and so as to secure perpetual ascendancy to the party of the Union; and so as to render our republican Government firm and stable forever. The first of those amendments is to change the basis of representation among the States from Federal numbers to actual voters. Now all the colored freemen in the slave States, and three fifths of the slaves, are represented, though none of them have votes. The States have nineteen representatives of colored slaves. If the slaves are now free then they can add, for the other two fifths, thirteen more, making the slave representation thirty-two. I suppose the free blacks in those States will give at least five more, making the representation of non-voting people of color about thirty-seven. The whole number of representatives now from the slave States is seventy. Add the other two fifths and it will be eighty-three.

If the amendment prevails, and those States withhold the right of suffrage from persons of color, it will deduct about thirty-seven, leaving them but forty-six. With the basis unchanged, the eighty-three southern members, with the Democrats that will in the best times be elected from the North, will always give them a majority in Congress and in the Electoral College. They will at the very first election take possession of the White House and the halls of Congress. I need not depict the ruin that would follow. Assumption of the rebel debt or repudiation of the Federal debt would be sure to follow. The oppression of the freedmen; the reamendment of their State constitutions, and the reestablishment of slavery would be the inevitable result. That they would scorn and disregard their present constitutions, forced upon them in the midst of martial law, would be both natural and just. No one who has any regard for freedom of elections can look upon those governments, forced upon them in duress, with any favor. If they should grant the right of suffrage to persons of color, I think there would always be Union white men enough in the South, aided by the blacks, to divide the representation, and thus continue the Republican ascendancy. If they should refuse to thus alter their election laws it would reduce the representatives of the late slave States to about forty-five and render them powerless for evil.

It is plain that this amendment must be consummated before the defunct States are admitted to be capable of State action, or it never can be.

The proposed amendment to allow Congress to lay a duty on exports is precisely in the same situation. Its importance cannot well be overstated. It is very obvious that for many years the South will not pay much under our internal revenue laws. The only article on which we can raise any considerable amount is cotton. It will be grown largely at once. With ten cents a pound export duty it would be furnished cheaper to foreign markets than they could obtain it from any other part of the world. The late war has shown that. Two million bales exported, at five hundred pounds to the bale, would yield \$100,000,000. This seems to be the chief revenue we shall ever derive from the South. Besides, it would be a protection to that amount to our domestic manufactures. Other proposed amendments—to make all laws uniform; to prohibit the assumption of the rebel debt—are of vital importance, and the only thing that can prevent the combined forces of copperheads and secessionists from legislating against the interests of the Union whenever they may obtain an accidental majority.

But this is not all that we ought to do before these inveterate rebels are invited to participate in our legislation. We have turned, or are about to turn, loose four million slaves without a hut to shelter them or a cent in their pockets. The infernal laws of slavery have prevented them from acquiring an education, understanding the commonest laws of contract, or of managing the ordinary business of life. This Congress is bound to provide for them until they can take care of themselves. If we do not furnish them with homesteads, and hedge them around with protective laws; if we leave them to the legislation of their late masters, we had better have left them in bondage. Their condition would be worse than that of our prisoners at Andersonville. If we fail in this great duty now, when we have the power, we shall deserve and receive the execration of history and of all future ages.

Two things are of vital importance.

1. So to establish a principle that none of the rebel States shall be counted in any of the amendments of the Constitution until they are duly admitted into the family of States by the law-making power of their conqueror. For more than six months the amendment of the Constitution abolishing slavery has been ratified by the Legislatures of three fourths of the States that acted on its passage by Congress, and which had Legislatures, or which were States capable of acting, or required to act, on the question.

I take no account of the aggregation of white-washed rebels, who without any legal authority have assembled in the capitals of the late rebel States and simulated legislative bodies. Nor do I regard with any respect the cunning by-play into which they deluded the Secretary of State by frequent telegraphic announcements that "South Carolina had adopted the amendment;" "Alabama has adopted the amendment, being the twenty-seventh State," &c. This was intended to delude the people, and accustom Congress to hear repeated the names of these extinct States as if they were alive; when, in truth, they have now no more existence than the revolted cities of Latium, two thirds of whose people were colonized and their property confiscated, and their right of citizenship withdrawn by conquering and avenging Rome.

2. It is equally important to the stability of this Republic that it should now be solemnly decided what power can revive, recreate, and reinstate these provinces into the family of States, and invest them with the rights of American citizens. It is time that Congress should assert its sovereignty, and assume something of the dignity of a Roman senate. It is fortunate that the President invites Congress to take this manly attitude. After stating with great frankness in his able message his theory, which, however, is found to be impracticable, and which I believe

very few now consider tenable, he refers the whole matter to the judgment of Congress. If Congress should fail firmly and wisely to discharge that high duty it is not the fault of the President.

This Congress owes it to its own character to set the seal of reprobation upon a doctrine which is becoming too fashionable, and unless rebuked will be the recognized principle of our Government. Governor Perry and other provisional governors and orators proclaim that "this is the white man's Government." The whole copperhead party, pandering to the lowest prejudices of the ignorant, repeat the cuckoo cry, "This is the white man's Government." Demagogues of all parties, even some high in authority, gravely shout, "This is the white man's Government." What is implied by this? That one race of men are to have the exclusive right forever to rule this nation, and to exercise all acts of sovereignty, while all other races and nations and colors are to be their subjects, and have no voice in making the laws and choosing the rulers by whom they are to be governed. Wherein does this differ from slavery except in degree? Does not this contradict all the distinctive principles of the Declaration of Independence? When the great and good men promulgated that instrument, and pledged their lives and sacred honors to defend it, it was supposed to form an epoch in civil government. Before that time it was held that the right to rule was vested in families, dynasties, or races, not because of superior intelligence or virtue, but because of a divine right to enjoy exclusive privileges.

Our fathers repudiated the whole doctrine of the legal superiority of families or races, and proclaimed the equality of men before the law. Upon that they created a revolution and built the Republic. They were prevented by slavery from perfecting the superstructure whose foundation they had thus broadly laid. For the sake of the Union they consented to wait, but never relinquished the idea of its final completion. The time to which they looked forward with anxiety has come. It is our duty to complete their work. If this Republic is not now made to stand on their great principles, it has no honest foundation, and the Father of all men will still shake it to its center. If we have not yet been sufficiently scourged for our national sin to teach us to do justice to all God's creatures, without distinction of race or color, we must expect the still more heavy vengeance of an offended Father, still increasing his inflictions as he increased the severity of the plagues of Egypt until the tyrant consented to do justice. And when that tyrant repented of his reluctant consent, and attempted to re-enslave the people, as our southern tyrants are attempting to do now, he filled the Red sea with broken chariots and drowned horses, and strewed the shores with dead carcasses.

Mr. Chairman, I trust the Republican party will not be alarmed at what I am saying. I do not profess to speak their sentiments, nor must they be held responsible for them. I speak for myself, and take the responsibility, and will settle with my intelligent constituents.

This is not a "white man's Government," in the exclusive sense in which it is used. To say so is political blasphemy, for it violates the fundamental principles of our gospel of liberty. This is man's Government; the Government of all men alike; not that all men will have equal power and sway within it. Accidental circumstances, natural and acquired endowment and ability, will vary their fortunes. But equal rights to all the privileges of the Government is innate in every immortal being, no matter what the shape or color of the tabernacle which it inhabits.

If equal privileges were granted to all, I should not expect any but white men to be elected to office for long ages to come. The prejudice engendered by slavery would not soon permit merit to be preferred to color. But it would still be beneficial to the weaker races. In a country where political divisions will always exist, their power, joined with just white men,

would greatly modify, if it did not entirely prevent, the injustice of majorities. Without the right of suffrage in the late slave States, (I do not speak of the free States,) I believe the slaves had far better been left in bondage. I see it stated that very distinguished advocates of the right of suffrage lately declared in this city that they do not expect to obtain it by congressional legislation, but only by administrative action, because, as one gallant gentleman said, the States had not been out of the Union. Then they will never get it. The President is far sounder than they. He sees that administrative action has nothing to do with it. If it ever is to come, it must be constitutional amendments or congressional action in the Territories, and in enabling acts.

How shameful that men of influence should mislead and miseducate the public mind! They proclaim, "This is the white man's Government," and the whole coil of copperheads echo the same sentiment, and upstart, jealous Republicans join the cry. Is it any wonder ignorant foreigners and illiterate natives should learn this doctrine, and be led to despise and maltreat a whole race of their fellow-men?

Sir, this doctrine of a white man's Government is as atrocious as the infamous sentiment that damned the late Chief Justice to everlasting fame; and, I fear, to everlasting fire.

Mr. FINCK moved that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WASHBURN, of Illinois, reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the annual message of the President of the United States, and had come to no resolution thereon.

MESSAGE FROM THE PRESIDENT.

A message from the President, by Mr. ROBERT JOHNSON, his Private Secretary, informed the House that he had this day approved and signed the following bills:

An act (H. R. No. 23) to prevent the spread of foreign diseases among the cattle of the United States; and

An act (H. R. No. 24) to amend an act entitled "An act providing for the selection of jurors to serve in the several courts of the District of Columbia."

LEAVE OF ABSENCE.

Mr. FINCK asked leave of absence for his colleague, Mr. LE BLOND, for the remainder of this week.

Leave was granted accordingly.

RESUMPTION OF SPECIE PAYMENTS.

Mr. ALLEY. I ask leave to submit the following resolution:

Resolved, That this House cordially concurs in the views of the Secretary of the Treasury in relation to the necessity of a contraction of the currency with a view to as early a resumption of specie payments as the business interests of the country will permit; and we hereby pledge cooperative action to this end as speedily as practicable.

Mr. SMITH objected.

Mr. ALLEY. I move to suspend the rules in order to allow me to introduce the resolution.

The question was taken; and there were—ayes seventy-six.

Mr. SMITH called for tellers.

Tellers were ordered; and Messrs. ALLEY and SMITH were appointed.

The House divided; and the tellers reported—ayes 94, noes 3.

So (two thirds voting in favor thereof) the rules were suspended.

Mr. ALLEY. I now demand the previous question upon agreeing to the resolution.

The previous question was seconded, and the main question ordered.

Mr. JOHNSON called for the yeas and nays. The yeas and nays were ordered.

Mr. WASHBURN, of Illinois. I move that the House now adjourn.

Mr. BROOKS. If the House adjourns now, when will this resolution again come up?

The SPEAKER. The rules having been suspended, the resolution introduced, and the main question ordered, the resolution would come up for consideration to-morrow morning, immediately after reading the Journal.

Mr. BROOKS. We may as well dispose of it now.

The question was taken upon the motion to adjourn, and it was not agreed to.

The question recurred upon agreeing to the resolution of Mr. ALLEY, upon which the yeas and nays had been ordered.

The question was taken; and it was decided in the affirmative—yeas 144, nays 6, not voting 32; as follows:

YEAS—Messrs. Alley, Allison, Ames, Ancona, Anderson, James M. Ashley, Baldwin, Banks, Barker, Baxter, Beaman, Bergen, Bidwell, Bingham, Blow, Boutwell, Boyer, Brandegee, Brooks, Broomall, Bundy, Reader W. Clarke, Sidney Clarke, Conkling, Cook, Cullom, Darling, Dawes, Dawson, DeFrees, Delano, Deming, Denison, Dixon, Driggs, Eldridge, Eliot, Farquhar, Ferry, Finck, Garfield, Grider, Griswold, Hale, Aaron Harding, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Hogan, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, James Humphrey, Ingersoll, Jenekes, Johnson, Julian, Kasson, Kelley, Kelso, Kerr, Ketchum, Kuykenkall, Laffin, Latham, George V. Lawrence, William Lawrence, Longyear, Marshall, Marston, Marvin, McClurg, McIndoe, McKee, McRuer, Mercer, Miller, Moorhead, Morrill, Moulton, Myers, Niblack, Nicholson, Noell, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Price, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rollins, Ross, Rousseau, Sawyer, Scofield, Shanklin, Shellabarger, Sitars, Sloan, Spalding, Starr, Stillwell, Strouse, Taber, Taylor, Thornton, Trimble, Trowbridge, Upton, Van Arman, Burt Van Horn, Robert T. Van Horn, Voorhees, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, and Wright—144.

NAYS—Messrs. Baker, Cobb, Eckley, Harris, Smith, and Thayer—6.

NOT VOTING—Messrs. Delos R. Ashley, Benjamin, Blaine, Bromwell, Buckland, Chauler, Culver, Davis, Donnelly, Dumont, Eggleston, Farnsworth, Glossbrenner, Goodyear, Grinnell, James M. Humphrey, Jones, Le Blond, Loan, Lynch, McCullough, Morris, Newell, Pomeroy, Rogers, Schenck, Stevens, Francis Thomas, John L. Thomas, Windom, Winfield, and Woodbridge—32.

So the resolution was agreed to.

RECONSTRUCTION.

Mr. ASHLEY, of Ohio, by unanimous consent, introduced a bill to enable the loyal citizens of the United States residing in States whose constitutional governments were usurped or overthrown by the recent rebellion, after accepting certain conditions prescribed by the United States in Congress assembled, to form a constitution and State government for each of said States preparatory to resuming as States their constitutional relations to the national Government; which was read a first and second time, and referred to the joint committee on reconstruction, and ordered to be printed.

Mr. ASHLEY also presented a memorial from sundry citizens of the United States, in relation to reconstruction; which was referred to the joint committee on reconstruction.

SUBSISTENCE OF DESTITUTE INDIANS.

On motion of Mr. McINDOE, Senate joint resolution No. 6, authorizing the President to divert certain funds heretofore appropriated, and cause the same to be used for immediate subsistence, clothing, &c., for destitute Indians and Indian tribes, was taken from the table, read a first and second time, and referred to the Committee on Indian Affairs.

REGISTRY OF FOREIGN-BUILT VESSELS.

Mr. SPALDING, by unanimous consent, introduced a bill to provide for the registering and enrolling of vessels built in foreign countries but wholly owned in the United States; which was read a first and second time, and referred to the Committee on Commerce.

SUFFRAGE IN DISTRICT OF COLUMBIA.

Mr. SPALDING, by unanimous consent, also introduced a bill to regulate the right of suffrage in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

NAVAL DEPOT AT CLEVELAND.

Mr. SPALDING, by unanimous consent,

also introduced a bill to provide for a naval depot at Cleveland or some other point on the southern shore of Lake Erie; which was read a first and second time, and referred to the Committee on Naval Affairs.

PRINTING OF NAVY REGISTER.

Mr. RICE, of Massachusetts, by unanimous consent, offered the following resolution; which was referred under the law to the Committee on Printing:

Resolved, That there be printed five thousand copies of the Navy Register for the use of the members of this House.

SUPPRESSION OF POLYGAMY.

Mr. BROOMALL. I call for the regular order of business.

Mr. WARD. I move to suspend the rules to allow me to introduce the following resolution:

Whereas certain inhabitants of the Territory of Utah, in violation of the laws of the United States, have been and still are sustaining the abominable system of polygamy, and the numbers who practice it, and the crime and demoralization consequent thereon, are largely on the increase; and whereas for reasons not understood, the law against polygamy has not been enforced; and, in the judgment of this House, this great and remaining barbarism of our age and country should be swept, like its twin system, slavery, from the Territories of the Republic; and means adequate to that end should be adopted: Therefore,

Resolved, That the Committee on Territories be instructed to inquire and ascertain what means, civil or military, may lawfully be resorted to to effectually eradicate this evil from the land, and what legislation is needed, if any, to effect that object, and what reasons exist why the laws against polygamy have not been executed; and also to ascertain whether the United States officials in said Territory are seeking to enforce the laws, and to inquire into their conduct generally, so far as relates to the discharge of their public duties in relation to this system; and that said committee have leave to report by bill or otherwise.

Mr. HARDING, of Kentucky. I move that the House adjourn.

The motion was agreed to; and thereupon (at half past three o'clock p. m.) the House adjourned.

IN SENATE.

TUESDAY, December 19, 1865.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

COMMITTEE SERVICE.

The PRESIDENT *pro tempore* appointed Mr. LANE, of Kansas, to fill the vacancy upon the Committee on Pensions, and Mr. SAULSBURY to fill that upon the Committee on Revolutionary Claims.

PRESIDENTIAL MESSAGES.

Several messages were received from the President of the United States, by Mr. ROBERT JOHNSON, his Secretary. Many of them were of an executive nature.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting the accounts of Indian agents, Harlan and Snow, of the southern superintendency, for the first quarter of 1865, as required by the act of June 25, 1864; which was referred to the Committee on Indian Affairs.

PETITIONS AND MEMORIALS.

Mr. MORRILL presented a memorial of the European and North American Railway Company, praying for aid in constructing a military railroad from Bangor, in the State of Maine, to the St. John river, in the Province of New Brunswick; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

The PRESIDENT *pro tempore* submitted a communication from the Governor of the State of Indiana, transmitting a joint resolution of the General Assembly of that State adopting the proposed amendment to the Constitution of the United States on the subject of slavery; which was ordered to lie on the table, and be printed.

Mr. WILSON presented the memorial of Benjamin F. Butler, chairman of a committee of the corporators of a National Military and

Naval Asylum for the relief of totally disabled officers and men of the volunteer forces of the United States, praying for a modification of the act of incorporation, and particularly the repeal of the sixth section, which provides that "no site for said asylum, or plan of buildings, shall be adopted or agreed upon until after \$500,000 shall have been first subscribed or donated, and paid into the treasury of the corporation;" which was referred to the Committee on Military Affairs and the Militia.

Mr. COWAN presented a petition of soldiers of the late war, praying for an equalization of the bounties of those who first responded to their country's call with those who enlisted near the close of the war; which was referred to the Committee on Military Affairs and the Militia.

He also presented the memorial of Joseph C. G. Kennedy, Superintendent of the seventh and eighth Censuses, remonstrating against the erasure of his name and the suppression of the printed preface prepared by him for the volume on Manufactures of the eighth census, and the insertion of "certain inappropriate preliminary views" by James M. Edmunds, Commissioner of the General Land Office; which was referred to the Committee on Manufactures.

Mr. RIDDLE presented the memorial of Reynolds Driver, first assistant engineer United States Navy, in behalf of himself and other surviving officers of the United States iron-clad Patapsco, praying for indemnity for losses sustained by them in the sinking of that vessel in Charleston roads, South Carolina, on the 15th of January, 1865; which was referred to the Committee on Naval Affairs.

Mr. FESSENDEN presented the memorial of Robert B. Riell, lieutenant in the United States Navy, praying that he may be promoted to the rank and place of commander in the Navy; which was referred to the Committee on Naval Affairs.

REPORTS FROM COMMITTEES.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred a petition of citizens of Maine, praying that soldiers who received pensions in consequence of injuries received in the war of 1812, may be allowed back pay from the date of their discharge to the date of their pension certificate, submitted an adverse report thereon, and asked to be discharged from the further consideration of the subject; which was agreed to.

NAVAL PENSIONS.

Mr. LANE, of Indiana. The Committee on Pensions, to whom was referred the bill (S. No. 24) to amend section five of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July 4, 1864," report it back without amendment and recommend its passage. I ask for its present consideration; it is simply to supply a defect in the pension law passed at the last session.

By unanimous consent, the bill was considered as in Committee of the Whole. It proposes to amend section five of the act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July 4, 1864," by adding after the word "military" the words "or naval," so that the section shall, as amended, read, "that all persons now by law entitled to a less pension than hereafter specified, who shall have lost both feet in the military or naval service of the United States, and in the line of duty, shall be entitled to a pension of twenty dollars per month; and those who, under the same conditions, have lost both hands, or both eyes, shall be entitled to a pension of twenty-five dollars a month."

The bill was reported to the Senate, and ordered to be engrossed for a third reading; and it was read the third time, and passed.

COMMANDERS REYNOLDS AND WOOLSEY.

Mr. GRIMES. The Committee on Naval Affairs, to whom was referred the joint resolution (S. R. No. 2) for the restoration of Commanders William Reynolds and Melancton B. Woolsey, of the United States Navy, to the active list from the reserved list, report it back

and recommend its passage. I ask that it be considered now.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It proposes to authorize the President to nominate, and by and with the advice and consent of the Senate to appoint, Commanders William Reynolds and Melancton B. Woolsey to the active list of the Navy.

The joint resolution was reported to the Senate, and ordered to be engrossed for a third reading. It was read the third time.

Mr. GRIMES. In order that the Senate may know exactly the reasons why this proposition has been made, I submit, and ask to have read, a letter from the Secretary of the Navy on the subject.

The Secretary read the following communication:

NAVY DEPARTMENT, December 8, 1865.

SIR: I have the honor to submit herewith the form of a joint resolution for the restoration of Commanders William Reynolds and Melancton B. Woolsey, United States Navy, to the active list, prepared in conformity to precedent.

These officers, under the act "to promote the efficiency of the Navy," dated 28th February, 1855, were placed on the reserved list solely for physical disability. Since that period the cause has been removed, as attested by several medical surveys held in their cases, and both of them have performed promptly and efficiently their duties at sea during the late rebellion, as the reports of their commanding officers amply show.

The cases of these officers are exceptional ones, and there are no other claims to restoration from that list resting on similar or just grounds.

Very respectfully,

GIDEON WELLES,
Secretary of the Navy.

Hon. JAMES W. GRIMES,
Chairman Naval Committee, United States Senate.

The joint resolution was passed.

NAVY REGISTER.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print three thousand copies of the Navy Register, have instructed me to report it back without amendment, and to ask for its present consideration.

There being no objection, the Senate proceeded to consider the resolution, as follows:

Resolved, That three thousand copies of the Navy Register of the United States for the year 1865 be printed for the use of the Senate.

Mr. GRIMES. I desire to be informed by the chairman of the Committee on Printing as to the necessity of printing three thousand copies of the Navy Register for the use of the Senate. Up to within the last three years there never was any Naval Register printed for the use of the Senate. I think I was here three years before any was ordered to be printed. We always received one copy from the Department, and I apprehend that that was about as large a number of copies as Senators had any use for, and about as many as they will have any use for in the future. I confess that I have no use for the number that are allotted to me. I have two or three years' stock on hand now, I think.

Mr. CLARK. Move to strike out three thousand and insert one thousand.

Mr. GRIMES. I will say, furthermore, that it is a rule of the Navy Department to send one copy of the Naval Register to every naval officer. During this year it is possible that the copies may not have reached each naval officer, but there are enough printed by the Department to supply all the copies that are needed for the use of the Senate and House of Representatives, and for each naval officer, and leave some surplus, without any action of the Senate. I move to amend the resolution by striking out three thousand and inserting five hundred.

Mr. ANTHONY. I am quite indifferent whether the Senate amend the resolution as proposed by the Senator from Iowa, or whether any extra numbers at all are printed. This document has been printed ever since the commencement of the war, and this is the last that will be issued containing the names of the officers who have served in the war.

Mr. GRIMES. The Naval Register that will be printed now will contain the names of the officers in service on the 1st day of January next, but will not contain the names of the volunteer officers and men who have been in the war, a

large proportion of whom have gone out of the service.

Mr. ANTHONY. This will be the last record of the *personnel* of the Navy during the war. The Naval Register has been printed every year during the war. The Senate have always printed it, and the same reason why it was printed before (which I think was a good one) prevails now. The Department prints enough of the document to supply copies to the regular officers of the Navy, but does not print enough to supply the volunteer officers of the Navy with copies. They all like to have this Register. It is an honorable thing for a man who has served in the Navy to preserve and hand down to his children. The expense of printing it, the type being already set, will be very moderate. I think the cost of printing the Naval Register will be but five or six hundred dollars. These are the reasons which induced the committee to recommend the printing of it, the same as it has always been recommended, and as the Senate has always agreed to before. I am in favor of a larger number than five hundred certainly. If the Senator from Iowa proposes fifteen hundred I shall make no objection to that.

Mr. CLARK. Say one thousand.

Mr. ANTHONY. I will say whatever the Senate choose.

Mr. GRIMES. I am willing to modify my amendment.

Mr. ANTHONY. To what?

Mr. GRIMES. To one thousand.

Mr. ANTHONY. Say fifteen hundred. Mr. President, the Senator from Iowa proposes fifteen hundred, and I agree to that.

The PRESIDENT *pro tempore*. Does the Chair understand the Senator from Iowa as modifying his amendment? The motion is to amend the resolution by striking out "three thousand" and inserting "five hundred."

Mr. ANTHONY. Fifteen hundred was the amendment. The Senator from Iowa modified his amendment.

The PRESIDENT *pro tempore*. The Chair asked the Senator from Iowa whether he so modified his amendment, but did not get any response, and supposed, therefore, that it was not modified. Does the Chair understand the Senator from Iowa as modifying his amendment?

Mr. ANTHONY. I spoke to the Senator from Iowa, and he agreed to it.

Mr. JOHNSON. What is the number proposed by the Committee on Printing?

The PRESIDENT *pro tempore*. Three thousand.

Mr. JOHNSON. And it is now proposed to make it fifteen hundred?

The PRESIDENT *pro tempore*. The motion to amend is to strike out "three thousand" and insert "five hundred."

Mr. ANTHONY. Fifteen hundred.

The PRESIDENT *pro tempore*. The Chair did not so understand the motion.

Mr. GRIMES. I agree to it.

The PRESIDENT *pro tempore*. Does the Chair understand the Senator from Iowa to so modify his motion?

Mr. GRIMES. Yes, sir; at the suggestion of the Senator from Rhode Island.

The PRESIDENT *pro tempore*. Then the question is on the motion of the Senator from Iowa to amend the resolution by striking out "three thousand" and inserting "fifteen hundred."

The amendment was agreed to.

The resolution, as amended, was adopted.

PAPERS WITHDRAWN.

On motion of Mr. WILSON, it was

Ordered, That the petition and other papers of Selina Barclay be taken from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. JOHNSON, it was

Ordered, That the petition and other papers of Henry Roy de La Reintre be taken from the files of the Senate and referred to the Committee on Claims.

BILLS INTRODUCED.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a bill (S.

No. 46) for the relief of Henry M. Whittlesey; which was read twice by its title, and, with the accompanying papers, was referred to the Committee on Military Affairs and the Militia.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 47) to amend an act supplementary to the act approved July 1, 1864, for the disposal of coal lands and of town property in the public domain; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 48) amending the act of Congress entitled "An act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished to the Army of the United States," approved July 4, 1864; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 49) more effectually to provide for the national defense by establishing a uniform militia throughout the United States; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 50) in relation to the Freedmen's Bureau; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 51) to incorporate the Potomac Navigation and Transportation Company of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 52) to provide for the defense of the northeastern frontier; which was referred to the Committee on Foreign Relations.

BOND OF PRINTING SUPERINTENDENT.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 7) for increasing the bond of the Superintendent of Public Printing; which was read twice by its title.

Mr. ANTHONY. This is a joint resolution, to which, I presume, there will be no objection, and it is important to the convenience of the transaction of public business that it should be passed as soon as possible; and if the Senate is willing, I should like to have it put on its passage now. A word of explanation, I presume, will satisfy them that it ought to pass. If any Senator objects, I shall not press it now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. As the amount of money which can be advanced to the Superintendent of Public Printing under existing law is not sufficient to enable him to meet the current expenditures of his office, the resolution provides that he shall be required to furnish a new bond in the penal sum of \$80,000.

Mr. ANTHONY. The law now requires that the amount of money furnished the Superintendent of Public Printing shall be only two thirds of his bond. His bond is \$40,000, and that enables him to have only \$20,000 at a time, which is found to be insufficient for carrying on the public business conveniently, and he has been compelled to borrow money from time to time upon his own responsibility, which of course he has had no trouble in doing as it was for the public service. This resolution doubles his bond, which will allow \$52,000, two thirds the amount of the bond, to be placed at his disposal, and the security is the same as before.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, was read the third time, and passed.

REPORT ON INDIAN AFFAIRS.

Mr. DOOLITTLE. I offer the following concurrent resolution, and if there be no objection, I ask to have it considered now:

Resolved, by the Senate, (the House of Representatives concurring.) That the joint committee of the two Houses appointed under a joint resolution at the last session of Congress to investigate Indian affairs, have liberty to make their report at any time during the present session of Congress.

There being no objection, the Senate proceeded to consider the resolution.

Mr. TRUMBULL. I should like to inquire of the Senator from Wisconsin, whether the committee has not that leave without passing this resolution authorizing it to report. I suppose their report will be received at any time they think proper to make it.

Mr. DOOLITTLE. It may be that that is the rule, that we have leave to report at any time during the session, but I have some doubts about it. The committee suppose that their power as a committee has ceased. It was a joint committee appointed under a resolution of the last Congress, and I suppose their power ceased at the beginning of this Congress. That is the reason why I offer this resolution, allowing them this session in which to make their report. The committee have been scattered all over the country, and have been unable to get together to make any report.

The resolution was adopted.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the resolutions reported by the joint committee appointed to consider and report by what token of respect it may be proper for Congress to express the deep sensibility of the nation on the occasion of the death of the late President, Abraham Lincoln.

The message further announced that the House of Representatives had passed a bill (H. R. No. 4) for the relief of Mrs. Mary Lincoln, widow of the late President of the United States, in which the concurrence of the Senate was requested.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House of Representatives had signed an enrolled bill (H. R. No. 35) making appropriation for refurnishing and repairing the President's House; and it was thereupon signed by the President *pro tempore* of the Senate.

SECURITY OF FREEDMEN.

Mr. TRUMBULL. I desire to give notice that I shall to-morrow, or on some early day thereafter, ask leave to introduce a bill to enlarge the powers of the Freedmen's Bureau so as to secure freedom to all persons within the United States, and protect every individual in the full enjoyment of the rights of person and property and furnish him with means for their vindication. In giving this notice I desire to say that it is given in view of the adoption of the constitutional amendment abolishing slavery. Whatever diversity of opinion there may be as to the actual adoption of that amendment at this time in consequence of the abnormal condition of the Legislatures in some of the States which have ratified it, there can be no question that it will soon receive the ratification of a sufficient number of States, and probably before there will be time to take action on this bill, to place its validity beyond question. I have never doubted that, on the adoption of that amendment, it would be competent for Congress to protect every person in the United States in all the rights of person and property belonging to a free citizen; and to secure these rights is the object of the bill which I propose to introduce. I think it important that action should be taken on this subject at an early day for the purpose of quieting apprehensions in the minds of many friends of freedom lest by local legislation or a prevailing public sentiment in some of the States persons of the African race should continue to be oppressed and in fact deprived of their freedom, and for the

purpose also of showing to those among whom slavery has heretofore existed that unless by local legislation they provide for the real freedom of their former slaves the Federal Government will, by virtue of its own authority, see that they are fully protected.

The bill which I desire to introduce is intended to accomplish these objects. I hope there may be no necessity for enforcing such a bill in any part of the Union; but I consider that under the constitutional amendment Congress is bound to see that freedom is in fact secured to every person throughout the land; he must be fully protected in all his rights of person and of property; and any legislation or any public sentiment which deprives any human being in the land of those great rights of liberty will be in defiance of the Constitution, and if the States and local authorities, by legislation or otherwise, deny these rights, it is incumbent on us to see that they are secured.

NUMBERS OF THE REGULAR ARMY.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to report for the information of the Senate what number of men are now in service in the regular Army, what number of officers are holding commissions, where said officers are stationed, and what duty they are performing; said report to include the cavalry, artillery, and infantry regiments, and to set forth the number of men and officers in each company, battery, and regiment.

NUMBER OF VOLUNTEER GENERALS.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to state for the information of the Senate how many major generals and brigadier generals of volunteers are now in service, where they are stationed, and what duties they are performing.

DISLOYAL CITIZENS IN MEXICO.

Mr. CONNESS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested, if not incompatible with the public service, to communicate to the Senate any information in possession of the State Department or any other Department of the Government, in regard to any plans to induce into the so-called Mexican empire all dissatisfied citizens of the United States with a view to organize them to create disturbances in the United States, and especially information in regard to the plans of Dr. William M. Gwin and M. F. Maury, lately citizens of the United States, and in regard to the action taken by the Government to prevent the success of such schemes.

ADJOURNMENT FOR THE HOLIDAYS.

Mr. ANTHONY. I move to take up for consideration the resolution of the House of Representatives proposing an adjournment over the holidays.

The motion was agreed to; and the Senate proceeded to consider the following resolution from the House of Representatives:

Resolved, (the Senate concurring.) That when the two Houses of Congress adjourn on Wednesday the 20th instant, they adjourn to meet on Tuesday the 9th of January next.

Mr. ANTHONY. I suppose that to meet the views of the Senate some modification of that resolution will be necessary, and it is important that it should be settled one way or the other this morning. I move to amend it by substituting the 21st instant as the day of adjournment instead of the 20th, and the 3d of January as the day of reassembling instead of the 9th.

Mr. HENDRICKS. I have no objection to the first change proposed, but I have to the last, and I move to amend the amendment by substituting the 5th of January for the 3d, as the day of reassembling. The adjournment over is for such a length of time that many of us from the West may desire to go home, and if we remain over New Year's day it will be impossible to get back here again on the 3d of January. I do not want to start back again on New Year's day.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Indiana to the amendment proposed by the Senator from Rhode Island.

Mr. FESSENDEN. I hope that will not be agreed to. I ask for the yeas and nays upon it.

The yeas and nays were ordered; and being taken, resulted—yeas 13, nays 28; as follows:

YEAS—Messrs. Buckalew, Cragin, Guthrie, Hendricks, Johnson, Lane of Kansas, McDougall, Poland, Ramsey, Riddle, Stockton, Van Winkle, and Willey—13.

NAYS—Messrs. Anthony, Clark, Connors, Cowan, Creswell, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Harris, Henderson, Howard, Howe, Lane of Indiana, Morgan, Morrill, Nye, Pomeroy, Saulsbury, Sherman, Sprague, Stewart, Trumbull, Wade, Williams, and Wilson—28.

ABSENT—Messrs. Brown, Chandler, Grimes, Nesmith, Norton, Sumner, Wright, and Yates—8.

So the amendment to the amendment was rejected.

The amendment of Mr. ANTHONY was agreed to; and the resolution, as amended, was concurred in, as follows:

Resolved, (the Senate concurring.) That when the two Houses of Congress adjourn on the 21st instant, they adjourn to meet on the 3d of January next.

JOINT COMMITTEE ON RECONSTRUCTION.

Mr. ANTHONY. I move that the members on the part of the Senate of the joint committee to consider the condition of the States lately in rebellion be appointed by the President *pro tempore*.

The motion was agreed to by unanimous consent.

Mr. ANTHONY. I now offer the following resolution, and I ask for its present consideration:

Resolved, That until otherwise ordered, all papers presented to the Senate relating to the condition and title to representation of the so-called confederate States, shall be referred to the joint committee upon that subject.

The PRESIDENT *pro tempore*. Is the present consideration of the resolution objected to?

Mr. COWAN. It is.

Mr. THE PRESIDENT *pro tempore*. It will lie over under the rules.

CONDITION OF SOUTHERN STATES.

Mr. COWAN. I understand that the reply of the President of the United States to a resolution of this body passed on the 12th instant, is now on the table. I ask that it be read.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the message referred to; and it will be read.

The Secretary read the message, as follows:
To the Senate of the United States:

In reply to the resolution adopted by the Senate on the 12th instant, I have the honor to state that the rebellion waged by a portion of the people against the properly-constituted authorities of the Government of the United States has been suppressed; that the United States are in possession of every State in which the insurrection existed; and that, as far as could be done, the courts of the United States have been restored, post offices reestablished, and steps taken to put into effective operation the revenue laws of the country.

As the result of the measures instituted by the Executive, with the view of inducing a resumption of the functions of the States comprehended in the inquiry of the Senate, the people in North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Arkansas, and Tennessee, have reorganized their respective State governments, and "are yielding obedience to the laws and Government of the United States" with more willingness and greater promptitude than under the circumstances could reasonably have been anticipated. The proposed amendment to the Constitution, providing for the abolition of slavery forever within the limits of the country, has been ratified by each one of those States, with the exception of Mississippi, from which no official information has yet been received; and in nearly all of them measures have been adopted or are now pending, to confer upon freedmen rights and privileges which are essential to their comfort, protection, and security. In Florida and Texas the people are making commendable progress in restoring their State governments, and no doubt is entertained that they will at an early

period be in a condition to resume all of their practical relations to the Federal Government.

In "that portion of the Union lately in rebellion" the aspect of affairs is more promising than, in view of all the circumstances, could well have been expected. The people throughout the entire South evince a laudable desire to renew their allegiance to the Government, and to repair the devastations of war by a prompt and cheerful return to peaceful pursuits. An abiding faith is entertained that their actions will conform to their professions, and that, in acknowledging the supremacy of the Constitution and the laws of the United States, their loyalty will be unreservedly given to the Government, whose leniency they cannot fail to appreciate, and whose fostering care will soon restore them to a condition of prosperity.

It is true that in some of the States the demoralizing effects of war are to be seen in occasional disorders; but these are local in character, not frequent in occurrence, and are rapidly disappearing as the authority of civil law is extended and sustained. Perplexing questions were naturally to be expected from the great and sudden change in the relations between the two races; but systems are gradually developing themselves under which the freedman will receive the protection to which he is justly entitled, and by means of his labor make himself a useful and independent member of the community in which he has his home. From all the information in my possession, and from that which I have recently derived from the most reliable authority, I am induced to cherish the belief that sectional animosity is surely and rapidly merging itself into a spirit of nationality, and that representation, connected with a properly-adjusted system of taxation, will result in a harmonious restoration of the relations of the States to the national Union.

The report of Carl Schurz is herewith transmitted, as requested by the Senate. No reports from Hon. John Covode have been received by the President. The attention of the Senate is invited to the accompanying report of Lieutenant General Grant, who recently made a tour of inspection through several of the States whose inhabitants participated in the rebellion.

ANDREW JOHNSON.

WASHINGTON, D. C., December 18, 1865.

Mr. COWAN. I ask that the report of General Grant be read.

The PRESIDENT *pro tempore*. If there be no objection that report will be read.

The Secretary read, as follows:

HEADQUARTERS ARMIES OF THE UNITED STATES,
WASHINGTON, D. C., December 18, 1865.

STR: In reply to your note of the 16th instant, requesting a report from me giving such information as I may be possessed of, coming within the scope of the inquiries made by the Senate of the United States in their resolution of the 12th instant, I have the honor to submit the following:

With your approval, and also that of the honorable Secretary of War, I left Washington city on the 27th of last month for the purpose of making a tour of inspection through some of the southern States, or States lately in rebellion, and to see what changes were necessary to be made in the disposition of the military forces of the country; how these forces could be reduced and expenses curtailed, &c., and to learn, as far as possible, the feelings and intentions of the citizens of those States toward the General Government.

The State of Virginia being so accessible to Washington city, and information from this quarter therefore being readily obtained, I hastened through the State without conversing or meeting with any of its citizens. In Raleigh, North Carolina, I spent one day; in Charleston, South Carolina, two days; Savannah and Augusta, Georgia, each one day. Both in traveling and while stopping, I saw much and conversed freely with the citizens of those States, as well as with officers of the Army who have been stationed among them. The following are the conclusions come to by me:

I am satisfied that the mass of thinking men of the South accept the present situation of affairs in good faith. The questions which have heretofore divided the sentiments of the people of the two sections—slavery and States rights, or the right of a State to secede from the Union—they regard as having been settled forever by the highest tribunal, arms, that man can resort to. I was pleased to learn from the leading men whom I met, that they not only accepted the decision arrived at as final, but that now, when the smoke of battle has cleared away and time has been given for reflection, this decision has been a fortunate one for the whole country, they receiving

like benefits from it with those who opposed them in the field and in council.

Four years of war, during which law was executed only at the point of the bayonet throughout the States in rebellion, have left the people possibly in a condition not to yield that ready obedience to civil authority the American people have generally been in the habit of yielding. This would render the presence of small garrisons throughout those States necessary until such time as labor returns to its proper channels, and civil authority is fully established. I did not meet any one, either those holding places under the Government or citizens of the southern States, who think it practicable to withdraw the military from the South at present. The white and the black mutually require the protection of the General Government.

There is such universal acquiescence in the authority of the General Government throughout the portions of country visited by me, that the mere presence of a military force, without regard to numbers, is sufficient to maintain order. The good of the country and economy require that the force kept in the interior where there are many freedmen (elsewhere in the southern States than at forts upon the seacoast no force is necessary) should all be white troops. The reasons for this are obvious without mentioning many of them. The presence of black troops, lately slaves, demoralizes labor both by their advice and by furnishing in their camps a resort for the freedmen for long distances around. White troops generally excite no opposition, and therefore a small number of them can maintain order in a given district. Colored troops must be kept in bodies sufficient to defend themselves. It is not the thinking men who would use violence toward any class of troops sent among them by the General Government, but the ignorant in some cases might, and the late slave seems to be imbued with the idea that the property of his late masters should by right belong to him, or at least should have no protection from the colored soldier. There is danger of collisions being brought on by such causes.

My observations lead me to the conclusion that the citizens of the southern States are anxious to return to self-government within the Union as soon as possible; that while reconstructing they want and require protection from the Government; that they are in earnest in wishing to do what they think is required by the Government, not humiliating to them as citizens, and that if such a course was pointed out they would pursue it in good faith. It is to be regretted that there cannot be a greater commingling at this time between the citizens of the two sections, and particularly of those intrusted with the law-making power.

I did not give the operations of the Freedmen's Bureau that attention I would have done if more time had been at my disposal. Conversations on the subject, however, with officers connected with the bureau lead me to think that in some of the States its affairs have not been conducted with good judgment or economy, and that the belief, widely spread among the freedmen of the southern States, that the lands of their former owners will, at least in part, be divided among them, has come from the agents of this bureau. This belief is seriously interfering with the willingness of the freedmen to make contracts for the coming year. In some form the Freedmen's Bureau is an absolute necessity until civil law is established and enforced, securing to the freedmen their rights and full protection. At present, however, it is independent of the military establishment of the country, and seems to be operated by the different agents of the bureau according to their individual notions. Everywhere General Howard, the able head of the bureau, made friends by the just and fair instructions and advice he gave; but the complaint in South Carolina was that when he left, things went on as before. Many, perhaps the majority, of the agents of the Freedmen's Bureau advise the freedmen that by their own industry they must expect to live. To this end they endeavor to secure employment for them, and to see that both contracting parties comply with their engagements. In some instances, I am sorry to say, the freedman's mind does not seem to be disabused of the idea that a freedman has the right to live without care or provision for the future. The effect of the belief in division of lands is idleness and accumulation in camps, towns, and cities. In such cases I think it will be found that vice and disease will tend to the extermination, or great reduction of the colored race. It cannot be expected that the opinions held by men at the South for years can be changed in a day, and therefore the freedmen require for a few years not only laws to protect them, but the fostering care of those who will give them good counsel and in whom they can rely.

The Freedmen's Bureau, being separated from the military establishment of the country, requires all the expense of a separate organization. One does not necessarily know what the other is doing, or what orders they are acting under. It seems to me this could be corrected by regarding every officer on duty with troops in the southern States as agents of the Freedmen's Bureau, and then have all orders from the head of the bureau sent through department commanders. This would create a responsibility that would secure uniformity of action throughout all the South; would insure the orders and instructions from the head of the bureau being carried out, and would relieve from duty and pay a large number of employees of the Government.

I have the honor to be, very respectfully, your obedient servant,
U. S. GRANT,
Lieutenant General.

His Excellency A. JOHNSON,
President of the United States.

Mr. WADE. I desire to offer a resolution.
Mr. SUMNER. Before the proposition of the Senator is put, I have a question to make.

The PRESIDENT *pro tempore*. The Senator from Ohio has the floor, and offers a resolution.

Mr. WADE. It is a resolution to which there will be no objection, merely calling for information from a Department.

Mr. SUMNER. I understand that; but I wish to make one remark in reference to the business before the Senate.

The PRESIDENT *pro tempore*. Does the Senator from Ohio give way to the Senator from Massachusetts?

Mr. WADE. Yes, sir.

Mr. SUMNER. I wish to know whether the report of Major General Carl Schurz is annexed to the message of the President.

The PRESIDENT *pro tempore*. The Chair understands that it is.

Mr. JOHNSON. It is so stated in the message.

Mr. SUMNER. I did not understand that it was so stated. If it is there, I think it had better be read.

Several SENATORS. It is very long.

Mr. SUMNER. At any rate we can begin it.

The PRESIDENT *pro tempore*. The reading of the report of General Carl Schurz is called for. It will be read, if there be no objection.

Mr. JOHNSON. I have no objection to the reading of the report; I should like to hear it; but the reading will take a good while, and it can all be printed in a day or two.

Mr. SUMNER. Let the reading be begun.

Mr. JOHNSON. I submit to the Senator from Massachusetts that the printing of it, perhaps, will answer every purpose. It is a very long report, I see; at least it seems to be so. I have, personally, not the slightest objection to its being read.

Mr. SUMNER. It is a very important document. The Senate will remember that when the report was made on the condition of things in Kansas, every word of it was read at the desk. Now the question before the country is infinitely more important than that of Kansas. We have a message from the President which is like the whitewashing message of Franklin Pierce with regard to the enormities in Kansas. That is its parallel. I think that the Senate had better at least listen to the opening of Major General Schurz's report.

Mr. JOHNSON. I have no objection, if the Senate think they have time to listen to it; but I did not expect to hear any assault, direct or indirect, upon the President at this time.

Mr. SUMNER. No assault at all.

The PRESIDENT *pro tempore*. The Senator from Maryland is entitled to the floor unless he yields it.

Mr. JOHNSON. I have seen nothing in the message which would warrant a reflection that any improper purpose had actuated the President in sending it here. He does not mean, as I suppose, to whitewash anybody who has offended. His opinions upon the state of the country are fairly stated, clearly stated, with an absence of all passion, and I think commend themselves to the attention of the Senate. But I arose, Mr. President, for no such purpose as that of involving ourselves in a debate in relation to the Executive. I only suggested that perhaps it would be as well that this report should be printed, instead of being read now, as the Senate has a good deal of business before it; but I withdraw the objection if the Senate desire to hear it.

The Secretary proceeded to read the introductory paragraphs of General Schurz's report, in which he states through what portion of the South he traveled, the points at which he stopped, his facilities for obtaining information, and the order in which the results of his observation would be detailed.

Mr. SHERMAN. I would much prefer to read this document in print; and I move to dispense with its further reading, and that it be printed with the message and the other papers. I cannot very well hear the reading while conversation is going on in the Chamber.

Mr. SUMNER. I shall not object to that if the Senator from Ohio thinks that it is proper that we should, on this important occasion, dispense with the reading of this paper. I think that the Senate could not listen to anything of more importance than this accurate, authentic, most authoritative report with regard to the actual condition of things in those States. Here is an eminent citizen, lately a major general in the Army of the United States, sent on a special mission by the President to visit those States, and to report upon their condition. He has made his visit, not a hasty one like that of General Grant, for instance, or of some other officers or citizens, but a visit occupying time, extending through different States, and he has recorded the results in an elaborate document. Now, sir, if the question were trivial, if it were a transitory question, I should think the Senator from Ohio was right; but if he persists in his motion I shall not oppose it.

Mr. SHERMAN. I have no doubt whatever that the report of General Schurz is a very able, elaborate, and excellent document; I have no doubt we shall all be advised and informed when we read it; but I would much prefer to read that document when I can understand what is in it, than to hear it read now amid the confusion and hum of the Senate Chamber. I will say also that it is unusual to read documents in this way. No document is usually read except a message of the President of the United States. Even the report of the Secretary of the Treasury, containing his views upon the finances of the country, is not read in open Senate; and none of the elaborate reports of the heads of Departments are read, and therefore to read this document is unusual. If the practice were to prevail among us, our time would be occupied in putting upon the Clerk the labor of reading these documents when we do not hear or listen to them. I hope it will be printed so that we may have an opportunity to read and understand it.

Mr. DOOLITTLE. Mr. President, one remark, a short time ago, fell from the honorable Senator from Massachusetts, that it seems to me he ought, in justice to himself, to qualify at least, if not altogether retract. Speaking of the message just received from the President of the United States, he said that it was like the whitewashing message of Franklin Pierce to cover up the transactions in Kansas, and that the affairs in these southern States sought to be covered up or whitewashed by the message of the President—I so inferred from what he said—were much worse, infinitely worse, than the affairs in Kansas. Now, Mr. President, I think the Senator from Massachusetts must have let fall that expression without due consideration. I cannot believe that that Senator, occupying the high position he does, representing the great State he does, wishes to be understood as stating, here in the Senate and to the country, that this message just received from the President of the United States is a whitewashing message, seeking to cover up or conceal transactions and a state of things infinitely worse than the transactions of Kansas—that terrible affair which was the beginning of all our woes, a civil war in itself, and the prelude to all that great war from which we have just emerged. I believe, sir—certainly I think I ought to believe—that the honorable Senator from Massachusetts will at least modify, or qualify, if he does not wholly retract, this strong expression.

Mr. SUMNER. Mr. President, I have nothing to modify, nothing to qualify, nothing to retract. In former days there was one Kansas that suffered under illegal power; there are now eleven Kansases suffering only as one; therefore as eleven is more than one, so is the enormity of the present time more than the enormity in the day of Franklin Pierce.

Mr. DIXON. Mr. President, the Senator from Massachusetts says that the enormities in the States lately in rebellion are greater at this time than those formerly taking place in Kansas. Now, sir, I beg leave to remind him, that

that was not precisely the question raised, if any question was raised by the Senator from Wisconsin. There is no question here at this moment as to the misconduct of anybody in Kansas or in the southern States; but a charge has been directly made here by the Senator that the President has sent in a whitewashing report with regard to these enormities, in reply to our resolution of inquiry. I cannot pass that in silence so far as I am concerned. What is a "whitewashing report" or a "whitewashing message?" What is the charge brought? A "whitewashing report" is a report intended to cover up and conceal by falsehood and misstatement certain facts. That is a "whitewashing report." Now, sir, I wish the charge to be distinctly understood; I have no comment to make upon it; but when such a charge as that is brought in the Senate, I think it calls for some notice, and I take the liberty, with all my respect for the Senator from Massachusetts, to deny that there is anything in that report of a whitewashing character. I believe it to be true in its statements. Of course I cannot know the facts personally; but I confide in the statements of the President; and I cannot, as a friend of the President, allow such a charge to go unnoticed. I claim no particular friendship for the President; I sustain his position, not because it is the President's position, but because I believe it to be right; and believing him to be right, I think it my duty to enter at least a protest against a charge of that kind.

Mr. DOOLITTLE. Mr. President, whether the President's policy be right or not, the charge of the Senator from Massachusetts does not go to that question at all. If the Senator from Massachusetts differs from him, believes him to be wrong, that is one thing: it is perfectly right that he should do so. But he goes further; he charges upon the President falsehood, in substance, by saying that his message is a "whitewashing" message; he charges him with a want of truth, with a want of patriotism. What else can be inferred? It was that which pained me; I was not pained because the honorable Senator differed from the President; I knew he differed from the President on this question; but I was pained and I confess very much disappointed to hear that Senator, as I should be to hear any other Senator on the floor of the Senate, question the truth, the integrity, or the patriotism of the President, however much he might disagree with me in opinion. I had supposed that every member of this body and of Congress had full faith in the good intentions of the President, in his integrity, his love of the truth; and if he has any quality, if he has displayed during this struggle any character, it is that uncompromising love of the truth and love of the country and love of the Union which has made him sacrifice and endure all that he did during the contest in the South, and which has always characterized him as a man; and it was not that the honorable Senator questioned the propriety of the policy recommended by him, but because he made use of that remark that it was a whitewashing message, seeking to cover up some infamy behind, that I was pained, as I confess I was exceedingly; and I was none the less pained, after having called the honorable Senator's attention to it, that he should rise in the Senate and say that he had nothing to modify, nothing to qualify, nothing to retract.

Sir, I have said all, perhaps more than I ought to have said; and I shall not go into any discussion of these matters.

Mr. SUMNER. Mr. President, I am sorry that I have given pain to honorable friends. I certainly did not intend it. They suggest that a question has been raised as to the policy of the President. I have raised no such question, and have now expressed no opinion in regard to it. The Senator from Wisconsin dwells on that point and reminds the Senate that the policy of the President was not in question. I know it was not in question, and therefore I expressed no opinion upon it, for when I speak in this body, I try to speak directly to the question in hand. There was then no question directly

before the Senate on the policy of the President. Had there been I should have been ready to meet it. At the proper time I shall meet it fully, plainly, unequivocally, I trust, as becomes a member of this body. The only question then was on the character of the document that had been read; and that I characterized, compendiously, as a whitewashing document, and then my honorable friends rise one after the other, and like two lexicographers proceed to give a definition of the word "whitewash." I do not accept their definition. I intended no such thing as either the Senator from Connecticut or the Senator from Wisconsin attempted to impute. I have no reflection to make on the patriotism or the truth of the President of the United States. Never in public or in private have I made any such reflection, and I do not begin now. When I spoke, I spoke of the document that had been read at the desk. I characterized it as I thought I ought to characterize it. My memory goes back in this Chamber further than that of many that I see about me. I remember that other scene when a whitewashing message did come into this body from Franklin Pierce. We all at that time called it whitewashing, and I am not aware that any one even on the other side undertook to play the part that my honorable friends from Wisconsin and from Connecticut now undertake to perform. The message was so called because we all felt that it was a whitewashing document; and I undertook at once to-day, on listening to the document that had been read at the desk, to characterize it in the very way in which the patriotic party of 1856 characterized the message of Franklin Pierce.

Mr. DIXON. Mr. President, I am very glad to hear the disclaimer of the Senator from Massachusetts, so far as it is a disclaimer. If he says he meant by the word "whitewashing" nothing disrespectful, nothing offensive, nothing disagreeable, I am perfectly willing to take his definition of the word. I understood it differently, and I understood it, the Senator will allow me to remind him, differently, because he coupled it with another document, the Kansas message of President Pierce, which he now says was odious to the patriotic members of the Senate and to the people. That, he says, was a whitewashing document. He told us that this was like it. He said that this was like the Kansas whitewashing message, and was of similar character, and afterward said he had nothing to retract or modify.

If the Senator had said in reply to the Senator from Wisconsin that he did not intend his remarks in an offensive tone, but considered "whitewashing" a polite and proper word to apply to the message of the President, I, knowing that his knowledge of lexicography is greater than mine, should have accepted his explanation of his language.

Mr. TRUMBULL. Mr. President, I rise merely to express the hope that this unprofitable debate may cease. It is not my province to criticize or remark upon the expressions of opinion which Senators may think proper to employ, but it really does seem to me that the controversy which has arisen here between Senators is not calculated to promote the public interests. At a time like this, when great questions are before us, when we have not had the document about which the controversy has arisen printed, when it is not understood by us, surely it is very hasty to enter upon a debate of this kind, and I trust either that we may take the vote on the question of printing, or adjourn; and I make the motion that the Senate do now adjourn. ["Oh, no."]

Mr. FESSENDEN. I want a short executive session.

Mr. TRUMBULL. I withdraw the motion if there is any other business.

Mr. FESSENDEN. This is a mere matter of definitions, and it ought to be referred to some maker of dictionaries.

Mr. SUMNER. Let this be printed.

The PRESIDENT *pro tempore*. The question before the Senate is on the motion of the

Senator from Ohio [Mr. SHERMAN] to dispense with the further reading of this report, and to print the message of the President with the accompanying documents.

Mr. CONNESS. Permit me to suggest that if I understand the resolution offered by the Senator from Ohio, [Mr. WADE,] and not yet read, it calls for the report also of the Superintendent or head of the Freedmen's Bureau, General Howard; and if the Senate should call for that document, I think it would be well to let the present documents lie over, so that all may be printed together. ["No, no."] Very well.

Mr. SUMNER. I had intended to make a call for the other.

The motion of Mr. SHERMAN was agreed to.

FREEDMEN'S BUREAU REPORT.

Mr. WADE. I now offer my resolution:

Resolved, That the President of the United States communicate to the Senate, if not inconsistent with the public service, the report of General Howard of his observations of the condition of the seceded States and the operations of the Freedmen's Bureau therein.

The Senate proceeded, by unanimous consent, to consider the resolution.

Mr. WILSON. The report of General Howard was made some time ago, and has, as I learn, been in the hands of the President, and is now in the hands of the Secretary of War. The Committee on Military Affairs the other day sent to the Secretary of War for the report, and the answer received was that he would send it in at the earliest possible day, and that he intended to make some suggestions upon General Howard's report which would be sent in with it. A day or two ago I learned that the Secretary of War had left the city and gone to see his mother in Ohio. I suppose he will be back in a few days, and the report may possibly come in by the last day of our session this week.

Mr. WADE. It seems to me that there can be no harm whatever in calling for the report. If the Secretary of War wishes to make any comments upon it, he can do so after it is printed and in our hands. It has been hitherto withheld, and I know it is the wish of General Howard, as it is my earnest desire, that the document shall be communicated to the Senate. I hope it will be done.

Mr. TRUMBULL. I presume every one wishes to see the report. I happen to know incidentally that it was the intention to send in the report, and I presume it will be here very soon; but there can be no objection to the resolution.

Mr. SUMNER. There can be no harm in making the call.

Mr. WADE. If the proper authorities intend to send it to us, this resolution will not prevent their sending it.

The resolution was agreed to.

DEATH OF THOMAS CORWIN.

Mr. SHERMAN. I desire to give notice that the members of the Senate and House of Representatives, citizens of Ohio, and friends of the late Hon. Thomas Corwin, are invited to meet in the reception room of the Senate Chamber this day at three o'clock p. m.

MRS. LINCOLN.

The bill (H. R. No. 4) for the relief of Mrs. Mary Lincoln, widow of the late President of the United States, was read twice by its title.

Mr. CLARK. I move that that bill be put on its passage. There will be probably no objection to it when it is read.

Mr. LANE, of Kansas. It requires amendment.

Mr. FESSENDEN. I suggest that it be passed over until to-morrow, a Senator suggesting that it requires amendment. ["Agreed."]

JOINT COMMITTEE ON RECONSTRUCTION.

Mr. COWAN. I now withdraw the objection I interposed to the consideration of the motion offered by the Senator from Rhode Island.

Mr. ANTHONY. The Senator from Pennsylvania withdraws his objection to the resolution offered by me, and I hope it will now be taken up and put on its passage.

The PRESIDENT *pro tempore*. The objection to the consideration of the resolution being withdrawn, it will be considered, by common consent, as before the Senate.

Mr. HENDRICKS. What is the resolution? The PRESIDENT *pro tempore*. It will be read.

The Secretary read it, as follows:

Resolved, That until otherwise ordered all papers presented to the Senate relating to the condition and title to representation of the so-called confederate States shall be referred to the joint committee upon that subject.

Mr. HENDRICKS. I object to the present consideration of that resolution.

The PRESIDENT *pro tempore*. Objection being made, the resolution will lie over under the rules.

TAX ON DOMESTIC MANUFACTURES.

Mr. SPRAGUE. I offer the following resolution, and ask for its present consideration:

Resolved by the Senate, (the House of Representatives concurring,) That the Committee on Manufactures of the respective Houses inquire if the tax from the internal revenue act upon the products of domestic manufacture is greater than the duty, premium on gold, expenses of exchange, and transportation upon similar products imported, and if thereby the foreign product is entered for consumption upon more favorable terms than the domestic product, to report a remedy by bill or otherwise.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FESSENDEN. I suggest to the Senator from Rhode Island whether it would not be better to strike out the words "of the respective Houses," and confine the inquiry to the committee of the Senate. We cannot pass an order affecting the other House at all.

Mr. ANTHONY. It is a concurrent resolution.

Mr. FESSENDEN. I did not so understand it.

Mr. SPRAGUE. Yes, sir, it is. I desire that this subject shall receive the attention of the Committee on Manufactures of the other House. It is a matter that is not generally understood, and this resolution is intended merely to direct the attention of the two committees to it.

Mr. FESSENDEN. The better way would be to pass the resolution here, confined to the Senate committee alone, and then let a similar one be passed in the House of Representatives. I did not observe that it was in the form of a concurrent resolution. Is it not in the ordinary form?

Mr. ANTHONY. No; it is concurrent.

Mr. FESSENDEN. I think the Senator had better confine it to this body, and then let the other House pass a similar resolution for themselves, if they wish to do so.

Mr. SPRAGUE. I have no particular objection to that, but I should prefer that the matter should be brought to the attention of the other House in the manner that I propose.

The PRESIDENT *pro tempore*. The resolution is in the power of the Senator who offers it to modify as he pleases, the Senate having taken no action upon it. No modification being proposed, the question is on the resolution. The resolution was adopted.

EXECUTIVE SESSION.

On motion of Mr. FESSENDEN, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened.

FREEDMEN'S BUREAU REPORT.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting, in compliance with the requirement of the third section of an act approved March 3, 1865, a communication from the Secretary of War with the accompanying report and estimates of the Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands; which, on motion of Mr. POMEROY, was laid upon the table, and ordered to be printed.

On motion of Mr. CLARK, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, December 19, 1865.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BORTON, in the following words:

O God, our Father, who openest Thy hand to supply our daily wants, we come to Thee for Thy morning benediction. Thou hast commanded us to ask for daily bread; much more should we ask Thee for supplies of daily wisdom. We thank Thee for the continuance of our lives. By the sudden death of one who was once an honored member of the national Legislature Thou hast taught us that we cannot lengthen out the span of our days. To the family circle, plunged into mourning by this sudden bereavement, administer, we pray Thee, in Thy bountiful mercy, the balm of consolation. And teach us to realize the great uncertainty of human life, that we may apply our minds unto wisdom and perform our daily duties with a view to the momentous issues of eternity.

O God, we stand to-day on the soil of a nation which is, not alone by inference or report, but by the solemn announcement of the constituted authorities, declared free in every part and parcel of its territory. Blessed be Thy name, O God, for Thy wonderful ending of this terrible conflict! We pray Thee to bless the President of the United States, his Cabinet officers, the legislators in both Houses of Congress, and give unto all who have any influence in this matter, the wisdom, the strength, the courage, the determination, and the perseverance to carry out to the glorious end what has been thus begun. And thine shall be all the glory forever. Amen.

The Journal of yesterday was read and approved.

ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 35) making appropriation for refurbishing and repairing the President's House; when the Speaker signed the same.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States by Mr. JOHNSON, his Private Secretary.

CONTESTED-ELECTION CASES.

The SPEAKER laid before the House credentials signed by J. Madison Wells, Governor of the State of Louisiana; and a certificate of James E. Towson, clerk of the Stafford county court, in favor of the claim of B. Johnson Barbour to a seat from the third congressional district of Virginia; which were referred to the joint committee on reconstruction.

MISSOURI CONTESTED-ELECTION CASE.

Mr. KELSO. I rise to a question of privilege. I will make a brief statement of facts.

The SPEAKER. The gentleman will state his question of privilege.

Mr. KELSO. I ask for an extension of time to take supplementary testimony in the case of my seat contested by Judge Boyd. I will require but a few moments to state the facts. During the time allowed by law for taking testimony I was absent in the service of my country; I was in the Army, and could not obtain leave of absence in order to attend to the matter. I employed an attorney to attend to the business, but he was called away on other business toward the close of the day. The notices that were to be left with my wife failed to reach her on account of the want of mail facilities. They did not reach us in time, and the consequence was that neither myself nor my attorney knew any depositions were taken until the time to take rebutting testimony had passed. This was without any fault on my part, but was owing to the fact that I was beyond mail communication—guerrillas being upon the roads, and only strong parties of military men being able to get dispatches through. My wife, who

was confined to a sick-bed, had no opportunity to communicate with me in time.

I have tried to be a good soldier and to do service to my country; and I hope, under these circumstances, the House will grant me sixty days, or such time as they may think proper, so that I may be able to take such evidence as will do justice to myself and my constituents.

Mr. DAWES. Has the gentleman submitted a resolution?

The SPEAKER. He has; a resolution to grant him sixty days in which to take testimony.

Mr. DAWES. Both sides, or only one?

The SPEAKER. Both sides.

Mr. DAWES. I should think that this should be referred to the Committee of Elections. The law prescribes a certain time in which this testimony shall be taken, and it has been the uniform practice of the House, with one or two exceptions, to adhere to that rule. I do not doubt that for good reasons the House may be induced to extend the time, but it is a question upon which both sides should be heard. There may be reasons why the House should not be disposed to extend the time; and that could be better understood if both parties could present their views on the point to some committee, and that committee could report on it. Besides, the committee would be under the necessity of introducing some resolution prescribing the mode in which this testimony shall be taken and the person before whom it shall be taken, if the House should be of the opinion that this extension should be granted.

I do not desire to express an opinion for or against the motion of the gentleman from Missouri. I only desire that the House may conform, as much as possible, to the precedent, and that is, that this should come ultimately from the Committee of Elections, if at all. I therefore make the motion that it be referred to the Committee of Elections, and demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the motion was agreed to.

Mr. DAWES moved to reconsider the vote by which the resolution was referred to the Committee of Elections; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

FREEDMEN'S AFFAIRS.

The SPEAKER, by unanimous consent, laid before the House a communication from the President of the United States, transmitting, in compliance with the third section of the act approved March 3, 1865, a communication from the Secretary of War, with accompanying report of estimates of the Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands.

Mr. ELIOT. I move that so much of the President's communication as relates to estimates be referred to the Committee on Appropriations, and that the remainder be referred to the select committee on freedmen, and that the message be printed.

The motion was agreed to.

BENJAMIN G. HARRIS.

Mr. FARNSWORTH. I rise to a question of privilege. I ask the Clerk to read a preamble and resolution which I send up, and upon its adoption I demand the previous question.

The Clerk read, as follows:

Whereas it is alleged that Benjamin G. Harris, a Representative in this House from the fifth district of the State of Maryland, was in the month of May last, before a very respectable and intelligent court-martial, tried, and by said court convicted, upon charges and specifications, to wit, "violation of the fifty-sixth Article of War," by giving aid and comfort to the public enemy, and inciting them to continue to make war against the United States, declaring his sympathy with the enemy, and his opposition to the Government of the United States in its efforts to suppress the rebellion; and whereas it was proved at such trial (as is alleged) that the said Harris expressed his regret that the assassination of President Lincoln came too late to be of any use to the rebels, and at the same time declared that Jeff. Davis was a great and good man: all of which acts on the part of said Harris are inconsistent with the oath which he has taken as a member of this House; and whereas the said court-martial sentenced the said Harris (among other things) to be forever disqualified to hold

any office of honor, trust, or profit under the United States, which sentence was approved by the President; Therefore,

Resolved, That the Committee of Elections be directed to inquire into the facts of the case, and that they report the same to the House, together with such action as said committee shall recommend; and in making their investigations said committee to have power to send for persons and papers.

Mr. ELDRIDGE. I rise to a question of order. It is that this is not a question of privilege.

The SPEAKER. On what ground?

Mr. ELDRIDGE. On the ground that it does not relate to the organization of the House nor to the seat of a member.

The SPEAKER. The Chair thinks it is a question of privilege, and one of the very highest kind.

Mr. JOHNSON. On what ground?

The SPEAKER. It involves the right of a member to his seat.

Mr. DAWES. I hope the gentleman will withdraw his demand for the previous question. I think it proper that this resolution should direct the Committee on the Judiciary to make this inquiry.

Mr. FARNSWORTH. I will withdraw it for the purpose of moving that amendment.

Mr. DAWES. I make that motion.

Mr. FARNSWORTH. I will accept that amendment, and renew the demand for the previous question.

Mr. WILSON, of Iowa. I would suggest to the gentleman from Illinois that the resolution is in proper shape now. It involves a question of fact, and not of law, and it should properly be investigated by the Committee of Elections.

Mr. FARNSWORTH. On consideration I will insist upon the resolution in the original form, and demand the previous question.

Mr. FINCK. I do not wish to make any extended remarks, but merely to call the attention of the House to the fact that the gentleman from Maryland [Mr. HARRIS] is not in his seat.

Mr. BROOKS. I call for tellers on seconding the previous question. I want to give the gentleman from Maryland an opportunity to come into the House before the vote is taken.

Tellers were ordered; and Mr. Brooks and Mr. FARNSWORTH were appointed.

The House divided; and the tellers reported—ayes 103, noes 17.

So the previous question was seconded.

Mr. RANDALL, of Pennsylvania. Is it in order to move that the resolution be referred to the Committee on the Judiciary?

The SPEAKER. It is not, as the previous question has been seconded.

The main question was then ordered to be put.

Mr. BRANDEGEE. I call for the yeas and nays on the passage of the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 138, nays 21, not voting 23; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bergen, Bidwell, Bingham, Blow, Boutwell, Brandegee, Bromwell, Broom, Backland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Dawes, DeForest, Delano, Denning, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Aahel W. Hubbard, Chester D. Hubbard, Dennis Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, James Humphrey, Ingersoll, Jenckes, Julian, Kason, Kelley, Kelso, Ketchum, Kuykendall, Ladin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marshall, Marston, Marvin, McClurg, McIndoe, McKee, McRuer, Mercer, Miller, Moorhead, Paine, Patterson, Perham, Pike, Plants, Price, Radford, William H. Randall, Raymond, John H. Rice, Rollins, Ross, Rousseau, Sawyer, Schenck, Seaford, Shellabarger, Sitgreaves, Sloan, Smith, Spaulding, Starr, Stevens, Stillwell, Taber, Thayer, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Upson, Van Arman, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, and Windom—138.

NAYS—Messrs. Acona, Boyer, Brooks, Dawson, Denison, Eldridge, Finck, Glossbrenner, Grider, Aaron Harding, Edwin N. Hubbell, Johnson, McCullough,

Nicholson, Ritter, Rogers, Shanklin, Strouse, Taylor, Trimble, and Voorhees—21.

NOT VOTING—Messrs. Delos R. Ashley, Blaine, Chanler, Culver, Davis, Goodyear, Griswold, Harris, Hogan, James M. Humphrey, Jones, Kerr, Le Blond, Morris, Niblack, Noell, Phelps, Pomeroy, Samuel J. Randall, Alexander H. Rice, Winfield, Woodbridge, and Wright—23.

So the resolution was passed.

During the roll-call,

Mr. JOHNSON said: Mr. HARRIS, against whom the proceeding is had, without any notice, is absent; I therefore, with others, vote "no."

The result of the vote having been announced as above recorded,

Mr. FARNSWORTH moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question recurred upon the preamble, and, being put, the preamble was agreed to.

Mr. FARNSWORTH moved to reconsider the vote by which the preamble was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRINTING OF NAVY REGISTER.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

Resolved, That twenty-five hundred copies of the Navy Register be printed for the use of the members of this House.

Mr. LAFLIN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MILITARY AND NAVAL SCHOOLS.

Mr. BANKS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs and the Committee on Naval Affairs be respectively instructed to consider and report if any change in the system of education at the Military School at West Point, or the Naval School at Annapolis be expedient or necessary; and also to consider and report upon the expediency of establishing or aiding in the establishment of schools for instruction in military and naval science in each of the several States of the Union, with the view and for the purpose of providing a more effective means of national defense without enlarging the class of citizens whose lives are especially devoted to those duties; and that the Committee on Military Affairs and the Committee on Naval Affairs be invested with full jurisdiction of so much of the subject of this resolution as properly belongs under the rules to the business of those committees.

Mr. WASHBURN, of Illinois. I call for the regular order of business.

The SPEAKER proceeded, as the regular order of business, to call the committees for reports.

INTER-STATE COMMUNICATION.

Mr. WASHBURN, of Illinois, from the Committee on Commerce, reported back, with a recommendation that it do pass, bill of the House No. 11, to facilitate commercial, postal, and military communication among the several States.

The bill authorizes every railroad company in the United States, whose road is operated by steam, its successors and assigns, to carry upon and over its road, connections, boats, bridges, and ferries, all passengers, troops, Government supplies, mails, freight, and property on their way from any State to another State, and to receive compensation therefor.

Mr. WASHBURN, of Illinois. I propose to call the previous question, but I will yield for a moment to my colleague upon the Committee on Commerce, [Mr. O'NEILL.]

Mr. O'NEILL. I desire to ask my colleague, the chairman of the Committee on Commerce, if he will not withdraw his call for the previous question for the present. I ask him to allow me, before I sit down, to make a motion to refer this bill to the Committee on the Judiciary, and I do it because it involves many legal questions of great magnitude and importance to the country, and the members of the House, perhaps, would be better satisfied to have those

gentlemen who have been selected for their legal ability to constitute that committee, to pass upon it.

Without referring at all to the questions which may be involved, to what railroad companies may be interested, or how it may affect this State or that, I think we should hesitate in passing a bill which has not been before us this session, which has not been printed and upon our files, and which raises questions of constitutional law and State action requiring grave consideration, and especially demanding careful and not hasty legislation.

I do not wish to enter into the details of this question; I do not wish to make an argument for or against the bill; but I do ask the House and my colleague on the Committee on Commerce, its distinguished chairman, to permit me to make the motion indicated, so that the judicial organ of this body may report upon it; and I ask it without reference to any railroad corporation, but simply that we may know from the Judiciary Committee whether we are not infringing upon rights, privileges, and franchises which we should not do without a full understanding and proper investigation. The questions involved seem to me to belong rather to the Judiciary Committee than to the Committee on Commerce. I do not desire this reference for purposes of delay. I am not trying to subvert the interests of any corporation. I have always been in favor of developing all sections of our country by railroad and other enterprises, and would not, for a day even, retard the completion of those which, from want of means, may be struggling for existence against the power of wealthier monopolies. I hope that the chairman of the Committee on Commerce will give me an opportunity of moving that the bill be referred to the Committee on the Judiciary, and that he will not call the previous question. If he cannot consent to do this, I will be constrained to vote against any further progress in the bill to-day.

Mr. WASHBURN, of Illinois. I was instructed by the Committee on Commerce, of which my friend from Philadelphia is a distinguished member, to report this bill and ask the action of the House upon it this morning. The gentleman from Pennsylvania desires, as he says, if the previous question shall be withdrawn, to offer a motion to refer the bill to the Committee on the Judiciary, that that committee may consider it.

Now, sir, I am a little surprised that my friend on the Committee on Commerce should distrust the legal ability which is on that committee, and should desire to refer this bill to the Committee on the Judiciary. I am aware that the Committee on the Judiciary had this bill, or a bill precisely like this, before them during the last Congress, and that they reported the bill which has been reported by the Committee on Commerce this morning, word for word, and that this House on the 12th of May, 1864, passed this precise bill.

The gentleman has spoken of various railroads that may be interested. Sir, I know of no railroad and of no interest which can control me, or which, I believe, will control the judgment of this House in a matter of this kind. It is a question whether Congress has not the right, and whether it will not exercise that right, to secure free intercourse between the States. It was the judgment of a large majority of this House, in the last Congress, that this bill ought to pass, and it was passed; and I think that part of the President's message which referred to this subject of the restrictions put by one State upon the commerce of other States has met with, perhaps, as much approbation from the country as any portion of that message, and I trust, as this question has been fully considered in the minds of gentlemen, the House will be willing now, at this early period of the session, to pass this bill and let it go to the Senate, so that they may take action upon it, because it will be remembered that although this bill was passed by the House as early as the 12th of May during the last long session of Congress, it was never reached in the Senate to be finally

disposed of, but was, in the very last hours of the Senate, talked to death.

The gentleman from Ohio [Mr. GARFIELD] reminds me of the fact that this bill was passed twice during the last Congress. And with every desire to accommodate my distinguished friend and colleague on the committee [Mr. O'NEILL] in his wish to have this matter referred, I must carry out the instructions of the committee in asking for the action of the House at this time upon this bill. If the House desire to have discussion upon it, if they wish to consider it more fully, they can vote down the demand for the previous question, and the whole subject will then be before the House for discussion.

The gentleman from Ohio, [Mr. GARFIELD,] who introduced the bill has asked me to yield to him for a moment for explanation. I will do so, retaining my right to the floor.

Mr. GARFIELD. I introduced this bill at an early day in the session, in hopes that it might become a law, and not be killed as it was last winter by being delayed from time to time on various pretexts at the special personal request of individuals in this House and in the other branch of the national Legislature. The bill is very brief and easy of comprehension. It is a plain declaration of the right of Congress to regulate commerce between the States, and strikes a blow at those hateful monopolies which have so long been preying upon the body of American industry. The subject is so well understood by this House that it hardly needs debate.

If, however, gentlemen desire to debate this bill, I am as ready to debate it now as I was last winter; but I will not consent, so far as my vote will go, that it shall again be postponed until killed by time. I will consent to nothing more than a postponement to a day certain. But I hope the House has already sufficient intelligence upon the subject to act upon it now.

Mr. J. L. THOMAS. I will ask my colleague on the Committee on Commerce [Mr. WASHBURN, of Illinois,] to allow me to make a single statement.

Mr. WASHBURN, of Illinois. It is but fair that I should yield to the gentleman from Maryland [Mr. J. L. THOMAS] for a moment. He is a member of the Committee on Commerce, and was opposed to this bill. I yield the floor to him.

Mr. J. L. THOMAS. I desire to say simply that I rise here not for the purpose of advocating the interest of any railroad in the State of Maryland or elsewhere. I voted in committee against reporting this bill to the House this morning, for the reason so well stated by my colleague on the committee, the gentleman from Pennsylvania, [Mr. O'NEILL,] that I consider that this is a question not proper to be laid before the Committee on Commerce; and I do hope that before the House passes upon a bill of this magnitude, with these constitutional questions and questions of law involved in it, they will not only first refer it to the Committee on the Judiciary, but that they will accept the suggestion of the gentleman from Ohio, [Mr. GARFIELD,] and name a certain day for the consideration of this question, when any gentleman who desires to give his reasons for or against the adoption of this measure may have an opportunity to be heard.

I am opposed to the calling of the previous question on these important measures, for it stifles all freedom of speech. I have as much right to be heard in this House, on this and other questions, as any other gentleman. This is a question touching the rights and interests of my own State. Although the bill does not, on its face, purport to embrace any particular railroad, it does embrace the Baltimore and Ohio railroad, and whether I am the advocate of that railroad or not, I do come here for the purpose of endeavoring to protect the interests of my State, and for that purpose I have a right to be heard; and I do hope that for these considerations the House will postpone the consideration of this bill, and make it the special order for, say, the 11th of January.

Mr. WASHBURNE, of Illinois. I insist upon the previous question.

Mr. JOHNSON. Will the gentleman from Illinois [Mr. WASHBURNE] withdraw that call for a moment?

Mr. ROGERS. I would ask the gentleman to withdraw the call for the previous question, to allow me to make a few remarks.

Mr. WASHBURNE, of Illinois. For what purpose?

Mr. ROGERS. For explanation.

Mr. WASHBURNE, of Illinois. I will yield for a few moments.

Mr. ROGERS. This question was before the House at its last session in this same shape. It was debated here, and it was a very serious question indeed, not only in regard to the constitutional power of Congress to interfere with the legislation of the States, or the railroads of the States, but the policy of Congress in so doing. So much influence had that consideration that upon a division of this House there was only six majority given in favor of that bill. After having had it discussed here for a long time, after those great questions had been argued, when the vote came to be taken the majority given in this House in favor of the bill was only six, and it was passed in ample time to go to the Senate and receive the approval of the Senate if it met their approval. But it was postponed from time to time in the Senate, simply upon the ground that the Senate were opposed to passing the bill. And it was put off in that way, until the constitutional period of the session of the Senate had expired; and in that manner it was defeated.

Since that bill was before the House last winter, several persons who were not members of the House then have become members of this House. There are many here who do not understand the character and nature of this bill as it has been introduced into this House. It is well known to members here that the main object of this bill is to strike at the State of Maryland and the State of New Jersey; to deprive a chartered company of my State of a great privilege granted to it by the Legislature, by a solemn compact made years ago. The main object of the bill is to strike at that State for the purpose of annoying this railroad, which runs from Camden to New York by way of the coast, and to violate a charter which was given to them by the State of New Jersey, compelling and binding them only to carry freight and passengers in the State.

This is a matter, it strikes me, about which there may be a very great difference of opinion. It is a question of grave importance. The proposition embraced in this bill strikes at the very foundation of the rights of the States. No constitutional question which has been or can be raised in this House demands more consideration than the question which is now presented. I hope that the majority in this House will not press this bill at this early period of the session without giving members a chance to deliberate upon it, that we may, in our action on a question of this grave character, be satisfied that we have acted within the intent and spirit of the Constitution, and according to the best policy and interest of the country.

All I ask is that we may have an opportunity to debate this question, that it may be understood by the members, that we may arrive at a conclusion that will be reasonable. I stand here, not as the advocate of any particular railroad company, but as the advocate of the rights of my own State, which has recently come into the Union by proclaiming herself now to be loyal, [laughter;] and I ask that no infringements upon her constitutional rights shall be countenanced by the Congress of the United States. There is no reason now existing why New Jersey—loyal New Jersey, as demonstrated in the late election—should have her rights trampled upon.

Mr. KELLEY. Will the gentleman yield to me one moment?

Mr. ROGERS. Yes, sir.

Mr. KELLEY. I wish to inquire of the gen-

tleman whether New Jersey has come into the Union with his consent.

Mr. ROGERS. The decision of the people, as rendered at the election, was without my consent.

Now, sir, it does seem to me fair and proper that this House should allow sufficient opportunity for due consideration and discussion on this question. I have no idea that a majority of the members of this House will force this question upon us now.

Mr. WASHBURNE, of Illinois. That can be settled very quickly. I will demand the previous question; and let the House determine whether it will pass this bill now, or whether the Camden and Amboy and the Baltimore and Ohio Railroad Companies shall continue to have the privilege of imposing on every person passing over their roads an unjust tax of fifteen or twenty cents or a dollar every trip.

Mr. ROGERS. It is in order that we may have the opportunity to disprove just such charges as that—charges which are untrue, although, of course, the gentleman does not intend to state anything but what he seriously believes to be true—that we want to have this subject properly discussed before the House, so that the State of New Jersey and the State of Maryland may be exhibited in their true attitude, and that it may be shown that those States are not disposed to interfere with the just rights of any one or to tax anybody illegally.

Mr. WASHBURNE, of Illinois. There is nothing in the terms of this bill in regard to New Jersey or Maryland. It is a general enactment, which will apply everywhere. I think the people of this country have suffered long enough from the evils which the bill proposes to remedy. I demand the previous question.

Mr. ROGERS. I ask the gentleman to yield to me for one moment.

Mr. WASHBURNE, of Illinois. For what purpose?

Mr. ROGERS. For the purpose of saying this: that the first bill introduced into this House on this subject was a bill which proposed, in direct terms, to authorize the Delaware and Raritan and the Camden and Atlantic Railroad Companies to carry freight and passengers between the State of Pennsylvania and the State of New York; and because of the objection raised here that that bill was intended to apply to that particular purpose, that bill was abandoned, and the identical bill which is now introduced here was brought up to accomplish the same object.

Mr. WASHBURNE, of Illinois. The bill the gentleman refers to, a much better bill than the first, met the approval of the House, and would have received the concurrence of the Senate if a vote had been had. I demand the previous question.

Mr. O'NEILL. I appeal to the gentleman from Illinois to yield to me for a moment.

Mr. WASHBURNE, of Illinois. I cannot yield further.

Mr. J. L. THOMAS. Is it in order, Mr. Speaker, to move a postponement of this subject to a day certain?

The SPEAKER. It is not.

The previous question was seconded, there being, on a division—ayes 73, noes 58.

The main question was ordered, which was upon ordering the bill to be engrossed and read a third time.

Mr. JOHNSON. I move that the bill be laid on the table, and on that motion I demand the yeas and nays.

The yeas and nays were not ordered.

The motion of Mr. JOHNSON was not agreed to. Mr. WRIGHT. I desire to ask the gentleman from Illinois whether he will not, at some time before this bill is passed, permit me to explain to him the error under which he labors—

Mr. WASHBURNE, of Illinois. I submit that the gentleman is out of order, as the main question has been ordered.

The SPEAKER. Debate is not in order.

On ordering the bill to be engrossed and read a third time,

Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 93, nays 51, not voting 38; as follows:

YEAS—Messrs. Allison, Ames, Anderson, James M. Ashley, Baker, Banks, Barlow, Baxter, Beaman, Benjamin, Bidwell, Bingham, Boutwell, Brandegee, Bromwell, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Delano, Deming, Dixon, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Ferry, Garfield, Hart, Hayes, Henderson, Higby, Holmes, Demas Hubbard, John H. Hubbard, James R. Hubbell, James Humphrey, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketchum, Kuykendall, William Lawrence, Loan, Longyear, Lynch, Marston, McClure, McIndoe, McKee, McRuer, Miller, Moorehead, Morrill, Moulton, Myers, Orth, Paine, Patterson, Perham, Plants, Price, William J. Randall, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spaulding, Stevens, Taylor, Thayer, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, Welker, Wentworth, James F. Wilson, Stephen F. Wilson, and Windom—93.

NAYS—Messrs. Ancona, Baldwin, Bergson, Boyer, Brooks, Broomall, Chanler, Dawson, Deftoes, Denison, Driggs, Eldridge, Finck, Glossbrenner, Grider, Hale, Aaron Harding, Abner C. Harding, Chester D. Hubbard, Edwin N. Hubbard, Johnson, Kerr, Latham, Marshall, Marvin, McCullough, Morcu, Newell, Nicholson, O'Neill, Phelps, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Smith, Starr, Strouse, Francis Thomas, John L. Thomas, Thornton, Trimble, Whaley, Williams, and Woodbridge—51.

NOT VOTING—Messrs. Alley, Delos R. Ashley, Blaine, Blow, Culver, Darling, Davis, Dawes, Donnelly, Farguhar, Goodyear, Grinnell, Griswold, Harris, Hill, Hogan, Hooper, Hotchkiss, Asahel W. Hubbard, Hulbard, James M. Humphrey, Jones, Ladin, George V. Lawrence, Le Blond, Morris, Noel, Pike, Pomeroy, Raymond, Alexander H. Rice, John H. Rice, Stillwell, Taber, Burt Van Horn, Voorhees, William B. Washburn, Winfield, and Wright—38.

So the bill was ordered to be engrossed and read a third time.

During the call of the roll,

Mr. WRIGHT said, when voting, that it was an invasion, and he would vote "no."

Mr. MARSHALL asked leave to explain his vote.

Mr. WASHBURNE, of Illinois, objected.

Mr. MARSHALL stated that he had had no opportunity to consider the bill, and would therefore vote in the negative.

The vote was then announced as above recorded.

The bill being engrossed and read the third time,

Mr. WASHBURNE, of Illinois, demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. WRIGHT demanded the yeas and nays.

Mr. JOHNSON demanded tellers on the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

The bill was passed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

RIVER AND HARBOR IMPROVEMENTS.

Mr. ELIOT, from the Committee on Commerce, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be directed to communicate to the House of Representatives the present condition of the harbors of the United States where public works have been built, or directed to be built, and what appropriations are required for their preservation or repair, and inform this House what other harbors upon the sea coast, on the lake coast, and upon the navigable rivers, require appropriations for their preservation or needful repair.

AMENDMENT OF THE RULES.

Mr. WASHBURNE, of Illinois. I rise to a privileged question. I am instructed by the committee on the rules to report as follows:

Strike out, in line one, rule 74, "thirty-one," and insert "thirty-two," so that it will read, "thirty-two standing committees shall be appointed at the commencement of each Congress," &c. Insert before "a Committee on Patents" the words "a Committee on Mines and Mining;" and add after the last rule: "It shall be the duty of the Committee on Mines and Mining to consider all subjects relative to mines and mining which may be referred to them, and to report their opinion thereon, together with such propo-

sitions relative thereto as may seem to them expedient."

The amendment was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, notified the House that the Senate had passed a bill and joint resolutions of the following titles, in which the concurrence of the House was requested:

An act (S. No. 24) to amend section five of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July 4, 1864;"

Joint resolution (S. R. No. 2) for the restoration of Commanders William Reynolds and Melancton B. Woolsey, United States Navy, to the active list from the reserved list; and

Joint resolution (S. R. No. 7) for increasing the bond of the Superintendent of Public Printing.

The message also notified the House that the Senate had passed a concurrent resolution of the House providing for a temporary adjournment of Congress, with amendments, in which the concurrence of the House was requested.

ADJOURNMENT OVER.

Mr. WASHBURN, of Illinois. As a question of privilege, I call up the resolution just sent in from the Senate in reference to adjournment over the holidays.

The resolution as it passed the House was read, as follows:

Resolved, (the Senate concurring.) That when the two Houses of Congress adjourn on Wednesday the 20th instant, they adjourn to meet on Tuesday the 9th of January next.

The amendments of the Senate were read, as follows:

First. Strike out "Wednesday," and insert in lieu thereof "Thursday."
Second. Strike out "20th," and insert in lieu thereof "21st."
Third. Strike out "Tuesday," and insert in lieu thereof "Wednesday."
Fourth. Strike out "9th," and insert in lieu thereof "3d."

The resolution, as amended, would read as follows:

Resolved, (the Senate concurring.) That when the two Houses of Congress adjourn on Thursday the 21st instant, they adjourn to meet on Wednesday the 3d of January next.

Mr. WASHBURN, of Illinois. I think a committee of conference could agree upon something more satisfactory to both Houses, and therefore I move that the House non-concur in the Senate amendments, and ask a committee of conference.

Mr. FARNSWORTH. I hope the House will concur.

Mr. WASHBURN, of Illinois. I demand the previous question.

Mr. BALDWIN. Is it not in order to move a concurrence in the Senate amendment?

The SPEAKER. The usage has been that motions that bring the two Houses together can be received even in spite of the previous question.

Mr. BALDWIN. I move that the House concur in the Senate amendments.

Mr. MORRILL. If the previous question shall not be seconded, then the question will be upon concurring.

The SPEAKER. That question arises, and it takes precedence of the motion to non-concur.

Mr. WASHBURN, of Illinois. I hope the House will non-concur, and have a committee of conference.

The SPEAKER. The first question will be upon concurrence.

The previous question was seconded, and the main question ordered to be put.

On the question of concurring there being, on a division—ayes 55, noes 76,

Mr. FARNSWORTH demanded the yeas and nays.

The yeas and nays were not ordered.

The amendments were not concurred in.

The motion of Mr. WASHBURN, of Illinois, that the House non-concur in the Senate amendments, and ask a committee of conference, was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The SPEAKER subsequently appointed Mr. WASHBURN of Illinois, Mr. WILSON of Iowa, and Mr. WRIGHT, members of such committee on the part of the House.

AMENDMENT TO THE RULES.

Mr. DAWSON, from the committee on rules, reported the following amendment to the rules, and upon it demanded the previous question:

Add at the end of the rules the following:

The allowance of stationery to each Member and Delegate shall be of the value of seventy-five dollars for the long session, and forty-five dollars for the short session of Congress.

Mr. STEVENS. I hope that amendment will not be adopted. I do not believe the Committee of Ways and Means, under its former organization, including what are now three committees, ever found the least difficulty about the amount of stationery. I think the present amount is enough. I know I always have had some over at the end of the session.

Mr. DAWSON. This matter is not debatable.

The SPEAKER. Debate is not in order.

The previous question was seconded, and the main question ordered to be put.

Mr. CONKLING called for the yeas and nays on the passage of the amendment.

Mr. STEVENS called for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The amendment to the rules was adopted.

Mr. DAWSON moved to reconsider the vote by which the amendment to the rules was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

REBEL DEBT.

Mr. WILSON, of Iowa, from the Committee on the Judiciary, reported back joint resolution of the House No. 9, to amend the Constitution of the United States, with an amendment.

The joint resolution was read, as follows:

Resolved by the House of Representatives of the United States, (the Senate concurring.) That the following amendment to the Constitution of the United States be, and the same hereby is, proposed to the Legislatures of the several States for ratification, namely:

ARTICLE — No tax, duty, or impost shall be laid, nor shall any appropriation of money be made, by either the United States, or any one of the States thereof, for the purpose of paying, either in whole or in part, any debt, contract, or liability whatsoever, incurred, made, or suffered by any one or more of the States, or the people thereof, for the purpose of aiding rebellion against the Constitution and laws of the United States.

The amendment reported by the committee is as follows:

Be it resolved by the Senate and House of Representatives of the United States in Congress assembled, (two thirds of both Houses concurring.) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid to all intents and purposes as a part of said Constitution, namely:

ARTICLE — No tax, duty, or impost shall be laid, nor shall any appropriation of money be made, by either the United States, or any one of the States thereof, for the purpose of paying, either in whole or in part, any debt, contract, or liability whatsoever, incurred, made, or suffered by any one or more of the States, or the people thereof, for the purpose of aiding rebellion against the Constitution and laws of the United States.

Mr. WILSON, of Iowa. The amendment reported by the Committee on the Judiciary is on the preliminary portion of the resolution, providing for the submission of the proposed amendment of the Constitution to the Legislatures of the States. As originally drafted, the resolution did not follow the precedents established in regard to amendments of the Constitution in other cases, and the amendment is simply to conform

the resolution to the precedents heretofore established. I call the previous question.

The previous question was seconded, and the main question ordered.

The amendment reported by the Committee on the Judiciary was agreed to.

The joint resolution as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question recurred on the passage of the joint resolution.

Mr. WILSON, of Iowa. This proposition is so generally concurred in that I do not think it necessary to occupy the time of the House in discussing it. I believe that every member of the House is anxious to prevent the occurrence of any possibility by which the people of the country may be made liable for the payment of the debts contracted by the late so-called confederate States, or either of them, in the prosecution of the late war against the Government of the United States, and unless some members desire some further explanation than can be had from the reading of the joint resolution itself, I propose to move the previous question on the passage of the joint resolution.

Mr. ROGERS. I would ask the gentleman when this matter was brought up in the Committee on the Judiciary?

Mr. WILSON, of Iowa. At a regular meeting of the committee. I believe the gentleman was not present, but I think every other member of the committee was present.

Mr. ROGERS. I was under a misapprehension as to when the committee met. I supposed that when the House was not in session, the committee did not meet. If I understand that resolution it is a proposition to prevent the people of the rebel States from paying debts contracted during the rebellion by the States. I would like to have it read again.

The joint resolution was again read.

Mr. ROGERS. If I had been present at the meeting of the committee I would have been willing to agree to part of that resolution, but part of it I cannot subscribe to. That part of it which prevents the United States from assuming the debts of the rebel States I agree to; but that part which undertakes to bind the people of the States in saying what debts they shall pay and what they shall not I entirely disagree to.

It strikes me that three fourths of the States have no right by an amendment to the Constitution of the United States to undertake to dictate to the States what debts they shall pay, or anything whatever in relation to their domestic affairs of any kind or character. My understanding of the Constitution of the United States is that it contains no powers except those delegated to the Federal Government by the States, and that every power that was reserved by the States at the time they entered into the Federal Government is still held by the States, and that neither three fourths of the States nor even all of them but on have any right through an amendment of the Constitution, or in any other way, to deprive an individual State of any right that that State never gave up to the Federal Government at the time it entered into the formation of the American Union.

It is upon the broad ground that the States of this country have some rights, and that three quarters of the States have no right, merely because they call it an amendment to the Constitution, to deprive the other quarter of the States of the rights and privileges which were guaranteed to them after the Revolution, which they held in themselves, and which they never handed over to the Federal Government, or over which they never gave that Government, as their agent, any authority or control. If the Constitution of the United States can be amended by three fourths of the States and two thirds of each House of Congress, so as to deprive the people of a State of the right to pay any particular kind of debt, or to carry on any particular kind of transaction, the right to do which was reserved to the States, and which never became a part of the delegated powers of the Federal Government, then an

amendment to the Constitution may deprive the other fourth of the States of every sovereign power which was reserved to the States at the time they entered into and made the American Union. If, I say, Congress and three fourths of the States, by an amendment to the Constitution, have a right to deprive the States of a power which they have in their inherent right, which they claimed and owned before they entered into the Federal Union, and can control their domestic concerns in that manner, then an amendment to the Constitution might deprive a State of a Governor, and a court, and every single domestic institution and policy which existed in the State.

Now, I have not yet learned to believe, from the wisdom which I have seen exercised by those who have gone before me, and from reading the Constitution of the United States, that the men who made and framed the Constitution ever intended that an amendment should be made to it so as to deprive any portion of the States of any rights which those States did not give up to the Federal Government, which they did not hand over to the Federal Government, which they did not give the Federal Government the power and authority to act upon. In other words, the right to hold a court, the right to elect a Governor, the right to elect and hold a Legislature, all rights which were reserved to the States, are rights which were never delegated to the Federal Government, over which the Federal Government, neither by an amendment of the Constitution, nor in any other manner, has any right of interference. If those rights cannot be interfered with, if a State has a right to hold its own courts, elect its own Legislature and its own Governor, if it has a right to control its own domestic resources, then by an amendment of the Constitution of the United States can the right which the people of a State in some future time may see fit to exercise, to pay a debt which they may consider themselves under a moral obligation to pay, be interfered with in this manner?

Mr. FARNSWORTH. Does the gentleman from New Jersey [Mr. Rogers] hold that the framers of the Constitution intended to give a State the right to tax its people, the loyal people of the State, if there are any, to pay a debt incurred in a rebellion against the Constitution and Government of the United States?

Mr. ROGERS. That is not the point. They gave the people the right through their Legislatures to tax themselves to pay any debt they may see fit to pay, and whether that debt was contracted in a righteous or an unrighteous, a just or an unjust cause, makes no difference in regard to the right of the State. The great question is, did the States, when they entered into the American Union, give up the right to control, by their own Legislatures, what debts shall be paid by them?

Mr. STEVENS. Will the gentleman state what is the use of the power of amending the Constitution unless that gives the power to change the condition of the States as well as the laws of the nation?

Mr. ROGERS. The use of it is this: the framers of the Constitution gave to Congress and three fourths of the States the right to amend the Constitution in everything that comes within the spirit of the Constitution, in everything that lay at its foundation. They have no right to change the whole Government by an amendment of the Constitution. You have no right to make of this Government a monarchy, to change the attitude of the President.

Mr. ROUSSEAU. I wish to ask the gentleman whether it is one of the reserved rights of a State to break up the Government?

Mr. ROGERS. No, sir; I do not contend for any such thing. But it was a right of a State to pay its own debts in its own way, in its own manner, and at its own time, and three fourths of the States have no right, by an amendment of the Constitution, to say that the other fourth of the States shall not pay any debt they may see fit to pay. I am not here arguing in favor of paying the rebel debt, or in favor of the rebellion, for I denounce it; but I am here to

stand up for the rights of civil liberty, the rights of the States not to be invaded by a majority of this House, taking away from them reserved rights which they had fought for and wrested from the tyranny and despotism of King George, and which they supposed they had firmly implanted in themselves, and had never given away or turned over to the authority and control of the Federal Government.

Can the Constitution of the United States be amended in every respect and in every way? Unless it can be, unless there is supreme, unlimited, controlling power in two thirds of both Houses of Congress, and three fourths of the States, to take away all the rights of the individual States, then there is no power, under the spirit and reason of the organic law, to take away from a State any right which that State reserved at the time of the adoption of the Constitution—which it never intended to place under the control of the Federal Government, but of which it expected to retain the exclusive control within its own domain, and under its own sovereign authority, without any right of interference on the part of any other State or of the General Government.

I know that the Constitution of the United States provides that two thirds of both Houses of Congress may propose amendments which shall be valid when ratified by the Legislatures of three fourths of the several States, or by conventions in three fourths thereof; and the only express limitations of this power are that no amendment made prior to 1808 shall affect the provision with reference to the importation of slaves, and that no State, without its consent, shall be deprived of its equal voice in the Senate. It has been argued that, as these are the only exceptions or limitations specified, there resides with two thirds of both Houses of Congress and three fourths of the States an unlimited power to amend the Constitution in every other particular.

Mr. SHELLABARGER. If the gentleman will allow me to interrupt him for one moment, I desire to inquire whether, in his opinion, it is competent so to amend the Constitution of the United States as to prohibit a State from rebelling; and if it is, then why is it not competent to provide by amendment that a State may not pay the expenses of carrying on a rebellion?

Mr. ROGERS. It would be competent to amend the Constitution of the United States so as to provide that a State shall be forbidden to rebel. By the Constitution, as it now stands, the States are forbidden to rebel. Although it is not written in the Constitution in express words that no State may rebel, that no State may secede, that no State may withdraw from the Union, yet the spirit of the Constitution, the foundation stone which lies at the base of our whole structure of government, denies the right of any State to withdraw from the compact into which it entered when it, with the other States, formed the American Union.

But that is not the question now before the House. A rebellion has taken place, a war has been carried on, a debt has been created, money has been loaned by individuals; and my proposition is simply to leave to the States concerned the right to say hereafter whether they will pay that debt or not. It is not the business of New Jersey, of Pennsylvania, of Ohio, or of any other State, to say whether Virginia, through the action of her Legislature or her people, shall pay her own debt, which, though contracted in an unholy cause, may be deemed in after years, according to the judgment of her people or their descendants, necessary to be paid.

I do not wish to be understood as standing here to argue in favor of paying that debt. I am simply contending that there must be some limit to the power to amend the Constitution of the United States. We have now before the Committee on the Judiciary almost numberless propositions to amend the Constitution; and I want to know whether it is in the power of two thirds of both Houses of Congress, with the concurrence of three fourths of the States, to amend that instrument in every particular, and

thus rob the individual States of the most sacred rights which they have inherited—rights which they intended should continue as a part of their sovereign power, and which, wisely, and in accordance with the genius of the institutions of this country, they have always been allowed to exercise?

Mr. WILSON, of Iowa. Mr. Speaker, I have already yielded to the gentleman from New Jersey more of the time accorded to me by the rules of the House than I intend to occupy myself; and I must therefore decline to yield to him further.

Mr. ROGERS. I shall conclude in a moment. I simply desire to submit one other proposition with reference to this power to amend the Constitution—a proposition which, I think, affords an effective answer to an argument which was presented at the last session, which I was then unable to answer, and which, I believe, was not satisfactorily answered by any one. It was argued at the last session by the honorable chairman of the Judiciary Committee, [Mr. Wilson, of Iowa,] and by others, that, as the Constitution specifies in express terms but two limitations on the power of amendment, the exceptions prove the rule, and there is therefore an unlimited power of amendment in all other respects, whether the amendments proposed infringe the reserved rights of the States or not.

Mr. WILSON, of Iowa. I think I now understand the gentleman's proposition, and I therefore decline to yield to him further. Other gentlemen have appealed to me, and the hour before the expiration of which I desire to call the previous question is running rapidly away.

Mr. ROGERS. I would say to the gentleman from Iowa that on questions amending the Constitution of the United States the majority of this House ought not to compel the minority to act upon them under the call for the previous question. We ought not to be compelled to pass on questions of this great magnitude without having an opportunity to consider and debate them. I appeal to the magnanimity of the gentleman from Iowa, as one who would respect the rights of the minority of this House on these constitutional questions, that we shall have the right to be heard.

Mr. WILSON, of Iowa. Mr. Speaker, I am disposed, I think, to protect the rights of the minority as much as any man in this House, and I think that I am disposed to protect minorities further than the gentleman from New Jersey. I am in favor of protecting that minority which he now represents in the State of New Jersey.

Mr. ROGERS. I do not represent a minority; I represent a majority.

Mr. WILSON, of Iowa. If any portion of the people of New Jersey desire to remove into the limits of any one of the States that were in rebellion, I desire that that portion of the people thus removing shall not be liable to the payment of part of the debt incurred for the purpose of the destruction of this Government. I am in favor of protecting the minority in another respect, and that is to protect them against the corrupting influences of the immense amount of money involved in the aggregation of the rebel debt—that contracted by the so-called confederate States in their general capacity, and that contracted by the several States as part and parcel of the so-called confederate government.

We had a full discussion of the doctrine of the right of amendment of the Constitution of the United States during the last Congress; and I do not believe at that time there was much difference of opinion on the subject, nor do I believe there is now. I believe that the gentlemen of the House concur with the gentleman from New Jersey in the opinion that when the framers of the Constitution made it they made it so that no State should have the right to secede from the Union. The Government of the United States, in the struggle which has just closed, has reaffirmed by force of arms, sealed with the blood of loyal men, the decree of our forefathers. We propose to so affirm the Constitution by this amendment that not

only that determination of the fathers, reaffirmed by the people in this day, shall have effect, but that no part of the people, either in the North or the South, shall be called upon in the future to pay one dollar of the debt thus contracted for the purpose of destroying the Government of the United States. And that is the sole purpose embraced in this proposition.

For the purpose of making it effective, we have proposed by this amendment that the Congress of the United States shall have jurisdiction of all cases arising under this amendment, striking at all debts contracted for the purpose of aiding either that or any other rebellion which may arise in the future, and giving the tax-payer in each and every State the right to carry his case as against the tax-gatherer into the courts of the United States, there to meet with the full protection we desire to give by this amendment. We do not merely desire to prohibit the assumption of this debt, but we provide also for that effective remedy which will make the people secure.

I do not desire to occupy the attention of the House further. I believe that the House is in a temper to adopt the proposed amendment; and unless some other gentleman wants to make a suggestion, I shall call for the previous question.

Mr. HALE. I do not think that the amendment is broad enough. I think that it ought to prohibit the assumption of any debt contracted by any rebel legislature in the past or in the future.

Mr. WILSON, of Iowa. I think that the resolution is broad enough to cover the object desired by the gentleman from New York. It prohibits the assumption of all kinds of debt contracted for the purpose of carrying on the rebellion. The State governments embodied in the so-called confederacy were for the purpose of aiding the rebellion, so that any debt contracted by the so-called confederacy, or any State of it, was contracted in aid of that rebellion, for it was in that way they got the machinery of their government in motion. I think that it is broad enough to cover the object of the gentleman from New York.

Mr. SHELLABARGER. I would inquire whether the committee considered the propriety of adding to this amendment to the Constitution the provision that was added to the one abolishing slavery, that Congress shall have power to pass laws to carry this amendment into effect.

Mr. WILSON, of Iowa. I cannot say that the Committee on the Judiciary officially considered the question presented by the gentleman from Ohio; but it will be observed by every member of this House that the proposition contained in this resolution is different from that contained in the amendment to which he alludes; that we lay down the general proposition that slavery shall not exist, and that Congress shall have power to carry that into effect.

In this, however, we not only lay down the means, but we provide the ways and means through which the citizen shall have his remedy in the courts of the United States. Therefore I do not think it necessary to have that added, though I should have no objection myself to have that addition made to the resolution.

Mr. BINGHAM. The amendment as reported by the committee simply restrains the United States and the States from collecting taxes or appropriating moneys for the payment of any rebel debt. I suggest to the gentleman that it might be well, in order to secure the object intended, to add to the proposed amendment the words, "Nor shall the United States or any State of the Union ever assume or pay any part of such debt or liabilities."

Mr. JOHNSON. Will the gentleman from Iowa yield to me a moment?

Mr. WILSON, of Iowa. I wish first to make a remark or two in reply to the honorable gentleman from Ohio, [Mr. BINGHAM.] In my opinion, though I may be in error, the resolution in its present form is broader than it would be if amended as the gentleman from Ohio

desires. I think, as the Secretary of State said in his dispatch to the authorities of South Carolina, in relation to the latter clause of the amendment abolishing slavery, that it would be only a limitation. I now yield to the gentleman from Pennsylvania.

Mr. JOHNSON. I have no doubt that there will not be any opposition from any part of this House to the general scope and purpose of the amendment proposed. I desire to say, so far as I understand gentlemen around me, there is no opposition to the purpose and object expressed and proposed in the passage of this resolution. Exception might possibly be made to the loss of time growing out of the matter, but on no other ground, for how any man can conceive that the debts of a dead State or government are to be paid without an administrator, I do not know.

But, sir, I rose simply to say I do think it is due to the people of the United States and to the dignity of this House that grave questions of this character should be considered with some degree of gravity. I wish in the first instance to state that this amendment, upon which the House is now called to act, is not printed so that members can read it. We have been compelled to sit in our seats and gather now and then a remark of an explanatory character. One gentleman thinks, so far as I can hear, the resolution rather too broad; another says it is not broad enough; and another gets up and assures those around me that it is all right.

I enter my protest against this kind of legislation. It is all wrong. However much gentlemen may believe in their own competence to draw resolutions amendatory of the Constitution of the United States, it is asking a little too much that a whole side of the House should be taken on their own responsibility only. I have great respect for the Committee on the Judiciary, and believe it has been very well constituted; but at the same time I have not so much respect for any committee that I would not take the time to read a bill they proposed for our action.

This is the objection I have to the immediate passage of this bill.

Mr. HIGBY. Though this amendment has been offered by the Committee on the Judiciary, whose ability we do not doubt, yet as so many questions have been raised, would it not be better, in order that this amendment to the Constitution may be so thoroughly perfected as to leave no door of escape, that there should be some little delay for consideration? Would it not be better that some time certain in the future should be fixed for the consideration of this amendment? Some provision of the kind suggested ought to be added to it. The question in my mind is whether the amendment is strong enough as it is.

Mr. INGERSOLL. I desire to suggest, in addition to what has already been said, that this joint resolution should be printed, and opportunity given for offering amendments.

Mr. WILSON, of Iowa. In reply I will say that this proposition has been printed. It was printed when it was first introduced.

Mr. INGERSOLL. It has not been printed and laid on our desks.

Mr. WILSON, of Iowa. If the gentleman had sent to the document-room he would have found it.

Mr. INGERSOLL. The gentleman did not inform the House that it could be had at the document-room.

I do not believe that this action ought to be forced upon the House with such precipitation. Let every man have an opportunity to consider this question. The more it is considered the better, if by its consideration we can improve the resolution so that the object may be attained most certainly; and that object is the prevention of any State that took part in the rebellion from levying taxes upon its people to pay this debt, when every dollar of taxation levied upon such people should be levied for the purpose of liquidating the national debt that was created in the subjugation of the rebellion rather than that one cent should be raised in any rebel

State for the liquidation of the debt created for the overthrow of the Government. I favor a postponement in order that the resolution may be made to accomplish the purpose desired by the committee. I think it due to the House that the resolution should be printed and placed upon the table of each member, and that time should be given for him to consider it, so as to vote understandingly upon it.

Mr. WILSON, of Iowa. The gentleman had an opportunity of seeing the resolution the day after it was printed. Under the rules of the House, bills and resolutions are not now distributed and laid on the desks of members.

Mr. INGERSOLL. When the resolution was introduced and referred to the Committee on the Judiciary, and ordered to be printed, was any assurance given to the House that it would be reported back without amendment for the action of the House? Not at all; I cannot tell whether the resolution as now reported is in the shape in which it was when it went to the committee and was printed. I do not know how that is, and I ask that it shall be printed, so that we may know.

Mr. WILSON, of Iowa. If the gentleman will be satisfied with my assurance, I can assure him that so far as the proposed amendment of the Constitution is concerned, it is reported back in the same shape in which it was referred to the committee.

Mr. SLOAN. I think it would be more satisfactory to the House if the gentleman from Iowa would move to make this resolution the special order for some early day, and I would suggest that course to him. We all agree in the object of the resolution, and desire early action upon it; but we desire also to understand the measure proposed.

Mr. WILSON, of Iowa. I have certainly no disposition to force the House to a vote now if the members of the House generally desire a postponement, and that the resolution be set down as a special order for some future day. I had supposed that this resolution, being reported after due and calm consideration on the part of the Committee on the Judiciary, the House would be ready to act upon it without any considerable delay, but if I am mistaken in that, I have no objection to postpone it for a time in order that the House may have full opportunity to examine the phraseology and details of the proposed amendment.

Mr. NIBLACK. I wish to inquire of the gentleman from Iowa whether, as there are so many other propositions now pending, and I suppose before his committee, to amend the Constitution of the United States in many particulars, it would not be better that when any single proposition is reported back, it should be postponed till some future time, and the amendments should all come up at one time and be made the special order from day to day until disposed of? Gentlemen will then have a better opportunity to give the subject attention. The proposed amendments will then all be grouped together so that we can compare them and be better enabled to comprehend their force and the correlative effect one upon the other of the different amendments proposed. In this way we have to consider them disjointedly and in a very unsatisfactory manner.

I suggest, therefore, to the gentleman the propriety of grouping all these proposed amendments together and making them the special order for some time during the session, and then we can devote our time to them until disposed of.

Mr. WILSON, of Iowa. This proposition is a very short one, contained in a very few words, and I would suggest that its consideration be postponed until to-morrow. Probably gentlemen will be able, at that time, to act upon it understandingly; they will have an opportunity to examine it and also the other propositions to amend the Constitution which have been submitted. I suggest, therefore, that this resolution be set down as the special order for to-morrow after the morning hour.

Mr. ROGERS. Those on this side of the House would like to have an opportunity to

discuss this question, and I hope they will be allowed that opportunity.

Mr. WILSON, of Iowa. I am opposed to postponing this subject longer than till to-morrow.

Mr. ROGERS. Will we be allowed an opportunity to-morrow to debate it?

Mr. WILSON, of Iowa. If there shall be a general disposition on to-morrow to bring this question to a vote, I shall ask the House to vote on it. If there should be a general disposition, as there seems to be to-day, for a further delay, I shall not ask a vote to-morrow.

Mr. JOHNSON. Will the gentleman from Iowa [Mr. WILSON] yield to me for a moment?

Mr. WILSON, of Iowa. I will hear the gentleman.

Mr. JOHNSON. It is not the purpose of any gentleman on this side of the House, so far as I can learn, to discuss this proposition at any great length. Their object is simply to criticise the language of the proposed amendment, to see the bearing the words have on each other, for we are still in the dark upon that subject. The amendment upon which the House is now called upon to act has not yet been printed. The only objection I have to the consideration of this subject to-morrow is the question whether it can be printed and distributed by that time. We get the Globe about one o'clock, and that is the time we are to be called upon to vote on this question.

Mr. WILSON, of Iowa. I propose to give the gentleman twenty-four hours to get light on this subject, by my proposition to postpone it until to-morrow.

Mr. INGERSOLL. And that it be printed.

Mr. WILSON, of Iowa. I have already announced that the resolution has been printed, and the gentleman can get it by sending to the document-room.

Mr. INGERSOLL. Has it been printed as a report from the committee?

Mr. WILSON, of Iowa. It is not printed as a report from the committee, but it was printed as it was reported from the committee; that is, the proposed article of the Constitution.

Mr. INGERSOLL. I wanted to know whether the gentleman from the Judiciary Committee was attempting to pass this joint resolution without first having it printed and submitted to the House for examination, or whether this was the proposition as introduced and printed at the time it was referred to the Judiciary Committee.

Mr. WILSON, of Iowa. I hope, when the gentleman reads the copy he has in his hand, he will see that it is printed. Inasmuch as I propose now to postpone this subject until to-morrow, I must ask a vote on that question. I ask that it be made the special order after the morning hour.

Mr. WRIGHT. Will the gentleman yield to me for a moment?

Mr. WILSON, of Iowa. I must decline to yield further.

Mr. SMITH. I rise to a question of order. Can the gentleman from Iowa [Mr. WILSON] yield any further, the hour to which he was entitled having expired?

The SPEAKER. The hour has not yet expired.

Mr. WILSON, of Iowa. I call the previous question on the motion to make this joint resolution a special order for to-morrow after the morning hour.

Mr. RANDALL, of Pennsylvania. I desire to ask the Chair whether it is in order to move to make this a special order for some day later than the one indicated by the gentleman from Iowa, [Mr. WILSON.]

The SPEAKER. A special order can be made only by unanimous consent on this day, it not being suspension day.

Mr. RANDALL, of Pennsylvania. Then I propose to object to its being made a special order for to-morrow. If, however, the gentleman from Iowa [Mr. WILSON] will name a later day he will meet with fair discussion and with but little opposition to his proposition. For one I am not inclined to arrest or prevent this amendment, in so far as it shall relieve the

southern people who have been in rebellion from this species of taxation which may lead to a payment of the rebel debt. On the contrary, I desire that all their energies and powers of industry may go to the payment of the national debt.

Mr. WILSON, of Iowa. I will withdraw the motion to postpone this joint resolution until to-morrow, and I do it for this reason: inasmuch as the gentleman objects to its being made the special order for to-morrow I ask that a vote may be taken on it to-day. I do so because some Legislatures are now in session, and some of them will probably adjourn before the Senate can act on this subject, unless it is sent there at once. If it needs amendment, it can be amended there. I therefore call the previous question on the passage of the joint resolution.

Mr. WASHBURN, of Illinois. Will the gentleman from Iowa [Mr. WILSON] permit me to make a suggestion?

Mr. WILSON, of Iowa. I must decline. I insist upon my demand for the previous question upon the passage of the joint resolution.

The question was taken; and there were—ayes 89, noes 50.

So the previous question was seconded, and the main question ordered, which was upon the passage of the resolution.

Mr. THAYER. I call for the yeas and nays.

The SPEAKER. As the Constitution requires a two-thirds vote to pass a constitutional amendment, there is a manifest propriety in taking the vote by yeas and nays, and the Chair will order the vote to be taken in that way in order to ascertain if two thirds vote in the affirmative.

Mr. ROGERS. Can the question be divided now?

The SPEAKER. Not upon the question of the passage of the resolution.

The question was taken; and it was decided in the affirmative—yeas 150, nays 11, not voting 21; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blow, Boutwell, Boyer, Brandegee, Bromwell, Broomall, Buckland, Bundy, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Dawes, DeFrees, Delano, Dening, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Finck, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Hogan, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, Ingersoll, Jencks, Johnson, Julian, Kasson, Kelley, Kelso, Kerr, Ketcham, Kuykendall, Latham, Latham, George V. Lawrence, William Lawrence, Lean, Longyear, Lynch, Marshall, Marston, Marvin, McClure, McKee, McKim, Mercer, Miller, Morrill, Moulton, Myers, Newell, Niblack, Noell, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Price, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Ross, Rousseau, Sawyer, Schenck, Scofield, Shellabarger, Sitgreaves, Sloan, Smith, Spalding, Starr, Stevens, Stillwell, Strouse, Taber, Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Unson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Voorhees, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Westworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Wright—150.

NAYS—Messrs. Brooks, Denison, Eldridge, Grider, Aaron Harding, McCullough, Nicholson, Ritter, Rogers, Shanklin, and Trimble—11.

NOT VOTING—Messrs. Ancona, Delos B. Ashley, Bergen, Blaine, Culver, Davis, Dawson, Glassbrenner, Goodyear, Harris, Edwin N. Hubbell, James Humphrey, James M. Humphrey, Jones, Le Blond, McIndoe, Moorhead, Morris, Pomeroy, Winfield, and Woodbridge—21.

So (two thirds voting in favor thereof) the resolution was passed.

During the call of the roll,

Mr. ANCONA said: I desire to be excused from voting, on the ground that I do not understand the question.

The SPEAKER. It is too late to make such a request. Under the rule, applications to be excused from voting must be made before the call of the yeas and nays is commenced.

Mr. JOHNSON. I vote "ay;" but I "go it blind." The bill is not printed; as stated by the gentleman from Iowa, [Mr. WILSON.]

Mr. BOYER. I did not vote when my name was first called, because I thought there was

not sufficient time given for deliberation on so grave a subject. But believing, (though I am not sure,) that I now understand the scope of the bill, I vote "ay."

The result was announced as above stated.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ABOLITION OF SLAVERY.

Mr. SHELLABARGER, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be directed to inquire and report to this House, as soon as practicable, by bill or otherwise, what legislation is necessary to enable the courts of the United States to enforce the freedom of the wives and children of soldiers of the United States under the joint resolution of Congress of March 3, 1865, and also to enforce the liberty of all persons under the operation of the constitutional amendment abolishing slavery.

Mr. SHELLABARGER moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SUFFRAGE IN DISTRICT OF COLUMBIA.

Mr. ROGERS, by unanimous consent, presented, from a minority of the Committee on the Judiciary, a report against the passage of the bill extending the right of suffrage in the District of Columbia; which was laid on the table.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the President's message.

ADJOURNMENT.

Mr. SCHENCK. I ask the gentleman from Pennsylvania [Mr. STEVENS] to yield to me that I may make a motion to adjourn, the reason for which I will explain. The members of the Ohio delegation have been invited to attend, at three o'clock this afternoon, a meeting called for the purpose of making arrangements for the funeral ceremonies of the late Hon. Thomas Corwin; as the Ohio delegation embraces nineteen members, we can hardly leave with propriety while the House is in session, and it is now after three o'clock.

Mr. STEVENS. I cheerfully yield to the gentleman for the purpose indicated.

Mr. SCHENCK. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at ten minutes past three o'clock p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, December 20, 1865.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Treasury, in response to a resolution of the Senate inquiring whether any officers of the Government were receiving pay and performing the duties of their respective offices without taking the oaths prescribed by law; which was laid upon the table, and ordered to be printed.

COMPENSATION DUE SENATOR COLLAMER.

Mr. FOOT. I rise to move a reconsideration of a vote adopting a resolution offered by myself directing the Secretary of the Senate to pay to the widow of the late Senator Collamer the compensation due him at the time of his death. I desire to offer a slight amendment to the resolution, and it becomes necessary, therefore, to move to reconsider the vote adopting the resolution.

The motion was agreed to.

Mr. FOOT. I move to reconsider the vote ordering the resolution to be engrossed for a third reading.

The motion was agreed to.

Mr. FOOT. I now move to amend the resolution by striking out the word "contingent" and inserting "compensation," so as to make the amount payable out of the compensation fund instead of the contingent fund of the Senate.

The amendment was agreed to.

The resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

MRS. LINCOLN.

Mr. LANE, of Kansas. I move to take up the bill in reference to Mrs. Lincoln.

The PRESIDENT *pro tempore*. If there be no objection that bill will be considered as before the Senate.

Mr. CRESWELL. May I inquire what the bill is?

The PRESIDENT *pro tempore*. The title of the bill will be read for information.

The Secretary read it, as follows:

A bill (H. R. No. 4) for the relief of Mrs. Mary Lincoln, widow of the late President of the United States.

Mr. WADE. I hope the Senator from Kansas will let that bill lie over until the reports from committees are gone through with.

Mr. LANE, of Kansas. This bill will lead to no discussion. I only desire to amend it by inserting three words, so as to carry out the intent of Congress.

Mr. WADE. If it will lead to no discussion I shall not interpose an objection.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which directs the Secretary of the Treasury to pay to Mrs. Mary Lincoln, widow of Abraham Lincoln, late President of the United States, or, in the event of her death before payment, to his legal representatives, the sum of \$25,000, but any sum of money paid to his legal personal representatives since his death on account of his salary as President of the United States, is to be deducted from this sum of \$25,000.

Mr. FOOT. I think an amendment becomes necessary in order to carry out the intent of the bill, as suggested by the Senator from Kansas. The bill is a literal transcript of the act making like compensation to the widow of President Harrison. It will be seen by the proviso that there is to be deducted from the \$25,000—the salary for one year, the salary intended for the current year upon which Mr. Lincoln had entered—such sums of money as have been paid since his death to his administrator. A literal interpretation of this language would include moneys that had been paid him, as in fact moneys were paid to the administrator of Mr. Lincoln, on his salary falling due for the months of January and February of the preceding year. I say, a literal interpretation of these words would require a deduction of that money from the \$25,000. Such is not the intent, manifestly, of the bill; such is not the intention of Congress; but only to deduct such moneys as may have been paid his administrator for the current year. I move, therefore, to insert after the words "President of the United States," in the proviso, the words, "for the current year," so that the proviso, if amended as proposed, will read as follows:

Provided always, That any sum of money which shall have been paid to the personal representatives of said Abraham Lincoln, since his death, on account of his salary as President of the United States for the current year, shall be deducted from the said sum of \$25,000.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the bill to be read a third time. It was read the third time and passed.

A message was afterward received from the House of Representatives announcing its concurrence in the amendment.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed

the following bill and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 11) to facilitate commercial, postal, and military communication among the several States; and

A joint resolution (H. R. No. 9) to amend the Constitution of the United States.

The message further announced that the House of Representatives had disagreed to the amendments of the Senate to the resolution of the House proposing an adjournment of the two Houses from the 20th of December to the 9th of January next; asked a conference on the disagreeing votes of the two Houses thereon; and had appointed Mr. E. B. WASHBURN of Illinois, Mr. JAMES F. WILSON of Iowa, and Mr. E. R. V. WRIGHT of New Jersey, managers at the same on its part.

PETITIONS AND MEMORIALS.

Mr. WADE. I hold in my hand a very able and well-drawn memorial of the society of Friends who met lately in Baltimore, in which they have summed up what they believe to be the hardships and evils under which the freedmen are laboring in divers parts of the Union, and what they conceive to be the remedy, and they pray that Congress may adopt such legislation as will remedy those evils. I move that the memorial be referred to the joint special committee on reconstruction.

The motion was agreed to.

Mr. SHERMAN presented a petition of citizens of the United States, praying that there be granted to the soldiers and their legal representatives of the last war one hundred and sixty acres of unappropriated lands belonging to the United States; which was referred to the Committee on Military Affairs and the Militia.

Mr. SUMNER. I offer a petition from citizens of Massachusetts, and, as I have many similar petitions to offer, I will call the particular attention of the Senate to its prayer. It sets forth very briefly several propositions: first, that the people in the rebellious districts having by their own acts vacated their rights as citizens and as State organizations, and having by act of Congress been declared alien enemies, have as yet no right and are improper persons to be represented in Congress; that the policy of the Executive, in assuming to restore civil authority through military governments without the aid and advice of Congress, is contrary to the spirit of our institutions; that it is the right and duty of Congress, at the earliest possible moment, to assume control over the late rebellious districts, and to provide provisional governments for the same in order that sovereignty may be restored at an early period, and a truly republican form of government be guaranteed to every State; that before recognition of the late rebellious districts as States and their admission to the national councils, a due regard must be had for the rights of the loyal people, and for security for the future, which cannot be obtained by oaths; that while we may renounce indemnity for the past, irreversible guarantees for the future must be insisted upon, and should be obtained before readmitting rebels to equal rights with loyal persons; that the States actually cooperating and supporting the national Government, as represented in Congress and in Legislatures, constitute at all times a constitutional quorum to make laws and to amend the Constitution, any number of ex-States, having no constitutional representatives and Legislatures, notwithstanding; that emancipation is not complete as long as the black codes exist; therefore the petitioners pray Congress to take measures to provide provisional civil governments for the late rebellious districts, and as security for the future, to exact irreversible guarantees, among which should be, first, the unity and sovereignty of the Republic; secondly, enfranchisement and equality before the laws; thirdly, security of the national debt; fourthly, the rejection of the rebel debt; fifthly, compulsory education; and sixthly, national peace and tranquillity by impartial suffrage. I offer this petition from citizens of Massachusetts, and

move its reference to the joint committee having the subject of the condition of the rebel States under consideration.

The motion was agreed to.

Mr. SUMNER also presented similar petitions from citizens of the States of Missouri, New York, New Jersey, Kentucky, Indiana, Ohio, and Illinois; which were referred to the joint committee on reconstruction.

Mr. SUMNER. I also, Mr. President, offer what is called "a petition and memorial of citizens of the United States," proceeding from an assembly in the Puritan church at New York, and signed by the committee to whom, on the occasion of the meeting, was delegated the duty of preparing this petition and memorial, the committee being George B. Cheever, Edward Gilbert, and Parker Pillsbury. In the course of this very elaborate document, the argument for justice to an oppressed race is set forth under several different heads. We have here, for instance, at length the revolutionary opinions and the articles of Government; we have here a discussion of the question of attainder of color or race, which, it is said, is forbidden by the Constitution; also the question of *ex post facto* laws which are declared to be inconsistent with the Constitution and are applicable to this question; also the guarantee of a republican form of government in the Constitution, under which the petitioners insist there should be equal rights. The petition concludes as follows:

"Your memorialists therefore pray that no State may be admitted into the Union with the proscription of color in its constitution or laws; neither Colorado, nor Tennessee, nor South Carolina, nor any other State now applying for admission.

"Your memorialists pray that equality of all classes before the law, including the right of suffrage, the right of testimony, the right to bear arms, secured and protected for all classes as for the whites, may be required of the States in their constitutions and laws, before any of them are permitted to assume their former independent position in and under the Government of the United States.

"That a renewal of the injustice for which the rebellion was undertaken may be rendered forever impossible, your memorialists pray that an amendment be added to the Constitution of the United States."

I move the reference of this petition and memorial to the joint committee of the two Houses.

The motion was agreed to.

Mr. SUMNER. I also offer a petition from citizens, colored and white, of the State of Virginia, with a large mass of accompanying papers, in which they ask Congress—

Mr. DOOLITTLE. Without interrupting my honorable friend, I understand—

The PRESIDENT *pro tempore*. Does the Senator from Massachusetts give way to the Senator from Wisconsin?

Mr. SUMNER. Certainly.

Mr. DOOLITTLE. I understood that the last memorial asked for an amendment to the Constitution of the United States. I submit to my honorable friend from Massachusetts whether that question had not better go to the Judiciary Committee, as it is a question of amending the Constitution of the United States.

Mr. SUMNER. If the Senator had listened to the memorial as I read it, he would have found that the memorial was chiefly occupied with topics which are now submitted to a joint committee.

Mr. DOOLITTLE. But the prayer of the memorial is for an amendment of the Constitution.

Mr. SUMNER. I beg the Senator's pardon. He did not listen to the memorial.

The memorial I now have is, I say, from citizens of Virginia in the neighborhood of Norfolk, white and black, with papers accompanying; and they ask, according to the resolutions of a public meeting, that Congress will adopt such legislation as will secure to the lately rebellious States a republican form of government, and the consequent protection of the colored citizens of Virginia in life, liberty, and property, and the granting to the colored citizens of those States the right to testify in courts and to equality of suffrage the same as white citizens. I move that this petition and the accompanying papers go to the joint committee. The motion was agreed to.

Mr. RIDDLE presented the petition of Lieutenant George B. Rodney, of the fourth United States artillery, praying to be relieved from responsibility for the capture of his papers by the rebels at the battle of Chickamauga, while he was acting as assistant quartermaster; which was referred to the Committee on Military Affairs and the Militia.

Mr. COWAN presented a petition of soldiers of the late war, praying that the necessary legislation may be had to equalize the bounties of soldiers who enlisted in the beginning of the war with those who enlisted near its close; which was referred to the Committee on Military Affairs and the Militia.

REPORTS FROM COMMITTEES.

Mr. WADE, from the Committee on Territories, to whom was referred a bill (S. No. 23) giving the consent of Congress to the annexation of the counties of Berkeley and Jefferson, formerly of the State of Virginia, to the State of West Virginia, reported it with an amendment.

SUFFRAGE IN THE DISTRICT.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 1) to regulate the elective franchise in the District of Columbia, reported it with amendments.

Mr. FOOT. Mr. President—

Mr. SUMNER. I wish to ask the chairman of the Committee on the District of Columbia when he proposes to proceed with the consideration of the very important bill which he has just reported.

Mr. MORRILL. I shall be inclined to call it up at the earliest possible time, but probably not before the contemplated adjournment.

Mr. SUMNER. I am very glad that my excellent friend proposes to proceed with the consideration of that measure at an early day. I believe that the country requires promptitude in that act of justice.

Mr. DAVIS rose.

The PRESIDENT *pro tempore*. Does the Senator from Massachusetts give way to the Senator from Kentucky? The Senator from Massachusetts has the floor.

Mr. DAVIS. I rise to call the Senator to order.

The PRESIDENT *pro tempore*. The Senator from Kentucky calls to order.

Mr. DAVIS. I ask, what question is pending before the Senate?

The PRESIDENT *pro tempore*. The Chair recognized the Senator from Vermont, [Mr. Foot.] The Senator from Massachusetts interposed to ask a question of the Senator from Maine who had made a report—a question in regard to when he proposed calling up a bill. There was no distinct question before the Senate; but it is frequently, as the Senator knows, the practice to inquire into a matter of that sort without the Chair interposing. There was no distinct question before the Senate, however.

Mr. DAVIS. But the Senator in his usual disorderly manner was proceeding to make a speech.

Mr. SUMNER. I had only uttered one sentence. The Senator constantly utters many.

Mr. DAVIS. I call the Senator to order.

Mr. FOOT. I believe I am entitled to the floor.

The PRESIDENT *pro tempore*. The Senator from Vermont is entitled to the floor.

BARNEY CAIN.

Mr. FOOT. The Committee on Pensions, to whom was referred the petition of Barney Cain, praying that the bounty may be paid him which would have been due his deceased son, Henry N. Cain, a private in the eighth regiment Vermont volunteers, had he lived to be mustered out of the United States service, have had it under consideration, and have directed me to report a bill. I ask that the bill be put upon its passage if there be no objection. It is only for the payment of a bounty of \$100.

By unanimous consent, the bill (S. No. 53) for the relief of Barney Cain was read three times. It proposes to direct the Secretary of

the Treasury to pay to Barney Cain, of Rutland, Vermont, the sum of \$100, that being the bounty to which his son Henry M. Cain, who had enlisted as a private in the eighth regiment Vermont volunteers, for the term of three years, would have been entitled by law, had he lived to have been formally mustered into the United States service, but who sickened and died after his enlistment, and without being mustered into the service of the United States.

Mr. FOOT. The case in one word is this: the son of the petitioner enlisted as a volunteer in the military service of the country, for three years, rendezvousing at Rutland for the time, and being drilled in the company to which he was attached for several days; but he was taken sick and died before the regiment to which he was attached was regularly mustered into service. Had he lived until that time, which occurred a few days after, and been regularly mustered in, he would have been entitled to \$100 bounty under the act of 1862. The committee have recognized cases similar to this before them as coming within the spirit and equity, though not strictly within the letter, of the law. The father, who is a man in indigent circumstances, and of whom this son was the main support and reliance, asks for the \$100 to which his son would have been entitled had he lived a week longer and been in health and been mustered in the United States service. There are several precedents, three or four, that came before the same committee and have been recognized by them, and have passed Congress, as coming within the equity and spirit of the act though not within its letter.

The bill was passed.

ADDRESSES ON MR. COLLAMER'S DEATH.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print the addresses delivered in the Senate and House of Representatives on the occasion of the death of the late Senator Collamer, have instructed me to report it back without amendment, and ask for its present consideration.

By unanimous consent the Senate proceeded to consider the following resolution:

Resolved, That there be published in pamphlet form for the use of the Senate, six thousand copies of the addresses made by the members of the Senate and members of the House of Representatives, upon the occasion of the announcement of the death of Hon. Jacob Collamer.

Mr. TRUMBULL. I desire to inquire of the Senator from Rhode Island, who reports this resolution, if it is in accordance with former precedents. My impression is that since I became a member of the Senate this matter was discussed at some length, and the Senate came to the conclusion that they would not publish the obituary addresses delivered on the occasion of the death of members of the Senate. I know that was the conclusion at that time. It is a very delicate matter to object to a proposition of this kind; but as the Senator whose decease is commemorated was my friend, and I feel as kindly toward his memory, I am sure, and as high a regard for it as any member of the Senate, and as I listened with great admiration to the eulogies which were pronounced on him, I feel that it is no breach of propriety to call the attention of the Senate to this subject. As I have stated, I recollect a discussion in regard to it in the Senate. I am not aware whether the rule then adopted has been departed from or not, but at that time the Senate came to the conclusion that they would not make such publications.

Mr. JOHNSON. In the case of Governor Hicks, at the last session, it was departed from.

Mr. TRUMBULL. If the precedents are contrary to what I supposed, I have no objection to the resolution.

Mr. FOOT. The Senator will recollect that in the case of his own colleague, Judge Douglas, a very large edition of the obituary notices was published by order of the Senate.

Mr. TRUMBULL. My impression was just the reverse.

Mr. FOOT. In that case a large edition was published, at least five thousand copies.

Mr. ANTHONY. The precedent was established, I believe, before I came into the Senate, upon a test vote, not to publish addresses of this kind. Afterward in the first case where there was a departure from it, on the occasion of the death of Mr. Douglas, the Committee on Printing reported the resolution, if I recollect aright, without any recommendation, not being willing to depart from the precedent which had been established, and yet thinking it was an occasion where the Senate might choose so to depart; and the Senate by a very decided majority voted to print the addresses. Afterward, on the next similar occasion, the Committee on Printing reported in the same way, without any recommendation, leaving it for the Senate to decide whether they would print the addresses or not. The Senate having in both cases decided to print them, the committee thought the precedent was established, so far as the judgment of the Senate was concerned at the time, and have reported this resolution in accordance with what they supposed to be the usage of the Senate.

Mr. POMEROY. I think that during the four years I have been here no obituary notices have been published in a distinct volume separate from their appearance in the Congressional Globe.

Mr. FOOT. The Senator is mistaken.

Mr. POMEROY. If I am mistaken I shall be glad to be corrected.

Mr. FOOT. In the case of Governor Hicks, at the last session, just referred to by the Senator from Maryland, they were printed by order of the Senate.

Mr. POMEROY. I have never had the books; they have not been distributed. Other Senators about me say they have not received them.

Mr. JOHNSON. They were all published.

Mr. POMEROY. I know that in the case of the lamented Baker, the subject was discussed here somewhat, and the obituary addresses were not published. If, however, we ever published them, I should be glad to do it in this case. My own impression was that our precedents have been against it, at least since I have been in the Senate.

Mr. ANTHONY. Twice the committee have reported resolutions of this kind without any recommendation, so as to take the sense of the Senate upon them, and in both cases the Senate passed the resolutions. The committee therefore thought it would be the pleasure of the Senate to do so in this case.

Mr. COWAN. I certainly have no wish to prevent the public promulgation of any mark of respect to the late Judge Collamer; but I think, in view of the financial difficulties of the country at the present time, that it must impress itself upon the minds of all men that we should be economical, and that we should expend no more money than is absolutely necessary; and if we are even to begin a system of retrenchment we ought to begin now and here. Is this expense necessary? Is this one of the necessary publications of this body, or is it one which is simply complimentary? If it were necessary, absolutely necessary, I would agree to the publication; but believing that it is not so, I am here in my place to oppose it.

And, sir, I would go further; I would abolish nine tenths of the printing that is done in both Houses of Congress, because I consider it a mere expenditure without any value received to the country. Nine tenths of the documents that are published here, and distributed to and among the people are little more than waste paper; and I think I only express the universal sentiment of the people when I say that this system has been carried to a length of which they utterly disapprove, and that they look upon it merely as a means by which a representative puts himself in connection with certain favorite constituents of his, and keeps them in mind of their allegiance to him; or in other words, that all these publications are simply electioneering machines. I have no doubt that if there be a publication of which the country desires the distribution, the people

would willingly pay for it if it was furnished to them at cost, and I think it is time we should begin to retrench and begin to retrench here, because if we do not, in my judgment, we shall be obliged to do it at a time when it may be much more unpleasant than at present.

Mr. FESSENDEN. In the dearth of business, I suppose we may discuss a question of this sort a little as well as any other. I remember very well the history of all this matter. As I have been here a good many years this subject has become quite familiar to me. When I came here the Senate was in the habit, whenever an individual member of the body died while a member, of publishing, in the form of a book, the obituary addresses delivered on the occasion. I do not know with whom the practice began, but my impression is that it began with Mr. Clay, though it might have been before. The books were got up in handsome style and large numbers were distributed. It began with the idea that it would be well to publish in this form obituary notices of very eminent gentlemen whose fame filled the country and the world, but it soon got to be a practice, whenever a member of the body died, to get up a book on the occasion. This came to be considered unnecessary, and at last it created a discussion. I remember taking part in that discussion myself, and very strenuously and decidedly opposing such publications. The result was that the Senate refused to publish such addresses in certain cases, and this refusal was adhered to in several instances. I understand, however, that recently such publications have been made, and they may have passed even within my observation, for the Senate will reflect that a man at last gets tired of fighting these things time after time; they are regularly brought up again and again, and at last perseverance accomplishes the purpose, and the publication is made.

I do not rise now for the sake of opposing or supporting the proposed publication, because while my general opinion has been against them all, I think if there ever was a case in which the individual deserved that honors should be paid to his memory, such as have been paid even to the most eminent and the most distinguished, those honors are due to the memory of our late colleague, Judge Collamer. So feeling, I am not disposed to interpose any objection of my own anew in this individual case, while I retain all my original opinions as to the practice.

A word now, sir, in regard to the remarks of the Senator from Pennsylvania, [Mr. COWAN.] He is comparatively a young Senator; and if he would only compare our publications now with those of eight or ten years ago, he would be astonished to find how much we have improved in that particular. It used to be the habit to publish (judging by space) almost acres of large books, adorned with engravings of all sorts and descriptions. That has been put an end to; the Senate has refused of late to have anything to do with publications of that kind. At the present time, I believe, we publish very few books, and those only the President's message and accompanying documents, the Globe, the Agricultural Report, the Treasury Report, and a few others of that description which must be published, and which the community desire to see; and an effort has been made to reduce the expenses even of publishing the message and documents by printing a comparatively small number of the entire documents, and furnishing abstracts instead of the complete volumes which were formerly printed.

There has been a very great improvement in this particular; I hope to see more; but I cannot agree with the Senator that nine tenths of all we publish is utterly useless. There may be some of the matter published that might be dispensed with and the expense of which might be spared; but, as a general rule, I think the Senate and the House of Representatives have now got to a very reasonable state of mind in reference to publications, and I hope it will continue. As to these publications being electioneering documents, I have nothing to say. I have never so used them. If the Senator has derived any

benefit from using them in that way, he probably speaks from his own experience. I hope the remark will not be applied to me.

Mr. COWAN. Of course I cannot tell what my honorable friend from Maine does with his public documents. I know very well what I do with mine. I believe I have never kept a list of friends and retainers, as is very common, to whom to send documents. I send them to the persons who write to me desiring to have them; but I have to say with regard to a great many documents which are published, even Patent Office Reports, and Reports on the Commercial Relations of the Country, that so far as I am able to understand the feeling of the people in regard to them, they consider them merely waste paper. If there has been an improvement recently in this matter of publishing books, I have only to say that I do not think they have improved the books, because anciently when scientific works and works upon explorations were published the books were valuable, and valuable to the community generally, but those that are now lumbering every shelf almost in the country are seldom ever opened and looked at.

I have not yet heard what is the argument in favor of publishing this book; nor do I see any necessity for it, because I have no doubt that all the fine things that were said on the occasion referred to have been in the newspapers all over the country; and what the book can be supposed to achieve in the way of enlightening the public I am not able to see. It will cost a certain sum of money, and the public will have to pay it, and one out of every ten thousand of them, perhaps, may get a book—no, not one out of every ten thousand. Taxes are levied upon the people equally, and yet who gets the books? Even the books that are necessary to be published are not distributed among the people equally; they are given to the favorites of those members who have the distribution of them in their hands; and I think that if there has been reform heretofore it would be well that there should be a good deal more, and the country will be the better for it.

Mr. TRUMBULL. Since calling attention to the resolution under consideration, I have referred to the Senate Journal, and I find that at the last session of Congress two thousand copies of the obituary addresses delivered on the occasion of the death of Thomas Holliday Hicks were ordered to be printed by the Senate; and the former precedent in printing these addresses having been departed from, I think there are none more deserving to be preserved in pamphlet form than those delivered on the occasion of the death of our late friend, and I myself shall interpose no objection to the passage of the resolution.

The resolution was agreed to.

ADJOURNMENT FOR THE HOLIDAYS.

Mr. CRESWELL. I ask the Senate to proceed to the consideration of the resolution from the House of Representatives with regard to the adjournment over the holidays. I do so with a view to moving that the Senate recede from its amendments, and I propose afterward to make a motion that the Senate adopt the original resolution of the House of Representatives as it came from that House.

The motion to take up the subject was agreed to, and the message from the House was read:

IN THE HOUSE OF REPRESENTATIVES,
December 19, 1865.

Resolved, That the House non-concur in the Senate's amendments to the above resolution, and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Messrs. ELIUT B. WASHBURN of Illinois, J. F. WILSON of Iowa, and E. R. V. WRIGHT of New Jersey, be the managers of the conference on the part of this House.

Mr. CRESWELL. I move that the Senate recede from all its amendments to the original resolution.

Messrs. FESSENDEN and CLARK called for the yeas and nays on that motion, and they were ordered.

Mr. HENDRICKS. Is it in order to move, instead of the motion made by the Senator from Maryland, that the Senate concur in the re-

quest of the House for a committee of conference?

The PRESIDENT *pro tempore*. The motion to recede is first in order, and takes precedence of the other motion.

The question being taken by yeas and nays, resulted—yeas 19, nays 26; as follows:

YEAS—Messrs. Cowan, Cragin, Creswell, Grimes, Harris, Hendricks, Johnson, Lane of Kansas, McDougall, Norton, Nye, Poland, Ramsey, Riddle, Stewart, Stockton, Sumner, Van Winkle, and Wilson—19.

NAYS—Messrs. Anthony, Buckalew, Chandler, Clark, Conness, Davis, Dixon, Fessenden, Foot, Foster, Guthrie, Henderson, Howard, Howe, Lane of Indiana, Morgan, Morrill, Nesmith, Pomerooy, Salisbury, Sherman, Sprague, Trumbull, Wade, Willey, and Williams—26.

ABSENT—Messrs. Brown, Doolittle, Wright, and Yates—4.

So the Senate refused to recede from its amendments.

Mr. FOOT. I now move that the Senate insist upon its amendments, and agree to the conference asked by the House of Representatives.

The motion was agreed to.

The PRESIDENT *pro tempore*. How shall the committee be appointed?

Mr. FOOT. By the Chair.

The motion was agreed to by unanimous consent, and

The PRESIDENT *pro tempore* appointed Mr. TRUMBULL, Mr. CLARK, and Mr. BUCKALEW the committee on the part of the Senate.

Mr. TRUMBULL, from the committee of conference, subsequently submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the resolution "that when the Houses of Congress adjourn on Wednesday the 20th instant, they adjourn to meet on Tuesday the 9th of January," having met, after full and free conference do recommend to their respective Houses the following as a substitute for the resolution:

Resolved by the House of Representatives, (the Senate concurring,) That when the two Houses of Congress adjourn on Thursday the 21st instant, they adjourn to meet on Friday, January 5, 1866.

ELIUT B. WASHBURN,
JAMES F. WILSON,
Managers on the part of the House.
LYMAN TRUMBULL,
DANIEL CLARK,
C. R. BUCKALEW,
Managers on the part of the Senate.

The report was adopted, and a message from the House of Representatives, by Mr. McPHERSON, its Clerk, afterward announced that the House had agreed to the report.

PRINTING OF A BILL.

On motion of Mr. CONNESS, it was

Ordered, That the bill (S. No. 47) to amend an act supplementary to the act approved July 1, 1864, for the disposal of coal lands and of town property in the public domain be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 58) authorizing the Secretary of the Treasury to appoint assistant assessors of internal revenue; and

A bill (H. R. No. 61) to establish certain post roads.

The message further announced that the House of Representatives had passed the joint resolution of the Senate (S. R. No. 6) authorizing the President to divert certain funds heretofore appropriated, and cause the same to be used for immediate subsistence, clothing, &c., for destitute Indians and Indian tribes.

PROTECTION OF FREEDMEN.

On motion of Mr. WILSON, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 9) to maintain the freedom of the inhabitants in the States declared in insurrection and rebellion by the proclamation of the President of the 1st of July, 1862.

Mr. SUMNER. When I think of what occurred yesterday in this Chamber; when I call to mind the attempt to whitewash the unhappy condition of the rebel States, and to throw the mantle of official oblivion over sickening and heart-rending outrages, where Human Rights are

sacrificed and rebel Barbarism receives a new letter of license, I feel that I ought to speak of nothing else. I stood here years ago, in the days of Kansas, when a small community was surrendered to the machinations of slave-masters. I now stand here again, when, alas! an immense region, with millions of people, has been surrendered to the machinations of slave-masters. Sir, it is the duty of Congress to arrest this fatal fury. Congress must dare to be brave; it must dare to be just. But I shall not be diverted from the question before the Senate, although, in unfolding the necessity of present legislation for the protection of the freedmen, I shall be led necessarily and logically to speak of the condition of the rebel States.

The *PRESIDENT pro tempore*. The Chair will suggest that the question before the Senate is on the motion of the Senator from Pennsylvania [Mr. COWAN] to refer this bill to the Committee on the Judiciary, and by the rule of the Senate, a motion of that sort does not open the general merits of the question.

Mr. SUMNER. I have always understood in this body that on a general question of reference the whole subject was open. If the question is put as between two committees, then I certainly accept the decision of the Chair; but if the question be one of general reference, I submit that the whole subject is open.

The *PRESIDENT pro tempore*. The question is on the motion to refer the bill to the Committee on the Judiciary, which is a motion concerning the order of business. That motion, as the Chair understands the rules, does not open the general merits of the question, but remarks upon that question should be confined to the reasons why it should or should not be referred to the particular committee named.

Mr. TRUMBULL. I move that the Senator from Massachusetts be permitted to proceed in his own way on this subject. There is nothing pressing upon the Senate to-day.

The *PRESIDENT pro tempore*. The Chair did not interrupt the Senator except to state what the question was.

Mr. TRUMBULL. I hope there will be no objection to his proceeding.

Mr. SUMNER. I come, then, to the precise question.

All must admit that the bill of my colleague is excellent in purpose. It proposes nothing less than to establish Equality before the Law, at least so far as civil rights are concerned, in the rebel States. This is done simply to carry out and maintain the Proclamation of Emancipation, by which this Republic is solemnly pledged to maintain the emancipated slave in his freedom. Such is our pledge: "and the Executive Government of the United States, including the military and naval authority thereof, will recognize and maintain the freedom of such persons." This pledge is without any limitation in space or time. It is as extended and as immortal as the Republic itself. Does anybody call it vain words? I trust not. To that pledge we are solemnly bound. Wherever our flag floats as long as time endures we must see that it is sacredly observed.

But the performance of that pledge cannot be entrusted to another; least of all, can it be intrusted to the old slave-masters, embittered against their slaves. It must be performed by the national Government. The power that gave freedom must see that this freedom is maintained. This is according to reason. It is also according to the examples of history. In the British West Indies we find this teaching. Three of England's greatest orators and statesmen, Burke, Canning, and Brougham, at successive periods united in declaring, from the experience in the British West Indies, that whatever the slave-masters undertook to do for their slaves was always "arrant trifling," and that, whatever might be its plausible form, it always wanted "the executive principle." More recently the Emperor of Russia, when ordering Emancipation, declared that all efforts of his predecessors in this direction had failed because they had been left to "the spontaneous initiative of the proprietors." I might say much more on this

head, but this is enough. I assume that no such blunder will be made on our part; that we shall not leave to the old proprietors the maintenance of that freedom to which we are pledged, and thus break our own promises and sacrifice a race.

I have already alluded to Emancipation in Russia. But this example is worthy our deepest study, unless we purposely reject history. All know that in 1861 the Emperor, by solemn Proclamation, gave freedom to upward of twenty-three million serfs; but it is not generally known by what supplementary provisions this freedom was secured.

I have in my hands an official copy of this great act, published at St. Petersburg, by which it is declared that the serfs, after an interval of two years, are "entirely enfranchised." Under this Proclamation, a new set of local magistrates was constituted, with "special court" and "justices of the peace" in each district, to superintend the working of the Proclamation and to examine on the spot all questions arising from Emancipation. This provision was not unlike our Bureau of Freedmen, which is thus vindicated by this example.

But the good work did not stop here. The Emperor did not leave the freedmen without protection, handed over to the tender mercies of their former owners. By a careful series of "regulations" accompanying the Proclamation, prepared with infinite care, and divided into chapters and sections, the rights of the freedmen are secured beyond question. I hold a copy of this remarkable document in my hand. Here it is, a model for our imitation.

These "regulations" begin with the formal declaration that the freedmen, by the act of Emancipation, "acquire the rights belonging to free farmers." The language is general. It is "the rights of free farmers," not in certain particulars, but in all particulars; not merely in exemption from the authority of their masters, but in complete enfranchisement. Surely here is an example for us.

The "regulations" then proceed in formal words to fix and assure these rights civil and political. These rights are not left to inference or to future discussion; but they are positively declared with all possible detail.

By one section the freedman is secured in all his *rights of family and rights of contract*, as follows:

"The articles of the Civil Code on the rights and obligations of the family are extended to the freedmen; consequently they acquire the right, without the authorization of the proprietor, to contract marriage, and to make any arrangement whatever concerning their family affairs; they can equally enter into all agreements and obligations authorized by the laws, as well with the State as with individuals, on the conditions established for free farmers; they can inscribe themselves in the guilds, and exercise their trades in the villages; and they can found and conduct factories and establishments of commerce."

Surely here is an example for us.

By another section the freedman is secured in *rights of property*. He may acquire and alienate property of all kinds, according to the general law; and, besides, "the possession of the homestead" on which he has lived is guaranteed to him on certain conditions. Surely here is an example for us.

By another section the freedman is secured complete *Equality in the courts*, as follows:

"He shall have the right of action whether civilly or criminally, to commence process, and to answer personally or by attorney; to make complaint, and to defend his rights by all the means known to the law, and to appear as witness and as bail conformably to the common law."

Mark these words. He may appear "as witness and as bail." Surely here is an example for us.

By other sections the freedman is secured *Equality in political rights*, according to the measure of such rights in Russia, thus:

"On the organization of the towns, he shall be entitled to take part in the meetings and elections for the towns, and to vote on town affairs, and to exercise divers functions; and he shall also take part in the assemblies for the district, and shall vote on district affairs, and choose the chairman."

From all the provisions on this head, it appears that the freedman enjoys rights to choose

the local officers, and to be chosen in turn. Surely here is an example for us.

By still another section the freedman is secured *Equality at schools and in Education*; thus:

"He may place his children in the establishments for public education, to embrace the career of instruction, or the scientific career, or to take service in the corps of surveyors."

Surely here again is an example for us.

Then, again, for the general protection of the freedman it is provided that he "cannot lose his rights or be restrained in their exercise, except after the judgment of the town according to fixed rules;" and still further, that he "cannot be subjected to any punishment, otherwise than by notice of a judgment, or according to the legal decision of the town to which he belongs." Surely here again is an example to us.

Thus does Russia by careful provisions, supplementary to the act of Emancipation, secure her freedmen in all their rights; first, in the right of family and the right of contract; secondly, in the right of property, including a homestead; thirdly, in complete Equality in the courts; fourthly, in Equality in political rights; fifthly, in Equality at schools and in Education; and, finally, all these safeguards are crowned by declaring that they cannot lose their rights or be punished except after judgment according to fixed rules; thus completely fulfilling that requirement of our fathers, that "government should be a government of laws and not of men."

I trust that this example is none the less worthy of imitation because it is that of an empire, which is not supposed to sympathize with liberal ideas. Surely a republic cannot in this respect lag behind an empire. Besides, all that we hear shows that the experiment has been successful. Clearly an experiment inspired so completely by the spirit of justice cannot fail.

My colleague is clearly right in introducing his bill and pressing it to a vote. The argument for it is irresistible. It is essential to complete Emancipation. Without it Emancipation will be only *half done*. It is our duty to see that it is wholly done. Slavery must be abolished not in form only, but in substance, so that there shall be no Black Code; but all shall be Equal before the Law.

As to the power of Congress over this question I cannot doubt it. My colleague assumes the power without professing to trace it to any particular source. It may be a military power precisely as the Proclamation of Emancipation, and here the authority is as clear and absolute as in the District of Columbia, or it may be in pursuance of the Constitutional Amendment, which provides that Congress may "enforce the amendment by appropriate legislation;" or it may be to carry out the guarantee of a republican form of government.

There are measures of my own, already introduced by me, now on your table, looking to the same result as the pending bill, which proceed specifically on the two latter grounds.

One of these is entitled "A bill supplying appropriate legislation to enforce the amendment of the Constitution." From this bill I read two sections:

SEC. 3. *And be it further enacted*, That in further enforcement of the provision of the Constitution prohibiting slavery, and in order to remove all relics of this wrong from the States where this constitutional prohibition takes effect, it is hereby declared that all laws or customs in such States establishing any oligarchical privileges and any distinction of rights on account of color or race are hereby annulled, and all persons in such States are recognized as equal before the law; and the penalties provided in the last section are hereby made applicable to any violation of this provision, which is made in pursuance of the Constitution of the United States.

SEC. 4. *And be it further enacted*, That in further enforcement of the provision of the Constitution aforesaid, the courts of the United States in the States aforesaid shall have exclusive jurisdiction of all offenses committed by persons not of African descent upon persons of African descent; also of all offenses committed by persons of African descent; and also of all causes, suits, and demands to which any person of African descent shall be a party; and it is hereby declared that all such cases are to be treated as cases arising under the Constitution of the United States.

This bill, of course, proceeds on the idea that the amendment is now a part of the Constitution

to all intents and purposes. And who can doubt this conclusion? It has been already adopted by "the Legislatures of three fourths of the States," in other words by three fourths of the States having Legislatures. The States having no Legislatures at the time of its proposition by Congress are not to be counted. Of what value can be the enforced consent of the disloyal and barbarous bodies that have pretended to act for certain States at the dictation of military power? Military power may govern during the war, but it is impotent to make a republican State or to give assent to an amendment of the Constitution.

Another bill introduced by me, and now on the table, is founded on the guarantee clause. It is brief, and will explain itself:

A bill in part execution of the guarantee of a republican form of government in the Constitution of the United States.

Whereas it is declared in the Constitution that the United States shall guaranty to every State in this Union a republican form of government; and whereas certain States have allowed their governments to be subverted by rebellion, so that the duty is now cast upon Congress of executing this guarantee: Now, therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all States lately declared to be in rebellion there shall be no oligarchy, invested with peculiar privileges and powers, and there shall be no denial of rights, civil or political, on account of color or race; but all persons shall be equal before the law, whether in the court-room or at the ballot-box. And this statute, made in pursuance of the Constitution, shall be the supreme law of the land, anything in the constitution or laws of any such State to the contrary notwithstanding.

Both these bills are broader even than that of my colleague; for they point to the absolute obliteration of all legal discriminations founded on color, whether in the court-room or at the ballot-box, and to this conclusion we must come at last. But I confess that I feel the dignity, the grandeur, and the substantial value, which would be found in a declaration of Congress that an oligarchical government, which denied rights to a whole race; which undertook to tax without representation; and which discarded the "consent of the governed" as its just foundation, cannot be a "republican form of government."

The most explicit, the most positive, the most mandatory words in the Constitution are, "the United States shall guaranty to every State in the Union a republican form of government." This great duty is thrown not upon any individual branch of the Government, but upon the United States. It is a duty "to guaranty"—which in itself is a strong term—what? A republican form of government. Now, by the lapse of State governments in the rebel States, this duty is cast upon the United States. But the United States are represented in Congress, or rather by an act of Congress, which in itself is the embodied will of both Houses of Congress, and of the President of the United States. Congress must, therefore, determine, what is a republican form of government? Into this question I do not now enter. At the proper time I hope to consider it. I content myself now by saying, that it is absurd to say that a community, which is founded on oligarchical pretensions, and which excludes from all participation in the government any considerable proportion of its tax-paying citizens, and ignores the consent of the governed, can be considered a republican form of government. On this proposition I hope to be heard at an early day. Here is one of the greatest questions of our history.

And now after this brief review of the object proposed to be accomplished, I am brought to consider the practical necessity of such legislation; and here it is my duty to expose the actual condition of the rebel States, especially as regards loyalty and the treatment of the freedmen. On this head I shall adduce evidence in my possession. In the endeavor to bring what I say within reasonable proportions, I shall adduce only a small part of what has passed under my eye; but it will be more than enough. In bringing it forward the difficulty is of selection and abridgment.

I shall begin with something relating to the condition of the rebel States generally, and shall

then proceed to consider the different States successively.

And now, first, as to the rebel States generally. I know no testimony which has found its way to the public, with regard to the general condition of the South, which will compare in value with a series of letters by A. Warren Kelsey, a cotton agent of character and intelligence above question, who has traveled through the rebel States. His communications with his employers show singular powers of observation, and are expressed with great clearness. Of course I can only give a few extracts:

"In traveling about as I have, from one section of the country to the other, I have been able to compare opinions, and, as you know, I have had peculiar and favorable opportunities for ascertaining the views they have in common. I have endeavored to trace the motives from which they have acted and which now animate them, and their real purpose for the future, if they have one. In giving you my opinion now, it is proper to say that I have taken no one individual as a criterion of the whole, and have judged them only by the opinions I find they are generally agreed upon; neither have I any one's statement for their thoughts and actions. My opinions, deductions, and conclusions are derived from my own experience and observation among them, and whether they shall be confirmed or denied by others, are, notwithstanding, my honest and sincere convictions."

"While I am able to say that they have made up their minds that emancipation is a fact, and not to be avoided, I am obliged to state my earnest opinion that so far as secession is concerned, that is, the doctrine of State rights, it is more deeply rooted than ever among them. They are perfectly united in the belief that the division of this country is both right from a moral stand-point, and politic as a measure of expediency. They have simply changed their base from the battle-field to the ballot-box, believing, as they very frankly admit, that greater triumphs await them there than they could ever hope for in the field. In almost every house hangs the old, worn confederate uniform, which is displayed with pride and satisfaction to all comers. So far from repenting of the stand they took, they glory in it. They regret the result, and their non-success, it is true, but not one in a thousand will admit they were in the wrong."

"They argue that at least ninety-five in every two hundred votes at the North are sure to be thrown in their favor, and they can now rule the Union by giving up, which is cheaper than to persist in their idea of a separate Government. That idea, however, is only laid aside for a time. Every boy at the South is being educated in the belief that the relations the South to-day sustains toward the North, are the same as those of Hungary or Venetia toward Austria, or of Poland to Russia. They bide their time. They have adopted for their motto 'Patience, and shuffle the cards.' The snake, so far from being killed, is barely 'scotched.' Meantime, they deem it better to rule in the Union than to serve in the confederate army."

"As to their affection for their military leaders, you will find proof in the elections at Richmond and in South Carolina. No man has a better claim to their sympathy, and none stand a better chance of election, than those who were the last to give up. Motives of policy may induce them to nominate others, but the fact remains as I have stated. I repeat, that General Lee and Wade Hampton are the two most popular and best-loved men in the South to-day. I have heard but one disparaging remark made of General Lee since I was at the South, and that was in this connection: I was riding one night in a hack across the gap in a railway, made by Wilson, and, as usual, the conversation turned on political affairs and the condition and prospects of the southern people. One man said that General Lee stood the best chance for the next Presidency—by the way, that is a very prevalent idea here at the South—when another remarked that he would rather have Andrew Johnson. I was curious to know why, and inquired. He replied, that he had had little confidence in Lee since he favored negro soldiers, and in his opinion he was not much better than a Black Republican."

"At present every one at the South is occupied in his personal and family interests. There are no political parties; very little coherence of opinion as to the policy best to be pursued. But I find among the knowing ones, particularly those who have been on to the North, and remained some time in New York or Washington, a sanguine belief that they can easily resume the reins of office, and these men are the only Unionists in the South to-day. You can depend upon it, that the southern States in the future will present one solid, unanimous front; their leaders have them well in hand. And this is precisely what ninety-nine in every hundred of the men, women, and children believe sincerely as to the situation to-day: first, that the South of right possesses and always possessed the right of secession; secondly, that the war only proved that the North was the strongest; thirdly, that negro slavery was and is right, but has been abolished by the war. The southerners are too smart not to see that slavery is dead, but many of them hope as long as the black race exists here to be able to hold it in a condition of practical serfdom. All expect the negro will be killed in one way or another by emancipation. The policy of those who will eventually become the leaders here at the South, is, for the present, to accept the best they can get, to acquiesce in anything and everything, but to strain every nerve to regain the political power and ascendancy they held under Buchanan. This they believe cannot be postponed longer than up to the next presidential election.

They will do all in their power to resist negro suffrage, and to reduce taxation and expenditures, and would attack the national debt if they saw any reason to believe repudiation possible. They will continue to assert the inferiority of the African, and they would to-day, if possible, precipitate the United States into a foreign war, believing they could then reassert and obtain their independence. They will, most of them, take any oaths you may cause to be adopted, and break them immediately, and without scruple. In one word, this people have placed themselves in resolute antagonism to the North, and this generation, at least, will always hate the northern people, while the boys are being educated to the same idea."

"On the whole, looking at the affair from all sides, it amounts to just this: if the northern people are content to be ruled over by the southerners they will continue in the Union; if not, the first chance they get they will rise again. I venture the prediction that within five years they will either be in power, or will be fighting us again. If the first, God help New England!"

Other testimony is in harmony. For instance a trustworthy traveler who has recently traversed the Gulf States, thus writes in a private letter to myself:

"The former masters exhibit a most cruel, remorseless, and vindictive spirit toward the colored people. In parts where there are no Union soldiers, I saw colored women treated in the most outrageous manner. They have no rights that are respected. They are killed, and their bodies thrown into ponds or mud-holes. They are mutilated by having ears and noses cut off."

Of course such a people already talk of repudiating the national debt. To the question, "Would it be safe to trust white men at the South with the power to repudiate the national debt?" a person in gray uniform at once replied, "Repudiate! I should hope they would. I'm whipped, and I'll own it; but I'm not so fond of a whipping that I'm going to pay a man's expenses while he gives it to me. Of course there are not ten men in the whole South that wouldn't repudiate!" Such is the spirit of these States. But a candidate for Congress in Virginia undertook to speak for the rebel States, as follows:

"I am opposed to the southern States being taxed at all for the redemption of this debt, either directly or indirectly; and, if elected to Congress, I will oppose all such measures, and I will vote to repeal all laws that have heretofore been passed for that purpose; and, in doing so, I do not consider that I violate any obligations to which the South was a party. We have never pledged our faith for the redemption of the war debt. The people will be borne down with taxes for years to come, even if the war debt is repudiated. It will be the duty of the Government to support the maimed and disabled soldiers, and this will be a great expense; and if the United States Government requires the South to be taxed for the support of Union soldiers, we should insist that all disabled soldiers should be maintained by the United States Government, without regard to the side they had taken in the war."

A late writer, who within a few days has returned from an extensive tour in North Carolina, South Carolina, and Georgia, and who now enjoys a seat in your reporters' gallery, thus testifies with regard to the national debt:

"The national debt doubtless seems to you beyond the reach of any hand. Yet I regard it as very probable that one or two or all of three things will be attempted within three years after the southern members of Congress are admitted to seats—the repudiation of the national debt, the assumption of the confederate debt, or the payment of several hundred million dollars to the South for property destroyed and slaves emancipated. I met several shrewd and intelligent men who expressed the belief that confederate bonds will be worth something in two or three years. One told me that large amounts were held in New York and England, and he expected steps would be taken within five years toward paying them from the national Treasury. I heard no man openly advocate the repudiation of the national debt, but scores argued to me that it would not be fair to make the South pay any part of it; and one man said he believed, if the case were only carried up, that the Supreme Court would so decide. The idea that the nation will pay the South for her slaves extensively prevails both in Georgia and South Carolina. It is incorporated into the new constitution of Georgia, and is openly advocated by many influential men in South Carolina. Wherefore, I say, the national debt needs watching."

Let the Secretary of the Treasury take notice, and not expose the national finances to the peril which menaces them.

Passing from this testimony, which is general, I come to the neighbor State of VIRGINIA. I read from a private letter which I have received from a Government officer there:

"We who are here have a much better opportunity of knowing the feeling of the people than you at a distance, for they will not speak as freely before you as they will before us here and among themselves. The feeling of disloyalty is as strong here now as it

was during the war, but they cannot show it as they did then; and with regard to the freedmen there is every disposition on their part to make them odious. They constantly talk of insurrection, insubordination, thieving, idleness, and every species of crime and vice; all of which I assure you is entirely false. They are perfectly subordinate to every law, and, so far as thieving is concerned, such an assertion is gratuitous or false, for all cases of thieving, certainly, I am sorry to say, are done by the whites."

I also read from another private letter:

"The clash of arms has subsided, the serried hosts of rebels have been disbanded, and the huge paraphernalia of war have been scattered; but, notwithstanding these facts, the low mutterings of sullen discontent are yet heard, and the desire to persecute and break down all truly loyal men is exhibited on every hand with even more sly ferocity than while the war of sections raged."

We are residents of this city, each engaged in public business, and consequently thrown into contact with all classes of citizens. Hourly we hear denunciations of the Government and prayers for the removal of the military. And why these denunciations and these prayers if the oath of allegiance had been honestly taken to be sacredly observed? No, gentlemen, the spirit of rebellion is not dead, and will never die while Democratic leaders in the South are relieved of their treachery and turned loose to stir up sedition and incite rebellion. They make loud professions of loyalty, and their press reverberates the echo from hill and valley, but you have only to read their fanfarones on loyalty to satisfy yourselves of the bitter hatred that fills their breasts against the Union, and the burning hate with which they will proceed to pour out the vials of their wrath upon all Union men, when once they can secure seats in Congress and get possession of the reins of State government. In their hearts they cling as ardently to State sovereignty as ever, and once give them the power and they will tax the loyal people to the full value of the slave property destroyed by the war. Mark this prediction."

Another private letter from a person so situated as to be singularly well informed, thus foreshadows a system of Peonage:

"The necessity of the courts is beyond all question. Even with these courts it requires watchfulness to protect the blacks. If they were left without these courts the whites would keep them forever in bondage by keeping them in debt, and I am afraid that the legislation of the States will be to the effect to establish here the Mexican system of Peonage by using some very extraordinary terms to coerce 'hatched-up' accounts against the blacks."

To this I might add indefinitely, exhibiting the bad temper and disloyal spirit which prevail throughout Virginia. Bayonets are no longer flashing there; bullets are no longer whizzing there; but the traitorous soul that inspired the rebellion still fills the State with its malignant breath. Do not, I entreat you, allow it to rile.

From Virginia pass to NORTH CAROLINA. Here the testimony is the same. During this week I have seen Government officers who have been in service, one of them since 1863, who report that it is not safe to speak one's sentiments there; that liberty of speech does not exist; that the freedmen, so far from being lazy or remiss, are willing to work, but that they are exposed to unutterable hardship and cruelty. On these points the testimony is explicit. A loyal resident of North Carolina writes me as follows:

"I tell you, sir, the only difference now and one year ago is that the flag is acknowledged as supreme, and there is some fear manifested, and they have no arms. The sentiment is the same. If anything otherwise, more hatred exists toward the Government. I know there is more toward Union men, both black and white."

More hatred toward the Union men, both white and black, than there was one year ago! Such is the condition of North Carolina.

In harmony with this is other testimony:

"Two women school-teachers who were recently sent from Wilmington to Fayetteville to establish a school for colored children, were informed by the sheriff of the county that they would not be allowed to start their schools, nor would they be allowed to land; but they might remain on the steamer until her return to Wilmington, inasmuch as they were women; if they were men they would receive such treatment as was awarded to such middle-class characters before the war."

Mr. Dickinson says that while he was in Fayetteville a negro was strung up by the thumbs in the public square and received forty-nine lashes from a civil officer recently appointed by Governor Holden."

A Wilmington paper makes the following report:

"General Ames, General Duncan, and Colonel Donelson, have returned from an official visit to Fayetteville, where they went to ascertain the truth of the reports coming from there in regard to the treatment of the colored people."

The result of their visit substantiates the fact that the negroes have been cruelly treated, not only by the civilians, but also by the civil authorities there.

"Two negroes were tied up and publicly whipped by the sheriff, on the sentence of a magistrate."

"Other negroes were tied up to trees and whipped, and left tied to the trees until a storm came up and prostrated the trees, and the poor negroes fell with them."

"Citizens exercised the authority of masters over the negroes, and punished them at their will with such severity as to them seemed fit."

"It is even reported that negroes have been killed in the most cruel manner."

But why heap these instances? They might be piled high; but why pain your hearts by such an exhibition?

From North Carolina pass to SOUTH CAROLINA, where the testimony is, if possible, still more explicit. The spirit of this rebel State, still rebel in heart, appears in the well-known letter from Wade Hampton, which I do not stop to quote. It also appears in the frank speech of James R. Campbell in the convention, from which I read an extract:

"I believe that when our votes are admitted into that Congress, if we are tolerably wise, governed by a moderate share of common sense, we will have our own way. I am speaking now not to be reported. We will have our own way yet, if we are true to ourselves. We know the past, we know not what is to be our future. Are we not in a condition to accept what we cannot help? Are we not in a condition where it is the part of wisdom to wait and give what we cannot avoid giving? I believe as surely as we are a people, so surely, if we are guided by wisdom, we will be the beginning of the next presidential election which is all that is known of the Constitution—for when you talk of the Constitution of the United States it means the presidential election and the share of the spoils—I believe then we may hold the balance of power."

That Mr. Campbell spoke according to the sentiments of the prevailing politicians is attested by a private letter which I have received from a Government officer there who is so situated as to know the real condition of things. I read extracts only:

"The speeches in convention and Legislature are doubtless known to you, and the animus pervading all action of these bodies. Mr. Campbell expressed it exactly. Let us do what we have to, as little as we are obliged to, get into Congress somehow, and then pay off the score. One or two minor matters in this connection I mention as showing how the current sets."

"1. The election for members of convention, 4th September. The favorites in every contested case were those most prominent in secession proceedings of past years. The majority of them did not take the amnesty oath."

"2. Not even the prospect of securing a favorable recognition in Congress could secure the election of any man tainted with Unionism, in opposition to any candidate thoroughly established as an opponent to the Government in past time."

"3. And yet, strange as it may seem, the people, by which I mean the planters generally, exclusive of the politicians, are not savagely disloyal, and this is one main point to which I desire earnestly to testify. It is a fact that the political working of the State is in the hands of one hundred and fifty to one hundred and eighty men. It has taken me six months to appreciate the entireness of the fact, though of course I had heard it stated."

"It seems to me a most providential opportunity is now offered to break up this mal-administration of politics. The people among whom I move are becoming restive under present disadvantages, and criticize sharply the acts of the Legislature which seem to delay reconstruction. If the State is refused representation in the present Congress, and the acts of the State Legislature, its speeches, its Black Code, its general fractious and combative attitude, its spirit in accepting the constitutional amendment and refusing the annulment of secession ordinances; if, in a word, it can be shown that the long-recognized politicians of the State have thoroughly damaged the State by taking her out of the Union, and have also kept her from coming in, there will be a political revolution in the State in less than two months. There is so promptly pardoned by the President will meet no such complacency from the people. I know this to be true; am taught it anew every day."

"If the State authority is to be recognized, and the present Legislature triumphs by forcing the State into the Union, I anticipate very disastrous consequences. The freed people are well enough; they do not know as much as could be desired, but they know quite as much as could be expected, and are open to instruction. But that instruction must come from the Government, through the military, untrammelled by any fractious jarring of State Legislatures. There is no confidence on the part of the freed people in the State; they only know the United States Government, and no other will answer."

Here is a letter from a South Carolinian who served in the rebel army, but who now sees the error of his ways:

"I am sorry to say Governor Orr's inaugural yesterday received no applause at all from the audience; its sentiments were too Union-loving for them. I am sorry also to say that the South Carolinians generally entertain to a great extent their old ideas and prejudices so disastrous of late to the State. One is almost compelled to think they insidiously wish to bring upon themselves more and greater mortifications. Witness the vote given Hampton, who refused to be a candidate."

What an unwise display of a factious and discontented spirit! Few seem willing to admit the simple proposition that all causes of ill-feeling between North and South have been settled by the arbitration of the sword, and we must submit sincerely. They seek rather to keep alive the ill-feeling that has made us unhappy for so many years, and that ill-advised disposition to supervise the actions of the United States Government."

"If this war does not settle all issues, and settle them forever, it will be because the General Government fails to use the power it has obtained. I am as dear a lover of South Carolina as any man in it, and for that reason I wish to see peace and harmony restored throughout its borders. But that can never be if the men who tried hardest to break up the Government are immediately they find themselves unsuccessful with the sword, allowed to take seats in Congress and recommence the agitation with their tongues, and by their arguments and notes. More inflammatory speeches were not made in 1860 than have been delivered during the late canvass. If examples are not made, if leading men are not made to feel some ill effects from an unsuccessful attempt to revolutionize, then agitation will never cease, but will be kept up by ambitious men of mean talents who can hope to rise only in times of disorder or by operating upon and influencing the passions of the multitude."

To cap the climax of this iniquity a body of men calling themselves the Legislature, but having small title to be considered a legal body, have undertaken to pass a Black Code, separating the two races, in defiance of every principle of Equality. Here is a provision which fastens apprenticeship or serfdom in a new form upon the unhappy freedman:

"Colored children between the ages mentioned [eighteen and twenty-one] who have neither father nor mother living in the district in which they are found, or whose parents are paupers, or unable to afford them a comfortable maintenance, or whose parents are not teaching them habits of industry and honesty, or are persons of notoriously bad character, or are vagrants, or have been convicted of infamous offenses, and colored children, in all cases where they are in danger of moral contamination, may be bound as apprentices by the district judge or one of the magistrates for the aforesaid term."

Under these words there is no colored minor in the State who is safe for one moment from a compulsory serfdom.

The lash is also prescribed as a means of enforcing contracts. The lash once more is to resound.

The planters at their public meetings have given utterance to this same brutal spirit. Here is a series of resolutions, where, after calling for the withdrawal of the troops of the United States, and after declaring themselves pledged to the existing state of things, and that it is their "honest purpose to abide thereby," they proceed as follows:

"Resolved, That if inconsistent with the views of the authorities to remove the military, we express the opinion that the plan of the military to compel the freedman to contract with his former owner, when desired by the latter, is wise, prudent, and absolutely necessary."

"Resolved, That we, the planters of the district, pledge ourselves not to contract with any freedman unless he can produce a certificate of regular discharge from his former owner."

"Resolved, That under no circumstances whatsoever will we rent land to any freedmen, nor will we permit them to live on our premises as employees."

Thus is the freedman, whose liberty the United States are bound to maintain, to be handed over to compulsory service, and under no circumstances is land to be rented to him. And yet these people announce that they accept the existing state of things and that it is their honest purpose to abide thereby!

From South Carolina pass to GEORGIA, and there is the same wretched story. The spirit of the State appears in the language of Mr. Simmons in the convention:

"Let us repudiate only under the lash and the application of military power, and then, as soon as we are an independent sovereignty, restored to our equal rights and privileges in the Union, let us immediately call another convention and resume the debt."

The testimony from various quarters shows the same spirit. A recent writer, of unimpeachable authority, now sitting as a reporter in your galleries, thus testifies:

"In the stage between Augusta and Milledgeville I rode with two gentlemen of considerable local weight and prominence, who were both anti-secessionists in 1860-61. They talked of the approaching convention, and of its probable action in redistricting the State for representatives. 'Well, Colonel,' said the younger, himself a man of over forty years—'Well, Colonel, what will be our proper course when we are once more fully restored to the Union?' The answer came, after a moment's consideration. 'We must strike hands with the Democratic party of the North, and manage them as we always have.' There was a pause while we rattled down the hill, and then the questioner responded, 'That is just it; they were ready enough to give us con-

trouble if we gave them the offices, and I reckon they have not changed very much yet." There was then conversation on other matters; but half an hour later, after a mile or so of silence, the Colonel suddenly resumed, "Yes, sir, our duty is plain; we shall be without weight now that slavery is gone, unless we do join hands with them; Andy Johnson will want a reelection, and the united Democratic party must take him up; it shall be a fair division—we want the power and they want the spoils."

And the same writer, in another letter, shows how rebels were honored in the convention:

"I'll be d—d if I vote for any man who did not go with the State," said one of the delegates while the canvass for officers was going on; in accordance with which spirit the secretary is a gentleman who was a colonel in the rebel army, and the door keeper a gentleman who lost an arm in the service."

Where such a spirit prevails the freedmen fare badly. In Georgia they are treated cruelly. A traveler writes as follows:

"The hatred toward the negro as a freeman is intense among the low and brutal, who are the vast majority. Murders, shootings, whippings, robbing, and brutal treatment of every kind are daily inflicted upon them, and I am sorry to say in most cases they can get no redress. They don't know where to complain or how to seek justice after they have been abused and cheated. The habitual deference toward the white man makes them fearful of his anger and revenge."

An official of the Government, after traversing Mississippi and Alabama, writes from Georgia in a very recent letter, as follows:

"Every day the press of the South testifies to the outrages that are being perpetrated upon unoffending colored people by the State militia. These outrages are particularly flagrant in the States of Alabama and Mississippi, and are of such a character as to demand most imperatively the interposition of the national Executive. These men are rapidly inaugurating a condition of things—a feeling—among the freedmen that will, if not checked, ultimate in insurrection. The freedmen are peaceable and inoffensive; yet if the whites continue to make it all their lives are worth to go through the country, as free people have a right to do, they will goad them to that point at which submission and patience cease to be a virtue."

"I call your attention to this matter after reading and hearing from the most authentic sources—officers and others—for weeks, of the continuance of the militia robbing the colored people of their property—arms—shooting them in the public highways if they refuse to halt when so commanded, and lodging them in jail if found from home without passes, and ask, as a matter of simple justice to an unoffending and down-trodden people, that you use your influence to induce the President to issue an order or proclamation forbidding such wicked and unlawful proceedings; and, if he deem it prudent, forbidding the organization of State militia. The only military force needed in the South is more regular and volunteer troops to keep in proper subjection those lately in rebellion, and to teach them to treat the freed people in a manner becoming a civilized community."

Another witness, himself a Georgian, with ample opportunities of information, thus testifies:

"I have personal and friendly relations with many leading men of this section. I had before the war. I have met many of them in New York and in Washington within the past few months, and have, as a citizen of the South, had frequent conversations with them upon our future and the means that should be employed to begin it auspiciously. These interviews have been free and open in interchange of opinion, and I must believe that I had laid before me the intentions of those who must and will again assume the leadership here. If they are not so honored, their opinions will show how they would lead had they the power."

"Among these were four ex-Governors of three different States, who had received pardons from President Johnson. Our conversation naturally and necessarily turned to the future of the emancipated negroes. Their past and present condition was discussed, and their chances as well as our own were of course considered, and everything that could bear upon their future was canvassed. The course to be pursued by the Legislatures of the reconstructed States, and the laws to be enacted, in order to obtain the fulfillment of contracts with the freedmen employed, occupied no small portion of consideration. In this way I had full opportunity to learn the opinions of those who have been and will be again looked up to as the leaders and directors of southern opinion and sentiment."

"The unanimity of all was not the least singular thing, especially regarding the status of the freedmen and their rights hereafter. If legal emancipation can avail, those rights will be but nominal, and they will remain as they have ever been, isolated and apart; free in name, but slaves in fact."

It seems that in Georgia there is a body of men known as "regulators," who are thus described by a correspondent of that journal which has for years whitewashed the enormities of slavery, the New York Herald:

"Springing naturally out of this disordered state of affairs is an organization of 'regulators,' so called. Their numbers include many ex-confederate cavaliers of the country, and their mission is to visit summary justice upon any offenders against the public peace. It is needless to say that their attention is largely di-

rected to maintaining quiet and submission among the blacks. The shooting or stringing up of some obstreperous 'nigger' by the 'regulators' is so common an occurrence as to excite little remark. Nor is the work of proscription confined to the freedmen only. The 'regulators' go to the bottom of the matter, and strive to make it uncomfortably warm for any new settler with demoralizing innovations of wages for 'niggers.'"

Such is the unimaginable atrocity which, according to a friendly authority, prevails in Georgia. The poor freedman is sacrificed. The northern settler, who believes in Human Rights is sacrificed also. Alas! that such scenes should disgrace our country and age! Alas! that there should be any hesitation in applying the necessary remedy.

Surely this is enough. I do not stop to dwell on the instances of frightful barbarism. There is one which has been authenticated in the court of the provost marshal, where a colored girl was roasted alive! And another writer, in a letter just received, describes a system of "burning" in Wilkes county, Georgia, as "a mild means of extorting from the freed people a confession as to where they have their arms and money concealed." He says "they were held in the blaze." Think of it, sir, here in our country, "they were held in the blaze." And the national Government looks on.

From Georgia pass to ALABAMA, only to find the same evil spirit and the same succession of enormities, intensified, if possible. Here again I am embarrassed by the variety and extent of the testimony.

A recent private letter from Mobile thus testifies:

"The press and people here, with one voice, are loud in their praise of President Johnson, for his wholesale manner of dispensing pardons. But I have yet to see the first signs of repentance on the part of those who have received clemency from the Chief Magistrate of the Government. The existing feeling is, that no man who did not support the confederacy is worthy of trust; and all offices are given to those who did their best to break up the country. President Johnson will find in the end that he has been too liberal in the exercise of clemency. And, unless he changes his course, or is checked by Congress, the most corrupt men in the South will again get into power, and sway the destinies of this section of the country."

"And until the labor question is adjusted between the planters and the freedmen, we cannot look forward to a time of prosperity. The indications at present are not favorable to a satisfactory solution of this difficult problem. The planters hate the negro, and the latter class distrust the former, and while this state of things continues, there cannot be harmonious action in developing the resources of the country. Besides, a good many men are unwilling yet to believe that the 'peculiar institution' of the South has been actually abolished, and still have the lingering hope that slavery, though not in name, will yet in some form practically exist. And hence the great anxiety to get back into the Union, which being accomplished, they will then, as I have heard it expressed, 'fix the negro.'"

"I look forward with deep solicitude to the approaching session of Congress. I hope there will be strength and moral courage enough in that body to keep the ship of state right. The President has a difficult position to fill, and needs all the sympathy and aid he can get from right-minded citizens. But there is no question that he has been most sadly imposed upon within the past few months by designing and corrupt politicians."

Another private letter from a person so situated as to be accurately informed, gives this painful testimony:

"The Government in taking the responsibility of freeing this people tacitly engaged to protect them in their freedom. The various departments of Government have solemnly declared the black man entitled to equal rights before the law with the white man. Yet it is the simple fact, capable of indefinite proof, that the black man does not receive the faintest shadow of justice. I aver that in nine cases out of ten within my own observation, where a white man has provoked an affray with a black, and savagely misused him, the black man has been fined for insolent language because he did not receive the chastisement in submissive silence, while the white man has gone free. It is the simple truth that the most flagrant crimes against the blacks are not noticed at all, and, indeed, a man loses caste if he interests himself about them."

"It is the simple truth that black men are not allowed to use their own property to the best advantage, or in any way to make such use of their capabilities as would be likely to elevate them in social position."

"The above are but specimen facts, and they are facts. Every provost-marshal who has been in office here will testify to the truthfulness of the picture. Meantime companies are forming to import coolies and European immigrants to drive the black man from the little chance that is left him. The whole thing may be summed up in one word: the South is deter-

mined to have slavery—the thing, if not the name. And if all restraint is removed, it is as certain as fate that their condition will be far worse than it ever was before. It will be the old system with all its mitigations rescinded and all its horrors intensified."

"The prospect for the coming winter is overwhelming in its horrors at best. If the freedmen are left friendless, it will be the very valley of the shadow of death. Let Congress keep these States out of the Union till the shape and tone of their legislation is seen and understood, as relating to freedmen, and then keep them out until it is clearly shown whether the people will obey the legislation or make it a dead letter from the beginning."

And still another letter makes these revelations:

"Do not let yourselves be deceived by the influences which reach you. These influences are energetic, active, spare no pains or expense, to accomplish certain purposes. I know this people well; I was born and reared with them; they are far more hostile to the Government to-day than they were in 1860. Every demonstration in the State since the surrender has been, in one shape or another, that of hostility to the Union; and every new concession they make is simply made with the hope of thereby obtaining that degree of independence which follows, as they understand and expect it, the resumption of the status as States again."

"The elections are just over. The secessionists were united to a man—hopeful, active; the Union party disorganized, discouraged, and dispersed among the secessionists. President Johnson and Governor Parsons are responsible for it. The enemies of the Union have defeated us horse, foot, and dragons, in all parts of the State. The staunch favorites of our party are defeated everywhere."

"In a word, the friends of the Union are completely under; the successful party are the secessionists and renegade Unionists, enemies of the Government. It is to the Union party of the North that we are to-day indebted for being able to live here."

The person who is styled Provisional Governor of Alabama, in a late message thus alludes to rebel trophies, and fans the flame of the rebellion:

"Several of these had been deposited in the executive department, and were not removed when the capitol was evacuated. They were not destroyed, however, by those who took possession of it, but came to my hands as the representative of the State for the time being, and are now carefully preserved and ready to be delivered to the Governor elected under the constitution. We should preserve these sacred souvenirs of the courage and endurance of those who went forth to battle under their folds, and who manfully upheld them with their life-blood."

Surely with such a person in high office we could expect little else than the barbarism which rages there.

From Alabama pass to MISSISSIPPI, and there the same hideous scenes are renewed. Here is the testimony of a citizen of this State, once a slave-master, in a private letter:

"In respectful earnestness I must say that if at the end of all the blood that has been shed and the treasure expended, the unfortunate negro is to be left in the hands of his infuriated and disappointed former owners to legislate and fix his status, God help him, for his cup of bitterness will overflow indeed. Was ever such a policy conceived in the brain of man before? After a great step and a mighty victory you are expected by President Johnson to withdraw your protection from this people and turn their destiny over to those who for centuries have ground them into the dust. Truly, by such a course will your fruits become bitter ashes."

"As a man who has been deprived of a large number of persons he once claimed as slaves, I protest against such a course. If it is intended to follow up the abolition of slavery by a liberal and enlightened policy, by which I mean bestowing upon them the full rights of other citizens, then I can give this movement my heart and hand. But if the negro is to be left in a helpless condition, far more miserable than that of slavery, I would ask what was the object of taking him from those who claimed his services. As things seem now approaching the position of rendering loyalty at the South a disgrace, and those who, amid many dangers and trials, stood true to the Union and the Constitution are to be left to suffer the scorn, contempt, and oppressions of secessionist traitors—I say, as this seems to be the settled policy of the Government to the whites so situated, I fear there will remain but little hope for them or the negroes unless the true men of the country will present a barrier between them and those who are anxious to punish and destroy them."

The pretended Governor of Mississippi, like the pretended Governor of Alabama, exults in rebel victories, and fans the rebel flame. Both convention and Legislature abounded in bitter treason. In the convention one of the speakers declared it to be policy to accept the present condition of affairs until the control of the State is returned into the hands of the people, and "to submit for a time to evils which cannot be remedied." Another speaker in urging the

acceptance of the Union, thus revealed the plot:

"If we act wisely we shall be joined by what is called the Copperhead party, and even by many of the Black Republicans."

Such is the voice of Mississippi.

Naturally the freedmen are exposed to untold hardships and atrocities. Here is the testimony:

"A superintendent of the bureau reports the poor creatures coming in with cruel grievances that are unredressed by these magistrates. General Chetlain tells us that while he was in command, for two months, of the Jackson district, containing nine counties, there was an average of one black man killed every day, and that in moving out forty miles on an expedition he found seven negroes wantonly butchered. And Colonel Thomas, assistant commissioner of the bureau for this State, tells us that there is now a daily average of two or three black men killed in Mississippi; the sable patriots in blue, as they return, are the objects of especial spite."

There is another authority of peculiar value. It is a letter dated at Webb's Ranch, Issaquena county, Mississippi, November 13, 1865:

"I regret to state that, under the civil power, now deemed by all the inhabitants of Mississippi (since the order of President Johnson revoking General Slocum's decree in relation to the State militia) to be paramount, the condition of the freedmen in many portions of the country has become deplorable and painful in the extreme. *I must give it as my deliberate opinion, that the freedmen are to-day, in the vicinity of where I am now writing, worse off in most respects than when they were held as slaves.* If matters are permitted to continue as they now seem likely to be, it needs no prophet to predict a rising on the part of the colored population, and a terrible scene of bloodshed and desolation; nor can one blame the negroes if this proves to be the result. *I have heard, sincerely arrived here, of numberless atrocities that have been perpetrated against the freedmen.* It is sufficient to state that the old overseers are in power again. The agents of the Freedmen's Bureau are almost powerless. Just as soon as the United States troops are withdrawn, it will be unsafe for the agents of the bureau to remain. The object of the southerners appears to be to make good their often-repeated assertions, to the effect that the negroes would die if they were freed. To make it so, they seem determined to goad them to desperation, in order to have an excuse to turn upon and annihilate them. There are, within a few miles of where I sit writing, several northern men who have settled here, desiring to work plantations. *They all assure me that they do not consider themselves safe in the country;* and two of them, ex-colonels in the United States Army, are afraid to leave their places without an armed escort. Other northern losses do not dare remain on their places."

Here are grave words, which open in fearful vista the tragical condition of the freedmen, and the perils of northern settlers there.

And now the pretended Legislature is engaged in fashioning an infamous Black Code; but I do not dwell on this, as it has been already exposed by my colleague.

From Mississippi pass to LOUISIANA, where anarchy is beginning under the sway of returning rebels inspired from Washington. Unionists are menaced in their safety. The story is so familiar that I content myself with a glimpse. Here is the testimony of a responsible person:

"During the canvass I made a tour through the northern portion of the State where I have resided for many years and have a large acquaintance among the people, and was surprised to find the spirit of the people more hostile to the Government than at the breaking out of the war. This is especially the case with the leaders who asserted to me in private conversation that they were more impressed with the truth of secession than they ever were; that the war against the United States was for just one; that they would not support any man for office who did not participate in that war; and that the only true policy for the southern people to adopt is to support the Democratic party in opposition to the Republican party of the North. They say that the whole war was an aggression on the part of the Government, and that they intend to use every means in their power to destroy the Government."

"A prominent member of the Legislature, now convened in this city, said to me a short time before the election, that he was a stronger secessionist now than he ever was, and that he hated the United States Government, and intended to do all in his power to destroy it. This man is a leading member of the Legislature, which, in the House at least, is composed of more than eight tenths who entertain the same feeling, and are now legislating for the loyal citizens of this State."

"There are several respectable men now in this city who are refugees from their homes in the interior of the State, being recently expelled on account of their Union sentiments."

And here is a private letter from an interior town of Louisiana, written by a lady to a lady in New Orleans and communicated to me:

"The poor colored people are in a constant state of alarm. There is a Mrs. — in this place who teaches the colored children; but the inhabitants, I suppose, not liking their having the advantages of education, expressed their disapproval by shooting at

the teacher. At one time she was nursing a sick baby when a shot passed over her shoulder. No attempts were made to discover the guilty party. Of course all in office here are rebels. The teacher, who is a poor widow, became so much alarmed for her safety that she petitioned the officers to allow the troops to remain, which they did for a few days. The attempts on her life not being renewed, the troops were obliged to leave, and it is only on her account that they remained as long as they did."

Enough of this. Nor is this all. The pretended Legislature is plotting, like such bodies elsewhere, against the freedman. But I forbear to dwell on the elaborate machination.

In TEXAS there is more hope than anywhere, because a sincerely loyal person has been placed in power there. But a private letter from a loyal Texan thus cries out:

"What we of the South fear is that President Johnson's course will, by its precipitancy, enable the old set to reorganize themselves into place and power. For Heaven's sake preserve us, if you can, from this calamity."

Surely you will preserve them.

But there is special evidence that I ought not to forget. The same authority which I adduced with regard to the general condition of the rebel States writes thus from Galveston, in Texas:

"If any man from the North comes down here expecting to hold and maintain 'radical' or 'abolition' sentiments, let him expect to be shot down from behind the first time he leaves his house, and know that his murderer, if ever brought to justice, will be acquitted by the jury. If the military are withdrawn his house even will be no protection, and he may expect to be hung from his own chamber window. I tell you, Mr. —, these men are only taking breath and recuperating. Not that there is the slightest danger of any immediate outbreak. No; the southern people are too smart for that. They will never again measure strength with the North, unless their success be assured beforehand. In case of foreign war, or a domestic convulsion at the North, they will rise, but they will never try it alone and without assistance. Meantime they propose to 'take it out in having.' Already our officers are the subject of a social ostracism. I repeat that any man of radical views who comes down here to plant cotton will be in constant danger, night and day, unless he holds his tongue. The ministers of the Gospel, of all denominations, the instructors of the youth of the country, the women, and the young men, all hate the North with a degree of intensity that cannot be exaggerated."

Small temptation here to the northern capitalist! Small welcome to the northern emigrant! The first condition of prosperity is security; but this is absolutely wanting in this blasted region.

There is also TENNESSEE, where authentic testimony shows a painful condition of things. I content myself now with official documents. It seems that a committee was appointed to consider what could be done to arrest crimes and disorders in Tennessee. Addressing Governor Brownlow, they remark as follows:

"In the discharge of this duty, we would respectfully and earnestly call the attention of your Excellency to the many dreadful crimes that are becoming so common not only in and immediately around the capital of the State, but over the whole country."

"Quiet and peaceful citizens are met on our most public highways and robbed of their money and property, often cruelly beaten and abused, and in many cases murdered outright. This state of things is not only greatly injurious to the business of the country, but shocking to all sincere advocates of law and order, and to humanity itself."

"We, therefore, with the earnest desire to see security restored to life and property, and the majesty of law reasserted, appeal to your Excellency, who is the chief representative of power in the State, to exercise your power, and give the weight of your great influence to correct these sore evils, of which the whole country so justly complain."

Governor Brownlow communicated this paper to the Legislature by the following message:

STATE OF TENNESSEE.

EXECUTIVE DEPARTMENT.

NASHVILLE, TENNESSEE, November 22, 1865.

Gentlemen of the Legislature: The reputation being acquired by Nashville, the capital of your State and the great commercial emporium of Middle Tennessee, is humiliating to every friend of law and order. Murders, robberies, and burglaries are the order of the day. No man is safe, day or night, within a circuit around Nashville whose radius is eight or ten miles. The most of these outrages grow out of the abundant use of intoxicating spirits, connected with those gambling hells to be found in full blast on every street in the city. The same may be said, to a considerable extent, of all the larger cities and towns in the State. Life and property must be protected or the country will go to ruin. I therefore call upon you, most respectfully but earnestly, by prompt and decisive legislation, to remedy this growing and alarming evil. Should you fail to apply the necessary remedy, my next appeal will be made to Major General Thomas to close up all these dens of wickedness, so prolific of fights, murders, and robberies of every description.

The Sabbath is violated, the sanctuary of the Lord is ruthlessly invaded, and ladies and gentlemen are insulted at every corner and on every highway. Again, I appeal to you, gentlemen, to relieve the suffering people from this outrageous condition of affairs.

W. G. BROWNLOW.

I add a few sentences from a Tennessee paper, the *Southern Loyalist*:

"Do the authorities at Washington realize the fact that there is very great danger of wide-spread anarchy and bloodshed? Do they realize that it is the supineness and imbecility, or worse, with which the Freedmen's Bureau has been conducted at this point that is the cause of danger, and it may be of much bloodshed? God knows we speak in all sincerity, and we believe we speak the sentiment of nine tenths of the loyal men of Memphis."

"When colored men have remonstrated against injustice—against the very discriminations against freedmen that the War Department declared should not exist—they have been told, 'If you damned niggers think I am going to give you any rights that you had not under the old State laws, you are damnably mistaken.' This may not be exactly literal, but it is very nearly so. When colored people have asked for wages hardly earned in the cotton-field but not paid by rascally employers, they have been in very many cases told to go about their business or left to get their claims as they could."

Such is Tennessee, the most advanced of the States claiming recognition in the government of the country. But besides this testimony there is other testimony derived from its own statute-book. Tennessee refuses to the colored citizen his rights at the ballot-box, and even his rights of testimony in court.

I say nothing of FLORIDA and ARKANSAS, for the special testimony which had come to me with regard to these States is not at hand. But it is not needed. The same dreadful report comes from these States also. But, even without any report, all this must be inferred. How could it be otherwise? Abandoned to themselves, with unchecked power, the old slave-masters naturally continue the barbarism in which they have so long excelled.

Mr. President, I bring this plain story to a close. I regret that I have been constrained to present it. I wish it were otherwise. But I should have failed in duty had I failed to speak. Not in anger, not in vengeance, not in harshness have I spoken; but solemnly, carefully, and for the sake of my country and humanity, that peace and reconciliation may again prevail. I have spoken especially for the loyal citizens who are now trodden down by rebel power. You have before you the actual condition of the rebel States. You have heard the terrible testimony. The blood curdles at the thought of such enormities, and especially at the thought that the poor freedmen to whom we owe protection, are left to the unrestrained will of such a people smarting with defeat and ready to wreak vengeance upon these representatives of a true loyalty. In the name of God let us protect them. Insist upon guarantees. Pass the bill now under consideration; pass any bill; but do not let this crying injustice rage any longer. An avenging God cannot sleep while such things find countenance. If you are not ready to be the Moses of an oppressed people, do not become its Pharaoh.

Mr. SAULSBURY. Mr. President, the proposition before the Senate, I believe, is to refer this bill to the Committee on the Judiciary. I shall not be guilty of the impropriety of violating the usage of the Senate by entering into a general discussion of the merits of the bill upon a motion of that character; nor shall I attempt any reply whatever to the remarks that have just been made. Private letters and correspondence are not to be supposed to have much weight with the Senate of the United States. I shall detain the Senate but a very short time, as I understand there is a desire on the part of the body to adjourn presently in order to attend the funeral of the late Mr. Corwin. There is one remark, however, that I wish to make before the adjournment, as perhaps after to-morrow the Senate will not be in session for some days.

There seems to be an apprehension in some quarters, (judging from the debates that have already occurred in this body and at the other end of the Capitol,) that the Democratic party is again to come into power, and that it is to come into power through the agency of the

present Executive of the United States. The fact can be no longer disguised that there is in the party which elected the President an opposition party to him. Nothing can be more antagonistic than the suggestions contained in his message and the speeches that have already been made in the other end of the Capitol and in this Chamber. We of the minority here have listened, and listened patiently, without saying one word as to what will be our policy when this fight shall come. I am prepared to speak for no one but myself; but if the voice of one so humble could reach presidential ears, it would be this: "Stand firm to the constitutional principles that you have avowed; and, though the attack may be fierce and the war upon your administration bitter, if you will continue to recognize in the future as your policy thus far as developed indicates that the States lately in revolt are still States of this Union, and entitled to all the privileges of States in the Union; if you will be true and faithful to your high mission and to the principles which you have foreshadowed, there are—and it may as well be known now as hereafter—two million faithful men in the States which have never been in revolt that will hold up your hands, although they did not support you for the present high office which you hold; while you shall be faithful to the Constitution of your country they will be your friends, and when the battle comes, it matters not how fiercely it may rage, they will welcome the contest and welcome the conflict."

Sir, it becomes not us of the small minority to champion the cause of the President. We do not presume to do so now. But he who has studied the political parties of this country, and gained his lessons from the past, well knows that Andrew Johnson, President of the United States, is not going to be put down in his efforts to support and sustain the constitutional rights of the people, if Andrew Johnson chooses not to be put down.

Perhaps I have said enough upon this subject. I could not say less in view of the fact that almost every day something is said in this Chamber or elsewhere expressing apprehensions of the return of the Democratic party to power; and this, too, though we have long heard from the same source that the Democratic party was dead. If indeed it was dead, well might it be said—

"Had it but lived, though reft of power,
A watchman on the lonely tower,
Its mighty voice had shook the land
When fraud or danger were at hand."

But, Mr. President, for the reason I have already stated, I shall detain the Senate no longer. I shall, at an early day, take occasion to consider the questions involved in the problem of "reconstruction" as it is called, a term that I do not use.

Mr. COWAN. Mr. President, I am not disposed to allow the speech of the honorable Senator from Massachusetts [Mr. SUMNER] to go to the country without a very brief reply. If that speech be true, and if it be a correct picture of the South, then God help us; then this Republic, this Union is at an end; then the great war which we waged for the Union was a folly; then all the blood and treasure which we have expended in that war in order to restore ourselves to companionship with the people of the South have been equally follies. But, Mr. President, is it true? Or is not this a series of *ex parte* statements made up by anonymous letter-writers, people who are down there more than likely stealing cotton, people who are down there in the enjoyment of place and power, people who are interested that the disturbed condition of things which exists there now shall always continue because they make profit of it? Is there any man who has had any experience in the trial of causes, any man who knows anything about the nature of evidence, who does not know that the honorable Senator could have sent his emissaries into any one county in the lately rebellious States and gathered up from the expressions of knaves and fools and discontented, single-ideaed people, far more than he has given us in this speech?

We are told here of the exceptional instances

of bad conduct on the part of the people of the South. Why, what a large volume it would take to hold all that! If a man were to go about anywhere in the loyal States and hunt up what he might suppose to be treasonable expressions, heretical expressions, how many could he find? And yet we are treated to all this here as if it was the whole of the evidence in the case. One man out of ten thousand is brutal to a negro, and that is paraded here as a type of the whole people of the South, whereas nothing is said of the other nine thousand nine hundred and ninety-nine men who treat the negro well. One man expresses a great deal of dissatisfaction at the present state of affairs, and that is paraded here, while nothing is said of the other ten thousand men who are contented to accept it and make the most of it.

What, then, are we to do? We are to suppose that the people of the southern States lately in rebellion have common sense; and when their utterances are in accordance with what is common sense and the dictate of their own interest, we have a right to presume it to be true. But according to what we have just heard, everything that has come from the people of these States and from their public bodies, from the representatives of these people, is to be taken as false; and why? Because some cotton agent, some correspondent of a radical newspaper in the North, some office-holder who has been making profit of the state of things there, chooses to say it is all false! The heresy of State rights is not destroyed there, the honorable Senator says. Have we not heard from almost all the public men of the South that that question was put to the arbitrament of the sword, that they have lost, and that they submit? Have they not acquiesced in the abolition of slavery—that thing of all others which was the last, in the opinion of everybody, that they would submit to? But still further guarantees are wanted; we are not told what they are. What are they? What is wanted? Everybody admits that the negro ought to have his natural rights secured to him. I believe all the moderate, conservative men of this Chamber are fully agreed that every man should have his natural rights secured—the right to life, liberty, and the pursuit of happiness; the protection of property, limbs, and reputation; that he should have the right to sue and be sued, and to testify in courts of justice. The negro has not hitherto been allowed in the southern States to testify in courts of justice, and why? Because he was a slave, and if I had been a citizen of the southern States when slavery prevailed there, I would have resisted his right to testify in courts. A witness like a voter ought to be a free man; he should not belong to another man. What chance would a litigant have against the master of slaves if the slaves could testify? It seems to me that the slave ought not to testify for the same reason that the wife ought not to testify either for or against the husband. Would you ask a negro to testify against his master, to go back to that master and be subjected to his ill-will because of his testimony? Would you allow him to testify for the master as against a party on the other side? Certainly not. But now this state of things has passed away. Now the people of the southern States themselves, so far as I understand them, are in favor of opening the courts to all these classes of people. And, sir, they must open them for their own security. I am willing to leave that to themselves; their own interest will compel them to allow all people to testify unless they are excluded by those disabilities that have heretofore excluded witnesses from testifying. If the honorable Senator from Massachusetts and those who think with him desire that these people should have the right of suffrage, why not say so broadly?

Mr. SUMNER. I do say so.

Mr. COWAN. Very well; that is so much that is clear: make it broadly; we may differ from him, but the people will decide. I am perfectly willing to acquiesce in their decision; I do not care which way it is; but the people will decide that question, and they will decide it

promptly. If the honorable Senator from Massachusetts wants to hold the doctrine that these States are not States; that they are not constituent members of this Union, let him say so; there is a tribunal to which that can be referred. If he wishes to take issue with the President on these points, let the issue be made fairly and squarely, and it will be met. Thank God, in this Government, not like that of Russia which he has eulogized, there is a power above us all; there is a power to whose arbitrament and award we can appeal, and who will settle this thing conclusively.

Now, Mr. President, I am for reconciliation. I want to have this Union restored; and a Union means a Union by consent, not by force. I would like to make friends of all the people with whom we have been at enmity heretofore. I do not want the contest to go on any longer. But are we to make friends with them, and are they to be reconciled to us, and are they to behave better by such speeches as have been made by the honorable Senator here to-day? I very much doubt it. I do not think that he will improve the condition of the southern heart, or the condition of the southern mind, by thus parading these exceptional cases to the people of this country, and stimulating and exciting their angry passions more than they are now against this unfortunate people—unfortunate in every respect; unfortunate on account of their errors; unfortunate on account of the penalty which has followed those errors, and which they have suffered.

Mr. President, let us look at this testimony. The honorable Senator, as I said before, reads from anonymous letter-writers, from cotton agents, and people of that kind. Now, it does so happen that we have some testimony upon this subject; we have the testimony of the President of the United States, not a summer soldier or sunshine patriot—

Mr. SUMNER. I have not read anonymous letters.

Mr. COWAN. They are anonymous so far as we are concerned; and I commend the Senator's prudence in keeping the names of their writers from the public, because I have no doubt that if their names were known they would not be considered of much importance. I very much doubt whether there is a single man among them who has ever wielded anything more than a pen during this rebellion. But I say that we have the testimony of men of unexceptionable veracity; we have the testimony of the President of the United States, who was a Union man, and who was in favor of the Union at a time and in a place where there was some merit in it. I do not suppose there was any great merit in being a Union man in Massachusetts. I suspect a man would have been very likely to get a lamp-post if he had been anything else there; but the President of the United States was a Union man in the very thick and storm of the battle. He was driven from his home; he was waylaid hither in order to attend to his official duties in this body. He has stood by the Constitution, by the Union, all the way through, steadily and firmly, and as a compliment to him the great party to which I belong, and to which he did not belong, and never pretended to belong, conferred upon him office which, in the providence of God, has made him President of the United States.

Now, sir, you are told here that this man in his official communication to the Senate of the United States whitewashes the condition of things down below. Yes, sir, "whitewash" is the word. The honorable Senator says that he will not accept the definition of "whitewash" given by the Senator from Connecticut or the Senator from Wisconsin, but he has not told us what he means by the word "whitewash." It is not necessary that he should say what he means by that word. Everybody understands it. I suppose even his colored friends, in whom he takes so much interest, would know what the meaning of the word "whitewash" was. [Laughter.] He says that this man, who stood firm when everybody else faltered, this man who stood almost alone in the midst of an enraged population, and in the very storm and

strife of the worst civil war perhaps the world has ever seen, comes here to "whitewash." What does he mean except that the President of the United States in an official communication to this body comes here to lie; that is the plain English of it; comes here either to suppress the truth or to suggest a falsehood.

What does the President say? I will read what he says as a sufficient answer to what all these people down South report of the state of affairs there, and I do not find it necessary to deny thousands of instances of exceedingly heretical talk may have taken place there, and of treasonable talk if you please; and I have no doubt that in a state of things unparalleled in the history of the world heretofore wrongs and outrages innumerable happen there; but that is not the question. The question is, what is the condition of the mass of the people in the South, what is their disposition and tendency, not to love the North, not to love the honorable Senator from Massachusetts—because I very much fear that that will not be brought about soon unless there is a change in the temper of both parties—not to have hearts overflowing with love and gratitude to those who they think persecute and hunt them in their submission, who kick and strike at them after they are down, after they have cried "enough"—but the question is, what is their disposition to obey the laws? What do we care about their hearts or their dispositions if they are obedient to the laws, and submit to the laws? Now they have submitted to laws which impose the heaviest penalty, for if they are traitors the law imposes the penalty of death and confiscation of estates by means of fine. I will read what the President says now of the condition of that people from the information he has received:

"In that portion of the Union lately in rebellion the aspect of affairs is more promising than in view of all the circumstances could well have been expected."

I think there is no candid man who will not indorse that sentiment.

"The people throughout the entire South evince a laudable desire to renew their allegiance to the Government, and to repair the devastations of war by a prompt and cheerful return to peaceful pursuits."

Why should they not? To suppose anything else is to suppose that they are demented, that they have no kind of common sense left, that four years of the most terrible war and the most terrible punishments ever inflicted upon a people have been without their lessons. It cannot be, Mr. President; it is not in the nature of things that it should be.

"An abiding faith"—on the part of this man who suffered from these people, who suffered from this war and the doctrine of secession and the attempt to break the Union—he says:

"An abiding faith is entertained that their actions will conform to their professions, and that in acknowledging the supremacy of the Constitution and the laws of the United States, their loyalty will be unreservedly given to the Government, whose leniency they cannot fail to appreciate, and whose fostering care will soon restore them to a condition of prosperity."

And here, Mr. President, allow me to ask when in the history of this world or of the human family has it happened that severity, cruelty, persecution, refusal to recognize common rights, has reconciled a people and pacified a distracted country; and when has it happened that clemency, leniency, as the President expresses it, has failed to produce beneficial results? It is not necessary to go very far back for instances to show this. Look at the treatment of England toward Ireland. What has been the result there of her holding that people in a species of vassalage? A Fenian insurrection upon her hands now after hundreds of years of attempt to dominate over that people. Look at Poland; look everywhere. And if it be necessary to see what clemency, what leniency and justice and trust and confidence can do to restore a people once in revolution, take the conduct of Hoche in La Vendée. There by the genius of one man, high enough to be above vulgar passion, statesman enough to look to the future, La Vendée was restored to France, and is there now part and parcel of it, with every recollection of the revolution effaced.

Says the President,

"It is true that in some of the States the demoralizing effects of war are to be seen in occasional disorders"

These effects are to be seen in the North as well as in the South—

"but these are local in character, not frequent in occurrence, and are rapidly disappearing as the authority of civil law is extended and sustained. Perplexing questions were naturally to be expected from the great and sudden change in the relations between the two races; but systems are gradually developing themselves under which the freedman will receive the protection to which he is justly entitled, and by means of his labor make himself a useful and independent member of the community in which he has his home. From all the information in my possession, and from that which I have recently derived from the most reliable authority, I am induced to cherish the belief that sectional animosity is surely and rapidly merging itself into a spirit of nationality, and that representation, connected with a properly adjusted system of taxation, will result in a harmonious restoration of the relations of the States to the national Union."

There is a little more testimony yet, Mr. President; and it is worth while to consider, while we are here to take counsel and to know what we ought to do in the extraordinary situation in which we find ourselves, from whom will we take that counsel. Are we to take it from men, the purpose of whose whole life seems to be to wage war upon these people and their institutions? Shall we take it from men whom they hate personally and by name, and to whom it is almost impossible to suppose they ever will be reconciled, or, in the nature of things, can be reconciled? Or are we to take it from the men who have not made this a personal war; who have treated it as a national war, and who, in their conduct of it, have won the applause of both sections? The President says that part of his information has been received from General Grant. Who is General Grant? Who is to be put in the scale with that scarred soldier, and whose testimony is to weigh down his? Is he "whitewashing" here too? Has he forgotten the position he occupies before the American people? With the highest military character of any man to-day upon the earth, has he condescended to come here to deceive the Senate of his country, and to lie about the condition of affairs in the South, which he has recently visited? Let us hear what he says, and listen with patient reverence to the utterance of a man of sense, a patriot, and a prudent man, who desires not to embroil, not to embitter, not to widen the gap that already exists between two people who ought to be fraternally united, but a man who desires to heal and to pacify; a man imbued with the spirit of Hoche when he went to La Vendée, and where he succeeded when others had failed. What does he say? It is not the tone or manner of the letter-writer, but it is in the manner of a man and a soldier.

"I am satisfied"—

says he; and when he is satisfied who dares say he is not satisfied upon the score of honesty and good intent toward this Republic?

"I am satisfied that the mass of thinking men in the South accept the present situation of affairs in good faith."

That is what General Grant says. Is that "whitewashing?"

"The questions which have heretofore divided the sentiments of the people of the two sections—slavery and State rights, or the right of a State to secede from the Union—they regard as having been settled forever by the highest tribunal, arms, that man can resort to."

It is now said that they do not think so; that they are only pretending, and have a covert purpose of doing something hereafter about this thing, nobody can tell exactly what. Perhaps we will be told they will not abide the result:

"I was pleased to learn from the leading men whom I met, that they not only accepted the decision arrived at as final, but that now, when the smoke of battle has cleared away and time has been given for reflection, this decision has been a fortunate one for the whole country, they receiving like benefits from it with those who opposed them in the field and in council."

Why, Mr. President, the common sense of that last utterance is worth more as testimony than that of a thousand scribblers who merely look at detached points of this great field. They

have resolved to accept the decision as final; and, what we ought all to be glad to know, they have found that it is for their benefit. They have found, too, after the smoke has cleared away, that they are really in a better condition than they were before, that they have been relieved from the incubus which has oppressed them for so long a time, and they are ready now to take their places in the Union, and alongside of the northern States who have made liberty their great principle rather than slavery. Why should they not? If any man can give a reason why they should desire to keep up this strife longer, with their devastated fields, with their treasuries empty, with their society disorganized, I should like to hear it.

I therefore hope, Mr. President, that we may meet them in a different spirit; that we may show to them that we made this war, not to make them eternal enemies of ours, not to humiliate them, but to rescue them; that we made this war to go and get them out of the clutches of the bad men who had misled them into the gloomy realm of secession and disunion; and that we intend, after the great military victory which we have achieved, to achieve another by magnanimity and clemency in our conduct toward them; that we will win them back to be as they were before, our friends and our brothers, of the same race and of the same lineage. I hope too that this angry, irritating, and exciting mode of treating this subject, which is calculated to make us anything else than friends, will be discarded hereafter, and that we shall coolly and calmly and in the spirit of the nation, (because that is the spirit of the nation,) examine this question and do with it that which will be calculated to restore the old harmony and peace and the old Union again.

The PRESIDENT *pro tempore*. Is the Senate ready for the question on the motion to refer this bill to the Committee on the Judiciary?

Mr. SUMNER. My colleague is out of his seat now, and I know he did not expect final action on that motion to-day. I move an adjournment.

Mr. FESSENDEN. I will ask if there is not business on the table which ought to be disposed of before we adjourn?

The PRESIDENT *pro tempore*. There are several bills from the House of Representatives lying on the table.

Mr. CLARK. I move that the further consideration of the bill be postponed until tomorrow.

The PRESIDENT *pro tempore*. The motion now made is to adjourn.

Mr. SUMNER. I withdraw that motion.

DEATH OF ORLANDO KELLOGG.

A message was received from the House of Representatives, by Mr. McPHERSON, its Clerk, communicating to the Senate information of the death of Hon. ORLANDO KELLOGG, late a Representative from the State of New York, and the proceedings of the House of Representatives thereon.

Mr. HARRIS. Mr. President, I ask the Senate to pause again in its deliberations and pay its tribute of respect to the memory of another deceased member of Congress. Hon. ORLANDO KELLOGG, a member of the House of Representatives, died at his residence in northern New York in the month of August last. He died, after a very brief illness, in the midst of his activity and usefulness, and when human foresight would have allotted to him many years of vigorous health.

I have known Mr. KELLOGG for many years. He was reared a mechanic and labored at his trade until after he came to his majority. Without fortune or influential friends, without the advantages of early education, he raised himself by his own energy and persevering industry to a respectable position at the bar. He possessed, in an eminent degree, the respect and confidence of an intelligent and patriotic constituency. Their estimate of his worth is shown by the fact that three times they have elected him their Representative in Congress.

In private life Mr. KELLOGG was upright and

honorable. His public duties were always discharged with honor to himself and fidelity to his country. In the terrible ordeal through which, as a nation, we have just passed, he presented a noble example of loyalty and patriotic earnestness in the support of the Government. He won the love and admiration of every loyal heart by his untiring zeal and devotedness in the cause of his country. Rarely indeed have the portals of the grave closed over a better man. In all the varied relations of life he sustained a reputation above all reproach. He has left to his sorrowing friends the undying memorials of an honorable life. When living he received the homage of my respect, and now that he is dead I find a mournful pleasure in paying a just tribute to his memory and his virtues. I offer the following resolutions:

Resolved, That the Senate has received with deep sensibility the message of the House of Representatives announcing the death of Hon. ORLANDO KELLOGG, a member of that House from the State of New York.

Resolved, That as a testimony of respect for the memory of the deceased, the members of the Senate will wear the usual badge of mourning for thirty days.

Resolved, That a copy of these proceedings be transmitted to the family of the deceased by the Secretary of the Senate.

Resolved, That as a further token of respect for the memory of the deceased, the Senate do now adjourn.

The resolutions were unanimously adopted; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 20, 1865.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BORTON.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed the following concurrent resolutions, in which he was directed to ask the concurrence of the House:

Resolved by the Senate, (the House of Representatives concurring,) That the Committee on Manufactures of the respective Houses inquire if the tax from the internal revenue act upon the products of domestic manufacture is greater than the duty, premium on gold, expenses of exchange, and transportation upon similar products imported, and if thereby the foreign product is entered for consumption upon more favorable terms than the domestic produce, to report a remedy by bill or otherwise.

Resolved by the Senate, (the House of Representatives concurring,) That the joint committee of the two Houses appointed under a joint resolution at the last session of Congress to investigate Indian affairs, have liberty to make their report at any time during the present session of Congress.

ABOLITION OF SLAVERY.

Mr. BROOMALL, by unanimous consent, submitted the following resolution; which was read, considered, and referred to the joint committee on reconstruction:

Resolved, That the amendment to the Constitution of the United States abolishing slavery or involuntary servitude, except as punishment for crime, having now been ratified by three fourths of the States comprising the Government of the United States, to wit, the States of Illinois, Rhode Island, Michigan, Maryland, New York, West Virginia, Maine, Kansas, Massachusetts, Pennsylvania, Ohio, Missouri, Nevada, Indiana, Minnesota, Wisconsin, Vermont, Connecticut, and New Hampshire, the same has thereby become the paramount law of the land; and the House of Representatives congratulates the country on being at last and forever free.

RECONSTRUCTION.

Mr. BROOMALL. I ask the unanimous consent of the House to submit the following resolution for reference to the joint committee on reconstruction:

Resolved, 1. That the termination of the recent civil war has left the inhabitants of the territory reclaimed from the late usurpation in the condition of a conquered people, and without political rights.

2. That as a legitimate consequence the relation of master and slave among them is destroyed, and that it is not within the province of civil law ever to revive it.

3. That the future political condition of these people must be fixed by the supreme power of the conqueror, and that the effect of amnesty proclamations and pardons is to relieve individuals from punishment for crime, not to confer upon them political rights.

4. That it is not the interest of the Government that these people shall remain in their present unorganized condition longer than is necessary for their own good and the good of the country.

5. That Congress should confer upon them the necessary power to form their own State governments and local institutions, but that this cannot be done until the rights of those among them, of whatever caste or color, who remained always true to their allegiance, are effectually protected and guaranteed.

6. That it is the paramount duty of the Government to guard the interests of all within the conquered territory who rendered no willing aid or comfort to the public enemy; and if this cannot otherwise be done, Congress should organize State governments composed of these alone, and forever exclude from all political power the active and willing participants in the late usurpation.

Mr. ELDRIDGE. I object.

ASSISTANT ASSESSORS.

Mr. MORRILL, from the Committee of Ways and Means, reported a bill authorizing the Secretary of the Treasury to appoint assistant assessors of the internal revenue; which was read a first and second time. The bill provides that the Secretary of the Treasury shall be authorized to appoint any assistant assessors of internal revenue now provided by law.

Mr. MORRILL. Mr. Speaker, I will say that as the law was first enacted the power was given to the Secretary of the Treasury. It was subsequently changed in order to relieve the Secretary of the Treasury from so great a burden as the appointment of so many officers. That was objected to as being unconstitutional, and now it is proposed to restore the law to what it was, and to give the Secretary of the Treasury the power to appoint those officers, instead of leaving it as now, to be done by the President of the United States, who certainly has no time for such great labor.

I demand the previous question.

Mr. JOHNSON. Do these appointments require the confirmation of the Senate?

Mr. MORRILL. They do at the present time, and it is to relieve the President from the trouble of making these appointments and the Senate of confirming them that this bill is reported.

The SPEAKER. The Chair will state, as the Committee of Ways and Means has been divided, that under the new rule the Committee of Ways and Means is authorized to report at any time for commitment, and the Committee on Appropriations to report appropriation bills at any time.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

PENNSYLVANIA CONTESTED-ELECTION CASE.

Mr. LAWRENCE presented the petition of Smith Fuller, asking leave to contest the seat of Hon. JOHN L. DAWSON; and moved that it, with the accompanying papers, be referred to the Committee of Elections.

The motion was agreed to.

JUDICIAL SYSTEM OF THE UNITED STATES.

Mr. SPALDING introduced a bill to amend the judicial system of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

CIVIL SERVICE.

Mr. JENCKES introduced a bill to regulate the civil service of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

MISSOURI CONTESTED-ELECTION CASE.

Mr. DAWES. Mr. Speaker, I rise to a question of privilege. The Committee of Elections have instructed me to report the following resolution:

Resolved, That in the matter of the contested-election case of Hon. Sempronius H. Boyd against Hon. John R. Kelso, it is hereby ordered that the sitting member be allowed fifty days from and after the passage of this resolution, for the purpose of taking testimony, and the contestant, if he choose, thirty days thereafter for the purpose of taking testimony in reply thereto; and that in all things, except the extension of time herein prescribed, both parties be required to conform to the provisions of the statute of February 19, 1851, in relation to contested elections in this House.

I will say that this resolution is the result of mutual consent on the part of the two parties; and therefore the committee have not gone into the question whether the sitting member has

reasonable ground for asking for this extension.

The resolution was adopted.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

BENJAMIN G. HARRIS.

Mr. DAWES, from the Committee of Elections, reported the following resolution:

Resolved, That the Secretary of War be instructed to communicate to this House a copy of the record, finding, sentence, and action of the Executive thereon, in the court-martial in the trial of Benjamin G. Harris, a member of this House from the State of Maryland.

The SPEAKER. This resolution calling for executive information, unanimous consent is required for its introduction at this time.

Mr. JOHNSON. I do not know that I shall object, but I desire to inquire of the gentleman from Massachusetts whether that record called for will include the testimony taken in the case? I would rather have the word "testimony" inserted.

Mr. DAWES. The committee understand that the testimony is part of the record.

Mr. JOHNSON. I would like to have the word "testimony" inserted in the resolution.

Mr. DAWES. I have no objection to that.

Mr. JOHNSON. I move to amend by inserting that word.

Mr. DAWES. I accept that amendment.

The resolution, as amended, was agreed to.

HOUSE REPORTERS.

Mr. BANKS. I rise to a question of privilege. I desire to report from the Committee on Rules a resolution, which I send to the Clerk's table.

The resolution was read, as follows:

Resolved, That the following rule be, and hereby is, adopted as a rule of the House, to take effect from and after the 4th day of March, 1865:

Rule.—Reporters of the official proceedings of the House, published in the Globe newspaper by its order, shall be recognized, and are hereby declared, officers of the House for the purpose of reporting its proceedings; and appointments or removals of such reporters shall be held subject to the approval of the Speaker of the House.

Mr. BANKS. This resolution is reported with the unanimous approval of the Committee on Rules. It is intended only to assert the privilege of the House over the reporters of its own proceedings, and not to affect in any degree the relations which have been made for printing the debates of the House.

As it is unanimously reported by the committee, I call the previous question.

Mr. HALE. I appeal to the gentleman to allow me a moment.

Mr. BANKS. I yield to the gentleman.

Mr. HALE. I respectfully submit, with all deference to the Committee on Rules, and the weight to which their deliberations are entitled, that this is a question involving serious points for the consideration of this House as to personal and private rights—rights arising under contract between the employer and employed; that it is not a matter which ought to be pressed upon this House under the previous question, and without full and dispassionate consideration. I certainly would desire to have an opportunity of raising certain questions upon the propriety of such action by the House, and especially as the rule is made retroactive, going back to the 4th of March last. I sincerely trust the honorable gentleman who reported this resolution will not urge the previous question upon its passage. It seems to me there are considerations which will commend themselves to the mind of the gentleman, and to the minds of other members of this House, showing that this question should be considered, and that the parties who are interested should have an opportunity to be heard.

I beg leave to ask whether such a hearing has been accorded by the committee to the proprietors of the Globe, the parties immediately interested in the settlement of this question?

Mr. BANKS. No such offer has been made,

for the reason that the committee were unanimously of opinion that the rule reported does not in any respect affect any relations existing between the House and the proprietors of the Globe. It asserts simply the privilege of the House. It is impossible that the House can have given to any persons outside, and who are wholly irresponsible to it, the right to send persons into this House without its consent, who are authorized to report its proceedings which go to the country as official. It cannot be that this House would do that; and it is certainly impossible that any previous House can have done it in such a manner as to bind this House.

The questions to which the gentleman refers are certainly proper and important, but they can be brought up and disposed of by the House without touching in any respect whatever the resolution now before the House; and I should be glad to give not only serious attention, but the utmost favor, to any proposition he may make upon this subject. But this resolution does not refer to that; it relates simply to the privilege of the House over the reporters of its official proceedings, and declares that those who are here for that purpose cannot be here without the consent of the House.

Mr. HALE. Let me beg the indulgence of the gentleman from Massachusetts for one moment further, to submit this proposition simply, not by way of debating the question, but simply to show that this is a question which ought to be debated here.

As I understand this resolution, for the purpose of appointments and removals, it dates back to the 4th day of March last. Now, I understand that it is claimed—and I am not speaking of claims here; I do not assume to know the facts—I understand that it is claimed here that the proprietors of the Globe are contractors with this House for the publishing of their debates. I understand that it is claimed by the proprietors of the Globe that they employ the reporters of this House in pursuance of that contract; that they have the same right in regard to their appointment, and in regard to their removal, that every other contractor or employer has.

Now, if this be so, and if this resolution is to remove from these employers the privilege of employing whom they choose, so long as they pay them and perform their contract with this House, it certainly seems to me that it must commend itself to the intelligence of every member of the House that these employers, whose rights in relation to this House, and in relation to their employes, are to be affected by the resolution, shall somewhere have a hearing before their rights are determined.

I do sincerely hope that this question will not be pressed this morning under the previous question, but that a question of such grave importance and principle, however trifling it may be in practice, or in its effect upon the parties immediately in interest, may not be pressed under the previous question, but set down for a certain day, and opportunity be had for a free discussion of the measure. It seems to me that this is due to the sense of justice, which ought to belong, and does belong, I have no doubt, to every member of the House. I therefore renew the appeal to the gentleman from Massachusetts not to press this resolution under the previous question, but to give an opportunity for fair examination and debate.

Mr. BANKS. If I thought that this resolution involved in any degree the matters referred to by the gentleman from New York, I should waive the previous question; but I am confident that it does not.

In the first place there is no such contract as that to which the gentleman refers. All the votes by the House of Representatives and by Congress in relation to the publication of proceedings are votes of appropriation, connecting certain conditions with the appropriations. The proprietors of the Globe receive those appropriations by compliance with the conditions. That is all the contract there is. The contract is for each session. Each Congress makes an appropriation for the payment of the publication

of its proceedings, and attaches certain conditions to those appropriations. That gives no right whatever to the proprietors of the Globe to say who shall or shall not report the proceedings of the House independent of the wish or will of the House. Such a waiver of the privileges of the House can hardly be contemplated or defended.

There is a provision in some of the appropriations that the order of the House which justifies the Clerk in purchasing copies of the Globe for new members, and which arranges the price paid per column and some details of that kind, may be abrogated by Congress, or by the proprietors of the Globe, by giving two years' notice. This measure does not affect any of those provisions; but if the gentleman proposes at any time to bring up the subject of reporting and publishing the debates, no one will be more willing to give to the proprietors of the Globe the most liberal consideration than myself; and I believe that that subject is worthy of the most serious consideration of the House.

Mr. HALE. I desire to ask the gentleman from Massachusetts one question. Is not the effect of the resolution reported by the Committee on Rules to remove from the proprietors of the Globe any right of the appointment or removal of the reporters, and to make this House the sole power to appoint or remove?

Mr. BANKS. Not at all; not in the slightest degree. It does not interfere with the appointment or removal of reporters by the proprietors of the Globe, except that it calls for the consent of the Speaker to their action in that matter.

Mr. HALE. Then I misapprehended it so far.

Mr. BANKS. It does not and is not intended to take from the proprietors of the Globe the power of appointment or removal that exists, but it requires the assent of the Speaker to their action in this regard; and certainly gentlemen will not claim that outside parties who are engaged in printing a newspaper, and are wholly irresponsible to the Government, should have a right to send gentlemen in here to report our proceedings without the consent of the House or without the consent of any of its officers.

And let me say in relation to the question raised as to the discharge of reporters heretofore, that the committee has not taken that subject into consideration at all. It has made no question whatever as to the relations of the reporters to the proprietors of the Globe. It asserts the privileges of the House in the most naked form, and declares that the persons who come in here to report our proceedings, which reports are regarded as official proceedings, and are published and received as official proceedings, should be for that purpose considered as officers of the House, and that their appointment and removal should be subject to the consent of the Speaker. If it touched any other question, or any other relation, I would yield to the request of the gentleman. But unless some other proposition is to be made, I shall ask the House to sustain my call for the previous question.

Mr. MORRILL. Will the gentleman yield to me for a moment?

Mr. BANKS. I will do so.

Mr. MORRILL. I trust the gentleman from Massachusetts [Mr. BANKS] will not press this subject to an immediate decision. It is one of those questions that ought to be examined, and upon which the other side have clearly a right to be heard before final action is taken upon it. Now, so far as the proprietors of the Globe are concerned, it is rather my conviction that they have not done justice by some of the reporters whom they have discharged. But I think it would be small business for us to interfere and undertake to revise their decisions and conclusions between themselves and their employes.

So far as these reporters are concerned, I believe that the House has been, from the start, almost uniformly satisfied with their work. They have been intelligent, diligent, and faithful workmen. But we require, on the part of the pro-

prietors of the Globe, a certain amount of work, and to be done in a certain style. Now, if we are to hold these publishers responsible for their work, clearly they ought to have the right of employing whom they may please. And for the House to interfere, and say that they shall not employ any one unless they shall first receive the approval of the Speaker would certainly be an interference with their rights.

I do not know anything especially as regards the merits of the present case. But I have been informed, since the debate has sprung up here, by one of the publishers of the Globe, that he has not been consulted in relation to this matter; that he knew nothing at all about what was to be reported from the committee; that they have not been examined before the committee, although they tendered their services to the committee for an examination, which was either declined or refused. Under the circumstances, I hope the gentleman from Massachusetts [Mr. BANKS] will not press this matter for immediate decision. If he should do so, I shall be constrained to ask for a division of the resolution, and a separate vote upon the last portion of it.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed with an amendment House bill No. 4, for the relief of Mrs. Mary Lincoln, widow of the late President of the United States, in which amendment he was directed to ask the concurrence of the House.

HOUSE REPORTERS—AGAIN.

Mr. BANKS. Neither the proprietors of the Globe were consulted, nor the reporters, nor any parties who might be supposed to have private interests involved in this matter, because it was regarded by the committee unanimously that it did not involve the private interests of any party; that it asserted simply the privileges of the House; and I beg leave to say to the gentleman from Vermont [Mr. MORRILL] that it seems to me to be impossible that the House can have conferred upon any outside party, under any supposed contract, the right to send parties in here to report our proceedings, which reports are to be published and will be received as official, without the consent of the Speaker of the House. That is all this resolution proposes to accomplish. If it involved more, then it might be considered proper to bestow more time upon it.

Mr. MORRILL. I would ask the gentleman this question: does not the resolution now under consideration propose to take effect from March last past?

Mr. BANKS. It does; because during March last past the last Congress closed, and the present Congress commenced.

Mr. MORRILL. And there have been removals since that time, and therefore those removals would come under the operation of this resolution.

Mr. BANKS. That I do not know. I say explicitly to the gentleman from Vermont [Mr. MORRILL] and to the House, that no consideration has been given by the committee to the interest of any private parties.

Mr. HALE. I understand the gentleman from Massachusetts [Mr. BANKS] to claim that there is no existing contract between Congress and the proprietors of the Globe.

Mr. BANKS. I do not say that.

Mr. HALE. I understand that there is a contract, and that a bond has been filed by Mr. Rives for his faithful performance of that contract. Now, I beg leave to suggest to the gentleman whether the fact that this case has required the address, ingenuity, and ability which have been shown here, to convince the House of the propriety of the proposed rule, is not in itself convincing proof that this resolution should not be passed without full and free discussion? I know nothing of the Globe or its proprietors, except that I appreciate heartily their motto that "the world is governed too much."

Mr. BANKS. I do not insist that there is no

contract. I expressed the opinion that there is no contract; but we have not examined that matter carefully, because this resolution does not refer to it. In relation to the matter stated by the gentleman who last spoke, the facts are simply these: that Congress authorized its members to subscribe for a certain number of copies of the Globe, for which appropriations were made. The printers of the Globe were authorized to draw upon those appropriations, and if they did so they gave bond that they would supply the copies of the Globe. If they took the appropriations before they had performed their work, they gave bond that they would perform their work by supplying the copies of the Globe. This is the fact of the matter. It does not involve a contract, except that, if the printers of the Globe have received money from Congress, they have agreed to do that for which the money was paid.

But this resolution does not refer to that. It simply asserts the naked privileges of the House, (which are more important to the minority than to the majority, and which affect our relations to the people of the country at large,) by declaring that, for those persons who are sent here to report our official proceedings, we are responsible, at least so far as to be able to give our assent to their being present for that purpose. I trust that the House will sustain the previous question; and I will hereafter give the gentlemen who are interested on the other side the heartiest support in a review of this whole subject.

And I may be allowed to say, Mr. Speaker, that there are no officers connected with the Government who exercise functions of higher dignity or greater importance than the reporters. I believe that it would be well for the Government to publish the report of its own proceedings, and so far as the report of its daily proceedings is concerned, that it would be well that an official abstract should be made, which might be published in one or more of the papers of this city, and in all the leading papers of the country. If the publication of such an abstract were practicable, it would be of greater service to the country and to Congress than anything yet done in regard to the publication of our debates. But none of these questions are involved in this resolution.

In regard to a division of the question upon the resolution, I must say to the gentleman from Vermont [Mr. MORRILL] that it is not susceptible of division. If it were I would cheerfully consent to his request. But inasmuch as the resolution is reported after careful consideration by the committee, unanimously—a committee representing different sides of the House—and as the resolution involves a single question as to the authority of the House over gentlemen who are upon this floor for the performance of official duties, I hope it may be disposed of at this time. I ask the previous question.

Mr. BALDWIN. Mr. Speaker—

The SPEAKER. Does the gentleman [Mr. BANKS] yield to his colleague, [Mr. BALDWIN]? Mr. BANKS. I have no objection to doing so if it is the pleasure of the House to continue the debate.

Mr. BALDWIN. I desire to say, Mr. Speaker, that I cannot vote for the resolution, and I wish to indicate in a few words my reasons.

In the last Congress I was so placed that I necessarily became acquainted rather closely with the relation of the Globe to the House, and the relation of the reporters of the Globe to that establishment. I found that there is—you may call it a contract, or you may call it an arrangement—that there is at any rate an arrangement by virtue of which the proprietors and publishers of the Globe are engaged to do the work of reporting and printing the debates of Congress. They are paid for doing this. They employ reporters and printers. They come here by their employes to report the debates; and by their employes in their establishment they print them. Now, I do not feel ready to interfere between the publishers of the Globe, our principals in this arrangement, and their employes who come here to do the work

for them. I do think that, by adopting this resolution, we shall do injustice to the publishers of the Globe, create confusion in our relations with them, and prepare for ourselves occasion for regret. Therefore I must vote against the resolution.

Mr. BANKS. I think that my colleague is in error in his view as to the contract or arrangement between the House and the printers of the Globe; but, as to that, I care nothing. It is impossible, or certainly improbable, that any previous House has undertaken by contract or arrangement to control the privileges of this House; and one of the highest privileges of the House is the right to decide who shall be allowed to come here to report its official proceedings. I ask for the previous question.

Mr. HALE. Mr. Speaker, is a motion in order to refer this resolution to the Committee on the Judiciary, with instructions to inquire and report to this House what, if any, are the rights of the proprietors of the Globe in regard to the reporters of our proceedings?

The SPEAKER. That would not be in order if the previous question should be seconded. The pending question is on seconding the demand for the previous question.

Mr. HALE. Then I hope that the previous question will not be seconded, and that I may have an opportunity to make that motion.

On seconding the demand for the previous question, there were, on a division—ayes 53, noes 50.

Mr. BANKS demanded tellers.

Tellers were ordered; and Messrs. BANKS and HALE were appointed.

The House divided; and the tellers reported—ayes 53, noes 74.

So the previous question was not seconded.

Mr. HALE moved that the resolution be referred to the Committee on the Judiciary, with instructions to inquire and report to this House what, if any, are the relations subsisting between the proprietors of the Globe and this House, under contract or otherwise, in regard to the reporting of the debates.

The motion was agreed to.

REPRESENTATIVE FROM ARKANSAS.

Mr. RAYMOND presented the credentials of G. H. Kyle as a Representative from the State of Arkansas, and moved that they be referred to the joint committee on reconstruction.

The motion was agreed to.

Mr. RAYMOND moved to reconsider the vote by which the credentials were referred to the joint committee on reconstruction; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ADDITIONAL POST ROADS.

Mr. ALLEY. Mr. Speaker, I am directed by the Committee on the Post Office and Post Roads to report a bill for the establishment of certain post roads, which it is important should be passed at this time as the advertisements are about to be issued for contracts for four years. There can be no objection to the passage of the bill as it only embraces post roads.

The bill was read a first and second time, ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time, and passed.

Mr. ALLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

DISTRICT COURT AT ERIE, PENNSYLVANIA.

Mr. SCOFIELD, by unanimous consent, introduced a bill directing a district court to be held at the city of Erie, Pennsylvania; which was read a first and second time, and referred to the Committee on the Judiciary.

COLUMBIA BRIDGE CLAIM.

Mr. STEVENS moved that the petition and papers in the case of the Columbia Bridge Company be withdrawn from the files of the House, and referred to the Committee of Claims.

The motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. JOHNSON, his Private Secretary.

CONFISCATION.

Mr. STEVENS. I ask unanimous consent to introduce a bill to double the pensions of those who were pensioners by the casualties of the late war, and to pay the damages done to loyal men by the rebel government and rebel raiders, and to enforce the confiscation laws so as to pay the same out of the confiscated property of the enemy, of which I have given notice, for the purpose of having its consideration postponed for one month.

Mr. BROOKS. I object to its postponement to any particular day.

Mr. STEVENS. I do not ask to make it a special order.

Mr. BROOKS. What will be the effect of postponing the bill to a particular day?

The SPEAKER. It will come up on that day, or thereafter, if other business does not interfere. Special orders would take precedence of it.

Mr. BROOKS. I object to its postponement to any particular day, but I do not object to its introduction and reference.

Mr. STEVENS. I understand that the bill has been introduced.

The SPEAKER. It has.

The bill was read a first and second time.

Mr. STEVENS. I do not know what the gentleman desires.

Mr. BROOKS. I do not want to give the bill precedence over other business, and I understand that the effect of postponing it to a particular day will give it such precedence.

Mr. STEVENS. It does not give it such precedence, for any business may be set down before it, if we shall desire, before that day arrives.

Mr. BROOKS. It gives it precedence on the Calendar for action. I am willing that it should take the ordinary course of business. I will agree to refer it to the gentleman's own committee, and he can dispose of it there.

Mr. STEVENS. I do not know to what committee to refer it.

Mr. BROOKS. The select committee on reconstruction.

Mr. STEVENS. That would be a good committee, but it is not a committee of this House, but a joint committee, and it is necessary first to refer the bill to a committee of this House. I move to refer it to the Committee of the Whole on the state of the Union.

The motion was agreed to.

Mr. STEVENS moved to reconsider the vote by which the bill was so referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

LIABILITY OF SHIP-OWNERS.

Mr. ELIOT introduced a bill to limit the liability of ship-owners, concerning maritime liens, and for other purposes. It was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

TRIAL OF JEFFERSON DAVIS.

Mr. LAWRENCE, of Ohio, by unanimous consent, introduced the following resolutions, which were laid on the table, and ordered to be printed:

Resolved, That public justice and national security demand that, so soon as it may be practicable, Jefferson Davis, a representative man of the rebellion, should have a fair and impartial trial in the highest appropriate civil tribunal of the country, for the treason most flagrant in character by him committed, in order that the Constitution and the laws may be fully vindicated, the truth clearly established and affirmed that treason is a crime, and that the offense may be made infamous; and at the same time that the question may be judicially settled, finally and forever, that no State of its own will has the right to renounce its place in the Union.

Resolved, That public justice and national security demand that in case of the conviction of said Jefferson Davis, the sentence of the law should be carried into effect in order that the Constitution and the laws may be fully vindicated and faithfully executed, the truth clearly established and affirmed that treason is a crime, and that traitors should be punished.

Resolved, That in like manner, and for like reasons, such of the most culpable of the chief instigators and conspirators of the rebellion, as may be necessary to satisfy the demands of public justice and furnish security for the future, and those criminally responsible for the murder and starvation of Union prisoners of war, should be tried and punished for the high crime of which they have been guilty.

Resolved, That justice should not fail of its purpose, and that all who are guilty of or responsible for the assassination of the late President, and the great offenders during the recent rebellion guilty of and responsible for the murder and starvation of Union prisoners of war, as well as those guilty of or responsible for other unparalleled violations of the laws of civilized warfare, are amenable to and should be tried, convicted, and punished by military tribunals authorized by law, and sanctioned by the common law of war and the usage of civilized nations, whenever and so far as may be necessary to secure the ends of justice.

Resolved, That the Committee on the Judiciary be instructed to inquire what legislation, if any, may be necessary to provide juries for trials for treason, for writs of error, and to carry into effect the purposes of the foregoing resolutions; and that said committee report by bill or otherwise.

MRS. MARY LINCOLN.

Mr. WENTWORTH. I ask the unanimous consent of the House to take up the bill for the relief of Mrs. Mary Lincoln, in order that the House may agree to a merely verbal amendment made by the Senate.

Mr. WINDOM. I call for the regular order of business.

The SPEAKER. To take up that bill during the morning hour requires unanimous consent.

JUDICIAL DISTRICT IN PENNSYLVANIA.

Mr. STROUSE, by unanimous consent, introduced a bill to create the northern judicial district of Pennsylvania; which was read a first and second time, and referred to the Committee on the Judiciary.

H. C. WARMUTH.

Mr. STEVENS. I rise to a question of privilege. I offer to the House what purports to be a certificate of the election of H. C. Warmuth, as Delegate from the Territory of Louisiana, backed by nineteen thousand votes. I ask that it may be referred to the joint committee on reconstruction.

The SPEAKER. It will be so referred under the order of the House.

DESTITUTE INDIANS.

Mr. CLARKE, of Kansas, from the Committee on Indian Affairs, reported back, with a recommendation that it do pass, a joint resolution (S. R. No. 6) authorizing the President to divert certain funds heretofore appropriated, and cause the same to be used for immediate subsistence and clothing, &c., for destitute Indians and Indian tribes.

The joint resolution, which was read, authorizes the President of the United States to cause to be expended, under the direction of the Secretary of the Interior, for immediate subsistence and clothing of destitute Indians and Indian tribes within the southern superintendency, and for agricultural implements and seeds, a sum not exceeding \$500,000 of the unexpended balance in the Treasury of appropriations heretofore made to enable the President of the United States to carry into effect the act of March 3, 1819, and any other acts now in force "for the suppression of the slave trade," and the accounts of such expenditure are to be laid before Congress during its present session; provided, that all articles to be furnished to said destitute Indians and Indian tribes shall be delivered to them on or before the 1st of July next.

Mr. CLARKE, of Kansas. This is a joint resolution which passed the Senate in accordance with the recommendation of the Secretary of the Interior and the Commissioner of Indian Affairs, and has been unanimously reported by the Committee on Indian Affairs of the House. If there is no objection to the passage of the resolution on the part of any gentleman, I will call the previous question.

Mr. STEVENS. Within the last day or two I have received some information which induces me to believe that we ought to pause before we pass this resolution. It proposes to divert an appropriation which was made for a

special purpose to another purpose; and I understand that it is to pay probably for a large contract, and a very fraudulent one, made in the neighborhood of Kansas, involving an improper payment of nine or ten dollars per barrel for flour.

I hope the joint resolution will be postponed until we can investigate the subject. If my information is correct, it ought never to pass without a thorough examination. I may be misinformed, but if I am rightly informed, we ought at least to have a week or ten days before we pass so large a measure. With the consent of the gentleman from Kansas, I will move to postpone the further consideration of the joint resolution until the 10th day of next month.

The SPEAKER. Does the gentleman from Kansas yield the floor to allow the motion to be made?

Mr. CLARKE, of Kansas. No, sir; I cannot yield the floor for that purpose. I will say, in reply to the gentleman from Pennsylvania, [Mr. STEVENS,] that this resolution comes from the Senate, and is recommended by the Commissioner of Indian Affairs and the Secretary of the Interior.

I am informed that the charges of fraud in a contract, to which the gentleman from Pennsylvania has referred, received the attention of the committee of the Senate, as, I doubt not, the attention of the Committee on Indian Affairs of the House.

The statement of the gentleman from Pennsylvania is incorrect in reference to the prices which have been paid under this contract.

Mr. HUBBARD, of Iowa. I am a member of the Committee on Indian Affairs, and was present at the time that this joint resolution was under consideration. I have heard of the reports which have been spoken of by the gentleman from Pennsylvania, [Mr. STEVENS,] and I have conversed with the Indian superintendent of that superintendency on the subject, Mr. Sells, who is a man of honor and integrity, and he assures me that there is not a word of truth in the reports which have been referred to, that those contracts which have been let have been let upon fair and proper terms, and that these reports which have been put in circulation in relation to frauds and swindling in this department are altogether untrue. I am willing to rely upon the statement of that superintendent; he is a citizen of Iowa, who has held high and prominent positions in that State, and I have yet to hear a word of accusation brought against him.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate insisted on its amendments, disagreed to by the House of Representatives, to the resolution in reference to the adjournment over, agreed to the conference asked on the disagreeing votes of the two Houses, and had appointed Messrs. TRUMBULL, CLARK, and BUCKALEW, managers of said conference on the part of the Senate.

The message further informed the House that the Senate had passed a bill (S. No. 53) for the relief of Barney Cain, in which he was directed to ask the concurrence of the House.

DESTITUTE INDIANS—AGAIN.

Mr. CLARKE, of Kansas. In addition to the statement made by the gentleman from Iowa, [Mr. HUBBARD,] I desire to state for the information of the House that there are at this moment, according to the estimate of the Department, nineteen thousand loyal Indians and eleven thousand disloyal Indians. These latter have returned from the South and find their homes desolated and their farms and crops destroyed. They raised no crops last year, and are entirely without shelter, and I say to the House that this appropriation, on the ground of humanity alone, is an imperative necessity.

So far as the charge of fraud is concerned, I do not believe that it has any foundation in fact. The southern superintendent of Indian affairs, Mr. Sells, formerly Sixth Auditor, is a gentleman well known to many members of

this House, and is a man who sustains as high reputation as any other man in this House, or out of it, in this country. I say that the passage of this joint resolution is an imperative necessity, and that it is demanded upon the highest grounds of humanity. Winter is upon these Indians; they are at home; they have returned home during the last summer and fall by aid of the Government, and now they are absolutely without support.

For the purpose of showing to the House the imperative necessity of the immediate passage of this joint resolution before the adjournment for the holidays, I send to the Clerk's desk, and ask to have read, the following communication from the Commissioner of Indian Affairs.

The Clerk read the communication, as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE INDIAN AFFAIRS,
WASHINGTON, D. C., December 15, 1865.

SIR: Referring to office report of the 8th instant, submitting a joint resolution for the diversion of certain funds under the control of the Department for the relief of destitute Indians and Indian tribes, I would respectfully urge that you recommend the matter to the immediate attention of Congress.

There can be no doubt of the fact that thousands of Indians in the Indian Territory are destitute of food and clothing; that they are actually starving with hunger and cold.

The records of the War Department will show that millions of dollars have been expended to feed white persons who have lately been in rebellion against the Government, and whose ability to sustain themselves was certainly equal to that of these Indians.

It is not a new thing to the Department that these people are suffering. Their great calamities, growing out of the war; the utter desolation of their once rich and prosperous country, have long been known; and appeals for assistance, which this Department has no power to afford, have been numerous and urgent.

Agent Dunn, of the Creek agency, writes, on the 26th September: "The fall winds are upon us and the frosts of winter are near at hand. My people, a majority of them, are nearly destitute of clothing of any kind. I earnestly call your attention to the fact; if neglected, I shall not wish to remain here to witness the consequent suffering." As to the disloyal Choctaws and Chickasaws, Agent Coleman writes, on the 19th September: "Having been away from their homes, and in the rebel army, for nearly three years, they now find themselves in a condition of extreme destitution, and actually suffering for the necessities of life, and undoubtedly will have to be supplied by the Government until another year will enable them to shift for themselves." On the 1st of October Agent Harlan writes, as to the loyal Cherokees: "Many have small surplus, and many have some, but not enough for their bread, and many poor widows have none and no means of buying any."

It is apparent that many will have to be fed until another crop shall be raised." Of the Seminoles, Agent Reynolds writes, on the 2d October: "Their flocks and herds have been driven off by the necessities of enemies of the country and the avarice of pretended friends, until their country is uninhabited and their improvements completely destroyed and laid waste."

Of the Indians at the Wichita agency, Agent Gookins writes, on the 18th September: "They are generally very poor; except a portion of the Shawnees and Caddoes, they are very poor and destitute. Among the Shawnees is a large proportion of widows and orphan children who, however, means whatever of sustaining their lives." On the 16th of October, Superintendent Sells writes: "I visited the temporary agencies of the Cherokees, Creeks, Choctaws, and Chickasaws, and upon my return to Kansas I visited the temporary Seminole agency, and found the Indians alike destitute everywhere." Of the loyal Cherokees: "Their country is now a vast scene of desolation; houses burned, treasury robbed, fences and agricultural implements destroyed, cattle stolen, and their former fields overgrown with weeds; and now they return to their homes after an exile of years, destitute of almost everything to commence life anew, except personal energy, and they appeal with just expectations to the Government for aid and support. They want subsistence until they can raise enough to sustain themselves. To secure that end, they must have axes to build houses and fences; they must have plows and hoes to cultivate their lands; they must have stock, seed, &c.; and I apprehend that a great and magnanimous Government like ours will not permit this unfortunate people to go unaided during the inclemency of the winter months now approaching." Of the loyal Creeks, (about six thousand,) whose loyalty cost them exile and untold misery, he says: "During their exile in Kansas they lost all their property, including houses, fences, agricultural implements, and stock." * * * * "This portion of the Creeks have returned to their desolated homes, and now appeal to the Government for aid in clothing, farming implements, and seeds." Of the disloyal Creeks: "They too appeal to the Government for aid; they say they are destitute of clothing, the means of subsistence, agricultural implements, &c.; that they have no cattle and but few ponies—about one to every ten men—and no means with which to purchase more."

Of the refugee Choctaws and Chickasaws, (about two thousand,) who were being fed by Agent Coleman: "They insist that they have not the means of purchasing clothing, and that their destitution is extremely painful and must result in great suffering

unless supplied by the Government. They are exceedingly anxious to resume their agricultural pursuits, and to enable them to do so they must be provided with agricultural implements and seeds." Of the Quapaws, Senecas, and Shawnees, he says: "These refugees have been in Kansas most of the time during the war, but now they are willing to return to their former homes, whither they will be removed during this month or the first of next. They, in common with all other loyal Indians, have had their homes desolated, and they appeal for aid in clothing and farming implements. They have been subsisted during the whole period of their exile, and must continue to be until they can raise a crop, when they ought to be able to subsist themselves." Of the Wichitas and other affiliated bands: "These Indians are poor—desperately poor—and unless they are fed by the Government they must starve or steal, and they may steal and yet not be able to prevent starvation among the helpless women and children. If they should be driven to the necessity of plundering for subsistence, murders may be expected to follow in the wake of robbery, and consequent strife, bloodshed, and war to exterminate these poor, dependent, and helpless Indians who have been driven to their extremity from sheer suffering."

It was with these statements before me, statements which, from personal observation while in the Indian country, I knew to be true, that, in my annual report, I set forth the destitution of these Indians, and their dependence upon the Government for food and clothing.

From sources outside of the officers of this Department like information has been received, and similar appeals made. Major General Reynolds, on October 12, transmits a petition of the southern Cherokees (dated September 27) stating that "they are in a very destitute condition, for the want of subsistence."

"They must stay where they are and have no subsistence, and no means of getting any for months to come, during all the inclemencies of winter, unless they are fed by your Government—their guardian and protector." General Hunt remarks in forwarding this to General Reynolds, "In the condition of these people it is important that they should not be driven by hunger to depredations on the property of the Chickasaws and Choctaws, especially at this time;" and General Reynolds says: "The necessity for contributing to their support is apparent, and humanity dictates that their sufferings be alleviated without delay."

To meet these urgent appeals, to relieve all this suffering, the Department has not one cent of funds, and cannot have until Congress acts.

The estimate of Superintendent Seils may seem large, but the necessities are great. To feed 19,070 loyal Indians for six months he asks for \$520,611, which is at the rate of fifteen cents per day for each Indian; to feed 11,700 Indians lately disloyal, for six months, he asks for \$312,940, which is at the rate of ten cents per day; and to clothe all these, and 1,500 others, who have subsistence, but no clothing, he asks for \$451,780, which is at the rate of fourteen dollars for each Indian. His estimate foots up \$1,185,331, and I think not less than \$1,000,000 will suffice.

Very respectfully, your obedient servant,

D. N. COOLEY,
Commissioner.

Hon. JAMES HARLAN, *Secretary of the Interior.*

Mr. KASSON. If the gentleman from Kansas [Mr. CLARKE] will permit me, I will state that at the last session of Congress I acted on the part of the House in a conference committee upon the Indian appropriation bill. Near the close of that session there came to this House from the Senate an amendment to the regular appropriation bill, providing for the diversion of a quarter or half a million dollars, I forget which, for the relief and support of destitute loyal Indians. In the hurry of the closing part of that session our committee reported it to the House with a recommendation that it pass, but without any provision whatever guarding the disbursement of that appropriation. I felt that it was wrong to pass a mere general appropriation without any guard or check upon its disbursement.

And now, at this early day of this session, we find another proposition of the same character, proposing a discretionary appropriation at this time of \$500,000 without one solitary check upon its expenditure.

I find in the report of the Commissioner of Indian Affairs the following sentences, which I will read, and to which I ask the attention of this House:

"I suppose that I am not making a remark which will startle the Department by its novelty, when I suggest that there is reason to believe that agents are too often in some manner interested with or for the traders. Certainly there can be no doubt that if such combination of interests should exist, it can only exist to the injury of the interests of the Indians, and consequently of the Government. It is not uncommon to hear the apparent rapidly-increasing wealth of employes of, or officers subordinate to, this office spoken of as a reproach to the service. I have no idea of undertaking a Quixotic attempt to correct the manners or morals of public officers, but in this particular matter I have been led to believe that an improvement can be effected, partly by the adoption and enforcement of new and stringent rules by the Department, and partly by the aid of congressional enactments."

And further down on the same page, he says:

"With a view to the correction of such wrongs as may exist, and the prevention of others in future, in relation to a combination of interests between agents and traders and contractors, I suggest an application to Congress for the passage of a law which shall make it a penal offense for any agent, or other officer in the Indian service, to be in any manner, directly or indirectly, interested in the profits of the business of the trader, or in any contract for the purchase of goods, or in any trade with the Indians, at their own or any other agency; the same penalties to apply to the licensing of any relative to trade, or to purchasing goods or provisions for the use of the Indians of any firm in which they or any relative may be partners, or in any way interested. I do not desire to push legislation to a point where it cannot be enforced, but I think that in this matter the most stringent measures are necessary."

Now, we have learned from the gentleman from Pennsylvania [Mr. STEVENS] that there are reports in circulation of bad management, of misconduct, and of fraud in connection with the expenditure of these appropriations. I have heard a report that \$280,000, or some other very large part of this money, has now actually been expended without warrant of law, and this is proposed for the purpose of paying what has already been contracted for without warrant of law. My colleague [Mr. HUBBARD] says that here are gentlemen from our own State; the Secretary of the Interior, the Commissioner of Indian Affairs, the superintendent, are from Iowa, and I see among the other names two or three others who are either from Iowa or connected with officers controlling the Indian department who are from that State.

Now, I do not like that these things shall exist any longer if we can avoid it by providing proper guards upon the distribution of this fund. It is said that the son of the superintendent is a partner in a firm who is interested in these contracts. I want these matters to be so arranged that the character of these gentlemen will not be liable to any such imputations as are now made, and when we are doing our utmost in the Committee on Appropriations, in pursuance of the manifest wish of this House, to guard against mal-administration, and cut down appropriations, I do not want appropriations made in so unguarded a manner as to lead to imputations like those referred to upon the gentlemen engaged in that department.

I think, therefore, that we ought to hesitate before thus voting away \$500,000 by what is actually a new appropriation, which, it seems to me, ought to go, under the rules, to the Committee of the Whole. I hope that we shall not set the precedent of disposing of such an amount of money without placing the slightest guard upon its disbursement. If the House shall, as I trust it will, refuse to sustain the previous question, I shall propose that the bill be referred to the Committee on Appropriations, that that committee may adopt such provisions, in connection with this appropriation, as will, in the estimation of all honest men, guard the disposition of this fund against any supposed mal-administration. I apprehend that a delay of a few days cannot make a very great difference. In a matter involving the expenditure of \$500,000, the House ought to have a little time to provide, through the appropriate committee, that the appropriation of so large a sum of money may be surrounded by proper guards, none of which are now provided. By the resolution, the money is appropriated, in general language, "for the relief and support of Indians." I hope, therefore, that the gentleman from Kansas [Mr. CLARKE] will see the propriety, on all grounds, of allowing the resolution to go to a committee, by which the proper guards can be provided, so that there will no longer be this liability to imputations upon the character of those who are to administer the fund.

Mr. GRINNELL. I think, sir, that, after the reading of the report to which we have listened, this is no time for my colleague [Mr. KASSON] to raise the question with regard to imputations of fraud in reference to the expenditure of this money for the relief of starving Indians. I would not have risen but for the fact that the gentleman whose name has been mentioned here is a constituent of mine. He

was for many years the secretary of state of the State of Iowa. A more honorable gentleman does not reside in that or any other State.

The resolution now before us originated, I believe, with the Secretary of the Interior or the Commissioner of Indian Affairs; certainly it is indorsed by the Secretary of the Interior. It has met the approval of the Senate, and comes before the House with the sanction of the Committee on Indian Affairs of this body, who have fully examined the subject. Yet my colleague proposes that we shall allow the resolution to go over for three weeks, leaving meanwhile those Indians on the frontier to die by starvation, in order, as the gentleman contends, that we may set at rest imputations which have been made against some citizens of my own State. Sir, those gentlemen need no vindication. I trust that my colleague will not rise here to impeach the character of citizens of his own State, against whom, as I believe, no imputation can justly be made.

I hope that we shall follow the well-considered recommendation of the Committee on Indian Affairs, and pass this resolution. I repeat, it has received the approval of the Secretary of the Interior, who certainly has the reputation of being an honest man, and of the Commissioner of Indian Affairs, who is also I believe an honest man. I hope that we shall, by appropriating this money, save those destitute Indians from starvation, and not invite them in this inclement season to commence depredations upon the white people of the frontier. The bill is well guarded, has been well examined, and delay, I fear, is fraught with risk, if not with great wrong.

Mr. SHELLABARGER. Will the gentleman from Kansas [Mr. CLARKE] yield to me one moment?

Mr. CLARKE, of Kansas. I will.

Mr. SHELLABARGER. I rise simply for the purpose of asking the attention of the chairman of the Committee on Indian Affairs to what seems to be a singular feature of the case now presented to the House. It seems, by the communication read at the desk, that there are some, perhaps eleven thousand, disloyal Indians of two tribes that are named, who have been about three years in the rebel army, and have been reduced to circumstances of destitution by reason of their absence from their homes while in the rebel service. They now come back to their homes, and appeal to the Congress of the United States to make provision for them on account of the suffering condition in which they are found by reason of their service in the rebel army.

Now, Mr. Speaker, it does seem to be a novelty, whatever the claim on the part of humanity may be, that Congress should, without consideration, provide speedily for the wants of returned rebel soldiers and their families. To ascertain the reasons why that should be done has led me to invite the attention of the House to this subject.

And permit me to say, in this connection, that if these claims of humanity are to be indulged, to induce Congress to make these appropriations, there are claims which could be urged with more startling force from hundreds who are suffering greater hardships, and who are more deserving of our attention. A communication was sent to me a few days ago by a gentleman who is traveling through the South, wherein it is stated that freedmen of the South, and their families, that the families of soldiers of the Army of the United States are now lying at railroad stations and elsewhere under circumstances not only of destitution, but dying of hunger and exposure. These remarks apply, as gentlemen know, to the families of our own soldiers in the North. It is not necessary for me to say what is so familiar to all, that there are thousands and tens of thousands of those who have been rendered fatherless and desolate by the late war for whom no provision has been made by the Government.

I only allude to this for the purpose of saying that if the claims of humanity are to be advanced to pass this appropriation speedily,

there are other claims which come with more force from other classes of men.

I trust that this measure will be permitted to go to the committee, and that we may have more time to consider it.

Mr. WINDOM. Mr. Speaker, I desire briefly to answer the suggestions made by the gentleman who last addressed the House. I will say before proceeding to do so, however, that this bill came from the Senate on Monday last when I was accidentally absent from the city, nor was I present when it was investigated by the committee of this House; but I have investigated it since. The gentleman from Ohio [Mr. SHELLABARGER] refers to the fact that there are eleven thousand disloyal Indians who have been engaged in the rebel service, and that an appeal is made to us to afford them relief while our own soldiers are unprovided for. I admit that without some explanation the gentleman would make a strong case.

I desire to state with reference to these Indians that there are circumstances which take them out of the general rule, which would seem to make us provide for all who are in a destitute condition. These Indians are held substantially as prisoners of war. There are nineteen thousand loyal Indians as well as eleven thousand disloyal Indians in that condition; and as my authority, I refer to a communication from an officer of the subsistence department of the Army. He says that these Indians have been captured and taken to that reservation, and are held in the light of prisoners of war, and that as such they have been subsisted by the subsistence department. He says further, that for the purpose of having them more readily provided for they have been turned over to the Interior Department.

The fact is that these Indians were taken to that reservation under guard, and have been held as prisoners of war under guard of United States forces. If we wish to repeat against them the horrors of Andersonville prison, then let this bill go over for three or four weeks. If gentlemen do not desire to relieve our prisoners of war because imputations are cast upon Indian officials; if we wish to fail to do justice in this matter, let us postpone this matter. But I think we will prefer to do justice and take it up at once and pass it.

I have no objection to the amendment of the gentleman from Ohio, but I do object to throwing this resolution over for a month.

So far as these imputations of fraud are concerned, I do not know how much truth there may be in them; but I do know this, or at least I believe it, that if St. Paul were to come down and accept the office of the Secretary of the Interior, he would be accused of stealing in less than three months afterward. I believe that the present Secretary of the Interior and Commissioner of Indian Affairs are as good men as are in the country; and we take this resolution upon their recommendations, and facts furnished by their agents, who are deemed reliable. I do not think that these Indians should be permitted to starve because charges of fraud are made against certain officials.

Mr. MORRILL. This is a very large claim, and I trust the House will not begin by passing upon a bill appropriating \$500,000 for Indian affairs, without a proper examination. I know of no subjects in this House, so far as my experience goes, which will better bear examination or endure more pruning than appropriations for Indian affairs.

Mr. WINDOM. I desire to ask the gentleman if an examination by the Secretary of the Interior, by the Commissioner of Indian Affairs, by the Committee on Indian Affairs in the Senate, by the Senate itself, and by the Committee on Indian Affairs of the House, do not afford some sort of guarantee that this question has been examined, as well as if it had gone to the Committee of Ways and Means in the House?

Mr. MORRILL. Undoubtedly; and the examinations of the Committee on Indian Affairs, of the House, so far as I am concerned, will be received with as much confidence as the action of any other committee of this House; but at

the same time there is a wonderful facility of transferring appropriations made for one purpose to another. It is not that I have any special opposition to this particular bill, but I think that no bill of this amount ought to pass without a critical examination by the proper committees of this House.

Mr. HUBBARD, of Iowa. I do not desire to prolong this discussion, but I wish to make a single remark in addition to what has been already said upon the subject. It is this: that this matter has been fully canvassed, discussed, and examined before the Committee on Indian Affairs of the House, and there was not a solitary member of that committee that became conversant with the facts relative to the condition of these Indians, their starvation, their wants, and the circumstances by which they were surrounded, who was not in favor of appropriating this money. Why, sir, this is a question of the starvation of these Indians. They are without clothing, without food, and in a destitute condition; and unless this appropriation is made to furnish them with provisions and clothing they must suffer and die by the hundreds.

Mr. CONKLING. I would like to propound to the gentleman a question which the gentleman from Minnesota [Mr. WINDOM] promised to give me an opportunity to ask, but who took his seat without affording me the opportunity. I see no reason, for one, in the remarks of the advocates of this bill for providing for those rebel savages, unless, in some sense or other, they are held as captives of war. If they are, I would like to know why not liberate them, and have done with it? Andersonville cries aloud because those men were held and starved. If these prisoners that were, are in any sense yet prisoners of war, why not let them go? If they are not prisoners—as I understand they are not—the simple proposition is that we shall appropriate \$500,000 to save from starvation a certain number of savages who are destitute because they have been fighting as rebels, when the land is full—when one half of it, at least, is full of white men, white women, and white children, who never fought to aid this rebellion, and who also are starved and naked and hungry. Now, I take it for granted that there is some difference between these classes; and if so, I would like to understand why these Indians should not be liberated, if prisoners; and if they are not prisoners, why they should be stipendiaries of the Government.

Mr. HUBBARD, of Iowa. In answer to the gentleman, I will say that a large number of these Indians have been heretofore held as prisoners of war, and fed by the War Department. They are now liberated and thrown upon the Interior Department, and it becomes necessary for that Department to make some provision for them or else they must starve. They have been held in such a condition that it has been impossible for them to raise any crops for the past season. They are, therefore, destitute of food. They have been held as prisoners of war, and have, therefore, been unable to prosecute their hunts, and are destitute of clothing.

Mr. INGERSOLL. I would ask the gentleman from Iowa how many Indians there are in that destitute condition?

Mr. HUBBARD, of Iowa. I understand that there are altogether about thirty thousand. About eleven thousand of those are disloyal Indians. The chairman of the Indian Committee can correct me if I am in error, but I understand that there are about thirty thousand of these Indians, and some twenty-odd thousand of that number, I understand, have always been loyal.

Mr. SPALDING. Inasmuch as this joint resolution involves an appropriation, I would inquire whether it can be passed without reference to the Committee of the Whole?

The SPEAKER. It is too late to raise that question now, the joint resolution having been debated. If made in time, it would have been a good point. It is too late now, according to the usage of the House.

Mr. SPALDING. I supposed that at any

time an objection might be taken to the consideration in the House of a joint resolution or bill involving an appropriation.

The SPEAKER. The objection is to its consideration in the House, and when the House considers it the objection is supposed to be waived.

Mr. SPALDING. As soon as I can get the floor I will move the reference of the joint resolution to the Committee on Appropriations.

Mr. HUBBARD, of Iowa. I wish to make but one additional remark upon this question. These Indians are there in that Territory, and their condition is such that unless immediate provision is made for them they must suffer and must die during the coming winter. They have nothing on which to subsist, as I understand it, and these facts were made apparent before the committee that investigated the matter.

As to these reports that are in circulation in relation to the management of affairs in that department, I understand that they are without foundation; that there is no truth in those reports.

Mr. BURLEIGH. I desire to state that I have seen the Commissioner of Indian Affairs, the superintendent of these Indians, and the Secretary of the Interior, and the gentlemen who have been concerned in making the contracts, and they assure me that there is not a single word of truth in the stories of fraud that have been referred to here. I think I know as much of what is required for Indians as any man upon this floor, and let me say to the House that if these Indians, thirty or forty thousand strong, are in a starving and destitute condition, humanity dictates that their wants should be supplied and that they should be protected from starvation.

I have spent the last five years of my life among the Indians, and I know that it is utterly impossible to prevent their committing depredations of every character so long as they are reduced to starvation.

I do not know anything about the allegations of fraud in this case, nor do I care; I know this, that no gentleman here could take charge of Indian affairs without being accused of fraud, and without being convicted of it, too, if the testimony of those interested in trading with the Indians is to be received. Upon such testimony a man could be convicted of horse stealing or any other crime.

I do hope that gentlemen will consider this matter, and that a sufficient appropriation will be made for this purpose. If \$500,000 is required to relieve these starving Indians, let that amount be appropriated.

Mr. CLARKE, of Kansas. I desire to say in reply to the gentleman from Iowa, [Mr. KASSON,] that I am willing, as I doubt not the Committee on Indian Affairs are willing, to go with him at a proper time into any investigation he may think proper in reference to any charges of fraud in connection with the Indian department or the administration of Indian affairs. At present, as has been stated in the communication from the Commissioner of Indian Affairs which has been read within the hearing of the House, and as has been stated by the other gentleman from Iowa, [Mr. HUBBARD,] this action asked by the report of the Committee on Indian Affairs and by this joint resolution, which has unanimously passed the Senate, is one of imperative necessity, and is demanded, in my judgment, by the highest principles of humanity.

Whenever the history of the sufferings and trials of these nineteen thousand loyal Indians shall have been written, it will present a scene of horror, of woe, and of suffering, such as has been presented by no other people, by no other class, and at no other time, in the history of this rebellion. Gentlemen of this House will remember that famous appeal of the loyal Indians, who, in the midst of a rigorous winter, in an inclement season, when they were with their children upon the prairie with the thermometer at zero, with their dead and dying strewing their path, still preserved their loyalty to the flag of this country, and appealed to the Government for protection. They have returned

to their homes since the close of the rebellion and find those homes deserted and destroyed. As I said before, they have raised no crops during the past year, and winter is upon them at this very hour.

Mr. KASSON. Will the gentleman from Kansas [Mr. CLARKE] yield to me for a moment?

Mr. CLARKE, of Kansas. I must decline to yield further, as my time is nearly out. As I said, the winter is upon them; they have no means of subsistence, and if this House fails to pass this bill before the adjournment over the holidays many of these Indians must necessarily starve. I speak in behalf of these Indians, who have not only appealed to the protection of their Government, to which they have continued loyal, but five thousand of whom entered the service of the United States, and joined with us in the defense of the country. This is a question of humanity; one which appeals to the humanity of this House; one which, if this House fails to pass this bill, will appeal to the humanity, sympathy, and charity of this country. I now call the previous question.

Mr. CONKLING. I ask for tellers on seconding the demand for the previous question. Tellers were not ordered.

The question was taken; and there were—ayes 52, noes 47.

So the previous question was seconded, and the main question ordered.

The question was upon ordering the joint resolution to be read a third time.

Mr. KASSON. I rise to a question of order. I understand that this joint resolution involves an appropriation requiring consideration in the Committee of the Whole.

The SPEAKER. The Chair has already stated, in reply to the gentleman from Ohio, [Mr. SPALDING,] that that point is made too late. If before proceeding to the consideration of this joint resolution that point had been raised, the Chair would have examined the joint resolution, and decided the question of order; but, as the gentleman well knows, the usage has been that if the consideration of a measure is proceeded with without objection, that point of order is considered to be waived, and cannot afterward be made.

The question was taken upon ordering the joint resolution to be read a third time; and there were—ayes 55, noes 57.

Mr. WINDOM. I call for tellers.

Tellers were ordered; and Messrs. WINDOM and RADFORD were appointed.

The House divided; and the tellers reported—ayes 56, noes 59.

Mr. WINDOM. I call for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 72, nays 67, not voting 43; as follows:

YEAS—Messrs. Allison, Banks, Bergen, Bidwell, Boutwell, Brooks, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Dixon, Briggs, Dumont, Eliot, Farnsworth, Finck, Grinnell, Hart, Henderson, Hogan, Holmes, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Edwin N. Hubbard, James Humphrey, Ingersoll, Jenckes, Johnson, Julian, Kerr, Kuykendall, Latham, Lynch, Marston, McRuer, Myers, Newell, Niblack, Nicholson, Koell, O'Neill, Perham, Plants, Price, Radford, Samuel J. Randall, Alexander H. Rice, John H. Rice, Rogers, Rollins, Ross, Rousseau, Schenck, Sitgreaves, Strouse, Taber, Taylor, Francis Thomas, Thornton, Upton, Van Aernam, Burt Van Horn, Robert T. Van Horn, Voorhees, Warner, Whaley, James F. Wilson, Windom, and Wright—72.

NAYS—Messrs. Allex, Ancona, James M. Ashley, Baker, Baldwin, Baxter, Beaman, Benjamin, Bingham, Bronwell, Broomall, Conkling, Cullom, Dawson, Deftrees, Eckley, Eggleston, Garfield, Glossbrenner, Grider, Hale, Aaron Harding, Abner C. Harding, Hayes, Hill, Demas Hubbard, John H. Hubbard, Hulburd, Kasson, Kelley, Kelso, Ketcham, George V. Lawrence, William Lawrence, Loan, Longyear, Marshall, Marvin, McCullough, McKee, Mercer, Miller, Moorhead, Morrill, Orth, Paine, Phelps, Pike, William H. Randall, Raymond, Ritter, Sawyer, Scofield, Shellabarger, Smith, Spaulding, Stevens, Sullivan, Thayer, John L. Thomas, Trowbridge, Ward, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, and Williams—67.

NOT VOTING—Messrs. Ames, Anderson, Delos R. Ashley, Barker, Blaine, Blow, Boyer, Brandegee, Buckland, Bundy, Culver, Darling, Davis, Dawos, Delano, Deming, Denison, Donnelly, Eldridge, Farquhar, Ferry, Goodyear, Griswold, Harris, Higby, Hooper, James R. Hubbard, James M. Humphrey, Jones, Laflin, Le Blond, McClurg, McIndoe, Morris, Moulton, Patterson, Pomeroy, Shanklin, Sloan, Starr,

Trimble, Stephen F. Wilson, Winfield, and Woodbridge—43.

So the joint resolution was ordered to a third reading; and it was accordingly read the third time.

The question being, "Shall the joint resolution pass?"

Mr. WINDOM demanded the previous question.

The previous question was seconded, and the main question ordered.

Mr. STEVENS. I move that the joint resolution be laid on the table.

The motion was not agreed to; there being, on a division—ayes 53, noes 60.

The joint resolution was then passed.

Mr. WINDOM moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

UNIVERSAL EXPOSITION AT PARIS.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States, which was read, as follows:

To the Senate and House of Representatives:

I transmit a report of this date from the Secretary of State, and the papers referred to therein, concerning the Universal Exposition to be held at Paris in the year 1867, in which the United States have been invited by the Government of France to take part. I commend the subject to your early and favorable consideration.

ANDREW JOHNSON.

WASHINGTON, December 11, 1865.

The message and accompanying papers were, on motion of Mr. WENTWORTH, referred to the Committee on Agriculture, and ordered to be printed.

PEONAGE IN MEXICO.

The SPEAKER also, by unanimous consent, laid before the House a message from the President of the United States, which was read, as follows:

To the House of Representatives:

In answer to the resolution of the House of Representatives of the 11th instant, requesting information relative to a so-called decree concerning the reestablishment of slavery or peonage in the republic of Mexico, I transmit a report from the Secretary of State, and the documents by which it was accompanied.

ANDREW JOHNSON.

WASHINGTON, December 14, 1865.

On motion of Mr. SCHENCK, the message and accompanying documents were referred to the Committee on Foreign Affairs, and ordered to be printed.

TAXATION OF DOMESTIC MANUFACTURES.

The SPEAKER laid before the House the following concurrent resolution from the Senate:

Resolved by the Senate, (the House of Representatives concurring,) That the Committee on Manufactures of the respective Houses inquire if the tax from the internal revenue act upon the products of domestic manufacture is greater than the duty, premium on gold, expenses of exchange, and transportation upon similar products imported, and if thereby the foreign product is entered for consumption upon more favorable terms than the domestic product, to report a remedy by bill or otherwise.

Mr. MOORHEAD. I move that the House concur in the resolution.

The motion was agreed to.

INVESTIGATION OF INDIAN AFFAIRS.

The SPEAKER also laid before the House the following concurrent resolution from the Senate:

Resolved by the Senate, (the House of Representatives concurring,) That the joint committee of the two Houses appointed under a joint resolution at the last session of Congress to investigate Indian affairs, have liberty to make their report at any time during the present session of Congress.

Mr. WINDOM. I move that the House concur in the resolution.

The motion was agreed to.

MRS. MARY LINCOLN.

Mr. WENTWORTH. I move that the House proceed to the consideration of House bill No.

4, for the relief of Mrs. Mary Lincoln, which has been returned from the Senate with an amendment. The amendment is merely a verbal one, in which I move that the House concur.

The amendment of the Senate was read, as follows:

In line ten, after the words "United States," insert "for the current year," so that the clause will read: *Provided always, That any sum of money which shall have been paid to the personal representatives of the said Abraham Lincoln, since his death, on account of his salary as President of the United States, for the current year, shall be deducted from the said sum of \$25,000.*

The amendment was concurred in.

ABOLITION OF SLAVERY.

Mr. BROOMALL asked to have entered a motion to reconsider the vote by which the resolution relative to the constitutional amendment for the abolition of slavery was referred to the joint committee on reconstruction.

The entry was accordingly made.

FREEDMEN'S BUREAU.

Mr. STEVENS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Superintendent of the Freedmen's Bureau, Major General Howard, be directed to inform this House whether any real estate, seized under the act of 17th of July, 1862, as enemies' property, the title to which, by that act, was vested in the United States, has been assigned or allotted to freedmen as a residence and homestead by any department of the Government; and if so, whether the same has been restored to the rebel owners, the people of color ordered off, and by whose authority; and also whether abandoned plantations have been thus kept and thus restored; and, if known to the said Superintendent of the Freedmen's Bureau, to state under what pretense of authority traitors' property vested in the United States under the confiscation act was taken from the United States and bestowed on conquered enemies.

ADJOURNMENT OVER THE HOLIDAYS.

A message was received from the Senate, by Mr. FORNEY, their Secretary, notifying the House that that body had agreed to the report of the committee of conference, that when the two Houses adjourned on Thursday the 21st of December, they should adjourn until Friday January 5, 1866.

Mr. WASHBURN, of Illinois. Mr. Speaker, I rise to a privileged question, to make a report from the committee of conference on the disagreeing votes of the two Houses relative to the adjournment over the holidays. Instead of the propositions adopted by the Senate and the House we have agreed on an adjournment from Thursday the 21st of December to Friday the 5th of January next. I desire to say in regard to that report that they were the best terms we could get on the part of the House from the Senate. The committee on the part of the House, representing the sentiment of the majority here, were desirous of having the full time provided in the House resolution, but the Senate would agree to no more than what we have reported.

I will state further, that it was stated to the committee on the part of the Senate that there would not be much done in the House to-morrow as many members had made arrangements to leave to-night. We were told that there were some things they wanted to do in the Senate to-morrow, but that the House could by unanimous consent agree that no business should be transacted to-morrow.

The report was adopted.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. STEVENS moved that when the House adjourns on Friday the 5th of January, it will adjourn until the following Monday.

The SPEAKER. The Chair would be glad to entertain that motion, but it is not in order. It has been decided repeatedly that the House cannot determine in December what time it will adjourn over in January.

DEATH OF HON. ORLANDO KELLOGG.

Mr. HALE. Mr. Speaker, the sad duty is devolved upon me of announcing to this House

the death of Hon. ORLANDO KELLOGG, a member-elect to the Thirty-Ninth Congress, from the sixteenth district of New York.

Mournful as this task always is, it is especially so in this case; for it is not merely a colleague upon the floor of this House whose loss I mourn, but an intimate personal and political friend of my whole adult life, and one with whom, for many years as my professional partner, my relations were of the nearest and most intimate character. And in laying this my scanty tribute upon the grave of my dead friend, I seem rather to myself as bewailing the personal loss of a brother than as taking part in the common forms of official eulogy.

Mr. KELLOGG was born in Elizabethtown, Essex county, New York, on the 18th of June, 1809. There his life was spent, and there he died on the 24th day of August last.

His ancestors were the pioneers in the settlement of his native town, and bore and left there a respected name.

His father, an industrious and worthy mechanic, died just as his eldest son, whose memory we now honor, attained the age of seventeen years, leaving a family impoverished and reduced to actual destitution by the lingering and painful disease which had for years deprived them of the labors and support of their head.

At this early age—or indeed at a still earlier—commenced the labors and responsibilities of life with Mr. KELLOGG, and from them he never flinched. Assuming not only cheerfully but eagerly the duties thus forced upon him, applying himself to his father's trade, with hammer and ax and jack-plane, he wrought out by the labor of his hands, for his widowed mother and orphaned brothers and sisters, support and comfort and the means of education. Never was graver task undertaken by such a youth—never one more faithfully and thoroughly performed.

At the age of twenty-two, under the advice of friends, he commenced the study of law, and after serving the protracted course of study then required by the rules of his State was admitted to practice in the year 1838.

In 1840 he received from Governor Seward the appointment of surrogate of his native county, and performed most acceptably the delicate and trying duties of that office for four years.

In 1846 he was elected a member of the Thirtieth Congress.

At the end of his term he returned to private and professional life, and so remained till called by the almost unanimous voice of his district again to represent them in the Thirty-Eighth Congress, and was again re-elected to the present Congress.

Of his congressional career many here can speak with better and fuller knowledge than I. He was never a prominent or obtrusive member. Diffident and cautious of speech, he never thrust himself upon the notice of the House; and indeed rarely rose to speak. But among those who could truly appreciate such qualities his sterling good sense, his practical wisdom, his unerring tact in the management both of men and things, did not fail to stamp him as a man who, in many of the qualities that go furthest to constitute worth for the practical everyday duties of life, had on the floor of the House few equals and no superior.

At the breaking out of the rebellion Mr. KELLOGG gave himself, heart and soul, purse and person and family, to the cause of his country. Though precluded by controlling personal and family circumstances from active participation in the military service, no man in that service or out of it gave up his time, his labors, or his means, more unreservedly to the support of the military measures of the Government.

To the soldiers from his own district his relation seemed almost paternal, and particularly his own peculiar district regiment, the one hundred and eighteenth New York volunteers, in whose organization he took a most active part, and in whose ranks his son marched, always welcomed him with enthusiastic zeal as their father and their friend.

No labor was too severe for him to undertake on behalf of the humblest soldier. Nay, even crime could not steel his heart against mercy, and the erring and condemned soldier has more than once found in him an intercessor who would not be denied, and has been restored by his efforts to life and liberty and reformation.

In his profession Mr. KELLOGG stood deservedly high. Precluded by the very circumstances of his early life to which I have adverted from the scholarly research and nicety of legal learning which are essential to the perfect lawyer, he yet brought to his profession that broad and comprehensive view both of facts and principles, that quiet sagacity, that intuitive perception of secret causes and motives, that prompt and fearless action, and that perfect and unspotted integrity of character that made him from the very outset of his professional career a counselor most widely sought and most highly valued. In his profession he was most emphatically a peacemaker, and his first inquiry when consulted by a client seemed always to be, how can litigation be honorably and properly avoided?

As a jury advocate he stood in the very first rank in his section of the State. Plain, and often blunt of speech, but always apt, always forcible; often rising to genuine and lofty eloquence, and often exhibiting that wonderful combination of humor and pathos that is reached by nothing short of genius; always impressing his auditory with the conviction of his own earnestness and sincerity—the first requisite of a successful orator—he combined a larger number of the essential requisites of a jury advocate than often falls to the lot of one man.

But it is as a citizen and neighbor, in his social and private relations, that I would speak most freely of Mr. KELLOGG; and here, alas! I feel the most deeply my inability to do justice to his character, for the very reason that my knowledge of him was so intimate, my love and respect for him so thorough.

Though often rough and almost repellant in manner, no kinder, truer, more loving and sympathizing heart ever beat in human bosom. In every act or question touching his fellow-men his first impulse was rectitude, his second kindness.

I never knew a man who enjoyed more universally the respect and confidence of the entire community in which he dwelt, irrespective of all difference of social position, of character, or creed.

Always bold, frank, unreserved in his political opinions and utterances, no political antagonist ever grew into a personal enemy. For while he knew no fear or hesitation in the expression of his own political views, he extended the largest tolerance and charity to all who differed with him.

His manliness, boldness, frankness, and tenacity of purpose commended him to the admiration and confidence of all; and he most accurately filled the character painted by the Roman poet, as

"Justum ac tenacem propositi virum."

The sanctity of the family circle I cannot invade further than to say that never was husband, son, and father mourned with a deeper and holier grief than he, by widow, mother, and children.

Mr. Speaker, those of this House whose lives are passed amid the din and jostle of crowds, the cares and anxieties of active political and business life, can hardly appreciate the strength of the social ties that bind together the few inhabitants of a sequestered community like that in which Mr. KELLOGG lived. We are not, as the inhabitants of the crowded city are too apt to be, divided from each other by party-walls; but the life of each man seems sensibly to run into that of every other; we seem to be in effect but a larger family circle.

When, on the morning of the 24th of August, the hurried report ran through our village that Mr. KELLOGG was dying, was dead—he whom we had all seen a few hours before in robust health, with every promise of long life and

useful labor—there was not a house on which it did not seem that a shadow fell, not a family but seemed a family of mourners.

Among those rugged hills where his life was spent and where his body now lies his name and memory will be long cherished; and the present generation, at least, must fully pass away before the personal memories of his virtues, his kindnesses, and his true and manly heart can perish from among us.

Mr. Speaker, I present the following resolutions, and move their adoption:

Resolved, That this House has learned with sincere regret the death of Hon. ORLANDO KELLOGG, member-elect to this House from the sixteenth congressional district of New York, and that to mark their respect for his memory, the members of this House will go into mourning by wearing crape upon the left arm for thirty days.

Resolved, That as a further mark of respect to the memory of the deceased, this House do now adjourn.

Ordered, That the Clerk communicate these resolutions to the Senate.

Mr. GRISWOLD. Mr. Speaker, I shall detain the House but for a few moments in the tribute I feel called on to make to the memory of my colleague and former associate in these Halls. In eulogizing the dead we are wont—and it is, perhaps, excusable—to indulge in language of exaggeration. We are tempted to magnify the virtues of the deceased and to make no note of faults. But, sir, I believe if through his spirit my lamented colleague, whose death we are now called on to commemorate, could speak, he would admonish us to spare all over-wrought encomiums, and utter no praise or commendation that we did not feel was justly due. This, in my estimation, would be characteristic, for he was a man of singular directness and sincerity. Nor is it necessary to say anything more than the simple truth concerning him. A true portraiture of his character—such as has been so eloquently and faithfully presented by his successor and intimate friend, [Mr. HALE,] who has just preceded me—is all that is required to command our respect and admiration.

Mr. KELLOGG was a man of great native sagacity, thoroughly honest impulses, and fearlessness in the vindication of his convictions. His judgment was formed more by intuition than through the ordinary process of reasoning and reflection. Discarding the doubts and subtleties that would embarrass most men, he marched directly to his conclusions. Once there, he seldom had occasion to change, for truth and honesty were the lights which guided him. He was a man of strong common sense.

As we have just heard, Mr. Speaker, he was, in the fullest meaning of the term, a self-made man. Commencing life without any of the advantages with which ancestry or wealth line the pathway of a young man, he felt that his future was to depend upon himself; that from his own unaided efforts he was to win success, and manfully did he strike the hard blows that were necessary to forge and shape his destiny. He was one of those instances, Mr. Speaker, so common under the favoring influences of the institutions and laws of this country, which illustrate that the avenues to the most honorable position and the highest success are here alike open to all, and within the reach of every man who will apply his God-given faculties with fidelity and earnestness of purpose.

His early life, as we have just learned, was incumbered with more than the mere necessities of caring for himself. The wants of a widowed mother and her destitute children were dependent on him for supply, and the hard-earned wages of a mechanic had to suffice for them as well as for his own support. We have just been told how faithfully he discharged these duties; how, with the earnings of his own strong arm, want was kept from a household, and education and comfort and happiness secured to its inmates. This illustrates the real character of the man, and speaks for him more eloquently than any words of eulogy I can command.

As a lawyer, my knowledge of Mr. KELLOGG was more from his general reputation than any other source. It is sufficient, however, as evidence of his professional ability, that through-

out the northern part of our State no one was more largely sought as a legal adviser and defender.

Of his private life I can only speak as I did of his professional reputation, from the measurement of public esteem. Nowhere was he so beloved and believed in as among his immediate neighbors and in the domestic circle. This, Mr. Speaker, is the best vindication of a man's private worth and virtue.

Mr. KELLOGG was not what is usually designated a showy man. Modest and unobtrusive, he was not, perhaps, as generally known by his associates in the Thirty-Eighth Congress as many others; but, Mr. Speaker, there were few men in that body, or in this, on whose judgment and patriotism safer reliance could be placed. Strong in his own convictions, and earnest in maintaining them, he was nevertheless one who respected the faith and opinion of others. Culling the right from the wrong, he was always prompt to award credit or acknowledge error. Eminently practical, he could be carried away by no theoretical abstractions, but deemed it wiser and more statesmanlike to secure the most that could be obtained, rather than to risk all in battling for what he might desire. He was the character of a man so essential in the councils of the nation at this time when we are called upon to complete the difficult and transcendently important work left by our military heroes and brave soldiers on whom is still the dust of battle.

It is perhaps fortunate, Mr. Speaker, that we are not too constantly influenced by our knowledge of the uncertainty of life. Placed here for earnest, active duties, to labor for the benefit and advancement of the living world, it is wisely provided that our energies should not be paralyzed by the ceaseless apprehension of death. But, sir, while this may be true, we must not shut our eyes to the importance of heeding those constant admonitions of our mortality. It is well that the voice of mourning is sometimes sounded so near that we cannot but listen; and when in our own ranks, and standing side by side, our comrades are stricken down, surely each one of us should be admonished to be prepared for the summons that must come to all as it came to our lamented friend.

Mr. RANDALL, of Pennsylvania. Mr. Speaker, I desire to join in giving proper respect to the memory of our late associate, Mr. KELLOGG, of New York.

Death has again crept upon us, and removed from our deliberations a member who was always attentive and ever at his post. During the last Congress I had occasion at various times to confer with him in the discharge of our respective duties. I found him a man of mature reflection, never hastily arriving at a conclusion, but his opinions being formed, he was firm in his convictions and his actions, sincerely having in view the interests of the people who had honored him with their support. It is becoming, therefore, that I should add a few words to what has been so well and truthfully said.

In casting aside, for a brief period, the secular avocations incident to our positions, let us reflect upon the awful reality of death—no respecter of persons; striking high and low; the gifted as well as the uneducated. We are admonished to be ever ready, for we cannot know at what time we too may be summoned. The future after our sojourn here is not given us to know of; but we can observe the examples about us, and so live that when we come to die it may be said of us, as I now say of the deceased, that he was a faithful Representative, a good citizen, and a man who endeavored to carry out the golden rule of life, by doing unto others as he would wish to be done by.

You have listened to the particulars of Mr. KELLOGG's early youth and subsequent manhood, and in it we find an example well worthy of imitation—not rare, I am glad to say, in this country or among our people—that by industry and perseverance we can succeed. He steadily stepped the march of life, gaining the respect

of those with whom he came in contact, and feeling a full sense of the requirement to do right in every public and private situation. He rose by his own exertions, and advancing, proved the truth of what we all know, that in this free America every man has it within his reach, by labor and industry, to make himself useful to his fellow-men and an ornament to society. This is suggestive to us all here, and should be well observed by those entering into manhood. No royalty is left an inheritance to the American youth. He is estimated at what he is capable of, and has it with himself alone to be distinguished or not. Then, indeed, are those who fail to improve such opportunities in twofold culpable. No young man need despair; all is well with him here if he does justice to himself. The career of Mr. KELLOGG is a clear and undisputable instance of this, and for this reason it is our privilege to-day especially to do honor to his memory.

Mr. HIGBY. Mr. Speaker, there is no rank nor station where death does not intrude, reminding us by its havoc how uncertain is human life. Since the 4th of March last, several who were members of that Congress, have been followed to their last resting-places. ORLANDO KELLOGG, whose departure from earth calls forth these testimonials, left us at the adjournment of last session full of manly strength, with every prospect before him that man could have of being in his place here a member of this body. This instance, among the many others, is before us forcibly illustrating how feeble our hold is upon life. An acquaintance of twenty-five years, which very early ripened to close friendship for the deceased, impels me to join in these testimonials. I could not allow this occasion to pass without adding a tribute to his memory. Full opportunity was given me to study his character and prove his many noble and manly virtues. He rose from penury and obscurity by his own individual effort. A superior mind with a laudable ambition soon gave him prominence and influence. He chose law for his profession, and readily accumulated a business that became a lucrative practice. A versatile and practical talent, and great self-reliance, soon won for him the confidence of the circle who knew him. His great forte, as a lawyer, was in addressing a jury. For them he possessed ingenious argument, tempered and fused with a vein of rich and racy wit, that generally rendered him invincible. His wit was keen and piercing, but the wound it left was soon healed by his earnest friendship and constant flow of good humor. He was a man of large heart, and at once became deeply interested in behalf of suffering and affliction. In moments of relaxation from business he was genial and social, and chained all by the cheerfulness of his conversation. He always remembered with warmth his earliest associates, however humble in life their position. Sprung from the laboring class, the early ties that bound him to them were never weakened. They went to him with confidence, and to that confidence he was ever faithful. Mr. KELLOGG in politics was a Whig, then a Republican. He was firm and sincere in his political opinions, and advocated them with great warmth and success.

To his influence is largely due the healthy condition of public sentiment in the district which he represented. He was a Representative in the Thirtieth Congress together with our martyr President. A friendship was contracted there between them which was revived and strengthened during the last Congress. As a member of this House he seldom spoke. His work, though quiet, was effectual, and his whole career in the Thirty-Eighth Congress is marked with great industry. He was a warm supporter of the national Administration, and gave his undivided strength in aid of the suppression of the rebellion that was then attempting the destruction of the Government. He lived to see that rebellion crushed, and lived, too, to mourn with us the death by the hand of the assassin the head of the nation—the man to whom he was bound by private friendship, and whom he

loved for his public virtues. Men's names are not treasured here except in record—they are soon forgotten—but among the people whom the deceased represented the name of ORLANDO KELLOGG will be treasured as household words and will not fade from memory for ages to come.

Mr. MOORHEAD. Though I did not know that this death was to be announced to-day until a few moments ago, yet I feel impelled not to permit this occasion to pass without paying a feeble tribute to the memory of ORLANDO KELLOGG. I never knew him until I met him in this House as a member of the Thirty-Eighth Congress. Shortly after the organization of that Congress I was thrown on a committee with him, and there I became acquainted with the man. I there came to know something of his value, his strong common sense, his firm will, the manner in which he investigated subjects for the purpose of arriving at truth, and, when arrived at, the tenacity with which he clung to it. I became fond of ORLANDO KELLOGG. I admired him as a friend, as a legislator, and as an honest man.

And after the adjournment of the last Congress I happened to be in his own vicinity on a visit, and there I could understand very fully why ORLANDO KELLOGG was sent to this Congress. I never knew any man who, I thought from all I could see, was more beloved by the entire body of citizens in his vicinity than he was. Everywhere I went and spoke of ORLANDO KELLOGG, I found he was the ideal of a man of honor in the minds of all his constituents. I received so much kindness from him, and from his friends on account of my acquaintance with him, that I felt tempted, though perhaps out of order, as I was not consulted in regard to this matter, to say these feeble words.

After I left him, I had barely reached my home when I received the startling news that ORLANDO KELLOGG was dead. I had left him in the full flush of health. He was a younger man than I was, and such a sudden announcement struck me with great surprise, as I have no doubt it did the members of the last Congress who are here. When one so full of life is cut down so suddenly, it is an admonition to us all to be ready for the final change which will soon overtake us all.

The resolutions were agreed to; and thereupon (at half past four o'clock p. m.) the House adjourned.

IN SENATE.

THURSDAY, December 21, 1865.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

JOINT COMMITTEE ON RECONSTRUCTION.

The PRESIDENT *pro tempore* appointed Messrs. FESSENDEN, GRIMES, HARRIS, HOWARD, JOHNSON, and WILLIAMS, as members on the part of the Senate of the joint committee to inquire into the condition of the late so-called confederate States.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Assistant Secretary of War, which was sent to the Senate at the last session of Congress, but not received until after the adjournment, transmitting, in obedience to law, a statement of the contracts and orders given, and the purchases made, by the ordnance department, during the year ending December 31, 1864; which was ordered to lie on the table.

He also laid before the Senate a communication from the Second Auditor of the Treasury, which was sent to the Senate during the last session, but not received until after the adjournment, transmitting, in obedience to law, copies of all accounts which have been received at that office from persons charged or trusted with the disbursement of moneys, goods, or effects for the benefit of the Indians from July 1, 1863, to June 30, 1864, with a list of the names of all

persons to whom moneys, goods, or effects have been delivered within that year for the benefit of the Indians, the amount accounted for, and the balances under each specific head of appropriation still remaining in their hands; which was ordered to lie on the table.

He also laid before the Senate a message from the President of the United States, in answer to a resolution of the Senate of the 11th instant, transmitting a report from the Secretary of State with accompanying documents on the subject of a decree of the so-called Emperor of Mexico, of the 3d of October last; which was referred to the Committee on Foreign Relations, and ordered to be printed.

He also laid before the Senate a message from the President of the United States, transmitting a report from the Secretary of State concerning the Universal Exposition to be held at Paris in the year 1867, in which the United States have been invited by the Government of France to take part; which was referred to the Committee on Foreign Relations, and ordered to be printed.

He also laid before the Senate a message from the President of the United States, in reply to a resolution of the Senate of the 19th instant, requesting the President, if not inconsistent with the public service, to communicate to the Senate "the report of General Howard, of his observations of the condition of the seceded States, and the operations of the Freedmen's Bureau therein," stating that the report of the Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands was on the 19th instant transmitted to both Houses of Congress, as required by the act of March 3, 1865; which was referred to the joint committee to examine into the condition of the so-called confederate States, and ordered to be printed.

HOUSE BILLS REFERRED.

The following bills and joint resolution from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 11) to facilitate commercial, postal, and military communication among the several States—to the Committee on Commerce.

A bill (H. R. No. 58) authorizing the Secretary of the Treasury to appoint assistant assessors of internal revenue—to the Committee on Finance.

A bill (H. R. No. 61) to establish certain post roads—to the Committee on Post Offices and Post Roads.

A joint resolution (H. R. No. 9) to amend the Constitution of the United States—to the Committee on the Judiciary.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had concurred in the resolution of the Senate authorizing the joint committee appointed under a resolution of the last session of Congress to investigate Indian affairs, to make their report at any time during the present session of Congress.

The message further announced that the House of Representatives had concurred in the resolution of the Senate providing that the Committee on Manufactures of the respective Houses inquire if the tax from the internal revenue acts upon the products of domestic manufacture is greater than the duty, premium on gold, expenses of exchange, and transportation upon similar products imported, and if thereby the foreign product is entered for consumption upon more favorable terms than the domestic product.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bill and joint resolution; which thereupon received the signature of the President *pro tempore*:

A bill (H. R. No. 4) for the relief of Mrs. Mary Lincoln, widow of the late President of the United States.

A joint resolution (S. R. No. 6) authorizing the President to divert certain funds heretofore appropriated, and cause the same to be used for immediate subsistence and clothing, &c., for destitute Indians and Indian tribes.

PETITIONS AND MEMORIALS.

Mr. RAMSEY presented a joint resolution of the Legislature of the State of Minnesota, in favor of a grant of land to aid in the construction of slack-water navigation on the Cannon river and lakes, from Red Wing, on the Mississippi river, to the Minnesota river, near Mankato; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a joint resolution of the Legislature of Minnesota, in favor of the passage of a law granting a bounty to certain members of the second Minnesota cavalry; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also presented a memorial of the Legislature of Minnesota, in favor of the establishment of military posts on the northern overland mail route from St. Cloud, in that State, to Fort Walla-Walla, Oregon; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. NORTON presented memorials of the Legislature of Minnesota, in favor of the establishment of mail routes from Hutchinson to Torah; from Watertown, in Carver county, via Winstead and Bergen, to Glencoe, in McLeod county; from Blue Earth City, Minnesota, via Fairmount, Jackson, and Sioux Falls City, to Yankton, the capital of Dakota Territory; from Henderson, Minnesota, to Fort Rice, on the Missouri river, and from Fort Wadsworth to Devil's Lake, in Dakota Territory; from Hastings, in Dakota county, to Cannon Falls and Kenyon, in Goodhue county, by the way of New Trier, in the county of Dakota, and State of Minnesota, and for the establishment of a post office at New Trier; which were referred to the Committee on Post Offices and Post Roads.

Mr. CONNESS. I present the petition of B. Dean, president, and the board of trustees of the Alameda Coal Mining Company, a corporation authorized under the laws of California, praying that an act may be passed for extending the time for entering the coal lands in that State. Having introduced a bill on this subject which has been referred to the Committee on Public Lands, I move that this petition have the same reference.

The motion was agreed to.

Mr. SUMNER presented a petition of colored soldiers enlisted between the 15th of June and the 4th of July, 1864, praying that Congress will pass an act giving them the same bounty as soldiers afterward enlisted; which was referred to the Committee on Military Affairs and the Militia.

Mr. SHERMAN presented a petition of citizens of Carroll county, Ohio, who have served in the Army during the late war, praying for the passage of a law equalizing bounties, giving to the volunteers of 1861 and 1862 the same bounties as those of 1863 and 1864; and for the grant of one hundred and sixty acres of land to each volunteer who served during the war; which was referred to the Committee on Military Affairs and the Militia.

He also presented the memorial of Jesse Baldwin, suggesting a mode of resuming specie payments, and praying for the repeal of the legal-tender law; which was referred to the Committee on Finance.

Mr. SUMNER. I offer a memorial from persons representing two hundred and eighty thousand citizens of the United States, colored citizens of the State of Tennessee, remonstrating against the admission of Senators and Representatives from that State as it is now organized. They set forth in their memorial, which is very brief, that

"On the 7th day of August last a convention of colored men was held in this city (Nashville,) there being a sufficient number of delegates from each division of the State to obtain the sentiments of our people. After deliberating for four days, and passing such resolutions as it was thought would be conducive to their improvement, it adjourned.

"Among other things it was resolved that the colored people of the State of Tennessee respectfully and solemnly protest against the congressional delegation from this State being admitted to seats in your honorable bodies until the Legislature of this State enacts such laws as shall secure to us our rights as freemen."

"We cannot believe that the General Government will allow us to be left without such protection after knowing, as you do, what services we have rendered to the cause of the preservation of the Union and the maintenance of the laws. We have respectfully petitioned our Legislature upon the subject, and have failed to get them to do anything for us, saying that it was premature to legislate for the protection of our rights."

"We think it premature to admit such delegation. It is true we have no vote, but we nevertheless desire and will do anything we can to support the Government."

"We deem it unnecessary to attempt to make an argument in favor of our protest, believing, as we do, the justice of our cause to be a far better argument than we could make; yet it may not be amiss to say that, inasmuch as the United States Constitution guarantees to every State in the Union a republican form of government, we are at a loss to understand that to be a republican government which does not protect the rights of all citizens, irrespective of color."

"Being impressed with these convictions, we cannot refrain from appealing to your honorable and dignified assembly, entreating the hope that we will be heard and our cause considered."

"The Government did not forget to call for our help, and now we think that we have a right to call upon it."

In presenting this memorial I desire to express my entire sympathy with it. I feel that a community which despoils two hundred and eighty thousand people of their rights cannot expect to be recognized as a republican government. The colored memorialists are right, and when they ask that their case shall be considered I hope that they will have at least that indulgence, even if Congress does not grant them their rights. I move the reference of this important memorial and protest to the joint committee of the two Houses having this subject under consideration.

The motion was agreed to.

Mr. SUMNER. I also offer a petition of citizens of the District of Columbia similar to the petitions which I presented yesterday, calling upon Congress to provide irreversible guarantees in the work of reconstruction, so that we shall have security for the future, and, among those guarantees, proposing the enfranchisement of the colored race. I may say, sir, that I am glad to present this petition from citizens of the District of Columbia, because it shows that there are good people here who are not indifferent to the great cause of equal rights. I am more disposed to make this remark because I see notice of a public meeting of whites in this city in the hope of arresting this cause. Of course the whites can meet if they please, but any vote on their part will be under the circumstances little better than an absurdity. Of course such a meeting called under such auspices will vote to continue their unjust pretensions. Squatters who for generations have squatted on the rights of others do not quietly give up their claim. The whites of the District of Columbia, in respect to the colored people, are no better than squatters, and it is our duty to dispossess them. Hereafter nobody should be allowed to squat on the rights of others, civil or political. I move the reference of this petition to the joint committee.

The motion was agreed to.

Mr. HOWARD. I present the petition of three thousand seven hundred and forty colored men of South Carolina, in which they respectfully ask Congress, in consideration of their unquestioned loyalty, exhibited by them alike as bond or free, as soldier or laborer, in the Union lines under the protection of the Government, or within the rebel lines under the domination of the rebellion, that in the exercise of our high authority over the reestablishment of civil government in South Carolina their equal rights before the law may be respected; that in the formation and adoption of the fundamental law of the State, they may have an equal voice with all loyal citizens, and that Congress will not sanction any State constitution which does not secure the exercise of the right of the elective franchise to all loyal citizens otherwise qualified in the common course of American law, without dis-

tion of color. The petitioners proceed to say that "without this political privilege we will have no security for our personal rights and no means to secure the blessings of education to our children." "The State," they add, "needs our vote to make the State loyal to the Union and to bring its laws and administration into harmony with the present dearly-bought policy of the country, and we respectfully suggest that had the constitution of South Carolina been free, as we now ask that it shall be hereafter, this State would not have led one third of the United States into treason against the nation. For this object your petitioners will, as in duty bound, ever pray," &c. I take pleasure in being able to say, Mr. President, that the persons whose names appear to this petition are real persons, and that very many of them have rendered important services to the cause of the Union during the rebellion. I ask that the petition may be referred to the joint committee on reconstruction, so-called.

The PRESIDENT *pro tempore*. That reference will be ordered.

REPORTS FROM COMMITTEES.

Mr. RAMSEY, from the Committee on Naval Affairs, to whom was referred the petition of Joshua D. Todd, a lieutenant in the Navy, praying to be allowed the difference of pay between master and passed midshipman during the time he was acting master, submitted a report accompanied by a bill (S. No. 57) for the relief of the heirs of Lieutenant Joshua D. Todd, late of the United States Navy, deceased. The bill was read and passed to a second reading, and the report was ordered to be printed.

REPORT ON INDIAN AFFAIRS.

Mr. DOOLITTLE. I am instructed by the joint committee to investigate Indian affairs to offer a resolution, which I shall ask to have considered at the present time. It relates to the publication of the report of that committee and the evidence taken by it; and as Congress is about to adjourn over the holidays, I will say to my honorable friend, the chairman of the Committee on Printing, that I exceedingly desire that it be acted on to-day in order that the printing of the testimony may be going on during the recess. There will be less crowding on the printing office now than there will be at a subsequent period in the session, and if the printing is begun during the recess the committee will be able to make their final report at an earlier day. The committee had the subject under consideration in their meeting this morning, and agreed to recommend that two thousand five hundred additional copies be printed for the use of the Senate, one thousand for the use of the Indian Bureau, and six thousand five hundred for the use of the House of Representatives, which would be ten thousand copies in all. The resolution is as follows:

Resolved, That the report of the joint committee to investigate Indian affairs be printed, and that two thousand five hundred additional copies be printed and bound for the use of the Senate, and one thousand additional copies for the use of the Bureau of Indian Affairs.

The committee were also in favor of the printing of six thousand five hundred copies for the use of the House, but under the rules, each House orders the printing for itself, and therefore this resolution is confined to the printing for the Senate and the Indian Bureau.

The PRESIDENT *pro tempore*. Under the rule, this resolution will be referred to the Committee on Printing.

Mr. ANTHONY. If the object of the Senator from Wisconsin is to have a report from the Committee on Printing to-day, it would be hardly practicable. One of our colleagues is absent, and it would be impossible to obtain from the Superintendent of Public Printing an estimate of the cost, without which the Committee on Printing are not in the habit of making any reports. As to the necessity of printing this document and the number of copies to be printed, we should be governed entirely by the views of the committee of which the Senator from Wisconsin is chairman. I think, there-

fore, that by unanimous consent whatever number of copies the committee think best to have printed on the part of the Senate had better be assented to at once without a reference. It is not customary for the Senate to order printing for the House of Representatives. That would not be proper.

Mr. DOOLITTLE. That is not contained in the resolution. I will state in reply to my honorable friend, that this matter was under consideration this morning in a full committee, and they were unanimously of the opinion that there should be printed two thousand five hundred extra copies for the Senate, one thousand for the Indian Bureau, and six thousand five hundred copies for the House; but this is simply a resolution as to the printing for the use of the Senate. I hope we may, by unanimous consent, order the printing, for it will come at some other time, and it had better be begun now.

The PRESIDENT *pro tempore*. The Senator from Wisconsin asks the unanimous consent of the Senate to consider this resolution at the present time. Is there any objection? No objection being made, the resolution is before the Senate, and the question is on its adoption. The resolution was adopted.

BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 54) to amend an act entitled "An act to incorporate a national military and naval asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States," which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 55) to maintain and enforce the freedom of the inhabitants of the United States; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 56) granting a pension to Mary C. Hamilton; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CRAGIN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 8) proposing an amendment to the Constitution of the United States; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

BILLS REFERRED.

On motion of Mr. SUMNER, the bill (S. No. 6) supplying appropriate legislation to enforce the amendment to the Constitution prohibiting slavery, was taken from the table, read a second time by its title, and referred to the Committee on the Judiciary.

On motion of Mr. SUMNER, the bill (S. No. 7) to enforce the guarantee of a republican form of government in certain States whose governments have been usurped or overthrown, was taken from the table, read a second time by its title, and referred to the joint committee on reconstruction.

CONFINEMENT OF JEFFERSON DAVIS.

Mr. HOWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Whereas the Constitution declares that "in all criminal prosecutions the accused shall enjoy the right of a speedy and public trial by an impartial jury of the State or District wherein the crime shall have been committed;" and whereas several months have elapsed since Jefferson Davis, late president of the so-called Confederate States, was captured and confined for acts notoriously done by him as such, which acts, if duly proved, render him guilty of treason against the United States, and liable to the penalties thereof; and whereas hostilities between the Government of the United States and the insurgents have ceased, and not one of the latter, so far as is known to the Senate, is now held in confinement for the part he may have acted in the rebellion except said Jefferson Davis: Therefore,

Resolved, That the President be respectfully requested, if compatible with the public safety, to inform the Senate upon what charges or for what reasons said Jefferson Davis is still held in confinement, and why he has not been put upon his trial.

MILITARY TRIALS AT THE SOUTH.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to communicate to the Senate a copy of the records and proceedings, with the review of the same by the Judge Advocate General, of the military commissions by which the following-named persons were tried and convicted, namely: 1. E. W. Andrews, of South Carolina; 2. J. M. Brown and C. C. Reese, of Georgia; 3. J. L. McMillan and Niel McGill, of North Carolina.

THE FRANKING PRIVILEGE.

Mr. LANE, of Indiana, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Post Offices and Post Roads be directed to inquire into the expediency of abolishing the franking privilege now allowed to members of Congress, except upon written communications.

PRINTING OF BILLS.

On motion of Mr. WILSON, it was

Ordered, That the following bills be printed:

A bill (S. No. 35) to grant one million acres of public lands for the benefit of public schools in the District of Columbia;

A bill (S. No. 49) more effectually to provide for the national defense by establishing a uniform militia throughout the United States; and

A bill (S. No. 50) in relation to the Freedmen's Bureau.

On motion of Mr. DOOLITTLE, it was

Ordered, That the bill (S. No. 34) in relation to the qualification of jurors and to writs of error in certain cases be printed.

DEBTS DUE THE UNITED STATES.

Mr. DAVIS. I offer the following resolution and ask for its present consideration:

Resolved, That the heads of the State, Treasury, War, Navy, and Interior Departments, and the Postmaster General, report by alphabetical lists the names of all persons indebted to the United States according to the records and papers of their respective Departments, reporting the amount owing by each person up to the 30th of June, 1865.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) This resolution can only be considered by unanimous consent at the present time.

Mr. ANTHONY. I do not rise to object to the resolution; I have never objected to a resolution of inquiry since I have been in the Senate; but I should like to have the Senator from Kentucky explain the object of this resolution. I suppose it would take twenty clerks three months to prepare such a report as is called for by the resolution.

Mr. DAVIS. I think the honorable Senator's estimate of the work that will be required to respond to this resolution is greatly exaggerated unless the books are very imperfectly kept. I suppose one or two clerks in a very short time could compile all the information asked for in the resolution. My reason for offering it is this: I believe from information I have received that there is a large number of defaulting debtors to the Government, and I want to know who they are, where they are, and what steps are being taken to hold them to an accountability for their defaultation.

Mr. ANTHONY. I have no objection, sir.

Mr. FESSENDEN. I think the resolution had better lie over; and upon the general subject of resolutions of this kind I desire to say a few words, but I wish my friend from Kentucky not to regard the remarks I am about to make as having any particular reference to this more than to other cases.

The little experience that I had as a Department officer satisfied me that if the members of Congress understood how much labor they gave occasion for, and how much expense in printing by the calls which are made for information, they would before offering resolutions of this kind in the respective Houses take pains to inquire in the first place and ascertain exactly what they do want and what would probably be the result of the call. In the Treasury Department these debts and defaults of one kind and another have been accumulating for a great number of years; and recently, according to my information—I know the proposition was made while I was in the Treasury Department—a special agent has been appointed with

express reference to these debts, to look them up, and see whether they could not be settled, authority having been given to the Secretary of the Treasury to compromise certain debts.

The Senator from Kentucky will observe that his call upon the various Departments is unlimited in point of time; it goes back to the foundation of the Government. I presume that the other honorable Senator from Kentucky, [Mr. GUTHRIE,] who was formerly at the head of the Treasury Department can give more information on the subject than I can; but it is apparent to me that it would involve considerable expense to prepare the information proposed to be called for. It must take considerable time to examine the books of the various Departments in order to make out this list of defaulting debtors, many of the items of which have become in a measure obsolete and are of no sort of consequence; and the list will be so large, when obtained, that to publish it will involve the publication of a book again, upon which my friend from Pennsylvania [Mr. COWAN] commented yesterday.

I think the resolution had better lie over, and let the Senator from Kentucky [Mr. DAVIS] take some pains to inquire what would probably be the result of the call in regard to the employment of clerks, the examination of books, and the accumulation of material, the greater part of which is utterly useless, and in regard to the expense of the publication of the list, the result of which would be to lay a book on our tables to be examined, but upon which probably no action could be taken. If the Senator wants a list covering any particular period of time let him designate it; but it strikes me that it is not exactly wise—and perhaps it is more than the Senator intends—to call for a very large mass of information and require a very long examination of the books of the Departments. I know that frequently members wishing to get at a particular thing, which, if they had been definite, could have been reached in an hour, make a call for information that requires the labor of several clerks for weeks before it can be obtained, and then wonder is expressed that the answer does not come in at once, when the result is that, instead of a single sheet or a single statement, reams of paper almost are written over with information of no sort of consequence.

I hope, therefore, that members will be a little careful in these matters. Making general calls of this kind occasions expense and trouble unnecessarily, and which they do not mean to create when they make the call, being desirous simply to obtain certain information. By going to the Department and inquiring in the first place as to the particular points to which their inquiry was meant to be directed, they would be furnished invariably with all the information necessary to enable them to reduce their call to the very point or points on which they wished to be enlightened.

Mr. DAVIS. Instructed by the remarks of the honorable Senator who has just taken his seat, I will restrict this call for information to the period between the 4th of March, 1861, and the 30th of June, 1865, the close of the last fiscal year. The honorable Senator from Maine can strike the rock, and the fountains will flow; the Departments, with all their archives, are open to him, but they are not open to some of the rest of us. He can get information at his pleasure; some of us cannot. I am induced to believe, from much that I have heard, that there is a great degree of culpable carelessness and of favoritism, if not of corruption, in pressing the defaulters to the Government; and my object is to have a little light thrown upon the subject for the purpose of having more impartial exertion and effort to collect the debts that are due by the public debtors.

The PRESIDING OFFICER. Objection having been made to the present consideration of the resolution, it will lie over under the rules.

PROTECTION OF FREEDMEN.

Mr. STEWART. I move to take up Sen-

ate bill No. 9, on which I desire to make a few remarks.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 9) to maintain the freedom of the inhabitants in the States declared in insurrection and rebellion by the proclamation of the President of the 1st of July, 1862, the question pending being on Mr. COWAN's motion to refer the bill to the Committee on the Judiciary.

The PRESIDING OFFICER. It is the duty of the Chair to remark that on a mere question of reference, it is not allowable to enter to any great extent into the discussion of the merits of the measure. A limited discussion is often allowed.

Mr. STEWART. Mr. President, sentiments having been announced on the motion to refer this bill which I cannot indorse, I am compelled by a sense of duty to make a few observations. I ask the indulgence of the Senate in digressing from the real question at issue for the purpose of entering my protest against the attack made by the honorable Senator from Massachusetts [Mr. SUMNER] upon the message of the President and the report of the Lieutenant General, and to condemn the kind of testimony used in support of that attack. But before I enter into a discussion of this evidence, I desire to make a few remarks upon the great questions which have become involved in this debate. Sir, if the Senator from Massachusetts is right, and the evidence adduced by him establishes that the great mass of the people of the South are capable of the atrocities imputed to them by the anonymous witnesses paraded before this Senate, then a union of these States is impossible, then hundreds of thousands of the bravest and best of our land have fallen to no purpose, then every house from the Gulf to the lakes is draped in mourning without an object, then three thousand millions of indebtedness hangs like a pall upon the pride and prosperity of the people only to admonish us that the war was wicked, useless, and cruel. But we are told that although we cannot have union, although we cannot extend the blessings of the Constitution to seven millions of our fellow-citizens who reside in the late rebel States, yet we have conquest and territorial dominion which we should perpetuate regardless of ourselves and our posterity. Senators complain of the growing power of the Executive, and at the same time seek through him to govern near half the territory of the United States by the military, which all must see will make it the overshadowing power in the land.

Mr. President, have conquest and dominion been the mottoes under which millions of the loyal men of the United States have rallied round the flag of their country? On the contrary, have not union, freedom, and equality before the law been the words of inspiration to the soldier, who poured out his blood as water, and to the nation, which expended its treasure as dross? Now that these sacrifices have been made and the victory won, are we not bound by every obligation which reverence for the dead, regard for the living, and fear of God can inspire, to preserve, not destroy, the Constitution and Union of these States? Thus far there are two plans presented to the country for the reorganization of the South. The one which finds favor in Congress—if we were to judge of the sentiment of that body from those who talk most—is to govern eleven States as conquered provinces by an exercise of power unwarranted by the Constitution, which must inevitably derange, if not destroy, that charter of our liberties. This plan trusts all to force, nothing to conciliation; all to revenge, nothing to charity. It treats with equal contempt the good opinion or hatred of seven millions of American citizens. It disregards the example of Ireland, where the oppression of Great Britain has produced millions of enemies, breathing vengeance from every part of the civilized world, before whom crowned heads now tremble. The vast armies which devour the substance of Europe

and oppress and burden the downtrodden masses with ruinous taxation to hold subjugated provinces subservient to despotic will, have no warning for the advocates of this scheme. But what is the evidence used to induce the Senate to believe that the exercise of this despotic power is necessary? In judging of testimony upon ordinary subjects we take into consideration not only the facts stated, but the character and standing of the witness, his means of information, and last, but not least, his appearance upon the stand.

In this great cause the Senate properly called upon the chief Executive of the nation for information. Was he a witness whose character and standing before the country would entitle his testimony to consideration? Let the voice of a great people who have indorsed his patriotism and his administration answer. Were his means of information such as to entitle him to speak advisedly upon this subject? Let the machinery of Government, that collects facts from every department, civil and military, upon the table of the Executive, answer. Was not his appearance before the public in communicating this testimony to the Senate and the country such as to remove all grounds of suspicion? Let the exalted tone, bold and fearless statement, pure and patriotic spirit of both his messages be his best vindication. In the first he says:

"I found the States suffering from the effects of a civil war. Resistance to the General Government appeared to have exhausted itself. The United States had recovered possession of their forts and arsenals; and their armies were in the occupation of every State which had attempted to secede. Whether the territory within the limits of those States should be held as conquered territory, under military authority, emanating from the President as the head of the Army, was the first question that presented itself for decision."

"Now, military governments, established for an indefinite period, would have offered no security for the early suppression of discontent; would have divided the people into the vanquishers and the vanquished; and would have engendered hatred rather than have restored affection. Once established, no precise limit to their continuance was conceivable. They would have occasioned an incalculable and exhausting expense. Peaceful emigration to and from that portion of the country is one of the best means that can be thought of for the restoration of harmony; and that emigration would have been prevented; for what emigrant from abroad, what industrious citizen at home, would place himself willingly under military rule? The chief persons who would have followed in the train of the Army would have been dependents on the General Government, or men who expected profit from the miseries of their erring fellow-citizens. The powers of patronage and rule which would have been exercised, under the President, over a vast and populous and naturally wealthy region, are greater than, unless under extreme necessity, I should be willing to intrust to any one man; they are such as, for myself, I could never, unless on occasions of great emergency, consent to exercise. The willful use of such powers, if continued through a period of years, would have endangered the purity of the general administration and the liberties of the States which remained loyal."

How plainly he here states the dangers of the plans proposed by those who would reduce the South to conquered provinces, and hold them under military rule, subjugated and degraded Territories, denied all the rights and privileges of the Constitution and the Union. How modestly and patriotically he declines to assume such enormous responsibilities. Does not the passage just read place him before the world a disinterested and competent witness upon these great questions?

He continues:

"Besides, the policy of military rule over a conquered territory would have implied that the States whose inhabitants may have taken part in the rebellion had, by the act of those inhabitants, ceased to exist. But the true theory is, that all pretended acts of secession were, from the beginning, null and void. The States cannot commit treason, nor screen the individual citizens who may have committed treason, any more than they can make valid treaties or engage in lawful commerce with any foreign Power. The States attempting to secede placed themselves in a condition where their vitality was impaired, but not extinguished; their functions suspended, but not destroyed."

"But if any State neglects or refuses to perform its offices there is the more need that the General Government should maintain all its authority, and as soon as practicable resume the exercise of all its functions. On this principle I have acted, and have gradually and quietly, and by almost imperceptible steps, sought to restore the rightful energy of the General Government and of the States. To that end, provisional governors have been appointed for the States, conventions called, Governors elected, Legislatures as-

sembled, and Senators and Representatives chosen to the Congress of the United States. At the same time the courts of the United States, as far as could be done, have been reopened, so that the laws of the United States may be enforced through their agency. The blockade has been removed, and the custom-houses reestablished in ports of entry, so that the revenue of the United States may be collected. The Post Office Department renews its ceaseless activity, and the General Government is thereby enabled to communicate promptly with its officers and agents. The courts bring security to persons and property; the opening of the ports invites the restoration of industry and commerce; the post office renews the facilities of social intercourse and of business. And is it not happy for us all, that the restoration of each one of these functions of the General Government brings with it a blessing to the States over which they extended? Is it not a sure promise of harmony and renewed attachment to the Union that, after all that has happened, the return of the General Government is known only as a beneficence?"

There again he maintains a perfect consistency with the theory of this war, that it was prosecuted for the preservation of the Union, not for its destruction, or the annihilation of its component parts. But he frankly admits the difficulties which all have felt and which all still feel. He says:

"I know very well that this policy is attended with some risk; that for its success it requires at least the acquiescence of the States which it concerns; that it implies an invitation to those States, by renewing their allegiance to the United States, to resume their functions as States of the Union. But it is a risk that must be taken; in the choice of difficulties, it is the smallest risk; and to diminish, and, if possible, to remove all danger, I have felt it incumbent on me to assert one other power of the General Government—the power of pardon. As no State can throw a defense over the crime of treason, the power of pardon is exclusively vested in the executive government of the United States. In exercising that power, I have taken every precaution to connect it with the clearest recognition of the binding force of the laws of the United States, and an unqualified acknowledgment of the great social change of condition in regard to slavery which has grown out of the war."

Upon the subject of the amendment of the Constitution abolishing slavery, the President uses the following language:

"The next step which I have taken to restore the constitutional relations of the States has been an invitation to them to participate in the high office of amending the Constitution. Every patriot must wish for a general amnesty at the earliest epoch consistent with the public safety. For this great end there is need of a concurrence of all opinions, and the spirit of mutual conciliation. All parties in the late terrible conflict must work together in harmony. It is not too much to ask, in the name of the whole people, that, on the one side, the plan of restoration shall proceed in conformity with a willingness to cast the disorders of the past into oblivion; and that, on the other, the evidence of sincerity in the future maintenance of the Union shall be put beyond any doubt by the ratification of the proposed amendment to the Constitution, which provides for the abolition of slavery forever within the limits of our country. So long as the adoption of this amendment is delayed, so long will doubt and jealousy and uncertainty prevail. This is the measure which will efface the sad memory of the past; this is the measure which will most certainly call population and capital and security to those parts of the Union that need them most. Indeed, it is not too much to ask of the States which are now resuming their places in the family of the Union to give this pledge of perpetual loyalty and peace. Until it is done, the past, however much we may desire it, will not be forgotten. The adoption of the amendment reunites us beyond all power of disruption. It heals the wound that is still imperfectly closed; it removes slavery, the element which has so long perplexed and divided the country; it makes of us once more a united people, renewed and strengthened, bound more than ever to mutual affection and support. "The amendment to the Constitution being adopted, it would remain for the States, whose powers have been so long in abeyance, to resume their places in the two branches of the national Legislature, and thereby complete the work of restoration. Here it is for you, fellow-citizens of the Senate, and for you, fellow-citizens of the House of Representatives, to judge, each of you for yourselves, of the elections, returns, and qualifications of your own members."

This amendment the Secretary of State, as provided by law, has proclaimed to the world is now a part of the Constitution, and that, too, by the concurrence of several of the lately rebellious States, eight of those States being required to constitute the requisite majority. By this proclamation the honorable Secretary, whose age, learning, and eminent public services command respect both at home and abroad, has unmistakably pronounced his solemn opinion that North and South Carolina, Georgia, Alabama, Louisiana, Arkansas, Tennessee, and Virginia are States in the Union. But suppose he is wrong, and they are not States in the Union, no one doubts the power of Congress to make them such by recognizing them as

States; and in either event we have this constitutional amendment, the supreme law of the land. By it four million slaves are set free, and slavery forever made impossible within the limits of the United States. But what makes this constitutional amendment a practical, living thing, is the power given to Congress to enforce it by appropriate legislation. It is to be hoped the exercise of this power will be rendered unnecessary by the conduct of the States concerned.

The simple fact that we possess the power must have a salutary effect in constraining the local authorities to accord the freedman his natural rights. For the purpose of asserting this power a bill is already before the Judiciary Committee authorizing the President to continue the Freedmen's Bureau in an effective form so long as abuses may exist in any of the States, and to withdraw the same whenever the good order of society and the safety of the freedmen no longer require its protection, and again to reinstate it whenever new abuses shall arise requiring the exercise of its power. Through this constitutional agency the General Government may redeem its solemn pledge of emancipation, so far as to confer upon all men, without regard to color, perfect equality before the law. May not the freedmen be as well protected, if this view of the constitutional amendment be correct, by the strong arm of the Government while we recognize no State as having been out of the Union, as by that other theory of State destruction and territorial subjection?

In the one case military power may or may not be used, depending upon the good faith and fair dealing of the States themselves, which every principle of interest and humanity must induce them to exercise toward their emancipated slaves. But in the other case, military power is the only remedy proposed; no opportunity to do voluntary justice is offered, but a conclusive presumption of guilt is indulged upon evidence of unknown letter-writers. What more do gentlemen want than a submission to the laws and a willingness to return to the Union?

Gentlemen say they wish security for the future. What security can we have that they will obey the laws more than the assurance of the chief Executive and the Lieutenant General that order and civil authority are being rapidly restored? What stronger proof can we have of their repudiation of secession than the fact that their Senators and Representatives are now knocking for admission into the Halls of Congress? What stronger guarantee of the effectual abolition of slavery and the restoration to civil rights of the freedmen can be given than the pledge recorded in the supreme law of the land proclaiming their liberty, and authorizing Congress to provide for its maintenance? For, whatever course may be pursued, it must for years be the effective power of Congress, cooperating with the Executive, that will protect the freedmen from oppression; and while Congress retains this power no necessity exists for treating the late rebel States as conquered provinces. But it may be, and from the extraordinary course of this debate it would seem, that something more is contemplated than the restoration of the Union, the punishment of treason, the abolition of slavery, and the protection of the freedmen. If this were all, it could be accomplished during the present session of Congress by a cordial cooperation of the various departments of Government. I for one am content with this. I am anxious at once to secure the benefits of our glorious victory. I am anxious to restore the Union and the Constitution, and to repudiate slavery and secession. These are greater reforms than any other age has produced; this is more progress than has been achieved since the formation of our Government. I am anxious to secure this before we attempt more.

But another step is proposed, an advanced position is assumed before those already taken are secured, and that is a proposition for universal suffrage without regard to color, to be enforced by the central Government without

regard to law. Whether this be a white man's Government or not is not the real question before the country; but the true question is, shall the General Government interfere with the right of suffrage in the States? When this is attempted we are not only met by the prejudices, whether just or unjust, of a large majority of the white inhabitants of the United States, but by the conscientious opinions of the chief Executive of the nation, sustained by many of the wisest and best statesmen and jurists of the country, that the Constitution has placed the question of suffrage exclusively within State jurisdiction. I do not propose to argue at length either the prejudices of the former or the constitutional objections of the latter. But we must remember that prejudice is often more powerful than reason, and that it often happens that prejudice itself is founded in reason. If this is not a white man's Government, one thing is certain, that neither the black man or the red man has ever reared such a Government. It must also be remembered that this Government is still regarded by other nations as an experiment, and its failure is confidently predicted for the reason that history furnishes no adequate proof of the capacity of man for self-government. They are not so much mistaken in their general reading as in the facts which lie at the foundation of our institutions. They forget that we are a race descended from the original Anglo-Saxon stock, and that our ancestors learned the lessons of liberty through generations of martyrdom, and have practiced those lessons for three hundred years in this distant land comparatively free from the degrading influences of arbitrary power; that superior natural endowments, universal education, and a vast and productive country have enabled us, alone, among all the nations of the earth, to sustain free government.

It may not be unjust for a people whose liberties can only be sustained by intelligence and virtue, to pause and hesitate before they intrust those liberties in the hands of four millions of unfortunate persons just emerged from the most degrading slavery before they shall have had an opportunity to learn the principles of that Government whose functions they are called upon to administer.

This prejudice is not necessarily selfish or cruel, but it may arise from an honest desire for the preservation of our own liberties and the liberties of the race which the war has made free. However this may be, the fact still exists, that few States in the North have yet granted the right of suffrage in any form to the colored men within their borders, although those colored men are often educated, frequently more enlightened than some white men among whom they reside. And while the States we represent deem it inexpedient to confer the right of suffrage upon the colored men within their borders, are we justified as their representatives in compelling the late rebellious States to confer that right upon the mass of unfortunate blacks who have yet to learn the first principles of their duties and responsibilities as citizens? But this is not all. If we are disposed to disregard the sentiments of our constituents and the action of our State governments, shall we trample upon the constitutional right of the States to regulate the question of suffrage, without first amending the Constitution as provided in that instrument? This is dangerous ground and a fearful responsibility. There is no question of necessity to justify it. The Union can be restored without it. The freedmen can be protected without it. The honor of the nation can be vindicated without it. But in attempting it, all may be lost, and we may have despotism and anarchy, or rather anarchy and then despotism, in the place of our once glorious and prosperous Union. But before I conclude, let me once again refer to the testimony of the President and the Lieutenant General to the bright prospect that is before us. The former says:

"From all the information in my possession, and from that which I have recently derived from the most reliable authority, I am induced to cherish the belief that sectional animosity is surely and rapidly merging itself into a spirit of nationality, and that repre-

sentation, connected with a properly-adjusted system of taxation, will result in a harmonious restoration of the relation of the States to the national Union."

General Grant, whose means of information are second to none, except perhaps the President, being in immediate communication with the military authorities throughout the South, says:

"My observations lead me to the conclusion that the citizens of the southern States are anxious to return to self-government within the Union as soon as possible; that while reconstructing, they want and require protection from the Government; that they are in earnest in wishing to do what they think is required by the Government—not humiliating to them as citizens—and that if such a course was pointed out, they would pursue it in good faith. It is to be regretted that there cannot be a greater commingling at this time between the citizens of the two sections, and particularly of those intrusted with the law-making power."

Against this we have statements, extracted from letters written by persons unknown to the country or to the Senate. We have no means of judging of their character for truth and veracity, or what information they really possess, and above all of what motives induced them to write.

We are not surprised at these stories, whether true or false. We expected, in the present disorganized condition of society, that crimes would be committed in the South. We know that crimes are committed, and men talk nonsense and folly in all countries. Even in the great Commonwealth of Massachusetts, with all her public virtues—and they are many—there are records of crime and misery. And it would have been strange if in the South, with all the mad passions of the people excited by this terrible civil war, no scenes of horror should have been witnessed since the fall of the rebellion. But it is said in some of the letter extracts read to the Senate that men in the South threaten to fight us through the ballot-box. Do we object to that? Are we not willing to submit all questions to the voice of the people? Are we not willing to be governed by the majority? Did we not fight them with the sword because they repudiated the decision of a constitutional majority? Are we willing to prolong the restoration of the Union and risk the experiment of taxation without representation for fear that the application of the rule, that the voice of the majority is law, shall drive us from power? Shall we not rather seek the perpetuation of the Union party by the accomplishment of the objects for which it was organized? Nothing but our own folly can deprive us of the rewards due to the services which that organization has rendered to the country and to the cause of liberty and humanity. The preservation of the Union, the repudiation of secession, and the abolition of slavery, the parent of secession, are great deeds; and the party that has achieved them, so long as it adheres to the principles it has vindicated, will be remembered and sustained by a generous and patriotic people."

Mr. WILSON. Mr. President, I introduced the bill now under consideration to meet a pressing need. It was introduced in the interest of humanity and justice. I have examined many and many pages of official records, records connected with the Freedmen's Bureau, records of military officers, and letters written by some of the foremost officers of our armies, men who have made their names immortal in the history of the country. The evidence conclusively shows that great atrocities and cruelties are perpetrated upon the freedmen in various sections of the country; that the poor, dumb, toiling millions who look to us for protection are inhumanly outraged.

The Senator who has just addressed us questions the testimony adduced here by my colleague yesterday. He might as well question the massacre at Fort Pillow, and the cruelties perpetrated at Andersonville where eighty-three per cent. of the men who entered the hospitals died; Andersonville, where more American soldiers lie buried than fell throughout the Mexican war; where more American soldiers lie buried than were killed in battle of British soldiers in Wellington's four great battles in Spain, and at Waterloo, Alma, Inkermann, and Sebastopol. The Senator might as well ques-

tion the atrocities of sacked Lawrence and other atrocities committed during the war. If he will go into the Freedmen's Bureau and examine and study the official records of officers who for five or six months have taken testimony and have large volumes of sworn facts; if he will go into the office of General Holt and read the reports there, his heart and soul will be made sick at the wrongs man does to his fellow-man. No one questions the intelligence and judgment of General Grant—he is in communication with the officers of his Army; but I say here, and say what I know, when I declare that nearly every general commanding in the rebel States has written the strongest letters in regard to the tone, temper, and disposition of the people and the condition of that country. Some of them go further than my colleague went yesterday. There are letters in the Senate Chamber to-day, written by commanders in States and in whole sections of country—men whose name and fame are world-wide—which, if read by the Senator, would more than convince him of the truth of the testimony adduced. It makes the heart sick to dwell on such records of crime and wanton brutality.

Mr. STEWART. Will the Senator allow me a word?

Mr. WILSON. Certainly.

Mr. STEWART. I wish to be distinctly understood as not opposing the passage of the bill. I am in favor of legislation on this subject, and such legislation as shall secure the freedom of those who were formerly slaves, and their equality before the law; and I maintain that it can be fully secured without holding the southern States in territorial subjugation. Whether or not instances of individual cruelty exist is quite immaterial to the point, for I believe they can be remedied quite as well if we regard those States as States in the Union as if we regard them as Territories. All that is necessary is for us to exercise the power we have under the Constitution.

Mr. WILSON. I think the moments consumed in the dispute whether those States are in the Union or out of the Union is lost time. I do not choose to discuss that question, or to raise it; I believe our powers are full, ample, complete, to bring back those States, and restore them, and preserve, also, the rights and the liberties there of all that breathe God's air. I do not want to degrade a single man in the rebel States. I do not want them to degrade others, and I do not mean that they shall do it. I do not believe the Senator is opposed to this bill; I do not think he can oppose it. I do not believe the Senator is in favor of that kind of freedom that turns the emancipated working-man out into the highway, then takes him up as a vagrant and makes a slave of him because he cannot get a home when they do not allow him to lease land or buy a humble home. They have enacted a law in the State of Mississippi that will not allow the black man to lease lands or to buy lands outside of the cities. Where in God's name is he to go? Into the public highway? Then he is a vagrant; then he is taken up under the vagrant laws and sold into bondage. They have enacted a law in the State of Louisiana that he must get a home in twenty days, and they will not sell him land or allow him to lease land.

We must annul this; we must see to it that the man made free by the Constitution of the United States, sanctioned by the voice of the American people, is a freeman indeed; that he can go where he pleases, work when and for whom he pleases; that he can sue and be sued; that he can lease and buy and sell and own property, real and personal; that he can go into the schools and educate himself and his children; that the rights and guarantees of the good old common law are his, and that he walks the earth, proud and erect in the conscious dignity of a free man, who knows that his cabin, however humble, is protected by the just and equal laws of his country. I am sure the Senator from Nevada is in favor of that policy of emancipation that carries with it equality of civil rights and immunities, rather than

that other policy that makes the enfranchised bondman a serf or peon, the slave of society, its soulless laws and customs.

Having read hundreds of pages of records and of testimony, enough to make the heart and the soul sick, I proposed this bill as a measure of humanity. I desired, before we entered on the great questions of public policy, that we should pass a simple bill annulling these cruel laws; that we should do it early, and then proceed calmly with our legislation. That was my motive for bringing this bill into the Senate so early in the session. Many of the difficulties occurring in the rebel States between white men and black men, between the old masters and the freedmen, grow out of these laws. They are executed in various parts of the States; the military arrest their execution frequently, and the agents of the Freedmen's Bureau set them aside; and this keeps up a continual conflict. If these obnoxious State laws were promptly annulled, it would contribute much to the restoration of good feeling and harmony, relieve the public officers from immense labors, and the freedmen from suffering and sorrow; and this is the opinion of the most experienced men engaged in the Freedmen's Bureau. I have had an opportunity to consult with and to communicate with many of the agents of the bureau, with teachers, officers, and persons who understand the state of affairs in those States.

But, sir, it is apparent now that the bill is not to pass at present, that it must go over for the holidays at any rate. The constitutional amendment has been adopted, and I have introduced a bill this morning based upon that amendment, which has been referred to the committee of which the Senator from Illinois [Mr. TRUMBULL] is chairman. This bill will go over; possibly it will not be acted upon at all. We shall probably enter on the discussion of the broader question of annulling all the black laws in the country and putting these people under the protection of humane, equal, and just laws.

We were told yesterday by the Senator from Delaware [Mr. SAULSBURY] that there was an apprehension on this side of the Chamber that the Democratic party was soon to come back into power through the agency of the President of the United States. Sir, I think the Senator from Delaware altogether mistaken in regard to any such apprehension. I entertain no such apprehension. I do not apprehend that the Democratic party is soon to come into power through the agency of the President of the United States or through the agency of anybody else. A party that has maintained the attitude assumed by the Democratic party during this great rebellion, that has allied itself with a sinking and lost cause, is not likely hereafter to take or to control the regenerated Government of the United States. It needs reconstruction and reorganization quite as much as do the rebel States, and it must have reconstruction and reorganization before it can govern this now free country through anybody's agency.

I know there has been a studied and systematic attempt during the last few months to separate the President of the United States from the great party that elected him. Some persons fear that these attempts will be successful. I am among those who have never entertained any such fears, and if there are any persons who do entertain them I advise them to dismiss such fears at once. The President is bound to the men who elected him, by honor, by principle, and by interest. His fame is to rest upon the great fact that he shall complete the work Abraham Lincoln commenced—the work of restoring a broken Union, enfranchising a race, and preserving the cause of human liberty in America. I am sure that the President of the United States is as conscious as any man living that his strength now and his fame with posterity depend upon his moving right straight forward and onward to the restoration of the Union, and to the security of the liberties of all men, and the security of equal, universal, and impartial liberty. He found the rebel States on the 15th of April, when he assumed execu-

tive power, broken, shivered, conquered, subjugated. No people since the morning of creation ever fought a braver battle than our rebel countrymen; and no men were ever so defeated, so subjugated, so conquered—conquered in the field, their ideas annihilated forever; their power broken; and their fortunes lost. No men have been so conquered and so punished; and, sir, I have it not in my heart to seek their lives or their blood.

I believe it to be the sentiment and will of the country that we should demand the amplest guarantees for the future; that in demanding those guarantees we should say nothing and do nothing to humiliate or degrade anybody. I believe that it is in our power by a firm and inflexible adherence to principle to secure all the guarantees that the patriotic and liberty-loving men of the country require. I believe the President of the United States has labored according to his sense of public duty to prepare the rebel States for restoration, and to secure the liberties of the enslaved people of the country. I would have acted differently in some things, but he has done nothing to prevent the Congress of the United States from moving right straight forward and onward in the adoption of the necessary legislation to complete the great work of unity and liberty. He has made no issue with Congress, and Congress has made no issue with him. He does not undertake to dictate to us; he has pursued his own line of policy. And we ought to follow the convictions of duty; if we believe that we should go further than he has gone, let us pass the needed legislation; if then the President shall take issue with us, an issue will be made. I do not believe that any issue will be made by the President. I have an undoubting faith that if we enact the needful legislation to secure the equal liberties of all men and bring back the rebel States into Congress, it will receive the sanction and approval of the Executive.

I know, sir, that it has been and is the policy of the Democratic party to represent that a great and inevitable conflict is to come between the President and Congress. It was so represented before the country last autumn. We met it then; met it in the West; met it in New Jersey; met it in Pennsylvania; met it in the great State of New York; and to-day, of the twenty-five loyal States of the country, twenty-three are in harmony with us of the Republican party upon this floor; our sentiments and our opinions are more strongly sustained to-day than they have been on any other day that the sun ever shone upon, and will be stronger to-morrow. There are some men who profess to be more devoted to the President than the great mass of the men who elected him. It is our duty to give the President a manly, generous, and earnest support; I am sure he wants none other. Let us look with hope and confidence, let us be prudent in speech, but let us be as inflexible as destiny itself in the maintenance of the cause of equal, universal, and impartial liberty throughout the whole country—that sacred cause, for which three hundred and twenty-five thousand Union soldiers sleep in their bloody graves to-day; that holy cause, for which more than four hundred thousand scarred and maimed heroes tread the soil of the Republic. The gallant heroes of twenty-six hundred actions have done their duty, their whole duty; they have trampled the rebellion down under the iron heel of war. Let us do ours.

It is committed not to the President alone, not to Congress alone, but to an Administration and a Congress placed in power by the American people when the land was convulsed with civil war, to restore the Union, and so to restore it that there shall be no slave, no black law, no rule, no regulation, nothing whatever to oppress the men we have made free. They are our wards, to use the words of the President of the United States. Abraham Lincoln pledged himself to his country and his God for their emancipation and the maintenance of their liberties; and that pledge, I believe, every department of this Government, executive, legislative, and judicial, will inflexibly maintain.

Measured by the state of things that existed last April we have made progress in many respects—in some sections of the country a great deal of progress, in others less. Perhaps in some localities we have gone backwards, but there has been general progress in the country during the last nine months. Comparing the condition of things that existed when the President entered upon his duties, and looking at the rebel section as a whole, we have made progress—not so much as I wish we had made and as I think we could have made; but if in the past we have made less progress than we desired, we must make more in the future, and that progress is to be made only by fidelity to the great cause by which we have stood during the past four years of bloody war. For twenty-five years we had a conflict of ideas, of words, of thoughts—words and thoughts stronger than cannon balls. We have had four years of bloody conflict. Slavery, everything that belongs or pertains to it, lies prostrate before us to-day, and the foot of a regenerated nation is upon it. There let it lie forever. I hope no words or thoughts of a reactionary character are to be uttered in either House of Congress. I hope nothing is to be uttered here in the name of "conservatism," the worst word in the English language. If there is a word in the English language that means treachery, servility, and cowardice, it is that word "conservative." It ought never hereafter to be on the lips of an American statesman. For twenty years it has stood in America the synonym of meanness and baseness.

I hope, too, that we are not to make apologies here for our action. It does not fit our lips or our ears. The way to settle the question, growing out of this great civil war, is to say to the rebels, "We do not want to degrade you; we resisted for twenty years your aggressive policy for slavery and your barbarian ideas; we bore the dishonor and disgrace of your policy; you plunged us into the fire and blood of civil war to perpetuate slavery and make the ideas of slavery dominant in Christian and republican America; we resisted your aggressions before the people; we shrank not from a civil war; we met the contest; you fought bravely, with a bravery worthy of a better cause, but you were defeated, crushed, annihilated, ground to powder; not a flag of yours waves between the capital and the Rio Grande; not a soldier bears a rebel bayonet on the continent; we do not seek your lives or your blood, and you have got but little property left for us to seek if we would. All we ask—and this we will ask and this we will have as sure as God rules the world—is that the men emancipated by war, emancipated by legislation, emancipated by the proclamation of the martyr President, emancipated by that great crowning act, the constitutional amendment, shall be as free as we who proudly tread our native hills." I want every rebel and every rebel sympathizer, every repentant and unrepentant rebel in the country, to understand that the loyal men of this nation who voted their treasure and offered up their blood, who gave their sons to the preservation of the menaced Union and the imperiled cause of liberty, have sworn it, they have written it on the lids of their Bibles, they have engraved it on their doorposts, that these enfranchised men shall be free indeed, not serfs, not peons, and that no black laws nor unfriendly legislation shall linger on the statute-book of any Commonwealth in America. They are sure to triumph, and all around may as well understand it at once. The men in this country who committed themselves to the cause of liberty, justice, humanity, and Christian civilization are baffled sometimes, but defeated never. They have put men up and put men down. They have grappled with ideas and with organizations, and they have come off victors. With the attributes of Almighty God, everything pure and holy on earth and in heaven inspiring to action, they are sure to triumph in the future as in the past. If anybody doubts this, let him look back over the last twenty-five years of conflict in our country and see on every rod of our march the political

graves of great and able men who hesitated, wavered, faltered, and went down under the stern condemnation of a Christian and liberty-loving people.

Sir, I hope that we, the men who carried the country through the war, who gave the Government men and money and everything it asked, who stood by it, who reflected Abraham Lincoln, and took Andrew Johnson from his Tennessee home and made him Vice President because he had been brave and true to the cause of the country, will be as bold, as firm, as prudent now as we were when the land was baptized in the blood of our sons. We should look hopefully to the future; but to do that we must not close our eyes to the facts that are about us. We must take nobody's fair, soft words; we must not trust to anything but irreversible guarantees of liberty. I will not trust repentant rebels with the liberties of the meanest man that treads the soil of the Republic; I will not trust ourselves, nor will I trust others. I hold that there is not a freedman treading the soil of a rebel State to-day who is not entitled to the protection of just, humane, and equal laws as much as I am or any man that sits about me.

We may differ and we do differ in regard to some modes of action, but I trust there are no differences among us in regard to the great purpose to be attained. That purpose is to make this country a united country and a free country; to make it the great North American Republic, the admiration of all the nations and all the ages. We differ in regard to modes of action. Well, sir, let us differ; we can afford it. The friends of liberty and the country have differed for twenty-five years, and they grew and strengthened and prospered by a free and manly discussion of great public questions. I say to my friend from Delaware [Mr. SAULSBURY] that he does not know the men who have fought this battle for the country and for liberty if he supposes that those men, accustomed to speak their thoughts upon all questions with the freedom that becomes American citizens, are to sever, disunite, and be disrupted for the benefit of men who have linked their names forever with the cause of human slavery on this continent; and some of them with the cause of the defeated rebellion.

Sir, this measure will not pass at present as I hoped it would; but the ideas embodied in this bill are to go upon the statute-book of the nation; they are to be enforced—enforced by the President, enforced by the judiciary, enforced by the Army, and enforced by the voice of the regenerated nation. The committee we have appointed, and to whom we have referred these great measures will, I am sure, act wisely. Every source of testimony will be open to them; they will see to it that they fully understand the exact condition of every rebel State; they will report proper measures—what the needs of the country demand; Congress will pass them; the President will sign them; and at no distant day these vacant seats will be filled, and filled by men who, whatever may have been their errors in the past, will support the cause of our united country and the cause of liberty in America. These freedmen, ground and degraded by two centuries of slavery, will in all respects be free; they will go on with us and of us in the career of elevation and improvement; and we of the North and they of the South, of every race, will contribute to develop and elevate and make immortal our great Continental Republic.

Mr. SAULSBURY. Mr. President, the reference of the honorable Senator from Massachusetts to a remark which I made yesterday constitutes my apology for trespassing for a moment, and only for a moment, upon the attention of the Senate.

The honorable Senator seems to labor under a very great mistake. He seems to have understood me as saying that the Democratic party of this country was to come into power again through the agency of the present Executive. I said nothing of the kind. Since the commencement of this session the Democratic members of this body have sat in their seats in per-

fect silence, without saying one word in reference to any of the issues that seem to distract the councils of the Republican party. I did say, however, yesterday, that the apprehension seemed to exist in the minds of some in the other end of the Capitol and in this Chamber that the Democratic party of the country was again to come into power, and through the agency of the present Executive. I was expressing no opinion of my own, but stating the simple fact that such an apprehension seemed to exist. Was I not justified in that remark? I recollect reading in the newspapers a speech made in this city by Mr. Thaddeus Stevens, a distinguished citizen of Pennsylvania, in which he openly advocated the exclusion of the southern States from representation in the Congress of the United States on the ground that such a representation would be destructive of the Republican party. He is high authority in that political church, I believe. I appeal to the honorable Senator from Massachusetts to know whether, in the speech made by his colleague [Mr. SUMNER] yesterday and the extracts read from private letters which he said he had received from southern people, the same apprehension did not seem to exist.

But, sir, I did not rise to express any opinions of my own as to whether that apprehension was well or ill founded. I am in no position to know whether it was well or ill founded. I have known the President of the United States as a distinguished Senator upon this floor. I served with him for several years, and our relations were always of the most kindly and friendly character, and I will take occasion here to say that, although not of his party now, when he was of mine I entertained for him high personal regard, and though he may have strayed into wrong company, still for him individually I entertain great personal respect and kindness, and for one, so far as his actions shall conform to the Constitution of the country and the just rights of the States of the Union, I shall stand by him, finding no fault, but lending him my humble support, not however because I suppose the result of that course will be to break up a party which is a great and glorious and noble party, as the honorable Senator from Massachusetts would have us believe—a party whose heroes never retreat, but always go forward. We shall see whether they will be as successful in the accomplishment of party purposes in the future as they have been in the past.

But I will say to the honorable Senator from Massachusetts that, with or without the agency of the President of the United States, the Democratic party is not in such a hopeless condition as he seems to suppose. He volunteers his kind advice that it needs reconstruction. Let me tell that honorable Senator that however offensive the word "conservative" may be to him, that party is a conservative party. It does not make sudden changes; it does not require frequent reconstruction; it needs no new or modern architects to build it up:

"We know what masters formed its keel,
What workmen wrought its ribs of steel,
Who made each mast, and sail, and rope,
What anvils rang, what hammers beat,
In what a forge and what a heat
Were shaped the anchor of its hope."

Sir, it was formed by the great and the good men of the country who formed the Constitution of the country which this Congress, and some of the party to which the honorable Senator belongs, seem so anxious to reconstruct and to improve. Why, sir, I believe it was only yesterday that an amendment to the Constitution of the country—the work of those "old fogies" of a former age who did not seem to understand their business, the men who laid the deep foundations of this Government firmly in the principles of constitutional liberty—was offered in the other branch of Congress, and passed through without debate under the previous question, and hurried into this body. The Senator does belong to a progressive age and to a progressive party! The work which cost such men as George Washington and James Madison and the founders of the country months of anxious deliberation, is now every

day the subject of patchwork in the Congress of the United States; and there is no statesman, however young or inexperienced, or unknown to fame, that does not feel himself perfectly competent to amend the workmanship of such men as the founders of this Government.

Mr. President, let me say to the honorable Senator from Massachusetts that however offensive the word "conservative" may be to him, if this work of amending the fundamental law of the land is to be proceeded with so rapidly and is to continue, I apprehend that the number of the Democratic host will swell, and that there will be more conservative men who, venerating the work of their fathers, will solemnly protest against the inconsiderate and hasty legislation of the present times.

As I said before, I am in no situation to know the views of the President of the United States further than he chooses to communicate them in his written messages to this body. While I shall support the President in all constitutional measures, I would not have it understood that I agree with him in much that he has done. I have no doubt that he has acted patriotically and as he thought right. I am perfectly willing to give him credit for that. But, sir, his theory of restoration is not my theory of restoration; neither is the theory of the destruction of the southern States as advocated by others my theory. I will simply state in one moment what I mean, without entering into this question now; it will be time enough to do so hereafter.

I hold that when armed resistance to Federal authority ceased in the southern States, and the Federal authority was acknowledged, those States never having been out of the Union, but always in it, their ordinances of secession being absolute nullities, the people of those States had a right to assemble as citizens of the United States, elect their own State Legislatures, elect their own Governors, and put into operation the machinery of government, without the intervention of the President or Congress or anybody else. Although I never had the honor to see the distinguished warrior who did as much if not more than any other in suppressing armed resistance to Federal authority—I refer to General Sherman—I take this occasion to say that the only true and wise solution of this national difficulty was that which General Sherman adopted in his negotiations with General Johnston. Had his action been approved and his programme been carried out in good faith, peace would not only have reigned from ocean to ocean and from the lakes to the Gulf, but happiness and contentment would have everywhere prevailed, and the vacant seats in these Halls of Congress would have been filled with representatives from the southern States, not in enmity to the Government of the United States, but rejoicing that they were again back under that same old flag which they in former years adored, and which their fathers followed and worshiped.

But, sir, that mode of settlement was not adopted. The President of the United States acting, as I have said I have no doubt, patriotically, adopted his mode of restoration of the relations of those States to the Federal Government; and I am glad that he does not use the word "reconstruction." The people of the southern States have themselves acquiesced in that mode of restoring their relations to the Federal Government. It then is not only the President's plan, but it becomes, by virtue of the adoption of the people of the southern States, their plan, and may be treated as the act of the people of those States. Therefore, I can legitimately and properly support the President in his plan of restoration, the people of those States having the right themselves to act upon it, and having adopted it as theirs. Upon no other ground could I support it. How much nobler, how much wiser, how much more statesmanlike is that plan than the plan presented by some, of treating eleven States of this Union as foreign territory conquered and held by military power, subject to the control of the conqueror, and to be disposed of according to his sovereign

will! The President's plan, as adopted by the people of those States, gives them the same status in the Union that they always had before they forcibly opposed Federal authority. It secures to the people of those States the regulation of their own internal affairs, and is antagonistic to that proposed by the advocates of the opposite theory.

One word more, sir; and it may as well be said now as at any other time. We are told by the honorable Senator from Massachusetts and others of like opinions with himself, that the second section of the amendment to the Constitution, as it is called, but which I call the unconstitutional pretended constitutional amendment to the Constitution of the United States, confers ample power upon the Congress of the United States not only to go into the southern States, but into any State of this Union, and to legislate in reference to the condition of what are termed the freedmen. I have never had but one opinion in reference to that amendment. I acknowledge that as a matter of fact slavery does not exist in this country. Other things have brought about the abolition of slavery. It has been abolished by the military power of the country. I think the honorable Senator and others are greatly at fault when they suppose that there is any great desire to restore slavery in this country. I do not believe, from my intercourse with some of these southern gentlemen since the commencement of this Congress, that in some of the largest slaveholding States in the South they would, if they could, restore slavery. Still, sir, as I call it an unconstitutional pretended constitutional amendment, I will say that I do not believe the Congress of the United States had a right to pass it. Three fourths of the States have no right to say whether slavery shall exist in my State or not. It is a matter foreign to the objects of the Government when formed, a matter never intended by the parties to the compact, as there are a hundred other things which were never intended to be intrusted to the decision of three fourths of the States. It was no more intended by them than it was intended that three fourths of the States should decide whether there should be slavery in Massachusetts or not.

But, sir, what is the meaning of the phrase "appropriate legislation?" The honorable Senator from Illinois [Mr. TRUMBULL] the other day asked me what it did mean. Having had nothing to do with it in its passage, I remarked that I did not know what it did mean; but I think I can judge of the meaning of language. The amendment itself was an amendment to abolish slavery. What is slavery? That is the subject-matter of the amendment. Slavery is a status, a condition; it is a state or situation where one man belongs to another and is subject to his absolute control. The slave can own no property of his own; he cannot work for himself, but he is subject to the command of his owner. Cannot that status or condition be abolished without attempting to confer on all former slaves all the civil or political rights that white people have? Certainly. Your "appropriate legislation" is confined to the subject-matter of your amendment, and extends to nothing else. "Congress shall have power by appropriate legislation to carry this amendment into effect." What amendment? The amendment abolishing slavery, abolishing the status, the condition of slavery; but there is nothing in your amendment which gives Congress the power to enter my State and undertake to regulate the relations existing between classes and different conditions in life. When the passions of the maddened hour shall die away and reason shall resume its throne, and the clear-headed jurists of the land shall sit in judgment upon such a question as this, I have no doubt as to what the decision will be. It has been said that it was never questioned that Congress had such a power. I have great respect for the opinion of learned gentlemen of this Senate, but I confess that if I were to ask a student of six months in my office such a question as that, and he were to express such an opinion, I should really consider that his term of study in the office should

be six years, instead of three, as the law of our State requires before his admission to practice.

Mr. President, slavery is abolished, and that I think ought to be sufficient for the lovers of freedom in this country, and especially for my friend from Massachusetts. I hope what I say will be taken in good part; but what does that honorable Senator know about the condition of the negro race? I know he has made it a study for a great many years of his life; he has read the newspapers; he has read volumes of records here, as he says; he has read many private letters; and yet in the State in which he lives there are not enough persons of that race to make milestones along their public roads. What opportunities for actual personal observation and knowledge has he had? None whatever. Why, sir, he was never kind enough until this war was over to visit the southern States and make an inspection for himself. If he had come to the State in which I live, as he has in political times I believe visited the upper portion of it, he would have been kindly received, and might have had opportunities to observe the condition of the negro population.

Mr. WILSON. Will the Senator allow me to interrupt him for a moment?

Mr. SAULSBURY. Certainly.

Mr. WILSON. I will say to the Senator that in the year 1855, ten years ago, I visited the State of Delaware, attended a very great meeting in the city of Wilmington, made one of the most radical abolition speeches that it was in my power to make, and I received the kindest treatment from the people of that city, a very large number of them thinking then precisely as I thought, and I have no doubt that a great many more of them think with me now; and I have the greatest confidence that in a very short time the whole State of Delaware will think on these questions very much as I do, and I am not without hope that the Senator from Delaware will himself. [Laughter.]

Mr. SAULSBURY. Mr. President, we are told that

"Hope springs eternal in the human breast."

[Laughter.] "Hope on, hope ever," but you are doomed to disappointment. [Laughter.] Sir, during the shock of this terrible war, with your military power at every polls in my State, with funds enough to accomplish any purpose that could be accomplished with funds; when I and other Democrats had to go to the polls under crossed bayonets and deposit our ballots; when with my own eyes I saw your military driving honest voters from the polls and running them into the woods, when to my certain knowledge they had to sleep out and did sleep out in the pine thickets for three nights in succession, you were not able to carry the State of Delaware. The child is yet to be born and grow gray-headed that will ever see the State of Delaware become the disciple of Massachusetts. We are not like a certain distinguished gentleman, who was once a flaming Democrat, and has figured largely, not on the field of battle, but as the accuser of others, who left the State of Kentucky and went to Boston, as he said there in a public speech, to drink in liberty at its fountain. We do not drink liberty from any such fountain. We remember the great and the good men who have left for our instruction lessons of wisdom and of patriotism. We follow the light of their example. No modern rush-lights attract us. We are a staid people; if the honorable Senator please, we are a conservative people, and we wish to preserve the Constitution of our country as it was handed down to us by our fathers. We wish to preserve the form and system of government which they established. We want not the old house torn down and a new house built up by modern architects. We, and our ancestors before us, have lived in the temple of liberty which the great architects of revolutionary times built. It afforded shelter, comfort, and protection to our fathers and to us. Though folly and madness drove a portion of the people of the States into armed resistance against the

Federal authority, we did not follow their example. We advised kindness, conciliation, and compromise, for the sake of the Union which our fathers formed and for the sake of the liberty which they bequeathed us. And now, sir, that opposition to the Federal authority has been suppressed, that nowhere, in the language of the honorable Senator, does a hostile foot tread American soil; now that no hostile flag floats in the breeze challenging admiration and comparison with our own national flag, we say that the true policy of the American people is to come back to that system of government which their fathers established, and to the administration of that Government in the spirit which the fathers practiced.

Mr. President, if we shall follow their example, happy, fortunate indeed, will it be for the whole country. Surely there has been enough of animosity, unkindness, bitterness, and hatred to satisfy the keenest spirit of revenge. Let now the same spirit of kindness and conciliation which characterized the annual message of the President of the United States be shared by the members of the two Houses of Congress, and soon, although war has trod the earth with the crushing step of a giant, peace, harmony, and prosperity will everywhere prevail.

Mr. WILSON. A single word. The Senator from Delaware says that

"Hope springs eternal in the human breast."

I think that Senator must be a disciple of that school, or he could not indulge the hope of the revival of the Democratic party. [Laughter.] The gentleman says that Delaware does not drink at the same fountain of liberty with Massachusetts. I am aware that she has drunk at another and a different fountain in the past; but as the fountain of liberty from which Massachusetts drinks is that pure fountain from which the wise and the good of all countries and all ages have drunk, I am not without hope that little Delaware will drink deeply at that fountain in the future.

Sir, the Senator objects to my remark about conservatism. I have studied somewhat carefully the political history of the country during the last fifteen or twenty years, and I have always noticed that when I heard a man prate about being a conservative and about conservatism, he was about to do some mean thing. [Laughter.] I never knew it to fail; in fact it is about the first word a man utters when he begins to retreat. The Senator speaks of the "old fogies that made the Constitution." If he uses that language as his own, be it so; but I hope he does not impute it to me or to those with whom I act.

Mr. SAULSBURY. Will the Senator allow me a moment?

Mr. WILSON. Certainly.

Mr. SAULSBURY. I only used the language that I supposed would be used by those who were so constantly engaged in amending the work of the sages who formed the Constitution, not because I considered them in that light.

Mr. WILSON. Mr. President, I think the men who landed at Plymouth rock and founded the first Christian and democratic commonwealth in America were radicals, not conservatives; that they ran away from conservatism and became radicals in America. The men who promulgated the Declaration of Independence were denounced in their day and generation as radicals, as nobodies; they made themselves somebodies, however, by being radicals. The men who made the Constitution were those same radicals who had carried us through the fire and blood of the Revolution and founded a nation. Those men were radical enough to provide that the men of other generations could amend the work of their hands; and we, like our radical fathers, accept the living truths of the present, and we incorporate into the fundamental law of the land what is necessary to make the country what its founders intended it should be—that is all. The Senator thinks there will be more Democrats here if we amend the Constitution, as the other

House yesterday proposed to us to do, by providing that the debts incurred to destroy the country shall not be paid. I hardly think any Democrat will ever enter this Chamber upon that issue. But, sir, I shall detain the Senate no longer.

Mr. WADE. I move that the Senate do now adjourn.

Mr. TRUMBULL. We ought to have an executive session; there are executive papers on the table that ought to be referred.

Mr. WADE. I withdraw my motion.

EXECUTIVE SESSION.

On the motion of Mr. TRUMBULL, the Senate proceeded to the consideration of executive business. After some time spent in executive session, the Senate adjourned. Under the resolution of the two Houses, the adjournment is until Friday the 5th of January, 1866.

HOUSE OF REPRESENTATIVES.

THURSDAY, December 21, 1865.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BRYNEN.

The Journal of yesterday was read and approved.

MEMBER SWORN IN.

Mr. BIDWELL. I rise to a question of privilege. I present the credentials of Hon. DELOS R. ASHLEY, Representative-elect from the State of Nevada, who is now present and desires to be sworn in.

Mr. DELOS R. ASHLEY presented himself and qualified by taking the oath prescribed by law.

REGENTS OF THE SMITHSONIAN INSTITUTION.

The SPEAKER announced that he had appointed the following regents of the Smithsonian Institution on the part of the House from and after the 27th of December, 1865: Messrs. JAMES W. PATTERSON of New Hampshire, JOHN F. FARNSWORTH of Illinois, and JAMES A. GARFIELD of Ohio.

COMMITTEE APPOINTED.

The SPEAKER also announced that he had appointed the following Committee on Mines and Mining: Messrs. WILLIAM HIGBY of California, DELOS R. ASHLEY of Nevada, AMASA COWB of Wisconsin, MYER SROUSE of Pennsylvania, JOHN F. DRIGGS of Michigan, JAMES M. ASHLEY of Ohio, JOHN H. D. HENDERSON of Oregon, WILLIAM B. ALLISON of Iowa, and THOMAS E. NOELL of Missouri.

ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 4) for the relief of Mrs. Mary Lincoln, widow of the late President of the United States; and

A joint resolution (S. R. No. 6) authorizing the President to divert certain funds heretofore appropriated, and cause the same to be used for immediate subsistence and clothing, &c., for destitute Indians and Indian tribes; when the Speaker signed the same.

THE NAVAL ACADEMY.

Mr. PHELPS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be directed to report for the information of the House, what amount has been expended on the permanent establishment of the Naval Academy at Annapolis, from its foundation to the present time.

PRINTING OF THE ARMY REGISTER.

Mr. SCHENCK, by unanimous consent, submitted the following resolution; which was referred, under the law, to the Committee on Printing:

Resolved, That five thousand copies of the Army Register of the United States for the year 1865 be printed for the use of this House.

RESOLUTION REFERRED.

Mr. HUBBARD, of Connecticut, by unanimous consent, submitted the following resolution; which was read, and referred to the Committee on Foreign Affairs:

Resolved, That the Government of the United States

ought never to recognize any Government which has been imposed on any nation on this continent by the arms of any European Power.

CHANGE OF REFERENCE.

Mr. KASSON. I introduced the other day, before the appointment of a Committee on Mines and Mining, some resolutions, which were referred to what was at that time the proper committee—the Committee on Public Lands. I now move that that committee be discharged from their further consideration, and that they be referred to the Committee on Mines and Mining.

The motion was agreed to.

TELEGRAPHING IN THE UNITED STATES.

Mr. ALLEY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a national system of telegraphing, by which all telegrams shall be forwarded under a similar system to our present postal service, within the exclusive jurisdiction of the Post Office Department.

RECONSTRUCTION.

Mr. VOORHEES asked unanimous consent to introduce the following resolutions:

Resolved, That the message of the President of the United States, delivered at the present Congress, is regarded by this body as an able and patriotic state paper.

Resolved, That the principles therein advocated for the restoration of the Union are the safest and most practicable that can now be applied to our disordered domestic affairs.

Resolved, That no State, or any number of States confederated together, can in any manner under their connection with the Federal Union, except by a total subversion of our present system of government; and that the President in enunciating this doctrine in his late message has but given expression to the sentiments of all those who deny the right or power of a State to secede.

Resolved, That the President is entitled to the thanks of Congress and the country for his faithful, wise, and successful efforts to restore civil government, law, and order to those States whose citizens were lately in insurrection against the Federal authority; and we hereby pledge ourselves to aid, assist, and uphold him in the policy which he has adopted to give harmony, peace, and union to the country.

Mr. SPALDING. I move that the resolutions be referred to the joint committee on reconstruction.

The SPEAKER. The resolutions have not yet been received; but the gentleman from Indiana [Mr. VOORHEES] asks unanimous consent to submit them at this time.

Mr. BAKER. I object to the introduction of the resolutions.

LAND CLAIMS IN ARIZONA.

Mr. THAYER, by unanimous consent, introduced a bill to provide for the settlement of private land claims in the Territory of Arizona, and for the survey thereof; which was read a first and second time, and referred to the Committee on Private Land Claims.

JEFFERSON DAVIS AND OTHERS.

Mr. CONKLING. I ask unanimous consent to submit the following resolution, upon which I desire action at this time:

Resolved, That the President of the United States be requested, if not incompatible with the public interest, to communicate to this House any report or reports made by the Judge Advocate General, or any other officer of the Government, as to the grounds, facts, and accusations upon which Jefferson Davis, Clement C. Clay, Stephen B. Mallory, and David L. Yulee, or either of them, are held in confinement.

Mr. JOHNSON. I would suggest to the gentleman from New York [Mr. CONKLING] that this resolution should be addressed to the President, asking for the reasons why he, as the head of this Government, keeps these persons in confinement, and not ask the reasons of the Judge Advocate General.

Mr. CONKLING. That is a separate subject of inquiry not embraced in my resolution. This simply calls for the reports on file.

Mr. KASSON. Is the gentleman willing to add, "and all other information," so that the President may not be confined exclusively to reports?

Mr. CONKLING. I will agree to that.

Mr. JOHNSON. I must object to the introduction of the resolution at this time.

LAND TITLES.

Mr. McRUER, by unanimous consent, introduced a bill to authorize the issue of patents for lands in certain cases; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

LANDS IN CALIFORNIA.

Mr. McRUER also, by unanimous consent, introduced a bill confirming the title to certain lands in California, and provide for the survey of the same; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

E. W. EDDY, PAYMASTER UNITED STATES NAVY.

Mr. McRUER also, by unanimous consent, introduced a bill for the relief of the estate of E. W. Eddy, late paymaster United States Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

PILOTS AND PILOT REGULATIONS.

Mr. McRUER also, by unanimous consent, introduced a bill relating to pilots and pilot regulations; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

INDIAN HOSTILITIES IN OREGON.

Mr. HENDERSON, by unanimous consent, introduced a bill providing for the payment of expenses incurred in suppressing Indian hostilities in the Territory of Oregon in 1854; which was read a first and second time, and referred to the Committee on Commerce.

POST OFFICE, NEW YORK CITY.

Mr. RAYMOND, by unanimous consent, introduced a bill providing for the appointment of a commission to purchase a site and erect a building for the post office in the city of New York; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. MILLER. I ask unanimous consent to submit the following resolution, upon which I ask action at this time:

Resolved, That it is the sense of this House that the volunteers who entered the Army of the United States in the year 1861, and faithfully served therein, should be paid a bounty equal to the highest sum given by any act of Congress to those who subsequently enlisted.

Mr. THAYER. I object. I do not think there is a quorum present.

Mr. CONKLING. I demand the regular order of business.

The SPEAKER. The regular order is the calling of committees for reports.

Mr. KELLEY. I hope the gentleman from New York [Mr. CONKLING] will withdraw the call for the regular order till we can present bills for reference. There is a slim House this morning, and we might as well spend the time in the presentation of bills.

Mr. CONKLING. Well, I withdraw the call.

Mr. McKEE. I renew the call for the regular order of business.

The SPEAKER. The first business in order is the calling of committees for reports, commencing with the Committee on Indian Affairs.

GEORGE C. JOHNSON AND OTHERS.

Mr. WINDOM, from the Committee on Indian Affairs, reported back, with a recommendation that it do not pass, House bill for the relief of George C. Johnson, and Ewing & Clymen; which was laid on the table.

PENSIONS FOR HUNDRED DAYS' SERVICE.

Mr. SCHENCK. I am instructed by the Committee on Military Affairs to move that that committee be discharged from the further consideration of joint resolution to grant pensions to relatives of soldiers who enlisted for one hundred days and died in the service, and to move its reference to the Committee on Invalid Pensions.

The motion was agreed to.

The calling of committees for reports was continued, and no further reports were presented.

The SPEAKER. The next business in order

is the calling of States for resolutions, commencing with the State of Indiana, under which call bills may be introduced on leave.

PART OWNERS OF FORFEITED PROPERTY.

Mr. KERR introduced a bill for the relief of loyal and innocent part owners of personal property forfeited on account of the criminal acts of other part owners of it; which was read a first and second time, and referred to the Committee on the Judiciary.

RECONSTRUCTION.

Mr. VOORHEES offered the following resolutions, on which he demanded the previous question:

Resolved, That the message of the President of the United States, delivered at the opening of the present Congress, is regarded by this body as an able, judicious, and patriotic state paper.

Resolved, That the principles therein advocated for the restoration of the Union are the safest and most practicable that can now be applied to our disordered domestic affairs.

Resolved, That no State or number of States confederated together can in any manner under their connection with the Federal Union, except by a total subversion of our present system of government; and that the President in enunciating this doctrine in his late message has but given expression to the sentiments of all those who deny the right or power of a State to secede.

Resolved, That the President is entitled to the thanks of Congress and the country for his faithful, wise, and successful efforts to restore civil government, law, and order to those States whose citizens were lately in insurrection against the Federal authority; and we hereby pledge ourselves to aid, assist, and uphold him in the policy which he has adopted to give harmony, peace, and union to the country.

Mr. STEVENS. I suggest to the gentleman that he had better not insist upon having the House act upon these resolutions now. There are so few members here that I suppose that we should not be able to act to-day on anything if it comes to a test. The gentleman can allow the resolutions to be referred to the joint committee on reconstruction.

Mr. VOORHEES. I will state to the gentleman that my only fear in pressing the matter is that we may develop the fact that there is not a quorum present; and I do not desire to interfere with any business which the House may desire to transact.

Mr. STEVENS. That is what I fear myself.

The SPEAKER. The Chair has counted the members present, and there are only about eighty—less than a quorum. There may possibly be other members in the outer rooms. There might perhaps be a quorum, if all the members in the Capitol were in the House.

Mr. STEVENS. There may be some other members in different parts of the Capitol; but if the gentleman calls for the yeas and nays, we will find ourselves without a quorum. Let the gentleman postpone its consideration until after the holidays.

Mr. VOORHEES. I will do so. I do not want to interfere with the business of the House, and on the statement that there is no quorum present I will let it go over until after the holidays. I would of course like to have an expression on it now.

Mr. SPALDING. I move that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. JENCKES. I move that the House do now adjourn.

Mr. VOORHEES. I have not yielded the floor. I move that the further consideration of the resolutions be postponed until the 9th of January next.

The motion was agreed to.

Mr. VOORHEES moved to reconsider the vote by which the resolutions were postponed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. STEVENS. I ask the gentleman from Ohio to withdraw his motion to go into Committee of the Whole on the state of the Union so that we may call committees for reports. There may be bills which perhaps ought to be printed and put upon our tables when we meet after the holidays.

Mr. SPALDING. I withdraw the motion.

Mr. JENCKES. I move that the House do now adjourn.

Mr. SMITH. I ask the gentleman from Rhode Island to withdraw the motion to adjourn so that I may offer a resolution personal to myself and a friend. I can give the reasons why the resolution should be introduced.

Mr. JENCKES. I withdraw the motion to adjourn.

The SPEAKER. Indiana is the State now in order, and Kentucky will be the next State called.

DELEGATE FROM THE DISTRICT OF COLUMBIA.

Mr. NIBLACK submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee for the District of Columbia be directed to inquire into the expediency of providing for the election and the admission into this House of a Delegate from said District, with powers and privileges equal to those of Delegates from organized Territories of the United States; and to report by bill or otherwise.

EXCUSED FROM COMMITTEE SERVICE.

Mr. BOUTWELL. Mr. Speaker, I find that I have as much as I can do on two other committees, and I ask that I may be excused from further service on the Committee on Private Land Claims.

The motion was agreed to.

ARKANSAS.

Mr. SMITH. I ask leave to submit the following resolution:

Resolved, That James M. Johnson, member-elect of the Thirty-Ninth Congress from the third district of the State of Arkansas, be admitted to the privileges of the floor of the House during the pendency of his claim as a member thereof.

Mr. STEVENS. If the gentleman will strike out all reference to his being a member from the State of Arkansas, I think there will be no objection to the resolution.

Mr. SMITH. He was here during two sessions of Congress, allowed the privilege of the floor, and drew his pay and mileage. There is no mistake of that. He is here again after having served three or more years in the service of the United States in the late war, and it will be unjust to him not to admit him now to the privileges of the floor.

Mr. KELLEY. Is there anybody else here claiming to represent the State of Arkansas?

Mr. SMITH. I do not know.

Mr. INGERSOLL. I wish to state that I am acquainted with Colonel Johnson, and I am happy to say that I know him to be a devoted loyalist; one who has fought for three years and more in our Army against the rebellion. He did as much as any man in Arkansas to sustain our cause there; and I think that it would be a reflection alike upon us and him to refuse him the privilege of the floor. I hope that the resolution will be adopted.

Mr. STEVENS. I do not see what that amounts to, except that he shall not be hanged. [Laughter.]

Mr. SMITH. I accept the amendment of the gentleman from Pennsylvania. I will strike out the words "member-elect" and insert "whose credentials have been presented."

Mr. SCHENCK. I ask why this gentleman, loyal as he is, is selected rather than any other good loyal citizen of that State to be admitted to the floor, except it be that he comes here claiming a seat as a Representative? I do not understand why, as a matter of courtesy, we should permit any loyal man to exercise the privileges of the floor, except there is a distinction between his case and that of others; and if there be any such distinction here, is it not because he claims his seat as a Representative?

Mr. SMITH. I have no objection to the admission of any loyal man, who claims a seat upon this floor, to its privileges. It is a courtesy I would extend to any one.

I had the honor of presenting the credentials of this gentleman, and of offering a resolution at the time, asking this privilege for him. No other credentials of members-elect from the State of Arkansas were here at the time, nor

was I requested to present any. I told Mr. Johnson that I would offer this resolution, and in good faith to him I have done it.

I did it because at the first session of the Thirty-Eighth Congress he was admitted to the privileges of this floor; his case was referred to the Committee of Elections, was examined by that committee, and this House acted upon their report. At the second session of the same Congress the same thing occurred, and he drew mileage, by the consent of the House, for both those sessions.

He comes here now with credentials bearing the great seal of the State of Arkansas, as member-elect to this House. He is a loyal man, one who has devoted his whole time for three years and a half to the interests and salvation of his Government. He merely asks the poor boon of being recognized as a gentleman and a claimant upon this floor; it is the duty of this House in honor to give it to him, and I demand it in his behalf.

Mr. CONKLING. I dislike very much to interpose an objection, but the effect of all this is simply to break up the House. I make the point of order that this resolution having given rise to debate, goes over under the rules.

The SPEAKER. The gentleman from Kentucky has demanded the previous question, and no further debate is in order.

Mr. SPALDING. I move that the resolution be laid upon the table, and on that motion I demand the yeas and nays.

Mr. SMITH. As the resolution gives rise to debate I am willing that it shall go over. I withdraw the demand for the previous question.

Mr. SPALDING. Then I withdraw my motion.

Mr. CONKLING. I rise to debate the resolution.

The SPEAKER. The resolution lies over under the rule.

REPRESENTATIVES-ELECT FROM TENNESSEE.

Mr. SMITH. I now offer the following resolution:

Resolved, That so much of the House resolution as refers the credentials of the Representatives-elect to the Thirty-Ninth Congress, from the State of Tennessee, to the joint committee of fifteen be, and the same is hereby, rescinded, and that said credentials be referred to the Committee of Elections.

Mr. ASHLEY, of Ohio. I move to lay the resolution upon the table.

Mr. SMITH. If there is any objection to the resolution I am willing that it shall lie over.

Mr. KELLEY. I object to it.

Mr. CONKLING. I submit the question of order to the Chair that no gentleman has a right to offer more than one resolution under the call of States. The gentleman from Kentucky did not offer his first resolution by the unanimous consent of the House but under the regular call.

The SPEAKER. The Chair sustains the point of order in part and overrules it in part. The rule is as the gentleman from New York states it, but the gentleman from Kentucky stated that he desired to offer a resolution that was somewhat personal in its character, and did not want to be precluded thereby from offering a resolution under the regular call. No gentleman objected and the Chair understands that the House in bound by that tacit agreement.

Mr. CONKLING. Was the question put to the House?

The SPEAKER. It was put by the gentleman from Kentucky to the gentleman from Pennsylvania, [Mr. STEVENS,] and the Chair did not understand any gentleman as objecting. The Chair desires to carry out the understanding of the House, and therefore sustains the gentleman from Kentucky in his right to offer the resolution.

Mr. SPALDING. I move to lay the resolution on the table.

Mr. ROSS. I rise to debate the resolution, and it therefore goes over.

Mr. SPALDING. I object to its going over.

Mr. SMITH. Then I withdraw the resolution.

Mr. SCHENCK. I move that the rules be suspended, and the House resolve itself into

the Committee of the Whole on the state of the Union.

Mr. INGERSOLL. I would like to have the gentleman yield to me for a moment. I have a resolution which is of some importance, not to the great, but to the poor and humble.

Mr. LOAN. I appeal to the gentleman from Ohio to yield to me to allow me to ask to be excused from serving on a committee.

Mr. SCHENCK. There seems to be a general disposition to offer papers. I will, therefore, withdraw my motion for twenty minutes, and then I will move to go into the Committee of the Whole on the state of the Union, to allow my colleague [Mr. FINCK] to make his speech.

T. T. GARRARD AND OTHERS.

Mr. RANDALL, of Kentucky, introduced a bill for the relief of T. T. Garrard and others; which was read a first and second time, and referred to the Committee of Claims.

TAXES, IMPOSTS, ETC.

Mr. RITTER submitted the following preamble and resolutions:

Whereas the Constitution declares that the Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; and all duties, imposts, and excises shall be uniform throughout the United States: Therefore,

Resolved, That each citizen of the United States should be taxed an equal amount in proportion to the value of their property, to enable the Government to pay all their just debts or claims that now exist or may hereafter be brought against the Government of the United States.

Resolved, That all the property taken from loyal citizens by the authority of the President, or by the military authority, or by act of Congress, or where the value of property was greatly diminished or destroyed for the purpose of enabling the Government to put down the rebellion, should be paid for at such price as said property would have sold for in cash before it was so taken, or its value diminished or destroyed.

Mr. STEVENS. I think the gentleman better send his resolutions to a committee, and I would suggest the Committee on the Judiciary.

Mr. RITTER. I had hoped that the House would have consented to act on these resolutions now. But I will not object to their reference.

The preamble and resolutions were accordingly referred to the Committee on the Judiciary.

EQUALIZATION OF BOUNTIES AND PENSIONS.

Mr. McKEE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency and justice of so amending the laws paying bounties and pensions to soldiers, their widows and heirs, so that there shall be no distinction on account of color; and also of repealing all laws now in force for the payment of bounties to the masters of those who were in slavery at the date of their enlistment, to the end that the bounties shall be paid directly to the soldier, or, in case of his death, to his widow or heirs, in the same manner as the law now makes payments to white soldiers; and that the committee report by bill or otherwise.

PAYMENT FOR HORSES LOST IN SERVICE.

Mr. McKEE introduced a bill to amend the act to pay officers and soldiers for horses lost in the service; which was read a first and second time, and referred to the Committee on Military Affairs.

EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting accounts of Indian agents having in charge the Creeks, the Chickasaws, and Seminoles, for the second quarter of the year 1865; which was laid on the table, and ordered to be printed.

MARINE HOSPITAL, PADUCAH, KENTUCKY.

Mr. TRIMBLE submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of rebuilding the marine hospital at Paducah, Kentucky, and report by bill or otherwise.

PAYMENT OF BOUNTIES.

Mr. O'NEILL, by unanimous consent, introduced a bill relative to the payment of the \$100

bounty, provided by the act of July 22, 1861, to the legal representatives of men who enlisted without a bounty during that year, and who left their commands without authority, but subsequently returned, and were killed in battle, or died from wounds received while in the service; which was read a first and second time, and referred to the Committee on Military Affairs.

HENRIETTA L. ELDRED.

Mr. JOHNSON, by unanimous consent, introduced a bill for the relief of Henrietta L. Eldred, widow of James E. Eldred, who was a lieutenant of the sixty-seventh regiment of Pennsylvania volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ORDER OF BUSINESS.

Mr. STEVENS. I demand the regular order of business.

Mr. KELLEY. I ask the gentleman to withdraw his call for the regular order of business, that I may have the opportunity to introduce a bill merely for reference.

Mr. BALDWIN. I move that the House now resolve itself into the Committee of the Whole on the state of the Union.

Mr. SPALDING. I move that the House adjourn.

The question was upon the motion to adjourn.

Mr. SPALDING. I call for the yeas and nays.

Mr. SCHENCK. I appeal to my colleague [Mr. SPALDING] to withdraw his motion to adjourn, as it will inevitably break up the House.

Mr. SPALDING. I wish to break up the House.

Mr. JENCKES. Will the gentleman from Ohio [Mr. SPALDING] withdraw his motion to adjourn with this understanding, that the gentleman from Ohio [Mr. FINCK] shall take the floor, and that no other business shall be done, and no other person heard?

The question was upon ordering the yeas and nays upon the motion of Mr. SPALDING to adjourn.

The yeas and nays were not ordered.

The motion to adjourn was not agreed to.

The question recurred upon the motion of Mr. BALDWIN, that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STEVENS. It is understood that no business is to be done, and no other speaking but by the gentleman from Ohio, [Mr. FINCK.]

Several MEMBERS. Oh yes!

Mr. SPALDING moved a call of the House. The motion was not agreed to.

The motion of Mr. BALDWIN was agreed to. So the rules were suspended, and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOUTWELL in the chair,) and proceeded to the consideration of the President's annual message, upon which Mr. FINCK was entitled to the floor.

RECONSTRUCTION.

Mr. FINCK. Mr. Chairman, when the Thirty-Eighth Congress adjourned, large armies were in the field resisting the authority and jurisdiction of the United States. We were then in the midst of the most terrible civil war that has ever afflicted any people. Sir, I congratulate you, and I congratulate the country, on the fact that this war has terminated successfully to the arms of the Federal Government, and that today there is not a single arm raised to resist the authority of the United States, within the limits of the Republic. Peace once more blesses the American people. But, sir, allow me to inquire why it is that the States which have not been represented here for the last four years, still continue unrepresented on this floor? Is it possible that, having failed successfully to resist the jurisdiction of the United States, and break up the Union, that they now stubbornly refuse to send representatives to the national Legislature, and to return to their duties and obligations to the Federal Government? No, sir; such is not the case. The people of these States, having

failed in the mad schemes organized by their leaders, have wisely and really abandoned all further resistance, and have, with a unanimity and frankness worthy of the highest commendation, determined to yield a cheerful obedience to the Constitution and laws of the United States, and to discharge their duties and obligations as loyal citizens. Why, then, sir, are they not represented on this floor?

Sir, during the continuance of the late terrible struggle, I looked forward with the most hopeful expectations to the period when the war should cease by the complete vindication of the national authority, and all the States be represented once more in this Hall. We have, by the blessing of Heaven, lived to see the termination of the war, but we meet in a time of profound peace, and find that eleven of the States of this Union have no Representatives on this floor. Sir, allow me again to inquire why this is so?

Mr. Chairman, it is because there exists within this Union a body of men who are today, as they have always been, opposed to the Union, unless they can mold and shape its policy to suit their peculiar views. Can it be possible, sir, that after a struggle of four years, after the sacrifice of half a million of brave and heroic men, and the expenditure of four thousand millions of treasure, after the war has been brought to successful termination, and the flag of the Union, and none other, floats from the capitol of every State, still nearly one third of the States are to be deprived of representation in the national councils?

Sir, I protest against this attempt to subvert the true principles of this Government, and thus seek to separate States from it which belong to it, and to preserve which, a four years' war has been waged. What was the avowed and proclaimed object of the war? For what did our brave and gallant men fight and die? It was, sir, to preserve this glorious Union, to maintain and vindicate the jurisdiction of the United States. This was distinctly and plainly announced in the resolution passed, by almost entire unanimity at the extra session of Congress in 1861, in these patriotic words:

"That in this national emergency, Congress will forget all feelings of mere passion or resentment, and will recollect only its duty to the country; that the war is not waged on our part in any spirit of oppression, nor in any spirit of conquest or subjugation, nor for the purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and as soon as these objects are attained the war ought to cease."

The great issue submitted to the settlement of the sword was that of the Union. The insurgents sought to break it up, and the United States sought to preserve and maintain it. Our arms triumphed, and our purpose was accomplished, namely, the preservation of the Union.

The States which passed ordinances of secession, and attempted to withdraw from the Union, have failed in their purposes. They have never been out of the Union, but have always continued to be, and are to-day, States within the Union.

This doctrine I understand the distinguished gentleman from Pennsylvania [Mr. STEVENS] controverts; and in his speech delivered on last Monday, takes the same ground which he announced in his speech, delivered in this House two years ago, namely, that the insurgent States, by their acts of secession and organized rebellion, became a separate government; that they were outside of the Union; and their armies having been defeated and conquered, we now hold these States as conquered territories, and that this Government has the right, by the law of nations, to treat the people of these States as a subjugated people; and that before they can resume their former relations with the General Government, these States must be readmitted into the Union as new States.

Sir, the distinguished gentleman by his argument has admitted that secession was an accomplished fact, and has added another example to the common saying, that extremes meet; for his views on this point coincide with those of the most rabid secessionists.

The gentleman has recognized by his argument, that most dangerous of political heresies, the right of secession, which is at war with the safety and perpetuity of the union of these States. I deny, sir, that these States, or either of them, were ever out of the Union. The Union has never been, and I most earnestly trust never will be, dissolved. The ordinances of secession were invalid and unconstitutional, and no force which was brought by those in rebellion to sustain these acts could give them legality.

The gentleman has quoted from writers on the law of nations, to show that a war between two nations annuls and abrogates the treaties which had existed between the belligerents. Sir, these States were not held together by the force of treaties, but by a Constitution adopted, and assented to, by each of them, and by their people through their conventions.

It is however true, that when a civil war breaks out between different members of the same Government, the contending parties are each entitled while the war continues to the rights and usages of war, as against each other. This, sir, is a rule of necessity, and is dictated by the soundest principles of humanity and Christian civilization. The doctrine is thus laid down by Mr. Wheaton in his learned work on International Law, page 520:

"A civil war between different members of the same society, is what Grotius calls a mixed war; it is according to him public on the side of the established Government, and private on the part of the people resisting its authority. But the general usage of nations regards such a war as entitling both the contending parties to all the rights of war as against each other, and even as respects neutral nations."

But I deny that there is anything in this sound and necessary principle of public law which implies in a case like ours, that the late insurgent States were outside of the Union, or constituted a distinct or foreign nation. In all our cartels for the exchange of prisoners, we were governed by the principles laid down in Wheaton.

But the gentleman would have us to believe that it was just as absurd to say that the States could not go out of the Union, because the Constitution forbids it, as it would be to say, in a case of deliberate murder, that no murder was committed, because the law forbids that crime.

Sir, I most respectfully submit that the cases are not at all similar; and the illustration does not in the least aid the gentleman's argument. In the case of murder which he puts, the crime was actually committed, and the murder had taken place. If it had been a mere assault with intent to commit murder, and the person assaulted was not killed, it would not have constituted the crime of murder. So in relation to these States. It was on their part an attempt to withdraw from the Union, which was resisted and prevented; and the act of secession was not, and could not, be consummated, except by the success of the rebellion, but that having been defeated, the secession of these States was thus prevented from becoming a consummated act.

But when the gentleman further argues that we have conquered the people of the late insurgent States, and have the right by the law of nations to impose upon them such conditions as may be imposed by the conqueror on a subjugated people, he forgets the real character of the late struggle. It was not a war with a foreign nation. It was a struggle to preserve the just power and jurisdiction of the United States, and maintain the Union. Our jurisdiction had been ousted over a portion of the Republic by an armed and organized force; and we exerted force to remove this resistance, and reassert our rightful jurisdiction, which had thus been invaded. We have successfully overcome that resistance, and can now enforce the laws of the United States in every portion of the Union. We have not by the war gained a particle more jurisdiction or power than we enjoyed and exercised before the war commenced. We have merely vindicated the right to exercise that jurisdiction and authority which we asserted before secession was attempted. It is not at all similar to a war with a foreign Power, in

which we have conquered territory from the enemy. In such a case we would have obtained power and jurisdiction over a territory and its inhabitants, which we did not have at the commencement of the war; but in our late struggle we have acquired no new power or jurisdiction, but simply have regained firmly the power and jurisdiction of which the insurgents sought by the rebellion to deprive us.

While the war lasted, it became necessary, in the true interests of humanity, that it should be conducted according to the rules of enlightened Christian nations; but now that the war has ended, and the people of these States have submitted to the rightful jurisdiction of the United States, and returned to their duty, the rules of war no longer are to be invoked; but we are to look to the more appropriate and peaceful remedies, for all that remains yet to be done, to the Constitution of the United States. Sir, we do not hold these States as conquered territories, because they have always been, and continue still to be, States within the Union.

While I must admire the boldness and consistency of the gentleman from Pennsylvania in adhering to his cherished doctrine, that these States were out of the Union, yet I would fail in my duty to myself and my constituents, if I did not denounce it, as most dangerous to the prosperity and harmony of this Union.

After the war commenced, and after the several States had passed their ordinances of secession, repeated acts of Congress were passed based on the principle that all the States were in the Union.

Allow me to refer to the act approved March 4, 1862, fixing the number of members for the House of Representatives from and after the 3d day of March, 1863:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the 3d day of March, 1863, the number of members of the House of Representatives of the Congress of the United States shall be two hundred and forty-one; and the eight additional members shall be assigned one each to Pennsylvania, Ohio, Kentucky, Illinois, Iowa, Minnesota, Vermont, and Rhode Island."

Let me inquire how this number of two hundred and forty-one is made up? We have not two hundred and forty-one members in this House. Sir, it was by allowing Virginia eight, Tennessee eight, Georgia seven, North Carolina seven, South Carolina four, Arkansas three, Louisiana five, Mississippi five, Alabama six, Florida one, and Texas four. This act was passed while the rebellion existed, and is the law of the land to-day. Was this law constitutional, and did these eleven States, on the 4th day of March, 1862, compose a part of the Union? Other States are to-day represented on this floor under the provisions of this act of the Thirty-Seventh Congress.

But again, section three, article four, of the Constitution of the United States, provides that—

"No new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress."

Let me ask how, under this provision of the Constitution, the act admitting West Virginia was passed? If by the act of secession the State of Virginia ceased to be a State within the Union, how could the consent of the Legislature of that State be obtained for the creation of West Virginia? But we find by the act admitting West Virginia that it is recited in its preamble, that—

"The Legislature of Virginia by an act passed on the 13th of May, 1862, did give its consent to the formation of a new State within the jurisdiction of said State of Virginia."

There was, then, at that time, such a State as Virginia recognized, and if I am not mistaken the distinguished gentleman from Pennsylvania voted for the act admitting West Virginia. I do not say that Virginia did give her consent to the formation of a new State within her boundary. I only refer to these transactions of the past to show that these States, after the acts of secession were passed, and during the continuance of the war, were regarded as within the Union.

But it is unnecessary to cite further instances of legislation to prove the position of the honorable gentleman to be wholly untenable.

There is, however, one instance in our history plain to the American people, and recognized by the whole civilized world, which seems to me to settle the *status* of these States beyond controversy, and that is, sir, the fact that Andrew Johnson, a citizen of Tennessee, is the President of the United States, and is so recognized by every department of the State and Federal Governments, and by the nations of the world.

Sir, if the doctrine maintained and advocated by the distinguished gentleman from Pennsylvania be sound, then there is no such State as Tennessee within this Union, and Andrew Johnson is not constitutionally President of the United States. Are gentlemen on the other side willing to sanction doctrines which lead to this result? The Constitution provides, article two, section one, that—

"No person except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained the age of thirty-five years, and been fourteen years a resident within the United States."

At the time of the election of Andrew Johnson as Vice President, he was a citizen of the State of Tennessee, but if the State of Tennessee was not a State within this Union, as the learned gentleman insists, then Andrew Johnson was not a citizen of the United States, and not eligible to the office which he holds.

But what follows if the doctrine contended for by the honorable gentleman is erroneous? Why, that the Union has never been dissolved; that the attempt to break it up has failed; that the sacrifices of our brave and heroic Army have preserved to us this glorious heritage of our fathers; that not a single star has been blotted out, and that the flag which floats over this Capitol of the people of all the States, with every star still blazoned on its ample folds, still continues to be the true emblem of the union of all the States.

Sir, more than this; if these States are in the Union, if they have never been out of it, as I contend, then, sir, they are in the Union as equal States, with all the rights and privileges which belong to States in this Union, and are entitled to be represented on this floor by the same authority as the States of Pennsylvania and Ohio. Sir, there was much in the able speech of the gentleman from Pennsylvania which seemed to me not equal to the dignity of the great question which he discussed. His allusion to "copperheads," and the imputation of purposes of bad faith in regard to the public debt, could lend no weight to his argument, and were only calculated to arouse feelings of bitterness and recrimination, which are not calculated to aid in the elucidation of great constitutional questions, or to develop wise and healthy legislation. The allusion of the distinguished gentleman to the late Chief Justice, filled me with pain and surprise. No purer name or more upright and honest jurist adorns the long list of the great men of America, of whom we are so justly proud. With a character unsullied, and a conscientious devotion to duty, he discharged every trust with the strictest fidelity. His eminent learning and services will be remembered and cherished by the good and virtuous as long as our history and American jurisprudence shall be studied.

I am, sir, in favor of the admission of members from the States now unrepresented on this floor. The people of these States, it seems to me, have acquiesced with great unanimity and with sincerity in the condition of things which the war has brought upon them. They have abandoned slavery and surrendered it up as one of the things of the past, never, never again to be reestablished. They have abandoned the claim to any right, or pretense of any right of secession, and with entire unanimity acknowledged the supreme jurisdiction of the General Government in all matters which have been vested in it by the Constitution of the United States. They

have resolved for the future to be true citizens of the Union.

And now what should be the conduct of this Government toward these people? Shall a state of discord and acrimonious feeling, almost as intense as that which existed during the war, be continued? Is it by such means as these that fraternal relations are to be restored between the sections? No, no, let all those evil feelings give way before the peaceful smiles of a once more united and patriotic people. Let us as far as possible forget the past, and generously welcome the return of our southern brethren. Let no mean partisan or sectional feelings or jealousies longer keep us asunder. Let it indeed be a union of hearts as well as of hands.

Representing as I do as intelligent, loyal, and patriotic a constituency as any within the Union, I feel it not only a duty, but a pleasure, to give my feeble aid in binding up the wounds of the country, and to make use of every legitimate means of once more cementing the bonds of a Union, which I trust may be perpetual. Sir, the surest means of preserving our cherished Union is in the exercise of mutual charity and forbearance; in a faithful observance of the just rights of the people of the several States, and a considerate regard for the feelings, habits, views, and, it may be, the prejudices of the different sections, so far as the same do not violate the Constitution of the United States.

Sir, slavery is out of the way; pray let us not quarrel about what policy the States may see fit to adopt in regard to the question of suffrage. I have never been the friend or advocate of slavery. I have always regarded it as an evil, but an evil which, in my opinion, the States alone could remove; but it has ceased to exist, and certainly no man who could in the least influence the public mind will be found wild enough to advocate its reestablishment. The discussion of the question of slavery which has for so many years disturbed the deliberations of the American Congress, and which has been the parent of so much excitement and sectional bitterness, should no longer disturb our deliberations.

Sir, no one will be more gratified than myself to witness an advancement in the conduct, intelligence, and virtue of the emancipated race, equal to the most sanguine anticipations of those who have so long demanded their freedom. Whether the colored race, by their industry, morality, and good conduct, shall show themselves worthy to be admitted to the exercise and enjoyment of more political privileges than they now enjoy, is a question which must be left to the exclusive judgment of the States in which they reside. For myself, as a Representative from the State of Ohio, I disclaim any right whatever to interfere in these questions in any of the States; and as a citizen of that State, I am free to say, while I have no ill feeling toward the negro, I shall ever oppose conferring upon him the right of suffrage in Ohio.

But, sir, I repeat it, these are questions which must be left to the exclusive determination of the several States; and the attempt to deprive certain States from being represented on this floor because the negro is not allowed to vote within such States is a bold conspiracy to subvert one of the plainest rights which belong to the States. If you do not intend that these States shall be represented in this Congress, pray, sir, tell me in what Congress they are to be represented? What do you propose to do with them in the mean time? Are they to be held as Poland is held by Russia, as Hungary is held by Austria, or as Ireland is held by Great Britain? Are the principles of the old Constitution to be abandoned, and the whole character of our system of government changed, in order that the white men of eleven States may be disfranchised, and the negro clothed with political rights? Is it possible, sir, that within the limits of our Republic white men will combine to degrade their own race and kindred in order to confer political power into the hands of black men?

Sir, I deny the right of this Congress, or of the Federal Government, either directly or indirectly, to regulate the right of the elective franchise within the several States. No such power has been conferred upon it. We must, if we expect to continue our free system of Government, agree, like frank and candid men, that there is no difference in the rights of the several States of this Union; that each State is the equal of the other, and has the same rights and privileges; and if you can interfere by the General Government, to regulate the question of the elective franchise in North Carolina, you may by the same power regulate the same question in Massachusetts and Ohio.

The Federal Government cannot dictate to the States in this matter of suffrage. The Constitution of the United States, second section of article one, declares that—

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislatures."

The qualifications of electors of members of the Legislatures of the States have been fixed and regulated from the earliest period of the adoption of government by the American people, by each State for itself, and the section already quoted expressly recognizes this right as belonging exclusively to the States.

Sir, the claim to regulate the elective franchise in the States unrepresented on this floor cannot be sustained upon any other theory than that advocated by the gentleman from Pennsylvania, namely, that these States, whose people were lately in revolt, were actually out of the Union; that the Union was broken up and dismembered, and that we have conquered these States, and reduced them to Territories. But again, we have been told that the people of these States must remain unrepresented until they exhibit signs of true loyalty. How long; five, ten, or thirty years?

Charles Sumner tells us that time is necessary. He says in his speech of September 14, 1865, before the Republican State convention of Massachusetts, that—

"For thirty years and more this wickedness was maturing. Who can say that the same time will not be needed now to mature conditions of permanent peace? Who can say that a generation must not elapse before these rebel communities have been so far changed as to become safe associates in a common Government?"

And again, in the same speech, he says:

"As those who have fought against us should be disfranchised, so those who fought for us should be enfranchised." * * * "For awhile the freedman will take the place of the master, thus verifying the saying that the last shall be first and the first shall be last."

Another distinguished citizen of the same State, General Butler, has told us in a speech which he has made somewhere in Massachusetts, that we have full power in our own hands, and that we can refuse to let a State be represented until the State shall permit the colored man to vote. And this seems to be the scheme of the radicals, who are seeking to defeat the policy of a patriotic Executive to heal up the wounds of the country, and bring all the States together again in this House of the people's Representatives. I trust that conservative gentlemen on the other side will not be overawed by the Senator from Massachusetts and the distinguished gentleman from Pennsylvania.

Sir, the southern people have erred deeply and terribly, but have they not also most grievously suffered? No brave or gallant man would at a time like this cry out for more punishment upon this people. A magnanimous people, and a great and magnanimous Government will not allow it. Now, that the war has ended, every honest effort should be made by all true citizens to restore friendly relations between the different sections, and cement more firmly than ever the bonds of the Union. All further effort to punish this people by the forfeiture of their political rights should end, except in so far as the public interests may imperatively demand punishment; and then let it be in accordance with the Constitution and laws of the land. If indeed we have peace, let it be a peace in reality. Let our conduct be such as will be

approved by that calm, deliberate, and thoughtful public opinion of the Christian and civilized world, which will most assuredly pass its judgment on the conduct of our Government.

Sir, I am glad to be able to say here to-day that in the main I approve the course and policy of the President on this question; and shall feel it my duty to give him my support in every proper and constitutional effort to restore to these States their just rights, and to heal up the wounds which have been inflicted upon the country. It is indeed a high and noble mission in which the Executive is engaged, and I regret to find he has not the cordial support of the distinguished gentleman from Pennsylvania, and those who concur in the views of that gentleman as announced on last Monday. Now that the war is over; since we have vindicated before the world the ability of this Government to maintain itself and to preserve the Union, it seems to me that it is the duty of every public man to study, without partisan bitterness, the remedies best adapted to restore quiet and confidence to the country, and to show to the world, that while this Government is determined to maintain the integrity of the Union, cost what it may, and to crush with a strong hand all opposition to its rightful authority, so, too, in the hour of triumph, when the opposition to the Government has surrendered, and given evidence of its return to obedience, that we know how to practice that generous clemency and kindness which cannot fail to win back the affections of these people, many of whom have been misguided and deceived; and thus exhibit to the world that our people are as much distinguished for their magnanimity and forbearance as for their gallantry and courage. Sir, there is great wisdom in the noble language of Edmund Burke, when he exclaimed, that magnanimity in politics is the truest wisdom, and a great empire and little minds go ill together.

But, sir, the great mass of the southern people have been included in the amnesty proclamation of the President, and many who were not so included have since, by the action of the Executive, received special pardons. By what law or principle are you to deprive these men, after they have taken the oath to support the Constitution of the United States, from the exercise of the right of suffrage, and the great constitutional right of being represented on this floor? Sir, you cannot rightfully thus inflict penalties and forfeitures upon them.

But I insist that by the well-settled principles of public law the great masses of the people of these southern States, who did not engage in organizing the rebellion, and only were carried along with it, after it was organized, because they could not resist it, are not guilty of treason.

It is a well-settled principle of public law that protection and allegiance are reciprocal duties; and that Government which claims allegiance, must afford protection. The majority of the people of the South were opposed to secession. On the direct issue made in Virginia in 1861, there was an overwhelming majority against it, and a fair vote in the other States would have exhibited clear majorities against secession, unless we should except South Carolina. And I ask would it not be monstrous for this Government which failed to protect the great masses of the people of the southern States from the usurpation of those who conspired to break up the Union, now to punish this same people with the most severe and grave penalties, namely, the forfeiture of high political rights, because they submitted to the usurped power which they were unable to resist?

Sir, the great principle of justice, as applied by the common sanction of the civilized world is, that principle already named, that allegiance and protection are reciprocal duties, and the Government which has failed to protect any portion of its citizens from the usurpation of any other power, foreign or internal, cannot, when such power has been overthrown, punish the unfortunate people who for the time being were subjected to such usurped power for yielding it obedience. This doctrine is well settled

in England, and clearly laid down by many of her eminent law writers. And has also been solemnly recognized and applied by the Supreme Court of the United States in the case of the United States vs. Rice, in 4 Wheaton's Reports, page 246.

Why longer delay the admission of the Representatives from these States? Will it make their people better citizens, and inspire them with more love and devotion to the Government? Every man who understands human nature must know that such a course is only calculated to harass and annoy this people, and divert the public mind from the consideration of other questions of great interest to the country. Why refer this question to a joint committee of the Senate and House, when the Constitution provides that each House shall be the judge of the elections, returns, and qualifications of its own members? Why this attempt to stifle all debate on a question of so much importance to the States and to the entire Union?

I know gentlemen dislike to give up power, and are alarmed at the idea that power may indeed pass from their hands. They may indeed for a while annoy and interfere with the President in his patriotic efforts to unite and harmonize the whole country, North and South; but gentlemen are mistaken if they believe they can defeat the purposes of the Executive.

Sir, the people will canvass this great question, and will inquire why it is that eleven States of this Union are unrepresented here; and sooner or later public opinion, which will sweep everything before it, will demand that these States shall be represented. The people, sir, will sustain the President in every honest and patriotic effort to discharge the grave and responsible duties which have devolved upon him; and gentlemen cannot long evade the issue which has been so frankly and distinctly made by the honorable gentleman from Pennsylvania with the policy of the Chief Executive.

But, sir, much of this attempt to disfranchise the white men of eleven States unless they consent to give the ballot to the negro, (and I say it without intending the least disrespect to the able and distinguished delegation from that section,) comes from New England, and finds a zealous and able advocate in the gentleman from Pennsylvania.

New England fears that, unless her policy is adopted, her power to control this nation will be lost forever, and knows that if it is sanctioned and adopted by the American people, she may rule this nation for generations to come.

Sir, there is much in the history of New England which I admire; she has produced many great and noble sons; but there is also much in her history which we have to deplore—much in her intermeddling, narrow, uneasy, and aggressive spirit that is at war with the true interests of the American people. She will not be satisfied unless she can rule and control the policy of this Government. If New England, and New England policy, can regulate and control the question of suffrage in these eleven States, she believes that she may be able to control the financial legislation of this country, and kindly fix the amount of our tariffs, and internal taxes, for the next fifty years to come. Sir, it is a bold attempt and well worth all the effort that her Sumners and Phillipses can exert to accomplish; but it will fail, as it should fail, for if it could succeed, the great principles of our system of government would be overthrown. It is an attempt to disfranchise our own race and kindred, and transfer their political power into the hands of another race. Can it be possible that the prejudices, passions, and supposed interests of one portion of the white men of this Union, shall lead them so far as to attempt to strip their own race of political rights, in order to confer them upon the negro?

Sir, let us endeavor to be equal to the great work before us. Instead of postponing the admission of the members from these States now asking admission, let us generously welcome their return to representation in this common sisterhood of States, and in place of attempting to confer on the negro the right of

suffrage let us exert ourselves industriously to heal up all past differences, and labor to ascertain how we may best curtail the enormous expenditures of the Government, and reduce the heavy burdens of taxation, which now press upon the people. Let us recur back to those wise and pure lessons of patriotism and duty taught us by Jefferson in his first inaugural when he declared the principles which he deemed essential to the Government:

"Equal and exact justice to all men of whatever State or persuasion, religious or political; peace, commerce, and honest friendship with all nations, entangling alliances with none; the support of the State governments in all their rights as the most competent administrations for our domestic concerns and the surest bulwarks against anti-republican tendencies; the preservation of the General Government in its whole constitutional vigor is the sheet-anchor of our peace at home and safety abroad; a jealous care of the right of election by the people, a mild and safe corrective of abuses which are lopped by the sword of revolution where peaceable remedies are unprovided; absolute acquiescence in the decisions of the majority, the vital principle of republics, from which there is no appeal but to force, the vital principle and the immediate parent of despotism; a well-disciplined militia our best reliance in peace, and for the first moments of war till regulars may relieve them; the supremacy of the civil over the military authority; economy in the public expense; that labor may be lightly burdened; the honest payment of our debts; and sacred preservation of the public faith; encouragement of agriculture and of commerce as its handmaid; the diffusion of information and arraignment of all abuses at the bar of public reason; freedom of religion; freedom of the press, and freedom of person under the protection of the *habeas corpus*, and trial by juries impartially selected."

If these wise principles shall guide us, we may look with confidence for a favorable solution of all the questions submitted to our deliberations; but, sir, if the radical and revolutionary measures which have been introduced into this House since the opening of this session of Congress shall commend themselves favorably to the majority on this floor, then I believe that evils, serious and lamentable, can only arise out of this overreaching and constant attempt to dictate to, and regulate, the domestic affairs of the States. It is incompatible with our whole frame and system of government. I believe this Government can be conducted successfully under our present Constitution, with a faithful observance and respect for the just powers and rights of the States; and so believing, while I will most cordially and sincerely labor to maintain "the preservation of the General Government in its whole constitutional vigor as the sheet-anchor of our peace at home and safety abroad," I will also, with the same determination, oppose all attempts at the centralization and consolidation of powers in the Federal Government, which have not been granted to it, and labor to support "the State governments in all their rights, as the most competent administrations for our domestic concerns, and the surest bulwarks against anti-republican tendencies."

MESSAGE FROM THE SENATE.

The Committee of the Whole rose informally, and the Speaker resumed the chair, when a message was received from the Senate, by Mr. FORNEY, its Secretary, announcing that the President *pro tempore* of the Senate had appointed the following-named Senators as members, on the part of the Senate, of the joint committee on reconstruction: MESSRS. FESSENDEN, GRIMES, HARRIS, HOWARD, JOHNSON, and WILLIAMS.

RECONSTRUCTION—AGAIN.

The Committee of the Whole on the state of the Union resumed its session.

Mr. RAYMOND. Mr. Chairman, I should be glad, if it meet the sense of those members who are present, to make some remarks upon the general question now before the House; but I do not wish to trespass at all upon their disposition in regard to this matter. I do not know, however, that there will be a better opportunity to say what little I have to say than is now offered; and if the House shall indicate no other wish, I will proceed to say it. ["Go on!"]

I need not say that I have been gratified to hear many things which have fallen from the lips of the gentleman from Ohio, [Mr. FINGK,]

who has just taken his seat. I have no party feeling, nor any other feeling, which would prevent me from rejoicing in the indications apparent on that side of the House of a purpose to concur with the loyal people of the country, and with the loyal administration of the Government, and with the loyal majorities in both Houses of Congress, in restoring peace and order to our common country. I cannot, perhaps, help wishing, sir, that these indications of an interest in the preservation of our Government had come somewhat sooner. I cannot help feeling that such expressions cannot now be of as much service to the country as they might once have been. If we could have had from that side of the House such indications of an interest in the preservation of the Union, such heartfelt sympathy with the efforts of the Government for the preservation of that Union, such hearty denunciation of those who were seeking its destruction, while the war was raging, I am sure we might have been spared some years of war, some millions of money, and rivers of blood and tears.

But, sir, I am not disposed to fight over again battles now happily ended. I feel, and I am rejoiced to find that members on the other side of the House feel, that the great problem now before us is to restore the Union to its old integrity, purified from everything that interfered with the full development of the spirit of liberty which it was made to enshrine. I trust that we shall have a general concurrence of the members of this House and of this Congress in such measures as may be deemed most fit and proper for the accomplishment of that result. I am glad to assume and to believe that there is not a member of this House, nor a man in this country, who does not wish, from the bottom of his heart, to see the day speedily come when we shall have this nation—the great American Republic—again united, more harmonious in its action than it has ever been, and forever one and indivisible. We in this Congress are to devise the means to restore its union and its harmony, to perfect its institutions, and to make it in all its parts and in all its action, through all time to come, too strong, too wise, and too free ever to invite or ever to permit the hand of rebellion again to be raised against it.

Now, sir, in devising those ways and means to accomplish that great result, the first thing we have to do is to know the point from which we start, to understand the nature of the material with which we have to work—the condition of the territory and the States with which we are concerned. I had supposed at the outset of this session that it was the purpose of this House to proceed to that work without discussion, and to commit it almost exclusively, if not entirely, to the joint committee raised by the two Houses for the consideration of that subject. But, sir, I must say that I was glad when I perceived the distinguished gentleman from Pennsylvania, [Mr. STEVENS,] himself the chairman on the part of this House of that great committee on reconstruction, lead off in a discussion of this general subject, and thus invite all the rest of us who choose to follow him in the debate. In the remarks which he made in this body a few days since, he laid down, with the clearness and the force which characterize everything he says and does, his point of departure in commencing this great work. I had hoped that the ground he would lay down would be such that we could all of us stand upon it and cooperate with him in our common object. I feel constrained to say, sir—and I do it without the slightest disposition to create or to exaggerate differences—that there were features in his exposition of the condition of the country with which I cannot concur. I cannot for myself start from precisely the point which he assumes.

In his remarks on that occasion he assumed that the States lately in rebellion were and are out of the Union. Throughout his speech—I will not trouble you with reading passages from it—I find him speaking of those States as "outside of the Union," as "dead States," as having forfeited all their rights and terminated their

State existence. I find expressions still more definite and distinct; I find him stating that they "are and for four years have been out of the Union for all legal purposes;" as having been for four years a "separate power," and "a separate nation."

His position therefore is that these States, having been in rebellion, are now out of the Union, and are simply within the jurisdiction of the Constitution of the United States as so much territory to be dealt with precisely as the will of the conqueror, to use his own language, may dictate. Now, sir, if that position is correct, it prescribes for us one line of policy to be pursued very different from the one that will be proper if it is not correct. His belief is that what we have to do is to create new States out of this territory at the proper time—many years distant—retaining them meantime in a territorial condition, and subjecting them to precisely such a state of discipline and tutelage as Congress or the Government of the United States may see fit to prescribe. If I believed in the premises which he assumes, possibly, though I do not think probably, I might agree with the conclusion he has reached.

But, sir, I cannot believe that this is our condition. I cannot believe that these States have ever been out of the Union, or that they are now out of the Union. I cannot believe that they ever have been, or are now, in any sense a separate Power. If they were, sir, how and when did they become so? They were once States of this Union—that every one concedes; bound to the Union and made members of the Union by the Constitution of the United States. If they ever went out of the Union it was at some specific time and by some specific act. I regret that the gentleman from Pennsylvania [Mr. STEVENS] is not now in his seat. I should have been glad to ask him by what specific act, and at what precise time, any one of those States took itself out of the American Union. Was it by the ordinance of secession? I think we all agree that an ordinance of secession passed by any State of this Union is simply a nullity, because it encounters in its practical operation the Constitution of the United States, which is the supreme law of the land. It could have no legal, actual force or validity. It could not operate to effect any actual change in the relations of the State adopting it to the national Government, still less to accomplish the removal of that State from the sovereign jurisdiction of the Constitution of the United States.

Well, sir, did the resolutions of these States, the declarations of their officials, the speeches of members of their Legislatures, or the utterances of their press accomplish the result? Certainly not. They could not possibly work any change whatever in the relations of these States to the General Government. All their ordinances and all their resolutions were simply declarations of a purpose to secede. Their secession, if it ever took place, certainly could not date from the time when their intention to secede was first announced. After declaring that intention, they proceeded to carry it into effect. How? By war. By sustaining their purpose by arms against the force which the United States brought to bear against it. Did they sustain it? Were their arms victorious? If they were, then their secession was an accomplished fact. If not, it was nothing more than an abortive attempt—a purpose unfulfilled. This, then, is simply a question of fact, and we all know what the fact is. They did not succeed. They failed to maintain their ground by force of arms—in other words, they failed to secede.

But the gentleman from Pennsylvania [Mr. STEVENS] insists that they did secede, and that this fact is not in the least affected by the other fact that the Constitution forbids secession. He says that the law forbids murder, but that murders are nevertheless committed. But there is no analogy between the two cases. If secession had been accomplished, if these States had gone out, and overcome the armies that tried to prevent their going out, then the prohi

bition of the Constitution could not have altered the fact. In the case of murder the man is killed, and murder is thus committed in spite of the law. The fact of killing is essential to the commission of the crime; and the fact of going out is essential to secession. But in this case there was no such fact. "I think I need not argue any further the position that the rebel States have never for one moment, by any ordinances of secession, or by any successful war, carried themselves beyond the rightful jurisdiction of the Constitution of the United States. They have interrupted for a time the practical enforcement and exercise of that jurisdiction; they rendered it impossible for a time for this Government to enforce obedience to its laws; but there has never been an hour when this Government, or this Congress, or this House, or the gentleman from Pennsylvania himself, ever conceded that those States were beyond the jurisdiction of the Constitution and laws of the United States.

During all these four years of war Congress has been making laws for the government of those very States, and the gentleman from Pennsylvania has voted for them, and voted to raise armies to enforce them. Why was this done if they were a separate nation? Why, if they were not part of the United States? Those laws were made for them as States. Members have voted for laws imposing upon them direct taxes, which are apportioned, according to the Constitution, only "among the several States" according to their population. In a variety of ways—to some of which the gentleman who preceded me has referred—this Congress has by its action assumed and asserted that they were still States in the Union, though in rebellion, and that it was with the rebellion that we were making war, and not with the States themselves as States, and still less as a separate, as a foreign, Power.

The gentleman from Pennsylvania cited a variety of legal precedents and declarations of principle, nearly all of them, I believe, drawn from the celebrated decision of the Supreme Court pronounced by Justice Grier, in what are popularly known as the Prize Cases. His citations were all made for the purpose of proving that these States were in a condition of public war—that they were waging such a war as could only be waged by a separate and independent Power. But a careful scrutiny of that decision will show that it lends not the slightest countenance to such an inference. Gentlemen who hear me will doubtless recollect that the object of the trial in those cases was to decide whether certain vessels, captured in trying to break the blockade, were lawful prize of war or not; and the decision of this point turned on the question whether the war then raging was such a contest as justified a resort to the modes and usages of public war, of which blockade was one. Justice Grier decided that it was—that, so far as the purposes and weapons of war were concerned, the two parties were belligerents, and that the Government might blockade the ports and capture property within the lines of the district in rebellion, precisely as if that district were an independent nation engaged in a public war. But he said not one word which could assert or imply that it was an independent nation—that it had a separate existence, or had gone out of the sovereign jurisdiction of the United States. On the contrary, everything he said—the very passages quoted by the gentleman from Pennsylvania himself—imply and assert precisely the opposite. He speaks of them, not as sovereign, but as claiming to be sovereign; not as being separate, but as trying to be separate from the United States. In this paragraph quoted from that decision, for example—

"Hence, in organizing this rebellion, they have acted as States claiming to be sovereign over all persons and property within their respective limits, and asserting a right to absolve their citizens from their allegiance to the Federal Government. Several of these States have combined to form a new confederacy, claiming to be acknowledged by the world as a sovereign State. Their right to do so is now being decided by woe of battle!"—the court asserts precisely the principle which I have already stated—that they were claim-

ing independence, and that the validity of their claim would depend wholly and entirely upon the decision reached in the field of battle. The same misconception is traceable in all the legal citations made by the gentleman from Pennsylvania. For example, he says:

"Again, the court say, what I have been astonished that any one should doubt:

"The proclamation of blockade is itself official and conclusive evidence to the court that a state of war existed."

"Now, what was the legal result of such war?"

"The conventions, the treaties, made with a nation, are broken or annulled by a war arising between the contracting parties."—*Vattel*, 372; *Halleck*, 371, section 23.

A blockade is evidence that a state of war exists; and a state of war annuls all treaties between the contending parties. But does this warrant the inference that the Constitution of the United States, which is not a treaty, was annulled, or its binding force in the least degree impaired, by the war of rebellion?

But I will not go further in examining these citations. All they show is that the Government, as against the rebels, and in waging the war to suppress the rebellion, had the rights of belligerents, and that the rules and laws of war might and must be applied to this contest although it was not a war between separate and independent Powers. How, then, can this decision possibly be made to convey the idea that the parties to the war were separate and independent States? It proceeds throughout and in every part upon precisely the opposite idea.

The gentleman from Pennsylvania [Mr. STEVENS] spoke of States forfeiting their State existence by the fact of rebellion. Well, I do not see how there can be any such forfeiture involved or implied. The individual citizens of those States went into the rebellion. They thereby incurred certain penalties under the laws and Constitution of the United States. What the States did was to endeavor to interpose their State authority between the individuals in rebellion and the Government of the United States, which assumed, and which would carry out the assumption, to declare those individuals traitors for their acts. The individuals in the States who were in rebellion, it seems to me, were the only parties who under the Constitution and laws of the United States could incur the penalties of treason. I know of no law, I know of nothing in the Constitution of the United States, I know of nothing in any recognized or established code of international law, which can punish a State as a State for any act it may perform. It is certain that our Constitution assumes nothing of the kind. It does not deal with States, except in one or two instances, such as elections of members of Congress, and the election of electors of President and Vice President.

Indeed, the main feature which distinguishes the Union under the Constitution from the old Confederation is this, that whereas the old Confederation did deal with States directly, making requisitions upon them for supplies and relying upon them for the execution of its laws, the Constitution of the United States, in order to form a more perfect Union, made its laws binding on the individual citizens of the several States, whether living in one State or in another. Congress, as the legislative branch of this Government, enacts a law which shall be operative upon every individual within its jurisdiction. It is binding upon each individual citizen, and if he resists it by force he is guilty of a crime and is punished accordingly, anything in the constitution or laws of his State to the contrary notwithstanding. But the States themselves are not touched by the laws of the United States or by the Constitution of the United States. A State cannot be indicted; a State cannot be tried; a State cannot be hung for treason. The individuals in a State may be so tried and hung, but the State as an organization, as an organic member of the Union, still exists, whether its individual citizens commit treason or not.

Mr. KELLEY. Will the gentleman from New York [Mr. RAYMOND] yield to me a moment for a question?

Mr. RAYMOND. Certainly.

Mr. KELLEY. I desire to ask the gentleman this question: by virtue of what does a State exist? Is it by virtue of a constitution, and by virtue of its relations to the Union? That is, does a State of the Union exist, first by virtue of a constitution, and secondly by virtue of its practical relations to the Government of the United States? And further, I would ask whether those States, acting by conventions of the people, have not overthrown the constitution which made them parts of the Union, and thereby destroyed or suspended—phrase it as you will—the practical relations which made them parts of the Union?

Mr. RAYMOND. I will say, in reply to the gentleman from Pennsylvania, [Mr. KELLEY,] that it is not the practical relations of a State at any particular moment which make it a State or a part of the Union. What makes a State a part of the Union is the Constitution of the United States; and the rebel States have not yet destroyed that.

Mr. KELLEY. The question I propound is, whether a State does not exist by virtue of a constitution, its constitution, which is a thing which may be modified or overthrown?

Mr. RAYMOND. Certainly.

Mr. KELLEY. And whether these rebellious constitutions or States have not been overthrown?

Mr. RAYMOND. A State does not exist by virtue of any particular constitution. It always has a constitution, but it need not have a specific constitution at any specific time. A State has certain practical relations to the Government of the United States. But the fact of those relations being practically operative and in actual force at any moment does not constitute its relationship to the Government or its membership of the United States. Its practical operation is one thing. The fact of its existence as an organized community, one of the great national community of States, is quite another thing.

Mr. KELLEY. Let me interrupt the gentleman one moment longer. I will ask him whether, if the constitution be overthrown or destroyed and its practical relations cease, there be any State left?

Mr. RAYMOND. Why, sir, if there be no constitution of any sort in a State, no law, nothing but chaos, then that State would no longer exist as an organization. But that has not been the case, it never is the case in great communities, for they always have constitutions and forms of government. It may not be a constitution or form of government adapted to its relation to the Government of the United States; and that would be an evil to be remedied by the Government of the United States. That is what we have been trying to do for the last four years. The practical relations of the governments of those States with the Government of the United States were all wrong—were hostile to that Government. They denied our jurisdiction, and they denied that they were States of the Union, but their denial did not change the fact; and there was never any time when their organizations as States were destroyed. A dead State is a solecism, a contradiction in terms, an impossibility.

These are, I confess, rather metaphysical distinctions, but I did not raise them. Those who assert that a State is destroyed whenever its constitution is changed, or whenever its practical relations with this Government are changed, must be held responsible for whatever metaphysical niceties may be necessarily involved in the discussion.

I do not know, sir, that I have made my views on this point clear to the gentleman from Pennsylvania, [Mr. KELLEY,] who has questioned me upon it, and I am still more doubtful whether, even if they are intelligible, he will concur with me as to their justice. But I regard these States as just as truly within the jurisdiction of the Constitution, and therefore just as really and truly States of the American Union now as they were before the war. Their practical relations to the Constitution of the United States have been disturbed, and we have been

endeavoring, through four years of war, to restore them and make them what they were before the war. The victory in the field has given us the means of doing this; we can now reestablish the practical relations of those States to the Government. Our actual jurisdiction over them, which they vainly attempted to throw off, is already restored. The conquest we have achieved is a conquest over the rebellion, not a conquest over the States whose authority the rebellion had for a time subverted.

For these reasons I think the views submitted by the gentleman from Pennsylvania [Mr. STEVENS] upon this point are unsound. Let me next cite some of the consequences which, it seems to me, must follow the acceptance of his position. If, as he asserts, we have been waging war with an independent Power, with a separate nation, I cannot see how we can talk of treason in connection with our recent conflict or demand the execution of Davis or anybody else as a traitor. Certainly if we were at war with any other foreign Power we should not talk of the treason of those who were opposed to us in the field. If we were engaged in a war with France and should take as prisoner the Emperor Napoleon, certainly we could not talk of him as a traitor or as liable to execution. I think that by adopting any such assumption as that of the honorable gentleman, we surrender the whole idea of treason and the punishment of traitors. I think, moreover, that we accept, virtually and practically, the doctrine of State sovereignty, the right of a State to withdraw from the Union, and to break up the Union at its own will and pleasure. I do not see how upon those premises we can escape that conclusion. If the States that engaged in the late rebellion constituted themselves, by their ordinances of secession or by any of the acts with which they followed those ordinances, a separate and independent Power, I do not see how we can deny the principles on which they professed to act, or refuse assent to their practical results. I have heard no clearer, no stronger statement of the doctrine of State sovereignty as paramount to the sovereignty of the nation than would be involved in such a concession. Whether he intended it or not, the gentleman from Pennsylvania [Mr. STEVENS] actually assents to the extreme doctrines of the advocates of secession.

Mr. NIBLACK. I beg leave to inquire of the gentleman whether the theory of the gentleman from Pennsylvania, which he is combating, would not also, if carried to its legitimate consequences, make those who resisted the confederacy in the insurrectionary States guilty of treason to the confederacy or to those States?

Mr. RAYMOND. I was just going to remark that another of the consequences of this doctrine, as it seems to me, would be our inability to talk of loyal men in the South. Loyal to what? Loyal to a foreign, independent Power, as the United States would become under those circumstances? Certainly not. Simply disloyal to their own Government, and deserters, or whatever you may choose to call them, from that to which they would owe allegiance to a foreign and independent State.

Now, there is another consequence of the doctrine which I shall not dwell upon, but simply suggest. If that confederacy was an independent Power, a separate nation, it had the right to contract debts; and we, having overthrown and conquered that independent Power, according to the theory of the gentleman from Pennsylvania, would become the successors, the inheritors, of its debts and assets, and we must pay them. Sir, that is not simply a theory or a claim thrown out in debate here; it is one advanced on behalf of the Government of Great Britain as against us. Every gentleman will remember the case in which cotton belonging to the southern confederacy was claimed in Liverpool, and the decision there was—

Mr. JENCKES. Will the gentleman allow me to ask him a question?

Mr. RAYMOND. Certainly.

Mr. JENCKES. From what information

does the gentleman state that that point was taken by the Government of Great Britain?

Mr. RAYMOND. Well, sir, I do not mean to be understood as saying that the point was taken by the Government of Great Britain itself—

Mr. JENCKES. That is a very essential distinction.

Mr. RAYMOND. But that the point was taken on behalf of the claimants in Great Britain, and the Vice Chancellor of England gave a decision which substantially covered that point and asserted the doctrine I have stated.

Mr. JENCKES. But which is not law either in England or in any other country recognizing international law.

Mr. RAYMOND. That is a matter between the honorable gentleman from Rhode Island and the Vice Chancellor of Great Britain. The point I wish to make is simply this, that our Government has denied from the beginning, and denies now, that the confederacy was ever such a corporation, such an independent body of men as could contract debts, whether we are liable for them or not. The declaration of our Secretary of State in his recent correspondence on that subject shows that we have always steadily denied that the confederacy was such a corporation as could contract a valid debt, whether we would be made responsible for it or not. But one thing is very clear, that if we recognize the doctrine that those lately in rebellion against our Government constituted an independent Power, we must concede their ability to contract debts. Whether we as their successors are to pay them or not is another question, but the claim has been made, and denied only on the ground of the incapacity of the rebel confederacy to contract debts or binding engagements of any sort.

Now, sir, I have dwelt upon these points longer than I intended. I do not think that the doctrine I have been combating is held by any considerable number of the people of this country, or, indeed, by any considerable number of the members of this House. I certainly do not think these States are to be dealt with by us as provinces—as simply so much territory—held to us by no other ties than those of conquest. I think we are to deal with them as States, having State governments, still subject to the jurisdiction of the Constitution and laws of the United States; still under the constitutional control of the national Government; and that, in our dealings with them we are to be guided and governed, not simply by our sovereign will and pleasure as conquerors, but by the restrictions and limitations of the Constitution of the United States—precisely as we are restrained and limited in our dealings with all other States of the American Union.

Mr. FARNSWORTH. I would like to ask the gentleman from New York whether he is entirely sure we have the right to try Jefferson Davis for treason inasmuch as our Government has given to them belligerent rights, has recognized and respected the commissions that he has issued?

Mr. RAYMOND. I have no doubt of it; not the slightest. I do not think that the treason of Jefferson Davis has anything to do with the fact that we conceded humane treatment to our prisoners of war. I merely alluded to the matter—I might have elaborated it—when I said that because we had granted to these States, as a Power waging war, rights usually accorded to nations at war, we were not therefore concluded from proceeding against them as traitors.

The decision of the Supreme Court, to which I have once referred, if I understand it aright, asserts that we have the right to proceed against them as traitors, or rather that we had the right to exercise against them both the powers of sovereignty and of belligerents; that the one did not exclude the other. It would be an extraordinary circumstance if, because we treated them humanely as prisoners of war, we have not the right to hold them responsible to the laws they have broken.

"It is a proposition never doubted"—

says Justice Grier, in the decision so often referred to—

"that the belligerent party who claims to be sovereign may exercise both belligerent and sovereign rights. Treating the other party as a belligerent, and using only the milder modes of coercion which the law of nations has introduced to mitigate the rigors of war, cannot be a subject of complaint, [or of claim,] by the party to whom it is accorded as a grace or granted as a necessity."

Now, if according to the view I have presented, we are to deal with those States as States within the Union, the next question that recurs is, *how* are we to deal with them? The gentleman from Ohio [Mr. FIXCK] who preceded me took the ground that they had only to resume their places and their powers in the national Government—that their Representatives have only to come into this Hall and take their seats without question and without conditions of any sort. I cannot concur, sir, in this view. I do not think these States have any such rights. On the contrary, I think we have a full and perfect right to require certain conditions, in the nature of guarantees for the future, and that right rests, primarily and technically, on the surrender we may and must require at their hands. The rebellion has been defeated. A defeat always implies a surrender, and in a political sense a surrender implies more than the transfer of the arms used on the field of battle. It implies, in the case of civil war, a surrender of the principles and doctrines, of all the weapons and agencies, by which the war has been carried on. The military surrender was made on the field of battle, to our generals as the agents and representatives of the Commander-in-Chief of the armies of the United States. But this is not all. They have still to surrender—

Mr. JENCKES. If the gentleman will allow me I will ask him a question. Was not the surrender of the rebel arms made to the people of the United States?

Mr. RAYMOND. It ought to be, and must be to them through their representatives.

Mr. JENCKES. I made the remark to correct what seemed to be an erroneous impression.

Mr. RAYMOND. Well, I do not see any correction in what the gentleman has said, or any error in what I said. The rebels surrendered to the generals of our armies, who were commissioned by the President of the United States, himself the representative of the people.

Mr. JENCKES. Not to the generals as the agents of the President, but as the representatives of the military authority of the people of the United States.

Mr. RAYMOND. Why certainly all authority belongs to the people. It is a mere distinction of words, and scarcely that.

Mr. JENCKES. I beg pardon of the gentleman. It seems to me that it is an essential distinction.

Mr. RAYMOND. Well, if it seems important to the gentleman from Rhode Island or to anybody else, I am quite willing to make the addition to my remark which he suggests. I will say then that in surrendering on the field of battle, they surrendered to the generals who were in command of the armies, as agents of the President of the United States, who was and is the representative of the people of the United States. If that explanation is satisfactory to the gentleman I am very happy to make it; and perhaps I am obliged to him for having enabled me to state it a little more specifically and accurately than I did at first.

Now, there must be at the end of the war a similar surrender on the political field of controversy. That surrender is due as an act of justice from the defeated party to the victorious party. It is due also, and we have a right to exact it, as a guarantee for the future. Why do we demand the surrender of their arms by the vanquished in every battle? We do it that they may not renew the contest. Why do we seek in this and all similar cases a surrender of the principles for which they fought? It is that they may never again be made the basis of

controversy and rebellion against the Government of the United States.

Now, what are those principles which should be thus surrendered? The principle of State sovereignty is one of them. It was the cornerstone of the rebellion—at once its animating spirit, and its fundamental basis. Deeply ingrained as it was in the southern heart, it must be surrendered. The ordinances in which it was embodied must not only be repealed, the principle itself must be abandoned, and the ordinances, so far as this war is concerned, be declared null and void, and that declaration must be embodied in their fundamental constitutions. We have a right to insist upon this; and it must be apparent that so far as that principle is concerned, this war was a permanent success.

Mr. BINGHAM. The gentleman will allow me to make the inquiry whether if that were done to-day by South Carolina, and the people of that insurgent State restored to all their powers in this Union, they could not blot it out to-morrow, by every construction that has ever been given to the operation of the Constitution of the United States upon any State maintaining its relations to this Government? What guarantee would that be?

Mr. RAYMOND. I might as well ask the gentleman whether if this Congress pass a certain law to-day they may not repeal it to-morrow. I do not know anything that any community can do that they cannot undo at some future time.

Mr. BINGHAM. When the gentleman talks of guarantees to the people of the United States, I ask him whether there is not some other method that occurs to him by which these guarantees can be obtained than to submit simply to the will of the insurgent States? Is it not to be done by putting the guarantee in the Constitution of the whole people of the United States, and thus placing it beyond the power of South Carolina to repeal it?

Mr. RAYMOND. Well, Mr. Chairman, there have been a good many things put in the Constitution of the United States which South Carolina did not deem beyond her power, and they undertook to prove that fact, but they did not succeed. My own impression is that whatever is now a part of the Constitution and laws of this country is beyond the power of South Carolina to disturb. I might as well ask the gentleman whether, when the enemy surrendered its ordinance in the field, we ought not to refuse to accept it because they might possibly at some future time come and recapture it.

Mr. BINGHAM. The gentleman will excuse me. He talked of new guarantees. The people of the United States undoubtedly demand them. But I wish him to answer intelligibly what new guarantee is given by incorporating in the constitution of South Carolina the mere formula that she by her constitution declares that she has not the right to secede, when she has the power the very next day to strike it out? Is that a new guarantee?

Mr. RAYMOND. Certainly it is. That has never been in the constitution of South Carolina before. If she puts it there now, it is a new guarantee, is it not? Whether it is an adequate form of that guarantee or not, is another question which I have not discussed. South Carolina has always hitherto asserted the right of secession, and under that assertion she attempted to secede. If she now repudiates or abandons that right, we have certainly that new assurance that she will not renew the attempt. We shall certainly have this tangible admission on her part, that if she does again rebel, it will be in direct repudiation and contempt of her own principles. I will not say that nothing more would be desired or accepted. I am quite willing, if it can be done, to put that acknowledgment into the Constitution of the United States. But I think it is there now, and that it always has been there, and that there is no more doubt about it now than if it were stated in express terms. When I read in the Constitution of the United States, that "this Constitution shall be the supreme law of the land, any-

thing in the constitution or laws of any State to the contrary notwithstanding," I deem that to be as plain as any declaration can be against the doctrine of State sovereignty, and I cannot believe that any form of words on our part would be more explicit or more emphatic. But if the gentleman can get any more explicit denial into the Constitution of the United States, he will find me voting for it every time.

Mr. BINGHAM. Then the gentleman admits that there is no necessity for any new guarantee from a State.

Mr. RAYMOND. I have made no such admission. I have said that it was in the Constitution of the United States before the rebellion, and that it is now in the constitution of the State of South Carolina also, where it never was before; and that it is certainly a new guarantee, whether worth much or little.

Now there is another thing to be surrendered by the defeated rebellion, and that is the obligation to pay the rebel war debt.

Mr. SCHENCK. Will the gentleman allow me to inquire whether that guarantee in the constitution of South Carolina amounts to anything more than the signature of an indorser on the back of a note, who may at any time thereafter take his name from the paper?

Mr. RAYMOND. Perhaps not; perhaps you can get better security. If you can, I certainly shall not object. But such as it is, it is at all events something gained, and it is only in that light that I have referred to it. Neither of the distinguished gentlemen from Ohio, [Messrs. BINGHAM and SCHENCK,] able lawyers as they are, will deny that we had the right to demand that of South Carolina. And if it was worth while to demand it, it is hardly worth while, having got it, to say that it is of no value at all. We expose ourselves by so doing to the imputation of trifling in having demanded it at all.

Mr. BINGHAM. I have no doubt at all that the people of the United States, those who maintained the integrity of their Constitution, had the right to demand of South Carolina a perpetual guarantee in the future that she should not even claim the color of authority to secede and set up a government against the constitutional authority of the Government of the nation. And when they demand that, I take it that the people of the United States are not to be told that South Carolina alone is to have the control and keeping of that guarantee. But the people of the United States are hereafter to be the guardians of their own honor, and the protectors of their own nationality, and they will take into their own keeping those great guarantees that are to secure peace and prosperity to every section of the Union in future, and to secure themselves against this work of secession under the pretense of State sovereignty.

Mr. RAYMOND. Will the gentleman from Ohio [Mr. BINGHAM] inform me who has ever pretended that the people of the nation are not to take into their own hands the guarantees of their own security and their own honor?

Mr. BINGHAM. Whoever pretends that future guarantees against the pretension of the right of a State to secede is to rest with the State alone, stands simply and solely on the resolutions of Virginia of 1798, out of the pernicious assumptions of which came all our trouble.

Mr. RAYMOND. Will the gentleman say whether I ever took any such ground?

Mr. BINGHAM. I do not say that the gentleman has. But the gentleman says that the guarantee is to remain in the constitution of the State.

Mr. RAYMOND. Does that imply that it is never to be anywhere else?

Mr. BINGHAM. That is the point.

Mr. RAYMOND. And I want an answer to that point. The gentleman tries to fasten upon me a position that I have never taken. And it required all his ingenuity to reach the point at which he has at last arrived. I said that we have a right to require from the people of South Carolina the abandonment of their doctrine of

secession. Now, whether we may not also require that the people of the United States shall reaffirm that and put it into the Constitution of the United States, is a thing about which I have said nothing whatever, except that whenever presented in a proper form it will have my assent.

Mr. BINGHAM. I am glad to hear the gentleman say that. For if these guarantees are essential, and the gentleman seems to agree that they are, then it is highly important that the American people should determine them, without being interrupted in the settlement of that question by the intervention of South Carolina under the pretension that she is a State in this Union, with all the reserved rights of a State. What right, I would ask, has she to set up any such pretension?

Mr. RAYMOND. Well, Mr. Chairman, the gentleman must settle that matter with South Carolina.

Mr. BINGHAM. I propose, in cooperation with the loyal people and their Representatives in Congress, to settle it with South Carolina.

Mr. RAYMOND. I can only say on that subject that South Carolina found herself invited by the President of the United States, the representative of the people of the United States, as the gentleman from Rhode Island [Mr. JENCKES] very properly insists that I shall term him, to cooperate in the restoration of the Union—to resume her functions as a State of the Union, and, as a preliminary step, to repudiate this debt and give this guarantee of her loyalty and good faith.

Mr. BINGHAM. I beg the gentleman's pardon. I do not think he can find anywhere any authority for the statement that the President of the United States ever invited South Carolina to exercise any voice or vote on that question here. I would like the gentleman to inform us when and where the President of the United States invited South Carolina to do it.

Mr. JENCKES. He invited the people living upon the territory which was formerly the State of South Carolina.

Mr. RAYMOND. The President in his message says:

"I know very well that this policy is attended with some risk; that for its success it requires at least the acquiescence of the States which it concerns; that it implies an invitation to those States, by renewing their allegiance to the United States, to resume their functions as States of the Union."

Mr. BINGHAM. Undoubtedly.

Mr. RAYMOND. That is precisely what I said, and all that I said.

Mr. BINGHAM. That does not touch the point of my inquiry, which is this: has the President of the United States, in any place or at any time, intimated that South Carolina sustains such relations to this Union, notwithstanding her rebellion, that she has the right to interpose here in Congress her voice in this question of settling the adoption of these guarantees, and tendering them to the American people by a vote in Congress? That is what I mean exactly.

Mr. RAYMOND. Well, Mr. Chairman, this is wandering considerably from the point. I have said nothing as yet about the admission into Congress of South Carolina, or any other of the States now unrepresented here. The President certainly has indicated to the southern States that he expected them to declare, in their constitutions, that their ordinances of secession were null and void; and in his message he speaks of an invitation to them to renew their functions as States of the Union; and that covers the whole ground that I attempted to speak upon in connection with this point. Possibly, if I am allowed to proceed without interruption, I shall, in due time, reach some other point of this discussion.

Mr. BINGHAM. I have no desire to do anything else than to elicit the truth in reference to this matter. I only wish to know the gentleman's position—to ascertain whether it is or is not that South Carolina and other seceding States now sustain such relations to this Union that they have the right to-day, under the Constitution, to have representation

upon this floor according to the apportionment of 1862.

Mr. RAYMOND. Without any guarantees or conditions at all?

Mr. BINGHAM. I contend that all guarantees are worthless, unless embodied in the Constitution of the United States.

Mr. RAYMOND. I suppose that when we get at the plain English of the matter, the gentleman means to ask me whether I am willing to vote for admitting Representatives from South Carolina unless the annulment of the ordinance of secession is incorporated into the Constitution of the United States.

Mr. BINGHAM. No, sir; I do not ask the gentleman that question.

Mr. RAYMOND. Then I must say that I do not see any practical point in the gentleman's inquiry, and with his permission I will go on with my argument.

Mr. BINGHAM. The only practical point of my inquiry is this: does the gentleman insist that South Carolina has now the right, under the Constitution, to representation in Congress as a State of the Union because her relations to the Government are, under the Constitution, those of a constitutional State in the Union? Is that the gentleman's position, or is it not?

Mr. RAYMOND. I have already said, sir, and said it as clearly and emphatically as I can, that we have a right to demand, and that we are in duty bound to demand, certain concessions from all the States lately in rebellion, as parts of their surrender, and as conditions of their resuming their functions in the Government of the nation. As to their representation in Congress, I should, before determining that question, wish to know something more of the character and position of the men they may send, and of what they have done.

Mr. BINGHAM. So do I; and I think that Congress ought to decide the question.

Mr. RAYMOND. I have not assumed to decide that point. I have not said anything about what the southern States have done. I have simply said what we have a right to require them to do; and the renunciation of the doctrine of State sovereignty is one thing that we have a right to require at their hands. We have a right also to require them to do another thing—to repudiate their obligation for debts incurred in carrying on the war against the Government. This, I am sure, the gentleman does not dispute or doubt. Whether they have done this or not, is another matter, which may come up at another time. We have the right to require this repudiation of their debt, because the money represented by that debt was one of the weapons with which they carried on the war against the Government of the United States.

Mr. BINGHAM. If they should repudiate that debt by State legislation, or by an amendment of the State constitution—I do not care in what form they may do it—does not the gentleman admit that the very next year they might assume to pay that debt?

Mr. RAYMOND. Certainly, they might.

Mr. BINGHAM. Then, if under the present condition of things they were allowed to resume full relations to the Union, they might the very next year assume the payment of that debt.

Mr. RAYMOND. Possibly they might.

Mr. BINGHAM. Very well; I want the American people to understand this issue, and to have the opportunity to say, by amendment of the United States Constitution, whether that power shall not be expressly denied to every State of the Union.

Mr. RAYMOND. I do not think the American people are at all liable to forget the fact.

Mr. BINGHAM. Well, they might happen to be misled by the remark of the gentleman, that we should require those States simply to repudiate that debt.

Mr. RAYMOND. I do not think they possibly could be, because that does not imply anything about the power of those States hereafter. I am simply speaking of what we have the right to require them to do.

There is another thing which we have the right to require; and that is the prohibition of slavery. We have the right to require them to do this, not only in their State constitutions, but in the Constitution of the United States. And we have required it, and it has been conceded. They have also conceded that Congress may make such laws as may be requisite to carry that prohibition into effect, which includes such legislation as may be required to secure for them protection of their civil and personal rights—their "right to life, liberty, and the pursuit of happiness." This I am sure the gentleman will concede to be a substantial guarantee—one placed beyond the power of any State to recall or repeal.

These things the President of the United States has deemed it his right, as Commander-in-Chief of the armies of the United States, to demand at the hands of the States which have been defeated in their attempt to separate themselves from the Union, as the condition of relaxing the bonds of military authority over them and restoring to them again the control of their local State affairs. He made these the conditions upon which they would be allowed, so far as his rightful authority extended, to resume the practical exercise of their functions as members of the Union, which had been suspended by their rebellion. He has done this in the exercise of his lawful authority as Commander-in-Chief of the Army of the United States, and was therefore responsible for the complete suppression of the rebellion and the restoration of peace, order, and loyalty in the regions where they have been for a time disturbed and overthrown. He has done it through agents, exercising a delegated and just authority—acting on his behalf and in his name—just as his military generals prescribed the terms and conditions of the rebel surrender in the field; and the fact that these concessions have been granted, affords at least a fair presumption that those who make them intend hereafter in good faith to abide by all the obligations and fulfill all the duties imposed by the Constitution and laws of the United States. It may possibly be wise for us to dismiss all these concessions and all these guarantees given by eight million people, and sanctioned by the most solemn forms of legislation, as utterly worthless and insincere. But that is a matter upon which each individual must exercise his own discretion upon his own responsibility.

Mr. SPALDING. The gentleman from New York has stated that it is right and reasonable the demand should be made of the late rebel States that they should assent to an amendment to the Constitution prohibiting slavery in the Union, and also that it is right and reasonable we should require that they should repudiate all debts contracted in support of the rebellion. Now, I ask the gentleman whether there is any limit to the right to make these requisitions except the good judgment of Congress?

Mr. RAYMOND. I think there is.

Mr. SPALDING. I ask what limit, so that we may understand, and where does it belong? Who has the power to affix that limit?

Mr. RAYMOND. My impression is that these requisitions are made as a part of the terms of surrender which we have a right to demand at the hands of the defeated insurgents, and that it belongs, therefore, to the President as Commander-in-Chief of the Army and Navy of the United States to make them, and to fix the limit as to what they shall embrace.

Mr. BINGHAM. In regard to that constitutional amendment: without Congress moving first in the matter, and without their action, he would never have had the power at all to demand its ratification by any rebel State.

Mr. RAYMOND. Certainly, there are many things which could not be done by the President without the action of Congress.

Mr. BINGHAM. Congress is now making further provision that an amendment shall be made to the Constitution that no State shall pay any part of the rebel debt.

Mr. RAYMOND. The gentleman is aware that it was not Congress but the President who

required the rebel States to ratify the constitutional amendment as a condition of the resumption of their functions.

Mr. BINGHAM. I beg the gentleman's pardon. This is an important question, and I beg leave to say that he would be a bold man who would dare to say that after the loyal States had maintained the supremacy of their Constitution, and more than three fourths of all the loyal States had so amended their Constitution, that their action was void without the consent of the rebel States, and that after their rebellion had been subdued by arms, the States in rebellion might not only repudiate the amendment, but of right might come into Congress to resist the enforcement of its humane provisions by just and needful laws. It was not within the power of the President or any other man on this earth rightfully to assert any such authority or power in the rebel States over the action of the loyal people of twenty-two out of the twenty-five loyal States. The President never said so and never meant to say so.

Mr. RAYMOND. Well, Mr. Chairman, as the gentleman concedes that the President has not said it—

Mr. BINGHAM. No, and he could not say it.

Mr. RAYMOND. I do not know that he ever proposed or wished to say it.

Mr. BINGHAM. No, but then there was nothing in the gentleman's remark.

Mr. RAYMOND. I understand that the Government, through the channel designated by law, the Secretary of State, when it was found that three fourths of the States had ratified the amendment, issued a proclamation to that effect, naming the States which had ratified it. There was nothing irregular, certainly, about that.

Mr. BINGHAM. The gentleman will note that the President made the requisition long before three fourths of the States had ratified the amendment.

Mr. RAYMOND. The President did it; Congress did not.

Mr. BINGHAM. What I meant to say was this: Congress imposed that obligation upon him backed by the power of the people, and they have a right again to impose like obligations upon him, and have a right to assume that he will cheerfully and faithfully obey their requirements.

Mr. RAYMOND. I am sorry the gentleman seems determined to get up an issue concerning the action, past or future, of the President upon this subject. I am not aware that I have given him any provocation for so doing.

Mr. BINGHAM. The gentleman will excuse me. I am sorry to see the gentleman assume that he alone represents the President. I make no issue with the President.

Mr. RAYMOND. I certainly have assumed nothing of the kind; and I am very much surprised to hear the gentleman ascribe to me anything of the sort. I said nothing about the action of the President except to state the facts. I raised no question as to his rights, or as to the power of Congress to impose any action upon him. I do not know that I gave the gentleman from Ohio the slightest occasion to assert here, with so much warmth as he has shown, the paramount power of Congress over the President. I raised no question and made no remark on the subject.

Mr. BINGHAM. The gentleman made the remark here that I was trying to get up an issue with the President. When he said that, I replied, as I might very properly do, that I was surprised that the gentleman should assume to speak for the President.

Mr. RAYMOND. I did not assume, in any way whatever, anything of the kind.

Mr. BINGHAM. And I respectfully deny the gentleman's assertion that I seek to make an issue with the President.

[Here the hammer fell.]

Mr. CONKLING. Inasmuch as my colleague has been very much interrupted, I ask that by unanimous consent his time be extended. [Cries of "Agreed!"]

No objection was made.

Mr. MORRILL. As the gentleman from New York evidently intended to reply to the gentleman from Pennsylvania, [Mr. STEVENS,] I hope he will be allowed to go on uninterruptedly.

Mr. RAYMOND. I am very much surprised to find myself involved in such a controversy. I did not rise to create or provoke controversy with any one upon this floor. I rose to express my own dissent from the views propounded here by the gentleman from Pennsylvania, and if in anything I said after that, embodying my own opinions, I gave proper warrant for, I will not say attacks upon me, for I do not believe any such thing was meant, but for the questions propounded as to my position on this subject, I am very much surprised, but not the less glad of this opportunity of stating and explaining what it is. I cannot assent to the intimations thrown out by the gentleman from Pennsylvania, [Mr. STEVENS,] that the President concurred in the views he had expressed, or that he had handed the whole subject of pacifying the States lately in rebellion, and of restoring the States to the practical exercise of their functions as members of the Union, to the hands of Congress. I can find no warrant in his message for believing that he designs thus to abandon duties which are evidently, in his judgment, devolved upon him as the Executive in the Government, and as Commander-in-Chief of the armies of the United States. On the contrary, I find him rehearsing, in clear and explicit language, the steps he has taken to restore the rightful energy of the General Government and the States. "To that end," he says,

"Provisional governors have been appointed for the States, conventions called, Governors elected, Legislatures assembled, and Senators and Representatives chosen to the Congress of the United States. At the same time the courts of the United States, as far as could be done, have been reopened, so that the laws of the United States may be enforced through their agency. The blockade has been removed and the custom-houses reestablished in ports of entry, so that the revenue of the United States may be collected. The Post Office Department renews its ceaseless activity, and the General Government is thereby enabled to communicate promptly with its officers and agents. The courts bring security to persons and property; the opening of the ports invites the restoration of industry and commerce; the post office renews the facilities of social intercourse and of business."

He has exercised his power of pardon; he has invited the States lately in rebellion to participate in the ratification of the constitutional amendment securing the perpetual prohibition of slavery. "This done," he says,

"It will remain for the States, whose powers have been so long in abeyance, to resume their places in the two branches of the national Legislature, and thereby to complete the work of restoration. Here it is for you, fellow-citizens of the Senate, and for you, fellow-citizens of the House of Representatives, to judge, each of you for yourselves, of the elections, returns, and qualifications of your own members."

All but this has been done in the exercise of his functions and in the performance of his duties, as President of the United States, and as Commander-in-Chief of their armies. The admission of members of Congress, and the restoration of the judicial branch of the civil authority of the Government, are necessarily referred to the deliberations and action of Congress.

Mr. Chairman, I am here to act with those who seek to complete the restoration of the Union, as I have acted with those through the last four years who have sought to maintain its integrity and prevent its destruction. I shall say no word and do no act and give no vote to recognize its division, or to postpone or disturb its rapidly-approaching harmony and peace. I have no right and no disposition to lay down rules by which others shall govern and guide their conduct; but for myself I shall endeavor to act upon this whole question in the broad and liberal temper which its importance demands. We are not conducting a controversy in a court of law. We are not seeking to enforce a remedy for private wrongs, nor to revenge or retaliate private griefs. We have great communities of men, permanent interests of great States, to deal with, and we are bound to deal with them in a large and liberal spirit. It may be for the welfare of this nation that we

shall cherish toward the millions of our people lately in rebellion feelings of hatred and distrust; that we shall nurse the bitterness their infamous treason has naturally and justly engendered, and make that the basis of our future dealings with them. Possibly we may best teach them the lessons of liberty, by visiting upon them the worst excesses of despotism. Possibly they may best learn to practice justice toward others, to admire and emulate our republican institutions, by suffering at our hands the absolute rule we denounce in others. It may be best for us and for them that we discard, in all our dealings with them, all the obligations and requirements of the Constitution, and assert as the only law for them the unrestrained will of conquerors and masters.

I confess I do not sympathize with the sentiments or the opinions which would dictate such a course. I would exact of them all needed and all just guarantees for their future loyalty to the Constitution and laws of the United States. I would exact from them, or impose upon them through the constitutional legislation of Congress, and by enlarging and extending, if necessary, the scope and powers of the Freedmen's Bureau, proper care and protection for the helpless and friendless freedmen, so lately their slaves. I would exercise a rigid scrutiny into the character and loyalty of the men whom they may send to Congress, before I allowed them to participate in the high prerogative of legislating for the nation. But I would seek to allay rather than stimulate the animosities and hatred, however just they may be, to which the war has given rise. But for our own sake as well as for theirs I would not visit upon them a policy of confiscation which has been discarded in the policy and practical conduct of every civilized nation on the face of the globe.

I believe it important for us as well as for them that we should cultivate friendly relations with them, that we should seek the promotion of their interests as part and parcel of our own. We have been their enemies in war, in peace let us show ourselves their friends. Now, that slavery has been destroyed—that prolific source of all our alienations, all our hatreds, and all our disasters—there is nothing longer to make us foes. They have the same interests, the same hopes, the same aspirations that we have. They are one with us; we must share their sufferings and they will share our advancing prosperity. They have been punished as no community was ever punished before for the treason they have committed. I trust, sir, the day will come ere long when all traces of this great conflict will be effaced, except those which mark the blessings that follow in its train.

I hope and believe we shall soon see the day when the people of the southern States will show us, by evidences that we cannot mistake, that they have returned, in all sincerity and good faith, to their allegiance to the Union; that they intend to join henceforth with us in promoting its prosperity, in defending the banner of its glory, and in fighting the battles of democratic freedom, not only here, but where ever the issue may be forced upon our acceptance. I rejoice with heartfelt satisfaction that we have in these seats of power—in the executive department and in these halls of Congress—men who will coöperate for the attainment of these great and beneficent ends. I trust they will act with wisdom; I know they will act from no other motives than those of patriotism and love of their fellow-men.

Mr. SPALDING obtained the floor; and moved that the committee rise.

Mr. MORRILL. I would ask my friend from Ohio [Mr. SPALDING] to add to his motion, "and that the resolutions adopted in committee be reported to the House."

Mr. JENCKES. I would ask the gentleman from Ohio to withdraw his motion for a few moments.

Mr. SPALDING. I will yield to the gentleman from Rhode Island [Mr. JENCKES] for five minutes.

Mr. JENCKES. Mr. Chairman, I have regretted much that this debate was persisted in

to-day. I regret still more that I have not had an opportunity to prepare myself to meet, as this committee should demand of any one who addresses it, the questions that have been suggested and partly argued here to-day by the gentleman from New York, [Mr. RAYMOND;] but I will ask the indulgence of the committee, and of the gentleman from Ohio, [Mr. SPALDING,] to allow me to make a few statements.

I do not know from what source the gentleman from New York derives his knowledge of public law, or its applicability to the present condition of this country. But it seems to me that he has confounded questions of law and questions of fact, which should always be discriminated by those who have to act upon either or both questions.

The gentleman states, and properly, that every act or ordinance of secession was a nullity. Undoubtedly it was. Upon that question of law we do not disagree. But he seems to me to overlook entirely what was the state of facts from the time of the passage of the ordinances of secession until the time of the surrender of Lee's army. During that period what were the relations which all that territory—I will not use the term States, but all that territory—between the Potomac and the Rio Grande sustained to the Government of the United States? Who could see States there for any purpose for which legislation was required by the Constitution of the United States?

At the time of the passage of the ordinance of secession, States were organized there, in existence, in action, known to the Constitution and the constitutional authorities under it. But were they loyal? Did they obey the Constitution of the United States? This is a question that needs no answer other than that which is conveyed to every mind by the recollection of the last four years of war, with their expenditure of treasure and blood. Those States were not destroyed, in the technical language of the law—they simply died out. As their Governors passed out of office, as the terms of their Legislatures expired, who knew those facts? None but themselves. And yet, behind this grand cordon of armies, stretching from here to the Rio Grande, there were States in existence, organized as States, but States in rebellion, occupying the territory belonging to the people of the United States. They were not acting in concert with this Government, but against it. That, Mr. Chairman, is a matter of fact. My eyes are not dimmed or blinded by the parchment upon which constitutions or laws are written. I, like the men who carried the bayonets and planted the cannon, recognize the fact that was before us during all this time. There was a state of rebellion. There were in that part of our territory no States known to our Constitution or the laws that we enact, or the officers whose duty it is to enforce those laws.

I recognize, too, the next fact. Bear in mind, I am simply stating now what I conceive to be the facts. The question as to what may be the law can be reserved for discussion on another occasion. I recognize fully the duties of the Executive. And it was the duty of the President of the United States, as the head of the civil and military power of this great Republic—not "empire;" God forbid that this country should ever be so designated with applause or even with toleration—to beat down armed opposition to it, whether it came from a foreign Power or from domestic insurrection. That was the duty of the President; and he recognized it; and it was not the duty of any one in this Congress to gainsay it. It was written on the face of the Constitution that the President was to see that the laws should be faithfully executed, and the power of this Republic maintained; and he did so.

The next fact—the fact which seems to me to be the one most pertinent for consideration now—is that the military power which was opposed to this Government has been destroyed. It was the duty of the Executive to see that this was done, and to report to the Congress of the United States that it has been done. But what

then? Then there comes the third question of fact, intimately connected with the last, and hardly separable from it, because it requires the immediate action of the Executive and of Congress. All the power that existed in the shape of confederated States behind rebel bayonets and fortifications has fallen to the earth. The territory which these States in rebellion occupied was the property of the people of the United States, and never could be taken from us. I hold it to be a question of public law, worthy of consideration by the representatives of the American people, by the President and the Administration generally, to ascertain what existed in the shape of civil constitutions and laws behind the military government that has been overthrown. I hesitate not to say, here or elsewhere, that the Executive of this Government has done his duty in this matter. All conquering nations when they overcome a rebellious people by overthrowing their military power, look, as did the Government of Great Britain when it had overcome the mutiny in India, to see what government of a civil kind has existed or may exist from custom among the people who are conquered.

I see no reason in this view to discriminate between the argument of the gentleman from Pennsylvania and the argument of the gentleman from Ohio and the argument of the gentleman from New York. It seems to me that if they will look at the particular questions which are now before us, and which require our action, the differences would be in terms and not in substance. The Executive is doing his duty. I do not wish to make a criticism of the manner in which it is done. That may be done when measures come from the executive department, but we have none now. I wish for myself as a member of the House to say that I wish to do my duty. I do not wish to be compromised by the speech or argument of the gentleman from New York, or the gentlemen from any other State on any question which may arise before Congress when no question is here for discussion or action. When the time to vote comes, when business is in hand, then we may speak and bind ourselves. I think that no one here can speak for a party, and that no one is bound by what has been said by the gentlemen who have spoken. And when the gentleman from New York says, looking at the question of reconstruction, that there resides in the Executive power to impose conditions upon the resumption of the rights of the States which have been in rebellion, I ask him where he finds that power—in the Constitution of the United States or in the public law, the law of war, the law of nations which overrides when it is once called into existence? Is it the power of carrying on foreign war or suppressing domestic insurrections?

Mr. SPALDING obtained the floor, but yielded to

Mr. MORRILL, who moved that the committee rise and report to the House the following resolutions which were before the committee:

Resolved, That so much of the annual message of the President of the United States to the two Houses of Congress at the present session, together with the accompanying documents, as relates to the finances, to the receipts into the Treasury and the public expenditures, to the revision of the revenue, to the public debt, and the ways and means of supporting and meeting all the public liabilities of the Government, be referred to the Committee on Ways and Means.

Resolved, That so much of said message and accompanying documents as relates to carrying on the several Departments of the Government, to the necessary appropriations therefor, to deficiencies in the appropriations, and to mail transportation by ocean steamers, be referred to the Committee on Appropriations.

Resolved, That so much of said message and accompanying documents as relates to banks and banking, and currency, be referred to the Committee on Banking and Currency.

Resolved, That so much of said message and accompanying documents as relates to commerce be referred to the Committee on Commerce.

Resolved, That so much of said message and accompanying documents as relates to the public domain be referred to the Committee on Public Lands.

Resolved, That so much of said message and accompanying documents as relates to the Post Office Department be referred to the Committee on the Post Office and Post Roads.

Resolved, That so much of said message and accompanying documents as relates to the reestablishment

of the courts in districts where their authority has been interrupted, and to all judicial proceedings, be referred to the Committee on the Judiciary.

Resolved, That so much of said message and accompanying documents as relates to the public expenditures be referred to the Committee on Public Expenditures.

Resolved, That so much of said message and accompanying documents as relates to agriculture, and to the Department of Agriculture, be referred to the Committee on Agriculture.

Resolved, That so much of said message and accompanying documents as relates to the management of Indian affairs be referred to the Committee on Indian Affairs.

Resolved, That so much of said message and accompanying documents as relates to the Army of the United States, to provisions for a peace establishment and to coast and lake defenses, be referred to the Committee on Military Affairs.

Resolved, That so much of said message and accompanying documents as relates to the Navy of the United States be referred to the Committee on Naval Affairs.

Resolved, That so much of said message and accompanying documents as relates to our foreign affairs, together with the accompanying correspondence, be referred to the Committee on Foreign Affairs.

Resolved, That so much of said message and accompanying documents as relates to the Territories of the United States be referred to the Committee on Territories.

Resolved, That so much of said message and accompanying documents as relates to pensions and the Pension Bureau be referred to the Committee on Invalid Pensions.

Resolved, That so much of said message and accompanying documents as relates to the expenditures in connection with the State Department be referred to the Committee on Expenditures in the State Department.

Resolved, That so much of said message and accompanying documents as relates to expenditures in connection with the Treasury Department be referred to the Committee on Expenditures in the Treasury Department.

Resolved, That so much of said message and accompanying documents as relates to expenditures in connection with the War Department be referred to the Committee on Expenditures in the War Department.

Resolved, That so much of said message and accompanying documents as relates to expenditures in connection with the Navy Department be referred to the Committee on Expenditures in the Navy Department.

Resolved, That so much of said message and accompanying documents as relates to the expenditures in connection with the Post Office Department be referred to the Committee on Expenditures in the Post Office Department.

Resolved, That so much of said message and accompanying documents as relates to the militia be referred to the Committee on the Militia.

Resolved, That so much of said message and accompanying documents as relates to the Pacific Railroad be referred to the Committee on the Pacific Railroad.

Resolved, That so much of said message and accompanying documents as relates to roads and canals be referred to the Committee on Roads and Canals.

Resolved, That so much of said message and accompanying documents as relates to the District of Columbia be referred to the Committee for the District of Columbia.

Resolved, That so much of the President's message and accompanying documents as relates to the subject of reconstruction be referred to the joint committee on reconstruction.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BOUTWELL reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the annual message of the President of the United States, and had directed him to report certain resolutions thereon.

Mr. MORRILL demanded the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolutions were adopted.

FRENCH EXPOSITION.

Mr. BANKS. Mr. Speaker, I have received information from the State Department that it is necessary that the House should accept the invitation the French Government has extended to this Government, to take part in the exposition of the world's industry. If Congress accepts that invitation it should do it now, for when we return after the holidays it will be too late. I therefore move the adoption of the joint resolution, which I send to the Clerk's desk.

The joint resolution was read the first and second time.

The first clause of the joint resolution accepts the invitation tendered by the French Government to the United States to take part in the exposition, and approves the proceedings heretofore adopted by the Secretary of

State in relation thereto, as set forth in his report accompanying the President's message.

The second clause appropriates the sum of — dollars for the payment of the expenses of freight and shipments of articles intended for exhibition, from the United States to France and return, and for the compensation of the principal agent of the exposition in the United States, at a salary of \$3,000 a year, and of a committee of ten professional and scientific persons, at a salary of \$1,000 a year each.

The third clause authorizes the employment of a clerical force by the general agent for the exposition in New York; and

The fourth clause authorizes the Secretary of State to prescribe such general regulations as may be proper concerning the conduct of business relating to the part to be taken by the United States in the exposition.

Mr. BANKS. If there is any objection to that clause of the resolution which makes an appropriation, I will waive it, but I beg that the House will permit action to be taken upon the remainder of the resolution. The first branch of the resolution accepts the invitation of the French Government and approves what the Secretary of State has done as set forth in his report to the President, which has been distributed, and which is referred to in the President's message. The other clause relates to the appointment of clerks, which are necessary to carry this object into effect.

If there be objection to that portion of the joint resolution containing an appropriation, I will not press action upon it; but I trust there will be no objection to immediate action on the other portion of the resolution, as that is necessary.

The SPEAKER. Is there objection to the consideration of that clause of the resolution embracing an appropriation?

Mr. HARDING, of Kentucky. I object.

Mr. BANKS. Then I withdraw that portion of it.

Mr. FARNSWORTH. Was not this subject referred to the Committee on Agriculture the other day on the motion of my colleague, [Mr. WESTWORTH?]

The SPEAKER. The message of the President and the letter of the Secretary of State were referred to the Committee on Agriculture. There was no disposition about to be made of them but to lay them upon the table. They should have gone to the Committee on Foreign Affairs, in the opinion of the Chair, but he entertained the first motion that was made, and they were referred to the Committee on Agriculture.

Mr. FARNSWORTH. I know nothing about it. I only asked for information.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. MORRILL. I desire to inquire of the gentleman from Massachusetts whether there is anything in the resolution which will require us to make an appropriation hereafter?

Mr. BANKS. I have withdrawn the portion of the resolution containing an appropriation.

Mr. MORRILL. While I am quite willing that this invitation shall be accepted, I do not desire to preclude the House from any action it may deem proper hereafter as to the amount to be expended for agents or clerks.

Mr. BANKS. That question is not presented in the resolution. The last clause of the resolution simply authorizes the employment of clerks. They may be paid from some other fund, or a fund may be appropriated by Congress. The whole matter will be in the hands of Congress to approve and appropriate money for.

The SPEAKER. The provision in regard to the compensation of an agent was stricken out or withdrawn, objection being made by the gentleman from Kentucky, [Mr. HARDING.] There is no appropriation in it now.

The joint resolution was passed.

Mr. BANKS moved to reconsider the vote by which the joint resolution was passed; and

also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

EXPLOSION AT THE ARSENAL.

Mr. INGERSOLL, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas by the late explosion at the United States arsenal, in the District of Columbia, several Government employes were killed, and others terribly mutilated; and whereas it is alleged that one or more of the killed left large families in destitute circumstances: Therefore,

Resolved, That the Committee for the District of Columbia be directed to inquire into the matter, and report to this House what relief, if any, should be rendered by the United States Government.

PENNSYLVANIA WAR CLAIM.

Mr. MYERS, by unanimous consent, introduced a bill to reimburse the State of Pennsylvania for expenses incurred for the pay of the soldiers of that State to repel the rebel invasion of 1863; which was read a first and second time, and referred to the Committee on Appropriations.

INTERNAL REVENUE.

Mr. HIGBY, by unanimous consent, introduced a bill to amend sections ninety-four and one hundred of an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864; which was read a first and second time, and referred to the Committee of Ways and Means.

INCOME TAX.

Mr. ANCONA, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be, and they are hereby, requested to inquire, first, as to the construction of the internal revenue act in respect to the assessment of the income tax, whether the regulations of the Department and action thereon in respect to deductions and allowances made are in accordance with the letter and intention of said act; second, whether the amount (\$500) allowed by said act for the support of a family should not, in view of the greatly enhanced cost of living, be increased to \$1,000.

PENNSYLVANIA WAR CLAIM—AGAIN.

Mr. SCHENCK. There was a motion adopted a few moments ago referring to the Committee on Appropriations a Pennsylvania claim for damages. I move to reconsider that reference with the view of sending the claim to the Committee of Claims. It is not to appropriate money under any law for an existing and acknowledged claim.

Mr. MYERS. I must oppose the motion to reconsider the vote by which the bill was referred to the Committee on Appropriations.

The bill provides for an appropriation of \$900,000. This bill is the same that was reported by the Committee of Ways and Means at the last session of Congress, which passed the House, and failed in the Senate only for lack of time to reach it.

Mr. SCHENCK. That is precisely the reason for my motion, that this bill is an old acquaintance. I would rather submit it to some committee other than that of the Committee on Appropriations, even with the advantage of the counsels of the distinguished member from Pennsylvania, [Mr. STEVENS,] who is at the head of that committee. We know that it will probably fare very well in the Committee on Appropriations, as it did before in the Committee of Ways and Means. But I wish to have it investigated as a claim, and not as an appropriation, proceeding, as it were, upon the ground that we concede the propriety of making this payment to Pennsylvania. Let it first be looked into upon its merits again by this Congress, whatever former Congresses may have done. My reason for interfering was precisely because I did recognize in it an old acquaintance.

Mr. MYERS. I am sorry the gentleman from Ohio [Mr. SCHENCK] objects to the bill because the last Congress saw fit, after full discussion, to pass it; and also, because the distinguished member from Pennsylvania [Mr. STEVENS] is at the head of the Committee on Appropriations to which it is now referred.

Now I take it there can be no doubt that that committee will act as fairly upon this matter as any committee in this House.

Mr. SCHENCK. I do not say otherwise. I said I was not willing to send it to the Committee on Appropriations, even though it should have the advantage of the supervision of the chairman of that committee.

Mr. MYERS. That was very delicately said, I know, but it implied at the same time an insinuation that a Pennsylvania member would take better care of her interests than an Ohio member would. I have no doubt that Ohio is opposed to it, though the gentleman says Ohio has a claim just like this of Pennsylvania.

Now the facts are these: there was no other claim presented before this House during the last Congress by any other State, or anybody, for the pay of soldiers who fought in the service of the United States, and who were specially called out for that purpose.

There have been imaginary or fictitious claims for bounties and expenses incurred by various States; but this is no such claim. It was passed by the House at the last session after full discussion; and I doubt not, when it comes before the House again—when an appropriation shall be reported, as beyond doubt it will be reported—the sense of justice of this House will, with very little discussion, recognize the propriety of the appropriation for this claim.

I did not intend at this time to discuss the merits of the bill; and if there had been originally a motion to refer it to the Committee of Claims, I should not perhaps have objected to it; but I object now, because the bill has already been referred to an appropriate committee, and because the gentleman takes exception to it for a reason which I cannot fully understand.

Mr. INGERSOLL. I desire to ask the gentleman, what is the nature of this claim?

Mr. RANDALL, of Pennsylvania. If it be in order, I will move that the motion to reconsider be laid on the table.

The SPEAKER. The gentleman's colleague [Mr. MYERS] has not yielded the floor.

Mr. MYERS. The gentleman from Illinois [Mr. INGERSOLL] inquires what is the nature of this claim. If the bill had been read, it would have explained itself. Its object is to reimburse the State of Pennsylvania for money paid to soldiers of that State who were called into the service of the United States to repel the invasion of Maryland and Pennsylvania in 1863. The claim was audited in the Treasury Department. Every voucher was presented; and no objection was found to the bill. Let me say, too, with the greatest respect for the gentleman from Ohio, [Mr. SCHENCK,] that no other State presented in an authenticated form, ready for payment, any similar claim.

Mr. Speaker, I now make the motion which my colleague [Mr. RANDALL] desired to make, that the motion to reconsider submitted by the gentleman from Ohio be laid on the table.

On the motion of Mr. MYERS, there were, on a division—ayes 17, noes 34; no quorum voting.

Mr. MORRILL. I move that the House adjourn.

The motion was agreed to; and thereupon (at twenty minutes past three o'clock p. m.) the House, pursuant to concurrent resolution, adjourned until Friday, January 5, at twelve o'clock m.

IN SENATE.

Friday, January 5, 1865.

Prayer by the Chaplain, Rev. E. H. Gray.
The Journal of Thursday, December 21, 1865, was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, transmitting, in obedience to law, copies of the accounts of the superintendents and agents having charge of the Creek, Chickasaw, Seminole, and Wichita tribes of Indians, for the second quarter of the year 1865; which was referred to the Committee on Indian Affairs.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, Chief Clerk, announced that the House had passed a joint resolution (H. R. No. 28) in relation to the Industrial Exposition at Paris, France.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair has received and been requested to present to the Senate the memorial of J. W. Downey, of Petersburg, Virginia, setting forth in substance that the petitioner purchased of the late Dr. Mallory, of Norfolk, Virginia, a large and valuable farm about five miles from Fortress Monroe; that the price of the farm was about thirty thousand dollars, on which he paid about eighteen thousand dollars, and gave his obligations for the residue of the purchase price; that during the year 1862 or 1863 the Government took this farm for Government purposes, and dispossessed the petitioner; that about the month of March last the estate was sold under the confiscation act, and purchased by Mrs. Mallory, the widow of Dr. Mallory, of whom he made the original purchase, for the sum of \$125,000. Mrs. Mallory, as the representative of her husband, holds the obligations of the petitioner, as he says, for the amount of about twelve thousand dollars, the residue of the purchase price, \$18,000, having been paid; and he asks that such action may be taken as shall be fit and proper in the premises, he averring that the sons of Dr. Mallory, who will succeed under the present aspect of affairs to this estate, were officers in the confederate army during the war against the United States, that he himself was conscripted as a private into the rebel army for a short time last spring, but that he shed no blood in the service, and has taken all the oaths and demeaned himself like a peaceable citizen since the peace. This memorial, if there be no objection, will be referred to the Committee on Claims.

The memorial was so referred.

Mr. SUMNER. I offer the petition of delegates of the colored people of the State of Alabama, assembled in convention at Mobile, and representing four hundred and thirty-six thousand nine hundred and thirty citizens of the United States. They set forth in detail the condition of the State where they reside, and call upon Congress to provide some indispensable means of making their freedom secure. In the course of their memorial, to which I shall simply call the attention of the Senate without reading, they say that in the city where they were assembled in convention several of their churches had been already burned to the ground by the torch of the incendiary, and threats are frequently made to continue the destruction of their property; the means of education for their children are secured to them only by the strong arm of the United States Government against the marked opposition of their white fellow-citizens, while throughout the whole State the right to participate in the franchises of freemen is denied as insulting to white men, and a respectful appeal addressed by some of their people to the late State convention was scornfully laid upon the table, some of the members even refusing to hear its reading. They also state that many of their people daily suffer almost every form of outrage and violence at the hands of whites; that in many parts of the State their people cannot safely leave the vicinity of their homes; they are knocked down and beaten by their white fellow-citizens without having offered any injury or insult as a cause; they are arrested and imprisoned upon false accusations; their money is extorted for their release, or they are condemned to imprisonment at hard labor; that many of their people are now in a condition of practical slavery, being compelled to serve their former owners without pay and to call them "master." They express a hope that Congress may be led to give them an opportunity to verify these statements by suitable testimony, and also further hope that Congress will grant them the protection they need. I move

the reference of this important petition to the joint committee of the two Houses.

The motion was agreed to.

Mr. SUMNER. I also offer a petition from a committee of colored citizens of the State of Mississippi, in which, among other things, they set forth that, owing to the prejudice existing there, they have not been able to assemble in convention, but that they have done as well as they could, through a few of their number to set forth their grievances. They represent four hundred and thirty-seven thousand four hundred and four citizens of the United States, being a majority of nearly one hundred thousand in that State. These people, in a very brief petition, ask Congress to grant them the right of suffrage, that "we may," they say, "the more effectually prove our fidelity to the United States; as we have fought in favor of liberty, justice, and humanity, we wish to vote in favor of it and give our influence to the permanent establishment of pure republican institutions in these United States; and also that we may be in a position in a legal and peaceable way to protect ourselves in the enjoyment of those sacred rights which were pledged to us by the emancipation proclamation." I move that this petition be also referred to the joint committee.

The motion was agreed to.

Mr. SUMNER. I have also a petition from colored citizens of Colorado—I do not know whether to call it yet a State, or a Territory—protesting against its recognition as a State of the Union, on account of a radical injustice in the constitution which has recently been formed. I move the reference of this petition to the Committee on Territories.

The motion was agreed to.

Mr. SUMNER. I have a petition from citizens of Philadelphia, calling the attention of Congress to the fourth section of the fourth article of the Constitution of the United States, where it is declared that "the United States shall guaranty to every State in this Union a republican form of government," stating that in many States such a form of government does not exist, and proposing an amendment of the Constitution in order more effectually to carry out that provision. I offer a similar petition from members of the Union American church in Philadelphia; another one from citizens of Philadelphia; another one from citizens of Chester, Pennsylvania; another one from citizens of Springfield, Pennsylvania; another one from citizens of Norristown, Pennsylvania; another one from citizens of Columbia, Pennsylvania; another one from citizens of Penningtonville, Pennsylvania; another one from citizens of Media, Pennsylvania; all with the same prayer. I move their reference to the Committee on the Judiciary.

The motion was agreed to.

Mr. SUMNER presented the petition of James Larry, praying for compensation for losses sustained by him in consequence of the occupation of his property by the United States Army near Cold Harbor, Virginia, in June, 1864; which was referred to the Committee on Claims.

He also presented the petition of F. A. Lewis, praying for compensation for property destroyed during the war by our armies; which was referred to the Committee on Claims.

He also presented a memorial of citizens of Ohio, praying for an amendment of the Constitution of the United States to the effect that it may recognize Christianity; which was referred to the Committee on the Judiciary.

Mr. SUMNER. I also offer the petition of George B. Upton and George B. Upton, Jr., two eminent merchants of Boston, setting forth that a ship of theirs was seized and burned at sea by a cruiser known as the Alabama; that application has been made to the Department of State here to secure compensation for that outrage; that the application has been presented in London to the British Government, and there refused; wherefore, the petitioners say as follows:

"Believing, as your petitioners do, that nations are responsible which, through the want of neutrality

laws, or of the proper construction and enforcement of such as do exist, give their support and sanction to piracies committed by vessels built, manned, and fitted out in their own ports, and thus allow their subjects to make war upon those of other nations in time of peace; and believing that no immediate compensation can be obtained by them from the British Government; knowing, moreover, they were in no wise in fault that their property was illegally destroyed, they can only, as a last resource, petition their own Government to pay them the value of their said ship *Nora* at the date of her destruction, and charge the same to the Government which permitted the outrage."

I move the reference of this petition to the Committee on Foreign Relations.

The motion was agreed to.

Mr. HOWARD. I desire to present joint resolutions of the Legislature of the State of Michigan, adopted by the two bodies on the 21st of March, 1865, in which, in behalf of the people of that State, they express their earnest determination "to do everything in their power to support and sustain the national Administration in all measures for the vigorous prosecution of the existing war, the utter overthrow of armed rebellion, and the punishment of traitors," &c. I move that these resolutions may be printed and laid on the table.

The motion was agreed to.

Mr. HOWARD presented a joint resolution of the Legislature of the State of Michigan, asking for a grant of lands to aid in the construction of a ship-canal from Lake Superior to Lac La Belle, so as to form a safe harbor; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a joint resolution of the Legislature of that State, asking for the repeal of the tax on the Holy Scriptures and school books; which was referred to the Committee on Finance, and ordered to be printed.

He also presented a joint resolution of the Legislature of the same State in relation to the unsafe condition of the Waugoshance lighthouse in the straits of Michilimackinac; which was referred to the Committee on Commerce, and ordered to be printed.

He also presented the petition of John Burt, John Owen, and other business men of Detroit, Michigan, praying for an appropriation to construct a breakwater at Marquette Bay on Lake Superior; which was referred to the Committee on Commerce.

He also presented the petition of Jesse Smith and others, citizens of Michigan, praying for the establishment of a tri-weekly mail route from Coopersville, in Ottawa county, to Squire's Ferry, in the county of Newaygo; which was referred to the Committee on Post Offices and Post Roads.

He also presented the memorial of the widow of Major Thomas C. Fitzgibbon, of the fourteenth Michigan infantry, praying for relief; which was referred to the Committee on Pensions.

Mr. RAMSEY presented the memorial of the Mississippi River Improvement and Manufacturing Company of Minnesota, praying for an appropriation of the public lands of the United States to enable them to construct a lock or dam at or near the falls of St. Anthony, so as to enable boats navigating the Mississippi river to reach said falls; which was referred to the Committee on Public Lands.

Mr. POMEROY presented the memorial of Delphine P. Baker, representing that, on the recommendation of Government officers and others, she has purchased the property known as Point Lookout, situated at the junction of the Potomac river with Chesapeake bay, in the State of Maryland, with a view of donating it to the "National Military and Naval Asylum for the benefit of disabled soldiers and sailors," and that she will convey to that asylum the title to her property if the Government will donate to it the buildings thereon; which was referred to the Committee on Military Affairs and the Militia.

Mr. DOOLITTLE presented the petition of Benton Jones, a citizen of Wisconsin, praying to be reimbursed for moneys expended by him while in the service of the United States; which was referred to the Committee on Claims.

He also presented a memorial of the Legislature of the State of Wisconsin, asking for a grant of lands to aid in the construction of a ship-canal from Sturgeon bay to Lake Michigan; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a memorial of the Legislature of the State of Wisconsin, in favor of dividing that State into two judicial districts, and to create a western judicial district; which was referred to the Committee on the Judiciary, and ordered to be printed.

Mr. MORGAN presented a petition of the Union League Club of the city of New York, praying Congress to appropriate and pay to the family of the late President Lincoln the salary for his full term of office; which was referred to the Committee on Finance.

Mr. LANE, of Indiana, presented a concurrent resolution of the Legislature of Indiana, on the subject of foreign interference in Mexico, and the rule of neutral and belligerent rights; which was referred to the Committee on Foreign Relations, and ordered to be printed.

Mr. CHANDLER. I present a remonstrance from citizens of East Saginaw, Michigan, against any renewal of the reciprocity treaty. I ask that it may be read, and referred to the Committee on Foreign Relations.

The Secretary read it, as follows:

To the Congress of the United States:

The undersigned, citizens of East Saginaw, Michigan, humbly but earnestly remonstrate against the renewal of the so-called reciprocity treaty with the British Provinces, and against the formation of any new treaty which shall grant special favors to the people of those Provinces not granted to other friendly nations, and not consistent with our system of raising a revenue by duties on imports and at the same time protecting our own industry.

Land and labor being lower in the Provinces than in the United States, they produce all products of the farm cheaper than we can, and so undersell our farmers. Stumpage being high in the United States and merely nominal in the Provinces, they can undersell our lumbermen on all the products of the forest. Any treaty, therefore, which allows the free exchange of the products of the farm and the forest sacrifices the interests of our farmers and lumbermen to those of the Provinces. It also sacrifices their rights, for since the price of almost everything they buy is enhanced by our general system of duties, to allow free trade in the products of their labor is injustice. They have the same right to protection as the manufacturer of cotton, woolen, iron, leather, and any other of the thousand articles which are protected. We bear with what patience we can the high taxes which the necessities of the nation have compelled. We shall feel these taxes to be oppressive if the Government neglects to moderate them by taxing the importation of those articles which come in competition with our own productions.

The high price of gold for a few years past has operated as a protection against the competition of the Provinces; but as gold falls this protection will cease, and any renewal of the reciprocity treaty would be disastrous.

The Provinces contend that their raw material should be admitted free of duty in exchange for the great concessions they make to our fishermen; but, in fact, they get their fish admitted into our market free of duty, and therefore our fishermen are opposed to the treaty.

Mr. CHANDLER. I move its reference to the Committee on Foreign Relations.

The motion was agreed to.

Mr. POMEROY. I ask leave to present a memorial from one hundred and thirty-eight colored citizens of the city of Denver, in the Territory of Colorado, remonstrating against the admission of that Territory as a State into the Union, on the ground that great injustice has been done to the colored citizens there in the formation of the State constitution. They close their remonstrance by saying that they are taxed in that constitution without representation; they are even taxed to support public schools to educate the children of the white people, while they are excluded from those schools themselves. I ask that this petition be referred to the Committee on the Judiciary.

The PRESIDENT *pro tempore*. It will be so referred if there be no objection.

Mr. SUMNER. The other petition that I offered on this subject was referred to the Committee on Territories.

Mr. POMEROY. The Committee on Territories will have nothing to do with the question of admitting the State of Colorado, I reckon.

Mr. SUMNER. Very well, then, the petition that I presented should go to the same

committee. I presumed it was an appropriate subject for the Committee on Territories.

Mr. POMEROY. If the Committee on Territories could consider the subject mentioned in this petition I would have it referred to them, but they cannot consider it. If the question of the admission of Colorado is considered at all, it must be considered by the Committee on the Judiciary; and it is to that committee that I ask the reference of this petition.

The PRESIDENT *pro tempore*. That reference will be ordered, if there be no objection.

REPORTS OF COMMITTEES.

Mr. CLARK. The Committee on Claims, to whom was referred a memorial of the Sisters of Mercy of the city of Chicago, Illinois, praying for an appropriation of \$20,000 for the enlargement of the Mercy Hospital in that city, have directed me to report adversely to the prayer of the memorialists, and to move the indefinite postponement of the memorial. In doing that I desire to say in behalf of these petitioners that the object for which they pray is highly meritorious, and they found their claim somewhat upon their services rendered to the soldiers during the war and aid given to soldiers as nurses in various parts of the United States. While the committee feel grateful and Congress undoubtedly feels grateful to these Sisters of Mercy for the kind assistance they have afforded the soldiers, we do not see any power that Congress has to grant their prayer, which is for the appropriation of \$20,000 to enlarge their hospital.

The PRESIDENT *pro tempore*. Does the Senator ask for the present consideration of the report?

Mr. CLARK. Yes, sir, if there is no objection.

The PRESIDENT *pro tempore*. If there be no objection, the Chair will put the question on the report of the committee, which is that the further consideration of this petition be indefinitely postponed.

The report was agreed to.

BILLS INTRODUCED.

Mr. NESMITH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 58) granting lands to the State of Oregon to aid in the construction of a military wagon road from Corvallis to the Aquama bay; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 59) to provide for the revision and consolidation of the statutes of the United States; which was read twice by its title.

Mr. SUMNER. I move that the bill be referred to the Committee on the Judiciary, and in making the motion I desire to call the attention of my excellent friend, the chairman of that committee, [Mr. TRUMBULL,] especially to this bill. It is now fourteen years since I first introduced it into this body; I have pressed it upon every Congress since; and I hope I may not press it in vain upon this Congress. It is time that this measure was accomplished. We ought to have the statutes of the United States reduced to a readable form in a single volume so that everybody can understand them. I move its reference to the Committee on the Judiciary, and that it be printed.

The motion was agreed to.

Mr. TRUMBULL, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau; which was read twice by its title.

Mr. TRUMBULL. As the bill contains provisions relating to the exercise of judicial functions by the officers and agents of the Freedmen's Bureau, under certain circumstances, in States which have been in insurrection and where civil rights are denied to portions of the inhabitants. I move its reference to the Committee on the Judiciary, and that it be printed.

The motion was agreed to.

Mr. TRUMBULL, in pursuance of previous notice, asked and obtained leave to introduce

a bill (S. No. 61) to protect all persons in the United States in their civil rights and furnish the means of their vindication; which was read twice by its title, ordered to be printed, and referred to the Committee on the Judiciary.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 62) to amend an act entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State;" which was read twice by its title, and referred to the Committee on Public Lands.

Mr. FOOT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 63) in relation to the office of Naval Judge Advocate General and of Solicitor of the Navy Department; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 9) proposing an amendment to the Constitution of the United States for the protection of the national debt and the rejection of any rebel debt; which was read twice by its title, ordered to be printed, and referred to the Committee on the Judiciary.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 10) proposing an amendment to the Constitution of the United States; which was read twice by its title, ordered to be printed, and referred to the Committee on the Judiciary.

CONDITION OF SOUTHERN STATES.

Mr. SUMNER submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That one hundred thousand copies of the late message of the President on the condition of the States late in rebellion, with the reports of Lieutenant General Grant and Major General Carl Schurz, and the letters annexed thereto, be printed for distribution.

PROVISIONAL GOVERNORS.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested, if in his opinion not incompatible with the public interest, to furnish to the Senate copies of all papers or proclamations designating certain persons as provisional governors of States, and an account of the salary, if any, they may have been allowed, the oaths, if any, they may have taken before entering upon their duties, and if they did not take the oath of office prescribed by Congress for officers of the United States, then why they did not take the same; also all instructions with regard to their duties, and communications between them and the President, telegraphic or otherwise; also copies of any communications in his possession from such persons to any convention or Legislative Assembly in their respective States; also copies of any constitution, articles, or laws, purporting to have been adopted in such States, so far as the same affect the present condition of such States, and the rights of persons therein.

ADJOURNMENT TO MONDAY.

Mr. RAMSEY. I move that when the Senate adjourns to-day it adjourn to meet on Tuesday next.

Mr. TRUMBULL. I hope not.

Mr. FESSENDEN. Why adjourn till Tuesday?

Mr. RAMSEY. The House meets on Tuesday.

Mr. TRUMBULL. The House meets to-day. I really hope that there will be a disposition now, after this long recess, to turn our attention to the business that we have assembled to transact. It seems to me there is no occasion now for adjourning over until Tuesday.

Mr. RAMSEY. With the consent of the gentleman, I will amend my motion by substituting "Monday" for "Tuesday."

The PRESIDENT *pro tempore*. It is moved that when the Senate adjourn to-day, it be to meet on Monday next.

The motion was agreed to.

HOUSE RESOLUTION REFERRED.

The joint resolution (H. R. No. 28) in relation to the Industrial Exposition at Paris, France, was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. GRIMES. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, January 5, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Thursday, December 21, was read and approved.

BENJAMIN G. HARRIS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting, in compliance with a resolution of the House of December 20, 1865, a copy of the record (including the testimony, &c.) of the court-martial for the trial of Hon. BENJAMIN G. HARRIS; which was referred to the Committee of Elections, and ordered to be printed.

CONTRIBUTIONS OF SOLDIERS BY STATES.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting, in compliance with a resolution of the House of December 13, 1865, a statement of the number of soldiers furnished by each State since April 1, 1861; which, on motion of Mr. HOOPER, of Massachusetts, was referred to the select committee on the war debts of the loyal States, and ordered to be printed.

VOLUNTEER AND REGULAR ARMY.

Mr. MORRILL, by unanimous consent, submitted the following resolution:

Resolved, That the President be requested to communicate to this House, if not incompatible with the public interest, information as to the number of men and officers now in the regular and volunteer service of the Army of the United States, where employed, and the number of officers, volunteer and regular, receiving pay, who are unemployed or who are without commands corresponding to their rank; and also the estimated annual expense of the Army as now organized and distributed.

The SPEAKER. This being a call for information, addressed to one of the Executive Departments, unanimous consent is necessary for its consideration on this day.

There being no objection, the resolution was considered and agreed to.

NAVIGATION OF ROCK RIVER, ETC.

Mr. WASHBURN, of Illinois, by unanimous consent, introduced a bill to improve the navigation of Rock river and the upper and lower rapids of the Mississippi river; which was read a first and second time, and referred to the Committee on Commerce.

AMENDMENT OF THE NAVIGATION LAWS.

Mr. PIKE submitted the following resolution; which was read, considered, and agreed to:

Whereas by the navigation laws of the United States an American ship has no advantage in any particular over foreign ships in either American or foreign ports, but is obliged to compete with foreign shipping on terms of perfect equality.

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of drawbacks of duties paid on materials entering into the formation of such vessels, to the end that American ship-builders may compete with foreigners in this branch of industry more nearly upon an equal footing.

REGISTERING FOREIGN VESSELS.

Mr. PIKE also submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of repealing the statute of 1852 providing for registering foreign vessels; and also to inquire into the expediency of providing by law that no American vessel which surrendered her register and took foreign papers during the late war shall under any circumstances again receive an American register.

CAPTAIN JOHN C. CARTER.

Mr. SCOFIELD introduced a joint resolution providing for the restoration of Captain John C. Carter, United States Navy, to the active list; which was read a first and second time, and referred to the Committee on Naval Affairs.

ERIE HARBOR, PENNSYLVANIA.

Mr. SCOTFIELD submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce is hereby instructed to inquire into the propriety of making an appropriation for the improvement of the harbor of Erie, in Pennsylvania, and report by bill or otherwise.

HOMESTEAD LAW.

Mr. RICE, of Maine. I offer the following resolution:

Whereas it was the purpose of the Government, in the application of the homestead law to the arable portions of the public domain, not only to provide independent homes to the masses of the people at a nominal cost, but to prevent the monopoly of large landed estates in the hands of aristocrats and speculators, as anti-republican in tendency and antagonistic to the general prosperity and independence of the people, the States, and the nation; and whereas such monopolies have occurred, do now exist, and may be greatly extended in the southern sections of the country, while millions of the toiling masses are left landless, homeless, and houseless, except as eked out to them by heartless speculators and oppressive landlords; and whereas there are of the public domain, still undisposed of, in the State of Alabama about six million seven hundred thousand acres; in the State of Mississippi four million seven hundred thousand acres; in the State of Louisiana six million two hundred thousand acres; in the State of Arkansas nine million three hundred thousand acres; and in the State of Florida about twenty million acres, making in the said five States a total of about forty-six million nine hundred thousand acres; and whereas the true interests of the said States, and the people thereof, as well as of the nation at large, will be best promoted by the appropriation of said lands to the exclusive use of actual settlers and cultivators thereon: Therefore,

Resolved, That the Committee on Public Lands be, and they hereby are, instructed to inquire into the expediency of providing by law that all the public lands in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida shall be disposed of under the provisions of the homestead act, so called, and not otherwise; and also as to the propriety of limiting homesteads in said States to eighty acres or less; and that they report by bill or otherwise.

Mr. NIBLACK objected.

REPORT OF MAJOR GENERAL HOWARD.

Mr. ELIOT submitted the following resolution; which was read, and, under the rules, referred to the Committee on Printing:

Resolved, That one thousand extra copies of the report of Major General Howard, Commissioner of the Bureau of Freedmen, Refugees, and Abandoned Lands, be printed for the use of the bureau and distribution among its agents.

VETERAN RESERVE CORPS.

Mr. HUBBARD, of Connecticut. I submit the following resolution:

Resolved, That the Committee on Military Affairs be instructed to inquire and report to this House how many there are, including officers, in the Veteran Reserve corps at the present time, and whether they cannot be employed to advantage in the Freedmen's Bureau, or some other department of the military service, so that it would be injudicious to disband a body of men who have suffered so much, and whose services have been of such signal benefit to the country.

Mr. ANCONA. By the terms of that resolution it is directory on the Committee on Military Affairs.

Mr. HUBBARD, of Connecticut. I amend the resolution so as to provide that the Committee on Military Affairs shall inquire into the expediency, &c.

The resolution as amended was adopted.

CONDITION OF THE LATE REBELLIOUS STATES.

Mr. BRANDEGEE submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be requested to communicate to this House, if not incompatible with the public interest, such documentary information relative to the condition of the States lately in rebellion against the United States which may be in his possession, including especially the reports of Lieutenant General Grant, Major Generals Howard and Schurz, and Hon. John Covode, together with all documents, exhibits, papers accompanying said reports or referred to therein.

TRADE WITH INDIAN TRIBES.

Mr. CLARKE, of Kansas, introduced an act regulating trade and intercourse with the Indian tribes; which was read a first and second time, and referred to the Committee on Indian Affairs.

BRANCH MINT IN OREGON.

Mr. HENDERSON introduced a bill to relocate the branch mint in the State of Oregon;

which was read a first and second time, and referred to the Committee of Ways and Means.

JUDICIAL DISTRICTS OF WISCONSIN.

Mr. COBB presented the joint resolutions of the Legislature of Wisconsin in relation to dividing the State of Wisconsin into two judicial districts and creating a western judicial district; which were referred to the Committee on the Judiciary.

POLYGAMY.

Mr. INGERSOLL submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary are hereby instructed to inquire whether or not any further legislation is necessary for the suppression of the abominable system of polygamy which is now rampant in the Territory of Utah, and in case the committee find that the existing laws are insufficient, then inquire what further legislation is necessary for the speedy enforcement of the laws on that subject, and that they report by bill or otherwise.

ADJOURNMENT OVER.

Mr. STEVENS moved that when the House adjourns to-day, it adjourn to meet on Monday next.

The motion was agreed to.

PAYMENT OF VOLUNTEERS.

Mr. HOGAN, by unanimous consent, offered the following preamble and resolution; which was read, considered, and agreed to:

Whereas it is alleged that many regiments, batteries, and detached bodies of volunteer troops have been mustered out of service at places far distant from the States in which they were mustered into the service; and whereas it is also alleged that said troops have been really in the military service until sent home and finally paid off, but that such only received pay up to the time of their muster-out instead of to the time when they were paid off and discharged, which is not deemed fair to those thus dealt with: Therefore,

Resolved, That the Committee on Military Affairs be, and they are hereby, requested to inquire into the facts of such case, and, if found true, to make such provision as may be proper for doing justice to such troops, and report by bill or otherwise.

REPRESENTATIVE FROM LOUISIANA.

Mr. VOORHEES. I present the credentials of Hon. ROBERT C. WICKLIFFE as a member from the third district of the State of Louisiana. His former credentials were in some respects informal, and hence I submit these.

The SPEAKER. They will be referred to the joint committee on reconstruction, under the rule.

NAVAL PENSIONS.

Mr. TAYLOR, by unanimous consent, and in pursuance of previous notice, introduced a bill allowing persons having lost one foot and one hand in the naval service of the United States the same pensions now allowed to persons having suffered the same loss in the military service; which was read a first and second time, and referred to the Committee on Pensions.

SCHOONER FOREST QUEEN.

Mr. HOLMES, by unanimous consent, and in pursuance of previous notice, introduced a bill authorizing the issue of an American register to the schooner Forest Queen; which was read a first and second time, and referred to the Committee on Commerce.

RELIEF OF VOLUNTEER OFFICERS.

Mr. COBB, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be, and they are hereby, directed to inquire into the practicability and expediency of legislating for the relief of such officers of the volunteer service as during the first and second years of the war, through want of proper blanks, inadvertence, or excusable neglect, failed to make proper returns of ordnance, ordnance stores, quartermaster stores, camp and garrison equipment, or other public property, for which such officers were responsible, and that they report by bill or otherwise.

ADMINISTRATION OF FOREIGN AFFAIRS.

Mr. SHELLEBARGER asked unanimous consent to introduce the following resolution:

Resolved, That the House express its confidence in the fidelity to American rights and interests, as well as in the ability, wisdom, and moderation which, during the late war, characterized, and which still

distinguishes, the administration of the foreign affairs of the Government, and this House hereby expresses its determination to continue, in all matters of executive control, to extend to the Executive in its administration of these affairs undiminished support; and that this is expressed in the confidence that the justice and moderation of this Government, and its non-interference in the political affairs of the other hemisphere will not only preserve the friendly relations which this Government so much desires to preserve with all foreign Governments, but will also speedily secure in the future, as it has in the past from the Governments of both hemispheres, "that system of non-interference and mutual abstinence from propaganda which is the true policy for the two hemispheres."

Mr. HARDING, of Illinois, objected.

ABOLITION OF SLAVERY.

Mr. COOK. I ask unanimous consent to introduce the following resolution:

Resolved, That it is the sense of this House that the terms of the second section of the article proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, by joint resolution approved February 1, 1865, confer upon Congress the power, by appropriate legislation, to secure to the people of the United States, of whatever race or color, the enjoyment of the rights of freemen, and to protect them from involuntary servitude, (except as a punishment for crime,) under whatever pretext such involuntary servitude may be imposed, and no Legislature of any State, in ratifying said amendment, can attach any condition to such ratification which will in any manner restrict or modify the effect of said section.

Mr. STEVENS. I do not know whether I shall object to that resolution. I dislike to. But I rather think it is in conflict with the opinion of the Secretary of State. We all know that the second section is restraining.

Mr. VOORHEES. As I see the gentleman from Pennsylvania [Mr. STEVENS] wants it objected to, I will object.

ORDER OF BUSINESS.

Mr. STEVENS. I move that the rules be suspended, and that the House now resolve itself into the Committee of the Whole on the state of the Union.

Mr. HOGAN. I ask the gentleman to allow me to offer a resolution.

Mr. STEVENS. The gentleman will have an opportunity hereafter. I must insist on my motion.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union. (Mr. WASHBURN, of Illinois, in the chair,) and proceeded to the consideration of the President's annual message, upon which Mr. SPALDING was entitled to the floor.

RECONSTRUCTION.

Mr. SPALDING. Mr. Chairman: Our republican Government, after being exposed for three fourths of a century to the derisive doubts of carping critics abroad, and to the more insidious and cruel assaults of ambitious men at home, has, at length, "by wager of battle," vindicated its claim to be ranked as first among the nations in all the elements of stability and power.

This proud stand-point has not been reached without unparalleled sacrifices of blood and treasure on the part of our loyal fellow-citizens, but as the recuperative energies of the American people are known to be adequate to any probable exigencies, it is not so important that we dwell upon the havoc and cost of the war, from which we have so recently emerged, as that we try to profit by the injunction of Roman patriotism, and "take care that the Republic receive no detriment" therefrom.

To the end that we may approach the discharge of this duty with a just appreciation of the character of that Government which originated in the wisdom of our fathers, and is now sanctified by the blood of their sons, I propose to examine, in a somewhat cursory manner, that dogma of Mr. Calhoun which has been the prolific source of much of our intestine troubles—"that the Government of the United States is the Government of a community of States, and not the Government of a nation." Upon this political heresy hangs the whole claim of the "nullifier" and the "secessionist," which has plagued our country more than thirty

years, and finally resulted in the most devastating war known to the history of mankind.

I am not wanting in respect for the transcendental abilities of the "great Carolinian," but it is painful to notice how

"Wild ambition loves to slide, not stand,
And Fortune's ice prefers to Virtue's land."

I propose to bring this notion of a copartnership of States to the touch-stone of the Constitution itself, as well as its contemporaneous history, and then leave to impartial minds the just conclusion.

As early as the 8th of April, 1787, James Madison, then a member of the Congress of the Confederation, sitting in New York, wrote to Governor Randolph, of Virginia, and thus succinctly gave his views in regard to the proper action to be taken by the Convention about to assemble in Philadelphia to revise the Articles of Confederation:

"I hold it for a fundamental point that an individual independence of the States is utterly irreconcilable with the idea of an aggregate sovereignty. I think, at the same time, that a consolidation of the States into one simple republic is not less unattainable than it would be inexpedient.

"Let it be tried, then, whether any middle ground can be taken which will at once support a due supremacy of the national authority and leave in force the local authorities, so far as they can be subordinately useful."

This letter of Mr. Madison very truly depicts the constitutional Government which he afterward assisted to frame, and which he administered for eight years as the immediate successor of Thomas Jefferson in the presidential chair.

The Constitutional Convention was organized at Philadelphia on Friday, the 25th day of May, 1787. On Wednesday, May 30, the Convention, while in Committee of the Whole on the state of the Union, adopted the following significant resolution with but one State (Connecticut) voting in the negative:

"Resolved, That it is the opinion of this committee that a national Government ought to be established, consisting of a supreme legislative, judiciary, and executive."

This was the first resolution adopted by the Convention, and its author was Edmund Randolph, the gentleman to whom Mr. Madison had written the letter of the 8th of April to which allusion has been made.

It forms the first of a series of resolutions which were subsequently placed on file in the Department of State by President Washington.

The distinguished lawyer, Luther Martin, of Maryland, who was a member of the Convention, and who was strongly opposed to the adoption of the Constitution by the people, thus speaks of this resolution in his address to the Legislature of his own State:

"Nay, so far were the friends of the system from pretending that they meant it or considered it as a Federal system, that, on the question being proposed that a union of the States, merely Federal, ought to be the sole object of the exercise of the powers vested in the Convention, it was negatived by a majority of the members, and it was resolved, that a national Government ought to be formed."

Chief Justice Yates, of New York, in his notes of the secret debates of the Federal Convention, says, under date of Tuesday, May 29, 1787:

"His Excellency, Governor Randolph, a member from Virginia, got up, and in a long and elaborate speech showed the defects in the system of the present Federal Government as totally inadequate to the peace, safety, and security of the Confederation, and the absolute necessity of a more energetic Government."

"He closed these remarks with a set of resolutions, fifteen in number, which he proposed to the Convention for their adoption, and as leading principles whereon to form a new Government. He candidly confessed that they were not intended for a Federal Government. He meant a strong, consolidated Union, in which the idea of States should be nearly annihilated."

On the following day, and when said resolution in respect to a national Government was under consideration, in Committee of the Whole, "it was asked," says Justice Yates, "whether it was intended to annihilate State governments?" It was answered, "only so far as the powers intended to be granted to the new Government should clash with the States, when the latter were to yield."

Hon. Elbridge Gerry, in a letter to the Legislature of Massachusetts, assigning reasons for withholding his signature from the Constitution, says:

"It has few, if any, Federal features, but is rather a system of national Government."

Hon. John Jay, in an address to the people of the State of New York, urging the adoption of the Constitution, uses this remarkable language:

"The Convention concurred in opinion with the people, that a national Government, competent to every national object, was indispensably necessary."

I could multiply the declarations of eminent men who were upon the stage of action at the time the Constitution was framed and adopted, all to the same purport, but I feel the necessity of appropriating some portion of the hour allotted to me to the consideration of the evidence furnished by that instrument itself. It purports, on its face, to be a transfer of governmental power directly from the people to certain constituted authorities, involving the exercise of the higher, attributes of sovereignty. It gives "Congress" power "to make war and to make peace; to raise and support armies and navies; to coin money and regulate the value thereof; to regulate commerce with foreign nations and among the several States; to lay and collect taxes, duties, imposts, and excises." On the other hand, it effectually interdicts the exercise of powers, by the States respectively, that shall in anywise interfere with these and other high prerogatives of Congress.

For that purpose, it provides that—

"No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts."

Moreover, it provides that—

"No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports except what may be absolutely necessary for executing its inspection laws."

Also, that—

"No State shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign Power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay."

And, as if to make "assurance doubly sure," the second clause of the sixth article of the Constitution speaks this language perpetually:

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

Here I pause, and hail with respectful gratitude the enunciation made by the President in his annual message:

"The sovereignty of the States" is the language of the Confederacy, and not the language of the Constitution."

Thus far I have attempted to show that the framers of the Constitution contemplated the creation, "by the people of the United States," of a national Government, and not a Confederacy of States.

This national Government was approved and ratified by the people, assembled for the express purpose of considering it, in their respective State conventions.

I have next attempted to show that the national Government is invested with the exercise of many of the high powers incident to sovereignty, while the exercise of similar powers is expressly denied to the States.

It is doubtless true that both governments exercise important functions, and, in their respective spheres of action, each is independent of the other. But both are limited, and neither is "sovereign." If I be asked, "Where, then, may sovereignty, in our country, be found to reside?" I answer, unhesitatingly, IN THE PEOPLE. Look where you will, throughout all the ramifications of Government, State and National, and you will find it, happily, so ordered that all power, executive, legislative, and judicial, returns, periodically, to its only true source—THE PEOPLE.

The President of the United States, whose official position is infinitely more dignified than that of any potentate in Europe, is only an agent of the people for a term of years. And so of the Senators and Representatives in Congress; while the Justices of the Supreme Court are all the time "on their good behavior." I am made strong in this position by calling to my support the highest authority. Chief Justice Jay says in the address to which I have once alluded, as an argument for the adoption of the Constitution:

"The proposed Government is to be the Government of the people; all its officers are to be their officers, and to exercise no rights but such as the people commit to them. The Constitution only serves to point out that part of the people's business which they think proper, by it, to refer to the management of the persons therein designated. Those persons are to receive that business to manage, not for themselves and as their own, but as agents and overseers for the people, to whom they are constantly responsible, and by whom only they are to be appointed."

Hon. James Wilson, of Pennsylvania, too, in addressing the convention of his own State, assembled to deliberate on the propriety of adopting that Constitution, to the excellence of which, he had, by his consummate wisdom and virtue, contributed so largely, thus expatiated upon this branch of my subject:

"There necessarily exists in every Government a power from which there is no appeal; and which, for that reason, may be termed supreme, absolute, and uncontrollable. Where does this power reside?"

"Perhaps some politician who has not considered with sufficient accuracy our political systems, would answer that in our governments the supreme power was vested in the constitutions. This opinion approaches near to the truth, but does not reach it. The truth is that in our governments the supreme, absolute, and uncontrollable power remains in the people."

"As our constitutions are superior to our Legislatures, so the people are superior to our constitutions. Indeed, the superiority in this last instance is much greater, for the people possess over our constitutions control in *act* as well as *right*. In this Constitution, all authority is derived from the people."

And so the President very justly declares in his message:

"Our Government springs from and was made for the people; not the people for the Government. To them it owes allegiance; from them it must derive its courage, strength, and wisdom."

It has been claimed, however, that notwithstanding the General Government, in all national matters, is supreme in its authority, and although the individual States have not the shadow of a right to secede peaceably from the Union, yet, if any one or more States resort to armed force to accomplish that purpose, the strong arm of the national Executive is paralyzed; and for the reason that "the Constitution nowhere delegates to the General Government the power to declare and make war against a State."

I hold this objection to be puerile in the lowest degree. As well may the citizen of a State, when arraigned at the bar of the court of his county for the commission of a crime, demand an exhibition of the war power, on the page of the State constitution, before he can be subjected to punishment for his offense. The nation does not declare war against its dependencies; it, nevertheless, exerts sufficient force to restrain them, when they madly attempt to revolutionize the Government.

The true theory, however, is that the General Government, like the State government, acts upon the individual citizen, and it may always use the degree of force necessary to secure obedience to law, whether resistance be offered by one citizen, or all the citizens of a State, or the citizens of a dozen States combined.

It is often said, by the friends of the doctrine of "secession," that the Convention refused to insert in the Constitution a clause authorizing the exertion of "the force of the Union against any member of the same, failing to fulfill its duty under the articles thereof." It is doubtless true that such a resolution was offered in Convention, and that the same was, for wise reasons, indefinitely postponed. It is equally true that a proviso was offered, in Convention, to the third section of the third article of the Constitution, which defines the crime of treason. It was in these words:

"Provided, That no act or acts done by one or more of the States against the United States, or by any citizen of any one of the United States, under the authority of one or more of the said States, shall be deemed treason."

tion or punished as such; but in case of war being levied by one or more of the States against the United States, the conduct of each party toward the other, and their adherents respectively, shall be regulated by the laws of war and of nations."

This provision "was not adopted," says Mr. Martin, "and the consequence is that the State, and every one of its citizens who acts under its authority (in making war upon the Government of the nation) are guilty of a direct act of treason." (Elliot's Debates, vol. 1, page 382.)

I receive this construction of Mr. Martin as a correct exposition of the constitutional provision in respect to treason, with the understanding that the word State is used by him as synonymous with the words "all the citizens of a State," which is really the only true significance of that term when used in connection with moral responsibility.

This national Government, which it has been my endeavor to elucidate, was in operation seventy-two years, bringing "order out of chaos," and changing an impotent "Confederacy" into a great republican empire whose banner, illustrative of unity—"E pluribus unum"—floated in every breeze, and afforded protection to every citizen in every land. Under its benign influence, the bounds of dominion had been extended to the Pacific ocean, and the country had increased in wealth and population to an extent unparalleled in the annals of nations.

Over the heads of its citizens it had shed the blessings of peace and personal security; and overflowing prosperity was seen everywhere to abound.

"I look upon this country, with our institutions," said Mr. Stephens, of Georgia, in November, 1860, "as the Eden of the world—the Paradise of the universe." It was to break down and destroy this beneficent Government, to blight this earthly paradise, that the serpent of secession entered into the garden of our national prosperity.

On the 20th of December, 1860, an ordinance of secession was adopted by the delegates of the people of South Carolina, declaring that the Union then subsisting between that and other States, under the name of the United States of America, was thereby dissolved; and one of the distinguished actors in the treasonable work, had the impudence to exclaim:

"We have now pulled a temple down that has been built three quarters of a century. We must clear the rubbish away to reconstruct another."

In quick succession five other States followed the example of South Carolina; and in February, 1861, the much-vaunted southern confederacy was formed at Montgomery, in Alabama.

On the morning of the 12th of April, under orders from L. P. Walker, confederate secretary of war, the rebels at Charleston opened fire upon Fort Sumter, and thus inaugurated a civil war which, in four years, cost the nation half a million lives, and an amount of wealth beyond the measure of reasonable computation.

The people of eleven States had formally absolved themselves from all allegiance to the Government of the United States, and had made use of all their material resources to effect its full and final overthrow. They had marshaled mighty armies in the field. They had sent armed ships to prey upon the commerce of the country in distant seas. They had sent their emissaries, with torches, to burn the dwellings of loyal citizens, and with the seeds of pestilence to destroy their lives. They had resorted to starvation to thin the ranks of captive soldiers. In fine, they had used every means, practiced by civilized or barbarous nations, to break down and destroy the constitutional Government of the United States, and were only prevented from accomplishing their work by the heroic endurance and patriotic valor of our citizen soldiers. They had refused terms of pacification unless accompanied by what they claimed as a *sine qua non*—the acknowledged independence of the southern confederacy.

At length their armies were discomfited in the field and compelled to surrender. Their chief executive was captured and thrown into prison; and their "confederacy" was dissipated "like

the baseless fabric of a vision." The fragmentary population of eleven revolted States, acknowledging their defeat in the ordeal of battle, but showing no signs of regret for their gigantic treason against the best rights of man, now unblushingly claim an immediate restoration to a full participation in the councils of the Republic. Their advocates insist that their ordinances of secession were nullities, and, consequently, "they were never out of the Union." Hence, their Senators and Representatives are entitled to seats in Congress, in an equal degree with those from States whose sons gave their lives to save the nation.

Another class of politicians claim that the rebellious communities of the South voluntarily abjured all allegiance to the United States, and, having set up and fought to maintain another and distinct government, they had ceased to exist as States in the American Union. Perhaps a middle ground may be entered upon, that will reconcile these extreme views without doing especial violence to either. There is obviously in our complex system of government a power that governs and a subordinate power that is the subject of government. The States, when in harmony with the Constitution and represented in Congress, may properly be called the governing power of the nation. The Territories and the District of Columbia are no less in "the Union" than the States just mentioned, but they form no part of the governing power of the nation; they are governed by the Congress. A community may be in the Union in one sense of the word and not in the Union in another and different sense. A State may be in the Union as the subject of government, when, by reason of its misconduct, it has forfeited its privileges as a part of the governing power. In this last sense it is not in the Union. I know not but the President means the same thing when he says—

"The States attempting to secede placed themselves in a condition where their vitality was impaired but not extinguished; their functions suspended, but not destroyed."

Indeed, it would be shocking to our sensibilities, to hear it soberly claimed that the rebel States, after abjuring all allegiance to the Government of the nation, and carrying on a furious war for its overthrow, had a constitutional right to appear in its halls of legislation, and take part in the enactment of its laws, by simply acknowledging their inability to contend with it in arms.

If a State once in the Union is always in the Union, as a branch of the governing power, how would it have operated if, while the Thirty-Eighth Congress was striving, in the face of a formidable opposition in its own body, to raise the necessary supplies to enable General Grant and his patriotic braves to "fight it out on the line" from the Rapidan to Richmond, Senators and Representatives had appeared from enough of the rebel States to overcome, by their votes, the patriotic majority in Congress? The bare statement of the question shows the utter absurdity of the proposition.

I now assume, for the sake of argument, that the President is correct when he takes the ground that "the vitality" of the rebellious States "is impaired, but not extinguished; their functions suspended, but not destroyed." Where does the Constitution of the United States lodge the power to prescribe an effective remedy for this impaired vitality, and to restore to healthy action these suspended functions? My learned friend from New York [Mr. RAYMOND] thinks it is lodged in the hands of the "President as Commander-in-Chief of the Army and Navy of the United States." I maintain that it is given to the Congress of the United States by force of the last clause in the eighth section of the first article of the Constitution, which provides that Congress shall have power—

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers [those already granted] and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

This clause vests the instrumentality by which all "implied powers" are called into action

expressly in Congress, even such as may be necessary to carry into effect those expressly delegated to the President. In time of war, and when the life of the Republic was in danger, this high officer of the Government was, at times, necessarily in the exercise of dictatorial power. In time of peace, he can rightfully exercise no power unless it be expressly vested in him by the Constitution, or by act of Congress. Of this there can be no reasonable doubt. The discretionary powers of the Government were intended to be lodged in the members of Congress, who are responsible to the people of their respective States and districts, and to them alone, for the manner in which they discharge the solemn trust.

It is high time, Mr. Chairman, that the people of the United States should insist that the "ship of State" be overhauled and put in constitutional trim. She has been exposed to tempestuous gales and angry billows; but now, having weathered the storm of secession and strife, and being brought, by skillful pilots and a gallant crew, into a peaceful haven, it will be no more than an ordinary precaution to "sound the pumps."

I have great confidence in that self-taught statesman who now, to a great extent, wields the destinies of the American Republic; and I here make my humble protestation against the attempts of any man or set of men, in Congress or out of Congress, to place the majority of this House, with whom I feel it an honor to act, in an attitude of hostility to the President so long as he confines himself to the exercise of his own just prerogatives. Shall we, for slight causes, distrust him who, not unlike the seraph portrayed by Milton—

"Faithful found,
Among the faithless, faithful only he;
Among innumerable false, unmoved,
Unspaken, unselected, unterrified,
His loyalty he kept, his love, his zeal?"

Thus far I do believe he has most conscientiously followed in the footsteps of his martyred predecessor. Although I am decidedly of opinion that it would have been right and proper in calling the first legislative bodies into action, in the rebel States, to have used the suffrages of all loyal freemen, without respect to color, and to have rejected the votes of all who had participated in the war against the Government, I do not see but that a contrary precedent was established by Mr. Lincoln in his amnesty proclamation of December, 1863. So, also, the reconstruction bill passed by Congress in 1864, provided for the enrollment of "white male citizens" only, as voters.

In the matter of appointing provisional governors, and in advising the conventions of delegates, by them assembled, to abjure slavery and the rebel debt, I find no good cause for complaint. As to the ratification of the amendment to the United States Constitution, I am disposed to hold that the action of the so-called Legislatures of the rebel States, did "neither good nor harm." The amendment was fully ratified by three fourths of all the States represented in Congress, and acting in harmony with the Government, at the time the two-thirds vote was given in that body, and no additional sanctions were wanted, as none in fact could be given by assemblies of men having no share in the governing power of the nation. I regret exceedingly that the President did not wait for the action of Congress, which was being matured with all due respect to his high privileges as a coördinate branch of the Government, before he dismissed his provisional governors and turned over to men, lately dyed in the blood of our sons, the executive duties of the rebel States. But that is a matter of no vital importance so long as a portion of our Army remains to guard the lives of Union men.

It remains to be seen whether now, when confessedly the time has arrived when the war power is to be laid aside and the civil power is to resume its functions, the Congress of the United States is to be respected as the depository of "all legislative powers" granted by the people in the Constitution we have sworn to uphold. It is not only the privilege but the constitutional

duty of the President "to give to the Congress information of the state of the Union, and to recommend to their consideration such measures as he shall judge necessary and expedient, from time to time." But the power "to admit new States into this Union;" "to guaranty to every State in this Union a republican form of Government, and to protect each of them against invasion and domestic violence;" "to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States;" "to exercise exclusive legislation in all cases whatsoever over" the District of Columbia; "to make rules concerning captures on land and water;" these, and all similar powers, express or implied, belong to the Congress exclusively.

It has been strangely enough suggested that the President would seek to control the action of Congress in this great matter of restoring the revolted States to their original status in the Union, by withholding executive patronage from such Senators and Representatives as could not conscientiously fall in with his favorite policy. I respectfully beg pardon of the President and of the public for stating so scandalous a rumor upon this floor. I pronounce it as false as "secession" itself, and I find for the scandal no tangible authority except the following article, which I cut from the Newbern (North Carolina) Times of December 16, 1865:

"FUTURE HOPES.—The hope is expressed with all diffidence, still there is ground for the hope, that our future prospects for admission into full fellowship with the heretofore loyal States are growing brighter. The stand taken by President Johnson in reference to reconstruction is being fully maintained by that patriotic officer, and not even all the combined forces of radicalism have been able as yet to move him. Like a great rock he has withstood the shock of the angry waves of opposition, and he stands proudly erect to meet them again.

"There is evidence that the enemies of the conquered South are getting a little shaky. A sort of 'Stephen Hopkins' tremor is coming over them, for they have counted more upon their own strength than that of the national Executive. They are beginning to remember once more that the President of the United States has the appointing right as well as the veto power, and that the warmest friend of a radical Congressman may lose his little sinecure of an office whenever the President so wills. Patronage is a big thing—a fact fully recognized by the ultraists—but in their greed for the full control of it they have overlooked some of the little particles which have a great deal to do with the grand aggregate.

"We repeat there are brighter prospects ahead than events of the past had permitted the South to hope for. It is even possible that conservative influences will so far prevail as to bring about total reconstruction before the final adjournment of this Congress."

Thus the southern traitors, not content with ascribing to the President such base motives to action as would bring him beneath the contempt of the loyal masses who elected him, most impudently and arrogantly attempt to appropriate him to their own vile purposes—

"Like gypsies, lest the stolen brat be known,
Defacing first, then claiming for his own."

I know not if the President has any fixed policy in regard to the guarantees which the loyal people of this country may exact before the States in revolt shall be restored to all the functions of governing States in the Union. Sure I am, he can have no desire to throw obstacles in the way of the deliberate and well-matured action of Congress, which may well be presumed to reflect the wishes of a great majority of the people. I have, at this time, no means of determining for myself what course will be taken by Congress, but I will venture to say that the substance of the following propositions, if adopted, will be satisfactory to the bulk of my constituents in Ohio:

1. Extend a qualified right of suffrage to the freedmen in the District of Columbia.
2. Amend the Constitution of the United States in respect to the apportionment of Representatives and direct taxes among the several States of the Union, in such manner, that "people of color" shall not be counted with the population making up the ratio, except it be in States where they are permitted to exercise the elective franchise.
3. Insert a provision in the Constitution prohibiting "nullification" and "secession."
4. Insert a provision in the Constitution pro-

hibiting the repudiation of the national debt, and also prohibiting the assumption by Congress of the rebel debt.

5. Provide in the Constitution that no person, who has, at any time, taken up arms against the United States, shall ever be admitted to a seat in the Senate or House of Representatives in Congress.

Let these guarantees be given to loyalty, and I will try to forgive—I can never forget—the injuries received by my country from TRAITORS.

Mr. STEVENS moved that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WASHBURN, of Illinois, reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the annual message of the President of the United States, and had come to no conclusion thereon.

And then, on motion of Mr. STEVENS, (at twenty-five minutes after one o'clock p. m.) the House adjourned until Monday next.

IN SENATE.

MONDAY, January 8, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of Friday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the Senate of December 13, 1865, further information in relation to persons in the employ of that Department who have not taken the oath prescribed by law; which was ordered to lie on the table, and be printed.

DISTRICT OF COLUMBIA SUFFRAGE.

The PRESIDENT *pro tempore* presented a communication from the mayor of the city of Washington; which was read by the Secretary, as follows:

WASHINGTON CITY, D. C.,
MAYOR'S OFFICE, CITY HALL,
January 6, 1866.

SIR: I have the honor, in compliance with an act of the Councils of this city, approved December 16, 1865, to transmit through you to the Senate of the United States the result of the election held on Thursday, 21st December, "to ascertain the opinion of the people of Washington on the question of negro suffrage," at which the vote was 6,626, segregated as follows:

Against negro suffrage.....	6,591
For negro suffrage.....	35

Majority against negro suffrage.....	6,556
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This vote, the largest with but two exceptions ever polled in this city, conclusively shows the unanimity of sentiment of the people of Washington in opposition to the extension of the right of suffrage to that class; and that its integrity may be properly appreciated by the Senate, I give the aggregate of the vote cast at the five elections immediately preceding for mayor:

1856.....	5,840
1858.....	6,813
1860.....	6,975
1862.....	4,816
1864.....	5,720

No others, in addition to this minority of thirty-five, are to be found in this community who favor the extension of the right of suffrage to the class and in the manner proposed, excepting those who have already memorialized the Senate in its favor, and who, with but little association, less sympathy, and no community of interest or affinity with the citizens of Washington, receive here from the General Government temporary employment, and having at the national capital a residence limited only to the duration of a presidential term, claim and invariably exercise the elective franchise elsewhere.

The people of this city, claiming an independence of thought and the right to express it, have thus given a grave and deliberate utterance in an unexaggerated way to their opinion and feeling on this subject.

This unparalleled unanimity of sentiment which pervades all classes of this community in opposition to the extension of the right of suffrage to that class engenders an earnest hope that Congress, in according to this expression of their wishes the respect and consideration they would as individual members yield to those whom they immediately represent, would abstain from the exercise of its absolute power, and so avert an impending future apparently so objectionable to those over whom, by the fundamental law of the land, they have "exclusive jurisdiction."

With much respect, I am, sir, your own and the Senate's obedient servant.

RICHARD WALLACH, Mayor.

Hon. L. F. S. FOSTER,

President of the Senate of the United States.

The PRESIDENT *pro tempore*. What order will the Senate take upon the communication?

Mr. CLARK. Let it be referred to the Committee on the District of Columbia.

Mr. MORRILL. I would suggest that the committee have had that subject under consideration and have already reported. Perhaps, therefore, the paper had better lie on the table. I move that it be ordered to lie on the table.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. FOOT presented the petition of Peter Anderson, praying that he may be allowed arrears of pension; which was referred to the Committee on Pensions.

Mr. CLARK presented a memorial of the faculty and students of the medical department of Georgetown college, in the District of Columbia, praying that the same facilities may be furnished to the faculty and students of the medical colleges in the District of Columbia for procuring bodies for dissection that are now furnished by the laws of the several States to medical colleges within their limits; which was referred to the Committee on the District of Columbia.

Mr. DOOLITTLE. I rise to present a memorial of a company incorporated under the laws of the State of New York by the name of the "Institute of Reward for Orphans of Patriots," of which Professor Horace Webster is President; and Frederick De Peyster, Esq., General Prosper M. Wetmore, Moses M. Vail, Esq., Dr. Edmund Fowler, E. P. Whitmore, Esq., and Rev. S. B. Bell, are Vice Presidents; Arthur F. Willmarth, Treasurer; and William A. Hoeber, Recording Secretary; and Dr. David P. Holton, Corresponding Secretary. The memorial sets forth that the organization is incorporated under the laws of the State of New York for the purpose of educating orphan children of patriots who had given up their lives in the war for the Union; and they now ask Congress to extend to them some aid in order to educate the orphan children of Indians who have also fought in the war for the Union. This memorial comes from gentlemen of the very highest standing; Mr. Webster, the president of the institute, is at the head of the Free Academy in the city of New York, a gentleman of the very highest intelligence and standing, and in whose judgment I have as great confidence as in the judgment of any man living. I move that this memorial be referred to the Committee on Indian Affairs.

The motion was agreed to.

Mr. CHANDLER presented a resolution of the Legislature of Michigan, in favor of a grant of land to aid in the construction of a railroad from Eskanauba to the straits of Michilimackinac, near Fort Mackinaw; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a resolution of the Legislature of Michigan, in favor of a grant of land to the Detroit and Lake Superior Telegraph Company to aid in the construction of a telegraph line from some point on the Saginaw river to the straits of Mackinaw, thence to Sault Ste. Marie; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a resolution of the Legislature of Michigan, in favor of the location and establishment of a naval station and dock-yard at Grand Haven, in that State; which was referred to the Committee on Naval Affairs, and ordered to be printed.

He also presented a resolution of the Legislature of Michigan, in favor of an appropriation for the improvement of the channel of Muskegon harbor, in that State; which was referred to the Committee on Commerce, and ordered to be printed.

He also presented the petition of citizens of Michigan, praying that the soldiers who enlisted in the service of the United States previous to the year 1865 may receive an extra bounty equal to the highest bounty paid in 1865; which was referred to the Committee on Military Affairs and the Militia.

He also presented the petition of Mrs. Frances S. Richardson, widow of the late Major General I. B. Richardson, who was killed at the battle of Antietam, praying for an increase of her pension; which was referred to the Committee on Pensions.

He also presented a petition of citizens of the State of Michigan, praying for an increase of pension to persons who have been disabled in the military service of the United States by the loss of a single limb; which was referred to the Committee on Pensions.

Mr. HOWARD. I present the memorial of the Board of Trade of the city of Detroit, praying for an appropriation for the construction of a breakwater at Marquette harbor in Lake Superior. As it is a subject of much importance to the people of other States, as well as to that State, I move that the memorial be printed, and referred to the Committee on Commerce.

The motion was agreed to.

Mr. MORGAN presented the petition of William Bell and John Hughes, praying for the issuance of an American register for the ship Patrick Henry; which was referred to the Committee on Commerce.

Mr. MORGAN. I present the memorial of the Chamber of Commerce of the State of New York, praying for the passage of a law to exempt northern creditors from the operation of southern State statutes of limitation for a certain period. These memorialists represent that at the outbreak of the late civil war the merchants of the city of New York held claims to a large amount against citizens of the southern States for money loaned, and for goods sold and delivered. It is believed that the aggregate amount of these claims did not at the date specified fall short of \$150,000,000; that only a small portion of the amount has since been liquidated, and a large proportion of the residue has been, or soon will be, barred by the operation of the statutes of limitation. In the opinion of the memorialists, statutes of limitation to suits on contracts are reconcilable with justice only on the supposition that the parties have had an opportunity to enforce their claims through the usual courts of law; and inasmuch as during the late civil war it has been impossible for loyal creditors to take measures to collect their debts in the southern States by any civil proceedings whatever, justice requires that all the period of the rebellion should be excepted from the time fixed for the limitations of actions in those States. Such is the substance of this memorial. It relates to a matter of considerable importance, and I move that it be referred to the Committee on the Judiciary, and printed.

The motion was agreed to.

Mr. ANTHONY presented a petition of non-commissioned officers, musicians, and privates who have been disabled in the service of the United States, praying for an increase of pension; which was referred to the Committee on Pensions.

He also presented the petition of H. Mary Irish, widow of Henry T. Irish, and her children, alleging that they have been loyal to the Government of the United States, and praying for compensation for property seized in the State of Mississippi by troops under the command of Major General Steele; which was referred to the Committee on Claims.

Mr. HOWE presented the petition of citizens of Depeve, Brown county, Wisconsin, praying that Depeve may be made a port of entry; which was referred to the Committee on Commerce.

Mr. COWAN presented a petition of soldiers of the late war, praying that the bounties of those who entered the service in the early part of the war may be equalized with those who entered at a later period; which was referred

to the Committee on Military Affairs and the Militia.

SENATOR FROM NEW JERSEY.

Mr. COWAN. I presented a few days since a protest and papers in relation to the election of the Senator from New Jersey, [Mr. STOCKTON.] As the committees were not then organized, they were laid upon the table for the time being. I now move that those papers be taken from the table and referred to the Committee on the Judiciary.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. POMEROY, it was

Ordered, That the petition and other papers in the case of Mrs. Clara Moore be taken from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. HENDRICKS, it was

Ordered, That the petition and other papers in the case of Andrew J. Gray be taken from the files of the Senate and referred to the Committee on Pensions.

On motion of Mr. MORRILL, it was

Ordered, That the papers on the files of the Senate relating to the propriety of further legislation by Congress to carry out the obligations of the United States under the fourth article of the treaty of Washington of August 9, 1842, to quiet land titles in the late disputed territory in Maine, be referred to the Committee on Foreign Relations.

SENATOR FROM LOUISIANA.

Mr. JOHNSON. I rise to present the credentials of Mr. RANDALL HUNT, who appears by the certificate of the Governor of Louisiana to have been elected one of the Senators from that State for the term commencing March 4, 1865. I move that they lie upon the table, as that I believe has been the course taken with the credentials from the southern States.

The PRESIDENT *pro tempore*. That order will be entered, if there be no objection.

BILL INTRODUCED.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 64) to incorporate the Great Falls Ice Company of Washington, District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

DIPLOMATIC CORRESPONDENCE.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That ten thousand additional copies of documents containing diplomatic correspondence, recently called for by Congress, be printed for the use of the State Department.

QUARTERMASTER GENERAL'S REPORT.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That five hundred additional copies of the annual report of the Quartermaster General be printed for the use of the Department of State.

COLORADO VOLUNTEERS.

Mr. CRESWELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be, and he is hereby, requested to inform the Senate whether any commission or commissions has or have been appointed under and by virtue of the provisions of the twenty-fourth section of the act approved February 24, 1864, entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces and for other purposes,' approved March 3, 1863," and what awards, if any, have been made by said commission or commissions, in each of the slave States represented in the Thirty Eighth Congress, to loyal persons to whom colored volunteers, at the time of their muster into the service of the United States, owed service or labor; and if no compensation or only partial compensation has been awarded and paid, that he further inform the Senate why the said act, so far as it relates to compensation for such volunteers, has not been executed.

EXPORTATION OF ARMS TO MEXICO.

Mr. McDUGALL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to communicate to the Senate, if not inconsistent with the public interest, any correspondence or other information in his possession in regard to General Order No. 17, issued by the commander of the department of California, and dated "San Francisco, October 11, 1865," instructing the United States officers command-

ing the districts of Arizona and southern California to suffer no arms or munitions of war to be exported over the frontier; whether this discrimination is a breach of our neutrality toward our sister republic of Mexico; and whether the Government has taken any action in the premises.

COMMITTEE CLERK.

Mr. FESSENDEN. I move that the joint committee on reconstruction be allowed to appoint a short-hand writer to act as clerk of that committee, to be paid out of the contingent fund of the Senate. The motion must be made in one House or the other, and it may as well be made here.

The motion was agreed to.

JOSIAH O. ARMES.

Mr. CLARK. I move that the Senate now proceed to the consideration of the bill for the relief of Josiah O. Armes.

The motion was agreed to; and the bill (S. No. 16) for the relief of Josiah O. Armes was read a second time, and considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to Josiah O. Armes the sum of \$9,500 in full for damages sustained by him in consequence of the burning of his buildings and the destruction of his property at Annandale, Fairfax county, Virginia, by the United States troops.

Mr. CLARK. This is the same bill (or a bill in like words and for a like amount) that passed the Senate at the last session, and which failed to become a law by reason of a mistake of the engrossing clerks. The bill passed both Houses of Congress at the last session, but by a mistake was not properly engrossed, and failed to receive the signature of the proper officers of the two Houses and the President.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, Chief Clerk, announced that the Speaker of the House of Representatives had appointed the following-named gentlemen as the committee on the part of the House to inquire into the condition of the States which formed the so-called confederate States of America: MESSRS. THADDEUS STEVENS of Pennsylvania, ELIHU B. WASHBURN of Illinois, JUSTIN S. MORRILL of Vermont, HENRY GRIDER of Kentucky, JOHN A. BINGHAM of Ohio, ROSCOE CONKLING of New York, GEORGE S. BOWEN of Massachusetts, HENRY T. BLOW of Missouri, and ANDREW J. ROGERS of New Jersey.

BILL REFERRED.

On motion of Mr. MORRILL, the bill (S. No. 15) to repeal certain laws and ordinances in the District of Columbia, and for other purposes, was read a second time by its title, and referred to the Committee on the District of Columbia.

Mr. FOOT. As there appears to be no business ready for the action of the Senate, I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, January 8, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Friday last was read and approved.

The SPEAKER proceeded, as the regular order of business, to call the States and Territories for bills and joint resolutions on leave, to be referred to the appropriate committees without debate, and not to be brought back on motions to reconsider.

UNITED STATES DISTRICT COURTS IN MAINE.

Mr. PIKE introduced a bill to regulate the time and places of holding the district courts of the United States within the district of Maine; which was read a first and second time, and referred to the Committee on the Judiciary.

CONSTITUTIONAL AMENDMENT.

Mr. PIKE also introduced a joint resolution proposing an amendment to the Constitution

in regard to the apportionment of Representatives; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

PUBLIC LANDS.

Mr. RICE, of Maine, introduced a bill for the disposal of the public lands for homestead actual settlement in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

DEFICIENCY APPROPRIATION BILL.

Mr. STEVENS, from the Committee on Appropriations, reported a bill making appropriations to supply deficiencies in the appropriations for sundry civil expenses of the Government for the fiscal year ending 30th June, 1866, and for other purposes; which was read a first and second time, recommitted to the Committee on Appropriations, and ordered to be printed.

FREEDMEN'S BUREAU.

Mr. ELIOT introduced a bill to amend an act entitled "An act to establish a Bureau for the Relief of Freedmen and Refugees;" which was read a first and second time, referred to the select committee on freedmen, and ordered to be printed.

NATURALIZATION LAWS.

Mr. RAYMOND introduced a bill to amend the several acts of Congress relating to naturalization, and for other purposes; which was read a first and second time, and referred to the Committee on the Judiciary.

POST OFFICE AT NEW YORK.

Mr. RAYMOND also introduced a bill providing for the appointment of commissioners to purchase a site and erect a building for a post office in the city of New York; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

ACTION OF COURTS-MARTIAL.

Mr. TAYLOR introduced a bill to prevent courts-martial, military and naval, from depriving non-commissioned officers, privates, petty officers, musicians, seamen, and marines, having families, of their pay, by way of punishment; which was read a first and second time, and referred to the Committee on Naval Affairs.

RAILWAY COMMUNICATION WITH WASHINGTON.

Mr. STEVENS introduced a bill to authorize the building of a military and postal railroad from Washington, District of Columbia, to the city of New York; which was read a first and second time.

Mr. STEVENS. I move that the bill be referred to a select committee of seven, and be printed.

Mr. BROOKS. Is the question of reference debatable?

The SPEAKER. It is not. During the morning hour on Monday bills have to be referred to committees without debate, and cannot be brought back by motions to reconsider.

Mr. BROOKS. A bill like this should take the ordinary course and be referred to the Post Office Committee.

Mr. STEVENS. As the question is not debatable I have said nothing. I will do so when we come to a debatable point.

Mr. STEVENS's motion was agreed to.

STEAMBOAT NAVIGATION.

Mr. MILLER introduced a bill to ascertain the practicability of having steamboat navigation from the Chesapeake bay at the mouth of the Susquehanna river to Lake Ontario in the State of New York; which was read a first and second time, and referred to the Committee on Roads and Canals.

LABORATORY AND MINING ASSOCIATION.

Mr. MOORHEAD introduced a bill to incorporate the National Laboratory and Mining Association; which was read a first and second

time, and referred to the Committee on Mines and Mining.

CLAIMS FOR PROPERTY DESTROYED.

Mr. F. THOMAS introduced a bill to provide for ascertaining and adjusting claims against the Government for injury or destruction of property by the Army of the United States or by military authority during the late rebellion; which was read a first and second time, and referred to the Committee of Claims.

ENVELOPE, PAPER, AND STAMP COMPANY.

Mr. WELKER introduced a bill to incorporate the National Union Envelope, Paper, and Stamp Company of Washington; which was read a first and second time, and referred to the Committee for the District of Columbia.

RAILWAY COMMUNICATION WITH WASHINGTON.

Mr. GARFIELD introduced a bill to provide for the construction of a line of railway communication between the cities of Washington and New York, and to constitute the same a public highway and a military road and postal road of the United States; which was read a first and second time, and referred to the select committee on that subject.

Mr. GARFIELD. I move that the bill be printed.

The motion was agreed to.

C. J. FIELD AND C. F. CLAY.

Mr. RANDALL, of Kentucky, introduced a bill for the relief of C. J. Field and C. F. Clay; which was read a first and second time, and referred to the Committee of Claims.

COMMISSIONS FOR COLLECTIONS OF REVENUE.

Mr. HILL introduced a bill to provide for the payment of commissions of collectors of internal revenue on distilled spirits, &c.; when transported to bonded warehouses; which was read a first and second time, and referred to the Committee of Ways and Means.

MARTHA STEVENS.

Mr. FARQUHAR introduced a bill for the relief of Martha Stevens, widow of the late John S. Stevens, of Greensburg, Indiana; which was read a first and second time, and referred to the Committee on Invalid Pensions.

LEGAL REPRESENTATIVES OF N. B. JONES.

Mr. JULIAN introduced a bill for the relief of the legal representatives of N. B. Jones, late collector of customs for the district of Wilmington, North Carolina; which was read a first and second time, and referred to the Committee of Claims.

FEDERAL OFFICE-HOLDERS.

Mr. DEFREES introduced a bill to prevent certain persons named therein from holding office under the Federal Government; which was read a first and second time, and referred to the Committee on the Judiciary.

EDUCATION OF MILITIA.

Mr. HARDING, of Illinois, introduced a bill to educate the militia; which was read a first and second time, and referred to the Committee on the Militia.

ST. LOUIS, MISSOURI.

Mr. BLOW introduced a bill to establish a port of entry at St. Louis; which was read a first and second time, and referred to the Committee on Commerce.

RAILROAD LAND GRANT, MICHIGAN.

Mr. BEAMAN presented a joint resolution of the Legislature of the State of Michigan, asking an appropriation of land by Congress to aid in the construction of a railroad from Eskanaba to the straits of Michilimackinac, near the straits of Mackinaw; which was referred to the Committee on Roads and Canals, and ordered to be printed.

TELEGRAPH LAND GRANT, MICHIGAN.

Mr. BEAMAN also presented a joint resolution of the Legislature of the State of Michigan, asking Congress for a donation of land for

the construction of a telegraph line between some point on the Saginaw river to the Sault Ste. Marie, in the State of Michigan; which was referred to the Committee on Public Lands, and ordered to be printed.

THANKS TO THE PRESIDENT, ETC.

Mr. DRIGGS presented a joint resolution of the Legislature of the State of Michigan, thanking the President, Administration, Governor Blair, and the officers and soldiers of the Army and the Navy for their persistent fidelity and labors in suppressing the rebellion; which was laid on the table, and ordered to be printed.

DUTIES ON BIBLES AND SCHOOL-BOOKS.

Mr. DRIGGS presented a joint resolution of the Legislature of the State of Michigan, in favor of remitting all duties on Bibles and school-books; which was referred to the Committee of Ways and Means, and ordered to be printed.

LAND FOR SHIP-CANAL.

Mr. DRIGGS also presented a joint resolution of the Legislature of the State of Michigan, asking Congress for a grant of land to aid in the construction of a ship-canal from Lake Superior to Lac La Belle, so as to form a safe harbor; which was referred to the Committee on Roads and Canals, and ordered to be printed.

IMPROVEMENT OF MUSKEGON HARBOR.

Mr. FERRY presented a joint resolution of the Legislature of the State of Michigan, asking for an appropriation of money by Congress for the improvement of Muskegon harbor, in that State; which was referred to the Committee on Commerce, and ordered to be printed.

NAVAL STATION AT GRAND HAVEN.

Mr. FERRY also presented a joint resolution of the State of Michigan, asking for the establishment of a naval station and dock-yard at Grand Haven, in that State; which was referred to the Committee on Naval Affairs, and ordered to be printed.

POST ROADS IN MICHIGAN.

Mr. UPSON introduced a bill to establish certain post roads in the State of Michigan; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

NAVIGATION OF MISSISSIPPI RIVER.

Mr. HOGAN introduced a bill for the protection of the navigation of the Mississippi river and its navigable tributaries; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

WAGON ROAD TO VIRGINIA CITY.

Mr. HUBBARD, of Iowa, introduced a bill to provide for the improvement of the wagon road from Niobrara to Virginia City; which was read a first and second time, and referred to the Committee on Roads and Canals.

PROTECTION OF EMANCIPATED SLAVES.

Mr. WILSON, of Iowa, introduced a bill to secure the writ of *habeas corpus* to persons held in slavery or involuntary servitude contrary to the Constitution of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

Mr. SMITH. I desire to inquire of the chairman of the Committee on the Judiciary, [Mr. WILSON, of Iowa,] whether it will not be possible for that committee to report to-day or to-morrow the bill which he has just introduced, so that the House may act upon it at once. It is a measure of great importance to many persons in my State.

Mr. WILSON, of Iowa. I can only say, in reply to the gentleman, that the subject has not yet been before the committee, and the committee will not meet until to-morrow.

PROPELLER F. W. BACKUS.

Mr. PAINE introduced a bill to change the name of the propeller F. W. Backus to *Metacomet*; which was read a first and second time, and referred to the Committee on Commerce.

SHIP-CANAL LAND GRANT.

Mr. SAWYER presented a memorial of the Legislature of the State of Wisconsin, asking for a grant of land by Congress to aid in the construction of a ship-canal from Sturgeon bay to Lake Michigan; which was referred to the Committee on Public Lands, and ordered to be printed.

JOHN SHIELDS.

Mr. LATHAM introduced a bill for the relief of John Shields; which was read a first and second time, and referred to the Committee of Claims.

SAMUEL V. B. STRIDER.

Mr. LATHAM also introduced a bill for the relief of Samuel V. B. Strider; which was read a first and second time, and referred to the Committee of Claims.

SUSAN YATES.

Mr. LATHAM also introduced a bill for the relief of Susan Yates; which was read a first and second time, and referred to the Committee of Claims.

CAPITOL BUILDING IN DAKOTA.

Mr. BURLEIGH presented a memorial of the Territorial Legislature of Dakota, praying for an appropriation to erect a capitol building in Dakota Territory; which was referred to the Committee on Territories, and ordered to be printed.

COMMANDER G. H. PREBLE.

Mr. BRANDEGEE introduced a bill for the relief of George Henry Preble, a commander in the Navy of the United States; which was read a first and second time, and referred to the Committee on Naval Affairs.

REV. JOHN C. JACOBI.

Mr. BRANDEGEE also introduced a bill for the benefit of Rev. John C. Jacobi; which was read a first and second time, and referred to the Committee on Military Affairs.

BASIS OF CONGRESSIONAL REPRESENTATION.

Mr. BLAINE introduced a joint resolution proposing an amendment to the Constitution of the United States with respect to the basis of representation in Congress; which was read a first and second time, and referred to the joint committee on reconstruction.

AMBROSE MORRISON.

Mr. SHELLABARGER introduced a bill for the relief of Ambrose Morrison, of Nashville, Tennessee; which was read a first and second time, and referred to the Committee of Claims.

TERRITORIAL COMMUNICATION.

Mr. RICE, of Maine, introduced a joint resolution to facilitate communication with certain Territories; which was read a first and second time, and referred to the Committee on Territories.

NEW MAIL ROUTE.

Mr. BURLEIGH presented the memorial of the Legislative Assembly of the Territory of Dakota, for the establishment of a mail route from Fort Randall to Fort Sully in said Territory; which was ordered to be printed, and referred to the Committee on the Post Office and Post Roads.

PACIFIC RAILROAD.

Mr. BURLEIGH also presented the memorial of the Legislative Assembly of the Territory of Dakota, relative to the location of the north branch of the Pacific railroad; which was ordered to be printed, and referred to the Committee on the Pacific Railroad.

BLACK HILL COUNTRY, DAKOTA.

Mr. BURLEIGH also presented the memorial of the Legislative Assembly of Dakota Territory, asking for a geological survey of the Black Hill country and bad lands in said Territory; which was ordered to be printed, and referred to the Committee on Public Lands.

MEXICO.

Mr. ORTH presented a joint resolution of the Legislature of Indiana in reference to the

interference of European Powers in the affairs of the republic of Mexico; which was ordered to be printed, and referred to the Committee on Foreign Affairs.

The SPEAKER stated the next business in order to be the call of States for resolutions, commencing with the State of Kentucky.

Mr. SMITH submitted the following resolution, on which he demanded the previous question:

Resolved, That the President be requested to communicate to this House, if in his opinion not inconsistent with the public interest, any correspondence or other information in possession of the Government in regard to the kidnapping of the child of an American lady in the city of Mexico by the usurper of that republic, "so-called emperor," under the pretense of making said child a prince; whether the Government of the United States has been asked to interfere with a view to having the child restored to its parents, and what action, if any, has been taken on the subject.

The SPEAKER stated that the resolution called for executive information, and if objected to must, under the rule, lie over for one day.

Mr. BLAINE objected; but afterward withdrew his objection.

On seconding the call for the previous question, there were—ayes 34, noes 16; no quorum voting.

The SPEAKER ordered tellers; and appointed Messrs. SMITH and UPSON.

The House was again divided, and the tellers reported—ayes 71, noes 32.

So the previous question was seconded.

The main question was then ordered.

The resolution was adopted.

Mr. SMITH moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

COLORED VOLUNTEERS.

Mr. HARDING, of Kentucky, submitted the following resolution, on which he demanded the previous question:

Whereas the twenty-fourth section of the act of Congress of the 24th February, 1864, requires that "the Secretary of War shall appoint a commission in each of the slave States represented in Congress, charged to award to each loyal person to whom a colored volunteer may owe service, a just compensation, not exceeding \$300 for each such colored volunteer, payable out of the fund derived from commutation;" Therefore,

Resolved, That the Secretary of War inform this House whether he has appointed said commission in any of the States referred to; and, if so, in which of them; and in which State, if any, he has failed to make said appointment, and the cause of such failure; and that he also inform this House the amount of said commutation fund on the said 24th of February, 1864, and what disposition, if any, has since been made of said fund in whole or in part; and what amount of said fund now remains on hand and subject to the provisions of the act aforesaid.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

IMPERIAL MEXICAN EXPRESS COMPANY.

Mr. RANDALL, of Kentucky, submitted the following resolution:

Resolved, That the President be requested, if not inconsistent with the public interest, to communicate to this House any information in possession of the Government in relation to a company called "The Imperial Mexican Express Company," alleged to have been organized in the city of New York under a grant from the so-called Emperor of Mexico, for the purpose of carrying on the contraband or other trade between the Mexican republic, the United States, and other nations, and specially any letters or correspondence on the subject with any party or parties.

Mr. DEMING objected, and under the rules the resolution was laid over.

PERSONAL EXPLANATION.

Mr. WOODBRIDGE. I rise to a question of privilege. By referring to the Globe of December 20, I find that on the vote on the bill introduced by the Committee on Commerce, to regulate the commerce between the States, I am recorded as voting in the negative. I was not in my seat at the time the question came up, and I am quite sure that you, Mr. Speaker, will recollect that heretofore, when a question similar to the one involved in that bill came before the House, I not only voted in favor of it but discussed the question, and I have seen

no reason to change my mind. I am quite unwilling that it should go before my constituents that I have now voted against a bill of which I have always been in favor.

The SPEAKER. The Chair is informed that the Journal does not give the gentleman's name as voting on either side.

Mr. WOODBRIDGE. I only speak as far as the Globe is concerned. I presume the clerks of the House are correct, as they always are. I am not willing to have my name go out to the country as having voted against a bill which every true man ought to vote for.

The SPEAKER. Corrections of the Globe are not questions of privilege. Corrections of the Journal come under that head.

PENSIONS TO SOLDIERS AND SAILORS.

Mr. WELKER offered the following resolution, and demanded the previous question thereon:

Resolved, That the Committee on Invalid Pensions be instructed to inquire into the expediency of so amending the act granting pensions to disabled soldiers serving in the Union Army in the late rebellion as to give pensions to all soldiers who have been or may be permanently injured or disabled by accidents on their way home by the usually traveled route after their discharge, and report by bill or otherwise.

The previous question was seconded.

Mr. RICE, of Massachusetts. Is it in order to offer an amendment?

The SPEAKER. Not after the previous question is seconded.

Mr. RICE, of Massachusetts. I would like to have the resolution amended so as to include sailors.

Mr. WELKER. I accept the amendment.

The main question was then ordered, and under the operation thereof the resolution was agreed to.

ENLARGING THE HARBOR OF BALTIMORE.

Mr. J. L. THOMAS offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of deepening and widening the harbor of Baltimore, and of rendering the ship channel navigable for vessels of the largest tonnage, and report by bill or otherwise.

NEW NAVY-YARD.

Mr. J. L. THOMAS also offered, by unanimous consent, the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of locating a yard for the construction and repair of vessels of the Navy on the Patuxent river, near the city of Baltimore, and report by bill or otherwise.

MUTILATED FRACTIONAL CURRENCY.

Mr. ANCONA offered the following resolution, and demanded the previous question thereon:

Resolved, That the Committee on Banking and Currency be requested to inquire into the expediency of providing by law for the redemption of mutilated, defaced, and worn out fractional currency by the United States internal revenue collectors, or other financial agents of the Government in the several collection districts of the country.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

BOUNTIES TO VOLUNTEERS OF 1861.

Mr. MILLER offered the following resolution, and demanded the previous question thereon:

Resolved, That it is the sense of this House that all volunteers who entered the Army of the United States in the year 1861, and faithfully served therein, should be paid a bounty equal to the highest sum given by any act of Congress to those who subsequently enlisted.

Mr. BOUTWELL. I ask the gentleman to allow it to be referred to the Committee on Military Affairs.

Mr. BROOKS. I would inquire of the gentleman, what probable amount will be paid out of the Treasury under such a provision?

The SPEAKER. That is in the nature of debate, which is not now in order.

Mr. BROOKS. I ask the gentleman to withdraw the demand for the previous question.

The SPEAKER. The resolution will then go over, under the rules.

Mr. BROOKS. I understand that the amount paid will be \$634,000,000.

Mr. MILLER. I withdraw the previous question, and move that it go to the Committee on Military Affairs.

The motion was agreed to.

LEGAL-TENDER NATIONAL BANK NOTES.

Mr. STROUSE offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Banking and Currency be instructed to inquire into the expediency of making the notes issued to and hereafter to be issued to the national banks of the United States legal tender for the payment of all debts, public and private, except duties on imports, and thus place the national bank notes upon an equality with the Treasury notes, generally known as greenbacks; the said committee to report by bill or otherwise.

INCREASED DUTIES ON IMPORTS.

Mr. THAYER, by unanimous consent, introduced a bill amendatory of an act entitled "An act to increase duties on imports, and for other purposes," approved June 30, 1864; which was read a first and second time, and referred to the Committee of Ways and Means.

LEAGUE ISLAND.

Mr. KELLEY submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of instructing the Secretary of the Navy to accept from the city of Philadelphia, on behalf of the Government, the title to League Island, and to provide for the sale of the site of the existing navy-yard at Philadelphia as soon as it can be abolished consistently with the public good, and to report by bill or otherwise.

BOUNTIES.

Mr. O'NEILL introduced a bill granting bounty and additional bounty to soldiers, seamen, and marines, in the war of 1861, or their heirs; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MILITARY FORCE IN SECEDING STATES.

Mr. WILLIAMS offered the following resolution, upon which he demanded the previous question:

Resolved, That in order to the maintenance of the national authority and the protection of the loyal citizens of the seceding States, it is the sense of this House that the military forces of the Government should not be withdrawn from those States until the two Houses of Congress shall have ascertained and declared their further presence there no longer necessary.

The previous question was seconded, and the main question ordered.

Mr. NIBLACK moved that the resolution be laid on the table.

The question was taken; and the House refused to lay the resolution on the table—ayes 28, noes 75.

Mr. DAWSON demanded the yeas and nays on the adoption of the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 94, nays 27, not voting 61; as follows:

YEAS—Messrs. Ames, Anderson, Delos R. Ashley, Baker, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Broomall, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Deffrees, Deming, Donnelly, Driggs, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, Jonckes, Julian, Kelley, Kelso, Ketcham, Kykendall, Laffin, William Lawrence, Loan, Longyear, Lynch, Marvin, McClurg, McKee, McKuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Plants, Price, Alexander H. Rice, Rollins, Sawyer, Seofield, Shellabarger, Spalding, Stevens, Thayer, Townbridge, Unson, Van Arman, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, Walker, Williams, Stephen F. Wilson, and Windom—94.

NAYS—Messrs. Ancona, Bergen, Boyer, Brooks, Chanler, Davis, Dawson, Delano, Denison, Eldridge, Glossbrenner, Grider, Aaron Harding, Hogan, Edwin N. H. Hubbell, James M. Humphrey, Kerr, Latham, Le Blood, Marshall, Niblack, Nicholson, Noah, Samuel J. Randall, Raymond, Ritter, Rogers, Ross, Smith, Stillwell, Strouse, Taber, Taylor, Voorhees, Winfield, Woodbridge, and Wright—27.

NOT VOTING—Messrs. Alley, Allison, James M. Ashley, Baldwin, Barker, Blow, Buckland, Culver, Darling, Dawes, Dixon, Dumont, Eckley, Finck, Goodyear, Griswold, Hale, Harris, Hotchkiss, Demas Hubbard, James Humphrey, Ingersoll, Johnson, Jones, Kasson, George V. Lawrence, Marston, Mc-

Cullough, McIndoe, Newell, Perham, Phelps, Pike, Pomeroy, Radford, William H. Randall, John H. Rice, Rousseau, Schenck, Shanklin, Sitgreaves, Sloan, Starr, Francis Thomas, John L. Thomas, Thornton, Trimble, Wentworth, Whaley, and James F. Wilson—51.

So the resolution was agreed to.

During the roll-call,

Mr. DRIGGS said, regretting the introduction of the resolution, I vote aye.

Mr. MARSHALL said, my colleague, Mr. THORNTON, has been called home, and is not yet in his seat. If he were here he would doubtless vote against this attempt by the House to usurp the duties of the Executive.

The result of the vote having been announced, Mr. WILLIAMS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

FUNDING THE NATIONAL DEBT.

Mr. MORRILL, from the Committee of Ways and Means, reported a bill to authorize the issue of bonds for funding the obligations of the United States, and for other purposes; which was read a first and second time; recommitted to the Committee of Ways and Means, and ordered to be printed.

THE NAVAL ACADEMY.

The morning hour having expired, the Speaker laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with the resolution of the House of December 21, 1865, a report of the amount expended in the permanent establishment of the Naval Academy at Annapolis; which was referred to the Committee on Naval Affairs, and ordered to be printed.

THE TEST OATH.

The SPEAKER also laid before the House the following communication from the Secretary of the Treasury:

TREASURY DEPARTMENT, January 5, 1866.

SIR: I herewith transmit a copy of a letter recently received from the assessor of internal revenue for the third district of Georgia, and request attention to its contents, as showing the difficulties which now embarrass the revenue service in consequence of the oath required of office-holders.

Very respectfully,

H. McCULLOCH,
Secretary of the Treasury.

Hon. S. COLFAX,

Speaker of the House of Representatives.

Mr. GRINNELL. I desire to have the accompanying letter read.

Mr. STEVENS. We all know what it is. I do not think it ought to be read.

Mr. BROOKS. Let it be read.

The Clerk read, as follows:

ASSESSOR'S OFFICE, U. S. INTERNAL REVENUE,
THIRD DISTRICT OF GEORGIA,
Augusta, December 20, 1865.

SIR: I am constrained to write you in relation to the repeal or modification of the test oath so far as it relates to the internal revenue officers, at least the assistant assessors in southern States. I have labored assiduously to find competent men, who could take the oath, for assessors; and have to report that I have failed to find any such, except in a single instance, in my district, comprising twenty-three of the most populous counties of the State of Georgia.

I have organized my district by allowing the assistants to take the oath of office and allegiance, and proceed to the discharge of their duties, trusting to Congress to provide for their payment as directed by the Commissioner of Internal Revenue. Many of these men are very much reduced in circumstances by the war, and stand in imperative need of their pay in order to provide for their families. Indeed, some of them will be compelled soon to resign their places in order to engage in some business that will yield them ready money on which to live. I am satisfied that unless something is done in this matter immediately, I shall be unable to assess the tax in my district.

If Congress would so modify the oath as far as it relates to officers of the internal revenue and Post Office Departments, down here, I am sure it would be regarded everywhere and prove to be a patriotic measure, one in which both North and South are equally interested. Unless something of the kind is done, I am at a loss to know what we are to do.

Respectfully,

J. BOWLE,

Assessor Third District of Georgia.

Hon. HUGH McCULLOCH, Secretary of the Treasury.

Mr. SCOFIELD. I move that this communication, with the accompanying paper, be printed and referred to the joint committee on reconstruction.

Mr. BROOKS. Will the gentleman from Pennsylvania [Mr. SCOFIELD] amend his mo-

tion so as to instruct the committee to report within thirty days?

Mr. SCOFIELD. I think that will not be done. I call for the previous question.

The previous question was seconded, and the main question ordered.

Mr. SCOFIELD's motion was then agreed to:

A. T. SPENCER AND GURDON HUBBARD.

Mr. GARFIELD, by unanimous consent, introduced a bill for the relief of A. T. Spencer and Gurdon Hubbard; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

DUTY ON FOREIGN SALT.

Mr. DAVIS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to consider the expediency of increasing the tariff or duty on foreign salt, imported into the United States, by the amount of the duty imposed by the act of 1864, "to provide for internal revenue," on salt manufactured in the United States; and to report by bill or otherwise at an early day.

AMENDMENT OF PENSION LAWS.

Mr. FARQUHAR, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Invalid Pensions be instructed to inquire into the expediency of amending the pension laws so as to authorize the payment of pensions to the widows or minor children of soldiers who have died when absent on furlough, or after honorable discharge, from disease contracted in the service.

REISSUE OF UNITED STATES BONDS.

Mr. SHELLABARGER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the necessity and propriety of providing for the reissue of lost or mutilated bonds of the United States, and to report by bill or otherwise.

PUNISHMENT OF COUNTERFEITING.

Mr. BRANDEGEE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of reporting at an early day to this House a bill punishing the crime of counterfeiting any of the notes or other public securities of the United States with death.

BRIDGE AT CLINTON, IOWA.

Mr. PRICE, by unanimous consent, introduced a bill declaring a certain bridge over the Mississippi river a post route and highway; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the House referred the bill; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REVENUE ON CUSTOM-WORK.

Mr. COBB, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be, and they are hereby, instructed to inquire into the expediency of so amending the revenue law as to exempt within certain limits the custom-work of mechanics, such as blacksmiths, shoe and boot makers, saddlers, harness makers, wagon makers, tailors, tin-smiths, tanners, carriers, and others from the payment of internal revenue taxes.

HARBOR OF MICHIGAN CITY, INDIANA.

Mr. ORTH, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of making an appropriation by Congress for the completion of the harbor at Michigan City, Indiana.

BRANCH MINT IN IDAHO.

Mr. HOLBROOK, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas the recent discoveries of the vast and extensive mineral fields of the interior, which the patient and laborious toil of miners has developed, demonstrate that the deposits of precious metals in the Territory of Idaho are unsurpassed in richness and extent by those of any other country, and which it will take the continued labor of ages to exhaust; and

whereas the unnecessary delay, expense, and danger attending the transportation of said precious metals a great distance for the purpose of coinage would be entirely removed by the construction of a United States branch mint in the immediate vicinity of this great mineral center, would tend to a rapid and full development of the mineral resources, and be of incalculable advantage and benefit to the inhabitants of that section of our country as well as a source of revenue to the Government: Therefore,

Be it resolved, That the Committee on Mines and Mining be instructed to inquire into the expediency of changing the location of the United States branch mint from the Dalles, in the State of Oregon, to Boise City, in the Territory of Idaho; and that they report by bill or otherwise.

REDEMPTION OF FRACTIONAL CURRENCY.

Mr. ANCONA, by unanimous consent, introduced a joint resolution providing for the redemption of mutilated, defaced, and worn-out fractional currency in the general collection districts of the country; which was read a first and second time, and referred to the Committee on Banking and Currency.

PUBLIC LANDS IN SOUTHERN STATES.

Mr. RICE, of Maine. I ask unanimous consent to introduce the following resolution:

Whereas there are of the public domain still undisposed of, in the State of Alabama about six million seven hundred thousand acres; in the State of Mississippi four million seven hundred thousand acres; in the State of Louisiana six million two hundred thousand acres; in the State of Arkansas nine million three hundred thousand acres; and in the State of Florida about twenty million acres, making in the said five States a total of about forty-six million nine hundred thousand acres; and whereas the true interests of the said States, and the people thereof, as well as of the nation at large, will be best promoted by the appropriation of said lands to the exclusive use of actual settlers and cultivators thereon: Therefore,

Resolved, That the Committee on Public Lands be, and they hereby are, instructed to inquire into the expediency of providing by law that all the public lands in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida shall be disposed of under the provisions of the homestead act, so called, and not otherwise; and also as to the propriety of limiting homesteads in said States to eighty acres or less; and that they report by bill or otherwise.

Mr. HARDING, of Kentucky. I object.

REDUCTION OF RAILROAD RATES, ETC.

Mr. HARDING, of Illinois. I ask unanimous consent to introduce the following resolution:

Resolved, That the Committee on Agriculture be instructed to inquire and report, by bill or otherwise, whether the unreasonable and oppressively high rates now exacted for transportation of passengers and freights by railroad and other transportation agents, may not be reduced and removed by so graduating a tax upon fares and rates that low and reasonable rates shall be encouraged and high rates suppressed; and whether, by this or other means, relief may not be promptly afforded to the suffering farmers and others whose crops are more than one half consumed, and the profits of agriculture entirely swallowed, by a combination among transportation companies to exact exorbitant charges for transportation, &c.

Mr. LE BLOND. I object.

CLAIMS AGAINST UNITED STATES FOR DAMAGES.

Mr. RANDALL, of Pennsylvania, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be requested to inquire into the expediency of reporting an act conferring on the Government of the United States the benefit of a statute of limitations providing that after the lapse of six years from the time the injury was sustained no suit shall be brought before the Court of Claims, nor any claim be entertained by Congress, for any damages, or for compensation for or on account of the same.

CAPTURE OF JOHN MORGAN.

Mr. HILL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire what further legislation, if any, is necessary to authorize the payment of claims for horses and other property impressed by the military authorities of the United States, for use by them in the pursuit and capture of John Morgan and his band of insurgents, during their raid through the States of Indiana and Ohio, in July, 1863; with leave to report by bill or otherwise.

TRIAL OF JEFFERSON DAVIS.

Mr. JULIAN. I ask unanimous consent to introduce the following resolution:

Resolved, As the deliberate judgment of this House, that the speedy trial of Jefferson Davis for the crime of treason, and his prompt execution when found guilty, are imperatively demanded by the people of the United States in order that treason may be adequately branded by the nation, traitors made infamous, and the repetition of their crime, as far as possible, be prevented.

Mr. ROGERS. I object.

SURRENDER OF THE SHENANDOAH.

Mr. WILLIAMS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be requested to inform this House, if not incompatible with the public interest, what order, if any, he has taken in relation to the reported surrender by the British Government of the Anglo-rebel pirate vessel called the Shenandoah, fitted out in its own harbors, with its own capital and its own crews, and alleged to have been sailing under its own flag, to prey upon American commerce; and further, to communicate any correspondence that may have taken place between the two Governments, or with the diplomatic or consular agents of this nation, in relation thereto.

COLORS SCHOOLS IN THE DISTRICT.

Mr. ROLLINS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Whereas in the District of Columbia rents are excessively high, and the means of educating the children of colored citizens are extremely limited: Therefore,

Resolved, That the Committee for the District of Columbia be instructed to inquire into the expediency of causing to be imposed a special tax of twenty per cent. upon all rentals of buildings which exceed \$600 annually, the fund so raised to be applied under the supervision of a board of commissioners, independent of the existing local District authorities, for the support of common schools for the education of the children of the colored citizens of the District; said committee to report by bill or otherwise at the earliest possible moment.

Mr. ROLLINS moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. STEVENS moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER stated that a motion to suspend the rules was now pending, made before the holidays by the gentleman from New York [Mr. WARD] for the introduction of a resolution relative to polygamy.

REPORT OF GENERAL CARL SCHURZ.

Mr. CULLOM submitted the following resolution:

Resolved, That fifty thousand copies of the report of General Carl Schurz on the condition of the late rebellious States be printed for the use of the members of this House.

Mr. ANCONA. I should like to amend that by including the report of Lieut. General Grant.

Mr. CULLOM. I understand the House has already taken action on that subject.

Mr. ANCONA. We have taken no action except to call for them.

Mr. CULLOM. I accept the amendment.

Mr. STEVENS. I ask the gentleman also to provide for the printing of the accompanying documents.

Mr. CULLOM. I also accept that amendment.

The resolution as amended was referred, under the law, to the Committee on Printing.

INDIAN TRIBES.

Mr. BURLEIGH. I ask the unanimous consent to submit the following resolution:

Whereas the time has arrived when the interests of the country, and the protection of the lives and property of many of our people, demand the removal of the various Indian tribes from the rich mineral lands of our northwestern Territories, and their permanent location in a section of country where they can remain unmolested, and subsist upon the game of the prairies; and whereas it is of the greatest importance to both our white population and the Indians that such location for their future abode be as remote as possible from the mining districts and great public thoroughfares of the Northwest, and at the same time in a section of country that is adapted to agriculture, and affords the greatest natural resources for the support of an Indian population, and where ample protection to the Indians and white population of our frontiers can be afforded by the Government:

Resolved, That the Committee on Indian Affairs be instructed to inquire into the expediency of providing by treaty for the early removal of all the Sioux tribes (except the Yanktons) together with the Gros Ventres, Mandans, Arikarees, Assiniboines, and Crows from the mineral lands of the northwestern Territories, and for their location upon that part of Dakota and Montana Territories lying within the following described boundaries, namely: beginning on the line which separates the United States from the British possessions on the ninety-eighth degree of west longitude, thence south to the forty-fifth parallel of north latitude, thence east to the Medicine Knob river, thence down said river to the Missouri river, thence up the

left bank of the Missouri river to Plum island, thence west to the western boundary line of Dakota Territory to the point where it is intersected by the south line of Montana Territory, thence west along the south line of Montana Territory to Powder river, thence down Powder river to the Yellowstone river, thence down the Yellowstone river to the Missouri river, thence up the left bank of the Missouri river to the one hundred and sixth degree of west longitude, thence north to the line of the British possessions, thence east to the place of beginning; and for the purpose of making said treaty the sum of \$150,000 be appropriated; and until such a treaty is made and ratified, and the said Indians shall be removed and located upon the above-described territory, no more moneys shall be paid to them or expended for their benefit by the United States, other than to redeem the pledges (if any were made) by the commissioners sent to treat with said Indians in 1865.

Mr. KELLEY. I object to the gentleman's preamble. It makes allegations to which I do not agree. If he will abandon the preamble I will not object to a resolution of inquiry.

Mr. BURLEIGH. I will modify my resolution so as to omit the preamble.

The resolution as modified was adopted.

FREEDMEN'S BUREAU.

Mr. CLARKE, of Ohio, from the Committee on Printing, reported the following resolution:

Resolved, That one thousand extra copies of the report of Major General Howard, Commissioner of the Bureau of Freedmen, Refugees, and Abandoned Lands, be printed for the use of the bureau and distributed among its agents.

The resolution was adopted.

HARBORS, ETC.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting, in compliance with a resolution of the House, a report on the present condition of the harbors of the United States, where public works have been built, &c.; which was ordered to be printed, and referred to the Committee on Commerce.

FREEDMEN'S BUREAU.

The SPEAKER also laid before the House a report of the Commissioner of the Freedmen's Bureau, in answer to a resolution of the House relative to enemy's property taken by the Government, &c.; which, on motion of Mr. STEVENS, was ordered to be printed, and referred to the Committee on the Judiciary.

POLYGAMY.

The SPEAKER stated the first business in order to be on the motion to suspend the rules made by Mr. WARD for the introduction of the following resolution:

Whereas certain inhabitants of the Territory of Utah, in violation of the laws of the United States, have been and still are sustaining the abominable system of polygamy, and the numbers who practice it and the crime and abomination consequent thereon are largely on the increase; and whereas for reasons not understood the law against polygamy has not been enforced, and in the judgment of this House this great and remaining barbarism of our age and country should be swept (like the twin system of slavery) from the Territories of the Republic, and that means adequate to that end should be adopted: Therefore,

Resolved, That the Committee on Territories be instructed to inquire and ascertain what means, civil or military, may lawfully be resorted to to effectually eradicate this evil from the land, and what legislation is needed, if any, to effect that object, and what reasons exist why the laws against polygamy have not been executed; and also to ascertain whether the United States officials in said Territory are seeking to enforce the laws, and to inquire into their conduct generally so far as relates to the discharge of their public duties in relation to this system, and that said committee have leave to report by bill or otherwise.

The rules were suspended, and the resolution was adopted.

RECONSTRUCTION.

Mr. STEVENS moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURN, of Illinois, in the chair,) and proceeded to consider the President's message, on which the gentleman from Pennsylvania, [Mr. STEVENS,] was entitled to the floor.

Mr. STEVENS. If there be no objection, I will yield the floor to the gentleman from West Virginia, [Mr. LATHAM,] who desires to proceed to-day.

There was no objection.

Mr. LATHAM. Mr. Chairman, in the discussion of the important issues now under consideration, it may be well for us to recur briefly to first principles; and I feel gratified that the honorable and learned gentleman from Ohio has given us so lucid and able an exposition of the polity of our Government. The people of the United States constitute a nationality; the Government the machinery by which or through which they exercise the powers of the national sovereignty. The operations of this sovereignty are not affected by State lines—no State Legislature, Executive, or convention, having the right to alter, annul, repeal, or hinder the execution of any constitutional law of Congress, or to change the practical relations of the citizens within its limits to the national Government.

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties, &c., shall be the supreme law of the land," * * * "shall be the supreme law of the land," * * * "any thing in the constitution or laws of any State to the contrary notwithstanding."—*Constitution of the United States*, Article 6.

The so-called ordinances of secession adopted by the people of some of the southern States are of no more legal effect by way of dissolving their allegiance to the General or national Government than the blank paper upon which they are written; otherwise they might be plead in bar of a prosecution by the Government for treason against any citizen who had his residence within the limits of such State—a defense which I presume even the chief of secessionists would not now gravely offer. No citizen can expatriate himself and yet remain within the territorial limits of the Government to which he owes allegiance. An individual becomes or is a citizen of the United States by virtue of his relations to the national Government, and not by virtue of his being a citizen of one of the United States. The Union is the nation, and to the Government of the Union within its constitutional scope and authority is our allegiance due. It is, nevertheless, true that we owe an allegiance to our State governments acting within their limits as prescribed by the Constitution of the United States.

These principles being true, it follows that the rebellion was never limited by State lines. Its limits were never defined by legislation, but its authority was extended as far as its power could carry it, whether over entire States or parts of States, or whether the people of those States had ever adopted the farce of an ordinance of secession or not. The right of separate State secession we never recognized. It never did and does not exist in our form of Government. No Government ever did, ever will, or ever can vest anywhere the power to destroy itself, for the more vesting of such power would be its destruction. We were compelled, however, for four long and dark years, to accord a respect, however reluctant, to the power of the rebellion. There is a disposition, with some, to attach to these ordinances of secession a legal importance to which they are by no means entitled. The President in his restoration policy takes up the several State governments which were overthrown by the rebellion as they stood immediately prior to the adoption of these several ordinances, confirming all that was done by them prior to this time, and repudiating all that was done subsequently. This may not be positively objectionable, provided we are not misled by it into an undue respect for those ordinances, considering them as only the starting points, the acts of rebellion, by which the several State governments were overthrown or perverted from their proper relations to the national Government. This is a convenient prominent act from which to date the rebellion in the several States in which such ordinances were adopted, but is not sustained by the facts as the first act, in any such State, of organized rebellion and treason.

The organizing of a military force hostile to the United States, and appropriations for their payment, the seizure of United States forts and other public property, and other acts of violence in all the States comprising the late so-

called confederate States of America, preceded the adoption of the ordinances of secession. Thus Georgia State troops seized Forts Pulaski and Jackson, and the United States arsenal at Savannah, January 2, 1861, though the ordinance of secession was not passed until January 19, 1861. In Alabama, Fort Morgan and the United States arsenal at Mobile were seized January 4, and the ordinance of secession adopted on the 11th. The Louisiana forts and arsenal were seized by State troops on the 11th of January, though the ordinance of secession was not adopted until the 26th. And so on throughout the entire catalogue. The act was not an original act of or attempt at secession, but was originally an act of rebellion and secession, and was subsequently brought to its aid as one means of giving it strength by uniting the people in its support, just as the military despotism, the reign of terror, inaugurated by the leaders, was another means, looking to the same end.

These ordinances could not bind the conscience nor determine the allegiance of individuals, nor extend the authority of the rebellion to State lines, when the power of the rebellion was not sufficient to maintain it there; and individuals are none the more or less traitors, and the people were none the more or less in rebellion because such ordinances were or were not adopted in their States. The people of the State of Virginia adopted an ordinance of secession; the people of the States of Kentucky, Missouri, and Maryland did not; yet the northwestern portion of Virginia, comprising most of what is now West Virginia, was more truly loyal, maintained its relations to the national Government better, and rendered to it a more cheerful support in its measures and policy for crushing the rebellion, than certain districts in each of the other three States mentioned. The people of Virginia adopted an ordinance of secession, but those of northwestern Virginia never rebelled. The people of Maryland, Kentucky, and Missouri never adopted such ordinances, but those of portions of each joined the rebellion; and it is certainly attaching a legal importance to these ordinances not justified by the principles and polity of our Government to subject the people of loyal West Virginia to pains and penalties from which those of the disloyal and rebellious portions of those other States are exempt, as was done in the case of returning rebels, after the surrender; and for no reason except that the people of Virginia adopted an ordinance of secession.

Certain of the State governments were overthrown by the rebellion just as was the national Government wherever the power of the rebellion extended. The States were not, and could not, be parties to the rebellion, because they are not subjects of the national Government. Individuals, citizens, you and I, are subjects of the Governments, both State and national. We may commit treason against either or both, and may overthrow either or both by different or the same overt act, by which we subject ourselves to the pains and penalties of treason, and forfeit the rights of citizenship—ay, the right to life itself—under either or both; but the rights and powers of the Government are in no way affected by our treason, except so far as they may be paralyzed for a time by the blow we strike at their life; and the doctrine that the States have committed *felo de se*, or self-murder, is not only monstrous within itself, but subversive of the vital principles of our Government, and fraught with many dangers. We must preserve the ancient landmarks for our own security and protection, for we know not how soon we may need to use them in our own defense. We know not in what form, or in what direction, the next attack may come, if come it ever shall, which Heaven forbid. But I warn you that this doctrine is too near of kin to secession for us to take it to our bosoms; and that self-interest and personal aggrandizement are more potent influences with ambitious and unprincipled men than climate, soil, or latitude.

As before stated, the authority of the rebellion was extended wherever its power could carry it; and I here protest against the use of

the expression, so common, that *States* were in rebellion. A certain disaffected portion of the people of the United States, extending over a large section of its territory, go into a rebellion, under the auspices and power of which they inaugurate a government in lieu of that of the United States, and subvert the State governments within the extent of their usurped jurisdiction, and make them subservient to their purposes. The States (as such) of Virginia, Tennessee, and Arkansas, were no more in rebellion, when overrun by rebel hordes, than were those of Maryland, Kentucky, Missouri, and of Pennsylvania, under similar circumstances; and if the constitutional and legal rights of loyal citizens of the United States in the States and districts in which a majority of the resident population joined the rebellion, differ in any wise from those where all were loyal, (if such could be found,) but overrun for a time, I confess the distinction is too refined and metaphysical for my comprehension. The governments of Maryland and Pennsylvania were never absolutely under rebel control, but the people of certain districts within those States know what it is to obey rebel orders; their local municipal regulations, both State and national, were for a time overthrown, but immediately upon regaining the power they were "restored," and who questioned the authority of the loyal people to restore them? The governments of Kentucky and Missouri were overthrown, were in the possession and under the control of those engaged in the rebellion—at least they had, for a time, possession of the capitals of those States, and among them those whom they recognized as the Governors of these States with their Legislatures—and they never had any government anywhere recognized by any power on earth except themselves. And if I am not mistaken, these States were, at some time, by some one and in some way, annexed to the confederacy. At least I well remember, that when campaigning down South, the rebel ladies, in singing "the Bonnie Blue Flag," did most emphatically claim that the constellation had grown from one to thirteen stars; and that to make these they did count Kentucky and Missouri; and my impression is and always was, that "the Bonnie Blue Flag," asserted by such authority, was and is as binding upon the citizens of Kentucky and Missouri as ever were the so-called ordinances of secession upon those of Virginia, South Carolina, or Texas; and that they all deserve to be subjected to equal disabilities. And then, you know, they raised a terrible wail for "Maryland, my Maryland," to such an extent that, if I remember correctly, General Lee did annex it, by proclamation, during one of his raids. I have no information as to whether John Morgan and the St. Albans raiders annexed Indiana, Ohio, and Vermont to the confederacy or not, but if they did not they were certainly very forgetful of their duty as conquerors; but whether they did or not, I conceive, does "neither good nor harm."

But who questioned the right of the loyal people of these States to reestablish their governments in their respective capitals when they recovered the power to do so? And where is the difference in the principle involved in the condition of these States and of those yet unrepresented upon this floor? Those yet unrepresented were a while wholly instead of partially overrun, and were longer under rebel control; but are the rights of loyal citizens destroyed by "the law's delay," or by the inability of the Government to which they bear allegiance to extend to them, for a time, its protection and support? In what, then, consists the difference in principle, except it be in the single fact that in the one class ordinances of secession (so called) were adopted, and in the other were not?

Sir, those who accord to those ordinances an importance so essential and vital as this, are, in my humble opinion, not one whit less disunionists in theory and principle than those who adopted them. But we are seriously told upon the floor of this House, by those claiming to be *par excellence* the friends of the Union, that

these States are out of the Union! Look, sir, and count the stars and stripes upon that flag. Does this House indorse a flaunting lie in its presence every day, hour, and minute of its sitting? Why floats in the breeze that banner untorn from the top of this Hall, attracting the gaze of admiring multitudes for miles around, if eleven of the States represented thereon have ceased to be States, and are no longer members of this Union? Is it to deceive foreign nations through their representatives at your Government? Go, sir, and ask the honest tar in your navy-yard, or upon the wide ocean, or in a foreign port, if the flag floating from his mast-head flaunts a lie—is a deception and a cheat! Ask the returning veteran, scarred and maimed, who risked his life and shed his blood to save and perpetuate the Union, if "the war has been a failure," and if the flag he bears so proudly homeward is all that is saved from the wreck of his dismembered country! Sir, I leave the reply to your imagination; and I would not envy the gentleman who champions this doctrine the pleasure of a tour over this country, charged with the duty of cutting the representatives of eleven States from that flag which has become a household god in every loyal family throughout the land.

To restore these State governments, then, is, in my opinion, to reinstate them as they existed when overthrown by the rebellion, subject only to such changes as are necessary to conform them to the present *status* of the national Government. During the suspension of the proper practical relations between the people of these States and the national Government, the institution of African slavery has been abolished, and upon resuming these relations, they are now required to conform their organic law to this very important change, not because their State constitutions are not republican in form without this change, but because the Constitution and laws of the United States are supreme, and those of the several States must conform to them.

I need not stop here to discuss the operation and effect of the emancipation proclamation in the absence of further sanction; for though important in the day of its active operation, it is now superseded, or rather confirmed, by the constitutional amendment abolishing slavery, which is now a part of the supreme law of the land. This amendment gives Congress the power and makes it its duty to guaranty the freedom given. This power I feel assured Congress will exercise, and in the same manner and to the same extent, subsequent to the admission of the representatives of these States as prior to such admission. It is a power to be exercised by Congress, not on or through the agency of the several State governments, but, as in the exercise of all its other powers, directly upon the subject. No issue then, even with the aid of special pleading, can be made up here on this question. We hear a great deal, however, said with reference to compelling the people of these States to adopt this measure or that measure as a condition precedent to the admission of their representatives into Congress. Sir, if they are States, Congress has no more right to compel them to adopt any measure than it has to adopt it for them and transfer it to their code. If they are not States they have no right to act upon these questions, and their action is consequently without significance or the sanction of public law. But in either event, admitting the power of Congress to require such action, and the right of the States to act upon these questions, what respect would the gentlemen now contending for such action give to it, thus wrung from them under duress? Or what evidence would it give to any one upon which to base an opinion as to the actual condition or prevailing sentiment of these people? The convention in one State declines to repudiate the rebel debt; the President tells them they must do it before they can hope for representation in Congress; they then reconsider and reverse their former decision! Now, what importance can be attached to this action? The honorable gentleman from Ohio remarked with signifi-

cance, that in his opinion it did neither "good nor harm;" and I am confirmed in the opinion that if it does no harm, it at least does no good. The policy to be pursued respecting the qualifications of electors in these States, during reorganization, is, I presume, so far determined and conceded as to be no longer involved in the direct issues now affecting this question. Then I come to the all-important question of guarantees.

We have now waiting action by Congress possibly less than twenty guarantees proposed as amendments to the Constitution of the United States. I do not propose now to discuss the merits of these several propositions, and do not know with sufficient certainty what they are to enter upon such discussion, but suppose there will be an opportunity to investigate them, unless they should be acted upon under the operation of "the previous question," and without being printed. I will say, however, that I doubt the necessity of so much constitutional amendment, and that if it is really necessary, we had best have a convention at once; for to give to so many questions, of such importance as we are told these are, the consideration they deserve when becoming part of the organic law of the land, would require the time of an ordinary session of Congress, and I think we should not form the habit of changing that sacred instrument for slight causes or with too much facility. Gentlemen manifest more fear now for the safety of the Constitution and the Union than when there were five hundred thousand rebels arrayed in arms against it. I confess I am unmoved by such fears. Some of the proposed amendments, so far as I understand them, seem unobjectionable, and when brought to a vote I now see no reason for not voting for them. If you can frame an article which more positively refutes the dogmas of nullification and secession than the second clause of the sixth article, before quoted, the fifteenth clause of the eighth section of the first article, which provides "for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions," and the first clause of the third section of the third article defining treason, I will vote for it; but I can conceive of nothing plainer upon this point than the Constitution as its framers made it. And I know of no such verification of, or commentary upon, the Government under it, as is found in the legislation of Congress, and the action of the Executive, during the rebellion. But if you can frame an article which will give more than "the last man," and mortgage more than "the last dollar" to save the Union, I will vote for it. The proposed amendment concerning the national and the rebel debt, as I heard it read once from the Clerk's desk, appeared unobjectionable, and has passed this House. But what I do object to, and most solemnly protest against at this point, is the determination, upon the part of some, to refuse representation to the people of these States, regardless of their condition, until these amendments are secured. And why? Because, say they, their adoption is necessary in order to secure the permanent ascendancy of the present dominant party, and if the people of these States are admitted to participation in the ratification of these amendments they will be defeated.

Sir, I wish as much as any one that the present dominant party may long control the administration of affairs in this country; they deserve to do so, and will do so if in their administration they act wisely and justly; but if the principle just indicated is persisted in and prevails, I ask you, what is your written Constitution worth, what the value of any guarantees that may or can be incorporated into it beyond their subserviency to party purposes? If the dominant party can keep the minority from participation in the affairs of the Government until the Constitution can be amended to their prejudice, from the day this principle becomes incorporated into the polity of our Government, the Constitution, instead of the chart of our liberties, becomes only an instrument of oppression, with which to bind more firmly the tyrannical will of a popular majority, by which the

rights of minorities are unknown or unrespected, and to be changed with each revolution of popular sentiment. Better, far better, abolish it at once, and let us look to the law, to custom, and to necessity for the landmarks to our liberties, than that it be prostituted to such base purposes. Besides, sir, without pretending to prophetic wisdom, the people of this country will never make a Constitution looking only to the interests of any party. They are loyal and yet national; looking to the interests of the country, and of the whole country, jealous of the rights of minorities and the provisions for their protection; remembering, from personal experience, that political or party ascendancy is among the uncertainties of this world. In a word, sir, the people are just, and will repudiate any party which attempts to trample upon these principles.

I have said that to restore the State governments which were overthrown by the rebellion was to reinstate them as they existed before overthrown, and in harmony with the constitutional amendment abolishing slavery. Acting upon this policy, let us see what guarantees can and would be required.

1. The applicant claiming a seat upon this floor must be loyal; and I would not accept *whitewashed* loyalty, or loyalty of a recent growth; he must have been loyal all the time—all the way through. He must be able to take, and must take, what is popularly known as "the test oath;" and I would not even accept that as conclusive, as barring further investigation, which might contradict the presumption raised by it. And I care not, so far as this question is concerned, whether the test oath be decided constitutional or unconstitutional; while it is a part of the law of the land, I would use it as a means of arriving at a knowledge of facts upon which the claims of the applicant should be decided. If it should cease to be law, I would arrive at a knowledge of the same facts by other means, and the result should be the same. No man, after the commission of treason against the United States, was ever admitted to a seat upon the floor of Congress; and no such one, with my sanction, ever shall be. And Congress has expelled members, after admission, for disloyalty, in the absence of overt acts which would support a prosecution for treason; and under similar circumstances, and for the same cause, I would sanction such action again.

2. I must know that the constituency from which the applicant comes is of sufficient loyalty to preserve or maintain, as against home disaffection, a republican State government in harmony with that of the United States, without the support of the military power of the country, and that his credentials are signed by a Governor constitutionally elected and administering such State government, which must no more recognize, as legal or binding, anything done in aid of the rebellion, than it did before the rebellion was inaugurated. Then each several application must stand upon its own individual merits.

Judging of the people of these States by this rule, from what is publicly or officially known of their condition, I should determine that it is not such as to entitle them, at present, to representation. They have been declared by proclamation of the Executive in rebellion—as waging war against the United States; and I am yet notified of no proclamation of peace, or that martial law has been superseded by civil in any or either of them. From what is known privately and unofficially of them I am of the opinion that some of them are in a condition to entitle them to representation; and that if an investigation of the facts proves their condition to be such as before indicated their loyal representatives should be permitted to qualify at the earliest day possible. I need not tell you that the condition of our country, especially with regard to our finances and in view of our foreign relations, demands that we be united at the earliest day practicable consistent with the public safety, which is always a paramount necessity. With regard, however, to the people of most of these States, I am free to say, that so far as I

am able to judge of their condition and of public sentiment in them, from the tone of their press, and the general character and antecedents of those recently elected to offices of honor and trust, they are far, very far indeed, from being what they were before the rebellion—of filling what I should consider prerequisites for the admission of their representatives; and until these prerequisites are met and satisfied, whether it be one year or ten years, or more, I would govern them by martial law and without representation; and if necessary to preserve the territory in the interest of loyalty—if the present population should prove incorrigible—I would sweep their landed estates from them by confiscation, and recolonize the country with loyal citizens. I am happy, however, to say that, in my opinion, a resort to such extreme measures will not be necessary; but at the same time I must say that restoration has been retarded, and the questions involved in it complicated, by permitting power to get too soon into the hands of *whitewashed* rebels, instead of placing it exclusively in the hands of Union men, and organizing upon them as a nucleus; the consequence of which is that they (the Union men) are now as much proscribed, if not actively persecuted, throughout the great portion of the South as they were during the rebellion. I would love just here to enter a plea for the Union men of the South, but must forego that pleasure for the present.

But I hear it said that we must reconstruct upon a basis which will forever preclude the possibility of another rebellion. I confess, however, my astonishment at the serious entertainment of such an idea. Why, sir, the Almighty himself cannot organize a Government with provisions or guarantees which shall preclude the possibility of a rebellion against it. The only guarantees against rebellion of which I am aware are—

1. To lodge within the Government the right to use all its resources to crush rebellion, which is an essential prerequisite, expressed or implied in every Government; and

2. A wise, just, and equitable administration of the Government by the party in power, by which the affections of the people are confirmed in favor of its preservation. Let it be administered in an oppressive and tyrannical manner, and so soon as sufficient numbers become estranged toward it in their affections, and fail of redress or justice through peaceable measures, so soon will they appeal to the God of battles; and guarantees—I care not what they are—will be thrown to the winds. I appeal to the history of the world, and of the Government of the universe, moral and political, in verification of the truth of this doctrine. All history proclaims it, and all men who have read intelligently know it.

I trust, sir, that the administration of this Government by "the party of the Union" will be so wise and so just as, first, to give the party favor with the people and thus long continue the administration of affairs in their hands, and second, to seal the affections of the people to the Government, by which, together with a little time and the social friction incident to American society, we may confidently hope and expect soon again to see the people of this great country united, not only in theory and by law, but in feeling, in sympathy, and in the great work of civil and religious liberty, of human progress in all its material interests, and of freedom, looking with increased veneration to the Constitution and Government of our fathers as the common guardian, and to the old flag as the emblem of all, and rejoicing again in the proud title of AMERICAN CITIZEN.

Mr. DEMING moved that the committee rise.

Mr. BLAINE. I ask the gentleman to withdraw it. I will occupy only ten minutes.

Mr. DEMING. I withdraw it.

BASIS OF REPRESENTATION.

Mr. BLAINE. Since the beginning of the present session, Mr. Chairman, we have had several propositions to amend the Federal Con-

stitution with respect to the basis of representation in Congress. These propositions have differed somewhat in phrase, but they all embrace substantially the one idea of making suffrage instead of population the basis of apportioning Representatives; or in other words, to give to the States in future a representation proportioned to their voters instead of their inhabitants.

The effect contemplated and intended by this change is perfectly well understood, and on all hands frankly avowed. It is to deprive the lately rebellious States of the unfair advantage of a large representation in this House, based on their colored population, so long as that population shall be denied political rights by the legislation of those States. The proposed constitutional amendment would simply say to those States, while you refuse to enfranchise your black population you shall have no representation based on their numbers; but admit them to civil and political rights and they shall at once be counted to your advantage in the apportionment of Representatives.

The direct object thus aimed at, as it respects the rebellious States, has been so generally approved that little thought seems to have been given to the incidental evils which the proposed constitutional amendment would inflict on a large portion of the loyal States—evils, in my judgment, so serious and alarming as to lead me to oppose the amendment in any form in which it has yet been presented. As an abstract proposition no one will deny that population is the true basis of representation; for women, children, and other non-voting classes may have as vital an interest in the legislation of the country as those who actually deposit the ballot. Indeed, the very amendment we are discussing implies that population is the true basis, inasmuch as the exclusion of the black people of the South from political rights has suggested this indirectly coercive mode of securing them those rights. Were the negroes to be enfranchised throughout the South to-day, no one would insist on the adoption of this amendment; and yet if the amendment shall be incorporated in the Federal Constitution its incidental evils will abide in the loyal States long after the direct evil which it aims to cure may have been eradicated in the southern States.

If voters instead of population shall be made the basis of representation certain results will follow, not fully appreciated perhaps by some who are now urgent for the change. I will confine my examination of these results to the nineteen free States whose statistics are presented in the census of 1860; and the very radical change which the new basis of representation would produce among and between those States forms the ground of my opposition to it. The ratio of voters to population differs very widely in different sections, varying in the States referred to from a minimum of *nineteen per cent.* to a maximum of *fifty-eight per cent.*, and the changes which this fact would work in the relative representation of certain States would be monstrous. For example, California has a population of 358,110, and Vermont 314,369, and each has three Representatives on this floor to-day. But California has 207,000 voters and Vermont has 87,000. Assuming voters as the basis of apportionment, and allowing to Vermont three Representatives, California would be entitled to eight. The great State of Ohio, with nearly seven times the population of California, would have but little more than two and a half times the number of Representatives; and New York, with quite eleven times the population of California, would have in the new style of apportionment less than five times as many members of this House. California it may be said presents an extreme case, but no more so than will continually recur for the next century under the stimulus to the emigration of young voters from the older States to the inviting fields of the Mississippi valley and the Pacific slope.

But cases less extreme than California will present quite as clearly the injurious working of the proposed change. Take two States—one

in the East and one in the West—not greatly differing in aggregate population, for example, Massachusetts and Indiana—the former with 1,221,482 inhabitants, the latter with 1,328,710. Massachusetts has to-day ten Representatives on this floor and Indiana has eleven; an exactly fair apportionment. But Massachusetts has only 227,429 voters, while Indiana has 316,824; and therefore on the new basis, if Massachusetts should retain her ten Representatives Indiana would be allowed about fifteen, and if Indiana should be confined to her eleven, Massachusetts would be reduced to seven. And I might adduce many other instances showing the gross inequalities of representation to which the proposed amendment would subject the loyal States.

Mr. STEVENS. Will the gentleman allow me to ask him a question?

Mr. BLAINE. Certainly.

Mr. STEVENS. What is the cause of this disparity of men and women in Massachusetts and in the New England States? Is it not that the men go to the western States as emigrants?

Mr. BLAINE. I suppose it is.

Mr. STEVENS. Very well; is not Massachusetts represented there; then?

Mr. BLAINE. Not according to some harangues we hear in this House from gentlemen representing that section on the tariff, as my distinguished friend on the Committee of Ways and Means knows very well. They go there, become identified with what they term western interests, and, I am sorry to say, attack New England and New England interests.

Mr. GRINNELL. Not all of them.

Mr. BLAINE. And there are other objections, Mr. Chairman, to the proposed constitutional amendment. Basing representation on voters—unless Congress should be empowered to define their qualifications—would tend to cheapen suffrage everywhere. There would be an unseemly scramble in all the States during each decade to increase by every means the number of voters, and all conservative restrictions, such as the requirement of reading and writing now enforced in some of the States, would be stricken down in a rash and reckless effort to procure an enlarged representation in the national councils. Foreigners would be invited to vote on a mere preliminary "declaration of intention," and the ballot, which cannot be too sacredly guarded, and which is the great and inestimable privilege of the American citizen, would be demoralized and disgraced everywhere.

And the worst feature of all is, that there is no need whatever of precipitating the evils I have referred to. The great end of depriving the South of the representation which is based on the colored population until that population is enfranchised, can be very readily secured without accompanying it with these offensive inequalities of representation among the loyal States. The Constitution may be amended so as to prevent the one evil without involving others of greater magnitude, and I venture to express the belief that the proposition submitted by me this morning, and on my motion referred to the committee on reconstruction, will, if adopted, secure the desired result. Let me briefly explain that proposition.

The Constitution of the United States, article one, section two, clause three, reads as follows to the first period:

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by (adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons.)"

The portion which I have included in parentheses has become meaningless and nugatory by the adoption of the constitutional amendment, which abolishes the distinction between "free persons" and "all other persons," and being thus a dead letter might as well be formally struck out; and in its stead I propose to insert the words following included in parentheses, so that the clause as amended will read thus:

"Representatives and direct taxes shall be apportioned among the several States which may be in-

cluded within this Union according to their respective numbers, which shall be determined by *(taking the whole number of persons except those to whom civil or political rights or privileges are denied or abridged by the constitution or laws of any State on account of race or color.)*"

This is a very simple and very direct way, it seems to me, of reaching the result aimed at without embarrassment to any other question or interest. It leaves population as heretofore the basis of representation, does not disturb in any manner the harmonious relations of the loyal States, and it conclusively deprives the southern States of all representation in Congress on account of the colored population so long as those States may choose to abridge or deny to that population the political rights and privileges accorded to others. The adoption of this amendment as a part of the Federal Constitution would, I venture to predict, secure the right of suffrage to the colored population throughout the South in a very few years. And I doubt if in any other mode that right can be secured so speedily, so certainly, and so enduringly.

RECONSTRUCTION.

Mr. SHELLABARGER. Mr. Chairman, I shall inquire whether the Constitution deals with States. I shall discuss the question whether an organized rebellion against a Government is an organized "State" in that Government; whether that which cannot become a "State" until all its officers have sworn to support the Constitution, *remains* a State after they have all sworn to overthrow that Constitution; and if I find it does continue to be a State after that, then I shall strive to ascertain whether it will so continue to be a government, a State, after, by means of universal treason, it has ceased to have any constitution, laws, Legislature, courts, or citizens in it.

If in debating these questions I debate axioms, my apology is that there are no other questions to debate in "reconstruction." If in the discussion I make self-evident things obscure or incomprehensible, my defense shall be that I am conforming to the usages of Congress.

I will not inquire whether any subject of this Government, by reason of the revolt, passed from under its sovereignty or ceased to owe it allegiance, nor whether any territory passed from under that jurisdiction, because I know of no one who thinks that any of these things did occur. I shall not consider whether, by the rebellion, any State lost its territorial character or defined boundaries or subdivisions, for I know of no one who would obliterate these geographical qualities of the States.

These questions, however much discussed, are in no practical sense before Congress.

WHAT IS BEFORE CONGRESS.

What is before this Congress—by far the most momentous constitutional question ever here considered—I at once condense and affirm in a single sentence.

It is under our Constitution possible to, and the late rebellion did in fact so, overthrow and usurp in the insurrectionary States the loyal State governments as that, during such usurpation, such States and their people ceased to have any of the rights or powers of government as States of this Union; and this loss of the rights and powers of government was such that the United States may and ought to assume and exercise local powers of the lost State governments, and may control the readmission of such States to their powers of government in this Union, subject to and in accordance with the obligation to "guaranty to each State a republican form of government."

This great question I proceed to consider.

WHAT, BY THE LAW OF NATIONS, IS A STATE?

At the very foundation of this discussion lies the question, what make up the necessary elements of every State in this Union? What properties are they which, if any one be lost by a State, it ceases to be entitled to exercise the powers and demand the rights of a political and governing member of that Union?

The argument I now derive from "public law" is really identical with the one I shall

next adduce, and shall base upon the express terms of the Constitution. In this argument—assuming, as I do, two axioms of our law; first, that the law of nations is part of your Constitution, (Const., art. 1, sec. 8, clause 10,) and second, that such Constitution is to *its* States, at least, as much "supreme law" as the international code is law to the civilized States which are under its sway—I here only show that these law-defying communities in rebellion cannot be "States," unless our Union has lowered and debased the world's "legal idea" of a "State."

What, then, is required to constitute a State by the law of nations?

We answer:

1. "A fixed abode and definite territory belonging to the people who occupy it." (Wheaton, 33.)

2. "A society of men united together for the purpose of promoting their mutual safety and advantage by their combined strength." (*Ib.* 32.)

3. "The legal idea of a State, necessarily implies that of habitual obedience of its members to those in whom the superiority is vested." (*Ib.* 33.)

This third necessary element of a State is the only important one in this discussion. Hence, I add the following high authorities:

Grotius, (book 3, chapter 3, section 2,) says: "The law, especially that of nations, is in the State as the soul is in that of the human body, for that being taken away it ceases to be a State."

Burlamaqui, (volume 2, page 25,) in defining a State says:

"It is a multitude of people united together by a common interest and common laws, to which they submit with one accord."

I might add to these all the writers on public law for centuries, in confirmation of what is self-evident without proof, that there can be no State where the people do not habitually obey the laws. For four hundred years the unanimous conscience and common sense of the civilized world has refused to recognize the existence of a people who were habitually disobedient to their own laws, or the law of nations. Such a people is blotted out.

Now, surely, if habitual obedience to law "was necessary to the legal idea of a State," even under the vague and general precepts of the international code, it will not be insisted that habitual, persistent, and universal disobedience will be tolerated by the well-defined, express, and rigorous provisions of the American Constitution in the citizens of one of its States.

Shall that position be tolerated which admits that the law of nations will expel from its union and blot from existence an habitually lawless people, and yet the law of our Union permits such a State to govern it? Shall a Union, whose Constitution and laws in every single great attribute of national sovereignty are the supreme law of these States and their people, recognize and be ruled by a people who unanimously, habitually, persistently, and for years disobey and defy these laws?

Can it be that for four centuries the united conscience and judgment of the civilized world shall prohibit the existence upon the earth of such a monster as a State whose people are habitually lawless, and then shall it be left for our "more perfect Union" to establish "States," which, although they cannot *commence* their existence until every officer and minister of that State shall swear to support the Constitution of the United States, as the supreme law of the land, yet shall *continue* to be States after every officer of such State had discarded such oath, and every inhabitant had, for years, defied and discarded these "supreme laws?"

In the lights of the public law of the world let this Congress answer the startling question, whether an organized rebellion has come to be an organized "State;" whether "habitual" treason has come to be "habitual obedience to law;" and whether the legal "idea of a State" has come to be a synonym for chaos, in which are commingled, in unalleviated political ruin, the absolute overthrow of all its "supreme laws," the wreck of all loyal constitutions, laws, and forms of government, and the death

or exile of every inhabitant who admitted the existence of such loyal State!

Surely, Mr. Chairman, it is not too much to say that even under the settled precepts of public law those eleven districts, called "confederate States," ceased to be States. In them, during so many dark years, there was no obedience to law except the law which compelled the defiance of all "supreme laws;" there was no government except that one which consisted in enforcing disloyalty to Government; there was no observance of the "law of nations," unless that is to be found in indiscriminate and remorseless assassination or murder of every loyal man whom their treason could reach either by means of the dagger, the torpedo, the poisoned food, the bandit, the violations of truce, or the systematized destruction of prisoners of war. Their body-politic was one gigantic treason, made up of eleven organized rebellions, combined into one by the force of a relentless military despotism.

But, sir, the unexampled magnitude of these interests involved impel me on to what are, if possible, more conclusive arguments. I go from the public law to the Constitution.

WHAT IS A STATE OF THIS UNION?

Now we proceed to inquire what, if anything more, is required to make a State of this Union than is requisite to constitute a State under the law of nations. Brazil is a State, but is not a State of this Union. That which is required to be added to the properties which belong to every State, in the sense of the international law, in order to constitute a State of our Union, is—

1. Its citizens must owe, acknowledge, and render supreme and habitual allegiance and obedience to the Constitution, laws, and treaties of the United States in all Federal matters, these being the supreme laws to the States and their citizens. (Constitution, article 6.)

2. All "the members of the State Legislatures, and its executive and judicial officers, shall be bound by oath or affirmation to support the Constitution" of the United States. (Article 6.)

3. That the United States shall have so "admitted it into this Union" (article 5, section 3) as to have assumed "to guaranty to it a republican form of government, and to protect it against invasion, and," on application, "against domestic violence."

4. And by such recognition and "admission into this Union" to have secured to it, as a body-politic, or "State," certain rights of participation in the control of the Federal Government; which rights I shall name hereafter. (See also 1 Bishop on Criminal Law, sections 128 to 137, inclusive.)

No one who can read the Constitution will deny that each State in this Union must have every one of these properties before it can *commence* to exist in the Union; because the Constitution so declares. Now the question I consider is, whether it shall *continue* to be a State, in the sense that it holds the powers and rights of a State, after it has lost every property which it must have before it could *commence* to exist in the Union.

DOES THE CONSTITUTION DEAL WITH STATES?

The gentleman from New York [Mr. RAYMOND] says:

"The Constitution does not deal with States except in one or two instances, as the election of members of Congress and the election of electors of President and Vice President."

This statement involves an error both of fact and law which, considering its highly intelligent and patriotic source, is amazing. Now, sir, reading English will correct this error. Turn to the Constitution. It deals with States, in the way of imposing restraints and obligations upon them as States, in the following matters: regulating commerce among the States; requiring Representatives, also United States Senators, to reside in their respective States; prohibiting States from entering into any treaty, alliance, or confederation, coining money, emitting bills of credit, making anything but gold and silver coin a tender for debt; passing any bill of at-

tainer, *ex post facto* law, or law impairing the obligation of contracts; from taxing imports or exports without consent of Congress; from laying tonnage duty; from keeping troops or ships of war in time of peace; from entering into any compact with another State or foreign Power; from engaging in war unless invaded or in imminent danger thereof; from refusing to give full faith to records, &c., of other States; from refusing to surrender fugitives from justice or labor; in requiring States to be tried in the courts of the United States; requiring all their officers to take an oath to support the Constitution; requiring them to pay State's proportion of direct taxes; in prohibiting "either" State from conferring any other emolument upon the President than his salary; in requiring them to furnish, at command of the President, their militia; and in subordinating their "judges," "constitutions," and "laws" to the Constitution, laws, and treaties of the United States as "the supreme law of the land."

It secures rights and confers powers upon the States as States in each of the following respects. It secures to each the right to elect at least one Representative, to elect two Senators, to cast one vote in ratifying constitutional amendments, and in calling a convention to make such amendments; to cast one vote in electing a President in the House, to appoint in such manner as the Legislature thereof may direct electors to elect a President and Vice President, to fill by appointment vacancies in Congress, to demand that "in the regulation of commerce no preference shall be given to the ports of one State over those of another," in securing equal immunities to their respective citizens, in having guaranties to them republican governments, in being protected against insurrection and domestic violence, in securing them from being divided, &c., and in enabling them to define the qualification of electors for United States officers by fixing that of the most numerous branch of the State Legislatures.

My object, Mr. Chairman, in reciting these fifty or more supremely important provisions of the Constitution, in every one of which it is evident, both by the nature and express terms of the provisions themselves, and by the innumerable adjudications of the courts, that the Constitution "deals with" the States, as such, was not the frivolous one of showing that there were more than "one or two" of these. My purpose was the higher one of showing how baseless that argument was which was based upon the assertion that the Constitution did not deal with States but individuals only, and that, therefore, not the States, but only individuals could lose their rights under such Constitution. I wanted not only to show the argument baseless but that its precise opposite is the exact truth. I wanted to show that the very body, soul, life, and essence of the Constitution is penetrated, pervaded, and characterized by and with this recognition of the States, and of their high powers as such. I wanted to bring into view the momentous and controlling fact which disposes of this high constitutional question, that the States are not only "dealt with" by the Constitution, but that their powers as States in our Government are absolutely vital. And I separated the obligations and restraints imposed upon the States and their officers from the conferments of rights and powers upon them, that it might appear to all men and to the very children who can read their Constitution, that, in this marvelous great scheme of Government, as in every other wise human Government, as well as in God's, the enforcements of obligation are coupled with and inseparable from the enjoyment of rights; that prescribed qualifications for the attainment of power must be possessed and proceed, and are inseparable, from the exercise of power. I wanted to show that there could be, under the Constitution, none of the rights or powers of a State where there were recognized none of the obligations or duties of a State.

Sir, how long may this nation survive with a Senate elected by rebel Legislatures; or with treaties made by Senators chosen by rebel

States; or with a President selected by electors chosen by the Legislature of South Carolina; or with a President elected in a House of Representatives where each rebel State casts one vote; or with a House of Representatives elected by electors whom a rebel legislature would authorize to vote; or with officers over United States forces appointed by rebel governors; or with such constitutional amendments as would be ratified by rebel legislatures; or with a traitor for President whom you could only remove by the impeachment of a Senate elected by rebel legislatures; or with such foreign ministers and other officers of the United States as such a Senate would confirm; or with a prohibition upon your closing the ports of the eleven rebel States to a commerce supplying them with all the supplies of war, unless you also closed all the ports of the other States?

Sir, if the recital of these powers which the States, as such, hold in governing this Union, does not prove that a State in rebellion, and whose government and people are in actual hostility to the United States, is not a component part of this Union, during the continuance of such rebellion, for the purpose of exercising *any* power, then such recital does prove other things. It proves that "Independence Hall" was a mad-house from the 14th of May to the 17th of September, 1787; and that the madmen there succeeded in devising a framework of Government embodying in it a larger number of separate and fatal instruments of self-slaughter than was ever combined in a Government before, or than was ever dreamed by men who make Utopias, or by them who form governments in Bedlam.

CONGRESS HAS ASSUMED THAT REBEL STATES HAD NO RIGHTS AS STATES.

I admit that the action of this Government was not, at all times during the war, harmonious nor consistent upon the matter of according rights to rebel districts. It would have been strange, indeed, if all such action, done, as it was, in the midst of the awful events of such wars, revolutions, and breakings up of the systems of governments, had been consistent upon any subject. Besides, as mere measures of war, there was constant temptation to err, if at all, in the direction of according to loyalty in the insurrectionary districts every possible protection and power, to the end that it might be developed into support of a Government staggering to its fall under the blows of treason.

But still the most solemn and deliberate action of your Government in all its departments, and recently all its actions, proceeds upon the assumption that these rebel States had lost all the rights of States.

Among these acts may be mentioned those of July 13, 1861, and 30th of same month. These have been held to be acts "regulating commerce," (11 American Law Register, 419,) and they close the ports of the rebel States to all commerce and capture their ships upon the seas. And yet if these southern ports were ports of States having the rights of States, you could not only not close them "in regulating commerce," but you could give no port any preference over them. Again, in every revenue and tariff act which you passed in regulating commerce and the revenue since the war began, you have not only "given preferences" against the southern ports, but you have provided for their being totally shut to all commerce. Could you provide in a tariff bill that the ports of New York shall be open, and those of Massachusetts closed?

These are only examples.

POSITION OF THE PRESIDENT.

The President has assumed that the rebel States ceased to be States in the sense I am considering.

Jefferson Davis was captured May 9, 1865; and the last army of the rebellion was surrendered by Kirby Smith to General Canby, 26th of May, 1865. Then the military power of the rebellion was extinct, and actual war was ended, and the necessity for resort to mere war powers and expedients ceased. Then, too, the

laws and constitutions and powers of State governments of these States sprang into life and force if they were only put into abeyance by the war and could all come back into life and force when the war was gone.

On the 29th of May, 1865, these old State constitutions had either come to be in force or they had not. If they were in force at all, then all their provisions were in force and binding, just as much as New York's constitution was; and could only be changed in the mode prescribed by themselves. Is it competent for the United States to order New York to call a convention and change her constitution? Is it competent for the United States to order it changed in a way in total disregard to the modes of amendment which it prescribes as the only ones by which it can be amended?

Now what has happened in these rebel States? Take one example as a specimen of all. On the 29th of May, 1865, President Johnson issued a proclamation appointing Holden provisional governor of North Carolina, and ordered him, under prescribed rules, to call a convention for "altering or amending the constitution of North Carolina," &c. But then that constitution of North Carolina prescribes how alone it can be altered. This mode is by bill read three times and voted for by three fifths of the members of each branch of the Legislature; then this bill must be published for six months before the election of the next Legislature; then the next Legislature, by a two-thirds vote in both Houses, must again approve the amendment; and then it must be approved by a majority of the voters of the State; and then it is part of the constitution. The convention ordered by the President is wholly unknown to and in violation of the old constitution; and if it was in force at all on the 29th of May, it could no more be altered in that way than the constitution of England could. He ordered a convention, he directed who should vote, who should be eligible to sit in the convention, and what oath they should take; every one of which orders would have been in flagrant disregard of the constitution and laws of North Carolina, if, on that day, she had any.

Precisely the same thing, in principle, has occurred in every rebel State except, perhaps, three. By presidential proclamations new governments have been professedly called into existence since the war was ended, and since the old constitutions and laws were revived out of abeyance, if they did revive. In every one the new constitutions and governments have been formed in almost total disregard of the provisions of the constitutions which they profess to amend. Now, it is exactly impossible to comprehend the action of the Executive except upon the assumption that these State constitutions and their governments had not revived so as to control the methods of their own amendment.

No, no, Mr. Chairman, the President himself tells the country, in the notable words of his proclamation, where it is that he deems that he gets this power to order States into existence. His words are, "Whereas the fourth section of the fourth article of the Constitution of the United States declares that the United States shall guaranty to every State in the Union a republican form of government, I, Andrew Johnson, President and Commander-in-Chief," &c. Sir, here is an unmistakable avowal of the source of his power and of the cause that called that power forth. If the old government and constitution of North Carolina had in fact come back to her out of the suspended animation which the rebellion had caused, then she on this 29th day of May already had a republican constitution, and it needed no alterations to make it republican nor to guaranty one to her.

Sir, let me not be misunderstood. I am not pointing to these acts of the President as wrong, but to show that the President has dealt with this great question precisely in the view I maintain, to wit, that these old State governments were so effectually overthrown that they do not come into force at the end of the war so as to

furnish the basis of republican governments to these States; and that it has become the business of the United States to guaranty such governments to them. They attack the President who hold that in these acts of the Executive, in creating new constitutions, he did so in violation and disregard of living constitutions and republican governments already there. I do not attack him. If, indeed, these old State constitutions had, on the 29th of May, 1865, resumed their sway over these States, as the new champions of the President in this House allege, then indeed has the man they champion, in disregarding and superseding these constitutions, become usurper. Well may the patriotic executive head of this nation repeat once more the chronic prayer which, in all ages, weak adulation has extorted from men in power, "Deliver me from my friends."

SUPREME COURT'S POSITION.

But I go on. I now show that the third or judicial branch of the Government is, by solemn and unanimous judgments, twice repeated, committed, in principle, to the same exact conclusions.

But in presenting these high arguments—the judgments of the Supreme Court—let me make them at once serve the double end of making utterly conclusive and complete the position that a State may cease to have the governing rights of States by reason of rebellion, and of also answering what is urged so much as to the logical and practical consequences of that position.

An able statement of these objections has been laid on our table. Their effect is—

1. That it admits that a State may secede.
2. That, as a consequence of this, Jefferson Davis cannot be punished for treason any more than the Governor of Canada could be.
3. That if we admit the rebels "were to be regarded as belligerents," then when we take them back we become liable for their debts.
4. That individuals and not the States forfeit their rights by treason.

In enforcing these objections my friend from New York [Mr. RAYMOND] says:

"If they were out of the Union, when did they become so? They were once States in the Union. If they went out of the Union it was at some specific time and by some specific act."

Before the Supreme Court shall be made to answer, as it will, each one of these objections, permit me, Mr. Chairman, to allude to them; and first to this question about the "specific act," which the gentleman from New York [Mr. RAYMOND] asks. In respectfully answering his let me ask and answer some questions of similar legal aspect.

I ask when and by what specific act does "tumult" become "war" in law? I answer, in the language of Chief Justice Marshall, when it, in fact, assumes "warlike array and strength." What in a civil war is the specific act and time which changes, in law, an "insurrectionary party" into a "belligerent?" I answer, in the language of the Supreme Court, when in fact "the regular course of justice is interrupted by revolt, rebellion, or insurrection, so that the courts of justice cannot be kept open." When, in law, does a revolt become civil war? I answer, in the language of Wheaton, when "the insurrection becomes, in fact, so strong as no longer to obey the sovereign, and to be able by war to make head against him." When, in law, and by what specific act, did the entire population of Virginia, including the loyal men, cease to be "friends," and become "enemies of the United States?" I answer, when, in fact, they became "belligerents."

If these answers by the highest authorities in the world do not still answer what "specific act" deprived South Carolina of every right and power of a State, then I further answer him that it was that specific act which turned her citizens into traitors, took from her the loyal courts, statutes, Constitution, tribunals, officers, and Legislature, and which filled their places with treason and kept it there. And if the gentleman still desires to know the specific time when this happened, it will answer all the purposes of my argument to reply that it happened

about four years before the time when he has told us it did, to wit, before she "surrendered." The destruction and superseding of all loyal government and law in South Carolina was a fact, not a law. It was this fearful "fact" which made her cease to be a State governing this Union, and not any ordinance of secession.

The distinguished gentleman to whom I have alluded states the fourth objection which I have named in these words:

"The people of a State may, by treason, forfeit their rights, but in a legal point of view they have no power to affect the condition of a State in the Union."

That is, turned out of metaphysics into English, every inhabitant of a State may, by treason, come to have no political rights or powers whatever as individuals except the right to be hung; but the same individuals, put into a bundle and called a body-politic or State, have all political rights and powers, and can govern this Union! Now, a plain man would have difficulty in being able to see a living, acting, ruling State where there was no constitution, court, or law, and where there were no inhabitants, all these having been hung for treason. Such a man would be dull enough to conclude that if you hung for treason all the people required to make up the body-politic called a State the State would at least be in affliction.

But, Mr. Chairman, it was unfortunate for this distinction between the political State and its people that it has repeatedly encountered the ordeal of the Supreme Court and has been utterly discarded by it.

In 3 Dallas, 93, that court says:

"A distinction is taken at bar between a State and the people of a State. It is a distinction I am not capable of comprehending. By a State forming a republic, (speaking of it as a moral person,) I do not mean the Legislature of the State, the Executive of the State, or the judiciary, but all the citizens which compose the State, and are, if I may so express myself, integral parts of it, all together forming a body-politic."

The same repudiation of a distinction between a body-politic and its individual members is in the "Prize Cases" hereafter cited.

Two years before the objections I have quoted were so ably uttered, they had been pressed, with learning, zeal, and ability equal to his, upon the consideration of the Supreme Court in these "Prize Cases," (2 Black, 635,) and had been discarded unanimously by that court, nine judges sitting, including Taney. I say it was unanimous because all the court agree that after the passage of the act of Congress of 13th July, 1861, recognizing the existence of the war, every inhabitant of the rebel States became "enemies" of the United States and "belligerents."

I affirm that the reasoning and judgment of this case settle and establish each one of the following propositions:

1. From the seventh paragraph of the Syllabus (page 636) I quote and affirm that the late "civil war between the United States and the so-called confederate States," had "such character and magnitude as to give the United States the same rights and powers which they might exercise in the case of a foreign war."

2. From the ninth paragraph of the same Syllabus I quote and affirm that "all persons residing within the territory occupied by the hostile (rebel) party in this contest were liable to be treated as enemies though not foreigners."

3. I affirm again, quoting from the opinion of the court (page 673) that "it is a proposition never doubted that the belligerent party who claims to be sovereign may exercise both belligerent and sovereign rights."

4. I affirm that precisely the same objection was urged in this case as those I have quoted; and were stated by the court in these words, "that insurrection is the act of individuals and not of the government or sovereignty," and "that the individuals engaged are the subjects of law," and "that secession ordinances are nullities and ineffectual to release any citizen from his allegiance."

To these objections the Supreme Court replies:

"This argument rests on the assumption of two propositions, each of which is without foundation

upon the established law of nations. It assumes that where a civil war exists the party belligerent claiming to be sovereign cannot, for some unknown reason, exercise the rights of belligerents, though the revolutionary party may."

Again the court replies to those objections in the following words, the court italicizing the words:

"In organizing this rebellion they have acted as States claiming to be sovereign over all persons and property."

In December, 1865, the ten judges (2 Wallace, 404) unanimously decided the same thing; that all the inhabitants, guilty and innocent, became belligerents and "enemies" of these United States.

The results of these two decisions are that these rebel States;

1. Acted as States in organizing the rebellion.
2. That all their citizens, innocent and guilty, were thereby made "enemies of the United States."
3. That though they became "enemies" that did not make them "foreign" States so as that when we take them back we must pay their debts.
4. That, as the court decides that the United States may exercise over these people both "belligerent" and "sovereign" rights, therefore we may, as sovereign, try Davis for treason, although we did treat and hold these States as an "enemy's" country.
5. As these States became "enemies" territory, and all persons residing within it became "enemies of the United States," they cannot at the same time have been a people having any political rights to govern in this Union, unless indeed this Union can be governed by a body of people, every one of whom are held by its law to be the "public enemies of the United States."

Mr. DEMING. I would respectfully ask my friend from Ohio if he has any authorities on his minutes for the purpose of vindicating the position that the sovereign in a civil war may exercise both sovereign and belligerent rights?

Mr. SHELLABARGER. If I understand the exact legal purport of the question asked by the distinguished gentleman, (and in reference to pure legal questions he knows as a lawyer right well that he who speaks on legal questions must talk well or not talk at all,) I answer that I find authority in the prize cases to which I allude, that a sovereign may exercise both belligerent and sovereign rights.

Mr. DEMING. I recognize the force of the decisions in the prize cases, but I appeal to my friend for the purpose of ascertaining whether he has fortified that opinion which he expresses, that in a civil war the sovereign may exercise sovereign as well as belligerent rights, outside of the authorities quoted in the prize cases.

Mr. SHELLABARGER. I now apprehend the question of the gentleman, and I thank him for asking it, for it furnishes me an opportunity of saying that I have looked through the authorities on this subject, and in the modern and respectable authorities of the world I find no dissenting voice. The doctrine will be found not only in the text and notes of Wheaton, but in Vattel, in Ward, in Halleck, and Bello.

Mr. DEMING. I would ask my friend if he has looked over the notes in Lawrence's Wheaton for the purpose of seeing the conflicting authorities which Lawrence there quotes on this specific point; that is to say, in a civil war it is incompetent for the sovereign to exercise both civil and belligerent rights.

Mr. SHELLABARGER. I answer the gentleman that I have looked through those notes carefully and thoroughly, and that while, if my memory is not now at fault, I find some unimportant conflict of authority, I do not find any conflict that at all impairs the force of settled law as established in the prize cases.

Sir, it is a weak and inadequate statement of the truth to say that he mocks the law, offends the loyal sense of the people, and insults their common sense who affirms that that people or those States had any rights of government in this Union, every man, woman, and child of whom have been pronounced by two unanimous judgments of the Supreme Court of the Republic to be, in contemplation of the supreme law

of that Republic and of the law of nations, the public enemies of the United States.

Does the gentleman yet ask for "the specific act" that deprived these States of all the rights of States, and made them "enemies"? I once more answer him in the words of the Supreme Court that the specific acts were, they causelessly waged against their own Government a "war which all the world acknowledge to have been the greatest civil war known in the history of the human race." That war was waged by these people "as States," and it went through long, dreary years. In it they threw off and defied the authority of your Constitution, laws, and Government; they obliterated from their State constitutions and laws every vestige of recognition of your Government; they discarded all official oaths, and took in their places oaths to support your enemy's government. They seized, in their States, all the nation's property; their Senators and Representatives in your Congress insulted, bantered, defied, and then left you; they expelled from their land or assassinated every inhabitant of known loyalty; they betrayed and surrendered your armies; they passed sequestration and other acts in flagitious violation of the law of nations, making every citizen of the United States an alien enemy, and placing in the treasury of their rebellion all money and property due such citizens. They framed iniquity and universal murder into law. They besieged, for years, your capital, and sent your bleeding armies, in rout, back here upon the very sanctuaries of your national power. Their pirates burned your unarmed commerce upon every sea. They carved the bones of your unburied heroes into ornaments, and drank from goblets made out of their skulls. They poisoned your fountains, put mines under your soldiers' prisons; organized bands whose leaders were concealed in your homes, and whose commissions ordered the torch and yellow fever to be carried to your cities, and to your women and children. They planned one universal bonfire of the North from Lake Ontario to the Missouri. They murdered by systems of starvation and exposure sixty thousand of your sons, as brave and heroic as ever martyrs were. They destroyed in the five years of horrid war another army so large that it would reach almost around the globe in marching columns; and then to give to the infernal drama a fitting close, and to concentrate into one crime all that is criminal in crime, and all that is detestable in barbarism, they killed the President of the United States.

Mr. Chairman, I allude to these horrid events of the recent past not to revive frightful memories, or to bring back the impulses toward the perpetual severance of this people which they provoke. I allude to them to remind us how utter was the overthrow and obliteration of all government, divine and human; how total was the wreck of all constitutions and laws, political, civil, and international. I allude to them to condense their monstrous enormities of guilt into one crime, and to point the gentleman from New York [Mr. RAYMOND] to it, and to tell him that was "the specific act."

Now, Mr. Chairman, if the combined forces of the Constitution and the Public Law, the obvious dictates of reason, justice, and common sense, and these enforced by the approval of repeated and unanimous judgments of the Supreme Court can settle for our own Government any principle of its law, then it is established that organized rebellions are not "States," and that these eleven distinct political treasons, which they organized into one, and called it "the confederate States," had no powers or rights as States of this Union, nor had the people thereof.

RESTORATION OF THE STATES.

If these States lost their powers and rights as States, by what authority and means are they restored? Is it accomplished by mere cessation of war and the determination of the rebel inhabitants to resume the powers of States; or is this Government entitled to take jurisdiction over the time and manner of their return?

I hold that the latter is the obvious truth.

Let it be admitted that these rebel districts may, without the assent of the United States, and without regard to the state of their loyalty, resume, at pleasure, all the powers of States—this Government having no jurisdiction to determine upon the question of their loyalty or the republican character of the new State governments—then we have this result.

There were, during the first years of the war, twenty-three rebel Senators, including Breckinridge and another. That was more than one third of the Senate. These twenty-three in the Senate are enough to deprive the United States of all power ever to make a treaty, or to expel a member from the Senate, or to remove from office by impeachment a rebel Secretary of War like Floyd, or a rebel Secretary of the Treasury like Cobb, or a rebel United States judge like Humphreys, or an imbecile President who thought secession unconstitutional, and its prevention equally unconstitutional, like Buchanan. How long, sir, could your Government survive with such a Senate, one third rebel? How long can you live deprived of these powers vital to every Government? Not a week, sir.

But, Mr. Chairman, this is precisely what might have occurred at any day during this rebellion if cessation of war entitles the revolted States to resume the powers of States in defiance of the will of this Government; and it is precisely what may occur to-day if these States be indeed disloyal yet at heart. If, after exhausting "all the resources of war" for the overthrow of the Government, and failing, it is, indeed, competent for them to abandon these resources, and resort to "the resources of statesmanship," and resume at once the high powers of States in the Union, without the assent of such Government, then there has not been an hour since the rebellion began, and the hour is not now, in which this Government has not literally been in the power and at the mercy of the rebellion.

Is it replied to what has been said in regard to the power for mischief of disloyal Senators in the case which I have stated, expel them? the reply is vain, because the same twenty-three who can prevent any impeachment or the formation of any treaty are also enough to prevent any expulsion under the Constitution.

Is it again replied, exclude these rebels from the Senate under the clause making each House the judge of the elections and qualifications of its members? the reply is obviously frivolous.

[Here the hammer fell.]

Mr. LE BLOND moved that the time be extended.

The motion was agreed to.

Mr. SHELLABARGER. Permit me to express my profound gratitude for this indulgence, on which I will not long trespass.

1. If under this clause you may exclude a Senator duly elected and qualified in every other respect and sense than that he comes from and is elected by disloyal States, then you yield the whole argument, and accord to this Government all the powers of self-preservation which I am insisting upon. The difference is that you find the power of self-protection under a clause by which each House is compelled to judge separately of the election and qualification of its members; and hence you occupy a position where you may have twenty-four States in the Union, in the Senate; thirty-four in the Union, in the House; and Heaven knows how many in the Union for electing a President.

2. If you reply, I will reject these twenty-three rebel Senators, not because their States can elect none, but because they are "rebels," in the case you put; the reply is vain. When Mason, Slidell, Davis, and Breckinridge last took their seats in your Senate, who knew, or could have proved, that they came there to embarrass and destroy your Government? Could either have been excluded from any known or ascertainable personal disqualification?

No, Mr. Chairman, there is no escape. If the United States has no power to decide, as a great and sovereign people acting through their

Government, what shall be a "State" in her high Union, and cannot determine when, out of the wreck and ruin of old States, have been formed new republican States, based upon the only foundations upon which a republican State of this Union can be built, that of the general consent and loyalty of its people, then indeed is your Government not so much as "a rope of sand." It is a monster compelled by the organic law of its life to terminate that life by self-slaughter.

But, sir, such is not the law of its life. I have already shown that the President has discarded such conclusions. I now invoke the authority of the highest court of the Republic, and by that I show that it has decided this question also.

I state the effect of this decision in the language of a distinguished law author (see 1 Bishop, Crim. Law, sec. 133.) He says:

"It has been settled by adjudication that it is for the President and the two Houses of Congress to decide whether a particular government within a State is republican or not; and to recognize it if it is, and to refuse to recognize it if it is not, and the adjudication of the matter by them is conclusive and binds the courts and the nation. It is not therefore for any class of persons in a State which has ceased to have a government to set up a government of their own."

The language of the court is, (7 Howard, 42 and 43:)

"Under this article of the Constitution it rests with Congress to decide which government 'of the two set up in Rhode Island' is the established one, for as the United States guarantees to each State a republican government, Congress must necessarily determine what government is established in a State before it can decide whether it is republican or not. When the Senators and Representatives of a State are admitted into the councils of the Union the authority of the government under which they are appointed is recognized by the proper constitutional authority. And its decision is binding on every other department of the Government."

"Undoubtedly a military government established as the permanent government of the State, would not be a republican government, and it would be the duty of Congress to overthrow it."

Mr. Chairman, here I must close.

If it is asked me now, granting your position that these States in revolt ceased to have any powers of government in the Union, still have not new ones been reorganized safe and fit to resume these high powers? I answer, sir, the question, "is it safe, and are they fit," are the stupendous facts now on trial by the American Congress. It was the whole end of the feeble argument which I have concluded to vindicate my Government's power to take jurisdiction of this inquest and hold this trial.

But if I am demanded by what standard of fitness, and what guarantees for safety, Congress shall decide these great facts now on trial, it will serve all the purposes of this argument and this hour to reply that in the true and high sense and spirit of the memorable words of the President of the United States I find a fitting answer. He says:

"No State can be regarded as thoroughly organized, which has not adopted irreversible guarantees for the rights of the freedmen."

Mr. Chairman, let this noble utterance—"irreversible guarantees for the rights" of American citizens of every race and condition—be written with pen of iron and point of diamond in your Constitution. Let it thus be made "irreversible" indeed, by the action of the State, in the only way it can be made irreversible; and then, to establish this and every other guarantee of the Constitution upon the only sure foundation of a free republic—the equality of the people and of the States—make, by the same organic law, every elector in the Union absolutely equal in his right of representation in that renovated Union, and I am content.

Let the revolted States base their republican State governments upon a general and sincere loyalty of the people and come to us under the guarantees of this renewed Union, and we hail their coming and the hour that brings them.

If you ask again, "Suppose such general loyalty should never reappear, shall they be dependencies forever?"

Sir, convince me that the case is supposable, then with deepest sorrow I answer—FOREVER!

Mr. DEMING obtained the floor, and moved that the committee arise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WASHBURN, of Illinois, reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the annual message of the President of the United States, and had come to no conclusion thereon.

And then, on motion of Mr. DEMING, (at four o'clock p. m.) the House adjourned.

IN SENATE.

TUESDAY, January 9, 1866.

Prayer by Rev. C. B. BOXTON, Chaplain to the House of Representatives.

The Journal of yesterday was read and approved.

CHIEF CLERK OF THE SENATE.

The PRESIDENT *pro tempore*. Petitions and memorials are in order.

Mr. FOOT. I offer a resolution which, as it pertains to completing the organization of the Senate, will take precedence, and I ask that it may be acted upon at the present time.

There being no objection, the resolution was considered by unanimous consent, and agreed to, as follows:

Resolved, That William J. McDonald be, and he is hereby, appointed Chief Clerk, in the place of William Hickey, deceased.

PETITIONS AND MEMORIALS.

Mr. SUMNER. I offer a petition from clerks in the Department of State, and signed by all of them, in which they set forth, that owing to the increased expense of living and the depreciation of the currency, they find it difficult to live on the salaries which they have been allowed heretofore; that last year there was an additional compensation granted to the clerks in the Treasury Department; that they have not shared the benefit of any such appropriation; and they now ask Congress to make an additional compensation to them. I move the reference of this petition to the Committee on Foreign Relations.

The motion was agreed to.

Mr. SUMNER. I also offer a memorial from the National Normal School Association, held at Harrisburg in August, 1865, in which they set forth the educational necessities of the States recently devastated by war; that there are some two million five hundred thousand persons in those States at this moment actually requiring education; and that, at the very lowest calculation, there ought to be now fifty thousand new teachers; and they conclude by asking Congress to furnish assistance to those States out of the public lands for the benefit of education. I move the reference of this petition to the Committee on Public Lands.

The motion was agreed to.

Mr. JOHNSON. I am requested to present the petition of James Crutchett, of the city of Washington, who states that a very valuable property of his was taken possession of by the Government in July, 1861, was held by it up to the close of the war, and perhaps is held by it still, and that he has received only some fifty dollars per month, which he received under protest, being without any means of support. I ask that this petition may be referred to the Committee on Claims. A petition of the same purport was presented at the last session, and I ask that the papers in that case be withdrawn from the files of the Senate, there having been no adverse report, and referred to the same committee.

The PRESIDENT *pro tempore*. The reference suggested by the Senator, of this petition, will be made if there be no objection, and an order to refer the papers named will also be made.

Mr. HENDERSON. I present a memorial of the president and directors of the Union Merchants' Exchange of the city of St. Louis, Missouri, praying that Congress cause to be built and

maintained on the Mississippi river and its tributaries snag boats, to remove wrecks, logs, and rocks from the main channels of those streams; that it provide to fell timber on falling-in banks, to improve by dam and lock, or otherwise, the rapids of the Mississippi river, to improve Grand Chain on the Ohio river, and to make such other improvements in those streams as to render navigation thereon more safe and expeditious. The memorial represents the number of registered steamboats on the western rivers to be nine hundred and ten, with a carrying capacity of two hundred and ninety-two thousand one hundred and forty-four tons, and valued at \$24,556,600. The imports into St. Louis, chiefly by river, during the year 1865, amounted in value to \$235,873,875. The imports into Cincinnati during the same period amounted to \$312,300,074; those into Louisville, Kentucky, to \$100,791,968. I move the reference of this memorial to the Committee on Commerce.

The motion was agreed to.

Mr. COWAN presented a petition of citizens of Pennsylvania, praying that the revenue laws as applied to internal taxation and duties on imports may be so adjusted as to afford the amplest protection to the labor and industry of the country; which was referred to the Committee on Finance.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. FOOT, it was

Ordered, That the papers in the case of George Ashley, administrator of Samuel Holgate, deceased, be taken from the files of the Senate and referred to the Committee on Claims.

REPORTS FROM COMMITTEES.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 51) to incorporate the Potomac Navigation and Transportation Company of the District of Columbia, reported it without amendment.

INDUSTRIAL EXPOSITION AT PARIS.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred the joint resolution (H. R. No. 28) in relation to the Industrial Exposition at Paris, France, have had the same under consideration, and directed me to report it back to the Senate with a recommendation that it pass, and if there is no objection to it, I should like to have it considered now.

The PRESIDENT *pro tempore*. It will require unanimous consent to consider the resolution to-day. It will be read for information.

The Secretary read it, as follows:

Whereas the United States have been invited by the Government of France to take part in a universal exposition of the productions of agriculture, manufactures, and the fine arts, to be held in Paris, in the year 1867;

Resolved, &c., That said invitation is accepted.

SEC. 2. *And be it further resolved*, That the proceedings heretofore adopted by the Secretary of State in relation to the said exposition, as set forth in his report and accompanying documents concerning that subject, transmitted to both Houses of Congress with the President's message of the 11th instant, are approved.

SEC. 3. *And be it further resolved*, That the general agent for the said exposition at New York be authorized to employ such clerks as may be necessary to enable him to fulfill the requirements of the regulations of the imperial commission, not to exceed four in number, one of whom shall receive compensation at the rate of \$1,800 per annum, one at \$1,600, and two at \$1,400.

SEC. 4. *And be it further resolved*, That the Secretary of State be, and is hereby, authorized and requested to prescribe such general regulations concerning the conduct of the business relating to the part to be taken by the United States in the exposition as may be proper.

Mr. CLARK. I think the resolution had better lie over. That second section is very indefinite; at least it will require some attention before we act upon the resolution. I think it had better lie over one day.

The PRESIDENT *pro tempore*. Objection being made, the resolution lies over under the rule.

Mr. SUMNER. I suggest to the Senator that it has already passed the House, and the desire of the Administration was that it should be expedited.

Mr. CLARK. I will say to the Senator from Massachusetts that the fact that the resolution has passed the House of Representatives does not give me any information about the second section, which is very indefinite.

Mr. SUMNER. I am willing to make any explanation the Senator may desire.

The PRESIDENT *pro tempore*. Objection being made, the resolution lies over under the rule.

KIDNAPPING OF FREEDMEN.

Mr. SUMNER. I offer the following resolution of inquiry, and ask for its present consideration:

Whereas it is reported that persons declared free by the proclamation of emancipation and by the recent amendment of the Constitution are now kidnapped and transported to Cuba and Brazil to be held as slaves, and that in this way a new slave trade has been commenced on our southern coast: Therefore,
Resolved, That the Committee on the Judiciary be directed to inquire if any further legislation is needed to prevent the kidnapping of freedmen and the revival of the slave trade on our southern coast.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SUMNER. Before the vote is taken I desire to state some of the information which has come to my possession. I have in my hands a letter from Alabama, from which I will read a short extract, as follows:

"Another big trade is going on; that of running negroes to Cuba and Brazil. They are running through the country dressed in Yankee clothes, hiring men, giving them any price they ask, to make turpentine on the bay, sometimes on the rivers, sometimes to make sugar. They get them on the cars. Of course the negro don't know where he is going. They get him to the bay and tell him to go on the steamer to go around the coast, and away goes poor Cuffee to slavery again. They are just cleaning out this section of the country of the likeliest men and women in it. Federal officers are mixed up in it, too."

Mr. JOHNSON. Who writes the letter? Give the name of the writer.

Mr. SUMNER. It is from a person in Alabama, whose name I am requested not to communicate; but the gentleman is well known to members of the other House. I have also a letter from the district judge of Florida—his name is well known and will be found in the official lists of the country—communicating to me a letter which he has received from a person well known to him, and for whom he vouches, in Florida, dated December 14, 1865, from which I read a brief extract:

"I am advised that certain parties here intend to make a business of importing negroes into Cuba. It is said that there has gone two vessel-loads of them already. Titus & Co. have bought a steamer for the ostensible purpose of carrying fish from Indian river to Charleston, but most people think that his will be carried the other way. There have been more gunboats ordered down in that region to look out for the fish-mongers."

Here are two letters from different States, Alabama and Florida. Add to these verbal communications which I have received during the last week from Texas, from Louisiana, and from Mississippi, three additional States, all to the same effect, that in each of those States a system of kidnapping has already been commenced, and a new slave trade on that coast started. I do not know that the laws on our statute-book are sufficient to meet this untold enormity. I desire that our committee, in which we have such confidence, should apply themselves to it and see if there is any remedy for this terrible crime. I desire, also, that every branch of the Government should do its duty in this connection; that the Department of State should address all its agents in Cuba and in Brazil, requiring them to look after the liberty of these people, to which we are pledged; that the Navy Department should give proper instructions to our cruisers; that the War Department should give proper instructions to our troops in that region; and that the President himself should take notice of this terrible crime, and should see to it that sufficient troops are there.

Mr. DAVIS. Mr. President, I think it altogether probable that the Yankees have reopened the slave trade. I do not doubt at all that they have done it, or that they will do it if they can make money by it. I am very anxious myself

that it shall be suppressed. I hope the motion of the gentleman will prevail.

The resolution was agreed to.

JOSIAH O. ARMES.

Mr. WILSON. I submit the following order:

Ordered, That the Secretary request the House of Representatives to return to the Senate the bill (S. No. 16) for the relief of Josiah O. Armes, which passed the Senate yesterday, and was sent to the House for concurrence.

Mr. CLARK. I desire to inquire the object of this order.

Mr. WILSON. I desire to have the bill back to allow a motion to be made to reconsider its passage. I want to consider the question involved in it; I believe it is the opening of a call of four or five hundred or a thousand million dollars from the Treasury. I am opposed to it for one, and opposed to any compensation whatever for damages done by our troops in the rebel States during the war.

Mr. CLARK. I do not know that I have any objection to the order if the Senate desire further to consider the matter. I do not wish that any bill should be passed involving any principle against the wish of the Senate.

The order was agreed to.

STATE OF WEST VIRGINIA.

Mr. WADE. I move to take up Senate bill No. 23 for consideration.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 23) giving the consent of Congress to the annexation of the counties of Berkeley and Jefferson, formerly of the State of Virginia, to the State of West Virginia.

The Committee on Territories had reported the bill with an amendment to insert in the preamble, line fifty-six, before the word "Virginia," the word "West."

The amendment was agreed to.

Mr. WADE. The Committee on Territories, to whom this bill was referred, have had it under consideration, and if Senators have listened to the reading of the preamble of the bill they have found that it sets forth all the facts that are necessary to enable Congress to give its consent to the transfer of these counties. It has had the assent of the Legislatures of the States of Virginia and West Virginia. All that the Constitution seems to require has been complied with. All these facts were before the committee, were proved by documentary evidence of the highest character, so that there is no doubt about them. There was a little question before the committee, whether the assent of Congress in such a case was really necessary; but there is a clause in the Constitution, that every Senator will remember, which denies to any number of States the right to make compacts among themselves, except by the consent of Congress, and, viewing it in that light, thinking it might come under that clause, we thought at all events it would be best that it should have the assent of Congress, because it seemed to be a compact between the Legislatures of two States. They are satisfied with it, and I do not suppose anybody is dissatisfied with it. I hope the bill will pass.

Mr. JOHNSON. The question the doubt as to which has been stated was submitted to me about a year or two ago, and I thought the assent of Congress had been granted. Of course there can be no objection to placing that beyond all doubt, as will be done if this bill is passed. I rise, therefore, not with a view to oppose the bill, but to ask that it be laid on the table until to-morrow, as I understand one of the Senators from Delaware not now present [Mr. RIDDLE] takes great interest in the question and desires to be heard upon it. I move, therefore, that it be postponed until to-morrow.

Mr. WADE. I have no objection to that, if any Senator wants to look into it.

The motion to postpone was agreed to.

NOTICE OF A BILL.

Mr. WILSON gave notice of his intention to ask leave to introduce a bill to increase and fix the number of men in the regular Army.

EXECUTIVE SESSION.

Mr. FOOT. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 9, 1866.

The House met at twelve o'clock m. Prayer by Rev. E. H. GRAY, Chaplain of the Senate. The Journal of yesterday was read and approved.

WASHINGTON AND NEW YORK RAILROAD.

The SPEAKER announced the following select committee on military and postal railroad from Washington to New York, authorized yesterday:

Messrs. THADDEUS STEVENS of Pennsylvania, JAMES A. GARFIELD of Ohio, FRANCIS THOMAS of Maryland, AUGUSTUS BRANDEGEE of Connecticut, JOHN F. STARR of New Jersey, JOSIAH B. GRINNELL of Iowa, and WILLIAM RADFORD of New York.

The SPEAKER proceeded, as the regular order of business, to call on committees for reports, commencing with the Committee on Military Affairs.

LUCRETIA M. PERRY.

Mr. BRANDEGEE, from the Committee on Naval Affairs, to whom was referred joint resolution of the House No. 24, for the relief of Lucretia M. Perry, widow of Nathaniel H. Perry, late purser in the United States Navy, reported the same with the recommendation that it pass.

Also an accompanying report; which was read.

Mr. BRANDEGEE. The facts are so succinctly stated in the report that I deem it unnecessary to add anything except to say, if it be quite parliamentary, that this identical joint resolution was recommended unanimously by the Committee on Naval Affairs of the last Congress, passed this House, and failed in the Senate for want of time to consider it. The Committee on Naval Affairs of this House have also reported it unanimously, and I trust it may pass. I move the previous question.

The previous question was seconded, and the main question ordered.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BRANDEGEE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PERSONAL EXPLANATION.

Mr. WASHBURNE, of Illinois. I ask the unanimous consent of the House to make a brief statement.

No objection was made.

Mr. WASHBURNE, of Illinois. Mr. Speaker, a gentleman has inclosed to me an extract from a letter purporting to have been written by a member of this House. I desire to have it read at the Clerk's table.

The Clerk read, as follows:

"CONGRESSIONAL FACTS.—Mr. Baldwin, Representative from the eighth congressional district, in a letter to the Worcester Spy, thus corrects some of the errors:

"I notice that the telegraphic reporter of the Associated Press does not always give you intelligible accounts of what is said and done in Congress. He failed to show you that an effort to have certain Tennesseans allowed to come into the Hall of the House of Representatives, as claimants to seats, was defeated by a movement of Mr. Stevens to allow certain gentlemen to come into the hall as individuals. And he failed to give you a just account of a certain bill touching railroads, introduced by Mr. Washburne, of Illinois; in fact he or somebody else gave the press a false account of this bill. The representation was that the bill was designed to restrain the Camden and Amboy monopoly, while its real but undeclared purpose was to release the Illinois Central Railroad Company from its obligation to carry troops and military stores for the Government free of charge. That road has been constructed chiefly by means of the

magnificent grant of lands by Congress; and now its owners seek to escape from the obligations of the contract made with the Government when they accepted those lands. The bill, which went through the House under the previous question without being understood, authorizes every railroad in the country to claim and receive compensation for carrying troops and military stores for the Government; thus not only releasing the Illinois Central Company, but actually rendering null and void the conditions under which similar grants of lands were made to other railroads. I think the bill will die in the Senate."

Mr. WASHBURNE, of Illinois. I see my friend from Massachusetts [Mr. BALDWIN] in the Hall, and I would like to know of him if he wrote that letter.

Mr. BALDWIN. I did certainly write that letter.

Mr. WASHBURNE, of Illinois. Mr. Speaker, I hear the acknowledgment of the gentleman from Massachusetts, and I am somewhat astonished, I confess, that the gentleman, being a member of the House of Representatives, when he makes such a grave imputation upon members of this House should not do it here in the face of the House and of the country, instead of going off to his paper, where but one side can be heard. The statement made by that gentleman is somewhat extraordinary, and perhaps he may have to deal with some other gentleman besides myself, who must be included in the criticism of his letter.

The bill of which he says the "real but undeclared purpose" is to release the Illinois Central Railroad Company, &c., is precisely the same bill which was reported to this House by the Committee on the Judiciary of the last Congress, and which passed this House. It is the same bill word for word, and the country and the members of this House will be astonished to learn that the gentleman from Massachusetts voted for this bill upon its passage at the last Congress.

Mr. WILSON, of Iowa. I desire, with the permission of the gentleman from Illinois, to correct one statement. The bill to which he refers was not reported from the Committee on the Judiciary at the last session. It was reported from the Committee on Military Affairs.

Mr. WASHBURNE, of Illinois. I stand corrected. I supposed it was. I know a bill somewhat similar was reported from the Judiciary Committee.

Mr. DEMING. The bill to which the gentleman from Illinois alludes was not the bill reported by the Committee on Military Affairs. The Committee on Military Affairs reported a specific bill for the purpose of opening the Delaware and Raritan Bay Company railroad, and the bill which was passed was an amendment offered to that bill reported by the Committee on Military Affairs by the chairman of the Judiciary Committee, the gentleman from Iowa, [Mr. WILSON,] which was the identical bill which was passed the other day.

Mr. WILSON, of Iowa. The statement of the gentleman from Connecticut is a true statement. The report was originally made from the Committee on Military Affairs, and the bill which finally passed was a substitute which I offered myself for the bill, not as chairman of the Judiciary Committee, but merely as a member of the House.

Mr. WASHBURNE, of Illinois. I was mistaken in that respect, Mr. Speaker. My recollection was that the bill came from the Committee on the Judiciary. I know that it was offered by my distinguished friend from Iowa, whose ability as a lawyer is only equalled by his vigilance and integrity as a legislator. The bill which the House passed the other day, as I understand it, was word for word the bill which passed the House on the 12th day of May, 1864, and which received the vote of the gentleman from Massachusetts, [Mr. BALDWIN.] The gentleman from Iowa can now state to the House whether, when he introduced his amendment, it was his object to release the Illinois Central railroad. The gentleman from Iowa, who at the last session of Congress was the author of a proviso to the Army bill, providing that no payments should be made to the Illinois Central railroad, can answer to the House whether that was his purpose.

Mr. SPALDING. Will the gentleman allow me to ask him one question?

Mr. WASHBURN, of Illinois. Certainly.

Mr. SPALDING. As I voted for both bills, I desire to ask the gentleman from Illinois whether, in his judgment, this bill does have the effect to cut off the obligations of the Illinois Central railroad to carry the Government's troops, &c.?

Mr. WASHBURN, of Illinois. I will come to that in a moment. I say the gentleman from Iowa [Mr. WILSON] can answer whether or not he had this purpose. And, sir, the distinguished gentleman from Ohio, [Mr. GARFIELD,] who deserves the gratitude of the people for the stand which he has taken in regard to these monopolies, can state whether, when he introduced this bill, which the Committee on Commerce reported word for word, without any alteration, it was his "real but undeclared purpose" to release the Illinois Central railroad from its obligations. I would like my friend from Ohio who introduced this bill to say if he had any such purpose when he introduced it.

Mr. GARFIELD. I believe the origin of this bill, as embraced in the legislation of last Congress, has been accurately stated by the gentleman from Connecticut, [Mr. DEMING,] my colleague upon the Military Committee of the last session. As he has stated, a local bill was introduced in relation to the Raritan and Delaware Bay railroad; and after a lengthy discussion in the House, an amendment was offered in the nature of a substitute, which was the exact bill I introduced in this House this session, with this exception: there is a difference of a few words in the preamble, taken from the preamble as amended in the Senate. The bill was introduced by me the first week of this session, and referred to the Committee on Commerce. That committee reported it back with a recommendation that it pass, having in view a general law concerning all such monopolies as the Camden and Amboy Railroad Company. And I stated distinctly, here in my place, when the bill was on its passage, that if any gentleman desired to enter into a full discussion of that bill, I was ready to do so then as I had done last session.

There was no sinister purpose, no concealed purpose, but an open and avowed purpose to break down all that class of grasping monopolies represented by the Camden and Amboy railroad; for there is a large brood of humble imitations of this ancient cormorant. If any gentleman knows of any other than an openly avowed purpose, he will do me a favor by declaring it. I regard the document read at the desk a grave and unwarranted imputation against those who voted for the bill, and particularly against those who drafted and introduced it.

Mr. BROOMALL. I would ask the gentleman from Ohio [Mr. GARFIELD] at what time was the offer made to allow a general and full discussion upon this bill? The reason I ask that question is that I myself wanted to discuss the bill and could not get permission to do it. I do not wonder that gentlemen are misconstrued when discussion is not allowed upon these important subjects.

Mr. GARFIELD. The time when that offer was made by me was when the bill was on its passage. I expressed my entire willingness to postpone it to a day certain, so as to allow discussion, or to take the vote on it then. I see no room for misconception in the proceeding.

Mr. BROOMALL. The previous question was called.

Mr. WASHBURN, of Illinois. Yes, I called the previous question myself.

Mr. WILSON, of Iowa. I beg leave to state that when the bill was reported by the Committee on Military Affairs, after listening to the discussion that occurred on that occasion it seemed to me that the case, as presented by that bill, would be looked upon by the country as a mere picking up of a quarrel between two railway corporations in the State of New Jersey, for adjustment in the Congress of the United States. It seemed to me that the action proposed by the

Committee on Military Affairs in the bill reported by them was objectionable in that respect, and for the purpose of avoiding that objection, and of applying a general principle to all railway interests and commerce in the United States, I submitted a substitute for the bill reported by the committee, which substitute was finally approved by the committee, adopted, and passed. I certainly had no intention, either open or concealed, public or private, either made known or kept within my own mind, of releasing the Illinois Central Railroad Company or any other railroad company from their obligations to the Government of the United States embraced in any law concerning them, and I think my action in relation to the appropriations to which the gentleman from Illinois [Mr. WASHBURN] has referred, during the Thirty-Eighth Congress, gives sufficient evidence that I had no intention of releasing the Illinois Central Railroad Company from any obligation resting upon it. Instead of having any such intention, it will be remembered by every member of the present House who was a member of the Thirty-Eighth Congress, that I stood out with the gentleman from Illinois [Mr. WASHBURN] and several others, until almost the very last hour of the session, in insisting that no part of the money embraced in the Army appropriation bill should be paid to the Illinois Central Railroad Company for transportation of troops, supplies, or munitions of war.

And more than that. I not only insisted upon applying that provision to that railroad company, but also to all the railway companies within my own State. And my policy, or the propriety of my course in that regard, was called in question by my colleagues from Iowa, who thought I was too severe instead of being too liberal in regard to those railways; that I was crippling rather than strengthening the railway corporations of my own State by insisting on an observance of the provisions of the grants of land to them as I understood them. And if the language of this bill, by any system of construction, can be made to sustain the views given by the gentleman from Massachusetts [Mr. BALDWIN] in the communication which has been read at the Clerk's desk, it certainly falls very far short of my intention. But I certainly do not now think the bill will bear the construction he puts upon it. Whatever the construction may be, I know this—my intention was entirely different from that which has been attributed to the gentleman from Illinois, [Mr. WASHBURN,] and, I suppose, by implication, to myself, as I was connected with the preparation of the bill as it finally passed.

Mr. WASHBURN, of Illinois. The gentleman from Massachusetts has not only to answer to these gentlemen, but he has to answer to his distinguished colleague in the Senate of the United States, the senior Senator from Massachusetts, [Mr. SUMNER,] who was the champion of this very bill in the Senate, making a speech, I believe, in its behalf. The gentleman from Massachusetts can settle with that Senator whether, in seeking to do what he professed to be trying to accomplish, his "real but undeclared purpose" was to relieve the Illinois Central Railroad Company.

Let me remark further, sir, that when the gentleman from Massachusetts says, in the article which has been read, that "he, or somebody else, gave the press a false account of this bill," if the gentleman referred to me his assertion was unwarranted and insolent. Besides the question which the gentleman must settle with his colleague, he must settle with himself this question: "Was it your purpose, when you voted for this bill on the 12th of May, 1864, to release the Illinois Central Railroad Company?" There might, perhaps, be some color for such a supposition so far as regards the gentleman from Massachusetts; but I think that as to myself, I will be exonerated from any such purpose by gentlemen who were members of the last Congress, and thus had an opportunity to observe my course on this subject. They know that I strove with all my power to obtain a declaration by Congress against the impudent and

stupendous robbery of the public Treasury of more than a half million dollars by the Illinois Central Railroad Company. Sir, as gentlemen know, I resisted to the last the efforts of that company; I fought it at every step. And I cannot conceive what could have induced the gentleman, with his knowledge of that fact, (because he must have known it,) to make such a statement. I am certain that I have given him no occasion for doing so. And let the House understand that, while I was thus struggling, the gentleman from Massachusetts, in the very pinch of the game, left us and went over to the enemy, and voted with the friends of the Illinois Central Railroad Company. Yet he now goes before his constituents, in a newspaper article, giving an entirely erroneous view in regard to this whole matter.

Now, sir, one word with regard to the construction of the bill. Sir, it never occurred to me, it never occurred to any member of the Committee on Commerce, as it never occurred to the gentleman from Ohio [Mr. GARFIELD] and the gentleman from Iowa, [Mr. WILSON,] that such a construction as that suggested by the gentleman from Massachusetts could be given to the bill. I have not examined the subject closely, but I do not believe the bill is susceptible of such a construction. If I had imagined it to be capable of any such construction I would never, under any circumstances, have given the measure my assent; and now, if any respectable lawyer believes it can by possibility be construed in such a way, I would avoid any question by using my efforts to secure an amendment of the bill in the Senate. With these remarks, I leave the subject.

Mr. SPALDING. Will the gentleman from Illinois allow me to ask him one question?

Mr. WASHBURN, of Illinois. Certainly.

Mr. SPALDING. It has been suggested to me that the stock of the Illinois Central Railroad Company has risen seventeen per cent. since the passage of that bill. Is that true?

Mr. WASHBURN, of Illinois. I do not know. Does the gentleman know anything about that?

Mr. SPALDING. I do not. I mentioned the matter only because it has been suggested to me.

Mr. BALDWIN. Mr. Speaker, in writing that letter, I certainly had no purpose to make any imputation against the gentleman from Illinois, [Mr. WASHBURN,] The mention of his name was incidental. Certainly I did not intend to allude to him in the remark that some one had communicated to the press a false view of the bill. But, Mr. Speaker, before proceeding further, I ask that the Clerk read the bill as passed by this House.

The SPEAKER. The bill which passed the House is in the possession of the Senate; it is not upon the files of the House. The Chair, however, will send to the Clerk's office and obtain the original manuscript from which the bill sent to the Senate was engrossed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, communicated the following extract from its Journal:

IN SENATE OF THE UNITED STATES,
January 9, 1866.

Ordered, That the Secretary request the House of Representatives to return to the Senate bill S. No. 16, for the relief of Josiah O. Armes, which passed the Senate, and was yesterday sent to the House for concurrence.

The SPEAKER. The bill will be returned, as requested.

PERSONAL EXPLANATION—AGAIN.

Mr. BALDWIN. Mr. Speaker, I wish to say that from the very bill itself it will appear the representation I made is the correct one; and in order that that may be seen, I now ask that the Clerk shall read the bill that was passed by this House.

The SPEAKER. The Chair has sent for the bill, and as soon as the original copy is procured from the files of the House, it will be read by the Clerk.

The Clerk read the bill, as follows:

A bill to facilitate commercial, postal, and military communication among the several States.

Whereas the Constitution of the United States confers upon Congress, in express terms, the power to regulate commerce among the several States, to establish post roads, and to raise and support armies: Therefore,

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That every railroad company in the United States whose road is operated by steam, its successors and assigns, be and is hereby authorized to carry upon and over its road, connections, boats, bridges, and ferries, all passengers, troops, Government supplies, mails, freight, and property on their way from any State to another State, and to receive compensation therefor.

Mr. BALDWIN. Mr. Speaker, I repeat that I exonerate the gentleman from Illinois [Mr. WASHBURN] from any complicity in any effort to impose upon the House or the public, as he was consistently opposed to the claims of that road in the last Congress. I exonerate him from any such purpose as that which I suppose to be in this bill. But plainly by the very terms of the bill itself it does release, not only the Illinois Central railroad from the conditions of its contracts with the Government, but every other road from similar conditions where similar land grants have been made. There are nine other States in which I believe similar land grants have been made and similar conditions made with the several railroad companies, and all these contracts are nullified by the effect of this bill, for it says in express terms that they shall receive compensation for carrying Government troops and supplies.

Now, when this bill was before the House, I sought an opportunity to make the statement that has been read from my letter, and suggest or propose an amendment; but, after a few words had been spoken by one or two gentlemen, the previous question was insisted on, and I found it impossible to do so. The previous question was called and seconded, and nothing could be said to show what seemed to be a great defect in the bill. I would have suggested an amendment to provide for that defect if I could have had an opportunity to do so.

Mr. WASHBURN, of Illinois. If the gentleman from Massachusetts will allow me, I will ask him a question. I would like to know whether he understood that to be the meaning of the bill when he voted for it at the last session of Congress?

Mr. BALDWIN. Mr. Speaker, we are now and then compelled to vote some things under the demand for the previous question without being able to understand them. It may have been, too, in this case, as in many others, that in striking a blow in one direction we may have overlooked another effect of it. In straining at a gnat we may sometimes unconsciously swallow a very big camel. [Laughter.]

Mr. BAKER. Will the gentleman yield to me for a moment?

Mr. BALDWIN. Certainly.

Mr. BAKER. Mr. Speaker, I voted for this bill, and I did so under the decided impression at the time that it was leveled against an unjust corporation; and I had no purpose, dream, or imagination that it could be so construed as to release from already subsisting obligations the Illinois Central railroad, or any other railroad corporation of the United States. But after it passed through this House I was amazed and astounded that such a question was raised. To my mind it is plausible from the language of the bill. I felt then, and I take occasion to say now, that it was improper to report a bill and to press it through the House under the operation of the previous question, cutting off all debate and that deliberate consideration which its importance demanded. And I am under the impression now that the bill ought to have been guarded with a proviso excluding in express terms, and settling beyond judicial question, the question now raised—to preclude all operation of the bill from releasing already incurred obligations of the Illinois Central or any other railroad.

Mr. BALDWIN. Mr. Speaker, I have nothing more to add except to repeat that I never intended to charge anything against the gentleman

from Illinois, [Mr. WASHBURN.] I was speaking, in the letter referred to, about the reporter of the Associated Press; and I said that in reporting the proceedings by which certain gentlemen from Tennessee were admitted to the courtesies of this floor he failed to state the case so as to show precisely what was done; in fact, that his report misled the public by omitting some of the votes. Then I proceeded to refer to the bill under discussion, without intending to charge anything against the gentleman from Illinois. The mention of his name was accidental. If it appears that any charge is made, I disavow and withdraw it entirely.

But so far as relates to the representation against the bill, I insist now that the bill does have that effect; and competent lawyers whom I have consulted, and who are impartial in their position with regard to the matter, take the same view of it, without one exception.

It did seem to me at that time, Mr. Speaker, that if we could have had that bill duly considered before the House, and everything presented that occurred to members which was pertinent to this point, we should have had the bill passed by the House in very much better form. It was certainly very improper—we do act sometimes very improperly on important questions here under the operation of the previous question, and I hope we may reform in that respect.

Mr. WASHBURN, of Illinois. In reply to the gentleman from Massachusetts, I will say that I am entirely satisfied with the explanation he has made so far as concerns myself.

But the point is not in relation to construction. There may be differences of opinion in regard to the construction which may be given to this clause. The point was, the statement in the gentleman's letter that it was the "real but undeclared purpose of the bill" to do that. Now, I think the gentleman from Massachusetts must be entirely satisfied that there was no real purpose of that kind—that it was not the intention, as stated, to pass a bill for the purpose of relieving the Illinois Central railroad. I am glad that the gentleman has done justice in that regard. And I am glad to hear so general an expression of the sentiment of this House on that question. It was not settled at the last session—it is yet to be settled—whether the United States will permit toward a million dollars to go from the Treasury of the United States, against law and justice, into the coffers of that monstrous monopoly, the Illinois Central railroad, which is crushing out the vitals of the people of Illinois.

Mr. BOUTWELL. Will my colleague allow me a moment?

Mr. BALDWIN. Yes, sir.

Mr. BOUTWELL. I venture to make a suggestion, if it be in order, that the Clerk of the House be directed to ask the Senate to return the bill. I think it was passed under some misapprehension.

The SPEAKER. That will require unanimous consent.

No objection being made, it was ordered that the Clerk be directed to ask the Senate to return the bill.

Mr. ROGERS. I desired to have this bill brought back because of the rapid manner in which that bill was put through. Of course the House well knows that the State of New Jersey is particularly interested in this bill. I got up here before the House, and was permitted by the indulgence of the chairman who reported the bill to make a few remarks—about five minutes in length—and was then choked off. And to show the precipitate manner in which bills have been passed through under the previous question, in a few minutes afterward an amendment to the Constitution of the United States was passed here without debate. The amendment was passed within thirty minutes after the proposition was made. I think these proceedings with regard to this bill ought to teach the members of the House a lesson, namely, that on grave and important matters the minority of the House ought at least to be heard. Of course our votes on bills of this

character, or any other, without the assistance of the other side, can have but little force; but we at least ask an opportunity on questions that interest the people of the whole country to be heard. And I have no doubt whatever, if that bill could have been discussed, that this difficulty which is now perceived would have been seen then, and we would not have passed the bill in the shape in which it was done. And although I am not here to charge complicity upon any member of the House in regard to this bill, I have no doubt that the outside lobby who got it up—the men that usually do the mischief—in getting such legislation through as this understand the real object sought, that it was not only to strike a blow at the State of New Jersey, but also for the purpose of relieving this railroad in Illinois from a liability which it justly incurred.

Mr. GARFIELD. I understand the gentleman to say that some outside influence was brought to change the form of this bill. Does he insinuate by that that the Camden and Amboy people have managed it so as to turn it off upon the Illinois Central railroad?

Mr. ROGERS. No, sir. The people of New Jersey had no idea of legislation of this kind up to the hour that it took place, and they expected to make opposition, and that opposition would have been confined not to one party in the State. It pervades the whole State. Every member of this House voted against it. The State of New Jersey would lose by such an act \$200,000 annually in taxes now paid by the Camden and Amboy railroad. I was not permitted to explain and show the reasons which they desired to urge against its passage.

That is the reason why we protest against this kind of action on measures of this kind, and entreat that when members ask to be heard the only true way to arrive at a proper consideration is to allow the matter to be discussed, that the country may know and members may know what the real objections to the measures are. No man can be expected, when a bill is brought up in this hasty manner, and when he is unacquainted with its merits, to be able at once to arrive at a conclusion how to vote. Bills are run through by caucus machinery in such manner as to take members by surprise. They cannot give an intelligent vote so as to be able to make a satisfactory report to their constituency when legislation is carried on in this manner. It is a pleasure to me to see a disposition upon the part of the majority of this House to give the minority some rights, and I trust that in future when questions of this character, or any other, come up we may have an opportunity to discuss them.

Mr. HALE. I ask if there is any question before the House.

Mr. BENJAMIN. I object to any further remarks.

Mr. HALE. I ask unanimous consent of the House to offer a resolution germane to the present matter. I ask that it be reported for information.

The Clerk read, as follows:

Resolved, That the previous question was designed as a means of reasonable limitation of debate, and not for the entire suppression thereof, and that, therefore, a regard both for the public interests and the rights of minorities require that no measure involving important questions of principle and policy ought to pass the House without a reasonable opportunity for debate.

Mr. WASHBURN, of Illinois. I object to that resolution. The previous question is only ordered by a majority.

Mr. DAVIS. I desire to say one word in regard to a remark of the gentleman from Illinois.

Mr. SPALDING. I object.

Mr. DAVIS. It is by way of personal explanation.

Mr. SPALDING. I object.

The SPEAKER then resumed the call of committees for reports.

STATUTE OF LIMITATIONS.

Mr. WILSON, of Iowa. I am instructed by the Committee on the Judiciary to report back a memorial of the Chamber of Commerce of

the city of New York, and to ask that the committee be discharged from its further consideration. I desire to state the reasons for the action of the committee.

It is a memorial asking that the statute of limitations may be so amended as to suspend its action during the time of the existence of the rebellion, in order that citizens of the loyal States may not be barred of their right of action against debtors residing within the rebellious States.

During the Thirty-Eighth Congress I reported a bill from the Committee on the Judiciary, which passed both Houses and is now the law, and which read as follows:

"That whenever, during the existence of the present rebellion, any action, civil or criminal, shall accrue against any person who, by reason of resistance to the execution of the laws of the United States, or the interruption of the ordinary course of judicial proceedings, cannot be served with process for the commencement of such action, or the arrest of such person; or whenever, after such action, civil or criminal, shall have accrued, such person cannot, by reason of such resistance of the laws, or such interruption of judicial proceedings, be arrested or served with process for the commencement of the action, the time during which such person shall be beyond the reach of legal process shall not be deemed or taken as any part of the time limited by law for the commencement of such action."

In the opinion of the Committee on the Judiciary, this act covers the ground embraced in this memorial of the Chamber of Commerce so far as Congress has the power to respond to the prayer of the memorialists.

Mr. CONKLING. I ask the chairman of the Committee on the Judiciary to state to the House what, in his opinion, is the effect of the statute which he has read in staying or keeping alive remedies in the State courts of the rebellious States in cases between citizens of the State of New York, for example, and citizens residing in those States. I have my own views about it, and I doubt not he has his.

Mr. WILSON, of Iowa. The committee are of opinion that the latter part of this statute is as broad as congressional enactments could provide.

Mr. CONKLING. How broad is it? What is the effect of it?

Mr. WILSON, of Iowa. The language of the statute gives it better than any construction I can give:

"The time during which such person shall so be beyond the reach of legal process shall not be deemed or taken as any part of the time limited by law for the commencement of such action."

The point, I believe, to which the gentleman seeks to direct my attention is this: whether this statute will prevent the operation of the statutes of limitation of the States in relation to actions commenced in the State courts. I am not prepared to say that it will go that far, nor was the committee prepared to say that we could provide by law that the statute of limitation in a State could be suspended in its operation upon actions brought in the State courts by congressional action.

The remedy which seemed to be sought by the memorialists was this: that citizens residing, for instance, in the State of New York, having claims against persons residing in the State of South Carolina might have their remedy in the courts of the United States without being barred by the statute of limitation in force during the existence of the rebellion. In other words, they want the statute of limitations suspended during the period of the rebellion. We think the law now does this.

We did not specially consider the question as to the power of Congress to suspend the statutes of limitation of the particular States and prevent their operation upon actions brought in the State courts as distinguished from the courts of the United States held within those States. I think, however, and in this the committee concur, that where the action was brought in a United States court, this statute is broad enough to save the remedy, and reaches as far as we may safely go.

I have merely called the attention of the House to this act for the purpose of calling the attention of the country to the existence of the statute which I have read and which seems not

to have been very generally noticed. I have nothing further to add; and I now move that the committee be discharged from the further consideration of the memorial, and that it be laid upon the table.

The motion was agreed to.

The SPEAKER. The call of committees for reports having been concluded, the next business in order is resuming the call of States for resolutions, beginning with the State of Pennsylvania.

RECONSTRUCTION.

Mr. BROOMALL. I submit the following resolution, and call for the previous question upon its adoption:

Resolved, 1. That the termination of the recent civil war has left the inhabitants of the territory reclaimed from the late usurpation in the condition of a conquered people, and without political rights.

2. That as a legitimate consequence the relation of master and slave among them is destroyed, and that it is not within the province of civil law ever to revive it.

3. That the future political condition of these people must be fixed by the supreme power of the conqueror: and that the effect of amnesty proclamations and pardons is to relieve individuals from punishment for crime, not to confer upon them political rights.

4. That it is not the interest of the Government that these people shall remain in their present unorganized condition longer than is necessary for their own good and the good of the country.

5. That Congress should confer upon them the necessary power to form their own State governments and local institutions, but that this cannot be done until the rights of those among them, of whatever caste or color, who remained always true to their allegiance, are effectually protected and guaranteed.

6. That it is the paramount duty of the Government to guard the interests of all within the conquered territory who rendered no willing aid or comfort to the public enemy; and if this cannot otherwise be done, Congress should organize State governments composed of these alone, and forever exclude from all political power the active and willing participants in the late usurpation.

Mr. CONKLING. I rise to a point of order. My point is that the subject embraced in this resolution relates to the question of reconstruction, and it should therefore be referred without debate to the joint committee upon that subject.

Mr. GRINNELL. I would suggest to the gentleman from Pennsylvania [Mr. BROOMALL] to permit this resolution to be referred to the joint committee on reconstruction. It embraces different propositions which, I think, should be considered by that committee.

Mr. SCOFIELD. I would inquire of the Chair whether, should the previous question be seconded, a division of the question can be demanded, in order to have a separate vote on each branch of the resolution.

The SPEAKER. It can be divided. But the Chair will state that he sustains the point of order raised by the gentleman from New York, [Mr. CONKLING.] This resolution relates so evidently to the subject of representation, that it will be referred, under the rule, to the joint committee on reconstruction without debate.

Mr. ASHLEY, of Ohio, moved that the resolution be printed.

The motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President was received by Mr. WILLIAM MOORE, his Private Secretary.

ARLINGTON HEIGHTS.

Mr. SMITH, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Military Committee be instructed to inquire into the present condition of the property known as "Arlington Heights," and the expediency of converting said property into a house for disabled and wounded soldiers of the last war, with a view of establishing an invalid corps for the purpose of manufacturing such stores, &c., as may be required by the Army and Navy of the United States.

CONTESTED-ELECTION CASE.

Mr. DAWES, by unanimous consent, submitted sundry papers concerning the election of Representative from the sixteenth district of Pennsylvania; which were referred to the Committee of Elections.

THE SO-CALLED EMPIRE OF MEXICO.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States, with the accompanying papers.

The message was read, as follows:

To the House of Representatives:

In compliance with the resolution of the House of Representatives of the 18th ultimo, requesting information in regard to steps taken by the so-called Emperor of Mexico, or by any European Power, to obtain from the United States a recognition of the so-called empire of Mexico, and what action has been taken in the premises by the Government of the United States, I transmit a report from the acting Secretary of State, and the papers by which it is accompanied.

ANDREW JOHNSON.

WASHINGTON, January 5, 1866.

The message was referred to the Committee on Foreign Affairs, and ordered to be printed.

POLICY OF THE PRESIDENT.

Mr. VOORHEES. As the morning hour has expired, I call up the resolutions submitted by me before the recess, and postponed to this day after the morning hour.

The resolutions were read, as follows:

Resolved, That the message of the President of the United States, delivered at the opening of the present Congress, is regarded by this body as an able, judicious, and patriotic State paper.

Resolved, That the principles therein advocated for the restoration of the Union are the safest and most practicable that can now be applied to our disordered domestic affairs.

Resolved, That no States or number of States confederated together can in any manner under their connection with the Federal Union, except by a total subversion of our present system of government; and that the President in enunciating this doctrine in his late message has but given expression to the sentiments of all those who deny the right or power of a State to secede.

Resolved, That the President is entitled to the thanks of Congress and the country for his faithful, wise, and successful efforts to restore civil government, law, and order to those States whose citizens were lately in insurrection against the Federal authority; and we hereby pledge ourselves to aid, assist, and uphold him in his policy which he has adopted to give harmony, peace, and union to the country.

Mr. STEVENS. I raise the point of order that these resolutions relate to reconstruction, and therefore must go to the joint committee on that subject without debate.

The SPEAKER. The point is taken entirely too late, in the opinion of the Chair. These resolutions were introduced before the late recess, were considered by the House, and then were postponed without objection to this day, after the morning hour.

Mr. VOORHEES. Mr. Speaker, I arise today to discuss the annual message of the President. In doing so, I am aware that to the majority on this floor I may appear as a meddler in a family concern. It would seem from the remarks of members here, and the comments of the press in various quarters, that the right to approve or disapprove the policy of the Executive is the exclusive monopoly of the two now belligerent wings of the dominant party. Indeed, I believe it is a new and very dangerous phase of disloyalty for one of the minority to have any opinion at all on the subject. I cannot, however, accept this position of silence and inactivity. Not that I wish to bring any reinforcements which are not sought to the aid of either of the jarring factions on the opposite side of the Chamber, but as a citizen loving my country, and as the Representative of a large and enlightened constituency, it is my duty and my right here to advocate what in my sight seems best as a remedy for the evils which surround us. And if this sense of public duty leads me to adopt and defend the policy of the Executive, what offense can it be to his real or pretended friends in this body? How indignant we were in the days of our childhood over that dog in the manger, who would neither enjoy the comforts and blessings of life himself, nor let anybody else do so! And here in our mature manhood we behold the same principle of action adopted by a great party. It refuses to indorse the President of its own election, and

growls and fiercely shows its teeth if any one else proposes to perform that neglected duty.

Allow me, sir, another preliminary observation. I have no design on this occasion to violate the divine injunction which says, "Thou shalt not steal." A few days ago, when I introduced the very brief and very plain resolutions now under consideration, it was instantly heralded over the country, and especially in the journal conducted by the gentleman from New York, [Mr. RAYMOND,] that I had attempted to "steal the President."

Sir, these hungry and sordid spirits pay a poorer compliment to the President than even they do to me, and I will hasten to quiet their miserable apprehensions. It is no part of my purpose to attempt to step between them and the flesh-pots of public patronage. I have no eye on the public crib at which they have fed so long and grown so fat. I do not covet their offices, their rich commissions, their unfathomable contracts, nor anything that is theirs. We of the minority have lived through storm and darkness and fiery persecutions without such assistance to our patriotism, and at this late day we shall not bend our knees because thrift may follow fawning. Our action will be independent, with no desire, like the adroit animal in the fable, to take advantage of the quarrel which now rages among the victors to snatch away the feast over which they are contending. For my part, as in the past, so in the future, I shall pursue what I conceive to be the right, indifferent alike to the allurements of reward or the terrors of reproach.

And now, Mr. Speaker, what are the issues which are submitted to the country by the policy of the Executive as declared in his annual message? Are they new, strange, or sinister, that they should be received with indignation and alarm? Is it a document bristling with dangerous dogmas hitherto unheard of in the administration of the Government? Does it read like a wide and violent departure from the teachings of our earlier and happier days? Sir, it has been assailed in both ends of the Capitol by the ablest and oldest veterans of the Republican party, as if every line was leprous and every word filled with contagion and death. Indeed, prior to the meeting of Congress, as the policy of the President was developed in his treatment of the southern States, we beheld the indications of an organized conspiracy to assail him with the masked face of friendship but with the treacherous sword of Joab. The insidious kiss that betrays is neither new nor respectable in strategic warfare; and men and parties have often heretofore made kindly salutation, "How is it with thee, my brother?" when their poniard's point was seeking a vital spot under the fifth rib.

We heard during all the summer and fall the murmurs and mutterings of angry dissent, as each new development of the President's plan to restore the Government on its ancient foundations, as nearly as now possible, came before the country. And when my friend and colleague, the Speaker of this body, for whom I entertain none but feelings of personal kindness, came to this city as the acknowledged heir-apparent to the position which he now fills so well, what was his language to the public? Did he give the weight of his voice to the Administration? His words were carefully studied, and yet it would be hard to discover from that famous serenade speech that the Executive had done anything at all toward the pacification of the country. He laid down a policy for Congress, but as nearly as possible ignored the policy and even the existence of the President. His position was the sign and the forerunner of the celebrated select committee, created by the magic wand of the conscience-keeper of the majority, the able and veteran leader from Pennsylvania, [Mr. STEVENS]—that potent wand which has evoked from the vasty deep of political agitation more spirits of evil and malignant mischief than generations, I fear, will be able to exorcise and put down. By this movement the whole question of restoration, with entire

forgetfulness of the labors and achievements of the Executive, was placed in commission, and intrusted to the keeping of a board of political trade at whose head stands one who asserts that the Union was destroyed by the war, and that it remains so to this day. By this movement we are called upon to transport ourselves back to the chaotic days of last April, and to take no note of time or events since then. We are asked to ravel to pieces all that the President has done and to commence the knitting process of reunion for ourselves. The healing principles of the Constitution are, in my judgment, rapidly doing the needed work of restoration, and yet we are at this stage of the process asked to break again the once fractured limbs, to tear agape the half closed wounds, and to cause the whole land to bleed afresh. Sir, I shall stand by the physician who is working the cure, as against that blind and fatal empiricism which first pronounces the patient dead and then commences giving medicine.

Let us indulge ourselves in a retrospect. Let us lift ourselves to a position which history will occupy some generations hence, and then ask and answer the question which is involved in the issue now made against the President because of his conduct and his policy. I am in no sense his partisan. I did not support him for the office which led to his present position. I dreaded the use he would make of power when he attained it. I feared the operations of a character which I had heard represented as strongly tenacious of a sense of personal injury which I knew he had suffered. But since the day on which he took the oath of office I have beheld the public magistrate, not the private man. And who ever, in all the tide of time, became the head of a great nation under circumstances more appalling to the stoutest heart and the most commanding intellect than those which surrounded him? A war whose tremendous blows had shaken both hemispheres had just closed, and night and chaos hovered over the face of the deep. Battles between brethren had been fought which dwarf and belittle the warlike exploits of all ages, and which startled the invisible world by the flight of disembodied spirits. The people and the States of the whole country, weary, blood-stained, and almost blind from the fury of the conflict, had paused upon an agreement to fight no more. But in that disastrous contest what ancient principles of the Government had escaped profanation? Who had stopped to count how much the object cost for which the wager of battle was joined? Laws, liberties, and constitutions had asserted themselves in vain. And I confess that, as I saw the fierce lightning which civil war engenders strike and shiver again and again the household gods of fireside liberty, and blast almost every sacred fane of American worship, I had my hours of absolute despair—not despair over the unity of our territorial boundaries, but that when those boundaries should be restored they would embrace nothing but the dead, cheerless, and cold ashes of the former bright and glowing fires of freedom. I shrank from the contemplation of a ruined Republic and a triumphant despotism with more unfeigned horror than I ever shrank from the contemplation of death and the grave. And when the sound of the last cannon died away on the sorrowful and stricken fields of Virginia and the Carolinas he who, at the head of affairs, would breathe into the expiring form of legal liberty the breath of life, and by his touch revive and erect again in form and substance the ancient body of the Republic, although bruised, maimed, and in parts defaced, and requiring time to renew its strength—that man, whoever he may be, and whatever may be his political views on other questions, is, in my eyes, the savior of his country.

Sir, history tells a melancholy story of usurpations at such periods. They are the opportunity of tyrants and mad, impracticable innovators. He who wishes to mount to imperial power on the ruins of civil liberty, or by a change in the form of the Government to carry

out schemes of private hate or Utopian speculation, would embrace the month of April, 1865, in American history as the point from which to deal destruction. But starting from that point, what direction did the President pursue? There are many matters of minor detail for which subordinate officials are mainly responsible, which I might wish widely different, but I am now dealing with the main question of restoration. Upon his first utterance he gave notice of the doctrine, then as now, that the American Union had never been broken, and that its States had never ceased to exist. This gave assurance to the country at once that he was a conservative, and not a destructive, a restorer of an ancient order of things and not a destroyer in the name of progress and reform. How can I fail to support him in this position, when my own language, March 9, 1864, in the midst of the sound of arms, was as follows? I quote from a speech delivered by me in this House:

"The great leader of the Administration on this floor, the gentleman from Pennsylvania, [Mr. STEVENS,] has deliberately here announced, after all our sacrifices, sorrows, and loss, that the Union of our fathers is dead, and that he who attempts its resurrection is a criminal instead of a patriot. He goes further, and admits all the seceded States have ever claimed—their nationality. They have sought in vain in all the four quarters of the earth for recognition. They find it at last at the hands of those who speak for the Administration on this floor.

"Sir, I deny this doctrine. I plant myself on the Constitution, which recognizes an unbroken Union. I shall stand there in every vicissitude of fortune, and if I fall it will be when the people themselves abandon their own Constitution. By the principles of this mighty instrument I expect finally a restoration of the union of the States. Every hour which the party in power prolongs its control of affairs postpones the auspicious day; but as I behold the future it will assuredly come. Material and indestructible interests unite every section except that which prospers on fanaticism. And I here to-day, in the spirit of one who expects and desires his posterity and theirs to live together in the ancient and honorable friendship of their fathers, warn the southern people not to look forward to separation and independence, but to embrace every opportunity for cooperation with the conservative men of the North, who will aid with their lives, if need be, to secure them all their rights and institutions as free and equal citizens of the United States."

This doctrine is the chief corner-stone of the message, and has invited the attack of the theoretical reform, but practical disunion. Shall I stop at this day and hour of American history to discuss the right or power of a State to secede? I never entertained such a principle, nor did even many of the principal leaders of the late attempt to establish the confederacy of the South. They asserted the right of revolution and used the organizations of State governments in aid of that movement. But who now requires an argument on this point? Do we not all understand and know that this theory of dead States is now proclaimed simply because its adoption would give better scope to ulterior designs of vengeance and revolutionary destruction? It is true that the gentleman from Pennsylvania [Mr. STEVENS] has been consistent in his devotion to it when he stood almost if not quite alone; but that simply proves that he could foresee at a greater distance than his fellow-laborers the means which would be required to accomplish their party ends when the war ceased. He knows that "dead carcasses," in his own striking language, are more easily carved to pieces, torn limb from limb, and devoured by the hungry maw of confiscation than living States. The dead can make no protest when the mutilating knife is applied. Certain beasts of prey, we are told, prefer to find their quarry ready slain, in order to feast upon it in comfort and repose. And so the radical party of the country would find it easier far to make its unnatural banquet on the rights, privileges, laws, liberties, and property of the South by declaring at once that there is no living political community in all that wide region to exclaim against the enormity. Its reasoning on this point is that it is safer and less troublesome to rob a corpse than it is to pick the pockets of the living. This is the highwayman's doctrine of convenience, introduced here now as a party platform. It is more and worse. It is an assertion that the American Union itself is dead.

While it claims that the southern States have destroyed themselves, yet it admits that, like blind Samson of old, in their dying agonies they seized hold of the pillars and tore the temple in ruins to its very foundations, and that they in their desolation to-day are only a portion of the general wreck. It is notice to the world that the war to restore the Union was an utter failure—that the war is over and yet the Union is rent in twain. We have incurred a debt which would absorb for its payment now one fourth of all the taxable property in the United States. Blood has flown like the torrents of the mountains, and lives have been swept away like autumn leaves in a storm, and yet neither people nor States, according to the logic which assails the President, have been brought back into the Union to repay these stupendous sacrifices. But still further. In what attitude before the civilized nations does this pernicious heresy place the Federal Government? If we were waging war on an independent Power, a separate existing nation, how was it that we refused all negotiations for peace except upon the basis of its utter annihilation? Wars between different civilized Powers are made to repair injuries, to resent insults, or to reclaim rights which have been denied; but there is no law of nations which justifies one Government, because of its superior strength, in inflicting obliteration and murder upon its inferior neighbor. This doctrine is one of barbarism, in which the law of force is the law of right. Much pathetic eloquence and many bitter tears have attested the world's sympathy with Poland, with Hungary, and with poor, poor Ireland, and maledictions attend upon their destroyers; but with what curses of indignation would an enlightened posterity and an impartial history assail us for blotting out by sheer force of arms a nation of our own kindred, who simply desired to possess their own in peace and leave us to do the same! Sir, in every aspect the theory which now controls the majority of this House is fraught with death and disgrace to the Republic. I turn from its contemplation to a more cheerful theme. I will contrast against it the conduct and principles of the Executive, for which, I think, he deserves well at the hands of his countrymen.

What was the wish, the hope, the prayer of every heart not fatally bent on mischief, not an enemy to the human race, when the last of the southern forces laid down their arms? Was it that this bitter period of strife should be prolonged and the fires of hate and malice kept alive forever? Was it that at the close of such a hurricane, with the billows yet swelling in angry commotion around us, we were to start afresh upon the long voyage of political discovery and legislative piracy which the bold mariner from Pennsylvania [Mr. STEVENS] and his radical followers now, like Viking robbers of the ancient seas, point out to us? Was it not rather that the vessel should be brought back and quietly and firmly anchored as nearly as possible at her old moorings? Was it not rather that the corner-stones, boundary lines, and landmarks of the fathers of the Republic should be traced out and restored? I here assert that when the President closed the temple of Janus, refused to go in search of new principles by which to administer the Government, and extended the hand of friendship and assistance to the crippled and bleeding though living, yes, living States of the South, he met the demands of the popular will and laid claims to the gratitude of the present and the future. The gentleman from Pennsylvania [Mr. STEVENS] says such a recognition of their existence coming from "a man of respectable standing is something worse than ridiculous." The American people to-day do not think so, nor will their posterity.

It is contended, however, that the Executive had no power to appoint provisional governors. There are those in my own party as well as in the other who assert that this was a usurpation. First allow me to observe that a usurpation, even if it be such, to restore, to build up, to

give health and strength to the sick and prostrate, is far easier to be borne than a usurpation to crush and destroy. But I do not view the conduct of the President as a usurpation at all. By his oath he must enforce the laws. He found States without legal officers and unable to move forward in the channel of their duties. A State of this Union when the Federal laws are no longer obstructed cannot be in passive abeyance. It is an integral part of the Federal body, and if the body be sound there can be no paralysis among its members—they must have vitality; and in the performance of his duty the President used the best means in his power to revive and restore their lawful functions. And much more was I reconciled to the use of this power when I saw on whom the selections of the President fell. And I think, too, that with what I was pleased on this point my radical friends were equally displeased. I hailed such names as Sharkey, Perry, Johnson, and Parsons, and, indeed, all the provisional governors, as bright omens of a good administration, as harbingers of peace and happiness to the southern people, and of union, peace, and prosperity to the whole country. But then what a military governor, of South Carolina for instance, that idol of the radicals, General Butler, would have made! Ay, there is the rub. What fat, unctuous, juicy pickings have been lost to the faithful by this cruel policy of the President! What shoals of loyal, hungry sharks swimming around in these northern waters have been cheated out of their anticipated prey! All the wolves and jackals that wait till the battle is over in order to mangle the dead and the wounded snarled their disappointment and rage at the President, but will now open in a full chorus of joy over the delightful vision which arises before them from the formation of the committee of fifteen.

The gentleman from Pennsylvania [Mr. STEVENS] saw fit to announce that the position of the President in regard to the southern States was "not an argument, but a mockery." I partly dissent. I think it is both. It is an unanswerable argument in behalf of the early and true principles of the Government, and it is also an overwhelming and consuming mockery of the bloody designs, avaricious hopes, and greedy expectations of all those who desired when the war was over to rule the people of the South without the restraint of law; to humiliate them with an iron rod; to confiscate their lands and buy them in at nominal prices; to change the proprietorship of the soil and drive into exile and destitution its present owners until a new population should take control and, by the aid of the enfranchised negro, plant a Puritan ascendancy all over the South; who here now unfurl the banner of "territorial condition," because all these consequences follow its triumph. Sir, this class has been mocked, and God and angels and all good men rejoice in their confusion. Their ascendancy in this land would create a pandemonium of discord and a carnival of all the dark and cruel spirits of hate and revenge for generations to come. The President had them in his mind when in combating the proposition of military governors for the South he says:

"The chief persons who would have followed in the train of the Army would have been dependents on the General Government, or men who expected profit from the miseries of their erring fellow-citizens."

But, Mr. Speaker, allow me to inquire whether this opposition to the Executive is not a new discovery, an afterthought, manufactured for a special purpose on the part of those who adhered to and upheld the late Administration of Mr. Lincoln in regard to the continued existence and vitality of the southern States during the late rebellion. Are they not estopped from this assault, as the gentleman from Pennsylvania [Mr. STEVENS] says, "both by matter of record and matter in *pais*?" In more than a hundred ways and forms, by military orders, in his annual messages, instructions to our foreign ministers, in letters and speeches to his own countrymen, and especially by his numerous proclamations, the late Ex-

ecutive always and at all times recognized the enduring existence of all the States over which the American flag had ever floated. I quote a single passage from the proclamation of emancipation, which, in my judgment, was a usurpation of power, but had at least the merit of not attempting to abolish States:

"That on the 1st day of January, in the year of our Lord 1863, all persons held as slaves within any State, or designated part of a State, the people whereof shall then be in rebellion against the United States, shall be then, thenceforward, and forever free; and the Executive Government of the United States, including the military and naval authority thereof, will recognize and maintain the freedom of such persons, and will do no act or acts to repress such persons, or any of them, in any efforts they may make for their actual freedom."

"That the Executive will, on the 1st day of January aforesaid, by proclamation, designate the States and parts of States, if any, in which the people thereof, respectively, shall then be in rebellion against the United States; and the fact that any State, or the people thereof, shall on that day be in good faith represented in the Congress of the United States by members chosen thereto at elections wherein a majority of the qualified voters of such States shall have participated, shall, in the absence of strong countervailing testimony, be deemed conclusive evidence that such State, and the people thereof, are not then in rebellion against the United States."

This was written and promulgated after the passage of every ordinance of secession; when the party in rebellion occupied and held in a hostile manner a certain portion of territory; had declared their independence; had cast off their allegiance; had organized armies; had commenced hostilities against their former sovereign; and yet the gentleman from Pennsylvania and his present followers uttered no dissent to its doctrines. It was the subject of indiscriminate praise from those very organs which now seek to blast and ruin the same policy in the hands of his successor. There is no escape here. The late chief of the great party of the North dealt with American States, the people whereof were in rebellion, and not with a foreign Power subject to conquest; and if his memory is sacred to his followers, they should not insult it by pronouncing his policy a delusion and a mockery ere his untimely tomb is fairly closed.

Sir, I am aware that many on the opposite side of the Chamber do not indorse the destructive theory of the gentleman from Pennsylvania, but who are nevertheless assisting to carry its results into practice. They deny his premises that the States are dead, but concur in his conclusion that they shall not be represented on this floor. To my mind their position is the worst of all. They embrace a consequence without a cause. They have reached an end which has no beginning. They are standing on a structure which has no foundation. While the premises of the gentleman from Pennsylvania are unsound, yet his logic is true. But those who refuse to follow him and yet deny representation, have neither premises nor logic. If the States are out of the Union of course their Representatives are strangers to us, but if they are in the Union what power can close these doors against them except the power of lawless, revolutionary force? "Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers." This is the language of the Federal Constitution. It also declares that "each State shall have at least one Representative." Are these States then "included within this Union?" If they are, how can we deny, in the very teeth of the Constitution, to receive their Representatives? What madness is this which proposes to govern the people of eleven American States, States "included within this Union," without representation? Where on this side of the ocean has been found such a monstrous principle of government? Its adoption would carry us back to the days of King George, and as fatally subvert liberty as if Cornwallis had triumphed on the plains of Yorktown.

But the advocates of this doctrine say that this phase of absolute despotism is only to last for a season; that these States are only to go unrepresented for a few years until guarantees,

guarantees for the future, are obtained. Guarantees for the future! This vague term is another political convenience like that of "dead States." Under it each innovator, dreamer, and revolutionist throughout the land can demand and require the fulfillment of all his fantastic desires against the South before he is willing to admit her Representatives. It is the cloak for every higher-law purpose now abroad in the public mind. It is a well-filled arsenal from which to shower confiscation, negro suffrage, reapportionment, proscription of persons, and every other missile of torture that was ever leveled at an unfortunate people.

Sir, I deny that a State can be refused her representation for a single moment on such grounds. Peace and obedience to law are the only guarantees for the future which any Government can justly require of its citizens. Where is the power in the Constitution whereby anything more can be demanded? Or has that instrument become a dead letter to us because we have been four years in forcing others to obey it? If we are not released from it, let me see the section on the subject of guarantees which authorizes Congress to close its doors in the face of the representatives of the people until they sign deeds of political capitulation. It may be said that the President himself has required guarantees in his policy of restoration. Even if he did so, I do not understand that he proposed to make their refusal a pretext for violating the Constitution himself. But I have not regarded his advice to the South in the nature of this movement in Congress. On the great question of slavery I hold that the action of the southern States in adopting the constitutional amendment has been wise and beneficent. The system was destroyed already by the force of arms and the operations of war, but it is better for the future dignity and history of the nation that a fact accomplished of the utmost magnitude should have the sanction of fundamental law. It was a vast step, too, toward a speedy restoration, and that alone is a powerful appeal in favor of the counsel of the Executive and the action of the South.

One other subject has been much canvassed under this new-coined phrase of guarantees for the future. The war debt incurred by the southern States in their attempt to establish a confederacy has been shaken in the face of the northern people to incite them to a policy of distrust and severity. Everybody well knows, of course, that it will never be paid. All history tells us that the debt of a defeated revolution is always lost. The government that contracted it is no more, and the ruined and exhausted people gladly turn their backs on the dead and melancholy past and look forward to the future with new hopes, new ties, and a new destiny. As to the victor in arms ever assuming such a debt, no instance is known in the annals of mankind, and such an idea is not respectable outside of an asylum for the insane. I regarded, therefore, the war debt of the South as fit only for one use—the declamation of demagogues and the malign purposes of political agitators. Hence I voted a few days ago that it should be buried out of sight and out of mind in the most effective and conclusive manner. I did not do so because I wanted a guarantee on that subject, but simply because I wished to remove it as an obstacle in the pathway of reunion, and as a means of useless and pernicious discord in the future.

But again, as to the right of representation, immediate and without any other guarantee than obedience to the Constitution. I shall now prove that the refusal to admit the southern representatives arises from a sense of power and not of justice; that while the southern people were in arms no position of the kind was assumed by any department of the Government, and that harder terms are now tendered to a defeated than were held out to a defiant enemy. In the proclamation of the late Chief Magistrate, from which I have already quoted, he clearly and explicitly asserts the right of any State, whose people were then in hostility to the General Government, to be represented in the Federal

Congress, and announces that he will consider such fact as an evidence that neither the State nor its people are any longer in rebellion. Where then was the guarantee doctrine? It had not yet been born. We were then wooing and courting representation because it suited our purposes to do so. We are now repelling it for the same reason. The great proclamation was then akin to the gospels of righteousness. Now I challenge the committee of fifteen to report in its favor. It is deserted in the house of its friends, and I am found defending the only healthy and legal spot in it. But, potent as it was considered, yet it was not the only expression that emanated from the high places of the last Administration, which confounds the philosophers of this new faith. On the 6th of February, 1863, Mr. Seward informed Europe and the civilized world that seats in Congress "are also vacant and inviting the Senators and Representatives of the discontented party who may be constitutionally sent there from the States involved in insurrection." Did these vacant seats invite the Representatives and Senators of a foreign nation with which we were waging a war for annihilation? Did the Secretary of State attach any other condition to the representation of the people then in arms against the Government than attaches to the representation of every other portion of the American people? He only asked that it might be constitutionally done, and this requirement is of universal application to the whole country. It means no more in Georgia than it does in New York; it means no more in Virginia than it does in Massachusetts. It interpolates nothing upon the practice of the Government under the Constitution from the hour of its birth down to the day on which an inquisition was sued out in this House, in the shape of a committee of fifteen, in order to discover some means of adopting the old British system of colonial bondage.

But, sir, it may, in answer to these citations, be said that it is not within the province of the executive department of the Government to determine the question of representation in the legislative department. But has not Congress itself made a record on this subject which it cannot ignore and which the majority dare not face? Has it not officially, over and over again, in both branches, assumed the very position which it now seeks with such flagrant assurance to repudiate? The cry is now that we must look to Congress for our policy of restoration. This place has suddenly become a citadel of wisdom, power, and dominion. It is a city of refuge, where all the disappointed spoilers, insane anarchists, bloody Jacobins, promoters of vengeance, disturbers of the peace, self-constituted saints who imagine themselves in partnership with the Almighty to assist Him in punishing the sins of the world, where law-breakers and revolutionists of every shade and color now flee to escape from the wise, successful, and constitutional policy of the President. "To your tents, O Israel!" was the ancient and legitimate cry of alarm. "Look to Congress, look to Congress!" now rings out on the air as a call to battle in behalf of chaos, disorder, and interminable woes. The populace of France, tossed in a tumultuous delirium of hate, drunken with blood, dethroning Deity and reverencing a harlot, shouted, "Look to the Assembly, look to the Assembly!" where the Mountain murdered the Girondists, and where Robespierre, Marat, and Saint Just planned, in the name of public virtue, the destruction of human life and of human society. But, sir, if we must "look to Congress," let me show the wistful gazers a picture of congressional action which will fill their hearts with dismay, and which Congress itself cannot to-day behold without feelings of humiliation and shame over its present position.

Did I not serve here in this Hall during the fury of the rebellion, when the flames of war scorched the very front of the heavens, with Representatives from the State of Louisiana? Were they not admitted to the "vacant seats" which invited their return by the very men who now stand like surly sentries at these doors and answer their hailing sign of entrance either with the response of "Dead States" or "Guar-

tees?" Was Tennessee destroyed or were her people entitled to no voice here because of her ordinance of secession? Sir, her name was called here during more than half the period of the war, and the representatives of her people answered to their names in both ends of the Capitol. The gentleman who in vain sought even a recognition of his own existence in this body when the present Congress was organized, [Mr. MAYNARD,] was then here with the full sanction of the same political majority which now spurns him from the door of its caucus room, and drives him from the protection which the escutcheon of his glorious State, under the administration of law, affords its Representatives in Congress. Shall we now assert that at that time Tennessee was a portion of a foreign Government? Shall we then as the next step of supreme absurdity declare the President of the United States himself an unnaturalized foreigner, a captive to our lance and spear, entitled doubtless to kind treatment, but in no sense a citizen of the United States, inasmuch as he never expatriated himself from the alien and hostile province of Tennessee, and never acknowledged himself subdued to the embraces of the Federal flag as the symbol of a separate nationality? I am prepared to hear even this miserable libel on American institutions asserted. Nothing is allowed to stand in the way of fanaticism. Its purposes are inexorable, and its devotees often deem themselves in truth and honesty the philosophers of their age; but Frederick the Great made a wise observation when he said, "If I wanted to ruin one of my provinces I would make over its government to the philosophers." Their theories are always in advance of their times; and in practical sense and actual utility they meet neither the requirements of the past, present, or future. The philosophers of Congress at least contradict themselves at very short stages of progress, and give no evidence of either ability or consistency. Why, sir, the records of this body, as well as of the Senate, will show that Virginia, too—Virginia, whose fiery and lofty crest shone in the very front of the rebellion, whose plains were its battle-fields, and in whose soil so many of its heroes lie buried—was here as a State when the roar of her hostile cannon could be heard on Capitol hill. Those who claimed to be her representatives came and they were received. They were required to give no pledges then for the future good behavior of their constituents, nearly all of whom were obeying the orders of General Lee. Then they were to be trusted without guarantees; but now that peace has been restored, and there is not an armed hand in all her borders to dispute the Federal authority, her people are much more dangerous and the presence of their Representatives here would give a fatal blow to the public safety! Such is the miserable position to which the engineers of this new movement are reduced!

Mr. DEMING. Will my distinguished friend from Indiana [Mr. VOORHEES] inform this House when he thinks the right to representation here from these States commenced? Did it commence at Antietam, at Gettysburg, or when did it commence?

Mr. VOORHEES. I will answer the question of the gentleman from Connecticut, [Mr. DEMING.] But as my time is getting short, I trust I shall be excused from further interruption. My answer is, "Peace and obedience to law are the only guarantees for the future which any Government can require of its people." And when peace and obedience to law reign among any portion of the American people, I hold that they are entitled to representation here.

Mr. DEMING. Then I suppose it will be necessary for the gentleman to show that obedience to law exists at this time in the reclaimed territories?

Mr. VOORHEES. Undoubtedly. I think the President and General Grant have shown that fact.

But one step further in this congressional record. As if to forever settle the construction which should be placed upon the condition of

the southern States, and their right to representation, Congress enacted and the President approved a law on the 4th of March, 1862, which I here read:

CHAP. XXXVI.—An act fixing the number of the House of Representatives from and after the third March, eighteen hundred and sixty-three.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the third day of March, eighteen hundred and sixty-three, the number of members of the House of Representatives of the Congress of the United States shall be two hundred and forty-one; and the eight additional members shall be assigned one each to Pennsylvania, Ohio, Kentucky, Illinois, Iowa, Minnesota, Vermont, and Rhode Island.

In order to obtain the number of two hundred and forty-one Representatives as contemplated by this law, every southern State whose citizens were in revolt must have been represented according to her population. What more can I do than to make this statement? What argument could add to its binding force? If men will repudiate to-day what they did yesterday, if they refuse to be bound by their own principles declared in the solemn form of a law, if the highest precedents of their own official action fall without force upon their ears, then, indeed, they are beyond the power of reason and callous to the reproach and derision of the world.

Sir, the most melancholy phase of corrupted and fallen human nature is its selfish tenacity to the low purposes of the hour. In their headlong pursuit it spurns the fixed principles and everlasting laws of the universe from its sordid pathway. It scoffs at wisdom that is "hoary and white with eld," and jeers the venerable experiences of ages if they arise as obstacles to its immediate gratification. Constitutions, laws, and sacred ordinances are lighter than cobwebs in the way of its consuming desires. Even the dread Jehovah, who made man and the code of divinity which claims his obedience, is but dimly remembered when the prize of the heart's dearest passion lies close and tempting to our hands. Our line of vision is on the level before us. We bow to the earth and worship its transient spoils, while the stars which sail over our heads and beckon us to celestial duties and betoken eternity, go unheeded in their grandeur. We hear the siren voice of the moment, but fail to catch the loftier harmony of the eternal spheres. Who has fathomed the dark and mysterious depths of his own motives? The rules of right rise or sink as they can be made subservient to our interests, our hopes, our loves, and our hates. The merchant prince of to-day adopts a new principle of trade from yesterday, because his harvest of profit will be richer and his chambers of wealth enlarged. The rulers and legislators of nations do the same. Napoleon worshipped with the faith of a Moslem at the Pyramids, when he dreamed of reviving and reigning on the throne of the Pharaohs. He imprisoned the anointed successor of St. Peter when the unappeasable rage of his ambition strove for the empire of Europe. He died with the consecrated wafer on his lips when he sought the salvation of his soul in the midst of the storm at Helena. Cromwell commenced his career in the name of the Lord, the champion of liberty, and the enemy of kings. His present purposes were gained by these fair and specious pretensions, but he passed from the earth as the first of an imperial dynasty, with every vestige of civil and religious toleration destroyed, and every evidence of the government swept from the British empire. David, the king, the statesman, the warrior, and the man of letters, yielded to the temptation of a beautiful but momentary vision, darkened his fame with cowardly and cruel murder, and corrupted his line with the offspring of a twofold crime. Even the primeval parents of the human race, who had communed face to face with the eternal Presence, and whose daily guests in the bowers of Eden were the angels and ministering spirits from heaven, looked no higher nor further than the branches of the tree where the forbidden fruit hanging in fatal splendor promised an

immediate enjoyment and the fulfillment of immediate desires. And are these mournful instances in the sad philosophy of human nature to bring us no lesson of warning in the discharge of our present duties? Shall we grasp the close, proximate pleasure of power and revenge in defiance of all the principles of the Republic, in violation of its Constitution, and in contempt of all our own deliberate and solemn commitments, with no thought or care for the future, which will be filled with misery, disaster, and shame? It may be so. The present is more powerful here than the past or the future. The majority in Congress as utterly ignores its own record of the last four years as if it was blotted from the memory of man; and to attain an unlawful result would launch the people of this Government on a future destitute of constitutional protection.

Mr. Speaker, I shall here rest the discussion of the relation which the southern States bear to the Federal Government, and their right to representation in these Halls. It was one of the very few great questions that arose during the war in which both the political parties of the North agreed. The principle that the Union was unbroken was declared in the platforms of all the conventions, from the smallest to the greatest; and now that its denial has become the corner-stone of a new and aggressive faith I have found but little difficulty in showing that the doctrines of the Constitution and the highest official actions of every department of the Government alike invoke us to resist the bold advances of this baleful and destructive heresy. There are other points, however, on which I wish briefly to dwell in connection with my support of the principles enunciated in the annual message of the President.

Second only in importance to the mighty question of Union and constitutional government is the financial policy which, through the approaching generations of sweat, toil, and pain, shall govern the tax-payers of this deeply indebted nation. Our public debt has assumed proportions so vast and threatening that thinking men shudder in its contemplation. There would be no profit now in inquiring whether it might have been less and yet the Union preserved. It is a fixed reality, and fastened upon us beyond the power at least of present rescue. I have decided opinions which apply to the past, and which I have expressed, and which I shall never recall. I now approach the future in connection with results over which I had no control, but which none the less impose duties incident to the position which I hold. These duties I shall discharge with not one partisan or selfish motive, in the interest of every taxpayer and every son of labor in the whole land.

Sir, how long can the inequalities of our present revenue system be borne? How long will the poor and the laborious pay tribute to the rich and the idle? We have two great interests in this country, one of which has prostrated the other. The past four years of suffering and war has been the opportune harvest of the manufacturer. The looms and machine shops of New England and the iron furnaces of Pennsylvania have been more prolific of wealth to their owners than the most dazzling gold mines of the earth. I might here stop and dwell on statistics and figures, but the public mind is already familiar with their startling import. They are the result of class legislation, of a monopoly of trade established by law. It may be said that they indicate prosperity. Most certainly they do; but it is the prosperity of one who obtains the property of his neighbor without any equivalent in return. The present law of tariff is being rapidly understood. It is no longer a deception, but rather a well-defined and clearly recognized outrage. The agricultural labor of the land is driven to the counters of the most gigantic monopoly ever before sanctioned by law. From its exorbitant demands there is no escape. The European manufacturer is forbidden our ports of trade for fear he might sell his goods at cheaper rates and thus relieve the burden of the consumer. We have declared by law that there is but one market

into which our citizens shall go to make their purchases, and we have left it to the owners of the market to fix their own prices. The bare statement of such a principle foreshadows at once the consequences which flow from it. One class of citizens, and by far the largest and most useful, is placed at the mercy, for the necessities as well as luxuries of life, of the fostered, favored, and protected class to whose aid the whole power of the Government is given. Will not such a privilege be abused? Can avaricious human nature withstand such a temptation? Is it any wonder or mystery that the farmer and the mechanic are paying more than fourfold the actual value of every article which supplies their daily wants and necessities?

But it is claimed that this system is a means of revenue to assist in the payment of the public debt. Even if this be true, its iniquity would be infinitely aggravated. I would rather be directly robbed than forced to assume, in the name of justice and right, the burdens and obligations of others more able to meet them than I am. Must the western people, because they are consumers and not manufacturers, be compelled by indirection to meet a large proportion of the debts of their fellow-citizens in other sections? Sir, this question must be met. It is in the minds and mouths of all our laboring classes in the West; and they will hail with general joy the fact that the President has declared in their favor and against the policy of their bloated and plethoric oppressors. I quote from his message:

"Now, in their turn, the property and income of the country should bear their just proportion of the burden of taxation, while in our impost system, through means of which increased vitality is incidentally imparted to all the industrial interests of the nation, the duties should be so adjusted as to fall most heavily on articles of luxury, leaving the necessities of life as free from taxation as the absolute wants of the Government, economically administered, will justify."

It is true that had I the power I would go further than this position of the Executive. Free trade with all the markets of the world is the true theory of government. No nation should prevent its citizens from buying where ever their hard earnings will buy most and go furthest. If a Hottentot can make and sell a bolt of cloth, or of muslin, or calico, cheaper than a New England Senator, who a few days since asked for increased protection to his manufactures, [Mr. SPRAGUE,] it is the right of any laborer in this broad land to pass by the civilized but rapacious Senator and obtain from the barbarian a better return for the sweat of his brow. For revenue I would look to the actual wealth of the country, and make it contribute accordingly. But this just and philosophic system of trade and government is not now within our reach, and I am content to accept the recommendation of the President to adjust the present impost system to the basis of revenue alone and not of protection. It is a step in the direction of true and practical reform—a reform in favor of that mighty branch of industry on which all nations depend for their wealth and power. It is a manly and honest blow aimed at a monopoly as arrogant, avaricious, and deaf to justice as the British East India corporation under Hastings or Clive. Nor is it any new doctrine. The people will hail it as a familiar friend of their former and happier days, and indorse it as they did then.

In close and immediate connection, however, with this branch of the message, the President has uttered another sentence on which the eye of the toiling, sunburnt tax-payer will linger long and gratefully. At the close of the weary day, as he counts up his feeble gains, looks into the heavy expenses of his family and his farming under high protective tariff prices, and shudders at the thought of the approaching tax-gatherer, knowing that for him and his hard-earned substance there is no escape, he will in his heart thank the man who as President wrote the following lines:

"No favored class should demand freedom from assessment, and the taxes should be so distributed as not to fall unduly on the poor, but rather on the accumulated wealth of the country."

Sir, is there a favored class in our midst that demands freedom from assessment? Are there those who, at such a time as this, demand that their property shall be exempted from the burdens of taxation? Are there American citizens, who boast loudest of their love of country, who will pay nothing to relieve it from debt? Is there an honest man in America who wishes his neighbor to pay his taxes as well as his own? Where is the "accumulated wealth of the country," which shirks its just responsibility and suffers the taxes to "fall unduly on the poor?" Where is this criminal delinquent which grinds the face of poverty and absorbs the widow's mite, in order that it may escape its own just dues and increase its hoarded gains?

[Here the hammer fell.]

Mr. SMITH. I move that the gentleman from Indiana [Mr. VOORHEES] have his time extended to enable him to conclude his remarks. No objection was made.

Mr. VOORHEES. I return to the House my acknowledgments for the favor they have extended to me.

Sir, more than one tenth of the taxable property of the United States demands and has obtained in the hands of a favored class freedom from assessment. The enormous capitalist who has invested all his means in the bonds of the Government thus relieves the principal of his vast estate from taxation. He feels no concern for the movements of the tax-gatherer except as he goes forth and returns to him with the interest on his bonds, which the hands of honest toil pour into his coffers. Is this "equal and exact justice to all men, and exclusive privileges to none?" It is claimed, however, by the friends of this moneyed monopoly that the bonds of the Government are a sacred obligation and must not be touched; that they were purchased by their present holders out of pure patriotism, and that their freedom from assessment is but a proper token of the nation's gratitude. Patriotism was said by the great Dr. Johnson to be the last refuge of a scoundrel. It is now made the refuge of wealthy non-taxpayers, who convert their taxable property into Government securities, in order to evade their honest obligations. The idea that they have made these purchases from other than the ordinary motive of pecuniary profit only provokes contempt. They bought at a heavy discount, owing to the condition of the currency. They paid about fifty cents on the dollar, and now hold them at par, and receive interest at their face.

But it is said that when these bonds were thrown upon the market there was a guarantee that they should not be taxed. Is an act of Congress at the last session a guarantee that another and a different one on the same subject will not be passed at this? Do we live in the days of the Medes and Persians, when it was an offense punishable with death to propose to change a law once enacted? Does any man of sense predicate his business transactions on such a theory? Did the capitalists who are now to be so tenderly relieved from taxation make their investments innocently supposing that an everlasting perpetuity attached to the legislation of this most versatile, fluctuating, and changeable body? If they did, it is very wonderful how men of so little intelligence could have so much money. No, sir, they calculated all the risks of profit and loss, and every contingency of the future, as closely as Shylock did on the Rialto, assured in any event that their ventures would come home to them like richly freighted argosies after a prosperous voyage at sea; still better pleased, however, if they could have judgment forever on the inhuman bond which gives them freedom from assessment and exacts in their favor the pound of flesh nearest the heart of the toiling multitude.

I have listened to appeals in favor of this class, on account of their timely and self-sacrificing services, until I have almost imagined that we dwelt in a new Arcadia, where such a thing as self-interest was unknown. They loaned moneys on good securities and high rates of usance, and therefore the dusty, weary plow-

man in the field must pay their taxes for them, and be thankful to God for so sweet a privilege! Yes, and even the soldier, crippled in the shock of battle, with the old flag over his head, returning home to find poverty and want at his hearthstone, must hear these speculators of Wall street hailed as the saviors of the country; and likewise without a murmur scuffle hard with the world, perhaps on crutches, to pay their debts as well as his own. The nation's gratitude takes a strange turn at this point. It lavishes its gifts, its garlands, and its favors on the money-changers of the temple, and causes the defenders of the Government at the cannon's mouth to pay tribute to their monstrous greed. Sir, there are few parallels in the wide annals of all the nations of the earth to such frightful injustice and inequality; and wherever they are found the people have been at last avenged upon their extortionate oppressors. The patricians of Rome, an aristocracy founded upon wealth, at different periods ground the plebeians, who labored at home and bore arms in the field, with debt and unequal taxation; but there was always a point at which the elements of revolution darkened the sky, and the privileged classes were compelled to yield to the untitled millions. State and Church in France had for ages loaded their favorites and parasites with riches and honors, and the peasantry with burdens, until the frenzied insanity of 1790 burst forth, and the whole fabric of government and of human society was involved in one common conflagration and ruin. Sir, there is but one pathway of safety and honor for Governments to pursue in their domestic policy. They must administer justice to their citizens in the spirit and the letter of equality; and there is no instance in the history of nations where class legislation and legalized monopolies have not overthrown the prosperity of every interest, and destroyed public liberty. I therefore indorse the policy of the President's annual message on this great and vital question. Sprung from the loins of the people, they will greet him as their champion. His life has been a battle in their behalf against privilege and oppression, and he has shown that in his proud eminence he has not lost for them his ancient love and care. Declaration on the dignity of labor in the abstract is a cheap indulgence. We listened to it a few evenings since in this Hall, from the eloquent lips of one whose soft hand never did an hour's toil, and who preaches a fashionable gospel at ten thousand a year. But labor finds its true dignity when its rights and interests are defended in high places by one who has felt all its privations and sufferings, and knows by experience "the simple annals of the poor." Let the public debt be paid, but let it be paid honestly and by all. I advocate no repudiation, but I advocate equality in striving to meet its terrible demands. Its exactions will be sufficiently sore even when the whole wealth of the land is brought to the receipt of custom. It will be more intolerable than the requirements which the Egyptian masters laid upon their Hebrew slaves, if only a portion of the people have to meet it all. I implore this Congress, then, to accept these wise recommendations of the Executive. Adjust the present tariff so that the whole labor of the country shall no longer be taxed on the necessities of life for the benefit of a single section. Repeal the law by which a favored class obtains freedom from assessment. Bring the accumulated wealth of the country to the aid of the poor in paying the national debt. Do these things, and you will lift cruel and galling burdens from the shoulders of honest labor, and convince the country that you have some regard for an equality of rights and privileges among American citizens as well as between the different races in our midst.

Mr. Speaker, I have thus far reviewed and discussed, as I understand them, the leading features of the domestic policy of the Executive. The success of some portions of this policy remains wholly with the future. Upon the leading measure, however, of a restoration of the States to union and harmony, an important

chapter in history has already been written. Has it been a success or a failure? I have tried it by the high standards of right, justice, constitutional law, and precedent. I submit it now to another test, on which it is bitterly assailed by those who yet claim to be the only friends of the Administration. Those who perform their duties of friendship toward the President by malignant denunciations of his policy are now engaged in impressing the public mind with the belief that he has accomplished nothing worthy of acceptance by the people. The gentleman from Pennsylvania [Mr. STEVENS] pronounces his plan of restoration impracticable and untenable. He not only speaks for himself on this point, but also for everybody else. He says that "very few now consider" the administrative position a tenable one. An arrogant Senator in the other end of the Capitol pronounces the whole thing a fraud, a whitewashing process, by which sins and crimes are connived at and hid from the public gaze. Adversitous members of this House have crowded themselves into the presence of the Executive, and with exquisite delicacy assured him that, with their constituencies, they think his plan of restoration not likely to give success to his administration, and that, after an uninterrupted trial of seven months, his efforts to reorganize the rebel States and restore them to the Union must be recognized as a failure. Then with profuse protestations of true friendship they modestly ask him to step quietly to one side, not to lift a finger of interference, not open his lips in remonstrance, while they smash to pieces all his well-ordered plans, and kick to the ground with their Vandal feet his almost completed structure of Union and peace.

Sir, this class of dissatisfied spirits is to be found in every age. It is composed of boding birds of evil omen. It is their mission to destroy, not to build up. The borer in the trees of the forest, the worm in the heart of the flower, the wolf in the farmer's sheepfold, the tiger in the traveler's encampment by night, all pursue their trade of destruction and mark their career with ruin. But no useful thing ever grew from their labors. And like these beings in the animal world, created to destroy, so there are unhappy members of the human family, who never beheld the fair and beautiful creation of another's wisdom without an irresistible longing to strew the earth with its broken fragments. To them I make no appeal in behalf of that policy which has cleared away the wreck of a gigantic fraternal war, laid anew the foundations of government throughout an extent of country more vast than the most powerful kingdoms of Europe, revived confidence and hope in the breasts of a despairing people, and won for its author the respect and admiration of the civilized nations of both hemispheres. I make my appeal to the disinterested, impartial, and enlightened masses of the country, without regard to lines of party distinction. They have witnessed the patient labors of the President, and since this Congress convened they have beheld their grand fulfillment. Those wandering stars from the azure field of the flag, those discontented Pleiades that shot madly from their spheres, have one by one reilluminated their rays at the great center of light and of glory. The whole land wept when the beautiful sisterhood was broken. The wail of the heart-broker over the pallid face of the beloved and untimely dead is not more full of anguish than were the hearts of those who love their fellow-man when many of our most brilliant planets denied the law of gravitation and struck defiantly out upon orbits of their own. The sword that was drawn by all Christian hands, more in sorrow than in anger, hangs peacefully in its scabbard on the wall. Each section has its reminiscences of sublime devotion, of grief, and of glory. These are the brave heart's dearest treasure, and until

"The good knights are dust"

they will be hallowed as the devotee hallows the rites of his religion. But peace under the policy of the Executive is celebrating "her victories no less renowned than war." The shining symbols of the revolted race are over our heads.

State after State, kindly assisted by the paternal hand of the President, comes to take its place beneath its ancient coat of arms. They cluster around these vacant seats that have so long invited them in vain. They are welcomed by the President as Israel's greatest king welcomed the warlike son of Ner, whose standard had waved twice four years in rebellion.

Let Congress imitate his example and mark the opening of the new year as an era of perfect reunion and a season of universal joy. "Let oblivion's curtain fall" upon the doleful tragedies of the past. Bury the animosities of a civil war. Take no counsel from their baleful whisperings. Hate is the basest principle of human action. They who have made laws and ruled nations upon motives of vengeance are the monsters whom all history curses with an unbroken voice. The long and deadly proscription lists of Sylla and Marius, Tiberius, and Clodius, gave the names of their victims to the compassion and sympathy of the world, while an immortality of infamy clings unceasingly to those who took private revenge in the name of the public good. Charity for the errors, the follies, and the crimes of the whole family of imperfect man is the leading virtue in the breasts of lawgivers and rulers. Those who have been guided by its sweet, angelic influences constitute the glory of the firmament in the annals of mankind. Cyrus, Scipio, and Washington command the love and veneration of ages more by the forbearance, magnanimity, and clemency of their characters than by the renown of their military achievements. The savage chief may strike his enemy prostrate and powerless at his feet. It is an attribute of divinity which lifts him up and makes him a friend. When Pericles paused upon the opening threshold of eternity, and in his dying moment reviewed the events of his great life, he consoled his parting spirit and rested the chief glory of his reign upon the fact that he had never caused a citizen of Athens to shed a tear. From this hour may this Government dry up the tears of its citizens! May no more hearts be wrung with the gloom of the prison or the anguish of death! May the two sections meet again as kindred and friends! The angel of concord will then stir the healing waters for them both; and renewing their glorious youth together, the future of the American Union will be filled with the love and praise of all its citizens.

Mr. BINGHAM obtained the floor.

Mr. HENDERSON. Will the gentleman from Ohio [Mr. BINGHAM] yield to me for one moment? I desire simply to offer an amendment to the resolutions of the gentleman from Indiana.

Mr. BINGHAM. The gentleman will excuse me. I desire myself to offer an amendment.

Mr. DAWES. Will the gentleman from Ohio yield to me for a moment, that I may offer some papers for reference to the Committee of Elections?

Mr. BINGHAM. Certainly.

PENNSYLVANIA CONTESTED ELECTION.

Mr. DAWES, by unanimous consent, presented papers relative to the contested election in the sixteenth district of Pennsylvania; which were referred to the Committee of Elections.

POLICY OF THE PRESIDENT—AGAIN.

Mr. BINGHAM. Mr. Speaker, it was to me an agreeable surprise to hear the words of the honorable gentleman from Indiana [Mr. Voorhees] in general commendation of the President of the United States. I cannot forget that, when the great body of loyal freemen who dwell between these oceans were engaged in a fierce struggle for the life of the Republic with an armed conspiracy and revolt, occupying and claiming to hold an area of territory equal in extent to half the continent of Europe, they received no earnest support from the gentleman or his party. And when the same loyal people, by the sacrifice of blood, sought to sustain all patriotic citizens then found anywhere within the limits of these insurgent States, of whom Andrew Johnson was one, in their honest en-

deavors to call back those people from their madness and their crime, neither that loyal people, nor those patriotic citizens of rebel States, received any efficient support at the hands either of the gentleman or of the party with which he was associated. I have not forgotten that the gentleman who attempts this day to arraign the patriotic party of the Union, the party of the Constitution, the party of law, the party of protection to each loyal citizen against the combined power of all, was accustomed, in his place here, to join with others of his party in the cry, "You cannot save the Government by arms!"

I have not forgotten, sir, that when this terrible, and, as the gentleman has well said, unparalleled and unmatched conflict between the friends of the Union and the enemies of the Union was shaking both hemispheres, covering the whole heavens with darkness, and filling the habitations of the people with lamentation and death, the gentleman was among that party of supporters of the conspiracy who assembled at Chicago and declared the war for the Union a failure. Now, sir, I would have remained silent, in view of all the thoughtful and well-considered words that the gentleman has seen fit this day to utter in commendation of the President, but for the fact that he has chosen to attempt to indoctrinate this House and the country with the same fell spirit of his party which in the past originated rebellion, and will in the future, if followed, renew and perpetuate rebellion. The gentleman's position here cannot be mistaken. His argument is elaborate; it is written word for word and letter for letter; it is well considered; but he will excuse me for saying here that it is with me a conviction as strong as knowledge that the proposition upon which the whole structure of his argument rests is the position that was assumed from first to last by every man who entered into the conspiracy against the nation, or who aided it; and if it be acted upon now by the Representatives of the people, it must result only in perpetuating that conspiracy to the destruction of the Constitution.

What is the position that is assumed and enunciated here to-day with so much earnestness, and I may say plausibility, by the gentleman from Indiana? It is simply this—"once a State, always a State," with all the powers and rights of a State within the Union. If I misconceive in any way the gentleman's actual position, as announced in his speech, I will be greatly obliged to him if he will correct me. "Once a State, always a State, with all the rights of a State, with the right of full and equal representation, with the right of local legislation." This seems to be the gentleman's statement, or the effect of it. Wherein does it differ from the position that was assumed at the very commencement of this great struggle, which has happily, thus far, ended so well. No thanks to the gentleman or his party that it has ended so well, but thanks only to God, who has in His keeping the destiny of nations, to the loyal people, and to that grand, heroic army of the Union that stood these four years past as a wall of fire between us and war's desolation, making even death itself beautiful by the sacrifice of themselves for their country.

Mr. VOORHEES. Will the gentleman from Ohio yield to me?

Mr. BINGHAM. Certainly; but I prefer first to state my position. But I yield to the gentleman.

Mr. VOORHEES. Go on.

Mr. BINGHAM. Mr. Speaker, I say the position that was assumed at the commencement of this struggle by the advocates of this great treason, which, as I have already remarked, has terminated so happily for us all, is the very position which is assumed by the gentleman to-day. Let him disguise it as he may, the gentleman to-day affirms that which was assumed by his party upon this floor and at the other end of the Capitol, by the President of his party, in December, 1860, and which then energized the arms of the conspirators and gave them the courage to strike at your flag, to strike at your Constitution, and to strike at your nationality.

What was that position? It is burned into my brain as with fire, and will only be obliterated with the extinction of my life. What was that position? It was that the people of the United States, under their Constitution, had not the lawful right to coerce the seceding States. It embraces all the gentleman's argument. It is no new invention with him. Then the assumption of the gentleman and his party was, you could not coerce the seceding States by arms, and to-day the gentleman declares you cannot coerce seceding States by laws. The several States of the Union being original, independent sovereignties, according to the expressed opinion of the gentleman's party, it logically resulted therefore as was then declared by that party, that States might secede; they might make war upon the Union; they might tear down your banners; they might seize upon your custom-houses, your navy-yards, your arms, and your munitions of war; they might hunt to the death the true men found everywhere, thank God! in their midst, clinging to the tottering pillars of the Republic, invoking God's blessings upon the defenders of the Republic, praying that the great treason might perish, that their country might survive, and thus attesting by their fidelity that they were the very elect of human nature, men fit to be enrolled among the immortals. Then we were told we could not, even to protect these true men, coerce seceding and rebellious States by arms, and now we are told by the gentleman we cannot restrain the seceding and rebellious States in any manner by laws. That is the position of the gentleman. Now I should be glad to hear him.

Mr. VOORHEES. Not just yet. I shall be ready for you in time.

Mr. BINGHAM. I should be glad to hear the gentleman now or at any time. The gentleman says he is looking up authority. My authorities are all with me. Holding myself, if you please, the humblest man upon this floor, I stand here to assert, and I challenge contradiction in making that assertion, that the American people, when they became a nationality, by the formation of a more perfect Union, by the adoption of the Constitution of the United States, declared themselves clothed with all the powers necessary to the maintenance of their nationality and the enforcement of the supremacy of their laws against all comers, whether these comers were in the guise of seceding States and organized conspiracies within the jurisdiction of the United States, or whether they were their allies abroad in the persons of the chiefs of Great Britain and France, who have been *particeps criminis* with the traitors in this great struggle. At the adoption of the Constitution this general power of defense was claimed by the friends of the Constitution and admitted by its enemies and made a ground of objection to it. And until the gentleman's party in 1860 denied this general right of self-defense in the United States, it was asserted under and by virtue of that Constitution on all occasions, whether to suppress insurrection or to repel invasion.

Mr. VOORHEES. With the permission of the gentleman from Ohio I will now say a word.

I expected, Mr. Speaker, as a matter of course, and consequently I got myself into good humor a week ago, that I would be scolded for the speech I was going to make by gentlemen occupying the position of my friend from Ohio, [Mr. BINGHAM.] I take it all good-naturedly. Let me say this to him in order that my position may be understood. The American Union being a Union of the States, I do not know of any power in the State or the Government to destroy a State.

If that signifies to his mind, "once a State always a State," then he is right. I will read now from a document that I have tried to support, in a few remarks I have made this afternoon, written by the President of the United States, and if these hard epithets apply to my policy they apply to his likewise. The President says:

"But the true theory is, that all pretended acts of secession were from the beginning null and void. The States cannot commit treason, nor screen the individual citizens who may have committed treason any

more than they can make valid treaties or engage in lawful commerce with any foreign Power. The States attempting to secede placed themselves in a condition where their vitality was impaired but not extinguished, their functions suspended but not destroyed."

Now, the issue formed before the country between the President and the men who supported him on the one hand, and those who opposed him on the other, is this: that at the end of this war the party opposing the policy of the President found eleven States destroyed. Perhaps more passed ordinances of secession. I did not pay enough attention to that hardly to know how many did. I look upon those ordinances as null and void. I consider all those States that passed ordinances of secession as dead to this Government. That is their position.

Now let me ask the gentleman, who killed those States? What power did it? Where did that power come from? Who dealt the blow? Did the State by its own act, or did the Federal Government, or did the government of Jeff. Davis at Richmond kill it? Did this pretended government in the South have power enough to kill eleven vital live States in the Union? Where is this destroying angel that has gone forth and destroyed those States? I hold that there is no element of destruction in them; that as they were in the beginning, so they were through this war, and so they are now—living States of the American Union. And in asserting that position, I have asserted the position of the President of the United States, and every assault the gentleman has made upon me on account of my position is equally made upon him.

Mr. BINGHAM. I am glad the gentleman has made his explanation, for it only makes clearer the position he assumes in regard to that question. The gentleman in his speech has notified the House and the country, assuming the position which he attributes to himself, in the first place, "once a State, always a State" for all purposes; that the rebel States, had always, and have now, the right of representation, and you have no right to exclude them. Now, the President has never asserted any such thing, either by direction or indirection. In the very passage which the gentleman has read from the message the President has said that "the functions of the rebel States were suspended." Of course if the functions of a State are suspended the powers of the State cannot be exercised. That is the President's position; the very converse of it is the position of the gentleman who comes here to introduce general resolutions of commendation of the President's message!

But I am not to be diverted at this stage from the line of remark I had entered upon. I have said that the position assumed generally by the gentleman in the speech which he has just made, is a position which, if acted upon by the representatives of the people, will prove as disastrous to the future of the nation, as a like assumption, made by his party, has proved disastrous to the nation during the past four years. There is no question about it. The gentleman's assumption is, that after having surrendered to the victorious legions of the Union and laid down their arms, the rebel States of right are entitled, without challenge, let, or hinderance, to representation on this floor.

I undertake to say that the President has not advanced any such proposition. Their right of representation depends exactly upon the actual condition of things in those rebel States, and chiefly upon such conditions as these: that they have not only laid down their arms, but have conformed their constitutions and laws to the Constitution and laws of the United States, and given such evidence to the people of the United States, and their representatives in Congress, as satisfies them that coöperating in this general movement of reorganization is a sufficient body of now loyal citizens to constitute a State.

Will the gentleman undertake by his mere platitudes to assert here that if by chance five thousand men in South Carolina, lately in insurrection, choose to be represented in convention, and in all things manifest a willingness to

return to their allegiance to the Constitution and Government of the United States in good faith, it follows of necessity that the residue of unrepentant insurgents in that State, whose hands are red with the blood of their countrymen, have a right to representation on this floor, and that, too, as provided by the act of 1862, to which the gentleman referred, giving them six Representatives and two Senators? I want an answer. Who undertakes to assert any such thing, and who is to judge in this matter—the Congress or the President?

Mr. VOORHEES. I did not hear the gentleman's question. Will he repeat it?

Mr. BINGHAM. I say, if there were only five thousand men acquiescing in the late reorganizing convention in South Carolina, or represented in that convention, which declared submission to the Constitution and laws of the United States, would that entitle them to six Representatives and two Senators in Congress, and to exercise all the powers and functions of a State in the Union?

Mr. VOORHEES. Mr. Speaker, the easiest, and at the same time most absurd mode of argument, is to suppose absurd things. I just step back on the fact that General Grant has been down there, and did not find any such state of things. That is sufficient for my argument at this time. Now, when you find a case of only five thousand in the community willing to discharge their duties, we will consider that.

Mr. BINGHAM. Well, the gentleman has given us about the stoutest reason for his argument, I suppose, that he could find. He stands behind the shadow of a mighty name. General Grant, I believe, was one day in the State of South Carolina, if at all, on that journey; I am not certain if he touched the borders of the State at all. The gentleman thereupon concludes that it is all right in South Carolina; General Grant did not undertake to say so. But the gentleman by his explanation concedes—and that is enough for my purpose—that the representatives of the people of the United States have some right to inquire. He concedes that by saying he is satisfied with the testimony of General Grant. I concede it, too, that Congress has the right to inquire, but I am not satisfied with the alleged testimony of General Grant, in view of the fact that he has not given any testimony on that subject, and has not proposed to do so. So much, then, for that.

Now, Mr. Speaker, I am not willing that the gentleman, after the struggle through which we have all passed, shall assume that he alone, as a Representative of the people, is faithful to the Constitution of his country and to the sacred rights of the people of the whole country. I claim myself to coöperate with a party of men who are as charitable as the gentleman can be, even toward these late insurgents, these late conspirators, these men who but the other day struck with their drawn daggers at the white breast of our mother country. I am not willing to concede that these gentlemen who, by their utterances, but gave aid and comfort to the rebellion during the gigantic struggle, are the only persons to be intrusted with the honor and dignity of this greatest of all trusts ever committed to the care of any people upon this earth, the perpetuity of the Republic. The Republic, sir, is in the hands of its friends, and its only safety is in the hands of its friends. The party of the Republic proposes only to take security for the future. They do not expect nor hope for indemnity for the past. They propose, however, to take security for the future.

The gentleman, as I understand him, admits that he voted for one of those measures the other day which looked to security for the future, and that was the proposed amendment to the Constitution making it hereafter unconstitutional, by the will of the whole people of the United States, either for the Congress of the United States or for any State of this Union to assume or pay any part of the debt contracted in aid of the late rebellion, or of any debt which may hereafter be contracted in aid of any rebellion against the United States.

Well, sir, if the people of the United States are justified—and I infer from the gentleman's vote as well as from his voice to-day that, in his opinion, they are justified—in taking that one security for the future, are they not also justified in taking such additional security for the future as will bring in all the hereafter peace and prosperity to the South as well as to the North, to the East as well as to the West?

Oh, sir, it ought to have occurred to the gentleman when he was meditating his carefully prepared speech in commendation of the President, that there appeared in that same message of his an utterance which ought to attract the attention of this House, and the attention of the whole country, and that was when he reproduced the words which express the true intent and meaning of the Constitution of the United States. "Equal and exact justice to all men." That is the utterance of the President in his message, an utterance which the gentleman found it convenient to be quite oblivious of when he came to make up his words of commendation. According to the political creed of that party which proposes to take the President into its most holy and jealous keeping, there is only to be equal and exact justice secured to white men. [Laughter.] Yes, his party were for equal and exact justice to white men, uttering the horrid blasphemy all the while that this is a Government of white men.

Mr. Speaker, everybody at all conversant with the history of the country knows that in the Congress of 1778, upon the adoption of the Articles of Confederation as articles of perpetual union between the States, a motion was made then and there to limit citizenship by the insertion in one of the articles of the word "white," so that it should read, "All white freemen of every State, excluding paupers, vagabonds, and so forth, shall be citizens of the United States." There was a vote taken upon it, for our instruction, I suppose, and four fifths of all the people represented in that Congress rejected with scorn the proposition and excluded it from their fundamental law; and from that day to this it has found no place in the Constitution and laws of the United States, and colored men as well as white men have been and are citizens of the United States.

I say, then, to return to the question, having adopted one measure of security for the future, we might as well adopt another, and act upon the suggestion of the President, that hereafter the true intent of the Constitution, which is to secure equal and exact justice to all men, may be carried into effect.

Why, sir, it is a maxim that has come down to us from the infant days of the world that injustice in States is the source of turbulence and resistance to the laws; injustice is the parent of strife and conflict. Oppression makes even a wise man mad. It is a maxim as old as civilization, "for those who do injustice there will be a day of retribution." I thank the President for reminding Congress of this watchword, "equal and exact justice to all men," which was familiar to the people in the purer and better days of the Republic. The spirit, the intent, the purpose of our Constitution is to secure equal and exact justice to all men. That has not been done. It has failed to be done in the past. It has failed in respect of white men as well as black men. It has failed to be done at times in respect of some of the most distinguished citizens of the Republic. Was justice done to your martyr President when he was assassinated in the capital? Time was, within the memory of every man now within hearing of my voice, when it was entirely unsafe for a citizen of Massachusetts or Ohio who was known to be the friend of the human race, the avowed advocate of the foundation principle of our Constitution—the absolute equality of all men before the law—to be found anywhere in the streets of Charleston or in the streets of Richmond.

To be sure, it was not because the Constitution of the United States sanctioned any infringement of his rights in that behalf, but

because in defiance of the Constitution its very guarantees were disregarded. I call the attention of the House to this fact merely for the purpose of suggesting for their consideration, that in view of all that has happened; in view of the fact that many of the States—I might say, in some sense, all the States of the Union—have flagrantly violated the absolute guarantees of the Constitution of the United States to all its citizens, it is time that we take security for the future, so that like occurrences may not again arise to distract our people and finally to dismember the Republic.

When you come to weigh these words, "equal and exact justice to all men," go read, if you please, the words of the Constitution itself: "The citizens of each State (being *ipso facto* citizens of the United States) shall be entitled to all the privileges and immunities of citizens (supplying the ellipsis "of the United States") in the several States." This guarantee is of the privileges and immunities of citizens of the United States in, not of, the several States. This guarantee of your Constitution applies to every citizen of every State of the Union; there is not a guarantee more sacred, and none more vital in that great instrument. It was utterly disregarded in the past by South Carolina when she drove with indignity and contempt and scorn from her limits the honored representative of Massachusetts, who went thither upon the peaceful mission of asserting in the tribunals of South Carolina the rights of American citizens.

I propose, with the help of this Congress and of the American people, that hereafter there shall not be any disregard of that essential guarantee of your Constitution in any State of the Union. And how? By simply adding an amendment to the Constitution to operate on all the States of this Union alike, giving to Congress the power to pass all laws necessary and proper to secure to all persons—which includes every citizen of every State—their equal personal rights; and if the tribunals of South Carolina will not respect the rights of the citizens of Massachusetts under the Constitution of their common country, I desire to see the Federal judiciary clothed with the power to take cognizance of the question, and assert those rights by solemn judgment, inflicting upon the offenders such penalties as will compel a decent respect for this guarantee to all the citizens of every State.

Having said this much touching security for the future, allow me to add that I repel with scorn, come from what source it may, the suggestion that I cooperate with any party that proposes to impose an unequal or unjust burden upon any State in this Republic. I know, and you, sir, know, and every loyal citizen of this Republic has come to know, that the divinest feature of your Constitution is the recognition of the absolute equality before the law of all persons, whether citizens or strangers; and the equality of every State within the limits of this Republic, subject only to the exception made by reason of slavery, now happily abolished. The President, therefore, might well say, as he does say in his message, that "the American system rests on the assertion of the equal right of EVERY MAN to life, liberty, and the pursuit of happiness; to freedom of conscience, to the culture and exercise of all his faculties."

I propose, then, sir, by amending the Constitution, to provide for the efficient enforcement, by law, of these "equal rights of every man," and upon the assertion of which, we are told by the President, the American system rests. In doing this I would impose no restraint upon South Carolina that shall not rest with equal weight upon the State of Ohio. I ask that South Carolina, and that Ohio as well, shall be bound to respect the rights of the humblest citizen of the remotest State of the Republic when he may hereafter come within her jurisdiction. Who makes objection to that, or who can justly object to it?

These, then, are some of the matters that are before this House for consideration. And it

strikes me that they pertain quite as much to the House as to the Executive. I undertake to say that the President of the United States will be found cooperating with the representatives of the people in their endeavor to introduce into the Constitution not that which will mar it, but that which will perfect it and enable the people hereafter to secure and reap for themselves and for their posterity forever the great ends for which that Constitution was ordained.

It was ordained to form a more perfect Union, but only as a means to the attainment of all its declared purposes. It is a declared purpose of the Constitution "to insure domestic tranquillity." How? By affording protection by law to the rights of all, in every State of the Union, and upon every sea the world over wherever your flag floats. Not merely "to establish a more perfect Union;" not merely to insure domestic tranquillity; not merely "to provide for the common defense," was the Constitution ordained; but also to "establish justice." It stands written, sir, on the forefront of that imperishable instrument that "in order to establish justice, we, the people of the United States, do ordain this Constitution." Well might the President demand, as he does demand in his message, "equal and exact justice to all men." That is precisely what is proposed to be accomplished.

I repel every insinuation or intimation, come from what quarter it may, that the representatives of the people have manifested thus far the slightest disposition to interfere with the prerogatives, if gentlemen please so to term the powers, of the Executive. I deny that the representatives of the people have taken any step indicating any such purpose, or any purpose to raise an issue or create a conflict between the President and Congress. But I may say further, that if the day ever comes when the President of the United States finds in this House no other supporters than those who combined together at Chicago in 1864 to bury him where they hoped that even the hand of resurrection itself could never again find him, then God help the President and save him from his friends. [Applause.]

The SPEAKER. The Chair must ask gentlemen upon the floor to restrain any manifestations of applause or dissent, or it will be impossible for the Chair to restrain similar manifestations from those in the galleries. If members upon this floor will not respect their own rules, they cannot complain if they are not respected by spectators in the galleries.

Mr. BINGHAM. Having said this much, Mr. Speaker, upon the general subject, I desire to examine a little more closely the remarks of the gentleman from Indiana [Mr. VOORHEES] in regard to the position of the President touching the insurrectionary States. I have understood all my life that a difference only in words, if there is an agreement in the substance, is not a material difference.

I undertake to say here, and to demonstrate it, if my time and strength will allow me, that the position of the President of the United States is in exact accord with the position of this House. He says in his message that the functions of these several insurrectionary States are suspended. This House has said the functions of those States are suspended by their own act of insurrection and treason, and they cannot of right assert their claim to representation upon this floor until the representatives of the whole people of the United States shall become satisfied that they have put themselves in proper position, and that all safeguards essential to the future safety of the Republic have been provided. That is all there is of it. Where is the conflict? The President declares the functions of those States suspended. That is only another way of saying that when a State engages in insurrection—as my learned and excellent colleague [Mr. SHELLABARGER] said yesterday in his able and exhaustive argument; when its people have disorganized the whole machinery of their State; when they have blotted out, so far as they can, the written re-

quirement embodied in the Constitution of your country, that all legislative, all executive, all judicial officers of every State shall be bound by an oath to support that Constitution: when they have utterly blotted it out from their statute-books and inserted in its place the blasphemous oath that they will resist unto death the Constitution, the laws, and the authority of the United States; in that condition of things, sir, I care not whether the President says that their functions are suspended, or whether he says that they have ceased to be States for municipal purposes, it is one and the same thing in law; and I have very little respect for the logical acumen of the man who cannot see it.

Why, sir, I recollect well the occasion, in 1862, in the midst of this struggle, when I ventured to ask upon this floor the question whether South Carolina, having repudiated the oath prescribed by the Constitution, having sworn every legislative, every executive, and every judicial officer within her territory to resist and if possible overthrow the Constitution of the United States, could, by any possibility, rightfully legislate upon any subject affecting the person or property of any American citizen.

The gentleman was not then ready to challenge further debate by asserting any such authority in that insurgent State. I made at that time the further inquiry whether South Carolina had the right to elect Representatives or by her forsworn Legislature choose Senators to the Congress of the United States. I received from this side of the House, and from that, nothing but the reply which silence gives. Wherein has the case been altered? The great body of the people of that State did destroy her organic law and adopt a statute of treason, and from that moment she ceased to be a State for municipal purposes. But, says the President, the continuance of the State is assumed. So it is; but not for municipal purposes. The continuance of the State is assumed for Federal purposes. "Once a State, always a State" for Federal purposes, until that sad day comes—which I pray God, may never come—when treason shall triumph over the arms of the Republic. But, sir, let every State do precisely what South Carolina did and persist in it, and they cease to be States of the Union, for in that event there will be no Union and no Government of the United States.

South Carolina by her statutes of treason and her acts of treason could not and did not carry the territory of South Carolina out of the jurisdiction of the United States. South Carolina, by her ordinance of secession and her statutes of treason, could not blot out the State lines of South Carolina for Federal purposes. South Carolina, in short, could not, by her treason, blot out the provision of the Constitution of the United States which declares that—

"In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law."—*Amendments*, art. 6.

Treason is a crime: South Carolina by her secession could not destroy the State and district of South Carolina even for the purpose of holding therein a Federal court and trying and condemning traitors for the treason and other crimes which they therein committed against the United States. The judicial district of the United States, therefore, remained in South Carolina intact, despite her treason; and the moment our armies captured Hilton Head, that moment, by the authority of the people of the United States, despite the treason of South Carolina, despite the fact, which no man can successfully gainsay, that South Carolina had ceased to be a State for all municipal purposes and could exercise none of "the functions of a State" whatever—could neither legislate, adjudicate, nor execute as a State—yet, that very moment the American people might rightfully have there opened their courts of justice under the protection of their guns, and proceeded to execute judgment according to law upon every criminal offender against the authority of the United States on

whom they might lay their hands; and whose crime was committed within that State. I would like to see the man who is bold enough to deny this.

They are States, says the President, but only for Federal purposes; they have, all this while, during rebellion, been States, but only for Federal purposes; they were during their rebellion not States for municipal purposes, and can never be till they reorganize their constitutions of government to the satisfaction of the American people. There are two parties to the reorganization of these rebel States. The President cannot constitute a State; Congress alone cannot constitute a State; nobody upon earth can constitute an organized, constitutional State of the Union but the people of the United States, and the people of the proposed State coöperating. If the people of South Carolina do their part rightly and well, to which end no enabling act is needed, as it is but the exercise of the right of petition, which is guaranteed by the Constitution, and which you can neither confer nor take away by law, it will only then remain for Congress, upon her presenting a complete organization, to admit her to her equal position as a State within the Union, with full power to exercise her restored functions and with full right to her equal representation in the Senate and House. The speedy restoration of every State to its equal position, as soon as it can be done safely for the Republic, is, I am sure, the purpose of this House and of the President.

Mr. SMITH. I should like to ask the gentleman from Ohio a question for my own gratification, and I may say for my own information, and I should like to have it answered at this point of the debate. I understand him to say that during the four years of the rebellion, as he understands the question, and as the President designates it, the municipal authorities of those States were suspended; that the legislative, executive, and judicial powers were of no effect. The question which I wish to ask is this: If that be the truth relative to the municipal condition of the southern States, what then becomes of the action of those States during the time of the rebellion in reference to the transfer of property, marriages, &c.? In what relation do they now stand to the Government?

Mr. BINGHAM. Which judiciary?

Mr. SMITH. The judiciary of the State.

A MEMBER. The rebel judiciary.

Mr. BINGHAM. So far as marriages are concerned, I never heard of any State in my life out of Paganism where marriage contracted under such circumstances has been interfered with. If there was anything done by the rebel judiciary, to answer the gentleman's question further, such as that which was done for instance in Tennessee, of which we took some cognizance at the time when we tried Humphreys in the Senate for his treason against the country—if they have rendered in any of the rebel States such decrees as that judge rendered in Tennessee, confiscating the property of citizens of the United States, I think the constitutional Government of the United States can now reach them and set them aside.

Mr. STEVENS. With my friend's permission, I should like to ask him a question. I want to know whether at the time the so-called confederate government was a government in fact, was organized and performed all the functions of government, the laws then passed and the decrees then made are not binding upon the people of the rebellious States?

Mr. BINGHAM. They may be if not in conflict with the laws of the United States, and that people choose to submit to them now that peace is restored. They are void under the Constitution of the United States, as against the rights of any citizen who did not assent to them.

Mr. SMITH rose.

Mr. BINGHAM. The gentleman will excuse me from further interruption. I am obliged to the gentleman from Pennsylvania for his suggestion. I understand that he is not in the habit of interrupting for the purpose of weakening an argument, but for the purpose of

strengthening it, and I am obliged to him for his suggestion. I doubt whether there can be found upon this floor a single man who will deliberately say, if the insurgent State of South Carolina, through her corrupt and treasonable judiciary, had decreed for the use of the southern confederacy the confiscation of the property of that venerable man, Pettigrew, who clung to the Constitution and cherished the hope of restoration as he cherished the hope of a better life, that the United States had not the power to reverse that decree and restore that property.

If South Carolina all this while was a State, with all the powers of a State, within the Union, how can we reach any such case? My learned colleague, [Mr. HAYES,] who does me the honor to listen to me, knows that the State of Ohio, when she legislates touching the transfer of real estate within her limits and among her citizens, and without impairing the obligation of contracts, is beyond the power of the Federal judiciary, and cannot be restrained therein by the Federal Government.

With the explanation I have given his words I see no occasion to take issue with the President upon the status of the States in rebellion, but admit that these States remained States through the conflict for Federal purposes; that means that the State lines remained, that the judicial districts remained intact, so that when the war ceased in those States the Government of the United States could administer justice in every one of those States, and try therein all persons for crimes against the United States therein committed. I do not feel disposed to admit, if a citizen of South Carolina were to-day to commit treason against the United States at Charleston, that he could not be there tried for his crime; nor if he committed his crime there last year that he could escape trial when arraigned, on the plea that the district of South Carolina, previously prescribed by the law of the United States, had ceased, either by his treason or by the treason of others, to be a judicial district within a State.

I never was of that class of persons who believed or assented to the position for a moment, and I do not know if there is any one here who does, that all the people within the limits of that confederacy were alien enemies. According to the Constitution and laws of the United States Government, every man is responsible for his own crime, and not for the crimes of others. So that when the sovereignty of the country comes to be restored—in Virginia and the Carolinas, the judiciary of the United States are bound by their oaths to discriminate between those who contributed by the compulsion of the bayonet to the support of the rebellion, and those who originated it and are the guilty perpetrators of the great wrong. There is a wide difference between Jefferson Davis, the leader of the revolt against the Union, who, to enter upon it, voluntarily broke his oath to support the Constitution of his country, and that poor, poverty-stricken conscript who served the confederacy of traitors only because of compulsion, or to secure thereby his daily bread.

I have said enough, I think, on this subject to satisfy gentlemen that the President stands by the great body of this House touching the status of the States. They need reconstruction. Their functions are suspended. Something must be done to give them an equal place in the Union. That is what the President says and what the House says. Who shall judge whether that which it was essential to do has been done at all, and if done, whether it has been done rightly? Who is to decide it? I say it, without waiting to quote authorities, that the loyal people of the loyal States, who saved the Union, and are represented on this floor, are the final judges upon that question, and from their decision there lies no appeal.

Now, Mr. Speaker, having said this much, and a great deal more than I intended to say when I rose, without the slightest preparation, to reply to the carefully elaborated speech of the gentleman from Indiana, I propose to bring this whole question to an issue before the

House by offering the following as a substitute for the gentleman's resolutions:

Strike out all after "Resolved," and insert:

Resolved, That this House has an abiding confidence in the President, and that in the future, as in the past, he will coöperate with Congress in restoring to equal position and rights with the other States in the Union all the States lately in insurrection.

And on that I demand the previous question.

Mr. STEVENS. I ask the gentleman from Ohio [Mr. BINGHAM] to consent that this whole subject be referred to the joint committee on reconstruction.

Mr. BINGHAM. Very well, I will withdraw the call for the previous question, and will move that the resolution with my substitute be referred to the joint committee on reconstruction. And upon that motion I demand the previous question.

The previous question was seconded, and the main question was ordered.

Mr. VOORHEES. I call for the yeas and nays upon the motion to refer.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 107, nays 32, not voting 43; as follows:

YEAS—Messrs. Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Callum, Davis, Dawes, DeForest, Deming, Donnelly, Driggs, Eggleston, Eliot, Ferry, Garfield, Grinnell, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Asahel H. Hubbard, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Hubard, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Kuykendall, Ladin, Latham, William Lawrence, Loan, Longyear, Lynch, Marvin, McClurg, McKee, McKuer, Moreau, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Seofield, Shellabarger, Smith, Spalding, Stevens, Stillwell, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Warner, Elihu B. Washburne, William B. Washburn, Wolker, Williams, Stephen F. Wilson, and Windom—107.

NAYS—Messrs. Ancona, Bergen, Boyer, Brooks, Chanler, Darling, Dawson, Denison, Eldridge, Glossbrenner, Grider, Aaron Harding, Hogan, James M. Humphrey, Kerr, Le Blond, Marshall, Niblack, Nicholson, Noell, Radford, Samuel J. Randall, Raymond, Ritter, Rogers, Ross, Strouse, Taber, Taylor, Voorhees, Winfield, and Wright—32.

NOT VOTING—Messrs. Alley, Delos R. Ashley, Barker, Blow, Culver, Delano, Dixon, Dumont, Eckley, Farnsworth, Farquhar, Finck, Goodyear, Griswold, Harris, Hotchkiss, Demas Hubbard, Edwin N. Hubbell, James Humphrey, Johnson, Jones, Kasson, George V. Lawrence, Marston, McCullough, McIndoe, Pomeroy, William H. Randall, Rousseau, Schenck, Shanklin, Sitgreaves, Sloan, Starr, Francis Thomas, Thornton, Trimble, Robert T. Van Horn, Ward, Wentworth, Whaley, James F. Wilson, and Woodbridge—43.

So the resolutions and substitute were referred to the joint committee on reconstruction.

Mr. CONKLING moved to reconsider the vote by which the House agreed to the motion to refer; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PENSIONS AND BOUNTIES.

Mr. MYERS, by unanimous consent, introduced a bill to provide that the death of any soldier, sailor, or marine while in the service shall be considered evidence that said death was caused by said service, and that when the proper rolls fail to show such death it shall be presumed after satisfactory proof that the enlisted man has been absent two years without having been seen or heard from; the heirs in each case to be entitled to pension and bounty; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ENVELOPE, PAPER, AND STAMP COMPANY.

Mr. INGERSOLL, by unanimous consent, introduced a bill to incorporate the National Union Envelope, Paper, and Stamp Company, of Washington, District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

And then, on motion of Mr. SPALDING, the House (at three o'clock and fifty minutes p. m.) adjourned.

IN SENATE.

WEDNESDAY, January 10, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.
The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in compliance with a resolution of the Senate of December 21, 1865, copies of the records and proceedings, with the review of the same by the Judge Advocate General, of the military commissions by which were tried and convicted E. W. Andrews, of South Carolina; J. M. Brown, and C. C. Reese, of Georgia; J. L. McMillan and Neill McGill, of North Carolina; which was ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. HENDERSON presented a petition of citizens of Missouri, who were soldiers in the recent war, praying that those who entered the military service in the early part of the war may be placed on the same footing in regard to bounty as those who entered at a later period; which was referred to the Committee on Military Affairs and the Militia.

Mr. ANTHONY presented the petition of Anne E. Huntington, widow of Hiram Huntington, late a member of company A, fourteenth regiment Rhode Island heavy artillery, (colored,) praying for a pension; which was referred to the Committee on Pensions.

Mr. HOWARD presented a memorial of the Board of Trade of the city of Cleveland, Ohio, praying for an appropriation for the purpose of constructing a breakwater at Marquette harbor in Lake Superior; which was referred to the Committee on Commerce.

Mr. LANE, of Indiana, presented a petition of citizens of Indiana, praying for the equalization of the pay and bounty of the soldiers in the service of the United States during the rebellion; which was referred to the Committee on Military Affairs and the Militia.

He also presented the petition of Kennedy O'Brien, praying for an increase of his pension; which was referred to the Committee on Pensions.

Mr. WILSON presented the petition of James G. Colman and several hundred other colored citizens of Savannah, Georgia, praying for a change in the laws so as to secure the right of suffrage to all persons without distinction of color, for the granting of homesteads to the freedmen, and for the erasure of the word "white" from the naturalization law of March 26, 1790; which was referred to the joint committee to inquire into the condition of the so-called confederate States.

Mr. TRUMBULL. I have received a memorial of the American Free Trade League, addressed to the Senate and House of Representatives, in which they set forth at some length that a protective tariff, or a tariff for the purposes of protection, is unjust and oppressive to the masses of the people, and opposed to the great principles of civil liberty; and they ask that in the future legislation of Congress, in providing for raising a revenue by the imposition of duties, the principle of protection be abandoned. I move its reference to the Committee on Finance.

The motion was agreed to.

REPORTS FROM COMMITTEES.

Mr. CLARK, from the Committee on Claims, to whom was referred the petition of John Nabb and Sarah Nabb, of the city of Burlington, Vermont, praying for compensation for property belonging to them in Charleston, South Carolina, which was wasted and destroyed during the bombardment and occupation of that city by the United States forces, submitted an adverse report; which was ordered to be printed.

GENERAL GRANT'S REPORT.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution for the printing of ten thousand extra copies of the report of Lieutenant General Grant, have in-

structed me to report it back to the Senate with an amendment, and to ask for its present consideration.

There being no objection, the Senate proceeded to consider the following resolution:

Resolved, That ten thousand extra copies of the report of Lieutenant General Grant be printed for the use of the Senate.

The amendment reported by the Committee on Printing was to strike out "ten" and insert "six."

Mr. SUMNER. May I ask which report that is?

Mr. ANTHONY. The report of the Lieutenant General—the military report.

Mr. SUMNER. Not the report on the condition of the southern States?

Mr. ANTHONY. No, sir.

The amendment was agreed to.

The resolution, as amended, was adopted.

ASSISTANT ASSESSORS.

Mr. FESSENDEN. The Committee on Finance, to whom was referred the bill (H. R. No. 58) authorizing the Secretary of the Treasury to appoint assistant assessors of internal revenue, have had the same under consideration, and have directed me to report it back without amendment, and with a recommendation that it pass; and as I propose to ask that it be passed at once, I will simply state that the act passed at the last session of Congress conferred the appointment of assistant assessors of internal revenue upon the assessors in each district. By the Constitution, all officers are to be appointed by the President with the assent of the Senate; but there is a provision that Congress may confer the appointment of such inferior officers as may be provided for by law upon the President alone, or upon the heads of Departments, or (I believe) on the Judges of the Supreme Court. Consequently, this power thus granted was one that could not be exercised by the assessors, and the President has been obliged to make the appointments. This bill is a very short one, and confers the power upon the Secretary of the Treasury to make these appointments, which is undoubtedly the best mode of providing for them. I ask, if there be no objection, that it be acted upon at the present time. It is a matter that should be acted upon immediately.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill, which authorizes the Secretary of the Treasury to appoint any assistant assessors of internal revenue now provided for by law.

Mr. JOHNSON. I will ask the Senator, has he not that power now?

Mr. FESSENDEN. No, sir; I have already stated that by the act of the last session, the power—[Mr. JOHNSON. I did not hear you; I beg your pardon]—was conferred upon the assessor of each district to appoint assistant assessors.

Mr. JOHNSON. This bill gives it to the Secretary?

Mr. FESSENDEN. Yes, sir.

Mr. SUMNER. I will make one remark on this bill. In voting for its passage, I do it certainly only with the understanding that the Secretary of the Treasury shall recognize the existing laws of Congress, and shall require of all persons appointed under this act the test oath, and shall not undertake of his own mere authority to relieve certain persons from taking that oath. We all know that the Secretary of the Treasury has undertaken to do that. I object to the exercise of any such power on the part of that functionary, and I shall insist that any appointments that are made by virtue of this act shall be made also with reference to all the existing laws of Congress, and that whoever enters upon duties under this act shall take the oaths required by Congress.

The bill was reported to the Senate without amendment.

Mr. FESSENDEN. I learn that the Senator from New Hampshire [Mr. CLARK] wishes to propose an amendment to the bill, and I suggest, therefore, that it lie on the table for the present. I do not understand that any specific

motion has been made for the amendment of the bill.

Mr. SUMNER. I made none.

The PRESIDENT *pro tempore*. If there be no objection the bill will be laid on the table.

Mr. FESSENDEN. Let it be laid aside informally, and I will call it up again.

The PRESIDENT *pro tempore*. That course will be pursued.

INDUSTRIAL EXPOSITION AT PARIS.

Mr. SUMNER. I will inquire of the Senator from New Hampshire whether he has looked into the report from the Department of State with reference to the Industrial Exposition at Paris so that the resolution can be proceeded with.

Mr. CLARK. I have. I have no objection to that being taken up.

Mr. SUMNER. Then I move that the Senate take up the joint resolution that I reported from the Committee on Foreign Relations yesterday.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 28, in relation to the Industrial Exposition at Paris, France.

Mr. GRIMES. I call for the reading of the resolution.

The Secretary read it.

Mr. CLARK. I should like to have the chairman of the Committee on Foreign Relations, if convenient to him, state what were the proceedings of the Secretary of State in relation to this exposition, which the resolution approves.

Mr. SUMNER. The Senator will remember that I asked him a moment ago if he had had time to look at the report from the Department of State which has been laid upon our tables. In that report he will find those proceedings set forth at length, being a somewhat elaborate correspondence on the part of the French minister at Washington and the Secretary of State here, and the minister of the United States in Paris, and Mr. Beckwith, a citizen of the United States, now in Paris, who has been appointed commissioner for the purposes of the exposition. In approving what the Secretary of State has done, I understand that we confine our approbation to what appears in this correspondence, the effect of which is simply this: in the first place there was a proposition in the nature of an invitation from the French minister at Washington, in which he set forth that this exhibition was to take place, beginning on the 1st of May, 1867, and inviting the United States to participate therein. There the correspondence began. The Secretary of State expressed his sympathy with the object proposed, and communicated that to our minister in Paris. Our minister was already in relations with the French Government on the subject, and so far as he felt authorized without special instructions from home, he also had expressed his sympathy with the object proposed. By a letter to the Department he then recommended the appointment of Mr. Beckwith, a citizen of the United States in Paris, as a commissioner to superintend the interests of the United States there. That recommendation was acted upon by the Secretary of State, and Mr. Beckwith, acting as commissioner, has proceeded to make certain arrangements with the French Government for the reception of articles that shall be contributed to the exhibition by citizens of the United States.

That, in brief, is the actual condition of the case; and I understand that Congress, by passing this resolution, simply approves of what the Department of State has already done: first, in expressing its sympathy with the general objects proposed; and secondly, in the appointment of Mr. Beckwith as an unpaid commissioner to superintend the interests of the United States at that exhibition. The resolution farther proposes that a paid agent shall be appointed at New York, with clerks paid according to the terms of the resolution, whose duty it shall be to expedite articles from New York, and gen-

erally there to superintend the interests of contributors.

Mr. CLARK. That is the point to which I pointed directly, to call the attention of the Senator from Massachusetts. I find in the report of the Secretary of State the following list of officers or persons selected for this business: "John Bigelow, Esq., (the minister of the United States at Paris,) special agent of the United States for the exposition, (without extra compensation for that service;) N. M. Beckwith, Esq., commissioner general of the United States, (without compensation;) Monsieur J. F. Loubat, honorary commissioner of the United States, (without compensation;) J. C. Derby, Esq., general agent in the United States, resident at New York," with an implication that he is to have compensation.

Mr. SUMNER. I have already stated that he is.

Mr. CLARK. So I understood the Senator. Now, I desire to inquire why, if it is necessary, as it certainly is, to limit the number of clerks and prescribe their compensation, we should not do the same in regard to the general agent. Why should we leave that matter, as to him, in the indefinite manner this resolution does? Why should we not fix his salary as well? If it is necessary to fix the salary of the clerks, why not of the general agent, instead of allowing him to run *ad libitum* to any expense for services that he may think best? I merely make the suggestion.

Mr. SUMNER. Has the Senator any proposition to make on that subject?

Mr. CLARK. I have not, because it is new to me, and I thought the committee might have considered the subject. I found the report yesterday in some haste after the adjournment of the Senate, and had not time to read the whole of it, because it is very voluminous.

Mr. SUMNER. There is nothing on that point that appears in the report, to my knowledge. There is nothing in the report with reference to the compensation of the agent.

Mr. CLARK. I will then inquire of the Senator whether he had not better himself take a little time to see what these services will probably be, and endeavor to fix a reasonable compensation for them, so that the Senate may know the point beyond which it will not be required to go. Perhaps by reflection by himself, perhaps by a conference with the Secretary of State, that may be arrived at, or if there should be insuperable difficulties to fixing it, we might know the reason why. That would be a little more considerate legislation.

Mr. SUMNER. The joint resolution that is now under consideration did not come originally from the committee of the Senate; it came from the House of Representatives, and I understood that they had in view further action by another bill or resolution hereafter, in which some other points relating to this question should be treated. The committee of the Senate confined their attention to the points actually presented by the resolution as it came from the other House, and they undertook to affirm all that the House had adopted and recommended its passage; beyond that the committee have not gone. This resolution makes no appropriation for the compensation of the chief agent: that question is left open.

Mr. CLARK. It is very true that this is a House resolution; but nevertheless it came to the Senate, and by the Senate was referred to the committee for the committee's action. The committee have considered it, and reported it back here without making any provision with respect to the compensation or salary of the general agent. Now, it would seem that if any limitation was to be fixed upon the amount of his compensation, it should be done in the bill or resolution which provides for his employment, so that when you look to find the authority for his employment you may find exactly the pay which he shall have; and it may be material for the Senate to consider whether they will employ this man until they know what is to be his pay. I suggest to the Senator from Massachusetts that if we are to fix any limit

to this man's wages, it should be done here in the measure that provides for his employment. This is the very point to do it. I have no hostility to this joint resolution generally; I have certainly no hostility to its object; I merely suggest whether it would not be better to do this right here in the very place where provision is made for the employment. If I knew what would be a fair compensation for the general agent I would move that amendment; but I am at a loss to know, because I am not aware what services may be required of him. I would not wish to stint him in his pay for any services fairly rendered. The Senator certainly ought to know what will be required of this agent, or at least the nature of the business which will be required of him. I think we had better have the limitation here.

Mr. SUMNER. If the Senator perseveres in his suggestion, I shall not oppose it. I only suggest to the Senate that this resolution simply undertakes to provide for a certain class of cases, and does not go beyond that. The Senator wishes it to go further. I have already said that there are other matters in connection with this exposition which must come up hereafter in another bill or resolution, and I doubt not, though I am not able to say positively, that the House of Representatives, in adopting the measure they have adopted, limiting it to the cases to which they have confined it, had in view subsequent legislation, which was to treat other parts of the question. If the Senator thinks it advisable that we here, in this stage, should undertake to treat the other part of the question beyond that which has actually been presented to us by the Department of State and by the House of Representatives, I am ready that the resolution should lie over for further consideration.

Mr. CLARK. I prefer that it should lie over, for although we may have another bill treating of other matters, I think the Senator cannot say that that other bill will provide for the salary of this general agent, and we may be put to the necessity of moving the amendment upon that bill. We may as well do it here as anywhere.

Mr. SUMNER. I would only remind the Senator that in this matter time is of some importance. It has been delayed so that the interests of contributors have suffered.

Mr. CLARK. It may be that time is all-important; but the exhibition is not to commence until 1867, and I think if we take one day to fix this salary we shall not cause any injury.

Mr. SUMNER. If the Senator had read the report, he would have seen that though the exhibition does not open till the 1st of May, 1867, it is expressly required by conditions that the articles must be there months before that time, and the United States is now behind.

Mr. CLARK. I understand that, and I understand also that the time has been extended; but still I do not think we shall suffer by a delay of one day. I move that the further consideration of the resolution be postponed until to-morrow.

The motion was agreed to.

BOUNTY OF MISSOURI TROOPS.

Mr. HENDERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to inform the Senate whether the bounty of \$100, authorized by the fifth section of the act of Congress, approved July 22, 1861, entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," has been paid to the ten regiments of three years' volunteers organized in Missouri and mustered into the United States service, known as Missouri State militia; and, if not paid, that he state the reasons now existing for such refusal.

BILLS INTRODUCED.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 65) to amend an act to extend the charter of the Alexandria and Washington railroad, passed March 3, 1863; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 66) to facilitate commercial, postal, and military communication among the several States; which was read twice by its title, and referred to the Committee on Commerce.

Mr. WILSON, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 67) to increase and fix the military peace establishment of the United States; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had passed a joint resolution (H. R. No. 24) for the relief of Lucretia M. Perry, widow of the late Nathaniel H. Perry, United States Navy; in which it requested the concurrence of the Senate.

The message also returned to the Senate, in compliance with its request, the bill (S. No. 16) for the relief of Josiah O. Armes.

INTER-STATE INTERCOURSE.

The message further requested the Senate to return to the House of Representatives the bill (H. R. No. 11) to facilitate commercial, postal, and military intercourse among the several States.

Mr. CHANDLER. The bill just called for by the House of Representatives is at present in the possession of the Committee on Commerce. I move that that committee be discharged from the further consideration of the bill, and that it be returned by the Secretary to the House, according to the request of that body.

The motion was agreed to.

Mr. TRUMBULL subsequently said: A few moments ago the Senator from Michigan made a motion to discharge the Committee on Commerce from the consideration of a bill which had been referred to them, with a view of returning it to the House of Representatives. I think the attention of the Senate was not called to the situation of that bill, and it may be questionable whether we can properly do what has been attempted. The bill alluded to was read twice in the Senate, and referred to a committee, and was in the possession of that committee. Now, if in this stage the Senate undertakes to return the bill to the House, what is its condition? It has already had two readings here. Ought we not to reconsider that action? I have never known a case of this kind before. It is common for one House to return a bill to the other House before it has taken action; but after a bill has been read twice in this body, it occurs to me that to return it to the other House places it in a very strange situation. Perhaps we ought to reconsider what the Senate has done. Senators more familiar with parliamentary rules than I am may know how the fact is; but I have never known a case like this.

Mr. CHANDLER. I believe it has always been the custom, when such a message has been received from either House, for the other House at once to accede to it; such has been the practice according to my observation, and hence I made the motion. I am sure it is according to the usage of the Senate; whether it is strictly right or not, I cannot tell.

The PRESIDENT *pro tempore*. The Chair does not understand the Senator from Illinois to make any motion.

Mr. TRUMBULL. I move to reconsider the vote of the Senate by which the bill was ordered to be returned to the House of Representatives, so as to hold it until the question can be considered here.

The PRESIDENT *pro tempore*. Does the Senator wish that question put to the Senate at the present time?

Mr. TRUMBULL. No, sir.

Mr. CONNESS. Why not let it lie on the table for the present?

Mr. TRUMBULL. My object is merely to let it lie until we can look into the matter.

The PRESIDENT *pro tempore*. The motion to reconsider will be entered.

DISTRICT OF COLUMBIA SUFFRAGE.

Mr. MORRILL. I move that the Senate proceed to the consideration of the bill (S. No. 1) to regulate the elective franchise in the District of Columbia.

The motion was agreed to; and the bill was considered as in Committee of the Whole. As originally introduced by Mr. WADE, it proposed to declare that hereafter each and every male person, of the age of twenty-one years and upward, who has not been convicted of any infamous crime or offense, and who is a citizen of the United States, and who shall have resided in the District of Columbia for the period of six months previous to any election therein, shall be entitled to the elective franchise, and shall be deemed an elector and entitled to vote at any election in the District, without any distinction or discrimination on account of color, race, or nationality. The second section provided that if any person or persons shall willfully interrupt or disturb any such elector in the exercise of such franchise, he or they shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not to exceed \$1,000, or be imprisoned in the cell or dungeon of the jail in said District, and fed on bread and water only, for a period not to exceed thirty days, or both, at the discretion of the court; and the third section proposed to make it the duty of the several courts having criminal jurisdiction in the District to give the act in special charge to the grand jury at the commencement of each term of the court.

The bill having been referred to the Committee on the District of Columbia, was reported with amendments, the first of which was in section one, line four, after the words "male person" to insert "excepting paupers and persons under guardianship."

Mr. RIDDLE. The bill comes from a committee of which I am a member, and I ask that it be postponed, and made the special order for Tuesday next.

Several SENATORS. What day?

Mr. RIDDLE. Any day of next week will suit me; say Tuesday.

Mr. MORRILL. If the Senator will allow the bill to be considered so far as to act on the amendments at the present time, perhaps there will be no objection to his suggestion.

Mr. RIDDLE. I am perfectly willing to have that done.

The PRESIDENT *pro tempore*. The Chair understands the Senator from Delaware to withdraw for the present his motion to postpone.

Mr. RIDDLE. Yes, sir.

The first amendment was agreed to.

The next amendment was in section one, line seven, to insert after the words "United States" the words "and who shall be able to read the Constitution of the United States in the English language, and write his name."

Mr. YATES. I was not present at the meeting of the Committee on the District of Columbia when this question was considered; and unless there is some urgency for immediate action, I should like to have the bill and the amendments recommitted to the committee. I make that motion.

Mr. WADE. I should like to hear from the Senator from Illinois what particular reason he has for the proposed recommitment, what amendments or alterations he would wish to have the committee consider, because we hardly know what the Senator considers the defects in it, or wherein he wants it further considered.

Mr. MORRILL, and others. He is on the committee, and was not present when it was acted on.

Mr. WADE. Very well, I have no objection to the recommitment if the Senator has had no opportunity to examine the bill.

Mr. POMEROY. If this bill is to be recommitted—and I have no objection to that course—I wish to make a suggestion or two to the committee in regard to this amendment. If we are to base the franchise upon the ability of the in-

dividual to read and write the Constitution of the United States, I submit whether we ought to require him to be able to read and write it in English. A person may be very well educated in some languages, and yet not in the English language. In the State that I, in part, represent, we have to print our laws in German. We find persons very well educated in the German language, and very loyal, who cannot read a word of English—men who are good citizens, too, and good voters. I submit that a person may have a very good education without knowing English. That is the first suggestion I would make.

The second is, that I have my doubts whether we ought to require reading and writing at all. There is a class of people that we have legislated away from the spelling-book and the Bible, whom we have legislated out of school; and now, as we are introducing a new order of things, a new civilization, emancipation having taken place and having had effect everywhere, we come to these people and tell them, "Now, if you can read and write, you shall have the franchise." It might do very well to apply it to persons who have always had educational opportunities, white men who have had schools open to them all their lives and have not availed themselves of them. It would not be as hard to deprive them of the franchise for that reason; but here is a class of persons that by a systematic course of legislation have been prevented from learning to read and write. If we intend to do anything for them we had better just do the fair thing, and let them vote. But after having legislated them away from schools and science and everything else, to thrust in their faces a law saying, "If you can read and write, you can vote," I think is adding insult to injury.

The PRESIDENT *pro tempore*. The Chair would suggest that the question now is not on the merits of the amendments, but on the reference of the amendments and the bill to the committee.

Mr. MORRILL. I appeal to my friend from Illinois to allow the bill to be considered in other respects. I understand his objection to lie to this amendment. There are other amendments to the bill which I am very anxious should be perfected, and I would like to have the Senate consent informally to pass over this amendment and consider the other amendments to which there may be no objection. Then I shall not resist the motion to recommit.

Mr. YATES. On the suggestion of the chairman of the committee, I withdraw the motion to recommit for the present.

Mr. MORRILL. I move now that we pass over the amendment under consideration informally, and proceed to the consideration of the other amendments reported by the committee.

The PRESIDENT *pro tempore*. If there be no objection, that course will be taken. This amendment will be considered as passed by temporarily, and the next amendment reported by the committee will be read.

The Secretary read the next amendment, which was in section one, line thirteen, to strike out the words "or discrimination," and in line fourteen to strike out the words "or nationality;" so that the clause will read:

And shall be deemed an elector and entitled to vote at any election in said District, without any distinction on account of color or race.

The amendment was agreed to.

The next amendment reported by the committee was to insert as section two the following:

Sec. 2. And be it further enacted, That any person whose duty it shall be to receive votes at any election within the District of Columbia, who shall willfully refuse to receive or who shall willfully reject the vote of any person entitled to such right under this act, shall be liable to an action of tort by the person injured, and shall be liable, on indictment and conviction, if such act was done knowingly, to a fine not exceeding \$5,000, or to imprisonment for a term not exceeding one year in the jail of said District, or to both.

The amendment was agreed to.

The next amendment was in section two of the original bill, line six, after the words "imprisoned in," to strike out "the cell or dungeon

of;" and in line seven of the same section, after the word "District," to strike out "and fed on bread and water only;" so that the clause will read:

Shall be fined in any sum not to exceed \$1,000, or be imprisoned in the jail in said District for a period not to exceed thirty days, or both, at the discretion of the court.

The amendment was agreed to.

The PRESIDENT *pro tempore*. All the amendments reported from the committee, except the one passed over by common consent, have been acted on.

Mr. MORRILL. I now offer three sections as additional amendments to this bill, which I ask to have printed. I do not ask that they be acted on at the present time, but let them be referred to the committee with the bill when it shall be recommitted.

The amendments were ordered to be printed.

Mr. YATES. I renew my motion that the bill and amendments be recommitted to the Committee on the District of Columbia.

The motion was agreed to.

PRESIDENTIAL APPROVAL OF LAWS.

A message from the President of the United States, by Mr. W. G. MOORE, his Secretary, announced that the President had, on the 21st of December, 1865, approved and signed a joint resolution (S. R. No. 6) authorizing the President to divert certain funds heretofore appropriated, and cause the same to be used for immediate subsistence and clothing, &c., for destitute Indians and Indian tribes.

He also communicated several messages in writing, which were placed on the table of the President *pro tempore*.

JOSIAH O. ARMES.

Mr. SUMNER. I desire here to interpose a motion to reconsider a bill that has been returned to the Senate by the House of Representatives, for the relief of Josiah O. Armes. I do it at the request of my colleague, who was not present when the vote was taken. I desire to give him an opportunity of examining the question.

Mr. CLARK. I suggested to the Senator's colleague to let it lie, before that motion is made, a little while, until I can confer with him.

Mr. SUMNER. I do not want the motion considered now, but only to have it entered.

Mr. CLARK. If that be entered, I do not wish to lose any right as to any question of order that may interfere with the making of the motion, or anything of that kind.

The PRESIDENT *pro tempore*. That will be the understanding.

PROVISIONAL GOVERNMENTS.

Mr. HOWE asked leave to introduce a joint resolution; which was read, as follows:

Whereas the people of Virginia, of North Carolina, of South Carolina, of Georgia, of Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee have heretofore declared their independence of the Government of the United States, have usurped authority denied to every State by the supreme law of the land, have abjured duties imposed upon every State by the same law, and have waged war against the United States, whereas the political functions formerly granted to those people have been suspended; and whereas such functions cannot yet be restored to those people with safety to themselves or to the nation; and whereas military tribunals are not suited to the exercise of civil authority: Therefore,

Be it resolved by the Senate and House of Representatives in Congress assembled, That local governments ought to be provisionally organized forthwith for the people in each of the districts named in the preamble hereto.

Mr. HOWE. I should like the unanimous consent of the Senate to consider the resolution at the present time, at least long enough to allow me to make some remarks upon it.

The PRESIDENT *pro tempore*. The first question is on the introduction of the resolution: it requires unanimous consent to introduce it, no notice having been previously given. Is the present introduction of this resolution objected to?

Mr. JOHNSON. I certainly do not object to the introduction of the resolution, and should be very unwilling to object to hearing the honorable Senator express his own views upon the question which the resolution presents; but questions of the same kind, involving perhaps

the same principles involved in his resolution, are now before the special joint committee of the Senate and House of Representatives, and I submit, therefore, to my friend whether it would not be advisable to let this be referred in the same way, and not to involve us in a discussion prematurely.

Mr. HOWE. I shall not object to this resolution going to the same committee, and I intend to move its reference to the committee, but still I should like to submit to the Senate my views upon the resolution at the present time.

Mr. JOHNSON. I make no objection to that.

The PRESIDENT *pro tempore*. If there be no objection to the introduction of this resolution at this time, it will be received.

By unanimous consent, leave was given to introduce the joint resolution (S. R. No. 11) in relation to the organization of provisional governments within the States whose people were lately in rebellion against the United States, and it was read the first and second time.

Mr. HOWE. Mr. President, when Paul stood there "in the midst of Mars hill," aneedy, perhaps a ragged, missionary, and told the indolent, idolatrous, and luxurious Athenians that God had "made of one blood all nations of men, to dwell on all the face of the earth," do you believe he was playing the demagogue or not? When the Congress of 1776 assembled in Independence Hall, representing a constituency few in numbers, poor in resources, strong only in their convictions of right, and announced to the world that "all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights governments are instituted among men;" and when the members of that Congress pledged their "lives, their fortunes, and their sacred honor" to maintain those assertions against the whole power of the British empire, do you really suppose they were talking for bunkum or not? And when the American people declared in their organic law that—

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding"—

do you think they actually meant that, or did they mean that the constitution and laws of each State should be the supreme law of the land, anything in the Constitution or laws of the United States to the contrary notwithstanding?

I have put these questions, because however generally we may assent to these propositions in our speech, there are scarcely three theses in the whole field of discussion more flatly denied practically than these three.

We do very generally admit Paul to have been a minister of the true religion, and yet if he had proclaimed in the Smithsonian Institute six years ago what he did in the Areopagus at Athens, he would have been driven out of the city.

We do with our lips very generally assent to the doctrines of the Declaration of Independence, and yet when the American *auto-da-fe* kindles its hottest fires it is to roast some reckless radical who dares to assert the political equality of men.

We cannot well deny that the Constitution is the supreme law of the land, because the Constitution says so, and we have sworn to support it; but practically we do seem to treat it much as if every law was supreme but that.

I cannot now afford the time to defend the teachings of the apostle or the doctrines of the Declaration. But if it will not annoy the Senate, I would like to make a few remarks in vindication of the Constitution of the United States.

In my judgment, Mr. President, it is time the American people adopted the Constitution. We have, indeed, been taking the tincture for nearly a century. I am sure it has done us great good. I believe now we should try the subli-

mate, and I am confident it would cure the nation. Hitherto we have taken the Constitution in a solution of the spirit of State rights. Let us now take it as it is sublimed and crystallized in the flames of the most gigantic war in history.

The war, as we know, was designed to demonstrate that the will of each State was supreme, and that the United States must defer to it. Before the Constitution was adopted such was the case precisely. The several States were sovereign, and for that very reason the Union formed between them was worthless. The Congress of the Confederation could enact laws, but as their laws were addressed to the States, and the States were sovereign, they would obey or not as they pleased.

Said Mr. Sherman:

"The complaints at present are not that the views of Congress are unwise or unfaithful, but that their powers are insufficient for the execution of their views."

Said Mr. Randolph, of Virginia:

"The true question is whether we will adhere to the Federal plan or introduce the national plan. The insufficiency of the former has been fully displayed by the trial already made."

The national plan was adopted. Thirteen weak and thriftless sovereignties were welded into one great and prosperous republic. It was not the purpose of the Convention to destroy the State governments, but to change their character, to strip them of sovereignty, and leave them no manner of authority to impede the execution of the national will.

Hence it provides a national Legislature, to enact laws, not for the direction of States, but for the government of the people, whether within or without any of the States; a national Executive, sworn to see those laws executed if they are constitutional, whether a State dislike them or not, and a national Judiciary, to determine whether they are constitutional or not.

The President, therefore, aptly says in his late message that "the sovereignty of the States" is the language of the Confederacy and not of the Constitution."

But in the Convention which framed the Constitution there was a party opposed to depriving the States of their sovereign authority. And since the adoption of the Constitution, there has been a party in the country which has stoutly maintained that the States have not been deprived of their sovereignty. They insist that unless each State can defy the authority of the Government the rights of the States are in imminent peril. They forget that it was the existence of this very power of defiance which imperiled all the States under the Confederation.

And, sir, there can be but little danger that the several States will be despoiled of their rights by a Government constituted like that of the United States. The President rightly says that "the subjects that come unquestionably within its jurisdiction are so numerous that it must ever naturally refuse to be embarrassed by questions that lie beyond it."

Mr. Madison urged this same consideration in support of the national plan in the constitutional Convention. To my mind the States have another security against the encroachments of the national Government even more reliable than this. It lies in the fact that the people who compose the several States make the Government of the United States. It is not much to be apprehended that the creature will devour the creator. But the State-rights party resemble a congregation of derisives dancing before an idol their own hands have created and frantically imploring it not to destroy them.

And the Government often seems almost as nervous as that party. Like the elephant with its owner under its belly, the Government often seems so conscious of its own weight as to be afraid to move for fear it will crush its proprietor. Let the Government move. It will not destroy the States unless it betrays them. When true to its office it is but the voice of the States. Is there danger that the voice will slay the speaker?

Mr. Madison declared in the constitutional Convention—

"That in the first place there was less danger of encroachment from the General Government than from the State governments; and, in the second place, that the mischiefs from encroachments would be less fatal if made by the former than if made by the latter."

Who that has lived during the last fifteen years will deny the correctness of that estimate?

Yet, in spite of the terrible admonitions we have received against the liability to State encroachments, and of the disastrous consequences resulting therefrom, there are those among us still who talk rapturously of the priceless value of the States to the nation, who persist in estimating its grandeur by the number of States subject to its sway, and who dwell upon the idea of their "indestructibility" with something of that fond and reverent air with which we speak of the immortality of the soul.

Sir, it is not the business of the national Government to sway States. That was the business of the old Confederation. It is the business of this Government to control people, and I estimate its strength, as I estimate the strength of all other Powers, by the extent of its territory, by the number, the wealth, the intelligence, and the loyalty of its people. I dissent entirely and altogether from the idea that a citizen is worth nothing to the nation unless he is included in the government of a State. I aver that a citizen of this District, that a citizen of Washington Territory, is worth as much to the nation, and adds as much to its strength and its greatness as a citizen of New York or of Massachusetts.

If a citizen be loyal, he adds to the strength of the nation, equally whether he be in a State or Territory. If he be disloyal, he diminishes the strength of the nation, whether he be in a State or Territory, but not equally. The citizen of a State has more authority than the citizen of a Territory, and, therefore, if he be disloyal, he can do more injury in the former than in the latter position.

Has any one yet attempted to explain what principle that is which renders a State indestructible? Does any one comprehend it? For myself, I do not. A State is a manufacture as much as a wagon is. It is not, indeed, made in the same way nor at the same shops. But it is nevertheless made, and made by mortals. My friend from Nevada has just helped to make one. A State can be made only by those who are permitted by the nation to make one, by those who are willing to make it.

But once made, we are told "a State can never die." "Once a State always a State," they shout. And when, a few years since, it was hinted that the rebellious States had committed suicide, politicians laughed the suggestion to scorn.

Galileo, when condemned to renounce the heresy of the earth's motion, is said to "have made his abjuration with all the formality commonly attending such proceedings. Clad in sackcloth and kneeling, he swore upon the Gospels never again to teach the earth's motion or the sun's stability. Then rising from the ground, he exclaimed, 'It does move, after all.' And so I, rising as well as I can under this load of derision, cannot refrain from assuring the Senate that States can commit suicide and can die. History is but little more than a graveyard in which one reads the epitaphs upon buried States.

Sir, it is poetical license and not political science which talks of the immortality of States. Have the people of Nevada made an organization which they cannot unmake? If they refuse hereafter to choose Governors and legislators and judges and municipal officers, will the State survive that mere neglect?

On the contrary, would it not be the imperative duty of Congress, in such an event, to resume the prerogatives you have just granted to that people, and provide a government to save the people from anarchy? Do you say the State is still theirs in contemplation of law, the national authority cannot enter upon its sacred domain, and if the people choose anarchy they

must have it? So, then, because of your passionate desire to drag a State to heaven you would let its people plunge in the other direction.

There are those among us who seem really to believe that we have been fighting these terrible battles expressly to uphold the governments of the several States. I did not understand such to be the purpose of the war. If I had so understood it I should have comprehended the significance of Earl Russell's criticism. "I understand," said he, "how you may lead a horse to the brook, but I do not understand how you can make him drink." As much as to say, "I know the United States may overcome resistance to its Government, but I do not see how the rebels can be made to maintain State governments."

Mr. President, the Constitution does not command any portion of the American people to maintain the organization of a State. It permits such organizations only. I repudiate the whole theory that there is any political necessity requiring the people of any district to be a State against their will. I stand upon the doctrine, and I want the American people to understand it, that it is a high political privilege to be an American State. It is a privilege which California had to struggle hard to obtain; and I do not believe this nation would have voted \$3,000,000,000 and sacrificed two hundred thousand lives to force upon South Carolina and her confederates privileges which were so reluctantly yielded to California. For one, I would not have consented to sacrifice a man or a dollar for such a purpose. I understood the purpose of the war to be *not* to maintain the governments of the several rebellious States, but to defend the Government of the United States. As such I stood by its prosecution; as such I stand by its results.

A State is a public corporation. It has limited powers of government. The exercise of those powers by some one is necessary to the welfare of its citizens, and therefore to the welfare of the nation. If it utterly refuses to exert them it defeats the purposes of its being, and the common welfare requires the nation to resume them. It is charged with duties also, and if it persistently disregard those, or willfully persist in the exercise of powers not intrusted to it, it may thereby forfeit its right to being, and the common welfare and the common safety may require the nation to resume its prerogatives.

But it is not every neglect of duty nor every usurpation of power which will justify the resumption of the franchises of a State. The Constitution declares "that no State shall make anything but gold and silver coin a tender in payment of debts." But suppose the Legislature of Massachusetts should provide by law that bank notes should be a tender in payment of debts. Such an enactment would not justify the nation in denying to her a representation in Congress, or in depriving her of the functions really belonging to a State. Such a remedy is needless, and therefore unjustifiable. The courts could afford ample protection against such an act, and no detriment could arise from it.

But the Constitution also declares that "no State shall enter into any treaty, alliance, or confederation." Suppose the State of Texas does negotiate an alliance with Maximilian, by which she engages to furnish a given number of troops, her whole military strength, indeed, to support him in his enterprise against the republic of Mexico? What is the remedy for that violation of the supreme law? You may say her people are not bound by the compact. But suppose they are consenting to it? Suppose they demand it? Suppose they choose their Governor and Legislature for the express purpose of making it? Suppose her whole militia force is officered and trained with the view of supporting the alliance?

What is your remedy? You say the compact is illegal: so it is. You may say that in law it is null: so indeed it is, but in fact it is none the less mischievous. If your courts could get jurisdiction of the compact they would doubt-

less declare it null and void. But how is a court to get jurisdiction of a contract against which neither party complains, but to which both parties are resolved to adhere? You may enact laws, perhaps, for punishing criminally State officers who shall thus offend against the supreme law; but when you have punished the officers you have not terminated the compact.

You may picket with your army the whole border of Texas to prevent the egress of troops or munitions of war; but can you prevent unarmed citizens from crossing the boundary of a State? And if you can, can your picket guard tell whether the traveler he halts on the line is from Texas or from New York? But suppose you could by sleepless vigilance and boundless expenditure prevent all the citizens of Texas from crossing into Mexico, that is not the mischief against which you have most to guard. It may not much harm the nation that citizens from Texas go into Mexico and shoot, or get shot; but it does harm the nation that the whole municipal authority of a State is lodged in tribunals pledged to the support of an alliance which the Constitution forbids, and to the prosecution of a design which may involve the nation in a foreign war. It *does* harm the nation that a people and government so compromised by a compact which the supreme law condemns should still be allowed to appoint representatives to participate in the enactment of your laws, and to sit in the secret councils of this Senate, to supervise treaties, perhaps, which have been negotiated with Mexico herself. Is the Government of the United States helpless against such perils?

I put another case. The Constitution contains this provision:

"The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution."

That is the supreme law, as every part of the Constitution is.

The nation forbids that any part of the authority vested in the several States shall be wielded by any agent who is not bound by oath to support the authority of the nation. The Constitution expressly exacts of the President that "he shall take care that the laws be faithfully executed." And each incumbent thereof, before he enters upon the execution of his office, must solemnly swear that he will faithfully discharge that duty. He must then see that the Governor and every other officer in each State take the oath of allegiance to the national Government. How will he do it? How shall this law be enforced? The President has no methods or means for enforcing the laws but writs and armies. Marshals and major generals are his forces. But they are not forces in the use of which the President has an option. When the marshal can do the work there is no use for the major general.

I mean to say, and I want it heard by all whom it may concern, that wherever the marshals of the United States can execute the writs of the United States, there is no work for an army; and an army cannot actively be employed in the execution of municipal law. But when the marshal is resisted by force, force may be employed to overcome the resistance; so much force as is needed for that purpose—the posse, if that will suffice; the Army, if that be necessary; the whole military resources of the nation and the whole enginery of war if the exigency requires them. But what writ will you employ to make the Governor of Virginia take the oath to support the Constitution of the United States, in case he is determined not to take it, and the people of Virginia are determined their officers shall not be bound by such oath? This question is not speculation.

I remember, Mr. President, when you offered a resolution in the executive session of 1861 to expel a member of this Senate because he declared upon this floor that he owed no allegiance to the Government of the United States. The resolution was opposed by a Senator from Virginia. In the course of his remarks he went

on to explain how and why his allegiance was pledged to Virginia, and not to the United States. I quote from his remarks the following:

"The oath of allegiance in Virginia, to be taken by all those who are admitted in any way to a participation in the political power of the State, is this:

"I declare myself a citizen of the Commonwealth of Virginia, and solemnly swear that I will be faithful and true to the said Commonwealth, and will support the constitution thereof so long as I continue to be a citizen of the same."

"I will be faithful and true to the said Commonwealth—that is allegiance. Am I to be told by the Senator that we have a divided allegiance, that we can owe allegiance to two sovereigns? Am I to be told by the Senator that when I come here as a representative from a sovereign State I put off my allegiance and put on a new garb, and not to a sovereign, but to a mere agency?"—*Congressional Globe, second session Thirty-Sixth Congress, part two, page 1449.*

When, then, a State binds her officers by the most solemn oaths to allegiance to herself, and forbids their taking the oath prescribed by the United States, what is your remedy? Clearly, neither writs nor armies can supply a remedy. But cannot this law be enforced?

Must we permit the municipal authority of Virginia to be administered by officers who persistently defy the Constitution? Must we admit to the counsels of this Chamber Senators appointed by a Legislature who refuse to take an oath to support the Constitution of the United States?

Sir, we have been diligently taught from our youth up that the Government of the United States is a Government of delegated powers; that no power not delegated to it can be rightfully exerted by it. I admit the doctrine. I have adhered to it all my life, and I abide by it to-day. But I ask the country to comprehend at last the extent of the powers which are delegated.

Among the powers delegated to this Government are not only the power to levy taxes, to borrow money, to regulate commerce, to coin money, to establish post offices and post roads, to declare war, to make treaties and alliances, to raise armies and maintain navies, but there is also this other power:

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof."

If, then, the supreme law commands the officers of a State to be bound by oath to support the Constitution of the United States, and if the President be authorized to enforce that law, how is authority for making any law necessary, and proper for its enforcement? What conceivable law is so necessary and proper for that purpose as a simple enactment, which declares that, since Virginia will not require her officers to take the oath prescribed to the officers of every State, Virginia shall not be a State; since her people will not elect officers who will take the oath of allegiance, this Government may appoint officers to administer her municipal affairs; since she has no Legislature whose members are qualified as the Constitution prescribes, her Legislature shall not send members to this Senate; since she abjures the obligations imposed upon her by the Constitution, she shall forfeit the privileges conferred upon her by the Constitution?

Sir, I know of no remedy so complete as such a law would afford, and therefore I can conceive of no law so necessary and so proper.

But this, we are told, is in effect a dissolution of the Union by act of Congress. Dissolution of what Union? Dissolution of the Union of the States under a compact? We have had no such Union since 1787. Before that time we had just such a Union. But then we formed a "more perfect Union." A more perfect union of what? Of States? No, there could be no more perfect union of States than we had under the Confederation. But in 1787 we formed a Union, not of States, under a compact, but of the people, under a Government.

From that Union there is no withdrawal except when the citizen withdraws his allegiance, and the citizen can only withdraw his allegiance by withdrawing his domicile, not merely beyond

the limits of a State, but beyond the limits of the United States.

The Union which the Constitution ordained, and which I champion; is no close corporation, monopolized by a few States more or less. It is, on the contrary, a broad and national association of the people, coextensive with the boundaries of the Republic, and holding under its shelter the rudest hamlet on your remote frontier no less than this magnificent marble pile in which I now speak.

But we are told that only States can appoint members of this Senate, and only the people of States can choose members of the other House, and that only States can appoint electors of President and Vice President.

I admit it. And it is argued that if there were no State governments there would soon be no Government of the United States.

I admit it. And hence we are admonished that if we admit the destructibility of the State governments we do, in effect, admit the destructibility of the national Government. Unquestionably. Who doubts that the people of the States can destroy this Government? The people of one State cannot destroy it. That, I think, South Carolina will admit. The people of eleven States cannot do it. That, I hope, is settled. But that the people of all the States can do it, I do not think has ever been denied. They can destroy it, too, without first destroying themselves.

Sir, is it not evident that if every elector in Massachusetts should blow his brains out on a given day there would be no one left to choose her Governors and her Legislatures? And yet who would think of arguing that it was unconstitutional to affirm that an elector could commit suicide because it would argue the destructibility of a State?

But the flag! We are pointed to the flag of the Union; we are impressively told that it bears thirty-six stars, and that it "declares, in more than words of living light, there are thirty-six States still in the Union;" and my colleague asked the other day, with much emphasis and fervor, if that was a truth or a "hypocritical, flaunting lie." Nay, Mr. President, the stars do not lie; only my colleague, I think, fails to read them aright. If they asserted what my colleague seems to think they do they would not tell the truth. But, in fact, they make no such assertion.

Sir, it was a law of my father's household that the name of every child born to him should be inscribed upon a certain page in the family Bible. It was not provided that when death removed one from the circle the name should be erased from the record. And so it happens that the Book, which is still extant, bears to-day the names of eight brothers and sisters. But I know, sir, I know full well, that only four of us are now living.

So Congress enacted in April, 1818, that upon the national flag there should be "twenty stars, white, in a blue field," and "that on the admission of every new State into the Union one star be added to the union of the flag."

It was not enacted that when any State should revolt against the authority of the nation, and impiously raise its hand against its own life, a star should be dropped from the flag. And so it happens that our flag, wherever it floats to-day, flashes thirty-six stars in the light. But they gleam there not in evidence that thirty-six States still exist, but that thirty-six States have been created.

Sir, whatever may be thought of the right of Congress to strike South Carolina from the roll of States, I take it no one will seriously question the authority of Congress to strike one or all the stars from the flag; and what would then be the testimony of the flag?

But the great argument against the doctrine of the destructibility of the States is this: it is urged that the States cannot be destroyed, because the law forbids it. Every suicidal act is illegal, and is therefore null and void. Sir, I believe the laws of Connecticut forbid murder. But if some near and dear friend of yours should be waylaid, and have his throat cut from ear to

ear, and you should apply for letters of administration upon his estate, would you not be surprised after you had marshaled in the probate court the proofs of his death, to be gravely told by the judge, "Sir, you are mistaken; your friend cannot be dead; the law forbids murder. The cutting of your friend's throat was clearly illegal, and therefore null and void?" If South Carolina had done nothing but adopt her ordinance of secession no one would have urged that she had thereby forfeited the prerogatives of a State.

We would have been content to have the courts pass upon its validity, and they would have pronounced it invalid. But she did more. Having declared her independence of the United States, she proceeded to have her officers take an oath which bound them to resist the Constitution instead of support it. And when the local government had thus disqualified itself for the exercise of any authority whatever, it proceeded to usurp every power which the Constitution denies to a State, and to abjure every duty which the Constitution imposes upon a State. And when she had thus revolutionized her local government she proceeded to crush out the Federal organs within her limits; to take possession of her forts; to convert her post offices and post roads to her own use; to shut up her custom-houses; the judge of the United States district court pulled down the national flag from the court-house and hoisted the palmetto flag in its place; the judge of the circuit court was excluded from the State, and I think has not since seen the State; marshals resigned, so that there was no officer who could serve the writ of the United States, and there was no Federal court in which the citizens of another State could collect a debt that was due, or recover a horse or a ship that was tortiously converted.

And then she planted her batteries opposite one of your own forts, garrisoned by a handful of your own troops, and for forty-eight hours hurled their iron hail upon the walls until they were said to resemble a honey-comb.

I do not doubt but all this was illegal, but I could not readily admit it was all a nullity.

If it was a nullity, what authority had this Government for planting the "swamp angel" off against Charleston and raining its iron messengers upon the city, or for sending Sherman flaring through the State as if he were himself the angel of retribution?

Sir, the awful truth is, these acts were not nullities, but were great, unprovoked, unparalleled, atrocious crimes, by which every State official forfeited not only the franchise of his office but his life, and by which every citizen who participated in that guilt forfeited not only his right to vote but his right to breathe.

The President is pleased to say that by these acts "the States attempting to secede placed themselves in a condition where their vitality was impaired but not extinguished, their functions suspended but not destroyed." I am, myself, quite unable to find any clause of the Constitution which discriminates between those acts which *impair* the vitality of a State and those which *extinguish* it. Nor do I comprehend that principle of philosophy which admits that any form of life can be impaired and yet cannot be extinguished. With all deference, I should suppose that any form of vitality, in order to be *sure* against extinction, should be proof against deterioration. But I am not disposed to insist upon this criticism.

Nor do I think it worth while for the great Union party to divide upon the question whether the Constitution requires us to say that the functions of a State in a given emergency are "suspended" or "destroyed." Being classed with the radicals this year, I acknowledge a leaning to the more positive forms of expression. I have, therefore, rather insisted upon the theory of suicide. But rather than disrupt our organization I think I could compromise upon that of syncope. But it is conceded that the functions of the rebel States were suspended, were gone. Perhaps the most succinct and apposite term to be found in the American lexicography

would be to say they were "played out." At all events they were suspended. Now, that is precisely what ailed Lazarus. When he had lain four days in the grave and already stunk, it was only because his "functions were suspended." [Laughter.] Nevertheless, "Jesus said unto them plainly *Lazarus is dead*," notwithstanding He knew he could raise him from the grave. And so I say these rebellious States are dead. But I know although they have lain in the grave four years, and smell worse than Lazarus did, [laughter,] yet the recreative power of the nation can make them live again. Indeed, the suspension of the functions is sure death to a man or a State.

But since their functions were suspended the question remains, for how long were they suspended? Were they suspended during the pleasure of the several States, or during the pleasure of the United States? Certainly during the pleasure of the United States. That is already decided, at least by the executive department of this Government.

In April last, General Johnston of the rebel army offered to surrender his whole army upon condition that the several districts might be allowed to resume the functions of States at once. But the Government then wisely and firmly said, "No; we do not propose to purchase the surrender of that army, nor sell the remission of those functions. That army we propose to take, because it belongs to the United States. Those functions we will restore when we see you know how to use them." Is it then the pleasure of the United States that these suspended functions be now restored?

But, first, who shall answer that question? What department of the Government is charged with the duty of declaring from time to time the pleasure of the United States? No one pretends that the judicial department has this power. But there are those who argue that it is for the President to decide when these functions shall be restored, and that he has already decided it. I do not myself understand that the President has decided that question. If he had done so, I think he would not have withheld so important a fact from Congress when he made his annual communication upon "the state of the Union." I have carefully read that well-considered and able message. I find an unequivocal declaration that the functions of those States which attempted to secede have been suspended, but I find no intimation that they have been restored.

And manifestly it is not within the purview of his official duty to restore them. It is the province of the President to execute the national will, not to expound it. He is placed in command of the Army and Navy, to enable him to "take care that the laws be faithfully executed," not that they be wisely made. With all that power in his hands he cannot rightfully so much as transfer an old musket from one citizen to another without the warrant of the United States, tested by a judge, declaring the right of the claimant to have it. The President cannot fix the price to be paid for an acre of the public domain nor the duty to be paid upon the importation of a pound of tea. Is it supposable that the people who withheld from the Executive the right to legislate upon such trifling concerns would authorize him to fix the terms upon which eight million people, who had forfeited their lives by law, should be organized into eleven States of the Union? I am not only confident that this is the last power which the people would confer upon the executive department, but I am persuaded it is the last power which the present Executive would consent to exert; and that not solely or mainly because of the unsuitableness of his office for ascertaining the national will upon the question, but chiefly because of his personal relations to and his possible interest in the question to be determined.

Do Senators comprehend what consequences result necessarily from restoring the functions of those States? It will add fifty-eight members to the House of Representatives, more than one fourth of its present number. It will

add twenty-two members to this Senate, nearly one half its present number. The Constitution designed the Legislature to be independent of the Executive. But what independence has that Legislature into which the Executive may at his pleasure pour so many votes? The Queen of Great Britain has no such power over the Parliament of the realm. She may constitutionally add that number of votes to the House of Lords, but it is beyond the stretch of her vast prerogatives to add a vote to the Commons. But this is not all. Restoring the function of States to the people of those lately rebellious districts adds eighty votes to the Electoral College which chooses the President and the Vice President of the United States. Suppose the present incumbent of the White House was ambitious of a reelection—the supposition is in no wise derogatory to him—that is an ambition which becomes any distinguished citizen of the Republic, and no one better than himself. But suppose he were, as some aspirants for that exalted place have been, not over-scrupulous as to the means by which he secured his election; who is so blind as not to see the terrible advantage which would be placed in his hands by conceding him the power to add to the vote of the Electoral College more than one third of its present number?

A few years since we heard much of a set of fellows in San Francisco who were designated as ballot-box stuffers. But what ballot-box stuffing ever known in San Francisco could parallel that which such a concession of power to a candidate for the Presidency would legitimate?

I make this comment because it is forced upon me by the attitude of those communities which are seeking at the hands of the President a restoration of the functions of States. Their professions of obligation, their proffers of support, are too conspicuous to pass unnoticed. To the inducements which they hold out as the price of prompt restoration, I understand that a somewhat distinguished citizen of New York has lately added a proffer of the support of the Democratic party of the existing States. That tender, however, I am bound to say, does not, in my judgment, amount to an attempt at bribery. [Laughter.] And that for these reasons: first, because the gentleman making the proffer did not own what he tendered; second, because the thing he tendered had no value in the market; and third, because if it should come to have a value by the time the offer is to be redeemed, the legal presumption is the tender would be withdrawn. [Laughter.]

And I make this comment the more freely because from nothing I have seen or heard have I been led to believe that the judgment of the President has been swayed a single hair's breadth by the seductive arts which have been practiced before him. I am happy in the belief to-day that if Congress will but discharge its duty as firmly, as dispassionately, and as conscientiously as the President has addressed himself to the discharge of his, the country is safe.

To the legislative department there is delegated the responsibility of determining when these suspended functions shall be restored. To Congress it ought to be delegated, because its members coming more directly from the people, and from many different localities, are supposed to be better informed as to what is the popular will than any individual can be. To Congress it ought to be delegated, because its members have no personal interest in the decision of the question. The people of those revolting districts will have no more and no less influence upon the reelection of the members of these Houses whether the functions of States are restored to them or not. To Congress this power is delegated by the express terms of the Constitution. "New States may be admitted by the Congress into this Union," is the language of the third section of the fourth article of the Constitution. To Congress also the Supreme Court assigns this power by necessary implication, if not by express adjudication, in the celebrated case of *Luther vs. Borden*, reported in the 7th Howard, Supreme

Court Reports, page 1. Then two distinct rival organizations claimed to be the government of Rhode Island. The question presented to the court was which of the two was the legitimate government. The court decided that the question was political and not judicial, and in the opinion of Chief Justice Taney I find the following conclusive words:

"The fourth section of the fourth article of the Constitution of the United States provides that the United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion; and on the application of the Legislature, or of the Executive when the Legislature cannot be convened, against domestic violence.

"Under this article of the Constitution it rests with Congress to decide what government is established in a State. For, as the United States guaranty to each State a republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not. And when the Senators and Representatives of a State are admitted into the councils of the Union the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority. And its decision is binding upon every other department of the Government, and could not be questioned in a judicial tribunal. It is true that the contest in this case did not last long enough to bring the matter to this issue; and as no Senators or Representatives were elected under the authority of the government of which Mr. Dorr was the head, Congress was not called upon to decide the controversy. Yet the right to decide is placed there, and not in the courts."

If Congress, then, may rightfully determine which of two rival organizations is the legitimate government of an acknowledged State, *a fortiori* must Congress decide when a particular organization is or is not the government of a State.

Since, then, the responsibility devolves upon Congress to decide whether the functions of States shall be now restored to those rebellious and lately belligerent communities, how shall we decide it?

For one, I say no! I say no for all the reasons that could influence my decision of such a question.

And first, I say Congress ought not now to restore those suspended functions, because Congress has not been asked to do so.

The election of members to serve in this or the other House, issuing credentials to them, the presentation of such credentials here, is not an application to be restored to the *status* of States. Such proceedings characterize acknowledged States like New York and Ohio—States which have never forfeited their prerogatives. The fact of issuing such credentials assumes that their functions had not been suspended. We know they have been. The President declares they have been. In April last he distinctly notified all rebellion that they were suspended. Why do they not ask for restoration, present their constitutions, and show us what sort of institutions they propose to establish in place of those they recently placed under the protection of the confederacy? Other communities, when they have sought to enter the circle of American States, have asked permission to do so. Wisconsin asked for it. Until she obtained it she did not assume the right to choose members to represent her in Congress. It is useless to say this right was once conferred upon Louisiana and Mississippi. By rebellion they forfeited the right. In April they were notified the forfeiture would be enforced. Until the forfeiture is remitted they have no right to choose members of this Senate. Until they have the right to choose Senators we ought not to consider the question whether they have chosen them, or whether those chosen have been regularly returned or are properly qualified.

The simple truth is, the representatives of those revolting States left these Halls five years ago without the permission of the nation, and they now propose to come back without its permission. They defied the nation then to keep them in, they defy the nation now to keep them out.

You remember in what mood they left here five years ago. One of them, in debate upon this floor, on the 7th of March, 1861, in reply to Mr. Douglas, spoke as follows:

"Mr. President. I have tried to explain, several

times, the position which I occupy. I am not officially informed that the State which I represent here has abolished the office of United States Senator. When I am so advised officially, I shall file at your desk that information; and then if, after being so informed, you shall continue to call my name, I will answer, probably, if it suits my convenience; and if I am called on to vote, I shall probably give my reasons for voting; and, regarding this as a very respectable public meeting, continue my connection with it in that way. At present, though, I am not advised that Texas has withdrawn from the Union, and am waiting those instructions. I said the other night—it was very late, and I hardly recollect it now, not having slept for some forty-eight hours, except when I could take a nap now and then—I said, then, that in consequence of your having refused to recognize the secession of other States, and continue to call the names of their Senators whose official withdrawal had been filed here, I supposed I should continue to attend the meetings of the Senate. If it suits my convenience I certainly shall; if not, not."

Mr. JOHNSON. What Senator was that? Wigfall?

Mr. HOWE. I have read from some remarks made by Mr. Wigfall, of Texas. A few days later Mr. Mason, of Virginia, then a member of this Senate, spoke in opposition to a resolution for the expulsion of a Senator from Texas who had declared he owed no allegiance to the Government of the United States, and he used this language:

"If Senators still persist in saying, as matter of constitutional law, that those States have not separated, that their act is null, they are holding language which—I say it with great respect, for I feel no other sentiment toward them—is more disrespectful to the Senate to-day than that which the Senator from Connecticut says deserves the punishment of expulsion in the case of the Senator from Texas; and why? Because, by their language, they declare that five million people and six or seven sovereign States are in a state of insubordination and insurrection, and they are taking no measures to quell it. They declare here that the acts of those States are null; and, although they have seized what they call the public property, although they have possessed themselves of the forts and of the public arms, yet they take no means whatever, and recommend and propose none, to recover it or to subdue them."

For one, I am unwilling to see those who then burst out of their seats taunting and jeering the majesty of the nation, now come vaulting back into the same seats defying and bullying the nation. If the nation has any authority I would like to see it consulted and respected.

But there is a graver objection still to immediate restoration. It is this: those communities are not now fit to take upon themselves the attributes of States. Our past history has demonstrated that absolute homogeneity is not necessary to the success of republican institutions, if existing differences of opinion do not prevent the exercise of reasonable toleration. But the history of the world has demonstrated that when great malignant antagonisms exist between the members of a State, republicanism must fail of its mission in that State. The powers of a State, even where its political action is confined within the limits prescribed by the Constitution of the United States, are immense for good or evil. A State may determine who may and who shall not participate in the Government; who may or who may not vote at the elections; may exclude whomsoever it pleases from the office of legislator, of judge, of juror, of witness; may make what expenditures it chooses, lay what taxes and contract what debts it chooses. It may regulate labor and control the acquisition and descent of property as it pleases. It may denounce what conduct it chooses as criminal, and impose what penalties it chooses as punishment.

Is it the deliberate judgment of the Senate that these communities are at the present time in that equitable and dispassionate temper of mind which makes them proper depositaries of such enormous powers?

To whom do you mean to assign those great powers which under the Constitution belong to a State? Do you mean to give them to the whole body of the people in these districts? That probably can be done with reasonable safety to them in a short time, but I do not believe it can safely be done yet.

During the past four unhappy years a division has sprung up between different portions of those people unknown to their former history. A gulf yawns between them as broad as that which stretched between the rich man in hell

and Lazarus in the bosom of Abraham. That chasm was made by the civil war from which we have just emerged. On one side of it stand all the disloyalty and nearly all the wealth and intelligence in those communities. On the other stand all the loyalty and nearly all the poverty and ignorance in them.

On which side the greater number is to be found I do not know. Probably in some districts it would be found on one side, and in others upon the other side. It cannot be but that the spirit which animates both sides is most unfriendly, not to say malignant.

Hitherto we have seen only the temper which inspires those upon the other side. That is as full of the extract of hell as a rational man would care to see. Those upon this side, upon the American side of the gulf, have as yet been allowed little opportunity of developing the sentiments which actuate them. It cannot well be doubted, though, that the load of hatred and wrong with which they have for years been overborne has engendered feelings of a corresponding nature in their breasts.

When you have once committed this fearful engine known as a State government to a people it is beyond the control of the nation. Thereafter that people must run it to suit themselves. So long as they exercise only the powers permitted by the supreme law they may use them as they will. Whenever, then, you commit this power to the people of one of those districts, it will fall into the hands of one or the other of these antagonistic parties. I submit to you, sir, there is imminent danger that whichever party gets possession of it in their present mood will use it to the utter destruction of the other. We hear much talk about securing guarantees for the future. It was recently said by a distinguished member of the other House while pleading for immediate restoration—

"I would exact at their hands all needed and just guarantees for their future loyalty to the Constitution and the laws of the United States."

For myself, sir, I care less, infinitely less, about security for their future good behavior toward us, than I do for security that they will keep the peace toward each other. Hitherto the United States has been able to take care of itself. I trust she will prove as capable in the future. But a minority under the government of a State in the hands of a majority moved by that active and relentless hate which we have too much reason to believe animates both these factions, and which we know inspires one of them, is helpless and hopeless. Until, therefore, existing animosities have somewhat smoothed down, I would not dare to deliver these suspended functions irrevocably to those people for fear of just such a collision.

There are those among us, sir, I am sorry to know, who propose to avoid such a collision by committing these suspended functions to the white population alone, with power to exclude from participation in them so many of their number as they please.

Mr. President, I am not ready to accept that expedient this year. I do not expect to be next year. I cannot now foresee when I shall be prepared for it. But when I am born again, sir, and have a new gospel committed to me from on high which does not proclaim "peace on earth and good will to men," but proclaims eternal war on earth, and hatred and all uncharitableness to men; which teaches that fraud and rapine are the commanding interests of a republican State, and that Governments should grace treason with laurel wreaths and heap chains upon fidelity; when I hear that gospel from on high—not from below, whence I have heard it all my life—if I accept it, I may be ready to try this expedient, but not until then.

This proposition is to clothe all on the rebel side of the dividing gulf with power and to deny it to nearly all upon this side. This is to make your enemies that controlling, irresponsible majority, and to make your friends that helpless and hopeless minority. This is to put the mill into the exclusive possession of pardoned traitors, and to throw all truth and loyalty into the hopper. That is the entertainment to which

we are invited by the immediate restorationists. For one "I can't go." And I do not propose to send any "regrets."

My colleague recently characterized these communities not inaptly as a "boiling caldron of passion and excitement." Into that caldron we are cordially invited to throw all the loyalty there is there, while treason is employed to tend the fires. I must be pardoned if I object to the arrangement. Why, sir, do you remember who these are into whose hands you are asked to consign these enormous powers? They are traitors, and traitors, not to a Government which oppressed them, but to a Government which gave them a monopoly of all the oppression there was practiced under it. They are criminals snatched from the gallows by executive clemency.

Mr. President, you may ransack the history of civilized nations and you cannot find among the rulers who have been deposed for their crimes one who has so unequivocally demonstrated his unfitness for rule as the very class we are now asked to recrown.

I do not ask you to rest upon an assertion. I appeal to the record. If there is any practice which civilization and Christianity condemn it is slavery. But in defiance of that judgment these people persisted in holding three million human beings as the mere chattels of half a million. If there is any principle of government upon which the American people and liberal people everywhere are agreed, it is the principle that opinion and speech ought to be free. Even in these communities every chapter in their codes, every article in their creeds, every measure in their policies, have been opened to free and licensed discussion, save only the rightfulness of slavery. Whoever raised his voice against that has been silenced or banished. In the earlier and better days of the Republic all were agreed that slavery ought not to go beyond the limits of the States in which it existed. But these people not only demanded free ingress for slavery to all the Territories, but in 1861 they waged flagrant war upon the people of the United States because they elected a man for President who was opposed to legalizing slavery in the Territories, and in the prosecution of that war have subjected the nation to an expenditure of three billions of treasure, and to a sacrifice of blood and of life which no man can contemplate without a shudder.

Why, sir, it is the recorded judgment of the nation that these communities are unfit to wield the powers heretofore possessed by the States of this Union. Heretofore American States have had the power to hold portions of their inhabitants in slavery. These communities have all done it. With two exceptions every other community has prohibited it. Against a wrong so gigantic the nation has been compelled to intervene, and has, in the face of an applauding world, deliberately stripped every community within the United States of that power. That judgment was unquestionably just; but who that believes in the universality of human justice does not hang his head at seeing thirteen great American communities arraigned at the bar of public opinion, pronounced guilty of an intolerable abuse of power, and compelled by a national decree to renounce it?

Mr. President, will any one tell me that in spite of all these acts there are many good men in those communities, men as true to their convictions as are to be found anywhere? Who doubts it? Who doubts that Paul, when he threw Christians into prison, compelled them to blaspheme, gave his voice against them when condemned to death, and went snuffing on their track toward Damascus, was as true to his convictions as ever he was? But who believes he was then a suitable or a safe guardian for the disciples of Christianity? I am not clamoring for scaffolds or prisons, or penalties, or forfeitures for the authors of these crimes. Fling them pardons if you choose. If repentance will not come in quest of pardon, send pardon in search of repentance. Give to the rebels life and civil rights, and political

privileges; give them offices and honors, if you must; build altars to them, if you will, but; for God's sake, do not sacrifice men on those altars any longer. Will any one tell me that such recurrences to the past are calculated to postpone the era of good feeling for which the country yearns?

Mr. President, the era of good feeling waits for one of two events. It will come when wrong surrenders to right, or when right surrenders to wrong. If it comes with the former event it will stay; if it comes with the latter it will leave early. Those who would have the era of good feeling stay when it comes should strive to hasten the surrender of the wrong, and should resist to the end the surrender of the right. But we are exultingly told that "slavery is abolished," as if now there was no more danger to be apprehended from the abuse of power. Yes, Mr. President, by the ordinance of emancipation three million people have been delivered from the slave pens and taken from the auction blocks. They have been redeemed from the kingdom of chattelism, but they have not been placed in the republic of man. Let us withhold our boasting for the present. Power can make men miserable otherwise than by making them merchandise. Who does not see that if the freedmen are placed under the political control of that white population, emancipation has only transferred them from the individuals who formerly owned them to a close corporation composed of the same persons? And what use is to be made of them then? Sir, we are not blind or deaf, unless we choose to shut our eyes and stuff our ears with cotton; and we cannot fail to know, as well as if their purpose was emblazoned on all the southern heavens, that they mean, in spite of emancipation, to monopolize still the labor of the freedmen, to control its wages, and to appropriate all of its proceeds not demanded for their bare support. To that end you are distinctly informed that, with their consent, the freedmen shall not come to the polls; shall not enter the witness box or the jury box, or sue in the courts; shall not hold lands, nor inherit or transmit property. Oh, but you say, some of those communities have agreed that the freedmen may sue in the courts and swear upon the witness stand. Yes, but will you tell me how, with all these disabilities heaped upon them, they are to be able to employ an attorney to appear for them? Or how, with all this prejudice arrayed against them, they are to find an attorney who dare appear for them? Or how, with all this indignity piled upon them, they are to find a jury that is not instructed not to credit what they say?

But how have even these beggarly concessions, not to justice but toward justice, been secured? How has the consent of either of those communities to the decree of emancipation been obtained? How is it that some of them agreed to annul their ordinances of secession while others have only repealed them? How have some of these communities been induced not to forego, but to postpone, the charge of the debt contracted in aid of the rebellion upon the industry of those communities? Sir, you and I know how it has all been done. It has been done by the efforts of the President. We have seen him, as it were, strip himself and go down into those several arenas, armed with the whip of political exclusion, as I have seen Driesbach go into a cage of lions, and, in the name of national justice, struggle there for some recognition of it. For this labor, in the name of my constituents, I thank him. It was work in the right direction. He has done all it was necessary for him to do. He has demonstrated that those people, if the nation will remit them their forfeited lives and estates and readmit them to political rights, will do whatever the nation demands. In the name of God, then, let the nation demand justice—not the shadow but the body of it; not the semblance but the substance of it.

But, sir, they mean to do more than monopolize the labor of the freedmen; they mean to convince the American people that emancipation was a blunder and a crime. Hence it is that

their organs clamor with tales of conspiracies, of idleness, vagrancy, and of crime. Hence it is that Christmas was assigned as the day for a general uprising. Hence it is that on that day, the anniversary of the day on which was born, in Bethlehem of Judea, Jesus, the Saviour of man, it happened that soldiers lately returned from the rebel army, wearing the uniform of the confederacy, within five miles of your Capitol, paraded the streets of Alexandria, doing their utmost to provoke a revolt. Hence it is that throughout that region, still heavily garrisoned by the troops of the nation, in defiance of any local public sentiment, if not in accord with it, and in defiance of the national power, murder sweats at its work of blood." If you, who are responsible for the law of emancipation, ardently desire to be damned for it, you have only to place it in the hands of its most relentless enemies to administer and illustrate. Withdraw the national authority, surrender the protection of the emancipated to the men who formerly owned them, dictate to them what constitutions and what laws you please to-day, so that you give them full authority to repeal them to-morrow, and you know what will happen.

Restored to the prerogatives of States, and in full possession of their seats here, they will coolly tell you that having made one constitution and one code for the Washington market they will proceed to make one for home consumption. Having at your dictation agreed to the act of emancipation, they will, after their own fashion, proceed to show you what it is worth. Having at your bidding waived the payment of the rebel debt, they will proceed to cancel the old bonds and issue new ones for the amount. And when, under their new code, the freedman is excluded from the jury box, the witness stand, the courts, and from the whole remedial law, and from the schools; when their labor is charged with an enormous debt contracted in the effort to perpetuate and intensify their servitude; when the regenerated State shouts to them "Work!" and yet denies them all chance to work except in the employ of their late owners, the great landholders; when the freedman sees that his utmost efforts only secure him a subsistence, which he always had, and that the strictest fidelity secures him no friends, which he once had; when he finds that the tie which linked him to the family of his old master is severed, and that no new tie links him to the family of man, what then?

Sir, I do not doubt that oppression, cunningly devised and persistently applied, can secure a revolt from these freedmen. And what then? Let Jamaica answer. A revolt has been effected there, and with what result? Shakspeare thought to caricature the tireless genius of slaughter when he made the "mad-cap Prince of Wales" describe the "Hotspur of the north" as "he who kills me six or seven dozen Scots at a breakfast; washes his hands, and says to his wife: 'Fie upon this quiet life! I want work.' 'Oh, my sweet Harry,' says she, 'how many hast thou killed to-day?' 'Give my roan horse a drench,' says he, and answers, 'Some fourteen,' an hour after—'A trifle, a trifle.'"

Poetry gives you that for caricature. When you ask the newspapers, those chroniclers of actual events, how many have been killed in Jamaica, they answer, weeks after the event, "from two to four thousand!" As if it only concerns the world to know the number in round thousands and was not necessary to be very particular as to the number of thousands.

I asked a friend of mine, a sagacious chronicler of political results, what would happen if the freedmen were driven to a revolt. He answered, with the quiet appearance of one who, looking upon a clouded sunset, says *it will rain to-morrow*. "They will be exterminated."

Yes, Mr. President. But when the nation has returned from exterminating the emancipated, with what judgments will they visit the emancipators? Who of us, who are responsible for emancipation, will care to wait for his share of the execration that is sure to follow the act, when we have nothing to show for it but a maddened revolt and a relentless massacre?

But even if protection the most ample was already secured to these freedmen, I should still be unwilling to restore to those communities the functions of States. There is another class of people there who, in my judgment, deserve the attention of Congress. I refer to that class who have the luck to be white but have had the singular taste during the past four years to be loyal. Do we forget that during those last terrible years different portions of each of those rebellious districts have been under the control of different governments, deadly hostile to each other? A part of what we call Louisiana has been under the control of the military authorities of the United States. Those authorities have not only been protecting the territory within their possession against the incursions of rebel forces, but they have, in the absence of any civil government which the United States could recognize, been administering justice between man and man.

It is not to be doubted that in the discharge of these civil functions, as in the exercise of military functions, your authorities have acted in the interest of the United States. It is not to be doubted that they have discriminated in favor of the loyal and against the disloyal. Other portions of the same Louisiana have been under the control of rebel authority. We know very well that they have discriminated against the loyal and in favor of the disloyal. To what extent these discriminations have gone on either side we are not informed. An officer, who has recently been filling a high command in South Carolina, told me he knew of men whose whole estates had been confiscated by the rebel authorities for no other offense than having been true to the flag of the nation. Now, it is deliberately proposed to surrender the whole local authority in each of those districts to those men in whose favor the rebel authorities have discriminated and against whom our authorities have discriminated. Does any man suppose that any government can hereafter be erected by the people of Louisiana, of South Carolina, or of Virginia, which will uphold the judgments of your military commissions, heretofore rendered against rebels, or that will reverse the judgments rendered by rebel tribunals against Union men? Does the United States really mean to suffer all its past action in those districts to be trampled under foot by its enemies, and all the wrong and oppression which have been visited upon its friends to go unredressed?

If your troops had taken possession of a State in Mexico during a war, they would have done what they have done in Louisiana, and for the same reason. And Mexico would have regarded your acts as Louisiana regards them—as the decrees of force and not of law. If the Mexican State should be ceded to the United States the Government of the United States would uphold its prior acts. If the State should be restored to Mexico the treaty of peace would settle the question of the validity or invalidity of what you had done. But you have had no treaty with Louisiana, and you can have none. Only in her new organic law can she abjure the claims or the pretenses upon which she ought not to insist, or upon which you do not mean she shall insist.

Every new State, when she offers herself to the acceptance of the nation, is required to renounce by her constitution whatever claims Congress deems she ought not to prefer, and especially is required to respect, after her admission, whatever has been done by the authority of the nation before her admission.

But, sir, if these people were entirely friendly to each other, there would still, in my judgment, be an insuperable objection to their immediate restoration to the prerogatives of States. That objection lies in the fact that a large and controlling portion of them are still really hostile to the United States. Gentlemen affect to discredit this fact. God knows I would be glad to discredit it; but I cannot. The evidence of it is conclusive and overwhelming.

But you say they have laid down their arms. Yes, Mr. President, being physically unable any

longer to hold them up, they have laid them down. But they seek to reënter the community of States! Yes, Mr. President, having found they cannot have control of their own domestic and foreign affairs both, they would, doubtless, like to have the sole control of their domestic affairs only; and having found they cannot successfully fight against the United States, they would, doubtless, like the privilege of sending here some hundred or more representatives to vote against it. But they will take the oath of allegiance! Yes, Mr. President; but the oath they will take is no more binding than that they were under in 1861, when they made flagrant war upon you. But some of them have even renounced the right of secession! Yes, Mr. President, as Galileo renounced the theory of the earth's motion.

But everywhere you see unmistakable evidences that their hearts are unchanged. The uniform of the rebellion is still worn and its songs still sung. In a church of this city last Sabbath, I am told, three gentlemen were seated with the insignia of the rebellion upon them. In Alexandria, on Christmas, men whom your law condemns to death wantonly assaulted men for no other reason than that your law proclaimed them free. In a theater in North Carolina, a short time since, the orchestra played the "Bonnie Blue Flag," and it was received with rapturous applause.

It is suggested that those who parade their evidences of hostility are few in number, and do not represent the feeling of communities. I challenge the Senate to show me what rebel community has ever rebuked such displays. Last week in a theater in Mobile, the orchestra, in playing a medley, carelessly or by design introduced a strain from Yankee Doodle. It was hissed at once. Some officer in command there directed it to be played by the orchestra the next night. It was applauded by those wearing the American uniform, and hissed by others. The papers say that it seemed likely a general tumult was to ensue, and the ladies left the theater. I find here extracts from three Mobile newspapers commenting upon that transaction, and I wish to read portions of these extracts. I read first from the Mobile Tribune of December 30:

"The music of the thing is execrable. We have been averse to that ever since we first heard it. But it was, in some sort, a national air, and that made it respectable. Is it not likely that it was hissed by some person who meant distaste to the music and not the sentiment which it conveys? At all events it was a bit of folly to hiss it under present circumstances."

What are the "circumstances?" Why, we have not got our representatives into Congress yet. Under these circumstances "it was a bit of folly to hiss" an air to which the people of the United States are supposed to be somewhat attached.

"A moiety of the audience was probably composed of those who admire it in every respect. Their feelings and tastes ought to be respected by a genteel audience."

The audience in Mobile was supposed to be "genteel," but not patriotic or loyal.

Besides, we are informed that "Dixie" and the "Bonnie Blue Flag," both of which were considered semi-confederate national airs, are often performed by the orchestra without provoking hisses from that part of the auditorium which is supposed to be averse to them.

"Cannot our people be as polite as their 'Yankee' friends?"

It is a question of politeness!

"We shall take the liberty, also, of informing those who seem to forget it, that this State of Alabama is presumed to be within the Federal Union—that it has no power, even if it had the desire, to put itself in hostility with the central Government."

The Tribune is satisfied on the question of power, but uncommitted on the question of desire.

"It lies yet, in large measure, at the mercy of those who overpowered it. Now, cannot people remember this imposing fact and restrain their prejudices, which can only excite prejudice, and thus lead to disturbances and give the enemies of the State an opportunity to demand that more rigid restraints shall be put on us?"

That means, "Keep still till we get in a position where they cannot put any more restraints upon us; hush for the present; wait till we get

out of the woods before you whistle or hiss the whistling."

"We do not take these manifestations of displeasure as meaning anything of the slightest importance, but the indulgence of them may lead to what will be of importance."

"We are not censuring any one"—

Of course not—

"but may conclude with the suggestion to the managers that they had better hereafter omit the performance of all airs which are likely to provoke a repetition of the scene we are alluding to."

"You had better not play Yankee Doodle any more in that theater," says the Tribune.

The Mobile Times of the same date has an article headed "Music and Liberty," in which, after reciting the circumstances, it says:

"Now, with due respect to all parties, the whole of this is wrong."

That is, playing the music and hissing the music, the ordering by the military officers that it be replayed, and hissing it again, is all wrong, says the Times.

"First of all, no law, of either State or Congress, ever made 'Yankee Doodle' a national tune."

They cannot find it in the statute. You have no business to complain that a tune is hissed unless the law declares it to be a national tune, and this is not recognized by the law yet!

"The very words which are adapted to the air exclude any idea of the kind."

The Times goes on to argue that it is really an old Neapolitan fishing song, &c. I will not detain the Senate with that argument. It is curious in itself, and I have no doubt would interest them.

"On the strength of this the tune may be hissed as a musical performance without any direct or indirect insult to our national feelings."

"On the other side, it is true to state that national prejudice has to a great extent adopted this tune as an emblem, and that, right or wrong, it should be respected."

"The Times is too well known as a consistent and independent advocate of peace and conciliation to be suspected of partiality in giving its views."

I do not suspect it of any partiality, in giving its views, between those who hissed a national air and those who played it. Under present circumstances, unquestionably, the Times is neutral. When these circumstances have passed by and you can no longer impose any restraints upon them, I think the neutrality of the Times will be ended, and I do not think there is the slightest doubt on which side of the controversy the Times will appear.

"It might be remarked here," says the Times, "that, as the military authorities never objected to the performance of the 'Bonnie Blue Flag,' 'Dixie,' and other southern tunes, it was in bad taste on the part of the theater to introduce in their musical executions anything calculated to alter the present good feelings."

That is pretty sagacious. The Times has got a remedy. The national authorities down there do not object to the orchestra's playing the Bonnie Blue Flag, and the Times suggests and urges upon the managers of the theater to stick to the Bonnie Blue Flag; then you will have none of this disturbance. Why introduce national airs? Confine yourselves to one class of music, and let that be rebel music!

The Mobile Register of the same date says:

"We are free to admit that it ought not to have been hissed; but surely it was not politic, by playing it, to run the risk of making the theater an arena of a political omelette."

It ought not to have been hissed since the orchestra stumbled on to it, but the managers of the theater ought to have taken care not to have their orchestra stumble on a national tune!

"The officers who took part in this portion of the play 'not in the bills,' must determine for themselves how far they have aided the President in his policy of reconciliation, and to what extent the sum total of 'loyalty' has been increased in the community by the evening's performances."

So says the Register to the officers in command, "You must take care how you insist upon having these national airs played in our theaters; you will balk the President's plan of reconstruction if you do not quit that." [Laughter.] That I read you, Mr. President, from papers that are the advocates of the southern style of loyalty. They are defending them, and this is the way they defend them.

Nowhere can you find but two sentiments;

one that blustering with hostility to the national authority, regardless of consequences, and the other wildly suggesting, "Do not bluster yet; there is too much depending upon our good behavior!"

There are those who flatter themselves that the temper of these communities is improving. My own observations lead me to the conclusion it is constantly growing worse. And I think the fault is less theirs than ours. When the war closed the rebels very evidently and very naturally assumed that as they could not govern the United States they must obey it. Hence they began at once their preparations either to obey the country or to leave it. At once a party sprang to the front prepared to champion the cause of the nation and to uphold its authority. The party was not strong in numbers or in influence. If the nation had stood by it, it would have grown strong, and would soon have become controlling.

But, unfortunately, in a very few months it was proclaimed that the President was in alliance, not with the party that prosecuted the war, but with the party that opposed it; not with the party that elected him, but with the party that opposed his election.

Soon public rumor pointed to Senators, Representatives, and presses who had hitherto supported the national cause, and declared them ready to go with the President wherever the President might choose to go. Then it was declared that we had fought this gigantic war, not to make the rebels obey the United States, but to make them govern their own States; that they would be invested with those governments as soon as they would accept them, and all could see that as soon as the rebels were installed in those governments all who dared to befriend the United States would be subjected to every outrage that political rancor, clothed with the prerogatives of a State, could inflict. Since then the United States has had no friends in those districts. There have been but two parties there: one endeavoring to awe the Government with professions of defiance, and the other endeavoring to cheat it with professions of friendship.

No Government can expect friends, and no Government deserves them, which does not demonstrate its ability, or at least its willingness, to protect them.

But we are told it is not strange that these people should not cherish any very lively regard for the United States at present. Perhaps it is not. But it seems to me surpassing strange that the United States should insist upon thrusting vast political powers into the hands of millions who maintain unrelenting hostility to the national cause.

I therefore conclude that upon every consideration, both of national honor, of national safety, and of local interest, Congress ought not yet to restore the suspended functions of those rebelling States.

But it is said, such is the policy of the President, and my colleague exhorts us in vehement terms to "stand by the President and to uphold his hand." Why, sir, I desire to say to my colleague, and to the President, if he will listen, that we will stand by him if he will stand by the United States. I desire to remind my colleague, and the President, if he will listen, that we have stood by him because he did stand by the United States.

Mr. President, when at Baltimore, in 1864, the representatives of the Union party selected Andrew Johnson, of Tennessee, to be their candidate for Vice President of the United States, there was no tie in common between them and him except that both stood committed to the defense of the supremacy of the United States. We knew, then, that if elected there would be one life between him and the command of the Army and Navy of the Union. We knew that if by any providence he should succeed to that command he could surrender both to the enemy. But we did not believe he would do it. No man had given more signal evidences of his devotion to the national cause than he. No man believed more implicitly in the sincerity of that

devotion than myself. No man, perhaps, dwelt upon the conclusiveness of those evidences with more grateful enthusiasm than I did in my addresses to my constituents during the canvass of that year. I believe still he was loyal then. I believe still he is loyal now.

Sir, who says the President demands the immediate restoration of those communities to the status of States? Certainly he has not told us so. It is certain, also, the Constitution gives him no authority to make such a demand. It does give him express authority to "recommend" to the consideration of Congress such measures "as he shall judge necessary and expedient." But he has not recommended even any such measure as I have been combating. On the contrary, it seems to me he has studiously forbore to make any such recommendation.

"And if an angel should have come to me, And told me Hubert should put out mine eyes, I would not have believed no tongue but Hubert's."

And let who will come and tell me the President would surrender one of the choicest prerogatives of the national supremacy, and would surrender the protection of its freedmen, its heroic soldiers, and its faithful friends to their direct enemies, I will believe no tongue but the President's. Whatever may be thought of what he has already done, it should be remembered he has not acted in defiance of congressional direction, but in want of it—a want which I have often urged the Senate to attempt to supply.

Besides, sir, if I knew that the President differed from the views I have here advanced, I cannot forget it was Wisconsin that placed me here and not the President.

I believe that to-day I have given utterance to the convictions which animate the loyal people of Wisconsin. I know I have given utterance to my own convictions, deliberately formed and long cherished. And I trust the President has too fine an appreciation of the office of representative to expect or wish any one to betray the dictates of his own conscience or his own constituents to echo the views of the Executive.

Sir, let the day be far distant when the Senate shall be seriously importuned to surrender its own convictions of duty to executive dictation. And if the day shall ever come when the Senate shall yield to such importunity, then the American system will be destroyed, and the fragments only will remain to be scrambled for.

But because these people are not yet prepared to resume their suspended functions, does it follow that they must be left to the control of military authority? By no manner of means. The objections to that are second only to those I have urged against immediate restoration. I cannot detain the Senate by a recapitulation of them.

Upon this point I content myself with citing the argument presented by the late message of the President:

"Now, military governments, established for an indefinite period, would have offered no security for the early suppression of discontent; would have divided the people into the vanquishers and the vanquished; and would have engendered hatred, rather than have restored affection. Once established, no precise limit to their continuance was conceivable. They would have occasioned an incalculable and exhausting expense. Peaceful emigration to and from that portion of the country is one of the best means that can be thought of for the restoration of harmony; and that emigration would have been prevented; for what emigrant from abroad, what industrious citizen at home, would place himself willingly under military rule? The chief persons who would have followed in the train of the Army would have been dependents on the General Government, or men who expected profit from the miseries of their erring fellow-citizens. The powers of patronage and rule which would have been exercised, under the President, over a vast and populous and naturally wealthy region, are greater than, unless under extreme necessity, I should be willing to trust to any one man; they are such as, for myself, I could never, unless on occasions of great emergency, consent to exercise. The willful use of such powers, if continued through a period of years, would have endangered the purity of the general administration and the liberties of the States which remained loyal."

To my mind this argument is unanswerable. But one expedient then is left. That is to organize provisional governments for each of those districts. Give them Governors and judges appointed by the national authority. Give them

Legislatures chosen by the people of the districts, reserving to Congress a veto upon any laws designed to oppress any portion of the people. Allow them also to be represented in one or both Houses of Congress by Delegates chosen by themselves. This is precisely what has been done in every case where any considerable number of our citizens have been found without the limits of organized States. It was done for those people who poured out of the old States to settle the Territories northwest of the Ohio. It was done for those people who inhabited the territory we purchased from France, and for those inhabiting the territory we conquered from Mexico. The reason for doing it was precisely the same in every case. There were people to be governed, and they were not prepared for State governments. The reason is the same in this case. There are people who must not be left to anarchy, and they are not fitted to be clothed with the prerogatives of States.

But gentlemen say this is radical, and the times demand conservative measures. Why, sir, if gentlemen will say what it is they wish to conserve, I can better say whether this will answer their purpose.

If they wish to conserve the supremacy of the nation, this will enable them to do it, for it retains authority in the hands of the nation until the late belligerents are prepared to wield it in harmony with the national interests. If they wish to conserve the equality of men, this enables them to do it, for it will enable the nation to forbid any class of men from being placed beyond the protection of law. If they wish to conserve the integrity of the States, this will enable them to do it, for it respects the rights of every State which has not forfeited its own functions. If they wish to protect the national debt, this will enable them to do it, for it guards that debt, for a time at least, against the machinations of those who are most hostile to it. If they wish to conserve the people of the revolted States against the payment of the rebel debt, this enables them to do it. If they wish to conserve the peace in those insurrectionary districts, this enables them to do it, and to employ for that purpose the whole authority and the whole power of the nation. If they wish to conserve the cause of emancipation, it will enable them to do it, for it will enable them to make emancipation a blessing to both the master and the freedman. If they wish to conserve what loyalty there is in those districts, and to hasten its development, this will enable them to do it, for it will demonstrate to the world that it is no longer dangerous to be loyal. If they wish to conserve the rights of those Union men whose fidelity has been visited with penalties by rebel tribunals, or to conserve those rights which now rest upon the decrees of our own military tribunals in the revolted districts, this will enable them to do it.

Mr. President, I cannot foresee what will be the judgment of Congress upon the great problems now confronting it. If they can find a shorter and truer path to safety and peace than this, I will gladly accompany them in it. For myself, I have looked for such a path for four years, and I have been wholly unable to see any other than this. I earnestly invoke the Senate to try it.

Mr. President, I know of nothing in the life of Christ more touching, or, if you think of it, more terrible, than that scene narrated by His first biographer when, standing in the temple and contemplating the great destruction that was soon to overtake the city, He exclaimed:

"O Jerusalem, Jerusalem, thou that killest the prophets, and stonest them which are sent unto thee, how often would I have gathered thy children together, even as a hen gathereth her chickens under her wings, and ye would not!"

"Behold, your house is left unto you desolate."

And when I remember how the Almighty has held us by the hand during the late deadly struggle, how He has led us more visibly than He ever did any other people since He guided the Israelites out of Egypt; how we in these very days have seen Him again part the Red sea that this nation might walk through dry;

and when I contemplate the possibility that we may refuse after all to cross the river of prejudice that lies before us, that we may not be able even now to cast off the idea that "they are all giants" on the other side, that we may not after all dare to be sensible, that we may leave those who have been sent to us to be stoned by their enemies, I sometimes think I hear the same Jesus bending from the great white throne, where He sitteth evermore by the side of the Father, and exclaiming with the same infinite tenderness, O America, America, how often would I have gathered thy children together, even as a hen gathereth her chickens under her wings, and ye would not; henceforth *your* house is left unto you desolate.

Mr. President, I move that this resolution, if there is no occasion for its further consideration at present, be referred to the joint committee on reconstruction.

Mr. JOHNSON. Will the honorable member withdraw that motion for a moment that I may say a word or two?

Mr. HOWE. Certainly, I withdraw it.

Mr. JOHNSON. Mr. President, I rise with no view to express any opinion upon the questions which have been considered by the Senator from Wisconsin. In the relation in which I stand to some of these questions, you having done me the honor to place me upon the committee on reconstruction, it would be in very bad taste, as I think, to trouble the Senate with any views of my own which may possibly be changed by the deliberations of that committee. There is, however, one question which involves a construction of the Constitution in a particular, as I think, vital to its existence, upon which, very briefly, I invite the attention of the Senate. The honorable member from Wisconsin seems to suppose, indeed has so asserted—

Mr. SUMNER. Perhaps the Senator would like an adjournment, and if he will give way I will move it.

Mr. JOHNSON. No; I do not intend to speak more than ten or fifteen minutes. I would rather go on now if the Senate are willing to listen. I am not anxious to go into executive session or to adjourn.

Mr. SUMNER. We can take this up tomorrow.

Mr. JOHNSON. I have no objection.

Mr. SUMNER. I move that the Senate adjourn.

The PRESIDENT *pro tempore*. Before putting that motion, the Chair will lay before the Senate several messages from the President of the United States.

Mr. SUMNER. Very well.

PRESIDENTIAL MESSAGES.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating, in compliance with a resolution of the Senate of December 21, 1865, information in relation to the charges against Jefferson Davis, and the reasons why he is held in confinement and has not been put upon his trial; which was, on motion of Mr. HOWARD, ordered to lie on the table and be printed.

Mr. DOOLITTLE. Had not that communication better be referred to the Committee on the Judiciary?

Mr. HOWARD. Not yet. Let us see what it is first.

The PRESIDENT *pro tempore* also laid before the Senate a message from the President of the United States, communicating, in compliance with a resolution of the Senate of December 11, 1865, information respecting the occupation by French troops of the republic of Mexico and the establishment of a monarchy there; which was ordered to lie on the table, and be printed.

He also laid before the Senate a message from the President of the United States, communicating, in compliance with a resolution of the Senate of December 19, 1865, information in regard to plans to induce the immigration of dissatisfied citizens of the United States into Mexico, and especially in regard to the plans

of Dr. William M. Gwin and M. F. Maury; which was ordered to lie on the table, and be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had passed the joint resolution of the Senate (S. R. No. 7) for increasing the bond of the Superintendent of Public Printing.

HOUSE BILL REFERRED.

The joint resolution from the House of Representatives (H. R. No. 24) for the relief of Lucretia M. Perry, widow of the late Nathaniel H. Perry, United States Navy, was read twice by its title, and referred to the Committee on Naval Affairs.

EXECUTIVE SESSION.

The PRESIDENT *pro tempore*. It is moved by the Senator from Massachusetts that the Senate do now adjourn.

Mr. SUMNER. I withdraw that motion.

Mr. FOOT. I move that the Senate proceed to the consideration of executive business. It is understood that there are several executive messages on the table.

The motion was agreed to; and the Senate proceeded to the consideration of executive business; and after a short time spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 10, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

OHIO CONTESTED ELECTION.

Mr. FINCK. I desire to present the memorial of Hon. Charles Follett, contesting the seat of Hon. COLUMBUS DELANO as Representative from the thirteenth congressional district of Ohio. I move that it be referred to the Committee of Elections.

The motion was agreed to.

MEMBER SWORN IN.

Mr. TAYLOR. I rise to a question of privilege. My colleague, Hon. MORGAN JONES, is present and desires to qualify.

Hon. MORGAN JONES, Representative-elect from the fourth congressional district of New York, appeared, and having taken the oaths prescribed by the Constitution and the act of July 2, 1862, took his seat.

The SPEAKER proceeded, as the regular order of business, to call the committees for reports, commencing where the call was suspended yesterday.

NAVAL APPROPRIATION BILL.

Mr. STEVENS, from the Committee on Appropriations, reported a bill making appropriations for the naval service for the year ending 30th June, 1867; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, made the special order for the 17th instant, and ordered to be printed.

The SPEAKER proceeded, as the next business in order, to call the States and Territories for resolutions, commencing where the call was suspended yesterday, with the State of Pennsylvania.

PAY OF ASSISTANT DOORKEEPER.

Mr. VAN HORN, of New York, submitted the following resolution, upon which he demanded the previous question:

Resolved, That the salary of O. S. Buxton, First Assistant Doorkeeper of this House for the Thirty-Ninth Congress, be made equal to that of the reading clerk.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. VAN HORN, of New York, moved to reconsider the vote by which the resolution was

adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

TAX ON TOBACCO.

Mr. TAYLOR submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the following resolutions, passed by the National Association of Tobacconists, in convention held at the Cooper Institute, in the city of New York, November 22, 1865, be, and the same are hereby, referred to the Committee of Ways and Means, with a request to inquire into the expediency of submitting, at an early day, an act amendatory of an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, so as to conform to the suggestions therein contained:

"Whereas the present law relating to the manufacture of tobacco, and assessing a tax upon it, has, during the past three years of its operation, fully and conclusively demonstrated to the members of this association, and to all others connected with the manufacture of tobacco, its utter injustice and unadaptability to the nature and requirements of the trade, as well as to the wants of the Government, in the impossibility of its stringent and impartial enforcement, thereby, in reality, offering a reward for the evasion of the payment of the tax, and for the defrauding the Treasury of its just dues; and whereas under the present law those manufacturers who have always willingly paid their taxes, and gladly strengthened the hands of the Government financially, find their business fast passing from them under the control of irresponsible and dishonest men, whom the present law cannot punish, as the statistics of the department of internal revenue conclusively show; and whereas, owing to the depressing influence of the present law, every department of the trade is entirely prostrated and many workmen are thereby thrown out of employment and thus divested of the means of honest support; and whereas it is the unanimous conviction of the members of this association, founded upon the experience of the past three years with the workings of the internal revenue law, as it relates to the manufacture of tobacco and cigars and snuff in this country, and is strengthened by the workings of similar laws in other countries, that the removal of the tax from the manufactured article to the raw material or leaf will impart a healthy tone to the trade, in protecting the manufacturer and workmen from the covert and sinister operations of irresponsible and dishonest parties, and will increase the revenue to the national Treasury by several million dollars annually: Therefore,

Be it resolved, That the members of this association respectfully but urgently request Congress to remove the tax from manufactured tobacco to the raw material or leaf, as an act of justice to the honest manufacturer, an act which can work no injury to the growers, and at the same time as an act of precaution to protect the public Treasury from fraud.

Resolved, That as the tariff on imported cigars valued at fifteen dollars per thousand or less is at present from twenty to thirty per cent. less than the duties levied by the Government on quality of cigars manufactured in this country, thus offering a premium to the foreign rather than to the home manufacturer, therefore we deem it the imperative duty of Congress to raise the tariff on imported cigars to an amount at least equal to that paid by the home manufacturer."

CHANNEL AT HELL GATE.

Mr. RAYMOND submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the feasibility of deepening the channel at Hell Gate, East river, New York, so as to allow the ingress and egress of vessels of war and commerce; and if, by modern discoveries and inventions, it shall be found practicable to deepen or widen said channel, the said committee is hereby instructed to report a bill to effect the desired object.

DUTY ON COTTON FABRICS.

Mr. WINFIELD submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be requested to inquire into the expediency of lessening the import duty on cotton fabrics, and that they report by bill or otherwise.

THE PREVIOUS QUESTION.

Mr. HALE. I offer the following resolution: *Resolved*, That the previous question was designed as a means of reasonable limitation of debate, and not for the entire suppression thereof, and that a due regard both for the public interests and the rights of minorities requires that no measure involving important questions of principle or policy ought to pass this House without a reasonable opportunity for debate.

Mr. GARFIELD. I move that the resolution be referred to the Committee on Rules, and on that motion I demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the motion to refer was agreed to.

REPORTER OF COMMITTEES.

Mr. HALE also offered the following resolution:

Resolved, That the Committee on Public Expenditures be instructed to report to this House what compensation, if any, has been paid to any reporter or reporters appointed under a resolution of the House passed January 5, 1865, and what services have been rendered by such reporter or reporters, whether such appointment ought to be longer continued, and if so, whether the present rate of compensation is excessive.

Mr. WASHBURNE, of Illinois. What disposition does the gentleman propose to make of that resolution?

Mr. HALE. It is a resolution of inquiry addressed to the Committee on Public Expenditures.

The SPEAKER. The Chair would suggest that the Committee of Accounts would probably be the proper committee to take charge of this matter. The Committee of Accounts audits these bills.

Mr. HALE. I will modify the resolution in that respect. I supposed the Committee on Public Expenditures was the proper committee. I move the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

INCOME TAXES.

Mr. HOGAN, by unanimous consent, submitted the following resolution:

Resolved, That the Committee of Ways and Means be requested, as early as possible, to revise the entire system of income taxes, and if found impracticable to dispense with the whole system, that they make such modifications as will provide, first, for raising the amount now free from income tax from \$600 to \$1,200 per annum; second, to reduce the present percentage on all incomes.

Mr. WASHBURNE, of Illinois. I move to refer that resolution to the Committee of Ways and Means.

Mr. HOGAN. The resolution is simply in the nature of a request.

Mr. WASHBURNE, of Illinois. It seems to me that the resolution is mandatory. I think it should go to the Committee of Ways and Means.

The motion of Mr. WASHBURNE, of Illinois, was agreed to.

CONTRACTS WITH FREEDMEN.

Mr. WARD submitted the following preamble and resolution:

Whereas it is alleged that a form of contract to be entered into between the freedmen and their former masters in the State of South Carolina, has been adopted by certain Government officials on the one side, assuming to represent the freedmen, and their former masters on the other side, whereby, among other things, it is provided that the freedman becomes the servant of the master for the period of one year; that he shall not be permitted to leave the premises where he is bound to labor, or to receive visits from relatives or friends thereon during said time without the master's consent, nor without such consent to keep any poultry, stock, &c., during the time; that if said freedman is absent for two days without the master's consent, no matter for what cause, he forfeits his whole year's pay, part of which goes to his master; that if any team, horses, mules, or farming utensils are injured while being used by the freedmen such damage shall be deducted from their wages, it not being specified that such liability should only be incurred when the freedman was at fault; and in case of any breach of any of the provisions of the contract by any servant he shall be liable to forfeit all his wages and be dismissed from the plantation; and whereas it is alleged that said freedmen are being induced to enter into such contracts: Therefore,

Resolved, That the select committee on freedmen be instructed to inquire into the truth of said allegations, and also to ascertain what contracts, if any, are being forced upon the freedmen of other States, and to report by bill or otherwise.

Mr. WARD. I call the previous question upon agreeing to the preamble and resolution.

The previous question was seconded, and the main question ordered.

The preamble and resolution were agreed to.

CRUTCHES AND ARTIFICIAL LIMBS.

Mr. BANKS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to consider the expediency of exempting from internal revenue duty the manufacture of crutches and artificial limbs, which is now an onerous tax on disabled soldiers.

POLICY OF THE PRESIDENT.

Mr. DAVIS submitted the following resolution:

Resolved, That this House cherish the most entire confidence in the patriotism and policy of the President of the United States, and in his desire to restore the Union on the basis of permanent prosperity and peace, and that the cooperation of this House is pledged to him in support of the general policy of reconstruction inaugurated by him in the modes authorized by the Constitution and consistent with the security of republican institutions.

Mr. WASHBURNE, of Illinois. I raise the point of order that this resolution should go to the joint committee on reconstruction without debate, under the rule.

Mr. DAVIS. I think not. I offer this resolution for the purpose of debate, and in proper order.

The SPEAKER. The Chair overrules the point of order taken by the gentleman from Illinois, [Mr. WASHBURNE,] the resolution not referring specially or directly to the subject of representation. But the gentleman from New York [Mr. DAVIS] rising to debate the resolution, it goes over under the rule.

JEFFERSON DAVIS AND OTHERS.

Mr. CONKLING, by unanimous consent submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be requested, if not incompatible with the public interest, to communicate to this House any report or reports made by the Judge Advocate General, or any other officer of the Government, and as to the grounds, facts, or accusations upon which Jefferson Davis, Clement C. Clay, Jr., Stephen R. Mallory, and David L. Yulee, or either of them, are held in confinement.

Mr. CONKLING moved to reconsider the vote by which the House agreed to the resolution; and moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PUNISHMENT OF COUNTERFEITING.

Mr. BRANDEGEE, in pursuance of previous notice, introduced a bill to punish counterfeiting with death; which was read a first and second time, and referred to the Committee on the Judiciary.

PENITENTIARY IN DISTRICT OF COLUMBIA.

Mr. BRANDEGEE, by unanimous consent, introduced a bill authorizing the construction of a jail, penitentiary, and house of correction in and for the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

QUALIFICATION OF ELECTORS.

Mr. ROLLINS, by unanimous consent, introduced a joint resolution for the amendment of the Constitution, authorizing Congress to define the qualifications and provide for the election of electors of President and Vice President, and of members of Congress; which was read a first and second time, and referred to the Committee on the Judiciary.

PAPERS WITHDRAWN.

Mr. ORTH asked and obtained leave to withdraw from the files of the House, leaving copies, the papers in the case of Peter Wheeler.

Mr. BEAMAN asked and obtained leave to withdraw from the files of the House the petition of W. A. Noble and others, asking for an appropriation for the purpose of repairing a breach in the Government canal at Monroe harbor.

NATIONAL CURRENCY.

Mr. PRICE, by unanimous consent, introduced a bill to amend the act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof; which was read a first and second time, and referred to the Committee on Banking and Currency.

EXTRA PAY OF PRISONERS OF WAR.

Mr. PRICE, by unanimous consent, also introduced a joint resolution in reference to three months' extra pay of prisoners of war; which was read a first and second time, and referred to the Committee on Military Affairs.

and time, ordered to a third reading, and it was accordingly read the third time.

The question was upon the passage of the joint resolution.

Mr. STEVENS. I would inquire why it is necessary to authorize an increase to so large an amount.

Mr. LAFLIN. I would state that when the law was enacted authorizing the erection of this department of public printing, it was provided therein that the Superintendent of Public Printing might draw from the public Treasury two thirds of the amount of his bond. At that time the expenditures in that department were less than one quarter of what they are now. The bond was fixed at \$40,000. Under the law as it now stands he is unable to draw over \$26,000, and he has been obliged for the last two years to draw upon his private credit to meet the current expenses of his department. He simply asks at the hands of Congress that they should so modify that law as to enable him to draw just double that sum. As I understand it—and I make that reply to the gentleman from Pennsylvania, [Mr. STEVENS]—it is not necessary that Congress should take any further action, except simply to authorize him to increase his bond to \$80,000.

The question then recurred on the passage of the joint resolution, and it was passed.

Mr. LATHAM moved to reconsider the vote by which the House passed the joint resolution; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EXECUTIVE COMMUNICATION.

The SPEAKER laid before the House a communication from the President of the United States, transmitting, in answer to a resolution of the House of Representatives of the 8th instant asking for information in regard to the alleged kidnapping in Mexico of the child of an American lady, a report of the Acting Secretary of State to whom the resolution was referred.

On motion of Mr. BANKS, the message and accompanying documents were referred to the Committee on Foreign Affairs, and ordered to be printed.

INVALID PENSIONS.

Mr. INGERSOLL, by unanimous consent, introduced a bill entitled "An act relating to invalid pensions;" which was read a first and second time, and referred to the Committee on Invalid Pensions.

QUARTERMASTER AND COMMISSARY RECEIPTS.

Mr. SPALDING offered the following joint resolution, and desired action thereon:

Resolved by the Senate and House of Representatives in Congress assembled, That all loyal persons in any part of the United States who hold quartermaster or commissary receipts or certificates for articles of food or raiment used by the Army of the United States, or ostensibly taken for their use, shall be entitled to have the same audited and paid under the direction of the Secretary of War: Provided, That no person shall be entitled to the benefit of this resolution who was in active opposition to the Government and laws of the United States at the time his property was so taken as aforesaid.

Mr. BOUTWELL and Mr. CONKLING objected.

Mr. SPALDING. I desire simply to correct one word in the act we passed two years ago. By the construction given to it by the War Department these receipts cannot be audited and paid if the property was taken from a loyal man in a disloyal State. The object is to have the law extend to the disloyal States as well as the loyal, provided the person was himself loyal. The Military Committee say there is no necessity for that law.

Mr. CONKLING. I am very glad there is a difficulty about it. I think it was a very injudicious and improvident measure.

Mr. SPALDING. Then I ask to have the resolution referred to the Committee on Military Affairs.

Mr. CONKLING. I object to that reference.

PENSIONS.

Mr. LATHAM, by unanimous consent, of-

fered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Invalid Pensions be, and are hereby, instructed to inquire into what additional legislation, if any, is necessary to facilitate the procuring of pensions by those entitled thereto, the attention of the committee being especially directed to the fifth rule prescribed by the Commissioner of Pensions in his circular of instruction and forms to be observed in applying for Army pensions under the act of July 14, 1862, (second edition, 1863,) and that said committee have leave to report by bill or otherwise.

CLERK TO A COMMITTEE.

The next business in order was the consideration of the following resolution heretofore offered by Mr. DUMONT:

Resolved, That the Committee on Expenditures of the Interior Department be, and it is hereby, authorized to employ a clerk.

Mr. WASHBURN, of Illinois. That committee was never known to have met.

Mr. ORTH. My colleague is detained from his seat by sickness, and I trust the gentleman from Illinois [Mr. WASHBURN] will consent that the resolution lie over until he is present.

Mr. WASHBURN, of Illinois. I move that it be referred to the Committee on Rules.

The motion was agreed to.

SUFFRAGE IN THE DISTRICT OF COLUMBIA.

The House then proceeded to the consideration of the special order, being the bill reported from the Committee on the Judiciary (H. R. No. 1) extending the right of suffrage in the District of Columbia.

The bill was read. It provides that from all laws and parts of laws prescribing the qualifications of electors for any office in the District of Columbia the word "white" be, and the same is hereby, stricken out, and that from and after the passage of this act no person shall be disqualified from voting at any election held in the said District on account of color; and that all acts of Congress and all laws of the State of Maryland in force in said District, and all ordinances of the cities of Washington and Georgetown inconsistent with the provisions of this act, are hereby repealed and annulled.

Mr. WILSON, of Iowa. I desire to enter a motion to recommit this bill to the Committee on the Judiciary. I do not ask action upon it now.

The jurisdiction of Congress over the subject-matter of this bill is unquestionable. It is the right of Congress—

"To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the Government of the United States."—*Constitution, Art. 1, sec. 8.*

"Exclusive legislation, in all cases whatsoever," is the language of the broad and comprehensive grant of power upon which the right of Congress to pass this bill rests. This is too plain a proposition to admit of debate, and I leave the question of power to give my attention to some other considerations connected with this bill which it may not be unprofitable to discuss.

The Constitution not only confers the indisputable power to which I have referred, but it seems also to invite the identical legislation which the pending measure provides. Nowhere in the Constitution do we find class distinctions applied to citizens of the United States. Its ample folds envelop all citizens alike. It in no way develops color of skin as a tenure to the rights and privileges of citizenship. The citizen, be he high or low, rich or poor, white or black, finds the Constitution of his country as full of justice to him as it is to any other. Looking into its bright face as into a mirror, he sees himself reflected a citizen; and of this there is never a failure. This is the crowning glory of our Constitution. The whitest face can draw nothing from that mirror but the image of a citizen, and the same return is given to the appeal of the black face. If ever aught else appears, be sure you are not looking into the broad, bright surface of the real Constitution, for it never varies, never lies.

If all over this land this same grand feature of our national Constitution had a resting-place

in every other constitution and in every law, then indeed would we be

"A free republic, where, beneath the sway
Of mild and equal laws, framed by themselves,
One people dwell, and own no lord—save God."

But this is not so, nor can we make it so. Our powers reach not so far as this. State constitutions and State laws, covered over with the wreck of human rights, block up the way, and we may not overleap these barriers. The real Republic may be a long ways off yet, but we are approaching it, and shall, in the course of time, realize it in its fullness. But however far it may be in the future, however difficult of approach may these State barriers render it, we should see in them but additional incentives urging us to the performance of the duty which rests with us, in order that the example of the nation may induce the States to aid in hastening the development of a perfect Republic.

I have said that the Constitution seems to invite the passage of this bill; and is this not true? Why should the statute-law, made or tolerated by Congress for the government of citizens of the United States within the District of Columbia, establish class privileges or distinctions on account of color, when no such things are found in the Constitution? Should not the statute-law for the special government of such citizens as reside in the capital of the Republic be as just, as broad, as comprehensive, as humane as the Constitution? Should there not be harmony here? If the Constitution refuses to know the color of the citizen's skin, why should the statute-law be wiser? If the former refrains from trampling on the great truth which glitters like a jewel of the first water in the heart of the old declaration, that "all men are created equal," and that "Governments derive their just powers from the consent of the governed," why should the latter put its unhallowed foot upon this grand central idea of our system and crush it under the very folds of the nation's flag as it floats on the dome of the Capitol? Why hinge the sacred right of suffrage in this District on the word "white," when the Constitution discards it entirely? Let these things not be. Let us heed the invitation of the Constitution, and breathe the breath of true republican life into the body of our laws—of peculiar application to this District at least. Here, at least, let our faith in the great self-evident truth that formed the pivot upon which the fathers turned their hopes, their energies, and their justification when battling for that independence which proved to be the birth of this nation, be made manifest by works full of justice and mercy.

I do not claim that the right of suffrage is a natural right to which every person subject to human government is entitled. It is not a natural right, for where natural rights alone obtain there is no right of suffrage. But this state of things can only exist in the absence of properly adjusted civil government. The right of suffrage is a political right, and is the attendant of civil government. This, however, renders it no less sacred than it would be if it were a natural right. We always class it among the rights. We speak of it as the *right* of suffrage, and never give it the more doubtful designation of the *privilege* of suffrage. Whenever and by whomsoever it is spoken of it is always given the royal title of right. It is not something which is given as a matter of grace to the citizen by a Government which "derives its just powers from the consent of the governed," for it is the medium through which that consent is accorded. It is the check of the citizen upon the Government, and it would be mere mockery for the latter to pretend to act within the limits of the consent of the former in the absence of means whereby such consent could be made known. Of course this consent must be made known by the voice of the majority, for that is the bond of government established at the beginning. This has been consented to. But it is not competent for the majority to deprive the minority of anything which justly belongs to the things properly denominated rights; and one of these is, in my judgment, the right of

suffrage. The office of this right under civil government is kindred to that which belongs under natural law to the right of self-defense. Not that the right of self-defense as established by natural law is supplanted by the right of suffrage when civil law assumes its sway over a people; for then both exist, the latter being a cumulative right rendered necessary by the new relations, rights, interests, privileges, and obligations resulting from the ordination of civil government. In a state of nature man must rely on his powers of force and persuasion for the defense of his rights. Within certain limitations, he may rely on the same means of defense after the institution of civil government, and the law justifies or excuses him according to the circumstances of the particular case. But a thousand cases arise from the action of the Government and of persons when some different and more potent engine than words and fists is required. A man attacked in his person or his property may drive off the aggressor by the use of his natural means of defense. This he may do in the absence or presence of civil government. It is his natural right to do so. But a citizen attacked in his personal liberty or his property by unjust laws, or by the maladministration of just laws by corrupt public officers, or by ignorant and incompetent administrators of the law, must defend himself by resort to other means. What means shall be placed at his disposal? Absolutists tell us that the love of the monarch for his subjects will supply the needed remedy; but as republicans we turn our backs upon this false theory, and affirm that the means of defense must be placed in the keeping of the citizen. When the monarch forgets the theoretical love upon which his system is based, and encroaches upon the rights of his subjects, force is their resort, and the trial is by battle. We, in accepting the republican system, are provided with a more effective and peaceful mode of redress. We meet encroachments on our rights with the swift and telling power which lies in the ballot. We rid ourselves of unjust laws by disposing of unjust law-makers. We remedy the evils springing from an improper administration of our laws by changing our public officers. We protect our rights by hedging them about with protective laws made, practically, by ourselves. These are all defensive acts, and the weapon by which we achieve them is the ballot.

Civil Governments were not instituted for the purpose of depriving men of their natural rights, but rather for the better protection of these rights. What were natural rights before, now become civil rights, and each possessor of them is entitled to an equal participation in the employment of the means established for their defense, except so far as the good of the whole may require some limitations on this general rule. But whatever limitations be adopted must always be just and impartial. Some very proper limitations do now exist, while others are gross and flagrant violations of every rule of justice and impartiality, and subversive of the ends and purposes of government. Why should the color of a man's skin deprive him of the political right of defense? He may exercise the natural right of defense the same as other men whose skins are of color less objectionable. Natural law makes no distinctions between its subjects in this regard. Why should the civil law interpose a different rule? Are not men's rights as dear and as sacred under civil government as they are in the absence of it? Can we excuse ourselves in continuing a limitation on the right of suffrage in the capital of the Republic that has no justification in reason, justice, or in the principles on which we profess to have based our entire political system? Upon this question there seems to have been but little difference of opinion among the men who laid the foundation and built the superstructure of this Government. In those days no limitation was placed upon the enjoyment of the defensive rights of the citizen, including the right of suffrage, on account of the color of the skin, except in the State of South Carolina. All of the

other States participating in the formation of the Government of the United States had some limitation, based on sex, or age, or property, placed upon the right of suffrage; but none of them so far forgot the spirit of our Constitution, the great words of the Declaration of Independence, or the genius of our institutions, as to inquire into the color of a citizen before allowing him the great defensive right of the ballot. It is true, that as the Republic moved off in its grand course among the nations a change occurred in the minds and practices of the people of a majority of the States. The love of liberty, because of its own great self, and not because of its application to men of a particular color, lost its sensitive character and active vitality. The moral sense of the people became dormant through the malign influence of that tolerated enemy to all social and governmental virtue, human slavery. The public conscience slumbered, its eyes closed with dollars and its ears stuffed with cotton. When these things succeeded the active justice, abounding mercy, and love of human rights of the earlier days, State after State fell into the dark line of South Carolinian oppression, and adopted her anti-republican limitation of the right of suffrage. A few States stood firm and kept their faith, and to-day, when compared with the bruised and peeled and oppression-cursed State of South Carolina, stand forth as shining examples of the great rewards that are poured upon the heads of the just. Massachusetts and South Carolina, the one true, the other false to the faith and ideas of the early life of the nation, should teach us how safe it is to do right, and how dangerous it is to do wrong; how much safer it is to do justice than it is to practice oppression.

But, sir, not the States alone fell into this grievous error. The General Government took its stand upon the side of injustice, and apostatized from the true faith of the nation, by depriving a portion of its citizens of the political right of self-defense, the use of the ballot. What good has come to us from this apostasy? Take the history of the municipal government of this city, and what is there in its pages to make an American feel proud of the results of this departure from the principles of true democracy? Is there a worse governed city in all the Republic? Where in all the country was there to be found such evidences of thriftless dependence as in this city before the cold breath of the North swept down here during the rebellion and imparted a little of "Yankee" vigor to its business and population? Where within the bounds of professed fidelity to the Government was true loyalty at a lower ebb and sympathy with the rebellion at higher flood; freedom more hated and emancipation more roundly denounced; white troops harder to raise and black ones more heartily despised; Union victories more coldly received and reverses productive of less despondency than right among that portion of the voting population and its adjuncts which control the local elections in this District? With what complaisance the social elements of this capital fostered the brood of traitors who rushed hence to the service of the rebellion in 1861. Are these fruits of our error pleasing?

A few days ago a special election was held in this city for the purpose of ascertaining the views of the electors relative to the proposition we are now considering, to restore to the colored citizens of this District the right of suffrage in order that they may defend themselves against the oppressions of the present ruling class. The friends of equal rights abstained from voting. The enemies of impartial suffrage cast some seven thousand votes. How many were fraudulent no man can tell. The present holders of power decline to divide it. I doubt not that these seven thousand votes could have been polled against the abolition of slavery in this District. A large majority of those who cast these votes love slavery and hate freedom. They love to vote themselves, but they are opposed to extending the same privilege to other men. We know they were opposed to emancipation. We know they are opposed to im-

partial suffrage. We overrode their desires in the former case, and the whole loyal portion of the nation shouted for joy because the capital of the Republic was made free. I trust we shall make the country glad in the present case by again overruling the selfishness of this people, by placing in each man's hands the power to defend his own freedom and rights, and at the same time so reinforce the true men who refused to participate in the recent election that they, with the new voting population, can for all time control the municipal governments of Washington and Georgetown in the interests of freedom, humanity, justice, and the true principles of popular government.

The seven thousand voters who do not want other men to vote are not sure that the voice of the ballot-boxes, which, doubtless, received many ballots from fingers that have pulled rebel triggers, will be heeded by us, and therefore, as is currently reported, many of them are willing to compromise the difficulty by assenting to a repeal of the municipal charters, and to the government of the two cities by a commission to be appointed by the President. This is advancing from bad to worse. When men will surrender their own rights rather than respect the rights of others their political demoralization is complete. That this political debasement should exist in the capital of the Republic is a burning, blistering disgrace, which demands a speedy and vigorous remedy. This is not a case in which it is best to "make haste slowly." The good name of the nation requires swift justice in our treatment of this worst development of pro-slavery bigotry. The remedy is not to disfranchise those who come forward and offer to sacrifice their own right to the elective franchise upon the altar of narrow and disgraceful prejudice, but to neutralize the evil use of the right by such persons by extending the same right to those who will use it well. As a punishment for so craven a betrayal of the sacred character of the ballot, it might seem just to inflict a deprivation of its use; but this is the day of "good feeling" and of pardon, and we will not punish. I would not be vindictive, I would be just. I do not want to legislate against the white citizen for the purpose of advancing the interests of the colored citizen. It is best to guard against all such legislation. Let the laws which we pass here be of such pure republican character that no person can tell from the reading of them what color is stamped upon the faces of the citizens of the United States. Let us have no class legislation, no class privileges. Let our laws be just and uniform in their operation. This is the smooth sea upon which our ship of state may sail; all others are tempestuous and uncertain.

And now, Mr. Speaker, who are the persons upon whom this bill will operate, if we shall place it upon the statute-book of the nation? They are citizens of the United States and residents of the District of Columbia. It is true that many of them have black faces, but that is God's work, and He is wiser than we. Some of them have faces marked by colors uncertain—that is not God's fault. Those who hate black men most intensely can tell more than all others about this mixture of colors. But, mixed or black, they are citizens of this Republic, and they have been, and are to-day, true and loyal to their Government; and this is vastly more than many of their contemners can claim for themselves. In this District a white skin was not the badge of loyalty, while a black skin was. No traitor breathed the air of this capital wearing a black skin. Through all the gradations of traitors, from Wirz to Jeff. Davis, criminal eyes beamed from white faces. Through all phases of treason, from the bold stroke of Lee upon the battle-field to the unnatural sympathy of those who lived within this District, but hated the sight of their country's flag, runs the blood which courses only under a white surface. While white men were fleeing from this city to join their fortunes with the rebel cause, the returning wave brought black faces in their stead. White enemies went out, black friends came in. As true as truth itself

were these poor men to the cause of this imperiled nation. We know, and the world knows, how little cause we had given for this intense devotion. Our heel had been that of the oppressor upon the necks of this people for a century. Our statutes, defying our Constitution, had made a hounding mass of our white population to hunt down the fleeing bondmen. Our flag was no emblem of freedom to them. No home, nor wife, nor child, nor hour of rest, nor moment of devotion belonged to them. They toiled and groaned and wore out their lives, not knowing that the stern face of the Government, always turned upon them disfigured by a frown, could ever wear a smile. Their past was a blank, their present a burden, their future the grim promise of increased oppression. Their dark, patient faces were but emblematic of the black blank which life's lottery held for them. We had no right to demand of them devotion; and they had no cause for offering it to us. But how greatly to-day are we their debtor!

The hour of our trial came. The pampered sons of the nation sounded the notes of war. Armies of white-faced traitors pressed us sorely on every hand; not because they had been oppressed, for they had controlled the Government. We tried to preserve peace with them, and as a part of the price we offered to make our oppression of the colored race perpetual. Our terms were spurned, our faces were slapped, war was pressed upon us defiantly, insolently, and we were forced to draw the sword to save ourselves. The hosts poured in on either side for battle. The men beneath our heel cried out to us, "Let us help you." We answered, "No;" picked them up and threw them, all dangling with chains, into the lines of our foes. But they would not stay. They would be faithful, would be true, in spite of us. We ordered our forces to turn them back, and told them our soldiers were their enemies. They heeded not this madness, but wherever they found a suffering soldier of the Republic they ministered to his every need to the fullest extent of their humble ability. Did he need food, they divided their scanty store with him; did he need shelter, they found for him that which was safe; did he need a guide, they gave up their hours of rest and led him through forest and swamp to the lines of the Union; always friendly, never false.

Through experience we gained wisdom. The time came when we lifted our heel and called on the oppressed to help us save the nation which had been so cruel to them. They needed not a second call, but responded to the first, two hundred thousand strong. From this District more than a fair proportion of black men went into the Army. Three thousand five hundred and forty-nine marched out from this District to defend the nation. They took the risks which justly belonged to the white residents who now offer to give up their own right to vote rather than have the same right conferred on the colored men of the District. As well as they could, perhaps not as efficiently as the white troops, but at least as well as they could, and in many cases as well as any could, these colored troops discharged their duties as soldiers of the Government which had oppressed them so sorely, so wantonly. Many of them are buried with their white comrades on scores of battlefields. Wherever we have trusted them they have been true. Why will we not deal justly by them? Why shall we not, in this District, where the first effective legislative blow fell upon slavery, declare that these suffering, patient, devoted friends of the Republic shall have the power to protect their own rights by their own ballots? Is it because they are ignorant? Sir, we are estopped from that plea. It comes too late. We did not make this inquiry in regard to the white voter. It is only when we see a man with a dark skin that we think of ignorance. Let us not stand on this now in relation to this District. The fact itself is rapidly passing away; for there is no other part of the population of the District so diligent in the acquisition of knowledge as the colored portion. In spite of the difficulties placed in their pathway

to knowledge by the white residents, the colored people, adults and children, are pressing steadily on. Their schools are well supported and well attended, and, aside from this, these people always knew enough to be true to the Government. They have labored and suffered for the common cause in every way possible for men to labor and suffer. And here let us remember that it is not always the ignorant man who makes the unsafe voter. The vicious man is the unsafe voter. The educated rebel voted against the best interests of the country long before he took up arms to destroy the Government which protected him. A man who loves his country and feels a personal interest in the success of free institutions will never make a dangerous voter, though he may not be able to read. The free white voters, however well they can read, who destroyed the orphan asylum in New York city, are far more dangerous to the permanency of free institutions than would be the liberty-loving colored men of this city if they should be intrusted with the ballot. And the case is quite as strong against the pardoned rebel whose hands are still red with the blood of murdered loyal soldiers, and whose heart is filled with bitterness toward the Government which has forced him to submit to its authority. While such men are allowed to vote, why should we close the doors against citizens who have always been true, and who have manifested, and still manifest, the most devoted attachment to the Government?

But, sir, these men are not all ignorant. Some of them are highly educated, while many of them are possessed of greater educational qualifications than have yet been suggested as a limitation upon the right of suffrage, and very many more come quite up to the proposed standard. And right here a few facts concerning the results the colored people of this District have accomplished relative to their property, educational, religious, and other interests, may not be unprofitable.

The number of colored inhabitants in the District, according to the census of 1860, was fourteen thousand three hundred and sixteen. This number has increased since that time, but to what extent I am not now able to state.

The value of real and personal property now owned by them is over one million two hundred and fifty thousand dollars.

The value of church property held by them is about one hundred and twenty-five thousand dollars, consisting of twenty-one churches, which are supported at a cost of over twenty thousand dollars per annum. The number of church communicants is four thousand three hundred, while the average attendance upon religious services is nine thousand, some of these being attendants upon service at Catholic and Episcopal churches controlled by whites. The number of Sabbath schools for colored persons is twenty, attended by between three and four thousand pupils.

Of other schools for colored children there are thirty-three, and the number of pupils attending them during the month of November, 1865, was four thousand and thirty. Six of these schools are entirely supported by the colored people, others are supported by the generosity of northern benevolent societies, though the necessary books, stationery, &c., are furnished chiefly by the colored people themselves.

Four thousand of the colored population of the District can read and write. They subscribe for about four thousand five hundred copies of newspapers, a large proportion of these being dailies.

Of societies for literary, benevolent, and other purposes, they have over thirty, and through the agency of these they, to a very great extent, provide for and support the needy and infirm of their race in the District, the city government having but a very small per cent. of colored paupers to support.

This is the record of a class of citizens in this community, ninety per cent. of which were slaves or the immediate descendants of slaves, many having purchased their own freedom and that of their families.

Taken as a class the people who have accomplished these results surely show themselves possessed of enough of the heaven of thrift, education, morality, and religion to render it safe for us to make the experiment of impartial suffrage here. Let us make the trial. A failure can work no great harm; for to us belongs the power to make any change which the future may show to be necessary. How can we tell whether success or failure shall be the fruit of a practical application of the principles upon which our institutions rest unless we put them to a fair test? Give every man a fair chance to show how well he can discharge the duties of fully recognized citizenship. This is the way to solve the problem, and in no other way can it be determined. That success will attend the experiment I do not doubt. Others believe the result will prove quite the reverse. Who is right and who wrong can be ascertained only by putting the two opinions to a practical test. The passage of this bill will furnish this test, and to that end I ask for it the favorable consideration of this House.

Mr. BOYER. Mr. Speaker, however atrocious some gentlemen in this House may pronounce the sentiment that this is a white man's Government, and although I have lately heard in this Hall even the spirit of the illustrious dead condemned to everlasting fire for denying while upon earth the equality of the races, I am constrained notwithstanding to assume the responsibility of a respectful but firm and earnest opposition to this bill. I am opposed to it, sir, not only upon special and local grounds, but also upon the broad general principle that this is, and of right ought to be, a white man's Government.

Sir, it is proposed by this bill to confer the elective franchise upon the colored population of the District of Columbia, and to elevate at once, without any qualification or preparation, a heterogeneous mass of about thirty thousand negroes and mulattoes to a complete political equality with the white inhabitants. It is proposed to do this, too, in opposition to the known wishes of a large majority of the citizens of the District, and in the face of an election held here only a few days ago in which the vote against negro suffrage was nearly unanimous.

In the two corporations composing the District of Columbia the vote polled stood as follows:

Washington.	
Against negro suffrage.....	6,556
For negro suffrage.....	35
Total vote.....	6,591
Georgetown.	
Against negro suffrage.....	712
For negro suffrage.....	1
Total vote.....	713

It is in vain to say that this election was not ordered by competent authority, and ought therefore be disregarded. No matter by what authority it took place, it was the expression of popular sentiment by a vote larger than is usually polled at the ordinary municipal elections. In the city of Washington it exceeded by 871 votes the aggregate vote cast at the last election for mayor in 1864; and is in excess over the preceding vote for mayor, in 1862, as many as 1,775. It cannot therefore be said that the election was not a full expression of public opinion on the part of the voters of the city of Washington. And so unanimous was this popular verdict that the result would not be changed if you were to count against the majority all the colored inhabitants who, if the present bill were a law, would probably be entitled to a vote.

I do not dispute the power of Congress to regulate the elective franchise within the limits of the District of Columbia. But I do deny the moral right of Congress to pass this bill, opposed as it is to the will of the people, and therefore in violation of the fundamental principle of popular government. Gentlemen who represent States upon this floor profess, I presume, one and all, to represent the sentiments of

their constituents in all matters which relate to the local interests of their respective districts. If it were possible for Congress to legislate in any matter touching the municipal government of their constituencies, how eloquent and earnest would they all be in opposition to any measure manifestly contrary to the expressed will of the majority represented by them in this House. But are we not also the representatives of the people of the District of Columbia? Does not the law make us the guardians of their rights as fully as if we were dependent upon their votes? In becoming their legislators, we have assumed at the same time the sacred duty of applying to them those principles of republican government which the Constitution has guaranteed to all the States. Tyrannize over them, indeed, we may, but not without the abuse of power, and a disgraceful repudiation of our moral obligations. To disregard their interests and set at naught their wishes in this matter would be especially ungracious on the part of those of us whose constituencies at home agree with the people of the District of Columbia in opposition to the principle of the pending bill. It would ill become us to fasten, by our votes, upon the people of this District, against their consent, a measure which the people of our own States have already pronounced a political degradation, and have provided against its infliction upon them by constitutional enactments. In eighteen out of twenty-five States now represented in this Congress negroes and mulattoes are not allowed to vote. In some of the others there are special restrictions imposed. In three of the States—Connecticut, Wisconsin, and Minnesota—elections were recently held, in which the people by heavy majorities decided against negro suffrage. Yet in each of these States the number of colored persons is comparatively small, while here it probably equals one third of the entire population.

In all the States the people have settled this question for themselves, and I claim the same privilege for the people of the District of Columbia.

The outrage proposed to be inflicted is considerably heightened when we consider the ignorance and degradation of the great body of those upon whom this bill would confer the elective franchise. The colored population of the District of Columbia, at the beginning of the war, was about fifteen thousand. Since then it has more than doubled, mainly by the influx of refugees and contrabands from the South, who were born and reared in slavery, and debased by all the influences of such a condition of life. Few of them able to read; without any instruction in the most elementary principles of government; living amid filth and disease; many of them subsisting upon charity—such are the beings selected by this bill to be the representatives of the American ballot-box in the political metropolis of the nation. I do not mean to say that among the colored population of the District there are not individuals of intelligence and worth who would be able to vote with judgment and patriotism; but they are the exceptions, and constitute the aristocracy, and would consider themselves debased by too close a communion with their more ignorant and degraded brethren.

The gentleman from Iowa [Mr. WILSON] did not undertake to argue that they were fit to exercise the elective franchise, but he puts in the plea of the statute of limitations, declaring that it is too late now to exclude them from voting upon the ground of ignorance.

What have the people of the District of Columbia done to be made the victims of such a bill as this? It has been charged against them that they were disloyal, and that therefore they are to be punished with negro suffrage. "Disloyalty" is a convenient word nowadays to cover political or social persecution. I had heard that this was one of the motives of this bill, but I hardly expected to hear the gentleman from Iowa admit in his argument that that was one of the matters to be taken into consideration by this House in their votes upon this bill. I am happy, however, to have the mate-

rial at hand triumphantly to defend the people of the District of Columbia from this charge brought against them by the gentleman from Iowa. The figures at the War Department refute this slander, and show a most honorable record for the people of this District in the most perilous hour of the Republic. Under the first call for seventy-five thousand men, in 1861, the District of Columbia put into the field four thousand seven hundred and twenty volunteers—six times as many as the State of Maine, or the State of New Hampshire, or the State of Vermont, and twice as many as those three States combined; about a thousand more than the State of Massachusetts, which furnished under that call three thousand seven hundred and thirty-six men. I shall not dwell upon the subsequent calls for men during the progress of the war, of whom the District of Columbia furnished her full proportion. For it was the response to the first call which was the touchstone of loyalty. Then there were neither drafts, nor bounties, nor substitutes, nor boat-loads of contrabands to be sold to the highest bidder. It was something to be loyal then in this locality, when the flag of the rebels could be seen from the dome of the Capitol, and their morning gun awoke the echoes of the presidential mansion; when even communication with the North was precarious, and at times suspended. It was something then for the District of Columbia to furnish to the Government volunteers equal to two thirds of her voting population!

But I am disposed to acquit the authors of this bill of all special malice toward the white inhabitants of the District of Columbia. I am willing to believe that it is not for the punishment of the people of this District in particular that this bill has been framed. The people of this District have no political significance. They vote only in municipal affairs, and it cannot be regarded as a matter in itself important that those affairs should be controlled by negro voters, who own comparatively so little of the property in the District, and who pay so small a portion of the taxes. The design of this bill is far more comprehensive than that. It is to inaugurate here, upon this most conspicuous stage, the first act of the new political drama which is intended to culminate in the complete political equality of the races and the establishment of negro suffrage throughout the States. Constitutional amendments with this view have been already introduced at both ends of the Capitol. The object of the leaders of this movement is no longer concealed, and if there is anything in their action to admire it is the candor, courage, and ability with which they press their cause. The agitation is to go on until the question has been settled by the country, and it may as well be met here upon the threshold. The monstrous proposition is nothing less than the absorption into the body-politic of the nation of a colored population equal to one sixth of all the inhabitants of the country, as the census reports will show. Four millions of the population so to be amalgamated have been just set free from a servitude the debasing influences of which have many a time been vividly depicted in the anti-slavery speeches of the very men who are the most prominent champions of this new political gospel. The object for which this mass of degraded humanity is to be poured into the political arteries of the nation has been boldly proclaimed. The great leader in this House of what he calls himself the "new gospel of liberty," has spoken. He has proclaimed that southern representation in Congress must be rendered powerless for any harm to that gentleman's party, either by a change in the basis of representation or by negro suffrage. In his remarkable speech he said:

"With the basis unchanged, the eighty-three southern members, with the Democrats that will in the best of times be elected from the North, will always give them a majority in Congress and in the Electoral College. They will at the very first election take possession of the White House and the Halls of Congress."

There is the point and from thence has radiated the "new gospel of liberty," demanding those measures for the establishment of negro

suffrage of which this bill is one. To palliate in some degree the natural repulsiveness of the scheme, its authors attempt, and the gentleman from Iowa has but followed their example, to shoulder the responsibility upon the founders of our Republic, and they go delving down among the foundation-stones of our Government to find this stone rejected by the builders and make it the head of the corner.

Suffrage is claimed for the negro upon the ground of natural right, although the gentleman from Iowa [Mr. WILSON] disclaimed on his own account putting it on that ground. He put it upon a ground which, according to his own definition, amounted to precisely the same thing. He says that although the right of suffrage is not a natural right, it is a political right, and involved in the nature of civil government. He said, moreover, that it was a right as sacred as a natural right. And therefore I do not see much difference between the ground which he takes and that which is assumed in the numerous printed pamphlets with which the desks of the members of this House are strewn.

But it seems to me that it ought to be sufficiently evident that universal suffrage is not a natural right, nor a right which is necessarily involved in the nature of civil government. On the contrary, it is a right which can only be exercised in the most artificial condition of society. Nowhere does the right of suffrage exist to the same extent as in the United States of America, and nowhere else is there, or was there ever, so complicated a system of human government. I grant that mankind are entitled by nature to as much power in the State as they are capable of understanding and of using for the general welfare. No less than that, and no more. The argument in favor of the American negro's right to vote must therefore be measured by his capacity to understand and his ability to use such right for the promotion of the public good. And that is the very matter in dispute. But the point does not turn simply upon the inferiority of the negro race. For differences without inferiority may unfit one race for political or social assimilation with another, and render their fusion in the same Government incompatible with the general welfare. It is, as I conceive, upon these principles that we must settle the question whether this is a white man's Government.

But we were told the other day by my distinguished colleague, the chairman of the committee on reconstruction, [Mr. STEVENS,] that "to say so is political blasphemy." And in support of his position he said further that "our fathers repudiated the whole doctrine of the legal superiority of races." But the truth is too plain for discussion, that our fathers recognized and practiced directly the opposite doctrine, and even fortified by the bulwarks of the Constitution itself the subjection of the inferior race. No man can read with open eyes and candid mind the Constitution of the United States, as made by our fathers, and fail to see that this Government was intended by its founders to be a white man's Government. It was on this very account that the early abolitionists denounced it as a covenant with hell, and the advocates of the higher law proposed to trample it under foot.

Arguments derived from the phraseology of the Declaration of American Independence would scarcely need a refutation, were it not for the pertinacity with which they are thrust upon us. If, however, by the expression therein contained, that "all men are created free and equal," we are to infer that the illustrious slaveholders who helped to frame that instrument intended to assert the political equality of the races, we must believe also the monstrous anomaly that they intended to proclaim their daily life a continuous lie, and their supremacy over the negro a most atrocious and wicked usurpation. If so, what blasphemy would have been their appeal to the Supreme Judge of the world for the rectitude of their intentions, and what mockery to profess as they did a decent respect for the opinions of mankind.

We find in the constitutions of many of the States the same words so much dwelt upon by the advocates of negro equality; and further on in the same constitutions we find words expressly excluding the negro from all participation in the government.

The constitution of Connecticut, adopted in 1818, says, "that all men, when they form a social compact, are equal in rights; and that no men or set of men are entitled to exclusive public emoluments or privileges in the community." But this declaration did not prevent the insertion of a clause in the same instrument confining the elective franchise to the *white* male citizens of the State.

Mr. Speaker, in the constitution of your own State of Indiana, adopted as late as 1851, I find these same talismanic words, "All men are created equal." But further on in the same constitution I find these other words, "No negro or mulatto shall have the right of suffrage." And in another place these additional words, "No negro or mulatto shall come into or settle in the State after the adoption of this constitution." And this last prohibition is enforced by heavy pains and penalties. Surely it will not be pretended that the intelligent people of Indiana intended to make a public proclamation of their injustice by asserting the equality of the negro, while by their organic law they denied to him all the rights of an equal, and even a home within the limits of their community.

In the constitution of the State of Oregon, adopted in 1857, there are these words: "We declare all men, when they form a social compact, are equal in rights." But in the same instrument we find also these other words, "No negro, Chinaman, or mulatto shall have the right of suffrage."

And Kansas, too, in her constitution, adopted in 1859, declares that "all men are possessed of equal and inalienable rights." But by the constitution of Kansas white male persons alone can vote.

In the constitution of the State of Iowa, adopted in 1857, are contained these words: "All men are by nature free and equal." But whether the right of suffrage should be confined to whites was submitted to a vote of the people of the State, and they decided that in that State white persons alone should vote. Yet the whole colored population of Iowa at that time did not exceed a thousand.

Mr. PRICE. Will the gentleman from Pennsylvania allow me to ask him a question?

Mr. BOYER. Certainly.

Mr. PRICE. As the gentleman quotes from the constitution of my State, and as I see that my colleague [Mr. Wilson] is not in his seat, I wish to ask the gentleman whether he does not know that in the State of Iowa, within the last few months, the question has been submitted to the people, whether or not they would strike the word "white" from their constitution, and that they have decided, by a majority of over sixteen thousand, that they would. Does the gentleman know that?

Mr. BOYER. I did not know that a recent election on that subject had taken place in the State of Iowa; but the fact is immaterial so far as my argument is concerned. It does not change the principle, nor does it interfere at all with the illustration which I have drawn from the constitution of the State of Iowa. What I intended to say, and what I did say, was that the constitution of Iowa contained the declaration that "all men are, by nature, free and equal," and yet, in that same instrument, it was submitted to the people as a doubtful question of policy—not a question of principle, but a question of policy—whether the blacks should vote; and the people of Iowa decided at that time that the blacks should not vote. Whether, under the political excitement of the hour, the people of Iowa may have changed their opinion, and given a different decision within the last few months, I know not; but whether they have done so or not, I presume the fact cannot seriously affect the argument.

Mr. PRICE. If the gentleman from Pennsylvania, in the discussion of this question, calls

upon the stand the State of Iowa (which I in part represent on this floor) as a witness to prove the correctness of the position which he assumes, then I insist that he shall take the whole testimony of the witness or none. And, while on the floor, as I do not desire to trespass again upon the gentleman's time, I will say to him further, that it would be well for him to remember that while people and States may occasionally do wrong, it is as true to-day as it was when the sentiment was first uttered, that "the sober second thought of the people is never wrong," as has been illustrated in the recent action of my State, and this "sober second thought" is always efficient.

Mr. BOYER. I have now heard the statement of the gentleman from Iowa, [Mr. PRICE,] and I do not see that it affects at all the validity of my argument. I shall therefore proceed in the presentation of the line of thought on which I was engaged when I yielded to the gentleman.

The constitutions of other States contain similar general declarations of principle, while they extend the elective franchise to white men only. But it is needless to multiply examples, if it be not already sufficiently plain that neither the past nor present generations of our countrymen, in their declarations of the equality of men, intended to apply it to the political amalgamation of the races.

All men have indeed in some sense been created equal; but to apply this in its broadest signification, so as to ignore all national and ethnological inequalities among men, would involve the grossest absurdity. All men were endowed by their Creator with the equal right to receive, to do, and to enjoy according to their several capacities and in subservience to the common good: All men are equally entitled by nature to the enjoyment of "life, liberty, and the pursuit of happiness," but it does not follow from this that different races of men can all enjoy these blessings together in the same community and in the same form of government upon terms of complete equality. If it be true, as is affirmed by the greatest of the Apostles, that "God hath made of one blood all the nations of men," the same high authority informs us also that "he hath determined the bounds of their habitation." There is one extensive region of the earth where, all things considered, the negro is the superior of the white man, and where his race, defended by natural laws, has successfully defied the invading legions of conquering Rome and all the efforts of European enterprise. In Ethiopia the negro is and must ever continue to be the ruling race. But laws of Providence as imperative as those which have set apart Ethiopia for him will in the end preserve this Government for white men and their posterity, notwithstanding all the morbid excitements of this hour and all the temporary evils to which they are likely to lead. The ordinances of nature are not to be repealed by acts of Congress.

Of the same nature as the argument just answered is the one derived from that clause in the Constitution of the United States which guarantees to all the States a republican form of government. Strangely enough, it is insisted that to make a State republican in form its negro population must vote. But of this principle the founders of our Republic must surely have lived and died in blissful ignorance, for they certainly acted and talked as if they imagined they were living in republican communities, even when surrounded by negro slaves. If the negro has a natural right to vote because he is a human inhabitant of a community professing to be republican, then women should vote, for the same reason; and the New England States themselves are only *pretended* republics, because their women, who are in a considerable majority, are denied the right of suffrage.

Some of the reformers do say that after the negro will come the women. But I protest against this inverse order of merit; and if both are to vote I claim precedence for the ladies. There is one sense in which I will admit that negro votes will be needed at the South to make *Republican* States. And that is the sense in which the term "Republican" was used

by my colleague [Mr. STEVENS] in his speech already referred to, when, with even more than his characteristic candor, he assigned a reason for the coercion of southern communities into the adoption of negro suffrage. Said he:

"If they should grant the right of suffrage to persons of color, I think there would always be Union white men enough in the South aided by the blacks to divide the representation, and thus continue the Republican ascendancy."

But I deny that to be the precise form of republican government guaranteed by the Constitution.

It is common for the advocates of negro suffrage to assume that the *color* of the negro is the main obstacle to his admission to political equality; and the gentleman from Iowa [Mr. WILSON] dwelt long upon that argument. But it is not the complexion of the negro that degrades him, and I grant that it is but a shallow argument that goes no deeper than his skin. If he is to be excluded from equality in the Government it is not because he is black, nor because he has long heels and woolly hair, nor because the bones of his cranium are thick and enclose a brain averaging by measurement fewer cubic inches in volume than the skulls of white Americans, (although that fact is significant,) nor because of his odor, (although that is not always agreeable,) nor because his facial outline does not conform to our ideas of beautiful humanity. All these considerations I am willing to discard from the argument. But if the peculiarities I have mentioned are the outward badges of a race by nature inferior in mental caliber, and lacking that vim, pluck, and poise of character which give force and direction to human enterprise, and which are essential to the safety and progress of popular institutions, then the negroes are not the equals of white Americans, and are not entitled by any right, natural or acquired, to participate in the Government of this country.

The negro has no history of civilization. From the earliest ages of recorded time he has ever been a savage or a slave. He has populated with teeming millions the vast extent of a continent, but in no portion of it has he ever emerged from barbarism, and in no age or country has he ever established any other stable government than a despotism. But he is the most obedient and happy of slaves. His true character is well depicted in the late inaugural address of Governor Walker, of Florida.

I do not wish to be understood as saying that he should always be kept in slavery because he was contented in that condition. I do not wish it to be understood that I do not rejoice in his freedom; but I speak of the contentment which he manifested in that condition as one badge of the inferiority of his race.

Governor Walker, in his inaugural address, regarding the negroes uses the following language:

"For generations past they have been our faithful, contented, and happy slaves. They have been attached to our persons and our fortunes, sharing with us all our feelings—rejoicing with us in our prosperity, mourning with us in our adversity. If there were exceptions to this general rule, they were only individual exceptions. Every southern man who hears me knows that what I say is literally true in regard to the vast mass of our colored population. The world has never before seen such a body of slaves. For not only in peace but in war they have been faithful to us."

During much of the time of the late unhappy difficulties, Florida had a greater number of men in the army, beyond her limits, than constituted her entire voting population. This, of course, stripped many districts of their entire arms-bearing inhabitants, and left our females and infant children almost exclusively to the protection of our slaves. They proved true to their trust. Not one instance of insult, outrage, or indignity has ever come to my knowledge. They remained at home and made provisions for our army. Many of them went with our sons to the army, and there, too, proved their fidelity, attending them when well, nursing and caring for them when sick and wounded. We all know that many of them were willing, and some of them anxious, to take up arms in our cause. Although for several years within sound of the guns of the vessels of the United States, for six hundred miles along our sea-board, yet scarcely one in a thousand voluntarily left our agricultural service to take shelter and freedom under the flag of the Union. It is not their fault that they are free—they had nothing to do with it: that was brought about by the results and operations of the war."

What is here said by Governor Walker of the character of the negroes in Florida may be said

with truth of the negroes throughout the confederate States. It exhibits a touching example of the devotion of an affectionate, patient, forgiving, and inferior race of men. But the race from which sprang these four million contented slaves is not the stuff of which great commonwealths are made. Who of us would not rather welcome to our shores that rude population of less than half a million Circassians who in their mountain fastnesses for more than thirty years defied the whole power of the Russian empire? Such is the difference in the breed of men—a difference which all your schools and colleges cannot do away.

Of all men, the negroes themselves are best contented with their situation. They are not the prime movers in the agitations which concern them. An examination of the tables of the last census will demonstrate that they do not attach much importance to political rights. It will be found that the free people of color are most numerous in some of those States which accord them the fewest political privileges; and in those States which have granted them the right of suffrage they seem to see but few attractions. In Maryland there were in 1860, 83,942 free people of color; in Pennsylvania 56,949; in Ohio 36,673. In neither of those States were they voters. In the State of New York, where they could not vote except under a property qualification which excluded the most of them, they numbered 49,005. But in Massachusetts, where they did then and do now vote, there were but 9,602. And in all New England (except Connecticut, where they are not allowed to vote) there were at the last census but 16,084. If the American negro in his desire and capacity for self-government bore any resemblance to the Caucasian he would distinguish himself by emigration; and, spurning the soil which had enslaved his race, he would seek equality and independence in a more congenial clime. But the spirit of independence and hardy manhood which brought the Puritans to the shores of a New England wilderness he lacks. He will not even go to Massachusetts now, although instead of a stormy ocean his barrier is only an imaginary State line, and instead of a howling wilderness he is invited to a land resounding with the myriad voices of the industrial arts, and instead of painted savages with uplifted tomahawks he has reason to expect a crowd of male and female philanthropists, with beaming faces and outstretched hands, to welcome him and call him brother. There will he find lecturers to prove his equality, and statesmen to claim him as an associate ruler in the land. If he cares for these things, or is fit for them, why does he linger outside upon the very borders of his political Eden? Why does he not enter into it—avoiding Connecticut in his route—and take possession? The fact is that the fine political theories set up in his behalf are not in accordance with the natural instinct of the negro, which in this particular is truer than the philosophy of his white advisers.

They are but superficial thinkers who imagine that the organic differences of races can be obliterated by the education of the schools. The qualities of races are perpetuated by descent, and are the result of historical influences reaching far back into the generations of the past. An educated negro is a negro still: The cunning chisel of a Canova could not make an enduring Corinthian column out of a block of anthracite; not because of its color, but on account of the structure of its substance. He might indeed with infinite pains give it the form, but he could not impart to it the strength and adhesion of particles required to enable it to brave the elements, and the temple it was made to support would soon crumble into ruin.

The types of races are transmitted to their Governments. When or where did either the Mongolian, Malay, or African race, or indeed any other race than the Caucasian, ever establish any stable Government based upon the principles of constitutional liberty? How many centuries of historical training did it not require to educate even a portion of that most progressive of races up to the capacity of self-government!

Through what dark vicissitudes and bloody revolutions did they not pursue in vain the fleeting vision of democracy! Here at last, in the United States of America, for the first time in the history of the world, are associated the real existence of democratic institutions with the dominion of a mighty empire. It is certainly our duty to promote the interests and protect the rights of all within our borders. But to be successful this Government must be conducted and perpetuated by the race that made it. The streams of European immigration which have set with such a ceaseless current upon our shores have invigorated us with copious infusions of Caucasian blood, each converging current laden with its own peculiar wealth. The sturdy independence of the Englishman, the stability and thrift of the German, the generous enthusiasm of the Irishman, were all welcome because they were all ennobling. But what are we to gain from the negro? And why will gentlemen persist, for the sake of mere party considerations, in forcing his race into unnatural alliances with ours? There is no political alchemy by which two races, representing as these do the opposite extremes of humanity, can be made to unite. Like oil and water, which have no chemical affinity for each other, you may mix their particles by agitation, but when left alone they will subside into separate strata, the one above and the other below. The history of all mongrel races associated in the government of a country has been disastrous. Of this, Mexico, Hayti, and Jamaica are all examples.

It is claimed that as a reward for the services of the negroes in our Army the right of suffrage should be conferred upon their race. I am not disposed to disparage the military services of the negroes. They fought creditably, as all men will fight when well led. And their race has been rewarded with emancipation. But the argument for negro suffrage, on the score of military service, begs the whole question of their fitness. If on account of incapacity or unavoidable differences they were not fit to be electors before the war, the same reasons for their exclusion still exist; and if no such incapacity or differences exist, or they are entitled by any natural right to vote, they should vote whether they fought or not. The fact is that, as a race, they did far more to sustain the rebellion than to suppress it. By their patient labor they sustained and fed the armies of the rebellion. They rose nowhere in insurrection, and it can scarcely be said that of their own accord they struck one blow for their own emancipation.

It is argued that suffrage is necessary to the black man to enable him to protect himself against the oppression of the whites. But I do not think that this has been the experience of the country. In Pennsylvania we had, at the date of the last census, a colored population of 56,949, which since then has largely increased. They are there excluded from the polls; but in all my experience in the courts of my State, which has not been inconsiderable, I cannot recall to mind a single instance where justice was denied to a negro because of his complexion. I am satisfied that in those localities where such prejudice is allowed to corrupt the streams of justice you would only add force and acrimony to its operation by establishing a political rivalry between the races. The true friends of the negro race should save them from the fate which would be sure to follow. There is much to be done for the negro in which all parties can unite. In his emancipation the whole country has acquiesced, and a constitutional amendment enables Congress to secure to him the full measure of his liberty in all the States. It is our duty now to provide for his education, and to encourage and aid him in his efforts at improvement. Let the courts be opened to him; let his contracts be enforced, his labor protected, and his rights of property respected. Let public schools be provided for him; and after he shall have been first developed to the full measure of his intellectual and moral capacity there will be still time enough to decide the question whether he shall be a ruler in the land.

Mr. SCOTFIELD. Mr. Speaker—

Mr. HALE. I ask the gentleman to suspend a moment for the purpose of submitting a motion to amend.

The SPEAKER. A motion to amend is not in order pending the motion to recommit.

Mr. HALE. My motion is to amend the motion to recommit by adding instructions.

The SPEAKER. Such a motion is in order.

Mr. HALE. I move to amend the motion of the gentleman from Iowa [Mr. WILSON] by adding to that motion an instruction to the committee to amend the bill so as to extend the right of suffrage in the District of Columbia to all persons coming within either of the following classes, irrespective of caste or color, but subject only to existing provisions and qualifications other than those founded on caste or color, to wit:

1. Those who can read the Constitution of the United States;

2. Those who are assessed for and pay taxes on real or personal property within the District;

3. Those who have served in and been honorably discharged from the military or naval service of the United States;

And to restrict such right of suffrage to the classes above named, and to include proper provisions excluding from the right of suffrage those who have borne arms against the United States during the late rebellion, or given aid and comfort to said rebellion.

The question then being upon the amendment offered by Mr. HALE,

Mr. SCOTFIELD. Mr. Speaker, the colored population of the United States is now about five millions. That is nearly double the population of all New England, fully one seventh of the entire population of the United States, and almost double the number that carried this country through a seven years' war with the greatest military Power in the world.

What shall be done with these five million people? Colonize them? Where and when? To Africa? Liberia is the most desirable and accessible part of that country, but that colony is now more than forty years old, and its emigrant population is only seven or eight thousand. Some ten thousand, in all, have been taken there, but from twenty to thirty per cent. of that number died during the period of acclimation. To land five million men, women, and children upon this miasmatic coast, without houses, roads or improved lands would be murder by the million. The original kidnapping and importation of slaves to this country was a very merciful and Christian business compared with such an exodus as this. But if we were wicked enough to embark in such a cruel enterprise we could not accomplish it. Calculate the expense, to say nothing of suffering, of collecting the entire population of Ohio, Indiana, and Illinois and taking them to the Atlantic coast; compute the expense of transportation for such a nation across the Atlantic, and to these sums add the cost of houses, roads, clearings, stock, and temporary maintenance in that unhealthy climate, and you will have a bill too great for the resources of the country, even if we were not in debt. But to gather up and colonize the scattered and unwilling colored population, almost equal in numbers, would be a much greater undertaking.

Colonize them in Mexico, then, it is said. The expense might be a few million less, but still far beyond the present resources and strained credit of the Government. Other obstacles would intervene. Mexico has eight million five hundred thousand of population now. Where could you thrust five million more in that uninviting land of endless war? Beside, if this vast population is as undesirable as is represented, they would be nearly as offensive to the people of Mexico as it is said they ought to be to us, and our unchristian purpose would be defeated by the kindred prejudices of that nation. Colonize them, then, in some of our western Territories! The expense and injustice of this undertaking would be considerably less, but it would be just no colonization at all. They would soon be surrounded by our advancing millions, and left in the very heart

of the country from which you desire to expel them.

The whole scheme of colonization is so far beyond the present ability of the Government, so destructive to the productive interest of the country, so inhuman and unjust toward the people whose unpaid labor has added so much to the wealth and comfort of the nation, and whose valor and patriotism has helped to sustain it in its late life-struggle, and so impracticable and impossible, even if it was right, that its advocates can scarcely expect to be credited with sense and sincerity at the same time. The thoughtless may be sincere, but the knowing ones can only design to distract the attention of the people from the consideration of other propositions and necessities. And if colonization were practicable what would become of the old theory urged by pro-slavery divines and politicians who are for the most part the present advocates of colonization, that white men could not labor in the warm latitudes of the South? Do they propose now, in sending off the only possible laborers there, according to their theory, to abandon the culture of the South altogether? or do they confess they were only trying to cheat the people into the support of a cruel institution by false logic then, as they are trying to delude them with false theories now? If you mean to try colonization why not begin it at once? The longer you delay the more numerous will be these people and the more determined to stay. Bring in your bill and let us see the details. How many billions of new bonds must be put upon the market, how large an army will be asked, how many ships will be needed, and how many years will it take to effect the expulsion? What, in the meanwhile, is the world to do for cotton? What shall be done with the unwilling and the fugitives? Will you hunt them with bloodhounds, or procure the services of Buchanan's old marshals? Give us at once your bill of particulars.

If colonization is found impracticable, will you try to reënslave them? I suppose not. The blacks are now too intelligent, too self-reliant, and too spirited to submit again to the oppressor. It is feared by some that the northern wing of the Democratic party will again yield its neck, not yet quite free from the old callous, to the yoke of the southern master; but the negro never will. Besides, the great Republican party, strong in numbers but stronger in its convictions of right, will always stand between the weak and oppression. I know it is said that that party may become powerless by the defection of the President. It is alleged by the Opposition, and feared even by some of our friends, that when the grim leaders of the rebellion shall reëmbbrace their old party allies, a President placed in power by Republican trust and Republican votes, forgetful of an example that consigned two Presidents to private life and public infamy, will be present to celebrate the reunion of these pardoned principals in crime with suspected accessories before the fact. I do not speculate as to what the President may do. You never know what a single man, suddenly elevated to power, may do. "Put not your trust in princes" is a warning that will apply to all men in power. I never could guess the secret motives that induced Tyler and Fillmore to betray the Whigs. I have often heard that a person who stands on the brink of Niagara, or climbs to the top of a lofty tower, feels an almost irresistible impulse to jump off. It may be some such unnatural sensation that prompted these two gentlemen to leap from their high eminence into the terrible obscurity below. I cannot believe that Mr. Johnson will follow these unseductive examples. But if he should, he alone will be broken. The tower will stand, but his crippled limbs can never again ascend it. The ranks of the Republican army would not even waver. Its contractors and sutlers would fly, to be sure; but without the loss of a man or a gun, it would still stand, the friend of the oppressed and the terror of the oppressor. Whatever individuals may do, be assured the Republican party will adhere to its principles, and in its principles

will certainly triumph. The Whig party could hardly be said ever to have been in a settled majority of the people, and yet it stood the betrayal of two of its Presidents, and only broke down when it surrendered to the slave power in the Baltimore convention of 1852.

I conclude, therefore, that colonization and reënslavement are both impossible. "Then extermination awaits them," so we are told. The census, however, tells a different story. These tables show that the black population multiply quite as fast as the white. It is the large additions of the white element from abroad that gives that race an apparent advantage. I know that these people are poor. For long, dark years their industry has gone to swell the overgrown estates of their present persecutors. They have been accustomed to a life of deprivation. Their wants are few; and in a country where labor is high and land and food are cheap they cannot waste away. I know it is thought that this rapid increase is due to the mercenary care of the master. The more children he could raise for the market the greater his estate. This is true only of a few of the more northern States. Breeding was not encouraged in the planting States further south. The overseer's task was inconsistent with the duties of maternity. The services of the mother were worth more than her offspring. The life of the slave was graduated by the price of cotton, and, as a general rule, it would pay to use him up in seven years. And whatever would pay in that country was practiced. Humanity was no restraint, for making a man into a brute makes the maker brutal. During the transition from bondage to freedom, in the midst of civil war and bitter persecution, their numbers may possibly diminish for a short time; but the expectation that they will become extinct has no foundation either in the history or characteristics of the race.

In endeavoring to look fairly at this question, I have found no evidence upon which to rest the belief that this race is ever to be colonized, reënslaved, or exterminated. I come back, then, to the question with which I began, what shall be done with them?

"Let them alone." That is the answer given by a member of the New York Legislature when it was proposed to send surgeons to vaccinate the Indians who were dying of small-pox on the Reserve. "They are a drunken, vagrant, thieving race," said he; "let them alone. The sooner they are gone the better for the country." "We cannot afford to let them alone," said the member in reply; "they spread the infection through the whole surrounding country, and we have only the choice to administer relief or suffer and die with them." Neither can we afford to let five millions of population, who are forever to remain in our midst, increasing as we increase, sink down into hopeless ignorance, degradation, and vice. If we do, our own race will certainly grade down to them. The more we degrade these people the lower we sink ourselves. The ignorant white people have been made to believe that the elevation of the negro is equivalent to their debasement. The reverse is true. The more we improve this unfortunate race, the higher we raise our own. Human influence is not confined by a sharp embankment of rank or condition. It overflows to adjacent ranks, corrupting or purifying them as it is itself corrupt or pure. All classes in society are elevated where there is no degraded class. It is the interest, therefore, of every white man that these people should be educated in morals, skill, industry, and letters. Every dollar expended for this purpose will economize losses by unskilled labor, by riots, theft, and poor rates more than tenfold. I am not now advocating the cause of this race, however meritorious it may be. I do not base the necessity of their improvement upon any claim of their own. It does not at all impair my argument to concede the truth of all the charges preferred against them, even by their most unscrupulous accusers. Suppose that their minds are as weak, and their proclivities to vagrancy and vice as strong, as the life-long despoilers

of their earnings allege, (admitting at the same time my premises that they cannot be sent abroad, nor reënslaved nor exterminated at home,) it only makes the necessity founded in self-interest the more imperative upon us in every possible way to encourage their improvement.

I submit to the House that the cheapest elevator and best moralizer for an oppressed and degraded class is to inspire them with self-respect, with belief in the possibility of their elevation. Bestow the elective franchise upon the colored population of this District, and you awaken the hope and ambition of the whole race throughout the country. Hitherto punishment has been the only incentive to sobriety and industry furnished these people by American law. They were kept too low to feel disgrace, and reward was inconsistent with the theory of "service owed." Let us try now the persuasive power of wages and protection. If colored suffrage is still considered an experiment, this District is a good place in which to try it. The same objections do not exist here that are urged on behalf of some of the States. No constitutional question intervenes. Here, at least, Congress is supreme. The law can be passed, and if it is found to be bad a majority can repeal it. The colored race is too small in numbers here to endanger the supremacy of the white people, but large and loyal enough to counteract to some extent disloyal proclivities.

Why, then, should they not vote?

Because, say the Opposition, that is negro equality! Equality in what? In mind, stature, education, morals, or wealth? If these much-coveted qualities can be so easily bestowed, is any man mean enough to withhold them? The objection is contradictory. First, he shall not vote because he is the white man's inferior; and second, because it will make him an equal. Do you mean by equality personal friendship and social intercourse? Why, sir, if there is anything free in this country, or in any country, it is the right of each man to select his own associates. Companionship is free now, and will be then. It is your constitutional right to associate with men of color now, if you are so inclined, while you are not forced to associate with nor even speak to a white voter now, nor will you be with a black voter in the future. On the other hand, it is the constitutional right of the colored man to shun you now, and his right would neither be enlarged nor diminished by his enfranchisement. The equality so much dreaded and so fiercely denounced must mean, if it means anything, that a colored man's vote will count one toward the election of mayor and councils for Washington city, and a white man's vote will count one also, and no more. That is all. And why should they not be so counted? What do the mayor and councils have to do that none but the aristocracy can judge of their fitness? Simply to mend the roads, look after the poor, and take care of the schools. Certainly these are subjects of deep interest to men of color as well as white men, and not above the capacity of the lowest. Colored men do the work on the streets; they ought to understand what repairs are needed as well as how to make them. You say they are poor; they ought to know the poor man's wants. You say they are ignorant; then give them a chance to vote against a mayor who loads them with school tax and deprives them of schools. In this District no vote is cast for President, member of Congress, judge of the courts, nor any officer except the administrators of local affairs, in which all citizens, however ignorant in national matters, are necessarily well informed. This action is not altogether an experiment. In Boston the colored people vote, and it is the best-governed city in the United States. But if it is to be considered an experiment altogether, then, as I said before, there is no better place in the whole country in which to try it than the District of Columbia.

Again, it is said it will lead to amalgamation. This cry has been too often raised to alarm even the most ignorant. When the Democratic party endeavored to establish slavery in the territory

acquired from Mexico, the arguments in opposition were met by the cry of "amalgamation." Negro equality was their covering cry, during their long struggle, through fraud and violence to force slavery on the unwilling people of Kansas. When slavery was abolished in the District of Columbia, "Amalgamation and negro equality" was followed by that party all over the land. When the great and good President issued his proclamation of emancipation, they again screamed "Amalgamation and negro equality;" and the cry came still again in terrible shrieks when slavery was forever prohibited by amendment of the Constitution. This is a standing argument with the Opposition, and is brought out on all occasions when any legislation is proposed touching the interest of the colored population. Even on so trifling an occasion as the passage of a law at the last session allowing these people to ride in the street cars of this city, a cry of horror was sent over the country that I thought would startle the whole Anglo-Saxon race to its feet in defense of its blood; but I soon saw that nobody was scared, and we all now see that nobody was hurt. Let our sensitive friends compose their nerves and try to tell us how a little enlargement of the elective franchise, over small and purely local matters in this District, will result in marriage between the two races. It is fright that makes you mistake a ballot for a billet-doux. It cannot be possible that any man of common sense can bring himself to believe that marriages between any persons, much less between white and colored people, will take place because a colored man is allowed to drop a little bit of paper in a box, thereby intimating who he considers the fittest person to be mayor of this city. It is too trifling for argument.

We are again told that their average ability is below that of the white race. How do you know that? The colored man has never exhibited equal ability, to be sure, but he has never had equal opportunities. The forbidding statutes of the South attest the capacity of the negro. If they really believed his mind was so feeble, why bind it with such heavy chains? If he was incapable of learning, why prohibit it with the penitentiary? Their theories proved he was weak, but their legislation acknowledged he was strong. They debased him by law to fit him for slavery, and justified slavery because he was debased. So in this District the withholding opportunities of improvement is justified on the ground of his inferiority, and his inferiority is shown by his lack of improvement. But suppose the white race is superior, does it follow that the inferior race should be deprived of any authoritative mode of making its wants known to the Government? If mind is to be made the test of suffrage, a great many noisy declaimers against the negro will lose their votes. As a general rule, the men least fitted to vote are the warmest advocates of exclusion. They apprehend, with much reason, that they may be distanced in the race if the black man is not forced to carry weight. Such men should beware how they advocate a theory that would jeopardize their own votes if made universal. But it is further said that whatever their capacity, they are at least uneducated now. That would be but a short-lived objection if true, and not solely applicable to people of color. But it is not true of the largest portion of the colored people in this District. Nearly all of them can read, and the scholarship of many is of a very high order. The whole objection is easily obviated by an educational qualification.

Another objection, very much relied upon, is that a majority of the white population here are opposed to it. A prominent man charged with a high crime in Pennsylvania alleged that the hostility and prejudice of the people in the county where he was indicted would deprive him of a fair trial, and asked the Legislature to grant him a change of venue. The people of that county remonstrated, and submitted to the Legislature that they were the fittest persons to try him, because they knew he was guilty. If the people here were generally consenting to

this enlargement of the franchise its necessity would be less apparent. It is because the negro is hated in this city, and justice denied him by prejudiced officials, that his vote is necessary for his own protection. Every vote against him at this pretended election was an argument in his favor. I know that the prejudices, erroneous sentiments, and even vices of the people should be somewhat regarded in legislation, and that vested wrongs supposed to be vested rights should be divested very slowly. But what less can we do in this direction than is proposed to be done by this bill, namely, to bestow the elective franchise upon a handful of men, who, as a body, are intelligent, sober, peaceable, and industrious, and in a District where only local officers are chosen, and over which our right to legislate cannot be questioned. It must be opposed, not upon the ground that it is going too fast or granting too much at first, but upon the ground that, in that direction *no step* should be taken—nothing granted now, nor forever; that this is exclusively a white man's Government and the colored man is his slave. This is a rebel heresy entirely exploded by the war. We are coming back to the doctrine of our fathers. In the Continental Congress they asserted that "all men are created free and equal." They subsequently made the Constitution to accord with this sentiment, and for forty years, and as long as they lived to administer it, negroes were allowed to vote in all the old States except, perhaps, South Carolina. Both the precept and practice of our fathers refute the allegation that this is exclusively a white man's Government. If we cannot now consent to so slight a recognition, as proposed by this bill, of the great underlying theory of our Government, as declared and practiced by our fathers, we are thrown back upon that new and monstrous doctrine that the five millions of our colored population and their posterity forever have no rights that a white man is bound to respect.

Who pronounces this crushing sentence? The political South; and what is this South? The southern master and his northern minion. Have these people wronged the South? Have they filled it with violence, outrage, and murder? No, sir, they are remarkably gentle, patient, and respectful. Have they despoiled its wealth or diminished its grandeur? No, sir, their unpaid toil has made the material South. They removed the forests, cleared the fields, built the dwellings, churches, colleges, cities, highways, railroads, and canals. Why, then, does the South hate and persecute these people? Because it has wronged them. Injustice always hates its victim. They are forced to look to the North for justice. And what is the North? Not the latitude of frosts; not New England and the States that border on the lakes, the Mississippi, and the Pacific. The geographical is lost in the political meaning of the word. The North, in a political sense, means justice, liberty, and union, and in the order in which I name them. Jefferson defined this "North" when he wrote "all men are created equal, endowed by their Creator with certain inalienable rights, among which are life, liberty, and the pursuit of happiness." This North has no geographical boundaries. It embraces the friends of freedom in every quarter of this great Republic. Many of its bravest champions, like our still unstolen Republican President, hail from the geographical South. The North, that did not fear the slave power in its prime, in the day of its political strength and patronage, when it commanded alike the nation and the mob, and for the same cruel purpose, will not be intimidated by its expiring maledictions around this capital. The North must pass this bill, to vindicate its sincerity and its courage. The slave power has already learned that the North is terrible in war and forgiving and gentle in peace; let its crushed and mangled victims learn from the passage of this bill that the justice of the North, unlimited by lines of latitude, unlimited by color or race, slumbereth not.

Mr. KELLEY obtained the floor.

Mr. STEVENS. If my colleague will yield to me, I will move an adjournment.

Mr. KELLEY. I would be obliged if the gentleman would permit me to go on this afternoon.

Mr. STEVENS. Oh, certainly; I thought the gentleman would prefer an adjournment.

Mr. KELLEY. What I have to say is unwritten, and I prefer to go on while the glow is on me. Mr. Speaker, in asking the consideration of the House to the bill now before it, I was actuated by no temporary impulse, no gust of passion. I did it in view of the responsibility that rests upon this Congress, and in view of the gravity of the questions which mark the era in which we live.

In preparing to begin the work of reconstructing the grandest of human Governments, shattered for a time by treason, and in endeavoring to ascertain what we should do and how and when it should be done, I have consulted no popular impulse. Groping my way through the murky political atmosphere that has prevailed for more than thirty years, I have seated myself at the feet of the fathers of our country that I might as far as my suggestions would go make them in accordance with the principles of those who constructed our Government. I can make no suggestion for the improvement of the primary principles or general structure of our Government, and I would heal its wounds so carefully that it should descend to posterity unstained and unmarred as it came, under the guidance of Providence, from the hands of those who fashioned it. Sir, let us ascertain, if we can, whether they have furnished us guides for this trying hour. I am denounced as a radical. Thank God! the term is coming to be honorable. Men know that he only is a radical who stands by the eternal principles which God ordained, and one such, having the Almighty with him, is ever in the majority. I come to my duty, however, with Washington and Madison to guide me, and I find that the term "radical" did not frighten them.

In the first volume of the Madison Papers, page 287, I find a letter from Madison, written at New York, April 16, 1787, to General Washington. Mark the date and consider the duty in which Madison and Washington were then engaged, or about to engage. No other era in American history is so analogous to this of ours as that was. Ours is, as I have said, the work of reconstruction. They were contemplating or engaged in the work of construction. The Confederacy had failed, fallen to pieces, was almost as dead as the late confederacy of the southern States. The Union did not yet exist; it had to be created. The principles that guided those to whom that great work was confided we may safely adopt. "Dear sir," said James Madison to Washington,

"I have been honored with your letter of the 31st March, and find, with much pleasure, that your views of the reform, which ought to be pursued by the Convention, give a sanction to those I entertained. *Temporizing applications will dishonor the councils which propose them, and may foment the internal malignity of the disease, at the same time that they produce an ostensible palliation of it. Radical attempts, although unsuccessful, will at least justify the authors of them.*"

I turn now to the Federalist, No. 39, to a paper also from the pen of James Madison, examining "the conformity of the plan of Government to republican principles," in which he says:

"The first question that offers itself is, whether the general form and aspect of the Government be strictly republican? It is evident that no other form would be reconcilable with the genius of the people of America; with the fundamental principles of the Revolution; or with that honorable determination which animates every votary of freedom, *to rest all our political experiments on the capacity of mankind for self-government.* If the plan of the Convention, therefore, be found to depart from the republican character, its advocates must abandon it as no longer defensible."

"It is essential to such a Government that it be derived from the great body of the society, not from an inconsiderable proportion, or a favored class of it; otherwise a handful of tyrannical nobles, exercising their oppressions by a delegation of their powers, might aspire to the rank of republicans, and claim for their Government the honorable title of republic."

He does not seem to have agreed with my distinguished colleague from the sixth district,

[Mr. BOYER,] that poverty is a cause of exclusion from the ballot-box.

Mr. BOYER. Will the gentleman give way for a moment?

Mr. KELLEY. Certainly, sir.

Mr. BOYER. Did the gentleman understand me as saying that?

Mr. KELLEY. I certainly understood the gentleman to say that the people to whom we propose to extend the right of suffrage were ignorant and poor, nigh unto pauperism, and to urge that as a reason for withholding from them the power to defend those rights which God gives to every man though he own nothing but his skill and honest will to labor.

Mr. BOYER. Will the gentleman give way to me for a moment?

Mr. KELLEY. Certainly.

Mr. BOYER. I did not use the words that the gentleman attributes to me at all at any time in the course of my speech.

Mr. KELLEY. Will my colleague repeat the language he did use?

Mr. BOYER. I only described as I understand it and believe it exists, the situation of the population which this bill proposes to make electors here in the metropolis of the nation. I did not urge in any part of my argument that because they were poor, therefore they should be excluded from the right of suffrage, but because they were ignorant, and in other respects unfit to exercise the elective franchise.

Mr. KELLEY. I ask the gentleman to do me the honor to read that portion of his speech to the House, that it may be incorporated in mine.

Mr. BOYER. I should be very glad to do so if I had it. If the reporters will allow me to have the copy, I will read it with pleasure.

Mr. KELLEY. Or if it will better please the gentleman I will incorporate it in my remarks as the reporters shall hand them to me.

Mr. BOYER. I hope the gentleman will do so.

Mr. KELLEY. Leaving what the gentleman did say to the memory of the House, I pass on to see what were Madison's views on that subject.

In a paper entitled "Notes on Suffrage," No. 2, beginning on page 21 of volume four of the Madison Papers, he discusses the just limitations of suffrage with reference to the security of the State the extent of empire and future population of which was not only unknown but, as history attests, then unimagined. He discussed how far property should have its voice in elections, and how far the majority of the people, who would never acquire property, should have their rights; and having weighed and considered all the suggested devices for securing property on the one hand against possible agrarianism, and to secure on the other hand personal liberty against all assaults, thus announced his conclusion:

"Under every view of the subject it seems indispensable that the mass of the citizens should not be without a voice in making the laws which they are to obey, and in choosing the magistrates who are to administer them. And if the only alternative be between an equal and universal right of suffrage for each branch of the Government, and a confinement of the entire right to a part of the citizens, it is better that those having the greater interest at stake, namely, that of property and persons both, should be deprived of half their share in the Government; than that those having a lesser interest, that of personal rights only, should be deprived of the whole."

With Madison, as with all the leaders of the Democratic party before it had adopted as its entire creed devotion to a trinity of objects—secession, slavery, and free trade—the doctrine was that Government should rest on the consent of the governed, and that its only legitimate object was the protection of the rights of the governed.

Mr. BOYER. If my colleague [Mr. KELLEY] will allow me, I will state that the reporters have furnished me with that portion of my speech which he has promised to incorporate into his own, and I hope he will do so. I read as follows:

"The outrage proposed to be inflicted is considerably heightened when we consider the ignorance and degradation of the great body of those upon whom this bill would confer the elective franchise. The colored population of the District of Columbia, at the begin-

ning of the war, was about fifteen thousand. Since then it has been more than doubled, mainly by the influx of refugees and contrabands from the South, who were born and reared in slavery, and debased by all the influences of such a condition of life; few of them able to read; without any instruction in the most elementary principles of government; living amid filth and disease—many of them subsisting on charity—such are the beings selected by this bill to be the representatives of the American ballot-box in the political metropolis of the nation."

Now the gentleman has my whole description, and he may make the most of it.

Mr. KELLEY. I am very much obliged to my colleague, and I now arraign him with having, in the hope of depriving the poor of political power for the protection of their rights, surrounded the proposition before the House with conditions and circumstances extraneous to it, and so presented a picture which has not suggested itself to the mind of any calm man who has read the bill and knows to whom the right of suffrage is proposed to be given by it. It proposes to give it to the "citizens of the District," and the gentleman knows as well as I do that the mass of people who are poor by reason of his oppression, and whom he has described, are no part of the citizens or resident population of the District. If they become such, they will, as I shall show you, even under the infamous oppressions heaped upon the colored people of the District by the oligarchy that rules it, ay, even in that case, by the time they become voters, have an opportunity of learning to read the English language as well as it is read by thousands of the people who make the Democratic majority in the city of New York.

Mr. CHANLER. Will the gentleman allow me to interrupt him?

Mr. KELLEY. I beg the gentleman to excuse me. I must apply to him the rule which he invariably applies to me, which is to say "no," when I ask leave to interrupt him for explanation, or propose to correct his casual misstatements.

Mr. CHANLER. The gentleman is afraid to meet the issue.

Several MEMBERS. "Order!" "Order!"

Mr. KELLEY. For whom do we ask this legislation? In 1860, according to the census, there were fourteen thousand three hundred and sixteen colored people in this District, and we ask this legislation for the male adults of that number. Are they in rags and filth and degradation? The tax books of the District will tell you that they pay taxes on \$1,250,000 worth of real estate, held within the limits of this District. On one block, on which they pay taxes on fifty odd thousand dollars, there are but two colored freeholders who have not bought themselves out of slavery. One of them has bought as many as eight persons beside himself, a wife and seven children. Coming to freedom in manhood, mortgaged for a thousand or fifteen hundred dollars as his own price, he has earned and carried to the southern robber thousands of dollars, the price extorted for his wife and children, and is now a freeholder in this District. They have twenty-one churches, which they own, and which they maintain at an annual cost of over twenty thousand dollars. Their communing members number over forty-three hundred. In their twenty-two Sunday-schools they gather on each Sabbath over three thousand American children of African descent. They maintain, sir, to the infamous disgrace of the American Congress and people, thirty-three day schools, eight of which are maintained exclusively by contributions from colored citizens of the District; the remainder by their contributions, eked out by contributions from the generous people of the North; and every dollar of their million and a quarter dollars of real estate and personal property is taxed for schools to educate the children of the white people of the District, the fathers of many of those children having been absent during the war fighting for the confederacy and against our Constitution and flag. Who shall reproach them with being poor and ignorant, while Congress, which has exclusive jurisdiction over the District, has till last year robbed them day by day, and barred the door of the public school

against them? Such reproach does not lie in the white man's mouth; at any rate, no member of the Democratic party ought to utter it. They take in, as the subscription lists of the two papers show, more than twelve hundred copies each afternoon of the National Republican, and over thirty-five hundred copies each morning of the Daily Chronicle.

Mr. GARFIELD. I beg leave to remind the gentleman that it was stated some time ago that nobody in Washington is "respectable," unless he takes the National Intelligencer. [Laughter.]

Mr. KELLEY. I am not pleading for the "respectable," which Carlyle says means in England "those who keep a gig;" it is for the poor and lowly I plead. But I would thank God if my Democratic fellow-citizens of the sixth district of Pennsylvania would to the same proportion read two papers as valuable, as republican, as Christian in their teaching, as the two I have named. I am quite sure that if such was the case it would improve the political opinions of my colleague and valued friend.

"There are," as one of these poor souls has written, and I read it from his own manuscript—

"There are over thirty benevolent, literary, and civic organizations among them, by which their needy, superannuated, and infirm are cared for to a large extent, the city government having none, or the least possible per cent., of colored paupers to support."

Tolerably good English for John F. Cook, whose complexion stamps him with such evident inferiority to my colleague!

My colleague says that the white men of this District have given evidences of patriotism, and cites the number of men who entered District regiments under the President's first call in proof of his allegation. Sir, I have gone to the War Department, day after day and night after night, to beg for the release from service, or transfer to Pennsylvania regiments, of that gentleman's constituents and my own, who, having rushed to the District of Columbia without arms, ready to die in any ditch in defense of this capital, and being here were entrapped into District regiments, and whose families were suffering because the people of the District did not provide for soldiers' families as those of Pennsylvania did. The gentleman compares the number of volunteers furnished by the District of Columbia, under the first call, with the number furnished by Massachusetts. I ask him whether he does not know that this District gave scarcely a man that belonged to it by birth or long-continued residence; that she entrapped into her regiments his constituents and mine, and those of every northern member who may have happened to be here?

Mr. BOYER. As I understand the gentleman to ask me a question—

Mr. KELLEY. I decline to be interrupted just now. I remember, Mr. Speaker, to have been here the day after the President issued his proclamation, and to have seen one of the volunteer companies of the District, ordered out for temporary defense, marched on a dreary, wet morning to the front of the War Department, and I saw Colonel Thomas propose to swear these members in. The company numbered eighty; and when the Colonel proposed the oath that would bind them to fight for and not against the Union all excepting thirty-seven stepped out; and those proved to be nearly all northern men, temporarily residing in the District.

He must take other calls than the first, under which so many northern men were entrapped, if he would settle the question he raised. Let him see how it was under later calls. I remember another scene. After long persuasion, the Administration consented to permit the colored man to attest his manhood upon the field of battle. I went to Mason's Island on the second or third day after the announcement of that determination, and found nearly a regiment of colored men swarming there without officers, save Colonel (now General) William Birney and a second lieutenant. They were poor and ignorant, but clustered in groups, those whose intellectual eyes slavery had almost put out, were, through the instrumentality of pamphlets and

newspapers, sometimes torn fragments, beginning to see day dawn, by the labors of their more fortunate associates, who were acting as teachers. From these shreds and patches of paper they were beginning to prepare themselves to perform the civic duties of American citizens, while preparing to go forth and lay down their lives, if need be, in maintaining American republican institutions.

In the comparison of these two scenes, you have a capital indication of the relative patriotism of the two races in the capital of our country. I know the district from which my colleague comes, and how blind its devotion to the organization called the Democratic party is, but I ask him whether he dare go through that district proclaiming that he regards a "white grayback" who fought against the country as a better citizen and more entitled to its protection than a negro who fought for it? You give to the poor, ignorant, drunken, squalid rebel who has returned the right to vote. Why will you not give it to the intelligent, sober, tax-paying, house-holding negro?

Mr. BOYER. I ask the gentleman to yield to me for a moment.

Mr. KELLEY. Certainly.

Mr. BOYER. Will the gentleman allow me to ask him whether in any part of my speech I said anything about traitors voting?

Mr. KELLEY. I find upon my notes that in the gentleman's speech there was a vindication of the patriotism of the people of this District, and an admission, not in this language, but in this spirit, that the negro man, like a rat when driven to a corner, had fought a little. Has the gentleman forgotten Port Hudson and Milliken's Bend? Do the papers he reads belong to that class which excluded from their columns everything about colored soldiers and American victories? If they do, let him study the story of Battery Wagner before he permits his speech to be printed, so that he may say one generous word for those who died that he and his might be blessed.

For whom do we propose to legislate? My colleague says that the black man is not equal to the white man.

I know some white men who are not equal to black men: [Laughter.] I would not intimate that my colleague was in that class, for I know his powers and his virtues; yet among his constituents he may possibly have associated at some time, even in his manhood, with men less cultivated and powerful than Fred. Douglass or Benjamin Bannaker, the publicly recognized friend of Jefferson, and who honored the early annals of our native State and made it known in France and over the breadth of the Continent when no other native mathematician had.

I turn, sir, to show the House for whom we ask suffrage. Here is the likeness of Henry Highland Garnett. It is mighty black. [Laughter.] My colleague cannot say that his grandmother had an injection of white blood in her veins. You see the likeness of a pure African there. But the face, black as it is, is radiant with intelligence, manliness, and piety. The pamphlet it embellishes contains a sermon he preached in this Hall on Sunday, February 12, 1865. With exquisite satire, he assumed, by his text, to characterize the scribes and Pharisees of old, but sketched the members of the modern Democratic party. [Laughter.] He took for his text Matthew xxiii, 4:

"For they bind heavy burdens, and grievous to be borne, and lay them upon man's shoulders; but they themselves will not move them with one of their fingers."

His discourse is not powerful, eloquent, and elaborate as that of my colleague; but it contains some passages with which I beg leave briefly to detain the House. He says, as he progresses:

"Let us here take up the golden rule, and adopt the self-applicative mode of reasoning to those who hold these erroneous views. Come, gird up thy loins and answer like a man, if thou canst, is slavery, as it is seen in its origin, continuance, and end, the best possible condition for thee? O, no! Wilt thou bear that burden upon thy shoulders which thou wouldst lay upon thy fellow-man? No. Wilt thou bear a part of it, or remove a little of its weight with one of thy fingers? The sharp and indignant answer is, No, no."

It strikes me that this matter is pretty well put by a black man who is too poor and ignorant to be allowed to vote on the question as to who shall administer the local laws and mend the roads of this District!

Again, sir, he says:

"We ask, and only ask, that when our poor frail bark is launched on life's ocean,

"Bound on a voyage of awful length,
And dangers little known,"

that, in common with others, we may be furnished with rudder, helm, and sails, and charts, and compass. Give us good pilots to conduct us to the open seas: lift no false lights along the dangerous coasts; and if it shall please God to send us propitious winds or fearful gales, we shall survive or perish, as our energies or neglect shall determine. We ask no special favors, but we plead for justice. While we scorn unmanly dependence, in the name of God, the universal Father, we demand the right to live and labor, and to enjoy the fruits of our toil."

Will gentlemen on the other side consider this extract from the discourse of that black likeness of our Almighty Father?

The gentleman denies our power, our moral right. What right has he to the word moral upon his lips when pleading such a cause as that to which he devoted his hour? Neither morals nor religion sanction the principles he uttered. Sir, we have the power, and that power belongs to us alone, for the Constitution of the United States confides the legislation for this District in its very first article to the Congress of the United States.

But perhaps, Mr. Speaker, he means that we have not the power to confer citizenship upon a new class of people. I ask him to study the subject, and I think he will find that when the Constitution of the United States was adopted the free colored man voted in our own Pennsylvania, and continued to do it until the Democratic party modified the constitution in 1838, and that they enjoyed the franchise in all the States except South Carolina, and possibly Delaware and Virginia, in which two States suffrage was regulated by statutory and not by constitutional provision.

Mr. BOYER. Will my colleague allow me a personal explanation?

Mr. KELLEY. I will.

Mr. BOYER. The gentleman states that I said that Congress had no power to pass this bill. I said no such thing. On the contrary, I expressly admitted the power of Congress to pass it. But I did deny the moral right of Congress to pass it in the face of the almost unanimous expression of the people of this District against it.

Several MEMBERS. That is so. Moral right.

Mr. KELLEY. The gentleman argued that it was against the will of the majority. But I accept his modification very gladly. Moral right is, in my judgment, power.

In the President's first message—and I am very happy to know that I am sustaining his views when pressing this matter upon Congress—he has told us that were he in Tennessee he would advocate the extension of suffrage to the colored people of that State. And that being the case, I know he is its friend here; indeed, he has so assured me personally. The President, however, falls into a slight error in the course of his message. On page 13, I find it written:

"But while I have no doubt that now, after the close of the war, it is not competent for the General Government to extend the elective franchise in the several States, it is equally clear that good faith requires the security of the freedmen in their liberty and their property, their right to labor, and their right to claim the just return of their labor. I cannot too strongly urge a dispassionate treatment of this subject, which should be carefully kept aloof from all party strife. We must equally avoid hasty assumptions of any natural impossibility for the two races to live side by side in a state of mutual benefit and good will. The experiment involves us in no inconsistency; let us, then, go on and make that experiment in good faith, and not be too easily disheartened. The country is in need of labor, and the freedmen are in need of employment, culture, and protection. While their right of voluntary migration and expatriation is not to be questioned, I would not advise their forced removal and colonization. Let us rather encourage them to honorable and useful industry, where it may be beneficial to themselves and to the country; and, instead of hasty anticipations of the certainty of failure, let there be nothing wanting to the fair trial of the experiment."

Sir, it is evident that the absorbing duties in which he was engaged while military governor of Tennessee, and in the high office to which he was so suddenly and unexpectedly called, have prevented President Johnson from examining that question historically. We have been in a murky political atmosphere for thirty or forty years, and our views of historical matters have been bedimmed. I turn to James Madison to vindicate the sagacity of the founders of our Government. Those founders built not for a generation but for all time. They were skillful architects, and understood the laws and principles of the business they undertook. They built by square and compass and rule, and omitted neither corner-stone nor key-stone from any arch in the temple they constructed to be the abode of freedom in all time. They made it the duty of the United States Government to *guaranty to each State a republican form of Government*, and having done that they did not fail to provide the means by which the Government on which they had laid that duty should be able to perform it. And they gave Congress the amplest power to execute that section, when, in section four, article one, they provided that—

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may, at any time, by law make or alter such regulations, except as to the places of choosing Senators."

Now, sir, what did they mean by that provision? Let James Madison, Patrick Henry—the eloquent champion of State rights—Nicholas, Clay, Wyeth, Tyler; let Monroe, who interrogated Madison on the point in question, Alexander White, George Mason, Governor Randolph, Corbin, and Grayson, all answer. Sir, could the shades of the great departed respond, they would all reply "You have expressed its purpose as announced to us by James Madison, and we assented to it as an essential power." They all participated in the debates of the day, to which I now refer. I read from Elliott's Debates in the convention of Virginia upon adopting the Constitution, on Friday, June 13, 1788. The fourth and fifth sections of the Constitution being under consideration—

"Mr. Monroe wished that the honorable gentlemen who had been in the Federal Convention would give information respecting the clause concerning elections. He wished to know why Congress had an ultimate control over the time, place, and manner of elections of Representatives, and the time and manner of that of Senators; and also why there was an exception as to the place of electing Senator."

Mr. Madison, the father of the Constitution, the correspondent and friend of Washington—the collaborer of Washington from the hour they became members-elect of the convention to the close of the adoption of its work by the people—answered this searching question; and the great statesmen whose names I have mentioned sat around and were satisfied with the answer. No member of the convention took exception to it. Mr. Madison said:

"Mr. Chairman, the reason of the exception was, that if Congress should fix the place of choosing the Senators, it might compel the State Legislature to elect them in a different place from that of their usual sessions, which would produce some inconvenience, and was not necessary for the object of regulating the elections. But it was necessary to give the General Government a control over the time and manner of choosing the Senators to prevent its own dissolution."

Mark the reason.

"With respect to the other point, it was thought that the regulation of the time, place, and manner of electing Representatives should be uniform throughout the continent. Some States might regulate the elections on the principles of equality, and others might regulate them otherwise. This diversity would be obviously unjust. Elections are regulated now unequally in some States, particularly South Carolina, with respect to Charleston, which has a representation of thirty members. *Should the people of any State by any means be deprived of the right of suffrage, it was judged proper that it should be remedied by the General Government.* It was found impossible to fix the time, place, and manner of the election of Representatives in the Constitution. It was found necessary to leave the regulation of this, in the first place, to the State governments, as being best acquainted with the situation of the people, subject to the control of the General Government, in order to enable it to produce uniformity and prevent its own dissolution. And considering the State government and General Government as distinct bodies, acting in dif-

ferent and independent capacities for the people, it was thought the particular regulations should be submitted to the former and the general regulations to the latter. *Were they exclusively under the control of the State governments the General Government might easily be dissolved.* But if they be regulated properly by the State Legislatures, the congressional control will very probably never be exercised. The power appears to me satisfactory and as unlikely to be abused as any part of the Constitution."

What one of the great men whom I have named, and who participated in that day's debate, dissented from that doctrine? What other member of that convention of great Virginians questioned it? Not one; and Mr. Monroe followed by asking an explanation of the clause which prohibits either House, during the session of Congress, from adjourning for more than three days without the consent of the other. It was the undoubted opinion of the State of Virginia that the question, which our excellent President assumes to be one beyond a doubt, was settled by the express language of the Constitution right the other way. Had Washington dissented from this view he would not have failed to have made his dissent known. He doubtless concurred in this opinion of his distinguished and confidential collaborer.

A word or two to my colleague about confiding matters to the will of the majority by denying a voice to the minority. I was brought up in the Democratic party. I honor and adhere most loyally to the teachings of its fathers and early leaders, and gladly go as to a pure fountain, with which I am thoroughly familiar, to the writings of James Madison for guidance on points like these. Speaking, in a letter to James Monroe, from Philadelphia, October 5, 1786, of a "certain measure," which he does not name, he says:

"Should the measure triumph under the patronage of nine States, or even of the whole thirteen, I shall never be convinced that it is expedient, because I cannot conceive it to be just."

I do not wonder that my colleague, who is much younger than I am, 'should think that justice is not a proper standard for Democratic legislators to adopt; but in the good old times they often did it.

"There is no maxim, in my opinion, which is more liable to be misapplied, and which, therefore, more needs elucidation, than the current one, that the interest of the majority is the political standard of right and wrong. Taking the word 'interest' as synonymous with 'ultimate happiness,' in which sense it is qualified with every necessary moral ingredient, the proposition is no doubt true. But taking it in the popular sense, as referring to immediate augmentation of property and wealth, nothing can be more false. In the latter sense, it would be the interest of the majority in every community to despoil and enslave the minority of individuals." * * * *

"In fact, it is only reestablishing, under another name and a more specious form, force as the measure of right."

I stand by Madison against all the modern Democratic leaders. Sir, what has been the result of leaving these people in voiceless and powerless subjection to the rule of the majority here in this District? Let them speak through their own memorial presented to this House. I will read but a brief part of it, remarking that it was drawn up by a colored man:

"We are intelligent enough to be industrious, to have accumulated property, to build and sustain churches and institutions of learning. We are and have been educating our children without the aid of any school fund, and until recently had for many years been furnishing, unjustly as we deem, a portion of the means for the education of the white children of the District."

Is it not possible that a majority may perpetrate an injustice? Does it not seem that one has been persistently perpetrating an injustice? But to the petition again:

"We are intelligent enough to be amenable to the same laws and punishable alike with others for the infraction of said laws. We sustain as fair a character on the records of crime and statistics of pauperism as any other class in the community, while unequal laws are continually barring our way in the effort to reach and possess ourselves of the blessings attendant upon a life of industry and self-denial and of virtuous citizenship."

And again:

"Experience likewise teaches that that debasement is most humane which is most complete. The possession of only a partial liberty makes us more keenly sensible of the injustice of withholding those other rights which belong to a perfect manhood. Without

the right of suffrage we are without protection and liable to combinations of outrage. Petty officers of the law, respecting the source of power, will naturally defer to the one having a vote, and the partiality thus shown will work much to the disadvantage of the colored citizens."

Sir, the rule of a majority not qualified by the power of the minority to resist is a despotism. The gentleman talks about a republican form of Government existing without the vital principles of a republic, and I again ask him to turn to and consult the Democratic fathers on that subject. I fear he is not familiar with them. Mr. Madison, in a debate in the Virginia convention, which I find reported on page 310 of third volume Elliot's Debates, points out the distinction between a nominal and a real republic. He says:

"Holland is a favorite quotation with the honorable members on the other side of the question. Had not their sentiments been discovered by other circumstances, I should have concluded from their reasoning on this occasion that they were friends of the Constitution; I should suppose they had forgotten which side of the question they were on. Holland has been called a republican Government, friendly to liberty. Though it may be greatly superior to other Governments in Europe, still it is not a republic or a democracy. Their legislature consists, in some degree, of men who legislate for life. Their council consists of men who hold their offices for life, who fill up offices and appoint their salaries. The people have no agent, mediate or immediate, in the Government."

So far as these educated, industrious, tax-paying, school-sustaining, church-building people of this District are concerned, they are shut out of our democratic Republic as the people of Holland were. How bitterly would Madison, unimpassioned as he was, have denounced such treachery to the essential principle of republicanism—universal suffrage.

Sir, I am trespassing, perhaps, at too great length, but I am a proud man as an American citizen; whatever I may be personally. I boast of the resources, the powers, the extent of my country, and the enduring character of its institutions, and of the fair and generous character of my countrymen. I cannot bear to be goaded and taunted by those whom I treat as inferiors, with the assertion that in the hour of my danger, when I refused or was unable to fight, they took up my battle and healed my wounded honor. The negroes fought for me, and God forbid that they should ever taunt me, or my descendants with the fact that I was an ingrate to the soldiers of the Republic.

I hold in my hand a little verse inscribed

AFRICA TO AMERICA.

In the day of thy need I have battled for thee;
At the hour of thy triumph thou knowest not me.
My blood fed thy rivers, it crimsoned thy sea;
Yet an outcast am I in the "Land of the Free."

The hand that the sword sped the pen may not hold;
Benumbed is the tongue which the war march controlled;

And the foot that stood firm when the cannon ball rolled,
Must flee from the spot where the ballot is polled.

Thy friend was my friend, and thy foe was my foe;
Yet to-day not a friend in thy councils I know.
To the grave marched my slain with a tread not as slow

As the course of the justice thy servants bestow.

The life which 'twixt thy life and treason's dart flew,
Is felled 'neath thy flag by the traitorous crew,
To the soul that no love but its country's love knew,
Nor statute, nor scripture, nor conscience is true.

Sir, I cannot bear the thought that that poem should be repeated by African lips in my hearing with truth; or at least that I shall not be able to respond, "That disgrace attaches only to the vulgarly arrogant or ignorantly debased people of our country; the good, wise, and true are all laboring to obliterate and efface it."

Can one reason be suggested for withholding from the Africo-American citizens of this District the right of suffrage essential to republican institutions, to the maintenance of "fundamental principles of the Revolution," and "dangerous," as Jefferson said, "to only tyrants?" No. And, sir, the Republican members of Congress are not the only legislators who are pleading for the enfranchisement of the laboring man. Our contest is broader than our continent. We are fighting for and the Democratic party against the enfranchisement of the laboring men of Great Britain.

The same question that pends before us hangs upon a hair in the entranced gaze of the laboring masses of what we too fondly call "the mother country." I ask my colleague, who spoke so kindly of the German, the Englishman, the Scotchman, and the Irishman, whether he is willing to send across the ocean an encouraging word to the despots of the British Government, and to set an example which will justify them in saying, "We will withhold from the laboring people this right, for the great democratic republic country has had the question under discussion, and has decided that people poor and ignorant as are our laboring classes ought not to have the right of suffrage?" If gentlemen on the other side do, they will hear songs that were not sung in the "Groves of Blarney."

[Here the hammer fell.]

Mr. KELLEY. I have but a few words more to say.

Mr. ORTH. I move that the time of the gentleman from Pennsylvania [Mr. KELLEY] be extended, so as to enable him to conclude his remarks on this subject.

No objection was made.

Mr. KELLEY. With thanks to the House for its courtesy, I will continue for a few minutes to plead the cause of the oppressed of all lands. I plead, Mr. Speaker, and members of the American Congress, with you, to help to enfranchise the laboring people of Great Britain. When John Bright uttered his recent speech a deputation of them sat before him and he alluded to them. And I point around these galleries to the maimed and wounded soldiers of the armies of America, whose skin is not colored like our own. I point to intelligent men, black and yellow, descendants of the kings of Dahomey and of American Congressmen, Senators, Presidents, and Cabinet ministers, and ask you to give them, as laboring people and republican soldiers, the rights of citizenship. John Bright said:

"Let me now put to you, before I sit down, a single proposition, and through these gentlemen who sit below me, to whom freedom in this country is so greatly and so constantly indebted, let me put it to the people of this kingdom, if of the five millions who are now shut out one million were admitted—and you will mark the extreme, some will say blamable, moderation of that suggestion—if only one million were admitted, would not the cry of the toil-laden and the suffering, which even now ascends to heaven—would it not, think you, reach further, be heard even on the floor of Parliament? For do not forget that the ear of the Supreme is nearer even to the lowliest of us than is that of our earthly rulers. But if that voice was heard in Parliament would it not, perchance, do something to still the roar of faction, and to bend the powers of statesmanship to the high and holy purposes of humanity and of justice?"

"I speak not the language of party. I feel myself above the level of party. I speak as I have ever endeavored to speak on behalf of the unenfranchised, the almost voiceless millions of my countrymen. Their claim is just, and it is constitutional. It will be heard, it cannot be rejected. To the outward eye monarchs and Parliaments seem to rule with an absolute and unquestioned sway; but, and I quote the words which one of our old Puritan poets has left for us—

"There is on earth a yet angustier thing,
Veiled though it be, than Parliament or king."

"That angustier thing is the tribunal which God has set up in the consciences of men. It is before that tribunal that I am now permitted humbly to plead, and there is something in my heart—a small but an exultant voice—which tells me I shall not plead in vain."

Mr. ROGERS obtained the floor.

Mr. ASHLEY, of Ohio. With the permission of the gentleman from New Jersey, [Mr. ROGERS,] I will now move an adjournment.

Mr. ROGERS. I have no objection.

Mr. ASHLEY, of Ohio. I move that the House adjourn.

Mr. RAYMOND. Will the gentleman from Ohio [Mr. ASHLEY] yield to me a moment?

Mr. ASHLEY, of Ohio. Certainly.

Mr. RAYMOND. I introduced two bills yesterday, one in regard to naturalization, and the other in relation to the New York city post office. I ask the consent of this House that they be printed.

No objection was made, and the bills were accordingly ordered to be printed.

And then, on motion of Mr. ASHLEY, the House (at four o'clock and twenty minutes p. m.) adjourned.

IN SENATE.

THURSDAY, January 11, 1866.

Prayer by Rev. Dr. GILLETTE, of Washington, District of Columbia.

The Journal of yesterday was read.

CORRECTION OF THE JOURNAL.

Mr. HOWARD. I rise to a privileged question. I believe there is an error in the Journal of yesterday's proceedings in this: it does not contain in the order for printing the message of the President in answer to the resolution of the Senate of the 21st of December, which I had the honor to submit, an order also to publish the documents accompanying the message. The motion was to print both the message and the accompanying documents, and I observe that the Journal does not contain that latter part of the order.

The PRESIDENT *pro tempore*. The order was entered to print the communication and the accompanying documents. Generally, it is understood that an order being entered to print a message covers the accompanying documents; but if it is not so, it will be so extended as to cover them.

Mr. HOWARD. If that be the usage of the Senate, very well.

The PRESIDENT *pro tempore*. The Journal will be corrected to comprise them, if it does not already.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 8th instant, information in regard to the appointment of commissioners under the twenty-fourth section of the act of February 21, 1864, entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved March 3, 1863, and the awards made by those commissioners, and why payments on awards have been suspended; which was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

Mr. CHANDLER presented a memorial of citizens of Michigan, remonstrating against the renewal of the so-called reciprocity treaty with the British Provinces; which was referred to the Committee on Commerce.

He also presented the petition of John Pridgeon, owner of the steam-tug W. K. Muir, praying for the passage of an act permitting that tug to be enrolled and licensed as an American vessel; which was referred to the Committee on Commerce.

He also presented the petition of John Pridgeon and William K. Muir, owners of the steam-tug Michigan, a foreign-built vessel, praying for the passage of an act granting enrollment and license to that tug as an American vessel; which was referred to the Committee on Commerce.

He also presented the petition of John A. Sloan, owner of the steam-tug Dispatch, praying for an American register for that tug; which was referred to the Committee on Commerce.

He also presented a petition of citizens of St. Joseph, Michigan, praying for an appropriation for the repair of the harbor of St. Joseph, on Lake Michigan, and the extension of the south pier of that harbor; which was referred to the Committee on Commerce.

Mr. SUMNER. I offer the petition of the officers and members of the American Baptist Missionary Convention of the colored Baptist churches of this country, representing fifty-five ministers and fifteen thousand members, in annual convention last August. They set forth at length various arguments in favor of equal rights and justice to the colored race, and conclude by asking Congress to secure the extension of the right of suffrage to all the citizens of our common country without respect to color, not only on the ground of essential and acknowledged right according to the Declaration of Independence, but also because they believe there is no other way in which we can be protected from the subtle power of our com-

mon enemy. I move the reference of this petition to the joint committee of the two Houses on reconstruction.

The motion was agreed to.

Mr. HARRIS presented the petition of John Ahern, praying for compensation for board and rations furnished to United States soldiers and recruits at Albany, New York, in the years 1863 and 1864; which was referred to the Committee on Claims.

Mr. HOWARD presented a petition of soldiers of the United States Army, who enlisted in the years 1861, 1862, and 1863, praying an equalization of bounties; which was referred to the Committee on Military Affairs and the Militia.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. RAMSEY, it was

Ordered, That the petition and other papers of Townley and Denman, on the files of the Senate, be referred to the Committee on Revolutionary Claims.

On motion of Mr. HARRIS, it was

Ordered, That the report of the Court of Claims in favor of the claim of Sarah Weed be referred to the Committee on Revolutionary Claims.

On motion of Mr. CLARK, it was

Ordered, That Lemuel Worster have leave to withdraw his petition and other papers from the files of the Senate.

REPORTS FROM COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau, reported it with amendments.

He also, from the same committee, to whom was referred the bill (S. No. 61) to protect all persons in the United States in their civil rights, and furnish the means of their vindication, reported it with amendments.

Mr. TRUMBULL. I desire to give notice that when these bills shall have been printed, with the amendments, I will call the attention of the Senate to them at an early day.

BILLS INTRODUCED.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 68) to carry into effect the fourth article of the treaty of Washington, concluded between Great Britain and the United States on the 9th of August, 1842; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 12) to refer the claim of Gustavus A. Balzer to the Court of Claims; which was read twice by its title, and referred to the Committee on Claims.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 13) respecting the three months' extra pay to officers of volunteers when mustered out of service; which was read twice by its title, and referred to the Committee on Military Affairs.

MEXICAN CORRESPONDENCE.

Mr. NESMITH submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to communicate to the Senate, if in his opinion not inconsistent with the public interest, any correspondence in possession of the Government in regard to a negotiation carried on with the republican Government of Mexico in 1861 for the purpose of marching a body of United States troops from Guaymas to Arizona, through Mexican territory.

OFFICIAL ADVERTISEMENTS.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Printing be instructed to inquire and report for the information of the Senate, the amounts paid, or agreed to be paid, to each of the newspapers of the city of Washington, since the 1st of March, 1865, and the laws under which the amounts were paid; and to report if any legislation is necessary in regard to advertisements in the public press of the country.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, Chief Clerk, announced

that the House of Representatives had passed a bill (H. R. No. 33) for the relief of Charlotte Bence, widow of Philip H. Bence, late captain of company F, thirtieth regiment Iowa volunteer infantry.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the enrolled joint resolution (S. R. No. 7) for increasing the bond of the Superintendent of Public Printing; and it was signed by the President *pro tempore*.

ASSISTANT ASSESSORS.

Mr. FESSENDEN. I should like to take up, if the Senate please, and have acted upon, the little bill that I reported from the Committee on Finance yesterday. It is House bill No. 58. I move that it be taken up.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 58) authorizing the Secretary of the Treasury to appoint assistant assessors of internal revenue.

Mr. SUMNER. I offer an amendment, to insert at the end of the bill the following proviso:

Provided, That all such persons, before entering upon the duties of assistant assessors, and before being entitled to the salary or other emoluments thereof, shall take and subscribe the oath of office prescribed by the act of July 2, 1862.

Mr. FESSENDEN. I hope that amendment will not be adopted. It is simply reenacting what is clearly now the law. The law already requires that the officers shall take that oath; and this amendment merely proposes that we shall pass a new law to the same effect. I cannot see what the object of the honorable Senator is in reenacting it.

Mr. SUMNER. I will explain what my object is. We have on our table a report (which I think is one of the most extraordinary documents ever laid on our table) from the Secretary of the Treasury in which he sets forth that he has undertaken to disobey the act of Congress prescribing the oath. He makes this report deliberately. In the course of it he says:

"Even if the offices were desirable to any but residents, I have not supposed that it would be the policy of Congress to subject the people of the South to the humiliation, or the revenue system to the odium, which would be the result of employing northern men to collect Federal taxes in the southern States; and I have not doubted that Congress would so modify the oath that this Department would be sustained in employing in the collecting of the revenues those who, by circumstances which they could not control, had been forced into the rebellion, but of whose present loyalty there is no question."

He then proceeds to report that James M. Matthews entered upon the duties of collector of the customs at Tappahannock, Virginia; William S. Croft upon the duties of collector at Georgetown, South Carolina; Gordon Forbes the duties of surveyor at Yeocomico, Virginia; William Y. Leitch the duties of surveyor at Charleston, South Carolina; F. M. Robertson the duties of special examiner of drugs at Charleston, South Carolina; Edgar M. Lazarus the duties of appraiser at Charleston, South Carolina; J. F. W. Walter the duties of appraiser at Charleston, South Carolina, without taking this oath; and he adds, by way of supplement to his report, the form of the oath which they did take, being an alteration of the oath prescribed by Congress. Now, if this had been in one case or two cases, it might have been an accident; but it is not an accident; the Secretary acknowledges it all; he avows it as a system on which he entered. He then goes on and furnishes a list of some—I have not counted them, but I should say there must be some twenty-five names of officers who have entered upon their functions without taking this oath, in addition to the list which I have already read.

Now, it seems to me that this course on the part of the Secretary ought to be corrected. I know no way in which it can be reached except through the action of Congress. It seems to me, therefore, Congress ought in the most formal way to remind the Secretary of the act which he has chosen to set aside. Nobody here of course recognizes his power to set aside an

act of Congress. Nobody of course will undertake to justify him. Let us, then, remind him in the way that is left to us, here from our seats, that that act of Congress must be obeyed.

These are the reasons which have prevailed with me in offering this amendment. I say sincerely I do not wish to differ with the honorable Senator from Maine, who has the conduct of the bill. If in his opinion, after what I have stated, the provision is unnecessary, if he thinks that the Secretary of the Treasury does not need from Congress this reminder, if he thinks the past conduct of the Secretary is such as to give us assurance that for the future he will obey the acts of Congress, then I shall be glad to follow his lead and dispense with this proviso; but, as at present advised, I do think it important.

Mr. FESSENDEN. Mr. President, the Secretary admits unquestionably, in the communication he has made, that he did undertake in certain cases to appoint men, and did not require of them the oath prescribed. He has given his reasons for that course. We must reflect that this act of the Secretary was done during the recess of Congress; and so long as we believe, as I truly do believe, that the Secretary of the Treasury is a most patriotic gentleman and desires to do his whole duty, and has taken this responsibility under the pressure of what he conceived to be the necessities of the case, and has laid the facts frankly before Congress, I do not feel that it is necessary to go any further than we have gone with regard to it. He has stated the fact; he has stated his reasons for his conduct, and although those reasons might not be satisfactory to the honorable Senator from Massachusetts, and might not be satisfactory to myself, yet he says very frankly, "I deemed it better to appoint, if possible, men that I could trust to collect the revenue in those States, and I found it impossible to appoint men of that description who could take the oath. I concluded, therefore, to take the responsibility, which I have taken during the recess of Congress, because I deemed it very important that the revenue should be collected." He has laid that before Congress, and he has presented to Congress his recommendation that the oath should be varied, if possible, to meet certain cases. I would say further that I understand the Secretary warned these gentlemen that if they took the offices under these circumstances it would be entirely dependent on the action of Congress whether they would be paid; that they could not be paid until the matter was legalized and authorized.

Having done that and frankly laid what he has done and his reasons for doing it before Congress, if Congress, after having had an opportunity to consider the subject, shall take no such action as he advises, of course it will be his duty to yield at once and cheerfully and decidedly to the decision of Congress, and I have no doubt he will do so with great readiness. He is already "reminded" by the call which Congress has made upon him to lay before it the facts in the case, and he is aware of this discussion. I do not deem it necessary therefore to give him any further reminder. But at any rate the words proposed to be inserted here by the honorable Senator are merely a reenactment of what is now the law of the land. Its adoption secures nothing more than we now have on the statute-book. If we desire to do anything more, if we desire to censure the Secretary of the Treasury for what he has done, this is not the way to do it. The adoption of the amendment will merely embarrass the passage of this bill by requiring it to be sent back to the other House. I hope the Senator will consent to withdraw his amendment, the reminder having already been given, and let the bill be passed as it has been sent to us from the House of Representatives.

Mr. HOWARD. Mr. President, as I understand the statute of 1862, it creates a disqualification in the case of every person to hold an office under the United States who does not take the oath prescribed by that statute. I confess that with me it is a serious matter to appoint to office any person who does not take

the oath there prescribed. It appears to me that a question of law of considerable importance arises, which is this: whether a person not having taken this oath and taking upon himself the responsibilities of such an office can be held legally responsible for his acts. Can he be sued upon his official bond and held responsible for any default which he may commit to the Government, if he has not taken this oath? Whether the law be the one way or the other upon that particular point, it appears to me to be a question of sufficient importance to receive the careful attention of the Senate. The act of 1862 declares that no person shall exercise an office under the United States who does not take the following oath:

"I do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto. And I do further swear that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

That is the form prescribed by the statute. In some cases in which persons have been appointed to office by the Secretary of the Treasury, it appears that he has waived this oath, and prescribed another, which is in the following form. I read from his own report:

"I, ———, having been appointed to the office of collector of customs for the district of ———, do solemnly, sincerely, and truly swear that I will diligently and faithfully execute the duties of the said office of collector of the customs, and will use the best of my endeavors to prevent and detect frauds in relation to the duties imposed by the laws of the United States. I further swear that I will support the Constitution of the United States."

It will be seen at a glance that a very material part of the statutory oath is here dispensed with, and that part is, that the officer has never voluntarily borne arms against the United States since he has been a citizen thereof. It is stated by the Secretary of the Treasury that he has found it very difficult, not to say impossible, in certain districts in the insurgent States to find persons who were able to take the statutory oath; and it would seem that therefore he has omitted to enforce that provision of the statute of 1862. I know not where this dispensing power may not go. If a plain statute of the United States may be dispensed with in one case, it may in another. It is the misfortune of the country if it be impossible to find a loyal man in a southern district who is able to take the oath required. It does not in my judgment pertain to the Secretary of the Treasury or any other functionary of the Government to undertake to alter the laws which we pass; and it seems to me that he would be better consulting the interests of the United States, better consulting his own duty, to have referred this whole subject to Congress for further legislation than to have undertaken to set himself up as a legislator on so serious a subject as this.

I say this, however, sir, without any intention of casting a reflection upon the very intelligent and very able Secretary of the Treasury. I rather speak of it as an admonition to all officers and persons in authority that the first example which they are to set to the country is obedience to the laws. If the laws are defective, the Congress of the United States possesses the necessary power to correct them.

I hope, sir, that the amendment of the honorable Senator from Massachusetts will be adopted, and I shall of course vote for it. I think it necessary as an admonition to the honorable Secretary of the Treasury that we, the Congress of the United States, are the law-making power, and that his duties are confined simply and solely to the execution of the laws as they are enacted here.

Mr. FESSENDEN. I sincerely hope that

gentlemen will not insist upon this. It is a queer idea that we are to pass over again, as an amendment to a mere provision like this, a law now on the statute-book, by way of admonishing the Secretary of the Treasury as to what he is to do. You might in that way multiply our statutes indefinitely. As I said before, if the Senators desire to admonish the Secretary of the Treasury let them offer a resolution to that effect, and, if the admonition is deserved and it is thought advisable to give it, the resolution will undoubtedly be passed.

But here is a little statute of two lines, authorizing the Secretary of the Treasury to appoint certain officers, and on that the Senators propose to ingraft by way of amendment that those officers shall comply with the laws of the land. Why? Because it is necessary? Not at all. Because it is not the law now? Not at all; but because they want to remind the Secretary that that is the law, and so to remind him after we have already sent to him for a report on the subject and have got that report, in which he avows the fact. He is then already reminded to all intents and purposes. Now, if after being reminded, he chooses to go on and disobey the law; if his action is disobedience—and to a certain extent it undoubtedly is—and he has given his reasons for not fully obeying the law, gentlemen can take other and more efficient measures to remind him of the existence of that statute. But now I put it to the honorable Senator from Michigan—he cannot help laughing at it himself—that the idea is a perfect absurdity of ingrafting a statute now on the book, passed two years ago, by way of a rider upon this little bill, for the sake of reminding the Secretary that that is the law! Who ever heard of such a course of proceeding in a grave legislative body?

Now, sir, I might have acted differently from the course taken by the Secretary of the Treasury. He chose to take the responsibility, in the recess of Congress, for what seemed to him to be good reasons; another person might have done otherwise; but nobody can doubt that he felt it to be his duty to take that responsibility under the circumstances. If we think that he was in error, that he had no right to take it, he has already received notice that we question the propriety of his action, and if that is not enough we can put it in such terms that he cannot mistake our opinion; but for the sake of the statute-book do not make it look ridiculous for the mere purpose of reminders. That is what I ask of honorable gentlemen. Let the bill pass, and then if they wish to introduce anything by way of bringing it more completely and satisfactorily to the Secretary's mind that he has disobeyed the statute, do it in proper form. The Senators themselves, I apprehend, have that opinion of the Secretary and that respect for him that, even if in their judgment he has committed an error, they will not take what is an offensive course until they become satisfied that he is determined to persist in his error. It is not treating an officer of the Government, especially one of our own friends, with that regard which should always be shown until we believe that there is really a collision between him and us. I have no doubt that if the Secretary is satisfied that this his course is disapproved, and that Congress will not change the law on the subject, he will conform to that decision, because it will be his duty to conform to it, whatever may be the results upon the revenue. I beg leave to remind gentlemen that when a man is put at the head of the revenue department and his attention is turned that way, especially in the existing state of things, it becomes the leading idea in his mind, and others are apt to be subordinate to it, and he is apt to take responsibilities in certain cases that he would not otherwise take, believing that Congress will sustain him. I acted on that principle several times while I was at the head of that Department. I was not found out; I have not been found out yet; but I may be, and then I shall expect to be reminded by Congress that I took a responsibility that I had no business to take, and I must take the consequences.

Mr. JOHNSON. Will you tell what it was?
Mr. FESSENDEN. No, not until the time comes. [Laughter.]

Mr. CLARK. That was in war times.

Mr. FESSENDEN. That was in war times; but these are so very near war times that in regard to collecting revenue the same doctrine perhaps may be held to apply. Now, I really trust the Senate will not put a law which is already clearly on the statute-book again on to this little bill for the sake of reminding the Secretary of what he knows perfectly well.

Mr. SUMNER. I have no anxiety, sir, for the statute-book; I do not enter into the feelings of the Senator from Maine on that point, and I say frankly that my judgment cannot accept his conclusion; at the same time I say with equal frankness I am going to follow his suggestion. I do it against my own judgment and out of deference to him. He has this bill in charge, and in the exercise of his discretion he objects to the Senate ingrafting upon it this new injunction.

Mr. FESSENDEN. Old injunction.

Mr. SUMNER. The Senator says "old injunction." I want the old injunction made new because of the exigency. The Senator asks who ever heard of such a thing being done by a legislative body as reenacting an old law? Who ever before heard of such a thing being done in this country, by a branch of the executive, as deliberately setting aside an important statute of the land? Sir, this is a grave matter, and I desire to say here openly, and with all possible personal kindness for the distinguished Secretary of the Treasury, which I am sure I have as much as any Senator now before me, that I consider his course on this occasion as most mischievous to the country, utterly unprecedented, and deserving the rebuke of Congress. It belongs to the other House properly to consider where a member of the executive Government has violated the laws of the land; but the Senate, as it seemed to me, might, without impropriety, replace once more on the statute-book a provision dear to the people of this country at this moment, which that officer had undertaken to disregard. I have no sensitiveness about reenactment. I should like to see it reenacted again. What is good we may as well repeat, line upon line, and precept upon precept; and I believe this Congress would not err now if it should again embody in the legislation of the country all those important and fundamental provisions which it regards as essential to the public peace. The public peace, in my opinion, has been endangered by the course of the Secretary of the Treasury. He has given encouragement to rebels where he should have given encouragement only to the devoted friends of the Union. He has taken rebels by the hand, and has invested them with the powers of this Government under the Constitution of the United States; and in doing that he has offended against the laws of the land. But I have already said that I shall accept the suggestion of the Senator from Maine. My purpose has been accomplished in calling the attention of the country to the course of the Secretary and in solemnly reminding him from my place here of his duties.

Mr. DAVIS. Mr. President—

Mr. SUMNER. I therefore withdraw the amendment.

Mr. DAVIS. The Senator cannot withdraw it while I have the floor; and as I have the floor I will say a word.

Mr. President, I was very much gratified by a sentiment that was uttered by the honorable Senator from Michigan [Mr. HOWARD] in the conclusion of his remarks. It was to this effect, that the Senate should remind the Secretary of the Treasury and all other officers that the highest duty of an officer was obedience to the law. I certainly approve fully that truth, and I think that that lesson could be studied with very great advantage by the members of the Senate, and particularly by the Senator from Massachusetts, [Mr. SUMNER.] He speaks to the same effect, and with all his peculiar and distinctive emphasis, that the Secretary ought to be admonished that it is his duty to observe and to have

executed the law. How often has the Senator from Massachusetts within a very few years proclaimed in relation to the fugitive slave law that he would not execute that law! How often have his people, and men holding high position in office in the State of Massachusetts assumed defiance to the execution of that law of Congress notwithstanding their oaths of office!

It is the duty of Congress to pass laws, and it is the province of this branch of Congress to take its part in the act of passing laws; but whose duty is it to execute the laws, or to see that the laws are executed? I ask the Senator from Massachusetts, what power has the Senate to assume to itself the office of seeing that a law of Congress shall be executed? According to my reading of the Constitution, it is the executive function and the duty of the President of the United States to see that this and all other laws are executed. When Congress has passed a law, their jurisdiction over the subject-matter of the law is *functus officio*. It then passes into the hands of another department of the Government, and it becomes a function of the President or the chief Executive of the Government of the United States to see that the law is executed.

The honorable Senator from Massachusetts asks for a remedy. What remedy does he propose? He says there is a law upon the statute-book which requires officers to take a particular oath, and that the Secretary of the Treasury has dispensed with the enforcement of that law in relation to particular officers, and has, therefore, exercised a dispensing power. When it is convenient or agreeable to the Senator to have a dispensing power exercised he is very willing to have it exercised, but in no other state of case. How many laws have been dispensed with during this war in accordance with the feelings and purposes of that honorable Senator, and to which dispensation he has given his full sanction and approbation!

Mr. President, I think it would be puerile to reenact the clause of the law to which the Senator refers, and which he wishes to have reenacted by his amendment. Why? If the Secretary of the Treasury will not execute one law, he would not execute another law on the same subject if another law should be piled on that one. What additional obligation would there be upon the Secretary of the Treasury to execute this law, if the Senator's amendment should be adopted by the Senate and accepted by the House of Representatives? None. Is the case without a remedy? Not at all. Whose duty and whose office is it to see that this law is executed? It is that of the President. The President may require the Secretary to execute the law, and if the Secretary is contumacious and refuses to execute the law, the President may remove him. That is one remedy.

There is another remedy. If it is objected that these officers are executing the functions of their respective places without having taken that oath, let the Senator from Massachusetts, or any man who chooses, sue out a writ of *quo warranto* against them to know by what authority they are executing those offices. That is a plain remedy.

There may be still another remedy. Suppose the Senator from Massachusetts resorts to the courts of the country and asks for a writ of *mandamus* directed to these officers to take the oath which, he says, they have omitted to take. Why, sir, the legal and appropriate remedies for such a case are strewn all around the Senator. All that he or any gentleman has to do is to resort to these appropriate constitutional remedies. But instead of that he comes into the Senate and asks the Senate to undertake the office of seeing that the law of Congress is executed, when the Senate has not a figment of power to any such end.

I suppose that if this amendment should prevail, the matter would have just the same legal effect and no more, even if it should become a part of the new law, that it now has. It seems to me to be supererogation, and to be, on the part of the Senate, infringing upon the executive functions of the Government of the United

States in regard to the execution of its law, to take the present action in furtherance of the motive which the honorable Senator has assigned. For myself, therefore, if the question shall be pressed upon this amendment, I shall vote against it.

The PRESIDENT *pro tempore*. The Chair understands the Senator from Massachusetts as withdrawing the amendment.

Mr. SUMNER. I withdraw the proposition.

The bill was ordered to a third reading, was read the third time, and passed.

QUARTERMASTER GENERAL'S REPORT.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a resolution to print five hundred additional copies of the report of the Quartermaster General for the use of the State Department, reported it back without amendment.

The resolution was considered by unanimous consent, and agreed to, as follows:

Resolved, That five hundred additional copies of the annual report of the Quartermaster General be printed for the use of the Department of State.

DIPLOMATIC CORRESPONDENCE.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print ten thousand additional copies of certain diplomatic correspondence for the use of the Department of State, have instructed me to report it back without amendment, and recommend its passage. I ask for its present consideration.

There being no objection, the Senate proceeded to consider the following resolution:

Resolved, That ten thousand additional copies of the documents containing diplomatic correspondence recently called for by Congress be printed for the use of the State Department.

Mr. TRUMBULL. That is an extraordinary number of documents to print for the use of the Department. I have never known that number of any document to be called for by any Department.

Mr. FESSENDEN. Two thousand has been the outside.

Mr. TRUMBULL. This resolution, as I understand, proposes to print ten thousand copies of this correspondence for the use of the Department of State. We have never published such a number as that before.

Mr. SUMNER. We never published that number before by an order of the Senate. During the last year the House ordered that number.

Mr. TRUMBULL. For the State Department?

Mr. SUMNER. For the State Department. I understand they were distributed extensively throughout the nations of the earth.

Mr. ANTHONY. If the Senator from Massachusetts will allow me to explain it, I can probably satisfy the Senator from Illinois. A statute allows the President of the United States to fix the number of copies of the diplomatic correspondence that shall be printed for the use of the Department; the Senate has nothing to do with it. The President, in his discretion, has directed that ten thousand copies of the diplomatic correspondence shall be printed, the same number that was ordered to be printed last year, for the use of the Department of State. After this correspondence had been sent in, there were a few additional letters called for by Congress and sent in; and now the Secretary of State has addressed a letter to the committee asking that the same number of copies of this additional correspondence may be printed as the President has ordered of the other. The cost will be \$500.

Mr. TRUMBULL. I am not at all satisfied myself; I do not know how the rest of the Senate feel about it. I should like to know what the State Department does with ten thousand copies of this foreign correspondence. We have no such number of officers abroad. The Senator from Massachusetts tells us that this correspondence is sent to various parts of the world. If the Government of the United States is going to get up works upon international law and circulate them among the nations of the world for their enlightenment and benefit, I think we ought to inquire, first, what the condition of the Treasury is before we begin this

system. I move to strike out "ten thousand" and insert "two thousand."

Mr. ANTHONY. If this was an original question before the Senate, and the question was whether we should print ten thousand or two thousand copies of this diplomatic correspondence, I am certain that the Committee on Printing would recommend two thousand; but the order to print ten thousand copies for the use of the Department has not been made by the Senate, but by the President of the United States under a statute.

Mr. TRUMBULL. We cannot help that.

Mr. ANTHONY. That includes nineteen twentieths of the whole correspondence. Now comes in an additional twentieth, and this resolution proposes to print the same number of this as the other, so that the whole may be put together.

Mr. SUMNER. That clearly ought to be done.

Mr. ANTHONY. The cost of this will be \$500; what the cost of the other is I do not know, because as it did not come before the Committee on Printing it has not been estimated for. The Committee on Printing never make an extravagant appropriation. It is the only economical committee in the Senate, I believe, [laughter;] and when the question is, whether we shall send out, at a large expense, an incomplete edition of this diplomatic correspondence, or whether we shall send out a complete edition at an additional expense of \$500, I think the Senator from Illinois will agree that it is best to make it complete.

Mr. DOOLITTLE. I would remind my friend from Illinois that if his experience is like mine, the demand for the diplomatic correspondence is very great throughout the country, and I think it would be no more than safe to say that every member of Congress will be asked for fifty copies of the diplomatic correspondence. Multiply the number of members of Congress by fifty or even by thirty, and you will find that it will amount to very near ten thousand copies.

Mr. TRUMBULL. If the Senator from Wisconsin had listened, he would have ascertained that he will not get any of these copies. It is not proposed to publish any copies for Senators to distribute. This is a proposition to publish ten thousand copies of the diplomatic correspondence for the use of the State Department. If the Senator from Wisconsin is troubled by his constituents who want to read these documents, he must get up another resolution; this has nothing to do with that. This is simply a proposition for ten thousand copies for the use of the State Department.

Mr. CONNESS. For the benefit of the Chinese. [Laughter.]

Mr. TRUMBULL. My friend from California suggests that it is for the benefit of the Chinese. I do not know how that may be. I am willing to admit that the chairman of the Printing Committee is a very economical person, and I am only surprised, with his sense of economy, that he should have reported this resolution. I understand from him that the original publication of ten thousand copies, which might, possibly, have been extravagant, he thinks, was ordered by the President of the United States, and that the Committee on Printing had nothing to do with it. With his views of economy, why not let the President of the United States publish this additional ten thousand if he wants to do so? Why did he bring it here at all? If he could publish the first ten thousand, I suppose he could publish this.

Mr. ANTHONY. Shall I explain?

Mr. TRUMBULL. Yes, sir.

Mr. ANTHONY. The President is authorized to publish whatever number he sees fit of the diplomatic correspondence that is communicated to Congress with the President's message; but he is not authorized by law to publish any other diplomatic correspondence. The volume will be incomplete without this. He has no authority to print it.

Mr. TRUMBULL. Will this go into that volume?

Mr. ANTHONY. Certainly.

Mr. TRUMBULL. I should like to inquire, for information, whether the volume has not been already made up and published?

Mr. ANTHONY. No, sir; the volume of diplomatic correspondence is not yet printed.

Mr. TRUMBULL. If that is the case I will not object. If it is to go into that same volume, and ten thousand copies are now being printed, and this is to be a part of it, I will withdraw the motion to strike out "ten thousand" and insert "two thousand;" but it really seems to me that the law that allows the publication of ten thousand copies of this work for the use of the State Department ought to be changed. It must be attended with very large expense, and I really do not see the necessity of it.

Mr. ANTHONY. Although the amendment is withdrawn, I wish to explain, in defense of the Committee on Printing, that the committee are not at all responsible for the number of copies of this document ordered. The President, in his discretion, which I certainly have no doubt is a wise discretion, has fixed upon this large number, owing to the peculiar relations of our foreign affairs, and this resolution is merely to complete the volume, just the same as though this correspondence had been sent in the day after the President's message. It was sent in in obedience to a call from one of the two Houses; I think from the Senate.

The PRESIDENT *pro tempore*. The Chair understands the Senator from Illinois as withdrawing his motion to amend the resolution.

Mr. TRUMBULL. I withdraw the amendment, after the explanation of the Senator from Rhode Island that this is to be a part of a volume which is now being published.

The resolution was adopted.

HOUSE BILL REFERRED.

The bill from the House of Representatives (H. R. No. 33) for the relief of Charlotte Bence, widow of Philip H. Bence, late captain of company F, thirtieth regiment Iowa volunteer infantry, was read twice by its title, and referred to the Committee on Pensions.

INDUSTRIAL EXPOSITION AT PARIS.

The PRESIDENT *pro tempore*. As the morning hour will expire in a few moments more, the Chair will call up the unfinished business of yesterday, being the joint resolution (S. R. No. 11) in relation to the organization of provisional governments within the States whose people were lately in rebellion against the United States, upon which the Senator from Maryland [Mr. JOHNSON] is entitled to the floor.

Mr. SUMNER. With the permission of my friend, the Senator from Maryland, I desire to call up, before he proceeds, the joint resolution which was under consideration yesterday, on which I desire action. It cannot take more than two minutes.

Mr. JOHNSON. Certainly.

The PRESIDENT *pro tempore*. By common consent, the resolution before the Senate will be laid aside temporarily, and the question will be on taking up the resolution referred to by the Senator from Massachusetts.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 28) in relation to the Industrial Exposition at Paris, France.

Mr. SUMNER. The Senator from New Hampshire [Mr. CLARK] called my attention yesterday to the case of the agent at New York. With regard to his compensation there is no provision in the resolution, and I promised to make inquiry at the Department of State as to his relations to the matter and what the understanding there was. I find that, in the absence of the head of the Department, who, as is well known to the Senate, is now on a voyage out of the country, there is nobody there fully possessed of the precise relations of that gentleman to this business; but it is known that he is an employé of the Department of State, holding a post which is not an office known to the law, called dispatch agent, which brings him

in particular, confidential relations with the Department, and it is supposed that on that account he has been intrusted by the head of that Department with this agency in New York. Nothing is known at the Department with regard to any understanding as to his compensation. If he is to have additional compensation, it may be paid out of the contingent fund for foreign relations, out of which he is paid, as I understand, as dispatch agent; or it may be that the Secretary of State expects to come to Congress hereafter with a request for some appropriation in his behalf; but with regard to that, there is no information at the Department.

The resolution then stands in this way: nothing is said with regard to the compensation of the agent at New York; that is left open; Congress is not pledged in any way with regard to him; but the provision is simply with regard to his clerks.

And now, sir, with regard to the necessity of immediate action. I was told at the Department that every day's delay is at this moment productive of serious embarrassment. The articles must be received at Paris before some day in the coming month of March. That leaves but a very short time for the agent to act, and it is important that he should be provided with the clerks and assistants which this resolution secures to him as soon as possible.

Mr. CLARK. I do not know that anything can be done in the way of fixing this salary for the general agent, because I suppose the Senator from Massachusetts and other Senators are as much at a loss about it as I am. But I do not agree with the Senator from Massachusetts that Congress will have no responsibility in regard to this matter, because the second section of this joint resolution approves of the doings of the Secretary of State, and he has appointed this person the general agent; and therefore he becomes the general agent under the authority of Congress, and Congress will have to pay him undoubtedly. But I do not know that anything can be done now, and I shall not oppose the passage of the joint resolution.

Mr. GRIMES. The Senate was informed by the chairman of the Committee on Foreign Relations yesterday that in a few days there would be another bill introduced upon this same general subject. I desire to be informed by the Senator from Massachusetts, if he knows and will inform the Senate, what is the character of that bill that is to come before us. I should like to see this whole question before us at once, and not be called upon to vote for or against it by piecemeal. I see it stated in the newspapers that the French Government have constructed a building for this exposition and assigned the room to be occupied by the different nations, and among others there is a small space allotted to the United States, but not near enough, and that it will be necessary for this Government to erect a building in Paris in which the articles that may be sent from this country will be exhibited. If the passage of this resolution is going to lead to the necessity of the adoption of any such measure as that, I want to know it, and I think the members of the Senate desire to know it. I understand that the Government of Belgium or the people of Belgium are in like condition with the people of the United States or with this Government; that is to say, that there has not been room assigned adequate for the exhibition of articles from the kingdom of Belgium in that exposition, and that that Government has made provision for the erection of a building that will be adequate. I apprehend that Congress is not prepared to enter upon the construction of buildings at Paris.

It seems to me, Mr. President, that we are acting on this measure entirely in the dark. The Senator from Massachusetts says they cannot tell him at the State Department what has been done there in connection with this officer to whom reference has been made. The Secretary of State has departed from the country, carrying all the information with him, and the organ of this Senate, who has applied at the

Department for information, is unable to obtain it; and yet the first section of this resolution declares that we indorse and approve whatever the Secretary of State may have done in connection with this subject, no matter what it may be.

Mr. SUMNER. No; I beg the Senator's pardon; we indorse what appears in the report. You indorse and approve what you have before you.

Mr. GRIMES. The first section is:

"That the proceedings heretofore adopted by the Secretary of State in relation to the said exposition, as set forth in his report and accompanying documents concerning that subject, transmitted to both Houses of Congress with the President's message of the 11th instant, are approved."

What is set forth in the report? That he has engaged certain parties, as I understand, to transact certain business, without specifying the character of the business, where the parties are, or the compensation that is to be paid to them. We approve whatever the Secretary of State may have done in selecting these agents, in fixing the compensation that is to be paid to them, and determining the character of the business that they shall do. I have not very often been called upon, I think, to vote more blindly than I am called upon to vote for, if I do vote for, the passage of this resolution. I trust that the chairman of the Committee on Foreign Relations will allow this resolution to rest until the Secretary of State shall return from his foreign voyage, when, doubtless, we can obtain such information from him as it is necessary for us to have to enable us to vote understandingly upon it.

Mr. SUMNER. The remarks of the Senator from Iowa in their tendency go directly to insist that the United States should not in any way be represented at this greatest exhibition of agriculture, of manufactures, and of the fine arts that the world has ever known; that the United States should exile themselves from that great occasion. I do not think that the people of the country will coincide with my excellent friend in that desire. I think that the people desire to be represented at this exhibition, and that they are willing that Congress should take such careful, reasonable, and moderate steps as may be deemed advisable in order to secure such representation.

The Senator proposes that the whole question shall be laid over until the return of the Secretary of State. Is he so fortunate as to know when that gentleman will return?

Mr. GRIMES. I suppose that the Senator, as the organ of the Senate on foreign affairs, is informed.

Mr. SUMNER. The Senator supposes that I, as the organ of the Senate on foreign affairs, am informed on the subject. I can state that the Secretary informed me that he might be absent some three weeks, and already much of that time has elapsed. He may soon return; but he may not return before the end of the month; and meanwhile shall our participation in this matter be postponed? I have already said that if we are to do anything we must do it promptly.

And now, sir, as to the extent of the obligations assumed by the resolution under consideration, I reminded the Senator that in approving the action of the Secretary of State, we confined our approbation simply to what he reports himself in the document on our tables. We do not go beyond that at all. I do not understand that there is any obligation, direct or indirect, to any future appropriation on this subject. And that brings me to the inquiry with which the Senator began, whether I was instructed with regard to any future proposition that might be brought before the body on this subject. To that I say frankly, I am not. I suggested yesterday that I had understood—I do not know now how I learned it—that there was to be some further proposition. What it is, I know not; I have had no information with regard to it. I feel confident, however, that it can be of no such character as the Senator from Iowa fore shadows.

The Senator suggests that in the arrangements

made for the room in Paris the United States are curtailed in the proportion allowed them. I understand that they are allowed much more than they have ever been allowed before at any European exhibition. We may not have as much room as our agriculturists, our mechanics, and our manufacturers may desire, but we have more than we have ever had before; and the question now is, whether the Congress of the United States will take these simple steps in order to help the citizens of the United States to take advantage of the space that is allowed them. I hope, sir, there will be no delay or question. It seems to me it has occupied too much time already.

The joint resolution was reported to the Senate without amendment.

Mr. GRIMES. The Senator from Massachusetts is entirely mistaken if he imagines that I desire to exile the people of the United States from the great congress of nations of which he speaks, or that I am unwilling that they should exhibit such articles of industry or of art as they may choose to exhibit; nor am I unwilling that the Government should lend its encouragement and aid to enable them to make this exhibition. What I do object to is this: I object to allowing the Secretary of State, in the first place, to undertake to do that for Congress which Congress alone can do. What has the Secretary of State done? The Senator cannot tell us. He has applied, as he ought to have done, for information; but the Secretary of State, he tells us, has gone out of the country and has left no record behind him.

Mr. SUMNER. Simply with regard to that agent in New York; that is all.

Mr. GRIMES. That agent in New York has the entire control of the whole matter. What has that agent done? What is he going to do? What is he authorized to do? How much has the Secretary agreed to pay him? All these things are unknown to us, and the Secretary of State has not deemed it of sufficient importance to leave any record in the State Department giving any information upon these important branches of this subject. Now, sir, I conceive that it is in derogation of the character of this body in a time of peace, for I think we are in a time of peace, certainly so far as this exposition is concerned, to allow the Secretary of State to assume the responsibility that he has assumed. When this exposition is not to take place until the year 1867, and when everybody knows that anything that may be sent to that exposition any time before the 1st of January, 1867, no matter what may have been the regulations hitherto established, will be permitted to be exhibited, I say it is in derogation of the character of this body to allow the Secretary of State, in anticipation of the meeting of Congress, more than eighteen months before the exposition is to take place, to assume the prerogatives, the rights, and the privileges that belong exclusively to Congress.

The joint resolution was ordered to a third reading, and was read the third time.

Mr. GRIMES. I call for the yeas and nays on the passage of the resolution.

The yeas and nays were ordered; and being taken, resulted—yeas 33, nays 6; as follows:

YEAS—Messrs. Anthony, Buckalew, Chandler, Clark, Conness, Creswell, Dixon, Doolittle, Foot, Foster, Guthrie, Harris, Henderson, Hendricks, Howard, Howe, Johnson, Morgan, Morrill, Nesmith, Norton, Nye, Poland, Pomeroy, Ramsey, Sprague, Stewart, Stockton, Sumner, Van Winkle, Wiley, Williams, and Yates—33.

NAYS—Messrs. Cowan, Davis, Fessenden, Grimes, Riddle, and Trumbull—6.

ABSENT—Messrs. Brown, Cragin, Lane of Indiana, Lane of Kansas, McDougall, Saulsbury, Sherman, Wade, Wilson, and Wright—10.

So the joint resolution was passed.

PROVISIONAL GOVERNMENTS.

The PRESIDENT *pro tempore*. The joint resolution (S. R. No. 11) in relation to the organization of provisional governments within the States whose people were lately in rebellion against the United States, introduced by the Senator from Wisconsin, [Mr. Howe,] is now before the Senate, the pending question being on the motion to refer it to the joint committee

on reconstruction, and upon that question the Senator from Maryland [Mr. Johnson] is entitled to the floor.

Mr. JOHNSON. Mr. President, in the remarks which I propose to submit to the Senate, it is my purpose to consider almost exclusively the question as to the actual condition of the States in which insurrections have heretofore existed; and I take occasion to do it now because I differ materially from the honorable member from Wisconsin, [Mr. Howe,] who spoke so well yesterday in maintaining an opinion opposite to my own, from a desire that that opinion, supported as it was in a very carefully prepared and very able speech, should not be permitted to go to the country a day without an effort at a reply. I feel no reluctance in speaking upon the particular question now because I happen to be a member of the committee of fifteen, because the opinion which I am about to state and to uphold is one which I have entertained from the beginning; not only from the beginning of our recent troubles, but from the earliest period at which I can recollect I had any opinion at all upon the meaning of the Constitution in the particular involved.

I understand the honorable member from Wisconsin to maintain that the effect of the hostilities which we have been carrying on to suppress the insurrection in certain of the States where it has prevailed for some four years is to extinguish altogether the States as such, and to reduce the territory of which those States were composed at the time when the insurrection broke out to the condition of Territories, and to subject the people of those States to be governed under that clause of the Constitution which gives to Congress the power to govern the Territories, or upon the ground that they have been conquered by the United States, and that the power to govern is to be implied from the right of conquest when the conquest is completed.

Mr. HOWE. If the honorable Senator is simply stating what he understands to be the effect of my argument, I cannot object to it; but if he understood me to say that the purpose for which we prosecuted this war was to extinguish those States, he misunderstood me.

Mr. JOHNSON. I have not so stated. I did not understand the honorable member as saying that the purpose for which the war was prosecuted, but that the result of the prosecution of the war, was to reduce those States to the condition of Territories. It is to that proposition—

Mr. HOWE. If the honorable Senator will pardon me for one moment, my position was not that the result of the prosecution of the war was to reduce those States to Territories, but that they assumed the legal character of Territories by reason of their own acts, independent of the war. They destroyed the State organizations, not we.

Mr. JOHNSON. I so understood you.

Mr. HOWE. And the effect of the war was simply to reduce them to obedience to the United States, to be governed by such instrumentalities as the Constitution has provided.

Mr. JOHNSON. I am sure I have not misapprehended the Senator. It would have been very difficult for anybody to misapprehend him, for he was exceedingly lucid in everything he said. It may be possible that I may fail to explain what I understand to have been his propositions, and if I should do so in any part of the remarks which I am about to make, I hope the honorable Senator will set me right.

Mr. President, I propose first to inquire, what is the effect of the war itself? Is its successful result to reduce the States to the condition of Territories? I shall then inquire, if that is not its effect, whether that has been produced by any conduct upon the part of the citizens residing within the limits of those States? No member of the Senate, I am sure, is now to learn that there is no power in the Constitution of the United States given to Congress, or any other department of the Government, to declare, or to carry on, a war against any State. The power to declare war, devolved upon Congress by the

eighth section of the first article, is a power evidently looking to a war between the United States and a foreign nation. The authority, too, to protect the United States, or a State, by arms against invasion is a power given to Congress for protection against foreign invasion. If there could be any doubt, looking to the character of the Government, that such is the limitation of the war power, that doubt would be removed by the fact that there is in another part of the same section a provision which looks to the carrying on of such a contest as the one in which we have just been engaged. The language of that clause of the section succeeding the one which gives to Congress the authority to declare war, to raise and support armies, and to maintain and equip a navy, is:

"To provide for calling forth the militia to execute the laws of the United States, suppress insurrection," &c.

It was not, therefore, by means of the war power conferred upon Congress by the antecedent clause, giving to Congress the authority to declare war and vesting it with the means adequate to the end designed, that domestic outbreaks among ourselves were to be suppressed. The Convention looked to two contingencies as likely to happen: first, that we might be involved in war with foreign nations; secondly, that we might be involved in domestic troubles. For the one, they conferred upon Congress the war power, strictly speaking; and for the other, the authority to suppress insurrections, not by means of the war power, but by means of force. It was a police power given to Congress as such; not a power under which, by any possible mode in which it could be exercised, any conquest, in the proper sense of that term, was to be achieved; not a power by which there was to be extinguished any existing institution in any one of the States; and, above all, not a power to destroy a State or States.

You will remember, Mr. President, and every member of the Senate who is familiar with the proceedings of the Convention will, I have no doubt, remember, that when it was suggested that Congress should have the authority to make war against a State, the proposition was repudiated as fatal to the Government by two leaders of that body of mighty men, Hamilton and Madison. I have not time to state their reasons, nor to refer to the debates where they are to be found. It is sufficient for my purpose to say that they both denied that, as far as the Convention had proceeded at that time, any such authority was given to Congress, and protested against the propriety of conferring any such power, and it was never conferred.

The power actually given was a power to preserve, not to destroy; a power to maintain, not to extinguish; a power to make the Government what the preamble to the Constitution states to be the purpose of its framers, perpetual; a Government for the security of liberty for themselves and their posterity forever. It would have been an extraordinary anomaly, one that would justly have deprived its authors of the reputation that they now hold in the eyes of the civilized world, if, in forming a Government they designed to be perpetual, they had given it a power to destroy itself. The purpose, then, of the war power, strictly speaking, and of the police power conferred upon Congress by that clause in the eighth section of the first article, was to preserve, and not to destroy; to preserve it if assailed by a foreign foe; to preserve it if assailed by domestic treason or violence.

The proposition is so clear that I should not have deemed it necessary to cite authorities for the purpose of proving it, but that perhaps the observations of the honorable member from Wisconsin may induce some of the Senate, or induce the public, to suppose that there is in the Constitution an authority to carry on a war against a State. The question has been before the Supreme Court of the United States in the cases the opinion in which has been very much relied upon as maintaining in part the doctrine for which the honorable member contends; I mean the prize cases. Mr. Justice Grier, in

delivering the opinion of the court in these cases, uses this language:

"By the Constitution Congress alone has the power to declare a national or foreign war. It cannot declare war against a State, or any number of States, by virtue of any clause in the Constitution. The Constitution confers on the President the whole executive power. He is bound to take care that the laws be faithfully executed. He is Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States when called into the actual service of the United States. He has no power to initiate or declare war either against a foreign nation or a domestic State. But by the acts of Congress of February 28, 1795, and of March 3, 1807, he is authorized to call out the militia and use the military and naval forces of the United States in case of invasion by foreign nations, and to suppress insurrection against the government of a State or of the United States."

Here, then, is an express denial of the power, either upon the part of Congress, or upon the part of the Executive, to carry on a war against a State, under any clause of the Constitution. The language is plain and positive. "It cannot," says the court—that is Congress cannot—"declare war against a State or any number of States, by virtue of any clause in the Constitution." And the same doctrine is held by the minority in the opinion delivered by Mr. Justice Nelson. He says:

"The acts of 1795 and 1807 did not, and could not, under the Constitution, confer on the President the power of declaring war against a State of this Union."

We have, then, the unanimous opinion of the Supreme Court that domestic troubles, insurrection, a refusal to obey the Constitution or laws of the United States, or to execute the laws, or to interpose obstacles against the execution of the laws, do not authorize Congress to declare war against the State in which such insurrection may exist, is not a condition of things in which the President has any power to carry on a war by virtue of the war power for the purpose of reinstating the authority of the Government, but, on the contrary, is a state of things to be remedied by means of the police power, which Congress may authorize the use of by empowering the President to call out the militia, or use the Army and Navy of the United States to suppress an existing insurrection when it can be suppressed in no other way.

It would seem, therefore, to follow that when the insurrection is suppressed, when the contingency which requires a resort to the police power is at an end, the continuing use of that power, only conferred to suppress an insurrection, to carry on a war against a State in which there is no insurrection, is a simple absurdity. The design of the authority was to provide exclusively for the exigency, to meet which was the declared object of vesting the power in Congress to suppress insurrection. If the authority of the Government is set at defiance, if the laws cannot be executed by civil process, it is made the duty of Congress to provide other means by which it can be accomplished. It is their province, therefore, to put the President in possession of such means. But there is no more right to exert by force the police power after the insurrection is suppressed than there is to exert it before the insurrection commenced.

Mr. President, if I am right in this—and I do not think I can be mistaken—and there are no other grounds on which the proposition of the honorable gentleman from Wisconsin might be controverted, it is found to be repudiated by the positive provisions of the Constitution and by the decision of the Supreme Court.

But it is said that although there was no authority to carry on hostilities for the purpose of exterminating the States in which insurrection prevailed, that although that result would not have been attained by the use of force alone, yet that the conduct of the citizens of those States has attained it, and that the States as such are at an end. At an end how? At an end why? At an end because they decided to secede and attempted it? At an end because we have acquired rights over them by conquest which we had not when the rebellion began? Now a word as to the first ground.

The States ceased to exist by virtue of the conduct of their own citizens, is the argument. What conduct, and when had it that effect?

They passed ordinances of secession. Were these valid? Had they any legal operation whatever? Did they take the States whose people had passed such ordinances out of the Union? Did they dissolve the connection to any extent which existed as between those States and the Union by force of the Constitution? If they did, it can only be because the ordinances were valid. The States are out, says the honorable Senator from Wisconsin, because their people determined that they should go out; they are out, because they were so far disloyal as to declare by ordinance that they were out; they are out because they are still disloyal, although the insurrection has been in fact suppressed and the authority of the Government reinstated. Well, if they are, why is that the result? If the ordinances were void, they could not take them out. If the citizens had not a right to be disloyal, their disloyalty could not put them out. If, notwithstanding the ordinances, on the day after they were passed the States were as much in the Union as on the day before they were passed, and if, after the ordinances were adopted and hostilities were being carried on, their citizens had no more right to be disloyal than they had before hostilities commenced, then they are just as much in the Union now as they were before.

Will any member of the Senate seriously maintain, or maintain at all, that the ordinance of secession had any validity whatever? If any member does so hold, the war upon our part has been a great crime; we have been traitors to the obligations we are under to the Constitution, and not those who, exercising the right of secession, have separated themselves from us. But if, as we all hold, and now everybody thinks, the Constitution confers no right of separation, but imposes an obligation upon every citizen in every State, no matter what may be his conduct or the conduct of all his fellow-citizens, as absolute as it does upon every citizen in any other State, then the ordinances of secession were simply void, absolutely void, having no more effect to terminate the connection between those States and the people of those States and the Government of the Union, than if such ordinances had been passed by any people outside of the limits of the United States; and my friend from Wisconsin must admit this view to be correct.

If the ordinances of secession then had no operation, but were legal nullities, how is it that separation is effected by the conduct of the individual citizens? Is not every man who has been engaged in the insurrection, and who has attempted to maintain it by force of arms, a traitor, if we look merely to the language of the Constitution in its definition of treason? Can anybody doubt that? Whether he may be prosecuted for treason now, under the circumstances which have occurred since hostilities commenced, is a grave question which I do not propose to discuss or to express an opinion upon at this time. But, regarding only the single fact that he has been a party to the insurrection and has endeavored to aid and support it by force of arms, I apprehend there is not a member of the Senate who will for a moment question the right of the Government to prosecute him for treason, and that that right is not dependent upon the time at which he may have attempted by force of arms to resist the authority of the Government. If done an hour before hostilities terminated by the surrender of the insurgents, he is just as much a traitor, in the eye of the Constitution, looking alone to the fact that he was so engaged, as he was a traitor who, in the origin of the rebellion, supported it by force of arms. And if this be so, why is it so? Only because he was then, and is still, a citizen of the United States, bound by the Constitution of the United States, under the obligation of the laws of the United States, and because what he has done has been an act violative of the obligations of both, and an act subjecting himself to the consequences of that violation, just as absolutely as my honorable friend (if he will permit me to suppose such a thing possible) would be if he, in his State of Wisconsin, was found in arms resisting the rightful authority of the United States.

Unless I am greatly mistaken this result cannot depend on whether a few or many are in the insurrection. It is insurrection still in the view of the Constitution, and being insurrection attempted to be maintained by force of arms, it is treason, and treason only because, like ourselves who have been here during the whole of the contest, faithful to our allegiance, these erring, misguided men were citizens of the United States, and responsible to all the obligations imposed upon citizens of the United States by the Constitution and laws passed under its authority.

What would be the consequence of the opposite doctrine—I do not mean to say that the honorable member from Wisconsin goes to that extent—but what would be the logical result of the opposite doctrine? The States, according to that doctrine, are out; as such they have ceased to exist; they are not to be recognized by the Constitution at all; they are as absolutely without the Constitution as States as any of the unorganized territories of the United States. If this be so, if this is the effect of what has happened, how are you to get them in? The honorable member goes to the length which I am about to state, if I correctly apprehended him, as I certainly endeavored to do. You are, he contends, to get them in again only by subjecting them first to a territorial government. What does that admit? That they are under no obligation as citizens of a State to obey the Constitution and laws of the United States, that they are under no obligation to take any part in the election of the Executive, in the election of Senators, in the election of members of the House of Representatives. What follows from this? Does this enforce the Constitution and laws? Is this the only manner in which the authority of the Government is to be reinstated? The offense of these citizens was a refusal to participate in the councils of the nation. The proposition is that that very refusal has put them in a condition in which they have no right to participate in such councils, and cannot participate unless we hereafter, at any time when in our judgment we may think proper, give them that right.

Let us see what is to become in the mean time of our laws in other respects. How is your revenue to be collected by any laws now in force? If you impose a direct tax, how is that to be apportioned by any law now in force? The language of the Constitution is that direct taxes are to be apportioned among the States in a certain proportion. Have you not done it pending the insurrection? You passed an act in 1861, from which I am about to read. It was passed on the 5th of August, the rebellion having commenced in April preceding. I rather think my friend to whom I am replying voted for this law. Certainly I can find nothing in the proceedings of the Senate to show that he or any other Senator opposed it; he will correct me if I am wrong. When this law was passed, the result of the conflict, in the apprehension of some, was exceedingly doubtful; those of us who were most confident were somewhat apprehensive. All the conduct of the States or citizens upon which the honorable member now relies for the purpose of showing that these States ceased to exist and are now Territories, they and their citizens, to be governed accordingly, had then occurred. What is the law passed, I believe, by a unanimous vote of this body, and, as far as I know, with like unanimity in the House? It is entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes." Its every section bears upon the question I am discussing, but I have not time to read the whole. I refer particularly to the eighth section, which provides:

"That a direct tax of \$20,000,000 be, and is hereby, annually laid upon the United States, and the same shall be, and is hereby, apportioned to the States, respectively, in manner following."

And then it proceeds to state the amount apportioned to each State, and among these items are these:

"To the State of Virginia, nine hundred and thirty-

seven thousand five hundred and fifty and two third dollars.

"To the State of North Carolina, five hundred and seventy-six thousand one hundred and ninety-four and two third dollars.

"To the State of South Carolina, three hundred and sixty-three thousand five hundred and seventy and two third dollars.

"To the State of Georgia, five hundred and eighty-four thousand three hundred and sixty seven and one third dollars.

"To the State of Alabama, five hundred and twenty-nine thousand three hundred and thirteen and one third dollars.

"To the State of Mississippi, four hundred and thirteen thousand eighty-four and two third dollars.

"To the State of Louisiana, three hundred and eighty-five thousand eight hundred and eighty-six and two third dollars.

"To the State of Tennessee, six hundred and sixty-nine thousand four hundred and ninety eight dollars.

"To the State of Arkansas, two hundred and sixty-one thousand eight hundred and eighty-six dollars.

"To the State of Florida, seventy-seven thousand five hundred and twenty-two and two third dollars.

"To the State of Texas, three hundred and fifty-five thousand one hundred and six and two third dollars."

Making an aggregate of between five and six million dollars as the proportions of these States of the \$20,000,000 which you proposed to raise by this law. Look to the Constitution of the United States and you find that you had no authority to make that apportionment except upon the theory that these States were then States of the Union. The honorable member tells us now that Virginia is out, and that each of the other named States are out, and have no existence. If she and the rest of them do not exist now they had no existence then; and on the other hand, if they were within the Union then, they are for the same reason within the Union now. After the law passed it was found somewhat difficult to enforce the collection of that portion of the \$20,000,000 allotted to States actually in rebellion, and Congress deemed it necessary to pass a supplementary act, to which I also invite the attention of the Senate. It is the act of June 7, 1862, entitled "An act for the collection of direct taxes in insurrectionary districts within the United States, and for other purposes." The first section provides:

"That when in any State or Territory, or in any portion of any State or Territory, by reason of insurrection or rebellion, the civil authority of the Government of the United States is obstructed so that the provisions of the act entitled 'An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes,' approved August 5, 1861, for assessing, levying, and collecting the direct taxes therein mentioned, cannot be peaceably executed, the said direct taxes, by said act apportioned among the several States and Territories, respectively, shall be apportioned and charged in each State and Territory, or part thereof, wherein the civil authority is thus obstructed, upon all the lands and lots of ground situate therein, respectively."

It then provides that each tract of land in those States—not Territories—shall be liable for its proportion of the tax, and commissioners are to be appointed to collect the tax as fast as our armies make their progress. Just as the insurrection is quelled, whether it be in whole or in part, in any one State, the operation of the law commences through the civil means furnished by the laws; and in the interim, to guard against the contingency that there may be sales of the lands, which it may be necessary to the Government to dispose of in order to realize the tax, the law provides that the amount of the tax apportioned by the act of 1861 shall be considered as a lien upon all the land in these very States, as States, which the honorable member from Wisconsin would have us believe, as no doubt he believes, are now out of the Union, and not States at all. Did he not vote for the act of 1862? I have no doubt he did. Was there any member of this body who called in question the right of Congress to pass that act? And yet the act assumes—and there is no power to pass it except on the correctness of that assumption—that they are still States bound to pay their proportion of the taxes for the support of the Government and to carry on the war, and will be States when the insurrection is suppressed.

I refer to these two acts, and there are a great many others that I might cite with the same view, for the purpose of proving that, in the view of Congress, and in the view of the honorable member from Wisconsin himself at the time he gave his assent to these two acts, the

States were in and not out of the Union, were living and not dead States, or States that could die. But this fact is further established by the very first act that was passed for the purpose of carrying on the war, the act of July 13, 1861, entitled "An act further to provide for the collection of duties on imports, and for other purposes." It provides that where the President finds it impossible to collect the revenue from imports in the ports of any of the States in insurrection, he may do it elsewhere—in some locality in the particular State where the insurrection does not extend; or, if the insurrection is commensurate with the entire State, then he is to collect it on shipboard, or to close the ports of such State, and to subject any foreign vessel attempting to enter such a port, after notice of its having been closed by the President under authority of the act, to condemnation as prize of war. These provisions are absolutely inconsistent with the idea of the honorable member from Wisconsin, as I think; but there is something else in that act that is even more inconsistent. What view did Congress take of the character of the insurrection at the time it passed the act of July 13, 1861? The language of the fifth section of that act is:

"That whenever the President, in pursuance of the provisions of the second section of the act entitled 'An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions, and to repeal the act now in force for that purpose,' approved February 28, 1795, shall have called forth the militia to suppress combinations against the laws of the United States, and to cause the laws to be duly executed, and the insurgents shall have failed to disperse by the time directed by the President, and when said insurgents claim to act under the authority of any State or States, and such claim is not disclaimed or repudiated by the persons exercising the functions of government in such State or States, or in the part or parts thereof in which said combination exists, nor such insurrection suppressed by said State or States, then and in such case—"

That is, the case of an insurrection existing and not suppressed—

"it may and shall be lawful for the President, by proclamation, to declare that the inhabitants of such State, or any section or part thereof, where such insurrection exists, are in a state of insurrection against the United States; and thereupon all commercial intercourse by and between the same and the citizens thereof and the citizens of the rest of the United States shall cease and be unlawful."

How long? Till Congress shall legislate? No, Mr. President; but "shall cease and be unlawful so long as such condition of hostility shall continue;" in other words, as long as the insurrection continues. That ended, the use of the militia and the use of the Army of the United States to bring about that end is to terminate.

And what said the President of the United States? I am not aware that any member of the Senate questioned the legality of any proclamation issued by President Lincoln on this subject, or questioned either whether he had not gone to the whole extent of the power devolved upon him by the section of the act of 1861 which I have just quoted. And what did he proclaim? His proclamation of April 15, 1861, began thus:

"Whereas the laws of the United States have been for some time past and now are opposed and the execution thereof obstructed in the States of South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by law."

In his proclamation of April 19, 1861, he recites:

"Whereas an insurrection against the Government of the United States has broken out in the States of South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas, and the laws of the United States for the collection of the revenue cannot be effectually executed therein conformable to that provision of the Constitution which requires duties to be uniform throughout the United States: and whereas a combination of persons, engaged in such insurrection, have threatened to grant pretended letters of marque to authorize the bearers thereof to commit assaults on the lives, vessels, and property of good citizens of the country lawfully engaged in commerce on the high seas, and in waters of the United States; and whereas an executive proclamation has been already issued, requiring the persons engaged in these disorderly proceedings to desist therefrom, calling out a militia force for the purpose of repressing the same, and convening Congress in extraordinary session to deliberate and determine thereon:

"Now, therefore, I, Abraham Lincoln, President of

the United States, with a view to the same purposes before mentioned, and to the protection of the public peace, and the lives and property of quiet and orderly citizens pursuing their lawful occupations, until Congress shall have assembled and deliberated on the said unlawful proceedings, or until the same shall have ceased, have further deemed it advisable to set on foot a blockade of the ports within the States aforesaid, in pursuance of the laws of the United States and of the law of nations in such case provided."

In the proclamation of April 27, 1861, he announces that, by the previous proclamation of the 19th, a blockade of the ports of certain States was ordered to be established, and adds:

"And whereas since that date public property of the United States has been seized, the collection of the revenue obstructed, and duly commissioned officers of the United States while engaged in executing the orders of their superiors have been arrested and held in custody as prisoners, or have been impeded in the discharge of their official duties without due legal process by persons claiming to act under authorities of the States of Virginia and North Carolina:

"An efficient blockade of the ports of those States will also be established."

In the proclamation of August 12, 1861, he states that a joint committee of both Houses of Congress had requested him to recommend a day of public humiliation, fasting, and prayer, and he proceeds to do so, and to state the objects for which prayer should be offered, namely, "for the reestablishment of law, order, and peace throughout the whole extent of our country."

You authorize him to invoke, and he invokes the merciful interference of Heaven to make us again what we were before—States united under one form of Government, with the same powers adequate to make us a nation prosperous and powerful. You tell him to go to Heaven's throne and implore Heaven's interposition to restore us to the condition in which we were before the rebellion, to pray that "our arms may, be blessed and made effectual for the reestablishment of law, order, and peace throughout the wide extent of our country." No invocation to bless only a part of our land and leave the other out of His benediction.

You tell him to issue a proclamation invoking the blessings of God upon the entire country, not for the purpose merely of bringing about individual happiness, but for the purpose of bringing about what existed before under the Constitution of the United States—peace and order, a recognition of the authority of the Government and of the authority of the laws. Yet, according to the theory of the honorable member from Wisconsin, at that very time the work had been accomplished which the proclamation sought to prevent. The proclamation, pursuing your own authority, prays God to make our arms successful to the end of restoring peace and order everywhere in all the States. The honorable member's theory is that there was a large portion of the country, territorially including what were eleven States before, which cannot be restored by any blessings on the arms of the United States. Whether they were ever to have the benefit of the Constitution, or when they were to have it, or to what extent they were to have it, according to his theory, is to depend upon the discretion of Congress.

Again, what has the Government done with your knowledge? Have they not, just as we have succeeded in getting the authority of the United States reinstated in the ports of the United States, or territorially within the States, extended the revenue laws? Do you not collect duties in New Orleans, in Charleston, in Savannah, in Texas? How do you do this? Under what authority? Under the authority of antecedent laws, which give it only in relation to the ports of States; and yet, according to the honorable member's doctrine, all those ports were not ports of States of this Union at the time when the Executive, with the knowledge of Congress and his individual knowledge, undertook to collect duties and to enforce the execution of the impost acts and acts for the collection of internal revenue. What was the subject of the debate this morning? The honorable member from Massachusetts, who, I believe, was the first to broach in the Senate the doctrine that the States were extinct—a doctrine not then received, as I remember, with unanimous appro-

bation by this body as far as any opinion was expressed on the subject—that honorable gentleman himself, this morning, finding fault as he thought was his duty, with the manner in which the Secretary of the Treasury was discharging his duty of collecting the revenue in the States in which the insurrection did prevail, found no fault with his attempt to collect the revenue. It was only as to the manner of collecting; it was his failure to administer the oath to the assessors whom he has appointed for that purpose. He recognizes, therefore, the duty of the Secretary to collect revenue in South Carolina and in Louisiana? Why? Under what laws? Laws passed by you extending the revenue system to the Territories of the United States, or laws having no force whatever in that particular, except upon the theory that the States, notwithstanding the insurrection, remained and were States of the Union? You are selling lands there now on that theory; I suppose I am guilty of no want of propriety in saying that that subject has been in part before the Committee on the Judiciary. General Sherman, by an order passed after he reached Georgia and South Carolina, set apart a large portion of the territory of those two States for the freedmen. By the order, the most valuable portion of South Carolina was embraced—that portion in which the Sea Island cotton is made. There are no such lands there now to be acted on by that order. Why? Because you have sold them to meet South Carolina's proportion of the direct tax; you have sold them to meet the proportion due by the individual citizens of that State to whom they belonged. Where did you get that authority? Under the antecedent law; and that law was passed on the theory that the States were still in and could not be got out; and that law is now being executed upon the theory that they are in, that each State, as well as every individual member of each State, is just as responsible to pay the tax which the Government may from time to time impose, as he or it was before the insurrection commenced.

But that is not all. The Senate, and I suppose my friend from Wisconsin acted with the rest of the Senate in that respect, has confirmed nominations of judges and district attorneys and marshals for these very States.

Mr. FESSENDEN. For certain "districts."

Mr. JOHNSON. Districts of the States. They are all out according to the theory.

Mr. FESSENDEN. But the districts may exist.

Mr. JOHNSON. I know; but then I suppose if you appoint district judges in all the districts which may be within a State it is the same as appointing them for the State itself. Still, you extend the judiciary system of the United States to these States in part or in whole; that my friend from Maine will of course admit. Under what authority? Under the authority of your antecedent legislation. The Constitution of the United States creates no courts, no marshals, no district attorneys: that is done by legislation; and you legislated upon the subject of constituting courts and bringing into existence the particular officers and making it the duty of the Executive to appoint whenever a vacancy from any cause should exist. What right has a district judge in South Carolina—I believe there is but one district in that State—to hold his office? What authority had you to confer it? If South Carolina was a Territory, then, as the Supreme Court have decided in the case of *Canter vs. The American Insurance Company*, the judicial system of the United States did not extend to it. The territorial judges may be appointed for a time. The judicial tenure which the framers of the Constitution were so anxious to make permanent, so as to make the incumbents independent of legislative or executive control or influence, is not considered as applying to courts that may be created by Congress within the Territories, and the judges of those courts may therefore, it is said, be dismissed at any time. Such has, in fact, been the practice of the Government. They may be appointed for a term of years, and dismissed as any other civil officer

of the Government by the Executive. Does my honorable friend from Wisconsin suppose that the judges in those insurrectionary States can be dismissed? Will he for a moment maintain that their tenure is not an independent one, that they do not hold office during good behavior? I presume not; and if not, why not? Because they constitute a part of the judiciary of the United States as created by the Constitution, and are no such part of the judicial system of the United States in those States except upon the theory that those States are now States of the Union.

Further, you have done more than this. You passed an act some two or three years ago creating an additional judicial circuit, making Oregon and California the tenth circuit of the United States. The act of 1802 (I have not time to turn to it) makes it the duty of the judges of the Supreme Court whenever any chief justice shall thereafter be appointed or any associate justice, to make an allotment of circuits. What has been done (and you are presumed to have known what was done) by the members of the Supreme Court, and who, too, it may be supposed, have some reasonably correct view of the Constitution of the United States? Here is an order passed by them at their session of December term, 1862:

"There having been"—

says the order—I read from it—

"two associate justices of this court appointed since its last session, it is

"Ordered, That the following allotment be made of the Chief Justice and associate justices of said court among the circuits, agreeably to the act of Congress in such cases made and provided"—

That is, the act of 1802—

"and that such allotment be entered of record, to wit: for the first circuit, Nathan Clifford; for the second circuit, Samuel Nelson; for the third circuit, Robert C. Grier; for the fourth circuit, Roger B. Taney; for the fifth circuit, James M. Wayne; for the sixth circuit, John Catron; for the seventh circuit, Noah H. Swayne; for the eighth circuit, David Davis; for the ninth circuit, Samuel F. Miller; for the tenth circuit, Stephen J. Field."

Do you know what States are in these several circuits? I suppose some of the Senators do not. Bear in mind the exact dimensions of these several circuits. The fourth circuit contains Delaware, Maryland, Virginia, North Carolina, and West Virginia. By that order the then Chief Justice was allotted to that circuit. No two States were then more absolutely in rebellion than Virginia and North Carolina. The fifth circuit consists of South Carolina, Georgia, Alabama, Mississippi, and Florida, every one in a state of insurrection, and to that Mr. Justice Wayne was allotted. The sixth circuit consists of Louisiana, Texas, Arkansas, Kentucky, and Tennessee; all except Kentucky at that time in rebellion. To that the late Justice Catron was allotted.

The late Chief Justice afterward died, and the present chief was appointed. The contingency again arose when it was necessary to make a new allotment, and that Chief Justice himself takes part in that allotment. Does he consider these States as at an end? An order passed by the court at the session of December, 1865, by which the fourth circuit, consisting of Maryland, Virginia, North Carolina, and West Virginia, was allotted to Chief Justice Salmon P. Chase; the fifth circuit, consisting of South Carolina, Georgia, Alabama, Mississippi, and Florida, all lately in insurrection, was allotted to Mr. Justice Wayne. The sixth circuit is now vacant, no successor having been appointed to Mr. Justice Catron.

Thus the Senate see that the judges of the Supreme Court by a unanimous order passed in the execution of the statute of 1802, the contingency having occurred which rendered it necessary that they should discharge the duty imposed upon them, have thought themselves bound to consider all of these States as still States of the Union, and have, as among themselves, divided out these States as composing the circuits to which the respective judges are to be allotted.

Mr. President, it would be fatiguing the Senate, however it may be desirable, perhaps, in order that the country may be informed, to refer

to all the proceedings of the Legislature and the Executive and the Judiciary to show that in the opinion of each department these States are considered as existing States, and in the Union as such. All that I further propose to do on this occasion is to call the attention of the Senate to a passage or two in the opinion of the Supreme Court in the prize cases, and to some general remarks as to the authority of the United States to bring about the end which the honorable member supposes has been brought about by the hostilities or in consequence of the hostilities.

A passage in the opinion of the court in those cases has been over and over again relied upon in this Chamber and elsewhere as maintaining the doctrine that whatever may be accomplished by war in the case of an international war, has been accomplished by means of the hostilities which we have been carrying on in these States, and consequently that whatever rights are incident to a state of war, and may be acquired by either of the belligerents in an international war, are incident to and might be acquired by the United States in the hostilities which the United States has carried on; and that as one of those rights is to obtain title by conquest that title may be obtained in our case by the United States as well as if the war had been an international one. Now, before I take up the case, permit me to change the order in which I propose to consider it, and let me state the proposition so that I may very fairly try conclusions with my friend from Wisconsin.

Supposing him to maintain the doctrine which I am about to state, (he does it, as I think, necessarily, as one of the results of his view, if he does not do it in terms,) we have obtained, says the honorable member, as one of the consequences of the war, some right that we had not before. What is that? A right to legislate for the people and for the territory within the States that have been in insurrection as people of Territories and as Territories. We have got that how? By the result of the war. What result of the war? Because of the victory which we have achieved over the rebellion. We have won it by force of arms; we are the conquerors, they are the conquered. We, therefore, by virtue of the conquest, have a right over the territory of these States which we did not before possess. We have an authority over the citizens of those States which we did not before possess. Conquered! In the first place we are to consider what authority is there in the Constitution of the United States which gives to the General Government—if there shall be enough left of that Government to accomplish it—the right to conquer the States. I have, in a measure anticipated the argument. The authority delegated is an authority not to conquer people or territory, but to conquer in the name of the Constitution and laws of the United States, and thereby, by force of such conquest, to be able to hold them up and declare to the insurgents, "This is your Constitution and your laws, and you are bound by them as you were before you attempted to resist their authority."

Can anybody doubt that? We went into the conflict to maintain both the Constitution and the laws. What gave rise to the conflict? What was the conflict? Are the States and the people of the States in or out of the Union? We have tried that question by ordeal of battle. What has been the result? Have the insurgents succeeded, or have we succeeded? They wanted to get out of the Union; we wanted to retain them in the Union. That was the issue between us. We said that, notwithstanding their acts of secession and hostility, they were still States, and their citizens were bound to obey the Constitution and laws of the United States. They said they were not States of the Union, and that their citizens were not bound by the Constitution and laws of the Union. The struggle has been made, the issue has been tried, the verdict has been rendered, and it is in our favor. Success is ours. Well, success how? Succeeded to what extent? Succeeded in keeping in the Union men who were endeavoring by force of arms to escape from the Union.

The proposition of the honorable member is that we have succeeded only in part; we have put down the insurrection, but we have lost the States to retain which was our object in carrying on the conflict. If so, it can be hardly called a victory at all. Preservation was the purpose; preservation was the duty; the countless lives that have been lost, and the still more countless treasure that has been expended, have served, to be sure, the purpose of putting down forcible resistance to the execution of the Constitution and the laws, but leave the Union a Union only of some twenty-one States instead of thirty-three or thirty-four. The victory, according to that theory, is but half achieved; the object is but half accomplished. We wanted to bring them where they were when they started. They said they would not return to where they were when they started. We have put it out of their power to take themselves out of the Union individually, but we have not been able to retain the States. They are hopelessly, absolutely gone, according to the theory of the honorable member. Can that be so, Mr. President? Is it possible that it can be so? If it be, I am by no means prepared to say that the object accomplished compensates at all for the sacrifices which have been made to accomplish it—a dissevered Union, brought about, not by our consent; we protested against it; but if the honorable member is right in his theory, brought about because we could not prevent it. Practically, he comes to the same conclusion that the former President of the United States came to, as announced in the message which he sent to Congress announcing the existence of the insurrection, that there was no right to secede, but that there was no authority in the Government to prevent it. It makes very little difference whether the want of authority is acknowledged as a want apparent in the Constitution, or whether it is maintained as a fact which cannot be avoided if the insurgents think proper to carry on the war for any length of time—not to be avoided if they pursue a certain course of conduct. Now, Mr. President, what difference in principle does it make as far as concerns the question which I am now discussing, whether there are twenty-one States resolved upon standing by the Government and eleven only in hostility against it, or whether there be eleven who stand by it and twenty-one against it, and the eleven succeed?

Massachusetts and Virginia, perhaps, at one period in the history of the Government, might by uniting their forces have escaped the obligations of the Union. The States upon whose shoulders rested for support the arms of Washington, during the revolutionary struggle, were then all-powerful; and one of those States would have been perhaps the most powerful State now in the Union but for the existence of involuntary servitude. I mean Virginia. If the remaining States had thought proper to resist it, those two States might by their physical power and patriotism have put down the insurrection; and, according to the theory of the honorable member, then the Union, which our fathers thought consisted of thirteen States, the States that had carried us successfully through the revolutionary struggle, would be reduced to two. What sort of a Congress would you have? Two Senators from Massachusetts and two Senators from Virginia, and a larger number in the other House. Do you think that would be a constitutional condition of things?

Mr. HOWE. What is the clause of the Constitution which condemns it?

Mr. JOHNSON. Condemns what?

Mr. HOWE. Condemns that state of things in the case supposed.

Mr. JOHNSON. There is no particular clause condemning it, because, I was about to say, no man in the Convention ever thought that such a proposition would be contended for.

Mr. HOWE. I presume not.

Mr. JOHNSON. It is not provided against in express terms, but it is provided against by the whole spirit of the Constitution. The Government formed by the Constitution cannot exist

unless the States are represented. The theory of the honorable member would, in the case I have supposed, constitute Virginia and Massachusetts despots, armed with the power of doing whatever they might think proper toward the other States or the citizens within those States.

But again the honorable member says that conquest extinguishes these States, or that what has been done extinguishes them. Does the honorable member recollect what the decision of the Supreme Court was in the case of the United States vs. Rice, reported in 4 Wheaton? I have no doubt his memory can easily be refreshed when I call his attention to the case. The honorable member told us yesterday that he could not imagine a State suspended that could be revived without some congressional legislation. Suspension in such a case, according to him, is death. The case to which I allude presented this question: during the war of 1812, sometime in 1814, the British obtained the undisputed possession of Castine and of the territory of Maine lying on the other side, a territory, I believe, constituting about one third of that State. From the time they got possession up to the ratification of the treaty of peace of February, 1815, they had undisputed possession; the authority of the United States was gone for a time; the authority of Maine was gone for a time. Is that part of the State of Maine out of the Union now? I do not think my friend whom I see, one of the Senators from the State of Maine, would admit that. I rather presume that he thinks that Castine is a part of the State of Maine, and he thinks that all the rest of the territory of that State that came into the actual physical possession, by force of arms, of Great Britain in 1814, and remained there until the ratification of peace in 1815, still is a part of the State of Maine. But what was it in the interval? Dead, if my friend from Wisconsin is right now as to the effect of State suspension; dead, because the authority of the State and the authority of the United States during the whole of that period was suspended. This is not my own word; it is the word of the Supreme Court itself. The decision arose out of this state of facts: while the port was in the exclusive military possession of England a cargo was imported, and England imposed, herself, upon the cargo whatever duties she thought proper to exact. The cargo was landed, the English duty paid. The authority of the United States afterward was reinstated. The collector of the United States insisted upon the importer paying the duty which the cargo would have been liable to under the laws of the United States if Castine had been in the possession of the United States at the time of the importation, and he made him give a bond for the payment of such duty. The case was tried, and the Supreme Court by a unanimous decision decided that the bond was void. Now, how came they to decide so? I will read a few sentences from the opinion of Mr. Justice Story, in 4 Wheaton, page 253. He says:

"The single question arising on the pleadings in this case is, whether goods imported into Castine during its occupation by the enemy are liable to the duties imposed by the revenue laws upon goods imported into the United States. It appears, by the pleadings, that on the 1st day of September, 1814, Castine was captured by the enemy, and remained in his exclusive possession, under the command and control of his military and naval forces, until after the ratification of the treaty of peace, in February, 1815. During this period the British Government exercised all civil and military authority over the place, and established a custom-house, and admitted goods to be imported, according to regulations prescribed by itself, and, among others, admitted the goods upon which duties are now demanded. These goods remained at Castine until after it was evacuated by the enemy; and upon the reestablishment of the American Government, the collector of the customs, claiming a right to American duties on the goods, took the bond in question from the defendant for the security of them.

"Under these circumstances, we are all of opinion that the claim for duties cannot be sustained. By the conquest and military occupation of Castine the enemy acquired that firm possession which enabled him to exercise the fullest rights of sovereignty over that place."

That is, as long as it continued. Now he goes on to say how long it continued:

"The sovereignty of the United States over the territory was of course suspended, and the laws of the United States could no longer be rightfully enforced

there, or be obligatory upon the inhabitants who remained and submitted to the conquerors."

"The subsequent evacuation by the enemy, and resumption of authority by the United States, did not, and could not, change the character of the previous transaction."

Did anybody suggest that before the authority of the United States, after the British evacuated Castine, could be reinstated it was necessary for Congress to legislate? Did anybody suggest that the suspension of the authority of the United States during the period of the possession of Castine by the enemy operated to put an end to the authority of the United States, and so completely that it could not be reestablished except by subsequent legislation? Unquestionably not. The moment the place was abandoned the authority of the United States became reinstated *proprio vigore*.

Now, to apply it to the case under consideration, the effect of the occupation of Castine was, according to the language of the court, to suspend the Constitution and laws, and the authority of both, within the limits of that possession. The possession terminates, and the court say that upon the termination of that military exclusive possession the authority of the United States is revived at once without any legislation. It never occurred to the court or to anybody else, and my friend will look in vain at the statute-book for the purpose of showing that there was any legislation extending again the revenue laws of the United States to the port of Castine. It revived just as animal life revives in certain cases after temporary suspension.

Suspension, then, according to the doctrine of the Supreme Court, is not what the honorable member from Wisconsin supposes suspension to be; it is not death: it is temporary paralysis of which the cure becomes absolute and effectual by removing the cause of that temporary paralysis, and that ended, the States stand as they stood before the disease assailed them: they stand perfect, with all the health of living and vital and powerful States, and entitled to the benefits of the Constitution and the laws, for the same reason that the people of Castine and that part of the territory of Maine which was held for a time by the armies of England became at once by the termination of that possession reinstated in all the rights which belonged to Castine and that part of Maine before its possession by the enemy.

We hear of the right of conquest. What is to be conquered? Only what you have a right to demand. And what have you in such a case as this a right to demand? Submission to the authority of the Government, and that you have got. To maintain that, under the authority to enforce by force of arms submission to the authority of the Government you can destroy the States, is to say that Government can accomplish that by arms which it has no right to raise an arm to accomplish.

There are many other observations, Mr. President, with which I might trouble the Senate, and may perhaps do so at some future day and on some other question; but I have said as much and more than I intended when I rose. I conclude, therefore, with saying and with hoping, as I think every patriotic man in the country does hope, that our ancient harmony will be restored; that our ancient Union of States, as they existed when the insurrection commenced, will be reinstated; that we shall forgive and try to forget the horrors through which we have passed during the last five years; that we shall come together as a band of brothers, and present to the nations of the world a Government in which there is an actual union of obligation and of hearts sufficient to protect us against foreign foes, powerful enough and willing and resolved to guard against all perils to its continuing existence arising from insurrection at home, and capable of making us one of the freest and most prosperous and most renowned nations upon the face of the earth.

Mr. HOWE. Mr. President, having occupied so much of the time of the Senate yesterday I should not feel authorized to claim a moment of its time to-day, but for the fact that the hon-

orable Senator from Maryland has in many very important particulars, as I think, entirely misconceived the scope and force of the opinions I expressed to the Senate yesterday.

Several SENATORS, (to Mr. HOWE.) You can go on to-morrow; let us adjourn.

Mr. HOWE. If the Senate desires to adjourn I have no objection.

Mr. GRIMES. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, January 11, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

PAY OF MAIL CONTRACTORS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Postmaster General, transmitting, in compliance with the act of July 2, 1865, a report of all fines and deductions from the pay of contractors during the year ending June 30, 1865, for failures to deliver the mails; which was laid on the table.

The SPEAKER. In accordance with the law passed at the last session, this communication will not be printed.

REPRESENTATIVES FROM SOUTH CAROLINA.

The SPEAKER, by unanimous consent, presented the credentials of James Farrow and John D. Kennedy, claiming seats as Representatives from the State of South Carolina.

Mr. WASHBURN, of Illinois. I ask that one of those documents be read.

The Clerk read, as follows:

STATE OF SOUTH CAROLINA,

By his Excellency James L. Orr, Governor and commander-in-chief in and over the State aforesaid, to James Farrow:

Whereas in pursuance of an ordinance of the people of this State, entitled "An ordinance to divide the State into four congressional districts," ratified the 27th day of September, A. D. 1865, and also in pursuance of joint resolutions of the General Assembly of this State providing for the election of four members of the House of Representatives in the Congress of the United States for this State, passed the 31st day of October, A. D. 1865, an election has been held for a Representative in the Congress of the United States, to represent the fourth congressional district in this State, composed of the judicial districts of Anderson, Pickens, Greenville, Laurens, Spartanburg, Union, York, and Chester; and upon examination of the returns which have been received, it appears that you, the said James Farrow, have been duly elected by a majority of votes to represent the same:

I do therefore, by virtue of the powers in me vested, commission you, the said James Farrow, to represent the people of this State as a member of the House of Representatives in the Congress of the United States of America, for two years from the 4th day of March, A. D. 1865.

Given under my hand, and the seal of the State, in the city of Columbia, this 1st day of December, in the year of our Lord 1865, and in the ninetieth year of the independence of the United States of America.

JAMES L. ORR.

By the Governor:

WILLIAM R. HUNTT, Secretary of State.

The SPEAKER. The credentials will be referred, under the rule, to the joint committee on reconstruction.

COMPENSATION FOR SLAVES ENLISTED.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of War, in response to a resolution of the House requesting information relative to the appointment, if any, of a commission in each of the slave States represented in Congress, to award compensation pursuant to the twenty-fourth section of the act of February 24, 1864, to loyal persons to whom colored volunteers may have owed service.

Mr. STEVENS. I move that this communication be referred to the Committee on Military Affairs; and on that motion I demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the motion of Mr. STEVENS was agreed to.

Mr. STEVENS moved to reconsider the vote by which the communication was referred to the Committee on Military Affairs; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The communication, with the accompanying papers, will be printed.

PERSONAL EXPLANATION.

Mr. VOORHEES. I rise to a question of privilege. I find, on looking over the Globe of yesterday, that a very absurd sentence has, through some inadvertence, been put in my mouth as having been uttered during the colloquial debate that occurred between the gentleman from Ohio [Mr. BINGHAM] and myself on Tuesday last. I would not notice the matter but for the fact that I am represented as asserting a principle the very contrary of that for which I was contending. In speaking of the ordinances of secession I am made to say, "I consider all those States that passed ordinances of secession as dead to this Government." That, of course, is not my position. It places me in an attitude entirely opposite to that which I assumed.

I had no opportunity to look over the report of those remarks which were made by me in the course of the speech of my friend from Ohio, but I would have been very glad if he had stricken out that sentence, as I have no doubt that he would have done if he had observed it.

Mr. BINGHAM. I did not read that part of the report.

The SPEAKER. The Chair will remark that corrections of the Globe are not questions of privilege, but are in the nature of personal explanations, although the Chair always hears them, unless objection is made.

CHARLOTTE BENCE.

The SPEAKER announced as the first business in order the reception of reports from committees.

Mr. BENJAMIN, from the Committee on Invalid Pensions, reported back, with an amendment, the bill (H. R. No. 33) for the relief of Charlotte Bence, widow of Philip H. Bence, late captain of company F, thirtieth regiment Iowa volunteer infantry.

The report accompanying the bill, which was read, states that Captain Bence, while in the military service of the United States, was on the 12th of October, 1864, killed by guerrillas from Missouri, he being at that time at his home in Davis county, Iowa, on leave of absence. The committee recommend that the bill be passed with the following amendment:

Strike out the words "from the 1st day of October, 1864," and insert in lieu thereof the words "from and after the passage of this act."

Mr. WASHBURN, of Illinois. I ask the Clerk to read the letter of the Commissioner of Pensions.

The Clerk read, as follows:

PENSION OFFICE, December 13, 1865.

SIR: I have the honor to report in regard to the case of Mrs. Charlotte Bence. In my judgment her case was properly rejected, her husband having been killed while he was at home on furlough, and consequently not on duty as a soldier. Under the circumstances of the case, however, I think the case one that should receive the favorable consideration of Congress.

Very truly yours,

JOSEPH H. BARRETT, Commissioner.

Hon. J. F. WILSON, M. C.

Mr. WILSON, of Iowa. Mr. Speaker, I desire to submit a remark in regard to the amendment reported by the committee. I think that does injustice to this claimant. If her husband had been killed in battle of course the commencement of her pension would have been prior to the date fixed by the proposed amendment. I think it nothing more than justice to this widow that her pension should begin at the time fixed by the original bill. That is all I desire to say; and I think that the case appeals to the House as one of great hardship not to permit this widow's pension to commence at the date fixed by the amendment of the committee.

Mr. INGERSOLL. Was that at the date of her husband's death?

Mr. WILSON, of Iowa. No, subsequent to the date of his death.

Mr. WASHBURN, of Illinois. I should like to have the bill and amendment again read.

The Clerk again read the bill and amendment.

Mr. WILSON, of Iowa. I am informed by the gentleman who reported the bill that I am mistaken in the date of the bill being subsequent to the death of the husband of the claimant; and I move an amendment to the amendment of the committee, fixing the time at the 1st of January, 1865, which I am satisfied would be at least two months subsequent to the day of his death.

Mr. BENJAMIN. Mr. Speaker, the Committee on Invalid Pensions have considered this matter with reference to all of the cases which may be presented to this House and that committee for pensions by virtue of special facts. It will be observed that this case does not come within the law. It is outside of the pension law. It is not provided for, and hence has been rejected at the Pension Office. These cases will not only come in at this session in large numbers, but will the next session, and perhaps for the next fifty years. And if the House establishes a precedent in this case, it will be one which will be followed in all subsequent cases.

Taking the ground that the law is just in its provisions, this party comes here and asks for a gratuity from Congress. Perhaps the merits of this case deserve special consideration; yet, in the eye of the law, this is a mere gratuity to be granted to this party. The committee could not consent to establish a precedent that the pension should commence at the death of the party in these cases, to be followed in all those which may come hereafter. We think it is as much as this party can reasonably ask, or any other party outside of the law, that the pension shall commence at the date of the passage of the act. The committee report it in this case, and will report it in every case which shall be reported upon during the present Congress.

This has been properly considered; it has been looked upon in all of its bearings. The demands upon the Treasury are great, and we trust that the House will not constitute such a precedent, to be followed for years and years, that the pension shall commence at the time of the death of the party. If we do it now we have to do it for fifty years to come. If it is just in this case it will be just in every other case for fifty years from now. In the eye of the law it is not just, because the law has not provided for it. We are therefore giving this as a gratuity.

Mr. WASHBURN, of Illinois. I think, Mr. Speaker, that my friend from Iowa [Mr. WILSON] is wrong, and that the principle advocated by the committee is a just one, that the pension should commence from the passage of the act. And I am glad to hear the statement of the gentleman from Missouri. [Mr. BENJAMIN,] that the Committee on Invalid Pensions, one of the most important committees of this House, have determined to adhere to that principle in all the cases which they shall report; and I trust that we shall follow that decision in this and all similar cases.

Mr. INGERSOLL. I might be permitted to say that I believe a more just rule than the one mentioned by the member of the committee that reported this bill, or perhaps than the one suggested by myself—that was from the day of the death—a more just rule, I believe, would be to have the pension commence from the date of the claim when presented to Congress. These claims may be deferred from Congress to Congress for years, as has been the case with revolutionary claims and claims of the war of 1812; and if the claim be a just one it seems to me that there should be no withholding from the party by reason of the failure of Congress to act, and that the money should be paid from the time the application is made to Congress. I make the suggestion in the hope that the gentleman from Iowa [Mr. WILSON] will adopt that as an amendment to the amendment, instead of that arbi-

trary date, the 1st of January. If my friend will so change it that it shall run from the time the application was made to Congress for a pension, I believe that will be accepted as a substitute by this House.

Mr. KASSON. Would the gentleman like the same rule to be applied in case of other claimants upon the justice of Congress? We have never allowed interest on the recognition of a claim, however long it has been before Congress. The principle which he proposes to apply would also cover that case, being a neglect of Congress to pay the money promptly.

Mr. INGERSOLL. Then I answer that Congress shall withhold, so far as my vote is concerned, not one single cent due to a man, woman, or child on the face of the earth, by reason of neglect to act promptly, and that if it is right to pay a claim it is right to pay the interest accruing thereon from whatever time it should be paid. I lay this down as a rule, not only in this but in subsequent cases, that if Congress is pressed with more important considerations, and we defer these claims of widows and orphans from Congress to Congress, though it may be for twenty or twenty-five years, when we do settle with the claimants, we should pay every cent that is due, with interest thereon, if it be just; at any rate pay the principal from the date of the claim.

Mr. BENJAMIN. I move the previous question.

Mr. CONKLING. I ask the gentleman to yield.

Mr. BENJAMIN. I will do so.

Mr. CONKLING. I should agree entirely with the gentleman from Illinois [Mr. INGERSOLL] if these cases presented instances in which anything is "due" by law to any one, but such a bill is here only because nothing is "due." In other words, they are all cases addressing themselves to the sound discretion of Congress, and are based upon facts constituting exceptions to the law. Some general rule, sound in reason and in fact, may therefore be properly established in such cases as to the time when such stipends shall begin. If I mistake not, speaking of at least two Congresses in which I served, the sense of the House was, that the rule suggested by the committee in this case is a sound and just one. Its advantage is, for one thing, that we may always know what it is for which we vote, and how much we are voting away, which we could not so well appreciate if the act was to take effect at some time back which may be itself the subject of dispute.

There is force in the suggestion that one claim may run a long time before it is acted upon, and that in another case earlier action may take place; nevertheless it seems to me no fairer rule can be established than to assume that each case will be passed as diligently, with regard to merits and urgency, as possible; and that if exceptional pensions run from the date of the act, as fair and judicious a rule will be established as could possibly prevail. Therefore I hope the principle laid down by the committee will be adhered to, and that we shall not capriciously say in one case that the time of a pension shall be fixed in one way, and in another case in a different way, but rather that we shall agree that in all cases the pensions, given by a special act, shall commence only with the passage of the statute; and I am inclined to think in the end we shall find that the total of these claims will be great enough even in that event.

Mr. INGERSOLL. Will the gentleman from New York allow me to ask him a question?

Mr. CONKLING. Certainly.

Mr. INGERSOLL. This is said to be an exceptional claim. Is it the fault of the widow or the fault of the law that it is an exceptional case?

Mr. CONKLING. Not the fault of either. There is no fault in the case. On the contrary, we all understand that the imperfection of general laws is such that many most meritorious cases must be skipped by every general system. Nevertheless we know, too, that we should observe some uniformity in these cases, and the

best uniformity I know of is the one suggested by the committee.

One further remark, Mr. Speaker, and I have done. I will go as far as any one can properly go in making those who have served in the war and the mourners for those who have served in the war recipients of all benefits we have a right to dispense. I feel, however, that nothing is more obligatory upon us than the duty to economize and retrench the expenses of the Government. I admit and maintain that an exception to this, if there be an exception, arises in the case of soldiers and the families of soldiers. For them we should go as far as possible. Nevertheless, regard should be had to some principle which shall limit as far as may be the outgo from the Treasury, and it seems to me no limit can be established, no rule can be adopted, at once so uniform and so just to all concerned, as that suggested by the committee. It has worked well heretofore, and was established after careful consideration. I hope the House will not depart from it now.

Mr. BENJAMIN. I demand the previous question.

Mr. HILL. I ask the gentleman to yield to me for one moment.

Mr. BENJAMIN. I would like very much to accommodate the gentleman, but I think this question is fully understood.

The previous question was seconded, and the main question ordered.

The amendment to the amendment proposed by Mr. WILSON, of Iowa, was rejected.

The amendment reported by the committee was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BENJAMIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. RICE, of Massachusetts. I was absent in the committee-room when the Committee on Naval Affairs was called, and I ask the unanimous consent of the House to have two bills from the Senate taken from the Speaker's table and referred to that committee.

No objection was made.

COMMANDERS REYNOLDS AND WOOLSEY.

Joint resolution of the Senate No. 2, for the restoration of Commanders William Reynolds and Melancton B. Woolsey, United States Navy, to the active list from the reserved list, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Naval Affairs.

PENSION LAW.

Bill of the Senate No. 29, to amend section five of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,'" approved July 4, 1864, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Naval Affairs.

CHANGE OF REFERENCE.

On motion of Mr. TAYLOR, the Committee on Invalid Pensions was discharged from the further consideration of the petition of Captain Jethro Bonney; and the same was referred to the Committee of Claims.

On motion of Mr. PERHAM, the same committee was discharged from the further consideration of papers in the same case; and they were referred to the Committee of Claims.

ADVERSE REPORTS.

Mr. VANAERNAM, from the Committee on Invalid Pensions, made adverse reports in the following cases; which were laid on the table, and ordered to be printed:

The petition of John Drout, of Winterport, Maine, for arrears of pension; and

The petition of the widow of Brigadier General Schimmelpenninck, praying for a pension on account of the services of her late husband.

PHILADELPHIA NAVY-YARD.

Mr. BRANDEGEE. I ask the unanimous

consent of the House to offer the following resolution:

Resolved, That the Secretary of the Treasury be directed to report for the consideration of this House the aggregate amount of money appropriated and expended upon the establishment of the navy-yard at Philadelphia, from its foundation to the present time, including, under their respective heads, the cost of site and additions thereto, the expense of shops, docks, buildings, machinery, and walls, dredging and piling, and all the items which pertain to its establishment as distinguished from its current and civil expenses.

The SPEAKER. This being a resolution calling for executive information, it requires unanimous consent for its consideration to-day.

Mr. THAYER. I will not object if the gentleman will accept an amendment to include in the inquiry also the present estimated value of the property.

Mr. BRANDEGEE. I do not know that the Secretary of the Treasury has any information on that subject.

Mr. THAYER. I suppose he can give it.

Mr. BRANDEGEE. Allow me to state in explanation that there is a proposition before the Committee on Naval Affairs to inquire into the expediency of selling the present site of the navy-yard at Philadelphia for the purpose of establishing a new yard at League Island.

This resolution merely directs the Secretary of the Treasury to report, for the information of the House and of that committee, the whole expenditure of the Government upon the present yard at Philadelphia. It is merely a resolution of inquiry for the information of the committee.

Mr. THAYER. I do not suppose the gentleman from Connecticut [Mr. BRANDEGEE] will have any objection to the modification I have suggested. Otherwise I must object to the introduction of this resolution at this time.

Mr. STROUSE. I desire to move an amendment to this resolution, so as to call for information as to the number and character of the ships built there.

Mr. BRANDEGEE. It seems to me that the gentleman from Pennsylvania [Mr. STROUSE] who last spoke evidently misapprehends the scope of the resolution I have offered. It calls upon the Secretary of the Treasury to furnish information that is upon the files of his Department. I do not understand that the Secretary of the Treasury has information concerning the character and value of the vessels constructed at the Philadelphia navy-yard. I will not object to the amendment suggested by the other gentleman from Pennsylvania, [Mr. THAYER.]

The resolution, as modified, was agreed to.

CLERK TO COMMITTEE ON THE MILITIA.

Mr. SMITH. I was just entering the Hall as the Committee on the Militia was called. I ask consent to submit the following resolution, which I have been instructed by the committee to submit to this House.

The resolution was read, as follows:

Resolved, That the Committee on the Militia be allowed a clerk, who shall receive the usual salary.

Mr. WASHBURN, of Illinois. I should like the gentleman to explain what particular necessity there is for this clerk.

Mr. SMITH. The Committee on the Militia, considering the amount of work already before them, and that which will probably be added hereafter, have deemed it necessary to ask for a clerk. The Secretary of War has recommended that the militia throughout the United States shall be reorganized; and upon that recommendation, and also after a consultation which I have had with General Grant upon that subject, we have concluded that there will be an amount of labor that no one or two members of the committee can be expected to do; and we have thought it but fair and right that the House should give us the assistance of a clerk.

Mr. WASHBURN, of Illinois. I would ask, what would be the labor to be done by such a clerk?

Mr. STEVENS. I have not been able to hear the gentleman from Kentucky, [Mr. SMITH,] and to understand what necessity there is for a clerk, beyond the ordinary re-

cording in a journal the proceedings of the committee.

Mr. SMITH. I will state again the necessity there is, in the opinion of the Committee on the Militia, for a clerk. I know that heretofore the Committee on the Militia has been looked upon by this House as a committee with but little to do. But in consequence of the past four years' war, the difficulty experienced in 1861 in getting out forces to defend the Government, and in ascertaining what was the real fighting strength of the country, the Secretary of War has recommended a complete and thorough reorganization of the militia throughout the United States, in order that there should be a uniform militia system among the several States. General Grant, the commander-in-chief of the Army, has recommended the same thing. In conversation with me the other day, he informed me that it was very important that should be done, and he has interested himself as far as he can to give us whatever information was possessed by him and other distinguished generals under his command.

There has also been referred to the committee a resolution instructing us to find out the number of a certain kind of arms in the country, for the purpose of making a fair distribution of them among the loyal States, not including those States in the South that now claim to be loyal. The committee propose to collect all the militia laws of the several States, in order that we may have the information necessary to prepare a system which will be general, and by means of which the President of the United States and the generals under him may know exactly what is the force subject to the call of the Government at any time, for any given length of time not exceeding six or twelve months, as the case may be.

Now, having these important subjects before us, and understanding, as we think we do, their great importance, we consider that no one committee can be expected to be willing to enter upon this investigation and correspondence without any assistance; and therefore I am instructed to ask for a clerk, that he may take a portion of this labor off our hands. I think it but fair and just, under the circumstances, that the House should give us this assistance.

Mr. BANKS. We have been trying for more than a quarter of a century to organize the militia of the country. It is one of the most important interests in this country. When the war of the rebellion broke out, almost every State was unprepared, because there had been no attention given to a proper organization of the militia. For the last twenty-five years nearly every bill or proposition of a law that has been proposed in Congress for a reorganization of the militia of the country has been defeated. Now, if the Committee on the Militia shall undertake the work of reorganizing that arm of the Government power as it ought to be reorganized, it will render one of the most important services to the country which can be rendered by that or any committee, and it will have one of the greatest labors imposed upon any committee of the House, and I think it ought to be allowed the services of a clerk if it undertakes that duty.

The question was upon agreeing to the resolution; and there were—ayes seventy, noes not counted.

So the resolution was agreed to.

ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found duly enrolled a joint resolution of the following title:

Joint resolution (S. R. No. 7) for increasing the bond of the Superintendent of Public Printing; when the Speaker signed the same.

ARMY APPROPRIATIONS.

Mr. STEVENS, from the Committee on Appropriations, reported a bill making appropriations for the support of the Army for the year ending 30th of June, 1867; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and made the special order for January 18,

after the morning hour, and from day to day until disposed of, and ordered to be printed.

JOHN BECKER.

Mr. DELANO, from the Committee of Claims, made an adverse report on the petition of John Becker for payment for damages by United States troops to private property in Wisconsin; which was laid on the table, and ordered to be printed.

RANDOLPH BENNET.

Mr. DELANO, also, from the Committee of Claims, reported adversely upon the memorial of Randolph Bennet, contractor for furnishing rations to the troops raised by the provost marshal of the twelfth district of New York; which was laid on the table, and ordered to be printed.

FRANCIS A. GIBBONS AND F. X. KELLEY.

Mr. BARKER, from the Committee of Claims, reported a joint resolution, with a report in writing, referring to the Court of Claims the papers of Francis A. Gibbons and F. X. Kelley, praying for reimbursement for money advanced and material furnished in the construction of light-houses in California and Oregon.

The joint resolution was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and the report ordered to be printed.

COMMITTEE CLERK.

Mr. HIGBY, from the Committee on Mines and Mining, reported the following resolution:

Resolved, That the Committee on Mines and Mining be authorized to employ a clerk, and that he receive the compensation already fixed by the House for clerks of committees.

Mr. HIGBY demanded the previous question on the adoption of the resolution.

Mr. PIKE. I hope the gentleman from California [Mr. HIGBY] will consent to withdraw the call for the previous question. I desire to offer an amendment that each committee of the House, not now having a clerk, be authorized to employ a clerk at the usual pay.

Mr. HIGBY. I insist on the call of the previous question.

Mr. PIKE. Then I hope that the House will refuse to sustain the call.

Mr. HIGBY. Understanding that the gentleman from Maine proposes to submit an amendment in good faith, and not to break down the proposition which I have submitted, I withdraw the call for the previous question.

Mr. PIKE. I move to amend the resolution by striking out all after the word "resolved," and inserting in lieu thereof these words:

That each committee not now having a clerk be authorized to employ a clerk at the usual compensation.

I make this proposition in good faith. It is exceedingly convenient to members of any committee to have a clerk. We all understand the duties of a clerk, and how useful a clerk is to a committee. It may be said, I know, that only important committees should have clerks. But I submit that the committees are all important. Of course, the rules would not provide for a committee unless there were important business for such a committee. If there be any committees that have not important business to prepare and present to this House, let those committees be abolished.

Mr. CONKLING. I suggest to the gentleman to modify his amendment so as to give a clerk, not only to every committee, but to every member of a committee. That will be very much more convenient.

Mr. PIKE. I presume that the gentleman, as a member of a committee, has now a clerk at his convenience. Other gentlemen may not be so favorably situated. I speak now for the general convenience of the House. More than one half, I suppose, of the standing committees of the House now have clerks. I understand that in the Senate all the committees have clerks, irrespective of the amount of business.

It would be invidious for me, Mr. Speaker, to attempt to designate the committees of this House that could dispense with clerks, did they

choose to do it. There are some committees that have so much business that it would be very inconvenient for them to be without clerks, while there are other committees, I presume, that might, with great personal sacrifice on the part of the members, but with such sacrifice as their patriotism would cheerfully make, dispense with a clerk. I move the previous question on my amendment.

Mr. STEVENS. I move that the whole subject be laid on the table.

The motion of Mr. STEVENS was agreed to; there being, on a division—ayes 79, noes 18. So the whole subject was laid on the table.

PENNSYLVANIA CONTESTED ELECTION.

Mr. DAWES, by unanimous consent, presented additional papers relative to the contested election in the sixteenth district of Pennsylvania; which were referred to the Committee of Elections.

UNITED STATES PAY DEPARTMENT.

Mr. INGERSOLL, by unanimous consent, introduced a bill concerning the pay department of the United States Army; which was read a first and second time, and referred to the Committee on Military Affairs.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed, without amendment, a bill and a joint resolution of the House, of the following titles:

Joint resolution (H. R. No. 28) in relation to the Industrial Exposition at Paris, France; and

An act (H. R. No. 58) authorizing the Secretary of the Treasury to appoint assistant assessors of internal revenue.

GRANT OF LAND TO IOWA.

Mr. HUBBARD, of Iowa, by unanimous consent, introduced a bill to amend an act entitled "An act making a grant of lands to the State of Iowa to aid in the construction of a railroad in said State," approved May 12, 1864; which was read a first and second time, and referred to the Committee on the Pacific Railroad.

HABEAS CORPUS.

Mr. WELKER, by unanimous consent, introduced a bill to amend an act entitled "An act relating to the *habeas corpus*, and regulating judicial proceedings in certain cases," approved March 3, 1863; which was read a first and second time, and referred to the Committee on the Judiciary.

UTAH.

Mr. INGERSOLL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Territories are hereby instructed to inquire into the expediency of reporting a bill to provide for the repeal of the law organizing the Territory of Utah, and for dividing said Territory, and attaching a portion thereof to the Territory of Nevada, and the residue thereof to the Territories lying contiguous to the Territory of Utah.

ADDITIONAL TAX ON COTTON.

Mr. MOORHEAD, by unanimous consent, introduced a bill to impose an additional tax upon cotton; which was read a first and second time, and referred to the Committee of Ways and Means.

CHESTER, PENNSYLVANIA.

Mr. BROOMALL, by unanimous consent, introduced a bill, making appropriation for the improvement of the harbor of Chester, Pennsylvania; which was read a first and second time, and referred to the Committee on Commerce.

SARAH WITT.

Mr. JULIAN, by unanimous consent, introduced a bill for the relief of Sarah Witt; which was read a first and second time, and referred to the Committee of Claims.

EASTERN DISTRICT OF NEW YORK.

Mr. J. HUMPHREY, by unanimous consent, introduced a bill to regulate the terms of the United States courts in the eastern district of New York, and for other purposes; which was

read a first and second time, and referred to the Committee on the Judiciary.

SUFFRAGE IN THE DISTRICT OF COLUMBIA.

The House then resumed the consideration of the special order, being the bill reported from the Committee on the Judiciary (H. R. No. 1) extending the right of suffrage in the District of Columbia; on which the gentleman from New Jersey [Mr. ROGERS] was entitled to the floor.

Mr. ROGERS. Mr. Speaker, in the remarks which I intend to submit to the House upon the consideration of this most important question, I shall endeavor to confine myself strictly to the subject under consideration; nor will I attempt, as has been done by the honorable gentleman from Pennsylvania, [Mr. KELLEY], to throw any charge of disloyalty or insult into the face of those who disagree with me upon the great political questions which for four years have agitated the people of this country. From the foundation almost of the world, at least for thousands of years, men have disagreed upon political and religious subjects; and it appears to me that it shows a great want of courtesy upon the part of those who are opposed to the views of this side of the House on questions of policy which interest the country to charge them with being secessionists and rebel sympathizers.

I think that the history of the country for the last four years, and of the party to which I have belonged all my life, will show, notwithstanding the charges which have been made, that no purer and nobler patriotism has been exhibited by any class of people than by those who belong to the party opposed to the party now in power. And I am willing to accord to those who are advocating this extreme and radical change in the social status of the people of this country with being influenced by convictions of right and conscientious duty. I am not here to charge them with an attempt to interfere with the interests of the country knowingly; but I am here to say to the conservative men who have not followed in the radical footsteps of the leaders of the Republican party that it is time, now when peace has resumed its functions, that that party should stop and think before they make such a radical change in the political status of the people.

I hold that there never has been, in the legislation of the United States, a bill which involved so momentous consequences as that now under consideration, because nowhere in the history of this country, from the time that the first reins of party strife were drawn over the land, was any political party ever known to advocate the doctrine now advocated by a portion of the party on the other side of this House, except within the last year and during the heat and strife of battle in the land. The wisdom of ages, for more than five thousand years, and the most enlightened Governments that ever existed upon the face of the earth have handed down to us that grand principle that all Governments of a civilized character have been and were intended especially for the benefit of white men and white women, and not for those who belong to the negro, Indian, or mulatto race.

When the Declaration of Independence was made there were thirteen colonies which joined in the formation of it. In every one of those colonies were negroes, who were not entitled to exercise the political privileges allowed to the white people.

In every one of those colonies slavery existed when the Declaration of Independence was made, and in all but Massachusetts when the Constitution of the United States was framed. When the honorable gentleman from Pennsylvania [Mr. KELLEY] undertakes to plant himself upon the footstool of our fathers, he plants himself upon the doctrine, as enunciated by the Supreme Court of the United States, as understood by our fathers at the formation of the Declaration of Independence and of the Constitution of the United States, that no persons in this country at that time were considered as citizens but the white race.

Mr. KELLEY. I do not know whether I understand the gentleman; but does he affirm that the Supreme Court of the United States has ever said that nobody but white people were citizens when the Constitution of the United States was adopted?

Mr. ROGERS. I do say that at the time the Constitution of the United States was adopted nobody was included within the general term, people or citizens, except white people, and that they were the only sovereigns. I say that it has been solemnly decided by the Supreme Court of the United States, in one of the most celebrated cases that ever came under the cognizance of that court, that at the time the Constitution was framed nobody was included within the term people or citizen but white people, and that the Government was made solely and alone for white men and white women, and not for the colored race at all.

Mr. KELLEY. I hope the gentleman will not deem me guilty of impropriety if I ask him to name the case in which such a decision was made.

Mr. ROGERS. I have the case. It is the Dred Scott decision, in which that very question was raised, and where, after mature deliberation, the Supreme Court of the United States, on the bench of which sat the greatest lights of American jurisprudence that have sat there either before or since, decided that black men were not included, nor was it intended by the framers of the Declaration of Independence, when they declared "all men equal and entitled to certain inalienable rights, among which are life, liberty, and the pursuit of happiness," to include in that declaration the African race that existed on this continent at that time, or who had been imported as slaves from the shores of Africa and placed among us.

Mr. KELLEY. The gentleman will pardon me, but as he appealed to me by name, I desire to put another question; and that is, whether he ever heard of the distinction between the dictum of a judge and the decision of a court?

Mr. ROGERS. I have.

Mr. KELLEY. Will he, then, point out the facts which raised that question before the court, or the language in which it was decided? My recollection is that, falsifying all history, one of the judges of that court asserted what the gentleman now announces as the decision of the court. And I affirm that when the Constitution was adopted the free colored men of New Jersey, and of all the States adjoining it, and of all the States in the Union save South Carolina, with, as I said yesterday, the possible exception of Delaware and Virginia, in which suffrage was regulated by statutory and not constitutional provisions, were citizens, and did vote for delegates to the Convention that framed the Constitution, and also upon the question of its adoption. And I challenge any legal decision or any historical work to contradict the assertion I have made.

Mr. ROGERS. Mr. Speaker, I do contradict the assertion of the honorable gentleman, and I will prove it by reference to the case. If the gentleman will look over the opinion of every judge that delivered an opinion in that case, he will find that not one of them dissented from that doctrine. And there is nowhere in any of those opinions any such ground taken as that taken by gentlemen here, that when those men framed the Declaration of Independence they meant to declare that they were going to enter into a war with Great Britain for the purpose of settling the rights of the African race as it existed in this country at that time. The object of the war of the Revolution was to proclaim liberty to the white people of the country. They were the people who assembled in the Hall of Independence and pronounced that great axiom of human liberty, when they declared that they would destroy the power of Great Britain over them, and that, because of the tyranny which that country attempted to exercise over them, they would be free. They are the ones who fought the battles of the Revolution, who followed in the footsteps of Washington and the other great generals who led the

heroes and sages of the Revolution; they are the ones who have put down this rebellion—this mighty, gigantic rebellion—which for the last four and a half years has swept over this land, and they are those who perpetuated and handed down to posterity unimpaired this bright heritage of liberty to the white race, for which the blood of our fathers was spilled on the battle-fields of the Revolution.

I refer now to the decision to which the gentleman calls my attention, although it is earlier in my argument than I intended to allude to it. Here is the opinion of the court; it is found in 19 Howard, page 406:

"The question then arises, whether the provisions of the Constitution, in relation to the personal rights and privileges to which the citizens of a State should be entitled, embraced the negro African race at that time in this country, or who might afterward be imported, who had then or should afterward be made free in any State, and to put it in the power of a single State to make him a citizen of the United States, and endue him with the full rights of citizenship in every other State without their consent. Does the Constitution of the United States act upon him whenever he shall be made free under the laws of a State, and raised there to the rank of a citizen, and immediately clothe him with all the privileges of a citizen in every other State, and in its own courts?" * * * * *

"It is true, every person and every class and description of persons, who were at the time of the adoption of the Constitution recognized as citizens in the several States became also citizens of this new political body, but none other; it was formed by them, and for them and their posterity, but for no one else. And the personal rights and privileges guaranteed to citizens of this new sovereignty were intended to embrace those only who were then members of the several State communities, or who should afterward, by birth-right or otherwise, become members, according to the provisions of the Constitution and the principles on which it was founded. It was the union of those who were at that time members of distinct and separate political communities into one political family, whose power, for certain specified purposes, was to extend over the whole territory of the United States. And it gave to each citizen rights and privileges outside of his State which he did not before possess, and placed him in every other State upon a perfect equality with its own citizens as to rights of person and rights of property: it made him a citizen of the United States."

"It becomes necessary, therefore, to determine who were citizens of the several States when the Constitution was adopted. And in order to do this, we must recur to the governments and institutions of the thirteen colonies when they separated from Great Britain, and formed new sovereignties and took their places in the family of independent nations. We must inquire who, at that time, were recognized as the people or citizens of a State whose rights and liberties had been outraged by the English Government, and who declared their independence and assumed the powers of government to defend their rights by force of arms."

"In the opinion of the court, the legislation and histories of the times, and the language used in the Declaration of Independence, show that neither the class of persons who had been imported as slaves, nor their descendants, whether they had become free or not, were then acknowledged as a part of the people, nor intended to be included in the general words used in that memorable instrument."

Mr. KELLEY. As the quotation which the gentleman has just read begins, "the question then arises," I propose simply to ask him whether that question arose in the case or in the necessity and progress of the elaborate discussion in which Judge Taney buried the vital question of the case.

Mr. ROGERS. It did arise in the case. It was the main question. It was to settle whether Dred Scott was a citizen, and whether he had been absolved from the chains of slavery which had been placed upon him by reason of the new location he had acquired. It was to settle the identical point, the very question, of the *status* of persons of color—whether, according to the Constitution of the United States, or even according to the terms of the Declaration of Independence, as understood by its spirit and intent, these persons were or had been intended to be included within the people or the sovereign power of any of the States or of the Federal Union.

Mr. KELLEY. In order to exhibit to the House and to the gentleman himself how thoroughly he misapprehends the decision he is discussing, I ask him if he will have the kindness to state what the court decided in that case. That will settle the whole question.

Mr. ROGERS. The court decided—and I doubt not every intelligent man has read the decision—that Dred Scott was not a citizen of the United States, nor of the State; that he was not included within the terms citizen or people either by the letter or spirit of the Con-

stitution of the United States; that he was not one who could participate in the sovereign power of the State; that he had no political *status* in the State or United States; and that, therefore, he, by no act of his own in locating himself in any place, could become a free citizen and be entitled to prosecute in the courts of the United States or of any State.

Mr. KELLEY. With the gentleman's leave, as he will not announce what the court decided, I will. It decided that it had no jurisdiction over the case before it and turned it out of court, thus proclaiming, by its own solemn decision, that the long tirade of misrepresentation of historical facts which the gentleman has just read was outside of the case, and had no judicial value. That was what it decided.

Mr. ROGERS. I understand the theory of the gentleman with regard to the decisions of the Supreme Court of the United States. I understand the sanctity that has been given to those decisions by the radical portion of the party to which he belongs; that when the Supreme Court condescends to bow its knee to radicalism and decide cases in their favor, it is law, but when they proclaim to the country, in pursuance of their oath of office and the high dignity of their station, what is the law according to the Constitution of the United States, they are then branded as usurpers, secessionists, and tyrants, and their decision is entitled to no consideration. I am here to defend the laws of the country, to defend this decision, although it may militate against the opinions of the radical portion of those opposed to me in politics, as the decision of the highest tribunal of the United States of America, and as one that sustains that great principle of American jurisprudence that the people of the country must stand by and obey the decision of the Supreme Court until that decision is overcome by some authority of equal power and importance.

Mr. KELLEY. One moment, and I will promise to interrupt the gentleman no further upon this point. The gentleman is slightly mistaken. The Republican party of the country stands by that decision till it shall be reversed. I have never heard a member of it deny that the court decided that it had no jurisdiction in the case. The assault upon the decision comes from those members of the other party who urge that though it had no jurisdiction it did decide the infamous dogmas which they accept as their creed.

Mr. ROGERS. The case decided that the person, Dred Scott, was not within the jurisdiction and powers of the court, for the reason given, and which lay at the very foundation of the question of jurisdiction, that he was not a citizen of the United States, and was in no condition, according to the laws of this country, to put himself in the place of an actor in a court of justice. I stand here to-day to affirm, without fear of contradiction, that that decision is the supreme law; and I defy any man to point to the opinion of any single judge, in that case, (as I have frequently had my attention drawn to this point,) who dissented from the opinion of the court, as I have read it, upon the *status* of the colored race at the formation of the Constitution of the United States.

And now, while upon this subject, I proceed further to review the radical notions which the gentleman has attempted to get adopted by this House, with regard to what the framers of the Declaration of Independence meant when they made that immortal instrument. Those framers appealed to the civilized world, and enunciated the reasons which they assigned for making the assertion that all men were born equal, with certain inalienable rights, among which were life, liberty, and the pursuit of happiness. Now, if the theory of the gentleman be true, that the negro race, the Africans in this country who were then in slavery, were included in the word "people," then the Declaration of Independence was a falsehood and a fraud; and it appealed to the people of the civilized world upon a false ground when it asked for their sympathy and consideration, when at that very time thousands of negroes were held in slavery

and had no liberty. I am not willing to believe that the sages and heroes of the Revolution, the men who were covered with its glories, who assembled in the old Hall of Independence and formed the Constitution of the United States, were so base as to proclaim that all men were entitled to certain inalienable rights, among which was liberty, while at that very time the whole thirteen of the colonies held almost every African man and woman in the bonds of slavery.

Now let us see what the Supreme Court says about this Declaration of Independence:

"The language of the Declaration of Independence is equally conclusive."

"It begins by declaring that 'when in the course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the Powers of the earth the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.'"

"It then proceeds to say: 'We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights, Governments are instituted among men, deriving their just powers from the consent of those governed.'"

"The general words above quoted would seem to embrace the whole human family, and if they were used in a similar instrument at this day would be so understood. But it is too clear for dispute that the African race were not intended to be included, and formed no part of the people who framed and adopted this Declaration; for if the language, as understood in that day, would embrace them, the conduct of the distinguished men who framed the Declaration of Independence would have been utterly and flagrantly inconsistent with the principles they asserted; and instead of the sympathy of mankind, to which they so confidently appealed, they would have deserved and received universal rebuke and reprobation."

"Yet the men who framed this Declaration were great men—high in literary acquirements, high in their sense of honor, and incapable of asserting principles inconsistent with those on which they were acting. They perfectly understood the meaning of the language they used and how it would be understood by others; and they knew that it would not in any part of the civilized world be supposed to embrace the negro race, which by common consent had been excluded from civilized Governments and the family of nations, and doomed to slavery. They spoke and acted according to the then established doctrines and principles, and in the ordinary language of the day, and no one misunderstood them. The unhappy black race were separated from the white by indelible marks and laws long before established, and were never thought of or spoken of except as property and when the claims of the owner or the profit of the trader were supposed to need protection."

This decision refutes the whole idea which has been advocated by the honorable gentleman from Pennsylvania [Mr. KELLEY] when he says that he stands upon the ground of Madison and Jefferson. I want to refer him to James Madison, as one of the fathers of the Democratic party. He was the man who wrote the memorable resolutions of Virginia of 1798. He is the man who proclaimed to the world at that time that the acts of the John Adams administration were violative of the rights of the States and tended to imperial despotism and centralization of power; who announced to the world that the centralization and consolidation of power in the Federal Government were sapping the liberties of the people; and at the very next election contested, upon the principles of those resolutions, the Adams or Federal party was removed from power and the great Democratic party was inaugurated by the election of Thomas Jefferson, which party carried on the Government in domestic peace and happiness for twenty-four years without interruption.

I do not want such men as the honorable gentleman from Pennsylvania [Mr. KELLEY] to defile the graves of the men who stood by their country in the hour of its peril, who planted the first flag of freedom on this continent. It is a slander upon the proud record of Madison to charge him with advocating the doctrines of radicalism, as enunciated by the honorable gentleman upon this floor, when the record and history of that man and this country, as known to every honorable gentleman here, show that there is no foundation for such an assertion. Why, sir, we have been charged with being secessionists and sympathizers with treason for advocating these very resolutions which James Madison drafted, advocated, and carried

through the Legislature of Virginia. Although James Madison was President of the United States for eight years, never did he attempt to promulgate or indoctrinate into the country or his party any such creed or dogma as has been advocated here by the honorable gentleman from Pennsylvania. If Madison, whose memory is now enshrined upon the highest pinnacle of fame, in speaking of the mass of citizens in the letter which the honorable gentleman from Pennsylvania [Mr. KELLEY] has read, intended to include the colored race, he was false to his principles for advocating the doctrine that this was a white man's Government solely, when he was placed in the presidential chair by a very large majority of the States and people. The honorable gentleman from Iowa [Mr. WILSON] says the Constitution seems to invite the passage of this bill and a general law giving negroes all political rights demanded by the radicals in power.

I think it will not be seriously denied by any of the honorable gentlemen on the other side of the House (for whom I have as much respect as for gentlemen upon this side, only disagreeing with them in politics) that the men who founded our Government and proclaimed their independence of Great Britain, or when they framed the Constitution, never intended, by any word or letter, to countenance the idea that the Constitution should be at some time changed, or a law passed so as to allow to the race then held in bondage, of whom the present race are the descendants, the exercise of the highest political function that can be given to any man upon earth. I cannot sympathize with the spirit of sarcasm and disparagement in which the honorable gentleman from Pennsylvania [Mr. SCORFIELD] spoke of the "mere dropping of a slip of paper in a box," ridiculing the high prerogative which the political system of this country has given to the masses, rich and poor, to exercise the right of suffrage and declare, according to the honest convictions of their hearts, who shall be the officers to rule over them. There is no privilege so high; there is no right so grand. It lies at the very foundation of this Government; and when you introduce into the social system of this country the right of the African race to compete at the ballot-box with the intelligent white citizens of this country you are disturbing and embittering the whole social system; you rend the bonds of a common political faith; you break up commercial intercourse and the free interchanges of trade, and you degrade the people of this country before the eyes of the envious monarchs of Europe, and fill our history with a record of degradation and shame.

Why, then, should we attempt at this time to inflict the system of negro suffrage upon those who happen to be so unfortunate as to reside in the District of Columbia. This city bears the name of George Washington, the father of our country; and as it was founded by him, so I wish to hand it down to those who shall come after us, preserving that principle which declares that the sovereignty is in the white people of the country, for whose benefit this Government was established. I am not ready to believe that those men who have laid down their lives in the battles of the late revolution, who came from their homes like the torrents that sweep over their native hills and mountains, those men who gathered round the sacred precincts of the tomb of Washington to uphold and perpetuate our proud heritage of liberty, intended to inflict upon the people of this District, or of this land, the monstrous doctrine of political equality of the negro race with the white at the ballot-box.

No such dogma as this was ever announced by the Republican party in their platforms. When that party met at Chicago, in 1860, they took pains to enunciate the great principle of self-government which underlies the institutions of this country—that each State has the right to control its own domestic policy according to its own judgment exclusively. I ask the gentlemen on the other side of the House to allow the people of the District of Columbia to exer-

cise the same great right of self-government; to determine by their votes at the ballot-box whether they desire to inaugurate a system of political equality with the colored people of the District.

Self-government was the great principle which impelled our fathers to protest against the powers of King George. That was the principle which led the brave army of George Washington across the ice of the river Delaware. It was the principle which struck a successful blow against despotism and planted liberty upon this continent. It was the principle that our fathers claimed the Parliament of England had no right to invade, and drove the colonies into rebellion, because laws were passed without their consent by a Parliament in which they were unrepresented.

I am here to-day to plead for the white people of this District, upon the same grounds taken by our fathers to the English Parliament, in favor of self-government and the right of the people of the District to be heard upon this all-important question. Although we may have a legal, yet we have no moral, right, according to the immutable principles of justice, and according to the declaration of Holy Writ, that we should do unto others as we would they should do unto us, to inflict upon the people of this District this fiendish doctrine of political equality with a race that God Almighty never intended should stand upon an equal footing with the white man and woman in social or civil life.

Mr. DRIGGS. I should like to ask the gentleman a question, if the gentleman will permit me.

Mr. ROGERS. Certainly.

Mr. DRIGGS. I understood the gentleman to eulogize James Madison upon the ground that he opposed centralization of power as advocated by John Adams. I should like to ask the gentleman how he stands now with regard to reconstruction. Is he in favor of centralization of power in the President, or of extending the power to Congress?

Mr. ROGERS. I am opposed to centralization of power in the hands of Congress or in the hands of the President. I believe that this is not a national Government, but that it is a Federal Government. I know that it has not a oneness or singleness of power like the Austrian and Russian Governments; and any man who will look at the history of the country and the Constitution of the land must know that all power not delegated to the General Government is, under our political system, reserved to the several States. Power in our Federal system is plural, and is as many as there are States. In our State systems it is also plural, and is as many as there are people. The whole people are the sovereign power of a State. The States are the sovereign power of the Federal Government, and by them only is the Federal Government carried on. Without them an officer of the Government cannot be elected. A majority of the people of a State can elect officers, as, for instance, a Governor, but a majority of the whole people may not be able to elect a President. If the rights of the States are taken away this then becomes a national and not a Federal Government. It may then consolidate power and become an imperial despotism. It may then exercise power equal to that of the Czar of Russia or the Emperor of France.

It is easy to prove that this is a Government of the States and not of the people. A majority of the people of the United States cannot even elect a President of the United States. Why? Because our fathers in the formation of the Constitution, wanted to throw all the safeguards possible around the States, and to preserve the powers they had not delegated to the Federal Government. The rights not granted to the Federal Government are reserved to the States or the people. In order to elect a President of the United States, he must have a majority of the electoral votes of the States. A majority of the people may be in favor of a man for the Presidency, and yet he may be defeated upon the great principle of State sovereignty. It

is the foundation-stone of the whole fabric of our Government. It all rests upon the inalienable rights of the several States. The party who insist here that the States are not supreme in the exercise of undelimited powers, and assert that all of the powers of the States are subservient to congressional legislation, ought to call down upon its head the indignation of every lover of his country.

Look, too, at the election of a President by the House of Representatives. If you look at the Constitution, you will find that when the election is referred to the House of Representatives each State is entitled to only one vote. If there be thirty-six States, and nineteen contain only one quarter of the voting population of the Union, their votes in the House of Representatives will elect the President, although the seventeen States against him contain three fourths of the voting population. And upon the same principle of State sovereignty is a Vice President elected when the election is in the Senate. This was made a Government of States because the founders of the Government saw that it was necessary to prevent the repetition of the same tyrannical power which England exercised toward the colonies. It was to preserve and to perpetuate liberty and the great doctrine of self-government. It is a Federal and not a national Government, because no amendment can be made to the Constitution except by the States, and though four fifths of the people in mass in the whole Union should vote to amend it, yet it provides no amendment can be made unless three quarters of the States, through the exercise of sovereign power and as States, adopt it. There is no officer whose election depends upon more than one State that can in any way be elected but by the sovereign States. In our intercourse with foreign countries we act in the capacity of a nation for commerce and common defense; but in our domestic character, in our intercourse with each other, we are many nations. The Federal Government is supreme and sovereign in the powers delegated to it by the States; and the States are supreme and sovereign in their reserved or undelimited powers. The words majority and minority do not apply to the whole people in mass, but only to the States. To prove that this is a Government of States I need only refer to the census up to the fifth census.

When the Federal Government was organized in 1789, there were eleven States, having fifty-nine Representatives, of which four States had thirty-two, while the other seven had but twenty-seven; and yet this minority of the people could elect a President and control all the powers of the Federal Government.

By the first census in 1790 four States had a population of 1,710,000. The other seven had a population of 1,390,000. The minority had eighteen in the Senate over the majority.

By the second census in 1800 the whole population was 4,247,000, of which four States had 2,228,000. The other twelve States had 2,021,000. The four States had a majority of the whole people, but had only eight votes in the Senate and eighty-two for President, while the minority had twenty-four votes in the Senate and ninety-one for the President.

At the third census in 1800 there were seventeen States, with a population of 5,765,000, of which four States had 2,948,000. The other thirteen had only 2,717,000. Still the majority had but eight votes in the Senate and one hundred and one for President, while the minority had twenty-six votes in the Senate and one hundred and fourteen for President.

By the census in 1820 six States had a population of 4,199,000. The other eighteen had 3,657,000. While six States had a majority of 542,000 of the people, yet they had only twelve votes in the Senate and one hundred and twenty-six for President, while the minority had thirty-six votes in the Senate and one hundred and thirty-five for President.

By the fifth census six States had a population of 5,535,000, while the other eighteen had but 5,311,000. The majority still had but twelve votes in the Senate and one hundred and

thirty-six for President, while the minority had thirty-six Senators and one hundred and fifty-three votes for President.

Each man had a right to the pursuit of life, liberty, and happiness, and no construction can be given to the Constitution rationally and consistent with justice, that if a State gives up certain of its powers to an agent, it thereby gives the agent sovereign power in matters not delegated.

Mr. MOULTON. I understand the gentleman to say that this is a Federal rather than a national Government, and he undertakes to illustrate his position by reference to the election of President. I would like to ask him, supposing we change the Constitution so that the President shall be elected directly by the people, what sort of a Government would that be—Federal or national?

Mr. ROGERS. It would be purely a national government with regard to elections of a President and leave the Federal system remaining in the other matters, so that the Government would be both national and Federal, mostly national. It would not be really a Federal Government, because it would not have all the attributes of a confederacy. There would not be power on the part of the State to control the election of Federal officers against a majority of the people. A majority of the people in other words could control the States in such an election. I hold that a State under the Federal system has the right to exercise its powers as a State. And no other State has a right to enter the eminent domain and jurisdiction of that State and take away one single undelegated power.

Mr. SMITH. I would like to ask the gentleman a question. If, in the adoption of the constitutional amendment prohibiting slavery throughout the United States, all the States had agreed to it but Kentucky, and she refused to abide by the amendment, would she, therefore, be entitled to hold slaves?

Mr. ROGERS. I have not the least doubt that, according to the intent of this system, according to the spirit and letter of the Constitution, there is no power in the Federal Government, or in all the States but one, that can take away one single undelegated power without the consent of that State. In other words, a State is entitled to a Governor, to a Legislature, and to hold courts, as undelegated or reserved rights; and thirty-five States have no right, by an amendment to the Constitution, to take away that right which exists in that State individually. Admit that power, and you make the Federal Government supreme and unlimited, with the consent of three quarters of the States, even though it may rob the States of all their sovereign power. I am perfectly clear upon that point—that the States have some rights of their own; that in regard to everything relating to their eminent domain they have sovereign jurisdiction, and the Federal Government is sovereign and supreme in regard to everything delegated to it by the States, namely, upon every express and necessarily implied power in that Constitution for the purpose of carrying into effect the spirit and intent of the Constitution. And whenever the Federal Government, through an amendment to the Constitution, as it is termed, attempts to destroy that great principle of the sovereignty of a State, and deprive it of its reserved powers, it is usurpation and tyranny, and ought to be met by all the force of the State government that it can command.

Mr. DEMING. Mr. Speaker, I would like to ask the gentleman if he remembers a citation which Mr. Cox quoted at the last session from Mr. Calhoun, wherein the latter affirms that in the adoption of the Federal Constitution the States have parted with their sovereignty to three fourths of the States in which the highest principle of sovereignty known to this Constitution existed.

Mr. ROGERS. I understand the doctrine of John C. Calhoun to have been partly as the gentleman states and partly not. It is this: that the States gave up to three quarters of their number everything that was within the spirit, letter,

and intent of the constitutional power given to the Federal Government, and that upon no other power could an amendment be made; and that when a so-called amendment was attempted to be made to the Constitution, which was a supplement and not an amendment, it was an organic act which required the consent of every State in the Union.

Mr. DEMING. The great principle of safety against all these amendments which have been supposed—for instance, an amendment introducing a monarchical system in this country—depends on the voice of the majority required to carry it out. In the first place we must have two thirds of the two Houses, and we must have three quarters of the States. We must have the people who elect the Representatives to this House, as they elect representatives to the State Legislatures, to ratify and affirm the instrument. And the whole system is disorganized when you propose an amendment of that character—that is, a monarchical amendment—and the people have gone over body and soul to monarchy.

Mr. ROGERS. Does the gentleman hold that an amendment can be made to the Constitution of the United States by three fourths of the States and two thirds of both Houses of Congress that will take away the Legislature, Governor, and courts, and all the sovereign powers of any one State?

Mr. DEMING. I hold to the absolute power of making amendments to the Constitution except in the cases restricted, and our safety is the people; because when the people get so thoroughly disorganized as to ratify and adopt any such amendment as that introducing a monarchical system we are all gone.

Mr. ROGERS. Does the gentleman then hold that amendments can be carried on to an unlimited extent, except in one thing—with regard to representation in the United States Senate—and that that exception proves the rule; and because that exception is there, in all other matters amendments may be made?

Mr. DEMING. I hold to the absolute power of the two bodies and of the States to make amendments to the Constitution, and I reiterate that our safety against these amendments supposed is in the people.

Mr. ROGERS. This brings me to another suggestion that more strongly fortifies the argument I have made, and which suggestion was not at any time made in the discussion of the question about amendments of the Constitution last winter. If I understand the gentleman, he takes the ground that because the Constitution of the United States provides that it shall not be amended in one particular—with regard to representation in the Senate—that exception proves the rule; that because that exception to the power of amendment is there, it shows that the framers of the Constitution when they formed it, and the States when they adopted it, intended that it could be amended by three fourths of the States so as to destroy and take away every power reserved to the States and which they had not delegated to their Federal agent. Now, if that is the true construction of the Constitution of the United States, then the decisions of the Supreme Court of the United States in the State of Maryland, and the decision of the Supreme Court of the United States in South Carolina, and the decision of the highest court of the United States in the State of New York, that Government bonds cannot be taxed because they are used by the Federal Government as a means to carry its purposes into effect, are false and erroneous.

The only limitation which the Constitution places upon the power of taxation by a State is that no duties shall be laid upon exports or imports by a State except what may be absolutely necessary for executing its own inspection laws; yet it was decided in the Bank case in Maryland, Charleston case, and in the great case tried in New York by the court of appeals without a dissenting voice, that although the Constitution of the United States makes no exception to the power of any State to tax anything of any character save in regard to duties on exports and imports, yet the exception did not

prove the rule, and the State had no right to tax the Federal bonds. Why, for the simple reason that Federal bonds are one of the instrumentalities employed by the Federal Government to carry its powers into operation. There is nothing in the letter of the Constitution of the United States that infringes in the least upon the right of the several States of this Union to tax every single Government bond which has been issued here even upon a contract on the part of the Government with the bondholder that the Government will not tax the bonds, (which contract I deny;) yet it cannot be done, for the simple reason that this is an act within the sovereign power of the Federal Government, is an act within the sovereign power of Congress under the Constitution, is a weapon used by the Federal Government to defend itself and carry its own powers into execution. To tax these bonds by a State would be against the spirit and intent of the Constitution, because it would clog the wheels of the Government if the States had the right to tax the Government bonds, the United States mails, the custom-houses, patent rights, and all these things. Why? Because they are means employed by the Federal Government to carry its own powers into effect. Therefore the exception in the Constitution of the United States, that it shall not be amended in relation to United States Senators, does not prove that within the spirit and intent of the Constitution, which is its corner-stone and foundation, which is its blood and life, any amendment can be made unless it happens to come within the very terms of that exception.

Gentlemen talk of this as a national Government, and that seems to be the theory of most gentlemen upon the other side of the House. I am satisfied that there are honorable gentlemen upon that side of the House who have the true theory of the Government in their hearts, who know that their children are to come after them, and that they are to legislate for posterity, who can see as well as I that the Government is now on trial, that there is a contest between liberty and consolidated despotism, and that they desire to leave liberty to their children undefiled and unblotted as it was given to us by the blood of our fathers through the severe trials of the Revolution, that it may be handed down to their descendants unimpaired forever and ever. I have no more concern in the stability of this Government than any other man upon this floor, and when I speak for the great rights of the States here, that which I utter I utter in no partisan character, but with an honest love for my country, not only North but South. I love the whole people and the whole land. I consider that I stand here as well the representative of the interests of South Carolina as the representative of the interests of New Jersey. I have not forgotten the old doctrine of Daniel Webster, that there is no East, no West, no North, no South, and I warn the people of the eastern States that the day may come when those small States may want to assert their dignity in the Union by that balance of power which the Federal system contemplated when it allowed the smallest States to have as much representation in the Senate as the greatest State in the whole Union. Why, if our fathers did not intend to preserve the rights of the States, did they give to New Jersey, Rhode Island, and Vermont, each the same power that could be exercised by the great State of Virginia or the great State of New York? They did it because our fathers wanted to prevent that very imperial despotism which they had fought to put down; they wished to implant in this country a system of liberty that would protect minorities as well as majorities. And if the States have no rights, if their rights can be destroyed by amendments to the Constitution, then I say liberty in this country has fallen from the luminous sphere of freedom, and never will light here again until we come back to the principles of our fathers, and exercise them in the spirit of Christianity—I mean those principles of justice to all parts of the Union which were inscribed upon the banners which our fathers

followed when they put down the legions of King George and proclaimed liberty throughout the land.

In answer to that question of the gentleman, I will say that when the treaty was made between Great Britain and the United States, every single one of the States was named by name. The States under the old Articles of Confederation were sovereign and independent; and when our fathers framed the Constitution of the United States, they intended to give up but such as they delegated to the Federal head, which were amply sufficient for the inherent power of every government to protect its own existence from all foes whether within or without.

The memorable revolution in England, of 1688, was denominated by Voltaire as the era of English liberty. James II had rendered himself so obnoxious to the English people that he was obliged to flee for his life. The people then overthrew the dogma that the Legislature was above the people, and that the people had no right to govern themselves. Since the revolution of 1688 England has had forty-one revolutions, all of them growing out of this same despotic idea that the Government is above the interests of the people and the system upon which the Government was founded. It was to resist the usurpation on the part of the Government of Great Britain, that deprived the people of liberties which they held as inherent rights under the laws of God and of man, that there resulted the stupendous revolution that gave to the people of Great Britain the Magna Charta.

[Here the hammer fell.]

Mr. GRINNELL. I move that the gentleman's time be extended so as to allow him to conclude his remarks.

No objection was made.

Mr. ROGERS. Another evidence that this is a Federal Government, or a Government of States, is that each State is entitled to two United States Senators, and as to that the Constitution prohibits an amendment.

I will now proceed more in the true line of the subject before us. There was no negro who planted himself upon this continent who was not brought here from the coasts of Africa as a slave. Every single negro man and woman in this land are the descendants of African slaves; and at the time negroes were brought here from Africa there was not a free negro upon this continent, and none were ever free except by the sovereign consent of the State, or manumission by the masters. For more than one hundred years before the Declaration of Independence was made negroes had been regarded as beings of an inferior order; they were bought and sold, and treated as an ordinary article of merchandise. That idea of their condition was fixed and universal in all the civilized communities, without an exception, in the civilized world.

The English Government seized them upon the coast of Africa and brought them here and sold them. The Constitution recognizes them as slaves, and contains a provision expressly permitting negroes to be imported into this country and sold as slaves up to the year 1808.

Therefore I say to this House and to the country, that the change which is attempted to be made in our social system is one never thought of or dreamed of by those who controlled the organization of this Republic, or by those who have controlled it down to within the last two or three years.

To show how consistent New England has been in this negro-equality subject, I will quote some of the legislation of those States upon the subject of the *status* of the negro, to show that where radicalism now seems to be running more mad than in any other part of the country they, by their legislation, regarded these Africans as an inferior race so far as to prohibit cohabitation and marriage of the two races.

The revised code of Massachusetts, published in 1836, forbids the marriage of any white person with a negro, Indian, or mulatto, under penalty of six months' imprisonment in the common jail, or to hard labor and a fine of not over two hundred nor under fifty dollars; and it also declares the marriage to be absolutely null and

void. I do not know whether that law has been repealed or not. Some of the honorable gentlemen from Massachusetts can answer that question. But it shows that our fathers always kept in view that one great idea which God has planted in the human heart, that there is a distinction between negroes and whites that no law can change.

Mr. THAYER. Will the gentleman yield to me for a moment?

Mr. ROGERS. I will.

Mr. THAYER. I would like to ask the gentleman whether the system of African slavery is not a system of comparatively modern introduction and history in the world, a system which has had its origin and existence for two or three centuries only. I would like to ask him also whether the great fabrics of Grecian and Roman slavery which characterized those States throughout all their history were not systems of slavery founded upon the enslavement of the white race; and if he answers those questions affirmatively, then I would beg him to state whether it would not be as logical to reason in favor of the national justice of white slavery, from the universal practice of Greece and Rome for centuries, and of all civilized States which were their contemporaries, as to reason in favor of the national justice and fitness of African slavery from the practice and history of modern civilization.

Mr. ROGERS. I am glad that the gentleman has interrupted me, because, probably, without his interruption I might have been placed in a false position with regard to the true object of the argument which I am attempting to present.

I am not here to advocate the right to enslave any man. I am here to protest, as much as the gentleman himself, against holding white men or black men in slavery. But I desire to show the *status* and standing of the African race, as not having been considered fit to enter into the political community with the white people of the country. I do not seek to idolize or sustain the system of slavery as it has existed in this country or any other, because I think that the enlightened intelligence of the present age would not warrant me or any other man in standing here to argue, in the face of the consequences which have lately overtaken this class of beings, that they ought to be held in slavery. I am willing to admit that slavery existed, as the gentleman asserts, in Greece and Rome; and affirm that in those countries the highest intelligence of the age and the noblest patriotism were exhibited by those who at the same time held white men in slavery. But that was a dark and barbarous age compared to the enlightened wisdom of modern times; but as men advanced in enlightenment and civilization, the holding of white persons in bondage became obnoxious to the educated reason of humanity.

But I say that the moral right to hold slaves was not denounced by the Saviour of the world when He came to proclaim peace and good-will to all men. The records of biblical and profane history refute the idea that slavery is necessarily immoral, since it did not call forth the indignation or rebuke of the Saviour of the world when He was pursuing His sublime ministry among a people who held millions of white men in bondage. I say that in still earlier days the oracles of God were committed to slaveholding prophets and patriarchs. The highest form of civilization and the noblest development of manhood that can be found in olden times is found among the ancient slaveholding commonwealths of Greece and Rome. Among the wreck and ruins of their genius we find the germs of many of the most vital principles of our civilization; but the white slaves were made so by war, and not on account of the inferiority of the races.

Mr. DAWES. Will the gentleman from New Jersey yield to me for one moment?

Mr. ROGERS. Certainly.

Mr. DAWES. The gentleman has quoted from the Revised Statutes of Massachusetts of 1836, and has inquired, as I understand, whether the law remains the same in that State

at the present time. I desire to answer the gentleman on that point.

The gentleman will recollect that it has been the misfortune (as he doubtless considers it) of Massachusetts to have very few Democratic Governors; but during the administration of the first Governor of that description that Massachusetts ever had the law to which the gentleman has referred was repealed, that Democratic Governor approving the act; and I believe that that repeal was effected under the lead of a distinguished gentleman, then a Democrat, since a Democratic Governor of Massachusetts, and more recently a Representative on this floor.

Mr. ROGERS. Well, Mr. Speaker—

Mr. SCOTFIELD. Will the gentleman from New Jersey yield to me for a moment?

Mr. ROGERS. Yes, sir.

Mr. SCOTFIELD. I understand the gentleman to say that the Saviour of the world sanctioned slavery.

Mr. ROGERS. I do not say that. I say that He said nothing in disapprobation of it. That is what I said. I mean of holding white men as slaves, which appears to me much worse than holding black men in slavery. In fact He taught that the servant should obey his master.

Mr. SCOTFIELD. Well, I understand the gentleman to say that he himself does disapprove of it—that he is opposed to it. Therefore, I suppose, he takes issue with the Saviour.

Mr. ROGERS. No, sir, I do not take issue with the Saviour. I would not be so fool-hardy or irreverent as to take issue with the omnipotent Ruler of the universe. I leave that to the gentleman. But I say that, although white slavery existed in the commonwealths of Greece and Rome, yet when a more enlightened period came, the people saw the injustice of the system, as those slaves were captives taken in war, and that system was by other and future generations given up. But until a comparatively recent period of the world's history the law of nations did not prevent the kidnapping of slaves from the coast of Africa and the selling of them to any who would purchase them.

Mr. THAYER. The gentleman will allow me one moment. He has alluded to the question which I asked him, but he has not, perhaps, answered it as fully as the House might have expected. He has, however, just dropped a statement which is perfectly true, that in the history of Roman and Greek civilization there came a time when the slaves were made free.

Mr. ROGERS. I did not say that.

Mr. THAYER. It is, at any rate, a fact which, I suppose, the gentleman will not deny.

Mr. ROGERS. I did not say that, and will not be so reported. I said that when a more enlightened period came the people saw the injustice of the institution. I did not refer to those people particularly; I spoke of the people generally. The system of holding white persons in slavery was given up. But until a comparatively recent period slaves were kidnapped from the coast of Africa, and the laws of nations did not forbid their being sold to any who would buy them.

Mr. THAYER. If the gentleman will allow me, I will say that I do not think that Greece or Rome ever engaged in the African slave trade.

Mr. ROGERS. I never said that they did. I admit that they did not.

Mr. THAYER. I have never heard that they did; but the gentleman has stated that there arrived a time when Greece and Rome gave freedom to millions of slaves that had groined in bondage underneath their power. Now I will ask the gentleman whether, when freedom was given to those slaves, they did not also confer upon the freedmen the rights of Roman citizenship. I should like to have an answer to that question.

Mr. ROGERS. They did to a certain portion of them, such as they saw fit, upon the ground that those persons were not taken because of their being an inferior race. It was then according to the laws of war that the conqueror held the captives of war as slaves, and it was to correct that barbarous code of war

that Greece and Rome granted slaves citizenship, together with freedom, upon no other ground. They had never a system of slavery like that of African slavery; they had no such system of slavery as that which has been in existence for the last three hundred years; the slaves they freed were captives of war, held as slaves under the laws of war. It was then held to be the law that the captives of war and their posterity were the slaves of the captors, and their property of every kind was confiscated to the uses of the captors. They were slaves forever by the laws of war.

Mr. THAYER. And their posterity.

Mr. ROGERS. The condition of things there grew out of the laws of war. It was in pursuance of a war power such as that which was unconstitutionally used by the radicals in power to strip the people of the South of millions of dollars invested in slaves whom they inherited from their fathers, and to whom they were lawfully entitled, some of whom were undoubtedly the descendants of Madison, whom the honorable gentleman from Pennsylvania attempted to eulogize, as Madison was a slave owner, as well as Washington and the other heroes of the Revolution. The Greece and Roman war power was the same kind of power claimed by the Republican party during the last four years in laying the mailed hand of military usurpation and tyranny upon the rights of the people, and trampling upon a bleeding and degraded Constitution. That was the power under which slaves were held in ancient Greece and Rome. But afterward a new power was exercised; it was not the power of war, but it was the power of theft and of robbery; the power of taking poor, harmless, inoffensive savages from the coast of Africa, stealing them, and carrying them here, and selling them into bondage to the people of the colonies. And England, after profiting and getting rich out of them, then raised the cry that slavery was an evil, and sent Thompson and other men here to destroy the peace, happiness, and prosperity of the people of this country.

Now, sir, New Hampshire regards these people as of an inferior race. The laws of New Hampshire passed in 1815, and also in 1855, only ten years ago, prohibited any one from being enrolled in the militia except free white male citizens. Ah! the gallant State of New Hampshire, the State which sent its thousands to put down the rebellion, had a law upon her statute-book as late as 1855, making such a discrimination between the white man and the black man as would not allow a negro to march side by side to the banks of the Mississippi with the white man.

Mr. BOUTWELL. I do not know the history of legislation in New Hampshire; but I do know that a law of Congress from the very beginning of the Government had defined that the militia of the country should consist of the white male citizens alone.

Mr. ROGERS. It is immaterial what the laws of Congress were; I am talking about the laws of New Hampshire. I am talking of the laws of that extremely loyal and patriotic State of New Hampshire, and the laws of extremely patriotic and loyal New England. The State of New Hampshire, in 1855, by solemn enactment affirmed the legislation of 1815, that no man should be enrolled in the militia but free white citizens. Now, I do not suppose that the members from New Hampshire will vote that the downtrodden people of this District shall be degraded by being put upon a political equality with the negroes whom the State of New Hampshire would not allow even to fight for the country or make a part of her militia. With what grace can they vote for this bill?

This bill goes further than ever was pretended by any State where legislation has been had on the subject. If that bill passes, it allows the negroes not only to have the right to vote, but to become judges of the courts, mayors of the city, and to hold the highest offices within the gift of the qualified voters of the District. That is its effect, and it will not be contradicted by any one on the other side. As it has been reported by the Judiciary Committee, it not only allows

these negroes to vote, but to hold any office to which they may be elected. Such a course would disgrace and degrade us before the nations of the earth. Shall this fair temple, which has been reared by the genius and wisdom of our fathers, be despoiled, and the city built in the name of Washington be so far insulted that a black man shall be mayor of the city or sit as judge in the capital of the United States; that a negro shall preside over the rights and liberties of white men and women in this District? I conceive that the Providence that has watched over this country from its infancy, and guarded the cradle in which it was reared, will not allow such degradation here as will result in amalgamation and miscegenation, and end in insurrection and murder and a war of races. I have read in history of fires kindled in the name of religion, of atrocities committed under the pretext of order and liberty, but I believe, if negro suffrage is adopted all over this land, it will lead to scenes in this country more bloody than the world has yet seen. I believe the horrors of St. Domingo and Jamaica will be repeated. Because I do not believe that the white men who are rearing their sons and daughters in the ways of virtue, honor, and liberty, will be willing to lay their heads in their graves with such a legacy as negro suffrage to leave to them.

I want to refer to another New England State, and that is Rhode Island, because these States are considered authority by many. I know their citizens are patriotic and noble. I give them due credit. New England is the spot where abolitionism held greater sway than anywhere else; and yet from the State of Rhode Island or any other State no petition ever came to Congress asking for the abolition of slavery that urged or suggested the scheme of equality of the black man with the white at the ballot-box. No such petition was made at any time by the most ardent advocates of the abolition of slavery.

Therefore, gentlemen, I ask you in the spirit of candor and honesty, in the spirit of the days of our fathers, in behalf of the soldiers who fought to free the negroes, those soldiers whose deeds and memory constitute the glory of the present and the proudest inheritance of future generations, do not disgrace those soldiers who have laid down their lives and those who have come back to protect their little homes, by allowing those living to be overrun and overpowered at the ballot-box by eight or nine hundred thousand Africans for whose freedom from slavery the blood of many of the soldiers was spilled. I think I have too much patriotism, too much consideration for the brave soldier that left his wife and little ones to fight for his country, to say that he suffered and bled for the purpose of perpetuating the political rights of a race that he helped to relieve from bondage.

Now, Rhode Island, in 1822, and also in 1844, in its revised code, forbade any white person to marry any Indian, negro, or mulatto, under penalty of \$200, and declared the marriage null and void. Why did Rhode Island do that? I ask the honorable gentlemen from that State, why did Rhode Island declare such a marriage null and void, and inflict heavy penalties upon those who entered into the contract? Why? Because the people of Rhode Island knew that there was an impassable gulf which God Almighty himself had established between the white man in his condition and the black man in his. It was because the wisdom of ages, as handed down to us from days of the most remote antiquity, had impressed upon their minds that there was that inequality which had shown itself by experience existing between the two races which could not be obliterated by any human law which could be established upon earth, as the law of God had ordained it. I stand by that law.

But gentlemen upon the other side of the House say that there is no impediment in the Constitution of the United States to the passage of this bill. I am not here to deny the authority, the legal authority, of this Congress to inflict this punishment upon the people of this District if they see fit; but I am here to ask them to

allow the people of the District to say whether they will have negro suffrage or not. I ask them to heed the language which was uttered by James Madison, and which was read by the gentleman from Pennsylvania, to stand by the warning voice of Madison, and allow those who are to be governed by the law to say by their votes whether they want this Legislature to pass this law. James Madison says, in one of the papers read by the gentleman from Pennsylvania:

"Under every view of the subject it seems indispensable that the mass of the citizens should not be without a voice in making the laws which they are to obey, and in choosing the magistrates who are to administer them."

Who are citizens? Who were citizens when James Madison wrote that letter? The white people. Does not this decision of the Supreme Court which I have read show that the persons spoken of by James Madison as citizens, and whom he wanted to vote, were the white men who made up the parts, the integral minutia, of the sovereign power of the States? Why did he write this letter? Because when the Constitution of the United States was framed and the constitutions of the different States were made, there was not a State in this whole Union which allowed all white persons to vote. The States of this Union, when their constitutions were originally made, put exclusive restrictions upon the privilege of voting. Every State, without one single exception, required that a man in order to vote or hold office should have a property qualification. That was the objection in the mind of James Madison. That was what he intended to condemn, and it was to that that his language referred.

Why, sir, by the constitution of my own State until 1844, a man could not vote unless he had £50 in proclamation money. He could not go to the lower house of the Legislature unless he had £250 in proclamation money. He could not go to the Senate of the State unless he had £500 in proclamation money. It went upon the principle that if a man had a jackass worth £50 on one day he could vote, but if he sold the jackass next day the jackass could vote, but the man could not vote at all. [A laugh.] That was what James Madison was complaining of; and remember that while so complaining he was adhering to and recommending the great doctrine of self-government; that the people who were to be controlled by the laws should have the right to say whether the laws should be passed or not.

Gentlemen on the other side of the House claim that the people are the sovereign power. It was so claimed by them in the memorable fight on the Kansas bill that, because the constitution framed at Lecompton was not submitted to the people of the Territory of Kansas, the State should not be admitted under that constitution. Men of all parties, including many of the great shining lights of the dominant party, with the lamented Stephen A. Douglas at their head, all declared against allowing the Lecompton constitution to be the organic law of the people of Kansas, unless that constitution was first submitted, not to a Legislature, not to a convention, but to the people of Kansas, to decide what kind of a constitution they would have, so that Congress might know that the power emanated from the people, through the people; and when they did allow that Territory to come into the Union, it was upon the ground of a sovereign exercise of power on the part of the people.

Mr. PATTERSON. Will the gentleman from New Jersey allow me a moment?

Mr. ROGERS. Certainly.

Mr. PATTERSON. The gentleman has referred to the laws of New Hampshire of 1815 and 1855, which authorize the enrollment only of white citizens between the ages of eighteen and forty-five. I will say, sir, that in so doing they only followed the law of Congress of 1792, and that they did so because they had no right to pass a law which would authorize the enrollment of colored citizens.

I would say further that Massachusetts, by her Legislature, attempted to reform her constitution in that respect, and I believe that their

act was vetoed by the Governor of the State simply because it was unconstitutional.

Mr. STEVENS. Let me say that I understand these laws to be made in favor of the colored race, giving them advantages over white people. [Laughter.]

Mr. PATTERSON. I will simply state that the law of 1792 was not repealed until after the war commenced; I think in 1861.

Mr. ROGERS. The gentleman does not deny that what I have stated in regard to the legislation of New Hampshire is true; that in 1855, by a State law, negroes were not allowed to be enrolled in the militia of the State.

Mr. PATTERSON. Certainly not; and I have stated the reason.

Mr. ROGERS. I understand that the gentleman undertakes to excuse the action of the State of New Hampshire on the ground that the Federal Congress had forbidden the enrollment of negroes. I suppose the gentleman will not deny that the first calls that were made by the President of the United States, in fact all the calls that were made by the President up to the passage of the enrollment bill, or bill of despotism, as I call it, were made upon the Governors of the States, and the Governors took out of the militia such persons as they pleased. Under those calls negroes were put into the service by Massachusetts before that enrollment bill was passed; they were received without objection, and some of the quotas of States were in part filled by those very negroes before the enrollment bill was ever passed at all. The law of Congress is no excuse for the action of the State of New Hampshire. I mention the action of that State simply to show what its intention was. If they had simply wanted to live up to the law of Congress, they would not have said anything about excluding negroes from the enrollment, because if the law of Congress controlled the enrollment of the militia in the State of New Hampshire, it was unnecessary to fortify that law by any law of the Legislature of the State of New Hampshire.

Mr. WOODBRIDGE. The gentleman from New Jersey says we are imposing upon the District of Columbia that which no State in the Union has imposed upon herself. Allow me to state, in behalf of Vermont, that black men vote there with white men.

Mr. ROGERS. With a property qualification.

Mr. WOODBRIDGE. There is no property qualification. There the black man can hold civil offices with white men. There he has been free; and let me tell the gentleman, that in consonance with the principles which have been adopted in the State of Vermont, and as the direct effect of those principles, when we enlisted eighty negroes living in the State of Vermont to go into a company, there was not one of them that could not sign his name to the muster roll. That is my comment on the course that Vermont has taken in relation to the negro.

Mr. ROGERS. How many negroes have you in the State of Vermont?

Mr. WOODBRIDGE. I really cannot state at present.

Mr. ROGERS. A very inconsiderable number; such a number as can in no way affect the political status of the people of the State of Vermont. But I have no doubt that if the gentleman from Vermont [Mr. WOODBRIDGE] would throw aside his partisan character and feelings, and the negroes in Vermont were sufficiently numerous to overbalance the whites, if allowed political privileges, he never would submit the rights of his wife and children and property to the control of negro ballots and negro officers.

Mr. WOODBRIDGE. I wish merely to say to the gentleman from New Jersey [Mr. ROGERS] that I have not now the means at hand to enable me to state how many negroes there are in the State of Vermont. I know of a great many there, but I do not know one who ever voted with the party to which the gentleman from New Jersey belongs. [Laughter.]

Mr. ROGERS. That may be. I am not particular how they vote. I am not making this

argument from any consideration of political power. We have already been told by members upon the other side of the House that to allow the negroes to vote will be to overbalance the power of the white people of the southern States, and keep the control of the Federal Government in the hands of the now dominant party. I rise above party. I rise above the petty schemes of cliques and parties to a more commanding position. I rise to the position of my country, which I believe is to endure for generations to come; and I want that country handed down to those generations that they may enjoy life, liberty, and property, as I and my ancestors have enjoyed them. I do not intend my remarks for party considerations. I do not speak for party. I am here to advocate this great doctrine for no party; I am here to advocate it for the interest of the whole country, believing that all are interested, and that the day will not be far distant when the wisdom of the Democratic party will be acknowledged as a bright and blazing star upon the escutcheon of American glory, which will yet lead the world to the safe and secure resting-place of liberty.

Mr. GRINNELL. I believe it was on my motion that the gentleman from New Jersey [Mr. ROGERS] had liberty to proceed with his remarks indefinitely.

Mr. ROGERS. Well, I have been very liberal.

Many MEMBERS. "Go on!" "Go on!"

Mr. GRINNELL. When I made that motion I had no idea the gentleman had so great a gift of continuance. I wish simply to ask if it would not be in perfect consonance with his wishes to print the remainder of his remarks.

Many MEMBERS. "No!" "No!"

Mr. ROGERS. I would prefer to say what I have to say.

Mr. GRINNELL. Well, I will only say that I made the motion under great misapprehension. [Laughter.]

Mr. ROGERS. The Speaker and every member of this House know that I have been necessarily drawn out to this great length of argument by the questions and interruptions of those who do not agree with me in the sentiments I have uttered.

Mr. PATTERSON. Will the gentleman allow me to interrupt him a moment?

Mr. ROGERS. Certainly.

Mr. PATTERSON. I understood the gentleman to say that New Hampshire had a complete control over this matter of militia in that State. Does not the Constitution give to the General Government the right to organize the militia?

Mr. ROGERS. Not for State purposes.

Mr. PATTERSON. Article eight of section one of the Constitution gives Congress the power "to provide for organizing, arming, and disciplining the militia." That is the language of the Constitution. And in accordance with that provision of the Constitution the act of 1792 was passed, which says that only white persons shall be enrolled in the militia. And the law of 1815, of New Hampshire, was based upon that action of the Congress of the United States. New Hampshire had no right to pass any law in conflict with that law of the United States. It was in conformity with the laws of the General Government that New Hampshire acted in this matter.

Mr. ROGERS. It is expressly provided in the Constitution that the President may call out the militia to suppress insurrection and repel invasion. And it was under that clause of the Constitution that the President of the United States made the several calls which he did make before the enrollment bill was passed. And every call that was made by the President up to that time was made upon the Governors of the several States. And although the Constitution of the United States confers the power upon the Federal Government of organizing and controlling the militia, it does not give it the power of saying who shall constitute that militia, or whom the State may release from the obligation of the militia laws of the State, and leaves the State the power of appointing the officers;

and for State defense Congress certainly could not prevent the State from classing negroes in its militia.

Mr. PATTERSON. I would ask the gentleman from New Jersey, if the call of the President of the United States could in any way change the law of New Hampshire, or the law of Congress in this matter, or could authorize the State of New Hampshire to pass a law in conflict with any law of the United States?

Mr. ROGERS. The gentleman knows very well that it was held by a large portion of the people of this country that the President had no right by law to take into his hands twenty million people, regardless of the rights and domestic tranquillity of the States, so as to control the whole militia and deprive the State in case of invasion of using its own militia to protect its own rights. It was also held, and I believe that was the letter and spirit of the Constitution, that the act of despotism which placed in the power of the President of the United States the lives and liberties of twenty million freemen was in violation of the Constitution and nothing more nor less than usurpation. The framers of the Constitution intended that the militia of a State should be under the control of the sovereign power and jurisdiction of the State, to be furnished by the State when called for in such numbers and with such qualifications as the State should please to prescribe. When the State in its sovereign capacity furnished the men to the Federal Government then the Federal Government had the right to organize and arm the men the State had furnished. The Administration had the right to fix the quota, and it did so. It called upon New Jersey to furnish so many thousand men, and other States their various apportionments. But it is still a fact that, under that call, the States by their legislation exempted from militia duty firemen, Quakers, and other classes of citizens; and the President never claimed the right under that call to interfere with the various exemptions which were made by the laws of the different States.

Now, sir, I maintain that the negroes have no just claim upon the people of this country to stand in an equal position politically with the white citizen. I say nothing in disparagement of the abilities of the negro as exhibited on the field of battle or elsewhere. I am the friend of the negro in his proper position. I always treat him with respect and consideration. I believe, however, that the result of his freedom, taken in connection with the state of society into which he has been thrown, will necessarily result in his consignment to the same sad fate by which the North American Indian is fast being swept from the face of our land.

I say that the negroes are not entitled to the exercise of equal political privileges with the white man. What have they done for the country to entitle them to this great political prerogative which they have never heretofore claimed, and which, until recently, no one has pretended that they had a right to exercise? Who raised the armies to put down this rebellion? Who were the men that carried our flag in triumph from Virginia to Louisiana? Whose efforts kept the proud banner of the Union waving unceasingly over the Capitol of the Union? Who were they that came in teeming thousands from the hills and the valleys of every State in our land to find an unmarked grave on the battle-fields of the South? Who were the officers that led these mighty armies in their work of putting down a gigantic rebellion? Who were they that, in this Congress, in the various Legislatures, and amid the assemblies of the people, carried on the political machinery of our Government during this terrific contest? Was all this the work of the negro race or of the white race? The poor white soldiers who came forward, periling, and in many cases sacrificing, their lives to defend their homes and those of their more aristocratic neighbors, are the men who are entitled to the credit of the final victory of the Union armies. Had it not been for the negroes the labors, perils, and sacrifices of the white soldiers would not

have exacted such tremendous losses in their glorious ranks, and the heroic dead would not have been sacrificed upon the altars of shrieking fanatics. History will record the white soldiers as foremost among the illustrious throng, resting in the immortality of their national fame, won by their heroic qualities and eminent services, whose daring bravery opened the way to crowning victory, and around whom will cluster the peculiar warmth, gratitude, and affections of the white men and women of this land. Their deeds have proven them to be warriors of the highest order, and their life in war has shown them to be the very type and model of Christian heroes. From the first battles in Virginia to the final blow in the war, their dauntless valor was exhibited in every field. They have, in the opinion of people who love the white as much or more than the black race, reaped a rich harvest of fame, become an example to their countrymen and the admiration of the civilized world, and the memory of their deeds and the spirit they inspired glows through the hearts of their countrymen to-day in raptures of love for their valor, patriotism, and self devotion. The names of such martyrs to republican liberty and independence canonize them to the faith and devotion of the lovers of their country, and constitute a resistless appeal to the justice of God and the sympathies of mankind to save them from negro suffrage in this land.

Ah, sir, this negro question has already cost the lives of a million of brave soldiers. It has placed on the shoulders of ourselves and those who shall come after us a debt of \$3,000,000,000. It has carried desolation and anguish to thousands of homes in every State of this Union. It has orphaned a countless myriad of wan and woe-stricken children, in whose homes destitution has taken its abode, and whose wail of distress rises this day to heaven. The fathers and relatives of such as these are the men by whose aid the rebellion has been suppressed. Shall the brave soldiers of our Army be now, by any kind of extreme and radical legislation, put upon an equality with the very men whom they fought to free?

Why, sir, the negroes have gained more by this rebellion than any other class of people in this country. They have gained the blessed heritage of freedom; freedom to breathe the air of heaven and walk the earth with no one to molest them or make them afraid. What a great and glorious work, our opponents claim, has been achieved by the white people of this country; a work by which four million down-trodden slaves have received the blessing of freedom. Ought not the negroes to be contented with what they have gained by this war? Why should we seek to introduce into our political system, for their benefit, a principle to which our fathers gave no sanction in the establishment of the Government, and which must tend to degrade the high character of American citizenship in the eyes of the enlightened world?

This question has its weight upon both sides. Where is the foreigner, the Irishman, the Frenchman, the German, the Scotchman—I ask them why they left their native land? Why did they leave the pleasant banks of the Rhine and the Rhone? Why did they leave the vine-clad hills of France and Germany? They left them because they were told that there was a social equality among the white men of this country; that a man, however poor, who had to carry the hod or to dig the ditch, was entitled to come in at the time of an election and cast his ballot equally with the richest and noblest in the land. I say that those foreigners had better have remained in their native land; that their ships had better have been stranded upon the coasts of Ireland and Scotland, England or France, than to have come here to have themselves degraded and to be placed in a social position where equally with themselves negroes shall be allowed to exercise the great right of suffrage at the ballot-box.

Why, if you have to have these men vote because they have fought in the Army, then I

want all the women who went down into the Army to administer to the suffering soldiers to be equally entitled to vote. I want all from the age of ten and upward, all who were in the Army, from the youngest drummer boy up to the age of twenty-one, to vote, without regard to whether they are twenty-one or not. Nobody, however, seems to be legislating for them. No one takes into consideration the great benefits that those under the age of twenty-one have bestowed upon the country. They are entirely left in the dark. But this mighty, influential, African negro, who by the laws of God has been imprinted with a black color, seems to receive not only the only, but all the consideration of the House. His name is mentioned in almost every subject which interests us.

It is not pretended that suffrage is a natural right, except by the gentleman from Pennsylvania, [Mr. KELLEY,] who says that they have the right by the laws of God. He says that the arguments against it have neither Christianity nor humanity about them. He says that they have the right to exercise this right by nature. He says that the black man has by nature the same rights as the white man. He says that the negro has the same right that we had under the Constitution to put down rebellion—the right of self-defense. He says that he has the right to exercise that right of self-defense—that he is as much entitled to it as any white man, however high he may be.

I suppose gentlemen have not forgotten that the negroes were not so loyal. How few of the four million slaves took advantage of the emancipation proclamation of Abraham Lincoln! The records of the war show that while a few of them came into the ranks of the Federal Army, the great body of them remained true and loyal to the South.

We are told by the honorable gentleman from Iowa [Mr. WILSON] that this is a bad governed city, and that its inhabitants have sympathy with the rebellion. It is perfectly immaterial whether the people are loyal or disloyal. I would no sooner go for such a law in South Carolina than in New Jersey or this District. I am for leaving that to the people of each State and this District to act for themselves. Now, sir, in every State where the negro-suffrage question has been submitted to the people, it has been repudiated by large majorities, and the Representatives of those people come here, and insist on forcing negro suffrage on the people of this District. I am for exercising toward the people of the South the greatest charity, and am for admitting them at once to full representation. I am for the Union in fact. But the honorable gentleman from Pennsylvania [Mr. KELLEY] takes issue with the President in his enunciation of the doctrine that each State has sovereign power and control over the question of suffrage, and he claims that the Constitution of the United States confers the power upon Congress to regulate the qualifications for suffrage in each State, and quotes to prove his position the following clause of the Constitution:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may, at any time, by law make or alter such regulations, except as to the places of choosing Senators."

That clause has no relation to the qualifications of the voters, but only to the times, manner, and places of holding elections; and the question of qualifications was settled in the Constitution by the second section of the first article, which declares that the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

The people of this District have already repudiated negro suffrage by over six thousand in this city, with only thirty-five in favor, and in Georgetown there was but one vote in its favor, Democrats, soldiers, and Republicans all voting against it in both cities.

Mr. DAVIS rose.

Mr. BRANDEGEE. I object to any further interruption.

The SPEAKER. The gentleman has the right to yield for a personal explanation.

Mr. DAVIS. I want to ask the gentleman from New Jersey what number of black soldiers were enrolled in the armies of the Republic.

Mr. ROGERS. I have not the statistics to answer the gentleman.

Mr. DAVIS. There were over two hundred and forty-one thousand of them.

Mr. STEVENS. I must object to this, because it leads to difficulty among friends. [Laughter.]

Mr. ROGERS. I do not know how many negroes were enlisted in our armies, but I know that they were nothing like the proportion of white men.

Mr. DAVIS. I desire to state that their population in this country in 1860 was something over four millions, and that the percentage of black troops which entered the armies of the Republic was almost as great as the percentage in the free States of white people who entered those armies.

I am obliged to the gentleman from Pennsylvania for his sarcasm, which I intend to answer when I have an opportunity upon this floor.

Mr. STEVENS. Or outside of these walls. [Laughter.]

Mr. ROGERS. I know that the State of Kentucky furnished no negroes at all. The States of Delaware and Maryland may have furnished a few. The State of New Jersey furnished none. The great body of our armies which put down this rebellion was composed of white men.

The SPEAKER. The gentleman's second hour has now expired.

Mr. STEVENS. I move that he be allowed to go on for the rest of the session. [Laughter.]

Mr. GRINNELL. I object.

Mr. ROGERS. It is not fair to object when I have been so frequently interrupted.

Mr. THAYER. I ask the gentleman from Iowa to withdraw his objection.

Mr. GRINNELL. Mr. Speaker, I have been appealed to by my friends about me to withdraw my objection. I would do so for but one thing. I have been visited with the maledictions of some of my friends for the last hour, saying that I deserve to be reprimanded for what I have already done. Now, if I yield and allow the gentleman to go on further, I shall be subject to a second reprimand.

Mr. SMITH. I rise to a question of order. The gentleman's first hour expired, and a motion was made that he proceed indefinitely, and the House consented.

The SPEAKER. The Chair overrules the question of order. It has been repeatedly decided that an indefinite extension of the time lasts only one hour. It is indefinite up to that time; but of course the gentleman from New Jersey could not expect to speak to-day and all to-morrow under an indefinite extension. Sometimes the extension is fifteen minutes, and sometimes ten. Does the gentleman from Iowa withdraw the objection?

Mr. GRINNELL. I do not.

Mr. SCOFIELD. I move to suspend the rules in order to allow the gentleman to go on.

Mr. GRINNELL. Mr. Speaker, I withdraw the objection, the gentleman has made so good a speech.

Mr. BENJAMIN. I renew it.

Mr. ROGERS. To prevent any further trouble, I will stop here.

Mr. FARNSWORTH. Mr. Speaker—

Mr. BANKS. I desire the gentleman from Illinois [Mr. FARNSWORTH] to allow me to state a fact relating to the legislation of some of the New England States upon the admission or exclusion of colored soldiers from the militia, to which the gentleman from New Jersey has referred. I understand that the legislation in the New England States on this subject has proceeded upon the belief that they had not the constitutional power to exclude colored soldiers; that all of the States have acted upon that view. In the State of Massachusetts, some years ago,

the question arose whether the Legislature, by a change in the constitution or laws of that State, could include colored soldiers. The supreme court of Massachusetts gave a unanimous opinion that the State had not the power to change the laws of the United States, on the subject of the militia, so as to include colored soldiers in the State militia. And when the Legislature passed a statute, embracing or admitting the colored soldiers in the militia, the Governor vetoed the act, although they had covered every law upon the statute-book of that State.

Mr. FARNSWORTH. I did not expect, Mr. Speaker, when I came into the House to-day to trouble the House with any remarks at the present time. I do not now propose to reply to the gentleman from New Jersey, [Mr. ROGERS]—to the very logical, argumentative, clear, and able speech he has made. I shall not attempt to make his contradictions harmonize, nor to answer in detail the points which he made.

The gentleman champions the white soldiers of the United States. He says we ought not to inflict upon them the injustice and disgrace of giving to the colored men of the country the elective franchise. I believe it is the first time I ever heard that gentleman champion the soldiers of the Army of the United States. If I recollect right, during the last two years at all events, that gentleman has been one of the foremost of his party in doing all in his power to embarrass the operations of the Army of the United States and the soldiers of the Republic. He has done what he could to prevent the Government of the United States from sending reinforcements and additional arms to relieve and assist our armies in the field. And with the bulk of his party, among other things which I now recollect, he voted against the passage of the bill in this House providing for a speedy trial of those guerrillas among the rebels who were shooting our poor soldiers in the back as they were dragging themselves away from the battle-field wounded, marking their footsteps with their blood.

And if I am not mistaken, the gentleman, with the rest of his party in the State of New Jersey, refused to give to the white soldier who had left his native State and gone into the field, periling his life in defense of his country, the right to vote even as to who should represent that State in the Congress of the United States. Perhaps that is the reason why we have had so many of that persuasion in this House.

Now the gentleman invokes the white soldier, and protests against this injustice which would be done him. Sir, it is not the white soldier who objects to clothing the black man with the elective franchise. It is not the white man who has fought shoulder to shoulder with the black man upon the ensanguined field who objects to these people. Not he. The objection comes from the gentleman from New Jersey, and such as he, who have opposed the war and the soldiers, white and black.

One of the gentleman's contradictions I may perhaps point out here. After citing the decrees and laws of Greece and Rome, and of the old Mosaic dispensation, and, for aught I know, the laws of the Choctaws, Seminoles, Pottawatomies, and Cherokees, to prove that the proper condition of the negro was a state of slavery, that he was happier and more contented and better in every respect in such a condition, the gentleman finally sums up his speech by telling this House that we have already conferred upon the blacks more benefits than we have upon all the rest of mankind, namely, liberty—that greatest, supremest, best of all blessings which can be conferred upon man, freedom!

Well, is it so? Is it true that freedom is a boon and a blessing to black men? Why, then, did not the gentleman and his party sooner vote to confer that blessing upon them? Why did they steadily and persistently oppose the amendment of the Constitution which would confer the blessings of freedom on these people? Then they argued that it was no blessing, that it was a curse rather—it was an injury. Turning the black man away from the roof of his master without the kind protection and guidance of his

owner was no boon, as these gentlemen argued then, but rather a curse. Well, sir, if freedom is a blessing and a boon, if freedom is the highest right that a man possesses, then is the right to protect that freedom a high and divine and holy right.

It has been said that the right to vote is not a natural right. I confess that I cannot see why it is not. It is truly said that the right of self-defense is the first law of nature. The right to vote, the ballot, is the freeman's defense; and if his right to freedom is an inalienable and natural right, then, too, is the right to protect that freedom an inalienable and natural right.

The gentleman from New Jersey says that at the time of the organization of this Government and the adoption of the Federal Constitution black men were not regarded as citizens; that this is a white man's Government and that the fathers who established it had no intention of making a Government for black men. I take issue with the gentleman there. I say that our fathers made this Government for men; not for black men or white men, not for Anglo-Saxons, not for Irishmen, or Germans, or Americans merely, but they made it for men. I take issue with him, too, in his assertion that blacks were not regarded at that time as citizens, and had no part nor lot in the Declaration of Independence. Upon this subject of the Declaration of Independence and the understanding and design of the fathers who framed it, I want to call the attention of the House to what Thomas Jefferson said on this subject. It will be recollected, I have no doubt, by most of the members of the House, if not by all, that shortly after the revolutionary war Mr. Jefferson used this language:

"Let it ever be the boast of America that the rights for which she has contended are the rights of human nature."

What did he mean by "the rights of human nature?" I suppose the gentleman from New Jersey would say he meant white human nature, the nature of men with fair skins and blue eyes. But we are not left in the dark as to the meaning of Mr. Jefferson in using this phrase. I find in Jefferson's works, volume one, page 135, this language used by him in reference to slavery:

"But previous to the enfranchisement of the slaves we have, it is necessary to exclude all further importations from Africa. Yet our repeated attempts to effect this by prohibition and by imposing duties which might amount to prohibition have been hitherto defeated by his majesty's negative, thus preferring the immediate advantage of a few British corsairs to the lasting interests of the American States and to the rights of human nature."

Again, in speaking of the action of the Legislature of the State of Virginia on the subject of slavery, he used similar language. He says:

"In the very first session held under republican government the Assembly passed a law of perpetual prohibition of the importation of slaves. This will in some measure stop the increase of this great political and moral evil, while the minds of our citizens may be ripening for the complete emancipation of human nature."

Then Mr. Jefferson meant by "human nature" the nature of man, whether with a black skin or a white skin, whether a slave or a free man. The boast of this country, he said, should be that the rights for which she fought were the rights of man, no matter what his color or clime or condition.

Why, sir, it was not until a few years ago that our Government refused to issue passports to colored American citizens traveling abroad describing them as citizens of the United States. I well recollect to have seen an original passport issued to the servant of John Randolph when traveling abroad, describing him as a "citizen of the United States." It was not until we had taken our departure from the doctrines of the fathers, long and long after the Constitution was made, that the infamous doctrine crept in that the black man had no "human nature," had "no rights which white men were bound to respect," and that none but white men could be citizens of the United States. It is an infamous, a mean, a narrow, a devilish doctrine.

Mr. Speaker, there are some things said by

gentlemen upon the other side of the House which deserve only to be answered by ridicule, for they are ridiculous. Among them is this everlasting cry of negro equality and amalgamation. The gentleman from New Jersey spoke of it, and denounced this bill now under consideration as an attempt to place the negro upon a social equality with the whites.

He says this is a white man's Government. "A white man's Government!" Why, sir, did not the Congress of the United States pass a law for enrolling into the service of the United States the black man as well as the white man? Did not we tax the black man as well as the white man? Does he not contribute his money as well as his blood for the protection and defense of the Government? Oh, yes; and now, when the black man comes hobbling home upon his crutches and his wooden limbs, maimed for life, bleeding, crushed, wounded, is he to be told by the people who called him into the service of the Government, "This is a white man's Government; you have nothing to do with it?" Shame! I say, eternal shame! upon such a doctrine, and upon the men who advocate it!

But "negro equality" is the bugbear which frightens gentlemen. The gentleman from New Jersey says that if we give the blacks of this District the right to vote, the first thing we will know will be that a black man will be elected mayor. Well, sir, if it be true, as the other side of the House contend, that it is necessary to have discriminating laws to oppress the black man in order to prevent his rising to an equality with the white, then it is rather a confession of his superiority than of his inferiority. If you are afraid he will rise, should he have a fair chance, to an equality with the white man, and beat him in the competition for office under as free a Government as ours, and therefore you must oppress him still more by discriminating legislation in order to prevent that, then he is superior to the white man and not his inferior.

I am inclined to think it is true that if we confer upon the black man the right to vote and the right to hold office, we will be more likely to have other men sent to Congress than some who have held seats here. And even if it were true that they would send one of their own race here, I would still vote for it. For on the whole, however my reputation for good taste might be called in question by some, I would prefer to sit by the side of Fred. Douglass in this Hall rather than by the side of Fernando Wood, for instance. [Laughter.] I believe it is not out of order to call names in this case, and if there is any offense I will answer for it to Fred. Douglass.

"Negro equality" is the everlasting skeleton which frightens some people. There is a class of men, and they mostly vote the Democratic ticket, who are afraid, if we confer upon the negro equal rights and privileges with themselves, there will no longer be left any race or class of men in the United States who will be their inferiors, and I think they are right about that. It is very natural for men to look down upon some one; almost every man prefers himself to others, and thinks at least that he is superior to some other man in many respects. That is a natural element in a man's nature, that of self-love. Men are very fond of considering themselves a little elevated above somebody else, and if we confer upon the black race the right to vote and hold office equally with these men there will be nobody left for them to look down upon and say "You are beneath me."

And the gentleman from New Jersey [Mr. ROGERS] refers to another bugbear with which to scare ignorant people, that of amalgamation. He recites the statutes of various States against the intermarriage of blacks and whites. Well, sir, while I regard that as altogether a matter of taste, and neither myself nor my friends require any restraining laws to prevent us from committing any error in that direction, still, if my friend from New Jersey and his friends are fearful that they will be betrayed into forming any connection of that sort, I will very cheerfully join with him in voting the restraining influence of a penal statute. I will vote to pun-

ish it by confinement in the State prison, or, if he pleases, by hanging—anything rather than they should be betrayed into or induced to form any such unnatural relations. As for my own side of the House, we have no fears of that kind. Amalgamation is an outgrowth of slavery. It is where slavery has existed that you find it, not where the negro is free and has the right of self-protection.

Prejudice against the black man depends very much upon the status of the black man. It is a singular phase of character in reference to this subject of prejudice, that the prejudice is tenfold stronger against the free black man than it is against the slave. If the black man is only a slave, and in what the gentleman from New Jersey [Mr. ROGERS] denominates his proper condition, then he has no prejudice against him. You will find no prejudice in the minds of the people South against riding in the same coach or car with the black man, if only he is a slave and traveling with his master. But knock the shackles off his limbs, clothe him well, and give him the rights of a freeman, and at once these people will turn up their noses and say, "Humph! niggers in the cars; I won't ride with niggers." I recollect, some years ago, before we had horse railroads, I used to see, in this very city, a white lady riding in an omnibus, with a poor ragged slave girl carrying her child, sitting by her side. The poor slave girl was ragged and dirty, but she was a slave. The other day I saw that same woman get up in high dudgeon and flaunt out of a street car because a respectable, tidy, well-dressed, free colored woman came into the car to ride.

Prejudice, after all, is not so much against color as condition. People have no objection to riding in a carriage with a black man, if he sits forward and drives the horses. In that case he is considered as in his proper position, and there is no prejudice against associating with him; he has no bad smell. But the moment he takes a back seat, the olfactories of some people are greatly offended. This prejudice, too, has all grown out of slavery. There is no natural prejudice against color. Little children have none of it until they are told frightful stories of "horrid black men" by their nurses, to frighten them. Oppress and degrade any class of people for a long series of years, by unjust and unequal laws, and you will array against them the same prejudice.

What should be the test as to the right to exercise the elective franchise? I contend that the only question to be asked should be, "Is he a man?" The test should be that of manhood, not that of color or race or class. Is he endowed with conscience and reason? Is he an immortal being? If these questions are answered in the affirmative, then he has all those essential attributes of manhood that are possessed by the gentleman from New Jersey, or any other man; and he has the same right to protection that we all enjoy.

I am in favor, Mr. Speaker, of making suffrage equal and universal. I believe that the greatest wisdom is concentrated in the decisions of the ballot-box when all citizens of a certain age vote than when only a part vote. If you apply a test founded on education or intelligence, where will you stop? One man will say that the voter should be able to read the Constitution and to write his name; another, that he should be acquainted with the history of the United States; another will demand a still higher degree of education and intelligence; until you will establish an aristocracy of wisdom, which is one of the worst kinds of aristocracy. Sir, the men who formed this Government, who believed in the rights of human nature, and designed the Government to protect them, believed, I think, as I do, that when suffrage is made universal you concentrate in the ballot-box a larger amount of wisdom than when you exclude a portion of the citizens from the right of suffrage. While it is true that we have had in this country, at some times, in some localities, and at some elections, a class of men who are very dangerous on account of their ignorance and their passions, yet, on the

whole, I think it is safer for our institutions and safer for ourselves to allow all men to vote than to establish any arbitrary tests which would exclude a part from the ballot-box.

I have never heard from the other side of the House any objection to the exercise of the right of suffrage by white men on account of their ignorance. When Congress passed a law by which the foreigner, ignorant as he might be of our language and our institutions, should be admitted to the rights of citizenship as a reward for one year's service in the Army of the United States, that measure had my hearty approval; and I believe that it received the approval of gentlemen on the other side of the House. The ignorance of that class was not at that time urged as an objection to conferring the franchise upon them. Now, sir, if a foreigner, totally ignorant of our institutions and language, is qualified, after a year's service in the Army, to exercise the right of suffrage, I ask, in God's name, whether the negro, a native of this country, who has been fighting for four years, is not equally qualified to exercise that right?

Mr. WRIGHT. I should like to ask the gentleman a question.

Mr. FARNSWORTH. I will hear it with pleasure.

Mr. WRIGHT. The gentleman has stated that he is in favor of universal suffrage. I desire to ask him whether the sympathy for the negro among the people of his own State has been sufficient to induce them to repeal that law, passed by their Legislature some time ago, which prohibited negroes from even becoming inhabitants of the State, much less enjoying the rights and franchises of a citizen?

Mr. FARNSWORTH. I am very glad that the gentleman has called my attention to that subject. The Legislature of Illinois has repealed all laws making distinctions on account of color except that with reference to the right to vote, which is regulated by a provision in the constitution of 1848; and, Mr. Speaker, so far as I am concerned, I will rid our State constitution of the disgrace of that provision, and all other unequal and unjust provisions, as quickly as I can. I voted against the adoption of that provision; and I will vote in favor of its repeal whenever I can get the opportunity. If this is to throw me into a minority, then welcome a minority. I commenced in a minority. I began when it was necessary for the men who dared to speak upon the slavery question to stand shoulder to shoulder and maintain their position with whatever muscular power, as well as mental, they possessed. Thank God, I have lived to see the day when the principles I then advocated have become almost universal; and I expect to see the day when these ideas shall not only be universal, but when everything necessary to protect, maintain, and support them shall also be adopted by the American people.

I do not believe with those croakers who are eternally asking us of the North and of one another, "Why do you not do this thing in your own State?" Who point to Wisconsin and say that the elective franchise for the negro was voted down there.

The gentleman asks why it was not granted in Illinois. I believe if the men who have voted with me, belonging to the same political organization with myself and who acknowledge these principles to be right, could but steadfastly maintain this principle at home, which commands itself to their consciences, these disgraceful distinctions would be blotted out immediately in all the States. It has not been done because of the croakers who stand by and say that "it is not time yet;" that it is "premature;" that the "people are not up to the standard;" who say, "I am for it myself, but you must get the people to vote for it." It is because of the do-nothings and do-littles and these croakers that you do not carry this principle into effect in the northern States. Of course I make no personal allusion to any gentleman.

I expect as quick as we can get at it in Illinois we will rid that State constitution of that injustice as we have rid it of those disgraceful laws

which the Democratic party had imposed upon it. The fact that these distinctions do exist in the northern States shall not deter me, and I hope will not deter any gentleman here, from doing his duty. We ought to do that which commends itself to our judgments and consciences, without reference to what A, B, or C may say. Let us rather root out these prejudices than cultivate them.

Sir, the test of suffrage is manhood, as I have before remarked. Is he a man? It is not a question whether the vertical rays of a tropical sun have stamped his face with the hue of darkness, or whether the slanting rays of a more congenial climate have pale his complexion to the standard of Anglo-Saxon beauty. It is not a question whether a man has white hair or black hair. Our fathers, when they framed the Declaration of Independence, declared that all men were created equal; but they did not mean to declare that they were all equally rich, all equally strong, all equally endowed with the same quantity of brain, all equally handsome, equally of color, of equal weight, of equal stature. They did not mean by that that every man should inherit the same amount of wealth; but they did mean, so far as these natural rights were concerned, that one man was equal to any other man. They declared, and made the declaration one of the principles of the Government which they established, that all men inherited the same rights. They declared that all men had the right to life, liberty, and the pursuit of happiness. And they said something more than that. They said that Governments were instituted to protect these rights. They said that the just powers of government were derived from the consent of the governed. If that be true, if Governments are instituted among men deriving their just powers from the consent of the governed, will some gentleman, in God's name, tell me why this body of men who are under the Government have not the same right as I have to participate in it? What business have I to elbow another man off, and to say to him that he has no right here? Has God made me better than He has made him? We might as well partition off the atmosphere, collect the rays of the sun, and withhold them from the men we may conceive to be inferior to ourselves.

Another objection is made to the bill: it is said that the people of the District of Columbia voted against it, and are all against it, &c.

Sir, when we submit this question to the whole people of the District of Columbia, black and white, and take their vote upon it, I will be bound by it. It is the veriest mockery to talk about the people of the District opposing this. What! submit the question to a part of the people as to whether another part of the people shall vote? The very proposition is absurd. Submit the question to those who have prejudged against it, as to whether another man shall exercise the same right! I grant you that in the expression which was taken here it was all one way—against the black man, of course—but I will guaranty another thing, and that is, that among all those votes polled against these poor colored men, every rebel, secessionist, semi-secessionist, or copperhead in the District of Columbia, who was entitled to a vote, cast that vote against the black man. All the men who lived in the District in the spring of 1861, and who even paraded their secession flag, such as lived to get back from rebellion, voted on that day against the negro; and if you had submitted the question at that same poll as to whether Jeff. Davis was a better man than Andrew Johnson or Abraham Lincoln, you would have got nearly as large a majority in favor of the affirmative.

Mr. MARSHALL. I would ask the gentleman upon what authority he charges that the votes cast against negro suffrage were cast by any of those who were in the rebel army.

Mr. FARNSWORTH. Universal repute.

Mr. MARSHALL. Ah! it is very easy to get up universal repute against anything. I am informed that there was not a single soldier in the Union Army that voted in favor of suffrage; that none such can be found in the city.

Mr. FARNSWORTH. I doubt if many who had been in the Union Army voted; while I doubt, too, if there is a member on this floor who does not know some men in the District of Columbia, who have sympathized with the rebels since the war commenced, who voted against negro suffrage.

Mr. MARSHALL. I would like my colleague to name them. These general charges are very easily made. They are entirely void of foundation and of truth.

Mr. FARNSWORTH. We all know that Washington city has been full of sympathizers with the rebels.

Mr. MARSHALL. In making such general charges it is just as easy to say one thing as another.

Mr. FARNSWORTH. Well, I say it; I declare that I have met them at every turn in this District during the war—men who sympathized with the rebels; men a little shade stronger in their sympathy than my colleague.

Mr. MARSHALL. These general charges are very easy to make. If the gentleman intends to charge or insinuate that I have either directly or indirectly sympathized with the rebels, he charges what is not true and has no foundation in fact.

Mr. FARNSWORTH. We all know what that means.

Mr. MARSHALL. Yes, I know what it means.

Mr. FARNSWORTH. We all know what it means; and I do charge that the men—and my colleague among the rest—who assembled in the city of Chicago and made the McClellan platform of 1864, did sympathize with the rebels.

Mr. MARSHALL. The gentleman has already had my response to that.

Mr. FARNSWORTH. Whether they intended to do it or not I do not know; but the effect of their action was to afford the rebels aid and comfort. The men who declared that the war was a failure, that the experiment of subduing the rebellion by force of arms could not succeed, and who called for the withdrawal of our troops and an amnesty, the patching up of a peace with the rebels, I do say by their conduct gave aid and comfort to the rebellion, and they did sympathize, so far as we may judge by their acts; for it is a well-known maxim of law that every man is to be deemed to intend the result of his own action.

I cannot of course tell what is in the heart of my colleague, or any other man, only as I can judge from his acts. I cannot say what emotions are there. I cannot read his thoughts, except as I read them through his acts. But if he says deliberately, on paper, and advocates it on the stamp, that this war should cease—that the attempt to suppress the rebellion by force of arms has proved a failure; if he opposes the continuance of the war for the maintenance of the Union, why, I suppose he means what he is doing; and that is, to give aid and comfort to the enemy. I know the gentleman's party voted—

Mr. MARSHALL. Mr. Speaker, the gentleman is entirely mistaken. The Democratic party at Chicago has been very frequently the subject of charges like that brought by the gentleman. It has been frequently charged that the Democratic party declared that the war was an entire failure and insisted that it should be immediately stopped. They took no such position in their platform.

Mr. FARNSWORTH. Well, sir, it is not worth while for us to discuss the platform of the Chicago convention. The people of the country understand it very well, and have delivered their verdict upon it.

This is getting off from the subject I was discussing, which was suffrage in the District of Columbia, and the topic immediately under discussion was the vote which was had here. I remarked, and I believe it is a true remark, that every sympathizer with the rebels in the District of Columbia who was entitled to vote on that day went to the polls and did vote against negro suffrage, while I do know that it was generally understood among the friends of

negro suffrage in the District of Columbia that the election was a mockery and a farce, that they would stay away from the polls, and would not participate in it at all. What was the result? The result was that those, and those only, voted, who had predetermined against negro suffrage. It was not an expression of the popular will at all; it was not even an expression of the popular will of the white people, saying nothing of the men who were to be affected by the vote.

Why, sir, in other respects colored men are treated by the Government as citizens and as men. I have already alluded to the fact that we compel them to bear arms in support and defense of the Government, and also to that other important fact, that we tax them for the support of the Government. These are the two most essential duties and services rendered by the citizen to his Government, that he contributes of his money and defends it with his arm. Tell me who will, that a man who contributes by his means and his industry to the support of the Government under which he lives, which has not been even the Government of his choice—for he did not come here, he was born here—and who has shed his blood and given his right arm for the support of that same Government—tell me who will, that that man has no right to a voice in the choice of his rulers, and has no lot or part in the Government.

Sir, it seems to me to be strange that we should be under the necessity of standing here at this day, past the meridian of the nineteenth century, after such a war as we have just gone through for the maintenance of those principles, and have to argue at length upon the right of man to self-government. Why, are the dark ages coming again? Is the sun enshrouded? Are we just entering upon a season of gloom? Are the minds and hearts of men becoming clouded? Is justice dying? It would seem so. It is so simple a question, so plainly enunciated, one that we have fought for so long, the right of man to self-government.

Now, I venture to say that when it comes to the question whether we shall remit power to the hands of rebel traitors with white skins the gentleman from New Jersey will be found in favor of doing it, and so will my colleague. I would like to know right here, now, whether they are not in favor of giving to the rebel soldiers who have been fighting against this Government for the last four years the right to vote.

Mr. ROGERS. Does the gentleman wish me to answer that question?

Mr. FARNSWORTH. I would like an answer from the gentleman, and also from my colleague, [Mr. MARSHALL.]

Mr. ROGERS. I am in favor, most emphatically in favor, of the people of the South having the right to vote, and I am most bitterly opposed to that provision of the constitution of Missouri which proscribes half of the population of that State from exercising the elective franchise, upon the ground that they were soldiers in the rebel army. I am for healing the wound that has been cut between the people of the North and the people of the South at once, and having a full representation in the Halls of Congress of every State, that the dead may bury their dead, and the past may go to the past, and that liberty and union may prevail throughout this land as it did before this last revolution. That is my position.

Mr. FARNSWORTH. That is as I expected.

Mr. ROGERS. I speak for myself, and nobody else.

Mr. MARSHALL. My colleague calls upon me to answer his question. With his permission I will do so.

Mr. FARNSWORTH. I will yield to my colleague for that purpose.

Mr. MARSHALL. He asks me whether I am in favor of the soldiers who were in the rebel army being allowed now to vote. I will answer him, sir, in this way: I am in favor of an immediate restoration of the Union. I believe that the right of suffrage rests with the States,

and when the southern States return here as law-abiding and loyal States, submitting themselves to the Constitution and laws of the country, I am in favor of leaving it to them to determine, as the Constitution of the country provides, who shall exercise the right of suffrage within their limits; and if the persons to whom my colleague refers are by the constitutions and laws of their own States permitted to vote, then I say we have no right to interfere with that privilege.

And I think that now we should, as has been remarked, let the dead bury their dead; let the past be forgotten, and let us unite as a nation of brethren in burying the animosities of the past, and meet together here, those who have fought in the one army or in the other, if as honest men they are willing to admit their error, come back into the Union, and obey the Constitution and laws. And if they will come back in that spirit, I believe they should be permitted to come, and should be received in the same spirit. That is my answer to the interrogatory of my colleague.

Mr. FARNSWORTH. That is as I expected, and stripped of its verbiage it simply means that my colleague is in favor of giving to the rebels of the South the right to vote.

Mr. MARSHALL. No, sir, my colleague is mistaken; I am in favor neither of giving nor taking away the right. If they are entitled to vote when the States are restored, under the Constitution and laws of the country, we have no right to prevent them from exercising that privilege.

Mr. FARNSWORTH. In other words, we have no right to demand of them security for the future.

Mr. MARSHALL. That was not the question of the gentleman.

Mr. FARNSWORTH. It resolves itself, then, into the question as to who is best entitled to vote, the loyal black man or the rebel white man. I do not expect that we shall be able to forever prevent the rebel white man from exercising the elective franchise. I suppose many, if not all of them, will vote, sooner or later. I do not expect there is a party strong enough in this country to prevent that. I do not know that it is best to prevent it. I do not propose to discuss that question. But if the question is even worthy of discussion, I say it settles the question that the black man who has been loyal and true to the Union is entitled to that privilege. Can there be any doubt or hesitation upon that point? Here is one person who has been for four years fighting for the Government; here is another who has been fighting against it. The one has been trying to build up and sustain the Government; the other has been trying to pull down and destroy the very Government we are here to legislate for. Yet gentlemen upon the other side of the House are in favor of giving the right of suffrage to those who have been trying to pull down and destroy the Government, and withhold it from those who have been striving to uphold and sustain it. For my own part, there can be no compromise of this question.

I say that the loyal black man, who has been true to his country, shall, here and everywhere, whether in these Halls or at home, whether in or out of Congress, have my voice, my hand, my heart, and my brain in favor of endowing him with the right of suffrage. And I say that the American people, after the struggle they have just passed through, will act criminally, suicidally, if they do not at this time secure to these men the rights of human nature.

Mr. ROGERS. Will the gentleman state whether or not there is a provision in the constitution of the State of Illinois against negroes taking up their residence in that State?

Mr. FARNSWORTH. I have no objection to answering the gentleman. A Democratic convention in Illinois, in 1848, inserted a provision in the constitution requiring the Legislature of that State to pass laws to prevent the immigration of free colored persons into that State. The Legislature have never passed any such laws since then, and some laws of that

character, which were upon the statute-book before that constitutional provision was adopted have since been repealed.

Mr. THORNTON. I will ask the gentleman whether in 1862 a proposition was submitted to the people in regard to allowing negroes the right of suffrage, and whether the people of the State did not vote to prohibit them from having any such right by a vote of one hundred thousand, and over two thirds of the soldiers of Illinois in the Union army voted in the same way?

Mr. FARNSWORTH. Well, Illinois has done a great many mean things. [Laughter.] We used to have a Democratic Legislature from year to year, Democratic Governors and judges and Congressmen. Illinois used to cast her electoral vote for such men as James Buchanan and Franklin Pierce. She has done several mean things in her day; but she has repented of it, and, thank God! my noble State has a record to-day than which none has a prouder; and, trust my word, she will never be guilty of such injustice again. Illinois has redeemed herself.

[Here the hammer fell.]

Mr. DAVIS obtained the floor.

Mr. ROGERS. I move that the gentleman from Illinois [Mr. FARNSWORTH] have his time extended, so as to enable him to conclude his remarks.

No objection was made.

Mr. JOHNSON. I presume there will be no vote taken to-day.

Many MEMBERS. "No!" "No!"

The SPEAKER. The Chair understands that no vote will be called for on this subject to-day.

Mr. FARNSWORTH. It is useless, Mr. Speaker, to cite the acts of State Legislatures heretofore passed upon this subject. That is only begging the question. Suffrage has been withheld from the black man up to the present time. If that is any reason why it should longer be withheld from him, then that is a kind of logic which I do not appreciate. Therefore, these citations by gentlemen from the provisions of State constitutions and State laws bearing on this subject have, it seems to me, no pertinence to the question.

I was remarking, Mr. Speaker, that, in my opinion, this Government would be criminally recreant to its high trust if it does not, while it has the power, profit by the lessons of the past—the experience acquired in the last four years in the fiery ordeal of war. We shall be false to our duty if we do not obtain security for the future—not only security against further secession and war, but security for the protection of the rights of men—men of all classes and conditions. Why, sir, I am in almost daily receipt of letters from the South, written by members of State Legislatures, by officers of the Army, by merchants doing business there; and all these men bear the same testimony—that the people of the South are not yet fit to resume their functions in the Union and their relations to the General Government; that to restore the States lately in insurrection to the *status* which they enjoyed as States before the war would only be putting power into the hands of rebels and traitors, whose hatred of the Union and of Union men has become intensified rather than mollified since the termination of the war; that no Union man, whether white or black, would be able to live in those States one moment after the withdrawal of the troops that now protect them and preserve order. This is the universal testimony.

Only a few days ago, as I am credibly informed, General Grant sent from this city an escort of cavalry and a train of wagons into Virginia—not fifty miles, I believe, from this capital—to remove to the city of Washington a loyal family, consisting of a widow and her children, because they could not live in their home in safety. The husband of this woman, formerly a paymaster in the United States Army, was, since the close of the war, ruthlessly shot down by a returned rebel in the streets of Alexandria. His family, returning to their residence in Virginia, had their house set on fire in the night,

with the fiendish expectation and design of burning to death its inmates. General Grant, in accordance with the petition of that widow, sent an escort of cavalry, as I have remarked, to insure the safe transit of herself and her children to the city of Washington. This is the condition of things almost under the very shadow of this Capitol. The men from whom this poor woman and her children have been obliged to flee for their lives are the sort of men whom the gentleman from New Jersey desires to clothe with all the rights of citizenship and sovereignty. These are the men whom he would allow to control the destinies of Virginia and other southern States lately arrayed in arms against the Government, and to take seats upon this floor to control the destinies of this great nation.

I grant, sir, that many of the colored men whom I would enfranchise are poor and ignorant; but we have made them so. We have oppressed them by our laws. We have stolen them from their cradles, and consigned them to helpless slavery. The shackles are now knocked from their limbs, and they emerge from the house of bondage and stand forth as men. Let us now take the next grand step, a step which must commend itself to our judgment and consciences. Let us clothe these men with the rights of freemen and give them the power to protect their rights.

Sir, as I have already remarked, we have passed through a fiery ordeal. There are but few homes within our land that are not made desolate by the loss of a son or a father. The widow and the orphan meet us wherever we turn. The maimed and crippled soldiers of the Republic are everywhere seen. Many fair fields have become cemeteries where molder the remains of the noble men who have laid down their lives in defense of our Government. We thought that we had attained the crisis of our troubles during the progress of the war. But it has been said that the ground-swell of the ocean after the storm is often more dangerous to the mariner than the tempest itself; and I am inclined to think that this is true in reference to the present posture of our national affairs. The storm has apparently subsided; but, sir, if we fail to do our duty now as a nation—and that duty is so simple that a child can understand it; no elaborate argument need enforce it, as no sophistry can conceal it; it is simply to give to one man the same rights that we give to another—if we fail now in this our plain duty as a nation, then the ship of state is in more peril from this ground-swell on which we are riding than it was during the fierce tempest of war. I trust that this Congress will have the firmness and wisdom to guide the old ship safely into the haven of peace and security. This we can do by fixing our eyes upon the guiding star of our fathers—the equal rights of all men.

ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; whereupon the Speaker signed the same:

Joint resolution (H. R. No. 28) in relation to the Industrial Exposition at Paris, France; and An act (H. R. No. 58) authorizing the Secretary of the Treasury to appoint assistant assessors of internal revenue.

Mr. THAYER. I move that the House adjourn.

The motion was agreed to; and thereupon (at half past four o'clock) the House adjourned.

IN SENATE.

FRIDAY, January 12, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair has received and been requested to present the petition of Orville Burke, late captain in the

fourteenth Iowa volunteers, together with numerous others, who subscribe themselves as "old soldiers of the war of 1861, and citizens of Jones county, Iowa," requesting Congress to grant to those who enlisted under the \$100 bounty act, \$200 bounty when honorably discharged, asserting that, in their opinion, justice requires that those who responded first to the country's call are entitled to at least as much bounty as those who enlisted later, when a draft seemed inevitable. If there be no objection, this petition will be received and referred to the Committee on Military Affairs and the Militia.

It was so referred.

Mr. GRIMES. I present the petition of General John Edwards and sundry other citizens of Arkansas, who represent that the country west of that State is susceptible of sustaining a very dense population, but is now a howling wilderness, and they ask that there may be a Territory established there. I move that it be referred to the Committee on Territories.

The motion was agreed to.

Mr. GRIMES. I also present the petition of C. B. Seger, president of the New Orleans, Opelousas, and Great Western Railroad Company; of Thomas Rigby, vice president of the Southern Railroad Company; and of W. M. Wadley, president of the Vicksburg, Shreveport, and Texas Railroad Company of Louisiana, praying for an extension of time within which to complete the various railroads of which the gentlemen whose names I have recited are the representatives and officers. I move that it be referred to the Committee on Public Lands.

The motion was agreed to.

Mr. HARRIS presented the memorial of John R. Brown, of Brooklyn, New York, praying for remuneration for the seizure of the schooner Robert Bruce by the revenue cutter Forward, on the 12th day of March, 1865; which was referred to the Committee on Claims.

Mr. WILSON presented the petition of John A. McTavish, father of Alexander McTavish, late captain in the eleventh regiment Massachusetts volunteers, who was killed in battle, praying for a pension; which was referred to the Committee on Pensions.

Mr. COWAN presented the petition of citizens of Philadelphia, praying for an appropriation for the construction of a breakwater at Marquette harbor, on Lake Superior, and for the improvement of that harbor; which was referred to the Committee on Commerce.

He also presented the petition of Henry S. Davis, praying for compensation for fitting up the west wing of the Patent Office, a mistake having been made, as he alleges, in the settlement of his accounts; which was referred to the Committee on Claims.

Mr. TRUMBULL. A few days since I presented, at the request of their secretary, the petition of the American Free Trade League. Since then I have received a petition with the signatures of the officers of that league, among whom are William C. Bryant, David Dudley Field, and some of the most eminent men in the country. The petition sets forth in very clear and strong language the objections to a protective tariff, starting out with the proposition that every man is entitled to the fruits of his own labor, and should have the right to exchange those fruits for the labor of any other person without any interference by the Government whatever. The petition recognizes the right of taxation, but insists that this taxation should be equal upon all classes of the community. It proceeds to state that the great portion of the laboring people of this country are agriculturists; that they need no protection; that it is impossible by discriminating duties to afford them protection, because the articles produced by them in this country are produced more cheaply than in any other country. The petition insists that a person who, by his labor, produces a bale of cotton has a right to exchange that bale of cotton for two tons of iron if he can make that exchange, and that any legislation laying a duty upon the importation of

iron which compels him to exchange his bale of cotton for one ton of iron is prejudicial to his interest, and is special legislation in favor of a particular class. So with the man who raises wheat or corn sufficient to buy two blankets; any legislation which compels him to pay the same for one blanket is injurious to him, partial in its character, and ought not to be tolerated. The petition further goes on to show that by the imposition of high duties the revenues of the country are lessened rather than increased when a discrimination is made. It proceeds to controvert the positions which are taken in favor of a protective tariff, among which is the position that it is to protect the laborers of this country against the pauper labor of Europe. The petitioners say that, so far from this being the case, these very manufacturers who are favored by this legislation are constantly introducing this foreign labor into their establishments to compete with the labor of this country.

The petition concludes with a prayer to Congress that in its legislation no discrimination may be made; that no duties may be laid for the purpose of protection, and suggests that a revenue tariff will afford all the protection that will be necessary; and so it would seem to me at this time. We are now desiring to raise the largest revenue that we can; there are great calls upon the Government for money; we have accumulated a vast debt; and it would seem to me that in the adjustment of any tariff the protection incidentally afforded by collecting the duties necessary to defray the expenses of the Government would be all the protection that any branch of industry ought at this time to require. I commend this petition to the especial attention of the Committee on Finance, to which I move its reference.

The PRESIDENT *pro tempore*. That reference will be ordered.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. TRUMBULL, it was

Ordered, That the memorial and other papers of A. T. Spencer and G. S. Hubbard, of Chicago, Illinois, praying compensation for carrying the mails on their line of steamers between Chicago and the ports on Lake Superior, on the files of the Senate, be referred to the committee on Post Offices and Post Roads.

On motion of Mr. ANTHONY, it was

Ordered, That the petition and other papers of George W. Hall and others, owners of the bark "A. 1." of Providence, Rhode Island, praying indemnification for alleged losses occasioned by the seizure of that vessel, on the files of the Senate, be referred to the Committee on Claims.

JOINT COMMITTEE ON RECONSTRUCTION.

Mr. FESSENDEN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved by the Senate (the House of Representatives concurring,) That the joint committee appointed to inquire into the condition of the States which formed the so-called Confederate States be authorized to send for persons and papers.

COTTON AGENTS IN THE SOUTH.

Mr. NORTON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Finance be, and are hereby, directed to inquire as to, and consider the propriety and expediency of, raising a select committee to examine into and investigate the transactions in cotton of the supervising special agents of the Treasury.

REPORTS OF COMMITTEES.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred a bill (H. R. No. 36) making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th of June, 1867, reported it with amendment.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred a bill (S. No. 66) to facilitate commercial, postal, and military communication among the several States, reported it with an amendment.

Mr. CHANDLER. The same committee, to whom was referred the memorial of marine insurance companies of New York city, praying for an appropriation for restoring the lights at Cape Florida, Jupiter Inlet, and Cape Canaveral, on the coast of Florida, have directed me to report it back, and ask to be discharged from

its further consideration. It seems from a communication received from the Light-House Board that all of these works are in process of reconstruction, and that the lights will be lighted within a very few days. I move that the communication from the Light-House Board be published with the report.

The motion was agreed to.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred a resolution of the Senate directing the committee to inquire into the expediency of repealing the first section of "An act supplementary to several acts relating to pensions," approved March 3, 1856, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, who were instructed by a resolution of the Senate to inquire into the expediency of providing for the appointment of pension agents by the President, by and with the advice and consent of the Senate, reported a bill (S. No. 69) to provide for the payment of pensions; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill (S. No. 56) granting a pension to Mary C. Hamilton, reported it without amendment.

He also, from the same committee, to whom was referred a bill (S. No. 22) supplementary to the several acts relating to pensions, reported it with an amendment.

He also, from the same committee, to whom was referred the memorial of Alpheus Fobes, United States pension agent in New York, praying for the passage of a law to refund certain moneys stolen from him; asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a petition of citizens of Oregon, praying that a pension may be granted to Henry Noland, who served in Captain Crawford's company of Kentucky militia from August 25 to November 5, 1813, asked to be discharged from its further consideration; which was agreed to.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 1) to regulate the elective franchise in the District of Columbia, reported it with an amendment.

J. C. G. KENNEDY.

Mr. SPRAGUE. The Committee on Manufactures, to whom was referred the memorial of Joseph C. G. Kennedy, late Superintendent of the Census, have directed me to ask that they be discharged from its further consideration, and that it be referred to the Committee on Printing, believing that that committee, having the general subject of the public printing in charge, are better judges of the matters alleged in the memorial than the Committee on Manufactures.

Mr. McDUGALL. If I understand the matter correctly—the Senator from Rhode Island will correct me if I am wrong—this memorial relates to a compilation of the census returns with regard to the manufacturing interests, which has been published in a particular form by the Department of the Interior, under the name of, and as if compiled by, the Commissioner of the General Land Office. The question is as to how that book on manufactures should have been issued. Mr. Kennedy claims that he compiled the statistics contained in the book, that it is his work as the head of the Census Bureau, and that it pertains to him as a matter of right that it should have been so issued. It seems to me, under these circumstances, that the subject-matter is one that more particularly belongs to the Committee on Manufactures. My impression is that the work should have appeared bearing the name of the person whose labor was employed in preparing it as a body of statistics. It is of importance to us to understand and know who are the statisticians under whose name such works are issued by the Government. That is a department of science of very great importance in politico-economic matters. That Mr. Kennedy is a person

conversant with these things we here know. Gentlemen who have been much about Washington know that he has been long familiar with such subjects; and that his name should be connected with this work, instead of the name of Mr. Edmunds, who is not known as a statistician, seems to me eminently proper; and whether that is proper or not is a question which belongs appropriately to the Committee on Manufactures. I trust they will not be discharged from its consideration, or will at least give some reason for making that request.

The report of Mr. SPRAGUE was agreed to.

DIPLOMATIC CORRESPONDENCE.

Mr. ANTHONY. I move to reconsider the vote by which a resolution was passed yesterday ordering the printing of ten thousand extra copies of certain diplomatic correspondence. The reason I make the motion is this: the Senator from Illinois [Mr. TRUMBULL] objected to the passage of the resolution, and withdrew his objection on a statement I made, which I find is not strictly correct, although I think substantially so. I stated that this correspondence was supplemental to the documents from the State Department accompanying the President's message, of which the President had ordered the printing of a certain number; that this would be bound in the same volume, making in fact a part of it; and upon that statement the Senator from Illinois withdrew his objection and the resolution was passed. I have been at the State Department, and I find that I was not entirely correct in that statement. This is supplemental to the correspondence that came in a year ago, and of which the President authorized and directed ten thousand copies to be printed. It is the opinion of the State Department that to every person to whom that former correspondence went this should also go; and they think at the Department that it is important for the understanding of our foreign affairs and the vindication of our policy that this should be done. The expense, as I said yesterday, will be about five hundred dollars. If now, after this statement, any Senator objects to the resolution, I am willing to have the resolution reconsidered, though I shall vote in favor of its passage; but if not, I withdraw the motion to reconsider.

Several SENATORS. Let it go.

Mr. ANTHONY. I withdraw the motion to reconsider.

INTER-STATE INTERCOURSE.

Mr. TRUMBULL. Two days ago a message came from the House of Representatives, requesting the return of a bill which had been sent to the Senate some weeks since, and had been referred to one of its committees. It occurred to me that it might embarrass the business of the Senate to return a bill after it had been read twice and referred to and considered in a committee, without any other action; but I understand since from the Clerk that it is customary to return bills under such circumstances, and I desire to withdraw the motion which I entered to reconsider the vote by which the bill was ordered to be returned to the House of Representatives. As I do not wish to retain the bill here when the House of Representatives desire to have control of it, I have no objection to its being sent back to the House.

The PRESIDENT *pro tempore*. The Senator from Illinois asks unanimous consent to withdraw his motion to reconsider a vote of the Senate directing bill H. R. No. 11, to facilitate commercial, postal, and military communication among the several States, to be returned to the House of Representatives agreeably to their request. The Chair hears no objection, and the motion to reconsider is withdrawn. The bill will be returned to the House of Representatives.

NOTICE OF A BILL.

Mr. GRIMES gave notice of his intention to ask leave to introduce a bill to establish the number and fix the pay of the line and staff officers in the United States Navy.

BILLS INTRODUCED.

Mr. DIXON asked, and by unanimous consent obtained, leave to introduce a bill (S. No.

70) to amend the postal laws; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 71) relative to the sale of postage stamps and stamped envelopes on credit; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 72) for the relief of Ruth Ellen Grelaud, widow of John H. Grelaud, deceased; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 73) to restore to the Secretary of War the supervisory and appellate powers in relation to the acts and duties of the Commissioner of Indian Affairs; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. JOHNSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 75) to amend the act entitled "An act to reorganize the courts in the District of Columbia," &c., and for other purposes; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 14) extending the time for the completion of the Burlington and Missouri River railroad; which was read twice by its title, and referred to the Committee on Public Lands.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. LLOYD, Chief Clerk, announced that the Speaker of the House of Representatives had signed the following enrolled bill and joint resolution; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 58) authorizing the Secretary of the Treasury to appoint assistant assessors of internal revenue; and

A joint resolution (H. R. No. 28) in relation to the Industrial Exposition at Paris, France.

PROVISIONAL GOVERNMENTS.

The PRESIDENT *pro tempore*. If there be no further business of the morning hour to be presented, the Chair will now call up the unfinished business of yesterday, which is the joint resolution (S. R. No. 11) in relation to the organization of provisional governments within the States whose people were lately in rebellion against the United States, upon which the Senator from Wisconsin [Mr. HOWE] is entitled to the floor.

Mr. HOWE. Mr. President, it was my purpose to submit a very few remarks to the Senate at some time before this resolution passes from its consideration, in reply to what was said yesterday by the Senator from Maryland, [Mr. JOHNSON;] but after the Senate adjourned I understood from him that he was to be absent from the city to-day, and as my colleague [Mr. DOOLITTLE] wishes to speak upon the same subject at a future day, and will not be prepared to speak before Wednesday next, I have come to the conclusion; if it meets the views of the Senate, to ask that the further consideration of this resolution be postponed until Wednesday next, that my colleague may then have the opportunity to speak, and I will defer speaking until he shall have concluded his remarks.

Mr. JOHNSON. I made the request of the honorable member because I am obliged to be absent from the city, and I shall go in an hour or two from now, and I am very anxious to hear the reply. I understand the Senator has gratified my request by moving to postpone the subject until some day next week.

Mr. HOWE. Yes, sir, I move that it be postponed until Wednesday next.

The motion was agreed to.

FREEDMEN'S BUREAU.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of Senate bill No.

60, entitled "A bill to enlarge the powers of the Freedmen's Bureau."

Mr. HENDRICKS. I wish to inquire of the chairman of the Judiciary Committee whether he intends to press that bill upon the immediate consideration of the Senate, or whether he merely wishes some formal action on it to-day?

Mr. TRUMBULL. It is not my intention to press the bill to a vote to-day against the wishes of the Senate, or any member of the Senate. I design to call it up and proceed with it as far as we can. There are some verbal amendments and other amendments recommended by the Judiciary Committee, and I thought perhaps we might act upon these and proceed with it as far as was agreeable to the Senate; but it is not my intention to press a vote upon it to-day against the wishes of any Senator. It will have to be read, and I wish to get it in a position to be acted upon at an early day definitely, not, however, to urge to-day a vote upon it or upon any amendment in it that any Senator desires to consider further than to-day.

Mr. HENDRICKS. With that understanding I have no sort of objection to taking up the bill. The bill as reported by the committee has only been printed this morning, and it is impossible for any Senator to understand very fully its provisions without an opportunity of examining it. I think it one of the most important bills before the body, and therefore it ought not to be pressed hastily; but so far as the Senator has indicated that he proposes to consider it now, of course I have no objection.

Mr. JOHNSON. I would suggest to the honorable member from Illinois that he had better, perhaps, let this bill lie over until Monday. I was not present in the committee when it was determined to report the bill, and I am obliged to leave here in the course of an hour, and I should like very much to be present when the amendments are considered.

Mr. TRUMBULL. I will state to the Senator from Maryland that it is substantially the bill which we partially considered in committee when he was present. The committee have made some amendments of a verbal character, none I think affecting the principle of the bill at all; and it was my design to have it called up and read, in order that the Senate might see that it was before it, and not to press a vote upon any amendment to the bill, or the bill generally; against the wishes of any Senator to-day. I presume the Senator from Maryland will have no objection to that; it will get it in a position to attract the attention of the Senate to it, so that we can act upon it at an early day. If, when the bill is read, any of the amendments suggested by the committee are likely to give rise to debate, or there is objection to them, (which I do not presume there will be,) I shall have no objection to its going over.

Mr. JOHNSON. I do not know that I shall object to any of the amendments which the committee have reported; but if I understand what was done in committee in relation to the amendment of the bill, they have not reported an amendment which I think should be made. If the honorable Senator does not propose to act on the bill to-day, but merely to act on the amendments which the committee have proposed, I have no objection, certainly, that the bill shall be taken up.

The motion to take up the bill was agreed to; and the bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau was considered as in Committee of the Whole.

It provides that the act to establish a Bureau for the relief of Freedmen and Refugees, approved March 3, 1865, shall continue until otherwise provided for by law, and shall extend to refugees and freedmen in all parts of the United States. The President is to be authorized to divide the section of country containing such refugees and freedmen into districts, each containing one or more States, not to exceed twelve in number, and by and with the advice and consent of the Senate, to appoint an assistant commissioner for each district, who shall give like bond, receive the same compensation, and perform the same duties prescribed by this act and the act to

which it is an amendment. The bureau may, in the discretion of the President, be placed under a Commissioner and assistant commissioners, to be detailed from the Army, in which event each officer so assigned to duty is to serve without increase of pay or allowances.

The Commissioner, with the approval of the President, is to divide each district into a number of sub-districts, not to exceed the number of counties or parishes in each State, and to assign to each sub-district at least one agent, either a citizen, officer of the Army, or enlisted man, who, if an officer, is to serve without additional compensation or allowance, and if a citizen or enlisted man, is to receive a salary not exceeding \$1,500 per annum. Each assistant commissioner may employ not exceeding six clerks, one of the third class and five of the first class, and each agent of a sub-district may employ two clerks of the first class. The President of the United States, through the War Department, and the Commissioner, is to extend military jurisdiction and protection over all employes, agents, and officers of the bureau, and the Secretary of War may direct such issues of provisions, clothing, fuel, and other supplies; including medical stores and transportation, and afford such aid, medical or otherwise, as he may deem needful for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen, their wives and children, under such rules and regulations as he may direct.

It is also provided that the President may, for settlement in the manner prescribed by section four of the act to which this is an amendment, reserve from sale or settlement, under the homestead or preemption laws, public lands in Florida, Mississippi, and Arkansas, not to exceed three million acres of good land in all, the rental named in that section to be determined in such manner as the Commissioner shall by regulation prescribe. It proposes to confirm and make valid the possessory titles granted in pursuance of Major General Sherman's special field order, dated at Savannah, January 16, 1865. The Commissioner, under the direction of the President, is to be empowered to purchase or rent such tracts of land in the several districts as may be necessary to provide for the indigent refugees and freedmen dependent upon the Government for support; also to purchase sites and buildings for schools and asylums, to be held as United States property, until the refugees or freedmen shall purchase the same, or they shall be otherwise disposed of by the Commissioner.

Whenever in any State or district in which the ordinary course of judicial proceedings has been interrupted by the rebellion, and wherein, in consequence of any State or local law, ordinance, police, or other regulation, custom, or prejudice, any of the civil rights or immunities belonging to white persons (including the right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to have full and equal benefit of all laws and proceedings for the security of person and estate) are refused or denied to negroes, mulattoes, freedmen, refugees, or any other persons, on account of race, color, or any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or wherein they or any of them are subjected to any other or different punishment, pains, or penalties, for the commission of any act or offense, than are prescribed for white persons committing like acts or offenses, it is to be the duty of the President of the United States, through the Commissioner, to extend military protection and jurisdiction over all cases affecting such persons so discriminated against.

Any person who, under color of any State or local law, ordinance, police, or other regulation or custom, shall, in any State or district in which the ordinary course of judicial proceedings has been interrupted by the rebellion, subject, or cause to be subjected, any negro, mulatto, freedman, refugee, or other person, on account of

race or color, or any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or for any other cause; to the deprivation of any civil right secured to white persons, or to any other or different punishment than white persons are subject to for the commission of like acts or offenses, is to be deemed guilty of a misdemeanor, and be punished by fine not exceeding \$1,000, or imprisonment not exceeding one year, or both. It is to be the duty of the officers and agents of this bureau to take jurisdiction of, and hear and determine, all offenses committed against this provision; and also of all cases affecting negroes, mulattoes, freedmen, refugees, or other persons who are discriminated against in any of the particulars mentioned in the act, under such rules and regulations as the President of the United States, through the War Department, may prescribe. This jurisdiction is to cease and determine whenever the discrimination on account of which it is conferred ceases, and is in no event to be exercised in any State in which the ordinary course of judicial proceedings has not been interrupted by the rebellion, nor in any such State after it shall have been fully restored in all its constitutional relations to the United States, and the courts of the State and of the United States within its limits are not disturbed or stopped in the peaceable course of justice.

The first amendment of the Committee on the Judiciary was in section one, line five, after the word "continue" to insert "in force," so as to read, "that the act to establish a Bureau for the relief of Freedmen and Refugees, approved March 3, 1865, shall continue in force until otherwise provided;" and in line six, after "provided," to strike out "for."

Mr. TRUMBULL. That is a mere verbal amendment.

The amendment was agreed to.

The next amendment was in line thirteen of section one, before the words "compensation" and "duties," to strike out the word "same."

The amendment was agreed to.

The next amendment was in section one, line fifteen, after the word "amendment" to insert the word "or."

The amendment was agreed to.

The next amendment was to strike out section four of the bill, which is as follows:

SEC. 4. *And be it further enacted*, That the President may, for the settlement in the manner prescribed by section four of the act to which this is an amendment, reserve from sale or settlement, under the homestead or preemption laws, public lands in Florida, Mississippi, and Arkansas, not to exceed three million acres of good land in all, provided the rental named in said section four be determined in such manner as the Commissioner shall by regulation prescribe.

And in lieu of that section to insert the following:

SEC. 4. *And be it further enacted*, That the President is hereby authorized to reserve from sale or from settlement, under the homestead or preemption laws, and to set apart for the use of freedmen and loyal refugees, unoccupied public lands in Florida, Mississippi, and Arkansas, not exceeding in all three million acres of good land; and the Commissioner, under the direction of the President, shall cause the same from time to time to be allotted and assigned, in parcels not exceeding forty acres each, to the loyal refugees and freedmen, who shall be protected in the use and enjoyment thereof for such term of time and at such annual rent as may be agreed on between the Commissioner and such refugees or freedmen. The rental shall be based upon a valuation of the land, to be ascertained in such manner as the Commissioner may, under the direction of the President, by regulation prescribe. At the end of such term, or sooner, if the Commissioner shall assent thereto, the occupants of any parcels so assigned may purchase the land and receive a title thereto from the United States in fee, upon paying therefor the value of the land, ascertained as aforesaid.

The amendment was agreed to.

The next amendment was to strike out section six, as follows:

SEC. 6. *And be it further enacted*, That the Commissioner, under the direction of the President, is hereby empowered to purchase or rent such tracts of land in the several districts, aforesaid, as may be necessary to provide for the indigent refugees and freedmen dependent upon the Government for support; also to purchase sites and buildings for schools and asylums, to be held as United States property, until the refugees or freedmen shall purchase the same, or they shall be otherwise disposed of by the Commissioner.

And in lieu thereof to insert:

SEC. 6. *And be it further enacted*, That the Commissioner shall, under the direction of the President, procure in the name of the United States, by grant or purchase, such lands within the districts aforesaid as may be required for refugees and freedmen dependent on the Government for support; and he shall provide or cause to be built suitable asylums and schools. But no such purchase shall be made, nor contract for the same entered into, nor other expense incurred, until after appropriations shall have been provided by Congress for the general purposes of this act, out of which payments for said lands shall be made. And the Commissioner shall cause such lands, from time to time, to be valued, allotted, assigned, and sold in manner and form provided in the preceding section: *Provided always*, That the said lands shall not be sold for less than the cost thereof to the United States.

Mr. CLARK. There should be an amendment to that amendment which was agreed upon by the committee but by inadvertence is not reported correctly. A portion of that proviso should be stricken off, and instead of the words "provided always that the said lands shall not be sold for," the words "at a price not" should be inserted, so as to read, "and sold in manner and form provided in the preceding section at a price not less than the cost thereof."

The amendment to the amendment was agreed to.

Mr. TRUMBULL. I see that a verbal amendment is necessary in the sixth line. It now reads, "and he shall provide or cause to be built suitable asylums and schools." It ought to be "shall provide or cause to be erected suitable buildings for asylums and schools."

The amendment to the amendment was agreed to.

The amendment as amended was adopted.

The PRESIDENT *pro tempore*. The Chair is advised that those are all the amendments that are reported from the committee. The bill is now before the Senate as in Committee of the Whole and is still open for amendment.

Mr. HENDRICKS. The amendments that have been agreed to do not materially change the force and effect of this bill, and therefore there was no question that could very well arise upon any of the proposed amendments. I thought the amendments were better than the original text; but now we have come to the consideration of the bill itself, and I move the postponement of its consideration until Monday next.

Mr. TRUMBULL. I shall not object to that motion, as I gave notice when the bill was called up that I did not design to press it to a vote against the wishes of any member of the Senate to-day; but when we do proceed to the consideration of the bill when it shall come up again, I trust that Senators will have examined it and that we may be prepared to go on with its consideration. I do not mean by that to force a vote upon it on the day that it is called up, but that we shall then consider it and come to a vote as early as shall meet the views of the Senate.

Mr. GUTHRIE. I desire to suggest that the bill as amended ought to be printed.

Mr. TRUMBULL. I will inform the Senator that it is printed as amended. The amendments which we have just adopted are those recommended by the Committee on the Judiciary, and they are all in print on the Senator's table.

Mr. JOHNSON. I will inquire whether the amendments are printed with the bill and incorporated in it.

Mr. TRUMBULL. They are printed with the bill and in the bill. The usual mode of printing a bill where amendments are reported by a committee is to print the amendments in italics with the bill. The original text of the bill is printed and then the proposed amendments are inserted in italics.

Mr. JOHNSON. Is that done in this case?

Mr. TRUMBULL. That is done in this case. We have just passed upon the amendments and they have been adopted by the Senate. I presume there is no objection on the part of any one to the amendments. They were made to perfect the bill, and I believe they were thought to be more acceptable to all the members of the committee. There was no disagreement on that subject. Those amendments have now been concurred in, and I have no objection to

the bill being postponed until Monday, as moved by the Senator from Indiana.

Mr. McDUGALL. I suggest to the chairman of the Committee on the Judiciary that as this is a very important bill, it should be printed as amended, as suggested by the Senator from Kentucky.

Mr. TRUMBULL. I have repeated once or twice that it is.

Mr. McDUGALL. I understand that. I can detect what is in italics and what is in brackets. It is now printed with the amendments, but it is not printed as amended; and when it comes up for discussion I think it had better be in that form.

Mr. TRUMBULL. I have no sort of objection to its being printed as amended, but I think if the Senator from California had looked at the printed bill, he would have seen that it is wholly unnecessary to do that. The amendments are all of an immaterial character, mostly verbal, and where one section is substituted for another there is no change in the principle at all; it is only expressed in a better form. But I have no objection to printing it over again if any Senator desires it. I see no sort of occasion for it, however.

Mr. McDUGALL. I think myself that this is a very important measure, and it will not be a very great expense to print it as amended. I think it should be done with a bill of this kind. It will be more convenient in that shape.

Mr. JOHNSON. I rather think the honorable member is mistaken in the object which he has in view. If it is printed as amended, without any designation of what the original bill was, and how far it had been altered, we shall have to turn to the original bill to see what it was, and how the amendments affect it. The bill as printed gives the original bill and the amendments, and we can compare them at once.

Mr. McDUGALL. We have now got the bill with the amendments.

Mr. JOHNSON. That is all we want.

Mr. McDUGALL. Now I suggest that we have the bill printed as amended. It is customary in matters of this kind, and is not a novel procedure.

Mr. TRUMBULL. I will make another suggestion, and the Senator from California will see that, practically, it would be a useless work to print the bill as amended. The amendments of the committee have now been acted upon in Committee of the Whole; they are not yet adopted in the Senate; and they will have to be acted upon again in the Senate, when the bill is reported to the Senate.

Mr. McDUGALL. That is so. I withdraw the observations that I made.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Indiana, [Mr. HENDRICKS,] to postpone the further consideration of this bill until Monday next.

The motion was agreed to.

ADMISSION OF COLORADO.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States:

To the Senate and House of Representatives:

I transmit, herewith, a communication addressed to me by Messrs. John Evans and J. B. Chaffee, as "United States Senators-elect from the State of Colorado," together with the accompanying documents.

Under authority of the act of Congress approved the 21st day of March, 1864, the people of Colorado, through a convention, formed a constitution making provision for a State government, which, when submitted to the qualified voters of the Territory, was rejected. In the summer of 1865 a second convention was called by the executive committees of the several political parties in the Territory, which assembled at Denver on the 8th of August, 1865. On the 12th of that month this convention adopted a State constitution, which was submitted to the people on the 5th of September, 1865, and ratified by a majority of one hundred and fifty-five of the qualified voters. The proceedings in the second instance for the forma-

tion of a State government having differed in time and mode from those specified in the act of March 21, 1864, I have declined to issue the proclamation for which provision is made in the fifth section of the law, and therefore submit the question for the consideration and further action of Congress.

ANDREW JOHNSON.

WASHINGTON, January 12, 1866.

Mr. TRUMBULL. I move that that communication be referred to the Committee on the Judiciary, and printed. I notice that among the papers is the constitution of this new State in manuscript.

Mr. WADE. Such documents have heretofore been referred to the Committee on Territories.

Mr. TRUMBULL. I am informed by the Senator from Ohio that papers of this kind have heretofore gone to the Committee on Territories. If that be so, I have no desire to depart, in this instance, from the usual course. I supposed that the question of the admission of a State, and of Senators from it, had always gone to the Judiciary Committee, but I have not looked at the precedents. If the Senator from Ohio has, and such papers have heretofore gone to the Committee on Territories, I have no disposition to insist upon a different reference on this occasion.

Mr. WADE. I believe that is the fact, but I have no disposition to change the destination suggested by the Senator. As this case involves some questions of law, I am willing that it shall go to the Judiciary Committee; but I believe the precedents are the other way.

Mr. TRUMBULL. If the precedents are the other way, I prefer that this case shall take the usual course. I have not looked into the precedents.

The PRESIDENT *pro tempore*. Does the Senator vary his motion?

Mr. TRUMBULL. I do. I move that the message and accompanying documents be printed and referred to the Committee on Territories.

The motion was agreed to.

Mr. STEWART. I desire, by unanimous consent, to introduce a bill for the admission of Colorado, of which no notice has been given.

By unanimous consent, leave was granted to introduce a bill (S. No. 74) for the admission of the State of Colorado into the Union; and it was read twice by its title, referred to the Committee on Territories, and ordered to be printed.

PROTECTION OF CIVIL RIGHTS.

Mr. TRUMBULL. I move that the Senate now proceed to the consideration of Senate bill No. 61, to protect all persons in the United States in their civil rights, and furnish the means of their vindication. I will state that in calling up this bill it is not my intention to press it to a vote or to any definite action upon it further than to have the amendments reported by the Judiciary Committee, which are entirely of a verbal character, acted upon, and then shall be willing that the bill be postponed to a future day. I should like to have the bill read, and those amendments which are entirely verbal disposed of, and then let the bill be postponed.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

It declares that there shall be no discrimination in civil rights or immunities between the inhabitants of any State or Territory of the United States on account of race, color, or previous condition of slavery; but the inhabitants of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, and shall

be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding. Any person who under cover of any law, statute, ordinance, regulation, or custom, shall subject or cause to be subjected any inhabitant of any State or Territory to the deprivation of any right secured or protected by the act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, is to be deemed guilty of a misdemeanor, and on conviction to be punished by a fine not exceeding \$1,000, or imprisonment not exceeding one year, or both, in the discretion of the court.

The district courts of the United States, within their respective districts, are to have, exclusively of the courts of the several States, cognizance of all crimes and offenses committed against the provisions of the act, and also, concurrently with the circuit courts of the United States, of all causes, civil and criminal, affecting persons who are denied or cannot enforce in the courts or judicial tribunals of the State or locality where they may be any of the rights secured to them by the act; and if any suit or prosecution, civil or criminal, has been or shall be commenced in any State court against any such person, or against any officer, civil or military, or other person, for any arrest or imprisonment, trespasses, or wrongs done or committed, by virtue or under color of authority derived from this act, or the act to "enlarge the powers of the Freedmen's Bureau," such defendant is to have the right to remove such cause for trial to the proper district or circuit court in the manner prescribed by the "Act relating to *habeas corpus* and regulating judicial proceedings in certain cases," approved March 3, 1863. The jurisdiction in civil and criminal matters hereby conferred on the district and circuit courts of the United States is to be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry it into effect: but in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies, and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of the cause, civil or criminal, is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern these courts in the trial and disposition of such cause, and if of a criminal nature, in the infliction of punishment on the party found guilty.

The district attorneys, marshals, and deputy marshals of the United States, the commissioners appointed by the circuit and territorial courts of the United States, with powers of arresting, imprisoning, or bailing offenders against the laws of the United States, the officers and agents of the Freedmen's Bureau, and every other officer who may be specially empowered by the President of the United States, are by the act specially authorized and required, at the expense of the United States, to institute proceedings against all and every person who shall violate its provisions, and cause him or them to be arrested and imprisoned, or bailed, as the case may be, for trial before such court of the United States or territorial court as by the act has cognizance of the offense. With a view to affording reasonable protection to all persons in their constitutional rights of equality before the law, without distinction of race or color, or previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, and to the prompt discharge of the duties of the act, it is to be the duty of the circuit courts of the United States and the superior courts of the Territories of the United States, from time to time, to increase the number of

commissioners so as to afford a speedy and convenient means for the arrest and examination of persons charged with a violation of the act. These commissioners shall have concurrent jurisdiction with the judges of the circuit and district courts of the United States, and the judges of the superior courts of the Territories, severally and collectively, in term time and vacation, upon satisfactory proof being made, to issue warrants and precepts for arresting and bringing before them all offenders against the provisions of the act, and on examination to discharge, admit to bail, or commit them for trial, as the facts may warrant.

It is to be the duty of all marshals and deputy marshals to obey and execute all warrants and precepts issued under the provisions of the act, when to them directed; and should any marshal or deputy marshal refuse to receive such warrant or other process when tendered, or to use all proper means diligently to execute the same, he is on conviction to be fined in the sum of \$1,000, to the use of the person upon whom the accused is alleged to have committed the offense, on the motion of such person, by the circuit or district court for the district of such marshal. And the better to enable the commissioners to execute their duties faithfully and efficiently, in conformity with the Constitution of the United States and the requirements of the act, they are empowered, within their counties, respectively, to appoint in writing, under their hands, any one or more suitable persons, from time to time, to execute all such warrants and other process as may be issued by them in the lawful performance of their respective duties; and the persons so appointed to execute any warrant or process are to have authority to summon and call to their aid the bystanders or *posse comitatus* of the proper county, or such portion of the land or naval forces of the United States, or of the militia, as may be necessary to the performance of the duty with which they are charged, and to insure a faithful observance of the clause of the Constitution which prohibits slavery, in conformity with the provisions of the act; and these warrants are to run and be executed by those officers anywhere in the State within which they are issued.

Any person who shall knowingly and wilfully obstruct, hinder, or prevent any officer, or other person charged with the execution of any such warrant or process, or any person or persons lawfully assisting him or them, from arresting any person for whose apprehension such warrant or process may have been issued, or shall rescue or attempt to rescue such person from the custody of the officer, other person or persons, or those lawfully assisting, when so arrested pursuant to the authority herein given, or shall aid, abet, or assist any person so arrested, directly or indirectly, to escape from the custody of the officer or other person legally authorized, or shall harbor or conceal any person for whose arrest a warrant or process shall have been issued, so as to prevent his discovery and arrest, after notice or knowledge of the fact that a warrant has been issued for the apprehension of such person, is, for either of these offenses, to be subject to a fine not exceeding \$1,000, and imprisonment not exceeding six months, by indictment and conviction in the district court of the United States in which the offense may have been committed, or before the proper court of criminal jurisdiction, if committed within any one of the organized Territories of the United States; and in case of the escape of the person for whose arrest such warrant or process was issued, is moreover to forfeit and pay, by way of civil damages, to the party claiming to have been grieved by this act, the sum of \$1,000, to be recovered by action of debt, in any of the courts within whose jurisdiction the offense may have been committed.

The district attorneys, the marshals, their deputies, and the clerks of the district and territorial courts, are to be paid for their services the like fees as may be allowed to them for similar services in other cases; and in all cases where the proceedings are before a commission

he is to be entitled to a fee of ten dollars in full for his services in each case, inclusive of all services incident to the arrest and examination. The person or persons authorized to execute the process to be issued by such commissioners for the arrest of offenders against the provisions of the act are to be entitled to a fee of five dollars for each person he or they may arrest and take before the commissioner, with such other fees as may be deemed reasonable by the commissioner for such other additional services as may be necessarily performed by him or them, such as attending to the examination, keeping the prisoner in custody, and providing him with food and lodging during his detention, and until the final determination of the commissioner, and in general for performing such other duties as may be required in the premises; such fees to be made up in conformity with the fees usually charged by the officers of the courts of justice within the proper district or county, as near as may be practicable, and paid out of the Treasury of the United States, on the certificate of the judge of the district within which the arrest is made, and to be recoverable from the defendant as part of the judgment in case of conviction.

Whenever the President of the United States shall have reason to believe that offenses have been or are likely to be committed against the provisions of the act within any judicial district, he may, in his discretion, direct the judge, marshal, and district attorney, of the district, to attend at such place, within the district, and for such time as he may designate, for the purpose of the more speedy arrest and trial of persons charged with a violation of the act; and it shall be the duty of every judge or other officer, when any such requisition shall be received by him, to attend at the place and for the time therein designated.

And the President of the United States, or such person as he may empower for that purpose, is to have authority to employ such part of the land or naval forces of the United States, or of the militia, as shall be necessary, to prevent the violation and enforce the due execution of the act.

The first amendment of the Committee on the Judiciary was in section two, line two, to strike out the word "cover" and to insert the word "color."

The amendment was agreed to.

The next amendment was in section three, line thirty-three, after the word "cause" to insert the word "and."

The amendment was agreed to.

The next amendment was in section six, line ten, after the word "offense" to strike out the words, "on the motion of such person, by the circuit or district court for the district of such marshal."

The amendment was agreed to.

The next amendment was in section six, line thirty, after the word "State" to insert the words "or Territory."

The amendment was agreed to.

The next amendment was in section seven, line eighteen, after the word "person" to insert the word "shall."

The amendment was agreed to.

The next amendment was in section seven, line twenty-two, after the word "States" to insert the words "for the district."

The amendment was agreed to.

The next amendment was in section eight, line six, to strike out the word "commission" and insert the word "commissioner."

The amendment was agreed to.

The PRESIDENT *pro tempore*. The Chair is informed that that closes the amendments reported by the committee.

Mr. TRUMBULL. I now move that the further consideration of this bill be postponed until to-morrow.

The motion was agreed to.

ADJOURNMENT TO MONDAY.

On motion of Mr. FOOT, it was

Ordered, That when the Senate adjourns to-day, it be to meet on Monday next.

PENSION AGENTS.

Mr. LANE, of Indiana. I ask the Senate to take up a bill reported from the Committee on Pensions this morning, which is a matter requiring immediate action in the opinion of the Secretary of the Interior, he recommending it. It is a bill to regulate the appointment of pension agents.

There being no objection, the bill (S. No. 69) to provide for the payment of pensions was read the second time, and considered as in Committee of the Whole. It proposes to authorize the President of the United States to establish agencies for the payment of pensions granted by the United States, wherever, in his judgment, the public interest and the convenience of pensioners require, and by and with the advice and consent of the Senate to appoint pension agents who are to hold their offices for the term of four years and until their successors shall have been appointed and qualified, and to give bond, with good and sufficient sureties, for such amount and in such form as the Secretary of the Interior may prescribe; but nothing contained in the bill is to be so construed as to affect any existing office prior to an appointment by the President according to its provisions.

Mr. CLARK. What is the operation of the bill?

Mr. LANE, of Indiana. Under the present law, the Secretary of the Interior has the right to fix the districts, and appoint agents, and to prescribe the bond and the amount of security to be given by these respective agents. There are some three hundred and forty or three hundred and fifty of them, I believe, appointed and contemplated to be appointed to carry out the pension laws. This bill provides that instead of the Secretary of the Interior having the discretion to appoint these agents and fix the districts, it shall be given to the President, and these agents shall be appointed upon the nomination of the President and confirmation of the Senate. The necessity for this legislation is this: many of these agents were appointed years ago, when the amount to be disbursed was exceedingly small; for instance, the pension agent in my State five years ago did not pay out perhaps \$1,500 a year; now, he will pay out \$500,000. We propose now to give these appointments to the President, so that he may renominate the present officers, if he chooses, and the Secretary of the Interior may require an additional bond which will secure the amounts disbursed. There is a letter on file, accompanying the bill from the Secretary of the Interior, recommending very strongly the passage of the bill, and sending down to the committee the draft of the bill which we have proposed for adoption by the Senate.

Mr. FESSENDEN. I should like to hear that letter read.

Mr. CLARK. Does the bill vacate the present offices?

Mr. LANE, of Indiana. This bill does not vacate any office, but allows the President, if he chooses, to renominate the present officers, and then the new bonds are to be required. The reasons for it are all given in the letter of the Secretary of the Interior. He considers it very important. He says he does not desire that any office shall be vacated, or any officer turned out; that they are very efficient and very competent, and he has no complaint to make of them, but that the bonds in many instances ought to be increased.

Mr. FESSENDEN. I will inquire if the Secretary has not power now to fix the bonds at any rate he pleases. In my own State they give a bond, if I am rightly informed, of \$100,000.

Mr. LANE, of Indiana. That is true of all recent appointments under the discretion of the Secretary.

Mr. FESSENDEN. Will it not answer the purpose to simply authorize the Secretary of the Interior to require a new bond from these officers? It strikes me, the office is hardly important enough to make it a presidential appointment.

Mr. LANE, of Indiana. That is the very

reason the Secretary of the Interior assigned for this change. He says it is an office worth from two thousand five hundred to three thousand dollars a year almost everywhere, and he thinks it ought to be a presidential appointment, and that these appointments ought to be scrutinized by the Senate.

Mr. FESSENDEN. I have no sort of objection to it, but I should like to hear the letter of the Secretary read.

The PRESIDENT *pro tempore*. The Chair is informed that the letter has passed from the desk, but it has been sent for and will be here speedily.

Mr. LANE, of Indiana. To accommodate Senators, I move that the further consideration of the bill be postponed until Monday, and that the bill and the accompanying documents be printed.

The motion was agreed to.

EXECUTIVE SESSION.

Several executive messages were received from the President of the United States, by Mr. W. G. MOORE, his Secretary.

On motion of Mr. TRUMBULL, the Senate proceeded to the consideration of executive business; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, January 12, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

LIST OF HOUSE EMPLOYÉS, ETC.

The SPEAKER laid before the House a list of employés under the Clerk of the House; which was laid upon the table, and ordered to be printed.

The SPEAKER also laid before the House the Clerk's annual report of contingent expenses; which was laid upon the table, and ordered to be printed.

COMPENSATION FOR SLAVES ENLISTED.

Mr. HARDING, of Kentucky. Mr. Speaker, I rise to what I consider to be a question of privilege. On yesterday the report of the Secretary of War was presented in answer to a resolution of the House adopted on my motion some days ago. It was read at my request, and I supposed, as a matter of course, that it would appear in this morning's Globe; but it does not appear there. It is a matter of very considerable importance to my constituents.

Now, I think that the report of the Secretary of War should appear in the Globe. I am informed by the reporters of the Globe that it was their intention that that report should appear in the Globe of to-day; but that last evening they were unable to obtain it from the Clerk. I suppose that the Clerk may be directed to-day to furnish the reporters with a copy of it to be printed in the Globe of to-morrow.

The reason I am anxious that the report should appear is this: two years ago it was made the duty of the Secretary of War to appoint a commission in each of the slave States represented in Congress where slaves were enlisted—

Mr. UPSON. I rise to a point of order, that this is not a question of privilege.

The SPEAKER. It is not a question of privilege.

Mr. HARDING, of Kentucky. I desire to make a personal explanation.

Mr. UPSON. I object.

Mr. HARDING, of Kentucky. Let me appeal to the gentleman from Michigan on this ground: I offered that resolution, and when the response came into the House, I desired to catch the ear of the Speaker; but the gentleman from Pennsylvania obtained the floor, and I had not an opportunity to make a single remark. All I desire now is to make a brief explanation.

Mr. UPSON. I withdraw my objection.

Mr. HARDING, of Kentucky. About two

years ago, by express law, the Secretary of War was directed to appoint a commission in each of the slaveholding States represented in Congress to award just compensation to the owners of slaves who volunteered into the Army. After two years he responds to the inquiry of this House, that he had discriminated between those States, that he has appointed this commission in the States of Maryland and Delaware, and entirely ignored the equally just claims of Missouri and Kentucky. The reason why he does this, he says, is simply that the President has directed him not to appoint a commission in either of those States, a direction made two years ago, and I presume not by the present incumbent. And he says that that direction has not been revoked. I say that the Secretary of War is in direct contempt of the law. He has no discretion in regard to the matter.

He says that the law does not fix the precise time when the commission shall be appointed, and that he can take his own time, wholly disregarding the law. Why, sir, the very fact that the law does not fix a time cuts him off from all discretion in regard to this matter, and it is his duty to appoint these commissions forthwith.

Mr. GARFIELD. I submit that the gentleman is not making a personal explanation; it is all in reference to the action of the Secretary of War.

The SPEAKER. The Chair thinks that the gentleman, under the consent granted to make a personal explanation, has the right to make his speech for an hour.

Mr. UPSON. The gentleman said he only wished to say a word or two.

The SPEAKER. The gentleman may extend his remarks to an hour if he pleases.

Mr. GARFIELD. I desire to ask the Chair whether he decides that when a member rises to a personal explanation he may speak for an hour?

The SPEAKER. The Chair did not so decide. The gentleman from Kentucky received consent to make a personal explanation in regard to the report of the Secretary of War, and he is now discussing that very question. To be sure, he is indulging in strictures upon the Secretary of War, but the Chair thinks that he is discussing the question.

Mr. HARDING, of Kentucky. It will be recollected, for I have not the resolution or the report before me, that my resolution required an explicit answer in regard to why he had failed to appoint these commissions in the slaveholding States at the time the law was passed; what disposition has been made of the fund; and he answered in substance that the fund was ample when the law was passed to reach all of the loyal claimants; an ample fund to pay off all these claims, I suppose some seven million dollars.

But the Treasury was a little hard pressed. There were more greedy claimants, I suppose, from other States than from Kentucky, or at least Kentucky had suffered so very little during this terrible civil war, or made sacrifices to so small an extent, that her claims might be ignored. But he takes the responsibility, when there was an ample fund, to ignore the claims of Kentucky and Missouri, and appoint commissioners to appropriate the money to the claimants in Maryland and Delaware. Now, sir, I say it is in contempt of the authority of this House and of the law. The direction of the President was what he thought himself governed by. What he was bound to obey was the law of the land, and that directed and pointed out plainly what his duty was. That law was passed by Congress, and has been approved by the President. Now, according to the stand the Secretary of War takes, after two years have elapsed, he does not pretend that he has any intention ever to appoint this commission in Kentucky.

Mr. SMITH. I wish to state to my colleague [Mr. HARDING] that I had an interview with the Secretary of War upon this very subject last summer and this fall, before Congress met, and he explicitly expressed it to be his

opinion that that was the law, and that it was his purpose, together with that of the President, at some time to appoint this commission. I put the question to him, if the money contemplated by that act for the payment of these negroes was not in the hands of the Government for that express purpose, and could not be diverted. He said that that was his opinion, and that it was the purpose of the President to carry out that law; but for some cause or other the present Chief Magistrate had concluded that the time had not exactly arrived for the commission to be appointed in Kentucky. I felt it due, from the interviews I had with the Secretary of War, to make this explanation.

Mr. HARDING, of Kentucky. Well, sir, I suppose the Secretary of War will return his thanks to the gentleman. But he has an opportunity to be heard himself, and it was not necessary for the gentleman to volunteer in his defense. He has had ample opportunity. Something like a year ago a resolution of the same character was offered and passed, and in response to that he simply said that he had appointed none, because the President had directed none to be appointed. I do not understand him to say that the present Executive has authorized him to suspend that appointment at all. He does not say anything of that kind, nor do I believe it is the fact. He had some vague direction at some time, I suppose, and upon that he continues to act and intends to act so long as he is Secretary of War. I have no idea that he intends to appoint a commission at all. It is a matter that can be got at in no other way. The law requires it to be done, and until it is done no man can submit evidence of his claim. The action of the Secretary of War is, in a word, discriminating against Kentucky and in favor of Maryland and Delaware; and it is doing it without any pretext for distinction whatever. It is in palpable violation of law, and in contempt of his duty.

Now, sir, our claims have been ignored long enough. It is high time some little measure of justice should be meted out to Kentucky. No State in the Union has made sacrifices to the extent that she has done. Property to the amount of millions of dollars has been sacrificed by military rule and by constitutional amendment, and even this poor pittance, which does not exceed \$300 to the owner for the loss of his slave in a loyal State, is withheld, and the law disregarded by the Secretary, from some motive which it is very hard to reconcile with a high and honest purpose to discharge his duty. I ask that the Clerk be directed to furnish the answer of the Secretary of War to the reporters.

Mr. SPALDING. I object.

The SPEAKER. Objection is made, and it cannot be done. The gentleman from Kentucky [Mr. HARDING] intimates some conflict between the reporters and the Clerk of the House, and the Chair will, therefore, state that when the House orders a document to be printed, it is sent by the Clerk to the Government Printing Office. That is required to be done by law. Therefore it is not in his hands to furnish to the reporters. The reporters may take down any document that is read in the same way they take down the debates, if it is deemed essential to incorporate it in the Globe; or, if a gentleman desires it published, he can have a copy made himself and furnish it to the Globe. The reporters are here for the purpose of reporting the debates. They do not report bills or lengthy documents read *in extenso* for the information of the House. The Chair only states the well-known usage of the House.

WITHDRAWAL OF GOODS IN BOND.

Mr. HOOPER, of Massachusetts, by unanimous consent, from the Committee of Ways and Means, reported a bill to extend the time for the withdrawal of goods for consumption from public store or bonded warehouses, and for other purposes; which was read a first and second time.

The bill provides that from and after its pas-

sage, and until the 1st day of April, 1866, any goods, wares, or merchandise in bond in any public or private bonded warehouse, upon which the duties are unpaid, may be withdrawn for consumption, and the bonds canceled on payment of the duties and charges prescribed by law; and any goods, wares, or merchandise deposited in bond in any public or private bonded warehouse on and after the 1st day of April aforesaid, and all goods, wares, or merchandise remaining in warehouse in bond on said 1st day of April, may be withdrawn for consumption within one year of the date of original importation; and until the expiration of three years from said date any goods, wares, and merchandise in bond as aforesaid may be withdrawn for consumption on payment of the duties assessed on the original entry and charges, and an additional duty of ten per cent. of the amount of such assessed duties and charges.

The bill further provides that neither this nor any other act shall operate to prevent the exportation of bonded goods, wares, or merchandise from the warehouse within three years from the date of original importation, nor their transportation in bond from the port into which they were originally imported to any other port or ports for the purpose of exportation.

Mr. HOOPER, of Massachusetts. I hope the bill will be put upon its passage.

Mr. WASHBURN, of Illinois. I should like to have some explanation. We seem to be extending this matter indefinitely.

Mr. HOOPER, of Massachusetts. I wish to call the gentleman's attention to the fact that we have a clause in this bill which will prevent any future applications; but I think there is reason why the present applications should be granted. The disturbed state of the navigation and shipping business has led to a good many of these accidental lapses of time; and the bill contains a provision which will prevent hereafter any such applications being made.

Mr. McRUER. Has this bill been printed?

The SPEAKER. It has not been printed yet.

Mr. STEVENS. I would ask my friend from Massachusetts [Mr. HOOPER] if this is not simply a bill extending the time for the withdrawal of goods from warehouses.

Mr. HOOPER, of Massachusetts. That is the object of the bill.

Mr. STEVENS. And it lays an additional duty of ten per cent. if they are not withdrawn after this year?

Mr. HOOPER, of Massachusetts. That is the whole bill.

The bill was ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time, and passed.

Mr. HOOPER, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The call of committees for reports of a private character having been completed,

The SPEAKER proceeded to call the committees for reports of a public nature.

BERKELEY AND JEFFERSON COUNTIES.

Mr. LAWRENCE, of Ohio, from the Committee on the Judiciary, reported back, with the recommendation that it do pass, House resolution No. 17, giving the consent of Congress to the transfer of the counties of Berkeley and Jefferson from the State of Virginia to the State of West Virginia, accompanied by a report.

The joint resolution was recommitted to the Committee on the Judiciary, and, with the accompanying report, ordered to be printed.

Mr. LAWRENCE, of Ohio, entered a motion to reconsider the vote by which the joint resolution was recommitted.

The call of committees having been concluded, The SPEAKER proceeded to call the States for resolutions.

TAX ON CARRIAGES.

Mr. ROLLINS submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means

be instructed to inquire into the expediency of repealing so much of the internal revenue law as authorizes a tax on carriages valued at less than \$100.

THE MONROE DOCTRINE.

Mr. BRANDEGEE introduced a joint resolution relating to the Monroe doctrine; which was read a first and second time, and referred to the Committee on Foreign Affairs.

The resolution is as follows:

Resolved, &c., That in the name of the people of the United States, and in the language of President Monroe in his message of December 2, 1823, we hereby declare that we consider any attempt on the part of European Powers to extend their system to any portion of this hemisphere as dangerous to our peace and safety.

STATES LATELY IN REBELLION.

Mr. RAYMOND submitted the following resolution:

Resolved, That the President of the United States be requested, if not deemed by him incompatible with the public interest, to communicate to this House copies of all messages, proclamations, and other documents issued by the provisional governors of any States that may have been proclaimed at any time to be in rebellion; of all acts, ordinances, and resolutions that may have been passed by conventions or by Legislatures held in such States under the authority or at the call of said provisional governors; of all returns of elections for members of such conventions and Legislatures, together with the qualifications required for voters at such elections and for members when elected; together with such other information concerning the public action of such States tending to throw light upon their political condition as may be in his possession.

The SPEAKER. This being a call for executive information, it requires unanimous consent for its consideration to-day.

Mr. BROOMALL. I make the point of order that that resolution must go to the committee on reconstruction.

Mr. CONKLING. Oh, no.

Mr. RAYMOND. It is simply a call upon the President for information.

The SPEAKER. The Chair overrules the point of order, as the resolution refers only to the election of members of conventions and Legislatures; it does not refer to the election of members of Congress at all.

Mr. RAYMOND. Do I understand that this resolution lies over under the rule?

The SPEAKER. Unless unanimous consent is given to its consideration on this day.

Mr. STEVENS. I have no objection to this resolution, except to the last clause of it. I would suggest to the gentleman from New York [Mr. RAYMOND] to omit that portion of it.

Mr. RAYMOND. I inserted that clause simply because I thought there might be some correspondence or communication between those governors and the Government here, which it might be desirable for this House to have communicated to it.

Mr. CONKLING. I desire to ask my colleague [Mr. RAYMOND] to consent to include in his resolution any proclamations issued by the President of the United States, whether the present incumbent of the office or his predecessor, relating to this subject, whether those proclamations were issued directly by the President or through the Secretary of State.

Mr. RAYMOND. I have no objection to that, and will modify my resolution accordingly. The resolution, as modified, was read, as follows:

Resolved, That the President of the United States be requested, if not deemed by him incompatible with the public interest, to communicate to this House copies of all messages, proclamations, and other documents, issued by the provisional governors of any of the States that may have been proclaimed at any time to be in rebellion; of all acts, ordinances, resolutions, and proceedings of conventions or Legislatures held in such States, under the authority or at the call of said provisional governors; of all returns of election for members of such conventions and Legislatures, together with the qualifications required for voters at such elections, and for members when elected; together with such other information concerning the public action of such States, tending to throw light upon their political condition, as may be in his possession; and to communicate further all proclamations issued by the President of the United States, or his predecessor, relating to this subject, whether issued by him directly or through the Secretary of State, and all papers accompanying the same.

Mr. RAYMOND. I call the previous question.

The previous question was seconded, and the

main question ordered; and under the operation thereof the resolution was agreed to.

Mr. RAYMOND moved to reconsider the vote by which the House agreed to the resolution; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SANITARY COMMISSION FOR WASHINGTON.

Mr. RAYMOND. I ask unanimous consent to submit the following resolution:

Resolved, That the Committee for the District of Columbia be instructed to inquire into and report upon the expediency of giving to a commission, to be appointed by the President and Senate, so much of the powers of the municipal government of the city of Washington as relates to the police, the sanitary regulations, the paving, cleaning, and control of the streets, and other matters affecting the health, safety, comfort, and convenience of the members of the Government of the United States.

Mr. CHANLER. I do not rise to object to this resolution, but to suggest a modification to include the subject of sewerage.

Mr. RAYMOND. I think that subject is included in the term "sanitary regulations."

Mr. COBB. I object to the introduction of the resolution at this time.

TAX UPON HORSE RACING.

Mr. DARLING submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of imposing a license tax upon all horse races where an admission fee is charged, and also a tax of five per cent. on the gross receipts taken by proprietors at all such races.

TAX ON RELIGIOUS AND SCHOOL BOOKS.

Mr. WARD submitted the following resolution, upon which he demanded the previous question:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of repealing the internal revenue tax on paper, and upon all Bibles, Testaments, and other religious books and publications, and upon all school books used in schools, academies, and colleges.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. WARD moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ADJOURNMENT OVER.

Mr. STEVENS. I rise to a privileged motion. I move that when the House adjourns to-day, it be to meet on Monday next.

The motion was agreed to.

SANITARY COMMISSION FOR WASHINGTON.

Mr. DAVIS submitted the following resolution, upon which he demanded the previous question:

Resolved, That the Committee for the District of Columbia be instructed to inquire into and report upon the expediency of giving to a commission, to be appointed by the President and Senate, so much of the powers of the municipal government of the city of Washington, as relates to the police, the sanitary regulations, the paving, cleaning, and control of the streets, and other matters affecting the health, safety, comfort, and convenience of the members of the Government of the United States.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. DAVIS moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

INCREASE OF COMPENSATION.

Mr. JOHNSON submitted the following resolution, upon which he demanded the previous question:

Resolved, That the Committee on Appropriations be instructed to bring in a bill increasing the compensation of members of Congress and Government employes in this city in proportion to the increased cost of living in this city over what it was at the time the same was fixed, and also the increased cost of living in this city over the cost of living in other cities of the Union.

The question was upon seconding the demand for the previous question.

Mr. WASHBURN, of Illinois. I move to lay the resolution on the table, and upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 147, nays 5, not voting 30; as follows:

YEAS—Messrs. Alley, Allison, Ames, Ancona, Anderson, Delos E. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bergen, Bidwell, Bingham, Blaine, Blow, Boutwell, Boyer, Brandegee, Bromwell, Broomall, Buckland, Bundy, Chanler, Reader W. Clarke, Cobb, Conkling, Cook, Cullom, Darling, Davis, Dawes, Deming, Denison, Dixon, Donnelly, Driggs, Eckley, Eggleston, Eldridge, Eliot, Ferry, Finck, Garfield, Glossbrenner, Goodyear, Grider, Grinnell, Hale, Aaron Harding, Abner C. Harding, Hart, Hayes, Henderson, Hiley, Hill, Hogan, Holmes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, James Humphrey, James M. Humphrey, Jencks, Julian, Kasson, Kelso, Ketcham, Kuykendall, Ladin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marshall, Marvin, McClure, McKee, McRuer, Myers, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, Niblack, Noell, Orth, Paine, Parsons, Perham, Phelps, Pike, Plants, Price, Radford, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rogers, Rollins, Ross, Sawyer, Schenck, Sloan, Shinklin, Shellabarger, Sitzes, Stevens, Strouse, Smith, Spaulding, Starr, Stevens, Stillwell, Strouse, Taber, Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trimble, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Elihu B. Washburne, Welker, Williams, James F. Wilson, Stephen E. Wilson, Windom, Winfield, and Woodbridge—147.

NAYS—Messrs. Johnson, Jones, Le Blond, Nicholson, and Samuel J. Randall—5.

NOT VOTING—Messrs. James M. Ashley, Brooks, Sidney Clarke, Culver, Dawson, DeLoach, Delano, Dumont, Farnsworth, Farquhar, Griswold, Harris, Hotchkiss, Edwin N. Hubbell, Ingersoll, Kelley, Kerr, Marston, McCullough, McIndoe, O'Neill, Pomeroy, Rousseau, Van Aernam, Voorhees, Warner, William B. Washburn, Wentworth, Whaley, and Wright—30.

So the resolution was laid on the table.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was received, by Mr. WILLIAM G. MOORE, his Private Secretary.

ADMISSION OF COLORADO AS A STATE.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

To the Senate and House of Representatives:

I transmit herewith a communication addressed to me by Messrs. John Evans and J. B. Chaffee, as "United States Senators-elect from the State of Colorado," together with the accompanying documents.

Under authority of the act of Congress approved the 21st day of March, 1864, the people of Colorado, through a convention, formed a constitution making provision for a State government, which, when submitted to the qualified voters of the Territory, was rejected. In the summer of 1865 a second convention was called by the executive committees of the several political parties in the Territory, which assembled at Denver on the 8th of August, 1865. On the 12th of that month this convention adopted a State constitution, which was submitted to the people on the 5th of September, 1865, and ratified by a majority of one hundred and fifty-five of the qualified voters. The proceedings in the second instance for the formation of a State government having differed in time and mode from those specified in the act of March 21, 1864, I have declined to issue the proclamation for which provision is made in the fifth section of the law, and therefore submit the question for the consideration and further action of Congress.

ANDREW JOHNSON.

WASHINGTON, D. C., January 12, 1866.

Mr. BEAMAN. I move that this message, with the accompanying documents, be referred to the Committee on Territories, and be printed.

The motion was agreed to.

Mr. BEAMAN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SUFFRAGE IN THE DISTRICT OF COLUMBIA.

The morning hour having expired, the House resumed, as the next business in order, the con-

sideration of the special order, being the bill reported from the Committee on the Judiciary (H. R. No. 1) extending the right of suffrage in the District of Columbia.

Mr. DAVIS. Mr. Speaker, I rise to-day to make no remarks derogatory to the character or the rights of the black man of America. I desire to consider the subject before us in reference not only to the black man but to the white man. I desire to take a broad and comprehensive view of the whole question that lies before us for our consideration, and after examining it briefly, it is true, in all its bearings and merits, to arrive so far as I can to a conclusion which shall do "equal and exact justice to all men."

The bill now under consideration proposes to confer universal and unrestrained suffrage upon all colored citizens of the District of Columbia. We must remember, Mr. Speaker, that the position of the District of Columbia is entirely anomalous in our system. One hundred and twenty-five thousand people, citizens of the United States, residing within this District, have no representation on this floor. They have no rights as citizens except to pay taxes, to elect their own municipal officers, and to be subject to the exclusive control of Congress without appeal. They are bound hand and foot, and in that condition, without the right to be represented on this floor to present their own grievances, they are subject to the caprice or the despotic power of Congress in all respects. I wish, Mr. Speaker, that this condition should be borne in mind; and then, as we trace the history of slavery within this District and within our country, we shall find, perhaps, that there is some reason why we ought to exercise calmness and deliberation in that legislation by which we propose to affect their social and political relations.

When the seat of Government was first established here slavery existed in the States both of Maryland and Virginia, from which the District originally was taken. The people of this District, as citizens of the District, and as former citizens of those States, respectively, held slaves in bondage; and when this Government was organized here, be it acknowledged to its disgrace and its shame, the slave-auctioneer and the auction-block of the slave-pen were institutions in this capital of a free Republic, and men were sold as chattels and hereditary slaves. Thank God! sir, that disgrace has passed away. To-day there breathes here no slave; we hear the clanking of no chain, and the cry of no nasal; for the decree of the American people has gone forth, that not only here, but everywhere throughout the land which our fathers dedicated to freedom, slavery has ceased utterly and forever.

And, sir, the destruction of slavery has resulted from no fault of the northern people. It is the result of the suicidal act of those who themselves held the control and ownership of the slaves. For the perpetuation and extension of that institution, they revolted against the Government, and attempted to overthrow it; they attempted to trample down the Constitution which we love and which we were sworn to support; and during four years and a half of bloody conflict they resisted to the utmost the power of this Government exerted in the defense of its own life.

Sir, slavery in the District of Columbia perished as an incident of the rebellion, when it ought to have perished before as a disgrace to humanity. Slavery elsewhere perished because the rebels attempted to use that institution for the overthrow of our Government; and when they failed in that purpose, they and those who were associated with them in sympathy had to accept fully and unreservedly the consequences of their action.

Now, sir, I have no sympathy whatever with slavery, but I confess that I would under existing circumstances pay some regard to the prejudices of those who from long residence within a slave District, surrounded by all the social effects of a servile system, have acquired, perhaps, a natural repugnance to the elevation to political equality of a class which education had taught

them to regard as an inferior race, and whose enfranchisement they would regard as oppressive and insulting.

The case before us is entirely distinct and different from that of States in which the colored population, forming but an unimportant percentage of the entire population, have made no visible impression upon the character of society.

We, sir, of the North made the slaves free and gave them in different States various but limited rights of citizenship.

In some cases we allowed them the right of elective franchise; and yet, notwithstanding the gentleman from New Jersey, [Mr. ROGERS,] if he had then lived, would probably have talked about the insult to our wives and daughters by allowing black men to march up to the polls and cast votes in protection of their freedom, and in pursuance of their rights, I have never there heard of an instance where the white man was shocked at the election polls by being brought into contact with the negro. Many in the State which I represent have exercised that privilege. They have the right to exercise it upon a property qualification, and no one objects to the exercise of it by those who under the law are authorized to do so. In other States, where the elective franchise has been granted to the black man, I have never heard of any such results as those which present themselves to the vivid imagination of the gentleman from New Jersey.

But the case here is different. There the black people constitute but a small percentage of those who deposit their ballots at the polls, while in this city there is a much larger proportion, in consequence of the greater numerical strength of the colored persons in this District who would have the right at the polls to exercise the elective franchise if the bill of my honorable friend from Iowa [Mr. WILSON] shall become a law.

Mr. Speaker, I am frank to say, that with certain reasonable restrictions, which in due time will be offered to the pending bill, I am not opposed to granting the elective franchise to the black men in the District of Columbia. In the year 1860 the black population of this District was about fourteen thousand; but in the year 1862, after the passage of the emancipation act by Congress, slaves, I should say refugees, came here from Maryland and Virginia, adjoining slave States. They congregated in this District and in the immediate vicinity of this city. They have gathered here to such an extent that now nearly thirty thousand of them are embraced within the original limits of the District of Columbia. When I remember that all of those slaves are not domestic slaves, who have been treated well at home, who experienced kindness from their masters, and, in many instances, even shared their fortunes in their humiliation, but are composed of the field hands and plantation slaves, who know no agency of civilization except the lash of the overseer, who come in their ignorance and degradation to the land of freedom to seek protection under the folds of the American flag, I must pause before I can vote to extend to them the rights conferred by this bill.

I have listened for more than twenty years to the teachings of distinguished men upon the effect of African slavery upon the intelligence of the race; and the eminent citizen of Massachusetts, [Mr. SUMNER,] who has so often spoken on that subject before the audiences of the country, has depicted in glowing and eloquent terms the fact that slavery is so debasing and so degrading in its character as to take away or essentially to impair the attributes of manhood. I submit, sir, if those be the consequences of slavery in regard to that population to which I have adverted, whether it is just or generous, wise or expedient, in reference to the freedmen of the population, or in respect to the white population of this city, that the great number of black men resident in this District should be entitled to the right of unqualified suffrage unrestricted. This Government has the power to impose its own enactments upon the people of this District, but in the exercise

of that power we should be magnanimous; and while doing no wrong to the black man, while holding out to him all inducements to culture and education to enable him eventually and intelligently to exercise the right of the elective franchise, I must say, in my honest judgment, after full reflection on the subject, that until they have been so prepared, this highest right of citizenship ought not to be conferred upon them.

I was gratified day before yesterday in listening to the statement of my friend from Pennsylvania [Mr. KELLEY] in regard to the improvement within the last few years in this District of the black race.

I rejoice that they are accumulating property; I rejoice that they are becoming intelligent and respectable, and I would hold forth inducements for others to do likewise, by qualifying the right of suffrage by some rule which shall operate as an incentive to study and to thrift.

And I say this, Mr. Speaker, with full confidence that in that course we shall do no harm to the great principles on which republics should be established. Republican government surely can never rest safely, it can never rest peacefully, upon any foundation save that of the intelligence and virtue of its subjects. No Government, republican in form, was ever prosperous where its people were ignorant and debased. And in this Government, where our fathers paid so much attention to intelligence, to the cultivation of virtue, and to all considerations which should surround and guard the foundations of the Republic, I am sure that we would do dishonor to their memory by conferring the franchise upon men unfitted to receive it and unworthy to exercise it.

I am perfectly aware that in many States we have given the elective franchise to the white man who is debased and ignorant. I regret it, because I think that intelligence ought always, either as to the black or the white man, to be made a test of suffrage. And I glory in the principles that have been established by Massachusetts, which prescribes, not that a man should have money in his purse, not that he should have the proclamation money signed by the authorities of the State of New Jersey, as stated by the Representative from that State, [Mr. ROGERS,] but that he should have in his head a cultivated brain, the ability to read the Constitution of his country, and intelligence to understand his rights as a citizen.

I heard with deep regret the language uttered by the honorable gentleman from New Jersey [Mr. ROGERS] yesterday, in reference to the comparative rights of the black man and the white man in this country. I have never been one of those who believed that the black man had "no rights that the white man was bound to respect." I believe that the black man in this country is entitled to citizenship, and by virtue of that citizenship is entitled to protection to the full power of this Government wherever he may be found on the face of God's earth; that he has a right to demand that the shield of this Government shall be held over him, and that its powers shall be exerted on his behalf to the same extent as if he were the proudest grandee of the land. But, sir, citizenship is one thing, and the right of suffrage is another and a different thing; and in circumstances such as exist around us I am unwilling that general, universal, unrestricted suffrage should be granted to the black men of this District, as is proposed by the bill under consideration.

I did not rise, Mr. Speaker, with the intention of inflicting a long speech upon this House, but I desired to express my own convictions upon this subject, and to say that I believe by pursuing a just, calm, deliberate course of legislation on this subject we shall be far better fulfilling our duties than by hasty acts which we may hereafter regret.

This whole subject is within the power of Congress, and if we grant restricted privilege to-day, we can extend the exercise of that privilege to-morrow. Public sentiment on this, as on a great many subjects, is a matter of slow growth and development. That is the history

of the world. Development upon all great subjects is slow. The development of the globe itself has required countless ages before it was prepared for the introduction of man upon it. When we heard from the lips of the reverend gentleman who recently officiated for the day as Chaplain of this House that God had created the world six thousand years ago, and during that time had governed it well, I thought the gentleman hardly understood the full nature or history of this creation, when, for countless millions of years, a Being all-wise and self-existent has filled all space with the glorious objects of His creative hand, and with exquisite and matchless skill, displayed from age to age, has been fashioning each star and planet to fulfill His purpose; and the earth itself, through its thousands of mutations and its varied order of organic life, to fit it in all things as the home of man, His noblest work, in His own image made; it seemed strange, indeed, that such narrow and restricted views should be uttered of an infinite Creator and an infinite creation, and that so little of the true law of growth, development, and perfection should have been conceived.

And take the progress of the human race through the historic age—kingdoms and empires, systems of social polity, systems of religion, systems of science, have been of no rapid growth, but long centuries intervened between their origin and their overthrow.

The Creator placed man on earth, not for the perfection of the individual, but the race; and therefore He locked up the mysteries of his power in the bosom of the earth and in the depths of the heavens, rendering them invisible to mankind. He made man study those secrets, those mysteries, in order that his genius might be cultivated, his views enlarged, his intellect matured, so that he might gradually rise in the scale of being, and finally attain the full perfection for which his Creator designed him.

Thus Governments, political systems, and political rights have been the subject of study and improvement; changes adapted to the advance of society are made; experiments are tried, based upon reason and upon judgment, and those are safest which, in their gradual introduction, avoid unnecessary violence and convulsion.

I submit, sir, whether it be wise for us now, so suddenly, to alter so entirely the political status of so great a number of the citizens of this District in conferring upon them indiscriminately the right of franchise.

In the remarks which I have submitted to-day I have sought to explain the position which I occupy upon this question to this House and to the country. I do it in no spirit of disregard to the rights of any race, black or white. I do it with reference to the just rights and protection of all; and I am frank to say that I think, in this country, we have had legislation—perhaps too much of it—which looked entirely and exclusively to the rights of classes.

But, sir, I happened some time ago, upon this floor, to address some expression in regard to my own views which has provoked the animadversion of the gentleman from Pennsylvania, [Mr. STEVENS,] whom I regret to see is not now in his seat, and to him I intended to address some remarks to-day. I do not wish to do it in his absence, for it would not be respectful to him; and therefore I will decline to say anything upon that portion of the subject, as I had intended to do; but I will reserve the right of answering hereafter the insinuations which he made against me, that I had been forming friendship with the Democratic party or with Democratic principles upon this floor. To say that I have personal friendship with gentlemen upon the other side of the House is to say just what is true. There are many of these gentlemen whom I respect, but differ from them in political opinions. I reserve the right to differ from them, and I shall do it freely and unreservedly. I hold the same right to differ with the sentiments of any gentleman upon this side of the House, and that right I shall exercise with the same determination. I am here as an independent Representative

upon this floor, bound by my oath, which my constituents never took, to perform the obligations of my conscience, not theirs, to exercise the rights and to discharge the duties of a Representative according to my judgment, enlightened by application to all the sources from which intelligence and information can be received; and I will discharge that duty without regard to menaces on the one hand or to blandishments on the other.

I shall desire on a future occasion, when the honorable gentleman from Pennsylvania [Mr. STEVENS] is in his seat, to speak my opinions of representative rights and personal independence.

Mr. CHANLER obtained the floor.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. W. J. McDONALD, its Chief Clerk, returned to the House of Representatives, agreeably to its request, bill of the House No. 11, to facilitate commercial, postal, and military communication among the several States.

The message further informed the House that the Senate had passed a resolution authorizing the joint committee on reconstruction to send for persons and papers; in which the concurrence of the House was requested.

PERSONAL EXPLANATION.

Mr. INGERSOLL. I desire to ask the unanimous consent of the House that I may be permitted to record my vote on the question on laying upon the table the resolution affecting the pay of members of Congress. I was unavoidably detained from the House at the time that vote was taken.

The SPEAKER *pro tempore*, (Mr. RAYMOND in the chair.) The Chair cannot ask that consent at this time, the gentleman from New York [Mr. CHANLER] being entitled to the floor.

Mr. INGERSOLL. I will say, then, that if I had been present, I should have voted in favor of laying the resolution upon the table.

SUFFRAGE IN THE DISTRICT OF COLUMBIA.

Mr. CHANLER. Mr. Speaker, the following language of Alexander Hamilton, in one of his essays (No. 5) in the Federalist, seems most appropriate at this time and to this subject:

"It is of great importance in a republic not only to guard society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part.

"Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained, or until liberty be lost in the pursuit.

"In a society in which the stronger faction can readily unite to oppress the weaker, anarchy may as truly be said to reign as in a state of nature, where the weaker individual is not secured against the violence of the stronger."

A fierce and bloody civil war has just ended in the complete triumph of this Government over a rebellion which threatened to destroy it.

An amnesty proclamation has restored the people who were in that rebellion to their rights as citizens of the United States. Peace is re-established, and every function of Government is rapidly being put into practical operation throughout the South. The party in the majority in the Government has introduced this proposed amendment to the laws of Congress regulating this District, and urge its passage—

1. On the ground of justice to the negro.
2. On the ground of safety to the Union.
3. As a necessity.

I do not wish to use the word faction in any other sense than that used by the illustrious Hamilton. But it does seem to me, sir, that if this measure passes into a law we will resemble "a society in which the stronger faction readily unite to oppress the weaker," and "anarchy," for awhile at least, may be looked for as the political consequent of our action. Actuated by a sincere wish to do full justice to all classes and races of men; resolved at all hazards to secure the safety and perpetuity of this Union; and after a fair examination of the necessity of the proposed amendment, I am convinced this measure should not pass.

NEGRO SUFFRAGE IN THE DISTRICT OF COLUMBIA.

In my opinion, the powers vested in Congress

over the District of Columbia, although absolute and exclusive, do not include the right to establish a principle which in itself, *ab initio*, is fatal to the full and just exercise of the will of the majority of the people of this District or of any State of this Union, and, *a fortiori*, if it be hostile to the will of a majority of the people of this Union. A majority of the inhabitants of the southern States are negroes, who do not constitute the people, neither in those States nor in the United States. The negro inhabitant is in a minority in every other State except the southern States, and whether he vote or not in the States in which he forms a minority of the inhabitants cannot affect the sovereignty of the people of the United States by overthrowing the supremacy of the white race, through the legal and peaceful medium of the ballot, in any one State. But by the principle of negro suffrage, if once established by the national Congress, the term "the people" will be made to include the negro race throughout the Union, and thereby pervert the intention of the framers of the Constitution as declared in the preamble:

"We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

To secure the rights of and preserve the dominion to their posterity the same framers of the Constitution enacted:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof."—Art. I, sec. 4.

"Congress shall have power to regulate commerce with the Indian tribes."—Art. I, sec. 8.

"The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such importation not exceeding ten dollars for each person."—Art. I, sec. 9.

"To establish a uniform rule of naturalization, to exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States."—Art. I, sec. 8.

These sections plainly fix the intent of the framers of the Constitution on three points: first, the existence of three distinct races; 1, that of the framers of the Constitution; 2, the Indian race; 3, the slave race or negroes. Second, the dominion of the race who formed the Constitution to be perpetual. Third, homogeneity of the emigrant of that day with the race that formed the Constitution. Fourth, the seat of their dominion to be under the exclusive control of the Government founded by that race. I consider the logic of these sections to be conclusive on the question, "Is this a white man's Government?" Curtis, in his admirable work on the Constitution, sustains this view. He says, (volume two, chapter nine, page 195, also chapter ten, page 286.)

"But who were to be regarded as the people of a State for this purpose [in fixing the right of suffrage] was a question of great magnitude now to be considered. The situation of the country in reference to this, as well as to many other important questions, was peculiar. The streams of immigration which began to flow into it from Europe at the first settlement of the different colonies had been interrupted only by the war of the Revolution. On the return of peace the tide of migration began again to set toward the new States which had risen into existence on the western shores of the Atlantic."

"It appears quite certain that great accessions of population would follow the establishment of free institutions in America, if they should be framed in a liberal and comprehensive spirit."

"The States which had encouraged most such immigration had advanced most rapidly in population, in agriculture, and the arts. There were, too, already in the country many persons of foreign birth who had thoroughly identified themselves with its interests and its fate, who had fought in its battles, or contributed of their means to the cause of its freedom; and some of these men were at this very period high in the councils of the nation, and even occupied places of great importance in the Convention [which framed the Constitution] itself. They had been made citizens of the States in which they resided by the State power of naturalization, and they were in every important sense Americans."

"The people," therefore, who framed the Constitution of the United States were of the white race exclusively, their only point of difference being the period of time at which they had emigrated from Europe. No other race is

mentioned in the Convention. The only consideration given to the negro was as a slave in those sections regulating the slave trade and establishing the three-fifths rule of representation. To claim for the negro the position of a citizen of the United States is to violate the whole spirit of the preamble to the Constitution which made the United States a nation.

NEGRO VOTE A NEW QUESTION.

To amend the laws of this District and of the State of Maryland so as to admit the negro race to the exercise of sovereignty with the people of this Union is a new question, and one which demands the gravest consideration in face of the history of this country, where the negro has been an inhabitant for as long a period as the ruling white race—an inhabitant, but not a citizen of this Union. The negro should never be allowed to vote in this District until the majority of the whole people of this Union shall have passed their judgment upon his fitness to hold so great a power at the seat of Government.

The present is not, in my opinion, a proper time to urge this amendment upon the people for their judgment. The comparatively turbulent and distracted condition of the southern States just reorganized under the proclamation of the President, the conflict between the white and black race which public discussion would create, the hinderance to a fair discussion consequent upon the absence of an established press, the exclusion of the representatives of a large portion of the people of this Union from the floor of Congress, and the partisan character of such legislation, all tend to put the passage of this amendment in the category of those public acts of which Hamilton speaks in allusion to the "society in which the stronger faction can readily unite to oppress the weaker." Whatever may be the merit of negro suffrage, the attempt to force it on the country at this, or any future period, in hostility to the existing opinion of the people of the whole Union, can only be successful through violence and despotism. For a majority of this House to ignore the expressed will of the people of this District is tyrannical and contrary to the spirit of the Constitution and the Declaration of Independence. Then the warning voice of De Tocqueville, who wrote so many truths in regard to democracy in America, may be fulfilled. He says:

"If ever the free institutions of America are destroyed that event may be attributed to the unlimited authority of the majority, which may at some future day urge minorities to desperation and oblige them to have recourse to physical force. Anarchy will be the result, but it will have been brought about by despotism."—*Democracy in America*, vol. 1, p. 317.

PLEA OF NECESSITY.

The necessity must be absolute and imperative which forces a representative democracy to change the established law and custom regulating the right to vote. None of the arguments presented by the advocates of this measure establish any such necessity. The power of the Government never was greater, never so safe, never so honored at home so respected abroad. Her disbanded volunteer army and navy tell a glorious story of victory, of peace, strength, and security. The skill of her sons in the art of war, the devotion of her daughters in works of charity, the clemency, sagacity, and fearless patriotism of her Chief Magistrate, are the happiest guarantees of the future blessings which, as a nation, we may hope to receive and maintain. The majesty of the law universally meets with the ready homage of a free and enlightened people. The minister of religion is welcomed everywhere as the harbinger of a tolerant and pure faith. Every class and color of men are secure of equality before the law, and no danger threatens the full and harmonious enjoyment of civil and religious liberty throughout the Union. The slave is free, and the freedman fully protected. The reorganization of social and political society, which the late war threw into chaos, is rapidly and satisfactorily taking place. "Her ways are ways of pleasantness, and all her paths are peace." "There is no one to make us afraid." Our commerce is again spreading her giant arms, in search of

great gain, over every sea and land. The busy marts of men have renewed their hum of eager and restless enterprise. The dominion of the people is secure, and the Union is safe in their hands. Whatever evil the future may have in store, certainly the present is without danger, discord, or apprehension of harm. Why bring a new and inexperienced race into the now compact and homogeneous people by extending the right to vote to the colored man?

SAFETY.

The advocates of this amendment in regard to the colored vote in this District urge that the safety of the Union demands the extension of the franchise to the negro.

Hon. Michael Hahn, of Louisiana, in a speech delivered before the National Equal Suffrage Association of Washington, on Friday, November 17, 1865, says:

"Fellow-citizens, while we strive to secure the object we have in view—the right of suffrage to all American citizens, regardless of color—we must overcome obstacles and difficulties of a serious character which still beset us, and the continued existence of which may threaten to prevent our immediate success. It is necessary, in beginning our work, to see that slavery throughout the land is effectually abolished, and that the freedmen are protected in their freedom, and in all the advantages and privileges inseparable from the condition of freedom. It is a mistaken idea to suppose that slavery is already abolished. The national authority has declared emancipation. The national arms, in a bloody contest against slavery, have triumphed. The legislation against slavery of the country treat slavery as abolished. But I, who come from the South, and have seen the working of the institution for over a quarter of a century, tell you—and I do it regretfully—that slavery in practice and substance still exists."

And again:

"The right of the people to keep and bear arms must be so understood as not to exclude the colored man from the term 'people.'"

And again:

"The only question which now seriously divides the country is that of suffrage. Let us, in hoisting up old sores and putting our house to order, be generous, just, and patriotic, and now, for all time to come, dispose of this question in accordance with the principles of humanity and true republican government. The glorious character of the results to be accomplished, the future harmony of all sections of the country and classes of the people, should induce us to enter the contest for this principle cheerfully, energetically, and boldly. As long as this right is denied there is no peace in the land."

And Hon. B. Gratz Brown, in an address delivered at Turner Hall, St. Louis, Missouri, September 22, 1865, on universal suffrage says:

"Safety was destined to spring from the people."

Again, he says in the same speech:

"Subjection of one race to another, a homogeneity of institutions, can only come of equal rights to all classes, and until there is a homogeneity there will be discord between the sections, threatening renewed civil strife."

Again he says, page 10 of the same speech, speaking in behalf of universal suffrage:

"Have I not then the right to invoke in the cause of universal suffrage all the heroism which this war of liberation has called forth, and all the stern resolve that such noble sacrifice and so great suffering has put into the heart of the people? An equal freedom is the only refuge from an antecedent slavery, universal suffrage the only remedy for disasters that follow from subordinating and disfranchising a race and incorporating it in a free community."

A new era has come that disconnects us from the traditions of that condemned policy. Let us avail ourselves of it by insisting that universal suffrage shall be the monument of universal freedom in all the after time."

Hon. Charles Sumner, in a speech delivered before the Republican State convention in Worcester, Massachusetts, September 14, 1865, "on the national security and the national faith," says:

"Neither the rebellion nor slavery is yet ended. The rebellion has been disarmed, but that is all. Slavery has been abolished in name; but that is all."

NATIONAL SECURITY.

And again:

"Indemnity we renounce; but security we will have. This is the one thing needful."

And again:

"As the national peace and tranquillity depend essentially upon the overthrow of monopoly and tyranny, here is another occasion for a special guarantee against the whole pretension of color." "It is only impartial suffrage that I now claim, without distinction of color, so that there shall be one equal rule for all men. And this, too, must be placed under the safeguard of constitutional law."

And lastly the secret of all this fear is given as follows:

"Another speaker, less frank, thought it policy to accept the present condition of affairs, until the control of the State is restored into the hands of its people and 'to submit for a time to evils which cannot be remedied.' And still another, much more wily, when urging a seeming acceptance of the Union, thus lured his brother conspirators: 'If we act wisely we shall be joined by what is called the Copperhead party, and even by many of the Black Republicans.' Such is the plot, and such is the disastrous alliance plainly foreshadowed. But, thank God! in encouraging his comrades, the conspirator has warned us. Forewarned is forearmed."

The claim to all the privileges of an American citizen was easily to be foreseen as a consequence of the policy which made the negro a soldier during the war against rebellion. The right to secede involved our destruction and forced this Government to destroy secession by abolishing slavery. The rebels, in plotting treason, exposed themselves to the counterplot of abolition, whereby the Union countermined the confederacy and blew up their whole work in a ruin even greater far than they had prepared for us. How far the arming of the slave against his master may be justified ceases to be a question of debate while civil war inaugurated by the master threatens the existence of this Union. But the enlisting the slave as a soldier in the armies of the Union was, in my opinion, unnecessary and unwise. It was a step beyond what was consistent with our system of government. Taking a step further and more hostile to society and government, the advocates of negro equality urge now that the rank of soldier invited the hope, if it did not imply the promise, of equality as a citizen in just reward for sharing the dangers of war. I have always opposed the enlistment of negroes or their race in the armies of the Union on an equality with the white man. But it does not follow that the negro is entitled to a vote as an inalienable right, nor does it follow of right because the Administration, during a civil war of great magnitude, under the plea of military and political necessity, employed him in her armies as an instrument to win his own freedom.

It seems to me, sir, that freedom from slavery and equality before the law are as full a reward as we can justly grant the negro for his recent service in arms. The right to vote carries with it too many and too weighty responsibilities to be ranked in the same class with pensions and bounty money, the only reward of a large class of white Union troops. The black laborer in the recent field of blood is undoubtedly worthy of his hire; but he is not entitled to become the equal of his recent white master in the loyal States, nor to receive a greater reward than his white fellow-soldiers in the Union armies. Nor do I think the equality of the negro has ever been fully and fairly admitted even by the Administration which made use of him during the late struggle. The organization of the colored troops in the Army of the United States was as laborers, and not as soldiers. The course pursued by the late President was evidently intended to avoid the responsibility of pledging equality in peace to negroes who had shared the dangers of war.

I deny that any obligation rests against this Government to do anything more for the negro than has already been done. On what meats doth this Caesar feed that he has grown so great? The white soldier did as much work as he, fought as well, died as bravely, suffered in hospitals and in the field as well as he. More than this, the white soldier fought to liberate the slave, and did do it. The white soldier did more: he fought to preserve institutions and rights endeared to him by every hallowed association; to overthrow the rebellion of his brother against their Commonwealth and glorious Union; to preserve the sovereignty of the people against the conspiracy of a slave aristocracy, if you will; to maintain the fabric of the Government built by their fathers for them and their race in every country of kindred men who, down-trodden and disenfranchised, look to this country as a sure refuge. The white soldier fought as a volunteer, as a responsible, free, and

resolute citizen, knowing for what he fought, and generously letting the slave share with him the honor, and bestowing on him more than his share of the profits of the white man's victory over his equal and the negro's master.

FACTS—WHAT HAS BEEN DONE BY THE WAR.

This naturally brings us to a statement of facts as to what has been done by this white man's civil war.

1. Slavery and abolition, twin curses to our peace, have been abolished.
2. Rebellion has been put down, and secession made impossible hereafter.
3. The State governments reorganized in the seceding States.
4. Equality before the law secured to the negro by the conventions of those States.
5. Union of the thirty-six existing States and Territories made perpetual by victory.

BENEFITS.

All the benefits resulting from this state of facts accrue to the black and white man alike in everything except the right to vote, which is not a result of, and never was involved in, the contest which has just been decided between the seceding States and this Government. The dominion over the different races on this continent belongs to the white man by right of conquest, and he will only surrender it to a superior in arms. That dominion is secured to us by the elective franchise, which we have granted to foreigners of our own race, as the highest privilege within our gift, as a return to them in sharing with us the task of subduing the savage and establishing civilization in America. That privilege has been made honorable by the glory which is attached to American arms; by the wisdom which marks American policy; by the purity and simplicity which adorn the American home; by the security enjoyed under the protection of our laws; above all by the refuge from military and hereditary aristocracy extended by it to the oppressed and unfortunate of our own race in Europe.

AMERICAN CIVILIZATION.

American civilization, of which universal suffrage is the corner-stone, is not, as some seem to think, a plan to overthrow European civilization, but on the contrary to secure the blessings of the highest civilization to the humblest emigrant from Europe in this Union. That was the scheme of every European nation and language which sought this continent, under whatever pretext they may have disguised it, and with the exception of a few instances in our history, has been the fixed policy of the European race in America up to the present. It is the great social and political task now laid more heavily than ever on the people of this Union. Nor has the dominion of the European on this continent been without a severe struggle. Each one of the thirteen original colonies, and most of the States formed since the war of independence, bear a sad testimony to the danger and fatigues he suffered, to the long vigil and wearying fast he kept, on the rugged sea-coast and on the desert plain, or in the still more inhospitable forest, where behind every tree a red foe lurked thirsting for blood. It became a war of extermination, race against race, blood for blood, merciless. Civilization, although fighting at great odds, hand to hand, foot to foot, drove the savage before him, disputing every inch of wilderness. And the white man of to-day enjoys the triumph achieved by his race in this prosperous and powerful Union. Scarcely was this victory won over the red man when a new element was thrown into the conflict of civilization against barbarism. A philanthropic priest, Bernal Diaz, induced the Spanish Government and the Pope to sanction the importation of African slaves as laborers. Indian slaves and negro slaves alike bowed to the lash of the white master from the land of the Pequod to the Lake of Mexico. The dominion of the white race was made doubly sure by dividing the laboring class into blacks and Indians, from the intermarriage of whom a still more degraded element has been introduced throughout Central America.

The proud distinction which the white race holds to-day on this continent it has held from the first. It is certain to hold it, under all circumstances, with a master's hand. I have no reason to fear for the result as between the races. There are two beautiful groups in marble, one on either side of the main entrance to the Capitol. One commemorates the discovery of America—Columbus displays the globe in triumph, while at his feet crouches an Indian slave. On the other side, a western pioneer is in a death-grapple with an Indian warrior, while the white man's wife and child and faithful dog watch the fierce but victorious struggle of their champion with their murderous foe, whose scalping-knife was just sharpened for the innocent and weak. Why should we, at this period of our history, disturb the historic monuments and legal bulwarks by which the white man secured and preserves the mastery? Why make it necessary to resort again to violence? By the law of might he first won his dominion, and by it he certainly will maintain it if roused by passion.

CONFLICT OF RACES.

The conflict of the different races may never take place in the same form in which it showed itself at the beginning, but the conflict is inevitable whenever the white race is roused by anger or suspicion. One of the most certain methods of inducing a conflict will be, it seems to me, by establishing equality, social and public, as the negro suffrage proposes.

Were I an enemy of the negro I would do everything to hasten the period when the white laboring classes of this country would feel their instinct for self-preservation stronger than any law, and unite their strength to drive the black as they drove the red man out of their midst as a pestilent and turbulent fellow, disorganizing society and delaying the white man's progress. I claim, sir, that this is a white man's Government, founded by white men to preserve and perpetuate the laws and customs of their race, and to extend the blessing of their civilization to the humblest creature. It is the glory of our tolerant freedom that the benefits to be derived from those laws are shared by all the races and colors of men. The negro race has been civilized, slave though he was, by the benign character of those laws. The Indian to-day is the beneficiary and stipendiary of this white man's Government. The stranger from all lands is welcome here to seek happiness, wealth, and liberty. California is the chosen home of thousands of Chinamen. New England is rapidly becoming populated by negroes and their descendants. While her white sons and daughters seek more genial sections they invite the docile negro to the hospilities of a rugged soil and severe climate. Kansas and the far western States shelter the industrious tribes of the red men by humane and wise laws. Yet, sir, I maintain that this is, nevertheless, a white man's Government; the dominion is his own, in emulation of the models reared by our race, to mark their progress and prompt a noble imitation, found strewn along the highway of history, like the monuments Roman heroes left along the Latin way to rouse their countrymen to deeds of daring conquest; models for which we will look in vain in the fetish worship of the African, or in the bloody rites of the King of Dahomey and his brutish Amazons, or in the inhuman practices of the Aztec, or in the merciless aristocracy of the Peruvian, or in the crude code of the cruel Iroquois or of the wandering Comanche. Although the enjoyment of the benefits of our institutions may be open to all men, still the dominion belongs to the white man alone. It is his Government, to be preserved for his posterity in its purity, and administered with toleration and justice to all races of men who may find a home among us. There is no obligation upon us to surrender the Government into other hands, nor is there any call upon us to share the honors of government with any other race whom we may, from motives of policy, philanthropy, or justice, befriend, protect, or release from slavery.

What disgrace attaches to those refused, and

what injustice is done by those who refuse them the right to vote?

DISGRACE AND INJUSTICE.

If the ruling race hold dominion by just, constitutional law, they commit no injustice toward those who by that law are excluded from the right to vote. As "the people" of the United States in the words of the Constitution, the white race and their representatives in Congress, merely execute the established law as handed down to them by the first settlers of this continent, and by those who founded the Government in the spirit and name of independence, the white race fixes no disgrace on the excluded negro or Indian by refusing to give what they received in trust for themselves and their posterity.

Nor does the fact that from motives of policy and generosity the white ruling race admitted negroes in exceptional cases to vote establish the injustice of refusing to extend the same right to any other or every negro in national affairs, or at the national capital. In some instances women have been admitted to the right to vote, but that does not fix disgrace on the fair sex excluded by common practice from the right; it is rather an honor to them that they suffer this "constraint which sweetens liberty."

The right to vote is a political and not a social right. The requirements for an intelligent and capable voter are limited to political-experience, political capacity, a good name, and a legal age.

No disgrace attaches to students of divinity, or law, or medicine who, being under age, cannot vote.

Nor can the man who reads English vote any more understandingly as to his political rights than the man who speaks German but not English, yet reads Greek, or who can speak "all the tongues that Babel cleft the world into," and read no language but Hebrew, or be even deaf and dumb, conversing only by signs and reading by raised letters. If he be of age, sound mind, of good name, he needs no higher merit than being a male white citizen. He may or may not be able to bear arms. He may pay no tax. But why limit the right to vote to male white citizens? Because this is a white man's Government. Because the majority of the people of the United States have so established by law. The sovereign will of "the people" has so decreed in the Constitution. This bill proposes to change that decree.

RULING RACE.

The fact that all but the white male citizens are excluded from voting in the municipal affairs of this District, the seat of Government, is a crowning proof, first, that this is a white man's Government, and second, that there is a ruling race recognized in the practice of that Government. The history of the civilization now established in this country, which has its center here, proclaims the proof. The language and customs of our people proclaim it. The laws written and unwritten proclaim it. The organization of our Government proclaims it. The admission of foreign immigrants of the same race to the same rights as those of the original settlers in the different sections of the continent, and excluding the negro and the Indian from voting in many of the States of the Union, proclaim it. Our literature, arts, and science proclaim it in the names of the illustrious men who grace those departments. This national Capitol, and the beautiful works which adorn it within and without, bear testimony to the identity of American and European art, to the homogeneity of the white race, as well as to the close and unbroken connection between European and American history—the record of the white race exclusively. On the majestic and graceful colonnade at the main entrance of this Capitol, the work of the Italian Persico stands opposite Greenough of Massachusetts's colossal group. Over the entrance to the Senate, the great work of Crawford, son of an Irishman, tells in marble the story of American civilization—how American Liberty crowns with laurel the white sons of her race, while the "feather-cinctured"

savage mourns over the grave of his people and the desolation of his hunting-grounds. Hung at the very portals of this Chamber, by the genius of Rogers, of New York, in everlasting bronze, is the tale of suffering and disappointment which Columbus endured before his inspiration found utterance in the glad cry of "Land ahead!" on the coast of San Salvador. Then "westward ho!" came the rush of eastern men, until the poet wrote out the sublime drama of a disenthralled race, and foretold our Union, and its might, majesty, and power.

"There shall be sung another golden age.
The rise of empire and of arts;
Not such as Europe breeds in her decay—
Such as she bred when fresh and young.
Westward the course of empire takes its way."

The drama is not ended. The German, Leutze, by the permission and at the cost of the American people, has recorded the last great scene of this heroic play, and the rich sunset of the Pacific coast at the Golden Gate marks on your walls the limit of the white man's dominion under the flag of this Union in the West. No negro race runs in a parallel line across this continent in rivalry for this dominion. Would that it had the spirit, courage, and tenacity of will to emigrate. I would not mar its plan, nor hinder its hunt after fortune. But the artist, with the æsthetic skill of his nation, has introduced a negro into this great picture—the happy, humble companion of the white men's progress, carrying his fiddle to cheer them on their way.

The decorations of this Chamber, the roof emblazoned with American heraldry, and every panel of the rotunda rich in the record of great things done by white men—sometimes painted by the hand of a native artist, sometimes sculptured by the chisel of the European—all relate the same unvarying fact, that this is a white man's Government. The Indian, as he has often been our equal in war, sometimes shares the glories of our triumphs, yields to the wisdom of Penn., or rescues the sturdy seaman from death to proffer him a bride—the negro never.

The same story everywhere reveals the proud deeds of our common ancestry as a white race upon these walls, from pinnacle to foundation-stone, proclaiming the proof of the white man's sole claim to rule, and of his will and strength to do so. This is all by master workmen, who "built better than they knew" in establishing the right of every working man of their race to have, hold, and enjoy, exclusively for themselves and their heirs forever, this citadel of individual liberty, democratic representative government, and universal suffrage. The writing on the wall tells this truth to this people, and he who spurns the lesson it teaches deserves the vengeance and the brand of shame truth bestows on fanatical injustice and falsehood. Sir, I deem the ballot, the bayonet, the steam-engine, and the press, the powers of the nineteenth century. Of these the ballot is the most typical of democratic liberty and strength. I claim it as such for the white race against all the world; and jealously and zealously will I contend for its exclusive use.

THE WHITE MAN'S GOVERNMENT.

This brings us to the merits of this bill introduced by the chairman of the Judiciary Committee. The burden of proof of course lies with its friends, whose arguments I will endeavor to meet on the spot. This is not a question of class, of caste, of rank, of language, or of color. It is purely a question of race—the dominion which a superior race of men has established for itself over all surrounding or hostile races. There may be many varieties and shades of color of this race from different quarters of the globe, but its identity is as firmly established as the ranges of mountains which traverse the earth's surface, maintaining their individuality from the torrid to the frigid zone.

Sir, I uphold that this is a Government made and maintained by and for the white working man, the white masses of this country. If any doubt exists as to the white democratic original

character of this Government this certainly is a proper place and time to remove it:

DEMOCRACY OF THE REVOLUTION OF 1776.

"The social condition of the Americans is eminently democratic. This was its character at the foundation of the colonies, and is still more marked at the present day."—*De Tocqueville*, vol. 1, p. 37.

"Still, the great proprietors south of the Hudson constituted a superior class, having ideas and tastes of its own, and forming the center of political action. This kind of aristocracy sympathized with the body of the people, whose passions and interests it easily embraced; but it was too weak and too short-lived to excite either love or hatred for itself. This was the class which headed the insurrection in the South in 1776, and furnished the best leaders in the American Revolution.

"At the period of which we are now speaking society was shaken to its center. The people in whose name the struggle had taken place conceived the desire of exercising the authority which it had acquired; its democratic tendencies were awakened; and, having thrown off the yoke of the mother country, it aspired to independence of every kind. The influence of individuals gradually ceased to be felt, and custom and law united together to produce the same result."—*Id.*, vol. 1, p. 38.

"The American institutions are democratic not only in their principles but in their consequences."
"The people, therefore, is the real directing power, and, although the form of government is representative, it is evident that the opinions, the prejudices, the interests, and even the passions of the community are hindered by no durable obstacles from exercising a perpetual influence on society. In the United States the majority governs in the name of the people, as is the case in all the countries in which the people is supreme."—*Id.*, vol. 1, p. 193.

At one time in our national existence the question certainly was raised, and Washington, with true self-respect, manly dignity, and pure patriotism, put aside the crown which a few military aristocrats and blindly-ambitious citizens offered to him. Like Cæsar, he was offered the power to enslave his country; nobler and wiser than Cæsar, he spurned the insult. The hero and father of American independence, he gave back to the people the sovereignty he received from them as dictator.

I believe no other instance occurs in our history as a nation which can throw a shadow upon the otherwise unclouded title of this Union to be ranked as a pure democracy. Washington's conduct in this matter is one of the most positive proofs in our annals of the existence of democracy as a practical working system in the confederation of States, over which during the seven years' war of independence he acted almost as sovereign. Had the people not known their rights, and had they not already been by long experience educated to freedom, this Union never would have been formed. The people, not their leaders, founded and maintained their own independence.

I would consider this statement as conclusive, and rest my argument here as to the democratic character of this Government, but for the manifest disposition of the present Congress to encroach upon the established character and institutions of this Union and its founders. We have new-era men, new-nation men, war-necessity men, peace-necessity men, and centralization men. I wish to pitch the tone of sentiment back to the old democratic cry of the revolutionary era of 1776, and even beyond, far back to the colonial history of this country.

Mr. Speaker, the statesmen of the revolutionary era were not philanthropists, abolitionists, or negro-suffrage men. They were practical representatives of the white democracy which fought out the seven years' war by themselves and for themselves, to establish a white man's democratic representative Government to be perpetuated in this Union. They were practical politicians, dealing with every difficulty with shrewd policy and admirable tact. They mastered every obstacle with hard, sound common sense. They were not abstractionists as a body, and left abstractions to the few fine writers and publicists among them. They knew what the inalienable rights of man were, but they never surrendered the material advantage of slave labor to the inalienable right of the negro. Why? Because they knew by stern experience that the negro did not himself know what his inalienable rights were. He had no political knowledge nor spirit of independence as a race. In their view, independ-

ence, just won from the throne of Great Britain by hard blows and indomitable courage and a French alliance, was something else than an abstract idea—it was a very material thing indeed; something to suffer long and keenly for, to die for; something to claim for one's self against kingly power with the sword of a hero, and to maintain when won with the pen of a genius, the grace of a wit, the skill of a statesman, and the profound learning of a jurist. They knew all this from experience. All their wit and wisdom and skill united to devise the laws regulating suffrage. Those laws exclude the negro and recognize him as a slave. Yet the negro had fought under the eye of Washington, beside the heroes whose blood was shed for the common weal of white and black men in the struggle for independence.

INALIENABLE RIGHT.

The Declaration of Independence asserts the inalienable right of every man to life, liberty, and the pursuit of happiness. I am a believer in and supporter of that fundamental democratic idea. The decision of the founders of this Government certainly does not favor the profoundly suggestive plan of depriving the agricultural white labor of the North, East, and West of a fair chance in the cotton and corn-fields of the South by giving away to freedmen the fattest lands and best cotton-growing region in this continent. Yet the negro had all the inalienable rights then he has to-day. The inalienable right of the negro does not entitle him to vote in this District. An inalienable right is one common to all creatures and derived directly from the Creator; it may be taken away by force, fraud, or accident, yet never is lost; and may be claimed at any time with reason and justice, and is specially valuable to man, in his relations with his fellow-man, as a barrier against injustice and a power for revolution. Justice fixes the relations of all conflicting rights in human affairs, reason establishes their existence, force controls their exercise.

Now, there are many inalienable rights. Self-preservation is the first, and is common to all animals.

The pursuit of liberty, of a home, of happiness, of wealth, are each claimed to be inalienable rights of man.

A child sold into slavery may claim his right to be free at any time in after life, and no just law can deny him the right. But the first fact to be ascertained on the demand of an inalienable right by a claimant, is, first, his free will in making the claim; second, competency to maintain it. So that if a man, woman, or child be either incapable of exercising free will or of maintaining life, liberty, or happiness, or of using such life, liberty, and happiness in accordance with his own well being, or with that of the society in which he or she lives, then both justice and reason may hinder the exercise of the inalienable right, under the very first of all inalienable rights, self-preservation.

RIGHT TO VOTE.

The right to vote is not an inalienable right. It is merely a manner of exercising the right to be free, and belongs to a peculiar set and form of government; has its origin in and is liable to the limitations of civil law. It is not a natural right at all, and is in this country made subordinate to the will of the majority, so that women, minors, and aliens are excluded from its exercise. Yet no disgrace attaches to them in being deprived of the privilege to vote, nor is any injustice committed on them. If the right to vote be, as asserted by some, an inalienable right, it naturally belongs to every human creature who lands on our shores, and should be granted to them without limitation of time or distinction of sex. This is denied by the friends of negro suffrage.

Hon. B. Gratz Brown, in a speech delivered at St. Louis, September 22, 1865, says:

"There are those who seek to escape this conclusion, and put the blush on all free government, by affirming that the right of franchise is a purely political right, neither inherent or inalienable, and may be divested by the citizen or State at will. The consideration be-

fore mentioned—that the right of franchise is neither more nor less than the right of self-government, as exercised through a participation in the common government of all—shows that if it be not a natural right, it will be difficult to say in what a natural right consists. Indeed, it is, perhaps, the most natural of any of our rights, inasmuch as it is the denial of all right to personal liberty; for how can such a right exist when the right to maintain it among men and the societies of men is denied? Again, if the right to share in the government over us is not inherent, from whence does it come? Who can give the right to govern another? And how can any give that he has not got? Society is but the aggregate of individuals, and in its authority represents only the conceded limitations on all—not any reservoir of human rights; otherwise it would vary with every changing association. Still, again, if the right of a man, as regards government, can be divested, either by himself or government at will, then government has no limit to its rightful tyranny. It may divest not only one man, but a hundred or a thousand; indeed, why not all but the chosen few or the imperial one, thus arriving logically at oligarchic or despotic rule?"

"Now, a franchise is a political grant of a right, and not a natural right. I repeat it in face of the above avowal to the contrary. The right to vote is a right to will a certain thing. What is that thing? A political duty, a political right, if you prefer the term, if the will is exercised on political subjects; fixed by law in some States, done in a different way in different States. The manner of exercising this political right is the ballot, or by ostracism, or *visa voce*, or by showing of hands, or by dividing the House, as in Congress and Parliament. Representation is neither a cause nor a consequent of the right to vote. Voting is as old as the history of man. Representation in government is a modern system, and was never known in any Greek republic; not even in Athens, which was a pure democracy. It was unknown in Rome. The right to vote is therefore simply a political or civil right. A vote is a form of expression whereby men give utterance to their will. To say that this particular form of expressing the will is essential to independence over all the other forms of declaring and maintaining independence by a vote, is to subject the will to a formula and destroy independence, which is absurd. To give the form of a vote to those who are devoid of a will, or ignorant of its uses, is unnecessary, unjust, and fatal to freedom. The honorable gentleman, in my judgment, puts the form for the spirit and the love of independence; the desire to vote understandingly for the manner of doing so, and confounds representation with the right to vote, which are distinct things, and not consequent. Nations have been enslaved while in the full enjoyment of the most liberal forms of government. Demosthenes tried in vain to fire the Athenian heart against the Macedonian king. Yet a free exercise of the right to vote banished Demosthenes from Athens, and Greece was enslaved by Philip and his son, leaving all the outer forms of franchise in full force from the Demos up to the Amphictyonic Council.

There are many inalienable rights. But there must be an equivalent force of will and strength of body to establish the claim to an inalienable right. One individual right seems to be that dominion which man has over every beast of the field. And when Peter was bidden to rise and slay and eat, he had full authority to attack the lion, or the bear, or the elephant, of which act of his there is no record. So I take it, each man on this floor has an equally inalienable and a divine right, if you prefer the term, to get his living out of the first wild beast he may chance to meet. But the beast may claim the equally inalienable right of self-defense and eat the man. Sir, the inalienable right of the negro to vote must be asserted and maintained by himself in order to be a valuable and even a safe possession. He must become a democrat in the pure and simple sense in which the white race understand, interpret, and practice it.

WHITE DEMOCRACY.

White democracy does not mean man worship, hero worship, centralization of power, imperial one-man power. It is the very opposite of all this. The individual is absorbed in the mass, and finds safety in the commonwealth. White democracy denies to one man any heredi-

itary right to dominion, and asserts the exclusive sovereignty and instructive wisdom of the masses. White democracy uses its heroes for the people.

White representative democracy founded, in 1776, cemented union for the people with its blood in solemn compact against the hereditary, usurping aristocracy of the white race in all the world, because it was resolved no longer to be ruled by that aristocracy of their own race, and feared no other race. White democracy declares this Union to be made for the people, not the people for the Union. White democracy makes war on every class, caste, and race which assails its sovereignty or would undermine the mastery of the white working man, be he ignorant or learned, strong or weak. Black democracy does not exist. The black race have never asserted and maintained their inalienable right to be a people, anywhere, or at any time. The black race may have petitioned for their inalienable right, but these petitions establish nothing. The blacks have mutinied against authority, have formed and carried out successful insurrections, but they have never established a democratic principle. They have made successful imitations of revolutions in Hayti, and having once begun a revolution they have been revolving in space around a central despotism, a chaotic mass, ever since. They have developed just force and freedom enough to overthrow the white race, a minority in their midst, and by perpetual persecution of that white race have kept themselves in a condition of *posse*. The proof the blacks of Hayti and the West Indies generally furnish of their capacity for self-government seems to be this: they have learned how to make revolutions. But the principle underlying democracy is peace, permanence, self-contained energy for the development of civilization by a people themselves, without foreign aid or the meretricious aid of a central despotism, or any of the seductive phases of monopoly and protection, or aristocracy.

Toussaint L'Ouverture, so much quoted by the negro-worshipping orators, embodied a negro's pure and simple notion of government when he conceitedly wrote to Napoleon the First and Great, "Toussaint L'Ouverture, first of blacks, salutes Napoleon, the first of whites." The same expression might be majestic in Napoleon and was undoubtedly true of Toussaint L'Ouverture, but would have been fatal to the reputation of Washington, for the reason that his political theory and practice recognized the equality of his fellow-citizens, one to another, and of each to himself. It would have exposed him to universal ridicule for assailing the principle that the ruler is the servant of the people, the distinguishing feature of the white democracy of this Union.

WHITE DEMOCRACY A HOMOGENEOUS RACE.

It is not a thing of to-day, nor of yesterday, but belongs to the history of our race, not only on this continent, but throughout the world, long before. Democracy in Europe and democracy in America may not be identical in practice nor equal in their developments, but their origin is one and the same, and can be traced by the annals of our race running through all the eras of our civilization, from the Germanic tribes, from the Gothic hordes, from the Italian republics, from the Gaul, the Saxon, and the Celt, down to the period of the hegira of the people to America, in the sixteenth and seventeenth centuries, to escape from the dominion of church and state, the hated aristocrat and intolerant bigot of his own race and color. Every European tribe, race, and nation, mingled here in common cause, for civil and religious liberty, against the ruling classes of the Old World. Maryland was a refuge for the English Catholics against the Protestant, and brought toleration with them; Rhode Island was the refuge of the Protestant persecuted by his fellow-Protestant and Puritan brother; Massachusetts was the refuge of the Englishman from the tyranny of a political party in England; South Carolina was a refuge of the Frenchman from the tyranny of a political party in France; Delaware is the western home of the Swede;

New York was the republican outpost of the Dutch republic in their life-long struggle for independence against the empire of Charles V and bigotry of Philip II—a republican colony, founded by a republic in the wilderness of the western world, to carry on the war of popular right against kingly power, intolerance, and commercial monopoly. Her people still cling to those great dogmas of our political faith, and stand true to the principles of public and private right established by that heroic republic of Europe which has defied for ages alike the raging of the sea and the wrath of the tyrant with fearless dignity and untiring industry. The history of this country is the history of our race—the white race. The principles of our Government are peculiar to that race in contradistinction to the African, the Asiatic, and the aboriginal American. Sir, if you doubt this to be a white man's Government, traverse once more the prairies and staked plains across the continent to the Pacific shore, from Oregon to Utah; and if still in doubt, travel on to the shore of Australasia and ask there if the dominion of sea and land is not claimed and held by the white race against all the other sons of Adam.

DOMESTIC EQUALITY ANTECEDENT TO POLITICAL.

If any one denies these propositions, let him seek to establish social equality in his family between the black and white race. The result might prove a success, and may meet with final cooperation from the fair sex and the democracy of the nursery. But I doubt it. Certainly the more simple relations of domestic life should be harmonized; if not to a thorough eradication of all existing prejudice, at least to the same extent as now exists in the domestic relations of the different races of European extraction now united in private and public by every tie which can make a nation homogeneous.

PREJUDICE.

The advantage to the advocates of this amendment, which would follow the experiment of domestic social equality between the black and white races is incalculable. The first victim to the experiment would be prejudice, than which no greater obstacle stands in the way of equality before the law and the full exercise of all the rights of the black man as a voter at the polls, or here as a Representative. But until a large portion of the prejudice be removed by conviction and sound reason, we are bound as legislators to take it into consideration. Prejudice is to the mind what nerves are to the body. It gives impulse to thought and direction to judgment. We feel through our prejudices whatever is mentally offensive or pleasant. It is unreasoning, prompt, perhaps unjust, but decisive. Prejudice in the masses is equivalent to the experience of the philosopher or the quick perceptions of a woman. Prejudice is stronger than opinion, because very few think. There are more prejudiced people than reasonable people. This is practical and plain. Human nature in politics is no way different from human nature in every-day life.

The friend of negro suffrage in a democracy must consult the sentiments of the people. The instinct of the masses is always right. But prejudice is one of the elements of every human being, and is a good element; otherwise it would not hold so high a place in the category of man's characteristics. And I urge domestic intimacy between the advocates of negro suffrage and the candidate for negro suffrage, to remove any unfavorable existing prejudice. In the mean time the enemies to the amendment will watch the process and cling to their prejudice in favor of the white race as the dispensers of power through the ballot. We respect the intense prejudice which preserves our race in its purity, vigor, and supremacy. It is not unjust, for we propose to give the negro equality before the law, and abolish the remnants of slavery now declared unconstitutional by the constitutional number of States of this Union. We are willing that the negro should have every protection which the law can throw around him. but there is a majesty which "hedges in a

king." That he ought not to have until he shows himself "every inch a king."

"Who would be free, themselves must strike the blow."
 "Some are born great, some achieve greatness, and some have greatness thrust upon them."

We are opposed to thrusting honor on the negro. He is to-day, as a race, as dependent on the power and skill of the white race for protection as when he was first brought from Africa. Not one act of theirs has proved the capacity of the black race for self-government. They have neither literature, arts, nor arms, as a race. They have no code of laws, no original organized form of Christian worship. They were introduced upon this continent at the time of the Spanish conquest, in 1520, by express law for their civilization, and have never during all the changes of dynasties or revolution of States risen higher than to be the helpers to the contending parties. They have had the same opportunity as the Indian to secure their independence of the white race, but have never systematically even attempted it on this continent, although they have been educated with equal care and in the same schools as the white man. Their race has been subject to the white man and have submitted to the yoke. The race which rules and is to continue to rule this Union submits to no yoke, nor will it have a divided dominion with a servile race. It would be treachery to the trust reposed in us to do so, and fatal to democracy. All the rights vested in a representative, free system of government would be in jeopardy.

AMERICAN SOVEREIGN.

The only true king possible among us is the white working man. The monarchists clothe their sovereigns with mythical names, saintly titles, and grand insignia—St. George, St. Denis, St. David. But the American sovereign is the white working man—on the farm, in the shop, in the store, in the mine, on land, and at sea. His diadem is the crown of care, his motto industry; in his right hand the badge of his trade, and in his left the scepter of his power, "the ballot." His title is the inalienable right to live free and equal, based on the strong works, on the great deeds of virtue, on the spirit of independence, on the untiring enterprise of his race, and on his own resolve to acknowledge no master but the law and his God. Other kings are Most Catholic, Most Christian, Defender of the Faith, Most Pious, and Most Mighty, and most nearly anything. The American popular sovereign is Most Democratic. He shares his dominion with no other potentate, race, or power. The negro-suffrage bill proposes to limit his exclusive right to rule by establishing the spurious claims of the black prince, clothed in all the majesty of the golden fleece, fobbed from the carcass of dead King Cotton, annealed, housed, buried long ago by the white working man's volunteer forces on land and sea; while his gaudy uniform, tricked off with lace, is emblazoned with orders of nobility granted to the swarthy Duke of Marmalade, Marquis of Sugarplum, and Baron of Daffodil, by their sovereigns, Toussaint L'Ouverture and Emperor Souleouque, two rich sporadic specimens of negro capacity for self-government.

The Indian was reduced to slavery by the first settlers on this continent, from Plymouth Rock to the Isthmus of Darien.

The northern Indian had every difficulty to contend with in the severity of the climate and ruggedness of the soil, and yet the legend of the "Last of the Mohicans" is a romance of the first order, displaying the elements of a great character, wisdom in counsel, bravery in war, and policy in the administration of their peculiar government. To-day some portions of the Indian tribes have adopted the civilization of Europe, and are rich in the possession of a language snatched from barbarism and made one of the written tongues of the earth. But in all their tribes none of them have been found willing to surrender his race to the dominion of the white man without a fight for mastery. Conquered they may be, but cannot be systematically held in bondage, as the African has

been for generations. The slavery of the Indian is an exception and full of danger to the owner. The slavery of the African is the rule, safe and profitable to his master, and, if we may judge by his conduct, acceptable to himself. Now, until the negro is at least equal to the Indian, we should refuse him the highest privilege a democracy can grant—the right to vote, and with it the right to be voted for. This may be prejudice, but it looks to be very reasonable.

A FEW PERTINENT QUESTIONS.

In conclusion, this bill seems to me premature. Before surrendering the exclusive right of the race to vote in this District, let me ask a few pertinent questions, and urge an answer from the advocates of this bill before its passage. What gain would the people of the United States experience by extending the voting franchise to the negro race here or elsewhere? What necessity exists for extending this right at this time in this particular city? What advantage do the advocates of this measure propose to themselves by the passage of this law? What will be the effect of negro suffrage in the southern States, first, on the white race; second, on the negro; third, on agriculture, commerce, manufactures, and the progress of civilization? What effect will negro suffrage have on internal immigration? What effect on foreign immigration to this city? What examples have we in our own history of the repugnance of the white laborer to compete with slave labor, or its synonym, black labor, uneducated and utterly dependent?

Does negro suffrage if granted give the control of this city to the negro? Have we any reason to anticipate that the dominion of the black race in the southern States or here will be an exception to the usual exercise of power by an ignorant, dominant race, to the exclusion of the rival races? How have negroes heretofore exercised dominion? Does negro suffrage offer a panacea to the evils which belong to the present and past antipathies and collisions between the white and black races? Does it not rather put the black man in new danger? Does it not make him an object of dislike to be put out of the way of the white laborer of the North, East, South, and West? What does General Grant say on this question? What does the press North and South say? What have we to fear from the white race in this city? What have we to hope from the black race if allowed to vote? Will any law of Congress passed at this time remove the future or the existing difficulty which surrounds this question of race?

THE BALLOT AND BANNER AND THE "UNION," EMBLEMS OF OUR RACE.

If, sir, it should ever be your good fortune to visit romantic old Spain, and to enter the fortress and palace of Alhambra, the fairest monument of Moorish grandeur and skill, as this Capitol is the pride of American architecture, you may see cut in stone a hand holding a key, surmounting the horse-shoe arch of the main gateway. They are the three types of strength, speed, and secrecy, the boast of a now fallen Saracen race, sons of that sea of sand, the desert, who carried the glory of Islam to farthest Gades. In an evil hour of civil strife and bitter hatred of faction the Alhambra was betrayed to Spain, "to feed fat an ancient grudge" between political chiefs. The stronghold of the race, with the palace, the sacred courts of justice, and all the rare works of art—the gardens of unrivaled splendor—all that was their own of majesty, strength, and beauty, became the trophies of another.

The legend of the Saracen exile tells the story of penitence and shame; and to the last moment of his sad life he sighs in the sultry desert for the fair home of his ancestors, the gorgeous Alhambra. We, too, are descended from a race of conquerors, who crossed the ocean to establish the glory of civil and religious liberty and secure freedom to themselves and their posterity. To-day we are assembled in the Alhambra of America; here is our citadel; here our courts of highest resort; around these halls

cluster the proudest associations of the American people; they seem almost sacred in their eyes. No hostile foot of foreign foe or domestic traitor has trodden them in triumph. Above it floats the flag, the emblem of our Union. That Union is the emblem of the triumphs of the white race. That race rules by the ballot. Shall we surrender the ballot, the emblem of our sovereignty; the flag, the emblem of our Union; the Union, the emblem of our national glory, that they may become the badges of our weakness and the trophies of another race? Never, sir! never, never!

Shall the white laborer bow his free, independent, and honored brow to the level of the negro just set free from slavery, and by yielding the entrance to this great citadel of our nation surrender the mastery of his race over the Representatives of the people, the Senate, and Supreme Court of this Union? Then, sir, the white working man's sovereignty would begin to cease to be. That would be the beginning of the end—

[Here the hammer fell.]

Mr. WARD. I ask unanimous consent that my colleague's time may be extended, so as to enable him to conclude his speech.

No objection was made.

Mr. CHANLER. Then the most democratic majesty of American liberty would be humbled in the little dust which was lately raised by a brief campaign of two hundred thousand negro troops, and even they led by white officers; while millions of white soldiers held the field in victory by their own strength and valor. Deny it if ye dare! Sir, I know that this is a white man's Government, and I believe the white working man has the manhood which shall preserve it to his latest posterity, pure and strong in "justice tempered with mercy."

There may be a legend hereafter telling of the exile of Representatives now on this floor, who, in the hour of party spite, betrayed the dominion of their race here, and the stronghold of their people's liberty, to a servile and foreign race.

PARTISAN MAJORITY.

A great deal has been said here about injustice. Injustice to whom? Why, sir, the white population of this District are a part of the people of the United States. They have rights which you should respect and protect. They look to you for justice but not abuse, such as has been poured out on them by the advocates of this measure. The whole question seems to have taken a drift away from justice into the worst form of congressional tyranny and slang—just such tyranny as drove the great men of the Revolution of 1776, headed by Washington, to issue the Declaration of Independence; the same slang that Weddeburne heaped upon Benjamin Franklin at the bar of the British House of Commons. A partisan and arrogant majority are by this bill reenacting in a different form the same outrage which alienated and drove the colonies from the mother country. The Declaration of Independence asserts the prerogative of the governed in face of the tyranny of the Government.

You to-day are nullifying the express will of the people of this District in regard to the question of negro suffrage. In the debate upon this bill, honorable gentlemen stultify their own argument by quoting the Declaration of Independence and the great names of the framers of the Constitution, which they neither imitate nor comprehend. To invoke the shades of Madison, Washington, and their great peers, to witness this scene of petty partisan spite and cold-blooded tyranny, is political blasphemy and high treason against the Constitution and common sense, of none of which do some of these honorable members seem to know anything, or only use to abuse and make ridiculous themselves. This is not a question whether one or several black men shall vote, brave, virtuous, or learned though they be; but it is whether by giving the elective franchise to a whole race you shall deprive a city of the United States, and that, too, the capital of the Union, of its franchise under the Constitution, and subject the

majority of the people of this whole District to congressional dictation as to who shall govern them in municipal affairs, after that people have declared under the guarantees of the Declaration of Independence, the Constitution of the United States, and the sovereignty of the people of this Union, that the white and only true citizens of this District wish to govern themselves in their own way, according to established law, without interference from the national Government, and without complication with political parties. The consent of the governed is not only not respected, but the avowed will of this people is disregarded.

The friends of negro suffrage abstained from voting! What a farce! What sophistry! Do we not all know that by abstaining they forfeit their right to be considered in the matter?

Mr. BINGHAM. I understood the gentleman to say that the colored race had failed to strike for their rights during the late rebellion. I wish to remind the gentleman of the fact, which ought to bring a blush to the cheek of every American citizen, that at the beginning of this great struggle a distinguished general, who, I have no doubt, received the political support of the gentleman himself for the Presidency, and who, then at the head of an American army within the Commonwealth of Virginia, issued his proclamation as general in command of the army, notifying the insurgents in arms against the Constitution that, if their slaves rose in revolt for their liberty he, Major General McClellan, by the whole force of the Army at his command, "would crush them with an iron hand." Yet the gentleman gets up here to-day, after a record of that sort, to cast censure upon this people because they did not strike for their liberties against the combined armies of the Republic and the armies of treason!

Mr. CHANLER. My honorable friend from Ohio [Mr. BINGHAM] may have made a good point against General McClellan, but he has made none against me. I admit that they have made successful insurrections, but my argument was not to the effect that the negro race was not capable of the bloodiest deeds. I avoided entering into that question. I asserted that they had made successful insurrection; that they had held the white race under their heel in Hayti and St. Domingo. I would only say, with regard to this question of race, that I assert there is no record of the black race having proved its capacity for self-government as a race; that they have never struck a blow for freedom, and maintained their freedom and independence as individuals when free. I appeal to history, and to the gentleman from Ohio, [Mr. BINGHAM,] and I speak as a student of history, and the representative of a race whose proudest boast is that their capacity for self-government is the only charter of their liberty. I assail no race; I assail no man. I have taken the greatest pains to prove that the inalienable rights of the black man are as sacred to me as those inalienable rights I have received from my God. If the gentleman misunderstood me, I hope he will accept this explanation. If I have not met his question, I will now yield the floor to him to continue.

Mr. BINGHAM. And I continue thus far, that the gentleman's speech certainly has relation to the rights of the black man within the Republic of the United States. What he may say of their history outside of the jurisdiction of this country, it is not very important for me to take notice of. But inasmuch as the gentleman has seen fit, in his response to what I said, to refer to the testimony of history, I will bear witness now, by the authority of history, that this very race of which he speaks is the only race now existing upon this planet that ever hewed their way out of the prison-house of chattel slavery to the sunlight of personal liberty by their own unaided arm. So much for that part of the gentleman's argument as relates to history.

Mr. CHANLER. Does the gentleman allude now to what has been done in other lands than this? I ask the question because he says he does not like me to go outside of the juris-

diction of this country, and I therefore ask him not to go too far into Africa.

Mr. BINGHAM. I am not in Africa. I refer to what the gentleman referred to himself. The insurrection in St. Domingo, I say, stands without a parallel in the history of any race now living on this earth, and I challenge the gentleman to refute that statement from history.

Mr. CHANLER. That is admitted.

Mr. BINGHAM. That is admitted. Then I want to know, with a fact like that conceded, what sort of logic, what sort of force, what sort of reason, what sort of justice is there in the remark of the gentleman made here in a deliberative assembly touching the question of the personal enfranchisement of the black race, when he says in the statement here, right in the face of that fact, that they only are entitled to their liberty who strike the blow for and maintain their liberty? They did strike the blow in Hayti, and did maintain their liberty there. They struck such a blow for liberty there as no other race of men under like circumstances ever before struck, now represented by any organized community upon this planet; and that the gentleman conceded. And yet this sort of argument is to be adduced here as reason why these people in the District of Columbia should not receive the consideration of this House and be protected in their rights as men. If the gentleman's remark is not adduced for that purpose, then it is altogether foreign to our inquiry. If the gentleman can assign any other reason for the introduction of any such argument as that I should like to hear him.

And let me say this much further in explanation: I should like to know of the gentleman with what grace he can come into this House and make a remark of that sort against this race after such a fact as that to which I have before referred is admitted, and after the further fact, in our own history, that the general commanding the Army of the Republic notified these slaves that even if they had the manhood and courage to do all the gentleman from New York [Mr. CHANLER] says this people ought to do to entitle them to the enjoyment of their personal rights, Major General McClellan would "crush them with an iron hand" with all the power of the Government, so far as he could command it. I would like to know from my friend from New York whether he favored that gentleman or not, either as a military man or as a political aspirant for the Presidency.

Mr. CHANLER. I will answer that question at a proper time.

Mr. BINGHAM. I suppose so.

Mr. CHANLER. I merely wish to say, in reply to the gentleman, that I have read history a little further back. I remember when the British fleet and the British army held out a similar threat to the white race of this country; but all the armies of Great Britain and all the naval power of that nation did not succeed in keeping down the white race of this country. The proclamation of General McClellan did keep down the negroes; and this fact proves what I assert, that they are a race to be kept under. No race capable of achieving its liberty by its own efforts would have listened for one moment to the paper threats of all the generals in the world. The negroes listened to McClellan and they shrank behind the bush. They are bushmen in Africa. They are a dependent race, unwilling—I assert it from the record of history—unwilling to assert their independence at the risk of their lives. By their own efforts they never have attained, and I firmly believe they never will attain, their liberty. More than that: I assert that if, through the fanatical efforts of the radicals of this country, the negroes be raised to a position of quasi political equality with the whites, I do not believe that they will be able to maintain that position. That, however, is a question upon which I will not now enter. But I assert that the record which the gentleman has quoted is against himself.

Mr. GRINNELL addressed the Chair.

The SPEAKER. Has the gentleman from New York [Mr. CHANLER] surrendered the floor?

Mr. CHANLER. I have.

The SPEAKER. Then the gentleman from Iowa [Mr. GRINNELL] is entitled to the floor.

Mr. BINGHAM. I ask the gentleman from Iowa to yield to me for one moment, that I may add a few words in reply to the gentleman from New York.

Mr. GRINNELL. I cheerfully yield to the gentleman for that purpose.

Mr. BINGHAM. I thank the gentleman for his courtesy, and I promise him that I will not abuse it.

I desire to say to the gentleman from New York, when he talks of being a "student of history," that before the tribunal of history the facts are not against me nor against the colored race. I beg leave to say to the gentleman that these people have borne themselves as bravely, as well, and, I may add, as wisely during the great contest just closed, as any people to whom he can point, situated in like circumstances, at any period of the world's history. They were in chains when the rebellion broke out. They constituted but one sixth of the whole body of the people. By the terms of the Constitution of the United States, if they lifted a hand in the assertion of their right to freedom they were liable that moment to be crushed by the combined power of the Republic, called out, in pursuance of the very letter of the Constitution, "to suppress insurrection." Yet, notwithstanding the fact that their whole living generation and the generations before them, running back two centuries, had been enslaved and brutalized, reduced to the sad and miserable condition of chattels, which, for want of a better name, we call a "slave"—an article of merchandise, a thing of trade, with no acknowledged rights in the present and denied even the hope of a heritage in the great hereafter—yet, sir, the moment that the word "Liberty" ran along your ranks, the moment that the word "Emancipation" was emblazoned upon your banners, those men who, with their ancestors, had been enslaved through five generations, rose as one man to stand by this Republic, the last hope of oppressed humanity upon the earth, until they numbered one hundred and seventy-five thousand arraigned in arms under your banners doing firmly, unshrinking, and defiantly their full share in securing the final victory of our arms. I have said this much in defense of men who had the manhood in the hour of the nation's trial to strike for the flag and the unity of the Republic in the tempest of the great conflict, and to stand, where brave men only could stand, on the field of poised battle, where the earthquake and the fire led the charge.

Sir, I am not mistaken; and the record of history, to which I have referred, does not, as the gentleman affirms it does, make against me.

Mr. GRINNELL. Mr. Speaker, I most confidently anticipated that the gentleman from New York, [Mr. CHANLER,] who was so much in fear of a draft, who was so violently opposed to its execution for the putting down of the rebellion, would appear here to-day with his heart swelling with gratitude to the two hundred thousand black soldiers who went forth to fight in the place of himself and others who entertained similar feelings. I am sadly mistaken in the gentleman. So far from this, he proceeds to say that they are now, as a class, dependent as when they were brought from their native wilds in Africa. Sir, I believe if the gentleman were master of all languages, if he were to attempt to put into a sentence the quintessence, the high-wines, and sublimation of an untruth, he could not have more concentrated his language into a libel.

What is the fact, sir? It is perfectly notorious that these four million slaves have not only taken care of themselves amid all the ingenious impediments which tyrants could impose, but they have borne upon their stalwart shoulders their masters, millions of people, for a century. Why, sir, it seemed as impossible for a man to swim the Atlantic with Mount Atlas upon his back, or make harmonious base to the thunders of heaven. But these men have achieved the world's wonder—coming out from the tortures

of slavery, from the prison-house, untainted with dishonor or crime; and out of the war free, noble, brave, and more worthy of their friends, always true to the flag.

Mr. Speaker, I happened to have knowledge of the gentleman's own district in the city of New York, and I can hardly forbear saying, as he has drawn the comparison, that hundreds of times there, while a resident of the city, I have been, with a brogue, asked for alms; while in this District, during my years of residence here, I was never accosted by a negro who presented himself as a beggar; and I can but say that the gentleman's statement is a libel upon a race which has established its manhood by fighting our battles.

Mr. Speaker, it was in fable that a man pointed a lion to the picture which represented the king of the forest prostrate, with a man's foot on his neck, and asked what he thought of that. The reply was, "Lions have no painters." For days the unblushing apostles of sham Democracy have in this House drawn pictures of the ignorance and degradation of the people of color in the District of Columbia. Had the subjects of their wanton defamation had a Representative here there would have been a different coloring to the picture, and I would gladly leave their defense to the Representatives of classes who have by hundreds darkened these galleries with their sable countenances, waiting for days to hear the decisive vote which announces that their freedom is not a mockery.

Who are they to whom this bill proposes to give suffrage? They are twenty thousand people, owning twenty-one churches, maintaining thirty-three day schools, and paying taxes on more than one and a quarter million dollars worth of real property. Thirty per cent. of their number were slaves; but the census does not show that there is a Democratic congressional district in the Union where a larger proportion of its population are found attendant at the churches or in the schools.

They did not follow the example of their pale-faced neighbors, to the number of thousands crossing the line to join in the rebellion; but three thousand and more of their number went into the Union Army, nearly one thousand of whom, as soldiers, fell by disease and battle in the room of those who wept on northern soil for rebel defeats, and now decry the manhood and withhold just rights from our true national defenders. This country, with the best Government on earth, which should be the freest from partiality, stands alone by an undemocratic and unjust discrimination based on color. The days of national Democracy being numbered, the southern half having gone off as traitors, it is left for the remnant to establish the new order which will be known as the Cuticle Democracy; and the latest and freshest champion of the faith here is the gentleman from Pennsylvania, [Mr. BOYER,] who says "that as a race they did far more to sustain the rebellion than to suppress it." I pronounce it a libel. What is the basis of his assertion? On what battlefield was the colored man found confronting the Union Army? In what report of a rebel military general does he find a mention of his prowess? Did they dare arm their slaves? No. It was too well known that they would come to our ranks in regiments; and it was the complaint of one of their generals that thousands of their troops were required to push their slaves into the interior, as a contact with our soldiers was utterly destructive of their cause. If they raised food, it was under the lash, or to satisfy hunger.

In the South they were our friends. In the language of an official dispatch of Secretary Seward to Minister Adams, "Everywhere the American general receives his most useful and reliable information from the negro, who hails his coming as the harbinger of freedom." Not one, but many, of our generals have proclaimed that the negro has gained by the bayonet the ballot. Admiral Du Pont made mention of the negro pilot, Small, who brought out the steamer Planter, mounting a rifled and siege gun, from Charleston as a prize to us under the very guns

of the enemy. He brought us the first trophy from Fort Sumter, and information more valuable than the prize.

The celebrated charge of the negro brigade at the conflict at Port Hudson has passed into history, and the testimony of Major General Banks is the most emphatic commendation. I could read numerous military dispatches of the same import.

I hold in my hand the speech of one Thomas Lloyd, president of the board of aldermen of this city, and since he has favored me with this copy, I will give it a passing notice. It is prefaced by a resolution that "the secretary be authorized to have five hundred copies printed for the use of the board, the expense thereof to be paid out of the contingent fund of the board."

This speech is an unfair and untrue representation of the condition of the people of color, such as could not be made by a slave-owner, and but for the official position of the author I should regard it as the fulmination of a "snob." It must be paid for in part by those who are held up to derision and are taxed against their will. What can be more infamous than this resolution, asking the unrepresented to pay for the weapons used for their oppression?

It is only equalled by the decision of Judge Lynch, that the culprit shall furnish rope and gallows fees in advance of the execution; and hardly surpassed by that feature in the Jewish crucifixion, where the martyred Son of God was compelled to bear up the mount unto fainting the cross to which he was nailed. The speech asserts "that the people of color have been granted every right and privilege with reference to the enjoyment of property and the carrying on of business." Protection! This is a city of hackmen of both colors, as it is of distances; but can you at the most profitable hours for business, after nightfall, find a colored hackman near the hotels waiting for employment? No, white vagabonds who vote would cut their harness and maim their horses, driving out the poor colored man, that the gentleman wanting a hack may be compelled to pay dollars for an hour's service; and this is protection!

These people are further described as lazy, thieving, vagrants, and a curse to society. Yet the city orator loves this people, and only fears that if granted suffrage they will be driven out like the Indians; but I must leave this satellite, sure that at no distant day some colored man will unmask his defamer *rectus auris*.

That they are an inferior race was the argument for their enslavement, and is still employed for their political degradation. If true, we can no more deny them their position as members of the human family than we can deny it to children who do not exhibit the average mental and physical capacity. Their very weakness awakens our sympathy, and prompts us to desire that new hopes may be kindled, and there be a testing of the power of self-reliance.

But there were twelve of the thirteen States before slavery had debauched the nation that made no mention of this inferiority.

Go back to 1789. There was John Jay of New York, Benjamin Franklin of Pennsylvania, and Witherspoon of New Jersey, who advocated the rights of man, and had no fears of negro equality. Two generations pass away, and, shades of the departed! we are refreshed with the logic and patriotism of the gentlemen from New Jersey, [Mr. ROGERS,] from Pennsylvania, [Mr. BOYER,] and from New York, [Mr. CHANLER.] What an obscuration of the great Chief Justice Jay, of Witherspoon, the patriot and divine, and Franklin, the philosopher of both hemispheres! What convincing proof of the world's advance and the perfectibility of the human race!

Sir, these moderns shall not deter me from adducing the testimony of Jefferson to the talents of the negro Banneker, whom he invited to visit him at his residence at Monticello; nor that of Dr. Rush, who says of Dr. Derham, a negro, "I found him very learned. I thought

I could give him information concerning the treatment of diseases, but I learned more from him than he could expect from me."

Edward Everett, as late as 1853, testified that a negro youth at Cambridge surpassed as a scholar two youths from Georgia and his own son in the same class, and declared "that the aptitude of the colored race for every kind of intellectual culture was unquestioned." Blumenbach affirms of the negro, there is no savage people who have distinguished themselves by such examples of perfectibility and capacity for scientific cultivation.

There are living illustrations of slaves or the sons of slaves, despite prejudice and disability here, having risen to the highest respectability in the professions. Give them time and opportunity, and remember that the ancestors of the Germans were once barbarians, that Druidism was once the religion of the Britons. Before you decry the negro, remember that your Saxon blood was once enslaved by the Romans, and that not many centuries since your fathers were bought and sold with the soil like the brutes.

The State of Iowa has been used in this debate as an illustration against negro suffrage. It is true that in the dark night of years ago the proud State of my adoption was afflicted with negrophobia, but in the last made Union platform the equality of all men before the law was asserted, and Governor Stone, who indorsed the platform and took the stump in behalf of negro suffrage, was elected over a Union officer and a professed Republican by a majority of sixteen thousand votes. Forget her fall and follow in her reformation. The position of the colored people there reflects lasting honor on their loyalty, and our brave white soldiers would not have me withhold the facts. In the State there were between nine hundred and a thousand people of their class subject to military duty. Of that number more than seven hundred entered the Army. They put to blush the patriotism of the dominant race in all Democratic districts. Seven tenths of a class, without the inducement of commissions as lieutenants, captains, colonels, commissaries, or quartermasters, braving the hate and vengeance of rebels, rushing into the deadly imminent breach in the darkest hour of our struggle! Where is the parallel to this? They had no flag; it was a mockery. There was no pledge of political franchise. Does history cite us to a country where so large a per cent. of the population went forth for the national defense? It was not under the Cæsars; and Harold, in the defense of Britain, left behind him a larger per cent. of the stalwart and the strong. They were more eager to maintain the national honor than the zealots to rescue Jerusalem from the profanation of infidels. Not Frank or Hun, nor Huguenot or Roundhead, or mountaineer, Hungarian, or Pole, exceeded their sacrifices made when tardily accepted. And this is the race now asking our favor.

Those who fought and who pay taxes may be one half the adult male population of this District. Grant that the other half are ignorant, are they not as safe as the whites in sympathy with rebels? Thousands went South as officers, soldiers, and spies from this District. Here it was that a hot-headed traitor gathered his inspiration and found accomplices to murder our President. Loyalty here! I have heard scores for years vent their sympathy with rebels; and nothing but cowardice prevented them entering the rebel ranks. No, I will never prefer a white traitor to a loyalist black.

Mr. Speaker, it will be one of the most joyful occasions of my life to give expression to my gratitude by voting a ballot to those who owed us so little, yet have aided us so faithfully and well. My conscience approves it as a humane act to the millions who for centuries have groaned under a terrible realization that on the side of the oppressor there is power. At any western prairie home for years I sheltered the fleeing bondmen, when a price was set on my head. Human fiends have there, in ambush, sought my life since a member of this House;

but I forget all the obloquy and perils of the past, flushed with the hope that we can, by our example, confer substantial blessings on the millions of poor asking for political rights, nature's boon to man.

As an act of justice I know it will meet the approbation of all true patriots who have not decried the arming of the negroes and the emancipation proclamation. With them dwell the moral forces which sustained the war, imparting the martyr-spirit to the hundreds of thousands of the slain, and to those whose prayers gave us the favor of the God of battles. For the disfranchised millions to be skilled in the use of the ballot, it shall be mighty as the sword of Achilles for protection, a pleasing souvenir, supplanting from memory the history of their trials and wrongs, written in tears and blood. We inaugurate the policy of statesmen. Edmund Burke said for the world, "Justice is itself the great standing policy of civil society, and any eminent departure from it, under any circumstances, lies under the suspicion of being no policy at all." Jefferson, the apostle of Democracy, counsels you called statesmen, who have gone after strange gods, and stand shivering in shameful and political wickedness, "Let every man who fights or pays exercise his just and equal right in the election." The late martyred President, who sounded forth the trumpet-call, and never beat a retreat, meditated the joint gift of the ballot to the loyal, and amnesty to the deluded rebels; and Andrew Johnson, who gave the fatal blow to the Cuticle Democracy by a denial that this was "a white man's Government," has promised to be their Moses. For his kindest words ever spoken to the negro in presidential message I thank him, and proffer my humble assistance, that when he reaches his Canaan he may have a ballot as well as a bayonet for the defense of his company against the Pharaohs of the land.

But I take no refuge under the names of the living; and were the testimony of the fathers doubtful, I would turn to the precepts of the golden-rule as the only safe guide for the statesman, with one answer to him who urges his policy in place of justice—"Get thee behind me, Satan;" and if I am to minister to the prejudices of a constituency rather than heed the voice of the Eternal, my answer is, "I would rather be a dog and bay the moon than such a Roman." My purpose is not to leave that heritage of shame to my children, that I forgot those whose blood fed our rivers and crimsoned the sea, and left them outcasts in the "land of the free," preferring white treason to sable loyalty. I rather vote death the penalty for the chief traitor, all honor and reward for our soldiery, and a ballot, safety, and justice for the poor.

Mr. KASSON obtained the floor, but yielded to

Mr. CONKLING, who moved that the House do now adjourn, but withdrew it at the request of Mr. BIDWELL.

NAVAL WARFARE.

Mr. BIDWELL, by unanimous consent, introduced a bill to provide for testing an invention in naval warfare; which was read a first and second time, and referred to the Committee on Naval Affairs.

EQUALIZATION OF BOUNTIES.

Mr. SCHENCK. Mr. Speaker, communications have been made to me, as chairman of the Committee on Military Affairs, in relation to equalizing bounties of soldiers, and I move that those papers be printed as communicated, and referred to that committee.

It was ordered accordingly.

FREE-TRADE LEAGUE.

Mr. KASSON presented the original petition of the Free-Trade League of New York; which was ordered to be printed, and referred to the Committee of Ways and Means.

Mr. CONKLING renewed the motion to adjourn; which was agreed to.

And then (at five minutes to four o'clock p. m.) the House adjourned until Monday next.

IN SENATE.

MONDAY, January 15, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of Friday last was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a bill (H. R. No. 135) to extend the time for the withdrawal of goods for consumption from public store and bonded warehouse, and for other purposes; in which it requested the concurrence of the Senate.

DISTRICT OF COLUMBIA SUFFRAGE.

The PRESIDENT *pro tempore*. The Chair has received the following communication from the mayor of the city of Georgetown, District of Columbia, respecting an election recently had in relation to the extension of the right of suffrage to persons of color, which will be read.

The Secretary proceeded to read, as follows:

MAYOR'S OFFICE,

GEORGETOWN, D. C., January 12, 1866.

SIR: I have been instructed by the aldermen and common council of this town to respectfully inform you that our voters were requested to attend the polls—

Mr. GRIMES. I move that that be referred to the Committee on the District of Columbia. I do not understand that these petitions should be read.

The PRESIDENT *pro tempore*. It will be so referred, if there be no objection.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a letter of the Governor of the Territory of Colorado, transmitting a memorial of colored citizens of that Territory on the subject of the admission of Colorado as a State into the Union; which was referred to the Committee on Territories.

Mr. SUMNER. I present a memorial of the bishops, elders, and ministers of the African Methodist Episcopal church of the Missouri district, in which they set forth the grievances they are now suffering, and ask Congress to so shape the laws for reconstruction as to secure to the colored man in the several States to be reconstructed civil privileges and political rights and privileges, including the elective franchise, and all other rights to which they are entitled under a republican form of government. This memorial, as I understand, comes from three hundred ordained ministers, representing ninety thousand communicants of the church. It is accompanied by a report of the proceedings of the annual conference. I move the reference of the petition and of the accompanying report to the joint committee on reconstruction.

The motion was agreed to.

Mr. SUMNER. I also offer the memorial of the bishops, elders, and ministers of the African Methodist Episcopal church in the United States, and members of the Indiana district, in annual conference assembled at Springfield, in the State of Illinois, setting forth the wrongs the colored people suffer, particularly in the late rebel States, and asking Congress especially to give them protection through the elective franchise. This memorial proceeds from the representatives of sixty thousand persons, and is signed by the presiding bishop of the African Methodist Episcopal church. It is accompanied by certain papers and a report of the meeting of the conference. I move the reference of the petition and accompanying papers to the joint committee on reconstruction.

The motion was agreed to.

Mr. WILSON presented the petition of Theodore H. Green and other citizens of Pennsylvania, praying for an amendment of the revenue laws, so as to secure the amplest protection to American industry; which was referred to the Committee on Finance.

He also presented a petition of citizens of the United States, praying for the absolute equality of political as well as civil rights before the law

of the single States as well as the Union for all citizens of the United States, to whom belong all persons not excluded by the Constitution; universal suffrage; the prohibition of all class legislation and of all property qualification; the prohibition of all restrictions on free speech, free press, free assemblage, and free instruction; and protection to free intercourse and personal safety; which was referred to the joint committee on reconstruction.

Mr. RIDDLE presented a memorial of the Wilmington Savings Fund Society, located at Wilmington, Delaware, praying to be relieved from the tax on its deposits; which was referred to the Committee on Finance.

Mr. HOWARD presented a memorial of the Board of Trade of Chicago, Illinois, praying for an appropriation for the improvement of Marquette harbor, on Lake Superior; which was referred to the Committee on Commerce.

Mr. HOWE presented the memorial of John Baird, and other Indians of the Oneida tribe, residing near Green Bay, Wisconsin, praying for a grant of a bounty-land warrant of one hundred and sixty acres each, for services rendered by their fathers and other relatives in the war of 1812; which was referred to the Committee on Pensions.

He also presented a petition of citizens of Milwaukee, Wisconsin, praying for an appropriation to build a breakwater at Marquette Bay, on Lake Superior; which was referred to the Committee on Commerce.

He also presented a petition of members of the bar of the circuit court of the United States for the district of Wisconsin, praying that the district of Wisconsin may be transferred from the ninth to the eighth judicial circuit; which was referred to the Committee on the Judiciary.

Mr. ANTHONY presented the petition of Theodore G. Eiswald, of Providence, Rhode Island, praying that the Treasurer of the United States be directed to issue to him two seventy-three United States bonds in lieu of bonds numbered 104,152 and 104,153, of the denomination of \$1,000 each, which were burned on the 8th of October, 1865, having been deposited in a stove for safe keeping; which was referred to the Committee on Claims.

He also presented the petition of Joseph L. Smith and others, praying that each common school in the country be furnished with the President's annual message and accompanying documents; which was referred to the Committee on the Judiciary.

He also presented the petition of Wilson D. Burlingame, late acting master's mate in the United States Navy, and William Peterkin, late acting engineer, United States Navy, officers in charge of the second cutter of the Shamrock, on an expedition with Lieutenant Cushing, of the United States Navy, up the Roanoke river, on the 27th of October, 1864, praying for a distributive share of the prize money resulting from the blowing up of the rebel ram Albemarle; which was referred to the Committee on Naval Affairs.

Mr. SHERMAN presented a petition of citizens of Ohio, soldiers in the Army of the United States under the calls of 1861 and 1862 by the President for troops to put down the rebellion, praying for an equalization of their bounties with those who enlisted at a later period; which was referred to the Committee on Military Affairs and the Militia.

Mr. CONNESS. I present the petition of John A. Sutter, one of the earliest, and perhaps the earliest, pioneer and settler of California, who sets forth in his petition all the circumstances connected with his early immigration into that country, and the fact of grants of land having been made to him by the Mexican Government, the impediments found in the way of their confirmation caused by the laws of the United States and the action of citizens of the United States, and asking that compensation may be paid to him for injuries in those respects; and also setting forth the many acts of material hospitality and services rendered by him to the early immigrants to that country. Accompany-

ing the petition there is a statement addressed to the Senate and House of Representatives of the United States by the present Governor of California commending the case of John A. Sutter to Congress. I move that the petition and accompanying papers be referred to the Committee on Claims, and printed.

The motion was agreed to.

Mr. CONNESS. I also present the memorial of Colonel Redick McKee, a citizen of California, addressed to the Senate of the United States, setting forth that he occupied the position of commissioner of Indian affairs in that State at an early period, that his accounts have remained unsettled up to the present time, and that he is engaged at this time in an effort to bring about a complete settlement. Accompanying this memorial are memorandums of his accounts. I move that they be referred to the Committee on Indian Affairs, and that the memorial, which is very brief, and the accompanying papers, be printed.

The motion was agreed to.

Mr. COWAN presented a petition from discharged officers of the late volunteer army, praying that the Veteran Reserve corps be retained as a part of the standing Army of the United States; which was referred to the Committee on Military Affairs and the Militia.

Mr. GUTHRIE presented a petition of mantua and dress makers of the city of Louisville, Kentucky, praying for the repeal of the internal revenue tax upon mantua and dress making; which was referred to the Committee on Finance.

THE TARIFF QUESTION.

Mr. HOWE. I ask leave to present a memorial, signed by a number of merchants of St. Louis, Chicago, Milwaukee, Detroit, Cleveland, and Cincinnati, setting forth in very strong terms—and, I believe, no stronger than the truth justifies—the necessity for further protection to the industry of this country. I move that it be referred to the Committee on Finance.

The motion was agreed to.

Mr. COWAN presented a petition of citizens of Pennsylvania, praying that the revenue laws may be so amended as to afford the amplest protection to American industry; which was referred to the Committee on Finance.

Mr. WADE. I present the remonstrance of the American Home-Labor League against the petition of the Free-Trade League. This remonstrance is signed by some of the most noted business men, representing almost every profession and occupation, and, as it contains an argument on the subject much better than I can make in presenting the paper, I ask that it be read.

The PRESIDENT *pro tempore*. It will be read if there be no objection.

Mr. GRIMES. I object to the reading. It is against the rules of the Senate. If we commence the practice in one case, we shall have it to do in all; and if we are to have all the petitions that come here in favor of and against the tariff read, the whole time of the Senate will be occupied in that way.

Mr. WADE. I suppose the matter could be dispatched as quickly in that way as by making a speech accompanying the presentation of the document. Perhaps the Senator would rather hear me speak; if so, he has bad taste. [Laughter.] I do not propose to make a speech. I will only say that the conclusions set forth in the memorial meet my entire approbation, and I shall advocate them on the proper occasion. I wished, for the information of the Senate, that it might be read; but let it be referred to the Committee on Finance.

The PRESIDENT *pro tempore*. The Senator has the privilege of taking the vote of the Senate on the question of reading the remonstrance, the rule being that when a paper is presented, if its reading is objected to the sense of the Senate shall be taken upon it without debate. The Chair will put the question if the Senator wishes.

Mr. WADE. I do not care about that. I do not suppose it is very essential.

The PRESIDENT *pro tempore*. The reference, then, will be ordered as the Senator suggests.

Mr. SPRAGUE. I have received several communications from manufacturers in different parts of the country growing out of the resolution that I had the honor to propose before the recess, and I desire now to present these communications to the Senate, and have them referred to the Committee on Manufactures. One of them relates to the manufacture of steel, in which it is proved that the internal revenue tax upon the manufacture of steel is greater than the duties levied upon the imported article; and that, unless Congress institutes some remedy, that interest will go out of existence. Another of these communications relates to the manufacture of bronze colors, making the same complaint; another of salt; another of sheet iron; another with reference to cigars, which I will read:

"In consequence of your resolution offered in regard to the tax of internal revenue on home products being smaller than the duties, exchange, &c., please peruse the following: the duty on cigars imported per thousand from Havana is \$27 75; the internal revenue tax is \$32 25."

Showing an increase of revenue tax over the duty of five dollars per thousand; and he closes with the remark:

"In consequence of which, millions of cigars have arrived from Havana last week, anticipating your raising the duty."

There are a couple of other papers and several printed documents which I have received on this subject and which I now present to the Senate and desire to have referred to the same committee.

Mr. President, I introduced the resolution to which I have referred, on a former occasion, simply as a resolution of inquiry. I did not propose to recommend or to advocate the increase of duties upon imported articles; I desired simply to draw the attention of the Senate, of the House of Representatives, and of the country to the fact that I had ascertained by practical experiment and through practical information derived from channels known to the business men of the country, but which I believed had not been sufficiently considered, that this disparity existed. I desired simply at that moment to raise a voice of warning, a voice of alarm at the existing state of things growing out of the fact, which I had ascertained from these practical experiments and this practical knowledge, that the taxation under the internal revenue system was greater than the duties upon the importation of goods from abroad. It occurred to me that if that state of things were permitted to exist, the manufacturing for this country will be done in England, France, and Germany, instead of the manufacturers of our own country being employed. Why, sir, to-day I can import an article of cotton goods, pay the duty, pay commission, pay the difference of exchange, and sell that article of cotton goods here at the same price it would take me to make it here, in consequence of the increased cost of production in this country growing out of the internal revenue tax directly upon the manufactured fabric and indirectly upon labor and the various articles necessary to be used in the consumption of the manufacturer to enable him to produce the fabric.

Sir, I have no particular interest in any one department of industry in this country—cotton or woolen goods, or iron. The idea which I endeavor to advocate here and elsewhere is, that the manufacturing interest is but one step removed from the agricultural, and that both in common must, of necessity, work together in order to promote the interests of the whole country. I am not one of those who desire, because there may be interests that are seemingly prosperous in my own country, rather to promote the prosperity and interest of another country. I do not believe that those countries across the water, which have occupied the attitude that certain unnamed ones have toward this country for the past four years, are entitled to much of my sympathy, or much of the sympathy of the American people. Sir, when I

see petitions brought into this Senate for a system whose sole advocates are those who are in the interest of those people across the water, whose sole advocates in this country are paid by the capitalists of other countries, and, as I am told, are kept up and fostered constantly by means sent from there, I am less inclined to believe in the honesty of the purposes they are endeavoring to advocate.

Sir, the humble individual who now addresses you has come under the criticism of a prominent paper in New York and a distinguished member of the other House; and the simple inquiry that I proposed on a former occasion is held up as being not only a ridiculous assumption, but as something criminal, which ought to have been cried down the moment it was uttered. On that point all I have to say—and I desire to say it here publicly—is that such criticisms and animadversions and complaints, from the sources from which they have come, are desirable to me. If I did not know it in any other way, I know that I am right because they would make me wrong. I know, sir, that the course which these instruments have been pursuing for the last five-and-twenty years is inimical to the liberty, to the prosperity, and to the independence of this people. Sir, for advice as to my public course, I shall not go to Great Britain, or to any of her champions, even those that are the most liberal.

In one of the petitions that have been presented here, the repeal of the corn laws is pointed out as being a great triumph over monopoly, and the American laboring interest is used as a parallel case to the attempt of the friends of the corn laws to continue them. Sir, the repeal of the corn laws of Great Britain was brought about by the manufacturing interest, with Richard Cobden at its head, the most successful manufacturer of his time. He saw plainly that the manufacturing interest of Great Britain could not be sustained except it was by the introduction of cheap bread. The pampered aristocracy and landed estates kept bread high; and yet the manufacturing and laboring interest of this country are pointed out as being in like situation! We, the laborers of this country, are compared to a pampered, aristocratic, landholding organization! Sir, I do not agree with that proposition. I do not agree either to following the path of gentlemen of that stripe, because I believe that it will lead to the destruction of the interests of this country.

The communications were referred to the Committee on Manufactures.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HARRIS, it was

Ordered, That the petition and other papers in the case of Jane W. Nethaway, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. NYE, it was

Ordered, That the petition and other papers in the case of Frederick Vincent, administrator of James Le Case, surviving partner of the firm of Le Case & Mallet, on the files of the Senate, be referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. WILSON. I am directed by the Committee on Military Affairs, to whom was referred a bill (S. No. 67) to increase and fix the present military establishment of the United States, to report back to the Senate a new draft of the bill. I move that it be printed and recommitted to the committee.

The motion was agreed to.

Mr. WILSON, from the same committee, to whom was referred the bill (S. No. 54) to amend an act entitled "An act to incorporate a national military and naval asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States," reported it without amendment.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred the joint resolution (H. R. No. 18) granting certain public property to the Soldiers' Orphans' Home of Iowa, reported it without amendment.

Mr. DIXON. I am directed by the Committee on Post Offices and Post Roads, to whom was referred the bill (H. R. No. 61) to establish

certain post roads, to report it back with amendments, and if there is no objection I should be glad to have the bill acted on at this time.

Mr. HOWARD. I object.

NAVAL EXPEDITION TO CHILI.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Printing be directed to inquire into the expediency of continuing the publication of the remaining volumes of the Naval Astronomical Expedition to Chili; and that, until the committee report, the publication thereof be suspended.

PROMOTIONS IN THE ARMY.

Mr. WILLIAMS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and the Militia be instructed to inquire into and report upon the expediency of restricting all promotion by brevet in all branches and departments of the regular Army to such commissioned officers as have actually served with the armies in the field, and have won such promotion by gallant and highly distinguished conduct in battle, or other conduct of conspicuous merit; and that these titles of distinction be granted only upon the special recommendation or recommendations in the official reports of the commanding officers.

2. That they also be instructed to inquire into and report upon the expediency of so amending existing laws regulating brevet rank and command, as to grant rank, command, and pay to brevet officers after they have been duly commissioned upon an appointment by the President, confirmed by the Senate, without, however, changing their regimental rank and order of promotion in the line of the Army.

3. That they also be instructed to inquire into and report upon the expediency of establishing, with as little delay as possible, a board of the general officers of the Army who have commanded divisions, corps, and armies in the late war, for the purpose of examining and reporting upon the merit of all officers in the regular Army already appointed or nominated for brevet rank, as well as upon the claims of officers not appointed or nominated, and upon making the final report of such board conclusive, so as to revoke all brevet rank that, in their judgment, has not been won by distinguished gallantry in battle or highly meritorious conduct in the field, and upon the propriety of conferring such rank upon all those officers who have won it by gallantry, skill, or generalship in battle or upon the field.

PRINTING OF BILLS.

On motion of Mr. DIXON, it was

Ordered, That the bill (S. No. 70) to amend the postal laws, and the bill (S. No. 71) relative to the sale of postage stamps and stamped envelopes on credit be printed.

BILLS INTRODUCED.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 76) to grant pensions to Walter H. Tinker and John P. McElroy, of Missouri; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 77) to provide for the examination of certain officers of the Army; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

APPOINTMENTS OF CADETS.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 15) relating to James J. Wheeler and the appointment of cadets in the Naval and Military Academies; which was read twice by its title.

Mr. SHERMAN. Before this joint resolution is referred, I wish to call the attention of the Senate to the extraordinary character of the facts stated in the papers accompanying it, which I present with it. It seems that a person who has actually served in the rebel army, acting as aid to General Tilghman, in Kentucky, in the early stages of the war, and who during the whole war has been under the surveillance of the Government, who has worn the rebel uniform, is now a cadet at Annapolis in the Naval Academy of the United States. Under the law as it now stands there is no restraint upon the power of a member of Congress to nominate a cadet; at least if there is such a restraint it is not usually exercised. The papers in this case disclose clearly that a young man who is now being educated at the expense of the Government entered into the rebel ser-

vice at the beginning of the war; that at a later period of the war he was arrested as a spy; that he was discharged, probably on account of his youth, but was continually under the surveillance of the Government until the war closed, when he was appointed a cadet at the Naval Academy, and is now there.

The papers further show that one of the applicants for this position was the son of General James Jackson, one of the most loyal and true men in the country, who was killed I think at the battle of Perryville—an ex-member of Congress, a man of the highest character, a proved hero and statesman. His son was an applicant for the same position. That discretionary power which would enable a man who has fought against his country to be selected as a cadet to be educated at the expense of the Government in preference to the son of a man who gave his life to the service of his country, it seems to me, ought to be taken away. The joint resolution, therefore, provides that Wheeler, the young man who has been appointed, shall be removed from the Naval Academy, and that hereafter no one shall be appointed, either in the Military or Naval Academy, who has taken part in this rebellion.

Mr. WILSON. Who made the appointment?

Mr. SHERMAN. A member of Congress. I do not know the name of the member of Congress, but the young man is from Hopkinsville, Christian county.

Mr. JOHNSON. What State?

Mr. SHERMAN. Kentucky. I move that the joint resolution be referred to the Committee on Naval Affairs.

The motion was agreed to.

Mr. DAVIS. I would suggest to the Senator from Ohio that the late member of Congress from that district is now minister to Denmark.

Mr. SHERMAN. The appointment was by the present member; I do not know his name. The cadet has just taken his place. It is at any rate a piece of indiscretion.

MILITARY TRIAL OF DAVIS AND CLAY.

Mr. HOWARD. I ask leave to introduce a joint resolution.

The resolution was read, as follows:

Whereas by the report of the Secretary of War to the President, dated January 4, instant, it appears that Jefferson Davis, late president of the so-called confederate States, is now held in custody, charged with the crimes of having incited the assassination of Abraham Lincoln, President of the United States, and with the murder of soldiers of the United States held as prisoners of war during the rebellion, and other cruel and barbarous practices, in violation of the rules and usages of civilized warfare; and whereas by the same report it appears that Clement C. Clay is also held in custody, charged with complicity in said assassination, and with organizing bands of pirates, robbers, and murderers in Canada, to burn the cities and ravage the commerce and coast of the United States on the British frontier, in violation of the same rules and usages; Therefore,

Resolved by the Senate and House of Representatives of the United States in Congress assembled, That it be respectfully recommended to the President that said Jefferson Davis and Clement C. Clay be, without unnecessary delay, tried by court-martial or military commission upon said charges.

The PRESIDENT *pro tempore*. Is the introduction of this joint resolution objected to?

Mr. JOHNSON. I object to it.

The PRESIDENT *pro tempore*. It cannot be received to-day, objection being made.

HOUSE BILL REFERRED.

The bill (H. R. No. 135) to extend the time for the withdrawal of goods for consumption from public store and bonded warehouse, and for other purposes, was read twice by its title, and referred to the Committee on Commerce.

NON-INTERCOURSE WITH GREAT BRITAIN.

Mr. CHANDLER. Mr. President, on the 14th day of December, 1864, I offered in this body the following resolution, which was referred to the Committee on Foreign Relations:

Whereas at the commencement of the present rebellion the United States were at peace with all the Governments of the world, and upon terms of comity and good will with Great Britain; and whereas that nation, before the arrival on her soil of our minister, accredited by the Administration of President Lincoln, precipitately acknowledged the rebels as belligerents, thus recognizing their flag upon the ocean, without which recognition it would have been

regarded and treated as piratical by all other Powers; and whereas she then proclaimed perfect neutrality between a Republic with which she had entertained friendly relations for upward of a half century and its treasonable subjects; and whereas numbers of her subjects, with the knowledge of her Government, commenced fitting out British fast-sailing ships, loaded with munitions of war, for the purpose of running into our blockaded ports to the rebels, thus furnishing them the means of organizing and continuing the rebellion, and without which it could not have sustained itself six months; and whereas, in addition to the above, and with the knowledge of the Government, British subjects and members of Parliament engaged in the manufacture of piratical English ships, owned by British subjects, manned by British seamen, and sailing under British colors, for the purpose of burning, destroying, and utterly driving from the ocean all peaceful merchant vessels sailing under the United States flag; and whereas many private and unarmed American ships have been burned and destroyed by these pirates from British ports, thus causing great loss and damage to the citizens of the United States; Therefore,

Resolved, That the Secretary of State be instructed immediately to make out a list of each ship and cargoes thus destroyed, with a fair and separate valuation thereon, and interest thereon at the rate of six per cent per annum, from the date of capture or destruction to the date of presentation, and that he be directed to demand from the British Government payment in full for all ships and cargoes destroyed as aforesaid.

That resolution I offered as a peace measure. I desired that Great Britain should have an opportunity to repudiate the action of her piratical subjects, and to do justice to this nation. I hoped that she would do it; but at any rate I desired that she should fix the future status of neutrals for herself and all other nations when acting as neutrals. The Canadian provincial government took the hint and paid for the piratical depredations committed by Canadian subjects; they paid for the St. Albans robberies; but Great Britain has declined to pay such bills. She has decided that from henceforth the rule of war shall be the torch—that the torch is to be the evidence of her neutrality. She having decided that point, I am content. If she desires that in all future time, whenever she shall be at war, American citizens shall send forth fast-sailing steamers with the torch to illuminate the ocean from the north to the south pole with British commerce, so be it. She has settled the point; I accept her settlement; so be it.

I say, sir, that I offered that resolution as a peace measure. It was referred to the Committee on Foreign Relations, and that committee made no report; but from the fact that the Secretary of State did precisely what that resolution called upon him to do, to wit, made a demand for payment for the depredations committed by British pirates upon our commerce, I inferred that the chairman of the Committee on Foreign Relations had received assurances from the Secretary of State which satisfied him that no further action was required on the part of Congress at that time. I inferred that that was the case, and the honorable chairman informs me that such was the case. Well, sir, the bill has been presented and payment refused. Not only has payment been refused, but further negotiation has been declined. She has refused, at our suggestion, even to arbitrate our claims, and has insultingly informed this Government that further negotiation is offensive to her. I will read the words of her Foreign Minister of the date of December 2:

"FOREIGN OFFICE, December 2, 1865.

"SIR: I have to acknowledge the receipt of your letter of the 18th ultimo, having reference to the letter which my predecessor addressed to you on the 3d ultimo."

"There are many statements in your letter which I should be prepared to controvert if it were not that her Majesty's Government consider that no advantage can result from prolonging the controversy," &c.

Her Majesty's Government consider that no advantage can result from prolonging the controversy! I agree with her Majesty's Government; I think that no advantage can accrue from a further prolongation of this controversy. It is well known to her Majesty's Government and to the people of the United States that for more than three months after the last rebel army had laid down its arms the *Shenandoah*, a British ship, sailing under British colors, manned by British seamen, and firing British guns, was burning our whale ships in the Northern ocean. What was done with this

English pirate when she made her appearance in British waters? She was quietly taken possession of by the British Government. These pirates, acknowledged by herself to be pirates, were turned loose without even a reprimand. These British subjects were called upon the deck of the Shenandoah and asked this question: "Michael O'Flanigan, are you a British subject?" "No, by jabsers, I am a Dutchman." [Laughter. The intonation was strongly Irish.] "McDonald, are you a British subject?" "Nau, I am a Spaniard." [Renewed laughter.] And so every one of these men was turned loose without even a reprimand to go again and prey upon American commerce; and now we are informed that further negotiation would be deemed by her Majesty's Government as of no advantage; no good result can follow the prolongation of the controversy. I agree with the British minister that no good result can follow the further continuation of that controversy.

Now, sir, we are informed in that language that no further negotiation is open; the negotiation is closed, and to-day there seems to be just one course for this nation to pursue in accordance with her dignity and her honor, and that is, from this time henceforth and forevermore, until these bills are paid, absolute non-intercourse with Great Britain. True, there are other remedies. We might declare war against Great Britain, and all the world would say we had just cause. We might seize Canada, and say that we would take land in payment if we can get no other redress, and hold it until payment was made, and the world would justify our action. Again, we might declare an embargo, or we might seize her ships wherever found. But, sir, there is a peaceful remedy, and that remedy I propose. I propose that we say to Great Britain, "We agree with you that no further negotiation is desirable in this case; we do not wish any further negotiation; we accept your definition of neutrality." That is the determination of the American people to-day; and I believe—I do not know, but I believe—that Mr. Seward understands that that will be the action of the people of the United States whenever Great Britain gets into a war with other Powers. I believe that he distinctly understands that our people will send fast-sailing steamers to the ends of the earth and make war upon British commerce with the torch until her flag is, as ours has been, swept from the ocean. But, sir, is it manly, is it dignified in this great nation, that has been able to keep a million soldiers in the field for the last four years, to copy after that old man in the Bible, who, offering one hand, said, "Are you at peace, my brother?" while with the other he stabbed him under the fifth rib? No, sir, it is not dignified, nor is it honorable. I propose to say to Great Britain that we accept her definition of neutrality, and that from this time forth until she pays this bill of damages we shall declare non-intercourse with her. I offer the following resolution, and ask for its present consideration:

Whereas by the recent publication of the diplomatic correspondence between this Government and the Government of Great Britain, we are fully advised that the last-named Government has refused to repair the damages inflicted upon our commerce by the agency of her subjects during the late rebellion; has declined to arbitrate the same, and, finally, further to treat upon the subject, thus exhausting all diplomatic resources, leaving to this nation but one alternative consistent with its honor: Therefore,

Be it resolved by the Senate and House of Representatives in Congress assembled, That the President of the United States is hereby requested to withdraw our minister from the court of St. James, and make proclamation of national non-intercourse; which is hereby declared to take effect after such proclamation shall have been issued.

The PRESIDENT *pro tempore*. Is there objection to the introduction of this joint resolution?

Mr. DIXON. I object; it had better lie over.

The PRESIDENT *pro tempore*. Objection being made, the joint resolution cannot now be received.

HARBOR AT MICHIGAN CITY.

Mr. LANE, of Indiana, submitted the fol-

lowing resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of making an appropriation of land or money to assist in the construction of a harbor at Michigan City, Indiana; to report by bill or otherwise.

INTER-STATE INTERCOURSE.

On the motion of Mr. NYE, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 66) to facilitate commercial, postal, and military communication among the several States.

The bill contains a preamble reciting that the Constitution of the United States confers upon Congress, in express terms, the power to regulate commerce among the several States, to establish post roads, and to raise and support armies; and provides that every railroad company in the United States, whose road is operated by steam, its successors and assigns, shall be authorized to carry upon and over its road, connections, boats, bridges, and ferries, all passengers, troops, Government supplies, mails, freights, and property, on their way from any State to another State, and to receive compensation therefor.

The Committee on Commerce proposed to amend the bill by adding to it the following proviso:

Provided, That this act shall not affect any stipulation between the Government of the United States and any railroad company for transportation or fares, without compensation therefor.

Mr. FOOT. I presume there will be no objection to that amendment. It received the unanimous support of the Committee on Commerce, from whom the bill is reported, and I trust the question will be taken upon the amendment at this time.

The amendment was agreed to.

Mr. FOOT. The bill before us presents to our consideration the twofold question of constitutional power and of public expediency. The remarks I propose to submit on the present occasion will be chiefly confined to the consideration of the first branch of the proposition. The same question was before us at the last session, and was debated at some length; and if I mistake not, the last Congress adjourned while my honorable friend from Maine [Mr. MORRILL] was upon the floor, addressing the Senate in opposition to this bill, and no final action was taken upon it. I listened with some attention, and with something of interest, and, I will add, with something of instruction also, to that discussion, and have recently read a considerable portion of it. I have to say, however, that the limited examination I have given to the main question in hand inclines my judgment to a different conclusion from that which has been expressed by some of my associates upon this floor most learned in questions of constitutional law, and from whose matured opinions upon questions of this character I have rarely found myself obliged to dissent; and never, without hesitation and without somewhat of distrust in the soundness or the accuracy of the conclusions to which my own reflections had led me. I take leave, therefore, to state in brief, though it may be but crudely, the views I entertain, as, at the present moment, they may strike my own mind, upon the questions involved in the pending measure.

The bill under consideration is entitled "An act to facilitate commercial, postal, and military communication among the several States." The bill provides:

That every railroad company in the United States whose road is operated by steam, its successors and assigns, be, and is hereby, authorized to carry upon and over its road, connections, boats, bridges, and ferries, all freight, property, mails, passengers, troops, and Government supplies on their way from any State to another State, and to receive compensation therefor.

Such is the bill; such are its provisions; plain, concise, yet comprehensive, and of general application. The object and purpose of the bill are sufficiently obvious. It is simply to carry out and to apply an express provision of the Constitution, to wit, in regard to the regulation

of commerce among the States, in any and every proper case for its application which may arise. Why not pass the bill? What is the objection to its passage? Why not authorize the railroad companies of the United States to carry passengers and freight, mails and munitions of war from one State to another State? That is the purpose, the chief purpose, for which they were constructed; and for the most part, I suppose, the railroads of the country do now exercise and enjoy this right or privilege. I am not at present advised of but few, of but very few exceptions—the most notable of which is, doubtless, in the State of New Jersey—in which the full exercise and enjoyment of this right or privilege are, in any degree, inhibited or restricted by the State legislation.

That gallant and patriotic State, many years ago, deemed it expedient to confer upon a single company or corporation the privilege of carrying all freight and passengers, for a long term of years, between New York and Philadelphia, to the exclusion of any and of all other railroads across her territory, which then were or which thereafter might be constructed. This is the provision in the charter of the Camden and Amboy Company:

"That it shall not be lawful, at any time during the said railroad charter, [to wit, the Camden and Amboy,] to construct any other railroads in this State without the consent of the said companies, which shall be intended or used for the transportation of passengers or merchandise between the cities of New York and Philadelphia; or to compete in business with the railroad authorized by the act to which this supplement is relative."

This company has now enjoyed the exclusive privilege of the vast amount of transportation of passengers and merchandise, overland, between New York and Philadelphia, for a full third of a century, under a legislative prohibition of all competition from any other line of railroad, then or since constructed, and has claimed and still claims the exclusive benefit of this business under its chartered privilege, so that, when another railroad company—the Raritan and Delaware—under the orders or upon the application of the Federal Government, in 1862, carried a large amount of freight, consisting of troops, horses, arms, and munitions of war, and at cheaper rates and with greater dispatch than the Camden and Amboy Company afforded, as I am informed, over its road, from New York to Philadelphia, it was immediately summoned before the chancellor of New Jersey to render an account of the sum total of the proceeds of this business, with a view to a final decree to pay over this amount to the Camden and Amboy Company, and was perpetually enjoined from carrying passengers and freight thereafter between New York and Philadelphia.

The inquiry recurs, is it competent in a State, or a State Legislature, to grant exclusive privileges of this kind, and to continue them to the prejudice or restriction of commercial intercourse between or "among the several States?" Or, if it be competent to do so, in the absence of congressional action, is it not subject to the exercise of the superior authority of Congress, by virtue of its power, under the Federal Constitution, to "regulate commerce among the several States?" In other words, and for example, is it not competent for Congress, by virtue of this constitutional power, to authorize the Raritan and Delaware, or any other railroad company in New Jersey, to carry passengers and merchandise between New York and Philadelphia, and to receive compensation therefor, notwithstanding the inhibition of the State Legislature? Under this power, derived in terms from the Constitution, I venture to express the opinion that it is competent for Congress to set aside any such special and exclusive legislation, when it at all restricts, impedes, or impairs the facilities of travel and trade and commerce between or among the States; and of the fact itself, Congress, in the exercise of its discretion, must of necessity be the sole judge. In short, I hold it to be entirely competent for Congress to pass this bill, and to place all railroads upon the same footing in respect to the right and privilege of carrying

passengers and freight from any one State to another State, notwithstanding any inhibition which may have been imposed by local State enactment. I say inhibition, for the exclusive grant of a privilege to one party is a virtual inhibition to all other parties of the exercise of the same privilege. Congress may, as indeed it has done, declare all railroads to be post routes. It may, as indeed it has done, as in the case of the Illinois Central and other railroads, declare all railroads to be public highways. And with equal authority it may declare all railroads to be lawful structures, and having equal privileges to carry passengers and merchandise "from one State to another State."

This whole question of the extent of the power of Congress to "regulate commerce among the several States" was fully considered by the Supreme Court of the United States, and upon an argument on either side of conceded and consummate ability—by Mr. Webster and Mr. Wirt on the one side, and by Mr. Emmett and Mr. Oakley on the other—some forty years ago, in the famous and familiar case of *Gibbons and Ogden*, and which has heretofore and often been cited in debate upon this bill. This case grew out of an act of the Legislature of New York granting to Livingston and Fulton the exclusive privilege of navigating by steam vessels, for a term of years, the navigable waters within the jurisdiction of the State. Though this was a case of navigation, yet the court considered the general question of the power of Congress to "regulate commerce among the several States," however carried on, whether by water or by land; whether by navigation or by land conveyance; whether by steamships or by steam cars. The court in that case considered and determined the question of the extent of the power of Congress over the subject of commerce among the States without regard to any particular mode or agency by which it might be conducted. The judgment of the court was in support of the power of Congress over the whole subject of commerce among the States, and against the validity of the State grant.

In this connection I will take leave to read, from the elaborate and masterly opinion of Chief Justice Marshall, who pronounced the judgment of the court, a few paragraphs, as having a direct, and, as I think, a decisive, bearing upon the immediate question before us:

"To what commerce does this power extend? The Constitution informs us, to commerce 'with foreign nations, and among the several States, and with the Indian tribes.'"

"It has, we believe, been universally admitted that these words comprehend every species of commercial intercourse between the United States and foreign nations. No sort of trade can be carried on between this country and any other to which this power does not extend. It has been truly said that commerce, as the word is used in the Constitution, is a unit, every part of which is indicated by the term."

"If this be the admitted meaning of the word, in its application to foreign nations it must carry the same meaning throughout the sentence, and remain a unit, unless there be some plain, intelligible cause which alters it."

"The subject to which the power is next applied is to commerce 'among the several States.' The word 'among' means intermingled with. A thing which is among others, is intermingled with them. Commerce among the States cannot stop at the external boundary line of each State, but may be introduced into the interior."

"It is not intended to say that these words comprehend that commerce which is completely internal, which is carried on between man and man in a State, or between different parts of the same State, and which does not extend to or affect other States. Such a power would be inconvenient, and is certainly unnecessary."

"Comprehensive as the word 'among' is, it may very properly be restricted to that commerce which concerns more States than one. The phrase is not one which would probably have been selected to indicate the completely interior traffic of a State, because it is not an apt phrase for that purpose; and the enumeration of the particular classes of commerce to which the power was to be extended would not have been made had the intention been to extend the power to every description. The enumeration presupposes something not enumerated; and that something, if we regard the language or the subject of the sentence, must be the exclusively internal commerce of a State. The genius and character of the whole Government seem to be that its action is to be applied to all the external concerns of the nation, and to those internal concerns which affect the States generally; but not to those which are completely within a particular State, which do not affect other States, and with which it is not necessary to interfere for the purpose of executing

some of the general powers of the Government. The completely internal commerce of a State, then, may be considered as reserved for the State itself."—9 *Wheaton's Reports*, 194.

"Commerce among the States must, of necessity, be commerce with the States. In the regulation of trade with the Indian tribes the action of the law, especially when the Constitution was made, was chiefly within a State. The power of Congress, then, whatever it may be, must be exercised within the territorial jurisdiction of the several States. The sense of the nation on this subject is unequivocally manifested by the provisions made in the laws for transporting goods by land between Baltimore and Providence, between New York and Philadelphia, and between Philadelphia and Baltimore."

"We are now arrived at the inquiry, what is this power?"

"It is the power to regulate, that is, to prescribe the rule by which commerce is to be governed. This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution. These are expressed in plain terms, and do not affect the questions which arise in this case, or which have been discussed at the bar. If, as has always been understood, the sovereignty of Congress, though limited to specified objects, is plenary as to those objects, the power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single Government, having in its constitution the same restrictions on the exercise of the power as are found in the Constitution of the United States."—*Ibid.*, p. 196.

In this connection I take leave also to read several extracts from the argument of Mr. Webster in this case. Although it is the argument of counsel in behalf of his client, it is nevertheless the argument of a master mind; the argument of a master of the subject; the argument of the great expositor of the Constitution, addressed to the reason and the understanding, upon the points raised of constitutional law and construction:

"In regard to these acts he should contend, in the first place, that they exceeded the power of the Legislature; and, secondly, that if they could be considered valid for any purpose they were void, still, as against any right enjoyed under the laws of the United States with which they came in collision; and that, in this case, they were found interfering with such rights."

"He should contend that the power of Congress to regulate commerce was complete and entire, and, to a certain extent, necessarily exclusive; that the acts in question were regulations of commerce, in a most important particular, and affecting it in those respects in which it was under the exclusive authority of Congress."

"And, as some powers have been held exclusive, and others not so, under the same form of expression, from the nature of the different powers respectively, so, where the power, on any one subject, is given in general words, like the power to regulate commerce, the true method of construction would be to consider of what parts the grant is composed, and which of those, from the nature of the thing, ought to be considered exclusive. The right set up in this case, under the laws of New York, is a monopoly. Now, he thought it very reasonable to say that the Constitution never intended to leave with the States the power of granting monopolies, either of trade or of navigation; and, therefore, that as to this the commercial power was exclusive in Congress."

"Few things were better known than the immediate causes which led to the adoption of the present Constitution; and he thought nothing clearer than the prevailing motive was to regulate commerce; to rescue it from the embarrassing and destructive consequences resulting from the legislation of so many different States, and to place it under the protection of a uniform law."

"By the Confederation divers restrictions had been imposed on the States; but these had not been found sufficient."

"The States could still, each for itself, regulate commerce, and the consequence was a perpetual jarring and hostility of commercial regulations."

"In the history of the times, it was accordingly found that the great topic urged on all occasions, as showing the necessity of a new and different government, was the state of trade and commerce."

"The leading state papers of the times are full of this topic. The New Jersey resolutions complain that the regulations of trade were in the power of the several States, within their separate jurisdiction, in such a degree as to involve many difficulties and embarrassments; and they express an earnest opinion that the sole and exclusive power of regulating trade with foreign States ought to be in Congress. Mr. Witherspoon's motion in Congress, in 1781, is of the same general character; and the report of a committee of that body, in 1785, is still more emphatic. It declares that Congress ought to possess the sole and exclusive power of regulating trade, as well with foreign nations as between the States."

"Over whatever other interests of the country this Government may diffuse its benefits and its blessings, it will always be true, as a matter of historical fact, that it had its immediate origin in the necessities of commerce, and, for its immediate object, the relief of those necessities, by removing their causes and by establishing a uniform and steady system."

"We do not find, in the history of the formation and adoption of the Constitution, that any man speaks of a general concurrent power, in the regulation of foreign

and domestic trade, as still residing in the States. The very object intended, more than any other, was to take away such power. If it had not so provided, the Constitution would not have been worth accepting."

"He contended, therefore, that the people intended, in establishing the Constitution, to transfer from the several States to a General Government those high and important powers over commerce which, in their exercise, were to maintain a uniform and general system. From the very nature of the case, these powers must be exclusive; that is, the highest branches of commercial regulation must be exclusively committed to a single hand. What is it that is to be regulated? Not the commerce of the several States, respectively, but the commerce of the United States. Henceforth, the commerce of the States was to be a unit; and the system by which it was to exist and be governed must necessarily be complete, entire, and uniform. Its character was to be described in the flag which waved over it, *E pluribus unum*."

"Now, how could individual States assert a right of concurrent legislation, in a case of this sort, without manifest encroachment and confusion? It should be repeated, that the words used in the Constitution, 'to regulate commerce,' are so very general and extensive, that they might be construed to cover a vast field of legislation, part of which has always been occupied by State laws; and, therefore, the words must have a reasonable construction, and the power should be considered as exclusively vested in Congress so far, and so far only, as the nature of the power requires. And he insisted that the nature of the case, and of the power, did imperiously require that such important authority as that of granting monopolies of trade and navigation should not be considered as still retained by the States."

"But, although much had been said, in the discussion on former occasions, about this supposed concurrent power in the States, he found great difficulty in understanding what was meant by it. It was generally qualified by saying that it was a power by which the States could pass laws on the subjects of commercial regulation, which would be valid until Congress should pass other laws controlling them, or inconsistent with them, and that then the State laws must yield. What sort of concurrent powers were these which could not exist together? Indeed, the very reading of the clause in the Constitution must put to flight this notion of a general concurrent power. The Constitution was formed for all the States; and Congress was to have power to regulate commerce."

"A road, indeed, might be a matter of general commercial concern. In many cases it is so; and, when it is so, he thought there was no doubt of the power of Congress to make it."

"Now, it must be remembered that this grant is made as an exercise of sovereign political power. It is not an inspection law, nor a health law, nor passed by any derivative authority; it is professedly an act of sovereign power. Of course there is no limit to the power to be derived from the purpose for which it is exercised. If exercised for one purpose it may be also for another."

"If it can grant these exclusive privileges to a few, it may grant them to many; that is, it may grant them to all its own citizens, to the exclusion of everybody else."

"It required little now to be said to prove that this exclusive grant is a law regulating commerce, although in some of the discussions elsewhere it had been called a law of police. If it be not a regulation of commerce, then it follows, against the constant admission on the other side, that Congress, even by an express act, could not annul or control it; for, if it be not a regulation of commerce, Congress has no concern with it. But the granting of monopolies of this kind is always referred to the power over commerce. It was as arbiter of commerce that the king formerly granted such monopolies."

The judgment of the court was in accordance with the views here expressed by Mr. Webster upon the several points which were raised in the discussion of the case, and so far forth sanctions and adopts the argument as the opinion of the court upon these points. This case of *Gibbons and Ogden*; the argument of the eminent counsel; the final judgment of the court, and the reasoning of the illustrious Chief Justice in pronouncing the opinion of the court, would seem to be conclusive upon the main question now before us.

But it is insisted, with a view, of course, to avoid the force of the decision, that the case of *Gibbons and Ogden*, being one of navigation, is not analogous to the case we have under consideration; that the question in that case was in reference to the right or authority of a State to grant an exclusive privilege of navigating, by steam vessels, the navigable waters within the jurisdiction of the State, and therefore has no bearing upon the question of the right or authority of a State to grant an exclusive privilege of transporting passengers and freight across its territory, from one State to another State, by land conveyance, or, if you please, by railroad. With all due deference, I think otherwise.

I respectfully submit that the two cases are closely analogous; that the general principle involved is the same in both; that the judicial

decision of the one is the rule of law and the rule of action in the other. I have already said that, in considering and deciding upon the question of the application and extent of the power of Congress to "regulate commerce among the several States" the court considered and determined the extent of the power in its application to the regulation of commerce among the States without reference to the mere mode and manner of its transportation, whether by land or by water. It was even made a question in the *Ogden* case whether the term or phrase in the Constitution, "commerce among the several States," comprehended navigation. It was not made a question whether it comprehended conveyance or transportation by land.

In respect to the power of Congress "to regulate commerce among the several States," that power is neither enlarged nor abridged by any mere mode or manner by which it is carried on. Will any one contend that the power of Congress "to regulate commerce among the several States" is limited to that commerce alone which is carried on upon the navigable waters within the jurisdiction of the several States; and that it has no relation to, and nothing to do with, and does not reach that far more extended and diversified commerce which is carried on among the several States by land? Is not the exercise of the power quite as important to the regulation of commerce by land—by railroad, if you please—as by navigation?

It is true, nothing was said in the consideration and discussion of that case about railroads as a means of commercial intercourse among the States. In fact, railroads at that time were unknown in the country.

But now the whole surface of the country is interwoven and overspread as by a grand network of railroads, connected together, running through and uniting the several States, far and near, in more intimate commercial, as well as social and political, relations, than ever before, and forming one great national railway system. If I may be allowed the simile, our railroads now constitute the great national arteries of the Republic, through which runs the life-blood of the body-politic; and anything which obstructs or impairs its full and free circulation at any one point affects and disorders the whole system. I doubt not that to-day more than one half—perhaps three fourths, possibly seven eighths—of the domestic commerce of the country among the several States is carried on by means of our railroads over the territories of the several States, and among the several States, and from one State to another State. I repeat the question, then, is not the exercise of the power of Congress to "regulate commerce among the several States" quite as important to the regulation of commerce by railroad transportation as by river or coastwise navigation? And is it not quite as important that the one should be free and exempt from State restrictions as the other? Why shall the power be applied in the one case and not in the other? Why this distinction? There is no reason for it—none whatever. The public roads and highways of a State are open and common to the use of all the citizens of the United States, as are its navigable streams; and it is but sheer inconsistency to assert that Congress may regulate the commerce over the one and not over the other.

The power of Congress "to regulate commerce among the several States" necessarily reaches it anywhere and everywhere among the States—not less upon the railroad car than upon the steamboat. The main purpose of conferring this power upon Congress was to secure a uniform system of commercial regulations, emanating from a single authority, instead of being subject to various and conflicting rules and regulations which must unavoidably follow if each State were to prescribe its own rules and regulations. It was for the very purpose of securing this unity, this harmony, of action that the States consented to yield this power to the Federal Government; and among the foremost and most persistent of all the States in favor of surrendering this power in the several

States to the Federal authority for the purpose of securing unity and uniformity in the regulations of commerce was New Jersey herself, be it said to her high credit.

What, then, is the measure or extent of this power—this power to "regulate commerce among the several States?" The obvious answer is, that it is as full and complete as is the power to regulate commerce with foreign nations. Manifestly, it is as full and complete as is the power to regulate commerce with the Indian tribes. Most clearly it is as full and complete as the several States themselves possessed before the formation of the Constitution. In other words, it is the same power which the respective States themselves possessed when under the Confederation. In short, the States severally surrendered to the Federal Government, and consequently divested themselves of whatever power they possessed over the subject.

The power of Congress, therefore, to "regulate commerce among the several States" is plenary, it is exclusive, it is coextensive with the subject upon which it operates, and, in the language of Chief Justice Marshall, "it operates upon that subject wherever it exists." And what is this power to regulate? to "regulate commerce among the several States?" Manifestly it is something more than a mere power to issue registers to merchant and trading vessels, or to grant licenses, or to give permits, or to establish ports of entry. From its very nature and purpose, it is a power to create, or rather to preserve and to protect, and not to destroy. It is a power to improve, and not to impair. It is a power to facilitate, and not to retard or to embarrass; and more than all, and essential to all, and comprehending all these, it is a power to interpose and to remove whatever obstructions or restrictions may have been imposed upon commercial intercourse with and between the several States by local State legislation, taking care always to distinguish between that legislation and that commerce which are strictly local and internal, and which affect only the citizens of the particular State, and that legislation and that commerce which are more general, and which affect the citizens of other States. To illustrate: Congress may interpose and annul the restrictions of a grant from the State of New York for the exclusive navigation of the Hudson river. Congress may not interpose and annul the restrictions of a like grant for the navigation of Cayuga lake; the reason being that in the one case it is strictly local and internal, and affects only the interests of citizens of the particular State, while in the other case the exclusive grant affects the commercial rights and interests of citizens of other States. For the same reason, Congress may not interfere with the local municipal railroads in the city of New York, or Brooklyn, or Buffalo, while it may interfere to remove the restrictions of an exclusive grant to any one of the great railroad lines across the State, to the exclusion of all her other lines of road, in the conveying of passengers and freight from one State to another State, by authorizing the other railroad companies to exercise and enjoy the same privilege. This distinction is recognized in all our courts. This distinction is reasserted and reaffirmed in the argument of counsel and in the opinion of the court in the case of *Ogden*.

But the inquiry is made, what is commerce? And by way of criticism or of sarcasm, rather than of answer to the inquiry, it is said that a railroad is not commerce—the railroad cars are not commerce which Congress may regulate. True, railroad cars nor the track upon which they run are commerce, nor is a ship commerce, nor the river or the bay upon which it floats; but they are all agencies of commerce. It is said that passengers are not commerce, that freight is not commerce. All true enough. Nor are cotton, or wool, or wheat, or corn, or sugar, or coffee, or salt, or silks, or hardware, of themselves commerce. But they are all elements of commerce. And when the cotton, or wool, or wheat, or corn, are placed upon the train of cars and transported from one part of the country—from the great West for example—

to another part of the country, say to Boston, or New York, or Philadelphia, or Baltimore, and there exchanged for other commodities—sugar, tea, coffee, and other articles of merchandise—and these, in turn, are placed upon the railroad train, and carried back for distribution and consumption among the people, this process—the combined operation of all these elements and agencies—constitutes or produces that result, that idea, which we denominate commerce. It is commerce; it is domestic commerce; it is commerce among the several States; it is commerce in which the citizens of more than one State are interested—in which the citizens of the whole country are interested; it is commerce in the sense and meaning of the Constitution. And this is commerce, which Congress has power to "regulate" in its transit over intervening States to other States, and to remove any obstructions which may be imposed upon its transportation by local State legislation. Commerce, though a complex idea, is nevertheless a unit, a one integral interest, and not several and separate. It is an interest; an important interest; a vital interest; general, pervading, and common to the whole country. It is an interest which belongs, not to the States severally, but to the States united; as much so as your Army and Navy. It is therefore a national and not a local interest; an interest to be regulated by national and not by local authority.

Again, Mr. President, it is said, as though the assertion was pertinent to the present inquiry, that a State—New Jersey, for instance—is under no obligation to build a railroad at all; and the question is asked, can we compel her to build a railroad or any other kind of road across her territory? No, sir; I do not contend that we can compel a State to build a road of any kind, otherwise than by what may be called moral compulsion. Nor do I contend that a State is under obligation to build a road of any description across her territory other than the obligation which every State owes to itself as a member of the Union; other than the obligation which every State owes to the community at large; other than the obligation which every State owes to the advancing civilization of the age, to keep step with the progress of the improvements of the times; and it is hardly to be conceived that any stronger or more cogent incentive, in addition to the motive of self-interest, can be presented or urged upon the consideration of a State as an inducement to the fulfillment of a high public duty. But suppose, what is hardly a supposable case, that a State—New Jersey, for illustration—blindly and obstinately refuses or neglects to fulfill this high duty to itself and to the country, and constructs no road, and will not construct any road, and will open no way, nor provide any means of intercommunication over her territory with other States. What then? Is there no relief? Is there no remedy? Must we submit to be forever barred from all intercourse between other and contiguous States across her territory?

Is there no way of opening communication over her territory between New York and Philadelphia? Is your Federal Government so feeble and so powerless that it cannot open a way of communication over the territory of an intervening State so delinquent in this regard? No, sir, your Federal Government has ample power to provide the full measure of relief in such a case; and under its unquestioned authority to establish post roads, or military roads, or commercial roads, if you please, it may construct one or more roads across the territory of the delinquent State, as the public necessities or the public convenience may require.

If the State, however, shall build one road and but one road over its territory, so long as that road shall meet the full measure of the public demand and furnish the requisite and adequate facilities for commercial intercourse between the several States, so far forth that State fulfills its obligation to itself and to the public in that behalf; but the one road failing to meet the public wants, and to furnish adequate means of commercial intercourse with and between other States, it presents the occa-

sion for the Federal Government to exert its power and to construct another road across the intervening State, in order to meet the public wants. But if the State itself shall build two or more roads over its territory, connecting with adjacent States, and especially if the State itself shall inhibit the use of either or any one of these roads to all passengers and freight from one State to another, Congress may establish either or all of them as post roads, or as military roads; or, if the interests of commerce shall require it, Congress may declare them to be lawful structures for the carrying on of trade and commerce among the several States, any inhibition or restriction of the State Legislature to the contrary notwithstanding.

In the more recent case of the Wheeling bridge the general doctrine for which we are contending was recognized and reaffirmed by the Supreme Court of the United States. The bridge over the Ohio river at Wheeling, Virginia, was complained of by Pennsylvania as an obstruction to the navigation of the river. This complaint was brought before the court, which, upon full hearing and examination, adjudged the bridge an obstruction to the navigation of the river, and issued an order upon the bridge company to abate the nuisance by elevating the bridge or removing it altogether. The action of Congress was subsequently invoked upon this subject, and Congress, by virtue of its power "to regulate commerce among the several States," and to establish post roads, passed an act declaring the bridge to be a lawful structure and post road, "anything in any law or laws of the United States to the contrary notwithstanding." The Supreme Court of the United States sustained this action of Congress, and dismissed an application for process against the bridge company to compel it to comply with the previous order of the court to elevate or remove the bridge.

The court in this case fully recognized the power of Congress to interpose in this, and in all like cases, when the general interests of commerce are impaired or restricted by local State legislation; and while the court concedes the right of State sovereignty, within its own limits, and by its own acts of legislation, to impose such restrictions as it may deem proper upon its own citizens, in the use of its own territory, it also holds all such legislation subject and subordinate to the power of Congress to "regulate commerce among the several States," and that when Congress exercises that power the State laws must give way. Congress, in the exercise of its paramount power in this case, declared the bridge a lawful structure, though admitted to be an obstruction, more or less, to the navigation of the river; a river, too, which by compact between Virginia and Kentucky, and with the assent of Congress, at the time of the admission of Kentucky into the Union, was to be forever open to commerce to the use of all the citizens of the United States. Congress, in the exercise of its discretion, declared the bridge a lawful structure, on the ground that the general interests of commerce would suffer more from the removal and want of the bridge than from its obstruction to the navigation of the river. Hence Congress declared that the bridge should be continued—for that was the effect of the act—for the reason that the greater interests of commerce required its continuance, notwithstanding its admitted degree of obstruction to the navigation of the river.

Mr. JOHNSON. The honorable member will permit me to suggest that I think he mistakes the decision in that case; and I rise merely for the purpose of correcting what I suppose to be the error into which he has fallen.

Mr. FOOT. I shall be very happy to be corrected if I am wrong. I am very liable, perhaps, to fall into error on such points.

Mr. JOHNSON. Not so much as I am. However, I am not so liable in this instance, as I argued the case to which the honorable member refers. The bridge was built under a law of Virginia incorporating a company for the purpose of building it. The law provided that it should be so built as not to interfere with the

navigation of the Ohio river. After it was built, after it had been a structure for some time, there were some five or six vessels built at Pittsburgh, for the purpose of trading between Pittsburgh and points lower down the river, with chimneys so elevated that at certain stages of the water it was impossible for them to pass the bridge, or, at any rate, to pass the bridge without hazard of injury. The Supreme Court, by a majority, decided that the court had jurisdiction to ascertain whether the bridge itself was an obstruction to the navigation of the river without any particular legislation on the part of Congress. The minority of the court, consisting of three, I think, held that before the courts of the United States could possess jurisdiction there ought to be legislation upon the part of Congress, giving the courts authority in a case of that description.

The court therefore decided that the bridge was either to come down, or to be elevated to such a height as the court itself prescribed, or if the obstruction could be practically removed by a draw in the bridge over the "western branch," which when the water was high afforded easy navigation, and therefore should not make it necessary for the vessels to pass under the bridge, that such a draw should be constructed. Then Congress passed the act to which my friend now refers declaring the bridge to be a post route, and deciding that it was of a sufficient height. The majority of the court held that Congress, under the authority to regulate commerce between the States, as the bridge, in the absence of legislation, interfered with the freedom of commerce, interfered with the navigation of the river, (which they considered as included within the power to regulate commerce,) had a right to prescribe for itself what should not be an impediment to navigation. But if the honorable member will look at that decision as given by Mr. Justice Nelson, I think he will find that they disavowed expressly the authority of Congress to bridge at all. They considered a road as between the States as intrusted entirely to the jurisdiction of the States. All that they maintained was that if the States in the exercise of that jurisdiction construct a bridge which interferes with the navigation of a navigable river, then Congress can interfere, either by deciding that it is not to be considered in the particular instance an interference with the navigation, or by authorizing the courts to abate it.

Mr. FOOT. I presume the honorable Senator is correct in his statement of the case, and I say here that I shall take an early occasion to renew my reading of that case, and if I find myself in error in any particular of my argument I shall very cheerfully make the modification. But enough on that point.

Mr. President, this bill, in a former debate, has been assailed and denounced as an infringement, a contemplated assault, upon the rights of sovereign States, and of New Jersey in particular. Nothing of this kind, in purpose or in effect, belongs to the bill. So far from encroaching upon the rights of a sovereign State, it is a proposition to intervene in behalf of, and for the protection of, the sovereign rights of all the citizens of all the States from infringement or restriction by any single State. It is strictly an alleviative and not an aggressive measure. It is only the exercise of a power which the States themselves voluntarily and unanimously vested in the Federal Government, and for the very purpose of protecting the people of other States from the imposition of commercial restrictions, and from commercial blockade, if you please, by the action of any one of the States.

New Jersey has no cause of complaint at the exercise of this power on the part of Congress. She was not only the first of the States of the old Confederation to urge the surrender of this power in the States to the Federal Government, but in her charter to the Camden and Amboy Company this power in the Federal Congress is recognized by both parties—the State and the corporation. By the original charter, in consideration of the exclusive privilege of carrying all passengers and freight between New York

and Philadelphia, it was provided that the company should pay to the State ten cents *per capita* on all passengers, and fifteen cents per ton on all freight and merchandise transported over the road between those two points. Call it a bonus for the privilege, or a tax upon the franchise—call it what you please; it is, in effect, a levy of tribute upon the people—upon all passengers and freight—from without the State to that extent. By a supplemental act in 1854, this fixed percentage on freight and passengers was commuted by the transfer to the State of an agreed number of shares of the capital stock of the company. The sixth section of the supplemental act contains this condition:

"That when any other railroad or roads for the transportation of passengers and property between New York and Philadelphia, across this State, shall be constructed and used for that purpose, under or by virtue of any law of this State or the United States authorizing or recognizing said road, that then, and in that case, the said dividends shall no longer be payable to the State, and the said stock shall be retransferred to the company by the treasurer of this State."

Here is an express recognition of the authority of the Federal Government, and of the probable exercise of that authority, to build another railroad between New York and Philadelphia; or to authorize any other railroad which might be constructed under the authority of that State to carry passengers and freight between those cities—just what this bill authorizes, and nothing more.

New Jersey, it has been well remarked, occupies a peculiar and most important geographical position in reference to this question of commercial intercourse among the States, situated as it is directly and for the whole distance between the two largest commercial cities and most populous cities on the American continent; located, as it were, directly across the great pathway of travel and trade and commerce between the North and the South on the Atlantic side, and over whose territory there annually pass probably more travel and trade than over any other equal extent of space in the whole country.

The citizens of New York and Philadelphia, of Boston and of Baltimore; of the States of New England and New York; of Pennsylvania and Maryland; and of the States of the West, too, are most deeply and directly interested in having whatever existing means of transit for trade and travel across the territory of New Jersey there may be unrestricted by any prohibition of their use, or what is the same thing, by any exclusive grant to one line of communication over another. Let all the public avenues of trade and commerce be open and common to all the people of the country. This is their right, their constitutional right—their right of transit over the highways or the railways, no less than over the rivers and the navigable waters of any State, paying a reasonable compensation therefor. Both are alike open and common to all the citizens of the United States under that provision of the Constitution which declares that the "citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." I repeat it, Mr. President, it is not within the province of any State, it is not within the prerogative of any State, either directly or indirectly, either by positive prohibition to one road or by special privilege to another, to inhibit or restrict the right of transit of citizens of other States, or their merchandise, over any one of its roads over which they may choose to pass, any more than it can inhibit their right of transit over any one of its navigable rivers, or any more than it can inhibit their right to purchase and hold real estate within its territory.

These are all rights common to all the citizens of the United States, common to all the citizens of a common country, common to all the citizens of our common Government. Nor may a State any more inhibit the use of all but one of several roads over its territory to the citizens of other States than it may prohibit altogether and absolutely the use of any and of all its public roads for travel and trade, especially so, if the general interests of commerce are at all impeded or impaired by such limita-

tion. And it is no answer to say that because a State has built one or more roads over its territory, and thereby provided better facilities of commercial intercourse with other States than if it had built no roads at all, that therefore it may interdict the use of all other roads which are or which may be built across its territory by citizens from without the State. The right of transit over any of the public roads and highways of any State belongs to every citizen of the Republic.

Mr. President, without pursuing this discussion further at present, I will say, in conclusion, that in my humble judgment Congress has the constitutional right to pass this bill; that it has the constitutional right to remove these local legislative restrictions upon trade and commerce between or among the States; that it has, to this end, the constitutional right to authorize any or all the railroads of the country, so far as in its judgment it will facilitate commercial intercourse, to carry passengers and freight from any one State to another State. This is the whole proposition of the bill. If it passes, its constitutionality can readily be tested before another tribunal whose decision will be final upon the question. If it proves to be a valid act it will stand; if otherwise, it will fall, alike useless and harmless.

As to the expediency of passing this bill, assuming that we have the constitutional right to pass it, and to remove these local restrictions upon trade and commerce, it is enough to say that its passage is demanded by high considerations of public interest, and no less of public faith.

Mr. MORRILL. I move that the Senate postpone the present and all prior orders, and proceed to the consideration of Senate bill No. 1.

The motion was agreed to.

DISTRICT OF COLUMBIA SUFFRAGE.

The Senate accordingly, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1) to regulate the elective franchise in the District of Columbia. When the bill was last under consideration it was recommitted to the Committee on the District of Columbia, and on Friday last was reported back by the committee, with an amendment to strike out all of the original bill after the enacting clause, and to insert the following in lieu thereof:

That, from and after the passage of this act, each and every male person, excepting paupers and persons under guardianship, of the age of twenty-one years and upwards, who has not been convicted of any infamous crime or offense, and who is a citizen of the United States, and who shall have resided in the said District for the period of six months previous to any election therein, shall be entitled to the elective franchise, and shall be deemed an elector and entitled to vote at any election in said District, without any distinction on account of color or race.

Sec. 2. *And be it further enacted*, That any person whose duty it shall be to receive votes at any election within the District of Columbia who shall willfully refuse to receive or who shall willfully reject the vote of any person entitled to such right under this act, shall be liable to an action of tort by the person injured, and shall be liable on indictment and conviction, if such act was done knowingly, to a fine not exceeding \$5,000, or to imprisonment for a term not exceeding one year in the jail of said District, or to both.

Sec. 3. *And be it further enacted*, That if any person or persons shall willfully interrupt or disturb any such elector in the exercise of such franchise, he or they shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not to exceed \$1,000, or be imprisoned in the jail in said District for a period not to exceed thirty days, or both, at the discretion of the court.

Sec. 4. *And be it further enacted*, That it shall be the duty of the several courts having criminal jurisdiction in said District to give this act in special charge to the grand jury at the commencement of each term of the court.

Sec. 5. *And be it further enacted*, That all acts and parts of acts inconsistent with this act be, and the same are hereby, repealed.

Sec. 6. *And be it further enacted*, That the mayors and aldermen of the cities of Washington and Georgetown, respectively, on or before the 1st day of March in each year, shall prepare a list of the persons they judge to be qualified to vote in the several wards of said cities in any election; and said mayors and aldermen shall be in open session to receive evidence of the qualification of persons claiming the right to vote in any election therein, and for correcting said list, on two days in each year, not exceeding five days prior to the annual election for the choice of city officers, giving previous notice of the time and place of each session in some newspaper printed in said District.

Sec. 7. *And be it further enacted*, That on or before the day of —, the mayors and aldermen of said cities shall post up a list of voters thus prepared in one or more public places in said cities, respectively, at least ten days prior to said annual election.

Sec. 8. *And be it further enacted*, That the officers presiding at any election shall keep and use the check-list herein required at the polls during the election of all officers, and no vote shall be received unless delivered by the voter in person, and not until the presiding officer has had opportunity to be satisfied of his identity, and shall find his name on the list, and mark it, and ascertain that his vote is single.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The question is on agreeing to the amendment reported by the committee.

Mr. DAVIS. I propose to debate the bill and the amendment, and I ask the Senate to postpone it until one o'clock to-morrow.

Mr. TRUMBULL. The Senate will remember that at its last session on Friday the bill to enlarge the powers of the Freedmen's Bureau was under consideration, was called up and read, and several amendments to it adopted, and at the instance of the Senator from Indiana [Mr. HENDRICKS] it was passed over until to-day. This morning the Senator from Vermont desired to deliver his views upon another bill which has run now to the middle of the afternoon, and has occupied the time up to the present moment; and now it is proposed to take up another bill with a view to have it postponed and discussed to-morrow. I cannot consent to have the Freedmen's Bureau bill, which is one of pressing importance and which ought to be acted upon at an early day, thrust aside in this way, and therefore I cannot consent to this bill going over until to-morrow with any expectation that it is to come up to-morrow. I shall insist upon taking up the other bill. It will be for the Senate to determine which bill shall be taken up. So far as I am concerned, I shall urge upon the Senate to proceed with the consideration of the Freedmen's Bureau bill to-morrow and continue it until we finally dispose of it. I hope I shall have the support of the Senate in doing this, and I think that this bill ought not to be thrust in after the consideration of the other one has been commenced.

Mr. DAVIS. I should like very much to say what I have to say on the subject of the bill that is now before the Senate to-morrow. After I have delivered what it is my purpose to say upon it, I shall be very indifferent about any immediate action at that time upon the bill. I shall then be willing for the bill to which the honorable Senator from Illinois refers, or any other bill whatever, to immediately supersede the bill that is now before the Senate. All that I ask—and there are peculiar reasons why I ask it—is, that I shall have an opportunity of speaking my sentiments upon the bill that is now before the Senate to-morrow. When I get through, the pleasure of the Senate, or of the honorable Senator from Illinois, or any other gentleman, can be adopted by the Senate; I care not. But I ask him, in courtesy to myself, to give me an opportunity of saying what I desire to say upon the subject of this bill to-morrow, and then any course that he may suggest will receive my consent and acquiescence.

Mr. TRUMBULL. I certainly dislike to interpose any objection after what the Senator from Kentucky has said, that he desires to express his views on this subject and asks as a matter of courtesy that he may have an opportunity to do so to-morrow; but this is taking me very much by surprise, and, I think, is interfering with the public business of the country. We have a bill pending before us which is thought by the head of the Freedmen's Bureau and by many members of the Senate to be a matter of practical importance. We have accounts every day from the South of the wrongs inflicted upon the colored race, and of the injustice that is being done them, and we have established a Freedmen's Bureau for the purpose of taking charge of them. A bill is introduced here conferring additional powers upon that bureau, which, if it is enforced, will protect them in all their civil rights, and there is an importance in having early action upon it. The Senate has commenced its consideration.

It has been laid aside to-day in order to allow one member of the Senate to express his views upon a bill in regard to commercial intercourse between the different States, and now we are asked to postpone it again in order to bring up the District bill. It is not by reason of any opposition either to the bill upon which the Senator from Vermont spoke, or the bill which the Senator from Maine has in charge, that I urge action upon the Freedmen's Bureau bill, but it is because I think it a bill of practical importance which the Senate ought to act upon at an early day. I see no haste about the other bill. I am not aware that any election is pending immediately that it is to effect, and it will doubtless lead to a protracted discussion.

The PRESIDING OFFICER. The Chair does not understand that any motion was made to postpone. The question is on the adoption of the amendment reported by the committee.

Mr. MORRILL. I desire to say a single word in reply to the Senator from Illinois. I called this bill up because it had once been before the Senate, and I supposed was in a condition to be proceeded with. I was not aware that any other measure was before the Senate, nor am I now; and I desire to repel the inference which seems to follow from the remark of the honorable Senator, that this measure is thrust in here at the expense of public business. I do not know by what authority this is said to be private business, or this is to be subjected to the Freedmen's Bureau bill. I have supposed that the bill now before the Senate was of a public character, and of an important character, and that it was perfectly proper for me at any time to bring it before the Senate when there was nothing else before it; and I do not like to be complained of when, in the discharge of an ordinary duty, I bring a measure before the Senate. If it is the pleasure of the Senate, I would not antagonize it for a moment against the bill referred to by the honorable Senator. I had no notice that he designed to take up that bill to-day or to-morrow. I knew the bill was up on Friday, and I knew perfectly well that no time was assigned for its consideration, leaving the whole question of its consideration open. So far as its having precedence of this bill is concerned, the honorable Senator would have remarked, if he had been observant, that this bill was once before the Senate on the report of the Committee on the District of Columbia, and recommitted, and immediately reported back again, and so was in a condition to be proceeded with. I am not going to urge this bill now. I am disposed, so far as I am concerned, to accommodate the Senator from Kentucky. If it is the sense of the Senate, however, that the other bill had better be proceeded with, I shall acquiesce without opposition.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee.

Mr. DAVIS. I made a motion to postpone this subject until to-morrow at one o'clock.

The PRESIDING OFFICER. It is moved that the further consideration of this bill be postponed until to-morrow.

Mr. SUMNER. Allow me to inquire whether the Senator from Kentucky cannot as well make his remarks on the bill of the Senator from Illinois?

Mr. DAVIS. No, sir.

Mr. SUMNER. I made the inquiry for the sake of convenience; it seemed to me to be quite possible that the Senator might make his remarks on that bill; and I was going to observe that it did seem to me that, all things considered, perhaps it would be advisable for the Senate to proceed first with the Freedmen's Bureau bill; and then, I should say, the other bill which the Senator from Illinois has in charge. Both of those bills are kindred in their character, and they do not open the question which is involved in the District bill. The District bill opens the great question of suffrage. I would, therefore, suggest that the Senator from

Illinois should proceed with his bill to-morrow.

Mr. TRUMBULL. I think we had better settle the matter to-day, and not have a controversy to-morrow about the bills which we shall consider. The Senator from Kentucky desires to express his views upon the bill which the Senator from Maine has in charge, on personal considerations; he asks it as a matter of courtesy to him. I do not very well see how to resist that; and if the Senator from Maine will consent that after the Senator from Kentucky shall have made his remarks that bill may be laid aside and the one to which I have called attention proceeded with, I shall agree, so far as I am concerned, that that bill may come up to-morrow. What I was apprehensive of was that if the District bill came up to-morrow, and the Senator from Kentucky spoke upon it, a lengthy discussion would be the result, that would for a long period prevent any action upon the other bill.

Mr. MORRILL. I have no objection to that course being taken, yielding to what I suppose to be the sense of the Senate.

Mr. TRUMBULL. Then I shall interpose no objection to the motion of the Senator from Kentucky, that this bill be postponed until to-morrow, with the understanding that on the conclusion of his remarks the Freedmen's Bureau bill shall be taken up.

The motion of Mr. DAVIS was agreed to.

IOWA SOLDIERS' ORPHANS' HOME.

Mr. GRIMES. I move to take up the joint resolution which was reported this morning by the Senator from Indiana, [Mr. LANE,] from the Committee on Military Affairs.

The motion was agreed to; and the joint resolution (H. R. No. 18) granting certain public property to the Soldiers' Orphans' Home, of Iowa, was considered as in Committee of the Whole. It proposes to donate to that institution the buildings, sheds, furniture, and other property at Camp Kinsman, near Davenport, Iowa.

The joint resolution was reported to the Senate without amendment.

Mr. JOHNSON. I desire to inquire of the Senator from Iowa what is the supposed value of the buildings?

Mr. GRIMES. I have not seen the buildings, and can only state to the Senate what I am told by others. Perhaps the Committee on Military Affairs, to whom the subject was referred, and who have had a conference with the Secretary of War on the subject, can furnish that information more authentically than I can. Their value is not great, however. The property consists of the sheds and barracks connected with a camp which has been occupied for some months by some three hundred orphan children of soldiers, made orphans by the war; it is in their possession already. I suppose its value does not exceed \$1,000.

Mr. JOHNSON. The Senator does not understand me as objecting to the resolution.

Mr. GRIMES. Oh, no; I did not so understand you.

Mr. JOHNSON. I merely wanted to know the supposed value of the property. There are in Maryland, at Point Lookout, buildings of the same character erected during the war for the Government, costing, I understand, some four or five hundred thousand dollars, but which I suppose would not sell now for more than eight or nine thousand dollars, and I believe there has been a bill passed the House—I am not sure about that, though—giving the whole of those buildings to the proprietors of the land in liquidation of the claim which they say they have for the rent of their property. I thought it possible that this might establish a precedent beyond bills of that description.

Mr. FESSENDEN. Is there a claim for the rent of the land in this case?

Mr. LANE, of Indiana. No, sir. When this resolution was up before, it was referred to the Committee on Military Affairs to look into the matter and see if some general law could not be passed embracing the public property in

the different States that was claimed for the use of charitable associations. This joint resolution was submitted to the Secretary of War, and by him referred to General Meigs, the Quartermaster General. They report, substantially, without reading the letters or referring to them, that in this case they think it would be proper to give this property over to this orphan asylum, but that no general law can be passed on the subject without danger of interfering with the public interests. Here was a temporary camp at Davenport, a temporary rendezvous for soldiers from Iowa and Illinois, perhaps, consisting of temporary sheds and barracks. By the consent of the War Department they were set apart for the use of the Orphans' Home of Iowa, and have been so occupied. The Secretary of War thinks it will be proper to give this property to that association. There is no claim on the property for fee-simple or anything else.

Mr. JOHNSON. No claim for rent?

Mr. LANE, of Indiana. No, sir; nothing of the kind.

The joint resolution was ordered to a third reading, read the third time, and passed.

NATIONAL MILITARY ASYLUM.

Mr. WILSON. I ask the Senate, by unanimous consent, to proceed now to consider Senate bill No. 54, which was reported this morning from the Committee on Military Affairs.

There being no objection, the bill (S. No. 54) to amend an act entitled "An act to incorporate a National Military and Naval Asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States," was considered as in Committee of the Whole. It proposes so to amend the act of March 3, 1865, as to make it read as follows:

That Ulysses S. Grant, David G. Farragut, Hannibal Hamlin, Andrew Johnson, Salmon P. Chase, Edwin M. Stanton, Gideon Welles, John A. Dix, George Bancroft, William T. Sherman, John A. Andrew, Andrew G. Curtin, Oliver P. Morton, Benjamin F. Butler, George G. Meade, Nathaniel P. Banks, Joseph Hooker, Samuel R. Curtis, Richard J. Oglesby, David Todd, Henry Ward Beecher, Ambrose E. Burnside, John A. Logan, Daniel S. Dickinson, William A. Buckingham, Carl Schurz, Oliver O. Howard, Hamilton Fish, Frank Sigel, Austin Blair, Thomas C. Fletcher, Robert J. Breckinridge, Lovell H. Rousseau, Horace Greely, George H. Stuart, Joseph Henry, John G. Barnard, Henry J. Raymond, William B. Astor, James Gordon Bennett, H. W. Halleck, William E. Dodge, William M. Evarts, James T. Brady, Gerritt Smith, Reuben E. Fenton, Bellamy Storer, George P. McIlvaine, Galusha A. Grow, Henry W. Bellows, J. S. C. Abbott, Jay Cooke, Oliver Wendell Holmes, Israel Washburn, Jr., Ichabod Goodwin, Frederick Smyth, John Z. Goodrich, Charles Henry Davis, William Chadin, J. Wiley Edmunds, Amos A. Lawrence, Edward S. Tobey, Thomas Russell, Charles G. Loring, George B. Upton, Charles G. Greene, J. M. S. Williams, George G. Stannard, Henry M. Rice, Grenville M. Dodge, Morton McMichael, Thomas Webster, James M. Scofield, Nathaniel B. Baker, Richard J. Field, Henry C. Carey, John W. Forney, Bishop M. Simpson, G. S. Griffith, William Henry Channing, James E. Yeatman, Dwight Durkee, A. T. Stewart, Barnabas Hobbs, Montgomery Blair, Joseph K. Barnes, T. B. Ward, Henry W. Beauhan, Frank Moore, Alfred Lee, Edward Solomon, Thomas C. Bryon, B. B. French, Samuel J. Crawford, James T. Pratt, Alfred H. Terry, Edward Tompkins, Moses E. Odell, and their successors, duly chosen, are hereby constituted and created a body corporate in the District of Columbia.

SEC. 2. *And be it further enacted*, That the said corporation hereby constituted shall consist of one hundred members, and any number of corporations greater than one fifth of the whole number shall constitute a quorum for the transaction of business; and any business that may have been done, or may hereafter be done, by such a quorum, shall be deemed valid and of the same legal effect as if the same had been embodied in the original act. They shall have power to fill all vacancies created by death, resignation, or otherwise, and to make by-laws, rules, and regulations: *Provided*, That such by-laws, rules, and regulations are not repugnant to the Constitution or laws of the United States.

SEC. 3. *And be it further enacted*, That the business of said corporation shall be managed by a board of twelve directors, who shall elect from their number a president, two vice presidents, and a secretary; and seven of the directors, of whom the president or one of the vice presidents shall be one, shall form a quorum for the transaction of business at any meeting of the board of directors.

SEC. 4. *And be it further enacted*, That the board of directors shall have authority to procure for early use, at suitable places, sites for military asylums for all persons serving in the war of the rebellion not provided for by existing laws, who have been or may hereafter be disqualified for procuring their own maintenance and support by reason of wounds received or sickness contracted while in the line of their duty during the present rebellion; and to have the necessary buildings erected, having due regard to the

health of the location, facility of access, and competency to accommodate the persons provided for in this act.

SEC. 5. *And be it further enacted*, That for the establishment and support of this asylum there shall be appropriated all stoppages or fines adjudged against such officers and soldiers, or seamen, by sentence of courts-martial, or military commission, over and above the amounts necessary for the reimbursement of the Government or of individuals; all forfeitures on account of desertion from such service; and all moneys due such deceased officers and soldiers, or seamen, which now are or may be unclaimed for three years after the death of such officers, soldiers, or seamen, to be repaid upon the demand of the heirs or legal representatives of such deceased officers, soldiers, or seamen. And the said directors are hereby authorized to receive all donations of money or property made by any person or persons for the benefit of the asylum, and to hold or dispose of the same for its sole and exclusive use.

SEC. 6. *And be it further enacted*, That the selection of the sites for the said asylums, and the plan of the buildings, and the rules and regulations for the general and internal direction of the asylum, shall be made by the directors, and they may do all other acts necessary for the government and interests of the same, as hereby authorized.

SEC. 7. *And be it further enacted*, That the officers of the asylums shall consist of a governor, a deputy governor, a secretary, and a treasurer, and such other officers as the board of directors may deem necessary; to be appointed from disabled officers serving as before mentioned, and they may be appointed and removed from time to time, as the interests of the institution may require, by the board of directors.

SEC. 8. *And be it further enacted*, That the following persons only shall be entitled to the benefits of the asylum, and may be admitted thereto upon the recommendation of three of the board of directors, namely, all officers, soldiers, and seamen who have served in the present war and not provided for by existing laws, who have been or who may be disabled by wounds received or sickness contracted in the line of their duty; and such of these as have neither wife, child, or parent dependent upon them, on becoming inmates of this asylum, or receiving relief therefrom, shall assign thereto their pensions, when required by the board of directors, during the time they shall remain therein or receive its benefits.

SEC. 9. *And be it further enacted*, That the directors shall make an annual report of the condition of the asylum to the War Department, which shall be communicated to Congress on the first Monday of every January after the passage of this act, and it shall be the duty of the said directors to examine and audit the accounts of the treasurer, and visit the asylums quarterly.

SEC. 10. *And be it further enacted*, That all inmates of the asylum shall be, and they are hereby, made subject to the Rules and Articles of War, and will be governed thereby in the same manner as if they were in the Army or Navy of the United States.

SEC. 11. *And be it further enacted*, That the directors of the asylum shall have power and authority to aid persons who are entitled to its benefits by out-door relief in such manner and to such extent as they may deem proper, provided such relief shall not exceed the average cost of maintaining an inmate of the asylum.

SEC. 12. *And be it further enacted*, That Congress may at any time hereafter alter, amend, or repeal this act.

Mr. GRIMES. With the assent of the chairman of the Committee on Military Affairs, I move to amend the fifth section by striking out the words "or seamen" wherever they occur; they are to be found in the fourth, eighth, tenth, and twelfth lines.

The amendment was agreed to.

Mr. GRIMES. In section eight, line five, I move to strike out the words "and seamen," and before "soldiers," in line four, to insert "and."

The amendment was agreed to.

Mr. GRIMES. I move to strike out the words "or Navy" in line four of section ten.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. WILSON. I understand that the Senator from Iowa desires to make a further amendment to the bill, so as to insure the exclusion from its operation of seamen in the naval service; and to give him an opportunity to prepare his amendment, I move that the further consideration of the bill be postponed until to-morrow.

The motion was agreed to.

EXECUTIVE SESSION.

Several executive messages were received from the President of the United States, by Mr. W. G. Moore, his Secretary.

On motion by Mr. POMEROY, the Senate proceeded to the consideration of executive business; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, January 15, 1866.

The House met at twelve o'clock M. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Friday last was read and approved.

Committees were called for reports to go upon the Calendar, and not to be brought back by a motion to reconsider; but no such reports were presented.

The SPEAKER stated the next business in order to be the call of States for resolutions, commencing with the State of Maine.

TAX UPON HULLS OF VESSELS.

Mr. BLAINE submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be directed to inquire into the expediency of repealing the two per cent. tax upon the hulls of vessels as launched.

CONDITION OF THE PRESIDENT'S HOUSE.

Mr. RICE, of Maine, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Buildings and Grounds be, and they are hereby, instructed to examine and inquire into the condition of the Presidential Mansion as regards health, and whether it is suitable, as to locality, size, and convenience, for the residence of the President and family, and if not, whether grounds of proper extent, in a proper locality, can be procured upon which to erect a suitable mansion; and that they report such estimates and recommendations touching the subject hereby referred to them as they may see fit.

MILITARY AND NAVAL ASYLUM.

Mr. WOODBRIDGE introduced a joint resolution granting certain public property to the National Military and Naval Asylum; which was read a first and second time, and referred to the Committee on Military Affairs.

REPRESENTATIVES FROM ARKANSAS.

Mr. DELANO. I rise to a question of privilege. I present the credentials of Hon. William Byers, Hon. G. H. Kyle, and Hon. James M. Johnson, claiming seats in the Houses of Representatives from the State of Arkansas, accompanied by a memorial; and I ask their reference to the committee on reconstruction.

The motion was agreed to; and the papers were ordered to be printed.

Mr. DELANO. I ask for the reading of the memorial.

The SPEAKER. That would be in the nature of debate, and is not in order.

INSURANCE AGENTS.

Mr. ROLLINS submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of so amending the internal revenue laws that insurance agents, the net proceeds of whose business does not exceed twenty-five dollars per annum, shall not be required to take licenses.

FIRE AND MARINE INSURANCE COMPANIES.

Mr. ALLEY submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of requiring all fire and marine insurance companies to invest in Government securities and deposit a certain per cent. of their capital and receipts in the Treasury of the United States for the better security of the insured, and that they be allowed to insure in any part of the United States under such rules and regulations as Congress shall prescribe.

GENERAL ASSEMBLY OF CONNECTICUT.

Mr. DEMING submitted resolutions of the General Assembly of Connecticut, relating to the present condition of public affairs, adopted at its recent session in 1865; which were laid on the table, and ordered to be printed.

WILLIAM JOHN HARDING.

Mr. HUBBARD, of Connecticut, introduced a bill for the relief of William John Harding; which was read a first and second time, and referred to the Committee of Claims.

EXPEDITION TO CHILI.

Mr. LAFLIN submitted the following resolution:

Resolved, That the Committee on Printing be di-

rected to inquire into the expediency of continuing the publication of the remaining volume of the Naval and Astronomical Expedition to Chili, and that, until the committee report, the publication thereof be suspended.

Mr. BROOKS. I desire to ask if thus stopping the publication of this document until the House committee reports may not postpone the publication indefinitely. Is there not danger of that?

Mr. LAFLIN. I answer that this refers to a publication which was ordered some twelve years since, and which has been suspended for the last five or six years. The Superintendent of the Astronomical Observatory is now ready to present his report, and has notified the Superintendent of Public Printing that the manuscript is ready for the press. But inasmuch as there is some question as to what Department this printing belongs, and as there is also some question as to the propriety of publishing this fourth volume, it has been thought proper, at a meeting of the joint committee, that this resolution should be presented to the House.

The SPEAKER. If there is any further debate it must go over.

Mr. BROOKS. I have no objection, if it has been a subject of consideration by the committee.

The resolution was agreed to.

NATIONAL BANKS.

Mr. GOODYEAR submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Banking and Currency be instructed to inquire into the expediency of providing by law that any national bank now in existence be allowed, under such restrictions and regulations as may be approved by the Comptroller of the Currency, to change its place of business from its present location into any other State or Territory in the United States, and report by bill or otherwise.

CONSTITUTIONAL AMENDMENT.

Mr. CONKLING submitted the following resolution:

Resolved, That an amendment to the Constitution of the United States be submitted to the States for their ratification in one of the two following forms:

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of citizens of the United States: *Provided*, That whenever, in any State, civil or political rights or privileges shall be denied or abridged on account of race or color, all persons of such race or color shall be excluded from the basis of representation.

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of citizens of the United States: *Provided*, That whenever, in any State, the elective franchise shall be denied or abridged on account of race or color, all persons of such race or color shall be excluded from the basis of representation.

Mr. CONKLING. I move to refer the resolution to the committee on reconstruction; and upon that motion I demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was referred.

Mr. CONKLING moved to reconsider the vote by which the resolution was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

By unanimous consent, the resolution was ordered to be printed.

NATURALIZATION LAWS.

Mr. DARLING submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of amending the naturalization laws so as to provide that all persons, before taking the oath to support the Constitution of the United States, shall be required to read intelligently said Constitution; and report by bill or otherwise.

Mr. DARLING moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GENESEE RIVER.

Mr. HART submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of making an appropriation for the construction and completion of piers at the mouth of the Genesee river on Lake Ontario.

DUTY ON FOREIGN UMBRELLAS.

Mr. THAYER submitted the following resolution, upon which he demanded the yeas and nays:

Resolved, That the Committee of Ways and Means be instructed to inquire whether an increased duty should not be laid upon foreign umbrellas and parasols imported into this country, and that they have leave to report by bill or otherwise.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

BOUNTY TO REGULARS.

Mr. STROUSE submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of including non-commissioned officers, musicians, and privates of the regular Army, who were in the service at the breaking out of, and during a part or the whole of, the rebellion, in any bounties that may be paid to the volunteers who enlisted in 1861 and 1862.

WHITE SUFFRAGE IN DISTRICT OF COLUMBIA.

Mr. BROOMALL submitted the following preamble and resolution, upon which he demanded the previous question:

Whereas all just government derives its powers from the consent of the governed; and whereas, the best mode of obtaining that consent is by means of the ballot-box; and whereas the white men of the District of Columbia have recently decided by that means that, in their opinion, the black man should not be allowed the right of suffrage; Therefore,

Resolved, That the Committee for the District of Columbia be instructed to inquire into the expediency of ordering an election, at which the black men of the District shall decide by ballot whether or not, in their opinion, the white men should be allowed the right of suffrage.

[Great laughter.]

The previous question was seconded, and the main question ordered.

Mr. BROOKS demanded the yeas and nays on the resolution.

Mr. JOHNSON. I wish to inquire if my colleague if that resolution would not prevent members of Congress from voting in this House in the District of Columbia. [Laughter.]

Mr. BROOMALL. I think not.

Mr. SPALDING moved that the resolution be laid upon the table.

Mr. HARDING, of Kentucky, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 138, nays 12, not voting 32; as follows:

YEAS—Messrs. Alley, Allison, Ancona, Anderson, Baker, Banks, Baxter, Beaman, Benjamin, Bergen, Bidwell, Bingham, Boutwell, Boyer, Brandegee, Bromwell, Brooks, Buckland, Bundy, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Davis, Dawes, DeFrees, Delano, Deming, Denison, Dixon, Donnelly, Driggs, Eckley, Eggleston, Eldridge, Eliot, Farnsworth, Farquhar, Ferry, Finck, Glossbrenner, Goodyear, Grider, Griswold, Aaron Harding, Abner C. Harding, Hart, Hayes, Hill, Hogan, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbard, James R. Hubbard, Hulburd, James Humphrey, James M. Humphrey, Jencks, Johnson, Julian, Kasson, Kelley, Kerr, Ketcham, Kykendall, Ladin, Latham, George V. Lawrence, William Lawrence, Le Blond, Lynch, Marshall, Marston, Marvin, McCullough, McKee, McRuer, Mercer, Miller, Moorhead, Morrill, Morris, Nicholson, Noell, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Pomroy, Price, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rogers, Rollins, Ross, Sawyer, Schenck, Seofield, Shanklin, Shellabarger, Sitgreaves, Smith, Spaulding, Stillwell, Strouse, Taber, Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trimble, Trowbridge, Upson, Van Aernam, Elihu B. Washburne, William B. Washburn, Welker, James F. Wilson, Stephen F. Wilson, Windom, Winfield, and Woodbridge—138.

NAYS—Messrs. Delos R. Ashley, James M. Ashley, Broomall, Grinnell, Hale, Henderson, Higby, Kelo, Longyear, Starr, Stevens, and Williams—12.

NOT VOTING—Messrs. Ames, Baldwin, Barker, Blaine, Blow, Culver, Dawson, Dumont, Garfield, Harris, Holmes, Hooper, Hotchkiss, Ingersoll, Jones, Loan, McClurg, McIndoe, Moulton, Myers, Nowell, Niblack, Rousseau, Sloan, Burt Van Horn, Robert F. Van Horn,

Voorhees, Ward, Warner, Wentworth, Whaley, and Wright—32.

So the resolution was laid upon the table.

MILEAGE OF MEMBERS OF CONGRESS.

Mr. ANCONA submitted the following resolution, upon which he demanded the previous question:

Resolved, That the Committee on Mileage be, and they are hereby, directed to bring in a bill at an early day fixing the rate of mileage, so as to equalize the compensation of Senators and Representatives in Congress.

The previous question was seconded, and the main question ordered; which was upon agreeing to the resolution.

Mr. BENJAMIN moved to lay the resolution upon the table.

Mr. ANCONA asked for the yeas and nays on the motion to lay the resolution on the table; and also demanded tellers on ordering the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

The question was upon laying the resolution upon the table.

Mr. FARNSWORTH. I would ask the gentleman from Pennsylvania [Mr. ANCONA] to modify his resolution, so as to make it one of inquiry, and not mandatory upon the committee.

Mr. BENJAMIN. I would have no objection to a resolution of inquiry, but I am opposed to this resolution in its present form.

Mr. ANCONA. I would prefer not to modify the resolution.

Mr. FARNSWORTH. It is not usual to instruct a committee peremptorily in relation to such matters.

The SPEAKER. Debate is not now in order.

Mr. RANDALL, of Pennsylvania. Would it be in order for me to ask my colleague [Mr. ANCONA] to amend his resolution so as to instruct the committee to report the amounts of mileage now paid to members respectively?

The SPEAKER. The main question has been ordered, and there is a motion pending to lay the resolution on the table. Debate, therefore, is not now in order.

The question was taken on laying the resolution upon the table; and upon a division there were—ayes 34, noes 74.

So the resolution was not laid on the table.

The resolution was then agreed to.

Mr. ANCONA moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

UNITED STATES CHRISTIAN COMMISSION.

Mr. KELLEY submitted the following resolution, upon which he demanded the previous question:

Resolved, That the use of the Hall of the House be granted to the United States Christian Commission, on the evening of Sunday, the 11th of February, for the purpose of holding its anniversary meeting.

The previous question was seconded, and the main question ordered, which was upon agreeing to the resolution.

The question was taken; and upon a division there were—ayes 84, noes 32.

Mr. WASHBURN, of Illinois, called the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 117, nays 38, not voting 27; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baker, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blow, Boutwell, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Darling, Davis, Dawes, DeFrees, Delano, Deming, Dixon, Donnelly, Driggs, Eckley, Eggleston, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Holmes, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, James Humphrey, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Latham, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McCullough, McKee, Mercer, Morrill, Moulton, O'Neill, Paine, Perham, William H. Randall, Alexander H. Rice, Chester D. Hubbard, Jones, Ketcham, McIndoe, Myers, Newell, Patterson, Rousseau, Robert T. Van Horn, Voorhees, Warner, Wentworth, Whaley, Stephen F. Wilson, and Woodbridge—77.

John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Smith, Spalding, Starr, Stevens, Stillwell, Taylor, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, William B. Washburn, Welker, Williams, James F. Wilson, Stephen F. Wilson, Windom, Winfield, and Woodbridge—117.

NAYS—Messrs. Ancona, Delos R. Ashley, Bergen, Boyer, Brandegee, Brooks, Chanler, Dawson, Denison, Eldridge, Farnsworth, Finck, Glossbrenner, Goodyear, Aaron Harding, Hill, Edwin N. Hubbell, James M. Humphrey, Johnson, Kasson, Kerr, Kuykendall, Latham, Le Blond, Marshall, Niblack, Noell, Phelps, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Strouse, Taber, Thornton, Trimble, and Elihu B. Washburne—38.

NOT VOTING—Messrs. Baldwin, Blaine, Cullom, Culver, Dumont, Eliot, Grider, Harris, Hogan, Hooper, Hotchkiss, Jones, George B. Lawrence, McIndoe, McCruer, Moulton, Myers, Newell, O'Neill, Rousseau, Francis Thomas, Robert T. Van Horn, Voorhees, Warner, Wentworth, Whaley, and Wright—27.

So the resolution was agreed to.

Pending the call of the roll,

Mr. McCULLOUGH stated that his colleague, Mr. HARRIS, was absent from his seat on account of sickness.

TEST OATH FOR ATTORNEYS AT LAW.

Mr. STEVENS submitted the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of so amending the act of 24th January, 1865, relating to the test oath, as to allow attorneys at law to practice their professions without taking said oath, on an equal footing with the members of all other professions.

Mr. STEVENS. If there is no objection I will say one word by way of explanation. By the act to which reference has been made in the resolution, and which was well enough during the war, attorneys at law were prohibited from practicing their profession without taking an oath that they had never been engaged in the rebellion. Members of no other professions were required to take that oath. Since the war is over, these attorneys, desiring to resume the practice of their profession and to make a living at it, are prohibited from practicing by that law. I can see no objection to their being put upon an equal footing with all other professions. Hence I offer this resolution of inquiry.

The question was taken upon agreeing to the resolution; and, upon a division, there were—ayes 78, noes 38.

Mr. SPALDING called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 82, nays 77, not voting 23; as follows:

YEAS—Messrs. Alley, Ames, Ancona, Bergen, Blow, Boyer, Brooks, Buckland, Bundy, Chanler, Cobb, Cook, Darling, Davis, Dawson, Denison, Driggs, Eldridge, Farquhar, Ferry, Finck, Glossbrenner, Goodyear, Grider, Griswold, Hale, Aaron Harding, Abner C. Harding, Higby, Hill, Hogan, Hooper, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, James Humphrey, James M. Humphrey, Ingersoll, Johnson, Kasson, Kerr, Kuykendall, Latham, George V. Lawrence, Le Blond, Marshall, Marston, Marvin, McCullough, McKruer, Miller, Moorhead, Niblack, Nicholson, Noell, Orth, Phelps, Pike, Plants, Pomeroy, Price, Radford, Samuel J. Randall, Raymond, Ritter, Rogers, Ross, Sawyer, Shanklin, Sitgreaves, Smith, Stevens, Stillwell, Strouse, Taber, Taylor, Thayer, Francis Thomas, Thornton, Trimble, Trowbridge, and Winfield—82.

NAYS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Baker, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Reader W. Clarke, Sidney Clarke, Conkling, Dawes, DeFrees, Delano, Deming, Dixon, Donnelly, Eckley, Eggleston, Eliot, Farnsworth, Grinnell, Hart, Hayes, Henderson, Holmes, Asahel W. Hubbard, Demas Hubbard, Hulburd, Jenckes, Julian, Kelley, Kelso, Laffin, William Lawrence, Loan, Longyear, Lynch, McClurg, McKee, Mercer, Morrill, Morris, Moulton, O'Neill, Paine, Perham, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, John L. Thomas, Upson, Van Aernam, Burt Van Horn, Ward, Elihu B. Washburne, William B. Washburn, Welker, Williams, James F. Wilson, Windom, and Woodbridge—77.

NOT VOTING—Messrs. Baldwin, Broomall, Cullom, Culver, Dumont, Garfield, Harris, Hotchkiss, Chester D. Hubbard, Jones, Ketcham, McIndoe, Myers, Newell, Patterson, Rousseau, Robert T. Van Horn, Voorhees, Warner, Wentworth, Whaley, Stephen F. Wilson, and Wright—23.

So the resolution was agreed to.

INTER-STATE COMMUNICATION.

Mr. WASHBURN, of Illinois. The bill (H. R. No. 11) to facilitate commercial, postal,

and military communication among the several States, which the House asked to be returned from the Senate, is on the Speaker's table. I ask unanimous consent that the vote by which that bill was passed by the House be reconsidered, and that the bill be referred to the Committee on the Judiciary. A question has arisen with reference to the construction of that bill; and I think that the question ought properly to be decided by that committee. I trust there will be no objection.

The SPEAKER. If there is no objection, the vote by which the bill was passed will be regarded as reconsidered, and the bill will be referred to the Committee on the Judiciary.

There was no objection.

Mr. WASHBURN, of Illinois. I ask that the Committee on the Judiciary be authorized to report on this subject at any time.

Mr. JOHNSON. I object.

Mr. WASHBURN, of Illinois. I move to suspend the rules that I may make that motion.

The motion to suspend the rules was not agreed to.

FURNITURE OF EXECUTIVE MANSION.

Mr. KASSON. Mr. Speaker, I rise to ask the consent of the House to make a very brief statement, the result of an actual examination by a committee, touching a libel published in a New York paper, upon the late President of the United States and his widow.

The SPEAKER. The Chair hears no objection. The gentleman will proceed.

Mr. KASSON. On Friday last—I believe that was the day—a very bitter partisan paper of New York city published a statement involving the charge of larceny, by direct action or by consent, against both the late President and the unfortunate lady who was bereaved under circumstances so well known to the country, and the world, charging in point of fact that public property, bought and paid for by the United States, had been by them removed from the White House for their private advantage. I wish, at this early stage, before falsehood has traveled with too great speed over this country and abroad, to say to the House, and through the House to the country, that at the time that charge was made the Committee on Appropriations, in considering the propriety of additional appropriations for refurnishing the White House, were making an examination touching the alleged disappearance of property from the Executive Mansion; and the result of that investigation, with the examination of numerous witnesses, is this: that, with one single exception, not one solitary article ever paid for by the money of the United States can be found to have been removed, by any authority whatever connected with the occupancy of the White House, from the possession of the officer in charge of the mansion.

The only instance which is found which could possibly furnish a foundation for the charge is that one article used familiarly in the White House for some years was stated by the widow of the late President to have been the object of his admiration, and, as associated with him, she asked permission that that might be taken with her private property from the White House. Instead of taking it without leave, the matter was stated to the officer in charge, by him to the Commissioner of Public Buildings, by him to the present Secretary of the Interior, who said that, under the circumstances, he could not believe that the people of this country or any part of them would be opposed to her taking from the mansion that memento associated with the memory of her late husband. The whole value of it was perhaps one hundred and fifty dollars. With that exception, not one single article has been removed, so far as the committee could find; and some dozen witnesses living and occupying at the White House subordinate positions, and associated with that House have been examined.

And I wish, sir, to ask at this time that the Associated Press, that the manhood of the House, that the magnanimity of the country, may not only crush the slander, but, if possi-

ble, crush the slanderers who dared to attack a woman bereaved of her husband, and the widow of a President martyred for the sake of his country, as the President was.

Mr. HIGBY. Allow me to ask the gentleman a question. To what paper does the gentleman refer?

Mr. KASSON. I learned from the New York Herald that it was produced in a paper styled "Ben Wood's paper," in New York city. I take that paper to be the New York Daily News. I have not seen the paper, but I give the authority on which my statement has been made.

Mr. Speaker, I wish to say further that the charge of a large number of boxes which appeared at the White House and were removed from it, turns out to be that a large number of them were little boxes in which the lady of the White House was accustomed to send to officers of the Army and others of her friends bouquets of flowers from the White House, which she had a perfect right to do.

Mr. SPALDING. Let me ask the gentleman from Iowa whether the injunction of secrecy has been removed from the proceedings before the committee to which he refers, and whether he now speaks by authority of that committee?

Mr. KASSON. Mr. Speaker, I have deemed it to be due, as one member of that committee, to make the statement to the country that I now make, in order at least that no credit may be given to the charge in the absence of all proof, and when, so far as we have examined, there is no authority for it at all.

Mr. SPALDING. Does the gentleman profess to be the mouth-piece of the committee, or only to speak for himself?

Mr. KASSON. I speak for myself as a member of the committee, and as a man designing deliberately to defend the reputation of a defenseless woman, associated as she has been with our martyred President.

Mr. STEVENS. That is all right; but I beg leave to say that the House will distinctly understand that what the gentleman has stated is no decision that this committee of the House has come to. I do not say what decision that committee may come to; but I say simply that they have come to no conclusion on the subject.

Mr. KASSON. I think the gentleman will not state that the result, so far as it has gone, is not what I have stated it to be.

Mr. STEVENS. I do not mean to say anything about it, because it would be improper. All I wish to say is that the gentleman is not the voice of that committee.

Mr. KASSON. I have the authority, for what I have stated, of one person who has participated in the examination.

Mr. SPALDING demanded the regular order of business.

SUFFRAGE IN THE DISTRICT OF COLUMBIA.

The morning hour having expired, the House, agreeably to order, resumed the consideration of the bill (H. R. No. 1) extending the right of suffrage in the District of Columbia; on which Mr. Kasson was entitled to the floor.

Mr. BENJAMIN. I ask the gentleman to yield to me in regard to the question now before the House.

Mr. KASSON. I yield for that purpose.

Mr. BENJAMIN. Mr. Speaker, I saw a paragraph, reported in the Globe, of the speech of the gentleman from New Jersey, [Mr. ROGERS,] when giving his views of the effect of this bill, that I desire may be read to the House.

The Clerk read, as follows:

"This bill goes further than ever has pretended by any State where legislation has been had on the subject. If that bill passes, it allows the negroes not only to have the right to vote, but to become judges of the courts, mayors of the city, and to hold the highest offices within the gift of the qualified voters of the District. That is its effect, and it will not be contradicted by any one on the other side. As it has been reported by the Judiciary Committee, it not only allows these negroes to vote, but to hold any office to which they may be elected. Such a course would disgrace and degrade us before the nations of the earth. Shall this fair temple, which has been reared

by the genius and wisdom of our fathers, be despoiled, and the city built in the name of Washington be so far insulted that a black man shall be mayor of the city or sit as judge in the capital of the United States; that a negro shall preside over the rights and liberties of white men and women in this District?"

Mr. BENJAMIN. Mr. Speaker, the construction of the gentleman from New Jersey has led me to examine the bill and to see what was its effect. It has gone to the country that this is not only a bill extending the right of suffrage to the negro, but that it also renders him eligible to any of the offices within the gift of the people of this District. I say, sir, that I have examined the bill particularly and critically, and there is nothing expressed in the title of the bill, nor can I see anything of the kind in the language of the bill, from which such a construction could be drawn. It purports to be a bill to extend the right of suffrage, and the right of suffrage alone. I think there is nothing from which the gentleman can infer that the bill intended the colored people should be made eligible to office here. I would like to ask of the gentleman from Pennsylvania [Mr. KELLEY] to state to the House whether such was the purpose of the bill.

Mr. KELLEY. The purpose of the bill, as I understood it, when reduced to form, was to invest all the citizens of the District of Columbia with the right of citizenship. I did not consider anything beyond the primary question of giving them the right of suffrage. I did not know what would be its legal construction. Does the gentleman desire to know my wishes rather than my views?

Mr. BENJAMIN. I desire to know the views of the gentleman as a lawyer as to its legal construction.

Mr. KELLEY. If the gentleman desires it I will ask to have the bill read. My views are, as I have stated, that it invests all the citizens of the District with all the rights of citizenship.

Mr. ROGERS. Let us have the bill read.

A MEMBER objected.

Mr. KELLEY. I would add that if it should be found at the next election, or at any subsequent election, that there is in the District a black man so eminently superior to all the white men as that, in the face of the prejudice that now crushes the race, the white men should believe that he would make the best mayor, or alderman, or supervisor, that they could find, they should have a right to his preëminent service. I would inquire of the gentleman whether he believes that any citizen of the United States should be debarred from the right to hold office or to vote for the man whom he believes to be most capable to fill office.

Mr. BENJAMIN. I will say in relation to that, that if such is the construction that is to be given to the bill, or if there is anything in it that will bear that construction, I shall at the proper time move to amend the bill in that respect, restricting its operations solely to the right of suffrage in the District, not making it include eligibility to office.

Mr. KASSON rose.

CORRECTION OF A BILL.

Mr. SCHENCK. With the permission of the gentleman from Iowa, [Mr. KASSON,] I ask unanimous consent to correct a mistake made by the Printer of the House in joint resolution No. 1. In the ninth line, as printed, the provision reads, "And Representatives shall be appointed among the several States." It should be, "And Representatives shall be apportioned among the several States."

The SPEAKER. The Chair is informed that the correction has been made.

RAILROAD AND TELEGRAPH LINE.

Mr. BIDWELL, by unanimous consent, introduced a bill granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad in California, to Portland, in Oregon; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

G. C. LANPHIER.

Mr. INGERSOLL, by unanimous consent,

introduced a bill for the relief of G. C. Lanphier; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

LIEUTENANT JOSEPH TIFT.

Mr. LAWRENCE, of Ohio, by unanimous consent, introduced a bill to restore Lieutenant Joseph Tift to his grade in active service in the Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

CONSTITUTIONAL AMENDMENT.

Mr. ORTH, by unanimous consent, introduced a joint resolution, submitting to the Legislatures of the several States propositions to amend the Constitution of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

The bill provides that Representatives be apportioned among the several States according to the number of male citizens over twenty-one years of age, having the qualifications requisite for electors of the most numerous branch of the State Legislature, and that Congress, at their first session after the ratification, shall provide for the actual enumeration of voters, and such actual enumeration shall be separately made in a general census every ten years. The number of Representatives not to exceed one for every one hundred and twenty-five thousand inhabitants.

UNITED STATES CHRISTIAN COMMISSION.

Mr. KELLEY. With the permission of the gentleman from Iowa, [Mr. KASSON,] I move to reconsider the motion by which the resolution was passed granting the use of this House to the United States Christian Commission, and that that motion to reconsider be laid upon the table.

The latter motion was agreed to.

SUFFRAGE IN THE DISTRICT OF COLUMBIA.

Mr. KASSON. Mr. Speaker, when the gentleman from Pennsylvania, [Mr. KELLEY,] who introduced the bill regulating suffrage in the District of Columbia, spoke the other day he announced his confidence in the opinion of the fathers of the country, and particularly of Madison, touching the proper construction of the Constitution of the United States. In that connection he criticized the declaration of the President of the United States in his message, touching the construction of the Constitution as to the power of Congress to prescribe the qualifications of voters in the several States. He suggested, it seemed to me, somewhat patronizingly toward the President, that his engagements as Governor of the State of Tennessee rendered it impracticable for him to ascertain the opinions of the fathers of the country, and he is to be excused for his error, but still that it is an error, particularly concerning Mr. Madison's opinion upon the construction of the Constitution. I wish, before entering directly upon the bill in dispute, to call attention to the declarations upon this subject which he introduced into his speech. He says, after criticizing and opposing the declarations of President Johnson:

"I turn to James Madison to vindicate the sagacity of the founders of our Government. Those founders built not for a generation but for all time. They were skillful architects, and understood the laws and principles of the business they undertook. They built by square and compass and rule, and omitted neither corner-stone nor keystone from any arch in the temple they constructed to be the abode of freedom in all time. They made it the duty of the United States Government to guarantee to each State a republican form of Government; and having done that they did not fail to provide the means by which the Government on which they had laid that duty should be able to perform it. And they gave Congress the amplest power to execute that section, when, in section four, article one, they provided that—

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may, at any time, by law, make or alter such regulations, except as to the places of choosing Senators."

And, then, in order to support his declaration, that under the word "manner" in that clause of the Constitution the Government of the United States has a right to prescribe the qualifi-

cations of voters, he cites from Elliott's Debates the following declaration of Mr. Madison:

"Some States might regulate the elections on the principle of equality, and others might regulate them otherwise. This diversity would be obviously unjust. Elections are regulated now unequally in some States, particularly South Carolina, with respect to Charleston, which has a representation of thirty members. Should the people of any State by any means be deprived of the right of suffrage, it was judged proper that it should be remedied by the General Government."

Under that declaration he teaches this House, and, through the House, the country, what I regard as the dangerous doctrine that there is no absolute right left to a State in this Union to prescribe the qualifications of voters within that State. I repudiate it as a construction of the Constitution; I repudiate it as a proper construction of the language of Mr. Madison; and I ask the attention of the House to it, especially of those who are accustomed to regard the opinions of Madison, Jefferson, Hamilton, and the framers of the Constitution as controlling guides in the construction of that instrument. The gentleman from Pennsylvania failed to read that other clause of the Constitution preceding the one which he quoted, which declares expressly that—

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

He therefore assumes that this express declaration of the Constitution of the United States is overruled by that general declaration that the "manner" of the election of members of Congress may be controlled by the Congress of the United States.

Now, sir, perhaps, the first question to consider is what is the proper rule for the construction of the Constitution; and I appeal to the gentleman's own authority upon that subject, namely, President Madison. Mr. Madison, in a letter to Mr. Hurlbert, dated May, 1830, which is to be found in the fourth volume of the works of Madison, page 73, gives the rule in the following language:

"I refer particularly to the construction you seem to put on the introductory clause, 'we, the people,' &c., and on the phrases 'common defense and general welfare.'"

And let me say, Mr. Speaker, we have been very apt for the last few years to assume that we have very wide powers indeed under these general introductory phrases of the Constitution. Mr. Madison says what was meant by them in the following language:

"Either of these, if taken as a measure of the powers of the General Government, would supersede the elaborate specifications which compose the body of the instrument, in contravention to the fairest rules of interpretation. And if I am to answer your appeal to me as a witness, I must say that the real measure of the powers meant to be granted to Congress by the Convention, as I understood and believe, is to be sought in the specifications to be expounded, indeed, not with the strictness applied to an ordinary statute by a court of law, nor, on the other hand, with a latitude that, in the name of means for carrying into execution a limited Government would transform it into a Government without limits."

That was the declaration of Mr. Madison, and the rule that, in his judgment, ought to guide us in the interpretation of the Constitution. I put it to the gentleman from Pennsylvania, that Mr. Madison never intended that this general declaration in regard to "time, place, and manner" was to supersede the explicit declaration of the Constitution that left the regulation of the suffrage as a reserved right to the States.

But, sir, I am not left merely to the declaration of the rule of construction by Mr. Madison. I cite from the same letter the following declaration:

"States can, through forms of the constitutional elective provisions, control the General Government. This [the General Government] has no agency in electing State governments, and can only control them through the functionaries, particularly the Judiciary, of the General Government."

Thus he expressly repudiates the idea that we can interfere in the election of State governments, and declares that they, by their constitutions fixing the qualifications of voters, may control the General Government as far as it may be controlled by prescribing the qualifications of electors.

Well, sir, if it is still doubted or disputed that my statement of the views of Mr. Madison is correct, I will ask the Clerk to read from the Federalist the declaration of Mr. Madison, which entered into the consideration of the country at the time it adopted the Constitution of the United States, that they may learn explicitly that President Johnson was not in error, and that this very dangerous power was not conceded to the General Government. I refer to the passage, from paper No. 52 of the Federalist, written by Mr. Madison, touching the proper construction to be given to that clause. It reinforces the opinion of Mr. Madison, in 1830, by his deliberate construction given prior to the adoption of the Federal Constitution.

The Clerk read, as follows:

"From the more general inquiries pursued in the four last papers I pass on to a more particular examination of the several parts of the Government. I shall begin with the House of Representatives. The first view to be taken of this part of the Government relates to the qualifications of the electors and the elected. Those of the former are to be the same with those of the electors of the most numerous branch in the State Legislatures. The definition of the right of suffrage is very justly regarded as the fundamental principle of republican government. It was incumbent on the Convention, therefore, to define and establish this right in the Constitution. To have left it open for the occasional regulation of Congress would have been improper, for the reason just mentioned; and for the additional reason that it would have rendered too dependent on the State governments that branch of the Federal Government which ought to be dependent on the people alone. To have reduced the different regulations in the different States to one uniform rule would probably have been as dissatisfactory to some of the States as it would have been difficult to the Convention. The provision made by the Convention appears, therefore, to be the best that lay within their option. It must be satisfactory to every State, because it is conformable to the standard already established or which may be established by the State itself. It will be safe to the United States, because, being fixed by the State constitutions, it is not alterable by the State governments, and it cannot be feared that the people of the States will alter this part of their constitution in such manner as to abridge the rights secured to them by the Federal Constitution."

Mr. KASSON. Now, Mr. Speaker, it is evident that something else than the direct repeal of the explicit clause quoted by the gentleman from Pennsylvania [Mr. KELLEY] was meant by Mr. Madison in his declaration made in the convention of Virginia. It is evident that by the word "manner" is meant something else; perhaps whether by ballot or *viva voce*, by general ticket or by separate districts, and all other things that come properly under the term "manner." But it evidently was never intended by Mr. Madison, or by the framers of the Constitution, or by the people when they adopted it, that the Legislatures and conventions of the several States might be deprived of the power to say who should be the qualified electors of the State Legislatures, and indirectly the qualified electors of members of Congress; and the declarations I have cited, made at the time of the adoption of the Constitution, and again some forty years afterwards, are ample to show that fact.

I speak with more seriousness upon this subject, because in time of war I am for a construction of the Constitution favorable to effective power in the General Government. It is necessary that there shall be central power and vigor in its operations at that time; but in time of peace I am equally for the powers of the States, and all doubtful constructions to be given in favor of the States for the preservation of that municipal liberty which is the very foundation of the grand national liberty attempted to be secured by the Constitution of the United States.

Mr. KELLEY. Will the gentleman from Iowa [Mr. KASSON] yield to me for a moment?

Mr. KASSON. Certainly.

Mr. KELLEY. The gentleman says that it is very evident that Mr. Madison did not mean what I suggested. Will he permit me briefly to recall Mr. Madison's own language to his attention in this respect? And I will add, the subject which he was discussing was entirely apart from the question, whether the vote should be by ballot or *viva voce*, which he had discussed elsewhere, when Mr. Madison says this:

"Some of the States might regulate the elections on the principles of equality; and others might regulate them otherwise. This diversity would be obviously unjust. Elections are regulated now unequally in some of the States, particularly South Carolina, with respect to Charleston, which has a representation of thirty members. Should the people of any State, by any means, be deprived of the right of suffrage, it was adjudged proper that it should be remedied by the General Government."

ously unjust. Elections are regulated now unequally in some of the States, particularly South Carolina, with respect to Charleston, which has a representation of thirty members. Should the people of any State, by any means, be deprived of the right of suffrage, it was adjudged proper that it should be remedied by the General Government."

The question was not, I repeat, whether the people should vote by ballot or *viva voce*; but whether the people could be deprived of the right of suffrage, and if they were so deprived whether the General Government could not remedy the evil. Again, he says:

"It was found necessary to leave the regulation of this, in the first place, to the State governments, as being best acquainted with the situation of the people, subject to the control of the General Government, in order to enable it to produce uniformity."

And finally he said:

"Were they exclusively under the control of the State governments, the General Government might easily be dissolved. But if they be regulated properly by the State Legislatures, the congressional control will very probably never be exercised. The power appears to me satisfactory, and as unlikely to be abused as any part of the Constitution."

I have sent for, and hope to obtain, another extract, which, should I do so, I will ask leave to submit during the course of the remarks of the gentleman from Iowa. It as directly pointed to the question of the right of suffrage as the citations I have submitted.

Mr. KASSON. Mr. Speaker, this is but a renewed declaration of the statements which the gentleman made the other day, and which are so explicitly controverted by the direct language of Mr. Madison upon the other clause of which I speak. I say that *prima facie* "manner" does not embrace electoral qualifications, and it is absurd to declare that the Constitution intended, or that Mr. Madison understood the Constitution as intending, by the word "manner," to give to Congress the right to prescribe the qualifications of electors, in the face of the direct declaration that those qualifications were to be the same as those of electors of the most numerous branch of the State Legislature. I ask the gentleman from Pennsylvania whether he does now and here maintain that Congress has the right to prescribe the qualifications of electors of the most numerous branch of the State Legislature of Pennsylvania.

Mr. KELLEY. I do affirm, promising to produce quotations sustaining the affirmation, that James Madison did maintain that Congress had that right; that, inasmuch as it had the right to regulate the question of suffrage, and as those who voted for the lower branch of the State Legislature were to vote for officers of the United States Government, Congress had the right to determine who might thus vote. I unhappily have not the authority by me; but I will produce it.

Mr. KASSON. I am very glad, Mr. Speaker, that the issue is now sharp and well defined—

Mr. ROGERS. Will the gentleman from Iowa yield to me a moment, that I may ask the gentleman from Pennsylvania a question?

Mr. KASSON. Yes, sir.

Mr. ROGERS. I ask the gentleman from Pennsylvania to explain what, according to his view, is the meaning of the first clause of the second section of the first article of the Constitution, which reads thus:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

Mr. KASSON. The gentleman from New Jersey [Mr. ROGERS] is not perhaps aware that I read that clause as the foundation of my intercolony with the gentleman from Pennsylvania.

Mr. ROGERS. But the gentleman from Pennsylvania has not undertaken to say what that clause means, why it is there, what its object is.

Mr. KASSON. I understand him to say that, although it is there, the Congress of the United States has the right, under the other clause, to change it.

Mr. KELLEY. No, sir. I mean to say that James Madison said that to give effect to all the provisions of the Constitution, and pointing

directly to the one referred to, it was essential that the power which he asserted for Congress should have been confided to it by the Constitution. That is what I mean to say.

Mr. KASSON. I resume, Mr. Speaker, and I say that I like a sharp and well-defined issue; and on the position which the gentleman assumes, that the Congress of the United States, under the word "manner" in the Constitution, has the right to say who shall vote and who shall not vote in the State of Iowa or any other State, I do explicitly take issue with him.

Mr. KELLEY. Then I hope that the gentleman will present the issue correctly. It is not upon our abstract opinions; it is as to the expressed opinion of James Madison. That is the issue.

Mr. KASSON. Mr. Speaker, if the gentleman from Pennsylvania did not mean to indorse the opinion of James Madison, why did he quote it? What does he mean by throwing upon the country an interpretation of the Constitution in that way on the authority of James Madison, unless he means to indorse it.

Mr. KELLEY. If the gentleman wishes to raise that issue, I say that I am for the Constitution in all its breadth; I am for it as it was understood by Washington and Madison; I am for it as embodying all those powers which Washington and Madison considered essential to its maintenance; and I am for it with the power inhering in Congress to so regulate the suffrage as to give the right of suffrage to every male citizen of the country of twenty-one years of age, whether a citizen by birth or naturalization. Now we have the two issues: the one as to what doctrine Madison maintained, and the other as to which of us, the gentleman from Iowa or myself, is right in our construction of the Constitution.

Mr. KASSON. Mr. Speaker, I am sorry that the gentleman from Pennsylvania did not come to the point. He neither accepts the declaration of Mr. Madison, nor does he expressly repudiate it.

Mr. KELLEY. I did and do accept it.

Mr. KASSON. It is not enough for the gentleman to say to me that he agrees with Washington, Jefferson, and Madison, and is for the Constitution in its breadth. I agree with him in that respect; I am for the Constitution in its breadth. I am also for the Constitution in its narrowness, if narrowness exists. I am for the Constitution either way. And I say, and on this I have made issue with the gentleman, that the Constitution does not contemplate, and Mr. Madison does not claim it as contemplating, that the Congress of the United States shall have the right to prescribe who shall vote in my State or any other State for members of the most numerous branch of the State Legislature.

Now, sir, I take that issue again. I referred to the *Federalist*, No. 52, which I think the gentleman from Pennsylvania [Mr. KELLEY] did not hear, in which Mr. Madison, over his own well-known signature, declared that it was expressly committed to the State governments to determine that; for in that way they indirectly determined who should vote for members of Congress, and it was unsafe to give it to the Congress of the United States.

Sir, we have had during the war necessarily a great disposition, in which I have shared, to allow the Constitution of the United States to be interpreted broadly—broadly in the interests of the integrity of the country; broadly for the prosecution of the war; broadly for the maintenance of the life of the Union; and I have not one single declaration I have ever made in that direction to take back at this time.

I say that it is one of the glories of that Constitution, it is one of the elements of perpetual national safety involved in that Constitution, that it is flexible in its application to times and events, and in this war the liberal construction of it, in my judgment, has secured the triumphs of the armies of the Union. In time of peace the further prosecution of an interpretation of the Constitution toward a centralization of the power of the Federal Govern-

ment, or the broad interpretation that takes from the States the right of prescribing the qualification of electors to the most numerous branch of the State Legislatures, is most dangerous to the rights and liberties of the people of the United States; and I desire to enter my solemn protest against that construction.

Sir, the question is before my State to-day whether they will strike the word "white" out of the State constitution prescribing the qualification of the electors. I think that the word "white" should be stricken out of the State constitution, because that would enable our Legislature to allow qualified colored men to vote, which it cannot now do.

Now, shall we allow this Congress, when composed of Democratic majorities, to come in and say to my State that we shall not allow the black men to vote, even for the most numerous branch of the State Legislature? No, sir, the Constitution secures expressly the right to each State to determine that, and their determining that determines who shall vote for members of the Congress of the United States. And this is an inherent power in the States that we should guard with great jealousy; and we should not allow ourselves to give currency to the declaration that Congress, representing all States of the Union, may, by majorities combined from other States, declare the qualification in any State of persons who shall be permitted to vote therein.

Now, I leave that subject to the consideration of the House, and I will call attention, as briefly as I can, to the rules that, in my judgment, ought to be applied to this question of the right of suffrage in the District of Columbia. I wish it were possible for us to admit those things which cannot be disputed, and reject those things which, as worthy of rejection, cannot be disputed, and come right down to the single narrow point involved in this debate.

Mr. STEVENS. Will the gentleman allow me to ask him a question?

Mr. KASSON. Certainly.

Mr. STEVENS. I ask the gentleman whether this bill denies to the States the right to fix the qualifications of the electors of the most numerous branch of the State Legislatures.

Mr. KASSON. Perhaps the gentleman from Pennsylvania did not hear or read the speech of his colleague from Philadelphia, [Mr. KELLEY,] who is the father of this bill, and in which he raised that point of debate; I therefore deem it proper to reply to that portion of his speech.

Now, sir, what is the proposition before the House to-day? It is, shall the black people of the District of Columbia be permitted to participate in the future elections of the District as fully as the white population under existing laws are allowed to participate in them? This raises the question touching the proper foundation of the right of suffrage. If it be a natural right, if it be one of those rights like personal liberty, like the right of exercising personal conscience, then, sir, I am for it as heartily as I was for the amendment to the Constitution, which secured the right of personal liberty to every human being in the United States.

If on the other hand the right of suffrage is a conventional right; is one that is rightfully more or less restricted as the laws of the land may prescribe; if every citizen has not the right to demand a vote, then, of course, it is a matter for the discretion of this House how many persons shall be authorized to exercise it.

Now, sir, in the history of this country we have excluded certain classes generally from taking part in the election. We have excluded the Chinese, we have excluded all pagans, we have excluded Indians as a general rule, we have excluded white males under twenty-one years of age, we have excluded women of all ages irrespective of intelligence or tax paying. We have thus actually, through the whole history of this country, recognized certain qualifications as necessary for participating in the elections by which our Government is controlled, and I may add that in most of the States the black population has been wholly or par-

tially excluded. I do not know of any one State in which, irrespective of qualification, they are permitted to vote. In my own State we have had the word "white" in our constitution, and we have been considering the question of allowing the black man to vote. The party to which I belong in the State of Iowa passed this resolution at their last convention:

Resolved, That with proper safeguards for the purity of the ballot-box, the elective franchise shall be based upon loyalty to the Constitution and Union, recognizing and affirming the equality of all men before the law; therefore we are in favor of amending the constitution of our State by striking out the word 'white' in the article of suffrage."

And, sir, although we had nearly forty thousand majority the previous year, we had only about sixteen thousand this year in the State. There was a very great difference of opinion in the State touching the propriety of the introduction of this resolution. Some counties in their conventions declared that it was but a proposition to submit to the vote of the people, which it would require three years to give effect to, whether or not they should be allowed to vote; in other words, whether the word "white" should be stricken out; and they postponed, in many instances, the consideration of the question and adhered to the ticket. The State has not yet pronounced on the subject, and I have in my hand a late copy of the State party organ, which uses the following language, the Legislature being in session, and the subject being before them for the first step of action. After claiming that the proposition should be early submitted to the people, the editor says:

"Intelligence should be the chief basis of suffrage, as it is the only guarantee of perpetuity in a free Government, and we trust that Iowa may be the first among the States of the Northwest to ingraft this principle in its fundamental law."

That declaration is made by one of the most radical newspapers in Iowa—the organ of the party in the State.

Mr. PRICE. I ask my colleague whether or no the question of negro suffrage was brought squarely before the voters of Iowa at the last election. Let him answer yes or no.

Mr. KASSON. It was brought before the electors of Scott county in which my colleague resides, which had been the banner county of the State, so called, and I think something like twelve hundred majority at the previous election was reduced to some fifty or sixty, by which they were just able to elect their members to the Legislature. That was the result of the square indorsement of the proposition. Perhaps other things were involved in the issue; that I do not undertake to say; but there was a square indorsement. In my own county the convention passed a resolution, the sense of which I stated before, namely, that it was a mere proposition to submit the amendment to the people, and that, therefore, it ought not to be a test in the present canvass.

Mr. PRICE. I ask the question again, and I want my colleague to answer me yes or no.

Mr. KASSON. I cannot yield to such a persistent determination of the gentleman. I have attempted to answer the question, and I now answer it again. It was put before the people by the resolution which I have read here to the House, that provides proper safeguards for the purity of the ballot-box; and those safeguards, I maintain, involve, evidently, the question of loyalty and intelligence. Then in different counties the conventions took different policies, and speakers took different lines of argument.

Mr. PRICE. I pledge this House to answer the gentleman.

The SPEAKER. Does the gentleman yield the floor?

Mr. KASSON. No sir. If the gentleman has simply a question to ask or a fact to state I yield.

Mr. PRICE. I ask my colleague for an answer yes or no, and not a circuitous one; going all around the course. Was the question brought squarely before the voters of Iowa at the last election whether they would have negro suffrage in the State? I do not care which way he answers it.

Mr. KASSON. Mr. Speaker, I have answered the question already by reading the resolution. I have also stated the action of county conventions, and the fact that different speakers took different positions. What more can the gentleman ask?

Mr. PRICE. Yes or no. [Laughter.]

Mr. KASSON. Well, sir, I do not see how the gentleman will succeed in getting an answer which involves the truth more effectually than I have stated it now. Of course it was before the people of the country when the people took opposite sides upon it. What does the gentleman mean by asking me to give him an answer, yes or no?

Mr. PRICE. I tried to get a straight answer from you.

Mr. KASSON. Perhaps I ought to say to this House, in view of this interpolation and its temper, that during the holidays just past, my colleague saw fit to address a meeting in his town which adopted a resolution excepting the humble member now speaking from an expression of its confidence. I will certainly answer in all courtesy his questions, but of course I must equally decline to have perpetual interruptions after I have answered them.

Mr. PRICE. I will not interrupt the gentleman any more. I will answer him when he has done.

Mr. KASSON. I resume, then. The question of negro suffrage was put in that way, involving the question of proper safeguards for the purity of the ballot-box; and among those safeguards, as I have shown by the declarations of the leading Republican paper of that State—an exceedingly radical paper—intelligence is recognized as one. I appeal to gentlemen of this House, especially those who were scholars in the common schools of the country, if we have not all learned from our childhood that the very basis of security of a republican Government is found in the intelligence and virtue of the people who control it. I have learned that from my infancy. I cannot unlearn it at the dictation of any man or set of men. I believe that the people control this Government. I believe that if those people have not intelligence to understand the policy and principles of our Government to a reasonable extent, our institutions are unsafe and liable to be upset. I also believe in my heart and in my conscience that if you make suffrage universal in certain districts of the Union where ignorance actually predominates, you have no security in those districts that the institutions to which we are attached will retain their permanence.

Why, sir, look at those countries where mixed bloods have controlled the Government by universal suffrage. Look at Mexico and the South American republics, where revolutions are as frequent almost as the revolutions of the seasons. Look at the Latin races of the world, and where have they ever succeeded in establishing a permanent and reliable republican Government controlled by the will of the people?

Mr. STEVENS. Do I understand the gentleman's argument to be only against ignorant negro suffrage or equally against all ignorant suffrage?

Mr. KASSON. I was coming to that point presently. I will say that my argument militates against ignorance in the qualification of electors wherever found. There is another consideration, however, involved in its application to existing electors of which I shall speak presently.

Mr. KELLEY. With the gentleman's permission I will ask him whether he believes that the negro race has such mental or physical superiority in this country that, being but five million, it will, in spite of the fact that there is no negro immigration and a very large white immigration into the country, so diffuse itself into the American people as to make us a mixed race?

Mr. KASSON. If the gentleman will look at the census of 1860, he will find that in two States at the South negroes have a numerical

majority, and that in other States they are so nearly equal with the white population that a few whites coöperating with them would be able to secure for any purpose control of the State government. That is my reply.

Take those countries where the blacks have succeeded in securing their own Governments, as in Hayti, and you find there revolution after revolution; you find that in Hayti, instead of establishing a republican form of government, they have adopted an imperial form and sustained an emperor at their head.

Now, sir, I state these things because they are facts known to the members of this House. I do not want to state mere opinions, to any extent, in the debate upon this question. I state the fact that this race of ours, known first as the Caucasian, and subordinately as the Anglo-Saxon, has developed the principles of self-government, and has protected itself under free institutions, more or less perfect, beyond any other race, white or black, and beyond any other modification of the Caucasian race; and hence it is that I say we should be very careful before, in any part of this country, we allow the power of this Government to pass to another race which has not yet developed its ability to administer it.

Mr. KELLEY. I desire to remark just in connection with the gentleman's allusion to the States in which revolutions occur so frequently, that it seems to me that it was in view of a possible contingency of this kind, in the vastly expanding area of the Union, that Madison and the fathers provided that there should be a regulating power in the Government; so that if any State degenerated toward monarchy, or imperialism, or anarchy, the hand of Congress could be put upon it and the government be restored to the hands of the majority of the whole people.

Mr. KASSON. We left some time ago the opinions of Mr. Madison and the fathers of the country, and I must ask the gentleman to make his interruptions upon the point of debate now before the House. No one denies, as I understand it, that the Latin race, that the mixed races of Indian and Latin, or the mixed race of blacks and whites, or any other races, have developed, as the Anglo-Saxon race has done, the power to govern itself, and to preserve the principles of self-government after they have established them. The gentleman does not deny this, nor do I understand any gentleman to deny—if there be one, I will give way to him for the purpose—that in some parts of this country the negro race, if universally entitled to suffrage, would have absolute power, and in others would have power, with the aid of a few whites, to get control of the State governments and modify them to the full extent allowed by the Constitution of the United States.

Mr. KELLEY. Will the gentleman from Iowa [Mr. KASSON] yield to me for a moment, and for the last time?

Mr. KASSON. Very well.

Mr. KELLEY. I propose to ask the gentleman whether, if the colored man in those two States, South Carolina and Mississippi, had had the right of suffrage when the question of ordinances of secession was submitted to the people, he believes such ordinances of secession would have been passed; or whether secession was not carried because suffrage was withheld from the loyal masses of the people?

Mr. KASSON. I hope the gentleman from Pennsylvania, [Mr. KELLEY,] if he must interrupt me, will at least confine his interruptions to the point under debate. I will trust that much to his courtesy. He is entirely wide of the point of debate now. I will come presently to the principles which ought to be applied.

The colored residents of this District are composed of two classes. One, the old residents of the District, and the other the class of immigrating blacks who have come in mostly from the States of Maryland and Virginia. Now, I do not deny for a moment that a black, intelligent, able to read and write, and paying taxes, has a right to be represented. But while the princi-

ple upon which a great fundamental privilege should be conferred will result in the admission of a portion of the black race to the exercise of the right of suffrage, let us also adopt a policy statesmanlike and safe for the interests of our country. The safety and well-being of the blacks themselves depend upon your admitting them to the exercise of this right by degrees, and basing their exercise of the right of suffrage upon their intelligence.

Much has been said here about the right of suffrage being a natural right; that it is a right pertaining to humanity to enable it to defend itself in a free Government like ours. I call the attention of gentlemen upon this floor to the fact that if it be a natural right, indisputable to the preservation of the freedom of the individual, and the preservation of equality before the law, then it is our duty to extend it much beyond any proposition that has been yet presented to this House. So conscious of that was that eminent and admirable orator and logician, who spoke in this House some time ago, as a representative of the Freedmen's Aid Commission—I refer to Rev. Henry Ward Beecher—that he was obliged to go beyond the question now before this House and declare that women ought to be permitted to vote, because it was necessary to the exercise of a natural right. He went the whole length. And I maintain that any gentleman of this House must go the whole length, or else agree with me that we have the right to qualify the electoral system by declaring that certain qualifications should exist in the electors of the country.

Now, sir, in prescribing these qualifications, if you will look to the history of the country, you will find that women have not been permitted to vote, even after they have attained the age of twenty-one years, although they might be unmarried, are taxed, and even hold offices under the Government of the United States, and are, in all other respects, equal before the law with the men. You will find that equality before the law does not mean the exercise of the right of suffrage. Even service in the Army of the country does not give this right, for one fourth of the gallant men composing the armies of the United States at one time were men of less than twenty-one years of age. If qualification to exercise the right of suffrage is to be determined as a natural right, and to secure equality before the law, you must let all of them vote, whether twenty-one years of age or not. For a man old enough to fight for his country ought to be old enough to vote for his country.

Now, sir, I have for myself thought it proper that we should fall back upon the declarations of Mr. Lincoln and Thomas Jefferson upon this subject. Mr. Lincoln's opinions are well known, that the intelligent negro and the fighting negro, of proper age, should be allowed to vote, the first for his intelligence, the second for his military service. Secondly, I would add the taxpayer, because with taxation should go representation.

[Here the hammer fell.]

Mr. DAWES. I move that the time of the gentleman [Mr. KASSON] be extended so as to enable him to conclude his remarks.

No objection was made.

Mr. KASSON. Mr. Jefferson declared, as follows:

"The true foundation of republican government is the equal right of every citizen in his person and property, and in their management. Let every man who fights or pays exercise his just and equal right in election."

Again he says:

"Among men who either pay or fight for their country no line can be drawn."

Now, sir, without arguing this question at length, I desire to state here, and to place myself upon record, that I am in favor of the Jeffersonian and Lincolnian proposition, and opposed to the extension of the right of suffrage universally to everybody in the United States of America. I am opposed to this bill, because it does not exclude rebels from voting at the elections in this District. I am opposed to it, also, because it imposes no qualification at all

upon the new people who are to be permitted to exercise the right of suffrage. It also makes no provision for the registration of voters, and we know that the class of persons which this bill is intended especially to reach are a very migratory people, and it ought to be well guarded in that particular before it is passed by this House.

Much has been said in this debate about the gallantry of the negro troops, and about the number of negro troops in the war. Gentlemen have declared here so broadly that we were indebted to them for our victories as to actually convey the impression that they won nearly all the victories accomplished by the armies of the United States, and that to them are we indebted for the salvation of our country and our triumph over the rebellion.

I do not agree with them in the extent of their praise, nor the grounds upon which it has been placed. One gentleman, I think it was the gentleman from Pennsylvania, speaks of our debt to the negroes, because they have fought our battles for us. That I may not misrepresent him, I quote his language:

"I cannot bear to be goaded and taunted by those whom I treat as inferiors, that in the hour of my danger when I refused or was unable to fight, they took up my battle and healed my wounded honor. The negroes fought for me, and God forbid that they should ever taunt me or my descendants with the fact that I was an ingrate to the soldiers of the Republic."

Now, sir, I say that this is a falsification of the condition of the negroes, and of the history of the country in this particular. *Those negroes fought for their liberty*, which was involved in the preservation of the Union of the States. They fought with us to accomplish the maintenance of the integrity of the country, which carried with it the liberty of their own race; and what would have been said of the negroes if they had not, under such circumstances, come forward and united with us? I told the people of my State, and of other States, during the war, that one effect of our success in it would be the emancipation of the negroes and the establishment throughout the country of the great principle of human liberty. When I urged the support of the Government in carrying on the war, I was told by the Opposition, and I admitted, that we were fighting in such a manner that the negroes should be free. I say now that we, the white race, fought the battles of the negro as well as our own; and if the negro himself had not come forward and enlisted in our armies, we should have been obliged to mourn over it, and to say that no element of manhood existed in that race.

Now, sir, we are able to say that the element of manhood does exist in them; that they became our auxiliaries; that they came forward as the white men did, with additional motives beyond our own, but no better than the white men; and that we of the white race, filling up our armies by hundreds of thousands, welcomed their aid. Both races fought gallantly. But when gentlemen say, as I think the distinguished Representative from Ohio [Mr. BINGHAM] did the other day, in his interpolation in the remarks of the gentleman from New York, [Mr. CHANLER,] that they fought and *won for us the victory*, I protest against it in the name of the gallant armies composed of white soldiers throughout the United States.

Who was it that broke the arch of the rebellion at Fort Donelson? I find that a regiment of Iowa troops—white troops, not colored troops—were the first to cross the bristling abatis and charge upon the enemy, leaving many a length of white manhood upon the ground; but I see no negro troops at that time. I look at Vicksburg, and I find among the thousands who died in the trenches and in the assault simply white soldiers. I find the black troops and the white together at Port Hudson. When Sherman's army made that grand march which has become historical; when, with the steady force of a slow-moving glacier, and with the audacity of an avalanche, that great military leader descended from the North, and dissipated the enemy in front, and made that famous march to the sea; when he returned from the sea to the mountains of the North, sweeping resistlessly every

enemy before him, and accomplishing a result that has not only made his name historical, but has made in the history of this country a chapter reading like a romance; when he arrived at the termination of his march, and crushed the last fragment of the rebellion between the upper millstone of Grant's army and the nether millstone of the grand western army, I do not read that one black soldier was with him to aid in accomplishing that great result.

When Sheridan turned the right flank of the enemy before Richmond, and succeeded in gaining the fatal advantage of the rebel army, though directed by the most gallant commander of the rebellion, do we find negro troops among those who inflicted upon the head of the rebellion that decisive blow? No, sir, they were white troops that won success in that gallant enterprise which has covered the name of Sheridan with imperishable luster. Let us, then, do justice to white and black. Let us defend and give credit to those who deserve it, and to those to whom credit is due; and not cloud the fair fame of nine hundred thousand brave men of our own race by excluding them from the fame acquired by their glorious achievements.

And are we to be told here, in the face of these facts of history, that it is to the black race alone that we are indebted for the accomplishment of our great victory? I protest against any such assumption. While I yield to the negro troops the credit of having exhibited bravery and manhood when put to the test, I do not yield to them the exclusive or chief credit of having won the victory for the Government of my country in preserving this Union. Let us not, under false assertions of fact, send out to the country and the world from this floor the declaration that the white race of this country are wanting in the gallantry, the devotion, and the patriotism which ultimately secured for our armies triumph, and for our nation perpetuity.

Let the blacks who gallantly fought go and vote, let the white men who gallantly fought go and vote, let *all* these who did go and fight, and who can read and write, and thus understand the system of our Government; who can read the ballot with which they are attempting to control our country; let all these men go and vote if you will, and aid in the government of our country. But I have been taught, and so have you, so have we all, that unless intelligence exists in this country, unless schools are supported and education diffused throughout the country, our institutions are not safe, and either anarchy or despotism will be the result; and when you propose substantially to introduce at once three quarters of a million or a million of voters, the great mass of whom are ignorant and unable to tell when the ballot they vote is right side up, then I protest against such an alarming infusion of ignorance into the ballot-box, into that sacred palladium, as we have always called it, of the liberties of our country. Let us introduce them by fit degrees. Let them come in as fast as they are fit, and their numbers will not shock the character of our institutions.

I turn for a single moment to call attention to the philanthropy of the proposition. If you introduce all without regard to qualification, without their being able to read or write, and thus to understand the questions on which they are to decide, what would be the effect? You will take away from them the strongest incentive to learn to read or write. As a race, it is not accustomed to position and property; it has no homesteads, it has no stake in the country; and unless they are required to be intelligent, and qualified to understand something about our institutions and our laws, and the questions which are submitted to the people from time to time, you say then to them, "No matter whether or not you make progress in civilization or education, you shall have all the rights of citizenship," and in that way you take away from them all special motive to education and improvement. On the contrary, if the ability to read and write and understand the ballot is made the qualification on the part of these peo-

ple to exercise the right of voting, the remaining portion will see that color is not exclusion. They would all aspire to the qualification itself as preliminary to the act. You can submit no motive to that race so powerful for the purpose of developing in them the education and intelligence required.

I say, therefore, on whatever grounds you put it, whether you regard the safety of our institutions or the light of philanthropy, you should insist on qualifications substantially the same as those required in the State of Massachusetts. I have a copy of the clause of the constitution of that State which seems to be the proper one on this subject. And let me say that, taking the State of Massachusetts as an example of the result of general intelligence and qualified suffrage, and a careful guardianship of the ballot-box, I know of no more illustrious example in this or any other country of its importance.

With a credit that surpasses that of the United States, with a history that is surpassed by no State in the Union, with wealth that is almost fabulous in proportion to its population, with a prosperity almost unknown in the history of the world, that State stands before us to-day in all her dignity, strength, wealth, intelligence, and virtue. And if we, by adopting similar principles in other States, can secure such results, we certainly have an inducement to consider well how far this condition is to be attributed to her diffused education, and to the provisions of her constitution. The electoral clause reads as follows:

"No person shall have the right to vote or be eligible to office who shall not be able to read the constitution in the English language and write his own name; *Provided, however*, That the provisions of this amendment shall not apply to any person prevented by physical disability from complying with its requisition, *nor to any person who now has the right to vote, nor to any person who shall be sixty years of age or upward at the time this amendment shall take effect.*"

It was thus that Massachusetts provided an improved element of suffrage without taking away any existing rights. The policy of excluding those who now have the right of suffrage should receive serious consideration before we adopt it. It is easier to withhold the right from a class who have not yet received it, than to take it away from those who have it. So far as it is prohibited for the future, as in the constitution of Massachusetts, it is comparatively free from objections.

Mr. WILSON, of Iowa. Will my colleague please state the date of the adoption of that amendment to the constitution of Massachusetts?

Mr. KASSON. It is but a few years ago that that clause was adopted; but the general principle of intelligence of which I spoke has been more thoroughly adopted in that State than in any other in the Union; and the schools of Massachusetts are model schools, unsurpassed by any in the Union.

Mr. WILSON, of Iowa. The point to which I direct the attention of my colleague is this: all that the gentleman has said with regard to the State of Massachusetts and her schools I indorse; but I desire, while I do so, to impress upon the minds of members of this House that all that was accomplished before the adoption of the amendment by which they required persons to read the constitution in the English language; that it was not the adoption of that amendment which gave Massachusetts her high position, but it was that which existed before. And one other fact I will call his attention to; and that is that the action of Massachusetts, in relation to that amendment, was not aimed at the negro, but at the foreigner.

Mr. KASSON. I understand well the history of Massachusetts, and have already stated that I quoted this simply as a consummation of the principle that always existed in that State, namely, that a republic was founded upon the intelligence and virtue of the people, and that that principle should be applied elsewhere.

Mr. LYNCH. Do I understand the gentleman from Iowa [Mr. KASSON] to say that the state of things in Massachusetts is parallel to what it would be if the same provision were applied to the District of Columbia? Do I

understand him, that if he applies the same principle here, it will work as impartially as it would when applied to Massachusetts?

Mr. KASSON. I can hardly say, if the gentleman asks me as to the details of the application of the provision in this District. I only know that there is a larger portion here who cannot read and write than in Massachusetts.

Mr. LYNCH. The point is this: that before the adoption of the constitutional amendment, all, both white and black, voted, so that the operation of that amendment was equally upon whites and blacks; but its adoption here would operate only on one class.

Mr. KASSON. The gentleman probably does not observe the whole clause of the Constitution. When adopted it did not apply to those who at that time were allowed to vote; only to those who should subsequently be allowed to vote. Here it would operate in the future on both classes.

Mr. LYNCH. I understand that; but at that time whites and blacks had the right to vote, so that it included both classes alike. But the adoption of this provision will only exclude those who had a right to vote here, namely, the whites. It would not operate impartially on the blacks.

Mr. KASSON. I do not recollect what the qualification was at the time the gentleman refers to. I only say that the good sense and wisdom of Massachusetts finally called for the adoption of this provision, and that we, who used to be in the minority in this country for many years, have always asserted that, were it not for the ignorance that always went with the other party, we should have got into power a great deal earlier than we did.

I wish also to state one other thing in reference to this same question. Some gentlemen are of the opinion that if we give universal suffrage to these people they are always going to vote with us, and we shall always control their votes. There is no greater absurdity in the world than that we can continue to control that vote. The blacks will vote in accordance with their interests. If their employer is a man whose property is affected by the legislation proposed—whether it be in relation to taxing cotton or other raw material as against manufactures, or whatever else—the interest of the colored man would be identical with that of his employer; so that the interests of the two would become identified in a political party in all the policy of the country. So convinced was I of it that, in a debate in which I took part in the State of Kentucky on this subject, I asserted that in five years from this time the very men who would then be the employers instead of the owners of these black men would themselves be advocating the extension of the suffrage, because they would control the votes of the blacks, their interests being the same.

I believe that the planting interest throughout the South will yet—if we leave them free to act by construing the Constitution as I contend it ought to be construed, instead of taking to Congress the right to regulate the matter—be advocating the extension of the suffrage to the black race, because their interests will require it.

Mr. Speaker, I have thus stated the general propositions by which I stand, and which, I think, ought, to some extent at least, to guide the judgment of the House. I am happy to believe, from developments already made, that the majority of this House are indisposed to apply universal suffrage, without restriction of any kind, in this District or elsewhere. I am also happy to believe that it is a proposition likely to meet with favor, that those who left the District and took part in the rebellion should be excluded from the government of the District. Let amendments be made to the bill in this sense, and justice will be done.

I have spoken from a profound and conscientious conviction that this principle of universal suffrage could only be advocated by those who were ignorant of the actual condition of the black race, or else reckless of the effect it is likely to produce upon the perma-

nence of our institutions. I have desired, in my humble way, to urge upon them the propriety of admitting the race by degrees to exercise with us the right of suffrage, that we may test their action under the influences by which they are now and will hereafter be surrounded, extending the privilege only as education and fitness qualify them for the exercise of the great right that stands at the foundation of our Government.

Mr. JULIAN obtained the floor.

Mr. PRICE. I ask the unanimous consent of the House to make a personal explanation.

Mr. JULIAN. I will yield to the gentleman for that purpose.

No objection was made.

Mr. PRICE. Mr. Speaker, I think it due to myself, I think it due to this House, I think it due to the country generally, and to the State of Iowa particularly, that I should make a plain statement of facts in reference to one part of my colleague's speech.

It will be remembered by this House that a few days since, during the course of the speech of the gentleman from Pennsylvania, [Mr. BOYER,] I stated that the people of the State of Iowa had recently had the question of negro suffrage before them, and had decided in favor of negro suffrage. Now, to-day, my colleague, in his speech, takes issue with that and raises a question of veracity, and it is that question that I propose to settle in a very few moments.

My colleague read to you the resolution of the Republican convention of the State of Iowa, and read it correctly. Upon that resolution there was a discussion in the convention, some weak-backed Republicans being very fearful that we should lose the State if we passed such a resolution and went to the country upon it. Now, I want to state most explicitly and positively that the Republican party of Iowa went before the people of that State at the election for Governor and other officers upon that platform, definitely, distinctly, and positively made.

I want to state, also, in connection with that fact, that the other party—not the Democratic party, because they ignored all claim to Democracy; the other party—made up of the Democratic party and Republicans who did not like negro suffrage, placed upon their ticket, not a Democrat; no, sir; not a sympathizer with the rebellion; no, sir; they placed upon their ticket Colonel Thomas H. Benton, jr., a Republican, a man who had just come out of the war; and they placed him there simply and entirely because he was opposed to negro suffrage. They did not dare run a Democrat upon that ticket; they did not dare run any one but a man who was squarely and positively opposed to negro suffrage.

I must say for him that, morally, he is as good a man probably as we have in the State of Iowa; intellectually he is at least the equal of the man by whom he was beaten; and everybody in the State of Iowa knows, and if my colleague does not know it then he must not know what is going on in Iowa, that he was beaten on the issue of negro suffrage. I will say this for my colleague, if it be an excuse—and perhaps it is due that I should say it—that he made it convenient not to be in the State of Iowa very much during the discussion of this question. I guess he was not there at the election. If he was there he can speak.

I will say, also, that he wrote two letters, one from the plains, during that canvass, one of which was interpreted to mean anti-negro suffrage, taking the ground that if negroes were allowed to vote in the States where so many negroes were they would control the white voters. As it came nearer election day, and the hand-writing on the wall became more and more distinct, then my colleague wrote another letter, which was interpreted by those who read it and understood it, as they supposed, to mean a little more negro suffrage, not quite so anti as the first letter was, but whether it was for negro suffrage or not negro suffrage a great many there were in doubt. It placed them in the condition of the men who wrote the lines:

"Winding in and winding out,
They left the beholder still in doubt
Whether the snake that made the track
Was going south or coming back."

Now, I have not misunderstood this question, because the House will remember that when my colleague was making his speech a few minutes ago he said that we had forty thousand majority in Iowa at a certain election, and at this election but sixteen thousand majority. I am willing to take this evidence on that subject, and what does it prove? If it proves anything it proves—and that is what my colleague intended to prove by it—that the question of negro suffrage being before the people, it reduced the Republican or Union majority. If it did that, we had the question before us, and would it not have been very easy for my colleague to have answered my plain question and said to me "yes" or "no"? I gave him his choice and told him I did not care which way he answered.

But there are some men in this world so constituted that they cannot move straight forward to a certain point. I do not say that such is the case with any member of this House. I state it as a general principle. There are some men so constituted, either by education or by nature, I do not care which it may be, that they cannot move straight to any given point, but they must necessarily go around in a circle, upon the principle that the farthest way around is the safest. Now, the fact is, that we did not lose that majority entirely on the question of negro suffrage. We lost only between four and five thousand on the negro suffrage question. But that question was squarely in the issue in the late election. In the presidential election, when the whole vote of the State was brought out, our majority was about forty thousand. At the late election the majority for Governor was about sixteen thousand, and the balance of the ticket was a little over twenty thousand; the difference being in consequence of this negro suffrage question.

Now, have I not proved to this House, have I not proved to my colleague, [Mr. KASSON,] if he did not know it before, that this question was before the people of Iowa at the last election, and that I was correct when I made the declaration a few days ago in this House that we had had the question squarely before us, and the people of Iowa had pronounced in favor of negro suffrage by sixteen thousand majority?

My colleague referred to my county in regard to that vote. Now, in my county they had no Democratic ticket at all; but the opposition ticket was headed "Anti-negro suffrage." And in the third congressional district of the State of Iowa the Opposition ticket was headed "White man's ticket." Does not that prove to every man who wants to look at the matter squarely and in a common-sense view, that we had the question squarely before us at that election? And yet my colleague could not see it; could not answer "yes" or "no," when I put the plain question to him before this House; could not say whether the question was before us or not. Yet every man in the State of Iowa, with probably the exception of my colleague from the fifth district, knew that the question was before us. It was known on all sides, and stated in all the papers that the election would be decided on that question, and that the principle of negro suffrage was carried by sixteen thousand majority.

Mr. BOYER. Will the gentleman from Iowa [Mr. PRICE] allow me to ask him a question?

Mr. PRICE. Certainly.

Mr. BOYER. Were there no other issues involved in that campaign beside the one of negro suffrage?

Mr. PRICE. I answer most explicitly that so far as the election of Governor was concerned no other issue was involved directly or indirectly. I answer that question fairly and squarely. Not being learned in the law I always answer "yes" or "no," or if I cannot do that I back out and let some one else answer who can. When I find I cannot answer "yes" or "no," I begin to think I do not understand the subject, and give way to some one who does understand it.

My colleague also refers to a meeting held in Iowa when I was at home during the holidays. Well, sir, I cannot help it if the people of the

State of Iowa choose to call a meeting and to invite me to be present and to talk to them. I could help being present, it is true; but that would look so much like dodging that it would not be in accordance with my manner of doing business. The simple, unvarnished tale is this: when I went home I found that the people were intensely excited upon the question of negro suffrage and the question of reconstruction, and my neighbors and acquaintances came to see me—and I will say to my colleague that I have lived in Davenport more than twenty-one years, and the people there know me perfectly well—and said to me, "What are you going to do in Congress? Are you going to allow the rebel States to come in?" My answer was, "I do not know exactly what will be done; I do not think they will be allowed to come in before we can obtain some guarantees for the future; at least they will not come in with my vote before that is done."

They called a meeting at a place to which I was not in the habit of going very much, and invited me to be present and give them my views and observations on the subject. I went there, and talked to them as best I could, while I had anything to say. A gentleman near me asks me what kind of a place it was. I will say in reply that it was a theater; and I am not in the habit of going much to the theater, and am not presumed to be a very good actor in such places.

I am just reminded by the Speaker of this House, who sits near me at the present moment, that he once made a speech in the same place; and I will say in this connection that the meeting which I addressed was said to be the largest meeting which ever assembled there, except upon the occasion when the Speaker addressed the people of that portion of the country.

Now, sir, at the conclusion of that meeting the people there introduced some resolutions—pointed, direct, straightforward, uncompromising radical resolutions; and in those resolutions they took occasion to indorse the entire Iowa delegation in Congress, except my colleague from the fifth district. Now, as that meeting took place at my home, it might be supposed by strangers that I possibly might have had something to do with getting up those resolutions. But any man who knows me there or here would not charge me with that. I will say, however, to gentlemen of this House—it is not necessary I should say it to my colleague, as it has been said to him before—that I knew nothing more of those resolutions than the child unborn, until they were presented at that meeting. So much for that part of the history.

But I will say to the gentleman, as he has introduced this matter into the House in this way, that he is not indorsed by the people of Iowa in the course which he takes here, and that he does not represent even his own district upon that question, nor any other district in the State of Iowa. And no man who comes here from the State of Iowa and trims his course to suit the views of the slaveholders of the South will represent the people of that State, whether that be right or wrong.

But, sir, I do not know that I ought to complain, or that this House ought to complain, because this House well knows that history but repeats itself. Eighteen hundred years ago and more there were twelve men selected for a certain purpose. As this House will remember, two of those twelve men proved recreant to the great object for which they were called. One of them, for a certain sum of money, was led to do a thing which even in his own opinion was worthy of death, and consequently he went out and hanged himself. The other was guilty of profanity and falsehood. Taking two out of the twelve was one out of six, and there are just six Representatives from Iowa upon this floor. [Laughter.] I make no application. I merely state the facts as they exist.

This House will bear me testimony that I am not in the habit of making speeches. I have no speech written on this or any other subject. I had not intended to say one word on this ques-

tion. But when my veracity on this subject is called in question, directly or indirectly, then I presume it is my duty, as well as my privilege, to defend myself and to defend the constituency that I represent upon this floor. And I will take this occasion to say—though it may not be a personal explanation, and I only have the floor for a personal explanation—that it is unjust to the negro to get up here and say that in the crushing of this rebellion, when the upper and nether millstones were brought to bear upon the forces in arms against the Government and the country—it is unjust, ungenerous, and beneath the dignity of any man, whether white or black, to say that the negroes were not in at the death. Does not every man in this country know that the negroes took up arms in defense of the old flag just as soon as this Government would allow them to do so? Again, and again, and again, they besought this Government, in every possible way, to be allowed to do something for the defense of the Government and the suppression of the rebellion. But the Government, until a certain period, drove them back, returned them to chains and slavery, said to them, "We have no use for you; you cannot be permitted within our lines." Order No. 3 stands to-day to the eternal disgrace of the American nation.

Yet, in the Thirty-Ninth Congress, a gentleman of high college attainments stands up here and says that the negroes are deserving of no credit, because they have not been upon the field at certain times which he has mentioned. Now, sir, no man who understands the history of this war, and is willing to do justice and to tell the truth about the negroes, will say they have not been present at every time and under all circumstances to defend the flag and to suppress treason and put down traitors when they have had the opportunity and been allowed to do so.

I might read a word here in justification of what I have said. I say my colleague [Mr. KASSON] does not represent the people of the State of Iowa. Let me read a few words from a paper of that State, a copy of which I have received to-day. I will not read the whole of it, because it contains some harder things than I have ever dared to say on this floor about him or any other man. I will simply read this much of it:

"The people of Iowa do not indorse Mr. KASSON's idea of reconstruction, but propose to lay him on the shelf. His ideas will not be supported by a corporal's guard in the Iowa Legislature."

Now, sir, I have the right to read that language when my colleague stands up here and tells you so, that it may go out to the country, that he has been indorsed by the Iowa Legislature.

I have read from a most respectable paper published in the State of Iowa, the second probably to only one paper in the State in circulation; but when the gentleman makes the issue he must take the consequences. If I have not made the point clear that the fight in Iowa was on the subject of negro suffrage, and was carried by sixteen thousand majority, then I will be glad to answer any question which any gentleman present may wish to propound to me to make it as clear as possible. If no gentleman has any question to put to me I have nothing more to say, except to thank the gentleman from Indiana [Mr. JULIAN] and the House for this opportunity to set this question right, before this House and the country, as the facts have justified me in doing.

Mr. JULIAN resumed the floor.

Mr. KASSON. I ask the gentleman to allow me a word of reply.

Mr. PRICE. I object, unless I be allowed to reply.

Mr. JULIAN. I yield to the gentleman.

Mr. KASSON. Mr. Speaker, it is altogether becoming that a gentleman who has made an attack such as that to which we have just listened should protest to my friend from Indiana against allowing me a word in reply. I am in the habit, sir, of speaking yes or no when yes or no tells the truth; and I am in the habit of telling in more words what the truth is when

yes or no does not do it. I commend the practice to my colleague from Iowa. Never have I answered the argument of a colleague of mine upon this floor, nor taken up a discussion with them. I have held to the maxim that "it is a dirty bird that fouls its own nest," and I commend the maxim to my colleague, and shall be encouraged in it by the people of his district.

But when he flings the gauntlet at me, when he stands up to say I provoked this issue, I deny it, and make the issue directly here and now, and appeal to the House whether I made any issue of veracity upon this floor. When he asked me, upon my yielding the floor to him, whether this subject was not in issue, I read the platform of the party on the subject. I told him what was the various county action upon the platform. I told him the result in his own county. I showed how it was in the issue by the facts in the case.

He says that he did not have anything to do with the getting up of the resolutions at the meeting at which he spoke. All I have to say is, that I have letters from citizens of his own town on my table which charge him, first, with getting up the meeting for the purpose of opposition to the President and to myself, and secondly, with writing the offensive resolutions. [Laughter.] One of the letters goes further, and says, in addition to what I have stated, that one of the members of the committee, in consequence of the indignation expressed in that town, had come out with a card, in some way apologizing for the action taken by them. Not only that; but since he has foolishly declared that my district does not indorse me, I will add that these letters from his own town declare that he could not be elected as alderman in any ward of the city of Davenport to-day. [Laughter.]

Now, sir, the difference between him and me is this: he says I do not represent my district. I have shown that he came within a few votes of losing the banner county of his own State and of his own residence, because of the action which he took in his own county. He does not deny it. I do deny his charge, and challenge him to the proof that my district does not support me in the position I have taken. He says that I took the occasion to be absent from the canvass. I did go across the plains, and I do not cease to thank God for the years that it has added to my life. And I tell my colleague that I am indebted to it for the vim with which I am now enabled to nail his charges to the floor. Before I left, the Governor of that State and the chairman of the Republican State central committee desired of me, if I should not be present in the canvass, at least to issue an address. I did write an address—I hold it in my hand—which the gentleman refers to as a letter; and in that address I urged our people to hold together. I shall trouble the House with only a single sentence of it:

"Let us continue in union among ourselves, tolerant of minor differences of opinion, that national union and liberty may be confirmed by our united labors."

This address was issued to the people of my district for the purpose of resisting the efforts then made to break us in pieces. In that address I cited Mr. Lincoln's opinion, and Mr. Jefferson's opinion, and said I would go the length of both for negro suffrage—that is, qualified suffrage. I came out clearly to the extent of my influence and action in that case, by asking, as I stated hereto-day, that the word "white" should be stricken out of the constitution in order to allow qualified suffrage, for which in this address I expressly declared myself. Unless I am very much mistaken, there was no essential difference between a published letter of a Senator from my State and my own position in that canvass.

Now, sir, is it fair, in view of the treatment I have uniformly extended to my colleague, for him to raise personal issues with me in the manner that he has done? Am I entitled to be treated with such discourtesy? He alone has raised the issue. The question of negro suffrage was before the people of my State in the man-

ner I have stated. One gentleman who has just been elected a Senator from that State declared, as I was informed, that the question was one practically to be submitted to the people, and that when it came to be submitted, he added humorously, "I shall vote just as I please."

Now, in view of these facts, I deemed it necessary to state that the issue in my State, so far as this issue was allowed, actually turned on the question of amending our constitution so that some negroes might vote, and it did not turn upon the question of allowing all negroes to vote. I am with the people on the question of qualified suffrage, which is as far as the platform goes. For it is simply to strike out the word "white," which was necessary in order to have qualified suffrage.

I trust the House will pardon me for taking up this much time in personal explanation. I would not even now use any discourtesy to the gentleman who has provoked this debate. I wish to stand simply right upon the record, touching the action of my own district and the confidence of the people in me. There is a better tribunal than the gentleman from Davenport, [Mr. PRICE,] who very nearly lost his own county, with its noble Union majorities, as he knows, in consequence of his views on this subject. And I believe when it comes to be known what the action of my State will be, that it will establish essentially the principle adopted by Massachusetts, and cement and perpetuate the institutions of this country, by making intelligence and virtue, as far as practicable, the basis of the right of suffrage among this people.

Mr. JULIAN. Mr. Speaker—

Mr. PRICE. I ask to be allowed two minutes to reply.

Mr. JULIAN. I give way.

Mr. PRICE. I can state to the House in two minutes all I have to say. I have established the fact that the question of negro suffrage was before my State in that election, and all my colleagues, except the member from the fifth district, will corroborate my statement. So much in regard to that question of veracity. The gentleman has raised another. All I have to say in reference to the writing of the resolution I will say to this House, and I will bring proof—clear, plain, positive, and overwhelming—that what I have said about that is correct, and the statement of my colleague is, as a matter of course, incorrect.

A MEMBER. Who wrote the letter?

Mr. PRICE. I know who wrote it. I venture to say that I can tell exactly what name is signed to it. A man does not live twenty-one years in a place, if he amounts to anything and is able to say yes and no, without making some enemies.

Now, in reference to the gentleman just elected to the United States Senate, I wish to read a short paragraph from a paper published in the State of Iowa within a week past:

"Governor Kirkwood's friends are, however, quite sure of his success, and may, of course, be right. Singularly enough, singular in view of the 'conservative' efforts of the last campaign, the only bone of contention between the friends of Messrs. Harlan and Kirkwood, as to principles, is as to which of their respective candidates is the most radical!"

That is the question. My colleague was in the canvass for United States Senator, but not being very radical, I think his votes could be counted by about three. I will bring the proof in regard to the resolution referred to, that it was written without any knowledge on my part—such proof as no man can call in question.

Mr. KASSON. I wish simply to say that I was not in the senatorial canvass; and that again the gentleman's habit of saying yes or no leads to a very incorrect statement, and leads me to commend again to him the propriety of knowing the facts before he undertakes to state them. A letter of mine, dated before the Legislature met for the canvass, was written to the members of the delegation from my own county, positively refusing the use of my name for either the short or the long term. That letter the gentleman of course did not seem to be aware of, although I am told the papers had announced my declination. It is true that at one time I

was a candidate, but after reflection I withdrew my name absolutely.

Mr. JULIAN resumed the floor.

TEST OATH FOR ATTORNEYS AT LAW.

Mr. ALLEY. Mr. Speaker, I rise to a privileged motion. I desire to enter a motion to reconsider the vote by which the Committee on the Judiciary were instructed to inquire into the expediency of abolishing the test oath so far as relates to attorneys at law.

Mr. HILL. With the consent of my colleague [Mr. JULIAN] I move that the House now adjourn.

The motion was agreed to.

And accordingly (at thirty-five minutes past three o'clock p. m.) the House adjourned.

IN SENATE.

TUESDAY, January 16, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read.

Mr. HARRIS. I observe by the reading of the Journal that the papers in the case of Jane W. Nethaway were referred to the Committee on Claims. I intended to move that they be referred to the Committee on Pensions. That is the appropriate committee.

The PRESIDENT *pro tempore*. That correction will be made, and the reference to the Committee on Pensions will be ordered.

PETITIONS AND MEMORIALS.

Mr. GRIMES presented the petition of Commodore T. Turner, United States Navy, praying that an act may be passed granting him a distributive share of the prize money arising from the captures of the steamers Aries, Cherokee, and St. John, by the blockading squadron off Charleston harbor commanded by him; which was referred to the Committee on Naval Affairs.

He also presented the petition of Rear Admiral David D. Porter, United States Navy, praying that his mother, Mrs. Eveline Porter, be granted a pension of sixty dollars a month; which was referred to the Committee on Pensions.

Mr. DAVIS presented the petition of Jerome B. Pillow, who represents that he is a loyal citizen of the United States, and that a quantity of cotton belonging to him was seized and appropriated by the officer in command of the United States forces at Helena, Arkansas, on or about the 12th of July, 1862; for which loss he prays that compensation may be granted to him; which was referred to the Committee on Claims.

Mr. MORGAN presented a memorial of the Chamber of Commerce of the State of New York, praying for an increase of the pay of officers of the United States Navy, together with a report of a special committee of the Chamber of Commerce which was appointed to make investigations on the subject; which was referred to the Committee on Naval Affairs.

Mr. SUMNER. I present a petition of citizens of the District of Columbia, in which they ask Congress to declare null and void all laws and parts of laws which make disqualifications and distinctions on account of color. It will be observed that this petition is broader than a petition merely asking for suffrage for colored persons; it asks that all laws that make any distinction on account of color shall be abolished. I move its reference to the Committee on the District of Columbia.

The motion was agreed to.

Mr. CHANDLER presented a memorial of citizens of Saginaw county, Michigan, remonstrating against the renewal of the so-called reciprocity treaty; which was referred to the Committee on Foreign Relations.

He also presented a petition of non-commissioned officers, musicians, and privates, who have lost legs or arms, or both, in the United States service during the late war for the Union, praying for an increase of pension; which was referred to the Committee on Pensions.

BILL RECOMMENDED.

On motion of Mr. LANE, of Indiana, it was

Ordered, That the bill (S. No. 22) supplementary to the several acts relating to pensions be recommitted to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. CHANDLER, it was

Ordered, That the memorials and other papers relating to the improvement of the harbor of Frankfort, on Lake Michigan, be taken from the files of the Senate and referred to the Committee on Commerce.

On motion of Mr. MORGAN, it was

Ordered, That the petition of Josephine Rice, widow of the late Brigadier General James C. Rice, praying for a pension, be taken from the files of the Senate and referred to the Committee on Pensions.

On motion of Mr. HENDRICKS, it was

Ordered, That the petition and other papers of J. W. Gordon, late major in the eleventh United States infantry, praying that the accounting officers of the Treasury may be authorized to credit him for payments of bounty to enlisted men, be taken from the files of the Senate and referred to the Committee on Claims.

Mr. COWAN. Some days ago I had referred to the Committee on Claims the petition and accompanying papers of Henry S. Davis, praying for compensation for fitting up the west wing of the Patent Office. I now ask leave to withdraw the petition and papers from that committee.

Leave was granted.

REPORTS OF COMMITTEES.

Mr. WILSON. The Committee on Military Affairs and the Militia, to whom was recommended the bill (S. No. 67) to increase and fix the military peace establishment of the United States, and the amendment reported yesterday to strike out all of the original bill after the enacting clause and to insert a substitute, have directed me to report the bill back to the Senate with some slight amendments to the amendment. I ask the unanimous consent of the Senate to adopt this amendment now as thus amended, as a substitute for the original bill, with a view to have it printed as a whole. The committee are unanimous in favor of the amendment as a substitute for the original bill, and I do not think there will be any difference of opinion about that. The original bill was printed, and I should like to have the bill as perfected printed, so that we can have it before us tomorrow.

Mr. GRIMES. I do not know that there would be any objection to that unless it be that by adopting that as an amendment now the Senate will preclude itself from amending that amendment in the future.

Mr. WILSON. They will not do that.

Mr. GRIMES. My inquiry is this: if the substitute be adopted as an amendment now, will not the Senate be precluded from amending that amendment whenever the bill shall be printed as the Senator desires and come up for the action of the Senate? If the Senator will simply report his amendment as a substitute, and have the entire bill printed, and then let us pass on it, doubtless it will be satisfactory to us.

The PRESIDENT *pro tempore*. The bill would be amendable in the Senate, but it might embarrass the action of the Senate in Committee of the Whole if the amendment was now substituted for the original bill.

Mr. WILSON. I have no objection to printing it in the way suggested by the Senator from Iowa, but I thought it would save time to adopt the course I proposed. I consent, however, to the suggestion.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks that the substitute reported by him in lieu of the bill recommitted to the committee be printed, with the amendments reported, as an original bill. If there be no objection, the order to print will be so entered.

NOTICE OF A BILL.

Mr. CHANDLER. I give notice that tomorrow, or at some future day, I shall present the British foreign enlistment act, with a clause repealing all existing neutrality laws.

BILL INTRODUCED.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 78) to establish certain post roads in the State of Oregon; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

NON-INTERCOURSE WITH GREAT BRITAIN.

Mr. CHANDLER. I now ask leave to introduce the joint resolution which I offered yesterday.

Leave was granted, and the joint resolution (S. R. No. 16) declaring non-intercourse between the United States and the Government of Great Britain, on account of the refusal of that Government to make reparation for damages inflicted on our commerce by her subjects, was read twice by its title.

Mr. JOHNSON. I am not sure that I understood the resolution as read yesterday. Is it a resolution of inquiry?

Mr. CHANDLER. No, sir; it is a resolution declaring non-intercourse.

Mr. JOHNSON. As it is very important that the decision of the Senate should be known at once—the mere offering of the resolution is calculated to awaken great solicitude—I move to lay it upon the table, and upon that question I call for the yeas and nays.

Mr. WADE. That motion is not debatable, but I hope the resolution will not be laid on the table. I hope it will take the usual course, and be referred to the Committee on Foreign Relations. That, I think, is the best way to dispose of it.

Mr. JOHNSON. That is the very thing I wish to avoid, not that I have any doubt as to the patriotism or good sense of the Committee on Foreign Relations, but because I think it is exceedingly desirable that the question should be disposed of at once; and, as I rather suppose the Senate are prepared now to decide whether a resolution like this shall pass, I persist in my motion to lay it on the table.

The PRESIDENT *pro tempore*. The motion to lay on the table is not debatable. The Senator from Maryland asks that the question on that motion be taken by yeas and nays.

The yeas and nays were ordered.

Mr. GRIMES. I call for the reading of the resolution.

The Secretary read the resolution at length.

Mr. SHERMAN. I inquire of the Chair whether it will not be perfectly competent for any Senator to move to take up that resolution at any time if it shall now be laid on the table.

The PRESIDENT *pro tempore*. It will be so competent.

Mr. SHERMAN. Then I hope it will be referred. If laid on the table, it may be called up any day.

Mr. ANTHONY. I desire to inquire if the Senator from Michigan wishes to address the Senate on the subject.

Mr. CHANDLER. I do not. I simply wish to refer the resolution to the Committee on Foreign Relations.

Mr. ANTHONY. Then I shall vote to lay it on the table.

Mr. SUMNER. If it was in order I should like to appeal to my friend from Maryland to allow the resolution to take the ordinary course, and be referred to the committee.

Mr. JOHNSON. I should like to oblige the honorable Senator, but I cannot consent to that course.

Mr. WADE. I will barely say that if it lies on the table, it will not lie quietly there a great while.

The question being taken by yeas and nays, resulted—yeas 23, nays 12; as follows:

YEAS—Messrs. Anthony, Buckalew, Cowan, Davis, Dixon, Fessenden, Foot, Foster, Grimes, Guthrie, Harris, Henderson, Johnson, McDougall, Nesmith, Norton, Riddle, Sanlshury, Stewart, Stockton, Sumner, Van Winkle, Wiley, Williams, and Wilson—25.
NAYS—Messrs. Chandler, Hendricks, Howard, Howe, Lane of Indiana, Nye, Poland, Ramsey, Sherman, Sprague, Trumbull, and Wade—12.

ABSENT—Messrs. Brown, Clark, Conness, Cragin,

Creswell, Doolittle, Lane of Kansas, Morgan, Morrill, Pomeroy, Wright, and Yates—12.

So it was ordered that the joint resolution lie on the table.

MILITARY TRIAL OF DAVIS AND CLAY.

Mr. HOWARD. I beg now to present the joint resolution of which I gave notice yesterday.

The Secretary read twice by its title a joint resolution in relation to the trial of Jefferson Davis and Clement C. Clay.

Mr. JOHNSON. I ask for the reading of the resolution.

The Secretary read the resolution at length.

Mr. HOWARD. I do not propose to take up the resolution for consideration at this time, but I ask for an order that it be printed, and that in the mean time it lie on the table.

Mr. SUMNER. I should like to make a suggestion to my friend. I ask him whether his resolution should not be a concurrent resolution rather than a joint resolution? As I understand it, it is in the nature of a call on the President.

Mr. HOWARD. It is simply a recommendation to him.

Mr. SUMNER. That, I presume, is within the competence of the two Houses of Congress to make by a concurrent resolution. A joint resolution, as the Senator is aware, becomes an act of legislation which must be signed by the President. I would suggest, therefore, to my friend to make a change in the initiatory words, so as to read, "resolved by the Senate, the House of Representatives concurring."

Mr. HOWARD. I will thank the Clerk to make that alteration.

The PRESIDENT *pro tempore*. That alteration will be made.

Mr. COWAN. As I heard the proposition read, it is to try these persons by "a commission." I suggest the propriety of inserting "military" before "commission."

Mr. HOWARD. That is the language of the resolution.

Mr. COWAN. "Military commission?"

Mr. HOWARD. Yes, sir.

Mr. COWAN. I do not know that there is any law for civil commissions.

Mr. HOWARD. I shall not discuss the question with the learned Senator from Pennsylvania whether it is competent to issue a civil commission. I move that the resolution be printed, and lie on the table.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had concurred in the resolution of the Senate authorizing the joint committee, appointed to inquire into the condition of the States which formed the so-called confederate States, to send for persons and papers.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed an enrolled joint resolution (H. R. No. 18) granting certain public property to the Soldiers' Orphans' Home of Iowa; and it was thereupon signed by the President *pro tempore*.

COURTS IN INSURRECTIONARY STATES.

Mr. HOWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested, if not inconsistent with the public interest, to communicate to the Senate any correspondence which may have taken place between himself and any of the judges of the Supreme Court touching the holding of the civil courts of the United States in the insurrectionary States for the trial of crimes against the United States.

DICTIONARY OF CONGRESS.

Mr. HARRIS submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That there be printed for the use of the Senate the regular numbers of copies of the Dictionary of Congress, as revised and brought down to date, and

that the same copyright be paid the compiler that was paid to him by a resolution of this body, adopted June 20, 1864.

BREAKWATER IN LAKE SUPERIOR.

Mr. RAMSEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of making an appropriation for the construction of a breakwater at the head of Lake Superior, at or near Du Luth, Minnesota; and to report by bill or otherwise.

UNION PACIFIC RAILROAD.

Mr. HOWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be requested to communicate to the Senate copies of all documents, papers, and maps on file in his Department, relating to the branch of the Union Pacific railroad from Sioux City, Iowa.

PRINTING OF PAPERS.

On motion of Mr. WILSON, it was

Ordered, That the report of the Secretary of War, communicating copies of the records and proceedings of the military commission in relation to the trial and conviction of E. W. Andrews of South Carolina, J. M. Brown and C. C. Reese of Georgia, J. L. McMillan and Neill McGill of North Carolina, be printed.

NATIONAL MILITARY ASYLUM.

Mr. WILSON. I move to take up the bill in regard to the Military Asylum which was under consideration yesterday evening; the Senator from Iowa has an amendment which can be disposed of in a moment.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 54) to amend an act entitled "An act to incorporate a National Military and Naval Asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States."

Mr. GRIMES. I offer as a new section, to come in before the last section of the bill, the following amendment:

And be it further enacted, That so much of the act to which this is amendatory as provides for the establishment of a naval in connection with a military asylum, and so much of said act as provides that all stoppages or fines adjudged against naval officers and seamen by sentence of courts-martial or military commission, all forfeitures on account of desertion from the naval service, and all moneys due to deceased naval officers and seamen which are or may be unclaimed for three years after the death of such officer or seaman, shall be appropriated for the establishment of the asylum or asylums contemplated and provided for by this act and the act of which this is amendatory, be, and the same is hereby, repealed.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

POST ROADS.

On motion of Mr. DIXON, the bill (H. R. No. 61) to establish certain post roads was considered as in Committee of the Whole. It proposes to establish additional post roads in Massachusetts, Oregon, Vermont, New York, Pennsylvania, Wisconsin, Ohio, and West Virginia.

The Committee on Post Offices and Post Roads of the Senate proposed to amend the bill by adding the following:

MICHIGAN.

From Coopersville to Squire's Ferry.

MINNESOTA.

From Hastings, via Cannon Falls, to Kenyon.
From Saint Cloud to Fort Ripley on the west bank of the Mississippi river.

From Watertown to Glencoe.

From Blue Earth City, Minnesota, to Yankton, Dakota Territory.

From Hutchinson, via Cedar, Greenleaf, Kandigoli, and Irving, to Torah.

From Henderson, by Arlington, New Auburn, Witsadan Lake, and Fort Wadsworth, in Dakota Territory, to Fort Rice on Missouri river.

DAKOTA.

From Fort Wadsworth to Devil's Lake.

The amendment was agreed to.

Mr. DIXON. I offer another amendment to be added to the bill.

IOWA.

From Boonsboro to Panora.
From Winterset, via Quincy, Clarinda, and Marysville, to Savannah in Missouri.

From Indianola, via Lawrenceburg and Liberty Center, to Chariton.

The amendment was agreed to.

Mr. DIXON. I offer the following amendment:

MAINE.

From Woodman's station, via New Gloucester and West Gloucester, to North Raymond in Cumberland county.

From Poland to West Poland, in Androscoggin county.

The amendment was agreed to.

Mr. CONNESS. I offer the following amendment:

CALIFORNIA.

From Rio Vista, via Maine Prairie and Binghamton, to Silvestre.

From Red Bluff, via the Upper Sacramento river, Soda Springs, and Shasta valley, to Yreka.

From Red Bluff, via Payne's creek, Mill creek, and Big Meadows, to Susanville.

From Chico, via Stony creek and Coast Range, to Nome-Cult.

From Cloverdale, via the Lakeport and Cloverdale wagon road, to Lakeport.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. It was ordered that the amendments be engrossed, and the bill read a third time. The bill was read the third time, and passed.

JOINT COMMITTEE ON RECONSTRUCTION.

Mr. ANTHONY. I move that the Senate resume the consideration of the resolution to refer to the joint committee upon the condition of the States lately in rebellion certain matters.

Mr. GUTHRIE. What is that resolution? The PRESIDENT *pro tempore*. It is indorsed "a resolution, submitted by Mr. ANTHONY, to refer all papers relating to the condition and title to representation of the so-called confederate States to the joint committee upon that subject."

Mr. HENDRICKS. Does that resolution come up at this time in its order?

The PRESIDENT *pro tempore*. The motion is that the Senate now proceed to the consideration of that resolution.

Mr. HENDRICKS. Will the question then be on the passage of the resolution or its reference?

The PRESIDENT *pro tempore*. It will be open to a motion to refer or to debate when it comes up, if the Senate shall vote to take it up. It is not yet taken up. Is the Senate ready for the question on the motion that the Senate now proceed to the consideration of the resolution the title of which has just been read?

Mr. HENDRICKS. I should like to have the resolution read in full.

The Secretary read, as follows, the resolution submitted by Mr. ANTHONY on the 19th of December last:

Resolved, That until otherwise ordered, all papers presented to the Senate relating to the condition and title to representation of the so-called confederate States shall be referred to the joint committee upon that subject.

Mr. HENDRICKS. I desire to ask the author of that resolution whether it is understood to include the credentials of persons presenting themselves for admission to this body?

Mr. ANTHONY. Certainly not. I think that would be an unconstitutional proceeding.

Mr. HENDRICKS. Then I have no objection to it.

Mr. ANTHONY. I so stated when the joint resolution for the appointment of this committee was under consideration, and it was amended, on my motion, to avoid the possibility of such a construction.

The PRESIDENT *pro tempore*. The question is on the motion to proceed to the consideration of the resolution.

The motion was agreed to.

The PRESIDENT *pro tempore*. The resolution is now before the Senate, and the question is on its adoption.

Mr. McDUGALL. The language of the resolution certainly covers the case of credentials. It says "all papers" and the credentials of Senators are certainly papers presented

to the Senate. Those credentials will necessarily have to go to this joint committee under this resolution, if we can send them there by a resolution. I agree with the Senator from Rhode Island, that we have not the power to do it. The Senate must determine for itself the question as to the seats of its own members, and the House of Representatives as to the seats of persons claiming to be members of that body. But why not retain before the committee of the Senate, that must report upon the qualification of members, all the papers in these cases, so that we may have them in our own power? I take it that if these papers are referred to the joint committee of the two Houses, they cease to be within the power of the Senate—the very papers which will have to guide us in our action in determining the rights of persons claiming the seats of Senators. The language of this resolution certainly covers the whole question; it covers all the papers—credentials as well as everything else. If the Senator will make that exception in terms it may, perhaps, avoid the difficulty.

Mr. ANTHONY. I think the Senator might as well ask that a revenue bill should be referred to this committee because the States lately in rebellion will be affected by it, or that the bill which the Senator from New York [Mr. HARRIS] has introduced to reorganize the judiciary should be referred to this committee, because that will also affect the States lately in rebellion. All our legislation affects those States as well as the loyal States, and I do not see by what construction you can claim that the credentials of persons appearing here and claiming to be Senators shall be referred to this joint committee under this resolution any more than you can claim that any other measure affecting those States shall be referred to it. Every general law must affect those States. I agree clearly with the Senator from California, and I believe there is hardly any difference of opinion on that subject, that it would not be constitutional to refer to any committee other than a committee of the Senate the credentials of persons appearing here and claiming seats in this body; but I can see no more reason for making a special exception in that case than for making a special exception in the case of any general law.

Mr. McDUGALL. I should like to have the Senator answer me these questions: first, are not the credentials sent here, of parties claiming seats on this floor, "papers?"

Mr. ANTHONY. Certainly.

Mr. McDUGALL. Do not those credentials or papers relate to the rights of the persons claiming seats on this floor?

Mr. ANTHONY. Very well.

Mr. McDUGALL. Then, if they be papers relating to the rights of persons claiming seats upon this floor, they are within the exact terms of the gentleman's resolution.

Mr. ANTHONY. As I am a Yankee, I will take the liberty of answering the questions of the Senator from California in the way in which the people of our country are said to answer them. I will ask him, if a petition for an increase or diminution of duties is not a "paper?" I will ask him if that paper does not refer to the States lately in rebellion; and if it does refer to the States lately in rebellion, does it not come within the strict language of this resolution?

Mr. McDUGALL. No; this resolution relates to the rights of persons claiming seats on this floor, in exact terms.

Mr. ANTHONY. Then when the Senator from California will tell me how the papers to which I have just referred do not come within the strict language of the resolution, I shall be able to tell him how the credentials of persons claiming seats here do not come within the strict language of the resolution.

Mr. CLARK. The Senate will mark the language of this resolution, I think. It is that these papers, "until otherwise ordered," shall go to that committee. Now, it will be perfectly competent, when any credentials or any other papers are presented, for the Senator present-

ing them to move that they be referred to the Committee on the Judiciary; and if the Senate so order they will go there. This resolution only directs where they shall go until the Senate takes some definite action in regard to the papers. It is only a general way of disposing of business.

Mr. McDUGALL. Allow me to ask the Senator a question. This is a joint committee of the two Houses; and after they have been referred to this joint committee, will they be within the power of the Senate until the joint committee choose to report either to this House or the other?

Mr. CLARK. That is a question which it is not necessary for me to answer for the elucidation of this subject, because the Senate will have the control of the papers before they go to the joint committee, and it is not the understanding of any Senators around me, so far as I know, that this resolution embraces credentials, or is designed to embrace credentials. The general impression is that they should go to the Committee on the Judiciary. This resolution is only to provide a method of disposing of the business before the Senate without obstructing the Senate; and if any Senator wants any paper which he presents to go in a different direction, it will be perfectly competent for him to make such a motion, and for the Senate to order it in that direction, notwithstanding this resolution. The language of the resolution is, "until otherwise ordered by the Senate."

Mr. DOOLITTLE. There seems to be, on the part of the mover of this resolution, a distinct understanding that it does not cover credentials, and he says it would be unconstitutional to refer the credentials of members of this body to a joint committee of the two Houses; but on the other side it is objected that the words, as they stand, cover credentials, because the language is, "all papers" relating to the title to representation. I think it says "all papers." I ask the Secretary to read the resolution.

The Secretary read it, as follows:

Resolved, That, until otherwise ordered, all papers presented to the Senate relating to the condition and title to representation of the so-called confederate States shall be referred to the joint committee upon that subject.

Mr. DOOLITTLE. Now, Mr. President, those words, "all papers," certainly cover the certificates—

Mr. GRIMES. The title of the State to be represented; not the title of a man to the office.

Mr. DOOLITTLE. The certificate of their being chosen, coming here, or purporting to come here, under the seal of the State, is certainly a paper in relation to the right of the State to representation in this body. I move to amend the resolution by inserting the words "except credentials." That will avoid any ambiguity about it.

Mr. HOWE. It does seem to me that we are more frightened about this resolution than there is any occasion for being. Whatever the words of the resolution may mean, they are certainly entirely harmless. The resolution is always within the control of the Senate, as has been justly suggested by the Senator from New Hampshire. Whenever any paper which is supposed to come within the purview of the resolution is presented to the Senate, any Senator can raise the question upon its reference to this particular committee. But inasmuch as this committee has been raised for some purpose, it seems to me a very proper thing to take some action as to the general class of subjects that shall be referred to the committee. It is raised for some purpose, and it ought to have something to do. This resolution seems to me to be very proper to guide the action of the Senate upon the general class of questions which are to be referred to it. That is the purpose of the resolution, as I understand it.

Now, as to the question of construction which is raised here, whether the language of this resolution covers credentials or not, it does not seem to me that any two Senators need to differ at all. Credentials which are issued by a

political body having the authority to send Senators here bear upon the right of those individuals to seats here. This resolution provides only that papers relating to the rights of the constituent body to send Senators here shall be referred to this joint committee. One is the evidence of the right of individuals to represent a constituency, but the papers which this resolution refers to, and which are to go to the joint committee, are papers which bear upon the right of the constituency to be represented here. The distinction is very apparent.

Mr. DAVIS. Mr. President, I believe the time fixed for the consideration of the special order has arrived.

The PRESIDENT *pro tempore*. The present occupant of the chair was not in the chair at the adjournment of the Senate yesterday, and he is under the impression that no special order was made. If there was a special order made, the Chair will be corrected by the Journal. The Chair understands that the bill to which the Senator from Kentucky refers was postponed until to-day at one o'clock, but not made a special order. Perhaps it was the understanding of the Senate that the bill should then be taken up, but there was no motion made to make it a special order.

Mr. DAVIS. The understanding of the Senate was that it should be taken up at one o'clock to-day.

The PRESIDENT *pro tempore*. The Chair understands that such was the impression of the Senate, although the bill was not made a special order.

Mr. HOWE. Allow me to suggest to the Senator from Kentucky that the vote be taken on this subject now. I have said all that I intended to say, except this: while I agree with the Senator from Rhode Island, that this resolution does not cover the case of credentials, I do not agree with the constitutional principle which is asserted here on every hand, that it would not be competent for the Senate to refer credentials either to this joint committee or to the common council of the city of Washington, or make any other reference of them they choose. There is nothing in the Constitution against it.

Mr. DAVIS. I move that the bill that was set for to-day at one o'clock be now taken up.

Mr. ANTHONY. I hope we shall have a vote on this resolution. I fancy that the debate upon it is over. ["Oh, no."] If it is not, we may as well have it now as any other time. I should like to have the resolution disposed of. I do not wish to press it against the wishes of any Senator who may desire to address the Senate upon it, but I should like to make some progress in its consideration to-day.

Mr. DOOLITTLE. Perhaps the amendment that I have proposed may bring this matter to an end. If the Senator from Kentucky will allow us to dispose of this resolution—

Mr. DAVIS. I hope the honorable Senator will not insist on continuing the debate. The question is not going to be taken now.

The PRESIDENT *pro tempore*. It is moved that the Senate postpone the present and all other orders, and proceed to the consideration of the bill named by the Senator from Kentucky.

The motion was agreed to.

DISTRICT OF COLUMBIA SUFFRAGE.

The Senate, as in Committee of the Whole, accordingly resumed the consideration of the bill (S. No. 1) to regulate the elective franchise in the District of Columbia; the pending question being on the amendment reported by the Committee on the District of Columbia, as a substitute for the bill.

Mr. MORRILL. Before the Senator from Kentucky addresses the Senate, I desire to submit an amendment to the amendment reported by the committee, in order that we may have the whole subject before the Senate. In the seventh line of the first section of the amendment, after the word "States," I move to insert the words, "and excepting persons who may have voluntarily left the District of Colum-

bia to give aid and comfort to the rebels in the late rebellion."

Mr. DAVIS. Mr. President, the bill just read is properly and in its order before the Senate. On yesterday morning it and all the other orders were set aside by the request of the honorable Senator from Vermont [Mr. Foor] to take up a bill upon which he desired to express his views. This was done in conformity to the usual courtesy of the Senate, and most properly; and that Senator proceeded to deliver a long and able speech on that measure.

The Senator from Massachusetts [Mr. SUMNER] was present while all this was being done, and intervened no objection. When the Senator from Vermont had concluded his argument, and it was not then proposed to proceed further with that subject, the honorable Senator from Maine, [Mr. MORRILL,] by my desire, moved to set aside all other pending orders, and to assign the bill now before the Senate for one o'clock to-day; and I requested, as a matter of courtesy personal to myself, that the Senate would make that order. The Senator from Massachusetts objected, and in such manner as to imply that my appeal to the courtesy of the Senate was not intended to comprehend him; and in this he was certainly correct. There is no member of the Senate who so often asks, or presumes, upon its courtesy as he; and there is none so little disposed to extend it to other Senators, whether if he asked or unasked by them. On objecting to my request, he inquired of me if the speech which I desired to make could not be made on another bill that had been proposed to be taken up; and upon my expressing a negative, he had the assurance to refer to still another bill, and to ask me if my speech could not as well be made on one of them as the measure now under consideration.

I was not surprised by the conduct of that Senator, and do not now complain of it or feel aggrieved by it. I know that he could not avoid it; that with him such conduct is inevitable. I never ask a courtesy at the hands of that Senator.

But to the Senator from Maine, for making the motion at my instance, to the Senator from Illinois, for withdrawing his objection, and to the Senate for allowing it, I do make my respectful acknowledgments.

Mr. President, Congress is empowered by the Constitution to exercise exclusive legislation in all cases whatsoever in the District of Columbia. The object of that provision was to withdraw the seat of the Government of the United States from State jurisdiction, and to place it under the control of the General Government, to prevent any exercise of power that would molest the persons administering that Government, or interfere with them in the performance of their duties. It was more to protect the Government itself than to give it jurisdiction over the people of the District. The men who devised that arrangement were too wise and practical to have intended that the Senators and Representatives of the aggregated States should undertake by their legislation to regulate all the local affairs of this people. Such a duty can be much more conveniently and wisely performed by every people, acting by representatives which they themselves choose; and it is their natural right, too, to govern themselves by such an agency.

The members of the Convention, organizing their system on the principle that all legitimate government is founded on the consent of the governed, did not intend to ignore that principle as to this District. Their purpose was that its people should make their own laws and govern themselves; and that Congress should exercise a supervisory legislative power, and control their legislation only when it should be necessary to protect the Federal Government and its personnel from the action of the District authorities.

It seems to me, then, that the proper system for this District would be for Congress to organize a government analogous to the territorial governments, constituting a legislative body consisting of two Houses, and an executive offi-

cer and courts, to be chosen periodically by such of its people as are now authorized to vote in its elections; and they also to elect, every two years, a Delegate to Congress to represent the interests of the District to that body. The laws passed by its Legislature to take effect from the times therein respectively named, to be submitted to the next ensuing Congress, and to continue in operation until disapproved by it, or repealed by the Legislative Assembly of the District.

The measure under consideration proposes to confer the elective franchise on every male negro of twenty-one years of age, who has resided six months in the District, and who shall be able to read the Constitution of the United States in the English language, and write his name. The reading and writing will be found practically to be no qualification, for soon, about all will be able to spell, if not to read through the Constitution, and to scrawl their names, or at any rate to prove their ability to do both by some American citizen of African descent. And how much more capable will the colored citizen be to take part in the trivial matter of government, after having made such amazing attainments, than he was before?

The right to vote is not a natural, but an artificial right, as well in our country as all others wherever it has been exercised; and in the countries where it has been most diffused it never was allowed to one fourth of the people, the women and minors and many other small classes not being permitted to vote under the most popular Governments. From our systems the negro has been always shut out, except in a few localities; and in a majority of them for a short period only was this mischievous anomaly tolerated. It is probably no exaggeration to say, that from the beginning 50,000 individual negroes, in the aggregate, have not exercised the right of suffrage in the United States. This District and the adjoining States have been settled by the white man, and under his popular government for more than two hundred years, and during that period they have had dwelling within them, free negroes, and never have they been suffered to vote. Why this late and strange innovation? By the tables of the census of 1860, the white population of this District was 30,687; the free negro population, 8,361; and the slave population, 4,694; making a total negro population of 13,055; a very small fraction under one fourth of the aggregate population of the District. What new light has burst upon the world and upon the Senate to disclose the necessity, or the great usefulness, of the negroes of this District exercising the right of suffrage in its elections? Is it necessary to bring back the rebel States to their true loyalty? Cannot the Union be restored to harmony and peace and fraternity without it? Cannot the men charged with the administration of public affairs in this District, proceed with sufficient security and quietude in the performance of their duties unless they are hedged around by negro votes? Does some great national object or policy require this enlargement of popular sovereignty at the capital?

How many States allow negro suffrage? Massachusetts, Vermont, Rhode Island, and New York. All the others forbid it; and, notwithstanding the extreme acme to which the negro mania has risen in the free States since the rebellion broke out, Connecticut, Wisconsin, Minnesota, Nevada, and Colorado have voted against negro suffrage. The States that have passed upon the question, except Iowa, have voted it down by their white people, with light majorities it is true, except Colorado; and if the white race of those States respectively, by meager majorities, can vote down negro suffrage in them, why should not the white race of this District, voting about two hundred to one, exercise a similar right? Is it because in Connecticut there are but 8,627 negroes to 451,520 whites; in Wisconsin 1,171 negroes to 774,710 whites; in Minnesota 259 negroes to 173,596 whites; while in this District one fourth of the whole population are negroes? Of the States which allow negro suffrage, Vermont has 709 negroes and 314,380 whites; Rhode Island has 3,952

negroes and 170,668 whites; Massachusetts has 9,602 negroes and 1,221,464 whites; and New York has 49,005 negroes and 3,831,730 whites, and requires each negro to own real estate of the value of \$250 to qualify him to vote. A healthy man may take into his stomach one, or two, or three drops of arsenic without serious detriment to his health; but if he were to swallow one, two, or three hundred drops it would destroy his life. Negro suffrage is political arsenic. If it is not, why do not the free States open wide their throats and gulp down the grateful and invigorating draught? Why does not California give the right of suffrage to her Chinamen; Michigan and many other States to their Indians; and Pennsylvania to her Gypsy gangs, that are perpetually vibrating between her plains and mountains?

Why do not the free States adopt the general average principle, and take their *pro rata* of the whole negro population? That proposition was made to them a few years since by my friend from Delaware, [Mr. SAULSBURY,] but they all voted against it. They have too much sense for that. At this time more of those States might be willing to confer suffrage on their own free negroes, but it would be the hoisting of "false colors." They know there would be no further accessions of that population to them from immigration; and they would expect to be compensated, "some thirty, some forty, some sixty, and some an hundred-fold," in some way, for the disadvantage of their inconsiderable negro suffrage. But if the negro population run upon the white population in the free States in the same proportion as it does in this District and the southern States, in some of them being from thirty to fifty, and in South Carolina more than fifty per cent., would any of the free States, under such a condition of things, accept negro suffrage? A successful effort to force it upon them would very speedily inaugurate another rebellion.

But, Mr. President, the question whether a few thousand negroes of this District shall vote in its elections is of very trivial importance to the people of the United States, and to that portion of them who are so exercised by it, and who are making such strenuous efforts to bring it about. This contest is but an experiment, a skirmish, an entering wedge to prepare the way for a similar movement in Congress to confer the right of suffrage on all the negroes of the United States, liberated by the recent amendment of the Constitution, the power to be claimed under its second clause. It is following up the tactics of the party four years ago, when the assault upon slavery in this District heralded the general movement that was to be made against it.

Mr. President, the people of the late slave States do not intend to make any question upon the effect of the amendment in freeing their slaves; they have conceded it, finally and forever. There is probably now not a negro in the United States who is claimed by any one as property, or who does not exercise the right to control his own movements as a freeman. The first section of that amendment abolishes slavery, or involuntary servitude, one or both, except as punishment for crime, everywhere in the United States; and it does not propose to do anything more. The second section confers on Congress only the power to pass such laws as may be appropriate to give effect to the first. A negro may be a slave, and he may be emancipated by the special act of his owner, or by a general legislative enactment of the government of the State in which he resides. The slavery of a great number has been abolished in both forms, and neither the right to vote, or to give evidence in court, or to serve on juries, has ever accompanied either form of manumission. Slavery is the subjection of one person to another by authority of law, and all that is necessary to destroy the slavery is, by any mode, to remove the legal subjection. To abolish slavery, to emancipate slaves, to give freedom to slaves, are frequent and familiar phrases to all the people of the United States; and the acts and the ideas imported by them are definite and well understood. To vote, to swear in court, and

to try cases as a juror, are not parts of either, but as distinct from them "as a hawk is from a hand-saw." The second section of the amendment gives to Congress no pretext of power to invest the negroes freed by it with the right of suffrage, or to pass any law about the freed negro, except simply to make practical the destruction of his legal subjection to another. But if Congress were clothed by it with that power in the clearest language, it ought never to confer upon freed negroes, or any classes of them, the right of suffrage.

The tranquillity, prosperity, and freedom of a country depend much upon the homogeneity of its people; and in a popular representative Government it is especially important that the sovereign political power, that portion of the people who choose the officers of the Government, and thus control its legislation, policy, and administration, should have no fixed and essential antagonisms of race. The different branches of the great Caucasian family of Europe, if not brought together suddenly in too large numbers for a ready, harmonious, and perfect amalgamation, might form the highest order of nationality; because none of the stocks would degrade the others, and all might contribute to the common improvement. But in our country a race of people that is essentially inferior to the Caucasian race in its physical, mental, and moral structure, and that no cultivation can bring to an approximation of that high standard; that has by nature so low an organization as to be wholly incapable of self-civilization, or organizing a self-government, or maintaining a civilization and form of government which had been bestowed upon it by a superior people—a race which could take no part in the great business of Government to improve or uphold it, but only to obstruct, thwart, confound, and break it up, should never have any political power conferred on it. I hold that the negro is such a race; that he is the lowest and the Caucasian is the highest of the races of man, and the others are intermediate; and that he cannot be mingled with the blood, or in the management of the affairs of the white man without degradation and mischief to him.

The word "negro," as an ethnological term, does not comprehend all the black, much less the dusky families of man; it refers to that race which Cuvier describes as being "marked by a black complexion, crisped or wooly hair, compressed cranium, and a flat nose. The projection of the lower parts of the face and the thick lips evidently approximate it to the monkey tribe." The great naturalist might have added, as other distinctive characteristics of the negro: first, that his skin exhales perpetually a peculiar, pungent, and disagreeable odor; second, that "the hollow of his foot makes a hole in the ground."

The aboriginal home of the negro is Africa, though there are other distinct black races, of a different and higher type, that have been and are still found on that great continent, and also in Asia, from the remotest periods. Memnon and Sesostris, Hannibal and Jugurtha, the queen of Ethiopia who visited Solomon, and Cleopatra, were not negroes, though they were black or dusky. The negroes who inhabit Africa may be estimated at not less than 50,000,000, and they probably are not more numerous now than they have been for many centuries. They are spread over the larger portion of the continent, from the interior to many of its sea-coasts, and are divided into numerous small tribes, which differ in the dispositions of the people, some being fierce and cruel, and others comparatively gentle and humane. The slaves that were brought from Africa to America, were mostly of the Fantees, Ashantees, Kroomen, Quaquas, Congoes, Eboes, Fidoes, Coromantines, Mandingoes and Caffres, all tribes of the negro race.

Agassiz writes:

"In Africa we have the Hottentot and negro races in the south and central portions respectively, while the people of northern Africa are allied to their neighbors in Europe, just as we have seen to be the case with the zoological fauna in general."

Professor Soemmerring enumerates forty-six distinct differences in the anatomy of the negro

from the European race, as he is referred to in Guenbault's Natural History of the Negro Race.

Lawrence, in describing the negro variety of the human race, enumerates these distinctive features:

1. Narrow and depressed forehead; the entire cranium contracted anteriorly; the cavity less, both in its circumference and transverse measurements.
2. Occipital foramen and condyles placed further back.
3. Large space for the temporal muscles.
4. Great development of the face.
5. Prominence of the jaws altogether, and particularly of their alveolar margins and teeth; consequent obliquity of the facial line.
6. Superior incisors slanting.
7. Chin receding.
8. Very large and strong zygomatic arch, projecting toward the front.
9. Large nasal cavity.
10. Small and flattened *osssa nasi*; sometimes consolidated and running into a point above. In all the particulars just enumerated, the negro structure unequivocally approximates to that of the monkey. It not only differs from the Caucasian model, but is distinguished from it in two respects: the intellectual characters are reduced; the animal features enlarged and exaggerated. "The inferiority of organization is attended with corresponding inferiority of faculties, which may be improved, not so much by the unfortunate beings who are degraded by slavery, as by every fact in the past history and present condition of Africa."

Nott & Gliddon, in their work entitled *Types of Mankind*, say:

"A man must be blind not to be struck by similitudes between some of the lower races of mankind, viewed as a connecting link in the animal kingdom; nor can it be rationally affirmed that the orang-outang and chimpanzee are more widely separated from certain African and Oceanic negroes, than are the latter from the Teutonic and Pelagian types."

Dr. Wyman, of Harvard University, specifies the differences between the negro and the orang-outang, and adds:

"Yet it cannot be denied, however wide the separation, that the negro and the orang-outang do afford the points where man and the brute, when the totality of their organization is considered, most nearly approach each other."

Charles White, a naturalist, of Birmingham, sixty years since, published a work in which he pointed out twenty-eight distinct differences between the African negro and the European, in all of which the former approached the brute creation. Copeland, Chambers, Dr. Moseley, White, Dr. Prichard, Smith, and Vrolioh, of Amsterdam, name many distinctions between the white and the negro race, besides the black skin and the coarse crisped hair of the latter; among them are the arch of the leg and the want of it in the foot, the receding heel, the dome of the head, the perpendicularity of the vertebral column, a different formation of pelvis, low nervous irritability, and others, all of which mark their approach toward the lower form of animals.

Camper, Soemmerring, Lawrence, Virey, Ebel, and Blumenbach agree that the brain of the negro is smaller; and Gall, Spurzheim, and Combe, that it is so distributed as to denote less capacity for reasoning and judging than the Caucasian.

No well-informed and candid person can doubt the mental inferiority of the negro race. Lawrence says, "the mind of the negro is inferior to that of the European, and his organization is less perfect. These positions," he says, "are supported not so much by the unfortunate beings who are degraded by slavery, as by every fact in the past history and present condition of Africa."

Charles Hamilton Smith, who resided ten years on the coast of Africa and in the West Indies, and who had the best opportunities to observe the negro, and whose sympathies he declares to have been with him, says:

"The typical woolly-haired races have never invented a reasonable theological system, discovered an alphabet, formed a grammatical language, nor made the least step in science or art."

F. Pulszky, in his *Iconographic Researches*, writes of the black races:

"Long as history has made mention of negroes, they have never had any art of their own. Their features are recorded by their ancient enemies, not by themselves."

Hume, in his *Essay on National Characters*, argues in support of the superiority of the white over every other race, and attributes to it "all civilization," adding:

"There are negro slaves dispersed all over Europe, of which none ever discovered any symptoms of ingenuity."

The Natural History of the Human Species, its Typical Forms, &c., published in Edinburgh, says:

"In no part of this extended region [negro Africa] is there an alphabet, a hieroglyphic, or even a picture or symbol of any description."

Knox, in his Lectures on the Races of Man, declares:

"The grand qualities which distinguish the man from the animal, the generalizing powers of pure reason, the love of perfectibility, the desire to know the unknown, and last and greatest, the ability to observe new phenomena and new relations; these mental functions are deficient, or seem to be, in all dark races. But if it be so, how can they become civilized? What hopes for their progress?"

These questions are thus answered, casually, but most pertinently, by a French traveler in the West Indies, Cassaynac:

"The friends of useful and moral liberty should strive to maintain the supremacy of the white race until the black race understands, loves, and practices the duties and obligations of civilized life."

Carlisle thus addresses himself to the emancipated negroes of the West Indies:

"You are not slaves now, nor do I wish, if it can be avoided, to see you slaves again; but decidedly you will have to be servants to those who are born wiser than you, that are born lords of you—servants to the whites if they are (as what mortal man can doubt they are?) born wiser than you. That, you may depend on it, my obscure black friends, is and was always the law of the world, for you and for all men to be servants, the more foolish of us to the more wise. Heaven's laws are not repealable by earth, however earth may try."

Paulding, in his Treatise on Slavery in the United States, speaking of amalgamation, denounces it as "a scheme for lowering the standard of our nature, by approximating the highest grade of human beings to the lowest." "We have a right to conclude from all history and experience that there is an equal disparity of mental organization." "The experience of years stands arrayed against the principle of equality between the white man and the black." "All that the black man has ever done is to approach to the lowest scale of intellectual eminence, and the world has demonstrated its settled opinion of his inferiority by pronouncing even this a wonder."

In a letter from Dr. Morton, another learned and impartial northern man, there is this passage:

"It makes little difference whether the mental inferiority of the negro, the Samoyede, or the Indian, is natural or acquired; for if ever they possessed equal intelligence with the Caucasian they have lost it, and if they never had it they had nothing to lose. One party would arraign Providence for creating them originally different, another for placing them in circumstances by which they became inevitably so. Let us find out the truth, and reconcile it afterward."

The testimony of Judge Conrad is, that—

"The negro in the North has equal, if not superior, advantages of the poor white man." "It cannot, however, be boasted that his intellectual character has been materially elevated, or his moral nature greatly improved."

George H. Calvert's Scenes and Thoughts in Europe teaches that—

"At one end of the human scale is the black man, at the other the white; between them the brown and the yellow. The white man never comes into contact and conflict with the others that he does not conquer them."

The French philanthropist, Pynode, concludes:

"We no longer consider negroes as devoted to the hatred of God, but we hold them, generally, almost universally, as our inferiors by their own nature."

Levasseur, another French writer on this theme, premises:

"In times past, as now, it seems that the negro race, if left to themselves, cannot arrive at civilization."

Even Prichard, one of the few writers on the natural history of man who does not frankly concede the inferiority of the negro race, admits that—

"By the animality or degradation of the forms of the pelvis, peculiar to the negress and the Bushman and the Hottentot, is implied an approach toward the forms of the chimpanzee and the orang-outang."

Gibbon, in reference to the absence of continued, sustained, and persevering efforts of the negro race for its own improvement, observes:

"The inaction of the negroes does not seem to be the effect either of their virtue or of their pusillanimity. They indulge, like the rest of mankind, their passions and their appetites, and the adjacent tribes are engaged in frequent acts of hostility. But their

rude ignorance has never invented any effectual weapons; they appear incapable of forming any extensive plan of government or conquest, and the obvious inferiority of their mental faculties has been discovered and abused by their neighbors of the temperate zone."

Puffendorf asserts it to be a law of nature that when the negro

"Has the fortune to live in subjection to a wise director, he is, without doubt, fixed in such a state of life as is most agreeable to his genius and capacity."

Mr. Jefferson's passionate denunciation of slavery has been often and exultingly quoted by its opponents; yet this is his testimony as to the capability of the negro race:

"Never yet could I find that a black had uttered a thought above the level of a plain narration; never saw even an elementary trait of painting and sculpture."

Theodore Parker, as quoted by Nott, in his work, Types of Mankind, declares that—

"The Caucasian differs from all other races. He is humane, he is civilized, he progresses. It is intellect, after all, that conquers, not the strength of man's arm. The Caucasian has often been the master of other races, never their slave. Republics are Caucasian. All the great sciences are of Caucasian origin. All inventions are Caucasian. Literature and romance come from the same stock."

Mr. President I could array many other authorities, European and American, to the same effect, but it would be a superfluous work. There has been brought to the attention of the Senate enough of this sort of evidence. But there is other testimony of a different nature, and of such volume and weight that it will compel all men of common understanding, and accessible to truth, to accept the proposition that the negro is inferior to the white race. We have spread before us the authentic history of the negro on the continent of America in the United States; and his life and history here, for more than three hundred years, bear plainly and conclusively upon that question. The actual observation and experience of a vast number of intelligent, living people, demonstrate to them, and through them to the world, the proposition that the white race is superior to the negro to be immutably true.

The first authentic history of negro slavery in Europe, in modern times, dates in 1442, when some Moorish prisoners to Portugal purchased their freedom by giving a ransom of negro slaves. In 1503, while the great discoverer, Columbus, was viceroy of Hispaniola, afterward named San Domingo, the first cargo of African slaves ever brought to the New World were landed in that island. So soon as the Spaniards had formed a settlement, and as they continued to form them, on islands and mainland, they enslaved the native Indian, and compelled him to the severest labor in the mines and the fields. The Indian was of a fragile and sensitive organization, and nothing could mitigate his fixed aversion to labor. The consequence was that the destruction of Indian life in Spanish slavery became frightful.

The chroniclers and historians of that day inform us that San Domingo when it was discovered had an Indian population of about 2,000,000. It is hard to believe that any area of country, not a great deal larger, could have sustained such a teeming population of savages; but the soil of San Domingo was of extraordinary fertility, its fruits and vegetables abounding, spontaneous, and perennial, and its climate mild and salubrious. We are told by the same authority that in 1495 an army of 100,000 natives was assembled by one of their chiefs to drive the Spaniards from the island, and that Columbus, with less than 300 Spanish soldiers, struck that host of savages, and with the force of a tropical tornado swept it before him. Within fifty years from the discovery of the island its Indian population was reduced below 20,000. It was to save the aboriginal race from the weight of a servitude they had not the strength to endure, and from apparent speedy annihilation, that the monk, Las Casas, procured the Spanish Government to order the importation of the African negro into all its American colonies for the purposes of labor. His constitution was found to be well adapted to the tropical climate and the labor of its cotton and sugar fields under a vertical sun. He had strength and endurance,

was docile and imitative, submitted readily to the large tasks imposed upon him, and soon learned to perform his simple labors. Instead of pining and wasting away like the Indian, the African, with the facility of his nature, accepted his new condition. He became contented and cheerful, was healthy and strong, capable and willing to perform what was exacted from him, and was the greatly preferred laborer of the tropics and the low latitudes generally. One negro was deemed to be the equivalent of four Indian slaves. The natural increase of the negro race in this slavery was very large, and it was augmented by heavy annual importations from Africa into all the European colonies of America for the three hundred years succeeding its discovery. In that period of time it has been estimated that 30,000,000 African negroes were brought from their native land to slavery in the American colonies by the ships of all maritime Europe. No imagination can compass the aggregate horrors of such a vast slave traffic!

Nowhere was the increase of negro slaves more rapid than in the island of San Domingo; nowhere the product of their labor more largely remunerative. The area of this island is a fraction under 28,000 square miles. In the latter part of the last century about two thirds of it were under the dominion of Spain, and the other third was a possession of France. Alison in his History of Europe says that before the revolution by which the negroes acquired the mastery of the island—

"In the French portion the inhabitants consisted of about 40,000 whites, 60,000 mulattoes, and 500,000 negro slaves. This French colony was immensely productive, exceeding all the British islands together. Its exports, including the Spanish portion, were £18,400,000, and its imports £10,000,000 sterling."

He adds:

"The following table contains the comparative wealth, produce, and trade of San Domingo, before 1789, and in 1832, after forty years of nominal freedom:"

	1789.	1832.
Population.....	600,000	280,000
Sugar exported, pounds.....	672,000,000	none
Coffee exported, pounds.....	86,789,000	32,000,000
Ships employed.....	1,680	1
Sailors.....	27,000	167
Exports to France.....	£6,720,000	none
Imports.....	£9,890,000	none

The mulattoes and negroes of the French portion of the island revolted in 1790, and the freedom of the slaves in this and all the French colonies was proclaimed by the National Assembly, June 3, 1793.

The same historian continues:

"By the expulsion of the French from San Domingo it has been nominally independent; but slavery has been far indeed from being abolished, and the condition of the people anything but ameliorated by the change. Nominally free, the blacks have remained really enslaved. Compelled to labor by the terrors of military discipline, for a small part of the products of the soil, they have retained the severity without the advantages of servitude. The industrious habits, the flourishing aspect of the island, have disappeared; and the inhabitants, reduced to half their former amount, and bitterly galled by their republican taskmasters, have relapsed into the indolence and inactivity of savage life."

Thus writes the great historian Alison, and since then time has thrown no illumination over this dark picture of historic truth. Who, in three quarters of a century, has done nothing toward the further development of the still dormant resources of one of the most exuberant and salubrious islands of the ocean? Nothing still further to advance its population, arts, or civilization? Who has failed to conserve the population, industry, production, commerce, wealth, and social order to which part of the island had attained under French rule? Who devastated its thousands of sugar plantations, and gave to the flames its residences of luxury and refinement, with the accompaniments of libraries and letters and the arts and all the trophies of wealth, cultivation, and taste? Who annihilated its sugar production of 672,000,000 pounds annually, and reduced its annual growth of coffee 54,000,000 pounds? Who swept from the seas its great fleets of merchantmen and tens of thousands of sailors? Who cut off wholly its \$92,000,000 of exports and \$60,000,000 of imports annually? Who reduced its population more than one half, and notwithstanding that

population first rose in 1790 to assert by force of arms its own freedom, and this boon was assured to it by the National Assembly of 1793, amidst the frenzy that executed Louis XVI as a state criminal, and was confirmed by the overwhelming numbers of Toussaint and Dessalines, and the more fatal climate of the island, to the armies of France, who still held this population, nominally free, to real servitude, and by the bayonet forced it to the performance of grievous tasks for small remuneration? Who was it that swept industry, plenty, opulence, law, order, peace, and security from the island, and introduced in their stead passion, injustice, violence, rapine, murder, universal desolation, bloody and ferocious civil war, the abandonment of all business and industrial pursuits, the reign of all the fierce passions, and the perpetration of every revolting crime, the subversion of the entire fabric of civil society, and the relapse of the whole population into the inactivity, indolence, and stolid listlessness of savage life? Who was it but the negro that brought this manifold and terrible woe upon the fairest and richest island of the seas? And what people did he bring it upon? Not those who had enslaved him, for they generally had escaped to other lands; not upon a stranger people, but upon his own race, his own kindred, upon himself. He had driven out the white owners and had appropriated their possessions to himself, after having most wantonly despoiled them. He had been brought there by the master race when he was an ignorant, helpless savage, and but little above the brute creation. He had been made a slave, and in slavery he had learned and acquired all he knew.

As the white man's slave, instructed by and imbibing from his master, he had generally acquired much practical and useful knowledge, and in many cases had been educated to a limited extent. He thus had acquired an enlightenment and civilization to which his free ancestors, in their own country, had made no approach. The efficiency which this knowledge, this civilization, imparted to him, added to his overwhelming numbers, enabled him speedily to drive the white man from the island, and to become its sole lord and ruler. For more than sixty years it has been the theater of his efforts for self-government, of his statesmanship, of his capacity to conserve and yet further advance a civilization which had been conferred upon him by the white race. From nowhere has he been thwarted or interfered with in those efforts; on the contrary, he has been aided by residence with him, for the whole period, of many intelligent and friendly white persons, and by daily commercial intercourse with the most enlightened nations of the earth, all anxious for his greatest success. And so far from his moving onward and upward, there is too much ground for the apprehension that all the knowledge and civilization which he attained to as a slave he will lose as a freeman. Internecine, bloody, and desolating wars of the mulatto, negro, and white races of this island have continued to convulse it from 1790 for the succeeding ten years, and then between mulatto and negro to this day. The chieftains, yellow and black, have been a legion. Oge, Jeannot, Rigaud, François, Beauvais, Toussaint, Christophe, Dessalines, Clervaux, Petion, Boyer, Gomar, Richard, Souloque, and others since have been the actors in this long and terrible drama, and each one, throughout his part in all the shifting scenes, wore a sword reeking with the blood of the murdered people. The last act has come not yet, and still the movement is onward in a relapse toward that ignorance and barbarism whose black pall has hung immovable and impenetrable for unnumbered centuries over the aboriginal home of this negro race.

But, Mr. President, it is sometimes said that these horrible disorders were the natural fruits of the long slavery of the negro people, and of their delivering themselves from it by force and arms. France for some centuries had been about as much debased and oppressed as San Domingo; though in a different form. Her upheaval threw off the long-accumulating weight and scattered it with the strength and fury of a volcano. Her

frenzy passed away, and with renewed energies she moved off in the further development of intellect, and in the noble achievements of a higher civilization. But while the worst Jacobinism was raging in Paris, a spark from that infernal magazine lit upon this devoted island, among an inferior race, who had no recuperative forces; and the ruin which it spread has remained irremediable and hopeless.

When the subjects of Christophe, goaded by the bloody oppressions of that negro tyrant, in 1820 rose against him and transferred the northern portion of the island to Boyer, and thus made him its sole ruler, no people ever had a more favorable opportunity to repair the ravages of war, to enter upon a new and brighter career of national progress; but the Creator of all races of men had not made the negro equal to such a work of regeneration.

When the horrors of San Domingo were presented to Europe, Bonaparte, then First Consul, exclaimed that the association calling itself "the friends of the negro," the abolitionists of that day, who devised this hideous by-play of the French Revolution, "should veil itself in black." But the abolitionists of that day, and of this day, have no remorse or shame, none of the workings of the true principles of justice and philanthropy.

The negro race has passed through the probation from slavery to freedom in other conditions, under different circumstances, and by another system. The Parliament liberated, by its own imperial act, the slaves of the British West India islands. The owners there, and everywhere, who made profit and wealth by the labor of slaves, of their own free act never did nor ever will liberate them. The preparation for this measure was the operations of half a century, in Parliament and out of Parliament, of Sharp, Clarkson, Wilberforce, and other true and noble philanthropists, for the destruction of the barbarous slave trade, and their final success in 1825. Their object for many years was limited to laws of Parliament, punishing this traffic as piracy; and as they were cheered by increasing prospects of success, they naturally enlarged it to the liberation also of the slaves in all the British colonies. In 1823 a society was formed "for the mitigation and gradual abolition of slavery throughout the British dominions." Laws were passed forbidding the use of the lash, and making other meliorations in the treatment of slaves, and requiring the children to be schooled, all looking to their ultimate freedom. At length, in 1833, Parliament passed an act liberating all slaves in the British West Indies, and appropriating £20,000,000 as compensation to their owners. It provided, also, for their apprenticeship by classes during two, four, and six years; but the negroes behaved so badly as apprentices that the planters voluntarily gave up the system, and at once conferred upon them absolute freedom. Jamaica, the largest English island, contains about 6,400 square miles, has great fertility, and the name was given to it for the abundance of its springs of the purest water. Under all the depressing influence of the long agitation to emancipate the slaves, when that measure took effect there were upon this island 15,776 whites, 293,125 blacks, and 68,527 mulattoes.

This English emancipation had the orisons of the world, and it was confidently vaunted that it would bring up the negro race to the level of the proud Caucasian, and under its regenerating influence the population, productiveness, and wealth of those islands would soon leave far behind the utmost limits they had ever previously reached. These islands continue to be English colonies, protected by the power, restrained by the guardian care, and guided by the enlightened and firm statesmanship of the imperial Government. The enfranchised negro there became "equal before the law," and the peer of the white man, his late master. They were associates in political power, and alike eligible to all the offices of the locality. In this state of freedom the natural indolence of the negro resumed its dominion over him, and he refused to labor in the fields to such an extent

as to greatly decrease the productiveness and prosperity of those colonies. Jamaica, in 1809, imported to the amount of £4,068,897, and exported £3,083,234; and in 1810 she imported £4,308,337, and exported £3,303,579. During those years she was a slave colony. In 1853, twenty years after her slaves had been emancipated, her imports were £864,094, and her exports £837,276; and in 1864 her exports were £408,520, and her imports £932,316. From the period of her slavery to her freedom her imports fell off more than tenfold, and her exports nearly fourfold; and this notwithstanding her negro population had increased 48,002, her mulattoes 12,526, and there have been introduced from the East Indies tens of thousands of coolies to take the place of the freed negroes who had abandoned her fields. The white population, however, fell off 1,960. The great decay in the material prosperity of Jamaica is made more striking by the facts, that during the period between 1832 and 1847, 605 sugar and coffee plantations, containing 556,432 acres of land, and affording employment to 49,883 laborers, were entirely abandoned; and from 1848 to 1853, 573 other plantations, of 891,187 acres, were totally or partially turned to waste, and this in an island of less than 7,000 square miles. These astounding facts are verified by Carey, and a statement made by the West India Association of Glasgow, and appendant documents.

Bigelow, in his Notes on Jamaica, says:

"Shipping has deserted her ports; her magnificent plantations of sugar and coffee are running to weeds; her private dwellings are falling to decay; the comforts and luxuries which belong to industrial prosperity have been cut off, one by one, from her inhabitants; and the day is at hand when there will be no one left to represent the wealth, intelligence, and hospitality for which the Jamaica planter was once so distinguished."

But by far the worst phase of all in relation to Jamaica, is the recent murderous insurrection of her negro population. Liberty, equality of rights, an abounding, peaceful, and perfectly protected home; products of a most fertile soil, and a climate whose creative forces never sleep; all the trophies of the arts, the sciences, and letters; the dignity, influence, and power of office, position in society, wealth and fame, and religious culture, were all spread out before the negro of Jamaica, and gratuitously offered to his acceptance by the white man. And yet, after being the object of such benefactions for thirty years, and every prospect of their long continuance, he has risen upon the few resident white people to expel them from the island, or to doom them to a bloody extermination. He has added another to the thousand testimonies that he is a savage who may be tamed, but that his cruel nature cannot be eradicated, and only sleeps, and that when the occasion and the exciting causes arise he is ready to rush into the carnival of blood. There he reëacted the shocking excesses of San Domingo, giving the white race to indiscriminate slaughter—sawing in twain the bodies of the men, first violating with brutal lust and then murdering the women, severing the heads of helpless infants from their bodies, and bearing them on pikes in front of their armed bands, as the ensigns of the infernal war they were waging against the race of their benefactors. The military authorities of the island have punished by summary execution, as the newspapers inform us, from two to four thousand prominent actors in this savage and murderous outbreak; and we cannot suppose that this retributive justice, whatever its extent, was too severe.

What caused this terrible uprising of the negro population? The two races, in fearful disparity of numbers though, were living together on this island, and notwithstanding the essential and irreclaimable inferiority of the negro, in full equality of legal and political rights. But the laws of man could not change the order of creation. The negro had been daily confronted for a generation by a superiority of race which all his efforts were insufficient to equal; and at length he looked up at the white man's eminence in hopeless despair. He at first imitated, then envied, and at length hated it and its possessor. He contemplated his own vast num-

bers, and resolved to drive the white man, with his ineffable image of superiority, from the island or utterly to destroy him. It was the negro who made this savage and unsparing war on the white man; but if the war were mutual, or had been made by the white man, it equally proves that war between the races is inevitable, and will continue until one of them exterminates or enslaves the other, or until they are separated by inhabiting different countries. Still another solution is now contemplated, miscegenation.

But, Mr. President, there is another West India island upon which has been cast the fate of the negro, Cuba, of which I will take some notice. We all know that Cuba continues to be a Spanish slave colony. Its area is about 85,000 square miles. I will present a statement of its population and exports and imports for several different years:

	Whites.	Slaves.	Free.
1827.....	311,651	280,970	106,490
1841.....	418,291	436,495	152,838
1850.....	510,988	330,425	176,647
	Exports.	Imports.	
1837.....	\$20,340,607	\$23,499,357	
1851.....	31,341,683	32,312,430	
	Total revenue.	Sent to Spain.	
1853.....	\$25,791,206	\$13,821,430	

It is thus seen how prosperous Cuba, a slave colony, has been, and how rapid the growth of that prosperity.

I have presented the case of San Domingo as a French slave colony, and as an independent negro island; Jamaica as a British colony, first slave, and then with her negroes liberated and "equal before the law;" and Cuba as always a slave colony; and the facts which I have brought forward need no argument to prove the great superiority of the slave over the free islands. This superiority of development and condition was the result of the dominating mind and energies of the white race, and is proof of the inferiority of the negro.

Another great fact to the same effect is, that the negro has been enslaved in every age of the world of which there is any memorial; and that he has been the slave of every other race, and has never been able to enslave any one of them. While many negro tribes are fierce and intractable, others have much natural docility and are especially imitative. From these latter tribes the favorite negro slaves that appear so often in history were doubtless derived. The Jews in Solomon's time, and long before, the ancient Egyptians, India, centuries before Alexander broke over its confines as a conqueror, the Assyrians, the Medes and Persians, the intellectual and polished Greeks, the conquering Roman, both under the republic and the empire, all had the negro slave, and held him as property. He was the chattel-movable, or fixed to the realty throughout the middle ages; and in modern times Portugal, Spain, France, England, Holland, Sweden, Denmark, and the maritime States of Italy, and all the Americas, hunted the negro in his aboriginal and savage home, and dragged him a slave away into distant lands. In his new and strange home he soon forgot kindred and country, formed new ties, adopted simple pastimes, and became contented and happy. This easy adaptation resulted from his lower organism, made him docile and pleasant, and everywhere a favorite slave.

Wherever and whenever the negro was enslaved he became more or less educated and civilized. Among a scholarly people many, no doubt, were to some extent schooled in letters, in the elements of the lower sciences, and even in some of the fine arts. All imbibed some knowledge of the useful arts and the necessary practical information to enable them to perform the simple duties of their respective positions. Take the whole mass of the negro slaves of a country, particularly in the primitive and earlier ages, when they were appropriated so largely to household service, and it probably often had a respectable aggregate of civilization and the concomitant acquirements—quite enough to have enabled an appreciating and capable race both

to conserve and perpetuate what they had mastered, and also to proceed on in an indefinite career of progress.

All the great nations of antiquity with whom negroes lived in slavery, and from whom they acquired knowledge and civilization, ran their long and eventful careers, and passed away, leaving a history behind them. The remaining fragments of their nationalities and races are accounted for; they are found among the constituent elements of the new States which rose upon the ruins of those that preceded them; but the negro slaves, as separate and distinct and insoluble almost as Jew and Gypsy, what became of them? Whether they remained with their overthrown masters, under the conquerors, or wandered back to the home of their fathers, or migrated into other countries, they perpetuated themselves not, they made and wrote no history, they left no distinctive monuments. None but an inferior race could thus have passed into oblivion, leaving "not a wreck behind."

The other races of man have sent forth from their hives into distant countries conquering armies or overrunning hordes. They planted primary colonies, some of which sent out offshoots; or the original colonists sojourned a while in a strange land, and then made a new start for a still more distant and desirable home. But not so with the negro, whether primitively barbarous or partially civilized. There is no record that he ever planted a colony, or built up a State, or formed a well-ordered Government, either in his own country or any one to which he had been carried as a slave; or made any extended conquests, or war on any grander scale than the barbarous incursions and conflicts of contiguous and petty savage tribes.

But, Mr. President, this is a subject about which we have learned, not only by history and the statements and collation of facts by others, but also from our own experience and observation. We have had slavery in our own country, until yesterday, more than two hundred years; and the old thirteen, as Colonies and States, clung to it for a longer period than a century; and if the fifteen slave States had not been coerced by military power slavery and property in man would have lingered, at least in the cotton, sugar, and rice fields of those States, for centuries. Negro slavery will still abide there, and abide there forever. The great products of the warm latitudes have become the necessities of the world. The white man will have them. They can be produced only by the labor of human hands; and in the localities where they grow and flourish the air is charged with diseases fatal to the white man, but against which the negro is protected by a natural coat of mail. The white man will not labor in those fields, but he will put the negro in them, and make him cultivate them, too.

This war drove the southern planters from their richest fields, and thousands of northern men rushed to take possession of them. How many northern men entered those fields as toiling laborers? Not one. They all sought to cultivate them with the slaves of the refugees. Individual property in the African slave may have ceased forever, but his involuntary labor, his slavery, in some form, in the fields of the South, is his destiny. The God of nature hath so ordained, and man cannot thwart it. The degradation of the negro in our country is known to and acknowledged by everybody; but his eulogists attribute it to the benighting and debasing influence of his long enslavement. Who and what was the negro when he was first brought into slavery in America? He had no written history. He had never elaborated any systems of science or discovered their simplest principles; never designed any harmonious order of architecture; never produced one of the fine arts, or invented any machinery or useful arts of the least complexity. He had neither eloquence, nor painting, nor sculpture, nor poetry, nor a reasoned theology. He had no modes of calculation, constructed no principles of music or musical instruments; had no alphabet, or characters, or hieroglyphics. He

was almost without language; had but the feeble glimmerings of reason; had achieved scarcely anything since he came from the hands of his Creator, and had continued to be the lowest connecting link with the brute creation. All the other races of men were also once benighted savages; but they had been created with a higher and more perfect organism, and endowed with superior faculties and powers. More excellent in complexion, form, action, and innate grace; the nicest sensibilities; deep reflection; with long forethought; exhaustless invention, the most complex ratiocination; an active and insatiable desire for progress and perfectibility; the workings within him of a higher divinity; a readier, freer, and closer communion with nature and God, lifted him up and propelled him from his primal and ignoble ignorance and destitution to the achievements of his present civilization, which, grand and affluent as they be, are but the prelude of his vast and incomprehensible future.

But during the long period in which the other races have been moving on with their wonderful creations, almost a continent of negroes have been fixed as a fossil under the weight of the barbarism and ignorance of untold centuries, because their Creator had not endowed them with the faculties and energies to emerge from it. So He made the progenitors of our negroes, the freedmen of the United States, and they can never break away from the essential nature of their parent stock.

But I will present a picture of the negro as he now is, and as he is likely to be forever, in his country, sketched by Malte Brun:

"The slave coast of Africa consists of several petty States, which are all under the despotic sway of the King of Dahomey. This barbarian monarch chooses to have women for his body-guard, and his palace is surrounded by 1,000 of these amazons, armed with javelins and muskets, from whom he selects his special military aids and messengers. His ministers, when they come into the royal presence, are obliged to leave their silk robes at the gates of the palace and approach the throne walking on all fours, and rolling their heads in the dust. The ferocity of this African despot almost surpasses conception. The road to his residence is strewn with human skulls, and the walls are adorned and almost covered with jawbones. On public occasions the sable monarch walks in solemn pomp over the bloody heads of vanquished princes or disgraced ministers. At the festivals of the tribes, to which all the people bring presents for the king, he drenches the tombs of his fathers with human blood. Fifty dead bodies are thrown around the royal sepulcher, and fifty heads displayed on poles. The blood of these victims is presented to the king, who dips his fingers into it and licks them. Human blood is mixed with clay to build temples in honor of deceased monarchs. The royal widows kill one another till it pleases the new sovereign to put an end to the slaughter; and the crowd assembled at their most joyous festivals applaud such scenes of horror, and delight in tearing the unhappy victims to pieces."

Such is the king and court of a group of African tribes, and from this a reasonably accurate idea of his subjects may be formed. The difference between them and the negroes of the United States has been produced wholly by the slavery of the latter. The religious congregations and missionary societies of Europe and America have been for a century expending millions of money, and the energies and lives of devoted men and women, to Christianize and civilize the heathen negro of Africa, and the fruits of their long efforts are scarcely discernible. But upon the same stock, slavery in the United States exhibits four million negroes with a larger amount of physical comforts, intelligence, civilization, Christian instruction, and happiness than ever fell to the lot of that number of this race in any age of the world. We have often heard slavery denounced in this Chamber as "the sum of all villainies;" but, Mr. President, there is one more enormous villainy, and that is the manner in which slavery has been broken up. The premature liberation of several hundred thousand negroes, the unmeasured and immeasurable amount of misery and suffering consequent upon it, both to the living and the dead, and all that is yet to flow from it, will help to demonstrate this great and reckless wrong to the truth of history.

The deed, however, is done, and as I believe most foully done; but whether fairly or foully, I would not, if I could, undo it. It was one of those difficult, erroneous, and greatly mischie-

vous movements, which, though it were better not to have been made, to reverse it is impracticable, or if practicable, the reversal would produce still more of mischief than good.

Mr. President, our country has just passed through a great revolution; four million negro slaves have been made free, and to effect it the Constitution and laws of the United States, and of all the slave States, were, for the time and the occasion, subverted. The insurgent States have submitted to the fortune of war, and have abolished slavery by provisions in their respective constitutions, and have adopted the amendment of the Federal Constitution by which it is forever prohibited in the United States. These were conditions imposed by the conquerors, and they were accepted, because of subjugation and the dread of a grinding and indefinite military despotism. The submission has been universal, complete; for the numbers resisting none was ever more so or in better faith. Irrespective of constitutional injunctions and obligations, magnanimity to the South would now be the truest policy of the nation. But there is an extreme faction which arrogates the largest share of the merit of this great triumph, as it is certainly chiefly responsible for the many enormous infractions of the Constitution and liberties of the people of the United States attending the suppression of the rebellion. That faction, astonished, bewildered, and intoxicated by the greatness of the revolution that has been effected, is now striking for another much more bold and atrocious.

More than thirty years ago there were two systems of policy propounded to the people of the United States that were in some aspects antagonizing, and others friendly—one by Massachusetts and the other by South Carolina. The first aimed at the destruction of negro slavery throughout the slave States by appeals to public opinion, and if it could not be effected, then the dissolution of the Union by the withdrawal of the free States from it, and the organization of a union of those States exclusively. The principle of the other was for the slave States to secede from the Union and to organize a confederation in which all the States should be slaveholding. Both systems were in derogation of the Constitution, both treasonable and revolutionary, and they both contemplated contingently a resort to arms. Both actively sowed discontent with the Union among the people, alike embarrassed the Government, and desired public disturbances and convulsion, hoping that such a state of affairs would forward their respective objects; and to that extent they were coöperating and allies. South Carolina contemplated to essay a peaceable secession; but if that was not conceded to fight for it. Massachusetts intended to effect the overthrow of slavery by any practicable means, and to work for the adoption of whatever would promise that result, without any regard to its justice or legality. The abandonment of the Union by the free States, although she had determined upon that, was to be her last card.

If the slave States could be involved in war with the General Government, and opportunity could thus be made to crush them and their slavery, that game she was determined should first be played. South Carolina was the less cool, more precipitate, and she played her game rashly, and it has been lost by wager of battle. Not that any principle of our Government can be lost or won by war or its issue. Secession was no less unconstitutional and inoperative, and it was no less the duty of the Government to oppose and defeat it before the war than it now is. South Carolina and the southern States have been vanquished and have submitted; and the decisiveness of the victory and the completeness and rectitude of the submission equally challenge the admiration of the world. To-day South Carolina even, and all the southern States, have a truer fidelity to the Constitution and the Union, to the form and spirit of our blended system of government, and the liberties of the people, and would be incomparably more trustworthy as their defenders, than Massachusetts.

South Carolina was once, and for a long time,

true to our system of government and all its principles; Massachusetts never. In 1787, when the Constitution was being born into life, Massachusetts was in a state of insurrection against the United States. In 1806 she factiously opposed the policy and measure of our Government in the acquisition of Louisiana, because that vast country, being formed into States, would lessen her power and influence relatively in the Government and Union. In 1809, when our nation was young and feeble, and the British cruisers, under orders in council, were boarding our ships in every sea, tearing our flag from the mast-head, and dragging our sailors from their own decks to be impressed into the service of our enemy, and our Government, to avoid war, resorted to an embargo to constrain England to desist from those wrongs, Massachusetts condemned our own Government, denounced the embargo as invalid and inoperative, and disregarded it, continuing to trade with the public enemy, preferring to accept the outrage and degradation of the Government and people of the United States to the loss of her gainful traffic with England.

These wrongs were persisted in and multiplied by England, and as the *dernier* redress our Government declared war against her in 1812. That Massachusetts was then false and disloyal to the United States; that she gave not only her sympathy, but aid and comfort, to the enemy, and committed the crime of treason against the United States in many instances throughout the war; and that she was bought to these crimes by the gains of her traffic with that enemy, is matter of public history.

When Florida was acquired by treaty with Spain, factious and disloyal Massachusetts condemned the acquisition, and the Government for negotiating the treaty, which her Legislature solemnly resolved to be without authority, and that that territory was not thereby annexed to the United States. On the admission of Texas as a State the government of Massachusetts passed resolutions declaring the measure to be void, and she was not bound by it.

The constitutionality of the fugitive slave law of 1850 was sustained by the Supreme Court of the United States and all the Federal and State courts before which the question was made; notwithstanding, the Legislature of Massachusetts passed a law to nullify it; and her people organized an armed rebellion to resist, and did resist, its execution; and in making that resistance, Batchelor, a United States marshal, who was in the performance of his duty, was killed, and this double crime of treason and murder is yet unwhipped of justice.

The first announcement of the ends of waging the war for the suppression of the insurrection, made by President Lincoln, and almost unanimously by the two Houses of Congress, was strictly constitutional and proper. It was simply to coerce obedience to the Constitution, laws, and authority of the United States; and when that was effected the revolted States would resume their position in the Union and the Government, and they and their people would have all the rights of the other States and their people. It was to compel obedience only, and there was no power in the Government to require or to do anything beyond that. But, as the war continued, the purposes of those who waged it on behalf of the United States were enlarged, and they transcended the limits of the Constitution. It was assumed by them that slavery was the cause of the war, and must therefore be eradicated from the United States, as well to prevent it from producing future wars; and that when slavery should be everywhere abolished, and there was no longer a slave in the United States, and all the rebels had submitted to the Constitution and the laws, the war was then to terminate and the States were all to resume their respective positions in the Union and the Government. This was the second programme, and it has been fully executed.

And now comes up Massachusetts and her allies with a third programme, and what is it? To confer on the negroes recently freed the right of suffrage, and to introduce the miscegenation

of the races in the southern States. Let us examine both branches of this new enterprise.

The freed negroes number about 4,000,000, and the male adults between six and seven hundred thousand, scattered over fifteen States. Kentucky, with 250,000 slaves of all ages, has about 40,000 men over twenty-one years. In our country, it has been the course of events for political parties to rise and fall every few years. The party in power have been guilty of flagrant general administration, and consequently has a large and fixed opposition to it in the adhering States; and in those that revolted, the white population are about unanimously its mortal foes. It would not be long after the southern States had resumed participation in the politics and government of the country, that the dominant party would have to surrender the seals of office, unless they can make some great accession to their numbers. It is neck or nothing with them, and what power is to save them? It is the negro alone, but he can serve and save them only by voting for them. It was that party which gave to the negro his freedom, and if he is permitted to vote, to it he will also owe that privilege. Massachusetts & Co. may count certainly upon being able to command the entire negro vote—it will always and promptly obey their behests.

For that power to be enthroned in Boston, and by its imperial will to direct how more than six hundred thousand negro votes, spread over fifteen States, should be cast in every election, is a great stake, for which a bold and desperate game is being played; and if won, it may save the fate and fortunes of the daring political gamblers who are playing it. With the aid of their negro allies, constituting more than half of the whole vote of South Carolina and Louisiana, nearly half of that of several other States, forty thousand in the State of Kentucky, and a heavy proportion in the remainder of the late slave States, and possessed of the Government, and wielding its vast powers and patronage singly to their own ends, they would be omnipotent; and standing in the name and according to its forms upon our subverted Constitution, they would be the absolute masters of the people.

But their aim is to embody the miscegenation of the races in the southern States as part of their system. They have noted the permanent national degeneracy and weakness produced in other countries by this blighting curse, and they contemplate similar results in the southern States. Without those results they know that a regenerated South would soon break away from the base thralldom with which they are seeking to envelope her; but with miscegenation and those results they might make the vassalage of the South to the North permanent.

By the census of 1860 there were 4,427,098 negroes in the United States, of whom 225,929 were in the nineteen free States, and 4,201,164 in the fifteen slave States, being 20 to 1. The negro revels in a warm climate, because to him it is both salubrious and indolent, favoring long life and large natural increase, requiring but little clothing, and furnishing him much of his food in spontaneous vegetables and fruits. Massachusetts & Co. know that he has invincible aversion to the cold northern States; and that even freedom, and some social and political privileges which they held out to the slave negro could not allure many of them to go there. They know that so soon as the few negroes resident in the northern States have the option the most of them will fly back to the sunny South. White labor is greatly the best for the border slave States, and especially Kentucky, with her nonpareil blue grass; economy and interest will push the negro from those States and he will go South, and the process will be expedited by the vexations and injustice of the "Freedmen's Bureau." The cotton, rice, sugar, and coffee plantations are the theater to which the negro laborer has been allotted by nature; everywhere beside he will be met and vanquished by his white competitor, but there this meeting will never take place. From all these causes the aggregation of the mass of the negroes of the

United States in the southern States will progress rapidly.

Miscegenation would be encouraged by large numbers of the two races inhabiting the same country, and every law and regulation in favor of the white being broken down; by the white race becoming poor and broken in spirit, and cut off from position and office and political power; and the negro race being elevated as the other is depressed, and becoming the ruling power of the country. The white man is to be driven from his lands, and they are to be given to the negro and the negro's guardian angel, the Yankee. The white man finds the malaria of the country fatal—to the negro it is innocuous. The one can labor in the fields if he will; the other it would speedily transfer to the grave. But wherever money is to be made there is the omnipresent Yankee. He steps in and forms associations with the negro; he engrosses the cotton and rice and sugar lands; and by the agency of the Freedmen's Bureau, and often with its officers as his secret partners, seduces the negro laborers from the employment of the resident land-holders, if any of that class should be left, and himself monopolizes the entire labor of the country.

Thus the white resident is excluded from all part or lot in the cultivation and production, and eventually the ownership, of the lands; and all their avails, that can pass through the hands of the Yankee proprietor, go to the negro laborer. Poverty, destitution, and squalid want await the white residents and their families; and the men who devised this cruel and revolting system knew full well what cogent motive to miscegenation such a deplorable condition of the white race would offer to it. These august architects are gloating over the success of their crude and hastily tried scheme, and the misery it has even now brought on the southern people; and they are in haste to perfect it by supplementary and new measures of legislation. The whole scheme was concocted after long reflection, by able men, for mischief and oppression, and it was devised with diabolical forecast. The original proposition to amend the Constitution by abolishing slavery throughout the United States, was the first section; the combining the second section with it; the organization of the oppressive and infamous Freedmen's Bureau, with the object to degrade the white man and elevate the negro; the pending bill "to enlarge its power;" the bill "to protect all persons in the United States in their civil rights, and furnish the means of their vindication;" the pending measure, and the numerous bills to extend the right of suffrage, not to all the free negroes of the United States, but to those recently liberated in the late slave States, are all harmonious parts of a huge system of tyranny and iniquity, built up not only without any rightful power, but in all their essential features against the plainest and most vital constitutional restrictions of power. What condition and destiny that series of measures is intended to bring, and will bring, on the southern States, is illustrated by Mexico at this time.

The area of that country is about 894,000 square miles, and its total population 8,600,236, there being about eight persons to the square mile, a very sparse population for a country that has been settled so long, and has so much natural wealth. We are informed that of her people 1,000,000 are of the European race, 4,000,000 of Indians, 3,394,236 are mestizoes, or the mixed races, and only 6,000 negroes. The lower races have always the stronger desire to mix with the higher ones, and the negro being the lowest, has that proneness in the greatest degree, which explains why there is so small a number of negroes in Mexico. If there be any ennobling or regenerating power in miscegenation, the land of Cortez and Marina has had its full benefit.

At the time of the conquest of Mexico and Peru, the conquerors and their countrymen were the first people of Europe, and they maintained that proud ascendancy for some generations. In their colonies so long as the European race

preserved its distinctness in the main, and did not extensively enervate itself by miscegenation and forming domestic alliances with the other races, it asserted its mastery and ruled their colonial affairs with resistless courage and vigor. The domination of these colonists of the Spanish race continued throughout the struggles of the colonies for independence and their first years of separate nationality, and was lost only when the gangrene of miscegenation had wasted the energies, and had sapped the hardy and warlike qualities of that portion of the people, then degeneracy, feebleness, and incompetency to rule came over them.

This decay of national virtue and prowess was most striking in the Spanish-American countries where there was the greatest admixture of the races; hence Mexico was conspicuous in that respect. In this unhappy country it has proceeded to such an extent as for some years to have threatened the overthrow of her social system. Industry, business, prosperity, law, order, and security seem long since to have fled from Mexico. Her people are powerless to conserve or to reconstruct anything; and their only manifestation of energy or effort is the rapid rise and fall of military factions, brigandism and general devastation, and the throes of a universally threatened anarchy. The example of Mexico is before us and in our neighborhood, and the cause of her debasement and misery is patent, known to everybody; and it is that the southern States may be brought to the same condition that reckless and wicked men are making such efforts to introduce it there. A frantic desire to punish the southern people, a demoniac and insane thirst for vengeance upon them, mixed up with an ignoble lust for power and office, for profit and money, are driving on those men and their frantic followers; and if they can accomplish their ends what care they for the unutterable woes that may be devolved upon their victims? The purpose is to bring the South to such a condition of weakness and abasement that it shall have neither the spirit nor resources to throw off the galling yoke of the North; that it shall become a permanent colony, and be made to pay tribute under measures and laws passed by the North to build up its own sectional interests; that it shall become so much Mexicanized as to be incapable of self-government, and its government by the North become a necessity.

Mr. President, there is a most novel, alarming, and indeed revolutionary aspect in public affairs at this time. The majority will not permit eleven States to be represented in either House of Congress, although seven of them have voted and been counted in favor of the amendment of the Constitution abolishing slavery throughout the United States. There is not, and has not been for months, any rebellion, or insurrection, or resistance, or a single armed soldier or citizen in those States, or any one of them, against the United States, their laws or authority. On the contrary, those States are in full, formal, and real submission and obedience as the other States. A bold and desperate faction know that their mischievous and unconstitutional measures cannot obtain the requisite majority of the two Houses if the Union is unsevered and the Government in full and constitutional operation, by all the States being represented in both Houses. But this revolutionary movement is intended to operate not only upon Congress, but also upon the President; it is designed to emasculate his veto power, to prevent him having both or either House of Congress to sustain it if he should veto any of their unconstitutional and destructive measures.

Mr. President, this abolition radical party boasts that it is the party of development and progress. How much longer will it develop, and how much further will it progress, before the country will be aroused by the thunders of military *pronunciamientos* reverberating from ocean to ocean? We seem to be in the rapids, rushing on to the fatal cataract. Is there no power to save us? It seems to me as if our country had incurred the especial displeasure of the great Jehovah, by His allowing the madness of

the people to bring on this great civil war. He has inflicted upon the nation one of his heaviest chastisements. The war has ceased, but the frenzied, wicked, and demoniac passions of the people still rage, and the men who profess to be His ministers of "peace on earth and good will among men," are the most active to continue and further inflame them. When this demonism is given up we may hope the vengeance of God to be satisfied.

Mr. President, our Constitution and the liberties of the people have not withstood this great civil war: that Constitution has been disrupted and its disjointed fragments scattered everywhere, and the liberties of the people torn into shreds by its terrific storms. The effective remedy is for the sovereign people of the United States to go into a national convention to replace the great foundation stones of their Government, and rebuild upon them the structure in its original proportions and harmony, making a few necessary and vital modifications in conformity to the teachings of experience. Among such modifications one would be, to organize New England into not more than two States. New York, by the census of 1860, has 3,883,735 people, and all New England but 3,135,293. The excess of the population of New York over all New England is only a small fraction less than the aggregate population of Rhode Island, Vermont, and New Hampshire. It will not be many years before eight or ten States will each have more population than the whole of New England. It is a wrong and dangerous adjustment of power for New York to have two Senators, and those six States to have twelve, and for fourteen presidential electors to be apportioned on the same principle, between New York and New England. Massachusetts has most generally formed the political principles and directed the political course of the other New England States. She has been, in truth, *imperium in imperio*, and has often most mischievously wielded their aggregated power. The principle of proportion between the population of the States and their weight in the Government, justice to the great States, and harmony among them all, require that New England should be made to surrender her great disproportion of power in the Senate and the presidential college.

Mr. President, throughout his whole history the negro has been found in but two conditions: living separately to himself as an ignorant savage, or with some other race of people as a slave or dependent. Freedom, with ignorance and barbarism, or slavery with civilization, is his destiny.

I move to recommit this bill to the Committee on the District of Columbia, with instructions to report allowing to the white citizens a form of government similar to our territorial governments.

Mr. WILSON. I move that the present and all prior orders be postponed, and that the Senate proceed to the consideration of the Freedmen's Bureau bill.

The motion was agreed to.

FREEDMEN'S BUREAU.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau.

Mr. WILSON. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 16, 1866.

The House met at twelve o'clock m. Prayer by Rev. E. House.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. J. W. FORNEY, its Secretary, informed the House that the Senate had passed, without amendment, House resolution No. 18, granting certain pub-

lic property to the Soldiers' Orphans' Home of Iowa.

RECONSTRUCTION.

Mr. CONKLING. I ask the unanimous consent of the House to offer the following resolution for reference to the joint committee on reconstruction:

Resolved, That in reestablishing Federal relationships with the communities lately in rebellion so as to permit them again to participate in administering the General Government, the following are necessary and proper requirements, and ought to be secured by such measures as will render them as far as possible immutable:

1. The absolute renunciation of all the pretensions and evasions of secession as a doctrine and as a practice.
2. The repudiation both by the State and by the national Governments of all public debts and obligations, including State and municipal liabilities contracted or assumed in aid of the late rebellion, and including also all claims by or on behalf of those who were in the military or naval service of the insurgents for bounty, pay, or pensions, and all claims by persons not loyal to the United States for damages or losses suffered by reason of the rebellion and for advances made in its aid.
3. The assurance of human rights to all persons within their borders, regardless of race, creed, or color, and the adoption of such provisions against barbarism, disorder, and oppression, as will relieve the General Government from the necessity of standing guard over any portion of our country to protect the people from domestic violence and outrage.
4. The impartial distribution of political power among all sections of the country so that four million people shall no longer be represented in Congress in the interest of sectional aggrandizement and at the same time be excluded from political privileges and rights.
5. The election of Senators and Representatives in truth loyal to the United States, and never ring-leaders in the late revolt, nor guilty of dastardly betrayals which preceded the war or of atrocities which war cannot extenuate.

Mr. RAYMOND. I rise to inquire whether if this resolution shall go to the joint committee it will operate in any respect as instruction upon the part of the House?

Mr. CONKLING. It is intended that the resolution shall go to the committee, as every resolution goes that is referred, with out action upon it. My colleague knows how that is as well as I do, no doubt.

Mr. STEVENS. In order to avoid all difficulty I suggest to the gentleman from New York that he amend his resolution so as to make it a resolution of inquiry. This is an absolute instruction.

Mr. CONKLING. There is no instruction about it. It is simply a resolution which I offer on my own responsibility, for reference merely. It is merely a declaration to be referred to that committee.

Mr. RAYMOND. My question is, whether in presenting the question first to the House, to go from the House to the committee, the gentleman intends merely to express his own opinions on the subject? As he is a member of the committee, I can see no reason why he could not express his own opinion in the committee. There may be an implied instruction in sending this resolution from the House to the committee.

Mr. CONKLING. I suppose the fact that a member of the House is on a committee does not preclude him from introducing his, or another's, opinions here. Doubtless that right remains to him. This resolution is precisely like many resolutions offered by others, sometimes asking a vote in the House, which I do not ask, and sometimes asking, as I do ask, a mere reference to a committee, to the end that the resolution may be printed, and challenge criticism in the committee and in the House. It seems to me it is too plain and simple to be misunderstood, and too ordinary a proceeding to be in earnest the subject of discussion.

Mr. BLAINE. I would inquire whether, under the ruling of the Chair, this resolution does not go, without debate, to the joint committee of fifteen?

The SPEAKER. The resolution is not yet offered.

Mr. FINCK. I object to it.

The SPEAKER. The Chair will state that if the State of New York had been called regularly the gentleman from New York [Mr. CONKLING] would have had a right to offer this resolution, and it would have gone, without debate,

to the committee on reconstruction. The gentleman, however, asked unanimous consent to offer the resolution.

Mr. CONKLING. Was not the question deliberately put to the House, whether there was any objection to the reception of the resolution? And did not the reading of the resolution the second time come after that question was put, and the Speaker announced that he heard no objection?

The SPEAKER. The colleague of the gentleman [Mr. RAYMOND] was understood to suggest a modification, and the gentleman from Pennsylvania [Mr. BROOMALL] called for the reading of the resolution, reserving his right to object.

Mr. CONKLING. I think the Chair is mistaken in one respect. My colleague [Mr. RAYMOND] rose to inquire whether the resolution was designed as in any way instructing the joint committee on reconstruction.

The SPEAKER. That included the right to object. And the right to object was also reserved by the gentleman from Pennsylvania, [Mr. BROOMALL,] when he called for the second reading of the resolution.

Mr. RAYMOND. I did not rise for the purpose of objecting to the introduction of the resolution, but to inquire what would be the effect of it. I can state to my colleague [Mr. CONKLING] in one word, what was my opinion upon hearing the resolution read: that if it was presented here and referred to the joint committee on reconstruction it would be equivalent to a resolution reading, "Resolved by this House" that such and such things should be done. It would be equivalent to positive instructions.

Mr. CONKLING. I would ask how my colleague [Mr. RAYMOND] could suppose any such thing?

Mr. FINCK. I rise to a question of order, that there is nothing before the House.

The SPEAKER. Objection being made to the resolution, it is not before the House for discussion.

Mr. CONKLING. It is not very courteous in the gentleman on the other side, after my colleague has been heard, to object to a reply.

ORDER OF BUSINESS.

Mr. HOGAN. I desire unanimous consent to offer a resolution.

Mr. WASHBURNE, of Illinois. I call for the regular order of business.

Mr. HOGAN. I desire but a moment or two.

Mr. WASHBURNE, of Illinois. I trust the House will adhere to the regular order of business. I have a resolution myself which I desire to offer. But by adhering to the regular order of business every member will have an equal chance to offer such resolutions as he may desire to submit without asking unanimous consent. The gentleman from Missouri [Mr. HOGAN] knows my friendly feeling toward him; still I must object to his offering a resolution at this time, and demand the regular order of business.

The SPEAKER. The regular order of business is the calling of committees for reports.

MUTUAL, ETC., HOMESTEAD COMPANY.

Mr. BOUTWELL, from the Committee on the Judiciary, reported back, with sundry amendments, House bill No. 26, to incorporate the United States Mutual Protection Homestead Company, and recommended its passage by the House, with the amendments.

The amendments were read.

The first amendment was to add to section one of the bill the following:

And this act shall continue in force for the term of five years and no longer.

The second amendment was to strike out of the list of corporators contained in the first section the names "Herschel V. Johnson, Georgia," "George W. Carter, Texas," "C. G. Forshey, Texas," and "Joshua Hill, Georgia," and insert after the words "John W. Stokes, Pennsylvania," the words—

Jackson S. Schultze, New York; Le Grand B. Can-

non, Vermont; Robert Dale Owen, Indiana; George C. Ward, New York; Joseph H. Wiggin, Virginia; Robert Turner, Maryland.

The third amendment was to insert between the words "may" and "lease or purchase and hold lands," the words "by agreement in writing; and not otherwise."

The fourth amendment was to add to section two the following:

Provided, That all leases given or taken by said company shall provide that the lessee may purchase the lands leased at a price stipulated in the lease, at any time within the term thereof, which shall not in any case exceed the time when this corporation will expire by virtue of this act.

The fifth amendment was to strike out the words "in the annual elections," at the end of section four, and insert in lieu thereof the words "and no person or corporator shall vote upon more than one hundred shares."

The sixth amendment was to add at the end of the bill the following sections:

SEC. —. That before said corporation commences business the president, treasurer, and a majority of the directors shall sign, swear to, and publish three times in some newspaper printed in the District, and record in the office of the register of deeds for said District, a certificate setting forth the amount of the capital stock, the amount actually paid in, and within thirty days after the payment of any installment called for by the directors a certificate thereof shall be in like manner signed, sworn to, published, and recorded.

SEC. —. That in the month of January of each year the president, treasurer, and a majority of the directors shall sign, swear to, and publish three times in each of two newspapers printed in the District of Columbia a full statement of the amount of capital stock actually paid in, the amount invested in real estate, and the amount of existing demands against such corporation.

Mr. BOUTWELL. I am directed by the Committee on the Judiciary to ask the especial attention of the House to this bill, for the reason that there is in the committee a divided judgment as to the expediency of passing it; and also from the circumstance that it is a departure, to some extent, from the general policy of the Government. It is a bill to incorporate a land company, with a capital of \$3,000,000; the office of the company to be located in this District, for the purpose of encouraging emigration to and settlement in the States lately in rebellion against the Government. The ostensible and I believe the real purpose of the persons concerned is to encourage emigration to and to furnish facilities to persons, white or black, to purchase land in that section of the country.

Mr. WASHBURNE, of Illinois. In order to appreciate the remarks of the gentleman from Massachusetts, [Mr. BOUTWELL,] I would suggest that the bill be read at length.

Mr. BOUTWELL. I will ask that the bill be read in full.

The bill was then read at length.

Section one recites the names of nearly sixty persons, from the several States and District of Columbia, as corporators, who, with their successors, are constituted and created a body corporate in the District of Columbia, under the name and style of "the United States Mutual Protection Homestead Company," for the encouragement of settlements and the organization of industry in the American States, and in that name to have and use a common seal, to sue and be sued, and plead and be impleaded, and to fill vacancies in their own body arising from death or resignation.

Section two provides that the said corporators, or any thirty of them, after giving ten days' notice of the time and place of their meeting in two or more of the daily papers of Washington city, may organize the company by the election of twelve directors, who shall conduct its affairs, hold their offices for twelve months and until the election of their successors, elect a president of their own body, and appoint a secretary and treasurer and such other officers and agents as may be convenient or necessary, all of whom shall hold their offices as provided in the by-laws to be made by the directors for the management of the business; that the company may receive contributions for the promotion of emigration and for the dissemination of information to emigrants and landholders, and may lease or purchase and hold lands, and sub-let or sell and convey the same

for use, settlement, and cultivation, and may also lend money on mortgage of lands or pledges of growing crops, with a view to promote the reorganization of labor on the basis of freedom and to promote the obtaining of homesteads by the landless poor.

Section three provides that whenever the company may deem it useful or necessary in prosecuting the objects aforesaid, they may open books for the subscription of capital stock to an amount not more than \$3,000,000, in shares of ten dollars each, and may make such provision for the payment of subscriptions, and forfeitures for non-payment, as they may deem proper, provided that due notice of the time and place of opening said books shall be given by at least twenty days' publication in two or more daily papers of Washington city.

Section four provides that the general election of directors shall take place annually at such time and place as may be provided in the by-laws; and, until the company may provide for the subscription of stock, the directors shall be elected by the corporators named and their successors; but whenever the joint stock company may be established as provided by this bill, the shareholders shall become the successors of the corporators, and each share shall entitle the holder to one vote in the annual elections.

SUPERINTENDENT OF PUBLIC PRINTING.

The SPEAKER, by unanimous consent, laid before the House the annual report of the Superintendent of Public Printing; which was referred to the Committee on Public Printing, and ordered to be printed.

MUTUAL, ETC., COMPANY—AGAIN.

Mr. BOUTWELL. Mr. Speaker, if the House has attended to the text of the bill as read, I shall be able to explain the amendments proposed by the committee, which all tend to restrict the powers of the corporators.

In the first place we limit the act to five years. The corporators are willing to take it upon that condition, trusting in their ability to commend themselves to the country by what they do. At any rate, a majority of the committee believe that this corporation cannot be so managed within that limited period of time as to produce any serious evils.

In the second place, we provide that every lease taken by this corporation shall contain a provision that the corporation may purchase lands leased within the period of the charter at a price stipulated; and that every lease given by the corporation shall also contain a provision by which the lessee may purchase the lands within the same period of time at a price stipulated in the lease, the object of that being to prevent persons in the South who may have large landed estates from leasing those estates as a whole, securing the rents, and by the income thus derived acquiring the means of holding these vast estates for a still longer period of time, the object being to introduce a policy by which those vast estates shall be broken up and distributed among a greater number of land-holders.

We have also provided in the amendments that no person shall vote upon more than one hundred shares of the stock of the corporation. We have also provided, by additional sections, that before this corporation shall enter upon business, it shall publish in a newspaper in this city, and record in the registry of deeds, a certificate containing a statement under oath of the amount of its capital actually paid in; and that, whenever any installment is assessed and collected, a similar notice and certificate shall be published and recorded; and that in the month of January in each year there shall be published in two newspapers of this city, for three successive times, a sworn statement of the capital stock of the corporation, the amount of property invested in real estate, and the amount of the indebtedness of the corporation.

We have thrown around this corporation all the safeguards that seem to be necessary. But after all, there is but a majority of the committee in favor of the passage of the bill. I am of that majority, and have therefore reported the

bill, but without intending to make any further effort to secure its passage than the statements I have made.

Mr. DAWES. I observe, Mr. Speaker, that the amendments of the committee propose to strike out the names of several corporators from the States lately engaged in the rebellion. I desire to inquire of my colleague [Mr. BOUTWELL] what is the objection to having corporators from those States, if they are proper persons?

Mr. BOUTWELL. My colleague will observe that there are still remaining in the list of corporators the names of several persons from the States to which he has referred. The names which the committee propose to strike out are the names of persons in regard to whose loyalty and political relations to this Government the committee could not obtain exact information.

Mr. DAWES. I notice that among the names proposed to be stricken out is that of Joshua Hill, of Georgia. Has my colleague any doubts in reference to the loyalty of that gentleman? I have regarded Mr. Hill as one of the most loyal men of the South.

Mr. BOUTWELL. If my colleague's estimate of that gentleman is correct, the committee of course have no objection to him.

Mr. DAWES. I would not, of course, desire to have the name of Joshua Hill retained in this bill if I had myself any doubt on the subject of his loyalty; and if my colleague, or any other member of the House, has any good reason for doubting it, I would of course withdraw any suggestion of that kind. But, so far as I am concerned, I have been struck with the course which, as I have understood it from the public newspapers, Joshua Hill has pursued during the whole period of the rebellion. I was a personal friend of his before he left this House. I know that at that time he refused to follow the lead of other members from Georgia and other southern States; and while they withdrew from this House, leaving their States without representation here, he, contrary to the whole policy of those members, resigned his seat and went home; and there in Georgia he has always been, as I have understood, a true, loyal man.

In the late Georgia convention Joshua Hill spoke freely on that subject. There his loyalty to the Union never failed. There never was a time, sir, he said, if it had been in his power, he would not have crushed the rebellion from the beginning. There never was a time when he did not pronounce it to be the work of madmen.

Still, Mr. Speaker, I may be mistaken; but while I would join my colleague in his desire to exclude anybody from this corporation about whom there may be any reasonable doubt, I have a strong conviction that Joshua Hill is one of the few remarkable men of the southern country who maintained his loyalty against great odds and amid great danger and peril, and I hope that his name will be retained in this bill for that very reason. My colleague seems to have some information satisfactory to him; but I think those around me, who were in the Congress to which I refer, will bear testimony to the fact that Joshua Hill in that Congress was an exception to the other Representatives from the southern States.

Mr. DAVIS. I desire to make an inquiry of the gentleman from Massachusetts, rendered necessary by the fact that, when he was making a statement of amendments to the bill I was momentarily absent from the Hall. I desire to inquire whether there is any limitation to the amount of property that may be held and the amount of profit that may be divided? I understand from the honorable gentleman that there is no such limitation upon the profits, and I suggest, before the bill should be passed, that a limitation shall be imposed upon the profits and the capital of the company. As the bill now is, this may become a monopoly for all sorts of speculation. If the bill does not contain such a provision of limitation, I give no-

tice that at the proper time I will move such an amendment.

Mr. BOUTWELL. Mr. Speaker, I will refer to the suggestion of my colleague first. The name of Mr. Hill was omitted on account of the absence of information, rather than because of the existence of any knowledge of a political character. If the gentleman is of the opinion that he is a loyal man, I think that the committee will not object to the restoration of his name to the bill.

Mr. DAWES. Some doubt arose as to Mr. Hill in reference to his being a member of the confederate congress. I have the information that he was not a member of that congress, and that he refused to hold office of any kind under the confederate government. The Mr. Hill who held office was another man.

And I state, further, on the suggestion of my friend from Ohio, [Mr. BINGHAM,] that Mr. Hill was the Union candidate for Governor of Georgia. I think that there cannot be a question or a suspicion of Mr. Hill's loyalty being undoubted.

Mr. WILSON, of Iowa. Mr. Speaker, I will state one reason why the committee struck out certain names. They believed that all of the persons whose names are struck out belonged to the excepted classes in the amnesty proclamation of the President. We did not think it proper to confer corporate powers upon such people.

Mr. DAWES. I know that Mr. Hill, in the Georgia convention, was taunted by pardoned rebels with the fact that a man who had been a Unionist during the war, while they were defending the cause of Georgia, was held in contempt by the people of that State. He was further taunted that he was not thought as well of here at Washington as the man who had fought against the Union, because he had not succeeded in being pardoned. Mr. Hill replied that he did not believe that a man could stand better here at Washington with the Executive and authorities who had served the cause of the rebellion, even though that was the cause of the people of Georgia, than the man who had stood by the flag of the country, although a resident of Georgia. Mr. Hill said:

"I shall never alter the conviction which has been the motive for my conduct during the war, although it may take me out of the sphere of influence and confidence at Washington."

Said Mr. Hill:

"There never was a day when, if it had been within my power, I would not have crushed this rebellion as one of madness which has brought ruin upon my State and country."

Therefore there can be no question on the subject; and I am anxious that Mr. Hill shall be able to say to the rebels that what they taunted him with was not true.

Mr. BINGHAM. I desire to inquire of my friend whether it is not within his recollection that, when Georgia seceded, and her Representatives on this floor, recognizing that act of secession, vacated their seats and went back to Georgia, Mr. Hill stood here and refused to follow their example, and when nothing else was to be done, resigned like a man?

Mr. DAWES. My recollection is that a long time after the Representatives from Georgia left this House, Mr. Hill left it, and in his speech resigning his seat he was emphatic in the condemnation of the act of his colleagues, and in the most impressive manner urged upon them to return to their senses.

Mr. BOUTWELL. After the remarks that have been made, and the little opportunity I have had of conversing with my associates, I will ask that the name of Joshua Hill be omitted from the proposed amendment.

Mr. WASHBURN, of Illinois. This is a very important bill; the amendments have only been read from the Clerk's table, and I hope the gentleman will consent to postpone the matter and have his bill as amended printed. This is an extraordinary measure, according to my judgment. It proposes to establish a mammoth corporation, with \$3,000,000 capital, and endow it with special rights. I hope the House

will not act hurriedly upon it, and trust that the gentleman will consent to have it printed and the consideration of his proposed amendments postponed to some future day.

Mr. BOUTWELL. Mr. Speaker, I would willingly accede to the suggestion of the gentleman from Illinois, [Mr. WASHBURN], if it can be carried out upon an understanding, or an order of the House, that this bill is to be considered and disposed of at an early day. It is now the middle of January. I understand that these corporators have already several hundred persons with whom they are in correspondence, and who expect to go upon those lands in season for agricultural operations in the coming spring; and hence, if this bill is to be of any value, it should be passed immediately. I think the main question is one which this House can readily understand, whether the bill should be passed at all.

Mr. SMITH. I concur entirely in the remarks just made by the gentleman from Massachusetts [Mr. BOUTWELL] who introduced this matter this morning. I have been informed by many of these gentlemen, whose names have been read, that they have, as already remarked, several hundred persons who have agreed to emigrate to these States south for the purpose of putting in crops this spring, that they may produce cotton, sugar, and whatever else belongs to that section of country. And it is true that unless these people can go there soon, very soon, it will be impossible for them to enter upon their labors advantageously during the present year. It is well known to every man who understands the culture of cotton, or sugar, or rice, that he must begin his work, not as we do in the western country, or further north—as late in the season as April or May, or even June—but he must begin in January, and he must work through January, February, and on till the next January. And there are thousands and thousands of acres of land lying in that country uncultivated, with no purpose on the part of anybody to work the land at all. Therefore if this company, having a good purpose to accomplish, as I consider it—to send the working masses of the country who are unable to go themselves—are willing to advance their money and build up homesteads upon these large plantations, it is well that this House consider the matter at an early day, and give these people an opportunity to make a livelihood for themselves. I hope the suggestion of the gentleman from Massachusetts [Mr. BOUTWELL] will be concurred in, that if the bill must go back to the committee, or if the amendments must be printed for the benefit of the House, the House will fix a very early day when the bill shall be acted upon and passed.

Mr. COOK. I desire to state in a word the reasons that induce me to dissent from the opinion of the majority of the committee in relation to this bill. It will be seen that the bill provides for the incorporation of a company with a capital of \$3,000,000, and gives them power to lease or purchase and hold lands, and to sub-let, sell, and convey the same for use, settlement, and cultivation, to lend money on mortgage of lands or pledges of growing crops, with a view to promote the reorganization of labor, &c. It provides for the incorporation of a stock company that shall open books of subscription and shall have power to do the things which are enumerated. It seems to me that this is a novelty in Federal legislation; that while many States have been accustomed to incorporate companies within their borders whose business is exercised entirely outside of the borders of the States where the corporation is made, such has not been the history of legislation in Congress. Companies have not been incorporated by Congress which shall act in the States exclusively. If this system of legislation is adopted, it seems to me to be a fair precedent for the incorporation by Congress of any kind of companies, for manufacturing or banking, or any other purposes, and superseding by the action of Congress the action of the State Legislatures entirely upon the subject of incorporations. The powers conferred upon this

company are very great. There is no individual liability of the corporators. I was constrained to believe that it was not proposed that a corporation of this kind should be created by Federal legislation to operate exclusively outside of the District of Columbia, and in States where, if such an incorporation is desirable, it might be had by the agency of State legislation.

Mr. LAWRENCE, of Ohio. I am one of the minority of the Committee on the Judiciary who were opposed to this bill. I hope it will receive the consideration of the House before it shall be passed. I do not propose to discuss it now, for I have not sufficiently considered it to give it that mature discussion which it deserves. I am not persuaded, however, either of the expediency of the measure or of our constitutional power to pass it.

Now, this bill proposes to incorporate a company either for charitable purposes or for purposes of gain. If its object be charity, it seems to me that the corporators named in this bill can as well execute their charity without an incorporation as with it. The Sanitary Commission and the Christian Commission for the last four years have performed great works of charity without any act of incorporation. But this is not a charitable corporation. Its purposes are set out in the second section of the bill, and I ask the attention of the House particularly to that section. It proposes to invest the corporation with power "to lease, or purchase, and hold lands, and sub-let or sell, and convey the same for use, settlement, and cultivation;" and they may also "lend money on mortgage of lands, or pledges of growing crops, with a view to promote the organization of labor on the basis of freedom, and to promote the obtaining of homesteads by the landless poor." In other words, it is proposed to organize a company, with a capital of \$3,000,000, which shall have authority to buy up and lease immense tracts of land and sub-let them for the purpose of speculation.

Now, I am not satisfied of the expediency of this bill, and for that reason I am opposed to it. But I am opposed to it also because I am not clearly persuaded of our constitutional power to pass it. That Congress may create corporations, having for their object to aid in carrying out the purposes of the Government, I do not entertain any doubt; but I am not satisfied that we have power to enter in a general system of incorporations having for their purpose, not to carry out any power of the Government, but for the mere private purposes of the corporators, purposes of speculation. If this be so, if it be the purpose of Congress to embark in a general system of corporations, with power to effect insurances all over the country; with power to buy up lands and resell them all over the country; with power, in short, to do anything which men can do, then this bill may receive the sanction of Congress. But if Congress shall be unwilling to embark in a general system of incorporation for these purposes, then this bill ought not to pass.

I desired merely to call attention to the bill, and I hope that it will receive due consideration before it shall pass.

Mr. SLOAN. I rise for the purpose of inquiring of the gentleman who reported this bill in what provision of the Constitution he finds the power of Congress to organize corporations for this object? I cannot understand under what power of Congress we can embark in legislation of this character. It is entering into an entirely new field of legislation, and, in my judgment, it ought to be well considered before action is taken upon it.

In addition to the objections pointed out by the gentleman from Illinois, I desire to suggest another. The State of New York has felt to a great extent the evil of individuals holding large and extensive tracts of land, and leasing them out for long terms of years. Now, this evil will be greatly aggravated and extended if you organize corporations, with the means of commanding very large capital, with the power of purchasing any amount of real estate, any amount of land in the seceded State, holding

it for any length of time, and sub-letting it without restriction as to the number of years or the terms. In the State of Wisconsin we have provided by law, and I think by the constitution, that leases shall not be entered into which shall extend beyond the period of fifteen years.

Mr. BOUTWELL. One of the amendments reported by the Judiciary Committee limits the life of this corporation to five years. Every lease taken or given by the corporation must terminate within the period of five years. All their sales of land must be made within the period of five years.

Mr. SLOAN. I submit to the gentleman that this is a question which should be more fully considered, and that the bill and amendments should be printed and laid before us before action is asked upon it.

Mr. BOUTWELL. I would ask whether by general consent this bill cannot be passed over to-day, and printed, and come up to-morrow in the morning hour.

The SPEAKER. The morning hour will expire in about five minutes. The Judiciary Committee are entitled to another morning hour. If this bill be ordered to be printed and recommitted, and the Committee on the Judiciary have any other business to occupy the remainder of the morning hour to-day, they will have power to report it back to-morrow.

Mr. BOUTWELL. Can it not be ordered to be printed without being recommitted?

The SPEAKER. The bill must be pending when the morning hour expires if it is to come up again to-morrow. The morning hour will expire in a few minutes. Has the committee any business to occupy the remainder of the morning hour?

Mr. BOUTWELL. Well, I will take this opportunity to reply to the inquiry made by the gentleman from New York, [Mr. DAVIS,] that while I would be disposed to limit the profits of this company if it were practicable, if any suggestion could be made which was feasible as to the use to which any surplus profits shall be applied, it appeared, I think, to the committee that it would be difficult to devise any practicable scheme by which these profits could be limited or any surplus appropriated. If the gentleman from New York [Mr. DAVIS] can suggest a plan that is at once just to the corporators and reasonable and proper in its other provisions, I am sure it will meet with no opposition from the committee.

In regard to the suggestion made as to the authority of Congress to pass this bill, I can only say that we have precedents in the line of this bill in insurance companies incorporated in this city with power to do business throughout the country. I believe it was only during the last Congress that we passed a bill creating a navigation company, called "the Potomac River Navigation Company," and various other companies, institutions, and corporations. These precedents existing, and being known to the committee, it is just to the committee to say that they did not deem it necessary to inquire into the question of the constitutional power of Congress to create corporations of this sort.

Mr. INGERSOLL. I would ask what is the present condition of this bill, and whether it is now open to amendment?

The SPEAKER. Amendments are proposed by the Committee on the Judiciary. Amendments to those amendments and amendments to the original bill would be in order when the gentleman obtains the floor to offer them.

Mr. INGERSOLL. Then I would ask the gentleman from Massachusetts [Mr. BOUTWELL] to allow me to move an amendment to this bill.

Mr. BOUTWELL. I yield to the gentleman for that purpose.

Mr. INGERSOLL. I move to amend section two of this bill by adding thereto the following:

Provided, That said corporation shall provide for all landless poor, without distinction of color, who may apply, a homestead of not less than one hundred and sixty acres of land free of charge.

Mr. GRINNELL. Put in "and provide agricultural implements."

Mr. JOHNSON. I suppose the gentleman from Illinois [Mr. INGERSOLL] refers to Maximilian's land.

Mr. INGERSOLL. I refer to any land this company may get the control of.

The SPEAKER. The morning hour has expired.

Mr. BOUTWELL. I move that this bill with the proposed amendments be printed.

The motion was agreed to.

ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled a joint resolution of the following title:

Joint resolution (H. R. No. 18) granting public property to the Soldiers' Orphans' Home, of Iowa; when the Speaker signed the same.

GRADE OF GENERAL IN THE ARMY.

Mr. DEMING. I am instructed by the Committee on Military Affairs to report back from that committee House bill No. 3, to revive the grade of general in the United States Army, and to move that the same be printed, and recommended to that committee.

The motion was agreed to.

COLLECTION OF IMPOSTS.

Mr. DAWES, by unanimous consent, introduced a bill to amend an act entitled "An act to provide for collection of imposts;" which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JOINT COMMITTEE ON RECONSTRUCTION.

Mr. STEVENS. I move to proceed to the business on the Speaker's table.

The motion was agreed to.

The first business was the following concurrent resolution from the Senate:

Resolved by the Senate (the House of Representatives concurring), That the joint committee appointed to inquire into the condition of the States which formed the so-called confederate States be authorized to send for persons and papers.

Mr. STEVENS. I move that the House concur in the resolution.

Mr. BROOKS. Will the gentleman from Pennsylvania [Mr. STEVENS] inform this House how long a time, in his opinion, will elapse before we can have some report from the joint committee after this investigation?

Mr. STEVENS. Everything done in that committee is a secret, and hence I cannot possibly give any information.

Mr. BROOKS. The gentleman must have joined the Know-Nothing society, to which it was formerly said some other gentlemen belonged.

Mr. STEVENS. But we do not belong to that branch of the society that swears. [Laughter.]

Mr. BROOKS. The gentleman from Pennsylvania might, perhaps, give us his private opinion, not as organ of the committee, but his own private opinion as to how long a time will elapse before we will have here some representation from a large portion of this country. Or in another form, if the time is likely to be very long, will he not introduce a bill to have Representatives from those States as territorial Delegates?

Mr. STEVENS. In my judgment, the time will be so long that I shall be very glad to, and probably may, upon my individual responsibility, introduce a bill to provide civil governments for those Territories.

Mr. BROOKS. It must be very satisfactory to a large portion of the people who are to be taxed to have no representation here.

Mr. STEVENS. Well, they have taxed us considerably; I call for the previous question. The previous question was seconded, and the main question ordered.

Mr. FINCK called for the yeas and nays upon concurring in the resolution.

Mr. JOHNSON called for tellers upon the question of ordering the yeas and nays.

Tellers were ordered; and Messrs. JOHNSON and STEVENS were appointed.

The House divided; and the tellers reported that there were—aye, twenty-six; noes not counted.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas, 125, nays 35, not voting 22; as follows:

YEAS.—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Barker, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Brownell, Broomall, Buckland, Bundy, Sidney Clarke, Cobb, Conkling, Cook, Culom, Darling, Davis, Dawes, Defrees, Delano, Deming, Dixon, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, James Humphrey, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Kuykendall, Ladin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClure, McKee, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Plants, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Smith, Spalding, Starr, Stevens, Stillwell, John L. Thomas, Trowbridge, Upson, Van Aernam, Durt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—125.

NAYS.—Messrs. Ancona, Bergen, Boyer, Brooks, Reader W. Clarke, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Hogan, Edwin N. Hubbard, James M. Humphrey, Johnson, Kerr, Le Blond, Marshall, McCullough, Niblack, Nicholson, Neill, Kadford, Samuel J. Randall, Ritter, Rogers, Ross, Sturgeons, Sturgis, Taber, Taylor, Thornton, Trimble, and Winfield—35.

NOT VOTING.—Messrs. Delos R. Ashley, Baxter, Chanler, Culver, Dawson, Dumont, Harris, Hotchkiss, Jones, McIndoe, McKuer, Newell, Pike, Rousseau, Shanklin, Thayer, Francis Thomas, Voorhees, Wentworth, Whaley, Williams, and Wright—22.

So the resolution of the Senate was concurred in.

During the call of the roll,

Mr. O'NEILL stated that his colleague, Mr. THAYER, was detained from the House by sickness.

Mr. NIBLACK stated that his colleague, Mr. VOORHEES, was unavoidably detained from the House.

The result of the vote was thus announced as above stated.

BARNEY CAIN.

Senate bill No. 53, an act for the relief of Barney Cain, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Invalid Pensions.

REV. JOHN C. JACOBI.

Mr. SCHENCK, by unanimous consent, moved that the Committee on Military Affairs be discharged from the further consideration of House bill for the benefit of Rev. John C. Jacobi, and that the same be referred to the Committee of Claims.

The motion was agreed to.

CLAIMS FOR HORSES IMPRESSED, ETC.

Mr. SCHENCK, by unanimous consent, also moved that the Committee on Military Affairs be discharged from the further consideration of a resolution relating to claims for horses, &c., impressed into the service of the United States; and that the same be referred to the Committee of Claims.

The motion was agreed to.

STARK, STAUFFER AND COMPANY.

Mr. SCHENCK, by unanimous consent, also moved that the Committee on Military Affairs be discharged from the further consideration of the petition of Stark, Stauffer & Co., asking payment for a lot of bar iron, &c., taken at New Orleans by Major General Butler for the use of the United States; and that the same be referred to the Committee of Claims.

The motion was agreed to.

CAPTAIN JONATHAN HUNT.

Mr. SCHENCK, by unanimous consent, also moved that the committee be discharged from the further consideration of the petition of Captain Jonathan Hunt, asking compensation for military services rendered by himself and his company, under orders from Brigadier General John McNeil, commanding the district of south-

west Missouri, and that the same be referred to the select committee on the war debts of the loyal States.

The motion was agreed to.

NAVIGATION OF OHIO RIVER.

Mr. MOORHEAD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of an appropriation by Congress, not exceeding \$100,000, for the improvement of the Ohio river between Pittsburg, Pennsylvania, and Buffington's Island, West Virginia, the money to be expended under the direction of a practical riverman, to be appointed by the President, and to report by bill or otherwise.

PERSONAL EXPLANATION.

Mr. KASSON, having obtained unanimous consent to make a statement, said: Mr. Speaker, my attention has been called by the gentleman from Ohio [Mr. BINGHAM] to an error which I committed yesterday in quoting from memory a sentiment which I understood him to utter in the speech which he made the other day. I referred to the gentleman as having said that the negro troops "won for us the victory."

He called my attention to that this morning. I referred to the Globe as containing his remarks as published, and I find that in quoting from memory I did him injustice. The sentiments he declared were the same as I uttered yesterday on that subject, the essential declaration being that they did their duty unshrinkingly and defiantly, doing their full share in securing the final victories for our armies. I am anxious always to correct any mistake I may have made.

Mr. BINGHAM. I understand the gentleman to say that the limitation as published in the Globe is what I said. I will say that it is in accordance with the notes as written out by the reporter. I know that it is what I did say. I know it is exactly what I meant.

SUFFRAGE IN THE DISTRICT OF COLUMBIA.

The morning hour having expired, the House, agreeable to order, resumed the consideration of the bill (H. R. No. 1) extending the right of suffrage in the District of Columbia; on which Mr. JULIAN was entitled to the floor.

Mr. JULIAN. Mr. Speaker, whatever doubts may arise as to the authority of Congress to regulate the right of suffrage in the districts lately in revolt, none can exist as to such authority within the District of Columbia. By the express words of the Constitution, Congress here has "exclusive power of legislation;" and that power, of course, extends to all the legitimate subjects of legislation, of which the ballot is unquestionably one. Shall it be conferred irrespective of color, or granted only to white men? Shall Congress recognize the equal rights of all men in the metropolis of the nation and the territory under its exclusive control, or must our national policy still be inspired by that contempt for the negro which caused slavery, and finally gave birth to the horrid war from which we have just emerged? Shall the nation, through its chosen servants, stand by the principle of taxation and representation for which our fathers fought in the beginning, or reenact its guilty compact with aristocracy and caste? This is the question, variously stated, which confronts us in the bill before the House. It must now be dealt with upon its merits. To attempt to postpone or evade it is to trifle with the dangers and duties of the hour, and forget all the terrible lessons of the past.

Mr. Speaker, I demand the ballot for the colored men of this District on the broad ground of absolute right. I repudiate the political philosophy which treats the right of suffrage as merely conventional. The right of a man to a voice in the Government which deals with his liberty, his property, and his life is as natural, as inborn as any one of those enumerated by our fathers. It is said, I know, that natural rights are only those universal ones which exist in a state of nature, in which every man takes his defense and protection into his own hands; but I answer that there is no such state of nature, save in the dreams of speculative writers. The natural state of man is a state of society, which

demands law, government, as the condition of its life. By the right of suffrage I mean the right to a share in the governing power; and while the peculiar manner and circumstances of its exercise may fairly be regarded as conventional, the *right* is natural. If not, then there are no natural rights, since none could be enjoyed except by the favor or grace of the Government, which must decide for itself who shall be permitted to share in its exercise. You may, if you choose, call the right of suffrage a natural *social* right; but whatever adjectives you employ in your definition, the *right*, I insist, is natural. Most certainly it is so in its primary sense. My friend from Iowa [Mr. Wilson] substantially agrees with me, for he speaks of suffrage, not as a *privilege*, but as a right, equally sacred with those acknowledged to be natural, and which Government cannot take away. Sir, without the ballot no man is really free, because if he enjoys freedom it is by the *permission* of those who govern, and not in virtue of his own recognized manhood. We talk about the natural right of all men to life, to liberty, and to the pursuit of happiness; but if one race of men can rightfully disfranchise another, and govern them at will, what becomes of their natural rights? The moment you admit such a principle the very idea of democracy is renounced, and absolutism must own you as its disciple. The fact that society, through Government as its agent, regulates the right, and withholds it in certain instances, as in the case of infants and idiots, and makes the withdrawal of it a punishment for crime in others, does not at all contravene the ground I assume. Society, for its own protection, takes away all natural rights, or rather, it declares them forfeited on certain prescribed conditions. Christianity and civilization place their brand upon slavery as a violation of the natural rights of men. But that system of personal servitude from which we have finally been delivered is only one type of slavery. Serfdom is another. That unnatural ownership of labor by capital which grinds the toiling millions of the Old World, and renders life itself a curse, is not less at war with natural rights than negro slavery. The degrees of slavery may vary, but the real test of freedom is the right to a share in the governing power. Judge Humphrey, speaking of the freedmen, says "there is really no difference, in my opinion, whether we hold them as absolute slaves or obtain their labor by some other method." The old slaveholders understand this perfectly. An intelligent human being, absolutely subject to the Government under which he lives, answerable to it in his person and property for disobedience, and yet denied any political rights whatever, is a slave. He may not wear the collar of any single owner, but he will be what Carl Schurz aptly calls "the slave of society," which is often a less merciful tyrant! He will owe to the mere grace of the Government the right to marry and rear a family; the right to sue for any grievance; the right to own a home in the wide world; the right to the means of acquiring knowledge; the right of free locomotion and to pursue his own happiness; the right to a fair day's wages for a fair day's work; the right to life itself, save on conditions to be fixed without his consent, and which may render him an alien and an outcast among men. So abject and humiliating is such a condition, and so perfectly does the world understand the sacredness of the rights of the citizen, that in all free Governments his disfranchisement is appropriately made a part of the punishment for high crimes. Sir, I repeat it, there is no freedom, no security against wrong and outrage, save in the ballot; and Governor Brownlow is therefore thoroughly right in principle, in contending that the constitutional amendment abolishing slavery, and giving Congress the power, by appropriate legislation, to enforce this abolition, authorizes us to secure the ballot to all men in the revolted districts, irrespective of color. It is not slavery in form, but in fact, and under whatever name, that the people of the United States intend to have abolished forever.

If I am right in this view, color has nothing whatever to do with the question of suffrage, as the gentleman from Iowa [Mr. Kasson] will see. The negro should not be disfranchised because he is black, nor the white man allowed to vote because he is white. Both should have the ballot because they are men and citizens, and require it for their protection. Are you willing to rest your right to the ballot on the purely contingent fact of your color? Your manhood tells you instantly that *that* is not the foundation. You are a man, endowed with all the rights of a man, and therefore you demand a voice in the Government; but when you say this you assert the equal rights of the negro. Neither color, nor race, nor a certain amount of property, nor any other mere accident of humanity, can justify one portion of the people in stripping another portion of their equal rights before the law, the common master over all. Government, in fact, in its proper, American sense, is simply the agent and representative of the governed, in taking care of their interest and guarding their rights.

It is not the concern of the few, nor of the many, but of all. The negro, doubtless, would have been born white if he could have been consulted; and to take from him his inherent rights as a man because of his complexion is a political absurdity as monstrous as its injustice is mean and revolting. When you do it, you aim a deadly stab at the vital principle of all democracy. And if you may disfranchise the negro to-day on account of his race, or color, you may disfranchise the Irishman to-morrow, and the German the next day; and then, perhaps, you will be prepared to strike down the laboring man, the "mudsill," adopting the Virginia philosophy, that "filthy operatives" and "greasy mechanics" are unfit for political power. No absurdity or wickedness can be too great for a people who could thus deliberately sin against the great primal truths of democracy; and the logical consequence of the first false step, of any departure whatever from the rule which makes manhood alone the test of right, must be to continually narrow the basis of popular power till the end shall be a remorseless aristocracy or an absolute despotism.

Mr. Speaker, this view of suffrage as a natural right greatly simplifies the whole subject. The sole question is, as already stated, whether our democratic theory of Government shall be maintained in practically recognizing the inherent rights of all men as the source and basis of political power? To ask this question, in the United States, is to answer it.

And public policy, also, answers the question in the interest of the broadest radicalism. Duty and advantage will be found hand in hand in any fairly tested experiment of equal suffrage. According to the census returns of 1860, the colored population of this District was then over fourteen thousand. It is now estimated at about twenty thousand. The value of real and personal property owned by them is at least \$1,225,000. They own twenty-one churches, supported at a cost of over \$20,000 per annum. The whole number of their communicants is 4,300, with an average attendance of 9,000, distributed among their own religious communities, and among the Catholic and Episcopal churches of their white fellow-citizens. They have twenty Sabbath schools, with from three to four thousand scholars, and thirty-three day schools, attended by over four thousand scholars in the month of last November. Four thousand of the colored people can read and write. They subscribe for 1,250 copies of the National Republican, and about 3,000 copies of the Daily and Sunday Chronicle. There are more than thirty benevolent, literary, and civic organizations among them, by which their needy, superannuated, and infirm are cared for to a large extent, the city government having none or very few colored paupers to support. They furnished three full regiments for the national service, numbering in all 3,549, and from sixty to seventy per cent. of the drafts in the District were composed of drafted colored soldiers or substitutes. This, sir, is the character and con-

dition of a class in this community ninety per cent. of whom were slaves at the beginning of the war, or their immediate descendants, many of them having purchased their own freedom and that of their families, and are besides property holders to a considerable extent. Sir, I call this a good record, if not a proud one. These people are here, and they will remain here, either as the friends or the enemies of the Government. If we shall give them their rights—a stake in society, an equal chance with the white man to fight the battle of life—instead of becoming an element of weakness and a source of danger they will be found our allies and friends, and thus lend unity and strength to the Government. If we shall continue to disfranchise and degrade them, we shall make them aliens, domestic foes in our midst, a perpetual menace of danger and discord, from which we shall suffer quite as much as the party thus wronged by our cruel folly. As a matter of mere policy, therefore, wholly aside from the question of right, I would give the ballot to every colored man of competent age in the District; and had I the power I would secure to him a home on the soil he has so long watered by his tears. I proposed this policy for the revolted States in a measure I had the honor to report to this House two years ago, providing for homesteads on the forfeited and confiscated lands of rebels; and had it prevailed in the Senate, as it did in this body, it would have wrought out the only true reconstruction of government and society in the South. The great want of every poor man is a home, along with the ballot with which to defend it. Russia, in giving freedom to her millions of serfs, secured to each one of them a homestead. Our policy should be the same. In the history of the world the ballot has generally followed the granting of homesteads to the poor; but the poor now should have the ballot as the surest means of attaining the homestead. Sir, there is but one remedy for the appalling picture recently presented by John Bright, of five million families in the United Kingdom who are unrepresented in Parliament, and whose utter helplessness, poverty, and degradation appeal in vain to the English aristocracy. That remedy, as righteously due these voiceless millions as the sunlight, is the ballot. *That* would "bend the powers of statesmanship to the high and holy purposes of humanity and justice," and at last make sure to the lowliest the blessed sanctuary of a home upon the soil, which is among the natural rights to secure which "Governments are instituted among men." In our own more favored country the ballot and the homestead may go together, and should be conferred at once. In the five great landed States of the South there yet remain about fifty million acres of public land unsold, all of which, if not prevented by law, will be open to rebel speculators. This should be set apart at once for actual homesteads in limited quantities, and a bill providing for this is now before the Committee on Public Lands. Every landless freedman in the country, should this measure prevail, will have at least a chance to become a freeholder, and thus to unite his destiny to the Government as its friend. This, or some kindred measure, is rendered absolutely necessary by the unfortunate failure of the policy of confiscation, and by what seems to me the criminal action of the Government in restoring to flagitious rebels, through pardons and otherwise, the vast and valuable lands which had vested in the nation through their treason, and are so greatly needed and have been so justly earned by the freedmen. Sir, no other policy than that of justice and equal rights can be trusted in dealing with these long-suffering people. Instead of driving them to thriftlessness and vagabondism, I would bind them to the Government through its parental care for their welfare. Let us give them the ballot; and then, should a public grievance come, they will bear it cheerfully, as self-imposed. They will bide their time, in the hope that at a future election the remedy will be found. "I can conceive no greater social evil," says Governor Parsons, of Alabama, "than a class of humanity in our

midst so excluded from the social pale as to become a stagnant, seething, miasmatic, moral cesspool in the community. Human nature cannot improve without the moral incentive of hope in a human future." The policy of education, of moral development, can alone secure the just rights and the highest good of all races; and if the rulers of other countries were wise, they would apply this truth in dealing with their discontented and dangerous population. "Each class in England," says the Westminster Review, "as it has, by the natural progress of civilization, in time advanced to a consciousness of its own condition, and a comparison between itself and others, has in turn demanded to be admitted to a share in the Government. Each in turn has been admitted, and the country has grown more and more powerful, and the population more contented, as the basis of freedom has gone down lower and spread out wider." Sir, I trust this lesson of English history, slowly evolved, and now held up to us by English radicals, will not be slighted in dealing with the question of negro enfranchisement in our own country.

Mr. Speaker, if it shall be objected that the negroes of this District are not fit to vote; that they are too ignorant and degraded to be intrusted with power, I have several replies to make.

In the first place, the negroes of this District are not all ignorant, as I have already shown by facts. Many of them are educated and quite intelligent. The larger class who are not so will not suffer by a comparison with the very large class of their ignorant white neighbors. The "rounders" and ruffians who instigate mobs against harmless and peaceable colored people, and then publish their deeds as a negro insurrection, and who have probably been on the side of the rebels, in sympathy or in fact, during the whole of the war, are not the most fit men in the world for the ballot. They vote, and there is no proposition from any quarter to disfranchise them. The policy of Massachusetts, referred to yesterday by the gentleman from Iowa, [Mr. Kasson,] would leave them untouched. I commend this fact to all the fair-minded opponents of negro suffrage.

In the next place, fitness is a relative term. Nobody is perfectly fit to vote, because nobody is perfectly informed as to all the subjects of our legislation and policy. Of the millions in our land who regularly go to the polls and pass upon the gravest questions, how many could stand even a tolerable examination on political economy, or constitutional law, or political ethics? How many men of good sense and fair intelligence could give a well-defined reason even for some of their most decided opinions? The truth is, all men are more or less unfit to vote, as all men are more or less unfit to discharge all their duties, civil, social, religious, or what not. The political opinions and actions of the generality of men, who in a free country govern, are not guided by logic, or any exact knowledge, but by habit and tradition, by their social relations, and by their natural trust in those whom they think wiser than themselves. On this subject the highest authority of which I have any knowledge is John Stuart Mill. He says:

"It is not necessary that the many should, in themselves, be perfectly wise; it is sufficient if they be duly sensible of the value of superior wisdom. It is sufficient if they be aware that the majority of political questions turn upon considerations of which they and all other persons not trained for the purpose must necessarily be very imperfect judges, and that their judgment must, in general, be exercised upon the characters and talents of the persons whom they appoint to decide those questions for them, rather than upon the questions themselves. This implies no greater wisdom in the people than the very ordinary wisdom of knowing what things they are and are not sufficient judges of. If the bulk of any people possess a fair share of this wisdom, the argument for universal suffrage, so far as respects that people, is irresistible."

Sir, by this standard I am willing to have the colored people of this District tried; and I demand the same trial for the white men who are loudest in their protest against negro ballots.

Mr. GARFIELD. I desire to ask the gentleman whether, in his reference to the opinion

of John Stuart Mill, he quotes that distinguished writer as in favor of unqualified suffrage?

Mr. JULIAN. No, sir. I quoted from him simply to show his opinion as to the measure of intelligence deemed by him necessary to qualify men for suffrage. I quoted the extract because it sustains the point I am arguing.

Mr. GARFIELD. I did not ask the question with a view of opposing any doctrine the gentleman is advocating, but merely to suggest that Mr. Mill, in the volume from which the gentleman has just quoted, takes strong ground in favor of suffrage restricted by educational qualifications.

Mr. HILL. Mr. Speaker, I understand my colleague to base his argument in favor of negro suffrage in the District of Columbia upon the personal right of suffrage. I desire to ask my colleague whether he regards that as a personal right elsewhere than in the District of Columbia; and whether, as a citizen of Indiana, where, it is notorious, negroes have not for years past been permitted to migrate, he is willing to extend that right to his own State?

Mr. JULIAN. I shall refer to that question presently; and answer it, I think, to the satisfaction of my colleague.

Mr. DAVIS. I desire to make an inquiry of the gentleman from Indiana. Does he propose to extend the right of suffrage, which he proposes to confer upon the negro race, to the Indians, who are the original inhabitants of this country?

Mr. JULIAN. I have already said that neither race nor color should stand in the way of suffrage as a natural right. The people, in accordance with the fundamental principles of democracy, must regulate the whole question of suffrage. A portion of our Indians, who have become citizens and civilized, have already been made voters. There may be practical difficulties in the regulation of the right of suffrage as to savage tribes in their transition from barbarism to civilization, but I do not see how they affect the soundness of my position.

Mr. DAVIS. I understand the gentleman to say that this is a natural right, and that none are to be denied its exercise. I ask the gentleman when the founders of the "Old Bay Colony," the Puritans, proclaimed jurisdiction over numerous wild and savage tribes, if they would have been safe in giving to those Indians the right of suffrage?

Mr. JULIAN. If the gentleman had listened to my remarks his question would probably have been deemed unnecessary. I endeavored to show, in the first part of my argument, that the authority of the Government to regulate the right of suffrage—that is, to prescribe the manner and circumstances of its exercise—does not contravene the right itself as natural. I commend him to a careful perusal of that part of my speech. Of course I would have withheld the ballot in the case stated, for the same reasons that suffrage is withheld from infants, idiots, and madmen. In saying this I do not see that I abandon the ground of the natural right to a voice in the Government of a civilized people as to its citizens.

Mr. DAVIS. I beg the gentleman's pardon. I was out of the Hall and did not hear that part of his speech.

Mr. KELLEY. In reply to the gentleman from New York, I would like to inquire of my friend from Michigan [Mr. Dargatzis] whether the Indians, who filled the ranks of a regiment from his own State, in Burnside's corps, when it passed through this city, are not voters in his district?

Mr. DRIGGS. They were. The laws of the State provide that all civilized Indians, not belonging to a tribe or recognizing a chief, shall be allowed the right of the elective franchise. I think there are about four hundred Indian voters in my district, and nearly all of them voted for me. I may add, as pertinent to the question, that not only are Indians allowed to vote, but they have represented districts in the State Legislature, and in one instance an Indian was a candidate for judge of the circuit court.

Mr. DAVIS. I believe that civilization pre-

sumes something of education. That has been my understanding of the word civilization ever since I could read. I have never said that where Indians have been civilized they should not have the right of suffrage.

Mr. JULIAN. I am obliged to the gentleman from Pennsylvania [Mr. Kelley] and the gentleman from Michigan for the fact stated. I would say to the gentleman from New York [Mr. Davis] that as to the right of savages to vote I am no more in favor of it than himself.

Mr. Speaker, mere knowledge, education, in its ordinary sense, will not fit any man to vote. It must depend, as Dr. Lieber says, upon how men use it. He declares it to be no guarantee for free institutions, and refers to Prussia, the best-educated country in the world, where liberty is an outlaw. The reading and writing test, so strenuously urged on this floor, is a singularly insufficient measure of fitness. Reading and writing are mechanical processes, and a man may be able to perform them without any worthiness of life or character. He may lack this qualification, and yet be tolerably fit to have a voice in the Government. If penmanship must be made the avenue to the ballot, I fear several honorable gentlemen on this floor will be disfranchised. A merely educational test would allow all the rebel leaders to vote, while the great body of the people of the South, white and colored, would be disfranchised. Sir, education of the heart is far more important than that of the brain. "The soul is greater than logic." The hearts of the negroes have been unflinchingly with us all through the war, inspiring their judgment, vivifying their convictions, and insuring their universal loyalty. They, of all men in the South, have best vindicated their title to the ballot.

Mr. Speaker, our American democracy has never required any standard of knowledge as a condition of suffrage; and the educational test, invented by the Know-Nothings some years ago, during their raid against the foreigners, would not now be thought of but for our proverbial hatred of the negro. According to our census tables, more than a half million men in our country annually go to the polls who can neither read the Constitution nor write their names. The proposition to disfranchise this grand army of ignorant men would meet with very little favor in any quarter. No public man dreams of it, and any such purpose as to the ignorant white men of this District is expressly disavowed by the advocates of restricted suffrage in this House. Sir, the real trouble is that we hate the negro. It is not his ignorance that offends us, but his color; for those who are loudest in their opposition to universal suffrage would be quite as unwilling to give the ballot to Frederick Douglass as to the most ignorant freedman in the South. Of this fact I entertain no doubt whatever, and I commend it to the attention of conservative gentlemen on this floor, who imagine that a vote for qualified negro suffrage will be less offensive to their negro-hating constituents than for the bill now under discussion.

In further reply to the argument which would disfranchise the negroes on account of their ignorance, allow me to say that the ruling class have made them ignorant by generations of oppression, and no man should be allowed to take advantage of his own wrong. Sir, how can the negro emerge from his ignorance and barbarism if left under the heel of his old tyrant? I agree that in any scheme of universal suffrage universal knowledge, as far as possible, should be demanded; but universal suffrage is one of the surest means of securing a higher level of intelligence for the whole people. I would not level the educated classes downward, but the ignorant masses upward, by giving them political power and the incentive to rise. Our first duty is to take off their chains, as the best means of preparing them for the ballot. By no means would I disparage education, and especially political training; but the ballot is itself a schoolmaster. If you expect a man to use it well you must place it in his hands, and let him learn to cast it by trial. If you wish to teach a man to

swim, you must first put him in the water. If you wish to teach him how to handle the tools of the mechanic, you must first put them in his hands. If you wish to teach the ignorant man, black or white, how to vote, you must grant him the right to vote as the first step in his education. The negro, I am sure, will generally be found voting on the side of his country, and gradually learning his duties as a citizen. Sir, let one rule be adopted for white and black, and let us, if possible, dispossess our minds, utterly, of the vile spirit of caste which has brought upon our country all its woes.

Mr. Speaker, I reply still further, that my argument is not at all invalidated if I admit that the white people of this District are decidedly superior to the negroes in education and general intelligence. This very superiority would give them an important advantage over the class not thus favored. It would become a powerful weapon in carrying out their peculiar purposes; and these will certainly be antagonistic to the best good of those whom law and usage have so long injured and degraded. If any class will be peculiarly exposed, and need the strongest safeguards, it will be the negroes, who have been made comparative children in knowledge and self-help. All class rule is vicious; but if one class must rule another, it will be found far better to allow the prerogative to the laboring many, whose usefulness and numbers best entitle them to it, than to confer it upon the aristocracy, the "gentlemen," the idlers, who will of course maintain their privileges. The many who have been denied equal rights, and suffered from the privation, will be quite as fit for political power as the few who have had no such experience.

Mr. Speaker, I hope I need not reply to the argument often urged, that negro voting will lead to the amalgamation of races, or social equality, which now seems to mean the same thing. On this subject there is nothing left to conjecture, and no ground for alarm. Negro suffrage has been very extensively tried in this country, and we are able to appeal to facts. Negroes had the right to vote in all the Colonies save one, under the Articles of Confederation. They voted, I believe, generally, on the question of adopting the Constitution of the United States. They have voted ever since in New York and the New England States, save Connecticut, in which the practice was discontinued in 1818. They voted in New Jersey till the year 1840; in Virginia and Maryland till 1833; in Pennsylvania till 1838; in Delaware till 1831; and in North Carolina and Tennessee till 1836. I have never understood that in all this experience of negro suffrage the amalgamation of the races was the result. I think these evils are not at all complained of to this day in New England and New York, where negro suffrage is still practiced and recognized by law. Indeed, the fact is notorious, that amalgamation is almost totally unknown, except in a state of slavery, which obliterates the ties of life, and subjects the negro woman to the unbridled power of the master race. Sir, give the colored man the ballot, so that he may maintain the liberty already nominally conferred, and the best possible step will have been taken to regulate and purify the relations heretofore existing between the races. Should the copperheads and rebels of this District feel in danger of matrimony with their African fellow-citizens in consequence of negro suffrage, I would have Congress pass a law for their protection; but I would not withhold the ballot from the colored people for a reason so contingent and so uncomplimentary to their character and taste.

Nor do I deem it necessary, Mr. Speaker, to dwell on the argument that negro voting will lead to negro office-holding, negro domination, and ultimately to a war of races. Such an argument, current as it is in certain quarters, finds no shadow of support in any known facts. The experience to which I have referred certainly can alarm no one, and the instances are rare, if in fact any can be adduced, in which colored men have held office, though their numbers, as in States like Pennsylvania, Virginia, and Mary-

land, were very large when black suffrage was allowed. Sir, no fact is more notorious, and at the same time more discreditable, than the nearly universal prejudice of the white race in our country against the negro. That prejudice will not pass away swiftly, but gradually and slowly. Like every other form of injustice, it will ultimately die; but the prospect of this is clearly not immediate. We are certainly not yet so in love with the negro that we prefer him as our ruler; but when the fact shall be realized, it will not be negro domination, but negro rule of choice, by white as well as black suffrage, and cannot therefore lead to any war of races. This is quite evident; for though the negroes here are numerous, and in portions of the South constitute the majority, the tide of emigration from the North and from Europe must very soon place the white race largely in the ascendant everywhere. I present these considerations in order, if possible, to calm the fears of my conservative friends; for as to myself, my faith in democratic principles depends not at all upon any temporary or local results of their application. Sir, a war of races in this country can only be the result of denying to the negro his rights, just as such wars have been caused elsewhere; and the late troubles in Jamaica should teach us, if any lesson can, the duty of dealing justly with our millions of freedmen. Like causes must produce like results. English law made the slaves of Jamaica free, but England failed to enact other laws making their freedom a blessing. The old spirit of domination never died in the slave-master, but was only maddened by emancipation. For thirty years no measures were adopted tending to protect or educate the freedmen. At length, and quite recently, the colonial authorities passed a whipping act, then a law of eviction for people of color, then a law imposing heavy impost duties, bearing most grievously upon them, and finally a law providing for the importation of coolies, thus taxing the freedmen for the very purpose of taking the bread out of the mouths of their own children! I believe it turns out, after all, that these outraged people even then did not rise up against the local government; but the white ruffians of the island, goaded on by their own unchecked rapacity, and availing themselves of the infernal pretext of a black insurrection, perpetrated deeds of rapine and vengeance that find no parallel anywhere, save in the acts of their natural allies, the late slave-breeding rebels, against our flag. Sir, is there no warning here against the policy of leaving our freedmen to the tender mercies of their old masters? Are the white rebels of this District any better than the Jamaica villains to whom I have referred? The late report of General Schurz gives evidence of some important facts which will doubtless apply here. The mass of the white people in the South, he says, are totally destitute of any national feeling. The same bigoted sectionalism that swayed them prior to the war is almost universal. Nor have they any feeling of the enormity of treason as a crime. To them it is not odious, as very naturally it would not be, under the policy which foregoes the punishment of traitors, and gives so many of them the chief places of power in the South. And their hatred of the negro to-day is as intense and seething and as universal as before the war. I believe it to be even more so. The proposition to educate him and elevate his condition is everywhere met with contempt and scorn. They acknowledge that slavery, as it once existed, is overthrown; but the continued inferiority and subordination of the colored race, under some form of vassalage or serfdom, is regarded by them as certain. Sir, they have no thought of anything else; and if the ballot shall be withheld from the freedmen after the withdrawal of military power, the most revolting forms of oppression and outrage will be practiced, resulting, at last, in that very war of races which is foolishly apprehended as the effect of giving the negro his rights.

Mr. Speaker, a more plausible, if not a more formidable, objection to negro suffrage in this District remains to be noticed. Most of the

northern States refuse the ballot to their colored citizens, and even deny them their testimony in suits in which white persons are parties. In Indiana, which has done so noble and glorious a part in the war, we have a constitutional provision, and laws made in pursuance of it, by which negroes from other sections of our country are forbidden to enter the State. It is made a penal offense for any negro or mulatto to come into her borders, or for any white person to bring him in, or employ him after he shall have come. Now, how can the Representatives of such States be expected to vote for negro suffrage in this District? If Congress, having the sole and exclusive power of legislation here, ought to give the ballot to the negro, why should not Indiana give the ballot to her negro population? And how can western Representatives face their constituents and answer this question, after having supported this bill? And it is just here that its passage must encounter its greatest peril; for members of Congress, however patriotic, will be exceedingly glad to escape this dilemma, and to avoid the commitment to the policy of negro suffrage generally, which would seem to be implied in the support of this measure.

In seeking to meet this difficulty several considerations must be borne in mind. In the first place, the demand for negro suffrage in this District rests not alone upon the general ground of right, of democratic equality, but upon peculiar reasons superinduced by the late war, which make it an immediate practical issue, involving not merely the welfare of the colored man but the safety of society itself. If civil government is to be revived at all in the South, it is perfectly self-evident that the loyal men there must vote; but the loyal men are the negroes, and the disloyal are the whites. To put back the governing power into the hands of the very men who brought on the war, and exclude those who have proved themselves the true friends of the country, would be utterly suicidal and atrociously unjust. Negro suffrage in the districts lately in revolt is thus a present political necessity, dictated by the selfishness of the white loyalist as well as his sense of justice. But in our western States, in which the negro population is relatively small, and the prevailing sentiment of their white people is loyal, no such emergency exists. Society will not be endangered by the temporary postponement of the right of negro suffrage till public opinion shall render it practicable, and our western Representatives can thus vote for this bill without encountering any reasonable hostility from their conservative constituents, and leaving the question of suffrage in the loyal States to be decided by them on its merits. If Indiana had gone out of her proper place in the Union, and her loyal population had been found too weak to force her back into it without negro bullets and bayonets, and if, after thus coercing her again into her constitutional orbit, her loyalists had been found unable to hold her there without negro ballots, the question of negro suffrage in Indiana would most obviously have been very different from the comparatively abstract one which it now is. It would, it is true, have involved the question of justice to the negroes of Indiana, but the transcendently broader and more vital question of national salvation also. Let me add further, that should Congress pass this bill, and should the ballot be given to the negroes in the sunny South generally, those in our northern and western States, many of them at least, may return to their native land and its kinder skies, and thus quiet the nerves of conservative gentlemen who dread too close a proximity to those whose skins, owing to some providential oversight, were somehow or other not stamped with the true orthodox luster.

It should be further remembered, Mr. Speaker, that the bill before us relates exclusively to this District, and those municipal and police powers which are to be exercised here under the laws of Congress. Were it in fact dangerous and unwise to give the negro a voice in the general legislation of the country, I can see no objection whatever to the experiment of black suffrage in this District, in the purely local administra-

tion of its affairs. For very excellent reasons, already given, I believe the negroes here are entitled to the ballot, and are at least as fit as multitudes of white men who are unquestionably to have it. They have done their full share in saving the nation's life. Many of them went into the Army as the substitutes of white ruffians and vagabonds who daily "damn the nigger," and whose unprofitable lives were saved by the black column which stood between them and the bullets of the rebels. Sir, let the experiment be fairly made here, on this model political farm of the nation. Should it fail, Congress will abandon it; should it work well, it may prove a most excellent forerunner of measures of larger justice to the colored race in our land. I do not mean to say that the colored soldiers of this District should alone have the ballot, because no such rule is proposed or thought of as to white voting. If the white rabble of this District who did not enter our Army, and who to a great extent were in sympathy with the public enemy, are to vote, as they undoubtedly will, it would be a very mean mockery of justice to withhold the ballot from loyal negroes who, although they did not fight, furnished the Government with their full share of men.

Mr. Speaker, I ask conservative gentlemen on this floor to consider duly one other fact. If difficulties are to be encountered in voting for this bill, still greater difficulties are to be met in voting against it, and I know of no half-way ground in dealing with fundamental principles. To vote against this measure is to vote against the first truths of democratic liberty. It is to vote for the old spirit of caste and the old law of hate which have so terribly blasted our land. It is to vote down justice and install misrule and maladministration as king. It is to sanction and encourage, by the national example, the barbarous and worse than heathen laws of the northern and western States, already referred to, which so loudly call for our rebuke. It is to make a record which the roused spirit of liberty and progress, and the thick-coming events of the future, will certainly disown and turn from with shame. And while such a vote might tend to placate the conservative and the trimmer, it would offend those radical hosts now everywhere springing to their feet, and preparing for battle against every form of inequality and injustice, and in favor of "all rights for all." Sir, justice is safe. The right thing is the expedient thing. Democracy is not a lie. God is not the devil, "nor was Christianity itself established by prize essays, Bridgewater bequests, and a minimum of four thousand five hundred a year." Far better will it be for a northern Representative and for the cause of Republicanism itself to vote on the right side of this question, even should it cost him his seat on this floor, than to vote on the wrong side, and thus maintain his place by the sacrifice of both his own manhood and the public welfare intrusted to his hands. Sir, I agree that the passage of this bill would tend to open the way to perfect equality before the law in all the States. I do not deny that the public would so understand it, and I decline none of the consequences of my vote. Mr. Jefferson, speaking of the negroes, declared that "whatever be their degree of talent it is no measure of their rights," and he likewise declared that "among those who either pay or fight for their country no line can be drawn." That is *my* democracy. "The one idea," says Humboldt, "which history exhibits as evermore developing itself into greater distinctness, is the idea of humanity, the noble endeavor to throw down all barriers erected between men by prejudice and one-sided views, and, by setting aside the distinctions of religion, country, and color, to treat the whole human race as one brotherhood." Sir, on this broad ground, coincident with Christianity itself, I plant my feet; and no man can fail who will resolutely maintain it.

Mr. Speaker, I must not conclude my argument without referring to one further consideration, by which the passage of this bill, in my judgment, is urgently demanded. I have ar-

gued that the ballot should be given to the negroes as a matter of justice to them. It should likewise be done as a matter of *retributive* justice to the slaveholders and rebels. According to the best information I can obtain, a very large majority of the white people of this District have been rebels in heart during the war, and are rebels in heart still. That contempt for the negro and scorn of free industry which constituted the mainspring of the rebellion cropped out here during the war in every form that was possible, under the immediate shadow of the central Government. Meaner rebels than many in this District could scarcely have been found in the whole land. They have not been punished. The halter has been cheated out of their necks. I am very sorry to say that under what seems to be a false mercy, a misplaced humanity, the guiltiest rebels of the war have thus far been allowed to escape justice. I have no desire to censure the authorities of the Government for this fact. I hope they have some valid excuse for their action. This question of punishment, I know, is a difficult one. The work of punishment is so vast that it naturally palsies the will to enter upon it. It never can be thoroughly done on this side of the grave. And were it practicable to punish adequately all the most active and guilty rebels, justice would still remain unsatisfied. Far guiltier men than they are the rebel sympathizers of the loyal States, who coolly stood by and encouraged their friends in the South in their work of national rapine and murder, and while they were ever ready to go joyfully into the service of the devil, were too cowardly to wear his uniform and carry his weapons in open day. But Congress in this District has the power to punish by ballot, and there will be a beautiful, poetic justice in the exercise of this power. Sir, let it be applied. The rebels here will recoil from it with horror. Some of the worst of them, sooner than submit to black suffrage, will doubtless leave the District, and thus render it an unspeakable service. To be voted down and governed by Yankee and negro ballots will seem to them an intolerable grievance, and this is among the excellent reasons why I am in favor of it. If neither hanging nor exile can be extemporized for the entertainment of our domestic rebels, let us require them at least to make their bed on negro ballots during the remainder of their unworthy lives. Of course they will not relish it, but that will be their own peculiar concern. Their darling institution must be charged with all the consequences of the war. They sowed the wind, and if required must reap the whirlwind. Retribution follows wrong doing; and this law must work out its results. Rebels and their sympathizers, I am sure, will fare as well under negro suffrage as they deserve, and I desire to leave them, as far as practicable, in the hands of their colored brethren. Nor shall I stop to inquire very critically whether the negroes are *fit* to vote. As between themselves and white rebels, who deserve to be hung, they are eminently fit. I would not have them more so. Will you, Mr. Speaker, will even my conservative and Democratic friends, be particularly nice or fastidious in the choice of a man to vote down a *rebel*? Shall we insist upon a perfectly finished gentleman and scholar to vote down the traitors and white trash of this District, who have recently signalized themselves by mobbing unoffending negroes? Sir, almost anybody, it seems to me, will answer the purpose. I do not pretend that the colored men here, should they get the ballot, will not sometimes abuse it. They will undoubtedly make mistakes. In some cases they may even vote on the side of their old masters. But I feel pretty safe in saying that even white men, perfectly free from all *suspicion* of negro blood, have sometimes voted on the wrong side. Sir, I appeal to gentlemen on this floor, and especially to my Democratic friends, to say whether they cannot call to mind instances in which white men have voted wrong? Indeed, it rather strikes me that white voting, ignorant, depraved, party-ridden *Democratic* white voting, had a good deal to do in hatching into

life the rebellion itself, and that no results of negro voting are likely to be much worse. I respectfully commend this consideration to my friend from Iowa, [Mr. KASSON,] and to conservative gentlemen here on both sides of this Hall. Sir, as I have argued elsewhere, all men are liable to make mistakes. The democracy I stand by, the fitness to govern which I believe in, is the aggregate wisdom and practical common sense of the whole people. This, and not the wisdom of our rulers, or of any select few, carried us safely through the rebellion, and this only can be trusted in time to come. There is no other reliance under God for us, as the champions and exemplars of Republicanism, and the sooner we bravely accept this truth the better it will be for all races and orders of men composing our great body-politic. In demanding the ballot in this District for the despised and defenseless, I simply demand the national recognition of Christianity, which is "the root of all democracy, the highest fact in the rights of man." I beseech gentlemen to remember this. As the lawgivers of a disenthralled Republic, let us not write "infidel" on its banner, by trampling humanity and justice under our feet in these high places of power. The question is ours to decide. The right, so earnestly prayed for, is ours to bestow. The assumption set up by the white voters here of the right to decide this question is as superlatively ridiculous as it is sublimely impudent. They have no more right to vote themselves the exclusive depositaries of power in this District than the inmates of its penitentiary have to vote themselves at liberty to go at large. Congress is the sovereign and sole judge; and what the colored men here ask at our hands, for their just protection, and as their sure refuge, is the ballot:

"A weapon firmer set,
And better than the bayonet;
A weapon that comes down as still
As snow-flakes fall upon the sod;
But executes a freeman's will
As lightning does the will of God."

Mr. RANDALL, of Pennsylvania, obtained the floor; but stated that he desired to yield a portion of his time to Mr. SITGREAVES.

Mr. SITGREAVES. I rise, Mr. Speaker, to refute an aspersion of the gentleman from Illinois, [Mr. FARNSWORTH,] upon the New Jersey Democracy and her Representatives on this floor, made in answer or reply to my colleague, [Mr. ROGERS.] I allude to the assertion that the Legislature of New Jersey, controlled by the Democracy, had voted against the right of the soldiers to vote in camp, and the inference sought to be adduced from that by the gentleman, that the Representatives from New Jersey, representing the Democracy here, had no right and could not consistently speak in favor of the honor or the rights of the soldier. I quote from the Globe, as follows:

"If I am not mistaken the gentleman, with the rest of his party in the State of New Jersey, refused to give to the white soldier who had left his native State and gone into the field, periling his life in the defense of his country, the right to vote even as to who shall represent that State in the Congress of the United States. Perhaps that is the reason why we have had so many of that persuasion in this House. Now the gentleman invokes the white soldier, and protests against this injustice which should be done him."

Mr. Speaker, when the bill was pending before the Legislature to authorize the soldiers to vote in camp; many gentlemen of the Democratic party conscientiously believed that they could not vote for that bill without violating their constitutional oaths. Others as conscientiously believed that no fair vote would ever be had in the camp; and surely the history of elections in the camp must have satisfied every friend of the purity and independence of the ballot-box that they were right. I will quote that article in the constitution of the State of New Jersey to which I particularly allude:

"Every white male citizen of the United States, of the age of twenty-one years, who shall have been a resident of this State one year, and of the county in which he claims a vote five months next before the election, shall be entitled to vote for all officers that now or hereafter may be elected by the people."

Now, Mr. Speaker, to charge the Democracy of New Jersey with being unfriendly to the sol-

diers, and by inference, to the cause for which the soldier fought, is ungenerous and unjust. Let facts answer.

In 1861, when the President of the United States called for troops to defend this capital, New Jersey soldiers were foremost among those who marched to the rescue, and a New Jersey brigade was the first organized brigade in the front. The Legislature of New Jersey—a Democratic Legislature—was convened at extra session. Ample means were provided for the raising and equipment of troops. Fifteen dollars a month were guaranteed to the soldiers during the whole war—four dollars more than was then paid by the General Government.

In 1862 the Democracy of New Jersey controlled the political power of the State, both in its executive and legislative branches. No more fervent appeals were made to the patriotism of the people to sustain the laws than were made by Joel Parker, Democratic Governor of New Jersey. No more liberal legislation was devised by any State to carry on the war than by the Democratic Legislature of that State.

Mr. STARR. I would like to ask my colleague whether I understood him to state that the Democratic Legislature of New Jersey provided for the support of the first troops which were sent in 1861?

Mr. SITGREAVES. Yes, sir.

Mr. STARR. I beg leave to say that that measure was adopted in opposition to the Democratic portion of the Legislature; that we had then an American party in the Legislature, and the Democrats made it a party question upon voting for the appropriation—a strict party question. And the Executive of the State was not in the hands of the Democracy at that time.

Mr. SITGREAVES. Laws were passed by a Democratic Legislature authorizing the raising of bounties for the support of troops, and appropriations were made for the payment of bounties to the families and widowed mothers of the soldiers in the service, and which were promptly paid during the whole war. But the crowning glory of the Democracy of New Jersey was that they provided an asylum in which, at the public expense, the orphan of the soldier is educated and maintained.

And how, sir, did the people respond to these Democratic appeals? Go ask the thirty regiments of infantry and five batteries of artillery, composed of Jerseymen, always in the front, always in the fight. Go read the history of the war, and there see a New Jersey regiment checking the retreat when the army of the Republic ignominiously fled at Bull Run. Go read the list of the dead in the hospitals, and on the battlefield, and in rebel prisons. Go to the five thousand New Jersey fathers, and ask each of them, "Where is your son, who five years since stood at your hearth-stone in his manly strength, the hope of your declining years?" and he will tell you that he marched to sustain the old flag at the call of the Democracy, and his body, pierced by rebel shot or bayonet, moldered in a bloody grave upon the battle-field. Go to five thousand Jersey mothers, and ask each of them, "Where is your boy, the light of your eye, the love of your heart?" and her answer will be "Rachel weeping for her children, and refusing to be comforted because they are not."

Sir, it is not only unjust, not only ungenerous to charge the Democracy of New Jersey with unfriendliness to the soldier after all these sacrifices, but, sir, it is cruel. If there is one thing under heaven that Jerseymen are more proud of than another, it is the deeds of her soldier sons; for their deeds are identified with the glory and the history of this great Republic. In the war of the Revolution the militia of New Jersey, in the darkest crisis of that war, were almost the sole support of the standard of Washington; and they sustained that standard in many hard-fought conflicts from the hour that the battle-fires of the Revolution were kindled at Lexington, until it waved in final and glorious triumph over the heights of Yorktown. In the second war of Independence, the war with Great Britain in 1812, they were true to the old flag.

While some thought it unbecoming a moral and religious people to rejoice at our victories, the Democracy of New Jersey rejoiced at the success of our arms. They burnt their blue-lights, too, in front of the enemy; but their blue-lights were the smoke of their cannon and the flash of their bayonets. In the war with Mexico, while some prayed that our boys might be greeted with bloody hands and hospitable graves, the New Jersey Democracy were true to that flag and gave it material and moral aid until it floated over the halls of the Montezumas. Wherever that old flag is waved, wherever it floats, in the camp or over the deck, there Jerseymen and Jersey Democrats have ever been found, and I trust in God ever will be, to maintain its honor or to die in its defense.

Mr. RANDALL, of Pennsylvania. Mr. Speaker, the discussion of this bill has been lengthy and the arguments have been ample. I should not feel it necessary at this time to occupy the attention of the House on the subject, but for the fact that my native State, during the course of this debate, has been alluded to. My colleague from the fourth district [Mr. KELLEY] has stated to you here that prior to 1838 negroes were allowed the privilege of the elective franchise in the State of Pennsylvania. The gentleman has told the truth in that particular, but he has failed to tell the whole truth. Sir, is he not aware that a judicial decision has been made in Pennsylvania upon this very point? Pennsylvania abolished slavery on the 1st of March, 1780, and ever since that period her legislation has tended to ameliorate the condition of that race; but at the same time her legislation, and the position of parties in that State, have uniformly recognized a distinction between the two races. Our constitution of 1790 contained the word "freemen," and under that provision of the constitution, negroes claimed the right to vote in Pennsylvania, and I believe it is well authenticated that they did vote. But, sir, at the October election in 1835, in the county of Luzerne, a negro applied to vote; the inspectors of the election conducting the polls denied him the right to vote, and his vote was rejected, whereupon a suit was instituted and a decision given in his favor in the lower court, and that decision was overruled by the supreme court in 1837. The opinion was delivered by Chief Justice Gibson, and his opinions are fully known to every lawyer in this House; he stands as a jurist at the head. The opinion of the court was unanimous, concurred in by four other gentlemen of almost equal talent and reputation with himself. The question turned upon the word "freeman," whether it meant a citizen and entitled him to vote. That decision of the court, while it was unanimous, was also clear on the point of declaring that the word "freeman" meant white men and not black men, and that consequently black men were not entitled to vote under the constitution of 1790.

The question was further agitated until a convention met in January, 1838. My distinguished colleague from Pennsylvania, [Mr. STEVENS], the chairman of the Committee on Appropriations, was a member of that convention, and if I misstate anything that there occurred he can correct me. This question was agitated there, and in order to set the matter at rest and have no further equivocal language in the constitution, the word "white" was inserted by a vote of nearly two thirds, after a lengthy and one of the most intellectual discussions that has ever taken place in any public body in Pennsylvania. So much for the right of the negro to vote in Pennsylvania. I thought it necessary, in answer to the statement of my colleague that negroes voted in Pennsylvania, to give the true and correct history, both judicial and political.

My colleague stated further that it was the Democratic party which adopted that amendment to the constitution and deprived the negro of the right to vote in that convention. I am glad to say, from my reading and from my associations with the party, that the Democratic party of Pennsylvania have uniformly been against extending the right of suffrage to the negro race.

Mr. KELLEY. Will my colleague yield to me for a moment?

Mr. RANDALL, of Pennsylvania. Certainly.

Mr. KELLEY. I do not understand my colleague to deny that colored men were voters at the foundation of the Government, and thence down to 1835. Do I rightly understand him?

Mr. RANDALL, of Pennsylvania. I do not deny that some colored people in Pennsylvania voted down to the year 1835. But I say that according to the judgment of the court they voted illegally, when they had no right to vote.

Mr. KELLEY. In other words, that in 1835 we had a Dred Scott decision in the State of Pennsylvania.

Mr. RANDALL, of Pennsylvania. It was no fabulous or made-up case at all, but a case upon the facts.

Mr. KELLEY. Does the gentleman mean to say that the Dred Scott case was a fabulous case?

Mr. RANDALL, of Pennsylvania. I used the terms so familiar to the gentleman and the party to which he belongs, who constantly call that a fabulous and made-up case. I am not going to be led into a discussion of the Dred Scott decision at this time. I desired to refer the gentleman to the decision of the supreme court of Pennsylvania; and he cannot escape from it.

Now, as to the gentleman's allegation that it was the Democratic party who took away from and deny to the colored people the right to vote. Sir, that party have always had the cooperation and the aid of vast numbers of the other party. The convention which met in 1838 elected, as its presiding officer, Hon. John Sergeant. It was a Whig convention; its organization was Whig; yet two thirds of that convention voted to insert in the constitution of Pennsylvania the word "white," and I can give the gentleman additional authority, such authority as he has heretofore usually regarded as wise. I allude to the gentleman who is now the attorney general of Pennsylvania, Hon. William L. Meredith. He spoke in that convention; and for the purpose of edifying my colleague [Mr. KELLEY] I will read one or two extracts from his speech there. He says, in the course of his remarks:

"He was willing to extend political rights as far as he could, with reference to the happiness, well-being, and security of society. But he had doubts as to the propriety of admitting the colored people into our political family on the footing of others."

Now, is not that sound authority for the gentleman from Pennsylvania, [Mr. KELLEY,] my colleague? Mr. Meredith is the leviathan, so to speak, of the Pennsylvania bar. Again, he says:

"There is something peculiar in the relation in which the colored race stand to the whites, which renders a distinction inevitable. It has been said that it is enough to show a man is a citizen to show that he has the right of suffrage. This is not the case. The white man who has not paid a tax, or who is a minor, or who has not been assessed, is not the less a citizen, not the less entitled to protection, yet he is not permitted to exercise the right of suffrage."

Furthermore, let me say to the gentleman that he is seeking to do that here, upon the people of this District, which he failed to make an issue at home. He claims the power to force upon the people of this District negro suffrage. But why does he claim the power to do this here when he fails to make the same issue in his own district?

Mr. KELLEY. The gentleman is slightly mistaken there. When I was quite a young man, and somewhat active in the Democratic party, I united with others in petitioning the Legislature of my State to initiate a change of the constitution so that every man who was not a pauper or a felon could be a citizen in the full enjoyment of the privileges of citizenship; and I have not a constituent, whether he belongs to my party or that of the gentleman, who does not know that I plead the cause of justice and right, and advocate the extension of suffrage to every tax-paying adult male citizen who has not been convicted of crime.

Mr. RANDALL, of Pennsylvania. I am glad the gentleman has informed me what his record

is. But I want to know whether his action during the last canvass was in favor of negro suffrage? And I want to know if he is willing to answer the question, whether he is willing to go before his constituents at the next election upon that issue? I pause for a reply.

Mr. KELLEY. If there be in my district a house into which I have not put a copy of my remarks on negro suffrage, and the gentleman will give me the name of the proprietor, I will send him one. I mean that every man in the district shall know just where I stand, and that I am anxious to give every laboring man the right and power to protect the interests of labor at the ballot-box.

Mr. RANDALL, of Pennsylvania. Yes, sir, the gentleman is willing that every man in his district shall know that he is in favor of imposing negro suffrage upon people that he has no interest in or connection with, that he has no right to represent, except through the agency of the Constitution. But, sir, will he go before his constituents and advocate a proposition to strike out the word "white" from the constitution of Pennsylvania? I appeal to the history of the party in Pennsylvania to which the majority here belong. The distinguished gentleman at the head of the Committee on Appropriations [Mr. STEVENS] reported the Republican platform for Pennsylvania, and I ask whether negro suffrage formed any part of that platform?

Mr. KELLEY. The gentleman says I am willing to impose negro suffrage upon people here in the District whom I have no right to represent.

Mr. RANDALL, of Pennsylvania. I said "except through the agency of the Constitution."

Mr. KELLEY. That excepts the whole case. I was going to refer to our constitutional duty, for I have supposed that under the Constitution it was made the duty of Congress to legislate, and not only to legislate, but that it should exclusively legislate for the District.

Mr. RANDALL, of Pennsylvania. I admit all that. And yet in the face of the expression of opinion such as we have had here in the District, almost unanimous, and with a vote larger, except in a few instances, than has ever been before polled in this city, we find the gentleman voting to force negro suffrage upon the people of this District, and failing to take any steps to give the same right to the people whom he directly represents, the colored portion of the people of Pennsylvania.

Mr. KELLEY. I would like to ask my colleague [Mr. RANDALL] whether any steps can now be taken on that subject, or whether the constitution of Pennsylvania does not provide that it shall be amended only once in five years? And whether it was not amended so as to let our soldiers vote two years ago, to the great disgust of the Democratic party?

Mr. RANDALL, of Pennsylvania. Yes, sir; the constitution of Pennsylvania provides that the step toward procuring an amendment to that constitution shall be taken at a certain period; and that is the step which I wish to see my colleague have the boldness to take in reference to this question of negro suffrage.

Mr. KELLEY. Which step the gentleman will find me ready to take as soon as time opens the door which is now barred against the movement.

Mr. RANDALL, of Pennsylvania. Let me ask the gentleman whether, when the Republican party adopted its platform at Harrisburg last fall, that was not the time to declare the true intent of that party on this question of negro suffrage. I know that, when it was affirmed, during that campaign by the Democratic orators, that the true intention of the Republican party was to introduce negro suffrage, the charge was vehemently denied. That cunning politician, Mr. Cessna, the chairman of the Republican State Central Committee, went so far as to issue an address denying that the right of suffrage was a question in the canvass. My colleague fought under the banner of that gentleman, indorsing, I believe, everything that he said.

I desire only that the true history of Pennsylvania and the true history of the now dominant party in that State, in reference to this subject, shall be fairly and fully known. When my colleague affirms that the negroes had the right to vote in Pennsylvania up to the period of the adoption of the constitution of 1838, and that the Democratic party were alone responsible for depriving them of that right, I desire that he shall exhibit all the facts, so that this House may understand the whole case, not merely a part of it.

Mr. KELLEY. Does the gentleman mean to intimate that I did not advocate colored suffrage during the last canvass in Pennsylvania?

Mr. RANDALL, of Pennsylvania. I did not hear every speech that the gentleman made; but I read the reports of very many of them, and I never heard or saw anything in his speeches in reference to that.

Mr. KELLEY. It may be that the gentleman did not read it in the newspapers; but let him inquire in all the counties in which I spoke, from the Delaware to Lake Erie, and it was in a majority of the counties on that long line, and he will not find a man, woman, or child who heard me who will not tell him that I advocated colored suffrage.

Mr. RANDALL, of Pennsylvania. I ask, Mr. Speaker, why the gentleman's party did not put that principle in the platform. Acting with that party, the gentleman was talking one way and looking another, like the boy in the boat, who looked one way and rowed another. The party with which the gentleman acted wanted to gull the people, their orators saying in one place that they were in favor of negro suffrage, and in another place declaring that they were against it. I admit that in northwestern Pennsylvania some of the advocates of that party threw down the gauntlet, and raised the question of negro suffrage directly; but in every other part of Pennsylvania they ignored that question.

Mr. KELLEY. I will only remind the gentleman that the twentieth and twenty-fourth wards of Philadelphia are not in northwestern Pennsylvania; and in both of those wards I advocated colored suffrage, apparently very acceptably to the people.

Mr. RANDALL, of Pennsylvania. I have given the gentleman an opportunity to answer my question, and I have answered every question which he has propounded to me. I now desire to ask him whether he is in favor of amending the constitution of Pennsylvania by striking out the word "white" in the clause defining the qualifications of electors.

Mr. KELLEY. I reply to the gentleman that I am in favor of striking out that word "white" as soon as the constitution will permit. I have a high regard for Franklin, Benezet, and the men who with them laid the foundations of our Government and gave to the English language one of the grandest things in its literature, the preamble to the act of 1780, by which Pennsylvania, in the midst of the war of the Revolution, gave to the world the first example of the members of a ruling class, in gratitude to God for blessings bestowed on them, conferring freedom and citizenship upon their slaves. I had rather, sir, pass my life in humble privacy, surrounded and sustained by the spirits of those good and great men, than have the multitude shouting applause for my efforts in a bad cause in the Halls of Congress, or elsewhere.

I am for so enforcing the provisions of the Constitution of the United States that its interpretation and application shall be in accordance with what I believe Washington and Madison to have understood it to express. I do not wish to impose upon South Carolina and Mississippi what I am not ready to adopt in Pennsylvania; and as the Constitution confides the election of members of Congress to those who have the right to vote for the lower House of the Legislature, I believe it has also the power to decide who shall vote for the lower House of the Legislature. Therefore, sir, I hope we will pass a law defining who shall vote

for the lower House of a Legislature in each and every State of the Union. That will settle all our difficulties, and thenceforth armed rebellion will be impossible.

Mr. RANDALL, of Pennsylvania. I am glad to have extended an opportunity to the gentleman to make this addition to his speech. However, I desire that the poison shall have the antidote to follow it. On the question of negro suffrage I shall vote in accordance with what I find to be the uniform opinion of my State, without regard to party. I believe that the races are distinct, "inevitably distinct," in the language of Mr. Meredith; and believing that, I am unwilling to take any step in this Congress which will place that inferior race upon an equality with the white men of the country.

I will go as far as any gentleman, allowing to the colored people all the thrift and happiness which may come from intellectual culture; but when it comes to giving them the power to govern the white men in certain localities then I am against it. I am against anything which looks to the social and political equality of the white and black races. Therefore I shall vote against the present bill.

Mr. J. L. THOMAS. Mr. Speaker, before the vote is taken on the proposition now before the House, I desire to state the reasons that will influence me in my action.

Although the bill only goes to the extent of granting the right of the elective franchise to the people of color in the District of Columbia, in its effect it is of interest to the whole people of my State, and, in the principle which it involves, of importance to the whole country.

While I deny the right or the power of Congress to legislate on this subject, where that legislation is to affect the qualification of electors of any of the States, I at the same time concede the power to pass laws for the good government of this District; and hence, on this or any kindred subject, by the eighth section of the first article of the Constitution of the United States, power is given to Congress—

"To exercise exclusive jurisdiction in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States."

And the Legislature of Maryland, by the second section of the act of December 19, 1791, declared and enacted—

"That all that part of the territory called Columbia, shall be, and the same is hereby, acknowledged to be forever ceded and relinquished to the Congress and Government of the United States, in full and absolute right and exclusive jurisdiction, as well of soil as of persons residing or to reside thereon, pursuant to the tenor and effect of the eighth section of the first article of the Constitution."

It is needless, therefore, for any one, from the opinions I entertain, to deny the power that Congress possesses to pass this law.

But, sir, I am here to deny either the expediency, the wisdom, or the necessity of legislating on this subject at this time, or in relation to this or any other district or territory subject to or under the jurisdiction or control of the Government.

Said Henry Clay in the Senate, in 1850, in addressing that body, on the bill to abolish the slave trade in the District of Columbia:

"I have always held that under the language of the Constitution, being an investment in Congress of exclusive legislation over this District in all cases whatever, there existed full and complete power over this whole subject. But in reference to the abolition of slavery in the District, I have maintained, what I now continue to maintain, that while the institution remains in Maryland now, or while it existed in Maryland or Virginia before the retrocession, it would be a gross violation of good faith to exercise this power, though it is fully and completely covered by the language of the Constitution."

Since that speech was made, slavery has not only been abolished by act of Congress in this District, but by the natural results of this great rebellion, and the adoption of the constitutional amendment, throughout the length and breadth of this land. I thank God to-day that such has been the result, and that from the Atlantic to the Pacific no slave treads the soil of our free country.

And yet, while I rejoice at this, I cannot but believe that the efforts now put forth by some

in this House to force negro political equality in this District is not only, in the language of Henry Clay, "a gross violation of good faith" toward the people of this District and of the State of Maryland, but is the beginning of similar efforts to force the States of this Union to adopt negro political equality, without due consideration of all the important bearings of the subject.

I had thought, sir, and so had the Union people of my State, that with the total abolition of slavery all further legislation on that subject would cease, and that at least some respite would be given them to make good the losses of the war, and to repair its devastation, before it was again placed in the political arena, to disturb, to agitate, and to divide. We thought, with the majority here, that slavery was an evil, nay, that it was a curse and a blight; and, although there were many among us who professed to believe in its "divinity," we made up our minds to rid the State of its presence. And we did do it.

We did it at a time and in a manner that, however little credit she may receive for it here, will reflect imperishable honor on her citizens when the acts of this war shall be written by the future impartial historian. Her motive was pure, patriotic; her action self-sacrificing and noble. She did it because it was right, and because she had resolved to tear up by the roots the cursed tree that had produced so much of misery and of woe. It was done in the midst of this great conflict, freely and voluntarily, not by force of Federal bayonets, but by force of public opinion and intense love of country.

This war-offering of the loyalists of Maryland cannot be properly estimated at this time, nor by you of the North and West. You knew nothing of the effects of slavery on the minds of its victims, nor its influence over the political action of men, except from what you had heard and read from others. You were not born where the "institution" had an existence, and you cannot, therefore, properly estimate the degrading effect on the slave, and the tenacity and love with which thousands clung to it because of love of gain, and because they had grown up under it. But we who were born and reared in a slave State, and who received the curses and anathemas of rebel slave-owners because we favored and succeeded in emancipating the negro, know something of this "old sin" of slavery, and are entitled to some consideration for what we have suffered, and some regard for what we have voluntarily and willingly aided in forever abolishing.

Sir, the people of my State, at least that portion of them whom I have the honor to represent, and who have always been true to the Government, and who, in the darkest hours of rebellion, lifted up their hearts in earnest prayer to God in behalf of our country, and sent their sons to the battle-field to maintain and uphold the Union, are opposed to this measure. They see in it, as I do, the first effort to confer political privileges on a class who, although emancipated from slavery, are not at this time competent, by reason of their ignorance, nor qualified, by reason of their former status, to exercise the high and exalted privileges of an elector. It is an attempt to legislate the black man on the same political level with the white—an attempt which even if it succeeded would only show the disparity between the two races, and in the end redound to the permanent injury of the black. It is an attempt to grant universal suffrage and the right to hold office to the negro, not only here but everywhere, and thereby produce as a natural result that "irrepressible conflict" which none but bad men would profit by, and which all good men must deplore.

I do not mean by what I have said that all black men are ignorant and uneducated or incapable of exercising the right of suffrage. What I mean to say is that as a class they are to-day not only ignorant, uneducated, and unfit to exercise this right, but they are not its safe depositaries. I know many of this class whom I would be willing to trust to-day to ex-

ercise this right; but the difficulty in making a law to favor them would be in opening wide a door to admit others whom I could not trust, and whom I am satisfied are incapable of comprehending the new relations they would sustain.

However much gentlemen may be disposed to sneer at the opinions of some, that this is a Government of the white man, I appeal to the history of my country to sustain me in the assertion that it was founded by the white race, has grown to power and greatness by and through them, and if republican Government is to live on this continent, it can only live by and through the support and efforts of the white man. I do not desire to intimate that this is a Government exclusively for the whites, nor that it is a Government where the black man is to be ostracized politically on account of his color. I recognize the fact that all men are to-day free and equal; that they are entitled to certain inalienable rights; that among them are life, liberty, and the pursuit of happiness; that it is the great end of Government to secure these rights, and that the negro, freed and emancipated, is entitled to the same protection, in these respects, that I, as a white man, am entitled to receive.

Sir, the right of suffrage is a precious right, to be exercised by all who are capable, qualified, and loyal to the Government, and to be extended to none who are incapable by reason of nonage, want of mind, or disloyalty. The right to vote is not a natural-born right, but a gift or franchise conferred by the sovereign power on such of its citizens as are capable of exercising it. Until it is once given, the denial of it is no refusal of the right. When you have once received it, then, and not till then, does it become a right, and the withholding or withdrawal of it, except for good cause, is subversive of one of the fundamental principles of republican government. The sovereign power grants the right when it thinks it would be beneficial to the State; it withholds it or takes it away when it thinks it would be detrimental or destructive to the State. The citizen receives it to be used in the mode prescribed by law until by some act of his own he forfeits it. Hence idiots, lunatics, men convicted of crime, aliens, and in some States rebels, are not allowed to vote; and various conditions and qualifications are added to show that it is a power not to be given to every citizen. Mr. Madison, who has been quoted quite frequently during the debates on this bill, thus speaks in relation to suffrage:

"The right of suffrage is a fundamental article in republican constitutions. The regulation of it is at the same time a task of peculiar delicacy. Allow the right exclusively to property, and the rights of persons may be oppressed. The feudal policy alone sufficiently proves it. Extend it equally to all, and the rights of property or the claims of justice may be overruled by a majority without property or interested in measures of injustice. Of this abundant proof is afforded by other popular Governments; and it is not without examples in our own, particularly in the laws impairing the obligation of contracts."—*Madison Papers*, vol. 5, p. 580.

John Adams, the second President of the United States, and one of the fathers of the Republic, uses this language:

"Society can be governed only by general rules. Government cannot accommodate itself to every particular case as it happens, nor to the circumstances of particular persons. It must establish general comprehensive regulations for cases and persons. The only question is which general rule will accommodate most cases and most persons."

Depend upon it, sir, it is dangerous to open so fruitful a source of controversy and altercation as would be opened by attempting to alter the qualifications of voters. There will be no end of it. New claims will arise; women will demand a vote; lads from twelve to twenty-one will think their rights not enough attended to; and every man who has not a farthing will demand an equal voice with any other in all acts of State. It tends to confound and destroy all distinctions, and prostrate all ranks to one common level."—*Works of John Adams*, vol. 3, p. 378.

I have said that it would be unwise, inexpedient, and unnecessary to confer the right at this time on the people of color. It is unwise, because you are about to clothe men with the power of the ballot over one half of whom have been slaves all their lives, and who do not yet fully apprehend the citizenship conferred upon them. It is unwise, because it is universal, and you have no data from which you can form

any estimate of the effect it will have over the minds and actions of the uneducated and ignorant contraband, who, although familiarly known as "intelligent," is not of that kind desirable in ruling over the destinies of the capital of the nation. It is unwise, because it is an experiment, an introduction of a new element in the political management of our affairs, which promises to work well, but which might, and I fear will, turn out badly.

It is unnecessary and inexpedient, because a vast majority of the voters of the city of Washington and Georgetown have indicated their preference that the franchise should remain as it is. As property holders and tax-payers their voice should have some influence. If you grant the right, it not only goes to the extent of allowing all the negroes now in the District to vote, but as many thousands more as would flock from all portions of Virginia and Maryland "to see how voting feels," and "to try on" politics for a change. Some would doubtless offer themselves for office; and is it any wonder that the people of Washington should be opposed to such a measure? Is it reasonable to suppose that the tax-payers consider it safer to trust the enacting of their ordinances to a people hitherto oppressed and enslaved for centuries than to their own citizens? Have they discovered that two years of freedom has made the black man as competent to govern as themselves? Since when has the necessity arisen to require a new class of voters to do that to-day what from the time the right to regulate their municipal affairs was intrusted to them has been in the hands of those who at present exercise it? Have the white people of the District abused their trust? Have they shown themselves incompetent to vote, that you want to make another and a larger class to outvote and to govern them? Would it not be better to allow no one to vote in the District than to resort to such a punishment? Since when has it occurred to this House that universal suffrage should be granted in this District? By reference to the proceedings of this House in the first session of the Thirty-Eighth Congress, it will be seen that it was supposed at that time that the white man was good enough to manage the affairs of this city, and that the colored man was not competent, or at least was not thought entitled, to vote, as both the Senate and the House refused it. (McPherson's History of the Rebellion, page 241.)

Mr. Speaker, I am not here as the special advocate of the District of Columbia. From what has been said on this floor, one would suppose that this city was the heaven of traitors. For such of her citizens as are or have been traitors I have as little respect and regard for as any gentleman in this House. I take it that no man who left this District or his State to engage in armed rebellion against his country has any right to make laws for me unless that right be restored to him by the power against which he rebelled. But, sir, there are Union men in this District, I am proud to say, as true and devoted in their love of country as can be found anywhere. For such I have a fellow-feeling. They, like myself, have been born and raised in the South, and are opposed to these measures because they are satisfied it will do no good, and is calculated to do much mischief.

The passage of this bill would be most unjust to the people of my State. I did not suppose that Maryland would be consulted as to the passage of this law; but surely if devoted love to this Union and the efforts put forth by my native State in the cause of human freedom deserve anything, some consideration should at least be shown us before so important a step is irrevocably taken. Maryland gave over forty thousand of her gallant sons to aid you in crushing out this rebellion. Shoulder to shoulder they marched alongside of Massachusetts and Ohio, and left their blood and their bones on every battle-field to attest their devotion. Her treasure was poured out as freely as water in aid of the finances of the Government, while her citizens, individually, contributed largely of their substance to feed and nourish the hungry

and fatigued of our brave boys as they marched through our State to and from the Potomac and the Peninsula. They have the same love for the Union now that they had then, and they never will consent to part with it. The political power of the State is to-day in the hands of loyal men, and it will remain there unless injudicious and unwise measures like this divide us. The great body of the Union clement of the State has already spoken out against these measures. Every State and county Union convention that has met since it was agitated has pronounced against it, and the only hope that the rebels of Maryland have got for the future is to attempt to divide us from the great Republican party of the country. We love that party because it has been true to the Union and opposed to human slavery; we love it because it helped to save our State, and because it did not believe "the war to be a failure," nor become disheartened at temporary disaster or defeat.

On last Wednesday the Union Governor of Maryland delivered his annual message. He is a man than whom no one more true to his country nor more devoted to the colored race ever lived. Hear what he speaks as the sentiment of the State:

"The distinctive characteristics and admitted antagonism of the two races cannot be lost sight of in the settlement of these grave issues. In discussing the claim of universal negro suffrage, we must understand, in the very outset, the effect of the measure in its full bearing upon the southern and border States. It matters not, in some of the States, whether the negro is invested with the right to vote or not. The exercise of suffrage causes no disturbance of existing relations. If we admit his right to vote, we cannot justly exclude him from our representative Halls, from the government of our States and cities, and every other privilege known to our laws. The right to vote assumes the exercise of the power thus conferred for the exclusive benefit of his own race. The effect, then, of universal negro suffrage is the virtual transfer of southern States and southern territory, and it may be some of the border States, to the ultimate possession and control of the negro; it is the substitution of the African for the Anglo-Saxon race in a large section of our national domain.

"With the southern and middle States, perhaps our own, this issue of negro suffrage is a subject of the gravest import. Massachusetts, with her nine or ten thousand negroes, in an aggregate population of 1,200,000 souls; Maine, with her 600 in an aggregate of more than 600,000; Vermont, 700 in an aggregate of more than 300,000; New Hampshire, 500 in an aggregate of more than 500,000, and other free States standing in the numerical relation, would hardly claim to approach this issue from a common standpoint, even with our own State. The loyal men of the South, admitted to be ever so limited in number, stand in no relation which would justify, even if the power existed under the Constitution, the forcible surrender of their country into the hands of the African race."

The Lieutenant Governor, an original "uncompensated" emancipationist, and a man who, years ago, was persecuted because he entertained abolition sentiments, thus addresses the Senate of Maryland:

"As citizens of this old State of Maryland we have much to feel proud of, much to thank God for. Upon the very border, with hostile armies surging back and forth over our soil year after year, connected by blood and social ties with those who lifted the arm of rebellion, our faith and loyalty have continued inviolate; and if, during a short reign of terror, the polar star of duty seemed to be hidden from view, it was but the drifting of a cloud over its fair surface, leaving its radiance purer and clearer for the momentary obscuration. No State claims at this hour, or will command in the annals of the future, a prouder record. Not content to yield up her sons a sacrifice upon the altar of the country, she took in advance a step toward the extinction of that fatal cause of contention which culminated in the recent conflict of arms. The first note of freedom went forth from these Halls, proclaiming that within the limits of this old Commonwealth, at least, human bondage should no longer exist. Since then other States have wheeled into line, until it has become morally certain that, if in after years rebellion should ever again lift its hideous front upon American soil, it will find no rallying center upon the question of slavery. With the extinction of this great evil, and the brilliant vista of prosperity which that act opens before us, are presented unfulfilled duties and obligations to the emancipated people within our borders, which we cannot, which we dare not overlook, if we would; the prompt consideration of which is demanded by every principle of humanity, advancing civilization, and an enlightened public opinion. I allude not here to the question of suffrage. However correct the affirmative theory, it is evident that the time for legislation upon this subject has not arrived in this country yet, and certainly not in this State. The problem must be left to work out its own solution. But independent of this are obligations to the colored people of which we must acquit ourselves at once, and which are the logical sequences of emancipation."

Sir, what are the evils we apprehend from the passage of this bill? They are simply the natural results that flow from a new condition of things inaugurated here, and that will inevitably have its effect on the colored people of my State. So soon as emancipation was enacted here, thousands of slaves left the State and came into the District—how many thousand I do not know. Why did they come here? To get free; for no other reason. And mark me well, the same thing will follow the passage of this law. The poor fellows have heard so much talk about voting, that so soon as they hear they can vote in the District we will find them coming by the thousand. And what advantage will it be to them? Simply nothing but to vote. And how in my own State? You will find that the sharp, designing, ambitious negro, and there are a few such, will improve their opportunities by telling them that the white men of Maryland are cheating them of their rights, and incite them to discontent. The result of which will be a bitterness of feeling, and in the end a struggle to obtain the right to vote. Suppose the right is given them, what then? Is there any danger; are they not all loyal; will they not all vote on the side of the Union? Mr. Speaker, I doubt it. I know many loyal negroes, and some who are not loyal. But the negroes as a general thing are the most quiet, passive, lamb-like beings on earth. They will never forget a friend; seldom ever their old masters. Although they are free, many of them will not leave their old homes. Those who have, find homes elsewhere, on the large farms or in the city, and work for wages as laborers. They, in time, will become as much attached to their new employer as they were to him who formerly owned them. All that is required is to treat them kindly, and I venture the assertion—there may be exceptional cases here and there, but as a general thing—the former master or the new employer will, nine cases out of ten, exert more influence in obtaining their vote than all other influences combined. The effect of this will be to give the rebels more influence than they now possess.

Suppose I am wrong in this, and that party will control them, but that they will vote as a class and a race, just as we do. What will be the effect, then?

According to the census of 1860, the aggregate white male population of the State was 256,859; free colored male, 39,746; slave male (free) 44,318; making free colored 84,059 to 256,859 free white.

You will find that the colored population is so unevenly and unequally distributed that in the city of Baltimore, with a white male population of 88,000, there were but 10,000 free male colored, while in Anne Arundel, with a male white population of 6,258, there were free male colored 6,238. The effect of this unequal distribution will be that in some parts of the State the free colored voters will not only possess the balance of power, but will be powerful enough to outvote the whites altogether. The moment this takes place, I fear the negro will be the loser in the conflict for the mastery.

Observe the relative numbers of the two classes as exhibited in the following table:

	Male, white.	Free male, colored.
Calvert county.....	2,044.....	3,237
Caroline county.....	3,914.....	1,758
Charles county.....	2,923.....	5,408
Dorchester county.....	5,923.....	4,155
Kent county.....	3,914.....	3,124
Montgomery county.....	5,891.....	3,488
Prince George's county.....	4,853.....	7,114
Queen Anne county.....	4,420.....	3,839
St. Mary's county.....	3,472.....	4,247
Talbot county.....	4,005.....	3,392

Compare, sir, these statistics with the average white males and colored males in other States, and you will find why gentlemen from the North and West are not influenced by the same motives and causes that influence me, and why I can disagree with them and not be classed with the enemies of the negro. In Maine the population is divided thus: male, white, 316,530; free male, colored, 659, distributed among sixteen counties; and the highest number of male colored in any county is 212; and in this county (Cumberland) there are 36,950 male whites.

New Hampshire has a white male population of 159,563. She has a free male colored population of 253, divided up into ten counties; and the greatest number in any one county is 67. That county (Merrimack) has 20,306 white males.

Vermont has 158,415 white males, and 371 free male colored. The greatest number of male colored in any one county is 78, and that county (Rutland) has 18,267 male whites.

Rhode Island has 82,302 white males, and 1,831 free male colored, distributed among five counties; and the highest number of male colored in any one county is in Providence, which has 898 to 51,000 male whites.

Massachusetts has 592,244 white males and 4,409 free male colored, distributed among four counties; and the highest number of blacks in any one county is in Suffolk, where the proportion is 91,055 white males to 1,089 free colored males.

New York has 1,910,354 male whites to 23,178 male colored; Pennsylvania, 1,427,945 male whites to 26,373 male colored; Ohio, 1,171,720 male whites to 18,442 male colored; and so you may continue throughout the whole catalogue, and you will find the same disproportion in favor of the whites in the North and West. But, sir, it is useless for me to say further on this subject.

Mr. Speaker, in conclusion, I do not desire my action on this bill, or the votes I shall give on those of similar importance, to be misconstrued, either by this House or the country. Some may suppose that because I am not in favor of negro suffrage, I am an enemy to the negro. Sir, I am not his enemy, but his friend, and shall continue to be his friend so long as he continues to merit my friendship. I enlisted in the cause of emancipation in my State at a time when, to be an emancipationist, was to be hated and despised by many of my best and warmest friends. I have stood true and steadfast with these parties, and intend to remain with them so long as they represent the true Union sentiment of my State. I shall vote for no measure or connect myself with any party that would either deprive the black man of what he already has or that would oppose the conferring upon him all the rights necessary and essential in securing to him life, liberty, the pursuit of happiness, and the enjoyment of the fruits of his own labor. I am neither disposed to "take a step backward" nor to pull down what for four years I have been aiding, in my humble way, to build up.

The negro is free. I will do all in my power to make his freedom a blessing to him and to us. As a freeman, he is entitled to acquire and dispose of real and other property, to labor and receive the avails and proceeds of his labor, to have his life, liberty, and person protected by the same laws that protect me. I am in favor of the passage and enforcement of such laws as will carry out those objects. I will go further, and say that as he shall have the right to contract, so shall he not only have the right to enforce his contract, but to that end shall be received as a witness in a court of justice on the same terms, and subject to the same laws as are binding on us. It would be an outrage, a shame on the American people of to-day, if, after they had freed these poor unfortunate beings, and had placed them among those who have offered their freedom where they are compelled to work out their own redemption, and to earn their own livelihood, we were to refuse to throw around them such legal guards as will prove their only protection and secure to them the enforcement of their rights.

I will go even further than this, and will vote for all measures to elevate their condition, and to educate them separate and apart from the whites, so that they may not only properly appreciate the freedom they now have, but become fitted to exercise the higher duties of freemen whenever the dominant race see proper to confer such privileges upon them hereafter. In all this I conceive I act the part of the philanthropist, and no less the friend of my own than of the black race. In refusing at this time to

give him the right to vote, I consider that I act none the less as his friend. I have no hatred, no prejudice to the negro. I am willing to confer upon him everything necessary and essential to his well-being and his future happiness and usefulness, but when it comes to placing him upon the same social and political level as my own race, I must refuse to do it, because in doing it I would be doing an injury to both races that the future at least will develop.

If I believed that the matter of suffrage was the only mode to help the negro in his elevation, and the only safeguard to his protection, or guarantee to his rights, I would be willing to give it to him now, subject to proper qualifications and restrictions. But I am honest in my conviction that, uneducated and ignorant as he is, a slave from his birth, and subject to the will and caprice of his master, with none of the exalted ideas of what that privilege means, and with but a faint conception of the true position he now occupies, the negro is not the proper subject to have conferred upon him this right. I believe if it is given to him, that in localities where his is the majority vote, parties will spring up, each one bidding higher than the other for his ballot, and that in the end the negro-voting element will be controlled by a few evil and wicked politicians, and as something to be bought and sold as freely as an article of merchandise. I am satisfied of another fact, from my experience of the southern negro, that if they are ever allowed to vote the shrewd politician of the South, who has been formerly his master, will exert more influence over his vote than all the exhortations from Beecher or Cheever.

It is a notorious fact that the southern planter maintained his political influence over the poor white man of the South, because the poor white man was dependent on him for his living and support. And you will find, when it is too late, that the southern planter will maintain the same political influence over the poor, uneducated, ignorant, and dependent African, even to a greater extent than he formerly exercised over what used to be called the "poor white trash."

Mr. Speaker, let us not, because we have the majority here to-day, pass upon measures, which, if we were evenly divided, we would hesitate to pass. Let us not, because we are called radicals, strike at the roots of society, and of the great social and political systems that have existed for over a century, and attempt to do in a day without any preparation, what to do well and safely will require years of patience on the part of the freedmen, and earnest, honest, exertions to elevate, improve, and educate on our part. Let us look at this question as statesmen, not as partisans. Let us not suppose that the parties of to-day will have a perpetual existence, and that because the negro, freed and emancipated by us, would naturally vote on the side of his deliverer to-day, that it is any guarantee, when new parties are formed and a competition arises, that the whole or the major part of his vote will be cast on the right side. White men and black men are liable to the same infirmities.

Let us rather, sir, rejoice at what has been already done for him, and be content to watch his future. Let us help to elevate and improve him, not only in education, but in morals. Let us see to it that he is not only protected in all his rights of person and of property, but let us insist that the amplest guarantees shall be given. Let us wait until the great problem the African is now working out has been finished, and we find that he thoroughly comprehends and will not abuse what he has got, before we attempt to confer other privileges, which, when once granted, can never be taken from him. Sir, let it not be forgotten that "revolutions never go backward;" and if you ever confer this right on the negro, and find it will not work well, that you have been too hasty, that you should have waited awhile longer, you will find it is too late, and that, once having possessed it, they will not part with it except with their lives.

Mr. DARLING obtained the floor.

CONFIDENCE IN THE PRESIDENT.

Mr. DAVIS. Mr. Speaker, I rise to a privileged question. I desire to make a correction

of the Journal of the House. On the 10th of January, I had the honor to submit a resolution in reference to the policy of the President, and a mistake has occurred in its engrossment. I ask that the resolution may be read as I offered it.

The Clerk read the resolution, as follows:

Resolved, That the House cherish the most entire confidence in the patriotism and ability of the President of the United States and in his desire to restore the Union on a basis of permanent prosperity and peace, and that the cooperation of this House is pledged to him in support of the general policy of reconstruction inaugurated by him in the modes authorized by the Constitution and consistent with the security of republican institutions.

Mr. DAVIS. It will be observed that in the printed resolution the language is changed, and it becomes a resolution declaring that this House cherish the most entire confidence in the patriotism and policy of the President. I did affirm by the resolution that we cherish entire confidence in the patriotism and *ability* of the President, and in the general *policy* which he proposes to inaugurate. But I did not intend to commit myself nor to commit this House to a declaration of confidence in every measure or act of the President in reconstruction, and I do not wish to go out before the country as saying that in everything the President has done, he has done what I would have done or what I can conscientiously in all things approve. I did not approve entirely and in all things the policy of the late President. There were things which I regretted; and I only say that I do not wish now to commit myself in advance by so broad a declaration as is set forth in the resolution as it was incorrectly printed.

The SPEAKER. The Chair will state, in response to the gentleman from New York, that he entertains this as a privileged question, as there certainly was a mistake in the printing. As written it reads "patriotism and *ability*," and it is printed "patriotism and *policy*."

Mr. ASHLEY, of Ohio. With the consent of the gentleman from New York, [Mr. DARLING,] I move that the House adjourn.

The motion was agreed to, and thereupon (at four o'clock p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, January 17, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

SENATOR FROM NORTH CAROLINA.

The PRESIDENT *pro tempore*. The Chair has received the credentials of Hon. William A. Graham, of North Carolina, showing that he was elected a Senator of the United States from that State for six years from the 4th of March last; and, in compliance with the previous practice of the Senate in such cases, these credentials will be received, if there be no objection, and laid upon the table. They are laid upon the table.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in compliance with a resolution of the Senate of the 19th ultimo, information in relation to the number of major and brigadier generals of volunteers, where they are stationed, and what duties they are performing; which, on motion of Mr. WILSON, was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, in compliance with a resolution of the Senate of the 19th ultimo, information in relation to the number of men now in service in the regular Army, what number of officers are holding commissions, where said officers are stationed, and what duty they are performing; which, on motion of Mr. WILSON, was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. SUMNER presented two petitions of soldiers who volunteered and enlisted in the ser-

vice of the United States for the term of nine months in the autumn of 1862, praying that a bounty of twenty five dollars, which at that time they allege they had reason to expect, be paid to them; which were referred to the Committee on Military Affairs and the Militia.

Mr. SUMNER. I also offer a petition from the members of the African Methodist Zion church, of the borough of York, in Pennsylvania, setting forth that in many of the States at this moment no such thing as a republican form of government exists, and praying Congress to grant a remedy for that case. I also offer a similar petition from the Past Grand Master's Council No. 2, of the Patriarchal Order of Past Grand Masters of the Grand United Order of Odd Fellows, praying Congress to secure a republican form of government in certain States. I ask the reference of these petitions to the joint committee of fifteen on reconstruction.

They were so referred.

Mr. SUMNER. I also offer a petition of fifty-seven colored men of the city of Montgomery, Alabama, in which they remonstrate against a requisition recently made by the Governor of Alabama on the United States for arms and ammunition to equip one hundred and four companies of militia. They set forth the danger to which the colored people will be exposed in their persons and property by the arming of two militia companies in every county of the State. There is no pretext, they say, even that there is any danger to the public peace to be apprehended from the colored people of the State. I must say, in presenting this petition, which is both a petition and a remonstrance, that I sympathize with it entirely, and I protest against the militia of Alabama being armed at this moment at the expense of the national Government. I move the reference of this petition to the joint committee of fifteen.

The motion was agreed to.

Mr. FOOT presented the memorial of Janes, Fowler, Kirtland & Co., praying for compensation for damages alleged to have been sustained by them in consequence of the suspension of the work on the dome of the Capitol in May, 1861, by order of the Secretary of War; which was referred to the Committee on Claims.

Mr. WILLEY presented the petition of Charles H. Upton, praying for compensation for alleged damages to his property in Fairfax and Alexandria counties, Virginia, by United States troops; which was referred to the Committee on Claims.

Mr. TRUMBULL presented a petition of the members of the bar of the State and district of Kansas, praying for an increase of the salary of the United States district judge for that district; which was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred a memorial of colored citizens of Colorado Territory, remonstrating against the admission of that Territory as a State until the word "white" be erased from its constitution, asked to be discharged from the further consideration of the subject, and that it be referred to the Committee on Territories; which was agreed to.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred a bill (S. No. 22) supplementary to the several acts relating to pensions, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of Samuel Graves, late a private in the ninth regiment of Rhode Island volunteers, praying to be allowed an invalid pension, reported adversely thereon.

He also, from the same committee, to whom was referred the petition of Bridget Stone, widow of John Stone, praying to be allowed arrears of pension, submitted an adverse report, and asked to be discharged from the further consideration of the subject; which was agreed to.

He also, from the same committee, to whom was referred the petition of Frances S. Richardson, widow of the late Major General I. B.

Richardson, praying for an increase of pension, reported adversely thereon, and asked to be discharged from its further consideration; which was agreed to.

Mr. CLARK, from the Committee on the Judiciary, to whom was referred the bill (S. No. 34) in relation to the qualifications of jurors and to writs of error in certain cases, reported it with an amendment.

Mr. CLARK. The same committee, to whom was referred a bill (S. No. 14) in relation to the qualifications of jurors in certain cases, have instructed me to ask to be discharged from its further consideration, the matter being provided for in the bill just reported.

The report was agreed to.

Mr. DAVIS, from the Committee on Pensions, to whom was referred the petition of Peter Anderson, praying to be allowed arrears of pension, reported a bill (S. No. 79) for the benefit of Peter Anderson; which was read, and passed to a second reading.

Mr. NYE, from the Committee on Naval Affairs, to whom was referred the petition of J. B. Rittenhouse, fleet paymaster of the United States Pacific squadron, praying that he may be relieved from all responsibility for the loss of the public funds occasioned by robbery while on duty in Panama, submitted a report accompanied by a bill (S. No. 80) for the relief of J. B. Rittenhouse, fleet paymaster of the Pacific squadron. The bill was read and passed to a second reading, and the report was ordered to be printed.

CONDITION OF THE SOUTHERN STATES.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print one hundred thousand copies of the late message of the President of the United States on the condition of the States lately in rebellion, have instructed me to report it back with an amendment. I ask for its present consideration.

There being no objection, the Senate proceeded to consider the following resolution:

Resolved, That one hundred thousand copies of the late message of the President on the condition of the States lately in rebellion, with the reports of Lieutenant General Grant and Major General Carl Schurz, and the letters annexed thereto, be printed for distribution.

The amendment reported by the Committee on Printing was to strike out "one hundred" and insert "ten."

The amendment was agreed to.

The resolution, as amended, was adopted.

MEXICAN FRONTIER.

Mr. CHANDLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to communicate to the Senate, if in his opinion not inconsistent with the public interest, any letters from Major General Sheridan, commanding the military division of the Gulf, or from any other officer of the department of Texas, in regard to the condition of affairs on the southwestern frontier of the United States, and especially in regard to any violation of neutrality on the part of the army now occupying the right bank of the Rio Grande.

BILL INTRODUCED.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 81) ceding to the State of West Virginia the lands and tenements, with the rights, privileges, and appurtenances thereunto pertaining, belonging to the United States, and lying and being in the county of Jefferson, at Harper's Ferry, in the State of West Virginia; which was read twice by its title.

Mr. WILLEY. I move the reference of the bill to the Committee on Public Lands.

Mr. GRIMES. I wish to inquire of the Senator if the bill does not relate to the army grounds at Harper's Ferry? If it does, it seems to me that the bill ought to be referred to the Committee on Military Affairs. I understand they are now attempting to reestablish the armory at that place, and the bill would seem to be more immediately connected with military affairs than with public lands.

Mr. WILLEY. I had some difficulty as to what committee the bill ought to be referred

to. I have no objection to its taking the direction indicated by the Senator from Iowa.

Mr. POMEROY. I think the bill should go to the Committee on Military Affairs. It is clearly a question for them to determine.

The PRESIDENT *pro tempore*. Does the Senator from West Virginia so modify his motion?

Mr. WILLEY. Yes, sir.

The PRESIDENT *pro tempore*. The bill will be referred to the Committee on Military Affairs and the Militia, if there be no objection.

SAN FRANCISCO LAND CLAIM.

Mr. STEWART. I offer the following resolution, and ask for its present consideration:

Resolved, That the Attorney General be, and he is hereby, requested to inform the Senate what, if any, interest the United States have in the prosecution of the case of "The United States versus The city of San Francisco," and also to give the Senate full and detailed information as to who are interested in the success of the United States in said case, including the full names of the parties, and each of them, with the nature of their claims, and how and from whom derived.

Mr. McDOUGALL. Let it lie over until tomorrow. I want to reflect on it.

Mr. STEWART. I think the Senator will have no objection to it. It is a simple inquiry as to who are the parties prosecuting an appeal in behalf of the United States. Strange circumstances are connected with it, and I should like to have the matter inquired into. The appeal is prosecuted in the name of the United States.

Mr. McDOUGALL. Very well.

The resolution was considered by unanimous consent, and agreed to.

GENERAL GRANT'S REPORT.

Mr. ANTHONY. I offer the following resolution:

Resolved, That five hundred copies of the report of Lieutenant General Grant, already ordered to be printed for the use of the Senate, be furnished to the Lieutenant General.

This does not increase the number of copies, but merely diverts a portion of them from the Senate to the Lieutenant General, which is at the request of his department. I ask for the present consideration of the resolution.

The resolution was considered by unanimous consent, and agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a joint resolution (H. R. No. 40) directing the Secretary of War to postpone the sale of public property at Point Lookout, Maryland, and a bill (H. R. No. 84) to regulate the times and places of holding the district court of the United States within and for the district of Maine; in which it requested the concurrence of the Senate.

MILITARY PEACE ESTABLISHMENT.

Mr. WILSON. I move to take up, with a view of having it brought before the Senate, bill No. 67, reported by the Committee on Military Affairs.

Mr. HENDRICKS. I desire to ask the Senator whether he intends to put that bill on its passage to-day.

Mr. WILSON. I desire to have it read so as to bring it before the Senate fairly, and then I shall not press it to a vote. I merely wish to have some progress made with it.

The motion was agreed to, and the bill (S. No. 67) to increase and fix the military peace establishment of the United States was considered as in Committee of the Whole.

Mr. WILSON. The Committee on Military Affairs have reported a substitute for the bill, and it will not be necessary to read the original bill; I propose to have the substitute read merely. The Committee on Military Affairs unanimously agreed to report it as a substitute.

The PRESIDENT *pro tempore*. The reading of the original bill will be dispensed with unless called for by some member, and the reading of the words proposed to be inserted by way of amendment will be read.

The amendment was read. It is to strike out

all after the enacting clause of the bill and insert the following as a substitute:

That the military peace establishment of the United States shall hereafter consist of five regiments of artillery, twelve regiments of cavalry, fifty-five regiments of infantry, and such other forces as shall be provided for by this act, to be known as the Army of the United States.

Sec. 2. *And be it further enacted*, That the five regiments of artillery provided for by this act shall consist of the five regiments now organized; and the first, second, third, and fourth regiments of artillery shall have the same organization as is now provided by law for the fifth regiment of artillery.

Sec. 3. *And be it further enacted*, That to the six regiments of cavalry now in service there shall be added six regiments, having the same organization as is now provided by law for cavalry regiments, the first and second lieutenants of which, and two thirds of the officers above the grade of first lieutenant, shall be selected from among the officers of volunteer cavalry who have served two years during the war, and have been distinguished for capacity and good conduct in the field: *Provided*, That four of these additional regiments may be armed and drilled as infantry at the discretion of the President.

Sec. 4. *And be it further enacted*, That there shall be fifty-five regiments of infantry, to consist of the ten regiments of ten companies each now organized; the nine remaining regiments so distributed that each battalion, with the addition of two companies, shall constitute a regiment of ten companies, and all the vacancies in the grades of first and second lieutenant, and two thirds of the vacancies in the grades above that of first lieutenant shall be filled by selection from among the officers of volunteer infantry or artillery who have served two years during the war, and have been distinguished for capacity and good conduct in the field; ten regiments to be composed of colored men, to be officered by officers of colored troops, who have served two years during the war, and who have been distinguished for capacity and good conduct in the field; and eight regiments to be composed of men who have been wounded, or discharged from service on account of disease contracted in the line of duty, the officers of which shall be selected from the Veteran Reserve corps, or other officers of volunteers who have been disabled in service: *Provided*, That promotions in the colored regiments, and in the regiments of disabled men hereby authorized, shall be confined to the regiments of the corps.

Sec. 5. *And be it further enacted*, That the volunteer officers to be selected for appointment, under the provisions of this act, shall be distributed as nearly as may be among the States, in proportion to the number of troops furnished during the war.

Sec. 6. *And be it further enacted*, That each regiment of infantry provided for by this act shall have one colonel, one lieutenant colonel, two majors, one adjutant (an extra lieutenant), one quartermaster, (an extra lieutenant), ten captains, ten first and ten second lieutenants, one sergeant major, one quartermaster sergeant, one commissary sergeant, and ten companies, and each company shall have one captain, one first and one second lieutenant, one first sergeant, four sergeants, eight corporals, two musicians, one wagoner, and forty-eight privates, and the number of privates may be increased to eighty-two, at the discretion of the President, whenever the exigencies of the service require such increase.

Sec. 7. *And be it further enacted*, That each regiment in the service of the United States may have a band, as now provided by law.

Sec. 8. *And be it further enacted*, That all enlistments into the Army shall hereafter be for the term of five years, and no officers shall be appointed to any regiment or company until the minimum number of men shall have been enlisted, and the command duly organized.

Sec. 9. *And be it further enacted*, That there shall be one lieutenant general, five major generals, and ten brigadier generals, who shall have the same pay and emoluments, and be entitled to the same staff officers in number and grade as now provided by law.

Sec. 10. *And be it further enacted*, That the adjutant general's department of the Army shall hereafter consist of the officers now authorized by law, namely: one adjutant general with the rank, pay, and emoluments of a brigadier general; two assistant adjutant generals with the rank, pay, and emoluments of colonels of cavalry; four assistant adjutant generals with the rank, pay, and emoluments of lieutenant colonels of cavalry, and thirteen assistant adjutant generals with the rank, pay, and emoluments of majors of cavalry.

Sec. 11. *And be it further enacted*, That there shall be four inspectors general of the Army, with the rank, pay, and emoluments of colonels of cavalry, and five assistant inspectors general, with the rank, pay, and emoluments of lieutenant colonels of cavalry.

Sec. 12. *And be it further enacted*, That the Bureau of Military Justice shall hereafter consist of one Judge Advocate General, with the rank, pay, and emoluments of a brigadier general, and one assistant judge advocate general, with the rank, pay, and emoluments of a colonel of cavalry; and the said Judge Advocate General and his assistant shall receive, revise, and have recorded, the proceedings of the courts-martial, courts of inquiry, and military commissions of the armies of the United States, and shall perform such other duties as have heretofore been performed by the Judge Advocate General of the armies of the United States.

Sec. 13. *And be it further enacted*, That the quartermaster general's department of the Army shall hereafter consist of one quartermaster general, with the rank, pay, and emoluments of a brigadier general; six assistant quartermaster generals, with the rank, pay, and emoluments of colonels of cavalry; twelve deputy quartermaster generals, with the rank, pay, and emoluments of lieutenant colonels of cavalry; twenty quartermasters, with the rank, pay, and emol-

uments of majors of cavalry; and forty-eight assistant quartermasters, with the rank, pay, and emoluments of captains of cavalry, and the vacancies hereby created in the grade of assistant quartermaster shall be filled by selection from among the persons who have rendered meritorious service as assistant quartermasters of volunteers during two years of the war.

SEC. 14. *And be it further enacted*, That the number of military storekeepers shall hereafter be as many as shall be required, not exceeding sixteen, with the same compensation as is now provided by law.

SEC. 15. *And be it further enacted*, That the provisions of the act for the better organization of the quartermaster's department, approved July 4, 1864, shall continue in force so far as they do not become obsolete and unnecessary upon the disbandment of the volunteer forces.

SEC. 16. *And be it further enacted*, That the subsistence department shall hereafter consist of the officers now authorized by law, namely, one commissary general of subsistence, with the rank, pay, and emoluments of a brigadier general; two assistant commissary generals, with the rank, pay, and emoluments of colonels of cavalry; two assistant commissary generals, with the rank, pay, and emoluments of lieutenant colonels of cavalry; eight commissaries of subsistence, with the rank, pay, and emoluments of majors of cavalry; and sixteen commissaries of subsistence, with the rank, pay, and emoluments of captains of cavalry.

SEC. 17. *And be it further enacted*, That officers of the line, detailed to act as regimental quartermasters or commissaries, or as quartermasters or commissaries of permanent posts, or of commands of not less than two companies, shall, when the assignment is duly reported to and approved by the War Department, receive, as extra compensation while responsible for Government property, ten dollars per month.

SEC. 18. *And be it further enacted*, That the medical department of the Army shall hereafter consist of one surgeon general, with the rank, pay, and emoluments of a brigadier general; one assistant surgeon general, with the rank, pay, and emoluments of a colonel of cavalry; seventy-five surgeons, with the rank, pay, and emoluments of majors of cavalry; one hundred and fifty assistant surgeons, with the rank, pay, and emoluments of captains of cavalry after three years' service, and with the rank, pay, and emoluments of first lieutenants of cavalry for the first three years' service; and five medical storekeepers, with the same compensation as is now provided by law; and the vacancies hereby created in the grades of surgeon and assistant surgeon shall be filled by selection from among the persons who have served as staff and regimental surgeons or assistant surgeons of volunteers two years during the war; and persons who have served as assistant surgeons three years in the volunteer service shall be eligible for promotion to the grade of captain.

SEC. 19. *And be it further enacted*, That upon the recommendation of the Surgeon General, the Secretary of War may detail a surgeon as chief medical purveyor, who, while performing such duty, shall be in charge of the principal purchasing and issuing depot of medical supplies, and shall have the rank, pay, and emoluments of a colonel of cavalry, and not to exceed five medical officers as assistant medical purveyors, who, while performing such duty in the different geographical divisions or departments, shall have the rank, pay, and emoluments of lieutenant colonels of cavalry.

SEC. 20. *And be it further enacted*, That the Surgeon General be, and he is hereby, empowered to detail from time to time, subject to the approval of the Secretary of War, not to exceed five officers of the grade of surgeon for duty as medical inspectors, who, while performing such duties, shall have the rank, pay, and emoluments of colonels of cavalry, and who shall receive their instructions from and make their reports direct to the Surgeon General.

SEC. 21. *And be it further enacted*, That the pay department of the Army shall hereafter consist of one paymaster general, with the rank, pay, and emoluments of a brigadier general; two assistant paymaster generals, with the rank, pay, and emoluments of colonels of cavalry; two deputy paymaster generals, with the rank, pay, and emoluments of lieutenant colonels of cavalry, and sixty paymasters, with the rank, pay, and emoluments of majors of cavalry; and the vacancies hereby created in the grade of major shall be filled by selection from the persons who have served as additional paymasters two years during the war.

SEC. 22. *And be it further enacted*, That the corps of engineers shall consist of one chief engineer, with the rank, pay, and emoluments of a brigadier general, four colonels, ten lieutenant colonels, twenty majors, thirty captains, and thirty first and ten second lieutenants, who shall have the pay and emoluments now provided by law for officers of the engineer corps.

SEC. 23. *And be it further enacted*, That there shall be appointed in the corps of engineers, by selection from among the officers of that corps, four inspectors of fortifications and other engineer operations, who shall have the rank, pay, and emoluments of colonels of engineers, but the number of officers of said corps as heretofore established by law shall not be increased thereby.

SEC. 24. *And be it further enacted*, That the five companies of engineer soldiers, and the sergeant major, and quartermaster heretofore prescribed by law, shall constitute a battalion of engineers, to be officered by officers of suitable rank detailed from the corps of engineers, and the officers of engineers acting respectively as adjutant and quartermaster of this battalion shall be entitled to the pay and emoluments of adjutants and quartermasters of cavalry.

SEC. 25. *And be it further enacted*, That in the organization of each of the companies of engineer soldiers there shall be made a reduction of twenty enlisted men, to be apportioned equally among the two classes of privates, but in time of war the President may, at

his discretion, restore the present organization of these companies.

SEC. 26. *And be it further enacted*, That the ordnance department of the Army shall consist of the same number of officers and enlisted men as is now authorized by law, and the officers shall be of the following grades, namely, one brigadier general, three colonels, fifteen lieutenant colonels, eight majors, twenty captains, fifteen first lieutenants, nine second lieutenants, and thirteen military storekeepers, all of whom shall have the same pay and emoluments as now provided by law.

SEC. 27. *And be it further enacted*, That there shall be one chief signal officer of the Army, who shall have the rank, pay, and emoluments of a colonel of cavalry. And the Secretary of War shall have power to detail from the Army, upon the recommendation of the chief signal officer, such number of officers, non-commissioned officers, and privates as may be deemed necessary for the efficient performance of signal duty: *Provided*, That no officer or enlisted man shall be detailed to serve in the signal corps until he shall have been examined and approved by a military board, to be convened by the Secretary of War for that purpose; and officers, while so detailed, shall receive the pay and emoluments of cavalry officers of their respective grades; and enlisted men, while so detailed, shall receive the pay of engineer soldiers of similar grade, and shall, when deemed necessary, be mounted upon horses provided by the Government.

SEC. 28. *And be it further enacted*, That no officer of the regular Army below the rank of a field officer shall hereafter be promoted to a higher grade hereafter having passed a satisfactory examination as to his fitness for promotion, before a board of three officers of his corps or arm of service, senior to him in rank; and should the officer fail at said examination, he shall be suspended from promotion for one year, when he shall be reexamined, and upon a second failure shall be dropped from the rolls of the Army: *Provided*, That if any officer be found unfit for promotion on account of moral disqualifications, he shall not be entitled to a reexamination.

SEC. 29. *And be it further enacted*, That the Adjutant General, Quartermaster General, Commissary General of Subsistence, Surgeon General, Paymaster General, Chief of Engineers, and Chief of Ordnance, shall hereafter be appointed by selection from the corps to which they belong.

SEC. 30. *And be it further enacted*, That no person shall be appointed to any vacancy created by this act in the pay, medical, or quartermaster's departments, until he shall have passed the examination now required by law.

SEC. 31. *And be it further enacted*, That no persons shall be commissioned in any of the regiments authorized by this act until they shall have passed a satisfactory examination before a board, to be convened under direction of the Secretary of War, which shall inquire into the services rendered during the war, capacity, and qualifications of the applicants; and such appointments, when made, shall be without regard to previous rank, but with sole regard to qualifications and meritorious services.

SEC. 32. *And be it further enacted*, That persons applying for commissions in any of the regiments authorized by this act shall not be entitled to any compensation for expenses incurred in reporting to the board for examination.

SEC. 33. *And be it further enacted*, That all laws and parts of laws inconsistent with the provisions of this act be, and the same are hereby, repealed.

Mr. WILSON. I called up the bill for the purpose of having it read and securing the attention of members to it. I do not propose to take any further action upon it this morning.

Mr. SHERMAN. I wish to call the attention of the Senator to one matter, in regard to which an officer has spoken to me this morning. I wish to ascertain whether the construction put by this officer upon the fourth section is correct. That section provides that the colored troops shall be officered by officers of colored regiments who have served two years during the war. The construction put upon it by the officer to whom I allude is that that requires the service to have been in colored regiments.

Mr. WILSON. It does not. The original bill might have been interpreted in that way, but it has been so amended as to avoid that construction. It provides that those officers shall have served two years during the war—not two years in the colored regiments, but two years during the war in white or colored regiments.

Mr. SHERMAN. But they must be officers of colored regiments at the time they are appointed?

Mr. WILSON. It means two years' service in white or colored regiments. To require two years' service in colored regiments would shut out many of the best officers now in those regiments.

Mr. HARRIS. Can officers be taken who have never served in colored regiments?

Mr. WILSON. The appointments in these colored regiments are to be from officers who have served in colored regiments. There are about two hundred of those regiments; we pro-

pose to take officers in those regiments, but not requiring the two years' service to have been wholly there, and to have promotions in the colored regiments as if they formed a separate corps.

Mr. DOOLITTLE. As the Senator from Massachusetts does not intend to go further with the bill to-day, although it is a little in advance of the hour fixed for other business, I move that it be postponed, and that the Senate take up the joint resolution which was introduced by my colleague, and which by his courtesy and the courtesy of the Senate was postponed until to-day at one o'clock for the purpose of allowing me to express my views upon it.

The motion was agreed to.

PROVISIONAL GOVERNMENTS.

The Senate resumed the consideration of the joint resolution (S. R. No. 11) in relation to the organization of provisional governments within the States whose people were lately in rebellion against the United States, the pending question being on the motion of Mr. Howe to refer the resolution to the joint committee of the two Houses to inquire into the condition of the States which formed the so-called confederate States.

Mr. DOOLITTLE. I ask that the resolution be read at the desk.

The Secretary read it, as follows:

Whereas the people of Virginia, of North Carolina, of South Carolina, of Georgia, of Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee have heretofore declared their independence of the Government of the United States, have usurped authority denied to every State by the supreme law of the land, have abjured duties imposed upon every State by the same law, and have waged war against the United States, whereby the political functions formerly granted to those people have been suspended; and whereas such functions cannot yet be restored to those people with safety to themselves or to the nation; and whereas military tribunals are not suited to the exercise of civil authority: Therefore,

Be it resolved by the Senate and House of Representatives in Congress assembled, That local governments ought to be provisionally organized forthwith for the people in each of the districts named in the preamble hereto.

Mr. DOOLITTLE. Mr. President, how many States constitute that great Republic which the world calls the United States of America? The President and those who think with him say thirty-six. The Senator from Massachusetts [Mr. SUMNER] and my colleague say twenty-five. Where are the eleven? Where is Virginia, North Carolina, South Carolina, Georgia, Alabama, Louisiana, Mississippi, Arkansas, Tennessee, Florida, and Texas? These eleven great States are larger, by thousands of square miles, than England, France, Spain, Portugal, and the Germanic Confederation, including Austria and Prussia, all put together, as the table I hold in my hand shows:

COMPARATIVE TABLE.

Area in square miles.	Area in square miles.
England.....	50,922
France.....	205,071
Spain and Portugal.....	219,491
Germanic Confederation, including Austria and Prussia.....	244,414
	720,498
Virginia.....	61,352
North Carolina.....	45,500
South Carolina.....	28,000
Georgia.....	58,000
Alabama.....	50,722
Mississippi.....	47,156
Louisiana.....	41,255
Arkansas.....	52,193
Tennessee.....	45,000
Florida.....	59,268
Texas.....	237,504

725,955

These eleven great States, with ten million people, which produced, annually, four million bales of cotton, and are capable of producing double that number, where are they, and what are they? That they once constituted a part of the States of this Union is certain. Do they now? That is the question. President Lincoln, during his administration, and President Johnson, and those who sustain their policy, say they do. The Senator from Massachusetts, [Mr. SUMNER,] the honorable member from Pennsylvania, [Mr. STEVENS,] who oppose that policy, and, to my sincere regret, my colleague, say they do not.

Before giving my views, I will notice what is sometimes said, that this question, namely, whether they are States in the Union under the

Constitution, or are Territories, is a mere abstraction—an idea of no practical importance. While I yield to none in the desire to secure practical good and avoid practical evil, I cannot forget that ideas rule the world. They are the spiritual forces which bring on wars, lead in revolutions, and underlie every great movement in the scientific, religious, and political world. I need go no further to find an instance than to this great rebellion against the United States.

Two radical ideas—radically false, however—brought on this civil war, which has cost this nation more than half a million lives, and untold millions of treasure.

First, that States had a right to secede; and, Second, that slavery is a blessing.

The surrender of those two ideas by the South is now the basis of permanent peace.

Sir, this question, whether those States are still States in this Union under the Constitution, or not, is no vain abstraction, no idea without immediate, practical, and most grave consequences.

Is it of no practical consequence whether, to adopt an amendment to the Constitution, it requires the ratification of twenty-seven or only of twenty-one States?

Is it of no practical importance whether eleven States, with their ten million people, shall be taxed and governed without representation? With less than one third of that number of people, our forefathers, because the Parliament of Great Britain, in which they had no representation, passed laws to tax them, declared the independence of these States.

Is it of no practical importance whether these eleven States and ten million people shall govern themselves under a republican form of State government, subject only to the Constitution of the United States, or whether they shall be held as subject vassals, to be governed for an indefinite period by the unlimited will of Congress, or by the sword?

Is it of no practical importance whether the flag of our country, for which half a million have laid down their lives, and which bears thirty-six stars as an emblem of a Union of thirty-six States, speaks a nation's truth, or is a monstrous falsehood?

These, and many like questions, are involved in this discussion, and depend upon the answer to the first.

It is, therefore, in my judgment, a question of the first magnitude; a question which must be met; a question which neither men nor parties can avoid or put aside. It demands and will have an answer. It is a question, too, upon which there is and there can be no compromise and no neutrality. They are States in the Union under the Constitution, or they are not. We must affirm the one or the other. We must stand upon one side, supporting the Lincoln and Johnson policy, maintaining the Union of the States under the Constitution to be unbroken, or we must take our stand with the Senator from Massachusetts upon the other, and maintain that the Union is broken; that secession is a success and not a failure, so far at least as to withdraw eleven States from the Union or reduce eleven States to the territorial condition.

First, I call to mind the language of President Lincoln's proclamation of December 8, 1863. In that he said:

"I do further proclaim, declare, and make known, that whenever, in any of the States of Arkansas, Texas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, South Carolina, and North Carolina, a number of persons, not less than one tenth in number of the votes cast in such State at the presidential election of the year of our Lord 1860, each having taken the oath aforesaid and not having since violated it, and being a qualified voter by the election law of the State existing immediately before the so-called act of secession, and excluding all others, shall reestablish a State government which shall be republican, and in no wise contravening said oath, such shall be recognized as the true government of the State, and the State shall receive thereunder the benefits of the constitutional provision which declares that 'the United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion.'"

The policy thus announced was entered upon

at once in the States of Louisiana, Tennessee, and Arkansas. It received the unanimous support of every member of his Cabinet. While that great man was always open to conviction, and ready to hear the suggestions of others, he became more and more settled and firm in his convictions as to the wisdom of that policy from the date of that proclamation down to the very day of his death.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, being the bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau.

Mr. JOHNSON. I move that that bill be postponed until to-morrow, in order to allow the Senator from Wisconsin to proceed with his remarks.

The motion was agreed to.

Mr. DOOLITTLE. Sir, on the 11th of April last he spoke to the people of Washington. It was on the occasion of the illumination, but three days before his assassination. The great army of the rebellion had surrendered. He had himself visited Richmond, where, from the very house occupied by Jefferson Davis, he had, from time to time, telegraphed the gladdening news of victory upon victory to a rejoicing people. He had returned from the chief seat of the rebellion to the capital of the Union, bringing with him, as the spoils of victory, not gold, nor crowns, nor jewels, but the "broken chains of four million slaves." In that hour of triumph, in that moment of supreme exaltation, he could not refrain, when invited, from appearing before the people to add to the general joy. Among other things he said:

"We meet this evening, not in sorrow, but in gladness of heart. The evacuation of Petersburg and Richmond, and the surrender of the principal insurgent army gave hope of a righteous and speedy peace, whose joyous expression cannot be restrained. In the midst of this, however, He from whom all blessings flow must not be forgotten. A call for a national thanksgiving is being prepared, and will be duly promulgated. Nor must those whose harder part gives us the cause of rejoicing be overlooked. Their honors must not be parceled out with others. I myself was near the front, and had the high pleasure of transmitting much of the good news to you; but no part of the honor, for plan or execution, is mine. To General Grant, his skillful officers, and brave men, all belongs."

"In the annual message of December, 1863, and accompanying proclamation, I presented a plan of reconstruction, (as the phrase goes,) which I promised, if adopted by any State, should be acceptable to and sustained by the Executive Government of the nation."

"This plan was, in advance, submitted to the then Cabinet, and distinctly approved by every member of it." "Every part and parcel of the plan which has since been employed or touched by the action of Louisiana."

The Senate will remember that Mr. Lincoln's Cabinet then consisted of Mr. Seward, Secretary of State, Mr. Chase, then Secretary of the Treasury and now Chief Justice, Mr. Stanton, Secretary of War, Mr. Welles, Secretary of the Navy, Mr. Usher, Secretary of the Interior, Mr. Blair, then Postmaster General, and Mr. Bates, then Attorney General. Let us remember each and every one of those men approved every part and parcel of that policy. I read still further from this last great speech, in which he gave, in most forcible language, the reasons which made him adhere to and cherish that policy up to the time of his death:

"Some twelve thousand voters in the heretofore slave State of Louisiana have sworn allegiance to the Union; assumed to be the rightful political power of the State; held elections; organized a free government; adopted a free State constitution, giving the benefit of public schools equally to black and white, and empowering the Legislature to confer the elective franchise upon the colored man. Their Legislature has already voted to ratify the constitutional amendment, recently passed by Congress, abolishing slavery throughout the nation. These twelve thousand persons are thus fully committed to the Union, and to perpetual freedom in the States—committed to the very things, and nearly all the things, the nation wants—and they ask the nation's recognition and its assistance to make good that commitment."

"Now, if we reject and spurn them, we do our utmost to disorganize and disperse them. We, in effect, say to the white man, 'You are worthless, or worse; we will neither help you nor be helped by you.' To the blacks we say, 'This cup of liberty which these, your old masters, hold to your lips, we will dash from you, and leave you to the chances of gathering the spilled and scattered contents, in some vague and un-

defined when, where, and how.' If this course, discouraging and paralyzing both to white and black, has any tendency to bring Louisiana into proper practical relations with the Union, I have, so far, been unable to perceive it."

"If, on the contrary, we recognize and sustain the new government of Louisiana, the converse of all this is made true. We encourage the hearts and nerve the arms of the twelve thousand to adhere to their work, and argue for it, and proselyte for it, and fight for it, and feed it, and grow it, and ripen it to a complete success. The colored man, too, seeing all united for him, is inspired with vigilance and energy and daring, to the same end. Grant that he desires the elective franchise. Will he not attain it sooner, by saving the already advanced steps toward it than by running backward over them? Concede that the new government of Louisiana is only to what it should be as the egg is to the fowl, we shall sooner have the fowl by hatching the egg than by smashing it." * * *

"I repeat the question, 'Can Louisiana be brought into proper practical relation with the Union sooner by sustaining or by discarding her new State government?' What has been said of Louisiana will apply generally to other States."

Sir, I have given you his own words. I would to God they could be read again and again in the hearing of every American citizen. They come to us as his dying legacy upon the great problem of the hour. They state the important fact that this policy was entered upon by him with the full approbation of every member of his Cabinet as to every part and parcel of that policy.

I repeat, and ask the Senate and the country to hear, we have Mr. Lincoln's positive testimony, that Mr. Seward approved it, in general and in detail; Mr. Chase approved it and every part and parcel of it; Mr. Stanton and Mr. Welles also, who still remain in the Cabinet, fully and cordially approved.

And now, sir, I propose to show you that a higher tribunal than Congress, or the Chief Justice of the Supreme Court, or the President and his Cabinet, approved and sustained that policy. The loyal people of the United States, represented at Baltimore, approved it by the renomination of Mr. Lincoln for the Presidency. And, as if to make the indorsement of this part of Mr. Lincoln's policy more emphatic, Mr. Johnson was nominated for the Vice Presidency, the very man of all others who had for a long time been engaged in the great work of reconstructing civil government in the State of Tennessee, upon the basis of that policy. It was objected by some in that convention, as it is here, that Tennessee had no right to representation, but, on motion of the distinguished ex-Senator from New York, (Preston King,) now no more, her delegates were admitted. One of her sons, in spite of the objection of Mr. THADDEUS STEVENS, that he was from a foreign State at war with the United States and therefore an alien enemy, was nominated for Vice President. By those nominations that policy was sustained by the convention.

The election came on. That policy, and the Administration which proclaimed it, and the convention which indorsed it, were sustained by the people of the United States.

Next to the great work of crushing the military power of the rebellion, this policy of reconstruction was dearer to Mr. Lincoln, and more cherished by him, than any other. No sooner had the burden of his soul been lifted, no sooner had he seen the surrender of the great army of the rebellion, than in the fullness and gladness of his soul he made haste to give to the people his views upon the next great theme, reconstruction. I have just read them in your hearing.

The Senator from Massachusetts may denounce them as puerile and wanting in statesmanship. But there they are, and there they will remain forever, the farewell address of Abraham Lincoln to the people of the United States upon this subject of reconstruction.

That Mr. Johnson, upon whom the office of President fell, by the death of Mr. Lincoln, should, substantially, pursue the policy begun by his predecessor, was, therefore, not only natural, but, by the logic of events, almost a necessity. How could he do otherwise? Suddenly, in a moment, as in the twinkling of an eye, the load is thrown from Mr. Lincoln's shoulders upon him; his great responsibility,

and his duty, and why not his cherished policy? He was surrounded by the same Cabinet. Who would expect them to advise any other policy?

That policy had been fully entered upon, and in some States the work really done. Mr. Johnson had himself long been engaged in that work, in aiding Mr. Lincoln to realize it in Tennessee. Besides, the convention at Baltimore had sustained it. The great Union party, which re-elected Mr. Lincoln as President, and made Mr. Johnson Vice President, had indorsed it and sustained it triumphantly at the election.

Mr. Johnson could not abandon it without reversing the policy of Mr. Lincoln's administration. That policy was advised by every member of his Cabinet, including, as I have stated, among other names, the very distinguished names of Mr. Seward, Mr. Stanton, and Mr. Welles, still members of the Cabinet, and of Mr. Chase, the Chief Justice, who, just from the bedside of the dying President, administered to Mr. Johnson the oath of his high office. How could he recall that last speech and look upon the dead body of his predecessor; how could he look in the faces of the Chief Justice, as he swore him into office, and of those men in the Cabinet, all of whom had approved every part and parcel of that policy, and upon whom alone he could then rely for counsel and support in the most trying and difficult crisis through which any man was ever called to pass; how, I repeat, could he look upon all those surroundings, and then deliberately abandon the cherished policy of Mr. Lincoln's administration, trample upon the advice of the old members of his Cabinet, as well as of the Chief Justice himself; abandon his well-known convictions of duty; falsify his own record and betray the great Union party which nominated and elected him, in the contingency which had happened, to be the President of the United States? Had he done so, the whole country would have cried out against him, and with reason. In and out of Congress, men might then have denounced him for betraying the public confidence, and especially for betraying the party which elected him. His Cabinet would have remonstrated against it. The last great speech of Mr. Lincoln, like a voice from his grave, "an angel trumpet-tongued," would plead against it. And, more than all, the President would, in my judgment, have been what Mr. Johnson was never known to be, false to his own convictions of duty.

I put aside, therefore, as not worthy of consideration, the suggestions sometimes made that Mr. Johnson, by adhering to this policy of reconstruction, is ready to betray the Union cause or the great measures of the Union party.

Having thus stated the question, and shown the grounds occupied by Mr. Lincoln, and that Mr. Johnson is substantially pursuing his policy, I return to the main question, and will state, as briefly as I can, the grounds upon which I stand, and give my support to what I call the Lincoln-Johnson policy of reconstruction.

Where are those eleven States, and what is their situation?

And first, where are they?

In this Union, under the Constitution, or not? That they once were in this Union all concede. If they have gone out from this Union it must have been by one or more of three ways:

First, by the way of peaceful secession, by voting and resolving themselves out; or,

Second, by successful revolution, by fighting their way out, to a separate independence; or,

Third, they have been put out by act of Congress.

There is not, and never has been, any other way or ways conceived or stated than one or more of these three.

Strong men of the South have maintained that the first way was always open to them. They asserted the right of peaceful secession. It was always met, however. It was overpowered by the logic of Mr. Webster in this body, and resisted by the iron will of Andrew Jackson during his administration.

It has often been reasserted in this body since

I became a member, and as often met and refuted. In their folly and madness, from the decision here, and before the people, the South appealed to arms, to discuss the same question on the field of battle. They tried the second way, namely, by way of revolution, to cut their way out with the sword. That for a time they made fearful progress in that direction no one denies. But did they succeed? No man, North or South, dare affirm it.

No, sir; no.

Thanks to that Almighty Being who rules the universe, the great generals were found at last capable of organizing and wielding our immense forces. Grant and Sherman and Thomas and Sheridan, and the great officers and brave men under their command, crushed the rebellion, wrenched the sword from the hand of revolution, and then, in the last tribunal known to mankind, in an appeal to the God of battles, by the *ultima ratio regum*, decided, and in such a way as to leave no doubt in any sane mind, North or South, that no State can go out of this Union by the way of peaceable secession, nor by the way of successful revolution. They neither have the right nor the power to do so.

It remains to consider the only other way, the third way, which, for brevity, I will call, with no disrespect to my honorable friend from Massachusetts, **THE SUMNER WAY FOR STATES TO GO OUT OF THE UNION**, namely, by act of Congress.

At the funeral ceremonies here, upon the death of Judge Collamer, he took occasion to announce his theory of disunion, awarding, in great measure, honor, if honor it be, to the deceased, of separating the rebel States from the Union.

I quote his words:

"The great act of July 13, 1861, which gave to the war for the suppression of the rebellion its first congressional sanction, and invested the President with new powers, was drawn by him. It was he that set in motion the great ban, not yet lifted, by which the rebel States were shut out from the communion of the Union. This is a landmark in our history, and it might properly be known by the name of its author, as 'Collamer's statute.'"

Upon such funeral occasions it belongs to each Senator to judge for himself what he shall say. It is a matter of taste. But one thing seems to me certain; whatever may be said at a funeral, it is no proper time to make a reply, and thus bring on debate. I, therefore, remained silent. I yield to no man in a profound regard for the memory and character of that really great and good man, Judge Collamer, and I intend now to do what my heart prompted me to do then, but which a sense of the proprieties of the occasion compelled me to forego, namely, to defend the statute which he drew, and the Congress which enacted it, the President who approved it, as well as himself, from this charge, that this law has opened a way, or that he, or Congress, or the President intended to open a way by which any State could go out, or be thrust out, from this Union of States under the Constitution.

Sir, Congress, under the Constitution, has power to admit new States into this Union. Congress has no power to expel old States, or to open a way for them to go out; and no man knew better than Judge Collamer that Congress had no such power. He could not have intended to draw such an act without violating his oath to support the Constitution. However lightly some may speak of the obligations of that oath, he was not one of those. He was a radical in the high and noble sense of the term, because he was radically right, radically firm, and radically true to his convictions toward God and toward man.

On one occasion he said:

"I do not know how other members of the Senate look upon the obligation of their oath to support the Constitution of the United States. To me it is an oath registered in heaven as well as upon earth, and there is no necessity that, in my estimation, will justify me in the breach of it. I think those men who are now risking their lives upon the high places of the field to support the Constitution are not to be treated in this Hall by us with the concession that we are ready, if the necessity calls for it, to break it. All that our rebel enemies are engaged in is the over-

throw of the Constitution, and all that we are contending for is its maintenance and preservation."

Now, I will not say that the Senator from Massachusetts in the form of seeming praise intended to do any injustice to his name; it was rather to bring, if possible, that great name to the support of his favorite theory. But the effect of what he said would, in my judgment, if accepted, be the greatest possible dishonor; that while Judge Collamer knew that the Constitution gave no right to the States to secede, and gave to Congress no power to expel them or to open a way for them to withdraw from the Union, he, in violation of his oath to support the Constitution, drew this act of July 13, 1861, for the purpose of shutting eleven great States and their ten million people out from this Union under the Constitution. And now, sir, let us look into that statute. It is the fifth section, if any, which clothes the President with this power to expel States from the Union.

How any such power can be found in the language of that section is to me beyond comprehension. The idea which inspired the pen that drew it, so far from being that those States were outside the Union or ought to be placed outside this Union, was directly the opposite, namely, that the people of those States were in the Union, owing allegiance to the Constitution because they were in the Union; that they were struggling to cast off that allegiance by going out from the Union, and that a new war power should be placed by Congress in the hands of the President for the very purpose of forcing them to remain in the Union and resume their allegiance to it, and for no other purpose. That statute was not drawn to shut those States out, but to shut them in the Union; to close every avenue by which supplies could reach them, until the President turning against them the sword, by which they undertook to cut their way out of the Union, should crush all armed resistance and compel the inhabitants to come under the flag and acknowledge once more their allegiance to the Union. What is its language? After certain recitals, it declares:

"Then and in such case it may and shall be lawful for the President by proclamation to declare that the inhabitants of such State or States, or any section or part thereof where such insurrection exists, are in a state of insurrection against the United States, and thereupon, all commercial intercourse by and between the same and the citizens thereof, and the citizens of the rest of the United States shall cease and be unlawful, so long as such condition of hostility shall continue."

with a proviso allowing the President in his discretion to license such intercourse as he might think most conducive to the public interest, under rules and regulations of the Secretary of the Treasury.

We notice, first of all, the authority here given is not to declare certain States out of the Union, but to declare their inhabitants in a state of insurrection. Pray, what is an insurrection but an uprising in arms of people against their own Government, an effort to cast off allegiance they owe to it? It is clear, therefore, that if they were not in this Union, they could not make an insurrection against it. Could the people of Nova Scotia or Mexico make an insurrection against the United States? Because they were in this Union is the very ground and the only ground upon which they could be in insurrection at all.

Again, sir, that statute which gave to the President a new war power, by its very terms was to cease with the war necessity. It was a power to stop commercial intercourse, in order to prevent our own citizens from feeding, clothing, and arming the rebellion, which our armies went to put down. When that work was done, the necessity for non-intercourse was gone; and, by the very terms of the act, all power under it was to cease with the cessation of hostility.

Mr. SUMNER. My friend will allow me just this—

The PRESIDING OFFICER. (Mr. HENDRICKS in the chair.) Does the Senator from Wisconsin yield the floor to the Senator from Massachusetts?

Mr. DOOLITTLE. With all my courtesy to

my honorable friend, I prefer to go on with my remarks without interruption.

Mr. SUMNER. I should like to remind the Senator—

Mr. DOOLITTLE. With all courtesy to my honorable friend I must decline to give way, because I desire not to have the argument which I am making broken in upon.

The PRESIDING OFFICER. The Senator from Wisconsin is entitled to the floor, and cannot be interrupted without his consent.

Mr. SUMNER. I only want to say that my language was, "shut out from the communion of the Union," not, "from the Union;" they could not be shut out from that.

The PRESIDING OFFICER. The Senator from Wisconsin is entitled to the floor, and will proceed.

Mr. DOOLITTLE. But, sir, I do not rest here. That statute was passed on the 13th of July, 1861, just about one week before the battle of Bull Run. We shall never forget that day! Our army, though successful in the morning, became panic-stricken in the afternoon, and came back upon Washington in disorder, utterly demoralized; and members of Congress, too, who went out exulting with "On to Richmond!" upon their lips, to see a great victory, to witness "the races" of fleeing rebels, came fleeing home themselves from the field of disaster.

As soon after that battle as the members of Congress could conveniently assemble, in that hour of deep humiliation to us all, a resolution passed both Houses of Congress, by an almost unanimous vote, declaring our purpose in the prosecution of this war, and especially the determination of Congress in relation to the status and rights of the southern States. In that hour of defeat, when humbled before the nations and before the Supreme Ruler of the world, Congress, almost unanimously in both Houses, declared—

"That this war is not prosecuted upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and all laws made in pursuance thereof, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; that as soon as those objects are accomplished the war ought to cease."

This, bear in mind, was after the passage of the Collamer statute, and within two weeks after. It is the later, the more solemn, and the more explicit declaration of the intention of Congress in carrying on the war.

The Senator from Massachusetts says that statute intended to put eleven States out of this Union. Certainly the statute says no such thing. He must infer it. He rests upon inference only, while this resolution, twelve days afterwards, in express terms declares the intention of Congress to keep them in the Union, "to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired." By these words, and none can be stronger, Congress in express terms excludes the possibility of that inference. It does more; it rejects his whole theory of disunion. We expelled Bright, of Indiana, for writing a letter to Jefferson Davis, styling him "President of the Confederate States," thus, while a Senator, acknowledging the confederacy, and sympathizing with the secessionists in arms.

Had the Senator from Massachusetts, on the 25th of July, 1861, when we passed that resolution to which I have referred, as to the status of the southern States and the purpose of Congress in prosecuting the war to put down the insurrection, risen in his place here and declared that the Union was dissolved; that Congress, by the Collamer statute, had put eleven of the States out of the Union; that the war was to be prosecuted for the purpose of conquering, holding, and governing those eleven States, and ten million people, for an indefinite period of time, not as States under the Constitution, but as conquered provinces, and without representation; to be governed by the unlimited power of Congress, or by the sword, as

Territories, I do not say that any action would have been taken against him personally, for his rights as a Senator would have been his protection; and, more than that, the sincerity of his motives and his unquestioned patriotism would have shielded him; but I do say that if he had then avowed that doctrine, and been made amenable for the guilt of his theory, he would have been expelled from the Senate as a secessionist, at least a disunionist; for certainly such a theory, announced then, would have given aid and comfort to the rebellion at home, and moral power to its friends abroad.

It will be remembered that resolution was offered in the Senate by Mr. Johnson, the present President of the United States, who was then, and for a long time afterward remained, a Senator from the State of Tennessee, and that, too, long after the Collamer statute, according to the Senator's theory, had placed Tennessee outside the Union. What! Tennessee represented in the Union and at the same time outside the Union! Dead and yet alive!

But some may say that resolution passed Congress too soon after the battle of Bull Run to be taken as conclusive upon this question.

I will refer to other acts of Congress if possible still stronger.

The Constitution says:

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers."

Under that authority, Congress, after the passage of the Collamer statute, did both—apportioned both direct taxes and Representatives among the several States, including the southern as well as the northern and western States of this Union. I read from the eighth section of the act of August, 1861:

"And be it further enacted, That a direct tax of \$20,000,000 be, and is hereby, annually laid upon the United States, and the same shall be, and is hereby, apportioned to the States respectively, and in manner following:

To the State of Maine.....	\$428,826 00
To the State of New Hampshire.....	218,462 66½
To the State of Vermont.....	211,068 00
To the State of Massachusetts.....	324,581 33½
To the State of Rhode Island.....	116,963 66½
To the State of Connecticut.....	308,214 00
To the State of New York.....	2,003,918 66½
To the State of New Jersey.....	450,134 00
To the State of Pennsylvania.....	1,946,719 33½
To the State of Delaware.....	74,683 33½
To the State of Maryland.....	436,823 33½
To the State of Virginia.....	937,550 66½
To the State of North Carolina.....	576,194 66½
To the State of South Carolina.....	363,570 66½
To the State of Georgia.....	584,367 33½
To the State of Alabama.....	520,313 33½
To the State of Mississippi.....	413,084 66½
To the State of Louisiana.....	385,886 66½
To the State of Ohio.....	1,567,089 33½
To the State of Kentucky.....	713,695 33½
To the State of Tennessee.....	660,498 00
To the State of Indiana.....	904,875 33½
To the State of Illinois.....	1,146,551 33½
To the State of Missouri.....	761,127 33½
To the State of Kansas.....	71,743 33½
To the State of Arkansas.....	261,886 00
To the State of Michigan.....	501,703 33½
To the State of Florida.....	77,522 66½
To the State of Texas.....	355,106 66½
To the State of Iowa.....	452,088 00
To the State of Wisconsin.....	519,688 66½
To the State of California.....	254,538 66½
To the State of Minnesota.....	108,524 00
To the State of Oregon.....	35,140 66½

Sir, the question I put in the beginning, where are those eleven States? is answered here by Congress; I find them all "included within this Union," to use the language of the Constitution, for the purpose of direct taxation. Every one of those eleven are found there and are taxed by name as States within the Union. Virginia as well as New York; Arkansas by the side of Michigan; Florida and Texas by the side of Iowa and Wisconsin. Direct taxes and representation go together.

Has Congress spoken upon the subject of representation? Most certainly.

By an act approved the 4th of March, 1862, which by its terms was not to take effect till March 4, 1863, Congress apportioned the Representatives upon the basis that those eleven southern States were still States in the Union, with their right to representation unimpaired. By that act, modifying former acts, Congress

apportioned Representatives to the several States in this Union as follows:

To Alabama.....	7
To Arkansas.....	2
To California.....	3
To Connecticut.....	4
To Delaware.....	1
To Florida.....	1
To Georgia.....	7
To Illinois.....	13
To Indiana.....	11
To Iowa.....	6
To Kansas.....	1
To Kentucky.....	1
To Louisiana.....	9
To Maine.....	4
To Maryland.....	5
To Massachusetts.....	5
To Michigan.....	10
To Minnesota.....	6
To Mississippi.....	2
To Missouri.....	9
To Nevada.....	1
To New Hampshire.....	1
To New Jersey.....	5
To New York.....	31
To North Carolina.....	8
To Ohio.....	19
To Oregon.....	1
To Pennsylvania.....	24
To Rhode Island.....	2
To South Carolina.....	6
To Tennessee.....	2
To Texas.....	2
To Vermont.....	2
To Virginia.....	8
To West Virginia.....	3
To Wisconsin.....	6

That law is still in force. Under that law the present House of Representatives was chosen; under that law the present House is organized; under that law those eleven States of the South have just as much right to representation as the other twenty-five.

Whether those States are in a condition to choose Representatives, and whether they have chosen right Representatives, are questions I will discuss hereafter. I now speak only of their right to have representation under the existing law of Congress.

Thus, by the action of Congress in apportioning direct taxes and representation—those two fundamentals in republican government—the status of those eleven States as States included within this Union is declared and acted upon.

Once more, by the act of the 7th of June, 1862, amended as late as February, 1863, Congress, in the ninth section, provided that the tax commissioners in insurrectionary districts, after bidding in for the United States lands sold for unpaid taxes, should, in the name of the United States, enter upon and take possession of the same, and lease the same "until the said rebellion and insurrection in said State shall be put down, and the civil authority of the United States established, and until the people of said State shall elect a Legislature and State officers, who shall take an oath to support the Constitution of the United States, to be announced by the proclamation of the President." And the twelfth section provides "that the proceeds of the said leases and sales shall be paid into the Treasury of the United States, one fourth of which shall be paid over to the Governor of said State," "when such insurrection shall be put down, and the people shall elect a Legislature and State officers who shall take an oath to support the Constitution of the United States, and such fact shall be proclaimed by the President, for the purpose of reimbursing the loyal citizens of said State, or for such other purpose as said State may direct."

Congress here declares in these sections, not that the States are outside the Union, not that they have lost their rights in the Union, but recognizing the insurrection in these States, declares four things:

1. The intention of Congress to put down the insurrection and reestablish the civil authority in these States.

2. When the insurrection is put down the people of these States have the right to elect their Legislature, Governor, and State officers.

3. When the people elect them, and they take their oath to support the Constitution of the United States, the President is, by law, required to issue his proclamation to that effect. And

4. After the issue of such proclamation, the Secretary of the Treasury is required to pay over certain moneys to the GOVERNOR of the State, to be disposed of as the STATE MAY DIRECT.

That law is in force now; is still the supreme law of the land. Its language demonstrates with complete certainty—a certainty which excludes all doubt—that, in the judgment of Congress, those eleven States are still States in this Union under the Constitution.

Having shown those States to be in the Union under the Constitution, I now inquire, what is their true situation? What rights have they, and what duties devolve on them?

To answer these important questions let us inquire, what constitutes a State?

"A STATE, in the meaning of public law, is a complete or self-sufficient body of persons united together in one community for the defense of their rights. It has affairs and interests; it deliberates, and becomes a moral person, having understanding and will, and is susceptible of obligations and laws."

All the great writers on public law agree in this.

"In a more limited sense the word State sometimes expresses merely the positive or actual organization of the legislative, executive, or judicial powers; thus the actual Government is designated sometimes by the name of State."

This distinction between what constitutes a State in the meaning of public law, and the word State as sometimes used to designate the form of its government, is just as clear as the distinction between a man and the garment he wears. In the Declaration of Independence this great distinction between the State, the body political, which constitutes the State, and the form of its government, between "the people" whose right it is "to alter or to abolish" their "form of government," and "institute a new government," "organizing its powers in such form as to them shall seem most likely to effect their safety and happiness," is most clearly recognized. The State, the people, the body-politic, "institute, alter, or abolish their form of government." Despotism sometimes treats the body-politic, the State, the people, as if the people were made for the government, and confounds the State with its ruling organization. Not so under the Declaration of Independence, under our republican system. Here the form of government is but an agency to serve the State. Legislatures, judges, and executive officers are servants and not masters. I repeat, under the old despotism the form of government was organized to put all power in the monarch, who sometimes claimed to be the State itself. It was Louis XIV who said, "*L'Etat, c'est moi!*" I am the State. But the people of France, THE STATE, decapitated this despotic assumption in the person of one of his successors. James I asserted the same absolutism, and the people of England, THE STATE, did the same thing when it brought Charles I to the block. It proved to be a very sad mistake in those crowned heads thus to ignore this distinction between the State and its accidents, between the body-politic itself and a mere form of government, which they, in their absolutism, assumed themselves to be.

This distinction, as it seems to me, is sometimes lost sight of among us, and is the occasion of differences of views on the subject of reconstruction. I may be pardoned, therefore, if I dwell still longer on this important point.

I have shown that in view of public law nothing can be more clear than that a State does not consist of the form of its government. That is one of its accidents. That may be democratic, aristocratic, or theocratic; it may be military; it may be republican, despotic, or monarchial. It may have any one of these forms, or a mixed one, and yet it is a State. It may change its government every year, as a tree casts off its foliage. The State no more consists of its form of government than a man consists of the garment with which he is clothed. He may change that every day, he may be stripped of any garment whatever; but still the man remains: and for a State to change its form, or, for the time being, to be stripped of all

form of government, no more destroys its existence than is a man destroyed when he takes off one coat to put on another, or is stripped entirely of his garments.

Nor is a State destroyed by the declaration of martial law in it, nor by war, unless conquered by a foreign Power, or dismembered by revolution, and made into two or more States. To be invaded does not destroy it, if it expel the invader. To be torn by civil war, "and even drenched in fraternal blood," does not destroy it either, unless the final issue of arms shall be against it.

Take the case of Mexico: once a part of the Spanish empire; then a republic; then an empire; again a republic; and then a military dictatorship; once more a republic; in danger now of being usurped by an Austrian monarch, under the protectorate of Napoleon.

But, under all these different forms of government, despotic, republican, military, or imperial, it is the same State. Times without number it has been in civil war, in revolution, almost in anarchy. Its existence as a State, however, still remains; and its rights as a State, among the nations, and especially to choose its own rulers and form of government, remain unimpaired.

Let us now inquire what constitutes a State in this Union, under the Constitution? I answer, the same things which constitute a State not in this Union, except so far as its rights, powers, and sovereignty are limited by the Constitution of the United States. Under that, the United States has entire and absolute sovereignty over all external affairs; over all relations with foreign Powers. The United States has also paramount and absolute sovereignty over all internal affairs committed to it by the Constitution. The State has a limited sovereignty over its domestic affairs and interests. I say limited sovereignty, because an amendment to the Constitution of the United States, which three fourths of all the States can adopt at any time, will still further abridge the rights and powers reserved to the States, and thus give additional powers to the United States. Subject to these limitations, however, States in this Union have all the essential attributes, rights, and powers of States not in this Union.

One of the limitations upon those rights is that it shall have no power to organize any State government not republican in form, while it may adopt any form of republican government. And the same distinction between a State and its government is clearly recognized in the clause of the Constitution which provides that "the United States shall guaranty to every State in this Union a republican form of government." We see by this language a "State in this Union" is one thing; the form of its government another and different thing. Recognizing the right of a State, under the law of nations, to put on or put off its form of government, it was thought essential to the more perfect union of these States under the Constitution to restrict this power of the State over its form of government so far as to deny its right to put on any other than a republican one. And, therefore, when conspiracy and rebellion attempts it, or when usurpation succeeds in doing so, in any State in this Union, the United States not only has the right, but is bound to intervene against such usurpation, and restore to the State a republican form of State government.

And now, what are the facts? Two radical ideas in the cotton States—radically false, however—namely, that the States had a right to secede, and that slavery was a blessing, had been so long advocated by the statesmen, press, schools, and clergy of those States, that a large portion of their people, both men and women, came to believe in them. These ideas became a part of their political and religious faith. That alone explains the desperate valor and obstinacy displayed by them in this struggle.

Those ideas, like a contagion, pervaded the cotton States, and took deep root in the States of North Carolina, Virginia, Tennessee, Arkan-

sas, Missouri, and Kentucky—not to the same extent, however. From conviction, by persuasion, through sympathy, or fear, or force, many of the people—not a majority, however—of the Gulf States followed the lead of their chief conspirators, and were plunged by them headlong into rebellion. Most of the persons exercising the functions of State government, the functionaries from choice, force, or interest, joined it also, and thereby the State governments, as organized, were dominated by the rebellion and made to do its work. It was a usurpation.

In that work they went further, and endeavored to establish a confederation of States, as an independent Power among the nations of the earth. As all these proceedings were in violation of the Constitution, and legally null and void, the United States was bound to treat them as such, and maintain the supremacy of the Constitution.

The rebellion appealed to the sword. Had the rebellion been successful it would have become a revolution, and whether right or wrong, the separation of those States and the overthrow of the Constitution in those States would have become an accomplished fact. But the rebellion was not successful. To attempt and to succeed is one thing; to attempt and fail is another. In the one case it is suppressed insurrection; in the other a successful revolution, in which a new Power is born into the family of nations. Like the bonds for the confederate debt, payable only after the United States shall recognize its independence, the confederacy itself can have no existence until its independence is secured. The whole question turns on success or failure, victory or defeat.

But here arises another and entirely different question: what effect did the rebellion and our overcoming it have upon the functions of the so-called confederacy and of the State governments? The functions of the confederacy, with the confederation itself, were utterly overthrown. It was a complete collapse. Under the Constitution it never had any validity. It was always null and void—an illegality; more, sir, a crime. It rested not upon its right, but upon its sword. When that was taken it vanished. And all that remains to the great conspirators are the disappointed hopes and hideous dreams, unrealized, of madness, folly, and ambition.

But what effect did the rebellion have during its existence upon the forms of government, upon the persons exercising the functions of government, and upon the laws themselves existing before the rebellion in these States? I answer, generally, the rebellion from the beginning was an attempt at revolution, to dissolve the allegiance of those States and their people to the Constitution of the United States, and to transfer that allegiance to the new confederation of States; and for the time being just such changes were made in their form of government and functionaries and laws as would aid that object, and no more.

Bear in mind, the rebellion did not contemplate destroying these States or reducing them into Territories at all. The prominent idea was or pretended to be to save to the States greater rights and powers and sovereignty than were conceded to them in the Union under the Federal Constitution, one of which was this right of State secession.

The whole purpose of the rebellion was to transfer the allegiance of those States from the Federal Union to the confederation of the South. Our whole purpose was to prevent that, and save those States in the Union, and compel them and their people to acknowledge their allegiance to it.

We struggled to save the States in a more perfect Union under our Constitution.

They struggled to save the States with greater rights and powers in the confederation.

Upon this the war was made by them, and upon that issue it went on until the end.

Neither party belligerent sought to destroy, but to save the States.

Neither party sought to destroy, but to save

a republican form of government in each of those States.

Neither party sought to take from the people of those States the right to choose their Governors and Legislatures, and to have their own judicial officers, nor to take away the right of representation in a national Government.

But the real issue was whether these officers would bear allegiance to the Federal Union or to the rebel confederacy. Neither party struggled to take from the people of those States their right to govern themselves, under their own State laws—which, after all, is republican government—nor to disturb the great body of those State laws. Except in so far as they aided the Union or the rebel cause, neither sought to make any change, or claimed the right to make any, whatever. It is true that slavery, to defend which was the avowed object of the rebellion, and which became during the war the chief support of its armies, was put directly in issue. It was the corner-stone of their confederacy; and when the confederacy fell its corner-stone was of course buried in its ruins. I can affirm, then, that neither the State nor its government, neither its office of Governor, its Legislature, or its judiciary, were, during the rebellion, sought to be destroyed or changed in any manner by either belligerent party, any further than it bore upon the question of allegiance to the Union upon one side, or to the rebel confederacy upon the other, and to the existence or the destruction of slavery.

But for slavery, and questions growing out of it, and ambitions and ideas fostered by it, there never would have been any rebellion at all.

No change was sought in the *status* of the States, in the forms of their governments, or in their laws, except for or on account of slavery alone.

Take the case of Georgia, the empire State of the South. Did the rebellion attempt to destroy the State of Georgia, as a State? Not at all. It did attempt to dissolve all relations with the United States, and transfer them to the rebellious confederacy; to throw off allegiance to the Federal Constitution, and come under the confederate constitution; in short, to take Georgia as a State out of the Union and put it into another union, in a new confederation. Had the rebellion succeeded, would the State of Georgia have been destroyed? It would certainly have ceased to be a State in this Union, but it would have still existed as a powerful State, not as a Territory, in its new political relations. The great body of its constitution would remain the same, the great body of its civil and criminal laws the same, as before the rebellion. All the laws on contracts, bargain, sale, and conveyance of real estate; all the laws concerning real or personal estate; the laws of marriage; the family relations; and generally all the rights and remedies affecting persons and property and personal liberty, would have remained the same. No effort was made materially to change them. The only effect, in case the rebellion had succeeded, would have been to make Georgia a State outside of this Union, a State in another Union.

Now that the rebellion has utterly failed to put the State of Georgia into a new union, did the attempt to do so, and the crushing of that attempt, put Georgia as a State out of this Union? or destroy Georgia as a State in this Union? or reduce Georgia from a State in this Union to be a Territory? This seems to be the view advocated by my colleague in his elaborate and able speech upon this resolution. It is due to him and to the important questions involved that I give some further attention to this part of the subject.

I shall not go over the ground I have already trod; I will only observe that it is beyond belief to suppose that the people or the State of Georgia themselves ever intended to reduce themselves from the condition of a State to the condition of a Territory. Their ruling idea, their interest wish, was to exalt the State and make its sovereignty paramount. It was with them a passion. It became their frenzy. The United States had no such purpose either.

I have already shown you that by all the legislation of Congress, by every proclamation of the President, neither Congress nor the President ever held any other language than what was expressed in the last clause of the resolution of July 24, 1861, that our purpose was to maintain the "supremacy of the Constitution and all laws made in pursuance thereof, and to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired."

But to pursue the case of Georgia a little further. While, as I have shown, neither party belligerent sought to destroy, and both sought to save and to hold the State of Georgia, the one as a State in this Union, and the other as a State in the rebel confederation, did the issue of arms, which decided it should not be a State in the confederation, and should remain under the supremacy of the Constitution, reduce Georgia to the territorial condition, against her own wish and the avowed purpose of Congress? I have already shown that Georgia was not changed from a State to a Territory by the rebellion. Was it so changed by our crushing the rebellion?

I admit that, pending the progress of this great civil war, the greatest the world ever saw, the growth of military power was such in all those States of the South as to almost suspend the civil laws—certainly during the last two years of the rebellion; that rebel martial law dominated the whole confederacy, and subjected at will the civil law to its dominion. It became for the time being a bloody rebel military despotism.

When our armies entered Georgia and overcame the rebel army, then what was the effect? The first and immediate effect was to substitute Union martial rule for rebel martial rule. Neither the one nor the other, as we have seen, destroyed the existence of the State. But it did what war always does, more or less, suspended for the time being the civil laws and the functions of civil government in the clash of arms. It neither suspended nor destroyed the State, but it changed the ruling power in it from the commander of the rebel army to the commander of the Union army.

Just before General Sherman entered Georgia, what was the law of Georgia? The will of the rebel general. Just after his surrender, what became the law of Georgia then? The will of General Sherman, under the Commander-in-Chief, both under the Constitution of the United States. The whole people of Georgia, black and white, bond and free, became subject, for the time being, to military rule, subject to military control, under the laws of war. Of all governments the military is most despotic. It is concentrated despotism, despotism without any mixture. He could have wasted every field, burned every dwelling, sacked every town, pressed every man into service. He did capture and set free every slave. I may here say those slaves are our prisoners, captives which we have taken from their masters; and by the agencies of the Freedmen's Bureau, under the War Department, we are now endeavoring to make them free in fact, as well as in right.

There was not a horse or mule he could not have taken; not a man, woman, or child he could not have sent out of the State or employed in any service he might have deemed necessary or useful to put down the rebellion, to put an end to the war, which the law of nations does not forbid.

But did General Sherman destroy or intend to destroy the State of Georgia? Did the President order him to destroy it? By no means. He went to save, not to destroy. Did Congress direct the President to destroy it? No; but it did direct him, in the most solemn form, to prosecute the war to preserve Georgia as a State in the Union, with all its "dignity, equality, and rights unimpaired," and that when that object was accomplished the war ought to cease. To that end Congress clothed the President with greater military power than any nation has developed in modern times. And all this tremendous power of the President is conferred by law of Congress. Nothing, in my judgment, can be

more certain than that Congress has by law expressly delegated to the President the power to do all he has done in those States, or it has imposed upon him duties which necessarily involved or implied all the powers he has exercised.

By the act of July 22, 1861, the President was authorized to accept five hundred thousand volunteers for the purpose of suppressing insurrection, "provided that the services of the volunteers shall be for such time as the President may direct, not exceeding three years; nor less than six months, and they shall be disbanded at the end of the war." Disbanded by whom? By the President. When disbanded? At the end of the war.

Congress by this and other acts authorizes the President to put into the field nearly two million soldiers to put down this rebellion; to use every means on sea and on land known to civilized warfare to put an end to the war; Congress expressly directs him to disband the volunteers at the end of the war, and by act of July 29, 1861, to reduce the standing Army to twenty-five thousand within one year after the end of the "existing insurrection and rebellion."

But what shall constitute the end of the war? Congress, by resolution of July 24, unanimously declared the end to be when the supremacy of the Constitution is reestablished, and the Union is preserved with the rights, equality, and dignity of every State unimpaired. Congress also declares that the reduction of the standing Army shall take place within "one year after the constitutional authority of the Government of the United States shall be reestablished, and organized resistance to such authority shall no longer exist"—that is, one year after the end of the war. It is not, as the Senator from Massachusetts and my colleague seem to suppose, to end when those eleven States shall be reduced from their position of States in the Union with their "dignity, equality, and rights unimpaired," to the condition of Territories, which are mere dependencies, with no dignity, no equality, no rights under the Constitution, except to be governed by the absolute will of a Congress in which they have no representation, or to be held by the despotism of the sword. The end of the war was to be the suppression of the rebellion and the maintenance of the Union, under the Constitution, unbroken.

But who is to judge when the constitutional authority of the Government is reestablished? Who is to judge when the organized resistance to such authority has ceased? Upon whom rests the responsibility of deciding these questions? Congress expressly says the volunteers shall be employed as long as the "President shall direct; that he shall disband them at the end of the war; and reduce the regular Army one year after constitutional authority shall be reestablished and organized resistance no longer exist."

The President alone is made the judge of the time when the insurrection is suppressed and when the Army shall be withdrawn. It is no power and no responsibility assumed by him in derogation of law. It is expressly imposed upon him by Congress as a duty. Congress by law authorized and required the President,

First, to raise the Army.

Second, to suppress the insurrection, and reestablish the supremacy of the Constitution.

Third, to preserve the Union of the States with their rights in the Union unimpaired.

Fourth, to judge and determine when those ends are attained.

Fifth, after those ends shall be attained, to disband the Army, and return the soldiers once more to the pursuits of peace.

In short, Congress not only empowered, but required, the President to perform a twofold duty: one, to make war; and the other, to stop making war after its end is reached; in other words, to make peace; the first, to draw and wield the sword; the second, after making peace, to return it to its scabbard.

The first of these great duties, namely, drawing the sword and wielding it, rested mainly upon President Lincoln. The second, namely,

making peace, and then sheathing the sword, rests mainly upon his successor; although most fortunately, for him, and for the whole people, Mr. Lincoln had already entered upon the great work of reconstruction, of making peace, in order to be able, after peace had come—to borrow his own beautiful language, after “peace had come, and come to stay,” to fulfill that other great duty imposed upon him by the laws of Congress; namely, to disband his immense Army and send them home; in a word, to restore a nation's peace, in a union of States and people under the Constitution, with “their rights unimpaired,” and, after that great work, the end and object of all our struggles and sacrifices, was done, to sheathe the nation's sword. While he lived, Mr. Lincoln performed these duties, and performed them well. It is true, there were some mistakes in the beginning; with our inexperience and impatience the wonder is there were not more. Time was necessary to accomplish the great work, to educate the public mind, to prepare the armies, and to find the leaders who were capable of commanding them.

How could Mr. Lincoln know, unless gifted with omniscience, that in the person of a teacher of a military academy in Louisiana, was to be found that Major General Sherman, who, like God's flaming minister, at the head of his conquering legions, was to sweep through the heart of the rebellion? How could he know that in that quiet, unostentatious citizen of Galena, was to be found the great captain of the age, Lieutenant General Grant, who knew when, “like Fabius, to be the cloud, and like Scipio, the thunderbolt of war?” Thank Heaven! he found the great commanders at last, which in God's own good time brought the final and supreme victory over the rebellion. Thank God! Mr. Lincoln was permitted to live until the first great work of crushing the rebellion was almost done, and the second hardly less important work of reconstruction was already well begun. I have already called your attention to his last public speech just before his assassination, in which, in gladness of heart whose expression could not be restrained, for the hope of a righteous and speedy peace, and in which, also, with a power of logic and clearness of statement, and force of illustration never surpassed in the best efforts of that great and good man, he explained and defended and enforced this policy of reconstruction.

It was at such a moment—a moment of most supreme exaltation—when the prayer of his soul was answered; when the long night of blood and agony and tears was past, and the golden light of the morning of peace dawned upon his vision, he fell by the assassin's hand—his consciousness suspended in an instant. From the acme of human glory he passed to the glory on high—from this mortal to the immortal life—a martyr to the cause of his country, and of liberty to all mankind. It was what the ancient world would call an apotheosis.

Thus the great office of President providentially fell upon Mr. Johnson, with all its duties and all its responsibilities; and the gravest of them all, now that the armed forces of the rebellion have surrendered, is this second great duty of making peace, and then disbanding the Army. When he took the Presidency there were more than a million men upon the rolls of the Army, and many of the rebel armies were still in the field.

I now come to the consideration of the most important, and just at this moment perhaps the most practical, question, namely: what were the powers and duties imposed by law upon the President, in closing the war and making peace, which, of necessity, must precede the disbanding of the Army?

Now, in the very nature of things, making peace is just as much an executive duty as waging war.

Who can know, but the Commander-in-Chief, when his adversary yields, when he is destroyed or captured, surrenders, or makes overtures of peace? To whom does the vanquished party cry for quarter and terms of surrender, but to him who wields the sword?

I repeat, sir, making peace is an executive duty just as much as making war. The law of Congress which authorized the war authorized the stopping of the war; the disbanding of the forces which are employed in it, when the President has finished his work and shall think it safe and proper to do so; when he is assured that the war is over, that peace has come, “and come to stay.”

If we are engaged in war with a foreign country, when we get through with the war, the President makes peace. Congress has nothing to do with it. The President enters into a treaty of peace, and that treaty is submitted to the Senate for ratification. If two thirds of the Senate advise and consent, the treaty is ratified and peace is made. Congress may declare war, they do not make peace.

How is peace made in case of a civil war among ourselves? When we overcome armed resistance to our laws and the Constitution, which is civil war, when the insurgents shall, in good faith, submit themselves to the laws and the Constitution, peace follows of course. Peace has already come, for obedience to the laws is peace.

All the great writers on public law agree that the whole end and purpose of a just war is to obtain a just and righteous peace; and having shown that this duty of making peace has been placed by Congress upon the President; having shown that, from the necessities of the case, such a duty is executive, and therefore, in its nature, impossible to be done by Congress except through the Executive, I proceed to inquire with whom, and in what way, is the President to make that peace which was the object of the war on our part, and which was a condition precedent to withdrawing the Army? That involves this other inquiry, who and what was or is at war against the United States?

First of all, the rebel army.

No one can doubt the power of the President to deal with that—to fight it, crush it, capture it, or accept its surrender, with or without conditions. If upon conditions, these conditions bind the good faith not only of the Executive but of the United States.

In the terms of Lee's capitulation there was an important condition inserted, binding the good faith of the United States, namely, that, upon condition of their obedience to the laws, the officers and soldiers of the rebel armies should not be disturbed by the authorities of the United States. What member of Congress, what man, in or out of Congress, would propose a violation, on our part, of that stipulation?

There is, in the second place, the people of those States, who have been declared in insurrection, who, from giving aid and comfort to the rebellion, have incurred the crime of treason against the United States, and who are liable, upon trial and conviction, to forfeit their property, their citizenship, and even their lives.

What power has the President, under the Constitution and laws, to deal with these *unarmed* insurgents? First, under the Constitution, he has the power to pardon and restore to citizenship, either before or after conviction; he has the power of amnesty, upon such terms and conditions as he shall judge most conducive to the peace of the country.

If, as many contend, the insurgents are to be treated only in their capacity of individuals, and not in their capacity as States, this power of pardon alone would cover the whole case, and he could restore all to citizenship.

But he had another power over them under the laws of Congress; and I now inquire, upon the surrender of the armies, what further power had the President to deal with those persons who, though not found in arms, were still equally guilty by aiding and abetting the rebellion? I answer, all the power of Commander-in-Chief exercising military rule in those States for the time being.

By the law of nations, the commander of a great and conquering army when he enters a State, for the time being subjects all the civil laws to military control; his will becomes the

supreme law, and he a temporary dictator. He may organize a provisional civil government, as the Supreme Court decided in the case of Cross against Harrison, to preserve order and prevent anarchy. Beyond all question, before withdrawing or disbanding his Army, he had the power, and it was his imperative duty, to know whether the rebels not found in arms, who, as many insist, were a large majority of the people of those States, had also submitted and surrendered the rebel cause. Had he at once withdrawn the Union Army upon the surrender of the rebel army, who knows but that another rebel army would have been raised at once to fight against the Government? It was as much his duty, therefore, under the laws of Congress, for him to make sure of their submission before withdrawing the troops as it was to make sure of the surrender of their armies. Without their submission his work would have been only half done. He therefore had a right—ay, sir, it was his imperative duty—to deal directly with the unarmed rebels as well as with their military forces, which he could do both as military commander, and as holding the power to pardon.

But there are some who maintain that the States, as bodies politic, in their State capacity waged this war upon the Government. Without admitting or denying this assumption, grant, for the sake of the argument, that to be so, what power and duty would, in that view of the case, be imposed upon the President by law of Congress? I answer, to deal with the States as belligerents.

If the States, as such, were in rebellion and waging war against the United States, then, of course, the law authorizing the President to prosecute the war against the rebellion of necessity authorized the President to prosecute the war against the States; and, as he was not authorized to disband the Army until the war was over, and as the war could not be over until the States submitted to the conditions of peace, the President had the power and it became his duty to deal directly with the States upon the terms and conditions of peace. It was just as much a necessity for him to know that the States submitted and accepted the terms of peace, as that their armies should surrender, before he disbanded the Army of the United States. The object of all legitimate war is to conquer a peace.

If the States, as such, were at war against the United States, the capture of an army would not end the war so long as they should remain hostile. The Army was to be reduced when “organized resistance” should no longer exist. So long as organized States are at war against the Government organized resistance does exist, and he could not disband the Army. Had he immediately upon the surrender of the armed forces disbanded our Army, leaving the States still at war, there would be no peace, and could be no peace; and peace was to be a condition precedent to his disbandment of the Army. All the writers on the law of nations concur that the only lawful purpose of war is peace. The President, therefore, being authorized by law to make peace, was empowered to deal with all the parties at war against the United States, namely, with the rebel army; with all the rebel insurgents, whether they are to be regarded as acting in their individual capacity, or in their organized political capacity as the people of a State.

I now inquire, what must be the terms and conditions of peace in order to put an end to civil war in these United States? I answer, the Constitution of the United States is the paramount and indissoluble bond of union and relationship and peace among the several States. An attempt to overthrow that is civil war. Submission to that is peace. Therefore, neither the President, nor Congress, nor the Supreme Court, nor all put together, can make any other treaty of peace or bond of relationship among the States. Nothing short of successful revolution, or of a decision of the sovereign people of the United States to amend that Constitution, can change the relationship between the States

one jot or tittle. Though men and parties may change, the Constitution as the basis of that relationship in this Union will remain perpetual.

What terms had the President a right to demand of these States, or of their people, as conditions precedent to peace and the withdrawal of the Army?

First, and before all, and as the basis of all, unqualified submission to the Constitution of the United States, and all laws of Congress passed in pursuance thereof.

Second, the annulling of all acts, laws, and proceedings by which the States made or prosecuted war against the United States, including the rebel debt.

Third, acquiescence in the situation which the war has brought upon them, including the abolition of slavery, for and on account of which they made the war; for the sincerity of such acquiescence, and as the supreme test of its good faith, the adoption of the constitutional amendment by which slavery, the cause of the war, is surrendered and made impossible, and liberty made sure, by being placed under the guardianship of Congress in every State and Territory forever.

Fourth, the practical resumption of their political duties, upon those terms, as States in the Union.

These are the conditions, in substance, upon which President Lincoln almost three years ago announced to the people of these States the terms of pacification to which he pledged the support of the Executive Government.

These are the substance of the terms offered by President Johnson.

Several of the States, or the people of several States, have accepted them, and offer now to resume all their political duties as States in this Union, and practically enjoy their rights as such. Shall we allow them to do so?

If these terms have been accepted by these States, or the people of these States, in good faith, is not the faith of this nation pledged? Just as much pledged as by the terms contained in the surrender of their armies?

It is not a sufficient answer to say, this Congress is not bound by the acts of preceding Congresses, and therefore we can pass laws requiring the President to impose other and new terms of pacification not required by preceding Congresses. Technically that may be urged; but it will not do for a great nation, dealing with a fallen enemy after he has surrendered, to impose new and other terms. Had we been fighting with any foreign Power, the treaty made by the President would have been most scrupulously kept. As between and among the States, the Constitution—which is the treaty of peace, and more than a treaty, which forms a perfect Union, and makes the States one family—is certainly to be regarded with equal sacredness and validity on our part, when after a civil war peace is made, and the offending citizen or State makes submission in good faith, and seeks to renew allegiance. Nothing is more clear than that we have made no conquest of these States. We hold them only by virtue of our original right as States under the Constitution.

But the question is sometimes put, by what power then, if these States are still in the Union, does the President appoint these provisional or military governors? That question is important; but to that question the answer, in my judgment, is perfectly clear. The President does not make the appointment of these agents, call them by what name you will, provisional governors, military governors, commissioners, agents, heralds of peace, generals, anything you please, nor does he employ these agencies, by virtue of his authority as a civil magistrate. They are not civil appointments. They are in no sense civil officers, for there is no law under which they are appointed at all. They are more military agents of the President, as Commander-in-Chief of the Army, who is bound to ascertain the fact, which he must know before he can discharge this duty of mustering the forces out and of withdrawing the Army. He sends these agents into the several States for the purpose of ascertaining whether the rebel-

lion is suppressed; not only whether the people have ceased armed resistance, but intend to submit in good faith and make no more resistance to the authority of the Government. These agents are by him authorized to ascertain that fact; in substance, to put certain questions to the people in these States, no matter in what form they are to be answered, whether by an election, the casting of ballots, or by an oath. The question is, "Are you willing now, in good faith, to submit to and accept the true situation which the war has brought upon you? Are you ready, as free States, to put on a republican form of government? And are you determined hereafter to be lawful and law-abiding citizens of the United States?" If they answer that they are, what then? "Assure me of that," says the President, "and I will withdraw the military power; I will no longer hold you as Commander-in-Chief; I will no longer govern you by martial law; I will withdraw the troops and let the civil laws, which are silent in the midst of arms, once more come into full play. You may substitute the ballot of the loyal citizen for the bayonet of the soldier which I command. I can then safely sheathe the sword and leave you to yourselves. And when I can do that there is peace."

This is the substance of it all. You may say there is an air of the civilian, a scent of the civil law and civil authority in the legal forms employed in which to put and answer these questions. What of that? These agents are military agents, although wearing the garb of the civilian. They are called provisional governors, but in reality they are commissioners to propose terms of peace or to see if peace has come in reality, or whether it is a hollow and deceitful appearance of peace only. They are not civil governors, but provisional governors. No matter what you call them; names are of no consequence. If they had been sent out simply as spies, by a commanding general to ascertain the temper of the people; to learn whether they mean to keep the peace, or, soon as the Army is withdrawn, to fight again, for the purpose of satisfying the President whether he could safely withdraw his military force or not, it is all the same thing. It is, of necessity, a military question, and clearly within the scope and duty of a military commander. It is, therefore, no invasion, no trampling upon the rights of any of those States, to use such agencies.

Now, to illustrate this a little more fully. Suppose the President had not employed anybody, but had gone himself to do all these things that his agent, his commissioner, provisional governor, or whatever you call him, is authorized by him to do; and suppose he should go around himself among the people, and that all his Cabinet should go along with him, administering oaths of allegiance, and organizing elections by which the people could show their disposition toward the Government, in order that, upon his own knowledge, he could determine whether it was his duty still to keep the Army in force or to withdraw it, and say to the people of the State, "Now you can go on; I leave you to yourself; reorganize your civil government, republican in form;" what then would become of this objection that the President was assuming power? It would vanish in an instant.

But suppose he had done this, which in my judgment would have been the simplest of all; suppose he had authorized the general in command to act for him, to do all this through officers in the Army, to test the loyalty and allegiance of the people of that State toward the Government of the United States; to advise them to accept the situation in which the war has placed them; to abolish the institution of slavery; to ratify the amendment to the Constitution of the United States which abolishes slavery in every State, and thus demonstrate that they have accepted their situation as free States forever as the result of this war? Or, go a step further, and suppose that he had authorized General Sherman to make just these propositions to them; suppose they had been made as a part of the term of the surren-

der of the armies under the express direction of the President, who could ever doubt the President's power as Commander-in-Chief to make them? Who, then, I ask, can doubt that the President has power to send an agent down into any one of those States, and by the co-operation of the military commander, do precisely the same thing now? Who can doubt it?

The reason, probably, why the Administration, instead of employing a general in command, appointed special agents to do this duty, was twofold: first, because it was supposed that some person who had personal influence among the people, who had not been connected with the Army, might have more influence in prevailing upon that people to accept the situation war had brought upon them than one who had passed through their country in the terrible storm of war, and whose red right hand had been to them like the scourge of God. It was doubtless supposed that a man selected from among their own people, of great influence among them, might be listened to, that his counsels would be more likely to lead them in their very souls to submit, in good faith, to the authority of the Government. We know that, in ancient times, there were certain persons performing substantially the same duties, who were denominated heralds, who were sent out to announce terms of peace upon the termination of the conflict. It does not matter by what names these persons are called. The power exists as one of the necessary incidents of military authority and military operations, a part of which is to make peace as well as to make war.

Another reason, probably, why Mr. Johnson appointed these provisional governors grows out of the fact that his predecessor made similar appointments, and substantially adopted the same policy. As Mr. Johnson's Cabinet is composed of the same men who constituted the Cabinet of Mr. Lincoln, no doubt their advice has been to him the same which they gave to Mr. Lincoln, and which he has accepted as the true policy in restoring civil government in those States.

You remember, as I have before stated, that Mr. Johnson himself was appointed military governor of Tennessee. He had experience in that capacity in endeavoring to restore civil government in that State. Probably no man in the United States was better prepared to judge than Andrew Johnson, growing out of the fact of his ability, his perfect knowledge of the South and of the people of the South, and his actual experience while he was military governor, as he was called, of Tennessee. Therefore he was likely to follow Mr. Lincoln in the line of policy adopted by him, and which he had himself actually tried and put into operation.

But I now come to the question of representation in Congress.

Having shown them to be States in this Union, and therefore entitled to representation under the Constitution; having shown that Congress, by the same law under which the present House was elected and organized, apportioned the two hundred and forty-one members just as much among these eleven southern States as among the remaining twenty-five, and that under that law their right to representation is just as certain as the right of any northern State. I now come to consider another and wholly different question.

First, whether they have properly chosen Senators and Representatives; and

Second, whether they have chosen right Representatives.

Although a State may have a right to choose Representatives, it may not be in a condition to choose them. A raging pestilence might suspend elections; a foreign invasion might make them impossible; insurrection and civil war might do the same thing; the temper of a people might become so diseased or estranged, that for a time they would refuse to choose them. While this would not take away the right to have Representatives it would deprive them of Representatives in fact.

Again, in exercising the right to choose, they may select men, incapable, ineligible, or unfit to be received in either House of Congress.

A friend asked me the other day, shall this Congress admit as Senators and Representatives rebels fresh from the battle-field, whose swords are yet dripping with the blood of our sons and brothers? No, sir, no; who has ever thought or dreamed of any such thing? The oath required of them makes that impossible. And does any one suppose that this Senate, which expelled Bright for writing a letter to Jefferson Davis, has not the power or the courage to defend itself against the guilty instigators of this great crime? Have we no confidence in ourselves?

Another asked, what security have we that the South will not rebel again if we admit their representatives? I answer this question by another: would there not be tenfold more danger of their rebelling if we do not give them representation than if we do? Who does not know that the most justifiable of all causes for rebellion or revolution is *to tax and govern a people without representation*? The old Thirteen rebelled against England for that, and four of those thirteen are among the States my colleague would now reduce to the territorial condition. Up to this time the South never had any justifiable cause for rebellion.

Follow out the policy of the Senator from Massachusetts and my colleague, and you will give them what all the world will say is a just cause for war. By so doing, we shall change positions with them. We shall place ourselves in the wrong, and give them just cause of complaint, now that they have surrendered. We were right in the beginning; right in every step of our progress in the war; right in authorizing the President to end the war when the supremacy of the Constitution was vindicated, and the union of the States, with their rights and equality unimpaired, restored; right in tendering to the rebels upon their surrender magnanimous terms of peace, more magnanimous than we would offer to a foreign foe, because they are a part of our people, with whom by interest, by necessity, and by the logic of geographical and commercial position, we are forever bound to live and hold the closest relations. If we now direct the President to withdraw the terms of pacification he has offered and they have accepted, and above all, if we should in the spirit of this resolution of my colleague, declare them no longer States in this Union, but Territories, subject to the control of Congress as the other Territories of the United States, we should place ourselves in the wrong, falsify all our professions of devotion to the integrity of the Union, and reduce them to be our dependents and vassals.

For one moment consider the condition of the Territories. They are not under the Constitution at all. Mr. Webster in one of his masterly efforts, Mr. Benton in his review of Dred Scott, demonstrated that the Constitution is for States and not for Territories at all. Territories are outside dependencies, and governed by Congress, not under its power limited by the Constitution, but by its absolute power. The Supreme Court decided in *Canter's case*, and have often affirmed the doctrine, that Congress possessed all legislative power over the Territories as absolute as in the District of Columbia.

What, in effect, does the Senator from Massachusetts and my colleague propose? To place outside of the Constitution and to govern with unlimited power eleven States and ten million people, nearly one third of all the States and people of the United States, without any representation. And is this the way to pacify a great country and satisfy the wish of a great people?

The people of the South have been so completely prostrated by this war that they would bear almost any humiliation before rising in arms again. But if there is any mode of proceeding more likely than any other to provoke them to do so it is this proposition thus to reduce them to be our vassals.

What effect would it have upon ourselves?

It would turn the North into a nation of slaveholders, the people of the South being our slaves. All slavery in the end destroys both master and slave. This would very soon make the South not fit to be free, and we ourselves become too much corrupted and demoralized by the exercise of such power to permit them to be free.

To hold them thus would require the presence of a large standing army, which, if kept on foot for a long time, is sure in the end to undermine the virtue of republican institutions and prepare the way for a concentrated despotism, perhaps an empire.

It would subject us to incalculable expense, which the financial situation of the country is in no condition to bear.

It would, in my opinion, and in this I feel that I am sustained by the opinion of the present able head of the Treasury, affect our national credit most disastrously at home and abroad. It is well known that upon the reception of the President's message at Frankfort-on-the-Main our bonds advanced two per cent. Reverse his policy and treat those States as subject, conquered provinces, and our national credit would sink at once. Such a course would incite, if not produce, another civil war.

It would keep the question open, to be the source of ever-increasing irritation, until all hope of union would be gone.

It would demoralize and dishearten the friends of the Union at the South, and turn their loyalty into hatred. "If," said Mr. Lincoln, "we reject and spurn them, we do our utmost to disorganize and disperse them. If, on the contrary, we recognize and sustain them, the converse of all this is made true; we encourage their hearts and nerve their arms to adhere to their work, and argue for it, and proselyte for it, and fight for it, and feed it, and grow it, and ripen it into a complete success." It would make those who hated the Union during the war, and who, upon the surrender of Lee, gave up all hope or thought of further resistance, and were ready to renew their allegiance to the Constitution, hate the Union more bitterly than ever.

Again, sir, other grave considerations plead to sustain the President's policy. How can we hope that the great mass of the people South will engage earnestly and hopefully in the production of cotton, the great staple of export, unless the pacification of the States is made complete, and in time for the coming crop?

Our financial situation, therefore, demands peace, and peace as a reality. Such a peace would be impossible if we attempt to reduce those States to the condition of Territories.

Some speak of the wealth of our mines. I do not doubt it. But for present resources to meet our engagements they cannot compare with the cotton fields of the South. Every dollar of gold produced in Colorado has thus far cost two. When the railroad reaches the mountains, to carry laborers and supplies, that will be reversed; but not till then.

But were peace now fully restored the cotton fields of the South, worked by free labor and free capital, this season would produce all that our necessities require, and all that industry should hope for to those who engage in it.

I have just seen a letter from William A. Parker, from Evergreen, Alabama, under the date of January 8, 1866, to the Commissioner of Agriculture, in which he says:

"As it may not be uninteresting to you to know what are the agricultural prospects of the present year in this section, I will briefly state the results of my observations in this and the adjoining county of Monroe.

"There is a vigorous and enterprising spirit prevalent. The preparations for the coming crop in the two respects of land and labor are more extensive than ever before.

"The freedmen have shown themselves willing and ready to enter into fair and reasonable contracts to perform labor. Nearly all of them are already employed.

"Planters and farmers are sanguine. A better state of things generally exists than has been known for a long time in this part of the country. There is less idleness and more work on the part of all classes. There is also being exhibited an increased interest in education.

"I have the honor to be, &c."

Sir, everything in our power shall be done to secure the crop of the coming season.

Again, sir, how do we stand in relation to foreign Powers? Who does not know that during the rebellion the Emperor of France desired and believed in its success? Because he believed in it he undertook the Mexican intervention. Lord Palmerston sympathized with him, and would, if he could, have committed England to join with him to establish the independence of the southern confederacy.

But England saw a few piratical cruizers, built in her ports and manned by her sailors, under the rebel flag sweeping our commerce from the ocean. She saw at once, that in case of war with us, our cruizers would swarm in every sea and destroy her commerce in return. Therefore, from interest, she refused to accept Napoleon's offer.

And now, can any man so far blind himself to the situation as not to know that we must close up this civil war and restore the union of these States in such a manner as to have the right to claim the allegiance of the southern people before we can speak with the voice of a united people, either to England about damages or to France about intervention in Mexico?

There is no great consideration worthy of a statesman in this crisis which does not plead for and insist upon pacification, and, in my judgment, there is no better way than to carry out the Lincoln-Johnson policy of reconstruction.

The war of blood is over. It is now a moral warfare; a warfare with the reasons, hearts, feelings, passions, prejudices, and sentiments of that people. And of all the propositions which can be conceived there is none, in my judgment, which will so shock the reason, so deeply wound the sensibilities, and so rouse the passions and prejudices of that people, as this proposition to tax and govern them without representation. I now speak of the great mass of the people in those States.

Let no man misunderstand my position. With those guilty leaders who, in this Senate and elsewhere, incited the people of those States to revolt, I have and can have no sympathy. They deserve none. Since the angels rebelled in heaven there has been, in my judgment, no such crime against God or man.

Why should I have sympathy for them? Do I not remember that if all the blood they have caused to be shed had been poured out in one vast reservoir, Jefferson Davis, his cabinet, and the whole rebel congress could have swam in it? Do I not remember that our prisoners at Andersonville and at other places have been starved to death by thousands, and that upon the authors of such barbarities no punishment is too great? Ah! can I ever forget, until this heart shall cease to beat, that my eldest son, the pride of my life, has been sacrificed in this war, caused by these guilty conspirators? However strong my indignation toward the guilty leaders, I will not allow myself to forget that the great mass of the people of the South were honestly misled by the teachings of Calhoun and his disciples, the press, the schools, and the clergy, upon the right of secession and the blessings of slavery. Nor will I blind my eyes to the fact, equally true, that now the mass of the thinking men of the South, and especially those who were in the rebel army, have not only surrendered their arms, but have surrendered those two ideas upon which alone they made the war. Upon this subject the concurrent testimony of Generals Grant and Sherman, and all the great officers of the Army, is conclusive. They have morally surrendered their cause.

Toward the mass of the people, then, I do have sympathy. In my judgment it is our duty and our best policy to carry out in good faith the terms of pacification tendered by President Lincoln and President Johnson, and accepted by them. Let us at once recognize them as States in the Union, entitled to representation, and take up for consideration each State by itself, and inquire into the election returns and qualifications of those who claim the right to represent them. Let us begin with the State of Tennessee.

My colleague assumes to say that he speaks the voice of loyal Wisconsin. Sir, I do not

doubt his sincerity. But I venture to say that, in my opinion, he will find himself greatly mistaken. I know that the late convention of the Union party in that State unanimously resolved that the States of the South were still States of this Union, and that neither by peaceful secession nor by force of arms could they be taken out of this Union under the Constitution.

Another resolution adopted by that convention reads as follows:

"That the animus which caused the late rebellion against the United States, was born of the pride and ambition of an aristocracy founded upon slavery, which the war and the emancipation proclamation of President Lincoln has rightfully destroyed; but we deem it essential to the regeneration of the late slave, but now free States, that they should, in good faith, accept their new situation as free States, not only by abolishing slavery in their State constitutions, but by the ratification by their Legislatures of the amendment to the Constitution of the United States, submitted by Congress and now pending, which forever abolishes slavery in every State, and empowers Congress to pass all laws necessary to secure liberty to all the people, black and white. By its adoption the cause of the rebellion will be removed, slavery destroyed, and liberty established upon a foundation which neither State, nor President, nor Congress, nor court, nor change of parties, can shake—as enduring as the globe itself. By its adoption by the people of those States all the world will know that they accept freedom as their situation, and give up slavery and all hope of restoring slavery forever.

That through the influence of certain newspapers and speeches, there may be some division of sentiment among the members of the Union party now is possible. But when my colleague goes before the people of Wisconsin with the proposition to reduce eleven States to the territorial condition; to tax and govern eleven States and ten million people without representation; when he proposes in effect to do what the rebellion could not do, tear the national flag in twain; to take eleven stars from that flag and reduce the number to twenty-five, he will find, in my humble opinion, that he has utterly mistaken the people of Wisconsin.

If he had said that they look upon treason as a crime, and that some of the guilty leaders should be tried and convicted; if he had said that they insist that under the constitutional amendment Congress should see that the freedman is protected in his civil rights of life, liberty, and property; if he had said that since the abolition of slavery in the southern States has disturbed the basis of apportionment in the House of Representatives, a more just apportionment might be made having reference to the voting or taxable population of the several States, I would agree with him. But upon this proposition of his he would find himself in a minority of less than one third of the voters of Wisconsin. The loyal people of Wisconsin, and of all the States, have been fighting for the integrity of the Union and the entirety of the flag; for pacification upon the basis of the *union of the States under the Constitution*. If this Congress will not act upon that basis, the next Congress will. That is the corner-stone. Whosoever shall fall upon that stone will be broken in pieces; but upon whomsoever it shall fall it will grind him to powder. Men and cliques and parties may oppose and for a time postpone. But as sure as to-morrow's sun shall rise, it will come. Whosoever stands in its way will be trampled in pieces.

In conclusion, from the beginning, and from before the beginning, any separation or destruction of the States, was made impossible. Under the old Confederation, the Union of the States was made "perpetual." And the Constitution was formed to make a more "perfect Union." To admit, therefore, either the right of States to secede, or the power of Congress to expel them, would be to admit into our system a principle of self-destruction wholly at war with a perpetual or perfect Union. The Constitution, every part of it, and the spirit which gives it life, are against peaceable secession; and that Constitution clothes the Government which it creates with every human power to prevent a separation by force of arms. Those gigantic powers, which had slumbered so long that they were wholly unknown to the world, and hardly dreamed of by ourselves, have been lately brought into full play.

Whatever may be said of the crime of the rebellion, history will record it as one of the most persistent, self-sacrificing, and tremendous struggles the world ever saw; both on the part of the rebels, and on the part of the loyal people of the United States. No other people upon earth could have so resisted, and no other people and no other Government could have overcome such resistance.

But we did overcome it. We did prevent the separation of these States from the Union by force. Every law of Congress, every act of the President, every blow we struck, every shot we fired, every drop of blood we shed, was not to thrust these States out, nor to open a way for them to go out, nor to reduce them to Territories, but to keep them as States in the Union, and compel them to remain in the Union under the Constitution. The flag of our country bears thirty-six stars, as the emblem of a Union of thirty-six States. Wherever it floats, over this Capitol, at the head of our armies, in the storm of battle, and in the hour of victory, over the sea as well as over the land, that sacred ensign, which, next to the God of heaven, we love and reverence as representing the good, the great, and the true, everywhere bears thirty-six stars, and thereby proclaims to the world the great, fundamental, national truth, there are thirty-six States in the Union, under the Constitution. Thirty-six States constitute that great Republic which the world calls the United States of America. Upon "that line" and under that flag we began the great campaign; upon that line and under that flag half a million of our sons and fathers and brothers have laid down their lives; upon that line and under that flag we fought it out to victory, and now, God helping me, I will continue to fight it out on that line and under that flag to the end, whoever else may abandon it.

[Applause in the galleries, which was checked by the Presiding Officer.]

Mr. NESMITH. I desire to address the Senate on the pending question, but it is now rather late.

Mr. STEWART. With the permission of the Senator from Oregon, I move that the Senate do now adjourn.

Mr. NESMITH. I give way for that purpose.

PERSONAL EXPLANATION.

Mr. CRESWELL. Before that motion is put, I desire to say a word with the permission of the Senate. I regret exceedingly that I was not in my seat yesterday when the vote was taken on the motion of my colleague to lay on the table the resolution of the honorable gentleman from Michigan, [Mr. CHANDLER.] I regret it, sir, because if I had been present on that occasion I should have voted in favor of the motion of my colleague, and I should have done so in order to express my decided and unqualified approbation of the manner in which the President has seen proper to conduct the questions with relation to our foreign policy with the Government of Great Britain; and further to declare it to be my opinion that it is better for the interests of the nation that, for the present, all questions touching those matters should remain in precisely the same attitude in which the President has left them by his correspondence.

HOUSE BILLS REFERRED.

The PRESIDING OFFICER. Before putting the question on the motion to adjourn, the Chair asks the indulgence of the Senate to present two bills from the House for reference.

The joint resolution (H. R. No. 40) directing the Secretary of War to postpone the sale of public property at Point Lookout, Maryland, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

The bill (H. R. No. 84) to regulate the times and places of holding the district court of the United States within and for the district of Maine, was read twice by its title, and referred to the Committee on the Judiciary.

Mr. STEWART. I renew my motion.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 17, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

The SPEAKER stated that the regular order of business was the call of committees for reports, the pending business being the bill reported yesterday from the Committee on the Judiciary (H. R. No. 26) to incorporate the United States Mutual Protection Homestead Company, on which Mr. BOUTWELL was entitled to the floor.

DEPOSITS OF PUBLIC MONEY.

Mr. LONGYEAR, by unanimous consent, offered the following resolution:

Resolved, That the Secretary of the Treasury be directed to inform this House with what States, if any, deposits of the public money were made, under sections thirteen and fourteen of an act entitled "An act to regulate the deposits of the public money," approved June 23, 1836, together with the dates and amounts of such deposits respectively, and whether the same, or any, and what amounts thereof still remain so deposited, and with what States respectively.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration on this day.

There being no objection, the resolution was considered, and agreed to.

DELEGATE FROM ARIZONA.

Mr. BLAINE. I rise to a question of privilege, and present the credentials of Hon. JOHN N. GOODWIN, Delegate-elect from the Territory of Arizona, who is present and ready to take the oath.

Mr. ASHLEY, of Ohio. I am requested by a gentleman contesting the seat of that gentleman to ask to have the credentials read.

Mr. BLAINE. I desire to make a statement connected with this matter.

The SPEAKER. If there is no objection, it may be made.

Mr. BLAINE. The election in Arizona took place on the first Wednesday in September last. The law of the Territory requires returns to be made, certified by the acting secretary of the Territory, to the Governor within a specified number of days. They were so certified, and the Governor of the Territory having himself the highest number of votes in the election, certified the returns and forwarded the credentials to the Clerk of this House, and his name was called on the roll on the first day of the session, just in the same manner that Representatives-elect were called. But unwilling to let it rest there, Mr. GOODWIN presents credentials in duplicate, certified by Mr. McCormick, then secretary, and now acting Governor of the Territory, which credentials I now send to the Clerk's desk and ask to have read.

The Clerk read the credentials, as follows:

THE GOVERNOR OF THE TERRITORY OF ARIZONA,

To all whom these presents come, greeting:
Whereas the assistant secretary of the Territory of Arizona, on the 21 day of October, A. D. 1865, has certified to me that returns have been received of the election held on the first Wednesday of September, A. D. 1865, for Delegate in Congress from this Territory for the term commencing March 4, 1865, from all the counties in said Territory, and that John N. Goodwin, in said Territory, has the largest number of votes: Therefore,

I hereby declare John N. Goodwin to be duly and legally elected Delegate in Congress from the Territory of Arizona for the term aforesaid.

In testimony whereof I have hereunto set my hand and caused to be affixed the great seal of the [L. S.] Territory of Arizona. Done at Prescott, this 30th day of November, in the year of our Lord 1865.

RICHARD C. McCORMICK,

Acting Governor.

Mr. GOODWIN then appeared and was qualified by taking the oath to support the Constitution of the United States under the act of July 2, 1862.

BAYOU SARA MAIL COMPANY.

Mr. SMITH, by unanimous consent, introduced a joint resolution for the relief of the New Orleans Bayou Sara Mail Company; which was read a first and second time, and referred to the Committee on the Judiciary.

DELEGATE FROM ARIZONA—AGAIN.

Mr. ASHLEY, of Ohio. I present the memorial of Charles D. Poston, contesting the seat of Hon. JOHN N. GOODWIN as Delegate from the Territory of Arizona. I move that it be referred to the Committee of Elections, and printed.

Mr. DAWES. It is customary to refer such petitions to the Committee of Elections, and they are authorized to have printed such matter as they deem necessary.

Mr. ASHLEY, of Ohio. Well, let it be referred.

The petition was referred to the Committee of Elections.

POINT LOOKOUT, MARYLAND.

Mr. SCHENCK. I am instructed by the Committee on Military Affairs to report a joint resolution, requesting the Secretary of War to suspend the sale of Government buildings and other property at Point Lookout, Maryland, and to ask the immediate action of the House upon it. I send the resolution to the Clerk's desk, and will make an explanation of the necessity of action at once, if there is to be action at all.

Mr. WASHBURN, of Illinois. I have no objection if the morning hour has commenced.

The SPEAKER. The morning hour has not commenced. It was cut off by a question of privilege. The first business in order is the call of committees for reports, commencing with the Committee on the Judiciary. Does the gentleman from Massachusetts [Mr. BOUTWELL] yield to the gentleman from Ohio?

Mr. BOUTWELL. I do.

Mr. SCHENCK. Members of the House are probably all aware that Point Lookout is where the Potomac enters into Chesapeake bay. There are some three or four hundred acres of land there, upon which, before the war, there were buildings occupied as a watering-place—generally, or perhaps altogether, frame buildings. They were taken during the war for hospital purposes, and there was also established there a depot for prisoners. The buildings at that time were worth comparatively but a small sum to the owners or any one else; but the United States, during the war, expended at that place, in the construction of buildings and other improvements, perhaps at least \$150,000. The Secretary of War has advertised for sale those improvements and buildings, and the furniture in the buildings, and other property of the Government now there; and that sale is to take place to-morrow. In the mean time a patriotic lady has secured a title to the property, and proposes to present that property as a donation to the National Naval and Military Asylum, which was incorporated last March by Congress, as a home for soldiers and sailors disabled in the service, provided the Government would also give this public property, consisting of the improvements made.

The subject was referred to the Committee on Military Affairs, but there has as yet been no time afforded to that committee to consider it. The subject only came before the committee this morning for investigation. What we ask now is that until Congress shall have time to look into the matter and consider the propriety of accepting the donation of this lady, the Secretary of War shall be directed to suspend this sale, which otherwise will go on to-morrow. If the sale takes place to-morrow, the probability is that \$200,000 worth of property will be sold for a mere song. The sole object of the resolution is to stop the sale until there can be an investigation and action by Congress.

The joint resolution was read a first and second time, ordered to be engrossed, and read a third time; and being engrossed, was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PRIVILEGE OF THE FLOOR.

Mr. KASSON, by unanimous consent, sub-

mitted the following resolution; which was read, considered, and agreed to:

Resolved, That Hon. George M. Chillicott, claiming a seat in this House as member from Colorado, be admitted to the privileges of the floor pending the consideration of his claim.

CAPTAIN JOHN FAUNCE.

Mr. RICE, of Massachusetts, by unanimous consent, introduced a joint resolution for the relief of Captain John Faunce; which was read a first and second time, and referred to the Committee on Naval Affairs.

MUTUAL HOMESTEAD COMPANY.

The House resumed the consideration of House bill No. 26, to incorporate the United States Mutual Protection Homestead Company.

The pending question was upon agreeing to sundry amendments reported from the Committee on the Judiciary.

Mr. BOUTWELL. The amendments reported from the Judiciary Committee are upon the desks of members in a printed form. I am further directed by the committee, informally, to move to amend one of the amendments of the committee by striking out the name of "Joshua Hill, Georgia;" the effect of which will be to restore him to the place he occupied in the original bill as one of the corporators. And I will also move to add the name of William E. Chandler, of New Hampshire, to the list of corporators named in the bill. I will now call the previous question on the bill and pending amendments.

Mr. BROOMALL. Will the gentleman from Massachusetts [Mr. BOUTWELL] withdraw that call for a moment to allow me to ask him a question?

Mr. BOUTWELL. Certainly.

Mr. BROOMALL. I would call the attention of the gentleman to the provision in the third section, by which this corporation is permitted only, not required, to open books for the subscription of capital stock, and allow the public generally an opportunity to subscribe. I would ask the gentleman whether he has any objection to modify that section so as to make it obligatory on the corporation to open books. That can be done by striking out the words "whenever said company may deem it useful or necessary in prosecuting the objects aforesaid, they may," and insert the words "said company shall." And the fourth section should then be amended by striking out the words "until the company may provide for the subscription of stock." With that alteration I am willing to vote for the bill.

Mr. BOUTWELL. I have no objection to the modifications suggested by the gentleman from Pennsylvania, [Mr. BROOMALL.]

Mr. BAKER. Mr. Speaker, I hope, as a new member here, I will not be deemed obtrusive in the desire to say to the House that my strong impression is that this bill should not pass, and to briefly state my reasons therefor.

First, this bill, as I understand it, creates what purports to be an eleemosynary corporation for charitable purposes, with proprietary rights in the corporators; this right of ownership becoming, by operation of law, absolute in the corporators at the end of five years. The money the corporation will receive as charitable contributions for the promotion of emigration, &c., may, under the terms of the bill, be invested in lands, the title of which will at once vest in the corporation, and the rents of which accrue to the corporation, or be loaned on landed security, the interest going to the corporation, and the principal, too, at the end of five years. This is what I understand the words of the bill will admit of, though I may be mistaken.

The bill confers an immense and exclusive privilege on a small number of persons to lease, purchase, hold, sub-let, and convey lands, and loan money, without limitation as to interest, on mortgage or pledge of growing crops, there being no effectual limitation as to the amount of land or money which may thus be held or loaned, for I do not understand the third section, or the fifth (amended) section, to be such a limitation. Those sections may be dispensed

with almost entirely by the corporation; and if not dispensed with they are still not a proper limitation, for they provide for a capital stock of ten-dollar shares by subscription, and do not, after a nominal compliance with these sections, interfere with the receipt of donatives, the holding of lands, and the loaning of money on any interest and to any extent the company may desire under the powers given by the second section.

Secondly, this bill will be a precedent for corporations, for the conferring of special privileges on the few, which, if it becomes a law and is followed up, may lead the way to shingling the Republic over with corporate privileges originating in the central Government. This is a step toward consolidation which I am not prepared to take, and one which I fear would have a most pernicious influence on the institutions and liberties of the country. I do not want the policy of this Government brought under the influence of mammoth corporations of wealth and power, originating in the center and extending in long radii through and over the whole country. We can find a better cement of union than that. Nor will I be seduced to entering on such a course by any appeals to charity. We can find a better method of doing our legislative aims than that.

Thirdly, the power to pass such an act is exceedingly doubtful. The doctrine of McCulloch vs. State of Maryland, holding the constitutionality of the United States Bank, is as follows:

"The power of establishing a corporation is not a distinct sovereign power or end of government, but only the means of carrying into effect other powers which are sovereign. Whenever it becomes an appropriate means of exercising any of the powers given by the Constitution to the Government of the Union, it may be exercised by that Government."

And the powers cited for this purpose by Chief Justice Marshall, as authorizing the creation for a bank, were the powers to levy and collect taxes; to borrow money; to regulate commerce; to declare and conduct a war; and to raise and support armies and navies. In executing these powers the court thought a bank might, by implication, be incorporated; and the court places stress on the greatness of these powers and their vital importance to the existence and safety of the country. Now, I ask the gentleman from Massachusetts [Mr. BOUTWELL] to state what part of the Constitution is relied on to justify the creation of the corporation provided for in this bill? I am persuaded the case cited will not cover the proposed corporation.

Mr. BOUTWELL. I now call the previous question, and if the call is sustained, I will then make some explanations to the House.

Mr. BROOMALL. Will the gentleman from Massachusetts [Mr. BOUTWELL] withdraw the call for the previous question for a moment, as this is a matter of great importance?

Mr. BOUTWELL. I propose, after the previous question is sustained, to take what time may be left of the morning hour for explanation of the bill.

Mr. BROOMALL. I hope the previous question will not be sustained, and that important measures like this will not be forced through this House in this way.

Mr. BOUTWELL. Have I the right, Mr. Speaker, to a certain length of time after the previous question is seconded?

The SPEAKER. The gentleman from Massachusetts, [Mr. BOUTWELL,] having reported the bill from the Committee on the Judiciary, has the right to open and close debate upon the bill. He will, therefore, be entitled to an hour after the previous question shall be seconded.

Mr. BINGHAM. Will not that cut off the remarks of other members who may desire to debate this bill?

The SPEAKER. That is for the House to determine. If they sustain the demand for the previous question it will indicate a desire to close debate.

Mr. SCHENCK. I would ask the gentleman from Massachusetts [Mr. BOUTWELL] to make his explanations before he calls the previous question, as upon those explanations might depend very much my vote upon the call for the previous question.

Mr. BOUTWELL. Very well; if there is no objection, I will make such explanations as I am able to make, and such as may be desired by gentlemen; and the time may be considered as taken from what I would be entitled to use after the previous question is seconded.

The SPEAKER. That can be done only by unanimous consent.

Mr. BROOMALL. I must object to that, unless others are allowed to state their objections to this bill.

Mr. ASHLEY, of Ohio. Has not the gentleman from Massachusetts [Mr. BOUTWELL] the right to go on for an hour, then call the previous question, and if that call is sustained, close the debate with another hour?

The SPEAKER. The gentleman from Massachusetts has already used up the hour allowed him to open the debate.

Mr. WASHBURNE, of Illinois. I should be glad to hear the remarks of the gentleman from Massachusetts, although I propose to settle the whole matter by moving to lay the bill and pending amendments on the table.

Mr. BOUTWELL. In order to give members a further opportunity to consider this bill, and to debate it if they please, I will move to refer this bill with the pending amendments to the Committee of the Whole.

Mr. ELDRIDGE. I rise to a point of order. I submit that the time of the gentleman from Massachusetts [Mr. BOUTWELL] has expired.

The SPEAKER. The Chair allows the gentleman from Massachusetts to occupy the floor till he decides what motion he will make. He will please decide as soon as possible. The gentleman from Wisconsin [Mr. ELDRIDGE] objects to further debate unless other members be allowed to take part in the debate.

Mr. BOUTWELL. Under the circumstances, Mr. Speaker, I am disposed to settle this matter to-day if we can. I will therefore demand the previous question, although I would not do so under other circumstances.

Mr. FINCK. I move that the bill, with the pending amendments, be laid on the table, and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 120, nays 32, not voting 30; as follows:

YEAS—Messrs. Allison, Ames, Ancona, Anderson, Delos B. Ashley, Baker, Baxter, Beaman, Benjamin, Bergen, Bidwell, Bingham, Blaine, Boyer, Brandegee, Bromwell, Brooks, Buckland, Chanler, Reader W. Clarke, Sidney Clarke, Cook, Cullom, Darling, Davis, Dawson, DeForest, Delano, Deming, Denison, Dixon, Donnelly, Eggleston, Eldridge, Farquhar, Ferry, Finck, Glossbrenner, Goodyear, Griswold, Hale, Aaron Harding, Abner C. Harding, Hart, Hayes, Henderson, Hill, Hogan, Holmes, Asahel W. Hubbard, Chester D. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, James Humphrey, James M. Humphrey, Ingersoll, Jenckes, Johnson, Jones, Julian, Kasson, Kelley, Kerr, Kuykendall, Latham, William Lawrence, Le Blond, Loan, Longyear, Marshall, Marston, Marvin, McClurg, McCullough, McKee, Mercer, Miller, Moorhead, Morrill, Moulton, Myers, Niblack, Nicholson, Noell, Orth, Paine, Patterson, Perham, Phelps, Samuel J. Randall, John H. Rice, Ritter, Rogers, Ross, Sawyer, Schenck, Seefeld, Shanklin, Shellabarger, Sitgreaves, Sloan, Spaulding, Starr, Stillwell, Strouse, Taylor, Thayer, Francis Thomas, Thornton, Trimble, Trowbridge, Upson, Van Aernam, Ward, Warner, Elihu B. Washburne, Welker, Stephen F. Wilson, and Winfield—120.

NAYS—Messrs. Alley, James M. Ashley, Baldwin, Barker, Boutwell, Broomall, Dawes, Driggs, Eckley, Eliot, Garfield, Grinnell, Higby, Hooper, John H. Hubbard, Ketcham, George V. Lawrence, Morris, O'Neill, Plants, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, Rollins, Smith, Stevens, William B. Washburn, James F. Wilson, Windom, and Woodbridge—32.

NOT VOTING—Messrs. Banks, Blow, Bundy, Cobb, Conkling, Culver, Dumont, Farnsworth, Grider, Harris, Hotchkiss, Demas Hubbard, Kelso, Ladin, Lynch, McIndoe, McKuer, Newell, Pike, Radford, Rousseau, Taber, John L. Thomas, Burt Van Horn, Robert T. Van Horn, Voorhees, Wentworth, Whaley, Williams, and Wright—30.

Mr. SMITH. I move to reconsider the vote just taken. I desire that that motion shall be entered.

Mr. ANCONA. I move that the motion to reconsider be laid on the table.

Mr. FINCK. I rise to a point of order, which is that the gentleman from Kentucky [Mr. SMITH] has no right to make the motion to reconsider, as he did not vote with the prevailing side.

The SPEAKER. Did the gentleman from Kentucky vote with the prevailing side?

Mr. SMITH. I voted "no."

The SPEAKER. Then the gentleman from Kentucky has not the right to make the motion to reconsider.

Mr. FINCK. I move to reconsider the vote by which the bill and amendments were laid on the table; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. ROGERS. I rise to a question of privilege. My colleague, Mr. NEWELL, is absent on account of the death of his uncle, and he will necessarily be away all the week. He had not the opportunity to obtain leave of absence before he went away. I now ask leave of absence for him.

Leave was granted.

DISTRICT COURT IN MAINE.

Mr. WILSON, of Iowa, from the Committee on the Judiciary, reported back, with an amendment, a bill (H. R. No. 84) entitled "An act to regulate the times and places of holding the United States district court of the United States within and for the district of Maine."

The amendment reported by the committee, which was read, proposes to strike out the second section of the bill, as follows:

That, in addition to the salary now fixed by law for the judge of the United States district court for said district, there shall be allowed and paid him for his travel from the place of his abode to the said several places of holding said terms of said court, at the rate of twenty cents per mile for going and twenty cents per mile for returning.

Mr. PIKE. Mr. Speaker, I hope that the amendment will not prevail. The object of the bill is to make two additional terms of the court in different parts of the State. It increases the traveling expenses of the judge. The position he holds is a responsible one, necessitating large labor, and requiring judicial learning and capacity, both of which the judge now possesses in a high degree. The present salary is \$2,000, a scanty sum, certainly, for such a place.

The effect of the amendment would be to pay the traveling expenses of the judge while holding his court in the remoter sections of the State, giving him but a small additional compensation. I cannot say how much, but perhaps a couple of hundred dollars a year. And I hope, Mr. Speaker, that the House will not concur with the committee, but will allow the section to stand as in the bill I presented.

Mr. WILSON, of Iowa. Mr. Speaker, the second section provides a mode for increasing the salary of the United States district judge for the district of Maine; but I think instead of increasing the compensation of the judge only \$200 a year, it will increase it from five hundred to a thousand dollars a year. It will be observed that the mileage provided in the section is twenty cents per mile.

The Judiciary Committee have reported against all propositions to increase the compensation of judges of United States courts, not because it was believed they are paid such salaries as persons should receive in positions of that kind, but because the House has invariably voted down propositions of this character. We have propositions from other sources to increase the salaries of other judges; and we presumed it to be best in this first report to report adversely as an indication of what will follow in all other cases.

Mr. PIKE. Mr. Speaker, I will say, with the gentleman's permission, that I spoke somewhat at random about the sum necessary to pay travel as provided in the bill, and if he has made calculations it may be that he is nearer right than I am. If so, I am willing to modify my proposition so far as to take one half the amount he names.

This is not an ordinary case of increase of pay, because the bill imposes additional duties, and those additional duties consist of this additional travel, involving additional expense.

Mr. CONKLING. Why not fix the amount of increase of salary in the bill so that we may understand exactly what it is?

Mr. PIKE. I have no objection to that. I am willing that it shall be provided the increase shall not exceed a certain sum in any one year.

Mr. CONKLING. I suggest to the gentleman from Iowa that this House has not uniformly been opposed to increasing the salaries of judges. I remember, in the district in which I live, the salary of the judge has been increased within three years; perhaps more recently; within two years. I doubt very much whether the House would now object to an increase of salary so much as they object to an indirect increase, which may be more, or which may be less.

Mr. PIKE. To meet the views of the gentleman from New York, I will move to add that the additional pay shall not exceed the sum of \$300 in any one year.

The SPEAKER. Does the gentleman from Iowa yield for that purpose?

Mr. WILSON, of Iowa. I cannot accept that modification of the amendment of the committee; but I am willing to allow the sense of the House to be taken on the amendment.

Mr. PIKE. I will say, with the permission of the gentleman from Iowa, one word further on this subject. This bill calls for the holding of court at places more than two hundred miles distant from the residence of the judge, a great part of the way by stage route, so that the expenses to be incurred by the judge in holding these additional terms approximate, if they do not exceed, the proposed addition to his salary. I now move the amendment which I have suggested, that the increase shall not exceed \$300 in any one year.

Mr. WASHBURNE, of Illinois. If this court be abolished, the \$300 will go on.

Mr. WILSON, of Iowa, demanded the previous question.

The previous question was seconded, and the main question ordered.

The House divided on Mr. PIKE's amendment; and there were—yeas 71, nays 23.

Mr. WASHBURNE, of Illinois, demanded the yeas and nays.

The yeas and nays were not ordered.

The amendment was agreed to.

The question recurred on striking out the section as amended.

Mr. WASHBURNE, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

Mr. STEVENS. I wish to inquire where the court is now held.

Mr. PIKE. In Portland, Wiscasset, and Bangor.

Mr. STEVENS. How large will the circuit be?

Mr. PIKE. From Portland, where the judge resides, to Machias—some two hundred miles.

Mr. STEVENS. Over those corduroy roads?

Mr. PIKE. A great portion of it is by stage.

Mr. BROMWELL. I would inquire of the gentleman from Maine what salary the judge now receives.

Mr. PIKE. Two thousand dollars.

The question was taken; and it was decided in the negative—yeas 72, nays 73, not voting 37; as follows:

YEAS—Messrs. Allison, Ames, Ancona, Anderson, James M. Ashley, Baker, Benjamin, Boutwell, Brandegee, Broomall, Buckland, Reader W. Clarke, Cook, Cullom, Davis, DeForest, Delano, Deming, Denison, Eldridge, Farnsworth, Ferry, Finck, Garfield, Goodyear, Aaron Harding, Abner C. Harding, Hart, Hayes, Henderson, Holmes, Chester D. Hubbard, Edwin N. Hubbell, James R. Hubbell, Kelso, Latham, William Lawrence, Le Blond, Loan, Marston, McClurg, McKee, Morrill, Morris, Niblack, Orth, Paine, Plants, Price, William H. Randall, Ritter, Rollins, Ross, Seefeld, Shellabarger, Sitgreaves, Sloan, Starr, Stillwell, Taylor, Thayer, Thornton, Trimble, Van Aernam, Robert T. Van Horn, Ward, Elihu B. Washburne, William B. Washburn, Welker, Williams, James F. Wilson, and Stephen F. Wilson—72.

NAYS—Messrs. Alley, Baldwin, Barker, Baxter, Beaman, Bergen, Bidwell, Bingham, Blaine, Blow, Bromwell, Chanler, Conkling, Darling, Dawes, Dawson, Dixon, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farquhar, Glossbrenner, Grinnell, Hale, Higby, Hill, Hooper, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, James Humphrey, James M. Humphrey, Ingersoll, Jenckes, Jones, Kasson, Kelley, Kerr, Ketcham, Kuykendall, George V. Lawrence, Longyear, Lynch, Marshall, Marvin, McCullough, Mercer, Miller, Moorhead, Nicholson, O'Neill, Perham, Pike, Pomeroy, Samuel J. Randall, Raymond,

Alexander H. Rice, John H. Rice, Rogers, Sawyer, Schenck, Spalding, Stevens, Strouse, Francis Thomas, Trowbridge, Upson, Warner, Windom, and Winfield—73.

NOT VOTING—Messrs. Delos R. Ashley, Banks, Boyer, Brooks, Bundy, Sidney Clarke, Cobb, Culver, Dumont, Grider, Griswold, Harris, Hogan, Hotchkiss, Johnson, Julian, Laffin, McIndoe, McKuer, Moulton, Myers, Newell, Noel, Patterson, Phelps, Radford, Rousseau, Shanklin, Smith, Taber, John L. Thomas, Burt Van Horn, Voorhees, Wentworth, Whaley, Woodbridge, and Wright—37.

So the amendment was not agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, was accordingly read the third time.

Mr. WILSON, of Iowa, demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was passed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SUFFRAGE IN THE DISTRICT OF COLUMBIA.

The morning hour having expired, the House resumed the consideration of the bill (H. R. No. 1) extending the right of suffrage in the District of Columbia; on which Mr. DARLING was entitled to the floor.

Mr. WILSON, of Iowa. I ask the gentleman from New York [Mr. DARLING] to yield to me a moment, that I may make a brief statement in regard to the bill under consideration.

Mr. DARLING. I yield to the gentleman for that purpose.

Mr. WILSON, of Iowa. Several gentlemen desire to be heard on this bill, and yet I think we may at this time fix an hour for taking a vote on the pending question. I suggest, therefore, that half past three o'clock to-morrow be fixed as the time for taking the vote. I believe the gentlemen who desire yet to be heard will have ample time, if we fix that hour, to make their speeches. Of course I desire, after the debate is closed, time to reply, if I find it necessary to do so.

I wish to state in addition that, in order that there may be a full understanding, I accept the amendment moved by the gentleman from New York [Mr. HALE] to my motion to recommit the bill, in order that there may be a vote had upon that motion, with the instruction thus included. It was my intention, when I made the motion, to withdraw it without asking a vote on it; but several gentlemen desire a vote upon this instruction, and therefore, for the purpose of enabling them to have that vote, I accept the amendment, so as to allow the vote upon that motion to recommit with instruction:

Mr. STEVENS. Do I understand the gentleman from Iowa [Mr. WILSON] to be in favor of the amendment, or only of allowing the motion to be made?

Mr. WILSON, of Iowa. That motion is already pending. I shall myself vote against the motion thus modified. But I desire to afford gentlemen an opportunity to vote upon it, as many of them I know desire that I should do so. Therefore, at the time I suggested to-morrow, I shall move the previous question on the question.

Mr. CONKLING. Before my colleague proceeds, I ask him to yield to me not exceeding five minutes.

Mr. DARLING. Certainly.

Mr. CONKLING. I avail myself of the courtesy of my colleague to save the trouble of answering by letter some inquiries and misunderstanding with regard to a proposed constitutional amendment which I introduced a day or two ago. By inadvertence no doubt, for which nobody is to blame, the report in the Associated Press mangled the amendment into nonsense. The two amendments proposed in alternative are in the report fused into one, and misstated in addition. A special dispatch to the Tribune implies that the point of the amendment is to confine the basis of representation to "citizens" as distinguished from "persons." I beg to say, therefore, first, that the purpose is not at all to

restrict the basis of representation to citizens. No such point as that was considered at all as the object aimed at in preparing the amendment. That question is foreign from the spirit of the amendment; entirely independent of it. The use of the word "person" or the word "citizen" disposes of that question in all amendments on this subject alike; and the one basis or the other does not enter into the motive or object of my proposition. The idea is wholly different. My sole purpose is to get rid of the present injustice and inequality of representation between different sections of the country, arising from the fact that four million people who have now no political rights are, in the present condition of things, to be represented in Congress whenever southern Representatives shall be admitted to seats. The entire object is to devise such a mode of adjusting representation that if race or color is made a ground for withholding political or civil rights the consequence shall be to deduct the whole of that race from the enumeration upon which political power is based. Its excellence, if it has any, consists in the fact that it prevents evasion, and insures the nation against votes to be cast in Congress in future on account of those who in truth have no political status in the country.

Mr. BLAINE. I want to ask the gentleman to allow the amendment offered by him, and recorded on the Journal of yesterday, to be read, because unless I seriously misapprehended it, it provides that representation shall be determined by counting the whole number of the citizens of the United States.

Mr. CONKLING. Most certainly that was its form, and it is not necessary to take up time to read it, as the gentleman would have seen had he been within hearing when I commenced my remarks. I had already explained that that question is wholly aside from the purpose of the measure. The amendment is the same, as to the real point of it, whether the word "persons" or "citizens" be inserted. "Citizens" was in the copy sent up only *pro forma*. My own preference and judgment are for "persons," not for "citizens," in this connection. I return now to the explanation that the whole point of the amendment was to exclude from the basis of representation the entire race, no matter what it may be, which, or any part of which, is excluded from political standing on account of race or color. I agree with my friend from Maine that it ought to be "persons," although the amendment now reads "citizens."

I am much obliged to my colleague for yielding to me to make this explanation.

Mr. DARLING. Mr. Speaker, I do not intend to occupy the time of the House on the bill now under consideration with any extended remarks, but a few practical ideas have suggested themselves to my mind which I thought I would embrace the very first opportunity to lay before them for their consideration. Washington, lying within the District of Columbia, is the capital of the nation; it is the fountain of the nation's law, as it is the property of the people of the United States. The representatives of the people in Congress assembled are in some degree supposed to reflect the varied political sentiments of their various constituents, as this magnificent pile and the other public buildings mark the liberality and taste of the people.

Now, sir, it is well known that the sentiments of the people of this country on the proposed question of colored suffrage are as varied as the shades of the people themselves. I would ask what public necessity exists for the passage of this bill at this time? There are no benefits which the colored people of this District could attain by the exercise of the right of suffrage that Congress could not bestow. Our right and power to legislate for this District are unquestioned, and instead of wasting days and weeks over a question which is exciting bitter feeling among our own people, had we not better give our attention to matters of great national interest which so urgently demand speedy action on our part? Let us pass laws for the education of the people of this District, and fit them ulti-

mately to receive the elective franchise; or, if anything is required to satisfy the intense desire manifested by some gentlemen of this House to bestow the franchise on those not now possessed of it, give it to every soldier who served in the Union Army and was honorably discharged, whether old or young, rich or poor, native or foreign-born, white or black, and show to the world that the American people, recognizing the services and sufferings of their brave defenders, give them as a recognition the highest and best gift of American citizenship.

If I know myself, I know that no unjust or unmanly prejudice warps my judgment or controls my action on any matter of legislation affecting the colored race on this continent. I believe in their equality of rights before the law with the dominant race. I believe in their rights of life, liberty, and the pursuit of happiness. And yet I believe that before we confer upon them the political right of suffrage, as contemplated by the bill now under consideration, we should seek to elevate their social condition, and lift them up from the depths of degradation and ignorance in which many of them are left by the receding waves of the sea of rebellion. There are many strong objections to conferring upon the colored men of this District the gift of unqualified suffrage without any qualification based on intelligence. The large preponderance which they possess numerically will inevitably lead to mischievous results. Neither would I entirely disregard the views of the people of this District, many of whom I know to be sound, loyal Union men.

I am proud of my State, proud of her record in the war. Look at the number of men she has put in the field—nearly half a million. I am proud of my city of New York, where I have resided nearly half a century. Democratic in politics though she may be, yet she was not wanting in patriotism. She has done her full share, ay, more than any other community, perhaps, in supplying not only men but means. Look at the vast treasure which she poured into the lap of the national Treasury. When did the nation ever appeal to her for national aid, and she refused the demand, and turned the nation away empty-handed? Where would the country have found the means to carry on that gigantic struggle but for the moneyed men of New York? Where would we have been had they not supplied the sinews of war? Yet she has steadily refused to grant unqualified suffrage to the black race, although their number is so small that it could not possibly have affected any election in the remotest degree.

I am proud of the State of New York, and the city of New York, for the toleration shown in all the essentials of liberty. New York does not deny to the colored man his civil rights. With a population strongly tinged with prejudice against this long-oppressed people, she permits them to share the privileges of her public vehicles, notwithstanding her sister Republican city of Philadelphia insists upon refusing that privilege to the colored man, although attired in the clean and simple garb of its founder, William Penn.

Sir, whenever the question of negro suffrage has been submitted to the people of my State, I have voted always and steadily for that amendment, unqualifiedly and unhesitatingly. And yet, under the existing circumstances which surround this question in this District, I am not in favor of giving the colored man here the right of suffrage without imposing an educational qualification. The proper qualification I consider odious, and disregard it entirely.

But I do not wish to see the Union party take any step in this direction from which they may desire hereafter to recede. Let us first rather seek to enlighten this people, and educate them to know the value of the great gift of liberty which has been bestowed upon them; teach them to know that to labor is for their best interests; teach them to learn and lead virtuous and industrious lives, in order to make themselves respected, and encourage them to act as becomes freemen. Then they will vote intelligently, and not be subject to the control

of designing men, who would seek to use them for the attainment of their own selfish ends.

My honored and learned friend from Iowa, [Mr. KASSON,] who addressed this House with so much force and eloquence on Monday, has, in my judgment, substantially covered the points in the case, and expressed what I believe to be the mature judgment of the majority of this House. Yet I think he was mistaken upon one point, in regard to the position the colored soldiers occupied in the closing scenes of the rebellion. I know him too well to believe that he would do the colored soldiers any injustice, or refuse to accord to them their full share of honor; nor do I believe that he intended to be so understood. If I mistake not, it was the colored troops who first entered, or at least entered simultaneously with the white troops, the city of Richmond after its evacuation, led as they were by an honored son of New York.

And, sir, let us go back five long, weary years of the war, when our heroic Army, passing through this city, penetrated into the home of slavery. As they passed on over the country, back came a swelling tide of dusty, weary, worn pilgrims, wending their way to the capital of the nation, the Mecca of their hopes, their ark of safety, their refuge and abiding-place, where no slave-driver's lash could longer print in letters of blood upon the quivering flesh of their unresisting victim the record of his own brutality and of slavery's infamy. And when the glad shout rang out over the land that here the representatives of the people had given liberty to this down-trodden and long-suffering people, and declared that here no man should longer hold in bondage his fellow-man, then on they came from the country wide and far, pressing in and on, eager to seek a home where they could breathe freedom's inspiring air, until now in numbers great they affect the State.

Now, Mr. Speaker, in conclusion, I desire to say that as no election will take place in this District until next June, there can be no reason for special haste in the passage of this bill, and that there is a proposition before this House, which seems to be received with very general favor, to create a commission for the government of this city; and in order to give an opportunity to mature a bill for that purpose, and have it presented for the consideration of this House, I move the postponement of the pending bill until the first Tuesday in April next.

Mr. Speaker, I yield the remainder of my time to my colleague, [Mr. HALE.]

Mr. WILSON, of Iowa. Before the gentleman from New York [Mr. HALE] begins his remarks, I beg to be allowed to suggest that, by general consent, the vote on the motion to postpone shall not be taken until to-morrow.

Mr. DARLING. I do not desire to press my motion to a vote until the motion of the gentleman from Iowa comes up.

The SPEAKER. The Chair understands that neither motion will be pressed to a vote until to-morrow at half past three o'clock.

Mr. HALE. Mr. Speaker, the debate before the House having taken a wide range, I beg leave to ask for the reading of the amendment which I had the honor to submit the other day, and which constitutes, as I understand, the question before the House.

The Clerk read, as follows:

Amend the motion to recommit by adding to that motion an instruction to the committee to amend the bill so as to extend the right of suffrage in the District of Columbia to all persons coming within either of the following classes, irrespective of caste or color, but subject only to existing provisions and qualifications other than those founded on caste or color, to wit:

1. Those who can read the Constitution of the United States.

2. Those who are assessed for and pay taxes on real or personal property within the District.

3. Those who have served in and been honorably discharged from the military or naval service of the United States.

And to restrict such right of suffrage to the classes above named, and to include proper provisions excluding from the right of suffrage those who have borne arms against the United States during the late rebellion, or given aid and comfort to said rebellion.

Mr. HALE. Mr. Speaker, the question before the House strikes me as one eminently practical in its nature—not one of theory, not

one to be decided according to any hypothesis as to general rights or general forms of government. The Constitution of the United States vests in Congress exclusive jurisdiction for the purpose of legislation over this District. The jurisdiction thus vested in us we cannot abdicate.

We do not propose to abdicate it. We simply propose to delegate certain local and administrative powers to the inhabitants of this District, or some of them, in such manner as we shall deem best. This bill does not propose to commit to the people of the District, or to anybody except this Congress, any power of general legislation. We are endeavoring merely to find out to whom we may best delegate the control of certain municipal affairs having relation to schools, poor-laws, streets, inferior courts of justice, police, and the like, and the simple question, as it seems to me, which addresses itself to this House, and should address itself to every member of the House, is, what is the best, the most feasible, plan, all things considered, for the accomplishment of this work?

Theoretical questions as to inalienable or inherent rights of suffrage or anything else do not, I think, arise here. The jurisdiction lies in us; the authority emanates from us. Whoever receives it from us receives it as a free gift—of grace, (if I may be allowed the expression,) not of right. I confess that, for one, I have little sympathy with those who uniformly appeal to theoretical and abstract questions of right and wrong as the sole guides for our course in legislative affairs. I do not believe that statesmanship is founded exclusively, or even mainly, on theoretical propositions. I believe that true statesmanship must learn to regard the facts and circumstances surrounding every proposition; must learn to look at the things which bear upon it in all directions; must learn that abstractions and theories must yield from time to time to the circumstances of the case. I do not even believe it wise for statesmen always to insist on what they may consider as purely abstract right. While I would never abandon or yield a principle which I deemed as right and of vital and essential importance, I would consider that we live in a world where all our efforts must be more or less tinged with imperfection—that we must not expect always to have that which we would consider under all circumstances the most highly desirable thing, but we must learn to be satisfied with taking the best that we can attain.

Hence it is that I regret to have heard expressions from members of my own party, in this House and out of it, indicating that they will insist upon their own peculiar views as to the details of this question, to the exclusion of all others, and that they are ready to ally themselves with our political antagonists for the purpose of defeating this proposition, which they think comes in some measure short of their own theories.

I believe, sir, we ought to try to harmonize our own views, that each ought to be willing to yield something of his personal impressions to meet the views of his associates upon this floor, and that by that course, and that course alone, we will attain to wise system of legislation here.

Mr. Speaker, I have heard much said on this floor of conservatism and of radicalism. I do not know, sir, that I understand the meaning attached to those words here. I am raw in parliamentary usage and unused to parliamentary nomenclature. I can only say for one, as I understand the true meaning of those words, there is no conflict between the purest and loftiest conservatism and the purest and profoundest radicalism. It has pleased friends of mine upon this floor to call me a conservative; and it has pleased friends of mine in other places to call me a radical. With my own construction of those words, I am willing to claim as well as to accept both appellations. If it be radicalism to favor an eradication of wrong, of everything that is unjust, of everything that is prejudicial to the public interests, from our political system just as fast as a due regard to the life and constitution of the patient under treatment may

permit, then most certainly I claim to be a radical. If it be conservatism to desire to preserve in full force and strength all that is excellent—and it is almost all excellent—in our political system, then most certainly I claim to be a conservative.

Mr. Speaker, I do not believe that the question before this House concerns exclusively the negro. If it did, I should be likely to express an opinion which I have sometimes before entertained, that perhaps the negro was engrossing a larger proportion of our time and attention than his comparative numerical force in this country or the extent of his interests here fairly entitled him to. I do not claim to be peculiarly or exclusively the friend of the negro. As belonging to the white race, connected with it by the ties of consanguinity, affinity, association, and habit, I may be pardoned for my preference for the white race. On the other hand, I have no sympathy with the propositions put forth at times from the other side of the House, that this is exclusively a white man's Government, and that no black man is to be recognized as a citizen here. I deny it utterly. I believe, when the Declaration of Independence put forth those principles so familiar to us all, it put them forth on behalf of all men, and not merely on behalf of white men.

But, again, I repel all the charges which have been made upon myself, and upon those who agree with me, from this side of the House, of being hostile to the black race or unmindful of their rights. The gentleman from Indiana [Mr. JULIAN] yesterday, in the course of his elaborate and able discussion of this question, charged that those who were in favor of restricting suffrage as proposed by these amendments were impelled to that course by hate of the negro; that it was his color and not his ignorance they feared; and he referred to negro-hating constitutions, as he was pleased to term them, represented by conservative gentlemen upon this floor. For myself and my constituents I repel the charge, and I challenge him to answer by what authority he accuses me and my constituents of hating any portion of God's human creation.

It was with feelings almost of pain, almost of indignation, that I heard the gentleman from Illinois [Mr. FARNSWORTH] the other day, in the course of his speech, use the name of Frederick Douglass, a colored man most widely known and most highly respected, in a connection I could not but consider as derogatory and insulting to him.

The gentleman saw fit to select the name of a person designated by him as the type and embodiment of all that was offensive to all his ideas of loyalty and worth, Mr. Fernando Wood, and to place him on a level with Mr. Douglass, as the type and embodiment of all that is worthy and excellent in the colored race. I neither indorse or repudiate the position the gentleman saw fit to assign to Mr. Wood, but I earnestly protest against such a compliment to Mr. Douglass. For myself, I can only say that the radicalism of the gentleman from Illinois [Mr. FARNSWORTH] falls far short of my own conservatism. I know nothing in Frederick Douglass that should induce the gentleman from Illinois, or myself, or any other member of this House, to be the highest or proudest in it in intellectual or social position, to consider himself in any degree disgraced or dishonored by occupying a seat by the side of Frederick Douglass on this floor or elsewhere.

Mr. GRINNELL. I ask whether the gentleman from Illinois did not beg pardon of Mr. Douglass for making such a comparison.

Mr. HALE. The gentleman will excuse me. His question is too far outside the range of my discussion for me to answer it here.

Mr. FARNSWORTH. Will the gentleman from New York permit me to explain?

Mr. HALE. Certainly.

Mr. FARNSWORTH. As the gentleman has referred to me, I will state that I deem it highly proper, in a discussion of this kind, in using figures of comparison, to take extreme cases. If I recollect right, however, at the

time I made the comparison I expressly asked, pardon of Frederick Douglass for using his name in that connection. I am very happy to have had occasion to speak in commendation of that gentleman, both as to his ability and his character.

Mr. HALE. Mr. Speaker, in order to weigh the comparative merits of the two propositions now before the House, let me recur briefly to the nature of those propositions, the condition of the District and the community to which they are applicable, and then I will briefly consider some of the objections that are put forth to my own amendments as proposed.

This District contains a population of very mixed character—a white population, which is now the sole depository of political power, undoubtedly embracing all those grades of population that most of our large cities contain, from extreme wealth, high intelligence, and cultivation, down to the lowest poverty, want, vice, and degradation. It contains a black population embracing almost as wide a sweep of distinction, a large part of which, I venture to say, from my own personal observation, is an educated, intelligent population, perfectly capable of appreciating the political questions which from time to time come before the country, and questions that may be referred to them for their action in their municipal organizations, as in an average community of white men the country over. It contains a population of black taxpayers numbered by hundreds, assessed for property amounting to hundreds of thousands of dollars. All these are now excluded from the right of suffrage.

On the other hand, it contains a black population which, undoubtedly, approaches to the very extreme of ignorance and degradation. Not necessarily vicious, but necessarily ignorant, extremely ignorant, and consequently, as a matter of course, vicious to a greater or less degree; a population that has come into this District suddenly, just freed from slavery, with all the marks of the burdens upon them that a state of slavery necessarily fixes upon its victims.

Now the question is submitted to us, how are we to deal with all these different classes?

Four courses, in substance, are open to this Congress, and I see but four. 1. To let the right of suffrage remain where it now is, exclusively in the whites. 2. To change that basis but still retain the present distinction, in some degree, at least, greater or less, between white and black; that is, leaving the right to be unequally exercised by the two races. 3. To extend suffrage equally and universally to white and black. 4. To extend suffrage equally and impartially to white and black, with limitations and restrictions for the purpose of excluding improper persons.

In what I have already said I have sufficiently expressed my own views as to the first two propositions I have here named—either to retain the present system, or to perpetuate the distinction of race or color in some form. To each of these I am opposed under all circumstances.

Now, sir, who are the parties interested in this question? Not merely the black, although their interest in it is great; not merely the inhabitants of this District, though their interest in it, too, is great. The nation is interested in it as the proprietor of this District, its creator, the Federal Government, whose location of its capital here has in fact made what there is of Washington city. More than that, the officers of the Government have a peculiar personal interest in this question; the members of the executive, the legislative, the judicial, and the administrative departments of the Government, all of whom spend more or less of their lives here each year, these are peculiarly interested in the question, how best shall a firm, temperate, vigorous municipal government be sustained in this District?

The propositions which I submit are based in my own mind solely upon this practical view of the question. I have not introduced these propositions from any political purpose, from

any desire to make political capital out of them. I put them forward as containing, in my view, the safest and best basis of a system on which the municipal affairs of this District should be administered.

I propose, first, that those who can read may vote. I have listened to many of the objections raised to this proposition, and I receive with all allowance and consideration objections that have been made from different quarters.

It is objected by members from the West that they could not stand upon this proposition at home, because among the pioneers of the West there is a large class of intelligent persons who are wholly uneducated in books. It is objected to by gentlemen from Massachusetts that although an educational test is successful there, it is not applicable under the state of things here, for the opposite reason; that in Massachusetts there is and long has been in operation a system of education so universal, so complete, so abundant in its resources that the educational test is practically of no importance there, for in effect all vote.

It seems to me, Mr. Speaker, that these two objections answer each other as far as they go. It is a sufficient answer to each of them to say that this proposition does not affect the right of suffrage in Illinois nor the right of suffrage in Massachusetts. It is a question simply as to this District in its present condition and with its present population.

Sir, I entirely disclaim the idea that whatever basis we may establish for the exercise of the right of suffrage in the District of Columbia is necessarily to be taken as applicable to any State of the Union. For myself, I say with frankness that in my own State I would propose a different basis, for the reason that my own State stands under different circumstances and with a different population.

It is objected that this proposition is to be viewed with suspicion on account of its origin. It is said that the educational qualification in Massachusetts is a bequest from the late lamented Know-Nothing party. Well, Mr. Speaker, I confess that if anything is calculated to give me a prejudice against it, that is it. I have not, and never had, any sympathy with the Know-Nothing party. I apprehend, however, that there are many gentlemen upon this floor who will discover nothing to excite prejudice in their minds to this measure in the fact of its origin there; and wherever it originated, as I never held to the dogma that no good can come out of Nazareth, I am willing to take it without regard to its origin. I have listened to words of wisdom upon this floor from gentlemen whom I recognize as former prominent members of the Know-Nothing party, both on this side of the Hall and upon the other.

It was argued at length by the gentleman from Indiana, [Mr. JULIAN,] in his speech yesterday, that education is not a perfect and complete test of the right of suffrage. Most certainly I should never claim that it was. I do not know any systems of human government that are perfect. Perhaps they have them in Indiana. I certainly know of none elsewhere. But will it be contended that education is not presumptively a better test of fitness to exercise the right of suffrage than ignorance? Will it be contended that of five hundred men who can read, and the same number who cannot read, taken at random, the former will not include a larger number fitted to exercise the right of suffrage than the latter? I have certainly never pretended that it was an infallible test. It is one of the things we take as an approximation, as the best thing we can do toward securing a fair test.

My next proposition is that tax-payers in this District shall have the right of suffrage, whether they can read or not. My first proposition covers all that can read; and next I say that tax-payers shall vote whether they can read or not. This is met with most strenuous objection from different quarters. Gentlemen seem struck with a sudden horror of the idea that a man may vote when he has property and pays taxes, and not when he has not. Why, Franklin's jackass has

been trotted out on this floor by the gentleman from New Jersey, [Mr. ROGERS,] and has been put through his paces several times since. He is an animal that has made a great deal of noise from the time of Balaam down to the present. I do not think it follows that he is an animal whose lead it is worthy to follow. I submit that there is a sound, well-considered reason for this provision in my amendment. The man who owns property and pays taxes upon it in this District has by that very fact an interest in the administration of the Government here that should entitle him to a voice in it, and in the laying of taxes and the disbursement and application of the revenues derived from them.

But gentlemen say the connection between property and suffrage is odious. I would like to ask gentlemen if the connection between taxation and representation is and has been for the last hundred years so odious a thing in this country. I have an impression that within the hundred years past this country has taken very decided position on the idea that there was a very proper connection between taxation and representation.

Bear in mind that I do not propose a property qualification here as a restriction upon suffrage, but as an extension of it. I take the basis which Massachusetts has laid down for her citizens, and in addition to all they give, extend the right of suffrage to all those who pay taxes; not simply on the ground suggested heretofore by my colleague from the Uca district, [Mr. CONKLING,] not entirely on the ground that it is evidence of thrift, and that thrift is evidence of such sagacity, prudence, and wisdom as fit its possessor for the exercise of the right of suffrage, although there is sound philosophy in that idea; but I put it on the further ground that the tax-payer has an interest to protect, a substantial right upon which he is entitled to be heard.

And next, upon an entirely different ground, I propose to give the right of suffrage to those who have served in the military or naval service of the country and have been honorably discharged. This stands on no ground of peculiar fitness, or having an interest to protect; but simply on the ground that the very fact that men have honorably served their country in arms does entitle them to the favorable consideration of Congress; and as a matter of gratitude we may fairly extend to the discharged soldiers of our loyal armies the right of suffrage. It is very probable that in certain cases this may give the right to improper individuals. Our armies are undoubtedly not made up exclusively of the most correct, moral, and refined portion of the community. But in the mass I venture to say they are not unworthy of the boon it is proposed to confer upon them.

My amendments also propose another qualification, or rather another exclusion. That is, that those who have been in arms against this nation during the late rebellion, or who have acted in aid or comfort of that rebellion, shall be prohibited from voting. Objection has been made to this proposition, and the question has been asked of me whether I believe that reconstruction is possible in the southern States with the exclusion of all who have been in arms against the Government. My answer to this is the same that it has been upon other propositions; that whatever may be the rule applied to this District, it by no means follows that that rule is to be applied to the States of this Union. And I say unqualifiedly that I would not seek to enforce such a rule upon the southern States when they shall come back to their proper relations to this Government. But in regard to this District it does strike me that there is a peculiar fitness and propriety in this provision. Men who went from this District, residents and voters here, and joined the armies of the traitors, have no palliation whatever, nothing to urge. They are traitors of the deepest dye. The flimsy pretense of allegiance to State authority, under which so many from the southern States sought to cover their defection from and treason to their country, had no application here. The rebels who went from this District

were subjects of the General Government, and of the General Government alone. They were traitors and parricides, without any sort of excuse, any sort of color or pretense, on any doctrine of State rights, for their treason. They, therefore, should certainly not be treated by us with any consideration in regard to rights in this District.

But when we come to commit to the hands of those whom we select, delegated power from ourselves, to be exercised in this District, I submit that we may with great propriety say we will submit these powers, entirely within our discretion, entirely within our control, to the men in whose loyalty we are entitled to have confidence.

Another objection that is made to my amendment is that it disfranchises men who have heretofore been entitled to vote in this District. It does so; and I have but two things to say on this subject. It is urged by some that the right of suffrage is in the nature of a vested right; and that when a man votes once there is at least something peculiarly hard, if not entirely unconstitutional, in taking that right from him. I recognize no such vested rights. When seeking to establish a municipal government upon a proper basis, I see no force in the argument that we are to allow all improper persons who voted a year ago to vote now, simply because they voted then. It seems to me, with deference to gentlemen, that that is a conservatism of evil, and not a conservatism of good.

And more than that, there is another reason that I think ought to have weight here, why this disfranchising clause must be included in any proper bill here. That is, if you omit this clause you do of necessity draw a distinction between the black and the white. Under the law as it stood a year ago it was only the white man who could vote here, and if we say that all who voted a year ago shall vote now, we extend the privilege to white persons while we exclude the blacks possessing the same qualification; we allow all the class of white voters to vote, although by our action here we declare them unfit to vote, and do this to the exclusion of the blacks. I believe that the only way to remedy this evil and to arrive at a fair and just system here is to include, as I propose, a disfranchising clause as to all whom we regard as not fairly qualified, putting all on a level as to present qualifications.

Mr. Speaker, I have already occupied more time than I intended, in endeavoring to vindicate the propositions which I have submitted to the House. I wish to say, in conclusion, that of the details of my amendment I am by no means tenacious. I do not expect to bring every member of the House, or even every member on this side of the House, to concur in all my own views. I desire simply to put my measures fairly before the House, and to advocate them as I best can. I am ready and willing to yield my own preferences in matters of detail to their better judgment. More than that, I shall not follow the example that has been set by some on this side of the House who oppose my amendment, and who claim to be the peculiar friends of negro suffrage, by proclaiming that I will adhere to the doctrine of qualified suffrage, and will join our political enemies, the Democrats, in voting down everything else. No, sir; for one, and I say it with entire frankness, I prefer a restricted and qualified suffrage substantially upon the basis that I have proposed. If the voice of this House be otherwise—if the sentiment of this Congress be that it is more desirable that universal suffrage should be extended to all within this District, then, for one, I say most decidedly I am for it rather than to leave the matter in its present condition, or to disfranchise the black race in this District. And in doing this I shall put myself fairly and frankly upon the record as voting for unqualified and unrestrained *negro suffrage* in the District. I shall resort to no such flimsy subterfuge as to claim that it is not a question of negro suffrage, because the word negro is not contained in the bill. A bill whose only effect is to enable negroes to vote where

they could not vote before, is in fact, call it by whatever name you please, a bill for negro suffrage, and whether it receives my vote or not, I shall never fear or hesitate to call it by that name.

But, Mr. Speaker, I know, or have reason to believe, that there are many members of this House who agree with me in my preference for limited suffrage who will not go with me in voting for universal suffrage if our own preference is defeated. I appeal to gentlemen to consider whether there is not great danger, if gentlemen persist in following out their own preferences and determine to take nothing else, that all the remedies which we seek to attain by either of these measures may be entirely lost. As has been indicated in the House, and out of it, we may come to the ground between the two propositions. That, sir, would be a result which I should most heartily deprecate. I desire to see inaugurated in this District such measures as shall put its population upon a fair and just footing in regard to the exercise of political rights, and shall greatly regret if the measure be lost by the tenacious adherence of its friends to their individual differences of opinion.

Gentlemen have referred here repeatedly to the question as to how far gentlemen will be indorsed by their constituents in their action on this subject. The question is raised from time to time, will such a constituency sustain its Representative in such a course? Sir, I believe in the propriety of always considering duly this question; but when gentlemen tell me that the Union party is going to be ruined by the adoption of universal suffrage, or of restricted suffrage, or of a property qualification in the District of Columbia, and that the American people will not sustain any such proposition, I tell gentlemen, with all deference to the superior knowledge which every man is supposed to have of his own district, that, in my humble judgment, they misjudge the temper and character of the American people. No, sir, I do not believe that there is a district in this Union to which a Representative, having cast his vote consistently, honestly, boldly, either for universal or for qualified suffrage, cannot go back to his constituents confident of their approval. I should deem it an insult to my constituents to intimate that I doubted whether they would sustain me in a course which I took honestly and fairly on a question of policy, not involving the great principles of the party.

The Union party, sir, send here representatives of its great principles; they expect those men to stand by those principles; and no man, I trust, is in any danger of failing to do so. So long as a Representative is true to those great principles, the Union party is not to scan his acts with suspicion and distrust, and call him to account for this vote and that. If I dreamed it possible for my constituency to entertain a question of that kind, I can only say, that whenever the question was raised, and they saw fit to record their disapproval of my course in reference to a question not involving any principle of the party, I should retire from this House to private life with greater satisfaction than any other person in my district, or out of it, could have in my retirement.

Mr. DARLING. Will my colleague allow me to ask him a question?

Mr. HALE. Certainly.

Mr. DARLING. I desire to ask him whether there is not in the State of New York a qualified suffrage, a discrimination as against the colored people, and whether the Union or Republican party of that State is not on record as against the property qualification required of colored men there to enable them to be voters; whether that party is not in favor of abolishing that property qualification.

Mr. HALE. I answer my colleague that I do not pretend to be thoroughly informed as to the history of any political party. I have no knowledge that either the Republican or the Union party in the State of New York is, or ever has been, on record for the repeal of the present constitutional provision. It may all have been.

Mr. DARLING. I desire to say to the House, with the gentleman's permission, that there is no reason why we should be in a particular hurry to pass this bill now before the House, as the election in this District does not take place until the month of June. And at that election no one can vote who has not been registered for six months. Therefore, under the election law of this District, the passage of this bill would be a mockery, a farce, a delusion, and a snare, so far as the negro population are concerned.

[Here the hammer fell.]

Mr. THAYER. Mr. Speaker, the measure before the House is of so much importance that, notwithstanding the length of the discussion to which it has given rise, I am unwilling that it should close without a brief statement of the reasons which influence my own conclusions and justify to my own judgment and conscience the vote which I shall give.

The proposition contained in this bill is a new proposition. It contemplates a change which will be a landmark in the history of this country—a landmark which, if it is set up, will be regarded by the present and future generations of men who are to inhabit this continent with pride and satisfaction, or deplored as one of the gravest errors in the history of legislation. The bill, if it shall become a law, will be, like the law to amend the Constitution by abolishing slavery, the deep foot-print of an advancing civilization, or the conspicuous monument of an unwise and pernicious experiment. I have considered it under a deep sense of the responsibility which its importance imposes upon me. I have in its consideration endeavored to divest myself of all partisan influences and personal prejudices. If I err, my judgment may be arraigned, but my conscience will be clear.

The proposition which is submitted to us is free from any constitutional embarrassment. This is admitted on all hands. It is clearly within the scope of our constitutional powers. The action proposed is undoubtedly an exercise of lawful authority. The question to be solved is, is it consistent with justice, and is it demanded by the best interests of the people of the United States? Much has been said, on the part of those who oppose the bill, on the subject of its injustice to the white inhabitants of the District of Columbia. Indeed, the argument on that side of the question is, when divested of all that is immaterial, meretricious, and extravagant, reduced almost entirely to that single position. Abstract this from the excited declamation to which you have listened, and what is left is but the old revolting argument in favor of slavery, and a selfish appeal to prejudice and ignorance. It is insisted that a majority of the white voters of the District are opposed to the contemplated law, that they have recently given a public expression of their opinion against it, and that for that reason it would be unjust and oppressive in Congress to pass this law. I do not know how far that alleged expression of opinion may be considered as fair and impartial, or precisely what value is to be attached to it as an expression of popular sentiment. The gentleman from Iowa [Mr. Wilson] informs us that those who were in favor of the law abstained from voting. But, conceding to it all the force which is claimed for it, let me say, sir, that in my judgment this is a question not concerning alone the wishes and prejudices of the seven thousand voters who dwell in this District, but involving, it may be, the honor, the justice, the good faith, and the magnanimity of the great nation which makes this little spot the central seat of its empire and its power.

If it concerns the honor of the United States that a certain class of its people, in a portion of its territory subject to its exclusive jurisdiction and control, shall, in consideration of the change which has taken place in its condition and of the fidelity which it has exhibited in the midst of great and severe trials, be elevated somewhat above the political degradation which has hitherto been its lot, shall the United States be prevented from the accomplishment of that great and generous purpose by the handful of voters who temporarily encamp under the shadow of

the Capitol? It may be that the determination of a question of so much importance as this belongs rather to the people of the United States, through their Representatives in Congress assembled, than to the present qualified voters of this District. Sir, the field of inquiry is much wider than the District of Columbia, and the problem to be solved one in which not they alone are interested. When Congress determined that the time had come when slavery should be abolished in this District, and the capital of the nation should no longer be disgraced by its presence, did it pause in the great work of justice to which it laid its hand to hear from the mayor of Washington, or to inquire whether the masters would vote for it? It is not difficult to conjecture what the fate of that great measure would have been had its adoption or rejection depended upon the voters of this District. Would any one restore that reproach to the capital of the United States now, even though Washington and Georgetown should cast seven thousand votes for it and thirty-six against it?

The power which is given by the Constitution to Congress to exercise exclusive legislation for this District, is not given to them as the Representatives of the people of this District. It is given to Congress in its collective capacity, as the legislative department of the national Government, and it is given because this District is, in the language of the Constitution, "the seat of the Government of the United States." I deny that I sit here as a Representative of the people of this District. They have no Representative; and while on that account it is eminently proper that Congress should not overlook their interests and their welfare in its legislation, the claim which is now set up by some of their self-constituted friends upon this floor to limit that legislation according to their dictation, and to pronounce that which they do in the name of the nation as immoral and unjust because it does not comport with their convictions or their prejudices, is preposterous and absurd. Congress has the same control over the District of Columbia which it has over all the Territories of the United States. It is the common property of all the people of the United States, and its laws are to be made, not by the people who for the time being inhabit it, but by the Representatives of the people of the United States, and the Senators who speak for those States. Shall we be told, sir, that if the Representatives of the people of twenty-five States are of the opinion that the laws and institutions which exist in the seat of Government of the United States ought to be changed, that they are not to be changed because a majority of the voters who reside here do not desire that change? Will any man say that the voices of these seven thousand voters are to outweigh the voices of all the constituencies of the United States in the capital of their country? I dismiss this objection, therefore, as totally destitute of reason or weight. It is based upon a fallacy so feeble that it is dissipated by the bare touch of the Constitution to it.

The question before us is free, therefore, from all political embarrassment. There is no question here of conflict of powers between the States and the General Government. I agree with the gentleman from Iowa [Mr. KASSON] that it is the undoubted doctrine of the Constitution that the determination of the qualifications of voters rests with the several States alone and not with Congress, and that nothing but an amendment to the Constitution can alter that fundamental principle of our system. I do not say whether the States lately in rebellion can claim the benefit of that constitutional principle, nor do I say that we should refuse to apply that principle to them although they may not justly be entitled to claim it. These questions relate to another subject, are in no way concerned with the measure now before the House, and, in my opinion, are entirely foreign to the present discussion. Surely, sir, we shall best dispose of the difficult and serious work we have on hand by confining our attention to one thing at a time. By mingling subjects which are totally distinct we but confuse our minds in regard to all.

Let us inquire, therefore, whether the proposed measure is in accordance with the best interests of the people of the United States. And here let me say that whatever is the duty of the United States to do, that is for their interest to do. The two great facts written in history by the iron hand of the late war are, first, that the Union is indissoluble, and second, that human slavery is here forever abolished. From these two facts consequences corresponding in importance with the facts themselves must result: from the former a more vigorous and powerful nationality; from the latter the elevation and improvement of the race liberated by the war from bondage, as well as a higher and more advanced civilization in the region where the change has taken place. It is impossible to say that the African race occupies to-day the same position in American affairs and counts no more in weight than it did before the rebellion. You cannot strike the fetters from the limbs of four million men and leave them such as you found them. As wide as is the interval between a freeman and a slave, so wide is the difference between the African race before the rebellion and after the rebellion. You cannot keep to its ancient level a race which has been released from servitude any more than you can keep back the ocean with your hand after you have thrown down the sea-wall which restrained its impatient tides. Freedom is everywhere in history the herald of progress. It is written in the annals of all nations. It is a law of the human race. Ignorance, idleness, brutality—these belong to slavery; they are her natural offspring and allies, and the gentleman from New York, [Mr. CHANTLER,] who consumed so much time in demonstrating the comparative inferiority of the black race, answered his own argument when he reminded us that the Constitution recognized the negro only as a slave, and gave us the strongest reason why we should now begin to recognize him as a freeman. Sir, I do not doubt that the negro race is inferior to our own. That is not the question. You do not advance an inch in the argument after you have proved that premise of your case. You must show that they are not only inferior, but that they are so ignorant and degraded that they cannot be safely intrusted with the smallest conceivable part of political power and responsibility, and that this is the case, not on the plautations of Alabama and Mississippi, but here in the District of Columbia. Nay, you must not only prove that this is the general character of this population here, but that this condition is so universal and unexceptional that you cannot allow them to take this first step in freedom, although it may be hedged about with qualifications and conditions; for which of you who have opposed this measure on the ground of race has proposed to give the benefit of it to such as may be found worthy? Not one of you. And this shows that your objection is founded really on a prejudice, although it assumes the dignity and proportions of an argument. The real question, sir, is, can we afford to be just—nay, if you please, generous—to a race whose shame has been washed out in the consuming fires of war, and which now stands erect and equal before the law with our own? Shall we give hope and encouragement to that race beginning, as it does now for the first time, its career of freedom, by erecting here in the capital of the Republic a banner inscribed with the sacred legend of the elder days, "All men are born free and equal," or shall we unfurl in its stead that other banner, with a strange device, around which the dissolving remnants of the Democratic party in this Hall are called upon to rally, inscribed with no great sentiment of justice or generosity, but bearing upon its folds the miserable appeal of the demagogue, "This is a white man's Government?" When you inaugurate your newly discovered political principle, do not forget to invite the colored troops: beat the assembly; call out the remnants of the one hundred and eighty thousand men who marched with steady step through the flames and carnage of war, and many of whom bear upon their bodies the honorable scars received in that unparalleled strug-

gle and in your defense, and as you send your banner down the line, say to them, "This is the reward of a generous country for the wounds you have received and the sufferings you have endured."

Shall we follow the great law to which I have referred—the law that liberty is progress—and conform our policy to the spirit of that great law, or shall we, governed by unreasonable and selfish prejudices, initiate a policy which will make this race our hereditary enemy, a mine beneath instead of a buttress to the edifice which you are endeavoring to repair? Sir, I do not hesitate to say that, in my opinion, it were better to follow where conscience and justice point, leaving results to a higher Power, than to shrink from an issue which it is the clear intention of Providence we shall face, or to be driven from our true course by the chimeras which the excited imaginations of political partisans have conjured up, or by the misty ghosts of long-buried errors, like that, for example, of *Hobb vs. Fogg*, which my colleague [Mr. RANDALL] startled the House by unshrouding yesterday. Surely, sir, there is no necessity to disturb the manes of such venerable personages as Hobb and Fogg. Why, sir, the *Dred Scott* case is old now, and as for Hobb and Fogg, they were before the flood. The war, let me tell the gentleman, has made a new slate in many things relating to law as well as politics. It has, for example, as the gentleman may perchance have heard, very much altered the *status* and even the definition of personal property in the southern States. No, sir, *Hobb vs. Fogg* is not a sufficient answer to this bill; and unless the gentleman can give us something more recent the judgment must be against him.

Mr. Speaker, the debate has assumed a somewhat discursive character, and many things have been said which it is hardly necessary to reply to. I agree to the proposition which several gentlemen have so laboriously argued, that the right to vote is not a natural right. It is not a natural right any more than the right to be President is a natural right. It is not any more natural to you than it is to the colored man. It is an artificial right, invented by society for purposes of government, an ingenious contrivance to preserve a man's liberty and his rights. To adopt the definition of the gentleman from New York, [Mr. CHANTLER,] it is "only the manner of exercising the right to be free;" only that—nothing more. It is, sir, as we know, everywhere in this country the badge of a freeman. While the class to which this bill proposes to extend it is deprived of it, that class remains virtually in the moral servitude and degradation which wore the badges of slavery. Is it necessary that that injustice should exist here under the very shadow of the Capitol? Have those who undertook to prove that the condition of this people here, morally or intellectually, was such as to render the suffrage a dangerous thing in their hands, made out their case? So far from it, sir, they have not put a single witness upon the stand, or stated a single fact in support of their assertion. On the contrary, there are certain facts which it is impossible we should overlook; such, for example, as the fact that thirty-five hundred of these men wore the uniform of the Union in the great war which has ended, and bore in that glorious struggle their share of the peril, the labor, and the suffering.

The chairman of the Committee on the Judiciary [Mr. WILSON] has also told us (I doubt not upon satisfactory authority) that the people for whom this privilege is asked own here real estate exceeding in value \$1,250,000; that they own twenty-one churches valued at \$125,000; that there are thirty-three schools, attended by upward of four thousand of their children; that they subscribe for four thousand five hundred copies of newspapers, and that they have among themselves over thirty literary and benevolent societies. A community characterized by such evidences of civilization and intelligence as these is not in my opinion an unsafe depository of the right of suffrage. But if you still doubt, be at least just to that large class whose education and whose qualifications in every respect enable

them to conform to any reasonable conditions which you can impose. Justice—impartial, “equal, and exact justice”—is the first duty of a nation. There is no people, however weak and small, which is not strengthened and ennobled by it; there is none, however great and strong, which can with safety disregard its solemn obligations. He who answers its immortal appeal with ridicule and evasion, and he who, although his conscience is convinced, has not the courage to give his voice in favor of the right, are alike unequal to the duties and unworthy of the responsibilities of the present hour.

Mr. RANDALL, of Pennsylvania. Mr. Speaker, my colleague says that I have established no foundation for the case I have cited of Hobb against Fogg. I have shown that it was the supreme law of the land; that it was the supreme law of the State of Pennsylvania. The gentleman does not deny that fact. If he says that it has no weight I have only to leave him in that position. So long as it is constitutional law judicially decided I claim for it the consideration of this House.

Mr. THAYER. If the gentleman had taken the trouble to listen to my argument he would not have made this interruption. The House, or that portion which listened to my argument, will remember perfectly well the point I made when I referred to my colleague from the first district. I did not deny that there was the decision he referred to of Hobb against Fogg. I did not deny that it was made thirty years ago, and that it was the law of Pennsylvania, having been made by the highest judicial tribunal of that State. I do not controvert the correctness of the gentleman's citation. What I said was, that we had not been asleep during the last thirty years. Why, Mr. Speaker, are we to learn nothing from the great trials and revolutions through which we have passed? When the institution which lay at the bottom of this discrimination has been broken into pieces, ground into powder, after four years of war, which was begun for its maintenance; when no fragment of it is left in the southern States, are we to be told that a “tuppenny” case, cited by the gentleman here from a report made thirty years ago in the State of Pennsylvania, is to answer an argument founded upon the interests of justice and the duty of the country?

Mr. RANDALL, of Pennsylvania. If the gentleman will allow me a moment, I only asserted that that was the law. The argument of the gentleman cast a reflection upon the judgment of the court in that case. Now, I go further, and say that, in obedience to the law set forth in that case, and in obedience to the will of the people of that State, the convention called to amend the constitution of that State inserted the word “white” so that the judgment of the court could be carried out without equivocation or evasion.

Mr. THAYER. Will the gentleman tell me, if he pleases, what that has to do with the argument?

Mr. RANDALL, of Pennsylvania. I did not interrupt my colleague, but I only rose to ask whether he did not admit that was the law as settled by the highest judicial authority of Pennsylvania. Having had a response, my object in rising has been accomplished.

Mr. THAYER. The gentleman has not listened to my argument. I did not deny that it was the law of Pennsylvania. What I said was that it had nothing to do with the subject before the House, that it had no bearing upon the subject, and was therefore no answer to the argument that justice and the best interests of the country required the right of suffrage to be given to that class in this District, although it was decided in the case of Hobb against Fogg that a negro should not vote.

Mr. WINFIELD. Does the gentleman mean to assert that the antiquity of that decision deprives it of sanctity?

Mr. THAYER. I will answer the gentleman with great pleasure. It is altogether practically useless, because this decision was made while the constitutional convention was in session.

Mr. RANDALL, of Pennsylvania. No, sir, before.

Mr. THAYER. I believe it was a case got up for the purpose of having effect on the convention.

Mr. STEVENS. Will the gentleman allow me one word? I had the misfortune to be a member of that convention. [Laughter.] It was called mainly to change the tenure of the judges, to make it elective instead of appointive. The question in regard to negro suffrage was also known to be coming up, and it was thought that that would help to bring about the calling of a convention. The judges of the supreme court did not want a convention because they were satisfied with life tenure; and just before the election took place upon the question of calling the convention, the judges got up this case outside, and thought in that way to prevent the calling of a convention. I know all about it. [Laughter.]

Mr. THAYER. As my colleague [Mr. STEVENS] was a member of the convention, he is the best possible authority for anything that relates to this particular matter so far as it has any bearing upon that convention. I hope the gentleman from Pennsylvania [Mr. RANDALL] is answered.

Mr. RANDALL, of Pennsylvania. No, sir. My colleague [Mr. STEVENS] who was a member of the convention may by his sarcasm think he has disposed of this matter, and of the supreme court judges with it; but he cannot rub out the law written in the statute-book.

Mr. THAYER. It must be obvious to everybody that the case to which the gentleman refers, and which seems to constitute all the artillery that the gentleman has in his arsenal, is of no consequence whatever, because the convention of Pennsylvania which sat immediately after the decision did put the word “white” into the constitution. Thus that case, upon which the gentleman places so much emphasis, becomes of no possible consequence.

Mr. RANDALL, of Pennsylvania. The decision of the court was the law of the State, because it was a construction of the constitution of 1790 as to the meaning of the word “freeman.”

Mr. THAYER. Will the gentleman tell me what that has to do with the argument?

Mr. RANDALL, of Pennsylvania. I am going on to answer. If the gentleman had listened to my argument yesterday, he would have understood that. I cited that case in answer to certain statements in regard to the history of Pennsylvania, made by my colleague, [Mr. KELLEY,] which not only made my allusion to the case in point proper, but overwhelming against my colleague, who stood there almost dumb, unable to answer. And the gentleman to-day is unable to answer.

Mr. THAYER. Which colleague does the gentleman refer to?

Mr. RANDALL, of Pennsylvania. The gentleman from the fourth district [Mr. KELLEY.]

Mr. KELLEY. It was I that was struck dumb! [Laughter.]

Mr. THAYER. I do not know that I have anything to do with that.

Mr. VAN HORN, of New York, obtained the floor.

Mr. KELLEY. Will the gentleman from New York allow me a moment?

Mr. VAN HORN, of New York. Certainly.

Mr. KELLEY. I beg leave to mention an historical fact in connection with that convention. It will, I am sure, provoke no reply from anybody. The constitution of 1838 should have been signed by all the members of that convention. It lacks one signature. There was one honest, earnest friend of humanity in that convention who refused to put his name to it because of the retrograde movement it made in reference to the question of suffrage. He declined doing so until the word “white” should be stricken out. I hope to live to see the day when that name shall be put there. It is the name of THADDEUS STEVENS. [Applause.]

Mr. VAN HORN, of New York. The passage, Mr. Speaker, of some law by this Congress

amending the election system of this District, placing all upon an equality, and wiping out all distinctions as to caste or color; is, in my judgment, both proper and necessary, and demanded by the loyal people of the country, who have a right to be heard in the solution of all matters or questions that may arise in the government of the District.

The bill as it now stands is not one of my choice, from the fact that I prefer to treat this question of colored suffrage in this District as a new question, and get all the benefits that a fair and reasonable trial of it may produce, regulated and qualified by such restrictions as sound judgment and a well-guarded policy may dictate. I do not say that I will not support the bill as it stands, for I am in favor of some positive action in this direction, and if called upon to vote for this bill as an alternative I may do so; but still, I think greater and better results will flow from a measure embodying, in part at least, the propositions of my colleague, [Mr. HALE,] which, while it secures equal rights to all, or places all upon the same level as to privileges and restrictions, answers the great end to be secured and all that justice now demands. I am in favor of impartial suffrage here; impartial as to caste or color, and giving all the same incentives to adopt and carry out a course of rectitude, industry, and enterprise which shall result in a condition of thrift and intelligence that will make them worthy of the privileges and blessings conferred.

I cannot conceive how any one can be injured by such a policy and such a result. Prejudices of long standing may be encountered, it is true; but it is time they were overcome and demolished, and no longer allowed to rule the individual or the community upon questions of such vast importance, where sacred rights are at stake, and their protection and safety depend upon a candid and honest judgment in the case.

In the discussion of the principles of this bill almost every one has been betrayed into a general debate upon the rights of the colored race as it has existed in our country from the time of its first introduction, as well as those rights which it is conceded generally the war for the Union has extended to it. I will not take the time of the House on this occasion and under this measure to enter into such a discussion to any great length, but merely to refer to some of the positions taken by some gentlemen upon the other side, leaving the discussion of general questions for a future occasion when more properly in order.

They seem to have forgotten, in their advocacy of slavery, that we have passed through a fierce war, begun by slavery, waged against the Government by slavery, and solely in its interest, to more thoroughly establish itself upon the western continent, and crush out the best interests of freedom and humanity; and that this war, guided on our part by the omnipotent arm of the Invisible, made bare in our behalf, has resulted in a most complete overthrow of this great wrong; and by the almost omnipotent voice of the Republic, as now expressed in its fundamental law, it has no right to live, much less entitled to the right of burial, and should have no mourners in the land or going about the streets. Such speeches as those of the gentlemen from New Jersey, [Mr. ROGERS,] and from Pennsylvania, [Mr. BOYER,] and my colleague and friend, [Mr. CHANLER,] who represents, with myself, in part, the Empire State, carry us back to the days and scenes before the war, when slavery ruled supreme, not only throughout the land, by and through its hold upon power, which the people, in an evil hour, had given it, but here in these Halls of legislation, where liberty and its high and noble ends ought to have been secured by just and equal laws and the great and paramount object of our system of government carried out and fully developed. They seem to forget that liberty and good government have been on trial during these five years' last past of war and blood, and that they have succeeded in the mighty struggle. They forget that Providence, in a thousand ways, during

this fierce conflict, has given us evidence of His favor, and led us out of the land of bondage into a purer and a higher state of freedom, where slavery, as an institution among us, is no more. Why do they labor so long and so ardently to resurrect again into life this foul and loathsome thing? Why cannot they forget their former love and attachments in this direction, and no longer cling with such undying grasp to this dead carcass, which by its corruptions and rottenness has well nigh heretofore poisoned them to the death? Why not awake to the new order of things, and accept the results which God has worked out in our recent struggle, and not raise the weak arm of flesh to render null and void what has thus been done, and thus attempt to turn back the flow of life which is overspreading all and penetrating every part of the body-politic with its noble purposes and exalted hopes?

Mr. CHANLER. I ask my colleague to allow me a word.

Mr. VAN HORN, of New York. I decline to yield.

Mr. CHANLER. It is in regard to that very question; it is but to ask a question.

Mr. VAN HORN, of New York. I decline.

Mr. CHANLER. Then I deny every word he utters and demand a full and explicit statement.

The SPEAKER. The gentleman from New York [Mr. VAN HORN] has declined, and he must proceed without interruption.

Mr. CHANLER. I again ask the gentleman to yield.

The SPEAKER. Does the gentleman yield?

Mr. VAN HORN, of New York. I prefer not to at present. The gentleman's speech in the Globe speaks for him.

The SPEAKER. The gentleman must reply positively whether he yields or not.

Mr. CHANLER. I protest against misrepresentation of myself by the gentleman. The gentleman has no right to continue his course of argument after it has been specifically denied unless he—

Mr. CONKLING. Mr. Speaker, I rise to a question of order. When my colleague declines to yield it is not in order for his colleague, by force of lungs, to attempt to inject anything into the gentleman's speech that he does not want there.

The SPEAKER. The Chair asked the gentleman from New York [Mr. VAN HORN] whether he yielded the floor, but could not get a positive reply. Gentlemen must state positively whether they allow interruptions, and if the gentleman from New York now says he declines to yield, the Chair will protect him.

Mr. VAN HORN of New York. I do. I have no desire to misrepresent my colleague. The whole tenor of his speech accords with all I have said of it, as the Globe will show.

These gentlemen are fearful that the action proposed for this District will savor too much of negro equality. They see terrible results which they are sure must flow from this legislation, and they are filled with apprehensions as to the future of this community, and any other where civil rights are extended to the colored population. They assume to be the special guardians of the public welfare, and admit no doubt as to the results which they have declared must certainly follow the action proposed. Such was always the cry when slavery ruled the hour from those who, here and elsewhere, have always been its champions, and who, fired by an unholy purpose to make it so permanent that neither the people in their sovereign power, nor the Almighty by His omnipotence, could shake or overthrow it, to secure more certainly their object, struck at the very life of the Republic; and in the struggle slavery and they fell as shattered and blasted wrecks, and lie as a warning to the present and the future not to crush the sacred and inalienable rights of humanity.

What can these gentlemen gain by entering themselves so conspicuously as the apologists of this great crime of slavery and the traitors and treason that have fallen in its defense and to perpetuate it in our land? If such an effort were

ever respectable, it is no longer so. Judgment has been pronounced against it and all its defenders, past, present, and future, by the wonderful and decisive results of the deadly strife through which we have passed; and to stand up, especially in this Hall, in this high place of the nation, before the whole people and the world, all of whom unite in the solemn verdict rendered, and defend this horrid crime of the past, and its old supporters as a consequence, presents a more reckless defiance of the ways of the Almighty than I supposed humanity could gather to itself. This question of negro equality will regulate itself. Our society is so organized and our education is such that I have no fears of the results socially of which gentlemen speak. The two races will naturally and inevitably be distinct and separate in many respects, while habit, race, and character will keep them socially, as they ever have been, separate and divided. At least it is not wise nor just to refuse to do what every noble and just consideration requires us to do, for fear that some imaginary evil may result from such performance of duty. It is rather wisdom and justice to boldly meet such questions by faithful performance of duty, and provide against actual evil when it does arise. The gentleman from New Jersey, [Mr. ROGERS,] after counting the cost of the recent war for the Union, and drawing a vivid picture of the desolation and anguish which it has spread all over the face of the nation, and declaring that the fathers and relatives of those who thus suffer are the men who suppressed the rebellion, says:

"Shall the brave soldiers of our Army be now, by any kind of extreme and radical legislation, put upon an equality with the very men whom they fought to free?"

Sir, I would give them no rights to which they are not justly entitled. I would let them occupy that position socially, mentally, and morally, which, by a fair share of public favor and a proper and just distribution of privileges and civil rights, they can attain to, and hold, by their industry, intelligence, and purity of character.

The gentleman himself is more distressed over a contact with these colored men than are the soldiers of the Republic. No soldier who has fought the battles of his country side by side with the black man, or had a part in the same terrible struggle which has resulted in the salvation of the nation's life, will shudder over the idea of his being elevated in the scale of being by every possible and just means, and having placed before him every and all incentives to a higher and a nobler life. For such grand results the war was waged in part, and although we did not know at all times what problems were being solved by the fierce conflict, still the result has been to us a wonderful revelation. While it has been a struggle between liberty and slavery, it has also been one between the low, the poor, the honest man of toil upon the one hand, and the aristocrat on the other, who, priding himself on his superiority and power, oftentimes usurped, claimed the benefits of the poor man's toil without remuneration, and who executed his will by force, and by laws he himself had made. The soldier who has aided in crushing out this wicked oppression upon the rights of honest labor, under whatever skin it may be found, and thus established forever in this land by his sufferings those sacred rights, will stand as ever before by the side of every citizen of the Republic, of whatever color, in defense of the rights for which he has fought.

Again, the gentleman says this is a white man's Government; that it was intended, as all Governments have been, especially and exclusively for the benefit of white men and white women, and not for those who belong to the negro, mulatto, or Indian race. Our Government is one for all who come under its protection, or of whom it asks obedience and support. The black as well as the white pay taxes to support it, and aid in the defense of its honor and the execution of its laws. Although, as formerly administered, it has been the white man's Government in some respects, and used to

crush out the rights of the black man, the great struggle now closed has settled the question that the black man has "rights that the white man is bound to respect." Just those rights and no more are we bound to defend and protect against oppression and assault from all sources, and see that they are properly guaranteed and preserved, which justly belong to him and the altered condition of things demands shall be guaranteed to him.

The gentleman from Pennsylvania [Mr. BOYER] says "the negro has no history of civilization. From the earliest ages of recorded time he has ever been a savage or a slave." He argues with a good deal of learning and skill to show the inferiority of the black race in every essential particular, and makes it more degraded, if possible, than the oppression of ages has made it in fact; but neglects to admit, what is apparent to all and cannot be denied, that the low condition of ignorance, degradation, and, I may say, of inferiority, which it exhibits, has been produced, in the main at least, by the very crushing-out process practiced so long upon it by the white race, which boasts of its superiority while it has its foot upon the neck of its subjugated fellow. Ages of crime, of oppression, and despotism have passed, and we often wonder at the slow progress of revolution and change in working out and developing the sublime destiny of the human race, and fixing beyond a doubt and irrevocably the sacred and inalienable rights of humanity; but, in the apparently slow progress of events, great changes have nevertheless been wrought out from time to time, and now and then there has been wrested from the tyrant's grasp a guarantee of privilege and right. So in the struggle which has just closed in our country. During the first years of the conflict the colored race within the power of the rebellion, whom gentlemen declare had not energy and manhood enough to impel them forward to strike for liberty themselves, were repelled from us by every demonstration of power and physical force, and driven back to our enemies. We only became powerful, and I may say successful, when we became just toward those people; and as soon as we were just, and lifted the heavy hand of power from their crushed forms and still more crushed spirits, they arose as one man to the rescue, first of the Government which had always denied them their liberty, and second, to assert, in the fiery shock of battle, their manhood and their claims to freedom and its immunities.

The result of this struggle is another demonstration of the fact that the "world moves," and, as one after another the iron bands of despotism are broken, and the bound and fettered are let loose into a broader sphere of activity, to work their way upward to a higher and nobler destiny, that ere long the record will not stand as now declared by these gentlemen, but in every particular accord with the advanced spirit of the age, civilization and impartial liberty.

We should be the last people to plead the legitimate results of our own crimes against the colored race in our own country as a justification of our prejudices and our acts toward them, while we should be the first to note the indications of Providence in their behalf, and at least allow them to be put on trial and see if they can sustain their claim to our consideration and favor.

My friend and colleague [Mr. CHANLER] devotes his hour to showing that there are no elements of character in the colored race that will justify us in giving it civil rights and privileges as proposed. I am sorry that so many good qualities as my friend possesses should be dimmed in part, at least, by his determined opposition to the inevitable and logical results of the great struggle of the nineteenth century which has just closed, and whose deadly shocks of battle have made the world to tremble, while thrones, despotisms, and tyrants everywhere, have felt the earthquake and been shaken to their very foundations. Why cannot he see as well as others that the old ways are closed, and that a new way has been opened to our people to walk in, where justice and truth should go

hand in hand—a highway broad and equal, with no obstructions to impede their progress save those that God has ordained and placed upon them, and in it, according to His own immutable purpose and sovereign will?

Thus far these people have shown much obedience to law and order, and demeaned themselves as properly as could be expected; and in the field, under our flag, have exhibited rare traits of character, and given the most conclusive evidence that while they desire liberty and good government, they are ready to do and to die to secure the one and permanently establish the other. The facts of past history are in many instances against the reasoning of these gentlemen, while the present stands out a complete refutation of their whole argument and policy.

No class of people, asking for a recognition of what they deem to be their rights, having shown themselves worthy by the greatest sacrifices, loyalty, and patience, should be denied a fair chance to vindicate themselves before the world and determine the question, as in the case before us, by a practical solution of it. The President, in his message to this House and the country, speaking of the general subject of the treatment of the freedmen, presents the idea I have suggested truthfully and properly when he says:

"We must equally avoid hasty assumptions of any natural impossibility for the two races to live side by side in a state of mutual benefit and good will. The experiment involves us in no inconsistency; let us, then, go on and make that experiment in good faith, and not be too easily disheartened."

"If they fail and so perish away, let us be careful that the failure shall not be attributable to any denial of justice."

These words were made with reference to the question of labor as connected with the freedman and his rights to the proceeds of his labor, which he insists must be protected and guaranteed, but have application alike to giving him a fair trial to show himself a man and worthy of the privileges it is proposed to confer upon him. When will there be a better opportunity than the present to try the experiment of impartial suffrage, and where the place so appropriate as this District? Here we have supreme control, no constitutional difficulties in the way, and should the experiment prove a failure, as I do not believe, but as time will determine, we have the remedy in our own hands and at our control to correct all the evils that may result from it, and can apply it without delay.

Sir, a measure of this kind is just, because it will give to a large class of persons, intelligent, upright citizens of this District, enterprising, energetic business men, who hold property and pay taxes, obey and aid in the execution of the laws, the right to be heard in the making of such laws, and a voice in the selection of those who are to execute them and dispense justice in the District. It is expedient for the reason that as loyal citizens, by their devotion to our common country, they have established the fact beyond controversy that they know how to, and will, appreciate civil rights and privileges when conferred, and demean themselves properly and with decent regard for the public interests.

I learn that a large portion of all the taxes paid into the national Treasury in this District is paid by colored property-holders and business men; some of whom pay taxes on sums as high as \$25,000; whose enterprise and business thrift go very far toward giving this District its present advanced condition of prosperity, and whose high moral character, as a class, does not suffer by comparison with any other, when we take into account the favor with which it has been treated by those who have been superior to them in point of privilege.

MR. KELLEY. With the permission of the gentleman from New York, I will state that one of the colored people of this District pays taxes on \$200,000 worth of property accumulated by himself; and that when we abolished slavery in the District one of them, a laboring man, held a mortgage against the estate of Senator Douglas for \$12,000, and a mortgage against the adjoining house also, the property of Senator Rice, for \$6,000.

Mr. VAN HORN, of New York. I was not aware of the fact. I give the information I have received, and gladly accept the statement of my friend from Pennsylvania.

This large property interest has a right to be heard in the administration of affairs in this District, to protect itself against injustice, and secure for itself a proper direction and share of the public charities and public expenditures. It is a remarkable fact, which I hope does not now exist, that up to quite a recent period this unfortunate class of people were prohibited from forming and sustaining schools by their own efforts, and at their own expense, for the education of their children. And this here, where it is admitted Congress has supreme control, and is charged with the duty of seeing justice and equality take place. While I hope and believe that such is not the fact now, to the same extent at least as formerly, if at all, I am not quite willing to leave these people entirely powerless to protect themselves against wrong and injustice, especially when I have the best reason to know that any rights they may have extended to them by law will be properly appreciated, and by no means abused.

What record do these colored people in the District present to the country? According to the census of 1860 the colored population was a little less than fifteen thousand. It has been somewhat increased of late, as one of the consequences of the war, but the statistics which I here submit present a state and condition of things produced by the enterprise, intelligence, and thrift of the population above referred to, and before the war:

"The value of real and personal property now owned by them is over one million two hundred and fifty thousand dollars."

"The value of church property held by them is about one hundred and twenty-five thousand dollars, consisting of twenty-three churches, which are supported at a cost of over twenty thousand dollars per annum. The number of church communicants is four thousand three hundred, while the average attendance upon religious services is nine thousand, some of these being attendants upon service at Catholic and Episcopal churches controlled by whites. The number of Sabbath schools for colored persons is twenty-three, attended by between three and four thousand pupils."

"Of other schools for colored children there are thirty-three, and the number of pupils attending them during the month of November, 1865, was four thousand and thirty. Six of these schools are entirely supported by the colored people, others are supported by the generosity of northern benevolent societies, though the necessary books, stationery, &c., are furnished chiefly by the colored people themselves."

"Four thousand of the colored population of the District can read and write. They subscribe for about forty-five hundred copies of newspapers, a large proportion of these being dailies."

"Of societies for literary, benevolent, and other purposes, they have over thirty, and through the agency of these they, to a very great extent, provide for and support the needy and infirm of their race in the District, the city government having but a very small per cent. of colored paupers to support."

"This is the record of a class of citizens in this community, ninety per cent. of which were slaves or the immediate descendants of slaves, many having purchased their own freedom and that of their families."

And what record, sir, have they made during the war, and since they were allowed to reënforce our armies, and share in the trials and honors of the "great conflict?"

The colored population of this District, as a class, have shown as much devotion to our country during the severe struggle through which it has passed as their white neighbors. They have exhibited, to say the least, as high order of loyalty, and as much of it, as the white population. They were always true, always the friends of the Government, in sunshine or in storm, in victory or defeat. While many with a whiter skin were plotting treason and conspiring to overthrow the Government which had made them all they were, and given them their daily bread, no treason or conspiracy was ever found in their ranks, or stained their hands with the innocent blood of the loyal and faithful defenders of the Republic.

Out of a population to which I have referred, they contributed three full regiments, over three thousand five hundred enlisted men, while the white population of upward of sixty thousand sent only about fifteen hundred men for the support of the Union, the Constitution, and the laws. In all our country's trials their loyalty has never been questioned, and their patriot-

ism has been unbounded. They volunteered with alacrity without the incentives of high pay, bounties, or promotions, led by white officers, with no expectation of any advancement in the ranks for gallantry or heroic conduct. They were willing to trust themselves and theirs in the hands of the loyal people of the country, for the honor of which they fought, and many of them died, and whose free institutions they desire to see perpetuated to the latest generations.

In their memorial to this House they say:

"We cherish fond hopes and laudable desires and honorable aspirations in connection with the future of our country."

Who shall say that this record is not a good one? How dare we turn our backs upon these people in view of these facts, when we must know, too, that through all the way we have passed the hand of the Invisible has led us on to this glad hour of triumph, that we may do justice, and for the future work the works of righteousness that we may be exalted indeed? But it is said that the people of the District are opposed to the principle of impartial suffrage, and voted against it by a large majority. So were they opposed to the Government in the dark days of the early part of the recent war, and if they had voted then would no doubt have voted down the Government by a large majority. What though the voters of this District express an opinion adverse to this proposition at the polls? They are a party in interest, influenced by strong and most degrading prejudices against the colored population, and will act under the influence of such prejudices oftentimes, irrespective of the justice in the case.

Shall the Government fail to do justice to its loyal subjects, because of the opposition of those who are governed by strong prejudices, and others who have persisted in their efforts to destroy the Government until failure is certain, and now seek to control and regulate its policy? Again, had it been left to the people of the District in 1861 to abolish slavery by their votes, it would have been to-day, as formerly, the disgrace of the nation; and instead of beholding the national capital, the great heart of the Republic so to speak, throbbing with the healthy flow of a purer and a higher life, slavery would still be festering at its very core, consuming all its vitality and hope.

What harm, sir, has resulted from such abolition in this District? Who would go back to the old state of things, of servitude and wrong in the national capital? Not one; and so will it be if impartial, well-regulated suffrage become a law, when the people have a complete demonstration of the spirit and devotion to law and order on the part of this class of our citizens.

Tell me that a majority of the people here are against this proposition! Let it be remembered that the aggregate of the majorities of all the Union members of this House is the majority in favor of the principle of justice here proposed, and the verdict rendered by the people, who have a right to be heard in the solution of this question. They have long since declared that this District shall be free; that no slave shall tread upon its soil, or within it carry his chains; that the last stain made by the curse of human bondage shall be wiped out, and this District elevated to a higher and a nobler life of freedom, justice, and equal protection before the law. There can come no possible injury to any one, as I can conceive, should impartial suffrage be established here by law, regulated by wholesome and wise provisions. It will be no precedent for future action upon equal suffrage anywhere else, for here we are agreed upon the question of right to legislate in this regard; while there is a propriety, to say the least, in placing this District above any of the degrading conditions of partial or unequal legislation. Let us act upon the suggestions of the President, that it is wise to try these people, and not prejudice their case before a fair trial is made, so that if in the end they fail to be worthy of the privileges conferred, it cannot be said that it was "from any denial of justice on our part."

And here, sir, permit me to say in conclusion, that while I do not pretend to speak for the President upon this or any other question, I have the greatest confidence in his patriotism and fidelity, and believe he is actuated by the purest and highest motives to do the best for his country. Gentlemen upon the other side are continually endeavoring by every means in their power to convince the country that the majority of this House are opposed to the President and his policy. It is time to make out such a case when the facts exist to warrant it, for they do not now. New questions are continually arising upon which the President and each member of this House has a right to, and should, act independently and for the greatest good to the greatest number after a careful and conscientious examination of the whole case; and it would be strange, indeed, if even here there could be harmonious action always upon all these important and new questions.

Upon details we may differ. It cannot be expected that upon all questions that will arise or that force themselves upon us—new questions that never before have been presented—we can come to the same conclusion as to all effects and bearings in the future, yet the great purpose of the majority of this House is to secure the greatest good to our common country, and stand together with the President to heal, restore, elevate, and ennoble by doing justice to all. He knows what the Union has cost and by what people it has been saved. He knows the temper and spirit of those who sacrificed in its behalf, around whose hearthstones there is deep lamentation and mourning because loved ones are gone and do not return. He knows who, when the skies were covered with thick darkness, and the cloud of battle and defeat gloomed about us, stood steadfast and made him strong in his purpose and hope of final triumph. And he knows they are still able to sustain and carry him through his present hour of trial, while he continues to aid in solving the great problem before us, and securing union, liberty, and justice, the legitimate results of the great conflict, for all coming time. His patriotism has been tried as by fire. His devotion to country needs no mention from me, for it is one of the most sublime features of the recent struggle for the nation's life, and will fill a bright page in its history. With moderation, generosity, and due consideration of the great questions to be solved; with an earnest purpose to stand together in the right, as it shall be given us to see the right, we shall, step by step, advance toward the grand consummation of all our loyal hopes, and our starry banner wave over a united people filling our broad land from shore to shore.

Mr. CLARKE, of Kansas. As the hour is late and I do not desire to go on now, I am willing that the House shall adjourn. [Cries of "No!" "No!"]

The SPEAKER. The chairman of the Judiciary Committee notified the House that he would bring this question to a vote at half past three o'clock to-morrow, and there are a number of gentlemen who desire to speak.

Mr. CONKLING. I think we had better go on. It wants a quarter to four o'clock.

Mr. CLARKE, of Kansas. Well, if any gentleman desires to speak to-night, I will yield to him with the understanding that I am to have the floor to-morrow.

AMENDMENT TO THE CONSTITUTION.

Mr. LAWRENCE, of Ohio, by unanimous consent, introduced a joint resolution proposing an amendment to the Constitution of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

LAND GRANT TO IOWA.

Mr. PRICE, by unanimous consent, from the Committee on the Pacific Railroad, reported a bill to amend an act for a grant of lands to the State of Iowa in alternate sections to aid in the construction of railroads in said State, approved May 12, 1864; which was read

a first and second time, recommitted to the committee, and ordered to be printed.

GEORGE C. JOHNSON.

Mr. LAWRENCE, of Ohio, by unanimous consent, introduced a bill for the relief of George C. Johnson; which was read a first and second time, and referred to the Committee of Claims.

CHARLES F. ANDERSON.

Mr. RICE, of Maine, by unanimous consent, introduced a bill for the relief of Charles F. Anderson; which was read a first and second time, and referred to the Committee on Public Buildings and Grounds.

LAND GRANT TO WEST VIRGINIA.

Mr. LATHAM, by unanimous consent, introduced a bill granting lands to the State of West Virginia, to aid in the construction of railroads; which was read a first and second time, referred to the Committee on Roads and Canals, and ordered to be printed.

NAVY-YARD IN MARYLAND.

Mr. PHELPS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Superintendent of the office of the United States Coast Survey furnish to this House a statement of the advantages, if any, that the Patuxent river, in the State of Maryland, possesses for the establishment of a national navy-yard, stating the depth of water in which a proper harbor can be reached in said river, giving a description of such harbor, its size and soundings, whether or not obstructed by ice in the winter, its facilities for defense in time of war, its distance from the city of Washington, the nature of the land adjacent thereto, and such other facts in connection therewith as may be known to such Superintendent.

MISSOURI VOLUNTEERS.

Mr. ANDERSON, by unanimous consent, introduced a joint resolution for the benefit of certain volunteer troops of Missouri who served during the war; which was read a first and second time, and referred to the Committee on Military Affairs.

BOUNTIES.

On motion of Mr. PERHAM, by unanimous consent, the Committee on Invalid Pensions were discharged from the further consideration of the bill of the House (No. 116) granting bounty and additional bounty to soldiers, seamen, and marines, in the war of 1861, or their heirs, and the same was referred to the Committee of Claims.

WILLIAM M'CLURE.

Mr. PERHAM also, by unanimous consent, from the Committee on Invalid Pensions, made an adverse report on the petition of William McClure, of Jefferson county, West Virginia; which was laid on the table, and ordered to be printed.

THE FRENCH EXPOSITION.

Mr. RAYMOND, by unanimous consent, presented resolutions of the Chamber of Commerce of New York in regard to the French Exposition, and moved that they be referred to the Committee on Foreign Affairs, and printed.

Mr. CONKLING. I hope my colleague will assure the House that the reference of these resolutions to a committee will not commit the House or operate as an instruction to the committee. I have been afraid, ever since yesterday morning, that presenting resolutions for reference does commit somebody.

Mr. RAYMOND. I assure my colleague that there is not in these resolutions any phrase which can possibly beget the suspicion, as his did, that they can be so construed.

Mr. CONKLING. I am very much obliged for the assurance. I was afraid that the reference of the resolutions might commit us in some way.

Mr. RAYMOND's motion was then agreed to.

A. M. JESS.

Mr. HENDERSON, by unanimous consent, introduced a bill granting lands to A. M. Jess, of Oregon; which was read a first and second time, and referred to the Committee on Private Land Claims.

PENSION LAWS.

Mr. KUYKENDALL, by unanimous consent, introduced a bill amendatory of the general acts regarding pensions; which was read a first and second time, and referred to the Committee on Invalid Pensions.

EVENING SESSION.

Mr. SMITH. I rise to a privileged motion. As there are several members who desire to be heard on the bill which has been under discussion to-day, and some of them probably will not have a chance to do so should the chairman of the Committee on the Judiciary [Mr. Wilson, of Iowa] call for a vote at half past three o'clock to-morrow, I move that the House take a recess until half past seven o'clock this evening, for the discussion of that bill only.

Mr. STEVENS. I think it would be better to take a recess until to-morrow at noon.

The SPEAKER. The Chair will remind gentlemen that a few moments ago when he made the inquiry whether any one desired to speak this afternoon no one appeared ready to do so.

Mr. STEVENS. As the best way to decide the matter, I will move to adjourn.

Mr. SMITH. I will withdraw my motion for a recess.

Mr. STEVENS. As that decides the matter, I will withdraw my motion to adjourn.

JAMES E. HORSMAN.

Mr. NOELL, by unanimous consent, introduced a bill for the relief of James E. Horsman; which was read a first and second time, and referred to the Committee of Claims.

SOLDIERS' ASYLUM IN MISSOURI.

Mr. NOELL, by unanimous consent, also submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Militia be instructed to inquire into the expediency of Congress making an appropriation for the State of Missouri, for the purpose of purchasing a suitable site and buildings, to be used as an asylum for the loyal soldiers of Missouri, volunteers and militia, disabled in the service of the United States, and that said committee report by bill or otherwise.

CENSUS REPORT—MANUFACTURES.

Mr. HOGAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior be requested to have compiled in tabular form a statement showing the aggregate amount of manufactures, of all kinds, in each city and village in the United States having a population of ten thousand persons and upward, as shown by the census of 1860; the statement to exhibit the capital and the number of persons employed in said manufactures, as well as the value of the products thereof, and the number of persons residing in said cities and villages respectively, and to transmit the same to this House.

RAILROAD IN CALIFORNIA AND OREGON.

Mr. PRICE, by unanimous consent, from the Committee on the Pacific Railroad, reported back House bill No. 138, granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon; and moved that the same be printed and recommitted to the committee.

The motion was agreed to.

SHIP ART UNION.

Mr. RICE, of Massachusetts, by unanimous consent, introduced a joint resolution to change the name of the ship Art Union to the name of George M. Barnard, and asked the immediate action of the House thereon.

Mr. ELIOT. I object. I cannot consent to have this joint resolution passed without its being first considered by the Committee on Commerce.

Mr. RICE, of Massachusetts. This is not a commercial ship, but a State ship, attached to the State reform school.

Mr. ELIOT. Then I withdraw my objection.

The joint resolution was then read a first and second time, ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

NAVIGATION OF THE OHIO RIVER.

Mr. HILL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Roads and Canals be instructed to inquire what further legislation, if any, is necessary to improve the navigation of the Ohio river, between its mouth and the city of Cincinnati, and especially at the falls of said river, near the city of Louisville, Kentucky, with leave to report by bill or otherwise at the earliest practicable period.

RECONSTRUCTION.

Mr. GRIDER. I ask unanimous consent to submit the following resolutions, and that they be referred to the joint committee on reconstruction:

Resolved, That the United States Government grants the power peaceably, or if necessary by arms, "to enforce the laws, suppress insurrection, and repel invasion;" but the General Government cannot by any action whatever destroy itself nor the State governments; nor can the State governments destroy either, or legally disturb the harmony of the whole. All the grants and powers under the Constitution are conservative, none destructive; wherefore all the States have been and are always in the Union.

Resolved, That when the United States Government suppressed the insurrection it only vindicated its constitutional power and preëxisting rights, and no more; and the rights and powers of the Federal and State Governments are all remitted back and assume the same condition and relations sustained before the insurrection, and (except so far as altered or amended) remain unimpaired and in full force and virtue.

Resolved, That the law of Congress apportioning Representatives to the several States (including the insurrectionary States) under the census of 1860 is constitutional and valid, and that members of Congress from all the States, regularly elected under said law, are entitled forthwith to their seats upon taking the oath of office to support the Constitution of the United States.

Resolved, That as a generous kindness and cordial forgiveness consistent with right, now peace exists, are the highest attributes of our nature, and as we must have "one Government, one Constitution, and one people," the glory, protection, and safety of all—cherishing these feelings, we say it is untimely, unjust, and impolitic to insist upon amendments to the Constitution to operate upon all until all are represented in the House and Senate.

Mr. BROOMALL. I object.

Mr. CONKLING. I would inquire of the gentleman from Pennsylvania [Mr. BROOMALL] if he objects to the resolutions or to their reference.

Mr. BROOMALL. To both.

Mr. CONKLING. As I understand they are introduced by the gentleman from Kentucky [Mr. GRIDER] merely for the purpose of reference, I appeal to the gentleman from Pennsylvania to withdraw his objection.

Mr. BROOMALL. I must insist on my objection.

Mr. GRIDER. I beg leave to inquire of the Chair what is the condition of my resolutions.

The SPEAKER. Objection having been made to their introduction, they have not been received, but will be returned to the gentleman. He can introduce them when his State is called for resolutions.

ABELARD GUTHRIE.

Mr. CLARKE, of Kansas, by unanimous consent, introduced a bill for the relief of Abelard Guthrie; which was read a first and second time, and referred to the Committee of Claims.

CAPTAIN CHARLES BREWSTER.

Mr. WINFIELD, by unanimous consent, introduced a bill to relieve Captain Charles Brewster from accounting for Government funds stolen from him while in the service of the Government; which was read a first and second time, and referred to the Committee on Military Affairs.

ILLINOIS AND MICHIGAN SHIP-CANAL.

Mr. ROSS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Roads and Canals be instructed to inquire into the expediency of making an appropriation to secure the early and speedy construction of a ship-canal between the Illinois river and Lake Michigan, and that they report to this House at an early day, by bill or otherwise.

Mr. LE BLOND moved (at four o'clock p. m.) that the House adjourn.

The motion was not agreed to.

TAX ON RAILROAD FARES AND FREIGHTS.

Mr. HARDING, of Illinois, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Agriculture be instructed to inquire into the expediency of so graduating taxation for revenue upon fares and rates charged by railroad companies and others for the transportation of passengers and freight over the highways of commerce, that while necessary revenues shall be derived, relief may incidentally result to the agricultural and other interests of the country from the high and oppressive impositions that are now crushing those interests, and especially in the West; and whether, by judicious and lawful exercise of the powers of Congress to raise revenue and to regulate the trade and commerce between the States, prompt relief may not be afforded to the farmers and consumers of the country from the exorbitant exactions of combined monopolies.

TAX ON SALES OF FARM PRODUCTS.

Mr. COOK, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of changing the internal revenue law so that but one tax shall be imposed upon the sale of farm products by dealers, whether such sale be made by dealers themselves or through the agency of commission merchants.

Mr. SCOTFIELD moved that the House adjourn.

The motion was agreed to; and thereupon (at four o'clock and ten minutes) the House adjourned.

IN SENATE.

THURSDAY, January 18, 1866.

Prayer by Rev. VINCENT PALEN, of Washington, District of Columbia.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. POMEROY presented the petition of John T. Jones, an Ottawa Indian, praying for compensation for depredations committed by white persons upon his property in Kansas Territory; which was referred to the Committee on Indian Affairs.

He also presented the petition of Francis Miller, of Washington city, District of Columbia, praying for the payment of money which he alleges to be due him for supplies which he furnished the navy-yards at Charlestown, Massachusetts, Brooklyn, New York, and Gosport, Virginia; which was referred to the Committee on Claims.

Mr. MORGAN presented resolutions of the Chamber of Commerce of the State of New York, relative to the Paris Exposition to take place in 1867, urging Congress to make timely and adequate preparations for exhibiting the products of the American Union in such a manner and on such a scale as shall maintain its just rank among the civilized nations of the earth; which were referred to the Committee on Foreign Relations.

Mr. NESMITH presented the petition of Goldsmith Brothers, praying to be indemnified for United States bonds lost on board the steamer Brother Jonathan on the 31st of July, 1865; which was referred to the Committee on Claims.

Mr. RAMSEY presented the petition of S. H. Peugh, agent and attorney for the administrator in the case of Francis Cazeau, deceased, praying that the papers in that case may be withdrawn from the Court of Claims and referred to the Committee on Revolutionary Claims; which was referred to the Committee on Revolutionary Claims.

Mr. FESSENDEN presented a petition of officers in the United States revenue cutter service, praying for an increase of their compensation; which was referred to the Committee on Commerce.

He also presented the memorial of George Warren, Daniel Hood, and C. R. Humphrey, praying compensation for the ship State of Maine, owned by them, which was seized by the rebel authorities on the 24th of May, 1861, and burnt by them on the arrival of the United States troops and fleet at New Orleans; which was referred to the Committee on Claims.

Mr. TRUMBULL presented the petition of Dr. L. Dyer, late surgeon in the eighty-first regiment Illinois volunteers, praying for compensation for services rendered as surgeon from the 6th of April, 1863, to the 26th of May, 1863, the time between the dates of his dismissal and restoration; which was referred to the Committee on Claims.

Mr. BUCKALEW presented a petition of soldiers who enlisted in the years 1861 and 1862, praying for an equalization of their bounties with the bounties of those who enlisted at a later period during the recent war; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of citizens of Tylersport, Pennsylvania, praying for the establishment of a post road from Tylersport, Montgomery county, to Seller's Tavern, Bucks county, in that State; which was ordered to lie on the table.

He also presented the petition of Sophia Schemmelfennig, widow of the late General Alexander Schemmelfennig, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. DOOLITTLE presented a memorial of the Board of Trade of the city of Racine, Wisconsin, praying for an appropriation for the improvement of the harbor at that port; which was referred to the Committee on Commerce.

Mr. CLARK presented the petition of C. F. Johnson, of Mobile, Alabama, praying for compensation for damages sustained by him from the United States forces at Lakeport, near New Orleans, Louisiana; which was referred to the Committee on Claims.

Mr. NYE. I present the petition of Major S. H. Lathrop, United States Army, and other officers now stationed at the city of New York, praying for an increase of their pay and for the repeal of the law reducing the mileage from ten to six cents a mile. They set forth the fact that since they were commissioned the pay of the soldiers and sailors of the Navy has been increased from sixty to one hundred per cent., and they desire that their pay shall be increased *pro rata*. I move the reference of this petition to the Committee on Military Affairs and the Militia.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred the petition of Sarah Fitzgibbon, praying for a pension, reported a bill (S. No. 82) granting a pension to Sarah Fitzgibbon; which was read, and passed to a second reading.

Mr. MORGAN, from the Committee on Commerce, to whom was referred the bill (H. R. No. 135) to extend the time for the withdrawal of goods for consumption from public store and bonded warehouse, and for other purposes, reported it without amendment.

He also, from the same committee, to whom was referred a bill (S. No. 26) granting to "the International Ocean Telegraph Company" the right and privilege to establish telegraphic communication between the city of New York and the West India islands, reported it with an amendment.

Mr. WADE, from the Committee on Territories, to whom was referred a bill (S. No. 74) for the admission of the State of Colorado into the Union, reported it without amendment.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred a petition of the officers of the Burlington and Missouri River railroad, praying for an extension of the time for the completion of that road, reported a joint resolution (S. R. No. 20) extending the time for the completion of the Burlington and Missouri River railroad; which was read, and passed to a second reading.

LAND-GRANT RAILROADS.

Mr. POMEROY. The Committee on Public Lands, to whom was referred the petition of the Burlington and Missouri River Railroad Company, the Mississippi and Missouri Railroad Company, and the Cedar Rapids and Mis-

souri River Railroad Company, and various other railroad companies, asking for an extension of the time within which to complete their several roads, have had the subject under consideration and directed me to report a bill granting, substantially, the prayer of the petition. As the bill consists of only one section, and simply extends the time eight years, and I am advised that the companies desire immediate action on the subject, so that they may know whether the time is to be extended or not, I ask for the present consideration of the bill if there be no objection.

By unanimous consent, the bill (S. No. 83) to extend the time for completing certain land-grant railroads in the States therein named, was read twice by its title and considered as in Committee of the Whole. It proposes to extend the time allowed for the completion of the several roads named in the acts approved on the 15th and 17th of May, the 3d of June, and 11th of August, 1856, granting lands to aid in the construction of railroads therein to the States of Iowa, Alabama, Florida, Louisiana, and Mississippi, which time will expire by law in the year 1866, eight years from the dates fixed by those acts respectively; but the unsold lands are to revert to the United States as provided in those acts if the railroads are not completed within the period thus fixed.

Mr. CHANDLER. Has that bill been reported upon by the Committee on Public Lands? The PRESIDENT *pro tempore*. It has been reported this morning from that committee.

Mr. MORRILL. It is pretty difficult to understand much about the bill from simply hearing it read at the desk. I will ask if there is any particular necessity for its being pressed at the present time.

Mr. POMEROY. I was requested by the committee to ask that it be put on its passage, as the parties who are interested in building those roads desire to know as soon as possible whether the time is to be extended or not. Their time expires this year, 1866. The Senator from Iowa, [Mr. GRIMES,] within whose State some of these roads are, is better acquainted with the facts than I am.

Mr. GRIMES. In 1856, Congress granted to the State of Iowa certain lands to aid in the construction of four railroads across the State, and required the State to complete those roads within ten years from that date. During the same year Congress granted to the States of Louisiana, Alabama, Florida, and Mississippi, certain lands for the purpose of enabling those States to complete railroads. No one of those railroads is completed, although the companies to whom the States transferred the lands have used due diligence, in the estimation of the committee, in order to complete them. In consequence of the war, the increase in the value of labor, and the increase in the value of iron and other materials necessary to be used in the construction of the railroads, they have not been able to comply with the terms of the grant that was made to them. All that these companies have asked, and all that the Committee on Public Lands propose to grant to them, is that they shall be allowed to go on and complete the roads within the next eight years, giving them that additional length of time.

Mr. HENDERICKS. I suggest to the Senator also that this is the same legislation which was passed at the last session for the benefit of the roads in Michigan.

Mr. GRIMES. I was going to say that Congress had granted a similar extension of time to other States, at the last session, under precisely similar circumstances. This bill does not put the Government in any different position from what it was before, except that it simply extends the time within which these various roads are to be completed.

Mr. MORRILL. I do not desire to interpose an objection if the subject has received the careful consideration of the committee, which it seems to have done.

Mr. GRIMES. The bill does not grant a foot of land.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, was read the third time, and passed.

MADISON'S WRITINGS.

Mr. HOWE. The Committee on the Library have directed me to report a joint resolution for the distribution of the writings of James Madison. I suppose there is no objection to considering the joint resolution at the present time. I ask for its consideration.

Mr. SUMNER. Let it be read.

The Secretary read the resolution, which proposes to direct the Joint Committee on the Library to distribute by mail or otherwise the five hundred copies of the writings of James Madison, published by authority of Congress, as follows: to the President of the United States, one copy; to the libraries of the different Executive Departments and of the Postmaster General and Attorney General, one copy each; to each member of the present Senate and House of Representatives, one copy; to the Library of Congress, ten copies; to the libraries of the several States and Territories of the Union, one copy each; to such public and college libraries as may be designated by the present Joint Committee on the Library, one hundred copies; the residue to be retained in the Department of the Interior.

Mr. SUMNER. I suppose that by "libraries of the several States and Territories of the Union" is meant the public libraries in those States.

Mr. HOWE. The State libraries.

The joint resolution (S. R. No. 17) directing the distribution of the writings of James Madison was, by unanimous consent, read three times, and passed.

OFFICIAL ADVERTISEMENTS.

Mr. WILSON. I presented the other day a resolution which I now offer in a modified form:

Resolved, That the Committee on Printing be instructed to inquire and report, for the information of the Senate, the amounts which have been paid, or which will have to be paid, by virtue of any order given by the various Departments of Government, or by the bureaus thereof, to each of the newspapers published in the city of Washington, since the 4th of March, 1865, and the laws under which these amounts have been paid, or are to be paid. And also report if any legislation is necessary in regard to the publication of the advertisements of the Government.

The resolution was considered by unanimous consent, and agreed to.

BARCLAY'S DIGEST.

Mr. FOOT. I offer the following resolution:

Resolved, That the Secretary be directed to procure for the use of the Senate seventy-five copies of the work known as "Barclay's Digest." *Provided*, The cost thereof per copy shall not exceed that paid by the House of Representatives for the same work.

I ask for its present consideration.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SHERMAN. I should like very much if the Senator would add a copy of "Hickey's Constitution" for each Senator. It is an invaluable document, and I should like very much to get it.

Mr. FOOT. Let that be a separate resolution.

Mr. GRIMES. I understood a year ago that Hickey's Constitution was out of print.

Mr. SHERMAN. It is the most valuable compilation in existence. I would rather have it than Barclay's Digest.

Mr. CLARK. They are on entirely different matters.

Mr. FOOT. This is a new edition very recently published, enlarged and improved by the author. From the examination I have given it, I have no hesitation in saying that it is the best compilation of parliamentary law and practice with which I am acquainted. At the present time, with the exception of one copy of Cushing's elaborate work, there is not at the command of the Senate a single copy of any work whatever upon parliamentary law and practice.

The resolution was agreed to.

COMMITTEE ON VENTILATION.

Mr. BUCKALEW. I offer the following resolution:

Resolved, That a committee of the Senate be ap-

pointed for the present session, to consist of five members, to be entitled the committee on ventilation, to which shall be assigned the consideration of all questions relating to the ventilation and sanitary condition of the Senate wing of the Capitol.

Mr. President, I propose to call up this resolution for action in a few days. For the present it may lie on the table.

The resolution was laid on the table.

JUDICIAL EXPENSES.

Mr. CLARK submitted the following resolution, which was considered by unanimous consent:

Resolved, That the Secretary of the Treasury be requested to ascertain and inform the Senate, (1.) the names of all persons now authorized by law to act as commissioners of the circuit courts of the United States in the first, second, third, fourth, seventh, eighth, and ninth judicial circuits, respectively; (2.) the whole amount of money paid to each of said commissioners out of the Treasury, for services as commissioners, during the fiscal year ending June 30, 1865, and in case any such commissioner be a clerk of any district or circuit court of the United States, then (3.) the total amount of commissioners' fees, or costs, exacted in causes pending in and petitions made to said courts, giving the title thereof, and the amount so exacted by him in each case, and received therein, either for himself, or any other commissioner. Also, that the Secretary of the Treasury be directed to ascertain and inform the Senate (1.) the total amount of fees and emoluments of every name and character, exacted and received by each clerk of the district or circuit courts of the United States for the aforesaid circuits during the year ending June 30, 1865, and, if possible, during the six months ending December 31, 1865, giving the title of each cause, petition, or other proceeding on which such fees or costs were exacted, and the amount in each case, distinguishing between costs and fees of clerks and those of commissioners, but embracing both; also (2.) the amount of fees and emoluments of their respective offices returned by each of said clerks to the proper accounting officers of the Treasury during said year 1865.

Mr. SUMNER. I observe that the resolution is addressed to the Secretary of the Treasury. Should it not be addressed to the Attorney General?

Mr. CLARK. I understand not. These accounts are, I think, in the first instance settled at the Interior Department, and then they go to the Treasury Department, and upon inquiry I find that the latter can probably furnish the information.

Mr. SUMNER. The Senator is aware that the Attorney General is the officer of Government who corresponds with the persons who are connected with the judiciary of our country.

Mr. CLARK. That is very true; but the Treasury Department is the place where the accounts are finally settled.

Mr. FESSENDEN. The Attorney General knows nothing about the accounts; they do not go to his office.

Mr. CLARK. So I suppose.

The resolution was considered by unanimous consent, and agreed to.

BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 84) to amend an act entitled "An act to incorporate the Freedmen's Savings and Trust Company," approved March 3, 1865; which was read twice by its title, and referred to the Committee on Finance.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 18) authorizing the Secretary of the Treasury to direct the issue of American registers to certain British-built vessels owned by American citizens; which was read twice by its title, and referred to the Committee on Commerce.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 19) for the benefit of certain volunteer troops of Missouri who served during the war; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. HENDERICKS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 21) for the relief of Samuel Norris; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a bill (S.

No. 85) granting to the State of Wisconsin a donation of public lands to aid in the construction of a breakwater and harbor and ship-canal at the head of Sturgeon bay, in the county of Door, in said State, to connect the waters of Green bay with Lake Michigan, in said State; which was read twice by its title, and referred to the Committee on Public Lands.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 45) to change the name of the ship Art Union to the name George M. Barnard; in which it requested the concurrence of the Senate.

PROVISIONAL GOVERNMENTS.

The PRESIDENT *pro tempore*.—If there is no further morning business the Chair will call up the unfinished business of yesterday, being joint resolution (S. R. No. 11) in relation to the organization of provisional governments within the States whose people were lately in rebellion against the United States, the pending question being on the motion to refer the joint resolution to the joint committee on reconstruction; on which the Senator from Oregon is entitled to the floor.

Mr. NESMITH. Mr. President, the nation having passed successfully through the most terrible ordeal of four years of civil war, and having vindicated its supremacy over every foot of its vast territory, as the din of battle is hushed, and the fierce passions of the combatants have subsided, we are no longer called upon to devise means for the support of great armies, but the higher duty devolves upon us of restoring the country to a state of peaceful prosperity and happiness. In the discharge of this important duty let us not be animated by feelings of hatred and revenge toward those so recently in hostility to the national authority, but rather cultivate that spirit of friendship and forbearance so essential to our future prosperity as a great, united, and prosperous people, destined to the enjoyment of a free Government of our own construction.

The ravages of war, which have wrought such havoc with all our material interests, have been unequal to the task of destroying or subverting our form of government, and we emerge from the conflict with a Constitution intact, while the mass of our people are only the more strongly devoted to its principles by reason of the perils it has survived. It now becomes our duty to repair the damages resulting from attempts at disorganization. In the discharge of that duty we cannot, if we would, relieve ourselves from the obligations which we are under to "guaranty to every State in this Union a republican form of government."

As diverse sentiments are entertained relative to the mode of discharging this duty, I propose to examine the President's plan of restoration, involving the speedy admission of Senators and Representatives from the southern States, and then the opposite or different plan of what is popularly called reconstruction, under some kind of act to be passed by Congress, in which new conditions of admission shall be exacted. Upon examining both these plans, and contrasting them with each other, we shall be able to form a clear opinion as to our duty in this juncture of our public affairs.

The President has required several things of the southern people, and has recommended others for their acceptance; and he has done all this in his capacity of Commander-in-Chief of the Army and Navy of the United States, and also in his civil capacity as Chief Executive of the Republic.

As Commander-in-Chief, it was his duty to put down the rebellion and all its works, and he has done so thoroughly. At least what was left undone by his predecessor toward this end he has done most faithfully and skillfully. Armed resistance no longer continues anywhere within the limits of the United States, nor is there the slightest probability that it will be renewed.

But there were rebel State governments

throughout the so-called confederate States. These have been subverted, utterly removed from the face of the earth. Regarded as revolutionary and illegal in character, they were made to give way before the power of the United States, until not a vestige of them is now left. All those hostile organizations are defunct. They are dead, and will know no resurrection. The President, believing them to be wholly invalid in point of law, and criminal in purpose, refused them the slightest recognition, and has wiped them out effectually and finally. This was his duty, and he has performed it well.

But other things beyond this were required to vindicate the authority of the United States and to stamp the rebellion as illegal and wrongful. The President has therefore required those States to repudiate their ordinances of secession in express terms, and this has been done by most of those States in reorganizing their governments upon a loyal foundation. Their constitutional conventions have declared those ordinances to be null and void. In one or two cases, I believe, they have simply repealed them, but the practical effect is in substance the same. A further requirement made by the President, and acceded to by the people of the South, has been the repudiation of all rebel indebtedness incurred in behalf of the rebellion. I believe the rebel indebtedness, or at least most of it, had its payment conditional upon the accomplishment of southern independence. It was expressly made payable when the confederate States should become independent of the United States, and their independence should be recognized. Upon the whole, I conclude the confederate creditors hold about the worst securities known upon the face of the earth. There is no such government as incurred that debt in existence, and never will be; the time fixed for payment has become impossible, and lastly, at the instance of President Johnson, the whole debt has been repudiated, as unauthorized and unlawful, by popular conventions. Little sympathy need be felt in the case for the creditors of the South, whether foreign or domestic. They loaned their money upon a speculation and took the chances of the war. In fact, the confederate loans were in the nature of a gambling transaction; they were in substance bets upon the issue or result of the war. If the confederacy triumphed, the loan-holders would make immense fortunes upon small sums invested. If it failed, they were to lose their investments, for by the express terms of their contract they were only to be paid in case the rebellion should be successful.

From this statement of the position of the confederate creditors, how unnecessary appears the proposed amendment to the Constitution of the United States to prevent the payment of the confederate debt. A debt three times dead already is to be killed a fourth time by an amendment to the Federal Constitution. The debtor—the confederate government—is dead, and has left no effects; the time of payment has become an impossible date, and President Johnson has had an express repudiation of it put in all the new southern constitutions. I think, therefore, the subject is disposed of, if it be possible to dispose of and settle any subject whatever which has once been involved in public debate.

But I will proceed with my statement of the President's policy of restoration, in order to bring out all the leading points which it involves. The rebel State governments being entirely removed from the southern country, and the civil and military authorities of the spurious confederacy put down, the scene presented in that section was one of unorganized States. The territory and the people remained, and over both the authority of the Government of the United States was reestablished; but the latter was seen mainly in the exhibition of the war power by which the rebellion had been smitten, and its political as well as martial machinery leveled to the dust. The President explains very handsomely and clearly in his annual message the views by which he was prompted at that time. For the moment, his will was law from the Potomac to the shores of the Gulf. He held in hand the largest army of modern times, an im-

mense naval force, and stood as the representative of a flushed and triumphant nation. It is a maxim that "power is ever grasping" and ambitious of its own perpetuity; but when the ruler of a great nation, in times when turbulence seems to have relaxed the bonds of government, refuses to usurp questionable authority over a fallen foe, whose acts are so justly open to universal condemnation, he gives the strongest possible evidence of his patriotism and honesty of purpose, and furnishes a new guarantee of both the justice and strength of a republican Government.

No greater mass of power was ever held under circumstances of such transcendent importance by one man since the creation of the earth. But our patriot President was equal to the crisis. The occasion did not find him unprepared for the duties which it imposed. He remembered his oath to support the Constitution of the United States. He remembered that he was one of the people, pledged by his birth, by his early struggles, by the professions and conduct of a prolonged and illustrious career, to the republican principle of government by the people and for the people, and to the rejection of all forms of arbitrary and unconstitutional rule. While he was determined to secure the proper fruits of victory, he had no heart for works of persecution and vengeance, nor any disposition to transcend his powers and establish despotic principles in the administration of the Government. What then did he do, and what does he now propose? Let him be judged by his acts, openly performed in the face of the world, and by the recommendations of policy which he makes to Congress and to the people.

Well, sir, he called into requisition the executive power of pardon, and he has used that power efficiently in the work of restoration. Through this power he has dealt with individuals engaged in rebellion. He has restored many such to their rights, forfeited under the laws of their country, and screened them from prosecution and punishment. But was this done rashly, blindly, and without discrimination or just conditions imposed? No, sir, nothing of the sort! There was no precipitancy and no blundering! His general amnesty proclamation conformed to the policy of his predecessor, Mr. Lincoln, but he reserved from its operation large classes of cases for special action upon individual applications for pardon; and in all cases where executive clemency has been extended, an oath has been required as a guarantee of future conduct and of allegiance to the Government of the United States.

Through his exercise of the pardoning power the authority and dignity of the United States have been asserted, and those who have been unfaithful to the Government made to acknowledge their fault, to sue for clemency, and most solemnly to pledge their fealty to the United States. The general submission of the southern people since the close of the war rendered a magnanimous policy toward them possible and proper; and I believe the President has acted with great discretion and wisdom in extending amnesty and pardon to the great mass of the southern people, while withholding it thus far from particular classes or prominent offenders among them.

But his policy for restoring loyal State governments has been equally important. He did not choose to continue military occupation of the South, with its enormous expense and other attendant evils, any longer than was necessary. Troops were therefore gradually withdrawn and disbanded, and now the number remaining in that section is comparatively inconsiderable. For military rule civil rule has been substituted, and that in the only way in which it could be properly done—by the action of the people themselves. They were invited to reorganize their State governments, and they have done so, fully and completely. To this end delegates to constitutional conventions were chosen, constitutions formed, and subsequent elections for members of Legislatures, for Governors, and other officers have been held. Perfect State

governments have been reestablished by the action of the people themselves in nearly all the States in question, which are republican in form, and clearly entitled to the protection of the United States under the guarantee clause of the Constitution.

I deny all power in Congress, or the President, or in both combined, to make a State constitution, or to dictate any provision which shall be contained in it. A constitution must be wholly made by the people over whom it is established, and can be made or amended by no other persons whatever. Thus have been made the new constitutions of the southern States, and their validity rests immovably upon the ground that they are thus popular in origin, while loyal in object and republican in form.

It is true that the proceedings for forming the new constitutions were initiated by provisional governors appointed by the President and acting under his direction. But this cannot affect the validity or merit of the constitutions made. The provisional governors simply invited the people to act in their sovereign capacity in reorganizing governments for themselves, which was both necessary and proper under the circumstances which then existed. There were no local authorities or officers competent to call conventions, or give them protection while in session, although a clear necessity for convening existed, if civil rule was to supplant military rule in that section of the country. Therefore the provisional governors, who represented the military power of the United States for the time being, in order to the withdrawal of that power and to the restoration of valid and loyal State governments, were authorized to invite the people to select delegates to constitutional conventions in their respective States. Those conventions met and formed constitutions which are unquestionably good and lawful, not because the making of them was instigated or invited by provisional governors, but because (as before stated) they were in fact made by the people over whom they are established, and made in accord with the Government of the United States. I am not now speaking of the exceptional cases of Louisiana, Virginia, and Arkansas, but of the other States of the South in which there was no pretense of loyal government at the close of the war, and where it was necessary, therefore, that some authority, some official or volunteer association, or person, should initiate their establishment by setting in motion the sovereign popular power which was alone competent to the work.

There is no soundness in the objection sometimes made that the southern constitutions, or some of them, were not submitted to a popular vote for adoption or rejection. The people of any State may authorize delegates, selected by them, to form a constitution, which shall be legal to all intents and purposes; and the people of some of the States of the Union are now living under constitutions thus made.

For instance, the Pennsylvania constitution of 1790, which yet exists in an amended form, was not submitted to a popular vote, but was simply proclaimed by the convention which made it. It is very well that new constitutions should, in ordinary cases, be submitted to a popular vote; and this is necessary where a law under which a convention assembles provides for such submission. But it is most absurd to say, as some have said, that a constitution cannot take effect and have authority unless adopted by a popular vote; for it is perfectly plain and undeniable, that though the people cannot strip themselves of their sovereignty, they may delegate to a representative body the exercise of sovereign powers. In fact the people would no longer be sovereign if they should be stripped of the power of appointing delegates or representatives to act for them in the making of a constitution.

In the case of Kansas the true objection was not simply that the Lecompton constitution had not been submitted to a vote of the people. In fact a part of it was submitted. The true objection was that the people of Kansas did not

select the men who made the constitution, and that, therefore, it could not be taken as their "act and deed," unless they should accept or ratify it by a direct vote. But where the people do in fact select delegates to a convention, and confer upon them, expressly or impliedly, the power or authority to frame a constitution, the convention may enact a constitution, which will be valid without any additional sanction or further proceeding.

But one point further connected with the President's plan of restoration (and it is a most important one) remains to be noticed. It is the securing of emancipation to the black race in the South as a result of the war, and as a guarantee of future quiet and harmony to the nation. Emancipation, now fully accomplished, both in law and fact, rests upon the following foundations:

1. The proclamation of President Lincoln of January 1, 1863.

2. His subsequent amnesty proclamation, so far as the same was accepted or acted upon by individuals in the southern country.

3. The direct action of military force during the war, in conformity with executive policy, and, to some extent, under the authority of laws enacted by Congress.

4. The amnesty proclamation of President Johnson, of 1865, and subsequent special pardons granted by him; amnesty and pardon being extended upon conditions which involved emancipation and furnished securities for carrying out the previous policy of the President and Congress on that subject.

5. The adoption, by the Legislatures of the several reorganized States, of the proposed amendment to the Constitution prohibiting slavery generally and for all future time within the United States, and conferring upon Congress adequate power to enforce the prohibition.

Upon the last two heads the President speaks as follows in his annual message:

"In exercising that power [the power of pardon] I have taken every precaution to connect it with the clearest recognition of the binding force of the laws of the United States, and an unqualified acknowledgment of the great social change of condition in regard to slavery which has grown out of the war."

The executive power of amnesty and pardon was ample to cover and justify what was done. In other words, it was competent for the President to attach conditions to pardons granted. He proceeds in his message to say:

"The next step which I have taken to restore the constitutional relations of the States has been an invitation to them to participate in the high office of amending the Constitution." "It is not too much to ask, in the name of the whole people, that on the one side the plan of restoration shall proceed in conformity with a willingness to cast the disorders of the past into oblivion, and that, on the other, the evidence of sincerity in the future maintenance of the Union shall be put beyond any doubt by the ratification of the proposed amendment to the Constitution which provides for the abolition of slavery forever within the limits of our country."

This "invitation" to the southern States has been complied with by them. They have, through their Legislatures, adopted the constitutional amendment, and thus made it a part of the fundamental law of the United States.

I have thus gone over several features of the President's policy of restoration, so far as the same relates to the action of his department of the Government; and however much nice critics, captious men, or interested agitators may be disposed to find fault with it and condemn it, either in whole or in part, I believe the great mass of the people of this country will heartily approve and indorse it. In fact, the evidences of such approval come to us from every quarter; they multiply daily; and cheer and invigorate the friends of reunion and of constitutional rule. What, then, remains for Congress to do to perfect restoration, to carry out the policy which the President has begun? In his annual message the President addresses Congress as follows:

"The amendment to the Constitution being adopted, it would remain for States whose powers have been so long in abeyance to resume their places in the two branches of the national Legislature, and thereby complete the work of restoration. Here it is for you, fellow-citizens of the Senate, and for you, fellow-citizens of the House of Representatives, to judge, each

of you, for yourselves, of the elections, returns, and qualifications of your own members."

The meaning of this important passage cannot be misunderstood. The language is remarkable and peculiar in form. It is addressed to the members of each House separately and distinctly, and suggests to them the performance of a duty under the provision of the Constitution which makes the respective Houses judges of questions relating to membership. This is a power to be exercised by each House for itself, quite independent of and uninfluenced by the other House.

The duty is judicial in its nature and not legislative, and one of the gravest character. And the power is so clear, and its exercise so necessary to the restoration of the Union, that the President, as it was proper for him to do, has in emphatic language called the attention of Congress to its performance. And in addressing the members of each House, in their separate capacity, he has used language suited to the inculcation of the constitutional duty, and distinguished it from all those duties which are to be performed by the two Houses in their joint or legislative capacity.

In his communication to the Senate of December 18, in answer to a resolution of inquiry, the President further says:

"From all the information in my possession, and from that which I have recently derived from the most reliable authority, I am induced to cherish the belief that sectional animosity is surely and rapidly merging itself into a spirit of nationality, and that representation, connected with a properly adjusted system of taxation, will result in a harmonious restoration of the relations of the States to the national Government."

We have here, in these extracts, the opinion of the President upon the question of what should be done at this juncture by Congress, or rather by the respective Houses of Congress, in the work of restoration. The representation of the southern States is to be restored by appropriate action of each House under a clear constitutional power, the exercise of which will be completely efficacious to the object in view.

Thus the Union can be restored in its integrity, and all questions connected with its restoration disposed of forever.

Why, then, should not the Senate and House, respectively, proceed to consider the questions of membership which are brought before them, and decide them upon the same principles of wisdom, magnanimity, and patriotism, which have characterized the President's conduct and policy with reference to the southern States? What good object is to be subserved by keeping open the question of restoration, and delaying to the country the enjoyment of the fruits of victory and peace? These questions do not concern the people of the South alone. They are interesting and important to the people of the whole country. It is desirable, in the judgment of intelligent and patriotic men everywhere throughout the land, that all the relations between the sections which were interrupted by the war should be restored at the earliest possible moment.

Let commerce revive; let trade resume its ceaseless activity; let social intercourse succeed to estrangement and division, and let the political bonds of union be renewed in all the strength and brightness of former times.

But there are men who are dissatisfied with the prospect of these results. There are men who decry the President's policy and pronounce it a failure. There are men who are not satisfied with complete victory in the war; with emancipation secured by constitutional provisions, repudiation of rebel indebtedness, and complete submission of the southern people to the laws and jurisdiction of the Federal Government; and their sincere, generous, and earnest proffer of allegiance and devotion to it. They seek to delay reunion, and to impose further conditions upon the southern people as the price of conceding it. What those conditions shall be does not very clearly appear, as scarcely any two men among the objectors agree entirely in their definition and statement. But some of them are sufficiently evident already, and may be made the topics of immediate discussion.

They are to be presented through laws enacted by Congress, and in propositions for the amendment of the Constitution of the United States.

But, before they are discussed, it will be proper to notice briefly some of the reasons which appeal to Congress in favor of the President's policy of immediate restoration.

The recognition of the reorganized State governments, by the admission of Senators and Representatives, is due to the loyal men of the South who assisted in their formation and now adhere to them, not only as instruments of local government, but also for securing renewed representation in the Government of the United States. This class of men, our brothers and friends, have a merit above and beyond that which belongs to men of the North. Their devotion to the Government was maintained under appalling difficulties. They have suffered severely, and they now look to immediate restoration as necessary to their interests and welfare. Their appeal is not to be resisted or postponed unless overwhelming considerations of necessity or policy demand it. These State governments have been organized in concert with the President of the United States, and in accordance with a policy proposed by him as the Chief Magistrate of the nation. So far as he could reasonably act on behalf of the people of the United States, in the work of reconstruction, we are bound in good faith to sustain the arrangements made at his instance, and accept Representatives from the reorganized States.

By prompt recognition, we conciliate the people of the South, and attach them more firmly to ourselves for the future. In this case, unanimity is safety; for we will obtain by it additional security against future dangers. We will "consolidate the Union;" that is, we will strengthen it, render its bonds firm, repress disaffection, and remove all possibility of foreign intrigue in that section hereafter.

By immediate recognition we will promote and insure the prosperity of both sections. Capital will go more promptly into the South for investment; production there will be incited; trade and commerce will revive, and sources of revenue to the public Treasury will be opened and enlarged.

Recognition relieves us from a vast burden of expense in maintaining civil and military establishments of government, and from the inconvenience and scandals arising from conflicting jurisdictions in administration.

Recognition and representation in Congress establish and maintain a republican principle vital to our system and sanctified to us by the struggles of our fathers. We tax the South, and we shall tax it heavily hereafter. The public necessities and the principle of equal taxation make this a necessity. But it will be unjust, odious, and anti-republican, to tax them without admitting them to representation in that Government by which the taxes are imposed.

Finally, by recognition and renewed representation in Congress, we restore all the great interests of the country, and they will again have a due voice in the Government, and participate in the debates by which its policy is shaped and determined. And it will be particularly useful, as well as just, that upon questions affecting the southern people their Representatives shall be heard before the laws by which they are to be bound shall be enacted.

It is further to be remarked that these reorganized State governments can be recognized with much more propriety than those set up or proposed during the war under Mr. Lincoln's one-tenth plan. In the first place, they are established after the return of peace, and not during the pressure of military operations.

They are, to a great extent, free from the objection urged against the Lincoln States, of being formed within the theater of actual war, and therefore, of necessity, mere creations and creatures of military power. In the next place, they are established in each State by a clear majority of the people and not by a minority, thus conforming, in a most vital particular, to true republican principles.

Some people think, or pretend to think, that the southern States have been out of the Union, and that an act of Congress is necessary to readmit or restore them. It is true that a part of the people South voted to go out of the Union, and took up arms to sustain that resolution. That is undeniably true. But we said that they should not go out, and we made war to compel them to remain. The contest between them and us was to determine whether their resolution or ours, upon this very point of going out, should prevail. They were beaten in the war; their object frustrated, its realization prevented. They did not get out of the Union because they failed in the war. Success would have taken them out; failure left them in. That is the simple truth and the whole truth upon this subject, and the conclusion follows that no act of Congress is necessary to their restoration.

I see, therefore, no objection upon grounds of principle to the President's policy of restoration so far as he has carried it, nor to its consummation and complete fulfillment by the admission of Senators and Representatives by Congress. On the contrary, the reasons which support that policy are numerous, weighty, and decisive.

In contrast with the policy advocated by the President is that known as the radical policy, which proceeds upon the hypothesis that negro suffrage is a certain and sure remedy for all the evils which afflict the State. I look upon the remedy as worse than the disease, as it imposes a lasting and permanent evil for one of a temporary character. An attempt to dilute and weaken the intelligence upon which the safety of our free institutions is founded can only be followed by disastrous results.

If the inherent and superior intelligence of the white man is incapable of directing and perpetuating our form of Government, God defend us from an appeal to African auxiliaries for the consummation of that grand result.

The right of suffrage implicitly carries with it the right of governing by holding office, and against the lodgment of such powers in the hands of the late slaves I enter my solemn protest. I admit that it is not the fault of the African, the Indian, or the Asiatic, that his skin is not white, or that he does not exhibit those great characteristics which qualify him to govern the white race, and I am not disposed to inflict punishment upon the African because, while our white ancestors were contending for civil and religious liberty, his were the nude barbarians engaged in eating or selling those whom the fortunes of war placed within their power upon their native deserts. God made the distinction in creating the races, and by an immutable law he made their permanent commingling an impossibility. Where the white race predominates it governs, and in Africa and Hayti, where the negro is the dominant race, he governs, and sedulously excludes the white man from any participation. And while I do not propose to reenact the ordinances of Providence, I am an advocate of the maintenance of the distinction of the races, socially and politically.

Notwithstanding the denunciations which have been hurled against the sentiment, I still believe that this is a white man's Government, framed by white men, and for white men; instituted by their wisdom and defended by their valor. In saying this, I do not mean to be understood as asserting that the negroes, the Indians, or any other inferior races should be excluded from the natural rights of life, liberty, and the pursuit of happiness; but I do mean to say that the hardy, persevering, industrious, brave, and intelligent Anglo-Saxon race and their descendants, who brought civilization and the arts into the New World, and who have organized, defended, and perpetuated free government here, are not to be overridden and have a governmental policy dictated to them by any semi-barbarous inferiors, who have never evinced the intelligence here, nor in their own country, necessary to better their own condition; who have never had inventive genius to improve upon the

rudeness of the most barbarous life; who have never had the courage to assert and maintain a respectable Government anywhere.

A stroke of the pen and sword combined has stricken the fetters from the limbs of the slave, but has left him, in point of intelligence, but little the superior of the brute creation or the inanimate objects by which he is surrounded. The stroke of neither the pen nor sword can relieve the emancipated slave of his servile instincts and fit him at once for the judicious exercise of the right of suffrage. He is as ignorant and passive to-day as he was before a drop of the white man's blood was shed to secure his emancipation, and he will be no better to-morrow. By forcibly thrusting upon him the right of suffrage, of which he has no adequate comprehension, you either leave him the dupe of his old master, to be voted at his will, or force him into an unequal contest with your own race, who, since anything has been known of them, have either enslaved or exterminated every other race with which they have come in contact.

It seems to me unreasonable that we should be called upon at this day to discuss a question of extending suffrage to a race who are notoriously unfit to exercise it intelligently and wisely. But surprise at this fact will be lessened when we consider that those who are most anxious to secure negro suffrage, who are most ardent and boisterous in its favor, are precisely those persons who know least about the negro, and are least qualified to judge and determine any question of policy concerning him. There is no extensive sentiment anywhere in the southern States in favor of negro suffrage. What is thought on that subject in this city of Washington was determined recently by an almost unanimous vote of the qualified citizens against it. Advancing northward, we find constitutional provisions established in most of the central States to preclude all legislative action upon the subject. Only when we arrive in the extreme North, where this race is scarcely known as an element of population, do we find any considerable sentiment in favor of degrading the elective franchise to the level of negro intelligence and capacity. And even in recent elections held in Connecticut, Wisconsin, and Minnesota, decided majorities were given against the extension of suffrage to the small number of negroes resident in those States. Upon the Pacific coast, I am sure, the people are opposed to suffrage by negroes, by Asiatics, or by Indians found within their borders, and they will long remain so. In short, if negro suffrage were submitted, at this hour, to a vote of the whole electoral population of the United States, I believe they would decide against it by a vote of four to one. Even the negroes themselves do not demand or ask it, except where they are instigated or influenced by white men whose trade is agitation and whose purpose is mischief. It is clear, then, that public opinion does not demand from Congress any legislation or action whatsoever looking to negro suffrage. The cry for it is the clamor of faction and not the voice of the people.

It is equally clear and certain that Congress has no rightful power to determine a question of suffrage in any State; that an attempt to do so would be a usurpation, and directly opposed to the fundamental division of powers between the States and the Federal Government.

But negro suffrage would not be desirable or useful, but, on the contrary, pernicious, even if no impediment existed in public opinion, or in constitutional law. It would inevitably degrade and corrupt elections, and that to an extent fearful to contemplate. Electoral privilege is a trust as well as a right. It is, in fact, a public duty rather than a personal privilege; a duty of the gravest importance, and requiring independence, intelligence, and virtue in a high degree to its proper exercise. Its strongest and most persistent advocates are to be found among politicians who perceive the true relation between cause and effect; that ignorance can be made to count hugely at elections, and that party organizations, and public men who would

not be upheld by the intelligence of the country; and, by its aid, riot in place and wield the scepter of public power.

With all the justice, patriotism, and magnanimity which we may claim for the States now represented upon this floor, how few of them have become convinced of the propriety of conferring the right of suffrage upon the few and comparatively intelligent negroes to be found within their borders? If the experiment under such favorable circumstances becomes of doubtful propriety with our own States, where is the justice or propriety of our forcing it upon other States, where the African has not had time to commence his recovery from the debasing effects of the most degraded servitude?

The propriety of universal suffrage among our own race has long been a debatable question among the warmer friends of republican institutions, and while it is difficult to fix any boundaries for the intelligence which shall authorize its exercise, it is conceded by all that there is danger in conferring it upon those who are ignorant of our Government and institutions. Examples are not wanting of the restrictions which have been imposed by States against its universality. The Indian, with all his native sagacity and the noble attributes awarded to him by Utopian writers, has been almost universally denied its exercise. In times of political excitement parties have been enabled to feign amendments upon State constitutions which excluded white persons of foreign birth whose political sentiments were not in unison with the progressive and transcendental theories of intolerant majorities.

But, sir, admitting, for argument's sake, the propriety of conferring the right of suffrage indiscriminately upon everything that walks upright upon two feet, what right has Congress to meddle with this question within the States of the Union? By an appeal to arms you have reduced the citizens of the southern States to a condition of obedience to the Constitution and laws of the United States. You and I denied their pretended assumption of the right to take their States out of the Union. They appealed to arms as the last resort to enforce their pretended rights of secession. We met them openly and squarely upon that issue, and wrung from them a verdict, at the cost of hundreds of thousands of lives and thousands of millions of dollars. In this verdict they now acquiesce; and are we, in the moment of victory, to be guilty of the folly of turning around and conceding all their claims by admitting that they are no longer States of the Union, bound to observe its Constitution and yield obedience to its laws, and reciprocally entitled to its protection and rights? Such action would be a surrender to the rebels, by legislation, of more than they have been able to wring from us by arms, and would be a practical ratification of their secession ordinances, and a dissolution of the Union by act of Congress.

Why should we involve ourselves in the paradoxical absurdity of denying the right of secession, of fighting them for four years to enforce that denial, and when they admit their failure by the last arbitrament, turn round and admit that they have accomplished their purpose, and are to-day outside the Union? The rebellion having been a failure on the part of those who inaugurated it, it would seem the height of folly on the part of those who resisted it so successfully to dignify it with all the consequences of a success. If, as I believe, they have not achieved the object for which they began the war, and their insurrection has been suppressed, it would seem that nothing has occurred to change their political relations to the Union, and they must be still States composing its integral parts. Every department of this Government has so recognized them in some form or other, and I take it that they are as much States in the Union to-day as though their citizens had never committed treason against it. The crime of treason can only be committed by individuals, and whether they are pardoned or punished for the offense cannot affect the

condition of the body-politic of which they may happen to be members.

It is a well-known fact that in many of those States a minority of the people assumed to sever the connection of the State with the Union, and that the majority were forced to succumb in some instances to *de facto* governments forced upon them by a minority of their own citizens, aided by rebel forces drawn from other revolted States. In this view of the facts, if we are to admit that States thus situated have been taken out of the Union, it becomes an interesting question to know exactly how small a minority, aided by troops from other States, may be able, under the influence of such auxiliaries, to effect a legal consummation of the proposed act. It might also be the subject of inquiry to know to what extent the loyal and non-seceding majority were bound by such acts under duress. It is said that troops from neighboring States surrounded the convention at Little Rock, in Arkansas, and by threats and intimidation forced members elected as Union men to vote for the ordinance of secession. If Lee, in one of his advances into Pennsylvania, had, by the same means, effected the same results with a Legislature or convention at Harrisburg, and subsequently the people in Pennsylvania, or a majority of them, had been conscripted and placed in the rebel army; after the invaders had been driven from the State as they have been from the southern States, would any man claim that Pennsylvania was no longer a State of this Union; and that in consequence of her soil being invaded and her people overcome by rebel hordes, that her relation to the Union was changed, and that in consequence of these results her altered relations to the Union were such as to authorize Congress to interfere in her internal policy, or alter her suffrage laws? If it is claimed that such a secession from the Union, under such circumstances, was null and void, and ought not to alter the relations of Pennsylvania toward the Union, I answer that all acts of secession are equally null and void, and cannot change the relations which a State bears toward the Federal Constitution.

The ridiculous and absurd acts of the pretended and fugitive Legislatures of Kentucky and Missouri, by which those bodies pretended to sever the relations of their respective States with the Federal Union, were as valid as the similar attempts at the same thing by the conventions of South Carolina and Mississippi. If they were not, and if Missouri and Kentucky are not to-day as effectually out of the Union as any other States, I should like to have some casuist upon the question of legal and constitutional secession explain the reason why. Yet no one seems to question the right of Missouri or Kentucky to be represented here, and I suppose that their cases are exceptional because they did not legally secede.

Well, sir, if those States did not legally secede, would it not be well to inquire into the legality of the similar attempts upon the part of other States, and if it should turn out that none of them have seceded legally, the natural inference would be that none of them could legally be denied that representation upon this floor and that immunity from Federal interference in their internal affairs which the Constitution of the United States awards to them.

Mr. President, I have been astonished, when I have read the speeches of men who are supposed to be endowed with common sense, to observe the subterfuges and expedients to which they have resorted to prove by specious and silly arguments that the southern States have actually seceded and dissolved this Union. The advocates of the finality of secession, in their attempts to prove that it has been consummated, notwithstanding its unconstitutionality, complacently adduce what they suppose a parallel in the case of murder, and suppose that they are demolishing all arguments against their theory, by complacently, and with apparent triumph, asserting that the laws prohibit murder, therefore murder cannot be committed. I pity the statesman or lawyer who is driven to such sub-

terfuges of the pettifogger to sustain so transparent a fallacy. Murder, like other crimes, is punished by a local law, and its perpetration is constantly occurring and being punished. The restriction finds a place in our great fundamental law which declares that—

"This Constitution, and the laws of the United States, which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

This is an assertion of the supremacy of the Constitution, and when its violation is attempted the courts have never admitted the success of such attempts, but have invariably stamped them as nullities, and void, because of their legal impossibility. I should hope that there are but few men in our country who are unable to comprehend the distinction between a criminal statute and a great constitutional restriction.

It is urged as an objection against the recognition of those States that their Legislatures might not be in unison with some other States. The same objection might be urged against the internal policy of any of the other States of this Union, and only furnishes an argument in favor of the obliteration of all States, leaving the legislation of what is now called the United States to be consummated by a great centralized Government established here at the national capital. I have never been an advocate of State rights except when they were exercised in subordination to that paramount law known as the Constitution of the United States. I know that the States lately in rebellion are not the only ones which have at times attempted to assert such right in derogation of the Constitution. We have had some late and costly experience in the way of ultra State-rights doctrine. Let us avoid the other extreme, and escape the evils likely to result from an attempted consolidation of all the rights of the States in a centralized Government.

While the southern people were engaged in armed hostility to the Government and the Constitution, no one was more anxious than myself to see their spurious government overthrown, and their military power broken, in order that the Constitution and laws of the United States might reassert their sway. To accomplish these ends I urged the adoption of a vigorous conscription law, with an abolition of exemption and commutation clauses, which, if adopted, would have crushed the military power of the South at an early period. I desired to infuse a vigor into the war which met with the stern reprobation of extreme partisans of all classes upon this floor. Now that our armies have been triumphant everywhere, and the people of those States lately in revolt are suing for mercy and pardon, it is not in my nature to inflict humiliating outrages upon them, or to demand that they should be reduced to an equality with their late slaves.

It is but natural, when we contemplate the enormity of the crime committed by those people in their mad attempt to destroy such a Government as ours, and which the most of their leaders were sworn to support, that we should desire to inflict upon them such punishments as are demanded by broken laws and a violated Constitution; and I do not pretend to say that the great leaders in those terrible crimes which have plunged the country into mourning and involved us in a debt of gigantic proportions should escape at least some of the legal consequences of their own deliberate acts. Yet we should, as far as the mass of the people are concerned, extend to them that godlike attribute of mercy, and remember that Christianity, combined with modern civilization, has long since exploded the idea that the wholesale shedding of blood is a panacea for crimes against the State. Let us not leave a record behind us parallel to the state trials of England and the reign of terror in France, when it was supposed that the most terrible punishments worked the most salutary reforms. James II, with a facious brutality, characterized the wholesale slaughter

which followed the abortive attempt of the Duke of Monmouth to revolutionize England, in 1685, as "the campaigns of the Lord Chief Justice Jeffreys in the west." The name of that cruel and weak-minded monarch has been handed down to posterity coupled with the most blood-thirsty and atrocious villainies that ever disgraced the forms of human justice, and the name of Jeffreys is only remembered to be detested and execrated in every clime where civilization has extended. The terrible examples of bloodshed in France, during the reign of terror, have met with a like condemnation. It is gratifying to all friends of popular freedom and constitutional liberty, when we reflect that in our late contest, where all the worst passions of human nature were aroused, and when our soldiers, as prisoners, had been treated with a barbarity utterly indefensible, that when our enemies were subdued and within our power there was no clamor for blood.

Humanity and reason have with our people maintained a sway which in almost any other country have at some time been usurped by hatred, vengeance, and bloodshed. Such an exhibition of magnanimity and mercy is alike creditable to our people and our institutions.

Mr. President, inasmuch as the people of the South had no just cause for the commencement of the rebellion, let us be careful not to furnish them with one for the justification of similar attempts in the future, by forcing upon them taxation without representation, and thus placing them where they can avail themselves of the precedent sanctified by the struggles of our revolutionary fathers. Though they have been confessedly in the wrong, and have committed a great crime, let us not violate our own sense of justice by heaping upon them the very outrages which justified the Colonies in resisting a similar tyrannical exercise of power upon the part of Great Britain.

Look at this great question as you will, and from any stand-point, the conviction is forced upon your mind that we are to constitute in the future one great nation, and must live together as one people, professing the same religion, speaking the same language, and bound together by the traditions of the past and the hopes of the future. If this be true, is it not better for us to forget and forgive the past than to revive and keep alive the hateful animosities which have come so near causing our mutual destruction? I trust and believe that the time will come when all the fierce passions and hatred engendered by the war will have subsided, and when we shall become a more united people than before, with homogeneous institutions, bound together by a common sentiment of love and admiration for free government and constitutional liberty. Posterity will view, through the medium of impartial history, the acts and achievements of the public men of the present age, and the time in which we now live and act our part will be referred to as the most portentous of any period of the past. The terrible crisis through which we have just passed will be referred to as demonstrating the power of a republican form of government, and as conclusive proof that the people have the capacity to administer and preserve it. Let us, then, in the language of the President, "cast the disorders of the past into oblivion." Let the children of those who have met upon the field of carnage imitate the generosity of their fathers, who could shake hands and share the rude comforts of the bivouac with those so lately their mortal enemies; and let us hope that both sections may cultivate and foster that spirit of concord which shall make our Union in reality "one and inseparable."

Mr. WADE. Mr. President, I had not intended to say anything at this time upon this great subject of reconstruction, because it appeared to me better that we should await the action of the committee that we have appointed and charged with the duty of enlightening us upon the subject; but I have heard so much that seems to be entirely aside of the difficulties that occur to my mind on this subject that I think I ought not to fail at this time to express some

opinions that I entertain; and especially as the Senator from Wisconsin, [Mr. DOOLITTLE,] in the long, labored, and able speech that he made yesterday almost entirely failed to touch any of the difficulties that are laboring in my mind.

The Senator began by invoking the principles and aid of the preceding Administration, and informed us that the present Administration was proceeding upon the same principles that Mr. Lincoln had adopted. It is true that Mr. Lincoln had entered upon a certain policy in regard to the admission of some of these States; the question was agitated before us, I believe, during the whole period of the last Congress; but, notwithstanding my anxiety to find some way by which these States could be safely admitted into the Union again, all the arguments that were made for that purpose during that whole Congress entirely failed to convince me that the time had arrived when it was safe to admit any of them; and therefore, for one, I contended against it, and with a good deal of zeal; and for that I, with some others here, was accused of being a little factious, and sometimes it was said we filibustered against the will of the majority to keep these States out.

Now, sir, I wish to say that in my judgment President Johnson has made a great improvement upon the state of things that existed during the last Congress, although, as yet, he has not reached the point where I think the difficulty begins. Mr. Lincoln advised us to admit Louisiana into the Union at a time when, probably, more than one half her territory was trampled beneath the hostile feet of the enemy. Our flag did not cover her territory, and perhaps not half her population, when he thought it would be safe to permit her to come back into the councils of the nation and participate with us Union men in the great work of legislation. I had not seen anything in the proceedings of the people there that warranted me in saying that that would be safe, and therefore I thought it best to make what stand I could against that measure. You will recollect, sir, that Mr. Lincoln did not then require, if I recollect right, in order to the admission, anything more than that one tenth part of the population of Louisiana should take a certain oath, and that not a very difficult one, and when they had done that the State was to be in a condition to be admitted. Mr. Johnson, I repeat, has made an improvement, and a great improvement, upon all this, for he does require, if I understand him, that they, by their fundamental law, shall abolish slavery; he requires at their hands that they shall repudiate the rebel debt; he requires that they shall renounce the right of secession; he requires that they shall agree to the constitutional amendment abolishing slavery forever. These, in my judgment, are great improvements upon the system adopted by Mr. Lincoln. Had Mr. Lincoln himself, at that period, required these things, and had the States assented to them, I believe I should then have yielded to his wishes and given my support to the measure.

But, Mr. President, in the counsels that I have given and the measures that I have advocated in the Senate, I have ever had one polar star to guide my action, and to that I adhere whether I am in the majority or the minority, and I never intend to be tempted from it one single inch. I fix my eye upon the great principle of eternal justice, and it has borne me triumphantly through all difficulties in my legislative career since I have had a seat here. I say triumphantly; for, sir, I have stood upon this floor when I had not ten men to support me against the entire Senate, and when the principles that I advocated were infinitely more unpopular here than those that I announce to-day. How were the whole Senate startled at the idea of universal emancipation fifteen years ago, ten years ago; yes, sir, five years ago! Talk not to me about unpopular doctrines, and endeavor not to intimidate me by the intimation that I shall be found in a minority among the people! I know them better. I think I know that I tread in the great path of rectitude and right, and I care not who opposes me. God Almighty is my guide; He, going before to strengthen my hand, has never

failed me yet, and I do not fear that He will do so on this occasion.

Mr. President, I will not boast, but I, with many others upon this floor, can look back to our precedent course upon this subject, I think, with great satisfaction. I think we may say with St. Paul, "we have fought the good fight." We are not entirely through it, I admit, as he was. We may have a little further to go in the same direction, but our path is much easier than it was then.

Mr. CLARK. We keep the faith.

Mr. WADE. Yes, sir, I keep the faith, and I have no doubt of a final triumph. I never feared it. I never had the least doubt how this whole question would be settled. It will all come right if we are true to our convictions.

Mr. WILSON. We will be.

Mr. WADE. I have no doubt of it. I do not fear my associates on this great question. I wish, sir, and I wish nothing more heartily, that I could agree exactly with the President's view of the subject and go along with him in the smooth path to a final and speedy adjustment of this whole question; but there are things in that path which prevent my seeing the way clearly. I give the President full credit for all that he has done, and I honor him for the pertinacious manner in which he has insisted on the great guarantees to which I have already alluded. He has commenced, as it were, to build this great arch of freedom aright; he has laid the foundations deep upon the rock of justice and truth; he has demanded that slavery be abolished. I agree with him in this, and I honor him because he has stood firmly by this demand, and he stands firmly by it now. All these requisitions that he has demanded of the South are right, but he has failed to put the keystone on the arch that he has built, and if you leave it as it is it will go to ruin.

When this great question is settled, I want it to be finally and entirely disposed of. I do not wish to be fighting eternally about slavery and distinctions of rights and privileges among the American people. I say to President Johnson, to the Democratic party, to the people of the United States, that I will never yield this controversy until all men in America shall stand precisely upon the same platform, equal before the law in every respect. When that shall have been secured, I shall give up this great controversy in which I have been engaged so many years, and no man will be more rejoiced than myself that I shall be relieved from it.

I listened carefully to the elaborate argument of the Senator from Wisconsin yesterday, for I knew it was the announcement of the doctrines of the Administration most ably set forth, most deliberately prepared, meditated upon long, written and probably printed in advance and submitted for its consideration beforehand; but I do not know how that was.

Mr. DOOLITTLE. Perhaps as the Senator appeals to me upon that point, I may be indulged in stating, as I do most distinctly, that so far as the speech I made yesterday is concerned, I have had no consultation with any member of the Administration in regard to it; neither with the President nor any member of the Cabinet. I expressed my own opinions.

Mr. WADE. I only surmised what I stated; I did not know it to be a fact. I thought it might be so from the surroundings that I saw here; from some part of the audience that listened to the speech. It seems I was mistaken as to that, but it makes no difference. The Senator is undoubtedly the organ of the Administration upon this subject.

Mr. DOOLITTLE. Allow me to state that I certainly do not stand in any such relation to the Administration any more than any other Senator upon this floor. There are certain points in which perhaps I agree with the opinions of the President more than the Senator from Ohio, but I claim no more right to speak for the President than the Senator himself.

Mr. WADE. I do not know that the Senator does so claim, but I know that it has been generally considered that he was more familiar with the views of the President on this subject

than the rest of us. Perhaps this may be a mistake, but it does not make much difference how the fact is. I listened yesterday attentively to his able argument, in which he put forth undoubtedly all the views in favor of the policy he advocated that occurred to him or that he could muster into its service, and his speech was more remarkable for what it did not say than for what it did. I do not remember that in the whole course of his speech he spoke of the fate of those four million human beings whose rights are involved in this controversy—rights which to him are dearer than life; nay, sir, he would sooner sacrifice his own son upon the altar than consent that he should not stand upon an equal footing with his neighbor upon the question of suffrage. If there were no such element involved in this controversy, I, like him, perhaps, should find no very great difficulty in the way, but would allow things to go on smoothly and quietly. It would be a very harmless and unimportant controversy if it was barely to settle the question whether the rebel States in a metaphysical point of view are in the Union or out of it. The Senator cited Mr. Lincoln's last speech, or dying declaration, as he called it, in which Mr. Lincoln himself alluded to that very question, and said that it (which was so emphatic and so large a part of the Senator's argument) had in his judgment little or nothing to do with the subject. I do not pretend to quote Mr. Lincoln's exact words, but he said, "Enough that the seceded States do not maintain such a relation to the Government that they can be admitted without congressional aid," or to that effect. The Senator did not quote that portion of Mr. Lincoln's speech.

But, Mr. President, I care very little what great names say on these subjects. No man honors the memory of Mr. Lincoln more than I do, but I do not invoke his opinions here as controlling. Upon the floor of the Senate of the United States I look all around for counsel; I am willing to be enlightened from any quarter which can give me light with regard to my duty; and I would as soon look to it from a humble source as from the President or any other man standing in high official position. They are but poor, mortal men at last, and a Senator of the United States has no right to yield his opinions to mortal men. He is sent here for no such purpose. I like to have the aid of the Executive, according to the constitutional idea, to advise me as to the measures and principles that he thinks ought to be adopted; and no man will listen to him with a more willing ear than myself; but unless his advice squares with my idea of duty, I discard it as a Senator as I would that of any other man standing in any other position.

Sir, the great question that it now devolves upon us to settle is one from which we cannot shrink; it is for Congress and nobody else to settle. If we settle it and it be wrong, we cannot justify ourselves by saying that we took the advice of the President of the United States, or of Mr. Lincoln, who is now dead. Although his memory is revered by all, his counsels will be no justification to us if we make a mistake upon this great and perilous question that is looming up before us in portentous magnitude. I say, Senators, look to yourselves, take counsel of your own judgment and conscience, of your duty to God and your country, and look less abroad and less to great men, because if there were ever a question before you that was peculiarly your own it is this. Where in the Constitution can be found any authority given to the President to provide for bringing States into this Union? Nowhere; but we, the representatives of the people of the United States in Congress assembled, sent here to do their will under the Constitution of the United States, are the only tribunal to decide as to the admission of a State. We are the only body that ought in a free Government to declare upon what principles a State that is outside of the legislative department shall be admitted to participate in it. I do not care for that purpose whether the community is a Territory of the United States, or a State which has forfeited all right or all

ability to act for itself. Such questions are ours; they do not belong to the President of the United States; and if they did this free Government of ours, of which we boast so much, would be the most concentrated despotism upon the face of the earth. While we encroach not a hair upon the province of the Executive, let us stand firmly upon our basis under the Constitution, and do that which is our duty before the people of the United States.

Now, Mr. President, a word upon the subject which the Senator from Wisconsin did not touch. Here are four million people to be ostracized from this Government, to be made serfs forever, notwithstanding the declaration of their freedom, unless some way be contrived by which their rights shall be guaranteed. I was one of those who early advocated the bringing of colored men into the Army and invoking their aid to put down the rebellion. Over and over and over again I urged it upon the Executive, as a member of the committee on the conduct of the war, and in my private capacity, and in every other way, long before that policy took effect. I feel that according to the powers with which I was invested I did as much as I could to bring the Executive and Congress up to the mark of invoking to the aid of the Union the colored people in the Army and Navy and where ever else they could assist us. What was implied in all that? Did it not force upon me a duty? Would I lend my voice and my vote to seduce or compel that people to jeopardize their lives in defense of their country, and then turn them over to the mercy of their enemies?

Sir, the man who would do it, deliberately and knowingly, is the meanest of all God's creation. Having tempted them into the struggle, having induced them to fight through the war and hazard their lives in your defense, having by this course incensed the whole rebel population against them, will you desert them and leave them in the hands of their vindictive enemies to be destroyed? The Senator from Wisconsin did not allude to them; all his sympathy was with the rebels, the men who endeavored to destroy your Constitution, the men who buried three or four hundred thousand of your bravest sons. My friend from Nevada [Mr. STEWART] sympathizes with them, too. The brave colored men, weak and uninfluential in themselves, but who gave you the strongest aid, and without whom I do not know that you could have got through successfully, have no part in these gentlemen's sympathies. Those who slew our brethren, scoundrel traitors to God and man, are now the objects of their sympathy. In all their long speeches they cannot think of the four millions whom we brought on our side, and who imperiled their lives to give us most important aid. They sympathize rather with those who, instead of sympathy, deserve a halter!

There is another question which the Senator from Wisconsin did not touch. I do not remember that he said a single word as to the temper and disposition of the people whom he seeks now to bring into the Government. All he had to say was that a promise had been extorted from them that they would abolish slavery, or that they had abolished it in form; but how are you going to guaranty that? What provision have they made to make that secure? I shall never desert them. My honor, my sense of justice, is aroused upon this subject. I have invoked their aid in the Army; I have agreed to protect them in their freedom, and so far as my exertions go they shall be, whatever else may come. He said nothing about all this; he did not tell us precisely what it was that he would do; and now, after having listened to his elaborate speech, I do not know whether he would let these States right in now without any further inquiry on the subject or not. He argued to show that these States had never been outside of the Union, but that the moment the insurrection was put down or suppressed they were in their original place, and apparently had nothing else to do than to come up here and legislate for us; and for all his speech told us, our old enemies on this floor, whom we banished for treason, may come back here to-day if their people see fit to send them.

Permit me now, sir, to say a word on the question of constitutional law, as to whether the seceded States were out of the Union or in it. I agree with Mr. Lincoln, in thinking that in settling the question before us it is not very material to decide this point; for if, as he said, their relation to the Union is such that they cannot participate in the Government without the action of Congress, it matters little whether you call them outside of the Union or in it; the question will principally turn upon whether their temper and disposition are such that it is safe to trust them in the councils of the nation.

I have but a word to say about that question, because I do not consider it a question of very great importance; but I think the distinction which the mind of any statesman would make is very obvious. If a portion of the inhabitants of a State of this Union have raised their arms against the General Government and the State, for they cannot oppose the one without opposing the other, and the State is all organized and intact, aiding the Union to put down that rebellion, the State is not out of the Union, does not lose her organization, but stands intact, and the moment such an insurrection is put down the State stands as she did before. But when the whole State becomes contaminated, when it is so permeated by treason that all its officers, from the Governor to the lowest office-holder, are displaced and thrown out of their position under the Government, if the people have organized their State on a basis of opposition to the General Government and declared war upon it, so that resistance to the rebellion within the State has entirely ceased, the State, as such, loses its right to be considered as an integral part of the General Government.

It will not do to tell me that there are scattering men in these States who did not agree to all these proceedings, for there never was a war, either civil or public, in which there could not be found some men in both nations who were opposed to the war, and who so expressed themselves. We know that during the war of the Revolution many of the most eminent statesmen of Great Britain sided with us in the British Parliament, and sympathized with us throughout that struggle; but were we less at war with England, or she with us, because some of her statesmen and many of her middle classes were with us, believing that we were right and their own country wrong? Would a publicist, dealing with international law, or even municipal law, pretend that you were any the less a nation at war because here and there a man out of office could be found who did not believe that his Government was right? That is not the way that statesmen treat such subjects.

You must take the people of a State as you find them in fact; and if they are rebels, if the State organization has lost its power as a part of the Union, if its old loyal government is rooted up root and branch, and a new government formed on its ruins hostile to the General Government, I say then it is out of the Union to all intents and purposes. Then all is anarchy, except by virtue of their new State organization, which is a treasonable organization; and whether there be more or less of the people who favor it is not a question for statesmen to look to. Statesmen look to the organization, look to those in power, see who the governors are, see who the legislatures are, see who makes the laws. When treason has so triumphed over a State that her governor and her legislative councils are all organs of treason, enacting treason into law, and raising armies for the destruction of the old Government, to tell me that in such a State that government is not displaced is nonsense. If the State is able to maintain its old organization and put down the insurrection, the individuals are guilty of treason, the State standing intact; but when the State organization has yielded to the storm, has ceased all resistance, we have to look upon its people as they are, public enemies, and nothing else.

That, sir, very briefly, is the view I entertain on that subject; but I have said it makes no difference what theoretical view may be taken,

for I do not know that anybody supposes that those States are in such a condition that immediately upon the rebellion being quelled they could come right in to Congress and demand participation in the councils of the General Government. If they cannot, it then devolves upon Congress to say how they shall come in, to prescribe the rule, and to define upon what conditions they shall be permitted to come back. Therefore, whether you call them outside of the Union or inside makes very little difference; they are helpless; they are conquered; they are incapable of any act of their own. That would bring us to consider what is their temper and disposition now. Is it such that, according to the great principles of human action and human experience, it is safe to permit them to come into the councils of the nation on an equal footing with the old members of the Republic that have stood by your old flag throughout? That is the result to which I wish to come. I would not legislate on any vindictive principle any quicker than these gentlemen, and I am willing to consign the past to oblivion if it can be done. You must judge of the characters of men by what they have done heretofore. Did ever a nation on the face of the earth which had been so merciful as to save the lives of traitors that sought to destroy it, on the very next day after wrenching the arms out of their hands, invite them into its councils to participate in its deliberations? Would a man who was not utterly insane advocate any such thing? Will you intrust the burglar with your keys? Surely nobody will advocate that. The Senator from Wisconsin himself would not admit that these States may come here at once and thrust their representatives upon us without inquiry on our part.

I hardly supposed that it was necessary to raise a committee to inquire into this subject, all-important as it is. I supposed that every man who had arrived at an age which enabled him to be qualified for a seat in the Senate would have had sufficient human experience to know that a whole nation of traitors of the most vindictive character that were ever heard of on the face of God's earth, men who had resorted to most baleful atrocities against our people, would not on the next day after their arms had been wrenched out of their hands against their will, be in a temper and disposition to participate in the old Government which they had been for years endeavoring with their lives to overthrow, and were invoking European despotisms to aid and assist them in overthrowing. Is that human experience? Are your penal laws enacted with a view to such a trait in human nature? Do men change so quickly? St. Paul himself, as we are informed, was like these men for a time; he breathed fire and destruction against the Christian church, and on his way to Damascus—it is one of the most notable miracles recorded in the Book—he was changed in the twinkling of an eye.

But, sir, you contend for a miracle infinitely greater than that. You contend that a whole nation has changed in one night from the most vindictive enemies to be the fastest friends, with whom it is safe to trust political power. This is the greatest miracle of modern or ancient times, if men believe it. The conversion of St. Paul was a small incident compared to it. Indeed, it does not require a miracle, according to gentlemen's notions, to convert the vilest traitor into a political saint. I want no committee of investigation for such a matter. I know that if I were to enter into it I could produce abundance of evidence showing that their temper is just what might have been expected. I need not, however, go into it. The Senator from Massachusetts, [Mr. SUMNER,] some three or four weeks ago, in an elaborate speech, furnished evidence sufficient to show that their fell purpose and intent had not been relinquished one jot or tittle yet. That was unnecessary; it was only what all men would know without any evidence. It is human nature, and if a man is not a judge of that so as to solve such a proposition as this, he does not know enough to be a member of the Senate of the United States.

[Laughter.] Talk not to me of conversions of that kind.

Another gentleman will tell you that very few of the southern men were engaged in the rebellion, that most of them were good Union men who were dragged into this infernal scheme to destroy the best Government in the world, that they perjured themselves and descended to the degradation of human crime. If you could establish such a fact, it would be no compliment to the southern people; it would only show that the great mass of that people are infinitely below the Africans of whom we hear so much. Who dragged the people of the southern States into revolt against their will? Their natural leaders, you say. A people that can be so led are not fit recipients of political power. I will not trust men that can be thus led. When you argue against the intelligence of the African and tell me of his incapacity to exercise the elective franchise for that reason, is not your argument a great deal worse against the whites of the South? Were they dragged and forced into the southern armies and their property sacrificed to carry on a rebellion against their will and desire? Then do not contend for white suffrage.

Mr. STEWART. I desire to inquire how the Senator proposes to extend the right of suffrage to the blacks of the South, whether by legislation or by amendment to the Constitution?

Mr. WADE. I propose to do it upon the same principle that the President assumed to do a great many other things that the Senator thinks and I think were right. I ask how it was that these States were compelled to comply with certain conditions which the Senator says are all-sufficient? Is it not the fact that just before the adjournment of some of the conventions in some of those States telegraphic dispatches were received stating that unless they complied with certain requisitions and adopted the constitutional amendment they would not be admitted into the Union; and did they not thereupon conform their action to the demand made of them? Does the Senator call that voluntary action?

Mr. STEWART. Do not the conditions prescribed by the President stand on a different footing from the right of suffrage? Does not the qualification of voters in a State stand on an entirely different footing from the other propositions as to which the President gave his advice?

Mr. WADE. Not at all, in a constitutional point of view. If you could impose one constitutional amendment upon a State in a matter ordinarily belonging to the State, why not another? They were advised and required by the Executive to pass the constitutional amendment. And, sir, if I was a southern man—for I am very apt to talk frankly—if I were a member of a southern Legislature, and under the duress of a presidential mandate I was forced to comply with any such condition, I would, just as soon as I could, repudiate it on the ground of duress. The mandate of the President to a seceded, fallen State to-day, is nothing more than the command of a robber to a traveler on the highway. They have got to do what is asked of them, and they tell you so, and tell you that when they get freedom of action they will not consider the conditions extorted from them as of any binding force upon them.

Mr. STEWART. The question of suffrage was not, while emancipation was, one of the conditions.

Mr. WADE. Do not understand me now as contending that I am opposed to requiring these conditions of the southern people. I think they were right, but I want them adopted voluntarily and not by coercion or force. That brings me to consider another question which has been greatly overlooked in this argument.

Mr. STEWART. I do not understand the Senator yet as answering my question how the suffrage is to be extended to the blacks. That is a practical question that I desire to have answered.

Mr. WADE. I will tell you before I get through.

Mr. STEWART. I should like to hear it distinctly.

Mr. WADE. I will tell you exactly how it can be done. It can be done by telling these gentlemen in the southern States, these traitors, that we shall be as lenient to our friends, the Union colored people of the South, as to them; that they shall never put their feet upon this floor until they do justice according to the rule of equity—they who seek justice shall first do justice. There is no difficulty in it, and I was merely endeavoring to show that that position no more transcends the Constitution of the United States than that for which the Senator contends. He says that the President has organized civil governments in the South. Where did he get his constitutional warrant for that? All the great officers of Government are created by law, and the Senate of the United States must participate in their appointment; but the President has appointed civil governors of the States to do civil business. I do not see where he got his warrant to do that if the States had not seceded.

Mr. STEWART. I suppose it was his duty under the war power to provide for the reestablishment of civil government when the armed forces of the rebellion were overthrown. It was undoubtedly his duty then to invite the people to organize.

Mr. WADE. It was his duty under the war power. Would it not have been just as compatible with his duty if he had demanded that civil government be organized by admitting all the colored people of proper age to participate in making the constitution and laws? Would it have been any greater violation of the Constitution than was done? Would it not have been an exercise of military power if he believed it requisite for the public peace? Where is the distinction? No casuist can draw the line of distinction; it is idle to contend for it. Where did he get the power to prescribe the oath which he required these people to take? Do you find that in the Constitution? Where do you find it? Was it not as great a stretch of constitutional power to do that as to say that the colored men should vote?

Mr. STEWART. I think not. I think it very plain that he had no power to interfere with the qualifications of voters in the States. There is no doubt about his power to make such regulations as should secure peace to the inhabitants, and he had a right to invite the citizens who were then acknowledged to be citizens—the constitutional amendment had not then been adopted—to organize civil society.

Mr. WADE. Who are the citizens?

Mr. STEWART. The loyal citizens. He only extended the invitation to loyal citizens.

Mr. WADE. I have no doubt of his power to do it in time of war, but I doubt very much his power to do it in time of peace. This is a time of peace.

Mr. STEWART. What was he to do? Leave them there to anarchy?

Mr. WADE. No, govern them by military power as he had done from the time the war ceased up to the time he prescribed the oath. Why did he prescribe that?

Mr. STEWART. Had not the people a right, with his permission and consent, to organize civil society as soon as they possibly could?

Mr. WADE. No doubt about that; but I do not want to be turned aside to a controversy on that subject. I am not contending that the President has done anything very wrong in all this. I agree that when we conquer a people who had no laws, who had no civil organization and could have none, it devolved upon the President of the United States to keep the peace in that country, and to prescribe such rules and regulations as in his judgment would conduce to that end until such time as Congress should assemble and prescribe the law to be followed. That is what he had a right to do, and in my judgment that is all the Constitution permitted him to do, and in that he had a very large discretion; but I can see no authority for the President to undertake to prescribe an oath which was to qualify persons to elect a State govern-

ment which was to be the permanent civil government of a State in this Union, a part and parcel of the Union.

I do not know where you find anything in the Constitution of the United States to require that a State shall pass a constitutional amendment of any kind. I do not know how you get it constitutionally. I do know that he could not do it to a State that had not been outside of the Union; no man would attempt it there. There is evidently, therefore, a broad distinction made by the President between a State outside of the Union and a State inside. Neither the President, nor any Senator upon this floor, nor any statesman in the nation, would have thought of prescribing any of these conditions to a State which had never been out of the Union.

Why, then, did the President impose these conditions on the seceded States? Because they are out of the Union, and therefore he was right in demanding conditions. I say he has done well, so far as he has gone. I want him now, as I said before, to put the keystone in the arch; to invoke the loyal people in the South, those who have stood by us through evil report and through good report, whom you can trust, on whom you can rely to-day, to-morrow, and forever, as an offset to the traitors that you propose to let in. I want to counterbalance them, for I dare not trust them alone. I say there is no more constitutional difficulty in the way of accomplishing this result than there is in the way of any condition that the President has enjoined on that people. They all stand upon the same principle precisely; and I wonder that any statesman or lawyer can contend that the President might impose the important radical conditions that he has insisted upon, and rightly insisted upon, as conditions precedent to the organization and admission of these States, and stop there. If he can do what he has done, he can do anything else that is necessary to effect the purpose, to bring these States back into the Union.

There is no great difference in principle between what he has done and what I want him to do. He is right as far as he has gone; and now I want him to make what has been done secure by placing this great question where it must be placed before it will rest in peace, and that is, as I said before, on the rock of eternal justice and truth. I hope the nation will be agitated as by an earthquake until she shall be ready to do right. I know she will finally get down to this rock. You may build upon the sand, but the human mind will not rest upon such a foundation. It never has rested upon it. We have progressed from one point to another until I think we are about stepping upon the rock, and then this controversy will cease and we shall be at rest.

Again, sir, I deny that the organization of these State governments in the South has begun at the right end so far. I contended during the last Congress that the President had no right, by military Order No. 37, or any other military order, to organize a State government anywhere. Our Government must be a Government of the people. In this country you cannot force a Government upon anybody. It might be very convenient if we could. A despotic Government may do it with perfect ease. When Russia conquers Poland she may trample her under foot, because armed with despotic, irresponsible power. When we conquer a people we must deal with them within the pale of the Constitution, in analogy to the great principles of our glorious free Government. If a people conquered by us are so perverse, if they have been educated and stimulated by hate for generations, so that they cannot act with us now, you cannot make republican government out of such material. You are beginning at the wrong end.

Who has asked the President and Congress to establish civil government in the South? How can Democrats contend that a people shall be bound by an organization emanating from the center? That is not the place for it to originate. These people must be held under military subjugation (though an equitable one I

would contend for) until they themselves shall see that the time has come when they can act in accordance with the old Constitution and Government of the United States. They have not come to that yet, and nobody is surprised that they have not. Do you suppose that in a moment the temper and disposition of men who breathed fire and wrath against you for four long years, and murdered three hundred thousand of your bravest sons, and committed all the atrocities to which I have alluded, have been so changed that they will ask to be taken back into that Government which they had invoked foreign despotisms to overthrow, and to destroy which they had hazarded their lives and fortunes?

I know that the southern people will come back. I know it is as much for their interest, and infinitely more for their interest, than it is for ours. We all have a pride in the whole nation; as the Senator from Wisconsin said, we will never consent to lose a single star from the old flag; but when we repair this breach, I want it to be done by the people of the South becoming convinced that it is for their interest, and telling us "we are sick of war; we are sick of contending against the power of the United States; and we ask and petition Congress now to permit us to organize a State government in accordance with the Constitution of the United States, and we are ready to back up our petition by majorities in the State, uncontrolled by the Army, uninfluenced by anything except the will and wish of the people to get back into the old fold from which they had strayed." I know that they will come in due time, but you cannot force it.

What I wish to inculcate and insist upon is the utter absurdity of supposing that a democratic people can force another people to join them and comply with the forms of the Government when their hearts are at variance with it. The old maxim was that one man could lead a horse to water, but ten men could not make him drink. You cannot make a people drink in democracy until they are ready for it. You may give them the forms, but they are all idle ceremonies unless they are imbued with the spirit. Govern them justly by the strong arm of the nation until such time as they themselves shall have had an opportunity to reflect, to cool off, to become willing that a State government should be revived over them, when they see their interest plainly in that direction. When that is done there is no doubt they will come asking to be allowed to have a State government, some sooner, some later.

Time is a great element in all such cases, and he is a most unreasonable man who expects that in the twinkling of an eye you can make a people cordially coöperate in this free Government who the day before were endeavoring to overthrow it; and until the people themselves can agree to it, it is vain and idle, and worse, to contend that you can force them into this Government by this hot-house operation, and induce them to harmonize with you. They will come back in due time no doubt, and no man will rejoice more than I shall when that time shall come; and I can tell you when it will come. Leave them to themselves; do not send your great officers down there to persuade them; do not leave your conqueror with arms in his hands to say to them "Come up and make such and such a constitution, and come into the Union with it." That is not the way; but govern them equitably until it is shown by their petitions, by their speeches, by their actions, which nobody can mistake, that the great heart of that people has relented and repented of the crimes they have committed, and that they are willing and anxious to come back to the Union as the ark of their safety, and there lodge and travel and act with us.

Sir, I shall look as anxiously as any other man to see that there is this repentance, this temper and disposition that will enable us when they ask it to say to them, "You shall have the right hand of fellowship, you shall stand on as high ground as you ever stood on before;" but I can never consent that a government shall be organized from this central point to bring

States into the Union. You can bring them in by the Army of the United States; you can force them to go through the form of making a State government and send their delegates here; but would that be a republican government? Would it be a democracy? Would it be a government having its authority in the consent of the people, such as our great Declaration of Independence calls for?

Mr. President, the great panacea for all our difficulties is to throw our prejudices to the winds and come up and do justice. Look at your old Declaration of Independence; a document which has not its equal; a document which in sublimity, in usefulness, and in enlightenment to the human mind, excels any that has ever been promulgated among men. I am amazed that nearly a century has gone by since that great Declaration was given to mankind, and yet the mass of our Senators have not reached the sublime position in which our forefathers in that darker period stood. They knew full well that the Government they were founding could rest upon nothing else than the great basis of eternal, equal right and justice. I revere that Declaration because it came from their hands, but I revere it more because I know that it came from the hand of the Almighty. It is the will of God that no nation can prosper or rest in peace until it builds upon this foundation. I am for giving all the rights guaranteed in that Declaration to all men, and especially to those who aided me in trouble, who aided me in securing to myself and posterity those great rights that we had all inherited, when they were placed in jeopardy by the accursed traitors whom you look upon with such lenity.

I do not wish to say much in answer to what has been said about the pardoning of rebels. That system of pardoning does not meet my approbation to the extent that it has gone. I never would pardon the wretch who, after having taken an oath to support the Government of the United States which educated him and gave him a high and honorable position among his fellows in order that he might stand by the Government in time of trouble, sneaked away and perjured his soul to God and resigned himself to treason. If I spared his life, it would be all he could have at my hands. Invite such a wretch as that into your Government anywhere! Sir, this mawkish tenderness to traitors is treason to the State. To the mass of the people of the South I would, of course, grant an amnesty; but the great leaders of this rebellion who led them on to destruction cannot have my pardon here, and I do not know that they will hereafter. If there is an unpardonable sin, the wretches who stood as the guardians of this great and glorious and equitable nation, and for selfish purposes turned around and sought its destruction, have committed it, and they never should be pardoned.

But, Mr. President, I stand by my friends; I stand by my pledges. The colored population of this country, four millions in number, are not to be ignored by the speeches of gentlemen nor the votes of this Senate. If you could do so, you would create another oligarchy; for when you cut off from the right to participate in a free Government four millions of its people, more than one third of the entire population of the seceded States, when you cut them off from this great democratic right, you fix a stigma upon them that cannot be wiped out; it will have a bearing infinitely beyond the influence in the Government that their votes will confer; you will have trampled them under foot forever with the mark of Cain upon them; and that will be your return for their brave and able defense of your institutions in time of peril. Sir, I will stand by them forever. As I have already said, my manhood, my honor, my sense of justice, and my policy as a member of a free Government all conduce to the same end, to make me stand firmly and forever by the rights of these four million people. So far as my voice can go they shall stand upon the same basis that I myself stand on. I despise, with a contempt that I cannot name, the man who will contend for rights for himself that he will not award to everybody else. What I claim for

myself or my children, politically, I will award to every member of this Government, and with more scrupulous guardianship to him who is weak and uninfluential than to him who is powerful and able to defend himself.

Sir, these are the sentiments that will govern me. I do not wish to continue these desultory remarks. I thought that the elaborate speeches manufactured upon this subject, and the long orations pronounced over it, without suggesting the clearing of the path from any of the difficulties that must occur to everybody, were calculated rather to mislead than anything else; and hence I wished to point out the difficulties that I have encountered all the while since the discussion has been up. I say once more that whenever the southern States can give me evidence that it is safe to withdraw our troops from that quarter, that they will conform to the principles of the Government, that it will be safe to admit them into our counsels, I shall be first and foremost to go with him who is for letting them in; but, sir, I, for one, will never consent to let unwashed traitors, dyed in the blood of our dearest friends, participate in the councils of the Government that they have endeavored to overthrow.

Mr. TRUMBULL. I move that the further consideration of this subject and all other orders be postponed, and that the Senate now proceed to the consideration of Senate bill No. 60.

Mr. STEWART. I hope the Senator will give way for a short time. I wish to make a few remarks in reply to the Senator from Ohio. I shall not occupy ten minutes.

Mr. TRUMBULL. If I supposed that would be the end of it, I would give way; but this bill to which I desire to call the attention of the Senate has been for nearly a week upon your table ready to be acted upon. It is a bill from one of your committees—

Mr. STEWART. What bill?

Mr. TRUMBULL. The bill to enlarge the powers of the Freedmen's Bureau; and a discussion is continued here first upon one—

Mr. STEWART. I withdraw my request, and will make my remarks upon that bill when it is called up.

Mr. TRUMBULL. Very well. I hope that the Senate will sustain the motion that I make, and that when that bill shall be called up they will also sustain the effort I shall make to keep it before the Senate until it shall receive its final action.

The motion was agreed to.

FRANKING PRIVILEGE TO MRS. LINCOLN.

Mr. SUMNER. With the permission of the Senator from Illinois, I ask leave to introduce a bill of which no previous notice has been given.

By unanimous consent, leave was granted to introduce a bill (S. No. 86) granting the franking privilege to Mary Lincoln; which was read twice by its title.

Mr. SUMNER. In drawing this bill I have followed precisely the precedent in the case of the widow of John Quincy Adams, and I hope the Senate will consent to allow the bill to be put on its passage.

Mr. TRUMBULL. Will it displace the bill now before the Senate?

Mr. SUMNER. No; not at all. I ask that it be put upon its passage.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which provides that all letters and packets carried by post to and from Mary Lincoln, widow of the late Abraham Lincoln, shall be conveyed free of postage during her natural life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

FREEDMEN'S BUREAU.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau.

Mr. STEWART. Mr. President, I desire to

make a few remarks in reply to the Senator from Ohio, and this bill being before the Senate calls up the precise question upon which I desire to occupy the attention of the Senate for a moment upon the subject discussed by the Senator from Ohio. Without attempting to make a speech, I wish to remark that here is a practical measure before the Senate for the benefit of the freedman, carrying out the constitutional provision to protect him in his civil rights. I am in favor of this bill. It goes to the utmost extent that I think we are entitled to go under the constitutional amendment. There is another bill introduced by the Senator from Illinois which must go along with it, which provides civil jurisdiction for the protection of the freedman. Under this constitutional amendment we can protect the freedman and accomplish something for his real benefit.

I was accused by the Senator from Ohio of having sympathy for the southern white people. I have never expressed that sympathy in this Hall, but I now confess that I have sympathy for the masses of white people of the South. I have sympathy for the women and children who have been suffering under this tremendous war. I have sympathy even for those who have committed these crimes and made the nation mourn. Our duty to punish criminals does not deny us the right to sympathize. I have sympathy for erring humanity always, on all occasions; and, since I am charged with having sympathy for the South, without ever having expressed it, I take this early opportunity to express it. I have also sympathy for the widows and orphans of the North that have been bereaved by this terrible contest, who are forgotten in our efforts for the negro. I have sympathy for the poor negro who is left in a destitute and helpless condition. I am anxious to enter upon any practical legislation that shall help all classes and all sufferers, without regard to color—the white as well as the black.

So far as this question of negro suffrage is concerned, I say it stands upon a different basis from the other propositions discussed by the gentleman, and the other positions assumed by the President. I do not believe that we must arrive at the conclusion that there must be universal suffrage throughout the South, without regard to color, before we can organize those States. This is the only issue between us now. If this question were out of the way, we could settle everything else in two weeks, at least so far as a portion of the southern States are concerned, and we could receive such southern representatives that are loyal, and none other. As the Senator from Ohio has said, there would be no difficulty in agreeing upon everything else, if it were not for the question of negro suffrage in the South. We may as well meet the issue here and understand each other. This is the issue—the only issue before the country. We all want the Union; we all want the Constitution; we all want to see each State enjoying the blessings of that Union and Constitution alike; but there are some who are determined to sacrifice the Union and the Constitution unless they can achieve the right of suffrage for the negro.

In order to ascertain whether this question stands upon a different basis from the other conditions made by the President in reorganizing the southern States, it is only necessary to ascertain what was the verdict of the war. The President, undoubtedly, under the war power, had a right to demand of the people of the South a compliance with that verdict. It is universally conceded that the conqueror has the right to demand the issue decided in his favor, to claim the verdict for himself upon all the issues of the war. Anything further than that has been always, during all ages, regarded as an outrage against law and humanity. When other conditions have been imposed upon a fallen people, no matter whether it was a domestic or a foreign foe, than those that were involved in the contest; when the conqueror, after he has been victorious, has imposed new conditions and new restrictions because he has the power to do so, it has been charged as

cruelty, and it has been universally regarded as unjust. Now, in order to know what the President should do under the war power in making peace, it is necessary for us to determine what the verdict of the war was.

When this war commenced the only issue presented to the country by the leaders of the Union organization was the Union of the States. That was the first step. No other issue was then placed before the country. I, for one, embraced that issue. I did all I could in my humble sphere to encourage and aid in vindicating that issue. The union of the States we resolved must be maintained in its full integrity at all hazards. I advocated from the very first hour the vigorous prosecution of the war, as all loyal men did, under this motto of the Union. We commenced to force the southern people to obey the Constitution. We said they had no right to secede. That was the first proposition.

In the progress of the war it was ascertained that the negro had become an element of strength to the South; that they were using him as a war power; they were using him in their trenches; they were using him to raise provisions for their army; and it became necessary and proper that that war power should be taken from the South; and President Lincoln, patriotically and properly, thank God, had the boldness to issue his proclamation and strike a blow at that war power. We then declared, and the nation's honor was then pledged, that we would maintain for the negro his freedom. Then the issue became the Union and the freedom of the negro. These propositions then became involved in the war, the issue that was being tried, and which was to be tested by the result of battle.

Was anything else put in the issue then but the union of the States, submission to the laws, and the abolition of slavery? The war terminated without any new issues that I am aware of being involved in it. Was the issue of negro suffrage ever involved? Was it involved by the emancipation proclamation? Was it involved by any resolution of Congress? Was it involved by the constitutional amendment? If you intended that it should be involved when you passed the constitutional amendment abolishing slavery, why did you not incorporate it in that measure?

The South fell; their arms were taken from them; they were compelled to submit to the laws. Then what did President Johnson do? He did what he was bound to do; he carried out, literally, the verdict of the war. He had a right to claim that, because that had been the issue, and it had been decided by a higher tribunal than Congress—the highest tribunal to which man can resort—arms. The verdict was then made, and if he had not carried out that verdict, if he had not demanded everything that was included within that verdict, he would have been recreant to the principles of the Constitution and to his oath of office. How did he find the South? Congress was not in session. He found the South in a condition needing government. He said to them, in effect, "Fellow-citizens, you are conquered; you made several issues with us, and it has been decided that you shall stay in the Union; you must abandon secession forever, for that is the verdict of Congress; that is the verdict of the war; that is the verdict of every instrument of authority under which I act; and under my authority to execute the laws, and as Commander-in-Chief of the Army and Navy, I require of you to repudiate secession."

Was there anything more required? Yes; the President by a proclamation, which proclamation had been sanctioned by Congress, had abolished slavery, the constitutional amendment not having become a law at that time; yet, that was a part of the issue of the war, and consequently he required that they should abolish slavery; and then he said, "I invite you, fellow-citizens, to comply with this verdict; it is plain; the world understands it; organize your State governments and apply to Congress for representation there." Some of those States having

complied, perhaps—I am not discussing that question—come here for admission. They are told by members of Congress and Senators—

Mr. WADE. I wish to ask the Senator this question: if it was the verdict of the war that slavery should be abolished, was it not also the verdict, if it was further necessary for the security of the country, that suffrage should be awarded to the colored people that you had set free? Why was not that as much a verdict of the war as the other?

Mr. STEWART. The Senator from Ohio assumes that it is necessary for the security of the country that the right of suffrage should be granted to the negro; that the Government cannot be carried on without it. That is an assumption that is hardly warranted. But even if that were true, it would not be as much a verdict of the war as the other.

Mr. WADE. Why not?

Mr. STEWART. Because the other was named; this was not. The other was named in the pleadings upon which we went to trial and fought it out; this is an issue outside of the pleadings, one that was not named, and consequently not as much a verdict of the war. That is the reason.

But, sir, I contend that it is not necessary to call in the aid of the black man to the government of this country. I do not pretend to say that he shall not at some future time have the right of suffrage under restrictions. But when he shall receive it, it will be for his benefit, not ours. I believe the Anglo-Saxon race can govern this country. I believe it because it has governed it. I believe it because it is the only race that has ever founded such institutions as ours. I believe it because we have a peculiar situation, peculiar education, peculiar qualifications which are not common to other sections or other races of the world. I believe the white man can govern it without the aid of the negro; and I do not believe that it is necessary for the white man that the negro should vote. If he ever does vote, it will be simply as a boon to him. I think we can carry on the Government without him. I think we have had abundant proof of that.

Inasmuch as this was not a part of the verdict of the war; inasmuch as I do not believe it to be necessary for the preservation of the Union, but will endanger our national existence, I am for the Union without negro suffrage, but I am not in favor of turning the negro over to oppression in the South. I am in favor of legislation under the constitutional amendment that shall secure to him a chance to live, a chance to hold property, a chance to be heard in the courts, a chance to enjoy his civil rights, a chance to rise in the scale of humanity, a chance to be a man. I am in favor of this because we are pledged to do it. We have given him freedom, and that implies that he shall have all the civil rights necessary to the enjoyment of that freedom. The Senator from Illinois has introduced two bills, well and carefully prepared, which if passed by Congress will give full and ample protection under the constitutional amendment to the negro in his civil liberty, and guaranty to him civil rights, to which we are pledged.

Sir, we have done something for the negro. The Senator from Ohio says the negro has saved us. Has not the negro had some sacrifices made for him? Was not his liberty a part of the issue involved in this war? Have not hundreds of thousands of white men fallen to vindicate that issue? Do not the desolated homes and orphans and widows throughout the North proclaim the sacrifice that has been made for the negro? Do they not proclaim a sacrifice such as no one race ever made for another before? What race, since the foundation of the earth, ever sacrificed the money, the lives, and the peace of a great country for the elevation of another, as the Americans have done? They have guarantied to him his freedom under the Constitution, and I say it is the part of practical wisdom to pass such bills as are necessary to secure to him his freedom; but if there is a chance to have union, if there is a chance to restore the South, I am

not willing to wait until we can tear down the State governments that have been built up during the last summer in the South, until we can revolutionize things again, for the purpose of giving the negro the right of suffrage.

Mr. HOWE. Do I understand the Senator to say that we have sacrificed these hundreds of thousands of lives in order to give freedom to the negro?

Mr. STEWART. Yes, sir; as one of the issues. The issue was the Union and the abolition of slavery. At first, it was the Union, but subsequently the other question was added to the issue. The pleadings were amended after the war commenced.

Mr. HOWE. Allow me to say right here that I dissent entirely from the proposition that we have sacrificed a life for that purpose or for that end. On the contrary, I say that we have called nearly two hundred thousand of these black men to the field to fight for our liberty. How much we are indebted to their efforts for those liberties I do not now pretend to measure; but that is the fact.

Mr. STEWART. Then there has been nothing done for the negro; four million slaves have not been emancipated; he has not been benefited by us; all our boast of success is a farce; we have made no sacrifices for the negro; we have not incumbered the Treasury within the last year with millions upon millions of dollars to support a Freedmen's Bureau for the negro! Sir, I say that we have done something for him, and I am in favor of doing more for him.

Mr. HOWE. Let my friend and myself have a perfect understanding with each other. I am inclined to think something has been done for the negro; I hope something has been done for him—not at our hands. The historical fact is—and I really hope my friend from Nevada, who has been with us in all this struggle, will not attempt to dodge that historical fact—that a flagrant war was waged against the supremacy of the United States. The supremacy of the people of the United States was attacked in that war, was assaulted by it. We fought the war for about two years without the slightest demonstration of doing anything for the negro. We finally found, as the Senator just now recited, that we were stronger in this contest by proclaiming liberty to the negro than we were without making any such proclamation, and that to strengthen ourselves, not to increase our sacrifices, the proclamation was induced; and that which we did for our own sake ought not to be charged now to the account of the freedmen by any manner of means. It was to save our own imperiled lives, our own imperiled national existence, and only for that purpose, that the late President of the United States was induced to issue that proclamation, and, as the Senator himself says, to make us stronger, not weaker, to make our sacrifices less, not greater.

Mr. STEWART. I admit, and have not denied, that our interest and our safety consisted in using or wrenching from the South this war power that they were using, whether it consisted of negroes or horses. I admit that it helped us, but I still contend that it helped him also and made him a free man. I still contend that a great deal of expense has already been incurred for his benefit; that a large standing army is now kept up to protect him. He is, and ever has been, unable to protect himself, and it is a slander upon our white soldiers to say that the negro saved the Union. I repeat, I am willing to do all that we have pledged ourselves to do, but I am not willing to reduce the southern States to a territorial condition and hold them for all time, or for any definite time, in that condition, for the purpose of conferring suffrage upon the negro, which was not one of the avowed issues of this war.

I believe that if we were to reduce the southern States to a territorial condition, and hold them in that condition for the space of five years, it would not only destroy our form of government, but deprive us of our own liberties. I believe we can have the Union. I believe we can have it soon. We have got to trust some-

body. I say we have got to trust the white people of the South. We cannot organize a government solely upon the negro population. There are seven million white people in the South. The time for exterminating them has passed.

They are in the country. We did not exterminate them during the war. They are there, and are to remain there. If they are to be our enemies, and we attempt to hold them as vassals, it will necessitate the maintaining of a large military force that will endanger our own liberties. Not only that, but it will place in the hands of the Executive powers that will crush Congress and the liberties of the people; and not only that, but it will continue to engender among the people of the South additional hatred, and they will only wait the time when a foreign Power shall help them to rebel again.

And here let me remark that I was astonished to hear Senators upon this floor intimate that we were in a condition to enter upon a foreign war. With seven million people whom we declare are our enemies, whom we declare we cannot trust in our borders, are we prepared to invite a foreign war? I tell you, sir, we had better secure this Union before we talk of a war either with Great Britain or France. The enmity of seven million people constantly among us, and whom we must control, is a dangerous thing. Do you think, if you will not grant them the protection of the Constitution, but hold them as vassals until they carry out any political idea that you can conceive of, that when another trouble shall arise you can get the unnumbered hosts of the loyal men in the North to come forward and again march over that vast country and endure again the terrible horrors of another war, for what? For the sake of governing eleven States as conquered provinces? Do you think if you had avowed that negro suffrage was your ultimatum, that you knew the States were not in the Union, that your purpose was not to keep them in the Union, but to govern them as Territories, that you could have drawn the loyal masses of the North to this terrible conflict? Show me the platforms upon which this fight was made, show me the resolutions of Congress, show me the declarations that put in issue the question of negro suffrage which is now delaying peace and disturbing the country. But gentlemen say we must use military force or negro suffrage. I deny that negro suffrage will render military unnecessary, for the exercise of that right by the negro can only be secured by the national arms, and we must in that event either exterminate the whites or allow them to exterminate the blacks. But the country is sick of war; humanity shudders at the near prospect of more slaughter. Let no mere theory of the equality of races deprive us of peace and union.

Mr. TRUMBULL. I move to amend the bill by striking out the whole of the fifth section, in the following words:

SEC. 5. And be it further enacted, That the possessory titles granted in pursuance of Major General Sherman's special field order, dated at Savannah, January 16, 1865, are hereby confirmed and made valid.

And to insert in lieu thereof:

That the occupants of land under Major General Sherman's special field order, dated at Savannah, January 16, 1865, are hereby confirmed in their possessions for the period of three years from the date of said order, and no person shall be disturbed in, or ousted from, said possession during the said three years unless a settlement shall be made with said occupant by the owner satisfactory to the Commissioner of the Freedmen's Bureau.

Mr. GRIMES. I presume the Senator is not going to press that amendment to a vote tonight.

Mr. TRUMBULL. I wish to state what it is. I presume there will be no objection to the amendment. The bill, as it was reported from the Committee on the Judiciary, provided for confirming the possessory titles granted in pursuance of General Sherman's order, without stating what those titles were. At the time the bill was reported, it was supposed that those titles had been originally granted for the period of three years, but I have since ascertained that

they were granted without limitation, very much in the language of the order. It will be recollected that Major General Sherman in his order stated that certain lands would be set apart for the benefit of the freedmen, and that a general officer would be detailed to give them a possessory title in writing. The order states that the titles were to be possessory only, and that the military authorities would protect the occupants in their possession until Congress should determine in regard to the titles. About one year has expired since these titles were granted. There are some forty or fifty thousand negroes upon these lands, who have been upon them for something like a year. The committee propose to confirm them in these possessions for the period of three years from the time they took possession, thinking that they had a sort of equitable title to the occupation of the lands for a year, and that it would be unjust to turn them off at once. The owners of these lands had abandoned them and were fighting against the Government at the time this order was made. Major General Sherman when he arrived at Savannah found a large number of these persons flocking around his camp whom he had to support out of his commissary stores; he found these lands abandoned by their owners, who were marshaled against us in the rebel army; and he directed these persons, whom he was feeding and who were flocking around his army, to go upon these lands, and promised them protection in the possessions which should be set apart for them. They went there and took possession, and now we propose to protect them in that possession for the period of three years from the date of the order.

Mr. HOWARD. I listened to the remarks of the Senator from Illinois, in stating the contents of General Sherman's order, but I beg to inquire of that honorable Senator, what is the reason for this interference with the order of General Sherman? If I understand his statement rightly, that order confers upon the occupants of the land a right to possess and enjoy it during their lives.

Mr. TRUMBULL. The Senator misunderstood me. They had no right except the possessory one taken by the Army. They are liable to be turned out by the owners, and we desire to protect them for three years from the time they took possession.

Mr. HOWARD. Liable to be turned out of possession by the owners of the land on their return?

Mr. TRUMBULL. Yes, sir; and they are returning now and pressing to turn these men off from these lands. The committee thought that, having been put there by competent authority, and having occupied the lands and made some improvements, it was nothing more than equitable and just to protect them there during three years unless they sooner give up possession by an arrangement to be made with the former owner, with the approval of the Commissioner of the bureau.

Mr. HOWARD. I was simply anxious to ascertain the full effect of General Sherman's order.

Mr. CLARK. I will state one thing further for the information of the Senator from Michigan and other Senators. Under this order of General Sherman some of these freedmen were put in possession, but no writing, as contemplated by the order, was given them. They are there without a shadow of title; so that if one of the former owners should come back and bring a suit against one of these freedmen, for possession of the land, he must have it, and the freedman is not protected at all.

Mr. SUMNER. As allusion has been made to the order of General Sherman, I have a copy of it in my hand and I will read a sentence which bears on the point to which the Senator from Michigan called attention. The order in that respect is as follows:

"In order to carry out this system of settlement, a general officer will be detailed as inspector of settlements or plantations, whose duty it shall be to visit the settlements and regulate the police and general management, and who will furnish personally to each head of a family, subject to the approval of the Pres-

ident of the United States, a possessory title in writing, giving as near as possible the description of boundaries, and who shall adjust all claims or conflicts that arise under the same, subject to the like approval, treating such titles altogether as possessory."

Now, it will be observed that there is no limitation of time. It is not for three years or for life, but the language is the most general; it is a possessory title. The question may well arise, what is that, for what time, to what extent, and what is its value? Then, in another place, certain other lands were to be given, and it is stated that the parties were to hold them "until such time as they can protect themselves, or until Congress shall regulate their title." In that respect the order seemed to contemplate some action of Congress.

Mr. TRUMBULL. I have received a communication which shows that these written titles were not given in all cases. It is from General Saxton, in which he says:

"So far as I am informed, the titles are alike, and I find no limits to the time the possessory titles under General Sherman's order were to run. Some informal titles were given. Large numbers of freedmen who were entitled to possessory titles have not received them yet, though from no fault of theirs."

That is the condition in which they are. This is a communication from General Saxton, dated the 14th of January, in answer to an inquiry on that subject.

Mr. SUMNER. Then, I take it, the practical question with us is this: whether we discharge our duties to these people by confirming their titles merely for three years? Is the Senator satisfied with that? Does he think that the public faith of the nation to those people, given under peculiar circumstances by a general in the field, by a military order, for the protection of the country and especially of that neighborhood, is sufficiently maintained by our confirming to them a possessory title for three years? I do not pretend to pronounce an opinion the other way, that it is not; but still, it seems to me that three years is a small allowance of time for that general grant of what is called a possessory title without any limitation of time.

Mr. TRUMBULL. In regard to that I will state it is a very difficult matter to deal with. It was the opinion of the committee that this was, perhaps, the most equitable arrangement we could make, and as far as we would be justified in going. It was distinctly understood at the time, and the order so says, that the titles were to be possessory only.

The Senator from Massachusetts will remember that in our legislation we have ourselves fixed three years in some of the laws as the period for which leases of land might be given in that section of the country; and in analogy to that the committee thought it would be perhaps an equitable arrangement to confirm this title for the period of three years, unless by some arrangement to be made with the owners it should be given up; and my hope is that arrangements will be made by which these freedmen will get the title in fee simple to some portion of this land. I believe that a homestead is worth more to these people than almost anything else; that if you will make the negro an independent man he must have a home; that so long as the relation of employer and employé exists between the blacks and the whites, you will necessarily have a dependent population. I think if it were in our power to secure a homestead to every family which has been made free by the constitutional amendment, we would do more for the colored race than by any other act we could do: and I trust that arrangements may be made, inasmuch as they are secured for three years in their possession, during that time by which they will obtain a portion of the land in fee.

I should be glad to go further. I would be glad, if we could, to secure to these people, upon any just principle, the fee of this land; but I do not see with what propriety we could except this particular tract of country out of all the other lands in the South, and appropriate it in fee to these parties. I think, having gone upon the land in good faith under the protection of the Government, we may protect them there for a reasonable time; and the opinion of

the committee was that three years would be a reasonable time.

EXECUTIVE SESSION.

Mr. GRIMES. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, January 18, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

EMPLOYÉS IN COAST SURVEY.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with the act of March 3, 1853, a statement showing the number and names of persons employed in the coast survey during the year ending June 30, 1865, their compensation, &c.; which was laid on the table, and ordered to be printed.

FURNITURE OF COMMITTEE-ROOMS, ETC.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Doorkeeper of the House of Representatives, transmitting, in compliance with the 27th rule, an inventory of all the furniture, &c., in the several committee-rooms and other rooms under his charge; which was referred to the Committee of Accounts, and ordered to be printed.

The SPEAKER announced, as the first business in order, the calling of committees for reports, commencing with the Committee on Revolutionary Claims.

LAND GRANT FOR AGRICULTURAL COLLEGES.

Mr. BIDWELL, from the Committee on Agriculture, reported back, with an amendment, the bill (H. R. No. 50) to amend the fifth section of an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, so as to extend the time within which the provisions of said act shall be accepted and such colleges established.

The amendment reported by the committee was to add to the bill the following as a new section:

SEC. 3. *And be it further enacted*, That in extending the provisions of this act to the States lately in rebellion, it shall be on the express condition that no person shall be excluded on account of race or color from the benefits of the school or educational fund arising from the lands thus donated.

Mr. BIDWELL. If there be no objection, as the bill is one of very considerable importance, I would ask its consideration at this time.

There was no objection, and the bill was read at length.

The first section provides that the third clause or sub-section of section five of the act of July 2, 1862, shall be so amended as to read thus:

3. Any State or Territory which may take and claim the benefit of the provisions of this act shall provide, within ten years from July 2, 1862, not less than one college as described in the fourth section of this act, or the grant to such State or Territory shall cease, and said State or Territory shall be bound to pay to the United States the amount received on account of any lands previously sold; but the titles of the purchasers thereof from the State or Territory shall be held valid to all intents and purposes.

The second section provides that any State or Territory shall be entitled to the benefits of the act of July 2, 1862, which shall signify its acceptance thereof by an appropriate act of legislation within five years from the approval of said act.

Mr. BIDWELL. Mr. Speaker, the first two sections of this bill simply extend the time in which the States which have not availed themselves of the provisions of the act of July 2, 1862, can do so. The third section, as you will observe, regulates the provisions as they may be extended to the States that have been in the rebellion. The act of 1862 expressly excludes

the States which were in rebellion. Now, this provides that they may have the benefit of the act by accepting it on the express condition that no person shall be excluded on account of race or color.

The whole thing is perfectly plain and simple. The extension of time is very important to those States which have not had the opportunity of availing themselves of the provisions of the act. Indiana is one of those States, as I am informed; and the introducer of the bill in part represents that State. The State of California, for many reasons, has not been able to comply with the act of 1862. One is that there are not lands sufficient within that State surveyed and brought into market, so that she might choose the amount which would be due to her under this act. Another is that the Legislature of the State of California was not in session, the sessions being biennial, so that she could signify at the proper time her acceptance.

An act was passed in 1864 extending the time for two years from April, 1864, and that time has nearly elapsed, so that it will be necessary that a further extension of time should be granted.

I hope the bill will now be considered. I can see no objection to it.

Mr. STEVENS. Mr. Speaker, I hope the gentleman from California will consent to a postponement of this bill, so that it may be printed. There are some important provisions in it, and I would like to see them in print before I am called upon to vote on it.

Mr. HILL. I was about to make the same suggestion to the gentleman from California. The bill involves many important points.

Mr. BIDWELL. I move that its further consideration be postponed till one week from to-day after the morning hour, and that it be ordered to be printed.

There was no objection, and it was ordered accordingly.

ALMON W. BABBITT.

Mr. HUBBARD, of Iowa, from the Committee on Indian Affairs, reported a bill for the relief of the administrators of the estate of the late Almon W. Babbitt, secretary of Utah; which was read a first and second time, ordered to be printed, and recommitted.

GOVERNMENT PILOTS.

Mr. DARLING, from the Committee on Naval Affairs, submitted an adverse report upon the resolution as to the justice and expediency of directing by law that all pilots engaged in the Government service during the late war shall be classed as officers, &c.; which was laid upon the table, and ordered to be printed.

MELCHIOR HUFFNAGLE.

Mr. BENJAMIN, from the Committee on Invalid Pensions, submitted an adverse report upon the memorial of Melchior Huffnagle; which was laid upon the table.

THOMAS JENKINS.

Mr. BENJAMIN, from the same committee, also submitted an adverse report on the petition of Thomas Jenkins; which he moved be laid upon the table.

The motion was agreed to.

WILLIAM WALLACE.

Mr. BENJAMIN, from the same committee, also submitted an adverse report in the case of William Wallace; which was laid upon the table, and ordered to be printed.

MARY M'LAIN.

Mr. TAYLOR, from the Committee on Invalid Pensions, submitted an adverse report on the petition of Mrs. Mary McLain, and called for the reading of the report.

The report was read, laid on the table, and ordered to be printed.

JOHN SMITH.

Mr. TAYLOR, from the same committee, submitted an adverse report on the petition of John Smith; which was laid on the table, and ordered to be printed.

REV. ANSON HUBBARD.

Mr. LAWRENCE, of Pennsylvania, from the Committee on Invalid Pensions, submitted an adverse report on the petition of Rev. Anson Hubbard, of Chelsea, Massachusetts, praying for a pension; which was laid on the table, and ordered to be printed.

HANNAH B. SUMNER.

Mr. LAWRENCE, of Pennsylvania, from the same committee, submitted an adverse report on the petition of Hannah B. Sumner, widow of General E. V. Sumner; which was laid on the table, and ordered to be printed.

REPORTER OF COMMITTEES.

Mr. ROLLINS, from the Committee of Accounts, reported the following resolution:

Resolved, That the resolution of January 5, 1865, authorizing the appointment of stenographic reporter, be so modified as to read as follows:

Resolved, That the Speaker appoint a competent stenographic reporter, to continue in office until otherwise ordered by the House, whose duty it shall be to report, in short hand, on the order of any of the standing or special committees of the House, such proceedings as they may deem necessary; and, when ordered to be printed, properly index and supervise the publication of the same; and who shall receive therefor an annual compensation at the rate now allowed by regulation for reporting court-martial proceedings: *Provided*, That all such reporting ordered by committees of the House, and all such as he shall be required to do for joint committees, shall be done by said reporter, or persons employed by him, without extra compensation or additional expense.

Mr. DAWES. I ask the gentleman to modify the resolution so that the matter reported shall be under the entire control of the committees or the House. In explanation I will say this: it sometimes happens that these reports taken by stenographers for committees get published in the newspapers or elsewhere without the knowledge either of the committee or the House. I think, therefore, there should be such a provision as I have suggested.

Mr. ROLLINS. If the gentleman will state the form of his amendment, perhaps I may adopt it.

Mr. DAWES. Merely that the reports so taken shall be under the entire control of the committees or the House.

Mr. ROLLINS. I have no objection to that.

Mr. DAWES. I then move to amend by adding the following:

Provided further, That the reports so taken shall be under the entire control of the committees, respectively, by which such testimony may be taken, or of the House.

Mr. CONKLING. Will the gentleman from New Hampshire [Mr. ROLLINS] be kind enough to tell us how this whole matter of a stenographer for the House now stands? What pay does he get?

Mr. ROLLINS. On the 5th of January, 1865, a resolution was passed authorizing the Speaker to appoint a stenographic reporter, to be paid the same compensation as is allowed in reporting court-martial proceedings. This was construed to mean ten dollars per day. Consequently the reporter is receiving at the rate of \$3,650 per year. The committee, after careful examination of the whole matter, and collecting all the evidence that it was possible to collect, have come to the conclusion that if the stenographic reporter is compelled to report, without additional expense to the Government, all the proceedings of the special and standing committees of the House, and also all that he may be called upon to report for the joint committees of the two Houses, quite a large sum may be saved for the Government; that the amount paid for reporting these various proceedings under the salary now allowed to the reporter will be not so much as has heretofore been paid. I have the figures here, and shall be glad to submit them to the House, if gentlemen desire.

Mr. CONKLING. Are we right in understanding the gentleman to say that ten dollars is paid for every day in the year, whether reporting is done or not?

Several MEMBERS. Yes.

Mr. ROLLINS. That is so. The resolution of the House gives to the reporter ten dollars

per day, whether he does anything or not—\$3,650 a year.

Mr. CONKLING. I would like to inquire whether, if this resolution is adopted, the stenographer to be appointed is to do or has done at his own expense all the reporting of any sort that may be necessary for special and standing committees?

Mr. ROLLINS. If the gentlemen had listened to the reading of the proviso to the resolution he would have seen that the reporter must report all the proceedings of standing and special committees, and also of joint committees that he may be called upon to report.

Mr. CONKLING. I did listen to it, and I do understand it, and yet I want to know from the better information of the gentleman whether really we can rely upon the expectation that any stenographer, receiving even \$3,650 a year, will, without further appropriation or compensation, provide for all the stenographic reporting which is to be done during any session of Congress, for it seems to me that enough reporting of that sort is certain to be required at this session of Congress to very greatly exceed the amount which the gentleman fixes. If this resolution be adopted, whenever an extraordinary quantity of reporting shall be necessary, application will be made, and perhaps made so meritoriously that it will be allowed, for extra compensation to be given on account of the extraordinary amount of service rendered. If that is not so, and if this is really the be-all and the end-all of the matter, I am willing, for one, to vote for the resolution.

Mr. ROLLINS. All I can say about it is, that the committee design that this shall be the be-all and the end-all of the matter.

Mr. HALE. A resolution was adopted by the House a few days or a few weeks ago, calling upon the Committee of Accounts to report upon certain specific matters designated therein. I would inquire of the gentleman from New Hampshire whether the report which he now makes embraces the answer to that resolution?

Mr. ROLLINS. It was so intended. If the gentleman from New York desires further information, I will send to the Clerk's desk and have read the evidence that was submitted to the committee. In the first place, I will ask for the reading of a letter from the Clerk of the House.

Mr. HALE. I want merely the conclusion of the committee.

Mr. ROLLINS. The first paper I will have read is a brief note from the Clerk of the House, showing the amount paid from the contingent fund of the House only.

The Clerk read, as follows:

HOUSE OF REPRESENTATIVES, UNITED STATES. WASHINGTON, D. C., January 15, 1866.

SIR: In response to the resolution of the Committee of Accounts asking for information as to the amount of money paid during the Thirty-Seventh and first session of the Thirty-Eighth Congress, for reporting proceedings before the standing and special committees of the House of Representatives, I have the honor to submit the following statement from the books of this office, which embraces all moneys so paid to committees of the House proper. I have reason to believe there were some payments made for reporting proceedings of joint committees, but not having access to the proper source of information as to such payments I am unable to give the amount:

Thirty-Seventh Congress.		Reporting.
1038. J. J. McElhone.....		\$358 88
1543. J. J. McElhone.....		253 50
2356. Theodore T. Andrews.....		262 28
2360. J. J. McElhone.....		214 00
2361. H. G. Hayes.....		150 00
		<u>\$1,348 64</u>

Thirty-Eighth Congress. First Session.		Reporting.
476. Theodore T. Andrews.....		\$135 00
737. Theodore T. Andrews.....		785 52
738. Theodore T. Andrews.....		630 00
799. J. J. McElhone.....		553 50
		<u>\$2,104 02</u>

Very respectfully, your obedient servant.

CLINTON LLOYD.

Chief Clerk House of Representatives.
Hon. E. H. ROLLINS,
Chairman of Committee of Accounts.

Mr. ROLLINS. That was the amount paid from the contingent fund of the House. I now

ask attention to the following figures, which were brought before the committee:

Cost of reporting House and joint committees under old system during three previous sessions.

FIRST SESSION THIRTY-EIGHTH CONGRESS.

Conduct of the war.....	\$1,885 00
Special committee relative to Hon. F. P. Blair.....	135 00
Special committee relative to currency printing.....	630 00
Committee on Naval Affairs.....	533 00
Committee on Public Expenditures.....	785 00
Committee on Public Expenditures.....	499 50
	<u>\$4,487 50</u>

THIRD SESSION THIRTY-SEVENTH CONGRESS.

Conduct of the war.....	\$3,240 50
Patent Office investigation.....	214 00
Hon. Mr. Ashley.....	150 00
Jay Cooke & Co.....	40 00
	<u>\$3,644 50</u>

SECOND SESSION THIRTY-SEVENTH CONGRESS.

Conduct of the war.....	\$2,565 00
Government contracts.....	5,000 00
Censorship of the press.....	353 88
Conduct of Hon. Benjamin Wood.....	263 00
Charles Henry Foster.....	24 75
	<u>\$8,211 63</u>

Committee proceedings reported by stenographer to committees during last half of last session, and amounts under old rates of pay:

Committee on Commerce, (Joint,) investigating trade with rebel States.....	\$700 00
Committee on Military Affairs, investigating Old Capitol prison.....	500 00
Committee for the District of Columbia, investigating enlistments in the District Jail.....	100 00
Committee, special, (Joint,) investigating ventilation of Halls of Congress.....	200 00
Committee, special, investigating Patent Office affairs.....	200 00
Committee, special, investigating assault on Hon. Mr. Kelley.....	100 00
	<u>\$1,800 00</u>

In justice to the reporter, I will state that the proceedings reported for committees by him, during the last session, from the 5th of January to the 6th of March amounted in the aggregate to \$1,800 worth at the old rates.

Now, I will listen to anything that gentlemen desire to say.

Mr. HALE. The resolution under which this stenographic reporter was appointed passed in January, 1865, and I wish to call the attention of the House to the peculiar language of that resolution. I do it for the reason that I think it is, upon its face, exceedingly blind and uncertain, and for the further reason that I am assured by gentlemen upon this floor that they voted for the resolution under the idea that the compensation was to be an entirely different one from that which has been practically allowed. The resolution was as follows:

"Resolved, That the Speaker appoint a competent stenographic reporter, to continue in office until otherwise ordered by the House, whose duty it shall be to report in short-hand, on the order of any of the standing or special committees of the House, such proceedings as they may deem necessary, and when ordered to be printed, properly index and supervise the publication of the same, and who shall receive therefor an annual compensation at the rate now allowed by regulation for reporting court-martial proceedings."

I understand that the rate allowed by law for reporting court-martial proceedings is ten dollars a day for actual services.

I understand from gentlemen on the floor of this House who voted for this resolution, that when they voted they supposed that was to be the rule for compensation here, ten dollars a day for actual services. I understand that the reporter appointed by the Speaker under this resolution—appointed January 5, Congress closing its session on the 3d of March following—could only have spent some sixty days in service; and for those sixty days' services, or so much as was necessary for him to perform those duties, he has been allowed ten dollars a day for the entire year. Now, I do not believe that that rule of compensation was ever intended to be adopted by this House, or is one which this House is now disposed to sustain.

More than that, it strikes me that the proposition submitted by the Committee of Accounts fails to reach the evil. They propose, not to do

away with this false and unjust rule of compensation, nor to decrease it or limit it in any degree, but to recognize it, coupling with it a provision that certain work in bulk shall be done by this reporter. Now, we all know what will be the effect of such a resolution. It will be to give this reporter his ten dollars a day for the entire year, whether he do much or little; and we all know that when he is called upon to perform services, the compensation for which at ordinary rates will amount to anything like the amount reported by the Committee of Accounts as having been paid for services heretofore, some eight thousand dollars a year, we will be met at the close of the session with a proposition for the allowance of extra compensation, and it is perfectly certain that some way will be found to get it through. In other words, by the amendment proposed to the original resolution by the gentleman from New Hampshire [Mr. ROLLINS] the reporter will continue to draw the compensation which he is now allowed, and which is out of proportion to the duties which he has performed, and it seems to me it leaves the House open to a claim from him for extra compensation.

Mr. CONKLING. I would ask my colleague [Mr. HALE] if a bond were required of the reporter for the performance of this duty, the bond to be properly conditioned, would it obviate the difficulty he suggests?

Mr. HALE. In my judgment it would certainly be an improvement; but I still think it would leave the matter on a wrong basis. I think we ought to employ reporters, when the services of any may be needed, at a fair compensation for the services they may perform, and not vote a round sum, in bulk, for services which they may or may not perform.

Mr. ROLLINS. I would suggest to the gentleman from New York [Mr. HALE] that the very course which he now proposes for us to follow has been the very course followed in the past; and after a most careful, thorough, and scrutinizing examination of this whole matter, the Committee of Accounts have come to the conclusion that the Government can save several thousand dollars per annum by adopting the resolution proposed by the committee. I do not believe there was any disposition on the part of the Committee of Accounts—I know there was not—to continue this office one single day unless it was for the interest of the Government. I say to the gentleman that at the outset I thought it would be best to abolish the office. I commenced the examination with the expectation of arriving at that conclusion; but after a careful examination I changed my opinion, and the committee have unanimously reported this resolution, for we believe that by doing so money may be saved to the Government. We believe it is a matter of economy to pass this resolution; and we believe that the gentleman who is now performing the duties provided for by the resolution of last session will perform those duties in accordance with the proviso added to the resolution, and in good faith; and I have no doubt he will be willing to furnish a bond to this House to that effect.

If those who succeed to our places here shall hereafter see fit to give additional compensation to whoever may discharge these duties, I do not know how we can bind them by any action we may take. They can do as they please. I do not expect that any resolution we may pass here will in any way bind any future House. And if the gentleman from New York [Mr. HALE] expects to accomplish any such result as that, I apprehend he will be entirely mistaken; he will not accomplish his object. I will state that our design is only to do what to us seems best to save money to the Government, and we believe the passage of this resolution will accomplish that object. I now move the previous question.

Mr. HALE. Will the gentleman withdraw that motion for a moment?

Mr. ROLLINS. Certainly.

Mr. HALE. I by no means design to impute any improper motives to the action of the committee, and I hope the gentleman does not so

understand me. Neither do I propose, by a resolution, to attempt to bind any future House, or to bind this House in its future action. I concede the impossibility of doing that. But the true remedy in this case is to repeal this resolution of January, 1865, and in place of it adopt a provision for the appointment of reporters of committees, if necessary, at a fair compensation, to be determined by actual service. And if the gentleman will allow me to move such an amendment in order to take the sense of the House upon it, I will do so.

Mr. ROLLINS. I desire to say one word more in justice to the reporter. At the last session of Congress the amount reported by him, according to the rates formerly paid, would have required the payment of \$1,800. And he was obliged to pay from his own purse a large sum for reporting committees, when it was impossible for him to do the work, in consequence of several committees sitting at the same time. And if this resolution should be adopted, he will be obliged in future, when two or more committees are sitting at the same time, to employ outside help. And I think if he pays from his own purse the money necessary to compensate those additional reporters, the compensation of ten dollars a day, which the gentleman from New York [Mr. HALE] deems so exorbitant, will not be unreasonably large.

Mr. WASHBURNE, of Illinois. Will the gentleman from New Hampshire yield to me for one moment?

Mr. ROLLINS. I will.

Mr. WASHBURNE, of Illinois. I desire to say only one word in regard to this matter. I knew something in regard to the introduction and passage of this resolution at the last session; and I knew the reasons which controlled the House at that time—reasons which I fully approve—first, on the score of economy, and second, on the score of convenience, by having a competent reporter at all times responsible to the House, and at all times ready to perform the duties which may be required of him. These were the reasons for the introduction and passage of that resolution. I think it has been shown—I was not here when the gentleman from New Hampshire commenced his speech, but if he has not shown it, I can show it—that it is absolutely a matter of economy to adhere to the resolution of the last session, with the explanatory amendment now proposed by the Committee of Accounts. I am informed that the figures in relation to this subject have been read to the House; and if those figures do not lie, they show that the system adopted by the House in the resolution of the last session has resulted in a large saving of money, as compared with the system previously pursued.

Now, sir, we have a reporter, a man who is fully competent for the duties of his position; and if this Congress shall have occasion for anything like the amount of reporting which was done for the last Congress, then, by adopting the resolution proposed by the Committee of Accounts, instead of picking up reporters, as we formerly did, at the usual compensation, we shall save probably three or four thousand dollars during this very session. If the House should now dispense with this reporter, who is now engaged in reporting for one of the committees, the joint committee on reconstruction, we shall have to employ another reporter at the ordinary compensation; and if we take a large amount of testimony—as we may or may not; I say nothing about that—it will amount to a much larger sum than that which we would pay to the regular reporter now employed under the resolution of the last session.

Hence, by these two considerations—first, on the score of economy, saving, as I think, a large amount of money to the Government, and second, the advantage of having a reporter who is an officer of the House, a competent and responsible man, who can be called upon at all times to do this work for the committees—I am induced to support the resolution now submitted by the Committee of Accounts.

Mr. ROLLINS. I move the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the amendment submitted by Mr. DAWES was adopted.

The question then recurring on agreeing to the resolution as amended, there were, on a division—ayes 76, noes 80.

So the resolution as amended was agreed to.

Mr. ROLLINS moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BANKRUPT LAW.

Mr. JENCKES, from the select committee on the bankrupt law, reported back, with amendments, the bill (H. R. No. 7) to establish a uniform system of bankruptcy throughout the United States; and moved that the bill with the amendments be printed and made the special order for Tuesday, the 80th instant, after the morning hour, and from day to day until disposed of.

The motion was agreed to.

Mr. JENCKES also, from the same committee, submitted the following resolution:

Resolved, That five thousand copies of the bill to establish a uniform system of bankruptcy throughout the United States, reported by the committee on that subject, be printed for the use of this House.

The SPEAKER. This resolution will be referred, under the law, to the Committee on Printing.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill and a joint resolution of the following titles; in which he was directed to ask the concurrence of the House:

An act (S. No. 83) to extend the time for completing certain land-grant railroads in the States therein named; and

Joint resolution (S. No. 17) directing the distribution of the writings of James Madison.

FREEDMEN'S BUREAU.

Mr. ELIOT. From the select committee on freedmen I report back, with amendments, the bill (H. R. No. 87) to amend an act entitled "An act to establish a Bureau for the relief of Freedmen and Refugees."

I move that the bill and amendments be postponed until Tuesday next after the morning hour, and made the special order for that day and until disposed of, and that they be ordered to be printed.

There was no objection, and it was ordered accordingly.

DAMAGES IN REBEL STATES.

Mr. DELANO, from the Committee of Claims, submitted a report, which was read, as follows:

The Committee of Claims ask leave to make the following report:

The attention of the House is called to the large number of claims from citizens of States lately in rebellion, growing out of the destruction of, or damage to, property by the Army or Navy while engaged in suppressing the insurrection.

The committee are impressed with the necessity of establishing a rule, by the House, which shall guide them in deliberating upon this class of claims. The number of cases from this source is so great as to render it hardly possible for the committee to examine the particulars of each one with the care and scrutiny necessary to prevent fraud and imposition against the Government, provided there be sufficient grounds to demand the favorable attention of Congress. The dimensions and duration of the war, and the persistence with which the rebellion was maintained, rendered it necessary for the Army of the loyal Government to make large destructions of property, and also to make use of considerable property in States in rebellion for necessary supplies and subsistence. This destruction and appropriation was a military necessity, imposed upon the Government, in order to put down rebellion and to save the life of the nation.

The committee are unable to give the House any definite information as to the quantity or value of the property thus destroyed or appropriated; but it is suggested that an attempt to indemnify and compensate this numerous class of claimants will require an amount of appropriations much greater than the revenues of the nation at this time can possibly satisfy.

It seems to the committee, therefore, that the House should determine, by its action, whether these claims should be assumed, whereby the national debt must be increased to an indefinite extent.

The previous action of Congress and of the various committees, who, from time to time, have had this subject under consideration, does not, in our opinion,

establish such principles nor furnish such precedents as are necessary for the government of the committee in making recommendations under the new and important circumstances now surrounding the question. Heretofore the amount of claims at any time resting upon the Government for such losses has been limited so as not to exceed the resources of the Government under reasonable and permissible taxation, and hence a disposition has often been exhibited by both Congress and the various Committees of Claims to equalize burdens and losses by paying such demands. But this disposition has not uniformly existed, and many instances of the rejection of such claims is found in the history of the legislation of the Government. The persistence, however, with which claimants have renewed their applications when rejected has frequently enabled them to finally succeed, and often under circumstances which render their success of doubtful propriety. Appeals to our sympathy, humanity, and benevolence are not easily resisted, and it is a credit to human nature that we are so constituted as to be accessible to such appeals. It is to be remembered, however, that such appeals ought not to induce and cannot authorize us to levy extraordinary taxation upon our constituents in order to gratify our charitable impulses. We are not almoners, merely, for the nation, and have no just right to impose increased taxation in order to gratify our feelings of benevolence, nor to establish principles of abstract justice and equity when there is no rule or law requiring it, and particularly when the attempt is to be attended with great uncertainty and be subjected to innumerable impositions and frauds.

Neither does the committee find any very well settled principles, in regard to a nation's liability to pay for this class of losses, laid down by the commentators on national law. Where the claimants are of undoubted loyalty and the damage has resulted from the appropriation of private property for the use of the Government, or by way of precaution, in order to repel the enemy, it is the opinion of Vattel that the damages should be paid. But for other damages caused by inevitable necessity that writer says:

"They are misfortunes which chance deals out to the proprietors on whom they happen to fall. The sovereign, indeed, ought to show an equitable regard for the sufferers, if the situation of his affairs will admit it, but no action lies against the State for misfortunes of this nature for losses which she has occasioned not willfully but through necessity and by mere accident. The same may be said of damages caused by the enemy. All the subjects are exposed to such damages, and woe to him on whom they fall. The members of a society may well encounter such risks of property since they encounter a similar risk of life itself. Were the State strictly to indemnify all those whose property is injured in this manner, the public finances would soon be exhausted, and every individual in the State would be obliged to contribute his share in due proportion; a thing utterly impracticable. Besides, these indemnifications would be liable to a thousand abuses, and there would be no end of the particulars. It is, therefore, to be presumed that no such thing was ever intended by those who united to form a society."

These remarks are quoted because of their apparent applicability to the question presented. It seems to the committee that the magnitude of the public debt created to suppress the rebellion renders it impossible for the Government to attempt to compensate all those who have sustained individual losses by the action of our Army in the field. The attempt would impair the national credit abroad, destroy confidence in the public securities everywhere, impose such additional burdens of taxation as to give cause for discontent and complaint, and thereby lead to the possible encouragement of such evil-minded persons as may be led to favor the policy of repudiation.

The committee are therefore of the opinion that, in view of the magnitude of these losses, as well as the magnitude of the public debt, and the thousand abuses necessarily resulting from an attempt to satisfy these claims, in the words of Vattel, "the thing is utterly impracticable," and ought not to be encouraged.

It may be suggested that a distinction should be made between losses arising out of the destruction of property incident to the ravages of war and damages growing out of the appropriation of property for the uses of the Army. Without controverting the propriety of this distinction, so far as citizens of the loyal States are concerned, it is suggested that it will be dangerous and inexpedient to apply it to claims coming from States lately in rebellion. It will be difficult to determine, with a sufficient degree of certainty, the question of individual loyalty; and if it be established, as a rule, that property taken from loyal citizens, in rebellious States, for military supplies, shall be paid for, it may be conceded that every claimant will find some proof to present of his devotion and suffering in the cause of the Government. The examinations before a committee are necessarily *ex parte*, consisting mostly of the affidavits of persons as to whose character for truth and honesty little can be known.

The committee calls the attention of the House to an act of Congress, approved July 4, 1864, entitled "An act to restrict the jurisdiction of the Court of Claims, &c.," which deprived that court of any jurisdiction of claims against the United States growing out of the destruction or appropriation of, or damage to, property by the Army or Navy engaged in the suppression of the rebellion. It was scarcely the policy of this law to transfer the adjudication of this class of claims from the court to Congress, for the second and third sections of the act provide that the claims of loyal citizens, in States not in rebellion, for supplies and subsistence actually furnished the Army, and receipted for, or taken by officers without giving receipts, may be adjusted and allowed by the Quartermaster and Commissary Generals respectively. In the light of this act, it seems to have been the policy of the authors that the claims of loyal citizens in loyal States for supplies to the Army should be paid, and that the Government

should not be held liable for any such claim coming from citizens of States in rebellion, nor liable for any claim, coming from any portion of the country, which resulted merely from the ravages of war, at least without an act of Congress for the payment of it.

The committee think that the policy of this act, as they understand it, should be strictly adhered to. That the necessities of the nation demand that we attempt to pay no claim growing out of the destruction of, or damage to, property by the necessities of the war; nor any claim for property furnished to, or taken by, military officers, except as the same is now provided for by the act referred to.

The committee therefore recommend the adoption of the following resolution:

Resolved, That, until otherwise ordered, the Committee of Claims be instructed to reject all claims, referred to them for examination, by citizens of any of the States lately in rebellion, growing out of the destruction or appropriation of, or damage to, property, by the Army or Navy while engaged in suppressing the rebellion.

The SPEAKER stated that the morning hour had expired.

Mr. DELANO moved that the report be ordered to be printed.

The motion was agreed to.

REGISTRY OF VESSELS.

Mr. LYNCH, by unanimous consent, submitted the following resolution; which was read, considered, and referred to the Committee on Commerce:

Whereas many American ship-owners, while beligerent rights were accorded by foreign nations to rebel cruisers, in order to protect their vessels from destruction or capture by our enemies, placed them under foreign flags, thereby securing all the advantages incident to such protection in competing with American commerce for the carrying trade of the world; having derived all these advantages by abandoning the flag of their country during a period of war, and identifying their interests with the destroyers of its commerce, they should not be permitted, after the restoration of peace, to reregister their vessels in American ports, as many have done and are now doing, in violation or evasion of the spirit of our navigation laws: Therefore,

Resolved, That all vessels once American, whose national character has been changed, or which have been placed under a foreign flag or a foreign register, should be treated as foreign-built vessels, and should never again be allowed an American register.

Mr. LYNCH, by unanimous consent, also submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be directed to communicate to this House how many and what vessels previously under a foreign register have been allowed to take out American registers since the 31st of December, 1864, with the respective dates of such American registers; and also the authority of law under which such changes of registry have been allowed.

Mr. WILSON, of Iowa, demanded the regular order of business.

Mr. GRISWOLD. I ask the gentleman to yield to me to submit a resolution which will give rise to no debate.

Mr. WILSON, of Iowa. I must decline to yield. I see other gentlemen who will ask for the same thing.

The SPEAKER stated that if objection had not been made by calling for the regular order of business he would have laid before the House a report from the Secretary of the Treasury in regard to decrease of our mercantile marine, and suggesting such remedial legislation as he may deem expedient, in response to a resolution of the House of February 23, 1865; but as the House would perhaps desire to have the paper read, he would withhold it for the present.

SUFFRAGE IN THE DISTRICT OF COLUMBIA.

The morning hour having expired, the House resumed the consideration of the bill (H. R. No. 1) extending the right of suffrage in the District of Columbia; on which Mr. CLARKE, of Kansas, was entitled to the floor.

Mr. CLARKE, of Kansas. Mr. Speaker, I have no apologies to offer for addressing the House on this subject. As the only Representative upon this floor of a State whose whole history has been a continual protest against political injustice and wrong, it is my duty, as it is my pleasure, to express by voice and vote my approval of the principles involved in the bill now before the House. No attentive listener to this debate can have failed to perceive the absolute paucity of reasoning which has thus far characterized the speeches which have been made in opposition to this measure. I find it

difficult to sift from the mass of verbiage with which they abound the few points on which their arguments turn. I state them as briefly as possible.

It is said, in the first place, that the people of this District have shown by a large majority that they do not desire impartial manhood suffrage.

The right of Congress, and not the people of this District, to settle this matter, is clear and undoubted, and is acknowledged by those who oppose this bill. For my own part, I consider the possession of this right a sufficient reason for its exercise; the act being in itself just, wise, and necessary, and dictated by the highest and best principles of governmental policy. It is not for the people of this District, especially that portion of them who voted at the late pretended election, to authorize the continued disfranchisement of any class in their midst. "Governments are instituted among men, deriving their just powers from the consent of the governed." This principle is sufficient to base an all-conclusive answer to this the first reason given against this measure of justice.

We are told, again, that the people to be enfranchised are poor, ignorant, and incapable of enjoying the rights of citizenship.

A renewed recital of the statistics of their condition in this District is an ample answer to all this.

The colored people in this District, numbering about twenty thousand, own twenty-one churches, the maintenance of which costs annually \$20,000. They support thirty-three day schools, and pay taxes on one and a quarter million dollars' worth of real property. Three thousand and odd have served in the Army of the Union, of whom one thousand have fallen in battle and by disease in defense of the country. They have over four thousand church members. In twenty-two Sunday schools they have over three thousand scholars. Their property is taxed to aid in the education of the white children, while they support their own schools. The report of the superintendent of colored schools for the month of December shows an attendance at forty-five schools of five thousand six hundred and eighteen pupils. Nine other schools, having in November five hundred and sixty pupils, are not included in this report. There are two excellent industrial schools, with one hundred and forty-seven pupils. Not one of these schools is sustained by the municipal authorities of either Washington or Georgetown. They are supported by benevolent organizations. In addition, there are the schools under the Freedmen's Commission, which have a large number of pupils.

They take over four thousand copies of the two Republican papers of this District, and, be it said to their credit, not many subscribers can be found among them for the organs of caste and prejudice. This oppressed and injured race, who are so poor and ignorant as to be incapable, in the judgment of gentlemen on the other side of the House, of voting intelligently, support thirty "benevolent, literary, and civic organizations," which contribute to their intelligence, and care for their poor and needy.

The city supports but few colored paupers. They will show as large a proportion of children growing up with education as any other laboring community can. Sir, it is not too much to say that the colored people of this District show as good tests of intelligence, so far as that can be seen by the proportion of education among them, the amount of religious character, the quality of industry, freedom from poverty, payment of taxes, and loyalty as evinced by military service, as can be found in the constituencies of gentlemen speaking in opposition to this bill.

The only reply made to all these proofs of character, industry, and intelligence is, that "this is a white man's Government." The Constitution is fiercely invoked to sustain this dogma, while the mutilation of historical evidence is as complete as political deception can devise.

Mr. Speaker, I am proud enough of my race, its progress, its condition, and its achievements. I am too proud, sir, to fear the competition of

the swarthy scions of another and unfortunate one. I do not share in the solicitude which seems to torture the minds of the opponents of this bill, as they dwell with words of horror and alarm on the prospect of competition between the constituencies they represent and the colored people of this District, just emerging into the full rights of American citizenship. My pride in the white race leads me to honor Sir Philip Sidney, when he declared—

"That the poorer and more degraded a human being, the nearer he comes to the sympathy of a true gentleman."

And I honor, too, the jurist—I think it was Judge Harrington, of Vermont—who would not acknowledge a man to be a slave unless a bill of sale from God was shown him. I am proud of my race when I remember the motive that dictated Jefferson's testimony when he declared that "he trembled for his country when he remembered that God was just." I am so sure of the supremacy of my race, that I cannot acknowledge want of capacity for competition, as inferred from the arguments of the Opposition, when they plead for laws excluding a portion of the loyal people of this District from an "equal chance in the race of life." Nor have I any fear of social equality or of a social revolution because we give to the poor and the unfortunate the right of political self-defense.

But "this is a white man's Government," say the authoritative representatives of the Democratic party of the country again and again. I shall endeavor to show as compactly as I can the utter falsity of the declaration as taken in the sense used by gentlemen on the other side of the House. I shall show that by all the methods in which association with and service for this Union is recognized the American colored man has always been included within the term "people," and been esteemed a citizen of the Republic. Let us see from the records of history how far the facts assure the truth of this assertion. The Constitution of the United States does not deny this. The Articles forming the original Confederation include no provision setting forth such a limitation. The Declaration is explicit, and directly in opposition to this dogma. A majority of the original State constitutions list no syllable sustaining it. All the declarations, sentiments, and writings of the leading men of the Revolution breathe a spirit to the contrary of this proscriptive heresy. Now, sir, to the proof. It is asserted that the term "people" did not include free colored persons.

On the 25th of June, 1778, the Continental Congress decided that the word "white" should not be included in the fourth article. This provides that the "free inhabitants of each of the States (paupers, vagabonds, and fugitives from justice excepted) shall be entitled to all the privileges and immunities of free citizens in the several States." South Carolina moved to insert the word "white." Eleven States voted: two sustained the motion; one was divided; eight States voted against it. Thus the fathers affirmed the right of the free colored man to vote and share the Government with the free whites. Another and similar proposition was also rejected.

This same Congress twice passed laws for the government of territory ceded to the United States by the several States. These were the acts of April 23, 1784, for the government of such territory, and of July 13, 1787, for the government of what was known as the "North-west Territory." In neither of these acts was the right of suffrage restricted to white persons. On the contrary, the discussion at the time of adoption was explicit upon that question. Sir, it is surprising that at this late day, when all the facts bearing upon this question have been so thoroughly sifted, and never successfully controverted, anybody can be found who will deny that free persons of color participated equally with the whites in the organization of the Government; in voting upon all measures establishing the Confederation; in the adoption of the present Constitution; and that in a majority of the States forming the Union they exercised the elective franchise.

The constitution of Massachusetts provides that every male person twenty-one years of age, residing one year in the town, and owning a freehold valued at three pounds, or an estate of the value of sixty pounds, should have the right to vote.

Rhode Island, by its colonial charter, provides that members of her General Assembly should be elected by "the major portion of the freemen of the respective towns or places."

Connecticut provided only that forty shillings freehold, or personal estate valued at forty pounds, "with mature years and civil behavior," should be the qualification for electors.

New York gave the franchise to "every male inhabitant" possessing certain qualifications, among which color was not enumerated.

New Jersey said, "all inhabitants of the colony of full age" possessing certain qualifications, among which was not mentioned color, should be entitled to vote for all officers elected by the people. The gentleman from New Jersey knows well that under this provision free men of color voted in that State for many years.

Pennsylvania said, "all freemen" of the age of twenty-one, who had resided one year in the State and paid taxes, should be entitled to vote. Not white men, but "all freemen," is the words of the original constitution of that State.

Delaware said in her bill of rights:

"Every freeman having sufficient evidence of permanent common interest with and attachment to the community hath the right of suffrage."

This is a declaration amply sufficient to cover every point in the bill we are now discussing. "Having sufficient evidence of permanent common interest." Will any candid man deny the evidence of this common interest which has been presented here?

Maryland provided that "all freemen" over twenty-one, and possessing a freehold of fifty acres, and having property in the State valued above thirty pounds, should have the right of suffrage.

Virginia made in her bill of rights the same declaration I have quoted from Delaware.

North Carolina gave the right of suffrage to "all freemen" who had resided a certain period in the State and paid taxes.

Georgia made no distinctions of color. That State required for the exercise of the franchise only that the voter should be a free man, be twenty-one years old, have resided and paid taxes in the State for six months preceding the election.

South Carolina alone—from the beginning the marplot of our republican councils—inserted the word "white" after "free" and before "man," in articles fixing qualifications for electors in that State.

With this exception, and those of Virginia and Delaware, though their declaration of rights were broad enough to cover all free persons, the exercise of the right of suffrage was regulated by statutory enactment. All the other States included among their electors free persons of color. In no State constitution, except South Carolina, was it limited by term to the white man. Is that State the model upon which gentlemen desire to mould this nation? Are not the facts thus collated sufficient to refute the assertion that the American colored man had no lot or part in the organization of this Government? If the proofs of the long-continued exercise of the elective franchise, continuing in most of the States during the first forty and best years of the Republic, do not overthrow such baseless assertions, what then will?

But, sir, it is not only the enactments of the Continental Congress, and of the different States which formed this Union, but still more explicitly do the founders of this Republic give back the libel now sought to be fastened upon them. The early pages of our history teem with their declarations, both as individuals and as members of the Government. In 1779 the Continental Congress announced, in a pamphlet ordered to be printed, that—

"The great principle [of government] is and will ever remain in force, that men are by nature free; as

accountable to Him that made them, they must be so; and so long as we have any idea of divine justice, we must associate that of human freedom. Whether men can part with their liberty is among the questions which have exercised the ablest minds; but it is conceded on all hands that the right to be free can never be alienated; still less is it practicable for one generation to mortgage the privileges of another."

The entire argument made on the other side of the House is answered, granting that it was true in fact that our fathers did not take measures for the black man's rights equally with their own. One generation cannot make a lien upon my rights, or those of any other man. They cannot mortgage them to the future. When that future comes and opportunity offers to undo the wrong, it is its solemn duty to apply the remedy.

Mr. Jefferson's opinions are well known. Mr. Madison has declared that the word "slave" was not inserted in the Constitution, because the Federal Convention desired to affix no such a stain upon the instrument. Neither did they insert the qualifying word "white." General Gates and others, at that early day, emancipated their slaves. In an address, after the peace of 1778, written by Mr. Madison, Congress declared—

"That it has ever been the pride and boast of America that the rights for which she contended were the rights of human nature."

I cannot help thinking, Mr. Speaker, that if the pen of Mr. Madison had been guided by the sentiment of the gentleman from New Jersey, he most certainly would have written "white human nature." But all the great names of that period rebuke the fallacious Democratic assumption that this Government was founded for and by white men only. Pendleton, Mason, Wythe, Lee—ancestor of the traitor general who made the name infamous—Grayson, St. George Tucker, Blair, Page, Parker, Randolph, Iredell, Spraight, Ramsey, McHenry, Samuel Chase, Franklin, the Adamases, Heath, Patrick Henry, John Jay, Faulkner, Pinkney of Maryland, Barbour, Hamilton, one and all, except a few South Carolinians, are on record, by word, deed, and life, against the infamous dogma that this is a "white man's Government" alone. Nor were their opinions expressed loosely, liable to various interpretations, or intended to be differently construed. Mr. Jefferson expressly speaks of slaves as "citizens" in his Notes on Virginia. He said most explicitly:

"The true foundation of republican government is the equal rights of every citizen in his person and property, and in their management."

Was Jefferson in favor of white men alone managing the persons and property of all over whom the ægis of the Republic was cast? His own words reply. Sir, another striking fact which a student of the discussion, preceding the adoption of the Constitution must notice, is this: that much of the opposition against the instrument grew out of the general desire to have its provisions made even more plain and direct. Nearly all the States demanded amendments which would strengthen impartial liberty. Readers of the Federalist will not fail to perceive that the writers therein argue earnestly on objections against the instrument, because it was not preceded by an ample bill of rights. The objection was not in favor of restriction, but that it was not comprehensive enough. I have thus, sir, given briefly the proofs that this Government's formation was participated in by all the people not held as slaves, that it was meant to include all men, and that the opinions and actions of all our distinguished men at that era were in favor of a still more liberal inclusion of classes.

Mr. Speaker, I now propose to show the service rendered by the colored race in the war which secured independence and prepared the way for the present Union. Here, too, our history is replete with refutations of the false Democracy which resists the passage of this bill.

Among the men who shared in the common interest and early agitation that paved the way to Lexington and Bunker Hill was one Christopher or Crispus Attacks, a mulatto, who had also been a slave. He fell, shot by one of Cap-

tain Proteus's soldiers, March 5, 1770, marshaling and leading the first resistance to British tyranny, and sealing by his blood the inception of the "white man's Government." It was a black soldier, named Salem, that at Bunker Hill shot the exulting British leader, Pitcairn, as he shouted "The day is ours!" Salem was afterward presented to Washington. History keeps the names of others of the same race serving at that battle. Among them was Titus Coburn, Alexander Arms, Barzilai Lew, of Andover, Massachusetts, and Cato Howe, of Plymouth. Each received a pension from this "white man's Government" for aiding to secure the independence of this "white man's country."

Seymour Burr, of Connecticut, was a fugitive slave who with a party of others tried to join the British to gain liberty. He was captured. His master, a brother of Aaron Burr, gave him the freedom he coveted on condition of his fighting for the country. He accepted the offer, and joined the seventh Connecticut regiment, under Colonel Brooks. He, too, received a pension, as did Jeremy Jones, serving in the same regiment. Judge Story, of Massachusetts, was a witness of the courage of the black soldiers in our revolutionary war. General Eustis says they entered the ranks with the whites. "The Bucks of America" was a colored company which, under command of Colonel Middleton, a colored man, went through the war, and at its close were presented with a banner by John Hancock. Charles Bowles, who died in 1843, was a revolutionary pensioner and a colored preacher, who, when a mere boy, enlisted in the American Army and served throughout the war. James Easton served at Dorchester Heights. Job Lewis, formerly a slave, served over six years, enlisting three times.

"The State of Massachusetts Bay," through its Legislature, in 1778, authorized the raising of a colored regiment, the officers to be white. Rhode Island, in February, 1778, authorized the raising of two battalions, to be composed of such slaves as should be willing to serve for their freedom, and in addition giving them such "bounties, wages, &c," as were allowed by the Continental Congress. The gallant conduct of these men at the battle of Red Bank is one of the memorable incidents of the Revolution. Four hundred men of color met and repulsed fifteen hundred Hessians, under Count Donop. When later, at Croton river, May 13, 1781, Colonel Greene, commander of this regiment, fell mortally wounded, his faithful black guard defended him with their lives. Every one was killed. Sir, I might go on, giving the names and referring to the deeds of hundreds of brave colored soldiers who, in that first perilous hour, were found willing to fight for a nation which held a majority of their race in bondage. The blood of the black man mingled in every contest, and every revolutionary battle-field answers the argument put forth on the other side of this House. Sir, not only did American men of color do honorable service in the Revolution, but men of the same race from the despised republic of Hayti, then a French colony, were ranged on our side. A regiment of Haytian colored men were part of our French allies at the siege of Savannah.

Mr. Speaker, the gentlemen on the other side of the House have solemnly warned us of the prejudices which exist between races. The honorable gentleman from New York [Mr. CHANLER] enthrones prejudice as one of the great forces of the people in the following words:

"Prejudice is to the mind what nerves are to the body. It gives impulse to thought and direction to judgment."

Further on he said, speaking for the opponents of this measure:

"We respect the intense prejudice which preserves our race in its purity, vigor, and supremacy."

Other gentlemen, not glorifying so unequivocally the prejudices which, blind and brutal in their manifestation, have grown out of the foul ideas implanted by slavery, and have been sedulously fostered by Democratic teachings, nevertheless catch up and herald the cry. Nowhere

have we seen the ripe fruitage of such teachings better illustrated than in the riots and rapine not long since indulged in by the constituents of the gentleman from New York.

We are told in gloomy words of the horrors which are to follow the passage of this bill. But, sir, these words are not so fierce, nor are the prophetic appeals of the remnants of the slave oligarchy so full of evil foreboding as in other days resounded in this Hall, when these same men and this same prejudice resisted the abolition of slavery in this District.

I am in favor of this bill because I see in it the opposite of all this—the benign, harmonizing, and prosperous influences of freedom. Organized injustice is sure to provoke anarchy, and is in itself a despotism. The law of the Universe is justice; its method is progress. We must come within this rule in rearing the fabric of a reconstructed Government, or "the stone which was rejected of the builder" shall some day be the means of its fall, or else become the exalted crowning corner of the edifice. All history, so laboriously misrepresented by the gentleman from New York, [Mr. CHANLER,] teems with examples of the folly of injustice. The following words of De Tocqueville, quoted so inaptly in the speech against this bill by the gentleman from New York, [Mr. CHANLER,] are an impressive warning of the dangerous doctrine which he and the opponents of this bill would make perpetual. Let me read them:

"If ever the free institutions of America are destroyed that event may be attributed to the unlimited authority of the majority, which may at some future day urge minorities to desperation and oblige them to have recourse to physical force. Anarchy will be the result, but it will have been brought about by despotism."—*Democracy in America*, vol. 1, p. 317.

This, sir, is the precise result of the policy of gentlemen on the other side of this House, in struggling to so shape the legislation of this nation, and of its component States, as to make the minority, upon whose neck they and their friends have so long held the iron heel of oppression, rise in hopeless revolt. The spirit of persecution, which words but faintly conceal, has marked the reactionaries of all time.

Sir, this is not the spirit which shall guide my action. The wisest thinker England has ever produced, Francis Bacon, has well said:

"A statesman considers even the prejudices of a people."

This axiom should be accepted as containing a profound principle of administration; but not by weaving prejudices into forms of government, and making them the foundation of our laws. No, sir. Bacon declares that the true statesman endeavors to overcome prejudices, to show the benefits of just action, and by all reasonable means to prove their utility. What is the foundation principle of civil society? Herbert Spencer has well said, in his Social Statics, that—

"It is the liberty of each limited by the liberty of all." "Every man has freedom to do all that he wills, provided he infringes not the equal freedom of any other man."

It is only when individual liberty is detrimental to the liberty of others, as by acts of crime, or when individual or national life is at stake, that a deprivation can be allowed. Hence all must have the means of protection, whether it be the simple force of the savage or the complex forms of modern civilization. This means of protection belongs to all men, not as a bestowed privilege, but as a right inherent to existence as members of society. Here, I conceive, is the difference between American democracy and all other systems of government. These, in a greater or less degree, bestow privileges and legislate for classes. Our democracy protects rights. It was organized for that end, not to bestow them. That is not within its power, because each is entitled to the rights of all and all of each. Sir, this is my idea of American democracy.

From these premises, Mr. Speaker, I deduce the right of suffrage—the most potential means of protection. Nor is this right bounded by the accidents of birth or former condition. It is not to be measured by other men's prejudices. Speaking of the very class on whose enfranchise-

ment this debate hinges, Mr. Jefferson said, more than half a century since:

"Whatever be their degree of talent, it is no measure of their rights."

I beg the gentleman from Pennsylvania, [Mr. BOYER,] who painted so darkly the poverty and ignorance of the colored men of this District, to consider this pregnant sentence from the pen of him who is justly revered as the great apostle of popular Democracy.

This cry of poverty and ignorance is not new. I remember that those who first followed the Son of man, the Saviour of the world, were not the learned rabbis, not the enlightened scholar, not the rich man or the pious Pharisee. They were the poor and needy, the peasant and the fisherman. I remember, also, that the more learned the slaveholder the greater the rebel. I remember that no black skin covered so false a heart or misdirected brain, that when the radiant banner of our nationality was near or before him, he did not understand its meaning and remain loyal to its demands. The man capable of taking care of himself, of wife and children, and in addition by his unrequited toil to hold up his oppressor, must have intelligence enough in the long run to wield the highest means of protection we can give.

But, sir, it is for our benefit, as well as for the benefit of the proscribed class, that I vote for and support impartial manhood suffrage in this District. We cannot afford as a nation to keep any class ignorant, or oppress the weak. We must establish here republican government. That which wrongs one man in the end recoils on the many. Sir, if we accept, as the Republican party of the Union, our true position and our duty, we shall nobly win. If we are false and recreant, we shall miserably fail. Let us have faith in the people and the grand logic of a mighty revolution, and dare to do right. Class legislation will be the inevitable result of class power; and what would follow, so far as the colored race are concerned, let the recent tragedy of Jamaica answer.

Sir, it is the foundation of my political faith, as it was the faith of Washington and Jefferson and Madison, and of those who fought with them for the republican idea, that the sovereign power of this Government belongs to all, and not a part, of the American people. The right of all men who come within the province of the national authority to a voice in public affairs is as sacred as the rights of human nature themselves, or the laws of God. If the atrocious sentiments daily enunciated on the other side of this House by the representatives of modern Democracy are to prevail, then I see but little hope for the perpetuity and welfare of republican institutions in America. The maxim of our fathers, that "Governments derive their just powers from the consent of the governed," had better be stricken from the immortal Declaration of Independence if this nation is to assent in any way to the monstrous fallacy of the Dred Scott decision, and the corresponding assaults upon the rights of humanity so boldly enunciated by the gentleman from New Jersey early in this debate, and so readily received and indorsed by the party he represents.

Mr. Speaker, I arraign the arguments and the policy of the Democratic Representatives upon this floor as a despotic and malignant assault upon the masses of the American people, upon their liberties and their rights. This Dred Scott policy ought to have died with its author, and been consigned to that "everlasting infamy" with which posterity will surely receive so foul a stain upon the records of American jurisprudence. It may be fitting, however, that in its passage to the tomb it should be nursed and eulogized by a political party which but recently declared the late war for the Union a failure, invited an armistice with the assassins of the national life, resisted the filling up of our armies, incited riots in our great cities, and gave all the weight of party influence to the enemies of the country in the hours of national peril and disaster. I say, sir, it may be fitting that this dictum of a pro-slavery judge, this judicial-political outrage, should be reiterated and defended

by such a party as now seeks to make lawgivers of rebels, establish an oligarchy in the place of republicanism, and place the control of the Government of the nation in the hands of the few at the expense of the many.

But I do not stop here. The principles involved in the arguments put forth on the other side of the House are not alone destructive to the rights of the defenseless, intelligent, and patriotic colored men of this District, but they militate with a double effect and stronger purpose against the poor whites of the North and of the South, against the German, the Irishman, and the poor and oppressed of every race, who come to our shores to escape the oppression of despotic Governments, and to seek the protection of a Government the true theory of which reposes in every citizen a portion of its sovereign power. Against this attempt to deny or abridge in any way the rights of the weak, the poor, and the defenseless, and to transfer the governing power of the nation to the favored classes, to the rich and the powerful, and thus change the very purpose and principles of our republican system, I protest in the name of constitutional freedom, and in behalf of equal rights and equal laws.

I protest against this stealthy innovation upon popular rights, in the name of the toiling millions of the land; and I warn the House and the country of the untold mischief and disaster which must come to distract and divide the Republic in the future, if we follow the pernicious and destructive doctrines founded upon either the prejudices of class, caste, wealth, or power. I protest in the name of a constituency whose early history was a sublime and persistent struggle against the prejudices of pampered and arrogant ruffianism at home, and the worse than ruffian spirit of the Administrations of Pierce and Buchanan, and the Democratic traitors who at that time constituted a majority of this House, and were engaged in preparing the nation for its harvest of blood. We must go back to the spirit and purposes of the founders of our Government. We must accept the grand logic of the mighty revolution from which we are now emerging. We must repudiate, now and forever, these assaults upon the masses of the people, and upon the fundamental principles of popular rights. I accept in their full force and effect the principles of the Declaration of Independence, and by constitutional amendment and law of Congress I would stamp them with irrevocable power upon the political escutcheon of the new and regenerated Republic. I would avoid the mistakes of the past, and I would spurn that cringing timidity by which, through all history, liberty has been sacrificed and humanity betrayed.

Sir, I hesitate not to say that if we do not gather up, in the process of national reconstruction, the enduring safeguards of future peace, we shall be false to our history and unmindful of the grand responsibilities now devolving upon us. The establishment of impartial suffrage in this District will be a fitting commencement of the work. It will be hailed by the friends of freedom everywhere as a return to a policy of national justice too long delayed. In behalf of the State I have the honor to represent, and upon whose soil this contest for a larger liberty and a nobler nationality was first submitted to the arbitrament of arms, I hail this measure with feelings of satisfaction and pride. It is the legitimate result of the courage and fidelity of the hardy pioneers of Kansas in 1856, who dared to face the blandishment of power and the arrogance and brutality of slavery when compromisers trembled, and northern sycophants of an oligarchic despotism, then, as now, scowled and fretted at the progress of free principles.

Mr. JOHNSON. Mr. Speaker, I had not intended to participate in the discussion of the propositions embraced in this bill. It had not occurred to me there was such a diversity of opinion on the question of suffrage in this country. I had supposed the American system of popular Government was so well settled and so clearly defined that the debate on this bill

would range itself on either side of the question whether the elective franchise is a natural or acquired right; that those who hold the doctrine that this is a natural and inalienable right which belongs to all men who inhabit a country controlled by one Government would be found advocating this measure on that principle, while those who hold the other doctrine would be found contending that the elective franchise is an element of popular government, to be controlled only by those to whom such Government belongs; and then I expected, out of so large, respectable, and intelligent a body of men, there would be one or two at least who would refer to the free and equal clause of the Declaration of Independence, while the great mass of debate would be directed to the question of expediency involved in the proposition, now for the first time in the history of the Federal Government seriously entertained, of extending it by Federal authority to a race of men who, whatever may be their claim to the protection of life, liberty, property, and the pursuit of happiness under this Government, have no claim whatever to the ordering, management, direction, control, and administration of the Government itself. I expected that those who contend that all men who inhabit a country controlled by a popular Government have an inalienable right to control, direct, and administer that Government, would favor this bill, and I am willing to accord to that class of its advocates the entire consistency of their course.

I have neither the time nor the inclination now to take up the various arguments and reasons that gentlemen have assigned for the course they propose to take, and attempt to expose their fallacy or answer them in detail. I prefer to meet the question squarely, and leave others to elaborate it.

Some portions of this country seemed a little shocked when my distinguished colleague, [Mr. STEVENS,] a few weeks ago, opened his batteries with such terrible fury against the doctrine that this is a white man's Government. Many advocates of negro suffrage affected to treat his doctrines as absurd, and he himself, with very becoming modesty, disclaimed any intention of leading the Republican party, or it being responsible for what he said; but they little knew what he knows so well, that unless that doctrine is utterly and entirely demolished, the claim of the negro race in this country to have the elective franchise conferred upon it by Federal authority is without any foundation in right and justice.

Ours is a popular Government, a representative democracy. It is republican in form. Our fathers made it what it is so far as its form is concerned. They framed the States together into one common Union, and whatever theories may have prevailed before the war, that tribunal has given its irreversible decision that from this Union no State can either secede or be expelled.

This country is now under one Government. It was not so before the Union under the Constitution, or at furthest, before the Confederation. In the days of the colonies there were several Governments in this country. All were founded by white men, men of the European race. White men discovered the country, organized and established these Governments, and the Governments so established by them were their own as much as the country they inhabited or the soil they tilled. In the course of time they changed the form, but never parted with their right to control and administer the Government as against all other races of mankind.

So far from being a discoverer of this country, the negro is not even an immigrant. He is not here of his own free will and accord. However wrong it may have been to thus force him from his own country and make him a stranger in a strange land, it was nevertheless done, and all the rights that he by his presence here could acquire are those which have been graciously extended to him. In his slavery they were very few as against the white man, and in his freedom they are no more than have been granted.

To-day they are the right to dwell among us, to labor and enjoy its fruits, to emigrate, and the right to enjoy life, liberty, property, and the pursuit of happiness. These the Government acknowledges; but he is not the Government, nor is he any part of it. Should he undertake to assert a claim to control and manage the Government he becomes a rebel, and forfeiting the rights he held he falls like Lucifer from his heaven.

Let him give no heed to the instigation of political devils and he is safe. Not only is it true that the negro has had no part nor lot in the organizing and establishing of any of the Governments of this country, popular or otherwise, but he has never yet anywhere upon the face of this earth organized and established any sort of popular Government whatsoever. Whence, then, comes any claim on his part to exercise the prerogatives of Government in this country?

The negro, sir, is in possession of Governments upon this hemisphere. The negro is in possession of Governments in Central America, in South America, and in some of the islands of the western hemisphere; but he never organized a Government in any of those places. The position which he has acquired there has been obtained by the yielding up of the white race to him, either by his rebellion or by their relinquishing to him the administration of the Government.

Mr. KELLEY. Will the gentleman allow a question?

Mr. JOHNSON. Certainly.

Mr. KELLEY. I ask him of what complexion he supposes the men were who adopted the constitution of the republic of Liberia?

Mr. JOHNSON. That is not on this hemisphere. I am not aware that the Government of Liberia is located anywhere on this hemisphere. But yet it may be considered as included in the scope of my remark that the negro never yet organized and established a Government anywhere. I think, from my knowledge of the Government of Liberia, that it was established by the white race, just as a New England mechanic constructs a locomotive or steam-engine which is afterwards run by a negro in Delaware or Maryland. [Laughter.]

At the college where I was educated there were four or five colored men educated by philanthropic gentlemen, or philanthropic societies, for the express purpose of sending them to Africa to administer that Government; and I have heard of a great deal of money being raised in the United States by white men, out of white men's earnings, for the purpose of running that Liberian Government. I deny that the Liberian Government is the offspring of the negro race. It did not originate with him; it is not his.

Mr. KELLEY. Will the gentleman allow me to ask of what complexion the members of the convention were who framed the constitution of the republic of Liberia?

Mr. JOHNSON. Well, I do not know anything about their complexion.

Mr. KELLEY. While on the floor, I would like also to ask my colleague with reference to an earlier remark of the gentleman, that white men discovered America, whether they were what we call white men, or whether they were not what are generally known as Basque?

Mr. JOHNSON. Well, sir, that is propounding two questions. As to the white men, they were of the European race. That is what we all mean when we talk about white men.

Mr. KELLEY. A little mixed.

Mr. JOHNSON. As to the complexion of those persons who got up the constitution and framework of the Government of Liberia, it matters very little. I presume they were all of the negro race; some were as black as could be, and others were quite sallow.

But I submit that that is not the point. The gentleman knows, as everybody knows, that the Liberian Government was gotten up by a sort of emigrant aid society in the United States, similar to that which was got up by Massachusetts some years ago for the purpose of colonizing the Territory of Kansas. The colony and

Government of Liberia did not originate with the African race.

Mr. KELLEY. Will the gentleman allow me a moment?

Mr. JOHNSON. Yes, sir.

Mr. KELLEY. I apprehend that the republic of Liberia, its rapid progress, its wonderful absorption of people recently reclaimed from barbarism, illustrates the power of organization and Government such as the history of no other community in the world has ever done. The basis of that community was, as the gentleman has intimated, a mass of freed slaves sent under the auspices of benevolent societies from this country. There never have been fifteen thousand of them sent there. The early founders are still alive. It is the work of a generation; and yet its jurisdiction, within which the laws of the northern States of America are administered and quoted as authority, as we quote those of England, is now extended over half a million of Christian people. Those fifteen thousand people must have had some organizing and executive faculty.

Mr. JOHNSON. The gentleman wanders entirely from the point suggested by me, the point of contradiction between us. My assertion is that it was not a Government established, originated, by the African race, and the gentleman in his remark proves that, because he says that they have adopted our form of government and our laws, and quote the decisions of the United States and of England. Why, sir, they took their constitution and laws right from us, and the next thing we hear will be that they will have a constitutional amendment adopted in imitation of ours. [Laughter.]

Mr. KELLEY. They have nowhere inserted the word "black" in their constitution.

Mr. JOHNSON. I have no doubt they imitate us in many things that we do, and it is very well for them. The men who were educated in the United States and transferred there have not forgotten their *alma mater*.

I repeat that there never was yet upon the face of the earth a popular Government organized by the African race, originated by them. You have your King of Dahomey and your Geffard, the one an original African, and the other borrowing a form of government from Europe. If anything be necessary to prove that such is the case, let us go to the Governments that they have undertaken to run, to use a popular phrase. Go to Central America, where they have succeeded in obtaining possession of the Governments, and what kind of Governments have they? Can they be called republics? Can they be called popular Governments? Go to South America. Have they popular Governments there? What is it that has torn Mexico all to pieces? The negro blood that runs through the race. The right of suffrage, the elective franchise, is the foundation of all popular Government. Who votes for others should be eligible to be voted for. The governed are themselves the Government. The governed are themselves the governors, for they control and direct their own Government, and the moment a man becomes a voter he becomes one of the Government.

And here, upon this point, let me say that we hear a great deal about the right to vote being extended to negroes as necessary to secure to them the protection that they are entitled to under this Government. Now, sir, the fact that negroes are governed in this country without the right of voting is no proof or evidence against our Government that it is not self-government. The negro is protected in this country in all his rights. It secures to him the fruits of his labor, the protection of his life, his liberty, and his property. The right of suffrage belongs to those and those only to whom the Government belongs; and if we recognize the right to the one, so we must concede the other. The regulation and control of the elective franchise within the several States belongs to them exclusively, but their action must be limited to a regulation. They cannot prohibit its exercise without interfering with the guarantee of the Federal Constitution to the people of each State. Not

if an absolute democracy, in which the masses assemble and pass their laws by town meeting as the ancients did, nor even a representative democracy, according to the American system, but a Government which stands upon the broad basis of being republican in form. Some gentlemen contend that under this clause of the Constitution the Federal Government is bound to decide that the people of the late southern confederacy shall not be represented here until they extend the elective franchise in the several States to the negro race, in order that those State governments may be republican in form. Nothing can be more absurd and unreasonable. Did not those who made the Constitution know what the clause meant; and if they did, why is it that three fourths of a century have gone round without this guarantee being enforced or even attempted to be enforced? But whatever arguments may be adduced upon that proposition, they do not relate to the present bill, unless by analogy we are bound to grant to the inhabitants of this District a government republican in form; and it cannot even be maintained that a Government is not republican in form unless all men have a right to vote. I think that a Government can be republican in form without conceding to all men the privilege of the elective franchise.

Mr. WARD. I would ask the gentleman, if a majority of the freemen of any State are disqualified from exercising the right of suffrage, is that a republican form of government?

Mr. JOHNSON. I understand that it is; and I ask the gentleman whether the government of the State of New York is a democracy.

Mr. WARD. It is "republican in form."

Mr. JOHNSON. That is not an answer to my question.

Mr. WARD. The majority of the people of the State of New York are entitled to vote.

Mr. JOHNSON. I do not know exactly what is the majority of the people of the State of New York; but I know that there are a great many children and women there, and they are not allowed to vote. The government of the State of New York is a representative democracy; it is a part of our American system of government; it is not an absolute democracy, for it is not necessary that all the people should be permitted to vote.

Whence comes the discrimination in regard to minors? And how many persons are deprived of voting in the State of New York by a most tyrannical and outrageous registry law, which compels a man to go twice to the polls before he can vote? How many thousands are rejected because the laws that guard the ballot-box are too stringent? Certain regulations are necessary to protect the ballot-box; but when those regulations become too stringent, so stringent as to keep the voter away, they do injustice to our system, though they do not change our form of government. Now this is certainly a new doctrine that is contended for, a doctrine that the framers of our Government never dreamed of. For when they promulgated this Constitution of ours, this guarantee of a republican form of government to the several States, the elective franchise was much more restricted than it is now. If, therefore, the negro race, up to the commencement of the late war, had no part in this Government, what has been done by any one since that time that established his claim to any such part now? Prior to this war it never was mooted in this Hall that the Federal Government should undertake to confer upon the negro race the elective franchise. All parties and classes of men admitted that it was a question not within the scope of the Federal Constitution. But now it seems that the principle has gained new force. Now, has the negro rendered any service to the Government that entitles him to make this claim as a matter of right?

Mr. Speaker, I am one of those who during the whole war steadily opposed the putting of negro troops into the military service of the United States. I never believed that their services were indispensable, and I am doubly confirmed in that opinion now. I believed then that those who

urged the employment of the negro in the Army did so for the express purpose of giving rise to some such claim as this. The negro, however, did render some military service, and now it is contended that in gratitude for those services we ought to extend to him and graciously confer upon him this participation in our Government. All that was promised the negro has been given him for the services he has rendered, and more, too. He was never promised the emancipation of his race in this country, yet that has been given him. He was not invited to take part in the contest by any proclamation or act of Congress. He was treated simply as one liable to serve, and allowed pay, bounty, and pensions. No formal call was ever made upon the negroes as a race to enter the service in our late struggle. No promise was held out to them that if they did enter the service their race should be benefited in any way whatsoever. They were treated as liable to service, liable to draft, and granted pay, bounty, and pensions.

Gentlemen know that fact very well. I remember perfectly the first recruiting of negroes that took place in Pennsylvania. Some one or two negroes from Massachusetts made their appearance in our town and commenced gobbling up our negroes. They offered very high bounties to fill quotas in Massachusetts, and then, when the conscription law came the negroes were in great demand; and they were drafted and forced into the service of the Government. As an organized body of men in the United States they took no action at all. They had no representatives of their race here, to whom they could express their desire to enter the military service, or by whom they could negotiate any terms with the Government of the United States by which they should gain any privileges of citizenship as white men of this country. I am very well reminded by the gentleman from New York [Mr. CHANDLER] near me that they were refused officers of their own race. So subordinate were they to the white men in this war that they were refused to have officers of their own race to command them.

Well, sir, I was speaking of the manner in which they were drafted. I will give you an instance which I remember, a scene that took place in my own town. Some bounty brokers from Philadelphia brought up a negro to put him in the service as a substitute. The brokers about Easton got around the negro, and finally stole him away. One of them told me himself that he kept that negro hid in a garret for three days and three nights, until the Philadelphia brokers had gone off. But not venturing to produce him then, he sent him out into the country in the middle of the night, over the Blue Mountain, into the Pocono region, and there kept him ten days and ten nights longer, until he was satisfied the Philadelphia brokers were all gone, and then he brought him down; and, said he, "I made \$500 on that nigger." Ought that man to vote? That he went into the service and fought I have no doubt; that he obeyed the orders of his commanders I have no doubt; and if he was down at the big mine in front of Petersburg I have no doubt he ran as well as any other negro there; because any one who would consent to be locked in a garret for three days and three nights, then to be transported forty miles over the mountains and kept there for ten days, then brought back and put in as a substitute in that way, would certainly obey the orders of his superiors, and when told to charge he would charge. But ought that man to vote? Does his service in the Army under those circumstances give him a right to the elective franchise? How many thousands of the men who were in the service of the United States, and rendered good military service in the war, are of the same class with that negro?

Let me mention another incident as an illustration on this subject. I was standing one day at the junction of New York avenue and Fifteenth street in this city, in conversation with two gentlemen who had been appointed by the city authorities here to fill up their quota. While I was standing there, five negroes, who, from their appearance, were undoubtedly fugi-

tive slaves, came up and handed to one of those gentlemen a paper. He looked at it, and pointed them to the pass office just above, where they could get passes to go over to the Freedmen's Village on the other side of the Potomac. The negroes passed on, and the gentleman remarked to me, "That is the way the negroes are put into the service here." They had been down to Colonel Green to get directions to the Freedmen's Village. He had given them a slip of paper, with the direction, to which he had added, "Can't you recruit these fellows?" The agent refused to undertake it. The object was to get them in by hook or by crook, to take advantage of their ignorance, get them to sign the muster-roll, and then send them to the front. Hundreds and thousands of negro recruits were got in that way by agents who followed the Army, and gathered up slaves who had just run away from their masters, and who, ignorant of their rights as men could be, were easily induced to go into the ranks of the Army. Yet gentlemen tell us that men of this class, because they fought in the service of the country, are certainly entitled to the elective franchise as a reward for the service which they rendered.

Gentlemen tell us, too, that, during the revolutionary struggle there was, here and there, a negro soldier in our Army. Well, sir, it is not worth while for us to go back to the history of that struggle, and show how those persons were induced to enter that service. Liberty at that time had its guardians, who were sufficient for that day. The men who made the Constitution of the United States knew what service had been rendered by the negroes during the war of the Revolution; and if that service had been sufficient to entitle them to be made citizens under our Government the founders of the Government would have guaranteed them that position under the Constitution. But three quarters of a century have rolled round, and now it is just discovered that the services rendered by the negroes in the Revolution should be rewarded by allowing the negroes of this day to vote in the District of Columbia.

Another class of arguments is adduced here in favor of the negro voting. We are told that in this District negroes have acquired some property—houses, lands, churches, &c.—and that therefore they ought to vote. Mr. Speaker, the elective franchise is not to be sold out upon such considerations as these. If the negroes of this District have acquired property under the administration of the city by the white people, are they not content to hold it? If they complain that they are not properly governed, that their property is not adequately protected here, then it is the duty of Congress to see that such laws are passed as will protect them in the full enjoyment of the fruits of their labor. Do they complain that they are obliged to pay taxes to the Government for protecting their property, their liberties, and their lives? Well, sir, if they can anywhere else obtain more cheaply the protection of their property, their liberties, and their lives, they have our leave to go there. It does not lie in the mouth of any man in this country to complain that he has to pay a slight tax for the protection which the Government affords to his property, his liberty, and his life.

I repeat, that any man who is unwilling to pay the Government tax imposed upon his property for protection let him put it in a storehouse and pay the storage. [Laughter.]

I am opposed, sir, to all of these qualifications of voters of my own race, resting upon the payment of taxes, registration, and everything in the nature of restriction. The payment of tax, the requirement of residence, and tests of that character, are necessary to protect the ballot-box against fraudulent voting, but they confer no right upon people entitled to vote as citizens. A man who votes without lawful authority deprives a lawful voter of the effect of his vote. The payment of tax under our system, therefore, gives no man the right to vote. It is not a franchise to be bought and sold in that way.

Then, sir, comes another class of arguments.

We are told that the negro is intelligent and capable of voting; that there are some negroes who are more intelligent, better educated, have better reasoning powers than certain white men, and that these intelligent negroes do not vote while certain ignorant white men do vote. There is nothing in that at all. Elective franchise is not based upon a man's intelligence. Hence the tests that a man should be able to read the Constitution and write his name before he should vote are all idle. Suppose when a negro comes up to vote in the District of Columbia he is asked how he spells his name. The judge of the election says to the negro, "Can you spell your name?" "Yes." "Spell it." "B-o-b-b." [Laughter.] The judge of the election would, as the negro spells it with three B's instead of two, be compelled to decide that he should not be allowed to vote. I know there are gentlemen in this House who, if the clerks at the desk were the judges of election, would, under these tests, deny them the right to vote, because they could not write their names. [Laughter.]

These tests are all idle. The elective franchise belongs to the man who is a citizen of the Government. It belongs in this Government to the white man, who from his race is a citizen of his Government. I do not deny that the Government may confer the privilege of citizenship upon negroes, but the white man is a citizen without that.

Gentlemen agree that the negro race is inferior to the white or European race, yet there seems to be something that induces them to do something for the negro. Some, upon the free and equal clause of the Declaration of Independence, say that this race of men belongs to the Government, and that therefore all people under it have the right to participate in its administration. Some go half way, and are willing that the negro should have some part in the Government; and some are exceedingly jealous lest, if the negro be allowed to vote, he may become a controlling power. They only want a little sprinkling of the negro, just enough to spice it, with the property qualification, payment of tax, intelligence, or something of that kind. They are willing he should vote, provided he would always agree to vote in a minority. They are willing he shall vote provided they can limit him so that there will be no danger of his controlling the election.

What kind of privilege is that? It is like the voting privilege conferred upon our soldiers in the Army. They were to get the tickets as best they could. They were allowed to vote, provided they voted right, in the opinion of their superiors. Some who did not vote right had the satisfaction to know that their ballots were changed, and they were made to count contrary to their wishes by those gentlemen who claim to be the exclusive friends of the soldiers' voting. Philadelphia has been the great stamping-ground for that sort of thing. At the last election we had a commissioner elected by some seven or eight hundred majority. He was a Democrat, and had been a major in the Army. By and by election returns came in from New York and every other direction, and he was beaten by several hundred votes. An investigation of those returns shows that there were no such persons as those who were claimed to have voted in the Army; that the companies returned as voting unanimously never voted. The poll lists returned proved to be made up of the names of men who had deserted or died years before. Out of this whole return every vote thus far has been proven a fabrication and a fraud.

Mr. THAYER. The gentleman, I presume, does not wish the House to infer from his statement that the colored votes, to which he has just alluded in the case of Given, to which I suppose he refers, were given by negro soldiers.

Mr. JOHNSON. I do not know what the color was.

Mr. THAYER. From the manner in which the gentleman speaks, it might seem as if the colored votes would count in Pennsylvania.

Mr. JOHNSON. But colored soldiers' votes were of course just as good as white ones if

they had been given after they were dead two years. [Laughter.]

Mr. THAYER. Only I did not see exactly how it supports the gentleman's argument.

Mr. JOHNSON. I cannot explain it for the benefit of the gentleman himself. I am addressing the whole House. But I say that this conferring upon the soldiers the elective franchise, and when they fail to exercise it putting in false returns for them, is about as complete a mockery as giving to a few of the smartest and best-educated negroes, or those who have a little property, the right to vote, and thus attempting to guard it so that they can have no controlling influence.

Sir, the man who votes must be eligible to be voted for. There can be no discrimination between men who have a common lot in the Government. For I come back to this proposition: that the voter is at the foundation of a popular Government. The power to govern is conventional, as drawn from the fact that he is a constituent part of that government itself. Therefore all machine voting falls to the ground. By machine voting I mean that kind of voting they used to have in the city of Baltimore in Know-Nothing times—votes given by Blood-Tubs, Black-Snakes, and Plug-Uglies. I do not know all those names; I have almost forgotten them. Machine voting is that by which a man puts a few hundred ballots in a district and demands of certain persons a certain number of votes when the poll is closed, and if that is not enough, to have it fixed up by return day.

Mr. STEVENS. I do not suppose my friend designs any disrespect to Billy McMullen; but I advise him to be cautious. [Laughter.]

Mr. RANDALL, of Pennsylvania. He can take care of himself.

Mr. JOHNSON. I never had anything to do with the Know Nothings except in 1854. I was a candidate for the Legislature, and just at the close of the polls I looked back over my shoulder and saw "Sam" a short distance behind. I do not know anything about Billy McMullen or my colleague's friends generally. I suppose he is some gentleman in Lancaster. [Laughter.] But I do remember that after the great contest of 1854 was fought in Pennsylvania we had a United States Senator to elect. But whether my distinguished colleague was a Know-Nothing or not I do not know. The first time I ever saw him was during the canvass for United States Senator. He knows very well, however, what I mean by this Know-Nothing organization that carried on for awhile a sort of machine voting, or voting by proxy.

And here I am reminded that it looks to me very much in this city as if this negro voting was to be a continuation of the substitute business—not under the conscription law, however. In this city the resident population are very unanimous against negroes taking part in the elective franchise. But there is a very large floating population which sways about the District and fills the galleries of the Houses of Congress. They are not residents here. They are clerks in the Departments, that go home once a year to renew their allegiance to the candidate of their district, and then claim, when he is elected to Congress, that he must keep them in office all the time. At the election the other day that class of persons did not vote at all, because, if they had, they would not be able to vote at home next fall; and in that case their member of Congress might forget them. But inasmuch as this class of foreigners in this city, employés of the Government, are unable themselves to vote against the residents, it seems that they have circulated petitions in all the Departments asking that the negroes might vote as their substitutes, just as the same clerks, a great number of them, fought their battles in the war by substitutes.

Now, it cannot be possible that there is any necessity for this change in this city. I remember two or three years ago that there was some difficulty in Congress with regard to the safety of this District on the question of loyalty. I remember we had some action here, and that the mayor of the city had to be locked up about

three weeks in some fort till he would consent to resign, so that the present mayor could take possession and administer the affairs of the city as a loyal man should do. Mr. Wallach had been a candidate, and claimed that he was elected, and was contesting the office with the acting mayor.

But the Government came to the conclusion that Mayor Berrett was disloyal, and so he was locked up until he consented to resign, and so let in a good, loyal man; and this ended the contest.

And now that loyal man is hardly loyal enough; now it is proposed to put the city in the hands of somebody else; another class of persons are to be manipulated into voters here so they may take control of the city. Who propose to do this thing? Why, members of Congress who have not a dollar's worth of property to be protected by the city government; members of Congress who claim no right to vote in this District; members of Congress who, it may possibly be, though it is hardly probable, have not paid up all their board bills; members of Congress coming from all parts of the country, from the Aroostook to Vancouver, and saying to the people of this District, "You do not know how to manage your own affairs; we will impose a voting population upon you who will take better care of your property than you have done heretofore."

Sir, we hear a tremendous outcry in this House in favor of popular government and about the guarantee of the Constitution of the United States to the several States that they shall have republican governments. How are the poor people of this District to have a republican form of government if gentlemen who have come to this city perhaps for the first time in their lives undertake to control them as absolutely and arbitrarily as Louis Napoleon controls France or Maximilian Mexico? Gentlemen ask, what right have they to hold an election and express their sentiments? What right have they to hold such an election? Surely they ought to have the right to petition, for their rulers are generally arbitrary enough.

Mr. Speaker, it seems to me ridiculously inconsistent for gentlemen upon this floor to prate so much about a republican form of government, and rise here and offer resolution after resolution about the Monroe doctrine and the downtrodden Mexicans, while they force upon the people of this District a government not of their own choice, because the voter in a popular government is a governor himself. But, sir, this is only part of a grand plan. Gentlemen who dare not go before their white constituents and urge that negroes shall have a vote in their own States, come here and undertake to thrust negro suffrage upon the people here. Gentlemen whose States have repudiated the idea of giving the elective franchise to negroes, come here and are willing to give the suffrage to negroes here, as if they intended to make this little District of Columbia a sort of negro Eden; as if they intended to say to the negroes of Virginia and Maryland and Delaware, "You have no right to vote in these States, but if you will go to Washington you can vote there." I imagine I can see them swarming up from different sections of the country to this city and inquiring where the polls are. Agents, men and women, such as there are at work in this city, will no doubt be at work in these States telling them to pack their knapsacks and march to Washington, for on such a day there is to be an election, and there they will have the glorious privilege of the white man. Sir, all this doctrine is destructive of the American system of government which recognizes the right of no man to participate in it unless he is a citizen, which secures to the citizen his voice in the control and management of the Government, and prevents those not citizens from standing in the way of the exercise of his just rights.

This Government does not belong to any race so that it can be divested or disposed of. The present age have no right to terminate it. It is ours to enjoy and administer, and to trans-

mit to posterity unimpaired as we received it from the fathers.

Mr. BOUTWELL. Mr. Speaker, it is only recently that I entertained the purpose to speak at all upon this bill, and it was my expectation to avail myself of the kindness of the chairman of the Judiciary Committee to divide with him the time allotted to him by the rules of the House; but I accept the opportunity now presented of speaking before the previous question is demanded, to state certain views I entertain on this subject.

I may say, in the beginning, that I am opposed to all dilatory motions upon this bill. I am opposed to the instructions moved by the gentleman from New York, [Mr. HALE,] because I see in them no advantage to anybody, and I apprehend from their adoption much evil to the country. It should be borne in mind that when we emancipated the black people we not only relieved ourselves from the institution of slavery, we not only conferred upon them freedom, but we did more, we recognized their manhood, which, by the old Constitution and the general policy and usage of the country, had been, from the organization of the Government until the emancipation proclamation, denied to all of the enslaved colored people. As a consequence of the recognition of their manhood, certain results follow in accordance with the principles of this Government, and they who believe in this Government are, by necessity, forced to accept those results as a consequence of the policy of emancipation which they have inaugurated and for which they are responsible.

But to say now, having given freedom to them, that they shall not enjoy the essential rights and privileges of men, is to abandon the principle of the proclamation of emancipation, and tacitly to admit that the whole emancipation policy is erroneous.

It has been suggested that it is premature to demand immediate action upon the question of negro suffrage in the District of Columbia. I am not personally responsible for the presence of the bill at the present time, but I am responsible for the observation that there never has been a day during a session of Congress since the emancipation proclamation, ay, since the negroes of this District were emancipated, when it was not the duty of the Government, which by the Constitution is intrusted with exclusive jurisdiction in this District, to confer upon the men of this District, without distinction of race or color, the rights and privileges of men. And, therefore, there can be nothing premature in this measure, and I cannot see how any one who supports the proclamation of emancipation, which is a recognition of the manhood of the whole colored people of this country, can hesitate as to his duty; and while I make no suggestion as to the duty of other men, I have a clear perception of my own. And, first, we are bound to treat the colored people in this District in regard to the matter of voting precisely as we treat white people. And I do not hesitate to express the opinion that if the question here to-day were whether any qualification should be imposed upon white voters in this District, if they alone were concerned, this House would not, ay, not ten men upon this floor would, consider whether any qualifications should be imposed or not.

What are the qualifications suggested? They are three. First and most attractive, service in the Army or Navy of the United States. I shall have occasion to say if I discuss, as I hope to do, the nature and origin of the right of voting, that there is not the least possible connection between service in the Army and Navy and the exercise of the elective franchise; none whatever. These men have performed service, and I am for dealing justly with them because they have performed service. But I am more anxious to deal justly by them because they are men. And when it is remembered that for months and almost for years after the opening of the rebellion we refused to accept the services of colored persons in the armies of the country, it is with an ill grace that we now decline to allow the vote of any man because he has not performed that service.

The second is the property qualification. I hope it is not necessary in this day and this hour of the Republic to argue anywhere that a property qualification is not only unjust in itself, but that it is odious to the people of this country to a degree which cannot be expressed. Everywhere, I believe, for half a century, it has been repudiated by the people. Does anybody contemplate such a qualification to the exercise of the elective franchise in the case of black people or white?

And next, reading and writing, or reading, as a qualification is demanded, and an appeal is made to the example of Massachusetts. I wish gentlemen who now appeal to Massachusetts would often appeal to her in other matters where I can more conscientiously approve her policy. But it is a different proposition in Massachusetts as a practical measure. When, ten years ago, this qualification was imposed upon the people of Massachusetts, it excluded no person who was then a voter. For two centuries we have had in Massachusetts a system of public instruction open to the children of the whole people without money and without price. Therefore all the people there had had opportunities for education. Now, why should the example of such a State be quoted to justify refusing suffrage to men who have been denied the privilege of education, and whom it has been a crime to teach? Is there no difference?

I suppose it will happen, even if you pass this reading amendment, that between any two annual elections, any negro twenty-one years of age in this city, or who may come here, will acquire the ability to read. The requirement will not exclude many men. My objection is, not that in this District it will exclude a great number from the exercise of the elective franchise, but I do object to it as a matter of principle. The right to vote is a higher and better right than can be derived from the simple fact that a man can read.

I have often elsewhere endeavored to trace the origin and nature of the right to vote. I believe that during this discussion the views I entertain have not been stated; and therefore, with such brevity as I can command, I will venture to state the opinion I entertain of the nature and proper limitations of the elective franchise. And while it may not be a natural right, like the right of locomotion, like the right to breathe, a natural personal right, still I think I can offer suggestions, deduced from the law of nature, which will show that it is a natural social right. I accept as the basis of what I have to say, the great law of nature supported by revelation, the existence of the family, from which no people, savage or civilized, has ever escaped. The family exists by divine authority. It is the first law of society, of the community; it is the element of all States, and it has generally one idea, one opinion, and one will upon all questions affecting the fortunes of the family or of any of its members.

Thus the creation of man, and his doings after his creation, illustrate most conclusively two facts—the existence of the family and the unity of the will of the family. When we admit that the family is the element of the State, the unit of society, that it has but one will, what follows? That whenever more than one family is in existence, and the question arises what shall be done with reference to the community of families, then the families are to be consulted. Hence arises the doctrine that there can be no just government except by the consent of the governed.

What I maintain next is that you have no right to exclude from this consultation any one of the families, for the moment you do so you violate the principle of the Government. Consequently but one voice is needed for the expression of the one will of the family; and the question then arises, whose voice shall it be? Properly, the voice of that one who, if the Government constituted by his agency and authority be assailed, is to peril his life in its defense. Thus is demonstrated the priority of right by nature which gives to the man the ex-

pression of the voice of the family rather than to the woman or the child.

Next, Mr. Speaker, it is not seen that, if these propositions be true, the right to vote exists independently of all human agency in the sense of law; and the doctrine that the right of voting is a conventional right, is not sustained by reason or history. History shows only this, that the limitations upon the exercise of the right of voting are the results of conventions. The natural social right is the right of the family to speak in all matters which concern the welfare of the family as one family in the great society and family of man.

This demonstrates, I think, that the negro has everywhere the same right to vote as the white man. And I maintain still further, that when you proceed one step from this line you admit that your Government is a failure. What is the essential quality of monarchical and aristocratic government? Simply that by conventionalities, by arrangements of conventions, some persons have been deprived of the right of voting. We have attempted to set up and maintain a Government upon the doctrine of the equality of man, the universal right of all men to participate in the Government. In accordance with that theory we must accept the ballot upon the principle of equality. It is enjoyed by the learned and the unlearned, the wise and the ignorant, the virtuous and the vicious.

The great experiment is going on. If, before the war, any man in this country was disposed to undervalue a Government thus conducted, he should have learned by this time the wisdom and the strength of a Government which embraces and embodies the judgment and the will of the whole people. If the negroes of the South, four million strong, had been endowed with the elective franchise, and had united with the white people of that region in the work of rebellion, your armies would have been powerless to subdue that rebellion, and you would to-day have seen your territory limited by the Potomac and the Ohio.

And if, in the North, suffrage had been limited, as it is in Great Britain, you could not have commanded two million six hundred thousand volunteers for the defense of the Republic. The unity of sentiment in the loyal States was due to the fact that every man felt that the Government was his own. This only illustrates how strong a Government is when it is founded upon the judgment and the will of the whole people, and how weak it is when founded upon the judgment and the will of a part.

I advance still further. I have said that I consider this question as involving other issues than the mere matter of suffrage in the District of Columbia. I do not conceal my opinion from friend or opponent. I am of those who believe that any restoration of either of the eleven States lately engaged in the rebellion to political power in the Government of this country, which is not coupled with or preceded by the condition that the negroes of the South are to vote, opens a way to the destruction of this Government from which there is no escape. I declare, after the gravest deliberation and the calmest reflection, and I say it with sorrow, looking upon the country, rent by opposite opinions on this question, that, without such a measure as I suggest for the southern States, this Government cannot outlast those who are now in the vigor of manhood. Why and how will it fail?

It will fail and fall from the fact that by restoration without this all-essential guarantee we put into the hands of our enemies in the South two weapons, the blows of which we shall be powerless to parry. One is the assumption by the Government of a vast and overwhelming weight of indebtedness, to be followed by a foreign war. We see to-day how difficult it is to restrain and control the people of this country in their desire to take just vengeance for the wrongs inflicted upon them by England and France. Suppose the power of this Government was intrusted to the hands of the late slaveholders, the men recently engaged in rebellion. Does any man believe that they are restored to their right mind, that they will give

an ardent support to the Government? All the testimony is that they are as alien and hostile to this Government as ever, and that they only seek an opportunity to strike a deadly blow.

What opportunity do you give them? They are marshaling to-day in Virginia, in South Carolina, in Louisiana, their claims upon this Government. They will demand \$2,000,000,000 for slaves, untold hundreds of millions of dollars for depredations committed by our armies. An aggregate of thousands of millions of claims, or demands having the color of claims, will be marshaled against the Government; and you invite sixty Representatives, united, bound together by the ties of interest and of ancient and unrelenting hostility, to enforce these claims. This Congress, no doubt, is incorruptible; but when there are claims against the Government to the amount of \$8,000,000,000, with the support that such representatives may afford, twenty-two in the Senate and sixty in this House, with all the influence of this immense demand against the Government, do you expect to resist them? Do you expect to meet them with a paper blockade, constitutional amendments? If that is your expectation, your expectation will not be realized; and when they have involved the country in an indebtedness of four, five, or six thousand million dollars, when they have broken your credit so that in the markets of the world your paper will sell for fifty cents on the dollar, and, taking advantage of the just and natural hostility of the people against European aggression, they involve you in a foreign war, what have they to do but to march out of the Union and bid you defiance?

Mr. SMITH. I ask the gentleman from Massachusetts whether the loyal man of Louisiana, or of any State of the South who has never been in the rebellion, who has resisted it from the beginning and done all he could against it, is not entitled to damages as any man from Massachusetts or any other loyal State of the Government?

Mr. BOUTWELL. I do not reply to that question, because it is not pertinent to the debate I am now engaged in. I only ask the House to notice how pregnant is the suggestion itself of argument in support of the view I am presenting of the dangers of restoration to the elective franchise in the hands of our enemies exclusively.

Mr. SMITH. I do not know that it is pertinent to the result the gentleman proposes to come to, but it is to the position he has assumed and the argument he has presented.

Mr. BOUTWELL. Secondly, you leave the rebels in possession of a power which they will surely avail themselves of when they again undertake the destruction of the Government—the opportunity to bestow the elective franchise upon the negroes. If you fail to secure the black man in his rights, he will become in a degree alien and hostile to the national Government. In this condition he will be ready to accept the right of suffrage from the southern leaders, and transfer his allegiance, sympathy, and support from you to them. Will you leave such a weapon in the power of your enemies, when, by a timely act of justice, you can secure the zealous and unwavering support of the black race in every generation? Throughout this contest the blacks have exhibited the purest patriotism and the highest wisdom. Can any man name an act done by them that has been injurious to them as a race or prejudicial to the country? Or can any one suggest an omission that has been prejudicial to them or to the country? So will they exhibit wisdom hereafter. If we fail in our duty, we have no right to expect their support in the future.

It is not unreasonable to expect that in twelve or twenty-four months several of the States recently in rebellion will confer the elective franchise upon their negroes. In Louisiana one eighth of the voting white population, I understand, are in favor of that measure. We know that this force must be augmented by accessions of loyal men, and for this reason—every Union man in the South who wants protection for life, for property, and for his own political rights, is compelled by necessity to ally himself

with the negroes. They are his friends, and he must make common cause with his friends, whether they be white or black.

My chief objection to this proposed restriction is, that the rebel States are not likely to do anything more for themselves than you do for the country when you pass judgment and establish your policy here. If you put a limitation or qualification upon the exercise of the elective franchise, who does not see that its enforcement is a question of administration? And herein there is a difference between Massachusetts and this District; there is a difference between Massachusetts and Louisiana. Our inspectors and examiners are in favor of suffrage, and they desire to give every man the elective franchise. Every doubt is given to the applicant. In South Carolina and Alabama it is a question of administration; and do you suppose the men who will preside and decide this question will come to the conclusion that a negro can read when the result is that he must also vote? Will they accept testimony that he has been in the Army when they do not want his ballot brought to bear against them, as his bayonet frequently was during the war? Do you suppose they will tax him when they know that taxation gives him the power to interfere in the Government? More than that, I do not suppose that the colored men in this District would be safe in coming to the polls. I am pretty sure that in the old slave States you would have to muster the entire black male population, so that they might go to the polls in safety.

I have thus given, with less preparation than I ought to have made for the discussion of a question like this, the views I entertain upon this subject. But beyond this, when we proclaimed the emancipation of the slaves, and put their lives in peril for the defense of this country, we did in effect guaranty to them substantially the rights of American citizens and a Christian posterity, and heathen countries will demand how we have kept that faith.

Mr. SHELLABARGER. With the permission of the gentleman from Massachusetts [Mr. BOUTWELL] I desire to make a single inquiry. It is this: I understand the bill, as reported from the Judiciary Committee, proposes to strike out the word "white" from all laws relating to the District, so that, according to the law, each citizen shall have the right to vote. Now, I wish to know whether the effect of the bill will be to submit to the officers holding the elections in this District the right to decide, under and in the light of the Dred Scott decision, that no man can vote as a citizen who is of African descent.

Mr. BOUTWELL. I suppose, Mr. Speaker, that it is settled by recent authorities that the word "citizen" embraces black persons as well as white.

Mr. SHELLABARGER. The gentleman does not apprehend my inquiry. The authorities of this District, we all know, will regard the decision in the Dred Scott case as law; and if it is law, then no person of African descent will be permitted to vote under the provisions of this bill as reported by the committee.

Mr. BOUTWELL. Very likely the gentleman is right. I am addressing myself to the expediency of putting a qualification to the exercise of the right of suffrage in this District, and but one thought further remains, on the discussion of which I was just entering when interrupted by the gentleman from Ohio.

Mr. Speaker, we are to answer for our treatment of the colored people of this country. and it will prove in the end impracticable to secure to men of color civil rights unless the persons who claim those rights are fortified by the political right of voting. With the right of voting everything that a man ought to have or enjoy of civil rights comes to him. Without the right to vote he is secure in nothing. I cannot consent, after all the guards and safeguards which may be prepared for the defense of the colored men in the enjoyment of their rights—I cannot consent that they shall be deprived of the right to protect themselves. One hundred and eighty-six thousand of them have been in the Army of the United States. They have stood in the place

of our sons and brothers and friends. They have fallen in defense of the country. They have earned the right to share in the Government; and if you deny them the elective franchise I know not how they are to be protected. Otherwise you furnish the protection which is given to the lamb when he is commended to the wolf.

There is an ancient history that a sparrow pursued by a hawk took refuge in the chief assembly of Athens in the bosom of a member of that illustrious body, and that the senator in anger hurled it violently from him. It fell to the ground dead, and such was the horror and indignation of that ancient but not Christianized body—men living in the light of nature, of reason—that they immediately expelled the brutal Areopagite from his seat, and from the association of humane legislators.

What will be said of us, not by Christian, but by heathen nations even, if, after accepting the blood and sacrifices of these men, we hurl them from us and allow them to be the victims of those who have tyrannized over them for centuries? I know of no crime that exceeds this; I know of none that is its parallel; and if this country is true to itself it will rise in the majesty of its strength and maintain a policy, here and everywhere, by which the rights of the colored people shall be secured through their own power—in peace the ballot, in war the bayonet.

It is a maxim of another language, which we may well apply to ourselves, that where the voting register ends the military roster of rebellion begins; and if you leave these four million people to the care and custody of the men who have inaugurated and carried on this rebellion; then you treasure up for untold years the elements of social and civil war which must not only desolate and paralyze the South, but shake this Government to its very foundation.

Mr. HUBBARD, of West Virginia. Mr. Speaker, without instituting any inquiry or comparison between the black and white races, I wish simply to indicate my reasons for the vote which I expect to give on the bill now pending.

I believe that all history will sustain the position that only a homogeneous people can make a united nation.

I further believe that the effort to introduce into the sovereignty of this country a race which cannot in the nature of things become homogeneous—which fact every instinct of our humanity and the whole legislation of the country attest—can only be productive of contention and conflict—a conflict which must ultimately result in the domination of one or the other of these races, and the ultimate destruction of the weaker race.

And this rule I would apply not only to the negro, but to the Indian, the Chinaman; and if there be any people of our own race of whom it could not fairly be predicated that in a few generations they would become homogeneous, or, in other words, Americanized, I would, if I had the power, deny to that people the right of suffrage.

On the other hand, I would by the fullest legislation secure not only to the negro, but to every inhabitant of this country, of whatever race or lineage, all the protection that the law gives to my wife or minor son, and I would do this not only in the District of Columbia, but in every State of the Union.

I would in the present circumstances of our country go further, and, departing somewhat from the rule laid down, I would as a special recognition of his services to the Commonwealth in its hour of trial, extend the right of suffrage to every man of whatever race who has in the war for the Union faithfully served in and been honorably discharged from the naval or military service of the United States. But in no case would I extend this right so far as to give to the excluded race the control of the government in any community, and thus provoke the conflict I seek to avoid.

With this brief statement I indicate my intention of voting against the bill under consideration, and also against the amendment of the gentleman from New York.

Mr. WILSON, of Iowa. The motion upon which the House will be called to vote is that submitted by the gentleman from New York [Mr. DARLING] yesterday, to postpone the consideration of this bill until the first Tuesday in April. I do not propose to discuss that motion. It is made by the gentleman in antagonism to the exercise of the right of suffrage by any person in this District, and in order that we may determine whether the House is in favor of the proposition to deprive all men of the right to vote in this District, I demand upon that motion the previous question.

Mr. NIBLACK. Is it in order now to move to lay the bill upon the table?

The SPEAKER. It is in order.

Mr. NIBLACK. I make that motion.

Mr. ELDRIDGE. I demand the yeas and nays upon it.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 47, nays 123, not voting 12; as follows:

YEAS—Messrs. Ancona, Delos R. Ashley, Bergen, Boyer, Brooks, Chandler, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Hogan, Chester D. Hubbard, Edwin N. Hubbell, James M. Humphrey, Johnson, Jones, Kerr, Kuykendall, Latham, Le Blond, Marshall, McCullough, Niblack, Nicholson, Noell, Phelps, Radford, Samuel J. Randall, William H. Randall, Ritter, Rogers, Ross, Shandlin, Sitgreaves, Smith, Strouse, Taber, Taylor, John L. Thomas, Thornton, Trimble, Voorhees, and Winfield—47.

NAYS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Davis, Dawes, DeForest, Delano, Deming, Dixon, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Hubbard, James Humphrey, Ingersoll, Jencks, Julian, Kasson, Kelley, Kelso, Ketcham, Laffin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McKee, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perkins, Pike, Plants, Pomerooy, Price, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Stillwell, Thayer, Francis Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—123.

NOT VOTING—Messrs. Benjamin, Culver, Dumont, Harris, Hotchkiss, James R. Hubbell, McIntoe, McKuer, Newell, Rousseau, Whaley, and Wright—12.

So the House refused to lay the bill on the table.

During the roll-call,

Mr. HIGBY stated that Mr. McKUER was detained from the House by sickness, and had been for two or three days past.

Mr. HUBBARD, of New York, stated that Mr. Hotchkiss was detained from the House by sickness.

The result of the vote having been announced as above recorded, the question recurred on Mr. DARLING's motion to postpone.

Mr. DARLING. I will modify my motion so as to make the time the first Tuesday in March instead of the first Tuesday in April.

Mr. SCHENCK. As I understand it, the previous question will exhaust itself on the motion to postpone.

The SPEAKER. It will exhaust itself on the motion to postpone.

The previous question was seconded, and the main question ordered.

Mr. ROGERS demanded the yeas and nays on the motion to postpone.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 34, nays 135, not voting 13; as follows:

YEAS—Messrs. Anderson, Banks, Conkling, Darling, Davis, DeForest, Eggleston, Farquhar, Ferry, Griswold, Hale, Hart, Henderson, Hill, Hogan, James Humphrey, Kasson, Ketcham, Kuykendall, Laffin, Latham, George V. Lawrence, Marvin, Mercer, Miller, Orth, Phelps, William H. Randall, Raymond, Smith, Stillwell, John L. Thomas, Trimble, and Robert T. Van Horn—34.

NAYS—Messrs. Alley, Allison, Ames, Ancona, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Barker, Baxter, Beaman, Benjamin, Bergen, Bidwell, Bingham, Blaine, Blow, Boutwell, Boyer, Brandegee,

Bromwell, Brooks, Broomall, Bundy, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Dawes, Dawson, Deming, Denison, Dixon, Donnelly, Driggs, Eckley, Eldridge, Eliot, Farnsworth, Finck, Garfield, Glossbrenner, Goodyear, Grider, Grinnell, Aaron Harding, Abner C. Harding, Haynes, Higby, Holmes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Hulbard, James M. Humphrey, Ingersoll, Jenckes, Johnson, Jones, Julian, Kelley, Kelso, Kerr, William Lawrence, Le Blond, Loan, Longyear, Lynch, Marshall, Marston, McClurg, McCullough, McKee, Moorhead, Morrill, Morris, Moulton, Myers, Niblack, Nicholson, Noell, O'Neill, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, Radford, Samuel J. Randall, Alexander H. Rice, John H. Rice, Ritter, Rogers, Rollins, Ross, Sawyer, Schenck, Scofield, Shanklin, Shellabarger, Sitgreaves, Sloan, Spalding, Starr, Stevens, Strouse, Taber, Taylor, Thayer, Francis Thomas, Thornton, Trowbridge, Upson, Van Aernam, Burt Van Horn, Voorhees, Ward, Warner, Elihu B. Washburne, William B. Washburne, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, Winfield, and Woodbridge—135.

NOT VOTING—Messrs. Buckland, Culver, Delano, Dumont, Harris, Hotchkiss, James R. Hubbell, McIndoe, McKuer, Newell, Rousseau, Whaley, and Wright—13.

So the motion to postpone was rejected.

Mr. WILSON, of Iowa. I now demand the previous question on the motion to recommit the bill with instructions.

Mr. VOORHEES. I would ask that those instructions be read.

They were read, as follows:

Recommit with an instruction to the committee to amend the bill so as to extend the right of suffrage in the District of Columbia to all persons coming within either of the following classes, irrespective of caste or color, but subject only to existing provisions and qualifications other than those founded on caste or color, to wit:

1. Those who can read the Constitution of the United States.
2. Those who are assessed for and pay taxes on real or personal property within the District.
3. Those who have served in and been honorably discharged from the military or naval service of the United States.

And to restrict such right of suffrage to the classes above named, and to include proper provisions excluding from the right of suffrage those who have borne arms against the United States during the late rebellion, or given aid and comfort to said rebellion.

Mr. SCHENCK. Will the gentleman from Iowa [Mr. WILSON] allow me to propose an amendment to those instructions?

Mr. WILSON, of Iowa. I will hear the amendment of the gentleman from Ohio, [Mr. SCHENCK.]

Mr. SCHENCK. I propose to strike out this clause of the instructions:

2. Those who are assessed for and pay taxes on real or personal property within the District.

And then I shall move to insert the following in its proper place:

Provided, however, That no loyal citizen of said District now having the right to vote therein shall be disfranchised.

Mr. WILSON, of Iowa. I cannot agree to that. I will permit the gentleman to make the motion to strike out.

Mr. STEVENS. I hope we will not make these instructions any better than they are; they are bad enough at best.

Mr. SCHENCK. I will move to amend these instructions by striking out the property qualification.

Mr. WILSON, of Iowa. I now call the previous question. I will say that I modified my motion to recommit by accepting as a part of it the amendment moved by the member from New York [Mr. HALE] to recommit with certain instructions. I stated yesterday when I agreed to accept that amendment that I should myself oppose it and vote against it. But I accept it as a modification of my own motion, so as to save the taking of one vote. And I have also consented that the gentleman from Ohio [Mr. SCHENCK] should submit his motion to amend the instructions.

Mr. CONKLING. I wish to inquire whether my colleague [Mr. HALE] cannot accept the amendment of the gentleman from Ohio [Mr. SCHENCK] to his amendment, although his amendment has been accepted by the gentleman from Iowa, [Mr. WILSON.]

The SPEAKER. The Chair thinks the gentleman from New York [Mr. HALE] would have the right to accept the amendment moved by the gentleman from Ohio, [Mr. SCHENCK.] The gentleman from Iowa [Mr. WILSON] cannot pre-

clude him from the right of accepting a modification, for it is a personal right of the gentleman from New York who moved these instructions, although the gentleman from Iowa, in order to save time, has accepted them as a part of his own motion.

Mr. HALE. I cannot accept the amendment of the gentleman from Ohio, [Mr. SCHENCK.] Mr. BENJAMIN. Are not those various propositions divisible?

The SPEAKER. They are not; a motion to recommit with instructions is not divisible.

The previous question was then seconded, and the main question ordered; which was upon the amendment of Mr. SCHENCK.

Mr. WILSON, of Iowa. I wish to state merely that I have no disposition to prolong this discussion, and I desire to have this bill brought to a vote. The objections to these instructions which have occurred to my mind I will briefly state. In the first place, the most material objection is the one relating to the last instruction proposed to be sent to the committee, which reads as follows:

And to restrict the right of suffrage to the classes above named—

that is, to "those who can read the Constitution of the United States," "those who are assessed for and pay taxes on real or personal property within the District," and "those who have served in and been honorably discharged from the military or naval service of the United States." It will be observed by every member of the House that if these instructions are given to the committee, it will be a vote on the part of the House in favor of depriving even loyal white men of the right of voting in this District, if they do not come within one of these qualifications.

Now, notwithstanding I accepted these instructions as a part of my motion, I stated at the time that I should oppose the motion, although made by myself. This is now in a shape that I do not see how any man can justify himself in voting to recommit with these instructions, when it would deprive even loyal white men in the District of the right to vote, to say nothing of its effects on the blacks.

Mr. DAVIS. I desire to address an inquiry to the chairman of the Committee on the Judiciary, [Mr. WILSON, of Iowa.]

[Cries of "Order! "Order!"]

The SPEAKER. The previous question having been seconded, and the gentleman from Iowa, [Mr. WILSON,] who reported this bill, having concluded his remarks in close of the debate, further debate is not now in order.

The question being taken upon the amendment of Mr. SCHENCK, it was agreed to.

The question then recurred upon recommitting the bill with the instructions proposed by Mr. HALE, as amended on motion of Mr. SCHENCK.

Mr. ANCONA called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 53, nays 117, not voting 12; as follows:

YEAS—Messrs. Anderson, Banks, Blow, Brandegee, Bromwell, Buckland, Reader W. Clarke, Conkling, Darling, Davis, Dawes, DeFrees, Delano, Deming, Dixon, Driggs, Eckley, Eggleston, Ferry, Griswold, Hale, Hart, Haynes, Henderson, Hooper, Hulbard, James Humphrey, Jenckes, Kasson, Ketcham, Kuykendall, Latham, Le Blond, Marshall, McCullough, McKee, Niblack, Nicholson, Noell, Phelps, Radford, Samuel J. Randall, William H. Rice, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Smith, Stillwell, Strouse, Taber, Taylor, Thornton, Trimble, Robert T. Van Horn, Voorhees, and Winfield—54.

NOT VOTING—Messrs. Alley, Allison, Ames, Ancona, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Barker, Baxter, Beaman, Bergen, Brooks, Chanler, Dawson, Denison, Eldridge, Farquhar, Finck, Glossbrenner, Goodyear, Grider, Grinnell, Aaron Harding, Abner C. Harding, Higby, Hill, Hogan, Holmes, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James M. Humphrey, Ingersoll, Johnson, Jones, Julian, Kelley, Kelso, Kerr, Le Blond, Loan, Lynch, Marshall, Marston, McClurg, McCullough, McKee, Mercur, Morrill, Moulton, Niblack, Nicholson, Noell, Orth, Paine, Patterson, Perham, Phelps, Pomeroy, Price, Radford, Samuel J. Randall, William H. Rice, Ritter, Rogers, Rollins, Ross, Sawyer, Scofield, Shanklin, Shellabarger, Sitgreaves, Sloan, Smith, Spalding, Starr, Stevens, Strouse, Taber, Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trimble, Upson, Van Aernam, Voorhees, Ward, Elihu B. Washburne, William B. Washburne, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—116.

ger, Sitgreaves, Sloan, Smith, Spalding, Starr, Stevens, Strouse, Taber, Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trimble, Upson, Van Aernam, Voorhees, Ward, Elihu B. Washburne, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Winfield—117.

NOT VOTING—Messrs. Culver, Dumont, Harris, Hotchkiss, James R. Hubbell, McIndoe, McKuer, Newell, Pike, Rousseau, Whaley, and Wright—12.

So the House refused to recommit the bill with the proposed instructions.

The bill was then ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time.

The question being on the final passage of the bill,

Mr. WILSON, of Iowa, demanded the previous question.

Mr. MYERS. I ask the gentleman from Iowa to yield to me for one moment that I may offer an amendment. [Several MEMBERS. "Oh, no."] It is simply to provide that at least one year's actual residence in the District of Columbia shall be necessary to entitle a person to vote.

The SPEAKER. It is not in order to amend the bill at this stage.

The previous question was seconded, and the main question ordered.

Mr. FINCK. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 116, nays 64, not voting 12; as follows:

YEAS—Messrs. Alley, Allison, Ames, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Davis, Dawes, DeFrees, Delano, Deming, Dixon, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Haynes, Higby, Holmes, Hooper, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Hulbard, James Humphrey, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Laffin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Thayer, Francis Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburne, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—116.

NAYS—Messrs. Ancona, Anderson, Delos R. Ashley, Benjamin, Bergen, Boyer, Brooks, Chanler, Dawson, Denison, Eldridge, Farquhar, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Henderson, Hill, Hogan, Chester D. Hubbard, Edwin N. Hubbell, James M. Humphrey, Johnson, Jones, Kerr, Kuykendall, Latham, Le Blond, Marshall, McCullough, McKee, Niblack, Nicholson, Noell, Phelps, Radford, Samuel J. Randall, William H. Rice, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Smith, Stillwell, Strouse, Taber, Taylor, Thornton, Trimble, Robert T. Van Horn, Voorhees, and Winfield—54.

NOT VOTING—Messrs. Culver, Dumont, Harris, Hotchkiss, James R. Hubbell, McIndoe, McKuer, Newell, Rousseau, John L. Thomas, Whaley, and Wright—12.

So the bill was passed.

The announcement of the result was greeted in the galleries and on the floor with loud demonstrations of applause, which the Speaker was for some time unable to check.

The SPEAKER. The Chair will state to gentlemen of the House that it is useless for him to attempt to enforce order in the galleries if members will not observe their own rules.

Mr. SPALDING. I move to reconsider the vote just taken; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. SCHENCK. I ask leave of absence indefinitely for my colleague, Mr. DELANO, who has been called to his home by a death in his family.

Leave was granted.

Mr. JENCKES. I ask leave of absence for myself until Tuesday next.

Leave was granted.

Mr. THAYER. I move that the House adjourn.

The motion was agreed to; and thereupon (at four o'clock and fifty minutes) the House adjourned.

IN SENATE.

FRIDAY, January 19, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.
The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair has received and been requested to present to the Senate the petition of Alexander J. Atocha, in which he refers to his claim against Mexico now pending before the Court of Claims, and suggests reasons why, under present laws and the regulations of that court, no adequate justice can be there done the petitioner, and he asks therefore for further relief. If there be no objection, this petition will be received and referred to the Committee on Foreign Relations.

It was so ordered.

Mr. WILSON. I present the petition of Rev. William H. Lee, and several hundred others, citizens of the District of Columbia, asking Congress to strike out the word "white" from the qualifications for suffrage in the District of Columbia. I move its reference to the Committee on the District of Columbia.

Mr. WADE. Let it lie on the table. The committee have already reported a bill on that subject.

Mr. WILSON. As the committee have reported on the subject, I change my motion, and move that the petition lie upon the table.

The motion was agreed to.

Mr. SUMNER. I present a petition of residents of the District of Columbia, calling upon Congress to declare null and void all laws and parts of laws which make qualifications or distinctions on account of color. I also have a second petition of the same character. One of these is signed, I understand, by the editors of one of the leading journals of this city, and all the persons in their employ. I ask the reference of these two petitions to the Committee on the District of Columbia.

It was so ordered.

Mr. LANE, of Kansas, presented a petition of enlisted men of company G, eighth regiment United States Veteran volunteers, praying for the payment to them of \$400 each, being bounty money alleged to have been lost through the carelessness or fraud of H. G. Loring, late recruiting officer, holding a commission as major in the fifth regiment United States Veteran volunteers; which was referred to the Committee on Military Affairs and the Militia.

Mr. CLARK presented the petition of G. M. Gouler, widow of Charles Gouler, late a private soldier in company F, ninth regiment New Hampshire volunteers, who was drowned in the Delaware river on the 24th of October, 1864, while absent from hospital on leave, praying for a pension; which was referred to the Committee on Pensions.

Mr. WILLIAMS presented the petition of Kate Pettit, praying for relief for injuries alleged to have been received by her in July last while walking on the sidewalk in the city of Georgetown, District of Columbia, in consequence of the carelessness of the driver of a Government team; which was referred to the Committee on Claims.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HENDERSON, it was

Ordered, That the petition of George D. C. Hibbs, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. ANTHONY, it was

Ordered, That the petition of John Ericsson, on the files of the Senate, be referred to the Committee on Naval Affairs.

BILLS INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 87) for the relief of certain volunteer officers appointed by the President; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 88) to restrict the expenses of collecting soldiers' claims against the Government; which

was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a bill (H. R. No. 1) extending the right of suffrage in the District of Columbia; and a bill (H. R. No. 143) for the relief of Charles F. Anderson; in which the concurrence of the Senate was requested.

PRINTING OF A BILL.

On motion of Mr. HENDERSON, it was

Ordered, That the joint resolution (S. R. No. 19) for the relief of certain volunteer troops of Missouri who served during the war be printed.

SENATOR FROM FLORIDA.

Mr. DOOLITTLE. Mr. President, I rise to present the certificate of the election of Hon. William Marvin to the Senate of the United States from the State of Florida. In doing so, I desire to say that, personally, I have known this gentleman for nearly thirty years; and to his character and high standing and loyalty to the United States during all this struggle it gives me great pleasure to bear testimony. His services as a judge of the United States for the southern district of Florida for many years are known to the country. His abilities as a judge in the administration of our laws and admiralty jurisdiction are known not only to this country, but to the world, for one of the best works ever published upon admiralty jurisdiction, and which is often quoted in the courts of England as well as our own, was written by him. He, sir—and it is with great pleasure that I can say it; and upon this point in my mind there is a very great distinction between the various cases—is capable and willing to take the oath which Congress has prescribed as being necessary to be taken by every member of either House when entering upon the discharge of legislative functions.

For myself, sir, I should be prepared at this moment to ask that he be sworn at once; and if the members of the Senate knew him as I know him, I can hardly conceive that there would be any objection. But, sir, from deference to the opinions of others who surround me, and who desire further to look into the question which concerns the States in which the insurrection existed, I shall not make that motion at this time, but intend to make a motion which, for the present, will dispose of this question. Before doing so, however, I desire to show the Senate what his course has been, and I can do it in no better form or clearer language than by quoting what was said by him when, as provisional governor, he was about to retire and surrender to the Governor-elect the administration of the affairs of the State of Florida. On that occasion he said:

"When I assumed the duties of provisional governor in this State, in the first days of August last, I found the civil government of the State overthrown and prostrate, and martial law everywhere prevailing. This was a painful, anomalous, and unnatural state of things."

"The Constitution of the United States guarantees to each State in the Union a republican form of government, and the chief object contemplated by the President in appointing for the State a provisional governor, under the circumstances of the case, was that the latter might make such rules and regulations as were necessary to enable the people of the State to assemble in convention, and, accepting the results of the war, adopt such measures as were necessary to re-establish a State government, republican in form, and restore the natural and normal relations of the State with the General Government."

"I entered upon the duties of my office with zeal and earnestness, and notwithstanding the difficulties to be encountered in consequence of the total absence of any mail facilities in many parts of the State, and very insufficient ones in others, yet the facilities so generously furnished me by Major General Foster, the commander of the military department of the State, enabled me to distribute, through military couriers, the proclamation and poll-books for an election; and an election was held on the 10th day of October in every county of the State for delegates to a convention. The convention assembled at the capitol in this city on the 25th day of the same month, all the counties but two being fully represented. The aggregate vote of the State was six thousand seven hundred and seven, being considerably more than one half of the votes usually polled at a general election in times of party contests, and this, too, notwithstanding

ing in very many counties no opposing candidates were run. The convention, therefore, represented the mass of the people, and the constitution adopted and the ordinances passed by that body are founded upon the consent of the people of the State, regularly expressed by and through their delegates duly elected."

"The convention incorporated into the constitution a clause declaring that 'neither slavery nor involuntary servitude shall in future exist in this State, except as a punishment for crime, whereof the party shall have been convicted by the courts of this State, and that all the inhabitants of the State, without distinction of color, are free, and shall enjoy the rights of person and property, without distinction of color; and that in all criminal proceedings founded upon an injury to a colored person, and in all cases affecting the rights and remedies of colored persons, no person shall be incompetent to testify as a witness on account of color.' It opened the courts of justice alike to all persons. It repudiated the State debt contracted in support of the rebellion and annulled the ordinance of secession. This action of the convention was at the time eminently satisfactory to me, and I have reason to believe has proved so to the President. It is under this constitution, the fundamental law of the State, that you"—

The Legislature whom he was addressing—"are now assembled, and the government is being organized. It is this constitution that you have sworn to support."

And, Mr. President, before I leave the floor and make the motion which I am about to submit, I desire to read also a statement made by the Governor-elect, into whose hands the administration of the State was then surrendered. Governor Walker said:

"Having spoken of the relations which ought to exist, and which for the most part do exist, among the white people of the States, I now naturally come to speak of the feelings which ought to be cherished and the policy which ought to be pursued toward our colored population."

"I think we are bound by every consideration of duty, gratitude, and interest, to make these people as enlightened, prosperous, and happy as their new situation will admit. For generations past they have been our faithful, contented, and happy slaves. They have been attached to our persons and our fortunes, sharing with us all our feelings, rejoicing with us in our prosperity, mourning with us in our adversity. If there were exceptions to this general rule, they were only individual exceptions. Every southern man who hears me knows that what I say is literally true in regard to the vast mass of our colored population. The world has never before seen such a body of slaves. For, not only in peace, but in war they have been faithful to us."

"During much of the time of the late unhappy difficulties, Florida had a greater number of men in the army, beyond her limits, than constituted her entire voting population. This, of course, stripped many districts of their entire arms-bearing inhabitants, and left our females and infant children almost exclusively to the protection of our slaves. They proved true to their trust. Not one instance of insult, outrage, or indignity has ever come to my knowledge. They remained at home and made provisions for our army. Many of them went with our sons to the army, and there, too, proved their fidelity, attending them when well, nursing and caring for them when sick and wounded. We all know that many of them were willing, and some of them anxious, to take up arms in our cause. Although for several years within sound of the guns of the vessels of the United States, for six hundred miles along our sea-board, yet scarcely one in a thousand voluntarily left our agricultural service to take shelter and freedom under the flag of the Union. It is not their fault that they are free; they had nothing to do with it; that was brought about by 'the results and operations of the war.'"

"But they are free. They are no longer our contented and happy slaves, with an abundant supply of food and clothing for themselves and families, and the intelligence of a superior race to look ahead and make all necessary arrangements for their comfort. They are now a discontented and unhappy people, many of them houseless and homeless, roaming about in gangs over the land, not knowing one day where the supplies for the next are to come from; exposed to the ravages of disease and famine; exposed to the temptations of theft and robbery, by which they are too often overcome; without the intelligence to provide for themselves when well, or to care for themselves when sick, and doomed to untold sufferings and ultimate extinction unless we intervene for their protection and preservation. Will we do it? I repeat, we are bound to do it by every consideration of duty, gratitude, and interest."

"Much has been said of late about the importation of white labor from Germany, Ireland, Italy, and other countries, and with proper limitations and restrictions I am in favor of it; but let us always remember that we have a laboring class of our own which is entitled to the preference. It is not sufficient to say that white labor is cheaper. I trust we are not yet so far degraded as to consult interest alone. But interest alone would dictate that it is better to give these people employment, and enable them to support themselves, than have them remain upon our hands as a pauper race; for here they are, and here, for weal or woe, they are obliged to stay. We must remember that these black people are natives of this country, and have a pre-emption right to be the recipients of whatever favors we may have to bestow. We must protect them, if not against the competition, at any rate against the exactions of white immigrants. They will expect our black laborers to do as much work in this climate as they have been accustomed to see white ones perform in

more northern latitudes. We know that they cannot do it. They never did it for us as slaves, and the experience of the last six months shows that they will do no better as freedmen. Our fathers of 1783 knew that it takes five black men to do the work of three white ones, and consequently, in adjusting the apportionment of taxes upon the basis of the labor and industry of the country, eleven of the thirteen States of the old Confederation recommended that every five blacks be counted as only three. The same rule was afterward adopted in the Constitution of 1787 in regard to representation. But I fear those who may migrate hither from Europe or elsewhere will be unmindful of this fact. We ought not to forget it, and between foreign and black labor we ought always to give the preference to the latter when we can possibly make it available. And if we can offer sufficient inducements, I am inclined to think that the black man, as a field laborer in our climate, will prove more efficient than the imported white.

We ought to encourage our colored people to virtue and industry by all the means in our power. We ought to protect them in all their rights, both of person and property, as fully as we do the whites.

This is the view taken by our recent State convention. After recognizing the fact that they are free, and declaring that slavery shall never hereafter exist in the State, they proceeded to open to them all the courts of justice, and admit them as witnesses in all criminal proceedings founded upon an injury to a colored person, and in all cases affecting the rights and remedies of a colored person.

"I trust, gentlemen, that this action meets your approbation, and that you will take great care, not only not to discriminate in your legislation against the colored race, but that you will so shape your enactments as to promote their welfare and happiness to the fullest possible extent."

Mr. President, as I said before, for myself, knowing as well as I do the person who has received this certificate of election, I would be willing at once to move, and I think other Senators if they knew him as well as I do and his course and bearing during the whole conduct of this war, would be willing at once to vote, for his being permitted to be sworn. But, sir, as I have said, in deference to some of our friends around me who desire still further time to look into the question of the relation of these States and their condition to choose representatives in this body or to the other House, I will not make this motion now. I therefore simply move that this certificate do, for the present, lie upon the table.

Mr. SUMNER. I wish the Senator would withdraw his motion for one moment that I may have an opportunity to make a brief explanation.

Mr. DOOLITTLE. I have no objection.

Mr. SUMNER. I have no desire to discuss the question that arises on the presentation of these credentials, and I may say that there are many reasons for the expression of personal respect toward the gentleman who now appears as a Senator from Florida. In many respects—not in all respects, unhappily—he has done well in the situation where he was placed. I say unhappily not in all respects, for no person can read his speeches and say that in all respects he has done what a governor of one of those States at this time should have done. But I have no desire to discuss his particular case.

The Senator has alluded, however, to the actual condition of things in Florida. I wish to call attention to the actual condition of things there, as it is represented to me by thoroughly competent witnesses whose character is vouched to me by the first citizens of that State. I read passages from one letter dated in Florida, but I decline to mention the town in the State, December 14, 1865, as follows:

"The election has been held, and, as you may expect, rebels elected. The Legislature are four fifths rebel officers, from Brigadier General Joseph Finigan down to a corporal. General Barney has not yet obtained his pardon."

"The people of Florida are more hostile than they ever have been. They were surrendered too soon."

"I have found out, and ascertained to a certainty, the programme of the southern States, should they be fortunate enough to get into Congress. It is as follows:

"First. They are to repudiate the national debt in toto.

"Second. They are to pay all the southern slave-owners for all their negroes emancipated by the President's proclamation.

"Third. They are to stop all pensions now given to Union soldiers, their widows and orphans, unless a like pension is given to the confederate soldiers, their widows and orphans.

"Fourth. No officer or any leading rebel shall be punished for his treason against the Government.

"This would be a nice state of things, and would damn the country. I tell you honestly I should shudder at the result."

The letter then goes on to make a communication to which on another occasion I felt it my duty to call the attention of the Senate. The writer says:

"I am advised that certain parties here intend to make a business of importing negroes to Cuba. It is said that there have gone two vessel-loads of them already."

That is the testimony of one citizen of Florida written from that State with regard to what is passing before his own eyes. Here is the testimony of another citizen, written December 4, 1865:

"I suppose your good people think this accursed rebellion is now crushed, and that all is 'peace and quiet' down South; but allow me to inform you that such is not the case, and the only hope of the Union men now is vested in the next Congress. Will they go in and admit these States back and allow them their former rights at once? If so, the whole country is ruined."

"Can you not bring influence to bear on your delegation to keep us under military surveillance for a few years, and has not Congress the power to disfranchise forever these leading rebels? President Johnson has enfranchised them, which virtually disfranchises us. As an instance, the vote of a loyal man (a deserter from rebellion) was challenged a few days since at the election in Lake City for State and county officers, also Representatives to Congress. Is that the way that loyal men are to be treated and abandoned by their Government? If so, I have no faith in the Government. Some say that the President is just giving them rope to hang themselves with, but he is paying it out too long to suit us here. Let him withdraw the troops from this State, and it would not be safe for a Yankee or deserter to travel through the country."

There, sir, is testimony direct from Florida with regard to the actual condition of things in that State. Added to that, we have the constitution itself which this recent pretended convention has undertaken to put forward—a constitution which, after recognizing the abolition of slavery and therefore the citizenship of those who were once slaves, proceeds actually to decree their disfranchisement; and Senators are expected to recognize such an instrument as a republican form of government—an instrument which begins by the denial of equality to nearly one-half of its citizens! The question is now entirely changed since the abolition of slavery, for all are now citizens, and I insist, and at a proper time shall argue the question in this body, that no State among these States where the governments have lapsed can be recognized as republican in form which disfranchises any considerable portion of the citizens.

I am perfectly willing that these credentials shall lie upon the table.

Mr. DOOLITTLE. One word in reply—

Mr. GRIMES. I rise to a question of order.

The PRESIDENT *pro tempore*. The Senator from Wisconsin will suspend his remarks, and the Senator from Iowa will state his point of order.

Mr. GRIMES. My point of order is, that this whole debate is out of order from the commencement of the speech of the Senator from Wisconsin, which was unprecedented, at any rate in this body, down to the last words that were uttered by the Senator from Massachusetts. If upon the presentation of credentials here, we are to have a debate upon all these questions of reconstruction and eulogiums upon the gentlemen named in them, we shall take up the whole time of the Senate during the session. As I understand it, there is no motion before the Senate. The Senator from Wisconsin went on and made a speech, stating that he was going to make a motion to lay the credentials upon the table. He concluded his speech by making that motion, and then withdrew it, and we stand now exactly where we were when the Senator first rose without making any motion at all. I move that the credentials lie upon the table.

Mr. DOOLITTLE. I believe it is not out of order for me, in rising to make a motion, to state my purpose in making the motion, if no one objects, if I conclude with making the motion, as I did in this case. I withdrew the motion at the suggestion of the honorable Senator from Massachusetts, for the purpose of allowing him to make his statement, so that I certainly was not out of order. I made the motion before any objection was made by the Senator from Iowa that I was out of order. It is true, I withdrew it to accommodate the Senator from Massachusetts.

Mr. GRIMES. The Senator went on and made a speech without making any motion; there was nothing at all before the Senate. He told us he was going to make a motion, and just before he sat down he did make a motion, and then withdrew it. All the remarks, therefore, that the Senator made were out of order, because there was nothing pending before the Senate; and that is the condition we are in at this moment; there is nothing pending before the Senate. The Senator has sent to the table the credentials of a gentleman claiming to represent the State of Florida. We all agree with him, I suppose, as to the qualifications and character of this gentleman who comes here from Florida; but I want to have this matter disposed of, for one, precisely as we dispose of similar cases, and not have the whole morning hour consumed in a discussion of this sort.

Mr. SAULSBURY. Mr. President—
The PRESIDENT *pro tempore*. The Chair will give his views on the point of order. There is no question before the Senate on which debate can legitimately arise. The motion now is that the document which has been introduced be laid upon the table.

Mr. GRIMES. I make that motion.
Mr. CLARK. And that motion is not debatable.

The motion was agreed to.

HOUSE BILLS REFERRED.

The following bills and joint resolution from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 1) extending the right of suffrage in the District of Columbia—to the Committee on the District of Columbia.

A joint resolution (H. R. No. 45) to change the name of the ship Art Union to the name George M. Barnard—to the Committee on Commerce.

A bill (H. R. No. 143) for the relief of Charles F. Anderson—to the Committee on Public Buildings.

PENSION AGENTS.

Mr. LANE, of Indiana. I move that the Senate take up for consideration Senate bill No. 69, to provide for the payment of pensions, which was once before the Senate and delayed until we could get the letter of the Secretary of the Interior accompanying it printed. That letter we now have, and I suppose the disposition of the bill will not consume five minutes.

Mr. TRUMBULL. I have no objection to that bill coming up if it is likely to be disposed of before the morning hour expires, but at that hour another bill is in order, which I hope we may proceed with the consideration of.

Mr. LANE, of Indiana. I have no doubt that this bill can be passed in five minutes.

Mr. TRUMBULL. I have no objection to the motion if the bill can be disposed of before one o'clock.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 69) to provide for the payment of pensions.

Mr. LANE, of Indiana. I ask that the letter of the Secretary of the Interior accompanying the bill, and showing its propriety and necessity, may be read.

The Secretary read the following letter:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., December 23, 1865.

Sir: I have the honor to return herewith the Senate resolution of the 18th instant, instructing the Committee on Pensions to inquire as to the expediency of providing by law for the appointment of pension agents by the President, by and with the advice and consent of the Senate, and to report by bill or otherwise, which you referred to me with a request for my opinion on the subject, and for the form of a bill, should I deem the introduction of one necessary.

In reply, I have the honor to state that, in my opinion, the proposed change in the manner of establishing pension agencies and of appointing the agents is both expedient and necessary. This power was conferred upon the Secretary of War by an act of Congress passed in the year 1836, and since the creation of this Department has continued to be exercised by the Secretary of the Interior. At that time the pension rolls were small, and the expenditures of the Government on that account, compared with those at the present time, were quite insignificant. Until quite

recently the disbursements at many of the agencies were so small as not to afford sufficient inducements to persons to accept the appointment of pension agent, and the Department experienced considerable difficulty in providing for the payment of pensions in some localities. Now the amounts disbursed at many of the agencies reach to several hundred thousand dollars per annum, rendering the offices very remunerative, and causing them to be sought after with much avidity. Every reasonable precaution should, therefore, be taken to guard against the selection of improper and unsuitable persons for the discharge of duties which have thus become so important and responsible, and no better one can be adopted than that which brings to the aid of the Executive the advice of the Senate. I therefore respectfully submit the accompanying draft of a bill for that purpose.

But little, if any, additional expense is involved; and as existing laws make adequate provision for the expenses of the agencies, and for the compensation of the agents, no further legislation is deemed necessary.

I am, sir, with much respect, your obedient servant,
JAMES HARLAN, Secretary.
Hon. HENRY S. LANE, Chairman of the Committee on Pensions, Senate of the United States.

Mr. TRUMBULL. I would inquire of the Senator from Indiana whether there ought not to be some limitation in this bill. As it is, it authorizes the appointment of any number of these officers. The President may, under it, appoint fifty in one State if he shall think proper. Is it not practicable to limit it to a certain number? I would also like to inquire what the fees are. I see by the letter of the Secretary that it is stated that adequate provision is made for the payment of these officers. A few years ago I had occasion to look into the pension laws with a view of ascertaining by what authority the Secretary of the Interior increased the number of pension agents. I was aware that he was appointing new agents in different parts of the country, and I searched the statutes, as I thought, very carefully, and although the Secretary in his letter refers to some statute, I failed to find any authority for the Secretary of the Interior to make these appointments. I have never been able to find it, and if the chairman of the Committee on Pensions will refer us to the statute which gave that authority I shall examine to see what its limitations are.

Further, it would seem to me that this bill is very broad and not sufficiently guarded. I have no objection to the object of the bill; I think it proper that appointments of this character should be made by the President, by and with the advice and consent of the Senate, and I think it proper also that the number of pension agents should be increased. I am not complaining that they were increased; but I failed to find the authority of law for it.

Mr. LANE, of Indiana. If I understand the law upon this subject, it is just this: before the organization of the Department of the Interior pensions were paid under the rules and regulations of the War Department. In many instances special agents were appointed for the purpose; in others the cashiers of banks acted as agents. The whole business was done under the supervision of the War Department, and it had a discretion as to the number of districts and the number of agents to be appointed. On the organization of the Interior Department the whole business of pensions was transferred from the War Department to the Interior Department, with precisely the same discretion to appoint agents who should pay the pensions. The increased compensation is nothing. Suppose there is only one agent in the State of Illinois to-day, and he pays all the pensions, he gets a certain percentage upon the amount paid; that is all that he gets. If there are four agents, that percentage is divided among the four; so that the expense is not increased by the unlimited number of appointees, while the convenience of the people is greatly facilitated by it, because they are enabled to receive their pensions at a point nearer than they would if there was only one agent in a State.

There are now only forty-nine pension agents in the United States. I have in my hand a list of them and a statement of the amount of bonds now required of every agent. I do not think it is practicable to limit the discretion of the President as to the number of districts or the number of agents. There are some ten or eleven States which were lately in rebellion that now have no pension agents at all. The Sec-

retary of the Interior thinks it very desirable, and so does the Commissioner of Pensions, that he should have discretion to establish agencies, for instance, in Tennessee and Alabama, at points where we have raised Union troops in the rebellious States, and I do not think it practicable to limit this discretion. While the payments were made by the Secretary of War he had full discretion as to the number of agents to be appointed; since it has been in the Interior Department the Secretary of the Interior has had precisely the same discretion; and, under this bill, the only change contemplated is that you give the power to the President and give a discretion to the President as to the number of agents, so that when an agent is appointed he has to be nominated to the Senate and pass the scrutiny of this body. I think it eminently proper that the bill should be passed, and I think it impracticable to limit the number of agents by legislation.

Mr. LANE, of Kansas. One of the objects I had in offering the resolution which resulted in the presentation of this bill was to have the acting agents revised by the President and the Senate, and I should like to know from the chairman of the Committee on Pensions what objection there was to so framing the bill as to have the nominations of the existing agents pass in revision before the President and Senate.

Mr. LANE, of Indiana. The objection, as I understand, was just this: we have forty-nine pension agents who have given bonds ranging from \$25,000 to \$200,000. The Secretary of the Interior says he is perfectly satisfied that every single agent is honest, competent, and efficient, and he does not need any change in them. The Commissioner of Pensions assured the committee of precisely the same state of things. We did not think it proper to legislate out of office forty-nine good officers when neither the Secretary of the Interior nor the Commissioner of Pensions desired any such thing; but we leave it to the President, and to the Secretary of the Interior on his recommendation, to revise the whole list and reappoint them all if he chooses; but in the mean time all these acting agents retain their offices. I find, too, that the bonds, in the opinion of the Commissioner of Pensions, are sufficient. I have a list here of them all.

Mr. LANE, of Kansas. What is the bond of the agent in Kansas?

Mr. LANE, of Indiana. Seventy-five thousand dollars is the amount of the bond of the agent in Kansas. They require a very high bond in Kansas.

Mr. POMEROY. I think the suggestion made by the Senator from Illinois is a very good one. There ought to be at least some limit. If these offices are so remunerative, as the Secretary of the Interior in his letter indicates, there will of course be a great many applications, and I would suggest to the Senator from Illinois that it be limited to one pension agent for each congressional district. That will give one to about one hundred and twenty-five thousand inhabitants. I believe that is about the right number.

Mr. TRUMBULL. I have looked at the law of 1836, and I will read it:

"Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized and required to establish a pension agency at Pulaski, in the State of Tennessee, for the payment of all pensioners of the United States resident in the counties of Lincoln, Giles, Lawrence, and Wayne, in said State: *Provided*, That the establishment of such agency can be made without any charge to the United States."

How that can be construed to authorize the Secretary of War to appoint as many agents as he pleases I do not know; and although the powers of the Secretary of War in this respect have been transferred to the Secretary of the Interior, how it gave him that authority I cannot conceive. To show that such was not the intention of Congress, I will read another act passed in 1838:

"Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized and empowered to establish a pension agency at Tuscaloosa, in the State of Alabama, for the payment of pensioners of the United States resident in the counties of Pickens, Sumter, Greene, Marengo, Perry, Bibb, Tuscaloosa, Jefferson, Walker,

Fayette, Shelby, Randolph, and Talladega, in the State of Alabama: *Provided*, That no additional expense shall be incurred in the establishment of said pension agency."

Is it to be believed that the Congress of the United States went on year after year authorizing the establishment of a pension agency at each place where it was needed, while all the time the Secretary of War had authority to appoint as many agents as he pleased and where he pleased? I undertake to say that there is no statute authorizing the appointment of these pension agents *ad libitum*.

Now, I wish to ask of the Senator from Indiana another question. He says that it makes no difference to the United States how many pension agents there are, because they are paid by fees or by a percentage. Is it so that there is no limit to the amount of pay that these officers may receive? After this great war, when the number of our pensioners has been multiplied a hundred fold, and the amount of money necessary to pay them has swelled from hundreds of thousands to millions of dollars each year, is it so that these agents receive a percentage of one, two, or three per cent., amounting perhaps to ten, twenty, or fifty thousand dollars? If there be a limit, the Senate will readily perceive that it is a matter of material consequence how many pension agents you have; for if one pension agent does the business and cannot receive more than a certain amount for his pay, say \$6,000, or \$5,000, or whatever may be the limit, he would pay all the pensioners within a given district, and would receive no more than that sum, no matter what the percentage might amount to beyond it; while if there were half a dozen pension agencies within the same district and each received his \$6,000, or whatever might be the sum fixed, it would cost the Government six times as much to pay the pensioners. I desire to know whether there is not a limit on the amount of pay that a pension agent may receive under the law as it now stands.

Mr. LANE, of Indiana. My impression is that the percentage is fixed by the Secretary of the Interior; I do not believe there is any law regulating the amount of the percentage. I understand the fact to be, however, that there are no pension agencies in the United States worth \$3,000 a year. There is no single agency where the percentage amounts to that much, though in one office \$600,000 a year is paid out. I understand that hardly any of the agencies exceed \$2,500 a year.

The argument of the Senator from Illinois, that there is now no law regulating the appointment of these agents, is the very strongest possible reason why we should pass a law on the subject. The very thing contemplated by the bill before the Senate is to fix the manner of appointment. The only question is whether we had better limit the number. I think it impracticable and wholly useless to do so if we could, for if they are paid by a percentage they will only receive a certain proportion of the whole amount, whether it be paid by many or few agents. The Senator from Kansas [Mr. POMEROY] suggested that the number should be limited to one agent for each congressional district. That would be a beautiful limitation! One to each congressional district, when we now have only forty-nine for the whole United States! The complaint is that we have too many now; and therefore the number must be limited by appointing two hundred and forty-four! I do not see the force of that argument. We must leave the discretion somewhere, trusting and believing that no more will be appointed than the necessities of the country demand.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is Senate bill No. 60.

FREEDMEN'S BUREAU.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau.

Mr. HENDRICKS. I was not able, Mr. President, to agree with the Committee on the

Judiciary in its conclusion to recommend this bill to the favorable consideration of the Senate, and I had intended rather fully to examine its provisions, but find my health is such to-day that I shall not be able very fully to consider it. I intend, however, briefly to discuss what I think are the prominent features of the bill. It is entitled "A bill to enlarge the powers of the Freedmen's Bureau." It should be entitled "A bill to enlarge the powers and extend the jurisdiction of the Freedmen's Bureau," and then the title would accurately define the force of the bill. Upon the title itself, as indicating the purpose of the bill, I wish to ask Senators what are the reasons in favor of the enactment of this proposed law. Why shall we now extend the powers of the Freedmen's Bureau?

At the last session of Congress the original law creating that bureau was passed. We were then in the midst of the war; very considerable territory had been brought within the control of the Union troops and armies, and within the scope of that territory, it was said, there were many freedmen who must be protected by a bill of that sort; and it was mainly upon that argument that the bill was enacted. The Senate was very reluctant to enact the law creating the bureau as it now exists. There was so much hesitancy on the part of the Senate, that by a very large vote it refused to agree to the bill reported by the Senator from Massachusetts, [Mr. SUMNER,] from a committee of conference, and I believe the honorable Senator from Illinois, [Mr. TRUMBULL,] who introduced this bill, himself voted against that bill; and why? That bill simply undertook to define the powers and duties of the Freedmen's Bureau and its agents, and the Senate would not agree to confer the powers that that bill upon its face seemed to confer, and it was voted down; and then the law as it now stands was enacted in general terms. There was very little gained, indeed, by the Senate refusing to pass the first bill and enacting the latter, for under the law as it passed the Freedmen's Bureau assumed very nearly all the jurisdiction and to exercise all the powers contemplated in the bill reported by the Senator from Massachusetts.

Now, sir, it is important to note very carefully the enlargement of the powers of this bureau proposed by this bill; and in the first place it proposes to make the bureau permanent. The last Congress would not agree to this. The bill that the Senate voted down did not limit the duration of the bureau and it was voted down, and the bill that the Senate agreed to provided that the bureau should continue during the war and only for one year after its termination. That was the judgment of the Senate at the last session. What has occurred since to change the judgment of the Senate in this important matter? What change in the condition of the country induces the Senate now to say that this shall be a permanent bureau or Department of the Government; when at the last session it said it should cease to exist within one year after the conclusion of the war? Why, sir, it seems to me that the country is now, and especially the southern States are now in a better condition than the Senate had reason to expect when the law was enacted. Civil government has been restored in almost all the southern States; the courts are restored in many of them; in many localities they are exercising their jurisdiction within their particular localities without let or hindrance; and why, I ask Senators, shall we make this bureau a perpetual and permanent institution of the Government when we refused to do it at the last session?

Mr. President, upon this subject I wish to call the attention of the Senate to the information that we have; and I intend first to read very briefly from the recent message of the President of the United States in reply to the resolution adopted by the Senate on the 12th of December. He says:

"I have the honor to state that the rebellion waged by a portion of the people against the properly con-

stituted authorities of the Government of the United States has been suppressed; that the United States are in possession of every State in which the insurrection existed, and that, as far as could be done, the courts of the United States have been restored, post offices reestablished, and steps taken to put into effective operation the revenue laws of the country.

"As the result of the measures instituted by the Executive, with a view of inducing a resumption of the functions of the States comprehended in the inquiry of the Senate, the people in North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Arkansas, and Tennessee, have reorganized their respective State governments, and are yielding obedience to the laws and Government of the United States with more willingness and greater promptitude than, under the circumstances, could reasonably have been anticipated. The proposed amendment to the Constitution providing for the abolition of slavery forever within the limits of the country has been ratified by each one of those States with the exception of Mississippi, from which no official information has yet been received; and in nearly all of them measures have been adopted or are pending to confer upon freedmen rights and privileges which are essential to their comfort, protection, and security."

I wish to call the attention of the Senate to the latter part of the sentence, "and in nearly all of them," that is, in nearly all of the seceding States, "measures have been adopted or are now pending to confer upon freedmen rights and privileges which are essential to their comfort, protection, and security." The President of the United States informs us that the southern States themselves are adopting measures with a view to the protection and prosperity of the colored people, and this within so short a period after the close of the war, when we could scarcely have expected that the reorganization of the southern States would have gone so far, when we could scarcely have expected that the prejudices engendered by the war would have passed away to such an extent as that the southern States themselves would have taken this very important and desirable step.

In the same connection I wish to read very briefly from the report of General Grant. I know it is claimed that General Grant says in this report that the Freedmen's Bureau must be continued in the southern States. I wish Senators to observe precisely what sort of a Freedmen's Bureau General Grant says should be continued. He does not anywhere recommend the establishment of a despotism within the southern States such as this bill proposes. General Grant proposes simply that small garrisons shall be continued in the southern States until order and quiet are fully restored, and then that the troops shall be entirely withdrawn. Upon that subject I will read from his report. He is not complimentary to the bureau. It has been in existence some months, and I will read what General Grant says of it:

"I did not give the operation of the Freedmen's Bureau that attention I would have done if more time had been at my disposal. Conversations on the subject, however, with officers connected with the bureau lead me to think that, in some of the States, its affairs have not been conducted with good judgment or economy, and that the belief, widely spread among the freedmen of the southern States, that the lands of their former owners will, at least in part, be divided among them, has come from the agents of this bureau. This belief is seriously interfering with the willingness of the freedmen to make contracts for the coming year. In some form the Freedmen's Bureau is an absolute necessity until civil law is established and enforced, securing to the freedmen their rights and full protection. At present, however, it is independent of the military establishment of the country, and seems to be operated by the different agents of the bureau according to their individual notions. Everywhere General Howard, the able head of the bureau, made friends by the just and fair instructions and advice he gave; but the complaint in South Carolina was that when he left things went on as before."

Again, he says:

"The Freedmen's Bureau being separated from the military establishment of the country requires all the expense of a separate organization. One does not necessarily know what the other is doing, or what orders they are acting under. It seems to me this could be corrected by regarding every officer on duty with troops in the southern States as an agent of the Freedmen's Bureau, and then have all orders from the head of the bureau sent through department commanders. This would create a responsibility that would secure uniformity of action throughout all the South; would insure the orders and instructions from the head of the bureau being carried out, and would relieve from duty and pay a large number of employees of the Government."

Now, sir, to understand what General Grant means, I will turn to another part of his report:

"Four years of war, during which law was executed

only at the point of the bayonet throughout the States in rebellion, have left the people possibly in a condition not to yield that ready obedience to civil authority the American people have generally been in the habit of yielding. This would render the presence of small garrisons throughout those States necessary until such time as labor returns to its proper channel and civil authority is fully established. I did not meet any one, either those holding places under the Government or citizens of the southern States, who think it practicable to withdraw the military from the South at present. The white and the black mutually require the protection of the General Government."

This is all I need at present read from this report. And what, sir, are General Grant's views? First, that the bureau has not been well conducted; each agent has acted upon his own notions; there has been no uniformity of action; in many localities the agents have induced the blacks to believe that the lands of their former owners would be divided out among them. This impression, the General says, has induced the colored people to refuse to enter into contracts for labor the coming year. The bureau itself has prevented the adjustment of the labor of the South; has prevented that state of things which must take place before there can be entire quiet in those States.

Then, what is proposed? Not that we shall send out an army of civil officers to govern the southern States; but he proposes that in the southern States small garrisons shall be continued, not of colored troops, for he says that produces evil, but of white troops, until the civil law is fully established and the courts become fully organized to adjust the affairs of the people. I intended to read on this subject from the New York Tribune in reply to some letters which the Senator from Massachusetts has read to the Senate this morning. That paper says that, by many communications from the southern States, it is clear that things are in a very much better condition than was to be expected; that labor is returning to its channels; that peace is prevailing; and that harmony between the colored people and the whites will soon be the result of the present state of things. Intended reading from the article, but I find the paper is mislaid.

Then, sir, from this evidence that we have before us, the statement of facts by the President of the United States, the statement of facts by the Lieutenant General of the United States, after a visit into the southern States, what reason is there for the Senate to pass a bill enlarging the powers of the Freedmen's Bureau, a bureau of altogether too much power now. It is important, I believe, if this bureau is to continue, that its powers shall be more accurately defined, because it seems now to do whatever it pleases. I believe it has extended its jurisdiction over States not within the provisions of the law. I believe Kentucky has been brought within the scope and sphere of its government, when the law did not contemplate it and did not allow it. I believe the District of Columbia has been made a province within its government and control, and I think the law did not contemplate or allow that.

Then, sir, this bill proposes that the bureau shall be permanent. I ask Senators, in the first place, if they are now, with the most satisfactory information that is before the body, willing to do that which they refused to do at the last session of Congress. We refused to pass the law when it proposed to establish a permanent department; shall we now, when the war is over, when the States are returning to their places in the Union, when the citizens are returning to their allegiance, when peace and quiet, to a very large extent, prevail over that country, when the courts are reestablished; is the Senate now, with this information before it, willing to make this a permanent bureau and department of the Government?

The next proposition of the bill is, that it shall not be confined any longer to the southern States, but that it shall have a government over the States of the North as well as of the South. I call the attention of the Senate to the third section of the law which it is proposed to amend:

"The President may, by and with the advice and consent of the Senate, appoint an assistant commis-

sioner for each of the States declared to be in insurrection, not exceeding ten in number, who shall, under the direction of the Commissioner, aid in the execution of the provisions of this act."

The commissioners may be appointed under the original law for each of the States that have been declared to be in a state of insurrection. The President and the bureau had no power to send commissioners into any State except a State that had been declared to be in a condition of insurrection. Now, what are the provisions of the bill before the Senate?

That the act to establish a Bureau for the Relief of Freedmen and Refugees, approved March 3, 1865, shall continue in force until otherwise provided by law, and shall extend to refugees and freedmen in all parts of the United States; and the President may divide the section of country containing such refugees and freedmen into districts, each containing one or more States, not to exceed twelve in number.

The old law allowed the President to appoint a commissioner for each of the States that had been declared to be in rebellion, one for each of the eleven seceding States, not to exceed ten in all. This bill provides that the jurisdiction of the bureau shall extend wherever within the limits of the United States refugees or freedmen have gone. Indiana has not been a State in insurrection, and yet there are thousands of refugees and freedmen who have gone into that State within the last three years. This bureau is to become a governing power over the State of Indiana according to the provisions of the bill. Indiana, that provides for her own paupers, Indiana, that provides for the government of her own people, may, under the provisions of this bill, be placed under a government that our fathers never contemplated, a government that must be most distasteful to freedmen.

I know it may be said that the bureau will not probably be extended to the northern States. If it is not intended to be extended to those States, why amend the old law so as to give this power? When the old law limited the jurisdiction of this bureau to the States that had been declared in insurrection, is it not enough that the bureau should have included one State, the State of Kentucky, over which it had no rightful original jurisdiction; and must we now amend it so as to place all the States of the Union within the power of this irresponsible sub-government? This is one objection that I have to the bill, and the next is the expense that it must necessarily impose upon the people. We are asked by the Freedmen's Bureau in its estimates to appropriate \$11,745,050; nearly twelve million dollars for the support of this bureau and to carry on its operations during the coming year. I will read what he says:

It is estimated that the amount required for the expenditures of the bureau for the fiscal year commencing January, 1866, will be \$11,745,050. The sum is requisite for the following purposes:

Salaries of assistant and sub-assistant commissioners.....	\$17,500
Salaries of clerks.....	82,800
Stationery and printing.....	63,000
Quarters and fuel.....	15,900
Clothing for distribution.....	1,750,000
Commissary stores.....	410,250
Medical department.....	500,000
Transportation.....	1,980,000
School superintendents.....	21,000
Sites for school-houses and asylums.....	3,000,000
Telegraphing.....	18,000

Making in all the sum which I have mentioned. The old system under this law that was before the Commissioner when he made this estimate requires an expenditure to carry on its operations of nearly twelve million dollars, and that to protect, as it is called, and to govern four millions of the people of the United States, within a few millions of the entire cost of the Government under Mr. Adams's administration, when the population of the States had gone up to many millions. How is it that a department that has but a partial jurisdiction over the people shall cost almost as much for the management of four million people as it cost to manage the whole Government, for its Army, its Navy, its legislative and judicial departments, in former years? My learned friend from Kentucky suggests that the expenses under John Quincy Adams's administration were about thirteen million dollars. What was the population of the United States at that time

I am not prepared to state, but it was far above four millions. Now, to manage four million people is to cost the people of the United States, under the law as it stands, nearly as much as it cost the people to manage the whole affairs of the Government under the administration of Mr. John Quincy Adams.

This extraordinary expense to the people in a time when the public debt is a great burden to them would be a reason with me to vote to repeal the old law. Is it a reason to Senators why they shall add to the great expenditures of this bureau? What is the increase of expenditure which this bill provides for? The old bill provided for one Commissioner and ten assistant commissioners. This bill provides for the same Commissioner and twelve assistant commissioners. It also provides that the country shall be divided up into sub-districts, and an agent appointed for each district within the discretion of the bureau, each county and parish constituting a district. I ask the attention of the Senate while I read this section:

SEC. 2. And be it further enacted, That the Commissioner, with the approval of the President, shall divide each district into a number of sub-districts, not to exceed the number of counties or parishes in each State,—

That will be a sub-district for every county and parish in the United States—

and shall assign to each sub-district at least one agent, either a citizen, officer of the Army, or enlisted man, who, if an officer, shall serve without additional compensation or allowance, and if a citizen or enlisted man, shall receive a salary not exceeding \$1,500 per annum; and such agent shall, before entering on the duties of his office, take the oath prescribed in the first section of the act to which this is an amendment. Each assistant commissioner may employ not exceeding six clerks, one of the third class and five of the first class, and each agent of a sub-district may employ two clerks of the first class.

This bill provides for twelve assistant commissioners, and each assistant commissioner is to have six clerks; seventy-two in all. It then provides for a sub-agent in each county and parish of the country. How many will be appointed I cannot tell. The chairman of the committee that reported this bill cannot inform the Senate on that point. That will depend very much upon the political necessities of the Administration. If it shall be found important to increase the number of office-holders for political purposes, I do not choose to place the Treasury of the people under the possibility of such an influence. Whether agents shall be appointed in the counties of Indiana or in the counties of Ohio, where there are thousands, perhaps hundreds of thousands, of refugees and freedmen, I cannot say, nor can the Senator who reports this bill say. It is enough to know that an agent for each county and parish may be appointed at a salary of \$1,500, and under him two clerks at \$1,200 each, for each county and parish. I ask Senators, if under the old system it cost nearly twelve million dollars to carry on this bureau, how much will it cost under this new bill?

I hear Senators speak very frequently of the necessity of economy and retrenchment. Is this a specimen, increasing the number of officers almost without limit and increasing the expenditures? I think one might be safe in saying, that if this bill passes we cannot expect to get through a year with less than \$20,000,000 of an expenditure for this bureau. But that is a mere opinion; for no man can tell until we have the number of officers that are to be appointed under the bill prescribed in the bill itself, and this section leaves the largest discretion to the bureau in the appointment of officers. I appeal to Senators to know whether at this time, when we ought to adopt a system of retrenchment and reform, they are willing to pass a bill which will so largely increase the public expenditures.

Then, sir, when this army of officers has been organized, the bill provides:

And the President of the United States, through the War Department, and the Commissioner, shall extend military jurisdiction and protection over all employes, agents, and officers of this bureau.

Will some Senator be good enough to tell me what that means? If Indiana be declared a State within which are found refugees and freed-

men who have escaped from the southern States, and if Indiana has a commissioner appointed to her, and if in each county of Indiana there be a sub-commissioner at a salary of \$1,500 a year, with two clerks with a salary of \$1,200 each, and then the War Department throws over this little army of office-holders in the State of Indiana its protection, what does that mean? The people of Indiana have been ground hard under military authority and power within the last three or four years, but it was borne because it was hoped that when the war would be closed that military power would be withdrawn from the State. Under this bill it may be established permanently upon the people by a body of men protected by the military power of the Government. An officer is appointed to the State of Indiana to regulate the contracts which are made between the white people and the colored people of that State, and because he holds this office, not military in its character, involving no military act whatever, the military throws over him its iron shield of protection. What does that mean? If this officer shall do a great wrong and outrage to one of the people, and the wronged citizen appeals to the court for his redress and brings his suit for damages, does the protecting shield of the War Department prevent the prosecution of that suit and the recovery of a judgment? What is the protection that is thrown over this army of office-holders? Let it be explained.

It may be said that this is a part of the military department. That will depend not so much upon what we call them in the law as what are the duties imposed upon these sub-agents. It is a little difficult to tell. They are to protect the freedmen; they are to protect refugees; they are to buy asylums and school-houses; they are to establish schools; they are to see to the contracts that are made between white men and colored men. I want to know of the chairman of the committee that reported this bill, in what respect these duties are military in their character? I can understand one thing, that it may be regarded as a war upon the liberties of the people, but I am not able to see in what respect the duties of these officers otherwise are military. But this protection is to be thrown over them. I will not occupy longer time upon that subject.

The third section of the bill changes the letter of the law in two respects, first:

That the Secretary of War may direct such issues of provisions, clothing, fuel, and other supplies, including medical stores and transportation, &c.

Those last words, "medical stores and transportation," make the change in the law that is proposed in this bill. But, sir, in point of fact it makes no change in the law, for if you will turn to the report of the Commissioner of this bureau, it will be found that the bureau during the past six months has been furnishing medical supplies and transportation. A very large item in the expenditures estimated for is for transportation. But I wish to ask of the Senator who framed this bill why we shall now provide for the transportation of freedmen and refugees. During the war, a very large number of refugees came from the southern States into the North; but the Commissioner of the Freedmen's Bureau in his report says that those refugees have mainly returned, and but few remain now to be carried back from the North to the South, or who desire to be. Then why do we provide in this bill for transportation? Is it simply to give the bureau the power to transport refugees and freedmen from one locality to another at its pleasure? The necessity of carrying them from one section of the country to another has passed away. Is it intended by this bill that the bureau shall expend the people's money in carrying the colored people from one locality in a southern State to another locality? I ask the Senator from Illinois, when he comes to explain his bill, to tell us just what is the force and purpose of this provision.

The fourth resolution, as amended, provides for the setting apart of three million acres of the public lands in the States of Florida, Mis-

Mississippi, and Arkansas, for homes for the colored people. I believe that is the only provision of the bill in which I concur. I concur in what was said by some Senator yesterday, that it is desirable, if we ever expect to do anything substantially for the colored people, to encourage them to obtain homes, and I am willing to vote for a reasonable appropriation of the public lands for that purpose. I shall not, therefore, occupy time in discussing that section.

The next is the fifth section, in the following words:

Sec. 5. And be it further enacted, That the possessory titles granted in pursuance of Major General Sherman's special field order, dated at Savannah, January 16, 1865, are hereby confirmed and made valid.

Yesterday that section was amended so as to provide that the possessory title should continue for three years from the date of the order. That order bears date at Savannah, Georgia, January 16, 1865. This section, as it now stands before the Senate, therefore, proposes to confirm the possessory right of the colored people upon these lands for three years from the date of that order, or about two years from this time. I like the amendment better than the original bill, for the original bill left it entirely uncertain what was confirmed, and of course it is better that we should say one year, or three years, or ten years, than to leave it entirely indefinite for what period we do confirm the possession. I have no doubt that General Sherman had the power as a military commander at the time to set apart the abandoned lands along the coast as a place in which to leave the colored people then surrounding his army; but that General Sherman during the war, or that Congress after the war, except by a proceeding for confiscation, can take the land permanently from one person and give it to another, I do not admit; nor did General Sherman undertake to do that. In express terms he said that they should have the right of possession, for what length of time he did not say, for the reason that he could not say. It was a military possession that he conferred, and that possession would last only during the continuance of the military occupation, and no longer. Upon this point I will read some authorities. First, I read from Phillimore's International Law, volume three, page 731:

"With respect to immovable private property, it has been already observed that the laws which relate to the effect of peace upon public and private property are in principle the same, and that the rule of international law is that the immovable property returns, on peace being made, to its original owner, unless there has been an express stipulation to the contrary.

"The conqueror dethrones the sovereign and assumes the dominion of the conquered territory; but as a general rule he does no more. It has been well laid down by the tribunals of the North American United States that the modern usage of nations, that large and important part of international law, would be violated, the sense of justice and of right, which is felt and acknowledged by the civilized world, would be outraged, if private property were generally confiscated and private rights annulled. The people, indeed, change their allegiance; their relation to their ancient sovereign is dissolved; but their relations to each other and their rights of property remain undisturbed."

Of course, the author is speaking of a war between two independent Powers, in which the one subjugates or conquers the other. Even in that case the military possession of real estate within the limits of a conquered country ceases when peace is made, unless the treaty stipulates otherwise. I will now read from Halleck's International Law, page 456, paragraph twelve:

"Private property on land is now, as a general rule of war, exempt from seizure or confiscation; and this general exemption extends even to cases of absolute and unqualified conquest. Even where the conquest of a country is confirmed by the unconditional relinquishment of sovereignty by the former owner, there can be no general or partial transmutation of private property in virtue of any rights of conquest. That which belonged to the Government of the vanquished passes to the victorious State, which also takes the place of the former sovereign in respect to the right of eminent domain; but private rights and private property, both movable and immovable, are in general unaffected by the operations of a war, whether such operations be limited to mere military occupation or extend to complete conquest. Some modern text-writers—Hautefeuille, for example—contend for the ancient rule, that private property on land is subject to seizure and confiscation. They are undoubtedly correct with respect to the general abstract right, as deduced from the law of nature and ancient practice;

but while the general right continues, modern usage, and the opinions of modern text-writers of the highest authority, have limited this right by establishing the rule of general exemption. The private property of a sovereign is considered in the same light as that of any other individual."

I will now call the attention of the Senate to a paragraph from the opinion of Chief Justice Marshall in the case of the United States vs. Percheman, 7 Peters, page 86:

"It may not be unworthy of remark that it is very unusual, even in cases of conquest, for the conqueror to do more than to displace the sovereign and assume dominion over the country. The modern usage of nations, which has become law, would be violated; that sense of justice and of right which is acknowledged and felt by the whole civilized world would be outraged, if private property should be generally confiscated and private rights annulled. The people change their allegiance; their relation to their ancient sovereign is dissolved; but their relations to each other and their rights of property remain undisturbed. If this be the modern rule even in cases of conquest, who can doubt its application to the case of an amicable cession of territory?"

That is the rule, says Chief Justice Marshall, in the case of a complete, absolute conquest of territory by one independent Power from another, that the title of the private citizen is not disturbed, but that the public property passes to the new sovereign. Then, if General Sherman, by his General Order No. 15, placed the colored people upon the lands along the coast of South Carolina, Georgia, and Florida, for a temporary purpose, what was the extent of the possessory right which he could confer? He did not undertake to give a title for any defined period, but simply the right of possession. It is fair to construe his order as meaning only what he could do, giving the right of possession during military occupancy. Now, sir, the President informs us that the rebellion is suppressed; that the war is over; that military law no longer governs in that country; but that peace is restored, and that civil law shall now govern. What, then, is the law upon the subject? A right of possession is given by the commanding general to certain persons within that region of country; peace follows, and with peace comes back the right of the real owners to the possession. This possession that the General undertook to give, according to law, could not last longer than the military occupancy. When peace comes, the right of the owners returns with it. Then how is it that Congress can undertake to say that the property that belongs to A, B, and C upon the islands and the sea-coast of the South shall, for two years from this date, not belong to them, but shall belong to certain colored people? I want to know upon what principle of law Congress can take the property of one man and give it to another.

I know very well what may be done in the courts by a proceeding for confiscation. I am not discussing that question. If there has been any property confiscated and disposed of under proceedings of confiscation, I do not question the title here. That is purely a judicial question. But, sir, I deny that Congress can legislate the property of one man into the possession of another. If this section is to pass, I prefer that this confirmation shall be for three years rather than leave it in the uncertain state in which General Sherman's order left it. I shall not further occupy the time of the Senate in regard to that section.

The sixth section, as amended, provides:

Sec. 6. And be it further enacted, That the commissioners shall, under the direction of the President, procure in the name of the United States, by grant or purchase, such lands within the districts aforesaid as may be required for refugees and freedmen dependent on the Government for support; and he shall provide, or cause to be erected, suitable buildings for asylums and schools. But no such purchase shall be made, nor contract for the same entered into, nor other expense incurred, until after appropriations shall have been provided by Congress for the general purposes of this act, out of which payments for said lands shall be made. And the Commissioner shall cause such lands, from time to time, to be valued, allotted, assigned, and sold in manner and form provided in the preceding section at a price not less than the cost thereof to the United States.

This is a most extraordinary provision. I understand the doctrine to be that the constitutional amendment has been adopted, that the slaves have been made free, and the Senator from Massachusetts [Mr. SUMNER] this morning

intimated that the act of emancipation makes them citizens. Then here are four million people made free, according to his doctrine made citizens of the United States, as free as any Senator upon this floor, as free to contract, as free in every respect, I may say, as any of us, so far as their former relations are concerned. If they have been made free and brought into the class of citizens, upon what principle do we authorize the officers of the Government to buy homes for them? Upon what principle can you authorize the Government of the United States to buy lands for the poor people in any State of the Union? They may be very meritorious; their cases may appeal with great force to our sympathies; it may almost appear necessary to prevent suffering that we should buy a home for each poor person in the country; but where is the power of the General Government to do this thing? Is it true that by this revolution the persons and property of the people have been brought within the jurisdiction of Congress and taken from without the control and jurisdiction of the States? I have understood heretofore that it has never been disputed that the duty to provide for the poor, the insane, the blind, and all who are dependent upon society, rests upon the States, and that the power does not belong to the General Government. What has occurred, then, in this war that has changed the relation of the people to the General Government to so great an extent that Congress may become the purchasers of homes for them? If we can go so far, I know of no limit to the powers of Congress. Here is a proposition to buy a home for each dependent freedman and refugee. The section is not quite as strong as it might have been. It would have been stronger, I think, in the present state of public sentiment, if the word "refugee" had been left out, and if it had been only for the freedmen, because it does not seem to be so popular now to buy a home for a white man as to buy one for a colored man. But this bill authorizes the officers of the Freedmen's Bureau to buy homes for white people and for black people only upon the ground that they are dependent. If this be the law now, there has come about a startling change in the relation of the States and of the people to the General Government. I shall be very happy to hear from the learned head of the Judiciary Committee upon what principle it is that in any one single case you may buy a home for any man, whether he be rich or poor. The General Government may buy land when it is necessary for the exercise of any of its powers; but outside of that, it seems to me, there is no power within the Constitution allowing it.

But, sir, suppose that the constitutional power be possessed, is it well to authorize, in general terms, the officers of the Freedmen's Bureau to buy a home for each dependent refugee and freedman? It is said that there is a limitation in this section that they shall not buy these homes until after a general appropriation for the bureau has been made. Under that language, the head of the bureau could take any money appropriated for the bureau and apply it to the purchase of homes for the dependent freedmen and refugees. But what sort of a limit is that in these times, when deficiency bills run up to hundreds of thousands and to millions of dollars, when there is now lying upon our table a deficiency reported of about six hundred thousand dollars for the public printing—expenses incurred without authority of law? If the Printing Bureau can come with a strong demand upon Congress to meet its contracts made in advance of appropriations, why may not the Freedmen's Bureau do the same thing? And if lands are purchased under the necessities of the occasion, as the bureau may think, then if the Commissioner reports to Congress that so much is necessary to make up deficiencies, I apprehend a bill appropriating the necessary sum would pass. There is really no limit, therefore, upon this section.

A little while ago I spoke of the expenses of this bureau upon the people. At that time I did not include the cost of these purchases.

What will that be? How many farms are to be bought? How many homesteads in the villages? I know they are not to be given to the freedmen and refugees at once. These dependent people are to be placed in possession at a rent, and the Government of the United States is to become a landlord to this large class of people. It is to become a freeholder and landlord, renting out lands upon fixed terms to a portion of the population. Who ever heard of this Government occupying that relation to any portion of the people? And yet that is the provision of this bill. That is very different from the provision that we should set apart three million acres of the public lands for the benefit of these people. I am willing to do that, as we give homesteads to the white men, and encourage the settlement of the lands, and encourage their development if we can. (I doubt the development somewhat.) I do not object to giving them homes upon the public lands; but when we come to appropriating money to buy lands that the Government may become the landlord and thousands of people the tenants under it, it seems to me to be a very startling proposition. What will it cost? Under the old system, the expenses of the bureau amounted to nearly \$12,000,000, and under this bill an army of officers is to be added to the system, and then comes this general proposition to buy homes, asylums, and schools for these people. In what instance, I will ask the chairman of the Committee on the Judiciary, has the Government of the United States gone into the States to buy lands and establish schools in a time of peace? During the war it was claimed that within the sphere of the operations of the Army almost anything could be done; but now, sir, we are in a state of peace; these States are within the Union; their civil governments have been restored. How is it that within these States we now propose to buy lands and erect school-houses? I know of no power conferred upon the General Government authorizing it.

The most remarkable sections of the bill, however, are the seventh and eighth, and to those sections I will ask the very careful attention of Senators; for I think if we can pass those two sections and make them a law, then indeed this Government can do anything. It will be useless to speak any longer of limitations upon the powers of the General Government; it will be idle to speak of the reserved power of the States; State rights and State power will have passed away if we can do what is proposed in the seventh and eighth sections of this bill. The seventh section is in these words:

SEC. 7. And be it further enacted, That whenever, in any State or district in which the ordinary course of judicial proceedings has been interrupted by the rebellion, and wherein, in consequence of any State or local law, ordinance, police, or other regulation, custom, or prejudice, any of the civil rights or immunities belonging to white persons, including the right to make and enforce contracts, to sue, be parties, and give evidence; to inherit, purchase, lease, sell, hold, and convey real and personal property, and to have full and equal benefit of all laws and proceedings for the security of person and estate, are refused or denied to negroes, mulattoes, freedmen, refugees, or any other persons, on account of race, color, or any previous condition of slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, or wherein they or any of them are subjected to any other or different punishment, pains, or penalties, for the commission of any act or offense than are prescribed for white persons committing like acts or offenses, it shall be the duty of the President of the United States, through the Commissioner, to extend military protection and jurisdiction over all cases affecting such persons so discriminated against.

The language is very comprehensive. We propose, first, to legislate against the effects of "local law, ordinance, police, or other regulation;" then against "custom," and lastly, against "prejudice," and to provide that if "any of the civil rights or immunities belonging to white persons" are denied to any person because of color, then that person shall be taken under the military protection of the Government. I do not know whether that will be understood to extend to Indiana or not. That will be a very nice point for the bureau to decide, I presume, after the enactment of the law. The section limits its operation to "any State or district in which the ordinary course of ju-

dicial proceedings has been interrupted by the rebellion." It will be a little difficult to say whether in the State of Indiana and Ohio the ordinary course of judicial proceeding has or has not been interrupted. We had some war in Indiana; we had a very great raid through that State, and some fighting; and I presume that in some cases the proceedings of the courts were interrupted and the courts were unable to go on with their business, so that it might be said that even in some of the northern States this provision of the bill would be applicable. Suppose that it were applicable to the State of Indiana, then every man in that State who attempted to execute the constitution and laws of the State would be liable for a violation of the law. We do not allow to colored people there many civil rights and immunities which are enjoyed by the white people. It became the policy of the State in 1852 to prohibit the immigration of colored people into that State. I am not going to discuss the question whether that was a wise policy or not. At the time it received the approval of my judgment. Under that constitutional provision, and the laws enacted in pursuance of it, a colored man coming into the State since 1852 cannot acquire a title to real estate, cannot make certain contracts, and no negro man is allowed to intermarry with a white woman. These are civil rights that are denied, and yet this bill proposes if they are still denied in any State whose courts have been interrupted by the rebellion, the military protection of the Government shall be extended over the person who is thus denied such civil rights or immunities.

I understand, from the remarks of the Senator who introduced this bill, when he gave notice of its introduction, that he places the power of Congress to enact this law under the amendment to the Constitution abolishing slavery. I will consider that argument very briefly. That constitutional amendment was in these words:

"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

"SEC. 2. Congress shall have power to enforce this article by appropriate legislation."

It is claimed that under this second section Congress may do anything necessary, in its judgment, not only to secure the freedom of the negro, but to secure to him all civil rights that are secured to white people. I deny that construction, and it will be a very dangerous construction to adopt. The first section abolishes slavery. The second section provides that Congress may enforce the abolition of slavery "by appropriate legislation." What is slavery? It is not a relation between the slave and the State; it is not a public relation; it is a relation between two persons whereby the conduct of the one is placed under the will of the other. It is purely and entirely a domestic relation, and is so classed by all law writers; the law regulates that relation as it regulates other domestic relations. This constitutional amendment broke asunder this private relation between the master and his slave, and the slave then, so far as the right of the master was concerned, became free; but did the slave, under that amendment, acquire any other right than to be free from the control of his master? The law of the State which authorized this relation is abrogated and annulled by this provision of the Federal Constitution, but no new rights are conferred upon the freedman.

Then, sir, to make a contract is a civil right which has ordinarily been regulated by the States. The form of that contract and the ceremonies that shall attend it are not to be regulated by Congress, but by the States. Suppose that it becomes the judgment of the State that a contract between a colored man and a white man shall be evidenced by other solemnities and instruments than are required between two white men, shall not the State be allowed to make such a provision? Is it a civil right to give evidence in courts? Is it a civil right to sit upon a jury? If it be a civil right to sit upon a jury, this bill will require that if any negro is refused the privilege of sitting upon a

jury, he shall be taken under the military protection of the Government. Is the right to marry according to a man's choice a civil right? Marriage is a civil contract, and to marry according to one's choice is a civil right. Suppose a State shall deny the right of amalgamation, the right of a negro man to intermarry with a white woman, then that negro may be taken under the military protection of the Government; and what does that mean? Under the seventh section, in such a case as that, when you have taken the negro under the military protection of the Government, perhaps sent a squad of men after him, what is then to be done when he is thus protected? What is meant by taking him under the protection of the Government? Does it mean that this military power shall enforce his civil right, without respect to the prohibition of the local law? In other words, if the law of Indiana, as it does, prohibits under heavy penalty the marriage of a negro with a white woman, may it be said a civil right is denied him which is enjoyed by all white men, to marry according to their choice, and if it is denied, the military protection of the colored gentleman is assumed, and what is the result of it all? I suppose they are then to be married in the camp of the protecting officer without regard to the State laws.

The next section of the bill provides punishments where any of these things are done, where any right is denied to a colored man which under State law is allowed to a white man. The language is very vague, and it is very difficult to say what this section will mean. If it has as broad a construction as is attempted to be given to the second section of the constitutional amendment, I would not undertake to guess what it means. The section is in these words:

SEC. 8. And be it further enacted, That any person who, under color of any State or local law, ordinance, police, or other regulation or custom, shall, in any State or district in which the ordinary course of judicial proceedings has been interrupted by the rebellion, subject, or cause to be subjected, any negro, mulatto, freedman, refugee, or other person, on account of race or color, or any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or for any other cause, to the deprivation of any civil right secured to white persons, or to any other or different punishment than white persons are subject to for the commission of like acts or offenses, shall be deemed guilty of a misdemeanor, and be punished by fine not exceeding \$1,000, or imprisonment not exceeding one year, or both; and it shall be the duty of the officers and agents of this bureau to take jurisdiction of, and hear and determine all offenses committed against, the provisions of this section, and also of all cases affecting negroes, mulattoes, freedmen, refugees, or other persons who are discriminated against in any of the particulars mentioned in the preceding section of this act, under such rules and regulations as the President of the United States, through the War Department, shall prescribe.

There, sir, is the court and the punishment. Any man who shall deny to any colored man any civil rights secured to white persons shall be liable to be taken before the officers of this bureau and to be punished according to the provisions of this section. In the first place, now that peace is restored, now that there is no war, now that men are no longer under military rule, but are under civil rule, I want to know how such a court can be organized; how it is that the citizen may be arrested without indictment and be brought before the officers of this bureau and tried without a jury, tried without the forms which the Constitution requires.

But, sir, this section is most objectionable in regard to the offense that it defines. If any portion of the law ought to be certain, it is that which defines crime and prescribes the punishment. What is meant by this general expression, "the deprivation of any civil right secured to white persons?" The agent in one State may construe it to mean one thing, and the agent in another State another thing. It is broad and comprehensive—"the deprivation of any civil right secured to white persons." That act of deprivation is the crime that is to be punished. Take the case that I have just referred to: suppose a minister when called upon should refuse to solemnize a marriage between a colored man and a white woman

because the law of the State forbade it, would he then, refusing to recognize a civil right which is enjoyed by white persons, be liable to this punishment?

Mr. DAVIS. And there is no appeal.

Mr. HENDRICKS. It is suggested that this bill contemplates no appeal. It is not a military court, because among military men the highest honor is observed; no sides are taken, but they stand upon the highest pledge of honor to do justice as between one military man and another. But here is a court, not military in its character, not examining into a military offense at all, but examining into a civil offense—the refusal to recognize a civil right; and that trial is had before this irresponsible officer, and no appeal is allowed. None of the proceedings are defined. What evidence shall be required to convict, what means of procuring witnesses, and how the sentence is to be executed—these are all left to the discretion of the Department. I ask Senators if they are willing to enact such a section into the criminal code of the country.

My judgment is that under the second section of the constitutional amendment we may pass such a law as will secure the freedom declared in the first section, but that we cannot go beyond that limitation. If a man has been, by this provision of the Constitution, made free from his master, and that master undertakes to make him a slave again, we may pass such laws as are sufficient in our judgment to prevent that act; but if the Legislature of the State denies to the citizen as he is now called, the freedman, equal privileges with the white man, I want to know if that Legislature, and each member of that Legislature, is responsible to the penalties prescribed in this bill? It is not an act of the old master; it is an act of the State government, which defines and regulates the civil rights of the people.

But, sir, I have occupied more time than I intended. My purpose this morning was simply to call the attention of the Senate to the remarkable provisions of this bill, and then if it is the pleasure of the Senate to enact it into a law, of course I shall submit. I regard it as very dangerous legislation. It proposes to establish a government within a government—not a republic within a republic, but a cruel despotism within a republic. In times of peace, in communities that are quiet and orderly and obedient to law, it is proposed to establish a government not responsible to the people, the officers of which are not selected by the people, the officers of which need not be of the people governed—a government more cruel, more despotic, more dangerous to the liberties of the people than that against which our forefathers fought in the Revolution. There is nothing that these men may not do, under this bill, to oppress the people.

Sir, if we establish courts in the southern States we ought to establish courts that will be on both sides or on neither side; but the doctrine now is that if a man is appointed, either to an executive or a judicial office, in any locality where there are colored people, he must be on the side of the negro. I have not heard since Congress met that any colored man has done a wrong in this country for very many years; and I have scarcely heard that any white man coming in contact with colored people has done right for a number of years. Everybody is expected to take sides for the colored man against the white man. If I have to take sides, it will be with the men of my own color and my own race; but I do not wish to do that. Toward these people I hope that the legislation of Congress, within the constitutional powers of Congress, will be just and fair—just to them and just to the white people among whom they live; that it will promote harmony among the people, and not discord; that it will restore labor to its channels, and bring about again in those States a condition of prosperity and happiness. Do we not all desire that? If we do, is it well for us to inflame our own passions and the passions of the people of the North so that their judgments shall not be equal upon

the questions between these races? It is all very well for us to have sympathy for the poor and the unfortunate, but both sides call for our sympathy in the South. The master, who, by his wickedness and folly, has involved himself in the troubles that now beset him, has returned, abandoning his rebellion, and has bent down upon his humbled knees and asked the forgiveness of the Government, and to be restored again as a citizen. Can a man go further than that? He has been in many cases pardoned by the Executive. He stands again as a citizen of the country.

What relation do we desire that the people of the North shall sustain toward these people of the South? One of harmony and accord, or of strife and ill will? Do we want to restore commerce and trade with them, that we shall prosper thereby as well as they, or do we wish permanent strife and division? I want this to be a Union in form, under the Constitution of the United States, and in fact, by the harmony of the people of the North and of the South. I believe, as General Grant says, that this bureau, especially with the enlarged powers that we propose to confer upon it, will not be an instrument of concord and harmony, but will be one of discord and strife in that section of the country. It cannot do good, but, in my judgment, will do much harm.

Mr. TRUMBULL. Mr. President, I feel it incumbent on me to reply to some of the arguments presented by the Senator from Indiana against this bill. Many of the positions he has assumed will be found, upon examination, to have no foundation in fact. He has argued against provisions not contained in the bill, and he has argued also as if he were entirely forgetful of the condition of the country and of the great war through which we have passed.

Now, sir, what was the object of the Freedmen's Bureau, and why was it established? It was established to look after a large class of people who, as the results of the war, had been thrown upon the hands of the Government, and must have perished but for its fostering care and protection. Does the Senator mean to deny the power of this Government to protect people under such circumstances? The Senator must often have voted for appropriations to protect other classes of people under like circumstances. Whenever, in the history of the Government, there has been thrown upon it a helpless population which must starve and die but for its care, the Government has never failed to provide for them. At this very session, within the last thirty days, both Houses of Congress have voted half a million dollars to feed and clothe the people during the present winter. Who were they? Many of them were Indians who had joined the rebellion and had slain loyal people of the country. Yes, sir, we appropriated money to feed Indians who had been fighting against us. We did not hear the Senator's voice in opposition to that appropriation. What were the facts? It was stated by our Indian agents that the Indian tribes west of Arkansas, a part of whom had joined the rebel armies and some the Union armies, had been driven from their country; that their property had been destroyed; and now, the conflict of arms having ceased, they had nothing to live upon during the winter; that they would encroach upon the white settlements; that unless provision was made for them they would rob, plunder, and murder the inhabitants nearest them; and Congress was called upon to appropriate money to buy them food and clothing, and we did it. We did it for rebels and traitors. Were we not bound to do it?

Now, sir, we have thrown upon us four million people who have toiled all their lives for others; who, unlike the Indians, had no property at the beginning of the rebellion; who were never permitted to own anything, never permitted to eat the bread their own hands had earned; many of whom are without any means of support, in the midst of a prejudiced and hostile population who have been struggling to overthrow the Government. These four million people, made free by the acts of war and the

constitutional amendment, have been, wherever they could, loyal and true to the Union; and the Senator seriously asks, what authority have we to appropriate money to take care of them? What would he do with them? Would he allow them to starve and die? Would he turn them over to the mercy of the men who, through their whole lives, have had their earnings, to be enslaved again? It is not the first time that money has been appropriated to take care of the destitute and suffering African. For years it has been the law that whenever persons of African descent were brought to our shores with the intention of reducing them to slavery, the Government should, if possible, rescue and restore them to their native land; and we have appropriated hundreds of thousands of dollars for this object. Can anybody deny the right to do it? Sir, humanity as well as the constitutional obligation to suppress the slave trade required it. So now the people relieved by our act from the control of masters who supplied their wants that they might have their services, have a right to rely upon us for assistance till they can have time to provide for themselves.

This Freedmen's Bureau is not intended as a permanent institution. It is only designed to aid these helpless, ignorant, and unprotected people until they can provide for and take care of themselves. The authority to do this, so far as legislative sanction can give it, is to be found in the action of a previous Congress which established the bureau; but if it were a new question, the authority for establishing such a bureau, in my judgment, is given by the Constitution itself; and as the Senator's whole argument goes upon the idea of peace, and that all the consequences of the war have ceased, I shall be pardoned, I trust, if I refer to those provisions of the Constitution which, in my judgment, authorize the exercise of this military jurisdiction—for this bureau is a part of the military establishment not simply during the conflict of arms, but until peace shall be firmly established and the civil tribunals of the country shall be restored with an assurance that they may peacefully enforce the laws without opposition.

The Constitution of the United States declares that Congress shall have authority "to declare war and make rules concerning captures on land and water," "to raise and support armies," "to provide and maintain a navy," "to make rules for the government and regulation of the land and naval forces," "to provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasion," and "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers." It also declares that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States," and that "the United States shall guaranty to every State in the Union a republican form of government." Under the exercise of these powers the Government has gone through a four years' conflict. It has succeeded in putting down armed resistance to its authority. But did the military power which was exercised to put down this armed resistance cease the moment the rebel armies were dispersed? Has the Government no authority to bring to punishment the authors of this rebellion after the conflict of arms has ceased; no authority to hold as prisoners, if necessary, all who have been captured with arms in their hands? Can it be that the moment the rebel armies are dispersed the military authority ceases, and they are to be turned loose to arm and organize again for another conflict against the Union? Why, sir, it would not be more preposterous on the part of the traveler, after having, at the peril of his life, succeeded in disarming a highwayman by whom he was assailed, to immediately turn round and restore to the robber his weapons with which to make a new assault.

And yet this is what some gentlemen would have this nation do with the worse than robbers who have assailed its life. They propose, the rebel armies being overcome, that the rebels themselves shall be instantly clothed with all the authority they possessed before the con-

flict, and that the inhabitants of States who for more than four years have carried on an organized war against the Government shall at once be invested with all the powers they had at its commencement, to organize and begin it anew. Nay, more, they insist that without any action of the Government it is the right of the inhabitants of the rebellious States on laying down their arms to resume their former positions in the Union with all the rights they possessed when they began the war. If such are the consequences of this struggle, it is the first conflict in the history of the world, between either individuals or nations, from which such results have followed. What man, after being despoiled of much of his substance, his children slain, his own life periled, and his body bleeding from many wounds, ever restored the authors of such calamities, when within his power, to the rights they possessed before the conflict without taking some security for the future?

Sir, the war powers of the Government do not cease with the dispersion of the rebel armies. They are to be continued and exercised until the civil authority of the Government can be established firmly and upon a sure foundation not again to be disturbed or interfered with. And such, sir, is the understanding of the Government. None of the departments of the Government understand that its military authority has ceased to operate over the rebellious States. It is but a short time since the President of the United States issued a proclamation restoring the privilege of the writ of *habeas corpus* in the loyal States, but did he restore it in the rebellious States? Certainly not. What authority has he to suspend the privilege of that writ anywhere except in pursuance of the constitutional provision allowing the writ to be suspended "when in cases of rebellion or invasion the public safety may require it?" Then the President understands that the public safety in the insurrectionary States still requires its suspension.

The Attorney General, when asked a few days ago why Jefferson Davis was not put upon trial, told you that, "though active hostilities have ceased, a state of war still exists over the territory in rebellion," so that it could not be properly done. General Grant, in an order issued within a few days—which I commend to the especial consideration of the Senator from Indiana, for it contains many of the provisions of the bill under consideration; an order issued with the approbation of the Executive, for such an order I apprehend could not have been issued without his approbation—declares:

[General Orders, No. 3.]

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, January 12, 1866.

To protect persons against improper civil suits and penalties in late rebellious States.

Military division and department commanders, whose commands embrace or are composed of any of the late rebellious States, and who have not already done so, will at once issue and enforce orders protecting from prosecution or suit in the State, or municipal courts of such State, all officers and soldiers of the armies of the United States, and all persons thereto attached, or in anywise thereto belonging, subject to military authority, charged with offenses for acts done in their military capacity, or pursuant to orders from proper military authority; and to protect from suit or prosecution all loyal citizens, or persons, charged with offenses done against the rebel forces, directly or indirectly, during the existence of the rebellion; and all persons, their agents and employes, charged with the occupancy of abandoned lands or plantations, or the possession or custody of any kind of property whatever, who occupied, used, possessed, or controlled the same, pursuant to the order of the President, or any of the civil or military departments of the Government, and to protect them from any penalties or damages that may have been or may be pronounced or adjudged in said courts in any of such cases; and also protecting colored persons from prosecutions in any of said States charged with offenses for which white persons are not prosecuted or punished in the same manner and degree.

By command of Lieutenant General Grant:
E. D. TOWNSEND,
Assistant Adjutant General.

Mr. SAULSBURY. As I propose to make some remarks in reply to the honorable Senator from Illinois, the chairman of the Committee on the Judiciary, I wish to ask him one question, and it is this: whether he believes that General Grant, or the President of the United

States, had any constitutional authority to make such an order as that? I should like to have an answer to this question.

Mr. TRUMBULL. I am very glad the Senator from Delaware has asked the question. I answer, he had most ample and complete authority. I indorse the order and every word of it. It would be monstrous if the officers and soldiers of the Army and loyal citizens were to be subjected to suits and prosecutions for acts done in saving the Republic, and that, too, at the hands of the very men who sought its destruction. Why, had not the Lieutenant General authority to issue the order? Have not the civil tribunals in all the region of country to which the order applies been expelled by armed rebels and traitors? Has not the power of the Government been overthrown there? Is it yet reestablished? Some steps have been taken toward reestablishing it under the authority of the military, and in no other way. If any of the State governments recently set up in the rebellious States were to undertake to embarrass military operations, I have no doubt they would at once be set aside by order of the Lieutenant General, in pursuance of directions from the Executive. These governments which have been set up act by permission of the military. They are made use of to some extent to preserve peace and order and enforce civil rights between parties; and so far as they act in harmony with the Constitution and laws of the United States and the orders of the military commanders, they are permitted to exercise authority; but until those States shall be restored in all their constitutional relations to the Union they ought not to be permitted to exercise authority in any other way.

I desire the Senator from Indiana to understand that it is under this war power that the authority of the Freedmen's Bureau is to be exercised. I do not claim that its officers can try persons for offenses without juries in States where the civil tribunals have not been interrupted by the rebellion. The Senator from Indiana argues against this bill as if it was applicable to that State. Some of its provisions are, but most of them are not, unless the State of Indiana has been in rebellion against the Government; and I know too many of the brave men who have gone from that State to maintain the integrity of the Union and put down the rebellion to cast any such imputation upon her. She is a loyal and a patriotic State; her civil government has never been usurped or overthrown by traitors; and the provisions of the seventh and eighth sections of the bill to which the Senator alludes cannot, by their very terms, have any application to the State of Indiana. Let me read the concluding sentence of the eighth section:

The jurisdiction conferred by this section on the officers and agents of this bureau to cease and determine whenever the discrimination on account of which it is conferred ceases, and in no event to be exercised in any State in which the ordinary course of judicial proceedings has not been interrupted by the rebellion, nor in any such State after said State shall have been fully restored in all its constitutional relations to the United States, and the courts of the State and of the United States within the same are not disturbed or stopped in the peaceable course of justice.

Will the Senator from Indiana admit for a moment that the courts in his State are now disturbed or stopped in the peaceable course of justice? If they were ever so disturbed, they are not now. Will the Senator admit that the State of Indiana does not have and exercise all its constitutional rights as one of the States of this Union? The judicial authority conferred by this bill applies to no State, not even to South Carolina, after it shall have been restored in all its constitutional rights.

Mr. HENDRICKS. I ask the Senator whether the language which he is now citing from the eighth section is found in the seventh section of the bill?

Mr. TRUMBULL. It is not.

Mr. HENDRICKS. It is not. The argument which the Senator is now answering is an argument which was made to the seventh section of the bill, and the only limitation upon the operation of the seventh section in any State is that

it shall have been a State in which the courts were interrupted by the rebellion; and I stated that whether the courts of Indiana had been at any time interrupted would be a question that might, perhaps, be decided differently by different persons; that there had been an invasion of the State known as the John Morgan raid; whether that amounted to an interruption of the courts I could not tell. Now, if the Senator will answer my argument, as applicable to the seventh section, he will do justice to myself and to the subject. I did not say that the eighth section applied to Indiana.

Mr. TRUMBULL. I shall be very happy to answer it, and the Senator from Indiana will see how plain a statement shall answer it all. The seventh section does not provide for a court at all; the only provision in the bill providing for a freedman's court is in the eighth section, and the eighth section says that court shall have no jurisdiction in any State that maintains its constitutional relations to the Government. Now, if the Senator from Indiana, out of this, can make it out that a Freedmen's Bureau court is to have jurisdiction in Indiana under the seventh section, he will do what I cannot understand.

Mr. HENDRICKS. The Senator will allow me to say that I will make out just what I made out in the first place. The seventh section provides that in any State where the proceedings of the courts have been interrupted, and any of the rights which are enjoyed by white people are denied to colored people, the protection of the military power shall be extended over the persons thus deprived of their civil rights. That is what I said would occur in the State of Indiana if the officers of the bureau should hold that the courts in that State had ever been interrupted; and the limitation in the eighth section, that as soon as the courts again are in full operation the section shall cease to operate in that State, is not applicable to the seventh section, but the seventh section continues in force as long as the State denies the civil rights and extends military protection. I asked the Senator to say just what that was when I was up.

Mr. TRUMBULL. Before I get through I shall endeavor to state to the Senator from Indiana what I understand by "military protection," which seems to have disturbed him; but at the present time I was undertaking to show that there was no provision in the bill for the exercise of judicial authority except in the eighth section. Rights are declared in the seventh, but the mode of protecting them is provided in the eighth section, and the eighth section then declares explicitly that the jurisdiction that is conferred shall be exercised only in States which do not possess full constitutional rights as parts of the Union. Indiana has at all times had all the constitutional rights pertaining to any State, has them now, and therefore the officers and agents of this bureau can take no jurisdiction of any case in the State of Indiana. It will be another question, which I will answer, and may as well answer now, perhaps, as to what is meant by "military protection."

The second section declares that "the President of the United States, through the War Department, and the Commissioner, shall extend military jurisdiction and protection over all employes, agents, and officers of this bureau." He wants to know the effect of that in Indiana. This bureau is a part of the military establishment. The effect of that in Indiana is precisely the same as in every other State, and under it the officers and agents of the Freedmen's Bureau will occupy the same position as do the officers and soldiers of the United States Army. What is that? While they are subject to the Rules and Articles of War, if they chance to be in Indiana and violate her laws they are held amenable the same as any other person. The officer or soldier in the State of Indiana who commits a murder or other offense upon a citizen of Indiana is liable to be indicted, tried, and punished, just as if he were a civilian. When the sheriff goes with the process to arrest the soldier or officer who has committed the offense, the military author-

ities surrender him up to be tried and punished according to the laws of the State. It has always been done, unless in time of war when the courts were interrupted. The jurisdiction and "protection" that is extended over these officers and agents is for the purpose of making them subject to the Rules and Articles of War. It is necessary for this reason: in the rebellious States civil authority is not yet fully restored. There would be no other way of punishing them, of holding them to accountability, of governing and controlling them, in many portions of the country; and it is because of the condition of the rebellious States, and their still being under military authority, that it is necessary to put these officers and agents of the Freedmen's Bureau under the control of the military power.

The Senator says the original law only embraced within its provisions the refugees in the rebellious States; and now this bill is extended to all of the States, and he wants to know the reason. I will tell him. When the original bill was passed, slavery existed in Tennessee, Kentucky, Delaware, and in various other States. Since that time, by the constitutional amendment, it has been everywhere abolished.

Mr. SAULSBURY. Will my friend allow me to say one word?

Mr. TRUMBULL. Yes, sir.

Mr. SAULSBURY. I say, as one of the representatives of Delaware on this floor, that she had the proud and noble character of being the first to enter the Federal Union under a Constitution formed by equals. She has been the very last to obey a mandate, legislative or executive, for abolishing slavery. She has been the last slaveholding State, thank God, in America, and I am one of the last slaveholders in America.

Mr. TRUMBULL. Well, Mr. President, I do not see particularly what the declaration of the Senator from Delaware has to do with the question I am discussing. His State may have been the last to become free, but I presume that the State of Delaware, old as she is, being the first to adopt the Constitution, and noble as she is, will submit to the Constitution of the United States, which declares that there shall be no slavery within its jurisdiction. [Applause in the galleries.]

The PRESIDING OFFICER. Order! Order!

Mr. SAULSBURY. She will.

Mr. TRUMBULL. It is necessary, Mr. President, to extend the Freedmen's Bureau beyond the rebel States in order to take in the State of Delaware, [laughter.] the loyal State of Delaware, I am happy to say, which did not engage in this wicked rebellion; and it is necessary to protect the freedmen in that State as well as elsewhere; and that is the reason for extending the Freedmen's Bureau beyond the limits of the rebellious States.

Now, the Senator from Indiana says it extends all over the United States. Well, by its terms it does, though practically it can have little if any operation outside of the late slaveholding States. If freedmen should congregate in large numbers at Cairo, Illinois, or at Evansville, Indiana, and become a charge upon the people of those States, the Freedmen's Bureau would have a right to extend its jurisdiction over them, provide for their wants, secure for them employment, and place them in situations where they could provide for themselves; and would the State of Illinois or the State of Indiana object to that? The provisions of the bill which would interfere with the laws of Indiana can have no operation there.

Again, the Senator objects very much to the expense of this bureau. Why, sir, as I have once or twice before said, it is a part of the military establishment. I believe nearly all its officers at the present time are military officers, and by the provisions of the pending bill they are to receive no additional compensation when performing duties in the Freedmen's Bureau. The bill declares that the "bureau may, in the discretion of the President, be placed under a Commissioner and assistant commissioners, to

be detailed from the Army, in which event each officer so assigned to duty shall serve without increase of pay or allowances."

The head of this bureau, General Howard, is an officer of the Army. He receives no additional pay or allowances in consequence of performing the duties of Commissioner of the Freedmen's Bureau. I see by a report which I have here that the assistant commissioners also are all, or nearly all of them, officers of the Army. The assistant commissioner for South Carolina is Brevet Major General Rufus Saxton, an officer in the regular Army; for Alabama, Brevet Major General Wager Swayne; for Louisiana, Brevet Major General A. Baird; for Georgia, Brigadier General Davis Tillson; for Kentucky and Tennessee, Brigadier General C. B. Fiske; for Missouri and Arkansas, Brigadier General J. W. Sprague; for Texas, Brigadier General E. M. Gregory; for Virginia, Colonel Orlando Brown; for North Carolina, Colonel E. Whittlesey; for Mississippi, Colonel Samuel Thomas; for Florida, Colonel T. W. Osborne, and for the District of Columbia, Brevet Brigadier General John Eaton, jr.; so that this item of expense, which so alarms the Senator from Indiana, it will be seen, has very little in it. It was the opinion of General Grant that it would, perhaps, be better to detail officers from the Army entirely. I think he rather intimates that opinion in his report; but, upon consultation, it was thought better to leave the discretion to employ civilians in some instances. It was stated that, in some of the southern States, there was manifested a disposition on the part of the people themselves to take care of and provide for the colored people. It was represented that the civil officers in some of the late slaveholding States had been associated with the officers of the bureau, and had aided materially in carrying out the provisions of the law; and it was thought better, therefore, to retain this provision allowing the President of the United States, in his discretion, to appoint civilians if he thought proper. It is a discretion that has been very sparingly exercised heretofore, and never will be exercised, I undertake to say, whenever proper officers of the Army can be found for the performance of the duties.

I shall necessarily, Mr. President, in following the Senator from Indiana, speak somewhat in a desultory manner; but I prefer to do so because I would rather meet the objections made directly then by any general speech. I will therefore take up his next objection, which is to the fifth section of the bill. That section proposes to confirm for three years the possessory titles granted by General Sherman. The Senator from Indiana admits that General Sherman had authority when at the head of the army at Savannah, and these people were flocking around him and dependent upon him for support, to put them upon the abandoned lands; but he says that authority to put them there and maintain them there ceased with peace. Well, sir, a sufficient answer to that would be that peace has not yet come; the effects of war are not yet ended; the people of the States of South Carolina, Georgia, and Florida, where these lands are situated, are yet subject to military control. But I deny that if peace had come the authority of the Government to protect these people in their possessions would cease the moment it was declared. What are the facts? The owners of these plantations had abandoned them and entered the rebel army. They were contending against the army which General Sherman then commanded. Numerous colored people had flocked around General Sherman's army. It was necessary that he should supply them to save them from starvation. His commissariat was short. Here was this abandoned country owned by men arrayed in arms against the Government. He, it is admitted, had authority to put these followers of his army upon these lands and authorize them to go to work and gain a subsistence if they could. They went on the lands to the number of forty or fifty thousand, commenced work; have made improvements; and now, will the Senator from Indiana tell me that

upon any principle of justice, humanity, or law, if peace had come when these laborers had a crop half gathered, the Government of the United States, having rightfully placed them in possession, and pledged its faith to protect them there for an uncertain period, could immediately have turned them off and put in possession those traitor owners who had abandoned their homes to fight against the Government?

Mr. HENDRICKS. With the permission of the Senator, I will answer the question that is propounded by him. It is, whether as an act of justice, if your army was withdrawn and the possessory right ceased in the midst of a growing crop, they could be immediately turned off. I presume the Senator will agree with me that the common-law principle applicable to such a case would apply to that particular case, and that is, that where an estate is uncertain in its duration, and it ceases to exist while a crop is growing, it shall continue until that crop is gathered. For instance, a life estate is uncertain in its duration; a crop is growing, and because of the death of the party upon whose life the estate is dependent the estate ceases; yet it shall continue until the growing crop is gathered. I presume that principle of law would apply to an uncertain possessory right, such as General Sherman undertook to confer.

Mr. TRUMBULL. I presume so, too; the Senator from Indiana and myself agree precisely, and he has admitted now all I desire him to admit. Then the Government having placed these people rightfully upon these lands, and they having expended their labor upon them, they had a right to be protected in their possessions for some length of time after peace on the principle of equity. That is all we propose to do by this bill. The committee thought it would not be more than a reasonable protection to allow them to remain for three years, they having been put upon these lands destitute, without any implements of husbandry, without cattle, horses, or anything else with which to cultivate the land, and having up to the present time been able to raise very little at the expense of great labor. Perhaps the Senator thinks they ought not to remain so long. I will not dispute whether they shall go off at the end of one year or two years. The committee propose two years more. The order was dated in January, 1865, and we propose three years from that time, which will expire in January, 1868, or about two years from this time.

On account of that provision of the bill the Senator asks me the question whether the Government of the United States has the right in a time of peace to take property from one man and give it to another. I say no. Of course the Government of the United States has no authority in a time of peace, by a legislative act, to say that the farm of the Senator from Indiana shall be given to the Senator from Ohio; I contend for no such principle. But following that up, the Senator wants to know by what authority you buy land or provide school-houses for these refugees. Have we not been providing school-houses for years? Is there a session of Congress when acts are not passed giving away public lands for the benefit of schools? But that does not come out of the Treasury, the Senator from Indiana will probably answer. But how did you get the land to give away? Did you not buy it of the Indians? Are you not appropriating every session of Congress money by the million to extinguish the Indian title, money collected off his constituents and mine by taxation? We buy the land and then we give the land away for schools. Will the Senator tell me how that differs from giving the money? Does it make any difference whether we buy the land from the Indians and give it for the benefit of schools, or whether we buy it from some rebel and give—no, sir, use—it for the benefit of schools, with a view ultimately of selling it for at least its cost? I believe I would rather buy from the Indian; but still if the traitor is to be permitted to have a title, we will buy it from him if we can purchase cheaper.

Sir, it is a matter of economy to do this. The

cheapest way by which you can save this race from starvation and destruction is to educate them. They will then soon become self-sustaining. The report of the Freedmen's Bureau shows that to-day more than seventy thousand black children are being taught in the schools which have been established in the South. We shall not long have to support any of these blacks out of the public Treasury if we educate and furnish them land upon which they can make a living for themselves. This is a very different thing from taking the land of A and giving it to B by an act of Congress.

But the Senator is most alarmed at those sections of this bill which confer judicial authority upon the officers and agents of the Freedmen's Bureau. He says if this authority can be exercised there is an end to all the reserved rights of the States, and this Government may do anything. Not at all, sir. The authority, as I have already shown, to be exercised under the seventh and eighth sections is a military authority, to be exerted only in regions of country where the civil tribunals are overthrown, and not there after they are restored. It is the same authority that we have been exercising all the time in the rebellious States; it is the same authority by virtue of which General Grant issued the order which I have just read. Here is a perfect and complete answer to the objection that is made to the seventh and eighth sections.

But the Senator says that these sections, he supposes, derive their authority, in my opinion, from the amendment to the Constitution of the United States. Sir, I think that amendment does confer authority to enact these provisions into law and execute them, not through the military tribunals, but through the judicial tribunals in any State of the Union. What was the object of the constitutional amendment abolishing slavery? It was not, as the Senator says, simply to take away the power of the master over the slave. Did we not mean something more than that? Did we not mean that hereafter slavery should not exist, no matter whether the servitude was claimed as due to an individual or the State? The constitutional amendment abolishes just as absolutely all provisions of State or local law which make a man a slave as it takes away the power of his former master to control him.

If the construction put by the Senator from Indiana upon the amendment be the true one, and we have merely taken from the master the power to control the slave and left him at the mercy of the State to be deprived of his civil rights, the trumpet of freedom that we have been blowing throughout the land has given an "uncertain sound," and the promised freedom is a delusion. Such was not the intention of Congress, which proposed the constitutional amendment, nor is such the fair meaning of the amendment itself. With the destruction of slavery necessarily follows the destruction of the incidents to slavery. When slavery was abolished, slave codes in its support were abolished also.

Those laws that prevented the colored man going from home, that did not allow him to buy or to sell, or to make contracts; that did not allow him to own property; that did not allow him to enforce rights; that did not allow him to be educated, were all badges of servitude made in the interest of slavery and as a part of slavery. They never would have been thought of or enacted anywhere but for slavery, and when slavery falls they fall also. The policy of the States where slavery has existed has been to legislate in its interest; and out of deference to slavery, which was tolerated by the Constitution of the United States, even some of the non-slaveholding States passed laws abridging the rights of the colored man which were restraints upon liberty. When slavery goes, all this system of legislation, devised in the interest of slavery and for the purpose of degrading the colored race, of keeping the negro in ignorance, of blotting out from his very soul the light of reason, if that were possible, that he might not think, but know only, like the ox, to labor, goes with it.

Now, when slavery no longer exists, the policy of the Government is to legislate in the interest of freedom. Now, our laws are to be enacted with a view to educate, improve, enlighten, and Christianize the negro; to make him an independent man; to teach him to think and to reason; to improve that principle which the great Author of all has implanted in every human breast, which is susceptible of the highest cultivation, and destined to go on enlarging and expanding through the endless ages of eternity.

I have no doubt that under this provision of the Constitution we may destroy all these discriminations in civil rights against the black man; and if we cannot, our constitutional amendment amounts to nothing. It was for that purpose that the second clause of that amendment was adopted, which says that Congress shall have authority, by appropriate legislation, to carry into effect the article prohibiting slavery. Who is to decide what that appropriate legislation is to be? The Congress of the United States; and it is for Congress to adopt such appropriate legislation as it may think proper, so that it be a means to accomplish the end. If we believe a Freedmen's Bureau necessary, if we believe an act punishing any man who deprives a colored person of any civil rights on account of his color necessary—if that is one means to secure his freedom, we have the constitutional right to adopt it. If in order to prevent slavery Congress deem it necessary to declare null and void all laws which will not permit the colored man to contract, which will not permit him to testify, which will not permit him to buy and sell, and to go where he pleases, it has the power to do so, and not only the power, but it becomes its duty to do so. That is what is provided to be done by this bill. Its provisions are temporary; but there is another bill on your table, somewhat akin to this, which is intended to be permanent, to extend to all parts of the country, and to protect persons of all races in equal civil rights.

But, says the Senator from Indiana, we have laws in Indiana prohibiting black people from marrying whites, and are you going to disregard these laws? Are our laws enacted for the purpose of preventing amalgamation to be disregarded, and is a man to be punished because he undertakes to enforce them? I beg the Senator from Indiana to read the bill. One of its objects is to secure the same civil rights and subject to the same punishments persons of all races and colors. How does this interfere with the law of Indiana preventing marriages between whites and blacks? Are not both races treated alike by the law of Indiana? Does not the law make it just as much a crime for a white man to marry a black woman as for a black woman to marry a white man, and *vice versa*? I presume there is no discrimination in this respect, and therefore your law forbidding marriages between whites and blacks operates alike on both races. This bill does not interfere with it. If the negro is denied the right to marry a white person, the white person is equally denied the right to marry the negro. I see no discrimination against either in this respect that does not apply to both. Make the penalty the same on all classes of people for the same offense, and then no one can complain.

My object in bringing forward these bills was to bring to the attention of Congress something that was practical, something upon which I hoped we all could agree. I have said nothing in these bills which are pending, and which have been recommended by the Committee on the Judiciary—and I speak of both of them because they have both been alluded to in this discussion—about the political rights of the negro. On that subject it is known that there are differences of opinion, but I trust there are no differences of opinion among the friends of the constitutional amendment, among those who are for real freedom to the black man, as to his being entitled to equality in civil rights. If that is not going as far as some gentlemen would desire, I say to them it is a step in the right direction. Let us go that far, and, going that far, we have the cooperation of the executive de-

partment, for the President has told us in his annual message:

"Certainly the Government of the United States is a limited Government; and so is every State government, a limited government. With us this idea of limitation spreads through every form of administration, General, State, and municipal, and rests on the great distinguishing principle of the recognition of the rights of man. The ancient republics absorbed the individual in the State, prescribed his religion, and controlled his activity. The American system rests on the assertion of the equal right of every man to life, liberty, and the pursuit of happiness, to freedom of conscience, to the culture and exercise of all his faculties. As a consequence, the State government is limited, as to the General Government in the interest of union, as to the individual citizen in the interest of freedom."

The President further says:

"Good faith requires the security of the freedmen in their liberty and their property, their right to labor, and their right to claim the just return of their labor. I cannot too strongly urge a dispassionate treatment of this subject, which should be carefully kept aloof from all party strife."

"The public interest will be best promoted, if the several States will provide adequate protection and remedies for the freedmen."

"Monopolies, perpetuities, and class legislation are contrary to the genius of free government, and ought not to be allowed. Here there is no room for favored classes or monopolies; the principle of our Government is that of equal laws and freedom of industry. Wherever monopoly attains a foothold, it is sure to be a source of danger, discord, and trouble. We shall but fulfill our duties as legislators by according 'equal and exact justice to all men,' special privileges to none."

Such, sir, is the language of the President of the United States in his annual message, and who in this Chamber that is in favor of the freedom of the slave is not in favor of giving him equal and exact justice before the law? Sir, we can go along hand in hand together to the consummation of this great object of securing to every human being within the jurisdiction of the Republic equal rights before the law, and I preferred to seek for points of agreement between all the departments of Government, rather than to hunt for points of divergence. I have not said anything in my remarks about reconstruction. I have not attempted to discuss the question whether these States are in the Union or out of the Union, and so much has been said upon that subject that I am almost ready to exclaim, with one of old, "I know not whether they are in the body or out of the body; God knoweth." It is enough for me to know that the State organizations in several States of the Union have been usurped and overthrown, and that up to the present time no State organization has been inaugurated in either of them which the various departments of Government or any department of the Government has recognized as placing the States in full possession of all the constitutional rights pertaining to States in full communion with the Union.

The Executive has not recognized any one, for he still continues to exercise military jurisdiction and to suspend the privilege of the writ of *habeas corpus* in all of them. Congress has not recognized any of them, as we all know; and until Congress and the Executive do recognize them, let us make use of the Freedmen's Bureau, already established, to protect the colored race in their rights; and when these States shall be admitted, and the authority of the Freedmen's Bureau as a court shall cease and determine, as it must when civil authority is fully restored, let us provide, then, by other laws for protecting all people in their equal civil rights before the law. If we can pass such measures, they receive executive sanction, and it shall be understood that it is the policy of the Government that the rights of the colored men are to be protected by the States if they will, but by the Federal Government if they will not; that at all hazards and under all circumstances there shall be impartiality among all classes in civil rights throughout the land—if we can do this, much of the apprehension and anxiety now existing in the loyal States will be allayed, and a great obstacle to an early restoration of the insurgent States to their constitutional relations in the Union will be removed.

If the people in the rebellious States can be made to understand that it is the fixed and determined policy of the Government that the colored people shall be protected in their civil

rights, they themselves will adopt the necessary measures to protect them; and that will dispense with the Freedmen's Bureau and all other Federal legislation for their protection. The design of these bills is not, as the Senator from Indiana would have us believe, to consolidate all power in the Federal Government, or to interfere with the domestic regulations of any of the States, except so far as to carry out a constitutional provision which is the supreme law of the land. If the States will not do it, then it is incumbent on Congress to do it. But if the States will do it, then the Freedmen's Bureau will be removed, and the authority proposed to be given by the other bill will have no operation.

Sir, I trust there may be no occasion long to exercise the authority conferred by this bill.

I hope that the people of the rebellious States themselves will conform to the existing condition of things. I do not expect them to change all their opinions and prejudices. I do not expect them to rejoice that they have been discomfited. But they acknowledge that the war is over; they agree that they can no longer contend in arms against the Government; they say they are willing to submit to its authority; they say in their State conventions that slavery shall no more exist among them. With the abolition of slavery should go all the badges of servitude which have been enacted for its maintenance and support. Let them all be abolished. Let the people of the rebellious States now be as zealous and as active in the passage of laws and the inauguration of measures to elevate, develop, and improve the negro, as they have hitherto been to enslave and degrade him. Let them do justice and deal fairly with loyal Union men in their midst, and henceforth be themselves loyal, and this Congress will not have adjourned till the States whose inhabitants have been engaged in the rebellion will be restored to their former position in the Union, and we shall all be moving on in harmony together.

Mr. RAMSEY. I move that when the Senate adjourns to day, it adjourn to meet on Monday next.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The motion can only be received at this time by unanimous consent.

Mr. TRUMBULL. It seems to me that as we have this bill under consideration we had better continue with it.

Several SENATORS. Oh, no; let us adjourn over.

Mr. TRUMBULL. I submit it to the Senate whether we had not better go on and sit tomorrow for the purpose of continuing its consideration.

Mr. CLARK. I object to the consideration of the motion at the present time.

The PRESIDING OFFICER. The motion cannot be received. The question is on the amendment of the Senator from Illinois to the bill before the Senate.

Mr. SUMNER. Let the amendment be read. The Secretary read the amendment, which was to strike out the fifth section of the bill, in the following words:

SEC. 5. *And be it further enacted*, That the possessory titles granted in pursuance of Major General Sherman's special field order, dated at Savannah, January 16, 1865, are hereby confirmed and made valid.

And to insert in lieu thereof:

And be it further enacted, That the occupants of land under Major General Sherman's special field order, dated at Savannah, January 16, 1865, are hereby confirmed in their possessions for the period of three years from the date of said order; and no person shall be disturbed in, or ousted from, said possession during said three years unless a settlement shall be made with said occupant by the owner, satisfactory to the Commissioner of the Freedmen's Bureau.

The amendment was agreed to.

Mr. FESSENDEN. I wish to ask a question of my friend from Illinois in regard to one clause of the bill. I refer to the provision authorizing the purchase of lands for a particular purpose. My difficulty is a constitutional one, and the objection from which it arises struck me with some force when it was stated by the Senator from Indiana. The bill, as I understand it, authorizes the purchase of land

for the purpose of leasing it to colored persons as homesteads. I desire to know whence the authority is derived to do that. My friend will allow me to say that it is not like an appropriation of public lands for such a purpose. That comes under a specific clause of the Constitution giving Congress power "to dispose of" the public lands. The power granted by the Constitution is general, broad, and comprehensive, to dispose of the public lands according to the discretion of Congress. It does, in fact, purchase land within a State by treaty. That has been done in the extinguishment of the Indian titles in the States, but it has been done under the treaty power, and the treaties could not be carried out without an appropriation by Congress for that purpose. But outside of that, I am not aware of any purpose for which lands have been purchased by the General Government except to carry out certain necessary objects of Government. For instance, we must collect the customs, and we may purchase lands for the purpose of erecting thereon a custom-house. There is specific authority for that purpose; but whether we can for any other purposes purchase lands, in order to lease them or give them away for particular objects, however good the objects may be, is a question in regard to which I have some difficulty. I am now by no means expressing an opinion; I am only stating a doubt to the honorable Senator in order that he or some other member of the Committee on the Judiciary may relieve my mind upon the subject. There were other points which the Senator has satisfactorily answered.

Mr. TRUMBULL. I suppose that as a general proposition the Government of the United States cannot engage in the purchase of lands with a view of farming them out to the citizens of the United States; but the condition in which we are is peculiar; these people are thrown upon the Government for the time being. It is not proposed to purchase these lands and give them away. The Government, I think, is bound to take care of them. It would have been competent for the Government to have made them all prisoners of war. I suppose that as a question of power the Government might have captured and held in prison all the inhabitants of the South, white and black, where our armies went; it might have sent them, if you please, to the city of Washington, and retained them upon a farm rented by the Government for that purpose, and kept and supplied them there for the time being. We are bound to provide for them. We have that right, I think, as growing out of the war power.

Mr. FESSENDEN. Then the Senator's answer is that it is a necessity outside of the Constitution, and under the war power we can do this thing.

Mr. TRUMBULL. I do not regard it as outside of the Constitution. It is a necessity arising out of the war power, and the Constitution gives the war power just as much as it gives any other power, in my view. I think it is very much like the case of Africans thrown upon our coast. Suppose—and such cases have occurred—a slave-trader is driven into one of our harbors with a load of several hundred Africans, and they are landed there, the Government provides for them. We have had a law of Congress providing for such cases for a long time. We take charge of and provide for them and we send them back to Africa; but we are not compelled to send them back; I think we might make a different provision for them. This is a function which, as a nation clothed with war powers, we may exercise. It may not be a judicious mode of doing it; the Commissioner of the Freedmen's Bureau thinks it is. He thinks this will involve no expense to the Government; from the experience he has had in the last year he thinks he can obtain lands upon which to place the freedmen, where they will not only sustain themselves but be able to refund what he has to pay for them. During the progress of the war the Government of the United States has been, and at this very time is, paying rent for tracts of land in nearly all of the States for prison purposes, and various other purposes growing

out of the war. These people are upon us just as legally and effectually as if we had captured them and were holding them by force of arms in prison at this time. The Senator will observe that it is only in reference to the indigent that this provision is made.

Mr. FESSENDEN. The Senator will understand me. I do not object to the thing itself if it can be done; and if it cannot be done the argument of expense or cost is no answer.

Mr. TRUMBULL. I do not put it upon that ground. I was undertaking to show merely that we have occupied land in the various States for war purposes in order to enable us to carry on the war. I do not know that we have purchased these lands, but I do not see why we might not have purchased them if that had been thought more advantageous to the Government. I do not see why the Government might not have purchased the property at Camp Douglas, for instance, near the city of Chicago, where some eight or ten thousand prisoners were confined, and for which the Government has paid or will have to pay a large rent. As a question of power, I cannot see why it could not purchase as well as lease the land. So we have power to provide for these people. The Government having that power has, in my judgment, the power to adopt any means which it thinks best adapted to accomplish that end; and if in the opinion of Congress the best means which can be adopted to take care of these people is to buy land and put them on it, I think we may do it, for the obligation to take care of them is a constitutional obligation imposed upon us as a Government.

Mr. HENDRICKS. To test the sentiment of the Senate on the question whether this shall be a permanent bureau of the Government, I move to strike out of the first section the words "shall continue in force until otherwise provided by law" in the fifth and sixth lines. This amendment in regard to the duration of the bureau, if adopted, will leave it just as the law of last year left it.

Mr. TRUMBULL. I have only to say that Congress meets once a year, and can repeal the law at any time. The bureau will expire at the end of a year as the law now stands, and the committee thought it better to leave it in force until otherwise provided by law.

Mr. HENDRICKS. I desire to ask the Senator when that year will end. Does he understand that the year has commenced to run yet or not? I should like to hear from him whether the year has commenced to run.

Mr. TRUMBULL. I think not.

Mr. FESSENDEN. Now, if my friend from Illinois makes no objection, I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Friday, January 19, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

MERCANTILE MARINE.

The SPEAKER laid before the House a report from the Secretary of the Treasury in regard to decrease of our mercantile marine, and suggesting such remedial legislation as he may deem expedient, in response to a resolution of the House of February 23, 1865.

Mr. WASHBURN, of Illinois, moved that the report be referred to the Committee on Commerce, and ordered to be printed.

The motion was agreed to.

SUFFRAGE IN THE DISTRICT OF COLUMBIA.

Mr. HUBBELL, of Ohio. Mr. Speaker, I rise to a question of privilege. When the vote was taken yesterday on the passage of the bill giving colored people in this District the right to vote I was confined to my room by indisposition. I ask the unanimous consent of the House for leave to record my vote in the affirmative.

The SPEAKER. The Chair will state that the rule adopted at the last Congress provides that "when any member shall ask leave to vote, the Speaker shall propound to him the question, 'Were you within the bar before the last name on the roll was called?' and if he shall answer in the negative, the Speaker shall not further entertain the request of such member to vote." Under that rule the Chair decides that he cannot ask unanimous consent.

Mr. ROGERS. Cannot the rules be suspended?

The SPEAKER. Only on Monday.

Mr. HUBBELL, of Ohio. I have only to say that I would have recorded my vote in favor of the passage of the bill.

The SPEAKER. The rule was adopted at the last Congress, under debate, to prevent votes being recorded except when the members were in their seats when the roll was called by the Clerk.

MARY KIRBY SMITH.

Mr. DAVIS moved that the Committee on Invalid Pensions be discharged from the further consideration of the papers in the case of Mary Kirby Smith, and that leave be granted for the withdrawal of the papers from the files of the House, provided copies be left.

The motion was agreed to.

CURRENCY REPORT.

Mr. GRISWOLD, by unanimous consent, submitted the following resolution:

Resolved, That there be printed for the use of Congress five thousand copies of so much of the report of the Comptroller of the Currency as is comprised in the first thirteen pages of said report.

The SPEAKER stated that the resolution, under the rules, would be referred to the Committee on Printing.

It was referred accordingly.

COMPENSATION OF POSTMASTERS.

Mr. GRINNELL, by unanimous consent, introduced a bill to amend the postal laws regulating the compensation of postmasters; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

TAX UPON FLATBOATS.

Mr. MOORHEAD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of so amending the act of July 14, 1862, as to exempt from enrollment and payment of tonnage tax all flatboats and barges used on the western waters in carrying the products of their owners to market, and not used for hire or as common carriers.

MIAMI INDIANS.

Mr. STILLWELL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Whereas the United States entered into a treaty with the Miami Indians on the 4th day of August, 1854; and whereas it was agreed in said treaty that no persons other than those embraced in the corrected list agreed upon by the Miami of Indiana, in the presence of the Commissioner of Indian Affairs, shall be the recipients of payments or annuities unless other persons shall be added to said list by the consent of the Miami Indians of Indiana, obtained in council, according to the custom of the Miami tribe of Indians; and whereas it is deemed by said tribe of Miami Indians of Indiana that there are persons added to said list who are not entitled to any payment or annuities: Therefore,

Resolved, That the Committee on Indian Affairs be requested to examine, and report by bill or otherwise, who constitute the tribe of Miami Indians of Indiana.

HEIRS OF JOHN E. BOULIGNY.

Mr. WOODBRIDGE, by unanimous consent, introduced a bill for the relief of the heirs of John E. Bouigny; which was read a first and second time, and referred to the Committee on Private Land Claims.

MARY DUNN.

Mr. RICE, of Massachusetts, by unanimous consent, introduced a bill for the relief of Mary Dunn, widow of Richard Fletcher Dunn; which was read a first and second time, and referred to the Committee on Invalid Pensions.

NATIONAL CURRENCY.

Mr. HOOPER, by unanimous consent, from

the Committee on Banking and Currency, reported the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be requested to inform this House what apportionment of the circulating notes authorized by the national currency act has been made to banking associations in the different States, in the District of Columbia, and in the Territories, as required by the amendment to the national currency act, approved March 3, 1865.

The SPEAKER stated the business in order was the call of committees for reports on private cases.

D. C. HAYNES.

Mr. THORNTON, from the Committee of Claims, submitted an adverse report on the memorial of D. C. Haynes; which was laid on the table.

B. E. BURNS.

Mr. NIBLACK, from the Committee of Claims, submitted an adverse report on the memorial of B. E. Burns, of Missouri; which was laid on the table.

SARAH E. GROWER.

Mr. WASHBURN, of Massachusetts, from the Committee on Invalid Pensions, submitted an adverse report on the petition of Mrs. Sarah E. Grower; which was laid on the table.

DAVID G. BATES.

Mr. WARD, from the Committee of Claims, submitted an adverse report on the bill for the relief of the legal representatives of David G. Bates; which was laid on the table.

JAMES M'AVOY.

Mr. BARKER, from the Committee of Claims, submitted an adverse report on the petition for the relief of James McAvoy; which was laid on the table.

GEORGE CALVERT.

Mr. McKEE, from the Committee of Claims, submitted an adverse report on the petition of George Calvert; which was laid on the table.

DAMAGES IN REBEL STATES.

Mr. McKEE. I would like to make an inquiry in regard to a report submitted by the chairman of the Committee of Claims, taken up for consideration yesterday during the morning hour.

The SPEAKER. When the Committee of Claims are called upon for public business again, which will be either to-day, if the morning hour does not expire, or on Tuesday during the morning hour, that will be still business before the House.

VOLUNTEER TROOPS IN MISSOURI.

Mr. SCHENCK, from the Committee on Military Affairs, moved that the committee be discharged from the further consideration of joint resolution No. 44, for the benefit of certain volunteer troops of Missouri, and that the same be referred to the select committee on the war debts of the loyal States.

The motion was agreed to.

MARY JANE CONRAD.

Mr. BENJAMIN, from the Committee on Invalid Pensions, submitted an adverse report on the petition of Mary Jane Conrad; which was laid on the table.

ONE HUNDRED DAYS SOLDIERS.

Mr. HARDING, of Kentucky, from the Committee on Invalid Pensions, submitted an adverse report on the resolution to grant pensions to relatives of soldiers who enlisted for one hundred days and died in service; which was laid on the table.

BERKELEY AND JEFFERSON COUNTIES.

Mr. LAWRENCE, of Ohio. Mr. Speaker, I rise to a privileged question. On the 12th of January the Judiciary Committee reported back a joint resolution giving the consent of Congress to the transfer of the counties of Berkeley and Jefferson from the State of Virginia to the State of West Virginia, with a written report recommending that the resolution be passed. In order that the report might be printed, and give a little further time, the resolution was recom-

mitted to the Judiciary Committee. A motion was made to reconsider that vote, and I desire now to take up that motion, so that the matter may be disposed of.

The SPEAKER. When the House is engaged at any time in the consideration of public business that will be in order; but it is not in order when private business is under consideration.

Mr. LAWRENCE, of Ohio. Very well; I will make the motion at some other time.

CHARLES F. ANDERSON.

Mr. RICE, of Maine. The Committee on Public Grounds have directed me to report a bill for the relief of Charles F. Anderson. I wish to state that this bill passed both branches of Congress at the last session, but failed to obtain the signature of the President by some inadvertency. The old gentleman for whom this relief is proposed is waiting here. The bill has passed the Senate twice. It is accompanied by a petition which can be read if necessary. I move that the House proceed to the consideration of the bill.

The motion was agreed to.

The bill, which was read, directs the Secretary of the Treasury to pay to Charles F. Anderson, architect, the sum of \$7,500 in full for time, labor, and expense in preparing plans and drawings for the Capitol extension.

Mr. RICE, of Maine. Unless some gentleman desires the reading of the petition, I move the previous question.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. RICE, of Maine, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The call of committees for reports of a private nature having been concluded,

The SPEAKER stated that the committees would now be called for reports of a public character.

WAR TROPHIES.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of considering appropriation bills.

Mr. SCHENCK. I ask the gentleman from Pennsylvania to allow me to offer a resolution calling for some information proper to be had before he takes up the Military Academy bill.

Mr. STEVENS. If it applies to that bill I have no objection, and will waive my motion for that purpose.

Mr. SCHENCK, by unanimous consent, then submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be directed to communicate to this House copies of the correspondence which took place in or about the month of June, 1865, between the Superintendent of the United States Military Academy and the chief of the Engineer corps of the United States Army, in relation to marking with the names of any battles in which they were taken, or otherwise, guns captured during the rebellion, and preserving the same as public trophies at West Point.

TREATY OF WASHINGTON.

Mr. RICE, of Maine, by unanimous consent, introduced a bill further to secure to American citizens certain privileges under the treaty of Washington; which was read a first and second time, and referred to the Committee on Commerce.

PREVENTION OF SMUGGLING.

Mr. RICE, of Maine, also, by unanimous consent, introduced a bill further to prevent smuggling; which was read a first and second time and referred to the Committee on Commerce.

BANKRUPT BILL.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

Resolved, That five thousand copies of the bill to

establish a uniform system of bankruptcy throughout the United States, as reported by the select committee on that subject, be printed for the use of the House in pamphlet form.

ADJOURNMENT OVER.

Mr. WASHBURN, of Illinois. I rise to a privileged question. I move that when the House adjourns to-day it adjourn to meet on Monday next.

The motion was agreed to.

STAMP DUTY ON WRITTEN INSTRUMENTS.

Mr. CULLOM. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of repealing that portion of the internal revenue law relating to stamp duties upon written instruments, and referred to in schedule B of said law.

Mr. MOORHEAD. I hope the gentleman will change the word "instructed" to "requested."

Mr. CULLOM. I will do that.

The resolution as modified was agreed to.

CENSUS BUREAU.

Mr. KETCHAM, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of consolidating the Census Bureau with the Provost Marshal's Bureau, and that they be permitted to report by bill or otherwise.

PAY OF SOLDIERS.

Mr. VAN HORN, of Missouri, by unanimous consent, introduced a bill to amend the ninth section of the act entitled "An act to increase the pay of soldiers in the United States Army, and for other purposes," which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. STEVENS. I now insist on my motion to go into Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended, and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair.)

MILITARY ACADEMY.

The CHAIRMAN announced the first business to be the consideration of a bill (H. R. No. 37) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1867.

Mr. SCHENCK. I will ask the chairman of the Committee on Appropriations [Mr. STEVENS] to permit this bill to be passed over informally, because it is my desire to offer some amendments to it on behalf of the Board of Visitors at West Point, of which I happen to be chairman. I am not now ready to offer those amendments, as the report is not yet printed. I will, therefore, move to postpone this bill for the present.

Mr. STEVENS. If the gentleman says he is not now prepared with his amendments, I cannot resist his motion.

Mr. SCHENCK. The report is not yet printed.

Mr. STEVENS. I hope it will be ready so that we may proceed with it on Monday.

The motion of Mr. SCHENCK was agreed to.

NAVAL APPROPRIATIONS.

The committee then proceeded to the consideration of House bill No. 122, making appropriations for the naval service for the year ending the 30th of June, 1867.

Mr. STEVENS. I understand, from information just given me, that the Committee on Naval Affairs have some amendments which they desire to propose to this bill, but are not quite ready to submit them now. I do not like to delay the consideration of this bill; but to enable them to submit those amendments I will consent that this bill be laid aside for the present. But I hope that we will be ready on Monday to proceed with the consideration of all these appropriation bills.

Mr. RICE, of Massachusetts. I do not object to that; but I desire it to be understood

that it is not done at the request of the Committee on Naval Affairs.

Mr. STEVENS. Very well; then we may as well go on with the bill now.

The bill was then read at length; after which the Clerk proceeded to read it by clauses for amendments.

At the conclusion of the reading of the paragraph making appropriations for the Bureau of Yards and Docks—

Mr. RICE, of Massachusetts, said: I believe there has been omitted from the printed bill an appropriation asked for from the Bureau of Equipment and Recruiting. I would ask the Committee on Appropriations if that committee did not have such an item as that before them. There is an estimate for \$800,000 for the Bureau of Equipment and Recruiting, which I understand has been accidentally omitted.

Mr. STEVENS. There was such an item reported in our bill, but it is not in the copy on file. We had intended to introduce the item before the item for the Bureau of Medicine.

Mr. RICE, of Massachusetts. It would properly come in before the appropriation for the Bureau of Navigation. I will take this occasion to say, that in this Bureau of Equipment and Recruiting there is an excess of the appropriation for fuel of more than sufficient to cover what is asked for the expenses of the present year. Therefore, if the Committee on Appropriations shall see fit to consent to an amendment to authorize the transfer from the appropriation for fuel to the appropriation for contingent expenses for that bureau, it will not be necessary to make a new appropriation of \$800,000 for this purpose. I will offer the following amendment, to come in after the paragraph making appropriation for the Bureau of Yards and Docks:

Provided, That there be transferred from appropriations for fuel to the contingent expenses of the Bureau of Equipment and Recruiting, \$800,000.

The amendment was agreed to.

The reading of the bill was continued. At the conclusion of the appropriations for the navy-yard at Portsmouth, New Hampshire—

Mr. WASHBURN, of Illinois, moved to strike out the following paragraph:

For the purchase of Seavey's Island, \$100,000: *Provided*, That a perfect and approved title in fee to the whole island can be obtained and vested in the United States for that sum.

Mr. SPALDING. Before that motion is put, I desire to make a motion to perfect this paragraph. The estimate was \$105,000. The committee agreed to the appropriation for that sum, but by some mistake it appears in the bill for \$100,000. I move to make the appropriation \$105,000, according to the estimate.

The amendment was agreed to.

The question recurred upon the motion to strike out.

Mr. WASHBURN, of Illinois. I make this motion, in the first place, for the purpose of getting some information in regard to the necessity for this appropriation; and in the second place, because it is improper legislation, as I conceive, to be in a general appropriation bill. And I hope I will have the attention of the committee for a few moments, as we are now entering for the first time this session upon the consideration of one of the most important subjects upon which we can be called to act, that is, action upon general appropriation bills. I am certain that our constituents and the country look to us to guard most vigilantly the appropriations which we make in the present state of the national finances, and I was in hopes that this committee, so able as it is, and so well acquainted with the rules of the House, which require that no appropriation should appear in the general appropriation bills but to carry out existing laws, would have regarded what I have always contended was one of the wisest rules of the House, that the Committee on Appropriations should be confined to carry out the provisions of existing laws, and not inaugurate new legislation in an appropriation bill.

Now, sir, here is a provision in this bill which is in defiance of the rules of the House, as to

which we cannot now take objection in the committee, because the House has referred this subject to the Committee of the Whole. But I desire to know from the Committee on Appropriations, and I hope the Committee of the Whole will be made to understand, why it is that we should be called upon at this time to make this appropriation of \$105,000 for the purchase of Seavey's Island. We have gone through a war, one of the most stupendous, as it has been often said, that the world has ever known; we have passed through the war, and there is not now that necessity for these navy-yards and these appropriations which existed heretofore. I cannot believe, if the navy-yard at Kittery, where I believe this island is, was sufficient during the rebellion for all purposes, that it is now necessary, in time of peace and the present state of our finances, to make this further and additional appropriation. I am entirely in the dark as regards the reasons which may be urged, but they must be very strong reasons to induce me to vote for this appropriation.

Mr. HALE. Will the gentleman from Illinois allow me to ask him a question?

Mr. WASHBURN, of Illinois. I will.

Mr. HALE. Does not the same objection apply to the appropriation at line one hundred and thirty-eight and that at line one hundred and sixty-five?

Mr. WASHBURN, of Illinois. Yes, sir; and I intend to attend to those matters when we reach that part of the bill.

Mr. STEVENS. Mr. Chairman, I do not wonder that my friend from Illinois requires some information upon this subject. The committee to whom it was referred sought information, not knowing beforehand whether the appropriation was proper or not. We sent for one of the ablest and most candid chiefs of bureaus connected with this Government, Admiral Smith; and we inquired of him fully and thoroughly in regard to the propriety of this appropriation.

For years past the operations of this navy-yard have been so cramped that the Government has been obliged to rent adjoining property for the purpose of carrying on the business of the yard. Seavey's Island furnishes a waterfront which would render all other purchases or rentals entirely unnecessary. The estimates proposed that we should appropriate \$126,000 for officers' quarters, as the officers are now obliged to board in an adjoining town. Upon Seavey's Island there are now a large number of houses, which, Admiral Smith informs us, would, if the island were purchased, be sufficient for officers' quarters, for which the appropriation of \$126,000 was asked.

Besides, the purchase of this island would give the Government a large area of ground, always necessary and always increasing in value. The Government now owns one part of the island; but the owners of the remainder of it have, by the authority of the law under which the Government purchased, established through the navy-yard a very troublesome thoroughfare, interfering very much with the convenience of the operations of the Government.

The committee, under all these circumstances, and knowing that, at the last Congress, the Committee on Naval Affairs examined this subject, and I believe recommended this very purchase, thought that, while we could afford to purchase Seavey's Island for the purpose of making complete a very important navy-yard, we could save by the purchase not only the \$126,000 estimated for officers' quarters, but also \$25,000 which would be necessary for a quay-wall. We thus became convinced that this would be a wise and economical appropriation, securing a property which is from year to year rising in value, and becoming more incumbered with private buildings, so that after a few years it will be beyond the reach of the Government, and the want of this property will so cramp operations there as to make this navy-yard almost useless.

Now, sir, I have no particular interest or feeling in connection with this matter. Admiral

Smith is very decided in his opinion that this property should now be purchased by the Government. He furnishes us with facts and drawings which enforce his position. If that navy-yard is to be kept up it seems to me that it is unwise for us to refuse this appropriation, thereby rendering necessary others still larger, which would give us no such conveniences. It is for the House to determine whether the purchase of this island, embracing seventy or eighty acres, is not expedient. I have stated the judgment of the committee, which seems to be wise.

Mr. SPALDING. I desire to say, Mr. Chairman, that the committee have no feeling on this subject. There was for a long time a great diversity of sentiment among the members of the committee in regard to this appropriation for the purchase of Seavey's Island. We elicited all the information on the subject that we could obtain from the proper bureau of the Navy Department, and we finally came to the conclusion that the purchase of this island would be a measure of economy; for I agree with our chairman [Mr. STEVENS] that if this item be struck out, it will be found to be imperatively necessary to insert in this or some other appropriation bill items to a greater amount for this very navy-yard.

Mr. WASHBURN, of Illinois. Will the gentleman from Ohio yield to me for one moment?

Mr. SPALDING. Certainly.

Mr. WASHBURN, of Illinois. I desire to ask this question: if the Government has been able to get along thus far without making this purchase, why can it not get along for some time further?

Mr. SPALDING. Mr. Chairman, during the progress of the mighty war which so lately taxed all the energies and resources of the Government, many of us in this House, in common with my friend from Illinois, resisted every appropriation which could by any possibility be dispensed with, for we did not know but that the utmost dollar might be needed to sustain our Army and Navy in the conflict; that was the reason. But happily we are now at peace at home; now is the time to prepare for conflict with other Powers whose enmity and jealousy we must encounter if we live in accordance with what we learn from the history of nations in times of peace—in time of peace prepare for war. European Powers are swelling their navies. Shall we put off our whole armor, and not only that, but put off all the means of making our armor, because we have put down a rebellion at home?

Why, sir, we are continually growing. Our progress has not stopped. As we are increasing in power our resources are increasing; and we must increase with our resources our means of defending them. This is my answer to the gentleman.

Mr. WASHBURN, of Illinois. Let me say a word.

Mr. SPALDING. I say that we have a much larger Navy now than when the war commenced.

Mr. WASHBURN, of Illinois. All I desire is full information on the subject. Will the gentleman furnish us with information in regard to the present naval establishment? How much has the Navy been decreased since last year when the war terminated?

Mr. SPALDING. I cannot give the particulars.

Mr. WASHBURN, of Illinois. From seven hundred to one hundred.

Mr. SPALDING. Counting the vessels purchased from the mercantile marine our Navy is not one twentieth as large as during the war; but the vessels built by the Navy Department for war purposes are retained, every one of them. There is no doubt about that.

Mr. Chairman, I have one word to say in regard to the practice in this House in respect to making appropriations where laws are wanted.

Mr. STEVENS. Allow me to say a single word at this point.

Mr. SPALDING. Certainly.

Mr. STEVENS. The rule provides that, when there are changes of this kind to carry out the

recommendation of any Department of the Government, it shall be our duty to report them from the Committee on Appropriations.

Mr. WASHBURN, of Illinois. This is not such a case as is provided for by the rule.

Mr. SPALDING. The committee became satisfied that by the purchase of Seavey's Island we could dispense with the erection of officers' quarters, for which a large estimate was made for appropriation at our hands, inasmuch as there are fifteen to twenty buildings on that island which will answer the purpose of officers' quarters. And it will supersede the necessity of extending some of the buildings used for naval purposes in the navy-yard, and will thus save that additional expense. If we purchase the whole of this island—if the whole of it can be purchased, which is a matter of uncertainty; if we can obtain a perfect title to it, which is questionable—then this appropriation is not to be expended. If we can obtain a perfect title to the whole island, we can obtain these barracks without further appropriation. It will be a great saving to the nation.

I pledge myself to the gentleman from Illinois to go with him for all measures for saving money where we can save it without doing greater injury to the interests of the country.

Mr. CONKLING. I wish to ask the gentleman from Ohio, before he finally resumes his seat, one question, if he will allow me.

Mr. SPALDING. Certainly.

Mr. CONKLING. How much do we save annually on the theory he advances for making this appropriation?

Mr. SPALDING. I refer the gentleman to the chairman of the committee who gave the estimates.

Mr. CONKLING. I did not hear it, and would like to hear it. I would like to know how much we save according to the estimates.

Mr. STEVENS. From fifteen to twenty thousand dollars.

Mr. CONKLING. Annually?

Mr. STEVENS. Yes, sir; I think so.

Mr. KASSON. Mr. Chairman, the impression might remain upon the minds of the House that the committee were unanimous in recommending this appropriation if I were not to add one word to what has been said. Having dissented to the appropriation this year, on the actual condition of the facts connected with the actual condition of that island, I desire to say one word.

It is true that one hundred and twenty thousand and odd dollars were asked in the estimates, were asked by the Department for officers' quarters. I have opposed uniformly, in the committee and in the House, last year and this, appropriations for mere convenience.

The rule by which I have been guided on all subjects is this: that in the present condition of the Treasury of the United States any appropriation which was not necessary or specially economical was not to be made by this House or by Congress, for the simple reason that we must first adjust and protect the indispensable debt of the United States and pay the indispensable expenses of the Government. I have regarded these officers' quarters in every navy-yard which contains partial quarters for some four or five of the principal officers of the yard—I have regarded the appropriations to that extent only as authorized by us. Beyond that I have regarded it as simply a matter of convenience to the officers who might be ordered from time to time to the yard.

Mr. STEVENS. I ask the gentleman if these officers do not have to go to town to board?

Mr. KASSON. So far as my information extends, I am not aware of a single exception to the fact, that where the officers' quarters—which usually embrace about four buildings—are not sufficient for all the officers, they find quarters elsewhere for their temporary convenience. Now, sir, the expense of locating special quarters involves the erection of private houses for their accommodation. On Seavey's Island there are some nine or ten houses which it is proposed to acquire. It is doing indirectly what some propose to do directly. I suppose

the object of my colleague is to save further appropriation by this. I see nothing that is to be saved by the acquisition of the island. I see that it is a convenience in getting that island, which contains about seventy acres of land, but I do not see anything at all beyond the convenience of the navy-yard. It is not that kind of necessity which, in the present condition of the Treasury, should authorize and require us to make an appropriation for it at this time. And without expressing any feeling on the subject, I simply wished to state the rule by which my vote will be guided. I dissent from the views of the chairman of the committee.

Mr. MARSTON. I entirely agree with the gentleman from Illinois [Mr. WASHBURN] that in the present state of the finances of the country its utmost attention should be given to every item of appropriation, and that not one dollar should be appropriated from the Treasury of the United States that is not absolutely demanded by the wants of the public service. That will be the principle that will guide my conduct in all these appropriations, whether the money is to be expended in New Hampshire or elsewhere. It has been for a long time an object with the Navy Department to acquire Seavey's Island for the convenience and the enlargement of the navy-yard at that station. Now, as a pure matter of economy, if there was no other consideration in it whatever but just the saving of dollars to the United States Government, I solemnly aver that I believe if this island had belonged to the Government at the commencement of the war, we should have saved double what is proposed to be appropriated to the purchase of it, in the labor that has been expended there in moving materials from one part of the island to the other for the purpose of carrying on the business of the yard. So crowded has been every foot of ground upon it that not a ship could be started, nor any new business commenced there, without moving timber and material of all sorts from one part of the island to the other. A vast number of men and teams have been constantly employed in doing that from the commencement of the war to this day. The portion now occupied on the rear is about sixty-five acres; that which it is proposed to acquire will contain from seventy to eighty acres. It is separated from the navy-yard by two hundred feet of water, and is connected by a bridge built by the United States.

Now there is no place in this navy-yard suitable for a hospital, for officers' quarters, or for a magazine. And there is to-day, in the magazine on that little island, I believe, some two hundred tons of gunpowder. There is not a man in the yard that is not afraid of his life from that magazine. And if by accident there should be an explosion in that magazine, not a single ship or building or anything in or about that yard would remain standing.

Now, it is a fact that there is no naval station in this country to which it is so proper for ships coming from southern climes to go and report to the navy-yard on account of health as this. They are sent there uniformly, and when they get there there is no proper hospital, and no place to build one. There is no place for a coal depot on the island on which the navy-yard is built. There is not sufficient room for ships. There is not sufficient room to carry on the work that has been necessary to do there during this war.

The gentleman from Iowa [Mr. KASSON] refers to the matter of officers' quarters as a simple convenience. Now, everybody who knows anything about navy-yards knows that it is highly important, not only for the good discipline of the yard, but for the safety of the property there, that the officers should have their quarters in the yard, and not a mile or two off in some town where they cannot be called upon in case of an emergency. Now, sir, on every consideration on which this matter can be looked at, as a matter of convenience to the Navy, as a matter of saving money to the Government and enlarging the facilities of doing business there, this island ought to be purchased.

A few years ago a commission was authorized by Congress and appointed by the President to visit all the navy-yards in the country and report the kind of work done at each, where it was done cheapest, where ships were built best, and everything pertaining to the question of navy-yards, and beyond all question they gave the preference in the building of ships to the Portsmouth navy-yard. Why? In the first place, they are built cheaper there than anywhere else. They found that there was a better class of mechanics employed there than anywhere else, because they were not taken from large cities, but were substantial citizens residing in the surrounding country, and were of that class of men who did more work and did it better than the mechanics in any other navy-yard in the country. They found also that the ships built there lasted longer, partly because they were better built, but more particularly because the timber docked there lasted longer than that docked elsewhere.

Mr. DAVIS. I would ask the gentleman from New Hampshire, what would this island of seventy or eighty acres sell for? What is it worth without reference to its occupation for a navy-yard? What is it worth in the market?

Mr. MARSTON. I am unable to answer the gentleman. There are seventy or eighty acres of land on which, I should think, there are twenty-five or thirty houses, mostly owned by the mechanics who work in the yard, but there are some very good houses belonging to gentlemen who reside in Boston or elsewhere.

Mr. DAVIS. Can the gentleman form any approximate estimate? Would it be worth \$25,000, or \$50,000, or any sum less than \$100,000? I think it would be well for us to know its intrinsic value.

Mr. STEVENS. If the gentleman will allow me, I will state this much, that two years ago Congress made an appropriation of thirteen or fourteen thousand dollars to buy a little corner of the island for the purpose of getting water rights, and they could not purchase it at that sum, it being only two or three acres out of the whole seventy-nine.

Mr. HILL. I desire to make an inquiry of the gentleman from New Hampshire with regard to those private dwellings upon the island. I learn from the gentleman from Iowa, [Mr. KASSON,] as well as from the gentleman from Pennsylvania, [Mr. STEVENS,] that there are several private dwellings upon the island the title to which will not, as I understand it, be transferred to the Government by the purchase of the island. I desire to know whether any estimate has been made as to the value or the price at which these private dwellings can be obtained, or whether we shall be called upon to purchase that property.

Mr. KASSON. I answer the gentleman that the estimate for the purchase of the island includes all the buildings and the land. It would be entirely inexpedient to purchase the buildings, with their sites, unless the whole island is obtained. All the committee agree upon that, and all the committee agree that anything less than the \$105,000 proposed for the purchase of the island would be useless. If it is expedient to purchase the island, it is undoubtedly expedient to purchase the whole of it, and appropriate this sum for it.

Mr. HILL. Then do I understand that the \$105,000 will give us title to the whole island and to the buildings upon it?

Mr. KASSON. It is estimated that there is every probability of our being able to purchase the island, with the buildings, for \$105,000. That is the estimate.

I will say, in reply to what has been said by the chairman of the Committee on Appropriations, that there is a road across the island that has interfered, to some extent, with the purchase of a small part of it that was designed for the use of the hospital. The committee, I believe I may say, are unanimous in the opinion that if an appropriation is to be made for the purchase of any portion of the island, it is expedient to purchase the whole, the difference

being only as to the propriety of making the entire purchase at this time.

Mr. MARSTON. I desire to say only a word further in answer to the gentleman from New York [Mr. DAVIS] and the gentleman from Indiana [Mr. HILL] in relation to the value of this island and the houses thereon, and what it would probably sell for for other purposes. My belief is that it could not be purchased for anything near \$100,000 by outside parties. But the only way of getting on and off that island, except by boat, is by passing through the navy-yard. And the Government would never be able to get the title to this property for \$105,000 except upon the idea that if it is not sold to the Government, and the Department should take away the bridge over which all now have to pass to get on the island, the property would not be worth so much to the owners as it now is.

Mr. PIKE. I should not add anything to what the gentleman from New Hampshire [Mr. MARSTON] has so well said upon this point but for one consideration. It becomes a material question now with us, what will we do with the Navy? Shall we establish it upon a permanent footing, and take means to make us in fact what we claim to be, a first-class naval Power; or shall we fall back and resume our old position, the position which we held before the war? The Committee on Appropriations have recommended large increase of appropriations for three or four navy-yards in this country. They recommend an appropriation of something more than \$500,000 for the Charlestown navy-yard, \$1,500,000 for New York, and nearly \$500,000 for Norfolk. That is one way for increasing our capacity for continuing and perpetuating our Navy.

Another proposition which is urged upon this House with considerable force is to establish a new navy-yard—a proposition which was voted upon at the last Congress. I do not say where the navy-yard is to be, but at some proper place, no doubt.

Now, the House is to determine, and it may as well be done upon this appropriation as any other, whether they will increase the capacity of our navy-yards in the first place; and in the next place, how they will do it. The proposed increase is not large, and the objection taken to it by the gentleman from Illinois [Mr. WASHBURN] is not well taken; that is, that we have made a large navy for the purpose of carrying us through the war without the aid of increased navy-yards, and now in time of peace we cannot need any such increase. But he forgets that during the war we levied upon every private ship-yard of the country of capacity enough to build a five-hundred-ton vessel. He forgets that everywhere, from Maine to the Potomac, the private ship-yards, the private foundries, the private machine shops were worked to their utmost capacity. And we have large claims presented to Congress now for additional pay, because men who entered into contracts were unable to fulfill their contracts because the Government had anticipated them, and had taken to itself all the supplies of mechanism and of labor in the country. And in addition to that every navy-yard in the country was largely over-worked.

Any one at all familiar with the subject knows that at Portsmouth, at Charlestown, at Brooklyn, and at Philadelphia the work required of the navy-yards was largely in excess of the capacity of those yards, and the work actually turned out there was turned out at great disadvantage, because of want of room and want of proper facilities at those yards.

Now, sir, my idea is not that we shall attempt to rival the great navy-yards of Europe. There is no need of that. Any one familiar with those yards knows that it would require the expenditure of fifty or a hundred million dollars to bring our navy-yards up to their standard—I mean of the leading maritime Powers. But we should have such moderate increase of our various yards as will enable us to do the proper work pertaining to them, the work necessary to keep in proper condition a hundred naval ves-

sels, and to repair or lay up the vessels not in active service. Having done this, we shall be prepared, as the gentleman from Ohio [Mr. SPALDING] has well said, for that next war, which is of course to be on the ocean.

Mr. PATTERSON. I had no intention of adding a word to the many good reasons that have been given for this appropriation, and yet, as it was my privilege, during the last summer, to visit this navy-yard for the express purpose of seeing the wants of the yard, I ought, perhaps, to say a word in relation to it. I went through the yard in company with the officers in charge of it, and so great was the obstruction there by reason of lumber, ship materials, and stores of various kinds, that we were obliged to wind our way as through the streets of a great city. I was told by the officers in charge there that they were obliged to move the lumber and materials necessary for the repair of vessels three or four times over before they could be used, because they had not sufficient room in the yard. And the amount of expense which the yard was thus put to, for want of room, would in a few years equal the whole amount asked for to purchase Seavey's Island. It is also known that there is a somewhat extended water-front to this navy-yard; but there is but a small space where vessels can approach the wharf for provisions and coal; so that, in supplying vessels with coal, it is sometimes necessary to remove the coal two or three times. If this island were purchased, the Government would have a depot for its coal.

Then, again, the dry-dock at that navy-yard is nearly worn out, and its capacity is not sufficient for the larger class of vessels now in use; so that in a very brief period, in the course of a few years, it would be necessary either to excavate another dock, or to build a bulkhead at the front of the small outlet or stream between Seavey's Island and the present navy-yard. By building this bulkhead, and pumping out the water, the Government would have a dry-dock without the expense of a new excavation. The expense of excavating a dry-dock would probably be greater than the whole amount now proposed to be expended by this appropriation.

Besides, sir, if the yellow fever or any other contagious disease should break out in the navy-yard at Portsmouth, the whole yard would have to be laid under quarantine and all operations stopped there, even though it were in time of war. But if the Government should purchase this island, it could build upon it a hospital to which, if yellow fever or any other contagious disease should break out, those afflicted could be removed, while the operations of the yard could go on as before.

It seems to me, sir, that these reasons are ample and unanswerable in favor of this appropriation. Let me mention another consideration. A few days ago, I visited the Secretary of the Navy, by request of a large number of workmen in that yard, who ask that their pay may be increased. The Secretary told me that if the wages were increased, the amount of work in that yard must be decreased, and that the reason why so much work was thrown into the Portsmouth navy-yard was that the work could be done more cheaply there than in any other yard in the country. This constitutes another reason why this yard should be extended, so that the work of the Navy Department may be done where that work can be done best and most cheaply. And every one who has read the history of the Kearsarge knows that at that yard the work is well done.

Mr. CONKLING. Mr. Chairman, nothing can be clearer to my mind than the principles by which the committee should be governed upon all questions like this. The most obvious considerations—considerations destined to force themselves most painfully upon everybody who shall live in this country for a few years to come—compel us to vote against any appropriation of money unless it is absolutely indispensable. In order to be indispensable, the appropriation should be necessary to the actual progress of the operations of the Government, or else it should

be the only mode of preventing a result certain to lead in the end to a loss greater than the amount of money asked. This principle, it seems to me, is very clear. The difficulty is in its application; and I, for one, regret exceedingly that about a matter apparently so simple as this we cannot have such a statement of facts as will enable every member of the committee to illustrate by his vote the principle which I have announced.

If it be true that this purchase is necessary to carry on the operations of this navy-yard, so be it; there is no answer to it, and no question what we should do. If, on the other hand, it be true, as the gentleman from Ohio [Mr. SPALDING] believes, that although in a certain sense the operations there might continue without this appropriation, nevertheless the expenses incidental to carrying it on, without the purchase of this island, would shortly lead to the expenditure of a sum greater than the amount asked, so be it; in that case also the principle I have announced would compel us to vote for this appropriation.

But, Mr. Chairman, there seems to be more than a doubt whether either of these propositions is true. At least, the gentleman from Iowa, [Mr. KASSON,] who is a member of the committee, and has had the benefit of its investigation, has failed entirely to be convinced that either of these propositions can truly be affirmed. And for one, I am free to say, and am glad to have an early opportunity to say, that wherever there is a doubt, a fair doubt, about an appropriation, I propose to give the Government the benefit of that doubt. I say that, at this time, at all events, the presumption is against an appropriation, especially an appropriation in a bill of this sort for a purpose not already fixed by law. It comes here with the presumption against it; and before it can have my vote the case must be made so clear that there can be no doubt of its falling within the principle by which I wish to be governed.

Now, as I have remarked, there is a great doubt about the necessity of this appropriation, and therefore I for one am constrained to vote against it. And I shall set my face firmly against every doubtful proposition, believing, as I do, that nothing in the way of responsibility rests upon every member of this House so unmistakably and so gravely as to insist continually upon retrenchment and economy in every branch of the public service.

Mr. PIKE. Will the gentleman allow me a word?

Mr. CONKLING. Certainly.

Mr. PIKE. Did I correctly understand from the gentleman's argument that he is in favor of a decrease of our naval force?

Mr. CONKLING. Really I do not know, Mr. Chairman, how the gentleman understands that from anything I have said.

Mr. PIKE. I was about to ask the gentleman, on that basis, why he allowed an appropriation of \$0,386,638 for the pay of the Navy to go unchallenged?

Mr. CONKLING. I have never been good at guessing at conundrums. I did not express any opinion about reducing or augmenting our naval force.

Mr. PIKE. I based my supposition upon what everybody except the gentleman knows, that the policy of maintaining or augmenting our naval force is necessarily intimately connected with maintaining our navy-yards.

Mr. CONKLING. The question here is, whether, for the purpose of carrying on this navy-yard, this appropriation is indispensable, and if it is not indispensable whether it is called for to avoid a greater expense; that is the practical question. And my point is this: the gentleman from Maine and the other members of the committee who espouse this appropriation, fail to show with sufficient clearness to satisfy my mind that it is necessary at all; and therefore I am constrained to vote against it.

Mr. STEVENS. I understand that where ever there is any doubt the gentleman will vote against an appropriation. Now, I suppose that

there is no appropriation to which some men will not object. Then the gentleman will not vote for any appropriation.

Mr. CONKLING. That is a suggestion of great propriety, and I have to make but a single remark in answer to it. When a committee, and especially a committee so able as the Committee on Appropriations in this House, report a measure, even though not unanimously, it ought to have great weight. When a Department recommends a proposition, it ought to have great weight; and it would be idle for any man to sit here and speculate on the shadow of doubts. And if in the practical discussion here very grave doubts in reality had not in reality been cast upon this, I would not have voted against it. I say, despite the recommendation of the committee, despite the sanction of the Department, this discussion has developed the fact that this question is at least a doubtful one, and I give the benefit of that doubt to the side of economy and retrenchment.

Mr. RICE, of Massachusetts. Mr. Chairman, I did not intend to occupy the attention of the committee on this subject, but I am impelled to do so from the direction the discussion has taken.

And, first, I want to say a single word on the question of economy, for I am unwilling to admit there is any gentleman upon this floor who is entitled to take precedence of myself in a desire to reduce the expenses of this Government. I wish to call the attention of the committee to this fact in the light of this question of economy: that the appropriations asked for by the Navy Department last year, if I remember rightly, amounted to \$150,000,000. The estimates made them for the present year only about \$123,000,000. The Committee on Appropriations, if I have correctly scanned the bill, have reduced the estimates about \$5,000,000. And the very first thing I did myself upon this bill was to offer an amendment by which the Government should save \$800,000 more, because I had investigated the matter and found certain sums belonging to unexpended appropriations which might be transferred to other appropriations, saving new appropriations to be raised by taxation this year.

Now, sir, the close of the war has rendered it possible for the Government to retrench and reduce on all hands. Among the first Departments that commenced retrenchment was the Department of the Navy. Within ten days of the fall of Fort Fisher orders were sent from the Navy Department to commence the reduction of the naval force. That was on the 24th of February. On the 20th of May orders were sent to the commanders of squadrons to reduce the naval force by all vessels not profitably and necessarily employed. Again, on the 31st of July, or about the 1st of August, other orders were sent to make the greatest possible retrenchment in the naval force. I say from Fort Fisher up to this hour no member of this House or of this Government has displayed greater anxiety to retrench the expenses of this Government than the Department of the Navy.

Now, sir, it is asked, "Where is the necessity of increasing these yards at the present time?" Gentlemen have said, "You have got along during four years, and why cannot you get along for four years more, or an indefinite period?" Well, sir, if we were a perfectly mature Government, if we were an effete nation, if we were a nation going backward, then we might raise the question why we might not eternally stand still with the facilities we now have for carrying on the Government. But I do not understand this to be any such kind of Government or any such kind of nation. We are increasing rapidly in population; we are rapidly covering over our immense territory; and where ever there is a foot of land occupied, whether it be on the Atlantic or in the great West, in the case of a foreign war which is to be settled on the sea, the welfare, the interest of every man, whether on the coast or in the interior, is alike jeopardized by the inefficiency of our naval force.

Now, sir, at the commencement of this war we had only about sixty vessels. It was necessary for the Department to put into active operation not only all the vessels it could make itself, but to press into the service all the private establishments of the country in manufacturing ships and machinery. But even that was insufficient, and the Department went forth and bought all the vessels they could find in the mercantile marine that were adapted or that could be adapted to naval purposes; and the Navy rose from sixty vessels to nearly seven hundred during the war.

Now, the retrenchment to which I alluded in the commencement of my remarks commenced on these purchased vessels. They have been sold back again into the merchant service for the most part. But still there is a large number remaining which is a permanent increase of the Navy. There have been constructed during the past four years between two and three hundred ships, which are legitimate vessels, to be used by the Government or taken care of, and the idea that our navy-yards, that could accommodate sixty vessels, store them and keep them in repair there for the future wants of the Government when they may again be put into the service, are capable of taking care of between two and three hundred ships is, on the face of it, an absurdity. Our navy-yards have not been enlarged during the period of the war. Our ships are now coming home, and they are to be laid up. They must be properly cared for. There are other vessels on stocks that must be so far finished as to be protected from decay. And I want to say to gentlemen, that it is an absolute necessity that these yards shall be enlarged, or the interest of the naval service must materially suffer, in my opinion, to an extent vastly greater than the outlay that is proposed to be made in this bill to enlarge these yards.

This recommendation comes from the chief of the Bureau of Yards and Docks, who, I understand from the chairman of the Committee on Appropriations, has been before that committee, which was the proper place for him to go, and has there explained the details of this necessity. And it has come to us under the recommendation of the head of the Navy Department, and I do not find any person connected with the naval service anywhere who has any doubt upon this subject. And, so far as I know, no gentleman who has visited these yards, and has himself made a personal inspection of the degree to which they are crowded and the hazard from fire that exists there, has any doubt whatever about the necessity of either enlarging these yards or providing new ones. And gentlemen on the committee will be capable of judging whether they can better increase at the present yards the facilities for carrying on this work, or whether we shall make somewhere else a vast original outlay.

Mr. STEVENS. I move that the committee rise, in order to close general debate.

Mr. WASHBURNE, of Illinois. I hope not. I think we might as well discuss this matter a little further.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the naval appropriation bill, and had come to no conclusion thereon.

Mr. STEVENS. I now move that when the House again resolves itself into Committee of the Whole on this bill all debate cease, except the five minutes' debate on amendments.

Mr. WASHBURNE, of Illinois. I hope the gentleman will make it ten minutes.

Mr. STEVENS. I move, then, that in ten minutes after its consideration shall be resumed all general debate on the bill shall close, leaving the five minutes' debate; and that when the pending amendment shall be disposed of, this bill shall be laid aside, and the Committee of

the Whole shall resume the consideration of the President's message.

The motion was agreed to.

Mr. STEVENS. I now move to go into Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair,) and resumed the consideration of the naval appropriation bill.

Mr. WASHBURN, of Illinois. Mr. Chairman, when I moved to strike out this clause, I stated that one of my reasons was for the purpose of obtaining information as to the facts in relation to the case which would justify this appropriation, and I must confess that I have not been satisfied with the information which I have received.

I might say, perhaps, that if anything could satisfy me with regard to the propriety of an appropriation it would be the assent of my distinguished friend from Ohio, [Mr. SPALDING,] whom I know so well, and with whom I trained in the last Congress in this matter, and I might say also the information furnished by the distinguished gentleman from New Hampshire, [Mr. MARSTON,] yet I am not clear, from all the information I have received, that this appropriation ought to be made.

Now, sir, the grounds which have been set forth here in the committee do not seem to tally very well with the grounds which are alleged by the gentleman who has been so often quoted, the chief of the Bureau of Yards and Docks. His communication upon this subject accompanies the report of the Secretary of the Navy, and I call the attention of the committee to what Admiral Smith says in relation to this matter. He does not put it upon the ground of the immense amount which the gentleman from Pennsylvania says will be saved if this appropriation is made. Here is what he says:

"At the Portsmouth navy-yard we have five new ships of war under construction, one large ship recently launched, and a number of other vessels anchored in the stream for want of wharf accommodation. The area of this yard is only about sixty acres, and most of it is already occupied by buildings. I have, therefore, estimated for the purchase of the whole of Seavey's Island adjacent to the yard."

I ask the attention of the committee to what Admiral Smith says next:

"The purchase of this island will furnish an additional water-power and ample space for the erection of all the workshops and storehouses that will be required to make this a first-class yard."

He does not say that this purchase is necessary for present purposes, but he wants it for the purpose of making it a first-class yard. "Besides," he says, and I call the attention of the committee to the alternative—

"Besides, the bridge constructed across the water between Seavey's Island and the navy-yard, authorized by the act of Congress, with a conditional free use of a way through the yard for the use of the residents of the island, has caused an increase of inhabitants on the island which will continue to enhance the value of the ground. This increase of population is a source of great inconvenience and embarrassment to the Government by the frequent use of the way through the yard and over the Government bridge to Kittery, so that I recommend the purchase of the whole island if it can be obtained on reasonable terms. In case such acquisition cannot be made on reasonable terms, I recommend prohibition, as provided by said act of Congress, at the discretion of the Department, of travel of every kind from said island to and through the navy-yard."

Now, it seems to me that we can conform to the recommendation of Admiral Smith in this regard, and prohibit this travel, and so attain substantially the same result without making this appropriation of \$105,000.

I agree to much that has been said by the chairman of the Committee on Naval Affairs. He has paid a glowing tribute to the Navy, in which we all agree. I claim to have as great a pride in the Navy as the honorable chairman of the Committee on Naval Affairs has, and I will do everything necessary to uphold the honor and glory of the Navy. But I am not willing, under the pressure of such arguments here, to vote away the money of my constituents unless there is a necessity for it.

Sir, while the committee report this appro-

priation of \$105,000 for the purchase of Seavey's Island, I find, by looking through the bill, that they also recommend an appropriation of \$416,000 for the Norfolk navy-yard, which the rebels burned, and \$226,000, in round numbers, for the Pensacola navy-yard. While we have decreased our Navy from seven hundred vessels to one hundred vessels, and the navy-yards which we have now were ample for all purposes when we had seven hundred vessels, it is proposed to make this additional appropriation and an appropriation of \$642,000 for additional navy-yards.

Now, sir, there are other considerations which ought not to be lost sight of. There is, to my mind, no satisfactory information with regard to the value of this property, and the question was well put by the distinguished gentleman from New York, [Mr. DAVIS,] what would this island be worth were it not situated as it is in regard to the Kittery navy-yard? There is no information in regard to the value of that land which satisfies my own mind in relation to it.

And let me say here, in regard to the recommendations of Departments and of committees, about which so much has been said, that while they are entitled to all due consideration, they do not control me. If we are to take the recommendations of the Departments, what is the use of all this formula of legislation? We are here, each man acting for himself upon his own responsibility, and judging for himself upon the facts. I see no reason to change my first impression, that this amount ought not to be appropriated.

Mr. HIGBY. The gentleman from Illinois [Mr. WASHBURN] has referred to one item in the bill appropriating some \$400,000 to be expended at the Norfolk navy-yard. Will he also state to this committee that the Government lost during this rebellion from three to five millions by destruction in that same navy-yard, and we are now asked simply to provide for making some repairs, small in comparison with the value of the property previous to the commencement of the rebellion? I know that to be so from ocular demonstration, having seen the yard, which is now literally a pile of ruins, with some slight repairs here and there.

Mr. WASHBURN, of Illinois. Well, sir, I do not see what bearing that has upon my argument. My argument was that the committee proposed to make a new yard.

Mr. ROLLINS. I am very glad, indeed, that the gentleman from Illinois [Mr. WASHBURN] has introduced here the report of the chief of the Bureau of Yards and Docks. I only regret that in quoting from that report he did not give us more of it. I will read from it also the following:

"The area of this yard is only about sixty acres, and most of it is already occupied by buildings. I have therefore estimated for the purchase of the whole of Seavey's Island adjacent to the yard. The purchase of this island will furnish an additional waterfront, and ample space for the erection of all the workshops and storehouses that will be required to make this a first-class yard. Besides, the bridge constructed across the water between Seavey's Island and the navy-yard, authorized by act of Congress, with the conditional free use of a way through the yard for the residents of the island, has caused an increase of inhabitants on the island, which will continue to enhance the value of the ground. This increase of population is a source of great inconvenience and embarrassment to the Government by the frequent use of the way through the yard and over the Government bridge to Kittery, so that I recommend the purchase of the whole island if it can be obtained on reasonable terms. In case such acquisition cannot be made on reasonable terms, I recommend the prohibition, as provided by said act of Congress, at the discretion of the Department, of travel of every kind from said island to and through the navy-yard."

Mr. WASHBURN, of Illinois. The distinguished gentleman from New Hampshire [Mr. ROLLINS] could not have been in his seat when I made my remarks, or he would have known that I read the whole of that, word for word.

Mr. ROLLINS. I am very glad the gentleman did so. If he read what I have now said, he must have proved to the House conclusively that the purchase of Seavey's Island is absolutely necessary for the wants of the Department. He intimates that this purchase is not

desirable, because, forsooth, the chief of the Bureau of Yards and Docks desires to make this a first-class navy-yard. I believe that is the very best reason in the world why the purchase should be made. Evidence has been presented to this committee to-day which should satisfy them that the best interests of the Navy Department require that the Portsmouth navy-yard should be made a first-class yard.

The gentleman quotes the opinion of Admiral Smith to show that this purchase should not be made, and by that very quotation he proves clearly that it should be made. For the admiral says that if the purchase cannot be made for \$105,000 the Government has a remedy; and what is that remedy? It is that we close up communication between the island and the main-land; that we stop the communication between Seavey's Island and the main-land at Kittery; and that would force the people on the island to sell it to the Government upon the terms the Government offers. That is what is proposed; and still the gentleman from Illinois quotes Admiral Smith as evidence that this purchase should not be made. And in that I think the gentleman is entirely mistaken.

The CHAIRMAN. The time limited for general debate has expired.

Mr. RAYMOND. I move to amend by adding \$5,000 to the appropriation. I do it for the purpose of saying what I can say, in the five minutes allowed under the order of the House, in favor of this appropriation. I hope the impression will not prevail in this committee that the Committee on Appropriations was one whit less anxious to practice economy and save money to the Government than any member who has spoken upon that subject upon this floor. It has been the effort of that committee, in every instance, to save money to the Government, and the reason why they reported this item in the bill was because, to the best of their judgment, after due examination, and after inquiry from all who could be presumed to know about this particular point, they came to the deliberate conclusion that, in the long run, money would be saved to the Government, and a very large amount, too, by making this appropriation.

It must be borne in mind, when the question of economy on the part of the committee is considered, that two items in the estimates of the Navy Department have been stricken out by the committee. One was an item of \$125,000 called for by the Department for officers' quarters; the other an item of \$25,000 required for the building of a quay-wall. This purchase of Seavey's Island would answer both purposes; by making it unnecessary to make these other appropriations. The committee acted on this principle, that where money was to be expended, it should so far as possible be expended for purposes that would be permanent and not temporary. Now, to build these officers' quarters would be to furnish but cramped and confined accommodations, and the building of a quay-wall would not give all the facilities needed; whereas the purchase of the island will answer both purposes, and be a permanent possession to the Government, and worth more than the sum proposed to be given for it.

And then in addition to that, which was the controlling reason, came in all the reasons which the gentleman from Illinois [Mr. WASHBURN] has done us the favor to read from the document from which he has quoted. Those are simply additional reasons, besides that which influenced the committee. It was the opinion of the committee that the most economical thing for the Government would be to purchase this island, and strike out the other appropriations asked for, and which I have mentioned. Of course, the committee has no desire except to subserve the general interest of the Government and the country. They are all as anxious to promote economy as the gentleman from Illinois [Mr. WASHBURN] or my colleague from New York [Mr. CONKLIN] can be. I think if those gentlemen had devoted as much time to the investigation of the points involved in this subject as the committee has done, they would have

less doubt about the propriety of this appropriation than they now seem to have.

Mr. SHELLABARGER. Mr. Chairman, I rise *pro forma* to oppose the amendment, in order that I may inquire of the gentleman from New York, [Mr. RAYMOND,] or any other member of the committee, why it is necessary now, at the beginning of a very important session of Congress, to establish the precedent of introducing into an appropriation bill an important item of original legislation. I am afraid of the precedent; and I want to inquire what makes it improper or impracticable to introduce a separate bill to provide for this object.

Mr. STEVENS. This is not original legislation. It should properly be classed with appropriations "for contingencies for carrying on the several Departments of the Government;" and in this view it is strictly within the rule.

Mr. ROLLINS. I desire to ask the chairman of the Committee of Ways and Means—

The CHAIRMAN. Debate has been exhausted on this amendment.

Mr. RAYMOND. I withdraw the amendment.

The amendment of Mr. WASHBURN, of Illinois, was adopted, there being, on a division—ayes 67, noes 40.

PRESIDENT'S MESSAGE.

The CHAIRMAN. The House has ordered that the Committee of the Whole on the state of the Union shall now proceed to the consideration of the President's annual message, on which the gentleman from Connecticut [Mr. DEMING] is entitled to the floor.

RECONSTRUCTION.

Mr. DEMING. Mr. Chairman, I propose to submit some remarks to the committee pertinent to that paragraph of the President's message wherein he wisely refers to the House the question of the readmission of members from the insurrectionary district, and I submit them now because they will serve to vindicate votes upon questions of this nature which we have already passed upon when no opportunity for explanation was afforded, and because, also, they will vindicate the opinions which will guide me when similar cases shall hereafter be presented. I had hoped, in reply to the resolution offered by my colleague, [Mr. BRANDEGEE,] that we should have been furnished ere this with copies of the laws and ordinances which have recently been enacted by popular conventions and provisional legislatures in the enemy's country, that our judgments might have been enlightened upon the important part of reconstruction which has been graciously submitted to the wisdom of Congress.

In the absence, however, of such valuable aid, I must govern myself by the principles which have hitherto uniformly guided the executive department in administering the reclamations of its sword, and by such sifted and unimflammatory facts as the powers that be, with a considerate regard for the public health, permit to dribble out from official channels of intelligence.

If we had been engaged in a war with England for the last four years, the legal effect and liabilities of such a conflict upon the two parties would have been clear and unmistakable, for the legal relations of two nations belligerent to each other, as well as the legal relations of their respective inhabitants, are as fully and accurately defined by the law of nations as the relations of landlord and tenant or grantor and grantee are by the municipal law.

As respects the nations, a war instantly annuls the most solemn compacts and treaties, and destroys all the claims of one belligerent upon another, except those which may be sanctioned by a treaty of peace. As respects the citizens of the two nations, it instantly converts all of them into a state of enmity to each other in utter contempt even of their own *animus* or predilections; so that in the case supposed—a war with England—Cobden, were he alive, and John Bright and John Stuart Mill and Thomas Hughes, however much they might oppose the war, and however amicable they were to this country, would be, in the eye of the law, our

enemies just as much as the cabinet ministers who advised it, and the generals, admirals, soldiers, and sailors who were carrying it on. The first blast of war would immediately render unlawful all intercourse, commercial or otherwise, between the people of the two countries. Contracts which were in existence at the commencement of the war would be suspended, and those entered into during its continuance void. The insurance of enemies' property, the drawing of bills of exchange or purchase on the enemy's country, the remission of bills or money to it would be illegal and null. Existing partnerships between the citizens and subjects would be dissolved, and all trade and intercourse, direct or indirect, would be completely and absolutely interdicted by the mere force and effect of the war itself. All the property of the people of the two countries on land and sea would be liable to confiscation and capture, with certain qualifications as to property on land, and all debts interchangeably due would be liable to forfeiture at the discretion of the respective Governments. (Judge Nelson in *Prize case*, 2 Black.)

Now, there is one fact which, in all the fog and bewilderment which surrounds present issues, looms out in prominent and startling relief. We have been for the last four years "in a state of war;" not, it is true, against any foreign nation, but against certain States which once owed allegiance to this Government and afterward confederated together for its destruction; and the existence of this "state of war," with a full knowledge of the legal meaning of that phrase, and of the legal consequences which attach to that state, has been repeatedly recognized both by the legitimate and revolutionary Governments, and by all their departments; by the two Executives, in levying and marshaling armies, and hurling them together with all the implements and agencies of destruction; by establishing a blockade and issuing letters of marque by virtue, and by virtue only, of a cessation of peaceful relations; by both Congresses in solemn and deliberate enactment tantamount to declarations of war, as by the act of the confederate congress, at Montgomery, of May 6, 1861, entitled "An act recognizing a state of war," as by the act of this Congress of July 13, 1861, generally known as the non-intercourse act; recognized by the full play and operation, with all their machinery for confiscation and forfeiture, of the courts of prize, in abeyance during peace and only liberated and set in motion by the inexorable necessities of war; recognized by foreign nations, which have conceded full belligerent rights to each party to the contest; recognized, finally, by the highest arbiters of conflict between the State and Federal authority known to our system, the Supreme Court of the United States, which, by the voice of all its judges, has unanimously declared that from the 13th day of July, 1861, "a civil territorial war has existed between the United States and the confederate States." And this war, the same august tribunal declares, commenced in no tumultuous and unorganized insurrection, but was organized by body-politics calling themselves States, claiming to be sovereign over all persons and property within their respective limits, and asserting a right to absolve their citizens from their allegiance to the Federal Government. As States they seized national forts, arsenals, custom-houses, navy-yards, post offices within their boundaries; as States they extinguished every pharos upon their coasts; as States they raised armies, levied taxes, loaned their credit, and issued bonds for supporting the war; as States they adopted a new constitution and confederated together into a hostile government, claiming to be sovereign and independent, and waged, to sustain the claim and secure its recognition by the world, a war so vast in its proportions, so terrible in its destruction of life, so appalling in its barbarities, so damnable in the monstrous horrors which it conceived and executed, that all the nations from "China to Peru" stand aghast, as crash after crash of such awful thunder reaches their affrighted ears. Now, how does this war, in such frightful terrors clad, and so notorious, organized by States claiming

to be sovereign, and waged by those States united into a government claiming to be independent, differ from a foreign war in the belligerent rights which it bestows upon us and in the legal consequences which it entails upon our enemies? It differs but in one essential particular. A civil war, as absolutely as a war *inter gentes*, confers upon the parties to it full belligerent rights and the corresponding liabilities of a perfect war.

Need I, to substantiate this position, appeal to those great public jurists whose weighty maxims are the imperial rescripts to the international code? Need I summon here Grotius, himself a refugee from civil war, the founder of these imperishable statutes, which, as by an elemental force, hold warring nations from rushing madly from their spheres into the chaos and darkness of utter barbarism, to say—

"That a civil war between members of the same society is a mixed war, public on the side of the Government, but private on the part of the people resisting authority; yet such a war entitles both belligerent parties to full belligerent rights?"

Need I summon one to whom public law is scarcely less indebted, but who wrote a century later, that Vattel may reiterate with more precision that—

"A civil war breaks the bands of society and government, or at least suspends their force and effect: it produces in the nation two independent parties, who consider each other as enemies, and acknowledge no common judge. Those two parties, therefore, must necessarily be considered as constituting, at least for a time, two distinct societies."

Need I appeal to Riquelme, who declares that—

"When a part of the State takes up arms against the Government, if it is sufficiently strong to resist its action and to constitute two parties of equally balanced forces, the existence of civil war is thenceforward determined. If the conspirators against the Government have not the means of assuming this position, their movement does not pass beyond rebellion. As true civil war breaks the bonds of society, by dividing it in fact into two independent societies, it is for this consideration that we treat of it in international law, since each party forming as it were a separate nation, both should be regarded as subject to the laws of war. This subjection to the law of nations is the more necessary in civil wars, since those, by nourishing more hatreds and resentments than foreign wars, require more the corrective of the law of nations in order to moderate their ravages."

Need I call upon Bello, who says:

"When a faction is formed in a State, which takes up arms against the sovereign, in order to wrest from him the supreme power, or impose conditions on him; or when a republic is divided into two parties which mutually treat each other as enemies, this war is called a civil war, which means war between fellow-citizens. Civil wars frequently commence by popular tumults which in nowise concern foreign nations; but when one faction or party obtains dominion over an extensive territory, gives laws to it, establishes a government in it, administers justice, and, in a word, exercises acts of sovereignty, it is a person in the law of nations; and the foreign Powers which desire to maintain their neutrality ought to consider both as two States, independent as respects one another and other States, and who recognize no judge of their differences."

Or, in order to define more precisely the great and pervading change which has been produced in the relation of the insurgent States and of all their citizens to this Government by the war which they have waged, need I quote the decision of the Supreme Court in the memorable prize cases, where, upon a point raised, it is expressly affirmed that all within the hostile territory "are public enemies and liable to be treated as such;" that the United States may exercise full belligerent rights, and that to the antagonist party all the legal liabilities and consequences of war necessarily attach; the sole element of distinction, according to the court, between the legal effects of a civil war and the legal effects of a foreign war, being, that in the former the party claiming to be sovereign may exercise full belligerent as well as sovereign rights? Or need I, finally, to corroborate this position, cite the uniform action of the executive department, which, since hostilities commenced, has pursued the enemy with invasion, blockades, armies, fleets, sequestration, conscription, military commission, courts-martial, by virtue of its claim to full belligerent rights; which has received from them flags of truce, granted to them paroles, passports, and safe-conducts, and negotiated terms for a general surrender in deference to their possession of

belligerent rights; and which, since their military power has been broken, has ruled them by military governors, dictated conditions of permanent peace, superseded laws and municipal elections, suspended Governors elected by themselves, arrested the judgments of their local courts, and administered their local affairs in a thousand ways which would be utterly without justification unless it was abundantly justified by the laws of war, and without vindication under the Constitution unless it was abundantly vindicated by that construction of it for which I am here contending?

Now, if I am right in the position which I have assumed, that the "civil territorial war" in which we have been involved differs in none of its legal effects (except in the particular which I have indicated) from a foreign war, then we are able to define with precise accuracy the legal relation of the insurgent States and their citizens to this Government since they first appealed to wager of battle.

Up to the time their military power was broken by the universal surrender of their armies and the universal trailing of their unhonored flag, the States were hostile States, and their citizens "public enemies," with belligerent rights and belligerent rights only, entitled to claim no benefit from laws or Constitution, whether that Constitution be called a compact, a treaty, or a covenant, or whether the parties to it were States in their sovereign capacity, or the people of the United States as individuals. And since the surrender the legal relation both of the States and individuals has been that of vanquished enemies, with their lives, property, and political system absolutely at the mercy of the conqueror.

Having thus tried these States by the accredited maxims of public law for the purpose of ascertaining their precise legal relations to the Government they have conspired to destroy, I was intending here to apply to the insurgent eleven the touch-stone of the Constitution, and see what powers it confers upon States as States, what rights it secures to States as States, and what duties and obligations it enjoins as essential, inevitable, and necessary equivalents upon States as States, for the purpose of deducing the comforting conclusion that a State under the Constitution has no rights, and can exercise no power, which discharges no duty and spurns every obligation. But this proposition has been so ably discussed by the gentleman from Ohio [Mr. SHELLEBARGER] that I am willing to leave the dogma, that organized rebellions are States, just where he left it, sprawling and writhing under the blows of such a battle-axe as *Cœur de Lion* dropped on the head of the infidel.

Mr. ELDRIDGE. Will the gentleman allow me to ask him a question at this point?

Mr. DEMING. I would inform the gentleman from Wisconsin that I have not so thoroughly got the hang of this school-house at present that I can consent to interruptions. As I am speaking without notes or brief, I tell him frankly that I cannot have my concatenation disturbed by interruptions. [Laughter.]

Although this is the theory which I have uniformly maintained here and elsewhere respecting the nature of this rebellion, and although I do not believe that these vanquished enemies and "organized rebellions" have any reason for claiming that mitigation of the extreme rights of war which are accorded by modern usage to those who think they are waging a just war, yet I deprecate and most emphatically disclaim any desire or purpose to apply to their case the *strictissimum jus* or rigid rule of international law.

But I do intend fairly, squarely, and firmly, to plant myself, in deciding the momentous issues before us, upon the milder interpretation of the rights of conquest, conceded now by every publicist and vindicated by all the wars of history, that we have the right, as victors, to impose any terms upon the vanquished which are necessary for the future security of the Republic and for enforcing and redeeming all the pledges of public faith which the Government has given as the price of victory. I shall insist that "organized rebellions," called by court-

esy "States," shall not resume their former rights without irreversible guarantees to national security and national honor. I shall insist that we have the right, both as victors on the one hand and as legislators on the other, to exclude them from the Congress of the United States until the repetition of the secession experiment is placed beyond a peradventure; and no vote from any of these vanquished enemies shall, by my consent, endanger the public faith until that precious jewel is imbedded in the imperishable buttresses of the Constitution.

I am now prepared to declare with precision, but with brevity, what the national security and the public faith, in my judgment, require as conditions precedent to the readmission to the public councils of "public enemies" from States who for more than four years have deliberately divested themselves of every legal idea of a State as defined by public law, and of all the elements of a State which the Constitution of the United States enjoins them to possess and maintain.

It requires, first, that the Government shall be absolutely protected from a repetition of the secession experiment by a provision in our organic law; second, that the freedman shall be secured an absolute equality with the white man before the civil and criminal law, and shall be endowed with every political right necessary to maintain that equality; third, that the public creditor shall be protected, as completely as organic law can protect him, from any repudiation or scaling down of the public debt; fourth, that the citizens, both of the rebel and loyal States, shall be protected, as completely as organic law can protect them, from any taxation, direct or indirect, for the payment of the rebel debt; and unless the equality of the freedman before both civil and criminal law can be fortified by legislation here, under the second clause of the amendment to the Constitution, giving universal freedom to the slave, we shall require, fifth, an amendment similar to that introduced by my distinguished friend from Ohio, [Mr. BINGHAM,]

"That Congress shall have power to make all laws necessary and proper to secure to all persons in every State equal protection in their rights of life, liberty, and property."

Much more than this we might rightfully demand; much more than this we might reasonably claim; but not a jot less can we fail to secure as conditions precedent to the readmission of these "public enemies" to the public councils without being guilty of treachery to the living, to the dead, and to those who are yet to be.

Having thus defined the relation of these insurgent States to the Government according to public law and according to the Constitution, I wish to address myself for a moment to the spirit, temper, *animus* of these "public enemies" at the present time, and to ask, what security have we that the indispensable prerequisites of national safety and national faith which I have enumerated would not be jeopardized by the presence here of the Representatives of those men, who, when the grass on these surrounding hills, which is now but just withered, was but just green, were pursuing us with the sword, with the fire-brand, with pestilence, massacre, and slow starvation, as on that wild and awful night in the kalends of April—but I forbear; the wedding follows so close upon the funeral that

"The funeral baked meats
Might coldly furnish forth the marriage tables."

We are here, in the full gaze of the nation and the civilized world, charged with the future grandeur and renown of the Republic. We are here fairly coining and molding the rising eras and ages of a continent. We are here attempting to save an empire from being mortally wounded by that ball which has hardly yet spent its force, and which these new converts sped at its head when in their now regenerate bosoms burned all the concentrated flames of hell. We are here, having just rescued the Government from death on the field of honor, attempting to save it from the death of infamy which would follow its perfidy to the freedman who fought its battles and to the creditor who purchased its

bonds. And when here, under such oppressive responsibilities to the present and the future, to the living and the dead, we ask, earnestly ask, like tortured Ajax begging for light, what proof—strong, convincing, overwhelming, as the enormous improbability of the supposition requires—do you present that these red-handed rebels can safely participate with us in launching the now enfranchised Republic on its dazzling orbit of justice, probity, and freedom, we are forthwith answered by a flux of glittering generalities, which are no more proofs of loyalty than the dogged submission of the assassin Payne to his fate was proof of loyalty. "They accept the situation;" so did Payne. They "submit to necessity;" so did Payne. "The aspect of affairs is more promising than could have been expected;" so it was in Payne's case—it was supposed he would kick and bite the executioner. "An abiding faith is entertained that their actions will conform to their professions;" that must be a faith like Tertullian's, who said, "*Credo quia impossibile est.*"

I see by the northern papers that some reverend gentlemen have been transcendently weak enough to bless God "for having converted the southern heart to loyalty." If this be so, St. Paul's conversion was rather a tame affair. If it be true that these fire-eating, blood-thirsty southrons, whose untamed insubordination, whose furious and vindictive passions, were the proverb and shame of our past, have been suddenly born again, then has the day of Pentecost met with an eclipse which amounts to a total obscuration, and the epistles of Andrew have worked a greater miracle than the preaching of Peter.

Why, Mr. Chairman, we all know that hypocrisy is not one of the vices of southern character. There is no loyalty there which would support what I regard, or what the least exacting Union man should regard, as indispensable to the present and future safety of this imperiled nation. That most acute and patient observer of the southern *animus*, General Carl Schurz, commissioned by the President to examine this very question, in the condensed essence and summing up of his most valuable report says:

"The loyalty of the masses and most of the leaders of the southern people, consists in submission to necessity. There is, except in individual instances, an entire absence of that national spirit which forms the basis of true loyalty and patriotism."

"The emancipation of the slaves is submitted to only in so far as chattel slavery in the old form could not be kept up. But although the freedman is no longer considered the property of the individual master, he is considered the slave of society, and all independent State legislation will share the tendency to make him such. The ordinances abolishing slavery, passed by the conventions under the pressure of circumstances, will not be looked upon as barring the establishment of a new form of servitude."

This is the final exhibit of the keen observer deputed by the President to examine upon the spot the condition of the insurgent States.

Sir, their conversion consists in bowing their still stubborn necks to a power which they could no longer withstand, and the instrument of it was the sword of Ulysses. Their penitence consists in discovering that they have committed a blunder.

When the Administration of Abraham Lincoln was inaugurated two alternatives were before them. They could have staid here, fighting the Government from the inside as they had done for the last thirty years, and while warmed in its too gentle and forbearing bosom, marking it for slaughter and measuring it for the grave. They could have gone out and attempted an assault upon it from the outside. They chose the latter. They raised their bloody hands in rebellion; and had no sooner done so than they found themselves confronted with the most puissant military Power which the world has ever seen when begirt for war, and when it had summoned its children for battle.

They went down with their short-lived banner in the dust of humiliation and defeat. And if there is any truth in this introversion into the southern *animus*, which has been laid before the country, they are, like a wily and discomfited enemy, watching the chance to steal back

and adopt the other alternative, and strangle the Government here in the very sanctuary of its power and majesty. "Oh doubter and gainsayer!" I hear some ardent friend of readmission ask, "have they not repealed the secession ordinances? Have they not adopted the amendment to the Constitution and repudiated the rebel debt?" Oh, yes, with a command of countenance and solemnity of visage which, under the circumstances, is truly marvelous. They have told all the beads, repeated all the aves, and pattered all the prayers enjoined upon them as a condition of absolution; but it is within the limits of possibility that they have done all this to purchase unlimited indulgence to sin; and not to be invidious in comparisons, I am told that Italian brigands are never so devout in kneelings, crossings, and paternosters; as when they are about to plunge afresh into crime.

They have ratified the amendment to the Constitution, have they? But how have they ratified it? With a construction and gloss upon it which is more trumpet-tongued proof of their perennial perfidy to the black race than all the hypocritical mouthings of acquiescence in emancipation which could be collected in six months' hunt from Richmond to the Rio Grande. They have ratified it with a construction that it merely abolishes the infamy of buying, selling, and owning human beings; and under the exceptional clause ("except as a punishment for crime") reconstructed North Carolina is now selling black men into slavery for petty larceny, and reconstructed South Carolina, Mississippi, and Louisiana are fettering the contract system with so many subtle formalities, forfeitures, and conditions, that a modern labor contract is much like an old-fashioned slave-pen—a trap to hold the freedman to his work and cheat him of his wages. It is also true that in equivocal and guarded language they have repealed the secession ordinance and repudiated the rebel debt. But who can have faith in a generation of vipers? The next Legislatures may reenact secession and reaffirm the debt, and I am determined for one to accept no bonds for their good behavior which they are at liberty either to cancel or steal. But the oaths! the oaths! They have sworn oaths to be faithful to the Constitution and to support the laws. Yes, my friend, they have piled Pelion upon Ossa in the shape of oaths; but, alas! they have taken all these oaths before, and on the top of them taken perjury upon their souls; and those who witnessed their perjured Senators and Representatives, their perjured officers, military, naval, and civil, their perjured judges, and their perjured curs of low degree, rushing from the Bible which they had kissed to the rebel congress and the confederate camp, will require more irreversible guarantees from the returning prodigals than those which end with "so help me God!" Confidence is said to be a plant of slow growth, and if there is any kind of confidence which should be longer than the American aloe in blossoming, it is confidence in any oath which these convicted oath-breakers can take.

I have pursued this investigation thus far into the *animus* of the inhabitants of the disfranchised States by the intuitions of common sense, with the expectation that this process would guide us at least to the conclusion that the burden of proof in this case rests most signally upon those who claim that they are ripe for our embrace and for the immediate readmission of their Representatives to this floor. I was intending next to adopt a more systematic method of investigation with the hope of showing that the intuitions of common sense and the process of inductive investigation mutually fortify and vindicate the same general conclusions. I was intending to examine the southern *animus* as evinced, first, by their general, local, and municipal elections; second, by the laws and ordinances which they have passed respecting the freedmen; third, by the testimony of the special agent appointed by the President to investigate their loyalty; fourth, by correspondence from the infected region; and fifth, by the statements of loyal citizens from the renovated States; and I affirm that from all these distinct and inde-

pendent sources of information the evidence is complete and overwhelming that southern loyalty consists in submission to necessity, and that their implacable animosity to the Federal Government, and to those great measures which have been inaugurated for liberating and enfranchising the slave, is merely biding the time when, by the return to these Halls of its full complement of Senators and Representatives, the misfortunes of the field may be redeemed in the forum. But as the whole body of laws and ordinances have not yet reached us, the materials for an exhaustive examination are not yet complete, and I must defer to some future period of the debate the results of such an investigation. I can assure gentlemen that when the results of such an investigation are brought to the intelligence and conscience of the North, no man can live who votes for the unconditional admission of these unregenerate and implacable foes to any participation in our legislation here. I am thankful that my feeble voice has been permitted at this early day to sound the alarm.

I have thus, Mr. Chairman, defined my view of the relation of these insurgent States, as determined by public law and by the Constitution, to this Government. I have indicated without vindicating the constitutional muniments which will be required to defend the cause we have won when "public enemies" shall be joined with us in executing our sacred trust. In doing this I have stated some of the principles which will govern me in this momentous crisis of my country's history. Guided by them, I shall enter the dark and portentous cloud which is still lowering before us without fear, with great hope, but with no certainty. Upon the God of nations and the invincible strength of northern freemen we must still rely to make our deliverance sure.

Mr. SMITH (whose remarks will be published in the Appendix) next addressed the committee. He had not concluded his remarks, when, at the expiration of an hour,

The hammer fell.

Mr. DAWSON obtained the floor.

Mr. BAKER. I move that the gentleman from Kentucky [Mr. SMITH] have permission to proceed until he concludes what he has to say. No objection was made.

Mr. SMITH. I do not expect to trespass on the attention of the House again this session. I really did not intend to speak so long as I have to-day. But if the House will indulge me by adjourning now, and permitting me to conclude my remarks on Monday, I shall be very much obliged, and will be able, I am certain, to finish then in about thirty minutes all I have to say. It must be evident from my voice that I am not in a condition to proceed now.

Mr. DAWSON. I will move that the committee now rise, with a view to allow the member from Kentucky [Mr. SMITH] an opportunity to conclude his remarks on Monday, and with the understanding that I am entitled to the floor when he shall have concluded.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union had had under consideration House bill No. 122, making appropriations for the naval service for the year ending June 30, 1867, and also the President's annual message, and had come to no conclusion thereon.

FRANCIS A. GIBBONS AND F. X. KELLEY.

Mr. McKEE. I ask unanimous consent of the House to take from the Private Calendar a joint resolution reported from the Committee of Claims, referring back to the Court of Claims for a rehearing the case of Francis A. Gibbons and F. X. Kelley, on an amended petition. No objection was made.

The House then proceeded to the consideration of the joint resolution; which was read a first and second time, ordered to be engrossed for a third reading, and being engrossed, it was accordingly read the third time, and passed.

REGISTRY OF VESSELS.

Mr. LYNCH, by unanimous consent, intro-

duced a bill to further regulate the registry of vessels; which was read a first and second time, and referred to the Committee on Commerce.

CYRUS A. ANTHONY.

Mr. INGERSOLL, by unanimous consent, introduced a bill for the relief of Cyrus A. Anthony; which was read a first and second time, and referred to the Committee of Claims.

SANITARY CONDITION OF DISTRICT OF COLUMBIA.

Mr. COBB, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee for the District of Columbia be, and they are hereby, instructed to inquire what measures are necessary and practicable to be taken by Congress for the purpose of improving the sanitary condition of the city of Washington in view of the possible appearance of the Asiatic cholera with the approach of the warm season, and that they report by bill or otherwise.

And then, on motion of Mr. DEFREES, the House (at four o'clock and thirty-five minutes p. m.) adjourned to Monday next.

IN SENATE.

SATURDAY, January 20, 1866.

The Journal of yesterday was read and approved.

CREDENTIALS PRESENTED.

The PRESIDENT *pro tempore* presented the credentials of SAMUEL J. KIRKWOOD, chosen by the Legislature of the State of Iowa a Senator from that State for the unexpired term of Hon. James Harlan, ending March 3, 1867; which were ordered to be filed.

He also presented the credentials of Hon. JAMES HARLAN, chosen by the Legislature of the State of Iowa a Senator from the State of Iowa for the term of six years, commencing on the 4th of March, 1867; which were ordered to be filed.

PETITIONS AND MEMORIALS.

Mr. CHANDLER presented a petition of engineers of the United States revenue marine service, praying for an increase of their compensation; which was referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. CHANDLER, from the Committee on Commerce, to whom were referred memorials of citizens of Michigan, remonstrating against the renewal of the so-called reciprocity treaty with the British Provinces, asked to be discharged from their further consideration, and that they be referred to the Committee on Foreign Relations; which was agreed to.

He also, from the same committee, to whom were referred petitions of John Pridgeon, William K. Muir, and John A. Sloan, praying for the issuance of American registers to the steam-tugs Michigan and Dispatch, reported a bill (S. No. 89) to issue American registers to the steam-vessels Michigan and Dispatch; which was read, and passed to a second reading.

BURLINGTON AND MISSOURI RIVER ROAD.

Mr. GRIMES. I move that the Senate proceed to the consideration of the joint resolution No. 20, reported from the Committee on Public Lands.

The motion was agreed to; and the joint resolution (S. R. No. 20) extending the time for the completion of the Burlington and Missouri River railroad was read a second time by its title, and considered as in Committee of the Whole. It provides that in case the Burlington and Missouri River Railroad Company shall complete the section of twenty miles from the present terminus of its road by the 1st of October, 1866, and the certificate of the Governor of Iowa shall be filed with the Secretary of the Interior of such completion, the company shall be entitled to its lands, as provided in section eight of the act entitled "An act to amend an act entitled 'An act making a grant of land to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State,'" and its rights shall be in all respects the same as if the section should have been completed on the 1st of July next.

Mr. GRIMES. Under the grant of lands made to the State for the Burlington and Missouri River Railroad Company it was required to complete this section of twenty miles by the 1st of July next. This joint resolution is simply intended to extend that time from July until October.

Since the resolution was introduced and reported by the committee, I have intelligence that that country has been visited by a tremendous freshet, and that the bridge which was the cause of the delay in completing the road, and the condition of which compelled the company to apply for this extension of three months, has been swept away. I therefore propose to amend the resolution as reported by the committee by striking out the word "October" in the fifth line and substituting "December," so as to give them two months longer. The people are anxious that the road shall be completed as speedily as possible; but I think the company is entitled to a little leniency because of this act of Providence that has swept their abutments and bridge away.

Mr. POMEROY. I suggest to the Senator from Iowa that the time ought to be extended for a year. The company have already had one or two misfortunes, and may have another. Extending the time two months in a great enterprise like a railroad is very little. I suggest that the time should be extended for a year, so as to allow sufficient opportunity for the purpose.

Mr. GRIMES. I am representing the people in that vicinity, who are extremely interested in having this road completed as speedily as possible, while I am attempting to protect the rights of the railroad company. I think from the intelligence I get that the injury which has resulted to the company can be made good in two months. I prefer, therefore, to have my amendment adopted.

Mr. POMEROY. I have no objection to it if the Senator thinks the time he proposes sufficient.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The resolution was ordered to be engrossed for a third reading, and was read the third time, and passed.

PENSION AGENTS.

Mr. LANE, of Indiana. I move that the Senate proceed to the consideration of the unfinished business of the morning hour of yesterday, being the bill (S. No. 69) to provide for the payment of pensions.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. LANE, of Indiana. When this bill was under consideration yesterday morning it was thought best by some Senators that we should fix by legislation the compensation to be paid to these pension agents. I find by an examination of the laws that that compensation has already been fixed by legislation. The history of the legislation on the subject, in brief, is this: upon the passage of the first pension act, it was made the duty of the War Department to appoint agents for the payment of pensions without any compensation. The agents were appointed at the discretion of the Secretary of War. It was then thought that the use of the deposits would pay for any expense or trouble in disbursing the money, and for many years the officers of banks made the payments. In 1847, for the first time, a law was passed fixing the compensation of pension agents at \$1,000 per annum, and subsequently the same discretion was given to the Secretary of the Interior as to the appointments that had been lodged in the Secretary of War when the Pension Bureau was in the War Department. Another act or resolution, approved July 17, 1862, extended the maximum of compensation to \$2,000. Another act, approved June 30, 1864, allowed to every pension agent disbursing \$50,000 annually, \$500 for clerk hire, rent of office, and

office expenses, and \$750 to every agent disbursing \$100,000 annually, and \$250 in addition for every additional \$50,000, the maximum to the agent in no case to exceed \$4,000. The opinion of the Secretary of the Interior and the Commissioner of Pensions is, that the present laws restricting the amount of compensation to these agents are amply sufficient, and that they are just about right. The maximum runs now from \$2,000 to \$4,000, including clerk hire and office rent. There is, therefore, no need for any amendment of the bill on that subject, it already having been secured by legislation.

There is one other point upon which an amendment was suggested yesterday, to limit the number of these appointments. It is the opinion of the Secretary of the Interior and the Commissioner of Pensions that it is impracticable to make any restriction at present, for this reason: there are four States now having three pension agents each, the States of Iowa, Indiana, Ohio, and New York; they are the only ones having as many as three; the most of the others have two, and some of the States have but one. These are thought now to be amply sufficient to answer all purposes. If we were to adopt the amendment suggested yesterday, saying that no State shall be entitled to more than three agents, every State now having but one or two would at once insist upon having the full complement. It is the opinion of the Department that such an amendment would make it almost indispensably necessary, under the pressure that would be brought to bear, to appoint three agents for each State. We do not propose a limit less than three, because if we do it will come off from every State that has now three agents. If, therefore, we should adopt an amendment providing that no more than three pension agents shall be appointed for each State, instead of restricting the number we should be authorizing twenty or thirty additional appointments, for each State would insist upon having three agents. For this reason, it is thought best to leave the bill precisely as it is, the restrictions on disbursements having been sufficiently provided for by previous laws.

I will state to the Senate that the reason why the laws fixing the compensation of pension agents were not found yesterday and were not accessible so that we might refer to them, was that they have been added to appropriation bills, and where they were precisely no one could inform us, but they seem to be complete in their character.

Mr. LANE, of Kansas. I hope the chairman of the Committee on Pensions will not press a vote on this bill to-day. I desire to ask him whether his attention has been called to the amount paid the pension agents. He will find that it is a very large sum, and he will find also that every dollar paid to them can be saved by selecting as paying agents our national banks; and I propose, if he will not press a vote on the bill to-day, to bring in a substitute providing that the national banks shall be used as our agents to pay pensions instead of the present system.

Mr. LANE, of Indiana. My attention has been called to precisely the subject to which the Senator from Kansas now refers, and I have been very unfortunate in my remarks if I have not satisfied the Senate and himself that the amount paid to every one of these agents is fixed by law and cannot be exceeded. The second section of the act fixing the compensation of pension agents, approved February 20, 1847, which was the first law on the subject, allowed for distribution a compensation not exceeding \$1,000. When the business of the pension agents was greatly increased, growing out of the rebellion, a joint resolution was passed on the 17th of July, 1862, extending the maximum of commissions to \$2,000; and another act, approved June 30, 1864, granted an allowance to pension agents, disbursing \$50,000 annually, of \$500 for clerk hire and office rent; and to those disbursing \$100,000 annually, \$750, and \$250 in addition for every additional \$50,000 disbursed, the whole compensation in no event to exceed \$4,000.

Mr. LANE, of Kansas. What is the whole amount paid to pension agents?

Mr. LANE, of Indiana. There are forty-nine pension agents employed. Their maximum compensation cannot exceed \$4,000 in any case, and it is fixed at \$2,000, except where they pay out over \$100,000, and then for each \$50,000 above that sum there is an additional percentage reaching to \$4,000.

As to the idea of employing the national banks to disburse this immense sum, I think it altogether impracticable. We have now forty-nine agents, every one of whom is vouched for as a faithful and honest man, every one of whom has entered into abundant and sufficient securities, and I think it is best to leave the disbursements precisely where they are now left by law. I have had free conference with the Secretary of the Interior and the Commissioner of Pensions on this subject, neither of whom has intimated any such idea as changing the manner of payment from agents to the national banks.

I hope the bill will be disposed of this morning. It has been three several times before the Senate, and I think it is now as fully understood as it ever will be, and if it is to be postponed I shall take it as an indication that the Senate desire the enactment of no such law, and, for one, I shall not press it upon their attention any further.

Mr. LANE, of Kansas. The original plan was to use banks as agents to pay these pensions free of cost to the Government. The question I submitted to the chairman of the Pension Committee was—and I certainly did not mean to offend him in regard to his own bill—whether he had had any correspondence with the national banks as to their willingness to accept this agency free of expense to the Government. I am satisfied that, because of the length of time that these deposits would necessarily remain in the national banks, they would gladly accept the agency free of cost to the Government. I hope, therefore, that a vote will not be taken to-day upon this bill, and that I may have the opportunity of bringing in a substitute for it.

Mr. LANE, of Indiana. In answer to the last suggestion, that the use of the deposits in the national banks would be a sufficient compensation to induce them to make these disbursements, I have only to say that I made that point with the Commissioner of Pensions. He told me that under the first pension law it was the custom of the Department to place these deposits, at the beginning of the year, in the hands of the disbursing agents, and the use of the fund was sufficient to pay for the disbursements, but under our present system the pension agents make requisition for money when they need it, and it does not lie in their hands ten days. That is what I understand to be the difference.

Mr. LANE, of Kansas. So far as Kansas is concerned, I know that the chairman of the committee is mistaken. Our fund is about \$56,000, and the money is deposited by the agent in one of our banks, and I know that that bank would willingly accept the payment of the money for the use of it.

Mr. HENDRICKS. I wish to ask my colleague one question. My impression of the law is that the Secretary of the Interior can now appoint as many pension agents as in his judgment are necessary. If so, this bill in regard to the number of agencies to be established does not change the law. It simply submits their appointment to the judgment of the Senate. There surely can be no objection to that. I will not, for one, consent to send pension claimants to any bank to get their money. Pension agents help them very much in making up their papers. If there is anything wrong about them, they fix them up. I think the present system is much more desirable.

Mr. LANE, of Indiana. My colleague is precisely right. The Secretary now has exactly the discretion which this bill proposes to give the President.

Mr. HENDRICKS. So I thought.

The bill was reported to the Senate without

amendment, ordered to be engrossed for a third reading, and was read the third time, and passed.

PENSION APPROPRIATION BILL.

Mr. FESSENDEN. I should like, if the Senate please, very much to take up the pension appropriation bill. It has been reported for some time. I think it will pass without any sort of debate. There are a few amendments which will require that it be sent back to the House of Representatives, and there is time enough in the morning hour to dispose of it, I think. It is House bill No. 36. I move to take it up.

The motion was agreed to; and the bill (H. R. No. 36) making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th of June, 1867, was considered as in Committee of the Whole. The appropriations proposed by the bill are:

For invalid pensions under various acts, \$5,500,000
For revolutionary pensions, and pensions of widows, children, mothers, and sisters of soldiers, per act of March 18, 1818; May 15, 1828; June 7, 1832; July 4, 1836; July 7, 1838; March 3, 1843; June 17, 1844; February 2, July 21 and July 29, 1848; February 3, 1853; June 3, 1858; and July 14, 1862, \$9,800,000.
For Navy pensions to widows, children, mothers, and sisters, per act of August 11, 1848, and July 14, 1862, \$140,000.

The first amendment reported by the Committee on Finance was in line ten, after the word "soldiers," to strike out "per act" and insert "as provided for by acts;" so as to read:

For revolutionary pensions, and pensions of widows, children, mothers, and sisters of soldiers, as provided for by acts of March 18, 1818, &c.

The amendment was agreed to.

The next amendment was in line twenty, after the word "1862," to insert "and for compensation to pension agents and expenses of agencies," so as to include these expenses in the appropriation of \$9,800,000.

The amendment was agreed to.

The next amendment was in line twenty-four, to strike out "per act" and insert "as provided for by acts."

The amendment was agreed to.

The next amendment was to insert at the end of the bill as a new section:

Sec. 2. And be it further enacted, That the following sum be, and the same is hereby, appropriated to supply a deficiency in the appropriation for the fiscal year ending June 30, 1866, out of any money in the Treasury not otherwise appropriated:

For revolutionary pensions, and pensions of widows, children, mothers, and sisters of soldiers, as provided for by acts of March 18, 1818; May 15, 1828; June 7, 1832; July 4, 1836; July 7, 1838; March 3, 1843; June 7, 1844; February 2, July 21, and July 29, 1848; February 3, 1853; June 3, 1858, and July 4, 1862, \$2,500,000.

The amendment was agreed to.

Mr. FESSENDEN. Among the amendments agreed upon by the committee was one to insert at the end of the twenty-seventh line the words "to be paid out of the Navy pension fund." By some mistake that was either not reported or not printed. I move to amend by adding these words at the end of the twenty-seventh line, "to be paid out of the Navy pension fund." There is a fund of nine or ten millions, I understand, out of which the naval pensions should properly be paid.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in, and ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed. Its title was amended by adding the words "and additional appropriations for the year ending the 30th of June, 1866."

PERSONAL EXPLANATION.

Mr. CHANDLER. I notice in the reports of the Associated Press the other day that "Mr. CHANDLER gave notice that he would read the British foreign enlistment act." He gave no such notice. He gave notice that he would ask leave to introduce a bill containing the British foreign enlistment act with a clause repealing our present neutrality laws. If that notice is not so entered upon the Journal, I desire that it may be so recorded. My object was that there

might be a uniform rule of neutrality as applicable both to the United States and to Great Britain, and by the enactment of their foreign enlistment act and the repeal of our neutrality laws, the whole question of neutrality would be understood both by Great Britain and by the United States.

ADMISSION OF COLORADO.

Mr. STEWART. I desire to call up Senate bill No. 74, for the admission of the State of Colorado into the Union, for the purpose of moving to make it the special order for Wednesday next.

The motion to take up the bill was agreed to.

Mr. STEWART. I now move that the bill be postponed until Wednesday next, at one o'clock, and that it be made the special order for that day.

Mr. FESSENDEN. I wish to repeat a remark that I have made in preceding Congresses, that I really hope the Senate will be a little careful how, at the suggestion of gentlemen who may happen to have charge of particular bills, they make special appointments. We lumber up our order of business regularly every year by making special assignments of bills.

Mr. STEWART. If the bill can be considered a few moments now, I will withdraw my motion and ask for its present consideration.

Mr. SUMNER. I hope that will not be done, for I have not examined the bill, and I have an amendment to move to it which I have not yet prepared.

Mr. FESSENDEN. I really hope that unless it is some bill of pressing importance, gentlemen will not endeavor to have special assignments. One overlaps the other, and we get into infinite difficulty and confusion in the order of business; and unless some very special reasons are given for taking up a bill at a particular time, I really hope the Senate will not set the example. If the Senator had been here as long as I have been, he would be aware of the trouble, confusion, and difficulty arising from these special assignments of particular bills. He can give notice that he will call up the bill at a particular day.

Mr. STEWART. That will serve my purpose. Several Senators desire to look into this bill, and wish to know when it will come up. Not wishing to take them by surprise, I give notice now that I will call it up on Tuesday next.

THE PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The Senator withdraws his motion.

Mr. SUMNER. Had the Senator better not say Wednesday?

Mr. STEWART. I will say Wednesday. I will let it stand until Wednesday, and I give notice that I shall call it up then.

THE PRESIDING OFFICER. The bill will be laid aside.

FREEDMEN'S BUREAU.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of the unfinished business of yesterday. It is not quite one o'clock; but if we get engaged in some other bill, very likely we shall not get through with it by that time.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau, the question being on the amendment proposed by Mr. HENDRICKS to strike out in the fifth and sixth lines of the first section the words "shall continue in force until otherwise provided by law and."

The amendment was rejected.

Mr. COWAN. I would suggest an amendment in the seventh line of the first section. The bill as it at present stands reads in this wise: that the operations of this bureau and its jurisdiction "shall extend to refugees and freedmen in all parts of the United States." I propose to amend that by inserting after the word "all" the word "such," and after "United States" the words "as have lately been in rebellion."

I have no idea of having this system extended over Pennsylvania. I think that as to the freedmen who make their appearance there, she will be able to take care of them and provide as well for them as any bureau which can be created here. I wish to confine the operation of this institution to the States which have been lately in rebellion. I therefore move this amendment.

Mr. TRUMBULL. The Senator from Pennsylvania will see that the effect of that would be to exclude from the operation of the bureau the State of Kentucky and the State of Delaware, where the slaves have been emancipated by the constitutional amendment. The operation of the bureau will undoubtedly be chiefly confined to the States where slavery existed; but it is a fact which may not be known to the Senator from Pennsylvania, that during this war large numbers of slaves have fled to the northern States bordering on slaveholding territory. They congregated in very large numbers at Cairo; a good many of them upon the southern borders of Indiana, and some in Ohio. The people of those States are very unwilling to provide for and take care of these persons who come there without any means at all, and it is necessary for somebody to look after them. The Freedmen's Bureau, I think, has already sent some of its agents to these points, and has made some disposition of them by procuring them employment, or shipping them to other places, to relieve the communities where they were from the expense of maintaining them. It is with that view that the bill is made to extend throughout the country.

It is not supposed that the bill will have any effect in the State of Pennsylvania or in the State of Illinois, unless it might, perhaps, be at Cairo, where there has been a large number of these refugees congregated without any means of support; they followed the Army there at different times. And the same thing is true in Indiana to some extent; and in Ohio. I do not know that there can be any objection to the Freedmen's Bureau, which is organized with a view of looking after the interests of these people, sending one of its agents there to aid them in getting into positions where they can become self-sustaining. The provision of the bill in regard to holding courts, and some other provisions, are confined entirely to the rebellious States, and will have no operation in any State which was not in insurrection against this Government. I make this explanation to the Senator from Pennsylvania, and I think he will see the necessity of the bureau going into Kentucky and some of the other States, as much as into any of the southern rebellious States.

Mr. COWAN. That may all be: I have not had an opportunity to examine the bill exactly in all its details. If it was only to operate for the relief of the refugees, of course I suppose there could be no valid objection to it; but the operation of the original bill and this supplement is much wider, and really intends to introduce an *imperium in imperio*. It carries with it not only the power to relieve the refugee, but also a police power which in my State would be exceedingly objectionable; and that the mere fact should be recognized for one instant that it was to operate there, or might by any possibility operate there, would be exceedingly mischievous, and I am unwilling upon this floor, and feel it utterly inconsistent with my duty to my State, to allow any such thing to pass here. Where the necessity for this institution exists, let it be confined there, but let it not be extended beyond. If there are any portions of the States which have not been in rebellion where this jurisdiction is necessary, they should be accurately defined, because this is an extraordinary jurisdiction, and one which trenches upon those peculiar and acknowledged State rights which are estimated very highly by all of us everywhere—one which ought not to be extended beyond the limits of that necessity which begets its existence.

I do not see any better form in which to put the amendment than the one in which I have couched it; that is, where a State has been in

rebellion, let this extraordinary remedy be applied; where a State has not been in rebellion, but has remained loyal to the Union and loyal to her allegiance to it, it is most extraordinary that this exterior or outside jurisdiction should be introduced for any purpose at all. It is a reflection on those States that they will not do justice to those who seek a refuge within their borders, and I repel, and desire to repel, any imputation of that kind from the State in which I reside. I am proud to say that, no matter who comes there, no matter what may be his color, his complexion, or his creed, he is there protected upon the same footing precisely as all her people are; and I may say, sir, that in her courts the negro obtains perhaps a fuller and more ample share of justice, on account of his weakness, than he would do were he a white man. Certainly nobody has ever complained that a full and exact measure of justice has not been meted out to him there in all our courts. I am loth, therefore, that anything of this kind should be enacted into a law by this Congress. If the bill in its provisions was made to operate where the necessity, or the alleged necessity, for it is said to exist, of course I have no objection; but I do object to extending it to the loyal States of the North.

Mr. GUTHRIE. Mr. President, I should like to know the peculiar reasons why this bill is to be extended to the State of Kentucky. She has never been in rebellion. Though she has been overrun by rebel armies, and her fields laid waste, she has always had her full quota in the Union armies, and the blood of her sons has marked the fields whereon they have fought. Kentucky does not want and does not ask this relief. The freedmen in Kentucky are a part of our population; and where the old and lame and halt and blind and infants require care and attention they obtain it from the counties. Our whole organization for the support of the poor, through the agencies of the magistrates in the several counties, is complete.

Sir, I did hope that ere this we should have admitted the representatives of the ten States in the South who have organized governments, who are legislating for and taking care of their local concerns, and that we should have allowed them to take care of the freedmen in their respective States. They can do it far cheaper than we can. It is said that there are three million five hundred thousand blacks in the South who have been freed by the amendment of the Constitution and your previous action. If there be that many, there cannot be less than five hundred thousand, or one in seven, who will require the aid and support of the respective States, because they are not in a condition to support themselves, even if they were able and willing to work. The expense of supporting such a population at the lowest calculation would be fifty dollars a head, or \$25,000,000 in addition to the expenditure provided for in the bill, which it was shown yesterday amounted to about twelve million dollars a year; and then the result of it will simply be to encourage the negroes to look to the Government for rations and keep them from working. It is providing for a lazzaroni throughout the States to which you apply it. I do not want it applied to Kentucky. We prefer to take care of our own poor, even of the African race. We have always treated them well. I have asked a very able lawyer with whom I have corresponded to give me a statement of the rights of freedmen in Kentucky under our laws as they stand—and they have not been changed in this respect since the constitutional amendment—and he says:

"At present there are but few differences in civil right between free negroes and whites. In all the rights of marriage, person, and property, they are identical. The same laws govern their marriages, their wills, their acquisitions of all kinds of property, and their disposition and transmission of it, their rights of suing on contracts for injuries to person and property, and their mode of trial in penal and criminal prosecutions. By those laws, freedmen, that is the whole negro or colored population, are now governed."

They have all these rights—the right to sue and be sued, the right to contract and be contracted with, the same right to purchase and

hold property and transmit it by will or descent, the same rights of marriage, as white people. There is some little modification in the existing laws which our friends in the Legislature are endeavoring to procure; but generally the free negroes have the same rights of person and property as white persons.

I do not understand the amendment of the Constitution abolishing slavery as some gentlemen do. I believe its effect is to work the complete freedom of every individual, and to break down every provision in the Constitution and laws of the United States and of the several States which prevents the enjoyment of that freedom. In Kentucky, those who were formerly slaves are now free. They have the same rights that any other freedmen have there, and my word for it, Kentucky will make it all right, because she has been among the most liberal States in granting rights and privileges to her freedmen.

We have had the benefit of the Freedmen's Bureau in Kentucky, although we were not included in the provisions of the law creating the bureau. It seems we are entitled to the benefit of the invasion of the enemy, because they undertook to conquer Kentucky, as they intended to conquer Missouri, as part of the southern domain. They sent their armies there for the purpose, and after we had driven them back the deserters from both armies united and ravaged Kentucky by a guerrilla warfare that was exceedingly onerous to the people and very destructive to our interests. Is it because Kentucky has stood by the Union during the strife, is it because she has been desolated as she has been in this contest, that the Freedmen's Bureau is to be extended to her? It cannot be proposed as a measure of economy. The great measure of economy would have been to admit the States, and let each State take care of its own population. It must come to that, or this is a despotism for all time to come. We cannot have two systems of laws operating in one community, one portion of them governed by Congress and the other by the State Legislature.

There was a time when I looked upon the Constitution of the United States as the wisest system of government that had ever been devised in the history of time. Looking at it, I saw that thirteen States, each with a local government, had made a national Government by divesting themselves of certain powers and giving them to that national Government and making its laws the supreme law of the land over the constitutions and laws of the States; and a Government thus devised ought to endure forever. Under the system any legislation of Congress or a State in violation of the provisions of the Federal Constitution was void, and time and time again before the judicial tribunal of the Government, the United States Supreme Court, laws of Congress have fallen as void, and so have enactments of the States. It was a system to preserve itself in purity and perpetuity by conforming to its provisions. Any attempt of the State at insurrection was a violation of the Constitution.

I shall not attempt to go over the ground which was so ably argued by the Senator from Maryland [Mr. JOHNSON] or the Senator from Oregon [Mr. NESMITH]. It is a plain, constitutional principle that every act of legislation and everything done in violation of the Constitution of the United States is void. We have a right to suppress insurrection. If there is a combination of States against the Union, that combination is void as in violation of the Constitution. When we suppress a rebellion we have not conquered the States, but we have conquered the rebellion. We have brought the States back into the Union, and it is not in the power of Congress, with all its legislative authority, with all the stretch of power made during the war under extraordinary circumstances—it is not in the power of Congress without violating the Constitution to exclude the States, and such an act would be held void by any judicial tribunal imbued with the principles of the Constitution and understanding its provisions.

Therefore, when the rebellion was suppressed, when the foe laid down their arms, the States were still States of the Union, but without organized State governments. It was the duty of the President—a duty with which he was charged and which he was solemnly sworn to execute—to preserve the Government. The Constitution makes it his duty to see that the laws are executed. The Constitution of the United States, the laws made in pursuance of it, and the treaties made under its authority, are the supreme law of the land, anything in the constitution or laws of any State to the contrary notwithstanding. It was the duty of the President to treat all State laws or acts of State conventions or combinations of States in resistance to the just authority of the Government as null and void under the Constitution. It is made his business to see that the laws be executed. It was his duty to encourage these people to come back into the Union. I think it was in the perfect line of his duty, either as Commander-in-Chief or as chief executive officer of the United States, to bring them back. I do not think he had any authority to command them to do this thing, or to do that, but it was his duty to advise them, and I do not quarrel with him because he advised them to accept the results of the war, for from the feelings I see here manifested, when what they have done according to his advice is not sufficient, if they had not done what they have, God knows what organization would have been proposed for them and what armies we should have sent out against them.

I do not understand gentlemen when they say that the war continues. For more than nine months there has not been a soldier in the field against us. During that period of time there has been no organization in hostility to the Government, and there has been no one inciting to treason or raising troops to resist the United States. The President, in May last, issued his proclamation of amnesty. What did he do? Nations do not war against women and children, the old and the imbecile. It was impossible to prosecute for treason the whole population of the southern States. In his amnesty proclamation the President remitted the personal penalties arising from treason and the confiscation of property. To whom does the President extend this amnesty? He made certain exceptions, the extent of which is variously estimated; but no sensible man who has looked at the subject that I have talked with ever considered the exceptions in the amnesty proclamation as extending to more than forty thousand persons, and the larger portion of them come under the \$20,000 clause. We know, as a matter of fact, that a large portion of the \$20,000 exceptions are infants and widows and married women, and that but a very small portion of the active male population is affected by that exception. The President has granted some pardons, very much, as I gather from the tone and remarks here, to the dissatisfaction of many Senators on this floor. For myself, I am only sorry that he did not go further. There are now probably thirty-five thousand people within the United States excluded from the general pardon; and the war which gentlemen are contriving to carry on for the next five or ten years—God only knows when it is to stop—is against these thirty-five thousand people. All the rest are pardoned, freed from the stain of rebellion and the chances of confiscation.

When I came here I was in hopes, from what I had seen of the manifestations of public sentiment, that these States would be at once restored to the Union and admitted to participation in our councils, so that we might have the aid and advantage of their experience. What would have been the result? After admitting them we should then have asked the President to extend his amnesty, and to give back to women and children their estates, so that we might derive the revenue which would be the result of setting the southern people at work, and enabling them to make the South productive as it had heretofore been. Does any one suppose that all the property thus tied up, the

owners of which are left uncertain as to what to do, will be ultimately confiscated by the United States? If we were ever so violent and ever so determined upon confiscation, public sentiment would not allow us to confiscate the property of women and children who were unable to engage themselves in rebellion, although they may have been worth more than \$20,000. It may be thought that there are some who still cry for blood, but I trust there is no such sentiment as that.

Now, I ask Senators to consider the punishment the South have already felt. Ten thousand million dollars of their property have been destroyed and sunk in this rebellion. You may say they deserve it for having commenced the war. I say they deserve the consequence of engaging in an attempt to overturn this Government, and they must bear it, and they ought to bear it. If the object is the infliction of punishment, have we not fined them heavily enough when we have gone to the extent of \$10,000,000,000? Have we not by this very act thrown upon them the support of a population who are not able to support themselves? It belongs to these State governments to take care of their own poor and those within their own borders.

Sir, it was not my intention to engage in this discussion. I believed when I came here that public sentiment was ripe for a restoration of the Union. I believed the arguments of Sherman and Grant, and other distinguished soldiers who had enforced the national authority upon the battle-field, afforded a greater security than you could possibly exact in any shape in which you might put it, and it is a lesson that will last as long as time shall endure, not only with them but with their posterity and for all future time. It is a decision that wants no confirmation by the Supreme Court of the United States. It is a decision of the God of battles.

You may say that the result is humiliating to the South, that they are not prepared to love the hand that has chastised them; but do you think they will never make good citizens? Sir, for one, I would trust that brave and gallant people—I hope gentlemen will not consider it treason to call them so—who, with inferior numbers and inferior resources, made so stout and brave a contest against us, with all our strength, with all our money, and with all our vast resources. Like our gallant generals, when the battle is over I would extend to them the courtesy of gentlemen and the humanity to which I believe they are entitled. I want no other guarantee than that of which I have spoken; and I have yet to learn that any portion of the people of the United States who have considered the subject want them back in the Union curtailed of their powers and privileges; nor do I believe that the sober intelligence of this nation requires that we should send the officers of the bureau into the southern States to irritate and annoy the people there, by acting as agents for the colored population, instituting suits for them, and trying little petty difficulties between them and the white population. All the suits to be instituted under this bill are to be those in which justice shall be administered in favor of the blacks; and there is not a solitary provision in it relative to suits in cases where the blacks do wrong to the whites.

I hope that the provisions of this bill will not be extended to the State of Kentucky. This whole subject has given us a great deal of trouble. It has given us some trouble in the Legislature to adapt ourselves to the new condition of things in which we find ourselves. I tell you, gentlemen, the heart of Kentucky is right, and it will do right on this subject. We intend to provide for the support of the helpless people within our borders. We want no interference from the General Government on such a matter. There is no necessity for it. It is not in the bond of the Union that you shall send your officers and agents to Kentucky to judge between portions of her population. I ask you, gentlemen, to bring this question home to yourselves. I am sure if chance were ever to put the party to which I belong in power, we would not hold this chalice to your lips and attempt

to enforce such a system of laws in your States. Our charter for action would be the Constitution of the United States; and where that forbade us to go, we would not go.

A great many things have been done during the last few years that I believe surpass anything ever before seen in America. The great demoralization that exists throughout the country, both in public and private life, has had its sanction and authority in the acts of those high in power and influence. Do you expect that when men come together and fill office, and swear to abide by the Constitution, and then disregard its plain provisions, the mass of the people will respect private rights and pay proper regard to the lives and property of their fellow-citizens? In my judgment, a great portion of the demoralization now existing in the country may be attributed to that cause. My hope was that on the restoration of peace we would come back to the old principle of taking the Constitution for our guide, restoring the courts and the rights of action in them, setting the people to work with all their means and all their industry and all their hopes, so that America should prosper as before, and so that we should have the ability to meet the engagements occasioned by the war. But, sir, it would be in vain to indulge such a hope when I see, as I think I see, in this bill and its twin sister behind it, a provision, not for restoring the local State governments, but for governing the people of the States without any regard whatever to the States themselves. Heretofore it has been considered that under the Constitution of the United States you could not take a foot of land in one of the States, even for a fort or an arsenal, without the consent of the State; but by this bill you propose to obtain land in the States and to become a landlord and renter of land to colored people. Do you think that that will tend to conciliate the affections of the people in those States? How much sooner, by this course of legislation, will you have a united country?

Mr. President, let me say that in my opinion we are not in a condition to continue the state of things now existing in the southern States. Our relations with foreign countries are in a very unsettled state. Our difficulties with England still remain unadjusted. Our relations with France are not settled. This Mexican question remains environed with difficulties. Whatever may be thought of the Monroe doctrine, we cannot but feel that it was unkind on the part of the Emperor of France, while we were engaged in our domestic troubles, to import an army into Mexico and set up an emperor there right opposite to us; a man who, according to the newspapers, is now shooting by wholesale all the prisoners that he captures. I have ever believed, and still believe, that if we had settled the difficulties among ourselves, if we had adopted the President's policy toward the southern States and admitted them to participation in the national councils, that very act of conciliation going forth from America, announcing to all the nations of the earth that we were one people again, would have given us a greater guarantee of peace than we have ever had. If a necessity should arise for calling forth the energies of the nation again in foreign war, I should be for sustaining the national honor; but I cannot disguise from myself the fact that we are just now in no condition to involve ourselves in further difficulties.

Mr. President, I had hoped that there was a different spirit among the representatives of the people in relation to uniting together all the States, including the so-called confederate or rebellious States. I do not wish to say anything offensive, but the whole tenor of the remarks that have been made here during this session toward the people of those States, including those who have been pardoned by the President, has not been the language of conciliation or of kindness. I was as strongly in favor of the suppression of the rebellion as any man. I tried, as far as I had power, and as far as a man of my age could try, to prevent the war; but when it came, I spoke the language of hope as to the result. I thought there

was a reason in the tread of armies that would bring the Union to safety. I regret that we are not nearer a Union, that we are not nearer that spirit of conciliation which would make us one. No great people on the face of the earth has ever been conciliated or made friendly by such discussions as we have had here; it is impossible that they should be. I think the Government will be safe if we adopt the policy laid down by the President. I confess that I am astonished at the success he has met with in restoring the southern States. He has done more with them than I expected he could do, knowing them as well as I did. I believe they are sincere and honest in their desire to come back to the Union. That there are some idle men there who talk at random I do not pretend to deny; but the great mass of the people accept the situation, and mean to be loyal to the United States.

I am sorry that the chairman of the Judiciary Committee has inserted in this bill a provision looking to the permanent establishment of this bureau. I am one of those who believed that while the war was going on, while the States did not recognize their allegiance to the Union, something should be done for these people. It was done, and this bureau was created to look after their interests during the war. But I supposed that as soon as the war was over there would be no occasion for continuing it, because we should be one people again, and this whole subject would be left to the States themselves. I should feel greatly relieved if that provision were stricken from the bill.

In a financial point of view, how much better would it be for the country to have the people of these States friends in the Union than to have them out, with the irritation which every man here knows must be going on between the agents of the bureau and the citizens continually. It is a festering sore that will enlarge and grow with time. I thought that the nation was prepared for peace, that it was prepared for bringing back these States. I thought it was the interest of the nation that we should have peace, that we should have a consolidated nation. I believed that there was no other security required than we had gained in the battles which suppressed the rebellion; that there was none other, indeed, that we ought to call for. I did not believe that this nation wanted the Union restored except upon the principles of equality that existed in the original Constitution.

If you insist upon extending the right of suffrage to the African race, in the name of God extend it to them in all the States of the Union, and do not confine your action to the southern States, placing it as a mark of degradation and inequality upon them when they come back. If you put that lasting mark of degradation upon them, it will be a festering sore to them and theirs for generations to come; and as we are advised by the experience of all those who have gone before us, when a mark of degradation is placed upon a people, they are generally ready to seize a promising opportunity to rebel against it. I shall not go into the history of the world to prove this. It is known to be the history of man in all ages from the first, and it will be so to the last. You cannot degrade any portion of your population and put a mark and stain upon them without leaving cause of heart-burning and difficulty that will endanger the public security hereafter.

I hope that the North and the South henceforth will not undervalue each other. I made as strong an effort as I could to prevent the South from seceding. I told them that the North had such superior numbers as would crush them. When I returned from the peace conference I thought that both sides were willing for the conflict, and that nothing short of blood would stop it. I went home and told the Kentuckians so, and told them also that they must prepare for it. For a time it seemed doubtful, perhaps, which side would get their support; but the cause of the Union prevailed with the people of Kentucky, and Kentucky has been true to the Union always. I hope gentlemen

will consent to strike Kentucky out of the bill. We can take care of ourselves, and we pledge you that Kentucky will do what is right toward these people.

Mr. POMEROY. I have listened to the remarks of the Senator from Kentucky, and have been gratified to some extent by them, and especially to hear that it was held now even in the adhering States that held slaves, that the constitutional amendment rendered null and void all the enactments of the State Legislatures upholding and maintaining slavery. I do not know that I understood the Senator aright; but if I did, in the commencement of his remarks he said that it was held even in the adhering States, like Kentucky, that the code relating to slavery was made null and void by the constitutional amendment.

Mr. GUTHRIE. That is my own opinion, and that is the opinion also of Mr. Johnson of Lexington, who is one of the ablest lawyers in the State.

Mr. POMEROY. I am certainly gratified to learn that that doctrine is held in the State of Kentucky, and perhaps in all the States. It goes far to show to my mind that those enactments originally were not above the Constitution of the United States, and that if they were ever constitutionally right, they perhaps could never have been repealed; but it is now confessed that the constitutional amendment abolishes them and renders them null and void, and that certainly is very gratifying. The point that I desire to suggest is this: it is held by the Senator, I believe, that in the State of Kentucky there is no essential difference between persons of color and white persons in their civil rights. That is entirely new to me, because I have never known a State that held slaves which admitted colored testimony against white men.

Mr. GUTHRIE. We do not do that; but that is what we are working for now in the Legislature.

Mr. POMEROY. Then it cannot be true that the civil rights of persons of color in Kentucky are the same as the rights of white men. The third point that I noticed particularly in the speech of the Senator was that we ought to welcome back the representatives of the southern States because their experience would be so valuable to the Senate and the country. To my mind, if any class of men on earth ever had a most bitter experience, it is the people who undertook to secede and rebel. Their experience may be very valuable to them; I hope it is; but I think it is no experience that would be instructive to us. I believe it is the very last experience that any of us would either imitate or profit by. That the way of transgressors has been hard I have no doubt; but that their return to this Senate, or to the other House, will be valuable as a matter of experience I do not believe. At the same time, I would not interpose obstacles to their coming back, with any view of punishment. I think the Senator misunderstands us entirely. Everything ought to be required for safety, but nothing for revenge, nothing by way of punishment. Persons overtaken in their own transgressions are usually punished enough; and I think if a severe punishment has ever been meted out to any people it has been meted out to those who have been engaged in the rebellion.

But I think we ought not to neglect or overlook the fact that we are required to do everything for safety, so that when the Union is restored it may remain forever; and if there is any security required or needed, this is the time to have it. To receive back these States with the idea that anything can be required of them hereafter I believe would be folly. I think, and I believe the sentiment of the country is, that we ought now to provide such securities for the future that another rebellion will be impossible in a thousand years.

Mr. WILSON. If a vote is to be taken on the pending amendment without consuming further time, I shall not say anything; but I arose for the purpose of moving an adjournment; it is Saturday afternoon, and I make that motion.

The motion was agreed to; and the Senate adjourned.

IN SENATE.

MONDAY, January 22, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of Saturday last was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting, in compliance with a resolution of the Senate of the 16th instant, copies of all documents, papers, and maps on file in his Department relating to the branch of the Union Pacific railroad from Sioux City, Iowa; which, on motion of Mr. FOOT, was referred to the Committee on the Pacific Railroad, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. WADE presented a petition of one hundred and thirty citizens and residents in the District of Columbia, praying that a law may be passed abolishing all distinctions among the citizens on account of color; which was referred to the Committee on the District of Columbia.

Mr. FOOT presented a letter of the Secretary of the Interior, inclosing a communication from Mr. C. Brumidi, accompanied by a design for a historical painting in fresco, for the embellishment of the interior of the new dome of the Capitol, illustrative of American history; which was referred to the Committee on Public Buildings and Grounds.

Mr. SUMNER. I present a memorial from the Boston Board of Trade, in which they set forth that at the outbreak of the late rebellion Boston merchants had very large claims in the rebel States, that by the operation of the statutes of limitations in those States proceedings for the recovery of those claims are now outlawed, and they, accordingly, pray that Congress will pass a law exempting suitors in the national courts of the United States from the operation of State statutes of limitations for a period long enough to give loyal creditors an opportunity to enforce their demands. I move the reference of this memorial to the Committee on the Judiciary.

The motion was agreed to.

Mr. SUMNER. I also offer a memorial from the colored citizens of the State of South Carolina in convention assembled, representing, as the Senate will remember, four hundred and two thousand citizens of that State, being a very large majority of the population. They set forth the present condition of things in South Carolina, and pray that Congress will see that the strong arm of law and order is placed over the entire people of that State that life and property may be secure. They also ask that government in that State shall be founded on the consent of the governed, and insist that that can be done only where equal suffrage is allowed. They also ask that colored men should not be tried by white men, but that they should have juries for themselves, and they ask also that they should have the constitutional protection in keeping arms, in holding public assemblies, and in complete liberty of speech and of the press. This memorial is accompanied by a printed document containing a report of the proceedings of this colored convention in South Carolina. I offer these and ask their reference to the joint committee on reconstruction.

The papers were so referred.

Mr. HARRIS presented the petition of Cyrus M. Harmon, praying for compensation for the destruction of the presses, stock, type, furniture, and material of his printing establishment, at Ravenswood, Jackson county, West Virginia, September 4, 1862, by the rebel authorities; which was referred to the Committee on Claims.

He also presented the petition of Horatio G. Onderdonk, praying that the stamp required to agreements for the rent of ground be proportioned to the amount of the rent; the repeal of the tax on gold watches worth thirty dollars; an equalization of the annual tax on incomes; a modification of the rate of taxation, and the abolition of the laws which enable the assessor

of the income tax to oppress the citizen; which was referred to the Committee on Finance.

Mr. SAULSBURY. I present the petition of William M. Price, and other citizens of Wilmington, in the State of Delaware, praying that eight hours may be a legal day's work to all workmen, artisans, and laborers employed by the United States. I believe a similar petition was heretofore referred to the Committee on Naval Affairs; and I make the same motion in regard to this.

The motion was agreed to.

Mr. HENDERSON presented the petition of John P. McElroy, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented the petition of Walter H. Tinker, praying to be allowed a pension; which was referred to the Committee on Pensions.

PAPERS WITHDRAWN.

Mr. TRUMBULL. I ask leave to withdraw from the files of the Senate the petition and papers of Jesse F. Gray. No action has been taken upon them. He wishes to present them, I believe, in another shape.

Leave was granted.

REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 73) to restore to the Secretary of War the supervisory and appellate powers in relation to the acts and duties of the Commissioner of Indian Affairs, asked to be discharged from its further consideration, and that it be referred to the Committee on Indian Affairs; which was agreed to.

APPORTIONMENT OF REPRESENTATIVES.

Mr. FESSENDEN. *The committee appointed to take into consideration the condition of the so-called confederate States, with leave to report from time to time, have directed me to make a partial report in the shape of a joint resolution proposing an amendment to the Constitution of the United States.

The joint resolution (S. R. No. 22) proposing an amendment to the Constitution of the United States was read the first time by its title.

Mr. WILSON. I ask to have it read at length.

The Secretary read it, as follows:

Resolved, &c., (two thirds of both Houses concurring.) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of the said Legislatures, shall be valid as part of said Constitution, to wit:

ARTICLE — Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed; *Provided,* That whenever the elective franchise shall be denied or abridged in any State on account of race or color all persons of such race or color shall be excluded from the basis of representation.

BILLS INTRODUCED.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 90) enlarging the powers of the levy court of the county of Washington, in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 91) for the improvement of the navigation of the Colorado river, and the construction of wagon roads in Arizona and Utah Territories; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 92) granting lands to aid in the construction of a railroad and telegraph line from the waters of the bay of San Francisco to Humboldt bay, in the State of California; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 93) to quiet the title to certain lands within the

corporate limits of the city of San Francisco; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a joint resolution (H. R. No. 36) referring the papers in the case of F. A. Gibbons and F. X. Kelley to the Court of Claims, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED.

The joint resolution (H. R. No. 36) referring the papers in the case of F. A. Gibbons and F. X. Kelley to the Court of Claims, was read twice by its title, and referred to the Committee on Claims.

JURORS AND WRITS OF ERROR.

Mr. CLARK. I move that the Senate proceed to the consideration of Senate bill No. 84, in relation to the qualifications of jurors and to writs of error in certain cases.

The motion was agreed to, and the bill was considered as in Committee of the Whole.

The Secretary proceeded to read the bill as originally introduced by Mr. DOOLITTLE.

Mr. CLARK. I hardly think it is necessary to read the bill through as introduced into the Senate, because the Committee on the Judiciary recommend the adoption of an amendment as a substitute for the whole bill. Perhaps the reading of the amendment, which involves substantially the provisions of the original bill, will be sufficient.

The PRESIDENT *pro tempore*. If there be no objection, the reading of the original bill will be dispensed with, and the amendment reported by the committee in lieu of the original bill will be read instead of proceeding further with the reading of the original bill.

The Secretary read the amendment, which was to strike out all after the enacting clause of the original bill, and to insert the following in lieu thereof:

That no person shall be disqualified to act upon any grand or petit jury by reason of having formed or expressed an opinion upon the matter or cause to be submitted to such jury, founded upon public rumor, statements in public journals, or common notoriety, provided he be otherwise competent, and it shall appear to the satisfaction of the court, upon his declaration under oath, or otherwise, that he can and will, notwithstanding such an opinion, act impartially and fairly upon the matters to be submitted to him.

SEC. 2. And be it further enacted, That any question of law arising upon a trial of any person in any district or circuit court of the United States, or in the supreme court of the District of Columbia, for any offense, the punishment whereof may be death, may be removed to the Supreme Court of the United States by writ of error, to be sued out within sixty days after the entry of the final judgment in such case in the courts below; and thereupon proceedings shall be stayed in said courts, and the questions of law heard and determined in said Supreme Court of the United States, and such order sent to the court below, affirming or reversing the judgment, as the determination of such questions of law may require.

Mr. CLARK. The amendment proposed by the committee contains the substance of the original bill, but throws it, as the committee think, into a better form. I presume there will be no objection on the part of anybody in favor of the bill to the adoption of the amendment.

Mr. DOOLITTLE. I introduced the bill which was referred to the committee, and I certainly have no objection to the amendment. I think the committee have thrown the measure in a better form than it was originally as drawn by myself.

Mr. SUMNER. I have no objection to the amendment reported by the committee; indeed I think it is a much better statement of the point in question; but I should like to ask the Senator who reported the bill whether, by this proposition, it is intended to set aside the ruling of Chief Justice Marshall on the trial of Burr with regard to jurors?

Mr. CLARK. I think it would modify that ruling to some extent.

Mr. SUMNER. That, as the Senator is aware, has been for now more than a generation the received law of the country.

Mr. CLARK. That may be very true in some

of the States; but one difficulty which the committee design to remedy is a diversity of practice in different States, and we seek to bring the whole practice in the United States courts in this respect to the same standard. In some of the States, until the last session, the practice was to use triers in cases of this kind. This bill refers the question of the qualification or interest of a juror to the court, and perhaps that is the best place to lodge it, though I think we did that by a bill at the last session; but the great object of the first section of the bill is first to introduce a uniform practice into the Federal courts in the different States, and in the next place to remove what might be an apparent objection to jurors serving in certain cases by reason of having formed an opinion upon general notoriety, or from rumor, or from the public journals.

Mr. SUMNER. I see no objection to the second section of the bill under consideration; I agree with the Senator from New Hampshire in regard to that. I am not so sure about the first section, and there seem to me to be two objections to it. Whether they are sufficiently strong to justify us in opposing it, it will be for the Senate to determine. I simply call attention to them. The first is that the section does positively set aside what, down to this day, on the ruling of the highest magistrate of this country, has been the law of the courts. To that the Senator very aptly replies, however, that it is important to give uniformity to the practice in the different United States courts. On that point I agree with him. If his proposition simply went to that point, I should not venture even to make a suggestion with regard to it, excepting as to its nature; but it does go further. It does set aside what my honorable friend, the learned Senator from Maryland [Mr. JOHNSON] knows well was the decision of Chief Justice Marshall; and what has been also the practice in many of the States of the Union. It is the practice in my own State. I believe also it is the practice here in the District of Columbia. I therefore venture to go against that rule only with a certain hesitation.

But then comes another consideration which perhaps is more important. So far as I comprehend the bearing of this first section, it is to meet an actual case of unprecedented historical importance; it is to pave the way for the trial of that grandest criminal in the history of the world who is now in the custody of this Government. Now, sir, that question should be approached carefully, most discreetly, and I humbly submit unless the reasons shall be found to be of the strongest character, with absolute reference to the existing law of the land. I shrink from changing the law of the land in order to meet an individual case, even though that case may be of the transcendent importance of the one to which I now refer. I venture, then, to ask whether, still further, there is not in the proposition something of an *ex post facto* character. I am not going to argue that it is not in the power of Congress to make changes in the modes of procedure and of trial even after the crime has been perpetrated, but I do humbly submit that in view of the positive limitations of the Constitution it is a very doubtful course to enter upon.

Mr. DAVIS. Mr. President, I certainly very heartily approve of the opinions and sentiments expressed by the Senator from Massachusetts who has just taken his seat. A proposition to change the law in relation to the qualification of jurors in criminal cases is a very grave one, and I think that the Senator from Massachusetts has entered a very proper and just caveat against changing that law with a view to any individual case. I feel no sympathy with Jefferson Davis, and I do not believe that the friends of the Union ought to feel any particular enmity toward him, because I believe that he, by his errors and blunders, contributed more to the overthrow of the confederation and the successes of the Union arms than any other man in America.

But, irrespective of all questions in relation to Jefferson Davis or anybody else, here is a

most plain and important principle of criminal proceedings—a principle that received the sanction of Chief Justice Marshall in the trial of Aaron Burr more than fifty years ago. Here is the greatest jurist of the United States in one of the most interesting and important prosecutions for treason that has ever originated in the United States, after elaborate argument and deliberate consideration, settling that principle. It seems to me that the Congress of the United States ought to be very well assured that the principle is wrong, and that the innovation which they are about to make upon it would be permanently right without regard to the temporary condition of the country at this time or without regard to the case of any special criminals, and that it ought to seek after the true principle in the permanent existence of the Government and the permanent administration of the criminal law. I therefore think that before this matter is acted upon the amendment had better be printed and Senators allowed time deliberately to examine it.

Mr. CLARK. It is printed.

Mr. DAVIS. Well, give us time to consider it; let us have time to examine it; let the honorable Senator from New Hampshire move to take up this important subject on a particular day, and with a view to its consideration on that day. Senators will read and examine the proposition. I hope that it will not be pressed to a decision at this time.

Mr. CLARK. I certainly will not press the consideration of the bill upon any Senator, not to say upon the Senate, who desires further time for its examination. It is, as the Senator from Kentucky has well said, a grave matter, a matter which should receive the due and careful deliberation of the Senate. Nor shall I undertake at this time to say or to deny that the Committee on the Judiciary, in examining this matter, did refer to and did consider the important bearing of the measure which is now before the Senate upon a distinguished criminal (if I may use that phrase in this connection) now expected to be tried; but I will say this: in coming to the conclusion that they have reported to the Senate, the committee considered—and I suggest it to Senators for their consideration—whether it may not be our duty, if we cannot otherwise secure the trial of that offender, so to modify the law. I have no objection if the Senator desires that the bill shall be postponed to tomorrow or any future time that the Senate may order. I do not propose myself to make it a special order, because the bill, though a grave one, is not long, is easily comprehended, and may be called up before the Senate in the morning hour or at any other time when we have opportunity for that purpose. I have no objection to its being postponed until Thursday or Friday.

Mr. DOOLITTLE. Before the motion is put to postpone the bill until Thursday, I ask the indulgence of my honorable friend to make a single remark.

Mr. CLARK. I have made no motion, and the Senator would be in order if I had.

Mr. DOOLITTLE. As I understand the law of juries, originally jurors were summoned from the vicinage of the offense, because they knew all about it, and sometimes even upon their own knowledge would decide in the case. Decisions of the courts, however, changed that old rule, and carried it so far as to say that the jurors should be not only entirely without interest, but without even the bias which an opinion would have upon the mind. But upon that point the courts in this country have widely differed.

In Massachusetts and in New York they went to the extreme point of saying that the bias of an opinion, no matter from what sources of information derived, should be sufficient to exclude; and as has been said, Chief Justice Marshall, in the Burr trial, following up the old decisions of Massachusetts and New York, and relying upon them mainly for authorities, laid down very much the same doctrine. At the same time it is but just to say that in the State of Virginia, in the State of Illinois, and in several of the other great States of the Union, the contrary doctrine has always been held, that an

opinion based upon rumors, public newspapers, general reports, the common history or notoriety of the time, was but a hypothetical opinion which would not exclude a juror, provided the court should be satisfied, as this bill now provides the courts must be satisfied, that the juror would act impartially upon the case. There has been this conflict of opinion, and the committee have justly provided that this provision shall apply not only to treason cases but to all criminal cases—murder, arson, piracy. And, Mr. President, from the very necessity of modern times and its civilization and the publication of newspapers and telegraphic reports, it becomes proper that the law on the subject should be changed.

Mr. President, there is another consideration in reference to the matter if this provision should apply to any trial for treason. It must be borne in mind that the Constitution requires on a treason trial the testimony of two witnesses to the same overt act to insure conviction, so that by no possibility in a treason case could this law in any way whatever prejudice the accused. The law does not require the same thing in a trial for murder, or arson, or perjury, but in treason it is required.

I did not rise to go into an argument, but simply, as my honorable friend from Massachusetts has spoken of the settled law of the country, to call the attention of the Senate to the fact that there is a great conflict of opinion between the authorities in the different States on this subject; and it is known that the courts of the United States where they sit in the trial of causes follow the law of the State in which they sit on the subject of evidence and proceedings in trials. I have no objection, certainly, to allowing this question to go over until Thursday, and, if no other person makes the motion, I move that the bill be postponed until Thursday next.

Mr. CLARK. I have not the least objection.

Mr. DOOLITTLE. And that it be made the special order of that day at one o'clock. ["Oh, no!"]

Mr. CLARK. I do not desire that it shall be made a special order.

Mr. DOOLITTLE. Very well; I move simply that the bill be postponed until the morning hour of Thursday next.

Mr. CLARK. It may go over for three or four days; and after that lapse of time I shall again call the attention of the Senate to it, and it can be taken up as may be deemed convenient.

The PRESIDENT *pro tempore*. It is moved that the further consideration of this bill be postponed until Thursday next.

The motion was agreed to.

JOINT COMMITTEE ON RECONSTRUCTION.

Mr. ANTHONY. I move that the Senate resume the consideration of the resolution referring certain subjects to the joint committee upon the condition of the States lately in rebellion.

The PRESIDENT *pro tempore*. The resolution will be read for information.

Mr. TRUMBULL. We all understand what it is; there is no practical importance in it; we are having no disputes on that question; and unless the Senator from Rhode Island feels a particular anxiety to get up that resolution, which led to some discussion the other day, I will move that we take up the bill which was under consideration on Saturday last, and which comes up at one o'clock to-day.

The PRESIDENT *pro tempore*. The motion of the Senator from Rhode Island is before the Senate, undisposed of.

Mr. ANTHONY. If this resolution is going to lead to debate, I do not desire to press it, but I should like to have it disposed of pretty soon. I am very anxious also that the Senator from Illinois should have his bill disposed of as soon as possible. If a vote can be had on this resolution without further debate, I hope it will be taken up and disposed of; if not, I will ask that it be postponed until to-morrow morning, and made the special order for the morning hour.

The PRESIDENT *pro tempore*. The question is on taking up the resolution indicated by the Senator from Rhode Island.

Mr. ANTHONY. I do not understand that there will be any debate upon it. I suggest that the Senate take up the resolution, and if it leads to debate, I will move to postpone it and make it the special order for to-morrow morning.

The motion was agreed to; and the Senate resumed the consideration of the following resolution, submitted by Mr. ANTHONY on the 19th of December last:

Resolved, That, until otherwise ordered, all papers presented to the Senate relating to the condition and title to representation of the so-called confederate States shall be referred to the joint committee upon that subject.

The PRESIDENT *pro tempore*. The pending question is on the amendment of the Senator from Wisconsin [Mr. DOOLITTLE] to insert the words "except credentials" after the word "papers."

Mr. DOOLITTLE. As my colleague, who advocated the other day the passage of this resolution, insists, and that seems to be the general understanding, that the language of the resolution does not embrace credentials, I shall not insist upon the amendment, but withdraw it with that understanding.

The PRESIDENT *pro tempore*. The amendment is withdrawn, and the question is on the adoption of the resolution.

The resolution was adopted.

FREEDMEN'S BUREAU.

Mr. TRUMBULL. I now move that the Senate proceed to the consideration of Senate bill No. 60.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau, the pending question being on the amendment of Mr. COWAN to insert in the seventh line of the first section after the word "all" the word "such," and after "United States" the words "as have been lately in rebellion;" so that it will read:

That the act to establish a Bureau for the Relief of Freedmen and Refugees, approved March 3, 1865, shall continue in force until otherwise provided by law, and shall extend to refugees and freedmen in all such parts of the United States as have been lately in rebellion, and the President may divide the section of country containing such refugees and freedmen into districts, &c.

Mr. CRESWELL. I sincerely hope that that amendment will not be adopted. There is assuredly a necessity for the operation of this bill in the State which I in part represent on this floor. I have received within the last two or three weeks letters from gentlemen of the highest respectability in my State asserting that combinations of returned rebel soldiers have been formed for the express purpose of persecuting, beating most cruelly, and in some cases actually murdering the returned colored soldiers of the Republic. In certain sections of my State the civil law affords no remedy at all. It is impossible there to enforce against these people so violating the law the penalties which the law has prescribed for these offenses. It is, therefore, necessary, in my opinion, that this bill shall extend over the State of Maryland. So far as the amendment applies to my State, I object to its operation, and I hope the Senate will concur with me in so objecting.

Mr. WILSON. Mr. President, it will be remembered by Senators that from the time the Senator from Illinois, [Mr. TRUMBULL,] on the 22d day of July, 1861, reported in favor of making free the slaves used by rebels for military purposes, down to the triumphant passage through the House of Representatives the other day of the equal suffrage bill for the District of Columbia, timid friends and opponents alike have indulged in predictions in regard to the results of our legislation here. Although in all cases their prophetic utterances have been falsified by time and the facts, and though the records of the country will show to all coming time that they were wrong and the friends of the series of measures were right, that anti-slavery measures weakened the enemies and strengthened the friends of the country, that anti-slavery measures lifted up our

country in the eyes of the Christian and civilized world, and brought down upon it the blessings of Almighty God, they still continue to prophesy and to oppose the completion of the great work that will establish universal liberty in our country.

When we had before us in 1861 the little bill to make free the slaves used for military purposes, Senators prophesied, or expressed their apprehensions and fears, and the only Senator who was right among them all was John C. Breckinridge, who said that that measure was the beginning of the breaking of all bonds. When we abolished slavery in the District of Columbia Senators predicted that this District would be ruined, that the jails would be filled, and that universal anarchy and confusion would reign here.

Mr. GRIMES. And that there would be an insurrection here.

Mr. WILSON. And they prophesied, as the Senator from Iowa suggests, that there would be an insurrection here. Every prediction made on that occasion has been falsified by four years of history.

When we proposed, in 1862, to make free the slaves of rebels we were told that it would strengthen the confederacy and weaken the cause of the country. We passed that bill, and it weakened the enemies of the country and strengthened the friends of the country.

When we put the rifle into the hand of the black soldier to fight for the country, we were told that he would not fight; that white men would not fight with him; that the policy would strengthen the enemies of the country and weaken the cause of the country. We put muskets into the hands of one hundred and seventy-eight thousand black soldiers, and on many battle-fields they fought and bled for the country with a heroism unsurpassed, and the white soldiers of the Republic fought with them, bled with them, and died with them for a common country. The enemy were driven, in the last hours of the rebellion, to offer liberty to their own slaves if they would fight for the confederacy; but the slaves spurned the offered liberty, though ready to die for the old flag, now radiant with the beauties and glories of freedom.

When the proclamation of emancipation was issued by Abraham Lincoln, we were told by timid friends that the country would be ruined, that our cause was lost, and that the friends of the country and of impartial freedom would be overwhelmed by the indignation of the people. That act that gave freedom to three and a half million men, and made Abraham Lincoln's name the most precious name of this century, strengthened immensely the cause of the country, and broke the backbone of the rebellion.

When the constitutional amendment, the great crowning act, was proposed, we had the same timid friends, doubting and halting and prophesying; and joining with opponents they fought it inch by inch; but it passed both Houses of Congress, has been sustained by the country, and is stronger to-day than any party or set of men in the land.

We all remember that when the bill for the establishment of this Freedmen's Bureau was before us the same prophecies were made, the same apprehensions expressed, and the same kind of opposition made that has been made to all the long series of glorious measures that have tended to the emancipation of a race and to the strengthening of our country; and these prophecies and apprehensions, too, have all been falsified by the action of that bureau during the last six months. I say, sir, that the man does not live with powers great enough to express the positive good that bureau has done, and none but Almighty God knows the evil it has prevented. I say here to-day that millions upon millions have been produced by the establishment of that bureau that would not have been produced had it never been established. Last spring when the rebellion went down there were in the rebel States three and a half million freedmen without work or property. They felt they were free; they may have had wild notions of what freedom brought to them; they

certainly were disposed to show in the first place that they were free by leaving the employment of their old masters. By so doing they were proving that they were free—the most natural thing in the world. Their masters did not recognize practically their freedom. The agents of the bureau went into that country, told the old master that his former slave was a free man, as free as himself, that he must recognize that freedom, and that he must deal with his former slave as a man having equal rights with himself before the laws of the country. The agents of the bureau taught the freedmen, also, the duties that freedom brought to them and the obligations it imposed upon them. By this intervention, by this carrying of justice, equity, and humanity into these rebel States, it harmonized the old masters and the new freedmen. It made both parties look to practical results, and thus tens and tens of thousands of freedmen went to work for wages, and the crop of last autumn was immeasurably increased by the action of this bureau. I undertake to say that all the money, toil, and labor expended by the bureau is not the one tenth part of one per cent. of the increase of product added to the country, to say nothing of the peace, the harmony, and the enforcement of justice in that country.

Now, sir, all over these States, wherever the Freedmen's Bureau has a good foothold, the rights of the freedmen are generally respected and enforced, and the old slave-masters themselves are coming to the realization of the new condition of things, and some of them accept it; but wherever the Freedmen's Bureau does not reach, where its agents are not to be found, there you will find injustice and cruelty, and whippings and scourgings and murders that darken the continent. No man can deny this. Go ask Colonel Brown, who has the superintendence of Virginia, and who has been complimented by General Howard as one of the most efficient officers in the service; go to Professor Wittlesey of North Carolina; go to General Saxton, who has been one of the truest and most devoted friends of the black men of our country, and who has been called away and is not compelled to see with his own eyes the bitter tears that are being shed over the violated promises that this nation made to the freedmen on the coast of the Carolinas; go to General Tillson, one of our ablest Army officers, and the head of the bureau in Georgia; to General Swayne, the son of one of the judges of our Supreme Court, who has the control in Alabama, and who has written, as I understand, within a few days, that at least five thousand persons have come into that State to engage in business, who, if the bureau is taken away, must leave there—they cannot stay; go to General Fiske, one of the most active men of our country, a devoted, patriotic, and able officer, and a Christian; go to General Baird, in Louisiana; ask glorious Phil Sheridan; go to the men in that country who have studied and who understand these freedmen's affairs, and they all bear one uniform and unbroken testimony to the inestimable benefits to the country of this humane and Christian organization—an organization that is carrying liberty and justice and humanity into the dark corners of a land blighted and cursed by human bondage for two centuries.

Mr. President, we have now before us a proposition to enlarge the powers of this Freedmen's Bureau. The heart of this nation is for it. The Christian men and women of the country, who made this Administration of ours, who put us in these seats, and who hold us responsible before God and the country for our action, are for this organization. They are in favor of enlarging it and keeping it in the South just as long as it may be necessary to keep it there to accustom these people to do justice and to protect these men who are our wards. I am, therefore, in favor of the bill as it came from the Committee on the Judiciary, substantially just as it stands, and I am opposed especially to the amendment of the Senator from Pennsylvania. I do not see with what justice we can shut the bureau out of Maryland, where it is needed almost as much as in Virginia, or out of Ken-

tucky, where it is needed quite as much, I think, as it is in Tennessee. It will cost something, but I have no doubt if it does pass, its cost will not be one per cent. upon the increased product it will bring to the country during the coming year.

We proclaimed liberty to three and a half million people in order to break down this rebellion. We did it as a military necessity. We did not do it because it was right to do it, but we did it in defense of the Government of the United States. These people exposed their lives for our country; they discharged their whole duty to the country; they are now thrown upon their own resources, into a hostile community; into a community exhausted by war; into a community where the people are admitted by everybody to be poor; into States which, as the Senator from Kentucky [Mr. GUTHRIE] says, have lost \$10,000,000,000 by the war. Who is to take care of them? Who is to protect them against the hostile legislation of those States? The Senator from Kentucky told us, and told us truly, that the old slave codes and laws went down with slavery, but not so think these gentlemen in several of the States. In four or five of the States they have passed codes of laws that practically make the freedman a peon or a serf.

Mr. COWAN. I should like to know what those laws are.

Mr. WILSON. I have not time to read to the Senator the laws of South Carolina, or the laws of Mississippi, or the laws of Louisiana, or the bills that are now pending, if they are not already passed, in the Legislature of Georgia; but we have them all, and I say that the provisions of those acts are wholly inconsistent with freedom. I will state one single provision of those laws. The law of one of the States requires the freedmen to have a residence and a home within twenty days, but it forbids the renting or purchasing of land to them outside of the large towns. What is the poor freedman to do? Go into the highway? There he is a vagrant to be arrested and sold to labor. The tendency of such legislation as that is to continue him an ignorant, degraded, and dependent laborer. At another time, if the Senator does not wish to take the time to read those acts, or if he has not collected them, or if nobody has sent them to him—I hope some one has done so—I will furnish him with those acts, or I will take them and analyze them for his instruction.

Mr. COWAN. One word, sir, with the permission of the Senator. I have only to say that the Constitution of the United States makes provision by which the rights of no free man, no man not a slave, can be infringed in so far as regards any of the great principles of English and American liberty; and if these things are done by authority of any of the southern States, there is ample remedy now. Under the fifth amendment of the Constitution, no man can be deprived of his rights without the ordinary process of law; and if he is, he has his remedy. How are you going to prevent it? If he does not know his remedies, or if those who back him do not know his remedies, how are we to frame laws and how are we to make provision in violation of these very provisions of the Constitution by which to place a sentinel over every freedman all through the South? I should like to know the particulars of which the honorable Senator complains. I would like to have the very statute read here by which the freedman is deprived of his rights after he is once emancipated under the amendment of the Constitution guaranteeing liberty to everybody. These general assertions and these particular charges are made here; but are we to alter the whole frame and structure of the laws, are we to overturn the whole Constitution, in order to get at a remedy for these people? If they are put upon the same footing as white people, then they have the same remedies as white people; they have the same remedies that the honorable Senator has, or that I have, or that any other Senator has; and there is no necessity for this new jurisdiction, this new power that is to

be invoked for their protection. We have been told that if a man was made free, and particularly if these colored people were made free, that that was all that was necessary; that then they would take care of themselves just like other people; and if the laws were framed generally so as to operate upon all people, they would operate upon them, and they would take advantage of it and protect themselves. Now, I should like to have the particulars of these outrages that are to be committed upon these people.

Mr. WILSON. Mr. President, the Senator says that the Constitution of the United States protects these people. I agree that it does so far as the Constitution can do it; and the amendment to the Constitution empowers us to pass the necessary legislation to make them free indeed; and the Senator from Illinois has a bill that is to follow this, and is to be passed, I think, annulling these black codes and putting these people under the protection of just and equal laws. The Legislature of Louisiana has passed an act by which the Senator, if he reads it, will see that any freedman who makes a contract under it is perfectly at the control and will of the man with whom he makes the contract. If that man is a bad man, at the end of the year the freedman will not receive a farthing for his year's labor. He can trump up charges to cheat and defraud the laborer. So odious are these laws that the Freedmen's Bureau has set them aside wherever it has had the power to do so; and the other day General Grant issued an order setting aside these very laws, and the Army of the United States is ordered by him to arrest the execution of the laws of four or five of these States, because they in reality reduce the freedman to the condition of a serf, or at any rate of a peon. The Lieutenant General of our Army has ordered the Army in these States to arrest the execution of these laws, so odious and so oppressive are they, and the nation applauds the order. Now, sir, we propose not only to empower this bureau to protect the freedmen against these laws and all other laws of the same character, but to pass an act that shall set them aside and give the freedman a practical remedy by taking his case at once before the authorities of the United States.

The Senator from Kentucky, [Mr. GUTHRIE,] on Saturday, opposed the passage of this bill, but he made two declarations for which I sincerely thank him. I hope the people of the rebel States will understand that the distinguished Senator from Kentucky has proclaimed on the floor of the Senate of the United States that the slave codes of those States fell when slavery fell. If these laws went down with slavery, what right have the people there to make laws tending to the same end? I thank the Senator for that declaration.

The honorable Senator uttered this great truth:

"You cannot degrade any portion of your population, and put a mark, a stain, upon them without leaving cause of heart-burning and difficulty that will endanger the public security hereafter."

Sir, that is a noble sentiment. It is a sentiment that lives in the heart, the brain, and the conscience of the loyal people of America. They see, feel, realize that you cannot degrade any portion of your population without leaving heart-burnings and difficulties that will endanger the peace of the future. It is because we who fill these seats, and those who sent us here, believe, religiously believe, this declaration of the Senator from Kentucky that we oppose filling up the vacant seats in this Chamber again without security against such degradation. It is because we believe in the truth of that declaration that we demand that by irreversible guarantees no portion of the population of the country shall be degraded or have a stain put upon them. I want the Senator from Kentucky, and all others in this Chamber and elsewhere, I want the men of the rebel States, to understand that we who are here, and those whom we represent, believe in that sentiment as we believe in the commandments of Almighty God. I want them to understand that we mean to see it enforced, cost what it may of time, of toil, or of money.

I want them to understand, too, that we believe in the equality of States in the Union, and the equality of men in the States. We believe in the equality of the States and in the equality of men; and thus believing, we demand security for the future before we again intrust power to men who, in the past, were false and recreant to the cause of liberty and to the cause of their country.

The Senator from Kentucky tells us that he is sorry to find a feeling of hostility here toward the people of the rebel States; that he would act as our officers act—meet them as gentlemen and countrymen. I, too, would do the same thing. I know there is no hostility to the people of the rebel States. I speak for my own State, and I say there are not a thousand men in Massachusetts who entertain feelings of unkindness or of hostility toward the people of the rebel States. On the contrary, we want them back here, and we want them with us just as soon as we can have them here and have with them ample guarantees and securities for the rights of all men in the country. Now sir, "I know whereof I affirm" when I say that the people of the loyal States, who have given their sons and their blood to the putting down of this rebellion, desire that the southern people shall come back again, that all the seats in these Chambers shall be filled; but we want them to come back when we have secured ample and irreversible guarantees for the rights and liberties of all men; and I tell the Senator from Kentucky further, that we mean to have them and that we are sure to get them.

I know that there are some persons and there are some newspapers, some strolling journals that eke out their precarious existence upon the bounty we foolishly fling to them, who tell us that the corrupting influences of public patronage ought to be used to arrest the great ideas and practical measures we advocate in the adjustment of these questions of reorganization. Now, I say to everybody who has that thought in his brain that the people of this country are in no temper to be sold. They have decided that negroes shall not be bought nor sold, and they are equally unanimous that their Senators and Representatives shall not sell them for Government patronage. If there is anybody in the country who is disposed to be bought or sold he will find that the American people will blast him by their withering scorn and indignation. Go to the two million soldiers who have fought the battles of their country; go to the loyal men who have furnished nearly three thousand million dollars to meet the needs of your Treasury, and attempt to buy them with the little petty patronage of this Federal Government! They will spurn the bribe whenever you offer it. They will scorn you and your patronage. This is not the old Whig party, that never professed to have an idea on earth, a party that simply advocated tariffs and banks and moneyed measures; nor is it the Democratic party corrupted by slavery.

Sir, it is a party that plants its foot on the rock of ages, and has all the measureless moral forces of the universe to sustain it. From a small beginning, like the cloud in the heavens, not so large as a man's hand, it has developed into a gigantic, overmastering power, and has marched on until it has twenty-three of the twenty-five loyal States under its control, and I doubt not it will take possession of the others about as soon as it desires to get them. The earnest men, who every time they look about their own dwellings see the vacant chairs of dead sons fallen in battle, who every time they cast their sad eyes into their graveyards look upon the little mounds that cover their kindred fallen in battle, who see as they walk their streets maimed and wounded neighbors who have fought and bled for their country, are in no temper to be trifled with, to be bought or to be sold. They are stronger to-day for irreversible guarantees than they were yesterday; they will be stronger to-morrow than they are to-day; and if anybody desires to put over the adjustments of these questions to another year and to go before the patriotic people of this country on that issue, we shall welcome the contest. I predict the

result of such action will be that there will be fewer in these Halls willing to allow these seats to be filled without further guarantees. We are not mistaken in these matters; we have not been for a dozen years; we understand the American people, their temper, and their purposes.

Sir, we want these freedmen protected; we mean to have them protected. And there is another thing which we want: we want it settled that we are not to pay \$2,000,000,000 for slaves emancipated; and that we are not to pay debts, whether they be \$3,000,000,000 or \$10,000,000,000, incurred to destroy the country, and that we are not to pay pensions to men who fought against their country. I tell Senators that in view of the manifestations in the rebel States during the last sixty days, the holders of your public securities are growing anxious, and some of them are more than anxious in regard to those securities. Every hour that vast capital, with its clear instincts, sees the danger and will ward off the danger. I tell you that the men who have been maimed and wounded by the war, and who have fought your battles, and who are pensioned by your Government for the blood they have given to the country, are anxious in regard to the security of the future. These mighty agencies, quietly reaching into every village and hamlet of the country, are working their potent influences, and the loyal States are stronger to-day in demanding guarantees than they ever were, and will grow stronger until those guarantees are secured. Let the statesmen of the country who breathe an atmosphere tainted with the breath of traitors or of sycophants remember this declaration. Let the men of the rebel States realize the condition of affairs and accept the adjustment that gives security to man and to property.

Sir, I know, too, that we all want to reach the end of a final settlement of all these questions. I do not desire to utter any reproaches or to heap any opprobrium upon the people of the rebel States. I do not wish their money or their blood; I would not take a dollar from them if I could, for they have been punished enough, more even than a generous foe would inflict. I do not expect them before they come back here to love us or to be truly loyal; I do not expect them to like this bureau; I do not think they like General Grant's order arresting the execution of their black laws; I do not think they like any of the measures for the protection of those who were lately their slaves; I do not expect them to love us; I know they will not love me. But our duty is to do justice, to treat them with generous magnanimity, to demand what is right for our good and their good and the peace and repose of our common country. The whole philosophy of our action is in the sentence uttered by the Senator from Kentucky, that we cannot degrade any portion of our population, or put a stain upon them, without leaving heart-burnings and difficulties that will endanger the future of our country. These black men are a portion of our population; they are free, as free as the Senator from Kentucky or myself. Perhaps they are not, some will say, equals; but that is not a question, I think, for us to discuss here. I wish that every man that breathes God's air or walks His green earth was my equal morally, physically, and intellectually. I know that I should not be degraded by the elevation of any man or all the men of the universe.

I think that the bill should be passed, and passed promptly; and the little money that it costs, although it looks large, is but the merest trifle in comparison with the great end to be attained. This bureau will not exist forever. I have no idea that there will be occasion for it to last any great length of time; but so long as it is needed, so long I believe the Christian men and women of this country will demand that it shall be continued. It is demanded by all the people that go into these States to transact business. We hear a great deal about evidence coming from the rebel States, and I have been very much surprised to hear certain evidence questioned here. There is hardly a township in the loyal States that has not some one

of its men in the rebel States; he has kindred at home, he has neighbors at home, and the loyal States are shingled over with letters from innumerable witnesses in every portion of those States; their testimony is worth more than that of all the officials in the United States, and will have a thousand times more influence with the people. If a gentleman from my neighborhood, whom I know to be a gentleman of honor and of personal character, is traveling in the heart of Mississippi, and he writes to me and tells me of what he has seen and found there, and of the condition of the people, am I to throw it aside for the statement of some one who has run perhaps through a corner of the State in a railroad car? Of course I shall not do it; and I tell Senators that the people of this country will pay more deference to the utterances of their neighbors whom they know than to all the speeches we can make, or all the public documents we can manufacture.

We know how many of us breathe the air tainted with the breath of traitors, and we know its influence. The people of the loyal States are out on their own fee-simple acres in the clear country where they are away from these personal associations and these professions, where they see things clearly as they are. Therefore the country demands the strengthening of this bureau, the enlargement of its powers, the increase of schools, and the instruction, protection, and elevation of a race. The country knows it will be security for the future, and will harm no right-minded and well-disposed man in any section of the country. What we advocate in this measure is for the security of all; the harm of none; the benefit of all, the injury of none; and it is so with the measure to follow it that is to protect these people. Therefore, sir, I hope we shall, as we have in the legislation of the past five years, go steadily straightforward and onward to enact the needed laws that tend to the freedom, the elevation, the improvement of all our people, and the strength of our country. Sir, just in proportion as we have enacted justice, as we have been faithful to the country and to liberty, have we prospered. As we have passed the series of measures beginning in July, 1861, up to the present time, for the security, the liberty, and the protection of all people, it seems as though God had opened the heavens and rained blessings upon our country, and that the country is stronger now and has a greater influence in the world than ever before. All that we have got to do is to go right on with this work. Let timid men halt, let anybody halt who will, we know that we are right; we have a record that is flashing with light from the past. Let us do this, not talk about war, but let us engage in a vigorous prosecution of peace, and we shall put this country where it will have a power among the nations by the beauty of its life that will control the world and change the destinies of nations.

Mr. COWAN. Mr. President, under the Constitution of the United States, an instrument which we all upon entering this Chamber swore to support, maintain, and observe—and that oath I presume we mean to keep; at least the country looks upon us to keep it—this Government has certain powers. The first class may be said to be municipal. Under that class it cannot be pretended, I think, by anybody that we have any authority whatever to create a bureau, whether for freedmen or freemen, whether for black men or white men, or men of any other particular color in any of the States. We have no right to select out from the citizens of Pennsylvania, if you please, or the citizens of New York, any particular class of men and withdraw them from the operation of State laws and put them within the peculiar control and protection of such institutions as we may create here for their benefit. I think, sir, that I may say that there is no lawyer in the country, throughout the length and breadth of it, who would ever contend that we have that power delegated to us by the American people under the Constitution of the United States, which Constitution, I say again, we have all taken a solemn oath to support and maintain.

We have another class of powers under the same Constitution which are not municipal in their character, but which enable us to deal with people who are not in obedience to the laws of the country, who are not acknowledging our supremacy in that behalf. Those have been called here war powers, or rather belligerent rights against a belligerent operating as such against us. Now, I presume—I suppose nobody pretends otherwise—that the color and ground upon which we placed the Freedmen's Bureau was that of a belligerent right; that a portion of the United States had occupied or taken that position against us, and enabled us by that means to bring into play upon them those rights which are denominated belligerent. If that be true, (and I suppose it cannot be controverted very well,) then the operation of this bureau could lawfully apply only in that portion of the Union which was in an attitude of belligerency against the United States. My amendment simply proposes to confine it there. I do not undertake to decide by my amendment whether that attitude is still maintained by those States; I do not believe it is; but I am very certain that the loyal States of this Union are not by any means at present within the grasp of the war powers of this Government, and I for one am determined to resist here and everywhere any attempt whatever to put the iron hand of this Government upon any State which has not been in rebellion, and to give belligerent rights as against the peaceful people who rely upon the provisions of their Constitution. Sir, what is tyranny? Is it not usurped rights, or rather things which are alleged to be rights and usurped upon the ground of necessity? There never was any tyranny in the world which did not set up quite as strong a plea for necessity as is set up here.

But that is not the question. This is not a Government in which there is any room for the play of fancy or for the play of a desire for dominion. This is a Government of law; and if there is anything in the world which contradistinguishes it from all other Governments upon the earth, it is that it is a Government by law and a Government of law; and whoever undertakes to assert a power or exercise an authority under it, is bound to put his finger upon the law which authorizes it. If we undertake to assert an authority here, or exercise a power, we are bound to show by the organic law, the Constitution, from whence we derive it.

Where, then, is the authority given in the Constitution to establish a Freedmen's Bureau in Maryland or in Pennsylvania? Let me suppose, for instance, that somebody had proposed this thing ten years ago; is there a man in the Union that would not have been aroused instantly to resistance and indignation at such a usurpation on the part of the General Government or on the part of Congress? Nobody can doubt it; nobody can deny it. Then, sir, I should like to know how this war, how the suppression of this rebellion, has changed the relations which existed between the loyal States and this Government. Are the powers of the General Government enlarged by the exercise of its belligerent rights in putting down the rebellion? If that be so, if we enlarge the power of the Government as against the loyal people every time we exert it to put down a rebellion, or to meet a foreign enemy, then we may be overrun at last.

Mr. President, if this Freedmen's Bureau is to exist at all, if it has any color of authority in the world, it is only that color which it derives from the fact that we occupy a belligerent attitude toward the States lately in rebellion, and not because we have authority by municipal enactments to carry our tribunals there and interfere in their internal police regulations. The Senator from Massachusetts says, however, that we must keep up with the spirit of the age, that it is onward, and that there are certain great ideas which must be carried out, and which will be carried out, and according to his notion he and his people are determined to carry out. Well, sir, that is all in the future. There are a great many people who live outside of the Commonwealth of Massachusetts, and

there are a great many people, I think, who live within that Commonwealth who are not exactly prepared to indorse all the revolutionary measures which are introduced into this Congress, and which are supposed to have their origin there.

As I understand, there are not less than seventy amendments to the Constitution of the United States proposed and now pending in the two branches of Congress. Whoever heard before that that was such a defective instrument that it needed to be amended and thatched all over with these modern crudities, one after another, which are not considered so as to enable them to sustain a moment's examination. We were of opinion heretofore that that Constitution was a very respectable instrument, that it was very well concerted, and that it provided above all things else for the preservation and maintenance of human liberty according to the most approved forms; yet, sir, now it seems that it has to be amended in every direction!

I say, Mr. President—and I happen to represent here as many people as either or both of the Senators from Massachusetts—that the people of Pennsylvania, at least, are opposed to this whole batch of amendments, from one end to the other.

The Constitution was to them sacred; it had preserved and protected them; it had given them prosperity unparalleled for a period of seventy-five years, and they are for preserving it; and they are not for venturing themselves upon this sea of experiment and this flood of innovation which is to end nobody knows where.

It is very easy, Mr. President, to deal in generalities; it is very easy to propose measures; but we have to look back at the practical experience of the past in order to determine that they are to be beneficial for the future.

Now, we are told the most impossible things in the world. We are told that the Constitution and the laws made under it and the machinery for the proper administration of those laws are not adequate to the protection of freedmen; and we are told gravely that the Legislature of Louisiana, in some extraordinary way, not at all made clear or defined, have provided that at the end of the year the laborer is to be at the mercy of the hirer. How? Has the Legislature of Louisiana declared that a contract for the performance of labor can be specifically performed, and that you can compel specific performance in her courts? If she has such a law (and that is the only way I know by which the laborer can be put at the mercy of the hirer in a contract for labor; it is the only possible and conceivable way apart from slavery) such law is clearly void, and there is no possible difficulty in obtaining a remedy for it anywhere and everywhere. The Supreme Court of the United States is sitting here for that purpose to-day, and the freedman is just as much entitled to the benefit of its protection, as I read the laws, as if he were a man of the fairest complexion and of the brightest Saxon mold.

But, Mr. President, we are treated to generalities all the time constantly. There is nothing specific here; there is nothing fixed; there is nothing tangible; there is nothing definite; and I venture the assertion that when the law complained of is brought here it will be found that there is a complete remedy under this much-abused Constitution, which is now to require seventy amendments in order to make it conformable to the new state of things which has been brought about by the last war!

Mr. President, I am not of that opinion. I am for holding fast to that which has been approved and which has approved itself, and I am opposed to any of these innovations, to any of these new things. I am opposed to any precedent which may hereafter be exercised to the deprivation of any man of his liberty or any State of her rights, and I wish to be distinctly understood here that I am in favor of State rights—the lawful, legitimate rights of States; and States have rights as well as the Union has rights. I am not in favor of all those things which were claimed as State rights by certain people in the Union, but I am in favor of those

rights which belong legitimately to the States, and which have never been denied to them, and upon which, in my judgment, depends the individual liberty of the people of this country; and whenever they allow this General Government or this Congress to absorb unto itself and to swallow up and annihilate these particular State rights, then, Mr. President, the virtue, the essential virtue, of the Constitution is gone; then the merit of the fabric has disappeared, and it has gone away in that very direction which was predicted long ago by those who warned us of the tendency of power to consolidate and to grasp.

I say that if anybody in the southern States, no matter what his color or complexion may be, is improperly treated there is a remedy; and here let me say that I am opposed to the distinctions that are now taken between our people. Why should we legislate partly for the black man and partly for the white man? The very fact that such a question is mooted, the very fact that it is started here in the Senate of the United States, is an acknowledgment that there is a difference and a distinction between the people of this country which requires such a discrimination on the part of the Government, and is fatal to the claims on the part of the advocates of negro suffrage and negro equality. The honorable Senator from Massachusetts says that all men in this country must be equal. What does he mean by equal? Does he mean that all men in this country are to be six feet high, and that they shall all weigh two hundred pounds, and that they shall all have fair hair and red cheeks? Is that the meaning of equality? Is it that they shall all be equally rich and equally jovial, equally humorous and equally happy? What does it mean? Does he mean that they shall all equally come to the Senate or the United States, that they shall all equally sit in the House of Representatives, that they shall all equally hold office?

Why, Mr. President, if that is the equality that the honorable Senator is aiming for, it will be a very long while before it is realized. What is meant by equality, as I understand it, in the language of the Declaration of Independence, is that each man shall have the right to pursue in his own way life, liberty, and happiness. That is the whole of it. It is not that he shall be an elector, it is not that he shall receive the especial favors of the community in any way; but it means that if he is assailed by one stronger than himself the Government will protect him to punish the assailant. It means that if a man owes another money the Government will provide a means by which the debtor shall be compelled to pay, if it is not barred by the statute of limitations or some other legal contrivance of that kind; that if an intruder and trespasser gets upon his land he shall have a remedy to recover it. That is what I understand by equality before the law. It is not that everybody shall be a Senator and distinguished as my honorable friend from Massachusetts may be, because that is not in the nature of things. There is a large amount of work that has to be done in this world that has to be done by exceedingly humble instruments, and if the instruments were not there the work would not be done. For instance, if all men were to be as learned as my friend from Massachusetts, who would black boots and curry the horses, who would do the menial offices of the world? And if they were not done I should like to know how we could live at all. This world, Mr. President, after all is said and done, is pretty well arranged, in my judgment, and always has been. The imaginary evils that people see in the distribution of wealth and in the distribution of honors and all that kind of thing are not nearly so oppressive as they may be made out to be in the warm and glowing imaginations of those who see fit to champion their victims.

Now, Mr. President, if the Freedmen's Bureau is necessary at all, where is it necessary, to come back to the question raised by this amendment? It is certainly not necessary in Massachusetts. I should be ashamed if Massachusetts had not the means within herself,

the means of police, to administer her laws, and to administer them so as to give to all citizens within her borders that liberty, that broad and comprehensive liberty, which is secured by the Constitution and the amendments thereto. And I say, Mr. President, that if the day comes that Pennsylvania cannot and does not afford to all men, of every color, clime, and condition, of every tongue and language, all these securities, I should be ashamed to represent her upon the floor of this Senate. How it may be in Maryland I am not prepared to say; but certainly I cannot but believe that in Maryland to-day, or in Kentucky to-day, or in Missouri to-day, the poor, the oppressed, the injured, have redress the same as heretofore; and surely I think I may aver that same of West Virginia, at the least. Are the rights of these States to be invaded? Is another tribunal to be thrust in there? Is another power to be intruded upon them—in order to do what? To do what it is alleged they have neglected to do, and which of right they ought to do.

The Senator from Massachusetts says, "we are right." Who ever acknowledged they were wrong except very great people indeed? I have always found that the greater the man was the more readily he acknowledged that he was wrong; and the less he was the more pertinaciously he insisted that he was right. [Laughter.] I do not know whether I am right or wrong; I do not undertake to assert it positively, as against everybody else. I think so; and I suppose that that is all the honorable Senator can say for himself; at least, that is all I intend to acknowledge to be the force of his assertion.

I think, Mr. President, that it is right to preserve the frame of Government as nearly as we can which was bequeathed to us by our ancestors; which was wrung out from a superior power by their force and their sacrifices in the revolutionary war, and which was made up and constructed by men, in my judgment, the very first men in that or any other age. I want to preserve that as nearly as I can, and why? Because it has been effectual in securing the end for which it was designed. It is true it did not provide for the enormous increase of slavery which afterward affected about half the Republic, but, thank God, we are now rid of that; that is now gone; and if there was one obstacle in the way two years ago, and which looked as though it were insurmountable to one who desired the restoration of this Union, it was slavery. We made war to compel obedience to the Constitution and the laws, and if the insurgents had laid down their arms at any time during the struggle, what would have resulted? No new powers to the Government; we should have acquired no new rights by suppressing the rebellion, any more than we should have acquired new rights by a policeman arresting a thief or a constable arresting a murderer. We should have returned *eo instanti* to the *status quo ante bellum*, and slavery would have risen again in the eye of the law as potent and as legal as ever it was.

That was the fear on the part of all patriots; that was the difficulty, and that difficulty is now removed. Now, we are told of others; and I should like to know where these difficulties are to end. We have made the negro free. Was not that a great thing? The world clapped its hands in abundant rejoicing, and all good people sang hosannas everywhere, whether they understood the question exactly or not. [Laughter.] But what next? After the negro is free we are told that he cannot protect himself; we must do something for him. Well, what more must we do? We must give him a vote. What good will that do him? It will only multiply the chances of his having his head broken at the polls in contact with a much stronger race than he is. [Laughter.] That would be about the result of that; and if we give him a vote tomorrow, what then? Why, helpless, feeble, as nature made him, in the face of the strongest, most rapacious, hardest-bargaining race on the earth. What more must you do for him? You must allow him to hold office. A vote, of course, is a mere induction to the exercise of power.

The power is in the office. Then the negro must hold office; and is he any better after that? What good would an office do to a negro in our society and in our country? An office is valuable to a man, an office is sought after, because it confers social distinction, high social privileges, and power and authority among men. Would office confer that upon the negro?

Mr. President, that is one of the cruellest propositions that could possibly be made. It is crowning with flowers the victim for the sacrifice. It is inscribing over the cross an empty title, when upon that same cross the victim is crucified. What is office without social rights and social distinction? Nothing, nothing. I should like to know where this is going to end—this insane crusade to try to do something which it is not in the nature of things to do? I stand here the friend of the negro, just as much his friend I trust as any other man upon earth; but he who comes to me and undertakes to tell me that this is the same kind of man that I am and that we are generally, and that he is a white man, and that his hair is straight, and that his legs and feet are as well made as those of my honorable friend from Maine, whom I see before me, [Mr. MORRILL,] I do not believe a word of it. [Laughter in the galleries, which was checked by the Presiding Officer.] When he undertakes to tell me that all differences and all these distinctions that are so plainly marked upon the whole face of the man, his color, his form, his disposition, his everything, amount to nothing, that it is a mere prejudice, and is to be swept away by half a dozen debates and the reading of half a dozen reports from certain abolition societies, I distrust the judgment of anybody who comes upon such an errand. It is not true, it never will be true, it never can be true.

The honorable Senator says he is right. Yes, I should say he is right in the face of an antipathy that never sleeps, that never dies, that is inborn, down at the very foundation of our natures, and which will tell to-day, to-morrow, some day, in spite of all attempts to the contrary. Let, then, the friends of the negro, and I am one, be satisfied to treat him as he is treated in Pennsylvania, if you please; as he is treated in Ohio, if you please; as he is treated everywhere where people have maintained their sanity upon this question. I use the word "sanity" with an exact appreciation of what it means. It means that state of mind which takes all the circumstances into consideration, and does the best while surrounded by them.

Now, Mr. President, if, as I said before, a Freedmen's Bureau is absolutely necessary—and it can only be justified upon the ground of absolute necessity—it is only necessary in those States which have been lately in rebellion, and to extend it beyond, and to make it operate or to make it possible that it could operate on other States, is to open the door to an innovation and to form a precedent for a usurpation that may hereafter cost the life of this Republic. I hope, therefore, that my amendment will be adopted, and that whatever we may do in this respect we may at least not violate the fundamental law of this land, that we may not trample directly upon the Constitution and its plain provisions with regard to the rights of the several States.

Mr. WILSON. The Senator from Pennsylvania tells us that he is the friend of the negro. What, sir, he the friend of the negro! Why, sir, there has hardly been a proposition before the Senate of the United States for the last five years looking to the emancipation of the negro and the protection of his rights that the Senator from Pennsylvania has not sturdily opposed. He has hardly ever uttered a word upon this floor the tendency of which was not to degrade and to belittle a weak and struggling race. He comes here to-day and thanks God that they are free, when his vote and his voice for five years, with hardly an exception, have been against making them free. He thanks God, sir, that your work and mine, our work which has saved a country and emancipated a race, is secured; while from the word "go" to this time he has made himself the champion of "how not to do it." If there be a man on the floor of the

American Senate who has tortured the Constitution of the country to find powers to arrest the voice of this nation which was endeavoring to make a race free the Senator from Pennsylvania is the man; and now he comes in here and thanks God that a work which he has done his best to arrest and which we have carried is accomplished. I tell him to-day that we shall carry these other measures, whether he thanks God for them or not, whether he opposes them or not. [Laughter and applause in the galleries.]

The PRESIDING OFFICER, (Mr. FORT.) Order must be preserved in the galleries.

Mr. WILSON. I tell the Senator from Pennsylvania that I know we shall carry them.

The PRESIDING OFFICER. The Senator will suspend for a moment. The order and decorum of the Senate is not to be disturbed by demonstrations of applause or of disapprobation in the galleries. If the offense be repeated the order for clearing the galleries will be made at once.

Mr. WILSON. I tell the Senator from Pennsylvania that I know we shall carry these measures. God is not dead, and we live, and standing upon the eternal principles of His justice, with a Christian nation behind us, and with God's commands ever ringing in our ears, we shall in the future, as we have in the twenty-five years of the past, march right straight forward to battle and to victory over all opposition.

Sir, the Senator from Pennsylvania asks me what I mean by the equality of men; and he puts the trifling question whether I mean that all men shall be six feet high. There would not be many men equal to the Senator from Pennsylvania if we measured by length. He asks whether I mean that one man shall weigh as much as another, or have as much money. Why are these questions put? Does he not know precisely and exactly what we do mean? Does he not know that we mean that the poorest man, be he black or white, that treads the soil of this continent, is as much entitled to the protection of the law as the richest and the proudest man in the land? Does he not know that we mean that the poor man, whose wife may be dressed in a cheap calico, is as much entitled to have her protected by equal law as is the rich man to have his jeweled bride protected by the laws of the land? Does he not know that the poor man's cabin, though it may be the cabin of a poor freedman in the depths of the Carolinas, is entitled to the protection of the same law that protects the palace of a Stewart or an Astor?

The Senator knows what we believe. He knows that we have advocated the rights of the black man because the black man was the most oppressed type of the toiling men of this country. I tell you, sir, that the man who is the enemy of the black laboring man is the enemy of the white laboring man the world over. The same influences that go to keep down and crush down the rights of the poor black man bear down and oppress the poor white laboring man.

The Senator tells us that if all men were equal and all men were learned, we could not get our boots blacked. I believe Henry Clay uttered that folly upon one occasion, and I am not surprised that the Senator should repeat it. It has been the language of the negro drivers in this country for sixty years—of the men who had just as much contempt for the toiling white millions of the country as they had for their own black slaves. But, thank God! the toiling men of the country, the men who stand on their fee-simple acres and call no one master but God, and call no man slave, the mechanics, the working men, have stood by the rights of humanity just as the ranks of our army in Texas stood by their country and the old flag when Twigg's betrayed them. We have put down the rebellion against the people; we have put down slavery, the prolific mother of all our woes; and we have buried deeper than plummet ever sounded the ideas and policy of the past.

The Senator from Pennsylvania may mourn over the degradations of the country; he may be alarmed at the tendency of the times; he is much exercised about the Constitution. He

has been dinning his interpretations of the Constitution in our ears for five years. He has been warning us against violating it; and yet, with the Constitution in one hand and the Bible in the other, we have moved right forward, and we have achieved what we fought for. We resisted every temptation to betray the cause of liberty; we accepted civil war rather than betray the cause of God and of the people, and we have triumphed. We have something more to do, and we mean to do it, and if anybody doubts it let him undertake to arrest it. I tell the Senator we were born to do it. God Almighty raised us up at this age to do this work, and we will do it. Beginning with a little handful of men, a despised, abused, and slandered few, humbly sending a petition to the House of Representatives to ask this nation to abandon the slave trade and make free women and children in the national capital, with denunciations piled upon us, with political parties frowning upon us, we have gone on until we stand to-day masters of the situation. It is not our strength; we are no better than other men. The political organization that made this Administration sent us here and sent the Senator from Pennsylvania here. Its men have the same weaknesses and faults as men of other political organizations, and we manifest them to the country every day. But we have accepted the sublime truths of the Declaration of Independence. We stand as the champions of human rights for all men, black and white, the wide world over, and we mean that just and equal laws shall pervade every rood of this nation; and when that is done our work ceases, but not until it is done. If anybody wants to stop this mighty work, all I have to say to him is just to stand out of the way and let us go on to its accomplishment, for we shall pass through or over all opposing obstacles.

Do not tell me that we are lowering the country. God knows the country has been lifted from out the depths up a thousand leagues toward heaven within the last five years. This nation is infinitely higher in the estimation of all the Christian and civilized nations than at any other period of its history. Whoever writes the history of this era must record that the only statesmen in America of this age were the anti-slavery men. Whoever writes of these events, greater and grander than those of any other period of the world's history, will write that no people did more, sacrificed more, poured out more blood, expended more treasure, organized more of the humanities and charities of Christian civilization for the alleviation of distress, or made a nobler record; and he will record the fact that our public men, weak, personally, as they are, and faulty as they are, have comprehended the condition of the country, the duties of the hour, and moving with the eternal forces, have won victories for humanity that will send their names down along the ages forever.

Sir, where is the name of Abraham Lincoln today? Slow sometimes to act, but always looking and working in the right direction; maligned, slandered, sneered at, accused by enemies and complained of by doubting friends, who shrank from that glorious deed of emancipation that saved the country, he has left an immortal name in the annals of his country and his race. When he fell under the pistol of the assassin more tears were shed in this country for him than for all the public men who have ever lived on the North American continent; and as the story of his assassination went over the world nations wept for the fall of the foremost man of the nineteenth century. It was because Abraham Lincoln was our leader, the champion of our ideas, that the world wept over his fall. There is not a man among us who, if he had filled that lofty place and been as true as was Abraham Lincoln to our ideas, principles, and policy, but would be mourned by the nations if he had fallen in the conflict. Abraham Lincoln was a good man, but it was because he was the champion of the cause of liberty that all coming generations will remember him and send down his name forever with benedictions. Just in proportion as we individually, and the political or-

ganization to which we belong, have been true to our ideas, have we been strong. It has been this hesitation, this timidity, this quibbling that has been a burden for us to carry; and there are more Senators than one upon this floor who knows that we have not only had this great cause of country and freedom to carry through the war, but we have had to carry the weakness of hesitating, halting, and uncertain public men upon our shoulders. I do not say that we have had to carry the Senator from Pennsylvania, for he did not go at all; he neither took himself nor let us carry him; he was not much of a burden to us and not much of a stop in our way in the past, and he will not be in the future. He was not of us; he is not of us now, or he would not rise here and utter these sneers about the negro's heel and the negro's leg. The negro may not have so fine a leg as the Senator from Pennsylvania, but there are many negroes who have hearts quite as good as is the heart of that Senator; and I know some of them with brains quite as capacious and quite as well trained as his own. Sir, it is time for men who rally around the standard of the great Union Republican party of the country to understand that this Christian people, with their keen sensibilities, their broad humanities, and their ripe intelligence—for there is combined in the Republican party a degree of intelligence and character never before associated in any political organization—do not want their feelings wounded by these vulgar sneers at a poor, oppressed race, which has been kept down for centuries, wronged and outraged. The Senator from Pennsylvania should understand that the man who trifles with the sentiments and the manly sympathies of the American people is not likely either to lead them or to control them in the future.

I wish to say nothing unkind of the members of the Democratic party, but where are they to-day? Why are they in a minority in Congress? Why are they only able to control little Delaware and Kentucky, and not know how long they will keep either? That party was once the champion of the common people of the country, of the poor and lowly, and turned its back upon them; and the man who turns his back upon a poor black man, and allows him to be trampled under the foot of the oppressor, will turn his back on the white man, and let him be trampled under foot. It is this abandonment of the poor and oppressed which has brought that once powerful organization to defeat and sorrow. We shall, I trust, never fall in that way, for I have undoubting faith that we shall accomplish our Heaven-assigned work.

The Senator talks as though he knew all about these questions pertaining to slavery and slaves, and as though the men who have been studying them for twenty-five years, who have traveled one hundred thousand or one hundred and fifty thousand miles, and spoken to a thousand or fifteen hundred audiences on questions touching the cause of liberty in America, do not know anything about a cause to which they have devoted years of unselfish labor. I was sorry to hear such a thought uttered in the speech of my friend from Oregon, [Mr. NESMITH;] and the Senator from Delaware [Mr. SAULSBURY] has often indulged in the assumption that anti-slavery veterans knew less of slavery and the slaves than himself. I think we know quite as much about slaves and slavery as that Senator. I will relate a little incident which will show that we understand the black men quite as well as that Senator, though he was nurtured in the lap of slavery.

I remember here on one occasion, I think it was during the last session, the Senator from Delaware came to me, said that his negro man, a most excellent man, a man for whom he had the greatest affection, had been drafted, and it would cost him some \$900 to get a substitute, and he asked me to see the Secretary of War, and if possible to get him to release his man. The Secretary of War thought he ought not to release so good a man, so the Senator raised \$900, obtained a substitute for his dear friend, the slave, and that slave the next week ran

away to Pennsylvania, where he enlisted and took the bounty. [Laughter.] The Senator told us the other day that Delaware was the last slave State, and that he was the last slave holder. Now, to vindicate the truth of history, I want to know if that runaway of his was the last slave. The Senator shakes his head. I give this illustration to show how little the Senator knew his intimate friend. We have been told all through this war, "You do not know these people." Gentlemen tell us so now, and they keep telling it. The records of this country will show that we have not made a prediction on this floor for the last five years that has not been verified by the event. We have not taken a position or given a vote here that has not been sanctioned by the voice of the American people, and our position is impregnable, because we stand upon the solid rock of ages, with eternal truths around and about us to sustain us in our weakness and bear us onward, while we see these other lofty gentlemen who know so much about the Constitution, and who are continually invoking it as a pretext how not to do anything, making false prophecies, trembling and straggling along our line of march. We move as the solid and compact columns of a great army move, and they very much like the stragglers that hover on the flank and rear.

Mr. COWAN. Mr. President, I shall be obliged to apologize for not being able to attain to that sublime height of bragging which has characterized the honorable Senator from Massachusetts, but I will endeavor to state if I can a few plain facts for his consideration and that of the Senate. Of course, I have nothing to say with regard to myself. My course here has been open, and I trust without any concealment. It was never very difficult for the Senator to understand exactly where I was. I believe, however, I may say that, in advance of him, I was the first man to say upon this floor that, in going down South to suppress the rebellion, it was perfectly proper that we should treat the negro precisely as any other man—if he was an enemy shoot him; if he was a friend, use him; and that was as far as I intended to go.

But the Senator asserts here in the face of the Senate, and in the face of the American people, that he and his compeers, forsooth, the Anti-Slavery Society, have destroyed slavery; that it is their work; that it is the result of their twenty-five years of toil and struggle; that it is the result of their agitation and their speechifying and their extensive knowledge of the negro and the negro character, and he relates some incidents. I am not very much in the habit of relating incidents, but I will state one for the benefit of the honorable Senator. Somebody was talking about him and his society the other day, and stated that they had "negro on the brain." Some one who was by said, "Well, that may be; but they have not much brain on the negro," [laughter,] and that, I think, Mr. President, is about the truth of it.

Who destroyed slavery, Mr. President? Had the Anti-Slavery Society any agency in it? Did the Anti-Slavery Society or its representatives upon this floor at the outset of this war declare that they were going to destroy slavery? No, sir; but crouching behind their shields at that time they resolved unanimously here that they were not going to destroy slavery, that they were going to make war to support the Constitution and the laws. How long ago was that? Two days after the battle of Bull Run, and the starch was all out of the Anti-Slavery Society; it had not a boast; it had not a threat; but, as I said before, creeping down behind its shield, it said to the country, along with us who were honest in our utterances in that resolution, that it made war for the Constitution and the laws.

I ask you, Mr. President, if the secessionists of the South, in their great madness, in their rage, only akin to this northern rage, its antipodes, had not made war upon the Government of the United States, would slavery have been destroyed? Would all the battle of the Anti-Slavery Society and all its tracts and all its preachings and all its sermonizings in the world have ever achieved that great result if it had

not been for the folly and madness of the secessionists of the South who went to war? Let the honorable Senator stand square up and look that fact in the face. He had war at his elbow. Who fought the war? Does the Anti-Slavery Society say that if the Army of the United States had not achieved victory after victory, had not suppressed the rebellion, slavery would not have been abolished? Who then was it that abolished slavery? The gentlemen who talked or the gentlemen who acted? The Senators who wielded tongue and pen, or the hard-headed and hard-handed soldiers who wielded the saber and bayonet? Let the country answer. I would like the honorable Senator to go out and tell our war-worn soldiers who won this victory.

And a word now as to his course and mine upon this floor. I tell him to-day that he and his set were really—I do not say they intended it—the allies of the rebellion; they were its main support and strength; and when Jefferson Davis comes to make his dying confession, if I should chance to beat his elbow, I should want him, in that last moment, when the truth comes to be told, to tell who it was that gathered the whole South to a man around the standard of rebellion; who it was that down there infused the bitterness into that fight which characterized it from end to end; who it was that enabled that weak people to make such a tremendous struggle as that the world never saw the like of it, and I will tell you who he will say it was. He will tell you that when he started he had not half the people about him; he will tell you that the secessionists of the South who went into that rebellion were not half of the people. Who, then, drove the other half to him? The self-same Anti-Slavery Society that, when we had the cannon roaring and the saber clashing and the bayonet thrusting, and the work going on, could not keep its tongue, and must be making the people of the South believe that the war, instead of being for the Constitution and the laws, was to abolish slavery. What then? If we had friends at the outstart of the struggle, we lost them then.

Now, Mr. President, I ask again, who fought this battle? I tell him that it was the Army of the United States that killed the Percy. It was the Army of the United States that met this Hotspur of the rebellion, while the Anti-Slavery Society was down upon the field of battle looking out from under its shield and claiming the Constitution and the laws. But now, sir, now after the victory is achieved, after the battle is won, you will never meet a member of the Anti-Slavery Society who has not this dead Hotspur upon his back, carrying him out and pretending that he killed him. [Laughter.] And almost every one of them is saying, "If your father will do me any honor so; if not, let him kill the next Percy himself. I look to be either earl or duke, I can assure you." That is the language of this party after the battle is over and the victory won. By the by, they do not give us the same assurance that fat John did, for said he, "If I do grow great, I'll grow less; for I'll purge, and leave sack, and live cleanly as a nobleman should do." But, Mr. President, instead of when growing great, growing less, they are swollen to such enormous dimensions under the pressure of this thing which they suppose they have achieved that they are now well nigh to bursting. The honorable Senator says they are going on; yes, and let everybody get out of the road. That may do for people who can be frightened; but that party has not been given to frightening anybody heretofore, that I am aware of. It is exceedingly fertile in abuse; it never undertakes to meet a man's argument except by ridicule and by sneers, and by all that kind of machinery which a weak man always uses against a stronger.

The honorable Senator may go on in his course, and we will go on in our course. We think that instead of his having had to carry us through the rebellion we have had to carry him; that if there was any load we had it to bear. I do not undertake to say that the honorable Senator did not intend well enough; but he has put

himself out of the pale of receiving the benefit of that apology which might be made in his favor, by assailing the intentions of others. Who made him a judge and a ruler over Israel? Who authorized him to say that I despised the laboring man? I think I could prove by good witnesses that I have done such days of hard work as that Senator would have hardly survived. And when he talks about me or the gentlemen with whom I associate here as not being the friends of the poor and the friends of the humble he speaks without the book. By what right does he arraign me as not desiring the prosperity and the greatness of this country? Is it not my country as well as his? Have I not as many interests at stake as he has, or any other man? Sir, when a speech requires such make-weights as that to extend it over a period of fifteen minutes, it had better not be made at all. Hereafter, when a question is before this body, and is to be met, I hope the question will be argued, and the question alone.

I have raised a simple question of constitutional law; and the Senator says that the Constitution has been dinned in his ears for five years. Yes, Mr. President, and you might din it in for twenty, and I doubt whether he would appreciate a single principle which is involved in it. Is the Constitution to be nothing? Is the oath we have taken to support it to be nothing? Is constitutional learning to be sneered out of this Chamber? Is a conscientious desire on the part of a Senator to do his duty as a man should do it, and to carry out in spirit and in truth that duty which has been intrusted to him by his constituents, here to be made a subject of reproach upon this floor. And is a man not to be supposed to be orthodox, not to be supposed to be patriotic, unless he believes in all the vagaries and all the whims and the ethnology of the honorable Senator from Massachusetts who has traveled, I suppose, over one hundred and fifty thousand miles, and has made some twelve or fifteen hundred abolition speeches? I cannot tell how much a man would know after he had made twelve or fifteen hundred speeches on one side, at one end of a house, where there was nobody to reply to him; I think he would become so confirmed in his crotchets and so full of his absurdities by that time that it would be utterly impossible to teach him anything afterward.

Who arrogated to themselves superior knowledge of the negroes? We did not; but I have and do again arrogate for the men of the South who live among them, who live with them, a knowledge of the negroes and of negro character superior to that of a man who lives in a New England State, and sees a negro once perhaps in three weeks or a month. I should think it most extraordinary if such were not the case.

Mr. President, I come back again now to the question before the Senate. It is simply this, whether, in the first place, we have authority to create this bureau with this jurisdiction at all; and the question that arises upon the amendment which I have moved is whether we have a right to extend it into the loyal States. It may be said, I know, that it is to be extended there simply for the relief of the freedmen. I say that the freedmen of Pennsylvania ask no relief from the Freedmen's Bureau. Pennsylvania relieves her own destitute and her own poor. She is not a pensioner upon the United States Government for any favors of that kind. I say, too, that if it is to extend beyond relief, and to administer municipal law there for the benefit of the freedmen, Pennsylvania administers her own municipal law, enforces her own police regulations between those who inhabit her borders, and she does not desire any such contrivance as this, but would rather repudiate it and spew it out of her mouth.

Mr. President, I am aware, and I have long been aware, that it is of no use here with certain Senators to appeal to the Constitution. I know that it is of no use to appeal to the past construction which has been put upon that instrument. I know that there are Senators who think certain things ought to be done, and no matter what barrier stands in the way they think

they are doing God service when they overleap it. When war was raging over one half of the Republic, when it required all the energies of the loyal portion of the Union to sustain that war and to support the soldiers in the field, I have often kept silent, and have not, as often as I would otherwise have done, raised my voice against these violations of the Constitution. Now I propose to give a notice as well as the honorable Senator from Massachusetts, and it is that from henceforth I will resist as long as I can, in my humble way, every measure, no matter what it may be, that I believe to be a violation of the fundamental law of this nation, and which to me is sacred as the will of the American people. Sir, what is that Constitution but the exponent, the embodiment, of the will of the American people? Think of it, sir; packed into this small volume [exhibiting a copy of the Constitution] is the will of thirty million people; not the will of a party, not the will of a faction, but the will of all parties, the unanimous will of the American people. Who dares violate a provision of it? Who dares thrust in his will instead of that will? Who so arrogant as to assume that they will substitute their will for this great will, which is to be our guide and our rule of action in this body? Gentlemen talk of the right, and of God being with the right, and all that kind of thing; and yet they forget this sacred truth, that here is our letter of attorney, here is our warrant for what we do, here is our authority in the premises, and the man who goes a step beyond it, the man who violates it, is guilty before that God, to whom the gentleman appeals with such facility, of perjury.

The gentleman assumes that God is on their side, and that God is with them. So might a man assume that God was with him when he acquiesced in anything that took place in the universe. I suppose the gentleman will hardly deny that whatever does take place in the universe, takes place in accordance with the will of God, as a whole. He is omnipotent, and it must beso. Whoever acquiesces in the decrees of destiny can very well boast that God is with him of course; but short-sighted, finite mortals as we are, not knowing what destiny is to be in the future, are not authorized in making any such boasts.

Mr. President, I hope that the operation of this bill may be circumscribed, if it is to become a law, to the States lately in rebellion, as those are the only States over whom we can have a shadow of pretense for exercising this right, which must be a belligerent right, if it is any right at all. I can conceive how men might suppose that, owing to the fact of the previous belligerency, this bill would be demanded by a certain state of things there; I can conceive how any one might be misled into that error; but I cannot see how anybody can imagine that there is a right existing in this Government to extend the operation of such a bill over States which never were in rebellion, and which never did occupy an attitude of belligerency toward the United States.

Mr. TRUMBULL. Mr. President—

Mr. WILSON. I hope the Senator will allow me a few moments to reply to the Senator from Pennsylvania.

Mr. TRUMBULL. I was in hopes—

THE PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from Massachusetts?

Mr. TRUMBULL. Yes, sir, I yield very reluctantly, for I was in hopes that we would go on with the bill, avoiding this general discussion.

Mr. WILSON. Mr. President, the Senator from Pennsylvania tells us that he, in the future, more than he has in the past, shall resist certain measures here. I have not a doubt of what he will do in the future, and I have not any doubt but that the same result will happen in the future as has happened in the past, that his counsels will not be the counsels of the Senate.

The Senator invokes the Constitution. Every time a question came up here touching slavery

or slaves we had his interpretation of the Constitution dinned into our unwilling ears. I take it, we are quite as capable of interpreting the Constitution, or of understanding it, as the Senator from Pennsylvania. I do not know what right he has to come into this Chamber and make pretensions to interpret that instrument to other Senators. It is not the Constitution that we object to; we believe in that quite as much as the Senator from Pennsylvania; but it is to that Senator's construction of the Constitution to which we object. The Senate has not believed in it in the past, and I venture to say it will not be guided by it in the future. What right has that Senator to rise here to-day, as he has done, and hold the Constitution of his country in his hand, and speak to us as though he was a Marshall, a Story, or a Webster, and that we were children to sit at his feet and accept without hesitation his construction of the Constitution? I do not acknowledge such a right on his part. He is not my teacher, nor the teacher of the rest of us. He has his opinions. I am ever ready to give to those opinions due consideration; but when he comes into the Senate and arraigns the rest of us for want of fidelity to our oaths, I ask him by what authority he does it. God and nature never intended that he should teach the Senate of the United States as one having authority.

But the Senator is pleased to tell us that during this war he has had to carry us along. He carry us along! Why, sir, there is hardly a measure that we have advocated during the war that received his sanction.

The Senator talks about the anti-slavery societies. I said nothing of anti-slavery societies. I spoke of that great organization rallying around living ideas that made Abraham Lincoln President of the United States in 1860 and again in 1864. Ninety-nine out of every hundred of the men of that organization think as we think here, and have been with us through the war, and are with us now. When we hesitate, they are behind us pointing out the path of duty and bidding us walk therein.

The Senator tells us that the soldiers put down this rebellion; of course they put down the rebellion. We put one hundred and eighty thousand black men into the field to help them to do it. The Senator opposed it; he thought that putting arms in the hands of black men would weaken us. In fact, nearly all the great leading measures to weaken slavery and to strengthen the country were opposed by the Senator; and he tells us now that if he were to stand by the side of Jeff. Davis in his dying hour, Davis would whisper into his ear that it was this anti-slavery sentiment, this opposition to slavery here, that banded together his men in the South and enabled him to continue the contest. We have heard that assertion often enough, and there is not the shadow of a shade of truth or reason in it. It served its purpose, and it is quite time it was abandoned. Every vote given in this Senate, every act passed by Congress that weakened slavery or emancipated a slave, weakened the rebellion and strengthened the country; and history will so pronounce. That is the verdict of the nation to-day, and the Senator himself may think so at sometime; I hope he will advance far enough along for that. Sir, you will find that just as the idea pervaded the rebel States that slavery was a lost institution, just in that proportion they gave up the hope of triumph and yielded.

Let me say to the Senator that if he should stand by the side of Jeff. Davis at his dying hour, if he should be Davis's confessor, and Davis should make a confession of that character, the great rebel will be more mistaken than he has been in all the six past years of his life, which have been one grand mistake. There is not a semblance of truth in it. It was only on Saturday evening that one of the most learned men of the South came to see me, and he gave me this statement: believing in secession, believing in slavery, he left the country, stopped for a time in one of the West India islands on his way to Canada. He found the freedmen there living comfortably, and he began to change

his opinion about emancipation. He went to Halifax. There he found the colored people free and prosperous, and he became impressed with the fact that these people could prosper in freedom. He came to this conclusion, and he went to Richmond, after his return home, and urged upon the government that as slavery was to go down there was no need of the war continuing any longer; that the object for which they were fighting was lost; that if slavery was a lost cause, there ought not to be two nations on this continent. That statement of the distinguished gentleman, who is known throughout the country for his learning and accomplishments, is the statement of a truth that pervaded the whole southern mind. They went into rebellion to make slavery eternal; they found that by our legislation, by our determination, by the policy of the Administration, which the Senator from Pennsylvania generally opposed, slavery was perishing, that it was to go down, and then they realized that the cause of the confederacy was lost, and they had better give up the hopeless contest.

I remember being in the room of Mr. Lincoln when an eminent American just returned from abroad was presented to him. He said to Mr. Lincoln, "I have spent many months in England and France, and I come to tell you that your proclamation of emancipation has prevented the recognition of the confederacy by England and France." Mr. Lincoln replied, "I know that to be true." And yet that great measure, that prevented the recognition of the confederacy by those two powerful nations; that great measure that strengthened us in Europe beyond human calculation; that great measure that struck the first great blow at this rebellion, was opposed by the Senator from Pennsylvania and these gentlemen who undertake to arraign us now and to arrest the consummation of the great work of complete emancipation. I say to you, sir, what is true, that we who have stood by this policy of destroying slavery after slavery had raised its bloody hand against our country, we who broke it down wherever we could reach it, contributed, as far as legislation could go, and as far as the public voice could go, to weaken the rebellion and strengthen the country. And our brave soldiers in the field, partaking of our spirit, believing as we believed, four fifths of them believing in the cause of liberty, trampled the rebellion down under the iron heel of war. If we had had no rebellion we should have had now no emancipation; but, sir, it was the sentiment of the country, of the Christian men of the country, the men who love liberty, standing up and resisting the aggressive policy of slavery, which made that war of ideas that finally came to the war of arms, and in the contest the country has been made a free country and slavery has perished forever. There are evils now to be corrected; there are rights to be secured; and it is our duty, the country and God impose it upon us, to do in the future as in the past, to take the amplest guarantees for the liberties of the poor, the weak, and the lowly, and the amplest guarantees for the security of the future peace and glory of our country.

Although the Senator speaks of the intense spirit of hatred toward the South, I say, for myself, and I would say it if I were in the presence of Almighty God, that I never had one sentiment of hostility or hatred toward the people of the rebel States, not even during this bloody war. I have looked upon Davis and his accomplices as the mere hands of the rebellion. I have believed slavery to be its brain, its heart, its soul. Standing as the advocate of human rights, as one of the humblest of the men who were upholding their country and the cause of liberty, I have felt charity toward those people; and all I ask of them now is security for the future. I want universal justice, universal liberty, and then I am for amnesty to all. I would—I say it in all conscience here to-day—have those rebel States speedily come back again and fill these seats with their chosen leaders, and although they might not vote with me, or love me, or love what I love, I would trust to the future, to the healing influence of time, and

I will meet them everywhere with kindness and treat them as I would erring brethren of my Father's household. But, sir, I insist upon it, the country will insist upon it, that we shall not peril one single right of the poorest man that treads the soil of the country. This position I shall maintain; for I would rather have the thanks of one poor black boy away down in the depths of Carolina, that I may never see and never know, than to receive the compliments of the proudest man in the land who would take away or impair the rights of the poorest of the sons or daughters of toil.

Mr. GUTHRIE. Mr. President, the Senator from Massachusetts, in the course of his remarks, said that I had made two admissions, as if I had done something that was inadvertent. I expressed nothing but my sentiments and what I believe must necessarily be the judgment of all the profession who will take the pains to examine the Constitution of the United States, as it has been lately amended, and its effect upon the existing institution of slavery and the existing law of the States in relation to it. The Constitution of the United States now abolishes slavery. That Constitution is the supreme law of the land, and it sweeps away everything that interferes with the great right of freedom which it now secures, and the legislation of every State of the Union, and even of Congress, in opposition to it would fall as soon as it was enacted. That is the effect of the constitutional amendment.

But, sir, I have been a little astonished at the extreme measures that have been brought up here under the pretext of making the constitutional amendment effective. What can be more effective than the national will expressed in the Constitution? What legislation is needed to aid and assist it? It is said it contains no punitive act, no act punishing its violation, that no penalty is prescribed for its violation. Every act under an unconstitutional law infringing upon the rights of individuals, whether white or black, is null and void. Holding this doctrine, believing it to be the true doctrine, and that none other can possibly be true, what is the use of our declaring and legislating those laws void which the Constitution of the United States has made void; and what kind of respect will the people suppose we pay to the Constitution when we are making an act in aid of it, to destroy or repeal that which has already been destroyed and fallen before it? There was no inadvertence in the admission that I made, because I hold to it just as strongly as I hold to any doctrine that I acquire in the study of the Constitution and the study of the profession to which I once belonged.

The other admission I will not comment upon. I believed it was true. All history will justify it; and I believe when the history of this country and of the effects of the legislation that may follow this rebellion shall come to be written, it will be verified again.

The gentleman has made one admission which does him great honor. He says that he entertains no hatred or ill-feeling against the South; that he wants no more blood and no more confiscation. That sentiment does honor to him as a Senator; it does honor to him as a man. But pardon me for remarking that I have seen it nowhere in his movements for legislation toward the South, nor have I seen it come from any of his party. I intend to cast no reproach upon gentlemen. They act according to their convictions and their sense of duty.

There is only one other remark that I desire to make. The Senator spoke of the Democratic party as representing only Kentucky and the little State of Delaware. It is true we are in a small minority in the Senate, but there are eleven of us here of the old stripe, and we have faith in its doctrines and that it will rise again. We are not claiming anything for its past virtues or its past triumphs; but we believe that that party that stands up, not only for national rights according to the Constitution, but for State rights, too, according to the Constitution, and preserving this Government according to the principles of the great men who made it, will be

considered and will come into power again. Gentlemen should reflect that in the recent presidential election the candidates of the Democratic party polled eighteen hundred thousand votes in spite of all the advantages that the Government candidates possessed. Sir, the Democratic party is not dead, though we are at present suspended. Let me recall to the mind of the Senator that Napoleon Bonaparte, when he was dominating all over Europe and playing with crowns, made a small mistake when he tempted the snows of Russia in winter time; and there may be a time when the party now in power will go too far; the party which by this bill invades the rights of the loyal States, and puts into the hands of the officers of this bureau powers that should be placed in the hands of no man. Under it an agent of this Freedmen's Bureau is to declare just what law he pleases, and administer it just as he pleases, and there is no appeal. One of the agents of this bureau on coming into Kentucky declared that if any former owner of slaves, after the men had been taken into the Army or gone off, leaving no one but the old and infirm, who were unable to work, and the children, should refuse to support them, and that, too, whether he had anything to support them or not, he would seize their property, confiscate it, and turn it to the public use! Do you think that is acceptable to Kentucky? Do you think it would be acceptable to any set of people? Here you authorize one of these agents to arrest any man; whether the evidence be little or great he is the sole judge, without perhaps having any legal or judicial knowledge, and he fines and imprisons at his pleasure. You propose to impose upon the free people of Kentucky this kind of a judiciary and this kind of laws, and you think it will be a great evidence of our want of loyalty if we do not cheerfully accept it.

Sir, I never supposed that the majority of this Senate did not mean to pass this bill and the one that is to follow it, that have been reported from the Committee on the Judiciary, the best legal minds in the body. They assume that it is a necessity, and therefore constitutional in their view. But, sir, I did hope that Kentucky would be exempted from its operation; that this last cup of bitterness and trial would not be put to the lips of a State that had suffered as much as Kentucky by her loyalty to the Union.

THE PRESIDING OFFICER, (Mr. Foot.) The question is on the amendment moved by the Senator from Pennsylvania, [Mr. Cowan.]
Mr. HENDRICKS. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 11, nays 83; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Guthrie, Hendricks, Johnson, McDougall, Nesmith, Riddle, Saulsbury, and Stockton—11.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Foot, Foster, Grimes, Henderson, Howard, Howe, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nye, Poland, Pomerooy, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—83.

ABSENT—Messrs. Dixon, Doolittle, Harris, Norton, and Wright—5.

Mr. DAVIS. I move to amend the bill by striking out all of the second section after the word "class" in the fifteenth line, in the following words:

And the President of the United States, through the War Department and the Commissioner, shall extend military jurisdiction and protection over all employes, agents, and officers of this bureau.

The sole object of that provision is to suppress wholly the jurisdiction and the action of the courts, Federal or State, in all the States that may come into conflict with the operations of this bureau. We have in all the States Federal district courts; we have State courts. This bill embodies a great deal of judicial power, and all this judicial power it invests in this bureau, in the commissioners to be appointed by the President, or in military officers who are assigned to the performance of those duties. I ask the honorable Senator who reported this bill, by what warrant does he subject not only the jurisdiction and action of the State courts,

but of the Federal courts, to this Freedmen's Bureau; and in the conflict of authority between the bureau and the Federal or State courts, by what warrant of power does he provide that "the President of the United States, through the War Department and the Commissioner, shall extend military jurisdiction and protection over all employes, agents, and officers of this bureau?" There are other sections of the bill upon which I shall comment as they are called up by offering amendments to them. The bill creates judicial powers; it authorizes the construction of cases between citizens of the United States, if the negroes are citizens, between a white man and a negro; and these cases, that appertain, according to the Constitution of the United States, to the judicial power of the Government exclusively, are vested, or attempted to be vested, by this bill, in the Commissioner, assistant commissioners, and agents of this bureau; and if the courts, Federal or State, are invoked to give the protection of the Constitution and the laws to a white man who is a party to one of these controversies, the assistant commissioner or agent deciding against the white man, and a conflict of jurisdiction arises between the bureau and the courts, State or Federal, the President is authorized by the clause which I move to strike out to extend military jurisdiction and protection to all the assistant commissioners and agents of this bureau who are deciding against the Constitution, against the law, and to the prejudice of the white citizen. I enter my protest against the interposition of the military power for any such purpose. It is directed by this clause to be invoked and to operate for the utter subversion of the courts of the States in the trial of judicial questions between the people of those States. I therefore move that that portion of the bill be stricken out.

Mr. TRUMBULL. The words proposed to be stricken out confer no such judicial authority at all. They simply put the officers and employes of the Freedmen's Bureau under the military jurisdiction and protection. They are placed in the same situation as the officers and soldiers of the Army. Does the Senator from Kentucky understand that in a time of peace, and where the courts are in operation, officers and soldiers of the Army are not amenable to the judicial authorities, both Federal and State? Suppose a soldier or an officer in the Army before this war, or in any of the States where judicial authority has not been interfered with, commits a crime upon any citizen of any State, will he not be indicted in the State courts if it is a violation of a State law, or in the Federal courts if it is in violation of a law of the United States, for the offense, and tried in the court and punished if he be found guilty, just the same as if he were not an officer or a soldier? All that is meant by this clause is simply that the officers and agents of the bureau shall be under the military jurisdiction. In those sections of country where civil authority is not restored, whence the United States courts have been expelled, and where justice cannot be administered in consequence of resistance to the law, where the military power bears sway, of course they cannot be tried in the courts; there are no courts there to try them; it is preposterous to think of appealing to judicial tribunals where there are no judicial tribunals; but wherever judicial tribunals exist and the civil authority is maintained, officers and soldiers are amenable to them for offenses just the same as other citizens, and always have been. They are subject to the Rules and Articles of War, and may be governed by the military power, but for any violations of State law or United States law outside of the Army regulations they are amenable to the civil authority.

Mr. DAVIS. I will inquire of the honorable Senator if this bill does not vest judicial powers in the assistant commissioners and the agents under it, and whether it is in the competence of Congress by the passage of a law to confer a part of the judicial power of the Government upon such officers? The honorable Senator says that this section is intended to operate in the

States where there are no courts, if I understand him.

Mr. TRUMBULL. No, sir. I say that these officers and employes are put under the military authority wherever they may be, and become subject to the Rules and Articles of War; but I say they are not protected in the violation of local law, and would still be amenable to the courts where the courts are in operation and have not been disturbed by the rebellion.

Mr. DAVIS. Mr. President, we will test that presently; but that is not the effect and meaning of the bill as it is printed. These assistant commissioners and these agents take jurisdiction of all contests between the freed negro and the man that hires him.

Mr. TRUMBULL. If the Senator will allow me, the bill expressly confines that jurisdiction to rebellious territory, where the military authority prevails, and by its terms expressly excludes any such jurisdiction whenever the rebellious territory, or States which have been in rebellion, are restored in their constitutional relations to the Government. If he will read the latter part of the eighth section, he will find that the only judicial authority conferred by the bill is in that section, and there it is declared that—

The jurisdiction conferred by this section on the officers and agents of this bureau to cease and determine whenever the discrimination on account of which it is conferred ceases, and in no event to be exercised in any State in which the ordinary course of judicial proceedings has not been interrupted by the rebellion, nor in any such State after said State shall have been fully restored in all its constitutional relations to the United States, and the courts of the State and of the United States within the same are not disturbed or stopped in the peaceable course of justice.

That is the only judicial authority conferred by the whole bill on the Freedmen's Bureau, and it is expressly limited in its terms. I hope the Senator from Kentucky will see that the position that he assumes is not in the bill. He may object to it. I wish he could agree to it; I should be very happy to have his cooperation; but if I cannot, I hope he will not fight against it for something that is not in it.

Mr. DAVIS. I do not understand this bill as the honorable Senator does; and I think before we get through with it I shall demonstrate that he and myself will have a conflict of opinion in relation to this very matter upon other parts of the bill; but I limit my objection at present to this section. Now, sir, what is the effect of the provision which I propose to strike out?

And the President of the United States, through the War Department and the Commissioner, shall extend military jurisdiction over the employes, agents, and officers of this bureau.

Are the "employes, agents, and officers of this bureau" a part of the Army?

Mr. TRUMBULL. Yes, sir.

Mr. DAVIS. I say they are not. The bill does not make them so. It makes them anything else but a part of the Army. The bill makes them civil officers, and it invests them with judicial powers and judicial functions, and with the faculty of passing judgment and executing that judgment between the citizens of the United States. It is in the performance of these functions that the Senator has so framed his bill as to authorize the President of the United States to protect the assistant commissioners and agents in the exercise of these judicial functions in passing their judgments and in enforcing their judgments. I say it is not competent, and it is dangerous and wrong, that any branch of the magistracy—you may call them judges, you may call them assistant commissioners under the Freedmen's Bureau, or you may call them agents under the Freedmen's Bureau—that are invested with judicial powers and with the function to pass in judgment upon the rights of citizens, shall have the power to invoke the military to uphold their unconstitutional and usurped authority. Sir, the whole jurisdiction with which this bill attempts to invest the bureau is in direct conflict with the Constitution; it is unconstitutional; it invests the bureau with judicial powers when the Constitution itself partitions the powers of the Government and assigns the judicial power to another branch exclusively, to the courts established by the Con-

stitution and such inferior courts as Congress may from time to time establish. My position is that no Department, no magistracy under our Government can exercise judicial functions and powers unless it be a part of the judicial branch of the Government; that this bureau in its assistant commissioners and in its agents is clothed with judicial power; that this is an unconstitutional and void investment of power; and for the purpose of enabling this magistracy to maintain themselves in the exercise of this void and unconstitutional investment of judicial power, this provision, which I propose to strike out, authorizes the military power of the country to be interposed, and in that sense I move to strike out the clause. I ask for the yeas and nays on my amendment. We may as well have them now as in the Senate.

The yeas and nays were ordered; and being taken, resulted—yeas 8, nays 31; as follows:

YEAS—Messrs. Buckalew, Davis, Guthrie, Hendricks, Johnson, Riddle, Saulsbury, and Stockton—8.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Fessenden, Foot, Foster, Grimes, Harris, Henderson, Howard, Howe, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nye, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Wade, Willey, Wilson, and Yates—31.

ABSENT—Messrs. Cowan, Cresswell, Dixon, Doolittle, McDougall, Nesmith, Norton, Poland, Williams, and Wright—10.

So the amendment was rejected.

Mr. FESSENDEN. I wish to suggest to the chairman of the committee—I will not move it if he has any objection to it—whether it would not be well to amend that section, in order to exclude a conclusion that might be drawn from it. I do not know that it would have any very particular legal effect; perhaps the effect is the same now. The amendment that I suggest is to add to the end of the second section these words:

In the exercise of the duties imposed or authorized by this act and the act to which this is additional.

It strikes me it would have a good effect in taking away an argument that might be used with reference to it by others.

Mr. WADE. How would the clause read then?

Mr. FESSENDEN. As I propose to amend it, it would read:

And the President of the United States, through the War Department and the Commissioner, shall extend military jurisdiction and protection over all employees, agents, and officers of this bureau in the exercise of the duties imposed or authorized by this act and the act to which this is additional.

Mr. TRUMBULL. I do not know that there is any objection to that amendment, except that it might subject these officers to be harassed in some way by local legislation.

Mr. FESSENDEN. They cannot be harassed in that way while in the exercise of the duties of their office.

Mr. TRUMBULL. No; of course no local legislation could interfere with this law. I shall not object to the amendment.

The amendment was agreed to.

Mr. SAULSBURY. I move to strike out the whole of the second section of the bill, if that motion is in order.

The PRESIDING OFFICER. The section proposed to be stricken out will be read.

The Secretary read it, as follows:

SEC. 2. And be it further enacted, That the Commissioner, with the approval of the President, shall divide each district into a number of sub-districts, not to exceed the number of counties or parishes in each State, and shall assign to each sub-district at least one agent, either a citizen, officer of the Army, or enlisted man, who, if an officer, shall serve without additional compensation or allowance, and if a citizen or enlisted man, shall receive a salary not exceeding \$1,500 per annum; and such agent shall, before entering on the duties of his office, take the oath prescribed in the first section of the act to which this is an amendment. Each assistant commissioner may employ not exceeding six clerks, one of the third class and five of the first class, and each agent of a sub-district may employ two clerks of the first class. And the President of the United States, through the War Department and the Commissioner, shall extend military jurisdiction and protection over all employees, agents, and officers of this bureau in the exercise of the duties imposed and authorized by this act and the act to which this is additional.

Mr. SAULSBURY. As I propose to-morrow to say something upon the merits of the

bill, provided the final vote shall not be taken this afternoon, I will state very briefly now the objection to this particular section.

If there is one thing certain about this bill, it is that it is to have operation throughout the whole of the United States. That being so, let us consider for one moment the vast powers conferred under this section upon this Freedmen's Bureau. I do not say that it was the intention of the honorable framer of the bill, or of any of its friends, that such vast powers should be used, but I say that the bill itself gives authority for the exercise of such powers, and when we look into this section particularly we shall see the vastness of these powers.

The first section provides for the appointment of a Commissioner of freedmen with a salary of \$3,000, the same as under the original bill. It says that this act shall be operative throughout the United States, and then it authorizes the President of the United States to divide up the whole number of States into districts, not to exceed the number of twelve, and it gives an assistant commissioner for each district, with the same pay that was prescribed by the act to which this is an amendment. The second section of the bill provides that each district may be divided into sub-districts, not to exceed the number of parishes or counties in a State; each under an agent with a salary of \$1,500. What is the executive power which this section confers? What are the number of counties in the United States, provided the President of the United States wishes to make an appointment in every county of the United States? A few years ago the number of those counties—and I suppose they have not decreased—was one thousand six hundred and seventy-six.

Mr. DAVIS. There are one thousand eight hundred and ninety-seven, with the new States that have been admitted.

Mr. SAULSBURY. My friend says that there are one thousand eight hundred and ninety-seven. Are we to stop and say, as an answer to this objection, that the President of the United States will not appoint an agent in every one of the counties in the whole United States? What authority have we for any such assumption? All I say now is that this bill confers the power upon the President to appoint an agent in every county of the United States, if he chooses; to divide the States into twelve districts, and then sub-divide those districts and appoint an agent for every county. It is folly, it is madness, to say that no Executive will do that. It is no answer to the objection if the bill confers the power. These agents are to have clerks. Each one is to have two clerks. This section, when you come to analyze it, gives seventy-two clerks of assistant commissioners, and it will give three thousand three hundred and forty-two clerks of agents. This bill will give you, in officers to be appointed under this Freedmen's Bureau, a Commissioner at \$3,000 a year, twelve assistant commissioners at \$3,000 each, making \$36,000; one thousand six hundred and seventy-six agents, at \$1,500 each, if they are taken from among citizens—and the bill authorizes the appointment of citizens—which will amount to \$2,510,000; it gives seventy-two clerks of assistant commissioners at \$1,200 each, making \$86,400; it gives three thousand four hundred and forty-two clerks of agents, as I stated before, with a salary of \$1,200 each, amounting to \$4,674,800; making the actual cost of this bureau for the pay of officers, in case the President of the United States chooses, under the authority given him in this bill to divide the States into twelve districts, and then to divide those districts into sub-districts, each district representing a county, \$7,314,200. I offer this amendment to get clear of this enormous expenditure; and when the bill confers this power I do not accept, as an answer to my objection, that it will not be so operated. The power to so operate it is in the bill itself. I therefore move to strike out that entire section.

The PRESIDING OFFICER (Mr. POMEROY in the chair) put the question on the amendment, and declared that the yeas appeared to have it.

Mr. SAULSBURY. I ask for the yeas and nays.

Mr. TRUMBULL. I suggest to the Senator from Delaware that we are now in Committee of the Whole, and we can take the yeas and nays upon his amendment in the Senate. I have no objection, however, to taking them now if he desires it.

Mr. SAULSBURY. I do not wish to delay action, and I withdraw the call for the yeas and nays.

The amendment was rejected.

Mr. HENDRICKS. I have given the Senate my views about this bill, and will not propose any amendment with a view to complicate the measure; but there is one section to which the objection, in my judgment, is so very clear that I will move to strike it out. It is the sixth section, which confers upon the bureau the power to buy lands for homes for the refugees and freedmen and for asylums and schools. I think the constitutional objection to that section is so very clear that I feel it my duty to move to strike it out.

The PRESIDING OFFICER. The Chair is obliged to inform the Senator that the record shows that that section has been adopted in committee, and it is not in order, therefore, to move to strike it out. That motion will be in order in the Senate.

Mr. HENDRICKS. Yes, sir, I believe it was adopted by a general vote.

Mr. DAVIS. I move to amend the fourth section of the bill as amended by striking out after the word "lands," in the fifth line, the words "in Florida, Mississippi, and Arkansas," and in lieu thereof to insert "anywhere in the United States."

Mr. TRUMBULL. The same objection would apply to that amendment as a question of order. The fourth section has been adopted in Committee of the Whole in lieu of another section, and I suppose, therefore, it is not in order to amend it in committee. The Senator can make his motion in the Senate. The section as it stands has been agreed to in committee, and having been so agreed to, I suppose it is not now subject to amendment, I make the suggestion to the Chair; I believe that is the rule.

Mr. DAVIS. It escaped me that the section had been adopted, and I would as soon take the course suggested by the Senator as any other. The Secretary will please preserve the amendment, so that I may offer it again in the Senate.

The PRESIDING OFFICER. The amendment in this stage of the bill is withdrawn.

Mr. DAVIS. A friend suggests to me that we shall have an opportunity in the Senate to offer our amendments. All I want is an opportunity to offer them. If I shall have an opportunity to offer them in the Senate, I would as soon do it there as in committee.

Mr. TRUMBULL. Undoubtedly any amendment is in order now that the Senator thinks proper to offer, unless it is to a section that has already been adopted; but the whole bill, including the sections which have been adopted in committee, will be open to amendment when the bill shall have been reported to the Senate, and it would hasten its progress if Senators will allow it to be reported to the Senate, and then any amendments will be in order.

Mr. DAVIS. I will acquiesce in that course with the exception of one amendment that I desire to offer as an additional section. I move to insert between the eighth and ninth sections of the bill the following:

And be it further enacted, That from each and every decision between parties made by the Commissioner, or any assistant commissioner, or other officer of this bureau, an appeal or writ of error may be prosecuted to the district or circuit court of the United States for the district in which such decision may have been made; and from the judgment of such district or circuit court to the Supreme Court of the United States, by any party or person who may think himself, herself, or themselves aggrieved thereby; and upon such parties or persons entering into bond with good and sufficient security in the office of said court to abide by and perform the final judgment of the matter from which such appeal or writ of error is prosecuted, and to pay such costs and damages as may be awarded to any person or parties by reason of the prosecution of

the same, further proceedings shall be suspended until the final judgment of such matter.

I offer this amendment upon the idea that the powers to be executed by this bureau are plainly and simply judicial powers. They are nothing else. They are the decisions of suits between different parties. If I be right in this opinion, as I feel assured that I am, it will present this state of case: that in every question arising and decided under this act there will be no remedy whatever by a supervisory tribunal. The honorable chairman of the Committee on the Judiciary disclaims that there is any judicial power vested in these officers. I shall test that point with the honorable Senator either now or when the bill shall come into the Senate. I shall propose to add an amendment in the form of a proviso declaring that neither the Commissioner nor the assistant commissioners, nor the agents of the bureau, shall exercise any judicial power whatever under the bill. If a provision of that kind were added I would not offer this section.

Mr. TRUMBULL. The Senator misunderstood me if he understood me to say that no judicial power was conferred by this bill. I did not intend to say that.

Mr. DAVIS. I withdraw the amendment now pending for the present, for the purpose of offering the one which I have just suggested, to come in as a proviso to section eight:

Provided, That neither the Commissioner, assistant commissioners, agents, or any officer under this bill, shall exercise any judicial power whatever.

I ask for the yeas and nays upon the amendment.

Several SENATORS. Oh, no; take them in the Senate.

Mr. DAVIS. I withdraw the call for the yeas and nays for the purpose of saving time; but I shall offer the amendment again in the Senate, and ask for the yeas and nays upon it then.

The amendment was rejected.

The bill was reported to the Senate as amended.

Mr. MORRILL. I desire to move an executive session; I suppose it is not expected that we can finish this bill this evening.

Mr. TRUMBULL. Will the Senator allow me before I forget it to insert a couple of words to which I presume there will be no objection, before a vote is taken on the amendments made in committee?

The PRESIDING OFFICER. Perhaps the Senator will indulge the Chair in taking the vote on the question of concurring in the amendments made as in Committee of the Whole.

Mr. TRUMBULL. Before that is done, I wish to amend one of the amendments made in committee.

Mr. CLARK. I suggest to the Chair that the Senator from Kentucky, and some other Senators, propose to amend those amendments before they are concurred in.

Mr. SUMNER. There is one of the amendments to which I wish to move an amendment in the Senate.

Mr. TRUMBULL. In the fifth line of the fourth section, as amended in committee, after the word "Mississippi," I move to insert the words "Alabama, Louisiana, and Arkansas." The effect of the amendment is simply this: the fourth section, as amended, provides for reserving public lands for the benefit of freedmen and refugees in the States of Florida, Mississippi, and Arkansas, and I propose to add Alabama and Louisiana, having ascertained since the amendment was offered in Committee of the Whole that there are public lands in Alabama and Louisiana as well as the other States named.

The amendment to the amendment was agreed to.

EXECUTIVE SESSION.

Mr. MORRILL. I now move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, January 22, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of Friday last was read and approved.

The SPEAKER announced as the first business in order the calling of States for the introduction of bills and joint resolutions for reference to committees, not to be brought back by a motion to reconsider.

DEFENSE OF NORTHEASTERN FRONTIER.

Mr. RICE, of Maine, introduced a bill to provide for the defense of the northeastern frontier; which was read a first and second time, and referred to the Committee on Foreign Affairs.

SUFFRAGE IN THE DISTRICT OF COLUMBIA.

Mr. JENCKES introduced a bill to regulate suffrage and elections in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

COUNTERFEIT UNITED STATES CURRENCY.

Mr. DEMING introduced a bill to prevent the passing of counterfeit United States currency; which was read a first and second time, and referred to the Committee on the Judiciary.

REGISTRY OF VESSELS.

Mr. J. M. HUMPHREY introduced a bill directing the Secretary of the Treasury to issue American registers to certain vessels; which was read a first and second time, and referred to the Committee on Commerce.

APPOINTMENT OF REAR ADMIRAL, ETC.

Mr. RICE, of Massachusetts, introduced a bill to further regulate the appointment of rear admiral, and for the appointment of certain volunteer officers to the regular Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

NAVAL DEPOT ON DELAWARE RIVER.

Mr. BROOMALL introduced a bill for the establishment of a navy-yard and naval depot on the Delaware river in Pennsylvania; which was read a first and second time, and referred to the Committee on Naval Affairs.

SOLDIERS OF THE WAR OF 1812.

Mr. MILLER introduced a bill granting pensions to soldiers of the war of 1812 with Great Britain; which was read a first and second time.

Mr. MILLER. I move the reference of the bill to a select committee of three.

Mr. WASHBURNE, of Illinois. I very much dislike to object to anything that my friend from Pennsylvania [Mr. MILLER] desires; but I would like to know the particular reason why this bill should not go to the appropriate standing committee.

The SPEAKER. The subject cannot be debated under this call. It is in order to move the reference of the bill to the Committee on Invalid Pensions.

Mr. WASHBURNE, of Illinois. In order to test the sense of the House, I make that motion.

Mr. STEVENS. If it be in order, I should like to ask of the Committee on Invalid Pensions why they have not yet reported the bill which I offered before the holidays, allowing employés of the Government to receive their pensions.

The SPEAKER. Debate is not in order now. The motion to refer the bill to the Committee on Invalid Pensions was agreed to.

Mr. MILLER. I move that the bill be ordered to be printed.

The motion was agreed to.

BOUNTIES.

Mr. MILLER also introduced a bill granting bounty to volunteers who entered the Army of the United States in the years 1861 and 1862, for the purpose of putting down the rebellion; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SUFFRAGE IN THE DISTRICT OF COLUMBIA.

Mr. MYERS introduced a bill to regulate suffrage in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

MARTHA M'COOK.

Mr. BINGHAM introduced a joint resolution for the relief of Martha McCook; which was read a first and second time, and referred to the Committee on Invalid Pensions.

EMPLOYÉS IN EXECUTIVE MANSION.

Mr. SPALDING introduced a bill to authorize the President to appoint certain officers of his household and fixing their salaries; which was read a first and second time, and referred to the Committee on Appropriations.

OATH OF OFFICE.

Mr. FINCK introduced a bill to prescribe the oath of office; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

VIRGINIA LAND WARRANTS.

Mr. CLARKE, of Ohio, introduced a bill allowing the further time of five years to those owning land warrants issued by the State of Virginia to her officers and soldiers of the Virginia line on continental establishment to enter and survey the same; which was read a first and second time, and referred to the Committee on Public Lands.

AMENDMENT OF THE CONSTITUTION.

Mr. ASHLEY, of Ohio, introduced a joint resolution proposing an amendment to the Constitution of the United States; which was read a first and second time, ordered to be printed, and referred to the Committee on the Judiciary.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed the following bills and joint resolution, in which he was directed to ask the concurrence of the House:

A bill (S. No. 69) to provide for the payment of pensions;

Joint resolution (S. No. 20) extending the time for the completion of the Burlington and Missouri River railroad;

A bill (S. No. 86) granting the franking privilege to Mary Lincoln; and

A bill (H. R. No. 36) making appropriations for the payment of invalid and other pensions of the United States for the year ending 30th June, 1867, with amendments.

JUDICIAL SYSTEM OF THE UNITED STATES.

Mr. EGGLESTON introduced a bill to amend the judicial system of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

J. AND O. P. COBB AND CO.

Mr. FARQUHAR introduced a joint resolution for the adjustment of the claim of J. & O. P. Cobb & Co., of Indiana; which was read a first and second time, and referred to the Committee of Claims.

BOUNTY LAND.

Mr. FARNSWORTH introduced an act granting bounty land to officers and soldiers of the United States; which was read a first and second time, and referred to the Committee on Military Affairs.

UNANIMOUS CONSENT.

Mr. WASHBURNE, of Illinois, was, by unanimous consent, allowed the privilege hereafter to submit bills which he had in his committee-room.

ADDITIONAL ILLINOIS POST ROUTE.

Mr. COOK introduced a bill to establish a post route from Gardner to Tonica, in the State of Illinois; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

CALLING OUT NATIONAL FORCES.

Mr. BLOW introduced a bill to define the meaning of the first section of the act entitled

"An act further to regulate and provide for enrolling and calling out the national forces, and for other purposes," approved July 4, 1864; which was read a first and second time, and referred to the Committee on Military Affairs.

LEWIS J. CUNDIFF.

Mr. NOELL introduced a bill for the relief of Lewis J. Cundiff, of St. Francis county, Missouri; which was read a first and second time, and referred to the Committee of Claims.

CLAIM OF NEW HAMPSHIRE.

Mr. ROLLINS introduced a bill to authorize the payment of the claim of the State of New Hampshire for certain services of her militia during the war of 1812; which was read a first and second time, and referred to the Committee of Claims.

PROTECTION OF EMIGRANTS.

Mr. HUBBARD, of Iowa, introduced a joint resolution relating to the unexpended balances of the \$10,000 appropriated for the protection of emigration upon the route from the Missouri river to Gallatin, in Montana, by act approved March 3, 1863; which was read a first and second time, and referred to the Committee on Appropriations.

POST ROADS IN CALIFORNIA.

Mr. BIDWELL introduced a bill to establish certain post roads in the State of California; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

AMENDMENT OF JOINT RESOLUTION.

Mr. CLARKE, of Kansas, introduced a joint resolution amending a joint resolution therein named; which was read a first and second time, and referred to the Committee on Military Affairs.

NEW MEXICO.

Mr. CHAVES introduced a bill attaching all that portion of the Territory of Colorado lying south of the thirty-eighth parallel of north latitude to the Territory of New Mexico; which was read a first and second time, and referred to the Committee on Territories.

WASHINGTON TERRITORY.

Mr. DENNY introduced a bill amendatory of the organic act of Washington Territory; which was read a first and second time, and referred to the Committee on Territories.

PAYMENT OF UNION PRISONERS.

Mr. DONNELLY introduced a bill making provision for the payment of officers and men of the United States Army, who, by confinement in rebel prisons or otherwise, were prevented from being mustered into the service for some time after their appointment; which was read a first and second time, and referred to the Committee on Military Affairs.

NIAGARA FALLS SHIP-CANAL.

Mr. VAN HORN, of New York, introduced a bill to construct a ship-canal around the falls of Niagara; which was read a first and second time, and referred to the Committee on Roads and Canals.

ADMISSION OF COLORADO.

Mr. BRADFORD introduced a bill to provide for the admission of Colorado as a State into the Union; which was read a first and second time, and referred to the Committee on Territories.

FIRE DEPARTMENT OF WASHINGTON.

Mr. INGERSOLL introduced a bill concerning the fire department of Washington city; which was read a first and second time, and referred to the Committee for the District of Columbia.

TAX ON CIGARS.

Mr. MILLER submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Manufactures be and are hereby required to inquire into the expediency of reporting a bill graduating the tax on cigars man-

ufactured and sold within the United States according to the quality thereof.

GOVERNMENT LOAN TO MEXICO.

Mr. STEVENS offered the following resolution:

Resolved, That the Committee on Foreign Affairs be instructed to inquire into the propriety of the United States granting a loan on property security to the republic of Mexico, to enable her to prevent the establishment of a monarchical Government on her soil.

Mr. STEVENS. I do not know whether it is proper to say a word in explanation of that resolution now.

The SPEAKER. It is not, nor can the Chair ask unanimous consent during the morning hour, but it must pass under the previous question, or without debate.

Mr. STEVENS. Then I withdraw it. I wanted to explain it.

The resolution was accordingly withdrawn.

STARVATION OF PRISONERS.

Mr. WILLIAMS submitted the following resolution:

Resolved, That upon the evidence before this nation of the starvation and butchery of its soldiers as prisoners of war in the hands of the late so-called confederate government, and of other violations of the humane usages of nations in that behalf, with the presumed connivance of the executive head of that government and the commander-in-chief of its armies in the field, it has become the duty of the President of the United States to order the trial of those pretended functionaries, and all other officers of that government, civil or military, who are believed to have either authorized or been consenting thereto, before a military commission for a violation of the laws of war, and in case of the conviction of any of them, to execute the sentence of such tribunals by inflicting such punishment as may be adjudged by them appropriate to the offense.

That under the special circumstances of the case, the arraignment of any of the leaders of the rebellion for the crime of treason before any of the judicial tribunals of the country, besides being of questionable propriety in itself after so long a maintenance of the belligerent relation, would be attended with no valuable practical results, from the constitutional necessity of a trial within the rebellious districts, where the peers of the delinquent will be none other than the partners of his guilt.

Mr. FARNSWORTH. I suggest an amendment by adding the words "court-martial or" before the words "military commission."

Mr. WILLIAMS. I accept the amendment. I demand the previous question on the adoption of the resolution.

Mr. ELDRIDGE. I move that it be laid on the table.

Mr. CONKLING. Mr. Speaker, if the resolution is not laid on the table, and the previous question is not seconded, will it be in order to move to refer it to the Committee on Military Affairs?

The SPEAKER. It would unless some one rises to debate it, in which case it would go over.

Mr. CONKLING. Does it not refer to the Committee on Military Affairs?

The SPEAKER. It does not.

The motion to lay the resolution on the table was not agreed to.

The previous question was then seconded.

Mr. WILLIAMS. I will waive my motion on the adoption of the resolution, and ask that it be referred to the Committee on the Judiciary; and on that I demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was referred to the Committee on the Judiciary.

TOBACCO IN THE LEAF.

Mr. MYERS submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of so amending the internal revenue law as to leave the tax on tobacco in the leaf.

DUTY ON COFFEE, SUGAR, ETC.

Mr. STROUSE submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of reducing the duty or tariff on coffee, sugar, tea, pepper, salt, and other necessities of life.

TEST OATH.

Mr. STEVENS offered the following pream-

ble and resolution, upon which he demanded the previous question:

Whereas, certain high officials have communicated the fact that they have appointed to office, and allowed to act officially, several rebels who did not and could not take the test oath as required by law; Therefore, *Resolved*, That the Committee on the Judiciary be instructed to inquire whether any legislative measures are necessary to enforce obedience to the law by all men, without regard to rank or color.

The previous question was seconded, and the main question ordered; and under the operation thereof the preamble and resolution were agreed to.

STARVATION OF PRISONERS.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the resolution offered by Mr. WILLIAMS was referred to the Committee on the Judiciary; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

SOLDIERS' PAY.

Mr. WELKER submitted the following resolution, which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of providing by law for the payment to privates and officers of the Union Army during the late rebellion of their monthly pay from the date of their discharge until notice was given them of such discharge or acceptance of resignation, and until relieved from duty, and report by bill or otherwise.

POSTAL LAWS.

Mr. SPALDING submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of causing to be compiled and published in a single volume, if practicable, with a suitable index, all laws now in force regulating the postal service of the United States, and that said committee have leave to report by bill or otherwise.

TAX ON TOBACCO.

Mr. CLARKE, of Ohio, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of amending the internal revenue laws by the reduction of the tax upon common cigars and manufactured common tobacco.

RECONSTRUCTION.

Mr. GRIDER submitted the following resolutions:

Resolved, That the United States Government grants the power peaceably, or if necessary by arms, "to enforce the laws, suppress insurrection, and repel invasion;" but the General Government cannot by any action whatever destroy itself nor the State governments; nor can the State governments destroy either, or legally disturb the harmony of the whole. All the grants and powers under the Constitution are conservative, none destructive; wherefore all the States have been and are always in the Union.

Resolved, That when the United States Government suppressed the insurrection it only vindicated its constitutional power and preëxisting rights, and no more; and the rights and powers of the Federal and State Governments are all remitted back and assume the same condition and relations sustained before the insurrection, and (except so far as altered or amended) remain unimpaired and in full force and virtue.

Resolved, That the law of Congress apportioning Representatives to the several States (including the insurrectionary States) under the census of 1860 is constitutional and valid, and that members of Congress from all the States, regularly elected under said law, are entitled forthwith to their seats upon taking the oath of office to support the Constitution of the United States.

Resolved, That as a generous kindness and cordial forgiveness consistent with right, now peace exists, are the highest attributes of our nature, and as we must have "one Government, one Constitution, and one people," the glory, protection, and safety of all—cherishing these feelings, we say it is untimely, unjust, and impolitic to insist upon amendments to the Constitution to operate upon all until all are represented in the House and Senate.

Resolved, That it is illogical and unconstitutional to hold that States are in the Union to vote for constitutional amendments and yet not entitled to representation in Congress.

Resolved, That to tax any State by Congress and refuse to the people representation is contrary to the first principles of the American Government, and is inconsistent with the constitutional and equal rights of all the people.

Mr. STEVENS. Is it in order to debate those resolutions?

The SPEAKER. It is not. The resolutions are referred, under the resolution of the House, to the joint committee on reconstruction.

MEXICAN AFFAIRS.

Mr. SMITH submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the President be requested to communicate to this House, if in his opinion not inconsistent with the public interest, any correspondence or other information in possession of the Government in regard to a demonstration made by both branches of the Congress of the United States of Colombia in honor of President Juarez, of the republic of Mexico, for his perseverance in defending the independence and liberty of his country, and any other similar demonstrations from any other countries.

JUDICIAL PROCEEDINGS IN KENTUCKY.

Mr. McKEE submitted the following resolution; which was read, considered, and agreed to:

Whereas certain judges of the State courts of the State of Kentucky have set aside the act of Congress approved March 3, 1863, entitled "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases," and have refused to parties the benefit and protection which this act was intended to give them, and further, the Legislature of said State having recently passed a law making it unlawful for the judicial officers of said Commonwealth to carry out certain provisions of said act: Therefore,

Resolved, That the Committee on the Judiciary be instructed to inquire into and report at the earliest day practicable what additional legislation is necessary to carry into effect the provisions of said act, if in their opinion a remedy can be applied by legislation, and to report to this House by bill or otherwise.

PRESENTS TO OFFICE-HOLDERS.

Mr. NIBLACK submitted the following resolutions:

Resolved, That the conduct of his Excellency, Andrew Johnson, President of the United States, in declining to accept a carriage and horses tendered to him since his accession to office by some of his friends in New York, was, under the circumstances which surrounded him, eminently prudent, commendable, and patriotic, affording, as it did, a valuable example to others similarly situated, and meets the unqualified approbation of this House.

Be it further resolved, That it is the sense of this House that the practice, now so common, of persons holding official positions under the Government accepting presents of value from their subordinates in office, more or less dependent upon them for appointment, promotion, or other official favors, is demoralizing in its tendencies, destructive of public confidence, and ought to be prohibited.

Mr. FARNSWORTH. I move to lay those resolutions on the table.

Mr. KASSON. I would ask the gentleman from Indiana [Mr. NIBLACK] not to press his resolutions to a vote now. It does not seem to those of us on this side who are equally interested with him in the establishment of correct principles to be worthy the special action of the House in that manner.

Mr. NIBLACK. As small as the matter may seem to be, I think it a matter of some importance, and I must call the previous question on it.

Mr. SCHENCK. I rise to a question of order. My point of order is that these resolutions denominate the President of the United States "his Excellency." There is no such officer known to the Constitution of the United States; it is anti-democratic; a title not known or recognized. Our Chief Magistrate is designated "the President of the United States."

Mr. NIBLACK. I confess that is a matter with which I am not so *au fait*, perhaps, as the gentleman from Ohio, [Mr. SCHENCK.] I am in the habit of using plain language, and try to express the idea I intend to convey. That is the way I try to get at what I mean.

The SPEAKER. The Chair will state that this is a new point of order. His recollection is that in the debates of early Congresses many of the members called him "his Excellency, the President."

Mr. SCHENCK. There is no such officer known under the Constitution as "his Excellency, the President;" and I am astonished that, even with all their lately conceived admiration of the present Chief Magistrate, it should come from the Democratic side of the House.

The SPEAKER. The Chair is of opinion that the gentleman is correct. But in the First Congress, after debate in both branches on the appropriate title, it was dropped without being settled; but the first Speaker sent a message to the Senate in which he styled him "the President;" and that is doubtless the proper official title.

The question was upon the motion of Mr. FARNSWORTH, to lay the resolutions on the table.

Mr. NIBLACK called for the yeas and nays. The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 19, nays 126, not voting 37; as follows:

YEAS—Messrs. Anderson, James M. Ashley, Bottwell, Cook, Beckley, Farnsworth, Grinnell, Hooper, Kelso, Loan, McClurg, McIndoe, McKee, Plants, Price, Sloan, Williams, James F. Wilson, and Windom—19.

NAYS—Messrs. Alley, Allison, Ames, Ancona, Barker, Baldwin, Blow, Brandegee, Bromwell, Bundy, Jamain, Bidwell, Clark, Barker, Baxter, Beaman, Benjamin, Bidwell, Blow, Brandegee, Bromwell, Bundy, Chanler, Reader W. Clarke, Dawson, Defrees, Deming, Conkling, Cullom, Donnelly, Driggs, Eggleston, Eldridge, Eliot, Farquhar, Ferry, Finck, Glossbrenner, Goodyear, Grider, Hale, Aaron Harding, Abner C. Harding, Henderson, Higby, Hill, Hogan, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James B. Hubbell, Hulburd, James H. Humphrey, James M. Humphrey, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kerr, Ketcham, Kuykendall, Latham, George V. Lawrence, William Lawrence, Ladin, Marshall, Marvin, Mercur, Miller, Moorhead, Morrill, Morris, Myers, Newell, Niblack, Nicholson, Noell, O'Neill, Orth, Paine, Perham, Phelps, Pike, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Ritter, Rogers, Rollins, Ross, Sawyer, Scofield, Shanklin, Shellabarger, Sitgreaves, Smith, Spaulding, Stevens, Stillwell, Strouse, Tabor, Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trimble, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Voorhees, Ward, Warner, Elihu B. Washburne, William B. Washburne, Welker, Wentworth, Whaley, Stephen F. Wilson, Winfield, and Woodbridge—126.

NOT VOTING—Messrs. Delos R. Ashley, Bergen, Bingham, Blaine, Boyer, Brooks, Broomall, Buckland, Culver, Darling, Davis, Delano, Dumont, Garfield, Griswold, Harris, Hart, Hayes, Holmes, Hotchkiss, Asahel W. Hubbard, Johnson, Jones, Le Blond, Longyear, Marston, McCullough, McRuer, Moulton, Patterson, Pomeroy, Raymond, Rousseau, Schenck, Starr, Trowbridge, and Wright—37.

So the resolutions were not laid on the table.

The SPEAKER. The resolutions go over until Monday next, the morning hour having expired pending the call of the previous question.

Mr. SCHENCK. I desire to give notice that when these resolutions again come up for action, I will move the following amendment in addition:

And that it is to be regretted that members of this Congress cannot, many of them, take like approbation to themselves for patriotically and nobly refusing to accept free passes tendered them by various street railways and other railroad companies.

BASIS OF REPRESENTATION.

Mr. STEVENS. I am instructed by the joint committee on reconstruction, which is authorized to report at any time, to report a joint resolution proposing an amendment to the Constitution of the United States.

The joint resolution was read a first and second time. It is as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring), That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States; which, when ratified by three fourths of the said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE —. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation.

The question was upon ordering the joint resolution to be engrossed and read a third time.

Mr. STEVENS. Mr. Speaker, I will say one word on this subject. I will not make a speech, because every member here has, I suppose, for the last six weeks had this question under consideration.

There are twenty-two States whose Legislatures are now in session, some of which will adjourn within two or three weeks. It is very desirable, if this amendment is to be adopted, that it should go forth to be acted upon by the Legislatures now in session. It proposes to change the present basis of representation to a representation upon all persons, with the proviso that wherever any State excludes a particular class of persons from the elective franchise, that State to that extent shall not be entitled to be represented in Congress. It does not deny to the States the right to regulate the elective franchise as they please; but it does say to a State, "If you exclude from the right of suffrage Frenchmen, Irishmen, or any particular

class of people, none of that class of persons shall be counted in fixing your representation in this House. You may allow them to vote or not, as you please; but if you do allow them to vote, they will be counted and represented here; while if you do not allow them to vote, no one shall be authorized to represent them here; they shall be excluded from the basis of representation."

As I said before, I shall not make a speech upon what every man understands, what is contained in a nutshell, unless some gentleman on the other side of the House desires to discuss this question.

Mr. CHANLER. Will the gentleman allow me to ask him a question?

Mr. STEVENS. Yes, sir.

Mr. CHANLER. I desire to ask the gentleman for what purpose he proposes to this side of the House a discussion. Is it for the purpose of opening discussion now, or for the purpose of having some future day fixed for the discussion of the subject?

Mr. STEVENS. I intend, if the House is ready, to have this joint resolution passed before the sun goes down.

Several MEMBERS. We are ready.

Mr. STEVENS. But I will say frankly to the gentleman that a gentleman on that side of the House, a member of the committee on reconstruction, asked me not to deprive him of the opportunity of saying a word upon the amendment, which he did not approve in committee; and I thought it might be a matter of courtesy to say to him, "You shall have that opportunity." Then I intended that, if there should be any member on this side of the House, some member of the committee perhaps, desirous to reply to the gentleman, it should be done; and then I proposed to submit to the House whether it was not ready to pass this amendment to-day.

Mr. RANDALL, of Pennsylvania. Will my colleague yield to me for a moment?

Mr. STEVENS. I will yield to the gentleman for a question.

Mr. RANDALL, of Pennsylvania. I desire to say a word or two which will lead me to the question that I desire to ask. Here the whole policy of our Government is proposed to be changed in the twinkling of an eye—

Mr. STEVENS. I do not yield to my colleague to discuss this question at present.

Mr. RANDALL, of Pennsylvania. Well, then, I ask my colleague to allow that this proposed amendment to the Constitution may be laid upon the table and be printed, so that we may have proper opportunity to understand its full scope. I know the scope of it, so far as Pennsylvania is concerned. I know that it will reduce her representation on this floor, and as a Pennsylvanian, I am against it or any similar proposition. But I do not know how it will affect other States; and therefore I ask my distinguished colleague to allow this proposition to be at least printed, so that we may fully and clearly understand its bearings before voting upon it.

Mr. WILSON, of Iowa. I ask the gentleman from Pennsylvania [Mr. STEVENS] to yield to me for a moment.

Mr. STEVENS. I will do so.

Mr. WILSON, of Iowa. I will state, Mr. Speaker, that this same subject, having been referred to the Committee on the Judiciary, has been considered by that committee, who had determined to report, for the action of the House, a proposition which, if I correctly caught the language of this proposed amendment as read, is substantially identical with it. I merely state this to show that the Committee on the Judiciary, after careful consideration, have reached the same conclusion on this subject as the joint committee on reconstruction.

Mr. GRIDER. I ask the gentleman to yield to me.

Mr. STEVENS. Does the gentleman wish to discuss the question?

Mr. GRIDER. I wish to ask the gentleman from Pennsylvania to allow a proposition to be made. He is the only gentleman occupying the floor who can make a motion in regard to

this measure which I desire, and that is that the bill shall be ordered to be printed, and the question postponed to some day this week, as early as you please. so that when we are called on to vote we may do so after argument on the important issue presented. We want the bill printed, and we want an opportunity to debate these questions; and it remains with the gentleman from Pennsylvania, occupying the attitude he does, whether he shall force it upon us without debate, and without the measure being printed.

Mr. SLOAN. I ask the gentleman from Pennsylvania to allow me to say a word.

Mr. ROGERS. Does the gentleman from Pennsylvania yield to me?

Mr. STEVENS. I yield to the gentleman from New Jersey, who is a member of the committee.

Mr. ROGERS. Mr. Speaker, I present the minority report on this matter by the consent of the whole committee.

Mr. STEVENS. After my colleague on the committee has discussed this question as much as he desires, if we can have the previous question called, I am willing that the bill shall be postponed until to-morrow, and ordered to be printed.

Mr. ROGERS. I am ready to say what I have to say now, if the House is ready.

Mr. STEVENS. I yield for the purpose of allowing the gentleman from New Jersey to proceed.

Mr. CHANLER. Before my friend from New Jersey proceeds, I want that this matter may be put right upon the record.

Mr. SCHENCK. I ask the gentleman from New Jersey to suspend for a moment and allow me to make a suggestion to fix a day certain, to-morrow or some other day, to which this matter shall be postponed.

Mr. ROGERS. Certainly.

Mr. CHANLER. I object unless the gentleman yield unconditionally, because it carries with it a previous personal arrangement made by one gentleman on this side with the leader of the House on the other side.

Mr. ROGERS. I have made no such arrangement.

Mr. CHANLER. I want that statement made, so that we may understand on this side of the House how far members in opposition to this movement are committed by any arrangement on the part of the gentleman from New Jersey.

The SPEAKER. The gentleman cannot take up the time of the gentleman from New Jersey without his consent.

Mr. ROGERS. I will say to the gentleman from New York that I am as much in favor as he can be of having this matter fully discussed.

Mr. CHANLER. I take that for granted.

Mr. ROGERS. As I was on the committee and submitted the report from the minority, I desire to state to the House the reasons why I oppose this amendment to the Constitution of the United States.

Mr. CHANLER. As I understand, the gentleman from New Jersey is allowed to take the floor on an arrangement with the chairman of the reconstruction committee.

Mr. SCHENCK. The gentleman from New Jersey has yielded to me and not to the gentleman from New York.

Mr. ROGERS. I do not yield to the gentleman from New York.

The SPEAKER. The gentleman from New York objects to the gentleman from New Jersey yielding unless he yields unconditionally.

Mr. CHANLER. I make the point of order that it is not in order for the gentleman from Ohio to make a point of order and then to make an explanation.

Mr. SCHENCK. That is what the gentleman is doing. [Laughter.] Therefore the gentleman is out of order.

Mr. CHANLER. I know I am out of order, and the gentleman from Ohio is out of order.

Mr. SCHENCK. If the gentleman from New Jersey will yield the floor I will make a suggestion.

Mr. ROGERS. Certainly.

Mr. SCHENCK. Mr. Speaker, I desire to say to the House there ought to be, at some time and to some extent, opportunity afforded to consider any amendment to the Constitution of the United States, in every word and phrase, so that we may understand how it will affect that important instrument. In this important amendment the chairman of the Judiciary Committee [Mr. WILSON, of Iowa] says that, as he can catch the words of the amendment, it is about the same as one that committee was about to propose. We ought not to pass upon a bill of which we can only catch the words, especially an amendment of that sacred instrument, the Constitution of the United States.

I say that something equivalent to this ought to pass—I shall give it my entire hearty concurrence—but at the same time I hope to see it made the special order for to-morrow if you please, and from day to day until disposed of, having it in the mean time printed, that we may observe carefully and weigh understandingly the import and meaning of every word of the resolution.

Now, sir, I have offered myself an amendment to the Constitution, which was referred to the Committee on the Judiciary, and this proposes a modification which will probably accomplish the same object which I intended, freed from certain objections arising out of inequality of numbers of the male adults in the several States. I am inclined to think, without having had an opportunity of looking particularly into this amendment, that I shall agree to it as a modification and accept it cheerfully in lieu of that which I myself proposed. But I would at least desire to have an opportunity of looking into it, in order to see whether I can so accept or accede to it.

I therefore suggest to the gentleman from Pennsylvania [Mr. STEVENS] that he do not call the previous question to-day, but reserve the right to call it, and that he fix some hour to-morrow at which this shall be made the special order, having it in the mean time printed, and making it the special order from day to day until disposed of; either calling the previous question after there has been some debate, or permit the debate to run on until it is itself exhausted. I think it will probably be found necessary to call the previous question after some debate on the subject when both sides have been heard. I, for one, have no objection to that; but give us some time to look into it, if it be only half a day.

Mr. STEVENS. My purpose, after the gentleman from New Jersey [Mr. ROGERS] and some members on our side have delivered their views upon the joint resolution, was to postpone its further consideration till to-morrow and have it printed. Then I design to fix some time to-morrow when I shall move the previous question. That was my intention; and unless the House should think unfavorably of it I shall follow that course. So, then, after the gentleman from New Jersey and the gentleman from New York [Mr. CONKLING] shall have spoken, I intend to move to postpone its further consideration till to-morrow, and have it printed. Then I mean to say that I shall not consent to a general running debate, as it will be a sure way to defeat it by amendments.

Mr. CHANLER. I rise to a point of order, that the chairman of the committee has no right to exclude a member of the minority of the committee from producing and debating a minority report on the floor of this House; in other words, that a member of the committee has a right to debate the question under the rule.

The SPEAKER. A member of the committee is on the floor now proposing to debate it. The Chair recognized him, without knowing of any arrangement in the committee, under the usage of the House, which is, that members of the committee shall have preference in speaking.

Mr. CHANLER. The Chair will excuse me for reiterating the fact that the chairman of the committee asserted that such an arrangement was made, and I yielded under that arrangement.

The SPEAKER. The gentleman from New Jersey [Mr. ROGERS] is recognized, and not the gentleman from New York, [Mr. CHANLER.]

Mr. SLOAN. I ask the gentleman from New Jersey to yield for the purpose of having an amendment that I offer read.

Mr. ROGERS. I yield for the purpose of having it read, but not for debate.

The SPEAKER. It will be read for information.

The Clerk read the proposed amendment of Mr. SLOAN, as follows:

That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of said Legislatures, shall be valid to all intents and purposes as a part of said Constitution, namely:

ARTICLE XIII.

SEC. 1. Representatives in Congress shall be apportioned among the several States which may be included within this Union according to their respective number of qualified electors. The actual enumeration shall be made in the year 1870, and within every subsequent term of ten years, in such manner as Congress shall by law direct.

SEC. 2. Direct taxes shall be apportioned among the several States according to the appraised value of taxable property therein respectively. The rule of apportionment of taxation shall be uniform.

Mr. RANDALL, of Pennsylvania. Will the gentleman from New Jersey [Mr. ROGERS] yield a moment?

Mr. ROGERS. I will.

Mr. RANDALL, of Pennsylvania. I understand perfectly well the power of the chairman of the committee who reported this amendment, and how he derives that power. It is simply through the will of the majority of this House, and to that majority I have a word to say. We desire that we shall have time to look into this subject, and I ask of the gentleman who introduced this joint resolution that he will consent that the consideration of the subject shall be postponed until Thursday next, then to be made the special order from day to day until disposed of. In the mean time it will be printed. This is precipitate action that is proposed. I call it precipitate, for until I heard the resolution read I knew nothing of it; nor do I think many members of the House knew of it. The country is totally unaware of the proposition. I hope, therefore, that the chairman of the committee will assent to a postponement, so that we may have at least an opportunity of seeing what it is and considering it.

PERSONAL EXPLANATIONS.

Mr. J. L. THOMAS. I ask the gentleman from New Jersey to yield to me for a moment to allow me to make a personal explanation as to my absence from the House on Thursday last when the final vote was taken on the passage of the District of Columbia suffrage bill.

Mr. ROGERS. I will yield for that purpose.

Mr. J. L. THOMAS. In the report of the proceedings of the House in the Baltimore Sun the following note appears appended to the report:

"NOTE.—Owing to the great confusion on the floor of the House last evening, Mr. JOHN L. THOMAS, of Maryland, was understood to have voted against the negro suffrage bill; although he voted on the previous question he did not vote on the bill, being absent from the Hall when the vote was taken."

That statement, without any further allusion to it on my part, subjects me to misconstruction, and intimates that I shirked a responsibility which I am always ready and willing to meet.

I will state that in the afternoon of that day I was in the receipt of two communications which made it absolutely necessary for me to leave the city in the Annapolis train, which left at thirty-five minutes after four, to attend to business of my constituents on matters equally important to them as the suffrage bill.

Anxious to vote on the several propositions, I came to the House on the afternoon of that day and voted to lay the bill upon the table, which I considered a test question. I voted also against the proposition of the gentleman from New York [Mr. HALE] for qualified suffrage, and then I turned my head to the clock and found that it wanted only ten minutes of the starting time of the Annapolis train, and I left.

I desire to say that when I left this Hall, it was with no intention of evading the issue of that bill; because I had placed myself upon the record, as I thought, fairly and squarely against negro suffrage, either qualified or universal, and I desire now to ask the consent of the House to allow me, under these circumstances, to record my vote against the passage of the bill.

The SPEAKER. The Chair will state that, under the rule of the House, unanimous consent cannot be given. The rule adopted by the last Congress requires a member who records his vote to be in his seat during the roll-call, and if he is not in during the roll-call, the Chair cannot entertain a proposition to ask unanimous consent for him to vote.

Mr. J. L. THOMAS. I will state, then, that if I had been present when the vote was taken, I should have voted against the passage of the bill.

Mr. WHALEY. I hope the House will indulge me while I state that had I been present when the bill was passed extending suffrage in the District of Columbia I should certainly have voted against it.

Mr. FARNSWORTH. I desire to obtain some information in regard to that rule relating to voting.

The SPEAKER. The Chair will answer any question the gentleman may put.

Mr. FARNSWORTH. If I understand aright two thirds of the House can suspend the rules, and if two thirds of the House can consent to a man's voting, cannot the whole House do it?

The SPEAKER. It cannot, because the rule is laid down in specific terms. The gentleman from Illinois has been a member of the House for many years, and he knows that the rules can only be suspended on Mondays after the morning hour, and when no other business is pending before the House. A joint resolution is now pending on which the gentleman from New Jersey [Mr. ROGERS] is entitled to the floor. If the House should pass from its consideration before the adjournment, then a motion to suspend the rules for this or any other purpose would be in order. It would not be in order except in that contingency.

BASIS OF REPRESENTATION.

Mr. ROGERS. Mr. Speaker, in order that I may be placed right with regard to the position which I took in the committee upon this question, I state to the House that there was no agreement upon my part, either express or implied, that this debate should be confined to any particular number of persons on either side, and I am here upon the Democratic theory that a question of this importance ought not to be passed upon by this House without allowing all persons upon both sides full opportunity for debate.

Sir, this is a question different from those which have usually been brought to the attention of the people of this country. It is the first time since the formation of the Government of the United States that any proposition of this kind or of a similar character has ever been offered to the House of Representatives or to the people of the United States for their ratification. It is a proposition to change the organic law of the land with regard to one of the fundamental principles which was laid down by our fathers at the formation of the Constitution as an axiom of civil and political liberty, that taxation and representation should always go together. If gentlemen will examine this proposed amendment of the Constitution they will see that it is in violation of that great doctrine which was proclaimed by the fathers of the Republic when they enunciated the Declaration of Independence, and protested against the tyranny and despotism of England, because she attempted to tax the people of the colonies without allowing them representation in the councils of the kingdom. The amendment now under consideration proposes the very same identical thing that the Parliament of England proposed when it attempted to inflict upon the American colonies taxation without allowing the people of the colonies to have representa-

tives in the Parliament of England to represent them upon the question whether they should be taxed by the mother country or not.

When the Constitution of the United States was made, our fathers, in pursuance of the object of the Revolution, and in the exercise of their wisdom, embodied in it the doctrine that representation should not be based upon the voting population of the country, but that it should be solely and wholly based upon the numbers of the people, without regard to sex or color, adding to those who were persons and citizens within the meaning of the organic law a representation for three fifths of the slave population of this country.

This joint resolution now under consideration contains a proviso which saps the very foundation and principles upon which the genius and institutions of this country have rested from the commencement of its political existence. The proviso reads:

Provided, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation.

In other words, it inflicts upon the States a penalty for refusing to the colored population an unqualified right of suffrage which it does not inflict upon them for refusing the same thing to the white population. While it denies representation to the States for their negroes, it inflicts upon them taxation without representation, and in that indirect way compels the States to adopt unqualified negro suffrage in order to allow them their rights under the present organic law.

The first objection I have to the passage of this joint resolution is that it is violative of the main principle upon which the revolutionary war was conducted, and which induced our fathers to enter the harbors of Boston and New York and throw the tea into the water. Because the British people attempted to inflict taxation upon them with regard to that tea, and refused to allow them representation in the Parliament of England, our fathers rebelled against their mother country. The present organic law has existed for more than seventy-five years, until it brought the people of this country to a state of prosperity at home and consideration abroad never exceeded and scarcely paralleled in the history of the world. Under it liberty was secured; private rights undisturbed; every man's house was his castle, and the principles of liberty were handed down to the descendants of the Revolution upon the basis that governed their action; and until the war power, imbedded in usurpation, trampled it under foot, it was a safe and sure bulwark of liberty and barrier against despotism and tyranny.

"Woodman, spare that tree,
Touch not a single bough,
In youth it sheltered me,
And I'll protect it now."

The present organic law provides that—

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons."

Now, I ask this House what has happened since the adoption of it by the different States who were then within the Union that now calls for the adoption of a principle which nowhere in the lines, spirit, words, or letter of it, has any standing or countenance. What has come over the fortunes and happiness of the people of this country that the great principle of the Constitution should now be violated, that principle for which our fathers spilt their blood to sustain the great axiom of American liberty, that taxation never should be imposed upon a people unless that people have a corresponding representation? If this amendment to the Constitution should be carried into effect, it will prevent any State, North or South, from allowing qualified suffrage to its colored population except upon forfeiture of representation: and if qualified suffrage should be allowed to the colored population of any State in this Union on account of race or color, and but one single

negro should be deprived of his vote by failure to meet the requirements of the qualification imposed, that State would be denied representation for the whole of that colored population, men, women, and children. This proviso says:

That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation.

What does the word "abridge" mean? It means that if the State of Kentucky, South Carolina, or New Jersey should see fit to allow to its colored population the right of suffrage upon a qualification based upon property, or intelligence, or any other qualification which they did not impose upon the white people, each one of those States would be deprived of representation for every colored man, woman, and child in that State. Take the State of Massachusetts for example; in that State every negro who comes within the qualifications prescribed for white persons is entitled to exercise the right of suffrage. In New York the negro cannot exercise the right of suffrage unless he owns \$250 worth of property. So that Massachusetts would have representation for every man, woman, and child of her colored population; while the great Empire State of New York, who in her wisdom has seen fit to forbid voting to negroes except they possess a certain amount of property, would not be allowed any representation for any one of her colored population, because within the meaning of this amendment it would be an abridgment of the elective franchise to negroes, on account of race or color, to place any qualifications upon them to entitle them to vote not imposed upon the white people.

Why, sir, this will drive—and this is the only object of the proposition—every State in this Union, except where the negroes are in the majority, to allow to the negroes within the States unqualified suffrage to save them from the penalty annexed to their refusal to concur in this dogma of the party in power, unqualified negro suffrage. The only object and the only effect of the bill are to induce the States, in order to secure their rightful representation on this floor, to allow to the negro unqualified suffrage, without any condition or qualification, without regard to the degree of intelligence or education which he may possess. The State that attempts to require any qualification of one single negro to vote will, under this amendment, be deprived of representation for every man, woman, and child of the color or race of the person who may have qualified suffrage unless the same conditions are imposed upon white people.

More than that: this bill attempts, in an indirect manner, to have passed upon by the Legislatures of the different States a question which the party in power dare not boldly and openly meet before the people of this country, because there can be but one object lying at the foundation of this bill—an object which has been explained and expatiated upon in this House—and that object, as I have said, is, through the Federal power, to force the States to adopt unqualified negro suffrage, by holding over them the penalty of being deprived of representation according to population.

What is there more democratic and republican in the institutions of this country than that the people of all classes, without regard to whether they are voters or not, white or black, who make up the intelligence, wealth, and patriotism of the country, shall be represented in the councils of the nation? Every man in this House knows perfectly well in the several States a person under the age of twenty-one years cannot vote; unsaturated citizens cannot vote, and the whole class of females, constituting nearly one half of the population of this country, cannot vote; yet for these persons the States are entitled to representation. Yet, because there are in certain States negroes, men of an inferior race, men who by the laws of God are stamped with an inferiority so indelible that nothing can wipe it out, it is proposed that such States shall only enjoy their full right

to representation here on the condition that they will allow to these negroes the unqualified right of suffrage on a perfect equality with the white citizen.

Mr. KELLEY. Will the gentleman yield to me one moment for a question?

Mr. ROGERS. Yes, sir.

Mr. KELLEY. I would like to inquire of the gentleman whether it is not possible that the male minor may come to an age that will secure him the right to vote; and whether it is not possible for the unnaturalized foreigner also to acquire that right; and whether, inasmuch as both may acquire it in the current decade, they should not be included in the basis of representation; and whether the mere efflux of time or force of will will change the complexion of an intelligent quadroon, so that he may vote. The freeman who can never vote should not be counted among voters and possible voters in fixing the basis of suffrage.

Mr. ROGERS. I can answer that question by stating to the gentleman that it is not improbable that, even without any constitutional legislation, the States (as many of them have already done in a qualified form, and some upon an unqualified basis) may yet allow to the negroes the same political status that the gentleman says may be allowed to the man under twenty-one and the unnaturalized foreigner. The gentleman's suggestion, therefore, does not affect the force of the argument which I am endeavoring to present.

Why, sir, I undertake to say, and I defy contradiction, that this proposed amendment will give to negroes rights that it will not allow to white men. It will allow a State to retain its full quota of representation, though it should disfranchise all its white citizens, not on account of race or color, provided it will enfranchise the negroes. White men may be disfranchised to an unlimited extent by the States and the States still be allowed representation for that whole race; yet if they do the same thing to negroes that whole race is excluded from the basis of representation.

It appears to have in its body, in its soul, and in its life only one great object and aim, that is, to debase and degrade the white race, and to place upon a higher footing than the white men are placed, under the Constitution, this African race.

Now, sir, at the formation of the Constitution of the United States there was not a single State of the whole thirteen which adopted that instrument that did not impose conditions upon the right of suffrage to the white men. Every State constitution which existed at the time the States entered into the Union, and for a long time afterward, imposed qualifications as conditions precedent to the exercise of the right of suffrage on the part of the white men. No man will deny that on this or on the other side of the House. The organic law of the land, if amended as proposed, will give Congress the sovereign power and right to control the States through its power of refusing representation unless the States acquiesce in the contemptible doctrine of negro suffrage.

This amendment allows the States in their sovereign capacity to exclude white men from the polls on the ground of property or any other reason, except race or color, while it deprives the States of representation for doing the same thing to the colored people, as the intent of the States would be construed to be their act, exercised by them, upon the negroes, on account of race or color.

Mr. CONKLING. Will the gentleman yield to me for a moment?

Mr. ROGERS. Certainly.

Mr. CONKLING. Will the gentleman be kind enough to inform the House why he says that such a distinction between races could occur under this amendment? Is it not true of one race as much as another that any qualification or requirement could be imposed? If inflicted upon either race or the members of either race, "on account of race or color merely," then only exclusion from the basis of representation would be worked, but no more in

favor of one race, or against one race or color more than another.

Mr. ROGERS. That does not meet the argument that I am making. If they are disfranchised on account of race or color—and that is the only conceivable reason for which they would be construed to be disfranchised—then the whole race would be unrepresented; whereas no disfranchisement of white people would be construed to be done on account of race and color, as it cannot be expected that white people would disfranchise their own people because they were white. The States, in the exercise of sovereign power, can impose such qualifications upon the exercise of the right of suffrage as they please. That right they reserved, and there I want to leave it, free from any penalty.

Mr. CONKLING. In answer to the gentleman's question, I do undertake to say if any State should impose qualifications alike upon white and black, and those qualifications thus impartially imposed should happen to include negroes, because they could not come up to them, notwithstanding that the State would be entitled to its entire negro population for the purpose of representation. I do say that would be the law.

Mr. ROGERS. I do say that no such construction as that can be given the law, because it is a well-settled principle of construction that you must look at the intent and object of the Legislature which passed the law. In the construction of a law you must ascertain what was the mischief the Legislature intended to remedy. That is the way to construe a law. It is a settled maxim of construction that the object and intent of the Legislature are to be ascertained by finding out the mischief it intended to remedy. What is the object of this amendment? What is the injury it is intended to prevent? The injury is that negroes are not allowed to vote on account of their race. The object, then, is to prevent that injury by annexing such a penalty to the continuance of the mischief as will eventually compel the States to grant to the negroes unqualified suffrage. Now, sir, if the States abridge the right of suffrage to the negroes, would not a true construction of this amendment make such action of the States a violation of the organic law, in this, that such action would prevent the aim and object of the law, and for that reason the States would lose their representation for such race? By refusing the States untrammelled sovereignty over the elective franchise you violate the great principle of democracy, that all the population in a country ought to be represented, although not allowed to exercise the elective franchise. The withdrawal of that right ought not to deprive them of representation.

The object of this amendment is to remedy this supposed evil which the members of the Republican party suppose exists in the Constitution in allowing to the States in their sovereign capacity the right to control the elective franchise—either to disallow it entirely, or to put such restriction on it as the States in their sovereign power may dictate. Therefore they claim that the Federal Government ought to take under its wings and under its control this sovereign power of a State by saying to it, "If you refuse to allow a certain portion of your population to vote, or impose conditions upon their voting, on account of race or color, you shall have no representation in the councils of this country for any of the people of that race or color." Why, sir, was there ever anything so unjust in the annals of the history of legislation in this country? Was there ever anything proposed that strikes at the foundation of liberty like this; that pours out the vials of despotism upon the heads of the people of the southern States—States which now, in my judgment, constitute gallant stars in the galaxy of the glorious old Union of the United States as it existed before the commencement of civil hostilities in this land?

Mr. THAYER. Will the gentleman allow me a question?

Mr. ROGERS. I will.

Mr. THAYER. I desire to ask the gentleman

whether that provision of the Constitution which confines the basis of representation to three fifths of this class of people has not been abrogated by war, or rather by the results of the war, in freeing that class of people; whether, therefore, now, the South, notwithstanding this provision in the Constitution, would not be entitled to count the whole black population as five fifths instead of three fifths in computing the number of Representatives to which they are entitled; and whether the result of that computation would not be to add to the representation of the States lately in rebellion on this floor twelve or thirteen members in addition to the number which they had before the war. I desire to ask the gentlemen whether he is in favor of that result.

Mr. ROGERS. I am in favor of that result; and I was just going to show the reason and justice of it. Why, I ask the gentleman, should not the southern States, the colored population of which have been freed by the results of the war, have a representation based upon that population, the same as they were entitled to under the old Constitution in regard to freemen? Did not all the States which freed the slaves afterward have representation for five fifths of them?

Under the Constitution as it now is, representation in all the States is based upon their free male and female persons, without regard to their being of African, Asiatic, or European origin. The Constitution spreads its wings over the whole population; and because slaves in the South were not regarded as a proper basis of full representation—it being decided in the celebrated Dred Scott case that they were not considered as people or citizens within the meaning of the organic law—they had the representation for those slaves cut down to three fifths, on the ground that they ought to have some representation; and as they were mere chattels in the eyes of the law, the States in which that chattel property existed were not entitled to the whole representation that they would or ought to have had, under the organic law with regard to people of that race or color or status.

Now, the result of the war has been to change the status of that whole population from slaves into freemen. It is a cogent and most forcible argument in favor of the wisdom, genius, and patriotism of those who adopted the old Constitution of the United States, that every free man in a State, of whatever color, was entitled to representation. And that is one of the safeguards of the rights of the State. It was thrown around the States in order that they should have sovereign power to control the right of suffrage to all persons.

The proposed amendment to the Constitution undertakes to consolidate the power in the Federal Government. It throws out a menace to the States, and the inevitable result of the passage would be to induce every State in the Union to adopt unqualified negro suffrage so as not to deprive them of the great and inestimable right of representation for that class of population in the Halls of the legislation of the United States.

Mr. KELLEY. Will the gentleman allow me to ask a question?

Mr. ROGERS. Certainly.

Mr. KELLEY. Before asking the question I desire to say that I am irrevocably opposed to the passage of the amendment to the Constitution now before the House. I ask the question simply to elucidate the argument. I want the gentleman to tell me, if he can, whether there is any reason that when our Government shall be reconstructed, one pardoned rebel of South Carolina who may not be able to read and write, and who may have fought for four years against the Government, shall, in political power, alike on the floor of Congress and in electing a President, outweigh three or five intelligent returned soldiers of New Jersey, who throughout the same four years fought for the Union; and whether, if the colored people of South Carolina be represented on this floor, and yet be denied a vote, the gentleman who will succeed the late Preston S. Brooks will not be elected by a vote so small that it

will take at least five Jersey soldiers to counterbalance the vote of each South Carolina voter in that district? The votes in the gentleman's district will number more than five to one in that district. If there must be inequality, the patriot soldier should, in my judgment, outweigh the pardoned but bloody handed traitor in the councils of the nation.

Mr. ROGERS. The argument which I was making was tending to answer the very objection which the gentleman makes.

Now, sir, I hold to the doctrine of the Constitution as it is, allowing the States to exercise sovereign control and power over the qualifications and rights of the whole voting population. I say that if the State of South Carolina, or the State of Louisiana, in the exercise of its sovereign and delegated powers, sees fit to enfranchise those who have taken up arms against the flag of their country, it is within their discretion and under their control, and under the Constitution of the United States and the organic law of their own States they may exercise that right. And let me say to gentlemen that when the State of Missouri struck at the foundation of political rights and political society and disfranchised one half or two thirds of the population of the State because they took up arms against the country, it degraded the memory of Washington and his compeers who declared by revolution and appeal to God that they would be free from Great Britain because she attempted to exercise the powers of despotism and tyranny over them, and the action of that State is a burning disgrace upon the proud record of civil, political, and religious liberty in this country.

Ah! sir, it will yet have to be admitted—that has been admitted by all men—that the right of revolution is an inherent power which God Almighty has implanted in the human breast. Whenever a people believe they are oppressed by despotism and tyranny, and have sufficient power to throw them off, they have the right to resort to revolution.

Without saying anything in disparagement of the sages and heroes of the Revolution, do not let us forget that had it not been for revolution the first flag of liberty would never have been planted on this continent; and that by the blood of the sires of the Revolution are we to-day enjoying, because of their revolution against England, the proud heritage of civil liberty, which I want to hand down to the people of this country and their children and children's children unimpaired for ever and ever.

Now, sir, do not let me be reported as favoring secession. I am here to stand by the doctrines of Andrew Johnson. I am here to reconstruct these States at once. I would go further. I would open the halls of legislation in this country to our erring brethren, and in a Christian spirit say to them, "Come here through your Representatives into the Halls of Congress; let us bind ourselves together as a band of brothers, and march in joint phalanx to the halls of the Montezumas, and drive the imperial despot from his throne." [Applause in the galleries.]

Sir, it is because I love my country, because I love these States, because I love the grand foundations of liberty which were cemented by the blood of our fathers, that I invoke the Power above to so control and direct our hearts that every single one of the stars and stripes which now emblazon themselves upon that glorious flag shall wave in triumph from one end of this country to the other. It is because this joint resolution saps the foundation of the principles which induced our fathers to spill their blood upon the battle-fields of the Revolution that I, in my humble capacity as a Representative of one of the old thirteen States, and as a Representative of this whole Union, use my voice and my power in behalf of that great constitutional Government which gives us peace, liberty, happiness, and prosperity, and whose foundations were laid broad, strong, and deep in the beginning by George Washington and the other patriots and heroes of the Revolution.

Sir, why should South Carolina, North Carolina, Virginia, Florida, and the other glorious

States of this Union have such a law as this passed upon them, taking away representation from half their population, when tyranny and despotism are preventing their Representatives from entering the Halls of legislation of the country, and preventing them from joining the body of the *vox populi* and speaking out in opposition to the legislation proposed by the portion of the States now assembled in Congress?

Why, sir, take two or three States of the South; take South Carolina and the other three States whose negroes constitute a majority of the population. By the passage of this joint resolution you strip them of more than one half of the whole representation for which their fathers, side by side with the men of the North, shed their blood; that blood which now glows in the veins of us, their descendants. That representation they derived, based not upon the voting population, but upon the whole people who are free, without regard to their race or color. If this amendment shall pass, and New Jersey shall alter her organic law and strike from it the word "white," and give to her colored population a qualified suffrage, still she can have no representation for any of the race or color who have their franchise abridged by reason of that qualification. Would it not be better, be more consonant to reason and to common sense, would it not be doing according to the injunction of Holy Writ, "Do unto others as ye would have others do unto you," to submit this organic law to the people of the different States? This amendment provides that whenever any portion of the colored population shall have but qualified suffrage, on account of race or color, the whole of that population shall be excluded from the basis of representation. It goes so far that if New Jersey pass a law allowing such of her black population to vote as can read the Constitution of the United States, and although every negro in that State could take advantage of that qualification and could read the Constitution of the United States except one, then New Jersey would lose the advantage of representation for the whole of that population. Will honorable gentlemen stand here in the face of this country, and the intelligence and patriotism of the masses of the South, and say to them, now when reason ought to have resumed its sway and the roaring of cannon ceased, "we shall so far exercise our power in a tyrannical manner as to prohibit representation to a State for its colored population if a single man of that colored population is prohibited from voting by the operation of a qualification based upon property, intelligence, or anything else?"

But I object to this joint resolution upon another ground—upon the same ground that I objected to the passage of the negro suffrage bill for the District of Columbia—without consulting the people. It has been said in this country that all power emanates from the people. And I say that to submit this grave question to the consideration and decision of partisan Legislatures in the different States, Legislatures which were elected without any regard to this question, is violative of the great principles which lie at the foundations of the liberties of this country; that no organic law, affecting the whole people, should be passed before submitting it to the people for their ratification or rejection. Now this joint resolution proposes simply to submit this amendment for ratification to the Legislatures of the different States.

The Legislatures are not the States; the Legislatures are not the people in their sovereign capacity; Legislatures are not the source from which all power emanates. But the people, the sacred people, in the exercise of their sovereign power, either at the ballot-box or in conventions, are the only true and proper forum to which such grave and serious questions should be submitted. If the people of the United States want negro suffrage, unqualified and unabridged, to be adopted in the United States of America, I, as a Democrat, as a citizen believing in the power of the majority, will yield to their decision. But I want that decision rendered in the manner contemplated by the

spirit of self-government and not by Representatives of the people who have not been elected with reference to the decision of this question. Let it be submitted to conventions of the people, the delegates to which can be instructed to vote for or against inflicting a penalty in this indirect manner upon States, if they do not choose to adopt the policy of unqualified negro suffrage.

Why, sir, as I stated in the argument I made against the adoption of the bill passed by this House to inflict the disgraceful policy of negro suffrage upon the unoffending, harmless, and unprotected people of this District, I am now here to remind gentlemen that the State of Kansas was refused admission into the Union because her constitution, framed by the convention at Leecompton, had not been submitted directly to the people for their ratification or rejection. And you may look through the history of the States, and you will find nowhere in modern times, within a period of forty years, a State that has adopted or changed its organic law without first submitting the proposition which its Legislature or convention has adopted to the people at the ballot-box, where they can decide directly whether they want it or not.

Now, gentlemen, I am ready to meet this negro question. I am ready to go before the people of this country upon this policy; and I say that if we submit this question to the sovereign people in the election of delegates, so that they may pass upon it directly, we shall then have at least an invitation on the part of three fourths of the States to the other States to adopt unqualified negro suffrage. But when this question is submitted to the Legislatures that were elected without any regard to the question embraced in this bill, controlled by party rules, and acting under the party whip, they will be compelled to adopt it as a party measure, whether they approve it or not, as many members in this House voted the other day upon the question of negro suffrage in the District of Columbia.

Now, sir, when the Constitution was adopted every State that then constituted the Union had a negro population, quite a large population, too; and every State except the State of Massachusetts had a slave race. Now, sir, with a few exceptions, the negroes were not permitted to vote. By the Constitution of the United States none of them could exercise the right of voting; it was only under the organic laws of the States, adopted in the exercise of their sovereign power, that the negroes had the right to vote in any State. Yet neither the framers of the Constitution nor anybody else at that day claimed that it would not be right to allow representation for the colored population, whether that population was entitled to vote or not. Now, sir, I maintain that the Constitution of the United States, as it now exists, is not as liberal toward the southern States, now that slavery has been abolished, as it was before the abolition of slavery. Why, sir, in the days of the past, under our Constitution, the southern States have been allowed a representation for a population that was not classed as citizens or people; they were allowed a representation for people who had no political status in the State, persons who were not entitled even to exercise the right of coming into a court of civil justice as a plaintiff or defendant in the prosecution or defense of a suit.

Now, after the raging fires of war have swept from the domain of every State in the South the pernicious institution of slavery, after the result has been that every slave has received his freedom, after the slaves have gained more by the success of this war than any other class of people in the United States, white men, men who are the representatives of the white race, come here proposing to compel the States, on pain of being deprived of a portion of their representation, to allow all the negroes within their limits to vote, without regard to qualification or anything else, while under the same provision the State may, by its organic law, impose qualifications and conditions upon the exercise of the right of suffrage by the white population.

Why, sir, four million slaves have been set

free; \$3,000,000,000 have been expended in setting them free. In the northern States, for the purpose of carrying on the war, we have run up a county, township, and State indebtedness of \$1,500,000,000 or \$2,000,000,000 more. Five thousand million dollars have been expended; five hundred thousand brave white soldiers who left their families to go into the war; men without property; men whose hearts glowed with patriotism; have been sacrificed on the altar of negro philanthropy. Yet the ruling party is not content with robbing the South of millions of dollars invested in slaves and nearly ruining the country to free them, but they seek to inflict a disgrace upon the Anglo-Saxon race of the South by coercing them to bestow upon these slaves political rights after they have been taken away from their masters without compensation.

I think it time that we should begin to legislate for white people. What are the object and intent of this bill? Simply to force upon an unwilling population, in this indirect manner, negro suffrage, when the States of the gentlemen advocating this measure have not adopted negro suffrage. The gallant little State of Connecticut has repudiated negro suffrage by six or seven thousand majority. Why should you undertake, in this way, to force the doctrine of unqualified negro suffrage upon the southern States when your own States repudiated it? I have too much reverence for the fathers of our Government to give my approval to such a measure. I have not forgotten that our Government was established for the benefit of the white population of the country.

I have not forgotten it was white men who put down the tyranny of England and established the principles of liberty on this continent. I have not forgotten it was the white men of the northern States who went in thousands to the banks of the Mississippi to drive back the invaders from our soil. Yet when a soldier who fought for his country happened to be under twenty-one years of age, or unnaturalized, he was not permitted to vote, while the whole class of negroes must have that right until they adopt it and pass such laws as will give unqualified suffrage to the negro race.

It will not do to attempt to deny what is the object of this bill. This amendment is to constitute one of the barriers, to be devised by the committee of fifteen, to keep the South out of the Union. It is one of the points of that committee. Its object is to keep the States out. Let us extend to the southern people the hand of fellowship, and so let us act that they will regard the Constitution and the Union more sacredly than ever before. Let us look upon them as the father looked upon the prodigal son. Let us look over their violations of law, and take them again into full fellowship. In this way we will render the Union stronger than ever; and those southern States will then constitute, as they have done in the past, a bright galaxy upon the flag of our country.

The southern people are entitled, in my judgment, to representation without such qualifications as much as the northern men. When Andrew Johnson appointed southern men provisional governors of the southern States he did it in a spirit of Christianity and humanity. I beseech you not to pass legislation of this kind, because it will engender a spirit that will drive every sentiment of Union from the southern States. It will inflict an injury upon both the northern and southern States. It will diminish the representation of New York, Pennsylvania, and New Jersey, because it will exclude from the basis of representation the negro population of those States.

[Here the hammer fell.]

Mr. CONKLING. Mr. Speaker:

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons."—*Constitution*, art. 1, sec. 2.

This is the provision by which apportionment and representation have till now been regulated

in the United States. It is one of the compromises of the Constitution.

Strange as it may seem to the gentleman from New Jersey, [Mr. ROGERS,] it owes its existence to the same principle asserted in the pending amendment. What is that principle? That political representation does not belong to those who have no political existence.

The government of a free political society belongs to its members, and does not belong to others. If others are allowed to share in its control, they do so by express concession, not by right.

It was this principle which rendered necessary such a provision as I have read. It was this principle which brought that provision into our national charter.

The slaves of the South were not members of that political society which formed the Constitution of the United States. They were without personal liberty, and therein they were without a natural right, not a political right; but they were also without political rights, and therefore they were not members of the political community.

From this it followed that they were not to be represented as members.

From this it followed that political power was not to be apportioned by treating them as political persons.

Natural persons they were, producers they were, and the product of their labor was the proper subject of taxation.

But direct taxes and representation ought to be distributed uniformly among the members of a free Government. All alike should bear the burdens; all alike should share the benefits.

Here was a clear principle, palpably right and easy and certain in its application. It applied itself. It applied itself universally, and covered the whole case with only one exception.

I do not treat "Indians not taxed" as an exception, because uncivilized Indians in their tribal state were so far beyond the scope within which the Constitution was to act that they were named only to prevent possible mistake as to the meaning of language.

Neither was a fixed exception, or even an obstacle, found in the case of aliens or unaturalized foreigners.

The Constitution was to leave to the States and to give to the Congress power to clothe foreigners with full political rights as fast as they should be prepared to assume them. The only question remaining, therefore, as to them, was how they should be treated during the interval between their arrival and their naturalization, during their political nonage.

This question was disposed of in the liberal way in which the Government was conceived. The political disability of aliens was not for this purpose counted at all against them, because it was certain to be temporary, and they were admitted at once into the basis of apportionment.

The slave alone was the anomaly and the nondescript.

A man, and not a man. In flesh and blood, alive; politically, dead.

A native, an inhabitant, a producer, but without recognized political attribute or prerogative; the representative in the system of nothing but value.

What could be done with him? He was nowhere.

It could not be maintained by the slaveholding States that slaves were persons to be represented. It could not be maintained by the free States that slaves were persons to be taxed. For these purposes slaves were excluded altogether by the principle on which the Government was built. They were not embraced within it because they had no political standing in the States wherein they were held. Without some special provision, therefore, they would have been altogether ignored.

Taxes, however, were desirable on the one side and representation on the other, and for mere convenience a compromise was invented for the sake of both.

A purely arbitrary agreement was made and inserted in the Constitution, an agreement with nothing to support it but the consent of the parties, based upon the facts as they then stood. It was agreed in substance that the free people of all the States should be counted alike, and should all have their fair share of power as thus ascertained, and that then the free people of the slaveholding States should have as much power beside as would be measured by counting every slave as three fifths of a "person;" direct taxes to follow the same rule. The power thus agreed upon could not be exercised by the fractional persons themselves, but as somebody else owned them, it was so arranged that that same somebody else should own the political power also.

The covenant, whether wise or not, was operative as long as there was anything for it to operate upon.

That time is past. The provision has become impotent. The fall of slavery has superseded it. We have nothing now to rely upon in its place but the residue of the second section of the first article of the Constitution. That section, owing to the rupture of the technical tie of slavery, would, as it stands, work out results now which, when the Constitution was made, were condemned by the judgment of all.

"Free persons" was the term employed to describe all who had political rights and standing, because only slaves had neither.

But now a new anomaly exists. Four million people are suddenly among us not bound to any one, and yet not clothed with any political rights. They are not slaves, but they are not, in a political sense, "persons."

No figment of slavery remains with which to spell out a right in somebody else to wield for them a power which they may not wield themselves. This was one of the appurtenances of property in man, and has been extinguished by constitutional amendment, if it was not destroyed before.

This emancipated multitude has no political status.

Emancipation vitalizes only natural rights, not political rights.

Enfranchisement alone carries with it political rights, and these emancipated millions are no more enfranchised now than when they were slaves.

They never had political power. Their masters had a fraction of power as masters. But there are no masters now.

There are no slaves now. The whole relationship in which the power originated and existed is gone. Does this fraction of power still survive? If it does, what shall become of it? Where is it to go?

We are told the blacks are unfit to wield even a fraction of power, and must not have it. That answers the whole question. If the answer be true, it is the end of controversy. There is no place logically for this power to go save to the blacks; if they are unfit to have it, the power would not exist. It is a power astray, without a rightful owner. It should be resumed by the whole nation at once.

It should not exist; it does not exist. This fractional power is extinct.

A moral earthquake has turned fractions into units, and units into ciphers. If a black man counts at all now, he counts five fifths of a man, not three fifths. Revolutions have no such fractions in their arithmetic; war and humanity join hands to blot them out.

Four millions, therefore, and not three fifths of four millions, are to be reckoned in here now, and all these four millions are, and are to be, we are told, unfit for political existence.

Did the framers of the Constitution ever dream of this? Never, very clearly. Our fathers trusted to gradual and voluntary emancipation, which would go hand in hand with education and enfranchisement. They never peered into the bloody epoch when four million fetters would be at once melted off in the fires of war. They never saw such a vision as we see. Four millions, each a Caspar Hauser, long shut up in darkness, and suddenly led out into the full flash of noon, and each, we are told, too blind

to walk, politically. No one foresaw such an event, and so no provision was made for it. The three-fifths rule gave the slaveholding States over and above all their just representation, eighteen Representatives beside, by the enumeration of 1860.

The new situation will enable those States when relationships are resumed, to claim twenty-eight Representatives beside their just proportion.

Twenty-eight votes to be cast here and in the Electoral College for those held not fit to sit as jurors, not fit to testify in court, not fit to be plaintiff in a suit, not fit to approach the ballot-box. Twenty-eight votes, to be more or less controlled by those who once betrayed the Government, and for those so destitute, we are assured, of intelligent instinct as not to be fit for free agency.

Shall all this be? Shall four million beings count four millions, in managing the affairs of the nation, who are pronounced by their fellow-beings unfit to participate in administering government in the States where they live, or in their counties, towns, or precincts; who are pronounced unworthy of the least and most paltry part in local political affairs?

Shall one hundred and twenty-seven thousand white people in New York cast but one vote in this House, and have but one voice here, while the same number of white people in Mississippi have three votes and three voices. Shall the death of slavery add two fifths to the entire power which slavery had when slavery was living? Shall one white man have as much share in the Government as three other white men merely because he lives where blacks outnumber whites two to one?

Shall this inequality exist, and exist only in favor of those who without cause drenched the land with blood and covered it with mourning? Shall such be the reward of those who did the foulest and guiltiest act which crimsones the annals of recorded time? No, sir; not if I can help it.

This privilege, class, aristocracy, in its most hateful form. It is not democracy or republicanism or free government at all. I take issue with the gentleman from New Jersey [Mr. ROGERS] at this point, as at many other points. I say it is monstrous and not fit to be. I deny that the law shall invest any man, though the blood of all the Howards were running in his veins, with one political right, with one home or fireside immunity, not given to the humblest and the poorest patriot I am permitted to represent.

To level this favoritism which has come out of the results of the war, three modes have been proposed, each of course by way of amendment to the Constitution.

First. To make the basis of representation in Congress and in the Electoral College consist of sufficiently qualified voters alone.

Second. To deprive the States of the power to disqualify or discriminate politically on account of race or color.

Third. To leave every State perfectly free to decide for itself, not only who shall vote, but who shall belong to its political community in any way, and thus to say who shall enter into its basis of representation and who shall be shut out. What the States decide for themselves in their own affairs they decide for themselves in their national affairs. If any State contains a class unfit or supposed to be unfit for political rights, unworthy to act politically in the States, this class shall not be put upon the nation as fit and worthy to be represented in the nation's councils.

The last proposition has met the approval of the committee, and the others have not. To the first proposition several objections have been urged, some of which will probably be found exaggerated, if not untenable, yet there are serious objections.

If voters alone should be made the foundation of representation, the actual ratio would vary infinitely among different States. One State might let women and minors vote. Another might—some of them do—give the ballot to

those otherwise qualified who have been residents for only ten days. Another might extend suffrage to aliens. This would lead to a strife of unbridled suffrage.

Mr. ROGERS. Does the gentleman say that a State can allow aliens to vote for Federal officers?

Mr. CONKLING. As that question is not here, I have said nothing about it.

Mr. ROGERS. I understood the gentleman to say that a State might allow aliens to vote.

Mr. CONKLING. The gentleman will find it unnecessary to repeat his questions if he will but attend to what I say. I said that if an amendment to the Constitution basing representation upon "qualified voters" merely should be adopted, a State might enlarge its apportionment by allowing aliens to vote.

It may be answered that restrictions would prevent all this; and one of the propositions before the committee was to confine the basis to male voters twenty-one years of age and upward. This, it will be seen, still leaves open a door for growing inequalities. California may let her Chinese and half-breeds vote, Oregon

her Indians, and any State its aliens. But even with uniform State legislation, such a plan would work in tendency, if not in results, some injustice toward the States in which women outnumber men, and especially toward those States from which young men most go out in quest of more buoyant activities and more boundless fields. It has been supposed that this injustice would be practically serious, and that the newest, the wildest, the least improved States, would be great gainers by it. It has been charged that New England would lose very largely should men be made the basis of representation in place, of including women and children. It has been said that the real objection to the male suffrage basis bill was the fear of taking away power from fanatical New England.

All this has no foundation. I speak from tables, carefully prepared, and showing results under all the plans proposed with almost absolute accuracy, and with the utmost necessary accuracy. Here they are. The first shows population classified; the second shows, with substantial accuracy, the results of different modes of apportioning Representatives:

Census of 1860.

STATES.	Slave population.	White population.	Free negroes.	Total white and negro.	White males over 20.	Negro males over 20.	Total white and negro males over 20.	Representative population according to amendment.
California.....	-	* 361,253	4,086	365,439	175,862	2,339	178,201	823,177
Connecticut.....	-	451,520	8,627	460,147	127,978	2,091	130,069	451,520
Illinois.....	-	1,704,323	7,628	1,711,951	439,305	1,753	441,058	1,704,323
Indiana.....	-	1,339,000	11,428	1,350,428	316,679	2,565	319,244	1,339,000
Iowa.....	-	673,814	1,069	674,913	164,590	290	164,880	674,913
Kansas.....	-	105,579	625	106,206	30,972	149	31,121	106,579
Maine.....	-	626,952	1,327	628,279	167,724	362	168,086	626,952
Massachusetts.....	-	1,221,464	9,602	1,231,066	339,085	2,512	341,597	1,231,066
Michigan.....	-	742,314	6,799	749,113	200,419	1,918	202,337	742,314
Minnesota.....	-	171,864	259	172,123	48,183	65	48,248	171,864
New Hampshire.....	-	325,579	494	326,073	91,954	149	92,103	325,579
New Jersey.....	-	646,699	25,318	672,035	167,402	6,291	173,693	646,699
New York.....	-	3,831,730	49,005	3,880,735	1,027,305	12,989	1,040,294	3,831,590
Ohio.....	-	2,302,838	36,673	2,339,511	562,466	8,770	571,236	2,302,838
Oregon.....	-	52,337	128	52,465	17,735	53	17,788	52,337
Pennsylvania.....	-	2,849,266	56,849	2,906,115	702,299	13,631	715,930	2,849,266
Rhode Island.....	-	170,668	3,952	174,620	46,417	1,023	47,440	174,620
Vermont.....	-	814,389	709	815,098	87,462	194	87,656	815,098
Wisconsin.....	-	774,710	1,171	775,881	198,792	353	199,145	774,097
Alabama.....	435,080	526,431	2,690	964,201	118,526	96,458	214,984	526,431
Arkansas.....	111,115	824,191	144	435,450	73,741	25,044	98,785	324,191
Delaware.....	1,798	90,589	19,829	112,216	22,429	4,679	27,108	90,589
Florida.....	61,745	77,748	932	140,425	18,687	14,188	32,875	77,748
Georgia.....	462,198	591,588	3,500	1,057,286	132,317	97,162	229,479	591,588
Kentucky.....	225,483	919,517	10,634	1,155,634	217,766	50,442	268,208	919,517
Louisiana.....	331,726	357,629	18,647	708,002	98,143	98,921	197,064	357,629
Maryland.....	87,189	515,919	83,942	687,019	128,370	39,039	166,409	515,919
Mississippi.....	436,631	353,901	773	791,305	83,108	103,824	186,932	353,901
Missouri.....	114,931	1,063,509	3,572	1,182,012	267,889	21,872	289,761	1,063,509
North Carolina.....	331,059	631,100	30,463	992,622	143,149	74,356	217,505	631,100
South Carolina.....	402,406	291,888	9,914	703,708	68,003	87,781	155,784	291,888
Tennessee.....	275,719	826,782	7,300	1,109,801	189,126	56,770	245,896	826,782
Texas.....	182,566	421,294	355	604,215	106,070	38,230	144,300	421,294
Virginia.....	490,805	1,047,411	58,042	1,596,318	245,683	123,613	369,296	1,047,411
Total.....	3,950,511	26,706,425	474,536	31,148,047	6,825,636	198,816	7,024,452	26,682,823

* Including Asiatics. † Rejecting those whose ages are reported unknown. ‡ As per present suffrage laws.

FREE STATES.	Apportionment under census of 1860.	Based on three fifths slave population.	Based on population including blacks.	Based on white suffrage.	Based on equal suffrage.	According to proposed amendment.
California.....	3	3	3	6	6	3
Connecticut.....	4	4	4	4	4	4
Illinois.....	14	13	13	15	13	15
Indiana.....	11	10	10	11	10	12
Iowa.....	6	5	5	5	5	6
Kansas.....	1	1	1	1	1	1
Maine.....	5	5	5	6	5	6
Massachusetts.....	10	9	9	12	10	11
Michigan.....	6	6	6	7	6	7
Minnesota.....	3	3	3	3	3	3
New Hampshire.....	3	3	3	3	3	3
New Jersey.....	5	5	5	6	5	6
New York.....	31	29	29	35	31	34
Ohio.....	19	18	18	19	17	20
Oregon.....	1	1	1	1	1	1
Pennsylvania.....	24	22	22	24	22	25
Rhode Island.....	3	3	3	3	3	3
Vermont.....	3	3	3	3	3	3
Wisconsin.....	6	6	6	7	6	7
Total.....	156	147	147	170	152	163

SLAVE STATES.	Apportionment under census of 1860.	Based on three fifths slave population.	Based on population including blacks.	Based on white suffrage.	Based on equal suffrage.	According to proposed amendment.
Alabama.....	6	1	7	4	7	5
Arkansas.....	3	1	3	3	3	3
Delaware.....	1	1	1	1	1	1
Florida.....	1	1	1	1	1	1
Georgia.....	7	2	8	5	7	5
Kentucky.....	9	1	9	8	8	8
Louisiana.....	5	2	6	5	6	3
Maryland.....	5	2	5	5	5	5
Mississippi.....	5	2	6	3	6	3
Missouri.....	9	1	9	9	9	10
North Carolina.....	7	1	8	5	7	6
South Carolina.....	4	2	5	3	5	3
Tennessee.....	8	2	9	7	8	7
Texas.....	4	2	5	4	5	4
Virginia.....	11	2	12	9	11	9
Total.....	85	18	94	71	89	73

* Not including Chinamen.

NOTE.—In these several plans of apportionment the results are arrived at in the mode practiced under the

present law, namely: the total representative population of all the States is first ascertained; this number is divided by 233, the number of Representatives provided by law at the time of the taking of the last census. This gives the requisite ratio to a member. The representative population of each State is then divided by the ratio, and the result, rejecting fractions, shows the number of Representatives to each State. The number unapportioned, in consequence of the fractions, is then added to the eight additional members provided by the law of 1862, and these are apportioned to the States having the largest fractions. The ratio under the present apportionment is 127,000. The ratio on the basis of population, including the negroes, is..... 133,700. The ratio on the basis of white suffrage is..... 29,300. The ratio on the basis of equal suffrage, white and black, is..... 33,500. The ratio on the basis of the proposed amendment is..... 114,800.

Entirely accurate data of the number of voters in the several States cannot be obtained from any recorded statistics. It is not shown by the presidential vote of 1860, for the reason that in some of the States where there was little real contest, the vote was far from full. The number of males above the age of twenty years, aliens included, as given by the census of 1860, is taken as the nearest approximate to the number of voters. The proportion of aliens will not hold alike in all the States, there being a larger ratio in the northern than in the southern section of the Union; but it is believed the results indicated in the table will be sufficiently accurate for present purposes.

From these tables it will be seen that no New England State would lose a single Representative either by making white men over twenty-one, or all men over twenty-one, the basis of apportionment. On the contrary, taking white men over twenty-one as the basis, Massachusetts would gain two, and Connecticut and Maine one each. New York would gain four. The losses would not be in the East. Upon a basis of male voters, black and white, Ohio and Illinois would lose one Representative each, and Pennsylvania two. California, almost alone of the States heretofore free, would gain. Her extraordinary abundance of male population would double her representation. It is now three; it would be six.

The argument based on differences between the old States and the new, in respect of age and sex, in population, is overcome by the fact that although these inequalities are large, the ratio of representation is larger; that is to say, that the whole number of Representatives being only two hundred and forty-one, it takes so many "persons" or "voters" to make up the required constituency for a single one, that the preponderance of men over women, except in California, is too small in any State seriously to affect the result.

Mr. BLAINE. Will the gentleman from New York [Mr. CONKLING] yield to me for a moment?

Mr. CONKLING. Certainly.

Mr. BLAINE. I hold in my hand a table which was prepared with very great care by my estimable friend on the Committee of Ways and Means, [Mr. MORRILL,] in which upon a basis of white males above twenty-one years of age, upon a representation of two hundred and forty members, New York would have thirty-five and five tenths members, or on a close struggle for the fraction she would have thirty-six; Pennsylvania would have twenty-four and two tenths, and be confined to twenty-four members. To-day New York has thirty-one members and Pennsylvania twenty-four; giving New York now twenty-eight and a half per cent. more representation than Pennsylvania. But upon the basis upon which the table is calculated New York would be entitled to fifty per cent. more Representatives than Pennsylvania. I admit that Pennsylvania would not absolutely lose one of her Representatives, but relatively she would lose by the representation of New York being increased.

Mr. CONKLING. I am, of course, not arguing in favor of the voting basis; but I will say to the gentleman from Maine, [Mr. BLAINE,] that the table from which he reads was not, I think, made by the gentleman from Vermont, but by another. I have examined it with some care, and I have detected in it those errors which, when the gentleman comes to look at it, will show him that the table which I present is correct.

It has been said in aid of a voting basis that many of the abuses to which it would be liable could be prevented by restricting the enumeration to male citizens of the United States twenty years old and upward. This would prevent much abuse; but it would shut out four fifths

of the citizens of the country—women and children, who are citizens, who are taxed, and who are, and always have been, represented. It would also narrow the basis of taxation, and in some States seriously.

The second plan mentioned, the proposition to prohibit States from denying civil or political rights to any class of persons, encounters a great objection on the threshold. It trenches upon the principle of existing local sovereignty. It denies to the people of the several States the right to regulate their own affairs in their own way. It takes away a right which has been always supposed to inhere in the States and transfers it to the General Government. It meddles with a right reserved to the States when the Constitution was adopted, and to which they will long cling before they surrender it. No matter whether the innovation be attempted in behalf of the negro race or any other race, it is confronted by the genius of our institutions. But more than this. The northern States, most of them, do not permit negroes to vote. Some of them have repeatedly and lately pronounced against it. Therefore, even if it were defensible as a principle for the General Government to absorb by amendment the power to control the action of the States in such a matter, would it not be futile to ask three quarters of the States to do for themselves and all others, by ratifying such an amendment, the very thing which most of them have already refused to do in their own cases? This step will be taken, if taken at all, as a last resort in the attainment of some object too wise and desirable to be opposed.

The third proposition is believed by the committee to avoid, as far as the case admits of, all the objections of the other two.

Let me read it as it will stand in the Constitution if adopted by Congress and three quarters of the States:

Representatives and direct taxes shall be apportioned among the several States which shall be included in the Union, according to their respective numbers, which shall be determined by counting the whole number of persons in each State: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all individuals of such race or color shall be excluded from the basis of representation.

It contains but one condition, and that rests upon a principle already imbedded in the Constitution, and as old as free government itself. That principle I affirmed in the beginning, namely, that representation does not belong to those who have not political existence, but to those who have. The object of the amendment is to enforce this truth. It therefore provides that whenever any State finds within its borders a race of beings unfit for political existence, that race shall not be represented in the Federal Government. Every State will be left free to extend or withhold the elective franchise on such terms as it pleases, and this without losing anything in representation if the terms are impartial as to all. Qualifications of voters may be required of any kind—qualifications of intelligence, of property, or of any sort whatever, and yet no loss of representation shall thereby be suffered. But whenever in any State, and so long as a race can be found which is so low, so bad, so ignorant, so stupid, that it is deemed necessary to exclude men from the right to vote merely because they belong to that race, in such case the race shall likewise be excluded from the sum of Federal power to which that State is entitled.

If a race is so vile or worthless that to belong to it is alone cause of exclusion from political action, the race is not to be counted here in Congress. That is all, and the gentleman from New Jersey [Mr. ROGERS] seems not altogether to appreciate the bearings of the subject.

Mr. ROGERS. Will the gentleman yield to me for one moment, that I may ask him a question?

Mr. CONKLING. Yes, sir.

Mr. ROGERS. Suppose that a State, in its organic law, should exclude the colored people from the right of voting, and should accompany that act by a preamble declaring that such exclusion was not on account of race or color, but was on account of the want of intelligence or education among the colored people; could that

State, under this proposed amendment of the Constitution, have representation for its whole colored population?

Mr. CONKLING. The gentleman from New Jersey [Mr. ROGERS] knows as well as I do that that question has nothing but casuistry to recommend it, if it has that. He understands that any State composed of honest people properly outside a lunatic asylum, if they proposed a qualification for the sake of the qualification, and fairly to exclude all who could not come up to it, and to admit all who could, would make the qualification apply to all persons offering to vote, not to those only of a certain color; and then blacks and whites would equally fall under its operation. The instant a State says that a man of a certain race shall not vote because he is ignorant, but that a man of another race who is just as ignorant may vote, the exclusion is on account of race merely, whether it is honestly avowed or cunningly covered up. I am not now discussing the propriety of admitting or excluding races, but I am showing that there will never be difficulty in seeing whether the exclusion is in fact made or not.

Mr. ROGERS. A little further. Who is to judge of the intent of the framers of the organic act in excluding negroes from voting on account of want of intelligence, even though they say it is a mere pretext? Who is to judge in saying that it is a mere pretext?

Mr. CONKLING. The power called upon to decide the question; all questions arising upon the construction of laws go for decision to their appropriate forum. The question supposed would do so, and the forum would be Congress, and also, perhaps, the courts.

Mr. ROGERS. One more question. Suppose a State should by act of the Legislature pass a law saying that colored persons should not vote without a property qualification, would not that be contrary to the spirit and intent and letter of this amendment?

Mr. CONKLING. The proposition by its terms would mean that men not colored could vote without the qualification.

Mr. ROGERS. Has not a State the power to say what population shall vote, white or black?

Mr. CONKLING. I answer that under the pending amendment, if any State says that white men, because they are white men shall not vote unless they come up to certain qualifications, the distinction being against their race, white men would be excluded from the basis of representation. It is as broad as it is long, and cannot be tortured into any misunderstanding.

Mr. SHELLABARGER. Mr. Speaker, I have desired at some point to interrupt the gentleman and to ask him a question. I have been a little fearful that the last part of the amendment might be construed to give powers to the States regulating the matter of the elective franchise, which they did not even now possess, in the way of excluding an entire race from the right of the elective franchise. As our Constitution now is, we have at least this restraint on the power of the States, to wit, that they cannot so limit that franchise that the State shall cease to be republican, cease to be based upon the voice of the people. Now I was fearful—and I do not mean to take up the gentleman's time—the introduction of this clause, giving inferential power to the States to exclude a race, attaching as the only consequence that that exclusion should prevent them from being represented, might be mischievous by reason of authorizing States at pleasure to disfranchise whole races of men, and to concentrate the power in the few. This authorization of the disfranchisement of race being introduced into the Constitution might be held to modify the present sense of the clause relating to the States being republican, and might thus tend to lessen the power of the people. If worthy of it, I would like to hear the gentleman upon this matter.

Mr. CONKLING. Any suggestion from the gentleman from Ohio is always worthy of respect. He says the Constitution does contain one guaranty, at least, against such a contingency as he points to; and the whole strength of the argument is this: because the amendment

says whenever any State shall deny or abridge the elective franchise on account of race and color, an implication is suggested in which there is danger.

If there is an implication, and if there is a recognition, or even an authorization such as the gentleman supposes, do we not see, at least, that nothing more is suggested than has always been permitted with universal acquiescence by the courts and the nation? The right to exclude class has been construed into the Constitution or in spite of the Constitution already, and all the restraint we now have would remain, I think.

To return to my argument, the pending proposition commends itself, it is thought, for many reasons.

First. It provides for representation coextensive with taxation.

I say it provides for this; it does not certainly secure it, but it enables every State to secure it. It does not, therefore, as the gentleman from New Jersey [Mr. ROGERS] insists, violate the rule that representation should go with taxation.

If a race in any State is kept unfit to vote, and fit only to drudge, the wealth created by its work ought to be taxed.

Those who profit by such a system, or such a condition of things, ought to be taxed for it. Let them build churches and school-houses, and found newspapers, as New York and other States have done, and educate their people till they are fit to vote.

"Fair play," "A fair day's wages for a fair day's work," "Live and let live"—these mottoes, if blazoned over the institutions of a State, will insure it against being cursed for any length of time with inhabitants so worthless that they are fit only for beasts of burden.

I have said that the amendment provides for representation going hand in hand with taxation. That is its first feature.

Second. It brings into the basis both sexes and all ages, and so it counteracts and avoids, as far as possible, the casual and geographical inequalities of population.

Third. It puts every State on an equal footing in the requirement prescribed.

Fourth. It leaves every State unfettered to enumerate all its people for representation or not, just as it pleases.

Thus every State has the sole control, free from all interference, of its own interests and concerns. No other State, nor the General Government, can molest the people of any State on the subject, or even inquire into their acts or their reasons, but all the States have equal rights.

If New York chooses to count her black population as political persons, she can do so. If she does not choose to do so the matter is her own, and her right cannot be challenged.

So of South Carolina. But South Carolina shall not say, "True, we have less than three hundred thousand 'persons' in this State, politically speaking, yet we will have in governing the country the power of seven hundred thousand persons."

The amendment is common to all States and equal for all; its operation will of course be practically only in the South. No northern State will lose by it, whether the southern States extend suffrage to blacks or not. Even New York, in her great population, has so few blacks that she could exclude them all from enumeration and it would make no difference in her representation.

If the amendment is adopted, and suffrage remains confined as it is now, taking the census of 1860 as the foundation of the calculation, and the number of Representatives as it then stood, the gains and losses would be these: Wisconsin, Indiana, Illinois, Michigan, Ohio, Pennsylvania, Massachusetts, New Jersey, and Maine, would gain one Representative each, and New York would gain three; Alabama, Kentucky, North Carolina, South Carolina, and Tennessee, would each lose one; Georgia, Louisiana, and Virginia would each lose two, and Mississippi would lose three.

It has been insisted that "citizens of the United States" and not "persons" should be the basis of representation and apportionment.

These words were in the amendment as I originally drew it and introduced it, but my own judgment was that it should be "persons," and to this the committee assented.

There are several answers to the argument in favor of "citizens" rather than "persons." The present Constitution is, and always was, opposed to this suggestion. "Persons," and not "citizens," have always constituted the basis.

Again, it would narrow the basis of taxation and cause considerable inequalities in this respect, because the number of aliens in some States is very large, and growing larger now, when emigrants reach our shores at the rate of more than a State a year.

Again, many of the large States now hold their representation in part by reason of their aliens, and the Legislatures and people of these States are to pass upon the amendment. It must be made acceptable to them. For these reasons the committee has adhered to the Constitution as it is, proposing to add to it only so much as is necessary to meet the point aimed at.

I have thus, Mr. Speaker, endeavored to maintain a proposition to which I have given some thought, not, however, with a view to speaking upon it until within a few hours. I have passed over some things which might easily be said in its favor. It does not go as far as many persons think it ought, it goes further than many persons will admit it should.

I believe it a wise and salutary provision, a solid block needed in the foundation of our structure, for the sake of the white man and the black. Those who lend a helping hand to put it in its place will, I think, deserve well of their country. He who does most toward incorporating it in the Constitution may hope to be heir to the praise once not well bestowed, *Urbem lateritium invenit, marmoriam reliquit*.

Mr. HULBURD. I ask that by unanimous consent my colleague's time be extended.

Mr. STEVENS. I must object, inasmuch as the time of the gentleman from New Jersey [Mr. ROGERS] was not extended.

Mr. CONKLING. I do not ask it of the House, as the time of the gentleman from New Jersey was not extended, although I desired to make some further suggestions.

Mr. STEVENS. I rise now to move to postpone the further consideration of this question until to-morrow immediately after the reading of the Journal, and that it be made the special order for that time. I move also that the resolution be printed.

Mr. ROGERS. I ask that the minority report be printed also.

Mr. STEVENS. I have no objection to that. The motion to print was agreed to.

Mr. STEVENS. I will state, in favor of the motion to postpone until to-morrow, that early action upon the resolution is desirable for the reason that the Legislatures of twenty-one or twenty-two States are now in session, and among them that of California. The California Legislature will barely have time to receive this amendment and adopt it if we pass the resolution now, and her Legislature, if I am rightly informed, meets only once in two years. It must, therefore, be acted on during the present session or not at all. It is the same in Ohio, I am informed.

Mr. GRINNELL. And in Iowa.

Mr. STEVENS. And in Iowa and several other States. That is my reason for urging the speedy passage of this amendment, that we may get it before the people in time for the Legislatures of nineteen States to adopt it, and that is the number necessary. I now move the previous question on the motion to postpone.

Mr. GRIDER. I hope the gentleman will consent to postpone it for at least a day or two longer. We cannot get the amendment in print, so that we can examine it, before to-morrow.

Mr. STEVENS. I am only asking now that we shall go on with the matter to-morrow, that is all—that we shall proceed at that time to-morrow. I insist on the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof Mr. STEVENS's motion was agreed to.

USE OF THE HALL.

Mr. COBB. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the use of this Hall for this evening be granted to the Soldiers' and Sailors' Union League, now in session in this city.

Mr. WASHBURNE, of Illinois. I object.

Mr. COBB. I move a suspension of the rules to enable me to offer the resolution.

Mr. STEVENS. I ask the gentleman to wait until to-morrow, and then he can call it up.

Mr. COBB. The League will have adjourned to-morrow.

Mr. STEVENS. Is it for this evening?

Mr. COBB. It is.

The question was taken; and two thirds voting in favor thereof, the rules were suspended.

The resolution was then received and adopted.

Mr. COBB moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FRENCH EXPOSITION.

Mr. BANKS, by unanimous consent, from the Committee on Foreign Affairs, reported back a joint resolution to provide for the expenses attending the exhibition of the products of the industry of the United States at the Exposition at Paris in 1867; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. BANKS. I now ask that a day may be assigned for the consideration of the joint resolution—say Thursday of this week. It is important that it should be disposed of immediately, because if we are to take any part in that exposition, notice of it must be given to the country at once. It will take but a very short time to dispose of it.

Mr. WASHBURNE, of Illinois. The gentleman can move to postpone till any day he pleases, but I object to any special order being made.

Mr. BANKS. I will ask, then, for a suspension of the rules.

The SPEAKER. The Chair will state that there are several special orders in the House and in Committee of the Whole on the state of the Union which would ante-date this.

Mr. BANKS. I move to suspend the rules to make the joint resolution the special order for Thursday next, and from day to day until disposed of.

Mr. WASHBURNE, of Illinois. How much does the joint resolution appropriate?

Mr. BANKS. One hundred thousand dollars; but the outside expenditure the Government will be called upon to make is \$50,000, a reimbursement of \$50,000 being provided for, I think, in the resolution. The Committee on Foreign Affairs are unanimously of the opinion that so much Congress is bound to appropriate, inasmuch as it has accepted the invitation by the vote of both Houses.

The question was taken on the motion to suspend the rules, and there were—ayes 69, noes 20; no quorum voting.

Mr. BANKS called for tellers, which were ordered, and Messrs. BANKS, and WASHBURNE of Illinois, were appointed.

The House divided; and the tellers reported—ayes 90, noes 19.

So the rules were suspended, (two thirds voting in the affirmative,) and the motion to make the joint resolution the special order for Thursday next was agreed to.

WITHDRAWAL OF PAPERS.

Mr. PHELPS. I ask leave to withdraw from the files of the House, in order that the same may be presented in the Senate, the papers of loyal citizens of Loudoun county, Virginia, praying for compensation for property destroyed by the military authority during the late rebellion. Leave was accordingly granted.

PERSONAL EXPLANATIONS.

Mr. KELLEY. I beg leave to ask the attention of the House for a single moment. My colleague and friend from the first district of our

State, [Mr. RANDALL,] in the course of his recent remarks did unintentional injustice to a gentleman who I know he esteems as highly as I do; and I wish to give that gentleman an opportunity to speak for himself, which will relieve him from the injustice which I feel has been done him.

The SPEAKER. It will require unanimous consent for the gentleman to do so at this time.

Mr. ROSS. I object.

Mr. KELLEY. I wish only to read a few lines from the debates in the convention of Pennsylvania to show the position of my friend, Mr. Meredith, to whose opinions my colleague referred the other day. I will not detain the House many minutes.

Mr. ROSS. Very well; I withdraw my objection.

Mr. KELLEY. Speaking in the convention for amending the constitution of our State upon the question of suffrage, Mr. Meredith said:

"He denied that the right of suffrage depended upon other than political considerations, although he admitted it was a right which should be granted when it could be done consistently with the safety of the whole community. There were hundreds of whites who stood precisely in the same position as the blacks in reference to the right of suffrage. Notwithstanding the practice which had obtained in the State of Pennsylvania for the last half century, and although the judicial decisions which had been made were against the negroes having the right to vote, yet he did not desire to see a permanent exclusion of them from a participation in the elective franchise made in the constitution now undergoing amendment.

"As he had already said, he did not wish the right granted to the mass of them, but only those who possessed intelligence and property. He did not think there would be any objection on the part of the white population, generally, to this. He certainly had never heard any. On the other hand, he desired that something should be inserted in the constitution, either that they should not have the right of suffrage, or that they should, upon complying with certain conditions and being possessed of the necessary qualifications. He thought this might be done without interfering with the general principle that was advocated."

He believed in and advocated qualified colored suffrage; and I felt it was but right that he should be placed correctly before this House.

Mr. RANDALL, of Pennsylvania. I desire also to make a personal explanation.

No objection was made.

Mr. RANDALL, of Pennsylvania. In my remarks the other day I quoted the language of Mr. Meredith. My colleague [Mr. KELLEY] now quotes language which perhaps would seem to imply a different meaning from what I attributed to him. Now, sir, I ask the gentleman to refer to the vote given upon inserting the word "white" in the constitution, and inform the House whether Mr. Meredith's name is found recorded in favor of that insertion or not. I judge a man by his acts, and not by his arguments.

Mr. KELLEY. I have not examined his vote upon that subject.

Mr. RANDALL, of Pennsylvania. I know you have not.

Mr. KELLEY. Mr. Meredith was in favor of qualified negro suffrage.

Mr. RANDALL, of Pennsylvania. He voted in favor of inserting the word "white" in the constitution of Pennsylvania.

Mr. KELLEY. I have not examined that point. As my colleague referred to his opinions on the subject, I desired to let the country know what they were.

Mr. RANDALL, of Pennsylvania. You do not examine the whole subject, and you cannot throw light upon it. I have no doubt my other colleague, [Mr. STEVENS,] who was a member of that convention, can give the information I desire to obtain.

Mr. STEVENS. I cannot speak upon that subject, for when the final vote was taken upon that question I was absent, being sick in Harrisburg.

Mr. RANDALL, of Pennsylvania. I think the record, which I will produce here to-morrow, will show that Mr. Meredith did vote in favor of inserting the word "white" in the constitution of the State of Pennsylvania.

Mr. STEVENS. It is very likely; a great many did so vote.

SALE OF MARINE HOSPITALS, ETC.

Mr. WASHBURN, of Illinois, introduced a bill to authorize the sale of marine hospitals and revenue cutters; which was read a first and second time, and referred to the Committee on Commerce.

STATUE OF THE LATE PRESIDENT LINCOLN.

Mr. INGERSOLL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Joint Committee on the Library be instructed to inquire and report to this House with regard to the propriety and cost of procuring a marble statue of the late President Lincoln, to be placed in the Capitol.

PENSIONS FOR MISSOURI STATE MILITIA.

Mr. BENJAMIN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Invalid Pensions be directed to inquire into the expediency of providing by law for extending the provisions of the pension laws to those who served in the Missouri State militia volunteers.

And then, on motion of Mr. DAVIS, (at four o'clock and ten minutes p. m.,) the House adjourned.

IN SENATE.

TUESDAY, January 23, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. SUMNER. I offer the memorial of the association of loyal Pennsylvanians, here in the city of Washington, asking Congress, as soon as possible, to confer upon all loyal citizens in this District the elective franchise, without distinction of color; and they protest most energetically against the conduct of the present board of aldermen and the city government of Washington on this subject. They protest against it as being an insolent imitation of the exploded doctrine of State rights, so far as they undertake to say that Congress, which has, under the Constitution, exclusive jurisdiction of the District of Columbia, must defer to the people of the District in enforcing a great act of justice. They set forth certain resolutions which have been tabled in the board of aldermen, tending to show that the board of aldermen are strongly adverse, as they express it, to the opinions of our late martyred President. I ask the reference of this document to the Committee on the District of Columbia.

It was so referred.

Mr. COWAN presented a petition of citizens of Alleghany county, Pennsylvania, praying that pensions may be granted to the sufferers by the explosion at the Alleghany arsenal on the 17th of September, 1862; which was referred to the Committee on Pensions.

Mr. RIDDLE presented a petition of citizens of Wilmington, Delaware, praying that eight hours may be established as a legal day's work for all workmen, artisans, or other laborers in the employ of the United States; which was referred to the Committee on Naval Affairs.

Mr. BROWN presented a petition of citizens of Osage county, Missouri, praying that a pension may be granted to Parellee Howerton, widow of Stern W. Howerton, who was killed by the rebels during Price's raid in that State in October, 1864; which was referred to the Committee on Pensions.

Mr. HARRIS presented a memorial of citizens of St. Lawrence county, New York, remonstrating against the continuance or renewal of the so-called reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. NORTON presented a memorial of the Mississippi River Improvement and Manufacturing Company, praying for a grant of lands to aid in improving the navigation of the Mississippi river to the falls of St. Anthony; which was referred to the Committee on Public Lands.

Mr. LANE, of Kansas, presented a petition of citizens of Galveston, Texas, praying for the construction of a railroad through the Indian

Territory, making it the south branch of the Union Pacific road, commencing at the northern line between Kansas and said Territory, at the junction of the Leavenworth, Lawrence, and Fort Gibson road, or the nearest point to the Pacific road, running south to the south line of the Indian Territory at a point connecting with the Houston and Texas Central and Galveston and Houston roads; which was referred to the Committee on the Pacific Railroad.

Mr. MORRILL presented the memorial of Paul Dudley and fifty-two others, citizens of Milford and Greenbush, in the State of Maine, remonstrating against the renewal of the so-called reciprocity treaty with the British Provinces, and against the formation of any new treaty which shall grant especial favors to the people of the Provinces not granted to other friendly nations; which was referred to the Committee on Foreign Relations.

Mr. HENDERSON presented a petition of citizens of Pike county, Missouri, praying for the appointment of properly qualified engineers for the examination of applicants for appointment as local inspectors of steamboats, and to examine into the qualifications of local engineers; which was referred to the Committee on Commerce.

Mr. TRUMBULL. I have received and been requested to present twenty-seven petitions, signed by R. H. Smith, and some two thousand others, citizens, officers, and soldiers of the volunteer army, praying that the soldiers who were enlisted in the early part of the war in 1861 and 1862 may be paid the same bounties that those who enlisted subsequently in the years 1863, 1864, and 1865 received, alleging that their services were equally valuable to the country. I move the reference of these petitions to the Committee on Military Affairs and the Militia.

The motion was agreed to.

MINERAL LANDS.

Mr. CONNESS. I have received this morning by telegraph a preamble and resolutions, dated at Sacramento, California, January 19, and received at Washington this morning, the 23d, addressed directly to the delegation in the Senate and House of Representatives from California, but with the request that they be laid before both Houses of Congress, relating to the survey, sale, and disposition of the mineral lands, and particularly protesting against a bill introduced by the honorable Senator from Ohio [Mr. SHERMAN] for that purpose, setting forth the varied mischiefs and injuries that must necessarily result from the enactment of such a law as has been presented by that Senator to the interests and the vested and acquired rights of citizens of the State of California. I ask that the preamble and resolutions be read, printed, and referred to the Committee on Mines and Mining.

The Secretary read, as follows:

Received at Washington, January 23.]

SACRAMENTO, CALIFORNIA,
January 19, 1866.

To the delegation in Senate and House from California at Washington:

Whereas since the discovery of gold mines in California it has been the policy of the General Government to allow all those who desired to mine for the precious metals in this State a free and unrestricted right to search for and discover the same, and, when found, to hold and develop their claims subject only to such restrictions and rules as might be adopted by conventions held by those who were engaged in mutual mining enterprises in the several mining districts of the State; and whereas we believe that, by the adoption of that policy, the mining interests of the State have been developed more thoroughly, and to a much greater extent, than they would have been under any other policy that could have been adopted; and whereas legislation for the survey and sale of the mineral lands is threatened in the Congress of the United States, and it is seriously proposed to destroy the property interests which have been created in this State under the license of the General Government for seventeen years past, and to revolutionize the whole system of mining business and tenures under which the mines have been so far developed, the State has prospered, the Government has been supplied with the sinews of war, trade with advantageous markets, and the revenue a valuable and increasing resource: Therefore,

Be it resolved by the miners of California in general convention assembled, That we are opposed to any survey, lease, or sale of the mineral lands of this State,

as injurious to the best interests of the General Government, and of this State, and utterly ruinous to the mining community.

Resolved, That any increase of the tax upon the proceeds of the mines would be onerous and injurious to the mining interests of this coast.

Resolved, That the bill introduced into the Senate of the United States by Hon. JOHN SHERMAN, of Ohio, is singularly calculated to work the utmost confusion and loss to the present holders of mining property, who have invested their labor and capital in developing the mines, to destroy the vast canal interests of the State, the existence of which is necessary to the protection of mining, and to expel the great bulk of the population of the mining districts from their homes, their business, and possessions.

Resolved, That the miners of California respectfully petition the Congress of the United States to respect the rights and property interests which the policy of the Government long continued has created and fostered.

Resolved, That we indorse the action of the Legislature of this State requesting delay in the issuance of patents to the Central Pacific Railroad Company, or another railroad company, until the Government has employed effective measures to segregate the mineral from the agricultural lands lying within the lines of the grant to the railroad company; and while willing and anxious to aid and encourage the construction of said road, the great national highway, we most emphatically protest against the cession of a vast section of mining and timber lands for that purpose, involving the sacrifice and destruction of private rights already vested.

Resolved, That a committee of five be appointed by the president of this convention, the said president to act as chairman thereof, to prepare a memorial to Congress embodying the sentiments contained in these resolutions, and to cause the same to be presented through our delegation in Congress to the President of the United States, the Secretary of the Interior, and Commissioner of the General Land Office.

Resolved, That a copy of these resolutions be forthwith forwarded by the officers of the convention to each of our Senators and members of Congress, with the request of the convention that the same be laid before their respective Houses of Congress.

A. A. SARGENT,
President Miners' Convention.
MARCUS D. BARRICK,
Secretary.

W. B. EWER,
Assistant Secretary.
W. A. SELKIRK,
Assistant Secretary.

The PRESIDENT *pro tempore*. It is moved that this document be printed, and referred to the Committee on Mines and Mining.

Mr. SHERMAN. I desire that that communication shall be referred to the Committee on Public Lands, which has the whole subject under consideration; and perhaps I ought to reply in a few words to one or two observations made by the petitioners. Those who telegraph this long communication are simply petitioners. I did not understand the Senator in his statement to say they were residents of California, but I presume they are citizens of San Francisco and of his State. The bill introduced by me the other day simply provides for the extension of our land-law system to the mineral lands of the United States. Under the present system there are no means by which a title can be acquired to mineral lands, unless it is under some old Mexican grant or under a possessory right, according to their mining laws or customs. The whole purpose of the bill is to extend our general land system to the mineral lands of the United States. The bill was mainly prepared by a former Commissioner of Public Lands, now one of the high officers of the Government. My conviction has been from the beginning that the best disposition that could be made of these lands is at once to secure to private persons absolute title to them, to grant the fee. The old policy of this Government, of the Spanish Government, and many other Governments has been to hold within the power of the Government the title to mineral lands. My own impression has always been that it would be wiser for the Government of the United States to give this land away to the settler rather than to hold the legal title. But I do believe that the mineral lands are a legitimate source of revenue, and that, with the aid of wise officers, we might derive a considerable revenue from the sale of the lands after they have been carefully surveyed. Whether the price per acre fixed by the bill that I have introduced is too high or not is a question for future discussion.

The whole purpose of the bill, it seems to me, has been entirely misunderstood by certain persons in the mining region. I believe if that bill, or a bill of a kindred character, were passed,

by which the United States would invest in the occupants of these lands an absolute title, so that they might have an inducement to go on and make permanent improvements and develop the resources of the country, that California, Nevada, and all the mining States would rapidly grow far beyond their present limits. The truth is, that in all mining countries the trouble has been that the population is simply temporary. It is so in California. It is sometimes very prosperous and then sometimes very depressed. There is no fixed and permanent population in the mining region because there is no absolute title to the land, and the greatest improvements, from all the information I can get, are on the Mexican grants, where an absolute title was acquired under the Mexican law.

This being a subject relating solely to the public lands—the mines are considered merely as an incident to the public lands—I think this communication should be referred to the Committee on Public Lands, which has now charge of the bill that I introduced. The paper relates entirely to that bill, and the two ought to go together. The subject of mines and mining and minerals is another subject to be considered by its appropriate committee. I, therefore, move that the communication be referred to the Committee on Public Lands.

The PRESIDENT *pro tempore*. The Senator from California moved that this communication be printed and referred to the Committee on Mines and Mining. As an amendment to that motion, the Senator from Ohio moves to strike out "the Committee on Mines and Mining," and to insert in lieu thereof "the Committee on Public Lands," and the question is on the amendment to the motion.

Mr. CONNESS. I desire to say in connection with the amendment of the honorable Senator to refer this communication to the Committee on Public Lands in preference to the Committee on Mines and Mining, that, personally, I have no feeling in regard to it. It is well known to the Senate that at the head of the committee to which I proposed to refer it the Senate has seen fit to place myself. It is true, as the Senator states, that the bill complained of in this preamble and these resolutions is now in possession of the Committee on Public Lands. I thought when the honorable Senator moved to refer it there, that it was not the committee most fit and proper to consider it. While it involved a question of the disposition of the public domain, it at the same time peculiarly involved the question of the tenure and present possession, and all the value that citizens of the United States engaged in mining pursuits had given to a very large district of country, and it very materially differed from a simple question of the disposition of the public land in the ordinary acceptance of that term; and therefore I thought at the time that the disposition made of the bill was not the most fit and proper; but it was not for me to say anything upon the occasion, and I did not.

Now, I have no objection that the disposition proposed by the Senator shall be made, because I have no question, so far as the Committee on Public Lands of this body is concerned, that they will conclude that the bill introduced by the honorable Senator is not the best calculated to dispose properly of the question which it comprehends. Of course I exonerate the Senator from Ohio from all the blame that may be directly or indirectly imputed to him in connection with the introduction of the measure, as to any intent to do anything but the very best for the country and for even the population of the mining regions; but I humbly submit to the Senator now that gentlemen residing out of the mining regions cannot be acquainted with a thousand conditions that exist, and that are important to be considered, within those regions and precincts. I undertake to say now that what is stated in regard to this bill in these resolutions is strictly true; that if the provisions of it were enacted into a law it would lead not simply to inextricable confusion, but it would lead even to revolution in that country, or in any mining country.

The Senator himself, I am well satisfied, is not aware of the injurious tendency, the destructive tendency, of many of the provisions of the bill, which proposes to put up at public auction and sell to the highest bidder the possessions of citizens of the United States in which their all is now invested.

But it is not proper to discuss the merits of the question of the disposition of the public lands upon this motion to refer. In justice to the petitioners and in justice to myself and my relation to the subject, and to the bills that are now before this body and in committee, or that may be presented hereafter, I felt it due to say something on the subject. If the honorable Senator will withdraw his amendment, I shall withdraw my motion and let this paper go at present to the Committee on Public Lands. Yet I submit to him and to the Senate now that the Committee on Public Lands is scarcely the committee to consider the question of the disposition of the mines of the United States.

Mr. SHERMAN. I certainly have no desire to withdraw the subject of mines and mining from the Committee on Mines and Mining.

Mr. CONNESS. I am aware of that.

Mr. SHERMAN. No doubt they are well prepared to consider the subject; but the bill which I introduced relates not only to the mineral lands but also to the farming lands of the United States, which are supposed to be to the mines, even in the mining countries, as ten to one, the great body of the land even in mining countries being passed over there as waste land or as farming land. A very small proportion, probably, would be classed as mineral land; but the whole must be surveyed and sold together; and therefore the bill properly goes to the Committee on Public Lands. At the suggestion of the honorable Senator I withdraw my amendment, and will allow the reference to be made to the Committee on Public Lands, at his instance.

The PRESIDENT *pro tempore*. The amendment is withdrawn. Does the Chair understand the motion to be that the document be referred to the Committee on Public Lands, and printed?

Mr. CONNESS. Yes, sir.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 88) to restrict the expenses of collecting soldiers' claims against the Government, reported it with amendments.

PROPERTY AT POINT LOOKOUT.

Mr. WILSON. The Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 40) directing the Secretary of War to postpone the sale of public property at Point Lookout, Maryland, have directed me to report that it ought not to pass. I should like to have it acted upon at this time, and I move the indefinite postponement of the resolution.

Mr. CRESWELL. I have no objection to the present consideration of the resolution; but I should be glad to learn from the gentleman, as the representative of the committee, upon what grounds they have decided to recommend that the resolution be rejected.

Mr. WILSON. If it is to be debated, I think it had better go over. I will say, however, that the committee, on consultation with the Department which has the care of these matters, came to the conclusion that no action of Congress ought to be had on the subject. It is understood that the persons incorporated to establish a soldiers' asylum or home do not believe that to be a proper place, and it will not be accepted by them or used for that purpose. The committee think this matter ought to be left where the law now leaves it, in the War Department, to be dealt with by that Department according to its convictions of what the interests of the country require. The committee have therefore reported against the passage of the resolution; but if the Senator from Maryland does not want it acted upon at this time I shall certainly not press it now.

Mr. CRESWELL. I prefer that it should go over.

The PRESIDENT *pro tempore*. The resolution will be laid over.

Mr. WILSON. The same committee, to whom was referred the memorial of Mrs. Delphine P. Baker, praying Congress to appropriate the Government buildings at Point Lookout as a national military and naval asylum, ask to be discharged from its further consideration. I suppose the question may as well be taken now.

Mr. CRESWELL. As that is part of the same measure, I ask that it also go over.

The PRESIDENT *pro tempore*. The Chair would suggest to the Senator from Maryland that discharging the committee does not discharge the subject from the consideration of the Senate. If the Senator from Massachusetts asks that the question be taken at this time, the Chair will put the question.

Mr. CRESWELL. I have no objection that the request of the Senator, so far as that is concerned, shall be granted. All that I desire is that the papers shall be retained for consideration by the Senate hereafter.

The request of the committee was granted.

BILLS INTRODUCED.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 94) to amend the act entitled "An act for the relief of seamen and others borne on the books of vessels wrecked or lost in the naval service," approved July 4, 1864, and for other purposes; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 95) providing for the appointment of a commission to purchase a site and erect a building for a post office, custom-house, and for holding the courts of the United States, in the city of St. Paul; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. DIXON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 96) authorizing an increase of the clerical force in the Post Office Department; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 23) submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States; which was read twice by its title, and referred to the joint committee to inquire into the condition of the States which formed the so-called confederate States of America, and ordered to be printed. The amendment proposed is as follows:

No State, in prescribing the qualifications requisite for electors therein, shall discriminate against any person on account of color or race.

AMENDMENTS TO BILLS.

Mr. SUMNER. I gave notice the other day that I would, when the bill (S. No. 74) for the admission of the State of Colorado into the Union came up, move an amendment to it. As the Senator from Nevada [Mr. STEWART] gave notice that he would call the bill up tomorrow, I send the amendment to the Chair, and ask that it be printed.

The amendment was received informally, and ordered to be printed.

Mr. DIXON. I ask leave to offer a section which is to be introduced as an amendment to the bill (S. No. 71) relative to the sale of postage stamps and stamped envelopes on credit, introduced by me a few days since. I move that it be referred to the Committee on Post Offices and Post Roads, and be printed.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. NESMITH, it was

Ordered, That the two several petitions of Captain John Mullan, late of the United States Army, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. DOOLITTLE, it was

Ordered, That the heirs of Dr. Sylvester Nash and Sarah Nash have leave to withdraw their petition and other papers from the files of the Senate.

On motion of Mr. FOOT, it was

Ordered, That Jonathan Ball have leave to withdraw his petition and other papers from the files of the Senate.

FREEDMEN'S BUREAU.

The Senate resumed the consideration of the bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau.

Mr. SAULSBURY. Mr. President, since I have been a member of this body, questions relating to the institution of slavery have so frequently come before it, and I have mingled in the debates upon those questions so often, that I had determined when I came to take my seat in the body this winter not to participate again in debates upon them. But, sir, we were told the other day by the honorable Senator from Illinois, who has this bill in charge, [Mr. TRUMBULL,] that there was a necessity for including my State within the operations of the Freedmen's Bureau; and as my State is, according to the provisions of the bill and the declarations of that honorable chairman, to be included within it, I must crave the indulgence of the Senate while for a few minutes I examine some of its provisions. The language of the honorable Senator was:

"It is necessary, Mr. President, to extend the Freedmen's Bureau beyond the rebel States in order to take in the State of Delaware, the loyal State of Delaware. I am happy to say, which did not engage in this wicked rebellion, and it is necessary to protect the freedmen in that State as well as elsewhere; and that is the reason for extending the Freedmen's Bureau beyond the limits of the rebellious States."

On the 3d of March last the Congress of the United States passed an act entitled "An act to establish a Bureau of Freedmen and Refugees." It was not deemed necessary then, although war raged in the land, to extend the operations of this bureau to any other States than those which were denominated States in revolt. But, sir, as success has crowned the efforts of the persistent friends of the negro race their aggressive movements have become more rapid and more extensive.

Mr. President, although the Freedmen's Bureau, as originally established, was only intended according to its provisions, to extend to the States that had assumed to secede, we cannot shut our eyes to the fact what a great, what an extensive bureau it has become in the country. I shall enter into no computation of the cost which the country has already incurred in the support of that bureau. One thing we know, that hundreds and thousands of the negro race have been supported out of the Treasury of the United States, and you and I and the white people of this country are taxed to pay that expense. For the first time in the history of this country has the thing occurred, that the great mass of the people have been taxed to support in idleness a class who are too lazy or too worthless to support themselves. Sir, look around upon these galleries at any time of the day, and you see the beneficiaries of this Freedmen's Bureau crowding your galleries and listening to the debates of this body. How many of the honest, hard-working, white young men of this country are there who can afford to come to the city of Washington, sit day after day, week after week, month after month, and listen to your d. 'liberations? Sir, they cannot afford to do it, but under the protecting care of this Freedmen's Bureau your galleries can be crowded with hundreds of negroes every day listening to your deliberations, doing nothing to support themselves, but being supported out of the taxes levied upon the white people of the country.

Now, sir, the bill under consideration proposes to enlarge the powers of this bureau; it does enlarge them wonderfully. I think that I can demonstrate by mathematical calculation that this bill gives to the President of the United States and to those entrusted with the discharge of its duties, the power of expending at least \$250,000,000. As I said the other day, it may not be the intention of the friends of the bill that such an enormous expenditure shall

be incurred, but we are to look at what may be the result of this bill's going into operation, to ascertain what the expense may be, and not to consider that those entrusted with the discharge of its duties may not incur this expense.

The first section of the bill extends the operation of the Freedmen's Bureau throughout the United States, and includes within its provisions all the States of this Union, instead of letting it be confined, as heretofore, to the States which were in revolt. Now, sir, I wish to show to the Senate and to the country what are the dangerous powers entrusted to this Freedmen's Bureau, and to those who shall have the management of it. You will recollect, Mr. President, that the original bill provided for the appointment of one Commissioner with a salary of \$3,000, with the privilege of having under him clerks at a certain salary. This bill provides that there may be districts formed not exceeding twelve out of the whole number of States in the Union, and that "there shall be an assistant commissioner for each district with like salary." That, as I stated the other day, would amount to the sum of \$36,000. It provides, also, that these twelve districts may be subdivided by the President of the United States so as to make the sub-districts within the whole limits of the United States one for each county or parish in the United States.

The number of counties in the United States is eighteen hundred and seventy-eight I believe, as corrected by my friend, the Senator from Kentucky, exclusive of the two new States recently admitted. There being, then, that number of counties in the United States, and this bill giving to the President of the United States the power to appoint an agent for every one of those counties at a salary of \$1,600 each, there would be an expenditure of \$2,817,000. Then there are seventy-two clerks of assistant commissioners which this bill provides for, at \$1,200 each, and they would amount to \$86,400. Then thirty-seven hundred and fifty-eight clerks of agents, (for the bill gives the power to appoint these assistant commissioners, these agents, and clerks for them,) would amount to \$4,507,600, making the cost under this bill to the people of the United States for officers alone \$7,442,000.

What a magnificent bill this would be for a presidential election. With all these agencies appointed by the Executive of the United States interested in his reelection, or in the success of the candidate of the party of which he might be a member, what a powerful political engine it would be to operate upon such an election.

But, sir, this is not all the expense that will be incurred by this bill. Another section requires that there shall be three million acres of land assigned in certain States in the South for these freedmen; and, mark you, the negro is a great favorite in the legislation of Congress, and the bill provides that it shall be "good land." No land is to be provided for the poor white men of this country, not even poor land; but when it comes to the negro race three million acres must be set apart, and it must be "good land" at that. I know that the bill provides that this land shall be rented to the negro; but those of you who have observed the thriftiness and skill with which the negro population manage their agricultural operations, will find that when Sambo comes to pay his rent his rent will be pretty much like the rent of the individual who, when his landlord called upon him for his one third of the produce of the farm, said, "Sir, I did not produce a third." He will raise nothing to pay the rent. I estimate the rental value of those three million acres of your land at five dollars per acre, and the free negroes of the country are to be entitled to \$15,000,000 more in the way of rental of lands; for no one can suppose that their benevolent and faithful friends of the Republican party will ever collect any rents from them, least of all that any such rents will ever be received into the Treasury of the United States.

The bill provides that these three million acres shall be in allotments of forty acres each, and each freedman is to have a farm of good land of forty acres; and you do not propose

to put the negro upon his little farm of forty acres without a house to live in, because your bill provides in another section that they shall be provided with shelter. Then, after having given him forty acres of good land to live upon, what will it cost to build a very moderate dwelling-house, with necessary out-houses, for this favorite of the legislation of Congress? Not less than \$300, because the negro race now think, at least, that they are equal to the white race, and they have a right to believe, considering the legislation of Congress and the laudation which we hear every day of them, that they are a little better. The erection of these buildings will require an additional expenditure of \$22,500,000. Sir, the time was when it was said that a white man, provided he behaved himself, was as good as a negro; but, looking at the legislation of Congress and the tone of the public press of the northern States, I think we shall have to come to the conclusion that even if the white man does behave himself, he is not quite as good as the negro, for you find no bills introduced in Congress to furnish homes and houses to the white men of this country, whether poor or rich.

But, sir, this is not the only expense. You say in this bill that these negroes shall be furnished with provisions, medicines, &c. When you look around upon your own galleries and see the free negroes who are living out of the bounty of the Freedmen's Bureau sitting here every day witnessing your deliberations, do you suppose that the freedmen contemplated by this bill are going to work when others who are living out of the Freedmen's Bureau are witnessing every day the proceedings of Congress? Certainly not. I estimate, then, that to these four million freedmen you would have to give the small sum of fifty dollars each; and that would be a very small sum. This would require a further expenditure of \$200,000,000.

Your bill does not stop there; but this enfranchised race must be schooled; and your bill provides that there shall be school-houses, ay, and asylums, too, erected for them. I suppose that of the freedmen of the United States there will be nearly a million, including the children and those who are grown, who need schooling, and whom it will be necessary to educate; and mark you, the extent of the supplies is left discretionary with the Commissioner; he may expend this money at his discretion. Well, sir, how many pupils will there be, and how many school-houses will be required? I suppose, first, there will be a million pupils, young and old, of this whole race; and I suppose it would cost twenty dollars each to school them. That would take \$20,000,000. I suppose it would take thirty thousand school-houses, and your bill authorizes the building of these houses, and that each school will cost \$300. Here is an additional item of expense amounting in the aggregate to the sum of \$9,000,000.

Then, after the negro has his house built for him and his forty acres of land allotted to him, he has not the means, you tell us, of providing for himself; his farm must be stocked, and your bill, under the clause for "furnishing the necessary provisions," gives the power to stock it. What will that cost? I suppose it will cost \$300 to each of the seventy-five thousand farms, which will amount to the further trifling sum of \$22,500,000.

Thus, sir, we see that the amount of expenditure authorized under the provisions of this bill, or the loss to the Government under it, may be no less than \$295,000,000, and cannot reasonably be supposed to be less than \$250,000,000.

These, briefly, are some of my objections to this bill; but it is coupled with another bill which we are told is to be passed as soon as this shall have been carried through the Senate. That is a bill (No. 61) "to protect all persons in the United States in their civil rights, and furnish the means of their vindication." The power to pass this bill, I suppose, is claimed to exist under the second clause of the act amendatory of the Constitution abolishing slavery, that section providing that Congress may, by

appropriate legislation, carry that amendment into effect. And now, sir, here comes the most dangerous bill of the two. It declares:

"That there shall be no discrimination in civil rights or immunities among the inhabitants of any State or Territory of the United States on account of race, color, or previous condition of slavery; but the inhabitants of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right to make and enforce contracts, to sue, be parties and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom to the contrary notwithstanding."

For the first time in the history of the legislation of this country it is attempted by Congress to invade the States of this Union, and undertake to regulate the law applicable to their own citizens. The authority to enact such a law is claimed under the second section of the act providing for the amendment of the Constitution. Can it be possible that any person can conceive that under that section such an extensive power as that now claimed is actually given? By it Congress was authorized "by appropriate legislation" to carry the amendment into effect. What was the amendment? An amendment abolishing the *status* or condition of slavery, which is nothing but a *status* or condition which subjects one man to the control of another, and gives to that other the proceeds of the former's labor. Cannot that amendment be carried into effect, and the *status* of freedom established, without exercising such a power as this? I say here, as I have said before, that when that constitutional amendment was under consideration in this Chamber, there was no friend of the measure who claimed or avowed that such a power as this existed in Congress under it. This bill goes on and provides for the punishment of—

"Any person who under color of any law, statute, ordinance, regulation, or custom, shall subject or cause to be subjected any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons."

It declares that that shall be a misdemeanor, and shall subject the party so offending to a fine not exceeding \$1,000, or imprisonment not exceeding one year, or both, in the discretion of the court. It then by its provisions gives the power to commissioners, to be appointed by the court, to cause to be arrested, and to appoint agents who may cause to be arrested, any persons who shall violate its provisions, and it rewards each commissioner, the number of whom is to be increased, with a fee of ten dollars for every case he shall hear, and every agent who shall cause any person to be arrested is to receive the sum of five dollars for his trouble, and other additional costs if he shall incur any. When the fugitive slave law was under discussion, because there was a provision in it giving to the commissioner a fee for his decisions under that law, a wonderful clamor was raised throughout the country by gentlemen who are now in favor of this bill in reference to the horrid provision of the fugitive slave law in this respect. But, sir, the fugitive slave law had reference to negroes and this bill to the punishment of white men. This bill provides that the determination of questions arising under it, and under the bill establishing the Freedmen's Bureau, shall not be heard and determined by the State courts, but shall be taken from the State courts and given to the district courts of the United States. This bill authorizes the arrest and imprisonment of any and every white man in the United States who may be charged with the violation of any right attempted to be secured by it to a negro, and offers a bounty of five dollars to any miserable wretch who shall make the arrest. Can infamy in legislation go further? One only step, and this bill takes it, for it denies a trial to the accused in the courts of his State.

But to return to the bill to enlarge the powers of the Freedmen's Bureau.

What are the arguments presented in favor of this bill? I have heard none attempted, except by one Senator, upon this floor, and that was the honorable Senator from Illinois, [Mr. TRUMBULL.] The Senator from Illinois argues the right to make the appropriation contained in this bill from the fact that we have made appropriations for the Indians; on the ground, also, that this class of people has been thrown upon us by the results of the war, and are incapable of protecting themselves; and he claims for it authority under that provision of the Constitution which gives Congress the right to declare war, to raise and support armies, and to maintain a navy. He says it is not designed for times of peace, but that it is a branch of the War Department, and is meant only for times of war; and we are told by that honorable Senator that the war has not ceased, although hostilities have ceased; and he quotes in support of that view the declaration of the honorable Attorney General of the United States, who admits, in the opinions he gave, that hostilities have ceased, but says the war has not ceased. I should like to inquire what is war but a state of hostilities; and if a state of hostilities does not exist how can there be war? Is it a war of words? I thought war meant the meeting in deadly array upon the field of battle; and I never had the idea before that it was possible for a war to exist between two nations or two people when there were in fact no hostilities.

But, sir, the President of the United States, the highest executive officer of your Government, has said to you in a message delivered here that the war has ceased and that civil government is now in operation in all the seceded States. Even this bill, whatever may be the theories of some of the members of the dominant party, treats all the States that assumed to secede from the Union as existing members of the Union, and proposes to legislate in a different manner for States, which the bill upon its face admits to be States in the Union, from what it does in reference to other States in the Union. When was it ever heard of before that the Congress of the United States had, in reference to some States of the Union, they admitting them to be States in the Union, more comprehensive legislative power than they had in reference to others? If they be States in the Union, how does it happen that they are States with unequal rights and unequal privileges? Do we hear of any such thing as that in the Constitution of the United States? Is any such sentiment as that to be found in the writings of any of the founders of the Government? No, sir; it is a modern doctrine. The war is to be considered as continuing for certain purposes, and for none other; the States are to be considered as in the Union for certain purposes, and not in the Union for other purposes; and it was foreshadowed yesterday in the speech of the honorable gentleman from Massachusetts [Mr. WILSON] that when he procured additional guarantees, and when the objects and aims of the party of which he is so distinguished a leader shall be more fully accomplished, then these States are to be represented in this Chamber and a general amnesty proclaimed. Sir, if the States which assumed to secede be States in the Union, as is contemplated by this bill itself, where have you the right to exclude them from an equal representation on this floor? The Constitution of the United States declares that each State shall be entitled to two Senators in Congress. If, then, they be States in the Union, what right is there in this body to exclude them from representation? None whatever.

I pass by, therefore, the argument of the honorable Senator, that this legislation is to be justified under that provision of the Constitution which gives to Congress the power to declare war. Sir, your Constitution never did give to Congress the power to declare war against any State of this Union, and when the word is used and the power named in the Constitution, it is meant only to apply to the power of Congress to declare war against a foreign Power.

But, sir, the honorable Senator says that the war continues because the President of the United States has refused to make proclamation that there shall be an end to the suspension of the writ of *habeas corpus*. If that be true, then it is in the power of the President of the United States to continue a war simply by withholding a proclamation declaring that the suspension of the writ of *habeas corpus* no longer exists. The argument is not worthy of a serious answer, however respectable and learned the source from whence it comes. But as I have mentioned that matter, I will take occasion to repeat what I have said before, that the former President of the United States, in my judgment, never had at any time any authority to suspend the writ of *habeas corpus*. It is true the Congress of the United States passed an act authorizing him to suspend it, but that was delegating a power to the President of the United States which could only be exercised by themselves.

But, sir, if this war has not ceased where is the evidence of its continuance? Does a hostile foot tread the soil of the United States to-day? Is there an armed foe within all our borders? Not one. Peace is within all our borders. Your foes have been subdued, have submitted, and calmly acquiesce in the will of the victor. When in reorganizing their State governments unreasonable and unwarranted exactions were made of them by the executive authority they yielded to them without a murmur, and performed every act which they could reasonably suppose would be required of them. Still, sir, they are not in this and the other Hall of Congress with a refusal to allow their participation in legislation, notwithstanding they are subjected to taxation, the worst species of tyranny, and which led to and justified our great American Revolution; and we are modestly told that they are to give further and irreversible guarantees for their good behavior in the future. If such a guarantee be the granting by them of the elective franchise to the negro race, I frankly say that whatever they may do, if I were placed in like circumstances, I never would give it.

We were told by the honorable Senator from Massachusetts [Mr. Wilson] yesterday that the party in power have a great mission to perform, and those who were opposed to its objects and its aims had only to stand out of the way and let it accomplish its purpose. He referred to the fact how the Whig party had gone down under this modern spirit which actuates the party to which he belongs, how the Democratic party has been overthrown, and how his party is now on the high-road to success. He told us of the wonderful things that it has accomplished. He told us that it had lifted and raised this country in the eyes of all Christian people to the very heights of heaven in comparison to the position which it sustained before.

Sir, what has his party done? This party of yesterday, with no record except during the last five or six years, when it came into power, found a united country extending from ocean to ocean, and from the frozen regions of the north to the sunny plains of the south. It found the Government administered at an expense to the people of this whole country of only some sixty or seventy million dollars. It found peace, happiness, and contentment everywhere. No foreign nation insulted your flag. No foreign minister said to your Secretary of State and to your President, "Send a ship-of-war, and put on board one of our vessels two men whom you have wrongfully taken from them." There was no sound of arms within the limits of the whole country. This Republican party succeeded to power, and what has occurred? They foresaw that their policy, if pursued, would lead to a temporary, if not a final disruption of the American Union. They had the power in their hands to prevent the effusion of a single drop of blood. They were besought by the people, North and South, East and West, to prevent the effusion of blood. They were deaf to all the calls of their countrymen, and they, uniting with men whose pas-

sions their course had aroused, plunged this country in all the horrors of a civil war. Nearly a million of your countrymen, North and South, have fallen a sacrifice to the triumph and the success of the principles of the Republican party, and a debt of \$4,000,000,000 now weighs down the industry of the American people. Every house has been clothed in mourning; every eye almost has been dimmed with tears. That has been the penalty that the American people have paid for the success and the triumph to which the Senator alluded.

Sir, that is not all that his party has done. There is not a constitutional right of the people of this country that his party has not invaded, either through its Executive or its Congress, or some one of its departments or branches. Sir, be it spoken to the credit of the Democratic party, that while it was in power, no man, however humble, within the limits of the United States was ever arrested or tried except according to law; no single newspaper was ever suppressed; no domicile of the humblest citizen was ever invaded. All these violations of the constitutional rights of the people of the States have taken place since the ascendancy of the party to which the Senator belongs to power.

But, Mr. President, I am not surprised that the honorable Senator should profess to have no unkind feelings toward the southern people. I am not surprised that he should be willing, not only in the kindness of his heart, but in the coolness of his judgment, to grant a general amnesty when he can receive a few more guarantees. Secession is not a doctrine of southern origin, and well may the Senator feel no unkindness for pupils, those who believed in it. Where did secession have its origin? In the South? No, sir. If an ex-President of the United States from the Senator's own State is a credible witness, there existed within the limits of his own State, and of his own dear New England, which I shall not attack, for it is not my province to say an unkind word against any of the States of this Union, and I do not presume to do so—but if John Quincy Adams be a credible witness, there existed, as far back as 1803 and 1804, a design among leading men in the section of country from which the Senator comes to dissolve this Union; and he affirmed as lately as 1828 that that design had gone so far as that its advocates had agreed upon a military leader, and that in case of civil war the power of Great Britain was to be invoked to aid them. In further proof that the doctrine of secession is not of southern origin, the honorable Senator has only to consult the records of the debates of Congress in 1811, and he will find there that when a bill was presented to the Congress of the United States for the admission of Louisiana into the Union, Josiah Quincy, from his own State, avowed upon the floor of Congress that the passage of that bill would absolve his section of the Union from any obligation to remain in it. Sir, while the recollection of the Hartford Convention continues it is well that the men of New England should not too harshly judge secessionists.

Massachusetts has not been alone in favoring this doctrine. Another one of the free States of this country has produced a bright and shining light in the law, who has also declared in favor of the right of secession. I refer, without troubling the Senate with a citation from the book, to Mr. Rawle's Commentaries on the Constitution of the United States, in which he distinctly avows the right of a State to secede.

I only allude to these facts to show that it was very natural for the Senator from Massachusetts to express the opinion that he did not wish the effusion of any more blood, because the very doctrine from which the war has resulted, with the cooperation of other doctrines of which the Senator is the advocate, had their origin in his own section of the country.

One other remark, and I shall trouble the Senate no longer. It is supposed by the honorable Senator from Massachusetts, and those who cooperate with him, that the Democratic party of this country has gone down in the dust, and that his party is to continue in the future

as in the past four years, in power. The honorable Senator from Kentucky [Mr. Guthrie] yesterday, referring to that remark, reminded the Senator from Massachusetts that in the last presidential election the Democratic candidate received eighteen hundred thousand votes. And, sir, when you recollect against what the Democratic party had to contend—bayonets in Maryland, bayonets in Delaware, bayonets in Kentucky, bayonets in Missouri, and the Treasury of this country—I ask you if it is not reasonable to suppose that had that party been free from such opposition as this it would have succeeded in that contest? But, sir, pass your present bills, pass your negro-suffrage bills, carry out your doctrine that the negro is not only the equal, but the superior of the white man, and is to be supported at the expense of the white man, and I have no doubt that the Democratic party, which the Senator supposes to be dead, will rise again, and that this Hall, and the Hall of the other House, will be filled with the members of that party.

One word to my Democratic friends. What is their duty in this emergency? It is to stand fast and firmly by their principles and to their party organization, to be true to themselves, and their course will meet with the approval of their own judgment in the future, and will be crowned with success.

Mr. FESSENDEN. Mr. President, I design to say a few words, perhaps not very much upon the bill itself, although the bill has given me some little trouble in considering it.

The honorable Senator who has just spoken, in the close of his remarks prophesies that if we proceed in the system of measures that we have decided upon, the Democratic party will very soon be in possession of both Halls of Congress. I do not know that I should hesitate a great while in doing that which I thought to be right and just even in view of such a calamity. I acknowledge the force of the prophecy in one sense; and that is, that when he tells us such will be the result, I feel that the innumerable evils that would follow from it are such as might well make us pause. If I really believed that such a consummation was to come about in any short time from any system of measures we have adopted or were about to adopt, I should dread so much the evils that would follow, that perhaps I might hesitate. I do not apprehend, however, that that calamity is so near at hand that an apprehension of it ought to influence my action on measures that I think to be proper and just in themselves.

Now, sir, let us look for a single instant upon the condition in which we find ourselves. We are at the close of a great war, and a war that was brought upon us by the Democratic party. The great mass of the Democratic party, the leading portion of it, was the southern portion. I do not say that all the Democrats were in favor of the war. I acknowledge that a very great portion of them have proved themselves to be good and true patriots, as good and true patriots and as good friends to their country as any set of men, but I do say that the support which the Democratic party gave to the South, in all its measures of aggression, was a degree of encouragement without which I do not believe the war ever would have occurred. That has been my opinion always, and I have no hesitation in expressing it now.

If the war was brought upon us by the South, and a result has followed which may be afflicting to them for a series of years, even in the matter of money appropriations as well as in other respects, it is not for them to complain. They initiated it; they drove us into the necessity which led to it; and if the result is disastrous and continues to be oppressive, so far as necessary measures are concerned, they have themselves to thank for it, and cannot complain of the Congress of the United States if it takes measures to set all things right. And if the great Democratic party, as a party, by its previous course, is responsible in any degree for it, by way of encouragement it afforded or otherwise, it is not even for that party as a party to complain of the measures which may be found

necessary at the present time. They also have taken the consequences of their action to a certain extent, and I think they ought to be silent upon everything which is a natural and necessary and inevitable result of the contest for which they, in a degree, were responsible.

Mr. McDUGALL. Will the Senator allow me to make a single interrogation? The great Democratic party have been the maintainers of the Union from the time when trouble first came until triumph was accomplished; and it cannot be said with any justice by any gentleman on the floor of the Senate or otherwise that they have failed to maintain the integrity of the Union with their blood and with their strength; and it cannot be accredited to any persons who call themselves antagonists to the Democratic party that they have been better maintainers of this Union, from the center all around to the circumference. I make that remark as a challenge to the Senator's observation, claiming what may not be properly claimed. Braver men never came from any country than from his, from the pine woods of Maine, but Democrats came from there as well as Republicans; and the Democrats from the East and the West, going down upon the South, were equally armed with his political friends. I do not claim any privilege for them, although I have been proud that Democrats were in the advance.

Mr. FESSENDEN. That seems to be rather a speech than an explanation.

Mr. McDUGALL. Not a speech, but I do not like the remark that you made and the challenge you threw down.

Mr. FESSENDEN. If the Senator, or any other Senator, does not like the remarks I make he is at liberty to reply, not to interrupt me for the sake of interjecting his own opinions.

Mr. McDUGALL. I shall not interrupt the Senator again.

Mr. FESSENDEN. I shall be very much obliged to the Senator if he will not. My opinions I express. I made a distinction—I am very happy to make it—between the individuals composing the rank and file of the Democratic party, many of them, and the acts of the party in advance of the war. That is a totally different question. That the great mass of the Democrats at the North have shown themselves lovers of their country and have entered into this contest and fought bravely and served bravely, and, more than all, sustained the Government throughout in the most manly and patriotic way, and are doing it to this day, I freely acknowledge. I was speaking of previous acts. As my friend at my elbow [Mr. CLARK] observes, what killed the Democratic party was that the mass of them would not follow their leaders.

I am not apt to talk politics on this floor, and I have merely made this statement in reply to what was said by the honorable Senator from Delaware.

Now, permit me to say, we hear a great many threats of the disruption of the Union party; of the overthrow we are to experience; of the good time that is coming for those who are not having the most agreeable time in the world. Well, sir, perhaps it may come. It is not for me to say that it will not. Perhaps the great party which has the control of the country at the present time will commit such errors that the people will get tired and wish for a change. Nothing is more natural. The possession of power for a long time is apt to make men careless, if not corrupt, and it is a good thing in a republic that the people can change, and do see fit to change, from time to time, their rulers. But let me say to that Senator and to others, that we hope the party in power now will continue long enough to set things right, so that when there is a change there will not be so great a capacity for evil as there would have been had we not remained in power so long. We will endeavor to strengthen the country if we cannot strengthen ourselves, and that is all that good patriots ought to ask. We will do what we can for the public good while we remain in power, and not be frightened from that by the

idea that our reign is to be a short one. Short or long, I hope it will be honorable.

The honorable Senator from Delaware has renewed the charges of our having broken the Constitution all along from the beginning, violated constitutional provisions, had Federal bayonets at the polls in several States, &c. Why, sir, the honorable Senator and other Senators are on record upon that subject here and before the country over and over again. It has been the cry from the beginning, from the very inception five years ago very nearly, of the power which we then attained. What effect has it produced upon the public mind? Can gentlemen flatter themselves that they have frightened anybody? Can they flatter themselves that they have created the least alarm? Can they flatter themselves that they have gained strength by it? Are they stronger to-day than they have been at any previous time since the accession of the Republican party to power? It does not look so to me. If such is the fact, I should like to have them point to the record of it, and if they cannot point to any such record after all they have said, and all the outcry they have made, the natural inference would be that the country does not care much for what they do say on such subjects. The people expect to hear it as a matter of course in order to produce a certain effect, and really let it pass as a sort of necessity: they must listen to it to a certain extent.

Mr. President, I was about to say that this bill, as it stands, is intended to meet a necessary or an inevitable result of the war—a war initiated by the South, carried on by them—a contest long, bitter, and exhausting. In the course of that war it became necessary to take measures to emancipate the slaves. Those measures were taken; they had their effect; and as a consequence, the Constitution has now been changed so that slavery no longer exists in this country. A large body of men, women, and children, millions in number, who had received no education, who had been laboring from generation to generation for their white owners and masters, able to own nothing, to accomplish nothing, are thrown, without protection, without aid, upon the charities of the world, in communities hostile to them, in communities which had been in the habit of looking upon them not only with derision but with all the feelings of contempt which it is possible one human being can indulge toward another; so far as their status was concerned and so far as they were concerned; and in communities, too, angered, outraged, if you please, by the fact that all these men had been freed from their domination. That was a necessity arising out of the contest. They were so freed, and found themselves and were found in that condition; and why? For the reason that we were compelled to avail ourselves of their services, in one particular, and in another for the reason that we were compelled to deprive their masters of the material aid which they furnished toward carrying on the contest against us; and thus we find them when arms have disappeared.

Now, will any man tell me that under such circumstances, a great people having availed themselves of that very fact, having used those former slaves, having deprived the enemy of all the aid which he received from them, will now throw them upon the world without the slightest protection, without the slightest aid, without any comfort, exposed to persecution and prosecution in every possible shape; and why? Because there is no provision in the Constitution whereby Congress is authorized to feed and clothe anybody. We have a written Constitution. In spite of all that the honorable Senator from Delaware has chosen to say, I think we have a respect for it. I think in all cases we have endeavored to adhere to it. There may have been some cases during the war where its provisions were violated, and perhaps necessarily violated. That comes as a matter inevitable in the course of all Governments in the many contingencies to which they are exposed, and under circumstances for which no previous pro-

vision could be made; but I would have gentlemen to reflect upon one thing, that as a part of the constitution, written or unwritten, of all Governments, stand the laws of nations necessarily, inevitably, from the relations which all communities bear to each other, and from the contingencies to which they are exposed. That being the case, and that unwritten law of nations being actually a part of our written law, we accept, as we must accept, all the consequences which follow from it.

We have been plunged into a war almost, if not quite, the greatest of modern times, involving vast results. Will gentlemen undertake to tell me that under such circumstances the necessary results of that war, if it brings about a state of things not found in our written Constitution, are to be avoided, shunned, not noticed in any possible way; that our affairs as connected with it are not to be closed up under the same law which governed us and govern all nations while the war continued? If so, what a miserable, weak, powerless people we are. We can carry on a great war, but the moment the clash of arms has ceased to strike our ears we become utterly powerless to provide for any of its necessary and inevitable results, because it is not written in the Constitution what we should do in a case which could not be foreseen, and which the founders of this Government purposely avoided foreseeing or speaking about! They provided on general principles for the emergency, but did not talk of it as a thing that could possibly occur. The Greeks would not mention in their laws the crime of parricide, because they would not suppose it was a crime that could ever be perpetrated.

We find ourselves in that condition, we, the Congress of the United States who have been carrying on this war—because after all, as part of the Government, we have carried it on—the gentlemen who sit opposite me, and who do not agree with me in my political views and sentiments, and with whom I do not agree, giving their aid to the same thing, I trust with a good heart and good spirit, I trust honestly and meaning all they appeared to do; and when they find us or find themselves and the Government in this condition necessarily as an inevitable and unavoidable result of the contest which they themselves have waged, the moment we begin to provide for what came out of it they tell us, "You are working against the Constitution; you cannot find anything there by which you can feed or clothe a man, woman, or child." That is the substance of what the honorable Senator from Delaware has told us to-day, and he finds particular offense in the fact that occasionally you see a skin a little darker than his own in the gallery. That is unconstitutional, too, I suppose. [Laughter.]

Sir, I accept no such doctrines. Whether you call it the war power or some other power, the power must necessarily exist, from the nature of the case, somewhere, and if anywhere, in us, to provide for what was one of the results of the contests in which we have been engaged. All the world would cry shame upon us if we did not. I know the gentlemen on the other side of the House, and personally I respect them; we are on the best terms in the world that men can be on who do not think alike; and I would trust the honorable Senator from Delaware himself if the case was put upon him to decide and he had to bear the responsibility of it before the world. He would not dare, no, he would not wish, to avoid it. Every sentiment of his heart and every manly emotion of his nature would revolt at any such idea. It only shows the difference between what a man would do himself and what for party purposes he can advise others to do.

I have thus stated the foundation of the bill. And what have we already done? At the last session of Congress we did what, although I was not a member of Congress at the time, met with my perfect approbation; we put it upon the War Department to take care of these people who had been a part of the war and an essential part of the war. We recognized it as

connected with the military operations of the country, as it properly was. I did not approve at the time of the attempt to put it in any shape upon the Treasury Department; it did not belong there. It was connected with our military operations and could best be carried on as a part of them. Those operations having ceased in the field, we were not by that means delivered from what remained to be done in order to carry out to the full all that it was incumbent upon us to do in order to accomplish the purpose. We could not divest ourselves if we would of the responsibility that was upon us in reference to that matter, and we would not if we could; and again I will do the honorable Senators on the other side the justice to say that if the responsibility was on them they would not attempt any such thing for their own good name and for the good name and credit of their country.

It becomes necessary, in the judgment of the bureau that was then constituted, to make some amendments in the law and to extend its power. What is the outcry against it? It is said it is going to cost a great deal of money, and you tax the white people in order to meet this expense. This cry of taxation is all right enough. I do not complain of gentlemen for guarding the public Treasury carefully. I do not complain of my honorable friend from Indiana [Mr. HENDRICKS] for looking out well for the public funds. I wish he and those who act with him would always be just as careful of the public lands which are part of the property of the country, and as sharp and as keen not to let an acre or an inch go except for some general purpose. I never heard of his objecting at any time to very liberal appropriations of the public lands for the benefit of the States in which they are situated. When I am talking about the property of the Republic, it does not make any very great difference to me whether it is land or money. Each is equally a part of the public property. What is in the Treasury, and what may come into it with proper management, are in my view equally valuable and equally to be regarded.

When gentlemen from any State which has been a confederate State undertake to tell me, "You are taxing the white man for the benefit of the negro," I will say, "Sir, you did this thing; had you not commenced this war and driven us to this necessity there would have been no taxation; you are responsible for it, not we; you have placed the necessity upon us; we have not placed it upon ourselves." And if there is any gentleman who encouraged the South in their previous action and held out to them even a sympathetic hand in the course they were pursuing—if there is any such person, here or elsewhere, I say to him, "You make this drain upon the Treasury, not we; you are the persons who are responsible for it—the South and their northern allies, if they had any such;" and I know they had some—none in this Chamber, but many able men out of it—who did sympathize with them and aid them all they could. I say to them, "When you talk about the great expense of this thing, tell them that you were the authors of it, and that your measures and your sympathies brought it upon the country, and that the dominant party in the Congress of the United States are simply trying to do the best they can with the result of your wickedness."

Now, sir, I will trust the Commissioner who stands at the head of this bureau for his own calculations. I will trust him because I know his ability and I know his integrity. He has examined this matter thoroughly and studied it well, and knows what he wishes to accomplish and knows what he ought to accomplish, and unless I see something upon the face of them that is in my judgment incorrect and wrong, I am willing to take his calculations as a general rule.

I listened with very great attention to the argument of the honorable Senator from Indiana. It was like all his arguments, directly to the point which he was discussing. He was

attacking the bill. His argument was mainly confined to the question of expense. But, sir, is that really an argument? Ought not the thing to be done? That is the question. Will you make no appropriations for the benefit of these people; not only the colored people who have thus been thrown upon the world, but the refugees who have been driven by the war from their States, out of their possessions, and reduced to poverty and misery? I do not fear that if that question was put to the Senator from Indiana, and he compelled to answer it, he would say, "We must do it, and we have the power to do it." If he would not, I have totally misjudged him, I will not say in what particulars, but I formed altogether a very different opinion of him from what I would if he said we could do nothing. If we can do anything, if we can appropriate any money for the use of the War Department to meet a result of the war which was inevitable, where shall we draw the line of distinction? I was struck the other day by the argument with reference to the purchase of land; it staggered me somewhat, and I do not feel so perfectly clear upon it now; but Senators will reflect that when we look upon measures we are very apt to go back to previous days, when in a time of peace we guarded every approach to an expenditure for which we could not find a specific warrant.

Sir, we have now been taught that the Government possesses much larger and ampler powers than we had supposed. It was well at that day that such was the prevailing notion. It is well and it will be well if we revert to it as much as we possibly can; but if we attempt to hold that under an unexampled state of facts we cannot go beyond the rules that were laid down for our action in time of profound peace in reference to appropriations from the Treasury, we shall find ourselves utterly powerless to do what it is absolutely incumbent on us to do. So, then, the argument of money does not reach me, nor does the argument drawn from the constitutionality of the act. I might go further, and say that if everything else failed I might even perhaps agree with my friend, the honorable chairman of the Committee on the Judiciary, that under the second provision of the constitutional amendment, giving power to enforce the previous provision granting the freedom of the negro, we might do all that we judged essential in order to secure him in that liberty the enjoyment of which we have conferred upon him.

With regard, therefore, to all these details of objection to the bill—and I rose principally to say this—I see nothing which should trouble anybody arising from the considerations which have been advanced to us with reference to the constitutionality of the bill itself. We must meet it, and we must meet it under some power. There is no positive prohibition. It is a thing to be done. We have the power to appropriate money; and though we do not find a specific power to appropriate money for this particular purpose, it is yet an object of Government; a thing that the Government and country must provide for, and there is no other way of doing it. If we may appropriate money for this purpose, I ask the Senator to tell me what the distinction is between money and land; for, much as the objection originally struck me, I have been obliged to inquire why if I found the power to do the one I did not find the power to do the other. We may give away the public lands, but it does not follow from that power that we cannot purchase land. We may take the title and the power of Government over lands that are purchased for the mere purpose of carrying into execution certain specified powers. That has been decided. But because we may have specific permission in the Constitution to do that, it is a *non sequitur* that we have no power beyond it. To be sure, the lawyer's argument may be that from the fact of certain powers being specifically granted others are excluded; but we cannot argue thus in this case when we come to apply it to a state of facts that could not be contemplated before they arose.

I desired to say this much because I myself

stated a difficulty to the honorable Senator who is chairman of this committee the other day, and I have had some conversation with him on the subject since. I cannot work the problem out, and nobody else can, to show that in the Constitution itself there is a clear power; but I can work the problem out to show that the power may be found when the positive necessity of the thing is apparent, where the thing must be done, and must be done by the Government as a consequence of other things that it was compelled to do, and that it had a perfect right to do. Otherwise, as I have said before, we are a Government without the necessary powers to carry out and effect our own objects.

I am therefore willing to vote for a bill that has these provisions in it. I see no difficulty about them, except that which arises from objections that have been made by some gentlemen with reference to carrying this bureau into their States. That has been discussed and decided, and I do not propose for the mere purpose of talking to argue that question further. Everything has been stated on both sides of it, and the Senate has settled the point.

Now, sir, having said this generally with regard to the bill—and although in some of its details I might perhaps wish that we could get along without doing what might seem to be offensive in some States, and what might be used in an offensive sense against us, yet I am ready to vote for it, because it is the result of the best thought that a very able committee has brought to bear upon it, and it has been somewhat amended—I shall dismiss any further remarks upon the bill itself, because really to speak of that was but one of my objects in rising. I do not intend to avail myself of this occasion upon a bill of this description to say anything upon the subject of reconstruction. My position on the committee which has the condition of the late so-called confederate States in charge is such that I could not with propriety express any opinions upon what ought to be done. That will be known by the result of our deliberations, whatever that result may be. I have noticed, however, that gentlemen, perhaps on both sides of the House, were a little anxious to express their opinion beforehand and in advance of the report of the committee upon that subject; to discuss the question before they had the benefit, if it is to be a benefit, of the facts that we may be able to state and the conclusions to which we may finally come. That is a matter for every gentleman to judge of for himself, and it is not for me to complain of the result at which he may arrive in his own mind as governing his own action; but there is one thing upon which I do wish to say a word or two.

Senators, and able Senators, on both sides of the House have chosen, in the course of the debate, to talk a great deal about the policy of the President and the policy of Congress. I said a word or two before on that subject at the commencement of the session, when the matter was first broached here. I wish now to say a word or two more. I can understand why gentlemen on the other side of the House, and gentlemen of the same way of thinking out of this House, should be very anxious to get up the idea that there is a collision of opinion between the President and Congress. We have all sorts of rumors where "the wish is father to the thought." One day we hear that such a Cabinet minister is to be turned out or resign; another day we hear that something else is being done, that the President has said this, that the President means to ostracize people who do not support his policy, &c.—all idle, ridiculous rumors, without the slightest foundation except the wish of those who invent them and give them currency. I understand the object. It will be a point for gentlemen on the other side of the Senate, and their friends outside, if they can make the people believe that there is or is likely to be some collision between the great party which elected the President and the President himself. I beg gentlemen not to flatter themselves with any such idea. I have not, as yet, seen the slightest indication of it, and I do not expect to see

it. Why, sir, even suppose there is a difference of opinion, to a certain extent, as to the time and manner of accomplishing a great work, which we all desire to see accomplished at the earliest possible day, does it follow that because there is that difference of opinion, to a certain extent, greater or less, therefore there is to be a collision? I know very well that gentlemen hang about the President and the White House, and very probably try to persuade him, and, whispering in his ear, (the Senate will remember the poetic illustration of the serpent tempter, "squat like a toad at the ear of Eve,") insinuate that those who ought to be his best friends, and who are his friends and supporters, are not doing all they ought to do to sustain him. Do they in their secret souls pay the President the poor compliment to think that he does not see through all those suggestions of what they dare not openly speak? Do they think he is not a man of sense, that he is not a man of fixed opinions, that he does not know his friends? Let me say that, in my judgment, they mistake him. Sir, there is no collision; and I say it—be my word worth much or little—for the benefit of the country, to add my word to that statement of fact. Why? Because the President has done nothing that his friends complain of, and his friends in Congress have done nothing that he can complain of.

Sir, what was his authority? He was Commander-in-Chief of the Army, and as such, when the enemy ceased to exist, he had power necessarily to control the rebellious States which were thus reduced to subjection. It was his duty to control them, and to control them as the Commander-in-Chief of the Army, having the military power in his hands, to keep order, to see that there was no anarchy; and if he chose to say to the confederate States, or to any portion of them, "I will appoint a provisional governor for you; if you choose to come together in a certain way and make a constitution of government for yourselves and take the power into your own hands of regulating your own domestic internal affairs, I will give you all the aid I can, and when you do it to my satisfaction and I think it is safe I will then withdraw the Army, or such portion of it as I see fit, and leave you to legislate for yourselves," he did what he had a perfect right to do and what nobody has a right to complain of. I might have done differently if I had been President, but I might probably not have done so wisely as he did. It is not for me to say that my opinion, had it differed from his, would have been wiser than his or better than his; but what I mean to say is that his policy went to that extent, and so far as he had the power to exercise it in a given way he exercised it rightfully, and we have no occasion to complain of it. He may think that these States are ready to come back altogether, and to send their Senators and Representatives to Congress. I do not know how that may be. I think they should come in at the earliest possible moment that they can come with safety. So he thinks. We may differ as to the time.

But mark me, sir, no man in this country, to my certain knowledge, has a greater respect for the Constitution or a more profound respect for the rights and privileges of the coordinate branches of this Government than the President of the United States. His life has illustrated it; and whatever gentlemen may think, he, in my judgment, would be the last man to complain of Congress for acting with reference to what is peculiarly incumbent upon them according to their own judgment and sense of propriety, so long as all the branches of the Government agree in this, that when it can be done safely, at the earliest possible moment, all the States should be restored to their position in the Union. So long as that is agreed upon, and we are all working together to that end, it is not to be expected that my friends here, there, or elsewhere, will quarrel with me for differing with him in opinion as to the time and as to the manner in doing it, and more especially shall I not think of quarreling with him when it belongs to him to decide, and not to me.

Now, sir, all this talk about the President's policy—whether it comes from the other side of the House, from which it may properly come and be heard, or whether it comes from our side of the House, from which, in my most respectful judgment, it cannot so properly come, in the present state of things—amounts to nothing at all. I have thought that all the danger there was in this country arising from any source would come from extremes. Some men cannot get things just exactly according to their ideas and exactly in their own time, and other men want to be considered as knowing more about affairs than anybody else; and they stand as somebody—I think it was my friend from Massachusetts, [Mr. WILSON]—said yesterday, as a sort of scatteration party that really do not affect the great issue one way or the other. Here are Congress, doing what? What they ought to do, what no man can dispute their perfect right to do, what no man can dispute their entire duty to do; and that is this: before taking a step which is perhaps to affect the welfare of this Government in all future time, and in acting upon a question that belongs peculiarly to them, the united wisdom of the nation as manifested through its agents in Congress deems it a duty to deliberate quietly, calmly, and patiently upon what it is best to do. Do you think anybody will quarrel with that? We do not mean to jump at conclusions; we mean to act as fast as we can safely; but we do not mean to be hurried beyond what our judgment dictates as the necessary time for deliberation and for action. The nation will, however, understand, and does understand, that while Congress is doing this, it is anxious, as the people are anxious, that all these questions should be settled at the earliest possible day, that we may get rid of all this agitation, that we may be again a united people, with all the stars in the flag, which my honorable friend from Wisconsin [Mr. DOOLITTLE] says are there, and having a right to shine one with as much luster as another; and so far as I am concerned—and I believe that to be the general feeling of the friends with whom I act—I seek not to impose nor shall I try to impose any conditions upon any people in this Union who are to make a part of us that either now or at any future time shall have anything in them of the character of degradation.

It is not to be supposed, it cannot possibly be supposed for a moment, that the people of the confederate States who have been at war with us feel kindly toward us. I should not at once feel kindly toward any enemy who had conquered me, and through whom I had suffered, even if I was wrong. Such is human nature. Time is necessary to soften all animosities. Time is necessary to overcome prejudice. Time is necessary to make people reflect calmly upon what has taken place. They cannot do it in the heat of the contest or until they have had time to cool. It is, therefore, to be expected that much will occur, and for a considerable period of time, that will occasion still greater animosity perhaps, that will indicate a state of feeling that may render a perfect reunion apparently impossible; but I trust in God that the time will come and is not far distant when all the States may be properly represented here. I agree fully with the honorable Senator from Kentucky [Mr. GUTHRIE] who addressed the Senate the other day, in saying that I should be as much averse as he is to doing anything which by any possibility should be construed into putting a stigma upon any people who are to become members of this community of States, if they are not now.

But, while I say this, I say that I trust our friends here will not allow themselves to be hurried or to be frightened by any talk about this policy or that policy, or this collision or that trouble anywhere. I do not fear it. I believe, and I know, that there is patriotism and magnanimity and love of country at both ends of the avenue, and I do not believe that anything that can be said by anybody who is disposed to make a difficulty will occasion one with men constituted as we are. I warn gentlemen now that all the efforts they make in

that direction will, in my judgment, prove total failures, and they will find themselves reckoning without their host.

Mr. President, I have said perhaps more than I ought to say on that subject; but I desire to enter my protest against this kind of discussion, taking it for granted, as gentlemen seem to do, that there was a difficulty, when they could not tell where and about a subject they did not know what. Either they do not understand it or they purposely misrepresent it. I believe we should go on, pass this measure and the series of measures that we have decided upon, and carry them into execution. Gentlemen will make an outcry about their unconstitutionality; they will threaten us with the growth of the Democratic party, and what is to come after. We will try to possess our souls in patience, and wait until the calamity comes, and, when it does, meet it with the best grace we can.

Mr. McDOUGALL. Mr. President, I rise to reply to a single observation which caught my ear as the Senator from Maine was about taking his seat, and I make this reply because I desire it to be marked and understood. There are a great many evil things in this country, and those evil things have been culminating upon us for a long time, and the culmination almost, not quite, has been expressed in the last remark of the Senator from Maine, when he says, "We have settled these things; we have determined that we will do thus." Who are "we?" The Senate of the United States? The councilors who come here to take care of and counsel about the great affairs of this Republic? The persons with whom are charged our great necessities? Are they the "we?" No, not we, but us, the men who withdraw themselves from the Senate of the United States and make themselves a clique, a partisan crowd, who go down into caucus and there settle what is to be done in the Federal Senate of the United States. Observe that "we" does not cover all of the Senate. The Senator says, "We have settled these things, and therefore they shall be done." Wicked or worse words never were said in any high council hall in the world, and they never should be said in this council hall. It is within very recent years, and within the time of the ascendancy of the party of whom the Senator is one, that men in caucus spoke to the Federal Senate and did not speak in council hall. I have a right by my commission which accredits me to this body to speak in this Chamber as well as any man on this floor; but I have no voice here, and I have been without a voice for years, because I have not happened to coincide with all the notions of those who now form the majority.

The Senator from Maine arises here, and with his stern voice and his semi-omnipotent power says, "We say thus." Who are "we?" Are "we" a partisan crowd in the Senate Chamber organized for partisan efforts, or are "we" councilors of the nation?

Unhappily, Mr. President, for this nation, the Senator speaks for partisan councilors in this Hall, and not for the great nation, not after consulting with all the Senate, but seeking a crowd who may possess a majority, that can make a rule and compel results. These things were not known in the former days of our Republic, and as far as my memory runs they were not known in the days when the party to which I belong were said to be in the ascendant. Antagonist as we were to the party in opposition to us, we yet met them in council, and as we differed we voted, and the result followed, not by any rule made in an ante-chamber, but by the best judgment of the gentlemen who sat on the Senate floor. That high office that was then filled by Senators of the United States has been degraded, and the Senator from Maine is boasting of it; that, calling his clansmen to his heels, he with his retainers can achieve a triumph against all argument, against all reason, against the best judgment of men here on the floor.

I say this is one of the worst signs of the Republic. I do not speak ignorantly. This was the uniform evil that affected republics in

ancient times. The power of a majority used tyrannically is the worst tyranny in the world. So it has been affirmed; so all history teaches. A disposition has been affirmed of the majority here to exhibit their power and boast of it, and say, "We are the Senate; you who sit on the other side of the Chamber are nobody; we have the power and God has enlightened us," as some of them say; but the Senator from Maine does not say that. They have the power to accomplish results, and therefore things are to be done, and the question is not whether it is right or wrong, but "we," the majority, "have the power and we will maintain it." It happened a long time ago that a man who had a desperate purpose in his head said, expressing his wrath:

"Like to the Pontic sea,
Whose icy current and compulsive course
Ne'er feels retiring ebb, but keeps due on
To the Propontic and the Hellespont;
Even so, my bloody thoughts, with violent pace,
Shall ne'er look back ne'er ebb to humble love,
Till that a capable and wide revenge
Swallow them up."

That is the expression of the power of majority. They may remember that that old Moor of Venice, when he had expressed his triumph in action and had achieved all that his wrath commanded, fell down and placed the dagger to his own bosom. I say to gentlemen who command the majority now and who do it with a wrathful force, that they may find the time when they will be very much like the Moor of Venice, who, not during the exercise of his force but afterward, came to the consciousness of the great wrong that he had committed.

Now I, as northern a man as any one on this floor, say to gentlemen that it is well to consider whether there may not be others than the Senator from Maine and other Senators from the New England States that belong to this Union. My own impression is that as true men belong to this Confederacy in every part of the Union as belong to any part of the New England States. I think that as good men belong to my own State. I think that on a former occasion I stated—I beg pardon now for repeating it—that when the Union was in trouble, I first affirmed on my coast that it had to be maintained. On that occasion I was the first who dared to affirm that it should be maintained, and I did it in the presence of pistols and knives; I was then considered a very good Union man, but in these modern times, in the times of which we are presently speaking, I am not considered a very good Union man. My colleague from California who followed me on that occasion remembers the incident to which I have alluded, and he remembers that I made the first Union speech made on our coast, and it was at a time when almost everybody who was called to speak failed.

Now, it is not worth while for New England or for the middle States, or for the northern States to engage in these discussions. For myself, I say that these discussions anger me, because wise men, just men, true men, ought to drop all such considerations and come to the just appreciation of the condition in which we are. I differ with Senators about many matters of detail, but probably not so much in regard to conclusions. I think we ought to go to work and vote on proper measures of legislation and arrive at just conclusions. I happen to be one of those who do not believe that New England knows as much about the South as I do myself, living between South and North, if you please, and I shall exercise my own judgment. Let us go to work and do our business, settle this pending question and settle other questions that are before us, without much further discussion. I believe I have not troubled the Senate much, and shall do so no more now.

Mr. HENDRICKS. Mr. President, I did not intend to say another word on the bill now before the Senate, but as the Senator from Maine made quite a direct allusion to a portion of the argument which I felt it to be my duty to present, I will very briefly reply.

I do not, in the first place, intend to reply at any length to that portion of his speech which was political. Of course he knows that he dif-

fers from the minority here upon the question upon which he has expressed an opinion, and that was, that the Democratic party was responsible for the late war. My views are simply these: this was a Government, a confederation of equal States, each State secure, under the Constitution, in the control of its domestic affairs. Its domestic institutions were not at all to be controlled by the Federal Government. In respect to one of the institutions of a portion of the States, there was a constitutional guarantee of its protection, and all the States were pledged in good faith to stand by that guarantee as by every other provision of the Constitution. I thought that any disregard of the obligations of the Constitution, any attack upon the provisions of the Constitution, any refusal to obey any portion of the Constitution, was revolutionary in its character and tended to disruption, and I did think, for a number of years, some of the States in the North, and many of the people of the North, under the sentiment that there was a higher law than the Constitution, had refused that sort of respect to a portion of the Constitution which was necessary for the peace and quiet of the country. On the other hand, I think that there were men in the southern States, known as fire-eaters, disturbers of the peace, that took advantage of what was a partial sentiment of the North, to excite a very violent prejudice on the part of the people of the South toward the people of the North. I then believed, and I yet believe, that it was the agitation by a portion of the men of the North and the agitation by a portion of the men of the South that got the people of the North and the people of the South to hate each other, and thence came war. That was my opinion then, and that is my opinion now.

I do not admit the force of the Senator's argument that in the South the Democratic party was particularly strong, and because the revolution broke out in the South, therefore the Democratic party, as a party, are responsible for it. When the men of the South went off into revolution they separated their connection with the Democracy of the North. Then the Democracy of the North stood alone upon its fealty and its allegiance to the Constitution of the Union. Sir, is it fair to say that because a portion of the Democratic party was found in the South, and that a portion of those men were guilty of wrong, therefore it attaches to the whole party? Does the Senator ignore that mighty party at the North? Is he not aware of the fact that Indiana and Illinois almost continuously were Democratic States? Does he ignore the fact that in the great empire State of Ohio the Democratic party for half the time had maintained an ascendancy? Does he dispute the fact that in the great State of Pennsylvania the Democratic party for many years controlled its affairs? Does he not know that in the Empire State of New York the Democratic party prior to and up to the present time has been and is a mighty power? Then, sir, strong here, strong in the North alone, giving the great vote that the Senator from Kentucky referred to yesterday, a mighty party within the northern States alone, it did not cease to be a party because the southern Democracy went off from it and went into revolution. If the Senator can satisfy himself that to deny constitutional obligation, and to set up above that the conscience of the citizen against the Constitution to agitate those questions which the Constitution has settled, is not revolutionary in its tendencies, that it does not tend to disrupt and break up the Union, then the Senator can satisfy himself that his portion of the people are not at all responsible.

Nor, sir, do I undertake to discuss the further question which he understands very much better than I do, who has a special right to the confidence of the President of the United States. I did not help to elect him, the Senator did. I hope the President will confine his patronage to the men who helped to elect him. That is my feeling upon that subject, and if that is at all a disturbing question with the Senator, I hope that he will not in future be disturbed by it.

The Senator says, not addressing us particularly, but as a sort of friendly lecture to his own party—and therefore I am not required to answer it at length—that there is no danger of disruption in his own party, that men may make themselves perfectly easy on that subject. I have not been disturbed upon that question, and I have not heard of any Democrat saying he was disturbed about it. Who has been disturbed? It must be on his own side, it is not here; none of us have said a word about it. The Senator from Wisconsin the other day alluded to it, and he seemed to be afraid that somebody was going to take the President away from him. I hope he will be entirely satisfied by the assurance given to him this morning by the Senator from Maine.

Sir, if the Republican party was a little different party from that which it is, I should think there might be some danger of disorganization. I know the fact, because I have heard it here in debate, that the Senator from Pennsylvania [Mr. COWAN] and the Senator from Connecticut [Mr. DIXON] do not agree with the Senator from Massachusetts [Mr. SUMNER] and the Senator from Ohio, [Mr. WADE.] I have seen their animated and angry debates here upon questions of policy. I know, because I have observed it in debate, that there is this difference of opinion among the gentlemen of the majority; but perhaps the Senator from Maine is right in saying that no differences of principle, no differences upon questions of policy are dangerous to the organization of the Republican party. There was said to be a stronger bond than principle and policy, and that was "the cohesive power of public plunder." It may be that the Senator from Maine has more confidence in the power that may possess over the union of his party than the cohesive power of principle. He understands this question better than I do.

Mr. FESSENDEN. I suggest to my friend that his experience of the strength of that principle has probably taught him to have great confidence in it.

Mr. HENDRICKS. I concede to the Senator from Maine that my observation is that public plunder is a very powerful bond of union; but I had not in the Democratic party found it to possess the power that the Senator himself seems to think it possesses in his own party. We know there is a difference of opinion, we know that a very prominent and powerful Senator of the majority denounced a message of the President of the United States as "white-washing" in its character. We know that the Senator from Ohio dissented in very bitter terms the other day from the policy of the President, and especially in reference to his pardoning of rebels. We know, because we hear it in the Senate, that there are these differences. But perhaps the Senator from Maine is right when he admonishes his friends that there is no danger, that the President is not going to fall off from them. That is not a question that I choose further to debate; it is a question of a domestic sort belonging to the party in power.

Mr. FESSENDEN. We will take care of it.

Mr. HENDRICKS. I dare say it will be taken care of, as I suggested. I wish to say but a very few words now upon the bill.

The Senator asked a very forcible and pointed question: whether if the responsibility were upon the minority of this body, we would pass a bill like this. I believe he used the very strong expression, would we dare to do it. Mr. President, individually I would dare to do whatever my duty required; but there is one thing I would not dare to do. Whatever seemed to be the responsibility upon me or my party, I would not dare to violate the Constitution in order to pass any law. I cannot dare to do that. That is not courage, it is crime. I did not think this bill was allowed by the Constitution of the United States, and therefore I opposed it, and in a very plain sort of argument I attempted to give my views upon it. I wish now to ask the Senator just as direct a question. Suppose the negro population of the United States were separated entirely from the white population, and he were required to form a constitution of government

for them as a political community standing alone, would he dare to pass for them a law or constitution so vague and uncertain in its terms as this bill proposes?

Mr. FESSENDEN. It is not a supposable case.

Mr. HENDRICKS. Not a supposable case! I know that the Governor of Ohio, one of the most eloquent writers of the Republican party, in the campaign in his letters to his constituents, said that he advocated the colonization to some States of the Union of the colored people, and their entire separation from the white people.

Mr. FESSENDEN. I have always looked upon that proposition as an absurdity upon its face. I will say to the Senator that I could never imagine how a sensible man could entertain it; but it seems sensible men do.

Mr. HENDRICKS. My distinguished friend from Kansas, [Mr. LANE,] at the last session, or the session before, introduced a proposition here in the Senate to separate the races. He brought a measure before the body to send the colored people to western Texas. Then, if it is supported by so distinguished and able a Senator as the Senator from Kansas, and if it was the battle-cry of the Republican party in Ohio at the last election, and the election resulted in the success of General Cox, how can the Senator say that it is an absurdity? But I wish to ask the question again, would the Senate, for any political community separated to itself, enact such a constitution as this would be? In the first place, they have no selection of the officers. Men are appointed that they know nothing of, without any restrictions upon their power.

The bill that is before the body is entitled "A bill to enlarge the powers of the Freedmen's Bureau." Will any Senator be good enough to tell the body what are the powers of the Freedmen's Bureau? I have read the law of last session; I have read this proposed amendment; and I am entirely unable to say what are the powers of the Freedmen's Bureau. I did, to some extent, understand the powers proposed to be given in the bill advocated by the Senator from Massachusetts at the last session, for it undertook to define the powers; but here is the definition that is given in the law of last winter; here is the definition of power and the only restriction, so far as I know:

"That there is hereby established in the War Department, to continue during the present war of rebellion and for one year thereafter, a Bureau of Refugees, Freedmen, and Abandoned Lands, to which shall be committed, as hereinafter provided, the supervision and management of all abandoned lands, and the control of all subjects relating to refugees and freedmen from rebel States."

The management of the lands and the control of all subjects relating to refugees and freedmen are the matters committed to it. What definition is that of the power of a government within a Government, organized and endowed with power by general words to take care of all subjects relating to four million people? Does that extend to the contracts these people may make? Does that extend to their personal rights or privileges? Does that extend to wrongs committed upon their person and their property? Does that extend to the power of fixing their status in the community to which they are bound? What is the power that is given to this Freedmen's Bureau? I think I may safely say that no Senator can define it, and the effect of this sort of legislation is seen in General Grant's report. He says that in many localities this bureau has been badly managed, some agents holding one doctrine and managing its affairs upon one principle, other agents acting upon other principles and upon other powers.

Now, sir, I submit the question to any Senator, would you pass such a law as this as a constitution for a separate political community? If you would not, if you would say that no Government ought to be recognized anywhere or for any people with such a vague and uncertain definition of its powers, is the objection not yet stronger when it is to regulate the affairs of four

million people mingling and living among the white people, especially as the action of this bureau is not to affect alone the colored people, but it is to affect the white people so far as they have intercourse with the colored people? I could not vote for any bill at the last session or at the present session which conferred in such a general way the power to control the affairs of a race of people.

One other point is made by the Senator from Maine. He says that he knows no difference between the management of the public lands and the management of the money belonging to the Government, and he says that he has never observed that I have been very careful about the appropriation of public lands for western enterprises. I am very free to say to the Senator that my opinions are very liberal in regard to the use of the public domain in the western States, for several reasons.

In the first place, the Constitution of the United States in express terms gives to Congress the full control and disposition of the public lands. The power is conferred clearly and plainly, and it is a question of discretion and judgment on the part of Congress as to the manner of the disposition of the public lands. Congress owns immense tracts of lands on the border settlements. To develop its own lands and encourage the people in their purchase, it appropriates a portion of them to public works, to the construction of military roads and railroads. This I say Congress may well do in the exercise of its discretion, because it is a wise use of the public lands. An individual would so use his own lands. If the Senator from Maine were the owner of a large tract of land in the State of Minnesota, and it was proposed to construct a railroad in the neighborhood of the land, I know that, as a prudent manager of his own affairs, he would subscribe a portion of that land to the construction of that important work, so that the remaining lands would be worth more to him. That is the policy of the Government, and the Government has never sustained a loss by it. The State of Indiana received some of the public lands as a gift or donation, but out of the people of the State of Indiana, the Government of the United States, in the sales of the public lands, deducting the grants to the State, made a clear profit of nearly fifteen million dollars. The agriculture of Indiana paid that enormous profit to the General Government in the acquisition of homesteads for her people. The people of Maine had their lands.

Mr. FESSENDEN. Let me ask the Senator a question. Has he not uniformly supported appropriations for the benefit of agriculture?

Mr. HENDRICKS. If the Senator refers to the grant of lands for the support of agricultural colleges—

Mr. FESSENDEN. No; I refer to appropriations for the Agricultural Bureau; the purchase of seeds and all those things?

Mr. HENDRICKS. No doubt of it. When I voted for the general appropriation bill I suppose I voted for that.

Mr. FESSENDEN. Where does the Senator find authority in the Constitution to make these appropriations?

Mr. HENDRICKS. I am not exactly finding authority for that now.

Mr. FESSENDEN. I know that.

Mr. HENDRICKS. The Senator represents the Finance Committee in this body, and when he reports a bill he had better find the authority himself. If I voted wrong upon a question of that sort it is no argument that I was wrong in voting appropriations of the public lands, and that is the question between the Senator and myself.

Mr. FESSENDEN. That is true; but I referred to a previous remark of the Senator, that there was no authority for this appropriation. I ask him where he finds authority for the other.

Mr. HENDRICKS. When that bill comes up I propose, if the subject is of sufficient importance, to discuss it. I do not choose now, for the purpose of illustrating the principle I am discussing, to go off upon another question.

Mr. FESSENDEN. Very well, sir.

Mr. HENDRICKS. The question which the Senator asked of me was whether I could vote to grant the public lands to enterprises in the West and at the same time refuse to vote money to support the indigent in the States. That is the question that he propounded. I have undertaken to show the difference.

Mr. FESSENDEN. The Senator is mistaken; I propounded no such question; I commented a little upon his course good-naturedly, for the purpose of illustrating my own idea, that so far as taking care of the public property is concerned, I do not know but that we are bound to take equal care of the lands as of the money.

Mr. HENDRICKS. Yes, sir, I agree with the Senator on that proposition.

Mr. FESSENDEN. That was the extent of it.

Mr. HENDRICKS. I agree that we must exercise a wise discretion in the execution of the power which the Constitution confers upon us over the public lands.

Mr. FESSENDEN. The Senator will not understand me as quarreling with his course.

Mr. HENDRICKS. I do not believe Congress ought to give the public lands away unless some public interest is to be gained by it, some work of general importance in which the nation's interest is promoted, or encouragement is given to the settlement of the lands, in which all the people are interested. That is the sum and substance of my views upon that question.

But, sir, the question recurs; where is the power on the part of the General Government to take certain white people and certain colored people under the especial charge of the United States and to support them at the public expense? That is the question, and the Senator refers to the circumstances of the case and to international law as an answer. We are now in a time of peace. It is no use for the Senator to pretend that this is a time of war, because it is not. Everybody knows that it is not a time of war. We may theorize upon that subject as much as we please, but we all know the war is over; the southern armies are disbanded, and the most of our troops have returned to their homes; the country is in a state of peace; and civil governments have been established in most of the States. The question is simply, where do we derive the power to appropriate money out of the public Treasury for the support of indigent persons in the States? If we can carry that proposition, then this Government can assume to do anything that it may choose to do. I recollect that when I was a member of the House of Representatives, there was a bill proposed granting public lands to the States for the support of the indigent, insane, and the blind in the States. It was a proposition that appealed very strongly to my sympathies; it was a proposition to appropriate public lands; yet I voted against it, because I did not think the object contemplated was within the constitutional powers of the General Government. It might have been, according to the letter of the Constitution, constitutional to grant the lands, because we had the power to dispose of them; but it was not within the provisions of the Constitution to support the indigent, insane, and blind in the States; that was a duty according to our form of government that devolved upon the States.

Mr. TRUMBULL. As much stress is laid by the Senator from Indiana upon his assumption that the Government of the United States has no right to appropriate money to take care of indigent persons, as he says, and as he seems to regard this as an act of the first impression, without going over the argument again I wish to call his attention to two statutes of the United States passed many years ago. Then I should like to know what the difference in principle is between the cases to which I shall refer and the one under consideration. I read from the twenty-seventh section of the act in regard to the slave trade, passed in 1819:

"That the President of the United States be, and he is hereby, authorized to make such regulations and arrangements as he may deem expedient for the safe-keeping, support, and removal beyond the limits of the United States of all such negroes, mulattoes, or

persons of color as may be so delivered and brought within their jurisdiction"—

This refers to Africans or persons of color who are brought within the jurisdiction of the United States for the purpose of reducing them to slavery—

"and to appoint a proper person or persons, residing upon the coast of Africa, as agent or agents for receiving the negroes, mulattoes, or persons of color delivered from on board vessels seized in the prosecution of the slave trade by the commanders of the United States armed vessels."

There was an act passed over forty years ago authorizing the President of the United States to appoint an agent to take charge of these very colored people that we are proposing to take charge of now through the officers of the Freedmen's Bureau. They are now cast upon the Government by the war. In the instances provided for under the act prohibiting the slave trade, they were negroes, mulattoes, or persons of color thrown upon the charity of the Government when they were taken out of the possession of those who were seeking to reduce them to slavery, or were by stress of weather driven on our coast. Do they occupy any different relation to the Government when, as the result of the war, they are thrown destitute and helpless upon the Government, than they would if, as a consequence of the slave trade or an attempt to carry on the slave trade, they were thrown helpless and destitute upon our shores?

Again, sir, in 1860, before this rebellion broke out, on the 16th of June, the year before the rebellion, it was provided by an act of Congress—

"That it shall and may be lawful for the President of the United States to enter into contract with any person or persons, society or societies, or body corporate, for a term not exceeding five years, to receive from the United States through their duly constituted agent or agents, upon the coast of Africa, all negroes, mulattoes, or persons of color, delivered from on board vessels seized in the prosecution of the slave trade, by commanders of the United States armed vessels, and to provide the said negroes, mulattoes, and persons of color with comfortable clothing, shelter, and provisions for a period not exceeding one year from the date of their being landed on the coast of Africa, at a price in no case to exceed \$100 for each person so clothed, sheltered, and provided with food: *Provided*, That any contract so made as aforesaid may be renewed by the President from time to time as found necessary for periods not to exceed five years on each renewal."

It would seem as if this Freedmen's Bureau act must have been copied in part from this law. The Congress of the United States vested the President of the United States with authority before the war to provide food, shelter, and clothing for Africans taken from this country to the coast of Africa, to feed them there for five years, and provided for the appointment of agents forty years ago to take charge of such persons. Now, I should like to know if it was competent for Congress to do that, (and I believe that power was never doubted,) why it may not do it in this case? Why is not the exigency just as great?

Mr. HENDRICKS. I understand the Senator to propose a question. Without entering into the argument upon the subject my reply is simply this: the Constitution of the United States provided that Congress should not prohibit the slave trade prior to the year 1808. It was doubted whether that was a mere prohibition, or whether it also involved the power after that time to prohibit it. The latter construction finally obtained, and under that power after the year 1808 Congress enacted the law to which the Senator has referred. In the exercise of its power to prohibit the slave trade, savages were brought to our shores, and under the provisions of the law they were taken captive. They were not citizens; they were not provided for as citizens; but Congress provided for those who fell under the control and into the custody of the Government in the execution of the laws prohibiting and preventing the slave trade.

Mr. TRUMBULL. Exactly.

Mr. HENDRICKS. I will add, also, that they were not citizens of the United States, not made free here to remain among us, but to be carried back under the provisions of the law to prevent that trade.

Mr. TRUMBULL. Then I suppose we could provide for strangers and not for our own. I believe the good Book says that he is worse than an infidel who will not do that. Now the Senator tells us that under the Constitution which gave Congress power to prohibit the slave trade this act was passed, and if as a result of the prohibition of the slave trade there were cast upon our shores these savages who were not citizens, they not being citizens we had a right to feed and clothe them in pursuance of an act of Congress passed in accordance with the Constitution. Does the Senator not recognize the power in the Constitution to put down this rebellion? Does he not recognize the fact that under the exercise of a constitutional power the rebellion has been crushed? Does he not recognize the fact that under the authority of the Constitution slavery has been abolished, and these people cast upon us?

But he says the savages from Africa were not citizens. Well, I am glad to have the Senator from Indiana admit that the negro is a citizen. Some persons with whom he has been politically associated have not been willing to admit that fact. But I cannot conceive how the Constitution gives us the authority to feed and clothe and to take care of human beings who are not citizens, for five years on the coast of Africa, who do not belong to us at all, and gives us no power to feed and clothe and provide for those who are among us. As a question of power, it seems to me that if we can do the one we can certainly do the other.

Mr. HENDRICKS. I wish to ask the Senator before he takes his seat whether in his opinion Congress had the power to enact that law, except for the power to prohibit and prevent the slave trade. Where does he find the power if not there?

Mr. TRUMBULL. I endeavored to show in some remarks which I submitted the other day where I thought the power was to be derived from, and I do not propose to argue that question over again. My object in rising to-day was to show to the Senator, who seemed in his argument to assume that here was the exercise of some new power, that the Congress of the United States for forty years had exercised the very power that is proposed to be exercised by this bill, to feed, clothe, and take care of indigent persons who were thrown upon us as a nation, and that in our capacity as a nation we had taken care of such persons. If we had the right to do it in regard to savages, not citizens, who were cast upon us, in pursuance of law, just as these people are now rightfully in our control, we have as good a right to provide for them. I wanted to show there was a precedent for it; I do not propose now to go over the argument again to show whence the authority is derived.

Mr. HENDRICKS. The Senator has misapprehended the question which I have asked him. He has referred to the enactment of Congress forty years ago. If the power is not found in the provision of the Constitution to prohibit and prevent the slave trade, for the enactment of that law, where is the power found? He has referred to a law. I know he does not claim that this bureau may be organized under the power of the Government to prohibit the slave trade. He has not claimed that. Now, I ask him if it were not for the power to prohibit the slave trade, from what provision of the Constitution did Congress derive the power to carry these people back where he speaks of and provide for them in Africa?

Mr. TRUMBULL. The Senator from Indiana proposes to me a question. If the Senator would allow me I would merely repeat, however, what I said before. The Senator asked the same question before. The power under the Constitution to feed and clothe persons in Africa, I suppose, grows out of the authority to suppress the slave trade and to take care of those persons who are thrown upon us in violation of that law to suppress the slave trade. But if there were no law to suppress the slave trade, and if savages by stress of weather, if Feejee Islanders or anybody else, were cast upon the shores of this country and came in the pos-

session of the authorities of the nation, and must perish but for its protection and care, I insist that as one of the nations of the earth, as an independent Power, clothed with the attributes of sovereignty, it would be our duty, our duty by the law of nations as well as the obligations imposed upon us by humanity, to take care of them temporarily and provide for them lest they should suffer and die for the want of care and protection. But, sir, I insist in this case that the persons we intend providing for under this Freedmen's Bureau are, in pursuance of law, in our control just as much and as completely as the Africans whom it was sought to reduce to slavery in defiance of the law prohibiting the slave trade were in our control when they came upon our coast.

Mr. DAVIS. I have some amendments to move, and I propose to do it now, but I will remark *en passant*, Mr. President, that the most latitudinous principle in the construction of the powers of this Government that I have ever heard announced has been this moment announced by the Senator from Illinois. There is no analogy whatever between the freed negroes here and the negroes who were captured in the suppression of the slave trade. The extent to which the legislation of Congress has gone in relation to negroes that were taken in the suppression of the slave trade is this: where our cruisers in their operations to suppress that trade captured slavers upon the coast of Africa, or where those slavers attempted to introduce slaves into the United States against our laws declaring the slave trade piracy, for the purpose of preventing the starvation and the perishing of these slaves, as an office of humanity, Congress passed laws appropriating money to supply the wants of those wretched beings; and these precedents the Senator from Illinois gravely relies upon as authority for the passage of this bill!

Now, Mr. President, the freed negroes in the State of Kentucky constitute a portion of our population; the freed negroes in South Carolina and in all the southern States constitute a portion of their population. It is a principle of our system of government, and the Senator from Illinois cannot overturn or shake it, that every State is bound to provide for its own paupers, whether they be black or white, whether those paupers have been slaves liberated and emancipated under the laws of the States before the rebellion, or whether they have been manumitted by the operation of the amendment to the Constitution. There is no distinction of principle between those classes of paupers, and the obligation of each State to provide for its paupers is precisely the same in relation to the one class as the other; it is precisely the same in relation to all the classes. Do I understand the Senator from Illinois to contend for the power of the General Government to provide for all these pauper negroes in the late slave States? The people of Kentucky would be gratified if the Congress of the United States could constitutionally take off them this burden; but it is a burden that belongs to them, and one which neither the Government of the United States nor the Congress of the United States has any right or power whatever to assume. If there is an obligation or a duty or a power to take care of the negro paupers, there is, I suppose, an equal obligation to take care of the white paupers of the different States. I repudiate that principle as wholly heretical and as not having a figment of authority in the Constitution; and the attempt to draw a parallel between the case of the African negroes who were captured on slave ships or who were brought into the United States against the express provisions of our law for the suppression of the slave trade and the free negro paupers of the different States, is an utter failure; they are no more alike than the mastodon and the whale.

But, Mr. President, I rose for a different purpose. I know that this bill is to pass, and I know that no obstacle which one as inconsiderable as myself can throw, or attempt to throw, in the way of its passage will impede it for a moment. It is to pass upon the old principle,

not of constitutional law, but the old principle of human nature, where there is a will there is a way. The majority in this Senate have the will, and they intend to devise the way, regardless of the Constitution. I was amused at the earnestness, and instructed and gratified by the power of the appeal made by my friend, the Senator from Pennsylvania, [Mr. COWAN,] to Senators here to observe and respect the Constitution and the oaths which they had taken to support it. My honorable friend must know—we all know—that in this Chamber, in the nation, in universal humanity, in high party times, there is a higher obligation than the oath to support the Constitution, or the provisions and principles of that Constitution, and that higher obligation, to which all others yield, is the good of party. To preserve and save party, when that comes into competition with the Constitution and constitutional obligation, that obligation and that Constitution are given to the winds of heaven.

The honorable Senator from Maine [Mr. FESSENDEN] in his speech introduces another principle upon which this bill is to be passed, and that is the principle of necessity. I do not concede as a principle of our Government the principle of necessity to override the Constitution or the law in any possible case either in war or peace; but I admit that the Supreme Court of the United States have sustained the principle of necessity thus far, and no further—and in obedience to the authority of that court I subscribe to it to that extent—that, in time of war, when an army in the field is in an extreme exigence, and that exigence is so immediate and so impending that there is not time to resort to the forms of law, that army may take for itself the necessary military supplies, under the law of necessity; but at the same time the Supreme Court, in the case of *Harmony vs. Mitchell*, and the Court of Claims, in the opinion rendered by Justice Wilnot two years ago, concede explicitly that even that necessity requires the Government to pay for the property that is taken. Mr. President, has it come to this, that the powers of this Government are to be enlarged and expanded upon the principle of necessity? My understanding is that there is no power vested in the Government of the United States that is not derived from the Constitution; and I understand that the Supreme Court has sustained that principle in scores of cases. And yet we are told that this limited Government, created by a Constitution which especially provides that every power not therein delegated to the General Government is reserved to the people or to the States respectively, may expand and multiply its powers upon the principle of necessity. What necessity? The necessity of the nation? The necessity of preserving the Constitution? The necessity of maintaining popular liberty? Oh, no; the necessity is that the fortunes of the Republican party are imperiled; that it is in danger of losing office and place; that the whole power of the Government and its patronage is about to slip from their hands; and this produces a necessity that creates a law that hereby authorizes Congress to pass the measure under consideration.

Mr. President, I have always understood heretofore that in this country this odious principle of necessity, the tyrant's plea, the argument that has struck down popular liberty wherever it has prevailed on this earth, the plea upon which tyrants have risen and have established their despotic thrones, was limited to the Army and to military operations. But the honorable Senator from Maine is now introducing it into the Senate, and I suppose, when it is acknowledged and acted upon by the two Houses of Congress, it is then to be transferred to the Supreme Court, and the Chief Justice and his associate justices are to recognize this principle of necessity. Sir, when we have arrived at that mode of interpreting our powers, when we attempt to derive them from that indefinite source, what is our Constitution worth? Where is the limit of the Government of the United States created by its fundamental law? Where are the rights of the States? Where are the

liberties of the people? Where is the value of this form of government, and this Constitution, that would require from the honest and true men of America a moment's effort to save and preserve it?

Gentlemen have talked about Democracy and Republicanism here. That is a theme that does not concern me. I am no Democrat; I never was a Democrat; and I am too old now to change my name or political position; but I wish to make one remark in justice to the great Democratic party. I was an "old-line Whig." I derived my principles from the Constitution and from the interpretations of that instrument by Hamilton and Madison and Marshall and Webster and Clay. I still adhere to the teachings of my school from those noble old preceptors. I was a Whig of the Clay school. In days gone by I always opposed the Democrats, and they always opposed me. Why and upon what principles? Upon principles of the temporary policy and administration of the Government. What were those principles and measures? There was the old United States Bank; there was the protective tariff; there was the disposition of the proceeds of the sale of the public lands among the States; there were the appropriations by Congress to aid in the construction of works of internal improvement—all questions of policy, of temporary administration. On those questions I differed from the Democrats, and the Democracy differed from me and my great and illustrious leader. But, sir, those questions have gone by; they are obsolete; they are among the years that were before the flood. But there were some principles upon which those great, grand, noble old parties agreed; and what were they? They were for the Union under and by the Constitution. They were for the subordination of the military to the civil power in peace, in war, and always. They were for the writ of *habeas corpus*. They were for the trial by jury according to the forms of the common law. They were for every man bearing his arms about him and keeping them in his house, his castle, for his own defense. They were for every right and liberty secured to the citizen by the Constitution. They believed that the Constitution was the paramount law of the land, and they believed that it was a crime for any man to assail that Constitution or the laws of Congress passed in conformity to it, whether that man was a rebel or a member of our own Government. They believed that all the rights and liberties reserved to the people of the States respectively by the Constitution belonged to them, and that when any of the officers or authorities of the General Government made aggression upon the rights and reserved liberties of the States, and the State laws enacted to protect, to guard, and to preserve them, whether that encroachment was made by a President or a Secretary of War, or a straggled militia general, or anybody else, he was as much guilty of treason against the State as was Jefferson Davis against the United States in making war for the separation of the southern States from the Union.

Mr. President, those were my principles then; those are my principles now. Time and events have rolled on. The questions and measures that separated the Democracy and me have passed in the progress of time; and it is only those great, immortal constitutional principles and principles of popular liberty that are now in contest. I am their true defender, as the Democrats of that day who have not abandoned them, and shamelessly gone over to the Republican party, are still their defenders of this day. We occupy a common platform. That platform is the Constitution of the United States. They stood there then; so did I. They stand there now; so do I. But I care not what party name a man may bear, if he presents himself, and shows that he is a true, honest, and devoted friend to our Constitution, to the Union under our Constitution, and to popular liberty as guaranteed by that Constitution, you may call him a Democrat or what not, he is my friend, my brother; he is engaged in the same great and noble and holy and immortal cause that I am. I will stand shoulder to shoulder with him; and

with him, Democrat though you may call him, I will march to the death; and I will support and vote for him for office, while he is true and honest and faithful to those great old principles that were alike sustained by Whig and Democrat, as though he had always borne the name of Whig.

But, sir, I did not rise to speak of these matters. I rose to offer certain amendments to this bill; and I now ask leave to present them in their order.

The PRESIDENT *pro tempore*. The question now is on concurring in the Senate with the amendment made as in Committee of the Whole to the fourth section of the bill. The Senator's amendment will be in order after the amendments made in committee shall have been acted upon.

Mr. DAVIS. I wish to present my amendments. I have some amendments to portions of the bill that precede that section and I have an amendment embracing that section. I care not as to the order in which I am allowed to present them. All I want is to have that privilege.

The PRESIDENT *pro tempore*. The amendments of the Senator will be in order when this present amendment shall have been disposed of.

Mr. DAVIS. What amendment is that? The PRESIDENT *pro tempore*. The pending question is on concurring in the amendment made as in Committee of the Whole to the fourth section of the bill, which will be read.

The Secretary read the amendment, which was to strike out the fourth section of the bill, in the following words:

SEC. 4. And be it further enacted, That the President may, for settlement in the manner prescribed by section four of the act to which this is an amendment, reserve from sale or settlement, under the homestead or preemption laws, public lands in Florida, Mississippi, and Arkansas, not to exceed three million acres of good land in all, provided the rental named in said section four be determined in such manner as the Commissioner shall by regulation prescribe.

And to insert in lieu thereof:

SEC. 4. And be it further enacted, That the President is hereby authorized to reserve from sale or from settlement, under the homestead or preemption laws, and to set apart for the use of freedmen and loyal refugees, unoccupied public lands in Florida, Mississippi, Alabama, Louisiana, and Arkansas, not exceeding in all three million acres of good land; and the Commissioner, under the direction of the President, shall cause the same from time to time to be allotted and assigned, in parcels not exceeding forty acres each, to the loyal refugees and freedmen, who shall be protected in the use and enjoyment thereof for such term of time and at such annual rent as may be agreed on between the Commissioner and such refugees or freedmen. The rental shall be based upon a valuation of the land, to be ascertained in such manner as the Commissioner may, under the direction of the President, by regulation prescribe. At the end of such term, or sooner, if the Commissioner shall assent thereto, the occupants of any parcels so assigned may purchase the land and receive a title thereto from the United States in fee, upon paying therefor the value of the land ascertained as aforesaid.

Mr. DAVIS. I desire to inquire whether, when the amendment to that section is disposed of, I shall be at liberty to offer amendments to the preceding section.

The PRESIDENT *pro tempore*. That will be in order, in the opinion of the Chair.

Mr. DAVIS. I desire to move an amendment to the section now before us. It is to amend the amendment in the fifth line by striking out the words, "in Florida, Mississippi, Alabama, Louisiana, and Arkansas." I will make but a single remark on this amendment. This whole measure seems to have had its origin in the benevolence and humanity of gentlemen to the freed negro. The bowels of their compassion so yearn toward them that they feel it incumbent upon themselves to introduce this great measure of charity for the race that they have emancipated. Now, sir, I propose to extend this measure of benevolence a little further than this section as amended in committee does. That amendment limits the homes that are to be provided for these freedmen to the States of Florida, Mississippi, Alabama, Louisiana, and Arkansas. Now, it may be that a great many of these freed negroes would rather have homes in some other States.

Mr. TRUMBULL. If the Senator from Kentucky will allow me, I have no sort of objection

myself to those words being stricken out, and then the lands may be selected anywhere. They were inserted because it is known that in those States there are some public lands; but for myself—I have no right to speak for the committee—I have not the slightest objection to the Senator's amendment.

Mr. DAVIS. If the gentlemen's friends are willing to accept my amendment, I have not another word to say in support of it; but he says he has not authority to act for them. Sometimes he has, and sometimes he has not, and I do not know when he has, unless upon his own declaration; but I suppose some of his friends would demur to this amendment. But, Mr. President, if you are actuated now by the highest principles of philanthropy and justice—

Mr. TRUMBULL. Let us try; I think the Senate will adopt the Senator's amendment.

Mr. DAVIS. But if we try and my amendment fails, I cannot say anything upon it.

Mr. TRUMBULL. If it is not adopted by acclamation, the Senator can call for the yeas and nays upon it, and he will then have an opportunity to argue it if he desires to do so; but my opinion is that the amendment will be concurred in.

Mr. DAVIS. I only wanted to say a word upon it; I am not going to occupy the attention of the Senate more than a moment or two upon it.

Mr. TRUMBULL. If the Senator is going to make a speech upon it, I shall be inclined to vote against it.

Mr. DAVIS. I shall only occupy the attention of the Senate for a little while on this subject. I purpose to occupy it for a great while on some other matters, [laughter,] and especially do I intend to take up the Senator from Illinois before I get through.

Now, sir, here are Indiana, Illinois, Ohio, Kansas, and all the range of States in that degree of latitude, possessing a salubrious climate and a very fertile soil, and it is very possible that a large number, probably half of the freed negroes of the United States, if they were allowed to select their homes in the localities that they preferred, would elect to go to that line of States, and some of them, probably, a little north of that line. All that I propose to do is, that if you intend this as a local benevolence, one that is to immortalize your legislation for its expansive charity and justice, you shall not attempt to restrict it by limiting the recipients of this noble charity of yours to the southern States. Let them have a free choice in all this free and boundless land to go where their affections and desires or any other considerations may induce them to go. I have nothing more to say upon my proposition.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

Mr. DAVIS. I ask for the yeas and nays upon it. ["Oh, no!"]

Mr. TRUMBULL. Let us try it by acclamation first, and then if the amendment to the amendment is not adopted, the Senator can call for the yeas and nays.

The PRESIDENT *pro tempore*. Does the Senator from Kentucky demand the yeas and nays?

Mr. DAVIS. I will not demand them until I see whether the amendment is likely to be adopted or not.

Mr. HOWARD. Let me assure the Senator from Kentucky that the demand for the yeas and nays is entirely useless. His amendment will be carried by acclamation.

Mr. DAVIS. I am glad to hear the Senator say so.

Mr. HENDRICKS. I hope the amendment of the Senator from Kentucky will not be carried by acclamation. I regret very much that I cannot agree with him in it.

Mr. DAVIS. If the Senator from Indiana will allow me to say one word, we are getting the gentlemen on the other side of the Chamber in a soft mood; we are getting them to run in the channel of my amendments; and I want them to get so much momentum that they will be

ready to accept some other amendments by the time we reach them. [Laughter.]

Mr. CLARK. But while we are getting into a soft mood, they do not seem to be in a very unanimous mood on the other side. [Laughter.]

Mr. HENDRICKS. Both in the committee-room and in the Senate I was willing to agree to this section; I thought it right enough; but I am not willing to withdraw from settlement, from homesteads and from preëmption, lands in the latitude where white settlers are most likely to go. I do not think that there will be for some time to come a great demand for public lands in the southern States. There is so much land that has heretofore been cultivated in those States that is now in market, that there is not likely to be a great demand for lands for homesteads for white settlers; and therefore there will be no great injury resulting from a withdrawal of three million acres of the public lands in those States; but I should hate to see three million acres, or any portion of them, withdrawn from market in Iowa, Kansas, Nebraska, or Minnesota, States where white settlers are most crowding at this time. It seems to me Senators ought to reflect upon it before they give their unanimous support to such a proposition. It is a proposition to take this amount of land out of market, to exclude white settlers from it; and it is not necessary; it is not in the latitude which the negro seeks. There is plenty of land in Louisiana and in the States that are now mentioned in the bill to answer this demand for three million acres, and there will be public inconvenience resulting from withdrawing it in those States; but I think it very objectionable to withdraw these lands from market in the States to which the white people are mostly emigrating.

Mr. SAULSBURY. If I understand the effect of the amendment proposed by the Senator from Kentucky, it is to strike out the limitation confining this grant of land to certain southern States, and leaving the location of this land to the discretion of the Executive of the United States. If the proposition contained in the bill is just and fair in itself, if homesteads are to be given to these negroes, and they are to be located at the public expense, then, in my opinion, they ought to have the privilege of locating among their particular friends, and in that view, if there was no other consideration governing me, I should vote for the amendment of the Senator from Kentucky. But, sir, I cannot vote for the bill itself; I cannot vote to give them land anywhere, under any circumstances; and lest my vote for the amendment might be conceived as committing me to the principle of voting them homesteads anywhere, I do not know that I can vote for the amendment. However, I am perfectly satisfied that it should be adopted by the votes of gentlemen on the other side. I make this remark simply to put myself *rectus in curia* upon this bill. I can vote for nothing contained in it.

Mr. TRUMBULL. My object in assenting to the proposition of the Senator from Kentucky was to hasten our action upon the bill, not seeing any particular objection to his amendment; but as it seems likely to divide the Democratic party, which is not very numerous upon that side of the Chamber just now, and create a division among them, I am rather inclined to withdraw my assent. [Laughter.] If the three Senators could agree, and that alliance which the Senator from Kentucky has just glorified, which has been formed between the old Whigs and old Democrats, could go along harmoniously, I would be inclined to yield and let his proposition be adopted; but I should be sorry to create divisions among our friends on the other side. [Laughter.]

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Kentucky to the amendment adopted as in Committee of the Whole to the fourth section of the bill.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on concurring in the amendment

made as in Committee of the Whole to the fourth section of the bill.

Mr. SAULSBURY. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JOHNSON. I have been from the first, when this bill was introduced by the honorable member from Illinois, very anxious to vote for it, or for some measure of the same kind. I think the United States are under an obligation to provide for these freedmen to a certain extent, and to the entire extent of their constitutional power. The vote that I shall give, therefore, will be given reluctantly, and only because I more than doubt whether any such power exists in the Constitution; and that doubt is not only applicable to the section which is now before the Senate, but is more applicable, it seems to me, to the amendment which the committee have adopted, as I understand, as a substitute for the original sixth section of the bill. The amendment immediately before the Senate provides that not more than three million acres of the public land shall be set aside for the purpose of providing for the freedmen. The amendment in the sixth section is that the United States shall go into these several States and buy land for that purpose.

Mr. SUMNER. We had better adjourn.

Mr. JOHNSON. If the Senator from Massachusetts will indulge me for a few minutes, what I have to say will be said before his dinner time, and he might, therefore, be a little patient.

The Constitution of the United States, as I think, as it has always been interpreted, contains no power to buy lands except for certain specific purposes, for purposes connected with the administration of the Government and the exercise of the powers conferred upon the Government. You can buy land, therefore, for your arsenals, your navy-yards, your mint, and your banks; but I am not aware that it ever has been before held that it was in the power of the United States to buy land for any other purposes than those which are specifically made the subjects of the delegations of power to Congress. It may be true that that objection does not apply to the section which is now before the body, because, as I understand it, it merely appropriates or sets aside certain lands already belonging to the United States for the purposes stated in that section; but the difficulty that I have as regards that is, that I do not know where the power exists which enables us to educate or to provide for any citizen of the United States, white or black.

As slavery has been abolished—I suppose we all admit that; whether the States are in or not, there has been a sufficient number of States acquiescing in the amendment to bring about that result—as slavery has been abolished in the several States, those who were before slaves are now citizens of the United States, standing upon the same condition with all who were citizens before; upon the same condition, therefore, with the white citizens. If there is an authority in the Constitution to provide for the black citizen, it cannot be because he is black; it must be because he is a citizen; and that reason being equally applicable to the white man as to the black man, it would follow that we have the authority to clothe and educate and provide for all citizens of the United States who may need education and providing for. In the beginning of the Government, as I am sure will be in the recollection of the Senate, it was supposed by General Washington and by several of those who succeeded him, that there was an authority to establish a university provided it was located here, and the authority to establish a university here was put upon the ground that here the jurisdiction of the Congress of the United States was just as absolute and unlimited as is the jurisdiction of the States over their own territory; but even that was denied at that time, and it never was exercised, and it was denied not merely upon grounds of expediency, but as a question of power. But I never heard from that time until now that it was supposed that the Congress of the United States could

establish schools anywhere in the United States except in the Territories, which, like the territory of the District of Columbia, are under the exclusive jurisdiction of the United States. Now you are about to set aside three million acres of public land within these States of the Union—I assume, now that they are in the Union; if they are not, they will be—for the purpose of educating the blacks and providing for them; to establish schools; if necessary, to endow colleges; to do anything and everything that the Legislature of a State could do.

As far, therefore, as that objection is concerned—which, I am sorry to say, upon my mind, is insuperable; for, I repeat, I am very anxious to make provision for these people—it seems to me that we are without the power to do what this bill proposes.

But the objection to the sixth section is still greater. Not only is the object to be attained by the provisions of the sixth section the same, and therefore the sixth section is obnoxious to the same objection, (whatever validity there may be in that,) but it is liable to the other objection that there is, according to my view, no power conferred upon Congress to buy lands anywhere. If you can buy lands to the extent of three million acres in these States, what is to prevent your going into any State in the Union and buying lands for any purpose that you may think proper? Philanthropy is the motive now; it is a legitimate motive; it is one the force of which I feel as strongly as any member of this body. What is due to these people who have been kept in bondage ever since the Government was established and before, is, that they should be taken care of; and to the whole extent, therefore, of what I suppose to be the powers conferred upon the Government by the Constitution looking to that end, I am willing to go. But as they are now citizens like the white men, if you can buy lands to educate them, you can buy lands to educate the white men to the same extent, and you can buy all the lands, or nearly all the lands, in the State of Maine or the State of Ohio for that purpose. If you have the authority to pass this bill, your becoming the owner of the land for the purpose stated in this bill is not made to depend upon the assent of Maine or Ohio; they may object as much as they please, but the objection will be of no avail, provided we have the authority to pass this bill.

I must say, with all the deference which I most sincerely entertain for the judgment of the members of the committee who have had charge of this bill, and to whose fairness of judgment I have had occasion more than once, and upon every occasion where there was an opportunity of showing it, to bear witness, and with like deference to the opinions of those Senators who are not members of the committee but are members of the profession and perfectly familiar with the Constitution of the country, and more familiar than I am, I am unable to bring myself to the conclusion that there is any such power as that proposed to be exercised by this bill; and I do not think the States will approve of it.

I speak it not in any party sense; I have no party object now, nor have I had at any time during the rebellion. I have desired only that the rebellion should be suppressed, and that, thank God, is now accomplished. I desire now only that the country should be restored to a state of absolute peace; and that, I trust, is soon to be accomplished. But, sir, I wish to keep within the limits of the Constitution, as I understand it, and I am unable to go to the extent that this bill goes, because, according to my judgment, it is beyond the authority of Congress.

Nor do I believe that the States will approve of such a measure as this. Go to Illinois, the State of my friend the chairman of the committee that reported this bill. Take your million dollars into Illinois—for the appropriation is just what Congress may think proper to make it; you may make it \$100,000 or \$100,000,000—take your money into Illinois and propose to buy the land of Illinois for this purpose, and

do you believe the people of Illinois would be satisfied? In such a contingency the result would be that a large portion of that State would be settled by blacks. Heaven knows I have no prejudices against the race. Brought up among them; associating with them in boyhood and since; giving to them and receiving from them acts of kindness, I have no possible prejudice against them; but still I know that nature has made them so distinct from our race that with the mass of mankind there will be, and perhaps must be, more or less of prejudice, more or less of an unwillingness on the part of the whites to be associated with the blacks. It seems to me that, in the case I have supposed, if one half or one third of the State of Illinois was bought up for the purpose of carrying out the provisions of this bill, and was settled with blacks, it would produce a political revolution, and Illinois could not prevent it. To the extent of the powers of this Government, whatever Congress may legislate is conclusive upon the States. If Congress, therefore, legislates to purchase land, the States have no right to prevent the sale of their lands.

Go to my own State. At the time the war broke out there were some seventy or eighty thousand slaves, and some eighty thousand free-men who had been slaves, or whose ancestors had been slaves, making altogether about one hundred and fifty thousand blacks in the State of Maryland. My colleague said, and no doubt he has the information, that they are now oppressed in certain portions of the State. He said yesterday, as I see, that the course of justice in Maryland is so obstructed that perhaps they cannot meet with the redress that they should receive. Now, suppose you take a million or two million dollars into Maryland and buy up our lands and settle a hundred and fifty thousand of these blacks there, what would be the result? The whole population of the State is only six or seven hundred thousand. Of that number nearly one half are in the city of Baltimore, and the rest are distributed throughout the other portions of our domain. Suppose this million or two million dollars are taken upon the Eastern Shore of Maryland, from which my colleague comes, they might be able to buy up the whole of that Shore. Do you think that there would be any peace there if that should be the result of a bill of this description?

Looking to the fact that Maryland has been a slave State, and that the feeling on the subject in a great portion of the State has been very strong, do you believe that she would be satisfied to have that portion of our State, one of the fairest portions upon the face of the globe, capable of producing almost an unlimited amount, not only of the necessities but of the luxuries of life, put into the hands of the blacks exclusively? Do you suppose that we should not have trouble in the State? Just as sure as the sun of heaven rises, that would be the result. Then comes force, and force for what? Force—and you will be obliged to say it—to see that this law is carried out or not impeded. Then comes civil war, with all the countless ills under which we have suffered for the last four years.

Now, I believe—I speak it under the correction of what may be the better information of my colleague—the negro is as safe in Maryland as he is in Massachusetts. There may be occasionally horrible outrages perpetrated upon him as there are occasionally in Massachusetts outrages perpetrated upon white men and white women: but I think they are exceptions to the general rule.

Not only do I not see any authority for legislation of this description, but I think it would be mischievous in the extreme, looking to the welfare of the black man himself. I have not shared in the estimate of the black race which many of those with whom I have been in the habit of associating held. I believe that they are capable of as much and as high civilization as the white race. I have seen as much native talent exhibited in the black race as I have seen exhibited in the white race; and I believe, therefore, if protected by the laws which every State is bound to pass, or, they failing to pass them,

protected by the paramount authority of the Constitution of the United States, they will ere long become valuable citizens of the country, and the products of the country, the wealth which has flowed into our lap from the products of the slave States, instead of being diminished, will be greatly increased. The opinion that I now entertain I have entertained for years, that slave labor cannot, as long as man is what God created him to be, compete with free labor.

To conclude, although I am as solicitous as my honorable friend from Illinois, or as any member of this body, to protect these people from any outrages which may be committed upon them, to the whole extent of the power conferred upon us, I am unable, much as I desire to do anything that it may be supposed will tend to the benefit and protection of this race, to bring myself to vote for this bill, because, in my judgment, the Constitution gives no authority to pass it as far as the two provisions of which I have spoken, the one immediately before the Senate, and the one which is to come before the Senate, on the amendment to the sixth section, are concerned.

Mr. CRESWELL. I do not desire to attempt any argument in reply to my colleague; I desire only to state the means of information which I have on the subject of the treatment of the freedmen and colored soldiers who have returned to Maryland. I regret that I have not with me the letters I received a week or two ago upon that subject. To make a clean breast of it, I will state that I have placed them in the hands of General Hancock, and have requested from him a thorough investigation of the treatment to which these people have been subjected. I have been informed by gentlemen of the highest respectability, of the most undoubted veracity, and of the most enlarged opportunities for gathering information on the subject, that there are now in the southern parts of Maryland, and especially upon the southern parts of the Eastern Shore, (a region with respect to which I profess myself to be pretty well informed,) there are combinations not only of rebels who have not been in the service of the Confederate States so-called, but of those who have been in the service of those States, and who have returned to Maryland under the protection of the General Government; and that these combinations have been formed expressly for the purpose of driving these refugees and freedmen from the limits of the State of Maryland. Not only that, sir, but I can state from memory one case in which a colored soldier who recently returned from our Army on leave of absence—a man who has conducted himself most meritoriously during the whole term of his service—and who the other day returned to his home in Worcester county, before he had been in that county twenty-four hours was waylaid by these scoundrels and murdered in cold blood. That man's name is John Mills. I can state another case to my distinguished colleague where a colored citizen, who rendered most conspicuous service in his humble capacity as a private, and who returned in company with that same man, John Mills, was waylaid and cruelly beaten, and left for dead. Not only that, but the men who have formed these combinations publicly boast all through that region of country that it is their purpose to drive these people from the State.

It is well known that in that section of the State our juries are summoned by rebel sheriffs, and that they are constituted almost exclusively of the very worst kind of rebels, worse rebels than are to be found in South Carolina, for the simple reason that in South Carolina they have been severely and satisfactorily whipped; while in Maryland, unfortunately, that has not been the case, by reason of the clemency of the Government. I am satisfied as well as I can be of anything that unless the Government interposes by such a measure as this, these people who have done their best to sustain it in the hour of trial will be driven from our State, which I should conceive to be a lasting and a burning shame to the State in which I live, as well as to the Government that has heretofore profited by their services. These are the facts.

Mr. JOHNSON. I am sure the honorable member did not suppose that I called in question the fact that he had received information of that sort; but the information at last, if I understand it, is, that so far as particular cases are concerned, there were two or three instances of horrible barbarity, followed by murder.

Mr. CRESWELL. Not only that, but deliberate combinations formed for that purpose and avowed.

Mr. JOHNSON. So I understand. All I have to say, and I think I have a right to say, and I do not think my colleague will deny it, is, that however true it may be that there are such combinations in that part of the State or anywhere else, there is spirit enough and patriotism enough and loyalty enough in the rest of the State to keep them in order. It is not the first time that efforts have been made to drive the free blacks out of the State. There was a proposition made in the Legislature, when I was not a member of it, by a gentleman from the Eastern Shore, whose name is familiar no doubt to my colleague, to exile them from the State; and at the instance particularly of the freedmen in Baltimore, numbering thousands, I, with others, took a very active part to prevent it, and succeeded in defeating it. There was just as much violence in point of feeling then as now.

But as to these actual acts of outrage, I have seen in the papers cases of most cruel outrages, if true, stated as being committed by black soldiers in the southern States; women outraged to the last degree of outrage; three or four black soldiers hung for an outrage of that description; a gentleman's house visited by negroes, and himself murdered and his wife and children treated in a way that I forbear to mention, and so through all the States. You cannot guard against these outrages everywhere and upon all occasions. There will be wickedness as long as the world lasts, upon the part of men, unless their natures are entirely changed.

I should be very sorry to believe that there is any part of the State of Maryland where the rights of anybody, if brought before the courts of justice, will not be vindicated. I differ from my colleague. I do not know the extent of the feeling to which he adverts, but I think I know the gentlemen of the Eastern Shore, and however great may have been their sympathies with the rebellion, (and to a certain extent, no doubt, those sympathies were great,) I think they would not for a moment hesitate to comply with the obligation of any oath they might take to try fairly a case of that description. That they were wrong in their sympathies nobody is more satisfied than I am, and I should suppose the result of the struggle has proved to them that they were wrong from the beginning. I have been in the habit of associating with those of them who were considered gentlemen before the war, and so has my honorable colleague, and I can say that I never knew a more honorable set of men in my life anywhere, except among the lower classes, men who have lost all their manhood, men who have forgotten all their obligations to their State and to themselves. I should be exceedingly unwilling to believe that there was any such real disaffection in any part of the State of Maryland as would make those who had been gentlemen and men of honor before so recreant to duty as to forget all the obligations of truth and honesty.

Mr. CRESWELL. My distinguished colleague will remember that when on the floor before, he made the declaration that refugees and returned soldiers were as safe in Maryland as in Massachusetts.

Mr. JOHNSON. I think so, too.

Mr. CRESWELL. It was that remark that drew out my statement of facts. I do not suppose for a moment that my colleague intended to question my veracity, but only my means of information. I state upon my reputation as a gentleman and a Senator, that I am satisfied the statements I have made are correct, and that as well by reason of my knowledge of the district of the State in which they have occurred

as of the high reputation of the gentlemen who have certified them to me over their own signatures.

Mr. TRUMBULL. Before the question is taken, I wish to insert a word or two in the section, and I hope I shall have the unanimous consent of the Senate to do it. The section now reads:

At the end of such term or sooner, if the Commissioner shall assent thereto, the occupants of any parcels so assigned may purchase the land, &c.

It has been suggested to me that ought to be extended, in case of death, to the heirs or assigns of the occupant, and I move to amend it accordingly.

Mr. POMEROY. I hope that amendment will be made.

Mr. TRUMBULL. I hope it will be adopted before the vote is taken on concurring in the amendment made in committee. I presume there will be no objection to inserting the words I have suggested.

The PRESIDENT *pro tempore*. That modification will be made, if there be no objection. The Chair hears no objection. The question now is on concurring in the amendment made as in Committee of the Whole to the fourth section of the bill.

The question being taken by yeas and nays, resulted—yeas 36, nays 7; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Creswell, Dixon, Doolittle, Fessenden, Foster, Harris, Henderson, Hendricks, Howard, Howe, Lane of Kansas, McDougall, Morgan, Morrill, Norton, Nye, Poland, Pomerooy, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Wade, Wiley, Williams, Wilson, and Yates—36.

NAYS—Messrs. Buckalew, Cowan, Davis, Guthrie, Johnson, Saulsbury, and Stockton—7.

ABSENT—Messrs. Foot, Grimes, Lane of Indiana, Nesmith, Riddle, and Wright—6.

So the amendment, as amended, was concurred in.

The PRESIDENT *pro tempore*. The question now is, will the Senate concur in the other amendments made as in Committee of the Whole?

Mr. HENDRICKS. I ask for a separate vote on the amendment to the sixth section.

Mr. SUMNER. I wish a separate vote on the fifth section.

Mr. McDUGALL. I name also the fifth section for a separate vote.

The PRESIDENT *pro tempore*. A separate vote will be taken on each amendment if asked for.

Mr. DAVIS. What is the section that is now proposed to be voted on?

Mr. TRUMBULL. The Senator from Kentucky will allow me to suggest that the amendments proposed to the fifth and sixth sections have been excepted, and it is proposed to take the vote on the other amendments together. The other amendments are, I think, all of them merely verbal.

Mr. DAVIS. I ask my friend, what was done with the fourth section?

Mr. TRUMBULL. The fourth section has just been adopted.

The PRESIDENT *pro tempore*. That has just been voted, upon.

Mr. DAVIS. The pending question is on the fifth section, then.

The PRESIDENT *pro tempore*. The Chair was anxious to have Senators name the sections that they wished excepted for a separate vote, and then proposed to take the vote on the remaining amendments made in committee where no separate vote was asked, if there are any other of the amendments on which a separate vote is requested.

Mr. DAVIS. Those sections, then, are suspended for the present.

Mr. TRUMBULL. They are suspended for the present. I think we shall get along quicker if the Clerk will just read the verbal amendments and let us vote on each separately. It will take but a moment; there are but few of them. The first amendment is to add the words "in force" in the fifth line of the first section.

The PRESIDENT *pro tempore*. The amendments will be taken up as they occur, if that be

the judgment of the Senate. The first amendment will be read.

The first amendment was in section one, line five, after the word "continue" to insert "in force."

The amendment was concurred in.

The next amendment was in section one, line six, to strike out the word "for."

The amendment was concurred in.

The next amendment was in section one, line thirteen, to strike out the word "same" where it occurs twice in that line.

The amendment was concurred in.

The next amendment was in line fifteen of section one, to insert "or."

The amendment was concurred in.

The next amendment was at the end of section two to add:

In the exercise of the duties imposed or authorized by this act and the act to which this is additional.

The amendment was concurred in.

The next amendment was to strike out the fifth section, and insert in lieu thereof as follows:

That the occupants of land under Major General Sherman's special field order, dated at Savannah, January 16, 1865, are hereby confirmed in their possession for the period of three years from the date of said order, and no person shall be disturbed in or ousted from said possession during said three years unless a settlement shall have been made with said occupant by the owner satisfactory to the Commissioner of the Freedmen's Bureau.

Mr. DAVIS. I understand the question to be now whether the Senate will concur in the amendment offered by the committee to the fifth section.

The PRESIDENT *pro tempore*. That is the question.

Mr. DAVIS. I move to strike out that section as amended, and I do it upon the principle that General Sherman had no power to give the possession of any land to anybody to last after the war. My position is this, about which in my own mind at any rate I entertain no doubt, that he had no power to give the possession of that land during the war or at any time for a day. But the principle upon which I base my motion now is that the end of the war terminates all war power; that if it was competent for him to transfer the possession of this land or any part of it to the free negroes or anybody else, that power was vested in him as a war power, and the moment the war ceased that power ceased, his act under that war power in giving the possession of this land ceased, and the possession rightfully inured and returned to the owners. That is the doctrine of every writer upon international law. There is not an exception to the principle as I lay it down. I have got Phillimore here, who is full upon that point; and all the law writers upon international law are full upon that point, that when a military man does an act during war, under the war power, so soon as the war ceases the act and all of its consequences cease; and where that act is the taking possession of property which belongs to third persons, which is an international power, which is a power of war between independent nations, the moment peace is restored that property which has been taken from the possession of the rightful owner, by the laws of nations, returns to that owner. Upon that principle this Congress has no power whatever to confirm the negroes in the possession of that property which General Sherman placed them in possession of one moment after the war ceased; and, the war having ceased, Congress has no power to continue the possession.

The PRESIDENT *pro tempore*. Will the Senator repeat his motion?

Mr. DAVIS. It is to strike out that whole section.

The PRESIDENT *pro tempore*. The amendment reported from the committee is to strike out the whole of the fifth section and insert in lieu thereof what has been read at the desk.

Mr. DAVIS. My amendment is to strike out the amendment that was reported, the whole of the amendment as reported by the committee.

The PRESIDENT *pro tempore*. That has

not yet been inserted by a vote of the Senate. The question now is on striking out and inserting. It has not yet been inserted.

Mr. DAVIS. I inquire now of the Chair whether, if the motion is made and adopted in that form, to strike out and insert, it will not preclude me from offering my amendment. I want to get an opportunity of offering my amendment.

Mr. CLARK. The Senator will allow me one moment. The amendment is to strike out all after the enacting clause of the section and to insert something else, which is not a divisible question; but that amendment may be carried and declared in the affirmative, and then it will be in order for the Senator to move to strike out the whole section, enacting clause and all.

Mr. DAVIS. That satisfies me.

Mr. McDUGALL. I object to the amendment, and in objecting to the amendment I object to the portion of the bill to which it is amendatory. To both I object. They are both violations of law, of fundamental law. General Sherman, it is true, may have, by virtue of his military power, been able to give a *jus possessionis* to the persons within his particular jurisdiction for the time he exercised military authority. Beyond the time that he exercised military authority, or that some commander did who occupied his place, the power did not exist. He placed certain persons in possession of certain property; that he had the power, the *jus possessionis* if you please, at that time, when he made his arrangements and made his contracts, cannot be disputed, because he was in military possession. But he gave a possessionary right limited by his military power, and that power was governed by his military possession. Beyond that the right of war does not go and never did. While these lands were within his jurisdiction and under his military power he gave to certain persons a temporary right of possession. Now it is proposed to give them, what? A legal right of possession by virtue of an act of Congress.

Let me ask the gentlemen on the other side, lawyers many of them, how you can give a man a legal right of possession by act of Congress against a law or against the legal right of another? All that part of this bill is simply a provision to justify men, under the armed force of the Government, in maintaining a possession not according to the rules of law; the law that governs myself, that governs you, Mr. President, and governs us all. I say that provision of this bill is cardinal wrong. General Sherman, I know, understood the science and art of war; he is a scholar and an accomplished gentleman, of whom I speak with great respect. He understood that as long as his arms covered these people they were within his military protection, and that when the armies were withdrawn they would be subject to the civil law of the country, that is, of the Federal and State Governments.

There is a great mistake about this bill, in my judgment. I would like to protect the men and women of African descent as well as any man on this floor, but it must be done according to the laws which we inherited, which belong to us, and which have to be continued to generations to come if we are to maintain this Republic intact and to be free men. This bill provides that General Sherman's grantees may have a possessionary title for a given time. The amendment of the Senator from Illinois, the chairman of the Judiciary Committee, limits it. What is a possessory title? Gentlemen may not be familiar with the term; I am familiar with it. All the Indian tribes have what we call, by way of grace, possessory titles. They had the title first, they owned all the woods, they owned all the prairies, they owned all the land which we have swept from them as with a besom of destruction. We allowed them what we call, in technical language, a possessory title; that is, a title which is good against everybody except the Government, and we can drive them or carry them away as we please. That is a possessionary title, according to law as recorded in all the books.

Mr. HARRIS. The gentleman from California gives way to a motion to adjourn.

Mr. McDUGALL. I give way.

Mr. HARRIS. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 23, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

CENSUS OF THE UNITED STATES.

Mr. GRINNELL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the select committee on reconstruction be instructed to inquire into the expediency of providing by law for taking a census of the United States during the year 1866, and report by bill or otherwise.

HORSE RAILROAD IN MICHIGAN.

Mr. TROWBRIDGE. I ask unanimous consent to introduce a joint resolution, which I desire to have passed now.

The joint resolution was read for information, as follows:

Resolved by the House of Representatives of the United States, (the Senate concurring), That the Secretary of War be, and he is hereby, authorized to grant to Gurdon O. Williams, of the city of Detroit, in the State of Michigan, and his associates, the use of so much of the military reserve on the St. Clair river, in the State of Michigan, known as the site of Fort Gratiot, as is necessary for extending a horse railroad from Port Huron city to the depot of the Port Huron and Detroit railroad, at such rental and upon such terms and conditions as to him may seem proper, reserving to the United States, however, the right of removing the rails, ties, and other parts of said road whenever the Secretary of War shall direct, without any claim or right for damages on the part of the said Williams and associates, or their legal representatives.

Mr. THAYER. I think that this should go to a committee.

Mr. TROWBRIDGE. I send to the Clerk's desk a report on this subject, made to the Secretary of War by General Delafield, chief Engineer of the United States Army. I will not request the reading of the report, but I ask that the indorsement of the Secretary of War be read.

The Clerk read, as follows:

The Secretary of War perceives no objection to the privilege applied for, upon the terms suggested by the chief of Engineers, so far as regards the interest of the United States, but is unwilling to concede the privilege without express authority of Congress.

EDWIN M. STANTON,
Secretary of War.

January 19, 1866.

Mr. DRIGGS. I hope the gentleman from Pennsylvania [Mr. THAYER] will not object to this.

Mr. THAYER. I object to the principle of putting through matters of this kind without any examination by any committee of this House.

Mr. TROWBRIDGE. Very well; then let the resolution be referred.

There being no objection to the introduction of the resolution, it was read a first and second time, and referred to the Committee on Military Affairs.

PRINTING PRESIDENT'S SPECIAL MESSAGE, ETC.

Mr. BRANDEGEE, by unanimous consent, introduced the following resolution:

Resolved, That one hundred thousand copies of Senate Executive Document No. 2, the same being the special message of the President of the United States, communicated December 19, 1865, and covering the reports of Lieutenant General Grant and Major General Carl Schurz, with the accompanying documents, be printed immediately for the use of this House.

The SPEAKER. This resolution will be referred, under the law, to the Committee on Printing.

SECESSION—STATE SUICIDE—COLONIZATION.

Mr. HENDERSON, by unanimous consent, introduced the following preamble and resolutions:

Whereas, the Constitution and Government of the United States were ordained and established by the

people of the United States, and not by States in their individual character, for the welfare and general happiness of the whole people; and whereas the doctrine that a State of States have the right to secede or withdraw from the Government at pleasure is most pernicious, and strikes at the foundation of all government, and opens wide the door for universal anarchy and ruin: Therefore,

Resolved, That no State or States can constitutionally or lawfully secede or withdraw from the United States Government; nevertheless, either the one or the other can, by renouncing the Constitution and laws of the United States, and by waging war against them, or adhering to their enemies in time of war, forfeit their organization, all their rights and privileges as a State or States, and their standing as such in the Government.

Resolved, That while States, by rebellion against the General Government, forfeit their rights and existence as such, the United States lose none of their rights or authority over the inhabitants of such States; and the government over all such territory which has been forfeited by States rightfully and properly reverts to the United States.

Resolved, That Congress has "power to dispose of and make all needful rules and regulations respecting the territory and other property belonging to the United States."

Resolved, That all the territory embraced within the boundaries of what is generally known as the State of Texas ought to be, under such rules and regulations as Congress may prescribe, set apart to the use and benefit of the colored people of the United States.

Resolved, That the welfare of both races demands that the colored people be separated from the whites at the earliest practicable period, and that the colored population of the United States be placed upon suitable territory and protected as a dependency of the United States.

Mr. BRANDEGEE. I suppose that those resolutions go to the joint committee on reconstruction.

The SPEAKER. If there be no objection, the resolutions will be referred to the joint committee on reconstruction.

There was no objection, and the resolutions were so referred.

Subsequently,

Mr. ELDRIDGE moved to reconsider the vote by which the resolutions were referred.

Mr. BRANDEGEE. Mr. Speaker, I ask whether the gentleman from Wisconsin, [Mr. ELDRIDGE,] not being in the House and not having voted, can submit the motion to reconsider.

The SPEAKER. When a vote was not taken on the yeas and nays any member has the right to submit a motion to reconsider.

Mr. BRANDEGEE. I move, then, that the motion to reconsider be laid upon the table.

Mr. ELDRIDGE. I rise to a point of order. I did not surrender the floor at the time I made the motion to reconsider.

The SPEAKER. The gentleman did not proceed to make any remarks, and the Chair supposed he had accomplished his purpose when he made the motion to reconsider.

Mr. ELDRIDGE. I made as much noise as I could to attract the attention of the Chair.

The SPEAKER. When the motion was made to lay the motion to reconsider upon the table was not the gentleman in his seat?

Mr. ELDRIDGE. No, sir. I now demand the yeas and nays upon the motion to lay upon the table, and tellers upon the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

The motion to reconsider was laid upon the table.

SOLDIERS' AND SAILORS' LEAGUE.

Mr. STEVENS. I call for the regular order of business.

Mr. SCHENCK. I ask the gentleman to yield to me a moment.

Mr. STEVENS. Certainly.

Mr. SCHENCK. I ask the unanimous consent to submit the following resolution:

Resolved, That the use of the Hall of the House of Representatives be granted this evening and tomorrow evening to the soldiers and sailors of the National Union League.

Mr. WASHBURNE, of Illinois. I do not object to this resolution, because my friend from Maine [Mr. RICE] has a resolution to offer prohibiting hereafter the granting of the use of this Hall for any purpose.

Mr. RITTER. I object.

Mr. BANKS. I trust the gentleman will withdraw his objection on this occasion, for if

anybody is entitled to it, it is the soldiers and sailors.

Mr. RITTER. I do not withdraw my objection.

BASIS OF REPRESENTATION.

The SPEAKER stated the regular order of business to be on the following joint resolution:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States; which, when ratified by three fourths of the said Legislatures, shall be valid as part of said Constitution, namely:

Article.—Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: Provided, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation.

Mr. STEVENS. I move to insert the word "therein," so that it will read as follows:

Provided, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation.

I now demand the previous question.

Mr. JENCKES. I ask the gentleman a question concerning the construction of the proposed amendment to the Constitution. If it bears the construction I conceive it may, I shall be obliged to vote against it. Perhaps the gentleman can answer the question satisfactorily. The proviso is, that whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation.

It says nothing about the qualification of property. Suppose this amendment is adopted by three fourths of the States, and becomes a part of the fundamental law of the land, and after its adoption the State of South Carolina should reinstate the constitution of 1790, striking out the word "white" and reestablishing the property qualification of fifty acres of land, or town lots, or the payment of a tax, there would then be no discrimination of color in the State of South Carolina, yet the number of electors would not be enlarged five hundred, and the basis of representation would be exactly as it is, with the addition of two fifths of the enfranchised freedmen. A Representative to this House would be reelected by the same voting constituency as now, perhaps with the addition of five hundred black men in the State. If it bears this construction, and I believe it does, I shall vote against it.

If any of the States should establish property qualification based upon lands, then the same oligarchy would be enthroned on the whole basis of representation, entitled to a larger number of Representatives than now in this House, and elected by a slightly enlarged number of qualified electors, giving power more firmly to that very aristocracy we have sought to overthrow.

Mr. STEVENS. All I can say is that if the law applies impartially to all, then no matter whether it cuts out white or black.

Mr. FARNSWORTH. Suppose the State of South Carolina should provide by law that no negro should hold real estate.

Mr. STEVENS. Then the amendment operates. I demand the previous question.

Mr. BROOKS. Let me put a question. The proviso reads that whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation. There are in California and Oregon something like one hundred thousand coolies. They are increasing and going into the western States to build railroads. Are they included?

Mr. STEVENS. I understand that if they are excluded by the laws of California because they are Chinese, this amendment operates upon them because they are excluded on account of race.

Mr. BROOKS. They will not be counted in the basis of representation?

Mr. STEVENS. Not at all; it was so intended; the word "race" was inserted for that purpose.

Mr. BROOKS. One other question. Why exclude the Indian? Is he not a man and a brother?

A MEMBER. The Constitution now excludes him.

Mr. STEVENS. "Excluding Indians not taxed."

Mr. BROOKS. We exclude them at this time, but are not Indians our brethren?

Mr. STEVENS. The Constitution of the United States has always excluded them.

Mr. BROOKS. Why not, as we are amending the Constitution, embrace the Indian as a man and a brother?

Mr. STEVENS. Because they are a tribal race, have their own separate governments, and, as a general rule, are not citizens.

Mr. BROOKS. Not in Kansas; Dakota, Montana, Nebraska, and a number of other Territories.

Mr. CONKLING. They are taxed there.

Mr. BROOKS. No; they are not; they are excluded from voting. There are no Indians that vote in Dakota; Representatives and Delegates from that quarter know that very well. Why not embrace them all, as we are making a liberal Constitution?

Mr. STEVENS. We have not done it for fear the gentleman from New York [Mr. Brooks] and others would make that an objection. [Laughter.] I call the previous question.

Mr. SLOAN. Will the gentleman yield for the purpose of offering an amendment?

Mr. STEVENS. I cannot.

Mr. SLOAN. I hope, then, that the previous question will not be sustained.

Mr. BROMWELL. Mr. Speaker, what will be the effect of this motion upon the resolution? Will it exhaust itself?

The SPEAKER. It will exhaust itself on the passage of the joint resolution if the previous question is sustained.

Mr. BAKER. I trust that my distinguished and able friend from Pennsylvania [Mr. STEVENS] will yield for a very few minutes.

Mr. STEVENS. That is so polite, sir, that I cannot resist it.

Mr. BAKER. Then I ask the gentleman from Pennsylvania a question: whether it is entirely proper to put through by a vote of this House an amendment to the Constitution of the United States, refusing one word of debate or one moment to raise objections to it for the consideration of this House? For myself, sir, I protest against this course.

Mr. STEVENS. Mr. Speaker, I have only suggested what I thought it my duty, if this amendment is to pass. I have only submitted the question to the House. If the House desires to delay this matter it can say so by refusing the previous question. I have no right to demand it; I only submit it to the House. If gentlemen are ready to vote and are willing to go on now and pass this amendment, very well; if not, I have nothing to say.

Mr. BAKER. Why not allow five or ten minute speeches? Take two hours, any way.

Mr. STEVENS. Mr. Speaker, it is not for me to say. I am submitting this question to the House. I think that we ought to pass it at once. I think everybody is just as well prepared now as he will be two or three hours hence.

Mr. FARNSWORTH. Allow me to make a suggestion. Let us consider this in Committee of the Whole, with debate limited to ten minutes, if you please, or five.

Mr. BROMWELL. That amounts to nothing at all.

Mr. FARNSWORTH. Let ten minutes be allowed to each to express his views. I hope the House will vote on the previous question to enforce that suggestion.

Mr. BROMWELL. I know a number of gentlemen who are not satisfied concerning this very resolution under consideration—about the interpretation of it.

Mr. FARNSWORTH. If it is in order I will make that motion.

Mr. STEVENS. I would be glad to give gentlemen an opportunity to limit debate.

The SPEAKER. Does the gentleman from Pennsylvania yield to the gentleman from Illinois to make the motion to allow debate for ten minutes?

Mr. VOORHEES. I suggest to my friend from Illinois to allow about two minutes. [Laughter.]

Mr. STEVENS. Mr. Speaker, I am so much astonished at the exhibition on this side of the House that I withdraw the demand for the previous question and leave this matter with the House.

Mr. BLAINE. Mr. Speaker, if there had not been such an evident indisposition on both sides of the House to proceed to an immediate vote on this question, I should not have asked anytime; although, as the original mover of the resolution, which appears in another form, which form I do not like, I might be supposed to have some little desire to say a word in regard to it. I wish, in the first instance, to correct a mere question of figures which I quoted yesterday from the table prepared under the auspices of the gentleman who is at the head of the Committee of Ways and Means, [Mr. MORRILL,] by which he showed that the suffrage basis of white males over twenty-one would give to the State of New York thirty-six members, and to the State of Pennsylvania twenty-four. The gentleman from New York [Mr. CONKLING] controverted this proposition and I now reassert it. The gentleman's own table differs only a unit from mine. It gives thirty-five to New York and twenty-four to Pennsylvania, making a net gain to New York in the one case of four members, in the other of five. Well, that is not a very vast change in either case. It is not "so deep as a well nor so wide as a church door, but it is enough" for Pennsylvania, I should think, and I hope on the other side it would be enough for New York. It is a tremendous dislocation of the relative strength of those States upon this floor.

But as the gentleman from New York, in introducing his figures, did not use them in support of the suffrage basis, of course I have no issue with him, because they supported nothing except a proposition on which both he and I agree; and so far as his argument went in that way it went against the conclusion he was contending for, presenting anew the spectacle of the waterman in the Pilgrim's Progress, who got his living by vigorously rowing in one direction while steadily looking in the other.

Mr. CONKLING. I desire to answer not so much the argument as the witticism of my friend from Maine.

Mr. BLAINE. Oh, no; no wit, either perpetrated or intended.

Mr. CONKLING. Well, Mr. Speaker, we considered it very witty over here; but then we are so far off.

Mr. BLAINE. Glad the gentleman thinks my wit will carry a long distance.

Mr. CONKLING. In answer to what we deemed over here the witticism of the gentleman, I wish to say that I had a particular purpose in introducing the figures and statement that I did, and that was not to argue upon or to refute the proposition that I was supporting. On the contrary, it was for this purpose: it is very common in the country to charge that nothing can be done here which in any way militates against the interests or the aggrandizement of New England. It is said that New England is the focus of fanaticism.

Mr. BLAINE. I thought the gentleman only rose for explanation.

Mr. CONKLING. I am going to make a very brief explanation. New England is the place where the man said the sun rose and set in his back yard, and it is alleged that such regard is had to it here that we cannot do anything here that militates against New England, and that various persons here—myself among the number—are opposed to the suffrage basis merely because it takes away some part of the

power of fanatical New England. Now, I desire to relieve the proposition before the House of any imputation that it comes here or is supported in the interest of New England and in preference to the other proposition, because the other proposition hits New England. I deny that it hits New England and I deny that this proposition benefits New England; in other words, I support this proposition on account of its own merits and not for local or electioneering purposes.

Mr. BLAINE. I am very much obliged to the gentleman for the patronizing care with which he looks after the interests of fanatical New England.

Mr. KELLEY. Will the gentlemen permit me to offer an amendment which I believe will remove much of the objection which is made?

Mr. BLAINE. I will yield for the purpose of having it read.

The proposed amendment was read, as follows:

Provided, That this article shall not be construed to affect the power of Congress to regulate the qualifications for electors of the most numerous branch of the Legislatures of the several States.

The SPEAKER. The Chair would state that there is an amendment pending offered by the gentleman from Pennsylvania, [Mr. STEVENS.] Any amendment to the amendment must be germane to it. The only way in which the resolution could be amended now would be by offering a substitute embracing all its phraseology and any additional language desired.

Mr. BLAINE. I must decline to yield further unless for the purpose of explanation. I was going on to remark that an additional reason adverse to the suffrage basis will be found in the fact that the moment you make suffrage the basis of distributing Representatives among the States, you inevitably, by logical sequence, make it the basis of distributing Representatives within the States. I want to be understood on this point. If we distribute representation on the basis of voters, the States will take it up by logical sequence, and within their own territory distribute their Representatives on the basis of voters, and a city or district of country which might have a surplus or a deficiency of males over twenty-one years of age would either aggrandize itself or lose its proper weight and power as the figures might go up or down.

You cannot resist that conclusion. That is one of the evils that will follow from the suffrage basis. Following that by a slight paradox, I think this amendment, excluding blacks from the basis of representation, will, by the operation of the same principle, have precisely the opposite effect in the South, namely: if you cut off the blacks from being enumerated in the basis of representation in the southern States the white population of those States will immediately distribute Representatives within their own territory on the basis of white population. Therefore the most densely populated negro districts will not be allowed to offset the most densely populated white districts. It therefore becomes an immediate and pressing interest with those districts to enfranchise the negroes. Do you suppose the upland districts of Georgia and South Carolina, inhabited largely by whites, will, in the event of the adoption of this amendment, allow the distribution of Representatives to be made on the basis of the whole population? By no means. They will at once insist on the white basis within the State. Therefore you make it the imperative and most urgent interest of the late slave masters, in the rice regions and densely populated negro districts in the South, to enfranchise the black man. The upland and rice regions to which I have referred differ in soil, climate, air, sky, and population as much as the Tierra Caliente and the Tierra Templada of Mexico do to-day, or as they did three hundred years ago. While I shall vote for the proposition, I shall do so with some reluctance unless it is amended, and I do not regret, therefore, that the previous question was not sustained. I am egotistic enough to believe that the phraseology of the original resolution as introduced by me was better than

that employed in the pending amendment. The phrase "civil or political rights or privileges," which I employed, is broader and more comprehensive than the term "elective franchise," for I fear, with the gentleman from Illinois, [Mr. FARNSWORTH,] that under the latter phrase the most vicious evasions might be practiced. As that gentleman has well said, they might make suffrage depend on ownership of fifty acres of land, and then prohibit any negro holding real estate; but no such mockery as this could be perpetrated under the provisions of the amendment as I originally submitted it.

Mr. BINGHAM. Will the gentleman from Maine [Mr. BLAINE] allow me to make a suggestion?

Mr. BLAINE. Certainly.

Mr. BINGHAM. I beg to notify the gentleman that this amendment of itself does not and cannot execute the purpose intended to be accomplished by it, unless Congress—

Mr. BLAINE. If the gentleman is going to reply to my argument I will not yield the floor. If he wants merely to make an explanation I will hear him.

Mr. BINGHAM. I apprehend that no possible amendment that can be suggested to the Constitution of the United States on this subject will answer the purpose unless it is followed by further legislation.

Mr. BLAINE. That may be so. But the man who shoots at the sun will come nearer to it than the man who does not draw a bow. I say that the phraseology "civil or political rights and privileges" is more inclusive than the phrase "elective franchise." If you make it so that a State shall not count in her basis of representation any race to which "civil or political rights and privileges" are denied or abridged, then the objection of the gentleman from Illinois [Mr. FARNSWORTH] cannot stand, because the exclusion from holding real estate would be a denial of civil rights or privileges.

Mr. BROWELL. If the gentleman will permit me, I will say that the objection to this resolution is not that it is intended to provide for a representation based upon actual voters, but upon the population of the classes or races permitted to vote. If the gentleman will allow me I will submit an amendment which I think will obviate the difficulty.

Mr. BLAINE. I cannot yield for any such purpose. There is one other objection to the resolution as reported, and that is a point to which I wish to call the attention of the chairman of the committee reporting it [Mr. STEVENS] and the gentleman from New York [Mr. CONKLING] who defended it. The proposed amendment reads:

Provided, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color therein shall be excluded from the basis of representation.

Now, I contend that ordinary fair play—and certainly we can afford fair play where it does not cost anything—calls for this, namely, that if we exclude them from the basis of representation they should be excluded from the basis of taxation. Ever since this Government was founded taxation and representation have always gone hand in hand. If we shall exclude the principle in this amendment, we will be accused of a narrow, illiberal, mean-spirited, and money-grasping policy. More than that, we do not gain anything by it. What kind of taxation is distributed according to representation? Direct taxation. Now, we do not have any direct taxation. There has been but twenty millions of direct taxation levied for the last fifty years. That tax was levied in 1861, and was not collected, but distributed among the States and held in the Treasury Department as an offset to the war claims of the States. So that, as a matter of fact, we are putting an offensive discrimination in this proposition and gaining nothing by it except obloquy. We are asked to put in something that will enable the southern States to say, "You gouged us out of our fair protection in the basis of taxation when you had the power, and you gouged us so meanly in spirit that you gained nothing by it yourselves." I

maintain that we should follow the precedent of former years. And if we exclude any portion of the population from representation, we should *pari passu* exclude them from taxation. That is fair play, and fair play is a jewel the world over.

Let me say in conclusion, Mr. Speaker, that my opposition to the suffrage basis is not grounded on the fact that Maine would lose by it. No statistics that have yet been presented show any loss to Maine; and on several theories of calculation we should gain one member. My opposition, therefore, is not grounded on local selfishness, but upon the belief that the principle is a dangerous one, that it is an abandonment of one of the oldest and safest landmarks of the Constitution, and that it is a most perilous leap in the dark. It introduces a new principle in our Government, whose evil tendency and results no man can measure to-day.

Mr. DONNELLY obtained the floor.

Mr. KELLEY. I ask the gentleman from Minnesota [Mr. DONNELLY] to yield to me for a moment that I may submit a substitute.

Mr. DONNELLY. I yield to the gentleman for that purpose.

Mr. SLOAN. I ask the gentleman from Minnesota to yield to me that I may offer an amendment to the substitute which the gentleman from Pennsylvania [Mr. KELLEY] is about to offer.

Mr. BROOKS. I rise to a question of order. My point of order is this: can the floor be so farmed out in reference to the matter of amendments as to allow gentlemen of a certain class of opinions to preclude all amendments except such as they favor? Can any gentleman offer an amendment except the gentleman who has the floor? If we go on in this way, the bill may be so amended that it will not be possible hereafter for others of different opinions to propose other amendments.

The SPEAKER. The gentleman from Minnesota yields to the gentleman from Pennsylvania; if the gentleman from New York [Mr. BROOKS] objects to his yielding further, he has the right to do so.

Mr. KELLEY. I desire to say to the gentleman from New York that there has been no "farming" done in this connection, so far as I am concerned. My action has been spontaneous.

Mr. BROOKS. I do not object to the offering of the amendment, if it will not preclude me or others on this side from offering amendments, if we have the good fortune to get the floor hereafter.

Mr. KELLEY. I offer the following amendment in the form of a substitute:

Strike out all after the resolving clause, and insert in lieu thereof the following:

That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States; which, when ratified by three fourths of the said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE.—Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color therein shall be excluded from the basis of representation: *And provided further*, That this article shall not be construed to affect the power of Congress to regulate the qualification for electors of the most numerous branch of the Legislatures of the several States.

Mr. DONNELLY. Mr. Speaker, I shall detain the House but a very few moments with what I have to say upon this measure.

I shall vote for it cheerfully as a step in the right direction, as tending to bring the representation in this House to a more exact basis of equality, and as doing away with that "rotten borough" system originating out of slavery and by which it was made powerful and in great part maintained.

It follows as a logical conclusion that if men have no voice in the national Government, other men should not sit in this Hall pretending to represent them. And it is equally clear that an oppressed race should not lend power to their oppressors, to be used in their name and

for their destruction. It is a mockery to say that a man's agent shall be his enemy and shall be appointed without his consent and against his desire, and by other enemies.

In fact, I cannot see how any northern man can vote against this measure unless he wishes to perpetuate an injustice to his section, because the effect of it will clearly be to increase the representation of the North and decrease that of the South; and this, too, upon a basis of undoubted justice. It means simply that those who do not take part in the Government shall not be represented in the Government.

So far there can be no question as to the merit of the measure; but something more is claimed for it.

It is claimed that this amendment will act as a grand panacea for all the ills that afflict the nation; that by its persuasive force it will induce the South to give suffrage and education to the freedman, and that when we have done this we should halt and allow this sovereign remedy to work its cure.

Sir, I doubt this. I do not think any gentleman ought to vote for this measure under any such belief.

Is it to be believed that the southern people, under the influence of a vague hope that in some distant future they may regain possession of national power, will overcome their deep-seated antipathy and contempt for the negroes around them, and admit them to the ballot-box?

Politicians eager for power might so far overcome their natural prejudices, but the body of the people have no such love for office, no such far-reaching expectations of power, while they are profoundly and directly affected by their personal likes and dislikes and by those convictions which are the result of centuries. Nay, more; the means by which they would seek their object would defeat it, for the right of suffrage once extended to the negro they are well aware would strengthen the North and divide the South. Do they not now have to employ northern men to induce the negroes to work for them? Do they not know that the negro will believe the word of a common soldier from the North rather than the solemn enactment of a Legislature of southern men? Will they be wild enough to hope that they can strengthen themselves and weaken the North by giving the right of suffrage to the best friends of the North? It is not to be believed.

Mr. Speaker, when we vote for this measure, it must be because we think it right and necessary, not that it may furnish us with an excuse for failing to do all other right and necessary things expected of us by the people. We must take direct, not sidelong measures. We must make laws, not arguments. We must enforce, not induce.

To pass this law and then hope that South Carolina, moved by the hope of future power, would do justice to the negro, is absurd. She has 291,300 whites and 412,406 negroes. To pass such a law would be for the governing power to divest itself of the government and hand it over to a subject and despised caste, and that, too, for a faint hope of some future advantage that might never be realized under the most favorable circumstances, and certainly could never be realized by the aspiring class abdicating and relinquishing power. The same is true, more or less, of all the South. In Mississippi there are 353,901 whites, and 436,681 negroes; and in all the States the negro vote would be large enough to turn the scale against the disloyal party.

I shall vote for this measure, not as a finality, but as a partial step, as one of a series of necessary laws; not, as I have heard it termed, as a "compromise." For one I shall not rest satisfied until every security is given for the safety, the prosperity, and the development of all the people of the South, without distinction of race or color, feeling assured that in that only can we find the safety of the South and the well-being of the nation.

Mr. Speaker, I now yield the floor to the gentleman from Wisconsin, [Mr. SLOAN.]

Mr. SLOAN. Mr. Speaker, I desire to call the attention of the House to a proposition which I had the honor to submit at the last session of the Thirty-Eighth Congress in relation to this subject. That proposition provides that the right of representation in this House shall be based upon the right of suffrage—upon the numbers who are allowed the right to vote in the respective States. The amendment which has been reported by the committee is intended to apply the same principle, but not to adopt it directly. It is an indirect attempt to adopt that principle and incorporate it in the Constitution.

I need not say, Mr. Speaker, that it is necessary, in amending the Constitution of the United States, to use plain, direct, and certain language—such language as cannot be evaded or perverted. I need only refer to the argument of the gentleman from Maine [Mr. BLAINE] to prove that this indirect attempt on the part of the committee to base representation upon the right of suffrage is subject to evasion and abuse, that it will be found impossible to so guard this provision that some device may not be originated which will defeat the object of it. If, on the other hand, the issue is clearly made—if the provision in the Constitution is plain and direct, that representation shall be based upon the number of those who are allowed to exercise political power in the several States, evasion or defeat of the object on the part of the Legislature or the people of any State will be entirely impossible.

The gentleman from New York [Mr. CONKLING] who professes himself opposed to the principle I advocate, and who made in form an argument against it, made, notwithstanding, in effect and substance, the strongest argument perhaps that could be made in favor of abandoning the proposition which the committee have reported, and adopting the principle which I am advocating. Confining his attention to a proposition which simply provides that representation should be based upon the qualified electors of the States, he said that inequality and injustice might be done by some States allowing minors to vote and other States limiting the right of suffrage to those of the age of twenty-one years and upward.

But, sir, the amendment which I propose will get rid of that objection by making the qualification universal, that only electors of the age of twenty-one years and upward shall be made the basis of representation in any State. He finds another objection, that the word "male" is not used, and that some of the States may give the right of suffrage to women. The word "male" inserted will obviate that objection.

He states another objection also, that some States may extend the right of suffrage to aliens. The word "citizen" put into the proposition will cut off that objection.

The amendment I propose is that "qualified male electors, citizens of the United States of the age of twenty-one years and upward, shall be the basis of representation." I think that nearly every objection he made will be taken away by that amendment; and there is nothing of objection left, except the point made by the gentleman from Maine, [Mr. BLAINE,] which is that in some of the States there is a larger proportion of female and minor population than in others; but to that the gentleman from New York [Mr. CONKLING] furnished a conclusive answer by showing that the difference is so small it would not have any appreciable effect upon the practical result.

In the amendment which I propose we have a naked simple proposition, by which we put a strong motive upon the States to extend the right of suffrage to the whole people within the limitations stated without regard to difference of race or color.

Mr. CONKLING. I wish to say to the gentleman from Wisconsin, who has alluded to me, that he does injustice to the argument I made by omitting the whole substance of it. Representation and direct taxes here go together. Now, then, all persons, as the Constitution stands, are counted for both purposes—free per-

sons. The women and children constitute four fifths of the citizens of the United States, and I ask whether he proposes so far to impoverish the basis of taxation as to exclude four fifths of citizens for that purpose; or whether he proposes the injustice of subjecting women and children to taxation, at the same time denying them the right of representation? That is the point I made in answer to the gentleman's proposition; and I would like to know what his answer is for that argument.

Mr. SLOAN. If the gentleman from New York had contented himself to wait until I reached that portion of the amendment which refers to taxation, I should have endeavored to make an answer to his suggestion which might have satisfied him; but, inasmuch as he has called my attention here to the connection of the subjects of taxation and representation in the resolutions reported from the committee, I will say now that the fact that taxation and representation are coupled together in that report, and that taxation is to be based in any manner upon population, furnishes to my mind one of the strongest objections to the adoption of the resolutions reported by the committee. Taxation and representation were joined together in the Constitution, when it was formed, as a matter of compromise; the South desiring political power which would result from the counting of slaves in the basis of representation, while they were generally regarded as property, and the North reluctant to yield to this demand of the South, and only yielding it as a matter of compromise in consideration of the South conceding that they should also enter into the basis of taxation to the same extent that they were counted in representation. I undertake to say that in making that compromise, justifiable perhaps at the time and under the circumstances, a principle of taxation entirely unfair, entirely unjust, was incorporated in the Constitution. It was purely a compromise, the South conceding the right to tax three fifths of the slaves, and the North conceding that three fifths of slaves should be represented, and it can only be defended on the ground that it was a compromise necessary, perhaps, to secure the adoption of the Constitution by the requisite number of States.

The principle of taxation thus incorporated in the Constitution has always been an unjust one. There are some districts which have assessable property to the amount of five times as much as other districts in the country.

Several MEMBERS. One hundred times.

Mr. SLOAN. Yes, sir. And for that reason we have refused to resort to direct taxation. There has been but one direct tax laid since the organization of the Government, and that was by the Thirty-Seventh Congress at the commencement of the rebellion. A section was reported last year from the Committee of Ways and Means by its distinguished chairman, [Mr. STEVENS,] continuing this direct tax; but the injustice of the rule of taxing according to population, and not according to wealth and to ability to pay, was so manifest that the proposition met with no favor in this House, and was voted down by a large majority. The injustice and inequality of this rule are admitted and acknowledged by all. It is a principle that has been universally repudiated in this country. It has been adopted in no State, in no county, in no town, in no municipal corporation, of apportioning taxation according to population. Taxes are universally assessed, as they ought to be assessed, upon the property, upon the wealth of a district. That shows the ability to pay, property, not persons; but property ought always to pay the taxes. It is so just a rule that every man intuitively recognizes it. There is no answer to it. The necessity of continuing this inequitable and unjust rule of taxation has entirely ceased. We are no longer called upon to make compromises with slavery. That accursed institution has been swept away by the victorious march of our armies, and slave representation has been buried in the ruins of the rebellion. And one strong reason why this House should refuse to concur in the report of

the committee is that it continues this unequal and unjust system of taxation. It amounts to nothing, for if kept in the Constitution it will never be enforced. It is puerile, it is frivolous to be talking about direct taxes in connection with representation. No Congress can ever be assembled which will impose a direct tax upon the people of the country which is to be apportioned upon the basis of population instead of property. Nay, more, sir; by incorporating this unequal and unjust rule of taxation in the Constitution you prevent the imposition of direct taxation, no matter what circumstances, what necessity may demand it.

I therefore propose to have these two principles separated, and in the amendment which I have tried to submit, and which the chairman of the committee has deemed it his duty to try to keep out by moving the previous question, I disconnect these subjects.

The second proposition in the amendment which I shall offer is that "direct taxes shall be apportioned among the several States according to the appraised value of taxable property therein respectively," and that "the rule of appraisal and taxation shall be uniform." That is a principle and a proposition which I believe will commend itself to the judgment and sense of justice of this House. And if I am right in that, the only question remaining is, what shall be the basis of representation?

The main objection to the proposition reported by the committee is that it is an attempt to do indirectly what it is infinitely better to accomplish directly. It is always better to do directly what we desire to have done than to attempt to accomplish it by circumlocution. The committee have sought to get at this principle of basing representation upon those who are deemed worthy to exercise the right of voting, and exercising political power in this country, but they have attempted to arrive at it by a circuitous way. Many of the objections have been pointed out; there are doubtless many others.

Mr. ELDRIDGE. I desire to ask the gentleman a question.

Mr. SLOAN. I decline to yield for the present.

Mr. ELDRIDGE. I think it will not interrupt the gentleman. It is in the line of the remark he is now making. I will submit the question, and he may answer it or not, as he sees fit.

Mr. SLOAN. I have already spoken much longer than I intended, and shall be through in a short time. I prefer not to be interrupted now.

The only argument against the proposition which I shall offer that I have ever heard, possessing any weight in my judgment, was advanced by the gentleman from Maine, [Mr. BLAINE,] and was conclusively answered by the gentleman from New York, [Mr. CONKLING.] That argument was, that there might be some inequality in the representation of the respective States. We all know that the young men of the old States go out in large numbers to settle in the new States and Territories, while the women and children do not emigrate to so great an extent, and hence there would be a larger number of voters in the new States in proportion to population than in the old. And yet this is a consideration which, in my judgment, ought not to weigh a hair with any member on this floor. It would be only a temporary inequality. In the rapidly increasing settlement and in the natural increase of population of our new States, that inequality would very soon be entirely swept away. I believe the difference to-day between Massachusetts and Wisconsin would be very slight, if any, so rapid has been the increase of our population and the settlement of our State. We are now proposing to adopt an amendment to the Constitution which we expect to stand for all time, and any temporary inequality which could continue but for a few years ought not to have any weight. And when the gentleman from New York [Mr. CONKLING,] showed by his table of statistics that the inequality is so small that it will have no appreciable influence upon the practical operation of the principle, the answer

is conclusive. And I beg gentlemen of this House, in considering this question, to come directly up to the true principle. If we are to amend the Constitution of the United States to accomplish a certain object, which I think we all agree in—at least all on this side of the House—that is, that these States lately in rebellion shall yield up the political power which they are now entitled to exercise in this Government, or shall adopt the republican principle of enfranchising the people of those States without regard to race or color; that they shall give into the hands of the people that political power which is conferred upon them by the Constitution of the United States, or shall cease from exercising it, we must do it in plain, direct, and absolute terms, by saying that those who are authorized to vote, who elect Representatives to this House, and they alone, shall constitute the basis of representation. We shall then have a guarantee against any further restrictions which exclude white men from the elective franchise, and an impelling motive which will ultimately break down the restrictions founded on prejudice of color or race, which cannot be evaded, or by any device or ingenuity defeated.

As the gentleman from New York proved very conclusively yesterday, in the very able speech which he made, we should adopt the principle that those who are not fitted by character and intelligence to exercise political rights at home, shall not swell the political power of those who wholly monopolize the exercise of political rights.

Look at the practical operation of the question we are discussing to-day. In the State I represent there are eight hundred thousand free white people loyal to the Constitution, who have done their whole duty in sustaining their Government during this terrible war. The bones of our soldiers are moldering in the soil of every rebel State. They have stood around our flag in the deadly hail of every battle of the war. The State of Wisconsin has six Representatives on this floor. South Carolina has three hundred thousand white inhabitants, disloyal, who have done all in their power to overthrow and destroy the Government, and yet, sir, under the Constitution as it now stands, the three hundred thousand disloyal white inhabitants of South Carolina will exercise as much political power in the Government as the eight hundred thousand loyal people of the State of Wisconsin.

The question as to whether we shall amend the Constitution so as to make a loyal man at least equal to a disloyal one in political rights and power, is, in my judgment, too plain to admit of argument.

The same principle lies at the basis of both of these propositions. Which shall we adopt? I ask the House to do it directly, to say that the basis of representation shall be those to whom political rights are given—that highest privilege of freemen, the right to vote—to those who help elect the officers who govern this country.

I have yet heard no argument which seems to me of any weight against the proposition which I have advocated, while there are many, some of them, I think, unanswerable, to the proposition reported by the committee. When I had the honor of introducing this proposition at the commencement of the last session of the Thirty-Eighth Congress, it then met with seemingly very little favor, but now there seems to be an almost entire unanimity on the part of the members of this House in favor of adopting this principle. Let us adopt it like men. Do not let us have any circumlocution about it. The object of all is to narrow the basis of representation as the number of those who exercise political rights in the States is narrowed, and to widen the basis of representation as the number of those who are enfranchised is widened. That is clearly the object of all the propositions made, and the avowed purpose of all who advocate them. Let us, then, say so directly, and so put the provision in the Constitution that no device, no ingenuity can evade

or defeat its practical effect. Then every State must make its system of elective franchise as broad as the political power which it desires to exercise in the Government.

Mr. CHANLER. Before proceeding with my remarks, I will yield the floor for ten minutes to my colleague, [Mr. BROOKS.]

Mr. BROOKS. Mr. Speaker, I do not rise, of course, to debate this resolution in the few minutes allowed me by my colleague, nor, in my judgment, does the resolution need any discussion unless it may be for the mere purpose of agitation. I do not suppose that there is an honorable gentleman upon the floor of this House who believes for a moment that any movement of this character is likely to become the fundamental law of the land, and these propositions are, therefore, introduced only for the purpose of agitation. If the honorable gentleman from Pennsylvania [Mr. STEVENS] had been quite confident of adopting this amendment he would at the start have named what are States of this Union.

The opinion of the honorable gentleman himself, that there are no States in this Union but those that are now represented upon this floor, I know full well, but he knows as well that the President of the United States recognizes thirty-six States of this Union, and that it is necessary to obtain the consent of three fourths of those thirty-six States, which number it is not possible to obtain. He knows very well that if his amendment should be adopted by the Legislatures of States enough, in his judgment, to carry it, before it could pass the tribunal of the executive chamber it would be obliged to receive the assent of twenty-seven States in order to become an amendment to the Constitution. The whole resolution, therefore, is for the purpose of mere agitation. It is an appeal from this House to the outside constituencies that we know by the name of Buncombe. Here it was born, and here, after its agitation in the States, it will die. Hence I asked the gentleman from Pennsylvania this morning to be consistent in his proposition. In one thing he is consistent, and that is in admitting the whole of the Asiatic immigration, which, by the connection of our steamers with China and Japan and the East Indies, is about to pour forth in mighty masses upon the Pacific coast to the overwhelming even of the white population there.

Mr. STEVENS. I wish to correct the gentleman. I said it excluded the Chinese.

Mr. BROOKS. How exclude them, when the Chinese are to be included in the basis of representation?

Mr. STEVENS. I say it excludes them.

Mr. BROOKS. How excludes them?

Mr. STEVENS. They are not included in the basis of representation.

Mr. BROOKS. Yes, if the States exclude them from the elective franchise; and the States of California and Oregon and Nevada are to be deprived of representation according to their population upon the floor of this House by the introduction of this amendment.

I asked him also if the Indian was not a man and a brother, and I obtained no satisfactory answer from the honorable gentleman. I speak now, in order to make his resolution consistent, for no one hundred thousand coolies or wild savages, but I raise my voice here in behalf of fifteen million of our countrywomen, the fairest, brightest portion of creation, and I ask why they are not permitted to be represented under this resolution?

Mr. CONKLING. They are.

Mr. BROOKS. Persons are.

Mr. CONKLING. I thought they were persons.

Mr. BROOKS. And so they are, but they are excluded from all voting. Why, in organizing a system of liberality and justice, not recognize in the case of free women as well as free negroes the right of representation?

Mr. STEVENS. The gentleman will allow me to say that this bill does not exclude them. It does not say who shall vote.

Mr. BROOKS. I comprehend all that; but the whole object of this amendment is to obtain

votes for the negroes. That is its purport, tendency, and meaning; and it punishes those who will not give a vote to the negro in the southern States of our Union. That is the object of the resolution, and the ground upon which it is presented to this House and to the country. This is a new era; this is an age of progress. Indians are only Indians; but negroes are men and brothers; and why not, in a resolution like this, include the fair sex too, and give them the right to representation? Will it be said that this sex does not claim a right to representation? Many members here have petitions from these fifteen million women, or a large portion of them, for representation, and for the right to vote, an equal right with the stronger sex, who they say are now depriving them of it. To show that such is their wish and desire, I will send to the Clerk's desk to be read certain documents, to which I ask the attention of the honorable gentleman from Pennsylvania, [Mr. STEVENS,] for in one of them he will find he is somewhat interested.

The Clerk read, as follows:

STANDARD OFFICE, 48 BEEKMAN STREET,
NEW YORK, January 20, 1866.

DEAR SIR: I send you the inclosed copy of petition and signature to THADDEUS STEVENS last week. I then urged Mr. STEVENS, if their committee of fifteen could not report favorably to our petition, they would, at least, not interpose any new barrier against woman's right to the ballot.

Mrs. Stanton sent you a petition: I trust you will present that at your earliest convenience. The Democrats are now in minority. May they drive the Republicans to do good works—not merely to hold the rebel States in check until negro men shall be guaranteed their right to a voice in their governments, but to hold the party to a logical consistency that shall give every responsible citizen in every State equal right to the ballot.

Will you, sir, please send me whatever is said or done with our petitions? Will you also give me names of members whom you think would present petitions for us?

Respectfully yours,
HON. JAMES BROOKS. SUSAN B. ANTHONY.

A PETITION FOR UNIVERSAL SUFFRAGE.

To the Senate and House of Representatives:

The undersigned, women of the United States, respectfully ask an amendment of the Constitution that shall prohibit the several States from disfranchising any of their citizens on the ground of sex.

In making our demand for suffrage, we would call your attention to the fact that we represent fifteen million people—one half the entire population of the country—intelligent, virtuous, native-born American citizens; and yet stand outside the pale of political recognition.

The Constitution classes us as "free people," and counts us whole persons in the basis of representation, and yet we are governed without our consent, compelled to pay taxes without appeal, and punished for violations of law without choice of judge or juror.

The experience of all ages, the declarations of the fathers, the statute laws of our own day, and the fearful revolution through which we have just passed, all prove the uncertain tenure of life, liberty, and property so long as the ballot, the only weapon of self-protection, is not in the hand of every citizen.

Therefore, as you are now amending the Constitution, and, in harmony with advancing civilization, placing new safeguards round the individual rights of four million emancipated slaves, we ask that you extend the right of suffrage to woman, the only remaining class of disfranchised citizens, and thus fulfill your constitutional obligation "to guaranty to every State in the Union a republican form of government."

As all partial application of republican principles must ever breed a complicated legislation as well as a discontented people, we would pray your honorable body, in order to simplify the machinery of Government and insure domestic tranquillity, that you legislate hereafter for persons, citizens, tax-payers, and not for class or caste.

For justice and equality your petitioners will ever pray.

E. CADY STANTON,
New York.
SUSAN B. ANTHONY,
Rochester, New York.
ANTINETTE BROWN BLACKWELL,
New York.
LUCY STONE,
Newark, New Jersey.
ERNESTINE L. ROSE,
New York.
JOANNA S. MORSE,
43 Livingston street, Brooklyn.
ELIZABETH R. TILTON,
43 Livingston street, Brooklyn.
ELLEN M. SQUIER,
34 St. Peter street, Brooklyn.
MARY FOWLER GILBERT,
204 West Nineteenth street, New York.
MARY E. GILBERT,
201 West Nineteenth street, New York.
MATTIE GRIFFITH,
New York.

The SPEAKER. The ten minutes of the

gentleman from New York [Mr. Brooks] have expired.

Mr. BROOKS. I will only say that at the proper time I will move to amend—or if I do not I would suggest to some gentleman on the other side to move it—this proposed amendment by inserting the words "or sex" after the word "color," so that it will read:

Provided, That whenever the elective franchise shall be denied or abridged in any State on account of race or color or sex, all persons of such race or color or sex shall be excluded from the basis of representation.

Mr. STEVENS. Is the gentleman from New York [Mr. Brooks] in favor of that amendment?

Mr. BROOKS. I am if negroes are permitted to vote.

Mr. STEVENS. That does not answer my question. Is the gentleman in favor of the amendment he has indicated?

Mr. BROOKS. I suggested that I would move it at a convenient time.

Mr. STEVENS. Is the gentleman in favor of his own amendment?

Mr. BROOKS. I am in favor of my own color in preference to any other color, and I prefer the white women of my country to the negro. [Applause on the floor and in the galleries promptly checked by the Speaker.]

The SPEAKER. The Chair saw a large number of persons in the galleries publicly applauding by clapping their hands. He must, in conformity with the vote of the members of this House by which he was placed in the Chair, endeavor to the full extent of his ability, hoping to be supported by the House, but whether supported or not, to have this body act like a deliberative assembly. Applause is as much out of order as manifestations of disapprobation. Hissing is not more out of order than the clapping of hands. And if clapping of hands is indulged in by members upon the floor the Chair will find it far more difficult to repress similar manifestations in the galleries. The Chair must again appeal to gentlemen on this floor to set a proper example, and he will attempt to enforce order in the galleries, and persons sitting in the galleries must respect the decorum of debate.

Mr. CHANLER obtained the floor.

Mr. ORTH. Will the gentleman yield to me for a moment?

Mr. CHANLER. I will yield for five minutes.

Mr. ORTH. I desire to offer an amendment.

The SPEAKER. The gentleman from New York [Mr. Brooks] objects to the offering of any amendment to this joint resolution.

Mr. ORTH. I understand the gentleman from New York [Mr. Brooks] withdraws his objection.

The SPEAKER. The amendment will be read, and then the Chair will ask for objections.

Mr. ORTH. Before the amendment is read, I will premise by saying that it is the same proposition which I had the honor of introducing at an early stage of this session upon the subject of amending the Constitution, basing representation upon voters. It provides substantially that in the amendment we contemplate passing and referring to the different States representation shall be based upon suffrage alone.

The amendment now before the House, reported by the joint committee on reconstruction, does not now embrace that principle, but does embrace what to my mind is a most mischievous principle. And in the few words which I am permitted to present at this time by the courtesy of the gentleman from New York [Mr. CHANLER] I desire simply to note one of the objections raised by the gentleman from Maine, [Mr. BLAINE,] in which he attempts to draw a distinction between the State of Massachusetts and the State of Indiana, which I have the honor in part to represent on this floor.

My position is that the true principle of representation in Congress is that voters alone should form the basis, and that each voter should have equal political weight in our Government; that the voter in Massachusetts should have the same but no greater power than the voter in Indiana; and that the voter in Indiana should have the same power but no greater than the

voter in the State of South Carolina. The gentleman from Maine, however, states that the census tables will show that by the amendment which I desire to offer at this time you will curtail the representative power of the State of Massachusetts. And why? Because he has shown by his figures that although Massachusetts has a male population of 529,244, her voting population is only 175,487, being a percentage of twenty-nine, while Indiana, with a white male population of 693,469, has a voting population of 280,655, being about forty per cent. Why is this difference? Is it because our voting population is so much greater in proportion than the voting population of Massachusetts? Not at all. The difference arises from the fact that the State of Massachusetts has seen fit to exclude a portion of her citizens from the ballot-box. Indiana has done the same thing. Indiana has excluded one class of citizens; Massachusetts has excluded another class. Indiana has seen fit, for reasons best known to herself, to exclude the colored population from the right of suffrage. Massachusetts, on the contrary, has seen fit to exclude from the ballot-box those of her citizens who cannot read or write.

While we in Indiana are governed by a prejudice of color, the people of Massachusetts, I might say, are governed by a prejudice as regards ignorance. But here is the difference: under the amendment that I propose, while Indiana excludes the black man from the right to participate in the decisions of the ballot-box, she does not ask that the black man shall be represented on this floor. On the contrary, while Massachusetts excludes black and white persons who cannot read and write, she yet asks that that population excluded from the ballot shall have representation on this floor. I regard this as wrong in theory, wrong in principle, and injurious to the State which I have the honor to represent, giving to Massachusetts a power upon this floor of which my State is deprived. Why? Because the exclusion which drives from the ballot-box in Massachusetts a large portion of her citizens, yet admits them to representative power on this floor.

I might carry these figures further. For instance, while Massachusetts has but eight thousand, not quite nine thousand colored population, Indiana has nearly twelve thousand colored population; so that in proportion to the number of inhabitants, black and white, in our State, we lose a representative power of nearly four thousand greater than is lost by the State of Massachusetts.

Again, the proportion of females varies in the different States. This argument has been adduced here by gentlemen from New England. They state that the number of females in New England is much greater in proportion to the number of males than it is throughout the West. The census tables do not sustain this position to the extent claimed. In Massachusetts, for instance, where the female population predominates, the difference between the male and the female portion of the population is only about twenty-seven thousand; while in Indiana the male population predominates to the number of forty-seven thousand. But if we of the West gain in representation over New England, it is because the political power of this Government is rapidly concentrating in the valley of the Mississippi, which is destined soon to become, if it be not already, the seat of empire.

Again, if I had time, I could run through these census tables and show that the white males under the age of twenty-one largely predominate in my State and throughout the West over the number of such in Massachusetts and the other New England States.

The SPEAKER. The five minutes of the gentleman from Indiana [Mr. ORTH] have expired.

Mr. ORTH. I thank the gentleman from New York for his courtesy, and will conclude by offering my amendment, which is as follows:

Strike out all after the word "that" in the substitute, and insert in lieu thereof the following:
The following be proposed to the Legislatures of

the several States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of such Legislatures, shall become a part of the said Constitution, in place of the third paragraph of the second section of the first article, to wit:

Representatives shall be apportioned among the several States which may be included within this Union according to the number of male citizens over twenty-one years of age having the qualifications requisite for electors of the most numerous branch of the State Legislature. The Congress, at their first session after the ratification of this amendment by the required number of States, shall provide by law for the actual enumeration of such voters; and such actual enumeration shall be separately made in a general census of the population of all the States within every subsequent term of ten years, in such manner as the Congress may by law direct. The number of Representatives shall not exceed one for every hundred and twenty-five thousand of actual population, but each State shall have at least one Representative.

THE SPEAKER. Is there objection to the introduction of this amendment to the amendment?

MR. LE BLOND. I object to the gentleman from New York yielding for that purpose.

MR. CHANLER. Mr. Speaker, when the distinguished gentleman from Pennsylvania yesterday reported this joint resolution, he announced, with characteristic complacency and generosity, that he had made an arrangement by which the subject was to be discussed, and promised the House and the country that it should be passed before the sun went down. That threat, however, was like many another threat which a habit of power or an arrogant nature may impel men to make. The gentleman relied upon his ability to force his hobby through this House under a caucus resolution before the sun went down. Sir, this measure if passed will tend to obscure the sun from which the liberties of this country derive their nourishment and life, the brilliant orb, the Constitution whose light has spread itself to the farthest ends of the earth. The vital principle of that Constitution, the soul of its being, is that balance of power between the States which insures individual liberty to every citizen of each State, and harmony among all the States of this Union.

I affirm, sir, that the discussion of this subject in the Constitutional Convention of 1787 was conducted in a spirit worthy of a great people, and resulted in the noble instrument under whose authority we now live. That era furnishes us a sad comparison with the present epoch, when it may well be said that our Rome has "lost the breed of noble bloods," and when, so far as the agitation of these fanatical and partisan questions is concerned, reason seems to have "fled to brutish beasts." How differently and with what wise moderation did the framers of the Constitution act. No narrow and fanatical partisanship marks their opinions or their acts. Listen, sir, to the views of Madison on this very question of suffrage, written during the session of the Virginia convention, 1829, 1830:

"The right of suffrage being of vital importance, and approving an extension of it to housekeepers and heads of families, I will suggest a few considerations which govern my judgment on the subject.

"Were the Constitution on hand to be adapted to the present circumstances of our country, without taking into view the changes which time is rapidly producing, an unlimited extension of the right would probably vary little the character of our public councils or measures. But as we are to prepare a system of government for a period which it is hoped will be a long one, we must look to the prospective changes in the condition and composition of the society on which it is to act.

"It is a law of nature, now well understood, that the earth, under a civilized cultivation, is capable of yielding subsistence for a large surplus of consumers beyond those having an immediate interest in the soil; a surplus which must increase with the increasing improvements in agriculture, and the labor-saving arts applied to it. And it is a lot of humanity that of this surplus a large proportion is necessarily reduced by a competition for employments to wages which afford them the bare necessities of life. The proportion being without property, or the hope of acquiring it, cannot be expected to sympathize sufficiently with its rights to be safe depositaries of power over them.

"What is to be done with this unfavored class of the community? If it be on one hand unsafe to admit them to a full share of political power, it must be collected, on the other, that it cannot be expedient to resist a republican government on a portion of the society having a numerical and physical force excluded from and liable to be turned against it, and which would lead to a standing military force, dangerous to all parties and to liberty itself. This view of the subject makes it proper to embrace in the partner-

ship of power every description of citizen having a sufficient stake in the public order and the stable administration of the laws, and particularly the housekeepers and heads of families, most of whom, 'having given hostages to fortune,' will have given them to their country also.

"This portion of the community, added to those who, although not possessed of a share of the soil, are deeply interested in other species of property, and both of them added to the territorial proprietors, who, in a certain sense, may be regarded as the owners of the country itself, form the safest basis of free government. To the security of such a government, afforded by these combined members, may be further added the political and moral influence emanating from the actual possession of authority and a just and beneficial exercise of it.

"It would be happy if a state of society could be found or framed in which an equal voice in making the laws might be allowed to every individual bound to obey them. But this is a theory which, like most theories, confessedly requires limitations and modifications. And the only question to be decided in this, as in other cases, turns in the particular degree of departure in practice required by the essence and object of the theory itself."—*Madison's Writings*, vol. 4, p. 25.

And again in his writings, volume one, page 180, in a letter to Mr. John Brown, of Kentucky, asking his opinion on suffrage:

1. "Whether is a representation according to numbers, or property, or in a joint proportion to both, the most safe? Or is a representation by counties preferable to a more equitable mode that will be difficult to adjust? Under this question may be considered, first, the right of suffrage; second, the mode of suffrage; third, the plan of representation. As to the first, I think the extent which ought to be given to this right a matter of great delicacy and of critical importance. To restrain it to the landholders will in time exclude too great a proportion of citizens without regard to property, or even to all who possess a pittance, may throw too much power into hands which will either abuse it themselves or sell it to the rich who will abuse it. I have thought it might be a good middle course to narrow this right in the choice of the least popular, and to enlarge it in that of the more popular branch of the Legislature. There is an example of this distinction in North Carolina, if in none of the other States. How it operates or is relished by the people I cannot say. It would not be surprising if in the outset, at least, it should offend the sense of equality which reigns in a free country. In a general view, I see no reason why the rights of property, which chiefly bears the burden of Government, and is so much an object of legislation, should not be respected as well as personal rights in the choice of rulers. It must be owned, indeed, that property will give influence to the holder, though it should give him no legal privileges, and will in general be safe on that as well as on other accounts, especially if the business of legislation be guarded with the provisions hinted at."

Sir, the history of the legislation of the radical party can be called, without any stretch of language, untimely; it is unjust; and under a Government where justice is the supreme principle, whenever such measures are fairly submitted to the people there can be no doubt as to the result. Such legislation is unworthy of an American Congress, and however good the motive, however high the patriotism which actuated the men who brought forward these amendments, I am confident that, if they are fairly submitted to the people, they will have such an answer as will be not only to their satisfaction if they are honest, but to the welfare of the country.

MR. LE BLOND. With the permission of the gentleman from New York, I will move to strike out the word "Legislatures" in the fourth line, and insert "conventions to be called by the Legislatures;" and in line six to strike out the word "Legislatures" and insert the word "conventions."

MR. BALDWIN. I object.

MR. CHANLER. Mr. Speaker, a review of the history of the Convention that framed the Constitution will bring us to the conclusion that the motives of our fathers were different from those which seem to have actuated the select committee which reported this measure. The Constitution as offered to the people for ratification was submitted after a long, serious, and even turbulent debate. This very question of representation, involving as it does the basis of the Government in the system under which we live, and involving as it does the rights of persons and property, not only gave rise to long and earnest debate, but was subjected to great modification and compromise. It involved, not only the structure of this House, but of the Senate and the election of the President; and I look in vain in the Constitution for the power which will admit the passage of this measure. (Cur-

page 473 *et seq.*) Let me read, sir, from Curtis's History of the Constitution (volume two, page 145) the record of the proceedings in the Convention:

"As the States were now exactly divided on the question whether there should be an equality of votes in the second branch of the Legislature, some compromise seemed to be necessary, or the effort to make a Constitution must be abandoned. A conversation as to what was expedient to be done, resulted in the appointment of a committee of one member from each State, to devise and report some mode of adjusting the whole system of representation.

"According to the Virginia plan, as it then stood before the Convention, the right of suffrage in both branches was to be upon some equitable ratio, in proportion to the whole number of free inhabitants in each State, to which three fifths of all other persons, except Indians not paying taxes, were to be added. Nothing had been done to fix the ratio of representation; and although the principle of popular representation had been affirmed by a majority of the Convention as to the first branch, it had been rejected as to the second by an equally divided vote of the States. The whole subject, therefore, was now sent to a committee of compromise, who held it under consideration for three days.

"The same struggle which had been carried on in the Convention was renewed in the committee; the one side contending for an inequality of suffrage in both branches, the other for an equality in both. Dr. Franklin at length gave way, and proposed that the representation in the first branch should be according to a fixed ratio of the inhabitants of each State, computed according to the rule already agreed upon, and that in the second branch each State should have an equal vote. The members of the larger States reluctantly acquiesced in this arrangement; the members of the smaller States, with one or two exceptions, considered their point gained. When the report came to be made, it was found that the committee had not only agreed upon this as a compromise, but that they had made a distinction of some importance between the powers of the two branches, by confining to the first branch the power of originating all bills for raising or appropriating money and for fixing the salaries of officers of the Government, and by providing that such bills should not be altered or amended in the second branch. This was intended for a concession by the smaller States to the larger. The ratio of representation in the House was fixed by the committee at one member for every forty thousand inhabitants, in which three fifths of the slaves were to be computed; each State not possessing that number of inhabitants to be allowed one member. The number of Senators was not designated.

"This arrangement was, upon the whole, reasonable and equitable. It balanced the equal representation of the States in the Senate against the popular representation in the House, and it gave to the larger States an important influence over the appropriations of money and the levying of taxes."

"The scale of apportionment of Representatives, recommended in the report of the committee, was also objected to on various grounds. It was said that a mere representation of persons was not what the circumstances of the case required—that property as well as persons ought to be taken into the account in order to obtain a just index of the relative rank of the States. It was also urged, that if the system of representation were to be settled on a ratio confined to the population alone, the new States in the West would soon equal, and probably outnumber, the Atlantic States, and thus the latter would be a minority forever. For these reasons, the subject of apportioning the Representatives was recommitted to five members, who subsequently proposed a scheme, by which the first House of Representatives should consist of fifty-six members, distributed among the States upon an estimate of their present condition, and authorizing the Legislature, as future circumstances might require, to increase the number of Representatives, and to distribute them among the States upon a compound ratio of their wealth and the numbers of their inhabitants. The latter part of this proposition was adopted, but a new and different apportionment, of sixty-five members for the first meeting of the Legislature, was sanctioned by a large vote of the States, after a second reference to a committee of one member from each State."

"Twice had the Convention affirmed the propriety of counting the slaves, if the States were to be represented according to the numbers of their inhabitants; and on the part of the slaveholding States there had hitherto been no dissatisfaction manifested with the old proportion of three fifths, originally proposed under the Confederation as a rule for including them in the basis of taxable property. But the idea was now advanced, that numbers of inhabitants were not a sufficient measure of the wealth of a State, and that in adjusting a system of representation between such States as those of the American Union, regard should be had to their relative wealth, since those which were to be the most heavily taxed ought to have a proportionate influence in the Government. Hence the plan of combining numbers and wealth in the rule. This was mainly an expedient to prevent the balance of power from passing to the western from the Atlantic States. It was supposed that the former might in progress of time have the larger amount of population; but that, as the latter would at the commencement of the Government have the power in their own hands, they might deal out the right of representation to new States in such proportions as would be most for their own interests."

From the above historical statement it will be found that the framers of the Constitution considered the question of suffrage of so vital im-

portance in fixing the balance of power between the States that it was, after full discussion in Congress by the whole body, referred to a select committee of one from each State, again reported and fully discussed, and then referred to a committee of five, whose thorough examination of the subject gave rise to new difficulties, and caused the matter to be referred to another committee of one member from each State. All differences were compromised in a spirit of patriotism and justice. How different is all this from the hasty partisan legislation on this very suffrage question by the present Congress.

A caucus met before Congress organized and chalked out a line of policy and action for the Republican party on the floor of Congress. The whole matter of reconstruction was referred to a grinding committee, whose dictation should govern Congress in every measure brought before it for consideration. Is this wise, just, or reasonable?

I will pass now to the quality of the resolution; and I do so with deference to the learned gentleman who presented the resolution, and whose energy and industry, let me say, deserve the approbation of that side of the House, if not of the whole country.

I have no reason to cavil with the gentleman for his zeal in a cause that is right, but I certainly feel justified in rebuking a zeal which is unjust.

Sir, if what I have just read has force; if the Convention was correct in providing that property and persons should be the bases of representation in the national Congress, I hold that this resolution is too narrow to be of use and too weak to last. It will totter to an untimely grave, and hobble, a feeble and contemptible instrument, from this Congress to every State Legislature to which it may be submitted, to be rejected for its feebleness in a time like this, amid the overwhelming issues which agitate this country.

Sir, the gentleman from Rhode Island [Mr. JENCKES] has pointed out to the House the absolute inutility of this amendment, which seeks madly to strike a blow at the inequality which has been caused by slavery, an institution that is now dead and buried, and by this time stinketh in the nostrils of the people. What motive lies beneath this measure which is proposed to be executed by the stringent rule of the majority in their caucus legislation? Upon its face it seems to be a mask under which contempt of all restriction and all limitation shall be heaped upon the laws of Congress regulating suffrage. In this proposition with a wooden head there lurks some machinery fatal in its intention but harmless in its result toward foreign immigration. The gentleman who offered it presents it to this House as a measure of peculiar protection against the Irishman and the German. Sir, it is a question of race, and I respect the proposition as thus presented. But in debating the exclusive character of this resolution, it is race that is brought before us for discussion. I claim that under this wording of the Constitution the Irishman, the German, the Frenchman, and the American, are one so soon as the foreigner becomes a citizen. This country is the refuge of and is maintained for the white race, as has been so fully demonstrated here in debate, and as is admitted in this resolution. If this is not the white man's Government why bring in an amendment to secure the rights of those who are not recognized by the Constitution? But, sir, to exclude the immigrant is the motive, I firmly believe, of the agitators of this measure. The whole history of slavery in this country corroborates that view. I will quote from a portion of that punk literature which was used to light up the fires of civil war, the statistics heaped up by one of the radical authors whose book was used by the agitators previous to the rebellion to inflame the sectional prejudices of the North against the South. From that fountain they borrowed all the material they had to prove that antipathy existed between the white and black laborer. The same facts used then, if true, will result now in the exclusion

of the white laborer of the Northeast and West, will eventually give the finest and fairest land in the South to the black man in perpetuity to the exclusion of the white workingmen of this country. The question which this country has to meet in regard to the black race is how to secure emigration of that race from the South. They must quit the soil. To parcel out to the black race the richest lands in the southern country is unjust to the white laborer and a mockery. The white immigrant must be secured in a preemptive right of the soil on this continent.

Sir, one of the blue lights of the wonderful galaxy which illuminated the pages of fanatical literature I have now in my hand, entitled "Olmsted's Sea-board Slave States"—capital authority on the other side of the House—unexceptionable, carrying with it conviction without reading it. Every fact contained in this book is accepted by the radicals as doubly true on this subject, and every opinion will be accepted as unpolled by any fanaticism or falsehood by them. Olmstead says, after traveling through all the sea-board States, visiting them by turn:

"Man is a social animal." The largest part of the labor required in Virginia is, and long has been, performed by negroes. The negroes are a degraded people; degraded not merely by position, but actually immoral, low-lived; without healthy ambition; but little influenced by high moral considerations, and, in regard to labor, not all affected by regard for duty. This is universally recognized, and debasing fear, not cheering hope, is in general allowed to be their only stimulant to exertion."

"Now, let the white laborer come here from the North or from Europe; his nature demands a social life: shall he associate with the poor, slavish, degraded, low-lived, despised, unambitious negro, with whom labor and punishment are almost synonymous? or shall he be the friend and companion of the white man, in whose mind labor is habitually associated with no ideas of duty, responsibility, comfort, luxury, cultivation, or elevation and expansion either of mind or estate, as it is where the ordinary laborer is a free man—free to use his labor as a means of obtaining all these and all else that is to be respected, honored, or envied in the world?"

"Associating with either or both, is it not inevitable that he will be rapidly demoralized—that he will soon learn to hate labor, give as little of it for his hire as he can, become base, cowardly, faithless—worse than a nigger?"

He led you into the fanatical fields of bloodshed, where you have glutted all your hate against the South. Now, sir, the influence of the black race on American civilization has been *pari passu* with the progress of the white civilization of this country. And another distinguished blue light is one Helper, another of your prophets—prophets of Baal, who cried on their god to come and help them. He says, in reviewing this whole question:

"The incontrovertible facts which I have thus far presented are, as I think, amply sufficient, both in number and magnitude, to bring conviction to the mind of every candid reader that there is something wrong, socially, politically, and morally wrong, in the policy under which the South has so long loitered and languished. Else how is it that the North, under the operation of a policy directly the opposite of ours, has surpassed us in almost everything great and good, and left us standing before the world an object of merited reprehension and derision?"

"For one we are heartily ashamed of the inexcusable weakness, inertia, and dilapidation everywhere so manifest throughout our native section; but the blame properly attaches itself to a usurping minority of the people, and we are determined that it shall rest where it belongs. More on this subject, however, after a brief but general survey of the inequality and disparity that exist between these two grand divisions of the country, which, without reference to the situation of any part of their territory or to the cardinal points, are every day becoming more familiarly known by the appropriate appellation of the free and the slave States."

Sir, if this resolution takes effect, you surrender to the black race of the South control in the legislative halls in the southern States: by the policy and practical working of all such measures you exclude white labor, and by the exclusion of white labor you give the control of the ballot-box to the negro who will hereafter, by this system of enactments, become the majority of the people under the democratic and established law of our whole policy and the Constitution, and we must bow to the will of the people. Ingraft the black man into the term "people" and you surrender the South to the black race, and the question comes up not between slave and free, but between black and white.

Now, sir, in regard to the relative condition of the country, I here give comparative statements taken from a report made by General Pinckney to the Legislature of South Carolina, found in Elliot's Debates, (see Curtis's History of the Constitution, volume two, pages 168, 169,) and also an abstract from the census of 1850:

Natives of the slave States in the free States, and natives of the free States in the slave States, 1850.

<i>Natives of slave States.</i>		<i>Natives of free States.</i>	
California.....	24,055	Alabama.....	4,947
Connecticut.....	1,390	Arkansas.....	7,965
Illinois.....	144,809	Delaware.....	6,996
Indiana.....	176,581	Florida.....	1,718
Iowa.....	31,392	Georgia.....	4,249
Maine.....	458	Kentucky.....	31,340
Massachusetts.....	2,980	Louisiana.....	14,567
Michigan.....	3,634	Maryland.....	23,815
New Hampshire.....	215	Mississippi.....	4,517
New Jersey.....	4,110	Missouri.....	55,664
New York.....	12,625	North Carolina.....	2,167
Ohio.....	152,319	South Carolina.....	2,427
Pennsylvania.....	47,180	Tennessee.....	6,571
Rhode Island.....	982	Texas.....	9,982
Vermont.....	140	Virginia.....	23,993
Wisconsin.....	6,353		
	609,223		205,924

"This last table, compiled from page 116 of the Compendium of the Seventh Census, shows, in a most lucid and startling manner, how negroes, slavery, and slaveholders are driving the native non-slaveholding whites away from their homes, and keeping at a distance other decent people. From the South the tide of emigration still flows in a westerly and northwesterly direction, and it will continue to do so until slavery is abolished. The following remarks, which we extract from an editorial article that appeared in the Memphis (Tennessee) Bulletin, near the close of the year 1856, are worth considering in this connection:

"We have never before observed so large a number of immigrants going westward as are crossing the river at this point daily. The two ferry-boats—sometimes three—going crowded from early morn until the boats cease making their trips at night. It is no uncommon sight to see from twenty to forty wagons encamped on the cliff for the night, notwithstanding there has been a steady stream going across the river all day; and yet the cry is, 'Still they come.'"

These statements show that the effect of black labor has been to cause emigration from the slave States, and that wherever this cloud of black labor has rested upon the soil it has driven the white intelligent masses of the South away to the western and southwestern States, and to the Pacific coast. If the black laborer of the South is raised to the position of a citizen, with the right of suffrage, the same result must follow from the same cause, which is to be found in the instinctive antipathy of the white laborer to work with the black laborer in a section where the blacks are in a majority and degrade labor.

Hear what Helper says further on this point, always bearing in mind that slavery, although dead, has left the negro a dependent and ignorant being:

"As shown by the census report of 1850, which was prepared under the superintendence of a native of South Carolina, who certainly will not be suspected of injustice to his own section of the country, the southern States, the cash value of all the farms, farming implements, and machinery in Pennsylvania was \$422,598,640; the value of the same in South Carolina, in the same year, was only \$86,518,038. From a compendium of the same census, we learn that the value of all the real and personal property in Pennsylvania, actual property, no slaves, amounted to \$729,144,998; the value of the same in South Carolina, including the estimated—were about to say fictitious—value of 384,925 negroes, amounted to only \$288,257,694. We have not been able to obtain the figures necessary to show the exact value of the real and personal estate in Philadelphia, but the amount is estimated to be not less than \$300,000,000; and as in 1850 there were 408,762 free inhabitants in the single city of Philadelphia, against 283,544 of the same class in the whole State of South Carolina, it is quite evident that the former is more powerful than the latter, and far ahead of her in all the elements of genuine and permanent superiority. In Pennsylvania, in 1850, the annual income of public schools amounted to \$1,348,249; the same in South Carolina, in the same year, amounted to only \$200,900. In the former State there were 393 libraries other than private, in the latter only 26; in Pennsylvania 310 newspapers and periodicals were published, circulating 84,898,672 copies annually; in South Carolina only 46 newspapers and periodicals were published, circulating but 7,145,930 copies per annum.

"The incontrovertible facts we have thus far presented are, we think, amply sufficient, both in number and magnitude, to bring conviction to the mind of every candid reader that there is something wrong—socially, politically, and morally wrong—in the policy under which the South has so long loitered and languished. Else, how is it that the North, under the operation of a policy directly the opposite of ours, has surpassed us in almost everything great and good, and

left us standing before the world an object of merited reprehension and derision?

"For one, we are heartily ashamed of the inexcusable weakness, inertia, and dilapidation everywhere so manifest throughout our native section; but the blame properly attaches itself to a usurping minority of the people, and we are determined that it shall rest where it belongs. More on this subject, however, after a brief but general survey of the inequalities and disparities that exist between those two great divisions of the country, which, without reference to the situation that any part of their territory bears to the cardinal points, are every day becoming more familiarly known by the appropriate appellation of the free and slave States."—*Helper*, p. 19.

Sir, it was stated by the gentleman from Pennsylvania yesterday, in his remarks when presenting this resolution, that it was desirable to press it upon the country in order that there might be prompt action on the part of Legislatures that might otherwise adjourn. I doubt the wisdom of any such effort to force the Legislatures to act. We are here as the Representatives of the people, and not as their compelling power. It is not our duty to anticipate the will of the people, but to obey it; and if there is any safety in our legislation, if there is any security in the future for this House and for the system of government under which we live, it is in adhering to the strict character of a representative Government, and avoiding all these dangers that beset us in the course of our tendency toward centralization. Centralization, sir, is the constant and direct tendency of all these measures. The temper of the people just come from the stern and bloody conflict of a civil war is not calm and sedate. The people are scarcely free from the oppressive laws which a military despotism laid upon them mountain high. The innocent and the guilty, Union men and rebels alike, were held down by the military despotism which necessity forced upon the country; and now, when the hand of power is just loosed from the throats of the people, and before they are allowed time to breathe freely, you rush upon them, and demand immediate and prompt action on questions which involve the greatest interests of this country, the interests of every individual not only in the South but in the North, questions which have occupied the long and serious deliberation of the wisest and best men that the country has ever produced.

Sir, a great deal is said upon the other side with regard to the soldier element in this country. A constant appeal is made by gentlemen upon that side to the soldiers of the Union. Sir, it is our especial boast that the people of this country, imitating the noble example of Washington, when their liberties and Union had been secured, laid down the sword and retired to the full exercise of their duties as citizens. This appeal to the soldier now, when he is discharging his duties as a citizen, is inflammatory if it is not unwise, and is certainly unbecoming the Representatives of the people. The greatest power of the people exists in the exercise of their rights as citizens, not in the exercise of the power of the soldier.

The question of representation, which is assailed by this joint resolution, is one which has a history peculiar to American institutions. And in violating that principle we are drifting back to that period of history when Roman polity ruled the world. One who has, perhaps, almost as much experience and learning as the chairman of the committee on reconstruction, who stands as high in the government of his own country, and shows more learning, perhaps, in constitutional law, Lord Brougham, says in reviewing this question of representation:

"It is exceedingly instructive to examine narrowly the Roman provincial policy, because it shows to what various devices the republic was driven!"

They were republicans and not democrats; there is a distinction, deep and broad, between the two systems of government—

"to what various devices the republic was driven in order that it might be enabled to extend its dominion while its constitution remained unchanged. It also illustrates, in a striking manner, the grand difference between ancient and modern policy, introduced by the happy contrivance of representation."

Sir, the grand distinctive policy of this Government is that all power arises from the people,

and that all power that descends upon the people is exceptional and hostile to the spirit of our Constitution and to the whole system of our Government in form and in spirit. When the Romans conquered any portion of their neighboring territory they fixed upon that territory a system of provisional government, and fixed it upon them for all time. They held them by military power and excluded them from any exercise of power in their Government.

[Here the hammer fell.]

Mr. BAKER obtained the floor.

Mr. FARNSWORTH. Will my colleague [Mr. BAKER] yield to me for a few moments?

Mr. BAKER. With great pleasure.

Mr. FARNSWORTH. I desire to occupy but a few moments of the time of this House in reference to this subject. We have learned by experience that it is necessary that whatever is put in the Constitution, and whatever laws we make in reference to the rights of the men in the rebellious States, must be so hedged about with guards and protections, they must be so plain and so clear, that "the wayfaring man though a fool may not err therein," or else they will in some cunning manner devise a way of avoiding them. We adopted an amendment to the Constitution that slavery should not hereafter exist in this country except as a punishment for crime. Yet we find those States now reducing these men to slavery again as a punishment for crime, and declaring for every little petty offense the black man may commit that he shall be sold into bondage. So that even that constitutional provision which we made, and which was intended to knock the shackles off every man who was not guilty of crime in the United States, is avoided and got around by these cunning rebels.

Now, sir, it is necessary, it seems to me, that whatever constitutional provision we may make should be made clear, manifest, certain. If possible, we should make it enforce itself, so that by no cunningly devised scheme or shift can they nullify it. It seems to me that the resolution reported by the joint committee on reconstruction is not so clear as it ought to be; I am afraid that it will be worthless. Several points have been made, several reasons have been given, among others the one suggested by the gentleman from Rhode Island [Mr. JENCKES] and the gentleman from Maine [Mr. BLAINE] in reference to the property qualification. So, too, a State may enact that a man shall not exercise the elective franchise except he can read and write, making that law apply equally to the whites and blacks, and then may also enact that a black man shall not learn to read and write, exclude him from their schools, and make it a penal offense to instruct or to teach him, and thus prevent his qualifying to exercise the elective franchise according to the State law. And they may do in regard to the elective franchise just what they are doing now in regard to slavery. They may provide that no man shall exercise the elective franchise who has been guilty of a crime; and then they may denounce these men as guilty of a crime for every little, imaginary, petty offense. They may declare that no man shall exercise the right of voting who has not a regular business or occupation by which he may obtain a livelihood, and then they may declare that the black man has no settled occupation and no business. It seems to me, therefore, necessary that we should, by some provision in this amendment, settle this beyond a peradventure, so that none of these shifts or devices may defeat the purpose of the enactment.

But, Mr. Speaker, there is another objection to this proposition, which lies deeper than those I have already mentioned; and while I do not say that I will not vote for this as the best thing that we can do under the circumstances, yet I do say that if I vote for it I shall do so very reluctantly. And I protest here that I will not accept any such constitutional amendment as this as a substitute for that full measure of justice which it is our duty to mete out. I will not promise that hereafter I will not propose and vote for and advocate with whatever power

I possess a measure which will give to all the people of the States that which is their due.

Sir, I will not admit that any State has the right to disfranchise a portion of its citizens; and if this proposition makes, expressly or by implication, any such admission, I cannot vote for it. I know it is said that the States have exercised the right of restricting suffrage, and they do now in many of the northern States restrict it, and deny the right of voting to certain classes of citizens. Yet by no vote of mine shall there be incorporated in the Constitution a provision which shall, even by implication, declare that a State may disfranchise any portion of its citizens on account of race or color. We have no right to give our countenance to any such injustice. All provisions in reference to representation which are based upon any other principle than that of the people of this country, who are the subjects of government, have the right to vote and to be represented, are false in principle. Such a measure may, perhaps, answer for a temporary expedient, but it will not do as a fundamental rule to be embodied in the Constitution for the people of this country to live by. I deny that a State has the right to disfranchise a majority, or even a minority of its citizens because of class or race. And I say that that provision of the Constitution which makes it the duty of the General Government to "guaranty to every State in this Union a republican form of government" ought to be taken into consideration by this Congress and enforced. Does a State that denies the elective franchise to one half of its citizens possess a republican form of government? Where a large portion of the citizens of a State—the men who are required to pay taxes and perform military duty, to contribute their money and their strength in support of the Government—are denied the elective franchise, is that a republican form of government? I say that it is a libel upon republicanism; it is not a republican form of government; it is neither republican in form nor in substance.

But, Mr. Speaker, it is said, and I suppose said truly—and it is a disgrace that we are obliged to admit it—that a constitutional amendment declaring that no State shall debar any portion of its citizens from the exercise of the elective franchise on account of color or race could not now receive the assent of the Legislatures of three fourths of the States of this Union. I fear that this is true. It may therefore be necessary that we should—

Mr. HALE. Will the gentleman permit me to ask him a question?

Mr. FARNSWORTH. Yes, sir.

Mr. HALE. I desire to ask whether the gentleman admits that any State of this Union, at the time of the formation of the Federal Constitution, enjoyed a republican form of government; and if so, how many, and which of the States?

Mr. FARNSWORTH. Mr. Speaker, I have only to reiterate what I have already said—that, in my opinion, that is not a republican form of government which denies to a portion of the citizens the right of participating in the Government.

Mr. HALE. Then I ask the gentleman, did any of the thirteen original States, at the time of the formation of the Federal Constitution, enjoy a republican form of government?

Mr. FARNSWORTH. Mr. Speaker, it is well known to every man who has read the history of our country that at the time of the formation of our Government it was expected and believed by the men who made it that slavery would die out in a very few years; and the framers of the Government resorted to some shifts and compromises in the belief that slavery would shortly come to an end. They were very careful in making the Constitution to avoid inserting in it the word "slave" or "slavery." They sought to make an instrument which future generations might subject to the closest scrutiny, without finding in it any evidence that slavery ever had an existence in this land.

But, Mr. Speaker, we have now a different state of things. That class of people who were

then held as slaves are now emancipated. We have learned, by sad experience, that what have been called in these days "the compromises of the Constitution" have proved a Pandora's box, out of which have come all manner of evils to afflict this country. They have brought on this war. They have produced all of this bloodshed in the struggle through which we have passed for the last four years. All these grew out of it.

We now, at the termination of this struggle, for the first time, hold the power to do right. If the people of the United States will but rise up to the standard of duty and mete out the full measure of justice which has been so long withheld from them, they have the power to do it. This Congress has a majority in favor of these principles, and ought to pass such an amendment as is required by the emergency. The States not in the rebellion are numerous enough to ratify an amendment to the Constitution; and I verily believe if the men elected to this Congress as Republicans would vote together for such amendments to the Constitution as they in their consciences approve, they would be incorporated into the Constitution, for the States would adopt them; it is only because of the timidity of men, it is only because they are afraid to come up to the mark.

I say that the people who are behind the people are more radical than we are ourselves. They are radical, gentlemen, most radical. They desire this Congress to do right, and they believe that right consists in enfranchising the loyal people of this country without regard to race or color, and that if anybody shall be disfranchised it shall be the white rebels and traitors who have been seeking to overthrow the country.

Mr. SMITH. I understand my friend to say that there would be enough of States not in rebellion to adopt the constitutional amendment. Does he consider that three fourths of the States not in rebellion could pass an amendment to the Constitution of the United States, or does he consider it requisite to have three fourths of the entire number of the States?

Mr. FARNSWORTH. That raises a question which is a mere play on words, whether the States which were in rebellion are out of the Union.

Mr. SMITH. Yes, sir.

Mr. FARNSWORTH. In my judgment, three fourths of the States which were not in the rebellion are sufficient. I do not see how a State which has been in the rebellion can act on the Constitution. I do not see how a State which has abolished its State government as a part of the United States, and has been acting in open hostility to the Government—I do not see how such a State can have submitted to its Legislature a proposition for ratification. I would like to know how the gentleman would have submitted the constitutional amendment two years ago to the rebel States for ratification or rejection.

Mr. SMITH. I will answer with pleasure. When the amendment to the Constitution abolishing slavery was passed by this House it was understood by every member upon this floor, without exception, that it would require three fourths of the States. It was a question whether the States of New Jersey, Kentucky, Tennessee, and Arkansas would not pass that amendment and so secure three fourths of the United States. Reference was made in the argument of this question that after the war had begun Tennessee was represented in Congress; that Virginia was represented during the whole war in the Senate, and West Virginia was represented in this House.

Mr. FARNSWORTH. I decline to yield any further.

Mr. SMITH. You asked me a question, and I hope you will allow me to answer it.

Louisiana was also represented. A gentleman in this city, now claiming to be a representative in the Senate of the United States from Louisiana, was a member upon this floor while the war was going on and three fourths of that State was in actual rebellion. I do not think the Union members have meant to say that the States have been out of the Union.

As I have answered my friend that I believe it does require three fourths of the States of the Union to ratify an amendment to the Constitution, I ask him whether we are to repudiate everything done by those people since the war has ceased?

Mr. FARNSWORTH. Mr. Speaker, that has nothing to do with the question that I asked of the gentleman from Kentucky. Now I ask him, would he have submitted the constitutional amendment that passed Congress two years ago, at that time, to the Legislature of South Carolina? Of course he cannot answer it in the affirmative. It could not have been submitted to that Legislature.

Mr. SMITH. The gentleman did not ask me any such question. He never said a word about South Carolina. The question was as to three fourths of the States. Louisiana, Arkansas, Tennessee, and Virginia held Legislatures at that time which sent men to Congress. To those Legislatures this amendment was presented, and they adopted it, and their vote in its favor was counted by the Secretary of State among the twenty-seven States making up the three fourths by which it became recognized as a part of the law of the land.

Mr. BROMWELL. Will the gentleman from Illinois allow me to ask him a question?

Mr. FARNSWORTH. How long will it take to ask it?

Mr. BROMWELL. It is this: if the entire number of States which were in the Union in 1860 is to be counted in the number necessary to vote; and if there were now pending an amendment to the Constitution abolishing slavery, and it had received the votes of so many States that but one more would be necessary to carry it: does the gentleman believe that there is such a sufficient State government in Alabama, or that its action could divest the right of Kentucky to her slaves over her solemn vote twice repeated within the last three months?

Mr. SMITH. The gentleman from Illinois will allow me to answer that question, which has been so curiously put. I answer that, so far as Kentucky is concerned in refusing to pass the constitutional amendment, I very much regret it; for everybody knows I voted for it with pleasure, in dangerous hours, and when a man of my political complexion stood very little chance of getting even into the office of constable in my State. But I stood up, and I have asserted on this floor, and reassert it now, that it required three fourths of the States, including Alabama, which is on the list, to abolish slavery in Kentucky; and Alabama, with the other twenty-six States, having done it, it is a part of the fundamental law of the land, and Kentucky is bound to obey it. But, sir, without three fourths of the States no State was under obligation to receive it or recognize it as the law of the land. I say that all the States are in the Union, because we kept them in by force of arms.

Mr. FARNSWORTH. I did not intend to discuss the question whether these States were in the Union or out of it. I do not understand that that has very much to do with the question before the House. I was betrayed into it by the gentleman from Kentucky, [Mr. SMITH.]

I do not see, as I said before, if these States had been in rebellion for ten years, and were still in the Union to be counted for the amendment of the Constitution, that it would be possible for us to amend the Constitution of the United States so long as they remained in rebellion. And if these States have been in the Union all the time, why do not the Senators from those States who hold over, and who by the terms of their election would be entitled to represent their States, now come and take their seats in the Senate?

Mr. SMITH. Because you will not let them. [Laughter.]

Mr. FARNSWORTH. We passed no law saying that they shall not come in. Their credentials are already in the Senate. They took their hats one day and walked out. They may come in and take off their hats and sit down to-day. Why not? If they have been in the

Union all the time, why may not Robert Toombs or Jeff. Davis or John C. Breckinridge, or any of those whose terms are unexpired, come in again?

A MEMBER. They have been expelled.

Mr. FARNSWORTH. I think Breckinridge was the last Senator elected from Kentucky before the rebellion, and would hold over to the present time. Why not come and take his seat?

Mr. SMITH. Now I hope the gentleman will allow me to put in a word.

Mr. FARNSWORTH. No, sir.

Mr. SMITH. One word on the Breckinridge question. [Laughter.]

Mr. FARNSWORTH. I only occupy the floor by the courtesy of my colleague.

Mr. SMITH. I happen to have been in the Legislature of Kentucky when Mr. Breckinridge was in the Senate of the United States. I voted requesting him to resign his seat, and in case he did not, to ask the Senate of the United States to expel him because of his treason. He was expelled because of his treason against the Government of the United States, and I hope the time will never come when any American citizen who has the privilege of representing any portion of this people will allow such a man as John C. Breckinridge to take a seat in the Senate of the United States. But it is not fair in argument to bring up such a case as that. Why does not the gentleman vote to allow Mr. Maynard and Mr. Stokes, men who assisted in electing him to this House, to take their seats here and represent that State in this House?

Mr. FARNSWORTH. I hope the time will never come when the Congress of the United States will allow a State still in open rebellion and treason against the Government of the United States to take its place in the government of the nation. And if we are not to allow them to take their seats here because of treason and rebellion, why does not the same argument reach back to the State itself which is in rebellion and treason? The gentleman asks to let Mr. Stokes and Mr. Maynard take their seats. Sir, for those gentlemen I entertain a high respect. I know they have continued faithful among the traitors, have been true to the Union when it was dangerous for men in their position to be so. But it is no question about men. The question for Congress to decide is, as to their power of sending their agent here, not the character of that agent. It is the character of the people. Is that people entitled to a Representative upon this floor? If it is in a position to be represented on this floor as a State of the Union, then we are not to scrutinize the agent they send here and degenerate into a committee to decide upon the more character of the man who is sent to represent it. We go behind the agent. We go to the question as to the constituency. The question is, is it entitled to be represented? not, who is the agent they send here?

Mr. STROUSE. Will the gentleman yield to me for a moment?

Mr. FARNSWORTH. No, I must decline to yield.

Mr. BAKER. Inasmuch as I do not perceive that this side debate is exceedingly germane to the question before the House, and inasmuch as I am beginning to apprehend that this performance may turn out to be the play of Hamlet with the part of Hamlet left out, though I desire to be exceedingly courteous to my colleague from Illinois, I beg him to bring his remarks to a conclusion.

A MEMBER. And let Hamlet resume his play. [Laughter.]

THE SPEAKER. The gentleman has thirty-three minutes of his time remaining.

Mr. FARNSWORTH. I will occupy but a very few moments more. To come back to the question under immediate consideration, I would much prefer, if we are to adopt any amendment to the Constitution on the basis of representation, that we should put it upon the voting basis, or, if that cannot be adopted, then let us adopt a provision which shall put it out of the power of these States to circumvent it, and by any shift, or trick to get round it that by declaring if this

class of people of African descent are not allowed the elective franchise in any State, no matter upon what pretext, whether it is because of lack of intelligence, or because of lack of property qualification, or any other; if they are debarred the right of exercising the elective franchise, then they shall not be counted in the basis of representation. In that way we shall get rid of the possibility of any State evading the effect of this constitutional provision by a shift or a trick. I do not say that I shall not vote for the amendment. I hope, however, that it may be amended in this particular, and then if that is the best that we can get, I will vote for it; but at the same time I will not accept it as a substitute for that greater justice which we ought to do.

Mr. BAKER resumed the floor.

Mr. LAWRENCE, of Ohio. I ask the gentleman to yield to me for a moment.

Mr. BAKER. I will yield for three minutes.

Mr. LAWRENCE, of Ohio. I move to recommit the resolution and pending amendments to the committee on reconstruction, with instructions to report an amendment to the Constitution which shall—

1. Apportion direct taxes among the several States according either to property or numbers of population, in the discretion of Congress, excluding Indians not taxed.

2. That shall apportion representation among the States on the basis of adult male voters who are citizens of the United States.

The SPEAKER. Is there any objection to allowing the gentleman to make the motion?

Mr. BLAINE. I object.

The SPEAKER. The gentleman from Illinois [Mr. BAKER] being upon the floor, can make it, but the gentleman from Ohio cannot.

Mr. LAWRENCE, of Ohio. I hope the gentleman will do it.

Mr. LE BLOND. I wish to say that when the gentleman now upon the floor concludes his speech, if I can get the floor I will move to refer the resolution and pending amendments to the Committee of the Whole on the state of the Union. Then all these propositions can come in and general debate can be had on them, and the sense of the House can be ascertained as to what they desire.

Mr. INGERSOLL. I desire to move an amendment to the motion of the gentleman from Ohio, [Mr. LAWRENCE.]

The SPEAKER. It is not pending. If the gentleman from Illinois [Mr. BAKER] should make it himself, it would be in order; but he cannot yield the floor to another gentleman to offer an amendment or make such a motion.

Mr. LAWRENCE, of Ohio. I hope the gentleman will offer it.

Mr. BAKER. I must decline to do so.

Mr. LAWRENCE, of Ohio. Then I give notice that at the proper time I will make the motion myself.

Mr. BAKER. Mr. Speaker, I certainly am exceedingly anxious to have an amendment adopted at the earliest practicable moment achieving the general purpose of supplying a more just basis of representation, and I was at one time favorably struck with the proposed amendment. But upon more critical examination I raise upon it the following points of objection, to which I beg to draw the attention and candid consideration of the House:

The proposed amendment fails, as I conceive, in its very terms, to adequately effect its own object; that is, it fails to provide, and by apt words to secure, a representation in this Government which shall properly correspond with the measure of suffrage upon which it rests. To explain this, let it be observed that under the operation of this amendment three contingencies may happen: first, a given State may enact universal suffrage, and in that case the operation of the amendment would be all right; second, such State might deny or abridge the elective franchise on account of race or color, and in that case the amendment would operate to exclude from the basis of representation all persons of such race or color, and so effect the end proposed by the committee; but third,

such State might deny or abridge the elective franchise, not on account of race or color, but on some other account—as, for instance, property or intelligence—and in such case though very large numbers of her people might be disfranchised, yet under the operation of this amendment, they would all be counted in the basis of her representation, which would be highly unjust in itself, besides potentially leaving the identical obnoxious thing standing in our representative system which it is the object of this amendment to extirpate! The object we have in view is to deprive a State of the privilege of disfranchising any portion of her citizens and at the same time having them counted in the basis of her representation. And I humbly submit that this object is not accomplished by leaving it to a State, as this proposed amendment does, to disfranchise whom she pleases and to any extent she pleases, provided only it be not for race or color, and then allowing the persons so disfranchised to be counted in the basis of her representation.

That I am right in this interpretation of the proposed amendment is apparent on inspection of its language. The primary basis of representation which it provides is the whole number of persons in each State, which I clearly think is the right primary basis; and the only limitations it imposes are, first, untaxed Indians, and secondly, all persons of any race or color who may be discriminated against as to suffrage on account of race or color. There is no provision whatever covering any other sort of discrimination; from which it clearly results, as I have stated, that large numbers of persons might be excluded from the franchise, and yet be counted in the basis of representation if only they were excluded on some other account than color or race. This, it appears to me, is too narrow a foundation to rest the proposed remedy upon. For, in my opinion, there are other grounds upon which men may be disfranchised, which are quite as odious and quite as dangerous to liberty as disfranchisement on account of race or color. A property qualification is one, the whole strength of which was tested by Franklin's question. A man owns an ass to-day and he votes. To-night his ass dies, and to-morrow he cannot vote. "Now," said Franklin, "who has the vote—the man or the ass?" At all events, the right to the vote died with the ass.

I am reluctant to indorse an amendment to the Constitution, framed in this day of growing liberty, framed by the party of progress, intended to make representative power in this Government correspond with the quantum of political justice on which it is based, and yet which leaves any State in the Union perfectly free to narrow her suffrage to any extent she pleases, imposing proprietary and other disqualifying tests, and still strengthening her aristocratic power in the Government by the full count of her disfranchised people, provided only she steers clear of a test based on race or color.

Nor am I to be answered that such would not probably be the practical fact, though the power existed to make it so. In framing an amendment of our fundamental law, which may exist for centuries without a change, we should be exceedingly modest in undertaking to prejudice that power left to a State to very materially narrow its suffrage, and yet retain its undiminished weight in the system, would never be exercised by such State. The wiser course, it appears to me, now we have taken it in hand, is to put the right thing in the Constitution, so wording it that no considerable body of the people in any State can be disfranchised, no matter on what account, and still be numbered in her basis of representation. Then the mischief we are aiming at will be removed—not scotched—removed with the glad sanction of the people; and the guarantee of its removal will be in the terms of the Constitution itself, and not left to the fortuitous pleasure of particular States, free to go on, in great measure, as heretofore, excluding their people from suffrage and yet having them counted in the basis of their representation. The fundamental idea is to leave the primary basis

of representation where it was placed by our fathers, the whole body of the people, then excluding from the count according to disfranchisement by the States, no matter whether for race or color or other cause. No State should reserve in her basis of representation persons disfranchised and not represented, no matter on what ground she so excludes them.

Mr. INGERSOLL. Will my colleague yield to me for a moment?

Mr. BAKER. I yield to my colleague.

Mr. INGERSOLL. I believe much good has been done by this debate; and I believe it is the desire of the friends of this measure, or of the principles involved in this proposition, that some speedy action should be had upon it upon the ground that many of the State Legislatures are now in session, and would be called to act upon it before their adjournment in States where they have only biennial sessions. Now, sir, I move—and I believe that the object can be accomplished by an acquiescence in it by the House—that this subject be committed to the Committee of the Whole on the state of the Union under the five minutes' rule, and be there discussed under the five minutes' rule, and be continued as a special order until it is disposed of. Then, sir, every gentleman will have an opportunity to talk five minutes about this question, and to offer amendments or propose substitutes; and they can be voted upon in committee.

The SPEAKER. Is there objection to the proposition of the gentleman from Illinois?

Mr. HARDING, of Kentucky. I object.

Mr. RANDALL, of Pennsylvania. I suggest to the gentleman from Illinois that it would be impossible for any gentleman to approach an argument upon a question of this sort in five minutes.

Mr. HARDING, of Kentucky. If a liberal time for discussion is allowed, I will not object. But I do object to being restricted to five minutes, after gentlemen on the other side of the House have exhausted the full time in their speeches.

Mr. INGERSOLL. If there be no objection, I will agree to make it ten minutes.

Mr. RANDALL, of Pennsylvania. Make it fifteen minutes.

Mr. HARDING, of Kentucky. Say thirty minutes.

Mr. INGERSOLL. I cannot consent to make it more than ten minutes.

Mr. LATHAM. I object to any limitation of debate on questions of this importance, at least to any limitation less than thirty minutes.

Mr. ASHLEY, of Ohio. Cannot a motion be made to go into Committee of the Whole, and join with that motion a proposition to limit debate?

The SPEAKER. Such a motion would be in order; but there have been already made by the House several special orders in Committee of the Whole. The proposition of the gentleman from Illinois [Mr. INGERSOLL] can be acted on now only by unanimous consent.

Mr. INGERSOLL. Very well, I have an amendment, or some amendments to offer, which I think will meet the views of my colleague [Mr. BAKER] by whose courtesy I am now occupying the floor. By his permission, I will indicate what those amendments are. I propose to strike out the words "direct taxes" from the resolution reported by the joint committee; also strike out the words "excluding Indians not taxed;" also insert before the word "counting" the words "which shall be determined by," and then to add the following:

And no State within this Union shall prescribe or establish any property qualification which may or shall in anywise abridge the elective franchise.

If that meets the views of my colleague, I will ask him to offer it.

Mr. BAKER. It does not meet my views.

Mr. INGERSOLL. I am very sorry it does not. Will my colleague offer it as meeting my views, not his own?

Mr. BAKER. If it be in conformity with the rules of proceedings to offer this amendment as meeting the views of my colleague [Mr. INGERSOLL] and not my own I will do so.

The SPEAKER. The gentleman having the floor can submit the amendment on behalf of his colleague. But it must be an amendment in the nature of a substitute, striking out all after the enacting clause and inserting the joint resolution with the modifications indicated.

Mr. BAKER. Then I offer this amendment at the request of my colleague, [Mr. INGERSOLL.]

The amendment was read, as follows:

Strike out all after the enacting clause and insert—That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as part of said Constitution, namely:

Art. — Representation shall be apportioned among the several States which may be included within this Union according to their respective numbers, which shall be determined by counting the whole number of persons in each State: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation; and no State within this Union shall prescribe or establish any property qualifications which may or shall in anywise abridge the elective franchise.

Mr. JENCKES. Mr. Speaker, the gravest question that can be presented to the Representatives of the people is a proposition to amend the fundamental law of the Republic. It should always be approached with hesitation, considered duly, both with regard to the previous history of the Republic and its probable future, and decided upon only after the most mature deliberation and full understanding of that which is proposed, and of its application.

This proposition now under consideration, coming as it does from the joint committee of fifteen, is before the House, with greater solemnity, if I may use the phrase, than any that has been presented upon the motion of a single member. That committee demand for it our immediate consideration and action. We have a right, from the character of that committee and the business with which it is charged, to suppose that this proposition is a portion of that plan of reconstruction which they propose to submit to this Congress; and that in their wisdom they believe the best method of presenting their plan is thus in detail, commencing with a proposition to amend the Constitution of the United States. Having this grave sanction, and being urged by the weight and authority of that committee, this proposition, as it seems to me, deserves a more full consideration than it has received, or is likely to receive, in the present temper of the House.

My opposition to this amendment is based upon several grounds. One would suppose that with the magnitude of the undertaking devolved upon this committee, aiming to heal a wound in the Constitution of the Republic and to give new life to it hereafter, they would have presented a measure which was founded upon principle, and which would stand the criticism of all parties, not only of the present time but of all future time. We should expect that such a measure would at least be based upon the principle of justice, to be carried out so as to accord equality to all the citizens of the States. But upon examining this proposition I find upon its face that it has not the principle of justice in it. In my judgment justice requires that the qualification of electors for members of this House and for electors of President and Vice President of the United States—in other words, for the two popular branches of this great Government—should be defined in the fundamental law. Upon this point let me quote the words of Madison, written in his mature years to a distinguished son of the Republic seeking advice from him. He says:

"The right of suffrage, the rule of apportioning representation, and the mode of appointing to and removing from office, are fundamentals in a free Government, and ought to be fixed by the Constitution."

The offering of an amendment implies that there is a difficulty to be removed, and the proposition for an amendment should be one that will remove that difficulty. The difficulty hitherto found in the Constitution as it stands is that the qualifications of these voters have been left for each of the States to determine within their several jurisdictions. In other words, the General Government has made the several States

the instruments or the means for determining those qualifications and for conducting the elections. This power has been used for mischief, and this amendment proposes that that mischief shall no longer intervene. That certainly should be the remedy proposed. Now the question of all others raised by the amendment and presented for us to consider is this: it is now proposed to have the qualifications of these electors to be determined, not as it was in 1789 by some thirteen constituencies, but by some thirty-six or more constituencies, with no other restrictions than those contained in the proviso. Will this prevent the recurrence of the past difficulties, and save us from such new ones as may be anticipated from the new state of things if the Constitution should remain as it is?

It has been said that in the Convention of 1787 a difficulty was found in fixing these qualifications so that they should be uniform in all the States; but that difficulty then was certainly not one of principle, for the property qualification existed in many if not in all of the States. If any other difficulty existed it is now removed, or substantially removed, since in three fourths of the States that would be required to ratify an amendment on this subject, nearly all of them have made the suffrage so nearly universal that the distinction is scarcely material. The qualifications of voters for members of Congress are so nearly alike that the differences can easily be reconciled, and when once reconciled, they can be incorporated in a provision for an amendment of the Constitution. Certainly, sir, it is less difficult in a Congress composed of less than three hundred men to agree to a proposition which will meet the views of the whole country on this question of suffrage than to adopt a proposition which, when submitted to and adopted by the requisite number of States, must be carried into effect by as many Legislatures as there are States and in a different manner by each, and which in being carried into effect must be acted upon by as many thousands of men in State conventions and Legislatures as there are hundreds in this Congress.

The old difficulty, therefore, does not now exist, and we can, if we choose, having in view the difficulties of the past and wishing to avoid any in the future, meet this question and settle it upon the principle of justice by endeavoring to insert a new provision in the fundamental law, which when adopted will place the qualifications of voters for members of Congress beyond the reach of State conventions or Legislatures.

Again, in carrying this amendment into effect, I find the principle of justice overlooked and an essential element of injustice infused into it. If this amendment should go into effect, the laws of the States continuing as they now stand, there are four million freemen, three fifths only of whom were counted heretofore in the basis of representation, but all of whom will now be excluded not only from the basis of representation, but from ever having a voice in the election of Representatives. We yield to States the power to exclude an entire race living among them, which has hitherto been a class by themselves, but who must now be counted as citizens. They may exclude not only that race, but people of other races who immigrate to this country, and thus contravene the long-settled policy upon which we open our ports to immigrants from all climes, and of all nations and races, and seek here to build up a nation which will not rest upon the basis of any narrow or clan-nish origin, but which will embrace the best blood of the whole human race.

Again, Mr. Speaker, an amendment proposing to fix the qualifications of voters for members of this House should contain the element of equality. A man in Vermont should have just as much voice in electing a Representative here as a man in Alabama. They are equally citizens of the United States. In electing members of this House, when the electors deposit their ballots, they cease to be citizens of the small republics composing this great nation; they are citizens of the great Republic; they are exercising their duty to the paramount

authority, the supreme government of the land, and to the people. This amendment proposes to leave the determination of these qualifications to the Legislatures or constitutional conventions in every State. All of them may agree on several points. All may require that voters shall be male citizens possessing a certain qualification of age and residence. On other points they may differ essentially. Some may impose the additional requirement of paying taxes; some may fix an educational requirement; some may admit aliens; some may admit those who have merely declared their intention to become citizens. Thus we may find constituencies composed of different classes of citizens or inhabitants voting upon varying qualifications in different districts and all electing members of this House. Such, it seems to me, should not be the case. There not being an equality, of course the desirable element of uniformity is wanting. The fact that a man is entitled to vote in Indiana for a Representative to this House is no evidence that if he should remove to Kentucky he will be entitled to vote there after the required residence. In the State to which he goes he is not entitled in this respect to the privileges and immunities which he enjoyed in the State which he leaves.

Mr. INGERSOLL. Will the gentleman yield to me a moment, that I may ask a question for information?

Mr. JENCKES. Certainly, sir.

Mr. INGERSOLL. If this amendment should be ratified by three fourths of the States, is there anything in it which will prevent a State from requiring of a colored man a qualification which shall not be required of a white man? For instance, suppose that this amendment shall become a part of the Constitution, may not the Legislature of South Carolina declare that no colored man shall be allowed to exercise the elective franchise until he is sixty years of age, while the white man can vote on attaining the age of twenty-one?

Mr. JENCKES. This amendment contains no restriction which will prevent a State from making a discrimination as to age or residence. It may discriminate in those respects, as it may do so in reference to a qualification of property or of taxation.

This merely enjoins the Legislatures and conventions of the States from discriminating on account of race or color, and leaves open every other qualification, or anything which may be declared a qualification for the exercise of the right of suffrage on the part of the States.

There is no equality, and there can be no equality in the proposed amendment. It seems to me, therefore, if we undertake to amend the fundamental law at all in this respect, we ought to agree upon what should be the qualification of voters for members of this House, embodying them in the proposed amendments to submit to the Legislatures of the States. Then there would be a definite proposition; and that I believe, if it emanated from this House, would have substantial equality and justice; would have the elements of equality and uniformity, and be enforced without difficulty in every State of the Union.

Then there is another and more formidable objection indicated in part by the gentleman from Illinois, [Mr. BAKER.] This amendment, as it stands, merely prohibits the States from any discrimination on account of color or race, and it leaves open to the States to discriminate in reference to property and to taxation. There are many States where the payment of a tax is required as a condition of voting. In former times all the States required a property qualification. It is only since the war that the constitution of South Carolina adopted in 1790 has been abrogated.

Mr. HILL. I ask the gentleman to yield to me.

Mr. JENCKES. Certainly.

Mr. HILL. Mr. Speaker, I desire to ask the gentleman a question, because I know he is a good lawyer, and I regard his opinion as one that will be beneficial to the House. I desire to know whether there is anything in

the proposed amendment which will prohibit the State of South Carolina, or any other State, from inserting in the law regulating suffrage a provision that no person shall vote who has ever hitherto been a slave, and thus deprive those who have been slaves, and who have been emancipated, from voting?

Mr. JENCKES. That is another ground of discrimination in addition to those which have been already proposed. The proposed amendment does not prohibit discrimination arising upon quality or condition.

I was alluding to another one. Some of the southern States, up to the breaking out of the war, had constitutions which prescribed a property qualification. Suppose this amendment were adopted and the State of South Carolina chose to annul the constitution recently proclaimed and to go back to that of 1790, and that the word "white" should be stricken out of it, I desire to ask how many freedmen, how many persons of African descent can be found who own in fee fifty acres of land or a town lot, or who have paid a tax of three shillings sterling. As far as I can ascertain from the statistics there would not be, if that constitution were restored and the word "white" omitted, over five hundred additional qualified voters in that State.

What sort of a community would that be? Since the basis of representation has been increased by emancipation every person of African descent would count in ascertaining the number of Representatives to this House. She would have an increased representation upon this floor and a diminished voting constituency. The same persons who carried that State into the rebellion, and urged secession on her sister States, would still select the Representatives by continuing to hold control in their elections. They would establish more firmly than ever the aristocracy of landholders. There would be an oligarchy which it would be impossible for us to overthrow.

Mr. Speaker, ever since the adoption of the constitution of 1790 down to the time of firing on Fort Sumter, South Carolina was in practical relation to this Government as a State of this Union. She had been considered as having a republican form of government, and that which we had guaranteed as such for many years we would be bound to guaranty to her hereafter. Stronger than ever this oligarchy would be enthroned upon their old seat of power, not upheld merely by slaves beneath it, but by the power of the General Government above and around it. She might make any of the discriminations which I have suggested, of age, of residence, of previous servitude, and of ignorance or poverty.

Mr. BRANDEGEE. Will the gentleman allow me to ask him a question? Whether it would not be competent, in his judgment, for the State of South Carolina, if this amendment is adopted, to discriminate against and exclude from the polls all Union men who had given aid and comfort to the United States.

Mr. JENCKES. The gentleman has just anticipated me. If the loyal States have the power (and they have exercised it) to exclude rebels, certainly South Carolina, after she has been thus reconstructed, restored, and strengthened in the Union, would have a right to exclude all those who had not followed her fortune in the rebellion.

It is not necessary to follow out this line of illustration any further. It must be apparent to all who hear me.

Mr. COOK. Can the gentleman say how many would be excluded under that rule?

Mr. JENCKES. Very few in South Carolina; in other States perhaps many. As to how it would operate in Tennessee and Louisiana, perhaps the gentleman from Massachusetts [Mr. BANKS] can give us information. Many would be excluded there.

If this amendment should be adopted it would be hailed with delight in every State lately in rebellion. And if the gentleman from Pennsylvania [Mr. STEVENS] will be satisfied with having the ratification of nineteen States, the first eleven

that would do it would be those which have just laid down their arms. This amendment would be hailed with a shout of joy in every rebellious Legislature. They would immediately set to work and reform their constitutions, excluding not only those of African descent from the polls, but also freemen who had continued on the side of the Union during the war. This amendment would be read with sorrow and regret throughout the world by all that sympathized with republican institutions, and if carried into practical effect it would be met with the loud indignation of our constituents, the scornful derision of our enemies, and the inextinguishable laughter of the friends of aristocracy and oligarchy among all the nations of the world.

Mr. LE BLOND obtained the floor.

Mr. TRIMBLE. I ask the gentleman to yield me the floor for a little while.

Mr. LE BLOND. I will.

Mr. TRIMBLE. Mr. Speaker, I am exceedingly gratified at the disposition that has been manifested among the party in opposition here, by reason of their own differences of opinion, to allow an opportunity to us to present our objections to the measure now under consideration. This subject of amending the Constitution under which we have lived so long, so happily, and so prosperously, is one of great moment; and while I have some confidence in the ability and capacity of some of the friends on the opposite side to make a constitution, yet I prefer the Constitution as made by our fathers eighty years ago. And upon the question now before the House of amending that sacred instrument, I beg of the gentlemen to pause and reflect upon the consequences involved in this act upon the people in every section of this great country. Why urge through with such precipitate haste a matter affecting so greatly the people in this country now and hereafter, from ocean to ocean, from Maine to the Rio Grande?

Sir, this amendment is to operate for weal or for woe upon a people who have been lately in rebellion against the Constitution of the United States; who have no voice here to-day to plead for them, because their rights and privileges upon this floor are denied them. Would it not be well, would it not be in the spirit of harmony and concession, a spirit, too, that has to some extent characterized the action of parties before in power throughout this whole conflict, to wait before they pass this amendment until that people can be heard upon this floor?

Mr. LYNCH. Will the gentleman yield for a moment?

Mr. TRIMBLE. For what purpose?

Mr. LYNCH. To ask a question.

Mr. TRIMBLE. Certainly.

Mr. LYNCH. I want to ask the gentleman, why do not the men he is speaking for have the privilege of being on this floor? Why are they not here now?

Mr. TRIMBLE. I will answer. They have the right, in my judgment, under the Constitution, to be here. Many of them are now about this Capitol with the broad seal of their States now in the hands of a committee of this House, giving them authority and power to take seats on this floor, as much as you and I or any one else; but they are kept out by the voice of this House.

Mr. LYNCH. The gentleman misapprehends my question. It is, by whose fault they are not here to-day.

Mr. TRIMBLE. By whose fault? Why, it is because the doors of this House are closed against them by the party in power.

Mr. LYNCH. Does it not go further back than that?

Mr. TRIMBLE. I do not propose to go farther back. [Laughter.] I hope the gentleman is satisfied.

Mr. LYNCH. I am.

Mr. TRIMBLE. Why, sir, do you keep Mr. Maynard out? Why do you keep Colonel Stokes out? Why do you keep out my distinguished friend, Mr. Cooper, and other gentlemen from Tennessee, whose loyalty no man in Tennessee has ever dared to question? I pause for a reply

from the gentleman. He propounded a question to me, and I answered it. I now ask him, why do you keep these loyal men out?

Mr. LYNCH. What is the question?

Mr. TRIMBLE. The question is, why Mr. Maynard, Colonel Stokes, Governor Campbell, Colonel Cooper, Colonel Hawkins, and these other gentlemen who have been engaged in the cause of the Union, fighting the battles of the Union throughout the war, are kept from their seats upon this floor as Representatives from Tennessee?

Mr. LYNCH. Does the gentleman know why poor dog Tray suffered? [Laughter.]

Mr. TRIMBLE. Yes, sir; but I trust the gentleman does not intend by that remark to stigmatize these distinguished and gallant men by saying they were in bad company and must bear the consequences. They were fighting for the Union, and are entitled to the consideration of the House. They were in company with the President of the United States, and Colonel Hawkins was under fire at Charleston for sixty long days. That was very bad company!

Sir, I am opposed to this amendment, and to all kindred amendments, and I have no hesitancy in saying, upon this occasion, that I expect, while I remain true to myself and to the Constitution of my fathers, which I have so often sworn to support, to continue to oppose the submission of all such amendments to the people.

In my opinion, the amendment proposed is in violation of the reserved rights of the people of the States under that instrument. The object and purpose of this resolution is to enfranchise a million men in this country whom no political party in this country ever had the boldness to propose the enfranchisement of prior to the present session of Congress. I remember that in 1860 and 1861 the party known in this country as the Union party took the ground, from one end of the country to the other, that neither Congress nor the people of the States had the power, under the Constitution of the United States, to interfere with slavery in the States where it existed; much less, sir, did they claim the power not only to destroy it, but to strike down the provisions of the Constitution that protected me and my constituents in our right to our property. Sir, there was an amendment submitted then for the purpose of peace, for the purpose of restoring peace and quiet throughout the country. It met at the time my hearty support, and I regret from the bottom of my heart that the people, North, South, East, and West, did not agree to that proposition and make it part and parcel of the Constitution. I refer to the amendment proposed in 1861, declaring that Congress should never thereafter interfere with the question of slavery in the States.

Now, sir, what is the proposition presented here and to the country? Why do not gentlemen come out and state it boldly? Power is the impelling motive with these men, and all these propositions of amendment to the Constitution enfranchising the negroes look to the securing of power. They admit that it is an experiment; they admit that it has been heretofore untried, and they cannot say here or to the country what will be the result of the experiment. Why will you, my friends, upon a matter of so much importance, affecting your interests and my interests and the interests, I trust, of coming generations through all time—why will you imperil this Government, which has been the wonder and admiration of the world, by enfranchising these persons whom you have by your power and numbers made free, but whom you have by your own solemn acts declared incompetent to manage even matters of the smallest concern affecting themselves? Why, sir, we have a Freedmen's Bureau extending throughout this vast country, North and South, which shows that you regard these people as incompetent and unqualified to make even contracts for a few weeks' work! That bureau costs this Government about twelve million dollars annually. Sir, these gentlemen blow hot and cold in the same breath. When they want to establish negro suffrage in this District, they say that these

people are freemen, and qualified to discharge the highest privileges of an American citizen; and the next moment, through their Freedmen's Bureau, they place these people, in my judgment, in a condition of slavery the most galling to them that they have ever felt. Sir, if they are free, withdraw your Freedmen's Bureau, and treat this unfortunate people like freemen—let them make their own contracts.

Sir, this proposition and all kindred propositions, in my judgment, are in direct opposition to the plain provisions of the Constitution itself, to the reserved rights of the States, which are sacred, and should be so regarded by Congress and the people. What are the principles upon which this Government has rested? Sir, this Government was formed by coequal States, who delegated to the General Government all the powers necessary and proper to secure the great end of protecting the general interests of the whole, reserving to the States all powers not delegated by the Constitution to the Federal Government. Why do I say this? Because it is the language of the Constitution itself. It declares that—

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Hence the powers not delegated to the Federal Government by the States still rest in the States, and there is no power on earth that can deprive the States of them. While I say that, I do not desire to be understood as defending the doctrine of secession.

While I desire to maintain the municipal sovereignty of the States, their inherent and exclusive right to regulate, order, and control their own domestic affairs, also the right to representation in Congress according to the Constitution, I have ever opposed the doctrine of secession.

When that doctrine was before the country I opposed it with all the power that I possessed, and I intend to be understood as yielding to the Federal Government every right and power delegated and necessary for her to protect the States and the people thereof respectively. Let her—the Federal Government—exercise the powers delegated and peculiar to her, the States all power not surrendered to the General Government by the Constitution. In that way there will be no question about which any State can make any complaint, or the rights of any citizen or State be invaded.

Had there been no violation of the spirit of the Constitution by the people of the North, in my judgment there never would have been a slaveholders' rebellion. But by the acts of those northern States, in the passage of personal liberty bills in violation of the Constitution, these men were enabled to seize on those unconstitutional acts as pretexts by which to fire the people of the South and precipitate them into rebellion; and well did they work upon their prejudices for that purpose. In my judgment, in 1860 and 1861, in some of the States of the South, that much-abused section of country, there was a large majority in favor of the Constitution and the Union; and if they could have been made to believe that their rights would have been secure under that Constitution, they could not have been drawn into revolution.

What were the issues presented in the South to the people in 1860 and 1861? Said the men who proposed to precipitate the people into revolution, "Will you stand here and act with the party in power, with an Administration selected upon a sectional issue, selected for the avowed purpose of destroying the South, and striking down our rights, not only in the Territories, but in the District of Columbia, in the navy-yards and the arsenals, and in the States themselves?" Maynard, and other men like him, stood up and said, "Gentlemen, the object and purpose of the party in power is to stand by the Constitution and by the rights of the people North and South." They repudiated this idea, and denied that these were the issues that were in question.

And what did Congress then say upon that subject? And how different are the acts of the majority here to-day from this resolution, which

I will read, expressing the will and pleasure of Congress in 1861:

"Resolved, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States now in revolt against the constitutional Government, and in arms around the capital; that in this national emergency Congress banishes all feelings of mere passion or resentment and will recollect only its duty to the whole country; that this war is not waged upon our part in any spirit of oppression nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; that as soon as these objects are accomplished the war ought to cease."

This was the declaration of the Congress of the United States; it was the declaration of every political party in this country up to the contest of 1864, when I believe there was a party met in convention in Cleveland, which proposed not to have anything to do with the then distinguished leader of the Republican party—the Chief Magistrate of the United States. They proposed at first to nominate a candidate upon the square issue of negro suffrage in the States. The convention that assembled in Baltimore, from caution or some other cause, did not put in their platform or present to the people any such issue; and so far as I know no political party in this country has ever gone before the people on any such issue.

You, my friends, here, were elected in the midst of the most terrific and gigantic civil strife that ever existed; you were elected without regard to this issue of negro suffrage at the dictation of Congress in the States, against the will of the people in such States; you were elected upon the idea of maintaining the Union and standing by the Constitution. And why is not this spirit exhibited here to-day? Why not pour oil upon the troubled waters and bring back these States with the rights and privileges under this Constitution of our fathers? Why keep them out while you legislate and make a Constitution for them? This matter of amending the Constitution is a very grave matter, even when all to be affected by it are represented, and it should be considered with calmness and with consideration. And the Representatives of the people, before they present this amendment, or any other amendment to the Constitution, for their consideration and ratification, should go before them and argue these propositions pro and con. And then let them return here after that deliberation and consideration, and present their views upon the subject. This is a grave question, and one which ought not to be entered upon without due consideration.

Now, sir, as I have intimated before, the party in power have changed front; they have changed entirely their tactics. They are to-day in revolution against the Constitution, ignoring, denouncing principles contained in their own acts in Congress, in their national and State conventions.

Where, I ask, will this system of amendment stop? Some eighty amendments are now pending in the two Houses of Congress. When and where will the party in power pause? Sir, a spectator coming into this House and observing the course of legislation would be led to suppose that there are no others than the blacks to be legislated for. It is they who claim exclusive attention. A large portion of the white citizens of this country, inhabiting the fairest portion of God's creation, are denied representation here, and no eloquent voice is raised in their behalf to-day; but the African has numberless champions to plead in favor of his right to vote in the States of the South at the will of Congress.

Sir, what was the position of the late President, Mr. Lincoln, who uttered the sentiment, "Charity toward all; malice toward none?" I read from his letter to Mr. Wood:

"Understanding the phrase in the paragraph above quoted, 'the southern States would send Representatives to the next Congress,' to be substantially the same as that 'the people of the southern States would cease resistance, and would reinaugurate, submit to, and maintain the national authority within the limits of such State under the Constitution of the United States,' I say that in such case the war would cease on

the part of the United States, and that, if within a reasonable time a full and general amnesty were necessary to such end, it would not be withheld."

This is the language of the lamented chief of that party. Do they stand by that doctrine to-day? Do they stand by those principles? Or do they deny to these people representation, pouring upon them at the same time unmeasured denunciation, unlimited taxation, and seeking to force upon them negro suffrage? Is this the course of action that was to be expected of a great Government like this in the triumph of its power? Why cannot members of this House rise to the requirements of this great era, and so act as to win for the Constitution and Government of our fathers the support of every good man, woman, and child in this broad land, so that we may again witness the gladdening spectacle of a reunited and harmonious country, with the Constitution and laws as our shield and protection against usurpation, cruelty, and oppression, from dangers of every kind, from at home and abroad?

But that which seems at the present time to be pressing with greatest force upon the minds of many members of this House, is the fact that, by the action of the party in power, some three or four million persons hitherto slaves have been turned loose upon the South, and in consequence of their having become free the southern States are entitled to a larger number of Representatives on this floor than they formerly had. This is the difficulty which gentlemen here seem desirous to remedy by this amendment to the Constitution. Sir, it is a well-established principle that no one should be permitted to take advantage of his own wrong. If the party in power have succeeded in freeing the slaves of the South, ought they not at least to allow the southern States to enjoy the increased representation to which, according to the rule established by the Constitution, they are now entitled? Or if the northern States sincerely desire that the negroes of the South shall vote and shall be represented in Congress, let them transport those negroes to the North and take them under their guardianship. They are welcome to them.

I believe that the people of Kentucky, whom I in part represent, and I have no doubt the people of the whole South, will submit in good faith to the constitutional amendment abolishing slavery. While they may believe that the amendment is revolutionary, and unjust, in violation of the rights of Kentucky and the South, still the southern States having in a way yielded up this question, for representation and peace, they will stand by the Constitution as amended. They will at the same time give to the negroes that protection to which they are entitled, protecting them in the enjoyment of their right to personal liberty and the enjoyment of the rewards of their own labor and industry. But we are asked to vote for this amendment, at the same time that we are to have in Kentucky a "Freedmen's Bureau," passing upon all questions between a white citizen and a negro, overriding the laws of our State, setting at defiance the decrees and judgments of our legal and constitutionally established courts. I regret I have not the last order issued there upon this subject, for I know it would startle my friend from Maine to have such orders executed by the bayonet in Maine.

Mr. Speaker, it has been said upon this floor, and again and again enunciated from one end of the country to the other by leading members of the now dominant party, that "the Union as it was," "the Constitution as it was," the condition of things which existed prior to this unfortunate war, should never, with their consent, be permitted to return. But, sir, as for myself, I would to God it were in my power to-day to restore that Constitution, giving to every man in this country his rights and privileges under it! Sir, if I had the power, I would restore to life the thousands and thousands who have gone from fields of battle to "that undiscovered country from whose bourne no traveler returns." Sir, I would have a reunion of friends and of States. In my estimation, such a sen-

timent as this would not be unworthy of a patriot or a Christian; for the first I cannot in candor say so much.

Mr. Speaker, if I understand it, this proposition is a direct attack upon the President of the United States. It is a direct attack upon the doctrines and principles taught by that distinguished man now holding the presidential chair. This amendment is in violation, in my judgment, of every principle that that man has held from his boyhood up to the present hour. He said in his message of the 4th of December last—and I ask any friend of Andrew Johnson who believes he holds the sentiments he then expressed not to vote for the proposed amendment, when to do so you strike a stab at him; now, what does he say? After speaking of the rights and privileges under the Constitution, alluding to the fact that there were objections to his plan of reconstruction, alluding to the fact that it was suggested or required of him by proclamation to enfranchise the blacks in the southern States, he uses this language:

"On the propriety of attempting to make the freedmen electors by the proclamation of the Executive I took for my counsel the Constitution itself, the interpretations of that instrument by its authors and their contemporaries, and recent legislation by Congress. When, at the first movement toward independence, the Congress of the United States instructed the several States to institute governments of their own, they left each State to decide for itself the conditions for the enjoyment of the elective franchise. During the period of the Confederacy there continued to exist a very great diversity in the qualifications of electors in the several States; and even within a State a distinction of qualifications prevailed with regard to the officers who were to be chosen. The Constitution of the United States recognizes these diversities when it enjoins that in the choice of members of the House of Representatives of the United States 'the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.' After the formation of the Constitution it remained, as before, the uniform usage for each State to enlarge the body of its electors, according to its own judgment; and, under this system, one State after another has proceeded to increase the number of its electors, until now universal suffrage, or something very near it, is the general rule.

"So fixed was this reservation of power in the hands of the people, and so unquestioned has been the interpretation of the Constitution, that during the civil war the late President never harbored the purpose—certainly never avowed the purpose—of disregarding it; and in the acts of Congress during that period nothing can be found which, during the continuance of hostilities, much less after their close, would have sanctioned any departure by the Executive from a policy which has so uniformly obtained. Moreover, a concession of the elective franchise to the freedmen, by act of the President of the United States, must have been extended to all colored men, wherever found, and so must have established a change of suffrage in the northern, middle, and western States, not less than in the southern and southwestern. Such an act would have created a new class of voters, and would have been an assumption of power by the President which nothing in the Constitution or laws of the United States would have warranted.

"On the other hand, every danger of conflict is avoided when the settlement of the question is referred to the several States. They can, each for itself, decide on the measure, and whether it is to be adopted at once and absolutely, or introduced gradually and with conditions. In my judgment the freedmen, if they show patience and manly virtues, will sooner obtain a participation in the elective franchise through the States than through the General Government, even if it had power to intervene. When the tumult of emotions that have been raised by the suddenness of the social change shall have subsided, it may prove that they will receive the kindest usage from some of those on whom they have heretofore most closely depended."

Sir, the President of the United States does not believe that the Congress of the United States has the right, or that the people have the right, to strike down the inalienable right of the States to settle for themselves who shall be clothed with that high privilege, suffrage. Now, while I say this much, I do not desire to be considered as defending the President of the United States. He needs no defense at my hands. I do not desire to be understood to say that I indorse all the acts of the Chief Magistrate in regard to the questions now agitating the public mind, but on the question of giving the southern States their rights of representation upon this floor, and the right to say who shall be voters in the States, I am with President Johnson, and will, so far as is in my power, give him a hearty and earnest support.

If he will stand by the Constitution, if he will stand by the rights of the States, he will meet with not only the support of gentlemen on

that side of the House, but of eighteen hundred thousand Democratic voters in the North or adhering States who have not bowed the knee to power. They will stand by him in this hour of trouble and trial. I believe they will do it. I believe there are thousands of Republicans from one end of the country to the other who will stand by him to prevent consolidation and destruction of the States.

Mr. THAYER. Will the gentleman allow me to ask him a question?

Mr. TRIMBLE. Yes sir.

Mr. THAYER. In case the President of the United States should sign this joint resolution, and it should pass both Houses of Congress, will the gentleman then stand by the President of the United States?

Mr. TRIMBLE. "Sufficient unto the day is the evil thereof." When Mr. Johnson shall sign the joint resolution I shall be prepared to answer. But I do not believe he will do it.

Mr. THAYER. That is not the question I asked. Would he stand by the President in that case? If he does not answer my question, very well.

Mr. TRIMBLE. I think I have answered the question. Wherever the President shall stand by the people and leave the question of the right of suffrage to the people of the States, I will stand by him. If he vetoes the measure, will the gentleman stand by him? I pause for a reply.

Mr. THAYER. I do not profess to be, as the gentleman's course would indicate to the House, the special champion of the President. Because the gentleman undertook to place himself in that position before the House, as the special champion of the President and as his shield against the party which has such a triumphant majority in this House, I asked him the question.

Mr. TRIMBLE. I renew my question: will you stand by the President?

Mr. THAYER. I will not stand by him on that question if he vetoes it. Certainly not.

Mr. TRIMBLE. I have already disclaimed being the defender of President Johnson, or to speak for him. I am not upon such terms as would warrant me in forming opinions or speaking from them. I form and express my opinions solely from his public and official declarations. I trust this is satisfactory.

Mr. THAYER. Will the gentleman answer my question now as I answered his?

Mr. TRIMBLE. Well, sir, I am frank to say, if the President gives his approval to this measure, sir, I will not sustain him. [Laughter.] But I will sustain him in all matters where I believe he is standing by the rights of the people under the Constitution. Wherever he stands in favor of white men and white women, if you please, in opposition to negroes governing this country, I will stand by Andrew Johnson.

Mr. THAYER. I am glad the gentleman has answered the question, because his own answer and mine show, I think conclusively, that as regards the President we both stand in the same position toward him. [Laughter.]

Mr. TRIMBLE. Well, I stand by this position. I am frank to say that I opposed Mr. Johnson's election to the Vice Presidency, and supported another; but because I did that I have enough magnanimity and generosity in my heart, and I trust patriotism, that when President Johnson marches up, as I believe he will, in opposition to the behests of his own party, and stands by the people of the South, and the pledges he has made to them and to the country, I will stand by him, or any other man. Sir, he can interpose his veto power, and prevent these invasions of the Constitution and liberties of these people; and in doing so I will stand by him. I have no doubt that the gentlemen in the majority here have the power to put this amendment through. But, sir, when you have amended the Constitution, and it is ratified by three fourths of the States, it can never be recalled. You may never have an opportunity to undo what is done in this moment of triumph. Sir, the people of the South have shown themselves a fearless and brave people, to say the

least of it. They have fought gallantly, and in a manner that entitles them to the respect of their conquerors. Then let us not put the South in irons, or make her another Ireland. Let us restore it to peace and honor. Let us gather together the fragments that are there left, build up her charred ruins, cultivate her rich soil, and, if possible, restore them to peace and prosperity and happiness, and receive these people back to the house of their fathers. Let us treat them, in all kindness, as equal States, and say to them, "Go, sin no more, but hereafter be true to the Union and the Constitution," remembering that it is human to err, divine to forgive.

Mr. LE BLOND resumed the floor.

USE OF THE HALL OF REPRESENTATIVES.

Mr. BANKS. I ask the consent of the gentleman to present a resolution relating to the use of this Hall.

The Clerk read the resolution, as follows:

Resolved, That the use of the Hall of the House of Representatives be granted to the Soldiers' and Sailors' Union League this evening and to-morrow (Wednesday) evening.

Mr. RITTER. Mr. Speaker, I objected to that resolution this morning, supposing it was for a political purpose. I now understand that it is not so, and therefore I have no objection to its adoption.

The resolution was agreed to.

EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a statement from the Secretary of the Treasury of deposits of public money made by any State under the act of June 28, 1836, in answer to a resolution of the House of January 17, 1866; which was laid on the table, and ordered to be printed.

BASIS OF REPRESENTATION.

Mr. LE BLOND. It is very evident that there are a great many gentlemen who wish to debate this proposition; and in order to give an opportunity for amendment as well as discussion, I move that the joint resolution and pending amendments be referred to the Committee of the Whole, and that debate be restricted to thirty minutes, or I will say twenty minutes, as a matter of compromise on both sides.

The SPEAKER. The gentleman from Ohio [Mr. LE BLOND] has the floor. Is there objection to this motion?

Mr. STEVENS. I object. I move that the House adjourn.

The SPEAKER. Has the gentleman from Ohio surrendered the floor?

Mr. LE BLOND. I surrender it for a motion to adjourn.

Mr. LAWRENCE, of Ohio. Will the gentlemen allow me to make the motion that I submitted at an early hour? I will then make a motion to adjourn. My motion is this: that the pending resolution and amendments be recommended to the committee on reconstruction, with instructions to report an amendment to the Constitution which shall, first, apportion direct taxes among the States according to property in each; and which shall, second, apportion representation among the States on the basis of adult male voters who may be citizens of the United States.

Mr. LE BLOND. I cannot give way.

The SPEAKER. The Chair understood the gentleman to surrender the floor to his colleague.

Mr. LE BLOND. No, sir; only for a motion to adjourn.

Mr. LAWRENCE, of Ohio. I insist upon the motion I made to commit this to the Committee of the Whole.

The SPEAKER. The Chair will state that if that motion is adopted it will go to the foot of the Calendar, and the Chair cannot tell when it will be reached.

Mr. WASHBURNE, of Illinois. I move that the House adjourn.

Mr. LE BLOND. I prefer that the motion be put to recommit.

Mr. WASHBURNE, of Illinois. I move that the House now adjourn, with these two pending questions, till to-morrow morning.

JUDICIAL PROCEEDINGS IN KENTUCKY.

Mr. TRIMBLE. I ask the gentleman to yield one moment to allow me to make a privileged motion. I move to reconsider the resolution adopted by this House yesterday, offered by one of my colleagues, [Mr. McKee,] which I think reflects upon the judiciary of Kentucky. I do not believe the gentleman intended to do so, and therefore I desire to enter that motion.

The SPEAKER. The motion will be entered.

Mr. WASHBURN, of Illinois. I now renew the motion to adjourn.

The motion was agreed to; and thereupon (at four o'clock and thirty minutes) the House adjourned.

IN SENATE.

WEDNESDAY, January 24, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a petition of discharged and disabled soldiers, who enlisted in the years 1861 and 1862, praying for an equalization of bounties; which was referred to the Committee on Military Affairs and the Militia.

The PRESIDENT *pro tempore* also presented the petition of H. H. Allen, praying compensation for goods sold to Captain Thomas Jordan, assistant quartermaster United States Army, when on duty in that capacity at Fort Dalles, Oregon; which was referred to the Committee on Military Affairs and the Militia.

Mr. SUMNER. I present a petition of citizens of the Territory of Colorado, now sojourning in the city of New York, in which they express the hope that the Territory of Colorado, to which they belong, may speedily be admitted into the Union, but with a proviso—"provided that she shall be assured a republican form of government now and for all time to come;" and whatever other measures Congress may adopt to that end, they most earnestly and respectfully ask that the word "white" be expunged from her constitution wherever it may occur before she be permitted to count herself among and become one of the sisters of this great and most glorious Republic. As the bill for the admission of the Territory of Colorado is already on the table in the Senate, I move that this petition lie upon the table.

The motion was agreed to.

Mr. CHANDLER presented a memorial of the Board of Trade of Detroit, Michigan, praying for the improvement of the St. Clair flats and the enlargement of the Canadian canals by means of a treaty with Great Britain for that object; which was referred to the Committee on Foreign Relations.

He also presented a petition of citizens of Michigan, residents of the collection district of Detroit, praying that that district may be divided into two collection districts, and that the principal office of the new district may be located at Port Huron, on the St. Clair river, opposite the terminus of the Grand Trunk and Great Western railways in Canada; which was referred to the Committee on Commerce.

He also presented a memorial of the common council of Port Huron, Michigan, praying for the sale of so much of the military reservation at Fort Gratiot, in that State, as may not be required for actual military purposes; which was referred to the Committee on Military Affairs and the Militia.

Mr. BROWN. I present a petition of certain colored citizens of Denver, in the Territory of Colorado, showing "that the State constitution, framed by a citizens' convention, and adopted by an almost insignificant majority of the legal voters of Colorado, preparatory to admission as a State, excludes all colored citizens of the Territory of Colorado from the right of suffrage by the incorporation in that instrument of the words 'all white male citizens.'" The petitioners, therefore, "beseech your honorable body

not to admit the Territory as a State until the word 'white' be erased from her constitution." I ask that this petition may take the same course with the petition which was just presented by the Senator from Massachusetts in regard to the State of Colorado, and lie upon the table.

It was so ordered.

Mr. BROWN. Mr. President, I present a petition for universal suffrage signed by some of the most intelligent and accomplished women of our land, asking an amendment of the Constitution of the United States that shall prohibit the several States from disfranchising any of their citizens on the ground of sex.

The petition sets forth that the Constitution classes them as "free people" and counts them as "whole" persons in the basis of representation, and yet that they are governed without their consent, taxed without appeal, and punished without choice of judge or jury. Therefore, as Congress has now before it amendments to the Constitution in harmony with advancing civilization, placing new safeguards round the individual rights of four million emancipated slaves, they ask you "to extend the right of suffrage to women, the only remaining class of disfranchised citizens, and thus fulfill the constitutional obligation to guaranty to every State a republican form of government."

Justice and equality is what they pray for, and as the only sure protection for that they demand the ballot.

One other word I perhaps ought to say in presenting this petition; it is that they, the women of the land, who have shared so many of the hardships of this war, and shed such radiance of Christian charity over the wrecks it has wrought, have, so far as they are moved to make this demand for equal suffrage, been content to hold their claim in abeyance, that the nation might establish the principle of freedom in the person of the slave. But having done so, they fear now that the same constitutional amendment which may carry civil rights to the emancipated classes may prohibit those rights, either directly or by implication, to women. They deprecate any such action or thought, and in view of it they feel no longer content to remain silent. They believe in the rightfulness of their demand; and so believing, they appeal to the reason, no less than the sympathy, of the Congress of the United States to take heed that at least nothing prejudicial to their claim shall go upon the record.

I move the reference of this petition to the joint committee on reconstruction.

The motion was agreed to.

Mr. SAULSBURY. I rise to present a paper, in the form of a memorial to the Senate and House of Representatives, upon a very important subject, and, as I desire that the committee on reconstruction should give it their particular attention, I will read it as it is very short. In presenting it I wish it distinctly understood that I do not desire to invade the exclusive domain of any Senator upon this floor. The memorial is in these words:

"The undersigned, inhabitants of Appoquinimink hundred, in the State of Delaware, respectfully but earnestly entreat your honorable body to adopt such a proposed amendment of the United States Constitution, to be presented to the several States for ratification, as will forever prevent every State from making any distinction in civil rights and privileges among the naturalized citizens of the United States residing within its limits, or among persons born on its soil, on account of race, color, or descent."

As there are a few car-marks upon this petition, which show the manner in which they are gotten up, I beg leave to read them—it will take but a moment:

"Postmasters and others receiving copies of the blanks will do the cause a good service by placing them in such hands as will canvass their neighborhoods for signers, in case they cannot give proper attention to the matter themselves."

"The above blanks should be attached to the required number of half sheets of paper, and may be signed by persons of both sexes. When filled one copy may be sent to any member of the Senate."

I suppose that is the reason this has been sent to me—

"and the other to the member from the petitioner's district in the House, both postage free. Extra copies of these blanks may be had at the Anti-Slavery office, No. 5 South Fifth street, Philadelphia."

To the bottom of the petition is attached the following:

"I have offered this for signers and no one will sign, so you may set it down we have no negro men here."

I move to refer this paper to the joint committee on reconstruction.

The motion was agreed to.

Mr. ANTHONY. I present the memorial of loyal citizens of Loudoun county, Virginia, praying for compensation for property destroyed by fire, and for live stock taken for the use of the Army or sold for the benefit of the United States by order of General Sheridan. The petitioners represent that they are, and always have been, loyal citizens attached to the Government, subjecting their persons and property to peril on that account, and conceive themselves entitled to protection. I move its reference to the Committee on Claims.

The motion was agreed to.

Mr. ANTHONY presented the petition of Rebecca Irwin, widow of Archibald Irwin, late a private in battery C, first regiment of Rhode Island light artillery, praying for a pension; which was referred to the Committee on Pensions.

He also presented a memorial of Edward St. Clair Clarke, an acting assistant paymaster in the United States Navy, praying to be relieved from all responsibility in consequence of money lost by robbery in May, 1863, while he was attached to the United States steamer Sumter, then lying at the navy-yard at Brooklyn, New York; which was referred to the Committee on Naval Affairs.

Mr. NYE presented the memorial of Frederick Vincent, administrator of James Le Caze, late of the firm of Le Caze & Mallett, praying for the payment of a balance alleged to be due for advances made by them to the Government during the revolutionary war; which was referred to the Committee on Revolutionary Claims.

Mr. DAVIS presented the memorial of Mrs. Maria L. Saunders, praying for indemnification for losses alleged to have been sustained by her in the destruction of her property in Paducah, Kentucky, by United States soldiers under the order of Colonel Stephen G. Hicks, on the 26th of March, 1864; which was referred to the Committee on Claims.

Mr. MORRILL presented the memorial of G. Buckingham, S. J. Bowen, and B. H. Nadel, the executive committee of the National Freedmen's Relief Association of the District of Columbia, praying for an appropriation for the relief of refugees commonly called "contrabands," and that authority be given to the Secretary of War to place under the control of the Freedmen's Bureau such Government buildings as are not required for the public service; which was referred to the Committee on Military Affairs and the Militia.

CREDENTIALS.

Mr. GRIMES. I move that the credentials of my colleague-elect, Hon. SAMUEL J. KIRKWOOD, be taken from the table and read.

The credentials of Mr. Kirkwood, elected by the Legislature of Iowa a Senator for the unexpired term of Mr. Harlan, ending March 3, 1867, were read.

Mr. GRIMES. My colleague is now present and prepared to take the oaths of office.

The PRESIDENT *pro tempore*. The Senator will come forward and take the oaths.

Mr. Kirkwood advanced to the desk, and the oaths prescribed by law having been administered to him he took his seat in the Senate.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. GRIMES, it was

Ordered, That the petition of Charles Murray, a paymaster in the United States Navy, on the files of the Senate, be referred to the Committee on Naval Affairs.

Mr. FOOT. Yesterday an order was made for the withdrawal of the petition and other papers in the case of Jonathan Ball, for the extension of his patent. I now move that the petition and accompanying papers be referred

to the Committee on Patents and the Patent Office.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom were referred the petitions of Kennedy O'Brien and John A. McTavish, reported adversely thereon; and the report was agreed to.

Mr. FOOT, from the Committee on Pensions, to whom was referred the petition of Alton Nelson, praying for an increase of pension, submitted an adverse report thereon; which was agreed to.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred a memorial of the faculty and students of the medical department of Georgetown college, in the District of Columbia, praying that the same facilities may be furnished to the medical colleges in the District of Columbia for procuring bodies for dissection that are now furnished by the laws of the several States, submitted an adverse report thereon, the committee deeming any legislation on the subject to be inexpedient.

He also, from the same committee, to whom was referred a bill (S. No. 43) to prescribe the mode of settling the accounts of the clerk of the supreme court of the District of Columbia, reported it without amendment.

He also, from the same committee, to whom was referred a bill (S. No. 64) to incorporate the Great Falls Ice Company of Washington, District of Columbia, reported it without amendment.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred a bill (S. No. 83) in relation to the Court of Claims, reported it without amendment.

He also, from the same committee, to whom were referred resolutions of the convention of the State of North Carolina in favor of the repeal of the act of July 2, 1862, requiring the test oath therein mentioned, reported the following resolution:

Resolved, That it is inexpedient at this time to repeal the act of July 2, 1862, prescribing an oath of office.

The resolution lies over for consideration.

Mr. GRIMES, from the Committee on Naval Affairs, to whom was referred a bill (S. No. 94) to amend the act entitled "An act for the relief of seamen and others borne on the books of vessels wrecked or lost in the naval service," approved July 4, 1864, and for other purposes, reported it with amendments.

He also, from the same committee, to whom were referred petitions of the officers of the United States steamers Key West, Tawah, and Elfin, and of the officers of the iron-clad steamer Patapsco, praying remuneration for losses sustained by them in the destruction of those vessels, asked to be discharged from their further consideration; which was agreed to.

Mr. HARRIS, from the Committee on Private Land Claims, to whom was referred the bill (S. No. 86) quieting doubts in relation to the validity of certain locations of lands in the State of Missouri, made by virtue of certificates issued under the act of Congress of February 17, 1815, reported it without amendment.

BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 24) proposing an amendment to the Constitution of the United States; which was read twice by its title, and ordered to be printed. The proposed amendment is as follows:

ARTICLE —. No payment shall ever be made by the United States or any State for or on account of the emancipation of any slave or slaves, or for or on account of any debt contracted or incurred in aid of rebellion against the national Government.

SOUTHERN CONFISCATION.

Mr. DIXON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire what legislation is necessary for the protection of loyal citizens of the United States

whose property, real or personal, has been confiscated by the so-called confederate government, and for the restoration of such property to the loyal owners thereof, and that they report by bill or otherwise.

ASSOCIATED PRESS REPORTS.

Mr. CONNESS. Mr. President, I rise to say a few words upon a question of privilege. Yesterday morning I had the honor to be the medium of presentation to the Senate of a memorial from a very large and popular convention of miners held at the capital of the State of California relating to the disposition of the mineral lands. I find in the report of the Associated Press this morning of the proceedings of the Senate yesterday, that it is stated that I presented a memorial from the Legislature of the State of California. I desire to correct that statement. It will also be remembered by the Senate that some remarks were made on the subject by the honorable Senator from Ohio [Mr. SHERMAN] and myself. The substance of what was stated by the honorable Senator from Ohio is clearly reported in the Associated Press reports, but no word in behalf of the memorialists is reported as spoken by myself. As a matter of course, so far as this subject can find its way to my constituents who are distant from this place, it will appear that they had no voice in their behalf on the presentation of their requests to this body.

Mr. President, I would not call the attention of the Senate to this matter, or delay it in its legitimate proceedings this morning for this particular case, nor for what is involved in it personal to myself, were it not that I am convinced that it has become a public duty to do so. I state further to the Senate, that a week since, or thereabouts, I presented two memorials of interest to the citizens of the State of California, whom I in part represent here, which were studiously suppressed by the reporters of the Associated Press in the gallery of the Senate, not a word being said in regard to them. Two days since I had the honor of presenting two bills in this body, one for the construction of a railroad from the waters of the bay of San Francisco to Humboldt bay, in the northern part of the State of California, a subject of considerable consequence there if not here; and the other, a measure of great consequence to the people of San Francisco, proposing to quiet the title to lands in that city, which were also suppressed. I am now entering upon the second year of service in this body, and since I have been a member of the Senate, all or nearly all of the business that I have attempted to do for the people who so generously sent me here has been regularly suppressed by the reporters of the Associated Press.

I would not make this statement so emphatically but that it has come to my knowledge that one of these reporters not only treats in this manner me, and all the business which I do here, and thus my constituents through me, but he has also made it a business to avail himself of his place, as a correspondent of a Cincinnati journal, to make attacks, personal and vituperative, on myself, certainly without cause or provocation, evidently for the purpose of republication in the State of California.

It has also come to my knowledge that I am not the only Senator whom that reporter employed by the Associated Press has undertaken to determine the status of in this body, the highest legislative body in the nation. If the Senate of the United States, or the Senators composing this august body, are not entitled to have a fair transcript of their proceedings sent out to the people at large, then, sir, I must say, for one, that their rights and privileges are very limited indeed.

When I state in addition that this reporter, who has made himself so obnoxious in this regard in the performance of a public duty, is an employé of the Senate, and, as I understand, paid from the Treasury of the United States, performing the duties of a committee clerk in addition to those of reporter for the Associated Press, I believe I also state a fact of some importance to the body and to the country.

I make these statements at this time particu-

larly, not only in my own behalf, but in behalf of the position of a Senator, and in behalf of other Senators also, so that the honorable chairman of the Committee on the Library, to whom the subject of the synoptical reports that shall go out from this body to the country has been referred, and who have it under consideration, may devise some remedy, if possible. I have been aware for a long time that outside parties have had access, not certainly with the knowledge of the respectable association called the Associated Press, and known as such, but with parties connected with it, by which these suppressions were regularly and systematically carried on. I desire to direct the attention of the Senate and the country to this subject, without any hope, however, that what I say, or even the substance of it, will be sent out by the reporter of whom I have spoken; but with the hope that the attention of the Senate may be directed to the subject, so that such a synopsis of the proceedings of this body shall go out to the country as will be a true reflex of its public proceedings.

Mr. DAVIS. I ask leave to say a single word upon the subject that has been referred to by the honorable Senator from California. I am sorry that he has deigned to notice any such matter. Ever since I have been a member of the Senate, the filthy vermin that crawl over the abolition sheets have been burrowing in the committee-rooms of the Senate, and receiving pay and subsistence from the Treasury of the United States. Their principal business is to send out their libels upon Senators. They do very little work. A single industrious man might perform the labor of half a dozen of them in the committee-rooms and as clerks of the committees. I do not pay any attention to these effusions. I do not read them. I have not time to express my contempt and my indifference for the libelous writers and for their writings, and I am very sorry that the honorable Senator from California deigned to pay them the least attention.

Mr. McDUGALL. I might claim the right to make the same question of privilege that my colleague has made, and I might have antedated the occasion for it. It seems, however, that the newspapers do not affirm of him anything that he has not done. The fact that they omit saying what he has done will leave him in a better condition than most of his compeers upon this floor. [Laughter.] I, a long time since, then being a member of this body, learned through the newspapers, upon excellent authority, at an early period of this war, that I had gone in a steamer from Cairo down to Columbus, then in possession of the enemy, and that I had there met a certain Benjamin F. Cheatham, a general of the confederate army, and that I had gone with him ashore to Columbus, and had remained there some ten days, and had exposed to him the whole policy of General Grant, then occupying a position at Cairo, our advanced front toward the Southwest. All this was very carefully stated on "very good authority," in a leading press in a part of the country from which my colleague and myself come. It was simply saying something of me that did not happen. I had the honor to escort an elegant lady down there on the flag-of-truce boat, and met in the middle of the stream the vessel from the other side on which she went South. This was the foundation for the story. If the newspapers do not say anything about me that is not true, they may forget me forever. When ignorance is bliss, it is sometimes folly to be wise.

Mr. SHERMAN. I do not know that I ought to say anything in regard to this matter; and probably I should not do so but for the fact that the reporter referred to is clerk to a committee of which I am a member. He was a clerk a long time before he was employed by the Associated Press to send their dispatches as to the proceedings of this body. I regret myself his employment as a reporter of the Associated Press; but, like most of the clerks of committees, he had the leisure, the opportunity, the time, and the ability to make reports for the Associated Press. He was employed for that purpose. There was nothing inconsistent in

this employment with the legitimate performance of his duty as clerk to a committee; and indeed it is a fact known to us all that very many of the gentlemen connected with the press throughout the country in different States are employed here in various capacities in connection with our committees, and with offices in the Departments. It has never been held as an objection.

Now, as to the particular complaints that have been made by Senators against the reporter of the Associated Press I can say nothing. I must confess that I care but very little what the papers report of me, and do not pay much attention to them. If injustice has been done to the Senator from California, it is a proper subject of complaint. I thought when the subject was referred to the Committee on the Library, that they would devise some mode by which a legitimate and fair report of our proceedings could be written out for the Associated Press. But it must be remembered that the Associated Press are at liberty to report just what they please. We do not pay them for their reports. They are not our agents; they are not employed by us. They have the right to report just as much and just as little of our proceedings as they choose. Sometimes they may do injustice to Senators. How can we prevent it? Unless you say that nobody shall sit in the gallery and report the proceedings of this body, unless it is some person paid by us and under our surveillance, as a matter of course they are at liberty to report as much or as little as they choose. You cannot control the action of the press. I have felt within the last three or four weeks a little sore about the conduct of certain newspapers, but I have found it wiser to say nothing about it, with the hope and with the assurance that the people always finally correct any neglects or misapprehensions of the press. I think that if the Senate should undertake to correct the mode and manner of reporting for the Associated Press, they will undertake that which they cannot accomplish. The better way, it seems to me, is to allow the reporters to write what they please; do as they please.

If the Senate think, as a rule, that no one in the employment of any committee of this body or of Congress, or of any Department of the Government, should write for the newspaper press, they ought to put that in the form of a law or resolution, so that we could all know how to act. I will venture to say that there are but very few clerks of the committees of either House of Congress that do not write for newspapers. If you desire, however, to prevent your clerks and employes from writing for newspapers, you have the power to do that at any moment by a simple resolution; but you cannot control, and you ought not to attempt to control, the reports made by the Associated Press or by any newspaper in the country of the proceedings in Congress.

Mr. STEWART. I did not intend to make any remarks on this subject, and I should not but for the suggestions made by the Senator from Ohio.

It is manifest to a large number of the Senators on this floor that there is something very wrong in the reports of our proceedings in this Associated Press. That there is no remedy for it I do not believe. I do not intend to say that the Senate should muzzle the press; but the Senate does extend to the reporters front seats in the gallery, and there is no Senator upon this floor who does not know the fact that much injustice is done in these reports to a large number of the Senators. There appears to be a systematic attempt to smother all that a portion of them do and say. This is entirely different from ordinary newspaper abuse; that affects no man who has a good character and behaves himself; but this purports to be a synopsis of the proceedings of Congress, and the silence of Senators here is marked by their constituents.

I must here state that while I was in California I heard the Senators from that State complained of for not doing their duty in regard to certain matters, not saying anything in favor of propositions which they had ably advocated

on this floor. The arguments against them, what was said against their views, were sent there by telegraph, and they were represented as being silent. I know that gentlemen have suffered in this regard. If we cannot do better, we should make it known to the world that these are not authentic reports. If we can do nothing more, we can pass a resolution declaring that they misrepresent the Senate. Or we can exclude the reporters from the front seats in the galleries, and we can exclude them from our committees as clerks. We can take such action as shall secure the doing of justice to the members of the Senate, for I do assure you that great injustice has been done. A gentleman gets up with a memorial in which his constituents feel an especial interest; he explains that memorial; it is attacked by others. The attack is given, but the explanation is kept back; and still we hold out to the world that here is a telegraphic synopsis of the proceedings of Congress; it goes semi-officially. If we cannot correct it and make it fair and just, we have the power to destroy its semi-official character by a resolution; and unless there is a manifest improvement, I shall feel called upon to ask the attention of the Senate to this subject again and again, and continue to do it, because I do not propose to have anything go forth that is semi-official which places me or any of my associates upon this floor in a false position daily, and makes their constituents believe that they are recreant to their duty.

Mr. CONNESS. I beg the attention of the Senate only for a moment, because of what has been said by the honorable Senator from Ohio. I beg the Senate and that honorable Senator to believe that I feel perhaps quite as independent as I ought to feel of any remarks either for or against me that may be made by the public press, or by any person. I think in that respect I have an ordinary amount of personal discretion and courage, if I may use the terms. I directed what I said, from which it might be inferred that I had any feeling of that kind, only to the matter of a more full exposition of the question. What I complain of is that the synoptical reports that go out from this body, which are the only reports received by the people, should, in justice to the Senate and the people, contain what they profess to do—a true synopsis of the business of the Senate. I know that that does not include the arguments of Senators. The business of the Senate is one thing as stated in the Journal; the arguments elicited in connection with the transactions of that business are altogether another matter. I cannot expect the Associated Press or anybody else to give a full exposition of whatever views I might present at any time, and I make no complaint because that is not done; but, in regard to such a proposition as was submitted here yesterday, it is stated in this synoptical report that the honorable Senator from Ohio said, and for uttering it I give him great credit, that the complaints made, and the manner in which they were made in the memorial I presented, were not well founded; his side of the case is given, when not a word is stated as coming from me in behalf of the memorialists, my constituents. That is the way it goes out in these synoptical reports.

Now, I submit to the honorable Senator from Ohio, who can afford to pass this by easily, whether this is just, whether it is right, and whether its correction does not properly come within the legitimate purview of the Senate. Then, I called attention additionally to the fact that I presented two other memorials a few days since, no reference to which ever appeared in the synoptical reports that went out to the country; and that I presented two bills of the greatest consequence to the people that I represent here within two days past, not a word in regard to which has gone out in the synoptical reports of the proceedings of this body.

Sir, I am not here as a candidate for public favor; I ask no favors from the Associated Press, nor any other part of the press, but I submit to the Senate and to the honorable Senator from Ohio that we here are peers of each other, that

the States and communities who have sent us here are entitled to consideration, that this should not be viewed in the light of personal complaint, but that every Senator is equally interested in having a true reflex of the business of this body go out to the country and to the people.

Mr. HOWE. As chairman of the Committee on the Library, I have been directly referred to in this debate. I know a resolution was referred to that committee directing them to make some inquiry into the subject-matter of this abuse and to provide a remedy if it were possible. The committee have not yet sufficiently considered that subject. The committee have not, either, been wholly inattentive to the subject-matter of the resolution. The first difficulty in the way of applying a corrective—for I think a corrective is entirely within the reach of the Senate—is in ascertaining who is responsible, who makes these reports for the Associated Press. That fact has not been known to me hitherto. The Senator from Ohio has just remarked that the same individual is also a clerk to his committee. If he is authorized to give his name to the Committee on the Library, there is one fact ascertained. If he does not feel authorized to give that name—

Mr. SHERMAN. The matter is published in the Congressional Directory. The name of the reporter of the Associated Press I understand to be Mr. McCullough. It is published in the Congressional Directory; so I suppose there is no secret about it.

Mr. HOWE. Then that fact is ascertained. I was not informed that the name of the reporter did appear in the Directory; I had not examined it for that purpose. I think, then, there will be no difficulty in devising a remedy. I agree also with the Senator from Nevada and the Senator from California entirely, that these reports are unlike the private dispatches which are sent to the individual papers. The press, representing both parties and all parties, associate together, as I understand, to get a transcript of what is actually done in these Houses from day to day. They want a truthful report; they do not expect to obtain a full transcript of the debates had here. I suppose it is optional with them whether they will take much or little of these debates; but what is done should be, if reported at all, truthfully reported; and I suppose it is entirely within the power of the Senate to say that whoever undertakes to do it and does not do it faithfully and truly and honestly, shall not have a seat in the reporters' gallery. This is all I wish to say at present on the subject.

FREEDMEN'S BUREAU.

The Senate resumed the consideration of the bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau, the pending question being on concurring in the amendment made as in Committee of the Whole, to strike out all of the fifth section of the bill after the enacting clause, in the following words:

That the possessory titles granted in pursuance of Major General Sherman's special field order, dated at Savannah, January 16, 1865, are hereby confirmed and made valid.

And in lieu thereof to insert:

That the occupants of land under Major General Sherman's special field order, dated at Savannah, January 16, 1865, are hereby confirmed in their possessions for the period of three years from the date of said order; and no person shall be disturbed in or ousted from said possession during said three years, unless a settlement shall be made with said occupant by the owner, satisfactory to the Commissioner of the Freedmen's Bureau.

Mr. McDUGALL. Mr. President, I stated yesterday that I objected to the amendment now pending as well as the terms of the original provision of section five of the bill, and I rested the objection upon strictly constitutional grounds. I stated that, however during the pendency of the conflict we might wink at questionable exercises of authority, now, peace having been restored, there being no longer the sound of arms, I thought the Constitution of the United States had the right to be recognized in its full force and with all its vitality, and that no palpable invasion of the Constitution, no matter how

insignificant in its operations or in its dimensions, was now admissible.

I know the chairman of the Committee on the Judiciary to be a good and astute constitutional lawyer. Probably no one in this Senate Chamber is his master in all the considerations that hem in and circle about and illuminate the face of that great instrument. I know, too, that when he undertakes to legislate the property of a citizen into the possession of a stranger, he goes without the authority of the Constitution, beyond the grant made to the Federal Government by the people of the United States, whether, as in the original bill, it is proposed to give simply what is called a possessory right, or whether, as in the amendment, it be a possession for two years. I took occasion to remark yesterday, whether the Senator heard it or not, that the term possessory title is known to our laws. All the aboriginal titles as recognized by us are possessory titles. We recognize even the wild Indians as having a possessory title before we make a treaty with them, and we do not take possession of their lands until we have treaties with them, and then the titles they hold under us afterward are possessory titles. All the northwestern Indians had possessory titles, and the titles of the Indians of New York are possessory titles. What is a possessory title? It is a right to remain on and occupy the soil without being invested with the fee simple.

It is now proposed that Congress shall grant a two-years' possessory title. That is, in substance, a warrant on the part of the Federal Government that these persons, having no right to the soil as against those who have the right, may maintain the possession for two years, or until Congress shall further legislate. From whence does Congress derive this power? Do we understand, or do we not, that our powers are derivative; that we have no original power? The people of the United States, conceded to this Federal Government certain powers which it may exercise within the limits of the concession, and not beyond it; and nowhere in the Constitution is there a word that confers upon the Federal Government, or upon any branch of it, legislative, executive, or judicial, the power to authorize A, be he white or be he black, to occupy the possession or the right of B. We ought not now, when we should be calm, when we may be expected to judge wisely, to do anything to impinge upon the patent by which we hold our place here, and by which this Government stands—the patent from the people of the Republic.

But what does this amount to practically? The Senator from Illinois will admit that the Government has not this power, unless he says we have the power to override the Constitution and go beyond our charter. You may say that we ought to protect these persons; but how? General Sherman was altogether right; his order was altogether right. He was in military possession. It was in time of war. He had these people in charge; it was his military duty to see that they were taken care of; he gave them a temporary home. They were covered by his power as long as the law of arms prevailed.

Does the law of arms prevail now throughout the South? Does grim-visaged war still continue to present his wrinkled front throughout one half of our Confederacy? I am told officially, for I have been a careful inquirer, that peace reigns throughout the South. That there are instances of individual wrong is not to be doubted. Ever since the first blood was shed by the son of our great parent wrong has been rife throughout the world. That there may be an Almighty God, there has to be challenged from the abyss an evil spirit which sometimes prevails; but when necessity demands it, from the great throne he is made to obey the great governing law of order instituted and maintained by the Master supreme. We must ourselves recognize such governing considerations. We must hesitate before we depart from the law which with us is as organic and which we are as much bound to obey as we are those compelling forces, the great laws of nature, those

laws that hurl the spheres and to which the sun itself is obedient.

I have said that it is time that we come back and examine exactly what our powers are and our rights. We have exerted power; we have driven the Indian from his possessory rights. New England drove the Narragansetts and the Pequods, and South and North Carolina drove the Creeks and the Cherokees. All the remnants of the Indian tribes now mostly live beyond the great river of the West. That has been done by the right of power. We have never recognized any particular right in the people of the race of Logan and Red Jacket and Tecumseh, chiefs, warriors, and conquerors of as great a race as is now being dignified by the eloquence of the Senator from Massachusetts and his associates. While we dispossessed them, and told them to go west, and go west again toward the setting sun, we admitted no title in them, because when they declined to sign the treaties they were driven by force. It is proposed now by the terms of this law to clothe parties in possession with a possessory right for two years more. And how? By a person appointed for the purpose, not belonging to the judiciary of the United States, not known to our Constitution, not known to our previous system—a person named by the Executive, who is to maintain his authority and power, not by a marshal, not by a sheriff with a posse, but to maintain his authority by armed force. That is to say, we are to have a judiciary independent of the law, with an army to support it, and with power to hold and keep property that may be claimed in the courts of the United States, and may be there adjudged to a citizen of the United States as being his right, and that right may be withheld by the voice of one of these appointees, not known to our system, and against the posse which by the rules of the common law could be called to the aid of any person holding a judicial office to carry out his judgments. The proposition, then, is to provide a military force to meet and contend with the civil power of the Government. This may be a simple thing apparently; we have been in the habit in the Senate of looking at such large propositions that this may seem trifling; but let me say that it is in many respects a bold invasion of fundamental law. It is the organization of a judiciary to be maintained against the common judiciary of the country, by armed force. It is a provision for maintaining a standing army throughout a great part of the United States, in aid of persons who shall pronounce civil judgments, and to maintain them against the judgments of the courts known to the Constitution, and known to long-established law. It may be wise to do these things, but they did not belong to the wisdom of our fathers, and I do not think any great revelation has come from on high and breathed the truths of such proceedings into the mind or heart of the persons who project these propositions.

We, in my judgment, do not need this bill. The people of mixed blood or of African descent in the South are free as far as the law can pronounce them free. The provision of the constitutional amendment, now a part of the instrument, authorizes Congress to pass any law in aid of its terms. What would be a law in aid of it? A just and proper law in aid of it would be a law declaring that no State legislation or legislation of Congress should be effective to deprive any person, regardless of color, of his right to life, liberty, and the pursuit and enjoyment of happiness; that every person shall be free, and that he shall be protected, if you please.

The Senator from Massachusetts [Mr. Wilson] told us a day or two ago what freedom meant; and he said it meant protection. Ay, sir, it does mean protection. Under all Governments that are free, freedom is perfect protection in life, liberty, and the enjoyment and pursuit of happiness. Have we not by our Constitution provided that these persons shall be free, and have the right to enjoy liberty and happiness; and have we not the power to pass

a law that no disabling act heretofore enacted shall be executed or operate in any State of this Union? Certainly. What results? The negro of the South has the same privilege that I have to go to work and earn his living, to do it by his wit or do it by his hands. Thousands of white boys in the North with difficulty get clothing enough to warm them in the hyperborean regions. Many of them have hardly sufficient covering to protect them properly on their way to the country school; and they have to fight their way in the world. Millions have to fight and have fought their way in this country; and cannot the negro do it? Many people come to our shores from foreign lands with simply the means to deliver themselves at our ports. Do we take care of them? Not at all. If the negro, being made free, cannot take care of himself, how long shall we be his guardians, and take more care of him than we do of the poor boys of our own race and people? And then—I beg to throw this in by way of parenthesis—although they are not able to take care of themselves, and we have got to throw a protecting shield over them, and make a special set of courts for them, and maintain a standing army for their protection, they are to be regarded as altogether qualified to vote as to who shall administer the Government from which they claim most abject protection.

The bill has another cardinal vice, and as I am on the floor I may as well state it now. It is a vice which belongs to our Republic, and the Republic will at some time be overthrown if this vice be not eradicated. It was said by the wisest philosopher of France, as I think, of the present age, in discussing the sociology of all systems of Government from the family up to great nations, that the vice of republics was their tendency to increase offices. An office must be made for every man who is smart enough to be valuable to some other person who has got power, and for every office there are fifty aspirants. The people of a republican Government, from their childhood up to mature years, are thinking, some "Can I not be a constable?" some "Can I not be an alderman?" others, "Can I not be a lawyer?" or "Can I not be a judge?" others, "Can I not be a Governor?" and the most aspiring, "Can I not be President of the United States?" The attention of the people in a republican form of government is all the time directed to ascending by virtue of office instead of by cultivation achieving those results that truly elevate humanity. That force has been at work in this Republic until it has demoralized it; and never has it been more actively at work than it has been for the last five years.

Our city of Washington is filled with officials who have new duties to perform; offices had to be made for them. As has been said a hundred times here, you may go to any of the Departments in this city, with perhaps a single exception during the late war, and walk through during business hours, and you will not find one clerk in five who has any business to do except smoke a cigar and enjoy conversation with his friends. I do not know the experience of others, but I know that I learned to work from early in the morning until sometimes late at night. In my younger days it was my duty to do so, and I did it. I worked three times as long as any of these clerks do. Unless there be some special exceptions, they are not called upon for more than a few short hours of daily service here, and during those hours most of them have not work to do. What is true of them is true of the officers of the country generally. You can hardly find a State where there are not twenty judicial districts, each supporting a judge, a district attorney, and all the retinue of officers to administer justice. I have seen the time when a single judge would dispatch the business of a circuit as large as six or seven of the modern districts. The same thing is true in regard to other officers, not only in the Federal and State governments, but it has extended to the counties and cities and towns. This bill proposes to make a large mass of new offices, and how long are they to continue? Until the

States which have been in rebellion are recognized. How recognized? Recognized they have been by the President. They have their States organized; they have their Senators and members of Congress elected; their credentials have been presented here under the seals of their respective States, as well authenticated as ever were certificates brought into the Senate Chamber; but yet they are not allowed to enter upon this floor, they are not allowed to enter upon the floor of the House of Representatives; they are not recognized by us. In their absence, it is said, we must legislate about them, although we deny them entrance here.

And what does the Senator from Massachusetts, [Mr. SUMNER?] He made a speech at the last session to stave off the question of the recognition of Senators who then presented themselves from Louisiana. He avowed that he was making a stave-off fight; that they should not be allowed to come in here; that the question should not be settled. This is a stave-off fight now, not that they do not come here with the muniments of right, as much so as he ever brought to the Senate Chamber; but it will not do to let them in; we must legislate for them in their absence, they having a right to be here; and the question is now practically whether there is a majority of the Federal Senate that will maintain this war or not to force action in the absence of those who have a right to be here, but who are excluded that conclusions may be reached suiting the special interests of New England, or, if you please, the interests of Massachusetts—no, I will not say that, but the ideas of one of the representative men of Massachusetts who occupies a place upon this floor.

It is, I say, proscription, and proscription of the worst kind. I never can think of it without carrying my mind back to the time when men who fled from the tyranny of Europe made themselves tyrants at home. I cannot reflect on it without thinking of that old man who said "thee" and "thou," who came to the neighborhood of Plymouth rock for refuge and was compelled to fly. Ay, sir, the fathers of the "liberal" gentlemen from that part of the world would not allow him to stay in the wigwag of the Indian, and drove him out in the pitiless winter day to find his way to more friendly tribes beyond the strength of Massachusetts, and take shelter with the Indians of Rhode Island. That same love of domination which is peculiar to the race, exists here; and now six States, with twelve Senators, representing no greater population than some one of our States, undertake, while they have their hour of power, to enjoy it most luxuriously.

I have not much objection to that, because power may make drunk, and it has inebriated some of the greatest and wisest men of the world, and I think that under the influence of the power they have possessed, and which they are exerting now in this very proposition, they are reeling in their saddles; and let me tell them that that party which they characterize as their ancient adversary yet lives and is a power, and will be, as long as thought is free and men have the privilege of action. That party which believes that the Federal Government is a concession by the people of the United States, with powers limited by the concession; that party which believes that the State governments are clothed with all sovereign power except that which has been given to the Federal Government, and except so far as they are restricted by their State constitutions, and that beyond and above them all the people are sovereign, for they made the States, and with the same sovereign will that they made this Republic, and each in its sphere is equally supreme; the party which maintains that the difference between the charter of the Federal Government and that of the State governments is, that the State constitutions are limitations of power, because in the State governments the people are supposed to act most directly; the party that maintains that distinction and adheres to the Constitution and the laws as laid down and established fundamentally is a party that will live.

And, sir, it is a party that recognizes the party of the age. Gentlemen here who have discussed this question seem to think that all progress has been centralized in the question of the condition of servitude in the South. How does it happen that the Democratic party of the North ever had any relation to the majority of the South? For this reason: because the Democratic party of the North held to the doctrine of free trade. The Democratic party to-day hold the same doctrine. They do not believe that New England with her manufactories should overwhelm the Republic, that every interest besides hers should be taxed to maintain her. They believe in the large policy which has been developed by modern European and American civilization, which has been taught by all great writers, and preached by all great thinkers for the last half century. The Democratic party will maintain that doctrine; they have always done so, and therefore they were akin to the South; and for no other reason. It was because they always opposed the excessive taxation which was thought necessary to make millionaires of all New England. New England has to-day one half of the moneyed wealth of the Union, I grant. How has it come about? It has taxed every bushel of corn and every pound of wheat and every product of labor, East, West, North, and South, for the purpose of sustaining a particular policy special to New England. The South thought it detrimental to themselves; the West thought it detrimental to themselves; and I know it is detrimental to the coast to which I belong, for we pay an immense taxation, for the privilege of being governed, to the manufacturers of New England, and they have become so prosperous that enterprise cannot compete with them in other parts of the country. Enterprise in California cannot compete with them, because they have been built up with such colossal strength by the legislation of the Federal Government. The Democratic party which represents the cardinal democratic principles does live, has its ancient vitality, and will once again occupy its dominant place upon this floor. Do not think they are dead if for awhile they sleep.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment to the fifth section.

Mr. DAVIS. I submitted an amendment to strike out that section, and I now propose to say a few words in support of my amendment. It has been my habit from the time I have been a member of the Senate to oppose every measure and every proposition that I deemed to be an infraction of the Constitution or an aggression upon the liberties of the people. I intend to persevere in that course; I intend to do it persistently, stubbornly; and there is no consideration whatever that will induce me to pause or to relax a solitary instant in that line of duty according to my judgment and discretion. In conformity to that principle of duty I now proceed to make some remarks in support of the amendment which I have offered.

Mr. President, it is a great problem whether there is not national as well as individual insanity. I believe that there is such a thing as national insanity; but when insanity seizes upon a nation it is not in the form of general insanity; it is only monomania. I am perfectly satisfied that that form of insanity has seized upon this nation, that it rests in the two Houses of Congress, that it droops over the Senate with fatal mischief to the nation and to the people. Upon that proposition I have no doubt, because I cannot conceive upon any other principle how the legislation of Congress, and how the legislation of the Senate, should be in such utter disregard of the Constitution of the United States and of the liberties and the prosperity of the people of America.

Mr. President, there are good lawyers in this body, and among the very best is the honorable Senator from Maryland, [Mr. JOHNSON,] if not the very ablest in the nation. This degree of insanity has reached him, even; and if it is of such a nature that it can approach the State of Maryland and enchain upon the seat of reason

the lofty intellect and the profound legal learning of the honorable Senator from Maryland, what is to be expected in relation to the lesser lights here that claim to be jurists, and especially those from that region of the United States that is so flagrantly infected by this insanity? Now, I will propound to my honorable friend, the Senator from Maryland, one or two propositions, and I will ask him to debate with himself whether they are not irrefutably true. The first is, that our Constitution creates a Government of limited powers. The second is, that every power not conferred by the Constitution upon the United States is reserved to the people or the States respectively. From these two propositions I know he will not and cannot dissent. I now proceed to propound another proposition, and this is the principal one: in the construction of instruments of writing, of the law, and of the Constitution, a universal principle which is never to be departed from is, that where there is positive prohibition of power or a positive creation of right by the language of the instrument, that right and that prohibition of power can never be subverted by any implied authority. I hold that that principle is as immovable as the eternal hills; that it has received the recognition of all the courts of England and of America, that where an instrument of writing, be it in the form of a contract or a constitution, contains a clause in positive language, that clause cannot be subverted or restricted in its operation by any implied power. Apply that principle of universal construction to the question under consideration, and what does it amount to? In the Constitution of the United States we find the plainest and most positive guarantees of the rights of property; we find it asserted in the plainest and most positive language, that no man shall be deprived of life, liberty, or property, except by due process of law, and that no man's property shall be taken for public use except upon just compensation being made. Now, I ask my honorable friend from Illinois, if these are not rights positively guaranteed by the plain letter of the Constitution to every citizen, and I ask him, then, whether any power or any right arising by mere implication can have the effect of subverting the right secured by this positive language of the Constitution.

Sir, I say that such positive powers are not to be overturned and subverted by implication, and that the Supreme Court of the United States, in the great case of *McCulloch vs. Maryland*, and in many other cases, has sustained that principle. Further, sir, I assert that there is not a respectable State court in America that does not sustain it as a general principle, in the construction of all instruments, that a positive, express power cannot be changed or subverted or affected by an implied power.

I have shown, by adverting to the clauses of the Constitution, that there is the most express and explicit guarantee of a right of property in that instrument to the citizen. Now, I say that the measure under consideration in the clause which I have moved to strike out imports nothing more nor less than an infringement and total disregard in relation to the subject under consideration of those provisions of the Constitution which guaranty the right of property. My principle, then, would be that General Sherman, even while war was pending and he was in the field and occupying a portion of the country as a conqueror, would have no right to raise by implication a military power that would at all conflict with, much less subvert, for the time, these positive guarantees of our Constitution, of the rights of property in the citizen.

But, Mr. President, I do not at present think proper to insist upon the principle to that extent. I waive it in relation to its application to a time of war. I now assume that the country is at peace; the President has said so in his communications here. We all know the fact. It is as palpable as night and daylight at their respective hours in the twenty-four. It is a proposition that nothing but passion or selfishness or villainy in some form will ever controvert. It cannot be controverted. You might

as well try to controvert the fact, in noon day, when the heavens are cloudless, that the sun is shining.

Now, Mr. President, the country being in peace, the question is, whether these military possessory titles, or the mere right of possession given by General Sherman, can be confirmed by the present measure or by any other action of Congress. I say it cannot. It is not my purpose now to impugn General Sherman. I believe that the only particle of statesmanship that was exhibited by any military commander during the war was exhibited by him in his arrangement with Johnston; and I believe that if that arrangement had been taken up in good faith, and had been confirmed and executed by the Government, the restoration of the Union, and not only that, but the harmony and fraternity of the people of the United States, at this time, would be perfect. My present position is this: that the possessory rights which General Sherman granted to the negroes ceased with the cessation of hostilities. That principle is a principle of national law, and it would apply at this time, under the present state of circumstances, between independent Powers. I illustrate it in this way: suppose England and the United States had been at war, or the United States and Mexico, and we had made conquests in Canada or in some of the provinces of Mexico, and our commander, General Scott, in the late Mexican war, or any other general, had granted to American citizens, or to any persons whatever, the possession of lands there, precisely in the terms in which General Sherman has granted these lands to the negroes in the South, the moment that that war ceased the possession conferred by the military commander would terminate, and those who owned the lands previously would be entitled to resume possession of them. I will read a section of law from Phillimore in support of that principle:

"The conqueror dethrones the sovereign and assumes the dominion of the conquered territory; but as a general rule he does no more."

Now, sir, apply that principle to this intestine war, and all that was effected as our conquering armies marched through the South and occupied the country was simply to dethrone the power of the confederate government.

"The conqueror dethrones the sovereign and assumes the dominion of the conquered territory; but as a general rule he does no more. It has been well said down by the tribunals of the North American United States that the modern usage of nations, that large and important part of the international law, would be violated, the sense of justice and of right, which is felt and acknowledged by the civilized world, would be outraged, if private property were generally confiscated and private rights annulled. The people, indeed, change their allegiance; their relation to their ancient sovereign is dissolved; but their relations to each other and their rights of property remain undisturbed."

All the power that Congress has, all the power that the Government of the United States has, in relation to the late insurrection, is to suppress it. They have not a particle of power outside of that which is imported by that term. The honorable Senator from Maryland [Mr. JOHNSON] in his masterly argument drew a correct distinction between the power of war and the power to suppress insurrection under our Government. He stated truly, and he established the proposition beyond all doubt, that the one was the war power and the other was the simple power of police; that the simple power of police applied and inured to the benefit of the Government of the United States in putting down this insurrection, in "suppressing" it, to use the language of the Constitution, and that the war power, as it was created in the Constitution, had no application to the case; and no gentleman on this floor, or out of this Senate, can overturn that position, or shake it. Phillimore, treating of war between independent States, says expressly that where there is a war between independent States, and one country, or a portion of one country is conquered, the only effect is that the conquered country yields its political subjection to the conqueror, and the moment peace is declared and made, that moment the private property of the conquered people reverts to its owners.

Mr. President, if that is the law between foreign nations, with how much more force and truth is it the law in relation to our own country, and to our own fellow-citizens who were lately in revolt, and who have been subjected to obedience? If the South had been a portion of the English possessions, or the French possessions, or the possessions of any other foreign Power, according to this plain, explicit, and now universally received principle of national law, when General Sherman marched into Georgia and South Carolina, and subdued the country, and reduced it to subjection to the American arms, all the effect of that conquest would have been simply to transfer the political allegiance of the people to the Government of the United States; and if he had taken possession of private property, the moment that peace was made between the countries, that instant this private property, with all the rights of ownership, would be reinvested in the owners thereof, as though there had been no war at all.

This principle demonstrates beyond all doubt or reasonable contradiction that neither the Senate nor the Congress of the United States have any power to confirm these possessory titles, or the mere naked right of possession, to this property, keeping out the rightful owners of that property one day after peace has been declared, one day after peace in fact exists, one day in fact after the suppression of the insurrection. The suppression of the insurrection makes the peace. It is only a great riot; it is only a great sedition. Wherever a riot, or sedition, or insurrection occurs in a country, where that country has a government like ours, the police power to quell the riot, to put down the sedition, to suppress the insurrection, applies; and so soon as the riot, or the sedition, or insurrection is put down, the office and power of the Government over the matter ceases; the power then becomes *functus officio*; and all the rights of the citizens, all their obligations to the Government, and all their rights of private property immediately apply, as though there had been no riot, no sedition, no insurrection.

Now, Mr. President, I will make one further remark and then take my seat. I have heard the cry of "Mad dog!" "Mad dog!" and then the multitude shout, "Kill him! kill him! damn him, kill him!" The South has been a mad dog; the South has acted with folly and great criminality; but the South has been subdued; the South has come back to its allegiance; the South has resumed its reason and its loyalty. The mind and the reason of the South have become satisfied of the impossibility and folly of that insurrection which it made against the Government of the United States. It has become convinced in its deepest reason that its duty to itself and its safety requires a perfect obedience to the authority of the United States and to the laws and Constitution of the United States. It offers now, not in its passion, not in its weakness, not in its fears, to come back and render its allegiance to its country and its Government; but in the deepest convictions of its reason, it offers to render noble, manly, just, and proper tribute to the supremacy of the Government of the United States. How is that proposition received? All the frenzied people of the North, all the strong-minded spinsters of New England, all the fighting clergy of the northern States who are for letting slip the dogs of war and crying havoc, all the Black Republican party, dyed in the wool, who hold office obtained in this crusade against slavery, and who expect to retain it only by keeping up this crusade and this fierce and irrational frenzy, all the Jacobins, all the men who belong to "The Mountain" of Washington city and America—for we have "The Mountain" here as they had it in France in the days of the French Revolution—all of them are now shouting "Mad dog! mad dog! kill him! kill him! damn him, kill him!" Sir, that spirit does not become a Christian people; it does not become a just people; it does not become a wise and politic people. No country can ever be permanently reduced to peace and order and fraternity and confidence and love and affection for its Gov-

ernment by pursuing any such policy. We are members of the same national family, and we should treat each other as we would treat our own private family; and the head of a family who would so treat his erring and sinning son, instead of winning back that son to duty and love, would make him his eternal and unforgiving enemy.

Believing that this section is in flagrant conflict with the Constitution and with the laws of nations governing even separate and independent States and securing to them belligerent rights, believing that it is in conflict with both codes of law, the national and constitutional, I move to strike it out from the bill.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The question will first be on concurring in the amendment adopted as in Committee of the Whole to the fifth section of the bill. The Senator from Kentucky moves to strike out that section. The parliamentary usage is to allow the section to be amended before a vote is taken on striking it out. The question now is on concurring in the amendment made as in Committee of the Whole to the fifth section of the bill.

The amendment was concurred in.

The PRESIDING OFFICER. The question now is on the motion of the Senator from Kentucky to strike out the fifth section as amended.

Mr. DAVIS. On that question I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 10, nays 32; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Guthrie, Hendricks, McDougall, Riddle, Sanisbury, Stockton, and Wright—10.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Cragin, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Harris, Howard, Howe, Lane of Indiana, Morgan, Morrill, Norton, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Wade, Wiley, Wilson, and Yates—32.

ABSENT—Messrs. Conness, Creswell, Henderson, Johnson, Kirkwood, Lane of Kansas, Nesmith, and Williams—8.

So the Senate refused to strike out the fifth section of the bill.

The Secretary read the next amendment adopted as in Committee of the Whole, which was to strike out the sixth section of the bill in the following words:

SEC. 6. *And be it further enacted*, That the Commissioner shall, under the direction of the President, be hereby empowered to purchase or rent such tracts of land in the several districts aforesaid as may be necessary to provide for the indigent refugees and freedmen dependent upon the Government for support; also to purchase sites and buildings for schools and asylums, to be held as United States property until the refugees or freedmen shall purchase the same, or they shall be otherwise disposed of by the Commissioner.

And to insert in lieu thereof:

SEC. 6. *And be it further enacted*, That the Commissioner shall, under the direction of the President, procure in the name of the United States, by grant or purchase, such lands within the districts aforesaid as may be required for refugees and freedmen dependent on the Government for support; and he shall provide or cause to be erected suitable buildings for asylums and schools. But no such purchase shall be made, nor contract for the same entered into, nor other expense incurred, until after appropriations shall have been provided by Congress for the general purposes of this act, out of which payments for said lands shall be made. And the Commissioner shall cause such lands, from time to time, to be valued, allotted, assigned, and sold in manner and form provided in the preceding section, at a price not less than the cost thereof to the United States.

The PRESIDING OFFICER. The question is on concurring in this amendment made as in Committee of the Whole to the sixth section of the bill.

Mr. DAVIS. After that amendment shall have been concurred in, it will be in order, as I understand, to move to strike out the whole section.

The PRESIDING OFFICER. It will. The question now is on concurring in the amendment made as in Committee of the Whole to the sixth section of the bill.

The amendment was concurred in.

Mr. DAVIS. I now move to strike out the sixth section as amended, and I desire to say a word or two upon that motion. Sir, I know how vain and useless any humble exertions I can make will be to defeat this measure; but I

am determined to endeavor to do my little mite toward unveiling it, and toward exposing its monstrous deformity to the country.

My honorable friends from Indiana and Delaware [Mr. HENDRICKS and Mr. SAULSBURY] have established beyond all doubt the enormous cost which this bill will entail upon the Treasury of the United States, and I do not believe that they have exaggerated it. I agree with the honorable Senator from Delaware that the amount of the aggregate expenditure will depend very much on the discretion of the Executive; that if he is disposed to press the capacity for patronage which this bill would give him to its utmost limits in the great stress of a presidential canvass, it would be a source of enormous expenditure, and would confer upon him a most dangerous aggregation of power. I believe with the honorable Senator from Indiana that no economical administration which can be given to the bureau will cause the expenditure under this bill to be less than from thirty to fifty million dollars. I concur fully in the remarks that were made by my honorable colleague, attempting to reveal what will be the requirements upon the Treasury under this bill, to the extent that he went; and I believe that he underrated what will turn out to be in truth the expenditure.

I was present at a meeting of the Committee on Pensions this morning, and we had before us a proposition to increase the present rates of pensions, which was not disposed of. I can speak of the proposition because it has been referred by the order of the Senate to that committee. What is now the pay of a private soldier in the Army of the United States? I believe it is about sixteen dollars per month; I am not certain. Some gentleman on the Military Committee will perhaps inform me; however, it is not material.

Mr. HENDRICKS. It is sixteen dollars a month.

Mr. DAVIS. Now, Mr. President, here is a bill that establishes a great system of lazzaroni, a great system of poor-houses for the support of lazy negroes all over the southern States. What is to be the cost of this system no political economist or statesman can tell. If Colbert were here, or Necker, or Turner, or any of the great financiers that Europe has produced, they could not tell within millions and tens of millions, probably hundreds of millions, of what is to be the cost of this system. What will be its effect? There are a certain class of men in this body, and in the other House, who think they know all about the negro; and not only that, they think they know all about all creation and all its concerns, and that if anybody presumes to put up opinions against theirs they are ninnyes or neophytes or nincompoops, and they are the Solomons. [Laughter.] With true characteristic national conceit, they are pulling down the great system of constitution and of policy and of legislation which was established by our fathers, the wisest and most virtuous men that ever lived. They have dared to rush in where angels would not tread; and when they see the confusion and ruin and bankruptcy that is about to result to the nation from their enormous mistakes in the conduct of this war, and in the administration of affairs since the war has closed, they are throwing themselves about like the blind Samson, and threaten to pull down the pillars of the State upon them and upon us.

A friend of mine remarked to me yesterday that there were some men here who were going to destruction very fast. I replied, "It is too true, but the misfortune is they are taking us and the country with them." Said he, "Suppose we were to unhitch ourselves and the country and back out, and let them go on to their destruction." I exclaimed, "In the name of God, let it be so;" but we cannot dispose of them in that way. They are moving on; they have us hitched to their chariot, and they are dragging us with resistless force and with incalculable speed to that destruction which they are bringing upon our common country.

My honorable friend from Pennsylvania, [Mr.

COWAN,] whom I do not see in his seat, has presented various memorials here; for what purpose? The early enlisted soldiers in the late war, who met the storm of battle in its onset, and who received but \$100 bounty, that great mass of meritorious patriots who saved the Union and the Government, without whose services and toils and sufferings it would have perished, are now knocking at the doors of Congress and asking that their bounties be equalized, and that they be allowed the same bounty that the negro has received. Sir, what are you going to do with these propositions? What is this Black Republican party going to do with the propositions? What are you going to do with the Treasury of the United States? Who can tell now what is the amount of the debt that is justly due, liquidated and unliquidated, by the Government of the United States? If I recollect aright, the chairman of the Committee of Ways and Means of the other House, during the past summer, then estimated it at at least \$4,000,000,000. The interest of that would be \$240,000,000 annually. You have a negro bureau before you that will produce another draft upon the Treasury of from \$50,000,000 to \$250,000,000, say \$100,000,000 at least. You have a pension roll, which, if justice is done to the noble patriots who bared their bosoms to the iron storm of war, will call for another \$100,000,000 at least. You have the maimed, the wounded, and disabled who took part in this late war, and the widows of those who have fallen, now knocking at your doors to have their pittance of a pension raised from eight dollars, so as to give them barely bread and raiment and shelter. When they come here and ask that the pittance of eight dollars a month shall be raised to twelve or thirteen or sixteen dollars a month, where is the man in the Senate or the House that dare get up and speak or vote against such a just proposition? I believe some officer connected with the War Department says that the claim for the increase of bounties will amount to about \$400,000,000. I think that is an exaggeration; but suppose it amounts to \$200,000,000, and then when you increase the pension roll \$50,000,000 more, making \$250,000,000, are you willing to incur a further expenditure for the establishment of negro poor-houses?

A negro will never work when he can keep soul and body together without work. I know the negro nature better than all the Yankees in this body, or that live upon this continent. [Laughter.] I know that if he can live without work, he will not work. If he can live by begging, he will not work. If he can live by stealing, he will not work. If he can live in the southern States upon the spontaneous fruits and vegetables of the land that grow up by the force of the climate and of a luxuriant soil, he will not work. He will bask, with his wife and children in squalid rags and poverty, in the sunshine; but so long as he can hold body and soul together he will never work. What are you offering to do now? To give him subsistence, transportation, asylums; school-houses, school teachers, churches, and I suppose somebody to preach in their churches. All these supplies you propose to give to the negro. Do you not think that there will be a general pilgrimage of all the negroes in the United States toward these establishments? There will be, just as certain as you and I live.

Here, then, Mr. President, is \$850,000,000 for increased pensions and for the increase of the bounty of the first soldiers of the war, and then comes in \$250,000,000 more to be expended under this bill, making \$600,000,000 to be added to our expenditures. Where is the money to come from to pay it? Where is the people on earth more ground to the dast by taxation than the people of America? Are the gentlemen from California and from the gold and silver mines of Nevada ready to pay an *ad valorem* rate of taxation upon the products of their lands to meet all these burdens upon the Treasury? I appeal to the hardy farmers of the Northwest, those gallant and hard-handed men, who live upon small tracts of land of one hundred acres, or something like that, and who have to toil day

in and day out and live economically to make the two ends meet at the close of the year, to educate their children and give their families the ordinary comforts of life, and many of them have no surplus to lay up for old age and for the wintry day of life; are they ready and willing to pay an *ad valorem* tax, or a direct tax, upon their lands for the purpose of meeting the expenses of this lazzaroni, this great system of negro poor-houses? It will come to that. Sir, you must stop expenditures, you must retrench, reform, economize; instead of increasing your expenditures you must greatly reduce them; otherwise repudiation will be inevitable. I want no repudiation, but I want the severest economy practiced by the Government, to bring the burden of the people, which they have to meet in the form of taxation, within such a limit that they can shoulder and move along with it with the proud and erect step of freemen, and still live, and not to be bowed down in penury and vassalage to the millionaires who own the public debt.

I call for the yeas and nays upon the amendment that I have proposed.

The yeas and nays were ordered.

Mr. WILLEY. Mr. President, I know of scarcely a higher duty than has been imposed by the result of this war upon the Government, to provide for the very contingencies embraced within the provisions of this bill; I know of no higher obligation than to make all necessary provision for the protection and the elevation of this race, for their protection in their civil rights and in the enjoyment of their proper pursuits, and for their protection in all the civil relations of life. I know of but one higher duty devolving upon the Senate, and that is the obligation to abide by the Constitution. I stand here under the obligation of an oath to support that Constitution, and having come to the conclusion, from the arguments that have been made during the progress of this discussion, that Congress has no power to grant the provisions contained within this section, I shall, since the yeas and nays have been called, be compelled to vote to strike it out.

I come to this conclusion with very great regret, because the able committee who have had this subject in charge, after full investigation no doubt, have come to the conclusion that the provisions of this section would result very much to the advantage of the freedmen of this country. It is possible that they would. Nevertheless, as I have said, there is a higher obligation which is to guide my conduct in the premises, and that is obedience to what I conceive to be the obligations of constitutional law. Believing that the proposition contained in this section is unconstitutional, I must vote to strike the section from the bill. I shall do it with the less reluctance, because it seems to me the powers granted in this section and the provisions made in it are not indispensably necessary to accomplish the object contemplated by the bill. The freedmen may be protected, and proper provision be made for them, without the grant of the power contained in this section; and besides, it seems to me that it contains, however beneficial its effect might be in other respects, one vicious principle.

Whatever my friend from Kentucky may know about the habits of the negroes, I think he is very much mistaken in regard to their habits of idleness. They have been idle; but who would not be idle if his labor was not to result in his own benefit? Who would not be idle if he received no wages for his toil? What race would not be, comparatively, in the condition in which the Senator has represented the colored race, who for long ages had been held in slavery, receiving nothing for their toil but a bare pittance to live upon? Give them hopes, give them a prospect of bettering their condition in the future; adopt measures that will tend to stimulate industry and to stimulate a hope of improvement in their condition, and that idleness, to some extent at least, will pass away. It must be admitted, however, that from the habits, education, and condition of the negro, he has hitherto been a dependent being;

he has been dependent upon his master; he has leaned upon him for support. That is his habit, that is his education, that is his nature; and in so far as this bill makes provision that will tend to foster and keep up this influence over the negro, I think the bill is vicious. Are not the provisions of this bill of a nature calculated to produce that result? Does it not provide homes for him, purchase lands for him, hold out inducements to him still to be dependent upon the Government, which is to make provision for his wants, to provide a house for him to live in, a school for him where he may be educated, an asylum in which he may find refuge in times of distress and helplessness, and various other propositions, all looking to the same result—the fostering of the habit in the negro of leaning and relying upon some other power for help and support?

My idea is that the negro would be most benefited by such a policy as would place him as soon as possible upon his own responsibility, and in that situation would protect him in the enjoyment of all his rights and privileges. He would be sooner elevated in the scale of humanity; he would sooner acquire habits of industry and self-subsistence. It seems to me that the provisions of this bill to some extent would have a deleterious effect upon the negro, because it would still pander to his native habits of reliance upon others for support and protection and provision. I shall, therefore, vote with the less reluctance for striking out this section, because I believe it contains within it, to some extent, a vicious principle. But I am constrained to vote against it because I believe Congress has no power to vest the President with any such authority as is given to him in this bill, has no power to purchase lands, has no power to make itself a landlord and to receive the black men as tenants under it, has no power to purchase land to build schools and asylums; and in that respect it comes in conflict with another principle which has been very popular here; it does make a distinction on account of color between the two races.

Mr. DAVIS. One word in reply to the honorable Senator from West Virginia. He adverted to the picture of indolence, of vagrancy, and of poverty that I had drawn of the negro, and attributed that to the fact that the negroes who had those habits, and were in that condition, received no reward for their labor. I beg to inform my honorable friend that it was the free negro exclusively of whom I was talking and whom I was describing. The slave negro is made to work, or has been heretofore, by his master. His health and his comforts were all cared for. He was fully and comfortably fed, well clothed, well housed, taken care of in his sickness and in his old age. All those features of the slave negro depart, in the State of Kentucky, and have done so from time immemorial, from the freed negro the moment he is turned out to the enjoyment of his freedom.

Why, sir, the vagabond negroes that are hovering over this Capitol like a dark cloud have been allured from labor to idleness by the measures of Congress. It is such measures as this that seduce them from labor, from throwing themselves upon their own resources, as the honorable Senator from West Virginia says they ought to be thrown, and that brings them here. If you would just introduce measures that would start these lazy, indolent negroes from this Capitol out to work, they could themselves make enough to subsist all the paupers, and ten times as many, in this District of Columbia. This is only one rendezvous of lazy, indolent negroes. There are thousands of them scattered all over the whole of the slave States. Sir, change your policy; introduce measures that will drive these negroes from the cities, that will start them out to work, and to work upon their own responsibility. There is no truth in the idea of these negroes becoming the dupes and the victims of the white man. There is no truth in it.

My honorable colleague gave a picture of what has always been the policy of Kentucky, and the laws of Kentucky, toward free negroes.

With a few exceptions, they have all the civil rights that any white man has. They are subject to some severer penalties: for instance, rape committed by a white man is punishable by confinement in the penitentiary; when perpetrated by a negro upon a white woman, it is punishable by death, and it will be so punishable in that State until the last trump blows. All the legislation that may be devised by Congress, and all the oppressive and unjust discriminations sought to be introduced against the white man, and to stifle the reserved rights of the States, to overthrow their governments and their independence of legislation—all these measures will never drive the State of Kentucky from a modification of that law.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kentucky to strike out the sixth section of the bill, as amended, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 10, nays 32; as follows:

YEAS—Messrs. Buckalew, Davis, Guthrie, Hendricks, McDougall, Nesmith, Riddle, Saulsbury, Willey, and Wright—10.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Dixon, Doolittle, Fessenden, Foot, Grimes, Harris, Howard, Howe, Kirkwood, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Norton, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Wade, Wilson, and Yates—32.

ABSENT—Messrs. Cowan, Creswell, Foster, Johnson, Lane of Kansas, Pomeroy, Stockton, and Williams—8.

So the amendment was rejected.

The PRESIDING OFFICER. The amendments made in committee have been severally concurred in. The bill is still open to amendment.

Mr. SUMNER. If I can have the attention of the chairman of the committee for one moment, I propose to him to insert after the word "refugees," in the fourth line of the fourth section, as amended, the words "male and female," so that it shall be applicable to women as well as men. I do not doubt that in point of law as it stands now it will be so applicable, but there are persons who have raised a question with regard to that, and in order to satisfy them and relieve their anxiety, I propose that we shall introduce those words, so that there shall be no question about it.

Mr. TRUMBULL. If it will be satisfactory to any friend of the bill to have those words inserted, I see no objection to them, but I certainly see no necessity for them. "Freedmen" and "refugees" are general terms, embracing all of them.

Mr. SAULSBURY. I believe that in a very ancient law book, perhaps the most ancient one known to good lawyers, it is said that "God created man in his own image; in the image of God created He him; male and female created He them."

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Massachusetts.

The amendment was agreed to.

Mr. DAVIS. I move to amend the bill in section one, line seven, by inserting after the words "United States" the words "in which the laws cannot be administered in the civil courts;" so that it will read:

That the act to establish a Bureau for the Relief of Freedmen and Refugees, approved March 3, 1865, shall continue in force until otherwise provided by law, and shall extend to refugees and freedmen in all parts of the United States in which the laws cannot be administered in the civil courts, and the President may divide the section of country, &c.

I ask for the yeas and nays upon this amendment.

The yeas and nays were ordered.

Mr. DAVIS. I will explain this amendment in a single word. The honorable Senator from Michigan, who is not only the putative, but I believe the real father of this measure, in connection probably with a little counsel from the office of the Attorney General, said a few days ago that the object of the creation of the tribunals under this measure, and of the exercise of their jurisdiction, was to operate in States where the law could not be executed in the civil

courts. My simple proposition of amendment is this: that this measure shall not apply to any State where the civil law can be executed in the civil courts, and that is the whole of it.

Mr. HOWARD. If the honorable Senator from Kentucky alluded to me in his reference to the paternity of this bill he is entirely mistaken. I have had no connection with the bill at all, directly or indirectly.

The question being taken by yeas and nays, resulted—yeas 10, nays 36; as follows:

YEAS—Messrs. Buckalew, Davis, Guthrie, Hendricks, McDougall, Nesmith, Riddle, Saulsbury, Stockton, and Wright—10.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Dixon, Doolittle, Fessenden, Foot, Grimes, Harris, Henderson, Howard, Howe, Kirkwood, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Norton, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—36.

ABSENT—Messrs. Cowan, Creswell, Foster, and Johnson—4.

So the amendment was rejected.

Mr. McDOUGALL. I move to amend the bill by striking out all after the enacting clause and inserting the following as a substitute:

That the President be empowered and directed to execute the Constitution, and laws enacted under the same, for the protection and benefit of freedmen and refugees, and that he may use such of the military force of the country for this purpose as he may find necessary.

Mr. DAVIS. I do not think that amendment is in order at the present time. It will be in order, if I understand the rules of the Senate, when all the amendments to the original bill are disposed of. The bill is to be perfected, to use a hackneyed parliamentary term, before a proposition to substitute another measure in lieu of it is in order.

The PRESIDING OFFICER. The amendment is in order at the present time; but before the question is taken on striking out, it will be in order for the Senator from Kentucky, or any other Senator, to amend the part proposed to be stricken out.

Mr. McDOUGALL. Mr. President, I move this proposition as a substitute for the entire bill. We are now engaged in the very vain work of undertaking by legislation to administer upon such things as may be the accident of the hour or the accident of the day. We are undertaking to provide general rules and laws that pertain to government, in and about business that belongs properly to administration. There are three departments of government recognized under our system: the legislative, as being nearest the organizing power, the executive, and the judicial; the latter two properly subject to the former more or less in point of real dignity, yet made equal in power in their several spheres. All that belongs to the management of the enfranchised slave must necessarily depend upon judicious administration. What may be necessary in Louisiana may not be necessary in Maryland. What may be necessary in South Carolina may not be necessary in Kentucky. It is a question of administration to be applied wisely. This Freedmen's Bureau is the result of an organization under the executive power of the United States. All its authority, after all, rests upon that. It is a matter of administration. The President of the United States, being clothed with proper authority, may realize all that can be desired, applying administration to the various points where administration is required, justly, according to circumstances. No general law, no general system of administration, no general popular judiciary, will answer that as well as the application of the Constitution and laws, protecting all persons, carrying out the spirit of the constitutional amendment, laws passed in pursuance of it protecting them with the judgment of our Chief Executive so far as they need protection. It is the best way, the most economical way, and the most constitutional way that we can express the power of this Government to protect the freedmen under the provision in the Constitution that all laws made in pursuance of it by Congress shall belong to the supreme law of the land. It will be infinitely better; it will save complexity. Our legislation

now is full of confusion, and many men are confused about simple questions of constitutional law. This legislation here will lead to confusion. A simple law, clothing the Executive with sufficient power to aid in carrying out the amendment to the Constitution and the laws which may be passed in accordance with it, will answer all purposes, will answer what General Grant suggests in his report.

Sir, I would rather trust to a man elected by the people of the United States to the high place of Chief Magistrate to advise when and how this power shall be exercised than to this loose, and, I will say, uninformed legislation; for what information have the Senators on this floor with regard to the condition of things in the South? Both parties are making reports. If we ask what the condition of North Carolina is, what the condition of Louisiana is, what the condition of Georgia is, we receive a report. What information does that carry to you, gentlemen, or what does it carry to me? As a general rule, it is simply a partisan report, unreliable, as, I may say, newspaper reports generally are. There is not a person who can understand the quadratic equation that can resolve out of any given statement of the reporters whether a thing is so or not so.

In my opinion, it will be wiser to trust this power to the President, for it belongs to administration, not legislation. It cannot be brought within the purview of legislation. We cannot make rules for it, for we do not know the condition of things in the South. I live in a northern State, a free State, far away from here. I do not know how things are in these southern States, and I think there is no Senator on this floor who understands the condition of the South any better than I do. I was born and have lived in the North, but it has been my fortune to mingle more with the people of the United States, both North and South, than most gentlemen who occupy seats on this floor. I say none of us understand their condition. It has to be administered by a knowledge of particular cases, and I would rather trust a man whom the people were willing to elevate to the high office of President with the particular administration, than trust general rules pronounced by persons who know nothing of and about that which they legislate; and I undertake to say that Congress has been legislating of and about things of which they are profoundly ignorant.

I move this amendment as a substitute for the whole bill, and call for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. TRUMBULL. Before the substitute is voted upon, there are one or two verbal amendments that ought to be made in the bill. In the second section of the bill, line two, I move to strike out the word "shall" and insert "may," so as to read:

The President may divide each district into a number of sub-districts, &c.

The amendment was agreed to.

Mr. TRUMBULL. In line four of the same section I move to strike out the words "each State," and insert in lieu thereof "such district;" so as to read:

Not to exceed the number of counties or parishes in such district.

The amendment was agreed to.

Mr. TRUMBULL. In section six—

Mr. DAVIS. I rise to a point of order. I believe it is the order to read the bill section by section. I have some amendments to propose to a preceding section, and I want to offer them as the sections are read.

Mr. TRUMBULL. I believe I am entitled to the floor.

The PRESIDING OFFICER. (Mr. CLARK.) The Senator from Kentucky rises to a question of order.

Mr. DAVIS. I want to know my rights. I have no objection to the gentleman's course if I am allowed to offer my amendments afterward.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. DAVIS. I want to offer an amendment

to the second section; and my point of order is that it is not in order to proceed to a subsequent section until the second section and all the amendments relating to it are disposed of.

The PRESIDING OFFICER. The Chair will state to the Senator from Kentucky and to the Senate that there is no such rule of order of the Senate.

Mr. DAVIS. I stand corrected.

The PRESIDING OFFICER. It will be in order for the Senator to move his amendment after the Senator from Illinois shall have offered his amendments.

Mr. DAVIS. I make this inquiry, though, of the Chair: will it be in order for me, after the propositions of the Senator from Illinois are disposed of, to move an amendment to the second section?

The PRESIDING OFFICER. To any part of the bill the Senator chooses.

Mr. TRUMBULL. My object is not to interfere at all with the Senator's amendments. He certainly must know as well as any of us that it is in order for him to offer any amendment that he thinks proper to offer to any portion of the bill. I merely desired to correct one or two verbal inaccuracies that, on account of amendments to the bill, it has become necessary to correct. In the thirteenth and fourteenth lines of the sixth section, I move to strike out the words "preceding section," and insert "fourth section of this act." The preceding section as the bill is now amended is not the one intended to be referred to.

The amendment was agreed to.

Mr. DAVIS. I suppose I shall now have a chance.

Mr. McDUGALL. I think the yeas and nays have been ordered on the amendment which I offered, and I ask that the question be taken.

The PRESIDING OFFICER. The yeas and nays have been ordered upon it.

Mr. McDUGALL. And nothing else is in order in the way of business. As a matter of courtesy to the chairman of the committee who reported the bill, I yielded to allow him to make his verbal amendments; but the question now is on the substitute I offered.

The PRESIDING OFFICER. The Chair will inform the Senator from California that it is in order for any Senator to move to amend the bill before taking the question on striking it all out and inserting a substitute. The Senator from Kentucky is in order.

Mr. McDUGALL. A substitute having been offered and the yeas and nays ordered on the substitute, until that question has been disposed of an amendment is not in order, according to what I understand to be parliamentary law. I may be ignorant on the subject, but I think I am right. Otherwise there must be some very bad logic in our rules of order.

The PRESIDING OFFICER. The Chair will state to the Senator from California that it is first in order to move to amend the part proposed to be stricken out, then to amend the part proposed to be inserted, and then to take the question on the amendment by way of substitution altogether.

Mr. DAVIS. I unfortunately a short time since referred to the Senator from Michigan. I intended to refer to the Senator from Illinois. It was a mere inadvertence. I did not hear the disclaimer of my friend from Michigan at the time, or I would have made the correction then. I now offer the following amendment—

Mr. McDUGALL. Allow me to inquire whether that is an amendment to my substitute.

The PRESIDING OFFICER. The Chair will answer the Senator from California when the amendment shall have been reported from the desk so that he may know what it is.

The Secretary read the amendment proposed by Mr. DAVIS, which was in section two, line fifteen, after the word "class" to strike out these words:

And the President of the United States, through the War Department and the Commissioner, shall extend military jurisdiction and protection over all

employees, agents, and officers of this bureau in the exercise of the duties imposed or authorized by this act and the act to which this is additional.

Mr. McDUGALL. I rise to a question of order. I think we should conform to some rules that can be understood.

The PRESIDING OFFICER. The Senator will state his point of order without debate.

Mr. McDUGALL. I presume I may explain it. That is allowed always. The motion pending, upon which the yeas and nays have been ordered, is a substitute for the entire bill. You can amend an amendment; but this is not an amendment to the proposition which I introduced, and which has been already ordered to a vote of the Senate, but it is an amendment to the original bill. I insist, with all due respect to the President of the Senate, that before the subject-matter of my amendment or my substitute is disposed of no vote can be taken except in relation to it. I believe that was the law as long ago as Mr. Jefferson wrote his Manual. I have a right to a vote on my amendment.

The PRESIDING OFFICER. The Chair has no hesitation in overruling the point of order. The question is on the amendment offered by the Senator from Kentucky.

Mr. DAVIS. Mr. President, the words that I now move to strike out show the claws of the beast. They refer to the interposition of the military power to suppress the action of the courts in the States. If the honorable Senator from Illinois will withdraw his interposition of the military power to carry into execution this most unjust and iniquitous measure in the States, I care not for it. But, sir, here is invoked the military power of the United States Government to suppress and subvert the judicial power of all the States in interfering between the white man and the freedman. I therefore move this amendment.

The amendment was rejected.

Mr. DAVIS. I ask that the next section be read.

Mr. McDUGALL. I ask still if my motion is not in order.

The PRESIDING OFFICER. The Chair has once decided the point of order. The Senator can appeal from the decision of the Chair.

Mr. McDUGALL. I will not appeal from the decision of the Chair, because I do not like to do futile things.

Mr. DAVIS. What is the next section in order?

The PRESIDING OFFICER. Any part of the bill to which the Senator proposes an amendment. The amendment the Senator last proposed was to the second section.

Mr. DAVIS. I move to strike out the fifth section of the bill.

The PRESIDING OFFICER. The Chair will suggest to the Senator from Kentucky that that question has already been taken by yeas and nays.

Mr. DAVIS. Very well, sir; I move, then, an amendment to the seventh section by inserting the words "and cannot be enforced" after the word "rebellion" in the third line, so as to make the section read:

That whenever in any State or district in which the ordinary course of judicial proceedings has been interrupted by the rebellion, and cannot be enforced, and wherein, &c.

The amendment was rejected.

Mr. DAVIS. I now move to amend the eighth section by inserting after the word "rebellion" in the fifth line the words "and cannot be enforced." This is the same amendment which has just been voted down, only applying to a different section; that is all.

The amendment was rejected.

Mr. DAVIS. I offer another amendment to come in at the end of the eighth section:

Provided, That the Commissioner, assistant commissioners, agents, or any other officer, acting under this act or the law to which it is amendatory, shall not exercise any judicial powers whatever.

Upon this amendment I ask for the yeas and nays.

The yeas and nays were ordered; and the call of the roll was commenced.

Mr. DAVIS. If the Senate will indulge me, I propose to withdraw the call for the yeas and nays, and ask for them on another proposition which is similar to this amendment. By unanimous consent, I desire to have leave to withdraw the call for the yeas and nays on this amendment.

Mr. TRUMBULL. I hope unanimous consent will be given.

The PRESIDENT *pro tempore*. It can only be done by unanimous consent. Is there any objection?

Mr. McDUGALL. There is.

The call of the roll was concluded, and the result announced—yeas 8, nays 34; as follows:

YEAS—Messrs. Buckalew, Davis, Hendricks, McDougall, Riddle, Saulsbury, Stockton, and Wright—8.
NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Crowell, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Harris, Howard, Howe, Kirkwood, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Norton, Nye, Poland, Pomeroy, Stewart, Sumner, Trumbull, Van Winkle, Wade, Wiley, Williams, Wilson, and Yates—34.

ABSENT—Messrs. Cowan, Guthrie, Henderson, Johnson, Nesmith, Ramsey, Sherman, and Sprague—8.

So the amendment was rejected.

Mr. DAVIS. I now offer this amendment, to come in as a proviso at the end of the eighth section:

Provided, That the Commissioner, assistant commissioners, agents, or any other officers acting under this act, or the law to which it is amendatory, shall not exercise any judicial powers whatever in any State in which the laws can be enforced by the civil courts.

I will say but a word in explanation of this amendment. The President by the provisions of this bill is authorized to assign military officers to the discharge of duties under it. The bill then contemplates that judicial power in the Government of the United States, which can be exercised according to the command of the Constitution only by courts, shall be exercised by such military officers as the President may assign to the performance of those duties. This amendment is simply that those duties shall not be performed by the Commissioner of the bureau, or by the assistant commissioners, or by any of the agents, be they civilians or military officers, in any State where the courts are open and where the laws may be enforced and executed in the civil courts of the country. That is the whole proposition.

Mr. TRUMBULL. I have abstained from making any remarks on the various amendments which have been proposed by the Senator from Kentucky and the numerous speeches he has made denouncing the different provisions of the bill as unconstitutional. He now proposes a section asserting that judicial powers shall not be exercised by these commissioners where the civil courts are in operation. I have not abstained from replying to him because I did not think there was a ready answer to all that he has said in his speeches and to every one of his amendments, but because I thought we should soonest get action on the bill by voting silently upon them. I endeavored at an early stage of our proceedings upon this bill to express my views in reference to it. I claim to be as much devoted to the Constitution as the Senator from Kentucky. I would vote for no law in violation of it. When he rises here and appeals to the Constitution and asserts that the Constitution is being violated, he only says that that is his opinion. I do not think it is being violated. I have just as high regard for it as he has; and while I vote silently against this amendment and sit silent under these speeches, it is not because there is not a perfect answer in my judgment to every one of his positions.

Now, a word in reference to the particular amendment before us. He would have the country believe that here was a proposition to establish courts in States where the civil tribunals of the country are in full operation, and its judicial tribunals uninterfered with. There is no such proposition in the bill. The bill already provides that the judicial powers conferred upon these officers are to be exercised only in localities where the civil tribunals have been overborne, and when the time comes that these insurgent States shall be restored in their consti-

tutional relations to the Government, which I trust may soon come, no judicial power will remain in any of the officers of the Freedmen's Bureau. That is the provision of the bill already.

But, sir, I did not rise to make any other remarks in reference to it than simply to say that in silently voting against this proposition, and in sitting silent under the assertions which the Senator has so often made, I did not wish it to be taken for granted that we had not a ready reply to his assertions, nor that the bill did not already provide for the very thing that he is seeking to provide for.

Mr. DAVIS. Mr. President, I appeal to the recollection of the Senate, if the honorable Senator did not assert in the set speech which he made in support of this measure a few days ago, that its purpose was to include the States of Delaware and Kentucky. He now says that this bill is not to apply to any State in which the courts are open for the enforcement of civil law.

Mr. TRUMBULL. I am sure that the Senator from Kentucky would not mean to misunderstand me.

Mr. DAVIS. Certainly not.

Mr. TRUMBULL. His sense of fairness, however we may disagree, is such that I do not think he would intentionally misstate my position.

Mr. DAVIS. Of course I would not.

Mr. TRUMBULL. I never said, and never intended to say, that this bill did not apply anywhere but to the insurgent States. Now I hope I am understood. The bill does apply to other States; but that portion of the bill which confers judicial power upon the officers of the bureau does not apply to the other States, but is confined to those where the judicial tribunals have been overthrown.

Mr. DAVIS. Of course I do not intend to misstate or to misunderstand the honorable Senator from Illinois, for two simple reasons. In the first place, he is here to correct me if I should misrepresent him; and, in the second place, a much higher principle actuates me: my own self-respect would prevent me from misrepresenting him.

But I do understand this bill entirely different from his present construction of it. He certainly announced on the day and in the speech to which I have referred, that it was his purpose that this bill should apply to the States of Delaware and Kentucky. Well, as I read the bill, and as I understand it, there is not a provision or power in the bill, or conferred by it, that will not apply as well to those States as to any of the States lately in insurrection. If that be the meaning of the honorable chairman who reported this bill, when I get up and offer an amendment providing that this bill shall not apply to any of the States in which the courts are open for the enforcement of the civil law, why does he not propose that, so far as this confers or attempts to confer judicial power, it shall not be applicable to any States in which the courts are open, and in which the laws may be enforced?

He makes no such proposition, and I do not understand that the bill, if it becomes a law, as I have no doubt it will become a law, is susceptible of that interpretation or construction. No, sir; no, sir. This bill has been constructed upon consultation, and upon consultation by men in Kentucky and from Kentucky, as I am informed, with the honorable chairman. And it is one of the main purposes of this bill on the part of the men who have been in consultation with him—I will not say on his part—that it shall apply, and that it shall apply in all of its requisitions of military power, to interfere with the courts in the State of Kentucky; and I want the bill so worded that it shall have no such application.

The simple proposition of my amendment is that the officers under this bureau shall not assume any judicial powers in any State where the courts are open and where the civil laws may be enforced. The courts are open in Kentucky as much so as they are in Illinois. The civil laws can be enforced there in our civil

courts by that medium just as effectually as they can in Illinois, or Massachusetts, or any other State. If the purpose is not that the courts in the State of Kentucky shall be invaded with all the military power invoked by this bill for the protection of all agents and persons acting under it, why does not the honorable Senator accept the proposition that the Commissioner and officers acting under this bill shall not assume judicial powers in any State where the courts are open for the enforcement of the civil law? That is the whole proposition of the amendment, and on it I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 9, nays 36; as follows:

YEAS—Messrs. Buckalew, Davis, Guthrie, Hendricks, McDougall, Riddle, Saulsbury, Stockton, and Wright—9.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Harris, Henderson, Howard, Howe, Kirkwood, Lane of Indiana, Lane of Kansas, Morgan, Norton, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Wade, Wiley, Williams, Wilson, and Yates—36.

ABSENT—Messrs. Cowan, Crowell, Johnson, Morrill, and Nesmith—5.

So the amendment was rejected.

Mr. DAVIS. I now offer an amendment to this bill in the form of an additional section, to come in after the eighth section:

And be it further enacted, That from each and every decision between parties made by the Commissioner, or any assistant commissioner, agent, or other officer of the Freedmen's Bureau, an appeal or writ of error may be prosecuted to the district or circuit court of the United States for the district in which such decision may have been made, and from the judgment of such district or circuit court to the Supreme Court of the United States by any party or person who may think himself, herself, or themselves aggrieved thereby; and upon such party or person entering into bond with good and sufficient security in the clerk's office of said court, to abide by and perform the final judgment of the matter from which such appeal or writ of error is prosecuted, and to pay such costs and damages as may be awarded to any parties or persons by reason of the prosecution of the same, further proceedings shall be suspended until the final judgment of such matter.

The amendment was rejected.

Mr. DAVIS. I offer another amendment as an additional section:

And be it further enacted, That any person who may think himself or herself aggrieved by any proceedings of the Commissioner, any assistant commissioner, or agent, or other person connected with this bureau, shall have the right to apply to the proper court for a writ of prohibition against such proceedings; and any person or persons who may apply for such writ, and the court to which such application may be made, shall not in any way be disturbed or hindered in such application, or the issuing of such writ; and in all cases in which such writ may be directed and issued, it shall be respected and obeyed by all persons whatsoever.

I will say a word in explanation of this amendment. A court that has no jurisdiction of a subject has no right to try it; and where any court presumes to exercise a jurisdiction of that kind it is the right of any party who is about to be aggrieved or thinks himself or herself about to be aggrieved by such a proceeding, to move a superior court for a writ of prohibition commanding—

Mr. McDUGALL. Allow me to suggest that the writ of prohibition is an old common law writ, and the courts have a right to issue it without legislation.

Mr. DAVIS. If the honorable Senator will read the amendment, he will understand that it has other elements in it besides that. I admit that it is a matter of right for any party in any proceeding, in any tribunal that has not jurisdiction of the subject-matter, to move for a writ of prohibition; and that is granted of right, as suggested by the honorable Senator from California; but here is the difficulty—

Mr. McDUGALL. I said that it was a common law writ, not a writ of right.

Mr. DAVIS. I say it is a matter of right that every party to a suit in a court which assumes jurisdiction of a subject over which it has no rightful jurisdiction may apply for a writ of prohibition. I hope the Senator understands me.

Mr. McDUGALL. I agree to that.

Mr. DAVIS. Mr. President, I see as clearly how this matter is intended to operate in Kentucky, and how it will be executed in Kentucky as I shall three months hence when the whole

scheme shall have been put in execution. Let me state how it is intended to operate. One of these assistant commissioners or agents decides a judicial case between a negro and a white man; he assumes jurisdiction of it. The white man knows, or thinks he knows, that the assistant commissioner or the agent has no jurisdiction in the matter. What does he do? He applies to one of our State courts, if you please, or to the Federal district court, for a writ of prohibition against the assistant commissioner or the agent from further proceedings in the case. What is done then? For daring to apply for that writ of prohibition the citizen is taken possession of by the military power. What else is done? If he applies to a State court for a writ of prohibition, and that State court grants the writ on the ground that the law is unconstitutional, void, of no effect, that it invests in this Freedmen's Bureau judicial powers when the Constitution of the United States expressly says that judicial power shall be exercised only by the Supreme Court and such inferior courts as Congress may from time to time establish; and if the officer of the court proceeds to execute the writ, this military power in Kentucky, organized and authorized to interpose for the protection of all persons acting under this Freedmen's Bureau, immediately arrests the court and the officer of the court who is about to execute the writ of prohibition. That will be its effect, and that the Attorney General of the United States designs shall be its effects and operation in the State of Kentucky—a man (God save the mark!) who is called Attorney General of the United States! He has been concocting an iniquitous and bold and lawless and unconstitutional scheme to have this effect in Kentucky.

Sir, I know, with the Senator from California, that any man who chooses may apply for a writ of prohibition; but under this bill any man who makes that application is subject to be arrested by the military. The bill authorizes the military to interpose for the protection of the negro; and how is it to interpose for his protection? If our court of appeals or any of our courts grant a writ of prohibition against one of these assistant commissioners, or agents, immediately the military power is summoned, and it seizes and imprisons in a distant bastille the citizen who dares to claim the right of applying to the courts of his State and of his country for a writ of prohibition against an illegal proceeding undertaken by an unconstitutional tribunal. And if the court of appeals or the circuit courts of Kentucky, or any court, State or Federal, in that State grants a writ of prohibition against such a proceeding, and puts it in the hands of a sheriff, a sergeant-at-arms, or a marshal for execution, that officer and the court who directed that writ of prohibition are immediately liable to be seized by this military power and imprisoned.

Sir, the bill was designed to bring about that state of things in Kentucky. That is its meaning; that is its language; that is its spirit; that is its purpose—all devised, contemplated, and desired by the highest law officer of the United States, as I am informed. I protest against any such tyranny. In the name of my State, in the name of the constitutions of my country, State and Federal, in the name of the liberties of the people, I protest against any such scheme, structure, or military tyranny being devised and put upon foot by the Congress of the United States. All that I ask now is, that this monster, with its great sharp claws sticking out, shall be subjected to the revision and the judgment of the courts of the country. But you seek to withdraw it from that revision, and you vote down every proposition that I make to subject this monster to judicial revision and judgment. Your object is to make it a lawless, irresponsible military tyranny. It is that in its provisions; it is that by your votes; it is that, as I will prove in the remarks that I intend to make upon the final passage of the bill, beyond all doubt.

Mr. McDougall. Mr. President, I have regretted the course of remark which has been indulged in by the Senator from Kentucky, and

particularly I have regretted to hear him make criticisms upon one of the officers of the General Government who has charge of its law department. That gentleman is not here upon this floor. I do not think that anything he has done since he has been in his office has justified any such assault. He was regarded in Kentucky, from which he comes, as a very good lawyer, and was always considered a good man so far as I have heard him reported. He is not here on this floor to respond to the Senator from Kentucky.

Mr. DAVIS. If the honorable Senator will permit me, I will make an explanation. That officer has an audience and speaks to a power from which I am cut off, and he speaks in a language that I never hear, and that is never communicated to me. I speak now in a language and before a tribunal that can reach him in half an hour.

Mr. McDougall. It may be so. I have never yet had occasion on this Senate floor or in the other end of the Capitol, when I had the honor to be there, to make a speech that was heard beyond the Alleghenies, or beyond the Rocky mountains, or across the Sierra Nevada. I speak here to Senators in council on the public affairs of the nation, and I do not make an electioneering speech for California; nor do I hold it to be legitimate to make an electioneering speech for Kentucky. I think Mr. Speed, the Attorney General, who has been animadverted upon, is a very excellent gentleman in his way. I do not know that he is the most illuminated man that ever appeared; I will not say that he has a revelation from on high, as it was said the man from Sweden, who was called Swedenborg, had; but I am told that he is a very excellent lawyer, a very excellent gentleman, and does his best in his office. I dislike this kind of assault upon a Federal officer who is not here. If the gentleman chooses to assail me, or any gentleman on this floor who has a chance to respond to him and be heard as far as Kentucky possibly, by everybody that takes the Congressional Globe, very well.

Now, passing from that matter, I beg leave to differ from the Senator in regard to this amendment. It is only making "confusion worse confounded." The bill is bad enough, God knows; it has faults enough, in my judgment—

Mr. DAVIS. I wish to ask this question of the honorable Senator, with his permission: does he present himself as the champion and the defender here of a man whom he says I have injured?

Mr. McDougall. You spoke of him here where he has no opportunity to reply.

Mr. DAVIS, (to Mr. McDougall.) I merely ask if you, sir, present yourself as his champion and defender.

Mr. McDougall. I will admit that the Senator from Kentucky may be much more conversant with the Attorney General than I am, and I suppose he has been much more conversant with him at least in years past, for my acquaintance with that gentleman is of very recent origin, though I had heard of him by report for many years. The Senator asks if I am his champion. When that gentleman asks me to be his champion and states his cause, possibly I may be. For many years I endeavored to protect the weak and undefended, and I can do it now. I do not know, however, that he requires my defense, certainly he has never solicited it. I merely object to Senators, who can send their messages on the wings of the wind all through the country, saying things here, because they are published at Government expense, which are assaults on persons who are unprotected. I shall always object to that, whether the individual assaulted be upon my side in politics or not. I have no very profound respect for the Attorney General. I think I have probably seen as good lawyers as him in my time, and probably there may be as good in Kentucky. That is not the point; I merely say this is not the way to do things in this Chamber, and is not becoming the dignity of the Senate, in my judgment.

Mr. DAVIS. Mr. President—

Mr. McDougall. I do not yield.

Mr. DAVIS. I do not ask the Senator to instruct me in my duties here.

The PRESIDENT *pro tempore*. The Senator from California is entitled to the floor, and declines to yield.

Mr. McDougall. I object to this amendment. I have acted with the Senator as long as he was trying to get an expression of the sense of the Senate. I wished to have the bill put in such a shape that we might all understand what we were voting upon; for if a fight is to be made, although we are largely in the minority, it may be a long fight. It is very easy to win a quarter race, but it takes one of the Arab stock to win a four-mile race. I am willing to take the chances for the distance. If my horse was entered for a long race I would not mind seeing a fast nag that was only good for a quarter race pass him—a dashing fellow, like the Senator from Massachusetts, [Mr. Wilson,] who would brush over us all; who would not have anything like a Democrat extant on the face of the globe. [Laughter.] It would not scare me a bit if my horse was running solidly and strong, because I know that in the long run he would win.

This amendment would, if adopted, impair the bill. Let us have as good a bill as a bad bill can be. I shall vote against this amendment, because in my judgment it will not improve but will disturb the bill. I intend to support only such amendments as in my judgment are good.

Mr. DAVIS. I merely have to say that the Senator imputes an object to me that I do not entertain; and if he thinks that my amendments were intended to deform the bill, it only proves that he does not comprehend my amendments.

Mr. McDougall. I will ask the Senator whether the same proposition has not been involved in several amendments substantially.

Mr. DAVIS. No, sir, not at all. I ask now for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 8, nays 87; as follows:

YEAS—Messrs. Buckalew, Davis, Guthrie, Hendricks, Kiddle, Saulsbury, Stockton, and Wright—8.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Creswell, Dixon, Doolittle, Foot, Foster, Grimes, Harris, Henderson, Howard, Howe, Kirkwood, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Norton, Nye, Poland, Pomeroy, Ramsey, Sherman, Stewart, Sumner, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—87.

ABSENT—Messrs. Cowan, Fessenden, Johnson, Nesmith, and Sprague—5.

So the amendment was rejected.

The PRESIDENT *pro tempore*. If there be no further amendment to be proposed to the bill itself, the question is on the substitute proposed by the Senator from California, [Mr. McDougall,] on which the yeas and nays have been ordered.

Mr. McDougall. I do not intend to occupy the time of the Senate by any extended remarks, for it is late in the evening; but I desire to say, that it may be understood, and may be understood to have been remarked by me, that I regard this as an opening measure, not of so much consequence as a fact in itself, but for that which it portends. It is the forerunner of a struggle which has yet to come on and be maintained on one side and on the other among the opinions of the people of this country, whose office and business it is from the citizen up to govern and rule; and I call the citizens the first governors, and those who exert power simply their representatives.

The bill itself is unconstitutional, in my judgment. I have said sufficient upon that subject. If constitutional, it is unwise; and ten thousand things might be said to show its utter want of wisdom. It exhibits itself to my mind's eye as simply the result of a great love to express power, having it in immediate possession, without any regard to its ultimate consequences. It is making an extra specialty out of a subject-matter that I thought might have been removed by this time from the consideration of the Senate and House of Representatives and the executive department of the United States, and

left to local administration and to the judiciary. Since the time I first had the honor to occupy a place in congressional halls (and that is a great many years ago) this same subject, or some of its adjuncts, has occupied all the time of legislation, or nearly all the time. It has been hardly possible to have any great question of policy heard or considered either in the Senate or House of Representatives of the United States. No matter how grave the questions pressing upon us, all except the appropriation bill had to give way to this mania that has seemed to pervade a party as well as individuals.

A singular question was asked by one of the wise bishops of England: may not communities be insane? He who was thus interrogated inquired in his own thought and considered the question, and was not able to give a good response; but the wise bishop said, "If history write true, communities can be insane;" and so I say parties may be insane; and on this particular subject, if there can be any deduction from past history and the laws that govern States, the laws that govern peoples, from the family up into nations, all this proceeding has been right against the course and law of nature and all past human experience. Those who call themselves the Mosesses and the leaders of the African race in this country, if they could be interpreted well, not by their intentions, but by what will be the necessary results of their action, would seem to have leagued together to be their worst enemies.

This legislation specially for the negro race against those who owned all these broad lands, in favor of them as against our own people, the white men who labor, the effort to make a privileged class of what are called the freedmen, must really tend to their destruction. It will be worse for them than the policy we have pursued as against the Indian tribes has been to the red man. Within my own experience I have seen a tribe of twenty-five thousand dwindle to two hundred and fifty, and I suppose there are not five of them left to-day. This has been the result of the oppression and the advance of the white man; but worse than the oppression and the advance of the white man upon the Indian is this legislation, which seeks to elevate the negro, but only lifts him up that he may fall so profoundly that he will sink into the nether depths.

I claim for myself to be as true a friend of the people of African descent or of mingled blood as any man upon this floor—I think a better friend than the gentlemen from New England who know nothing of them. I would protect them not by over-legislating. Let them know that they have the shield of the Constitution and the laws of Congress, if you please, all of them in their favor to protect them. It is protection by law that makes a freeman or a freedman. All the boy of twenty has is protection, and all our wives and daughters have is protection. They do not make laws. Government establishes rules, and it has always been considered that the wisest element should be brought into government; and those who have written and thought about it from Plato down have always said that the wisest element should be brought into public affairs for the purpose of securing good government.

Now, the only proper condition of the freedman is that he shall be subject to government, the same government that controls me, the same government that controls every Senator and every white man in the United States; and to that government he is bound to yield proper support. There were a great many men in the ancient times, and in what were called republics, who could not cast their votes at elections, and had nothing immediately to do with the affairs of Government. I remember but one republic throughout all history where the people met together; and not all the people then, but only a class. When the wild democracy of Athens met and cast their votes, all of them did not vote. Government, it has always been supposed, should be in the hands of the best and the wisest. It is thought by good thinkers that since the time of our fathers, when all the peo-

ple probably were fit to be citizens, we have become greatly demoralized by introducing improper elements to act upon the laws in the local and State governments as well as in the Federal Government; and the question has often been asked, are we not getting almost as unfit for free government as those in France, who undertook to maintain a free Government among the French people? No one pretends that the negro population have the education or the information that belongs to the white race. They have not had the opportunity, to say nothing of their possibilities, of which I may take occasion to speak hereafter. Everything that is proposed to be done is inviting them to think that they are not only quite as good as, but a little better than, we with whom they have commingled, or with whom they have lived, belonging to the white races. It is exhibiting itself everywhere in demonstration. All these things tend in the same way.

Now the issue has come. If we are to allow an inferior population to engage in the highest office of the Government, debasing further the standard of the metal which is debased enough already, God knows, let us understand the issue. I know, for one, that nothing but red and white blood courses through my veins. I believe in the Pelasgians, who drove the Egyptians out of Greece, and the Hyperboreans, who became the demigods of that same country, from whom Theseus and Hercules are supposed to have descended, white-haired, great, godlike looking men. I believe something in that Scandinavian race that came from the frozen North, swept the shores of Europe, and settled themselves on the most beautiful islands of the great sea. I believe something in the Saxon and the Celt. But the Numidian, proud and noble as he is said to have been, and the Carthaginian, not of northern, but of high eastern blood, went down, and so did India, and so did the East, and so did Italy, even before the northern barbarians. There is a law of force and there is a law of truth. Who that calls himself of the old Norse ancestry would dare bow himself before those who come up out of central Africa, and acknowledge them as having to do with government? What, sir, they to govern me! God forefend!

Mr. President, we might as well meet this question now, because it is proposed at the present time that this district of country in which our capital is located shall be governed by the African. Under the legislation now proposed, you may in a short time see the people who inhabit the city of Washington and the Senators and Representatives of the people of the United States the subjects of those who have come out of slavery within perhaps two or three years, but who are now to enjoy the elective franchise and carry on government in the District of Columbia. The other House, I understand, has already passed a bill with that view, carrying out the idea of making an inferior race a governing power in this Republic, thus depriving us of the very element out of which we all grow, the soil out of which we are able to produce advised persons, informed men, citizens of a Republic claiming to be able to exercise that highest power, to govern ourselves through the voice of the people. We are the only people that ever achieved success in this. Our motto should be improvement and not demoralization. All these things tend to demoralization, and it may as well be understood now, that never, while I am able to express myself either by word or action, will I commit the great legacy of our fathers, our Constitution, our system of government, to any who are inferior to the properly understood white races. This bill undertakes to make the negro in some respects their superior, as I have said, and gives them favors that the poor white boy in the North cannot get; gives them favors which we never offered to the Indian, whom I hold to be a nobler and far superior race. It makes us their voluntary guardians to see, in the first place, that they have the opportunity to work, and then their guardians to see that they get paid and that they are taken care of, and then we are to take care of them

ourselves. I never had anybody to do that for me, even when I was quite a young lad; and from that time until now it has been my office to protect myself; to earn what I could for my own support. This bill confers on the negro race favors that have not been extended to many men on this floor within my own personal knowledge.

I say these things because I desire Senators to give their attention to the whole subject which they have now got upon their shoulders. Hercules multiplied by the majority of the Senate could not carry these propositions and this policy through to any considerable or to any ultimate success. It is not within the power of man to do it, for the question is governed by those relations that govern mankind. That these men are free, I am rejoiced. I have been as great a lover of liberty, and of liberty for their race, as any man who dares call himself its champion, whether he comes from the North or the East, or elsewhere. I understand, at the same time, that we have to maintain our individuality as a race, and we have to employ this inferior race in their proper place. According to the views of many, we should be better off if they did not inhabit any part of this land, better off, if the idea could be realized, if they were placed anywhere else where they might not come in contact with the progress of white civilization. They cannot aid it; they cannot promote it.

The African has ability in a certain way. If he is a genuine African, he is strong of body; like the Indian, quick of sight; like the monkey—I speak not offensively—he has great imitative powers; like birds, he is fond of music; he can be an orator by his command of language, and he can imitate the best orators. I have seen in the sacred desk what were called eloquent clergymen, full Africans. They are capable of discoursing what would be called more eloquently than can be discoursed by any gentleman whom I now see on this floor, myself of course included. The finest musician I ever heard in a wild way I think was an old negro who was called General Jackson, when I was a boy. They understand music, and therefore they are able to understand some of the arts. But as a race you can give me no illustration, from Fred. Douglass all the way through the category, of a single individual of them who is or was a grave, careful, considerate, and high reasoning man. None of them ever gave a thought to philosophy; none of them ever studied, beyond the mere matter of management, anything about government; none of them have achieved success in any field where belongs high intellectuality. These are things that I affirm and dare affirm, because no part of history furnishes any contradiction to what I say.

Some gentlemen who do not know much about these things think they are mere matters of party question to be resolved by a caucus; and here let me say that until recently such things as caucuses by the majority for the purpose of carrying measures have not been known to the Federal Congress. The system is the growth of the last and the present Administration, in this House at least, and I suppose in the other House also. Now we do not come here to deliberate carefully, to counsel each other as to what is best to be done for the Republic, but we come here to organize into cliques, to get men committed to a majority to pass things without consultation with others, thinking that the opposition to the majority may not have a spark of wisdom. They have forgotten a little that text which I think was delivered by King Solomon, and he intended it for just such an occasion as this: "Iron sharpeneth iron; so a man sharpeneth the countenance of his friend;" and so it may be said that a man sharpeneth the countenance of his adversary, intellectually. It is very possible for me to be instructed by any one of the gentlemen on this floor. I was once instructed by a man who did not know how to read or write. The system of reducing the action of the Senate to that which is agreed upon by party caucuses is a thing I say unknown until the period of the last and the present Administration, within my knowledge of public

affairs. Heretofore men in these high places would counsel with each other and talk with each other, but that it should be resolved that on all public measures the majority should act together is a new thing in the Federal Congress.

Mr. CONNESS. Will my colleague permit me a word? I desire to say, as the impression appears to be being made here, and it will go out to the country—it has been repeated by other Senators, I think, than my colleague, that—

Mr. McDougall. I beg pardon. If my colleague wants to say something on this subject, he can reserve his remarks until I have finished mine, and then it will be perfectly proper for him to do so.

Mr. CONNESS. If my colleague will listen to what I mean to say, I think he will be entirely satisfied with the interruption.

Mr. McDougall. Very well.

Mr. CONNESS. I desire to say that there has been no caucus of the majority on these measures.

Mr. McDougall. Then my remark does not apply to this particular question. A caucus has been held on many questions, to my knowledge. It may not have been, so far as this is concerned. It is understood by gentlemen who represent opinions in common with me that we can only present our views; that so far as immediate legislation is concerned, they will be inconsequent; and yet it is well that it should be understood that there are persons who do not exactly agree with the majority, and who think that they are doing unwise things, and that they are not building up our great edifice, not adding a stone to it, but even perhaps going to the extent of making its pillars tremble.

It is with the profound conviction that this struggle has come on, and that it is going to be maintained by uninformed men, that I moved the amendment that I have proposed, leaving the matter where I think it belongs, not to legislation, which can only be general in its character, but to administration, which can take charge of it wherever the occasion may occur. That is wiser and better legislation, I think, and it is not obnoxious to any constitutional objection.

The question being taken by yeas and nays, resulted—yeas 8, nays 32; as follows:

YEAS—Messrs. Buckalew, Davis, Guthrie, Henderson, McDougall, Saulsbury, Stockton, and Wright—8.

NAYS—Messrs. Chandler, Clark, Conness, Cragin, Creswell, Dixon, Doolittle, Fessenden, Foster, Harris, Henderson, Howard, Howe, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Norton, Nye, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Waite, Willey, Williams, Wilson, and Yates—32.

ABSENT—Messrs. Anthony, Brown, Cowan, Foot, Grimes, Johnson, Kirkwood, Nesmith, Poland, and Riddle—10.

So the amendment was rejected.

The PRESIDENT *pro tempore*. If no further amendment be proposed, the question will be on ordering the bill to be engrossed for a third reading.

Mr. DAVIS. I intend to be heard on this bill. I would as soon speak on its passage as on its third reading. I am willing, therefore, to have the question taken on ordering the bill to a third reading, and I will make my remarks immediately afterward.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDENT *pro tempore*. The question is, Shall the bill pass?

Mr. DAVIS. Mr. President—

Mr. SAULSBURY. If the Senator will give way I wish to say that I think it would be unjust to compel the Senator from Kentucky to go on with his remarks to-night. I therefore move that the Senate do now adjourn.

Mr. DAVIS. I would as soon go on to-night as at any time hereafter. ["Go on!"] I suppose gentlemen do not want to extend me the courtesy of an adjournment, and I will not ask them for it.

Mr. HENDRICKS. It is not altogether a question of courtesy to the Senator from Kentucky, though I suppose we all desire to extend to him that courtesy, but it is somewhat a question of comfort to ourselves. I understand that

the Senator intends to make an elaborate argument on the bill, which we shall all be very happy to hear, and it will be more comfortable for us to have him make it to-morrow.

Mr. TRUMBULL. Mr. President—

The PRESIDENT *pro tempore*. The motion is to adjourn, and debate on the question, except by common consent, is not in order.

Mr. TRUMBULL. I was only about to say that we have wasted the whole afternoon nearly in calling the yeas and nays and offering amendments, and the Senator from Kentucky has given notice that he is going to make a speech. I think we may as well hear it to-night. He says he is ready to go on; he asks no courtesy of the Senate; he does not ask an adjournment; he is as ready to proceed to-night as he will be at any time; and I hope the Senate will consent to sit and hear him to-night.

Mr. McDougall. I want to ask the chairman of the committee if he means to call for a vote this evening.

Mr. TRUMBULL. I hope we shall have a vote this evening.

Mr. McDougall. You seek a vote?

Mr. TRUMBULL. I do.

The motion to adjourn was not agreed to.

Mr. DAVIS. Mr. President, I will proceed to make such observations on this bill as I design to do; and if the Senate will not adjourn I hope they will not make so much noise that I cannot hear myself. [Laughter.]

The PRESIDENT *pro tempore*. The Chair will endeavor to enforce order in the Senate.

Mr. DAVIS. I do not care who hears me or who does not hear me; all I want is to be able to hear myself. [Laughter.]

Mr. President, I do feel a peculiar and a deep interest in this measure. My opposition to it I cannot speak. I wish I had the power to give utterance to the feeling of opposition that I entertain toward this measure. It is a measure intended to continue a military despotism, especially in the State of Kentucky. It is a measure intended utterly to abrogate her laws where ever they do not come up to the standard—

The PRESIDENT *pro tempore*. The Senator will suspend his remarks for a moment until order is restored in the Senate.

Mr. HENDERSON. Mr. President—

The PRESIDENT *pro tempore*. Does the Senator from Kentucky give way to the Senator from Missouri?

Mr. DAVIS. Certainly.

Mr. HENDERSON. I hope the Senator from Kentucky will give way in order that I may move an adjournment. ["Oh, no!"]

The PRESIDENT *pro tempore*. The Senator from Missouri has the floor by the consent of the Senator from Kentucky.

Mr. HENDERSON. I am very well aware that the Senator from Kentucky does not desire to speak this evening, and I understand there is to be no further debate. He desires to speak, and I have it from himself that he expects to make a two hours' speech. I do not feel under obligation to remain here after five o'clock in the evening. It is the long session; we can remain here next summer; it will be no additional cost to the Government; and I do not see that Senators ought to be required to remain here after five o'clock in the afternoon. I am satisfied that there will be no further discussion from what I can understand. Let the Senator make his speech to-morrow, and let us then take the vote; and with that understanding I now move an adjournment.

Mr. TRUMBULL. I hope we shall not adjourn.

Mr. HENDERSON. I hope we shall.

Mr. ANTHONY. If I might be allowed to make a suggestion by common consent—

The PRESIDENT *pro tempore*. Debate is not in order except by common consent; the motion is to adjourn. ["Consent."]

Mr. ANTHONY. I suggest that there should be a general understanding that the vote shall be taken at some particular hour to-morrow. If that can be the general understanding, I think the Senate would prefer to hear the Senator from Kentucky to-morrow; but if there is

to be further debate after this, I think we had better sit on and have it now. An understanding such as I suggest has been had repeatedly in the Senate.

Mr. HENDRICKS. Mr. President—

The PRESIDENT *pro tempore*. By common consent the Chair will hear the Senator from Indiana.

Mr. HENDRICKS. I have spoken to several gentlemen on this side of the Hall, and I think there is no disposition to continue the debate in opposition to the bill after the speech of the Senator from Kentucky. Whether there will be further debate on the part of the friends of the measure, of course I cannot say.

Mr. DAVIS. If the Senate will allow me, I will say that I do not intend to speak for the consumption of time. I do not oppose the bill because of any factious purpose. I oppose it because of my deep and truthful conviction that it is intended to overthrow the liberties of my own State; and being of that opinion, I should be false to myself and false to my State if I did not give utterance to my sentiments of opposition to the measure.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Missouri that the Senate do now adjourn.

Mr. TRUMBULL. I ask for the yeas and nays.

The yeas and nays were ordered and taken.

Mr. HENDRICKS. Before the result is announced I wish to suggest that I think an understanding can be had which will be satisfactory upon all sides, that the vote shall be taken say at three o'clock to-morrow. That will give the Senator from Kentucky, I presume, as much time as he will desire.

Mr. McDougall. I object to any such arrangement.

Mr. HENDRICKS. I understand that the Senator from California does not consent to it, and therefore I cannot propose it as a harmonious thing, and I withdraw any suggestion about it.

The result of the vote was announced to be—yeas 14, nays 22; as follows:

YEAS—Messrs. Buckalew, Davis, Foster, Guthrie, Henderson, Hendricks, McDougall, Norton, Riddle, Saulsbury, Sherman, Sprague, Stockton, and Wright—14.

NAYS—Messrs. Anthony, Chandler, Clark, Conness, Cragin, Creswell, Dixon, Fessenden, Harris, Howard, Howe, Kirkwood, Lane of Indiana, Morgan, Morrill, Nye, Pomeroy, Stewart, Sumner, Trumbull, Wade, and Wilson—22.

ABSENT—Messrs. Brown, Cowan, Doolittle, Foot, Grimes, Johnson, Lane of Kansas, Nesmith, Poland, Ramsey, Van Winkle, Willey, Williams, and Yates—14.

So the Senate refused to adjourn.

Mr. DAVIS. I submit myself with as much grace as I can to the judgment of the Senate, and will proceed to make my remarks. I oppose the passage of this measure:

First, because a majority of the Senate exclude Senators from eleven States from their seats for the purpose of securing the passage of this and other measures:

Second, the measure is unconstitutional, because it proposes to invest the Freedmen's Bureau with judicial powers; because it authorizes the President to assign Army officers to the exercise of those judicial powers; because it breaks down the partition of the powers of the Government made by the Constitution, and blends and concentrates in the same hands executive and judicial powers; and because it deprives the citizen of his right to trial by jury in civil cases.

Third, it ought not to pass because it is a scheme devised to practice injustice and oppression upon the white people of the late slaveholding States for the benefit of the free negroes, to engender strife and conflict between the two races, and to prostitute the powers of the Government for the impoverishment and degradation of the white race and the enrichment and exaltation of the negro race.

Fourth, it will produce a profligate, wasteful, and unnecessary expenditure of the public money.

Fifth, it is one of the bold, reckless, and unconstitutional systems of measures devised by the radical party to enable it to hold on to power and office.

Mr. HENDRICKS. Mr. President, the Senator has announced his various propositions, and an interruption just here will not break into his speech materially. I now suggest to Senators that we agree to a vote at three o'clock to-morrow. The Senator from California withdraws any objection to that arrangement, as I understand him, and if this is the consent of the Senate, on that assurance given, I move that the Senate do now adjourn.

Mr. TRUMBULL. If it can be understood that we shall vote at three o'clock to-morrow, I shall not persist in trying to keep the Senate here now. If the Senator from Kentucky will assent to that arrangement, if he will agree not to hold the Senate after three o'clock to-morrow, although it is the wasting of another day, I am willing to accommodate Senators.

Mr. DAVIS. I signify that assent for myself.
Mr. TRUMBULL. The Senator from Kentucky will consent; then I shall not oppose the motion.

Mr. HENDRICKS. I supposed that when I called the attention of the Senate to the proposition and no Senator objected to it, it was the consent of the Senate. I insist on my motion.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 24, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a correspondence between the Superintendent of the Military Academy at West Point, and the chief Engineer of the Army of the United States, in regard to certain captured cannon; which was laid upon the table, and ordered to be printed.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting, in response to a resolution of the House, a list of all vessels once foreign which have received American registers in the year 1865; which was laid on the table, and ordered to be printed.

PRINTING OF A REPORT.

Mr. McCLURG, by unanimous consent, submitted the following resolution; which was referred, under the law, to the Committee on Printing:

Resolved, That ten thousand copies of the report of the Committee of Claims of the 19th instant, be printed for the use of the members of this House.

MEDICAL STATISTICS.

Mr. J. L. THOMAS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs consider and report as to the propriety of having compiled for future reference the medical statistics of the Provost Marshal's Bureau of enrollment and draft.

USE OF THE HALL.

Mr. McCLURG. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the use of the Hall of this House be, and the same is hereby, awarded to Lorenzo Sherwood, of Texas, on the evening of the 30th instant, (Tuesday) for the purpose of a lecture on the following subjects, namely:

The exclusive power of Congress over the subject of citizenship and naturalization.

The power of Congress to give effect, by the enactment and enforcement of laws, to all the protective provisions of the Constitution, and to make the principle of protection practically coextensive with citizenship.

The positive constitutional interdiction upon the power of Congress, and upon the Legislatures of the respective States, to subvert or impair natural rights.

The power of Congress to compel the enforcement and maintenance of republican government in every State, making the protective features of the Constitution the definition and test of what is republican government.

The floor of the House to be occupied by such persons only as are privileged during the time of session.

Mr. MARSHALL. I object.

Mr. HARDING, of Kentucky. I demand the regular order of business.

BASIS OF REPRESENTATION.

The SPEAKER stated the regular order of business to be the consideration of the following joint resolution reported by the joint committee on reconstruction:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States; which, when ratified by three fourths of the said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE — Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation.

The pending question was on the motion of Mr. LE BLOND to refer the joint resolution and pending amendments to the Committee of the Whole on the state of the Union.

The SPEAKER. The gentleman from Ohio [Mr. LE BLOND] who is entitled to the floor is not in his seat.

Mr. LAWRENCE, of Ohio. I move that the pending resolution and amendments be recommended to the committee on reconstruction, with instructions to report an amendment to the Constitution which shall, first, apportion direct taxes among the States according to property in each; and which shall, second, apportion Representatives among the States on the basis of adult male voters who may be citizens of the United States.

Mr. Speaker, since the adjournment last evening I have devoted some time to the consideration of the question now before the House. The Constitution provides that—

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons."—*Constitution*, art. 1, sec. 2.

It is well understood that this clause was the result of a compromise among the framers of the Constitution, and like most compromises, did not settle any fundamental and unalterable principle of free government. It undertook to regulate two subjects, the basis of representation in Congress and the Electoral College, and the distribution of direct taxes among the States.

But the scheme of imposing direct taxes on population rather than on property; of requiring many persons with little property to pay a greater amount of taxes than fewer persons with more property, has been acknowledged so universally odious and unjust that this mode of taxation has rarely ever been adopted by the nation, and perhaps not at all by the States.

There never has been a time when the basis of representation has not been a subject of just complaint among the people of the free States. A brief examination will readily show that it was wrong in principle, and unjust in practical results.

The rule which gave representation to three fifths of the slave population, (for the "three fifths of all other persons" mentioned in the Constitution means slaves,) was purely arbitrary, the result of compromise, and not of fixed political principles, or of any standard of abstract justice. If slavery was a just element of political strength, I know of no rule which could properly divide it into "fractional quantities." If it was not a just element of political strength I know of no rule which could properly give it "fractional power."

But the basis of representation was unjust in practical results, because it gave to chattel slavery political power—a power accorded to no other species of property—thus making what the slave States regarded as wealth an element of political strength. Now let us see how this has operated. I find these facts stated:

"In 1790 the ratio of representation was one Representative to every thirty-three thousand of the rep-

resentative population. Now it is one Representative for every one hundred and twenty-seven thousand. On the 23d of May, 1850, the principle was established, for the first time, of limiting the number of Representatives, and thus relieving Congress of the necessity of fixing every ten years the number of members of which the House should consist. This law established the number of Representatives at two hundred and thirty-three, who were to be apportioned among the several States, respectively, by dividing the number of the representative population of the States by the number 233, and the product of this division was to be the ratio of representation. In the slave States three fifths of the slaves were added to the white class to preserve the balance of power. This law of May, 1850, was changed after the apportionment by another law, passed on March 4, 1862. This increased the number of Representatives to two hundred and forty-one, several of the States gaining one member by the change."

This representation was apportioned among the several States having free and slave population thus:

States.	Representatives.	Free white population.	Slave population.
Alabama.....	6	526,431	435,080
Arkansas.....	3	324,191	111,115
California.....	3	323,177	-
Connecticut.....	4	431,520	-
Delaware.....	1	90,589	1,708
Florida.....	1	77,748	61,745
Georgia.....	7	501,538	462,198
Illinois.....	14	1,704,323	-
Indiana.....	11	1,389,000	-
Iowa.....	6	673,844	-
Kansas.....	1	106,579	2
Kentucky.....	9	919,517	225,483
Louisiana.....	5	357,629	331,726
Maine.....	5	626,952	-
Maryland.....	5	515,918	87,189
Massachusetts.....	10	1,221,464	-
Michigan.....	6	742,314	-
Minnesota.....	2	173,596	-
Mississippi.....	5	353,901	436,631
Missouri.....	5	1,063,509	114,931
New Hampshire.....	3	325,579	-
New Jersey.....	5	646,699	18
New York.....	31	3,871,730	-
North Carolina.....	7	631,100	331,059
Ohio.....	19	2,302,538	-
Oregon.....	1	52,337	-
Pennsylvania.....	24	2,849,266	-
Rhode Island.....	2	170,683	-
South Carolina.....	4	224,388	402,406
Tennessee.....	8	856,782	275,719
Texas.....	4	424,294	182,506
Vermont.....	3	314,339	-
Virginia.....	11	1,047,411	400,805
Wisconsin.....	6	774,710	-
Total.....	241	28,708,157	3,959,531

The free colored population of the States in 1860 was 476,562, making a total of 31,149,965.

From this it will be seen that New Hampshire, with a white population of 325,579, has but three Representatives, while Louisiana, with a white population of 357,629, had five. California, with a white population of 323,177, has but three Representatives, while Mississippi, with a similar population of 353,901, had five. In South Carolina 72,847 white persons had one Representative, while the ratio of representation is one for 127,000 persons.

Under this mode of apportionment the late slave States had eighteen Representatives by the census of 1860 more than their just share, if based on free population.

The whole political power of Ohio was counterbalanced by slave representation. It was equal to two thirds of all the representation from New England.

In South Carolina 14,569 votes carried as much political power as 25,400 votes in the free States.

I do not now complain that our fathers, in a spirit of compromise more liberal than just, made these concessions to slavery. I do not stand here to doubt their patriotism or impugn their wisdom. For three quarters of a century the people of the North did faithfully abide by the bond as written by the framers of the Constitution. They did more. Although the Constitution went into effect, as all concurrent history proves, with the expectation that slavery would soon die out forever, and was by no means to be extended, yet it was permitted to curse new acquisitions of territory and States, greater in extent than all the original thirteen, and *pari passu*, the political power of slavery expanding grew with the national growth and strengthened with its strength. But finally slavery, foiled in

its purpose of imperial dominion, appealed to the arbitrament of the sword to destroy the nation, and in turn itself was overthrown.

And now with universal freedom, in name at least, the Constitution and the people of the rebel States present new aspects and new elements of political strength.

In apportioning Representatives in Congress and the power of the States in the Electoral College, we cease to count three fifths of the late slave population and count it all as the Constitution now stands. Since slavery is abolished the Constitution has effect precisely as though it read—

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, [of population, including all both white and black,] except Indians not taxed."

The effect of this will be, so soon as lawful State governments are created in the rebel States, to largely increase their representation in Congress and the Electoral College. The slave population by the census of 1860 was 3,950,581. Three fifths of this, or 2,370,318, has heretofore entered into the basis of representation. Now, the additional 1,580,213, is to be added to that basis. This will give ten additional Representatives to the late slave States, in all twenty-eight more than their just proportion upon a basis excluding the late slaves.

But the startling injustice of the existing mode of apportionment will be apparent by some additional considerations, which I find thus stated:

"For example, let us compare some of the southern States with those of the northern States which come somewhat near them in population on the basis of the last census. If we take the whole population of each State as the number which measures the right of representation, and suppose that the white men alone of the southern States cast the votes of the States, a brief calculation will show that every hundred of the white inhabitants of South Carolina will have as much power through their Representatives as two hundred and forty of the people of Iowa; one hundred white men in Mississippi will equal two hundred and twenty-three men in Wisconsin; one hundred white men in Louisiana will equal one hundred and ninety-eight in Maine; one hundred white men in Alabama will equal one hundred and eighty-three in Connecticut; and one hundred white men in Alabama and Louisiana together will equal one hundred and eighty-nine in Indiana. It is therefore apparent that if, as the Constitution requires, the colored men of the South are all counted in to measure the right of representation, and are then all disfranchised, this must operate a proportional disfranchisement of the people of the North and West. How long can it be believed that this inequality will be endured? On what right or reason does it rest? If it be that the colored race of the South are all wholly disfranchised because wholly unfit for the right of suffrage, is it also true that the white voters of South Carolina are about two and a half times better fitted to exercise this right wisely and patriotically than the people of Iowa?"

If this injustice can be tolerated and perpetuated, and the late rebel States shall soon be admitted to representation, they will enjoy as the reward of their perfidy and treason increased political power. This will reward traitors with a liberal premium for treason. I am unwilling that this gross inequality should continue, so that when the Representatives of South Carolina return to these Halls, each rebel voter by them represented will enjoy a political power more than double that of every loyal voter of my district.

Sir, I would not allow this additional number of ten Representatives to the late slave States as the reward of treason. But I would strike down the political power heretofore wielded by the eighteen Representatives of slavery, and make the political power of every voter precisely equal all over the land.

For one, I demand that the Constitution shall be so amended as that representation shall be based on citizens of the United States who may be male adult voters.

I may be permitted to say a few words by way of explanation before I present some of the reasons which seem to me to justify the proposed amendment. It does not propose to extend the right of suffrage to or withhold it from any class of people.

It does not propose to settle or interfere with the controverted question whether Congress, under the Constitution as it now is, may determine who can or cannot vote for Representatives. It does not propose to disturb the commonly

received construction of the Constitution which leaves to the States the right to determine who shall or shall not be voters.

It does not propose to disturb or impair the undoubted power of Congress and the President to determine whether a State government is republican in form, and if not to interpose and guaranty such government.

All these questions are left untouched, to be decided when other amendments or laws involving them may be proposed for our action.

It does propose, what no other amendment submitted to this House can effect, that one voter in South Carolina shall have precisely as much political power as one voter in Ohio, for all purposes of representation in Congress. It has the crowning merit of a perfect representative democracy, that for all purposes of representation every voter in this broad land of ours is equally potential in its councils.

I have not stopped to inquire as the ground of my opinions how it would for the present affect this State or that, but I have read in it that ideal of perfection in government which makes every voter equal in power.

I will read it as introduced by my distinguished colleague, [Mr. SCHENCK.] It is in these words:

Representatives shall be apportioned among the several States which may be included within this Union according to the number of male citizens [of the United States] over twenty-one years of age, having the qualifications requisite for electors of the most numerous branch of the State Legislature. The Congress, at their first session after the ratification of this amendment by the required number of States, shall provide by law for the actual enumeration of such voters; and such actual enumeration shall be separately made in a general census of the population of all the States within every subsequent term of ten years, in such manner as the Congress may by law direct. The number of Representatives shall not exceed one for every hundred thousand of actual population, but each State shall have at least one Representative.

And now, Mr. Speaker, I am free to concede that constitutional amendments should not be hastily made, and never but for adequate reasons, upon the gravest and most mature consideration.

But if ever there could be a time for making fundamental changes in our organic law and grafting on it irreversible guarantees, that time is now. The events of the past four years demonstrate their necessity, and our security for the future imperatively demands them at our hands. The great events which have transpired, and the altered circumstances that surround us, admonish us that we will be recreant to our trusts if we fail to inscribe justice on the Constitution, and fortify it against the encroachments of treason, so that it shall be eternal. One of the elements of our past misfortunes, and which gave power for evil to the enemies who assailed us in this temple, was unequal and unjust representation—political power wielded by a dominant class, augmented by concessions on behalf of a disfranchised and servile race, insultingly declared almost in the very citadel of national justice as having no rights which a white man was bound to respect. By this amendment we strike down the iniquity of one class wielding political power for another, and arrogant because in the exercise of unjust power. The three-fifths representation of the Constitution was a concession to slavery. Slavery, the reason of the rule, having ceased, the rule itself should cease. It does cease by the terms of the Constitution, but with renewed power for evil.

The Constitution was not made in view of or for the condition of affairs which we now witness. When it was made the free population, without regard to color, by the laws of every State except perhaps one, enjoyed the elective franchise. If slavery had been abolished then almost the whole free population would have been voters. But now, in every State of the South the colored race is denied all political rights. They are declared by the laws of the States to be unfit to exercise political privileges. Each State enjoys the political right of deciding for itself who shall and who shall not vote. The amendment under consideration does not propose to disturb the enjoyment of that right.

But it does affirm that one class of men shall not have political power on behalf of a race declared by their laws unfit to exercise it.

It has been urged, that if this amendment be adopted, the States will extend the elective franchise for the purpose of gaining additional representation, and that ultimately the States will extend it to the colored population. But no gentleman yet has proposed to prohibit the States from the exercise of this, as the laws now stand their undoubted constitutional right. No one has suggested that the rights of the States in this respect should be abridged. And if the States choose to extend the elective franchise it is not our duty to prohibit it. If they do so, it will be because they regard it as just and safe in the hands of people capable of exercising it. If they do not, it will be because they regard the disfranchised class as unsafe depositaries of political power. If any class is unfit to be an element of political strength, it is unjust to clothe a favored class with political power on its behalf. Whatever protection it demands should be intrusted equally to all the Representatives of the people.

But the chairman of the committee on reconstruction [Mr. STEVENS] submits for our consideration, in lieu of the amendment proposed by my colleague, [Mr. SCHENCK,] a substitute in these words:

ARTICLE.—Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation.

The substantial differences are these: one makes citizens who are adult male voters the basis of representation, the other the whole population except Indians not taxed, and persons of that race or color which may not enjoy equal or impartial suffrage.

Now, if in each State the women, children, and unnaturalized foreigners bore exactly the same relative proportion to voters, then there would be no practical difference in the result of the two proposed amendments. The distinguished gentleman from Maine [Mr. BLAINE] insists that women, children, and unnaturalized foreigners shall, with the voters of their class, form the basis of representation, mainly because in some States the female population is relatively in excess of the male, and especially in New England, whose male population is reduced by emigration to the West. He fears a reduction in the political power of New England; but I think it has been demonstrated that his facts are somewhat fanciful, and his figures are still more fictitious. So, at least, I understand the gentleman from New York, [Mr. CONKLING,] whose elaborate investigations given to this House are full of interest and value.

If no change shall be made in the Constitution, the political power of all the loyal States will be relatively diminished by the increased power now to be given to the late slave States.

Either of the two proposed amendments will increase the relative representation and power of the loyal States; but the amendment of the chairman of the committee on reconstruction, [Mr. STEVENS,] while it is preferable to the Constitution as it now is, perpetuates the very political evil which to some extent it remedies. It gives representation to women, children, and unnaturalized foreigners, all declared by the laws of the States unsafe or unnecessary depositaries of political power. It disregards the fundamental idea of all just representation, that every voter should be equal in political power all over the Union.

If in any State there shall be a large influx of unnaturalized foreigners, as in the great cities of the East, that State will gain additional representation therefrom. If in any State there shall be an excess of women or children, or both, these will give additional representation and political power.

The dominions of Brigham Young, if incorporated in the Union, would become the paradise of politicians, rich in unequal political

power, because of the multitudinous wives and innumerable children of the Saints of Utah.

With what grace can we say to the South, "You shall have no representation for freedmen not enfranchised," while we insist upon representation for aliens and women and children not enfranchised?

If the representation of unenfranchised freedmen may be safely intrusted to all the Representatives of the nation, may not that of aliens and women and children be equally so?

If it is unjust to give local political power to the South by reason of her unenfranchised freedmen, is it not unfair to give similar power by reason of unenfranchised aliens elsewhere? I know it may be said that one reason for denying representation on behalf of unenfranchised freedmen is to encourage the South to educate and qualify all her people not only to become useful citizens but competent voters. This is but one element of consideration with those who urge it. The reason which conclusively justifies it is that a people declared by law, if in fact unprepared for suffrage, should not be represented as an element of power by those interested in forever keeping them unprepared. But children never can be qualified and competent depositaries of political power, and therefore should not enter into the basis of representation. It never has been deemed necessary for the protection of females that they should be regarded as an element of political power, and hence they should not be an element of representation. If the necessity shall come, or if our sense of justice should so change as to enfranchise adult females, it will be time enough then to make them a basis of representation.

While my own State and the West generally would certainly gain political power by the amendment of my colleague, [Mr. SCHENCK,] I do not for that reason support it. If gentlemen will overlook fundamental principles of right, and be guided by considerations of temporary expediency or power, constitutional amendments can never be made. Some concessions of opinion must be made from the East as well as from the West to insure success. It is said to be one of our political maxims that there should be no taxation without representation. But it is equally an unalterable maxim of political justice that representation should not be based on property but people, and that taxation is controlled not by the weight of property, but by people wielding political power.

But women, children, and generally aliens, wield no political power, and are therefore not elements to be considered in representation, except as every Representative wields power for all of these unenfranchised classes.

While I indorse the amendment of my colleague [Mr. SCHENCK] so far as it goes, I may suggest a verbal alteration to make it more certain. After the word "citizens" it should contain the words "of the United States."

And now, while we are amending the Constitution in this respect, it will be well if it be well done not only in regard to representation but in relation to direct taxes.

The Constitution now apportions direct taxes among the States not according to property but on the basis of population.

This, too, was the result of a compromise. The South demanded representation for slavery, and the North in turn demanded that direct taxes should follow the same basis. The South enjoyed the benefit of slave representation, but managed to escape taxation based on slavery.

The reason for thus ingrafting on the Constitution this unequal mode of apportioning taxes among the States has now passed away, and with it the mode itself should pass away.

Both the amendments under consideration propose to leave this feature of the Constitution unchanged.

Direct taxes include a tax on persons and a tax on lands.

A tax upon population is alike odious and unjust, and the possibility of imposing it should be speedily and forever prohibited by the Constitution. Yet, as the Constitution now stands,

such tax may be apportioned among the several States.

I do not suppose it probable that any direct tax will be levied or apportioned among the several States—certainly not now. But we are making constitutional law not merely for to-day but for all time. If it is of importance to preserve or have a constitutional provision on the subject, it should be based on principles of justice. All will agree that property, not population, is the true basis of taxation. Let us protect industry, guard labor from taxation, impose no burdens on the skill or labor of the artisan, the mechanic, the producer, which can possibly be avoided, for these cripple the energies and restrain the prosperity of the people. Let the capital, the wealth of the nation, bear the burdens of taxation, distributed in equal and just proportions, and the heavy debt of the war will be removed in less than a generation.

Mr. SHELLABARGER. Will my colleague now yield to me?

Mr. LAWRENCE, of Ohio. I yield to my colleague.

Mr. SHELLABARGER. Mr. Speaker, it is due to myself, and to nobody else, that I should say that in making the suggestions I am about to make, I make them with extreme reluctance, on account of the deference that I feel for the distinguished committee that has reported the subject-matter now before the House. I think I would not be amenable to be accused of an affectation of modesty in saying that I have fifteen times as much respect for the opinions of that committee as for my own; and yet, in the way of suggestion, I venture to make some remarks, and as a part of those remarks, permit me to send to the Clerk to be read a proposed amendment which I drew up, I acknowledge, before I had carefully read the amendment of my distinguished colleague, [Mr. SCHENCK,] and which I am gratified to find corresponds almost identically, if not exactly identically, with his proposed amendment.

The Clerk read, as follows:

Representatives shall be apportioned among the several States which may be included within this Union according to the numbers of male citizens of the United States therein above the age of twenty-one years having the qualifications requisite for electors of the most numerous branch of the State Legislature, and direct taxes shall be apportioned among such States according to the value of all property therein.

Mr. SHELLABARGER. Now, Mr. Speaker, the following are the suggestions which I make—make doubtfully, but still make—as objections to the report of the committee on reconstruction:

1. It contemplates and provides for, and in that way, taken by itself, authorizes the States to wholly disfranchise entire races of its people, and that, too, whether that race be white or black, Saxon, Celtic, or Caucasian, and without regard to their numbers or proportion to the entire population of the State.

2. It is a declaration made in the Constitution of the only great and free Republic in the world that it is permissible and right to deny to the races of men all their political rights, and that it is permissible to make them the hewers of wood and drawers of water, the mud-sills of society, provided only you do not ask to have these disfranchised races represented in that Government, provided you wholly ignore them in the State. The moral teaching of the clause offends the free and just spirit of the age, violates the foundation principle of our own Government, and is intrinsically wrong.

3. The clause, by being inserted into the Constitution, and being made the companion of its other clauses, thereby construes and gives new meanings to those other clauses; and it thus lets down and spoils the free spirit and sense of the Constitution. Associated with that clause relating to the States being "republican," it makes it read thus: "The United States shall guaranty to every State in this Union a republican form of government," provided, however, that a government shall be deemed to be republican when whole races of its people are wholly disfranchised, unrepresented, and ignored.

And my distinguished and able friend from New York [Mr. CONKLING] will, as a lawyer, fully understand how it does this when I quote the legal maxim, "*Noscitur a sociis.*"

Mr. CONKLING. As the gentleman has referred to me, will he permit me to ask him a question?

Mr. SHELLABARGER. Certainly.

Mr. CONKLING. Does the gentleman mean the House to understand that, with or without the proposed amendment, there is any doubt of the political or legislative power of a State to say that certain persons, although they constitute a race, shall not vote? And does he mean to say, historically or legally, that from the foundation of the Government to the present time every State has exercised undisputed sway over that whole question?

Mr. SHELLABARGER. Mr. Speaker, the question that is asked by my friend from New York [Mr. CONKLING] is not only an exceedingly pertinent one, but it is forcible, and put forcibly, and deserves to be met and answered in the same way. And I reply, first, by saying that it has been doubted that under that clause of the Constitution you can disfranchise races. And I say to my distinguished friend from New York [Mr. CONKLING] that that doubt has found form, force, and volume in the ablest work in America on the criminal law of the country. I allude to Bishop on Crimes.

Mr. STEVENS. May I ask the gentleman whether Bishop does not say that the governments of the southern States, and their action heretofore upon that subject, have not been by common consent regarded as republican and constitutional?

Mr. SHELLABARGER. Bishop says, in substance—I do not give the words of the text—that the contemporaneous history of that constitutional power, and the practice under it, have received an interpretation perhaps equivalent to that suggested by the distinguished chairman of the joint committee, [Mr. STEVENS.] But I say, moreover, that Bishop lays it down in his notes, and perhaps also in his text, as in contravention of the true sense and spirit of that clause of the Constitution, and that it was a construction which would be better honored in the breach than in the observance.

Now, I reply further to my distinguished friend from New York, [Mr. CONKLING,] that neither in Bishop, nor in contemporaneous history, nor in any other place, is there to be found a constitutional authorization, such as we are here called upon to adopt, of the disfranchisement of races of men without regard to the magnitude of their number or their political status in the Union. I admit that races, or fractions of races at least, have been disfranchised under the Constitution. But let it be remembered that that disfranchisement was when the race was enslaved; and the Constitution has received its construction in the black light—pardon the paradox—in the black light of slavery.

Mr. CONKLING. I do not wish to interfere with the gentleman's argument, and I will refrain from putting another question, unless he will consent.

Mr. SHELLABARGER. I will hear the gentleman with pleasure.

Mr. CONKLING. Then I will ask the gentleman how he disposes of the fact that under the Constitution as it is, and as it will be with this amendment ingrafted upon it, all the States of this Union have been permitted from the outset, with the acquiescence of Congress, the acquiescence of the Supreme Court, and I borrow a phrase of James Madison when I say "with the universal acquiescence of the American people," to say to persons of a certain race, "not only shall you be without political right, without civil right, without the elective franchise, without one attribute, prerogative, or immunity, politically, but in addition to that, by virtue of State sovereignty, we rob you of everything of natural right; we strip you of every immunity which belongs to humanity itself." I want to know how the gentleman disposes of the fact that this power is in the Constitution now, a greater power, a far greater power, and

always undisputed, than that which he fears may exist if this amendment is adopted.

Mr. SHELLABARGER. Mr. Speaker, I might, if it were not unworthy of the occasion—for we are in the midst of one of the greatest occasions of the country, when we are attempting to make its organic law—I might, if it were not unworthy of the occasion, ask my distinguished friend from New York, [Mr. CONKLING,] whether he to-day supposes that the construction which he has just stated has been given to our Constitution is a just construction which he invites the courts to give to it in the future. I say, here, in my obscure place in the American Congress, that this construction, however sanctified for seventy years, is not in accordance with the enlightened sense and spirit of the Constitution as your fathers made it, and I thought a better judicial day had now begun to dawn upon the Republic. I had hoped that the judiciary of the Government would begin to look at the Constitution in the light of the Declaration of Independence, which said, and as truly as gloriously, that "all men are created equal."

Mr. STEVENS. Will the gentleman from Ohio permit me to make an inquiry?

Mr. SHELLABARGER. Yes, sir.

Mr. STEVENS. I abhor the so-called "compromises of the Constitution" on the subject of slavery—I do not say it now for the first time—as much as my friend from Ohio; but does he mean to say that, under the Constitution as it unfortunately was, the fugitive slave law of 1793 was not constitutional?

Mr. SHELLABARGER. Well, Mr. Speaker, my distinguished friend is a very good strategist as well as a good lawyer. His inquiry indicates, I think, an anxiety that I should discuss something which is not before the House rather than what is.

Mr. STEVENS. Well, I withdraw the remark.

Mr. SHELLABARGER. I would answer it with the utmost pleasure, but really (on account of my dullness, I suppose) I do not perceive now the application of the question to what I am talking about.

Mr. CONKLING. It is simply an illustration of what I was asking.

Mr. SHELLABARGER. I must now resume, Mr. Speaker, the line of remark which I was pursuing: for I intended to occupy but ten minutes, and I have already exceeded that limit. Before resuming, however, let me remark further, in reference to the suggestions which have been made, that even under the constructions which have been given to the Constitution heretofore, it has never been held, so far as I know, that it is within the power of the States *ad libitum* to disfranchise races as such; and this, I think, or at least fear, will be the effect of the clause as reported by the committee; it will, I apprehend, be construed as giving authority to the States to disfranchise races as such at pleasure, and that without regard to color.

Mr. BANKS. Will the gentleman yield to me a moment for a suggestion?

Mr. SHELLABARGER. Yes, sir.

Mr. BANKS. I desire to make a single suggestion, without entering into the debate.

The constructions to which the gentlemen from the committee have referred were unquestionably right, being founded upon an express provision of the Constitution, and based upon the fact that four millions, or an eighth part, of the people were slaves. Now, the Constitution has been changed in that respect; that basis has been removed; there is now no authority for such constructions; and the question is, shall we, by a constitutional amendment, re-establish that power which has come to an end by virtue of the abolition of slavery?

Mr. SHELLABARGER. I am obliged to the distinguished gentleman from Massachusetts [Mr. BANKS] for his suggestion, which is entirely in harmony with the argument I was endeavoring to present, and will now resume.

4. The report of the committee imposes no adequate restraint upon this disfranchisement of races and creation of oligarchies in the States, because after a race is disfranchised in a State

it gives to one vote cast in such State by the ruling race just the same power as a vote has in a State where no one is disfranchised.

5. These words of the amendment, to wit, "denied or abridged on account of color," admit of dangerous construction and also of an evasion of the avowed intent of the committee. Thus, for example, the African race may in fact be disfranchised in the States, and yet enumerated as part of the basis of representation, by means of a provision disfranchising all who were slaves, or all whose ancestors were slaves. I may be wrong in this; that might, I admit, be held by the courts to be a mere evasion; but still it is, to say the least, doubtful whether the clause as reported might not thus be evaded. Or the provision may be evaded in the ways so ably stated yesterday by the gentleman from Rhode Island, [Mr. JENCKES.]

6. The pending proposition of the committee is a radical departure from the principles of representative republican government, in this, that it does not provide for nor secure the absolute political equality of the people, or, relatively, of the States. It does not secure to each vote throughout the Government absolute equality in its governing force. It, for example, permits twenty-five thousand votes in New York city to elect two members of Congress, provided one half of its population should happen to be foreigners unnaturalized and not electors of the State, whom the law deems unfit to vote; whereas twenty-five thousand votes in Ohio would elect but one member of Congress, provided her citizens were all Americans instead of foreigners.

Mr. CONKLING. Has not that always been so under the Constitution?

Mr. SHELLABARGER. But we are now endeavoring to amend the Constitution. I was just about to remark that the clause of the Constitution to which this is an amendment does the same thing; but then this clause was one of the "compromises of the Constitution," and was never, I think, the best thing that could have been adopted.

Mr. CONKLING. That was no compromise; the only compromise was in regard to slaves.

Mr. SHELLABARGER. The gentleman may be right; but I have a different impression. I favor the amendment I have suggested—

1. Because it holds out to all the States the inducement of increased Federal power as a reward for admitting to the rights of local citizenship all men. It invites them to base their institutions upon manhood; and yet it leaves to the States, as now, the regulation of the matter as to who shall be electors in the States.

2. It approximates more nearly than any other plan to the attainment of that eminent justice of counting every man as part of the foundation of your Government whom you may compel to fight for your Government; and it invites the States to adjudge every one whom the law deems fit to bear arms for his country also fit to be counted as an elector of his country. This is done by making the basis of representation nearly the same relatively as that part of society which is capable of bearing arms.

3. It bases the whole structure of the Federal Government upon its own citizenship; and thus in substance retains in its own hands, and away from the States, the stupendous power of determining what shall be the basis of representation upon which the United States shall rest. It does not permit a State to augment, relatively, its Federal power by making men electors of the State whom the United States does not deem fit to be citizens of the United States. This it does by not counting for purposes of apportionment men not citizens of the United States.

4. It is less complex, less liable to be evaded or dangerously construed, than that reported by the committee, and is in itself equal and just.

5. I think it is the one for which the public mind has become prepared and has approved; and which is, therefore, most likely to be ratified this year.

6. It prevents a race as between the States for cheapening the elective franchise by giving it to persons to whom experience has shown it

not to be best to give it. This it does by confining representation to adult males.

7. It apportions direct taxes among the States in proportion to the ability of the people to pay them, and to the amount of property in such States protected by the Government. And this is the just principle of apportionment of taxation.

The SPEAKER. Does the gentleman propose what he has read as an amendment?

Mr. SHELLABARGER. I merely read it as a part of my speech. Have I the right to offer it as an amendment?

The SPEAKER. It has been decided that when a gentleman has yielded the floor it can only be for explanation, and not for amendment.

Mr. PIKE obtained the floor, but yielded to Mr. ELIOT. I ask unanimous consent to submit the following amendment:

Amend the instructions so as to read as follows: Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed; and the elective franchise shall not be denied or abridged in any State on account of race or color.

There was no objection, and the amendment was received.

Mr. ELIOT. Mr. Speaker, when the resolution was offered by the committee, and the amendment was proposed which has been the subject of discussion for two or three days, I was very much inclined to lend it my favor because of one consideration, that by the operation of that amendment we should have incorporated into our organic law what would be a great improvement on the past. There is no doubt in my mind on that point. But, after considering the language of the amendment, I am frank to say that I cannot bring myself to record my vote in its favor, and without going into any protracted discussion I shall proceed to state distinctly the grounds of my objection.

First, the amendment as it is now reported from the committee is objectionable to my mind because it admits by implication that a State has the right to disfranchise large masses of its citizens. I know perfectly well that the power to do so has been exercised; that States have exercised the power of disfranchisement and abridging the rights of suffrage because of race or color; but no man can show that in that Constitution which the fathers made, and under which we have lived, the right is recognized in any State to disfranchise large masses of its citizens because of race. And I do not want now, at this day, that the Congress of the United States, for the purpose of effecting a practical good, shall put into the Constitution of the land any language which would seem to recognize that right. I think this does so, because it says distinctly, if you shall disfranchise, then the race or color operated against shall not be counted in the basis of representation; thus impliedly saying that States may disfranchise because of race or color if they are content to pay the penalty; that they may disfranchise men of color if they are content to have them excluded from the basis of representation.

I do not think that is right. I think we are undertaking to serve God and Mankind. I think we are tampering with political sin; and I think we have no more right to do that than to commit moral sin. I therefore desire, if this shall become the law, it shall be so amended that it shall state in distinct language the political principle which my friend from Pennsylvania [Mr. STEVENS] firmly believes, as well as I do, to be right.

The next objection I have to the amendment is this, that it enables a State, consistently with its provisions, by making the right to vote depend upon a property qualification, to exclude large classes of men of both races. A State may legislate in such way as to be in fact an oligarchy, and not a republican State. South Carolina may legislate so as to provide that no man shall have the right to vote unless he possesses an annual income of \$1,000, and holds real estate to the amount of five hundred acres.

Every one sees that that would exclude multitudes of all classes of citizens, making the State no longer republican but oligarchical. Yet gentlemen say that under the Constitution Congress is bound to see to it that each State shall have a republican form of government.

The third objection I have to this amendment is that it controls by implication that power, because, while the Constitution now says that Congress shall guaranty to every State a republican form of government, this amendment as reported by the committee admits by implication that, although a State may so legislate as to exclude these multitudes of men, not on account of race or color, but on account of property, yet, nevertheless, she would have a republican form of government, and that Congress will not and ought not to interfere.

Now, sir, I have been in the hope that in the course of this discussion, these difficulties which have occurred to me would be met and obviated. I confess I have not heard them answered; and for the reasons I have briefly stated I shall be compelled to vote against the proposition as it now stands reported from the committee. The amendment which I propose will commend itself to the judgment of the House, as I believe, as both radical and right, if any amendment ought to be made, and while I do not say that I will consent to no other amendment, I believe that this as offered by me substantially effects the change which should be made in our organic law.

Mr. PIKE resumed the floor.

Mr. SCHENCK. Mr. Speaker, I ask if it is in order now to move to strike out the instruction offered by my colleague and substitute another instruction.

The SPEAKER. If it is only to amend the amendment last offered it can be received under the rule—to amend the amendment offered by the gentleman from Massachusetts [Mr. ELIOT] and insert something in its stead.

Mr. SCHENCK. I then move to amend by striking out the whole of the amendment offered by the gentleman from Massachusetts, and inserting the following:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of each House concurring), That the following be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of such Legislatures, shall become a part of the said Constitution, in place of the third paragraph of the second section of the first article, to wit:

Representatives shall be apportioned among the several States which may be included within this Union according to the number of male citizens of the United States over twenty-one years of age having the qualifications requisite for electors of the most numerous branch of the State Legislature. The Congress, at their first session after the ratification of this amendment by the required number of States, shall provide by law for the actual enumeration of such voters; and such actual enumeration shall be separately made in a general census of the population of all the States within every subsequent term of ten years, in such manner as the Congress may by law direct. The number of Representatives shall not exceed one for every one hundred and twenty-five thousand of actual population, but each State shall have at least one Representative.

Mr. PIKE again resumed the floor.

Mr. KELLEY. Will the gentleman yield to me for a few minutes?

Mr. PIKE. I have but a word or two to say; I will yield after I have spoken.

The SPEAKER. The Chair will regard that as agreed upon.

Mr. PIKE. Mr. Speaker, I did not intend to take any part in this debate; but as I offered a resolution on the assembling of the House after the holidays, which expresses the idea contained in this resolution proposed by the committee, and as upon reflection I have come to the conclusion that that resolution does not accomplish the purpose I intended, and I therefore prefer the basis indicated by the resolution just offered by the gentleman from Ohio, [Mr. SCHENCK,] I desire briefly to give my reasons for changing my opinion.

Of course, Mr. Speaker, the only object of embodying our legislation in the Constitution in the form of an amendment is permanency. Otherwise, at the present juncture of affairs, we

could get on and accomplish the purposes we have in view by ordinary congressional legislation. But as that is not irreversible, we prefer going through the proper formula and setting in operation the cumbersome machinery necessary to a constitutional amendment, that it may be far-reaching in its effects, and accomplish our purpose in the next generation as well as in this.

Now, what are these purposes we wish to accomplish? Of course there are but two. One is to lessen the political power of the South; the other is to protect the colored population of the country. I know of no other objects to be accomplished by a constitutional amendment.

I am free to say that with the first of these purposes I have but comparatively little sympathy. I have the honor to represent a district which for the future will be much more intimately connected by social ties and by commercial relations with the South than with the western sections of the country. And it so happens now that my district produces nothing, grows nothing, manufactures nothing that goes west of the mountains, except it may be an occasional dry codfish, and that I see gentlemen here from that section anxious to get rid of by abolishing fishing bounties. [Laughter.] It is true that we now send an emigration westward; but under the changed aspect of affairs, when present disturbances shall be composed, that will probably go southward instead. There are many articles that my district will produce for southern consumption, and their rude agriculture will as heretofore furnish abundant employment for our tonnage. So that after a generation shall have passed—a generation which I hope and trust will be punished amply and fully for the great offenses it has committed against this Government—after a generation has passed, and the passions of men have subsided, it would hardly be good statesmanship for me to wish to leave a constitutional amendment in operation that shall strike at and cripple the energies of a section from which, under the happy auspices of freedom to all, we have so much to expect.

With the other purpose to be accomplished by a constitutional amendment I have full sympathy. It is the only purpose for which at the present time I will support an amendment with regard to representation; and that is, to protect the colored population of the South.

Now, if it be necessary to arm the colored people with the ballot in order to enable them to defend the freedom we have just given them, it would be best to support the amendment offered by the gentleman from Massachusetts, or some similar amendment, which shall in proper and fitting terms do the very thing it is intended to accomplish. But it is said with great force, and I have no doubt quite correctly, that no amendment of that character can pass, and that it is useless to submit such a one to the States when it is sure of rejection. Yielding that point, half-way measures are to be adopted, something in the nature of dodges are to be incorporated into the Constitution, and the question is narrowed down to the consideration of what kind of a one we shall put in.

Now, I have not heard the remarks made this morning, but yesterday various reasons were given very forcibly—some by the gentleman from Rhode Island [Mr. JENCKES] and some by other gentlemen—why, if this constitutional amendment should be adopted, our purpose would not be accomplished; and that purpose is, as I understand it, simply to coerce the States into giving, what we will not do directly, the ballot to the colored population of the South. Those reasons were forcible, and, as far as I have heard, unanswerable. I may add another, and I do it with all due deference to the superior wisdom of the gentlemen of the joint committee, and that is this: suppose this constitutional amendment in full force, and a State should provide that the right of suffrage should not be exercised by any person who had been a slave, or who was the descendant of a slave, whatever his race or color. I submit that it is a serious matter of doubt whether or not that simple provis-

ion would not be sufficient to defeat this constitutional amendment which we here so laboriously enact and submit to the States.

Mr. CONKLING. Will the gentleman allow me to ask him a question?

Mr. PIKE. Certainly.

Mr. CONKLING. I wish to ask the gentleman to explain this to the House. The amendment which we are proposing is not to take effect in Greece or Rome, or anywhere where anybody besides Africans were held as slaves. It is to operate in this country, where one race and only one has been held in servitude. Now, I ask the gentleman as a lawyer, reading the amendment, as all amendments must be read, in the light of surrounding circumstances, whether there would be place enough for a dove to put down the sole of her foot upon to give the idea that any one would be shut out by such legislation as he speaks of except men of African descent, the negro race? And if this be so, I ask him of what importance, practically, is his criticism?

Mr. PIKE. I understand perfectly the intention of the distinguished gentleman from New York in pressing this amendment. I also understand, and this is my reply to him, that in no State in the South has slavery been confined to any one race. So far as I am acquainted with their statutes, in no State has slavery been confined to the African race. I know of no slave statute, and I have examined the matter with some care, which says that Africans alone shall be slaves. So much for race. As to color, it was a common thing throughout the whole South to advertise runaway slaves as having light hair and blue eyes and all the indications of the Caucasian race, and "passing themselves off for white men." I say further to the honorable gentleman from New York, that well-authenticated instances exist in every slave State where men of Caucasian descent, of Anglo-Saxon blood, have been confined in slavery, and they and their posterity held as slaves. So that not only free blacks were found everywhere, but white slaves also abounded.

Now, one word further. Let me put another case.

Mr. CONKLING. Before the gentleman passes from that point I would like a little information. I do not wish to press it if the gentleman has any objection.

Mr. PIKE. I do not care to have a speech injected into my remarks. I therefore decline to yield.

There is one other proposition that I have not heard suggested. Suppose a State should adopt an educational qualification, and then not do, as the gentleman from Illinois [Mr. FARNSWORTH] says, deny to a race or persons of a particular color this educational privilege—for that would be a law upon the statute-book that we could take advantage of here—but suppose that after adopting this educational qualification, it should fail to provide that these people whom we now know to be ignorant, shall hereafter be educated, should simply let them severally alone. Or suppose that they interpose such restrictions by indirect laws as to practically prevent them from being educated. Then what becomes of the constitutional amendment? I submit that proposition with all due respect to those gentlemen who have this in charge.

Well, then, if this amendment, proposed as a half-way measure, and for the purpose of accomplishing the two objects that we will not try to accomplish directly, fails to bring about either of the purposes which it is desirable to compass, why should this House give it a sanction? If we are to have a dodge, let us at least have one that will hold water when wanted for use.

As to the other proposition, I know that there are objections to the basis proposed by the gentleman from Ohio, [Mr. SCHENCK.] Some of those objections have been very ably and properly stated here. But if such a proposition be sent back to the joint committee, I have no

doubt that many of those objections would be removed. One objection, in my judgment, is not well taken; it is the objection that if representation be based upon suffrage there would be undue measures taken in the various States to enlarge the basis of suffrage for the purpose of increasing their representation here. In other words, the States that now have restricted suffrage would adopt universal suffrage, and all restrictions upon the white suffrage of the various States would be removed. I say, for one, that that is an end which, instead of fearing, I would like to see accomplished by an amendment of this character.

Sir, upon this matter of restricted suffrage we have a history, and we know the history of other countries in relation to it. We know that wherever any State or country has at once gone to the bottom of the matter and adopted universal suffrage, a great many difficulties have been avoided that otherwise have clogged the legislation of countries where the principle of restricted suffrage has been in operation. The other day I had the curiosity, in the law library, to examine the origin of restricted suffrage by law; and I hold in my hand the volume in which is recorded the first law upon this subject. It was based upon a misrepresentation, as it always has been continued on misrepresentation; and with the permission of the House I will read what Hume calls the remarkable preamble of the law of Henry VI, which is the first law upon the statute-book providing for qualified suffrage. The law was passed in 1420, and provides "what sort of men shall be choosers, and who shall be chosen Knights of the Parliament." The preamble says:

"Whereas the elections of knights of shires chosen to come to the parliaments of our lord the King, in many counties of England, have now of late been made by very great [outrageous] and excessive number of people dwelling within the same counties, [of the realm of England,] of the which most part was by people of small substance, or of no value, whereof every of them pretended to have a voice equivalent, as to making such elections, with the most worthy knights and esquires dwelling within the same counties, whereby"—

Now mark the language used here:

"whereby manslaughter, riots, batteries, and divisions among the gentlemen, and other people of the same counties, shall very likely arise and be, unless convenient and due remedy be provided in this behalf."

Upon this question of restricted suffrage, the Parliament of Great Britain has been exercised from that day to this with agitations arising from the effort to get rid of the restrictions which were initiated by that statute of Henry VI—an agitation that is to-day still going on, and which, I hope, will not cease until suffrage shall be as free in England as it is in the State of Maine.

Sir, the history of elections falsifies the very remarkable preamble to the statute to which I have referred, for in England everywhere, at the hustings and at the polls, during election contests, candidates are treated with more violence than they are in any section of this country, not even excepting the city of New York. The most amusing descriptions of the scenes which occur are given by our writers. I received the other day a letter from an acute observer, who described how he saw the distinguished Mr. Mill treated on the hustings during the recent election contest; how he stood there saving the air and gesticulating before a mob of people who, in their confusion and disorder, could not hear a word that he said; and how other gentlemen were driven from the stand with black eyes and bloody noses and torn clothes. It is quite certain that the disorders the statute of Henry was nominally designed to avoid are by no means out of date.

The whole history of restricted suffrage shows that it is better for the electors and better for those who are chosen that all persons of due age, who are citizens of the country, shall be allowed their voice, however humble or however potential it may be, in saying who shall make their laws.

For these reasons, thus briefly expressed, I shall vote for the proposition of the gentleman from Ohio.

Mr. KELLEY. Mr. Speaker, when the

amendment under consideration was first introduced to the House, I avowed, in the course of a colloquy with the gentleman from New Jersey, [Mr. ROGERS,] my irrevocable hostility to it, because I discovered in it the consequences which have been so glowingly depicted by the gentleman from Ohio, [Mr. SHELLABARGER,] the gentleman from Massachusetts, [Mr. ELIOT,] and the gentleman from Maine, [Mr. PIKE.] I had the honor yesterday to submit a substitute embracing a proviso guarding against the conclusion which I, in common with those gentlemen, apprehend might be warranted by the original amendment, and I wish to say that, if it should be determined, by a majority of those gentlemen with whom I have labored here for the last four years to maintain our Union, that the amendment should be passed with that proviso, it shall not fail for the want of my vote.

In the course of my remarks on the 10th instant, I took occasion to point out a slight error in constitutional law into which the President seemed to have fallen. I did it as kindly and respectfully as I could, saying that the great and pressing duties in which he had been engaged as military governor of Tennessee, and in the high office to which he had been so suddenly and unexpectedly called, had prevented him from studying the question historically. But my distinguished friend from Iowa, [Mr. KASSON,] who, I am sorry to see, is not now in his seat, seemed to think that I had spoken "somewhat patronizingly" of the President. Sir, I am incapable of assuming to "patronize" so distinguished a functionary as the President of the United States. I am as incapable of that as I am of flattering the official fountain of honor and political cornucopia of our country. It is not often said of me that I—

"Crook the pregnant hinges of the knee,
Where thrift may follow fawning."

And I entertain too much respect for any man who may have been called to fill so distinguished a place as that of the Presidency of the United States to attempt to patronize him.

The gentleman from Iowa took exception to my apprehension of the very explicit remarks of Mr. Madison in the Virginia convention that ratified the Constitution of the United States. He said that the clause to which those remarks referred did not and was not intended to give Congress the right to regulate suffrage in the States, even as to the election of members of Congress and President. This was the gentleman's language:

"It is evident that by the word 'manner' is meant something else; perhaps whether by ballot or *visa voce*, by general ticket or by separate districts, and all other things that come properly under the term 'manner.' But it evidently was never intended by Mr. Madison, or by the framers of the Constitution, or by the people when they adopted it, that the Legislatures and conventions of the several States might be deprived of the power to say who would be the qualified electors of the State Legislatures, and indirectly, the qualified electors of members of Congress."

Having interrupted him to invite his more particular attention to the language of Mr. Madison, I promised the gentleman that I would produce further authority on the point, which I did not happen to have by me at the time; and I trespass now for a brief moment upon the attention of the House that I may make good that promise, and show that James Madison himself, on the 9th of August, 1787, on the floor of the Convention that framed the Constitution of the United States, carefully and elaborately excluded the conclusion announced by the gentleman from Iowa, and vindicated the doctrine which I presented to the House and maintain.

The extract which I propose to read is from Mr. Madison's report of the doings of that Convention, and is found in the third volume of the Madison Papers, published by authority of Congress in 1840. This volume, gentlemen will remember, contains Mr. Madison's minutes of the debates and action of the Convention.

But before proceeding to read it, let me remark that what is now article four of the Constitution was article six in the draft of the Constitution submitted to the Convention; and

that that body had not adopted "Congress" as the title of the national Legislature, and therefore invariably spoke of it as the "national Legislature." These suggestions will probably make the matter I propose to submit to the House more clear.

It being, as I have said, on the 9th of August, I find on pages 1279 to 1282 as follows:

"Article vi, section one, was then taken up.

"Mr. MADISON and Mr. GOVERNOR MORRIS moved to strike out 'each House,' and to insert 'the House of Representatives;' the right of the Legislature to regulate the times and places, &c., in the election of Senators being involved in the right of appointing them; which was disagreed to.

"A division of the question being called for, it was taken on the first part down to 'but their provisions concerning,' &c.

"The first part was agreed to, *nem. con.*

"Mr. PINCKNEY and Mr. RUTLEDGE moved to strike out the remaining part, namely, 'but their provisions concerning them may at any time be altered by the Legislature of the United States.' The States, they contended, could and must be relied on in such cases.

"Mr. GORHAM. It would be as improper to take this power from the national Legislature as to restrain the British Parliament from regulating the circumstances of elections, leaving this business to the counties themselves.

"Mr. MADISON. The necessity of a General Government supposes that the State Legislatures will sometimes fail or refuse to consult the common interest at the expense of their local convenience or prejudices. The policy of referring the appointment of the House of Representatives to the people, and not to the Legislatures of the States, supposes that the result will be somewhat influenced by the mode. This view of the question seems to decide that the Legislatures of the States ought not to have the uncontrolled right of regulating the times, places, and manner of holding elections. It was impossible to foresee all the abuses that might be made of the discretionary power. Whether the electors should vote by ballot or *visa voce*; should assemble at this place or that place; should be divided into districts or all meet at one place; should all vote for all the Representatives, or all in a district vote for a number allotted to the district; these and many other points would depend on the Legislatures and might materially affect the appointments. Whenever the State Legislatures had a favorite measure to carry, they would take care so to mold their regulations as to favor the candidates they wished to succeed. Besides, the inequality of the representation in the Legislatures of particular States would produce a like inequality in their representation in the national Legislature, as it was presumable that the counties having the power in the former case would secure it to themselves in the latter. What danger could there be in giving a controlling power to the national Legislature? Of whom was it to consist? First, of a Senate to be chosen by the State Legislatures. If the latter, therefore, could be trusted, their Representatives could not be dangerous. Secondly, of Representatives elected by the same people who elect the State Legislatures. Surely, then, if confidence is due to the latter, it must be due to the former. It seemed as improper in principle, though it might be less inconvenient in practice, to give to the State Legislatures this great authority over the election of the Representatives of the people in the general Legislature, as it would be to give to the latter a like power over the election of their representatives in the State Legislature.

"Mr. KING. If this power be not given to the national Legislature, their right of judging of the returns of their members may be frustrated. No probability has been suggested of its being abused by them. Although this scheme of erecting the General Government on the authority of the State Legislatures has been fatal to the Federal establishment, it would seem as if many gentlemen still foster the dangerous idea.

"Mr. GOVERNOR MORRIS observed that the States might make false returns, and then make no provisions for new elections.

"Mr. SHERMAN did not know but it might be best to retain the clause, though he had himself sufficient confidence in the State Legislatures.

"The motion of Mr. PINCKNEY and Mr. RUTLEDGE did not prevail.

"The word 'respectively' was inserted after the word 'State.'

"On the motion of Mr. REAP, the word 'their' was struck out, and 'regulations in such cases' inserted in place of 'provisions concerning them,' the clause then reading: 'but regulations in each of the foregoing cases may, at any time, be made or altered by the Legislature of the United States.' This was meant to give the national Legislature a power not only to alter the provisions of the States, but to make regulations in case the States should fail or refuse altogether.

"Article vi, section one, as thus amended, was agreed to, *nem. con.*

"Adjourned."

And so, Mr. Speaker, that great day's business closed, leaving to us in this hour of trial for our country a rule of action which, if adhered to, will settle all our difficulties and establish the fact that there is on earth a Republic founded upon the inalienable rights of man, in which the humblest man, when he recounts his political rights, sets forth all that the strongest, the wisest, and the proudest may claim. Social inequalities there will be, and natural inequalities are ordained of God; but when our fathers

gave us the Constitution they meant that within the wide limits of our country the measure of one man's political rights should ascertain the extent of those of every other man dwelling beneath that dome which is the fit canopy for a continent, the Constitution of the United States.

A few words more and I shall have done. The power which the framers of the Constitution believed they had incorporated in it is essential not only to protect the negro but the white man. The gentleman from New York [Mr. CONKLING] said that but one race had been enslaved. His hasty assertion has been well qualified by the eloquent gentleman from Maine, [Mr. PIKE;] but I beg leave to add a word to what he has so well said. The assertion that white persons have been sold into slavery does not depend on common report, but is proven by the reports of the superior courts of almost every southern State. One poor German woman, who had arrived in our country at thirteen years of age, was released from slavery by the supreme court of Louisiana, but not until she had become the mother of three mulatto children, her owner having mated her with one of his darker slaves. Toward the close of the last century the supreme court of New Jersey decided that American Indians could be reduced to and legally held in slavery. And so long ago as 1741 white slave women were so common in North Carolina that the Legislature passed a law dooming to slavery the child of every "white servant woman" born of an Indian father.

Sir, under the infernal system of American slavery all races have been enslaved. I remember taking from this District what was known here as a negro boy, and who, though free, was the associate of slaves; but in my home, where he was known as the companion of my own child, nobody suspected a taint in his blood. I placed him among the children of the most respectable people in the country, in the celebrated institute of learning maintained near my residence by my friend, Rev. Professor E. D. Saunders, and though he was there the playmate of more than a hundred boys, none suspected a taint in his blood; and for nearly a year he attended one of our populous grammar schools, where he mingled with well nigh a thousand children; and when he returned to his worthy father's roof in this District, nobody but he and myself knew that he was returning to the degradation imposed by our laws on the American citizen of African descent in the capital of his country.

But still further. The enforcement of this long dormant power of the Constitution is needed by the wise, the strong, and the wealthy of our country, as well as by the poor, the ignorant, and the weak. There is now pending before the Legislature of regenerated, and as gentlemen would have us believe, reconstructed Virginia, a bill to require five year's residence on the part of citizens of other States who may invest their capital and settle within the sacred limits of the Old Dominion before they can acquire citizenship. If they may pass a limitation of five years, why may they not pass a limitation of fifty? Why will not any limitation that comes within the ordinary duration of human life be admissible?

Sir, if Congress cannot control the question of suffrage by exercising the power which Madison and his collaborators in the Federal and Virginia conventions believed they had vested in the Constitution, what restraint is there upon such legislation as this, and how can it enforce the first clause of section two of article four of that Constitution, which provides that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States?" Gentlemen tell me that this is a new construction of the Constitution, and I reply that it is the true one, which is enough for me, and that the old and false one was the fruitful source of discord and war and misery.

Sir, if we do not assert this power, which the men of Virginia, when they adopted the Constitution of the United States, knew to be in it, how can we restrain them from debarring north-

ern emigrants from citizenship in their States? I proved the other day that the Convention of that State adopted the Constitution in the face of the fact that an exposition of the meaning of the word "manner," which embraced the idea upon which I now insist, had been given to it. And I have now given you the evidence that the whole country, so early as the 9th of August, 1787, two years before the final adoption of the Constitution, were informed that that word in the clause in question embraced not merely the method of voting, the place of voting, and the order of voting, but the grand fundamental question of who should vote, and by what power they might be invested with the right of suffrage.

Mr. BROMWELL. I will inquire, Mr. Speaker, if this question is now in a condition that any amendment or substitute can be offered.

The SPEAKER. The Chair will state that six amendments are pending now. The only one that could be offered would be to amend the amendment of the gentleman from Pennsylvania, [Mr. STEVENS,] which was, to add the word "therein" in the fifteenth line. No other amendment would be in order now, the whole legislative power to amend being exhausted.

Mr. BROMWELL. That is what I apprehend. And it is difficult to see, among all the amendments which are now pending, any one of them, or any combination of them, that will meet the desire of the majority, not to say two thirds of this House. I apprehend that the members of this House desire to act so as to secure the support of a proper majority here. I apprehend also that they desire to make this amendment such that it will meet with the sanction of a sufficient number of the States of the Union to make it effectual. Now, sir, it is in vain for this Congress to launch an amendment which shall die on the road through the Legislatures. We hear objections urged here to the basis of representation upon actual voters. Is there not sufficient reason to believe that if this amendment were adopted it would perish for want of the sanction of three fourths of the Legislatures of the United States? How many States can we afford to lose? It is one thing for us to make an amendment that shall satisfy this body; it is another thing to make an amendment that shall be proclaimed as a part of the fundamental law of this land.

I have objections, fundamental objections, to the resolution reported by this committee. In the first place, the objection that has so often been noticed in this debate, that this provision is loose, is well taken. It allows its own object to be defeated by leaving the door wide open for any State to prescribe a property qualification, and thereby practically disfranchise the very class of persons that this amendment is designed to protect.

Why, it does more than this, sir. In my opinion, it offers a premium to the oligarchy of any State, to the oligarchical principle in any State, to surround itself with a disqualifying law, as by that means, if the disqualification be placed upon any other ground than color or race, such oligarchy can have Representatives in this Hall, and deny, as it inclines ever to deny, the elective franchise to the body of the people.

Sir, the instruction offered by the gentleman from Ohio [Mr. LAWRENCE] has this merit, that it does not leave that door open; but several of the other amendments offered here leave this door open. They would allow a State like North Carolina, by a law providing that for some frivolous office all may vote, to declare herself a State in which all are voters, and thereupon demand representation here. It is true, the amendment offered by the gentleman from Ohio does say, "voters qualified to vote for the most numerous branch of the State Legislature;" but that amendment, in my opinion, is nothing more than an amendment providing for a basis of representation according to actual voters. Now, the proper mode of arranging the basis of representation is according to the population of the class who do vote. For instance, if the black man is debarred from voting, make the basis of

representation the white population, and not the white voters; and if black men and white men both vote, then make the basis of representation the white and black population; if the Indian vote, extend the basis accordingly.

An amendment which I did intend to propose would provide for these several difficulties. In the first place, it would obviate the objection which comes to us from the New England States against making mere votes the basis of representation. In the next place, it would provide against the difficulty which is let in upon us by this amendment to the Constitution offered by the committee; and lastly, it would provide against one difficulty which exists in every amendment heretofore offered, and that is this: there is not an amendment which has been proposed upon this floor but what leaves the door open for any State that chooses to disfranchise its black population and to admit its females to the right of suffrage; and they, being voters, are to be counted in fixing the basis of representation on this floor.

Mr. SCHENCK. I think the gentleman misapprehends entirely the tendency of my amendment. The amendment which I proposed, and which I have since repeated in the form of a substitute for the instructions to be given to the committee, contains some three or four limitations upon the qualifications of voters. They are to be such persons as shall be made voters by the States, having the qualifications requisite for the electors of the most numerous branch of the State Legislature, as we have the clause now in the Constitution; but in addition to that they must be males, they must be citizens of the United States, and they must be over twenty-one years of age; and no one is included within the scope of that amendment who does not come within all of those descriptive words.

Mr. BROMWELL. In alluding to the gentleman from Ohio, I had reference to the gentleman [Mr. LAWRENCE] who introduced the instructions now pending to be given to the committee on reconstruction in case the joint resolution should be recommended to them. I spoke concerning his proposition, and it does not provide against the cases I have stated, as I understand it.

Mr. LAWRENCE, of Ohio. The proposition I submitted provides that males only shall vote. It does exclude women.

Mr. BROMWELL. Well then, sir, I apprehend that the sum and substance of the amendment proposed is to base representation upon the number of voters in the State; that is, upon the legally qualified male voters, and that amendment, so far as I am concerned, I am ready to accept. I doubt, however, our being able to carry it before the Legislatures. I think there are several things that we ought to consider here: first, we want an amendment that will satisfy this House; secondly, an amendment that will do justice; and thirdly, an amendment that will become effectual.

I will read the amendment that I intended to propose merely that the ideas embodied in it may be communicated to gentlemen who may desire hereafter to alter the phase which this matter has assumed. I should have proposed, and shall now propose at the first opportunity, this as the basis of representation:

Representation in the House of Representatives of the United States shall be apportioned among the different States in the same proportion to the whole number of inhabitants in each State respectively (excluding Indians not taxed) as the number of male citizens qualified by the laws of such States to vote for representatives in the most numerous branch of the Legislature thereof is to the whole number of such citizens in such States, the enumeration and apportionment thereof to be made in such manner as Congress shall by law direct.

I believe that I am safe in saying that a representation based upon that apportionment would be such that whether a State disfranchised its citizens by property qualification, or by race or color, its basis of representation in this House would diminish precisely in proportion to the votes cut off.

For instance, we will suppose that a State has seventy thousand inhabitants, of which ten

thousand are male citizens over twenty-one years of age. Now, if that State should cut off three thousand of its male citizens by a property qualification, or by any other, it would reduce the basis of representation here from seventy thousand to forty-nine thousand, and so on with a greater or less reduction of the qualified voters.

If, on the other hand, a State is situated, as is claimed to be the case with some of the New England States, so that it has an excess of female population, or other non-voters, in that case, by cutting down this basis of representation, its representation here would be decreased in the same proportion as the number of its actual voters bears to the number of its actual population. I know it has been objected that this idea is the same as the one founded upon actual voters. But it is not so, because it is based on population first, and then as restrictions are made by the laws of the State it goes back continually upon population, and never upon actual voters.

Now, sir, I wish to say that I for one am for amending the Constitution in reference to representation in this Hall. I think seventy years is long enough for fifteen, twenty, or thirty Representatives to sit here, and make laws to apply to northern people, with no constituencies behind them. I think it has been seen long enough that a large number of persons called property, made property by the laws of the States, shall give to the oligarchs of those particular districts of country the right to outvote the independent men of the North, of the free States, where some approximation has been made to securing God-given rights to all inhabitants. I think that it is wrong that the further a State recedes from common right and common justice the more power the oligarchy which controls it shall grasp in their hands; and I desire that this amendment shall be made so that it shall bear down upon that abuse with the crushing power of three fourths of the Legislatures of the Union.

I am astonished to hear gentlemen, like some who addressed us the other day, express themselves so exceedingly anxious that the southern States shall have the benefit of these negroes in their representation here in Congress, and still are not willing that these negroes shall choose, or have a voice in choosing, their Representatives here. If the negroes are to be represented, then let them have a voice in choosing the men to represent them, as Democrats do, as Republicans do, and as all honest men ought to wish to do and see done by others. If they are to be represented here, let them have their Representatives by an active living voice, representing their interests. But if they are to have no political rights that a white man is bound to respect, then let their voices be silent here also.

Sir, what is the idea of representation? The idea is that the Representative represents certain men. All persons entitled to a voice in the Government are not here, because they are too numerous; therefore certain of their number are sent. Their Representative here casts the vote of those who send him here. But how can he be said to cast a vote for men who are not endowed with the legal capacity to vote whether he shall come here for them or not? It is absurd, it is unjust; it is a part of that system of transforming and perverting the principles of right and justice in order to carry out the ends of oppression, which at all times has been but too successful in this country.

I hope, if this joint resolution is not referred to the Committee of the Whole, that it will be recommitted to the joint committee on reconstruction, so that it may come back to us in a shape to obviate alike the objections from the New England States, made against basing suffrage upon voters alone, and also the possibility of any State cutting off its black population by oppression and oppressive laws, and still obtaining credit for that population here; and also further prevent any State from disfranchising its citizens by reason of their ignorance, at the

same time getting the benefit of their enumeration, while another State disfranchising some of its population for their color loses the benefit of that portion of its population.

Mr. ROSS. I want to inquire of my colleague [Mr. BROMWELL] why ladies more than negroes should be counted in the basis of representation without being allowed to vote?

Mr. BROMWELL. I suppose any gentleman can see that without much trouble. Ladies are a part of the family with most of us. The head of the family does the voting for the family. But inasmuch as the negro is not even of the white family is of a different race and so treated, as you refuse him the benefit of the principle which you accord to the family, you have no right to strip him of every attribute of manhood, and then ask the country to give you the benefit of his presence in your State when you come to make out your basis of representation. You do not associate with him; you do not affiliate with him; you do not go with him in counsel; you do not sympathize with him, and why should he be a part of your basis of representation? None of these causes operate in regard to the family, or any part of the white population.

Gentlemen say they oppose this amendment on principle, and not in detail. Why is it opposed here? Who is benefited by their opposition to it? Is it not the very States who by having too much and an undue influence in this very Hall precipitated the terrible convulsion of civil war upon this country? They get the benefit of every argument made here against the power and the right of the Government to pass this amendment to the Constitution.

Now, the objection which I have to the amendment offered by the gentleman from Ohio who last offered an amendment, is that I fear it will meet in the Legislatures of the particular States an amount of opposition which it will not meet here. It is one thing for this whole Congress, assembled from many States, numbering many that may be indifferent on that question, to pass the joint resolution for an amendment of the Constitution; but it is quite another thing when the resolution comes to be subjected to the test of discussion in the Legislature of a State that has a particular interest to serve. Such States invariably protect their own interests and vote for that which gives them strength in the national councils. That is all the objection I have to it.

Mr. Speaker, when I arose I intended merely to state my objections to the several amendments which have been offered. I do hope, however, that this House will not, by a hasty and improper course, push any amendment through until it has been fully deliberated upon. When this amendment was introduced, on last Monday morning, the differences of opinion which have been developed in reference to the principles of the amendment were not anticipated. But to-day we see that it has, so far, not an advocate upon this floor. Such may be the result with every amendment which may be presented. My opinion is, that in matters of this kind, where this Congress sits, for all practical purposes, as a convention revising the Constitution, it is better to approach the determination of particulars by first agreeing on the general principles to be embodied in the whole. I would to-day prefer that the committee on reconstruction should be required to report the whole body of amendments which are deemed necessary by any considerable number of members of this House, that they might all come up together and be discussed; for they would in that way consume no more time than a single amendment will take in the manner in which the discussion is being conducted.

Mr. Speaker, I now yield the floor to my colleague [Mr. Cook] for twenty minutes.

Mr. COOK. Mr. Speaker, from a carefully prepared statement which I hold in my hand it appears that under the census of 1860 there would be in this House nineteen members elected upon the basis of representation which includes three fifths of the former slaves of the South.

These men have no constituencies; a representative is one who represents another, is the exponent of his views and the executor of his will. The men having seats in this House upon a slave basis merely were not chosen by and did not indicate the will of those who have the constitutional designation of three fifths of all other persons. So far as being heard in this House, or their wishes expressed, they might as well have been in Africa as America.

The practical fact with which we have to deal is this: the white people in certain States were granted an unequal and disproportionate number of Representatives upon this floor because they were the owners of slaves, so that in those States each voter had a greater power and influence in the Government than any voter in any free State; and to such extent was this inequality carried that in some districts in Mississippi one man was the equal, in power and influence in the election of members of this House and of the President and Vice President of the United States, of any two men in the district I represent. The men elected on this basis were the Representatives of the slave power which proved itself dangerous to the Republic while it lived, and is now dead. The foundation is gone, the superstructure should fall with it.

But by the fact that slavery is dead this inequality of representation is increased; instead of nineteen members, upon the basis of 1860, the number would be increased two fifths, the three fifths of a person has become a whole person. The reward of treason will be an increased representation in this House, an increased influence in the Government to the traitors who have sworn and striven to destroy it. It seems to me impossible that any candid man can seriously contend that loyal men who have loved their country and suffered for it should not have the same voice in the government of the country with the men who have fought to destroy it.

If gentlemen on the other side desire to make this issue to the country I hope that it will be promptly accepted by us. Let this issue be joined, and let us go to the country upon it. I can see and appreciate the reason why gentlemen on the other side of this Hall oppose this amendment. The men elected on this unequal basis are their allies, from whom they are now anxiously looking for reinforcements to enable them to regain the ascendancy in this House and in the national Government which they lost when those allies deserted them.

We have now, as I believe, the golden opportunity to remedy this evil which will never come again to the men of this generation. The system of slavery has fallen. The States whose representation was increased by it have, with two or three exceptions, destroyed their loyal and legal State governments, and now seek reconstruction. The committee on reconstruction having reported this amendment, I infer that they will, if this amendment is submitted to the State Legislatures by Congress, recommend that its adoption by the States lately in rebellion be one of the guarantees to be insisted upon as a condition precedent to their taking equal authority and rank in the Union with the loyal States.

Suppose we refuse to pass this proposition now. Is there any probability that it can be passed when the rebel States are again represented upon this floor with their unequal representation? And if it can, is it not certain that it will not be adopted by the States who are benefited by it, unless it is made a condition precedent to their reconstruction? The honorable gentleman from New York [Mr. Brooks] said that this question was pressed merely for the sake of agitation, (that argument has always been used to protect wrong and injustice,) and he said that it was only folly to believe it would be successful. I believe that it is folly to believe that it will ever be successful unless it is successful now. Some of the State Legislatures are now in session which will not again meet for two years. If we are going to pass this measure at all it must be passed now.

I confess, Mr. Speaker, that, feeling the im-

mense importance of this question, it is with great pain and with some impatience that I have listened to the efforts to defeat it on this side of the House, and I wish to consider briefly the objections urged to it.

1. It is insisted that the basis of representation should be voters only.

To this proposition there are these objections:

1. It is difficult to enumerate voters accurately; their qualifications are fixed by State laws. We cannot send Federal officers into every State to adjudicate, in disputed cases, the rights of those claiming to be voters under the State laws, as we should have to do.

2. It would not be just; the voters of the country are unequally distributed. The old States have fewer, the new States more, voters according to the white population. In other words, there is a greater proportion of women and children in the old States. These should be and are represented. They are represented, in the true sense of that word, by their fathers and brothers. The man who represents them does so really and practically, and not by legal fiction, like the man who represents "three fifths of all other persons."

3. It takes from the basis of representation all unnaturalized foreigners. I do not wish to discuss the question whether this would be judicious or not, but I do not want a measure of this almost supreme importance loaded down with these questions, and its passage jeopardized by the incorporation of provisions which would render it so liable to attack and misrepresentation.

There is this other objection: if ten thousand men in any State are disqualified by a State law from voting by a property qualification, we shall also deduct them from the basis of representation for want of a property qualification, a proposition odious to me, and which I believe cannot be successfully commended to the people. I think that the success of this proposition, in loyal States even, is wholly problematical, and we cannot afford to lose this opportunity to correct a great wrong simply by a difference about words.

It is said that Massachusetts prescribes as a qualification that voters should read and write, and that the unfortunate class who are disfranchised in that State should be looked after. Sir, has this exclusion ever worked harm to the Union? Does it make a real practical difference between the voter of Massachusetts and Illinois as to the influence each shall exercise in the Government of the country? Besides, I believe that practically it has no bearing even in Massachusetts. I am informed by men who have had great share in the politics of Massachusetts, that no man is practically disfranchised in Massachusetts because he cannot read and write, that it is never made a cause of challenge. However that may be, we are not now called to redress the wrongs of the non-voters of Massachusetts; their exclusion does not injure the nation practically, does not deprive a man in Illinois of his due share in the choice of President and Vice President, and his due influence in Congress. We cannot right all wrongs in a single measure; let us confine ourselves to those in which we have a practical interest.

It is said that the southern States may impose a property qualification, and so exclude the negroes, not on account of race or color, but for want of a property qualification, or that they might provide for a qualification of intelligence, and so disfranchise the negroes because they could not read or write, and still enumerate them. To do this they must first repeal all the laws now denying suffrage to negroes; and second, provide qualifications which will disfranchise half their white voters; two things neither of which will, in any human probability, occur. And in the event that it was possible that both these measures should be adopted, and all the blacks and half the whites disqualified, it would become a grave question whether the provision of the Constitution which requires the United States to guaranty to each State a

republican form of government would not authorize the Government to rectify so gross a wrong. There is no measure to which fanciful objections may not be urged; but I believe this to be the least objectionable of any measure which has been suggested to meet this evil. But above all, I am well persuaded that it is the only measure that can meet the approval of three fourths of the States; consequently, that this is the only practical measure before the House.

To the propositions of the honorable gentleman from Wisconsin, [Mr. SLOAN,] and of the honorable gentleman from Ohio, [Mr. LAWRENCE,] there is this unanswerable objection, they provide that taxation shall be based upon the valuation of property, each one hundred dollars' worth of property paying the same tax with every other one hundred dollars' worth of property. To this there are insuperable objections. Some species of property, like real estate in the State of Illinois, is not sufficiently productive to bear taxation, while some articles of luxury merely, as spirits and tobacco, must and can bear heavy imposts. Cotton, also, of which we have a monopoly, must be taxed, and England and France thus made to help bear the burden they have helped to impose. These projects are not now feasible.

[Here the hammer fell.]

Mr. ORTH. I move the gentleman's time be extended.

The SPEAKER. He is now speaking on the time of his colleague.

Mr. BROMWELL. I give one minute more.

Mr. COOK. This amendment has been presented by a very large committee of both Houses, composed of our ablest representative men. We have now the opportunity to pass this amendment which is the great question of the time; we may effectually subdue this rebellious power of slavery which has caused us so much suffering and evil. If by our want of ability to agree upon an amendment upon which we can unite and which will secure the support of the country, we shall suffer this golden hour to pass, then when we see these Halls filled with men elected from the States lately in rebellion upon this unequal basis defiant and dictatorial as of old, we shall look back with regret to this time, when both the power and the opportunity were given to us to right this great wrong, and we may well bethink us of some answer to be given to our people who have done and suffered so much to save this nation, why we did not when we had the power secure such an amendment to the Constitution as would assure every true and loyal man that he should count as much in the administration of the Government as any single traitor in the land.

Mr. BROMWELL resumed the floor.

Mr. MARSHALL. I ask my colleague to yield to me.

Mr. BROMWELL. I will yield to my colleague the remainder of my time.

Mr. MARSHALL. Mr. Speaker, I desire, as I have not had the floor before, to make a few remarks. I am not certain that I can present them all in the few minutes allotted to me, but I shall do so very briefly. The remarks that I shall make are suggested entirely by the debate that has taken place upon this floor to-day, as I had no previous purpose or expectation of speaking upon these questions.

I am surprised to hear my honorable colleague, [Mr. Cook,] for whom I have very great regard, avow himself in favor of the amendment proposed by the committee. The honorable gentleman from Pennsylvania, [Mr. STEVENS,] who reported this resolution, the leader of this House, and I might say, if it would not be deemed offensive, almost the master of the dominant party on this floor, has avowed to-day that he abhors the Constitution as it was made by our fathers and has ever done so, and this has but confirmed me in an opinion which I have long entertained, that the dominant party was organized upon principles of opposition to the Constitution as it was made by our fathers, and that when organized it was and now is a revolutionary party, and that it goaded us into civil war

for the purpose of bringing on the revolution that they are now attempting to force upon the country.

Mr. STEVENS. Do I understand the gentleman as stating that I said I abhorred the Constitution?

Mr. MARSHALL. I understood the honorable gentleman to say that he abhorred the Constitution with the compromises as made in it by our fathers.

Mr. STEVENS. I said I abhorred that provision of the Constitution which recognized slavery.

Mr. MARSHALL. The compromises of the Constitution. I accept the explanation.

Mr. STEVENS. It is a thing I have said for forty years, and therefore I cannot forget it.

Mr. MARSHALL. Yes, the gentleman has said it for forty years; he has been consistent in that; and those who are following his lead are actuated by the same principles, although they do not as honestly avow it. They were organized as a revolutionary party, with hatred to the Constitution as it was framed by our fathers, and they have goaded on this civil war for the purpose of bringing about a revolution in the Government and changing its organization.

Mr. ASHLEY, of Ohio. Will the gentleman from Illinois allow me to ask him a question?

Mr. MARSHALL. I have but two or three minutes.

Mr. ASHLEY, of Ohio. Did the dominant party in this country, after the election of Mr. Lincoln, goad on the rebellion when they abused themselves and presented an amendment to the people of the United States guarantying to the slave oligarchy and southern traitors that there never should be an amendment to the Constitution without their consent? Was that goading them on to war?

Mr. MARSHALL. I say that the whole course of the dominant party after the election of Mr. Lincoln was such as to satisfy my mind that they desired civil war for the purpose of bringing about this revolution. But I did not rise for the purpose of speaking on that subject.

Sir, I am amazed to find any gentleman upon this floor advocating the proposition that has been reported by the committee. A more obnoxious one was never reported for the consideration of a deliberative body. The gentlemen who report it profess to be, and doubtless are, the peculiar advocates of the African race. I wish to ask them upon what principle of justice, upon what principle of free government, they have provided that if, after this amendment is adopted, South Carolina, Mississippi, or any other State shall adopt a provision that all white men over twenty-one years of age shall be voters, and all black men who have two hundred dollars' worth of property, and if there shall be ten thousand legal black voters in such State, upon what principle will you place in the Constitution of the United States a provision which would deprive these ten thousand legal black voters of any representation upon the floor of Congress, or of being considered in the basis of representation? And I wish to ask the honorable gentleman who reported this amendment if that is not the effect and result of the amendment reported from the committee. And my colleague [Mr. Cook] avows that he is in favor of such an amendment, although under the laws of South Carolina, Mississippi, or Kentucky, giving qualified suffrage to the negro, it would deprive all black voters of representation, of any voice upon this floor, or of being counted in the basis of representation. It cuts off from representation here the black men in New York who are allowed to vote by the constitution and laws of that State. How can men justify a proposition so monstrous, so enormous as this is, and at the same time profess to be the special advocates of progress and reform?

This merely satisfies me of what I have been satisfied before, that if any amendments are necessary to the Constitution of our country, this is not the time, and more especially is this not the place, to inaugurate such amendments.

I believe, notwithstanding the conceded wisdom, ability, and virtue of this House, that the fathers who framed our glorious Constitution were wiser, better, and nobler than we are; yet every day we have offered here some dozen or twenty proposed amendments to the Constitution, offered as if we were discussing resolutions in a town meeting. There seems to be no more regard here for the Constitution and its guarantees, as our fathers made it, than there would be for resolutions in a common caucus or in a town meeting. It is monstrous, it is absurd, and I hope the House will return to the ways of wisdom, and go to other and legitimate work of legislation, restore the Union, and bring relief and consolation to the hearts of thousands and millions of loyal people who are looking to this body to restore the Union of the States, a union of hands and a union of hearts, under the Constitution of our fathers.

Having shown, as I believe I have, that the proposition, as reported by the committee, is wholly untenable, it is monstrous, absurd, damnable in its provisions, a greater wrong and outrage on the black race than anything that has ever been advocated by others, I will, if I have time, refer to another point. The remarks I am now making are entirely extemporaneous. I understood the distinguished gentleman from Pennsylvania [Mr. KELLEY] to take the position, some days ago, that under the Constitution, as it now exists, Congress has the power to regulate suffrage in the States.

Mr. KELLEY. Yes, sir; in accordance with the opinions of those who framed the Constitution, and those who were in the convention of Virginia, which ratified it.

Mr. MARSHALL. Where does the gentleman get that power? I know he refers to the section of the Constitution which says:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators."

Now, that clause refers only to Senators and Representatives in Congress. Does the gentleman pretend that under this clause of the Constitution Congress has any power over the qualifications of electors for Governors or members of the State Legislature?

Mr. KELLEY. Not at all.

Mr. MARSHALL. It is admitted, then, that Congress has no power over the qualifications of those who shall vote for members of the Legislature and Governor. Now I wish to know from the gentleman, who admit that Congress has no power over the qualifications of electors for the most numerous branch of the State Legislature.

Mr. KELLEY. I did not so understand the question of the gentleman. I understood him to refer to Senators and Governors.

Mr. MARSHALL. I said, "Governors or members of the State Legislature." Then I would call the attention of the gentleman to the following clause of the Constitution:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

That leaves this question entirely in the hands of the State, as has been explained by all the expounders of the Constitution. I know the gentleman from Pennsylvania [Mr. KELLEY] read as authority some extracts from a debate in the convention of Virginia. But the doctrine stated in that debate did not touch the question of suffrage at all; it related merely to the mode and manner of holding elections. It was argued in that convention, and very properly, that if Congress had no control over the subject, the Legislatures of the States might decline or refuse to appoint a place for, or prescribe a mode of, holding elections for members of Congress. That discussion did not touch the question of suffrage; and the debate which the gentleman read here does not touch that question. The idea clearly expressed in that debate is that, if the State Legislatures do not

provide the time and place of the election, and the mode of receiving the votes for members of this House, Congress shall then have the power to interpose and fix the "time, place, and manner" of holding the elections.

Mr. KELLEY. If the gentleman will allow me to interrupt him for one moment, I desire to say that if he had listened to my remarks he would have learned that Mr. Madison, in the Convention that framed the Constitution, asserted directly that the States might control those matters to which the gentleman has just alluded, but that the control of the suffrage was vested in Congress.

Mr. MARSHALL. Mr. Speaker, it is utterly impossible, by any rules of construction that have ever properly been applied to language, to place any such construction as that upon the simple clause in the Constitution which has been read. I admit that, in the debates in the Virginia convention, at the time when the Constitution was under discussion in that body, Mr. Madison, in a running debate, is reported as having used certain language which is susceptible of the construction which the gentleman has placed upon it. But, sir, although such is the fact, yet the language of the Constitution itself, the uniform construction of this clause by those who took part in framing that instrument, the exposition of it by Alexander Hamilton in the Federalist, and by other distinguished authors, show conclusively that up to the time when the gentleman from Pennsylvania avowed his peculiar doctrine in the House the other day no man in the United States ever dreamed that any such power existed in Congress. It has been conceded, wherever the question has been raised, before the courts, in the Halls of Congress, and everywhere else, that the power to regulate the right of suffrage exists in the States, and in the States alone.

Mr. Hamilton, in the Federalist, No. 52, treating of this very question, uses the following language:

"The first view to be taken of this part of the Government [the House of Representatives] relates to the qualifications of the electors and the elected. Those of the former are to be the same with those of the electors of the most numerous branch of the State Legislatures. The definition of the right of suffrage is very justly regarded as a fundamental article of republican government. It was incumbent on the Convention, therefore, to define and establish this right in the Constitution. To have left it open for the occasional regulation of the Congress would have been improper for the reasons just mentioned. To have submitted it to the legislative discretion of the States would have been improper for the same reason; and for the additional reason that it would have rendered too dependent on the State governments that branch of the Federal Government which ought to be dependent on the people alone. To have reduced the different qualifications in the different States to one uniform rule would probably have been as dissatisfactory to some of the States as it would have been difficult to the Convention. The provision made by the Convention appears, therefore, to be the best that lay within their option. It must be satisfactory to every State, because it is conformable to the standard already established or which may be established by the State itself. It will be safe to the United States, because, being fixed by the State constitutions, it is not alterable by the State governments; and it cannot be feared that the people of the States will alter this part of their constitutions in such manner as to abridge the rights secured to them by the Federal Constitution."

I propose to read one other authority on this question, although I submit that, without any authority on the subject, no just rules of construction that have ever been applied to the exposition of language would sustain the interpretation which the gentleman from Pennsylvania has placed upon that clause of the Constitution. I will read the language of Mr. Curtis, who, in the second volume of his History of the Constitution, page 200, says, in speaking of this very clause of the Constitution:

"The committee of detail, after a review of all these considerations, presented a scheme that was well adapted to meet the difficulties of the case. They proposed that the same persons who, by the laws of the several States were admitted to vote for members of the most numerous branch of their own Legislatures, should have the right to vote for the Representatives of Congress. The adoption of this principle avoided the necessity of disfranchising any portion of the people of a State by a system of qualifications unknown to their laws. As the States were the best judges of the circumstances and temper of their own people, it was certainly best to conciliate them to the

support of the new Constitution by this concession. It was possible, indeed, but not very probable, that they might admit foreigners to the right of voting without the previous qualification of citizenship. It was possible, too, that they might establish universal suffrage in its most unrestricted sense. But against all these evils, there existed one great security, namely, that the mischiefs of an absolutely free suffrage would be felt most severely by themselves in their own domestic concerns; and against the special danger to be apprehended from the indiscriminate admission of foreigners to the right of voting, another feature of the proposed plan gave the national legislature power to withhold from persons of foreign birth the privileges of general citizenship, although a State might confer upon them the power of voting without previous naturalization."

There is a standard work on the Constitution of the United States where the law is fully and plainly laid down as possible. And I would not have deemed it proper to make this exposition had not an intolerable construction been placed upon the Constitution, when there is nothing in that instrument, or in anything connected with the history of the provision referred to, which for a moment will bear such a construction.

I have already trespassed on the good nature of the House further than I designed. I only rose for the purpose of alluding to these two points. At some other time I may discuss all of these amendments to the Constitution.

Mr. SCHENCK obtained the floor.

Mr. ASHLEY, of Ohio. Mr. Speaker, I have the permission of my friend to ask unanimous consent to correct a joint resolution I submitted the other day, three lines having been omitted in printing it; and also that it be ordered to be printed as corrected.

There was no objection, and it was ordered accordingly.

Mr. SCHENCK then addressed the House. [His speech, as revised by himself, will be found in the Appendix.]

Mr. ELDRIDGE obtained the floor, but gave way to

Mr. HIGBY, who moved that the House adjourn.

The motion was agreed to; and accordingly (at four o'clock and thirty minutes p. m.) the House adjourned.

IN SENATE.

THURSDAY, January 25, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

COMMITTEE SERVICE.

Mr. FOOT. I rise to ask to be excused from further service upon the Committee on Pensions. I will state that it so happens that I have been placed upon four of the standing committees of the Senate, besides one special committee, and as I make it a matter of duty to attend all the meetings of all the committees upon which I have been placed, it occupies more of my time than I can well spare; and having intended, when some new members came into the body, to retire from one or more of those committees, I therefore now ask to be excused from further service on the Committee on Pensions.

The PRESIDENT *pro tempore*. Is it the pleasure of the Senate to excuse the Senator from Vermont from further service upon the Committee on Pensions for the reasons stated?

The question being put, Mr. Foot was excused.

Mr. FOOT. I now move that the vacancy in the Committee on Pensions be filled by appointment by the Chair.

The motion was agreed to, by unanimous consent.

Mr. GRIMES. I am in the same category with the Senator from Vermont, occupying a place upon four committees. I ask the Senate, therefore, to excuse me from further service upon the Committee on Public Lands.

The request was granted.

Mr. GRIMES. I move that the Chair be authorized to fill the vacancy.

The motion was agreed to, by unanimous consent.

PETITIONS AND MEMORIALS.

Mr. WADE presented the petition of Alonzo Morse, praying for payment for certain United States notes lost by the burning of his dwelling on or about the 6th day of July last; which was referred to the Committee on Claims.

Mr. SUMNER. I have received a petition from John P. Brown, secretary and dragoman of our legation at Constantinople, in which he sets forth a series of services as chargé d'affaires at Constantinople, in the absence of the minister, for which he has never received any compensation, and he prays that compensation may be made to him on account of them. I move the reference of the petition to the Committee on Foreign Relations. And at the same time I move that the Senate order that the papers on file relating to the claim of John P. Brown for services as chargé d'affaires at Constantinople be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. SUMNER presented a petition of members of the American church at Kingessing, Philadelphia; a petition of the Bellefonte Equal Rights League; a petition of the Morning Star Equal Rights League, Kingessing, and seven other petitions of citizens of Pennsylvania, praying for such an amendment of the Constitution of the United States as will prohibit legislation within any of the States or Territories against any portion of the inhabitants thereof on account of race or color, and that all such legislation now existing may be declared null and void; which were referred to the joint committee to inquire into the condition of the so-called confederate States.

Mr. LANE, of Kansas, presented a joint resolution of the Legislature of Kansas, in favor of the establishment of a mail route from Medina to the city of Leavenworth, and from Lawrence to Grasshopper Falls in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. HARRIS presented the petition of Paul S. Forbes, praying to be relieved from his contract with the Navy Department to build the sloop-of-war Idaho; which was referred to the Committee on Naval Affairs.

Mr. FESSENDEN. I move that the petition and other papers of William Pierce, of San Francisco, California, praying for an issue to him of duplicate bonds in place of four Oregon war bonds lost by the burning of the steamer Golden Gate on the 27th of July, 1862, may be taken from the files and referred to the Committee on Claims; and I present additional papers in relation to the claim, to take the same direction.

The motion was agreed to.

Mr. COWAN presented a petition of inhabitants of Indiana county, Pennsylvania, praying for the adoption of such an amendment to the Constitution of the United States as will forever prevent any State from making any distinction in civil rights and privileges among the naturalized citizens of the United States residing within its limits, or among persons born on its soil, on account of race, color, or descent; which was referred to the Committee on the Judiciary.

He also presented a petition from citizens of western Pennsylvania, praying that the tax laws may be so amended as to exempt from their provisions all coal boats, coal flats, and coal barges which are used exclusively for carrying coals to market, and not used for any other purpose whatever; which was referred to the Committee on Finance.

He also presented a petition of the officers of the Kitting Bank, in Armstrong county, Pennsylvania, praying for either an amendment of the national bank law reducing the tax upon the circulation of that bank, or for special authority for its conversion to a national bank; which was referred to the Committee on Finance.

He also presented a petition of citizens of Pennsylvania, praying that the revenue laws, both as applied to internal taxation and duties on foreign imports, be so adjusted as to secure the amplest protection to the labor and industry of the country in all their branches; which was referred to the Committee on Finance.

He also presented the petition of Mrs. M. J. Dixon, of the city of Alexandria, Virginia, in which she alleges that her property was sold at a tax sale by the officers of the United States, which sale she thinks should be set aside, and she prays Congress to take such action as may conduce to that end; which was referred to the Committee on the Judiciary.

Mr. CRESWELL presented the petition of J. J. Young, a captain on the reserved list United States Navy, praying to be allowed his pay from August 12, 1854, the date of his commission, until March 10, 1865, the date of the actual issuance thereof; which was referred to the Committee on Naval Affairs.

REPORTS OF COMMITTEES.

Mr. DIXON. The Committee on Post Offices and Post Roads, to whom was referred a bill (S. No. 71) relative to the sale of postage stamps and stamped envelopes on credit, have instructed me to report it back with an amendment, and I move that the letter of the Postmaster General relative to the bill and the reasons for it may be printed with the amended bill.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a joint resolution (H. R. No. 53) authorizing the Secretary of War to grant the use of a portion of military reserve on St. Clair river, in the State of Michigan, for railroad purposes; in which it requested the concurrence of the Senate.

CLERKS IN THE POST OFFICE DEPARTMENT.

Mr. DIXON. I am directed by the Committee on Post Offices and Post Roads, to whom was referred the bill (S. No. 96) authorizing an increase of the clerical force in the Post Office Department, to report it back without amendment and with a recommendation that it pass, and also to ask that it may be acted upon at this time, if there be no objection.

The PRESIDENT *pro tempore*. It requires the unanimous consent of the Senate to consider the bill on the day it is reported.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which authorizes the Postmaster General, to employ four clerks of class one, seven of class two, fourteen of class three, and four of class four, who are to be paid until the 30th of June, 1866, out of any money in the Treasury not otherwise appropriated.

Mr. GRIMES. I should like to know why the passage of this bill becomes necessary. I have seen no report from the committee on the subject, and have heard nothing said in its behalf.

Mr. DIXON. I ask that the letter from the Postmaster General, accompanying the bill, and stating the reasons for it, may be read.

The Secretary read as follows:

POST OFFICE DEPARTMENT,
WASHINGTON, January 19, 1866.

SIR: I have the honor to transmit herewith for your approval, the draft of a bill authorizing an addition to the clerical force of this Department.

The great increase of clerical labor incident to the restoration of the postal service throughout the southern States, added to the largely increased postal business in the northern States, as shown by the recent annual report of the operations of this Department, has rendered the addition of clerical force called for by this bill necessary to the prompt and satisfactory transaction of the business of this Department.

The number and classification of the additional clerkships required have been carefully arranged by the heads of the respective bureaus, after consultation with each other, and with myself, and I am satisfied that a less number than those asked for in this bill would not be sufficient for the proper management of the business of the Department. As the services of these additional clerks are greatly needed at this time, I trust that the bill may be acted upon with as little delay as possible.

I shall be happy to make further explanations to your committee, if desired, either by letter or in person, as may be most agreeable.

I am, very respectfully, your obedient servant,
W. DENNISON,

Postmaster General.
Hon. J. DIXON, Chairman, Committee on Post Offices and Post Roads, United States Senate.

The bill was reported to the Senate without

amendment, ordered to be engrossed for a third reading, read the third time, and passed.

OREGON LAND DISTRICTS.

Mr. HENDRICKS. I am instructed by the Committee on Public Lands, to whom was referred the bill (S. No. 30) to create an additional land district in the State of Oregon, to report it back and recommend its passage with one amendment.

Mr. WILLIAMS. I ask for the present consideration of that bill. I think there can be no objection to its passage. It has been submitted to and approved by the Commissioner of the General Land Office.

Mr. GRIMES. I have not heard what the bill is which we are asked to consider.

Mr. HENDRICKS. I will state, in reply to the Senator from Iowa, that it is a bill to create an additional land office in the State of Oregon. Some of the settlers up the Columbia river have to travel now about three hundred miles to enter their lands. The Commissioner of the General Land Office tells me that there are important settlements in that locality, and that they ought to be provided with another office. It increases the public expenditures \$1,000 and the expenses of the office, such as rent, fuel, and stationery.

Mr. GRIMES. I have no objection.

By unanimous consent the bill (S. No. 30) to create an additional land district in the State of Oregon was considered as in Committee of the Whole.

It proposes to authorize the President of the United States to establish an additional land district in the State of Oregon and to fix its boundaries, which district shall be named after the place at which the office shall first be established; and the President is from time to time, as circumstances may require, to adjust the boundaries of the various land districts in that State, and to change the seat of the land office. A register and receiver are provided for, to reside at the site of the office, to receive the same fees and perform like services as other land officers in that State.

The amendment of the Committee on Public Lands was, in line fourteen of section one, to strike out the word "seat" and insert "location," so as to make the clause read, "and to change the location of the land office from time to time."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

BILLS INTRODUCED.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 97) in addition to the several acts for establishing the temporary and permanent seat of Government of the United States, and resume the legislative powers delegated to the cities of Washington and Georgetown, in the District of Columbia; which was read twice by its title, and ordered to be printed.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 98) to incorporate the Metropolitan Fire and Marine Insurance Company of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. NESMITH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 99) granting lands to the State of Oregon to aid in the construction of a military road from Albany, Oregon, to the eastern boundary of said State; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 100) to establish a post road from Wallula, in Washington Territory, to Helena, in Montana Territory; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

ORDER OF BUSINESS.

Mr. WILSON (while the committees were being called for reports) submitted a motion to take up for consideration the bill (S. No. 88) to restrict the expenses of collecting soldiers' claims against the Government.

Mr. DOOLITTLE. If the morning business is disposed of, I desire to call the attention of the Senate to a bill in relation to the qualification of jurors in certain cases in the courts of the United States, which was up for discussion a few days since, and was postponed until this morning by a vote. I ask that that bill be now called up, and that if there be not time to dispose of it this morning, it be postponed until to-morrow at one o'clock.

The PRESIDENT *pro tempore*. The Senator from Massachusetts is perhaps by courtesy entitled to the floor on the motion made by him to take up a bill, which motion he waived at the time, at the suggestion of the Chair, to allow the morning business to be gone through with.

Mr. DOOLITTLE. I will state to the Senator from Massachusetts that the bill to which I have called attention was on motion set down for to-day. I understand, however, that the Freedmen's Bureau bill is still pending before the Senate, and is expected to be disposed of to-day. I ask the Senate, therefore, to take up this bill now and set it for to-morrow, so that it shall not stand in the way of the Senator from Massachusetts.

Mr. TRUMBULL. It is expected that the Freedmen's Bureau bill will be disposed of to-day; but there is another bill reported from the Committee on the Judiciary which has some connection with the Freedmen's Bureau bill; many of its provisions are of the same character and intended to be general in their operation; and it is my intention, if I can get the consent of the Senate, to press that bill upon the consideration of the body as soon as we shall have disposed of the Freedmen's Bureau bill. I think it will take less time then. Many of the questions which have been already discussed upon the Freedmen's Bureau bill are the same as will arise in the consideration of the other bill, and I trust the Senate will allow the other bill to come up and be disposed of immediately after the Freedmen's Bureau bill shall have been gotten out of the way. I shall therefore object to setting this particular bill or any other bill for to-morrow at one o'clock.

Mr. STEWART. I object to setting this bill for any particular day, because I desire to secure action on the bill for the admission of Colorado. I gave notice that I should call it up yesterday; but I had no opportunity to do so, and I propose to wait until the two very important bills referred to by the Senator from Illinois shall have been disposed of. I desire that the bill for the admission of Colorado shall follow them next in order of time. I am opposed to allowing the bill named to come in between them.

Mr. DOOLITTLE. I did not expect that there would be time this morning to dispose of the bill to which I have referred, and I do not wish to have the residue of the morning hour taken up in talking about it; and therefore, expressing my hope that it will be taken up at an early day, I withdraw the motion.

NORTHERN KANSAS RAILROAD.

Mr. LANE, of Kansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Lands be directed to inquire into the expediency of granting ten sections of land to the State of Kansas, to aid the Northern Kansas Railroad Company in the construction of a railroad and telegraph line from Elwood, the western terminus of the Hannibal and St. Joseph railroad, through the northern counties of the State of Kansas, via Marysville, to intersect the Kansas branch of the Pacific railroad, to report by bill or otherwise.

HOUSE BILL REFERRED.

The joint resolution (H. R. No. 53) authorizing the Secretary of War to grant the use of a portion of military reserve on St. Clair river, in the State of Michigan, for railroad purposes,

was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

COLLECTION OF SOLDIERS' CLAIMS.

Mr. WILSON. I move to take up Senate bill No. 88, to restrict the expenses of collecting soldiers' claims against the Government.

The motion was agreed to; and the bill (S. No. 88) to restrict the expenses of collecting soldiers' claims against the Government was considered as in Committee of the Whole.

The bill provides that the fees of agents and attorneys for making out and causing to be executed the papers necessary to establish any claim of any commissioned officer or enlisted man of the regular Army, volunteers, or militia forces when called into the service of the United States, and for collecting such claim for bounty, arrears of pay, or other allowances, shall in no case exceed ten dollars; but the expenses incurred in acknowledging the necessary affidavits in such claims before a notary public, justice of the peace, or other public officer, are to be defrayed by the claimant, but in no case to exceed the actual amount established by law for such acknowledgments.

Any agent or attorney who shall directly or indirectly demand or receive any greater compensation for his services in the collection of any claim for bounty, arrears of pay, or other allowances, or who shall contract, agree to prosecute, or collect any such claim, on the condition that he shall receive a per cent. upon any portion of it, or who shall wrongfully withhold the payment of the proceeds to the claimant, is to be deemed guilty of a misdemeanor, and upon conviction to be fined not exceeding \$300, or imprisoned at hard labor not exceeding two years, or both, according to the circumstances and aggravations of the offense.

The first amendment reported by the Committee on Military Affairs and the Militia was in section one, line five, after the word "any" to strike out "commissioned officer or," and after the word "man" to insert "or heirs of any enlisted man," so as to read:

That the fees of agents and attorneys for making out and causing to be executed the papers necessary to establish any claim of any enlisted man of the regular Army, volunteers, or militia forces, &c.

Mr. WILSON. I will simply say that the committee struck out commissioned officers for the reason that it was supposed the commissioned officers could protect themselves and make their own bargains, and would be less liable to be imposed upon than soldiers. In the next place, many of the commissioned officers have accounts open with the quartermaster's department and the ordnance department; and the amount of labor necessary to collect those accounts is very much larger for officers than for soldiers. The claims of the latter are generally very simple matters.

Mr. SAULSBURY. I believe this bill comes from the Committee on Military Affairs. I have all due respect for their judgment, but it is obnoxious to so many objections of a legal character that I really think it ought to be committed to the Committee on the Judiciary. What earthly power. I would ask the Senator from Massachusetts, has the Congress of the United States to regulate the compensation which a private citizen of the United States, in any of the States or Territories of the Union, may choose to make to any other private citizen for services rendered? Just as much authority has the Congress of the United States to prescribe by law that no man shall hire a soldier at a less price than so many cents or so many dollars a day, as it has to pass this act. If the Congress of the United States has a right to say that none of the soldiers who have served in the Army of the United States shall give to any attorney more than ten dollars, it has a right to say they shall not give less to any attorney than ten dollars; and if you have a right to say those things, you have a right to say that no person shall employ, to work on his farm, any one who served in the Army of the United States for a sum less than one dollar nor more than one dollar. Has it come to this, that the powers of this Government have become so enlarged that

it can enter into all the private transactions of life, regulate the compensation between clients and attorneys throughout the United States, regulate the prices of wages throughout the United States? If it can do the one, it can do the other. Most of these soldiers are no longer in the armies of the United States; they have been disbanded, and have returned to their homes, and are following the peaceful avocations of life.

It goes further. It extends to any contract made between the heirs of any of those soldiers and attorneys. I have no earthly interest, personally or professionally, in the matter; but, as an attorney, if I was to draw the papers in any such case, certainly I should not expect to be regulated by any act of Congress.

I raise this objection to the bill because, in my judgment, it is wholly without any warrant of authority, and I therefore move either that it be recommitted to the Committee on Military Affairs, or that it be committed to the Committee on the Judiciary.

Mr. WILSON. I will say to the Senator from Delaware that we provide by law what the fee shall be for collecting pensions, and that act was passed three or four years ago. We allow ten dollars to any person who collects a pension for a soldier or his heirs. This act puts claims for bounty and back pay on the same footing as claims for pensions in that respect. I do not think there is any doubt whatever that we had the power to pass the act in regard to pensions. We also passed an act, it will be remembered, fixing the fee for surgeons' certificates, and I do not think anybody doubts that we had that power. I do not doubt that we have this power, and further than all, that we have power to prevent any private person doing this business, and to appoint agents of the Government, if we please, for the purpose; and I am not sure that that is not the only proper way. If the Government should appoint in every State an agent to do this business, and fix the fees for doing it, and put the person under bonds to have it faithfully done, it might be the best way of doing the thing.

Mr. President, nobody can measure the wrongs and outrages that have been perpetrated upon the soldiers of this country by these agents. I have received this morning, in my morning mail, two letters. One of our officers, a revenue collector in the State of New York, writes me that in his own town, to his own personal knowledge, an agent charged a poor soldier \$150 for collecting \$300. A gentleman writes me from Brooklyn, New York, in regard to a case that happened in December, since Congress met, that one of these agents charged \$51 62 for collecting a claim for the mother of a dead soldier; and he says further, and gives the names, that certain agents within his knowledge have their agents here, and he gives me the name of a person employed by the Government here who is an agent for one of those persons to find out the value of the claims. I intend to have his name put in the hands of the proper officer to-day.

I hope that we shall put agents for collecting the claims and bounties of soldiers on the same footing that we put the agents for collecting pensions. I think it right. It is a protection to the people, and we certainly ought to protect them. If such a measure had been passed years ago, it would have protected soldiers and their heirs, probably to the amount of hundreds of thousands of dollars.

Mr. CLARK. I wish to suggest to the Senator from Massachusetts that while his bill may do some good, perhaps much good, there is danger that it may do much mischief and will leave untouched a very large class of cases which in my judgment it is very difficult to reach, and which, perhaps, cannot be provided for. I understand that there is quite as much and perhaps more difficulty in getting out of the hands of some agents, when they collect the money, any portion of it, as there is in regard to the fees charged. I have been told that in this District there have been various firms who would advertise as claim agents in the shape of one

firm, and would collect claims, and then change their firms, and in many instances, where the soldier applied to know if they had got his claim, they would say to him, "No, we have not collected your claim," and on inquiry at the War Department or the proper Department it would be found that it had been collected; and then, when the soldier or officer went and said to these agents, "Pay me that money or I will commence a suit," they have replied, "Sue; what good will it do? What will you get by a suit?" This bill will not reach a case of that kind. It might reach some cases, but the objection is that while it would reach a certain class of cases, it would do much injury to many men who are very earnestly and honorably and creditably to themselves and their constituents pursuing this business of recovering claims for the soldiers. It would in my judgment have precisely this effect: that the attorney would first ask a man who came to employ him to collect a claim, "How much difficulty will there be in getting your claim?" And if he should reply, "No difficulty at all; you have only to apply for it and you will get it," then he would undertake to collect it. But in the vast majority of cases there is a great deal more difficulty and more labor to be performed. Perhaps the attorney has got to travel twenty, fifty, or a hundred miles to obtain proof and collect testimony and transmit it to Washington and then collect the claim. Will he do that for ten dollars? Certainly he cannot; and while you are preventing mischief in one direction, I suggest that possibly you may be creating a difficulty in another direction. It is very true that we have done something in this direction in regard to pensions; but it may be that we shall do more mischief here than we shall do good.

I agree that something ought to be done. I have had my feelings very much touched when some of these soldiers have come to me and complained of the difficulty of collecting their claims; soldiers who had had the whole of their claims swallowed up in this way. There would be a remedy in the case which the Senator from Massachusetts has stated, where one of these agents charged a New York soldier \$150 for collecting a claim of \$300. If he took an exorbitant fee in that way, the man who has been injured may bring an action against the claim agent, if he is worth anything, and recover all but what was a proper fee; but the difficulty is that probably he is not worth a copper.

Mr. HARRIS. None of them are.

Mr. CLARK. None of them are worth a copper, says the Senator from New York. This bill will not reach them at all. There is a mischief that we cannot reach or cure, to say nothing about the objection made by the Senator from Delaware. I do not propose to touch upon that objection; but on the expediency of the thing, I think you must have something a little more efficient than I fear this bill will be; I do not know what it should be.

Mr. WILSON. Will the Senator allow me to ask him a question?

Mr. CLARK. Certainly.

Mr. WILSON. I will ask the Senator if he has ever learned that any difficulty has arisen on account of our fixing the fees of the pension agents? We fixed the fees of pension agents, as you, sir, will remember, for I believe you reported the bill, in 1861. There will be found to be quite as much labor, and I think a great deal more, in preparing the papers to obtain a pension than to obtain back pay or bounty, and yet we fixed that fee at ten dollars, and I have never heard that there was any trouble about it. We have no complaints from any quarter about the obtaining of pensions, but there are complaints all over the country in regard to the collection of back pay and bounties by these agents.

In this connection, let me state one fact. Some three weeks ago, I received a letter from a woman in the city of New York, stating that she had confided to a concern in this city her claim to be collected. She had reason to think it had been paid. I sent the paper to the Au-

ditor's Office, and found the money had been paid, and after a correspondence between the Department, myself, and this woman, running through three or four weeks, I found the fact to be that this agent had obtained a woman to swear that she was the proper person, and had pocketed the money himself.

Mr. SUMNER. What is the name of the agent?

Mr. WILSON. He was a partner of the person of whom I have already spoken, but I do not know that that person was at all to blame for it.

Mr. CLARK. This bill would not reach that case.

Mr. WILSON. It punishes by fine and imprisonment, as they ought to be, all these agents who will not pay over the money when they collect it. This man finally, as I understand from Mr. French, the Second Auditor, undertook to erase these forgeries afterward, and by this correspondence this poor woman in the city of New York got her money, and this partnership was dissolved. The man who did that was evidently a great scoundrel; and I tell you that shysters and dishonest men have gone into this business to a large extent.

I desire to state another fact. A gentleman in the city of New York, a son of Mr. Dodge who is contesting a seat in the other House, who has given his time for the last four or five years to the cause of the soldiers, who has made an organization in the city of New York by which he and his associates have obtained employment for eighteen hundred wounded men without one dollar of cost to them, who has undertaken to collect these claims without charging a dollar for the collection, says he finds great difficulty in getting his papers through, while the persons that throng in the country and have their agents here find no difficulty in getting their claims through. They are on the spot; they are watching; they are crowding their matters all the time; and this association organized in the city of New York, working for nothing, doing it as an act of charity and benevolence to the soldiers, composed of men of wealth and character, find the greatest difficulty in getting their papers through here. I believe that this bill, if passed, will drive the dishonest men out of this business and will keep it in the hands of good men, for there are good men engaged in it. It will put them on the same footing as pension agents; it gives them the same compensation and makes them liable to the same punishments; in fact, the bill is substantially copied from the bill in regard to pension agents.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is Senate bill No. 60.

FREEDMEN'S BUREAU.

The Senate resumed the consideration of the bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau.

The PRESIDENT *pro tempore*. The question is, "Shall the bill pass?" and upon that question the Senator from Kentucky, [Mr. DAVIS] is entitled to the floor.

Mr. DAVIS. Mr. President, in the course of my time I have heard a good deal about the dignity of Senators. I never made any pretension of that sort myself; but I do claim that I have reached the dignity of true manhood, and that dignity impels me whenever a blow is aimed at the Constitution of my country and the liberties of the people, or my State, or myself, always to repel it with another blow, and when the aggressive blow comes from any citizen of my own State, I do not care whether his position be private or official, I am impelled to hit him with all the vigor I can throw in the repelling blow.

I stated last night when the Senate adjourned the points of opposition upon which I objected to the passage of this measure. As they are short, I will state them again.

First. I object to the passage of this bill, because a majority of the Senate exclude Senators from eleven States from their seats for the

purpose of securing the passage of this and other measures.

Second. The measure is unconstitutional, because it proposes to invest the Freedmen's Bureau with judicial powers; because it authorizes the President to assign Army officers to the exercise of those judicial powers; because it breaks down the partition of the powers of the Government made by the Constitution, and blends and concentrates in the same hands executive and judicial powers; and because it deprives the citizen of his right to trial by jury in civil cases.

Third. It ought not to pass, because it is a scheme devised to practice injustice and oppression upon the white people of the late slaveholding States for the benefit of the free negroes, to engender strife and conflict between the two races, and to prostitute the powers of the Government for the impoverishment and degradation of the white race, and the enrichment and exaltation of the negro race.

Fourth. It will produce a profligate, wasteful, and unnecessary expenditure of the public money.

Fifth. It is one of the bold, reckless, and unconstitutional system of measures devised by the radical party to enable it to hold on to power and office.

If these objections are well stated, they are certainly sufficient to defeat this or any measure to which they can be made. I pledged myself yesterday and heretofore in relation to this measure that I would prove its unconstitutionality, and I think I am now ready to redeem that pledge. But in relation to the first ground of objection—that it ought not to pass because the majority of the Senate have resorted to a revolutionary measure and have dissolved the Union to secure its passage—can any proposition be more true or self-evident than that, when a majority of the Senate or of the House of Representatives, for the purpose of passing any measure, deliberately, wantonly, and in defiance of the Constitution and of the rights of the States to be represented in the two Houses of Congress, exclude from that representation in the two Houses eleven States, they have exercised and cut off those eleven States from the Union? Have they not dissolved the Union? If that does not amount to a dissolution of the Union, or a lawless, unconstitutional exercise of power by an oppressive, tyrannical majority, I do not know what can produce such a result? What right have the majority in this Senate to exclude the Senators from eleven States? They are entitled to representation here by the Constitution of our country. They are entitled to it by all the laws of justice and of sound policy. What extraordinary motive but the one which I have imputed to them can operate upon this majority to induce them to resort to this revolutionary measure, by which they have dissolved the Union and cut off eleven States from it, and from participation in its government? Is this to be a new principle of party tactics? When a majority in Congress desire to pass revolutionary measures upon which hang the permanence of the party and their hold of power and of the possession of the Government, are they to resort to the extraordinary and revolutionary measure of excluding from the Senate and the House of Representatives, Senators and Representatives of eleven States who are as much entitled to seats in the two bodies as they are, in order that they may be able to pass their unconstitutional measures?

My honorable friend from Pennsylvania [Mr. COWAN] said the other day that there were some eighty propositions to amend the Constitution pending before this Congress, and the cry is, still they come. Look at this measure; look at the measure that is immediately to follow it, which the honorable chairman of the Committee on the Judiciary says, *eo instanti*, when this bill is disposed of, he intends to press upon the attention of the Senate for its adoption; look at the bill to confer upon the negroes of this District the right of suffrage. I say that the object and sole purpose of this revolutionary movement of keeping out the Representatives

of eleven States from the House of Representatives, and twenty-two Senators representing eleven States out of the Senate, is simply to enable the party in power to pass these measures. Are not these eleven States severed from the Government and the Union? What is the severance of the Union but the severance of the States from participation in the Government? That is the very essential definition of a severance of the Union. Are not these States, which are thus severed from the Union by the lawless will of the dominating majority here, as much interested, and tenfold more interested, in the measures to which I have adverted, and the pending one than the States who are permitted to retain their places in the Union, and who by the Representatives and Senators presume thus to revolutionize the Government and to cut them off from its benefits? In the name of the Constitution, which has been violated by the lawless and inexcusable and unauthorized dismemberment of the Union that has been made in the way that I have mentioned, in behalf of the deep, vital, permanent interest which the people of those eleven States have in these measures, I protest against the passage of this bill, or its consideration, until those States are allowed to come into the Union and to have their representatives in the Senate of the United States.

Sir, by what authority is this revolution effected by the majority? What a fearful precedent it will establish! If it is to prevail, as prevail I suppose it will, how alluring to future parties to tread the same bold and revolutionary path. They will exclaim to the party now in power, "Thou didst marshal me in the way I am going;" and the time will come when this bitter chalice with all of its poisonous ingredients will be tendered to your own lips. When that day comes, if I should live and be in public or private life, and this poisonous chalice is offered to you, I will dash it from your lips if I can, with the same will and readiness that I would now dash it from the lips of the southern States—not for your sake, but for the sake of my country, the Constitution, and the liberties of the people. For myself, for my posterity, for the posterity of the American people, I protest against the passage of this measure until the Union is restored. You have dissolved the Union. It is an act of your own will. You may restore the Union and repair the infliction which you have made upon it any moment you please. I ask you if those States are not entitled to representation in the Senate, and if they were here would you dare to press this infamous and iniquitous measure? If you did, with the concentrated power of those eleven States it would be defeated, and all your party advantages and all your perpetuity in office and power would be stricken to the ground.

I have said that this measure ought not to pass because it was unconstitutional, because it invests the Freedmen's Bureau with judicial powers. I understood my friend from Illinois at first to assume the position that it did not invest or propose to invest judicial powers in the bureau, but he afterward told me that I had misapprehended him, and conceded explicitly that it does invest judicial powers in this bureau. I say that that is a palpable and flagitious infraction of the Constitution. I will now read some of the provisions of this bill upon which I intend to comment:

SEC. 2. *And be it further enacted*, That the Commissioner, with the approval of the President, may divide each district into a number of sub-districts, not to exceed the number of counties or parishes in such district, and shall assign to each sub-district at least one agent, either a citizen, officer of the Army, or enlisted man.

And the President of the United States, through the War Department and the Commissioner, shall extend military jurisdiction and protection over all employes, agents, and officers of this bureau.

I ask the especial attention of the Senate to the seventh and eighth sections:

SEC. 7. *And be it further enacted*, That whenever in any State or district in which the ordinary course of judicial proceedings has been interrupted by the rebellion,—

I moved an amendment excepting from the operation of the bill, and from the tyranny of

this bureau, the States where the courts were now open. and where justice could be administered in them according to the course of the civil law; but the dominating party in this Senate voted it down by a solid phalanx. I will comment upon that in a moment—

and wherein, in consequence of any State or local law, ordinance, police, or other regulation, custom, or prejudice, any of the civil rights or immunities belonging to white persons, including the right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to have full and equal benefit of all laws and proceedings for the security of person and estate, are refused or denied to negroes, mulattoes, freedmen, refugees, or any other persons, on account of race, color, or any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or wherein they or any of them are subjected to any other or different punishment, pains, or penalties, for the commission of any act or offense, than are prescribed for white persons committing like acts or offenses, it shall be the duty of the President of the United States, through the Commissioner, to extend military protection and jurisdiction over all cases affecting such persons so discriminated against.

Was there ever such a fearful, tremendous, and most unauthorized investiture of judicial powers in a mere executive bureau of the Government before? The next section is in these words:

SEC. 8. *And be it further enacted*, That any person who, under color of any State or local law, ordinance, police, or other regulation or custom, shall, in any State or district in which the ordinary course of judicial proceedings has been interrupted by the rebellion, subject, or cause to be subjected, any negro, mulatto, freedman, refugee, or other person, on account of race or color, or any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or for any other cause, to the deprivation of any civil right secured to white persons, or to any other or different punishment than white persons are subject to for the commission of like acts or offenses, shall be deemed guilty of a misdemeanor, and be punished by fine not exceeding \$1,000, or imprisonment not exceeding one year, or both; and it shall be the duty of the officers and agents of this bureau to take jurisdiction of—

Yes, sir, vesting in them, in express and explicit language, the judicial power in all the class of cases herein described—

and hear and determine all offenses committed against the provisions of this section, and also of all cases affecting negroes, mulattoes, freedmen, refugees, or other persons who are discriminated against in any of the particulars mentioned in the preceding section of this act, under such rules and regulations as the President of the United States, through the War Department, shall prescribe.

Through the head of that Department, the Haynan of our country, who will stay there until he rots off! But here is the end to which all this systematic tyranny is to be pressed: here are the results to the party and to the freed negro that are to be brought about by the punitive character of this measure, and by the punishment which it authorizes the Freedmen's Bureau and its agents to inflict upon all the authorities of State governments:

The jurisdiction conferred by this section on the officers and agents of this bureau to cease and determine whenever the discrimination on account of which it is conferred ceases, and in no event to be exercised in any State in which the ordinary course of judicial proceedings has not been interrupted by the rebellion, nor in any such State after said State shall have been fully restored in all its constitutional relations to the United States, and the courts of the State and of the United States within the same are not disturbed or stopped in the peaceable course of justice.

Here is the deceitful language of this provision. It gives to this bureau this irresponsible action, backed by the bayonets of the Army of the United States, in every State where the proceedings of the courts have been interrupted by the rebellion. They have been interrupted, I presume, in the State of my honorable friend from Delaware; at any rate, they have been interrupted in Kentucky. Our State was invaded, and three fourths of it at one time was occupied by the rebel armies. Our Governor and Legislature and all the officers of our government were driven from Frankfort, the seat of government, and compelled to take refuge in Louisville, under the protecting wing of General Buell's army. With a view to meet this case, I proposed that this measure should have no application to States where the courts were now open and where the laws could be executed by the civil courts as those laws have been enacted, and the domineering majority here, for

its own bold and revolutionary purposes, to a man voted down that just proposition. Here is the State of Kentucky, in which there has been this interruption of the civil courts; and the Senator from Illinois well knows it. He does not propose that this bill shall operate in the States where that interruption has been made and where it continues. He will not allow that it shall be restricted to the States in which the interruption now exists. He will not allow, and his friends, the united majority here, will not allow that the operations of this bill shall be inhibited from the State of Kentucky where the courts are now open and the laws may be enforced according to the Constitution. The honorable Senator knew the full force of these words; he knew that the design of this bill, framed as it was by his great legal acumen and ability and his comprehensive sweep of mind, was to entrap Delaware and Kentucky.

Mr. President, I say that this is a flagrantly unconstitutional investment of power. The Senator from Illinois deliberately concedes that this bill invests the Freedmen's Bureau with judicial powers. He could not deny it, because that language is embraced in it plainly, explicitly, and unmistakably. Judicial power is invested in this bureau by this bill, and this bureau may be composed, to such an extent as the President shall choose, of Army officers, of officers not in the civil service, who, when so appointed, are to hold their places at his will, who are not a part of the judicial department of the Government, but an appendage to the executive department of the Government. This bill provides that such officers may be assigned to the performance of these judicial powers. If the Senate will excuse me, I will read from a book that has almost become obsolete, especially in the Senate of the United States—the Constitution of the United States:

"The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office."

"The judicial powers shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority," &c.

Here is the judicial power of our Government as it is organized in the Constitution. That judicial power is vested by the letter of this Constitution, and where is it vested? It is vested in the Supreme Court and in such inferior courts as Congress may from time to time establish. It is not vested by the Constitution in a military bureau; it is not vested in an executive bureau; it is not vested in the President of the United States, much less in any of his subordinate officers. This bill flagrantly, palpably, in direct and open conflict with the Constitution, proposes to divest the courts of the United States of a portion of the judicial power which, by the letter of the Constitution, is vested wholly in them, and to vest it in this negro bureau, and then provides that this negro bureau may be constituted and organized of military officers. In this connection, in relation to what is the judicial power, I will read an extract from the opinions of Chief Justice Marshall in the case of *Weston and others vs. The City Council of Charleston*, to be found in 2 Peters, 463:

"In this case"—says the learned judge—I will not call him "learned." It is superfluous to attach any phrase to the name of Marshall for the purpose of exalting his eminent judicial learning. All that is necessary is to pronounce his name—

"In this case the city ordinance of Charleston is the exercise of an 'authority under the State of South Carolina,' 'the validity of which has been drawn in question on the ground of its being repugnant to the Constitution,' and 'the decision is in favor of its validity.' The question, therefore, which was decided by the constitutional court is the very question on which the revising power of this tribunal is to be exercised, and the only inquiry is, whether it has been decided in a case described in the section which authorizes the writ of error that has been awarded. Is a writ of prohibition a suit?"

I wanted so to amend this bill that the citizen, the State judge, the Federal judge of the

United States, the marshal of the United States in the execution of the judgment of the Federal judge, the sergeant-at-arms of the court of appeals, or the sheriff of the circuit court in which there was interference by this Freedmen's Bureau to impede and obstruct and divide them in the exercise of their judicial functions, could apply for a writ of prohibition to the proper court, and to insert a declaration in the bill itself that that writ should be observed and respected and obeyed by the Freedmen's Bureau, and you deliberately voted down that proposition.

"The term is certainly a very comprehensive one, and is understood to apply to any proceeding in a court of justice by which an individual pursues that remedy in a court of justice which the law affords him."

That is a concise and clear definition of a suit, and a suit involves, necessarily, judicial power.

"The modes of proceeding may be various; but if a right is litigated between parties in a court of justice the proceeding by which the decision of the court is sought is a suit. The question between the parties is precisely the same as it would have been in a writ of replevin or in an action of trespass. The constitutionality of the ordinance is contested; the party aggrieved by it applies to a court; and at his suggestion a writ of prohibition, the appropriate remedy, is issued. The opposite party appeals, and in the highest court the judgment is reversed, and judgment given for the defendant. This judgment was, we think, rendered in a suit."

The Supreme Court, then, Chief Justice Marshall rendering the opinion, proceed to decide this suit and to reverse the judgment of the court in South Carolina. They decide that a prohibition is a suit; that any mode of proceeding, whatever may be the form, in which one party is pursuing a right under the law in a court of justice, is a suit. The suits under this Freedmen's Bureau bill will be thick as leaves in Vallambrosa. A writ of error or an appeal from the judgment of an inferior court of the United States to the Supreme Court is not allowed unless the matter in controversy is of the value of \$2,000. But here you do not organize a court; you do not profess to organize a court; and if you did, your organization of a court would be laughed to scorn by any county-court lawyer in America. The idea of the Congress of the United States organizing a court of the Freedmen's Bureau and authorizing the President to assign Army officers as judges of the court! Do you call that a court? I offered an amendment providing that from that court, miserable, farcical, and grotesque as it would be, there should be allowed a writ of error or appeal from its decisions to the district or circuit court of the United States and then to the Supreme Court. The Supreme Court and these inferior United States courts are branches of the Government of which you are a branch; they are the appropriate judicial tribunals; they are a part of the Constitution of our country in the organization of the judicial department, to exercise exclusively the very jurisdiction with which you have attempted to invest this freed negro bureau. I appealed to your justice, to your magnanimity, to your sense of right, in order to prevent the abuse of power so anomalous, so unconstitutional, vested in this bureau by your bill, to allow appeals or writs of error from the judgments—no, I will not so desecrate the term judgments—the behests, the decrees, or whatever you may call them, of this anomalous, unconstitutional, and most contemptible tribunal to the courts of the country; and in the solid, undivided strength of party you voted that proposition down.

This abominable measure is unconstitutional in another important feature. It violates article seven of the amendments of the Constitution, which is in these words:

"In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise reexamined in any court of the United States than according to the rules of the common law."

Here, sir, is your warrant of authority, your power of attorney. All the little, brief, transitory power with which you are clothed, and which you are now exercising in a manner to shock the world, you hold from the Constitu-

tion of the United States, and that Constitution declares explicitly that:

"In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise reexamined in any court of the United States than according to the rules of the common law."

In exposition of this provision of the Constitution I will read an extract from the opinion of Mr. Justice Story in the case of *Parsons vs. Bedford et al.*, to be found in 3 Peters's Reports, page 433. Let us see what the right of the citizen to have all matters of controversy in which twenty dollars are involved tried by a jury means by the judicial interpretation of the Supreme Court, and that interpretation written by Justice Story, with the concurrence of the court. He was once great authority all over the United States, and he is yet in the West and in the great middle States; but he has lost his power and his weight as a great judicial light in Yankee land; and why? Because his opinions and the principles which they established are incompatible with the present political systems of Yankee land. Here is what Mr. Justice Story says:

"The trial by jury is justly dear to the American people. It has always been an object of deep interest and solicitude, and every encroachment upon it has been watched with great jealousy. The right to such a trial, it is believed, incorporated into and secured in every State constitution in the Union; and it is found in the constitution of Louisiana."

The case came up from Louisiana.

"One of the strongest objections originally taken against the Constitution of the United States was the want of an express provision securing the right of trial by jury in civil cases."

And that objection was so strong and deemed to be of such vital importance that it was at once obviated by the adoption of the seventh amendment to the Constitution, which I have read, which secures that right.

"As soon as the Constitution was adopted, this right was secured by the seventh amendment of the Constitution proposed by Congress; and which received an assent of the people so general, as to establish its importance as a fundamental guarantee of the rights and liberties of the people. This amendment declares, that 'in suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact once tried by a jury shall be otherwise reexamined in any court of the United States than according to the rules of the common law.' At this time there were no States in the Union the basis of whose jurisprudence was not essentially that of the common law in its widest meaning; and probably no States were contemplated in which it would not exist. The phrase 'common law,' found in this clause, is used in contradistinction to equity and admiralty and maritime jurisprudence. The Constitution had declared, in the third article, 'that the judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made or which shall be made under their authority,' &c., and to all cases of admiralty and maritime jurisdiction. It is well known that in civil causes in courts of equity and admiralty juries do not intervene, and that courts of equity use the trial by jury only in extraordinary cases to inform the conscience of the court."

"When, therefore, we find that the amendment requires that the right of trial by jury shall be preserved in suits at common law, the natural conclusion is that this distinction was present to the minds of the framers of the amendment. By common law they meant what the Constitution denominated in the third article 'law,' not merely suits which the common law recognized among its old and settled proceedings, but suits in which legal rights were to be ascertained and determined; in contradistinction to those where equitable rights alone were recognized and equitable remedies administered; or where, as in the admiralty, a mixture of public law and of maritime law and equity was often found in the same suit. Probably there were few if any States in the Union in which some new legal remedies differing from the old common-law forms were introduced; but in which, however, the trial by jury intervened, and the general regulations in other respects were according to the course of the common law. Proceedings in cases of partition, and of foreign and domestic attachment, might be cited as examples variously adopted and modified. In a just sense, the amendment then may well be construed to embrace all suits which are not of equity and admiralty jurisdiction, whatever may be the peculiar form which they may assume to settle legal rights. And Congress seems to have acted with reference to this exposition in the judiciary act of 1789, chapter twenty, (which was contemporaneous with the proposal of this amendment;) for in the ninth section it is provided, that 'the trial of issues in fact in the district courts in all cases except civil causes of admiralty and maritime jurisdiction, shall be by jury;' and in the twelfth section it is provided, that 'the trial of issues in fact in the circuit courts shall in all suits, except those of equity and of admiralty and maritime jurisdiction, be by

jury;' and, again, in the thirteenth section, it is provided that 'the trial of issues in fact in the Supreme Court in all actions at law against citizens of the United States shall be by jury.'

I have read the provision of the Constitution, which is as plain and as explicit and as clear as language can express it. I have read the exposition of that amendment guarantying to every citizen the right of trial by jury in all civil cases when the amount involved in contest is as much as twenty dollars, by the Supreme Court of the United States, the opinion rendered by Mr. Justice Story; and they decide in conformity to the plain and explicit provision of the Constitution and in conformity to the provision of the judiciary act of 1789, passed, as they say, simultaneously with the adoption of this amendment. They show that by common-law suits were meant all suits contradistinguished from equity and admiralty suits. All this mass of suits, it is provided by the Constitution, where the amount is above twenty dollars, shall be tried by a jury. They decided that the Congress of the United States in passing the judiciary act of 1789 expressly provided that in the district and circuit courts and in the Supreme Court itself, wherever there is a common-law issue of the amount exceeding twenty dollars, either party to that issue is entitled to his constitutional privilege to have it decided by a jury.

Now, I think, Mr. President, that I have well made out my position, and that the honorable Senator from Illinois, with all his legal ability, cannot shake it, that this bill invests or attempts to invest not in a court but in an executive department judicial powers; that it blends and confuses the departments of the Government by authorizing the President to make this bureau consist, if he pleases, of Army officers who hold their office and position by his will. The Constitution directs that all judicial power shall be vested in the Supreme Court and such inferior courts as Congress may from time to time establish; and it is a flagrant assumption of power, a flagitious infraction of the Constitution, to attempt by this bill to invest this bureau with any judicial power. In addition to the violation of the express assignment of power by the Constitution to the courts of the country, it violates the seventh amendment, which guaranties to every American litigant who has a common-law suit, a right to a trial by jury when the amount involved in the contest is twenty dollars or upward.

Let us now examine for a short time what is the object of passing this enormous, outrageous, and monstrous measure. Let me give you an example or two. Here are provisions that would deform any court in the world in any civilized country. The courts of Russia, all the grand courts of the Ottoman Porte, of the leaden despot of Austria, any Government in the world, would be deformed and outraged by the introduction of such a feature as this. I read from the eighth section of this bill:

Any person who, under color of any State or local law, ordinance, police, or other regulation or custom, shall, in any State or district in which the ordinary course of judicial proceedings has been interrupted by the rebellion—

Not where it continues to be interrupted, but where it has been interrupted, no odds how long before—

subject, or cause to be subjected, any negro, mulatto, freedman, refugee, or other person, on account of race or color, or any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or for any other cause, to the deprivation of any civil right secured to white persons, or to any other or different punishment than white persons are subject to for the commission of like acts or offenses, shall be deemed guilty of a misdemeanor, and be punished by fine not exceeding \$1,000, or imprisonment not exceeding one year, or both; and it shall be the duty of the officers and agents of this bureau to take jurisdiction of and hear and determine all offenses committed against the provisions of this section, and also of all cases affecting negroes, mulattoes, freedmen, refugees, or other persons who are discriminated against in any of the particulars mentioned in the preceding section of this act, under such rules and regulations as the President of the United States, through the War Department, shall prescribe.

The previous section provides that the freed-

man shall be entitled to all the civil rights and privileges that a white person is entitled to. Now let me give you an example. It has been made a crime in Kentucky—and I hope it always will be; it shall never cease to be with my consent, at least—for any negro to intermarry with a white person. It is made a penal offense for our county court clerk to issue a license to a negro to intermarry with a white person. It is made a penal offense for a preacher of the Gospel to solemnize the rites of marriage between a negro and a white person. Suppose that under this famous bill a negro applies to the county court clerk of Bourbon county for a marriage license to intermarry with a white woman, and the clerk refuses because the law does not permit such an alliance—it denounces it as a crime, and it punishes all persons who assist in the perpetration of that crime as criminals, penally. He refuses under the sanction of the laws to grant the license. What does the negro do? He goes and makes complaint to this bureau; this bureau sends its corporal's guard with fixed bayonets to the clerk's office and commands the clerk to issue this license against the highest penal sanctions of our law. The clerk refuses; what do they do? They imprison him, they take him into custody, the bureau assumes to adjudge the case, to punish him for obedience to the laws of his own State which he has sworn to support and which he has given bond that he will support.

This is one of the consequences of this law, and it will speedily arise in our State. It will give rise to inevitable conflict between the jurisdiction of our State officers and courts and the Freedmen's Bureau. What does the clerk do? He applies to a judge for a writ of prohibition to prevent this interference by the Freedmen's Bureau with his official duties, which he is performing according to the laws of the State; the judge grants the writ of prohibition. What then takes place? This Freedmen's Bureau sends an additional military guard; they seize upon the judge, they strip the emine of justice with which his shoulders have been clothed by as gallant a State as there is in America; and because he issues a writ of prohibition to prevent this Freedmen's Bureau from compelling one of the ministerial officers of the State to violate his oath of office and his duty under the law, because he issues his writ of prohibition to prevent the bureau from interfering without any authority of valid law in such a flagrant case, they carry that judge to a prison.

I will give you another example. It is there made a capital offense for a negro to violate the person of a white woman. The gentleman from Kansas who replied to my honorable colleague the other day [Mr. POMEROY] may expect the day to come, but he will never live, and the man is not now born who will live, to see the day when there will be an alteration of the law of Kentucky in that respect. The same offense committed by a white man is a felony, punishable by confinement in the penitentiary. Committed by a negro, it is punishable by death; and in some cases the offense is committed under circumstances of atrocity that a mob lashed to fury by the enormity of the crime, as in St. Louis a few years ago, seize the criminal, wrest him from the hands of justice, and burn him at the stake. I do not know, and I do not believe that such an outrage upon the forms of justice was ever perpetrated in Kentucky; but, sir, you may pass this measure, you may send your Freedmen's Bureau there backed by a standing army; but whenever the case occurs the people of Kentucky will punish the black criminal by hanging him, and all the Freedmen's Bureaus that could be created by Congress will be insufficient to give him immunity from such a just punishment.

I could mention a few other cases in our penal laws. I could mention many cases in which there would be controversies between a free negro and a white man involving contract, property rights, in all the various forms which they assume in courts of justice, and in which the white man and the negro are equally by the

Constitution guaranteed the right to trial by jury if the amount in controversy exceeded twenty dollars; and yet the honorable Senator from Illinois vaunted so boldly and defiantly yesterday that the law was constitutional! I said, and I now repeat, that this measure was designed for Kentucky; it was concocted by the honorable Senator from Illinois with the assistance of the degenerate son of Kentucky who now occupies the position of Attorney General. I have heard of no individual case of magnanimity, of mercy, of justice, being applied for to the executive department of the Government from Kentucky, with two or three exceptions, where he has not thrown his whole influence, personal and official, against it. I have known of no outrage upon the constitution of Kentucky or upon the Constitution of the United States; I have known of no law of Congress since he has been in office; I have known of no administrative measure of policy that could at all be brought to bear upon Kentucky, that was calculated to dishonor, to degrade, and to outrage his native State, that has not received the sanction and the earnest support of this unlined son of that noble State. Sir, I cannot express the depths of my scorn and detestation toward a Kentuckian who can play such a part. I can only excuse it upon the plea that he knoweth not what he is doing.

Mr. President, I have not the bill to which this is an amendment before me, but it restricts, by its terms, the Freedmen's Bureau to the States that were in rebellion. By its terms it exonerates and excludes Kentucky. Some month ago the Freedmen's Bureau was introduced into Kentucky, as I have understood, with the official and personal sanction of the Attorney General, when it was without the authority of a fragment of law; when it was a naked and monstrous military usurpation; when there was not even an unconstitutional and invalid law to give it any sanction or any excuse. And what was done? I will read what I understand to be a creation, in part, of the brain of the Attorney General:

"Agency of the Freedmen's Bureau for Covington and vicinity."

This was published some three or four weeks ago:

"Pursuant to orders from Brevet Major General C. B. Fiske, assistant commissioner of the Freedmen's Bureau for Kentucky and Tennessee, dated Nashville, Tennessee, December 25, 1865, the undersigned assumes the office of superintendent of the affairs of the bureau for Covington and vicinity."

There was no bureau at Covington, there was none in the State by authority of law, and where there was no law it was a plain, naked, flagrant usurpation, which anybody had a right to resist.

"The principal objects of this bureau are the promotion of productive industry, the settlement of those so lately slaves in homes of their own, with the guarantee of their absolute freedom and their rights to justice before the law, as set forth in the proclamation of the President and the laws of Congress, the dissemination of virtuous intelligence, and to aid in permanently establishing peace and securing prosperity to those who were until lately slaves."

"The ratification of the constitutional amendment forever abolishing slavery in the United States."

I am not disposed to dispute that proposition—

"having been officially announced to the country by proclamation of the Secretary of State, dated December 18, 1865, this bureau extends its supervision over persons recently held as slaves in the State of Kentucky. In the further discharge of the duties of this office the following rules and regulations will be observed."

Now, I will read the rules and regulations that this satrap, this military minion of power, dared to promulge in the State of Kentucky for the overthrow of its government and its laws:

"1. No fixed rates of wages will be prescribed by the superintendent of affairs here, but no community or combination of people will be permitted to fix rates."

That may be very well; but by what authority, by what warrant does he assume to make such a regulation? If it was to become necessary our State Legislature would do it. They are the judges whether it shall be done or not. I have seen one hundred slaves and free negroes parties to suits, and more in my State; I have

been the counsel of fifty myself; and I never saw a negro, slave or free, in a court in Kentucky that he did not receive the fullest justice from a court and jury, and never, where he had a specious case, that he did not enlist the sympathies of the entire court-house, with the exception of his adversary and the counsel of his adversary. But I will read on:

"2. Parties can make any trade or agreement that is satisfactory to themselves, and so long as advantage is not taken of the ignorance of the freed people to deprive them of a fair and reasonable compensation for their labor, there will be no interference."

"3. Wages will be secured by a lien on the crops raised, or by good sureties, if the employer's circumstances are such as to make it doubtful as to his ability to meet the contract."

Are not these legislative powers? Are they not legislative powers to govern a State that maintains the same relations toward the Union and the General Government that the State of Illinois does? By what right does this military dictator presume to promulge his code of laws in that State? But I shall read on:

"4. Contracts hereafter must be in writing; but contracts at present existing, whether verbal or otherwise, will not be interfered with, except to compel, if necessary, both parties to comply in good faith with agreements."

Oh, what a chancellor he is to execute specifically a contract!—

"and to settle disputes when they may arise. It will be a part of the business of this office to fairly adjust the labor question, and to see that contracts are equitable and their inviolability enforced against the employer and employe."

He is absorbing all power, legislative, judicial, and executive—playing the autocrat.

"Persons who neglect or refuse to make written contracts with the freed people employed by them will be required, should any dispute arise as to compensation, to pay the highest wages given for the same kind of labor in their neighborhood or section of country."

He dictates how the contract shall be made, whether it shall be in writing or verbally.

"The laborer must work under the direction of his employer, must be industrious and faithful, and not leave the plantation or place of his employment in working hours, without permission, unless he is cruelly treated."

"5. Parents are advised that they are responsible for their children, and the children for their aged and decrepit parents, and must labor for their support; and in making contracts this fact must be taken into consideration. Aged and infirm freedmen, who have no means of support, not any relations to whom they can rightfully look for the same, will be provided for by the county authorities."

The county authorities do it, and have always done it; have done it from the origin of our State, and they are not to be hastened and will not be hastened by this military dictator, nor by his bayonets, however sharp they may be—"but the compulsory removal of the aged and infirm colored people from their homes by their former masters will not be permitted; and plantations and homes, from which the old and faithful freed people are driven away will be seized and treated as abandoned lands and property, for the benefit of this homeless and helpless class of people."

My county was the second slaveholding county in the State in point of numbers. I have never known there the owner of an infirm or decrepit slave that did not make provision for his support; and where the owner refused to do so the law was compulsory. We have an act of the Legislature which imposes the duty upon the county court to see that the obligation is enforced upon the owner of old, infirm, and decrepit slaves to support them; and if all these resources fail, if a decrepit slave becomes a county pauper, he is supported in the poor-house of the county, or by a charge upon the levy of the county. That is the case all over the State of Kentucky; and yet, with all these provisions, this Attorney General urges on the Senator from Illinois to report such a measure as this. But here you have long ago, by your military officers, in defiance of the Constitution and law, wrested from the owners of slaves their property in those slaves. We cared nothing about your law of Congress freeing the wives and children of slaves who had enlisted in the Army. We knew that was a *brutum fulmen*; and our supreme court have already decided that it is unconstitutional and inoperative. We knew that any court of any intelligence would render the same decision; and if that decision

was not rendered there could be a revisory tribunal reached that would decide it to be unconstitutional. We maintained, too, at least it was my position, but that is now superseded and absorbed by the amendment to the Constitution which, I admit, has the effect to liberate all slaves, but without that amendment to the Constitution you had no slave, not a solitary one, in America liberated. But I care not now for that question; I consider now that they are all liberated. There is a widow and there is an orphan, there is an old and decrepit white man who has spent his life in industry and toil; he has a little land and he had some slaves. You have taken all his slaves from him except the old and decrepit; and if he is not able to maintain them, here is a provision of this Government in Kentucky, which a military subordinate has organized to override the constitution and laws and courts of that State, which declares that if his old and decrepit slave, from whatever motive, inability or any other motive, is forced to leave the house and the home of his owner, that house and that home shall be treated as abandoned property, shall be seized, and that aged owner who has earned it by the sweat of his brow and by the exertions of his arm and his sinews and muscle, shall be deprived of it, and it shall be given up to these negroes.

"6. Judicial officers and magistrates are requested to signify their acceptance or rejection of the proposition that they act as agents for this bureau in the administration of justice, and in all cases where the civil officers decline such adjudication it will become necessary for this office to administer justice in all cases as would otherwise be adjudicated by such civil officers."

This office to administer justice in such cases as otherwise would be adjudicated! The Attorney General knows the state of things in Kentucky. He knows that this arrangement is in force; it has received his sanction, personal and official. And now you are to pass this law to give a semi-validity to this monstrous system of tyranny and oppression under the guise of a military bureau backed by bayonets, in the State of Kentucky—

"and in so doing will be governed by the laws of this State, except so far as those laws make a distinction on account of color."

Oh, yes! And here the honorable Senator's bill says to Kentucky, "Whenever you shall reform and modify your laws so as to give the negro equal civil rights"—and the next demand will be equal political rights—"we will then remove this screw from you." Sir, this measure is intended to place Kentucky and the southern States on the rack; the thumb-screw and the pincers are to be applied to their muscles and nerves for purposes of torture, and this torture is to be continued and applied, and applied until these States are subjugated, enslaved, unmanned, ignobly whipped into a compliance with these degrading conditions. Why, Mr. President, I should suppose that this terrible contest had caused the people of the different States and sections of the United States to become acquainted with each other. Is that the way to reunite the States, to introduce peace and fraternity and brotherhood among the lately warring States and sections? How long has that system been attempted in Ireland? From the days of Henry II, and especially from the time that William of Orange crossed the Boyne water. And what was the effect? There were discriminating laws made there against the Catholic Irish. They felt that those laws were in violation of all their natural rights, and in degradation of all their manhood. They opposed them from century to century, from age to age, from generation to generation; and the Iron Duke himself, when Prime Minister of England, was at length made, by the determination and constancy of this long struggle of a brave and a gallant and an unconquered and an unconquerable people against tyranny, to yield to their just demands. What did he say? Said he, I have seen as much war as most men; he had been the conqueror of Napoleon, and the honors and rewards of Europe and its potentates were being showered down upon him; he was the acknowledged greatest military captain of the age, if not of any age; and, said

he, "The most of my military service has been in civil war; and I tell you, my lords"—making a speech in the House of Lords—"that if the sacrifice of my life would prevent civil war in this empire only for six weeks I would cheerfully make that sacrifice."

Do the men that urge forward this measure by a disfranchisement of eleven States by a dismemberment of the Union think that the representatives of those States when they get into their places here, and their people, will ever recognize the validity, much less the justice and the binding obligation, of your amendments to the Constitution and these measures of policy that are adopted to grind them to the dust? No, Mr. President; they will regard them as the Irish did the oaths excluding Roman Catholics from office, from a share in their Government from a right to vote, and justly. These men do not want fraternity; they do not wish a reunion—not for the present. It is not their purpose. Their purpose is to keep up the fury and the tempest of passion upon the cry that the war is not yet over, although the President has proclaimed it to be so, and although you are appointing and approving appointments into all the southern States daily. They want this commotion, this turmoil, this fury of passion that dethrones reason, that destroys all the charities of the human heart, that subverts patriotism and every duty of life, private or public—they want this mad frenzy of passion to continue, and they want under it to be justified or excused by their States and constituency for the dissolution of the Union that they have made, and for this lawless, violent, unconstitutional exclusion of eleven States from their representation on the two floors of Congress.

Oh, say gentlemen, they will come in after awhile; it shall be done. When will it be done? When you have passed through the two Houses of Congress by a vote of two thirds some of the most obnoxious propositions as amendments to the Constitution; when you have passed your despotic suffrage bill for this District where there are scarcely ten white citizens who are not opposed to negro suffrage; when you have imposed the same odious principle upon the southern States which most of the northern States reject with scorn; when you have authorized this infamous Freedmen's Bureau, the very device of the spirit of oppression and of injustice, to go into all the States; when you have passed the kindred measure to give the negro "equality before the law," in the hackneyed phrase of the Senator from Massachusetts, and when you have passed all the other unjust and outrageous measures which you may deem necessary for the preservation of your party ascendancy that you may hold on to power.

Mr. President, I tell these gentlemen they do not want reunion at present. Why? You, sir, [Mr. Howe in the chair] represent a great and growing and gallant young State of the Northwest. Suppose all New England was held out of its representation in the Senate and in the other House as the eleven States are, where then would be the sonorous voice of the Senator from Massachusetts? Where would be his protest, delivered in thunder tones in this Chamber and resounding through all the mountains of New England? Suppose the great Northwest were excluded. Mr. President, there are many ups and downs in life. Political parties in countries having the form of free government are especially liable to vicissitude. It is an accident almost that the party who are now in power are not the party in rebellion. If the Lecompton constitution, against which I was a determined foe, had been passed, and Kansas had been admitted into the Union under that constitution, a revolt of the free States would certainly have taken place, and every man, not excepting the honorable Senator from Illinois, who is now shouting for these monstrous infractions of the Constitution, these fearful usurpations of power, all these measures of oppression which we are denouncing, would have been loud in denouncing them. In the ups and downs of parties, it may come to pass in a few years that the tables will be turned, and then the gentle-

men who constitute the Black Republican party, and who are now so magisterially wielding power in this Government and all over the United States, may be made to take that very Procrustes's bed which they have constructed for their adversaries. How would they lie upon it? I hope to live to see this party hurled from power; but I hope never to live to see the day when any party, its successor, shall seek to practice the same enormous abuses of power, and the same oppression upon its members, that they have practiced upon those who are opposed to them.

Mr. President, I am no party man. I am fighting this battle upon my own hook. I am fighting it under the inspiration and the teachings of Mr. Clay, when he proclaimed his noble sentiment that ought to be deeply graven upon the heart of every American statesman and legislator: "I would rather be right than be President;" and it was true as it was noble. Sir, if in the short remnant of life that is left to me any party should dethrone the present party in power, and should seek to turn the same engines of oppression upon it that it has so lavishly and unscrupulously attempted to enforce against others, I would be as much opposed to the exercise of those powers and the toleration of those abuses then as I am now.

Mr. President, that great man to whom I have referred, in 1821, averted one civil convulsion on the Missouri question, enforcing by his matchless eloquence and his irresistible power over men that compromise measure through Congress. In 1833, when the clouds of war rose again in the South and threatened to burst in fury over the whole land, he averted a second time the terrible calamity of civil war. In 1850, after the Mexican war had closed by the acquisition of a large scope of country, no man had wisdom or statesmanship or courage or power to adjust the vexed question that then arose except Mr. Clay. He again commanded the tempest not to rise, and the country had a further continuance of peace. Mr. President, if it had pleased Providence in its bounty, in its goodness, to this country, to have spared the life of that great man, and also Mr. Webster, they would have averted again the terrible calamity that has convulsed this country and that has imperiled, I fear forever, constitutional government and the liberties of the people.

Mr. President, it was the matchless eloquence and the unequalled statesmanship of that great man that enabled him to achieve those great results for the common good and peace of our country. It was his mighty power over men, it was the breadth and depth of his patriotism, it was his genius and the fiery grandeur of his soul, and his most marvelous command over men, that enabled him to effect these great consummations. He was always for compromise, for peace, for pouring oil on the troubled waters. He wanted no civil strife, no sectional war, no war that would shake the pillars of the Constitution to their deep base, and perhaps bring down the edifice of liberty forever. If the present generation would look back to his example, his noble principles, and his peerless and expanding patriotism that knew no section, no parties when the country and its Government were in peril, and would act a little in the spirit of the example and counsels of that great man, it seems to me that the wounds deep, bleeding, and immedicable as they seem to be, of the country might speedily be healed.

Mr. SHERMAN. I have no desire to delay the passage of the bill by saying anything on its merits; but a statement has been made to me by a person from South Carolina bearing a letter from an acquaintance of mine in the House of Representatives, that I desire to submit to the Senate for its action. It seems that one section of this bill, probably the fourth section, relating to the title to certain lands in South Carolina, has excited a good deal of attention in that State. It is known that that State has no Representative here, no one to speak for the white people or the black people there. The Governor of South Carolina, under the reconstructing movement, has written a long letter

intended for Congress; which is now in the hands of a printer for the purpose of being printed. What its contents are I do not know; but at any rate it bears upon that direct question. The gentleman who bore that letter from Governor Orr told me that it would be printed by to-morrow morning. I submit the question to the Senate, whether they are willing to postpone the final vote on this bill until that document can be before them; I have no opinion in regard to that point. I do not know that a perusal of the document would change the opinion of any member of the Senate in regard to the bill; but it is due to Governor Orr, and it is due to the subject, that I should mention the matter to the Senate, as I promised to do. I do not think any harm will result from our laying this bill over informally until to-morrow; and by to-morrow morning the paper to which I have alluded, whatever it may be, will be laid upon our tables. I submit the matter to the chairman of the Committee on the Judiciary.

Mr. TRUMBULL. If it was a simple question of laying over the bill until to-morrow, and no public considerations were involved in it, I should presume there would be no disposition to hasten a vote upon it to-day: but the condition of the bill is such that it cannot now be amended; and this is not the last action upon the bill; when we pass it it goes to the House of Representatives, to be there considered, and whatever considerations may be presented in the letter of the Governor of the reorganized authorities in South Carolina can go before the committee of the House of Representatives. If this were final action it would be different. If this were a House bill now upon its passage here, which was to become a law and pass from our consideration, and an application was made by a person having some interest in its provisions to be heard, it would be different. But this is not the final action to be taken by Congress upon the bill. It will go to the House of Representatives after we pass it for consideration there. We cannot change or alter the bill at its present stage without a reconsideration of our action and opening it for amendments generally, or perhaps without a recommitment of it; and the result would be that we should have over again the debate which has occupied the Senate for the last week or two. It is known to the Senator from Ohio that we were delayed nearly the whole day yesterday on amendments that were proposed, and upon which the yeas and nays were repeatedly called. Under the circumstances I do not see that anything is to be lost to the people of South Carolina by our acting to-day.

Mr. DAVIS. I suppose there will not be any objection from any quarter to the proposition which the Senator from Illinois now makes.

Mr. TRUMBULL. I have made no proposition. I was answering the suggestion of the Senator from Ohio. I think that, under the circumstances, in the present condition of the public business of the country, and when nothing is to be lost to the parties who wish to bring some facts to the consideration of Congress by the passage of the bill to-day, inasmuch as they can bring this matter before the House of Representatives, it is unreasonable to ask that we should longer delay action upon the bill.

I should in the ordinary course of things, as I am upon the floor and have charge of this bill, feel it incumbent upon me to reply, in the conclusion of this debate, to some of the objections which have been urged against the passage of the bill; but so much time has been occupied, as I conceive, in dilatory motions, and what cannot but be regarded as a debate designed to prevent action upon the bill, that I do not feel myself justified in occupying any considerable time in replying either to the Senator from Kentucky or to other Senators who have spoken against the passage of the bill. I will hastily, however, as it is not quite three o'clock, and designing to conclude all I have to say by that hour, reply to all I think there is in the remarks of the Senator from Kentucky.

He has strained his voice to the utmost and

talked about the fury of passion which governs the Senate, of the monstrous infractions of the Constitution, and of the Black Republican party! Now, does the Senator suppose that these epithets and these high-sounding words make the bill unconstitutional? Has anybody displayed half the fury of passion that he has? Has anybody been so much excited as he has? Who has delayed the Senate by the fury of passion and denunciation but the Senator from Kentucky himself? Sir, the declaration that this is a monstrous infraction of the Constitution does not make it so; nor does the declaration of the Senator that because some of the States in the Union are not represented here, it is therefore unconstitutional, prove that to be so.

That is his first position. The very statement of an argument is sometimes its most perfect refutation. The Senator assumes here and argues that because some of the States of the Union, having been in rebellion against the Government, and not yet restored in their relations to the Government, are not represented here, it is therefore unconstitutional for us to pass a law! What is the Senator from Kentucky here for? Why does he not go home? Why is he sitting here but to pass laws? Is it unconstitutional to pass this bill because some States are not represented here? Why, sir, what sort of a Government would it be if some State, by withdrawing its representation, could take away the constitutional power of the Congress of the United States to pass a law? The absurdity of the proposition is such that it needs not to be argued to be refuted.

But he says that there is a clear violation of the Constitution in this bill, because judicial power is by it conferred upon the officers and agents of the Freedmen's Bureau. He says it is admitted that such power is conferred, and then he reads the clause of the Constitution of the United States which declares that the judicial power shall be vested in a Supreme Court and inferior courts, to be established by Congress, and he says these officers of the Freedmen's Bureau are not the courts contemplated by the Constitution; and he reads another clause to show that the right of trial by jury is secured to parties, and he says no jury trial is provided for here. Of course not; but how plain a statement shall answer that whole argument.

Are there not other provisions of the Constitution? Has the Senator from Kentucky never read that the Congress of the United States shall have authority to call forth the militia to put down insurrection and rebellion? Does not the Senator from Kentucky know that from eleven States of this Union every court has been expelled and driven out? And could anything be more absurd and preposterous than for him to talk about trials before the ordinary courts of justice, where every court of justice has been expelled by force of arms? It would not be more absurd for the Senator to contend that when the hundreds of thousands of men met in battle array you should first impanel a jury, and try a traitor, and see whether he was guilty of treason, before you could shoot or hang him? When the time comes that the judicial authorities of the country are overborne, when they are expelled, and armed men rise up in opposition to the civil tribunals, and they have no power to put down the armed resistance, then the military power is called into play, and by military authority the armed insurrection is crushed and put down. The military power governs and controls where no courts can exist. It is under this provision of the Constitution, authorizing judicial powers to be conferred upon military tribunals which have been exercised for the last five years, that judicial authority is now to be conferred upon the officers and agents of the Freedmen's Bureau. Does that Senator deny the authority to hold a court-martial; does he deny the authority of a military commission to try and punish men in rebellious districts where no civil courts can exist, and where all judicial authority is overborne by arms? If he does deny it, he denies the authority to have any Government at all in those districts, and we should have a state of anarchy and confusion.

The Senator says the laws of Kentucky forbid a white man or woman marrying a negro, and that these laws of Kentucky are to exist forever; that severe penalties are imposed in the State of Kentucky against amalgamation between the white and black races. Well, sir, I am sorry that in noble Kentucky there is such a disposition to amalgamation that nothing but penalties and punishments can prevent it. But, sir, it is a misrepresentation of this bill to say that it interferes with those laws. I answered that argument the other day when it was presented by the Senator from Indiana. The bill provides for dealing out the same punishment to people of every color and every race; and if the law of Kentucky forbids the white man to marry the black woman I presume it equally forbids the black woman to marry the white man, and the punishment is alike upon each. All this bill provides for is that there shall be no discrimination in punishments on account of color; and unless the Senator from Kentucky wants to punish the negro more severely for marrying a white person than a white for marrying a negro, the bill will not interfere with his law.

But he says the Freedmen's Bureau did not originally embrace Kentucky, and it is a monstrous usurpation to extend it over Kentucky, and thereupon he assaults the Attorney General, who, I suppose, is capable of defending himself.

Mr. WILSON. If he has a chance.

Mr. TRUMBULL. Even without a chance. I do not imagine he will be very seriously damaged by what the Senator from Kentucky has said. Did the Senator ever look at the original law to see whether it reached Kentucky? What is its language?

"That there is hereby established in the War Department, to continue during the present war of rebellion, and for one year thereafter, a Bureau of Refugees, Freedmen, and Abandoned Lands, to which shall be committed, as hereinafter provided, the supervision and management of all abandoned lands, and the control of all subjects relating to refugees and freedmen from rebel States, or from any district of country within the territory embraced in the operations of the Army."

Was not Paducah embraced in the operations of the Army? The original Freedmen's Bureau bill was not confined to the rebellious States; it was confined to the refugees and freedmen from those States and from localities occupied by the Army, and that is all there is in the present bill. It extends to refugees and freedmen wherever found; so did the original bill, and there is no usurpation in the authority which has been assumed in the State of Kentucky.

What I have now said embraces, I believe, all the points of the long gentleman's speech except the sound and fury, and that I will not undertake to reply to.

Several SENATORS. You mean the short gentleman's long speech.

Mr. TRUMBULL. Did I say short? If so, it was a very great mistake to speak of any thing connected with the Senator from Kentucky as short. [Laughter.]

Mr. DAVIS. It is long enough to reach you.

Mr. TRUMBULL. The hour having arrived which was agreed upon by the Senate for taking the vote upon this bill I shall not continue my remarks, but trust that we shall now come to a vote upon it.

Mr. JOHNSON. I have no purpose to debate the bill, and rise with no such view; but I suggest whether it would not be better to let it go over until to-morrow. It makes no difference in the result.

Mr. TRUMBULL. I have already given my opinion that there is no reason for its going over.

Mr. JOHNSON. I was not addressing myself so much to the Senator as he may suppose; I was appealing to the Senate. I understand from my honorable friend from Ohio [Mr. SUMNER] that there is a committee here from the Governor of South Carolina with a communication from him on the subject of this bill; I do not know what it is; but all the request that is made is that we shall be put in possession of the information they communicate before the final vote

is taken. It is true the communication may be presented in the House of Representatives; but then it may be that the House would find nothing in that communication to change their opinion in regard to the bill, when the Senate might think otherwise and might change its action if it had the subject before it. I suppose that whether the bill passes to-day or to-morrow can make little or no difference so far as the bill is concerned. It really seems to me that when the Governor of a State, the people of which are interested in a bill, asks an opportunity to allow them to be heard, and asks for that purpose only a delay for a few hours, it would be but proper, unless some public interest is to be defeated by it, that that request should be complied with. I make the suggestion with no purpose of defeating the bill—I have no such purpose; I have said all I propose to say about the bill—but merely that the Senate should be in a situation to decide understandingly on the whole matter. It may be that there are matters connected with this subject, as far as relates to South Carolina, of which the Senate now know nothing, that would, if we had them before us, change the views of the Senate in some respects.

Mr. TRUMBULL. It will not be too late for the Senator from Maryland to move a reconsideration to-morrow if he wishes to do so, in case the bill be now passed and there shall be found to be anything in this communication requiring it. All there is about it is that some gentleman who has arrived here in the city of Washington tells us that he has got a communication from the Governor of South Carolina in regard to the abandoned lands there, and he asks Congress to delay its public business and postpone a measure which has been considered for two weeks, that he may have a letter published. The letter, I understand, is not addressed to Congress. I presume it is a very valuable letter; I should like to see it; I should like to get all the information I can. I have not seen the letter, but I am informed by the person who brings it here that he has a letter addressed to the President. It is not addressed to Congress. When he applied to me I told him that if he would furnish me a copy of the letter I would have it read in the Senate, but he informed me that as it was not an official letter, addressed to Congress, he did not feel justified in doing so. I see no reason for delaying the legislation of Congress on any such assumption. This is not a finality. I understand that the letter, whatever it is, is to be published, and the Senator can move a reconsideration to-morrow; or if there is anything in the letter worthy of consideration, the other House can consider it. This, I think, to say the least of it, is not a very modest request to lay before the Senate.

Mr. JOHNSON. I am very sorry to differ from the honorable Senator from Illinois. Perhaps I am as little likely to be immodest as he is. I am not sure that I have done anything that would justify the honorable Senator in saying that the request I make is not a modest one. It is a request merely that we should defer final action until the State of South Carolina through its Governor shall be heard. It is true—I was aware of that—that a motion to reconsider can be made in the morning; but as I do not propose to vote for the bill, I do not like to vote for it merely for the purpose of being in a position to be able to move a reconsideration. I have no objection, however, to the course suggested by the honorable Senator if he will agree to-morrow morning to move a reconsideration. The Senator will vote for the bill, and if he will move a reconsideration, I shall be satisfied.

Mr. CONNESS. I will do that for the Senator.

Mr. JOHNSON. Very well, then; I have no objection.

Mr. TRUMBULL. It is due to myself to say that in using the words "modest request," I did not intend to apply my remark to the Senator from Maryland. I applied it to the request that came from the agent.

Mr. CONNESS. I so understood.

Mr. TRUMBULL. I do not think my words would have justified that application. I certainly made no such application. I thought it was not, to say the least, a very modest request on the part of the agent who came here with a letter addressed to the President of the United States to come to members of the Senate and ask them not to pass a bill until he could have that letter published, and laid before them, when it was not a letter addressed to Congress.

Mr. JOHNSON. I am perfectly satisfied. I should not have supposed that the honorable member intended any slight to me, but I thought it barely possible that it might be understood otherwise by persons within the hearing of the honorable Senator. I know him well enough to know that he is incapable of offering any offense designedly to any member of the Senate.

Mr. SAULSBURY. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 37, nays 10; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Creswell, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Harris, Henderson, Howard, Howe, Kirkwood, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Norton, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Wade, Williams, Wilson, and Yates—37.

NAYS—Messrs. Buckalew, Davis, Guthrie, Hendricks, Johnson, McDougall, Riddle, Saulsbury, Stockton, and Wright—10.

ABSENT—Messrs. Cowan, Nesmith, and Willey—3.

So the bill was passed.

The PRESIDENT *pro tempore*. If no amendment be proposed to the title of the bill, it will stand as reported, namely: a bill to enlarge the powers of the Freedmen's Bureau.

Mr. DAVIS. I move to amend the title by substituting this for it: a bill to appropriate a portion of the public land in some of the southern States and to authorize the United States Government to purchase lands to supply farms and build houses upon them for the freed negroes; to promote strife and conflict between the white and black races; and to invest the Freedmen's Bureau with unconstitutional powers to aid and assist the blacks, and to introduce military power to prevent the Commissioner and other officers of said bureau from being restrained or held responsible in civil courts for their illegal acts in rendering such aid and assistance to the blacks; and for other purposes.

The PRESIDENT *pro tempore*. In the opinion of the Chair, the proposed amendment is not in order. The Chair will state that the original title of the bill will stand as the title, unless objected to.

Mr. DAVIS. I ask the Chair to intimate on what ground the amendment is not in order. Why is the proposition to amend the title which I have proposed not in order?

The PRESIDENT *pro tempore*. The Chair thinks that the proposed amendment is not in order, as it is inconsistent with the character of the bill, in effect pronouncing it unconstitutional; pronouncing it a bill to promote strife, sedition, and tumult; it is certainly derogatory to the Senate, a reproach to its members, to have passed such a bill. If the Senate so understood it, they would not have passed it. The proposed title of the bill is not consistent with its provisions as understood by the Senate, and as the Chair is bound to understand it—it is not descriptive of its true character.

Mr. DAVIS. I did not know that it was in the competency of the Chair to decide that question. I supposed that if the Senate thought such was the character of the amendment the Senate would vote it down: that is the function of the Senate to decide that matter, and not the function of the Presiding Officer.

The PRESIDENT *pro tempore*. It is certainly competent for the Senator to take an appeal from the decision of the Chair. The Chair is very happy to say that its decision is not final.

Mr. DAVIS. I do not understand that the Chair has the right to make any such decision, and for that reason I do not make any such appeal.

Mr. TRUMBULL. I believe there is nothing before the Senate. I move that the—

The PRESIDENT *pro tempore*. The question is on the title of the bill. The Chair does not mean to cut off any Senator from having his views brought in full before the Senate, and decided by the Senate, instead of being cut off by any decision of the Chair.

Mr. McDOUGALL. I think the opinion of the Chair has been well pronounced. The Chair is the representative of the dignity of the Senate, and is to say what becomes the body. This is a matter that concerns our own dignity as Senators. The Chair has well pronounced. The suggestion that is involved in the amendment is an insult to the action of the Senate; or if not an insult it is at least offensive. It was therefore well adjudged by the Presiding Officer that it is not within the rules of order, because it is the business of the officer who presides over this body to see that the dignity of the body is maintained at all times.

Mr. TRUMBULL. I believe that matter is disposed of.

The PRESIDENT *pro tempore*. The question is yet upon the title of the bill. Unless objection be made the title will stand as reported by the committee. That stands as the title.

PROTECTION OF CIVIL RIGHTS.

Mr. TRUMBULL. I now move that the Senate proceed to the consideration of the bill (S. No. 61) to protect all persons in the United States in their civil rights and furnish the means of their vindication.

Mr. HOWE. I do not propose to object to the taking up of that bill at the present time, but I wish to remind the Senate that on the tenth day of this month I had the honor to introduce a joint resolution, and was allowed by the Senate to submit some comments upon it. That is not a very unusual procedure. There have been since that time, however, two or three speeches made in opposition to the resolution. It has not yet reached the committee. The Senator from Maryland, [Mr. JOHNSON,] on the day succeeding that on which I introduced the resolution, spoke upon it, and at the close of his remarks I took the floor with the view of submitting some brief reply. Senators about me asked me to give way to a motion to adjourn, and reluctantly I did so. On the next day, it will be remembered, the Senator from Maryland was obliged to be out of town, and at his request I postponed the consideration of the resolution that he might be present when I did attempt the reply which I contemplated. Before his return the bill which has just been passed by the Senate intervened, and since that time I have not ventured to ask the Senate to renew the consideration of that resolution. I rise now for the purpose of saying that to-morrow at one o'clock I shall ask the Senate to take up that resolution and allow me to submit some remarks in reply to the Senator from Maryland, and also to my colleague, and then I shall be entirely willing that it shall go to the committee, as I proposed in the first instance, or that any other disposition may be made of it which the Senate shall see fit to make. I shall not object, of course, to the taking up of the bill of the Senator from Illinois at the present time, but I hope to-morrow he will not make any objection to the request which I now submit.

Mr. GUTHRIE. I think that after the time we have devoted to-day and heretofore to the bill just disposed of, the Senator from Illinois ought to allow us to adjourn now without taking up any more of his bills. I move that the Senate do now adjourn.

Mr. DIXON. I move that the Senate proceed to the consideration of executive business.

Mr. TRUMBULL. I hope not until we get this bill up. The bill is not yet up. Let the bill come up, and then I shall not object.

The PRESIDENT *pro tempore*. The motion of the Senator from Kentucky is that the Senate do now adjourn.

Mr. GUTHRIE. I withdraw it if the Senator from Connecticut wishes to press his motion.

Mr. DIXON. I renew my motion for an executive session.

Mr. TRUMBULL. I hope the Senator will not press that until we get up this bill, and then I shall not object. I wish the bill to be taken up that it may be the order of the day for tomorrow.

Mr. DIXON. I withdraw my motion at present.

The motion of Mr. TRUMBULL was agreed to.

EXECUTIVE SESSION.

On the motion of Mr. DIXON, the Senate proceeded to the consideration of executive business; and after some time consumed therein the doors were opened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, January 25, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

REPORTS OF GENERALS GRANT AND SCHURZ.

Mr. LAFLIN, from the Committee on Printing, submitted the following report, and demanded the previous question on the adoption thereof:

Resolved, That twenty-five thousand copies of the report of Generals U. S. Grant and Carl Schurz, with the accompanying documents upon the condition of the late rebellious States, be printed for the use of members of this House.

The demand for the previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. LAFLIN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. WASHBURNE, of Illinois, demanded the regular order of business.

BUREAU OF AGRICULTURE.

Mr. MOULTON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Commissioner of the Bureau of Agriculture be, and he is hereby, requested to communicate to this House—

First, the amount of money that has been received from any source by his bureau since he has had charge of the same.

Secondly, a statement in detail of the disbursements and expenditures of said bureau during the same time.

Thirdly, the yearly cost to the Government of said bureau, including every expenditure connected with the same.

Mr. MOULTON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

NATIONAL BANKS.

Mr. WASHBURN, of Massachusetts, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Banking and Currency be requested to consider the expediency of so amending the national banking act as to provide by law that in case any bank desires to surrender its charter and close up its business, it shall be enabled to do so within a reasonable time.

INTERNAL REVENUE.

Mr. INGERSOLL, by unanimous consent, introduced a bill to amend the laws for the collection of internal revenue; which was read a first and second time, and referred to the Committee of Ways and Means.

REMUNERATION FOR LOSSES AT SEA.

Mr. RICE, of Massachusetts, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of providing by law for remunerating owners of property thrown overboard or otherwise destroyed at sea in order to preserve human life in cases of shipwreck or other peril, and that they have leave to report by bill or otherwise.

PRIVILEGE OF THE FLOOR.

Mr. FINCK, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That Hon. Charles Pollett, contesting the seat now held by Hon. COLUMBUS DELANO, from the thirteenth district of Ohio, be entitled to the privileges of the floor during the pendency of the consideration of said contest.

Mr. FINCK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

RESERVED LANDS IN MICHIGAN.

Mr. FERRY submitted the following resolution; which was read, considered, and agreed to:

Whereas by reservations under various railroad grants, and subsequent extensions of time for the construction of railroads, large tracts of land in the State of Michigan are withheld from market, to the detriment of the State, by seriously obstructing settlement and vitally impeding its growth and wealth; Therefore,

Resolved, That the Committee on Public Lands be instructed to consider the propriety of restoring, at an early day, these lands to market at a price not exceeding that fixed by Government for even and adjoining sections, and the proceeds thereof held, instead of the lands, for such railroad purposes, the State concurring; and that the committee report by bill or otherwise.

SUFFRAGE IN THE DISTRICT OF COLUMBIA.

Mr. FARQUHAR, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee for the District of Columbia be requested to report an amendment to the election laws of the District of Columbia with proper provisions excluding from the right of suffrage all persons who have voluntarily borne arms against the United States during the late rebellion.

TEST OATH.

Mr. BENJAMIN submitted the following resolution; which was read, considered, and agreed to:

Whereas it appears from reports of the Secretary of the Treasury and the Secretary of War to the Senate and House of Representatives, in response to certain resolutions, that certain persons have been appointed to and are performing the duties of officers of the Government of the United States without having taken the oath required by law: Therefore,

Resolved, That the Committee on the Judiciary be instructed to inquire and report to this House if any of the officers so appointed are required by law to execute official bonds, and if so, if the securities to such bonds are liable for any breach thereof.

Mr. BENJAMIN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

DAVID T. STEPHENSON.

Mr. KERR, by unanimous consent, introduced a bill for the relief of David T. Stephenson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HORSE RAILROAD IN MICHIGAN.

Mr. SCHENCK, by unanimous consent, from the Committee on Military Affairs, reported back, with the recommendation that it do pass, the joint resolution of the House authorizing the Secretary of War to grant the use of a portion of the military reserve on the St. Clair river, in the State of Michigan, for railroad purposes.

Mr. SCHENCK. The town of Port Huron—Port Huron City, as it is called—in Michigan, is at a distance of two miles from the depot of the railroad leading to it. There is a military reserve belonging to the United States lying between the railroad depot and the town. It is desired to have the privilege of running cars through this military reserve in order to reach the town from the depot, for the convenience of the inhabitants of the town and passengers on that railroad.

The whole matter has been referred to the Secretary of War, to ascertain whether there exists in the War Department any objection whatever to granting this privilege. It is ascertained that there is no reason why it should not be granted. It will not interfere in any way with the use of the ground for public purposes,

and there is no objection that the committee can ascertain to granting the privilege.

Mr. WASHBURN, of Illinois. I should like to hear the joint resolution read.

The Clerk read the joint resolution.

It authorizes the Secretary of War to grant to Gurdon O. Williams, of the city of Detroit, in the State of Michigan, and his associates, the use of so much of the military reserve on the St. Clair river, in the State of Michigan, known as the site of Fort Gratiot, as is necessary for extending a horse railroad from Port Huron City to the depot of the Port Huron and Detroit railroad, at such rental and upon such terms and conditions as to him may seem proper, reserving to the United States, however, the right of removing the rails, ties, and other parts of said road whenever the Secretary of War shall direct, without any claim or right for damages on the part of the said Williams and associates, or their legal representatives.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

INCREASE OF PENSIONS.

Mr. SCHENCK, from the Committee on Military Affairs, moved that that committee be discharged from the further consideration of the following petitions, and that the same be referred to the Committee on Invalid Pensions:

The petition of eighteen soldiers who have lost arms or legs in the military service for increase of pensions; and

The petition of Hon. T. W. Powell and fifty-six others, citizens of Ohio, for pensions to the surviving soldiers of the war of 1812.

The motion was agreed to.

REPRESENTATION IN CONGRESS.

Mr. WILLIAMS asked unanimous consent to submit the following resolution for reference to the Committee on the Judiciary:

Resolved, That it be proposed to the several States of the Union to amend the Constitution of the United States, in the first clause of the second section of the first article thereof, so as to make the same read as follows:

The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have such qualifications as shall be prescribed from time to time by a general law of Congress to be enacted for that purpose.

Also, to amend the last clause of the eighth section of the first article thereof, so as to make the same read as follows:

To make all laws which shall be necessary for carrying into execution all powers vested by the Constitution in the Government of the United States, or in any department or officer thereof, and enforcing all obligations, provisions, or disabilities imposed thereby on the several States composing the same.

Mr. LE BLOND objected.

CENSUS OF MANUFACTURES.

The SPEAKER laid before the House a communication from the Secretary of the Interior, transmitting a tabular statement of the manufactures in the United States, in response to a resolution from the House of January 17, 1866; which was laid on the table and ordered to be printed.

Mr. HOGAN moved that twenty thousand extra copies of said communication be printed for the use of the House; which motion, under the law, was referred to the Committee on Printing.

NORTON'S POST OFFICE STAMP.

The SPEAKER also laid before the House a communication from the Postmaster General relative to Norton's post stamp; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

Mr. STEVENS and Mr. RITTER demanded the regular order of business.

BASIS OF REPRESENTATION.

The SPEAKER stated the regular order of business to be the consideration of the follow-

ing joint resolution reported by the joint committee on reconstruction:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States; which, when ratified by three fourths of the said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE — Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation.

The pending question was on the motion of Mr. LE BLOND to refer the joint resolution and pending amendments to the Committee of the Whole on the state of the Union, upon which Mr. ELDRIDGE was entitled to the floor.

Mr. ELDRIDGE. Mr. Speaker, I will first express my satisfaction to the gentleman from Pennsylvania, [Mr. STEVENS,] that the sun was allowed to go down on our deliberations upon this most important resolution. I confess that I am one of the gentlemen to whom the gentleman from Ohio [Mr. SCHENCK] referred as being opposed to the amendment of the Constitution. I believe that this is not the time for its amendment, and I believe, further, that there are other States than those represented upon this floor which are entitled to deliberate with us on that question; and to that point I shall mainly address the remarks which I have to make at this time.

Mr. Speaker, the war, we have been officially informed, is over. That greatest conflict of modern days that hung the heavens in black and moved the world is ended. The graves of the slain are growing green, and the hearts that were torn with unutterable anguish are beginning to heal. It is time that the fearful and malignant passions which were aroused in the breasts of the opposing parties should be permitted to die; that time, which assuages our griefs and mitigates our sorrows, should modify our resentments and cool our anger. It is time, indeed, when a calm retrospect of all those bloody and sorrowful days of war and sanguinary strife should be taken. The warrior should be succeeded by the statesman. It should be ascertained speedily and accurately where we are, what we have accomplished, whither we have been drifting, and whether the ship of state is now under the control and guided by the chart and compass, the Constitution.

There is, perhaps, no better way to ascertain the present relations of the revolted States to the Union than by considering the purpose and object of the war.

It was a fearful conflict and prosecuted on the most gigantic scale possible on both sides. The insurgents struggled against fearful odds, and almost to complete exhaustion. They sacrificed everything and exhausted every resource. A sublimer will, a more determined purpose never possessed and inspired a great people than that which filled the hearts and minds of the adherents of the Union. With greater resources and greater numbers, as one vast army went down another and another came rushing like the mighty winds to the field of battle. Every soldier that fell inspired a score to fill his place and avenge his death. Every man, every life, and every dollar of the Republic were pledged and ready upon call to secure success, to insure victory. And few were found to say it was too much.

And what was it all for—what was the purpose, what was the object of all this expenditure of treasure and life? Was there no great and good purpose commensurate with the sacrifices the nation was making and willing to make? Was it a mere feud, some great hatred of the sections, for which, in blind frenzy, in furious passion, in mere madness they were seeking each other's lives and destruction? Was it this that moved a great and good people to such a mighty conflict with each other?

Sir, the purpose and object of the war were

so clearly laid down, so definitely understood, its necessity so apparent and the result to be obtained so meritorious and patriotic, that during the period of its prosecution it was, in the judgment of the majority of this House, disloyalty amounting almost to treason to question or doubt the propriety even of the manner in which it was conducted. Many wrongs, many outrages upon the rights and liberties of the people were, indeed, perpetrated. There were arrests and imprisonments without warrant, trials without jury; freedom of speech and the press was denied, and almost every violation of all the sacred rights of liberty and conscience. All these were submitted to and even justified, because they were only temporary expedients by which to accomplish the sacred purpose in the name of which they were perpetrated.

And, sir, what was the purpose, what was the cause for which the people, the citizens of the Republic, were called upon to suffer and forbear so much? Our country was rich, prosperous, great, powerful, and happy. Its commerce whitened every sea and its proud flag waved honored and respected in every port. The people had not become dissatisfied with republican institutions; they desired not to go back to monarchy or build up empire. Some of the citizens of some of the States had become dissatisfied with their place in the Union and determined upon secession, "peaceably if they could, and forcibly if they must." If those States or the people thereof did commence the war, what was it for, what did they seek to obtain? Was it for any other purpose than to break off their constitutional relations with the Union and with the other States, that they might realize secession as a fact? That was the avowed and well-understood purpose of all their warlike measures.

The adhering States joined issue with the secessionists upon that precise and only question. They denied the right, under the Constitution, for any State or the inhabitants thereof to secede. They held the Union to have been formed in perpetuity; that nothing but successful revolution could ever break or divide it. And to save the integrity of the Union, to hold the rebellious States to their constitutional obligations, to coerce them and the people to perform their duties and functions according to the Constitution in the Union, they accepted the wager of battle. In this connection I desire to call the attention of the House to the message of the late Executive, which has been so often referred to in debate on this subject; not because it was the opinion of Mr. Lincoln, but because it was in the nature of a proclamation to the nations of the world, to the loyal people of the country, and to the rebels in arms, of the terms of war and peace with the insurgent States, which is still binding upon the national authorities:

"Let there should be some uneasiness in the minds of candid men as to what is to be the course of the Government toward the southern States after the rebellion shall have been suppressed, the Executive deems it proper to say it will be his purpose then, as ever, to be guided by the Constitution and laws."

"He desires to preserve the Government that it may be administered for all as it was administered by the men who made it. Loyal citizens everywhere have a right to claim this of the Government, and the Government has no right to withhold or neglect it."

This declaration was made at one of the most important epochs of the war. It was put forth to relieve the "minds of candid men" as to the course of the Government when rebellion should be suppressed. It was uttered to loyal citizens everywhere, in the insurgent States as well as the adhering.

It was the platform on which the war on behalf of the Republic was to be carried on, and the basis of peace and reunion when victory should be obtained. It was not alone the declaration of the head of a great party, it was the head of the nation speaking by the authority and in the name of the Government. It was spoken to the loyal and the disloyal. It was intended to weaken the rebel cause and encourage the supporters of the Government. It is a full solution of all our troubles and difficulties. It is as binding now the war is over as it was before.

It is the policy of the present Executive, as I understand it, to carry out and keep the plighted faith of the Government. And it is this which brings upon his head the maledictions of the radicals.

The Executive is no more committed to this doctrine than Congress and the people of the northern States. The late President declared over and over again "that his paramount object was to restore the Union." In view of all this he was reelected, and in March, 1863, he was indorsed and indemnified for all he had done, by act of Congress.

In July, 1861, the House of Representatives almost unanimously declared the war not to be a war for "conquest or subjugation," but to "maintain the supremacy of the Constitution," to "preserve the Union with all the dignity, equality, and rights of the several States unimpaired." This was the declaration of war on the part of Congress. These declarations by Congress and the Executive were intended as the war platform of the country. It was the war platform of the miscalled Union party; the one upon which it gained its present power and strength—the strength and power by which it is able to resist and prevent the complete reunion of all the States, and deprive them of their representation in this Congress.

Sir, I maintain these declarations are in the nature of promises made to an enemy in the course of war; made for the purpose of drawing off his adherents, of weakening his forces. The insurgents had a right to rely upon them till the terms were withdrawn. Many did rely upon them. There was no time specified within which they should avail themselves of them. They remained open till peace was declared. The insurgents laid down their arms upon those terms as clearly as though they had been in the stipulation. There was no separate national existence admitted in the insurgents. On the contrary it was claimed and insisted, on the part of the Government, that there was not enough of the enemy to justify or authorize a treaty; no competent authority with which we could treat. They laid down their arms finally on demand and by force of the power of the Government, and submitted themselves to the jurisdiction and authority of the United States. The arbitrament of the sword was ended. From that moment, from the moment peace was declared, they were subjects of the United States Government, entitled to the protection and liable to answer to the offended majesty of the Constitution and laws.

Sir, these pledges to the world, to the country, and especially to the loyal men of the insurgent States, made when they were struggling with and overborne by a force which neither they nor the whole power of the Government could resist, ought to settle at once and forever the whole question of reconstruction—ought to permit the people of these States to resume their proper relations to and duties in the Union without further hinderance or delay.

We all remember how you of the majority cried out against the disloyalty of the Democratic Chicago convention during the last presidential campaign, and also the furious denunciation in this House, only the other day, by the honorable gentleman from Ohio, [Mr. BINGHAM,] of the members of that convention as "conspirators," because they resolved "that after four years the war had failed to restore the Union." Bitter and terrible as your denunciations were, with how much more force do they apply to you who insist that the Union is not to-day restored! It is not only after more than four years of war, but after peace conquered, after full submission of the insurgents, you declare that war has failed to restore the Union. Nay, more, you stand with the sword of party power over the very portals of the Union to resist the resumption by the States of their constitutional duties and functions. You resolve, not only that it has not, but that while you have the power it shall not, be restored. Nay, more even than that, you insist that the war has killed the States, and of

necessity destroyed the Union. When before was there ever exhibited such faithlessness, such perfidy, such utter disregard of all promises and principles?

It would seem that any party of men not absolutely debauched or dead to all sense of honor, in view of the record you have made, the pledges you have given, the hopes you have inspired, the sacrifices you have demanded, the lives that have been offered up, and the vast debt you have incurred, all in the name of the Union, that you would, without further technical higgling over the rights of the conqueror, the doctrines of estoppel and forfeiture, or the result of conceding belligerent rights, hasten to fulfill your plighted faith and the just expectations of a vast majority of the American people, by realizing at once and forever the promised fruits of victory in a restored and regenerated Union. Nothing short of this is a fulfillment of your pledges, nothing less would justify the war you have prosecuted, nothing else would be justice to the conquered or worthy of the conqueror. On the sole ground of good faith, if there were no other, I demand the constitutional union of all the States.

But in the absence of all pledges given by the Government in the course of the war, claiming nothing on the ground of its plighted faith, I insist the insurgent States are not out of the Union, and that they can never get out except by successful revolution, and none but secessionists ever dreamed that they could. It is the greed of illegal gain, the lust of power, the love of dominion, the maddening taste of blood, and the desire of vengeance upon a fallen foe that has made these new converts to this doctrine. It finds its impulse and its logic in infuriated passion, in malignant hate, and would debase reason and justice to justify the indulgence.

The honorable gentleman from Pennsylvania, [Mr. STEVENS,] who I believe never made any virtue of love for the Union, and who during the war declared, "This Union never shall, with my consent, be restored under the Constitution as it is," sets himself to work with his great learning and vast research to find among the musty records of the past some plausible ground to prevent its restoration now the war is over.

He gravely tells us there has been a war between the so-called confederate and the United States. I did not suppose it was denied or doubted that the state of things existing between them was a state of war. There need be no reference to authority to convince the people of this country or any other that we have had war. The absence of some loved one from almost every house and hamlet in all the land who has fallen on the deadly field of battle, the mutilated veterans whom we meet in our daily walk, and the mourners that go about the streets, are too solemn reminders to require argument or authority to satisfy us that there has been a most sickening and heart-rending war. But the honorable gentleman insists that this war has had the effect to sever and divide the Union and place the insurgent States in the power of the Government as conquered provinces. To sustain his position he cites the following from Vattel:

"A civil war breaks the bands of society and government, or at least suspends their force and effect; it produces in the nation two independent parties, who consider each other as enemies, and acknowledge no common judge. These two parties must therefore be considered as thenceforward constituting, at least for a time, two separate bodies; two distinct societies. They stand, therefore, in precisely the same predicament as two nations who engage in a contest, and being unable to come to an agreement, have recourse to arms."

In my judgment, Vattel lays down no such doctrine as the gentleman claims. The passage cited proves no such thing. It has reference only to the time during which the war continues. A civil war breaks or at least suspends the force and effect of the bands. The two parties must therefore be considered, "at least for a time, as constituting two separate bodies." It must certainly depend upon the result of the war as to whether it breaks or only suspends the

bands and makes the two parties independent societies when the war is over. If the revolutionary party, whose purpose it is to divide and break the union, were to be successful, then it would be permanent. If it fails, if the Government which is prosecuting the war for the purpose of preserving the union, for the purpose of preserving the bands, is successful, then clearly the war has only suspended the bands.

The chapter from which this passage is taken, chapter eighteen, commences in this language:

"It is a question very much debated whether the sovereign is to observe the common laws of war toward rebellious subjects who have openly taken up arms against him. A flatterer or a cruel ruler immediately says that the laws are not made for rebels, for whom no punishment is too severe. Let us proceed more mildly, and that we may clearly see how the sovereign is to behave toward revolted subjects, we should first remember that all sovereign rights are derived from those of civil society, from the trust reposed in him, and the obligation he is under of watching over the welfare of the nation, procuring its greatest happiness, of maintaining order, justice, and peace therein."

Again:

"But what conduct shall the sovereign observe toward the insurgents? I answer, in general, that which shall at the same time be most conscientious to justice and most salutary to the State."

This is the mode of conducting civil war according to the laws of war. But what should be the conduct of the sovereign when peace has been obtained? Let Vattel answer:

"A sovereign having conquered the opposite party and reduced it to submit and sue for peace, he may except from amnesty the authors of the troubles, the heads of the party; may bring them to legal trial, and on conviction punish them."

"When amnesty has been published and accepted, whatever has passed must be buried in oblivion. No one is to be called to account for what he has done relative to the disturbances; and in general a prince who makes any conscience of his word is faithful to keep what he has promised to rebels themselves—I mean to those of his subjects who have revolted without reason or necessity."

Is there anything in all this to justify the conclusion of those who contend that the Government, by the laws of war and of nations, now holds the insurgent States as conquered provinces; that it is authorized to treat all the people of those States as conquered subjects, as public enemies, or as aliens? If so, no civil war can ever exist without dividing the body-politic. The very object of political association would be destroyed. Vattel says at page 62:

"The preservation of a nation consists in the duration of the political association of which it is founded."

"In the act of association, in virtue of which a multitude of men form together a State or nation, each individual has entered into engagement with all, and all have entered into engagements with each, to procure the common welfare. It is manifest that these reciprocal engagements can no otherwise be fulfilled than by maintaining the political association. The entire nation is obliged to maintain the association." * * * "If the nation is obliged to preserve itself, it is not less obliged carefully to preserve all its members. The nation owes this to itself; since the loss of even one of its members weakens it, and is injurious to its own preservation."

It owes this also to the—

"Members in particular, in consequence of the very act of association; for those who compose a nation are united for their defense and common advantage; and none can justly be deprived of this union."

This is the nature and object of national political association, according to Vattel. The doctrine that the national authority, in the very act of asserting itself, must, if opposed, destroy the association and change the body-politic is the most miserable subterfuge, the most contemptible excuse, for the usurpation of ungranted powers that was ever devised. It is the doctrine of the "flatterer or the cruel ruler who says that the laws are not made for rebels, for whom no punishment is too severe." It is the doctrine of fanatical revolution crying union but working in the interest of empire. Civil war did exist, but so far as the Government of the United States is concerned it was not a war against the States or the people. It was a war against the insurrection, against rebels in arms, against those resisting the laws and the Constitution, those who by the war sought to subvert and overthrow the Government, who undertook by rebellion to sustain and enforce the unfounded and illegal claim to secede. In such a war, when peace is obtained, it would be monstrous injus-

tice to treat all the people of the insurrectionary States alike as enemies. It is the duty of the prince or sovereign authorities to discriminate between the innocent and the guilty, and to restore all those who have remained faithful, or who have been overborne for the time being and forced from their allegiance, to all their former rights. All such persons were entitled to the protection of the Government at all hazards. It is the very object for which Governments are instituted, to protect the weak against the strong, to enforce the laws and preserve the State. What other justification is there for war of the nation with its own people, its own subjects? What other war is there justified by the Constitution?

There was never any right or constitutional power to make any other war. It was never pretended that it was a war of conquest or dominion, but to assert and maintain the mild and peaceful provisions of the Constitution, the Government of the United States. Such a war can never place this Government in the attitude of conqueror, or the people of the State in the attitude of conquered subjects, or make the State a conquered province. The jurisdiction of the United States is only that prescribed by the Constitution. Whatever pretense there may be of implied and enlarged war powers, these powers can only be claimed or exercised as incident to the war. By what warrant or provision in the Constitution can the supreme Government make conquest of one of its own States, or exercise dominion over its own citizens except in subordination to the Constitution? The very idea would be preposterous. Its jurisdiction is the same and only the same after the insurrection is suppressed that it was before it was begun. Before the war the United States had the right to exercise the jurisdiction, sovereignty, and power over the States and the people of the States, prescribed, defined, and limited by the Constitution. The war ended, it could do no more than exercise the same jurisdiction over them as States and people of States forming constituent parts of the Union.

It would be monstrous if the United States, endowed with sovereign powers, prescribed, defined, and limited by a Constitution emanating from the people through the States, could exert itself to destroy one of the constituent elements of its own life, the source of its own power, and without which even the Union itself is dead. The Government has not increased the sphere of its sovereignty nor lost any of its sovereign powers by the war. The crime of the rebels was that they refused to perform their duties and functions in the Union. The Government demanded that they should. It made no other demand during the insurrection. It had no power to make any other demand. It required this by virtue of its supreme authority, derived from the Constitution, and in the interest not alone of the people of the insurgent States, but in the right and interest of every loyal citizen of the United States. The United States cannot force a State to abdicate its functions or rights as a State in the Union, nor can it accept the abdication from a State. It has power under the Constitution to admit a State to the Union, but no power to permit it to retire or depart from the Union.

But gentlemen say the rebel States are out of the Union, and they are estopped from denying it by their ordinances of secession; the rebels have forfeited all their constitutional rights and the right of being States in the Union; that they have committed suicide and are absolutely dead.

Estoppels were never much favored in the law, and were applied only in clear cases. But in any case, in order to be binding they must be mutual, both parties must be estopped, and they must be plead or insisted upon by those who would have advantage of them. But the claim comes too late with us; we never relied upon it, and always denied the validity of these ordinances. That was always the issue of the war.

But the Government is estopped in a thousand ways from denying that those States are and at all times have been States in this Union.

In the first place, the United States Government has no legal or constitutional right or power to do any act or consent to anything being done that could amount to a deprivation or relinquishment of its control or sovereignty over them as States in the Union.

Nor has the Government done or consented to anything of the kind. On the contrary, it has at all times during the continuance of the insurrection by the exercise of the highest sovereignty asserted its continuing relationship under the Constitution. It has demanded at the point of a million bayonets, and by all the terrible enginery of war, that the insurgents should lay down their arms, cease their rebellion, and return to their duties. It has by the most solemn acts of every department of the Government continuously recognized them in their relations as States. It has provided by act of Congress for their representation and the number thereof in this body. Based upon that representation, and in pursuance of the provisions of the Constitution and laws, it has apportioned to each of the eleven States, by name, its proper share of twenty millions of direct tax, and enforced its payment by sale of lands. It has proclaimed peace, and that the insurrection is put down. It has aided and encouraged by all the powers it possessed the resumption by the people of those States of their abandoned duties and obligations in the States. It has invited them to take part in the amendment of the Constitution itself, and proclaimed their action upon it, and that it had actually, through their aid, been done. Nay, more; the people of the United States themselves, exercising the most solemn and exalted right of freemen, have chosen a citizen of one of those States the Chief Executive of this nation, who, if they are not States in the Union, is an alien and usurper.

Sir, the people of those States have laid down their weapons of warfare, accepted and acted upon the often proffered terms of peace and reunion, and now plead and insist on the record as an estoppel. And is it not full, complete, and effectual? Is it not mutual and valid? Would it not be a gross fraud to deny them? Are not their representatives entitled to be admitted?

"But they are rebels, and rebels have no rights but the right to be hung," cries the bloody-mouthed Jacobin, who would take advantage of these times to change and revolutionize the Republic; they have forfeited by their rebellion even the States in which they happened to reside; they have forfeited all constitutional rights. Have gentlemen considered the result of this doctrine?

Forfeiture of what, and to whom? Have they forfeited or can they forfeit their right and duty to obey the Constitution and laws? Have they forfeited or can they forfeit their obligation to pay their proportion of the direct taxes that have been or may be apportioned upon them as States in the Union? Have they forfeited or can they forfeit their duty to assist in the defense of the Republic in case of foreign invasion? The highest interest of the nation is that all the States of the Union and every citizen should peaceably and promptly discharge all their duties and obligations to and in the Union. The State of Wisconsin has as much interest in South Carolina remaining in the Union as she has in Massachusetts. Every citizen, every lover of the Republic, has the same interest in preserving to the Union one State as another. Every citizen of the United States has the right to have the Union preserved intact. The Union of the Constitution is the rich heritage which we have received from our fathers; we have no right to destroy or divide it, nor permit it to be destroyed or divided. The rebels can never forfeit your and my rights which, as citizens of the United States, we have in every State, and in the preservation of every State in the Union.

But to whom has the forfeiture been made? It cannot be to the United States, because the United States had all the jurisdiction and sovereignty it could constitutionally exercise over the State before the war. The Constitution, as I have before said, limited, defined, and prescribed the extent of dominion and authority

and power of the United States with reference to the revolted States. It is the same precisely now the war is ended, and that is to require the States to perform their constitutional obligations, their proper duties and functions in the Union as States. When, where, and how did they make the forfeiture? Was it by violating the Constitution that they forfeited all rights under it? I deny, sir, that the rebels have no rights under that instrument. Their crime was the consequence of their violation of it; and the measure of their guilt is, now the war is over, to be determined by it. They have incurred the penalty which attaches to the violation of the Constitution, and not the vengeance of infuriated passion. If brought to trial they are entitled to all of its provisions; and if we should violate it in their trial or punishment, our guilt would be commensurate with theirs. Those who claim that the rebellious States are out of the Union by forfeiture fall little, if any, short of asserting that the Government is defeated; that it has sacrificed the blood of its citizens in vain; that the rebels have, in the hour and moment of our triumph, snatched the victory from us, accomplishing by their crime what they failed to do by the prowess of arms. But I assert, without fear of contradiction, that no one can forfeit what is not his own. The insurgent States cannot forfeit what belongs to all the States. Nor can rebels forfeit what is the right of every loyal citizen of the United States, the right to the Union of the Constitution, composed of every State ever belonging to it, free, equal, sovereign, and independent in their proper and legitimate spheres. Let it be remembered that the rebels are not the only persons having rights and interest in the insurgent States. All and each of the States of the Union have an interest; all and each of the citizens of the United States have an interest in the preservation and perpetuation of the Union of the Constitution; and all of the States, and every citizen of every State, is bound by the highest obligations of honor, interest, and constitutional duty to aid in its preservation to the extent of all he has of life and property.

The same course of reasoning answers fully those who claim that the insurgent States are dead and that they cannot be States of the Union till the "Government breathes into them again the breath of life." It would seem as though it were enough to add in reply that the power that can confer life can preserve life. If the Government can breathe life into the dead carcass of a State it could prevent the departure of life from it. It could have kept the breath of life in it. I for one have no faith in the resurrection by one who, struggling through long years, had not the power to preserve the original life. I will never consent to the death of one of the States of this Union in the vain hope that the party now in power and controlling the Government may breathe it again to life. Your breath may kill, it will not save; it is full of pestilence, disease, and death. You kill the body that you may destroy the soul of the Republic. But you ought to understand that the temple rests upon the pillars, and as you wrench them away the beauty, harmony, and proportions are not alone destroyed, but the whole edifice must ultimately fall. But if a State cannot die, then "once a State always a State." Why not? That is not State rights more than the rights of the Union. Who says, once the Union always the Union? Who says, once the Union shall always endure and the Republic be perpetual; that it shall never be destroyed? The States and the Union must coexist or the Union must die. The States might possibly exist without the Union, without the States the Union never! Beware how you trifle with the States! The union of the States is the Republic! The Republic is the States in fraternal union! The Union originally cost too much, and too much of life and treasure has been expended in its name and on its behalf, to surrender it on a mere technicality, or to barter it for the glittering empire you would build on its ruins. The fathers of the Republic were not mere partisans or fanatics, they were statesmen.

Sir, it is an easy thing to break up and to destroy this Union, if the gentlemen of the majority are right in all their modes of disposing of it. The fathers of the Republic little dreamed how frail a thing they were forming. There is scarcely a direction that rebels cannot drive their whole State through the Constitution out of the Union. The learned and able gentleman from Ohio, [Mr. SHELLABARGER,] in his answer, or perhaps I should be pardoned if I say his evasion of the pertinent question of the honorable gentleman from New York, [Mr. RAYMOND,] "If they (the States) were out of the Union when did they become so?" says substantially, as I understand him, when the regular course of justice was interrupted by revolt, rebellion, or insurrection so that the courts of justice could not be kept open; "when, in fact, they became belligerents." This doctrine would prevent the Government from suppressing an insurrection without destroying the State in the Union. An insurrection that has attained proportions sufficient to entitle the combatants to belligerent rights has, by its own force, carried the State out of the Union. Let an insurrection arise for any cause in any State and the Government of the United States be called upon to suppress it, and by default or neglect it fails to do so till the "regular course of justice is interrupted so that the courts of justice cannot be kept open," and the revolt is then put down, the State must fall a conquered province at the feet of the Government, never again to appear as a State in the Union till breathed upon by the Republican majority of this House, now in control of the Government. Let war arise in a State, let an attempt be made at revolt successful enough to hold the State till, according to the laws of war and of nations, belligerent rights should be mutually conceded, and that star falls, like Lucifer, from the proud banner of the Republic, never again to shine in the galaxy of the Union till its people shall give guarantees to Massachusetts, till the institutions of the States shall be homogeneous with New England. If this doctrine be true, then indeed war has failed, must and will be always a failure, to restore the Union. It is indeed disunion, eternal disunion, and all efforts by war to preserve the Union worse than a delusion—it is a crime.

The ordinances of secession are void, the purpose of the rebels to secede has been subdued, their warriors have surrendered or fled the country in dismay; the triumphant banner of the Republic floats proudly over the State; the glad shouts of thanksgiving and praise ascend from the national heart that rebellion is crushed and the Union saved; when, lo! some Republican logician has discovered that the war was conducted upon principles of humanity and according to the laws of nations; the insurgent ports were blockaded; prisoners of war were exchanged; the nations of the earth claimed to be neutrals between the contending parties; belligerent rights were mutually conceded; all our hopes of restored union are blasted; the State is dead. Away with such absurdity! It is as fatal to the Union as the State. It places all the vast interests of the Republic at the mercy of a malignant few in a State, or at least of a bare majority strong enough to place the State in the control of an insurrection. To leave the State in the hands of the insurrection loses it to the Union. To make war to save it kills the State. In either event the State as such is lost to the Union.

This doctrine effectually nullifies the constitutional power of the Government to suppress insurrection or resist rebellion. It is no answer to say that the territorial State is preserved together with dominion over the inhabitants. This is no equivalent for the loss of the State as such. The Government of the Union cannot rest upon territorial dominion. This might support empire but not a republic of States. It may gratify those who seek to multiply and consolidate power in the central Government; but it is as fatal to the constitutional Union of the fathers of the Republic, and if possible more dangerous to liberty than the dogmas of secession. Let this work go on, let the central power

• dismantle and absorb the government of State after State as the inhabitants shall make some feeble effort by insurrection to right the wrongs that will accumulate upon them, and we shall find quite too soon that the liberties of the people are gone. Civil liberty in this nation will never survive the States of the Union. The same power that demands the life of the States, will, when they have been swallowed up in its grasping and growing desire for dominion, demand the surrender of republican liberty. It sees the opportunity, and with an eye to its own aggrandizement now resists the readjustment of the dislocated members of the Union. Whatever the motive for this overthrow of our form of government, whatever the inducement for this dark and fatal leap, it is nothing short of revolution; when consummated, there will not be the semblance of the Republic of the Constitution remaining. In its place you will have reared an overshadowing, all-powerful, central despotism, which having no checks, and accumulating power as it rises, will dictate and control individual acts and individual liberty as it now does the action of the States.

The honorable gentleman from Pennsylvania [Mr. STEVENS] boldly declares his motives and purpose. He says:

"According to my judgment they ought never to be recognized as capable of acting in the Union, or being counted as valid States until the Constitution shall have been so amended as to secure perpetual ascendancy to the party of the Union."

"If they should grant the right of suffrage to persons of color, I think there would always be Union white men enough in the South, aided by the blacks, to divide the representation and thus continue the Republican ascendancy."

Here, then, is the motive and purpose of the majority of this House. The States are to be held in the grasp of despotic power; the Government is to be revolutionized to secure the ascendancy of the Republican party. Proclaim it to the country, let it go out through all the land, the Union, the Republic, must be deferred and sacrificed, if need be, to preserve the ascendancy of party.

Oh, if bitter and unrelenting party might relent, I would appeal to you of this House in the name of Washington, who warned against the fell spirit of party; I would appeal to you in the name of our common country, now anxiously awaiting fraternal reunion; I would appeal to you in the name of the brave dead whose bodies are scattered like the leaves of the forest on all your mountains and in all your valleys, and whose spirits are now looking down from the blue above, to tell you they died for country and not party; I would appeal to you in the name of those fathers and mothers who gave to the Republic, and not party, their first-born and best-loved sons; I would appeal to you in the name of the millions whose hearts bleed afresh whenever memory recalls the departed, and who find their only solace in the fact that those they mourn fell in the service of the Union, the whole Union, and not in the blind service of party, to relent. Give us the full fruition of our hopes, the reward of our sacrifices, the fruits of our victories, the fraternal Union of our fathers, the brotherhood of States. Parties are changing and evanescent; they go up and down on the waves of popular passion and prejudice; guard and strengthen them as you will they cannot live forever. The scepter of power will ere long fall from your hands. Another party as despotic and grinding may yet dictate, may yet determine the terms and conditions upon which your States shall exercise their rights and functions in the Union.

Party spirit knows no law; it refuses to reason; it has no attribute of justice, no sense of honor, no conscience, no toleration. The measure of its demands and exactions is the strength and power to enforce them. If you, to-day, can dictate the conditions upon which only the State of Tennessee may be permitted to perform her duties and exercise her rights in the Union, it may be only a question of time when some new elements, moved by popular caprice, may combine to dictate to New England. It is a fearful thing to trust the liberties of a great people to the capricious and ever-shifting power of

party. I for one deny the right or power to dictate any terms or attach any conditions outside of the Constitution upon which any State may have its place in the Union. The only rightful conditions are, obedience to the Constitution and laws; and that obedience in itself consists in the full exercise of all its rights and the performance of all its constitutional obligations as a State in the Union. I can well understand how difficult a thing it is to look or act upon these great questions without prejudice or passion. The same writer on international law from whom I have already quoted says:

"The tumult of discord and the flame of civil war little agree with the proceedings of pure and exact justice. More quiet times are to be awaited for."

I would wait for more quiet times to amend the Constitution. The statesman and the legislator should never act from hatred or passion toward those affected by their acts. Bloody hands and malignant hearts should never invade the sanctuary of law or justice. The man who from preconceived opinions or prejudice would be disqualified to sit as a juror where the person toward whom he entertained such feelings was a party should look with distrust upon himself when he comes to legislate where his most sacred rights are to be affected.

Sir, the question has been repeatedly asked whether we would consent that those who had been engaged in the attempt to break up and destroy the Union should come back and enjoy the benefits of the Constitution they had endeavored to subvert. I answer, unhesitatingly, I would. There has never been a day or an hour since the first scene in the bloody drama at Sumter that my most ardent wish and prayer to God has not been that they might lay down their arms and come back; come back, not as conquered provinces, not to be held as conquered subjects, as a subjugated people, but as coequal, independent, sovereign States. To me the Union of our fathers is worth just as much as it was at the beginning of the war. Its restoration is just as necessary to the prosperity and happiness of this country now as then. And I go further: the crime of those who would prevent its restoration is just as black and damnable as that of those who made restoration necessary.

Sir, these are my conclusions, after the most candid and best consideration I have been able to give the subject. The war is over; its work of carnage and death is done; it has driven its plowshare down deep into our institutions; time can never remove its impress; its effect for good and for ill cannot be eradicated; the chains of bondage broken we would not again unite, the sundered ties of life we cannot; the passions, resentments, animosities, and hatreds aroused and engendered will slowly wear away; with it let the brotherhood revive. Our country has triumphed; its highest interest, its proudest glory, its richest blessing will only be realized in the full resumption by every State of its rights, its duties, and its functions in the Union of the Constitution. We want no Ireland, no Poland, no Hungary, with their oppressed and unhappy peoples cherishing their smothered wrath and plotting revolution. A restored Union is restored amity. Many have been wrong; all have suffered. As we hope to be forgiven, let us forgive.

Mr. STROUSE. Mr. Speaker, it is surprising with what indifference and haste amendments to the Constitution are proposed in this House. I understand some seventy propositions are already before the two Houses of Congress to amend the fundamental law of the land, involving in some instances an almost total change of our form of government. Bills and resolutions to change and amend the organic law are introduced and pressed, under the operation of the previous question, as lightly and inconsiderately as if this Congress were a State Legislature, and the Constitution a small railroad company asking for an amendment to its charter to build a small siding or make a turn-out on the road. This is truly an alarming state of things. Such legislation, at this time, patching the Constitution like an old coat, of which

very soon the original fabric will be invisible on account of the poor patch-work on it, is not demanded, and will certainly not be sanctioned, by the great body of the American people.

The resolution now before the House is intended to affect the southern States principally, and we are asked to legislate for a people and country designated here by the leaders of the dominant party as aliens and foreign, as conquered territory under the law of nations. If this be true, which I most emphatically deny, then there can be no necessity for amendment. The northern States require no change in this regard. The States lately in rebellion are not and never were out of the Union, but we now pass laws affecting these States and the people thereof without granting them their constitutional right to be represented on this floor. And while I am in favor of admitting members legally elected, I wish to be understood that I allude to members elected according to forms and regulations prescribed by law—gentlemen who are capable and can qualify themselves to come here and take their seats equally with the rest of us.

There shall be no taxation without representation is a fundamental principle of American law. We tax the people of the South, subject them to the laws of the United States, and hold them to all the duties and responsibilities of citizens of the States in the Union, while at the same time we deny the right of representation in both Houses of Congress. It would much more comport with the dignity and sense of justice of the American Congress to let the legally elected members from the southern States be admitted and participate in the proceedings and debates, especially in matters of so great importance as a change in our organic law. Let us have a representation for our whole country. Wherever the American flag floats, from the St. Lawrence to the Gulf of Mexico, wherever the star-spangled banner waves, that is our country. And let us legislate as Americans, as Representatives of our whole country, in a spirit of justice, liberality, and patriotism, and we will again have one country.

Mr. HIGBY. Mr. Speaker, I do not propose, upon this occasion, to go into a general debate or discussion upon all the questions that are now before Congress; that is, as to the general condition of the country, and what method should be pursued in order to restore the Union. But, sir, in what little I have to say, I shall confine myself exclusively to the question before the House, and seek some other occasion to speak, if I speak at all, upon the general question.

A very important proposition was reported a few days since from the committee on reconstruction by the chairman of that committee. It contemplates the amendment of the Constitution of the United States on a subject second only in importance, in my estimation, to that embraced in the amendment which has been so recently made. At the time of its introduction the able chairman of that committee seemed to think that this body was prepared to pass upon it almost immediately. I have no doubt that he and the other members of that committee were satisfied—truly, sincerely, earnestly, and honestly satisfied—that that proposition was the best provision that could be framed for an amendment. To my mind, sir, objections arose at once; and I regret that a measure is to be pressed here that may raise the question of the construction of other portions of the Constitution, when, it seems to me, language can be found in which to couch the amendment so as not to infringe upon any of the barriers of the Constitution.

The amendment as reported would, at least impliedly, give to the States the power to discriminate as to those who shall be allowed the elective franchise. In some method of amending the Constitution I shall concur with the other members of this House; and while I may object to some features of the amendment introduced by the gentleman from Pennsylvania, I have no kind of doubt that one can be so framed as to command the votes of two thirds

of the members of this House. But I do hope that any amendment which we may pass will be so framed that no objection can be raised that it trenches upon any other portions of the Constitution which are not intended to be affected.

Now, sir, I shall proceed to explain my own objection to this amendment. While the basis of representation contemplated by the body of this resolution is to me somewhat objectionable, yet, if we can agree upon nothing else, I shall assent to it and vote for it. To my mind, a better basis of representation would be the male citizens of the United States; for what we are seeking is a basis of representation, without regard to those who shall be allowed to vote in the States. I shall not, however, dwell long upon the question as between the two kinds of bases for representation, provided the odious feature which is contained in the proviso shall be removed. But, sir, I give notice that, if the proviso of this amendment be retained, if it cannot be changed so as to obviate this objection, I, with my convictions, must necessarily vote against this amendment.

The clause of the Constitution, as proposed to be amended, will read thus:

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation.*

Now, sir, in immediate connection with that, I will read that portion of the Constitution with which, in my judgment, this proviso directly conflicts, and which we may as well blot out if we pass this resolution with this proviso. In section four of article four of the Constitution I find this language:

"The United States shall guaranty to every State in this Union a republican form of government."

Now, sir, we are to consider these things as they will be practically applied. We must take the country as we find it, and try to adapt the Constitution to it. I grant that, if there is any State of the Union that has but one race, and that the white race, with no prospect of its ever having any other, and where a proviso of this character would have no effect whatever to exclude any one, this proviso might not be so objectionable so far as regards that State. But I do say that, by implication, it gives the power to any State to exclude a whole class on account of race or color. I believe that my friend here from Ohio, [Mr. BINGHAM,] to whom I intend to yield a portion of my time, will attempt to explain how it is that a Government can be republican in form, and yet exclude, if need be, one half of the population from the elective franchise.

The State of South Carolina, in 1860, had within its limits 291,383 white people and 402,406 slaves—more of the colored race than of the white race. I will give you another instance, an instance in which this proposed amendment of the Constitution would directly apply, and would give the State governments the power to exclude more than half of their population from the elective franchise. The State of Mississippi had 353,901 white population and 436,681 slave population. Why, sir, I can find right here on this table other instances where there were nearly one half of the population in 1860. There was not one of the slave States where a large proportion of the population was not black.

Mr. Speaker, by the amendment we have just adopted to the Constitution of the United States, there are now no slaves in any of the States of the Union; the slaves are all free. There is now no slavery within the limits of this Government, except—and God knows I wish we had that amendment before us at this time, for I believe a two-thirds vote would wipe out that exception—except for crime. There is no good reason under heaven why a man for crime should be sold into slavery. It is time when in this country there should be no servitude, not even for crime. We see to-day in the re-

organized States of the South that for the most frivolous offenses they are selling the men who were once in slavery into slavery again.

Sir, a little time is worth while for us to deliberate on these great questions. We deliberated months on that amendment, and yet we did not cover the whole ground. Time is full of wisdom to us all. It contains more than men can contain. It shows that when we made that amendment we should have blotted out all kinds of slavery. A little time is worth while to deliberate on this amendment.

Now Mr. Speaker, when we are attempting to amend another portion of the Constitution in the first section of it, I say that we are making a direct attack on the Constitution. I say it; I do not know how many say it. I say it, without fear or favor, that that amendment will allow any State government in its organization to exclude one half of its population from the right of suffrage; and I say such State governments will not be republican in form. I know gentlemen will bring me authority one after another to settle the question.

Mr. DAWES. I wish to inquire of my friend from California, how many people can be deprived of political rights and the State government still be republican in form?

Mr. HIGBY. Does the gentleman want to evade my proposition? If he denies what I have said, let him do so. I have made a positive declaration. I do not want him to ask me some other question. He may answer as many of the questions as he pleases at another time, but let him answer my point right here.

Mr. DAWES. It occurred to me that the gentleman, having looked into this question, would be able to tell us at what particular point, that is, what proportion of the population a State may disfranchise and still have a republican form of government. I want to draw his attention to that point.

Mr. HIGBY. I do not believe that any State which excludes any class of citizens on account of race or color is republican in form.

Mr. DAWES. I agree entirely with the gentleman. Then I suppose he does not deny that the constitution of his own State is not republican in form.

Mr. HIGBY. It is not.

Mr. DAWES. I am glad to hear the gentleman say so; and I am glad that I interrupted him.

Mr. HIGBY. I do not believe there is a single State in the Union, except it may be one of the New England States, which is an exception to that general rule. I understand that the State of Illinois does not allow negroes to come into that State. I shall not shrink any responsibility in these times when we are settling great questions. We have had our lessons, and we had better improve them.

Mr. FARNSWORTH. I ask the gentleman to yield to me.

Mr. HIGBY. Yes, sir. I may be mistaken about Illinois.

Mr. FARNSWORTH. The gentleman has said that Illinois did not allow negroes to emigrate into that State. It is a mistake. There was a provision ingrafted into the constitution of 1848 requiring the Legislature to pass laws to prevent the emigration of negroes into that State; but the Legislature has not passed such laws. And all the laws which were upon our statute-book making a distinction in regard to color have been wiped out. Negroes do now go there.

Mr. HIGBY. I am glad to hear the explanation.

Mr. HENDERSON. I will say, in support of the position of my friend from California, that the constitution of Oregon excludes negroes.

Mr. HIGBY. I am sorry to hear it. We all know what an effort was made to make Oregon a slave State.

Mr. DAVIS. Does the gentleman consider the States which have not a republican form of government as out of the Union?

Mr. HIGBY. Well, that does not belong to this question. [Laughter.] If the gentleman wants to go out, I have no objection. [Laugh-

ter.] It is a free country, and if a man does not like this Government, with all its defects, as well as he does some other, I have no doubt that he can have the privilege of leaving it. I do not mean that with reference to my friend from New York [Mr. DAVIS] in particular. He is a very pleasant gentleman, and I think very much of him. I speak generally.

Now, sir, I am aware that the practice has been very different. I am aware that almost from the establishment of the Government under the present Constitution, notwithstanding the construction that was given to it by those who framed it, we have practiced very differently under it, from the construction it would bear according to the principles of right and wrong. I have no doubt that they will find worlds of authority to support the position that by the practice which has prevailed for the last half century South Carolina has been recognized as a State with a republican form of government, and so has Mississippi, although in each of those States one half of the native-born population have been disfranchised, in violation of that very provision of the Constitution which I have just read.

And, sir, what has been the result of the violation of that principle? A terrible chastisement has been received by the North, while the South has been desolated by the scourge of war for the last five years. It is because the practice has been false to the principles contained in the Constitution of the United States; and I am not ready to-day, now that slavery has been abolished, to break down one single barrier of that instrument, but rather to strengthen it by provisions which establish justice.

I have stated my objection, and I am sincere and earnest in the declaration which I have made as to my views on this floor. I do not know that there are half a dozen in this House who will sustain me. I know, however, that I am on the side of liberty and right, and I have sworn to be on that side for the remainder of my days; and it is no matter what consequences may follow so long as a man has an approving conscience that will carry him through every emergency.

Mr. HILL. Will the gentleman yield for a question?

Mr. HIGBY. With pleasure for any question that is pertinent.

Mr. HILL. I have listened to the gentleman's statement, that in his opinion there is scarcely a republican form of government in any of the States of the Union. I simply desire to inquire whether he would favor us with his opinion as to what would be a republican form of government.

Mr. HIGBY. Well, Mr. Speaker, I am sorry if the gentleman has lived to his time of life and has obtained a position in this House as the Representative of a large constituency without finding out what a republican form of government is.

Mr. HILL. I ask the gentleman—

The SPEAKER. Does the gentleman from California yield the floor?

Mr. HIGBY. I cannot, because it is not a pertinent question. I have stated that in two States in the Union there has been a palpable violation of the principles contained in the Constitution. I will ask the gentleman if he thinks that those States that have excluded and disfranchised more than half of their native population have a republican form of government?

Mr. HILL. The gentleman has propounded to me a question, and I will answer it by saying that in my opinion, when the framers of the Constitution placed in that instrument the declaration or the provision that the Government of the United States would guaranty to each State a republican form of government, they spoke with reference to such governments as then existed, and such as those same framers recognized for a long time afterward as republican governments. That is my answer.

Mr. HIGBY. Well, that is a very good answer. It is an answer from a standpoint seventy-five years ago. I speak from the standpoint of the present time.

Mr. HILL. If the gentleman will permit me to make one further statement in regard to our former colloquy I will be obliged to him. It is simply this: that the gentleman probably misunderstood me when I interrupted him before in supposing that I had no opinion on the question of what constituted a republican form of government. That was not my statement. I only asked the gentleman to give us the benefit of his opinion. That was what I wanted—not that I had no opinion.

Mr. HIGBY. The gentleman from Massachusetts [Mr. DAWES] asked me the question, and I answered it definitely. The gentleman may not have been listening when I made my answer.

Mr. HILL. I beg the gentleman's pardon if such is the fact, for I did not know it.

Mr. HIGBY. My answer was that no State is republican in form that excludes from the suffrage any portion of its citizens on account of race or color, I do not care how few the number. That was my answer. I do not know but that some of these States may have their constitutions republican in form, but I must confess that their practice under their constitutions has been very different from the precepts contained in them. I judge by their action and practice.

Sir, I do not dwell upon this for the purpose of advocating the amendment that has been introduced by the gentleman from Ohio, [Mr. LAWRENCE,] because, as I have before said, I am not so strenuous as to the form that shall be used or the basis adopted, provided that it shall get rid of this odious language that will give a construction to other portions of the Constitution.

The gentleman from Maine, [Mr. BLAINE,] a few days ago, made a short and very apt speech upon this question, and confined himself very properly to his subject. I was pleased with the manner in which he handled the subject, and I was not aware that he was so wide in his figures until I made an examination afterward. I knew he was wide in his figures and away from the facts with reference to my own State, but I could not speak with reference to other States.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. W. J. McDONALD, its Chief Clerk, informed the House that the Senate had passed a bill (S. No. 80) to create an additional land district in the State of Oregon; and also a bill (S. No. 96) authorizing an increase in the clerical force in the Post Office Department; in which he was directed to ask the concurrence of the House.

BASIS OF REPRESENTATION—AGAIN.

Mr. HIGBY. Mr. Speaker, the gentleman from Maine gave figures showing the male population of the State of Vermont and of the State of California, placing them in comparison. And he also compared two other States, but I shall refer more particularly to the first two. I have no amendment to offer. I think there are enough already before the House. I simply present my views. If this amendment which is reported by the committee, together with those others which have been presented, shall be sent back to the committee, then that committee will understand something of the shape and form of an amendment that will meet with favor, not only from the propositions introduced here, but from the remarks which are made by members in this debate.

Now, sir, I think the better test of this question is the votes that are given from year to year. By taking the votes for two or three years, at different elections, we are more likely to get at a correct test of the male population that are entitled to the right of the elective franchise than we are from census returns. Believing that to be the most correct test, I shall give the figures of the votes in the two States, from an authentic statement before me.

In Vermont, in 1865, the whole vote for Governor was 38,456; in 1864 the whole vote for Governor was 43,548. The whole vote for President in 1864 was 55,740. These are the differ-

ent votes recently given in that State. In 1860 the whole vote for President was 44,644.

Now, sir, I turn to the votes of California. In 1865, at the October judicial election, the whole vote given was 55,907; but that was not a test vote, because the judicial election never calls out a large vote, but it is given here first; and what is more, the soldiers' vote had not yet been received. In 1863 the whole vote was 109,162; in 1864 the whole vote was 105,975. I have given all the votes that are contained in this statement. I will state further, however, that at the gubernatorial election in 1861 there were over 119,000 votes cast for Governor. The voting population of the State of California has wasted within the last six years over 10,000.

Mr. MORRILL. I presume the gentleman from California desires to be accurate in his statements, and so far from the vote of Vermont being an accurate or fair test of the number of the male population in the State, it is very far from being so. The male citizens of the State over twenty-one years of age number something like eighty-seven thousand, while it is very seldom that half of them are brought up to the polls even on a contested election. In Vermont there is such a strong preponderance of the Union or Republican party that it is no object for that party to bring all its members to the polls.

Mr. HIGBY. I am very glad to have been interrupted by my friend from Vermont, [Mr. MORRILL.] His statement makes it more favorable to my own State, for the very reason that there is no gubernatorial or presidential election in California but what the State is scoured, every nook and corner, every hill-side and gulch searched to find a voter and get him to the polls. And I venture the assertion that there are not two thousand voters in the State who are not brought to the polls at every gubernatorial or presidential election.

And I will state one other thing in this connection, and then I have done. It is this: it must be borne in mind that the great amount of foreign population that comes to this country, instead of stopping and settling in the older States, goes to the Territories and new States. And you will find, if a census should be so taken as to discriminate between the native born and the foreign born of your population, a far greater proportion is to be found in the western States than in the older or eastern States. And of that population, there is always a large proportion still foreigners who have not yet taken advantage of our naturalization laws to qualify them to be electors.

And another thing: I believe it is still held in some of the States, and constitutions are so framed, that those who are not citizens, either native born or naturalized foreign born, are allowed to vote. I have only to say in this connection, that while by the Constitution of the United States Congress are to make provisions by which foreign-born persons may become citizens, a State attempts to confer a right and a privilege upon an individual the highest that he can obtain under the laws of the United States by the process of naturalization; thus negating as it were that portion of the Constitution which requires Congress to make provisions to enable those foreign born to become citizens.

Now, my hope, my wish is that this joint resolution shall go back to the committee. I do not wish it disposed of here, to be voted down. I want, if it is possible, that it shall be so framed that it shall receive the full constitutional majority required, and be a proposition that shall operate with full force in all those States that now have a great population excluded from the rights of citizenship.

Mr. STEVENS. If the gentleman proposes to send it back to the committee without instructions, I would ask him what we are to do. There are not quite as many views upon this floor as there are members; but the number lacks very little of it. And how are we to gather up all those views spread through all this discussion, and accommodate all, when each

view would now probably receive from one to three votes in its favor?

Mr. HIGBY. I have only this to say; with my views of the Constitution, I never can vote for this proposition with this proviso in it in its present language. I say that it gives a power to the States to make governments that are not republican in form.

Mr. STEVENS. I say to my friend that if I thought that according to any portion, or verse, or chapter of Lindley Murray, by any fair construction of language, such an interpretation could be given as he gives, I would vote against it myself. But I do not believe there is anything in that objection.

Mr. HIGBY. "Provided, that whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation."

Mr. STEVENS. May I ask my friend one question? Does that take from or add to any powers which the States now have?

Mr. HIGBY. I beg pardon of the gentleman; he cannot get rid of this proposition in that way. I ask him distinctly if it does not acknowledge a power in a State to do such a thing.

Mr. STEVENS. Yes, sir, it does acknowledge it, and it has always existed under the Constitution.

Mr. HIGBY. I do not acknowledge that it is in the Constitution as it now is.

Mr. STEVENS. Then we do not give it to them.

Mr. FARNSWORTH. Will the gentleman from California [Mr. HIGBY] allow me to make a suggestion to him?

Mr. HIGBY. My time is limited, and I have promised to yield a portion of it to the gentleman from Ohio, [Mr. BINGHAM.]

Mr. FARNSWORTH. I desire but a moment.

Mr. HIGBY. Very well; I will yield.

Mr. FARNSWORTH. My suggestion is this: the Constitution now provides that Congress shall not until a certain year deny to any of the States the right to import slaves—that is the meaning of it. Now, the language of that provision of the Constitution did not give the right to the States to engage in piracy. Yet the States did understand that the Constitution authorized them to continue this piracy until the year named, and they did continue to import slaves and sell them. And can it not be implied from language not so clear, not so strong, that by this amendment a State is given the right to disfranchise the half of her people?

Mr. STEVENS. Nobody understood it so; everybody understood that without that prohibition they had the right, and with that prohibition it was restrained from a certain time; nothing more.

Mr. HIGBY. I now yield the remainder of my time to the gentleman from Ohio, [Mr. BINGHAM.]

The SPEAKER *pro tempore*, (Mr. WENTWORTH.) There are fifteen minutes left of the time to which the gentleman from California [Mr. HIGBY] is entitled.

Mr. BINGHAM. I thank the honorable gentleman [Mr. HIGBY] for yielding me the floor, and I hope it will be the pleasure of the House to extend the time, as I shall not be able in the fifteen minutes allowed me by the gentleman's courtesy to present properly my views of the important question before us.

I stand here this day impressed with the belief that amendments to the Constitution of the United States are imperiously demanded by reason of the changed condition of the country. If the loyal people who have by arms saved the Republic shall not insure its safety by laws as well, then I fear in vain have the bravest and the noblest and the best of its sons gone down in its defense amid the tempest and the shock of battle. Unless this Congress, charged as it is, like the first Continental Congress, with the care of the liberties of all, shall perform the duty enjoined upon it, and send to the people

the necessary constitutional provisions and guarantees for the future safety of the Republic, I apprehend that there are men now within these walls who may learn, when it is too late, that the ballot in the hand of the conspirator is more dangerous to the safety of the Republic than the bayonet.

If the amendment reported by the joint committee of the two Houses, or that proposed to be substituted by my honorable colleague, [Mr. SCHENCK,] be all that this House proposes to do in this regard, then I can only say for myself that I tremble for the future of my country. But is it all that this House proposes to do? Have gentlemen forgotten that but the other day this House, with singular unanimity—by all the votes, I believe, that it can command save six—sent to the Senate a proposed amendment to the Constitution, which, however informally expressed, is intended by the authority of the whole people to declare by the organic law that neither the United States nor any State of this Union shall ever assume or pay any debt or liability contracted or incurred in aid of the late rebellion, or which may hereafter be contracted or incurred in aid of any rebellion against the United States? Does it not suggest itself to the mind of every gentleman now within the hearing of my voice that the safety of the Republic requires that not simply that amendment shall pass into your Constitution, but that there should be added to it the provision that no State in this Union shall ever lay one cent of tax upon the property or head of any loyal man for the purpose of paying tribute and pension for life to those who rendered service or received wounds in the prosecution of this great, unmatched, and atrocious rebellion against your country? Does it not occur also to the considerate minds of gentlemen that it would be well to place the further limitation upon these several States, if they are to be restored to their equal position in the union of the States, as I trust they are to be at no distant day, that no State in this Union shall levy tribute upon its people for the purpose of indemnifying, in whole or in part, any rebel against losses or damages incurred either in the prosecution of the rebellion or inflicted on rebels in its suppression?

I ask gentlemen to consider that, as your Constitution stands to-day, there is no power, express or implied, in this Government to limit or restrain the general power of taxation in the States. And are gentlemen, admitting this fact, as it is now stated, to be true, to sit here and deliberate for one moment whether it is necessary to place such a limitation upon these States if they are to be restored, and especially if they are to be restored on the basis claimed by gentlemen on that side of the House who oppose this amendment—restored with the governing power in every one of the eleven rebel States in the hands of the very men who but yesterday waged war against the life of the Republic?

But, sir, even that amendment, desirable as it is, is yet not all that, in my mind, the safety of the Republic requires, and our duty and our oaths alike enjoin upon us to present to the people. Why, sir, I may be allowed to say here, without violating any rule of this House, that the joint committee of fifteen, representing both branches of Congress, do not themselves consider that they have wholly discharged their duty in this behalf to the country. It is not for me to say here what they have done, or to anticipate what they may do in the premises, further than to say that I doubt not they will discharge their whole duty. But I may say that the committee has under consideration another general amendment to the Constitution which looks to the grant of express power to the Congress of the United States to enforce in behalf of every citizen of every State and of every Territory in the Union the rights which were guaranteed to him from the beginning, but which guarantee has unhappily been disregarded by more than one State of this Union, defiantly disregarded, simply because of a want of power in Congress to enforce that guarantee. I do not doubt, sir, that if the committee shall

succeed in presenting in fit and proper form this proposed amendment to the Constitution, it will receive the assent, I might almost say, of every gentleman in this House. Why should it not?

I understand very well, Mr. Speaker, that there are gentlemen for whom I have the profoundest respect, not only for their great attainments, but for their generous and patriotic motives, who contend, against all past constructions and all past experience, that the Congress of the United States has the power, implied necessarily, to enforce all the guarantees of the Constitution. In my judgment, unless some such general provision as that to which I have referred be adopted, it is in vain that you hope for future safety or future peace in the country; and I beg leave to say to gentlemen who reason in the manner I have indicated, and therefore seek to evade the discharge of this great duty incumbent upon us, that, notwithstanding the respect to which their opinions are entitled, the continued construction of every department of this Government, legislative, executive, and judicial, from that day on which Washington, for the first time, before God and his country, took the oath to "preserve, protect, and defend the Constitution of the United States," has conceded that no such power is vested in the Federal Government. Gentlemen will pardon me for further reminding them of the special express powers of the Constitution, and that the general express grant is that Congress shall have power to make all laws necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof. In what I have said upon the limitations of power, I do not express my own opinion, but the opinions of others and the uniform construction.

Sir, your Constitution declares that no person shall be deprived of life without due process of law; yet, in support of what I have just said on the necessity of an additional grant of power, allow me to remind the House of the fact that this highest right which pertains to man or citizen, life, has never yet been protected, and is not now protected, in any State of this Union by the statute law of the United States. And if to-morrow, sir, your President, because of his supposed fidelity, and I might add of his real fidelity to his duty, in so far as I understand his position, crossed the line of your exclusive jurisdiction in this District into the State of Maryland, into the county of Charles, and were to be there set upon by the whole body of the community and murdered, for no fault of his, but simply because of his supposed fidelity to his duty, your Government is powerless by law to avenge his death in any of your civil tribunals of justice. And this results from the accepted construction that this Government has not the power by law to enforce in the States this guarantee of life.

I repeat then, sir, in view of the facts stated, that it is well for the Representatives of the people to consider that in passing this amendment they take but one step toward the attainment of the object sought to be attained by all the several propositions proposed, to secure to each citizen and each State alike their equal rights in the Union.

Mr. Speaker, touching this and all other amendments to the Constitution, by giving them my support, I do not subject myself to the gratuitous imputation of the gentleman from Illinois [Mr. MARSHALL] who spoke yesterday, of a want of reverence either for the Constitution or its illustrious founders. I beg leave, at all events, to say, with all possible respect for that gentleman, that I do not recognize the right of any man upon this floor, who was a representative of that party which denied the right to defend the Constitution of his country by arms against armed rebellion, to become my accuser.

In seeking to amend, not to mar, the Constitution of the United States, we ought to have regard to every express or implied limitation upon our power imposed by that great instrument. When gentlemen object to amending the

Constitution, when they talk sneeringly about tinkering with the Constitution, they do not remember that it is one of the express provisions of that instrument that Congress shall have power to propose amendments to the Legislatures of the several States. Do gentlemen mean by the logic to which we have listened for the past five days on this subject of our right to amend, that we are not to add anything to the Constitution and that we are to take nothing from it? I prefer to follow, in this supreme hour of the nation's trial, the lead of a wiser and nobler spirit, who by common consent was called while he lived "the Father of his Country," and now that he is dead, is still revered as "the Father of his Country," and to be hailed I trust by the millions of the future who are to people this land of ours as "the Father of his Country." In his Farewell Address, his last official utterance, Washington used these significant words, which I repeat to-day for the consideration of gentlemen:

"The basis of our political systems is the right of the people to make and to alter their constitutions of government."

We propose, sir, simply to act in accordance with this suggestion of Washington. We propose, in presenting these amendments, to alter, in so far as the changed condition of the country requires, the fundamental law, in order to secure the safety of the Republic and furnish better guarantees in the future for the rights of each and all.

The SPEAKER. The hour has expired.

Mr. BROOMALL. I hope the gentleman from Ohio will be allowed to finish his remarks.

Mr. BINGHAM. I shall be obliged to the House; it is a favor which I have seldom asked.

There was no objection, and it was ordered accordingly.

Mr. BINGHAM. Mr. Speaker, I am for the pending amendment to the Constitution of my country, and the other amendments to which I have already referred. I am for this and for the other essential amendments indicated, for the sake of the Union, and for the sake of the Constitution of the Union. Beyond that, if I know my own mind or my own heart, I have no feeling on this question. It towers above all party consideration; it touches the life of the Republic, and not the miserable inquiry whether this or that party shall be successful in the coming contest. It is for this House to decide whether amendments are necessary to the safety of the country and the protection of the people. I am for the proposed amendment from a sense of right—that absolute, eternal verity which underlies your Constitution. The right is the law of the Republic. So it was proclaimed in your imperishable Declaration by the words, all men are created equal; they are endowed by their Creator with the rights of life and liberty: to secure these rights Governments are instituted among men, deriving their just powers from the consent of the governed; and by those other words, these States may do what free and independent States may of right (not of *wrong* but of *right*) do.

The Constitution recognizes this limitation upon the States that they may do, subject to the Constitution of the United States, what free States may of right do. That which is right and just limits every sovereignty, in law, whether it be obeyed or disobeyed. Every nationality is bound to respect the just and the right. This truth is recognized as distinctly in your Constitution as it is proclaimed in your Declaration. In the first article, second section of the Constitution of your country, it is provided that Representatives in Congress "shall be chosen every two years by the people of the several States," thus affirming that the law-making power can only exist by the consent of the governed, as the right of the people. Who are "the people" of the several States referred to in the Constitution? The term "the people" is borrowed literally from the Articles of Confederation, adopted, as the House knows, ten years before the Constitution, as articles of perpetual union between the several States then and since known as the United States. It is a

term which had a definite and clearly understood meaning on the day that the Convention incorporated it into the Constitution of the United States. It meant generally the whole body of free citizens, and specially as the political power all free male citizens of full age in every State of the Union. I asked the attention of the House the other day to the fact, and I call their attention to it now, that in the Articles of Confederation it was expressly provided in words as follows:

"The free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States."

Can any one fail to perceive that the terms "the people of the several States," (article four,) borrowed literally from the Confederation and embodied in your Constitution, must mean the free citizens of each State? Who does not know that under the Confederation the majority of male free citizens of full age held the right to the elective franchise in every State then in the Union?

I appeal to every gentleman in this House to bear witness, that in every State of the original thirteen, on the day that the Convention embodied in the Constitution the words, "the people of the several States," the majority of free male citizens of full age, by the express terms of the State constitutions and their statute laws, held the political power of the several States. The employment of those terms in the Constitution of the United States was therefore but the clearest declaration that under the Constitution of the United States, as it had been under the Confederation, the right to exercise the elective franchise, to elect Representatives, was the right of the majority of free male citizens over twenty-one years of age, and that this right of the people should continue while the Constitution of the United States continued and remained unchanged.

The words "free persons" are also used in your Constitution; therefore by the words "free citizens" and "free persons," as used in your Constitution and in the Articles of Confederation, it was necessarily implied that there were citizens in the Republic not free, but bond. It was understood by the framers of the Constitution, and was expected by them and intended, that the day would come when the prefix "free" before "persons" in that instrument should cease to be operative and become meaningless.

Sir, the Constitution was framed with a view to that result, and to make it inevitable. It was hoped that the day of deliverance to the bond citizens of the Republic would come, not by violence, but by force of public opinion, operating on the minds and consciences of the people and speaking finally, either by the action of each State or through an amended Constitution, as the supreme law of the land.

If gentlemen doubt upon this subject, they will pardon me for asking their consideration to one or two provisions of the Constitution of the United States.

First, the ninth section of the first article provides that—

"The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808."

This was simply a provision to the end that the Constitution, as to the foreign slave trade by any of the States then existing, should not take effect until 1808.

In section three, article four, it is provided, as follows:

"New States may be admitted by the Congress into this Union."

The attempt was made in the Convention to add to this provision for the admission of new States the words "on the same terms with the original States," thereby securing to every new State admitted before 1808 the reserved power, not right, but power, to unite with the States then existing in the wild and guilty traffic in slaves, both by land and sea.

Thank God, the great body of the Convention rejected with scorn the proposition. What did that rejection mean? They struck out on

the 29th of August, 1787, the words, "upon the same terms with the original States." What did that mean? It meant that there should be no slave States admitted into this Union. It meant that no new States should be admitted under the Constitution armed with the power to practice that injustice in common with the then existing States for twenty years. The provision "on the same terms with the original States" was rejected; and what was the result? My own noble Commonwealth, Ohio, was admitted into the Union in 1802, six years before the Constitution could speak against the foreign slave trade carried on by the original States. Ohio was admitted as every man knows, only on the express condition that she should not then or forever after engage in either the domestic or foreign slave trade.

I think, sir, I have said enough and more than enough to justify the remark that it was intended by the framers of the Constitution that the day should come when the words "free person" in the Constitution would cease to be operative, for the simple reason that all would be free and none bond in the United States.

Mr. Speaker, touching the construction which I have put upon the words of the Constitution I beg to call the attention of the House to a few authorities to show that by the terms "the people of the several States" the Constitution did guaranty to the majority of free citizens in every State in this Union the right to control, by suffrage, the future power of their States and the future power of the Republic, but that by the guarantee the majority did not become empowered to take away the equal rights of the minority who were their peers. I read from Story, (3d Story, page 565:)

"It has always been well understood among jurists in this country that the citizens of each State constitute the body-politic of each community, called 'the people of the States'; and that the citizens of each State in the Union are *suo jure* citizens of the United States."

Rawle writes as follows:

"The citizens of each State constituted the citizens of the United States when the Constitution was adopted. The rights which appertain to them as citizens of those respective Commonwealths accompanied them in the formation of the great compound Commonwealth which ensued. They became citizens of the latter, without ceasing to be citizens of the former; and he who was subsequently born a citizen of a State became at the moment of his birth a citizen of the United States."—*Rawle on the Constitution*, p. 86.

Chancellor Kent says:

"If a slave born in the United States be manumitted, or otherwise lawfully discharged from bondage, or if a black man be born within the United States and born free, he becomes thenceforward a citizen."—*2 Kent's Commentaries*, fourth edition, p. 237, note.

I might as well say in this connection that the majority of the Supreme Court of the United States, even in the Dred Scott decision, were compelled to recognize the principle for which I contend this day. I read from that opinion:

"The words 'people of the United States' and 'citizens' are synonymous terms, and mean the same thing. They both describe the political body, who, according to our republican institutions, form the sovereignty, and who hold the power and conduct the Government through their representatives."

"It is true, every person, and every class and description of persons, who were at the time of the adoption of this Constitution recognized as citizens in the several States, became also citizens of the new political body."—*19 Howard, Supreme Court Reports*, p. 404.

Mr. Speaker, the Constitution of our country has been amended. The day anticipated by the framers of the Constitution has come, when there are none but free citizens in the Republic—the bond having become free. The day of the freedman's deliverance has come, not without suffering, not without sorrow, not without martyrdom, not without broken altars and broken hearts, not without storm and tempest, such as had not been since man was upon the earth; not without darkness, thick darkness that might be felt, and fire running along the ground. Though in terror, though in anguish, the day has come, and all are free in the Republic by the sovereign will of the whole people. Every slave the moment he is emancipated becomes a "free citizen," in the words of the Confederation, becomes a "free person," which embraces all citizens, in the words of our Constitu-

tion, becomes equal before the law with every other citizen of the United States.

What, then, sir, is the result? Simply this, that the Constitution must be amended! I agree, if the late rebel States would make no denial of right to the emancipated citizens no amendment would be needed. But they will make denial. The question is therefore directly before us, whether any of the States which shall be reorganized and admitted to exercise all the powers of a State in this Union to-day under the Constitution of our country, by which it is declared that all the citizens of the Republic are free, and that bond citizens are no longer to be found in any State or Territory in this Union, shall be permitted to have representation upon this floor, when by the fundamental law or by the statute law of such State the minority of the citizens of the State disfranchise the majority of its free male citizens of full age? That was not so when our Constitution was adopted. There was then no State in this Union wherein any considerable portion of the free citizens of the United States, being male persons over twenty-one years of age, were disfranchised. I but state a matter of fact within the knowledge of every gentleman here when I say that in at least five of the States of the Union there was no distinction made at all on account of color between free citizens of the United States in the exercise of the elective franchise. At that day no State would dare to assert any such power in a minority of the majority of free citizens. The question, then, that underlies this controversy is this, whether we will stand by the Constitution in its original intent and spirit, or like cravens abandon it. I assert it here to-day, without fear of contradiction, that the amendment pending before this House is an amendment conforming exactly to the spirit of the Constitution and according to the declared intent of its framers.

If there is any gentleman who is still in doubt upon this subject, I ask him to consider the fact to which I before referred, and which is indisputable, that no State was admitted into this Union at the time of the organization of the Government, which either directly or indirectly intimated that a majority of the free male citizens of the United States within its limits should be or lawfully could be disfranchised by the minority. The House cannot assent that any State shall do that under the Constitution of the United States.

Mr. ELDRIDGE. Will the gentleman allow me a moment?

Mr. BINGHAM. I hope the gentleman will excuse me. The House has kindly extended my time, and I desire to conclude my remarks in as brief time as may be. After I shall have done so, if the House is disposed, I will hear anything the gentleman may have to say.

I have endeavored to make the point clear that the issue now before this House is whether the Constitution shall be so amended as to secure to the free citizens of each State equal rights. The point raised upon the proposition reported by the committee is whether the declared intent of the Constitution of your fathers shall be enforced, or whether it shall be basely surrendered, by admitting that when all are free, a minority of the citizens of a State may disfranchise a majority of the male citizens of full age of the United States within such State. I deny their right to do so.

I might go further in this argument, and say, with the late Chancellor Kent, that whenever the majority of a State inserted the word "white" as a condition of the exercise of the elective franchise "it deserved consideration whether such exclusion would not be opposed to the Constitution of the United States." I believe that the free citizens of each State were guaranteed, and intended to be guaranteed by the terms of the Constitution, all—not some, "all"—the privileges of citizens of the United States in every State. That is the express provision of the Constitution.

But the question now presented is a very different one from the case just supposed, of the majority of free citizens restricting some of the rights

of a minority. My friend from California [Mr. HIGBY] has informed us that there are one hundred thousand more free colored citizens of the United States in the State of Mississippi to-day than there are of white citizens; that there are one hundred thousand more free colored citizens of the United States in South Carolina than there are of white citizens, and then we are gravely told that we must not press this amendment because we are abandoning the Constitution and the intent of our fathers. That is a new discovery, one for which the Democracy ought to take out letters patent, that it was ever intended that a minority of free citizens should disfranchise the majority of free male citizens, of full age, in any State of the Union! For myself I will never consent to it.

Well, then, some gentlemen asks, why not go for a constitutional amendment which will declare, once for all, that no State in this Union shall make any distinction in the right of voting between male citizens of the United States, resident within its limits and over twenty-one years of age, save in the case of persons convicted of infamous crime after due trial? I will answer with all my heart that I am ready to go for that. But a majority of those with whom I am associated think that this is all that is needed at present, in connection with other propositions to be submitted by them. I am content with that. I want the American people by adopting such amendments to declare their purpose to stand by the foundation principle of their own institutions, the absolute equality of all citizens of the United States politically and civilly before their own laws. That is the issue involved in the amendment presented by the committee.

Gentlemen will notice that the first clause of the amendment proposed by the committee is in the express language of the Constitution of the United States, except the word "free." The word "free" in your Constitution has, I said before, become forever meaningless by your amendment to the Constitution declaring that hereafter a slave cannot be or breathe anywhere within the Republic. This joint resolution says:

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed.

That is the exact language of the Constitution. Indians not taxed are excluded, for the reasons suggested by the venerable chairman of the committee [Mr. STEVENS] the other day, that they are tribal, are not part of the body-politic of the United States until they are subject to taxation.

It is objected to this resolution, among other things, that you retain the provision of the Constitution for the apportionment of direct taxes. I ask the attention of the House for a moment to the importance of that provision. I know that in the practice of the Government it has been found entirely useless in time of peace. In the present century there have been but three occasions when that grant of power in the Constitution has been exercised, and those three occasions were in time of war.

The effect of the amendment of my honorable colleague [Mr. SCHENCK] is to strike out the third clause of the second section of article one of the Constitution, which declares that direct taxes shall be apportioned among the several States according to the ratio of representation; but his amendment leaves and does not strike out of the Constitution the provisions of the eighth and ninth sections of article one, the first of which is that the Congress shall have power to lay and collect taxes, &c.; and the second of which is that "no capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken." How, then, will the Constitution stand? Why, sir, it seems to me that this fact is a fatal objection to the proposed amendment of my colleague. [Mr. SCHENCK.] If you are to dispose of the apportionment clause in the first article of the Constitution as to the apportionment of direct taxes among the States, you must

go further and limit the power of Congress to tax as provided in the eighth section. Take away the power, as my colleague proposes, to apportion direct taxes among the States, and leave the power as my colleague proposes to impose a direct capitation tax, and you introduce into your Constitution an express power to make unequal and unjust laws, which was abhorred by the makers of your Constitution, and against which they intended to provide a perpetual safeguard in the clause for apportionment of all direct taxes among the States.

The effect of my colleague's substitute, if it be adopted, will be this: the apportionment clause of the Constitution as to direct taxes will be stricken out; the granting clause of the eighth and ninth sections, to lay direct taxes, even a capitation tax, will be retained. What will follow? The express power to enact unequal tax laws, such as are sometimes enacted across the waters under the iron rule of England, the imposition of taxes, so as directly to make the rich richer and the poor poorer.

Let me explain. You lay a direct tax of one dollar, or five dollars, if you please, per head upon every citizen of the United States, and you strike out the apportionment clause. The result is that the poor man in his hovel, surrounded by his ragged children, his only earthly treasure, is compelled to pay, according to that assessment, for every member of his household; while the single, childless man, with his \$100,000 of annual income, pays not a dollar beyond the assessment on his own head. Under the provisions of the third clause of the second section of article one, which my colleague would strike out, that cannot be. Why? Because a capitation tax is a direct tax, and because the third clause, which my colleague proposes to strike out, requires that every direct tax shall be apportioned, not among the people, but among the States of the Union. The moment you so apportion it, it becomes a tax upon property, not upon persons. I think, Mr. Speaker, that if nothing else were said upon the subject, this objection to the proposed substitute of my colleague would of itself be fatal. With my present view of the matter, therefore, I cannot vote for that amendment.

Mr. SCHENCK. Will my colleague yield to me one moment, that I may ask him a question?

Mr. BINGHAM. Yes, sir.

Mr. SCHENCK. Do I understand my colleague to insist that in the ninth section of the first article there is no provision for any direct tax except a capitation tax?

Mr. BINGHAM. No, sir; I do not take that position.

Mr. SCHENCK. The language of that section is:

"No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken."

Mr. BINGHAM. I do not take that ground, nor did I intimate any such position; but I insist that the terms of the ninth section of the first article of the Constitution affirm beyond all question that every capitation tax is a direct tax; and I will say further that the third clause of section second of the first article of the Constitution, which my colleague by his substitute proposes to strike out, requires and enjoins that every capitation as well as every other direct tax shall be apportioned among the States, and that the moment it is apportioned it ceases to be a tax upon the person and becomes a tax upon property. I insist further that, if you strike out the third clause and lay your capitation tax, and assess it without apportionment, not upon property, but upon the person, you thereby adopt a mode of assessment which the fathers of the Constitution wisely forbade, and which I trust the people of the United States will forever prohibit.

Now, Mr. Speaker, what more is there of this proposed amendment reported by the joint committee? I have stated that it stands in the very words of the Constitution, omitting the word "free." What objection, then, can there be on that side of the House to enacting it? "Oh! the proviso," say the gentlemen—"the proviso

which declares that 'whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation.' " I beg my friend from California, [Mr. HIGBY,] and my honorable colleague, [Mr. SHELLABARGER,] to consider that a grant of power by implication cannot be raised by a law which only imposes a penalty, and nothing but a penalty, for the non-performance of a duty or the violation of a right. Within the last hundred years, in no country where the common law obtains, I venture to say, has any implication of a grant of power ever been held to be raised by such a law, and especially an implied power, to do an act expressly prohibited by the same law. The guarantee of your Constitution, that the people shall elect their Representatives in the several States, cannot be set aside or impaired by inserting in your Constitution as a penalty for disregarding it the provision that the majority of a State that denies the equal rights of the minority shall suffer a loss of political power.

I have endeavored to show that the words of the Constitution, the people of "the States shall choose their Representatives," is an express guarantee that a majority of the free male citizens of the United States in every State of this Union, being of full age, shall have the political power subject to the equal right of suffrage in the minority of free male citizens of full age. There is a further guarantee in the Constitution, of a republican form of government to every State, which I take to mean that the majority of the free male citizens in every State shall have the political power. I submit to my friend that this proviso is nothing but a penalty for a violation on the part of the people of any State of the political right of franchise guaranteed by the Constitution to their free male fellow-citizens of full age.

Mr. HIGBY. Will the gentleman yield to me?

Mr. BINGHAM. Most cheerfully.

Mr. HIGBY. I ask whether under the amendment we propose to adopt as a part of the Constitution of the United States, a State could not, by virtue of the proviso which it contains, have a right to disfranchise any class of citizens on account of race or color?

Mr. BINGHAM. I am sorry the gentleman did not notice what I said before he rose, for I think if he had he would not have made the inquiry. I say that the proviso is a penalty, and nothing but a penalty, inflicted on the State if its ruling class disregard and violate the guarantees of the Constitution of the political right of all the free people therein, being male citizens of the United States of full age, to participate in the choice of electors, by imposing on any part of one class special disabilities not imposed on the other class.

The guarantee in the first article of the second section of the Constitution rightly interpreted is, as I claim, this, that the majority of the male citizens of the United States of full age in each State shall forever exercise the political power of the State with this limitation, that they shall never by haste legislation impose disabilities upon one class of free male citizens to the denial or abridgment of equal rights. The further provision is that the United States shall guaranty to each State a republican form of government, which means that the majority of male citizens of full age in each State shall govern, not, however, in violation of the Constitution of the United States or of the rights of the minority.

Mr. BROMWELL. I ask the gentleman to let me ask him a question.

Mr. BINGHAM. Certainly, although it destroys the order of my remarks.

Mr. BROMWELL. I ask the gentleman whether the pending amendment reported from the committee does not, by forcible implication, if sanctioned by three fourths of the State Legislatures, admit that a majority may disfranchise a minority?

Mr. BINGHAM. As I have before stated, and I beg the gentleman's pardon for asking his attention to the fact, there has not been such

a construction, in my opinion, of a law which imposes only a penalty, for centuries, if ever, in any country where the common law obtains. The construction insisted upon by the gentleman amounts to this, that a law which inflicts a penalty or works a forfeiture for doing an act, by implication authorizes the act to be done for doing which the penalty is inflicted. There cannot be such a construction of the proviso. It is a penalty. It says in terms that if any of the States of the United States shall disobey the Constitution; that if they shall make distinctions in violation of the second section of the first article of the Constitution, that as a penalty such State shall lose political power in this House, to the extent of the whole class or race against any part of whom the unjust discrimination has been made.

If, therefore, the State of South Carolina by a violation of the Constitution shall say that white citizens only shall vote, thereby excluding the majority of the free male citizens of the State because they are colored, the proviso is, that then South Carolina, instead of having six Representatives upon this floor as she otherwise would have, shall only have two. Is that not just, if the one third of the people of that State disfranchise two thirds of the free people of that State? It is according to the spirit of the Constitution? Is it not just as compared with the gallant State of Vermont, a State always faithful to the Constitution, with three hundred and twenty thousand white population, which sends three Representatives? South Carolina, according to the argument of gentlemen, may violate the Constitution, may violate every principle of republican government, may by the act of a minority deny all political rights to the majority, and yet for doing so the gentlemen who oppose this amendment say that she shall be entitled to six Representatives for her two hundred and eighty thousand returned rebel white citizens, and thereby count two to one over Vermont with twenty thousand more white population than South Carolina. To prevent so gross an injustice we propose the penalty that no State, by a denial of right to the majority on account of race or color, shall be allowed to represent such disfranchised majority of free male citizens. We say if a State does this thing such State shall be reduced in political power on this floor, but shall not be relieved from the payment of taxes on the whole number of free population.

You place upon your statute-book a law punishing the crime of murder with death. You do not thereby, by implication, say that anybody may, of right, commit murder. You but pass a penal law. You do not prohibit murder in the Constitution; you guaranty life in the Constitution. You do not prohibit the abuse of power by the majority in the Constitution in express terms, but you guaranty the equal right of all free male citizens of full age to elect Representatives; and by the proviso you inflict a penalty upon a State which denies or abridges that right on account of race or color. In doing that we are not to be told that we confer a power to override the express guarantees of the Constitution. We propose the penalty in aid of the guarantee, not in avoidance of it.

But, sir, if implied powers are to be inferred from the mere penalty proposed, then the objection on that ground applies with equal force to the substitute offered by my colleague, [Mr. SCHENCK.] What is implied here? I say, by my argument, no such implication can be made. But I do say, as a logical sequence it results, if powers are to be implied because you impose as a penalty the forfeiture of political powers on a State that denies or abridges the rights of any portion of the people guaranteed by the Constitution, that the argument urged upon that ground against this proviso operates with equal force against the substitute offered by my colleague. What is that? This is the provision proposed by my colleague, [Mr. SCHENCK.]:

Representatives shall be apportioned among the several States which may be included within the Union according to the number of male citizens over twenty-one years of age having the qualifications

requisite for electors of the most numerous branch of the State Legislature.

Is not the effect of this the same as that of the proviso, differing in degree? It is a penalty. It is the diminution of political power in the State that limits suffrage among the citizens of the United States. The intent of my colleague's substitute is the same as that of the proviso in the resolution reported by the committee. It is to compel those States, upon the penalty of losing political power, to do equal and exact justice among the free citizens of the United States in the regulation of the elective franchise.

It results that the argument made against the proviso does apply as well to the proposed substitute of my colleague. Does not that substitute imply, according to the argument we have heard, that all citizens of the United States, being male persons over twenty-one years of age, in a State, may not be allowed to exercise the elective franchise? Did not my colleague [Mr. SCHENCK] admit in his argument yesterday that this fact was implied? Undoubtedly. Does the substitute not imply further—if, as contended, a penalty for doing an act is an implied power and authority to do it—that the franchise may be conferred in the States upon aliens? Most undoubtedly. Well, is not that a violation of the Constitution? Was it not intended by the Constitution, as I argued in the beginning, that the political power of this country should be exercised in the several States of the Union only by citizens of the United States, natural born or duly naturalized? Undoubtedly that is the intent of your Constitution. The ballot is the sovereignty of the nation, and should only be in the hands of citizens. A few States of the Union, and but a few, have granted alien suffrage. My colleague, I am sure, is not its advocate. But let gentlemen, when they enter upon this mode of argument, raising implied powers from a restraining law, consider well whither their logic leads them. I assert again, without fear of contradiction from any man who deliberately examines the subject, that the argument urged against the proviso, that by implication it authorizes an act to be done which it punishes, that the argument lies as well against the substitute offered by my colleague. There is in my mind no doubt about it.

It seems to me, sir, that the joint resolution of the committee has this to recommend it in addition to what I have said over the proposed substitute, that it leaves to every State of this Union, according to the original intent and letter of the Constitution, its equal political power in the Union, provided the several States obey its requirements. That is precisely what it proposes. What is the result, if you substitute my colleague's amendment? You diminish necessarily the political power of the loyal States while you increase in the same ratio that of the rebel States upon their admission to representation in this House. Now, is it not enough for us to allow them to come in with equal political power upon precisely the same terms with the rest; or are we ready to strip the loyal States of the just political power under the Constitution which they hold to-day. I believe it endangers the future safety of the Republic to increase the political power of the eleven States that have been in rebellion against the Government, and diminish the political power of the loyal States. In my judgment, that would be the effect of my colleague's substitute. How? Why, simply this. Under the Constitution as it now is and as it always has been, the entire immigrant population of this country is included in the basis of representation. Every man knows that the great body of the immigrant population of America always has been and now is confined to the free loyal States. There is no considerable portion of it found anywhere within the limits of the eleven rebel States. By substituting the amendment of my colleague you strike from the basis of representation the entire immigrant population not naturalized, and therefore not yet capable of becoming voters, citizens of the United States over twenty-one years of age. I ask the House to consider whether that is wise.

It will be admitted, doubtless, that the framers of the Constitution inserted this provision to encourage immigration. They did so, not only by this provision of the organic law, which declared that the whole immigrant population should be numbered with the people and counted as part of them, but by the further provision that Congress should have power to pass a uniform naturalization law, and thereby provide that the alien population, by complying with the terms of the statute, should be clothed with the dignity of citizens of the United States and invested with the rights and powers of citizens.

There is no provision of the Constitution that is more essential to the future of the Republic than this. It is as true now as when the Constitution of the United States was adopted, that the want of the Republic is productive power. The wise statesmen who fashioned the Constitution invited to these shores the toiling millions of the Old World. They invited the workers and the builders whose honest toil clothes and shelters nations. They came from every civilized nationality, to be numbered among our people, and finally to become one with us as citizens of the Republic.

But, say gentlemen now, they shall not be numbered among our people, that we must depart from that policy which has hitherto given the Republic its strength, which has enabled it to achieve what has hitherto been seen only in the vision of the Seer, a nation born in a day, a nation that within the memory of living men has peopled this vast country of ours from the western base of the Alleghenies to the gates of the Pacific, and covered the continent with free Commonwealths. Mr. Speaker, I trust that the House will deliberate long before they substitute any such untried project for the older, safer way of the fathers of the Constitution.

One word more about this much-abused proviso. It offers an inducement to those States lately in rebellion, when they are admitted to their proper positions in the Union, if they would assert their political power, not only to make the franchise universal, but if the necessity exists to which my colleague [Mr. SCHENCK] referred yesterday, to unbar the gates of knowledge and allow all the citizens of their States the means either of self-culture, or of culture through the beneficence and kindness of others. It is true that this amendment may not, as it cannot, compel the States to grant the means of mental instruction. This amendment will not accomplish all that we desire, but it will be a step taken toward the attainment of the end. I trust that before this Congress shall conclude its session amendments will be sent out to the people by which the Congress may upon their ratification be empowered to provide by law that hereafter no State shall make it a crime for a man, whether he be black or white, a citizen of the Republic, to learn the alphabet of his native tongue and his rights and duties.

Mr. Speaker, I have endeavored in the remarks which I have made to the House to show that the proposed amendment is a simple endeavor, by way of penalty, to enforce the existing grants and guarantees of the Constitution of my country. I trust that I have succeeded in making the House understand my own views, at least, of this important question. I think that no question more important than this has yet come before the House, and that none more important can come before the House for its consideration, unless it be the great question whether the Constitution shall be so amended as to give to Congress the power by statute law to enforce all its guarantees! I pray gentlemen to consider long before they reject this proviso. It may not be the best that the wisest head in this House can conceive of, but I ask gentlemen to consider that the rule of statesmanship is to take the best attainable essential good which is at our command. The reason why I support the proposed amendment is that I believe it essential and attainable. I do not dare to say that it could not be improved. I do dare to say that it is in aid of the existing grants and guarantees of the Constitution of my

country, that it is simply a penalty to be inflicted upon the States for a specific disregard in the future of those wise and just and humane grants "to the people" to elect their Representatives and maintain a republican government in each State.

Mr. Speaker, the Republic is great; it is great in its domain, equal in extent to continental Europe, abounding in the productions of every zone, broad enough and fertile enough to furnish bread and homes to three hundred million freemen. The Republic is great in the intelligence, thrift, industry, energy, virtue, and valor of its unconquered and unconquerable children; and great in its matchless, wise, and beneficent Constitution. I pray the Congress of the United States to propose to the people all needful amendments to the Constitution, that by their sovereign act they may crown the Republic for all time with the greatness of justice.

Mr. BROOMALL. It is not my intention to make any extended remarks upon the subject now before the House, but rather to intimate an amendment which I propose to offer at the proper time, should that time arrive, to the proposition introduced into this House by the joint committee on reconstruction. On the second day of the present session I had the honor to introduce one of the provisions which went to the committee that reported this joint resolution. It was the mode most in accordance with my predilections then, as it is now, of the two presented for our choice. I preferred then, as I prefer now, the proposition basing representation upon the actual voters. But I have so earnest a desire that the object which we all have in view shall be attained that I am willing to relinquish that predilection and go for an amended form of the proposition brought before this House by the joint committee, if I can obtain it. If that cannot be done, then I will go for the proposition itself. I can, therefore, with the better grace urge upon the members of this House the reconciling of the various views presented here, and our uniting upon something, because I am willing thus to waive my own preferences, and advocate a proposition based upon a different principle than that embraced in my own.

Of the two modes presented here for our consideration, the first is embraced in the amendment of the gentleman from Ohio, [Mr. SCHENCK,] and which is similar to the one I myself introduced, to base representation upon actual voters. Now, it appears to me that that would be a fair mode for basing representation. It is true it might possibly work injustice between the eastern and western States, in consequence of the greater preponderance of persons under full age and of females in the eastern States over the western States, and it is possible that that consideration alone ought to induce us to adopt the proposition of the committee or something like it. But I am by no means sure that the East is entitled to count its women and children in its basis of representation unless it gives them a voice in the Government, any more than the people of South Carolina ought to count their negroes without giving them a voice in the Government.

But I am not here now to advocate that provision. As I have said, I have concluded to support the principle of the joint resolution now before the House, in a modified form, if I can succeed in having it modified.

The resolution reported by the joint committee is open to one or two objections or more, some of which have been urged upon this floor with a great deal of force. I will reiterate them, and then state in what manner I propose to obviate those objections. The first objection is that so ably urged by the gentleman from Rhode Island, [Mr. JENCKES,] that the people of the South, with their present *animus*, may reach the same result which we say they shall not accomplish, by excluding no races, no colors as such. For example, they may exclude all who do not own one thousand acres of land or its equivalent in other property. This would reduce the number of actual voters in South Carolina to a mere fraction of their population.

And yet the remedy proposed by the committee would not diminish their representation here. That is to my mind a serious objection.

Another objection has been stated by the gentleman from Ohio, [Mr. SHELLABARGER,] who first addressed the House on this subject yesterday. That is, that by the provision "that whenever the elective franchise shall be denied or abridged in any State on account of race or color," we seem to invite the people of the South to act upon our hint to continue to exclude people on account of race or color, and even go beyond that and exclude them on other grounds not embraced within the provisions of the resolution of the joint committee. Now, I am not willing, if I can avoid it, to give any vote upon this floor that will ever consent to the principle that States may disfranchise entire races of men. And yet if the resolution cannot be amended in that particular, I say again that my vote shall be cast in its favor.

Another objection pointed out by the gentleman from Ohio [Mr. SCHENCK] is that the proposed amendment excludes all of a race until the last one of that race shall be enfranchised; that is to say, if the people of the South choose to impose an educational qualification upon the elective franchise among the negroes, by which all the negroes shall be permitted to vote but one tenth of them, the provision of the committee will exclude not only that one tenth, but the other nine tenths also. This might or might not be a serious objection, according to the disposition and mind of particular viewers of it, to punish or not punish these populations of the South. To my mind it is some objection; and yet I have no very great desire that they should avoid proper punishment for the crimes they have committed, or that they should not endure the full consequences of the state of things they have brought upon the country and themselves.

There is still another objection, and one not yet alluded to by any gentleman on this floor. It is this: the resolution provides that whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation. Now, there is a great deal of indefiniteness in both those terms, "race" and "color."

What is a race of men? Writers upon the subject of races differ very materially on this point. Some of them would make four or five races; others fifteen; and one whom I might name seems inclined not to limit the number short of a thousand. I myself am inclined to think that the Celtic race is a distinct one from ours. I think that any gentleman who has studied this subject attentively will at least have doubts whether or not the race that appears to have inhabited Europe in the early historic period, and has been partly dispossessed there by ours, is not a distinct race from ours.

Again, the word "color" is exceedingly indefinite. If we had a constitutional standard of color, that of sole leather, for example, by which to test the State laws upon this subject, there might be less danger in incorporating this provision in the Constitution. But the term "color" is nowhere defined in the Constitution or the law. We apply the term to persons who are of African descent, whether their color is whiter or darker than ours. Every one who is familiar with the ethnological condition of things here in the United States, and who sees the general mixing up of colors, particularly in the Democratic portion of the country—I allude to that portion south of Mason and Dixon's line—must say with me that the word "color" has no very distinct meaning when applied to the different peoples of the United States of America.

Now, these several objections are more or less formidable. If any one of them or all of them united should prevent two thirds of the members of this House from voting in favor of the measure, I am sure the committee would be content to modify it so as to avoid these objections. And I have in my hand an amendment in the nature of a substitute for the entire resolution, which I propose to offer upon the proper occasion. I will ask the Clerk to read

my proposition, after which I will point out how it obviates the difficulties which I have suggested and which other gentlemen on this floor have so ably enforced.

The Clerk read, as follows:

Resolved, &c., That the following article be proposed to the Legislatures of the several States which may amend to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE —. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided,* That whenever the elective franchise shall be denied by the constitution or laws of any State to any proportion of its male citizens over the age of twenty-one years, the same proportion of its population shall be excluded from its basis of representation.

Mr. BROOMALL. It will be observed, Mr. Speaker, that the change which I propose to make in the proposition now before the House is in the proviso. Instead of providing that—

Whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation,

I propose to provide that—

Whenever the elective franchise shall be denied by the constitution or laws of any State to any proportion of its male citizens over the age of twenty-one years, the same proportion of its population shall be excluded from its basis of representation.

It will be seen that this follows the idea of the committee, because it bases the representation upon population and not upon voters. It therefore does not work the injustice that has been feared between the extreme East and the extreme West, by reason of the peculiarities of their populations. It will be seen, too, that it avoids the difficulty suggested by the gentleman from Rhode Island, [Mr. JENCKES,] which was that the people of the South, without excluding races or colors, may still arrive at the same end by affixing such qualifications to the elective franchise as will actually exclude not only all the negroes, but a very large proportion of the whites, because, according to my proposition, wherever the elective franchise is denied to any proportion—one tenth, one twentieth, or any other proportion—of the male citizens of any State over the age of twenty-one years, the like proportion of the entire population shall be excluded from the basis of representation. It therefore satisfies the requisitions of the gentleman from Rhode Island.

Again, it obviates the difficulty suggested by the gentleman from Ohio, [Mr. SHELLABARGER,] that the proposition of the committee seemed to invite the people of the South to exclude and seemed to recognize their power to exclude entire races of men, because my proposition is not limited to the exclusion of men from the elective franchise by reason of race or color, but applies to their exclusion on any account whatever.

If Massachusetts should declare by law that she will not let her citizens who cannot read and write vote, and if by that there is the one hundredth part of her male population over the age of twenty-one denied the elective franchise, why, Massachusetts must submit to have that proportion of her population excluded from her basis of representation. And so with all the rest of the States.

It obviates the difficulty of the gentleman from Ohio [Mr. SCHENCK] who last addressed the House yesterday, that the measure reported by the committee excludes all of the race while possibly a part of the race may be allowed to vote, provided the exclusion of a part is on account of race or color. I have no objection to obviating that difficulty. It is but fair to obviate it. I think it is but fair, if the people of the South should return, and allow a purely republican form of government to be established among them, that they ought to be encouraged in the good work.

It also obviates the objection I have raised, the want of definiteness in the terms "race or color" in the resolution. It does not propose to limit its operation to those excluded on account of race or color.

I think if the measure be recommitted to the

committee without instructions, notwithstanding my colleague [Mr. STEVENS] thinks the committee has not been enlightened by what has been said, that some plan may be hit upon which would secure two thirds of both Houses of Congress and three fourths of the Legislatures of the States.

I yield a part of my time to the gentleman from New York.

Mr. DAVIS. Mr. Speaker, I rise not so much for the purpose of making an argument on the question before the House as to address myself to the House in respect to the spirit with which any proposition of this nature should be received on this floor. This Government was formed in the spirit of concession. Conflicting interests and conflicting opinions were compared and harmonized. The interests of different sections were considered, so far as they might be accommodated to each other, in order that this Government might live to extend and perpetuate the liberty of our citizens.

I believe that the spirit which actuated those who framed this Government should guide us to-day in our deliberations. That a great evil exists every one upon this floor must concede, for inequality of representation is injustice. I propose for myself, however, to ask nothing as a northern man which as a southern man I would not be willing to consent to for the sake of the Union. I believe there are objections to every proposition which has been presented. I do not know any proposition can be framed which will be free from objections; but, in view of the great object we desire to accomplish, I submit whether the members on all sides ought not to be willing to sacrifice something of personal opinion or local prejudice. I am willing to vote for that which will accomplish the most we can do in the deliberate judgment of this House, although it may not accomplish all that others and myself may desire to do.

We desire to restore the Union and to have an equality of representation. I want that the spirit of the Constitution may be preserved. I think the argument made by the gentleman from Ohio yesterday is conclusive that we ought by our legislation to hold out inducements to the people of the South to extend the elective franchise; but in accordance with the opinions I had the honor to express a few days ago in this House, I believe it would be wrong to compel the southern States to extend suffrage to men who are unqualified for its use. I only ask gentlemen on all sides to so look at this great national question as to remember that we are not only legislating for to-day, but for the future, and to be careful not to admit anything into the Constitution unworthy of the American people. I hope that by some provision we may remedy the great evil complained of. I hope that some plan may be devised which will not only commend itself to Representatives here, but to the entire people of the country, who must pass on all that we may do.

Mr. WARD. Mr. Speaker, I do not suppose there is a Union man upon this floor but desires that some amendment to the Constitution should be secured that shall avoid in future the patent injustice and glaring defect which now exists in the basis of representation in the southern States.

The fact that one South Carolinian, whose hands are red with the blood of fallen patriots, and whose skirts are reeking with the odors of Columbia and Andersonville, will have a voice as potential in these Halls as two and a half Vermont soldiers who have come back from the grandest battle-fields in history maimed and scarred in the contest with South Carolina traitors in their efforts to destroy this Government, cries aloud for remedy; and it depends upon Congress to inaugurate this remedy. And the country expects and demands from the large Union majority here some united action, and not to fritter away our strength in useless divisions and accomplish nothing.

We must be guided here by a spirit of compromise and harmony. No amendment can be presented entirely free from objection, and that may not bear unequally in some respects; but

in the spirit of our fathers who framed the immortal instrument we are seeking to change, let us who have a common object at heart strive faithfully to agree, each section willing, if necessary, to yield a little for the general good.

I am free to say that to my mind there are serious objections to the amendment reported by the committee. Still, if nothing better can be agreed upon, I will support it upon the principle that it is better than no amendment at all. Numerous amendments have been proposed, many of which I deem so extraordinary as to be entirely out of the question. There are, however, a class of amendments that propose to base representation upon male suffrage simply. Let us examine for a moment the effect of this.

Those who vote will of course in all cases be the direct agents in selecting the representative; but what becomes of that large class of non-voting tax-payers that are found in every section? Are they in no manner to be represented? They certainly should be enumerated in making up the whole number of those entitled to a representative. If that is not done, then indeed we have reversed the progress of nearly a century, and the doctrine that our fathers fought against and overthrew in the revolutionary struggle is at last asserted in this country and made a part of the fundamental law of the land, namely, "taxation without representation."

The amendment reported by the committee adopts the right principle, and is good enough as far as it goes; but it can readily be seen that if the poor whites of the South or the blacks are excluded for any other ostensible reason than of "race or color," or if no reason is given for the exclusion in the law excluding them, the same difficulty exists as now, and the object sought to be obtained is defeated.

Do you suppose that those "whitewashed" traitors, with the infernal ingenuity which maintained the great rebellion against the grandest army and the most mighty power on earth for four long years, will not invent some scheme, if the amendment as it now stands prevails, to keep a downtrodden people whom they hate away from power and all means of elevation, and yet, true to their old habit of appropriating the use of these people without compensation, use their numbers as a basis of representation with which to get themselves into Congress? They will readily publish some ground of exclusion from suffrage other than of "race or color." They may require them to read and write, and yet keep alive the black code against disseminating knowledge among them. Indeed, they may require them to have a collegiate education, or something else equally absurd. Perhaps the fact of their undoubted loyalty to the Government will be a ground of exclusion.

It is no answer to say that the same ground of exclusion must be applied to whites as well as blacks. This does not necessarily follow. Suppose it were so, what consideration have the southern oligarchy ever shown for the "poor white trash"? With their contempt for labor, their known desire for a landed aristocracy and a privileged class, how ready would they be to exclude the masses by some property or other qualifications from power, to the end that they might grasp it all.

How, then, you ask, shall this be remedied? I answer, by simply also excluding from the basis of representation all those who are deprived of suffrage by reason of a property or tax qualification, or any other qualification not heretofore recognized as a qualification of suffrage in the State where the qualification is applied; so that no subterfuge could be adopted to defeat the purposes of the amendment, and so that a State would have the choice simply, as we desire it should, of enfranchising its people or not having them counted in the basis of representation; and thus the tax-payer of the State is not deprived by the Federal Constitution of representation absolutely, as in the other plan I have referred to; but the excepted classes are made dependent upon State action alone, the State having the power at any time

to remove the disability that the Constitution imposes.

My amendment consists in adding to the joint resolution proposed by the committee these words:

And provided further, That all persons who are deprived of the elective franchise in any State by reason of a tax or property qualification, or by reason of any other qualification, which (other qualification) was not in force on the 1st day of January, 1866, in the State where the same is applied, shall be excluded from the basis of representation.

So that the joint resolution shall read as follows:

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation: And provided further, That all persons who are deprived of the elective franchise in any State by reason of a tax or property qualification, or by reason of any other qualification which (other qualification) was not in force on the 1st day of January, 1866, in the State where the same is applied, shall be excluded from the basis of representation.*

I ask the earnest consideration by the House of the amendment. It seems to me to meet all the difficulties that surround us, and I hope it will prevail.

It has been suggested that perhaps the loyal States will not pass the amendment. In my judgment the loyal States will pass any article that we shall propose to them for their adoption, and make it the fundamental law of the land. As for the disloyal States, those that stood in a hostile attitude against this Government and have exerted all their power for its destruction during the last four years, I have only to say that they have only the right which the criminal has who pleads before the judge for mercy. They will pass this amendment as they did the former.

Mr. HARDING, of Kentucky, obtained the floor, but yielded to

Mr. ECKLEY, who moved that the House adjourn.

Mr. NICHOLSON. I ask the gentleman to withdraw that motion and allow me ten minutes.

Mr. HARDING, of Kentucky. I yielded only to a motion to adjourn, so that I can go on in the morning. I have no objection to the gentleman from Delaware [Mr. NICHOLSON] speaking now, provided it does not come out of my time, and I may go on to-morrow.

The SPEAKER. The gentleman from Kentucky [Mr. HARDING] wishes to yield to the gentleman from Delaware, [Mr. NICHOLSON,] and to take his hour to-morrow. Is there objection?

Mr. STEVENS. I do not care when the gentleman from Kentucky takes his hour, but I hope the House will not adjourn yet. I would like to get through this debate in the course of the season, and unless we use our time we shall not get through this winter.

The SPEAKER. Will the gentleman from Delaware occupy the floor to-night?

Mr. NICHOLSON. I wish to do so.

The SPEAKER. If there is no objection, the gentleman from Delaware will proceed, with that understanding.

Mr. NICHOLSON. I think I can safely say that I shall vote, not only against this amendment, but against any and all amendments to the Constitution that may be proposed at this time. The temper and disposition of the majority of this House is not such as should characterize statesmen seeking to alter and fix for future ages the organic law of the land; and if they should finally triumph in the mad schemes in which they are engaged, they will succeed in converting that heretofore sacred instrument, revered and obeyed till the present dominant party came into power, from a bond of union to a galling yoke of oppression—a thing to be loathed and despised.

The object sought by this amendment is to coerce the several States, and especially the southern States, into conferring upon the negro race the right of suffrage. It will not have that effect in the State I have the honor to represent,

as her representation will be neither increased nor diminished by any action she may take upon this subject, being entitled, with other States, "to at least one Representative." But I protest against the attempt to invade and take away the reserved rights of the States, and that most essential one of determining who shall exercise, within their limits, the sovereign power of voting, the right to restrict its exercise as the interest and safety of their respective governments may require. This is but part of the favorite scheme of New England to take away, one by one, all the powers now exercised by the several States, and make this a consolidated Government, a centralized despotism.

They seem willing to relinquish their own rights as States for the greater satisfaction of wielding the whole power of the General Government. But I caution them to beware. They may bask now in the sunshine of conscious power, but

"Westward the course of empire takes its way."

And though the negro is now the bond of union between the East and the West, yet the time may come when the power they have assisted to build up here, for the purposes of the present hour, may be turned against them. When the scepter shall fall from their grasp, and they find themselves defenseless before the power they have fostered, there will then be found those who will "laugh at their calamity and mock when their fear cometh."

But another serious objection against this amendment is the indirectness of the attack. It is presumed that the desire for as full a representation as can be obtained will compel the States having within their limits a large negro population to confer upon them the elective franchise. This might ultimately be the result, though you are compensated in the event of their refusal by an increase of power. Power is the object, in either event, which is aimed at by this miserable device. You hope that the blacks will be your allies should they become invested with political power. Be not too sure of this.

"The best laid schemes o' mice and men
Gang aft a-gley."

The argument of gentlemen on the other side seems to proceed upon the assumption that the abolition of slavery has introduced a new feature into our political system. It is not so. The liberated slaves stand precisely upon the same footing with the free negroes of the North. Three fifths of them have always been represented; and if the other two fifths are now to be added, counting them as free persons, remember it is your own act. It is a result that you yourselves have achieved, and this small addition to their representation which the Constitution gives to the southern States is a poor compensation for the frightful wrongs that have been inflicted upon them.

But it is hard to discover from this amendment whether you do or do not desire the negroes of the South to be clothed with the elective franchise. It is therefore obnoxious to the charge of duplicity. If such be your real object, come out like men and avow it. Amend the Constitution in the right place, and do not seek thus indirectly to effect it, hoping to obtain some equivalent advantage if you fail in this.

Article one section two of the Constitution reads as follows:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

"No person shall be a Representative who shall not have attained the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The num-

ber of Representatives shall not exceed one for every thirty thousand; but each State shall have at least one Representative," &c.

Now, amend the latter clause of this section, and proclaim universal suffrage, negroes included, for members of this body, and there will be some consistency in your action; it will certainly have the merit of candor and boldness. For while the power to dictate to the several States what shall be the qualifications of electors for all offices, State as well as national, might be denied, the power to make this amendment might not be challenged; but the objection would be to the merits of such an amendment. I challenge the gentlemen on the other side to this issue. Let them declare that the negroes of the several States shall vote for national officers, and go to the country upon that question, and I am not fearful of the result. I judge the American people by the feelings of my own heart, and I firmly believe that they will never consent to share the Government of this country with a race of beings whom the Almighty himself has declared shall be the "servant of servants," and upon whom He has stamped the indelible mark of their inferiority. But should the majority persist in these attempts to revolutionize the Government, while they exclude from this Hall those who are to be affected by this action, and who have a right to be heard and to vote upon these measures, their conduct must at least be pronounced unmanly and ungenerous, and will prove the truth of what Prescott so forcibly expresses in closing his chapter on the Inquisition in his history of Ferdinand and Isabella. He says:

"Many a bloody page of history attests the fact that fanaticism, armed with power, is the sordest evil which can befall a nation."

DISCUSSION OF THE PRESIDENT'S MESSAGE.

Mr. STEVENS. I desire to submit a motion, that next Saturday be occupied as in Committee of the Whole with debate on the President's message, with the understanding that no other business be transacted.

No objection being made, it was so ordered.

SURVEYING DISTRICT IN MONTANA.

Mr. RICE, of Maine, by unanimous consent, introduced a bill erecting the Territory of Montana into a separate surveying district, and for other purposes; which was read a first and second time, and referred to the Committee on Territories.

JACOB P. LEESL.

Mr. HIGBY, by unanimous consent, took up from the files a report from the Court of Claims made to the House of Representatives at the second session of the Thirty-Seventh Congress, for the relief of Jacob P. Leese; and the same was referred to the Committee of Claims.

EMANUEL MARQUIS.

Mr. HILL, by unanimous consent, introduced a bill for the relief of Emanuel Marquis; which was read a first and second time, and referred to the Committee of Claims.

ONE HUNDRED DAYS MEN.

Mr. McKEE, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas certain persons who served in what was known as the organization of one hundred days men, it appears, were, while in said service, drafted under the laws and orders providing a draft to fill the Army, and paid the \$300 commutation money provided in said law: Therefore,

Resolved, That the Secretary of War be requested, if not incompatible with the public interest, to furnish this House with copies of the orders authorizing said organization of one hundred days men, and also copies of all orders from said Department, if any orders were issued, protecting the men who entered said service from the effects of the draft.

PENNSYLVANIA INSTITUTE.

Mr. ANCONA, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to consider the propriety of providing, in any bill they may report for the amendment of the internal revenue laws, for the exemption of the Pennsylvania Institute for the Instruction of the Blind from taxation.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by its Chief Clerk, Mr. McDONALD, notifying the House that that body had passed a bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau.

Mr. ELIOT. I ask that this bill be taken from the Speaker's table, and referred to the select committee, and that it be printed for the use of the House, with the privilege of reporting it back when the Freedmen's Bureau bill is reached as a special order.

No objection being made, it was so ordered.

MINERAL LANDS OF THE UNITED STATES.

Mr. BIDWELL, by unanimous consent, presented the preamble and resolutions adopted by the miners' convention of the State of California, on the subject of the disposal of the mineral lands of the United States; which were referred to the Committee on Mines and Mining.

PATENT OFFICE REPORT.

Mr. LAFLIN, by unanimous consent, submitted the following resolution; which was referred, under the law, to the Committee on Printing:

Resolved, That there be printed for the use of the House ten thousand copies of the report of the Commissioner of Patents for the year 1863-64, instead of the twenty thousand ordered.

PROTECTION OF RAILROAD PASSENGERS.

Mr. JULIAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Roads and Canals is hereby directed to inquire into the expediency of passing a law similar in spirit to the steamboat inspection laws, for the protection of the lives of passengers on railroad cars, and to report by bill or otherwise.

J. JUDSON BARCLAY.

Mr. NEWELL, by unanimous consent, introduced a bill for the relief of J. Judson Barclay; which was read a first and second time, and referred to the Committee on Foreign Affairs.

BOOKS FOR DISTRIBUTION.

Mr. MILLER, of Pennsylvania, by unanimous consent, submitted the following resolution; which was referred to the Joint Committee on the Library:

Resolved, That the Clerk of the House of Representatives be, and is hereby, authorized and required to purchase — copies of the proposed publication of the debates in the first Senate of the United States from a journal kept by Hon. William Maclay, a Senator of Pennsylvania in the first Senate, the same to be paid for out of any money in the Treasury not otherwise appropriated, on the order of the said Clerk, on the delivery of the books; said books to be for the use of the members of the House of Representatives for distribution: *Provided*, That the price of said books shall not exceed the sum of \$—.

INCOME TAX.

Mr. ROSS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of increasing the exemption of \$800 in the income tax to \$1,000; also to inquire into the expediency of increasing the tax on incomes of \$25,000 and upward to twenty-five per cent.

COMPENSATION FOR HORSES.

Mr. DEFREES, by unanimous consent, introduced a bill to amend an act to provide for the payment of horses and other property destroyed in the military service of the United States, approved March 3, 1849; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. SPALDING moved that the House do now adjourn.

The motion was disagreed to.

CHAPLAINS IN THE NAVY.

Mr. HULBURD asked the unanimous consent of the House to offer the following resolution:

Resolved, That the Secretary of the Navy be requested to communicate to this House the names of the present chaplains in the Navy, together with the date of each appointment, and the State from which each appointment was made.

Mr. SPALDING objected.

And then, on motion of Mr. SPALDING, (at twenty minutes past four o'clock p. m.) the House adjourned.

IN SENATE.

FRIDAY, January 26, 1866.

The Journal of yesterday was read and approved.

COMMITTEE SERVICE.

The PRESIDENT *pro tempore* appointed Mr. Kirkwood to fill the vacancy in the Committee on Pensions occasioned by the resignation of Mr. Foot, and also to fill the vacancy on the Committee on Public Lands occasioned by the resignation of Mr. GRIMES.

FRANCIS CAZEAU.

The PRESIDENT *pro tempore* laid before the Senate a communication from the clerk of the Court of Claims, transmitting, in answer to a resolution of the Senate of the 18th instant, the petition and other papers in the case of Jacob Bigelow, administrator of Francis Cazeau; which were referred to the Committee on Revolutionary Claims.

EXECUTIVE COMMUNICATION.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting, in answer to a resolution of the Senate of the 18th instant, information in regard to commissioners and clerks of the district and circuit courts of the United States, together with the amount of fees and emoluments received by each of those officers; which was ordered to lie on the table and be printed.

PETITIONS AND MEMORIALS.

Mr. RAMSEY. I present the proceedings of a meeting of the citizens of St. Paul and members of the Minnesota Legislature, who represent to the Congress of the United States that the interruption of the free navigation of the Welland canal by American vessels, and the exclusion of Canadian vessels from the free navigation of Lake Michigan, would materially reduce the facilities of transportation from the northwestern States to eastern markets; and they urge that, by negotiation or concurrent legislation, existing arrangements may be continued, and if possible enlarged, until the States bordering on the great lakes shall be secured in the enjoyment of channels to the ocean sufficient to pass vessels of one thousand tons burden. I move that this paper be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. TRUMBULL presented the petition of A. Grether and others, citizens of Quincy, Illinois, praying for the absolute equality of political as well as civil rights before the law of all citizens of the United States, for the prohibition of all class legislation and property qualification, and for free speech, free press, free assembly, and free instruction; and for protection to free intercourse and personal safety; which was referred to the joint committee on reconstruction.

Mr. STEWART presented a petition of loyal citizens of Colorado, temporarily residing in the city of New York, praying for the admission of Colorado as a State into the Union, with its present constitution; which was ordered to lie on the table.

Mr. LANE, of Indiana, presented the petition of widows of naval officers, praying for an increase of pension to the widows of naval officers; which was referred to the Committee on Pensions.

He also presented the petition of Emma Jane Hall, widow of Rev. Perry Hall, deceased, late chaplain of the seventy-ninth regiment Indiana volunteers, praying for a pension; which was referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HENDERSON, it was

Ordered, That the memorial of Sweeney, Rittenhouse, Pant & Co., on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. MORRILL, it was

Ordered, That Gilbert & Gerrish have leave to withdraw their petition and other papers from the files of the Senate.

Mr. JOHNSON. I ask that Charles Vinson

be permitted to withdraw his papers on the files of the Senate. There was a report made against him; but I understand his purpose is not to make a second application to the Senate; but some of the papers are papers relating to some interests of his own personally, and he desires to withdraw them from the files of the Senate. I believe that can be done.

The PRESIDENT *pro tempore*. The order will be entered if there be no objection.

Mr. CLARK. Sometimes it is very important that papers of that kind should be retained on the files of the Senate. I inquire of the Senator whether he has examined the papers. [Mr. JOHNSON. I have not.] They had better be examined, I think, before permission is given.

Mr. JOHNSON. The claim was for extra compensation as clerk in the Department of State at the time when he was assigned to the duty of Acting Secretary of State. It has been decided several times that such compensation should not be made.

Mr. CLARK. If the Senator will permit me, then, I will send and get the papers, and see that there is nothing improper in withdrawing them.

Mr. JOHNSON. Very well.
Leave was subsequently granted to withdraw the papers.

REPORTS OF COMMITTEES.

Mr. STEWART, from the Committee on Public Lands, to whom was referred a bill (S. No. 58) granting lands to the State of Oregon to aid in the construction of a military wagon road from Corvallis to the Acquia bay, reported it with amendments.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred a bill (H. R. No. 38) for the relief of Charlotte Bence, widow of Philip H. Bence, late captain of company F, thirtieth regiment Iowa volunteer infantry, reported it without amendment.

BILLS INTRODUCED.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 101) to provide for the improvement of certain harbors in the State of Ohio; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

EXTENSION OF PENSION LAWS.

Mr. LANE, of Indiana, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Pensions be instructed to inquire into the expediency of granting pensions to the widows and minor children of enlisted men who were enlisted or detailed as artificers, and report by bill or otherwise.

PUBLIC BUILDINGS AT TOPEKA.

Mr. LANE, of Kansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of appropriating \$100,000 for the erection of a court-house and post office at the city of Topeka, the capital of the State of Kansas, to report by bill or otherwise.

BONDS OF BANK DIRECTORS.

Mr. POLAND submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Finance be directed to inquire as to the expediency of providing by law that directors of banks organized under the authority of the laws of the United States shall give bonds for the faithful performance of their duties as such directors, and report by bill or otherwise.

APPROVAL OF LAWS.

A message from the President of the United States, by Mr. W. G. MOORE, his Secretary, announced that the President of the United States had approved and signed, on the 12th instant, a joint resolution (S. R. No. 7) for increasing the bond of the Superintendent of Public Printing.

BONDED WAREHOUSES.

Mr. MORGAN. I move now to take up for consideration House bill No. 135, to extend the time for the withdrawal of goods for consumption from public store and bonded warehouse, and for other purposes.

The motion was agreed to; and the Senate,

as in Committee of the Whole, proceeded to consider the bill. It provides that until the 1st day of April, 1866, any goods, wares, or merchandise under bond, in any public or private bonded warehouse, upon which the duties are unpaid, may be withdrawn for consumption, and the bonds canceled on payment of the duties and charges prescribed by law; and that any goods, wares, or merchandise deposited in bond, in any public or private bonded warehouse, on and after the 1st day of April, 1866, and all goods, wares, or merchandise remaining in warehouse, under bond, on that day may be withdrawn for consumption within one year from the date of original importation, on payment of the duties and charges to which they may be subject by law at the time of such withdrawal; and that after the expiration of one year from the date of original importation, and until the expiration of three years from that date, any goods, wares, or merchandise in bond may be withdrawn for consumption on payment of the duties assessed on the original entry and charges, and an additional duty of ten per cent. of the amount of such duties and charges.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. SPRAGUE afterward submitted a motion to reconsider the vote on the passage of the bill; and that motion was entered.

ADJOURNMENT TO MONDAY.

On motion of Mr. FOOT, it was

Ordered, That when the Senate adjourns to-day, it adjourn to meet on Monday next.

DESTRUCTION OF NAVAL VESSELS.

Mr. GRIMES. I move that the Senate proceed to the consideration of Senate bill No. 94.

Mr. SUMNER. What is the title of it?

Mr. GRIMES. "A bill to amend the act entitled 'An act for the relief of seamen and others borne on the books of vessels wrecked or lost in the naval service,' approved July 4, 1864, and for other purposes."

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. In case any officer of the Navy or Marine corps on board a vessel in the employ of the United States which, by any casualty, or in action with the enemy, has been or may be sunk or otherwise destroyed, shall thereby have lost his personal effects, the bill authorizes the proper accounting officers, with the approval of the Secretary of the Navy, to allow to such officer a sum not exceeding the amount of his sea pay for one month, as compensation for that loss; but the accounting officers are in all cases to require a schedule and certificate from the officer making the claim for effects so lost; and no allowance is to be made by virtue of this act for any loss incurred prior to the 19th of April, 1861.

The Committee on Naval Affairs reported the bill with two amendments. The first amendment was in section one, line ten, after the word "loss" to insert the following proviso:

Provided, That such loss has not occurred through the negligence or want of skill or foresight of the officer making application for such loss.

Mr. CONNESS. Before the amendments are acted upon, perhaps it would be better to have the explanation necessary to a perfect understanding of the bill. I should like to hear the bill explained by the chairman of the Committee on Naval Affairs. I feel some interest in it.

Mr. GRIMES. The explanation that I have to give in regard to this bill will be very brief. From the foundation of the Government down to this time, I believe there has never been any allowance to any naval officer for any loss that he may have sustained in consequence of the destruction of the vessel of which he was a part of the full complement and of which he was an officer. The reason upon which that rule was based I suppose to be that the officer was responsible for the ship and for the safety of the ship. That rule formerly prevailed in the British navy, but has now been changed there as we propose to change it here. It was estab-

lished when we had nothing but sailing vessels in the Navy, and before the introduction of steam, before the introduction of torpedoes, and before the introduction of shell guns which are so destructive upon ships. During this war there have been several ships that have been destroyed by torpedoes, the placing of which by the enemy could not have been foreseen by the officers in charge of the ships or the men upon them. It did not strike the Committee on Naval Affairs that in a case of that kind the old rule should be adhered to. We all thought that an officer who, in the proper discharge of his duty, without any want of foresight or skill, and not on account of any negligence or malfeasance on his part, should be entirely stripped of all his personal effects should receive some compensation, and we have therefore provided that in cases of that kind, under the direction and with the approbation of the Secretary of the Navy, there shall be allowed to him the sum of one month's sea pay.

In the British service, the amount that is allowed to a flag officer under similar circumstances is £300, or \$1,500; to a fleet captain, £150, or \$750; to a commodore or captain, £200, or \$1,000; to a lieutenant, £80, or \$400; to a gunner or boatswain, £30, or \$150; and to a midshipman, £40, or \$200. If this bill should become a law, a vice admiral in our service would receive \$625, against \$1,500 in the British service; a rear admiral would get \$416; a commodore \$333, against \$1,000 in the British service; a captain \$291, instead of \$1,000 in the British service; a lieutenant \$156 instead of \$400 in the British service; an ensign, \$100; and a midshipman, \$41.

Mr. WADE. What do sailors get?

Mr. GRIMES. Sailors now get a much larger amount in proportion than the sum that is allowed to officers. We pay them sixty dollars in any event, under the law that we passed two years ago. The youngest boy that may be enlisted into the service gets sixty dollars, while a midshipman in the service under this bill only gets forty-one dollars, not enough, in my opinion; but still we had to establish some rule, and we thought this was the best rule that we could devise.

The second section of the bill was inserted by the committee at the instance of the Treasury officers. I have a letter in my desk from the Fourth Auditor insisting upon it that the seventh section of the act of February 24, 1864, ought to be and must necessarily be repealed in order to enable the Treasury officers to settle the accounts of seamen. That section provided that

The bounty money which any mariner or seaman enlisting from the Army into the Navy may have received from the United States or from the State in which he enlisted in the Army, shall be deducted from the prize money to which he may become entitled during the time required to complete his military service.

It will strike every man, I imagine, as an impossibility for the Fourth Auditor who has the investigation of these accounts to ascertain how much John Smith or John Roe may have received from the State of Massachusetts or the State of Ohio to induce him to enter into the Army. The result is, therefore, that all the accounts of these seamen are suspended. More than two or three thousand of them, I understand, must remain in that state of suspense until either this bill is passed, or the Treasury officers shall be satisfied as to the amount of bounty they may have received from the States. It is for the Treasury to ascertain these facts. For the reason I have stated the committee have proposed to repeal that section of the law. I believe I have now stated all there is in connection with this bill.

Mr. CONNESS. It appears to me that the compensation proposed by the first section of this bill is a very small one indeed, and cannot by any possibility in many instances cover the personal loss of the officer. It appears to me that it is entirely just and equitable to make them a reasonable and fair compensation. I do not wish to offer an amendment, as this matter

has been considered in the committee; but I submit to the honorable chairman of the committee that, in many instances, indeed in some that have come to my own knowledge, the personal loss of the officer exceeds five or six times the amount of compensation he would receive under this bill, and it is hardly fair to deal with these officers in that way. I further suggest whether it would not be better to provide for ascertaining what the personal loss in such cases might be.

Mr. GRIMES. The bill does provide for that. It says:

Provided, That the accounting officers shall in all cases require a schedule and certificate from the officer making the claim for effects so lost: And provided further, That no allowance shall be made by virtue of this act for any loss incurred prior to the 19th day of April, 1861.

Mr. CONNESS. The Senator, I think, scarcely understands my suggestion. In no case, although that schedule is required to be presented, as I understand it, is the compensation to be more than the amount of his sea-pay for one month; so that although the schedule may set forth that his loss may have exceeded that six times, and that that loss has not occurred by any negligence of his, but in action with the enemy, he receives the amount of sea pay for one month, which is a very poor and trifling compensation. It appears to me that it is hardly dealing either justly or generously with these men.

Mr. GRIMES. I agree fully with what the Senator from California has said in regard to the amount that is allowed by this bill. I do not think that it is as much as ought to be allowed to these officers; but it was very difficult for us to determine the criterion by which we should be governed. It occurred to me, and to those who were interested in the bill, that two months' pay was too much, and it was necessary for us to make some absolute data on which to predicate the bill. I think that the officers who have suffered during this war from the loss of their property would infinitely prefer taking the amount specified here than not getting anything at all, as has been the case heretofore.

Mr. CONNESS. I have no doubt that is the case; but I ask the Senator, why not have a provision which shall provide for ascertaining the loss in such cases, and for allowing the actual loss?

Mr. GRIMES. For this reason: some men may have a much more extensive kit than others.

Mr. CONNESS. Then provide that it shall not exceed a certain sum.

Mr. GRIMES. I supposed that this would nearly cover the value of the articles that it was necessary for some of these officers to have. Others may have quite extensive wardrobes, and where they exceed in value that which we believe a prudent and economical man ought to have, the Government does not want to pay for it. I think myself that we had better pass the bill as it stands, and if it is necessary to amend it in the future it can be done.

The amendment was agreed to.

The next amendment was to insert the following as an additional section:

SEC. 2. *And be it further enacted, That so much of the seventh section of the act of Congress, approved February 24, 1864, entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,' approved March 3, A. D. 1863," as provides that "the bounty money which any mariner or seaman enlisting from the Army into the Navy may have received from the United States, or from the State in which he enlisted in the Army, shall be deducted from the prize money to which he may become entitled during the time required to complete his military service," be, and the same is hereby, repealed.*

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

FREEDMEN'S BUREAU.

Mr. CONNESS. Yesterday, when the bill for the extension of the Freedmen's Bureau was being voted upon, I said that I would move its reconsideration for the honorable member from

Maryland, [Mr. JOHNSON;] but I learn that the bill has gone to the House of Representatives. Preceding a motion to reconsider, I move that the Secretary of the Senate be directed to ask for the return of the bill from the House of Representatives.

Mr. SUMNER. I hope there will be no action on that now unless to vote it down.

Mr. CONNESS. I presume that this is a courtesy due to the Senator from Maryland, so that he may be able to have an opportunity to submit whatever remarks he may have to make, on a motion to reconsider, when the bill comes back, and then the Senate may vote that motion down if that be their sense. I trust that no objection will be made to this course, because I think it is the usual course in the Senate and is due to the Senator. I hope the question will be taken without opposition on the motion to call the bill back. It will not delay it long. We can act upon it before we adjourn. I hope that course will be taken.

Mr. JOHNSON. The suggestion that I made yesterday to the Senate, and particularly to the chairman of the committee, was, that under the circumstances in which we were at that time, it seemed to me but proper that the bill should not be finally disposed of until we should have an opportunity of seeing what objections to the bill were to be found in a communication made by the Governor of South Carolina to the President of the United States, and which we were informed would be laid upon the tables of Senators to-day. I am very much inclined to think that but for the understanding to which we came yesterday, an understanding to which the member from California and myself were more particularly the parties, but an understanding apparently acquiesced in by the members of the Senate, the vote would not have been taken yesterday at all, or might not have been taken. All that I ask is that that understanding shall be carried out now.

I was not aware until I came into the Senate, being engaged elsewhere, and not coming in at the time of the assembling of the Senate, that the honorable member from California had failed to make his motion to reconsider; but I found that the motion had not been made, and that the Clerk, in the discharge of his duty, had transmitted the bill to the House of Representatives. All that I desire is that the bill shall be brought back. The communication of the Governor of South Carolina is on our tables, and it appears to me—I have read it—to contain matters of very serious importance which the Senate ought to consider before it decides finally. All that I wish to say, if it comes back, will be said in a very short time; and the Senate will be able to pass upon the bill certainly without any unreasonable delay caused by any remarks which I shall make. I do not see that it is so important to the success of the measure that the bill should be acted upon by the House of Representatives now, to-day, or that it is at all probable that the bill will be acted upon to-day if the House is suffered to retain possession of it. If we get it back, and the Senate pass the bill in the shape in which it now is, or if they shall think proper to amend it in any particular, it will go to the House on Monday morning, and I suppose the final decision of the House would be about as early as it would be if the motion made so kindly by the honorable Senator from California was acquiesced in. I have nothing more to say. The Senate may dispose of it as they think proper.

The question being put, a division was called for.

Mr. JOHNSON called for the yeas and nays. The yeas and nays were ordered; and being taken, resulted—yeas 18, nays 22; as follows:

YEAS—Messrs. Buckalew, Conness, Davis, Foster, Guthrie, Hendricks, Johnson, McDougall, Nesmith, Norton, Riddle, Saulsbury, Sprague, Stockton, Van Winkle, Wiley, Williams, and Wright—18.

NAYS—Messrs. Brown, Chandler, Clark, Cragin, Dixon, Doollittle, Grimes, Harris, Howard, Howe, Kirkwood, Lane of Kansas, Morgan, Nye, Pomeroy, Sherman, Stewart, Sumner, Trumbull, Wade, Wilson, and Yates—22.

ABSENT—Messrs. Anthony, Cowan, Creswell, Fes-

senden, Foot, Henderson, Lane of Indiana, Morrill, Poland, and Ramsey—10.

So the motion was not agreed to.

PROVISIONAL GOVERNMENTS.

Mr. HOWE. I move that the Senate proceed to the consideration of the joint resolution introduced by me providing for provisional governments for certain communities.

The motion was agreed to; and the consideration of the joint resolution (S. R. No. 11) in relation to the organization of provisional governments within the States whose people were lately in rebellion was considered as in Committee of the Whole, the question being on the motion of Mr. Howe, to refer the resolution to the joint committee on reconstruction.

Mr. HOWE. Mr. President, it is not often, I think, that a resolution encounters so rough a passage on its way to the committee as the resolution which I had the honor to introduce on the 10th instant has encountered. It was offered on the 10th, and has not reached the committee yet. Considering the two very formidable assaults made upon it by the honorable Senator from Maryland and by my colleague, it seemed to me proper that I should not allow it to go to the committee without a few remarks in reply to what they urged against it, and I have been in no haste to make that reply. For myself, consulting my own feelings, I should have preferred to submit such remarks as I had to urge in reply immediately on the conclusion of the speeches made by the Senator from Maryland and by my colleague respectively. I did seek the floor for the purpose of replying to the Senator from Maryland; it was not the pleasure of the Senate to hear me at that time, and it has not been in my power to obtain the floor until this time. That has, however, occasioned me no particular embarrassment. I have not labored under any such embarrassment as seemed to have overtaken the Senator from Maryland. He thought he ought not to allow the remarks which I submitted to the Senate to go to the country a single day without an attempt to reply. I have been entirely willing that the remarks which he took occasion to make to the Senate should go to the country days and weeks without an effort to reply. Indeed, sir, I am not at all anxious. I am not at all concerned, for the effect of this debate upon the country. So far as I participate in the debate, I do not seek to speak to the country. I desire on this occasion, as on the former occasion, to address myself to the Senate. It seems to me that at this time above all others in the history of our country we should stop talking to the country, and that the Senate should reason together as to what ought to be done in this very critical emergency. It is no time to build up parties; it is no time to inculcate doctrine; it is no time for missionary work; it is time for legislative deliberation. There is work enough for us all to do; and the particular work, allow me to say, to which I wish the national Legislature to address itself is a work in which no political party that lives now, or ever did live in this country, has any partisan interest. It is a work which ought not to be left to the hands of any party. It is a work to which all parties, in my judgment, ought to address themselves. What is it, sir?

All my life I have known, as other Senators about me know, that there has been deposited away down at the bottom of American society a great mass of unassorted humanity which has not had a fair chance in American society, has not had a fair chance in the world. Now, if Government be an estate enjoyed by those who possess its prerogatives, perhaps they are entirely right in ignoring this mass of humanity; if it be a trust to be employed for the benefit of the governed rather than the governors, there is no portion of American society which, in my judgment, commends itself to honest government so heartily, so cordially, so emphatically as the very class to which I refer; and I think they come before us at this time with peculiar claims because of the circumstances in which the country rests to-day.

This resolution upon which I wish to address the Senate has reference to society existing in a portion of the country which formerly constituted eleven States of the American Union. There are to be found millions of uneducated and uncultured colored men who by a national decree have been made free, have been changed from chattels to men in the eye of the law. There are other millions, or there are other numbers, I do not know that they amount to millions, who have been reduced from men almost to chattels because of their fidelity to our flag, to our Constitution, and to this country. These two classes of American society seem to me to demand some protection, some care, some nourishment which they have not hitherto received. It is for them I speak.

Sir, I have thought that it belonged to republican institutions to carry out, to execute the doctrines of the Declaration of Independence, to make men equal. That they are not equal in social estimation, that they are not equal in mental culture, that they are not equal in physical stature, I know very well; but I have thought the weaker they were the more the Government was bound to foster and protect them. If Government be designed for the protection of the weak, certainly the weaker men are the more they need its protection. I know that a great portion of these people on whose behalf I speak are uneducated and ignorant. I have supposed it was within the purpose of republican institutions, and entirely within the power of republican institutions, to give culture and education to them all. I supposed it ought to be done. I was a little startled the other day on hearing the Senator from Pennsylvania [Mr. COWAN] start an objection to this. He told us with a good deal of emphasis that it would not do to have every man as learned and as cultivated as the Senator from Massachusetts. What will you do for boot-blacks? says the Senator from Pennsylvania. What will you do for men to perform your menial offices? The inquiry had not occurred to me. It did startle me. It is rather a solemn warning. It did awaken me from the dream in which I had indulged for a great many years. It ought to be attended to. You who think men, American citizens, ought to be made equal, take care that you do not destroy the profession of boot-black. You that think that in the course of coming generations all men are to be brought up and placed upon a plane of political equality, listen to the solemn admonition of the Senator from Pennsylvania, who sends his warning down the line of these coming generations and charges you to be careful, be careful how you enlarge your universities; you had better shut up your academies, your school-houses; if you do not take care you will have nobody to black your boots!

Well now, Mr. President, this is a serious matter; it commends itself to you gentlemen who have your names fairly writ on the conservative list; you must take heed to it. As for myself, I am washed out of that fraternity. Ever since I have taken any part in political affairs, I have been so firmly and so fully wedded to the idea that it was the work of the law, as of the gospel, to bring all men up to their utmost capacity, that I am bound to prosecute that labor myself. I must go along in that path. I am hopelessly committed to it. I must follow it out, even if my boots go unblacked.

But, sir, I do not admit that any consequence so dire as that would follow. Something may be done yet to secure a class of men to perform these menial offices. We have not tested the stretch of our social capabilities yet; we do not know how much can be done for the preservation of American society by associated effort. Suppose you organize societies for the propagation of boot-blacks, would that not do something for us to save us from this calamity?

I have thought of another thing. It was suggested to me by what I remember in the economy of a very thrifty man in the town in which I was raised in the State of Maine. The State of Maine was when I lived there rather too far north to cultivate corn to advantage—

the seasons were not quite long enough. In one particular year, however, I remember the season was very long, the frosts were late, and the corn ripened remarkably well. It was the habit of farmers there to use the unripe corn—what they called the soft corn—to feed to their swine, and so they called it hog corn. One year the corn ripened very well, and one farmer whom I remember in the town in which I was raised was so very fortunate or unfortunate that his corn all ripened and he had no soft corn for his swine. Of course his swine could not be allowed to go without corn, and so he swapped with his neighbors who were not circumstanced in the same way—swapped his sound corn for soft corn to feed to his hogs. When the time comes that American society is all educated above the capacity to black boots, perhaps something can be done in the way of exchange to supply us. Undoubtedly we shall reach that point many years ahead of Europe, or Asia, or Africa. Can we not swap our cultivated men who cannot perform menial offices for uncultivated men who cannot do anything else and drive a good business at it?

Mr. CONNESS. We do it now.

Mr. HOWE. We have got plenty of boot-blacks now, and we have not much of anything else, I am sorry to say. [Laughter.] How much will it not add to our commerce when we can send out a ship-load of SUMNERS and bring back a cargo of chimney-sweeps! [Laughter.] You see we could not afford to make an even exchange, man for man. Undoubtedly one such cargo would bring two of the chimney-sweeps. A ship-load of BROWNS would bring back a whole argosy of boot-blacks.

It seems to me it would add very much to our commerce; and we should be carrying it on, you see, upon precisely the principle upon which Great Britain is carrying on her commerce with us now. She sends a very little cloth, and gets back in exchange a great deal of raw material of cotton and of food. We should repay her with the same policy; we should export very little mind and import a great deal of muscle in payment for it. So, sir, I am not apprehensive that we shall be left entirely destitute of the means of getting our boots blacked, even if we prosecute the old effort on which I have been so intent.

I said, sir, that I had been in no haste to make this reply. I said that I had felt no occasion for alarm; and yet I have noticed some things which ought, perhaps, to have alarmed me. Commenting upon the very able speech of the Senator from Maryland, I noticed that the New York Times pronounced its logic masterly. I do not know but that as a sincere and honest friend of this Administration I ought to have been alarmed by such a commentary as that, when you consider that the logic of the Senator from Maryland stamped everything which has been done by the President of the United States since the surrender of the rebel armies as illegal, illegitimate, and revolutionary. I do not know but that the friends of the Administration ought to have been alarmed when an organ which styles itself the chief, the leading supporter of the President, characterized its logic as masterly. Still, notwithstanding that, I have waited until the present time before claiming the attention of the Senate any further upon this resolution. Now, sir, what is to be said?

I have first to say that what I had the honor to submit to the Senate on the 10th instant in the shape of argument remains untouched. Neither the Senator from Maryland nor my colleague has assailed any argument which I thought fit to construct or to submit to the Senate. Leaving what I said in defense of my resolution untouched, they have taken the resolution upon themselves severally and have sought to construct an argument against it. I have, therefore, not to reaffirm anything I said on that occasion; I shall address myself on the contrary entirely to what they have said, and I propose as briefly as I can to state the reasons why the arguments which they have severally constructed do not strike me as conclusive.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. JOHNSON. I move that that measure be postponed, and that the Senator from Wisconsin be allowed to conclude his remarks.

The PRESIDENT *pro tempore*. It is moved that the unfinished business of yesterday, and all prior orders, be postponed until to-morrow.

Mr. TRUMBULL. I shall object to that motion prevailing. I am willing, as the Senator from Wisconsin is in the midst of his remarks, that the order for this hour shall be laid aside until he can conclude them; but I cannot consent that the bill which is now regularly in order shall lose its place. I have no objection to its being laid aside informally until the Senator concludes his remarks.

Mr. JOHNSON. That course is satisfactory to me, and I make that motion instead of the other.

The PRESIDENT *pro tempore*. The motion now is, that the special order be laid aside until the conclusion of the remarks of the Senator from Wisconsin.

Mr. TRUMBULL. Under such an order, will that bill come up when he is through?

The PRESIDENT *pro tempore*. If the bill be laid aside informally by unanimous consent, it can be called up at the conclusion of the remarks of the Senator from Wisconsin; and if there be no objection that will be regarded as the order of the Senate. The Chair hears no objection to that course.

Mr. HOWE. Mr. President, the resolution which I submitted to the Senate simply declares for certain reasons recited in the preamble that Congress ought to establish provisional governments for those districts which were lately in rebellion against the authority of the United States. The Senator from Maryland concludes that the reasons assigned in the preamble were unsound. One of those reasons was that the functions of States in those districts had been suspended; another reason was that the time for restoring them had not yet come; and the third reason was that military governments, the substitute for States which has hitherto prevailed there, were unfit for the government of any people.

The Senator from Maryland concludes that the functions of those States have not been suspended. Why? The first reason he assigns is that the war could not have suspended them. He tells us that the United States cannot declare war against a State. I never asserted that it could. The proposition was very ably, and I think conclusively, maintained by the Senator; but after all it does not seem to me to have elucidated this discussion. He tells us that two of the most distinguished members of that Convention which framed our Constitution declared that the United States ought not to make war upon a State. He declares that the Supreme Court of the United States has asserted, since the Constitution was adopted, that Congress cannot declare war against a State. He cites these two authorities to the American Senate as if they sustained one and the same principle. If he had told us the reason why Mr. Madison and Mr. Hamilton thought the United States ought not to make war upon a State, I think he would have done a great deal to enlighten the Senate in reference to our relations to these very communities.

Sir, what was the reason why Mr. Madison and Mr. Hamilton thought the United States ought not to make war upon a State? They were in convention to frame a Constitution for the purpose of securing a more perfect Union. What was the imperfection in that Union? It was that the laws of the Federal Congress were addressed not to the people but to the States, and the States were sovereign; that they had the right to pass upon the validity of those laws and to obey or disobey them as they pleased. Whenever, therefore, Congress enacted a law which any State did not approve it refused to obey; and when one State disobeyed one law, it was made the pretext for another State disobeying another law which

was unsatisfactory to it. To amend these difficulties was the purpose of that Convention. A great many propositions were submitted to it, one of which—and if I remember aright it emanated from New Jersey, being offered by Mr. Patterson—proposed to let the States still remain sovereign, but to empower the Federal Government to enforce any laws it might pass by war; whenever a State refused to obey a law of Congress, that war be declared against that State: let it refuse obedience at the peril of war. Against that proposition Mr. Madison and Mr. Hamilton exclaimed. They said we cannot maintain a union where war is a recognized means, an ordinary means of executing the laws; the sovereignty of these several States must, therefore, be abandoned; you must not have a union of sovereign States; but you must have a union of all the people within all the States, and you must have a Government for the guidance and control of those people; limit its powers as you please, but whatever power you give to that Government must be exerted against every individual alike; its commands, its precepts, must be addressed, not to the States, but to the people. That is what was called the national plan, and that is the plan which was adopted. Consequently you have States not sovereign as they existed before the Constitution was adopted, but subordinate as they stand to-day.

True, the Supreme Court has said that war cannot be declared against a State; and if Senators will just cast their eye upon any State in the Union now they will see the reason why war cannot be declared. Look at the State of Ohio; see what makes the State of Ohio. There is a people existing within certain boundaries, clothed by the Constitution of the United States with certain powers, among which is the power to choose, by certain districts to be prescribed by herself, Representatives and Senators to a State Legislature, to enact laws for the government of the people in reference to such matters as are left under the control of the State; authorized by this same Constitution to choose a Governor to execute those laws; authorized by this same Constitution to appoint the judges of courts, to interpret laws, and to apply them to the rights of individuals. There is the State of Ohio. While she stands within that orbit she is only exerting powers which somebody must exert, which, if the people of Ohio do not exert for themselves must be exerted by somebody else for them, and they are powers which, by the Constitution, are excluded from the authority of Congress. There is a mere aggregation of people larger than a county, and with powers more extensive than those of a county, but still limited, circumscribed by the Constitution of the United States. There is nothing but people with these prerogatives; there is no power; there is no force; there is no authority; there is neither an army nor a navy, nor the right to create an army or a navy.

Now, tell me why should Congress declare war against a State like that of Ohio? What is there to fight? You might as well marshal troops against a vapor; there is no force, there is nothing there to resist you. The Almighty himself might as well lead the columns of His planets upon the earth while it is pursuing its course in its own orbit, as for the United States to declare war against the State of Ohio, or against any other State, so long as it confines itself to the sphere prescribed to it by the supreme law of the land. But, sir, when the earth steps out of its orbit there is apt to be a collision, and when a State steps out of its orbit and ceases to be the organization which the Constitution prescribes, there may be a collision, as there has been between the United States and the people of the eleven districts which constituted what we call the seceded States. If the Supreme Court mean to say, or if the Senator from Maryland means to affirm, that the United States cannot make war upon any State, I must insist that they are very much mistaken, or else we have been very much mistaken during the last four years. We can make war upon every State on the face of the earth except a State which is pursuing its course, which is discharging its duty, which is

meeting its obligations as prescribed to it by the Constitution of the United States. While it is within that orbit it is safe, it is protected; all the laws of the land are thrown around it; it is as safe against the war powers of the United States as I am when I am going from the Capitol to my boarding-house, or returning from my boarding-house to the Capitol; the people aggregated into a State are as safe as any individual in any of the States is against the war powers of the United States; there is no more occasion for making war, and no more right to make war, upon them than there is upon an individual. And so, sir, I do not say, and I never contended, and I never thought for a moment, that the people of these districts lost the prerogatives of States through the war which has been made upon them, or which was made by them upon us. They lost it before the war commenced, so to speak; they went to work themselves, before war was inaugurated, and took down the State which the Constitution permitted to them, and established another as unlike that which the Constitution permits as is a German State to an American State, or as is a Mexican State to an American State.

But the Senator from Maryland next insists that those State governments did not destroy themselves, because they did nothing but enact ordinances of secession, and those ordinances were illegal. I conceded the other day that if that had been all they did, that would not have authorized Congress to provide provisional governments for them. I pointed out what more it was that they did do; that in addition to enacting their ordinances of secession they placed every local organ and tribunal under an oath not to support the Constitution of the United States, but to resist the Constitution of the United States, and then they made flagrant war upon the United States. The issue right here between the Senator from Maryland and myself is as broad and as clearly defined as it could well be. The Senator from Maryland affirms that when the government which represented the people of South Carolina had enacted her ordinance of secession, had placed the whole local authority in the hands of local agents or tribunals which were sworn to resist and overthrow the Constitution of the United States; which had destroyed and crushed out every Federal organism existing within that community; which had raised armies in defiance of the Constitution of the United States; which had made war upon our flag; which had bombarded our forts; which had taken possession of our property in defiance of us, that that still remained an American State, entitled to the prerogatives which the Constitution confers upon an American State, and must be respected as such. I say, on the other hand, that when that thing was done there was not the vestige of an American State there; there was not a feature which belongs to an American State as defined by the Constitution; and there was scarcely a man in that whole community who was not a criminal before the law, and who was not only not to be respected as a Governor, or a judge, or a legislator of a State is to be respected, but was to be respected as the law respects him, as a felon and a traitor.

Mr. STEWART. Will the Senator allow me to ask him a question?

Mr. HOWE. Yes, sir.

Mr. STEWART. I should like to inquire what disposition he proposes to make of the organizations which have been formed during the last six months in these States under the invitation of the President of the United States. What is to become of them?

Mr. HOWE. If my friend will propose that question to me a little later in the course of my remarks, I shall have great pleasure in telling him what I propose to do with them.

Mr. STEWART. Any time will do.

Mr. HOWE. Just now it is not in the order of my remarks, and I may forget it when I come to the point where I would like to give the information. I think it is not difficult, however, to apprehend what disposition I would make of them.

But the Senator from Maryland next proceeds to argue that these States cannot be destroyed, and that their prerogatives cannot be destroyed, because a great deal of our legislation still recognizes them as States, and he goes on to cite statute after statute which he insists recognizes those communities as existing States. I am bound to say that upon this point he made a very strong case; but I do not think he made so strong a case as he might have made. If he had prosecuted his inquiries still further he would have found, not only the statutes which he has cited here, but he would have found other statutes upon our law-books which expressly and explicitly declare that the most of those communities are States; that Arkansas is a State; that Texas is a State; that Louisiana, Mississippi, and Alabama are States. If he had gone further in the investigation he would have ascertained that two years ago, I think, or three years ago, I myself voted to admit representatives from Arkansas upon this floor, upon the ground that our statutes still declared Arkansas to be a State, and I thought the Senate of the United States could not ignore that statute.

But, sir, I propose legislation; that is what this resolution calls for; and you cannot bar the exercise of the legislative powers of Congress simply by an act of legislation. If your statute-books up to this year contained nothing but statutes proclaiming Arkansas to be a State, that of itself would not prevent this Congress from enacting a law declaring that Arkansas was not a State and creating a provisional government for it. There might be rights vested under those acts which we ought not, and perhaps could not, take away; but all the rights which those acts have conferred upon those communities, I say, they have themselves abjured, and there is nothing left but our bare declaration which recognizes them as States. I thought that the Senate, in passing upon the question of the admission of Senators from these States, ought not have ignored those statutes; but I said then that Congress could repeal them, and Congress ought to repeal them, in my judgment; I think so still; and upon that ground I voted to admit those representatives from Arkansas upon this floor. I believe the Senator from Maryland voted to exclude them. If he held Arkansas to be a State, I would be curious to know upon what ground he could justify his vote to exclude them from this Senate. If the Constitution gives to a State any right whatever, it is a right to be represented in this body by two representatives. It is a right given to every State. Wherever you find an American State, it has the right to send two representatives to this Senate. The Senate is composed of two members from each State, chosen by the Legislatures of the different States.

If the Senator said then, or says now, that Arkansas was then a State, I cannot conceive upon what ground he can justify his vote excluding her representatives. What reason was there? Perhaps all the people of Arkansas did not participate in the election of the Legislature which chose those Senators. Why did they not participate in it? Because they would not; because they were in rebellion. The Senators chosen represented, nobody doubted, the loyal people of the State of Arkansas. What reason was there, therefore, for excluding those Senators from their seats here, except that they did not represent the men who were fighting against the flag of the United States? I thought that that small portion of Arkansas ought not to be treated as the State of Arkansas, and I thought the Legislature ought to relieve the Senate, to relieve the House of Representatives, to relieve the President, to relieve every branch and agency of the Government from the necessity of respecting that small portion of the people as the State of Arkansas; but until we were relieved I did not think I was authorized to ignore these statutes; so I voted for their admission.

And so upon the same ground precisely I voted to count the electoral vote given by Arkansas and Louisiana and Tennessee in the choice of President and Vice President. I thought if they were States they had the right

to vote for President of the United States. If a State has not the right to vote for President what right has she? If that right be not unequivocally conferred by the Constitution, there is no right given to a State. And yet, I think, the Senator from Maryland voted to deny each of those communities the right to vote for President and Vice President.

I do not concede that all the statutes cited by the Senator from Maryland recognize those communities as States by any manner of means. Some of them I think do, especially some of those cited from the legislation of 1861 and 1862.

But the Senator parades one argument before the Senate that seemed to me not quite sincere. However, I ought not to say that he did not mean it to be sincere. He parades a proclamation issued by the President of the United States in 1861, in which, under the instruction of an act of Congress, the people were invited to pray for the reestablishment of law, order, and peace throughout the whole extent of our country, and because the people were invited, in 1861, by the President of the United States to pray for the reestablishment of law, order, and peace throughout the whole extent of our country, he thinks the Congress of the United States is precluded from insisting that those men who were destroying the peace and order of the country had forfeited the prerogatives which, under the Constitution, are given only to loyal States. I believe that prayer was offered up sincerely, and I believe it has been answered. The Almighty has aided us in bringing the country so far toward peace; in bringing the country to peace if we have it. The war is ended, was ended months since; order has not yet come, but order is within our reach. If we are only as brave and as honest as the Army has been; if we whose business it is to seek order, to invoke order, are only as firm as were those men whose business it was to command peace, the work will be completed. I think those prayers were answered. I think if the Almighty ever aided any country He has aided this. He did not, to be sure, raise up children out of the stones unto the Republic, but He did enable us to raise almost two hundred thousand children out of things for the Republic, and they served the Republic in bringing about this peace. Having answered our prayers in that most signal manner, I do not think we ought to fling the victory back in His face, or trample down the children He raised up for our use into the dust again.

But, sir, there is another difficulty in the way of this resolution suggested by the Senator from Maryland. There is a statute on your books which authorizes the judges of the Supreme Court to partition the country into judicial circuits and to allot the judges of the court to those several circuits, and they have done it, and having apportioned these lately rebellious districts into circuits in accordance with the provisions of those laws, the Senator thinks we must regard them as States because only States are included in such circuits. Why, sir, they have been in such circuits ever since the war commenced; they have been included under these allotments in such circuits. No courts have been held there. It is not absolutely essential, I take it, to the existence of the Government that courts should be held there. They are held in no Territories; they are held nowhere except where there are existing States which allow them to be held; and yet no law is violated by us, no law is disregarded by us; it is their fault that the judges have not been allowed to go there. The tenure of the judges is not affected by the fact that they cannot hold circuits. They still continue to be judges of the Supreme Court, whether they ever take their seat on the bench of a circuit court, or try a case *ad nisi prius* in their lives or not; and it is only the Supreme Court which is created by the Constitution. The other courts are the creatures of law.

The Senator says that district judges have been appointed for some of these districts, and he accuses me of having voted for their confirmation. I really cannot say that I never did

vote for the confirmation of one of those judges. I should be very sorry, however, to have it proved upon me. A great many confirmations have been made, I suppose, while I was sitting in my seat here, and which I must be considered as having voted for, and yet to which I never did give any intelligent assent; and I never did give any intelligent assent to the confirmation of a judge of a district court within any one of those districts. I never meant that a judge should be confirmed to any one of those districts without raising a question upon them. But the fact that such appointments have been made and have been confirmed is no embarrassment to the Legislature. These courts themselves are the creatures of the Legislature. The Senator says that their terms exist during life or good behavior. I think they will not outlast the courts in which they are commissioned, and Congress can abolish to-day or to-morrow, if it sees fit to do so, every one of those districts, and the terms of every one of those judges would expire upon the approval of the act by the President.

The Senator next takes exception to a proposition of mine, which I stated almost as much as a physiological truth as a constitutional one, that the suspension of the functions of a man or of a State was death. He controverts the truth of that proposition. It is so unimportant to the argument of this question that I should let the controversy drop as it stands but for his having cited an authority against it. He finds in the decisions of the Supreme Court of the United States what he considers and what he lays before the Senate as an authority contradicting this proposition; and what is that? During a war between this country and Great Britain our enemies took possession of the eastern part of the State of Maine and held possession of it. The Supreme Court said that during the time they held possession of it the authority of the Government of the United States was suspended in that portion of the State; and yet he finds as a fact that after the power of the enemy was withdrawn, after they evacuated Castine and all the country to the east of Castine, there was no legislation required to reannex the eastern portion of Maine to the United States. The case does not seem to me to be precisely in point. I never supposed that the paralysis of a limb, the imposition of external force upon any one of the faculties or organs of a man, or of a political community, would necessarily result in death. The proposition which I made was a proposition which I drew from the message of the President of the United States, that the functions of these States were suspended—not one of them, but all of them. And that was true; they were. There was not a single function of a State in action; there was not volition there; there was not even the desire to be a State. Everything which goes to make up the identity of a State was gone, except that there were people and land there; but every power that they exerted, every authority they claimed, was in direct defiance of the Constitution of the United States.

Mr. President, it seems to me that among lawyers this question of power ought not to be a controverted point. It seems to me that by one little simple consideration it ought to be placed beyond dispute. Let us test it. We all admit—everybody says—that every department of this Government of the United States, the Congress, the President, the courts, and every department of the government of the States, is limited and circumscribed by a supreme law. What do we mean by that? We mean that whenever any one of these agencies, any one of these tribunals exerts a power which is outside the limits prescribed to it by the Constitution, that act is null and void. Whoever does it gets no protection in doing it. There is some other department of Government which can administer the proper correction. A State, the Constitution says, cannot make anything but gold and silver a tender in the payment of debts; but suppose the Legislature of a State declares bank bills to be a legal tender; that act is null and void, and the judicial power of the United

States can declare it so and can correct the operation of the act. The President of the United States is given the pardoning power, the power to pardon criminals. Suppose Congress undertakes to pardon a man who is convicted of murder, or of treason, or of counterfeiting, after he is sentenced by the courts, or before he is sentenced; would the act of Congress granting that pardon be a good plea in bar; or if enacted after the man had been convicted, would it prevent the President of the United States from executing that sentence upon the criminal? Clearly not. The President of the United States has certain powers given to him. Suppose he exercises powers which are given to some other department of the Government; suppose he undertakes to enact a law of any kind, is any other department of the Government bound to respect that as a law? Clearly not; because he has no legislative powers.

The authority conferred upon a State by the Constitution is limited, is circumscribed. Whenever they act within those limits their acts are to be respected; they are just as much the law of the land, to be respected by all the United States, as any law passed by the Congress of the United States, within the purview of the Constitution of the United States; but when they step outside of it, whatever they do is void. Suppose this Congress does organize a provisional government for South Carolina. If it is not a government then the Legislature that we set up have no right to enact any laws; the Governor whom we appoint has no right to execute those laws; the judges can do nothing; they are trespassers; everything that is done under their authority is null and void; it is a mere trespass; and the citizen who is interfered with by their authority may have his action before the courts for redress. Anybody who undertakes to act by the authority of an illegal tribunal is without protection. Suppose we set up this provisional government, and they enact a law which is claimed to interfere with the rights of some citizen there; suppose he brings an action in the courts averring that the act was done without authority; what will be the judgment of the courts in such a case? Will they undertake to say that that government which we authorized to be set up there as a provisional government is not a government? That was precisely the case that was raised in Rhode Island. There was an act done, a house broken into and entered by the command of those who claimed to be the government of the State of Rhode Island. The defendant claimed that another organization constituted the government of Rhode Island. He brought his action which was to try the legality of that government under which the act was done. It came here to the Supreme Court of the United States. They said, "That is a political question; we cannot try it; the Congress of the United States are and must be the judges of what is the government of a State; they are charged with the duty of sustaining and maintaining those governments, and they must have the right to decide what is and what is not the government." If, therefore, the provisional government which you organize for South Carolina or for Georgia is illegal and unconstitutional, you see there is no possible redress for it; the courts say it is for Congress to determine finally and conclusively what shall be the government for these people in the South, as much as it is for the courts to determine what is the law in a particular case as between citizen and citizen.

But, Mr. President, I wish to detain the Senate for a few moments while I make a brief reference to the remarks submitted by my colleague. He also concludes that the authority, the exercise of which I invoke, on the part of Congress to organize provisional governments for these communities does not exist. His first reason is that it is not in harmony with that plan of reconstruction which he calls the Lincoln-Johnson plan; and the second reason is that it is in harmony with that plan of reconstruction which he calls the Sumner plan. I regret that my colleague is not in his seat at the present

time. There were some observations contained in his speech to which I thought I ought to reply, considering them as of a personal character. I thought it a little remarkable—and I will say it although he is not in his seat—that when he was speaking upon a resolution which I had the honor to submit to the Senate myself, and apparently in reply to a speech I made myself, and while he occupied, I think, between three and four hours in the discussion of that resolution, he did not but once in that whole time allude to it without coupling me with the Senator from Massachusetts, [Mr. SUMNER.] Whenever he referred to anything touching the resolution, or the position presented by the resolution, it was "the position of the Senator from Massachusetts and my colleague," to use the language which was employed in that speech. It did not seem to me that that was entirely in good taste, and as he has now resumed his seat, I beg leave to say that I thought I could have demanded rather different treatment from his courtesy. I did not see any sort of necessity, I did not see any sort of propriety in the effort to couple me constantly throughout that speech with the Senator from Massachusetts. He knows very well that in the State of Wisconsin, which I have the honor in part to represent, I sustain a very good character, and I really do not think he ought to have attempted to break it down by fastening upon me any such associations, [laughter;] but however, I think if the Senator from Massachusetts can stand it, I can. Sir, if I could not demand this immunity from his courtesy, I think I could from his sense of justice. It has happened to him to know very well indeed in the course of the last ten years that I am not in the habit of advocating views because other gentlemen maintain them, but only because I believe in them myself. If it was my business, if it was my habit to defend opinions because others avouched them, and not because I believed them, I should not undertake to peddle the opinions of the Senator from Massachusetts; I should enter into the employ of the President at once, because it pays better. Such is not my habit. I introduced that resolution—and I do not think my colleague will find it copied from anybody else—because I believed it stated the political truth which is to solve the difficulties now surrounding the country; and I advocated it as well as I could in a speech, which I do not think my colleague will find to have been copied from the Congressional Globe or any other publication, because it was the argument that occurred to me, and I believed it.

But, sir, as to the matter of fact whether this resolution is the Lincoln and Johnson theory or the Sumner theory, the Senator from Massachusetts has not yet, I regret to say, indorsed that resolution, nor anything that I said in support of it; and I suppose the Senator from Massachusetts will claim the right, which under the Constitution, as I understand it, belongs to every Senator on this floor, to speak for himself. If it should hereafter happen to receive his indorsement, it will be very gratifying to me. If I should find that I had given utterance on this floor to one sentiment which is approved by the Senator from Massachusetts, it will be only a small compensation for the great number of living sentiments to which I have listened from the Senator from Massachusetts, and which are bound to live long after my colleague and myself shall have passed from this stage of existence.

While, therefore, Mr. President, I see no warrant in fact for the assertion of my colleague that this is the theory of the Senator from Massachusetts, I deny that he is authorized to say that it is opposed to what he calls the Lincoln and Johnson policy. There are in that preamble and resolution just four simple propositions. Three of them are stated in the preamble by way of postulates. One of them is, that the functions of these States are suspended. I took that literally and *verbatim* from the message of the President of the United States. The second is, that the time for restoring them has not yet arrived. I did not take that literally from the

President of the United States. He has not said it, but he has not affirmed to the contrary, nor has my colleague; and I venture to say that neither the President of the United States, nor my colleague, nor any man who calls himself the supporter of the President of the United States, will venture to stand here before the American people and say that the time has come for at once restoring to the people of those districts the prerogatives and the functions of States. I wait yet to hear the first man assert that proposition. My colleague himself only says that he thinks we should call them States and begin to see whether we will let them act as States; that we should call them States now and then see how far it will do to trust them to exercise the prerogatives of States; take up the cases of their Representatives and act upon them, one by one, with as much deliberation as we please. Sir, I want to say for myself that if the Congress of the United States shall determine that these are States, I shall revert to the Constitution of the United States as to what they have a right to do. When you have declared their character as States, when that is their established condition, I shall say, for one, they have a right to send Senators here and Representatives to the other House, and to participate in the election of your President and Vice President, because the Constitution says so.

The third proposition contained in this preamble is, that military governments, under which the people in those States so-called have been ever since their armies surrendered, are unfit for the government of American society. That proposition I drew directly from the message of the President of the United States. I supported it by an argument quoted at length, *verbatim*, from his message.

The fourth proposition stands in the resolution itself, and it is but the natural, and, as it seemed to me, the inevitable deduction from the others. If the functions of those States are suspended, if the time has not yet come for restoring them, and if military governments are unsuited for their control, I see no alternative for us but to organize provisional governments for them. I think, therefore, if I were disposed to look about for some man to stand godfather for this little resolution of mine, I might honestly and fairly claim that the President of the United States should act in that capacity. But I am not in search of a godfather; the resolution is before the Senate; it is for them to act upon; and when they have acted upon it, it is to be sent to the House for their action. Unless the Congress of the United States will stand godfather for it, let it drop, as it ought. I want it sanctioned by nobody else. No other tribunal known to our Constitution and laws can give it any sanction.

Mr. President, the speech submitted by my colleague contains a great number of points upon which I should like to comment, but it would not answer to occupy the time of the Senate for that purpose. Some of them, however, I must mention. Considering that he is the representative of the Union party, I thought it very unfortunate that he should have taunted the Senate and the Congress of the United States with the passage of a resolution which he quotes from the legislation of 1861. He says that immediately after our humiliating reverse at Bull Run:

"In that hour of defeat, when humbled before the nations, and before the supreme Ruler of the world, Congress, almost unanimously in both Houses, declared—

"That this war is not prosecuted upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and all laws made in pursuance thereof, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; that as soon as these objects are accomplished the war ought to cease."

He says that resolution was adopted in the hour of defeat and in the hour of national humiliation, as if Congress, had they deliberated a little longer till they survived the humiliation of that Bull Run disaster, would have refused

to pass such a resolution as that; and the intimation is that now, proving victorious instead of defeated, we see fit to disregard it and set it aside altogether. Sir, do we not all know what the palpable fact was? The first months of this war, I am sorry to say the first years of this war, were spent in the vain, idle, and hopeless effort to put down the rebellion after a fashion which would enable us to make believe that there never had been any rebellion. We were trying, not to overcome our enemies, but to just hold them still; and this resolution was the deliberate expression of the Congress of the United States at that time. We were then prosecuting the war, all the time holding out to our enemies terms of reconciliation, of conciliation, and of peace. Why, sir, for the first year of the war our very bayonets carried laurels upon them; we thought softly. When this resolution was adopted, I believe we were all on what is called the sixty-day paper; we were going to put down the insurrection in just about sixty days, and then we were going to make believe there never had been any insurrection. Of course it was not then the purpose of the Government, it was not the purpose of those who adopted this resolution, to interfere with those political organizations which were called States; not to interfere with their institutions, not to interfere even with the existence of slavery within them, not to interfere with any of their laws. We did then propose this resolution. We proposed it for the purpose of appealing to the magnanimity of the people down there to lay down their arms and not to prosecute that insurrectionary attempt to the bitter end of the bitterest of wars. But we found in the course of months, what I think wise and sagacious men foresaw in the very outset of these hostilities, that all these efforts at conciliation, at reconciliation, were vain. We found that there was only one way of obtaining peace with these enemies of the people of the United States, and that was by whipping them; and when your armies were organized and officered and maneuvered upon that system of tactics, peace began to show itself, and not till then.

But I do not think it was exactly right to intimate that the American Congress was insincere or dishonest when it adopted that resolution, or that it is faithless to that resolution now when a different policy is suggested to it. The doctrines of that resolution were departed from long ago. Then we declared that at that time we did not propose to interfere with the institution of slavery. We did interfere with the institution of slavery several years ago, and the institution of slavery has ceased to exist. Was that a violation of this joint resolution which was passed in 1861? Why, sir, the American people, taking the power out of our hands, superseding its Congress, decreed of themselves, that in spite of this resolution and of all the local laws in those districts, slavery should cease to exist. We were going to preserve the States with all their dignity and rights unimpaired. How well we have persevered in that policy I shall have occasion to remark hereafter.

But, Mr. President, my colleague differs not only from myself in his views of what should be done at the present time, but he differs very materially, as is evident, from the Senator from Maryland. The Senator from Maryland insists that these communities were always States; that we were prosecuting the war simply to disarm the insurgents in them, and that, when that object was accomplished, there the States stood with their organizations complete; that Magrath was Governor of South Carolina; that the men who were elected Senators and Representatives to her Legislature were the Legislature of that State; that the judges appointed by that government still exercised the judicial powers of the State; there was the State complete, with its complete organizations intact. That is the theory of the Senator from Maryland. The theory of my colleague is that we, somehow or other, notwithstanding South Carolina was always a State, did get the right or the power not merely to disarm the insurgents but to overthrow those political organizations. I have been

utterly unable to understand from what clause of the Constitution my colleague derives that authority. We not only disarmed the insurgents in South Carolina, but we deposed her Governors, we dismissed her Legislatures, we vacated the seats of all her judges. That has been done. My colleague says it is all right; the Senator from Maryland says it is all wrong. I agree with my colleague that it is right, but not right if South Carolina is a State; right only because South Carolina had forfeited all the prerogatives and all the rights which belong to a State.

My colleague thinks that the President had this power by virtue of the authority vested in him by the laws of the land to make peace. There have been a great many things done in the progress of this war, in the exercise of what were called the war powers of the Government, which I thought a little peculiar; some of which I could hardly undertake to defend under the Constitution of the United States. I have not been distressed about them, for they were all done for good purposes; and if they were illegal, I knew the time would come when redress could be administered, and I thought that redress would come when the war ended, and the war would not last forever. But, sir, the worst of all these things bears no comparison to what has been done in the exercise of what my colleague calls the peace powers of the President. A citizen of Ohio who had represented a district of that State in the Congress of the United States, after he had ceased to represent that district, was arrested by military authority, placed before a military commission, and tried upon some charges or other, and convicted upon those charges. He claimed that it was a tyrannical usurpation of power, an arbitrary act, a gross violation of the Constitution of the United States. Whether it was so or not I will not undertake to say. But what has been done in South Carolina, what has been done in Mississippi and Alabama, under what my colleague calls the peace powers? Not only have citizens, those who were never in the armies of the United States, nor any other army, been arrested time and again and been tried before military commissions, but military commissions have been trying private causes, trespasses, actions of debt, actions of assumpsit, and administering justice between man and man. Not only have they been doing this, but the judges and justices appointed by the people of South Carolina for the very purpose of exercising this authority have been summarily dispossessed of their offices and placed entirely to one side. Not only that, but Legislatures elected by the people of South Carolina to make laws have been dispersed, and now Legislatures have been set up in their stead; Governors have been deposed and other Governors placed in their stead, and this under the exercise of peace powers.

My colleague says that the President had to judge when to disband the Army, and in order to know whether it was safe to disband any portion of the Army he had to make some little investigation in those communities, to see how they felt, and he ventured upon these acts by way of feeling their pulse, investigating the state of public feeling and public sentiment down there. He admits it was a little peculiar that he should appoint agents there and call them provisional governors, but they were only deputies of the President. If the President, the Commander-in-Chief of the Army, had gone there himself and done these very things, he argues that nobody would have objected to the constitutionality of them. Sir, I venture to say I would have objected to the constitutionality of them, if South Carolina is to be considered a State of the American Union. If South Carolina is a State, that is what Wisconsin is; that is what Ohio is. The President is indeed Commander-in-Chief of the Army and Navy, but he is no more Commander-in-Chief of the Army in South Carolina than he is in Wisconsin. What he can do in one State as Commander-in-Chief he can do in another. If he can depose a legal, constitutional Governor in one

State he can do it another. I do not see why he cannot. I make no complaint of the President for doing these things in South Carolina. He did not remove a Governor of a constitutional State; he removed a criminal from exercising acts of authority under powers delegated to him by criminals. Not only that, but laws passed by these Legislatures have been set aside over and over again. I make no complaint of it. I believe it was right to set them aside, because I believe there was no community there which had the right to make laws; they were all criminals.

In point of fact, Mr. President, the issue between myself on the one side, and the Senator from Maryland and my colleague on the other, is just this: there were certain laws which once recognized South Carolina, Alabama, and Mississippi to be States. Under those laws, those people had the right to elect Governors and choose Legislatures. South Carolina elected a man by the name of Magrath for Governor of that State. The Senator from Maryland insists that we were prosecuting this war to make Magrath the Governor of South Carolina and to obey the Constitution of the United States; that that is the law that we were trying to enforce in the prosecution of this war. I think it was another law that we were trying to enforce—a law enacted on the 30th of April, 1790, the first section of which declares:

"That if any person or persons owing allegiance to the United States of America shall levy war against them, or shall adhere to their enemies, giving them aid and comfort within the United States or elsewhere, and shall thereof be convicted, on confession in open court, or on the testimony of two witnesses to the same overt act of the treason whereof he or they shall stand indicted, such person or persons shall be adjudged guilty of treason against the United States, and shall suffer death."

I think we were prosecuting this war in order to enforce that law against Governor Magrath, against every one of the Representatives in their Legislature, against all their judges. It does not follow, because we have the power to do it, that therefore we should execute the law. We were prosecuting the war that we might be enabled to execute this law if we chose to do it. The President can remit these men from the penalties of this law if he pleases. If he does not, that is a law to be executed, and that is one of the laws to enable us to execute which we were prosecuting this war. Under the penalties of that statute were included not only every agent of what you call the State of South Carolina during the existence of the war, but almost every citizen within the State of South Carolina. The law condemned every one of them to death. When they were disarmed it rested within the discretion of the Government of the United States to say whether this law should be enforced or not. We had only to carry out this law, enacted in 1790, and what would have happened to what you call the State of South Carolina? Not only the Governor, every Representative, and every other municipal agent would have been executed, but every citizen who had incurred this guilt of treason would have been executed. When you had executed every officer and every man, I take it the State of South Carolina and its functions would have been suspended in more senses than one. I conceive that that would have been the end of the State of South Carolina; or if it would not, or if South Carolina would have survived that, where would it have been? What would have been its condition?

Mr. President, upon one point an issue is made between my colleague and myself, and that is upon the question whether it is safe now to restore the prerogatives of States to the people of those communities. My colleague does not exactly assert that it is safe now to do it, but he does say that those people have surrendered, not merely their armies, but their cause. I wish I could believe that; but the fact is it is not true; and I wish to submit to the Senate, not all the evidence that I have before me, but a few extracts from it, to show that it is not true. Mr. Brownlow, or Governor Brownlow, of Tennessee, one of those districts for which the character of States is claimed, but a few days since—

I read from the National Union of the 10th instant—used this language:

"I can only say by way of admonition and encouragement to the colored friends, attend your schools, learn to read the word of God, and then learn to love and practice it; and by way of caution and advice, I admonish you be mild and temperate in your habit and spirit and your conduct toward the white people. I advise as a friend loving the institution and desiring the prosperity of what you have undertaken. I advise the teachers, male and female, to be exceedingly prudent and cautious, and do nothing offensive to the predominant party here.

"You may think it a little strange that I give such counsel. I do it because if General Thomas were to take away his soldiers and pull up stakes and leave here, you would not be allowed to occupy this school-room a week; and if General Thomas and his military forces were to go away and leave us, this Legislature, at the head of which I am placed, would be broken up by a mob in forty-eight hours."

That is the testimony of one who has been chosen the Governor of one of these States, as gentlemen insist upon terming them, and in which my colleague says they have surrendered their whole cause. He tells his constituents and tells the United States that if the military forces belonging to the United States were withdrawn, the Legislature of that State would be broken up in forty-eight hours.

A committee calling themselves the central committee of Tennessee, in a memorial addressed to the committee on reconstruction, which has found its way into the newspapers, use this language:

"The designs of the great secession majority of Tennessee may have been changed by the events of the war, and so may have been their opinions of their own strength, and of the strength of the Government, but unless your memorialists greatly misunderstand them, their sentiments, sympathies, and passions remain unchanged. They welcome peace because they are disabled from making war; they submit because they can no longer resist; they accept results they cannot reject, and profess loyalty because they have a halter around their necks. They recognize the abolition of slavery because they see it before them as a fact; but they say it was accomplished by gross violations of the Constitution—that the negro is free only in fact, but not in law, or of right."

But, Mr. President, I think I can convince you more satisfactorily of the extent to which they have surrendered their cause by reading to you some extracts from a series of chapters drawn by a commission appointed in Florida for the purpose of revising their code. At the head of that commission I find the name of Mr. Dupont who is the chief justice of Florida if Florida has a chief justice. Acting upon the assumption that slavery was destroyed, they conceived that it was necessary to make some changes in their code regulating the colored population of that district. The commission reported ten chapters for that purpose. I have them all before me. They create first a county criminal court, and to that court they give jurisdiction in cases of—

"Assault, assault and battery, assault with intent to kill, riot, affray, larceny, robbery, arson, burglary, malicious mischief, vagrancy and all misdemeanors, and all offenses against religion, charity, morality, and decency."

That is the jurisdiction of that county criminal court. One of the sections declares—

"That in all cases where a fine, penalty, or forfeiture is or may be provided or inflicted by any statute of this State, as the punishment for any offense by the court organized by this act, the person upon whom such fine, penalty, or forfeiture may be imposed, may for the non-payment thereof be put to such labor as the county commissioners of the county in which such fine, penalty, or forfeiture was imposed, may direct, and shall be allowed such compensation for his labor, in reduction of his fine or forfeiture, as may be reasonable and just, and he shall not be held to such labor for a longer period than shall be necessary to pay and satisfy the fine, forfeiture, and penalty so imposed; or the said county commissioners may hire out, at public outcry, the said party to any person who will take him for the shortest time and pay the fine, forfeiture, and penalty as imposed."

The next section provides:

"That all fines, forfeitures, and penalties imposed upon any person by the county criminal court organized by this act, shall be paid into the county treasury, and all legitimate expenses attending a prosecution in the said court shall be provided for and paid out of said treasury; and the compensation of jurors and witnesses called to testify on the part of the prosecution shall be at the option and discretion of the board of county commissioners of the respective counties."

What is the purpose of these clauses? They explain it. They say that before the abolition

of slavery there was an excellent tribunal. Their language is—

"Heretofore there existed in each household a tribunal peculiarly adapted to the investigation and punishment of the great majority of minor offenses to the commission of which this class of population was addicted."

That is, the class of population made free by the act of emancipation.

"With the destruction of the institution of negro slavery, that tribunal has become extinct, and hence the necessity of erecting another in its stead, and of making such modifications in our legislation as shall give full efficiency to our criminal code."

Which means briefly this: that when slavery existed, the head of each family was a government for all the slaves belonging to that family; he did his own whipping, administered his own corrections; he made his own laws. That institution having been destroyed and slavery ended, each county is to have a superintendent, what they call a county criminal court, to do the whipping and administer the correction for the whole county. They are to be tried before jurors; they are to be convicted of these offenses upon the testimony of witnesses; but those witnesses and those jurors are to depend for their compensation upon the liberality of the county commissioners in the county which administers this justice.

Another bill declares—

"That whenever in the criminal laws of this State, heretofore enacted, the punishment of the offense is limited to fine and imprisonment, or to fine or imprisonment, there shall be superadded as an alternative, the punishment of standing in the pillory for one hour, or whipping, not exceeding thirty-nine stripes on the bare back, or both, at the discretion of the jury."

Now, here are some of the offenses declared:

"That the severance from the freehold of any agricultural production or fixture, or any part thereof, and the felonious taking and carrying away the same, shall be deemed and held to be larceny, and be punished as such."

"That if any person shall excite an insurrection or sedition among any portion or class of the population of this State, or shall attempt by writing, speaking, or by any other means, to excite such insurrection or sedition, the person or persons so offending shall be deemed to be guilty of a felony, and upon conviction shall suffer death."

There are two provisions creating criminal offenses. One makes it larceny to cut a twig from an apple tree or from any other kind of tree and to carry it off. Removing anything of the kind from anything which is a fixture upon the soil is larceny. The next section makes it an offense punishable with death to incite insurrection or sedition among any portion or class of the population. That is an excellent law. That is a law which ought to have existed there a great many years ago. That is a law which ought to be enacted by the Congress of the United States this very session for the government of the people of the United States. That is a law which if it had existed a few years ago and had been executed would have saved the people of the United States from the horrors of this war through which we have waded, and would have sent to the gallows most, if not all, the men who propose this sort of legislation for the government of the freed population of Florida at the present time.

"Wherever fines are imposed as penalties, standing in the pillory and whipping may be substituted," the commissioners propose; why? They explain in this report. They say it will not do to degrade white men by punishment; it makes bad citizens of them, therefore you must not make them stand in the pillory, you must not whip them; but it will not do to rest upon fines as a punishment for the colored population, because they are poor, a great many of them, and they cannot pay these fines, and therefore it only punishes the State, it only punishes the county; it does not punish the colored individual or freedman. That is the argument; so that, in addition to imposing fines which are to be collected from their estates, if they have any, and which, if they have not, are to be collected by selling their services at auction to the highest bidder, there is superadded the provision that if the fine cannot be collected in either of these modes, they may be

put in the pillory or be whipped. How are these penalties graduated? The eighth section of this bill declares—

"That if any person shall, in the night time, break and enter into any house or building, not the subject of burglary, or shall, in the day time, break and enter into any mansion or other house, with intent to commit a felony, he shall, upon conviction, be punished by a fine not exceeding \$1,000, and imprisonment not exceeding six months, or by standing in the pillory for one hour, or by whipping, not exceeding thirty-nine stripes, or by both whipping and standing in the pillory, at the discretion of the jury."

A thousand dollars! That sells a negro for his life. It will take him his lifetime to work out that thousand dollars. The tenth section declares—

"That every trespass upon the property of another, committed with a malicious and mischievous intent, the punishment for which is not provided by law, shall be deemed and held to be an act of 'malicious mischief,' and the party guilty of the same, his aiders and abettors, shall, upon conviction, be punished by a fine not exceeding \$1,000, and imprisonment not exceeding six months, or by standing in the pillory for one hour, or by whipping, not exceeding thirty-nine stripes, or by both whipping and standing in the pillory, at the discretion of the jury."

Going across a piece of pasture ground, traveling through a forest belonging to an individual, cutting a twig from a standing tree, anything which amounts to a trespass willfully done may be punished by a fine not exceeding \$1,000, which fine may be collected by selling the services of the man until he can work out the fine; and yet we are told this community has given up its whole cause, surrendered everything, and is only providing for the peace of the community and its good order. Here is another provision:

"That if any negro, mulatto, or other person of color shall intrude himself into any religious or other public assembly of white persons, or into any railroad car or other public vehicle set apart for the exclusive accommodation of white people, he shall be deemed to be guilty of a misdemeanor, and upon conviction shall be sentenced to stand in the pillory for one hour, or be whipped not exceeding thirty-nine stripes, or both, at the discretion of the jury."

Recollect that this county criminal court is given jurisdiction of all offenses against religion, charity, morality, and decency. Provide this court for the punishment of offenses against religion, and then by this other chapter in the same code close the houses of worship against the admission of the negro; make him submit to the precepts of religion and deny to him all religious instruction; that is the effect of the two provisions standing together!

Another bill is to be entitled, "An act in relation to the contracts of persons of color." It provides that contracts are to be in writing, and—

"That when any person of color shall enter into a contract as aforesaid, to serve as a laborer for a year, or any other specified term, on any farm or plantation in this State, if he shall refuse or neglect to perform the stipulations of his contract by willful disobedience of orders, wanton impudence, or disrespect to his employer or his authorized agent, failure or refusal to perform the work assigned to him, idleness, or abandonment of the premises or the employment of the party with whom the contract was made, he or she shall be liable, upon the complaint of his employer, or his agent, made under oath before any justice of the peace of the county, to be arrested and tried before the criminal court of the county, and upon conviction shall be subject to all the pains and penalties prescribed for the punishment of vagrancy."

Recollect, Mr. President, these are laws provided for the control of a population made free by your laws, but who we are told are very ignorant and degraded and debased. They say they must have the right to make contracts for their labor, and here is a tribunal created for the express purpose of not only making these parties specifically perform the contracts, but of enforcing personal respect toward the employer and the agent of the employer on the part of these ignorant and degraded men during the term for which the contract is made.

The county court is to make ignorance respectful, to punish men who have never been taught what is respect or what is the want of it, for any disrespect, for a breach of good manners, for a want of politeness; to punish the lowest class of population, they say, that exists on this continent. This is the sort of legislation proposed in that district of Florida which we are

told is the farthest advanced in the way of repentance and reconstruction.

Mr. President, I cannot weary the Senate with reading more from these provisions. The whole ten chapters are crowded with instruction and crowded with admonition. Here are ten chapters proposed for the government of this freed population in the district of Florida, bristling with penalties for all manner of conduct, from burglary and robbery down to a breach of politeness and of etiquette! The most of the penalties, as I have before remarked, are limited to a fine of \$1,000. Every such penalty involves a sale of the delinquent for his whole life, for it could not be worked out short of his whole life. Now, sir, what kind of men are these for whose government and guidance and control these most formidable provisions are made? Are they really savages, barbarians, men plunging into all sorts of excesses, men whose hands are raised against the well-being of society and against every interest of society? Are these the men? I will tell you what kind of men they are, and I read it from the report of the same commission which has framed these bills. They say:

"Where, in all the records of the past, does history present such an instance of steadfast devotion, unwavering attachment and constancy, as was exhibited by the slaves of the South throughout the fearful contest that has just ended? The country invaded, homes desolated, the master absent in the army, or forced to seek safety in flight, and to leave the mistress and her helpless infants unprotected, with every incitement to insubordination and insurrection, to rapine and murder; no instance of desertion, and scarcely one of voluntary desertion, has been recorded. This constancy and faithfulness on the part of the late slaves, while it has astonished Europe and stamped with falsehood the ravings of the heartless abolitionists, will forever commend them to the kindness and forbearance of their former masters."

This is the way they are commended to the kindness and forbearance of their former masters. Laws enacted which punish criminally a man who does not take his hat off at the right time; laws providing to punish a freeman who is guilty of whatever a county criminal court shall call an act of disrespect!

"They [the masters] will do all in their power to promote his welfare, and to encourage and secure his moral and mental improvement."

Such as shutting up the houses of worship against him, and forbidding him to enter on pain of being arraigned and tried before the county criminal court.

"While they confine him to his appropriate sphere of social and political inferiority, they will endeavor to stimulate him to all legitimate efforts at advancement, and by the exercise of kindness and justice toward him, teach him to value and appreciate the new condition in which he is placed."

I do not like the school at which they propose to place him!

"If, after all, their honest efforts shall prove unavailing, and this four millions of the human family, but recently dragged up from barbarism, and through the influence of southern masters elevated to the status of Christian men and women, shall be doomed by the inscrutable behest of a mysterious Providence to follow in the footsteps of the fast-fading aborigines of this continent; and when the last man of the race shall be standing upon the crumbling brink of a people's grave, it will be some compensation to the descendants of the southern master to catch the grateful and benignant recognition of this representative man, as he points his withered finger to the author of his ruin and exclaims, 'Thou didst it.'"

These provisions, from which I have read to you some extracts, are provided not for the guidance and control of savages and barbarians; they are provided for the control of men whom this very commission boast have been elevated to the status of Christian men and women; they are the ones who are to be excluded from the houses of worship; they are the ones who are to be punished criminally if they do not exhibit every mark of respect to their employer, or to his authorized agent, which the county criminal court thinks is due from a colored man to a man who is not colored!

Mr. President, I am occupying too much time. The naked truth, the palpable truth, is—we must not shut our eyes to it—these men have not surrendered their cause. This committee memorializing the committee on reconstruction tell the truth when they say the sen-

timents and opinions and purposes of that people are unchanged. We must therefore furnish protection for this class of population and for that other class of their population to which I alluded the other day, the class which is not black but which is almost equally as unfortunate by reason of having been loyal. Sir, it was but a few days since that a lady whom I know to be a daughter of a man formerly a resident of Charleston, South Carolina, and whose name is known and honored throughout the whole Union where loyalty is honored, told me that soon after the bombardment of Fort Sumter she had to leave Charleston because of her known devotion to the flag of the nation. During her absence her whole estate, which was in the hands of trustees, was sold for a sum utterly inadequate to its purchase, and the price paid in the money of that confederate government which was not recognized as a valid government either by the United States of America or by any Government in the known world; and we propose to leave all such cases of confiscation in fact—for that is a case of confiscation—unredressed, to recognize the existence of these political organizations which are in the hands of the very class of men enacting and enforcing such laws as I have just instanced. Nay, Mr. President, it is an act of criminal disregard to both the men we have made free and to the men we commanded to be loyal, which this Government cannot venture upon with safety to itself.

However much we may declaim about the sanctity of the States and about the greatness of the Government resulting from the States, I must conclude by asserting what I said before, that I estimate the greatness of this country not by the number of organized States within it, but by the number of people obedient to its command. When, therefore, gentlemen meet me with the assertion that there are thirty-six or forty-six States in the Union, I answer them by saying that I stand on the proposition that there are thirty million people in the Union. It is for us and not for them to say whether they shall be organized into thirty-six or fifty-six or seventy-six States.

The Senator from Maryland insisted the other day that we must not recognize the possibility of the people of a State destroying their own government, because one State after another might do it until there was but one State left, and that, he assumes, would be an unconstitutional condition of things. Sir, I deny it. It is entirely within the limits of possibility that thirty-five out of thirty-six States might enact ordinances of secession, might put their local authority into the hands of tribunals sworn, as were the agents of South Carolina and of Mississippi, not to uphold the Constitution of the United States, but to resist it, and still there be a vast majority of the people of the United States loyal to the flag and obedient to the Union. There would be but one community, in my judgment, which could elect Senators and Representatives to Congress in that contingency; but I stand here and say that if there was but one State, if the State of Rhode Island alone was the only political organization which had a Legislature sworn to support the Constitution of the United States, Rhode Island could send two Senators here and two Representatives to the other House, and she would rightfully command the allegiance, and her laws would demand the obedience, of every citizen within the United States; and it does by no manner of means follow that she would not be able to enforce the authority of the United States. It does by no manner of means follow that there would not be a number of loyal people, in spite of the action of their local government, in each of the States which would rally around the flag and enforce obedience to its laws.

Mr. President, I have stated as well as I could the reasons which induce me to believe most firmly that if we recommit the powers of the States to those people to-day, the rights and the dearest interests of these two classes of men, one of which we have made free and the other of

which we have found loyal, will be utterly disregarded and trampled upon. I conclude by saying that the Congress of the United States, if it means to secure loyalty hereafter, or if it means to secure respect for its supremacy or for its laws hereafter, must not and cannot restore the functions of States to those people until they have secured ample and complete guarantees that the rights, the political rights, of both these classes of people shall be respected. I submit this resolution with these remarks and hope it will go to the committee on reconstruction.

Mr. STEWART. The Senator has not answered my question yet.

Mr. HOWE. Excuse me. The question was, what shall we do with the governments that already exist in those districts?

Mr. STEWART. The organizations that have been formed under the sanction of the President since the fall of the rebel armies.

Mr. HOWE. If we conclude to organize provisional governments for those people, it seems to me to result necessarily that the organizations lately created by the people of those districts will have to follow in the footsteps of those organizations which existed there at the time the rebellion surrendered its arms. They represent precisely the same people, precisely the same constituency; substantially the Legislatures and Governors were elected by the same people. The President of the United States said to the Governors and the Legislatures which existed there in April last, "You must retire; pass aside, you are disloyal." For some reason or other he said to them "Step aside." The same people who elected those Governors and those Legislatures have, for some reason, and under the permission of somebody, elected Governors and Legislatures again. If we say after all that these people have not been restored and cannot be restored now to the right to choose Legislatures and Governors, these Governors and these Legislatures, these political organizations, must pass away with the former ones, and for precisely the same reason.

They are no more loyal themselves in the main. Individuals may be more loyal, but as a body they are no more loyal and represent no more loyal constituency than those which existed there in April. But on the contrary, if we say they are States, give them all the rights of States. I do not object particularly to the individuals who it is said are to be sent here as Senators and Representatives, or who it is said are elected Governors and members of their Legislatures. I have no doubt they are a great deal better than many you will see from there for a good many years after you recognize these organizations; but on the other hand, I do not care to say that they are any worse than a great many whom we hold eligible to office in the northern States; that is, they would be eligible if they could get the people to vote for them. I do not hold that the men who made this war and fought in it against the Government of the United States are any worse than the men who in our own communities at home have kept out of both our armies and theirs, but who have given all their prayers and all their encouragement and all their sympathies to the men who have been fighting against us. Their purpose was the same. One was just as disloyal to the Government of the nation as the other. One was a little bolder than the other; that is the only difference.

Sir, I put it to you, which of all those miscreants who went out to capture Jesus do you think was really the most criminal? Were they who went out with swords and staves in their hands, avowing their purpose and clamoring for the life of the Saviour, or was it that sneaking fellow who went out in the garb of a friend and undertook to betray the Saviour of the world with a kiss? I say it was not the servants of the high priest, but it was Judas himself. And among all those men who have sought to betray the authority of the nation I say those are the guiltiest who have not avowed their purpose, but have gone as directly and as persist-

ently toward it under the cover of false pretensions of loyalty.

Mr. STEWART. I should like to ask another question. Until what period would the Senator hold them under territorial subjection—till what circumstances happened?

Mr. HOWE. I will tell my friend just how long: until the Representatives of the American people in the Congress of the United States who have demonstrated their fitness to take order for the welfare of the United States shall determine that they will do justice by each other and obey the laws of the United States; and when Congress comes to that conclusion, then do what you have done with all other people in a territorial condition, organize State governments for them and treat them as State governments; not hold them up one day and knock them down the next.

Mr. JOHNSON. It is not my purpose to continue the debate. I rise merely with a view to ask a question of the honorable member from Wisconsin. I understood him as admitting that the acts of Congress and the acts of the President to which I adverted, the acts of legislation and the acts of the Senate in its appointing power, are all very strong to show that the States are in the Union. I understood him to say that they were in the Union because of the existing legislation, and that all he proposed to do was to change the existing legislation by this resolution of his. I understood him to say he had voted for the admission of the Senators from Arkansas, and that he would have voted for the admission of the Senators from Louisiana. What I want to know of the honorable member is this: if the Senate had concurred with him and had admitted the members from those States to their seats and they were now here, does he think there would be any power in Congress to legislate them out by passing a law to govern the States of which they were the Representatives upon this floor as Territories? It is true that some of the States, the new States, are in the Union by legislation; but if they are in and they are represented on the floor of the Senate and on the floor of the other House, by the Senate and the House deciding that they were properly elected, I am at a loss to conceive how by legislation they could be expelled. If, therefore, the honorable member's opinion as to the rights of those Senators had been the opinion of the Senate, and they were now upon the floor, here they would remain, representing the States whose representatives they purported to be, unless there is vested in the Senate of the United States by the Constitution an authority to expel by legislation a Senator upon this floor upon the ground that his State is not a member of the Union, although it had decided that fact by admitting him to his seat.

Mr. STEWART. I think the Senator from Wisconsin has made an argument in favor of the legislation under consideration, but not a very strong argument in favor of his own resolution. He tells us that there is disorganization in the South. We expected it. He tells us that they are proposing legislation which makes an unjust and odious discrimination between the whites and blacks. We were aware of that fact. We expected it. But why complain of them for this legislation when we have now by the constitutional amendment the power to legislate on the subject, and when it is our duty to do so? We have a bill under consideration which will cure nearly all the evils of which the gentleman complains. It provides that the courts of the United States shall have jurisdiction of all cases arising under that provision of the Constitution which abolishes slavery, and which confers upon Congress the power to carry into execution that article of the Constitution. This clearly makes it the duty of Congress to provide for the case, and Congress has assumed this duty in other like cases. No case existed before where there were so strong reasons for the action of Congress. The fugitive-slave clause of the Constitution was carried into effect by the courts of the United States without any provision in the Constitution that

Congress should legislate on the subject. The Constitution simply provided that the States should deliver up fugitives from labor and fugitives from justice, and it was settled that under that clause the courts could take jurisdiction of their delivery when Congress had passed an act for that purpose, and here is a bill simply adopting that machinery and applying it to the case of the freedmen.

If there are in the South laws that reenslave the negro, we are passing laws to abrogate them; we can sweep them all out of existence. I do not suppose there is a Senator upon our side of the House who doubts the power of Congress to protect the negroes under the constitutional amendment that has been already adopted. Then, I say, that if we do our duty under that provision, the fact that those States have laws hostile to our institutions is no argument in favor of reducing them to a territorial condition. If we have the complete power to protect loyal men, to execute the laws in favor of freedmen, to abrogate all laws making them slaves or degrading or oppressing them, why not act by doing our duty and passing laws that shall secure these ends?

Then, having done that, what else do we want to accomplish? We all want them to be States as soon as possible. Will it be taking a step forward to destroy the little of organization they have accomplished? You say these organizations are hostile to the negro. Very well; suppose they are, they have no power to carry into effect any laws hostile to the negro, because that is taken out of their hands and put in the power of the General Government. The fact that they are not treating the negro right is no argument in favor of destroying their organizations, inasmuch as we have complete power over them so far as that question is concerned. What is the object of destroying them? If they can do no harm, the Senator has furnished no argument for their destruction by showing that they do not protect the negro.

What is the remaining argument for their destruction? That they were created without authority of law. Suppose that to be the fact, still they are organizations gotten up by the people; and if they can be matured into States, why not let them alone? You may say that they send men to Congress who are hostile to the Government of the United States, rebels, traitors, to represent them. Have we not power to keep such men out? Have we not a test oath that will keep them out? Is it not our duty to exercise a right of discrimination under this test oath, so as to encourage Union men? Why not discriminate between those who are hostile and those who are loyal? The effect of such a course will be to strengthen your friends in the South; but pass laws making no discrimination, treat them all as hostile to the Government, act upon the supposition that we have no friends at the South, and we shall have no friends. We have no more friends there now than we need; they are in a sorry condition; we have very few friends in that country, and they have very little power; but a sweeping law that shall treat them all as aliens will never give us more friends. If we can protect the loyal men by the arms of the United States legitimately in carrying out the provisions of the constitutional amendment, (because the President has a right to execute the laws, and to call out the forces of the United States to execute them if they are resisted,) and can at the same time secure the rights of the freedmen, ought we not to be satisfied? Why not so act now that we shall be at liberty in all our future action to discriminate between the loyal and the disloyal? If you destroy the existing organizations entirely and build up new ones of your own, ignoring the fact that there are any loyal men there, when will you have those States back in the Union? I ask this as a practical question.

I understand that among those sent here by the southern States to represent them there are some loyal men, at least one or two. There are loyal men there, and they will be encouraged by our admitting the loyal men who have been sent here. You have power to keep dis-

loyal men out of these Halls; and why not exercise it? What is the use of tearing down that which has already been done? When you have torn it down, there are not two Senators on this floor who agree as to what shall be built up in its place. We differ as much among ourselves as to the manner of building up, as any of us do with the President in regard to what he has done. I say, let us not pull down, but let us sustain what we can; let us hold fast to that which is good. To protect the southern loyal men, to protect the freedmen under the authorized power of the Constitution is our first and paramount duty. Let us do that; let us extend the hand of fellowship to the loyal men whom we may find in the South, and who will help us to sustain the Constitution and the Union and to enforce the laws; and then we shall have done something toward a practical restoration; but if we continue here as we are, each man presenting daily his own plan no two agreeing as to what ought to be done, one pulling down what another tries to build up, it will be very long before the South will be reconstructed to suit us.

Now, I am opposed to tearing down; I am in favor of holding fast to what we have that is good. We have been legislating for a few days in the right direction toward reconstruction, and let me say to the Democrats on the other side of the House that I do not think their opposition to these measures is calculated to advance reconstruction, because it is impossible ever to receive into these Halls any men from the South unless they come from States where law and order prevail.

Mr. SAULSBURY. Will my honorable friend allow me to make one remark as he has mentioned Democrats? I do not know a Democrat in the length and breadth of this whole land who believes in the doctrine of reconstruction. They do not admit the propriety of that term. Our fathers constructed the States for us, and they remain as our fathers constructed them.

Mr. STEWART. I am not here to discuss terms. You may call it "restoration," or you may call it "reconstruction;" you may call it one thing or another. The fact exists that we have had a war. The fact exists that while we had that war the southern States were not acting in harmony with the Union. The fact exists that we want to get them back in harmony. These are plain facts. The fact now exists that we have amended the Constitution, and that under it we are empowered to keep order in the South and protect the freedmen while this process of restoration is going on. These are plain facts, and I say to the Democrats on the other side of the House that they retard reconstruction when they ask that we shall withhold military power from the South and allow anarchy and disorder to prevail there; because, no matter whether they are States in the Union or out of the Union, their representatives cannot be received in Congress unless they come from States where law and order prevail. The war must have been entirely concluded, we must have peace and order there before they can again act in harmony with us. These measures are calculated to give that peace and order; and I flatter myself that the great mass of the southern people, the best of them, are in favor of peace and order; but they are powerless to restore it. It must be restored and held there, until society shall settle, by the strong arm of the Government. Let us do this; let us save the organizations that are already provided; and then we can commence discriminating in favor of loyal men at the South who will work for the glory of the whole nation, who will stand by us as good and true men. There are some such there, and however few they may be they ought to be encouraged. We can in that way give them a nucleus about which to rally, and we can make some progress during this session.

This seems to me to be the practical way of reconstructing. It matters not whether these organizations were legally started or not, they exist there. What good will it do us to tear them down? Have we not control there for all practical purposes to preserve order as fully

and as completely as we should have if we reduced them to a territorial condition and passed elaborate laws for them? Can we not keep order there now? Is it not our duty to do it? Is it not the duty of the President of the United States, through the military, to see that the laws of the United States are executed and enforced? Can we not then accomplish all that is necessary for the peace and security of that portion of the country without destroying that which has been done?

If we can build up without tearing down let us do it, and then we shall have no difference of opinion, then we can all agree. I think we should allow these organizations to stand; and when a man comes here who has been tried in the fire of war in the South and is truly loyal to the Union, ready to take your test oath, ready to work with us for the restoration of the country; the State from which he comes being protected by the strong arm of the Government; the freedman being protected in all his rights by the laws you pass under a Constitution which is ordained for his freedom, will it hurt us, will it lower the dignity of this body to admit on this floor a truly loyal man from the South?

I think that the voice of one or two loyal men from the South, if we could get them here, would not only aid us but would be an advantage to the southern people; it would be a warning to them as to what they must do; it would be a guide by which they might be conducted; it would be a rallying point around which a Union sentiment might be created in the South. But if we treat them all with contempt, if we do not seek to build up the solid foundations of States, but spend this session in tearing down what has been done, we shall adjourn without having accomplished any good result. We must reconstruct at some time. To hold these States permanently in the condition of Territories is out of the question. You cannot do it. That course would be contrary to the genius of our institutions. The people of the North are opposed to it; the people of the South are opposed to it. When you admit that you cannot have a Union, when you admit that you have exhausted all your powers and that there is no hope of a Union of States, the North will rebel against using military power to hold conquered provinces, and you cannot get armies for that purpose. Sir, we should never give up the idea that we can have a Union. Whether we like the southern people or not, we have got to try the experiment of fellowship with them, and that before a great while. I would rather have fellowship with those who have been loyal than with the mass of the disloyal; but under the system of territorial organizations, I do not see that we can have any kind of fellowship either with the loyal or disloyal. In this view of the question, I am in favor of continuing in the course we have commenced, passing these bills, going on, as I consider, in this work of practical reconstruction.

Mr. TRUMBULL. I wish to inquire what has become of the bill that was the order of the day at one o'clock.

The PRESIDENT *pro tempore*. That bill was laid aside by common consent to enable the Senator from Wisconsin to go on with his speech; and a subsequent discussion has arisen in consequence of inquiries made by the Senator from Maryland and the Senator from Nevada explanatory, as the Chair understood, of something that the Senator from Wisconsin had said. No objection having been interposed, the Chair did not arrest the discussion. The bill properly before the Senate is the bill which was the unfinished business yesterday, and which was then taken up on the motion of the Senator from Illinois.

Mr. STEWART. I understood that that bill was before the Senate when I spoke.

Mr. TRUMBULL. That is Senate bill No. 61. That being before the Senate, I propose—

Mr. HOWE. I ask my friend to allow this resolution of mine to be referred.

Mr. TRUMBULL. I have no objection, if it can be done without debate.

Mr. POMEROY. I think we had better refer

this resolution. I have never known a discussion prolonged before on a mere question of reference. This resolution has been discussed day after day on a mere question of reference; let it be now referred to the committee.

Mr. TRUMBULL. Yes; let us get rid of it.

Mr. McDUGALL. The objection to its going to a committee is one which I think ought to be understood on both sides of the House. It is not a proper subject of reference to a joint committee.

Mr. TRUMBULL. If my friend from California will give way, I will move an executive session, and that will dispose of the matter this evening. There is executive business that requires attention.

Mr. McDUGALL. I give way.

Mr. TRUMBULL. Senate bill No. 61 being up, and being left as the unfinished business, I move an executive session.

The motion was agreed to; and, after some time devoted to the consideration of executive business, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, January 26, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

PENNSYLVANIA CONTESTED ELECTION.

Mr. UPSON, from the Committee of Elections, made a report on the contested election in the sixteenth district of Pennsylvania, concluding with the following resolutions:

Resolved, That Alexander H. Coffroth, upon the certificate and papers relating to the election in the sixteenth congressional district of the State of Pennsylvania, has a *prima facie* right to the vacant seat from that district, and is entitled to take the oath of office and occupy a seat in this House as a Representative in Congress from said district without prejudice to the right of William H. Koontz, claiming to have been duly elected thereto, to contest his right to said seat upon the merits.

Resolved, That William H. Koontz, desiring to contest the right of Hon. Alexander H. Coffroth to a seat in this House as a Representative from the sixteenth district of the State of Pennsylvania, be, and he is hereby, required to serve upon said Coffroth within fifteen days after the passage of this resolution a particular statement of the grounds of said contest, and that said Coffroth be, and he is hereby, required to serve upon said Koontz his answer thereto within fifteen days thereafter, and that both parties be allowed sixty days next after the service of said answer to take testimony in support of their several allegations and denials, notice of intention to examine witnesses to be given to the opposite party at least five days before their examination, but neither party to give notice of taking testimony within less than five days between the close of taking it at one place and its commencement at another, but in all other respects in the manner prescribed in the act of February 19, 1851.

The report was laid upon the table, and ordered to be printed.

Mr. PAINE. I rise to a question of privilege, and present a written statement of the views of the minority of the Committee of Elections on the same case. I ask that the first resolution reported by the minority be read.

The Clerk read, as follows:

Resolved, That William H. Koontz has the *prima facie* right to a seat in this House as a Representative from the sixteenth congressional district of the State of Pennsylvania.

The SPEAKER. The report, with the accompanying resolutions, will be laid upon the table, and be printed.

COMMUNICATION WITH MONTANA AND IDAHO.

Mr. DONNELLY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Whereas the development of the gold-producing regions of the country is of the utmost importance to the financial success of the nation; and whereas communication between the northern tier of States and the gold fields of Idaho and Montana is now possible only by a long detour to the southward as far as St. Louis: Therefore,

Resolved, That the Committee on Military Affairs be directed to inquire into the expediency of directing the Secretary of War, by bill or otherwise, to establish a line of military posts from the western boundary of Minnesota to the Territories of Montana and Idaho by the most direct and advantageous route, and to

facilitate communication along said route by the construction of a military road with proper bridges over the water-courses.

LEAVE OF ABSENCE.

Mr. WASHBURNE, of Illinois, asked and obtained leave of absence for Mr. HENDERSON for one week.

DRAWBACKS UPON EXPORTS.

Mr. PIKE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Whereas a practice has recently grown up along our northern and northwestern frontier of exporting merchandise to the British Provinces, obtaining a drawback of duties paid on the same, and creating deposits of such goods at convenient places along the line, whence they are smuggled back into the United States, to the great detriment of our revenue:

Resolved, That the Committee of Ways and Means be directed to inquire into the expediency of reviving the law of 1799, which provided that no drawback should be allowed upon articles exported to any foreign State immediately adjoining the United States.

MESSENGERS FOR HOUSE POST OFFICE.

Mr. STEVENS. I ask unanimous consent to introduce the following resolution:

Resolved, That the Postmaster of the House of Representatives be allowed two additional messengers for the term of two months, to be paid out of the contingent fund of the House, at the rate of seventy-five dollars each per month.

Mr. WASHBURNE, of Illinois. If that will give us our mails a little earlier in the morning, I will agree to it.

Mr. STEVENS. The Postmaster of the House says that the pressure of business is so great that unless additional assistance be given him he will not be able to accommodate members with their mails as early even as he now does.

Mr. WASHBURNE, of Illinois. If the adoption of this resolution be necessary for that purpose, I certainly shall not object, because I think we ought to receive our mails at least an hour earlier every morning.

Mr. ROLLINS. I object to the introduction of the resolution.

The SPEAKER. Objection being made, the resolution is not before the House.

LIGHT-HOUSES ON NEW JERSEY COAST.

Mr. NEWELL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be requested to inquire into the necessity of repairing and relighting the light-house on Tucker's Beach, on the coast of New Jersey, and also of erecting a light-house at Mattawan Point, on the Raritan bay; and that they report by bill or otherwise.

WILLIAM H. GODDARD.

Mr. DRIGGS, by unanimous consent, presented the petition of William H. Goddard, for compensation for services rendered the Government, for the payment of which there is no provision; which was referred to the Committee of Claims.

USE OF THE HALL.

Mr. HILL. I ask unanimous consent to submit the following resolution:

Resolved, That the Committee on Rules be instructed to report a rule prohibiting the use of the Hall of the House of Representatives for any other purpose than the legitimate business of Congress.

Mr. TRIMBLE. I demand the regular order of business.

Mr. STEVENS. I hope the gentleman will withdraw that for a moment.

Mr. TRIMBLE. I will do so.

CLOSE OF THE DEBATE.

Mr. STEVENS. I understand that the gentleman from Kentucky has called for the regular order of business. If there be no objection I will now make an announcement in regard to the joint resolution in reference to the basis of representation.

There was no objection.

Mr. STEVENS. Mr. Speaker, I desire to say to the House, if there be no good reason for postponing it longer, that I will call for a vote on the pending special order on Monday next after the morning hour. The debate will then have run for a week. It seems to me that

that should be regarded as reasonable time for debate; and I hope that the House will then be ready to come to a vote.

Mr. CONKLING. I ask the gentleman to permit me to make a suggestion.

Mr. STEVENS. Certainly.

Mr. CONKLING. Several members who have arranged to go, to-night or in the morning, from the city, to remain over Sunday, will not be able to be here on Monday after the morning hour. I mention that for the purpose of suggesting to the gentleman to make it Tuesday after the morning hour.

Mr. STEVENS. In that view I will say that debate shall be closed on Monday, and that the vote shall be taken on Tuesday after the morning hour.

Mr. SCHENCK. I make another suggestion, that the joint resolution and amendments that have been proposed, together with the instructions accompanying motions to recommit, be ordered to be printed.

There was no objection, and it was ordered accordingly.

MESSENGERS FOR HOUSE POST OFFICE—AGAIN.

Mr. STEVENS. I understand that the gentleman from New Hampshire [Mr. ROLLINS] withdraws his objection to the resolution for the appointment of two additional messengers of the House post office, provided that it be referred to the Committee of Accounts, to which I have no objection.

The resolution was received and referred accordingly.

BASIS OF REPRESENTATION.

The SPEAKER stated the regular order of business to be the consideration of the following joint resolution reported by the joint committee on reconstruction:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring.) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States; which, when ratified by three fourths of the said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE.—Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation.

The pending question was on the motion of Mr. LE BOND to refer the joint resolution and pending amendments to the Committee of the Whole on the state of the Union, upon which Mr. HARDING, of Kentucky, was entitled to the floor.

Mr. ELIOT. I understand there has been no understanding in reference to the vote on this proposition.

The SPEAKER. The gentleman from Pennsylvania has stated he will ask for a vote on Tuesday, after the morning hour, and that the debate shall be closed on Monday.

Mr. ELIOT. There is already a special order for Tuesday, after the morning hour.

The SPEAKER. The pending joint resolution is the special order until disposed of.

Mr. ELIOT. What becomes of my special order?

The SPEAKER. It will come up in its regular order.

Mr. HARDING, of Kentucky. Mr. Speaker, the country as a general thing has been deceived and misled in regard to the troublesome and vexed question of the negro. The great mass of the people labored under the delusive impression that when slavery was removed or destroyed all strife between the North and the South would disappear. They were everywhere told that slavery was the cause of the rebellion and the strife between the North and South; remove that and all strife would cease. Hence, they were naturally inclined to believe that the removal or destruction of slavery would put an end to all this strife. I have never believed so for a single moment. Slavery was but one phase, one development of the negro question.

Slavery is gone, but the negro question comes back on us with redoubled force.

The Republican party have manufactured a large amount of capital out of the negro question. First they began with caution, now they draw on it as if they thought it as inexhaustible as were the widow's barrel of meal and cruse of oil. The fact that the negro question has continued so long has been owing to the great care with which the Republican party has managed it. When the question of emancipation of the slaves was before the country the Republican party began with extreme caution. When slaves were emancipated in the District of Columbia, they disclaimed all power and right to interfere with slavery in the States, alleging that the charge against them was a slander, and appealing to their Chicago convention platform.

That accomplished, however, is but one step. What is the next? Then slavery is stricken down in all the Territories, and the compromises of the past revolutionized. What next? The President had said that he had no lawful power to interfere with slavery in the States. His Secretary, by his authority, had said that any effort on the part of the President in that direction would be so manifestly unconstitutional that it would be arrested by the courts, even though Congress and the people might assent to it. What is to be done then? Upon consultation a fiction was devised. The Constitution prohibited all interference; the war power was resorted to, and upon that fiction war was made upon slavery in the rebellious States. Well, what next? What shall be done with the stubborn, unyielding, perverse State of Kentucky, and some of the other border States? You cannot apply the war power to that institution in Kentucky, because she has not been in rebellion. That State stood under the old flag and contended for her rights in the Union. What was to be done then? Why, we will strike down slavery in the Union; we will strike at Kentucky, under the old flag and in the Union. And hence, before the war was over an amendment to the Constitution was passed, passed right in the middle of this struggle.

Now, does any sober man in his senses believe that if the whole purpose of the Republican party had then been disclosed it would not have revolutionized that party? It is said that consistency is a jewel; but honesty, frankness, and open, fair dealing is a far brighter and more precious one. But something at least has been gained. The Republican party now stands openly committed before the whole country in favor of unrestricted universal negro voting and negro office-holding. However much that has been disguised and denied it can no longer be concealed. Why, sir, during the elections that took place last year, even in my own State and district, I with many others foresaw what was coming; yet you could not impress it upon the people. And even those in Kentucky who had gone off and joined themselves to the abolition party denied that there was any such purpose on the part of any except a few fanatics in the North. People could nowhere be made to believe that there was any purpose of universal political negro equality. But now the question is made here on negro suffrage, precisely as it was on negro slavery in the District of Columbia. You have voted universal negro suffrage for the whole mass of that population in the District, and you have opened the way to them to become office-holders.

In view of the various propositions now before the House the same purpose is manifested and sought to be carried out universally. Who will deny any longer that it is the purpose of the controlling majority of the Republican party to carry out universally negro suffrage throughout the whole country? It was denied everywhere; no Republican dared for a moment to take that position a few years ago. But now you are before the country on that issue. It was denied even in the late election for Governor in Ohio, but now the party is compelled to come out and assume the position.

Now, sir, in the hands of these skillful manipulators, I know not how many Protean

shapes this negro question can yet be made to assume. I suppose when universal negro suffrage is carried, then negro homesteads and intermarriage between negroes and whites will be encouraged so far as law will encourage it. That will be the next step. But now we know what the proposition is. This provision is sought to be fastened upon the whole country by a constitutional amendment.

It is the first time in the history of this country that any party deliberately set about for the purpose of ingrafting upon the organic law of the land their own peculiar political dogmas. What are we met with here now? No less than seventy amendments to the Constitution. And if there were an amendment for every time that instrument has been violated, perhaps twice seventy would not meet the demand. But seventy amendments! Where do they all come from? Every one comes from the Republican party. What does that show in regard to the loyalty of this party?

Now, I do not hold the Republican party responsible as a party for the extreme utterances of some brainless demagogues in the North—those who desire, as they said, an anti-slavery Constitution, an anti-slavery Bible, and yet another term more profane than that; nor do I hold them as a party responsible for that other utterance, that our old Constitution was "a covenant with death and a league with hell." I do not hold the party responsible for that, but I do hold them responsible for their own work here in Congress. But, sir, what do these seventy amendments show in regard to the loyalty of the party? What is loyalty under our former Government? Is it not to be true and faithful to the Constitution; to support and defend it? Does it not mean that, no more and no less?

What was the crime of the South? What constituted them traitors at the commencement of our troubles? Was it not that they rose up, rebelled, made war upon the Constitution as it then was? That was disloyalty then. To support the Constitution was loyalty, not to support it disloyalty. Now, these seventy amendments coming from that party even before the struggle is yet over, one carried in the middle of the war, might be considered by men a little censorious as showing that the Republican party at the North is about as much opposed to the Constitution as the southern rebels were. Some men might say so; I do not say it. Now, the Democratic party and the majority of the people of Kentucky have always been loyal, according to the true definition of the term, because in my State a majority of the people from first to last struggled to sustain the old form of government. When the question of loyalty turned on sustaining the Constitution, then the voice of Kentucky was for the old Constitution, and amid the storm and tempest of war, high up above the storm, the voice of Kentucky rung out at every period for the Constitution as it was; and yet her loyalty is called in question.

Now, were you in the North, your leading politicians, satisfied with the Constitution? How happened it, then, that before the war was over there was an attempt to change it? Why is it that you attempt to force back these States but will not let them come back to the Government they left? How does it happen that there are seventy amendments pending, all of them coming from that party?

Suppose a religious teacher, however loud his professions of piety might be, should undertake to sustain by argument that there are seventy well-founded objections to the Bible, some men might think his orthodoxy a little questionable. But suppose he goes on, professing all the time to be a devoted Christian and to love his Bible, and manufactures objections until he has more than one for every page of that sacred old volume, no charity would restrain us from pronouncing that man an infidel of the deepest dye. How it is here? There are twenty-three pages of the Constitution, and we have seventy amendments already—more than an average of three amendments for every page! And yet that is the "loyal" party *par excellence*.

Now, as to amending the Constitution, I do not know but that in time, when all passion subsides, and men are cool enough to rise above the passions of the hour and look over the whole country in all its sections, and look forward to the wants and happiness of posterity, some amendments may properly come up, such as this: that Rhode Island, for example, with two Representatives, shall not have the same power in the Senate that New York has, with thirty-one Representatives; and then, again, that when the election of President devolves on Congress, as it probably will, and perhaps very frequently, it may be thought that it is not in accordance with our republican form of government for Rhode Island, with two Representatives, to count as much as New York, with thirty-one Representatives, in the election of President by Congress. Some of these changes may come up in time. While it is not my business to admonish good, loyal Rhode Island, yet it might be well for Rhode Island and some other of those States in the East to keep a little near shore, and not go out too far in this experiment of making changes in the Constitution.

Now, I appeal to every man who hears me if the work of Constitution making and Constitution amending is not one of the very things that require, not only the calmest deliberation, but the highest order of patriotism. It needs men who will rise up above the feverish political issues of the day, trample them under foot as unworthy a moment's consideration, and look with the eye of the patriot and statesman over the whole country, embracing in their liberal view every section and every interest of the country for all time to come.

But, sir, among these seventy amendments, every one that my attention has been called to is a miserable scrap of party stuff. The one now under consideration has no higher object in view than a mere sectional advantage to strike down and weaken the representative power of Kentucky and the other southern States; or, instead of that, we are to have the negroes enfranchised, so that they will hold the balance of power and secure the control of the States to the Republican party. It is a measure not to affect the men of the North, but to come down with considerable effect upon the border States. It is wholly, entirely, intensely sectional and partisan, and every man knows it.

Now, I propose to call attention to the record this Republican party has made on this very question. It is time that a little posting was done, so as to bring together and compare the different pages of record this party has made. At the time when the emancipation question was up, and when everything else was kept behind the curtain, and that development of the negro question only presented, it was denied everywhere that anything else was to come afterward.

Mr. WASHBURN, of Illinois. I dislike to interrupt the gentleman; but I wish to make a correction of an error into which he appears to have fallen.

Mr. HARDING, of Kentucky. I will yield to the gentleman with great pleasure, if it is consented that it is not to come out of my little time.

Mr. WASHBURN, of Illinois. I do not wish to take up the time of the gentleman, and I hope that the few moments I may occupy may not be taken from his time. The gentleman has repeated a statement which I have seen several times, that there are seventy propositions before the two Houses of Congress to amend the Constitution. That is an error. I understand that there are only twenty in this House and eight in the Senate, and those all relating to but three or four subjects.

Mr. HARDING, of Kentucky. Well, sir, I think I have counted more than the gentleman has mentioned. I made the statement on the authority of a statement made the other day in the Senate and not contradicted. But it is very certain that the way they are multiplying day by day their name will be legion very soon.

Now, sir, I propose to look to the record of

this party a little, and I will be glad to have gentlemen listen to me. When emancipation was the question, and everything else was ignored, the presses of the North teemed, and it rang out here in these Halls day by day and week after week, that the slaves of the South were degraded, degraded in body and mind, exceedingly ignorant, but little above the level of the beasts of the field; and that degradation and ignorance was declared to be in consequence of slavery. Every man knows that that was the voice that rang out here in this Hall for weeks and months; that that representation was universally made through all the anti-slavery presses, who declared that slavery was "the sum of all villainies." And why? Because it debased and degraded to the lowest depths of ignorance the slave. Every man knows very well that that was so. One phase only of the negro question was then presented.

Now, when the negro suffrage bill for the District of Columbia was to be passed, what did we hear from this same party? Why, that the slaves have ample capacity and were qualified and intelligent enough not only to take care of themselves, but to receive a part of the sovereign power of this Government; capable of exercising judiciously the political franchise; capable of taking their full share in the political power and in the rule of this Government. That was the spirit of the bill you passed. It says to the whole country that you believe that these slaves, contrabands and all, who have swarmed here, are qualified now, though but yesterday released from slavery, to exercise that most important privilege under our form of Government, the elective franchise. You impart to them a part of the sovereignty of this country; you give them equal power in political control and rule; you allow them to aid in directing and controlling this complex but beautiful machinery of government. Every man knows this.

Now the question I have to ask is simply this: when you were striving to emancipate the negro, and represented everywhere that the slaves were degraded almost to the level of the brutes of the field, sunk into the lowest depths of ignorance, did you believe it? If you believed that then, you did not and do not believe what you said in favor of the passage of the negro suffrage bill in the District of Columbia, because you urged in favor of that bill, as you do in this proposed amendment of the Constitution, but more especially when you passed that bill giving universal suffrage in this District, that the negroes can be safely intrusted with an equal participation in the Government, and are intelligent enough and sufficiently qualified to take part in the control of the Government. Do you believe this? If you do, then you did not and could not believe what you said on the emancipation question. Or if you believed that, then you do not and cannot believe what you said on the suffrage question. In other words, if that which you then said in regard to the ignorance and debasement of the negro when you proposed to emancipate him was true, then it follows that what you have lately said in regard to their qualification for the exercise of the elective franchise was false. Or, if what you said lately in regard to their qualifications to exercise the elective franchise was true, then what you said on the emancipation question was false. That is, if this is true, that was false; if that was true, this is false; and there is no escape from it.

I contend that this whole movement of Constitution amending is intensely partisan. I ask my Republican friends this question: if the slaves are qualified to exercise the political sovereignty of this country, where, in what school, were they qualified? Do we not all know that they were brought here as savages from that dark and benighted land of savage cruelty where superstition, crime, and bloodshed reign? If they are now fit to be your equals in controlling this Government, where were they schooled? Why, sir, the schooling they got was under southern masters. You now turn pro-slavery advocates and utter a stronger doctrine in favor of the system of slavery than ever was uttered by

any man in the South. Now, I inquire again, whether you believe that the Africans of the South were so degraded and ignorant as you represented, and whether you now believe that they are intelligent and qualified to exercise the elective franchise? Did you believe either? Is it not a doubtful compliment to the acknowledged intelligence of that party to suppose that they believed either?

But, again, to come a little nearer to the present time, and to come to a matter that is fresh within the recollection of every man. A few days ago these Halls rang with declamation to show that the negro is qualified to take part in the Government equally with the white man, and that no distinction ought to remain between them. I know that there are here a few noble, independent, honest Republicans who rose above their party and refused to follow party lead on that occasion; but almost two thirds of the members of this House declared by their votes that the negroes, the whole mass of contrabands here in the District, are well qualified to exercise the elective franchise, to take part in the political power and government of this country. Did you believe that?

What do we see next? When the bill for the Freedmen's Bureau is presented, you represent the negro as utterly helpless—a child, and not fit to take care of himself; and upon the theory of his helplessness and ignorance this Freedmen's Bureau is professedly based; the negro must have a guardian, and must be treated as an infant in all respects; so far from his being fit to take part in the Government, he cannot govern himself; he cannot make a contract for a week's work; everything in regard to him must be controlled by the Freedmen's Bureau or its agents. Now, does any man in his senses believe both these propositions? One or the other is necessarily false. It is impossible for the same set of men to believe both propositions; and this party did not and could not.

What next? Why, we all know that there are in various States a large number of intelligent young white men between the ages of seventeen and twenty-one years, many of whom have fought your battles. Another portion of the people is composed of tax-paying widows, and strong-minded unmarried white ladies, and your wives and daughters. These are all disfranchised; but the negroes are all enfranchised. Now, what is the logic of your action here? It declares that these young men, these widows, these unmarried ladies, these wives and daughters have less intelligence, less qualification for taking part in the Government than the negroes; that it will be more dangerous to intrust them with the elective franchise than to confide that privilege to the contrabands of the South. That is what you say by the logic of your action. But do you believe it? There is not one single man here that believes it in his heart or believes a word of it.

Then, again, does any man believe that it is necessary for the comfort and happiness of the freedman that he shall be made a voter and an office-holder? Will it benefit him, make his condition better? You say so. Do you believe it? Then why deny this precious boon to your widows, your young sons, and your wives and daughters? Are they not "bone of your bone, and flesh of your flesh?" or has the fell spirit of fanaticism intervened between you and your own race and color, and divorced you from the "white man's Government" and the white race, so that, like the gentleman from Ohio, [Mr. BINGHAM,] it shocks your sensibility even to hear this called the "white man's Government?"

Mr. KELLEY. I ask the gentleman to yield to me for a moment.

Mr. HARDING, of Kentucky. Not here; presently, when I get through.

Why, sir, when a member talks here about this being a "white man's Government" he is gravely rebuked. Now, the way you are going on, I admit you are changing and coloring this Government right fast. [Laughter.] But I say it was a "white man's Government," once, I know; and as a "white man's Government"

it had my first love—a love even stronger than woman's love.

It was a white man's Government. What it will be by and by I know not.

At the time the negro suffrage bill for the District of Columbia was under discussion, a stranger coming into this Hall and looking into the galleries might have thought, seeing them full of negroes, that this was not a white man's Government. At an early hour they rushed into the galleries, ousted and kept out white men and white ladies. Who could blame them? They had heard the gentleman from Ohio [Mr. BINGHAM] denounce the sentiment that this was a white man's Government. They took the hint, got possession first, and held it; and in doing so were they not following your example? They took the galleries just as you have taken this House; you got in first and took possession of this Hall, and when the members from Tennessee and other States came you closed the doors upon them.

Mr. KELLEY. Let me say a word.

Mr. HARDING, of Kentucky. Not just now.

Mr. KELLEY. The gentleman has asked a question which I want an opportunity to answer.

Mr. HARDING, of Kentucky. Presently. Now, Mr. Speaker, from these few hasty remarks, I ask every gentleman whether it is not plain and palpable that this whole strife and agitation in regard to negro suffrage is not because any man seriously believes he has the capacity and qualification for its exercise, nor is in any sense to benefit him. It is intended for your benefit, not his—all to subserve your party purposes. It is evident that the whole thing is for the purpose of making party capital by converting the whole negro population into voters, under the idea that they will all vote with the Republican party, and so give them the balance of power in the southern States. Is not that the truth?

Let us apply another test. If we could satisfy this House and this Congress that the negroes, when enfranchised, would vote the Democratic ticket, it would kill this amendment at once, and silence every Republican voice. I ask if there is a single man among you who would vote for negro suffrage if he believed the negroes would vote the Democratic ticket? Not one, and you know it. You support this amendment because you believe you can control the negro vote. The amendment itself is a piece of groveling, miserable, party patch-work.

It is in that spirit the Constitution is approached by the Republican party. I would myself scorn to approach that sacred instrument to amend or change it in any respect, for any sectional or party purpose whatever. No man is fit to touch it unless he can rise above party, shake off party trammels, look over the whole country, and take in and provide for the interest and wants of all sections. Sir, when gentlemen approach a question so grave and serious as that of amending the Constitution, they ought to feel that "the ground is holy" and "take off their shoes." At such a time all party feelings, and party purposes should stand abashed and rebuked.

But I contend that party advantage is the whole object of all the proposed amendments to the Constitution. They are the result of party feeling. There is not one which has not some sectional party end. The amendment under consideration is the first fruit of the celebrated reconstruction committee. It opens the door, and we can see all that is behind. What do we find to be your plan and purpose? To keep out the Representatives of the States who are as much entitled to their seats as the President is to his seat. In that way you expect to get a two-thirds vote to ingraft on the Constitution your political dogmas. You act upon the ground that, to be perfectly safe and secure in power yourselves, it is necessary to keep the southern States out of power, and that is the time and occasion fixed on to do this party work. It is monstrous!

After our Constitution was formed, and Washington and other great and good men had retired from their labor, they looked into the future, and with almost prophetic vision saw that sectional parties and party spirit were the great dangers to which the Government was exposed. How faithfully they warned us against these dangers. But how fearful and terrible has been the bloody strife into which this country has been plunged by not regarding those earnest and solemn warnings. And yet, right in the face of all this, it is attempted now and here to manufacture a sectional, party Constitution, providing for certain sections at the expense of others, and at a time when those sections, at whose expense this is to be done, are not allowed to be here; when the doors are purposely closed against them to keep them out until you fix up a Republican party platform and make it a part of the Constitution.

Now, sir, is this fair? I appeal to the honest candor of Republican gentlemen, is this fair? And does any man in his sober senses fail to see that you are now sowing broadcast the seeds of revolution. If you shall, by excluding eleven States, make a Constitution for them without their consent, and attempt to force it upon them, may not that come home to plague you in the next generation? Are you sure you will yourselves be satisfied with it? The way to preserve this Government is to let every man feel its blessings. Let it be like the sun of heaven, to warm and cheer every section alike. Let every man feel that it protects himself, his family, his home, and all that he has, and then he is ready to die for it, if necessary. But if a section, a mere part, shall usurp authority and control of the Government, and exclude all others, making oppressive amendments for the mere purpose of sectional advantage, it is, I say, sowing broadcast the very seeds of rebellion. No man can foresee the results of these measures in the changing fortunes of this country.

Mr. LYNCH. Will the gentleman allow me?

Mr. HARDING, of Kentucky. Directly; not now. You are preparing by this amendment to strike Kentucky another blow. You propose to force her to adopt negro suffrage or lose a part of her representation on this floor. But in the ever-changing population of this country many of your children and grand children may in a few years be citizens of Kentucky, where they will reap the fruits of this denial of her rights; so fanatical and blind are all schemes for making sectional and party constitutions in a country like this. Why, sir, to obtain a sectional advantage in this way is a thing I would not accept; I would scorn it. Seize upon this Government, exclude eleven States, make a Constitution that is to operate upon them and their posterity for all time, and not allow them to be heard! Sir, that is provocation enough. If they had had that much provocation before the war, they would have been justified in the eyes of the world in the attempt to throw off such oppression by revolution; they would then have been right. It would be a greater provocation even than our fathers had who rebelled against the Government of Great Britain. You propose to frame and pass an organic law without their consent or participation, to force it upon them, and to tax them without representation.

Sir, allow me to illustrate this course of action. Suppose three northern men unite and form a partnership in a certain business. Each brings in all his capital. They are all equal partners. By and by one is absent. His two partners close the doors of the house and change the articles of partnership so as to allow him less capital in the concern and increase their own. When he returns they say to him, "We will open the doors, you can come in and resume business with us, provided you will agree to and ratify the article of copartnership as it now reads; but if you will not agree to that, we have possession and will keep you out altogether." Now, sir, would not common honesty blush at such a transaction as that? But yet, sir, is this any better? Do not two thirds of the States take possession of this House,

close the doors upon the other third, seek to change the Constitution, so as to greatly increase and enlarge their own powers, and diminish the powers and rights of the other third, proposing to force such a Constitution upon them or keep them out altogether? Does not every gentleman see that all such propositions to amend the Constitution rise no higher than the miserable party issues of the day? You seek in the absence of those eleven States to hedge, fence around, and secure yourselves in political power. And how vain are all such attempts! You may prepare the way for a rebellion which may reach you by and by as well as Kentucky and other border States. If you go on in this way, sowing the seeds of revolution, you may yet reap a fearful harvest for yourselves in the North. It is well to look now to the future. You are attempting to manufacture a new Constitution, closing the door against eleven States, knowing that if they were here you could not do it. Therefore you keep them out.

And then when it comes to the ratification of this amendment you deny them a voice in the ratification. For if I understand the gentleman from Pennsylvania [Mr. STEVENS] he proposes this amendment for ratification to nineteen of the States only.

Sir, you are proposing to intermeddle with the most vital question that pertains to our Government. Sovereignty resides in the people. Every man who is a voter exercises a part of that sovereignty. There is nothing more vital. Our whole machinery of Government is put in motion only by it. The sovereign, the voter, approaches the polls, touches a spring, and instantly the whole complex machinery is in motion.

The power of the elective franchise is unquestionably the most important power than you can confer upon any one. It is the basis and foundation of our system of Government. If this machinery is put in motion and started carefully and cautiously in the right direction, the happiest results follow; but if it is started in the wrong direction, who can count the consequences? And yet you have said in some of your bills, and now you propose to say to the whole country, that this degraded African race, as you once represented them, ignorant almost as the beasts of the field, can be safely intrusted with this important governing power. No man can believe that it is safe. To say the very best of it, it is an experiment, and more than that, our form of government is yet an experiment. Many of our best and wisest men yet tremble for its fate, and the history of the whole world so far is against man's capacity for self-government. We are now on trial, trying an experiment. We have had one terrible collision, and we ought to guard, especially in our constitutional amendments, against a recurrence of it at a time when the great problem of man's capacity for self-government is not yet solved, and the eyes of all the friends of liberty throughout the world are intently gazing at this experiment. You come up rudely now and propose to take into full governing partnership with yourselves millions of a most degraded and ignorant race. How was it that we got along thus far? How was the war carried on? Was there any voice of this sort to be heard at that time? Your orators then were haranguing their countrymen to rally to the standard to defend the Constitution. You all know now that if this phase of the negro question had then been presented, your standard would have been deserted; not a man would have come to it. I make no appeals to the soldiers. Some of them are very good men; they are much like other men. But I ask you if this is to be the result of the war. Is there not some reason for saying that this Republican party designed and intended all this from the start; that they intended to go on and on and emancipate the negro and then enfranchise him and make him the equal of white men, and in that way perpetuate their power?

Although I do not say it, yet pardon me for believing it. Was it for this that this crushing public debt has been accumulated; a debt that

is absolutely reducing the poor white man to the worst of slavery, the slavery of grinding and oppressive taxation; a debt under which this great nation now reels and staggers like a drunken man? Was it for this that our brave soldiers were called to the field, and thousands of them sacrificed their lives? Is this the result of all their sufferings on the field of battle, of all their toils and wounds and bloodshed and sacrifices—that they should enjoy the precious privilege of being made the equal of the negro at the polls and in office-holding? Yes, that is all.

Now, sir, although we of Kentucky are considered in the Union, and loyal enough at least to be here and to be occasionally heard, I would not if it were in my power take advantage of the feeblest State in the North improperly and unfairly to reduce her representation in this body, and more especially would I blush at the idea of doing it when her mouth was closed and she had no voice here. You of the North are not to be affected by this provision, as your negroes are few, but you know very well that the tendency of your emancipation policy was to turn the tide of negro immigration to the South. We are to have a dense negro population who are unfit to control themselves as you say; there must be a Freedmen's Bureau to control them. You want to force us in Kentucky, for example, either to enfranchise all these negroes or give up part of our representation. Is that fair? Is it just?

Now, I apprehend the fairest basis of representation is the one we now have, population. Perhaps a suffrage basis would be more nearly fair than any other amendment you propose; but I am satisfied with it as it is. I do not know that a suffrage basis would be exactly fair to the New England States. I do not know but that some of the New England States that have an excess of female population might be injuriously affected by it. Convince me of that, and I would not consent to it as an amendment to the Constitution.

Sir, this is not open, fair political warfare. You are proposing to take advantage of the absence of the Representatives of eleven States and the feeble power of the minority here to ingraft your peculiar political dogmas on the Constitution. Have you not done enough of this sort of work?

Did not Kentucky bare her breast to the storm, and do her whole duty in the war? Were not her fields desolated and her whole territory ravaged by the war? That she could not escape. It was the misfortune of her geographical position, and she could not help it. But in addition to all that, you passed an amendment to the Constitution which struck down at one blow at least one hundred millions in value of property, recognized up to that time everywhere as property, without a dollar of compensation ever promised. That property was legalized and recognized as much as any other property; and men, in making provision for their families, made large investments in that kind of property; yet, by that one act, you strike down that vast amount of property, absolutely robbing the infant in the cradle and the tottering old widow on the verge of the grave, and thousands who owned no other property. But you said it was necessary, and that was the ground upon which it was placed, that it was necessary to enable the Government to succeed against the rebellion.

Now, while Kentucky has made all these other sacrifices, was it fair and honest to take from her one hundred millions of her property for the benefit of the whole of the States, and pay her nothing? I would not accept that from Massachusetts or from any other State, even though it was necessary for the good of the whole nation to take any species of property from Massachusetts or any other State. I could not be driven by the party lash to do it without giving just compensation. The principle of common honesty would forbid it. I would not live myself upon the means of another man, nor would I be in favor of supporting and sustaining the Government at the unequal expense of the States.

[Here the hammer fell.]

Mr. McKEE obtained the floor.

Mr. HARDING, of Kentucky. I have but a few words more to say.

Mr. McKEE. I move that my colleague [Mr. HARDING] have his time extended until he can conclude his remarks. How much time does my colleague want?

Mr. HARDING, of Kentucky. I want only ten or fifteen minutes.

Mr. McKEE. I move that his time be extended for fifteen minutes.

No objection was made.

Mr. HARDING, of Kentucky. Now, sir, as I am noticing the condition of affairs in Kentucky, I beg the attention of gentlemen while I present the matter in some other lights. Even the little pittance promised by your law of \$300 for each slave of a loyal owner who volunteered has been virtually repudiated as you all know. And I do not expect it will be paid, not a dollar of it, and I do not care about it for myself. But I am speaking of what is fair and just. Property to the amount of thousands and millions has been taken and used by the Federal Army, indeed by the two armies as they passed to and fro over the State. Even those claims for property, horses, and provisions, taken from loyal men by our Army have been refused, though they made their claims out by full proof, their loyalty backed by an oath to support the Constitution, and to my knowledge claims of that sort have been sent back with a condition requiring the claimant to take an additional oath to support the emancipation policy. For the first time in the history of the world have honest, loyal men been required to swear to support a particular political policy or forfeit and lose their just claims.

Now, you have taken this property, in the form of slaves, because you said it was necessary for the common benefit; that the good of the nation required the sacrifice. But did it require that Kentucky should sacrifice one hundred millions of property for your benefit? Was it right or just that you should place such a burden as that upon a State already oppressed by the consequences of the war, and refuse to bear a portion of it yourself? Surely, all must see its palpable injustice.

And now here is another proposition. You are not satisfied with striking down this large amount of our property in Kentucky; you want to force upon her negro political equality, or you will rob her of a part of her representation in Congress. You will never succeed in doing that. Have we not sustained losses enough already? Was it not enough that we should be exposed to all the calamities of the war, and then to lose one hundred millions of property? Was not that enough?

And is this proposed for the benefit of the negro? You know it is not. If you believe that it is, there is a way in which you can prove your belief. We will never enfranchise the negro in Kentucky. If you believe it is for the benefit of the negro, then open your doors in Pennsylvania, Ohio, Indiana, and Illinois, and give the negro there the right to vote, and we will pay their expenses and help them on their way there. If there was any honest purpose to benefit the poor downtrodden freedmen, there would be some provision made for them in the northern States; some proposition to take them there and provide for them. Before they were freed there were enough to be found along our borders ready to help our negroes off North by means of the underground railroad. Why not help them off now they are free? Now, sir, that will not do.

There is another and an intensely selfish purpose in view. You know the strong local attachment of the negro. You know that while he has heretofore gone North, his home has been in Kentucky and other southern States. There were the scenes of his childhood's memories, there are his relations, and you know that the consequence will be to turn the tide of negro immigration southward. Now, is there any man here who will rise above these miserable shackles of party and passion, like a statesman and patriot, and look over this whole great coun-

try, run his eye far down the stream of time, and anticipate and provide for the wants of coming generations? Is there any man of that character here in favor of this amendment? How refreshing it would be to see some such character and spirit as was exhibited in the old Convention that framed the Constitution. How this horde of Constitution makers would be rebuked.

Mr. KELLEY. Will the gentleman allow me—

Mr. HARDING, of Kentucky. Not now.

Mr. KELLEY. I then rise to a question of order. I do not wish to make the point of order on the gentleman which I might well make by calling attention to the fact that he is not addressing the Chair, but continually addressing gentlemen on this side of the House, and making personal appeals to them by question. I ask leave simply to submit a single question to him, as he promised I might do it by and by.

The SPEAKER. The gentleman from Kentucky [Mr. HARDING] must, by the rules of the House, address his remarks to the Chair. But he has the right to decline to yield to any member while he is speaking.

Mr. HARDING, of Kentucky. If the gentleman will not interrupt me, he will not call my attention from the Speaker.

I was about to say how very refreshing and inspiring it would be if some such spirit as that which animated the great and good men who formed the Constitution should suddenly make its appearance here. How these little Constitution amenders would all be abashed and retire overcome with shame! Those men of the constitutional era were statesmen and patriots in the true sense of the term. They were men from whose breasts the refining fires of the Revolution had removed all dross. They rose above every merely sectional consideration. They strove to guard against sectionalism. They looked to the interests of all parts of the country, not simply for the time being, but for all time to come. Does any one see here any tokens of a similar lofty spirit? I submit that all these present attempts at Constitution amending are strikingly sectional and intensely partisan. The whole of these seventy amendments are miserable batches of party stuff which a pure patriot and a true man, like the men of 1787, would spurn from him with contempt and trample under his feet.

Now, sir, it is the idlest thing in the world for men to suppose that they can carry out an experiment like this, when a party having seized on the reins of power, usurping all authority here to the exclusion of eleven States of this Union, attempt by amendments to the Constitution to ingraft their political dogmas into the framework of this Government. Is there any member here who would not feel it to be rank injustice if his own State should be treated in this way? These attempts to inaugurate a system of negro equality are eminently calculated to sow the seeds of revolution. I predicted long since—and gentlemen here will live to realize the truth of the prediction—that whenever the abolition of slavery should be accomplished you would find tenfold more elements of revolution in the free negro question than ever were found in the slave question. You may press on in your attempts; but no party can succeed in bringing up the negro to a level with the white man. So long as this system of negro equality is enforced by the military power, you may hold up the negro beyond his natural position; but whenever that power is withdrawn, as some day it must be—when the white man is once more allowed to stand on his feet, the negro will take his appropriate place below him. This will be the result at last, in defiance of all your legislation and all your constitutional amendments. Nature has made the white man the superior of the negro; and that superiority will eventually assert itself, in spite of all your efforts to crush down the white man to a level with the negro.

Look at what you have exhibited in connection with the Freedmen's Bureau. A vast army of Federal office-holders are to be spread all

over the southern States, sustained by a standing army of something like one hundred and fifty thousand men—a vast military establishment in time of peace. Meantime the public debt is growing larger and larger; taxation is becoming heavier and heavier. By and by, at the rate you are now moving, you will bankrupt this nation, or at least bring upon us a fearful financial crisis. We are now rapidly approaching it. Instead of economy in the expenditure of public money, I see nothing but evidences of extravagance everywhere around us. An enormous military establishment is to be kept up for the purpose of caring for, schooling, and maintaining the negroes, so that they may vote the abolition or Republican ticket in the South. This system is merely a change of masters. Under the Freedmen's Bureau, the negroes are virtually reenslaved. The adventurers from the North, who have the control of that bureau, are many of them actuated by the most selfish and avaricious motives; and they seek to make fortunes for themselves through the agency of the Freedmen's Bureau.

We can see how the system will work. These agents of the Freedmen's Bureau will get possession of the abandoned and confiscated lands and control the labor of the slaves: so that the unfortunate Africans will be swindled out of their earnings and substantially reenslaved by those who hope to make fortunes by the cultivation of those rich lands.

But, sir, I will detain the House no longer. I know that my argument will have but little weight or influence on the determined purpose of that party. There is only one argument that will move them. Satisfy them that when the negroes are enfranchised they will vote for the Democratic party, and the joint resolution will be at once voted down. You know it. Ought not then such amendments to the Constitution to be stamped with the contempt of the people; ought they not to be consigned to infamy?

I will now hear any question that the gentleman from Pennsylvania may desire to put to me.

Mr. KELLEY. When the gentleman was appealing personally to us on this side of the House to know why we did not give suffrage to those soldiers, between the ages of seventeen and twenty-one, who fought our battles, and to tax-paying widows, and the strong-minded maidens of the country, as his appeal seemed to each gentleman personally, I wanted to ask him whether he was in favor of giving suffrage to the three classes he designated. And I assure him, if he introduces a bill for that purpose, it will not want my earnest support. I tell him that whenever he introduces a bill to enfranchise—

Mr. HARDING, of Kentucky. I will go on.

Mr. KELLEY. I have the floor.

Mr. HARDING, of Kentucky. I only yielded for a question.

The SPEAKER. The gentleman's time has expired. [Laughter.]

Mr. McKEE obtained the floor.

Mr. HARDING, of Kentucky. I ask my colleague to yield to me to respond to the gentleman from Pennsylvania.

Mr. McKEE. If my colleague will yield to the gentleman from Pennsylvania to ask a question, I will give him two minutes to make a response.

Mr. HARDING, of Kentucky. That is very liberal indeed; I will take it. [Laughter.]

Mr. KELLEY. I beg the gentleman to yield to me for one minute to answer the question put by his colleague.

Mr. McKEE. I yield to the gentleman for one minute, and to my colleague two minutes to reply. [Laughter.]

Mr. KELLEY. If the gentleman had had the courtesy to yield when he was upon the floor he would have had plenty of time to reply.

When he reproached us with seducing from the border States their laborers, or, as he calls them, negroes, he said that their relations were all there; and I wanted to ask him then whether their relations would not still be there in great

numbers even if we took every negro out of Kentucky. [Laughter.]

Mr. HARDING, of Kentucky. I will answer the gentleman's other question first. He says that if I will introduce a bill to confer the right of suffrage upon the strong-minded women of this country he will join me. I am most happy to find that his sympathies are not all entirely locked up with the negroes. He is now as liberal as Mr. Beecher was the other night. After that clergyman had discussed the question in favor of negro suffrage at great length—I saw it before he came to it—he said that the white women had some claims; that they came next to the negroes, [laughter;] that the white women of the country were almost as good as the negroes. [Renewed laughter.] Their claims are postponed, but next to those of the negroes.

Now, when has the voice of my friend been heard appealing for the tax-paying widows? No, his voice has always been for the negro. When was his voice raised for giving the right of suffrage to the young men who had fought the battles of the country? You are the Constitution makers. We are satisfied with the Government. We are loyal men. You undertake to tamper with the Constitution, and when was your voice heard for any but the negro? Now, for one, I say that I would prefer the white women and the young men I have referred to to the negro. I infinitely prefer giving them the right of suffrage. I am fonder of them than the negro.

Mr. McKEE. Mr. Speaker, I do not know but the remarks of my colleague, [Mr. HARDING,] as I have not my own written, will not throw me off somewhat from the course I intended to pursue. I did expect to have heard my colleague enlighten this House, as I know he has the capacity, on the question before it. I regret extremely that he has pursued the same line of policy that gentlemen belonging to the same political party have pursued ever since the idea took possession of the Government that the negro was to be a freeman. His whole speech has been made up of the negro and nothing else.

He assumed that position—that the Republican party on this side of the House seemed to have but one idea, and that was to legislate in favor of the negro. Sir, if there is more than one idea in the remarks of the gentleman I have failed to see it, and that idea seems to be to cling to that old black carcass of slavery so long as the Democratic party can make capital out of it by bringing it before the people.

Now, Mr. Speaker, I believe the gentlemen on this side of the House, all those who have stood by, upheld, and maintained the honor and integrity of our country during the gigantic war that has swept over the land, all agree, now that slavery has been swept away, that the basis of representation upon which it has existed heretofore needs amendment. I assume it as a fact that the gentlemen of the Republican party, that party which has stood by and upheld the flag of our country against armed treason, now hold the doctrine that the Constitution needs amendment. They may differ in regard to what that amendment shall be. It is reasonable that they should, and I am gratified that we have had so much discussion, so many points of difference argued before the people, that we may more easily, and as sensible men, be able to come at the facts, and ascertain what we need.

Mr. Speaker, the gentlemen on the other side of the House have held the doctrine through the whole war, and they still hold it—they have maintained the old idea that the Constitution framed by the fathers was good enough for all time, and for eternity, if we could run into that. I believe that the fathers of this country and framers of this Constitution intended and expected that that instrument would need amendment as our country progressed. Had they not held to that, they would not have put that fifth article in it, which provides for amendment and so distinctly points to it. In the face of that opinion of our fathers, and of the most distinguished writers upon constitutional law, including Justice Story, who so clearly sets forth that

in time amendment will be needed from the changed circumstances of our country, the gentlemen on the opposite side of the House contend that we must stick to that old instrument. And they go a little further than that. They say that all amendment is revolutionary; that it is a usurpation. Look at the record of that party through this great struggle which has ended in the triumph of our arms. What measure that has been proposed by the party on this side of the House, from the time the first gun was fired on our forts at Charleston has not been denounced as unconstitutional and a usurpation? That has been the whole course of that party. They opposed the levying of war. They said we had no right to call out troops to crush armed treason. And now, at the end of the war, we are met with the declaration that it is a usurpation to attempt to amend the Constitution without letting those rebellious people be heard on this floor. Why is it that they are not heard? Who sent them from these Halls? Of their own accord they went out, one by one, State by State. They rose in their seats, put on their hats, and walked from this Capitol in disgust. They wanted no part in the legislation of the nation. They said they never would come back. And now, at the end of the struggle, when their treason has been crushed and ground to powder, their apologists on this floor say it is a usurpation to legislate because the voices of those rebels are not heard here.

I thank God they are not heard in this Hall. They have no right here to be heard. We all remember when they had their cannon marshaled on the heights above this city threatening the destruction of all that was here. And yet, according to the theory of the gentlemen on the other side, their rights are all the same to-day. I do not desire to see the day when armed traitors, or men who upheld the rebellion not armed, can come back here and have the same rights that I and you and the men who upheld the banner of our country in the field have.

Mr. Speaker, I do not know that the amendment now before the House as reported by the chairman of the committee is all that I would desire. I do not know that it satisfies even that honorable gentleman himself altogether. But I believe that it is the best thing they could do, and if I can get nothing else I intend to vote for that. My idea is this: that in regard to those States lately in rebellion, the tendency of things seems to be that they are to be represented here at an early day; that the men whose hands are yet dripping with treason, stained with the blood of the soldiers of our country, are to come back here and be participants in carrying on this Government. I hope that tendency may be arrested. But I say the tendency appears to be that way; and if it is consummated, and they do come back, I want them to have just as small a representation as this House can give.

I would like it if the amendment could go a little beyond what it does. I would like so to amend the Constitution that no man who had raised his hand against the flag should ever be allowed to participate in any of the affairs of this Government. But it is not probable that we can go that far. Let us go just as far as we can.

Gentlemen say that they are not willing to vote for an amendment that strikes off a part of the representation of the States; they are not willing to vote for an amendment that lessens Kentucky's representation upon this floor. The whole course of my colleague's remarks on this point is as the course of his party—and I may say of the loyal party in Kentucky—has been through a great part of the war, that Kentucky is the nation, and the United States a secondary appendage to her.

Now, sir, if Kentucky in the future is to have such Representatives, a majority of them, as she has had during the last two years of this eventful struggle, and as the majority of her delegation here to-day, let us have just as few as possible of that kind. That is my argument upon that point. In my own State, during the whirl of excitement, and when we were supported by the

Army of the United States, we did pass a law by which we disfranchised men who had gone into the rebellion; but when the storm swept over, when the conflict of arms ceased, the Legislature reënf franchised them, and the distinction there now is, not against traitors, but against men who have upheld the flag of our country.

You may say to me that my people in Kentucky will not indorse the cutting down of her representation here. I care not what my people indorse. Convince me that I am right—and you cannot convince me that I am wrong when I go against traitors—and I will go upon that line whether one, two, or one thousand stand by me in the State of Kentucky. I am not Kentucky's Representative upon this floor alone; I thank my God I take a wider survey of the field of my country than is wrapped up within the bounds of my own State, by her mountains and rivers; I thank my God that my eye looks out over the whole broad expanse of our land, from Maine to California, and from the northern lakes to the everglades of the South. I want to legislate for the whole land, and not for one part of it only. It is a narrow-minded view of the subject to say, "I will not go for this proposition because New England will lose two or three Representatives; I will not go for this proposition because California or the Northwest will come in for a larger share of the spoils, or because my own State will suffer." Let us consider if it is for the good of our whole country, and act upon that theory. There are men in this House who have a little more faith in the honesty, integrity, wisdom, and uprightness of that class of men who rebelled than even I possess, coming from southern soil. I must say, Mr. Speaker, in the light of events, that it has not developed itself yet to my mind that these people are in a fit condition to be represented here by a large representation, if at all.

Right here I would make one remark which may not be pertinent, and which some of my brethren may differ with me in regard to, and it is simply this: as I have said, I should like to go away back and strike at the root of this thing, and prevent all traitors from participating in the affairs of this Government. There was a time when we could have carried this doctrine out and no one would have grumbled at it. I fear that time has passed. I hope, however, that we may come back to it, because I believe, sir, that if we do not come back to that doctrine, in less than four years more we will be troubled by another war. The time to which I refer was when, before the great clash of our armies in front of Petersburg and Richmond, the rebel hosts succumbed to the power of the Federal arms and Lee surrendered, followed immediately by the collapse of the whole concern. Then we could have done anything. They were willing to accept any terms. All that the leaders expected was that they would be hung, or at most allowed to leave our shores in peace; and that was all they ought to have had. The great mass of their followers simply expected that they would be allowed to return to their homes and there enjoy in peace and quiet the proceeds of their labor, with us to make the laws by which they were to be governed.

But, sir, in my judgment, a mistake was committed; when Sherman and Johnston met in North Carolina, and made the treaty, there I think the trouble began. I hold a paper in my hand containing it. It is familiar to all, and I need not read it. But that treaty reëstablished the rebel States in power, and set in motion the machinery that existed there all the time upon their taking the oath of allegiance; and there the trouble began. What was the result? The conference between Johnston and Sherman terminated on the 15th of April, 1865; and an abstract of the terms agreed upon was forwarded to Washington as early as possible; and immediately afterward, on the 21st of April, the President of the United States, just a short time after the assassination of that great man who had led us through the darkest hour, on the reception of that dispatch, called his Cabinet council together. And what was the result of their deliberations? At that council the action of General

Sherman was disapproved by the President, disapproved by the Secretary of War, disapproved by General Grant, and by every member of the Cabinet.

Who approved that treaty? The whole anti-war party; the whole Democratic party; the whole party which had been all the time against the Government of the United States, and against forcing rebels and traitors to submit by our armed power. And there is where they got their encouragement. They said to themselves, "Here is a great party in the North who desire that we shall be reinstated, with all our rights and privileges just as they were before." They took courage, and it has gone on increasing. And gentlemen will excuse me when I say that I do not see the difference between the theory of that treaty of Sherman and Johnston and the present condition of the States as they exist in the South to-day. I may be wrong; but if I am I should like to have the difference pointed out to me by some distinguished gentleman upon this floor.

Now, I say that I favor this amendment as reported from the committee, because I believe it is the best thing that we can get adopted by the States. I do not care whether these men in the South ever allow the negro to vote or not. That is not a question about which I feel any concern at this time. I will, however, say here on that point, that whenever the negro develops sufficient capacity for all the rights of citizens, that he now has an opportunity to do, even my Democratic friends here will not be opposed to giving them to him. And I will say a word further in reply to a remark of my colleague, [Mr. HARDING.] He said, convince the Republican party that the negro will vote the Democratic ticket and they will drop this whole measure. I say, convince the Democratic party that the negro will vote their ticket, and they will crawl on their knees to drag him up. [Laughter.] But that is not the question here.

In my opinion, this amendment leaves that whole question just where I believe it ought to rest, exactly in the position where I have always contended in my short political career the question of suffrage should be, in the State itself. And since we cannot change that basis, which I believe we cannot do, let it remain there. This amendment leaves it there. And it rests entirely with them whether they enfranchise one race or another. On the general question of the suffrage for the negro I need make no explanation. My views are on record. I voted against the bill allowing negro suffrage in the District of Columbia. I did not believe then, nor do I believe now, that this race, coming immediately out of bondage, is fit for all the rights of citizens. When they develop sufficient fitness for that purpose I will be the last man to withhold the right of suffrage from them.

I am not afraid of social or political equality with any race, and I am sorry—yes, sir, I am sorry—that my learned and distinguished colleague [Mr. HARDING] and the gentlemen who act with him are so fearful on that score. I was always taught to believe that in this country, said to be free, we had the right to choose our own associates. I do not believe this amendment, if adopted, will take away that right. I think it will remain; and if any gentleman chooses to associate with a colored man, with a black man, or any other man or race of men, even the Hindoo or the Hottentot, he can do it. I believe in every man having the same show in this world for life, and when he develops all the capacities that fit men for the highest rights of citizenship, then let him have them.

Now, in regard to the proposition of the honorable gentleman from Ohio, [Mr. SCHENCK,] I am opposed to it. I do not believe in basing representation upon actual voters, and without debating that question I will give a very short reason for my opposition to it. It will have a tendency to lead States to confer suffrage upon all, to enfranchise men from other lands the moment they drop on our shores, as some of the States do already. I think this matter of suffrage should be guarded. While I hold to the great doctrine of universal suffrage, let us

extend it only so far as we can bear it. Therefore I oppose the amendment offered by the gentleman from Ohio, [Mr. SCHENCK.]

So far as concerns the great mass of amendments offered by gentlemen from the Republican party—of course no Democrat offers one, because he does not want the Constitution amended—I have paid but very little attention to them, because I have made up my mind that this one reported from the joint committee on reconstruction is the best for us to adopt.

Mr. ASHLEY, of Ohio. The Democrats proposed many amendments to the Constitution just before the rebellion broke out.

Mr. McKEE. Yes, sir; and they voted for them, too, I believe. Gentlemen from my own State, then upon this floor, every one of them voted for an amendment to the Constitution proposed by Hon. Mr. Crittenden, of Kentucky. But now it is all wrong to propose any amendment to the Constitution! I believe the whole Kentucky delegation voted for that proposition. I do not know who they were; but I venture to say that the same men, if they are living to-day, are in the Democratic party.

Mr. GRIDER. If any of the Kentucky delegation now on this floor voted for that amendment I trust my colleague will designate them.

Mr. McKEE. My immediate predecessor, Mr. WADSWORTH voted, I believe, for the amendment proposed by Mr. Crittenden.

Mr. GRIDER. Not a member from Kentucky now on this floor was here then.

Mr. McKEE. I did not say that such was the fact. I said that the Kentucky delegation then on the floor of this House, whoever they may have been, voted for the Crittenden amendment. They wanted to perpetuate the institution of slavery.

Mr. GRIDER. I understood my colleague to say that some of the Kentucky delegation now on this floor voted for that amendment.

Mr. McKEE. If I said that, I did not mean it.

Mr. SMITH. I desire to say that my colleague who now occupies the floor used the expression that the entire delegation then on this floor from Kentucky voted for that proposed amendment; which is true.

Mr. McKEE. That was my assertion.

Mr. SMITH. I desire only to add that the object of that amendment was to establish slavery forever in those States where it existed; it provided that there should never be any amendment to the Constitution prohibiting slavery. Now, I say that my colleague is correct in taking the position that those who are acting with that party to-day, and have opposed the abolition of slavery, and sanctioned the conduct of the rebels, are *particeps criminis* with them.

Mr. GRIDER. I understood my colleague to say that some of the Representatives from Kentucky now on this floor voted for the amendment to which he alludes, which was introduced, as I understand, by the honorable and distinguished John J. Crittenden. I only undertook to say that I did not believe that one single gentleman now here as a Representative from Kentucky was a member of this House at that particular period.

Mr. McKEE. I will ask my colleague one question: did he not at the time, and has he not since, approved that vote of the delegation from Kentucky?

Mr. GRIDER. I will answer the gentleman. This is the identical question which was put to me during my late canvass; and I met it by saying that, so far as I was concerned, in my district and my State, when this rebellion commenced, we took the ground that we were for the Constitution and the Union, and would maintain all our rights under the Constitution, under the stars and stripes, and that we would not tamper with that sacred instrument until the rebellion should have ended, and peace, with her soothing and kindly influence, prevail all over the land; and then, if the Constitution needed amendment, we would do it with deliberation and in a manner becoming statesmen. And that is what I say now.

Mr. WARD. That is what we are doing now.

Mr. McKEE. The gentlemen upon that side of the House have been calling out every day since the opening of this session that peace has now been restored to our land. Not a member on that side opens his mouth without giving utterance to the statement that peace is now restored to our land. Well, now that peace has come, let us go to work, in the language of my colleague, and amend the Constitution, so as to render this peace secure and enduring. Like statesmen let us proceed in our work, and strike out from the Constitution a provision which now has no appropriate place there, in consequence of the changed condition of circumstances.

Mr. GRIDER. Will the gentleman allow me to ask him a question?

Mr. McKEE. I will hear another question when my colleague shall have answered that which I have already propounded—whether he indorsed that vote of the Kentucky delegation?

Mr. GRIDER. I have indorsed nothing that happened before the rebellion commenced, [laughter,] because I was not in political life. I have stated my position fairly and distinctly; and now, if my colleague will permit me to ask him a question, I shall be obliged to him.

Mr. McKEE. I decline to yield unless the gentleman answers my question.

Mr. GRIDER. I will answer it. But let me first ask him a question.

If peace has come at last, and now is the time to commence the amendment of the Constitution, why does he not let the whole of the States be represented, and to have a say in reference to those amendments.

Mr. McKEE. I am satisfied I have the gentleman exactly where I want him. [Laughter.] I am arguing from his position, and from the basis of gentlemen on that side of the House, that peace reigns. I occupy no such position; I do not think that peace reigns except by the armed power which enforces it. And while I hold that doctrine, I think that it is the right and duty of the men who have been sent up here to represent those who have stood by the Government in its darkest hour to make all needful laws, and even constitutional amendments, to keep a rebellious people in peace and security hereafter.

So far, Mr. Speaker, as the gentleman's question goes, why I do not allow those States to come back and be participants upon this floor, I will say that they have not shown a loyal spirit to justify it. Tell me that the men down in the rebel States are loyal to the Government! Tell me that they are in a condition to come here and legislate for the benefit and good of this whole Union! Tell me that they are the men to legislate for the widows of soldiers, and for the soldiers who have been maimed for life! Tell me that they are fit to legislate for the great people who stood by the country! Do we not know that these lately rebellious States have elected and put into the highest offices men who are the most odious traitors? Do we not know that they are knocking at the doors of this Hall and asking for the admittance of men upon these floors whose hands are reeking with the blood of slain loyalists? I want none of them. I want none but loyal, brave men. Let them send to this House men who, under the most trying circumstances, stood by the country. Let them know in those States they must select men who never went into the rebellion. Let us have none here who committed treason. Let them place the power of the States in the hands of loyal, brave men, and reject these odious traitors, and I will be ready to receive them, but not until then.

Mr. GRIDER. How are you going to discriminate against such men as Maynard of Tennessee, and the men from Tennessee, Virginia, Louisiana, and other States, which States were represented here pending the rebellion?

Mr. McKEE. I will make a discrimination for myself; I do not do it for anybody else. I speak on my own responsibility. I will say in regard to the gentleman from Tennessee, who is seeking to be admitted to all the rights and privileges of this floor, that I believe him and

others to be loyal men; but in two thirds of Tennessee I do not see a loyal people. I do not want to separate Tennessee. I do not think she wants to be divided. I do not want to separate East from West Tennessee; but I do wish to give a wholesome lesson so as to make the State in every part of it loyal. I should like to aid those gentlemen who periled their lives in Tennessee in defense of the country. I am disposed to see them come in.

Now I will ask my colleague a question. He desires the return of these States. Now, would he vote to receive the Representatives sent here from the State of South Carolina? Would he do it to-day?

Mr. GRIDER. Whenever any representation from any State reorganized, on the suggestion, as I understand, of the President, advisory in its nature, under the apportionment we passed pending the rebellion—

Mr. GARFIELD. Make him say yes or no about South Carolina.

Mr. GRIDER. I will take care of that without the gentleman's suggestion. I am one of those who are not afraid to say what they think. [Laughter.]

Now, let me answer my colleague. The President having in an advisory manner recommended the reconstruction of those States, if they come here, embracing South Carolina, under the apportionment bill fixing representation at the time the rebellion was raging for all the States—if Representatives came here and presented credentials that they were regularly elected, I say that we have no authority to exclude them from this Hall. If they are unworthy members, if they are what the gentleman says, rebels and traitors, and ought to be hung, when you get them here and have jurisdiction over them you might do what you please with them. [Laughter.]

Mr. McKEE. I decline to yield any further.

Mr. GRIDER. Let me finish my sentence.

Mr. McKEE. I am disposed to be very courteous.

Mr. ELDRIDGE. Mr. Speaker, I rise to a question of order. The gentlemen on the other side seem to be answering the gentleman from Kentucky [Mr. GRIDER] by laughing. Is that in order?

Mr. GRIDER. I have no objection to gentlemen amusing themselves by laughing as loud as they please, so that they do not laugh while I am speaking. [Laughter.]

The SPEAKER. The Chair will restrain gentlemen from applauding or exhibiting disturbance, but he certainly cannot prevent them from laughing. That is beyond the power of the Chair.

Mr. ELDRIDGE. Is it in order for gentlemen to laugh so as to disturb gentlemen on the floor?

The SPEAKER. The Chair thinks it is not proper; but he certainly has not the power to prevent gentlemen from laughing.

Mr. GRIDER. I am sorry the point has been made. I am willing the gentlemen should laugh on the other side of the House, but I think they had better be weeping than laughing.

Now, sir, I will answer the gentleman's question whether I would admit South Carolina's members. I will act in my own official capacity here upon the credentials that are placed before me, if they are regular, from every State in this Union, where that State has, according to the advisory admonitions of the Executive of this Government, organized its State government and sent Representatives here. And I will risk the authority of this House and this country to manage them when they get here, if they are not right. [Laughter.]

Mr. McKEE. Mr. Speaker, I am exceedingly sorry my colleague does not answer the question, yes or no. He seems not to have learned that in Kentucky. In our State, we have always considered that other way of answering as peculiar to Yankees. The answers of my colleague to the interrogatories propounded to him by me would indicate that he belongs to that part of the country. I only hope he may advance and carry out the position he has put

himself in the House, in replying in that way to the questions, by going on until he gets completely Yankeeized.

Mr. GRIDER. Too old for that. [Laughter.]

Mr. McKEE. Now, it appears to me the gentlemen on the other side of the House ignore altogether the great principles upon which our Government is founded, namely, that we are a Government by the people. They are afraid to trust the people on this great question which properly belongs to them—the amending of the Constitution. They dislike to put the subject before them. It shows a lack of confidence in the people. I have always been willing to trust the people of this country, and I am not afraid to put this issue before them now. I believe it best for the future security, peace, and happiness, that it should go to them. And in their wisdom and majesty let them act upon it.

Gentlemen talk a great deal about usurpation. Who is it that makes these usurpations? It is the Representatives in this Hall who are simply the exponents of the people at home, and when the people indorse our action, where is the usurpation? I am not afraid. The people will take care of that. Now, sir, why delay action? Why stop to inquire? Why beseech these men, who voluntarily left the Capitol, to come back here and aid us in fixing up and restoring the country? I believe that all men agree in this, that the great fabric of our institutions has been shaken. We have set out on a voyage, we have sailed smoothly, peacefully, quietly along the sea of progress. At last a great wave has swept over our ship and shaken some of her timbers, but, thank God, it has not destroyed her. Now what is the part of wisdom? What is the duty of the men who manage the ship of state? To trim her sails anew, and repair her weak points for the purpose of developing her strength, so as to be prepared for all future emergencies.

Mr. Speaker, I take this proposition that comes from the committee on reconstruction simply and only upon that basis; believing that it is the best thing, under all the circumstances, that we can do for the land at present; believing that it will be a more certain guarantee of peace, happiness, and security to our land that we are likely to get; and believing that it will do more than any measure we can secure to keep down the traitor power, and leave their influence in the councils of the nation too small to be felt.

The SPEAKER. The Chair will state that to-morrow, by order of the House, is to be devoted to making speeches on the President's message in Committee of the Whole, and no other business; and as it is necessary that the Chair should be absent, he will ask the gentleman from Illinois, [Mr. WASHBURN], who is chairman of the Committee of the Whole upon the President's annual message, to take the chair to-morrow as Speaker *pro tempore*.

Mr. KERR. Mr. Speaker, when this discussion commenced, it was not my purpose to take any part in it at all, and I do not now desire to be heard at length upon the main question now before the House; but, sir, there have been involved in this discussion some questions incidentally connected with the main question which, in my judgment, present considerations of importance quite equal, if not superior, to that of the main question itself, and it is mainly upon one or two of those questions that I desire, for a short time, the attention of the House.

I hold, Mr. Speaker, that some of the greatest dangers that surround free institutions, and some of the greatest dangers that lie in the pathway of the prosperity and happiness, the development and glory of our country, do not come in the shape of direct and tangible propositions; they do not come in direct and clear attacks, with uncovered hand and uncovered purpose, upon the policy or institutions of the country; but they come under the specious covering of construction, of constitutional interpretation; they come under the guise of attempts on the part of those administering the Government to give to the Constitution a new meaning or interpretation.

Now, Mr. Speaker, it is to one of those attempts, in my judgment the most insidious, dangerous, and subversive that has been suggested during this session of Congress, that I shall mainly invite the attention of the House. The point to which I refer is based upon a suggestion that, several days ago, fell from the lips of the honorable gentleman from Pennsylvania, [Mr. KELLEY,] whom I am sorry not to see in his seat. It amounts, using his own language, to this proposition, that Congress has the power, under the Constitution of the United States as it now stands, to "so regulate the suffrage as to give the right of suffrage to every male citizen of the country of twenty-one years of age, whether a citizen by birth or naturalization." In view of the facts connected with the history of our Constitution and its formation, it does appear to me that this proposition is one of the most dangerous and startling that has yet been suggested in connection with our national policy, and if adopted, it cannot fail, sooner or later, to subvert the most beneficent principles of our system of government.

Before I proceed, I call attention to the fact that the honorable gentleman invites a direct issue with the President of the United States upon this subject. Now, I may here remark that, so far as the President is concerned in connection with this and every other question, either now or hereafter, demanding fit action at the hands of this Congress, if anything that shall fall from my lips shall seem to be a defense of him, it must be taken as tending in that direction simply and solely because in my judgment it is right, and not because he is my President in any partisan sense or I his champion. I am here to do my duty to the extent of my humble ability, and I am resolved at least to be at one with my own conscience and my own judgment. The President has said in his annual message that "it is not competent for the General Government to extend the elective franchise in the several States." The honorable gentleman from Pennsylvania replies that that question "was settled by the express language of the Constitution right the other way;" and then, in a spirit more of satire than of kindness or respect, he adds:

"It is evident that the absorbing duties in which he was engaged while military governor of Tennessee and of the high office to which he was suddenly and unexpectedly called have prevented President Johnson from examining that question historically."

I propose now, for a few moments, to examine this question with a somewhat extensive reference to the history of the Constitution in this connection, and if possible to arrive at a conclusion whether the honorable gentleman from Pennsylvania has given greater attention to the history of this question than the President, and whether the conclusion which he has reached is a safer one for the country or more in harmony with the history and true intent of the Constitution than that of the President.

At the time this provision in the Constitution on the subject of the qualifications of electors in the different States was under the consideration of the constitutional Convention, we all know that there existed in the States a very great diversity of provisions and regulations upon this subject of suffrage. They differed both in extent and principle. In some of the States the suffrage was extended upon principles of great liberality to almost all men of competent age; while in other States it was extended upon principles of less liberality, and in some States it was limited by lingering principles of the feudal system, which still prevailed in the laws of descent and the transmission of property in some of the States.

It was in view of these diversities that the constitutional Convention approached the consideration of this question. And we are told by Mr. Story, in his excellent Commentaries on that sacred charter of our liberty, that for obvious reasons it would have been improper to leave that subject open for the occasional regulation of Congress, even as to the qualification of electors for Representatives to its own body; and therefore it was settled in the Constitution itself, and placed forever beyond the

control of Congress. (Story's Commentaries on the Constitution, sec. 583.)

The Constitution declares that—

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."—*Constitution*, art. 1, sec. 2, clause 1.

Now, who determines those qualifications in the respective States? I say that the people of the several States themselves determine those qualifications, and no other power on earth is authorized to interfere. The language of the Constitution is clear and emphatic. It is too plain to require interpretation. It establishes a rule which, in the nature of our Government, cannot be uniform. It is to be fixed by each State for itself. And upon this point I desire to invite attention for a moment to a few authorities, and they are authorities of great weight and distinction in the constitutional history of our country; authorities entitled to the very highest consideration at the hands of their posterity. And first, Alexander Hamilton, one of the earliest and greatest and purest expounders of our Federal Constitution, who may be ranked as standing at the head of our great statesmen of the earlier school. What does he say? In No. 52 of the *Federalist* he uses this language:

"To have reduced the different qualifications in the different States to one uniform rule would probably have been as dissatisfactory to some of the States as it would have been difficult to the Convention. The provision made by the Convention appears, therefore, to be the best that lay within their option. It must be satisfactory to every State, because it is conformable to the standard already established or which may be established by the State itself. It will be safe to the United States, because, being fixed by the State constitutions, it is not alterable by the State governments; and it cannot be feared that the people of the States will alter this part of their constitutions in such manner as to abridge the rights secured to them by the Federal Constitution."

And in this connection I beg leave to invite the attention of the House to a fact, perhaps forgotten by some, that this number of the *Federalist* may be quoted with equal propriety as expressing the deliberate opinion and judgment of Mr. Hamilton and Mr. Madison; because, in every list of the numbers of that work ever furnished by Mr. Madison himself he claimed that he, and not Mr. Hamilton, was the author of No. 52; and Mr. Hamilton, in some of his lists, claimed that he was its author, and not Mr. Madison. But the claim that is made by both of those distinguished statesmen for the paternity of this number of the *Federalist* is enough to establish the fact that both of them approved, indorsed, and adopted as his own the opinions expressed in it. I therefore quote it now as expressing the equally deliberate judgment of Mr. Madison himself upon this subject.

And in this connection I will briefly invite attention to another authority. I quote now from the History of the Constitution, by Mr. Curtis. I read it for the purpose of showing what were the intentions, as he understands them, of the framers of this particular part of the Constitution. He says:

"The committee of detail, after a review of all these considerations, presented a scheme that was well adapted to meet the difficulties of the case. They proposed that the same persons who, by the laws of the several States, were admitted to vote for members of the most numerous branch of their own Legislature, should have the right to vote for the Representatives of Congress. The adoption of this principle avoided the necessity of disfranchising any portion of the people of a State by a system of qualifications unknown to their laws. As the States were the best judges of the circumstances and temper of their own people, it was certainly best to conciliate them to the support of the new Constitution by this concession. It was possible, indeed, but not very probable, that they might admit foreigners to the right of voting without the previous qualification of citizenship. It was possible, too, that they might establish universal suffrage in its most unrestricted sense. But against all these evils there existed one great security, namely, that the mischief of an absolutely free suffrage would be felt most severely by themselves in their own domestic concerns; and against the special danger to be apprehended from the indiscriminate admission of foreigners to the right of voting, another feature of the proposed plan gave the national Legislature power to withhold from persons of foreign birth the privileges of general citizenship, although a State might confer upon them the power of voting without previous naturalization."

I will read no more of that authority, but simply add that in a somewhat lengthy review of this subject Mr. Curtis fully sustains the expressed opinions of Mr. Madison and Mr. Hamilton, and the present Executive of the United States.

I think it will be generally conceded by most men in this country that if this great power which is claimed by the honorable gentleman from Pennsylvania [Mr. KELLEY] exists at all, it cannot be found to rest upon this provision of the Constitution, but must find its abiding place in another clause of the Constitution, which I will now read to the House. It is as follows:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators."—*Constitution*, art. 1, sec. 4, clause 1.

Now, I invite attention to the obvious fact that this provision of the Constitution is limited by its own terms to certain objects. What are they? First, to the "times." Times of what? The times of *holding* the elections. Second, to the "places." The places for what? The places for *holding* the elections. Third, to the "manner." Now, I invite attention to the obvious meaning of that word taken in connection with the context. The manner of what? Is it the manner of determining the qualifications of electors? Is it intended to refer to the mode in which the persons who are to exercise this franchise shall be determined? No, sir; it relates solely to the manner of *holding* elections, not the manner of determining who shall vote or who shall not vote. Such is the construction placed upon this provision by Mr. Justice Story, whose examination of the history of the Constitution was perhaps more thorough and exhaustive than that of any other jurist or statesman in our country. He disposes of the monstrous idea that Congress may regulate elections in the States, or that such purpose was ever cherished by the framers of the Constitution, in the following manner:

"What would be said of a clause introduced into the national Constitution to regulate the State elections of the members of the State Legislatures? It would be deemed a most unwarrantable transfer of power, indicating a premeditated design to destroy the State governments. It would be deemed so flagrant a violation of principle as to require no comment."—*Story on Constitution*, sec. 819.

Then, confining the power of Congress, under the provision in question, to the mere regulation of the times, places, and manner of holding elections, he approves it as demanded by possible emergencies that may arise in the history of the Union, and adds:

"There is no pretense to say that the power in the national Government can be used so as to exclude any State from its share in the representation in Congress. Nor can it be said with correctness that Congress can, in any way, alter the rights or qualifications of voters. The most that can be urged with any show of argument is, that the power might, in a given case, be employed in such a manner as to promote the election of some favorite candidate, or favorite class of men, in exclusion of others, by confining the places of election to particular districts, and rendering it impracticable for the citizens at large to partake in the choice."—*Ibid.*, sec. 820.

Mr. Hamilton is equally emphatic in his mode of disposing of the theory that would tolerate the interference of Congress in the regulation of elections in the States for State officers. In No. 59 of the *Federalist* he says:

"Suppose an article had been introduced into the Constitution, empowering the United States to regulate the elections for the particular States, would any man have hesitated to condemn it, both as an unwarrantable transposition of power, and as a premeditated engine for the destruction of the State governments?"

In the next number of the *Federalist*, speaking more at length on the subject of the propriety of allowing Congress to regulate the times, places, and manner of holding elections for Representatives in Congress, and of the alleged danger that Congress might so regulate them as to favor certain classes in the States, he further says:

"The truth is, that there is no method of securing to the rich the preference apprehended, but by prescribing qualifications of property either for those who may elect or be elected. But this forms no part

of the power to be conferred upon the national Government. Its authority would be expressly restricted to the regulation of the times, the places, and the manner of elections. The qualifications of the persons who may choose or be chosen, as has been remarked upon another occasion, are defined and fixed in the Constitution; and are unalterable by the Legislature" [of the Union.]

Those views in reference to the history and just interpretation of that provision are substantially concurred in by Mr. Duer, in his Lectures on Constitutional Jurisprudence, and by Mr. Curtis, in the work to which I have already referred, the History of the Constitution.

Now, I desire very briefly to direct the attention of the House to some additional testimony on this subject derived from the proceedings of the Convention itself, as reported by James Madison. I propose from them to show that the interpretation for which I contend is the only true one, the only one of which the provision is fairly susceptible, and the only one which ever for a single instant entered the minds or controlled the action of the framers of the Constitution.

I invite attention now to what is called the fifth volume of Elliott's Debates. It is really the debates of the constitutional Convention, prepared by Mr. Madison. While the subject was under discussion on the 24th day of July, 1787, the following proceedings were had:

"MR. GOVERNOR MORRIS moved to strike out the last member of the section, beginning with the words 'qualifications of electors,' in order that some other provision might be substituted which would restrain the right of suffrage to freeholders.

"MR. FITZSIMMONS seconded the motion.

"MR. WILLIAMSON was opposed to it."

He was followed by Mr. Wilson, afterward one of the justices of the Supreme Court, appointed by Washington:

"MR. WILSON. This part of the report was well considered by the committee, and he did not think it could be changed for the better. It was difficult to form any uniform rule of qualifications for all the States. Unnecessary innovations, he thought, too, should be avoided. It would be very hard and disagreeable for the same persons, at the same time, to vote for Representatives in the State Legislature, and to be excluded from a vote for these in the national Legislature.

"MR. GOVERNOR MORRIS. Such a hardship would be neither great nor novel. The people are accustomed to it, and not dissatisfied with it, in several of the States. In some, the qualifications are different for the choice of Governor and of the Representatives; in others, for different houses of the Legislature. Another objection to the clause as it stands is, that it makes the qualifications of the national Legislature depend on the will of the States, which he thought not proper."

Then we have Mr. Ellsworth, afterward the second Chief Justice of the Supreme Court of the United States:

"MR. ELLSWORTH thought the qualifications of the electors stood on the most proper footing. The right of suffrage was a tender point, and strongly guarded by most of the State constitutions. The people will not readily subscribe to the national Constitution, if it should subject them to be disfranchised. The States are the best judges of the circumstances and temper of their own people."

Some remarks were made by Colonel Mason, who was a distinguished member of the Convention from Virginia. After several other distinguished members had expressed their views, and all in entire harmony with the views of Story and Hamilton, which I have quoted, James Madison, as reported by himself, used the following language:

"The right of suffrage is certainly one of the fundamental articles of republican Government, and ought not to be left to be regulated by the Legislature" [of the Union.]

The illustrious Dr. Franklin, a member of the Convention, in some characteristic remarks, opposed the motion of Mr. Morris, and gave the weight of his great influence to retain the provision as reported by the committee and as explained in the preceding discussion. In the same connection, I refer to the remarks of George Nicholas in the convention of Virginia. They are to be found in the third volume of Elliott's Debates, page 41:

"I will consider it first, then, as to the qualifications of the electors. The best writers on government agree that in a republic those laws which fix the right of suffrage are fundamental; if, therefore, by the proposed plan it is left uncertain in whom the right of suffrage is to rest, or if it has placed that right in improper hands, I shall admit that it is a radical defect; but in this plan there is a fixed rule for determining

the qualifications of electors, and that rule the most judicious that could possibly have been devised, because it refers to a criterion which cannot be changed. A qualification that gives a right to elect Representatives for the State Legislatures gives also by this Constitution a right to choose Representatives for the General Government. As the qualifications of electors are different in the different States, no particular qualifications, uniform through the States, would have been politic, as it would have caused a great inequality in the electors, resulting from the situation and circumstances of the respective States. Uniformity of qualifications would greatly affect the yeomanry in the States, as it would either exclude from this inherent right some who are entitled to it by the laws of some States at present, or be extended so universally as to defeat the admirable end of the institution of representation."

On a subsequent day, when the same provision was under consideration, Mr. Madison again expressed his views. I should not be disposed to refer to him again, but the honorable gentleman from Pennsylvania, [Mr. KELLEY,] in his reply to the points so well made by the honorable gentleman from Iowa [Mr. KASSON] the other day, quoted in defense of his own theory the remarks of Mr. Madison on the latter occasion. In order to show the entire consistency of those views with Mr. Madison's more deliberately expressed opinion in the Federalist, I will incorporate a part of them into my argument.

Mr. Madison reports himself as saying:

"The necessity of a General Government supposes that the State Legislatures will sometimes fail or refuse to consult the common interest at the expense of their local convenience or prejudices. The policy of referring the appointment of the House of Representatives to the people, and not to the Legislatures of the States, supposes that the result will be somewhat influenced by the mode. This view of the question seems to decide that the Legislatures of the States ought not to have the uncontrolled right of regulating the times, places, and manner of holding elections. These were words of great latitude. It was impossible to foresee all the abuses that might be made of the discretionary power."

Now I invite attention at this point to the obvious construction that was put by Mr. Madison upon these words, "the times, the places, and the manner of holding elections." And it is clearly inferable, from what he says, that he understood these things to relate, not to the qualifications of electors, but to various circumstances connected with the holding of elections, not embracing the qualifications of electors at all. He says further:

"Whether the electors should vote by ballot or *à viva voce*, should assemble at this place or that place, should be divided into districts, or all meet at one place, should all vote for all the Representatives, or all in a district vote for a member allotted to the district; these and many other points would depend on the Legislatures, and might materially affect the appointments. Whenever the State Legislatures had a favorite measure to carry, they would take care so to mold their regulations as to favor the candidates they wished to succeed.

"Besides, the inequality of representation in the Legislatures of particular States would produce a like inequality in their representation in the national Legislature; and it was presumable that the counties, having the power in the former case, would secure it to themselves in the latter.

"What danger would there be in giving a controlling power to the national Legislature? Of whom was it to consist? First, of a Senate, to be chosen by the State Legislatures. If the latter, therefore, could be trusted, their Representatives could not be dangerous. Secondly, of Representatives elected by the same people who elect the State Legislatures. Surely then, if confidence is due to the latter, it must be due to the former. It seems as improper in principle, though it might be less inconvenient in practice, to give to the State Legislatures this great authority over the election of the Representatives of the people in the general Legislature, as it would be to give to the latter a like power over the election of their Representatives in the State Legislature."

It should be borne in mind that the qualifications of electors for members of Congress and State officers were, at the time of the formation of our Constitution, fixed in every State, in the constitution of the State, and were not subject to control or modification by the State Legislatures. All the State Legislatures could do could only consist in laws regulating the times, places, and manner of holding the elections. Least they should in any contingency, or for any purpose or causes, fail to regulate these matters with reference to the election of Congressmen, it was thought necessary to give to Congress the power to regulate them, so that it might prevent an entire failure of representation from any State. It is, therefore, no doubt competent for Congress to prescribe by law

when the congressional elections shall be held in all the States, and at what places they shall be held, and in what manner they shall be held; that is, whether the people of a whole State shall all vote for the number of Congressmen to which that State is entitled, or the State be divided into districts, and the people of each district vote for one member only. But Congress has no power to prescribe by law who shall vote, or what shall constitute the qualifications of a voter for a member of Congress. Nor has it any power to dictate when or where or how elections shall be held for officers of the State government, or who shall vote at them.

Now, I have cited or referred to every known expression of opinion on this subject by any American statesman, publicist, or jurist of distinction, and shown that they all, with a unanimity almost unparalleled, concur in the same interpretation of the power of Congress under the provision in question. The practice of the Government, without a single example to the contrary, sustains the same construction. Such an extent of power on this subject over the States as is now claimed for Congress, if it had been asserted by any party prior to our late most deplorable rebellion, would have convulsed the nation to its extremest boundaries with excitement and apprehension. It would have been more than sufficient, if avowed in the constitutional Convention, to have defeated forever the adoption of the Constitution by the people of the States. It will be sufficient now, if conceded to exist, to subvert the great principle of local self-government, which is the chief bulwark of our liberties.

Against the array of authorities to which I have referred in vindication of this great principle, against the absorbing power of Congress, what authority is produced? Not one clear, direct, or unequivocal authority in the whole range of American statesmanship or history can be found to the contrary. The honorable gentleman from Pennsylvania, [Mr. KELLEY,] with the aid of his great legal and general learning, can sustain his position by nothing better than the following from 3 Elliott's Debates, page 344, which is attributed to Mr. Madison:

"With respect to the other point, it was thought that the regulation of the time, place, and manner of electing Representatives should be uniform throughout the continent. Some States might regulate the elections on the principles of equality, and others might regulate them otherwise. This diversity would be obviously unjust. Elections are regulated now unequally in some States, particularly in South Carolina, with respect to Charleston, which has a representation of thirty members. Should the people of any State by any means be deprived of the right of suffrage, it was judged proper that it should be remedied by the General Government. It was found impossible to fix the time, place, and manner of the election of Representatives in the Constitution. It was found necessary to leave the regulation of this, in the first place, to the State governments, as being best acquainted with the situation of the people, subject to the control of the General Government, in order to enable it to produce uniformity and prevent its own dissolution. And considering the State government and General Government as distinct bodies, acting in different and independent capacities for the people, it was thought the particular regulations should be submitted to the former and the general regulations to the latter. Were they exclusively under the control of the State governments the General Government might easily be dissolved. But if they be regulated properly by the State Legislatures, the congressional control will very probably never be exercised. The power appears to me satisfactory and as unlikely to be abused as any part of the Constitution."

This language is said to have been used by Mr. Madison in the Virginia convention of 1788, for the ratification of the Constitution of the United States, at a time when the provision in question was under consideration in that body.

But let it be remembered that this extract is not the language of Mr. Madison, was not reported by him, and has never had his approval. It is merely an attempt by some one to give the substance of what he said on the occasion referred to. It was not taken down by an official reporter. In the language of Mr. Elliott himself, "it was collected and revised from contemporaneous publications," long years after it was spoken, perhaps from some loose newspaper report made at the time, and was published, I believe, in 1827. It bears intrinsic

evidence of inexactness and want of authenticity. It makes Mr. Madison, whose ideas, when expressed by himself, are always in words most carefully and fitly chosen, say that "it was thought that the regulation of the time, place, and manner of electing Representatives should be uniform throughout the continent." Every expression in it is consistent with the prevailing idea through all the proceedings of the Convention that Congress should have no power to fix qualifications of voters in the States, either for State officers or for Representatives in Congress. It might regulate the mode of holding the elections for Representatives, so as to prevent a failure of representation. As to this mode of holding elections, as Mr. Madison said, some States might regulate it on principles of equality, and others, by various regulations as to the times and places where the elections should be held, might make them affect unequally the people of certain sections of a State, and be, therefore, unjust. But Congress, having no motive to so regulate these times and places as to make them bear unequally on different sections in a State, could properly be entrusted with their control as to congressional elections. But with all its manifest looseness and inexactness of form, every sentence in this extract is readily reconcilable with the more deliberate and self-written judgments of Mr. Madison and all the other fathers and sages to whom I have referred. I unhesitatingly affirm, therefore, that it wholly fails to justify in any degree the structure erected upon it by the honorable gentleman. On the contrary, taken in connection with all I have shown, it stamps the whole theory of the honorable gentleman as most dangerous and revolutionary.

But admit for a moment that all the framers, the fathers, the expounders of the Constitution, and President Johnson, are wrong, and that the honorable gentleman is right, then what follows? If you concede the power to be in Congress, as claimed, then the discretion of Congress in its exercise cannot be limited. It can legislate to enlarge or abridge the right of suffrage in the States, both in the choice of members of Congress and of Representatives in the State Legislatures. It can impose a property qualification. It can give suffrage to black men and take it from white men where it pleases. It can prohibit every white man in the South from voting for such officers unless he was born in New England, or owns a certain number of Federal bonds that are exempt from taxation, or will take some new-fangled iron-clad oath. It can annul State statutes and State constitutions on the subject of suffrage at its own pleasure.

It makes Congress, in many respects, as absolutely supreme in its control over the local affairs and interests of the people of the States as the British Parliament is over the affairs and interests of the people of Great Britain. It can go into South Carolina and take suffrage from the lately disloyal whites and give it to the negroes. It can go into Missouri and enfranchise the now disfranchised participants in the late rebellion in that State. It can go into Indiana and set aside our constitutional barriers in its way, and give equal suffrage to the negroes and white men. If this power be conceded, then I may inquire, what, in God's name, cannot Congress do? We have indeed fallen upon evil times. The war in the field is ended. But the war upon the most cherished principles and safeguards of our institutions is yet flagrant.

Mr. Speaker, I now submit in all confidence that the position assumed by the Executive upon this important question is sustained alike and most triumphantly by the history of the Constitution, the solemn and deliberately recorded opinions of its framers, and the uniform practice of the Government hitherto. The issue the honorable gentleman has chosen to make with him on this subject seems equally untenable and unhappy.

Now, on the subject more directly engaging the attention of the House, the proposed amendment of the Constitution, I desire to submit but

a few remarks. I am not in favor of its adoption. It fails to commend itself to my judgment for many reasons. It is inopportune to attempt such vital changes in our Constitution now. The times are not auspicious for such important work to be well or wisely done. It is not justified by the circumstances of the country. It is not demanded by the highest interests of the whole country. It is not commended to my judgment by the motives which are avowed here by its friends and prompted its introduction. Such radical changes should be made, if made at all, by the nation, by all the States in full council, and not by a part only. It should be submitted to the most full, unrestricted, and searching examination here by the Representatives of all the States, who will have to sit in judgment upon its ratification before it can become the law of the land.

Honorable gentlemen propose so to change the Constitution as that—

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation.

Now, I invite attention for a very short time to an examination of the words I have quoted: "Representatives are to be apportioned." Representatives of what? In the State Legislatures? No; but Representatives in Congress; and "direct taxes are to be apportioned." Direct taxes to be imposed by whom? Not by the States or the people of the States, but by Congress. In other words, everything connected with the subject of this proposed amendment relates to the powers of Congress, to the representation of the States in Congress.

Now, I desire to put this case to gentlemen on the other side of the Chamber: suppose the people of the State of Ohio, in which State there may be say a half a million of colored people, declare in their fundamental law that those negroes may vote, who are qualified by age, for members of Congress, but shall not vote for members of the State Legislature, or for Governor, or for any State officer, or for any municipal officers in the State of Ohio. What, then, will Congress do? Could you say that by reason of this amendment the negro population of Ohio shall not be counted in the basis of representation of that State in Congress? I take it you cannot say that, because by the very language of this amendment the people of the States retain the power to regulate the right of suffrage within the States as they please, and having extended equal suffrage to negroes in elections for members of Congress, the object of this amendment is answered. It does not require that there shall be no discrimination on account of class or color in the adjustment of the franchise for State purposes.

It has been suggested here, by the honorable gentleman from Ohio, [Mr. BINGHAM,] that the position assumed on this subject by his colleague [Mr. SHELLBARGER] is not correct, because the position of the latter gentleman assumes that this amendment, if adopted by the States of this Union, would confer upon the States a grant of power, by express terms, to deny to a certain class, or any class of the people within the State, the right of suffrage, if the people of the State should see fit to do so.

[Here he hammered fell.]

Mr. RAYMOND obtained the floor.

Mr. NIBLACK. With the consent of the gentleman from New York, [Mr. RAYMOND,] I will move that the time of my colleague [Mr. KERR] be extended so as to allow him to conclude his remarks.

Mr. KERR. I will not occupy any further time if it is to come out of the time of the gentleman from New York, [Mr. RAYMOND.]

The SPEAKER. It will not come out of his time.

Mr. KERR. Then I should be glad if I could be allowed, say fifteen minutes more, to conclude what I have to say.

No objection was made.

Mr. KERR. I will reply to the position assumed by the distinguished gentleman from Ohio, [Mr. BINGHAM,] that in my judgment there is not in this proposition a grant of power to the States to regulate suffrage within their own limits. I assume that that power exists in the States and the people now; that it always has existed there; that it exists and inheres in the people of the States, and was never surrendered by them to Congress, nor to any other authority. According to my construction of our system of government, I do not think that Congress is the granting power in this country. I take it that political power finds its foundation and its source in the people of the States, and not in Congress. Power comes from below, from the people; it does not go from here to the people.

Now, in the case I have supposed, if the people of Ohio, either by their fundamental law, or by their statute law, do not suffer persons of this emancipated race to exercise the right of elective franchise within that State, what, then, is the result? The entire negro population of Ohio, or of any other State that should make the like regulations of the elective franchise, is denied representation in Congress. The honorable gentleman from Ohio [Mr. BINGHAM] tells us that this is imposed by way of penalty upon the people of the State for refusing to adopt this modern idea of absolute and universal suffrage. In other words, it is a new kind of argument to compel them to grant negro suffrage. I inquire now, what right has Congress to ask States to impose upon themselves this kind of penalty, and who is injured by the penalty? Is it the white man or the negro? The gentleman professes to be laboring here to benefit and ameliorate the condition of the negro in this country; yet I submit that the effect of this amendment, if adopted, will be to make worse the condition of the negro, and turn him over to the complete control of the State where he may happen to live. It denies to him any representation here, any relief at the hands of Congress. Is the negro benefited then? Is the country at large benefited? Are the States benefited?

I can see but one single clear result that will follow from this amendment if it is adopted by the people of this country, and that is an effect that will inure not to the advantage of the nation, nor of any State in the Union, nor of any class or race of men in any State. But it will inure solely to the benefit and advantage of the Republican party. In my judgment the only persons who will gain by this provision will be the now dominant party in this country. They will thereby increase their power; they will thereby degrade the South; they will reduce her representation here, and relatively increase their own representation; they will confirm the sectional supremacy of the North in the legislation and administration of the Government. They may thus compel the South to become supplicants at their feet for justice, and it may be for mercy.

Now, taking this view of the effect of this provision, I cannot indorse it. If gentlemen have introduced this proposed amendment to the Constitution in the interest of equality, why do they not frame it so that it will produce genuine equality? Why do they not make it in its terms something that will tend to secure equality in the country in fact as well as in theory? Will it, if adopted, equalize representation in Congress? In the Senate of the United States, the very first principles of representative equality are and will continue to be violated. What is the fact to-day? The little State of Nevada, with one voter to about every forty in the State of New York, has the same representative power and influence in the Senate of the United States as the great State of New York. Is that equality? Is that right? It is not, if the theories for which gentlemen have contended here be correct.

The effect of the change will be to increase the inequality, unless the South extend equal suffrage to all their negroes in the election of Congressmen. This they will not do, in my

judgment. They will take counsel of their prejudices and of their better knowledge of the true character of the negro and his fitness or unfitness for the exercise of suffrage. The greatest social and political problem of this age cannot be solved by the application of this kind of *force* or penalties.

But again, it was suggested by the honorable gentleman from Ohio [Mr. SCHENCK] that this provision ought to have gone further and abolished the present system of direct taxes, and that that should have been done in the interest of this same sort of love for equality in the adjustment of the operations of our Government. Why not do it? Why retain in the Constitution this provision which, upon its very face, is a most palpable and direct violation of every principle of equality, both in the representation here and in the distribution of the burdens of the Government upon the people of the several States? The abolition of slavery has made this change practicable by removing the chief foundation upon which it rested.

Representation and direct taxes are now required to be distributed among the different States upon what is called the rule of apportionment. What does that mean? It means that taxes on land shall be imposed by the Federal Government, not according to the value of the thing taxed, but according to the number of people in the State. What do we mean by direct taxes? We mean capitation taxes and taxes upon land. Now, why is it right to impose upon a poor State, whose population may be great, a tax equal to that imposed upon a wealthy State whose population is relatively much less? Massachusetts, for instance, with her wealthy people and her land worth \$100 or \$200 or \$300 per acre, is constantly transporting her surplus population, but augmenting her relative wealth.

Now, I ask, why not abolish this singularly arbitrary mode of distributing the burdens of taxation? Why not abolish this provision altogether, and provide that direct taxes shall be assessed upon the principle of actual value, and let the acre in Kentucky pay taxes in proportion to its value as compared with the value of an acre owned in Rhode Island or Massachusetts? That would be equality. But as it is, the burdens of this Government rest most heavily upon the poorest States; most heavily upon the agricultural States, upon the land of the country, simply because they are not apportioned according to the actual value of the land, the actual wealth of the people, but according to the accidental numbers of the people of the several States. Governments are not formed and maintained alone for the protection of persons, but also of property. And persons and property should contribute to pay the burdens of the country mainly upon the basis of the actual value of the property owned. Is it equality to impose a capitation tax of five dollars per head on the poor negroes of the South, and only the same on the wealthy citizens of our richest communities? Yet the present Constitution requires substantially such disparity, and this amendment proposes to continue that state of things.

Now, Mr. Speaker, I do think that while we should all approve this general principle of equality when it is properly applied, and when it is attempted to be extended in a spirit of fairness, a spirit of nationality, a spirit of equal justice to all men, I insist that here there is an attempt to extend it in but one direction, and that which will ultimately in increasing the political power and the sectional supremacy of a party and a geographical portion of this country in the management of Federal affairs. I am therefore opposed to this amendment, and I shall always oppose all such amendments.

Now, Mr. Speaker, I have treated somewhat at length the question of the right of Congress to legislate upon or control the subject of suffrage in the several States. I have also referred very briefly—too briefly to do justice to my own convictions or those of gentlemen on this side of the House—to the other and the main question now before us for consideration. I desire, however, to say, in this connection, that, in the discharge of my duties here, I have no de-

sire to raise or carry on or countenance in any manner whatever any war of injustice upon any class of my countrymen. I look upon this Government, its laws, its Constitution, and its flag as designed for the protection and benefit of all the people of the country alike; and I care not whether they be black or white. I do not imagine that this Government was instituted for me and my children alone, but for every human being who may find here an abiding place.

I hold that every human being is entitled to justice at the hands of the Government, and I want to give justice to them. I want to give it to the black man as well as to the white man. I would protect the negro in all his civil rights as fully and amply as the white man, but I would leave all political privileges to be enjoyed as they now are; let us bring peace to the whole country with complete restoration of the component members to their appropriate places in the Union in the spirit of nationality and liberality; and afterward, when these matters are adjusted and settled, let us come to the consideration of these questions connected with proposed changes in our fundamental law or form of our government.

Mr. RAYMOND obtained the floor.

Mr. KASSON. I ask the gentleman to allow me to make a few remarks in reply to what the gentleman from Pennsylvania [Mr. KELLEY] said the other day in allusion to me. I do not purpose to engage in any general discussion.

Mr. RAYMOND. As it is rather late, if there be no objection I would prefer to make my remarks on Monday.

There was no objection, and it was ordered accordingly.

The SPEAKER. The Chair will give the floor this evening to the gentleman from Iowa, [Mr. KASSON,] and then to the gentleman from New Jersey, [Mr. WRIGHT,] who desires to make some remarks on the pending bill.

Mr. KASSON. Mr. Speaker, I do not desire to enter into a general discussion of this proposed amendment. I think there is no occasion to enter into that, so far at least as the general interests which I seek now to protect are concerned; and I propose to confine myself to the reply to my remarks made by the gentleman from Pennsylvania, [Mr. KELLEY,] touching the powers now in the Constitution without amendment. He introduced his remarks the other day by the following declaration:

"Having interrupted the gentleman to invite his more particular attention to the language of Mr. Madison, I promised the gentleman that I would produce further authority on the point, which I did not happen to have by me at the time; and I trespass now for a brief moment upon the attention of the House that I may make good that promise, and may show that James Madison himself, on the 9th of August, 1787, on the floor of the Convention that framed the Constitution of the United States, carefully and elaborately excluded the conclusion announced by the gentleman from Iowa, and vindicated the doctrine which I presented to the House and maintain."

My own statement was as follows:

"It is evident that by the word 'manner' is meant something else; perhaps whether by ballot or *viva voce*, by general ticket or by separate districts, and all other things that come properly under the term 'manner.' But it evidently was never intended by Mr. Madison, or by the framers of the Constitution, or by the people when they adopted it, that the Legislatures and conventions of the several States might be deprived of the power to say who would be the qualified electors of the State Legislatures, and indirectly, the qualified electors of members of Congress."

I made certain citations from Mr. Madison to which the gentleman now brings a reply containing other declarations of Mr. Madison; and for that reply I desire especially to thank him, for it sustains the position I took as opposed to my friend's doctrine. I think that gentleman, and those who act with him in the proposed enterprise of depriving the States of their right to designate the qualifications of electors within their own jurisdictions and for their own Legislatures, should preface their speeches with this quotation, cited, I believe, from Wordsworth, advocating

"The good old rule, the simple plan,
That they should take who have the power,
And they should keep who can."

That seems to be the maxim of those who

give such a wide and indefinite construction to the Constitution of the United States. Now, sir, Mr. Madison, who is so highly commended by my able friend, said in a letter to Edmund Pendleton, which I find in the first volume of his writings:

"If the Federal Government should lose its proper equilibrium within itself, I am persuaded that the effect will proceed from the encroachments of the legislative department. If the possibility of encroachments on the part of the Executive or the Senate were to be compared, I should pronounce the danger to lie rather in the latter than the former."

Thus you find that Madison himself has cautioned us against the danger of encroachment upon the equilibrium established by the Constitution, that exists in the very body of Congress itself.

Upon this point at issue between us the gentleman from Pennsylvania, [Mr. KELLEY,] who, so far as I know, stands alone in this House in his view of the Constitution, rests substantially his whole argument upon that clause which he quoted from Elliot's Debates, and which reads as follows:

"Some States might regulate the elections on the principles of equality, and others might regulate them otherwise. This diversity would be obviously unjust. Elections are regulated now unequally in some States, particularly South Carolina, with respect to Charleston, which has a representation of thirty members. Should the people of any State by any means be deprived of the right of suffrage, it was judged proper that it should be remedied by the General Government."

This you find stated as his opinion by the compiler of the debates. But in condensing from his notes, the last sentence is a *non sequitur*. You get at the idea in the compiler's mind, however, by observing the illustration of the inequality in respect to Charleston. Charleston, with ten thousand inhabitants, might be authorized to elect one member of Congress, while twenty counties, with one hundred thousand inhabitants, might have the right to elect only one member; and it was proper that the General Government should remedy such an inequality. The Legislature of the State might provide that the electors should all vote in Charleston, or at any other point; or might cast their votes in the county seat only of each county, creating great inconvenience, and practically nullifying their right to vote by its excessive inconvenience. They could also regulate the vote, whether *viva voce* or by ballot, &c. All these things relate to the manner of holding elections. When I suggested, the other day, that probably Madison meant such questions as voting *viva voce*, or by local or general ticket, and other like things connected with the "manner of holding elections," the gentleman was disposed rather to ridicule the idea, and said he evidently meant the electoral right itself. Now, he puts in Madison's mouth the identical words I suggested as undoubtedly within Madison's meaning. Now, let me show that I stated it correctly.

The following is the gentleman's own quotation:

"It was impossible to foresee all the abuses that might be made of the discretionary power. Whether the electors should vote by ballot or *viva voce*, should assemble at this place or that place, should be divided into districts or all meet at one place, should all vote for all the Representatives, or all in a district vote for a number allotted to the district—these and many other points would depend on the Legislatures, and might materially affect the appointments."

What language could be more positive and precise as to what Madison meant by the words "manner of holding elections?" Nothing can be stronger in support of the view I have taken of his meaning, and of the Constitution, than the very language cited by the gentleman from Pennsylvania, [Mr. KELLEY.] It assumes that electors are already provided for, for he says, "whether the electors should vote;" not "what electors should vote," or "what qualifications should exist." He shows that the *right* of suffrage is one thing and the *mode* of suffrage is another thing. Listen for a moment to the language of Madison in the letter addressed to John Brown of Kentucky, in the year 1785, found in the same volume:

1. "Whether is a representation according to numbers, or property, or in a joint proportion to both, the most safe? Or is a representation by counties prefer-

able to a more equitable mode that will be difficult to adjust? Under this question may be considered, first, the right of suffrage; second, the mode of suffrage; third, the plan of representation."

A palpable, pointed distinction by Madison just before the adoption of the Constitution, distinguishing between the *right* of suffrage and the *mode* of suffrage. And I presume my friend will admit that there is no greater synonym in the English language than "mode" and "manner." If he doubts, I refer him to Webster's Dictionary.

Further, Mr. Madison says, pursuing the same distinction:

"As to the first, I think the extent which ought to be given to this right a matter of great delicacy and of critical importance. To restrain it to the landholders will in time exclude too great a proportion of citizens without regard to property, or even to all who possess a pittance, may throw too much power into hands which will either abuse it themselves or sell it to the rich who will abuse it. I have thought it might be a good middle course to narrow this right in the choice of the least popular, and to enlarge it in that of the more popular branch of the Legislature. There is an example of this distinction in North Carolina, if in none of the other States." In a general view, I see no reason why the rights of property, which chiefly bears the burden of Government, and is so much an object of legislation, should not be respected as well as personal rights in the choice of rulers."

Thus we see that great statesman, so far from going for universal suffrage, so far from confusing the "manner of holding elections" with the right of voting at an election, made this distinction pointedly, and asserted the necessity of balancing the representation of one interest by the representation of another.

Then he says:

"Second, as to the mode of suffrage, I lean strongly to that of the ballot, notwithstanding the objections which lie against it. It appears to me to be the only radical cure for those arts of electioneering which poison the very fountain of liberty. The States in which the ballot has been the standing mode are the only instances in which elections are tolerably chaste and those arts in disgrace. If it should be thought improper to fix this mode by the Constitution, I should think it at least necessary to avoid any constitutional bar to a future adoption of it."

There is a specific illustration showing what Mr. Madison did mean by the words "mode of suffrage." It was simply the way in which the qualified electors should make their will known, and not to declare *who* should be qualified electors. Mr. Madison stood upon the explicit declaration which I cited from the Federalist the other day, that that clause which left the question of qualification to the States "must be satisfactory to every State, because it is conformable to the standard already established or which may be established by the State itself."

And again, in that other citation which I made from his declaration written long after the adoption of the Constitution:

"States can, through forms of the constitutional elective provisions, control the General Government. This [the General Government] has no agency in electing State governments, and can only control them through the functionaries, particularly the judiciary, of the General Government."

Now, I have cited enough to show that there was a distinction broad and clear made by Mr. Madison between the "right of suffrage" and the "mode of suffrage," that that distinction runs all through his writings, and all through his debates; and further that Mr. Madison was exceedingly scrupulous touching the right of suffrage itself as to the extent to which it should be carried in view of the safety of the country and all its great interests.

I submit, then, in view of these citations, and of the declarations of Mr. Madison quoted by the gentleman himself, and which I read a few moments ago, that it is a little remarkable that my distinguished friend from Pennsylvania should close his observations with the declaration that he had now redeemed his promise to establish beyond question his view of Mr. Madison's declarations touching the construction of this clause of the Constitution.

While I agree with the gentleman that we have a right to control the times, places, and manner of voting for members of Congress, the gentleman goes further, and maintains that we have a right to control the electoral qualifications in local State elections, thus absorbing

the most important element of our municipal liberties and domestic rights.

Now, Mr. Speaker, that is all I have to say upon that subject. I only wish to add generally touching amendments to the Constitution, this and all others, that I am firm in the conviction that no amendment to that great instrument ought to be adopted by this House or submitted to the country, except those which look to the great future of the country and the safety of all parts of this country, rather than to the mere embarrassment and incumbrance of a particular portion of it. It may bear upon the South to-day as we want it to bear; it may next year, or a few years hence, bear upon us at the North as we should be most reluctant to have it bear. Immigration flows in tides to and fro; manufacturing, commercial, and agricultural interests move to and fro in different sections of this Union; majorities change from year to year; the opinions of men change; and I think it the duty of all statesmen to do what Mr. Madison said was the object of a more conservative Senate, that is, to resist the "occasional impetuosities," as he styled them of the more numerous branch of the Legislature, that the great permanent principles that underlie this Government may have themselves a permanency which is far better than a fluctuating fundamental law, changed to meet some immediate or temporary occasion. Better submit to some ills that we know than rush into others that we know not of.

Mr. WRIGHT. Mr. Speaker, I had intended to have remained a silent spectator of the stirring scenes which we are witnessing in this Hall upon the important subject under consideration. But silence has ceased to be a virtue. To manifest indifference on so important a subject as that under discussion would justify my constituents in charging me with almost criminal neglect. If I understand the object of the amendment now before the House, it contemplates a radical change in the organic law of the nation, and in the character and quality of the voting population. In the few remarks I purpose to make on this occasion, I will endeavor to deal with the subject fairly and with candor. This continued tinkering with the Constitution is pregnant with danger in the last degree. And although I arrive at a different conclusion from my honorable friend from Rhode Island, still, I thank him for arresting, by his judicious remarks, the novel and dangerous practice of locomotive legislation.

Sir, this is a question that calls for our gravest consideration and the most mature reflection. Yet the patriarchal chairman of the committee, who brought forward this amendment and applied the gag of the previous question to cut off all debate, seemed inclined to treat it as an ordinary resolution of the passing hour. In this, I think, with great respect, he committed an error, and the subsequent action of the House has served to convince me of his mistake and of their better judgment.

Sir, only a few days since a bill was introduced to foist over the unfortunate and unrepresented people of the District of Columbia unqualified universal negro suffrage. Through the medium of the previous question it passed through all the forms of law, as far as this House is concerned, in a single hour. Perhaps this measure of "indecent haste," in the opinion of the radicals, is necessary to carry out their programme, which, in my humble opinion, if successful, will be but the entering wedge to a great design to thwart the President in his plan of reconstruction, to bar the Representatives of the southern States from admission by requiring an oath, the constitutionality of which has been doubted, to coerce the southern States into a concession of negro suffrage and negro equality, or to promote a war of races, having for its sole and only object the retention of political power in the hands of the radicals. Sir, what gave birth to that extraordinary proposition? Did it emanate from the people who are to be affected by it, or may it not be regarded rather as a spasmodic effort to test the power of endurance of those unfortunates placed by the

organic law under our special care and protection?

Mr. Speaker, this District, so frequently maligned, which has neither Representative nor Delegate, has furnished several thousand patriotic men to swell the noble Army of the Union. They fought to save the Republic, to emancipate the negro race from the thralldom of slavery, and now return to be subjugated by the very race they have freed. The right to rule should bring with it the exercise of a reasonable discretion and a regard for the dispensation of equal and exact justice, of which no honest man can or ought to divest himself. Sir, I have never been an ultra man on any subject. I have the honor to represent a large, intelligent, patriotic, and conservative constituency. They are men who cannot be excelled in the exhibition of the highest order of humanity toward the negro. I am unable to say what effect time, cultivation, and education of that race may produce upon the minds of those I represent; but I may safely venture the assurance that at the present time the great body of my constituents are unprepared to be made a party to the plan of immediate, unqualified, universal negro suffrage. This is carrying the joke, if it be such, a little too far.

Sir, if we were startled by such a proposition, affecting only the District of Columbia, the nation will be astounded to learn that it is in contemplation by the radicals to seize upon the Constitution and extend by a so-called amendment the area of this iniquity until its pernicious effects shall be felt from the center to the extreme limits of the Republic. What Congress could not or would not do in making a direct issue with the President upon his humane plan of reconstruction, is now sought by this amendment to be compassed by indirection. It is boldly demanded, in furtherance of this project, that coercion of the southern people will be resorted to to compel them to relinquish the ancient and well-settled right to regulate the exercise of the elective franchise in their respective States, and give the negroes unqualified free suffrage, or, until these requirements are acceded to, to diminish or to exclude all the Representatives from the non-consenting States. This bold attempt to substitute numerical force in the place of constitutional law is to my mind subversive of the Government, and an exhibition of tyranny in its worst and most repulsive form. It is a policy that risks all to save all; and I am in doubt as to which will excel in turpitude, the boldness of its conception, or the baseness of its consummation.

Sir, the southern States are called conquered territories. A few days ago, on this floor, a telegram announced that the State of Georgia (one of those self-same conquered territories) had completed the number of States necessary to the adoption of the constitutional amendment for the extinguishment of slavery. This Hall resounded with the plaudits of all within it who approved the act. So anxious were the radicals to carry out their idea that they did not scruple to apply to or coerce three of those conquered territories to legalize the emancipation amendment. Now, the Constitution of the United States requires the approval of the Legislatures of three fourths of the States to perfect the adoption of a constitutional amendment. As such the action of these States was legal, and this House committed itself by its acknowledgment and acceptance. They certainly could not receive such a vote as coming from Territories, as that would be clearly in violation of the organic law. But there was no alternative. They had to be received as States within the Union or not at all. The Clerk had even refused to place upon his list either of those three States by whose votes the desired end had been attained. Yet the House refused to keep up the unities, for in five minutes afterward, when the legally elected Representatives from those States offered their credentials, their right of admittance was denied, the doors of this Hall barred against them, and they were turned ignominiously away. I declare here boldly that such shameful inconsistency and injustice will

recoil upon all who participated in its consummation.

Sir, many months have elapsed since we were chosen members of the Thirty-Ninth Congress. At that time the war was raging fiercely, and no man could foresee the time when the rebellion could be finally squelched. To maintain and preserve the Union in its integrity was the one grand idea. The Government needed support. It was asked from all men of all parties to yield to the emergency and stand by the Constitution and the Union at all hazards and in all events. This was done—and we are here. Nay, more. Even at the election last fall the only issue was upon the constitutional amendment abolishing slavery, which now is an accomplished fact. We were told that this done, we stood well assured of speedy reconstruction and an immediate return to the palmy days of peace and prosperity. But, sir, how fallacious are all human hopes. We had believed that that Constitution, framed in the spirit of wisdom and replete with the noblest sentiments of patriotism and justice, would still be left to us as our guide and rule of conduct, untouched and uncontaminated by the ruthless hand of fanaticism. No sooner did Congress meet than we were overwhelmed with some sixty or seventy proposed amendments to that glorious old organic law that for seventy years has nobly withstood the storms and tempests of time, "the battle and the breeze;" and all these in the interest of the radicals. Amendment after amendment, and substitute upon substitute, has been offered, but so far as I can learn no line has been written nor a single suggestion made in the interest of the million and a half of those noble men who achieved all that we are now rejoicing over, and who daily besiege the Departments for bounties, pay, and pensions.

Sir, it is next to my heart to see those bounties equalized and the amount of those pensions increased. It has been intimated that these honest and just claims are to be ignored upon the plea that it will operate against a wise economy. But, sir, I argue this is a false economy. Economy must always yield to justice. When the bugle of the warrior sounded the first alarm, soldier and sailor went promptly to the rescue of the nation. All that they sought was the faithful performance of a patriotic duty, hopeful, however, that the nation's gratitude would in some degree satisfy them for the sacrifices they had made. But the wail of the widow and the cry of the poor orphan are as yet unheard in this Hall, or, if heard, are unheeded.

The few millions to be thus appropriately disposed would add but little to the national debt, which must and will be paid to the last dollar. Deny the boon these poor soldiers and sailors crave, and we shall commit an injustice almost amounting to a crime; for while you send them away home with empty hands you compel them to pay their full share of the national indebtedness. If this be justice, then to Heaven alone can the soldier and the sailor look for assistance.

Mr. Speaker, I now approach another branch of the subject, pregnant with interest to the entire nation. All of us knew that the amendment to secure unqualified and universal suffrage for the negro was to take "effect before sundown." But we were not aware of the pressing necessity of its speedy passage until it was disclosed by the great radical leader, namely, that it might be presented to Legislatures already elected and in session. Thanks to the conservative members upon the other side of the House for their manly resistance against thus stifling debate upon so momentous a question, affecting as it does the paramount interest of the country, our people, and in fact of the whole civilized world. Sir, I think I have a right to accuse the radical leaders of insincerity. If the Democratic Union party were in power in half of the States, I apprehend the radical leaders would not be quite so anxious to press this matter here and now, but would rather be willing to move, *festina lente*, until the necessity of a new election would permit the question to be fairly, honestly, and squarely submitted to the people

themselves. They are the proper judges, and no honest Representative can or ought to shrink from the ordeal.

Mr. Speaker, what is the real question before us? It is not simply the emancipation of the colored race, but it contemplates their entire enfranchisement, elevating them without regard to necessity or capacity to a political, and necessarily to a personal and social, equality with the white race. I most respectfully aver that this result would promote an injustice. The negroes, left to themselves, secure in their recently acquired freedom, would be perfectly satisfied with their lot but for the officious meddling of political fanatics. To accomplish the complete subjugation of the southern people these latter suddenly become the advocates of negro equality, forgetful of the consequences that may ensue. Once inaugurate that principle, and it will inevitably lead to a war of races, which may God in His infinite mercy avert. The negro in his simple ignorance is content with his lot. Accustomed to obey, and unused to command, he gracefully accepts his fate, and is happy. But that will not answer the purpose of the fanatics. To lose the negro would absorb their capital and force them into involuntary bankruptcy. Discarding the sage counsels of the wise and conservative men of the country, the "sable sons of Ethiopia," too ignorant to comprehend, and too hopeful to resist, yield readily to fate, and allow themselves to be set up as idols in the worship of fanatical Vandalism, and become the ready victims of political prostitution. They are petted and praised, and learn from these fanatics for the first time that they are a persecuted race.

They are, in their simplicity, made to believe that their wonderful prowess alone secured the suppression of the rebellion, without the slightest aid or assistance from the "poor white trash" truthfully called the Army of the Union; that gallant band of heroes who upheld the flag of the free, fought for and secured the integrity of the Union, suppressed a gigantic insurrection, and gave to the world an example of patriotism and physical power unparalleled and unsurpassed. Flushed with success, exulting over their triumph, they return to their homes expecting to receive the earnest plaudits of a grateful people; but, alas for all human hopes, they were destined to disappointment. They were met at the very threshold with a new enemy—the eternal, everlasting, inevitable "nigger." It was "nigger" in the field, "nigger" in the fence, "nigger" on the brain, and "nigger" in the atmosphere. For whose benefit, let me ask, was this apparent homage paid? For the negro? Oh! no. He was simply an instrument in the hands of those who expected to profit by the experiment.

This unjust adulation of an inferior race, whose comprehension failed to appreciate the subtleties of political fanaticism, prepared them for the work of coöperation as soon as they were informed by these disinterested friends how badly they had been used, and how speedily by combination the evil might be remedied. *Appropos*, the celebrated barrister, John Philpot Curran, was once employed in a case arising out of a personal injury. It was not an aggravated case, but by the force of his eloquence and extraordinary descriptive powers, he succeeded in obtaining a large verdict. On reaching the vestibule of the court he was suddenly seized by the arm, and turning, recognized his client, who, with tears in his eyes, exclaimed, "Och, Mither Curran, be me sowl but I'm afther owen you a large debt of gratchitude, for, on me conscience, sir, until I heard your argument I hadn't the schloightest idea of the extint of me injury."

Mr. Speaker, this pretended love for the negro is all sheer hypocrisy. Yet it has been to a certain extent a success. To meet the end in view, the radicals profess an ardent admiration for this inferior race, while in reality they have another object in view. The feeling they exhibit is simulated; it is not love, but hate, deep, persecuting hatred, of the white man of the South. Now that peace has shed her radiance on this favored land, men are found insidiously en-

deavoring to prevent the speedy reconstruction and reintegration of the country. Men who can see nothing but "loyal blacks and rebel whites" are pursuing a course which in the end will be fatal only to themselves. Day by day their ranks are being thinned. I warn them to listen to the whisperings of wisdom from those noble men of their own party who, like ourselves, would sacrifice everything but their honor to promote harmony in the action of the Government in all its parts, and secure the great end in view, the speedy, effectual, and perfect restoration of the Union. If it be true that the effort of the nation was to suppress rebellion and abolish slavery, then both of these objects have been successfully accomplished. We may cry peace, peace, and yet there is no peace. We have among us certain persons who have attempted to establish a voluntary censorship, and attempt coercion without confidence, and success without deserving it. The honorable gentleman from Illinois, who, I presume, speaks *ex cathedra* for his associates, expressed the most intense love for the negro, socially, personally, and politically. I must confess he took an ungentle method to prove his attachment by comparison.

The radicals are always inconsistent: those who make the loudest noise are least entitled to consideration. Take a single instance. We were told that the people of Illinois are in favor of unqualified negro suffrage. If the statement had been credited it would have had great weight in the determination of this vexed question. But what are the facts? Some years ago it was made a part of the organic law of that State that no negro should be allowed to reside within the limits of the State. After a test of several years, in 1862 the repeal of that clause was formally submitted to the people, who determined to retain it by a majority of more than one hundred thousand votes, and it is to-day part of the fundamental law of the State of Illinois. In all kindness I suggest to my honorable friend that he has mistaken the proper forum for his eloquence, and that it is inappropriate in him to undertake to shape and temper the humane policy of the people of the United States in regard to the negro until his record of humanity is of a higher grade than that of the State whose policy he assumes to reflect. I can well understand why such States as Iowa and Maine, for example, where there are comparatively few negroes, might vote in favor of negro suffrage; their political status could in nowise be affected by the change; but this question assumes a phase of increased gravity when applied to States in which the blacks and whites are nearly equal in numbers, and especially in those States where the black population far outnumber the whites. This proposition at the present time, when we have just emerged from a rebellion of four years' duration, demands our gravest attention. Besides, its consideration is greatly intensified by the existence of the fact that not one of the States recently in rebellion has a vote or a voice upon this floor. We should therefore do well to pause before we undertake to invert the order of nature and civilization.

It requires care, time, and a matured, deliberate, and thorough consideration. I warn the members of this House against the fatal consequences of inconsiderate action; and in this connection let me remark, that I repel the assumption of the radicals that the Democratic party oppose universal negro suffrage because the negro's skin is black. The charge manifestly emanates from a vagrant intellect and a vicious heart. On the contrary, we place our opposition to universal negro suffrage upon two distinct and tenable grounds, namely: first, as a question of time it is inappropriate and fraught with imminent danger; and lastly, relying upon the statement of our opponents that it was a part of the policy of their hard taskmasters to keep their slaves in utter ignorance as one of their means of security against loss, the Democratic party place their hostility to the measure upon their utter want of capacity to employ an intelligent judgment in the exercise of the elect-

ive franchise. If our adopted citizens are required to undergo a five years' probation before they can vote, with how much greater force may the objection be applied to those who never read or wrote a line, and perhaps were never off the plantation on which they were born. The body has been emancipated, but time alone can burst the chains of mental bondage.

But, sir, I now turn to the other branch of the subject. Let those who idolize the negro, care for the object of their idolatry as best they may. I intend here to look after the welfare of another race, commonly called white men. Do not let us exhaust all our sympathy on an inferior race. There is legislation before us that demands our earnest consideration and prompt attention. How stands the account betwixt us and the remnant of that noble band through whom the national life was preserved and the negro emancipated? I answer, it is largely against us on the score of justice and humanity. What have we done for the mutilated men who go about our streets upon crutches, with empty sleeves, and entirely disabled and unfit for active labor? Nothing, absolutely nothing. Sir, four years ago, the men who composed the Union Army sprang to their arms upon the first intimation that the Republic was in danger, and generously imperiled their lives, for, they loved their country. They left comfortable and happy homes to endure the pains and privations of the field. Time flew on. The brave "boys in blue" fought manfully, and through their efforts, thank God, the Union has been preserved. Sir, this is not all. Away upon the many fields of strife countless thousands of these brave and gallant men now sleep the last sleep of death. Martyrs to liberty, they died nobly in the cause of freedom, and now rest from their labors in the sweet repose of the silent tomb.

"On fame's eternal camping ground
Their silent tents are spread,
And glory guards with solemn round
The bivouac of the dead."

Alas! we can only extend to them the tribute of grateful memories. To those who yet survive, mangled and mutilated as they are, how changed the scene! Those once happy homes are cheerless and lonely; where once all was peace and comfort and happiness, there now only remain destitution, poverty, and want. The stately mansion and the lowly cabin alike share the common fate. The somber weed, the blanched face, and the feeble gait, indicate too surely the presence of "a stricken fold." This is the melancholy picture; let it be ours to surround it with the framework of appropriate legislation. I am sure that He who "tempers the wind to the shorn lamb" now calls upon us to cheer the lonely and the comfortless, and with the outpourings of grateful hearts let us extend to our brave defenders the fragrant incense of a nation's praise. Sir, I have done.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Colonel WILLIAM G. MOORE, announcing that he had approved and signed a joint resolution (H. R. No. 28) in relation to the Industrial Exposition at Paris, France; also an act (H. R. No. 58) authorizing the Secretary of the Treasury to appoint assistant assessors of internal revenue; also a joint resolution (H. R. No. 18) granting certain public property to the Soldiers' Orphans' Home of Iowa. He also delivered to the House a message in writing.

PRESIDENT JUAREZ OF MEXICO.

The SPEAKER laid before the House the following message from the President of the United States:

To the House of Representatives:

In compliance with the resolution of the House of Representatives of the 22d instant, requesting the communication of any correspondence or other information in regard to a demonstration by the Congress of the United States of Colombia, or any other country, in honor of President Juarez, of the republic of

Mexico, I transmit herewith a report from the Acting Secretary of State, with the papers by which it was accompanied.

ANDREW JOHNSON.

WASHINGTON, January 26, 1866.

Mr. BANKS. I move that this communication be referred to the Committee on Foreign Affairs, and printed.

The motion was agreed to.

ST. PAUL AND LAKE SUPERIOR RAILROAD.

Mr. DONNELLY, by unanimous consent, introduced a bill to amend an act making a grant of land to the State of Minnesota to aid in the construction of a railroad from St. Paul to Lake Superior, approved May 5, 1864; which was read a first and second time, and referred to the Committee on Public Lands.

NAVIGATION OF MISSISSIPPI RIVER, ETC.

Mr. HARDING, of Illinois, by unanimous consent, introduced a bill to provide for the improvement of the navigation of the Mississippi, Missouri, and Ohio rivers and their navigable tributaries; which was read a first and second time, and referred to the Committee on Commerce.

MINES AND MINING.

Mr. BIDWELL moved that the Committee on Mines and Mining be discharged from the further consideration of the communication from the miners' convention of California, and that the same be referred to the Committee on Public Lands.

The motion was agreed to.

EXECUTIVE COMMUNICATION.

The SPEAKER laid before the House a communication from the Secretary of State, transmitting a statement of disbursements of the contingent fund of that Department, in accordance with the act of Congress of August 26, 1842; which was laid on the table, and ordered to be printed.

MRS. WILLIAM L. HERNDON.

Mr. BROOKS, by unanimous consent, introduced a bill for the relief of Mrs. William L. Herndon; which was read a first and second time.

Mr. BROOKS asked for the immediate consideration of the bill.

No objection was made.

The bill was read at length. It provides that the Secretary of the Interior shall cause a copy-right to be issued to Mrs. William L. Herndon, her heirs, assigns, and legal representatives, for the term of fourteen years, granting the exclusive right to republish a book entitled "Exploration of the Valley of the Amazon," heretofore published by order of Congress.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. BROOKS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

INDIANS IN DAKOTA TERRITORY.

Mr. BURLEIGH, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas several citizens of Dakota Territory have been either murdered or maimed and had their property stolen and destroyed by the hostile Sioux Indians who were concerned in the late Minnesota massacre, either at the time of or since that sad occurrence; and whereas the hostile bands of Indians known as the Sisseton, Wah-pa-ton, Medawakanton, and Wah-pa-koota bands of Dakota Indians were, in opposition to the wishes of the citizens of Dakota Territory, forced into said Territory, in consequence of which act these outrages have been committed upon the unarmed and defenseless citizens of that Territory: Therefore,

Resolved, That the Committee on Indian Affairs be instructed to inquire into the justice and propriety of reporting a bill providing for the appointment of a commissioner, whose duty it shall be to determine the amount of depredations by said Indians upon the citizens of said Territory, and of recommending an appropriation sufficient to pay the same.

ARMS FOR DAKOTA TERRITORY.

Mr. BURLEIGH also, by unanimous con-

sent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Militia be instructed to inquire into the expediency of placing in the hands of the Governor of Dakota Territory two thousand stand of arms, and the necessary ammunition, to be used by citizens of said Territory who may organize for defense against the hostile Indians of the Northwest.

SEEDS FOR DISTRIBUTION.

Mr. WRIGHT, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Agriculture be directed to inquire what, if any, amount over and above the usual appropriation will be necessary for the adequate supply of seeds to be distributed among the farmers of the country by the Department of Agriculture, with liberty to present the result of their inquiry by bill or otherwise.

RAILROAD COMMUNICATION WITH THE WEST.

Mr. WILLIAMS. I ask unanimous consent to submit the following preamble and resolution, and to have them considered at this time:

Whereas it is the interest of this Government that the means of communication between its metropolis and the seat of its power in the great West should be as direct and immediate as the topography of the intervening country will allow; and whereas it is represented that the route indicated by the Father of his Country as the most obvious and practicable for the establishment of this connection between the eastern sea-board and the great valley of the Mississippi, of which the prospective necessity was present to his far-seeing eye, has been obstructed by hostile State legislation in the interest of a rival corporation of the State of Pennsylvania: Therefore,

Resolved, That it be referred to a special committee of nine members, to be appointed by the Chair, to inquire whether the commercial, postal, or military necessities of the country require the construction of a continuous line of railroad between the seat of Government and the great States and Territories of the West and Northwest, so as to reach the head-waters of the Ohio river by the most direct and practicable route; how much still remains to be done to establish and complete such connection; whether any obstacles have been interposed by the Legislatures of the State or States through which the same would pass, and what means are within the powers of Congress to remove such obstacles, if any, and to facilitate the construction of such a road as the wants of the Government or the convenience of the traveling and trading public may require, with leave to report by bill or otherwise.

Mr. BOYER objected.

And then, on motion of Mr. THAYER, (at four o'clock and fifty minutes p. m.,) the House adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, January 27, 1866.

The House met at twelve o'clock m., Mr. WASHBURN, of Illinois, taking the chair as Speaker *pro tempore*. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

The SPEAKER *pro tempore* announced that the House was in session for the purpose of hearing speeches, to be delivered as in Committee of the Whole on the state of the Union, upon the President's message, and that no other business would be in order, except the reception of messages from the Senate and motions to adjourn.

LEAVE OF ABSENCE.

Mr. JENCKES. Is it in order, Mr. Speaker, to ask leave of absence?

The SPEAKER, *pro tempore*. The Chair thinks that that is in order.

Mr. JENCKES. Then I ask leave of absence for the gentleman from Connecticut, Mr. WARNER.

Leave was granted.

Mr. DRIGGS asked and obtained leave of absence for himself for three days of next week.

PRESIDENT'S MESSAGE.

The House, as in Committee of the Whole on the state of the Union, resumed the consideration of the President's annual message, on which Mr. SMITH was entitled to the floor.

Mr. SMITH resumed the floor, and concluded his remarks begun on Friday, the 19th instant. [The entire speech will be published in the Appendix.]

RECONSTRUCTION.

Mr. BAKER. Mr. Chairman, I rise to the question of reconstruction. In the very opening of my remarks I will say that on the present occasion I must firmly decline to yield the floor to any interruption whatever; and this not from the slightest possible feeling of discourtesy toward any gentleman who may desire such a privilege, but because of the entire newness of my position in this or any other legislative body, and because at the present stage of the debate, when no particular measure is under consideration, but only general principles out of which measures must come, I prefer to select my own undisturbed line of march over the wide field of argumentation that is now opened up, and to marshal in unbroken order the great principles which in my judgment ought to control the action of this House and this Congress. Though I shall have occasion to deal plainly with great public facts and principles of conduct, I beg gentlemen on the other side of this House to accept my sincere assurance that I am very anxious to cultivate the most kindly personal relations toward every gentleman on this floor, and shall not, therefore, transcend the limits of parliamentary propriety and the true uses of debate, by passing from principles and groups and masses to the disconnected treatment of individuals. I will add that I shall speak only for myself, and with that untrammelled freedom from authority and influence which I think appropriate to a direct Representative of the people in this Government. If in this my unpracticed judgment shall lead me into error, I only will be to blame for that error.

To proceed at once, sir, toward the heart of the general question. In one very important aspect of the case, my analysis only enables me to discover two fundamentally distinct ideas of policy so far as yet manifested in this Hall: the one is firmly adhered to by the small Democratic opposition which the loyal country has returned, and is also apparently favored by a few members of the overwhelming Union majority on this floor; the other draws to it the support of the great body of that Union majority. The one idea is that, in the very important business of restoring the revolted States to their complete normal position in the Union, the Congress of the United States has now nothing else to do but to judge, each House for itself, "of the elections, returns, and qualifications of its own members." The honorable gentleman from New York [Mr. RAYMOND] informs us that "all but this has been done in the exercise of his (the President's) functions, and in the performance of his duties as President of the United States and as Commander-in-Chief of their armies;" while the honorable gentleman from Ohio [Mr. FINCK] inquires, "Why refer this question to a joint committee of the Senate and House when the Constitution provides that each House shall be the judge of the elections, returns, and qualifications of its own members?" And thus, sir, the voice from this side the Hall, and that of the Opposition member from Ohio, blend in perfect accord upon the main point, and unite in the assertion of the idea that this, the first American Congress that assembles after the crushing of the rebellion, shall be dwarfed to the mere consideration of work fitly springing from a committee on elections; signaling its diminished existence by canvassing poll-books, inspecting certificates, and inquiring after the personal *status* of a few gentlemen claiming seats on this floor. "Only this and nothing more!" That, indeed, would be a big performance on the part of the law-making power of the Government of the United States at a time like this—covering it undoubtedly with a glory that would become historic.

The other fundamental idea is, in my judgment, infinitely more in keeping with the just prerogatives of Congress, with the demands of the people, and the imperative requirements of patriotic duty. It is that the Legislature of the Government, which is the constitutional source of all national law in the Republic, should go far behind the comparatively trivial, surface business of elections and personal qualifications,

consider well the state of the Union in reference to the late rebellion, judge what further or safer precedent guarantees are necessary to the assured safety of the nation and provide for the same, admit no member from any State which has been in rebellion until after these guarantees shall be executed, and then, in conformity with law, declaring such State again entitled to representation. Such, sir, is my conception of the function and duty of Congress in the present emergency.

The very statement of these two opposing views shows on which side is the weight of reason; the one affirming, the other denying, that the loyal people of this nation, through their Representatives in Congress, should be the judge of what great and just guarantees will make them secure in the future before readmitting to full power in the system those States which have just now laid upon our shoulders three thousand millions of debt, and, in their mad effort to blot this country from the political map of the world, filled the grave-yards of the North and the battle-fields of the South with the molding bodies of the patriot children of the Republic! Sir, if there ever was or ever can be upon earth a case, calling in the name of outraged right and humanity for complete and perfect security for the future, before reclothing with power the now paralyzed arm of treason still red with blood scarcely dry, this is that case! And, sir, when we reflect that these guarantees must consist of *civil measures*, laws, constitutional or statutory, I undertake to say that the assertion, direct or by implication, that Congress is not the proper judge of what they should embrace, is one of the most monstrous, indefensible, and pernicious assumptions that ever found expression in this Hall or out of it. How any mind of legal training, any mind acquainted with the great and prominent constitutional landmarks that separate the powers of this Government, could come to entertain such an idea, I am totally at a loss to conceive, except it be upon the hypothesis that the Executive, having justly and wisely wielded the gigantic powers of war, and having thereby for a time fixed upon itself the peculiar and concentrated attention of the people, it should now, after the last gun is fired, after the last armed foe has surrendered, yield to the force of habit, and throw the shadow of the executive will over an immense field of law and civil jurisdiction!

Sir, I am not advised that it is the purpose of our able and patriotic Executive to stand upon any such assumption. But the honorable gentleman from New York [Mr. RAYMOND] has seen fit to maintain that the whole subject of precedent requisitions belongs solely to the President. In reply to a question upon the very point he says:

"My impression is that these requisitions are made a part of the terms of surrender we have a right to demand at the hands of the defeated insurgents, and that it belongs therefore to the President, as Commander-in-Chief of the Army and Navy of the United States, to make them, and to fix the limits as to what they shall embrace."

To my mind the concluding part of this statement presents an amazing proposition. Very true, sir, we may make proper political requisitions a part of the terms of surrender and cession we have a right to demand of the defeated insurgents; but it is *not* true, that the *military* surrender of men in arms, munitions of war, flags, and cannon, and the *political* surrender, involving permanent legal security for the future, are objects belonging to the same class, and amenable therefore to the same ultimate judgment and prevision. That, sir, is bad logic which commences with bad classification, forcing totally unlike things together and grouping them under the comprehension of the same particular idea. And I submit that no two objects can be more distinct in their form and in their substance, than a military surrender on the one hand, and subsequent civil and political enactments in the nature of guarantee on the other. Most obviously the one appertains to the Executive; most obviously the other appertains to the Legislative: each in

its own proper sphere having no limitation but that imposed by the Constitution. What, sir, are the contents of a military surrender? Things military in their nature. What are the contents of a political surrender? Things political in their nature. Oil and water will no more mix in one than will these two objects obey the voice of the honorable gentleman from New York, and marshal themselves together under the solitary control of the executive will. As well might Congress have undertaken to settle the military surrender of the rebel armies, "and fix the limit as to what it shall embrace," as for the Executive—in accordance with the ideas of the gentleman from New York—to assume definite control of the intervening civil policy which shall precede the return of the rebel States to full power in the Union, and "fix the limits" as to what this civil policy shall embrace.

The very truth is, sir, that the putting down the rebellion and the final restoration of a normal order called for the exhibition of two great agencies, essentially different in their character—the powers of war to crush the rebel forces in the field and on the sea, and after that, a civil policy prescribing a secure basis of pacification for the country. The first of these agencies consisted of the Army, the Navy, military material, and supplies. These were raised and provided by Congress, and then wielded by the President as Commander-in-Chief. The executive idea entered predominantly into this great agency of war, because the executive will was the more immediate source of the battles, the sieges, and the grand military and naval movements of the conflict. The work of this agency is substantially accomplished. The other controlling agency consists of great pacifying measures of security to the country, leading the way to the ultimate restoration of the revolted States to full and equal power in the Government. The legislative idea enters predominantly into this agency, and its work yet remains in great part to be done. That the first of these agencies should swallow up the second, undertake to judge of its work, and oust it of its jurisdiction, ought never to be claimed or defended by an American statesman!

But, sir, to place this matter beyond all controversy, at least in the forum of reason and law, let us inquire with more particularity what are and ought to be the elements of that civil policy which should go before and inaugurate such return of the late rebel States to power. There first is the required constitutional amendment abolishing slavery throughout the jurisdiction of the Republic, and giving Congress power to make the same effectual by law. That was deemed one very essential condition precedent. What has or ever had the Executive to do with the initiation, the judging, or making of this amendment? The Constitution expressly confers on Congress by a two-thirds majority the power to propose, and on the States by a three-fourths majority the power to ratify, all constitutional amendments. Here, then, in this great part of the pacifying policy, the Executive nowhere appears, but only Congress and the States.

Again, another precedent condition is that the revolted States should each present a government republican in form, and of this Congress is the exclusive judge. In the great Rhode Island case, (*Luther vs. Borden* and others,) decided in 1849, the Supreme Court of the United States—considering of that section of the Constitution which provides for the guarantee of a republican form of government—uses the following language:

"Under this article of the Constitution it rests with Congress to decide what government is the existing one in a State. For as the United States guaranty to each State a republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not. And when the Senators and Representatives of a State are admitted into the councils of the Union, the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority, and its decision is binding on every other department of the Government."

Thus the opinion of the court is that the Con-

stitution devolves it upon Congress to look at the government of a State and "determine whether it is republican or not;" and further, that the decision of Congress upon the point "is binding upon every other department of the Government." But aside from what the court has said, it is apparent from the very nature of the thing, that the great civil and political question—big with the rights of the southern people, white and black—involved in the determination of what is or is not a republican State, belongs essentially to the legislative branch of the Government. Of course, in the execution of this guarantee affirmative legislation by Congress would, as in other cases, have to be accompanied by the sanction of the President.

Again: there are at least four other guarantees of safety and justice to the loyal people who have saved this country at so great a cost of blood and treasure, every one of which should, in my judgment, be incorporated in the Constitution of the United States before admitting representation from any State which has been in rebellion, and from all consideration, authority, or judgment concerning which, the Executive is discharged, as I have explained, by the Constitution itself: First, an amendment placed in the fundamental law of the whole land, putting it above all question and all cavil, that no State has a right to secede from the Union at her sovereign will and pleasure. Secondly, an amendment guarding against all fluctuations of time and party, all possible relapses of corruption, giving the people of the Union and the people of every State perfect repose, perfect security against the possibility of ever being burdened with the payment of any portion of that enormous rebel debt which was contracted in the satanic effort to lay the Republic in ruins. Thirdly, making representation, and exact consequent power in this Government, bear an exact proportion to the measure of political justice practiced by each State in the Union—I mean an amendment apportioning representation in Congress, with proper guards, according to the number of persons who are represented in each State respectively—thereby protecting the loyal people of the nation from the crying injustice and palpable danger of restoring the late rebel communities, as proposed by some, not to equal rights in this Union, sir, as is delusively said, but on a basis giving to the recent traitors of the South, man for man, nearly double the political power in the popular branch of the Government, and over the future destinies of the Republic, which belongs to the loyal citizens of the country who have saved it from destruction at the hands of these very traitors. Fourthly, an amendment forever excluding all rebels from the high offices, civil and military, under this Government—thereby giving bloodless satisfaction to justice, and a deadly blow to the aristocracy out of which the rebellion sprang.

Every one of these suggested amendments is not only needed as a means of giving security, repose, and satisfaction to the country, but, what is more and higher, they are all inherently right. You can look an honest man straight in the eyes while demanding them, sir. Is it not right that a final and unmistakable constitutional quietus should be given to both of those twin monstrosities, divinity of slavery and ascendancy of State over national sovereignty, which were blown up together by political demagogues and a prostituted clergy, until they finally exploded in wrath and blood and treason through the land? Is it not right that a like quietus should be placed upon the rebel debt; that the loyal people of the nation, North and South, should have perfect security against the corrupting power and contingent danger of that debt? And is it not a mockery and an insult to tell them they should take any risk whatever when they can so easily and so justly guard against all risk by amending the fundamental law before admitting the ex-rebel communities to power? If this is not done I regard it as eminently probable, if not morally certain, that the rebel States, under the old ruling class, will, each for itself, burden the labor of its poor people, white and black, loyalist and traitor, with the payment of the rebel debt it has

contracted; thus grinding with cruel injustice the loyalists of the South, and greatly impairing the ability of that section to contribute its just share in the liquidation of our legitimate national debt. That statesman assumes a fearful responsibility, sir, who would leave the nation, and especially the producing laborers of the South, exposed to such a danger as this! But, further, is it not right that the ex-rebel of Tennessee or Carolina, Virginia or Mississippi, should be restored to *no more* political weight in the Government he has striven so hard to destroy, than is enjoyed by the northern patriot who has given all that was mortal of his son to some battle-trench of the South, or southern grave-yard where starved men were buried? And is it not right that the nation should smite with the voice of its fundamental law, as utterly and forever unworthy of its trust, those ringleaders who betrayed it so infamously and to such deadly hurt?

Send these questions to the country, sir. Send them to New England, New York, and Pennsylvania, whose volunteer levies gauged the high-water mark of human heroism upon the immortal field of Gettysburg; send them to Ohio, Indiana, Illinois, Missouri, and the Northwest, whose invincible legions, abler than those of Alexander or Caesar, cleared the banks of the great river to the Gulf, stormed the mountain barriers of Chattanooga, and swept in a circle of fire and blood sheer through the heart of the opprobrious confederacy; send them, sir, to the whole loyal country, whose grand host, marshaled for the final conflict from every loyal State, bore the banner of Liberty and Union triumphantly through that Titanian struggle of the Wilderness, and, though ninety thousand brave comrades fell from their ranks, planted it at last, amid the wild plaudits of the nation, amid the reeling of steeples, the clangor of bells, and the boom of artillery, over Spottswood, Castle Thundie, and Libby Prison! Ask these people who have thus given five hundred and twenty-five thousand of their strong sons to the jaws of death in order to rescue the Republic from the parricidal hand of treason—ask them whether they will now have any skin-deep tinkering of statesmanship, any paltering in a double sense, any uncertainty and danger in regard to the great and vital and plainly just points of security I have named; and, sir, an answer shall come back to you which will startle you into a realizing sense of the grand purpose, the high moral power which lies locked up in the great loyal heart of this country! That purpose is strong, because it is allied to patriotism, justice, humanity; because it recognizes progress as well as order; because it is the will of God, expressed in historic form, and working out the historic ends of the Republic. It will not be thwarted of these ends, sir! No power in the nation, official or other, is strong enough to stand before it and turn it back. It demands that the old reign of brotherly love based upon infernal injustice shall cease, and cease effectually. It demands that the character of the American citizen shall no more be degraded nor his patriotism corrupted by being required to surrender his conscience as a peace-offering to either an imperious or a suing aristocracy of class. It demands that the honor of the nation shall not be soiled with base ingratitude by abandoning our southern allies who have done so much by strong arms and patriotic sympathy to turn the scale of the conflict in our favor—abandoning them, sir, to the bullet, the knife, the halter, the scourge, the cruel code, the enforced ignorance, and compulsory poverty which the bitter "grudge" that is owed them will so surely bring upon their unprotected heads.

The loyal people of the nation feel, sir, and they know, that if one Curtius leaping into the chasm was an offering propitious to the gods, giving back solid earth for men to stand upon, this mighty holocaust of more than half a million of lives ought to have the moral and political consequence of giving to them and their posterity forever a firm and assured ground of justice and safety to stand upon! They feel, sir, and they are proud of the fact, that their grand army of citizen soldiery has covered itself with imper-

ishable glory, by executing the most prodigious military performance recorded in history. They now look to their civil representatives, and demand the exhibition of a *statesmanship* which history will not blush to record in contrast with its great military antecedent—a statesmanship which shall inaugurate the new and better order, by first gathering up the most vital results of the war and concreting them as the expressed will of the nation, some in the fundamental law of the Republic, and others in great and stable statutes of liberty. When this is done, and not before, let the late rebel States resume full political power in the Government.

Some one has said that America produces the largest rivers, the handsomest women, and the most impudent men anywhere to be found on the face of the whole earth. It is true, indeed, sir, as to the impudence. If there is one postulate of common sense and common honesty and common decency which more plainly than another is seen to be true at the first glance, it is that the tried and proved friends of the Government, who have stayed it up from overthrow during this terrible war, have now a *right* to set the national house in safe order, before admitting to power and influence over that house, those who have just now stolen its treasure, captured its sentinels, plundered its arsenals, fired its rooms, blown up its buttresses, and covered its wide halls and long corridors deep with the blood of its loyal defenders! And now, that these mischievous rioters have been quelled and disarmed by the friends of the house, that they should expect, or dream, or imagine that they have any other right but to take a back seat until those friends have time to fix up the house for their proper future accommodation, is an instance of impudence having no parallel in profane and only one in sacred history—and that was when the devil extended an invitation to the Lord to fall down and worship him!

That preliminary fixing-up of the house—in addition to what has already been done—consists essentially in my judgment of the five fundamental things which I have named. Let us look at these a little more in detail, and see more particularly what relation they sustain to the honor, the sense of justice, and the future repose and security of the nation; and, with a view to being strictly practical in our conduct, let us keep in view the probable voice that will come back from the country when it comes to be interrogated on each of these points respectively.

First, the guarantee of a republican form of government, which, as we have seen, belongs to Congress to judge of and determine. Will any one question that the loyal people of the whole country wish to have this guarantee executed before admitting the revolted States to political power? Do they not wish that these States shall come with republican governments? Is it not inherently right that they should be required so to come? And is that a republican State which is based upon a fraction of even its white population? But especially, and more directly and certainly to the point, is that a republican government which signally fails to protect the great right of liberty which has been conferred upon one half of its people by the sovereign will of the nation? Certainly, sir, it is not; and right here comes in the power of Congress to guard and make real the precious boon of civil freedom which has been pledged to the colored people of the South, in consideration of their great service to the Government in its time of need. I say nothing, sir, of the political right of suffrage in itself. For the purpose of assuming a position of impregnable practical strength, upon which all Union men unite, I limit myself to the very terms of the bond, and say that the loyal people of the country stand pledged to secure civil liberty to the colored man of the South, and that they demand an efficient execution of that pledge as part of the basis of reconstruction.

Secondly, a constitutional amendment declaring in literal terms the indissolubility of the Union. Is there not a real need of this? Are the opinions that a State has a sovereign

right to secede, and that the Constitution is broken by coercing it back, quite given up in our land? Far from it, sir. The number of persons in the North who held and hold one or both of these positions is very large, while in the South both opinions, on the point of very right, are probably as prevalent as they ever were. They mourn "a just but lost cause." They admit that the Government had more men, more resources, and a longer purse. But men, resources, and money, are measures of force and not of right. So the inward conviction of the heart remains unchanged. Now, sir, upon this great point of nationality, we want the victory of force to draw with it the logical consequence of passing on to a victory of permanent, quieting law, so literally certain that no future Calhoun, Davis, or Yancey will be able to mislead any portion of the people. When we consider that by and by we may number a hundred States; when we take into view our vast prospective population; when we reflect upon the climatic and other natural causes which will tend to segregate in parts a dense population extending over such an immense area, I warn you, sir, that in the great future which awaits us, we shall need a Constitution whose language speaks nationality in terms so plain as to preclude the possibility of misinterpretation. Now, before readmitting the seceding communities, who asserted so mightily the right of secession, is the time to secure that amendment. Afterward it will be too late forever; the golden opportunity will be lost; the bitter heresy of State secession, now cloven to the ground by the scythe of war, will spring up anew from its unextirpated and living roots, and return to plague again our public life.

Thirdly, a constitutional amendment tabooing the rebel debt as to State and nation. Who can doubt that this form of security is really needed? I have said already, and it appears to me entirely obvious, that the rebel States, if unrestrained by the Constitution of the Union, will, as soon as they get full control of themselves, set aside the little arrangements which have been made at the point of the bayonet, and burden their people with the great debts they have contracted for the overthrow of this Government—thus absorbing their revenues in the payment of these debts, and so crippling their ability to aid the exchequer of the nation. Who can doubt that the one hundred thousand ex-rebels of Tennessee, opposed to her forty thousand loyalists, will, when left to themselves, and unrestrained by the national Constitution, take charge of that State bodily? And so, and worse, if possible, of the other seceded States.

Neither, sir, do the people feel so secure as they wish against this rebel debt in a national sense. "What!" it will come to be said after awhile, "tax us to pay *your* debt, to put large sums of money annually into the pockets of *your* people, and you refuse to help us to pay *our* debt, which grew out of the same squabble, which was honestly contracted, and is justly due! And we equal States in the Union! Call you this equality between members of the same family? We getting all the shearing and you all the wool!" Arguments not a whit sounder have, on more than one occasion, controlled the action of a once dominant party in this country; and when we recall the final nether swoop of that party, when, compassing not merely the imposition of a wicked debt, but the very life of the nation, one half of it rushed frantically at the throat of the Republic, while a large portion of the other half lay like a threatening thunder-cloud upon the North, growing in sympathy with treason; and when we contemplate the assemblage of their wise men, standing upon the banks of the great western lake, and crying with a loud voice, "Great is Babylon! great is Babylon! her proud towers will not be brought down by the battering-ram of war!" and this just before those towers were in fact laid prone by the stalwart blows of Grant and Sherman; and now, when we look at these same wise men on the one hand, and these disarmed traitors on the other, and see

that, like two long-separated lovers, they are fairly glowing with eagerness to rush into each other's embrace, we are admonished that it is prudent to *postpone* this embrace until we shall have taken ample surety that the result of it cannot be another spawn of plagues upon the nation!

Fourthly, the suggested amendment making representation in Congress correspond with the measure of suffrage behind it. This, or substantially this, I regard as a measure not only perfectly just in itself, but as one of the most potent agencies that can be wielded by the friends of progress. Who can stand before the people of the North and tell them that the late rebel communities ought, as a matter of right, to have between thirty and forty Representatives in Congress upon no better basis than the unvoting and therefore unrepresented colored people of the South? Let this be changed, by all means; so that a State shall either allow its people to vote or else not have them counted in the basis of her representation. Sir, by this sign we conquer! By this sign we move forward the whole column of civilization! For thus we make not only the stars to fight against Sisera, but set Satan to the work of casting out Satan. Would you have power in this Republic, over whose capitoline dome towers the goddess of Liberty as a grand and beautiful symbol of the rights of man? Be just, be humane, and incorporate the great principles of true democracy in your State. You do not wish to do this? Then submit to have your power shorn to the exact measure of your justice. Thus, sir, we have a mechanism by which, placing our lever on the fulcrum of selfishness, we pry the whole man upward. Thus we supply an alembic, by which prejudice is dissolved, humanity quickened, and a whole brood of old barbarisms transmuted into new and beautiful elements of civilization. The poor, the little, the despised and downtrodden would then take on a new value to society, and would consequently be more respected and better treated than ever before. Say not that such an amendment would be odious, as placing a recognition of class distinction in the fundamental law of the Republic. You know that distinction already exists in fact, and that the practical tendency of the amendment would be to remove it; so that the objection not only sticks in the bark, but breaks the faith to the heart while keeping it to the ear.

Finally, the suggested amendment excluding rebels forever from all the high offices of honor or profit under the Government of the United States. The value of such an amendment would be great. As I have suggested, it would furnish a large, humane, and bloodless satisfaction to justice. I have heard much said about making treason odious. The adoption of such an amendment would be *doing* something to the purpose in that direction. I will say, sir, that I will hiss no man on in the scent of blood. I am not strong on hanging. Neither am I very strong on confiscation, though willing to do a reasonable thing in that way. I look rather to the application of great principles, of unquestionable justice and humanity, giving large satisfactions, operating upon large masses, removing torpid and brutal social obstructions, and helping society on in its troubled and benighted march to the realization of those better things which I devoutly believe God has in store for it. And I say emphatically, that in my judgment such an amendment would be a very potent means of breaking down that torpid and brutal social obstruction of class rule and aristocracy in the South, out of which came the rebellion, and which is still the tormenting evil of the Republic. Would you be humane to the great mass of the southern people, white and black? Wrench the scepter of power over this Government, at least, from hands which have only ruled to curse and to ruin. Is there not blood enough on those hands to work a forfeiture of right to the scepter? Besides, sir, the loyal people of the country, North and South, want permanent, reliable security that their eyes shall never behold that insufferable spectacle,

some Robert E. Lee from Virginia, some Wade Hampton from South Carolina, some Jacob Thompson from Mississippi, some Gideon J. Pillow, or Fort Pillow Forrest from Tennessee, walking into the other end of the Capitol or into this Hall to make laws for the people of the United States! That, sir, ought to be made an impossible thing forever, and the only way to do it is to place the prohibition of it in the Constitution, high above the unstable security of a mere statute which is subject to be set aside at any moment. My strong impression is, that if this is not done before admitting these communities to power again, it will not be long before we shall see the floors of these legislative Halls speckled over with generals and colonels who won the popularity which elevated them to office by leading on the serried rebel column, under a strange and detested flag, to the slaughter of the patriot sons of the Republic! Sir, the very bones of these heroic slain would rise up from the fields of carnage where they fell, and reproach us for the infamy of so base a wrong to the martyred dead! While their fathers, their mothers, their widows, and their orphan children would point the finger of scorn and cry "Shame! shame!" with an emphasis more blasting than the curse of the weird witch, because made pungent by the justice of God!

Look, sir, at the men who have already been elected, as it is called, by most of these communities! Look at the message of the so-called Governor Perry, of South Carolina, arguing that the statute alluded to is unconstitutional and ought to be repealed, and openly confessing that the men returned by that State could not, without flat perjury, take the oath we have all here taken! Read, for you may, from the Richmond Whig of the 21st ultimo, that—

"In spite of the late defeat of the Democracy in Ohio and Pennsylvania, the respect and confidence of the southern people in that party is as great as it ever was." "They know full well that if there was a Democratic majority in Congress the congressional test oath would be swept away;"

thus ushering upon these floors as law-makers for loyal men, women, and children, the ring-leaders of the late bloody and infernal rebellion against country and against liberty! And that this opinion of the northern Democracy on the part of the ex-rebels is correct, is proved by the fact that the Representatives of that party upon this floor have already, at this very session, voted nearly unanimously to lay on the table a resolution asserting the binding force of that statute! We want a constitutional barrier, sir, against this impending irruption of rebel celebrities into the chief seats of the Republic, which they have been unable to subvert by stealth, fraud, and perjury, or to overthrow by armed force in the field. Sir, my sense of magnanimity would impel me to pass by another way, and decline to speak thus of a vanquished adversary, were it not that my sense of right is outraged by that evil conjunction of stars in one quarter of our heaven which threatens to throw away the hard-earned fruits of this bloody war, and, after the fashion of the old, miserable, lowering-down compromises of the past, to give to the nation, under the name of a quieting panacea, a *swash* that will sicken the stomachs of the people, leave "sour-eyed disdain" to rankle in their hearts, and to ripen, it may be, after another cycle of angry unrest, into another purifying cataclysm of blood! Now that Providence and the strong arms of brave men have laid bare the living rock of righteousness, hard by the weltering sloughs of injustice through which the nation has struggled, let us, in God's name, hail with great joy the high privilege of placing our feet firmly upon that rock, remain in the mire who will! Now that that old Rookery of Barbarism, spanning erewhile our whole concave—filled with all abominations—crawling creatures not a few—peeping and muttering creatures ugly as those seen by Dante perched in the infernal wood—and sending from its high places doleful notes of command across the night, marshaling the nation down, down to the abyss!—now that this obscene old Rookery has been laid wide

open by the avenging sword of the Lord, sweeping in fiery circles through its "adder dens" and its foul roosts, thus filling earth with the hideous hubbub of its scampering inmates, and so, letting in once more the sweet light of the stars by which a righteous nation walks!—let us, I implore you, sir—if we would assert our manhood, if we would be liege to country and humanity, if we would escape the condemnation of future history—guide our footsteps by the light of those stars, and not by the fetid glamour of the dead-lights that hang delusive over the festering rubbish piles and cess-pools of the wrecked iniquity!

Sir, if we think to the bottom of this business I am solemnly convinced that four general things will appear essential: first, that the measures adopted shall give real satisfaction to the loyal heart of the country; secondly, that these measures shall embody the nearest attainable approach to real justice and humanity, whether as applied to the North or the South, the white man or the black, the loyalist or the traitor; thirdly, that these measures shall be such that they shall conspire in their future operation to remove the segregating difference between the North and the South, and thus help us to a Union of affection in place of a Union of force; and fourthly, that these measures shall be deposited in the highest and most stable forms which the nature of each will admit of. Any plan which does not give satisfaction to the loyal people will be a failure. Any plan which does not embody substantial justice and humanity to all will be a failure. Any plan which does not tend to remove differences, and to bring North and South together in better harmony of feeling, will be a failure; and above all, and emphatically, any plan which does not provide for its own concretion, through the expressed will of the nation, in the most permanent and enduring forms of law, will be, in my judgment, not only a failure, but, besides that, a short-sighted and egregious blunder.

Why, sir, this last must be so from the very nature of the case. Here has been an armed controversy between the Government and certain States seeking to overthrow it. The rebellion is suppressed by force, after fighting a hundred bloody battles and loading the people with an immense debt. As a principle it is admitted on all hands, upon this side of the floor, that proper guarantees of security and justice may be required of the defeated party before admitting them to power again. Now I put the question to the unclouded reason of any mind: who on earth should be the custodian of these guarantees—the nation requiring them for its own security, or the defeated party of whom they are required? The nation of course; and to say the offending States should retain custody of them is, in my judgment, the merest mockery and nonsense. Neither is the matter helped by talking about a generous confidence. That, sir, is only a begging of the question, since it is confidence we are seeking to create by taking guarantees which will make us feel secure; and men do not usually attach much confidence to securities not in their own hands nor subject to their own control, but in the hands and under the control of the very parties sought to be bound! To call such a thing a security is to speak in a sense too decidedly Pickwickian to be altogether appropriate in the closing up of this most serious and tragic business. No, sir, the loyal nation should take these securities into its own keeping by placing them in the Constitution, so far as they will severally admit of it.

I think the measures I have suggested will go far toward fulfilling the fundamental conditions I have named. Taken together they will give substantial satisfaction to the loyal people who have saved the country. Then they are all just in themselves; just in their bearing on every class upon which they act. And their joint influence will be to stimulate the true democratic life of the country in all its parts, and thus to narrow the segregating difference between the North and the South. And in addition to all this—keeping in view the necessity of being prac-

tical as well as earnest—I am unable to cull from the whole complex assemblage of elements before us any other efficient combination of measures which would be so certain to secure the triumphant sanction of the country. Let them be adopted, sir, before readmitting the rebel States, or either of them, to political power in the Government, and in my opinion they will constitute a basis of pacification upon which the whole country, North and South, will rapidly coalesce into one unbroken nationality of feeling, all loving the common flag of liberty, all contributing to the culture, growth, and grandeur of the great Republic.

And, sir, another advantage is, that these measures present no point upon which a practical difference can arise between the executive and legislative branches of the Government, each acting within the limits plainly prescribed for it by the Constitution. In the first place, the Executive will of course cheerfully approve all legislation which may be involved in the guarantee of republican State governments, and needful and proper to make real the civil liberty which has been pledged to the colored people of the South. And then, as to the four suggested amendments of the Constitution—first, settling secession; second, prohibiting payment of the rebel debt; third, providing a more just basis of representation; and fourth, excluding rebels from all high offices under this Government—I should really suppose his Excellency's personal opinion would favor them all; but, however this may be, nothing can be more certain than it is impossible for his Excellency to have any official opinion on these points, for the reason already stated, that the Constitution takes no notice whatever of the President in providing for its own amendment, but leaves that work wholly and exclusively to Congress and the States. So that, in the execution of the plan suggested, there is not the slightest legitimate room for any jarring between different departments of the Government.

As to the legal relation which the late rebel States sustain and have sustained to the Government, I will next present such of my views as I think have a practical bearing upon powers to be resorted to and measures to be adopted. In the first place, I will say emphatically, this Republic has never been divided. Grotius, writing of the cases where national "jurisdiction and property cease," tells us—

"It may so fall out that what was before but one State may be divided, either by mutual agreement or by force of arms, as the Persian empire was under Alexander's successors. When this happens there will be several sovereignties in the room of one." &c.

This is the exhaustive analysis, sir; a nation may only be divided by peaceable consent, or by force, internal or external. And this is the criterion by which we may know the division has been effected; the emergence of several sovereignties in the room of one. This is so plain in itself that we should have known it quite as well, though Hugo Grotius had never lived or written. Now, has there in fact been, at any time, such an emergence of several sovereignties in the place of one within the confines of the United States and its Territories? It is idle to pretend there has. The government *de facto* set up by the revolted States was a *belligerent* but not a sovereign power. It was treated as a belligerent by this Government, and by many if not all the great States of Europe. And it was indeed a gigantic belligerent. But neither this Government nor any State on earth ever recognized it as a sovereign power. Every branch of this Government, executive, legislative, and judicial, persistently asserted the one and undivided sovereignty of the Republic. We must not confound the power exerted by the *de facto* confederate government with *sovereign* power. The two things are totally different in law. The one cannot be seen as an existing entity in the family of nations, the other constitutes a member of that family; thus revealing a difference, when viewed from the stand-point of public law, as wide as the difference between that which is and that which is not. So the revolting States did not for a single moment

succeed in segregating themselves as a sovereign power.

The exact practical condition of the case, affirmatively stated, appears to me substantially as follows: the word "union" involves a complex, and not a simple idea. As applied to the Territories, this District, the forts, arsenals, and navy-yards of the Government, all of which are said to be in the Union, it includes, first, the sovereign right of eminent domain in the United States over the geographical surfaces of these several objects; and secondly, the right of sovereignty in the United States over all its citizens living on these geographical surfaces. As applied to the States, the term "union" includes not only the two ideas that the General Government has the sovereign right of eminent domain over their entire geographical surface, and the sovereign right of jurisdiction over all its citizens residing on that surface, but also the third idea, that the people of the States, properly constituted as such, have a right to participate in the government of the Union, by sending Representatives and Senators to Congress. Now, be it noted—for the point is vitally important, if we would really understand this vexed imbroglio—be it noted, that of these three cords of relation between the Government on the one hand, and the whole people and *terra firma* of the Union on the other, the first two are cords of obligation to the United States, while the third is a cord of privilege to the States respectively. The right of eminent domain, and the right of jurisdiction being cords of obligation to the United States, were not snapped by the rebellion. But the right to participate in the government of the Union, being a cord of privilege to the States respectively, was indisputably forfeited and snapped by plunging into open, flagrant war against the Union. This conclusion cannot be denied without abandoning all reason and all principle—without maintaining that at the very time rebel cannon were planted upon the banks of the Potomac, and rebel legions were thundering at the gates of the capital, it was the *right* of rebel emissaries, masked as legislators of the Union, to step in here and help finish the work of ruin! This no one has been hardy enough and foolish enough to assert. So that this third cord of relation, this privilege of taking part in the government of the Union, was demonstrably snapped by the rebellion. Yet it does not follow that it should remain always, or even for a great while, severed, but only so long as may be necessary to take safe securities for the future, or, as I have said, to put the national house in proper order, before welcoming back those offending communities to the high privilege of again helping to rule a country, which, after doing their very best, they have been unable to destroy. The gentleman from Indiana [Mr. VOORHEES] wishes to know what clause of the Constitution can be cited justifying this postponement for guarantees. Why, sir, you can scarcely go amiss for them. The clause guarantying a republican government is one. The revolting States, as I have stated and proved, having voluntarily severed the cord of their governing connection with the Union, Congress can, under this clause, look at their existing organizations, and require them to be republican in form; in other words, require them to conform to the Constitution of the Union, before permitting them to resume their cast-off governing relation in the Union. What can possibly be plainer than this? Again, the power which authorizes the suppression of an insurrection carries with it, by necessary implication, the power to restore and to require a *safe* civil order after the insurrection is suppressed. Is not this intuitively seen to be true? Again, the Constitution authorizes Congress to provide for "the general welfare of the United States;" and what can be more fatally necessary to that welfare than the taking of all proper precautions before again admitting to power those who have so nearly destroyed the very life of the nation? This is not all, but it is enough to show conclusively, that the requirement of these preliminary securities has as strong a foundation in

legal right as in common sense and true patriotism.

So far, then, it is entirely certain that by rebelling against the United States the rebel States became detached from their governing position in the Union, and may now be held so until proper measures of future safety can be provided. But did they cease to be States in every sense? In my opinion they clearly did not; and I think we only incur ourselves with useless dead weight by assuming they did. An argument has been derived from the law of nations, and from other sources, by which it is undertaken to be shown that, inasmuch as these States cast off the superior authority of the United States, they thereby lost a vital requisite of State existence, and hence ceased to be States; not in proper relation to the Union, mark you, but ceased to be States absolutely. I will ask whether those thirteen communities, called in our Declaration "the United States of America," ceased to be States by the act of throwing off the superior authority of the mother country? And did the States of Holland cease to be States by the act of repudiating the superior authority of Spain? And did the seven cantons of the Sonderbund cease to be cantons by their reactionary revolt against the Swiss confederacy, similar in so many respects to the late reactionary revolt against this Republic? I will venture to affirm that no historian and no publicist has ever thought so. And I will venture to affirm that the proposition that any State whatever, whether in this Union or elsewhere on earth, ceases totally to be a State by the act of forcibly asserting its allegiance to a new superior authority, has no foundation in public law. Here again, as with the term "Union," it is only necessary to define accurately in order to walk with sure footing. Mr. Justice Story says:

"The word 'State' is used in various senses. In its most enlarged sense it means the people composing a particular nation or community. But there is a more limited sense in which the word is often used, where it expresses the positive actual organization of the legislative, executive, or judicial powers."

Now, it is palpable the revolting States did not cease to be States in the first and larger sense of the word. Their people did not become extinct. Neither did they, by the act of revolting and making war, cease substantively to be States in the more limited sense of the word; for each of them retained a powerful and efficient organization *de facto* for itself, constituting each of them a State *de facto* for the time. And that there is such a being as a State *de facto* known to the language of the law any one may learn by consulting Story. The decision of the Supreme Court in the prize cases, so often cited, gives no countenance to the notion that the whole idea of State was expunged by the rebellion, but expressly recognizes that that idea in some sense must be retained. The court says that "in organizing this rebellion they have acted as States;" that "several of these States have combined to form a confederacy;" that "the ports and territories of each of these States are held in hostility to the General Government." How could the ports and territories of a State be held in hostility when there was not so much as the ghost of a State in the case?

But there is a third definition of a State. It is that complex political being which constitutes a member in proper relations to this Union. And here the integrity of the idea is invaded in the case of the revolted States. The fullness of the idea of a State in this sense involves, first, the performance of all things enjoined by the Constitution; secondly, the abstinence from all things forbidden by the Constitution; and thirdly, the right to participate in the Government of the Union under the Constitution. These States having angrily thrust from them the privilege of helping to govern the Union; having refused to do everything enjoined by the Constitution; and having done everything forbidden by it, even to the waging of a four years' war for the subversion of the Republic, it not only results with crushing conclusiveness, as already stated, that they should not resume governing power until such resumption shall be

safe for the country, but it also follows, with equal certainty, that inasmuch as their hostile organizations *de facto*, State and confederate, have been overthrown by the successful arms of the Republic, this righteous catastrophe left them in the condition of disorganized States. I say, emphatically, disorganized States in the Union and not out of it. This is the position which the common sense of the nation has assigned to these States, and that common sense is of infinitely more worth as a criterion of truth than the unsubstantial subtlety of the metaphysical politicians. Let no one take alarm. These disorganized States, though in the Union, can of course have no political power in the Government until they are properly organized as republican States, with proper guarantees of public safety. And that the common sense of the people is at one with the very law of the case is not only apparent from what has already been said, but results with powerful conclusiveness from that great clause of the Constitution upon which so much reliance is placed: "The United States shall guaranty to every State in this Union a republican form of government." This guarantee goes to a "State," not to a Territory. It goes to a State "in this Union," not out of it. It contemplates the contingency of a State in the Union being deprived of a republican government, either by the imposition of some other form or by being forcibly disorganized, which last was the case with the eleven revolted States. It then becomes the duty of Congress, as we have seen, to secure to the people of such usurped or disorganized State a republican form of government. The execution of this guarantee, in combination with the amendments I have insisted on, will make the nation secure; and the whole scheme involves nothing which is not just before God and man.

In my judgment, all the revolted States—Tennessee, in common with the rest—should be kept out of the governing power, which they thrust from them in exchange for treason and the sword, until the guarantees I have named shall be ratified by the voice of the nation and conformed to by each of the seceding States. I beg the honorable gentlemen from Tennessee who are claiming seats here to accept my frank word when I say that, without meaning the slightest disrespect to them, I cannot surrender to personal considerations my conviction of duty to country and duty to the loyalists of Tennessee herself. I must look to the future as well as to the present. I must look at Tennessee as well as at the honorable gentlemen who claim to represent her. And from all the lights I now have, my opinion is that if the account should now be closed up with that State, her loyal population would pass under the cruel and grinding yoke of rebel rule.

Sir, on the 23d of last month I addressed certain questions in regard to the *status* of Tennessee to Hon. W. G. Brownlow, Governor of that State. I will say that I believe Governor Brownlow, in view of their loyal character, desires the admission of the Tennessee delegation. The following, however, is that portion of his answer in full which discloses the internal condition of Tennessee, and which is responsive to my questions:

KNOXVILLE, TENNESSEE, January 1, 1866.

Hon. J. BAKER: * * * * * As regards the state of things in the South, they are bad enough in all conscience, and most of the loyalty professed is with a view to obtain pardon, get property back, and again get into office. There is a better state of feeling in Tennessee than in any other southern State, Kentucky not excepted, and we have great room for improvement in both Middle and West Tennessee. East Tennessee is all right, and has been from the outset of this rebellion. I give it as my candid opinion that if the military forces were all withdrawn from Tennessee the Legislature would at once be dispersed by a rebel mob. Out of six daily papers in Nashville, four of them are rebel; while the people are more than two thirds on the rebel side. Rebel grand juries are indicting Federal soldiers and officers in Middle Tennessee, and either binding them over to court in heavy bonds, or casting them into prison for executing orders given them by our generals, as far back as the days of Rosecrans and Stone River! And many of the rebels now speak out openly and say Union men and Yankees shall not live in the country.

As regards the negroes, they would have hard times if the military were withdrawn. When they are tried in our courts they are, if convicted, sent to the pen-

tentiary for the longest terms the law allows. In some instances they are sent for several years, when one month's confinement in a county jail would be equal to the offense. I have had occasion to pardon on several such cases. Nor are white loyalists treated any better at the hands of rebel juries. Our judges are loyal men, but rebel juries run over their charges, and the law. I am speaking of Middle and West Tennessee, whose rebel population, with here and there exceptions, are as disloyal as they were in 1861. Other Tennesseans, loyal and intelligent, would give you a more favorable account of things. I cannot conscientiously do so. I believe the whole South is full of rebellion, and that the rebels are seeking to accomplish by legislation and through Congress what they failed to do upon the field of carnage—destroy the Government. And should this Legislature of ours adjourn without giving us the right sort of franchise law, the next General Assembly will be rebel, and will repeal all the laws this one has enacted. The next congressional delegation will be rebel, and our Senators will be instructed to resign. And some such man as General Forrest will be elected Governor.

Assuming the restraints of the General Government are all to be removed from Tennessee, you ask me if northern school teachers would be allowed to educate negroes? I answer, no, not in Middle and West Tennessee. In two cases out of every three the school-houses would be burned and the teachers rode upon a rail.

I believe I have replied to all the points you make. You ask me, if I should think proper to reply to your letter, to allow you to make use of the answer. I have nothing to disguise in regard to this rebellion, or the men who brought it about, and I have spoken out from the beginning, at home and abroad. My hope for the country is in the good sense, loyalty, and firmness of the loyal majorities in the two Houses. Let them settle the whole matter while they have the power, and put traitors and treason on the background in all time to come.

I have the honor to be, very truly, &c.,
W. G. BROWNLOW,
Governor of Tennessee.

The letter I addressed to Governor Brownlow happened to pass first into the hands of Hon. A. J. Fletcher, Secretary of State of Tennessee, and he voluntarily sent me the following response to my questions, which I have from him express authority to use as I please:

SECRETARY'S OFFICE, NASHVILLE, TENNESSEE,
December 29, 1865.

SIR: Your letter to Governor Brownlow, of the 23d instant, came to my hands as Secretary of State acting for the Governor in his absence. I have forwarded it to his Excellency at Knoxville.

The questions submitted by you to Governor Brownlow are of such vital importance to every southern loyalist that I feel warranted in volunteering a statement of my own impression, seeing that you desire information from all sources.

I was elected to the office of Secretary of State in April last. I have been constantly at my post since. During the absence of the Governor I have performed his duties. He has been absent or ill a great portion of the time. At all times his heavy correspondence has passed through my hands. Official interviews with persons of all classes from all parts of the State concerning the reorganizing of the State and counties thereof have been of daily and almost hourly occurrence. I have tried to understand the mental status of the people of Tennessee, and have had every possible facility. Being a native of Tennessee, for twenty years a practicing lawyer, occasionally in politics, and extensively acquainted, if I do not comprehend the situation in Tennessee, it is for the want of capacity, and not for want of a proper standpoint.

If a desire for peace because of inability to make war, a willingness to submit because of inability to resist, accepting results because they cannot be rejected, recognizing the situation because, with the eyes open, it must be seen, and supporting the President because they are at his mercy, constitute loyalty, then, indeed, are our people thoroughly loyal. But if patriotism is an ingredient of loyalty: if love of country, respect for its flag, pride in its prosperity, and a desire to see its authority prevail, are necessary, then there are as many disloyal persons in Tennessee to-day as at any time since the beginning of 1861.

What, then, are to be the practical consequences of this condition of the public mind when the pressure of the conquest is removed and conciliating the Administration ceases to be a matter of policy? What will be our social condition, and what legislation will we have? These are your questions condensed.

There are about forty thousand Union voters in the State against one hundred thousand who sympathize with "a just but lost cause." These latter will form a compact party in the State, held together by hatred for those whom they have branded as Tories for deserting the South in her extremity, by a determination to keep the negro in a condition as near to slavery as possible, and probably by a desire to keep the South united with a view to ulterior designs.

The loyal people having seen the great object of saving the Union accomplished, will not contest seriously for the mastery in the State. They will remain loyal to the great Union party of the nation, but in a subdued and discouraged temper. Many will yield and go with the vast majority.

The attempt to disfranchise the majority has failed. Another attempt will be made and will fail, and this, too, with the military present and a loyal State government. Withdraw the pressure of the General Government, and a hundred thousand rebels, talented and wealthy, will laugh at any restraint imposed by less than half their number of citizens. They will find no difficulty in finding men not disfranchised who

will serve their purposes in repealing all restraints upon them. The moral power of a vast majority over a small minority is illustrated in the present Legislature. The entire body was selected by a loyal State convention, and elected under a military proclamation, by general ticket, without opposition. Most of them had been exiles and sufferers during the war. All of them were of the most determined character of original Union men. They were tried and true, yet they have yielded to the approaches and blandishments of the wealthy rebels and the dread of offending constituents. One by one they go over or resign, until there is a bare majority left. There will always be a firm and resolute majority in East Tennessee; but they will be bound hand and foot by the other two divisions of the State. While it is impossible that loyalists should feel kindly toward a people who hung, shot, and imprisoned them or their friends, robbed them and burned their houses, and hunted them like wild beasts in the mountains as conscripts, the late rebels hate the Unionists with a most bitter and implacable hatred. They brand them with such epithets as "Tory," "Lincolnite," and "Abolitionist." They charge them with deserting the South in its struggle for liberty. This hatred is intensified by setting up a State government by the minority; by the attempt to disfranchise them; by appointing the judiciary and all the other officers of the State from the minority, and by the presence, like Mordecai, of the despised negro. In all the county and district elections if a loyalist dares to be a candidate, he is beaten. And, worst of all, in many localities this intense, mortal hatred finds its way into the jury box, and in spite of loyal judges and attorneys general, the miserable "Lincolnite" fails to obtain justice. If a negro is put upon his trial in many localities it amounts to a conviction, and the maximum penalty allowed by law. The pardoning power in the loyal Governor is his only protection. In the churches, too, this malignity is displayed. The rebel chaplain has his overflowing congregation, and to have been a guerrilla is no disparagement to the minister of Christ. Even Masonry has not been able to preserve its boasted harmony, but is thrown into discord.

There are five rebel daily papers at Memphis and four at Nashville, all well sustained. Repeated efforts have been made to start a Union paper at Memphis, but in vain. There are two at Nashville. One lives by having in part the public printing, and the other by *triumphing*. These rebel papers abuse and denounce in the most violent manner every officer in the State government who dares to oppose them. When an officer is appointed, sometimes they try to win him, but generally they open their batteries at once.

This picture is not exaggerated; and yet the shrewdest man might pass through the State over and over again and see but little of it unless he made it his study.

In view of what I have said it is not difficult to answer your questions.

The next Legislature will be two thirds rebel in each House. They will oppress the Union men in every way they dare. And East Tennessee will make an effort for a separate organization.

Two Union men and six rebels will be elected to the next Congress. The present loyal delegation owes its success to the presence of the military and the partial execution of the suffrage law—and to *policy*.

A black code will be adopted; the object will be to give the negro as little liberty as possible. They will go as far as they dare. Teachers from the North engaged in teaching negroes would not be admitted into society, and in many places be driven away.

A rebel judiciary will be elected and much that has been done by the present loyal State government will be declared void. Violence to Union men during the war will go unpunished, the government of the confederacy set up as a *de facto* government, and its laws of conscription, confiscation, impressment, &c., held valid for the time.

These are consequences almost certain to follow the abandonment of the loyal people by the General Government. Indeed, if the military was withdrawn now, the Legislature could not reassemble, nor would the Governor, or any loyal Governor, be safe for a single day.

I hope you will pardon the length of this paper, but I could not well say anything and say less. I know not how the Governor will answer your questions, but what I have said is the result of long and painful reflection upon the facts I have observed.

I am, sir, most respectfully, your obedient servant,
A. J. FLETCHER.

Hon. J. BAKER, M. C., Washington.

Sir, I place these documents before this House and before the country. Aside from the high and responsible sources from which they come, they bear upon their face every mark of being inherently true and well considered. These able and patriotic gentlemen, long resident of Tennessee, filling two of her highest offices, and largely acquainted with her people, ought to know something of her real condition to-day. And the condition they disclose is, in my opinion, totally incompatible with any valid claim to present resumption of representation in this Government. Governor Brownlow gives it as his opinion, "that if the military forces were all withdrawn from Tennessee the Legislature would be dispersed by a rebel mob;" and Mr. Fletcher says, "if the military was withdrawn now, the Legislature could not reassemble, nor would the Governor, or any loyal Governor, be

safe for a single day; they would have to retire into East Tennessee." What reliable present bottom is there in such a state of things? "In two cases out of every three the school-houses would be burned and the teachers rode on a rail." We do not want to sit down again on that sort of liberty, sir! We have had quite enough of it in the past. "There are about forty thousand Union voters in the State against one hundred thousand whose sympathies are with 'a just but lost cause.' These latter will form a compact party in the State; held together by hatred for those whom they have branded as Tories for deserting the South in her extremity; by a determination to keep the negro in a condition as near to slavery as possible, and probably by a desire to keep the South united with a view to ulterior designs." "The next Legislature will be two thirds rebel in each House. They will oppress Union men in every way they dare." "A black code will be adopted; the object will be to give the negro as little liberty as possible." "The present loyal delegation owes its success to the presence of the military and to the partial execution of the suffrage law." "Two Union men and six rebels will be elected to the next Congress." "some such man as General Forrest will be elected Governor," and so forth and so forth, summing up in the whole a state of things which shows, in my judgment, the want of proper underpinning to safely rest present representation on. "And yet," says Mr. Fletcher, "the shrewdest man might pass through the State over and over again and see but little of it;" and still less, I suppose, if he went through by rail, making short calls, and wearing upon each shoulder a triplet of stars putting everybody on their good behavior!

Sir, let us act from no personal considerations and be governed by no surface views. Let us rise to the height of this great argument, both by intellectual conception and by practical execution. We do not want a reconstruction, "deformed, unfinished," "scarce half made up," and "sent before its time" to curse instead of blessing the country! After the close of our seven years' Revolution, it took eight years to span the chasm to the new order and adopt the present Constitution. Why shall we not now have a little hiatus of eighteen or twenty-four months between the suppression of this tremendous rebellion and that definite Civil Order upon which the Republic is to be launched for the long future? That great amendment abolishing slavery has traversed in ten months' time three fourths of the Legislatures and constituted bodies of the States. In like time, it may be, the additional constitutional guarantees we need can receive a like sanction.

Then, sir, we shall have built our house upon a rock, and not upon moving quicksand. Then the blood that has flowed and the hearts that have broken and died in this terrible war for liberty and nationality shall come forth from the ground and the grave and bless the hand of the builder! Oh, I warn you, sir, I warn you, that when conservatives make haste liberty is in danger! It is for a purpose, and to the cost of humanity, that they seek to violate the fixed maxims of their conduct and the ingrained principles of their life. When fighting against the birth of new liberties—as they so strangely love to fight; when holding back the hand that would lift a burden from the quivering heart of the downtrodden poor—as they so cruelly love to hold—they are fond of telling us after Linnaeus, "There are no leaps in nature;" and after Bacon, "Time is the great innovator, but he innovates slowly." But now, when a very little time is needed to concrete the fruits of this great struggle—to ripen the blood of the martyred dead into a sure and everlasting heritage of liberty to all the people—the eagle hasteneth not more swiftly to his prey, than do these same conservatives to dash this fairest prospect that Heaven has ever vouchsafed to man on earth! Ah, God! if we do but let them do it! Men of the North! men of the North! stand firm till this sacred finishing duty shall be performed! Shoulder to shoulder, and shield to shield, let the whole grand column of Liberty and

Union march on, until the results of this great war, so dearly earned by the mighty agony of the Nation's bleeding heart, shall be gathered up and made secure forever! And he that falters now—though his plume may have shown in the forefront of the fight, and his voice rallied the clans of liberty in other days—for him let the portion be, "Ichabod! Ichabod! thy glory is departed!"

Mr. BROOMALL. Mr. Chairman, the great political problem of the day, the problem on the right solution of which will depend the well-being of our country for ages is, what shall we do with the people lately in rebellion? The embarrassments which attend this question are not all embraced within its language, since one of the most serious of them is, who shall decide it; whether Congress, the courts, or the Executive, or some or all of them?

If there are no rights to be conferred, if the whole matter depends upon the existing rights of these people, then certainly Congress has nothing to do with it. The mere deciding upon the legality of the elections of claimants to seats, so far from being the solving of the great problem, is indeed no part of it. If, on the other hand, the business is not the mere ascertainment of rights, but the creating and conferring of them; and especially if there are no existing rights that interfere with such solution of the question as will be for the best interests of the rebels as well as ourselves, then the question is to be answered and the remedy applied, not by the Executive, not by the courts, but by the law-making power of the Government. I propose, therefore, to consider what is the legal status of these people, and whether they have any rights which will prevent our treating the question as one solely of policy.

If the late disturbance of the public peace was mere insurrection, now suppressed, it is clear that the rights of the people of the South as a people are in no way affected by the result, and the whole business consists in ascertaining those rights and remitting the respective southern communities to them. But to call that insurrection that resisted the military forces of the country for four years with success; that destroyed the lives of half a million of its citizens and brought mourning to one sixth of all the homes in the land; that cost on both sides twice the national debt of England, the product of a century of gigantic wars; that seized and held by force half the domain of the country; that swept our commerce from the ocean and had its flag respected, not only in foreign ports, but in the courts of our own country; and that was only suppressed by a series of military achievements such as the world never saw; to call that insurrection is a strange abuse of language. No! the conflict was war, terrible, bloody war, in which the defeated resisted to the last with a valor that commanded the wonder of the world, and then surrendered without conditions. The inquiry now is, what are the legal consequences of such a struggle with such a termination?

If the States were sovereign, they had the right to make war and accept its consequences; and a sovereign State vanquished in war ceases to exist, or exists only at the will of the conqueror. The advocates of the old theory of State sovereignty, therefore, can set up no claim for the vanquished to interfere with our considering the question as one of policy, unembarrassed by the rights of defeated rebels.

But assume the opposite hypothesis, that the States are component parts of a single sovereignty, resembling counties, cities, and other such municipalities, how does this alter the result? Because they had less rights than sovereignty before the war shall we concede them greater rights than those of vanquished sovereignty now? Because they inaugurated war wrongfully and traitorously, not being sovereign, is this crime to be accounted in their favor in the construction of their surviving rights?

In this point of view, the conflict was civil war, differing from international war only in the fact that in the former one of the belligerents claims, has exercised, and is trying to en-

force sovereign rights over the other. A logical consequence of this condition of things is that if the claimant of sovereign rights be the victor, it may elect to treat the vanquished either as traitors or prisoners of war. It may enforce upon them either the civil law or the rights of conquest. The vanquished, having failed to throw off their allegiance, cannot deny being citizens to avoid the punishment of treason. On the other hand, having forsworn their allegiance, having set up an independent government and waged war as a nation, they are estopped from pleading the rights of citizenship to defeat the rights of conquest. All this is in accordance with common reason. It is fully sustained by writers on the law of nations, and is laid down as applicable to the late rebellion by the Supreme Court in the prize cases.

In one of these points of view, therefore, the rebel States are destroyed, and in the other it is for the Government to elect whether they are or not. In either case there are no rights of the vanquished to embarrass our action, to prevent our reviving the old State governments, creating new ones, or keeping the conquered country in a state similar to that of Territories, according as one or another of these measures may best subserve the interests of the whole country.

But it is said that States cannot rebel, that the late war was waged by individuals only, and therefore that the States have been in no way affected by its progress or termination. This is strange argument from the lips of those who believe in the sovereignty of the States, since one essential element of sovereignty is the power to make war. But without this attribute why cannot States rebel? Why may they not inaugurate civil war? To make war, combinations of men are necessary, *quasi* corporations for belligerent purposes. One man cannot make war; thousands cannot, acting with out concert. The organized body that wages war may be one formed for the purpose, or it may be a preëxisting one formed for some other purpose and wrongfully or rightfully perverted. If the organized body that wages war is the State, if the State employs soldiers and pays them, appoints and commissions officers, provides arms and munitions of war, establishes courts-martial, and if with all this war really exists, can it be said that the State does not make war? If the war is civil war, beginning on that side by rebellion, can it be said that the State does not rebel?

I can well understand that a rebellion may exist without being participated in by a State. If the combination of men that wages war is not the combination that forms the State, as in the cases of the Dorr rebellion and the whisky insurrection, then the State is not in rebellion. But if the Governor of Pennsylvania, the Legislature, the courts, the entire municipal machinery, had been turned over to the purposes of the whisky insurrection, history would have truly said that the State of Pennsylvania rebelled.

Now, what State of the entire eleven not now represented in the Government of the country did not turn its entire organization over to the purposes of the late rebellion? What Governors, what legislators, the judges of what courts, did not unite in the blasphemous oath to subvert the Government of their country? What functions of government, executive, legislative, or judicial, in any of those States were not used for the single purpose of waging war against the United States?

Some hypocritical Democrat may say that the States as States did not wage war, but that the war was waged by that combination known, while it existed, as the confederate States. The answer is, that the eleven States constituted that combination, operated through that combination, did everything that combination did, and that, when the combination waged war, each State, each constituent part of it, waged war.

An organized body of men carried on war against the Government of the United States for four years. That organized body was composed of eleven smaller organized bodies. These occupied districts of country bounded by State

lines. They had eleven Governors, eleven Legislatures, eleven supreme or superior courts, and each of them had its State, county, and township officers, performing respectively all the functions of such officers in an organized State; and every one of these officers, from the Governor down to the overseer of highways, was active in the combination that waged war. During all this time what were the States doing? Common sense would say, waging war.

These eleven States combined, therefore, on the one hand, and the Government of the country on the other, have been for four years engaged in war; civil war, certainly, but not the less war on that account. Now, war can terminate only by treaty, by cessation of hostilities, or by one of the combatants conquering the other. How did the recent war terminate? Not, certainly, by treaty. The northern allies of the southern enemy failed to bring that about. Doubtless the rebels and their political friends would like the theory of a drawn battle. That is the only hypothesis upon which their claim to equal participation in the Government of the country with the successful belligerent can be based. But the facts will not warrant this hypothesis. It is hardly consistent with the acceptance of pardons from the Executive, and the incessant begging at the doors of Congress for admission to seats so scornfully abandoned five years ago. The only remaining alternative is that of conquest, and history will find little difficulty in determining on which side that occurred, though it seems here sometimes to be an open question.

In short, from 1860 to 1865 a combination of individuals existed formed for the purpose of taking by force a portion of the territory of the United States, and forming therein an independent sovereignty. This combination was composed of citizens of the United States. It embraced almost all the citizens of eleven States. It possessed and used for its own purposes the municipal power of those States. It levied war against the Government on land and sea. It claimed to be a nation. It was treated as such by foreign Powers, who accorded to it the rights of a belligerent, who treated its vessels of war as privateers and not as pirates, who recognized its flag, and who protected, if not received, its ministers. It was treated as a nation for war purposes by our own Government in giving to its people when captured the rights of prisoners of war, and in recognizing its commissions to rob and murder on the high seas as legalizing robbery and murder.

For some time it was doubtful whether this combination would maintain itself as a nation or not. The party now asking us to ignore the past, the horrible and bloody past, and take in friendship the hands of the murderers over the graves of the murdered, this party said it would so maintain itself. The last Democratic national convention proclaimed the victory already on its side. In fact for four years it did succeed in holding the position of a nation, because for that length of time it maintained war. Finally the military forces of this combination were vanquished by those of the United States, and surrendered without terms to the victors. By this means the combination was broken up and those who composed it became a conquered people.

Now, according to the strict law of nations, as always enforced in ancient times, and always now unless restrained by respect to public opinion, a conquered people have no rights, either civil or political. With all the restraints which modern civilization has imposed upon the will of the conqueror, he may still exact all the guarantees necessary to prevent a recurrence of hostilities, and he is the sole and irresponsible judge of those guarantees. His power is therefore absolute, and if he abuses it the law of nations knows no remedy.

Mr. NIBLACK. Will the gentleman allow me to interrupt him for a moment?

Mr. BROOMALL. I will yield for a question.

Mr. NIBLACK. I would like to inquire of the gentleman if he wishes us to understand him

as asserting that those people may be reduced to absolute despotism if the conquering power sees fit to exercise that power over them?

Mr. BROOMALL. I have said that if the power of the conqueror in war is abused the law of nations knows no remedy. I hope the gentleman's question is answered. I am not for using this absolute power for the purpose of abusing it, or of abusing any of the people of the United States, North or South; but I am maintaining the right of the conqueror always in international wars to treat the conquered as it pleases, without responsibility to anybody but the Almighty; and in civil wars, in rebellions, it may treat the conquered and revolted subjects or citizens either as traitors or as prisoners of war; and if it elects to treat them as prisoners of war, then it does away with the distinction between international and civil war.

Mr. NIBLACK. I want to understand the gentleman's position. Does he claim this as a moral right, or as a right of force merely? If the power is abused in this respect, he says there is no remedy. Do I understand him as holding that it would not be a case in which other nations might interfere?

Mr. BROOMALL. Not according to the laws of nations. Other nations may remonstrate, but they can do nothing more.

Mr. NIBLACK. Are not the whole family of nations interested in seeing that the laws of nations are kept inviolate, and when they are grossly outraged may not other nations rightfully interfere?

Mr. BROOMALL. Let me ask the gentleman in turn, why it was that the United States and the other nations of the world did not interfere when England chose, in the exercise of this unlimited and irresponsible power, to shoot her prisoners of war in the Indies from the mouths of cannon? They did not interfere because it was not their business. They had no right to interfere. In fact, if the gentleman will reflect for one moment he will see that there is nothing in his question. A nation is responsible to no other earthly jurisdiction for the exercise of its power. It is the sole and single judge of its power. The very fact of sovereignty renders it irresponsible to any civil authority—makes it the single and sole judge of its actions.

The position taken by the late rebels who are now claiming as a right the restoration of all they have forfeited, the position so forcibly laid down by the gentleman from New York, [Mr. RAYMOND,] as well as by his fellow-laborers, the gentleman from New Jersey [Mr. ROGERS] and the gentleman from Indiana, [Mr. VOORHEES,] is in substance this: though the people of those eleven States became first traitors, then belligerents, and finally suppressed rebels, yet this had no effect upon the States themselves. The States being either sovereign, or component parts of a larger sovereignty, could not be destroyed or in any manner affected by the acts of the people.

According to this theory, there was no time during the last five years when these States had not a right to representation in Congress. In the darkest days of that eventful period the Representatives of South Carolina had a right to seats in this Hall, a right to vote on all questions of supplies to the Army, on all loan bills, on measures touching the punishment of guerrillas and the confiscation of rebel property.

That the Democrats of this body should maintain such a doctrine is not to be wondered at, since, during all that period, the most malignant traitor in the entire South would have voted with them upon all these questions. But it is matter of some surprise that these few but adroit men have managed to convert the gentleman from New York to their political persuasion.

Imagine the Representatives and Senators from these eleven States voting down, by the aid of their northern friends, the bill providing for drafting men to fill the depleted ranks of the Army after the retreat from Richmond; voting down the bill authorizing the issuing of legal tenders, when money could not be borrowed at twelve per cent. per annum; voting down the

bill providing for the enlistment of negroes when the drain upon the white men of the country had begun to be oppressive.

The business of the day might have been rendered still interesting and impressive by some southern member asking an appropriation to fortify the southern harbors, or to pay rebel slave-owners for their confiscated chattels, presenting a bill providing pensions for wounded rebels and the widows of dead ones, or a bill providing for the pay of the keeper of the prison at Andersonville, all of which would probably have received the full party vote, and some of which might have carried.

This is imposing no difficult task on the imagination. If these eleven communities are now full and complete States of the Union, then they always have been. If they are entitled to representation now, then they always have been entitled to representation, and it is not supposing too much to suppose that their Representatives would have voted with their fellow-Democrats of the North, whose position upon these and kindred questions is part of the country's history.

It is argued in some quarters that these eleven States existed in full life and power during the rebellion, but that their functions were suspended for want of proper persons to perform them. Let us examine this position. Now the State of South Carolina, that had its functions suspended, was not the State of South Carolina that constituted one of the confederacy. That State of South Carolina had its functions performed. It had a Governor, legislative bodies, courts, all the machinery of a State, in full and active vigor until after Sherman's famous march. Were there, then, two States of South Carolina, one loyal but dormant, the other active but in rebellion? By the State, in this argument, nobody means the mere land and water embraced within the limits, nor the mere unorganized inhabitants, but the body-politic; and the advocates of this theory must not expect to make many proselytes until they can explain what a State is that has no organized citizens and neither executive, legislative, nor judicial bodies. Where a case of suspended animation continues so thoroughly suspended for four years, one must be permitted to doubt the possibility of resuscitation.

Mr. NIBLACK. I dislike to be troublesome, but the gentleman's remarks attracted my attention, and I wish to understand whether his position is that the States lately in rebellion are not now States within the meaning of the Constitution in the full sense of the word. Is that his argument?

Mr. BROOMALL. I do not distinctly hear the gentleman.

Mr. NIBLACK. I wish to inquire whether I rightly understand him when I understand him to argue that the States lately in rebellion are not now States within the Union within the meaning of the Constitution?

Mr. BROOMALL. With right to representation here?

Mr. NIBLACK. In the general sense—the full sense.

Mr. BROOMALL. With full State powers?

Mr. NIBLACK. Are they not now "States" within the meaning of the Constitution when it speaks of States?

Mr. BROOMALL. I now understand the gentleman's question and I will answer it. These organized communities—for if the newspapers represent correctly, they are somewhat organized—are not, in my opinion, full States of the Union. If I had thought they were, I should not have voted for the concurrent resolution by which the committee on reconstruction was appointed.

Mr. NIBLACK. Then I beg to inquire what, in the gentleman's opinion, are now the relations of the President of the United States, he being a citizen of the State of Tennessee, to the rest of the United States and the people of the United States?

Mr. BROOMALL. I heard that question started early in this session, and it struck me that it would not be repeated. I have yet to

learn that it is necessary, under the Constitution, for a man to be a citizen of any State of the Union before he can become eligible to the offices of President and Vice President. I find nothing in the Constitution which requires it, and I would like to have seen an objection sustained to the reelection of President Lincoln upon the ground that he was a citizen of the District of Columbia, and therefore not a citizen of any State, if he had so been, and if he had chosen he would have so been.

I hope these interruptions will not be taken out of my time.

Mr. NIBLACK. We will extend the time.

Mr. BROOMALL. Undoubtedly the present President of the United States was at the time of the breaking out of the rebellion a citizen of the State of Tennessee and a citizen of the United States. If he had headed an army of the rebellion, if he had joined in the treason, probably the gentleman might have voted for him for Vice President; I certainly should not have done so. In that event he would undoubtedly have become ineligible for that office, because he would have lost his position of citizen of the United States by his own belligerency, and by his State being in a state of war against the United States. But he was not in the rebellion. He was here at the time the rebellion broke out, performing his duties as a Senator of the United States. And when he went to Tennessee he went there in the interests of the Government. He was in no way concerned in the rebellion there. He remained a citizen of the United States just as much as if Tennessee had never rebelled, and was therefore properly eligible to the office of either President or Vice President?

Mr. NIBLACK. One other remark, and I will not interrupt the gentleman further. As to how I might have voted, in the case supposed by the gentleman, that is not the question now. But I beg to inquire of the gentleman what the Constitution means when it says the candidates for President and Vice President must be citizens of different States?

Mr. BROOMALL. The Constitution does not say so.

Mr. NIBLACK. Is not that the purport of it?

Mr. BROOMALL. No, sir. It says they shall not both be citizens of the same State. And I am inclined to think that at the time of the last presidential election Abraham Lincoln and Andrew Johnson were not both citizens of the same State.

Mr. STEVENS. I will ask my colleague [Mr. BROOMALL] this question: suppose the present President had been a citizen of the Territory of Nebraska, would he have been eligible to the office for which he was nominated?

Mr. BROOMALL. That reminds me of a question I asked, in sport, of my colleague [Mr. STEVENS] when he returned from the Baltimore convention. I asked how it was that they had nominated a foreigner for Vice President; and when he expressed some little dissatisfaction at what had been done, I remember I told him I thought a man was eligible for the office of President or Vice President even though he was a citizen of the Territory of Tennessee, if he was a native-born citizen of the United States.

Mr. NIBLACK. Suppose that Mr. Johnson is not a citizen of any State, is he eligible for President or Vice President?

Mr. BROOMALL. I so understand the Constitution. If he is a citizen of the United States, born within the limits of the United States, he is eligible, no matter whether he was born in a Territory that has never become a State or born in the District of Columbia, or inside some of the forts of the country.

Mr. STEVENS. That answers my question.

Mr. NIBLACK. If he was a citizen of Tennessee, would he not be taken out by Tennessee rebelling?

Mr. BROOMALL. I will answer that question by putting another. If all the members of this House except the gentleman from Indiana [Mr. NIBLACK] should choose to get into a riot, would that carry the gentleman from Indiana into the riot unless he chose to go into it? An-

drew Johnson did not choose to be carried into this mischief.

I do not wish to be understood as advocating any extended exercise of unlimited power over the conquered South. The position I take is, that the Government has the right to pursue any policy it may deem best, unembarrassed by rights of defeated rebels; in other words, that those conquered people have no rights except such as are derived from the action or permission of the General Government since the surrender. Let us see whether any party in the country is seriously questioning this position.

The Democrats, who denied the right to coerce States, who voted against supplies of men and money to the Army, against loan bills, who maintained the divine right to hold slaves, who magnified rebel victories and refused credit to our own, and whose constant cry, "You cannot conquer the South!" resounded throughout the land and blended its last echoes with the news of Lee's surrender; the Democrats, I say, have accepted the new condition of things with most commendable amiability, and have so far amended their political creed as to indorse the policy of the President.

These semi-Democrats, looking over each shoulder with the timidity and almost the grace of a startled fawn, lest they should be taking too bold a step, still indorse the policy of the President. Indeed, they claim to be the especial champions of that policy; and so jealous are they in this regard that they almost deny the right of anybody else to occupy the same position. Finally, the Republicans, of course, indorse the policy of the President. Selecting him as they did from the hottest of the contest, tried and found true when all around him were false, they could not mistake his sentiments then, nor could either in so short a time change so as to become antagonistic to the other.

Indorsed as it is by all the political parties of the country, what is the policy of the President? Let us deduce it from his acts, the only legitimate mode. He has taken military possession of the South as a conqueror. He has treated all the old State governments as having fallen with Lee's surrender, or crushed them since, and has founded new ones upon their ruins. In doing this, he has begun with the original elements, the unorganized people, totally ignoring the fact that they had ever been bodies politic, utterly overthrowing even that part of the old governments that provided for the creation of new ones. Can anything be more radical than this? What wonder that my colleague, the distinguished chairman of the Committee on Appropriations, [Mr. STEVENS,] should claim to be a disciple of the President?

More than this, in forming these new States directly from the people, he has prescribed who shall vote, and how and when they shall vote. Having thus obtained State conventions representing the will of the people, he has prescribed for them the constitutions they shall frame. The ordinances of secession of the old extinct State governments must be declared void, not repealed. The rebel debt must be repudiated. The constitutional amendment must be ratified. When all this is done he has reviewed the work of these conventions and told them when to adjourn.

Now, if there is any party in the country demanding measures more radical than these—than the creating of new States by proclamation after destroying the old ones by war—it would be refreshing to see its creed. If it were not for an abiding faith in the sleepless vigilance of the Democracy, who have stood guard for four years over the Constitution, sounding the alarm upon the smallest pretext of an occasion, seeing the Trojan horse in every mule that pointed its ears toward that sacred instrument; if it were not for this faith, one might be permitted to question whether there is in the organic law of the land any provision empowering the Commander-in-Chief of the armies to create civil governments in conquered territory without act of Congress.

But all parties approve of this. The Democrats, the great champions of the constitutional

rights of rebels, pronounce constitutions so formed pure emanations from the will of the people and lineal descendants of the old States. The Republicans say that this first step toward reconstruction is all the most earnest can ask for, if only followed up with the necessary caution and by the necessary legislation; and the gentleman from New York, [Mr. RAYMOND,] from his middle stand-point, responds "amen" to both propositions.

It being conceded, then, that the rebels have no rights to conflict with what has been done, and that being all and even more than all that any party proposes, I care nothing about the peculiar theory upon which each party bases our right to do this. My colleague [Mr. STREVENSON] may say that the rebel States are out of the Union, and may call the people of the South conquered alien enemies. The gentleman from New York [Mr. RAYMOND] may reply that if this were so, by conquering them we have succeeded to their rights and liabilities, and have already assumed the rebel debt—that if a wrong doer takes forcible possession of half my dwelling house and for four years resists all my efforts to dislodge him, when I succeed I become his legal representative, and whether I succeed to assets or not, I not only become responsible for his baker's bill, his grocer's, and his butcher's, but I must pay the very lawyer he employed to defraud me of my rights.

My colleague may call the old organizations dead States if he is only willing to put living ones in their places. And the gentleman from New York may urge that the rebels are merely suspended, if he is only willing to let them hang and make our future arrangements with the loyal men of the South.

The problem, therefore, being the conferring of new rights, and not the ascertaining of old ones, nothing but the supreme legislative power of the Government is competent to the task. The President as Commander-in-Chief may take military possession of the conquered country. He may erect for temporary purposes a species of semi-civil, semi-military government, and he may appoint or let the people elect provisional governors, but he cannot make a State of the Union. Such a power would be monstrous. The framers of the Constitution never intended to give a President, reëligible and a possible candidate for reëlection, the right by proclamation to create additional electoral votes.

I am satisfied that the President assumes no such power. It is only fair to infer that what has seemed an exercise of despotic power, what has seemed executive legislation, is only a temporary expedient forced upon the President by the necessity of the occasion. It is fair to assume that he has only invited these southern communities to frame State governments and submit them to Congress for approval, just as California did. Whether he has made his overtures to the wrong parties is a question that must await the result of his experiment, if indeed that experiment has not already been fully tried.

Upon the political rights of the defeated rebels I have shown that all parties are agreed, since all parties are consenting to the utter ignoring of all their possible rights. But by whom the necessary new political rights are to be conferred upon them seems to be an open question. The Republicans maintain that the functions of the war power extend no further than taking military possession of the conquered country—that creating States therein, either *de novo* or out of old ones, is legislation, and that no department of Government but Congress can pass acts of Congress. They therefore hold that as yet nothing has been done in the business of reconstruction except taking and holding the country subjugated in military possession.

From all this, two very small, but very select parties, the Democrats and the Conservatives, entirely dissent. The former, represented by the gentleman from New Jersey, [Mr. ROGERS,] hold that these southern communities are entitled now, without further action, to representation here. The latter, represented by the gentleman from New York, [Mr. RAYMOND,]

maintain that with certain guarantees, to be fixed upon by the President alone, they will be so entitled. I will leave these gentlemen and their respective parties to settle this slight discrepancy between them in their own way, satisfied that the country has little interest in it. But I will venture to suggest that the organizations existing in the South are not those which existed there six years ago, nor those that formed the rebel confederacy, nor those that surrendered to our arms, nor the legitimate successors of them or any of them, but new creations antagonistic to them, set up over their ruins by the Commander-in-Chief of the armies. I will venture further to suggest that the policy they unite in sustaining would have been called, in the better days of the Republic, the arbitrary exercise of despotic power, and pronounced worthy of the first Napoleon.

While these parties are settling between themselves which of their theories accords best with submission to the unlimited power of a single man, I will direct the attention of the majority of this House and of the country to the question, what shall we do with these conquered people? Now, I do not object to the organizations we find among them performing the functions, to some extent, of State governments, that they emanated from the Executive, nor that their origin was military, nor that they were forced upon the people by the power of the conqueror, though all this is true. If they are republican in form, if they are satisfactory to the people, and, above all, if we can safely intrust to them the rights of the loyal men of the South, of whatever caste or lineage, we ought to legalize now what we might have authorized.

But before this is done, let us be very sure that these organizations contain the requisites, and above all the last one. We would deserve the execration of the civilized world if we should now basely desert our allies in the South, and sacrifice them as a peace offering to our old enemies. I am not demanding sanguinary punishments; I am willing even to dispense with my colleague's wholesale confiscations; but the system of reconstruction that does not effectually guaranty the rights of the Union men of the South cannot command my support.

It has been said in certain quarters that we have already acknowledged these pretended State governments by permitting them to take part in ratifying the late constitutional amendment, and taking advantage of their act to complete the ratification. But who has done this? Not Congress, nor the courts, nor any department of Government that had rights or duties in the premises. It would be curious if we must consult those who have repudiated the Constitution whether we shall amend it or not. What have they to do with altering a compact who deny being parties to it? According to this notion, if these eleven States had held out forever, the remaining twenty-five, not being three fourths of the thirty-six, never could alter the Constitution. Besides, if the votes of those States were needed to ratify the amendment, then there was no amendment to ratify. If these States must be counted in the ratification they were entitled to a voice in the adoption, and if so, the amendment did not pass by the constitutional majority in either branch of Congress. If two thirds of the Senators and Representatives from the loyal States alone could lawfully adopt the amendment, three fourths of the Legislatures of the loyal States alone could lawfully ratify it.

Slavery is indeed abolished among the conquered rebels, but not by virtue of acts of ratification passed by their pretended Legislatures under duress, and by dictation from Washington. No, slavery there fell when the last rebel belligerent surrendered. This position is of no practical importance now since in any view of the case the institution is abolished. But it may serve to explain my view of the *status* of the conquered rebels to consider the effect of conquest on the relation of master and slave.

Slavery in America was not founded upon positive enactment. Laws regulated that rela-

tion, but did not create it. No master could appeal to the statute by virtue of which he owned his slave. In tracing his title the owner could only show that he lawfully succeeded to the rights of the former owner of the mother of his chattel, and so backward step by step until the first owner was found in Africa as the captor, in war of some kind, of the first slave ancestress. In short, slaves are prisoners of war and their descendants, the children following the condition of the mother.

Formerly, according to the customs of the most civilized nations, prisoners of war were at the mercy of the captor, who might kill them, enslave them, or sell them; and even now there is nothing to prevent this except the changed customs of nations.

Barbarians were no better than Christians in this regard, and the princes of Dahomey made war and captured and enslaved prisoners. Now, suppose while yet the slave trade was a divine institution, a prince of that country, with his hundred slaves, had been captured by a neighboring belligerent, sold to some enlightened Englishman, and transported to the markets of the New World. What would become of the relation of master and slave between the prince and his subjects? Would it have been respected in a Washington slave market? Could it have been set up with effect in any court in Christendom? Certainly not; and why? Because conquest reduces the subjects of it to one uniform level. No one can claim rights over another, because none can claim rights except under the law of nations, and the law of nations knows no distinction between the lord and the serf when both are prisoners of war.

When the people of the South submitted their cause of quarrel to the arbitrament of arms, they staked the existence of the institution of slavery upon the result. They must succeed or it must perish. If they had forced terms from the Government their system might have been saved; but a surrender without conditions is a surrender of their entire organized population as prisoners of war, and prisoners of war can hold no prisoners.

All this is in accordance with common reason. The title of these people to their slaves was no better than that of the first captor to the first slave ancestress. In fact it was the same title. Now, if that captor and that ancestress had been themselves captured, does any one pretend that the relation of master and slave would have continued between them?

It follows that no amendment to the Constitution, no proclamation of emancipation was needed to abolish slavery among those who waged war against the Government and were conquered. The result placed master and slave on the same level, from which neither can rise without the consent of the conqueror.

I return to the question, shall Congress legalize these pretended State governments? and to the question on which its decision, in my judgment, mainly depends, can we safely intrust to these governments the rights and interests of the Union men of the South? The proposition itself is rather a startling one. These governments are almost wholly in the hands of men who were actively engaged in the rebellion, traitors, pardoned traitors certainly, but not the less traitors. Executive clemency may remit the punishment, but it cannot uncommit the crime. Was Arnold invited to take part in the Government of the country? Was Burr, after his treason? Yet these experiments would have been trifling compared with what we are asked to try.

Mr. WILSON, of Iowa. Will the gentleman allow me to interrupt him a moment?

Mr. BROOMALL. I will not object if my time is extended.

Mr. WILSON, of Iowa. I would not interrupt the gentleman, only the inquiry I desire to make seems to be pertinent to this branch of the gentleman's argument. I would like to get his opinion, as he seems to have studied the subject somewhat, as to whether the President has the power to grant a special pardon for an

alleged crime before the person charged with its commission has been convicted?

Mr. BROOMALL. I can only answer the question of the gentleman from Iowa [Mr. WILSON] by stating that the law has been so held in the State of Pennsylvania. I am inclined to think that the President can pardon for a crime before conviction. But I express that opinion without an examination of the Constitution and laws of the United States on that particular subject.

Mr. STEVENS. While we are upon that subject I would like to ask my colleague [Mr. BROOMALL] if he thinks that the President can restore property that has been confiscated as belonging to a belligerent, and the proceeds of which have been vested in the United States? Can the President thus restore property confiscated?

Mr. BROOMALL. If I am to answer that question from my own stand-point, I would say that the President has not the power. If I am to answer it from the stand-point of those who have adopted the President's policy to its fullest extent, I should say that I do not know any limit that they make to the power of the Executive.

These men are expected to represent their States in Congress. They are large holders of the rebel debt. Are they therefore especially qualified to vote for taxation to pay the cost of their own subjugation? Some of them have lost a limb in the rebel service; others have lost sons and brothers. Are they therefore especially qualified to vote pensions to our wounded soldiers and the widows of our dead ones? In other countries such men have been hanged, or at the very least have been suffered to expatriate themselves to avoid that punishment. We propose not only to let them aid in governing us, but to turn over to their sole and irresponsible care the lives and property of all the loyal men of the South. An experiment so new in the world's history, and against which the presumptions of common reason are so strong, had better be first tried on a very small scale and watched narrowly.

It was much for a man to stand true to his allegiance in the very heart of the rebellion, withstanding the example and the entreaties of friends, and the threats of enemies. It was no merit to be loyal in Massachusetts. With all the surroundings that incited to loyalty there, a man must be intensely bad to be otherwise. But in South Carolina the case was widely different. There the loyal man was looked upon as a spy and a traitor. For four long years his life was at the mercy of the mob, his dwelling invited the torch of the incendiary. Arrests, imprisonments, tortures, were always anticipations, often realities to him. Yet a body of men interspersed throughout the South, not large, not influential, not even all white men, withstood all this, and for four long years ministered to the comfort and safety of the Union soldier, and prayed in secret for a return of the Federal power and a sight of the old flag. Shall we turn these men over to the tender mercies of their rebel neighbors, whom their very virtues have rendered the worse enemies? Shall we cause these men in very bitterness of heart to curse their loyalty? There may be future rebellions. The new mode of punishing treason does not seem calculated to prevent its repetition. Let our country beware how it tramples upon virtue and makes crime profitable; how it offers a reward for future treason.

[Here the hammer fell.]

Mr. HUBBELL, of Ohio, obtained the floor.

Mr. BROOMALL. I trust that the House will allow me to finish my remarks, inasmuch as I have been so much interrupted.

Mr. WILSON, of Iowa. With the consent of the gentleman from Ohio, [Mr. HUBBELL,] I will move that the gentleman from Pennsylvania [Mr. BROOMALL] be allowed sufficient time to conclude his remarks.

There being no objection, the motion was agreed to.

Mr. BROOMALL. Has any information been

received by Congress or the country from the district lately in rebellion calculated to rebut the presumption that those whom the Government has conquered are still the enemies of the Government? General Grant has visited that country, and after a week of investigation has given us as his opinion that the late rebels are seriously returning to their allegiance, that all disaffection is fast disappearing, and that the people are about ready to be intrusted with their own government.

Now, with all due respect to that distinguished commander, I must be allowed to suggest that he was hardly the man to send upon such an errand. The Lieutenant General is probably the only man in America who, if known in any community in it, could by no possibility ascertain the sentiments of that community. Surrounded, as he doubtless was, by admirers, by flatterers, by politicians, his chance of obtaining access to the common people and learning their sentiments was about as good as if he had made the tour he did inclosed in one of Herring's patent safes. Every man he met was interested in thinking as he thought, in pleasing him in return for the honor of his company. Would any one differ in opinion from General Grant? Would he hear disloyalty, disaffection? What other conclusion could he come to than that, though there might be smothered treason somewhere, it was confined to the common people, the lower orders with whom he did not mingle?

Carl Schurz has also made a tour of investigation among the defeated rebels. He labored under no such difficulties as those which surrounded General Grant. He was not inclosed miles deep with polite, obsequious, and hypocritical disloyalty. His report is before the country, and it by no means favors the experiment we are trying. He thinks Congress had better send one or more investigating committees into that country before intrusting its destiny to conquered rebels.

If there were no other difficulties in the way, can we intrust the negroes unaided to the rule of their late masters? If no new cause of disagreement had occurred between the two classes, what warrant have we for supposing that the dominant race would treat the servile one better than heretofore? And heretofore the former enslaved the latter, and made it a crime to speak of liberty within its hearing. It will be answered that slavery being abolished, a recurrence of that state of things is impossible. This is true in words; but if we leave all power in the hands of the dominant race, we will have done the negro little kindness in abolishing slavery. We will have abolished the duties of the slaveholder while we will have preserved his power and his spirit, only transferring them from the individual to the mass. We will have left the negro a slave to the community, with no one man pecuniarily interested in his well-being.

But a new cause of disagreement has arisen. In the gigantic struggle through which we have passed, the negro has been on the side of the country and against his master. He sought our camps and offered his services at a time when we were base enough to send him back to his master to be scourged. And even under that treatment no Union spy or prisoner, no rebel refugee or deserter, ever threw himself upon the protection of a negro and was betrayed.

Loyal to a Government to which he owed nothing but chains; a Government which had authoritatively pronounced from its highest altar of justice that he had no rights which it was bound to respect; true when the hand that fed him and could crush him became false; shedding his blood and leaving his bones on the most sanguinary battle-fields, fighting, and falling when he fell, always on the side of loyalty, shall we leave him to the tender mercies of his and our old enemies? I answer, without his consent, never!

What then? Shall we confer upon the negro the right of suffrage in the reclaimed territory? Certainly, if that will protect him. While I entirely dissent from the opinion of my colleague

[Mr. KELLEY] that Congress, under the Constitution as it now stands, can regulate the right of suffrage in the States of the Union, yet I cannot doubt its power to do so in the District of Columbia, the Territories, and in the country reclaimed from the rebellion.

At one time the Democrats would have denied this power; but standing committed to the acts of the President in the conquered territory as they do, claiming for him the right to organize States therein and fix the right of suffrage by proclamation, it is hardly worth while to inquire what possible power they could consistently deny to the President and Congress united.

In short, the Government of the United States above all other duties owes it to itself and to humanity to guard the rights of those who, in the midst of rebellion, periled their lives and fortunes for its honor, of whatever caste or lineage they be. These people have common cause. In the darkest day of our country's trial, when treason within and treason without waited only to shake hands over the grave of the Republic, the loyal men of the North demanded the aid of the negro as a soldier. He came amid the sneers of polished disloyalty and the curses of unpunished. He shared the danger and the victory. Now the loyal men of our own lineage in the South are asking the aid of the negro to confront pardoned but unrepentant traitors at the ballot-box. Again the sneers and curses of polished and unpunished disloyalty are brought into requisition. But shall the request be denied? It is within the possible future that the loyal white men and the loyal black men, working side by side, will yet reconstruct the South on the basis of equal rights to all men, not only before the law, but in that which makes the law, thrusting out of the way those abortions assuming to be States, the hybrid products of the most corrupt elements of northern and southern society.

Finally, it remains for me to answer the question with which I set out, for myself and in my own way. I am willing to try these new organizations long enough to show either that they are or are not capable of protecting the interests of all classes, holding them subject to the controlling legislation of Congress, to be used to prevent or correct abuses. If the experiment should run through an entire decade, if these people should be forty years in the wilderness, no evil can result to the South or the country. Almost all of local government may be carried on in these organizations as in the States. Congress, it is true, will lose the services of such men as represented that country in 1861, but Congress can afford to do this.

During this experiment these people will be taxed by the United States without their consent; but this is a small punishment for so enormous a crime as that which brought upon them this state of things. They taxed us without our consent, both in blood and money, for four long years.

In the mean time let the Constitution be so amended that a representative from South Carolina will not be elected by a fourth of the number of electors required for one from Pennsylvania; so that if the negro of the South must be counted as a political element in the Union he shall cast his own vote, and not have it cast by his antagonistic and probably disloyal neighbor.

If the experiment shall result in favor of these organizations, I propose that they be constituted States of the Union by act of Congress. If, as is much more likely, they shall prove unable or unwilling to protect the interests of all classes, and especially of those who never voluntarily rendered aid or comfort to the rebellion, then Congress should thrust them aside as the President did their predecessors, and create new States by the votes and voices of the loyal men of the South only, forever excluding the active and willing traitors. But under no circumstances will I consent to erect any such community into a State of the Union as long as standing armies are needed in that community to preserve the public peace and collect the public revenue.

Mr. HUBBELL, of Ohio, resumed the floor.
 Mr. VOORHEES. I ask the gentleman to yield to me that I may move an adjournment.
 Mr. HUBBELL, of Ohio. I will do so.
 Mr. VOORHEES. I move that the House adjourn.
 The motion was agreed to; and thereupon (at four o'clock, p. m.) the House adjourned.

IN SENATE.

MONDAY, January 29, 1866.

Prayer by Rev. ALEXIS CASWELL, D. D., of Providence, Rhode Island.

The Journal of Friday last was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair has received and been requested to present to the Senate the petition of James Dale Johnston, of Detroit, in the State of Michigan. The petition states that the petitioner is a naturalized citizen of the United States, having been born a subject of the Crown of Great Britain, and he suggests that, if he were taken with arms in his hands in war between the United States and Great Britain, he would be subject to execution as a traitor according to the laws of Great Britain, and he asks that such legislation may be had on the part of Congress as will protect him as an American citizen. If there be no objection, the petition will be received and referred to the Committee on the Judiciary. It is so referred.

Mr. SHERMAN presented a resolution of the Legislature of Ohio, in favor of providing, in all laws which may be passed for the equalization of bounties, the issuing of land warrants, or for any additional compensation, that the same may be paid only to the soldier performing the service or his heirs; which was referred to the Committee on Military Affairs and the Militia.

Mr. RIDDLE presented the petition of Clement Reeves, a citizen of Delaware, praying Congress to make him due allowance for land taken from him by order of the War Department in 1863, upon which a fortification called "Ten Gun Battery" was erected opposite Fort Delaware, for the defense of the Delaware river and the city of Philadelphia, which is still garrisoned by United States troops and held as a permanent fortification; which was referred to the Committee on Military Affairs and the Militia.

Mr. HARRIS. I present a memorial of a large number of citizens of the city of Buffalo, New York, protesting against the continuance of the reciprocity treaty and against any treaty affecting trade with Canada, and recommending that Congress shall retain this whole matter in its own hands, providing for intercourse with the British Provinces in the same manner, by tariff, as with foreign nations. I hardly know what direction this memorial should take, but I believe that similar memorials have generally gone to the Committee on Foreign Relations. I move the reference of this memorial to that committee.

The motion was agreed to.

Mr. SUMNER presented the petition of Charles Grafton Page, of Washington, District of Columbia, praying that a patent may be issued to him for his invention of a magneto-electric apparatus for administering electricity as a remedy for diseases, a distinguishing feature of which invention is an automatic circuit breaker; which was referred to the Committee on Patents and the Patent Office.

He also presented a petition of citizens of Monroe county, Pennsylvania, praying for such an amendment of the Constitution of the United States as will forever prohibit any State from making any distinction in civil rights and privileges among citizens of the United States on account of race or color; which was referred to the joint committee to inquire into the condition of the so-called confederate States.

Mr. WILSON presented the petition of Elisha Baxter, late colonel of the fourth regiment Arkansas mounted infantry, in the service of the

United States, praying that the officers and men of that command may be compensated for services rendered and property lost, as they would have been had they been mustered on the day of their respective enlistments; which was referred to the Committee on Military Affairs and the Militia.

Mr. RAMSEY presented a memorial from the St. Paul Board of Trade, asking for the improvement of the upper Mississippi river, and such arrangements with the British Provinces as will secure the freedom of the Welland and St. Lawrence canals to American vessels, and the enlargement of those canals by the Canadian government to a capacity sufficient to pass vessels of one thousand tons burden from Superior or Chicago to the ocean; and also that a conference by commissioners be held between the Governments of the United States and the English Provinces on this continent, with a view to the adjustment, on a liberal and satisfactory basis, of commercial relations upon the northern frontier of the United States; which was referred to the Committee on Commerce.

He also presented the petition of J. B. Braden, William S. Comb, and S. P. and P. F. Hodges, praying for compensation for articles furnished by them upon a requisition of the military authorities in September, 1862; which was referred to the Committee on Claims.

Mr. MORGAN presented a memorial of assistant assessors of internal revenue in the thirtieth district of New York, praying that the compensation of assistant assessors may be fixed at four dollars per day; which was referred to the Committee on Finance.

Mr. FESSENDEN presented a petition of citizens of Newbern, North Carolina, praying to be relieved from the payment of retrospective taxes claimed to be due under and by virtue of an ordinance of the convention of North Carolina passed and ratified on the 18th of October, 1865; which was referred to the Committee on the Judiciary.

Mr. BUCKALEW presented ten petitions, signed by three hundred and sixty-five non-commissioned officers and privates of the volunteer army of the United States who enlisted in the years 1861 and 1862, praying for additional bounty so as to place them on an equal footing with soldiers who entered the service in 1863 and 1864; which were referred to the Committee on Military Affairs and the Militia.

He also presented the petition of Jacob Tice and seventy-five others, citizens of Marion, Berks county, Pennsylvania, praying for an amendment of the internal revenue laws in respect to taxes assessed on clothing made to order by tailors for customers; which was referred to the Committee on Finance.

Mr. WILLEY. I have received a preamble and resolutions passed by the Legislature of West Virginia in favor of the speedy passage of the bill before Congress in relation to the annexation of the counties of Berkeley and Jefferson to the State of West Virginia, and requesting their representatives in both branches of Congress to use their efforts to have that done as speedily as possible. Inasmuch as that bill has been reported, and is now before the Senate, I move that these resolutions be laid upon the table.

The motion was agreed to.

Mr. WILLEY also presented resolutions of the Legislature of the State of West Virginia in favor of the passage of the bill now pending in the House of Representatives granting lands to the State of West Virginia to aid in the construction of certain railroads; which were referred to the Committee on Public Lands.

Mr. POMEROY presented a memorial of the delegates of the Cherokee nation of Indians, remonstrating against the passage of the bill to consolidate the Indian tribes and to establish civil government in the Indian Territory, and praying for indemnity for the loss of their cattle and crops, lost during the rebellion, and for an equitable settlement for their lands in Kansas; which was referred to the Committee on Indian Affairs.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. CHANDLER, it was

Ordered, That the bill for the relief of James Bawden and the papers relating thereto before the Senate of the United States, on the 12th of March, A. D. 1858, and now on file, be taken from the files and laid before the Committee on Commerce.

On motion of Mr. WILLIAMS, it was

Ordered, That the petition and other papers of Seth Eastman, on the files of the Senate, be referred to the Committee on Claims.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 193) for the relief of Mrs. William L. Herndon, in which it requested the concurrence of the Senate.

REPORTS OF COMMITTEES.

Mr. WILSON. The Committee on Military Affairs and the Militia, to whom was referred a bill (S. No. 50) in relation to the Freedmen's Bureau, have had the same under consideration and directed me to report it back to the Senate and ask that the committee be discharged from its further consideration. As the Senate has acted on this subject, I move that the bill be indefinitely postponed.

The motion was agreed to.

Mr. WILSON, from the Committee on Public Lands, to whom was referred the bill (S. No. 35) to grant one million acres of public lands for the benefit of public schools in the District of Columbia, reported it with an amendment.

Mr. DOOLITTLE, from the Committee on Military Affairs and the Militia, to whom was referred a bill (S. No. 48) amending the act of Congress entitled "An act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished to the Army of the United States," approved July 4, 1864, reported adversely thereon.

MESSAGE FROM THE PRESIDENT.

The following message was received from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary:

To the Senate of the United States:

In answer to the resolution of the Senate of the 17th instant, requesting the President "to communicate to the Senate, if in his opinion not inconsistent with the public interest, any letters from Major General Sheridan, commanding the military division of the Gulf, or from any other officer of the department of Texas, in regard to the present condition of affairs on the southwestern frontier of the United States, and especially in regard to any violation of neutrality on the part of the army now occupying the right bank of the Rio Grande," I transmit herewith a report from the Secretary of War bearing date the 24th instant.

Concurring in his opinion that the publication of the correspondence at this time is not consistent with the public interest, the papers referred to in the accompanying report are for the present withheld.

ANDREW JOHNSON.

WASHINGTON, January 26, 1866.

On motion of Mr. SUMNER, the message was referred to the Committee on Foreign Relations, and ordered to be printed.

NOTICE OF A BILL.

Mr. DAVIS gave notice of his intention to ask leave to introduce a bill making it a penal offense to form Jacobin clubs or other organizations to control the legislation of Congress, or the proceedings of either of the two Houses of Congress.

BILLS INTRODUCED.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 102) to incorporate the National Mutual Protection Homestead Company; which was read twice by its title, referred to the Commit-

tee on the District of Columbia, and ordered to be printed.

Mr. HARRIS. On the first day of the present session I introduced a bill to reorganize the judiciary of the United States. Several other bills similar in their character have been introduced—one by the Senator from Nevada, [Mr. STEWART,] another by the Senator from Missouri, [Mr. HENDERSON.] I have corresponded pretty extensively with the judges of the northern States on the subject; I have taken their suggestions; I have availed myself of the other bills; and I have reconstructed the bill I originally introduced, and I now ask leave to introduce it as a new bill. It will be more convenient to have it in that shape than to introduce it as an amendment to one of the other bills, and I therefore ask leave to introduce a new bill for the purpose of having it printed and referred to the Committee on the Judiciary.

There being no objection, leave was given to introduce a bill (S. No. 103) to reorganize the judiciary of the United States; which was read twice by its title, and referred to the Committee on the Judiciary, and ordered to be printed.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 104) to promote military education; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 105) to grant the right of way to the Cascade Railroad Company through a military reserve in Washington Territory; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. YATES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 106) to protect citizens of the United States in their civil and political rights; which was read twice by its title.

Mr. STEWART. I ask for the reading of that bill in full.

Mr. SUMNER. I should like to hear it.

The Secretary read it, as follows:

Whereas the Constitution of the United States abolishes slavery in all the States and Territories of the United States, whereby all constitutions, laws, or regulations of any State or Territory in aid of slavery, or growing out of the same, are null and void; and whereas by virtue of said abolition of slavery all men in all the States and Territories are citizens and entitled to all the rights and privileges of citizens, subject only to the legal disabilities applicable to white persons; and whereas it is also expressly provided that Congress shall have power to enforce by appropriate legislation the aforesaid power abolishing slavery, which cannot be done without protecting all citizens against all restrictions, penalties, or deprivations of right resulting from slavery, and securing to them all their civil and political rights, including the elective franchise: Therefore,

Be it enacted, &c. That no State or Territory of the United States shall, by any constitution, law, or other regulation whatever, heretofore in force or hereafter to be adopted, make or enforce, or in any manner recognize, any distinction between citizens of the United States, or of any State or Territory, on account of race, color, or condition; and that hereafter all citizens of the United States, without distinction of race, color, or condition, shall be protected in the full and equal enjoyment of all their civil and political rights, including the right of suffrage.

Mr. YATES. I move that the bill be printed, and referred to the joint committee on reconstruction.

The motion was agreed to.

Mr. NORTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 107) to provide for a term of the district court for the district of Minnesota, to be holden at the city of Winona, in said district; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 108) to increase the number of cadets in, and to raise the standard of admission to, the Military Academy; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 109) to rescind the order of the President

designating the Sioux City and Pacific Railroad Company to construct the branch of the Union Pacific railroad from Sioux City; which was read twice by its title, and referred to the Committee on the Pacific Railroad.

Mr. LANE, of Kansas, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 110) for the relief of Samuel D. Le Compt; which was read twice by its title, and referred to the Committee on Private Land Claims.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 25) tendering the thanks of Congress to Vice Admiral David G. Farragut, and to the officers, petty officers, seamen, and marines under his command for their gallantry and good conduct in the action in Mobile bay on the 5th August, 1864; which was read twice by its title, and referred to the Committee on Naval Affairs.

IMPROVEMENT OF PUBLIC GROUNDS.

Mr. FOOT submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Buildings and Grounds be directed to inquire into the expediency of an appropriation for improving, grading, planting, draining, and inclosing the public grounds in the city of Washington, to be expended under the direction of the President of the United States in the execution of such plan or plans as he may adopt, and including also a plan for the extension, improvement, and inclosure of the grounds around the Capitol building.

HOUSE BILL REFERRED.

The bill from the House of Representatives (H. R. No. 193) for the relief of Mrs. William L. Herndon, was read twice by its title, and referred to the Committee on Patents and the Patent Office.

HORSE RAILROAD IN MICHIGAN.

Mr. WILSON. The Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 58) authorizing the Secretary of War to grant the use of a portion of military reserve on St. Clair river, in the State of Michigan, for railroad purposes, have directed me to report it back to the Senate without amendment, and as it is a small matter and is of some little importance to the people in that locality, I am instructed to ask for its present consideration.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the joint resolution on the day it is reported.

Mr. SHERMAN. I should like to hear what it is about.

The PRESIDENT *pro tempore*. It will be read for information.

The Secretary read the joint resolution, which authorizes the Secretary of War to grant to Guerdon O. Williams, of the city of Detroit, in the State of Michigan, and his associates, the use of so much of the military reserve on the St. Clair river, in the State of Michigan, known as the site of Fort Gratiot, as is necessary for extending a horse railroad from Port Huron City to the depot of the Port Huron and Detroit railroad, at such rental and upon such terms and conditions as to him may seem proper, reserving to the United States, however, the right of removing the rails, ties, and other parts of the road whenever the Secretary of War shall direct, without any claim or right for damages on the part of Williams and his associates, or their legal representatives.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. WILSON. I will simply state to Senators that the depot of this Port Huron and Detroit railroad is about a mile and a half from the village. In order to accommodate the people of the place, a horse railroad has been incorporated, and it is necessary that that railroad should pass over a portion of this land. The land is not used; it can do no harm to grant this privilege, but the Secretary of War thought he had not the power to order it or to direct it to be done. This resolution gives that authority,

reserving to the United States the right to take up the railway at any time whenever the Secretary of War shall so direct. I hope the joint resolution will be passed. It will be for the benefit of the people of that locality, and do the Government no harm whatever.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

COLLECTION OF SOLDIERS' CLAIMS.

Mr. WILSON. I now move that the Senate proceed to the consideration of Senate bill No. 88, to restrict the expenses of collecting soldiers' claims against the Government.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

The PRESIDENT *pro tempore*. The pending question is on the first amendment reported by the Committee on Military Affairs and the Militia to the first section of the bill, which will be read.

Mr. CLARK. Before the question is taken on the amendments to that section, unless some Senator desires it, I wish to move an amendment, which is acceptable to the chairman of the Committee on Military Affairs, striking out the whole of that section after the enacting clause, and inserting in lieu thereof what I send to the Chair.

The PRESIDENT *pro tempore*. The proposed amendment of the Senator from New Hampshire will be read for information.

The Secretary read the proposed amendment; which was to strike out all of the first section after the enacting clause, in the following words:

That the fees of agents and attorneys for making out and causing to be executed the papers necessary to establish any claim of any commissioned officer or enlisted man of the regular Army, volunteers, or militia forces when called into the service of the United States, and for collecting such claim for bounty, arrears of pay, or other allowances, shall in no case exceed ten dollars: *Provided*, That the expenses incurred in acknowledging the necessary affidavits in such claims before a notary public, justice of the peace, or other public officer, shall be defrayed by the claimant, but shall in no case exceed the actual amount established by law for such acknowledgments.

And to insert in lieu thereof:

That the fees of agents and attorneys for making out and causing to be executed the necessary papers and for establishing and collecting any claim against the United States for bounty, arrears of pay, allowances, or gratuities for military service, whether due to the person performing such service, his heirs, assigns, or legal representatives, shall in no case exceed ten dollars unless the accounting officer allowing such claim shall, on application, certify a further sum to be just and proper.

Mr. CLARK. The object of the amendment is to provide for certain cases where the amount of the fee to be paid may be larger than ten dollars, but it is not to be paid unless the accounting officer who examines the claim certifies that it is just and proper. The provision limiting the fees to ten dollars will include undoubtedly very much the largest portion of the claims, and probably that sum is quite sufficient, and I give my support entirely to it, because there have been great enormities practiced by these claim agents; but still there is a class of cases, few in number, which may be provided for in the way suggested by this amendment.

Mr. WILSON. I am very willing to accept or assent to that amendment. I have made some inquiries in regard to it, and I find that there will be no difficulty in the matter. The other day I consulted with the Second Auditor on the subject, and he is of the opinion that the amendment will be practical in its operations, and I am perfectly willing to accept it. There may be the cases of some officers, and perhaps of a few privates, where the labor performed will be of more value than ten dollars, and in such a case the accounting officer may certify to the fact; but, as the Auditor says, where there will be one case of that kind, there will be thirty where the ten-dollar fee will be ample; and I have no doubt that in the administration of the law the accounting officers will be careful not to certify anything unless it is absolutely necessary.

Mr. HENDRICKS. The proposition of the Senator from New Hampshire seems plausible, but I suggest to him that the agents in distant portions of the country cannot make any of these arrangements with the Auditor's office, and hence this will be a proposition for the benefit of agents in this city, but will not inure to the benefit of agents in distant localities. I do not know upon what principle it can rest. I suppose it is upon the proposition that the soldiers who are discharged from the public service are not competent to take care of themselves. That has been the argument in favor of special legislation for the colored people; but I do not admit that it is a true argument in regard to the soldiers. Before they went into the Army they were competent to make contracts with their neighbors and lawyers just like anybody else, and I do not see why their having served in the Army and coming home discharged soldiers takes away from them their competency to transact any business they may have to do.

The effect of this bill will be to take away these cases from the management of the reliable lawyers of the country and to give them to a class of men whom you must be pursuing with the law all the time. I think we should encourage the soldiers in going to established and well-known lawyers. As a general thing I do not think lawyers having a good class of business would desire to do this sort of agency business, but still it is for the benefit of the soldiers that they should do it rather than mere agents who know nothing about the law. I think this measure will be an injury to the very persons that we want to protect. If the Senator from Massachusetts can show that the labor in preparing the papers in one case is worth just as much as in any other case, it would be an argument in favor of his bill, perhaps; but I presume it is worth as much to make out the papers in some particular cases as in three other cases. If ten dollars is the minimum, perhaps fifty dollars would not be a proper maximum, considering the amount of labor and the amount of skill required.

I do not think this is a good bill. I cannot see upon what principle it rests. I know the Senator the other day referred to the fact that this restriction was imposed upon the fees of pension agents, but I think that has no basis to rest upon. The argument there is that women, who are not very competent to manage their own affairs, are interested in pensions. Here is a case where we propose to regulate by law the contract of a man who is competent to manage his own affairs. I think this is an imputation upon the intelligence of the soldiers. If I had been a man competent to contract and make my own bargains with lawyers before I went into the Army, I should not thank Congress for making a law for me after I came back, in respect to those persons or any other.

Mr. DOOLITTLE. If this matter had no connection with the Government itself, perhaps the argument of the Senator from Indiana might be controlling and conclusive; but the truth is, this is a business in which the Government itself is connected as a party, the party who proposes to pay, the party who proposes to secure the pay to whom it belongs; and therefore, in dealing in relation to a matter with which the Government itself is connected, I think it is no violation of the rights of citizens to make contracts, that the Government does impose terms upon which persons may engage in collecting claims against the Government in behalf of soldiers, to prevent the soldiers from being imposed upon. They may provide, without a violation of the rights of individuals, that the person who takes a claim against the Government to collect shall not charge on that claim more than a given amount. Ten dollars is the sum specified in this bill. No one claims that the precedent which was established in reference to the fees for the collection of pensions has led to any bad results, and therefore I am inclined to sustain this bill as it came to us from the committee.

Mr. CLARK. I do not think that the amendment that I have offered as a substitute for the

first section of the bill is justly or fairly obnoxious to the criticism which has been made upon it by the Senator from Indiana, that it will be for the benefit of the claim agents in this District, or those who live near the Department, and not for the benefit of those who live remote from the Department. Now, as I understand the provision, wherever a man prosecutes a claim and obtains a bounty or a gratuity for a soldier, and thinks he should have more than the specified fee of ten dollars provided by law, he is in that case to make application to the Auditor or the accounting officer for an extra allowance in that individual case. There is no general arrangement made that such a man shall have more than the fee allowed by law; but when the agent transmits his papers to the Department for the purpose of getting the claim, if his services have been worth more than ten dollars, he can just as well transmit the evidence that they have been worth more than ten dollars as he can transmit the evidence that there is any claim at all. He can as well transmit that evidence from Minnesota as he can the papers in regard to the claim, and at the same time; and if the parties fairly agreed when the man undertook the work that the attorney should have more than ten dollars, and he transmits such an agreement, undoubtedly in a fair case the Auditor or accounting officer would allow it. The amendment is designed only for the protection of those individuals who go to these agents casually and without making an agreement, or who are taken advantage of by the prosecuting claim agents.

I heartily concur in the object sought to be accomplished by the Senator from Massachusetts. It would be unfair, it would be cruel, to permit these harpies who live upon the blood of the men who have fought your battles, to take away from them the bounties and gratuities which the Government may offer them, as they do. It would be heartless to permit them, under false or spurious names, to get this money in their hands, and then, by the formation of new firms, moving away, or anything of that kind, to cheat the soldiers out of it. The Government is bound to protect the men who have fought its battles, and it ought to do it, and I hope it will do it.

The PRESIDENT *pro tempore*. By unanimous consent, the amendments reported by the Committee on Military Affairs and the Militia to the first section will be laid aside, and the question will be taken upon the amendment proposed by the Senator from New Hampshire, to strike out the whole of the first section after the enacting clause, and to insert what has been read. The question is on that amendment.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The amendments reported from the Committee on Military Affairs and the Militia to the second section of the bill will be read.

The Secretary read the next amendment, which was in section two, line five, after the word "allowances" to insert "or gratuities," and in line six, after the word "contract" to insert the word "or;" so that it will read:

That any agent or attorney who shall directly or indirectly demand or receive any greater compensation than is provided for by the first section of this act for his services in the collection of any claim for bounty, arrears of pay, or other allowances or gratuities, or who shall contract or agree to prosecute or collect any such claim, on the condition that he shall receive a per cent. upon any portion of such claim, &c.

The amendment was agreed to.

The next amendment was in section two, line ten, to strike out the word "to" and insert "from," and in line twelve to strike out the word "fined" and insert "punished by fine," and in line thirteen to insert the word "by" before the word "imprisonment;" so that the clause will read:

Or who shall wrongfully withhold the payment of the proceeds of such claim from the claimant shall be deemed guilty of a misdemeanor, and upon conviction thereof shall, for every such offense, be punished by fine not exceeding \$300, or by imprisonment at hard labor not exceeding two years, or both, according to the circumstances and aggravations of the offense.

The amendment was agreed to.

The PRESIDENT *pro tempore*. That completes the amendments reported from the committee. The bill is still before the Senate, and open to amendment.

Mr. CLARK. To make the second section conform to the first as amended, I move further to amend that section by inserting after the word "receive" at the end of the second line the words, "without the certificate of the accounting officer."

The amendment was agreed to.

Mr. CLARK. I move further to amend that section in the eighth line by inserting after the word "claim" the words, "or who shall receive such per cent." As the section now stands, it provides simply for punishing the man who shall agree to receive any greater compensation than is provided in the first section. I want to provide also a punishment for the receiving of it as well as the agreeing to do it.

The amendment was agreed to.

Mr. CLARK. I move further to amend the same section by inserting after the word "claim" at the end of the ninth line the words "or any part thereof."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. SAULSBURY. If I believed that the Congress of the United States had any authority to pass such a bill as this, and it would do any good, I would cheerfully vote for it. I have no doubt it is true, as stated by Senators on this floor, that great wrongs have been perpetrated by agents in the collection of the claims of soldiers, but I know of no authority of the Congress of the United States to meddle with that evil. There is a remedy for it, sir, and that remedy is available to every soldier in the United States, and it will do him more good if he will observe it than all the enactments Congress can make on the subject; and that is, instead of intrusting the collection of his claims to irresponsible agents, persons who advertise that they will specially attend to this business, to go to the best, most honest, and able lawyer in his neighborhood, and get him to attend to his business, and he will attend to it properly. If the soldiers will pursue that course, just as you and I, sir, would do in any private transactions in the business of life where we might need an attorney, they will save a great deal more to themselves, and be a great deal more benefited than they can possibly be by such an enactment as this. As I do not believe Congress has any authority to pass this bill, and as I believe it will be productive of no good whatever, I ask for the yeas and nays on its passage.

The yeas and nays were ordered.

Mr. HENDRICKS. I suggest to the Senator from Massachusetts who introduced this bill that there is an evil provided against in it which I think it is competent for Congress to reach, and that is, the refusal or failure on the part of any agent or attorney to pay the money over after he shall have collected it; but the fine imposed by the bill I believe is only \$300. In many instances they collect much more money than that. If you want to prevent that refusal or failure, the fine ought to be at least as high as the amount of money that will come into the hands of the agent. I doubt if that amount of fine will accomplish what the Senator desires. I believe Congress can punish that, but I do not think they can regulate a contract.

Mr. WILSON. I do not know that I precisely understand the Senator.

Mr. HENDRICKS. I believe the fine that may be imposed upon a party who fails to pay the money over is limited to \$300. I suggest that that fine is not large enough, if you intend to prevent that offense.

Mr. WILSON. It is punishable by a fine of \$300, or by imprisonment at hard labor not exceeding two years, or both. I think the punishment is quite sufficient.

Mr. HENDRICKS. Imprisonment may be added besides the fine?

Mr. CLARK. Yes, sir; a fine of \$300, or imprisonment for two years, or both.

The question being taken by yeas and nays on the passage of the bill, resulted—yeas 34, nays 7; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Cowan, Cragin, Dixon, Fessenden, Foot, Foster, Grimes, Harris, Howard, Howe, Johnson, Kirkwood, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Norton, Nye, Poland, Pomeroy, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—34.

NAYS—Messrs. Buckalew, Davis, Guthrie, Hendricks, Riddle, Saulsbury, and Stockton—7.

ABSENT—Messrs. Brown, Conness, Creswell, Doolittle, Henderson, McDougall, Nesmith, Ramsey, and Wright—8.

So the bill was passed.

PROTECTION OF CIVIL RIGHTS.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of Friday, which is the bill (S. No. 61) to protect all persons in the United States in their civil rights, and furnish the means of their vindication, which is now before the Senate as in Committee of the Whole.

Mr. TRUMBULL. Mr. President—

Mr. DIXON. With the consent of the Senator from Illinois, I will ask that the bill (S. No. 71) relative to the sale of postage stamps and stamped envelopes on credit be now taken up. I think it will take but a very short time to pass it.

Mr. TRUMBULL. I presume the Senator can pass it in the morning hour to-morrow.

Mr. DIXON. I will not urge it if the Senator objects, but I think it is of importance and ought to be passed at once.

Mr. TRUMBULL. Probably it will not give rise to debate, and I presume there will be time to pass it in the morning hour to-morrow.

Mr. DIXON. I will not press the motion.

Mr. TRUMBULL. Before proceeding with the bill under consideration, I desire to offer an amendment, to insert after the word "that," in the third line of the first section, the words, "all persons of African descent born in the United States are hereby declared to be citizens of the United States and;" so that the section will read:

That all persons of African descent born in the United States are hereby declared to be citizens of the United States, and there shall be no discrimination in civil rights or immunities among the inhabitants of any State or Territory of the United States on account of race, color, or previous condition of slavery, &c.

Mr. President, I regard the bill to which the attention of the Senate is now called as the most important measure that has been under its consideration since the adoption of the constitutional amendment abolishing slavery. That amendment declared that all persons in the United States should be free. This measure is intended to give effect to that declaration and secure to all persons within the United States practical freedom. There is very little importance in the general declaration of abstract truths and principles unless they can be carried into effect, unless the persons who are to be affected by them have some means of availing themselves of their benefits. Of what avail was the immortal declaration "that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness," and "that to secure these rights Governments are instituted among men," to the millions of the African race in this country who were ground down and degraded and subjected to a slavery more intolerable and cruel than the world ever before knew? Of what avail was it to the citizen of Massachusetts, who, a few years ago, went to South Carolina to enforce a constitutional right in court, that the Constitution of the United States declared that the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States? And of what avail will it now be that the Constitution of the United States has declared that slavery shall not exist, if in the late slaveholding States laws are to be enacted and enforced depriving persons

of African descent of privileges which are essential to freemen?

It is the intention of this bill to secure those rights. The laws in the slaveholding States have made a distinction against persons of African descent on account of their color, whether free or slave. I have before me the statutes of Mississippi. They provide that if any colored person, any free negro or mulatto, shall come into that State for the purpose of residing there, he shall be sold into slavery for life. If any person of African descent residing in that State travels from one county to another without having a pass or a certificate of his freedom, he is liable to be committed to jail and to be dealt with as a person who is in the State without authority. Other provisions of the statute prohibit any negro or mulatto from having fire-arms; and one provision of the statute declares that for "exercising the functions of a minister of the Gospel free negroes and mulattoes, on conviction, may be punished by any number of lashes not exceeding thirty-nine on the bare back, and shall pay the costs." Other provisions of the statute of Mississippi prohibit a free negro or mulatto from keeping a house of entertainment, and subject him to trial before two justices of the peace and five slaveholders for violating the provisions of this law. The statutes of South Carolina make it a highly penal offense for any person, white or colored, to teach slaves; and similar provisions are to be found running through all the statutes of the late slaveholding States.

When the constitutional amendment was adopted and slavery abolished, all these statutes became null and void, because they were all passed in aid of slavery, for the purpose of maintaining and supporting it. Since the abolition of slavery, the Legislatures which have assembled in the insurrectionary States have passed laws relating to the freedmen, and in nearly all the States they have discriminated against them. They deny them certain rights, subject them to severe penalties, and still impose upon them the very restrictions which were imposed upon them in consequence of the existence of slavery, and before it was abolished. The purpose of the bill under consideration is to destroy all these discriminations, and to carry into effect the constitutional amendment. The first section of the bill, as it is now proposed to be amended, declares that all persons of African descent shall be citizens of the United States, and—

That there shall be no discrimination in civil rights or immunities among the inhabitants of any State or Territory of the United States on account of race, color, or previous condition of slavery; but the inhabitants of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom to the contrary notwithstanding.

This section is the basis of the whole bill. The other provisions of the bill contain the necessary machinery to give effect to what are declared to be the rights of all persons in the first section, and the question will arise, has Congress authority to pass such a bill? Has Congress authority to give practical effect to the great declaration that slavery shall not exist in the United States? If it has not, then nothing has been accomplished by the adoption of the constitutional amendment. In my judgment, Congress has this authority. It is difficult, perhaps, to define accurately what slavery is and what liberty is. Liberty and slavery are opposite terms; one is opposed to the other. We know that in a civil government, in organized society, no such thing can exist as natural or absolute liberty. Natural liberty is defined to be the—

"Power of acting as one thinks fit, without any restraint or control, unless by the law of nature, being a right inherent in us by birth, and one of the gifts of God to man in his creation, when he imbued him with the faculty of will."

But every man who enters society gives up a part of this natural liberty, which is the liberty of the savage, the liberty which the wild beast has, for the advantages he obtains in the protection which civil government gives him. Civil liberty, or the liberty which a person enjoys in society, is thus defined by Blackstone:

"Civil liberty is no other than natural liberty, so far restrained by human laws and no further, as is necessary and expedient for the general advantage of the public."

That is the liberty to which every citizen is entitled; that is the liberty which was intended to be secured by the Declaration of Independence and the Constitution of the United States originally, and more especially by the amendment which has recently been adopted; and in a note to Blackstone's Commentaries it is stated that—

"In this definition of civil liberty it ought to be understood, or rather expressed, that the restraints introduced by the law should be equal to all, or as much so as the nature of things will admit."

Then, sir, I take it that any statute which is not equal to all, and which deprives any citizen of civil rights which are secured to other citizens, is an unjust encroachment upon his liberty; and is, in fact, a badge of servitude which, by the Constitution, is prohibited. We may, perhaps, arrive at a more correct definition of the term "citizen of the United States" by referring to that clause of the Constitution which I have already quoted, and which declares that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." What rights are secured to the citizens of each State under that provision? Such fundamental rights as belong to every free person. Story, in his Commentaries, in commenting upon this clause of the Constitution of the United States, says:

"The intention of this clause was to confer on citizens, if one may so say, a general citizenship, and to communicate all the privileges and immunities which the citizens of the same State would be entitled to under the like circumstances."

There have been several decisions of courts upon this clause of the Constitution. It was decided by the general court of the State of Maryland (Chase and Duval, justices) that this section meant that the citizens of all the States should have the peculiar advantage of acquiring and holding real as well as personal property, and that such property should be protected and secured by the laws of the State in the same manner as the property of the citizens of the State is protected. It meant that such property shall not be liable to any tax or burdens which the property of the citizen is not subject to. It may also mean that, as creditors, they shall be on the same footing with the State creditor in the payment of the debts of a deceased debtor. It secures and protects personal rights. (Campbell vs. Morris, 3 Harris and McHenry, 535.)

This clause of the Constitution, according to the decision of the Indiana court made in 1797, "secures and protects personal rights" and gives to every person who is a citizen of one State the same rights to hold property, the same personal rights, that the citizen of that State has.

A decision by the supreme court of Massachusetts upon this clause of the Constitution declares that—

"The privileges and immunities secured to the people of each State in every other State can be applied only in case of removal from one State into another. By such removal they become citizens of the adopted State without naturalization, and have a right to sue and be sued as citizens; and yet this privilege is qualified and not absolute, for they cannot enjoy the right of suffrage or of eligibility to office without such term of residence as shall be prescribed by the constitution and laws of the State into which they shall remove. They shall have the privileges and immunities of citizens; that is, they shall not be deemed aliens, but may take and hold real estate; and may, according to the laws of such State, eventually enjoy the full rights of citizenship without the necessity of being naturalized."—6 Pickering, 92, Abbott vs. Bayley.

But, sir, the decision most elaborate upon this clause of the Constitution is to be found in Washington's Circuit Court Reports, in a case which was reserved for consideration after argument. I will read several sentences from the opinion of the circuit judge, because it will be

seen that he enumerates the very rights belonging to a citizen of the United States which are set forth in the first section of this bill. He says:

"The next question is, whether this act infringes that section of the Constitution which declares that 'the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States'?"

"The inquiry is, what are the privileges and immunities of citizens in the several States? We feel no hesitation in confining these expressions to those privileges and immunities which are in their nature fundamental; which belong of right to the citizens of all free Governments; and which have at all times been enjoyed by the citizens of the several States which compose this Union, from the time of their becoming free, independent, and sovereign. What these fundamental principles are it would perhaps be more tedious than difficult to enumerate. They may, however, be all comprehended under the following general heads: protection by the Government; the enjoyment of life and liberty, with the right to acquire and possess property of every kind; and to pursue and obtain happiness and safety, subject, nevertheless, to such restraints as the Government may justly prescribe for the general good of the whole. The right of a citizen of one State to pass through, or to reside in any other State, for purposes of trade, agriculture, professional pursuits, or otherwise; to claim the benefit of the writ of *habeas corpus*; to institute and maintain actions of any kind in the courts of the State; to take, hold, and dispose of property, either real or personal, and an exemption from higher taxes or impositions than are paid by the other citizens of the State, may be mentioned as some of the particular privileges and immunities of citizens, which are clearly embraced by the general description of privileges deemed to be fundamental; to which may be added the elective franchise, as regulated and established by the laws or constitution of the State in which it is to be exercised."—*Corfield vs. Corryell*, 4 Washington's Circuit Court Reports, page 380.

This judge goes further than the bill under consideration, and he lays it down as his opinion that under this clause of the Constitution, securing to the citizen of each State all the privileges and immunities of citizens of the several States of the United States, a person who is a citizen in one State and goes to another is even entitled to the elective franchise; but at all events he is entitled to the great fundamental rights of life, liberty, and the pursuit of happiness, and the right to travel, to go where he pleases. This is a right which belongs to the citizen of each State.

Now, sir, if that be so, this being the construction as settled by judicial decisions to be put upon the clause of the Constitution to which I have adverted, how much more are the native-born citizens of the State itself entitled to these rights! In my judgment, persons of African descent, born in the United States, are as much citizens as white persons who are born in the country. I know that in the slaveholding States a different opinion has obtained. The people of those States have not regarded the colored race as citizens, and on that principle many of their laws making discriminations between the whites and the colored people are based; but it is competent for Congress to declare, under the Constitution of the United States, who are citizens. If there were any question about it, it would be settled by the passage of a law declaring all persons born in the United States to be citizens thereof. That this bill proposes to do. Then they will be entitled to the rights of citizens. And what are they? The great fundamental rights set forth in this bill: the right to acquire property, the right to go and come at pleasure, the right to enforce rights in the courts, to make contracts, and to inherit and dispose of property. These are the very rights that are set forth in this bill as appertaining to every free-man.

Mr. VAN WINKLE. If the gentleman will permit me, before he passes from this subject I should like him to explain, if these Africans are not now citizens of the United States, where is the authority by law of Congress to make them citizens?

Mr. TRUMBULL. The Constitution of the United States confers upon Congress the right to provide uniform rules of naturalization.

Mr. VAN WINKLE. For the admission of foreigners.

Mr. TRUMBULL. Not necessarily of foreigners.

Mr. VAN WINKLE. For the naturalization of foreigners, if I recollect the language.

Mr. TRUMBULL. If the Senator from West Virginia will look into the statutes, he will find that it has happened in the history of the Government more than once that Congress by general act has naturalized a whole people. I think there was an act of that kind in reference to the Stockbridge Indians, an act of that character making citizens of the United States of the people of Texas and the people of Florida I think. There have been several general laws of that character; and the authority under the Constitution of the United States to declare who shall be citizens of the United States is, as I understand, vested in Congress and nowhere else. My friend from Massachusetts [Mr. SUMNER] has handed me the constitutional clause on this subject, which declares that Congress shall have power "to establish a uniform rule of naturalization." Nothing is said about foreigners.

Mr. VAN WINKLE. I perceived my mistake before the gentleman read the clause.

Mr. TRUMBULL. So, sir, I take it that it is competent for Congress to declare these persons to be citizens. They being now free and citizens of the United States, as citizens they are entitled, as I have undertaken to show, to the great fundamental rights belonging to free citizens, and we have a right to protect them in the enjoyment of them.

Now, sir, referring again to that other clause of the Constitution upon which there have been judicial constructions, is it not manifest that it was competent for the Congress of the United States to have passed a law that would have protected Mr. Hoar, who went from Massachusetts to South Carolina for the purpose of testing a question in the courts? Would it not have been competent, under these decisions, for Congress to have passed a law punishing any person who should have undertaken to deprive him of this right, and to have vested the proper authorities with power if necessary to call upon the Army and Navy of the United States to protect him in this right? I apprehend it would.

Then, under the constitutional amendment which we have now adopted, and which declares that slavery shall no longer exist, and which authorizes Congress by appropriate legislation to carry this provision into effect, I hold that we have a right to pass any law which, in our judgment, is deemed appropriate, and which will accomplish the end in view, secure freedom to all people in the United States. The various State laws to which I have referred—and there are many others—although they do not make a man an absolute slave, yet deprive him of the rights of a freeman; and it is perhaps difficult to draw the precise line, to say where freedom ceases and slavery begins, but a law that does not allow a colored person to go from one county to another is certainly a law in derogation of the rights of a freeman. A law that does not allow a colored person to hold property, does not allow him to teach, does not allow him to preach, is certainly a law in violation of the rights of a freeman, and being so may properly be declared void.

Without going elaborately into this question, as my design was to state rather than argue the grounds upon which I place this bill, I will only add on this branch of the subject that the clause of the Constitution under which we are called to act in my judgment vests Congress with the discretion of selecting that "appropriate legislation" which it is believed will best accomplish the end and prevent slavery.

Then, sir, the only question is, will this bill be effective to accomplish the object, for the first section will amount to nothing more than the declaration in the Constitution itself unless we have the machinery to carry it into effect. A law is good for nothing without a penalty, without a sanction to it, and that is to be found in the other sections of the bill. The second section provides:

That any person who under color of any law, statute, ordinance, regulation, or custom, shall subject or cause to be subjected any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or involun-

tary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding \$1,000, or imprisonment not exceeding one year, or both, in the discretion of the court.

This is the valuable section of the bill so far as protecting the rights of freedmen is concerned. That they are entitled to be free we know. Being entitled to be free under the Constitution, that we have a right to enact such legislation as will make them free, we believe; and that can only be done by punishing those who undertake to deny them their freedom. When it comes to be understood in all parts of the United States that any person who shall deprive another of any right or subject him to any punishment in consequence of his color or race will expose himself to fine and imprisonment, I think such acts will soon cease.

I think it will only be necessary to go into the late slaveholding States and subject to fine and imprisonment one or two in a State, and the most prominent ones I should hope at that, to break up this whole business.

The third section of the bill provides for giving to the courts of the United States jurisdiction over all persons committing offenses against the provisions of this act, and also over the cases of persons who are discriminated against by State laws or customs. It provides further that no person whose equal civil rights are denied him in the State courts shall be tried by those courts for any offense, but that he shall have a right to remove his cause into the courts of the United States, and be there tried if it be for an offense against the laws of the United States, according to those laws, and if it be for an offense which is not provided for by the laws of the United States, then according to the common law as modified by the statutes and constitution of the State where the offense is committed, so far as they are not inconsistent with the Constitution and laws of the United States.

The other provisions of this bill I shall not go over in detail. Most of them are copied from the late fugitive slave act, adopted in 1850 for the purpose of returning fugitives from slavery into slavery again. The act that was passed at that time for the purpose of punishing persons who should aid negroes to escape to freedom is now to be applied by the provisions of this bill to the punishment of those who shall undertake to keep them in slavery. Surely we have the authority to enact a law as efficient in the interests of freedom, now that freedom prevails throughout the country, as we had in the interest of slavery when it prevailed in a portion of the country.

Mr. COWAN. I should like to ask the honorable Senator a question here. I have not had an opportunity of examining the bill very fully; but, as I understand the bill, this kind of case might occur: the State judge might be honestly of opinion that a State law was not in conflict with the United States law, and yet, as I understand it, he may be dragged into the United States court and punished in that court as a criminal by fine and imprisonment. I would ask if that has been well considered; if it is supposed that that kind of practice will work in this country? Would it not be better, if this man has mistaken the law and has executed some law which is in conflict with United States laws, that a writ of error should lie to the Supreme Court of the Union, and have it corrected in that way?

Mr. TRUMBULL. I believe that a bill is pending on your table now to allow writs of error in certain criminal cases to be taken to the Supreme Court of the United States; but, sir, the answer to the Senator from Pennsylvania is this: it requires a union of act and intention to commit a crime. A man must intend to commit it; and if an honest judge misconceives the law, and makes a mistake in judgment without any intention to disregard the law, would any jury in America convict him? He will be in no danger.

Mr. COWAN. Then I will ask if that does

not come in conflict with another principle of law—whether a judge in a criminal court can be held responsible for the integrity of his intentions as to the decisions he makes?

Mr. TRUMBULL. That would involve many considerations, and they will be settled by the courts when they arise. If he is not responsible, I have faith that the judges of the United States courts will so decide. The bill provides that persons who subject others to punishment in consequence of race or color and not in consequence of crime, shall themselves be punished, and that this may be done in the United States courts.

The various other provisions of this bill make it the duty of the marshals and deputy marshals, the commissioners of the United States courts, the officers and agents of the Freedmen's Bureau, the district attorneys, and others, to be vigilant in the enforcement of the act. They provide what fees shall be paid and the manner of proceeding, just as efficiently, I believe, and not more efficiently, than was provided by the old laws for the apprehension and punishment of a person who aided a slave to escape; and if those laws were constitutional, and they were so held, this law must be constitutional.

The last section of the bill provides "that it shall be lawful for the President of the United States, or such person as he may empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia, as shall be necessary to prevent the violation, and enforce the due execution, of this act." It is intended, if this bill becomes a law, to clothe the officers charged with its execution with all the power necessary to make it effective. This last clause is a section copied from a statute of 1838 in reference to another subject. That it is competent to confer such authority I have no doubt. The Constitution itself says Congress shall have authority "to provide for calling forth the militia to execute the laws of the Union;" and whenever the civil tribunals, in the ordinary course of proceedings, are unable to enforce the laws it is competent to call to their assistance the Army and Navy and the whole power of the Government, if need be, to see that the law is executed and observed.

With this bill passed into a law and efficiently executed we shall have secured freedom in fact and equality in civil rights to all persons in the United States. There will be no objection to this bill that it undertakes to confer judicial powers upon some other authority than the courts. It may be assailed as drawing to the Federal Government powers that properly belong to "States;" but I apprehend, rightly considered, it is not obnoxious to that objection. It will have no operation in any State where the laws are equal, where all persons have the same civil rights without regard to color or race. It will have no operation in the State of Kentucky when her slave code and all her laws discriminating between persons on account of race or color shall be abolished.

Mr. McDOUGALL. I beg leave to ask the Senator how he interprets the term "civil rights," in the bill.

Mr. TRUMBULL. The first section of the bill defines what I understand to be civil rights: the right to make and enforce contracts, to sue and be sued, and to give evidence, to inherit, purchase, sell, lease, hold, and convey real and personal property, and to full and equal benefit to all laws and proceedings for the security of person and property. These I understand to be civil rights, fundamental rights belonging to every man as a free man, and which under the Constitution as it now exists we have a right to protect every man in.

Mr. McDOUGALL. Allow me to remark that I think all those rights should be conceded. Do I understand that this bill does not go further than to give protection to the enjoyment of life and liberty and the pursuit of happiness and the protection of the courts, and to have justice administered to all? Do I understand that it is not designed to involve the question of political rights?

Mr. TRUMBULL. This bill has nothing to do with the political rights or *status* of parties. It is confined exclusively to their civil rights, such rights as should appertain to every free man.

Having stated this much in regard to the object of the bill and its main features, I submit it to the Senate, and shall not further occupy its attention at the present time, and perhaps not at all unless it should be to reply to suggestions which may be made by others.

Mr. SAULSBURY. Mr. President, I regard this bill as one of the most dangerous that was ever introduced into the Senate of the United States, or to which the attention of the American people was ever invited. During the last four or five years I have sat in this Chamber and witnessed the introduction of bills into this body which I thought obnoxious to many very grave and serious constitutional objections; but I have never since I have been a member of the body seen a bill so fraught with danger, so full of mischief, as the bill now under consideration. Deeming it to be of this character, duty to my country, duty to my State, duty to myself as a man, as a citizen, and as a legislator, duty to my children, and duty to my fellow-citizens everywhere, demands that I should utter my protest against its enactment into a law. Before, however, I proceed to consider it in the light of the Constitution as it existed previous to the recent amendment, let me notice the basis of authority for it as claimed by the honorable Senator from Illinois.

I presume that honorable Senator would not contend that, independently of the constitutional amendment, Congress had a right to enact this law, although I know that many have claimed powers equally extensive. But from the argument of the honorable Senator, I infer that the sole basis of authority in his judgment for passing the bill is the amendment to the Constitution of the United States abolishing slavery. If that be so, it is admitted that before the adoption of that amendment Congress had not the right to enact such a law as this. Let us consider then for one moment whether the adoption of that amendment gave to Congress such an authority.

What was that amendment? That neither slavery nor involuntary servitude should exist in the United States, except as a punishment for crime whereof the party should have been duly convicted. Now, here is a complete answer, in my judgment, to the argument of the honorable Senator, based upon the authority conferred by that amendment. Before and at the time of the adoption of that amendment the people of the United States were composed of persons of different races, the two main portions of which were white and black; the whites were free; a portion of the black population were free and a portion were slaves. In the State of Maryland about one half of the black population were free and one half slaves. In my own State there were about ten free negroes to one slave. In Kentucky and in most of the slaveholding States there were large free negro populations, as we supposed.

I should like to know whether persons belonging to the African race in the State of Maryland, and the State of Delaware, and the other slaveholding States, who had been emancipated by their owners either by deed or will, or who were never in bondage, were, at the time of the adoption of the constitutional amendment, free or slave. Were they not freemen? What was the objection urged by many against the enactment of the fugitive slave law? It was that under that enactment a freedman—a free colored man, as they called him, a free negro, as I uniformly call him—might be kidnapped, carried far from his home, and reduced to slavery. Had the Congress of the United States, previous to the adoption of the amendment, the power to pass this law, to say that the free negroes in the States of Maryland and Delaware, and the other slaveholding States, or the free negroes all over the United States, should be the equals of the white man before the law, and possess the powers which this bill proposes to confer? Had you the power, before the enactment of the constitutional amendment, to pass such a law? If

you had not, did the passage of that amendment, setting free that portion who were in slavery, and putting them on an equality in reference to their *status* with the free negroes that then existed in the United States, give you the power to legislate beyond the persons you set free and in reference to the whole negro race in the United States, a portion of which were free before? Is the amendment to the Constitution so potential that if there was but one slave negro in the United States you could, under and by virtue of the clause which says you may carry the amendment into effect by appropriate legislation, bestow all the rights which this bill proposes to bestow upon the whole free negro population of the United States? Sir, it needs but a statement of the facts to show that under the constitutional amendment you have no such power. If you have the power under it, you had the power before the amendment to do the same thing in reference to that portion of the negro population who were not in a state of slavery but who were free.

Mr. President, I will not say that such an exercise of power as is now proposed was not contemplated by those who voted for the amendment to the Constitution; but certainly they did not avow it upon the floor of this Chamber. It does not of itself declare, and human ingenuity cannot torture it into meaning that the Congress of the United States shall invade the States and attempt to regulate property and personal rights within the States any further than refers simply and solely to the condition and *status* of slavery. I admit that if instead of declaring that hereafter neither slavery nor involuntary servitude shall exist in the United States except as a punishment for crime whereof the party shall have been duly convicted, it had declared that hereafter there shall be no discrimination in civil rights or immunities among the inhabitants of any State or Territory of the United States on account of race, color, or previous condition of slavery, but the inhabitants of every race and color, without regard to any previous condition of slavery or involuntary servitude except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property—if instead of being the amendment which you passed it had been that, and if then it had said that by appropriate legislation you might carry such an amendment into effect, you would have the power to pass appropriate acts to carry it into effect, because your acts would have had reference and relevancy to the subject-matter of the amendment. Your acts then would have been constitutional, because there would have been a logical and legal connection between your amendment as it would in that case have existed and your proposed acts to carry it into effect. But Congress has passed no such constitutional amendment as that. The States have simply said by adopting that amendment that the *status* or condition of slavery in this country shall not longer exist—the condition in which one man belongs to another, which gives to that other a right to appropriate the profits of his labor to his own use and to control his person. That is what it said; and it is said in reference to that, that you may by appropriate legislation exercise power; and it has not said that you may exercise power in reference to anything else. The attempt now under the power given, which relates simply and solely to one subject-matter, the abolition of the *status* or condition of slavery, to confer civil rights which are wholly distinct and unconnected with the *status* or condition of slavery, is an attempt unwarranted by any method or process of sound reasoning.

Mr. HOWARD. I wish to put a question to the honorable Senator from Delaware, with his permission; I do not intend to interrupt the tenor of his remarks. My question is whether the amendment of the Constitution does not render persons who were formerly slaves freemen, whether that be not its intention and effect in law?

Mr. SAULSBURY. I answer the honorable Senator with pleasure. The operation, the effect of that amendment is simply to say that a person who heretofore was a slave of another shall be no longer his slave, and it operates no further. It bestows no rights further than to relieve him from the burdens of servitude and slavery. A man may be a free man and not possess the same civil rights as other men. The time was in England when an accused party was not entitled to counsel to aid him in his defense. Nevertheless he was a free man. If not, whose slave was he? Who could control his person or his actions? Who could appropriate to his own use the labor of such a one? This example will serve to illustrate my meaning and confirms as true the position I assume. If you intended to bestow upon the freed slave all the rights of a free citizen, you ought to have gone further in your constitutional amendment, and provided that not only the *status* and condition of slavery should not exist, but that there should be no inequality in civil rights.

Whether I have satisfied the mind of any Senator or any person in reference to this point, I at least have satisfied my own mind that my proposition is as clear as the sun at noonday. Then, sir, that being the basis upon which the honorable Senator from Illinois founds his argument, the sole authority which he claims for this bill, I might content myself with dismissing the subject here. I shall not follow the honorable Senator into a consideration of the manner in which slaves were treated in the southern States, nor the privileges that have been denied to them by the laws of the States. I think the time for shedding tears over the poor slave has well nigh passed in this country. The tears which the honest white people of this country have been made to shed from the oppressive acts of this Government in its various departments during the last four years call more loudly for my sympathies than those tears which have been shedding and dropping and dropping for the last twenty years in reference to the poor, oppressed slave—dropping from the eyes of strong-minded women and weak-minded men, until, becoming a mighty flood, they have swept away, in their resistless force, every trace of constitutional liberty in this country.

Mr. President, this bill is founded, in my judgment, in an utter misconception of the true theory, nature, and character of our system of government. Can any man believe that the founders of this Republic, the intellectual giants of the world, in the possession of freedom and self-government under their State governments, enjoying all the rights of free government before they entered into this Union, would have ever entered into the Union, which was intended simply as a contract and agreement of union and government between them for common purposes, if they had supposed that in the short term of eighty years their children would be subjected to the absolute control and the omnipotent will of the Federal Congress? I do not believe it. Let us see whether this bill in its provisions is not a total subversion of the true theory and character of our Federal system.

If I refer to the A, B, C of elementary political principles in our history, pardon me. It has become necessary, it seems, not only for the people themselves but for American statesmen to familiarize themselves with the most elementary truths and principles of political science in reference to our Government. If Congress does not get this power under the amendment to the Constitution, as I have endeavored to show, where do they get it?

The time was when there were thirteen colonies, not States, upon the continent of North America, separate, distinct colonies, and colonies of Great Britain. They were not united: they were political communities, distinct in themselves, but over which what was called the parent country exercised control. Neither of those colonies was connected with the others, or owed to the others any duty, or was under to the other any obligation. They remained in that condition until the 4th of July, 1776, when for the first time those independent colo-

nies became, what? They became independent States. Was there any Constitution existing among them or bond of union at that time which gave control to the one over the other or bound it by any tie of obligation? They united together so far as in common council to declare their independence of Great Britain, and they styled themselves in that immortal Declaration "independent States." As independent States, having a common interest, they chose to wage a common warfare, still preserving each its own independent existence; and to prove that this was their condition, let me ask, was there ever an indictment or trial for treason against them as a united people during the progress of the revolutionary war? Not one; but when treason was committed against any one of the States by adhering to King George, the party was indicted in the courts of the State, he was tried for an offense against the State, and not for an offense against the United Colonies.

In 1778 these separate and independent States united in Articles of Confederation by their separate names, each reserving to itself its own absolute sovereignty, and agreeing upon certain conditions for certain general common purposes and benefits. Thus they continued until the treaty of peace in 1783, when the mother country by that treaty acknowledged them to be, what? An independent United States? An independent, united people, Government, or nation? No, sir; but naming each separate State by name, she acknowledged each to be a separate independent State. As separate and independent States they continued until the formation of the Federal Union in 1787. In the Declaration of Independence they declare themselves independent States. The independent colonies united for common purposes of defense by the declaration of their independence of Great Britain, became independent States, united for the common purpose of making that declaration good and effective. The Union of 1787 ordains and establishes the Constitution for the "United States of America." States in the Declaration of Independence, States in the Articles of Confederation, and States in the Constitution evidence the independent existence and sovereignty of the States respectively. The ratification of the Constitution was by the States, and not by the majority of all the people, nor by a majority of all the States. This ratification was at different times, and by each State acting for itself alone. The words "we, the people of the United States," employed in the preamble to the Constitution, do not in the least conflict with this proposition. These words mean the same and no more, as we, the people of Delaware; we, the people of Maryland; we, the people of Pennsylvania, and we, the people of the other States respectively; and the meaning is the same as if the names of the several States had been inserted in that preamble; and this is evidenced by the several and separate ratifications of the Constitution and the form of such ratification. The style or title of United States was proper to describe a confederation or union of independent States, but improper to describe a consolidated nation. No nation or State of America existed; but States did exist. The Constitution was made by and for them, and not by or for the nation or State of America. The people of each State, or each State constituted by a people, conveyed to a Federal authority, organized by States, a portion of State sovereign powers, and retained all other State sovereign powers. If the powers ceded or granted were sovereign, so the powers retained were sovereign. The mode of amending the Constitution sustains the correctness of the general proposition I have announced. Such amendments must be proposed to each separate State, and receive the ratification of each separately.

If the power to pass such an act as this exists anywhere, it must exist in the Constitution as originally framed. Sir, was it ever pretended by any statesman before that that Constitution conferred such a power as this? Look at the powers enumerated in the Constitution and see whether it is possible for the ingenuity of man

to arrive at the conclusion that any such power exists; for, Mr. President, the Constitution is the bond of agreement according to the terms of which the States agreed to live together, and all the powers which Congress possesses are found in the eighth section of the first article of the Constitution. They are: "to lay and collect taxes, duties, imposts," &c., to "borrow money," to "establish uniform rules of naturalization," to "coin money," to "provide for the punishment of counterfeiting," to "establish post offices," to "promote the progress of science and arts," to "constitute tribunals" of justice, to "define and punish piracy," &c., to "declare war," to "raise and support armies," to "provide a Navy," to "make rules for the government and regulation of the land and naval forces," to "provide for calling forth the militia," &c., to "provide for organizing, arming, and disciplining the militia," &c., to "exercise exclusive legislation in all cases" over this District, or such district as should be established as the seat of Government, and to "make all laws which shall be necessary and proper for carrying into execution the foregoing powers."

That is the sole, almost the entire, authority given under the Constitution to this Federal Government. Under any of these powers granted by the States to the Federal Government does any such power as that now claimed exist, for, mark you, all powers not granted by that instrument are reserved to the States respectively or to the people?

I propose now to examine this bill to see that its provisions are such that it cannot come within the power of Congress, either under the Constitution before it was amended, or under the Constitution as recently amended abolishing slavery in the United States.

The honorable Senator from Illinois has avowed that he does not propose by this bill to confer any political power. I have no doubt the Senator is perfectly honest in that declaration, and that he personally does not mean to give any political power, for instance the right of voting, not only to the freedmen, but to the whole race of negroes; but the intention of the Senator in framing this bill will not govern its construction, and I have not the least doubt that should it be enacted and become a law, it will receive very generally, if not universally, the construction that it does confer a right of voting in the States; and why do I say so? Says the Senator, "It confers no political power; I do not mean that." The question is not what the Senator means, but what is the legitimate meaning and import of the terms employed in the bill. Its words are, "That there shall be no discrimination in civil rights or immunities." What are civil rights? What are the rights which you, I, or any citizen of this country enjoy? What is the basis, the foundation of them all? They are divisible into but two classes; one, those rights which we derive from nature, and the other those rights which we derive from government. I will admit that you may divide and subdivide the rights which you derive from government into different classifications; you may call some, for the sake of convenience and more definiteness of meaning, political; you may call others civil.

But here you use a generic term which in its most comprehensive signification includes every species of right that man can enjoy other than those the foundation of which rests exclusively in nature and in the law of nature. Now, I ask the honorable Senator to show me, if he can, any origin of a right he has or can have that is not derived either from nature or from government. I shall enter into no discussion or argument in reference to what are the rights man has by nature; they are familiar to the legal mind and to the thoughtful student. The rights which a man has under government are defined in the fundamental or other law of the Government under which he lives. How do I possess the right of voting in the State of Delaware? Is that a civil right? A civil right I define to be a right belonging to the citizen, and which he possesses only by virtue of cit-

izenship. I know of no clearer definition of civil rights than that; the rights which I have by reason of the law of the State under which I live, whether they be rights secured by the fundamental law, the constitution of the State, or be secured by enactments of the Legislature.

The right to vote is not a natural right; I did not possess it by nature, I only possess it by virtue of law. The constitution of the State, which is the fundamental law, bestows it; it says when I arrive at the age of twenty-one years, and have resided in that State for one year, I shall have the right of voting. I possess it in no other manner. I hold it by no other tenure. It is conferred upon me by law. It is a right derived from law, and it pertains to me as a citizen of my State; and pertaining to me as a citizen of my State, it is a civil right, and is a right of no other class or character.

Sir, can there be any doubt about this, when you look at the very frame of this bill and consider the words which it employs? If the honorable Senator from Illinois had not disclaimed such an intention when the question was propounded to him by the honorable Senator from California, I should have thought that he could not have taxed his ingenuity to a greater extent than it seems to have been taxed if he had meant to secure the right of voting to the negroes. Let us read this first section. There is a cat in this tub of meal, and I want to frighten the cat out of the tub if I cannot get it out in any other way:

That there shall be no discrimination in civil rights or immunities among the inhabitants of any State or Territory of the United States on account of race, color, or previous condition of slavery; but the inhabitants of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right—

Now, here is what the honorable Senator says he means by it, and no doubt he does; but the question is not what he means, but what the courts will say the law means—

shall have the same right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property;—

That is where the Senator proposes to limit the civil rights of the negroes, to those rights specifically named. But the bill goes on—

and to full and equal benefit of all laws and proceedings for the security of person and property.

What is property? It has been judicially decided that the elective franchise is property. Leaving out the question of voting, however, as a question of property, is it not true that under our republican form and system of government the ballot is one of the modes of securing property, one of the means by which property is secured? Your bill gives to these persons every security for the protection of person and property which a white man has. What is one means and a very important means of securing the rights of person and property? It is a voice in the Government which makes the laws regulating and governing the right of property.

Under our system of government—mark you, I do not say that it is so under all Governments—one of the strongest and most efficient means for the security of person and property is a participation in the selection of those who make the laws. It was therefore that I thought that the honorable Senator when he framed this bill meant to give to these persons the right of voting; and I should still think so, but for his personal disclaimer of any such object. One of the authorities which the Senator read decides, as I understand it, that the second section of the fourth article of the Constitution, which says that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States," entitles a citizen of one State removing into another to a right to vote after acquiring a legal residence in such State. Was it for this reason and to secure this right to negroes that the Senator amended his bill this morning by declaring that all persons of African descent born in the United States shall be citizens of the United States?

But, Mr. President, whether the bill does

give the right of voting or not, the bill is unconstitutional, because it assumes jurisdiction over subject-matters of which Congress has no jurisdiction; and what are these? Property within the States; authority over the judicial tribunals in the administration of law in the States; a denial to the States of their power of police regulation. Now that the war is over, in the language of loyal men I had almost said—but I find that the Attorney General, whom my friend from Kentucky [Mr. DAVIS] loves so well, says it is not over, although hostilities have ceased, and although the President, whom I presume is loyal, says it is over; but assuming that the war is over, I presume it will not be disloyal to say what I propose to say. I have no enemy of yours to fly to with arms in his hand to injure you, and therefore I may be trusted now with the utterance of an opinion upon this floor without being subject to that withering appellation "disloyal."

Sir, did you ever think to which you owed the most of the protection of life, liberty, and property, to your Federal Government or to your State government? I know—and I will not allow myself to be charged with uttering an unbecoming remark in this respect—I know the great advantage which the Federal Union has been to the people of this country and to the people of this whole country. I know that by being members of this Federal Union each State had a sure protection against the assaults of more powerful foes. I know that in the words, "the United States of America," there was not only a charm for the citizen, but there was a terror to the foes of every citizen. The Union of these States was designed to give this general protection, but never designed for the purpose of regulating the internal affairs of the States or securing to the citizen the possession of his person and property and liberty within the limits of a State. There has not been a time since the formation of the Federal Union, when if it had been peaceably dissolved it might not have been so dissolved without society scarcely receiving a shock; the laws for the regulation of property, the laws regulating the descent and transmission of property, the laws protecting the citizen in his rights of person, in his security, would have been in full force within the States, would have been administered in peace and quietness, and all the great interests of the citizens of the State would have been as securely protected, except as against foreign foes, as though that Union had existed. But there has never been a time when if the State governments had been destroyed society would not have been reduced to chaos. And yet, sir, these States thus securing to the citizen all his rights of person and property, and reserving to themselves out of the powers granted to the General Government these rights of protection to their citizens, these States which never granted or meant to grant to the Federal Government any such authority, find themselves by this bill invaded and defrauded of the right of determining who shall hold property and who shall not within its limits, who shall sue and be sued, and who shall give evidence in its courts. All these things are taken out of the control of the States by the paramount authority of this bill, if it be a constitutional bill, and the power is given to the Federal Congress to determine these things, the will of a State to the contrary notwithstanding.

Mr. President, this bill not only proposes to assume control over the laws which shall govern title to estates, but also to determine the persons who shall be entitled to enjoy estates and property within the States, and if you can do this as to a portion of that property, any particular species of it, you can do so as to the whole: if you can regulate and govern in one particular, you can govern in reference to all the property and all the interests of the States. If you can determine who shall hold property in a State then you can enact laws for the protection of the owner in its possession. Then also you can determine who shall not hold property within a State. If you can say who shall sue or give evidence in the courts of a

State then you can determine who shall not sue or give evidence in such courts. Such an assumption of power on the part of Congress ought to arouse the people of the whole country to a sense of impending danger. Let them take warning in time. But, sir, this bill positively deprives the State of its police power of government. In my State for many years, and I presume there are similar laws in most of the southern States, there has existed a law of the State based upon and founded in its police power, which declares that free negroes shall not have the possession of fire-arms or ammunition. This bill proposes to take away from the States this police power, so that if in any State of this Union at any time hereafter there shall be such a numerous body of dangerous persons belonging to any distinct race as to endanger the peace of the State, and to cause the lives of its citizens to be subject to their violence, the State shall not have the power to disarm them without disarming the whole population. Is this within your constitutional power and authority? Where did you get it? Are the utterances which come to us from the highest judicial tribunal, which sits but a few feet off, of no account here? Are not the declarations of those who assisted in framing this Constitution to be of any avail here? I suppose not, for I suppose it is a foregone conclusion that this measure, as one of a series of measures, is to be passed through this Congress regardless of all consequences. But the day that the President of the United States places his approval and signature to that Freedmen's Bureau bill and to this bill, he will have signed two acts more dangerous to the liberty of his countrymen, more disastrous to the citizens of this country, than all acts which have been passed from the foundation of the Government to this present hour; and if we upon this side of the Chamber manifest anxiety and interest in reference to these bills and the questions involved in them, it is because having known this population all our lives, knowing them in one hour of our infancy better than you gentlemen have known them all your lives, we feel compelled by a sense of duty, earnestly and importunately it may be, to appeal to the judgment of the American Senate, and to reach, if possible, the judgment of the great mass of the American people, and invoke their attention to the awful consequences involved in measures of this character. Sir, stop, stop; the mangled, bleeding body of the Constitution of your country lies in your path; you are treading upon its bleeding body when you pass these laws.

But, sir, let me call your attention for a moment to what are the powers of the States under the Federal Constitution, and what it is they do not and never did intend to surrender to the Federal Government.

The Federalist speaking on this subject says:

"The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State."

I cite that to show that in the judgment of the men who made the Constitution all these powers embraced in your bill are reserved to the States and to the States exclusively, because certainly they concern the lives, liberties, and properties of the people. In the case of *Gibbons vs. Ogden*, 9 Wheaton, 203, the court say, speaking of the police powers of a State:

"They form a portion of that immense mass of legislation which embraces everything within the territory of a State not surrendered to the General Government, all which can be most advantageously exercised by the States themselves. Inspection laws, quarantine laws, health laws of every description, as well as laws for regulating the internal commerce of a State."

In the case of the *City of New York vs. Miln*, in 11 Wheaton, the court say:

"We choose rather to plant ourselves on what we consider impregnable positions. They are these: that a State has the same undeniable and unlimited jurisdiction over all persons and things within its territorial limits as any foreign nation, where that jurisdiction is not surrendered or restrained by the Constitution of the United States."

"That by virtue of this it is not only the right but the bounden and solemn duty of a State to advance

the safety, happiness, and prosperity of its people, and to provide for its general welfare by any and every act of legislation which it may deem to be conducive to these ends where the power over the particular subject or the manner of its exercise is not surrendered or restrained in the manner just stated. That all those powers which relate merely to municipal legislation, or what may perhaps more properly be called internal police, are not thus surrendered or restrained; and that consequently in relation to these the authority of the State is complete, unqualified, and exclusive."

Again, the court in the same case say:

"We should say that every law came within this description which concerned the welfare of the whole people of a State, or any individual within it, whether it related to their rights or their duties; whether in their public or private relations; whether it related to the rights of persons or of property, of the whole people of a State or of any individual within it, and whose operation was within the territorial limits of the State, and upon the persons and things within its jurisdiction. But we will endeavor to illustrate our meaning rather by exemplification than by definition. No one will deny that a State has a right to punish any individual found within its jurisdiction who shall have committed an offense within its jurisdiction against its criminal laws."

Again:

"We suppose it to be equally clear that a State has as much right to guard by anticipation against the commission of an offense against its laws as to inflict punishment upon the offender after it shall have been committed."

I will show you hereafter that the bill under consideration attempts to deprive the States of these rights which the Supreme Court say are undoubted rights of the States.

I cite these passages for the purpose of showing that the Supreme Court of the United States has recognized all the subjects embraced in the first section of this bill as being the subjects solely of State cognizance; and unless you can show that the States have surrendered the control over them to the Federal Government, they still belong to the States, exclusively. I have, endeavored to show that you did not obtain cognizance of these subjects by the adoption of your amendment to the Constitution, and I have, as briefly as I could, attempted to show that the power over them was not surrendered by the States or granted in the Constitution before the adoption of the amendment.

Mr. President, there are other serious objections to this bill. The third section proposes to enact:

That the district courts of the United States within their respective districts, shall have, exclusively of the courts of the several States, cognizance of all crimes and offenses committed against the provisions of this act, and also, concurrently with the circuit courts of the United States, of all causes, civil and criminal, affecting persons who are denied or cannot enforce in the courts or judicial tribunals of the State or locality where they may be any of the rights secured to them by the first section of this act, and if any suit or prosecution, civil or criminal, has been or shall be commenced in any State court against any such person, or against any officer, civil or military, or other person, for any arrest or imprisonment—

Mark you, sir, the words are very comprehensive—

trespasses or wrongs done or committed by virtue or under color of authority derived from this act, or the act to enlarge the powers of the Freedmen's Bureau, such defendant shall have the right to remove such cause for trial to the proper district or circuit court in the manner prescribed by the act relating to *habeas corpus* and regulating judicial proceedings in certain cases, approved March 3, 1863.

And then it goes on to provide that after the case is so removed the circuit or district courts shall attempt to carry into effect, what? The State law, and to render its decisions conformably to the common law as modified by State law in cases where that can be done. Now, I wish to show you that this provision of the bill is flagrantly unconstitutional, even if there was nothing exceptionable in the subject-matter of its provisions. I turn to that section of the Constitution which relates to the judicial power of the Federal Government, and I read:

"The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made or which shall be made under their authority."

Now, I will show you many cases which cannot arise under the Constitution of the United States, which cannot arise under the laws of the United States, which cannot arise even under this bill, which cannot arise under treaties, and yet which this bill takes from the cognizance of the State

courts and attempts to give to the circuit and district courts of the United States. Notice the words:

That the district courts of the United States, within their respective districts, shall have, exclusively of the courts of the several States, cognizance of all crimes and offenses committed against the provisions of this act, and also, concurrently with the circuit courts of the United States, of all causes, civil and criminal, affecting persons who are denied or cannot enforce in the courts or judicial tribunals of the State or locality where they may be any of the rights secured to them by the first section of this act.

Suppose that an action of ejectment is instituted in any State where free negroes are denied the right to testify, and suppose that action of ejectment is against a free negro. He wishes to prove that he has not been guilty of the trespass in ejectment, and he proposes to prove it by a negro, and the court say, "No; under the law of this State that negro is not a competent witness." In such a case as that, this bill authorizes the circuit or district court of the United States to take cognizance of that action of ejectment, and the State courts are excluded from its consideration. I ask, did that cause of action, the right of A, a citizen of the State of Maryland, to sue another person in an action of ejectment, arise under the Constitution of the United States? Did it arise under any law of Congress? Did it arise under any treaty? Certainly not. These are the cases where alone the courts of the United States have jurisdiction; and yet you propose to take a case arising under neither of these from the control of the State courts and give it to the district court of the United States. On what ground? Simply because the judge, in saying what evidence should go before the jury, says that that negro cannot testify. And the district court is to have jurisdiction—

Also, concurrently with the circuit courts of the United States, of all causes, civil and criminal, affecting persons who are denied or cannot enforce in the courts or judicial tribunals of the State or locality where they may be any of the rights secured to them by the first section of this act.

Here has been one of these beloved human beings denied the privilege of testifying, or the defendant in the case denied the privilege and the right of having him as a witness; and because of that fact the State courts are ousted of their jurisdiction to try a case of ejectment. But, sir, this act will bear a further, and as I believe, a true interpretation, and it is this: if, by the laws of the State, the negro population are denied the right to testify, then any suit brought against a negro in that State shall not be heard in the State court, but shall be heard in the district or circuit court of the United States. "All causes, civil and criminal, affecting persons who are denied or cannot enforce in the courts and judicial tribunals of the State," is the language of this bill.

I have shown you a case which cannot possibly arise under the Constitution of the United States, the laws of the United States, or the treaties of the United States, where this bill does oust the State courts of their jurisdiction, or assumes to do so, and gives exclusive jurisdiction to the Federal courts. But that is not all, sir. What a beautiful spectacle it would present, and what would be the practical operations of your bill in other respects! The laws of my State do not allow a free negro to testify against a white man except where there is no white person present. A is indicted in the courts of my State for an assault upon B; B denies it; A proves it by his own testimony, he proves it by twenty white men standing around. B, of course, does not want to suffer, and at least if he has to suffer he wishes to put it off as long as possible. He will say, "Well, I will call this negro; Sambo, come up here and testify." Sambo is called. He knows nothing about the case. He was not within forty miles of the transaction. Perhaps he has been sent for to Philadelphia to come down for the purpose of getting this case into the circuit or district court of the United States. He is called, and he is produced on the stand. The judge of our State will say—we never had a judge and I hope we never shall have one that, even if your bill was

passed, would know so little about law as to recognize its validity—"That black witness is excluded from testifying," even in a case that he may know something about, and thereupon that criminal case (for this bill provides for taking criminal as well as civil cases) is to be transferred to the circuit or district court of the United States. You transfer to the Federal judicial tribunals every case, both of a criminal and civil nature, that can possibly arise in a State. These things will be done for delay if nothing else, and you will find your district and circuit courts engaged in every State, from the commencement of the year to its conclusion, in trying every little petty case of a civil character in which from ten cents to thousands of dollars are involved, and you will find that the whole criminal code of a State, if the Federal courts can have the power of administering it, will be administered by the Federal courts and not the State courts.

Take another case. A free negro commits murder in the State of Kentucky. He is indicted under the laws of Kentucky in the State courts. His guilt is proved beyond a reasonable doubt by a hundred people who saw him commit the act. He calls up a negro. He may have seen him commit it, or he may not have seen him commit it. He may know something about it, or he may know nothing about it. The judge in Kentucky, I suppose—if the judges in that State are now what they used to be, men of learning, character, knowledge, dignity—would say under their law that this negro could not be a witness. What does this bill provide? It provides that that case of murder shall be taken from the jurisdiction and control of the State courts, and that the district and circuit courts of the United States shall have exclusive jurisdiction of it. Sir, there cannot be a case of chicken-stealing in any State of this Union where freed negroes are not allowed to testify that can, if this bill is to be operative and in force, be determined in the State courts. All such cases will be subject to be removed into the Federal courts. I suppose this will not be denied by any one, at least in cases where such offenses shall be committed by negroes and negro testimony in their defense shall be excluded.

If such consequences as these are to result from such enactments as this—and I honestly believe they are, if it is to be operative—what becomes of the States of this Union? What becomes of the powers of the States? What becomes of the rights of the States? Sir, they have not even the privilege of administering their criminal laws; they have not the privilege of saying who shall give evidence and who shall not in their own courts; they have not the privilege of saying who shall hold property and who shall not; and if they have none of these privileges—and I will show you that they have not before I am done—they have not the power to protect their own citizens against murder, rape, arson, any crime that can be committed against them, because what does another section of this bill provide?

That for any act done under this bill and to carry out its provisions the State courts shall not have jurisdiction, but the circuit and district courts shall have exclusive jurisdiction. Take the case put by the honorable Senator from Pennsylvania where a judge on the bench holds that under the State law a negro cannot testify, or take another case: suppose that some white man has in some respect slightly infringed some of the rights which your bill proposes to give to a free negro, what then? Your bill authorizes any commissioner (and their numbers may be legion) to deputize in writing anybody to go and arrest the judge who has made that decision, because if to give evidence be a right, his action would be a denial of the right under this bill. I deny that it is a right in any man to testify in a case depending between others. It is a right in a party to a suit to call for the evidence of another person, but there is no right in that person to testify. You may call it a right to work on the roads if you please; it is generally considered a burden. The right to serve on

juries may be considered a burden, but it is a duty if the State demands it. It is no right in the citizen. A party to an action has the power to call for the testimony of a witness, but it is no right on the part of the person to testify. Your bill, however, treats it as a right, and I so treat it for the sake of the argument only. The judge has made that decision, the white man has slightly infringed some of the rights which your bill proposes to guaranty to the negro. Your commissioner—and he may be as black as the ace of spades, as far as this act is concerned—may send another free negro to arrest that judge or to arrest that white man. Your negro deputized officer, acting under your negro commissioner, if he be a negro—and there is no security that he will not be, because you now propose to confer the right of suffrage on the negro, and if you confer the right of suffrage on him you must certainly, to be consistent, allow him to hold office—goes to the judge or the individual who has committed this slight trespass and says, "I come to arrest you," and the answer is, "I will not go with you," and he shoots him down, and he is indicted in the State courts for that murder.

Now, what says your bill? You say that the courts of that State shall not have jurisdiction, because it was for an act done in discharge or under color of what the negro officer claimed to be his duty under this law, and you remove the trial of the cause from the State court into the Federal court. Human ingenuity cannot escape from it; you get him there, and after you get him there what can you do with him? If there is one principle more clearly recognized than another, it is that the Federal courts will not attempt to administer the State laws, and neither will the State courts attempt to administer the Federal laws. That is to say, a Federal court will not apply to an act a punishment created under the statute of a State. It will not execute the criminal laws of a State, and you cannot confer upon it jurisdiction to do so, because its jurisdiction is defined and limited in the Constitution of the United States. Neither can a State court inflict a penalty incurred under a Federal statute. When you get the negro into the Federal court, what are you going to do with him? Why, says the bill, as far as it can be done, the court shall conform to the common law as modified by the laws of the State. I will read the language of the bill:

The jurisdiction in civil and criminal matters hereby conferred on the district and circuit courts of the United States shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies, and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of the cause, civil or criminal, is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern said courts in the trial and disposition of such cause, and if of a criminal nature, in the infliction of punishment on the party found guilty.

A Federal court hearing and determining a case of ejectment between persons of the same State, brought to recover possession of land in the State in which both parties reside and awarding a writ of possession! A Federal court hearing and determining a case of larceny, the larceny being committed by a free negro, and administering the criminal law of the State! Surely

"Judgment has fled to brutish beasts
And men have lost their reason."

How you gentlemen will like the infliction of this punishment when you come to my State, and one of these pet-lambs with a black skin shall be indicted for larceny, and you deprive the State of the jurisdiction of trying it, and it is removed to the circuit court of the United States or the district court of the United States; how your Federal judge, if he be of the same opinions with you, will like to carry that law into execution! Do you know what our law does with them? It provides for whipping his bare back. We have a whipping-post in our State, and I think it is the most efficient means I ever

knew for the prevention of thieving. For five years it was my duty as the law-officer of the State to prosecute in my State, and we never were troubled with those fellows from Philadelphia and Baltimore who would slip over and steal a horse or anything else after once the lash was applied to them. How the humane feelings of all New England would be shocked—even the honorable Senator opposite me would have to come before the Senate of the United States and talk of the inhumanity to one of these pets of congressional legislation because his back had been made to feel the lash. However, I will state, to relieve any premature tears, that the same punishment is meted out to the white man who commits the same act.

I have thus shown you, I think, Mr. President, that under this section of the bill the States are or may be deprived of the execution of most if not all their laws relating to the commission of crime, that the criminal jurisdiction of the courts of the States, in other words, is by the provisions of this bill ousted. I have shown you how civil causes, not arising under the Constitution, laws, or treaties of the United States, may, under the provisions of this bill, be carried to the circuit and district courts of the United States, when the Constitution of the United States says that in such cases where they do not so arise those courts shall not have jurisdiction. If I have made this plain I ask the Senate how they can support a bill obnoxious to such objections.

But, Mr. President, the remaining portion of this bill may be called its machinery to carry it into effect; and I will briefly call the attention of the Senate to that machinery. It seems in these late war times that the passion for arresting people became so general, wide-spread, and universal, that now that peace is restored, at least when hostilities do not exist, we are not to get rid of that feeling, but that the law of vengeance and of punishment must still be indulged in. We have so accustomed our minds to the propriety and necessity of arresting people for any and every offense, and inflicting upon them cruel and unnecessary punishment, that we cannot now in times of peace dispossess ourselves of that feeling; and the mild and amiable and learned chairman of the Judiciary Committee, it seems, cannot now agree to live one day without seeing somebody arrested and dragged before somebody else, and witnessing a heavy, unusual, and cruel punishment inflicted. What does this bill do? He is going to see that these dearly beloved subjects of congressional favor shall have daily evidence of the kind regard in which they are held by their republican friends and allies, and he is, with whip in hand, chasing every white man through every State of this Union to inflict punishment upon him if he dares invade the rights of any of the negro race.

The fourth section provides that—

The district attorneys, marshals, and deputy marshals of the United States, the commissioners appointed by the circuit and territorial courts of the United States, with power of arresting, imprisoning, or bailing offenders against the laws of the United States, the officers and agents of the Freedmen's Bureau, and every other officer who may be specially empowered by the President of the United States, are to make arrests.

He is afraid he will not get enough officers to make arrests; the commissioners will not do; and another section of this bill provides that they may be increased indefinitely. He is afraid that he will not be able by all the other machinery provided by the bill to get enough persons to arrest white transgressors of this law, and so every other officer who may be specially empowered by the President of the United States is to be empowered to make these arrests.

And they are hereby specially authorized and required, at the expense of the United States, to institute proceedings against all and every person who shall violate the provisions of this act, and cause him or them to be arrested and imprisoned, or bailed, as the case may be, for trial before such court of the United States or territorial court as by this act has cognizance of the offense; and with a view to affording reasonable protection to all persons in their constitutional rights of equality before the law, without distinction of race or color, or previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been

duly convicted, and to the prompt discharge of the duties of this act, it shall be the duty of the circuit courts of the United States and the superior courts of the Territories of the United States, from time to time, to increase the number of commissioners so as to afford a speedy and convenient means for the arrest—

The honorable Senator wants speedy and convenient modes of arresting people—and examination of persons charged with a violation of this act.

Then the sixth section provides very heavy penalties against any marshal or officer who shall disobey or refuse to perform any of the duties imposed by this act; and what is the power that it gives to these marshals? They may call in the *posse comitatus* or the bystanders, and they are all to be punished if they refuse to aid in making arrests. What did the honorable Senator say, and what did other honorable Senators say, when the fugitive slave law gave the power to the marshals to summon persons to make an arrest? They were horrified. What was their language? "Is thy servant a dog that he should do this thing?" And yet, sir, when it comes to a negro deputy of a negro commissioner probably arresting a white man, he shall have the *posse comitatus* and he shall have the bystanders to aid him. A marshal, or the ignorant deputized agent of a marshal, shall have the power to summon all the able-bodied men in any county in the United States to aid him in arresting a white man for committing the simplest offense against a negro, when you gentlemen were so awfully horrified at the idea of allowing a marshal of the United States to summon, not the *posse comitatus*, but to summon citizens to execute that law against fugitives from service. Verily, not only the negro is as good in law as the white man in your opinion of him, but he is much more favored and better protected. Let a white man dare to do any of these things which your bill forbids, and he is subject to heavy fines and imprisonment.

I have shown you from the provisions of the bill that it authorizes the number of the commissioners to be multiplied to any extent, that it gives the power to those commissioners of deputizing in writing whomsoever they please to make these arrests. And what does it do besides? It gives that fellow so deputized five dollars for doing his dirty work. What will be the consequence? Suppose I have not committed any offense at all against one of these beloved of Federal legislation; suppose I have done nothing, but suppose somebody goes to the commissioner and says that I have. He deputizes anybody, white or black, to arrest me, and he carries me before his supreme highness, the commissioner, and when I have gone there, there is not one word laid to my charge, the commissioner pockets his ten dollars, the man making the arrest pockets his five dollars and all other expenses. I go free. What is the power that the bill gives? The commissioner may cause to be arrested every white man in my State or any other State for the purpose of getting his ten dollars and giving the five dollars to the marshal or his deputy. It is a grand money-making business when you come to look into it. And yet, sir, when that free negro commissioner or white commissioner has appointed his deputy, either white or black, to arrest me and all the rest of the citizens of my State, if none of us have done anything transgressing even the provisions of your law and they have pocketed their fees, what can we do? We have been falsely imprisoned; even your commissioner has said we have done nothing wrong; we have been falsely imprisoned, dragged from our homes, and we go and appeal to the courts of our State for protection, and we present this fellow who has arrested us to the grand jury and they find a true bill for assault and false imprisonment. It is against one of the darlings of your heart, and therefore you will not let the State hear the cause but you remove it far from our residences and our homes into the district or circuit court of the United States!

But this is not all. The chairman of the

Judiciary Committee is still fearful that his free American fellow-citizens of African descent may suffer some deprivation of right or infliction of wrong that may not be summarily and adequately redressed. He is fearfully apprehensive that there is some white man that ought to be arrested who may escape, and hence he provides in his bill that the President shall be authorized to employ the land and naval forces the more efficiently to execute its provisions. Poor fugitive white man. If you shall escape the pursuing and avenging army commanded by the Lieutenant General of the armies of the United States and attempt to cross the briny deep, the Navy, the entire Navy, shall chase you from the sea. Sir, your whole Army and Navy will be inadequate to execute this unconstitutional law, if law this bill shall become.

Sir, was I wrong in my opening remarks when I said that this was one of the most dangerous bills, as well as one of the most unconstitutional bills, that could engage the attention of the Senate of the United States. Go sweep the whole field of legislation in any country in which a legislative body has ever sat, and drag from the pigeon-holes where moulder and rot its records, and show me, if you can, any enactment so flagrantly unjust, so oppressive in its character, so violative of all rights of the citizen, as this.

Mr. President, I know that any appeal that we can make will be in vain, or at least I have no reason to suppose that any we can make will be effective for good. The passage of this bill, if it shall become a law by the approval of the President, and shall go into practical effect, is the last act to convert a Federal Government with limited and well-defined powers into an absolute, consolidated despotism.

Sir, from early boyhood I was taught to love and revere the Federal Union and those who made it. In early childhood I read the words of the Father of his Country, in which he exhorted the people to cling to the union of these States as the palladium of liberty, and my young heart bounded with joy in reading the burning words of lofty patriotism. I was taught in infancy to admire as far as the infant mind could admire our free system of government, Federal and State; and I heard the old men say that the wit of man never devised a better or more lovely system of government. When I arrived at that age when I could study and reflect for myself, the teachings of childhood were approved by the judgment of the man.

I have seen how under this Union we had become great in the eyes of all nations; and I see now, notwithstanding the horrible afflictions of war, if we can have wisdom in council and sincere purpose to subserve the good of the whole people of the United States, though much that was dear to us has been blasted as by the pestilence that walketh in darkness and the destruction that wasteth at noon-day, how we might in the providence of God resume our former position among the nations of the earth, and command the respect of the whole civilized world. But, sir, to-day, in viewing and in considering this bill the thought has occurred to me, how happy were the founders of our Federal system of government that they had been taken from the council chambers of this nation and from among their fellow-men before bills of this character were seriously presented for legislative consideration. Happily for them, they sleep their last sleep, and—

"How sleep the brave who sink to rest
By all their country's wishes blest!
When Spring with dewy fingers cold
Returns to deck their hallowed mould,
She there shall dress a sweeter sod
Than Fancy's feet have ever trod."

"By fairy hands their knell is rung;
By forms unseen their dirge is sung;
There Honor comes, a pilgrim gray,
To bless the turf that wraps their clay;
And Freedom shall henceforth repair
And dwell a weeping hermit there."

Mr. SUMNER. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, January 29, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

The SPEAKER announced as the first business in order the call of committees for reports, to go upon the Calendar, and not to be brought back by a motion to reconsider.

The committees were called, commencing with the Committee of Elections; and no reports were presented.

PRESENTS TO OFFICE-HOLDERS.

The SPEAKER. The next business in order is the call of States for resolutions, commencing with the State of Indiana. Under this call, the first resolution in order is one offered on last Monday by the gentleman from Indiana, [Mr. NIBLACK,] the morning hour having on that day expired pending the call of the previous question upon the resolution.

The resolution was read, as follows:

Resolved, That the conduct of his Excellency, Andrew Johnson, President of the United States, in declining to accept a carriage and horses tendered to him since his accession to office by some of his friends in New York, was, under the circumstances which surrounded him, eminently prudent, commendable, and patriotic, affording, as it did, a valuable example to others similarly situated, and meets the unqualified approbation of this House.

Be it further resolved, That it is the sense of this House that the practice, now so common, of persons holding official positions under the Government accepting presents of value from their subordinates in office, more or less dependent upon them for appointment, promotion, or other official favors, is demoralizing in its tendencies, destructive of public confidence, and ought to be prohibited.

Mr. DEFREES. Mr. Speaker, cannot this matter be laid over until my colleague [Mr. NIBLACK] shall be present?

The SPEAKER. It cannot. The resolution is now before the House, and the demand for the previous question is pending.

On seconding the call for the previous question, there were, on a division—ayes 34, noes 35; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed MESSRS. KEER and PLANTS.

The House divided; and the tellers reported—ayes 50, noes 44.

So the previous question was seconded.

The main question was ordered.

Mr. FARNSWORTH. I desire to inquire whether a motion to lay the first of these resolutions on the table would be in order.

The SPEAKER. It would not be, because that would carry with it both resolutions.

Mr. FARNSWORTH. Then I ask for a division of the question, so that the vote may be taken separately on the first resolution. I trust that that resolution will not be adopted, because it is evidently intended to imply a censure upon the late President.

The SPEAKER. The resolution will be divided. The gentleman's motion to lay on the table would now be in order.

Mr. FARNSWORTH. I move that the first resolution be laid on the table.

Mr. KERR. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 13, nays 119, not voting 50; as follows:

YEAS—Messrs. Delos R. Ashley, James M. Ashley, Benjamin, Eckley, Farnsworth, Longyear, McIndoe, Miller, Moulton, Pomerooy, Sloan, Spalding, and Windom—13.

NAYS—Messrs. Allison, Ancona, Anderson, Baker, Baldwin, Banks, Baxter, Beaman, Bergen, Bidwell, Bingham, Blow, Boutwell, Boyer, Brandegee, Brooks, Bundy, Chanler, Reader W. Clarke, Cobb, Conkling, Cullom, Darling, Dawes, Dawson, Deffrees, Delano, Deming, Dixon, Donnelly, Eggleston, Eldridge, Eliot, Farquhar, Ferry, Finck, Glossbrenner, Goodyear, Grider, Griswold, Hale, Aaron Harding, Abner C. Harding, Harris, Hart, Hayes, Higby, Hill, Hogan, Holmes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, Edwin N. Hubbell, James K. Hubbell, James M. Humphrey, Ingersoll, Jenckes, Johnson, Julian, Kasson, Kelley, Kerr, Kuykendall, Latham, George V. Lawrence, William Lawrence, Le Blond, Loan, Lynch, Marshall, Marvin, McClurg, McKee, Mercur, Moorhead, Morrill, Newell, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Price, Radford, William H. Randall, Raymond, John

H. Rice, Ritter, Rollins, Ross, Rousseau, Scofield, Shanklin, Shellabarger, Taber, Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trimble, Trowbridge, Van Aernam, Burt Van Horn, Voorhees, Ward, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, James F. Wilson, Stephen F. Wilson, Winfield, and Woodbridge—119.

NOT VOTING—Messrs. Alley, Ames, Barker, Blaine, Bromwell, Broomall, Buckland, Sidney Clarke, Cook, Culver, Davis, Denison, Driggs, Dumont, Garfield, Grinnell, Henderson, Hotchkiss, Demas Hubbard, Hulbard, James Humphrey, Jones, Kelso, Ketcham, Laffin, Marston, McCullough, McNuer, Morris, Myers, Niblack, Nicholson, Noell, O'Neill, Samuel J. Randall, Alexander H. Rice, Rogers, Sawyer, Schenck, Sitgreaves, Smith, Starr, Stevens, Stillwell, Strouse, Upson, Robert T. Van Horn, Warner, Williams, and Wright—30.

So the House refused to lay the first resolution on the table.

During the call of the roll,

Mr. ANCONA stated that his colleague, Mr. DENISON, was detained from the House by sickness.

The result was announced as above stated.

The question then recurred on the adoption of the first resolution.

Mr. HOOPER, of Massachusetts. Is it in order to move an amendment?

The SPEAKER. It is not, as the previous question has been seconded, and the main question ordered.

The question being taken on the first resolution, it was adopted.

The second resolution was adopted.

Mr. KERR moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

USE OF THE HALL.

Mr. HILL submitted the following resolution:

Resolved, That the Committee on Rules be instructed to report a rule prohibiting the use of the Hall of the House of Representatives for any other purpose than the legitimate business of Congress.

Mr. ASHLEY, of Ohio. I suppose that the resolution does not exclude the Sunday service by the Chaplain.

Mr. HILL. Of course not, as that is in connection with his position in this House.

Mr. ASHLEY, of Ohio. I hope the resolution will be amended so as to read "that the committee inquire into the expediency."

Mr. HILL. I prefer to have the resolution mandatory, and to take the sense of the House.

Mr. CONKLING. Does the resolution prevent us from assembling here sometime next month to hear a eulogy on the late President?

The SPEAKER. The Chair cannot construe the resolution now.

Mr. HILL demanded the previous question.

The previous question was seconded, and the main question ordered.

Mr. STEVENS moved that the resolution be laid upon the table.

The House divided; and there were—ayes 71, noes 61.

Mr. HILL demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 73, nays 78, not voting 31; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Bromwell, Broomall, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Delano, Deming, Dixon, Eggleston, Eliot, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Higby, Holmes, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James K. Hubbell, Ingersoll, Jenckes, Julian, Kelley, Kelso, George V. Lawrence, William Lawrence, Longyear, McClure, McIndoe, McKee, Mercur, Miller, Moorhead, O'Neill, Paine, Patterson, Perham, Pike, Plants, Price, John H. Rice, Rollins, Shellabarger, Stevens, Taylor, Trowbridge, Upson, Burt Van Horn, Welker, Williams, Stephen F. Wilson, and Windom—73.

NAYS—Messrs. Alley, Ames, Ancona, Banks, Bergen, Boutwell, Boyer, Brandegee, Brooks, Buckland, Chanler, Darling, Davis, Dawes, Dawson, Deffrees, Donnelly, Eckley, Eldridge, Farnsworth, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Hart, Hayes, Hill, Hogan, Hooper, Demas Hubbard, Edwin N. Hubbell, James Humphrey, James M. Humphrey, Johnson, Kasson, Kerr, Kuykendall, Latham, Le Bland, Marshall, Morrill, Morris, Moulton, Newell, Niblack, Noell, Orth, Phelps, Pomerooy, Radford, William H. Randall, Raymond, Ritter, Ross, Schenck, Scofield, Shanklin, Sloan, Smith, Spalding, Stillwell, Taber, Thayer, Francis Thomas,

John L. Thomas, Thornton, Trimble, Van Aernam, Voorhees, Ward, Elihu B. Washburne, William B. Washburn, Wentworth, Whaley, James F. Wilson, Winfield, and Woodbridge—78.

NOT VOTING—Messrs. Barker, Culver, Denison, Driggs, Dumont, Harris, Henderson, Hotchkiss, Hulburd, Jones, Ketchum, Ladin, Loan, Lynch, Marston, Marvin, McCullough, McKuer, Myers, Nicholson, Samuel J. Randall, Alexander H. Rice, Rogers, Rousseau, Sawyer, Sitercaes, Starr, Strouse, Robert T. Van Horn, Warner, and Wright—31.

So the resolution was not laid upon the table. The question recurred on the adoption of the resolution.

The House divided, and there were—ayes 63, noes 62.

Mr. ASHLEY, of Ohio, demanded tellers. Tellers were ordered; and Messrs. HILL and TAYLOR were appointed.

The House again divided; and the tellers reported—ayes 64, noes 62.

So the resolution was adopted.

Mr. HILL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

JEFFERSON DAVIS.

Mr. JULIAN submitted the following resolution, on which he demanded the previous question:

Resolved, As the deliberate judgment of this House, that the speedy trial of Jefferson Davis for the crime of treason, and his prompt execution when found guilty, are imperatively demanded by the people of the United States, in order that treason may be adequately branded by the nation, traitors made infamous, and the repetition of their crime, as far as possible, be prevented.

Mr. SCHENCK. I suggest that the word "when" be stricken out and "if" inserted, so as to read, "if found guilty," &c., and insert the words "either by a civil or military tribunal."

Mr. JULIAN. I accept that as a modification of my resolution.

Mr. STEVENS. I think he had better be tried by town meeting. [Laughter.]

Mr. BINGHAM. I appeal to the gentleman from Indiana to let this resolution go over, for the reason that if it is confined to the mere crime of treason everybody knows that a military tribunal has no cognizance at all. There are other crimes with which this man stands charged, which are cognizable only within the States in military tribunals of justice. Therefore I trust the gentleman will not press this thing to a vote in this way without giving the House an opportunity, at least, to amend the resolution.

Mr. JULIAN. I mean to insist on the previous question.

Mr. HARRIS. I move to amend by striking out the word "deliberate," if it is in order.

The SPEAKER. That is not in order, the previous question being moved.

Mr. BINGHAM. I appeal to the gentleman from Indiana, if this resolution must be pressed to a vote, that he insert after the word "treason" the words "or other crimes with which he stands charged."

Several MEMBERS. Yes, yes.

Mr. JULIAN. I agree to that.

A MEMBER. What are they?

Mr. VOORHEES. I wish to ask the gentleman—

Mr. WASHBURN, of Illinois. Mr. Speaker, is debate in order?

The SPEAKER. It is not, except by unanimous consent, the previous question being moved.

Mr. STEVENS. I appeal to the gentleman from Indiana to send this resolution to the Judiciary Committee, as there are resolutions of this kind now before them.

The previous question was not seconded, the ayes being twenty-six, noes not counted.

Mr. STEVENS. I rise to debate the resolution.

The SPEAKER. It then goes over under the rule.

SUFFRAGE IN THE DISTRICT OF COLUMBIA.

Mr. FARQUHAR submitted the following resolution, and demanded the previous question thereon:

Resolved, That the Committee for the District of

Columbia be instructed to report an amendment to the election laws of the District of Columbia, excluding from the privilege of suffrage within said District all persons who have voluntarily borne arms against the United States or accepted office from the rebels during the late rebellion.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

PENSIONS TO TEAMSTERS' WIDOWS, ETC.

Mr. ORTH submitted the following resolution, and demanded the previous question thereon:

Resolved, That the Committee on Pensions be directed to inquire into the expediency of granting pensions to the widows and heirs of teamsters and hospital stewards who may have died while in the service during the late rebellion.

Mr. UPSON. I suggest to the gentleman to include "wagoners," by inserting that word after "teamsters."

Mr. ORTH. I accept the modification.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution as modified was adopted.

PRIVILEGED QUESTION.

Mr. NIBLACK. Mr. Speaker, I was detained this morning in one of the Departments longer than I anticipated, and therefore my vote on the resolution offered last Monday by me is not recorded. Of course I would have voted for it. I did not anticipate that it would be called up so soon this morning.

CIRCULATING NOTES.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting a statement prepared by the Comptroller of the Currency of the apportionment of the circulating notes made to the different banking associations in the various States, in reply to a resolution of the House of January 19, 1866; which was referred to the Committee on Banking and Currency, and ordered to be printed.

REVISION OF REVENUE LAWS.

The SPEAKER also, by unanimous consent, laid before the House the following communication from the Secretary of the Treasury:

TREASURY DEPARTMENT, January 29, 1866.

SIR: Herewith I have the honor to present to you a report from Messrs. David A. Wells, Stephen Colwell, and S. S. Hayes, appointed a commission for the revision of the revenue system of the United States, in accordance with the provisions of the nineteenth section of the amendatory act of Congress, approved March 2, 1865.

In presenting this report it may be proper for me to remark that, with the single exception, perhaps, of the one in regard to the time at which the payment of the principal of the national debt should be commenced, the recommendations of the commission have my hearty approval. The very important work devolved upon the commission, as far as it has been presented, has been most admirably performed. I earnestly ask that the report may receive the early and careful consideration of Congress.

I am, very truly, your obedient servant,
HUGH McCULLOCH,
Secretary of the Treasury.

HON. SCHUYLER COLFAX,
Speaker of the House of Representatives.

On motion of Mr. MORRILL, the communication was referred to the Committee of Ways and Means, and ordered to be printed.

Mr. WENTWORTH. I ask the honorable chairman of the Committee of Ways and Means to add to his motion that the Committee on Printing inquire into the expediency of printing an extra number of copies of that document.

The SPEAKER. The gentleman can move for the printing of extra copies, and the motion will go to the Committee on Printing.

Mr. WENTWORTH. I move that the Committee on Printing be instructed to inquire into the expediency of printing ten thousand extra copies of the report.

The motion was referred, under the law, to the Committee on Printing.

CLERK TO A COMMITTEE.

Mr. KASSON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Coinage, Weights, and Measures be authorized to employ a clerk, at the usual rate of compensation, for not exceeding forty days during the present session.

Mr. KASSON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INCOME TAX.

Mr. SCHENCK, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be requested to inform this House whether the income taxes levied and collected from the estates of deceased persons whose deaths occurred subsequently to December 31, 1863, and prior to the levy for that year, are treated by the Treasury Department as lawful collections, while in similar cases for subsequent years such taxes are not collected, or, if collected, are refunded, and if such be the practice of the Department, what authority of law there is for such discrimination.

COURTS IN REBEL STATES.

Mr. KELLEY, by unanimous consent, introduced a bill securing to non-resident litigants the benefit of the jurisdiction of the United States courts in States lately in rebellion in certain cases; which was read a first and second time, and referred to the Committee on the Judiciary.

HARBOR IMPROVEMENTS.

Mr. ELIOT, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be directed to communicate to the House of Representatives the various reports most recently made from officers of the Engineer corps, of repairs, alterations, and improvements required at different harbors on the sea, on the lake coasts, and inland rivers, where public works are built, or ordered, or are in the course of erection, and to give such information as to the appropriations required for the next fiscal year for the advantageous prosecution of the work, which may be in the possession of the Department.

SESSIONS OF A COMMITTEE.

Mr. MORRILL. I ask the unanimous consent of the House that the Committee of Ways and Means have leave to sit during the sessions of the House.

There was no objection; and the leave was granted.

UNITED STATES LIFE INSURANCE COMPANY.

Mr. ECKLEY, by unanimous consent, introduced a bill to incorporate the United States Life Insurance Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

ARSENAL EXPLOSION.

Mr. INGERSOLL. I ask the unanimous consent of the House to report from the Committee for the District of Columbia, for action at this time, a joint resolution for the relief of the sufferers by the late explosion at the United States arsenal in this city.

The joint resolution was read. It appropriates \$2,500 to be placed by the Secretary of the Treasury in the hands of Colonel Benton, the commandant of the arsenal, to be distributed among the sufferers by the recent explosion according to the equities and necessities of their several cases, and that said commandant report the details of said distribution to Congress with the vouchers therefor.

Mr. WASHBURN, of Illinois. This is one of a great many cases. There have been explosions at City Point and at other places, and I think we had better have a general law. I therefore object to the consideration of the resolution at this time.

STEAMBOAT PASSENGER BILL.

Mr. DARLING, by unanimous consent, introduced a bill to amend the act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1863; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

BASIS OF REPRESENTATION.

Mr. STEVENS called for the regular order of business.

The SPEAKER stated the regular order of business to be the consideration of the follow-

ing joint resolution reported by the joint committee on reconstruction:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States; which, when ratified by three fourths of the said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE — Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation.

The pending question was on the motion of Mr. LE BLOND to refer the joint resolution and pending amendments to the Committee of the Whole on the state of the Union, upon which Mr. RAYMOND was entitled to the floor.

Mr. CONKLING. With the permission of my colleague, [Mr. RAYMOND,] I will request the Chair to state the exact position of this subject before the House, and the various questions now pending.

The SPEAKER. The committee having reported this joint resolution, the gentleman from Pennsylvania, [Mr. STEVENS,] moved to amend by inserting the word "therein" after the words "all persons," in the last clause of the proposed amendment to the Constitution.

Pending that motion, the gentleman from Pennsylvania, [Mr. KELLEY,] moved an entirely new proposition in the nature of a substitute for the joint resolution reported from the joint committee, proposing an amendment to the Constitution differing from the one reported from the committee. The gentleman from Illinois, [Mr. BAKER,] also submitted for his colleague [Mr. INGERSOLL,] a proposition in the nature of a substitute for the one reported from the committee, as an amendment to the amendment.

Pending those two propositions, the gentleman from Ohio [Mr. LAWRENCE] moved to recommit the joint resolution to the joint committee with certain instructions. The gentleman from Massachusetts [Mr. ELIOT] moved to amend the instructions, and the gentleman from Ohio [Mr. SCHENCK] moved to amend the amendment.

The gentleman from Ohio [Mr. LE BLOND] also moved to commit the whole subject to the Committee of the Whole on the state of the Union. The first question will therefore be upon the motion to commit to the Committee of the Whole, as that committee is higher in rank than the joint committee on reconstruction.

Next after that will be the various motions to recommit with instructions. If all those propositions should fail, then the motion of the gentleman from Pennsylvania, [Mr. STEVENS,] being for the purpose of perfecting the original proposition, will come up for consideration. Then the propositions in the nature of substitutes will come up for consideration; first the amendment to the amendment, proposed by the gentleman from Illinois, [Mr. BAKER,] and next the substitute amendment of the gentleman from Pennsylvania, [Mr. KELLEY.]

RECEPTION OF GENERAL SHERMAN.

Mr. FARNSWORTH. I appeal to the gentleman from New York [Mr. RAYMOND] to give way to enable me to make a motion that the House take a recess of five minutes, and that in the mean time the Speaker invite the distinguished general now on the floor, Major General W. T. Sherman, to the chair, and introduce him to the members of this House.

Mr. RAYMOND. I yield with pleasure. The motion was agreed to; and the House accordingly took a recess.

[The SPEAKER having conducted General Sherman to the Speaker's desk, said:

Gentlemen of the House of Representatives, I have the honor to introduce to you this day, by your unanimous order, Major General Sherman, so well known to you and to the whole civilized world as one of our most gallant and heroic defenders in the contest for the Union which

has so happily closed. Of the brilliancy of his achievements, of his services for his country in peril, but, thank God, preserved, it is needless that I should speak. I know that gratitude for those services is felt in every loyal heart. [Applause.]

Mr. WASHBURN, of Illinois. I call for three cheers for the distinguished soldier who is now present with us.

In response to this call, the members on the floor joined with the spectators in the galleries in a round of most enthusiastic applause which did not subside for some minutes.

General Sherman, when silence had been comparatively restored, said:

Gentlemen of the House of Representatives, I am more accustomed to cheering, such as you have given me, than I am to pitching my voice to reach the confines of such a Hall as this, which I have never before entered save as a looker-on in the galleries. I can simply thank you from my heart for the cordial reception which you have extended to me, trusting that I may continue to deserve the good wishes which the warmth of your welcome has manifested. To that end I will endeavor to do all in my power. [Renewed applause.]

General Sherman then came upon the floor, and was introduced by the Speaker to the members of the House.

At the expiration of the recess the House resumed business.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. W. J. McDONALD, its Chief Clerk, informed the House that the Senate had passed, without amendment, House bill No. 53, authorizing the Secretary of War to grant the use of a portion of the military reserve on the St. Clair river, in the State of Michigan.

Also, that the Senate had passed a bill (S. No. 88) to restrict the expenses of collecting soldiers' claims against the Government; in which he was directed to request the concurrence of the House.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Colonel WILLIAM G. MOORE.

BASIS OF REPRESENTATION—AGAIN.

Mr. RAYMOND. Mr. Speaker, this joint resolution now under consideration, as I understand it, comes to us for our action from the joint committee appointed, at the opening of this session, for the purpose of "inquiring into the political condition of the States lately in rebellion, in order to determine whether those States are or are not entitled to representation in Congress." How much of "information" on that subject this resolution embodies the members of this House can judge as well as I can. What precise and particular connection it has with the object for which that committee was appointed is left wholly and entirely to inference.

That committee has reported, without reasons assigned, without explanation of any sort, a naked proposition to amend the Constitution of the United States. Now, sir, I am afraid that I shall fall under the censure expressed a day or two ago by the distinguished gentleman from Ohio [Mr. BINGHAM] in regard to those who are unwilling to tamper with the Constitution of the United States as it stands to-day. I acknowledge freely that I do look upon all propositions for its amendment with hesitation and distrust. I think if there is anything established in the history of this country it is that that Constitution is the most wonderful instrument ever framed by the hand of man for the government of a great nation. I think it has proved itself fully adequate to all the emergencies of peace and of war, and I think the history of this country during the last four or five years, when the great civil contest for the destruction or preservation of this Government was carried on to a triumphant close by virtue of the provisions or under the explicit permissions of that Constitution, affords the highest possible testimony that any of us could ask to

the fact of its perfect adaptation to the wants and necessities of the country.

I think, especially, that in its distribution of the powers among the different departments of the Government, that Constitution has proved its wisdom, and I think this is even still more clearly shown in its distribution of powers between the General Government and the several States. That document has proved that it was made not for days or for years, but for all time; and when I foresee the vast extent of country over which this Government may at some future time be extended, I cannot but dread any change that shall touch any of its fundamental provisions, or any of the fundamental principles upon which it rests.

Still, sir, I recognize the justice and propriety of what was said by the gentleman from Ohio [Mr. BINGHAM] as to the wisdom and necessity of amendments to meet changed circumstances and an altered condition of facts. I recognize, for example, in the fact that slavery has ceased to exist in this country, the propriety of so amending the Constitution as to make it forever impossible to reestablish slavery within the United States. The specific evil which the amendment reported by the committee is intended to remedy is also probably one which may properly demand attention. By the present Constitution, and under the state of things which prevailed but a year or two ago, the States in which slavery existed were entitled to the representation, in common with all the other States of the Union, of the whole number of free persons, together with three fifths of all other persons. The fact that they had among them four million persons who were not free gave them thus a great advantage in representation over all other sections of the Union. They had a representation for three fifths of those slaves. Those slaves have now been set free, and, as free persons, the States in which they are found are entitled, under the present provisions of the Constitution, to full representation for them. The South has thus gained, as a direct consequence of the rebellion, an additional representation for two fifths of those four millions. In other words, one million six hundred thousand persons are added to their representative population.

Now, sir, I acknowledge that to be an inequality which demands attention and a remedy, if a remedy can be found which shall not be worse than the evil itself. This committee has reported this amendment as providing that remedy. I do not suppose that it will be possible to propose any remedy which will not be open to some objections. I think, however, that this amendment is open to some of a very serious nature. One objection (which, however, applies equally to all the propositions that have been suggested) is that it changes the basis of representation from population to something else, and something less. It is, sir, a fundamental principle of free government, that the population, the inhabitants, all who are subjects of law, shall be represented in the enactment of that law and in the election of men by whom the law is to be executed, either directly by their own votes, or through the votes of others so connected with them as to afford a fair presumption that their wishes, their rights, and their interests will be consulted. This proposition departs from that principle, and is thus objectionable as a disturbance of the corner-stone on which our system of republican government—indeed all democratic institutions are supposed to rest.

Another objection is that the amendment as drawn by the committee is open to very considerable doubt as to the meaning of the words "race" and "color." Those grounds of doubt were ably and forcibly stated a few days since by the gentleman from Pennsylvania, [Mr. BROOMALL,] and need not now be repeated. They are entitled, however, to serious and careful consideration.

Another objection is that it deprives of representation the whole of any race in a State if that State should extend to a portion of that race the elective franchise. I do not think, sir, that this is in itself a wise or just provision. It

introduces the anomaly of having voters for representatives who may not be themselves entitled to representation. But when I recur to the effect of that provision upon the southern States, so clearly and forcibly pointed out the other day by the distinguished gentleman from Ohio, [Mr. SCHENCK,] that it holds out to those States no encouragement to enfranchise any portion of the colored race within their borders unless they make suffrage with that race universal, I cannot help feeling that its effect would be most disastrous upon the relations of this Union to the whole southern States, and upon the welfare of those States themselves, and of the colored people within their borders.

But, sir, I do not intend to pursue this inquiry into the merits of the resolution, still less into the merits of the various amendments which have been proposed to its provisions. I cannot, in the present state of this question, regard this as a distinct proposition, standing on its merits alone. I cannot forget that it comes to us from a committee appointed for a specific object, to consider a specific subject—to report to us the political condition of the southern States with a view to their representation upon this floor. From the presumption of the case, I think I have the right to assume that this resolution relates to that general subject and is closely connected with it. I infer, moreover, from the general tone of the debate in this House on that point that this is the view taken of it all through the House; and when I regard more directly the remarks made by the distinguished gentleman from Ohio, [Mr. BINGHAM,] himself a member of the committee, as to its meaning and scope, I am not only confirmed in my belief that it does relate to that general subject, but I confess I am startled as to the scope of action that it proposes to embrace, of which this is to be the initial step. The gentleman from Ohio told us the other day, in very impressive and forcible language, that this was only the first of a series of amendments and propositions which that committee would submit for the action of the House. He regarded them all as essential to the safety of the country. He said he trembled when he thought that this whole series of propositions, which he deemed so important to the public welfare, might not be adopted by this Congress and the country at large.

Mr. BINGHAM. My statement was this: I tremble for my country if the proposition now pending be all that this House proposes to send to the people for their approval.

Mr. RAYMOND. Mr. Speaker, I desire to say, in regard to interruptions, that I shall yield cheerfully for a correction of any error into which I may fall in repeating the remarks of any gentleman; I shall cheerfully yield to any correction of any statement of fact; and I will also yield for an explanation of any point I may not make clear. Beyond this I should greatly prefer to follow the line of my remarks without interruption.

I do not understand the gentleman to make any important correction of the sentiment I understood him to express. I will adopt his explanation. He now says he trembles for his country if this were the only proposition the House should adopt. The point I wish to make is this: if this is the first of a series of propositions for amending the Constitution of the United States, so vital to the welfare of the country, which we are to assume from his remarks may be reported from that committee, we are fairly entitled to know the whole programme before we act upon any specific feature of it. How do we know what proposition will follow, if we adopt this and send it to the country? We should know the relation of this to those which are to come after it. We should know whether this is in execution of its own terms, or whether other propositions are to follow to give it effect. We should know whether the powers of the General Government of the United States are to be so enlarged as to destroy the rights which those States now hold under the Constitution of the United States. For one, sir, I am not willing in any respect to act on this or any other similar

proposition from that committee, until I know what is the rest of the schedule to be presented for our adoption.

Now, sir, I cannot help believing—it is an inference merely—that this proposition is reported from that committee as part of a scheme for reconstructing the Government and the Constitution of the United States—for reconstructing both on the basis of a distinct principle which has been over and over again announced in this House. That principle is simply this: that by the war which has been raging, and as a consequence of that war, the States which were in rebellion have ceased to have any existence as States; that they have ceased to be States of this Union; that they exist only as so much waste, unorganized, ungoverned territory; that the people who live upon that territory are simply “vanquished enemies,” to be governed and disposed of by us at our sovereign will, and subject to no law but our own discretion. It is on that principle, sir, that the action proposed at this time is to be based, if it has any basis at all. That has been the tone of the debates on the subject here. That was the tone and tenor of the distinguished gentleman from Ohio, [Mr. SHELLABARGER,] who replied to some remarks which I made upon this subject a few weeks ago.

Mr. SHELLABARGER. If the gentleman is willing to yield for the purpose of correction I will say he inaccurately understands what was my meaning.

Mr. RAYMOND. Well, perhaps it would be more accurate and proper if I use the gentleman's own language. He says:

“What is before this Congress—by far the most momentous constitutional question ever here considered.—I at once condense and affirm in a single sentence.—It is under our Constitution, on possible, and the late rebellion did in fact so, overthrow and usurp in the insurrectionary States the loyal State governments as that, during such usurpation, such States and their people ceased to have any of the rights or powers of government as States of this Union; and this loss of the rights and powers of government was such that the United States may and ought to assume and exercise local powers of the lost State governments, and may control the readmission of such States to their powers of government in this Union, subject to and in accordance with the obligation to ‘guaranty to each State a republican form of government.’”

I accept that as the gentleman's statement of the case. The gentleman from Connecticut [Mr. DEMING] stated in so many words that the people of these lately rebellious States were now “vanquished enemies,” to be dealt with politically as such, and that their lives, property, and political rights were at our absolute and sovereign disposal. And he took some credit to himself for being willing to waive in their behalf something of the *strictissimum jus* which the rule of subjugation would give us.

Now, sir, as I have already indicated, my position is the exact opposite of this. I deny *in toto* the fact of such subjugation. I do not believe that the war has given us any such power. On the contrary, I hold that these States have never ceased to be States, and have never ceased to be States in and States of the Union. And they are to-day States of the Union, and therefore entitled to all the rights conferred upon them as such by the Constitution. And we have no right and no power to exercise any authority over them which the Constitution does not confer upon us, any more than we have over the States of New England or the West.

Now, sir, I wish to say in the first place that this is sometimes spoken of as a question of mere metaphysics, or as a verbal difference, not entitled to any particular consideration in dealing with the practical relations of the subject. If I so regarded it I would not waste time in this House in its discussion. But when I see that on that distinction turns a system of policy to be pursued toward those States in restoring peace and harmony to the Union I cannot so regard it. And many of the gentlemen who themselves thus designate it have based upon that distinction, nevertheless, the whole scope of policy which they think should be pursued toward those States. I trust, therefore, that the House will forbear with me if I enter somewhat at length into an examination of the great principle upon which it is proposed that

this question should rest. I can do it, perhaps, more clearly and satisfactorily than otherwise, in the form of reply to objections which have been urged against the position I have taken; and, without disrespect to any other gentlemen on this floor, I shall take the speech made by the gentleman from Ohio [Mr. SHELLABARGER] in reply to me as embodying the most compact, forcible, and most carefully prepared legal argument that has yet been made.

The gentleman from Ohio took the ground that habitual obedience to law must characterize a community in order to entitle it to be considered a State.

Mr. SHELLABARGER. I do not wish to interrupt the line of the gentleman's argument, but I would ask to put a question now which bears directly on the point upon which he now proposes to base his argument.

Mr. RAYMOND. If the gentleman will ask his question I will tell him whether it will interrupt my argument or not.

Mr. SHELLABARGER. I understood the gentleman from New York to have just said that he regards these rebel States as now in the Union to all intents and purposes as effectually and as thoroughly as any of the States of this Union. Now, then, if that is so, I wish to ask him how this happens to be true, namely, (I read from the gentleman's speech recently made on this floor:)

“The gentleman from Ohio [Mr. FINCK] who preceded me took the ground that they had only to resume their places and their powers in the national Government—that their Representatives have only to come into this Hall and take their seats without question and without conditions of any sort. I cannot concur, sir, in this view. I do not think these States have any such rights. On the contrary, I think we have a full and perfect right to require certain conditions, in the nature of guarantees for the future, and that right rests, primarily and technically, on the surrender we may and must require at their hands. The rebellion has been defeated. A defeat always implies a surrender, and in a political sense a surrender implies more than the transfer of the arms used on the field of battle.”

Mr. RAYMOND. I submit to the gentleman that what he has just read is not only not a question, nor a correction, but in the nature of a reply to my argument, and as such not warranted at this point on the score of parliamentary propriety or of personal courtesy. I have no objection at the proper time to answer the question, and I probably shall do so in the course of my remarks. And I beg to suggest to him or any other gentleman on this floor that they will restrain their impatience to reply to me until I get through, or take some other time and opportunity to discuss the question than that which belongs to me.

The last clause of the passage from my remarks which the gentleman from Ohio read furnishes a clue to the whole of them. As I said then, I believe we had a right to demand of the defeated rebels whatever might properly be embraced in the terms of a surrender. That surrender, embracing not only their arms and munitions of war but the principles on which the rebellion rested, they have made and we have accepted; and now they are entitled, with certain limitations, which I shall hereafter explain, if I am allowed to proceed in the regular course of my remarks, to the rights given to them by the Constitution, and we are particularly restrained by the Constitution, which is binding on us, from doing anything toward those States which we may not properly do toward any other State within the Union.

Now, sir, I return to the argument of the gentleman in regard to the extinction of States. He takes the ground, as I was saying, that habitual obedience to law is essential to the existence of a State in the view of public law, and he quoted Wheaton and Grotius and Burlamaqui and others to sustain that position. I have no disposition to quarrel with him on that point. I admit it. I do not think it an adequate definition of a State, but as far as it goes it is just. Habitual obedience to law is essential to a State. He takes the same ground in regard to a State in the Union, that a State to be such in this Union must be characterized by habitual obedience to the Constitution and laws

of the United States, and that when this habitual obedience ceases then the State ceases to be a State of the Union. I admit that also.

Now, in regard to the first proposition, as to the continued existence of a State, I have to draw his attention to one point which he overlooked. It is not simply the fact that habitual obedience to law is essential to the existence of a State, upon which he lays stress, but he assumes that this habitual obedience must be uninterrupted, that it must never be interrupted or suspended; for if it is suspended or interrupted, the course of his argument requires him to hold that the existence of the State is ended.

He quoted from Wheaton to sustain the point he made, and he quoted correctly as far as he went; but like an adroit and skillful advocate, he stopped the quotation just where it ceased to be of service to him. If he will excuse me, I will complete it. After laying down that principle, that habitual obedience to law must characterize a State, Wheaton proceeds to say:

"But whatever be its internal constitution or form of government, or whoever may be its rulers, or even if it be distracted with anarchy, through a violent contest for the Government between different parties among the people, the State still subsists in contemplation of law, until its sovereignty is completely extinguished by the final dissolution of the social tie, or by some other cause which puts an end to the being of the State."

The interruption of habitual obedience to law, then, does not extinguish the State. The State, says Wheaton, "still subsists in the contemplation of law." We have seen examples all over the world, from the earliest date of national existence to the present time, where habitual obedience to law was suspended by a variety of causes—sometimes by anarchy, sometimes by usurpation, sometimes by civil war. All through the great contest of the French Revolution habitual obedience to law was suspended. Some English publicists—Burke, I believe, among them—contended that the social ties were actually dissolved, and that France had ceased to be a State; but she never was so regarded by England or by the coalition which attempted to restore order and the Bourbons to France. What does the gentleman say in regard to the Mexican empire to-day? There has been usurpation there; there habitual obedience to law has been suspended, and what we regard as the rightful Government of that State is a fugitive among the mountains. Does the gentleman contend that the State has ceased to exist, and that when Juarez comes back to take possession of the Government of Mexico he will find no State there—that it has perished because of the suspension of obedience to its rightful law? And yet Maximilian holds its capital, its archives, and its laws. The sovereignty resides in him and in the French army which is at his back to-day.

The gentleman applies the same principle to the continued existence of States as States within this Union. He holds, and holds correctly, that they must be characterized by an habitual obedience to the Constitution and laws of the United States. But, sir, that obedience may be suspended. I will read from the speech of the gentleman from Ohio his own language upon this point, lest I should misrepresent his views. He said:

"No one who can read the Constitution will deny that each State in this Union must have every one of these properties [implied in habitual obedience to the Constitution and laws] before it can commence to exist in the Union; because the Constitution so declares. Now the question I consider is, whether it shall continue to be a State, in the sense that it holds the powers and rights of a State, after it has lost every property which it must have before it could commence to exist in the Union."

Mr. SHELLABARGER. I do not propose to interrupt my friend from New York, except when he misapprehends the argument to which he is replying. He now misapprehends my proposition. Those qualities to which I allude as those that must be possessed by a State, in the clause that he has read from my speech, are not those qualities that belong to an international State, but the qualities which, by our Constitution, must inhere in a State as indicated by the reading of the Constitution itself.

Mr. RAYMOND. I appreciate that distinction, but it does not in the least affect the argument. The gentleman holds that by public law habitual obedience to law must characterize a State; and I have shown that this obedience may be suspended and still the State exist. He now holds that habitual obedience to the Constitution and laws of the United States is essential to the existence of a State as within the Union, and I propose to show that in this case also that obedience may be suspended without affecting the existence of the State as a State of the Union. The analogy between the two, and between the arguments in both cases, is complete. The same principle which applies to the one applies to the other also. The gentleman asks the question which I have read from his speech. I now give him the answer by Wheaton himself from the page next to that from which the gentleman quoted. That distinguished author says:

"The habitual obedience of the members of any political society to a superior authority must have once existed in order to constitute a sovereign State. But the temporary suspension of that obedience and of that authority, in consequence of a civil war, does not necessarily extinguish the being of a State, although it may affect for a time its ordinary relations with other States."

I think that reply, made by Wheaton, and not by me, is exactly pertinent to the question as submitted by the gentleman from Ohio. It seems, therefore, on grounds of public law and on grounds of constitutional law in the United States, that habitual obedience to law may be suspended without impairing the existence of the State in the sense of public law, or as a State of the Union under the Constitution of the United States. This suspension may occur from a variety of causes. Conquest is one of them. Suppose that in a war with England, that Power should take possession of the State of Massachusetts; suppose she should plant her armed force all around her borders, take possession of her capital, and wield for a time the whole sovereign power of the State. Suppose she does that for six months, would Massachusetts thereby cease to be a State of the Union? Suppose that this occupation should be prolonged for a year, would Massachusetts then cease to be a State of this Union? Suppose that occupation should continue for two years, or three years, or four years. Whenever that usurping Power should be expelled from the State of Massachusetts, be it sooner or later, would she not then stand in her old place as one of the States of this Union? And would any action of Congress be required to restore her to it?

Mr. SHELLABARGER. Will the gentleman allow me to interrupt him at this point?

Mr. RAYMOND. I appeal to the gentleman's sense of courtesy not to interrupt me unless I am led into some misstatement of fact.

Mr. SHELLABARGER. The gentleman misapprehends entirely the proposition I made. I am very anxious that he shall answer what I did say, and not reply to something I did not say. I understood the gentleman to say that he was willing to be interrupted for the purpose of correction.

Mr. RAYMOND. I submit, sir.

Mr. SHELLABARGER. I thank the gentleman for this opportunity. Now, I am equally desirous with the gentleman to attain to truth in this regard. Now, I cited the law of nations for the purpose of establishing this proposition: that that community which had become lawless was, during the continuance of the lawlessness, no longer a member of the family of nations, and the authority read by the gentleman from New York, [Mr. RAYMOND,] which he says I omitted like an adroit lawyer to read, is in exact harmony with that idea, that the suspension of the character of a State continues during the period of lawlessness. That was all the point and purpose of my argument. There and at that point they ceased to be States for the time being. I afterward came to consider the question whether under our system those States that ceased to be States, even in the international sense, can be revived into governing States without the leave of my Government.

Let the gentleman answer what I say, and not what I do not say. What I said was that these States having been suspended in their rights and governments, the resumption of those rights cannot be made by their own volition, but that is a matter which is under the control of the political department of my Government, to wit, Congress and the Executive. There the analogy between the States of this Union and international States fails. An international State has no superior; and when lawlessness ceases in such a State it does revive and become a State, just as Wheaton says. But under this Government the resumption of powers by a State in this Union is subject to the high control of the Government of the United States. Let the gentleman answer that.

Mr. RAYMOND. I thank the gentleman for his permission for me to answer "that." If I understand him now—and I am surprised that I have so much difficulty in understanding him, for he is very clear in his statements as far as language goes, if not in his ideas—I understand him to say that inasmuch as these States formerly in rebellion ceased, under international law, to be States at all, they cannot be or become States in this Union without the direct consent of Congress under the Constitution of the United States. That I believe to be a correct statement of the matter, just as he has made it now.

Now, sir, I take issue with the gentleman on the question of fact. Those States did not cease to be States in the sense of international law. There never was a time when they had not government and law and obedience to law within their own borders. It does not require obedience to any particular form of law to constitute a State in the sense of public law. The government may be a monarchy to-day, a republic to-morrow, a military despotism the day after; but if there is law there the State continues to be a State. There was law and plenty of it—a great deal too much of it such as it was—in the Southern States during the whole rebellion. Why, sir, does the gentleman suppose that there was ever an hour when England, France, or any other country in the world would not have recognized each one of those rebel States as a State in the sense of public law, if they had been at liberty to do so under the explicit and peremptory prohibitions of the Government of the United States, and if they could have done so without rupturing instantly their friendly relations with that Government? No, sir, they never ceased to be States in the meaning of public law. The analogy which I drew in the case of France is perfect and complete, except that the case supposed is much stronger than that of these southern States. They were States in the sense of public international law. They were States within the contemplation of the Constitution of the United States, because the habitual obedience which was due to the Government of the United States was only suspended, not abrogated or destroyed. If they had succeeded in refusing that obedience permanently and forever, then they would have ceased to be States, not otherwise.

Mr. THAYER. Mr. Speaker, if the gentleman will allow me—

The SPEAKER. Does the gentleman from New York yield to the gentleman from Pennsylvania, [Mr. THAYER?]

Mr. RAYMOND. No, sir. I prefer that no new champion should take part in this debate. I am likely to have all I can do to take care of those already involved.

Now, sir, let me recur to the analogy presented by a case of conquest. Suppose that France or England should conquer one of the States of this Union in time of war, and should hold that State for a time; would not that be such a temporary suspension of obedience to the Constitution and laws of the United States as would not affect the existence of the State, either in the sense of public law or in the contemplation of the Constitution of the United States? Why, sir, I point gentlemen to a case which may have a bearing on this question, and which I believe has already been cited,

though not upon this floor. During our war of 1812, the British took possession of one third of the territory of the State of Maine, including the town and port of Castine, and held it for a year—held it so completely, so absolutely, that the people within those limits were held by the Supreme Court of the United States to have been absolved for the time from their allegiance to the Government of the United States. But was that State or any part of it extinguished or Congress called on to restore it to the Union when that usurpation had been withdrawn? No, sir. The State resumed its functions. The action of Congress was not invoked at all. The State went on as a State, and as a State of the Union, just as though the usurpation had never existed; and it was left for the judicial tribunals of the country to decide how far the relations of the individuals in that district to the United States were changed or affected by the temporary suppression of their habitual obedience to the Constitution and laws of the United States.

Sir, I have supposed a case of usurpation by a foreign Power. Let me now suppose a case of usurpation by internal commotion—by the action of internal causes. For Madison, in the *Federalist*, says that the provisions of the Constitution in regard to the guarantee of a republican form of government, apply to usurpations of an oligarchy within a State, as well as to usurpations of another sort. Now, sir, suppose that a party or a military leader—if it were possible that any military leader in this land could contemplate such a thing—suppose that any party or any force should usurp the government of Massachusetts or of New York, and the United States should fail to redeem its pledge to guaranty to that State a republican form of government and to expel the usurping power. If it should fail permanently, then the State would be taken by force of arms out of the Union; but suppose that it should fail to do so for a year, or for two years, or for three years, still continuing the endeavor and the strife, would that failure destroy the existence of the State as a State of the Union? Certainly not. The very supposition affords its own answer. If the usurping power should hold *permanent* possession, then I concede that the State would cease to be a State of the Union, but not otherwise.

Now, I maintain that this is precisely what did happen in the rebel States. During the winter of 1860-61, a conspiracy against the Government of the United States existed here in this city, in this House, on this floor, aided by agents and conspirators in other sections of the country. They deliberately plotted the usurpation of the governments of the southern States, and a usurpation of the functions of the Federal Government within those States. They did all that within the knowledge and under the observation of our Government, which knew its plans and what it was proposing to do. It was the duty of our Government at that time to take due precautions against such usurpation. The distinguished chief then at the head of the Army of the United States (General Scott) recommended to the President of the United States that troops should be stationed at certain points within the proposed scene of operations, for the purpose of preventing the success of such attempted usurpation. That clearly was the duty of the Government, but the Government failed to perform its duty. The President of the United States had a theory which prevented him from interfering; and the Congress of that day refused to give him any power to interfere if he had been so disposed. It was thus, to a great extent the fault of the Government of the United States that this usurpation, which was concocted here, was carried into partial and temporary execution there. Who does not believe that, if we had had a reasonable force in the State of North Carolina, that State would never have fallen into the hands of the traitors who for a time usurped its government?

The same thing may be said of almost every southern State. We all know if the United States had performed to the letter its solemn promise to guaranty to every State a repub-

lican form of government, we should have prevented the rebellion or greatly curtailed its dimensions. But we did not perform that duty. We allowed the conspiracy to ripen and gather strength. The rebels took possession of the southern States; and we were compelled, having failed to prevent it, to raise forces for their expulsion. What was the object of all our array of force except to expel the usurpers who had taken possession of every one of the southern States? What else but that were we trying to do from the beginning to the end of the struggle?

Now, sir, if an attempted usurpation does not necessarily of itself take a State out of the Union unless it proves a success, it makes no difference at all that these usurpers are able by their force, by their control of the States within their power, to bring a majority of the people over to their side. Through our failure to protect them, the people of those States were brought under the power of the usurpers and compelled to obey their authority and aid their cause. They were in the same condition that the people of Mexico are to-day under Maximilian. They had no choice in the matter. If they refused to acquiesce, their property was confiscated and they were arraigned and compelled by force of the prevailing law to join the usurping power. We waged war for four years to expel these usurpers and deliver the people from their control. Suppose we had accomplished this at the end of six months, would any one have then contended, or would any one now contend, that any one of these States was out of the Union? Suppose we had effected this result at the end of one or of two years, should we have regarded them as thus and then out of the Union? I would like the gentleman from Ohio, or any one else, at the proper time, to point out to me the precise point of time when a State gets out of the Union by the usurpation of its powers, other than the period of its final and full success.

The gentleman from Ohio attributed to me the idea, or he assumed by his argument without saying in words that I had propounded it, that, inasmuch as these States were not at any time out of the Union, they were entitled while rebel States to all the rights of constitutional States, throughout the war; and he drew a striking picture of the terrible condition in which we should have been placed if we had allowed rebel Representatives from those rebel States to take seats upon this floor during the war. I should feel some little personal humiliation if I believed that the gentleman thought so meanly of my capacity as to suppose for one moment I could have contemplated such a thing. I do hold the theory, with certain limitations not pertinent to this discussion, that once a State always a State, and at all times a State; but to be entitled to representation or power here it must be a constitutional State, owing allegiance to the Constitution and yielding obedience to the laws of the United States. In every one of those States, if there had been a constitutional government, that government would have been entitled to recognition and representation here. Those States which had such governments were so recognized and so represented here all through the war; and you had here upon this floor, admitted by your own votes, by the votes of many who sit here now, delegates from the States of the South, and States that were in rebellion. There were delegates from Louisiana, Arkansas, from Virginia, and from both Tennessee and Kentucky at the very time the rebels held armed possession of the capitals of both those States.

The gentleman from Pennsylvania [Mr. BROOMALL] also attributed to me the same thing, and he made himself facetious over it, as he had the capacity and the right to do if he saw or fancied anything facetious in it. And not content with being facetious he became sarcastic and severe. And he reached the climax of sarcasm and severity when he referred to the coincidence between my opinions on this point and those of the Democratic gentleman from New Jersey, [Mr. ROGERS.] Well, sir, I

have learned long ago that it is much better to be right with a political opponent than wrong with a professed political friend. Party names are of little consequence, especially now when they mean so little and conceal so much. And much as it may shock the gentleman, I do not hesitate to say that I would far rather be right with the gentleman from New Jersey, [Mr. ROGERS,] Democrat as he is, than to be wrong even in such distinguished company as the gentleman from Pennsylvania himself [Mr. BROOMALL] Union man as he pretends to be.

The gentleman, moreover, seems to have forgotten what also escaped the attention of the gentleman from Ohio, [Mr. SHELLBARGER,] that before any man can take a seat on this floor, or assume any office under the Federal Government, he must take an oath to support the Constitution of the United States, and must take it truly and live up to it, or bear the pains and penalties of perjury. Does he suppose for one moment that the rebel powers in those States would have sent men here who would take that oath? They themselves did not take it. They discarded it, they rejected it. And if rebel Representatives, representing rebel States, had come here they would be liable to arrest, trial, and punishment for treason. The gentleman from Pennsylvania [Mr. BROOMALL] intimated that I had been lately converted to the doctrine of the other side on this subject, and was pleased to express a real or affect surprise thereat. Even if this had been so, I should see no reason to regret it. I trust I shall never be ashamed to change my opinions on any subject, if I can get nearer the truth thereby. I have no right to assume or expect that the gentleman from Pennsylvania should be so far familiar with my political opinions, or the history of my public action, as to know the date of anything connected with either. But then he should not assume to know, on this subject or any other, more than he does know; and to prevent a repetition of his mistake on this point, if he will allow me to send him a speech made by me in Wilmington, Delaware, in the fall of 1863, more than two years ago and during the war, he will find that I held exactly the same ground then that I hold now upon this precise subject, and that I stated it in very nearly the same terms.

Now, sir, I come to another point in the remarks of the gentleman from Ohio, [Mr. SHELLBARGER.] I took the liberty of saying that if these States had gone out of the Union they must have gone at some particular time and in consequence of some specific act; and I asked for a definite statement of the specific time at which, and the specific act by which, this result had been brought about. The gentleman treated me and the House to a highly rhetorical reply. He said that he would, by way of answering the gentleman from New York as to the specific time, tell him that it was when the courts were silent; it was when they carried on war against the Government; when they became enemies of the Government; when they waged war through long, dreary years; obliterated from their State constitutions every vestige of recognition of our Government; discarded all official oaths, and took in their places oaths to support the government of our enemy; it was when they disregarded all the laws of war, "when they carved the bones of your martyrs into ornaments, and drank from goblets made of their skulls."

Well, sir, that is very rhetorical, and there is a great deal more of it. It is very fervid, very touching, and very effective. But, sir, he will excuse me for saying that it is not an answer to my question. It is simply and solely an evasion of it; and he will excuse me for asking his attention to it again. I take it, that, being a lawyer, he knows very well that the relation of the State to the Federal Government at any time is a question of law, of constitutional law. He will concede that under the law of the Constitution a State, at any particular time, either is or is not a member of the Union. It is very easy to tell when States became members of this Union, and by what specific act. We all know, for example, that the Constitution was adopted on the 17th of September, 1787, and that

it went into effect on the 4th of March, 1789. At that time neither North Carolina nor Rhode Island had ratified the Constitution. They were alien States, decided to be such by the Supreme Court of the United States; so that goods that were imported from those States into the United States were taxed by our laws as goods imported from other foreign countries. They were foreign States far more essentially and truly than any one can claim any of the rebel States to have been or to be. And yet on the 21st of November, 1789, North Carolina ratified the Constitution, and thus became, on that day and by that act, a member of the Union; and Rhode Island, on the 29th of May, 1790, more than a year after the Constitution had been adopted by enough States to give it validity, and after the Union was thus formed, became also a member of that Union at that specific time and by that specific act. It is thus very easy to say precisely when and precisely how any State became a member of the Union.

Now, I take it to be equally true that if a State ceases to be a member of the Union she must so cease at some specific time and by some specific act. On any certain day, say the 4th of July, 1861, South Carolina either was or was not a member of the Union, and so of any other day. It is asserted that she is not a member now; and I ask for the specific time when she thus ceased to be a member of the Union. She adopted her ordinance of secession on the 17th of November, 1860. Was she a member on the day before, and had she ceased to be a member on the day after, that act? This is the question I asked; but I got no answer. If she did thus cease, then it was the ordinance of secession that terminated her membership. But I did not understand the gentleman from Ohio to maintain that theory in distinct terms, and I presume he does not hold it.

Mr. SHELLABARGER. Do you desire an answer?

Mr. RAYMOND. If I have misstated the gentleman's position, I do; otherwise I do not.

Mr. SHELLABARGER. What was the gentleman's statement? I did not hear it.

Mr. RAYMOND. I do not suppose I have misrepresented the gentleman. I say that on the day before South Carolina passed her ordinance of secession she was a member of the Union by general consent. Now, was she a member the day after she passed it? If she was not, then the moment of its passage was the specific time when she ceased to be a member of the Union. I say I do not understand the gentleman to maintain that position.

Mr. SHELLABARGER. I do not maintain that position.

Mr. RAYMOND. Very well; so I supposed. Then I proceed to inquire still further, if it was not that, *what was it*, that accomplished this result which the gentleman maintains was accomplished by something or other?

Mr. SHELLABARGER. I will not interrupt the gentleman unless he desires an answer to the question he has just propounded.

Mr. RAYMOND. No, sir, I do not.

Mr. SHELLABARGER. Then I will not interrupt him.

Mr. RAYMOND. I am obliged to the gentleman for his forbearance. I ascertain from his admission that he does not hold that the passage of ordinances of secession effected a severance of these States from the United States. I proceed, then, to inquire what was it that did effect it? Was it the fact that they made war? Why, sir, the fact of making war is nothing in itself. They may make war, but that is a game that two can play at, and unless they make successful war, the fact of their making war has no relevancy at all, and can work no change in their constitutional relations. They became members of the Union by their ratification of the Constitution and by the acceptance of that ratification, and they cannot annul either of those acts by the fact of making war. Is it the length of the war, its duration? Would they have been out of the Union if they had made three months' war, or six months' war, or one years' war, or two years' war? If it was the

length of the war that accomplished the result, pray what is the length essential to its accomplishment? Was it the mode of making war? Was it the fact that they "carved the bones of our martyred heroes into ornaments" that took them out of the Union? Of course no one will pretend that. If, then, it was neither the fact of their making war, nor the duration of the war, nor the mode in which they carried it on, what is there left but a successful result of the war which could possibly accomplish the object at which they aimed? If the war had been successful, then, and then only, would they have accomplished their purpose of departing from the Union.

Now, I wish to refer for a moment, and I will be very brief, to the prize cases so often quoted to sustain the position that the citizens of the rebel States were enemies during the war, and are vanquished enemies now, in a political sense, for in any other sense it has no relevancy whatever to the questions now at issue. I understood the gentleman from Connecticut, [Mr. DEMING,] and various other gentlemen who have spoken on this subject, to take the ground that inasmuch as the Supreme Court has decided them to be public enemies, therefore they have no rights under the Constitution of the United States, but are subject to our absolute will and disposal. Now, I wish to repeat what I said when I spoke before, that the point which was decided by the Supreme Court in the prize cases was simply this: that, during the war, for the purposes of the war, to define the mode in which and the law by which the war could and should be carried on, all the inhabitants of the southern States were public enemies, in this, that property belonging to persons living within the enemy's lines might be seized as enemy's property. It was not held that they would continue public enemies after the war closed, or that they were enemies in any political sense whatever.

Now, sir, there is one single sentence, and it is a brief one, in the decision of the Supreme Court which will show that I make that distinction not without warrant. The court distinctly cautions us against falling into the error of supposing that the term "enemy" was used in a political sense, or in the sense of the common law. Justice Grier in his opinion says:

"But in defining the term 'enemy's property,' we will be led into error if we refer to Fleta and Lord Coke for their definition of the word 'enemy.' It is a technical phrase peculiar to prize courts, and depends upon principles of public policy as distinguished from common law."

Now, in every part of that decision this distinction must be borne in mind, else we shall fall into the precise error against which we are warned by the very decision of the court itself. I repeat there is not one sentence, not one word, not one syllable, in that decision which will give the slightest countenance to the idea that the court decided that the people of those States are still enemies, now the war is closed, or that they have ever been political enemies in the sense in which that term is used upon this floor. The object, and the only object of the court was to decide what was the *status* of property belonging to public enemies, so far as the right of capture was concerned. And the decision on that point was that we had the right to capture property found at sea belonging to men living within the enemies' lines; not because it belonged to disloyal persons, but because it was within reach of the enemy and might be used against us by them in the war. And that is the reason, as I understand it, which controls the whole law upon that technical subject.

I hold in my hand a summary of the decision of the court, prepared by Richard H. Dana, jr., of Boston, who is known there and elsewhere as one of the ablest lawyers, and one of the soundest publicists in that State, which abounds in both. He was counsel in one of these cases, and I may add here, because with some it might give the greater weight to his authority, that he is to-day one of the most strenuous advocates of the adoption of stringent measures in regard to the southern States.

[Here the hammer fell.]

Mr. JULIAN obtained the floor.

Mr. DAVIS. I move that the time of my colleague [Mr. RAYMOND] be extended so that he can conclude his remarks.

Mr. RAYMOND. I would be greatly indebted to the House if I may be permitted to conclude what I have to say.

No objection was made.

Mr. RAYMOND. Mr. Dana says on this subject:

"In closing, I offer the following synopsis of what I understand the court did and did not decide."

"What the court did not decide:

"1. The court did not decide that the passing of the ordinances of secession made the territory of the insurgent States enemy's territory, or its inhabitants alien enemies.

"2. The court did not decide that the passing of the secession ordinances terminated, or in any way affected, the legal relations of the insurgent States as bodies-politic with the General Government, or the political relations of their inhabitants with the General Government or with their respective States.

"3. The court decided absolutely nothing as to the effect of the passing of the secession ordinances on the civil or political relations of the inhabitants of the insurgent States with the General Government or with their respective States, or on the relations of the insurgent States, as bodies-politic, with the General Government.

"4. The court did not decide that the inhabitants of the seceding States are alien enemies at all, or that the territory of those States is enemy's territory."

"What the court did decide:

"1. That in case of domestic war the Government of the United States may, at its option, use the powers and rights known to the international laws of war as blockade and capture of enemy's property at sea.

"2. That to determine whether property found at sea is 'enemy's property,' within the meaning of the law of prize, the same tests may be applied in domestic as in international wars.

"3. One of those tests is that the owner of the property so found has his domicile and residence in a place of which the enemy has a certain kind and degree of possession.

"4. Richmond, Virginia, was at the time of the capture and condemnation of those vessels under such possession and control of an organized, hostile, belligerent power, as to render it indisputably 'enemy's territory,' within the strictest definitions known to the laws of war.

"5. That it was immaterial how that organized power came into existence, whether by the use of State machinery or otherwise, or what its political claims or assumptions are, or whether it is composed of rebel citizens, or invading aliens, or both, or whether it professes to recognize State lines. It is enough for the court that it is waging war, and so recognized by the political department of the General Government, and has the requisite possession of the region in which the owner of the property resides.

"6. That a court of prize in such case decides independently of all questions as to the political relations of the owner, or of the place of his domicile, with the Government of the capturing Power."

So much for that point, and I will not dwell further upon it. But I think it shows clearly that the Supreme Court gave no countenance by its decision to the doctrine presented here, that the inhabitants of these States, having once been belligerents, and declared to be enemies within the technical meaning of the law of prize, are to-day political enemies, and thus subject to be disposed of by us under no restraints but our absolute will and pleasure as their conquerors.

Mr. STEVENS. Did not Mr. Dana confine his remarks to the mere effect of passing the ordinance of secession?

Mr. RAYMOND. In other portions of this *précis* Mr. Dana extends the consideration of the subject generally, and says that the court did not decide at all that these people were political enemies.

It is claimed here that the rebel States have forfeited their rights under the Constitution; and that on the ground of forfeiture they have ceased to have any rights under the Constitution of the United States. As I said the other day, that is a novel doctrine to me. I do not know how States can thus forfeit their rights unless they can discard their obligations also. They certainly cannot do it outside of the Constitution, and there is no provision in the Constitution under which they can do it. They have not done it by the law of nations. We have not been waging a war of conquest against them, and have not achieved any such subjugation as gives us such power or puts them absolutely at our mercy.

As I understand it, we have acquired no greater power over them by our victory over the rebellion than we had before the rebellion broke

out. We put down the rebellion, we crushed the usurpation; we expelled or overpowered the usurpers, we cleared the rebel States of all authority and all force that resisted and rendered impossible the execution of the laws of the United States. When that was done we were done, and the States remained as they were before. We certainly did not conquer them in any sense of subjugation to anything else than the Constitution and law of the United States.

Moreover I find in the Constitution no provision for the forfeiture of State rights. I find there no provision for punishing States. I find provision for punishing individuals for treason, but none for punishing States. I made in this connection a remark a few days ago, that the Constitution generally dealt with individuals and not with States; that there were but few cases in which it dealt with States at all.

The gentleman from Ohio, [Mr. SHELLABARGER,] in somewhat eager haste, I thought, to avail himself of what he might well enough have supposed to be a mere *lapsus* on my part in the use of language, paraded before the House an array of about fifty cases in which the Constitution does deal directly with States; and he asserted in broad terms that the "ability to read the English language" ought to have preserved me from making such a mistake as that. Well, sir; I did not take that in ill part at all. It was a part of the gentleman's rhetoric. He had a perfect right to resort to it. It was not the only case in which he did so, though, perhaps, it was the only case in which he did it with so direct a personal application to myself.

But, sir, I repeat, with a full knowledge of the word as I used it then, that so far as inflicting punishment is concerned the Constitution deals with individuals, and not with States. It does deny the right of States to do certain things—to make treaties, issue letters of marque and reprisal, &c.; but it provides no punishment for States if they violate those injunctions, except the simple penalty of rendering null and void everything that they thus do in violation of those prohibitions. I knew, when I made that statement, that I was not originating any new doctrine. I remembered that Daniel Webster, in one of his able and striking replies to Mr. Calhoun, took the same ground—that the Constitution deals mainly with States; and I knew that in that case he quoted from older and perhaps higher authorities, if there could be higher authority than his own upon that or any other point of constitutional law. I remembered that Oliver Ellsworth, in urging upon Connecticut the adoption of the Constitution, declared explicitly that its great peculiarity was that it dealt with individuals and not with States. I remembered that Mr. Samuel Johnson, the famous lawyer of the same State, made substantially the same statement. And I remembered also that Daniel Webster quoted them both when he concurred in their opinion, and said that—

"The Constitution was adopted that there might be a Government which should act directly on individuals without borrowing aid from the State governments."

I thought, sir, that I should not be in very bad company when I propounded so simple a proposition; and I think to-day that if the "ability to read the English language" should have protected me from falling into error, it should have protected them also.

Mr. SHELLABARGER. Will the gentleman yield to me for a moment?

Mr. RAYMOND. Yes, sir.

Mr. SHELLABARGER. The gentleman seems to charge me (though I do not think he intended it) with an intentional misunderstanding of his remarks in regard to the Constitution dealing with States. Now, sir, if I fell into a misapprehension as to his meaning on that point, it was his fault. If I fell into a misapprehension, it was because, in connection with his statement that the Constitution did not deal with States, he said that it did not do it "except in one or two instances, such as elections of members of Congress and the election of electors of President and Vice President," showing that

he was not speaking of the Constitution dealing with individuals in the punishment of crime or in the enforcement of laws, but that he was speaking of the Constitution dealing with States in the political sense which I attributed to him, because he instanced those two cases.

Mr. RAYMOND. I admit, Mr. Speaker, that I was less guarded than I might have been in the language which I used; perhaps it was susceptible of a broader interpretation than I meant to give it. When I said that the Constitution deals with individuals rather than States, I meant to confine it, as the connection shows—though perhaps I should have done so more explicitly than I did—to the matter of punishments.

Mr. SHELLABARGER. The gentleman, I trust, will pardon me, if I make one additional suggestion. I agree to the proposition which the gentleman states, that, in all matters of the enforcement of the laws under the Constitution of the United States, the Constitution does act on individuals. That has been again and again affirmed by the Supreme Court of the United States.

Mr. RAYMOND. That was all, sir, I designed to say on that point.

Now, having shown, it seems to me, by reasoning, with more or less force and conclusiveness, that we have no right to deal with the States lately in rebellion otherwise than as we might have dealt with them before the rebellion began, I wish to show that the action of the departments, executive, legislative, and judicial, confirms that view. That action proceeds from first to last upon the supposition they were States in the Union when the rebellion broke out; that they continued to be States of the Union during the war; and that they are States in the Union now that the war is over and the rebellion crushed. I do not wish to detain the House by referring in detail to the various acts by which I can sustain these views. It is enough when I refer in general terms to the proclamations of the Executive, and his declarations, both public and private. The first inaugural delivered by the President of the United States, Mr. Lincoln, on the 4th of March, 1861, takes the same position, and is predicated upon this position, that all that he had to do was to execute the laws of the Union, not to wage war against a State. He said:

"It follows that no State upon its own mere motion can lawfully get out of the Union; that resolves and ordinances to that effect are legally void; and that acts of violence within any State or States against the authority of the United States are insurrectionary or revolutionary, according to circumstances. I consider, therefore, that in view of the Constitution and laws the Union is unbroken, and to the extent of my ability I shall take care, as the Constitution itself expressly enjoins upon me, that the laws of the Union be faithfully executed in all the States."

And in the proclamation of April 15, calling out the first body of troops, he declared that—

"Whereas the laws of the United States have been for some time past, and are now, opposed, and the execution thereof obstructed in the States of South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas by combinations too powerful to be suppressed by the ordinary course of judicial proceedings,"—

he would call for seventy-five thousand men to suppress those combinations and enable him to execute the laws. This, too, is the tone and teaching of all the diplomatic correspondence of the Government carried on through the Secretary of State. England was warned from the very first that any recognition by her of these States as being out of the Union would be resented as a cause of war; and Mr. Seward said to Mr. Adams that if England recognized the southern States she must prepare to be their ally. So Mr. Lincoln, in his letter to Mr. Greeley, published at the time, adopted the same idea. So in his letter to Fernando Wood of December 12, 1862, he uses these distinct terms:

"Understanding the phrase 'the southern States would send Representatives to Congress' to be substantially the same as that the people of the southern States would cease resistance and would inaugurate, submit to, and maintain the national authority within the limits of such States under the Constitution of the United States, I say that in such case the war would cease on the part of the United States, and

that if within a reasonable time a full and general amnesty were necessary, to such end it would not be withheld."

So in every declaration of the President; but I will not keep the House by reading more. The House will excuse me for reading as one more proof a passage from the reply to the French proposal for referring the whole subject to a commission. Mr. Seward in that reply says:

"The Congress of the United States furnishes a constitutional forum for debates between the alienated parties. Senators and Representatives from the loyal portion of the people are there already fully empowered to confer; and seats also are vacant and inviting Senators and Representatives from the discontented party who may be constitutionally sent there from the States involved in the insurrection."

That declaration received the approval of the President, and expressed the views of the executive department of the Government.

Now, so much for the executive department of the Government. I find also upon the statute-book laws of Congress all based upon the same idea; laws imposing direct taxes, frequently referred to in these debates. In August, 1861, that law was passed apportioning their share of direct taxes to each of the States then in rebellion, naming them and recognizing them most distinctly and explicitly as States of the Union; and those taxes were paid, or when paid will be paid, by virtue of that act of Congress. So with the apportionment of representation. The act passed March 4, 1862, which did not take effect by its terms until March 4, 1863, gave to each of the southern States its proportion of representation upon this floor. It thus acknowledged the right of representation in Congress of every one of those States, and by the most solemn action declared them to be States of the Union and in the Union even while in open rebellion and war. I could read from other laws passed during the war and show that they all imply, more or less directly, precisely the same thing. I find moreover from time to time distinct declarations by Congress and by this House of the object and scope of the war; I find that the object of the war is in every instance declared to be to defend and preserve the Union with "all the dignity, equality, and rights of the several States unimpaired." I find that one resolution defining the objects for which and for which alone the war was waged, and specifying as one of them the preservation of the rights of the States unimpaired, passed this House after the war had begun in the summer of 1861; and I find recorded as having voted for it nearly all who were then and who are now members of the House on the Union side, and many others. I find the distinguished gentleman who is now the Speaker of the House, [Mr. COLFAX;] I find the gentleman from Pennsylvania, [Mr. KELLEY;] I find the gentleman from Ohio [Mr. SHELLABARGER] voting that the object of the war was to preserve the rights of the States unimpaired, and that when that object was attained the war should cease.

Mr. SHELLABARGER. Will the gentleman yield a moment?

Mr. RAYMOND. Yes, sir.

Mr. SHELLABARGER. I desire to say that I stood upon that position and I still stand upon it, and it is in order that the rights of the States may be preserved unimpaired that we have raised the joint committee of fifteen.

Mr. RAYMOND. If I understand the gentleman, he holds that the rights of the States are now not only impaired but destroyed, and that they are not in existence now. Now, as the object of the war was to preserve those rights unimpaired, the war must have failed to accomplish the object for which, by the common consent and positive declarations of Congress, it was carried on. What, then, did it accomplish, if not the object for which it was waged? I hold that the war was not a failure but a success; that it did achieve its declared object; that it suppressed the rebellion, and by so doing "maintained the integrity of the Union and preserved the rights of all the States unimpaired."

Well, sir, the gentleman from Pennsylvania, [Mr. STEVENS,] although I have heard him complimented (and he will excuse me for saying I consider it a very questionable compliment) for

having always held that the States were out of the Union, has not, I believe, always held it or always desired that others should, for I find him introducing a resolution in this House on the 4th of December, 1862, declaring—

"That if any person in the employment of the United States, in either the legislative or executive branch, should propose to make peace, or should accept or advise the acceptance of any such proposition on any other basis than the integrity and entire unity of the United States and their Territories as they existed at the time of the rebellion, he will be guilty of a high crime."

I do not propose to be guilty of that "high crime."

And now, with one more authority on this subject, I will drop it; and that shall be the authority of the present Chief Justice of the United States on the question whether the States are in the Union or not. In a discourse which Chief Justice Chase delivered about a year ago at Dartmouth College, he said:

"It is my opinion that the States remain States." * * * "And the rebel governments of the southern States have been destroyed. All the machinery of these governments has come to an end; and now, holding as I do that these States remain States, the second process of reorganization is that the governments now revert into the hands of the southern people. They are to rebuild the governments of these States."

I leave this opinion to speak for itself, and with that I leave the discussion, already too much extended, of this part of the subject.

I have thus endeavored to show—with how much or how little success I leave to the House to judge—that the States lately in rebellion are still States of the Union; that their people are not "vanquished enemies" in any political sense, or in any sense which subjects them to be disposed of according to our political discretion; that they are still within the jurisdiction and protection of the Constitution; that they enjoy all the rights under that Constitution which they had before, that they are bound to perform all the duties which the Constitution devolves upon them; and that we are bound by that Constitution in our dealings with them, and have no right to do anything in regard to them which the Constitution does not permit and empower us to do. We have taken a solemn oath to protect and maintain the Constitution of the United States. By the tenth amendment of that instrument all the rights not conferred upon the General Government are retained by the States or by the people thereof. I submit that it is our duty to fulfill the injunctions of the Constitution in that respect as in any other, and toward those States as toward all others. Whether members may be disposed to concede it as a right or not, or to grant it practically even if they do concede it in theory, we have no right, acting under the solemn obligation of our oaths, to set the Constitution of the United States or its authority aside for a single moment.

Having thus, in a somewhat desultory manner, and I am sure very tediously, discussed this question, I will come to a more practical application of the principles I have endeavored to establish. The contest ended in April or May of last spring. The war, which was to crush the rebellion, restore the integrity of the Union and maintain the rights of the States and Territories as they existed before the rebellion, came to an end, having accomplished its object. The President had carried on the war by virtue of his power as Chief Executive of the United States, and as Commander-in-Chief of its armies and navies. By the constitution, article second, section first, the executive power is vested in the President alone. By the third section of the same article it is declared that he shall take care that the laws are faithfully executed. He carried on the war for that purpose by the power directly conferred upon him by Congress. We often hear it said, in regard to the southern States, that if not out of the Union their practical relations to the Government have been suspended. Now, that is true unquestionably. But what is the precise meaning of that language? In what phrase known to the Constitution can the fact be clothed? Is it anything else than this: that in consequence of their condition the laws of the United States could not be executed within those

States, and it was necessary so to change that condition as to render their execution possible?

Well, the war came to an end. The President found this state of things existing: the authority which had opposed the execution of the laws had been destroyed; the usurpation had been expelled; the laws were there; your statute-books were full of laws applicable to all these States; there was no lack of laws; the only lack was of agencies and agents for their execution; the machinery of the government stood still. There was, for example, a law upon your statute-book imposing a tariff of duties on goods imported into southern ports; there was nobody there to collect them. There was a law imposing internal revenue taxes all through those States, and there was no machinery by which they could be collected. There was a law upon your statute-book assigning to those States, by districts, members of Congress; but there were no voters duly qualified under the Constitution of the United States to elect them, and no Legislatures to direct and regulate the manner of their election.

Now, sir, what did the President do under these circumstances? Congress was not in session, and, moreover, it was an executive duty that devolved upon him. He went forward to put the States in a condition to enable him to execute the laws. He proceeded to put the States in such a condition that he could start the machinery of government, so that the laws of the United States might be faithfully executed by him within the limits and jurisdiction of those States.

Mr. STEVENS. I wish to ask the gentleman a question merely for information. What law of Congress was the President executing when he ordered conventions in the States and told them what kind of constitutions to frame?

Mr. RAYMOND. I am quite incredulous of the gentleman's statement that he wishes for information. He seldom needs information on this or any other subject. I am quite sure he has as much of it as I have, though he may not take precisely the same view of the legal bearing of the information in his possession as I should take. However, I will endeavor, in due course of time, to give him what little information I have upon that particular point.

As I have said, it was the duty of the President to execute the existing laws. When Congress shall make new laws for him to execute, he will undoubtedly execute them; but these laws were there, in all the plenitude of their sovereign authority; they stood upon the statute-book, and it was for him to execute them. He thought it his duty so to do. There were a variety of ways open to him by which to provide for their execution, of which he has told us in his annual message. He might have done it by the direct exercise of military power, but that would have involved various evils which he has pointed out, and which are acknowledged to be sufficient. He chose to execute them by virtue of his combined and conjoint authority as Commander-in-Chief of the Army and Navy, and also as the chief Executive of the United States. He followed the precedent set by his predecessor and commenced by him without objection to its fundamental principle on the part of Congress. The first thing he did necessarily was to relieve the great body of the people from their disabilities, so that they could act as loyal and qualified electors of those States; and there is no doubt that he had the power to do this, for it is expressly conferred upon him by the Constitution. There is no doubt, moreover, that it was absolutely necessary as the first step toward the execution of the laws. His predecessor had done the same thing by issuing a proclamation extending amnesty to the people of the southern States upon certain conditions. He thus had a basis for a reorganization of the machinery of Government. He then appointed provisional governors by virtue of his authority as Commander-in-Chief of the Army and Navy, under whose direction and guidance, as representatives of the national authority, this process of restoration might proceed.

Now, I know the question has been raised—

and perhaps it is not quite clear and free from doubt—as to the precise legal authority he had to take this specific step; but I believe it is a principle well established in law that the war powers do not necessarily cease when the actual operations of the war shall have ended; and that the powers of the Commander-in-Chief extend beyond the time when the hostilities armies in the field are disabled and destroyed. It is a period when war is not raging, but is not yet ended—a period known to lawyers and courts as *non flagrante sed nondum cessante bello*. And it has been held in the highest English courts and in all the courts where the question has come up, that the Commander-in-Chief may exercise the authority properly belonging to him as Commander-in-Chief even after the actual war is over. President Johnson appointed provisional governors of these States as his agents, not in the form or under the name of military governors, though that would not have changed the nature of their duties, because he himself had the same duties confided to him when made military governor of Tennessee by President Lincoln. But he appointed them as his agents to set in motion the machinery of Government; and a part of that machinery was the calling of conventions and of Legislatures which should act for the States, and aid by necessary legislation in reestablishing the relations of the States with the Federal Government. He prescribed the terms on which citizens should be allowed to vote for members of the Legislature and for delegates to the convention. He did that because he had an undoubted right to see that power was no longer usurped, and that there should be no voting but loyal and legal voting there. So he went on, by one step after another, advising the Legislatures, counseling them to abolish slavery, not only by their own laws, but by adopting the constitutional amendment, recommending them to repudiate the rebel debt, and also to put upon their own constitutional records a solemn abandonment of the doctrine of secession. Without going further into the details of the steps taken by the President, I will merely say that he proceeded steadily and successfully to restore authority in those States, to put in motion the machinery of their governments, and through that machinery to take care, as he was solemnly sworn to do, that the laws of Congress were "faithfully executed."

I do not know that there was any special call for the interposition of Congress upon that subject. In my judgment the proper function of Congress does not come in until a later stage of the proceedings. The decision of the Supreme Court, in the case of the Dorr rebellion in the State of Rhode Island, has been quoted here to show that it was for Congress to decide when a republican form of government, which they are bound to guaranty, does exist in a State. I have not that decision by me at this time. But I think if gentlemen will read it with special regard for its language and especially for the qualifying clauses in it, they will discover that the decision was to this effect: that it was for Congress to decide what was a republican form of government by deciding upon the admission of members coming from that government, or elected under it. This is the mode and scope of the action of Congress upon this point, and having decided it the members thus admitted are members of Congress, and laws in the enactment of which they take part are binding upon all the departments of the Government. As I understand it, that is the extent to which upon that point that decision went.

Now, what is the condition of these States to-day? They are in the full exercise of their functions of self-government. Our laws relating to them exist upon our statute-books, and they are duly executed within their limits. Taxes are collected from the people of those States. The vessels that go into their ports pay duties according to our laws. Not only has self-government been established throughout those States, but they are to-day, whatever may have been the case during the war, now in the Union, and they can only be got out of the Union by

expulsion. It is possible that this Congress may attempt to expel them, but I do not think it will. It can declare them not to be in the Union, but it must be by a positive act of deprivation if it actually gets them out from the jurisdiction and protection of the Constitution; and Congress is not empowered to perform any such act.

Now, all that remains to complete the restoration of their practical relations with the national Government is the admission of representatives from those States into the two Houses of Congress; and that is for Congress to do. That is purely, solely, and exclusively confided to the power of Congress. The President has nothing to do with that question. And all that we have now to decide is, upon what principles shall that question be settled? I say with regard to that matter, as I have said in regard to every other question connected with our relations to those States, that we must decide it on the principles of the Constitution. We have no right to go beyond that. The fifth section of the first article of the Constitution says:

"Each House shall be the judge of the elections, returns, and qualifications of its own members."

It is for this House to decide upon the qualifications of members who may present themselves here for admission, and it has the right to select its own test to determine that question of qualification in its own way and by its own forms. It has a right to declare that disloyalty, evinced by active hostility against the United States, shall be a disqualification for a seat on this floor, and it has already done so.

There is another point. As Representatives are chosen by districts and not by States, I maintain that this House is bound to consider the case of each separate district by itself, as a district; by which I mean that if a member presents himself here from a particular district of the State of Georgia we can inquire into his qualifications for occupying a seat upon this floor without regard to the character of other Representatives from that State, or of the State itself. If he is a disloyal man we can exclude him, and decide that his district, having sent here a disqualified man as a Representative, is not entitled to representation until it sends one who is qualified; and if the adjoining district sends a man who is qualified, we may and should admit him, thus deciding the matter by districts and not by States. The Senate, of course, will act for itself on the question of admitting Senators, and must, of necessity, act by States.

Mr. STEVENS. The gentleman will pardon me for interrupting him, but I would like to understand from him whether he holds that this House can make a law changing the qualifications which the Constitution prescribes for a member of Congress, or whether he holds that it must be done by both branches of Congress jointly.

Mr. RAYMOND. I do not think that either this House or both branches of Congress can change the provisions of the Constitution in that respect or in any other.

Mr. STEVENS. I desire the gentleman to state whether, in his view, we can, either by our own action or the joint action of both Houses, make a law requiring other qualifications for membership than those designated in the Constitution.

Mr. RAYMOND. We cannot pass any law whatever except by the joint action of the two Houses, and we cannot by joint action pass any valid law which shall contravene the provisions of the Constitution; but so far as concerns the admission of members to this floor, we ourselves are the absolute judges. "Each House shall be the judge of the elections, returns, and qualifications of its own members." There is the source from which we get authority to judge at all, and that expressly assigns authority on this subject to each House. In acting on this subject, we must undoubtedly abide by the Constitution, and must demand that any person claiming a seat as a Representative shall satisfy the qualifications prescribed by the Constitution.

Mr. STEVENS. I desire to ask the gentleman whether, in his opinion, a test oath, being

an addition to the qualifications prescribed by the Constitution, can lawfully be required of persons presenting themselves for admission as Representatives.

Mr. RAYMOND. I think that we can add such an oath as a test of qualification, if we choose. The Constitution does not prohibit us from requiring any additional test of qualification which we may deem essential.

Now, sir, it is said that by the course of procedure which I suggest a State may be represented partially in one House and not at all in the other. Well, sir, why not? If a particular district in a certain State is entitled to representation by virtue of its loyalty, and it sends here a loyal man as its Representative, that man should be admitted, even though all the rest of the State should be disloyal, and thus disqualified from sending a proper man as a representative in the other branch of Congress. I see no objection to that in point of constitutional law, and I see some advantages in point of policy. This, it occurs to me, the only way in which we can have any representation of the loyal men of the southern States, or do them any kind of justice. We should not judge them sweepingly, classing them with rebels and traitors, and declaring that because some in the State are not entitled to representation, none can have it. Moreover, it would give us some relief and promise us more in future from the great evil which has afflicted the politics of this country for some years past—I mean the evil of sectionalism. We can form relations with loyal men in portions of the South. They need not come here in solid phalanx, adhering, as a matter of course or necessity, to one political party, and to one line of national policy, and taking no part in the general interests of the country, except so far as their relations to one particular party incline them to do so.

Now, sir, it is objected that it is unsafe to admit upon this floor members from the States whose people were lately engaged in rebellion, because those members may vote in a way to destroy or impair some of the permanent interests of the country, or in a way which conflicts with the opinions which many of us hold to be the only safe opinions on which the Government can be conducted. Well, sir, if they are loyal men, (and I do not wish to meet any other here,) they will not vote in a disloyal manner. But, sir, I do not see what right we have to make any point like that. We have no right to canvass how men shall vote before we admit them to seats upon this floor. If they have the right at all, they hold it wholly independent of that consideration. Moreover, I venture to say we need to-day more than we need anything else, Representatives, intelligent Representatives, loyal Representatives from the southern States here upon this floor, for our own information and guidance on subjects we are daily called upon to canvass and decide.

Why, sir, that is the mode by which, in the view of the Constitution, Congress should be become enlightened as to the action it should take. It is to act upon information furnished by Representatives from the different States. Look at the means we have to resort to now, for lack of such representation, to procure such information. We have to rely upon newspaper reports, upon chance letters of correspondents. We hear read before Congress, in one branch or the other, copious extracts from anonymous letters. We call to our aid agents sent South, as my friend from Connecticut [Mr. DEMING] said, to inspect the "southern animus." This is a roundabout and most unsatisfactory way of procuring information to serve as a basis of public action. Each agent will bring from there what he takes there; he will see what he went to see—that and nothing more. Is information thus loosely gathered from irresponsible sources a proper guide for legislation? Is that proper ground on which to act? We should gain immensely in knowledge of the actual condition of the States if we had by our side loyal, intelligent southern men representing loyal districts in the southern States.

Now, sir, we have not gone to work to decide

upon the admission of members in this way. We have not taken this constitutional mode of considering the claims of southern Representatives to seats on this floor. Instead of acting in accordance with the provisions of the Constitution, instead of acting ourselves at all, we have abdicated that high function and handed it over to a joint committee of fifteen—a committee which sits with closed doors, which deliberates in secret, which shuts itself out from the knowledge and observation of Congress, and which does not even deign to give us the information it was appointed to collect, and on which we are to base our action—but which sends its rescripts into this House and demands their ratification, without reasons and without facts, before the going down of the sun! Is that the constitutional mode of acting on this great question? Is it a mode which can satisfy the consciences and patriotic convictions of any man on this floor?

This resolution embodies an amendment to the Constitution which comes from that committee. It is sent here, and the prompt, instant action of the House is demanded upon it. Not a reason came to us from the committee for its adoption, not a statement even of any exigency which required it. I rejoice that the sense of the House revolted from the monstrous outrage of deciding so great a question, one touching so nearly the fundamental principles of our Government, on so small a basis. It demanded debate; and I shall be much disappointed if from the able debates of the past few days the House has not received information and criticism of value in aiding it to form just opinions and take proper action upon the subject.

I think, sir, we have a right to ask that committee for the entire programme on which they propose to reconstruct the Government of the United States before we adopt any of its parts. We may have this amendment changing the basis of representation sent to us to-day, and to-morrow we may have another virtually consolidating the national Government and substantially extinguishing the rights which belong to the States under the Constitution. I will not assume that this is the direction in which the committee is looking for the reconstruction of the Government, but we are entitled to know definitely and distinctly what it does propose, and all that it proposes, before we act at all. When we grope in the dark we know not what we meet, and when we abdicate our own functions and power and put them into the hands of a committee, a creature of our own, which shuts its doors against us, and deliberates in secret and only issues from time to time decrees for us to ratify or reject, it is our right, nay, sir, it is our duty to apprehend the worst, and to demand all the guarantees that full information can furnish for the safety of the trust we have committed to its hands.

I think we owe it to ourselves here upon this floor to emancipate ourselves from the domination of that committee. I think we owe it to ourselves here to discharge that committee from the further consideration of certain subjects we have assigned it, and take them where the Constitution has placed them, into our own keeping. Whether the House is prepared for such action, I do not know. I think for its own dignity it should become so as soon as possible.

We are told that we must admit none to the exercise of political power who are not sincere in their loyalty. Now, I have on that point this to submit: we have no means, in the first place, of testing the sincerity and loyalty of any man except by his public acts. What, moreover, have we to do with the motives of men North or South, or their opinions upon politics or anything else? I thought the day had gone by when opinions could be coerced by political power, or when Governments took cognizance of opinions at all, apart from public action. I thought that habit had expired when the Inquisition died. We have the right to exact at the hands of every man loyalty in his public action; and that is all we have the right to exact. You have the right to hold whatever opinions you like in regard to the Government if you will

obey its laws and act with due allegiance to the Constitution and laws of the United States. That every man may be compelled to yield. What he may do is our concern; what he may believe or think is his, and his alone.

We have heard a great deal of the necessity of requiring irreversible guarantees from the southern States before we can restore them to political power. It is claimed we must have nothing less than an amendment to the Constitution on every point we may deem essential to the public good; and that to these amendments the southern States must consent as a condition precedent to readmission to the Union. On that point I wish to say that I believe we are seriously misled by reliance upon such amendments as guarantees for the future on any subject of vital importance. Take, for instance, the one which guarantees the non-assumption of the rebel debt and the non-repudiation of the national debt. That has been sent out by this House to the country as an amendment to the Constitution, and it is supposed that when it is ratified by the requisite number of States, the payment of our debt is perfectly and permanently secured. Now, sir, I do not believe that either with or without an amendment to the Constitution there is the slightest danger that one dollar of the rebel debt will ever be paid. It is not generally supposed that the people of the South have ever been over zealous touching the payment of their debts, and I see no reason to believe that the war has so increased their resources or their zeal in this behalf as need stir the patriotic apprehensions of Congress.

Now, sir, in regard to our own debt, suppose you put into the Constitution as an amendment a declaration, as broad as you like, and ratify it as often as you like, that this debt shall never be repudiated. Will that declaration pay it? You are to pay it, principal and interest, by voting taxes and in no other way; and when the tax bill is brought into the House, what man will be constrained in the least, as to the vote he will give upon it, by that particular clause of the Constitution of the United States? And if there are any here or elsewhere, or if there shall be in any future time, men on this floor who wish to avoid the obligation to pay the debt, either principal or interest, they will do it by voting not to levy the taxes that are absolutely requisite to its payment. And you cannot coerce the vote of a single man on that question, by a constitutional amendment.

So, too, in regard to the right of secession. Suppose we put an amendment against that doctrine into the Constitution. The States North and South ratify it unanimously; if you please. It will be effectual so long as nobody wants to secede. When they do want to secede, they will override that prohibition just as they will override all the rest of the Constitution. There is nothing like a guarantee, nothing like security in it. Secession will always be, as it always has been, a question of will and of power. The Constitution cannot constrain the will, and if the power is there with the will, matters little what the Constitution contains.

Mr. Speaker, we must bring ourselves to look upon this matter precisely as it is. We must not be deluded by words nor misled as to the one true and sole reliance for the payment of our debt, for the preservation of our Union, for the attainment of all the great objects which this nation was intended to accomplish, and which, we trust, it will yet achieve. We have just one thing and only one to rely on for them all. It is the same which has carried us through this long and arduous war. It is the patriotism of the people of the United States. It is their determination to maintain in the future, as they have maintained in the past, the integrity and the honor of their country. If they have it, and have enough of it to meet the emergencies as they arise, we shall go safely through. If they have it not, all the paper constitutions on the face of the earth could never either give it to them or supply its place.

So, sir, I put no great faith in these so-called guarantees of the Constitution for objects which

can only rest upon the public conscience and the public will. They divert our attention from the real nature of the task we have to perform, and lead us to rely on other agencies than those which alone can give us aid. We must still put faith in the people and in all the people. We must remember that public interest is after all the only guide of public conduct, and must learn that we best consult the safety and welfare of the nation when we promote the welfare and the prosperity of all its parts. We must cease to regard the people of the southern States as public enemies, and look upon them and treat them as identified necessarily with us in the fate and fortunes of this great Republic. It may be hard for us thus to recognize so soon as friends the men who have been in arms against us; but if we are to have any safety for the future, unless we are willing to convert our own Government into a despotism, and to perpetuate mutual hatred among its members for years, for generations to come, we must acknowledge the fact that the southern States are, and will remain forever, so long as the Union endures, essentially parts of our common country.

I have heard it said here that we are to hold these States as provincial dependencies. The gentleman from Ohio, [Mr. SHELLABARGER,] in the case he supposed, in case they should never give evidence of what he styles a sincere loyalty, avowed his willingness to hold them as provinces and dependencies forever! Has the gentleman seriously thought of the meaning which his words imply? Ten million people held by a republican Government, itself based on the principle that the only just foundation of government is the consent of the governed, as dependencies forever! Why, sir, there has been no such outrage perpetrated or contemplated for a thousand years in the history of nations. We are to send there agents to collect our taxes, and they must be collected at the point of the bayonet. We send there judges to hold courts, and armies to keep the people in subjection. I commend to the gentleman, and to every one who sympathizes in his views, to read in the Declaration of Independence the causes which were held then, and which will be held always and everywhere, to justify rebellion. They are precisely the things which must go with the policy covered by that proposition. I am not willing, by any such conduct, to sanctify the rebellion we have crushed. If we are to treat them hereafter in that way, we shall simply justify the course they have taken.

Mr. SHELLABARGER. Will the gentleman yield a moment?

Mr. RAYMOND. I suppose I must, as I involve myself in that necessity whenever I allude to the gentleman at all.

Mr. SHELLABARGER. There is no must about it; the gentleman has misapprehended me.

Mr. RAYMOND. I yield, sir.

Mr. SHELLABARGER. The gentleman has left out of my statement an extremely important part of it, and it was only in order to get that part in that I desired to suggest it. The part he left out is the word "general." What I said was this: that in the case supposed, if there was not general and sincere loyalty (of course sincerity is to be judged by the main facts) then I would hold them as dependencies forever. I would now like the gentleman to favor me and this House by saying what he will do with them if they remain generally and sincerely disloyal.

Mr. RAYMOND. Well, sir, I do not admit the probability of it any more than he does, and even then I would not convert them into our slaves and subjects, because we should do ourselves tenfold more harm than we should them. There is no calamity which can overtake this Government so great as to infuse into its conduct despotic ideas, for ultimately those ideas will rule its action, and it will depend wholly on the accidents of political power on which section of the Union that despotism will take effect. It may take effect to-day on the southern States, but some party may, at some future time, come into power which will give

it effect on New England and the western States. I would not have this Government converted into a despotism for its own sake. Moreover, I submit to the gentleman from Ohio and to all others, whether holding these States as provincial dependencies is the proper way to promote a sincere and general loyalty among their people. Something is due to human nature on that point as on every other. The lessons of history are full of warning and instruction upon it. Did Austria promote sincere loyalty by holding Italy and Hungary in subjection? No; disloyalty grew stronger and stronger with every day of her pressure, until finally she was forced to yield to it, in the one case by arms and in the other by concession, to save her own empire. And so it has been all through the world and all through history. Why, it seems to me that the dial of civilization must have gone backward two thousand years if we accept any such theory of national life and national conduct as this. Cannot we exercise as much clemency in this nineteenth century of the Christian era as Julius Cæsar exercised all through his civil wars in Rome? His first act, after he had crushed his great opponent Pompey in a struggle of life and death, was to admit every one of his followers to an amnesty; the first thing he generally did after conquering a neighboring State was to admit its people to the full rights and privileges of citizenship in Rome.

Sir, I will not pursue this theme, although it is full of interest and instruction. But if we cannot bring ourselves to act with magnanimity in dealing with a vanquished foe of our own race and country, if we cannot treat the southern people as members of this Union, admitting them to equal rights in this Republic, without degrading terms or doing aught to humiliate and destroy their pride and self-respect, then we may make up our minds that we are not equal to the crisis on which we have fallen. We shall fail in restoring peace, harmony, and prosperity to the Union. But the nation will not perish. Others will take our places who better appreciate the nature of the work that devolves upon us, and who will accomplish the end we fail to reach or even to comprehend. I think our danger here and now, lies in doing too much rather than too little. I think the relations of the Union are rapidly being restored. We must bear this in mind, that it does not depend altogether on our political action what shall be the future relations of the South with the North. Influences are at work to-day restoring friendly relations and harmony far more rapidly than any action we are likely to take can do. The great want of the southern people to-day is industry,—to repair their losses, to renew their agriculture, to replace their implements of labor, to find capital to cultivate their lands, to plant cotton, and to start into activity and life, everything that enters into the prosperity of a free people. Restored commerce, "trade, the calm health of nations," will do more for them and for us than any laws we can place upon our statute-book. It is our duty, our duty to ourselves as well as to them, to aid them in these endeavors to build themselves up again, for by so doing we do but build up ourselves. We should do what we can to promote their prosperity; for, in so doing, we but promote our own. If we cannot do this, then we are not equal to the task we have undertaken, and must give place, sooner or later, to those who are.

And now, sir, let me submit in succinct form what I think it would be well for this House and this Government to do; and submitting it simply as an expression of my own views, I shall leave the whole question to the judgment of the House.

In the first place, I think we ought to accept the present *status* of the southern States, and regard them as having resumed, under the President's guidance and action, their functions of self-government in the Union.

In the second place, I think this House should decide on the admission of Representatives by districts, admitting none but loyal men who can

take the oath we may prescribe, and holding all others as disqualified; the Senate acting, at its discretion, in the same way in regard to representatives of States.

I think, in the third place, we should provide by law for giving to the freedmen of the South all the rights of citizens in courts of law and elsewhere.

In the fourth place, I would exclude from Federal office the leading actors in the conspiracy which led to the rebellion in every State.

In the fifth place, I would make such amendments to the Constitution as may seem wise to Congress and the States, acting freely and without coercion.

And sixth, I would take such measures and precautions by the disposition of military forces, as will preserve order and prevent the overthrow, by usurpation or otherwise, in any State, of its republican form of government.

And now, sir, I have only to thank the members of the House for the very great indulgence with which they have listened to my remarks. I may have erred in my opinions, for I have no overweening confidence in my own judgment on these high themes. But I can most truly say that I have spoken from a sincere desire to promote the peace and harmony of the Union we have preserved, and the permanent welfare of the country we have struggled so hard and so successfully to save. If I have said aught that is just and true, I beg that it may not be disparaged by anything I may have uttered that is untimely or unwise. Above all I beg this House to bear in mind, as the sentiment that should control and guide its action, that we of the North and they of the South are at war no longer. The gigantic contest is at an end. The courage and devotion on either side which made it so terrible and so long, no longer owe a divided duty, but have become the common property of the American name, the priceless possession of the American Republic through all time to come. The dead of the contending hosts sleep beneath the soil of a common country, and under one common flag. Their hostilities are hushed, and they are the dead of the nation forevermore. The victor may well exult in the victory he has achieved. Let it be our task, as it will be our highest glory, to make the vanquished, and their posterity to the latest generation, rejoice in their defeat.

Mr. JULIAN resumed the floor.

Mr. STEVENS. I want to say one word, and that is if the gentleman from Indiana [Mr. JULIAN] replies to the speech of the gentleman from New York [Mr. RAYMOND] I shall call him to order. The whole speech of the gentleman from New York has been in violation of the rule making this joint resolution the special order. I did not think it proper to call him to order, but I shall call any gentleman to order who is an old member of the House if he follows his line of argument.

Mr. RAYMOND. I simply wish to reply to that rather personal remark—

Mr. STEVENS. Not at all personal.

Mr. RAYMOND. I was not aware that I was any more in violation of the rules of this House and of the proprieties of this debate than has been any other gentleman who has spoken upon this subject.

Mr. STEVENS. I know the gentleman was not aware of it, and therefore I did not call him to order.

ENROLLED JOINT RESOLUTION.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution (H. R. No. 53) authorizing the Secretary of War to grant the use of a portion of military reserve on St. Clair river, in the State of Michigan, for railroad purposes; when the Speaker signed the same.

BASIS OF REPRESENTATION—AGAIN.

Mr. JULIAN then addressed the House. [His speech will be found in the Appendix.]

At the conclusion of his remarks, Mr. JULIAN yielded the remainder of his time (forty minutes) to Mr. CONKLING.

Mr. JOHNSON obtained leave to print a speech, which will appear in the Appendix.

Mr. CONKLING. I would like to inquire of the chairman of the joint committee [Mr. STEVENS] when he proposes to demand the previous question.

Mr. STEVENS. I stated the other day that I intended to call the previous question to-day. If, however, the gentleman desires to speak to-day, I do not wish to do anything more than call the previous question when he shall have concluded. I do not desire to interrupt him in the middle of his speech.

Mr. CONKLING. I do not desire to speak to-day. I should be very glad to avail myself of the courtesy of the gentleman from Indiana [Mr. JULIAN] to make, so far as I may be able, some answer to the objections which have been urged against the pending proposition. The gentleman from Pennsylvania knows as well as I do that it would be quite idle for me to attempt, at this late hour, and in the present mood of the House, to go on with my remarks at the present time. I do not make this suggestion with a view to postpone the demand of the previous question; but if the previous question were not to be called until to-morrow, and I might then occupy the floor for a short time, I should be very glad. I wish, however, not to interfere at all with the design of the gentleman from Pennsylvania, but to conform myself to it, and to relinquish the floor altogether or to go on in the morning, according to the convenience and judgment of the gentleman.

Mr. STEVENS. Mr. Speaker, I hardly know what to say. I do not desire to urge the gentleman to go on this evening, as it is late, and gentlemen all around me have said that they did not want the previous question called this evening. I do not know, sir, but that if we can agree by common consent to forego the morning hour to-morrow and go on with this discussion, I would be very willing not to call the previous question until half past one o'clock to-morrow.

The SPEAKER. This subject is a special order to the exclusion of all other business, and takes precedence of the morning hour. Therefore the debate, unless arrested by the previous question, will continue to-morrow during the morning hour.

Mr. STEVENS. I will say, then, that I will not ask the previous question until two o'clock to-morrow, if that will satisfy gentlemen who want to speak; but I think that that is the latest time that ought to be given.

The SPEAKER. The Chair is informed of three gentlemen who yet desire to speak, besides the gentleman who holds the floor. There may be others.

Mr. STEVENS. Well, as at present advised, I must call the previous question at two o'clock to-morrow.

Mr. CONKLING. May I inquire, then, as to my right to the floor in the morning?

The SPEAKER. That will depend upon the action of the House. The gentleman has forty minutes remaining of the time of the gentleman from Indiana. If there is no objection, he will be considered as entitled to occupy the floor for that time in the morning.

There was no objection.

Mr. HOGAN. Before this question shall be disposed of, I should like to have the privilege of occupying perhaps thirty minutes of the time of the House. I should be glad to do so either before or after the remarks of the gentleman from New York, [Mr. CONKLING.] No Representative from my State has, as yet, spoken on this subject; and as I am the only Democrat from that State, I would like to be heard on this important question. I should esteem it as a favor if the House would allow me the opportunity to make a few remarks.

Mr. STEVENS. Is the gentleman ready to go on this evening?

Mr. HOGAN. I have no objection to that, if it be the pleasure of the House.

Mr. STEVENS. I hope, then, that the gentleman will be allowed to go on this evening,

with the understanding that when he concludes the House shall adjourn.

Mr. GRISWOLD. I desire to make a motion which I ask the gentleman from Ohio [Mr. LAWRENCE] to accept as a substitute for his motion, now pending, as I understand. That motion, I believe, is to recommit this joint resolution with certain instructions. I desire him to accept as a substitute for his motion a motion to recommit without instructions, giving the committee authority to report at any time.

The SPEAKER. The gentleman from Ohio has the power to accept an amendment, if he sees fit.

Mr. LAWRENCE, of Ohio. It will be time enough for that to-morrow.

The SPEAKER. The gentleman from New York has been recognized to-day and may not be recognized to-morrow, but the gentleman from Ohio has the power to modify his own motion any time previous to the previous question being seconded.

Mr. GRISWOLD. I ask to make my motion now.

Mr. LAWRENCE, of Ohio. In order that the subject may go to the committee unembarrassed, after the discussion we have had, I am willing to accept the proposition of the gentleman from New York simply to recommit. No injury can result from this course, for the reason that when the committee shall report, all these questions can come up then for our discussion and determination.

Mr. STEVENS. We can settle this to-morrow.

The SPEAKER. With this modification the instructions of the gentleman from Ohio and all other instructions fall.

Mr. SCHENCK. I am anxious to get a vote on my instructions.

The SPEAKER. The gentleman from New York [Mr. GRISWOLD] has the floor, and, as has been often decided, he cannot yield for a motion to amend.

Mr. SCHENCK. I want to move, as an amendment to the pending motion, the instructions presented by me, and which were read from the Clerk's desk.

Mr. GRISWOLD. Have I the right to object?

The SPEAKER. Yes, sir.

Mr. GRISWOLD. I am under the necessity to object. I wish to say, in explanation of that objection, that my object is to get the question back to the committee, so that they may express their views and give a report in the light of the discussion which has taken place for the last few days.

I think that a majority of Congress is in favor of an amendment to the Constitution attaining the point sought by the pending resolution.

Mr. GARFIELD. Is not the gentleman willing that all the accompanying propositions shall be sent back to the committee?

Mr. GRISWOLD. Undoubtedly. That is the object I have in view. I have not the slightest objection to that.

Mr. STEVENS. I suggest to the gentleman from New York, [Mr. GRISWOLD,] that, notwithstanding the discussion which has taken place, no man can tell us what is the sense of the House on any one proposition. I am willing it should go back without further discussion. I have learned many things, but I have not learned that any three men agree on any one proposition. Therefore if it goes to the committee we have nothing to guide us. There has been no indication of the disposition of the House. Let us have instructions so that we may know what is the sense of the House.

Mr. BLAINE. Suppose a motion to recommit with instructions is carried by a small majority, what of that when the amendment has to be carried by a two-thirds vote?

Mr. STEVENS. Those instructions the committee would obey with alacrity, as they would be bound to. As the thing now stands, with so many instructions offered, and a vote on none of them, we might as well try to get sense from the jargon of Babel.

Mr. SCHENCK. I am anxious to get my proposition before the House.

Mr. ELDRIDGE. I rise to a question of order. Is this discussion in order?

The SPEAKER. It is in order. The gentleman has a right to yield for an explanation.

Mr. SCHENCK. I ask the gentleman to yield to me to make a motion to amend.

Mr. BENJAMIN. I make the point of order that the House cannot instruct a joint committee.

The SPEAKER. The objection comes too late; but the Chair will overrule the point of order. This House can instruct a joint committee. The Committee on Printing is a joint committee, and it is often instructed by the House. So with the Committee on the Library. But it instructs only so far as the House members are concerned. It does not bind the Senate.

Mr. GRISWOLD. I desire to modify my resolution so that it shall take to the committee all pending propositions. My object is to get before the committee the result of this entire discussion so that they may consider it in the light of that discussion. I hope that the motion will be adopted at once. When the committee reports we can then take whatever final action we may please.

Mr. SCHENCK. I would inquire whether that will carry the propositions which are now pending as amendments or in any other legitimate way before the House.

The SPEAKER. It would not carry all the propositions that have been printed; it would carry those that are pending as amendments to the joint resolution under consideration, including the one offered by the gentleman from Ohio, [Mr. SCHENCK.]

Mr. SCHENCK. I rise for the purpose of submitting an amendment, having the permission of the gentleman from New York [Mr. CONKLING] to take so much of his time for that purpose. I propose to amend the motion of my colleague by referring the whole subject to the Committee on the Judiciary in lieu of the motion to recommit to the joint committee. This subject was before the Judiciary Committee, about to be reported, and all that they considered went by a side wind; very properly I suppose, because of its supposed connection with other propositions relating to the restoration of the States, and it was sent to this same committee on reconstruction.

Mr. STEVENS. I hope the gentleman will not say it was by a side wind; it was one of the subjects expressly committed to us by the House.

Mr. SCHENCK. I am perfectly aware of that, but it had been expressly committed to the Committee on the Judiciary before—this very subject. It is in order, I believe, to select from among the committees which had better take this subject of the amendment to the Constitution, and as the Committee on the Judiciary has always, in both branches of Congress, been the one to which amendments to the Constitution have been referred, I propose to amend by moving to refer it to that committee. I am in so doing, I believe, not only perfectly in order, but acting within the line of safe precedent.

The SPEAKER. The gentleman from New York [Mr. GRISWOLD] can make that motion in lieu of the one he has offered, if he desires. The motion is in order, and will take priority over the other, the Committee on the Judiciary being a standing committee, and the other being a select one.

Mr. GRISWOLD. I insist on my motion.

The SPEAKER. The question then is on the motion to recommit to the committee on reconstruction, to which the gentleman from New York [Mr. GRISWOLD] moves as an amendment to recommit without instruction, which will carry with it all the propositions pending on the subject.

Mr. LAWRENCE, of Ohio. I accept that amendment.

Mr. STEVENS. If it goes without instructions I see no kind of propriety in any further time being occupied in the House with discussion. If we can be permitted to do it the committee will consent that the motion be now taken on that proposition.

The SPEAKER. The Chair will state that the House by unanimous consent has granted to the gentleman from New York forty minutes to speak to-morrow.

Mr. CONKLING. I waive that. I agree that it is worse than idle to be discussing this proposition if the House entertains with favor the suggestion of my colleague, [Mr. GRISWOLD,] and, as I am up, I will say, with his indulgence, that all these propositions are before the joint committee on reconstruction, and were before the sub-committees day after day and week after week.

And I will make another remark. I believe I speak with accuracy—and I hope my colleague on the committee will correct me if I do not—when I say that not one single suggestion, taking the form of objection to that proposition, has been made in this House which was not canvassed over and over again in the committee.

Mr. SCOFIELD. Allow me to ask if the language employed by my colleague [Mr. BROOMALL] was before the committee.

Mr. CONKLING. Not the precise language, but the proposition I believe in all its bearing was before the committee and was talked over. It is the proposition which is based upon voting citizens.

Mr. SCOFIELD. Oh, no; on population.

Mr. CONKLING. I beg pardon, I know what it is, because I hold it in my hand. It is proposed that representation shall be in the proportion of adult male citizens duly qualified to vote, compared to the whole number of inhabitants of the States. That is the proposition in brief.

Several MEMBERS. Oh no, it is not.

Mr. BROOMALL. As I have it here, I will read the proviso:

Provided, That whenever the elective franchise shall be denied by the constitution or laws of any State to any proportion of its male citizens over the ages of twenty-one years, the same proportion of its entire population shall be excluded from the basis of representation.

Mr. CONKLING. That is the same proposition inverted. There is another proposition which states it the other way, but it comes to the same thing.

I was only going to make one other remark. These objections and these substitutes having been before the committee, I agree entirely with the gentleman from Pennsylvania, that no good will result from recommitting this subject without instructions. But I also agree, if that is the pleasure of the House, that I ought not to ask, and no gentleman ought to ask to be heard; therefore with great cheerfulness I waive my right to the floor.

Mr. STEVENS. The gentleman from New York will allow me a single word. The committee do not at all object to any proposition or any instruction, but we shall be happy to have the House instruct us if we are wrong. Without instructions, it would be worse than in vain, it would be a loss of time, to send the resolution back to the committee. We could agree upon nothing else. We can discern in all the discussion that has taken place here no concentration of mind which would authorize us to adopt any one of the propositions which have been offered. I do hope gentlemen will allow votes to be taken on all the instructions and see which the House will adopt, and then if the House chooses to send the resolution back to us they can do so.

Mr. GRISWOLD. The question which has just arisen between my colleague [Mr. CONKLING] and the gentleman from Pennsylvania [Mr. BROOMALL] is a corroboration of the position which I took upon this very question. It is impossible that the committee of fifteen can have been in possession of all the discussion that has gone on upon this question, and while I have great confidence in the faithfulness with which they have considered all these various propositions, still I desire to say, and I say it as an evidence of my great confidence in that committee, that if they take back this question, reconsider it without any instructions, and report back the resolution at any time they may think proper, no matter if it is the slightest

possible variation, the amendment they propose to it will go far toward strengthening the minds of many in this House who are now doubting, and in the country at large. I believe that a reconsideration of the question by a committee so distinguished as we all concede that committee to be, in the light of all the able discussion that has taken place upon this floor within the last few days, will go very far, not only to strengthen the confidence of members upon this floor who will be called upon to vote upon the proposition, but of the people at large in the country, who, I believe, are expecting and will demand from us an amendment of the Constitution attaining the essential points intended to be attained by the pending proposition. I must, therefore, insist on my motion.

Mr. STEVENS. I desire again to inquire whether there is any objection to recommitting the resolution now to the committee without any further debate. If there is not, let it be recommitting. We do not object to it, but we do not want to take up further time in discussion.

Mr. GRISWOLD. I call the previous question on my motion.

The SPEAKER. If the previous question be sustained, the question will be first on the motion of the gentleman from Ohio, [Mr. LE BLOND,] to refer the whole subject to the Committee of the Whole on the state of the Union; and then on the motion to recommit without instructions.

Mr. RANDALL, of Pennsylvania. I desire to suggest to the gentleman from New York [Mr. GRISWOLD] that his motion for the previous question is in violation of the agreement made on Friday, which was that the vote should be taken to-morrow. There are many gentlemen who have staid away to-day under that understanding.

Mr. BLAINE. There will be no yeas and nays. The proposition can be recommitting by common consent.

Mr. RANDALL, of Pennsylvania. Well, that will dispose of the entire subject. I have a right, if I am sustained by one fifth of the members present, to call the yeas and nays.

Mr. BROOKS. We want to dispose of the proposition, to get rid of it; that is just what we want.

The House divided on the demand for the previous question, and there were—yeas 65, nays 32.

So the previous question was seconded.

Mr. ANCONA. I move that the House do now adjourn, and I call for the yeas and nays on that motion. I think it is unfair to press this matter to a vote to night, in the absence of so many members.

The yeas and nays were ordered.

Mr. WASHBURN, of Illinois. Has the previous question been seconded?

The SPEAKER. It has been.

Mr. WASHBURN, of Illinois. Then will not this be the first business to-morrow morning?

The SPEAKER. It will be the first thing in order after the reading of the Journal to-morrow.

Mr. RANDALL, of Pennsylvania. All we want is a full vote.

The question was taken; and it was decided in the affirmative—yeas 66, nays 41, not voting 75; as follows:

YEAS—Messrs. Alley, Ancona, Blaine, Boutwell, Boyer, Brooks, Broomall, Buckland, Sidney Clarke, Dawson, Delano, Deming, Donnelly, Eldridge, Eliot, Ferry, Finck, Glossbrenner, Goodyear, Hale, Aaron Harding, Hogan, Chester D. Hubbard, John H. Hubbard, Edwin N. Hubbell, Hubbard, James Humphrey, James M. Humphrey, Ingersoll, Johnson, Julian, Kasson, Kelso, Laffin, George V. Lawrence, Le Blond, Marston, Morrill, Niblack, Nicholson, Orin, Patterson, Phelps, Pomeroy, Radford, Samuel J. Randall, William H. Randall, John H. Rice, Ritter, Rollins, Ross, Schenck, Shellabarger, Taber, Taylor, Thayer, Thornton, Elihu B. Washburne, Welker, Whaley, Williams, James F. Wilson, Windom, Winfield, Woodbridge, and Wright—66.

NAYS—Messrs. Ames, Baker, Banks, Baxter, Bidwell, Bingham, Blow, Cobb, Conkling, Cook, Cullom, Defrees, Dixon, Eagle, Egan, Farquhar, Garfield, Grinnell, Griswold, Abner C. Harding, Hart, Higby, Hotchkiss, Asahel W. Hubbard, James R. Hubbell, William Lawrence, Loan, Lougyear, McClurg, McKee, Mercer,

Miller, Moorhead, O'Neill, Paine, Perham, Price, Sawyer, Stevens, Trowbridge, Burt Van Horn, and Ward—41.

NOT VOTING—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Baldwin, Barker, Beaman, Benjamin, Bergen, Brandegee, Bromwell, Bundy, Chandler, Reader W. Clarke, Culver, Darling, Davis, Dawes, Denison, Driggs, Dumont, Eckley, Farnsworth, Grider, Harris, Hayes, Henderson, Hill, Holmes, Hooper, Demas Hubbard, Jenekes, Jones, Kelley, Kerr, Ketcham, Kuykendall, Latham, Lynch, Marshall, Marvin, McCullough, McIndoe, McKuer, Morris, Moulton, Myers, Newell, Noell, Pike, Plants, Raymond, Alexander H. Rice, Rogers, Rousseau, Seefeld, Shanklin, Sitgreaves, Sloan, Smith, Spalding, Starr, Stillwell, Strouse, Francis Thomas, John L. Thomas, Trimble, Upson, Van Aernam, Robert T. Van Horn, Voorhees, Warner, William B. Washburn, Wentworth, and Stephen F. Wilson—75.

So the motion was agreed to.

And accordingly (at four o'clock and thirty-five minutes p. m.) the House adjourned.

IN SENATE.

TUESDAY, January 30, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.
The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The **PRESIDENT** *pro tempore* laid before the Senate a message from the President of the United States, transmitting, in answer to a resolution of the Senate of the 11th instant, a report from the Acting Secretary of State, communicating information in regard to a negotiation for the transit of United States troops, in 1861, through Mexican territory; which, on motion of Mr. SUMNER, was referred to the Committee on Foreign Relations, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. SUMNER presented a petition of citizens of Crawford county, Pennsylvania, praying Congress to provide for such an amendment of the Constitution of the United States as will forever prevent any State from making any distinction in civil rights and privileges among its citizens on account of color or descent; which was referred to the joint committee on reconstruction.

Mr. NESMITH presented a memorial of the Cascade Railroad Company, an incorporation created by the Legislature of Washington Territory, praying for a grant of the right of way through the military reservation along the line of that road; which was referred to the Committee on Military Affairs and the Militia.

Mr. GRIMES presented resolutions of the Legislature of Iowa, in favor of an equalization of bounties to soldiers who enlisted to put down the rebellion; which were referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also presented resolutions of the Legislature of Iowa, in favor of the establishment of a mail route from Postville to Waukon, Allemaque county, in that State; which were referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

He also presented resolutions of the Legislature of Iowa, in favor of the establishment of a mail route from West Union to Nashua, in that State; which were referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

He also presented resolutions of the Legislature of Iowa, in favor of an equalization of the bounties of the thirty-seventh regiment Iowa volunteers, so that the members of that regiment who served their full time of three years may be paid a bounty equal to that paid to members of the same regiment who were mustered out for disability; which were referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. STEWART presented a memorial of the Senators and Representative-elect to Congress from Colorado, praying for the admission of that Territory as a State in accordance with the provisions of the enabling act of Congress, approved March 21, 1864, without any other conditions than those imposed by that act; which was ordered to lie on the table.

Mr. RIDDLE presented a memorial of citi-

zens of Delaware, praying to be refunded the excess of income tax alleged to have been paid by them for the year 1864 on farm produce; which was referred to the Committee on Finance.

Mr. POMEROY presented two petitions of citizens of Pennsylvania, praying for such an amendment of the Constitution of the United States as will forever prohibit every State from making any distinction in civil rights and privileges among naturalized citizens of the United States on account of race or color; which were referred to the joint committee on reconstruction.

Mr. COWAN presented a memorial of the Mining Board of Gilpin county, Colorado, remonstrating against the passage of any act affecting the present status of mining claims or titles; which was referred to the Committee on Mines and Mining.

He also presented the petition of Brevet Lieutenant Colonel S. M. Reynolds, paymaster United States volunteers, praying to be relieved from all responsibility on account of money alleged to have been stolen from him on the 22d of December, 1865; which was referred to the Committee on Claims.

Mr. MORGAN presented a memorial of the Board of Trade of the city of Buffalo, New York, praying for an increase of the salaries of naval officers; which was referred to the Committee on Naval Affairs.

Mr. RAMSEY presented the petition of Joseph Nock, praying to be indemnified for loss occasioned by an alleged breach of his contract with the Post Office Department for the supply of mail locks and keys for the United States service, and for compensation for the use by the Government of his patent for an improved lock; which was referred to the Committee on Post Offices and Post Roads.

Mr. HARRIS presented a petition of enlisted men of the Signal corps, representing that the duties of that corps have entirely ceased since the surrender of the rebel armies, and praying that Congress may provide by law for the discharge of that corps; which was referred to the Committee on Military Affairs and the Militia.

Mr. HENDERSON presented a petition of assistant assessors of internal revenue of the first collection district of Missouri, praying for an increase of compensation; which was referred to the Committee on Finance.

Mr. NORTON presented resolutions of the Legislature of Minnesota, in favor of an equalization of bounties to soldiers in the late war for the Union; which were referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. HOWARD. I present the memorial of certain German naturalized citizens of the United States, residing in Detroit, in which they say:

"There is no republican government without a realization of the principles of the Declaration of Independence, that all men have an equal right to life, freedom, and happiness. The undersigned entreat Congress to determine legally for the whole Union in the sense of that principle the requisites of republican government as prescribed by the Constitution, among which we before all things place the following: 1. Absolute equality of political as well as civil rights before the law of the single States as well as in the Union, for all citizens of the United States, to whom belong all persons not excluded by the Constitution. 2. Universal suffrage. 3. Prohibition of all class legislation and of all property qualification. 4. Prohibition of all restrictions on free speech, free press, free assembly, and free instruction. 5. Protection to free intercourse and personal safety."

I move that the memorial be referred to the joint committee on reconstruction.

The motion was agreed to.

JOINT COMMITTEE ON RECONSTRUCTION.

Mr. FESSENDEN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 26) for the payment of expenses incurred by the joint committee to inquire into the condition of the States which formed the so-called confederate States of America; which was read twice by its title.

Mr. FESSENDEN. If there be no objection, I ask the Senate to act upon this joint resolution at the present time.

By unanimous consent, the Senate, as in Com-

mittee of the Whole, proceeded to consider the joint resolution, which appropriates \$10,000, or so much thereof as may be necessary, to pay the expenses of the joint committee of Congress appointed to inquire into the condition of the States which formed the so-called confederate States of America, which sum is to be drawn from the Treasury upon the order of the Secretary of the Senate, as it shall be required from time to time by the committee having such investigation in charge; and any portion of the sum thus appropriated that shall be allowed by the joint committee to witnesses attending before it, or to persons employed in its service for per diem, traveling, or other necessary expenses, and paid by the Secretary of the Senate in pursuance of the order of the joint committee, is to be credited and allowed by the accounting officers of the Treasury Department.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

REPORTS OF COMMITTEES.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred a bill (S. No. 25) to provide for the adjustment and satisfaction of claims of American citizens for spoiliations committed by the French prior to the 31st day of July, 1801, reported it without amendment.

Mr. WILSON, from the Committee on Public Lands, to whom was referred the bill (S. No. 85) granting to the State of Wisconsin a donation of public lands to aid in the construction of a breakwater and harbor and ship-canal at the head of Sturgeon bay, in the county of Door, in said State, to connect the waters of Green bay with Lake Michigan, in said State, reported it with amendments.

SENATOR FROM NEW JERSEY.

Mr. TRUMBULL. The Committee on the Judiciary, to whom were referred the credentials of JOHN P. STOCKTON, claiming to be elected a Senator from the State of New Jersey, together with a protest of certain members of the Legislature of that State against the validity of his election, have instructed me to make a report accompanied by a resolution. I move that the report, together with the credentials and memorial, be printed.

Mr. SUMNER. Let the resolution be read.

The Secretary read as follows:

Resolved, That JOHN P. STOCKTON was duly elected and entitled to his seat as a Senator from the State of New Jersey for the term of six years from the 4th day of March, 1865.

The report, with the accompanying papers, was ordered to be printed.

CONDITION OF THE SOUTHERN STATES.

Mr. DOOLITTLE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested, if not incompatible with the public interest, to communicate to the Senate a copy of the late report of Major General Sherman upon the condition of the States in his department in which he has lately made a tour of inspection.

TELEGRAPH LINES.

Mr. BROWN. I offer the following resolution, and ask for its present consideration:

Resolved, That the Committee on Post Offices and Post Roads be instructed to inquire into the expediency of authorizing the Post Office Department to construct and operate telegraph lines along the principal mail routes, or such of them as it may deem necessary, or to contract with such lines as may be already established, if that shall be deemed more advisable, for the use and control of such lines, and in connection with its postal business to establish offices at such points as may be determined upon, open at all hours to the public and the press, for the safe and speedy transmission of dispatches under proper regulations and at fixed minimum rates; the committee to report by bill or otherwise.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROWN. I do not propose to indulge in any extended remarks at this time upon the resolution in question, but I deem it right to say a word or two before it goes to the committee.

I do not know of any argument that will sup-

port and sustain the present transmission of our mails by the General Government as a work of necessity and public convenience that will not apply with equal force to the new method of intercommunication which is to so large an extent superseding the old method—I refer to the telegraphic system. I believe that it is perfectly feasible for the Post Office Department to take in charge this matter to such extent as may be deemed necessary and as a convenience for the public, just as it has done the mail system, and as it has done the money-order system, both of which have been found so conducive to the public welfare. I do not believe either that it would be a source of additional expense to the Department. On the contrary, I think that it would be a large source of revenue, inasmuch as a large part of the machinery for conducting it is already in existence. There may be some objections to this proposal, and I have no doubt there will be. There may be some objections that I do not now anticipate. There may be objections in the nature of patents upon the modes of transmitting intelligence, upon interests that have already vested, and others of that character; but I have not yet been able to find any which may not be overcome in time and by the proper appliance. It may not be desirable to extend this throughout, but only in certain sections, and thereby to exercise indirectly a control over those lines where it is not in operation.

We all know that there is at this time a very great complaint on the part of the public with the system of transmitting intelligence from one section of the country to the other as now practiced under the telegraphic operation. These complaints are increasing every day, both as to the sinister combinations which control the telegraphic dispatches and as to the negligence which characterizes them, and also as to the fact that in remote sections they become almost unintelligible. I believe that all of that can be remedied by a proper appliance, such as has been suggested. At all events, I desire to elicit consideration from the Committee on Post Offices and Post Roads on that subject, that they may make inquiry in the proper direction, that they may confer with the Post Office Department in regard to the feasibility and the propriety of taking some steps for putting either this whole branch entirely or in part under some control that will give satisfaction to the public and that will reduce it to what is needed; that is, a minimum rate of transmission of intelligence.

I do not desire to trespass further on the attention of the Senate at this time. I ask that the resolution be passed; it is simply a resolution of inquiry.

The resolution was agreed to.

REVENUE COMMISSION REPORTS.

Mr. SHERMAN submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That five thousand copies of the general and special reports of the revenue commission, exclusive of the forms of bills accompanying the same, be printed for the use of the Senate.

BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 111) to provide for the national defense by establishing a uniform militia and organizing an active military force throughout the United States; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 112) authorizing documentary evidence of title to be furnished to the owners of certain lands in the county of St. Louis, in the State of Missouri; which was read twice by its title, and referred to the Committee on the Judiciary.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House of Representatives had signed an enrolled joint resolution (H. R. No. 53) authorizing the Secretary of War

to grant the use of a portion of military reserve on St. Clair river, in the State of Michigan, for railroad purposes; and it was thereupon signed by the President *pro tempore*.

SALE OF STAMPS AND ENVELOPES.

Mr. DIXON. I move that the Senate now take up for consideration the bill (S. No. 71) relative to the sale of postage stamps and stamped envelopes on credit.

The motion was agreed to; and the bill was read the second time, and considered as in Committee of the Whole.

It proposes to authorize the Postmaster General, whenever in his opinion the public service shall require, to sell postage stamps and stamped envelopes on credit for such a period of time as he may deem expedient. The person to whom stamps and stamped envelopes are so sold is to engage to sell and circulate them under the instructions of the Postmaster General, and to give bond in such sum as the Postmaster General may direct, with one or more sureties, conditioned for the faithful keeping of the stamps and stamped envelopes so intrusted to him, and for the payment to the Post Office Department, in such manner as may be directed by the Postmaster General, of the moneys arising from the sale of such stamps and stamped envelopes. The Postmaster General may allow to any person purchasing stamps and stamped envelopes under this provision a commission not exceeding five per cent. on all sales of stamps and stamped envelopes by him made, and the Auditor of the Treasury for the Post Office Department is to audit and settle all such accounts. Such person is to be deemed a receiver and custodian of public money. He is not to sell stamps or stamped envelopes on credit, but to sell them invariably for coin or United States Treasury notes, and at a price not exceeding the price of such stamps and stamped envelopes as provided by law. He is to be subject to all the pains, penalties, fines, and forfeitures now provided by law in cases of receivers and custodians of public money and of postmasters and other persons to whom the sale of stamps and stamped envelopes is intrusted.

An amendment was reported from the Committee on Post Offices and Post Roads, to insert after the word "required" in the fourth line of the first section the words "until the 30th day of June, 1868."

Mr. DIXON. It is thought by the committee, as this bill is intended for a particular exigency, that it should be limited in point of time; and therefore they propose this amendment limiting the action of the bill until the 30th day of June, 1868.

Several SENATORS. What is the exigency?

Mr. DIXON. I shall ask in a moment for the reading of the letter of the Postmaster General. It explains it more briefly than I can do.

Mr. NYE. I wish the mover of the bill would state what the exigency is that requires this unusual proceeding.

Mr. DIXON. Perhaps it would be best to have the vote taken first on the amendment, which is only a matter of detail, and then I shall make the explanation.

Mr. NYE. I think it is due to the Senate that they should be informed what the intention of the bill is, that we may vote understandingly on the amendment.

Mr. DIXON. I ask that the letter of the Postmaster General be read. It states more briefly and clearly than I can do the reasons for the bill.

The Secretary read the following letter:

POST OFFICE DEPARTMENT,
WASHINGTON, D. C., January 11, 1866.

SIR: I inclose a draft of a law authorizing the Postmaster General to sell stamps on credit.

The object of the law is to enable the Department to circulate its stamps through the States lately in rebellion.

This cannot now be done to any considerable extent, for the reason that the law only authorizes the sale of stamps to postmasters or for cash.

There are many places in the southern States where there are neither persons who can take the oath required by law for the qualification of postmasters, nor

persons of sufficient means to enable them to purchase stamps for cash.

I am advised that the demand for stamps is so great in those States that there may be found many persons of responsibility and integrity who, though unable to take the test oath, are able to give good bonds, and would cheerfully become responsible for the stamps intrusted to them, and sell them for the accommodation of the community where they reside.

It is my intention to appoint, so far as practicable, as receivers and vendors of stamps persons who have already been appointed assessors, collectors, &c., and have therefore received the indorsement of the Government.

The compensation proposed is very light, but the penalties provided for are as severe as are now provided by law in all cases of receivers and custodians of public funds.

It is believed that a measure of the character proposed will not only produce considerable revenue to the Department, but will tend to promote a feeling of contentment and subordination among the people of the southern States, and at the same time protect the Department against loss.

Very respectfully, &c.,

W. DENNISON,
Postmaster General.

Hon. JAMES DIXON, Chairman Committee on Post Offices and Post Roads, United States Senate.

Mr. NYE. I am opposed to this amendment and to the bill itself. I understand from the letter just read that the Postmaster General is furnishing mail facilities to a class of people who are unable to take the oath of allegiance or to take the test oath for the purpose of holding the office of postmaster in this country. If there are such benighted portions of our country where men are unable to present evidence of their loyalty, I believe mail facilities should not be afforded them. If we cannot trust them upon their loyalty, can we trust them in their moneyed obligations? If there is any class of people so poor that they cannot pay postage, let Congress in its magnanimity provide that they shall have it free. But I insist upon it that persons who were lately in rebellion and who are now so rebellious that they cannot take the oath of office are not entitled to advantages over those who have proved their loyalty upon many well-fought fields. I oppose *in toto* this special legislation for the benefit of rebels, which is not extended to those who have been loyal throughout. There are many portions of the constituency that I represent to whom it would be exceedingly convenient to be allowed credit for their postage if Congress would pass a law for that purpose, and they are as deserving of such favors from Congress as are those whose hands are red with loyal blood.

Mr. DIXON. I think the Senator from Nevada entirely mistakes the object of the bill. He speaks of trusting rebels or any other class of people for their postage. If he will examine the bill, he will see that it expressly provides that no stamps shall be sold on credit; that every person purchasing stamps must pay at the time in coin or in United States currency. That is provided in the second section of the bill. It is not the object of the bill to give credit to any persons whatever who wish to buy and use postage stamps. The difficulty now is that there is no class of persons at the South with whom postage stamps can be intrusted for sale. Persons cannot, in many places, be found capable of holding the office of postmaster. We know perfectly well that the whole mass of the southern people were engaged in this rebellion, almost without exception, so that there are not now to be found parties there who can take the oath of office, which is retrospective in its character, except in comparatively few instances. The present law provides that stamps shall only be furnished to postmasters upon credit; they only can receive them. Private individuals cannot receive them in that way. We cannot everywhere appoint postmasters who can receive stamps on credit, and as we cannot find parties in the South ready to advance money to the Government for the stamps, the difficulty is that there are, in important sections, no stamps for sale. Who suffer? Not the rebels only, but my constituents and the constituents of the Senator from Nevada. They write letters to the South, but often no return can come, because no postage stamp can be had.

Now, what do we propose to do? We barely propose that if any individual, at the discretion

of the Postmaster General, can give bonds for \$100 or \$500 worth of stamps he may receive them and he may sell them to such parties as require them, for cash, and only for cash. It would not do to allow him to sell them on credit, as this would interfere with the sale by postmasters; but if he is merely a custodian of these stamps, and sells them to individuals who wish to use them for the time being, for cash, I do not see how we are favoring rebels.

The fact is, Mr. President, the public interest must not suffer if we can avoid it. Here is a vast public interest. The object is not to benefit rebels; it is to benefit the whole community, and, if possible, to facilitate intercourse by means of the post office. For my part I cannot see, nor could the committee, how this is any way showing favor to rebels in any part of the country. The Postmaster General did not like to evade the law; other officers have been charged with its evasion; I do not say that they have been guilty of it; but he wishes to follow out the letter of the law, and if he appoints a postmaster he requires him to take the oath; but he does believe, and the committee believe, that it is safe to leave postage stamps with a party who can give good bonds, and that it is not necessary to require him to swear that he has never been engaged in rebellion. If you do require that, you deprive not only that community but the whole northern community of intercommunication. The bill enables the Postmaster General to avoid that evil.

Mr. NYE. If I understand the Senator correctly, he assumes that loyal men cannot be found in the lately rebellious States to take these offices. I have understood, by the way, that the Post Office Department had regarded carefully its duty in not appointing those who could not take the oath.

Mr. DIXON. So I understand.

Mr. NYE. If that is so, the result is that there are no post offices there; and for this Government to become a vender at retail of three cent stamps, it seems to me is a small business and should not be engaged in. Sir, if it is true that there are not loyal men enough in the States lately in rebellion to fill the post offices, this Government should not furnish them postal facilities. If it is true that they are suffering for the want of these stamps, how easy it is for their moneyed men, who want to sell them under this bill, to send to New York and purchase \$500 or \$5,000 worth of them. I repeat that it is not at all proper, neither is it necessary for the public exigency, that this Government should become the creditor of rebels. This Government should see to it that every officer in it is loyal, or there should be no officers. To gather these elements of official station around us with this official power inimical to the best interests of this country, is inviting an element of weakness which we cannot afford. If the rich men of the South want to supply their poor neighbors with post office stamps let them send to New York, or Hartford, or Boston, and buy as many as they please, and pay for them, and let them give credit to such as they please. But, sir, I insist upon it this would be opening a dangerous door for any Department of this Government to enter. I object, therefore, to the amendment and to the bill itself.

Mr. CONNESS. This bill was considered with a good deal of care in the office of the Committee on Post Offices and Post Roads. I cannot see that it is obnoxious to the objections made by the honorable Senator, my friend from Nevada. As stated by the chairman of the committee, it is not proposed to retail stamps on credit. It is well known to the honorable Senator, as it is to every Senator and to the country, that it is exceedingly difficult to obtain agents for the transaction of all the business of the Government in the States lately in rebellion. What shall be done? Does the Senator propose that they shall have no government there? Does the Senator propose that in every instance we shall appoint men from the North or from the States formerly free to go down there and fill every office? I apprehend

that I am as strenuous in my love of loyalty, that I am as desirous that loyal men, where it can be done, shall be the agents, and they only the agents of the Government, as the honorable Senator from Nevada or any other Senator. But, sir, if you are to have a government there at all, if the influence of the Government is to reach that people at all, they must be reached to a greater or lesser degree at some time through their own citizens.

I would have the honorable Senator think of this, and think of it, not simply with reference to the crimes these men have committed, but with reference both to the present and the future. I do not propose to impose the higher range of duties upon men who have come out of the rebellion with their hands stained with its crimes; but the Departments of this Government must have agents in those States. Agents already employed by the Treasury Department, the Interior Department, and other Departments of the Government, will be employed in this connection by the Post Office Department; stamps will be sold to them on credit. I apprehend that the Postmaster General is as anxious as the honorable Senator can be to find loyal men, and will find loyal men in every instance where he can do so, to do this and all other business connected with his Department. But if we are to conduct ourselves toward these States, or Territories, if you please—I do not care what you call them—if we are to conduct ourselves toward the people of the South upon the basis now suggested by the honorable Senator, there can be no reconstruction. There is not the most extreme advocate of a congressional plan for reconstruction who does not suppose, I apprehend, that at some period, say not further distant than two years from this time, those States will resume their place in the Union, and the people who were formerly rebels assume a position of loyalty again to the Government. Now, it is proposed that the officers appointed by other Departments of the Government in these States, and found faithful in their trusts, shall be intrusted to buy postage stamps from the Government to facilitate postal business among the people there.

Sir, I hope that the course of opposition to this bill will not be pursued. As I said before, I feel as strenuous on the subject of loyalty as any Senator, but I cannot go to the length proposed by the Senator from Nevada. I am for peace; I am for a lasting peace as much as the Senator can be; but I think it cannot come by denying to the people of the South every facility that is proposed to be extended to them by the Departments, who have fully considered the matter. I hope the Senator from Nevada will not persist in his objections. I hardly think they are well founded, and I think we cannot proceed upon the basis that he presents.

Mr. CLARK. Mr. President, so far as I have observed or been able to ascertain what is the fact in these rebellious States, there are now there two classes of what you may call Union people. There are some few remaining there who have always been Union men; they were Union men at the breaking out of the rebellion; they remained Union men through the rebellion, and would not touch it or have any part in it. There are other people who have been in the rebellion, but who now call themselves Union men. I fear the operation of this bill will be to place in office the men who now call themselves Union men, and to leave the old, true Union men under the ban of these new and pretended Union men. I found this difficulty the other day: a man, perfectly loyal, who had fled from Mobile on account of his Union sentiments, and has remained here in poverty, desired to return there, and some of the people there asked to have him appointed postmaster. He came to me to inquire what were the proper steps to be taken. I said to him, "Get some of the Union men in Mobile to ask that you shall be appointed." "But," said he, "what kind of Union men do you want, those who have been in the rebellion and are now Union men, or the old and true Union men? I could get the latter, but they are en-

tirely discarded and will not do me any good." I want the Department to bring up those old Union men, not the men who have been in rebellion and have now turned Union men, but the men who have always been true to the Government; and I think, if the Department will seek for them and bring them from under the ban, socially and politically, you can have in these offices true Union men.

But, sir, I desire to ask the Senator from Connecticut one question. The difficulty, as I understand, here is that the Department cannot find loyal postmasters who can take the oath, and so they can have no postmasters with whom to lodge these stamps for sale. I ask, then, what do you want to sell stamps for if you have got no post offices and no postmasters? What are you going to do with a letter there when you put a stamp upon it? Are you going to carry it afoot? I think you had better establish your post offices first.

Mr. DIXON. Does the Senator desire an answer now?

Mr. CLARK. Any time.

Mr. DIXON. The Senator partially misunderstood what I said. I did not say there were no postmasters there; the Postmaster General does not say that. He says there is a difficulty in finding proper parties to appoint. There are postmasters in the States lately in rebellion, but there are not as many of them as could be wished. There ought to be a post office in every village, and I trust the time will soon come when there will be. There are many post offices and many postmasters, loyal men, there; but there are wide districts of country where there are no post offices and no postmasters, and what then is done? They send their letters by private individuals, when stamped, to the nearest post office. I presume sometimes they have to go fifty miles, sometimes twenty, sometimes less, to the nearest post office; but the letter must be stamped, and if they cannot find any place where stamps can be purchased what can they do? The letter cannot be sent.

The Senator from Nevada says, if the Senator from New Hampshire will permit me to go on, that moneyed men can come forward if they see fit and advance the money for these stamps. What interest have moneyed men there or here in doing that? They receive no compensation for it. Business men, it is true, who have other business, retailers, will sometimes keep postage stamps on hand, and advance the money for them; but the difficulty is, that in these States there is less money than loyalty. They are not only in some cases disloyal, but in all cases they are poor. There are but very few men there who could advance this money, for the money is not there. Now, as to their loyalty, I think a man may be loyal and true to the Government at this time who cannot take the required oath. That is my judgment. I think I could name individuals who, as the Senator himself would agree, are now loyal men, but who cannot take the retrospective oath that they have never taken any part in the rebellion against the Government. Nearly all the people of the South have directly or indirectly aided the rebellion at some time or other, and hence they cannot take this oath which is retrospective in its character.

As I stated before, the object of this bill is not to benefit any one class of the community; it is to benefit the business of the whole country. I claim that it is as much for the benefit of the North as for the benefit of the South. A letter is written from the North; it goes to a correspondent in the South, in Mobile for example; a reply cannot be forwarded unless a postage stamp can be obtained; I have no doubt they can be obtained in the city of Mobile, because there probably men can be found who retail other articles who will sell postage stamps, and I believe there is a postmaster at Mobile; but as I said before, there are wide districts of country where there are very great difficulties in obtaining them, and the object of this bill is solely to allow men to be the keepers of stamps who can furnish good security that they will pay for them, who have not the cash on hand

to pay for them, and who cannot take the retrospective test oath. I think, therefore, the public interest requires the passage of the bill.

Mr. NYE. Mr. President, perhaps I attach too much importance to this bill, but I am frank to confess that the importance I attach to it is not so much upon the face of the measure as upon its result. I deem it the duty of every Department of this Government, when looking around for persons to discharge official duties pertaining to it, to find, if possible, loyal men. I deny the proposition that there is not to be found in every community in the southern States some man fit to hold the office of postmaster whose pulse has not beaten every moment since the rebellion broke out in unison with its interests. The difficulty is that we have only heretofore been allowed when speaking of the South to speak of the ruling classes, and the South, when they spoke of themselves, only spoke of the ruling classes. It is the duty of this Government to let up a class of men who have been trodden down under the iron heel of the rulers of the South. There are thousands of them in every State. Every Department in this city is full of men exiled from their homes by the class of men who now want credit on postage stamps, who could go back there clothed with the garments of official power and have around them the shield and the halo of Government protection. But, sir, they are allowed to famish here upon little salaries, exiled from their homes and from their fortunes, and the Department here look around among the class whose hands are reddened with the blood of loyalty, and say they cannot find men to act as postmasters there who can take the oath.

Sir, they cannot find them among that class who instigated and carried on the rebellion. I trust in God the day will never come when one of that class can take an oath that will entitle him to hold an office under this Government. Sir, if we would preserve it intact, if we would keep the serpent out of our bosom that has stung us well-nigh unto death, we must let the class of men who cannot take this oath alone; we must go among the poor of the South, among the free-born whites of the South. Ignorant as they are, every inspiration of their heart, and every prayer from their lips, has been for the preservation of this Union; and nothing ever gladdened their hearts so much as to see the old stars and stripes take the place of that mongrel substitute which these men who cannot take the oath reared over them. The time has come when this Government, in its legislative and executive departments, should lift up the bowed down and heal these breaches by the panacea of true Unionism.

I object, therefore, to this special legislation in favor of that class who come up here self-convicted, acknowledging their inability, without saying, "We are no longer worthy to be called thy sons," but who now want what they have always sought after, the official pap of this Government. Sir, go through Alabama, and you can find men capable of being postmasters everywhere. Alabama furnished fifteen thousand men to the Union Army. Where are they with their wounds and scars which testify to their undying loyalty? They could be postmasters, I take it. Go to Tennessee; go to Georgia; go to Florida, and everywhere you will find men scarred in the battles for this Union, who would be glad to get a postmastership. Give it to them—

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is Senate bill No. 61.

Mr. DIXON. With the consent of the Senate I desire, without pressing this bill at this time, as the morning hour has expired, to say a single word in reply to the Senator from Nevada.

The PRESIDENT *pro tempore*. Senate bill No. 61 is now before the Senate, but it can be laid aside by common consent.

Mr. TRUMBULL. The bill of the Senator from Connecticut will come up in the morning hour to-morrow.

Mr. CLARK. I gave way to the Senator from Connecticut and the Senator from Nevada, and I shall be entitled to the floor upon the bill when it comes up again unless I have lost it by too much indulgence. However, I can get it again at some time I suppose.

The PRESIDENT *pro tempore*. If there be no objection, the Senator from Connecticut will be entitled to the floor to reply, as he says, to the Senator from Nevada.

Mr. DIXON. The Senator from Nevada says—

Mr. NYE. If this debate is to be continued I was not quite through with my remarks.

The PRESIDENT *pro tempore*. The Senator from Nevada is entitled to the floor on this bill, if he claims it.

Mr. NYE. I prefer that the bill should lie over.

Mr. TRUMBULL. I insist on the order of the day.

The PRESIDENT *pro tempore*. Senate bill No. 61 is before the Senate.

PROTECTION OF CIVIL RIGHTS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 61) to protect all persons in the United States in their civil rights, and furnish the means of their vindication; the pending question being on the amendment of Mr. TRUMBULL to the first section of the bill.

Mr. SAULSBURY. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. COWAN. I should like to have the amendment read.

The Secretary read the amendment, which was in section one, line three, after the word "that" to insert "all persons of African descent born in the United States are hereby declared to be citizens of the United States, and;" so that it will read:

Be it enacted, &c., That all persons of African descent born in the United States are hereby declared to be citizens of the United States, and there shall be no discrimination in civil rights or immunities among the inhabitants of any State or Territory of the United States on account of race, color, or previous condition of slavery, &c.

Mr. VAN WINKLE. Mr. President, when I interrupted the chairman of the Committee on the Judiciary yesterday to make an inquiry, I made it in entire good faith, and for the purpose of eliciting information on the subject in order that I might know how to vote on this amendment. I had believed, and had avowed that belief on this floor in April, 1864, that persons of African descent in this country were not citizens of the United States; and with the permission of the Senate I will read an extract from my speech at that time as giving the reasons for that opinion. I said then:

"I ask, first, whether persons of the negro race are, or indeed can be, citizens of the United States without a constitutional amendment? Most certainly they were not counted among 'we the people' who established the national Constitution, nor were they at that time, so far as I am informed, admitted to exercise the rights and privileges of citizenship in any State. From the foundation of the Government, they could not obtain passports to foreign countries from the State Department. These are contemporaneous interpretations of the Constitution which cannot be disregarded. At various periods since and in many instances the courts of the States, and of the United States, have decided that they are not citizens. The constitution of Indiana, and the laws of several States, forbid them to come within their borders for permanent residence, which prohibitions would be of no effect if they are citizens. Whatever privileges individual States may accord to them they cannot make them citizens of the United States, so as to be 'entitled to all privileges and immunities of citizens in the several States.' They are not citizens by birth, for the common law of England is not of force under the national Constitution. That they cannot be made citizens by incidentally calling them such in an act of Congress is palpable. Whether that body can make them citizens by an act passed for the purpose is, perhaps, doubtful. Their position is certainly anomalous, but there is no more perfect right possessed by communities and societies of every kind than that of excluding from citizenship or membership such persons as they deem proper."

That I may not be mistaken in regard to what I mean by a citizen, I will say that I mean by that term one who is an integer of the body-politic or community. By that it will be perceived I include only those who go to make up

the nation. There may be residing among any people those who, under the English law, are called denizens, or there may be aliens not naturalized, or aliens who are there for temporary purposes; or, taking the first two classes, aliens who have come here with a determination to remain here, or those who are entitled to the claim of denizens, although they go to make up the body of the people, yet they are not citizens of the State or country. I am confirmed in the belief which I have entertained on this subject by the fact that in another part of this Capitol within two weeks past two bills have been introduced proposing to declare these people citizens of the United States; and now that the chairman of the Judiciary Committee, with, I presume, the approbation of that committee, has made a similar proposition in this body, it certainly yields the point that they are not citizens, and my doubts on the subject, so far as I entertained them, have been removed.

I think, sir, that we have now at last got to the beginning of all these questions in reference to the negro race. I think it needs a constitutional amendment to make these people citizens of the United States. I am not satisfied with the reasons given by the Senator from Illinois yesterday for doing it under the clause of the Constitution authorizing Congress to pass uniform laws of naturalization. I think it is one of the gravest subjects that ever could be submitted to the people of the United States, and it involves not only the negro race, but other inferior races that are now settling on our Pacific coast, and perhaps involves a future immigration to this country of which we have no conception, for a bill has been introduced at the other end of the Capitol to strike out the word "white" from the naturalization laws, so that we may expect to have an influx here of all sorts of people from all countries. I need not pause to say that this would be detrimental to the best interests of our country. I am willing to receive among us, and always have been, those from other countries who are calculated to make good citizens. I am not and never have been willing to receive, if the discrimination could be made, those whose mixture with our race, whether they are white or black, could only tend to the deterioration of the mass; and I avow myself now as opposed to the amendment which is now before the Senate for the reasons that I have already stated.

Here let me say before proceeding further, that if by authoritative action of the people of the United States, by the deliberate expression of those who may be properly charged to express their voice in relation to this matter, it should be declared that these persons of African descent or of foreign races are citizens of the United States, I should feel very different about the vote that I might give in relation to the subject in my own State. I believe there are certain fundamental and eternal principles that lie at the foundation of society; and if you make these people citizens of the United States, I should feel that they were entitled to the right of suffrage. Of course, this must be governed by circumstances of various kinds, so that some restrictions may be placed upon them as we place restrictions upon others.

I entertain what perhaps may be deemed peculiar ideas in reference to the condition of society, which I have somewhat announced in the extract that I have already read. I do not believe one word of what the chairman of the Judiciary Committee read from Blackstone yesterday. I think it is mere twaddle, and if closely examined will be so pronounced by every one who gives sufficient attention to the subject. I cannot conceive of a state of nature such as is spoken of there. I know not of people entering into society. It is never done and never has been done. What I do think I know is this: I believe the constitution of society was given to man by the Creator at the time it was instituted, and that whatever conditions were imposed at that time are those to which men should endeavor to live up.

We hear a great deal about the sentence from

the Declaration of Independence that "all men are created equal." I am willing to admit that all men are created equal, but how are they equal? Can a citizen of France, for instance, by going into England be entitled to all the rights of a citizen of that country, or by coming into this country acquire all the rights of an American, unless he is naturalized? Can a citizen of our country by going into any other become entitled to the rights of a citizen there? If not, it may be said that they are not equal. I believe that the division of men into separate communities and their living in society and association with their fellows, as they do, are both divine institutions, and that, consequently, the authors of the Declaration of Independence could have meant nothing more than that the rights of citizens of any community are equal to the rights of all other citizens of that community. Whenever all communities are conducted in accordance with these principles, these very conditions of their prosperous existence, then all mankind will be equal, each enjoying his equality in his own community, and not till then. Therefore, I asserted in the speech from which I have already read, that there was no right that could be exercised by any community of society more perfect than that of excluding from citizenship or membership those who were objectionable. If a little society is formed for a benevolent, literary, or any other purpose, the members immediately exercise, and claim the right to exercise that right; they determine who shall come into their community. We have the right to determine who shall be members of our community, and much as has been said here about what God has done, and about our obligations to the Almighty in reference to this matter, I do not see where it comes in that we are bound to receive into our community those whose mingling with us might be detrimental to our interests. I do not believe that a superior race is bound to receive among it those of an inferior race if the mingling of them can only tend to the detriment of the mass. I do not mean strict miscegenation, but I mean the mingling of two races in society, associating from time to time with each other.

I am speaking without immediate preparation. I did not suppose that this subject would have come before us as soon as yesterday, nor did I suppose that this matter would have come to a vote to-day. I have stated plainly the ideas which have led me to the conclusion that we have a right to exclude these people and all other people of the inferior races from becoming citizens, if we so choose. I have said as much as I need say as to the propriety of doing so. On that subject every Senator must judge for himself.

But I must say that, in my opinion, notwithstanding the remarks made by the chairman of the Committee on the Judiciary yesterday, the mode in which it is proposed to effect this object is neither constitutional nor legal. I do not think that the clause that is proposed to be introduced into this bill, providing that persons of African descent are and shall be hereafter citizens of this country, is sufficient to do it. If they are not, as seems to be admitted on all hands, at this time citizens of the United States, they must be got in under some authority of the Constitution. The gentleman points us to the clause authorizing naturalization. I was mistaken yesterday in saying that the language of the Constitution expressly applied to the naturalization of foreigners; but I apprehend from the term used that I was not wrong in the conclusion that that clause was intended to apply to foreigners only. Be that as it may, however, the clause of the Constitution is that there shall be a uniform rule on the subject of naturalization. I cannot say that I know of any decision as to the force of that word "uniform." Taking it, however, in its ordinary acceptation, it would seem to mean this at least, with other things, perhaps, that the laws in reference to the naturalization of all persons should be uniform. We have laws in force for the naturalization of foreigners; and I would remind the

chairman of the committee that the case he cited of the Stockbridge Indians was also the naturalization of foreigners; for we hold the Indian tribes to be *quasi* foreign nations; we, at least, make treaties with them, which are confirmed by this body. The laws of naturalization as they stand require a notice to be given and a renunciation of the allegiance to all foreign Powers, and require that notice to be given, I believe, two years before the application is made; but there is no provision of that sort in this proposition. I should be very willing to have the question submitted in some form to the people of the United States, whether they desire to admit to citizenship this class of persons; and I do not confine it to the African race alone, but I include the races on the Pacific coast that I have already mentioned, and others to whom it is proposed to open the doors. I would like to see it tested by a fair vote of the people of the United States whether they are willing that these piebald races from every quarter shall come in and be citizens with them in this country, and enjoy the privileges which they are now enjoying as such citizens. I think it would not be fair to bring in an amendment to the Constitution proposing to make them citizens, with a view to submitting it to the Legislatures now in session; and therefore I should prefer, if any such provision is to be introduced and passed, that it should go to the conventions of the people, or, at least, that it should be so timed that it would go before the Legislatures to be elected in the coming summer or fall, so that the voice of the people may be expressed upon it. If that voice shall be in favor of it, if the majority of the people of the United States shall declare that these people are citizens, I shall be among the first to endeavor to do my whole duty toward them by recognizing them as citizens in every respect.

I refused to join the American party at the time of its first formation because I thought it discriminated between naturalized citizens and native citizens. However much I might disapprove of the naturalization law previously to that time, I felt that while that was the law, and while these people were admitted under the law, they were entitled to all the rights and privileges and the same treatment as other citizens; and if these dusky people shall also be admitted to the rights of citizenship in such a way as I believe contains a fair expression of the people, and is according to the Constitution, I pledge myself to treat them in the same way that I was disposed to treat our naturalized citizens.

I think, sir, that this subject is one of great importance; I think it is one of the most important we have ever had before us growing out of (if this may be said to grow out of) the war; and I trust that at least it will not be passed through this Senate in a hurry or without due examination. There are others here much more capable of doing justice to this subject on the one side and the other than I am, who, I hope, will let us hear from them, and give us their views in relation to it.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The question is on the amendment proposed by the Senator from Illinois.

Mr. TRUMBULL. No action having been taken upon that amendment, I desire to withdraw it and to offer another in lieu of it to the same purport, changing the phraseology. In the third line of the first section, after the word "that," I move to insert these words:

All persons born in the United States, and not subject to any foreign Power, are hereby declared to be citizens of the United States, without distinction of color and.

So that the section will read:

Be it enacted, &c., That all persons born in the United States, and not subject to any foreign Power, are hereby declared to be citizens of the United States, without distinction of color, and there shall be no discrimination in civil rights or immunities among the inhabitants of any State or Territory of the United States on account of race, color, or previous condition of slavery, &c.

Mr. GUTHRIE. I will ask the Senator if he intends by that amendment to naturalize all the Indians of the United States?

Mr. HOWARD. That is the very question I was about to put.

Mr. TRUMBULL. Our dealings with the Indians are with them as foreigners, as separate nations. We deal with them by treaty, and not by law, except in reference to those who are incorporated into the United States as some are, and are taxable and become citizens, and then it would be desirable that it should apply to the Indians so far as those who are domesticated and pay taxes and live in civilized society are concerned. In reference to the other tribes, they will not be embraced by this provision because we have always treated the Indian tribes as nations with whom we made treaties. The intention is not to embrace them. If the Senator from Kentucky thinks the language would embrace them, I should have no objection to changing it so as to exclude the Indians. It is not intended to include them.

Mr. GUTHRIE. The right of citizenship is a great boon, and may well be supposed to be given to the Indians if you use language strong enough to give it to them; and as they are mere dependents upon the Government, living in the United States, I think they would be made citizens under such a provision as this.

Mr. COWAN. I will ask whether it will not have the effect of naturalizing the children of Chinese and Gypsies born in this country?

Mr. TRUMBULL. Undoubtedly.

Mr. COWAN. Then I think it would be proper to hear the Senators from California on that question, because that population is now becoming very heavy upon the Pacific coast; and when we consider that it is in proximity to an empire containing four hundred million people, very much given to emigrating, very rapacious in their character, and very astute in their dealings, if they are to be made citizens and to enjoy political power in California, then, sir, the day may not be very far distant when California, instead of belonging to the Indo-European race, may belong to the Mongolian, may belong to the Chinese; because it certainly would not be difficult for that empire, with her resources, and with the means she has, to throw a population upon California and the mining districts of that country that would overwhelm our race and wrest from them the dominion of that country.

Mr. TRUMBULL. I should like to inquire of my friend from Pennsylvania, if the children of Chinese now born in this country are not citizens?

Mr. COWAN. I think not.

Mr. TRUMBULL. I understand that under the naturalization laws the children who are born here of parents who have not been naturalized are citizens. That is the law, as I understand it, at the present time. Is not the child born in this country of German parents a citizen? I am afraid we have got very few citizens in some of the counties of good old Pennsylvania if the children born of German parents are not citizens.

Mr. COWAN. The honorable Senator assumes that which is not the fact. The children of German parents are citizens; but Germans are not Chinese; Germans are not Australians, nor Hottentots, nor anything of the kind. That is the fallacy of his argument.

Mr. TRUMBULL. If the Senator from Pennsylvania will show me in the law any distinction made between the children of German parents and the children of Asiatic parents, I might be able to appreciate the point which he makes; but the law makes no such distinction; and the child of an Asiatic is just as much a citizen as the child of a European.

Mr. LANE, of Kansas. I desire to call the attention of the chairman of the Committee on the Judiciary to this state of facts: most of the Indians of our State have taken an allotment of lands, and our supreme court have decided that by the act of accepting the allotments, they have separated themselves from their tribal relations; and I suppose the chairman does not intend to make the Indians of Kansas citizens of the United States.

Mr. TRUMBULL. They are already citi-

zens of the United States if they are separated from their tribes and incorporated in your community.

Mr. LANE, of Kansas. But they are not. We do not intend to extend to them the right of citizenship, but our supreme court have decided that their lands are taxable and that they are separated from their tribes.

Mr. HENDERSON. I should like to ask the Senator from Kansas if he did not state within the last year or two on the floor of the Senate, that the very best specimens of manhood he had ever seen were a cross between the negro and Indian of his State?

Mr. LANE, of Kansas. I said south of Kansas, and I reiterate it now, and I hope the Territorial Committee will introduce a bill having for its object the protection of that magnificent race.

Mr. COWAN. Mr. President, I am asked, with quite an air of certainty on the part of the chairman of the Judiciary Committee, whether the children of persons of barbarian races, born in this country, are not from that very fact citizens of this country. I am not prepared upon the moment to furnish authorities upon this point; but I am certainly very clear that in Pennsylvania that is not the law, and never has been the law; and to assert that it is the law, in my judgment, is to betray an utter want of comprehension, an utter inappreciation of the fundamental principles which underlie the whole of our system. Who was it that established this Government? They were people who brought here the charter of their liberties with them; they were the freemen who emigrated to this country and established these governments, and they established them under charters legally granted them by the Crown of Great Britain originally. By the terms of the charters they were the actual possessors of the political power of the colonies, and they alone had the right to say whom they would admit to a coenjoyment of that power with them. It is true that the colonists of this country, when they came here and established their governments, did open the door of these privileges wide to men of their own race from Europe. They opened it to the Irishman, they opened it to the German, they opened it to the Scandinavian races of the North. But where did they open it to the barbarian races of Asia or of Africa? Nowhere. There may be no positive prohibition; but the courts always administered the law upon the basis that it was only the freemen who established this Government and those whom the freemen admitted with them to an enjoyment of political power that were entitled to it.

The identical question came up in my State—the question whether the negro was a citizen, and whether he possessed political power in that State—and it was there decided that he was not one of the original corporators, that he was not one of the freemen who originally possessed political power, and that they had never, by any enactment or by any act of theirs, admitted him into a participation of that power, except so far as to tax him for the support of government. And, Mr. President, I think it a most important question, and particularly a most important question for the Pacific coast, and those States which lie upon it, as to whether this door shall now be thrown open to the Asiatic population. If it be, there is an end to republican government there, because it is very well ascertained that those people have no appreciation of that form of government; it seems to be obnoxious to their very nature; they seem to be incapable either of understanding it or of carrying it out; and I cannot consent to say that California, or Oregon, or Colorado, or Nevada, or any of those States shall be given over to an irruption of Chinese. I, for my part, protest against it.

I may say, while I am up, that I am entirely opposed to the whole of this first section; and, in my judgment, it has not a particle of constitutional warrant. As I understand the chairman of the Committee on the Judiciary, he takes his ground upon an amendment to the Consti-

tution of the United States recently passed. The first section of that amendment is in these words:

"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction."

Now, Mr. President and gentlemen of the Senate, in all good faith, what was the meaning of that? What was its intent? Can there be any doubt of it? Is there a sane man within the sound of my voice who does not know precisely what was intended by the American people in adopting that amendment to the Constitution? I may say there is no shirking this thing; there is no way of dodging it or avoiding it. We must meet it; and if we are men we will meet it, and we will meet it in the spirit in which it was made. That amendment, everybody knows and nobody dare deny, was simply made to liberate the negro slave from his master. That is all there is of it. Will the chairman of the Committee on the Judiciary or anybody else undertake to say that that was to prevent the involuntary servitude of my child to me, of my apprentice to me, or the *quasi* servitude which the wife to some extent owes to her husband? Certainly not. Nobody pretends that it was to be wider in its operation than to cover the relation which existed between the master and his negro African slave.

Now, mark it, that particular relation and the breaking of it up, is the subject of that first clause of the amendment, and it does not extend any further, and cannot by any possible implication, contortion, or straining, be made to go further among honest men. That was followed by another clause, and a very proper clause, which everybody at the time understood, and which I have never known anybody to be mistaken about until I came into the Senate of the United States this session. That other clause was this:

"Congress shall have power to enforce this article by appropriate legislation."

Enforce what? The breaking of the bond by which the negro slave was held to his master; that is all. It was not intended to overturn this Government and to revolutionize all the laws of the various States everywhere. It was intended, in other words, and a lawyer would have so construed it, to give to the negro the privilege of the *habeas corpus*; that is, if anybody persisted in the face of the constitutional amendment in holding him as a slave, that he should have an appropriate remedy to be delivered. That is all.

Now, let us see what is made out of that simple provision. The bill provides in its first section that "there shall be no discrimination in civil rights or immunities among the inhabitants of any State or Territory of the United States on account of race, color, or previous condition of slavery." "Previous condition of slavery," I agree, is a certain enough phrase in the law; but I should like the honorable Senator from Illinois or any other Senator to tell me what is meant by the word "race," and where it is settled that there are two races of men, and if it is settled that there are two or more, how many. Where is the line to be drawn? What constitute the distinctive characteristics and marks which limit and bound these races? If a State did not desire to make a distinction on account of race, I suppose it might lawfully make a distinction on account of hair. If it desired to single out any class of its citizens and subject them to special laws, it would be a good description, and would not be obnoxious to the terms of this bill, if it were to say that it should apply to all persons whose hair was ribbon-shaped and curled naturally, and not to persons whose hair was cylindrical.

Then "color" is another word upon which nobody is very well advised just at present. Men are of all shades of color, and the races of men differ from the deepest jet up to the fairest of lily white all over the world. But I am not disposed to quarrel with that part of the bill, and I only notice it as an indication of the

loose manner in which we legislate about these subjects. I go on a little further.

But the inhabitants of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right to make and enforce contracts—

And I beg gentlemen who represent great States here to listen—

the same right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property.

Why, Mr. President, if under color of this constitutional amendment we have a right to pass such a law as this, we have a right to overturn the States themselves completely; and will you be surprised when I tell you that this repeals statutes of Pennsylvania, which I have under my fingers; and not only repeals them, but by the provisions of this bill the judges and other officers of Pennsylvania who should undertake to enforce her own laws would be subject, not to revision in a court of error, but subject to a criminal prosecution in courts where the jury are the judges not only of the fact, but of the law as well, under our system?

I suppose if there is any one thing more than another which a State prizes it is that she has the right to regulate the descent of estates. There is not a State in the Union which has not statutes to regulate the descent and distribution of estates, and I do not know whether there are any States in the Union who have not certain provisions on that subject with regard to aliens. It is only by an especial statute in Pennsylvania that aliens can inherit the estates of deceased ancestors, and that perhaps in compliance to the fact that the great majority of our people were originally of foreign blood, and if there was not a reciprocity between Pennsylvania and the foreign State we might be the sufferers by it. If we did not allow the foreign heirs to inherit from the domiciled ancestor here, they might not allow the emigrant here to inherit from the ancestor who remained abroad. But there is a provision in our statutes which will be repealed by this bill if it becomes a law. Let me read it:

"It shall and may be lawful for any alien or aliens actually resident within this Commonwealth, and not being the subject or subjects of some sovereign State or Power, which is or shall be, at the time or times of such purchase or purchases, at war with the United States of America, to purchase lands, tenements, and hereditaments within this Commonwealth, and to have and to hold the same in fee simple or for any lesser estate, as fully, to all intents and purposes, as any natural-born citizen or citizens may or can do: *Provided always*, That such alien or aliens shall, previous to such purchase or purchases, declare his or their intention to become a citizen or citizens of the United States, agreeably to any law of the United States at that time in force upon that subject: *And provided also*, That no such alien or aliens shall be competent to purchase and hold more than five hundred acres until he or they shall have actually become a citizen or citizens of the United States."

Now, it will be observed that the provisions of this bill override and contravene that law of ours. What I mean to say is that nobody can pretend, nobody can believe that it was intended by this clause of the Constitution to confer any such authority as that upon this Government.

Mr. TRUMBULL. Will the Senator from Pennsylvania allow me a moment?

Mr. COWAN. Certainly.

Mr. TRUMBULL. Does he pretend to deny that this Government had just that power before this constitutional amendment was adopted?

Mr. COWAN. I do.

Mr. TRUMBULL. I should like, then, to ask the Senator one or two other questions.

Mr. COWAN. Half a dozen if you please.

Mr. TRUMBULL. Does the Senator deny that the Federal Government has authority to naturalize any person; that it may provide by uniform laws of naturalization to naturalize any foreigner?

Mr. COWAN. Must provide by uniform law.

Mr. TRUMBULL. They can do that?

Mr. COWAN. Yes.

Mr. TRUMBULL. Then it could authorize any one of those persons to purchase just as

much land in Pennsylvania as he pleased, by declaring them all citizens—could it not?

Mr. COWAN. Yes.

Mr. TRUMBULL. Then the power existed before the passage of the constitutional amendment to authorize any persons, aliens from abroad, who came into Pennsylvania, the moment they put foot in Pennsylvania (by making them citizens) to hold as much land as they please. What becomes of your argument that there was no power in Congress to do it?

Mr. COWAN. The argument stands; but what becomes of the position in which the honorable Senator places himself? He has utterly mistaken the point in question. Nobody denied that after foreigners were naturalized they could purchase land. That is not the question. The question is whether the General Government before naturalization can confer upon aliens this privilege. I do not desire to ask questions triumphantly, as though I was certainly right, because I am in this debate upon the spur of the moment; but I would ask the honorable Senator whether there is not every distinction in the world between the right of a man after naturalization and before, as viewed by these statutes. These statutes do not provide that a naturalized citizen shall not have all the rights of every other citizen, but provide what his rights shall be before naturalization; so that the power which the United States originally had has nothing to do with the question.

Mr. TRUMBULL. I was looking at it as a question of power. That is the only light in which I was trying to answer the Senator from Pennsylvania. Now, this bill provides that all the inhabitants of the States shall have the same rights. The Senator from Pennsylvania says that that must be unconstitutional because the Federal Government has no right to declare that the inhabitant of Pennsylvania who came from abroad may purchase real estate in that State. As a question of power, he says that. Now, I reply to that, and he admits it, that as a question of power the Federal Government has the power to make every inhabitant of Pennsylvania a citizen. Then could not every inhabitant of Pennsylvania own real estate, and could Pennsylvania deny the right? The Senator is arguing against this as unconstitutional; he says we have no power to do it. Whether it would be politic to do it is another question. The argument of the gentleman on that point I shall not now undertake to answer, but I say it is a demonstrable fact, as much so as a mathematical proposition, that the Federal Government has authority to make every inhabitant of Pennsylvania a citizen, and clothe him with the authority to inherit and buy real estate, and the State of Pennsylvania cannot help it.

Mr. COWAN. Every alien-born citizen?

Mr. TRUMBULL. Every inhabitant of the State, no matter where born.

Mr. COWAN. I think I comprehend now the drift of the argument. It is because the United States has a right to naturalize aliens, therefore the United States has a right to authorize people who are not aliens to do what is forbidden by the several States! Is not that a fair statement of the Senator's argument? It is, that because the United States has a right to naturalize persons born abroad, and to confer upon them, if you please, all these rights, therefore it may do it without naturalization under the provisions of this bill! If I do not state his proposition fairly, I trust that I shall be corrected. Then, I say again, that by the provisions of this bill, without naturalizing the alien, without bringing him within that uniform rule which must be adopted before any alien can be naturalized, he is made here able to hold lands and do just as everybody else in Pennsylvania.

Mr. TRUMBULL. I do not wish to pursue this controversy, but—

Mr. COWAN. I would prefer to have the honorable Senator reserve what he has to say until after I have concluded.

Mr. TRUMBULL. I will not interrupt the

Senator again, and shall not do so now if the Senator desires me not to do it. I was going merely to set that one thing right.

Mr. COWAN. Now, as I understand the meaning and intent of this bill, it is that there shall be no discrimination made between the inhabitants of the several States of this Union, none in any way. In Pennsylvania, for the greater convenience of the people, and for the greater convenience, I may say, of both classes of the people, in certain districts the Legislature has provided schools for colored children, has discriminated as between the two classes of children. We put the African children in this school-house and the white children over in that school-house, and educate them there as we best can. Is this amendment to the Constitution of the United States abolishing slavery to break up that system which Pennsylvania has adopted for the education of her white and colored children? Are the school directors who carry out that law and who make this distinction between these classes of children to be punished for a violation of this statute of the United States? To me it is monstrous. How anybody desiring to be fair, desiring to construe the Constitution according to its fair intent and meaning, can drag out of it such a conclusion, such a monstrous conclusion as this, I cannot see.

I am very free to say, as I have said here before over and over, that I am perfectly willing, so far as my State is concerned, to vote for an amendment of the Constitution of the United States which will secure to all men of every color and of every race and of every condition their natural rights, the rights which God has given them, the right to life, the right to liberty, the right to property. I am willing to do that because that was the great inheritance which our ancestors won for us, and now in this country I am willing for my part to extend it to all others, even the descendants of barbarian races, even to those who were brought up and reared in Asiatic civilization. But I am not prepared exactly to say that I would vote for that amendment to the Constitution if I represented the State of California now, because I am not prepared to say whether or not the contingency may come upon that coast when our people will have to assert their dominion by depriving that race which is now making inroads upon them of even the natural rights which usually belong to men in society.

But, Mr. President, that is neither here nor there; this is not an amendment to the Constitution of the United States; this is an attempt to do without any power that which it might be very questionable whether we ought to do even if we had the power. At the same time, I say that, so far as I am concerned, I am willing to vote for such an amendment to the Constitution; and it is only by means of a constitutional amendment that such a result can be worked. I agree entirely with everything said by my honorable friend from West Virginia on that point, and I consider his reasoning as conclusive upon it.

There is a great deal more in this bill that is exceedingly objectionable. It is the first time I think in the history of civilized legislation that a judicial officer has been held up and subjected to a criminal punishment for that which may have been a conscientious discharge of his duty. It is, I say, the first case that I know of in the legislation of modern and civilized nations where a bill of indictment is to take the place of a writ of error, and where a mistake is to be tortured into a crime. This bill would be much less objectionable if it provided for securing the rights I have enumerated, and then provided that if this bill was declared unconstitutional in the courts below a writ of error should lie to the Supreme Court. Indeed, I believe that is the law at present, although I am not exactly certain about it. If a cruel or unusual punishment were to be inflicted upon a negro, an exceptional punishment, one which discriminated against him, in a State court, of course either he or his counsel would set up this law as a

defense against it, and they would protest that such punishment could not be inflicted. Then it would be for that judge to decide whether this was constitutional or not. If he decided that it was constitutional, of course it would be binding and obligatory on him. If he decided that it was not constitutional, the defendant would have an ample remedy if he was allowed his writ of error.

Mr. FESSENDEN. Where is the particular provision of the bill to which the Senator now alludes?

Mr. COWAN. All the way through.

Mr. TRUMBULL. That particular provision is in the imagination of the Senator from Pennsylvania.

Mr. COWAN. Is there not a provision by which State officers are to be punished?

Mr. TRUMBULL. Not State officers especially, but everybody who violates the law. It is the intention to punish everybody who violates the law.

Mr. COWAN. In the first place, all State laws making discriminations are swept away, and in the next place all persons who undertake to execute those laws are made criminals, and that includes the judge, the constable, the sheriff, the marshal, and everybody. That is my reading of it; I may be wrong; I have not had an opportunity of examining the bill thoroughly in all its details.

Mr. STEWART. I will ask the Senator whether the fugitive slave law did not contain a precisely similar provision, and if it was not held good by the Supreme Court of the United States?

Mr. COWAN. The fugitive slave law of 1850 the Senator means. I was always opposed to it, Mr. President.

Mr. JOHNSON. The Supreme Court held it to be constitutional.

Mr. COWAN. That may be; but I say I was always opposed to it; and I had always very grave doubts whether it was good law. Certainly, I never volunteered to execute it, and never made one of a *posse comitatus* to carry it out, so that I am not much to be put off the track by a reference to the fugitive slave law. If that was a bad law, it is now our province, as it is our high privilege, freed from that incubus which brooded upon the nation so long, to make good laws instead of doubtful measures, such as the fugitive slave law was; and it was doubtful, and it excited more angry animosity among our people, and was perhaps more the cause of the present rebellion, and the excitement which gave rise to it, than any one thing besides. I am opposed to having any more such doubtful legislation, or such legislation as will not be acceptable to the people where the law is to operate.

I may state that I have another objection to this bill at the present time; and that is, that the people of several States in the Union are not represented here, and yet this law is mainly to operate upon those people. I think it would be at least decent, respectful, if we desire to maintain and support this Government on the broad foundation upon which it was laid, namely, the consent of the governed, that we should wait, at any rate, until the people upon whom it is to operate have a voice in these Halls.

I know it is said that those people are not in condition to be allowed representation here. Mr. President, he who says the people are not in condition asserts that this Government is a failure. It rests entirely upon the people, and if the people cannot be trusted anywhere and everywhere throughout it, then it is not the Government we supposed it was, and not the Government it was intended to be. I admit that the American people, like other peoples, are subject to periodical disturbances. They may be led away by the arts of the demagogue, they may be forced away by the power of *de facto* governments asserted over them; but if they are, the punishment they receive is war. When the question is put, it is put to the arbitrament of the sword. That enters judgment and issues execution at the same stroke; and when the war

is over the people are purged. When the war is over it is too late to say that the people are guilty. They have suffered the penalty of their folly, or their crime, or what you may be pleased to call it, and it is time then to talk about individuals, not people. As I said before, the man who assails a whole people assails the very foundation of our Government, the very stones which underlie its corners, and proclaims to the world that the people are not what our ancestors supposed they were, that they lack that virtue necessary to sustain such a Government as this.

Mr. President, that is not true, and it is not true of the southern people to-day. During the war for the rebellion, it was questioned whether after the war was over and after we had suppressed the rebellion the people would respond, whether they would come back again to their allegiance and be part and parcel of the Union as before. I say it was questioned whether they would do so. Have they not done it? The result is a thing of which every American who loves his country and who prides himself in this great Republic should be proud of. If the southern people, after their armies were beaten, after they had lost everything in this game of war, had refused to organize republican governments in unison with the Constitution and the laws, if they had still stubbornly refused to submit, if they had refused to send Representatives to Congress and Senators here, then you might have said that the people were in default and that the people had failed; but in my judgment those people have not failed; they have done, so far as I can observe, everything that the most hopeful or sanguine man could have expected them to do. I am afraid that we confronted with the people of the South another and entirely different class. We are constantly told of the traitors and the rebels of the South; and unquestionably there are traitors and there are rebels there, and I would a great deal rather see them indicted and punished than hear so much about them.

Who are rebels and traitors? Who are guilty men according to the theory of our law? The presumption is, that all men are innocent until they are shown to be guilty. Every line of our law is blazing with the light of that humane sentiment. The words "traitor" and "rebel" are exceedingly glib upon the tongues of certain gentlemen. A few minutes ago, it was alleged here that every man who cannot take the present test oath must necessarily be a rebel or a traitor. Mr. President, if that delusion is persisted in, if that belief is to govern in the councils of this Government, there is an end of the Republic. It is not true in fact, and it is not true in law. Let us see how that is.

In the fall of 1860 a certain number of persons in the southern States proposed secession. How many? Were all the women in it? Were all the children in it? Were all the men of both parties in it? No man who knows anything about the facts dares say any such thing. There were a few conspirators who for thirty years had been weaving their web of treason, and they had procured their election to the high places all through the South. They were in possession of all the departments of the State governments in the South, except in Maryland, Kentucky, and Missouri; and by the by at this point let me note that wherever they were not in possession of all the departments of a State government they invariably failed in their scheme of secession.

These conspirators having made themselves governors and legislators and judges, after the election of Mr. Lincoln, at a time when all the people of those communities were mortified, angry, in ill-humor because they had been beaten at a previous election, when Bell men and Douglas men and Breckinridge men were all in the same category, they proposed secession. Did everybody assent to it? I beg gentlemen to read the history. In no State in the Union where the people were consulted fairly, except perhaps one, did the scheme of secession meet with the approbation of the people. Who was to resist secession? Who was to resist the governments of those States when they

determined upon it? We hear a great deal about this Government being obliged to guarantee a republican form of government to every State in the Union. Who was the guarantor of those governments? Who was bound to see that they did not go astray into secession and to protect the people as against it? The Government of the United States, and it is well that we note it now; it is well that we turn and look there, because history will record that it was the United States of America that should have protected the people who opposed secession in South Carolina and other States of the South.

Let us see how they did it. The Congress of 1859-60-61 was in session here, and what did it do to protect the people of the seceded States? Did it do as Mr. Lincoln afterward did without an act of Congress, call out the militia? Did its members attempt to throttle the thing in its inception? No, sir, they played at politics here in the Capitol, and the President played at politics at the other end of the avenue, and what was the consequence? The majority of the people of the South, or of the seven cotton States, were left without a single representative of the United States to whom they could look for protection; the United States Government suffered itself ignominiously to be put out of possession of all those States except the two little forts of Pickens and Sumter. I should like gentlemen to tell me what a Union man in Georgia was to do under circumstances of that kind. Do gentlemen pretend that single men, without an organization, without any governmental means, without any of the insignia of power, can stand up and resist the government of a State with all these means in its hands of enforcing its power? Surely not; and there was no other power in this Government except the United States to which they could look, and the United States went out of possession and left those people to the mercy of secession.

Mr. President, for two hundred years at least the doctrine has been established, and established beyond question, that protection and allegiance are reciprocal. I owe allegiance to this Government, and it owes to me protection. If it refuses to protect me, I am not to be punished because I do not yield it allegiance. Let me suppose a delegation of Georgians, of Alabamians, or Mississippians, if you please, Union men, coming here to this capital in the winter of 1860-61, and calling upon Congress, and saying, "South Carolina has actually seceded; other States are about doing the same thing; you should appropriate money and provide means, you should authorize the President to put down that attempted rebellion." What did Congress say? Read the record. They would not trust the President. Then the delegation go to the President, and what does he say? "I cannot coerce a State; I might suppress an insurrection, but I have no means; I have no authority to call out the militia." Anybody that wants to know what Mr. Buchanan has to say on that subject, I recommend him to read Mr. Buchanan's book, recently published, in which his side of the case is put forth. I suppose, with as much strength as it is capable of being.

What were these people to do? I put this to Senators here honestly upon their consciences. What were these loyal men to do who were here at that time: who, when they voted upon the ordinances of secession, and on the calling of conventions to pass those ordinances, invariably voted against them; what were they to do? Just exactly what they did do. They went back and told their people. "There is no help from the United States; they are out of possession; the President is recalcitrant, and Congress is wrangling and refusing to trust him; we cannot have help; we must submit." Then Mr. Lincoln's Government came in, and things were in such a shape that for six weeks the present party in power, of whom Mr. Lincoln was the head, was unable to determine whether or not it would put down that rebellion. There it hung in the balance, a hair almost being sufficient to determine it. It was not determined until the rebels themselves determined it by firing upon Fort Sumter.

And the moment that first gun was fired everybody knew what to do, and there was only one thing to do; nobody could have done anything else. Then we went to put down the rebellion. What for? Was it not to fulfill our guarantee and to do the thing that Mr. Buchanan and the previous Administration ought to have done? Was it to conquer these people? If it was, what right had we to conquer them? Gentlemen frequently refer to the Declaration of Independence, and take from it a very doubtful phrase, of which they make a great deal; but there are phrases in it about which there can be no difference. One of them is, that the right to govern comes from the consent of the governed. We went there because we knew that secession was against the will of the governed there, so far as we could determine. We went there to rescue men who were desirous of standing by the Union and its flag, and not to enslave them. We went there to bring them back to a Government which insured them their rights, and not to a Government which would take those rights away.

Mr. FESSENDEN. I should like to ask my friend from Pennsylvania a question, with his permission.

Mr. COWAN. Certainly.

Mr. FESSENDEN. I should like to know if I understand the Senator rightly to argue that if all the people of those States had been in favor of secession we should have had no right to interfere with them, but should have been bound to submit to their action.

Mr. COWAN. When that question arises—and I was afraid at one time it would arise—I will answer.

Mr. FESSENDEN. But it arises now—

Mr. COWAN. No, sir.

Mr. FESSENDEN. The Senator argues, if I understand him, that we went there for the simple reason that a large portion, if not the majority of those people, did not wish to secede, and were opposed to secession. Now I put the other side; suppose the whole or about the whole had wished to secede, do I understand him to argue that we should have had no right to go?

Mr. COWAN. The gentleman cannot entrap me off the position on which I stand, and get me to arguing other and very different questions. I will ask the gentleman one question, and perhaps he will answer it. I ask whether you did go there to conquer them, whether you went there to take away their rights or to maintain their rights.

Mr. FESSENDEN. If necessary, in order to suppress the rebellion and restore the power of the Government, certainly to conquer them. I have no doubt of that.

Mr. COWAN. The gentleman has answered his own question, and as he has answered it himself, and I have no quarrel with him, let it pass; but the question does not arise. These people were not, the whole of them, in favor of secession; and I refer the gentleman to a chapter in Mr. Greeley's book, in which the facts on that point are all collated for the benefit of Senators and others, and it is very well done. There were more than one half of them who were opposed to it. What I object to is, that that half should now be branded as criminals when the only thing criminal they did was to get into difficulty and into war, desolation, and destruction, because we, the Government of the United States, did not do our duty in that behalf.

Now, I come to the law. I say this is the law; it is not only common sense; it is not only common reason, common justice, and common humanity, but it is the law, and all legal gentlemen here know that it is the law: if the General Government allows itself to be put out of possession, so that it cannot protect a citizen, and a *de facto* Government is over him, whatever he does in obedience to that *de facto* Government, and under its authority, is not treason. Does anybody undertake to deny that that is the law?

Mr. FESSENDEN. Grant it for the sake of argument.

Mr. COWAN. No, but for the sake of the truth. That is the law. Then I say that no man is a traitor who—

Mr. HOWARD. That is your law.

Mr. COWAN. It is the law granted by my friend from Maine, and after I proceed on his grant. I am asked to entertain your denial.

Mr. FESSENDEN. I want the Senator to understand me. I want to see what the consequences of the argument would be. Suppose there was a certain portion of them who were forced in; very well; you say they have not committed treason. Grant it for argument sake; suppose we do not punish anybody for treason, does it follow that when the majority have revolted, and we have suppressed the revolt, we must immediately restore to the whole community all the rights that they may have forfeited because some portion of them were not originally in favor of the revolt? Is that the Senator's argument?

Mr. COWAN. The honorable Senator is getting a little ahead of me. His exceedingly quick and apprehensive intellect stalks in front. I have not said anything about granting them all their rights. I am talking now about the impropriety, the folly, and the madness of assailing a whole people, as traitors and rebels. I am trying to show that more than half of these people, I mean the voting population, can by no possibility be obnoxious to that charge.

Mr. FESSENDEN. Then the question is whether they are assailed as rebels and traitors because it is deemed unsafe to give them the rights of government, for that is the argument.

Mr. COWAN. That may be; it may come to that; but I am not yet bound to anticipate. I was going on to show what the law was with regard to these things. As I said before, whatever was done by the inhabitants of those States after we were out of possession, and at a time when we could not protect them, whatever was then done in obedience to the confederate government, or to the State government over them, is not to be imputed to them as treason. That is what I mean, and I think that every man of the country ought to be proud, he ought to be desirous to get as many of the people of the South in that category as he could. Do you want to make it out that you live in a community one half of whom are rebels and traitors? If I believed that the community in which I lived was of that texture, so rotten in its nature, and so unworthy of everything that constitutes manhood, I would not stay in the country five minutes. I say I am proud to know that among the southern people in that terrible time of peril and rage and excitement, when all the elements were unloosed, so many of them stood up for their country, its Constitution, and its flag. I cannot conceive what object is to be gained by gentlemen in endeavoring to make it out that the whole mass of them are wanting in anything like that virtue which characterizes and ought to characterize American citizens.

I say that the law is the rule, and for my own part I assail no man South except through the law. We made the war to restore the dominion of the laws, not the dominion of any man, or of any set of men, or of any faction or party. The law is above us all. We made the war because the law had been broken, because the law had been violated; and we made the war to restore it in its majesty; and I say let the law judge, and let him who talks about traitors go into the courts and punish them. If a traitor undertakes to come here, a man that I believe guilty of treason, a man that I believe made war upon the United States at a time when the United States could protect him, and when he was under the authority and power of no other Government, I would take him into the court myself; I should feel it my bounden duty to do so.

Mr. HOWARD. Will the Senator allow me to ask him a question?

Mr. COWAN. Certainly.

Mr. HOWARD. I should like very much to understand as clearly as possible the views of the Senator, who is very confident and very earnest in his assertion of the law of treason. Suppose (what has been the fact) that the government of one of the cotton States had passed completely from the hands of men loyal to the

United States into those of traitors; and suppose that the rebel government had in this manner obtained an actual and effectual possession of all the political powers of the rebel State. Suppose such a state of things to have happened; I do not know that the honorable Senator from Pennsylvania will admit that that state of things actually happened. I ask him now, suppose one of the ringleaders of the rebellion in this rebel State should be put upon his trial before an impartial court and an impartial jury for the crime of treason committed in that State, whether he could go into court and interpose a plea to an indictment for treason, setting up that the accused was only acting in pursuance of the laws of the State and under the legal compulsion arising from the pressure of those laws, and whether he would regard that plea as a justification for the acts of treason which that accused may have committed. I do not know that I have made myself understood.

Mr. COWAN. I think I understand my friend from Michigan, and I am very free to say that if I do understand him, it would not be a defense. If an original ringleader, a man engaged in the original conspiracy, were to attempt to set up a plea of that kind he would be met at once with the assertion that he was one of the original conspirators.

Mr. HOWARD. Once again, if the Senator will allow me.

Mr. COWAN. Certainly.

Mr. HOWARD. Suppose that this ringleader is charged with having committed an overt act of treason during the flagrancy of the war, while the ringleader was just as much under the pressure of the State laws of the rebel States as any other person, however humble or subordinate he may have been, would he then suppose that this plea would protect him?

Mr. COWAN. Nothing in the world can be clearer. The plea would not be worth talking about. The original ringleader, the original conspirator, the man who gets up and conceals the plan and is part of the plan, is guilty of everything which is done in pursuance of the plan, not only first, but last, because the whole, in the eye of the law, is a single offense; he would be just as liable for treason for firing his gun at the battle of Gettysburg as he would be for signing a secession ordinance at Charleston on the first day of secession.

Mr. HOWARD. Then, if the Senator will allow me, I will ask him another question. At what point does the guilt of treason commence in the case which I put, and at what point does it become no longer treason?

Mr. COWAN. I will state that to, the honorable Senator, and I thought I had stated it.

Mr. HOWARD. I did not understand it so.

Mr. COWAN. The guilt of treason commences, as I stated before, by making war or contriving war against the Government of the United States at a time when the United States is able to protect him if he refuses, and at a time when there is no *de facto* Government over him to compel his consent.

Mr. HOWARD. Then treason depends on the ability of the United States to protect the individual.

Mr. COWAN. It may; and I have put a case which should satisfy the honorable Senator from Michigan of that, that it may depend upon it exactly. Let me suppose that his State, with its Governor, Legislature, and judges had seceded, what would he have done? Would he have been guilty of treason if he obeyed that State government of Michigan when the United States could not protect him and was not there to protect him?

Mr. HOWARD. I am perfectly ready to answer that question. I certainly should, in that case, be legally guilty of treason as it is defined by the Constitution of the United States. What might be the proper measure of punishment to inflict upon me under such circumstances would be a matter for the Executive and not for the courts. I suppose that the essence of all crimes consists in the intention, the purpose. In the trial of criminal cases, we inquire into the *animus*

with which the act was done by the accused; and if it appears that the act was not done with an evil intention, that it was done by coercion, or under any circumstances of justification or excuse, we all know very well that the courts charge the jury that that description of evidence is to be received in the mitigation of the crime. But that is not the case which I put. I put the case where the intention is clear, where there is no coercion, where there is no irresistible pressure, but where the act is done in obedience to the command of the laws of the State, or of the proper agents for the execution of those laws.

Mr. COWAN. The only thing which the honorable Senator does not take into account, and which he might take into account as a lawyer, is the presumption of law. If he will take the trouble to turn to the text-books, he will find this much more clearly stated than I can state it. If the citizen of a State acts in obedience to the government of that State, which is a usurped government, even whether it is done willingly or unwillingly, he is excused; treason is not imputed to him. I think the word you will find is "excused," because the law will not presume that a man does willingly that thing which is a crime and which he cannot resist, because the law looks to human frailty, the common weakness of humanity. It does not suppose that a single man is able to resist a State; everybody knows he is not.

Now, I wish to come to the conclusion of my argument. I think it is perfectly clear that the majority of the people of the southern States, and I think the great majority of them, did not commit treason. I very much doubt whether any great mass of people in the world ever did commit treason. We know the people, and we know their weakness. We know how readily they are led away by their leaders; we know how subject they are to have their passions excited, and we know how quickly the flame of war may be kindled among them without the wicked, treasonable intent which is necessary to constitute the offense of treason; and therefore it is that I suppose no Government in the world ever undertook to punish a whole people for treason. All Governments, so far, have treated the leaders as the criminals, not the people. They were never supposed to incur any other penalty than that which fell upon them by the war in which the treason involved them. I have no doubt then, Mr. President, that the great mass of the southern people never were guilty of treason, never could be convicted of treason.

Mr. CLARK. Will the Senator allow me?

Mr. COWAN. My honorable friend will excuse me; I thought I was done being catechised; I want to finish up, and then anybody that wants to assail what I say can do so. I believe the great mass of the people never have been guilty of treason. I like to believe it, because it gives me assurance of the stability and of the integrity of this Government. I like to believe it, because it enables me to think that we can restore the Union again; it enables me to think that we can have the greatest republic, and not only the greatest republic, but, Mr. President, the greatest empire the world has ever seen. I love to believe it, because, the Union restored, all our foreign difficulty vanishes away into thin air. I love to believe it, because if the Union is restored the public credit is restored and rises with it. If the Union is restored, it is an earnest to the whole world everywhere of man's capacity for self-government. I say again that I like to believe these things. I do believe them, and I take pleasure in it because it is a charitable belief.

A word as to the proper mode of treating these people. I asked a southern gentleman the other day, "Suppose we get into difficulty with England or France, which side would they take?" "Why," said he, "nine out of every ten of them will stand by the flag." Now, Mr. President, that is either true or it is not true. If it is true that nine men out of every ten will stand by the flag, then I say to assail them as rebels and traitors, and to treat them as criminals, and to try to deprive them of the rights

they ought to have as inhabitants of free States, as we are, is a gross outrage and one which will recoil upon our heads. If they are not; if they are in the condition which some gentlemen like to represent them as occupying, then, sir, I want to know whether you will bring them to reason, whether you will bring them back to that affection which they ought to have for this Government and its flag, by such bills as this, which invade rights that they of all other people have been taught to consider as peculiarly belonging to the States and not within the province of the Government to invade. Can you bring them back by making laws which operate upon them when they are not here? Can you bring them back by giving them the same cause to rebel against you which Great Britain gave to your ancestors? Can you bring them back here by legislating for them and yet refusing them the right of representation? Can you bring them back by amending the Constitution time and again over their heads when you refuse to listen to their arguments here in the common councils of the country? I say this is worthy of the serious consideration of every man who loves his country; and I put it to my brethren here in the hope that they may think of it in this aspect.

Nay, Mr. President, I know apprehensions are expressed. Apprehensions of what? What can the people of those States do if we treat them fairly and give them all their rights under the laws? What is the worst they can do? Can they rebel again? If they are going to rebel again, you are putting them now exactly in such a condition that they will before the world have good cause. You are putting them precisely in that situation when they can appeal to your enemies for assistance, and when they will get it. When they ask England to protect them the next time, and then when they seek an alliance with France the next time, they will succeed. England will not pay fifty millions more to keep her Lancashire poor from starving when she can control the cotton fields of the southern portion of these United States. France will not much longer be bullied about the Monroe doctrine, when she by joining with the South may help to tear this Republic in two and shear it of its greatness.

Then, I say, if the people would stand by the flag, give them their rights; and I say if they will not stand by it, let us give them their rights and let them do their worst, because they will do it anyway. It is far safer to treat them according to the laws that exist and do now exist without new ones to operate upon them, made while they are not here, far safer than the course we are pursuing. There are guilty people among them. Why are not those guilty people prosecuted? Why are they not punished? If Jefferson Davis is a traitor, we have him in our hands, and why is he not tried and convicted? Where are your district attorneys? Where are your judges? Have you no machinery? Who resists the establishment of courts? Who prevents the marshal from summoning jurors such as the Senator from Nevada described awhile ago? He says that there are plenty of poor men down there who have been oppressed by the slaveholding aristocracy, and who were dragged into this rebellion. That I believe to be true. He says that they would gladly be postmasters, and accept the little offices of the country at our hands. I suppose they would gladly play jurors over this man who they believe has brought such calamities upon their country, and subjected them to such national humiliations. Are there no courts, are there no juries, is there no machinery in the land, by which individuals can be punished, and only machinery by which the innocent, the people, can be tortured and worried, and perhaps driven into another rebellion?

Mr. President, I hope we shall take better counsel. I think it cannot be disguised that just at this moment there is a growing apprehension in the country that something is not right. I do not say that that apprehension has risen to alarm; but I do say that unless this Congress shall do something to reassure the

people it will come to that. The soldier is beginning to ask why the country is not restored. He is beginning to ask, "Will it be restored?" He says, "I fought the battles of the country long days and dreary nights through a terrible war for the Union for the purpose of saving the Republic one and indivisible." Why is it not restored? Is there any resistance to this Government, any refusal on the part of the people to put all the machinery in motion? I tell you, Mr. President, when he asks this Congress why it is that all the bands are not tied, and all the means of cementing it are not made use of, there will be a terrible answer from him if he finds that we by our factious course prevent this restoration.

What is it that binds now, I ask, the eleven States lately in rebellion to this Union but the President? He is the only piece of property they have in common with us. He stands like a Colossus across this chasm which it is our business to fill up and close forever. The bondholder, the man who loaned us the money to carry on this war, the man who came up with Fortunatus's purse, almost without stint, to furnish the sinews of it, will begin to ask, why is the Union not restored; where is the obstacle, and what is the obstacle? Will it do to tell him that the hearts of that people are not right? He will tell you that you had better leave that to the means of Christian grace; it will be enough for him if they obey the laws, if they are willing to submit themselves to the laws as other good citizens do. It will not do to assert to him that they are not to be trusted as the people, because he will tell you it was as the people and upon the faith that they as the people would restore the Government that he gave his money. It will not do either to tell him and the soldier, too, that we are going to hold these people as conquered provinces. The soldier will tell you that that will do him no good; he did not fight for conquered provinces; he did not fight to make his fellow-men vassals and serfs; he fought to bring them back to brotherhood and freedom. He wanted to make them to strengthen him and to aid him rather than to be his enemies hereafter. True, he may tell you, "If I were a king or a noble, conquest might be of avail to me, but I am a humble citizen of this Republic, and conquest is not that for which I ventured myself upon the field of battle."

Mr. President, I ought to apologize, perhaps, for leaving the subject-matter of discussion so far behind in this debate: but if I have left it, I beg that all the blame will not be thrown upon me, because part of the time I was not only bound to furnish the argument, but to stand a cross-examination.

Mr. HOWARD. Mr. President, I agree with the Senator from Pennsylvania that there is a growing apprehension in the country that there is something wrong in the present state of affairs; but I do not propose at this moment to go far into the causes of that wrong. I intend to address myself to the bill under consideration, and not to follow the Senator from Pennsylvania in the devious course which he has pursued.

Undoubtedly there are some things which are wrong, and unfortunately, I think, for some persons, the people have not only "begun" to have an apprehension of that wrong, but actually possess a knowledge of it. It is impossible for us here to raise such a cloud of dust as to blind the vision of the people whom we represent upon these great and important topics. There is a condition of wrong, I apprehend, existing in some of the rebel States, and as one very small bit of evidence of its existence I beg leave to say that I very recently saw a letter written by one of the most eminent of our generals now on duty in the State of Texas, in which he states that at about the time of the date of his letter, last December, such a curiosity was discovered in the northern part of Texas as a true out-and-out Union man; one of the old style of Unionists, who had maintained his integrity throughout the war, and who, after the close of hostilities, was so inconsiderate, so wanting in tenderness

toward the patriotic feelings of the people of Texas, as to raise the old stripes and stars over the roof of his house. This was but the signal for a meeting of a committee of the very loyal citizens of that neighborhood, who at once called upon him and ordered him to take down the old flag, stating to him that they could submit to be conquered, that they "accepted the situation," but that for him to stick up the old flag over his house was a little too much for them to bear. He had the resolution, however, to resist the demand; and for that resistance he atoned with his life. He was deliberately murdered by those lovely Unionists of the State of Texas, those reconstructed or semi-reconstructed Unionists, who, like too many other Unionists of the like stamp, "accept the situation!"

I should be very glad to see an exhibit made of the condition of that rebel State of Texas; and I take this occasion to express my regret, as far as I can apprehend the nature of the subject, that the President of the United States should have thought it his duty to withhold from Congress the facts for which he was called upon recently by a resolution. I think it is highly necessary that Congress and the people should be fully informed, and that at as early a day as practicable, of the actual condition, social and political, of the rebel States, so that in adjusting our legislation in reference to them we may act with due regard to their actual condition, with full light and knowledge of the whole subject.

But, sir, I did not rise intending to go into the general subject, but rose more particularly to say a word in reference to the amendment of the Constitution abolishing slavery, and to the true interpretation to be given to it. I happened to be a member of the Judiciary Committee at the time this amendment was drafted and adopted and reported to the Senate. I recollect very distinctly what were the views entertained by members of that committee at the time it was under consideration before them. And notwithstanding the very vehement style of the Senator from Pennsylvania, in placing a narrow and utterly ineffectual construction upon it, I take this occasion to say that it was in contemplation of its friends and advocates to give to Congress precisely the power over the subject of slavery and the freedmen which is proposed to be exercised by the bill now under our consideration.

It was easy to foresee, and of course we foresaw, that in case this scheme of emancipation was carried out in the rebel States it would encounter the most vehement resistance on the part of the old slaveholders. It was easy to look far enough into the future to perceive that it would be a very unwelcome measure to them, and that they would resort to every means in their power to prevent what they called the loss of their property under this amendment. We could foresee easily enough that they would use, if they should be permitted to do so by the General Government, all the powers of the State governments in restraining and circumscribing the rights and privileges which are plainly given by it to the emancipated negro. If I understand correctly the interpretation given to the article by the Senator from Delaware and the Senator from Pennsylvania, it is this: that the sole effect of it is to cut and sever the mere legal ligament by which the person and the service of the slave was attached to his master, and that beyond this particular office the amendment does not go; that it can have no effect whatever upon the condition of the emancipated black in any other respect. In other words, they hold that it relieves him from his so-called legal obligation to render his personal service to his master without compensation; and there leaves him, totally, irretrievably, and without any power on the part of Congress to look after his well-being from the moment of this mockery of emancipation. Sir, such was not the intention of the friends of this amendment at the time of its initiation here and at the time of its adoption; and I undertake to say that it is not the construction which is given to it by the bar through-

out the country, and much less by the liberty-loving people.

But let us look more closely at this narrow construction. Where does it leave us? We are told that the amendment simply relieves the slave from the obligation to render service to his master. What is a slave in contemplation of American law, in contemplation of the laws of all the slave States? We know full well; the history of two hundred years teaches us that he had no rights, nor nothing which he could call his own. He had not the right to become a husband or a father in the eye of the law, he had no child, he was not at liberty to indulge the natural affections of the human heart for children, for wife, or even for friend. He owned no property, because the law prohibited him. He could not take real or personal estate either by sale, by grant, or by descent or inheritance. He did not own the bread he earned and ate. He stood upon the face of the earth completely isolated from the society in which he happened to be; he was nothing but a chattel, subject to the will of his owner, and unprotected in his rights by the law of the State where he happened to live. His rights, did I say? No, sir, I use inappropriate language. He had no rights; he was an animal; he was property, a chattel. The Almighty, according to the ideas of the times, had made him to be property, a chattel, and not a man.

Now, sir, it is not denied that this relation of servitude between the former negro slave and his master was actually severed by this amendment. But the absurd construction now forced upon it leaves him without family, without property, without the implements of husbandry, and even without the right to acquire or use any instrumentalities of carrying on the industry of which he may be capable; it leaves him without friend or support, and even without the clothes to cover his nakedness. He is a waif upon the current of time; he has nothing that belongs to him on the face of the earth except solely his naked person. And here, in this state, we are called upon to abandon the poor creature whom we have emancipated. We are coolly told that he has no right beyond this, and we are told that under this amendment the power of the State within whose limits he happens to be is not at all restrained in respect to him, and that the State through its Legislature may at any time declare him to be a vagrant, and as such commit him to jail, or assign him to uncompensated service.

Now, Mr. President, I ask these gentlemen—I appeal not only to their knowledge of the true principles of construction, but I appeal to their humanity—to say whether it is possible innocently and sincerely to ascribe to the advocates of this amendment any such cruel and inhuman purpose as this? No, sir; I think they cannot lay their hands upon their hearts and say that in advocating this amendment we intended to leave the negro in so helpless and destitute a condition. But if theirs be the true construction, then it is competent for the Legislature of each State to declare by law that no negro who has once been a slave shall ever, within the limits of that State, have the right or privilege of earning and purchasing property; of having a home under which to shelter him and his family, if he has one; of having a wife and family, or of eating the bread he earns; thus leaving in the power of these interested States to expatriate him at any moment and drive him beyond their limits; to deprive him of a home, to deprive him of all the fruits of his toil and his industry, and finally to reduce him to a condition infinitely worse than that of actual slavery, by compelling him to labor at such price as the old master may see fit to pay him, while at the same time, he not being a slave, has no claim whatever upon that old master for support, thus treating him as a nuisance upon the face of the earth.

No, sir, such was not the intention of the advocates of this amendment. Its intention was to make him the opposite of a slave, to make him a freeman. And what are the attributes of a freeman according to the universal under-

standing of the American people? Is a freeman to be deprived of the right of acquiring property, of the right of having a family, a wife, children, home? What definition will you attach to the word "freeman" that does not include these ideas? The once slave is no longer a slave; he has become, by means of emancipation, a free man. If such be the case, then in all common sense is he not entitled to those rights which we concede to a man who is free?

Mr. President, I do not understand the bill which is now before us to contemplate anything else but this, that in respect to all civil rights—and those are some of the civil rights which I have just enumerated—there is to be hereafter no distinction between the white race and the black race. It is to secure to these men whom we have made free the ordinary rights of a freeman and nothing else. Its first section declares that:

The inhabitants of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding.

There is no invasion of the legitimate rights of the States. It contemplates nothing of the kind; but it simply gives to persons who are of different races or colors the same civil rights. That is its full extent; it goes no further; and I sincerely trust that this nation, having by an expenditure of blood and treasure unexampled in the history of the human race, having by their chief Executive declared the slaves in the United States forever emancipated and free, and in doing this great act appealed to the favor and approval of a just God; having employed this class of persons to the number of nearly two hundred thousand in the prosecution of our just and righteous war, will not now be found so recreant to duty, so wanting in simple justice, as to turn our backs upon the race and say to them, "We set you free, but beyond this we give you no protection; we allow you again to be reduced to slavery by your old masters, because it is the right of the State which has enslaved you for two hundred years thus to do." Sir, let me tell you and the Senators who have advocated the opposite side of this question that if we fail in this high duty, if we fail to redeem this solemn pledge which we have given to the slave, to the world, and in the presence of Almighty God, the time is not far distant when we shall reap the fruits of our treachery and imbecility in woes which we have not yet witnessed, in terrors of which even the civil war that has just passed has furnished no example.

The PRESIDENT *pro tempore*. The question is on the amendment moved by the Senator from Illinois.

Mr. LANE, of Kansas. I propose an amendment to the amendment, which has been submitted to the chairman of the committee and has been agreed to by him. It is after the word "Power," in the third line of the amendment, to insert "or tribal authority;" so as to read, "All persons born in the United States, and not subject to any foreign Power or tribal authority, are hereby declared to be citizens of the United States," &c.

Mr. TRUMBULL. I have no objection to that amendment. It will make the amendment I offered more specific. I think it would mean that without it, but still I have no objection to it.

Mr. JOHNSON. Mr. President, if this bill is to pass into a law, it is of course advisable—and I am sure no one will admit that with more readiness than the honorable member of the committee who reported it—that it should be as free from objections as it can be made. What I am about to suggest is not, therefore, for the purpose of defeating the bill, though I shall not be able to vote for it with the opinion I entertain on the question of power, but for the purpose of improving the bill, or at least relieving

it from objections to which it seems to me to be now subject.

The particular question before the Senate is the amendment suggested by the honorable chairman of the Judiciary Committee, as now amended by the honorable member from Kansas. By that amendment he proposes to define citizenship. Nobody is more willing to admit that it is very desirable that such a definition should be given. Since the decision in the case of Dred Scott, as the Senate are aware, a person of African descent, whether born free or not, whether free by birth or free by after events, is not, within the meaning of the Constitution of the United States, a citizen.

Whatever objections may be made to that decision, with reference to the great question which was decided and the question which agitated the country far and wide, cannot be made to that part of the decision which relates to the particular point which I have just stated. The objection to the decision upon the great question was that that was not before the court for adjudication. The suit was instituted in a State court of Missouri, and afterward went into the circuit court of the United States, and was brought, by writ of error, from the decision of the circuit court to the Supreme Court of the United States. There were two questions. The first was whether Scott was a citizen of the United States within the meaning of the third article of the Constitution, which creates and defines the extent of the judicial power. The act of 1789 could not go further, perhaps, than the Constitution provided. The Senate will remember that by that third article the judicial power of the United States was made to extend to, among other cases, controversies existing between citizens of different States. It was very clear, therefore, that no one could be considered as embraced by that power except a person who should be a citizen of the United States. The point was made in the court below, and upon the writ of error to the Supreme Court six judges out of eight, I think, decided that Scott was not a citizen; and not being a citizen, that the court below had no jurisdiction to try the cause.

The Supreme Court, however, went on afterward, for reasons satisfactory to the majority, to decide the questions which arose upon the merits, as they must have decided them if they had sustained the point of jurisdiction.

As far as the decision upon the merits was concerned, it was held to be obnoxious to very serious objection, and perhaps a large majority of the people of the United States, including a great many of the members of the profession throughout the United States, were of opinion that when the court came to the conclusion that they had no jurisdiction because of the incapacity of the party to sue, all that they should have done was to affirm the judgment of the court below upon the ground of want of jurisdiction. But as the Senate will see, the very point whether an African, free or not free born, free or becoming free afterward by State manumission or by manumission given him by his owner, was a citizen of the United States, was before that court and was adjudicated.

Now, without saying where the question has presented itself to my mind, it is sufficient for my purpose to say that I have been exceedingly anxious individually that there should be some definition which will rid this class of our people from that objection. If the Supreme Court decision is a binding one and will be followed in the future, this law which we are now about to pass will be held of course to be of no avail, as far as it professes to define what citizenship is, because it gives the rights of citizenship to all persons without distinction of color, and of course embraces Africans or descendants of Africans.

My own opinion, therefore, is that the object can only be safely and surely attained by an amendment of the Constitution, and I have tried in vain to form such a provision as would be free from objection. Whether I or those who may be associated with me in the future will be able to adopt a definition free from all

objection is perhaps doubtful; but at any rate the effort can be made, and will be made in good faith; but I am very much afraid that, so far from settling the question by this legislation, we shall find that if the legislation is adopted the matter will be just as open to controversy as it was before.

There is another observation with which I beg leave to trouble the Senate, for the reason that, as I have just stated, I individually have found very great difficulty in saying who is a citizen. It is a question about which there is as much doubt as upon any other question in relation to which there is any doubt. How those doubts are to be solved, how the definition shall be made so plain as to be apparent to the comprehension of everybody, is with me now a problem. I am afraid, even supposing that we have the authority to do it by legislation, that the manner in which it is proposed to accomplish it by my friend from Illinois will not effect the purpose.

A word now upon the bill only in one particular. Nobody I am sure with whom it has been my happiness to associate during this war and who knows how anxious I have been from the first that the institution of slavery should be abolished, will doubt that from the same motives (whether they be of humanity or of some policy founded on other considerations than mere considerations of humanity) I should be equally anxious that the colored race should be protected in all their rights; that is to say in all proper rights.

The honorable member from Illinois yesterday—I have not the book by me—referred to a decision of Mr. Justice Washington as reported I think in 4 Washington's Circuit Court Reports; but if I heard him distinctly he did not read the whole of that decision. He read that portion of it alone which he supposed bore upon the particular question before the Senate; but I think it will be found that another portion of it which succeeds the particular part that he did read, will not justify him in finding a warrant for this bill in the opinion of Mr. Justice Washington. The case, if I remember it, arose upon an objection to the constitutionality of some of the State laws of New Jersey in relation to their fishing and their oysters. It was insisted that under the clause of the Constitution which secures to the citizens of each State the rights and privileges of citizens of the several States where ever they shall go, a citizen of New York had the right to go into New Jersey and catch fish and dredge for oysters. New Jersey denied it. The decision in that case was that New Jersey's title to the oysters and to the fish was exclusive, that she could legislate on the subject as she thought proper, and that she could therefore deny to the citizens of New York the privilege of catching fish or of dredging for oysters. He goes on to give the reasons why the particular rights which were involved in that case were not in the judgment of the court "fundamental rights." He first states what, in the view of the court, were rights of the latter description, and then goes on to say that this right of property is not one of those fundamental rights which is secured by the clause of the Constitution the interpretation of which was before the court in that case.

Now, Mr. President, the right of a State to its fisheries and to its oyster beds within its territorial limits is no greater than the right of the State to its real estate, its land within the same limits; and it has been the universal decision that the mode of purchasing land, the mode of conveying land, and the right to purchase were all within the jurisdiction of the State in which the subject of the purchase was located. Now, if I understand this bill, it is not confined to persons of African descent. The language of the first part of the first section is:

That there shall be no discrimination in civil rights or immunities among the inhabitants of any State or Territory of the United States on account of race, color, or previous condition of slavery.

That is to say, that no State shall discriminate at all between any inhabitants within her limits on account of any race to which they may

belong, whether white or black, on account of color, if they are not white, or on account of their having been previously in a state of slavery, so that the white as well as the black is included in this first section; and if this passes, and we have the authority to pass it, then it would be impossible, as I think, for any State in the Union to draw any distinction as between her citizens who have been there from birth or who have been residents there for any length of time, and he who comes into the State now for the first time as a foreigner; he becomes an "inhabitant." If he comes from England or from any of the countries of the world and settles in the State of Illinois, that moment he becomes an inhabitant, and being an inhabitant, if this bill is to pass in the shape in which it stands, he can buy, he can sell, he can hold, and he can be inherited from.

Mr. TRUMBULL. If the Senator will allow me, that is the law of Illinois to-day.

Mr. JOHNSON. That may be; but it is not necessarily the law of Illinois. That is the law of Illinois, and Illinois has a right to make it her law; but I am speaking now of the question of power. Illinois has a right now to repeal that law. What Illinois has done has not been done by a great many of the States, or perhaps by a majority of the States. They will not permit aliens to purchase or to hold, or if they do, they do not permit others to inherit through them. It is subject now in all the States as far as I am aware—in the absence of legislation I am sure it must be so—to escheat at the instance of the Government.

But that is not all. That observation applies to everybody, without distinction of color or without reference to their antecedent condition; but in terms we are not left to infer that it was not intended to apply it to the blacks, because that is its chief provision, and no doubt is the provision for which the bill was supposed to be necessary. I take it for granted that neither the honorable member from Illinois nor any other member of the Senate would perhaps have thought it necessary to introduce such a bill as this but for the condition in which the blacks are; so that the object of the bill is mainly to provide for the case of blacks. Now, what does it do? There exists in the States of the Union, and there must exist in every Government clothed with the power of governing well and of preserving the peace and harmony of society, a police power; there exists a power to legislate in relation to the prejudices of the people, a power not to legislate against their prejudices. Everybody knows that if a Legislature blindly legislates upon a subject which is obnoxious to the whole community that is subject to its power for a time, it is an act of no practical importance. How has it been in the eastern States with regard to the fugitive slave law of 1850? I mention it not with a view to find fault with the feeling on the subject that has existed in what have been called the free States.

The original fugitive slave law of 1793, which was passed at the instance of General Washington, was of itself very obnoxious at the time to a great many; but the author of the law of 1850—I do not like to name him, because I am willing for his sake, that his name in that connection should be forgotten—admitted, as we have it from the authority of Mr. Clay, that he had made that law as obnoxious as he could in order to prevent its being observed in the States where slavery did not exist, and he accomplished his purpose. The law in one or two instances was enforced in one sense, but how enforced? Enforced by power, by military or civil power, threatening upon each occasion when resort was had to it to involve the particular community where the attempt was made in civil strife and bloodshed. The result was that no man who lost a slave, unless he wanted to make it the subject of political agitation in the South, dreamed of going to the North to recover him; it could not be done. Even the honorable member from Massachusetts [Mr. SUMNER] here upon the floor of the Senate, as he has over and over admitted, said that he was not a dog, and not being a dog, he would not

comply with the provisions of that law; and he spoke, no doubt, the sentiment of a large proportion of the people of Massachusetts, and perhaps what is the universal opinion of the people of that State at this moment and of all the loyal States. The law, therefore, became a dead letter, not because Congress had not the authority to pass it, for, as was stated just now in debate, the Supreme Court by a unanimous decision ruled that that law was constitutional, and Mr. Webster, whose feelings were all the other way no doubt, and who said his feelings were all the other way, admitted in his celebrated speech of the 7th of March that it was a constitutional law, however much he regretted its provisions.

I mention that for the purpose of applying it to one of the provisions of this bill. What is to be its application? There is not a State in which these negroes are to be found where slavery existed until recently, and I am not sure that there is not the same legislation in some of the States where slavery has long since been abolished, which does not make it criminal for a black man to marry a white woman, or for a white man to marry a black woman; and they do it not for the purpose of denying any right to the black man or to the white man, but for the purpose of preserving the harmony and peace of society. The demonstrations going on now in your free States show that a relation of that description cannot be entered into without producing some disorder. Do you not repeal all that legislation by this bill? I do not know that you intend to repeal it; but is it not clear that all such legislation will be repealed, and that consequently there may be a contract of marriage entered into as between persons of these different races, a white man with a black woman, or a black man with a white woman? If you are prepared to repeal it, do you think that the repeal will answer any practical purpose? Are you not, on the contrary, rather inclined to believe that, like the fugitive slave law of 1850, if enforced at all, and if these parties are to be protected at all, it must be enforced and the protection must be given by the bayonet? Is not that the effect of the law? Still confining myself to the first section, it says that these parties, without distinction of color, "shall have the same right to make and enforce contracts," to make contracts of any and every description.

Mr. FESSENDEN. Where is the discrimination against color in the law to which the Senator refers?

Mr. JOHNSON. There is none; that is what I say; that is the very thing I am finding fault with.

Mr. TRUMBULL. This bill would not repeal the law to which the Senator refers, if there is no discrimination made by it.

Mr. JOHNSON. Would it not? We shall see directly. Standing upon this section, it will be admitted that the black man has the same right to enter into a contract of marriage with a white woman as a white man has, that is clear, because marriage is a contract. I was speaking of this without reference to any State legislation.

Mr. FESSENDEN. He has the same right to make a contract of marriage with a white woman that a white man has with a black woman.

Mr. JOHNSON. Just wait a moment. My friend from Maine is so quick that he cannot wait for the operation of slower minds. If there were no laws in Maryland on the subject, then the black man could marry a white woman, but there are laws. What is the effect of those laws? The first section of this bill says that there is to be no discrimination. The second section says that "any person who, under color of any law, statute, ordinance, regulation, or custom, shall subject or cause to be subjected any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment," shall be proceeded against under this bill. Now, there is a State law which says to the black man, "You shall not marry a white woman," and says to the white man, "You may." There is therefore in Maryland one law in relation to this

question for the white man, and another law for the black man. The black man marries a white woman and we try to enforce our laws against him. We say to him, "You have done an illegal act, you have offended against the legislation of Maryland by marrying a white woman." He says, "I have done no such thing; I would have done it but for the legislation of Congress; I would have been liable to trial and conviction but for the legislation of Congress; but I set up the legislation of Congress; you may tell me you are prosecuting me under a law of the State of Maryland which makes it a crime in me, but Congress says that that State legislation shall be of no avail; the law of Maryland in reference to the question is at an end." It means that if it means anything. If the honorable member does not mean that he can change the language. I do not understand my friend from Maine or the honorable member from Illinois himself as denying that, looking to the provisions in the first section, supposing there was no law in Maryland on the subject—and I single out Maryland merely for the purpose of illustration—the contract of marriage would be embraced. White and black are considered together, put in a mass, and the one is entitled to enter into every contract that the other is entitled to enter into. Of course, therefore, the black man is entitled to enter into the contract of marriage with a white woman; but the law of Maryland prevents it; the law of Maryland punishes him for attempting it; and when the man is tried for having violated the law of Maryland, the court will say, "How is the prosecution to be supported under any law of Maryland—that law which is inconsistent with the provisions of the first section of this law of Congress, and the second section of which provides, virtually, that he who prevents a black man from marrying a white woman under any law of Maryland is to be subject to the penalties imposed by it?" That is the way I understand it. I do not think I can be wrong.

But whether I am wrong or not, upon a careful and correct interpretation of the provisions of these two sections, I suppose all the Senate will admit that the error is not so gross a one that the courts may not fall into it. Then what is the result? The whole of this legislation to be found in almost every State in the Union where slavery has existed, and to be found, I believe, in several of the other States, is done away with. You do not mean to do that. I am sure the Senate is not prepared to go to that extent; and I submit to the honorable chairman, without proclaiming myself to be right beyond all possible question of doubt, which would be in bad taste, and certainly very far from what I am disposed to do when I find that a different opinion is entertained by two gentlemen whose opinions I hold in so much respect—I submit to the honorable chairman of the Judiciary Committee whether he had not better make it so plain that the difficulty which I suggest in the execution of the law will be obviated.

But to come back to the amendment that is now before the Senate; I do not know what will be the effect of the amendment upon the Indians. The honorable member from Kansas [Mr. LANE] supposes he avoids the difficulty which he thinks would have existed under the original amendment by inserting the words, "or tribal authority." First, what would be the meaning of the amendment without those words? I understood the honorable chairman of the committee to say that these Indians are not citizens of the United States, and never have been. That is a mistake, as I think. The Indian tribes upon that portion of the American continent that belonged to Great Britain were always subject to the dominion of England. England could have done what she thought proper to do with them, but all she did in the execution of that, her sovereign right, was to prohibit them from entering into any contracts in relation to their lands with any other nation than England or the dependencies of England. When we obtained our independence, the whole authority that England had

over the tribes became vested in the United States; and since then the uniform view that has been taken of the relation in which these Indians stand to the United States is, that they are but the wards of the United States. They have no sovereign power whatever; they are not a nation in the general acceptance of that term; they cannot sell their lands without the authority of the United States; they are not at liberty to sell their lands to anybody but to citizens of the United States, and under such regulations as the United States may impose.

If the honorable member will refresh his memory by consulting the case of *Worcester vs. The State of Georgia*, reported in 6 Peters, I think, he will find that Mr. Chief Justice Marshall, who gave the opinion of the court, deciding that the legislation of Georgia or the acts of Georgia were unconstitutional, admits that the Government of the United States could do with the Indians, as far as the question of power was concerned, just what it thought proper; that the absolute dominion was in the United States; the possessory title, with a *quasi* dominion, was with the Indians, but that *quasi* dominion was only that they could sell their lands and were not subject to be taxed by the United States, but only because the United States themselves had agreed that they should have those rights; but it was not pretended in that case that they were not citizens of the United States. The result, therefore, would be that an Indian child, born within the territorial limits of these tribes, would be a citizen of the United States, because the territory is part of the United States. Nobody ever doubted that the whole of the Indians who are subject to our control are now located upon territory belonging to the United States, and the result would necessarily follow, so far as citizenship depends upon birth, that, if you make it depend upon birth, the child who is born within the territorial limits of the United States, whether that portion be or be not within the temporary or partial control of the Indians, would be a citizen of the United States. Would the suggestion made by my friend from Kansas obviate it? The language of the amendment as proposed is, "all persons born in the United States." That would certainly include the Indians if I am right in saying the Indian country is part of the United States.

Mr. TRUMBULL. "And not subject to any foreign Power."

Mr. JOHNSON. I have not come to that. You and the Senator from Maine are always too fast for me. "Born in the United States"—I suppose that it will be admitted that that will include them—"and not subject to any foreign Power." The amendment suggested by the Senator from Kansas is to add the words, "or tribal authority."

Mr. LANE, of Kansas. Does not that restrict it?

Mr. JOHNSON. It does to a certain extent, but does it go as far as you want it to go?

Mr. SUMNER. Allow me to ask the Senator whether we do not always deal with the Indians through the treaty-making power?

Mr. JOHNSON. We have done so, but not necessarily.

Mr. SUMNER. Is it not the habit?

Mr. JOHNSON. Certainly it is; but I am dealing with it now as a question of power. We have dealt with them as a treaty-making power, but it is not because there ever was a doubt that Congress could deal with them by legislation; and, in point of fact, although we have dealt with them as a treaty-making power, we have done so by making them make the treaty. It is no treaty-making power in the ordinary acceptance of the term; that is to say, the parties are not equal.

Mr. SUMNER. With the Senator's permission, I will remind him that we act upon our treaties with the Indians in this Chamber with precisely the same forms that we do upon our treaties with the European Powers, and they must be ratified by a vote of two thirds of this body.

Mr. JOHNSON. I understand that; but what

I mean to say is, and I do not think the honorable member will contradict me, that there is nothing in the Constitution of the United States defining the treaty-making power, or in any other branch of it, which says that Congress cannot legislate in regard to them. That is what I mean to say. Now to what period does the phrase, "not subject to any foreign Power or tribal authority" relate? Does it mean at the time of the birth, or the time the controversy arises? My friend from Illinois seems to think, and perhaps he is right, that it means the time of the birth; but it admits of a different interpretation. "All persons born in the United States and not subject to any foreign Power or tribal authority shall be citizens of the United States"—when?

Mr. TRUMBULL. When born.

Mr. JOHNSON. I know that that is your interpretation.

Mr. LANE, of Kansas. That is not the way I want it.

Mr. JOHNSON. I know it is not; that is the reason that I suggest it. My friend from Kansas has a very clear perception upon all matters, particularly those relating to the Indians. [Laughter.]

Mr. LANE, of Kansas. In answer to the suggestion of the Senator from Maryland, I will state the reason why I do not want it so to apply. A large portion of our Indians have recently taken allotments of land, and our supreme court have decided, as I understand—I have not seen the decision—that the act of accepting the allotments makes them citizens so far as to subject the allotments to taxation. Now, what I desire of the Senate is that the Indians who have taken the allotments and thereby separated themselves from the tribal authority may become citizens of the United States. My colleague and myself have consulted on the subject, and we think it wise legislation that they may have the privilege of holding these allotments and selling them. That is the object.

Mr. JOHNSON. The honorable member does not suppose that I am opposed to that. I admit with him that those Indians who have separated themselves from their tribes, and have acquired lands in the State of Kansas, or anywhere else, ought to be citizens. The only question is whether you have done it by this provision. I throw it out as a suggestion that may or may not have weight, just as the Senate may think it entitled to weight or not. If my friend, the chairman of the committee, is right in his construction of the clause, that it means the time of the birth, then the honorable member from Kansas will not have effected his purpose. I think I can satisfy the Senator that he is quite short of his designed mark, provided the honorable chairman is right—and perhaps he is, I rather think he is—in his interpretation of his amendment, that it means to refer to the date of the birth as the time when the foreign allegiance exists.

The honorable member from Kansas makes the allegiance or tribal authority take the same date. Then the Indians whom you want to make citizens and who have recently come to Kansas, and who have purchased land, but who were born under tribal authority, will not become citizens unless it be by treaty; and that cannot be true so far as citizenship of the United States is concerned, where they become citizens by buying lands in Kansas. If they are aliens before they buy the land, and nothing is done by them to obtain the character of citizens except buying the land, then they do not become citizens; that is very clear. They can only become citizens by a bill like this, which will provide in words for such cases as exist in Kansas; and I think they ought to be provided for.

Mr. COWAN. Will it not have to be a uniform law under the Constitution?

Mr. JOHNSON. It would be uniform of course with reference to those buying lands in any State and separating themselves from their tribes.

Mr. COWAN. But not as to all people—Irishmen, Germans, Indians, and everybody.

Mr. JOHNSON. That is uniformity with a vengeance; but that is not the uniformity which the Constitution renders necessary, if I understand it. One or two of my friends on this side of the Chamber who have spoken seem to suppose that this citizenship cannot be obtained through the legislation of Congress. I entertain a different opinion. The clause in the Constitution to which reference has been made—one of the provisions of the eighth section of the first article—gives to Congress the right to establish uniform laws of naturalization; and the view taken of the effect of that clause, considered in connection with the whole Constitution, is that they cannot become citizens in any other way. That is not true. How did the residents of Louisiana at the time of the cession in 1803, and the residents of Florida at the time of the cession of 1819, become citizens of the United States? It was by treaty. The treaties in those cases provided that all the inhabitants of the ceded territory should be entitled in the United States to the same privileges, immunities, and rights that belonged to the citizens of the United States. No naturalization was ever supposed to be necessary in those cases, and none of those inhabitants have since applied for naturalization; and they have been in the courts time after time and recognized as citizens.

Mr. COWAN. I should like to ask the honorable Senator whether that was not done by treaty; whether it can be done in any other way except according to some uniform rule which is to operate equally upon all people?

Mr. JOHNSON. That rule in relation to Louisiana could not be considered uniform, because it did not provide in relation to all Territories afterward to be acquired; it only covered that case. That, however, is a question which I am not now discussing. I understood the argument to be that the only way in which a person born abroad could become a citizen of the United States was through the naturalization power, so to speak; that Congress must exercise by legislation the power conferred upon that body of establishing a uniform rule of naturalization. Now, in the case which I have stated, as I suppose my friend will admit, it was done not by that means, but by the treaty-making power.

Mr. TRUMBULL. Does the Senator mean to say that we acquired Texas by treaty? Did we acquire Texas by treaty, and make its citizens citizens of the United States by treaty?

Mr. JOHNSON. I did not say so. I said Louisiana and Florida, not Texas.

Mr. TRUMBULL. I thought the Senator included Texas.

Mr. JOHNSON. No, sir, I did not refer to Texas. It was proposed at one time to acquire Texas by treaty, but it was subsequently annexed by joint resolution of the two Houses. That establishes the precedent which I was about to suppose might be established under the Constitution. The citizens of Texas, who of course were aliens, it has never been doubted became citizens of the United States by the annexation of Texas; and that was not done by treaty, it was done by legislation. If the power was in Congress by legislation to make citizens of all the inhabitants of the State of Texas, why is it not in the power of Congress to make citizens by legislation of all who are inhabitants of the United States and who are not citizens? That is what this bill does, or what it proposes to do. There are within the United States millions of people who are not citizens, according to the view of the Supreme Court of the United States. Ought they to be citizens? I think they ought. I think it is an anomaly that says there shall not be the rights of citizenship to any of the inhabitants of any State of the United States.

While they were slaves it was a very different question; but now, when slavery is terminated, and by terminating it you have got rid of the only obstacle in the way of citizenship, two questions arise: First, whether that fact itself does not make them citizens? Before they were not citizens, because of slavery, and only be-

cause of slavery. Slavery abolished, why are they not just as much citizens as they would have been if slavery had never existed? My opinion is that they become citizens, and I hold that opinion so strongly that I should consider it unnecessary to legislate on the subject at all as far as that class is concerned, but for the ruling of the Supreme Court to which I have adverted. They held that the Constitution of the United States in no part of it in which the word citizen was used was intended to embrace the African; or to state it still more strongly, but not more strongly than the court stated it, they held that, looking to the contemporaneous history and to the contemporaneous legislation of the several States at the time the Constitution was adopted, the use of the word "citizen" as employed in that Constitution was to exclude the African.

Mr. COWAN. And every other race but the white.

Mr. JOHNSON. Every race but the white—to exclude the African. That decision stands unreversed. Nobody can say that it will be reversed. It is the decision of the highest court to which we are bound to submit with all proper deference, not binding upon us perhaps as legislating in very many particulars; but still, after such a decision has been pronounced, it is our duty, as I think, to avoid its results if we think that decision in the present state of the country would produce mischievous results, by providing that these people, notwithstanding their African descent, shall be citizens of the United States now that they are free.

As to the propriety of passing the bill itself, that is another question. I do not propose now, nor perhaps at any time, to trouble the Senate with any remarks upon the question of the propriety of the passage of the bill. According to my views, which I may or may not explain, if there shall be time at some future period in the session, I think we have not the power to pass this bill; but conceding that the power exists, what I desire, as I hope I shall ever desire, is that the Senators who think they have the power to pass the bill should make it as acceptable and as free from doubt as their wisdom will allow them to do.

Mr. DAVIS obtained the floor.

Mr. COWAN. I move that the Senate do now adjourn. I hope my friend from Kentucky will acquiesce in that motion.

Mr. DOOLITTLE. I ask the honorable Senator to allow me to offer some papers before that motion is put. ["Oh, no."]

Mr. COWAN. I insist on my motion.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 30, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

EQUALIZATION OF BOUNTIES.

Mr. KASSON, by unanimous consent, presented joint resolutions of the Legislature of the State of Iowa, touching the equalization of bounties of soldiers; which were referred to the Committee on Military Affairs, and ordered to be printed.

Mr. GRINNELL, by unanimous consent, presented joint resolutions of the Legislature of the State of Iowa, in favor of granting to the Thirty-seventh ("Grey-beards") regiment of Iowa volunteers the same bounties which have been granted to other regiments; which were referred to the Committee on Military Affairs, and ordered to be printed.

MAIL ROUTE IN IOWA.

Mr. PRICE, by unanimous consent, presented joint resolutions of the Legislature of the State of Iowa, for the establishment of a mail route in that State; which were referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

REBEL PIRATE SHENANDOAH.

The SPEAKER, by unanimous consent, laid before the House the following message of the President of the United States, with accompanying papers:

To the House of Representatives:

In answer to a resolution of the House of Representatives of the 8th instant, asking for information in regard to the surrender of the rebel pirate vessel called the Shenandoah, I transmit a report from the Acting Secretary of State, to whom the resolution was referred.

ANDREW JOHNSON.

WASHINGTON, January 26, 1866.

Mr. WILLIAMS moved to refer the message, with accompanying documents, to the Committee on Foreign Affairs, and that the same be printed.

The motion was agreed to.

ENLISTMENT OF HUNDRED DAYS MEN.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of War, transmitting the report of the Provost Marshal General in regard to the enlistment of hundred days men, and all orders in relation thereto, in response to a resolution of the House of January 25, 1866; which was referred to the Committee on Military Affairs, and ordered to be printed.

PAY DEPARTMENT OF THE NAVY.

Mr. RICE, of Massachusetts, by unanimous consent, introduced a bill to provide for the better organization of the pay department of the Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

PRIVILEGES OF THE FLOOR.

Mr. DELANO, by unanimous consent, submitted the following resolution:

Resolved, That until otherwise ordered, William Byers, G. H. Kyle, and James M. Johnson, from the State of Arkansas, be invited to occupy seats in the Hall of the House of Representatives.

Mr. DELANO. My object is not to make any remarks upon the resolution I have offered, but simply to extend to the gentlemen from Arkansas the same courtesy that has been extended to the gentlemen from Tennessee.

Mr. KELLEY. Is this resolution now subject to debate?

The SPEAKER. It is not, except by unanimous consent. The House is now acting under the previous question, which was seconded on yesterday.

Mr. KASSON. Would it be in order for me to inquire of the mover of this resolution if these gentlemen are and have been loyal?

The SPEAKER. It would not be in order at this time.

The question was upon agreeing to the resolution, and there were—ayes 53, noes 68.

Mr. DELANO. I ask for the yeas and nays. The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 64, nays 94, not voting 24; as follows:

YEAS—Messrs. Anderson, Bergen, Boyer, Brooks, Buckland, Darling, Davis, Dawson, DeFrees, Delano, Denison, Eckley, Ezlestone, Eldridge, Farquhar, Finck, Glossbrenner, Goodyear, Grider, Griswold, Hale, Aaron Harding, Hayes, Hill, Ho San, Claes, ter D. Hubbard, Edwin N. Hubbard, James R. Hubbard, James M. Humphrey, Johnson, Kasson, Kerr, Kuykendall, Latham, George V. Lawrence, LeBlond, Marshall, McCullough, Miller, Niblack, Nicholson, Neill, Orth, Phelps, Radford, Saincup, J. Randall, William H. Randall, Raymond, Ritter, Rogers, Ross, Rousseau, Shanklin, Smith, Stillwell, Taber, Taylor, Thornton, Trimble, Robert T. Van Horn, Welker, Winfield, and Wright—61.

NAYS—Messrs. Alley, Allison, Ames, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Benjamin, Bidwell, Bingham, Boutwell, Brandegee, Brownell, Broomall, Reader, W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Culom, Dixon, Donnelly, Eliot, Farnsworth, Ferry, Garfield, Abner C. Harding, Hart, Higby, Holmes, Hooper, Hotchkiss, Asabel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Jenckes, Kelley, Ketcham, Laffin, William Lawrence, Loan, Longyear, Lynch, McClurg, Melndoe, McKee, McLean, Mercur, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Shellabarger, Sloan, Spalding, Starr, Stevens, Thayer, Francis Thomas, John L.

Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—94.
NOT VOTING. Messrs. Ancona, Blaine, Blow, Bandy, Chandler, Culver, Deming, Driggs, Dumont, Grinnell, Harris, Henderson, Demas Hubbard, James Humphrey, Jones, Julian, Kelso, Marston, Marvin, Scofield, Sitgreaves, Strouse, Voorhees, and Whaley—24.

So the resolution was not agreed to.

Pending the call of the roll,

Mr. TAYLOR said, my colleague, Mr. JONES, is confined to his room by sickness.

At the conclusion of the call of the roll,

Mr. BIDWELL said, I voted "ay" under the impression that this House was going to be consistent, and to allow the gentlemen from Arkansas to come upon this floor on the ground that they were loyal, as they did in the case of the gentlemen from Tennessee.

The SPEAKER. Debate is not in order.

Mr. BIDWELL. I change my vote to "no."

The result of the vote was then announced as stated above.

Mr. STEVENS moved to reconsider the vote last taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DEFICIENCY APPROPRIATION BILL.

Mr. STEVENS reported from the Committee on Appropriations a bill (H. R. No. 86) making additional appropriations to supply deficiencies in the appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1866, and moved that the bill be referred to the Committee of the Whole on the state of the Union, and be made the special order for Tuesday, February 6, and from day to day until disposed of.

The motion was agreed to.

CENSUS OF MANUFACTURES.

Mr. LAFLIN reported from the Committee on Printing the following resolution:

Resolved, That twenty thousand copies of the report of the Secretary of the Interior, in response to a resolution of this House, giving a tabular statement of all manufactures in the United States, be printed for the use of the members.

The resolution was agreed to.

PRINTING OF LAST CONGRESS.

Mr. LAFLIN. I ask unanimous consent to make a statement in the nature of a personal explanation.

The SPEAKER. The Chair hears no objection. The gentleman may proceed.

Mr. LAFLIN. Mr. Speaker, I hold in my hand a copy of the Rock Island Weekly Argus, published in Illinois, which contains the following statement:

"THE ENORMOUS EXPENSES OF THE REPUBLICAN CONGRESS.—As an example of the wasteful prodigality of the last Republican Congress, we may state that it is admitted that the printing alone for it cost last year over two hundred million dollars."

Now, sir, even supposing that this statement was unintentionally exaggerated by a mistake of the printer, and that the amount intended to be stated was \$2,000,000, (a supposition that is not very probable, as the amount is printed in words, not in figures,) it is due to the last Congress to state that even the latter amount is far beyond the truth. The Committee on Printing, through the chairman of that committee in the Senate, has made a demand upon the Superintendent of Public Printing for a tabular statement, which will be placed in the possession of every member of the House. For my present purpose it is sufficient to state that the expenditures for printing for the last Congress, including both the Senate and the House, amounted to \$700,618 53, less than one half the amount stated in this paper, even supposing that there was an unintentional mistake in the figures.

Mr. STEVENS. Oh, it was no mistake.

Mr. LAFLIN. Of this sum of \$700,618 53, the amount for the House of Representatives is a little over \$421,000; the amount for the Senate, \$279,000. This is all that I have to say.

Mr. STEVENS. I now demand the regular order.

Mr. WINDOM. I ask the gentleman to yield to me for one moment. I desire simply to offer

a resolution for reference to the Committee on Printing.

Mr. STEVENS. I yield for that purpose.

CONDITION OF THE INDIAN TRIBES.

Mr. WINDOM, by unanimous consent, submitted the following resolution:

Resolved, That the report of the committee to investigate the condition of the Indian tribes be printed, and that six thousand additional copies be printed for the use of the House.

The SPEAKER. This resolution will be referred, under the law, to the Committee on Printing.

RECONSTRUCTION.

Mr. KASSON. I ask unanimous consent to submit the following resolution:

Resolved, That the joint committee of fifteen on reconstruction consider the expediency of proposing the following several propositions to each of the States lately in rebellion, for adoption by the Legislatures or conventions thereof, as a fundamental compact between each of said States and the United States, irrevocable without mutual consent:

First. No ordinance, regulation, or law shall ever be adopted by or have force within said State, which shall cause, intend, or permit the secession or withdrawal of said State, or of the citizens thereof, from the Union of these States; or the release of the officers or people of said State from their obedience to the Constitution of the United States of America; or from their allegiance to the constitutional Government thereof.

Second. The right to bring and defend suits in all the courts of said State, and to give testimony therein, according to the usual course of law, shall be enjoyed on equal terms by all persons resident therein, irrespective of race or color; and all forfeitures, penalties, and liabilities under any law, in any criminal or other proceeding, for the punishment of any crime or misdemeanor, shall be applied to and shall bear upon all persons equally, without any distinction of race or color.

Third. The right to acquire, hold, and dispose of property, real, personal, and mixed, shall, in said State, be enjoyed on equal terms by all naturalized citizens and by all persons native-born, without distinction of race or color.

Fourth. No law, ordinance, or regulation shall be adopted in said State, recognizing or creating any debt or liability on the part of said State, or of any municipal or corporate authority within the jurisdiction thereof, on account of credit, money, material, supplies, personal services, or other consideration whatsoever, taken by or furnished to or for the aid of any government or authority, or pretended government or authority, or military or naval force, or military or naval or civil officer, or pretended officer, heretofore set up, or acting in hostility to the Government of the United States, or so to be set up hereafter; but all such liabilities shall be void; and no tax shall ever be imposed, assessed, or collected by any authority within said State on account thereof.

Mr. LOAN objected, but subsequently withdrew his objection, and the resolution was received and referred to the joint committee on reconstruction.

INTERNAL REVENUE REPORT.

Mr. MORRILL, by unanimous consent, submitted the following resolution; which was read, and, under the rules, referred to the Committee on Printing:

Resolved, That there be printed six thousand copies of the report of the Commissioner of Internal Revenue, two thousand for the use of the House, and four thousand for the use of the office of the internal revenue.

CURRENCY.

Mr. HUBBARD, of Connecticut, by unanimous consent, submitted the following resolution; which was read, considered, and referred to the Committee on Banking and Currency:

Resolved, That this House will cooperate with the Secretary of the Treasury in his efforts to bring the currency of the country to a specie basis.

BASIS OF REPRESENTATION.

Mr. STEVENS demanded the regular order of business.

The SPEAKER stated the regular order of business to be the consideration of the following joint resolution reported by the joint committee on reconstruction:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring.) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States; which, when ratified by three fourths of the said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE —. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race

or color, all persons of such race or color shall be excluded from the basis of representation.

The pending question was on the motion of Mr. LE BLOND to refer the joint resolution and pending amendments to the Committee of the Whole on the state of the Union.

Mr. HOGAN. Mr. Speaker, as it is evident I shall not have an opportunity to make the speech I designed on the pending subject, I ask, by unanimous consent, that I shall be allowed to write it and print it in the debates.

There was no objection, and it was ordered accordingly.

[The speech will be published in the Appendix.]

The SPEAKER. The previous question was seconded last evening, and the question is now, Shall the main question be now ordered to be put?

Mr. STEVENS. I hope the demand for the previous question will be withdrawn, and that by common consent the amendment be referred to the committee on reconstruction without instructions.

The SPEAKER. The gentleman can get at that by moving to reconsider the vote by which the previous question was seconded.

Mr. STEVENS. I make that motion.

The motion was agreed to.

Mr. GRISWOLD. I now withdraw the demand for the previous question.

Mr. LE BLOND demanded the yeas and nays on his motion to refer to the Committee of the Whole on the state of the Union.

Mr. CONKLING. Before the yeas and nays are ordered, I desire to say that I hope this subject will be referred to the committee on reconstruction without instructions. That seems to be the desire of the House, and the committee have no objection. I hope that at least the friends of the measure will vote in that way.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 37, nays 133, not voting 12; as follows:

YEAS—Messrs. Bergen, Boyer, Brooks, Chanler, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Harris, Hogan, Edwin N. Hubbard, James M. Humphrey, Kerr, Le Blond, Marshall, McCullough, McEuer, Niblack, Nicholson, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Taber, Taylor, Thornton, Trimble, Voorhees, Windell, and Wright—37.

NAYS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Davis, Dawes, Deftrees, Delano, Deming, Dixon, Donnelly, Eckley, Engleton, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Higby, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James E. Hubbell, Hulburd, James Humphrey, Ingersoll, Jencks, Kasson, Kelley, Kelso, Ketcham, Kuykendall, Laffin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Smith, Spalding, Starr, Stevens, Stillwell, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—133.

NOT VOTING. Messrs. Ancona, Barker, Culver, Driggs, Dumont, Henderson, Johnson, Jones, Julian, Noell, Sitgreaves, and Strouse—12.

So the motion was disagreed to.

Mr. BINGHAM moved to reconsider the vote by which the House refused to refer the subject to the Committee of the Whole on the state of the Union; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The question then recurred on the motion to recommit the joint resolution to the committee on reconstruction without instructions.

The motion was agreed to.

Mr. CONKLING moved to reconsider the vote by which the House agreed to the motion to recommit; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. BROMWELL. Mr. Speaker, I have an

additional amendment which I did propose to offer to the committee on reconstruction.

Mr. CONKLING. I propose that the House allow gentlemen to submit their various propositions to the committee.

The SPEAKER. Is there objection to any gentleman submitting resolutions to the Clerk to-day to go to the committee on reconstruction? The Chair hears no objection. Gentlemen can submit their propositions to the Clerk to-day and they will go to the committee.

ALEXANDER W. MCCONNELL.

Mr. SPALDING, by unanimous consent, introduced a bill for the relief of Alexander W. McConnell; which was read a first and second time, and referred to the Committee of Claims.

DAMAGES IN REBEL STATES.

The SPEAKER announced as the next business in order the consideration of the resolution reported by Mr. DELANO from the Committee of Claims, on the 18th of January, Mr. DELANO being entitled to the floor.

Mr. DELANO. I call for the reading of the resolution.

The Clerk read the resolution, as follows:

Resolved, That, until otherwise ordered, the Committee of Claims be instructed to reject all claims referred to them for examination by citizens of any of the States lately in rebellion, growing out of the destruction or appropriation of, or damage to, property by the Army or Navy while engaged in suppressing the rebellion.

Mr. DELANO. The House have listened to the reading of the resolution. It proposes a plan of action for the committee in reference to all claims for damages growing out of the rebellion in the States lately in rebellion, including not only damages that result from the necessary ravages of war, but also from appropriations of property by our Army and Navy for subsistence and supplies. The committee are very clearly of opinion that it would be disastrous to the interests of the Government to undertake to pay the first class of damages that I have alluded to, namely, damages growing out of and resulting from the ravages of war. The committee are also unanimously of opinion that no claim rests upon the Government by the former usage of the country or by the law of nations for the payment of such damages.

I do not deem it necessary, taking it for granted that the House has listened to the reading of the report of the committee, to go into an argument to show that there is no responsibility resting upon Congress to pay those damages that are the result of the necessary ravages of war. I know that a Government may assume to pay those damages in the feeling of extreme justice, or of even-handed justice, if it has the ability to do it. But if gentlemen will look at the magnitude of the ravages of the war—ravages which have been rendered necessary in order to make the war a success—and will also consider the enormous expense that this Government has been put to, and the large accumulation of debt incurred, they will see that to heap upon the Government now the additional liability resulting from the assumption of those damages would be an act of injustice to our constituents. It would result, I think, in shaking the credit of the nation. It would place us in a condition of liability, I imagine, vastly beyond our capacity of endurance.

These are simply statements, not arguments in detail, and I trust they are such statements as will be appreciated by the House without attempting to enforce them by details. I rely upon common knowledge of the facts in connection with the putting down of the rebellion to sustain me and to sustain the committee in its conclusion; so that I do not propose to detain the House by pressing this view of the subject upon their consideration. It could be elaborated, but it must certainly be an act of supererogation to attempt its elaboration before this House.

Now, in regard to the next principle embraced in this resolution, which excludes from payment damages resulting from the appropriation of property by our Army for subsistence and for support, the committee are very well aware that

this question stands upon a different basis. For I think I might admit with safety, that, according to the usage of nations and the law of nations and the previous practice of this Government, the Government should assume to pay in ordinary cases for damages that have resulted from the taking, appropriation, and use of property for the subsistence of the Army. But the committee have considered this matter and desire the House to consider it in the passage of this resolution. This class of damages is also very large. It will be found to be much larger than gentlemen would be likely to apprehend upon first directing their attention to it. The long occupation of the States in rebellion by our armies, and the necessity of subsisting those armies off the country—a necessity forced upon the Government—occasioned the appropriation of an immense amount of property.

Now, sir, the largest portion of this property belonged to men whose hands were red with the blood of our citizens, and who were desirous of overthrowing our Government. Nobody, I apprehend, will entertain the idea for a single moment of paying that class of men. Those men whose purposes were treason, whose design was the death of the nation, are entitled to no consideration that should lead us to indemnify them for their losses. It was necessary to cause these losses. They fought this rebellion with such vigor and persistence that it became necessary for us to destroy their means in order to put down their power. We did so; and in doing so we were compelled not only to lay our hands upon the guilty, but upon many occasions to lay them upon the innocent, in the appropriation of this class of property. Now, if it were a practicable thing to draw a line of discrimination between the guilty and the innocent, and the Government were able to pay, I would feel it my duty to vote for the payment of this class of damages when the claimants are loyal citizens.

I beg leave, however, to suggest to the House the utter impracticability of drawing this line of discrimination. I know enough, and I speak for the committee in this particular, to know that it would be an impracticable effort for us to endeavor to determine which were loyal and which disloyal. I will give the House an illustration of the difficulty. A claim, upon which I am prepared to report adversely, amounting to some six or eight thousand dollars, was presented to us by a loyal man with apparently absolute evidence of his loyalty. Upon that claim two favorable reports have been made to the House by the Committee of Claims. I find that it consists of some sixty items of property that were taken during the administration of General Buell at the South. There are sixty items from sixty individuals, and when we came to scrutinize the claims not a particle of evidence was offered to us of the loyalty of any one of the sixty persons interested in the claim. The presenter of it came with clean hands apparently, but he had, perhaps for the purpose of speculation, bought up or made some arrangement by which he was to represent these claims, and upon these claims he has twice obtained a favorable report from a committee of this House.

But that is not all. If we go into an inquiry as to the loyalty of these individuals, my word for it every one of them will give us some evidence of loyalty. You will find that they will be able to procure *ex parte* affidavits or evidence of some sort apparently sufficient for the establishment of their loyalty. These and like considerations have brought the committee to the conclusion—and that conclusion was unanimous—that an effort to discriminate between the loyal and the disloyal would be an impracticability, and that the result of it would be to bring the House to the payment of all this class of claims; and if that burden is heaped upon the camel's back, I fear that we may have occasion to say that like the last feather it may break it.

The gentleman from Kentucky [Mr. SMITH] asks me if the resolution excludes all claims that may come up individually on their own merits. The resolution excludes all claims

from citizens of disloyal States either for property that has been destroyed by the ravages of war, or for property taken and appropriated for the use of the Army.

Mr. CONKLING. I desire to ask the gentleman from Ohio a question. I wish to say that I listened with very great pleasure to the reading of the report made by the gentleman some days ago, and, having once examined this question, I agree with him, as I understand his report, and I feel for one under great obligation to him. I desire to ask him what is the difference, not as a matter of clemency and discretion, but as a matter of law, between a claim presented by a disloyal person and one presented by a loyal man, if both men were citizens of the country occupied and held by the enemy? I ask the question in the light of the decision of the court in the prize cases.

Mr. DELANO. The gentleman asks me a question which it may be very difficult to answer. As a matter of law, I am frank to say to the gentleman that I am not furnished with any authorities that would enable me to draw a distinction.

There may be cases upon this point. But if there are I frankly say to the House that my industry has not brought them under my observation. And if he or any other gentleman knows of any such case I would be obliged to him to inform me. All the time I have been speaking in reference to this distinction between the claims of loyal and disloyal persons I have been speaking in reference to equity and not in reference to law, and I desire the House so to understand me. I have been considering the question in the light of benevolence and equity, rather than in the light of law and strict justice. I think the suggestion of the gentleman from New York [Mr. CONKLING] exceedingly pertinent, because it presents to those who see fit to take that view of the subject another reason for rejecting these claims.

I will add further upon this point that it once occurred to me, while I had this report under consideration and preparation, that those who were brought into the rebellion by the sovereign power of their States—for I acknowledge the sovereignty of States to a limited extent—those who were carried into the rebellion by the sovereign action of their States, so far as they could act, thus being in a certain sense enemies, to whom for some purposes belligerent rights were accorded, must necessarily, upon principles of law, stand upon the same platform with those who caused the rebellion.

Mr. SMITH. Appreciating as I do the remarks of the gentleman from Ohio, [Mr. DELANO,] and concurring with him to a great extent in the suggestions he has offered, I wish to ask a question of him which will somewhat rebut the question of the gentleman from New York, [Mr. CONKLING,] and I ask the gentleman from Ohio to allow me to make this statement in advance of my question. The citizen owes allegiance to the Government and the Government owes simple protection to the citizen. Now the State of Tennessee has been regarded as a rebellious State. But in that State there have been thirty thousand loyal men who have given their services to the Government of the United States. If, in the progress of the war, the Government has been unable to give full protection to those thirty thousand people in Tennessee, and their property has been destroyed by the march and progress of the armies defending the Government, and if it is the duty of the Government to protect these men in their rights of property, is it not the duty of the Government to refund whatever has been lost in consequence of the movements of the armies? Or are they to be considered as public enemies, because their State has been considered in rebellion?

Mr. DELANO. By no means. I was not putting the question upon the ground that all those who had necessarily suffered were public enemies. But I will ask the gentleman from Kentucky [Mr. SMITH] upon what principle of law even the loyal men of Tennessee—and I take the case as strong as he has put it—can say to the General Government that it must pay

them for their losses? Upon what principle of law can they say that? They were citizens of a State that had attempted to overthrow the Government, of which it was a constituent member. And as citizens of that State, why should not they be allowed to bear the losses of property as well as of life that were necessarily the result of the acts of the Government in overthrowing the rebellion?

Let us look for a moment at this question. The Government of the United States owed it to itself, its constitutional duty required it, to save and protect the republican governments of those States in rebellion. That was its great constitutional duty, and upon another occasion I may make some remarks upon that subject. The Government went out in arms and in armor to perform its duty. That was a duty above all others that it must perform in order that the nation might be saved. Whatever was necessary to fall in order to enable it to perform that great guarantee must be allowed to fall. Is the Government necessarily bound to make indemnity for individual losses that have resulted from the performance of that great duty of saving the nation? If so, then see where the principle would lead. Would it lead to the payment for the loss of innumerable and invaluable lives sacrificed in the conflict, and with them necessarily all property of far less value and far less consideration? There is no principle of law that would compel the Government to assume the payment of those damages.

However, that is a little off the course of argument upon the subject I was discussing. I was simply discussing, when interrupted by the gentleman from New York, [Mr. CONKLING,] and the gentleman from Kentucky, [Mr. SMITH,] the equitable consideration of this question of the payment for property taken and appropriated for the subsistence and supply of our armies.

I will not recur to the legal view of the subject which has been suggested by the interruption of the gentleman from New York; but I will take it for granted that there is an equitable duty to make compensation, and will again call the attention of the House to the impossibility—even if equity calls upon us to make payment—of performing that duty under existing circumstances.

Mr. GARFIELD. Will my colleague allow me to make an inquiry? It will detain him but a moment.

Mr. DELANO. Certainly.

Mr. GARFIELD. If my understanding of this proposition is correct, the effect of the resolution submitted by the committee is, in the first place, to rule out all claims for damages incidental to the war. That, it seems to me, is eminently proper. But the resolution, as I understand, includes also claims for property appropriated by our Army for its maintenance. Now, there are two classes of cases in regard to which I wish to inquire of the gentleman whether the resolution includes them. In the first place, during the war property was taken by the various divisions of our Army for their subsistence, commissary stores, and supplies of all sorts; and to the owners of the property taken receipts were given and vouchers for payment upon proof of loyalty being made to the Federal Government. A large number of such receipts were given all through the South.

There is a second class of cases of which I will give one instance personally known to me. It was at one period of the war determined to fortify the city of Nashville; and it became necessary to tear down several very valuable houses. In one instance, the value of the house was assessed, and regular vouchers were given to the owner, he being a man of known and conspicuous loyalty, in order that he might obtain compensation. In other cases property was thus destroyed, the owners not being present. But suppose that those owners could make undoubted proof of loyalty, and could show that their houses had been torn down by the lawful orders of United States officers for the purpose of building fortifications, would the resolution rule out that class of cases as

well as the cases of property taken for the supply of the Army, where vouchers for payment, conditional upon proof of loyalty being made, were given to the owners? I desire to ask the gentleman whether those cases will come within the resolution.

Mr. DELANO. A categorical answer to the interrogatory of the gentleman would be in the affirmative. The resolution would necessarily rule out all claims for damages of every class, as well those resulting from the ravages of war as those resulting from the appropriation of property for the use of the Army, when such claims are made by citizens of States that were in rebellion. It would not apply to claims made by citizens of any other State.

Mr. GARFIELD. I believe that feature of the resolution of my colleague would in many cases work injustice. Where citizens of the insurgent States have remained entirely loyal, I do not see on what possible ground of justice we can declare that their claims shall be excluded from consideration, while at the same time we do take into consideration the claims of loyal men of other States. I hope that the resolution will be so amended as not to discriminate against those noble men who were true and loyal in the midst of the general ruin.

Mr. SMITH. If the chairman of the Committee of Claims [Mr. DELANO] will yield to me for one moment, I desire to say, in confirmation of the position taken by the gentleman from Ohio, [Mr. GARFIELD,] that, in my view, it is infinitely better to pay an entirely loyal citizen of any of those States that were considered in rebellion than to pay a citizen of Maryland, Missouri, Kentucky, Ohio, or Pennsylvania, whom we believe to be disloyal, but who is, notwithstanding, able to present apparent proofs of loyalty, and thus secure the payment of his claim through the action of Congress or of any of the Departments of this Government.

Mr. DELANO. If my colleague [Mr. GARFIELD] and the gentleman from Kentucky [Mr. SMITH] will listen till I shall have concluded my statement I think they will not object to the resolution.

I will, in the first place, ask gentlemen of the House to observe that the resolution does not fix a permanent rule of action. It embraces two classes of claims. I have discriminated between them, and need not return to that branch of the subject. It provides that for the present the rule shall be as I have indicated. We of the committee have well understood the difficulty in the class of cases alluded to by my colleague and the gentleman from Kentucky; but for reasons powerful with us we have felt that for the present the rule should be that which we propose to establish by the resolution, "until otherwise ordered," as you will observe.

Mr. GARFIELD. Yes, sir.

Mr. DELANO. There may be a time when the Government will be willing to take on itself this discrimination between the loyal and disloyal. Wait, I beg you, gentlemen, until you determine whether you have any States or not. You say now your States are dead. I do not know what may follow, and I will not go into that subject, except by way of allusion to it in its bearing on the present question.

Wait until these questions of reconstruction, the return and reestablishment of these States—wait, I say, until these questions shall be decided; but for the present, in view of our national debt and the magnitude of these claims, and above all the great difficulty in discriminating which is loyal and which is disloyal, wait for the present, and let this be your rule.

Mr. GARFIELD. Let me ask the gentleman another question. If I understand him aright in his remarks, the rule, which refers to the destruction of property as an incident of the war, is not to be temporary. I understand by the laws of war, and by our practice in the war of 1812, we have never paid any such claims. The other clause is for a temporary rule. Now, I ask whether we ought not to discriminate?

Mr. DELANO. It seems to me that is a mere verbal criticism; and I make the remark without any discourtesy to the gentleman. I do not

think it necessary to introduce two resolutions. Let us adopt the present resolution for the present policy of the Government; and if it is desirable hereafter to modify it in reference to the last class of claims, that can be done.

Now, allow me to say why my mind came to this conclusion. You have upon your statute-book a law which provides for the payment of loyal citizens in the loyal States for all damages resulting from the taking of property for the use of the Army; and you have an easy mode of settling and adjusting these claims, as the Quartermaster General and the Commissary General are authorized to settle and adjust them. Whenever it is the sentiment of this House that the same principle ought to be established in behalf of citizens in the disloyal States, take your statute then and amend it so as to allow citizens from the disloyal States the same privileges of settling their claims before the Quartermaster General and the Commissary General which the citizens of the loyal States have now. You will then adopt a better rule of action than to submit these claims to the uncertain investigation by your committees. For allow me to say to this House, I do think if there is anything in the administration of law by Congress which needs correction, it is the power conferred upon and exercised by the Committee of Claims. They are not able, it is not in the nature of things that they can be able, to investigate these claims in a manner in which they ought to be investigated.

Now, Mr. Speaker, I feel I ought not to detain the House any longer on this question. Before closing, however, I must say that it was necessary, in my judgment, the sense of the House should be taken on this subject, so important to the committee and to the country; and I shall feel it necessary, after allowing some explanation from other members of the committee, to demand the previous question.

Mr. NIBLACK. I ask the gentleman to yield to me.

Mr. DELANO. I yield to my colleague on the Committee of Claims for five minutes.

Mr. NIBLACK. Mr. Speaker, as I am a member of the Committee of Claims, I desire to make a brief explanation. I understand the committee have reported the resolution unanimously. Now, while I do not fully agree with the chairman in the line of argument he pursued this morning, I do agree with him in the general proposition contained in the resolution. It is now impracticable to consider these questions, for no committee could take them up and examine them separately as they ought to be, and make such reports to the House as would afford proper basis for action. It is a work which ought to be performed by some board or court outside of Congress when the Government shall have determined to pay these claims, if it shall ever resolve to do so. There ought to be some general law, some civil or military tribunal, for the adjustment of these claims, and we ought not to be called upon to pass a special act in each particular case. That is requiring too much of any committee of this House.

Then we have the question which was raised by the suggestion of the gentleman from New York, [Mr. CONKLING,] The status of the rebel States and their citizens in reference to the General Government has not yet been defined by any action of the House. Upon the view, therefore, that it should first be determined by the House what are the relations of these people to the Government, it is certainly improper for the Committee of Claims to forestall, in their action upon any individual cases, the rule which may be hereafter adopted. If we should attempt to discuss the question a division would come up in the minds of the committee. I have no doubt, especially in view of remarks which the chairman has submitted this morning, that the committee would be unable to agree as to the status of the rebellious States with reference to the Government and all kindred questions. Hence the propriety of deferring all action in relation to claims from these States. For my own part, I confess I have always been

under the impression that at some time and in some way we ought at least to reimburse the loyal citizens of the rebellious States who furnished supplies for the Army, and especially that class of claimants who have received vouchers from the Government.

Mr. CONKLING. I desire to ask the gentleman a question. In the judgment of the gentleman from Indiana, [Mr. NIBLACK,] is there any class of claims coming from the South more meritorious than those for injury suffered by loyal men on account of their loyalty alone; men whose property was destroyed by rebels, which property would not have been destroyed but for the fact that they stood by the flag of their country? And if the gentleman admits that class of claims as meritorious as any, appealing to sound discretion, I ask whether he proposes in any view that they shall be paid by the Government of the United States?

Mr. NIBLACK. I will try to answer the gentleman. I did not allude in my remarks to that class of claims. I will say, however, in reply, that there is no stronger class than that of persons suffering in that way. But there is a difference according to the law of nations, as I understand it, between this class of claimants and those who have furnished means to our armies; those who have furnished them and have received vouchers for such supplies in the usual form. I regard the latter more favorably than the former, because the faith of the Government has been pledged, I think, in the transaction.

But I was about to remark that I have always believed that in some way and at some time or other we ought to reimburse this class of claimants. But in the present condition of things, in view of the large amount of our debt, and in view of the present financial condition of the country, we are in no condition to meet that question now. And as we are not in a condition to do it, and as other questions of great importance are antecedent to this, and upon which this whole question to some extent hinges, and are yet undetermined, being yet before Congress and before the country, I have consented to support the resolution reported by the committee. I do not concur, however, in the propriety of adopting a resolution permanently suspending action on that class of claims, but prefer to leave this whole question open, to be determined as one of the great questions now pending before the House, upon which we must act, I suppose, during the present Congress.

Therefore, while I am willing to vote for the resolution, and shall do so, I do not wish to be considered as committed to the line of argument submitted by the chairman of the committee, nor to some of the propositions contained in the report which accompanies the resolution of the committee. All I agree to is, that for the present, under existing circumstances, we ought not to attempt to adjudicate on these claims individually; that we cannot do so properly; and hence I hope the House will relieve us from doing so until they shall first adopt some general policy embracing the rebellious States and all the people of those States, which shall give us to understand what are the relations of those people to the Government.

Mr. WARD. I desire, with the permission of the chairman of the committee, to say a few words.

Mr. DELANO. I consent.

Mr. WARD. I concurred with much reluctance in the report which comes from the committee. I felt that the loyal men of the South who have been faithful among the faithless, who had risked all and suffered all, and the wives and children of those who had perished in consequence of their devotion to the national flag, should be in a measure compensated for the losses which they had sustained in consequence of their adherence to the national Government. But, sir, the magnitude of these losses, the difficulty of distinguishing at this time between loyal men and traitors, and the condition of our finances, admonished me that we should not now open a door that would let in financial ruin, national disgrace, and perhaps repudia-

tion of the national debt. I felt that this class of claims might double the national debt, and so bring about results which all would deprecate—results so deplorable, I am sure, that all would wish to avert them, and none more so than those patriotic men whose claims are so strong and who have shown by their sacrifices that the national honor is very dear to them.

And so far as I am concerned I desire to say that I hope this action will not be regarded as final; that it shall not bind as a precedent those who shall come afterward; but I hope that at no distant day, when the dark clouds that surround our national pathway shall have vanished, when the difficult work of reconstruction shall be done, when the nation no longer reels under a gigantic national debt, and when those loyal men shall be clearly ascertained, then justice shall be done to these people, and the nation shall reward them as they deserve.

Mr. THORNTON. I simply desire to make a brief explanation in regard to the report and resolution submitted by the chairman of the Committee of Claims. I concurred in the resolution, but I do not agree with the reasons contained in the report. In regard to one class of claims, those growing out of the ravages of war, I have no hesitation in saying that the Government is under no obligation, at any time, now or hereafter, either in loyal or disloyal States, to pay for the ravages by war, and the resolution would with more propriety, in my judgment, have separated that class from the other. But in regard to that part of the resolution which declares that until otherwise ordered, the Committee of Claims be instructed to reject all claims growing out of the appropriation of or damage to property by the Army and Navy, &c., I cannot agree to it. I understand that the reason which has governed the allowance of claims of this character is based upon the provision in the Constitution that private property shall not be taken for public use without just compensation. Now, I would ask the difference between private property taken in disloyal States and that taken in loyal States. We pay for subsistence taken in loyal States; why not pay for subsistence taken in disloyal States? It seems to me that there can be no difference between property growing out of the mere fact of the residence of its owners. The citizens in the disloyal States owed allegiance to the Federal Government as well as the citizens in loyal States, and we owed them a corresponding protection. Shall it be said that because our armies in marching through the disloyal States took private property for the subsistence and support of the Army, to make it efficient in the suppression of the rebellion, the citizens of those States shall be entirely cut off from relief?

Mr. DELANO. I would inquire of the Chair how much more time I have.

The SPEAKER. The gentleman has twelve minutes more.

Mr. DELANO. Then I must ask the gentleman from Illinois to allow me to resume the floor.

Mr. THORNTON. I will conclude in a moment. The reason why I concur with the resolution is this: I think it is an inopportune time to take up the question of these claims. These States, if they are States—and gentlemen upon the other side declare that they are not—have no Representatives here. I think these claims should be postponed until they have Representatives here. It was for the reason that the committee could not come to any just conclusion in regard to this class of claims that I was in favor of reporting this resolution, and am now in favor of it. I desired merely to explain that I do not concur in the reasons of the report.

Mr. DELANO. Unless the House are disposed to extend the time allotted to me, I shall be under the necessity of bringing the House to a vote on this question, although I would be very glad to accommodate gentlemen.

Mr. ROGERS. I hope the previous question will not be called now.

Mr. STEVENS. I suggest to the gentleman

from Ohio that he had better allow this question to be debated for an hour or two.

Mr. DELANO. I have no objection to any extension of time so that I can get a vote on the resolution to-day.

Mr. GARFIELD. I suggest that the debate be continued for two hours, ten minutes being allowed to each speaker.

Mr. WASHBURN, of Illinois. Two hours is too long a time.

Mr. LATHAM. I object to that arrangement, limiting debate to ten-minute speeches.

Mr. WASHBURN, of Illinois. Then let us have a vote now if gentlemen on the other side object to discussion.

Mr. JOHNSON. That would be punishing the whole House for the act of one man.

Mr. DELANO. I have no objection to any extension of time the House may desire.

The SPEAKER. The Chair will state that at three minutes after two o'clock the special order will come up, which is the consideration of the bill in relation to the Freedmen's Bureau, which is the special order for to-day after the morning hour, and from day to day until disposed of.

Mr. DELANO. I demand the previous question.

Mr. ROGERS. I hope the previous question will not be sustained.

Mr. CONKLING. I hope that it will be sustained, since objection is made on the other side to discussion.

On seconding the demand for the previous question there were, on a division—ayes 73, noes 37.

So the previous question was seconded.

Mr. LE BLOND. I think there has been a misunderstanding upon this subject. I do not think my friend upon my right [Mr. LATHAM] meant to object to any time being taken for debate.

Mr. LATHAM. My objection was misunderstood. I objected merely to the taking of two hours' time for debate.

The SPEAKER. Notwithstanding the seconding of the previous question, debate can go on by unanimous consent.

Mr. WASHBURN, of Illinois. It is too late now.

The SPEAKER. The gentleman from Ohio suggested that ten-minute speeches for two hours be allowed upon this proposition to-day, and at the end of the two hours the House should come to a vote upon it.

Mr. WASHBURN, of Illinois. I object to two hours' debate, though I would agree to one hour.

Mr. JOHNSON. Would that include the hour to which the gentleman from Ohio, [Mr. DELANO,] as the member who reported this resolution, is entitled after the previous question is seconded?

The SPEAKER. It would not. The Chair will ask if there is any objection to continuing the debate for one hour.

Mr. DEMING. I object to that.

Mr. LATHAM. Is it in order to refer this resolution to the Committee of the Whole?

The SPEAKER. That cannot be done without unanimous consent.

Mr. KUYKENDALL. I object to anything but voting.

The main question was then ordered, which was upon agreeing to the resolution.

Mr. JOHNSON. As there seems to be a determination to cut off any suggestions that may come from others, I shall have to move to lay this resolution upon the table, and upon that motion I call the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 36, nays 118, not voting 28; as follows:

YEAS—Messrs. Boyer, Brooks, Dawson, Denison, Eldridge, Finck, Garfield, Glossbrenner, Goodyear, Grider, Grinnell, Aaron Harding, Harris, Chester D. Hubbard, Johnson, Latham, Le Blond, Marshall, Nicholson, Phelps, Radford, William H. Randall, Ritter, Rogers, Ross, Rousseau, Schenck, Shanklin, Smith, Stevens, Taber, Taylor, Francis Thomas, Trimble, Robert T. Van Horn, and Wright—36.

NAYS—Messrs. Alley, Allison, Ames, Delos R. Ash-

ley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Bouwell, Brandegee, Broonall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Davis, Dawes, De-frees, Delano, Deming, Dixon, Donnelly, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Griswold, Hale, Abner C. Harding, Hart, Hayes, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, James Humphrey, James M. Humphrey, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Kuykendall, Lafin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McRuer, Mercier, Miller, Moorhead, Morrill, Moulton, Myers, Niblack, O'Neill, Orth, Paine, Patterson, Perham, Plants, Price, Samuel J. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Scofield, Shellabarger, Sloan, Spalding, Starr, Thayer, John L. Thomas, Thornton, Upton, Van Aernam, Burt Van Horn, Ward, Warner, Elihu D. Washburne, William B. Washburn, Walker, Wentworth, Williams, James F. Wilson, Windom, Winfield, and Woodbridge—118.

NOT VOTING—Messrs. Ancona, Anderson, Bergen, Bromwell, Chanler, Culver, Driggs, Dumont, Henderson, Higby, Hogan, Hulburd, Jones, Kerr, McCullough, Morris, Newell, Noell, Pike, Pomeroy, Raymond, Sitgreaves, Stillwell, Strouse, Trowbridge, Voorhees, Whaley, and Stephen F. Wilson—28.

So the motion to lay on the table was not agreed to.

Mr. ROGERS. I move to reconsider the vote by which the previous question was sustained. I hope gentlemen will give us on this side of the House thirty minutes. That is all we ask to debate this subject.

Mr. CONKLING. I move to lay the motion to reconsider upon the table.

Mr. JOHNSON. Upon that motion I call the yeas and nays.

The yeas and nays were not ordered.

The motion to lay on the table was agreed to.

The question recurred upon agreeing to the resolution, which was again read, as follows:

Resolved, That, until otherwise ordered, the Committee of Claims be instructed to reject all claims referred to them for examination by citizens of any of the States lately in rebellion, growing out of the destruction or appropriation of or damage to property by the Army or Navy while engaged in suppressing the rebellion.

The resolution was agreed to.

Mr. DELANO. I move to reconsider the vote by which the House agreed to the resolution; and I also move to lay the motion to reconsider on the table.

The latter motion was agreed to.

AMENDMENT TO THE CONSTITUTION.

Mr. ASHLEY, of Ohio, by unanimous consent, introduced a joint resolution proposing an amendment to the Constitution of the United States; which was read a first and second time, and referred to the joint committee on reconstruction.

SHIP-CANAL IN ILLINOIS.

Mr. INGERSOLL, by unanimous consent, introduced a bill to construct a ship-canal for the passage of armed and naval vessels from the Mississippi river to Lake Michigan, and for other purposes; which was read a first and second time, and referred to the Committee on Roads and Canals.

ADMISSION TO THE FLOOR.

Mr. ROSS. I rise to a question of privilege. I desire that rule 134, in reference to excluding from the floor of the House those not specially entitled to be here, shall be enforced.

The SPEAKER. The gentleman from Illinois demands that rule 134, in reference to admission to the floor, be enforced. The doorkeepers are required to enforce the rule, upon the demand of any member. Gentlemen not privileged to remain on the floor under that rule will retire.

Mr. WASHBURN, of Illinois. Is not the Doorkeeper required to enforce the rule without a demand by any member?

The SPEAKER. He is; but yesterday Major General Sherman was introduced—

Mr. WASHBURN, of Illinois. I propose to have that rule either repealed or enforced. I often have friends whom I would like to introduce here if others introduce their friends.

The SPEAKER. The Chair was about to state that Major General Sherman was introduced here yesterday contrary to the rules;

but the Chair supposes that the Doorkeeper would not be held responsible for that. The rule will be enforced whenever any member insists upon it.

Mr. SCHENCK. I would inquire whether General Sherman has not received by name a vote of thanks from Congress.

The SPEAKER. That would not entitle him to admission under the rule.

Mr. RANDALL, of Pennsylvania. I call for the reading of the rule.

The Clerk read, as follows:

"No person except members of the Senate, their Secretary, heads of Departments, the President's Private Secretary, Foreign Ministers, the Governor for the time being of any State, Senators and Representatives elect, and Judges of the Supreme Court of the United States and of the Court of Claims, shall be admitted within the Hall of the House of Representatives."

Mr. RANDALL, of Pennsylvania. I desire to inquire whether it would not be in order to move that that rule be referred to the Committee on Rules for the purpose of extending the privilege of the floor. There are persons who are not included in the list of privileged persons, but who now should certainly be admitted; for instance, ex-members. There was a period when ex-members became, in some cases, claim-agents and, therefore, they were excluded by our rule. But I see no such persons here now; and it seems to me that it would not interfere with legislation at all, if the privilege of the floor were extended so as to include some persons not now privileged by the rule.

The SPEAKER. The rules have all been referred to the Committee on Rules by a resolution adopted on motion of the gentleman from Illinois [Mr. WASHBURN] on the first day of the session; but the committee generally do not report on any special subject unless it be specially referred to them.

Mr. RANDALL, of Pennsylvania. Would it be in order at the present time to move to refer this subject to the committee?

The SPEAKER. Only by unanimous consent. The gentleman from Massachusetts [Mr. Eliot] is entitled to the floor on the special order.

Mr. RANDALL, of Pennsylvania. I have no desire to interfere with the gentleman from Massachusetts.

Mr. VOORHEES. I desire to inquire, Mr. Speaker, so that no mistakes may be made by members, whether this rule will be so interpreted as to admit to the floor of the House the various Governors of the southern States—Governors by virtue of election as such.

Mr. CONKLING. I would like to inquire whether any of those Governors have applied to the gentleman from Indiana [Mr. Voorhees] to procure their admission.

Mr. VOORHEES. My personal relations and intercourse with gentlemen are not public property.

Mr. CONKLING. If I had supposed that there was any secret about the matter I would not have asked the question.

Mr. VOORHEES. Whether they have or not, possibly some one of them may apply either to the gentleman from New York [Mr. Conkling] or myself; and if this is an open question, I would suggest that this rule be referred to the joint committee of fifteen, to determine whether the Governors of the Southern States can come on this floor under the rule of the House.

Mr. RANDALL, of Pennsylvania. Mr. Speaker, my remarks were made entirely in good faith—

The SPEAKER. The gentleman from Pennsylvania will please suspend his remarks till the Chair responds to the point made by the gentleman from Indiana.

The Chair cannot anticipate any decision that may be made hereafter. Whenever that point shall be properly raised for the decision of the Speaker he will decide it as he decides all other questions, subject to an appeal to the House. No such question has yet been submitted for the decision of the Chair.

The gentleman from Pennsylvania [Mr. RAN-

DALL] asks unanimous consent to make a motion for reference to the Committee on Rules.

Mr. SPALDING. I object.

FREEDMEN'S BUREAU—AGAIN.

Mr. ELIOT. I now call for the special order.

Mr. ALLEY. I ask my colleague to yield to me for one moment, to take from the Speaker's table a bill in reference to new post routes, which will take only a little while to pass on it.

Mr. RANDALL, of Pennsylvania. I object. The other side objected to my motion.

Mr. ELIOT. Now, Mr. Speaker, I must call up the regular order of business, which is the special order in reference to the Freedmen's Bureau.

I am directed to report back from the committee on freedmen Senate bill No. 60, to enlarge the powers of the Freedmen's Bureau, with certain amendments in the nature of a substitute.

The Clerk read the substitute.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed Senate joint resolution No. 26, for the payment of the expenses incurred by the joint committee to inquire into the condition of the States which formed the so-called "confederate States of America;" in which he was directed to ask the concurrence of the House.

FREEDMEN'S BUREAU—AGAIN.

Mr. WRIGHT. As the Clerk read the bill, it does not agree with the copy which has been printed and put upon our desks.

Mr. ELIOT. The Clerk read the substitute and not the original bill. There are two sections six, and if gentlemen will strike their pens through the first one it will be right.

Mr. TAYLOR. Are there not other changes from the bill before us? I think there are a great many differences.

Mr. WRIGHT. I hope the bill will be ordered to be printed as modified, and postponed to a future day.

Mr. ELIOT. Mr. Speaker, before commencing the debate on this bill, I will state wherein the substitute reported from the committee differs from the printed bill. It differs in two respects; and if gentlemen will turn to the bill I can explain so that it can be understood.

Turn to section second. We insert the words "and when the same shall be necessary for the operations of the bureau;" so that it will read:

Sec. 2. *And be it further enacted*, That the Commissioner, with the approval of the President, and when the same shall be necessary for the operations of the bureau, may divide each district into a number of sub-districts, not to exceed the number of counties or parishes in such district, and shall assign to each sub-district at least one agent, either a citizen, officer of the Army, or enlisted man, who, if an officer, shall serve without additional compensation or allowance, and if a citizen or enlisted man, shall receive a salary not exceeding \$1,500 per annum, &c.

Next, after the word "salary," insert "of not less than \$500 nor more than \$1,200, according to the services rendered, in full compensation for said services," striking out of course the words "not exceeding \$1,500 per annum." That is a limitation of the salaries as well as a reduction.

The next is to strike out these words:

Each assistant commissioner may employ not exceeding six clerks, one of the third class and five of the first class, and each agent of a sub-district may employ two clerks of the first class.

And to insert the following:

And the Commissioner may, when the same shall be necessary, assign to each assistant commissioner not exceeding three clerks; and to each of said agents one clerk, at an annual salary not exceeding \$1,000 each, provided suitable clerks cannot be detailed from the Army.

That reduces the expenses.

The next amendment is in the fifth section, which reads as follows:

Sec. 5. *And be it further enacted*, That the occupants of land under Major General Sherman's special field order, dated at Savannah, January 16, 1865, are hereby confirmed in their possession for the period of three years from the date of said order, and no person shall be disturbed in or ousted from said possession during

said three years unless a settlement shall be made with said occupant by the owner, satisfactory to the Commissioner of the Freedmen's Bureau.

The committee propose to add the following proviso:

Provided, Whenever the owners of lands occupied under General Sherman's field orders shall be entitled to the restoration of said lands, the Commissioner is hereby authorized, upon the agreement and with the written consent of said occupants, to procure other lands for them by rent or purchase, or to set apart for them out of the public lands assigned for that purpose in section four of this bill forty acres each, upon the terms and conditions named in said section.

The next amendment is in section six. It reads as follows:

SEC. 6. *And be it further enacted*, That the Commissioner shall, under the direction of the President, procure in the name of the United States, by grant or purchase, such lands within the districts aforesaid as may be required for refugees and freedmen dependent on the Government for support; and he shall provide or cause to be erected suitable buildings for asylums and schools. But no such purchase shall be made, nor contract for the same entered into, nor other expense incurred, until after appropriations shall have been provided by Congress for the general purposes of this act, out of which payments for said lands shall be made. And the Commissioner shall cause such lands from time to time to be valued, allotted, assigned, and sold in manner and form provided in the fourth section of this act at a price not less than the cost thereof to the United States.

We strike out the words "for the general" and insert "such," so that it will read "such purposes;" and instead of "of this act out of which payments for said lands shall be made," insert these words:

And no payments shall be made for lands purchased under this section, except for asylums and schools, from any moneys not specifically appropriated therefor.

In the eighth section we insert the words "and the preceding;" so that it will read:

SEC. 8. *And be it further enacted*, That any person who, under color of any State or local law, ordinance, police, or other regulation or custom, shall, in any State or district in which the ordinary course of judicial proceedings has been interrupted by the rebellion, subject, or cause to be subjected, any negro, mulatto, freedman, refugee, or other person, on account of race or color, or any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or for any other cause, to the deprivation of any civil right secured to white persons, or to any other or different punishment than white persons are subject to for the commission of like acts or offenses, shall be deemed guilty of a misdemeanor, and be punished by fine not exceeding \$1,000, or imprisonment not exceeding one year, or both; and it shall be the duty of the officers and agents of this bureau to take jurisdiction of and hear and determine all offenses committed against the provisions of this section, and also of all cases affecting negroes, mulattoes, freedmen, refugees, or other persons who are discriminated against in any of the particulars mentioned in the preceding section of this act, under such rules and regulations as the President of the United States, through the War Department, shall prescribe. The jurisdiction conferred by this and the preceding section on the officers and agents of this bureau shall cease and determine whenever the discrimination on account of which it is conferred ceases, and in no event to be exercised in any State in which the ordinary course of judicial proceedings has not been interrupted by the rebellion, nor in any such State after said State shall have been fully restored in all its constitutional relations to the United States, and the courts of the State and of the United States within the same are not disturbed or stopped in the peaceable course of justice.

Mr. CONKLING. I would like to understand from the gentleman from Massachusetts whether this bill now before us is printed with the amendments as it passed the Senate.

Mr. ELIOT. Yes, sir; as it passed.

Mr. CONKLING. So that the amendments proposed are ingrafted on the bill as it passed.

Mr. ELIOT. There is one formal amendment in the eighth section, a mere verbal one. In line twenty-five strike out the word "to" and insert "shall," so that it shall read, "The jurisdiction conferred by this and the preceding sections shall cease." The grammar of it troubled some of my literary friends, and it may now as well be made right.

Now, Mr. Speaker, I will proceed to open the debate upon this subject, and I should be glad to have the discussion of it brought to as speedy a close as practicable. It is of importance that we should legislate upon this matter quickly, and I hope it will not be necessary to occupy, either on this or the other side of the House, much time in its discussion.

Before proceeding, however, I will move to recommit the bill.

Mr. DONNELLY. Will the gentleman from Massachusetts yield?

Mr. ELIOT. I will for the purpose of offering an amendment.

The SPEAKER *pro tempore*, (Mr. PIKE.) The motion to recommit cuts off amendment.

Mr. ELIOT. I withdraw the motion to recommit for that purpose.

Mr. DONNELLY. I move to insert in section six, line seven, after the word "schools," the following:

And the Commissioner may provide a common-school education for all refugees or freedmen who shall apply therefor.

Mr. ELIOT. I now renew the motion to recommit.

Mr. CHANLER. I would like to ask the gentleman in regard to the proposed arrangement for debate on this subject. Do I understand him to say that he invited or did not invite debate?

Mr. ELIOT. I did not say either. I said I was desirous to have the debate upon it come to an end as soon as practicable. I do not propose to interfere with a reasonable discussion, if that is what the gentleman means.

Mr. CHANLER. That is all I wish. Does the gentleman propose to permit reasonable discussion of the bill, and if so, will he state what he means by reasonable discussion?

Mr. ELIOT. I shall have to reserve the answer to that, for I promise the gentleman now that if the debate upon the bill assumes a wide range and embraces all subjects of reconstruction, I shall feel myself called upon to demand the previous question. But so long as a reasonable discussion of the bill is wanted I do not expect to do so.

Mr. DONNELLY. I would ask the gentleman from Massachusetts if he will yield to me to make some remarks on the amendment I have offered and upon the bill generally.

Mr. ELIOT. Why, no sir, I cannot exactly do that; but the gentleman shall have an opportunity to present his views upon his amendment.

Mr. Speaker, on the 3d day of last March the bill establishing a Freedmen's Bureau became a law. It was novel legislation, without precedent in the history of any nation, rendered necessary by the rebellion of eleven slave States and the consequent liberation from slavery of four million persons whose unpaid labor had enriched the lands and impoverished the hearts of their relentless masters. No thoughtful man could have observed the early successes of our Union armies without discerning the great work which final triumph would render needful. The rebellion miserably failed; but its failure has effected a revolution greater than its success could have achieved—a revolution in the industrial and social systems of all the southern States. So it is that good is educed from evil. That is a revolution that cannot go backward, nor can its far-extending influence be bounded by the States where it began. The South was poisoned by slavery, but South and North will be braced to fresher health and inspired to higher life by freedom. Already we feel its life-giving impulses. The slave becomes freedman, and the freedman man, and the man citizen, and the citizen must be endowed with all the rights which other men possess.

Say not, my friends, this must not be, for truly it must be! Resist it not! Fight not against it, lest you too hear the voice as of old, "Saul! Saul! why persecutest thou me?" It is hard for thee to kick against the pricks.

"The great objects of humanity are best attained when conformed to His laws in the formation of Governments as well as in all things else." That is what the rebel vice president Stephens said. "Our confederacy," he continued, "is founded upon principles in strict conformity with those laws. This stone which was first rejected by the builders is become the 'chief stone of the corner' in our new edifice." That blasphemy has been punished. But do you not see that in a sense far other than that which he intended, that rejected stone is yet to be and forever to remain the founda-

tion stone? But it will be the rock of freedom and not of slavery on which our Republic will rest.

At an early day, when the fortunes of war had shown alternate triumphs and defeats to loyal arms, and the timid feared and the disloyal hoped, it was my grateful office to introduce the first bill creating a bureau of emancipation. It was during the Thirty-Seventh Congress. But although the select committee to which the bill was referred was induced to agree that it should be reported to the House, it so happened that the distinguished chairman, Judge White, of Indiana, did not succeed in reporting it for our action. At the beginning of the Thirty-Eighth Congress it was again presented, and very soon was reported back to the House under the title of "A bill to establish a Bureau of Freedmen's Affairs." It was fully debated and passed by the House. The vote was sixty-nine in favor and sixty-seven against the bill; but of the sixty-seven who opposed it fifty-six had been counted against it, because of their political affinities. On the 1st of March, 1864, the bill went to the Senate. It came back to the House on the 30th of June, four days before the adjournment of Congress. To my great regret the Senate had passed an amendment in the nature of a substitute attaching this bureau to the Treasury Department. But it was too late to take action upon it then, and the bill was postponed until December. At that time the House non-concurred with the Senate, and a committee of conference was chosen. The managers of the two Houses could not agree as to whether the War Department or the Treasury should manage the affairs of the bureau. They therefore agreed upon a bill creating an independent department neither attached to the War nor Treasury, but communicating directly with the President, and resting for its support upon the arm of the War Department. That bill was also passed by the House but was defeated in the Senate. Another conference committee was chosen, and that committee, whose chairman in the House was the distinguished gentleman from Ohio, then and now at the head of the Military Committee, agreed upon a bill attaching the bureau to the War Department and embracing refugees as well as freedmen in its terms. That bill is now the law.

Now, Mr. Speaker, I desire to ask the attention of the House to what has been done in organizing and conducting the affairs of this bureau since the passage of the act. And I will do it as briefly as I can from the official records which have been procured at the Department.

The law was approved on the 3d of March, 1865. Nine months have not yet elapsed since its organization. The order from the War Department under which the bureau was organized bears date on the 12th of May, 1865. General Howard, who was then in command of the department of Tennessee, was assigned as Commissioner of the bureau. The bill became a law so late in the session that it was impossible for Congress to legislate any appropriation for its support. It was necessary, therefore, that the management of it should be placed in the hands of military officers, and fortunately the provisions of the bill permitted that to be done. General Howard was, as I stated, in command of the department of Tennessee when he was detailed to this duty. But on the 15th of May, that is to say, within three days after the order appointing him was issued, he assumed the duties of his office; and when he did so, I take occasion to state that while he intended as the Commissioner of the bureau to provide as much uniformity as he could in the matter of the employment and of the education of the freedmen, he solicited the cooperation of all officers then in the field, under appointment from the Treasury or from any other quarter, to aid him in his work. And I believe it has been his policy throughout, that while the freedman should understand that he was truly free, he should not, if he was able to work, entertain the thought that the Government, by reason of the existence of this bureau, was disposed or intended to support him in idleness.

In the course of a few days the Commissioner of the bureau announced more particularly the policy which he designed to pursue. The whole supervision of the care of freedmen and of all lands which the law placed under the charge of the bureau was to be intrusted to assistant commissioners. It was stated, as has been found to be correct, that the demand for labor would be sufficient to afford occupation to nearly all those classed as freedmen who were able to work.

The assistant commissioners were enjoined to effect as rapidly as they could complete organization for labor, and to provide that that labor should be fairly compensated. It was not found practicable to determine the rates of wages, but the officers of the bureau were instructed carefully to inquire, and having ascertained what amount of compensation had ordinarily, at the places where inquiry was made, been previously paid to masters who had hired out labor, they would be able from that to form a pretty correct opinion as to the true value of it, and that the wages fixed upon for freedmen should be determined somewhat by the result of such inquiry.

Before a month had expired, headquarters had been established for assistant commissioners at Richmond, Raleigh, Beaufort, Montgomery, Nashville, St. Louis, Vicksburg, New Orleans, and Jacksonville, and very shortly afterward assistant commissioners were designated for those posts of duty. They were required to possess themselves as soon as practicable with the duties incident to their offices, to quicken in every way they could and to direct the industry of the freedmen. Notice was given that the relief establishments which had been created by law under the operations of the War Department should be discontinued as soon as they could be consistently with the comfort and proper protection of the freedmen, and that every effort should be made—and I call the attention of gentlemen to the fact that that policy has been pursued throughout—that every effort should be made to render the freedmen at an early day self-supporting. The supplies that had been furnished by the Government were only to be continued so long as the actual wants of the freedmen seemed to require it. At that time there were all over the country refugees who were seeking their homes, and they were notified that, under the care of the bureau, they would be protected from abuse and directed in their efforts to secure transportation and proper facilities for reaching home.

Wherever there had been interruption of civil law, it was found impossible that the rights of freedmen could be asserted in the courts, and where there were no courts before which their rights could be brought for adjudication, military tribunals, provost-marshal's courts, were established for the purpose of determining upon questions arising between freedmen or between freedmen and other parties; and that also has been continued to this day.

The commissioners were instructed to permit the freedmen to select their own employers and to choose their own kind of service. All agreements were ordered to be free and mutual, and not to be compulsory. The old system that had prevailed of overseer labor was ordered to be repudiated by the commissioners who had charge of the laborers, and I believe there has been no time since the organization of the bureau when there have not been reports made to headquarters at Washington of all labor contracts; and wherever any provisions had been inserted, by inadvertence or otherwise, that seemed unjustly to operate against the freedmen, they have been stricken out by direction of the Commissioner here. Perhaps I may say that the other day a resolution of inquiry was directed to the select committee whether certain contracts had been permitted that were offensive to our sense of right and oppressive to the freedmen, and the committee, in the course of their investigation, ascertained that in no instance had any such contract, if made, received the assent of the Commissioner here, but that, without exception, all contracts which had been

reported here at Washington had been so altered as that they were free from any oppressive provisions and left to the freedman all the rights which as a citizen he ought to have in contracting for his work.

In the course of the next month action was taken by the Commissioner respecting a provision of the law as it was passed in March, authorizing the Secretary of War to make issues of clothing and provisions, and the assistant commissioners were required carefully to ascertain whatever might be needed under that provision of the law, and to make periodical reports as to the demands made upon the Government through the Bureau. Directions were given by the Commissioner to his assistant commissioners to make repeated reports to him upon all the various subjects which had come under his charge—with regard to the number of freedmen, where they were, whether in camps or in colonies, or whether they were employed upon Government works, and stating, if they obtained supplies, how they were furnished, whether by donations or whether procured by purchase. Reports were also required as to all lands which had been put under the care of the bureau; and statements were called for showing descriptions of the lands, whether, in the language of the law, "abandoned" or "confiscated," so that the bureau here could have full and complete information of all action of its agents throughout these States, and upon examination it could be determined where any specific lands which were under the charge of the bureau came from, and how they were derived.

In the course of the summer it became necessary to issue additional instructions. The Commissioner found that his way was beset with difficulties, he was walking upon unknown ground, he was testing here and there questions involved in doubt. It was hardly possible at once and by one order to designate all that it would be needful for him to do, and therefore different instructions were issued from time to time from his office. The assistant commissioners were called upon thoroughly to examine, either by themselves or their agents, the respective districts allotted to them, to make inquiry as to the character of the freedmen under their charge, their ability to labor, their disposition to labor, and the circumstances under which they were placed, so that the aid, the care, and the protection which the law contemplated might be afforded to them as quickly and as economically as possible.

The Commissioner continually repeated his injunctions to his assistants to be sure that no compulsory or unpaid labor was tolerated, and that both the moral and intellectual condition of the freedmen should be improved as systematically and as quickly as practicable.

It was manifestly impossible for this bureau to undertake this work and to carry it on successfully alone, and so the Commissioner called upon the various benevolent associations organized throughout the North and the West to render that aid in the future which they had rendered in the past, and to cooperate with him in the work which he had in hand. And especially in the matter of schools it was found important for the bureau to avail itself of the experience gained before its organization by the benevolent associations of different parts of the North and the West. Other instructions were also given connected with the medical department of the bureau; and if gentlemen will take the trouble to look into the report which has been furnished by the bureau, they will find that it required no little care and thought to organize and carry out the medical department of the Freedmen's Bureau.

All the affairs of the bureau have been conducted by four general departments—of finance, of lands, of records, and of medicine. To each of these departments competent officers were assigned. And from the report made by General Howard, and which has been laid upon the tables of members, every gentleman will be able to ascertain what has been done and how it has been done.

When the bureau was first organized, indeed when it was first urged upon the attention of this House, it was stated and it was believed that the bureau would very shortly be self-sustaining. And yet in his report General Howard calls for large appropriations, and undoubtedly at the proper time we shall hear a response to that call from the Committee on Appropriations. Now, it is right enough that gentlemen who are called upon to legislate here should understand the facts in this case. One fact is perfectly obvious: that the bureau, if it is to be self-sustaining, must be supported by labor. That was the idea from the beginning. And when it was stated here in debate that the bureau would probably be self-sustaining, it was supposed that from the lands abandoned, confiscated, sold, and the lands of the United States, which by the provisions of the bill had been placed under the care of the Commissioner, these freedmen would be given an opportunity to earn substantially enough for the conduct of the bureau. And I have no doubt at all that such would have been the case had the original expectation been carried out.

There were large tracts of land in Virginia and the other rebel States which were clearly applicable to this purpose. There was the source of supply—the lands and the labor. There were laborers enough, and there was rich land enough. Now, how does it happen that so large a call has been made upon Congress? It must be observed that up to this time Congress has not appropriated one dollar from the Treasury of the United States for the support of this bureau. There have been large uses made of Government stores, clothing, medicine, and food, but no direct appropriation of money by law has been made.

At a very early day the abandoned lands were turned over to the care of the commissioners, and I supposed, and probably we all supposed, that the lands, which in the language of the law were known as "abandoned lands," and those which were in the possession of the United States, would be appropriated to the uses of these freedmen. Within a week after the Commissioner assumed the duties of his office he found it necessary to issue an order substantially like this: whereas large amounts of lands in the State of Virginia and in other States have been abandoned, and are now in the possession of freedmen, and are now under cultivation by them, and whereas the owners of those lands are now calling for their restoration, so as to deprive the freedmen of the results of their industry, it is ordered that the abandoned lands now under cultivation be retained by the freedmen until the growing crops can be secured, unless full and just compensation can be made them for their labor and its products.

"The above order"—

This is the part about which it appeared that some difference of judgment existed between the Executive and the Commissioner of the bureau:

"The above order will not be construed so as to relieve disloyal persons from the consequences of their disloyalty; and the application for the restoration of their lands by this class of persons will in no case be entertained by any military authority."

It was found, not a great while afterward, that the views which the President entertained as to his duty were somewhat in conflict with the provisions of this order; for it was held by the President that persons who had brought themselves within the range of his pardon and had secured it, and who had taken or did afterward take the amnesty oath, would be entitled, as one of the results of the pardon and of their position after the oath had been taken, to a restoration of their lands which had been assigned to freedmen. In consequence of this, an order was subsequently issued—

Mr. STEVENS. If it will not interrupt the gentleman, I desire to ask him a question.

Mr. ELIOT. I will hear it with pleasure.

Mr. STEVENS. I have never seen any of those pardons; and I desire to ask the gentleman whether he has ever seen one, and whether those pardons were extended to the recipients

as rebels or traitors, and also as belligerents, or only as rebels. I ask the question because all this property was seized, under the express terms of the law, as property of enemies, not of rebels, without any condemnation; and I want to know how a pardon could affect property seized in that way.

Mr. ELIOT. I have not had an opportunity to see any of those pardons. I should be very glad to give the gentleman the information he seeks, if I could.

Mr. TRIMBLE. I do not like to interrupt the gentleman's remarks; but I would like to ask him a question in reference to the eighth section of this bill.

Mr. ELIOT. I shall be glad to answer the gentleman if I can.

Mr. TRIMBLE. Are we to understand this section as meaning that one of the agents of this bureau is to have jurisdiction and authority to hear and determine a case where the penalty by this section is imprisonment not exceeding one year, and a fine not exceeding \$1,000?

Mr. ELIOT. Yes, sir.

Mr. TRIMBLE. Well, will the gentleman yield to me to offer an amendment to this section?

Mr. ELIOT. No, sir.

Mr. TRIMBLE. I would like to have my amendment read.

Mr. ELIOT. I will say to the gentleman that a motion to amend could not be made under the rules, while the present motion is pending.

Mr. TRIMBLE. Well, sir, I will read my amendment, and then I think the gentleman will accept it. It is to add to the eighth section this proviso:

Provided, That nothing herein contained shall be construed to prevent the trial, by jury, of any white person, as contemplated by article three, section two, of the Constitution of the United States.

Mr. ELIOT. I believe the language of the gentleman's amendment is "any white person."

Mr. TRIMBLE. Yes, sir. If it will suit the gentleman any better, I will say "any person."

Mr. ELIOT. If the gentleman will read the bill carefully, he will see that when the opportunity for trial by jury shall come, the section to which he refers will probably be inoperative. That section is to continue in force only while the courts are not in operation, and until these States are restored to their former relations in the Union.

Mr. LE BLOND. I would like to ask the gentleman a question.

Mr. ELIOT. I will yield for a question.

Mr. LE BLOND. I desire to inquire of the gentleman whether this bill does not extend to States that have not been in rebellion, as well as to those that have been.

Mr. ELIOT. Yes, sir; it certainly does.

Mr. LE BLOND. Then is it not justly liable to the objection of the gentleman from Kentucky, [Mr. TRIMBLE?]

Mr. ELIOT. This bill extends to all the States; it is not sectional legislation.

Mr. TRIMBLE. Will the gentleman permit me to offer this amendment, to apply only to the State of Kentucky, that has never been out of the Union, whose relations to the Union have never been disturbed?

Mr. ELIOT. Mr. Speaker, I hardly think the gentleman from Kentucky would seriously desire to insert in a bill to be passed here a provision that it shall not override the Constitution. The Constitution will take care of itself, and we cannot interfere with it. There is nothing in this bill that attempts to do so.

I was about to say, Mr. Speaker, that, because of the action which the bureau had taken, and the belief on the part of the President that the parties securing pardons should have a right to the restoration of their lands, another order, which is pretty well known as circular No. 15, was issued.

And under the operation of that circular, on its appearing satisfactorily to any assistant commissioner that any property under his control is

not "abandoned," as defined in the law, and that the United States have acquired no perfect right to it, it is to be restored and the fact reported to the Commissioner. "Abandoned" lands were to be restored to the owners pardoned by the President, by the assistant commissioners, to whom applications for such restoration were to be forwarded; and each application was to be accompanied by the pardon of the President and by a copy of the oath of amnesty prescribed in the President's proclamation, and also by a proof of title to the land. It must be obvious that the effect of this must have been to transfer from the care of the bureau to the owners very large portions of the land which had been relied upon for the support of the freedmen. Within a few weeks from the date of that order, no less than \$800,000 worth of property in New Orleans was transferred, and about one third of the whole property in North Carolina in possession of the bureau was given up; and the officer having charge of the land department reports that before the end of the year, in all probability, there will be under the charge of the Commissioner little, if any, of the lands originally designed for the support of these freedmen.

It is obvious, if these lands are to be taken, that other lands must be provided, or the freedmen will become a dead weight upon the Treasury, and the bill under consideration assigns other lands, in the place of those thus taken, from the unoccupied public lands of the United States.

Two months before the Commission took the control of the bureau, in January, 1865, Major General Sherman, then at Savannah, issued the celebrated Field Order No. 15. You will find that order in the printed report of General Howard. It is very well known that by that order the islands from Charleston, south, the abandoned rice-fields along the river for thirty miles back from the sea, and the country bordering the St. John's river, Florida, were reserved and set apart for the settlement of the negroes made free by the acts of war and the proclamation of the President of the United States.

I had occasion to see that order in January last in manuscript, and when the privileges it conferred were known to the freedmen they gladly availed themselves of the benefits it secured to them. Settlements increased and industry was fostered; and during the war regiments were formed to fight our battles from the men who were living on these Edisto islands.

The order of General Sherman provides as follows:

"II. At Beaufort, Hilton Head, Savannah, Fernandina, St. Augustine, and Jacksonville, the blacks may remain in their chosen or accustomed vocations, but on the islands, and in the settlements hereafter to be established, no white person whatever, unless military officers and soldiers detailed for duty, will be permitted to reside; and the sole and exclusive management of affairs will be left to the freed people themselves, subject only to the United States military authority and the acts of Congress. By the laws of war and orders of the President of the United States the negro is free, and must be dealt with as such. He cannot be subjected to conscription or forced military service, save by the written orders of the highest military authority of the department, under such regulations as the President or Congress may prescribe. Domestic servants, blacksmiths, carpenters, and other mechanics, will be free to select their own work and residence, but the young and able-bodied negroes must be encouraged to enlist as soldiers in the service of the United States, to contribute their share toward maintaining their own freedom, and securing their rights as citizens of the United States.

"Negroes so enlisted will be organized into companies, battalions, and regiments, under the orders of the United States military authorities, and will be paid, fed, and clothed according to law. The bounties paid on enlistment may, with the consent of the recruit, go to assist his family settlement in procuring agricultural implements, seed, tools, hoots, clothing, and other articles necessary for their livelihood."

Now, sir, this House will be called upon to say what shall be done in behalf of the freedmen who were thus invited by General Sherman to fight our battles, and thus assigned by him lands on these islands. These assignments or allotments, made by him as a military commander, conferred merely possessory titles. There have been efforts made to remove these freedmen from these lands; and last October

it became necessary for the Commissioner of the bureau to go to South Carolina for the purpose of seeing what arrangements, if any, he could make.

It had been said that the freedmen were to be removed. Great feeling, great sorrow, and great indignation had been expressed; and great fears had been entertained lest the word of promise to the ear should be broken to the hope. General Howard, on his reaching there, called a meeting of the freedmen and soon ascertained one fact; and that was, that they were unwilling to work for their former masters. I believe there was no exception. He found they were fearful of removal; and he stated to them what he believed were the wishes of the President, and what was his own duty to the community under his charge.

It resulted in this: an agreement was made, a form of obligation entered into for the owner to sign, and a form of transfer was made giving up the land, and it was supposed by General Howard that under this circular No. 15, the lands would soon be taken from the freedmen.

[Here the hammer fell.]

Mr. DONNELLY. I move that the House adjourn.

Mr. DAWES. I hope not. I trust my colleague will be permitted to go on.

Mr. DONNELLY. I have no objection to his going on and concluding his remarks.

Mr. WASHBURN, of Illinois. Does the gentleman from Massachusetts intend to take a vote to-night?

Mr. ELIOT. There are some members who, I understand, wish to speak; I shall not, therefore, expect a vote to-day.

Mr. ROGERS. I hope the gentleman from Massachusetts will be allowed to go on.

Mr. RADFORD. Is it understood that there is to be no vote taken to-day?

Mr. ELIOT. Yes, sir.

The SPEAKER *pro tempore*, (Mr. PIKE.) The Chair hears no objection. The gentleman from Massachusetts will therefore proceed.

Mr. ELIOT. I was just saying that it resulted in preparing a form of obligation for the land owner, and of restoration, to be signed by the Commissioner himself, under the provisions of circular No. 15. Before General Howard left the South, however, he received a telegraphic communication from the Secretary of War, saying that the orders under which he acted did not require him to disturb the freedmen in their possession at that time, but to ascertain merely whether a just and mutual agreement could be effected between the freedmen and those who desired to employ them. That was last October. From that time there has been, as I believe, no action taken in regard to these Edisto lands, and they are held now waiting the action of Congress.

Mr. THAYER. I wish to make an inquiry in regard to the proviso that the gentleman has been speaking about. In the fifth section—which I observe is not printed in the bill before us—there seems to be a little ambiguity in the phraseology. I would like the gentleman from Massachusetts to inform the House in regard to the construction he puts upon it himself.

Mr. ELIOT. The bill, as it comes from the Senate, in section five provides that the occupants of land are confirmed for three years, and the proviso is, that whenever the owners of the lands occupied under that order shall be entitled to restoration the Commissioner is authorized, upon an agreement and with the consent of the occupants, to procure other lands for them by rent or purchase, or to provide lands under the fourth section of the bill.

Mr. THAYER. The point to which I wish to direct the gentleman's attention is, whether the language used is intended to convey the idea that where the owner is entitled to restoration the consent of the occupant is a necessary condition precedent to the restoration. I do not understand why, otherwise, the words "with the consent and agreement of the occupants" are used when the power is given to the Commissioner to appropriate other lands in lieu

of those to which the former owner was entitled.

Mr. ELIOT. The allotments were made and continue until some other military action, or until the action of Congress. The Senate by the bill, as it has come to the House, confirms the titles for a term of years. The amendment proposed by the committee provides that if the owners of the lands, either under the circular No. 15—which is believed to be inoperative or illegal by many persons—or in any other way, should be entitled to their lands, the freedmen who have had those lands allotted to them should not be expelled from them against their consent and without a provision for another home.

Mr. THAYER. I understand by the proviso that the consent of the occupant is necessary before restoration takes place.

Mr. ELIOT. Yes, sir; that they should not be compelled to expatriate themselves or be driven into Florida or Georgia, or anywhere else, away from their own homes; that they should not be compelled to leave the lands which the Government had assigned them, but that their consent should be obtained to take another home.

Mr. THAYER. That the consent of the occupant is necessary before the Commissioner can order a restoration?

Mr. ELIOT. Before a restoration should be ordered; before the former owner should be put in occupancy again of his estate.

Mr. THAYER. There seems to be a little solecism in the language of the proviso in speaking in the same breath of a person being entitled to restoration, and at the same time making the restoration depend upon the rights of a third party.

Mr. ELIOT. I dare say the criticism may be good; but it is verbal, and I do not think it strikes at the meaning.

Mr. THAYER. It is verbal, but it also has some substance in it, because the proviso may mean either one of two things. Grammatically it would mean, I take it, that where the owner was entitled to restoration he should have restoration, and that the occupants should leave their lands if he wanted them. But I supposed that as there seemed to be no particular reason why the consent of the man who is offered the lands should be made a condition for giving them to him, probably the very meaning which the gentleman now tells me was intended to be attached to the proviso was the meaning intended to be conveyed. I understand that the gentleman distinctly asserts that that was the meaning intended to be imparted by the proviso.

Mr. ELIOT. It was not intended that the freedmen should be compelled to vacate the lands upon which they had been placed by the Government until another home satisfactory to them was procured for them.

Mr. THAYER. I would suggest, then, whether it would not, perhaps, be well to substitute for the words "where parties are entitled to a restoration," the words "where parties make application for restoration," or some similar words.

Mr. ELIOT. Well, it is very possible that may be so.

Mr. STEVENS. I desire to know something about these lands which are referred to as lands to which parties are "entitled to restoration." I want to know whether there is any doubt about these lands having been the lands of men engaged in the belligerent enemy's army, and subject to confiscation under our law of 1862? Did not the lands belong, before they were taken by us, to belligerent foes, and were they not seized by us as an enemy's property and thus appropriated? I ask the question, because, if that be so, I want to know why the gentleman talks about their being "entitled to restoration."

Mr. ELIOT. Well, even suppose it were as the gentleman from Pennsylvania suggests, the time might come when they would be entitled to restoration. The suggestion made by the other gentleman from Pennsylvania [Mr. THAYER] is

one that I shall probably be very glad to avail myself of hereafter.

Mr. THAYER. I make the suggestion because I think the language of the bill would, in all probability, give rise to difficulty.

Mr. ELIOT. The difficulty might very easily be removed by saying that "whenever the owners of lands occupied under General Sherman's field order shall make application to be restored to said lands," &c. Before a final vote is taken on the bill that difficulty can be obviated.

Mr. Speaker, there are so many reasons that ought to be given to the House why this bureau should be enlarged and continued that I am at a loss to know which to specify first; but I want to read right here an argument which comes from the freedmen of Virginia in a letter to the Speaker of this House. It is a letter which the Speaker was kind enough to place in my hands early in the session, and is dated "Tappanock, December 8, 1865." I will read it exactly as it is written:

"HONOR'D SIR: I desire to write you a few lines concerning we colored people, who by our emancipation are now left homeless, moneyless, and friendless, and in many cases we are worse now than when in a state of slavery. Our employers refuse to pay us wages for our work; they also refuse to rent us lands or sell us lands. By this we are in a wretched state. Please, Mr. Speaker, to lay this before the members, that they may add a few drops of water to the great flame that is now sweeping over the great mansion of we colored people. We need homes and protection, pay for our work and also work to do. We also want Schools for the education of our children. We need Churches to worship the true and living God in. We need protection for our person and property. Please, Mr. Speaker, add one word concerning our wages the present year. We have no power of our own. We can do nothing more than Petition; and if we are Dejected, then for weeping and wailing and such troubles as yet never been known in Earth. Please Mr. Speaker add a few words in behalf of we Colored People, who have over proved ourselves to be loyal to your Government. By so doing you will oblige, Mr. Speaker, Your many kind Friends."

I think that is a pretty good argument for the Freedmen's Bureau.

Mr. SMITH. Will the gentleman from Massachusetts allow me to ask him a question?

Mr. ELIOT. Certainly, sir.

Mr. SMITH. I desire to ask the gentleman, not because I am opposed to the bill, but for an argument on this point, what he understands or means in this bill by the term "refugees" in contradistinction to the term "freedmen?" His answer will probably lead me to ask another question.

Mr. ELIOT. I suppose refugees to be those who are not freedmen; that is to say those who had not been in slavery. Colored refugees may be freedmen or they may not; but refugees may be white; and when the terms "refugees" and "freedmen" are used, I suppose the difference would be that the refugees were white.

Mr. SMITH. Then the word "refugee" applies only to whites. I would inquire further if, under this law and under the operations of the Freedmen's Bureau, all white men who were not rebels and who were as poor as the negroes are entitled to the same privileges and the same protection that negroes are?

Mr. ELIOT. The object of this bill is to place the refugees—that is to say the loyal white men who have fled from their homes because of the rebellion—upon the same footing with the freedmen as to the care and protection of the Government.

Mr. SMITH. I would ask the gentleman another question. I would inquire if he has received any letters, or if it is within the knowledge of the committee, that there are any people in Virginia or any other of the southern States, of the white race, who are in the same condition in regard to property and the right to hold property that negroes are, and if there is as much disposition on the part of the committee to take care of them as there is to take care of the negroes? Because in the South there are a large number of white people who never have owned a foot of land, who never have been in possession of any property, not even a cow or a horse, yet who have been as true and devoted loyalists as anybody else. I would like to know if the provisions of this bill are intended to embrace them and protect them, and if the idea suggested

by the gentleman from Pennsylvania [Mr. STEVENS] that all the property South must be confiscated for the benefit of those who live in States that have been considered loyal will inure to their benefit as well as to the benefit of the people of Pennsylvania and of the black population.

Mr. STEVENS. Let me answer the gentleman. I do not suppose that all the property in the South will be confiscated. Our confiscation act contemplates the property only of those who were engaged in armed hostility to the United States.

Mr. ELIOT. I will say to the gentleman from Kentucky [Mr. SMITH] that there is no distinction made in this bill between the rights of freedmen and of refugees under it. They are treated alike from the first to the last. If the gentleman now desires to make another inquiry of me, I will yield to him.

Mr. SMITH. I wish to know whether the vast white population of the South who were true to the Government, and sought their homes in the hills and mountains and the valleys and caves of that country during the war, are to receive the same consideration upon the part of this House that the other class, who probably unfortunately are black, are now receiving on the part of the gentleman and those concerned with him.

Mr. ELIOT. Exactly the same.

Mr. SMITH. I wish to say that I do not feel inclined to oppose this bill, or to withhold complete protection from people who are colored. I think it is our duty to protect them. I would give them all the advantages that this country can give to them, elevate them and improve them as much as possible. But I must say, if gentlemen will allow me to do so, that the whole argument, all the letters, all the sympathy, and all that is said from one end to the other is alone for the colored people, while our own race is entirely ignored.

Mr. ELIOT. Nevertheless the refugees have all the rights under this bill that the freedmen have, and have been cared for from the beginning by the Commissioner and the assistant commissioners under him, wherever that care has been called for. And I rather incline to think that it will turn out to be true that large numbers—I will not say more than of freedmen—but very large numbers of refugees have derived benefit under this law. Gentlemen around me say that as many refugees as freedmen have been cared for. I am not prepared to say that; but large numbers of them have been cared for.

There may be a difference between the two classes, however, in this respect: there is not one State where these refugees might not perhaps live in comparative safety if this bureau is withdrawn. I do not know that I can say that either. But this is true, that there is not one rebel State where these freedmen could live in safety if the arm of the Government is withheld.

Why, sir, there have been contracts made in different States which are as repugnant to our sense of honor and justice as ever any arrangements under the old slave codes could have been. In the town of Opelousas, Louisiana, some time ago, the following "ordinance relative to the police of recently emancipated negroes or freedmen within the corporate limits of the town of Opelousas" was passed:

Whereas the relations formerly subsisting between master and slave have become changed by the action of the controlling authorities; and whereas it is necessary to provide for the proper police and government of the recently emancipated negroes or freedmen in their new relations to the municipal authorities:

SEC. 1. *Be it therefore ordained by the board of police of the town of Opelousas.* That no negro or freedman shall be allowed to come within the limits of the town of Opelousas without special permission from his employer, specifying the object of his visit, and the time necessary for the accomplishment of the same. Whoever shall violate this provision shall suffer imprisonment and two days' work on the public streets, or shall pay a fine of \$2 50.

SEC. 2. *Be it further ordained.* That every negro or freedman who shall be found on the streets of Opelousas after ten o'clock at night without a written pass or permit from his employer shall be imprisoned and compelled to work five days on the public streets, or pay a fine of five dollars.

SEC. 3. No negro or freedman shall be permitted to rent or keep a house within the limits of the town under any circumstances; and any one thus offending

shall be ejected and compelled to find an employer, or leave the town within twenty-four hours. The lessor or furnisher of the house leased or kept as above shall pay a fine of ten dollars for each offense.

Sec. 4. No negro or freedman shall reside within the limits of the town of Opelousas who is not in the regular service of some white person or former owner, who shall be held responsible for the conduct of said freedman. But said employer or former owner may permit said freedman to hire his time, by special permission in writing, which permission shall not extend over twenty-four hours at any one time. Any one violating the provisions of this section shall be imprisoned and forced to work for two days on the public streets.

Sec. 5. No public meetings or congregations of negroes or freedmen shall be allowed within the limits of the town of Opelousas, under any circumstances or for any purpose, without the permission of the mayor or president of the board. This prohibition is not intended, however, to prevent freedmen from attending the usual church services conducted by established ministers of religion. Every freedman violating this law shall be imprisoned and made to work five days on the public streets.

Sec. 6. No negro or freedman shall be permitted to preach, exhort, or otherwise declaim, to congregations of colored people without a special permission from the mayor or president of the board of police, under the penalty of a fine of ten dollars or twenty days' work on the public streets.

Sec. 7. No freedman who is not in the military services shall be allowed to carry fire-arms, or any kind of weapons, within the limits of the town of Opelousas without the special permission of his employer, in writing, and approved by the mayor or president of the board of police. Any one thus offending shall forfeit his weapons, and shall be imprisoned and made to work five days on the public streets, or pay a fine of five dollars in lieu of said work.

Sec. 8. No freedman shall sell, barter, or exchange any articles of merchandise or traffic within the limits of Opelousas without permission in writing from his employer or the mayor or president of the board, under the penalty of the forfeiture of said articles, and imprisonment and one day's labor, or a fine of one dollar in lieu of said work.

Sec. 9. Any freedman found drunk within the limits of the town shall be imprisoned and made to labor five days on the public streets, or pay five dollars in lieu of said labor.

Sec. 10. Any freedman not residing in Opelousas, who shall be found within its corporate limits after the hour of three o'clock p. m., on Sunday, without a special written permission from his employer or the mayor, shall be arrested and imprisoned and made to work two days on the public streets, or pay two dollars in lieu of said work.

Sec. 11. All the foregoing provisions apply to freedmen and freed women, or both sexes.

Sec. 12. It shall be the special duty of the mayor or president of the board to see that all the provisions of this ordinance are faithfully executed.

Sec. 13. *Be it further ordained*, That this ordinance is to take effect from and after its first publication. Ordained the 3d day of July, 1865.

E. D. ESTILLETTE,
President of the Board of Police.

JOSEPH D. RICHARD, Clerk.

And I have here upon my table the proceedings of a meeting held in Virginia, at a place called Turkey Island, which was presided over by men of influence and property. That meeting was held within the last month. The following is the published account of their proceedings:

THE JAMES RIVER FARMERS AND THE NEGROES.

On the 5th instant a meeting of the James river farmers was held at Turkey Island, Henrico county, for the purpose of adopting some fixed rules and regulations for the government alike of the farmers themselves and the freedmen employed by them. Colonel Hill Carter, of Shirley, was called to the chair, and Major Charles Pickett appointed secretary. After mature deliberation, the following resolutions were adopted:

1. That toward all freedmen in our employ we will act justly, and that we consider the following rates of wages fair and liberal, and that we pledge ourselves not to exceed them:

2. A first-class field hand shall be paid by the year \$130, a first-class field hand shall be paid by the month ten dollars; a second-class field hand shall be paid by the year \$105, a second-class field hand shall be paid by the month eight dollars; a third-class field hand shall be paid by the year seventy dollars, a third-class field hand shall be paid by the month five dollars; a first-class woman (field hand) per month five dollars, second-class woman (field hand) per month three dollars.

3. The classes are described as follows: first-class field hand, plowman; second-class field hand, good general farm hand; third-class farm hand, boy or old man.

4. Each hand hired by the year shall have deducted a "per diem" (pro rata) for sickness, holidays, or absence by leave of the employer.

5. Each hand hired by the month shall be subject to the same deduction as those hired by the year, and in addition shall be charged one dollar a month for their fuel during the months of December, January, February, and March.

6. For disobedience of orders or insubordination, each hand will be charged one dollar.

7. For leaving the farm without permission, one dollar will be charged each hand, in addition to the loss of time.

8. Each hand will be held responsible for injury or loss to the stock and farming utensils, if occasioned by negligence, and the amount deducted from his wages.

9. All of the hands will be required to submit to such rules, and work in such way and at such times, either night or day, as was formerly customary in this section of the country. By this it is not meant that the farmers are to make a regular habit of requiring night work, but that they shall require such work only as it has been usual to have done at night.

10. Twenty-six working days shall be considered as a month.

11. The usual attendance on mules, horses, and all other stock will be required on Sundays and holidays.

12. Three quarters of an hour will be allowed for breakfast, and an hour for dinner, except during the months of June, July, and August, when an hour will be allowed for breakfast and an hour and a half for dinner.

13. No hand will be employed who has been discharged for misconduct or violation of contract.

14. Each hand employed by the month shall give his employer ten days' notice of his intention to leave, or forfeit one third of his month's wages.

15. Each hand hired by the year shall be paid quarterly, the employer always keeping the hand one month's wages in arrears.

16. The rations shall be as follows: for men, three pounds of meat per week; for women and boys, two pounds of meat per week, or its equivalent. For men, fifteen pounds of meal per week; for women and boys, twelve pounds of meal per week.

These proceedings were communicated to General Howard by the assistant commissioner of that district, and the following instructions were returned:

"The interests of the freedmen are committed by law to this bureau.

"The spirit and letter of the regulations referred to are diametrically opposed to nearly every circular and order from this office.

"The freedmen referred to in the resolutions are at liberty to enter into just such agreements or contracts as they please, and with whomsoever they please, and they will not be restrained from receiving as high wages as they can get.

"You will please communicate with the gentlemen named in the article, and inform them, and also the freedmen concerned, of the purposes and wishes of the Commissioner as herein set forth."

In Maryland the schools which have been established have been interrupted, and it has been urged that according to the laws of the State those schools must be closed.

In Mississippi houses have been burned and negroes have been murdered. In Alabama a new code, a slave code in fact, has been attempted to be passed, and gentlemen must have seen that in the Marlboro' district, in South Carolina, the planters have recently held meetings and resolved that the military power ought to be withdrawn and the freedmen compelled to work for their old masters. And so the word comes on from one to another of these States, until it is reduced to a certainty that if the arm of the Government is withheld from protecting these men, and the powers of this bureau are not continued and enlarged, much injustice will be done to these freedmen, and there will be no one there to tell the story.

Mr. Speaker, while speaking of the lands on the Sea Islands I intended to refer to the testimony which I have before me, coming from a young woman from my own city, known to me as earnest, intelligent, and cultivated. She went as a teacher to these islands, and her life has already been given a sacrifice in their behalf. From her last report I give this extract, referring to General Howard's visit to them in October last:

"The minds of the people are greatly agitated by the late visit of General Howard and some members of his staff, with two of the former owners on this island. His coming was sudden and unexpected to all. We had heard rumors that some of the former owners were coming back, but did not believe, after the promises made to these people, that they would be allowed to regain their lands on this island. Unfortunately, we did not learn of the meeting held for General Howard till the day after, as we are miles from everybody and everything; but we attended the second held by the people, at which a paper was read, which had been drawn up by a committee from among them, to state their feelings on the subject, and was to be sent to the General. There is but one sentiment. 'We will not work for our former masters,' is the cry from one and all. What troubles them most is, that, if the owners do come back, they, the colored people, will not be allowed to purchase one foot of land. Their longing is to have a homestead; and for this they are willing to work, paying a lawful price.

"At a meeting held this week they decided, if the planters came back, to leave the island. But, poor things, where can they go? General Howard saw plainly their feelings on the subject, and apparently the matter was painful to him. His kind, truthful

manner won their confidence and respect. The matter was put to vote: 'How many will work for their former masters?' None, or almost none, raised their hands. He saw how they felt, and asked how many would trust the question to him, feeling that he would do all he could that justice should be done to them. They understood and appreciated his feeling. All raised their hands; and now another man stands in their minds with our dear President Lincoln, General Sherman, and General Saxton—General Howard. The day after the meeting many of the people came to us, asking us to explain things to them saying, they 'had 'n't learning and couldn't understand.' We did the best we could, trying to calm their minds, to hold forth no brighter prospects than we could see ourselves, and to lead them to trust those who had the matter in charge; promising that we would do all that we could for them. It will be terribly cruel if these people are again to flee for freedom. They can, without any question, support themselves, their poor, and their aged, in a year or less, if they have the opportunity, if they have the privilege of buying land, working, and paying for it. Many who have been here for a year have excellent crops of cotton, corn, and rice, which will be ample for their support till the next harvest.

"Last Sunday night, taking my Bible, I went to one of the cabins and read to those who were gathered there the first eight chapters of Exodus; and it was interesting to hear the old men apply the situation of the Israelites, after they were freed from their bondage in Egypt, to their own present situation; and my reading was often interrupted by questions or exclamations. How thankful I was that I was with them, and could in some slight degree assist them—leading them in the first steps of knowledge.

"There is great need of more laborers here—real, earnest workers, working with heart and hand for these needy people."

This bill, Mr. Speaker, has thrown light into the dark places. There has been no oppression that could not be reported to headquarters here by its officers and a remedy applied. Withdraw the bureau and the freedmen will have no friend to stand between them and those who would oppress them.

I have here a copy of a report made to the Union League of Philadelphia, which I believe has been distributed among members of this House. As stating the views held by that league, I call attention to the following paragraph:

"To the freedmen so suddenly liberated by the movements of our armies and the policy of our Government we owe a duty from which we must not turn in the days of our prosperity, but rather make that prosperity a means of adjusting their uncertain position in the land of their early bondage, and of securing to them every blessing that right judgment may decide to belong to a state of absolute liberty. We must not forget the fidelity shown to the nation by this oppressed race in the darkest hours of our history, nor the desperate nature of the services rendered to us when they first arrayed themselves in arms to meet the early contempt of their white comrades and the cold-blooded massacres of our common enemies. A double share of fortitude was necessary to encounter these two great difficulties, and our black soldiers bore both with unflinching manhood. Mere cold justice, if not a more commendable gratitude, should make us the watchful guardians of the present condition and the future prospects of the race which God has confided to our keeping. The perplexities of our guardianship may be vast and disheartening; but we should bear them with the same courage and hopefulness that led this derided people into fields where no quarter was given to their wounded, and where the ready halberd awaited their captured files. The wish of the nation, clearly expressed to our Government, has always been sufficient to shape its policy; and doubtless the voice that arose in the recent elections in the North will reach the wakeful ears of our Representatives at the capital. We trust that it may, and it should be our effort to swell the force and volume of the popular demand."

We know perfectly well the course that has been pursued by that—in fact as well as in name—"Loyal League of Philadelphia." All that I want is that we should reply to the communications which have come from the South and the demands which have come from the North, from Indiana, Ohio, Illinois, and from more northern States, from men who have the care of these freedmen at heart, who have devoted time, labor, and money to render such aid as they could that the life of the bureau should be lengthened and its powers enlarged; that we shall legislate so as to make the freedom we have conferred a blessing to them. We have an account to give for our stewardship, not to them alone but to Him who made them and us.

Mr. Speaker, it was my intention to examine the bill more in detail, but I will withhold further remarks at present, holding myself now prepared to give an answer to any gentleman who may be disposed to put to me any inquiry in reference to the character of the bill or the amendments which we have proposed.

Mr. THAYER. Will the gentleman allow

me to move, or will he himself move, that these amendments be printed?

Mr. ELIOT. I think it would be well, by general consent, to have the substitute printed.

Mr. THAYER. I move, then, that the amendments be ordered to be printed.

The SPEAKER *pro tempore*, (Mr. PIKE in the chair.) If there be no objection, it will be so ordered.

There was no objection.

Mr. DAWSON obtained the floor.

EVENING SESSION.

Mr. STEVENS. Before my colleague [Mr. DAWSON] goes on, I desire to move, with his consent, that the House meet at half past seven o'clock this evening for the purpose of allowing members to deliver speeches in Committee of the Whole on the state of the Union upon the President's message, with the understanding that no other business shall be transacted. Several gentlemen desire an opportunity to speak, and I hope that there will be no objection to my proposition.

The SPEAKER *pro tempore*. The House has heard the motion of the gentleman from Pennsylvania, [Mr. STEVENS.] If there be no objection, it will be so ordered.

There was no objection.

Mr. STEVENS. I hope now that the House will take a recess till this evening, and give my colleague an opportunity to speak on this bill in the morning.

LAND SURVEYS IN CALIFORNIA.

Mr. BIDWELL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior be requested to furnish this House with a statement showing, first, the amount paid by the United States for the survey of public lands in the State of California; second, when such surveys of land were made; and third, how much has been received by the Government from the sales of public lands in said State.

INDEX OF EXECUTIVE DOCUMENTS.

Mr. BANKS. I ask unanimous consent to offer the following resolution for reference to the Committee on Printing:

Resolved, That the Clerk of the House be directed to prepare a digested index of the executive documents and reports of committees of the House of Representatives from 1839 to the close of the present Congress, to correspond with the index of the same documents from the commencement of the Government to the close of the Twenty-Fourth Congress.

Mr. WASHBURN, of Illinois. I will not object to this resolution if it is offered simply for reference.

Mr. BANKS. That is all.

There being no objection to the introduction of the resolution,

Mr. BANKS moved that it be referred to the Committee on Printing.

The motion was agreed to.

NATIONAL BOARD OF TRADE.

Mr. MOORHEAD. I ask unanimous consent to submit the following resolution:

Resolved, That the Committee on Commerce be requested to inquire into the expediency of establishing by law a National Board of Trade.

I ask that a letter explanatory of this resolution may be read.

Mr. ELDRIDGE. I object to the introduction of the resolution.

REPRESENTATIVES OF J. E. MARTIN.

Mr. POMEROY, by unanimous consent, introduced a bill for the relief of the legal representatives of J. E. Martin, deceased; which was read a first and second time, and referred to the Committee on Foreign Affairs.

REBEL PERSECUTIONS IN KENTUCKY.

Mr. SMITH, by unanimous consent, presented a petition of sundry citizens of Kentucky, asking relief from persecution and maltreatment by the rebels in that State; which was referred to the Committee on the Judiciary.

HANS SEIVERS.

Mr. PRICE, by unanimous consent, introduced a joint resolution for the relief of Hans

Seivers, a private in company A, fourteenth regiment Iowa volunteer infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

DISTRICT JAIL.

Mr. PERHAM, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Buildings and Grounds be directed to inquire whether any further legislation is necessary to secure the comfort and safety of the inmates of the jail in the District of Columbia, and make their labor available, so as to reduce the expenses to the Government, and report by bill or otherwise.

And then, on motion of Mr. THAYER, (at five minutes to four o'clock p. m.) the House took a recess until half past seven o'clock p. m.

EVENING SESSION.

The House resumed its session at half past seven o'clock p. m., (Mr. GRINNELL in the chair.)

Mr. HUBBELL, of Ohio. Mr. Speaker, it is very evident, from present indications, that the House is going to be thin to-night. It is known to all that the President gives a reception, and I suppose that members are absent this evening for the purpose of attending it; and in order to give the few now here an opportunity also to attend it, I move that the House do now adjourn.

The House divided; and there were—ayes 2,

noes 2.

The SPEAKER *pro tempore* voted in the affirmative; and the motion was agreed to.

And thereupon (at seven o'clock and thirty-three minutes p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, January 31, 1866.

Prayer by Rev. BYRON SUNDERLAND, D. D. The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Navy, transmitting, in compliance with a resolution of the Senate of March 9, 1865, a copy of the record of a board of Navy officers appointed to inquire into and determine how much the vessels of war and steam machinery contracted for by the Department in the years 1862 and 1863 cost the contractors over and above the contract price and allowances for extra work; which was referred to the Committee on Naval Affairs, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. WADE presented a letter of the Secretary of the Interior, transmitting a communication addressed to that Department on the 4th of November last by the Quartermaster General of the United States Army, and a report thereon by the Commissioner of the General Land Office, respecting the great overland trail from Leavenworth west; which was referred to the Committee on Territories.

He also presented a memorial of citizens of Houston, Texas, praying for the construction of a railroad across the Indian Territory, from the south line of Kansas to the Red river; which was referred to the Committee on Territories.

Mr. COWAN presented a petition of persons engaged in the coal trade upon the Ohio and Mississippi rivers, and their tributaries, praying that the enrollment acts of the United States may be so amended as to exempt from their provisions all coal-boats, coal-barges, and coal-flats which are used exclusively for carrying coal to market and not as common carriers; which was referred to the Committee on Finance.

He also presented the memorial of M. N. Radovich, praying payment for the charter of his boat Diana from April 27, 1862, to October 28, 1862, taken possession of by order of Admiral D. G. Farragut at New Orleans, for the conveyance of troops, and for payment for the value of the boat, it having been lost in the

Government service; which was referred to the Committee on Claims.

He also presented a petition of persons engaged in the coal trade on the Ohio river, praying for an appropriation for the improvement of the navigation of that river between Pittsburgh, Pennsylvania, and Buffington Island, West Virginia; which was referred to the Committee on Finance.

Mr. FESSENDEN presented a memorial of citizens of Orono, Maine, remonstrating against the renewal of the so-called reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. BROWN presented resolutions of the Legislature of Missouri, in favor of a grant of lands to aid in the construction of a railroad from Kansas City in that State, connecting northwest Missouri with Galveston, Texas, and also of a grant of lands to aid in the construction of the southwest branch of the Pacific railroad from the western boundary of Missouri to the Pacific ocean; which were ordered to lie on the table, and be printed.

Mr. MORGAN presented resolutions of the Legislature of New York, in favor of an appropriation for the erection in the bay of New York of a hospital for the reception of sick, and warehouses for the storage of goods and merchandise arriving in the port of New York in vessels subject to quarantine; which were referred to the Committee on Commerce.

Mr. HENDERSON presented the petition of William C. Anderson, jr., of Missouri, praying for the passage of an act to enable him to settle the accounts of the late William C. Anderson, pension agent at St. Louis, Missouri; which was referred to the Committee on Pensions.

He also presented a memorial of the officers and members of the Mining Board of Gilpin county, Colorado, remonstrating against the passage of any law affecting the present status of mining claims and titles; which was referred to the Committee on Mines and Mining.

Mr. YATES presented a petition of photographers of Jacksonville and Springfield, Illinois, praying for a repeal of the law requiring the use of stamps on photographs, and for a reduction of their license fee; which was referred to the Committee on Finance.

Mr. NYE presented a memorial of the Legislature of Nevada, in favor of a grant of lands and money to aid in the construction of the San Francisco and Washoe railroad and the Placerville and Sacramento railroad; which was ordered to lie on the table, and be printed.

Mr. LANE, of Kansas. I present, Mr. President, with pleasure, the petition of one hundred and twenty-four beautiful, accomplished, and intelligent ladies of the city of Lawrence, Kansas, praying for an amendment of the Constitution that shall prohibit the several States from disfranchising any of their citizens on account of sex. As the petition is very brief and respectfully worded, I ask that a gallant Senate may hear it read.

There being no objection, the Secretary read the following petition:

A PETITION FOR UNIVERSAL SUFFRAGE.

To the Senate and House of Representatives:

The undersigned, women of the United States, respectfully ask an amendment of the Constitution that shall prohibit the several States from disfranchising any of their citizens on the ground of sex.

In making our demand for suffrage, we would call your attention to the fact that we represent fifteen million people—one half the entire population of the country—intelligent, virtuous, native-born American citizens; and yet stand outside the pale of political recognition.

The Constitution classes us as "free people," and counts us whole persons in the basis of representation; and yet are we governed without our consent, compelled to pay taxes without appeal, and punished for violations of law without choice of judge or juror.

The experience of all ages, the declarations of our fathers, the statute laws of our own day, and the fearful revolution through which we have just passed, all prove the uncertain tenure of life, liberty, and property so long as the ballot—the only weapon of self-protection—is not in the hand of every citizen.

Therefore, in harmony with advancing civilization, placing new safeguards round the individual rights of four million emancipated slaves, we ask that you extend the right of suffrage to woman, the only

remaining class of disfranchised citizens, and thus fulfill your constitutional obligation "to guaranty to every State in the Union a republican form of government."

As all partial application of republican principles must ever breed a complicated legislation as well as a discontented people, we would pray your honorable body, in order to simplify the machinery of Government and insure domestic tranquillity, that you legislate hereafter for persons, citizens, tax-payers, and not for class or caste.

For justice and equality your petitioners will ever pray.

Mr. LANE, of Kansas. The committee that is considering the subject of extending the right of suffrage to the blacks, the male blacks of the United States, it seems to me is the proper one to which to refer the petition of the white women of the United States upon that subject. I therefore move that the petition be referred with a letter that I have here and now send to the desk, to the joint committee on reconstruction.

The motion was agreed to.

Mr. SUMNER. I offer the petition of Robert R. Collier, a citizen of Virginia, residing at Petersburg, who asks Congress to pass an act by virtue of which the State in which he resides, Virginia, may be authorized to elect members of Congress, so that the State may be restored to her former practical relations to and in the Federal Union; and also that it may be relieved of the so-called civil State government which the people did not inaugurate, and the enactments of whose Legislature the military power overrides and sets at naught. This is a petition from a single citizen, but one of considerable eminence in his State, and who by his writings has latterly done much to illustrate the relations between the States and the national Government. I move its reference to the joint committee on reconstruction.

The motion was agreed to.

Mr. SUMNER. I also offer the petition of William Cornell Jewett, in which he sets forth that he has been opposed to the freedom of the slave, but now maintains that if free as a result of the war and by common consent, the colored freeman is upon an equality with the white man, and he calls upon Congress by appropriate legislation to see that that principle is enforced. I move the reference of this to the joint committee on reconstruction.

The motion was agreed to.

PAPERS WITHDRAWN.

Mr. CLARK. I ask that Lemuel Worster have leave to withdraw his papers from the files of the Senate, with the view of presenting them in the House of Representatives, where he has a petition for a pension, there having been no adverse report, but on the contrary a favorable report.

Leave was granted.

On motion of Mr. FESSENDEN, it was

Ordered, That the petition of J. S. Merrill, praying for a settlement of his accounts as quartermaster and commissary of the fifth regiment Maine volunteers, on the files of the Senate, be referred to the Committee on Military Affairs and the Militia.

REPORTS OF COMMITTEES.

Mr. DIXON, from the Committee on Post Offices and Post Roads, to whom was referred the memorial of A. T. Spencer and G. S. Hubbard, of Chicago, praying for compensation for services performed in carrying the mails on their line of steamers between Chicago and the ports on Lake Superior, reported a bill (S. No. 114) for the relief of A. T. Spencer and Gurdon S. Hubbard; which was read, and passed to a second reading.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred the petition of Jane W. Nethaway, praying for an allowance of back pay and bounty claimed to be due her late husband, and also to be allowed a pension, reported a bill (S. No. 115) for the relief of Jane W. Nethaway; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a petition of citizens of Osage county, Missouri, praying that a pension be granted to Parellee Howerton, widow of Stern W. Howerton, who was killed by the rebels during Price's raid in that State in October, 1864, reported adversely thereon.

He also, from the same committee, to whom was referred the petition of Sophia Schemmel-finnig, widow of General Alexander Schemmel-finnig, praying for an increase of pension, reported adversely thereon.

He also, from the same committee, to whom was referred the petition of widows of Navy officers, praying for an increase of pension, reported adversely thereon.

He also, from the same committee, to whom was referred a petition of citizens of Allegheny county, Pennsylvania, praying that pensions may be granted to the sufferers by the explosion at the Allegheny arsenal on the 17th of September, 1862, reported adversely thereon.

He also, from the same committee, who were instructed by a resolution of the Senate of the 26th instant to inquire into the expediency of granting pensions to the widows and minor children of enlisted men who were enlisted or detailed as artificers, reported a bill (S. No. 116) to extend the benefit of the pension laws to artificers; which was read, and passed to a second reading.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the petition of citizens of the United States, praying that each common school in the Union be furnished with the President's annual message and accompanying documents, have instructed me to report it back to the Senate with a recommendation that the Committee on the Judiciary be discharged from its further consideration, and that it be referred to the Committee on Printing, which is better capable of judging of the expense of furnishing these documents to all the common schools of the country than any other committee.

The report was agreed to.

Mr. TRUMBULL. The same committee, to whom was referred the bill (S. No. 6) supplying appropriate legislation to enforce the amendment of the Constitution prohibiting slavery, have instructed me to report it back to the Senate, with a recommendation that it be indefinitely postponed. The committee have reported upon that subject, and a bill is now pending before the Senate embracing the subject-matter of this bill.

The PRESIDENT *pro tempore*. The question is on the indefinite postponement of the bill reported from the Committee on the Judiciary.

Mr. SUMNER. What is the bill? Let the title be read.

The Secretary read the title as follows: A bill supplying appropriate legislation to enforce the amendment to the Constitution prohibiting slavery.

The PRESIDENT *pro tempore*. Is the Senate ready for the question on the indefinite postponement of the bill?

Mr. SUMNER. Let it lie over.

The PRESIDENT *pro tempore*. The report will lie over, objection being made to its present consideration.

Mr. TRUMBULL. The same committee, to whom was referred the bill (S. No. 19) to warrant and confirm the land titles of grantees under the field orders of Major General Sherman, at Savannah, January 16, 1865, have instructed me to report it back with a recommendation that it be indefinitely postponed, as the Senate has already acted on that subject. If there be no objection, I ask for present action on the report with a view to have the bill removed from the Calendar.

The report was agreed to; and the bill was postponed indefinitely.

Mr. TRUMBULL. The same committee, to whom was referred the bill (S. No. 55) to maintain and enforce the freedom of the inhabitants of the United States, have instructed me to make a similar report in reference to that bill, the subject-matter of it being embraced in other bills upon which the Senate has acted or which are now pending before it.

The report was concurred in; and the bill was indefinitely postponed.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred the memorial of John Baird, minor heir of Cornelius Baird,

and others, praying for a bounty land warrant of one hundred and sixty acres for services in the war of 1812, asked to be discharged from its further consideration, and that it be referred to the Committee on Indian Affairs; which was agreed to.

Mr. WILLEY, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 44) to incorporate the National Protection Insurance Company of the District of Columbia, asked to be discharged from its further consideration; which was agreed to.

Mr. MORRILL. The Committee on the District of Columbia, to whom was referred a bill (S. No. 42) to amend an act to incorporate the Guardian Society and reform juvenile offenders in the District of Columbia, approved July 1, 1862, also to amend an act granting certain privileges to the Guardian Society, approved June 30, 1864, have instructed me to report it back and to move that it be indefinitely postponed.

The motion was agreed to.

Mr. NORTON, from the Committee on Claims, to whom was referred the petition of Captain F. A. Patterson, late of the third Virginia cavalry, praying for compensation from the date of his commission until the time his regiment was mustered into the service, submitted a report accompanied by a bill (S. No. 117) for the relief of F. A. Patterson, late captain of the third Virginia cavalry. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred the report of the Secretary of the Interior, communicating, in obedience to law, copies of accounts of Indian agents Harlan and Snow, of the southern superintendency, for the first quarter of 1865, reported it back, with a recommendation that the report of the Secretary of the Interior and accompanying papers be printed; which was agreed to.

He also, from the same committee, to whom was referred the report of the Secretary of the Interior, communicating copies of the accounts of the superintendent and agents having charge of the Creeks, Chickasaws, Seminoles, and Wichitas for the second quarter of the year 1865, reported it back with a recommendation that it be printed; which was agreed to.

He also, from the same committee, to whom was referred the report of the Secretary of the Interior, transmitting copies of the accounts of the superintendent and agents having in charge the refugee Creeks, Choctaws, Chickasaws, and Seminoles, for the first quarter of 1865, reported it back with a recommendation that it be printed.

The report was agreed to.

REVENUE COMMISSION REPORTS.

Mr. ANTHONY. I am directed by the Committee on Printing, to whom was referred the resolution to print five thousand copies of the revenue commission for the use of the Senate, to report it back without amendment, and recommend its passage. I ask for its present consideration.

There being no objection, the resolution was considered, and agreed to, as follows:

Resolved, That five thousand copies of the general and special reports of the revenue commission, exclusive of the forms of bills accompanying the same, be printed for the use of the Senate.

VOTE OF THANKS TO ADMIRAL FARRAGUT.

Mr. GRIMES. I am instructed by the Committee on Naval Affairs, to whom was referred the joint resolution (S. R. No. 25) tendering the thanks of Congress to Vice Admiral David G. Farragut, and to the officers, petty officers, seamen, and marines under his command, for their gallantry and good conduct in the action in Mobile bay on the 5th August, 1864, to report it back without amendment, and with a recommendation that it pass. I presume it will be quite agreeable to the Senate to pass this joint resolution through its various stages at once, and I therefore move that the Senate proceed to its consideration.

The *PRESIDENT pro tempore*. It requires unanimous consent to consider the resolution on the day it is reported.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which declares that the thanks of Congress are eminently due, and are hereby tendered, to Vice Admiral David G. Farragut of the United States Navy; the officers, petty officers, seamen, and marines under his command, for the unsurpassed gallantry and skill exhibited by them in the engagement in Mobile bay, and for their long and faithful service and unswerving devotion to the cause of the country in the midst of the greatest difficulties and dangers. The President of the United States is to communicate this resolution to Vice Admiral Farragut, and the Secretary of the Navy to the officers, seamen, and marines of the Navy by a general order of his Department.

The joint resolution was reported to the Senate without amendment; ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 118) in relation to public highways; which was read twice by its title, and referred to the Committee on Territories.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 118) to regulate suffrage and elections in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. LANE, of Kansas, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 119) granting lands to the Leavenworth, Lawrence, and Fort Gibson Railroad Company to aid in extending their railroad and telegraph line from the southern boundary of Kansas to the northern boundary of Texas, in the direction of Galveston bay; which was read twice by its title, and referred to the Committee on the Pacific Railroad.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 120) to grant one million acres of public lands for the benefit of a mining college in the State of Nevada; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 121) to provide for the enlargement of the Winnebago reservation in the Territory of Nebraska, and for other purposes; which was read twice by its title, and referred to the Committee on Indian Affairs.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 154) to further secure American citizens certain privileges under the treaty of Washington;

A bill (H. R. No. 184) to authorize the sale of marine hospitals and revenue cutters; and

A joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States.

SALE OF STAMPS AND ENVELOPES.

Mr. DIXON. I believe Senate bill No. 71 is the order for the morning hour.

The *PRESIDENT pro tempore*. It is the unfinished business of the morning hour.

Mr. DIXON. I should be glad to have that bill taken up at this time.

The *PRESIDENT pro tempore*. The question is on the motion of the Senator from Connecticut to take up the bill No. 71.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 71) relative to the sale of postage stamps and stamped envelopes on credit, the pending question being on

the amendment reported from the Committee on Post Offices to insert after the word "required" in the fourth line of the first section the words "until the 30th day of June, 1868."

The *PRESIDENT pro tempore*. On this question the Senator from Nevada is entitled to the floor.

Mr. NYE. The bill has been modified since yesterday, and I ask for the reading of the bill as modified.

The *PRESIDENT pro tempore*. It is impossible that the bill should have been modified except by the Senate.

Mr. NYE. Is there not a proposed modification?

The *PRESIDENT pro tempore*. The question now is on the amendment proposed by the committee to the first section of the bill, and upon that question the Senator from Nevada is entitled to the floor.

Mr. POMEROY. The chairman of the committee has prepared a modification of the bill as an amendment.

Mr. DIXON. I propose to withdraw the amendment which was pending before the Senate, and to offer in lieu of it a substitute for the entire bill, which I believe will receive the assent of the Senator from Nevada. I ask leave to withdraw the pending amendment.

The *PRESIDENT pro tempore*. The Senator, by direction of the committee, can withdraw the amendment. The amendment having been reported by the committee, if the committee request that it be withdrawn, it can be withdrawn. It is under control of the committee.

Mr. DIXON. I have the assent of the committee for that purpose.

The *PRESIDENT pro tempore*. The amendment, then, is withdrawn.

Mr. DIXON. I now propose, by the assent of the committee, the following as a substitute for the entire bill, striking out all after the enacting clause and inserting:

That the Postmaster General be, and he is hereby, authorized, whenever in his opinion the public service shall require, until the 30th day of June, 1868, to deposit postage stamps and stamped envelopes with such persons as he may select for sale. The persons with whom stamps and stamped envelopes are so deposited shall engage to sell and circulate the same under the instructions of the Postmaster General, and shall give bond in such sum as the Postmaster General may direct, with one or more sureties, conditioned for the faithful keeping of the stamps and stamped envelopes so entrusted to them, and for the payment to the Post Office Department, in such manner as directed by the Postmaster General, of the moneys arising from the sale thereof.

Sec. 2. And be it further enacted, That the Postmaster General may allow to any such depositaries, under the provisions of this act, a commission not exceeding five per cent. on all sales of stamps and stamped envelopes by them made, and the Auditor of the Treasury for the Post Office Department shall audit and settle all such accounts. Such persons shall be deemed receivers and custodians of public money. They shall not sell stamps or stamped envelopes on credit, but shall sell them invariably for coin or United States Treasury notes, and at a price not exceeding the price of such stamps and stamped envelopes as provided by law. They shall be subject to all the pains, penalties, fines, and forfeitures now provided by law in cases of receivers and custodians of public money and of postmasters and other persons to whom the sale of stamps and stamped envelopes is intrusted.

Mr. CLARK. I think that bill had better be laid over until to-morrow, and printed, so that we can see what is the effect of this amendment. It is equivalent to a new draft; and it is very difficult to understand it as it is without seeing it in print.

Mr. CONNESS. It only changes it in a few words.

Mr. CLARK. I understand there is no objection to this postponement on the part of the chairman. I move that the bill be postponed until to-morrow, and that the amendment be printed.

The motion was agreed to.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 154) to further secure American citizens certain privileges under the treaty of Washington—to the Committee on Foreign Relations.

A bill (H. R. No. 184) to authorize the sale

of marine hospitals and revenue cutters—to the Committee on Commerce.

The joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States was read twice by its title.

Mr. GRIMES. I move that the resolution lie upon the table for the present.

The motion was agreed to.

BONDED WAREHOUSES.

Mr. SPRAGUE. I move the postponement of all prior orders, and that the Senate proceed to the consideration of House bill No. 135, to extend the time for the withdrawal of goods for consumption from public store and bonded warehouse, and for other purposes. This bill passed the House of Representatives, was referred to the Senate Committee on Commerce, was reported favorably, and passed the Senate, and by my motion to reconsider remains in the Senate.

The *PRESIDENT pro tempore*. It is moved that the Senate proceed to the consideration of the bill named by the Senator from Rhode Island, the motion on which it is pending being that the Senate reconsider its vote on the passage of that bill.

Mr. MORGAN. I desire to inquire of the Chair whether that motion is now in order.

The *PRESIDENT pro tempore*. It is in order to take up the subject. The question is, will the Senate now take up the subject indicated by the Senator from Rhode Island; that is, will the Senate now proceed to the consideration of the motion to reconsider? The motion to reconsider was entered some days since, on the 26th of January, as the record shows. On the same day that the bill was passed the motion to reconsider was entered. A motion now to take up that subject is in order.

The motion was agreed to; and the Senate proceeded to consider Mr. SPRAGUE's motion to reconsider the vote by which the bill (H. R. No. 135) to extend the time for the withdrawal of goods for consumption from public store and bonded warehouse, and for other purposes, was passed.

Mr. SPRAGUE. This bill, Mr. President, provides in its first section—

That on and after the passage of this act, and until the 1st day of April, 1866, any goods, wares, or merchandise under bond, in any public or private bonded warehouse, upon which the duties are unpaid, may be withdrawn for consumption, and the bonds canceled, on payment of the duties and charges prescribed by law; and any goods, wares, or merchandise deposited in bond, in any public or private bonded warehouse, on and after the 1st day of April aforesaid, and all goods, wares, or merchandise remaining in warehouse, under bond, on said 1st day of April, may be withdrawn for consumption within one year from the date of original importation, on payment of the duties and charges to which they may be subject by law at the time of such withdrawal; and after the expiration of one year from the date of original importation, and until the expiration of three years from said date, any goods, wares, or merchandise, in bond as aforesaid, may be withdrawn for consumption on payment of the duties assessed on the original entry and charges, and an additional duty of ten per cent. of the amount of such duties and charges.

And the second section provides—

That neither this nor any other act shall operate to prevent the exportation of bonded goods, wares, or merchandise from warehouse within three years from the date of original importation, nor their transportation in bond from the port into which they were originally imported to any other port or ports for the purpose of exportation; and all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

This bill, Mr. President, was referred to the Committee on Commerce of the Senate, by them reported favorably, and passed on that report by this body. Heretofore propositions for the extension of the time of the withdrawal of goods from bonded warehouse have been referred to the Committee on Finance, and by them reported to the Senate. In this case the bill, contrary to the usual practice, was sent to the Committee on Commerce. It was called up in the morning hour, and passed without attention being attracted to it. Soon after the passage of the bill, not knowing its contents, I moved that it be reconsidered, and I had the motion for reconsideration entered for the purpose of giving me an opportunity to examine the bill. I have consulted with members of the committee

as to the investigation which it received from them, and could get no satisfactory explanation as to the merits or design of the bill, except that it was favorably considered in the other House, and that in consequence of that it was deemed proper that it should be passed here. In my opinion, the Senate and the country are not aware that this bill has for its object the lessening of the revenues upon a variety of articles fifteen per cent.

The present law requires that goods deposited in warehouse shall be withdrawn within three months, or if they are kept there longer than three months and withdrawn within two years, an additional duty of twenty-five per cent. is levied upon them. This bill provides that the importer shall have one year instead of three months, and if they are not withdrawn within that time he may keep them there three years instead of two, and pay an additional duty of ten per cent. instead of twenty-five per cent. Here, sir, a measure, affecting more particularly than any other that I know of before the Senate at this session every industrial interest of our people, is passed by this body and by the other House with little or no consideration, although it not only affects the material interests of the whole people, but seriously affects the public revenue. My object this morning is to have this bill, situated as it is, reconsidered and referred to the Finance Committee of the Senate to be by them considered in connection with the great questions of revenue that are about to be presented to them. I do not believe that the people of this country will look with any leniency upon transactions which affect them so materially being disposed of with so little consideration as this bill has received from this distinguished body.

I stand here, sir, with great deference and with a want of confidence in my own ability to present to the attention of the Senate those great questions which have occupied the time and attention of generations past, and of men whom I am not competent in the slightest degree to follow. But, sir, I feel that this is another encroachment upon the industry of the people of this country. While we have constant foreign encroachments upon our industry, here is an attack from our internal foes. Which of these powers, that without or that within, is most destructive to our interests remains for some other time and some other person to determine. I am not able to do it.

This measure has no other purpose undoubtedly but to favor foreign commerce, in opposition to domestic commerce, to agriculture, to manufactures, to the mechanic arts, to every interest of our country that engages the attention and occupies the industry of the American people. It remains for the Senate to determine which of these interests it is the most proper for them to consider favorably—on the one side all the interests in which all our people are engaged, or on the other side that one interest which engages the foreign commerce of the country; the interest of the few individuals engaged in the importation of goods from foreign countries, or the interests of the great mass of the American people.

Upon this subject of manufactures I beg the indulgence of the Senate for a moment while I consider and endeavor to prove that the success of the manufacturing and mechanical interests of the country tends to an increased price of the raw material of the people, and to lessen the price of their mechanical and manufacturing products, in opposition to the free-trade idea that by free trade you effect similar purposes. It is within my recollection when the great crop of this country, its great commodity, was in the hands of foreign capitalists, when to all intents and purposes free trade occupied the minds and attention of the American people, and they assented to it as being the most beneficial policy that they would have Congress carry into effect.

It is within my recollection that for a long time the product of cotton netted to its producer from four and a half to six cents a pound. What

was the cause of that low price for that product? Simply because it was in the hands of the foreign capitalist, controlled by him at the time it was produced; and the result was, instead of a profit to the producer, a loss. What was the consequence? The American manufacturer, poor, weak at that time, had to come into the market and sell his product upon four, six, twelve, or sometimes eighteen or twenty-four month's credit. The producer of cotton at that time was unable to purchase for cash, for the reason that his crop brought nothing by which he could purchase the necessary articles to enable him to produce it.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. ANTHONY. I hope that the Senator from Illinois who has charge of that bill will allow the order of the day to lie over until my colleague shall have finished his remarks.

Mr. TRUMBULL. I have no objection if this matter will not take long.

Mr. SPRAGUE. I shall only occupy a few moments longer.

Mr. TRUMBULL. Then I have no objection to the special order being laid aside informally.

The PRESIDENT *pro tempore*. The unfinished business of yesterday will be laid aside by common consent.

Mr. SPRAGUE. By and by the American manufacturer gathered strength, so that at the beginning of this war, instead of consuming but a small portion of the cotton crop of this country, he consumed a quarter of it. The result was that cotton, instead of being six cents a pound, sold for eleven and twelve cents a pound, and instead of the American manufacturer selling to the producer of cotton his goods on twelve, eighteen, or twenty-four months' credit, he sold for four or six months' credit. This was as plainly the result of the manufacturing of cotton in this country as it is possible that human knowledge can determine one thing to be the result of another.

While I am on the floor I desire simply to put from the mind of the Senate and the country the idea that there are only manufacturing interests in this country that have become profitable within the last six months. We are told that the enormous dividends growing out of the carrying on of manufacturing business in this country are a consequence of high tariffs and of exclusive and class legislation. The manufacturers, whenever the question is touched, feel that the present profits may not continue, and they are reluctant that any one shall agitate the question. But, sir, I do not care for the capitalist engaged in the manufacturing of this country. Capital will seek its own investments and find its own rewards. What I desire to promote is a permanent industrial interest in our country. What I desire to promote is profitable occupation for the people who are now under the flag; and by making every industrial occupation profitable, I desire to bring under the folds of the flag nations of the world who are now under a Government and a flag less favorable to popular interests than our own. I believe that I shall sooner destroy the influence of European aggressions upon liberty and upon property in a popular Government by drawing from them their people and their skill, and protecting it here, than by any warlike operations, however successfully they might be prosecuted. Sir, I stand upon that position, I advocate that principle—peace with all the world with honor, but occupying an aggressive stand-point to draw from all nations that which is good, skill in all departments of human industry, make it for their interest to come here and enjoy the benefits which free institutions give. This is, in my opinion, the genius of the American people.

One other point. Lord Chatham, while he lived, was, by those whom we have succeeded, deemed to be the friend of the American people, the friend of the then American colonies. In open Parliament he constantly warned the

Government of Great Britain that the policy which was then being pursued would, if continued, deprive England of the principal jewel in her crown, as it did. His warning had no effect. But, sir, while he was thus advocating the interests of the American colonies, what did he say? He declared that if America manufactured as much as a stocking or forged a hob nail, he would be for putting the whole power of the British nation upon her. While he advocated peace with America on the one side, he was for war with her if she attempted to be independent of the industrial interests of Great Britain. And, sir, during the last hours that he lived, in that same Parliament, after the nation he loved so well had spent five hundred millions of gold to destroy the power of the colonies and bring them again into dependence upon Great Britain, he advocated still peace with the colonies. "Withdraw your armies," said he; "make terms with them so that we may renew our old relations. With them it is the same as with us. The laws of Great Britain are such as to positively prohibit the Americans from manufacturing a dollar's worth; we will do that business for them;" and that policy has been continued wherever it could be introduced.

Sir, if the policy of free trade is right for this country why not have it in its full effect? Look at Canada with hardly a spinning-wheel, with hardly a spindle, with hardly a blacksmith shop or a machine shop, with hardly anything to occupy her people. What do those people do? Whenever there is prosperity on this side of the line, as there almost always is, they find prosperous and remunerative occupation here. They come here to enjoy the results of the benefits which our institutions give to our people.

Mr. President, the effect of the bill which I have now brought to the attention of the Senate is to raise the price of every article which we do not produce in this country. It obliges the consumer to pay a higher price than he otherwise would. Quantities of any one article, for instance, may be imported and kept in bond. A small portion is put upon the market, enough to regulate the price. If there are any domestic manufacturers who have not the Government as an indorser, they must sell; they cannot hold their goods. The price of the foreign article is put a little lower. The price of the domestic article falls also, until the domestic manufacturer is driven from the market. Then there is a scarcity produced, and soon the foreigner raises his price, unloads, and goes on again. This system is constantly repeated.

The working of the warehouse system is this: the Government and the importer join together in a speculation; the Government advances for one year the amount of the duties without interest; the importer, the cost of the goods and the expense of their transportation to the market; the Government gives one year's credit, receiving nothing in return. If the speculation is not profitable enough to close up the business of the partnership within one year, then the Government gives two years more; and if three years elapse before the business is closed, the Government has loaned to the importer at three per cent. per annum. That is the bill. What effect does this have? It speculates upon the necessities of the people, and the Government affords facilities for that speculation. This is all that any speculation ever does. Men with means buy up all of a given commodity and then compel the people who must or will have it to pay the price they demand.

The Government does this without any chance of a profit. Will not the goods be held out of the market if the cost or a great part of the cost is carried without interest, or if with interest a very inconsiderable interest? Such is the effect of this bill; and if it is so, no one can say that it ought to pass. It deprives the Government of fifteen per cent. upon every pound of tea, coffee, or West India product, nine times out of ten, as the goods remain in bond over the one year. If such is the case it ought not to pass.

As I said in the beginning, my object in mov-

ing the reconsideration of this bill is simply to draw the attention of the proper committee of the Senate to the importance of the measure, which I believe was passed without due consideration. I believe it will be far more satisfactory to the people of the country and far more satisfactory to the members of the Senate to know that an important measure like this, affecting the material and industrial interests of the whole country, depriving the Government of an income when it needs it so much, and making it tributary to speculations upon the industrial interests of the country, if it is to be passed at all, has at least received the consideration of the most important committee of this body prior to its becoming a law. I trust, therefore, that the motion I have made will prevail; that the bill will be reconsidered; and that it will be referred to the Committee on Finance. That is all I ask for.

Mr. MORGAN. If there was any real danger, such as seems to be apprehended by my friend, the honorable Senator from Rhode Island, I should act and vote with him; but, sir, there is no danger whatever. The bill is plain, direct, and in no sense inimical to the interests of the American manufacturer. I have listened with some degree of attention to the honorable Senator from Rhode Island, but I have heard nothing which in any degree changes my mind, or which should change the mind of any one in relation to this bill. If we really are, as we are supposed to be and as we ought to be, and as I hope we are, seeking a common object; if we are endeavoring so to construct our national statutes as that they shall be beneficial alike to all classes of the community, then there is not the slightest difficulty in relation to this measure.

Under existing laws, the importer of foreign merchandise is permitted to deposit his goods in public store or bonded warehouse and enter them for consumption at any time within a period of twelve months. If he fails to enter them during twelve months, he cannot then enter them for consumption, and his only redress is to reexport them, by which the Government loses all the duties, or to come to Congress and ask for an extension of the time, which has been frequently granted; or he can export them, as he sometimes does, to the nearest and least expensive port, and then reimport them, when of course they will again become subject to the laws of the United States and can again remain in the bonded warehouse. All this is an unnecessary expense. The Secretary of the Treasury, in concert with a committee of the House of Representatives, has thought it best that the Government should retain some portion of this expense if it is to be incurred. Consequently this bill contains a clause—and the bill meets entirely the approval of the Treasury Department—requiring the importer to pay an additional duty of ten per cent. provided he does not enter his goods within twelve months; in other words, the money that is to be paid out by the importer for the expenses of exporting and reimporting is to be retained by the Government. That is the bill as I understand it. It is not essentially different from the laws we already have in relation to the American manufacturer. The American manufacturer is not required to pay his duty until his goods are sold. I have had occasion to refer to the laws on the subject, and I will read first an extract from the act of June 30, 1864, "to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," as follows:

"That upon the amounts, quantities, and values of produce, goods, wares, merchandise, and articles produced or manufactured, and sold or delivered, hereinafter enumerated, the manufacturer or producer thereof, whether manufactured or produced for himself or for others, shall pay to the collector of internal revenue within his district, monthly, or on or before a day to be prescribed by the Commissioner of Internal Revenue, the duties on such products or manufactures."

Again, in another section it is provided:

"And where such goods, wares, and merchandise have been removed for consumption or for delivery to others, or placed on shipboard, or are no longer within the custody or control of the manufacturer or

his agent, not being in his factory, store, or warehouse, the value shall be estimated at the average of the market value of the like goods, wares, and merchandise at the time when the same became liable to duty."

Again, in another section of the bill it is provided:

"That upon the articles, goods, wares, and merchandise hereinafter mentioned, except where otherwise provided, which shall be produced and sold, or be manufactured or made and sold, or be consumed or used by the manufacturer or producer thereof, or removed for consumption, or for delivery to others than agents of the manufacturer or producer within the United States or Territories thereof, there shall be levied, collected, and paid," &c.

Then, again in the act of March 3, 1865, amendatory of the act of June 30, 1864, it is provided:

"That manufactured tobacco, snuff, or cigars, whether of domestic manufacture or imported, may be transferred, without payment of the duty, to a bonded warehouse established in conformity with law and Treasury regulations, under such rules and regulations and upon the execution of such transportation bonds, or other security, as the Secretary of the Treasury may prescribe, said bonds or other security to be taken by the collector of the district from which such removal is made; and may be transported from such a warehouse to a bonded warehouse used for the storage of merchandise, at any port of entry, and may be withdrawn from bonded warehouse for consumption on payment of the duty, or removed for export to a foreign country without payment of duty, in conformity with the provisions of law relating to the removal of distilled spirits."

The eleventh section of the same act provides:

"That lucifer or friction matches, and cigar lights and wax-tapers, may be transferred, without payment of duty, directly from the place of manufacture to a bonded warehouse established in conformity with law and Treasury regulations; and upon the execution of such transportation bonds, or other security, as the Secretary of the Treasury may prescribe, said bonds to be taken by the collector in the district from which such removal is made, and may be withdrawn therefrom for consumption after affixing the stamps thereto, as provided by the act to which this act is an amendment, or may be removed therefrom for export to a foreign country without payment of duty or affixing stamps thereto, in conformity with the provisions of the act aforesaid, relating to the removal of distilled spirits."

In addition to this authority given to the manufacturer, I understand it is customary for the manufacturer only to pay the duties as he wishes to sell his goods. At any rate, the law here seems to give such an authority. But if there was a discrimination between the internal revenue law and the law for collecting duties on foreign imports, it would be for Congress to consider it. This bill is in all respects just, and it ought not to be reconsidered. It has the approval of the Treasury Department; and although my friend from Rhode Island seemed to intimate that there was a conspiracy between the Secretary of the Treasury and the importers of the country, I think he was entirely mistaken in his fears. Nor have I been able to see how the revenues of the country are to be lessened by this measure. It will be, under certain circumstances, an accommodation. It will save the importers the necessity of coming to Congress and asking for special laws. It will save them, as I have said before, from the necessity of exporting their property and then reimporting it, and thus will avoid an unnecessary expense. But the bill, should it become a law, will not be availed of to any very great extent. It is not to the advantage of the importing merchants to keep their goods three years or one year in the bonded warehouse. That is only done on rare occasions, at times when trade is very much depressed. For instance, two years since, when the Congress of the United States passed a law in one day through both Houses raising the duties fifty per cent., it would have been very unjust, indeed, if there had not been then a law to allow goods to be placed in public stores, for during the same session of Congress that duty was entirely removed in some cases.

Mr. POMEROY. I have only had my attention called to this bill quite recently; but it occurs to me that we ought not to make a law deranging the adjustment which the Committee on Finance supposed they had fixed in the bill of last year, at least without their consideration.

Mr. TRUMBULL. I hope that this bill will be laid aside and —

Mr. FESSENDEN. If my friend will excuse me for a moment, I think I can make a sugges-

tion which will perhaps be agreed to, and save any further trouble on this bill.

The PRESIDING OFFICER. (Mr. FOOT in the chair.) Does the Senator from Illinois yield to the Senator from Maine?

Mr. TRUMBULL. Yes, sir. I was merely going to call for the order of the day, with a view of getting rid of this matter, as it is likely to lead to a long debate.

Mr. FESSENDEN. I do not know, sir, but that this bill is all right. I wish to state, however, that when it passed I had not read it. The question came up here about referring it to the Committee on Commerce, and it struck me at the time that it ought to go to the Committee on Finance; but that direction being given to it, I said it might as well go there. At that time I was under the impression—I was told—that it simply provided a remedy for certain persons who had by accident omitted to withdraw their goods for consumption within the time limited by the law and wished to do so. On looking at it, however, I find that it contains other provisions, and quite material provisions, it may be. I have not looked at them, nor have the Committee on Finance; and I suggest to my friend from New York whether it would not be as well to let it be reconsidered and go to the Committee on Finance. We can then consider it, and if the bill is all right we can report it back in a short time.

Mr. MORGAN. I prefer not to have it reconsidered and referred.

Mr. FESSENDEN. Then, instead of continuing this matter longer to-day, I think it might as well go over, in order that we may have an opportunity of examining it.

The PRESIDING OFFICER. The regular order of the day having been suspended by common consent, it is subject to the call of any member of the Senate, and objection being made to the further consideration of the pending question, the regular order of the day is before the Senate.

Mr. SPRAGUE. I desire to say one word on this question prior to its going over, and I will ask the indulgence of the Senator from Illinois for just one moment.

Mr. TRUMBULL. The Senator from Rhode Island sees that the Senator from Kansas [Mr. POMEROY] has the floor, and if any Senator is allowed to go on others will insist on speaking. This matter will come up again.

Mr. POMEROY. I do not insist on occupying the floor to-day.

The PRESIDING OFFICER. The regular order of the day is now before the Senate, being Senate bill No. 61.

PROTECTION OF CIVIL RIGHTS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 61) to protect all persons in the United States in their civil rights, and furnish the means of their vindication.

The PRESIDING OFFICER. The pending question is on the amendment of the Senator from Kansas [Mr. LANE] to the amendment of the Senator from Illinois [Mr. TRUMBULL] to the first section of the bill, and upon that question the Senator from Kentucky [Mr. DAVIS] is entitled the floor.

Mr. LANE, of Kansas. If the Senator from Kentucky will allow me, I desire to withdraw my amendment to the amendment, and to offer another in lieu of it.

The PRESIDING OFFICER. It is competent for the Senator to do so, no action having been taken upon it.

Mr. LANE, of Kansas. Then I withdraw the amendment to the amendment, and in lieu of it move to amend the amendment by inserting after the word "Power" the words "and Indians holding lands in severally by allotment." With the consent of the Senator from Kentucky, I will state to the Senate the evil that my amendment is intended to cure.

The PRESIDING OFFICER. The Senator from Kentucky is entitled to the floor.

Mr. DAVIS. If it does not occupy too much time, I will yield.

Mr. LANE, of Kansas. I will not insist upon explaining it now.

Mr. DAVIS. I propose to give way if the Senator wishes to explain it.

Mr. LANE, of Kansas. I can do it at some other time.

Mr. DAVIS. Mr. President, the honorable chairman of the Committee on the Judiciary who reported this bill pronounced it to be probably the most important bill that has been before Congress since the adoption of the amendment to the Constitution at the last session. I agree with him entirely in his estimate of the importance of this measure. Indeed, I doubt whether a measure of more importance has at any time been presented to the consideration of Congress. The honorable Senator introduced two measures which he himself considered, and which have generally been treated, as parts of the same system—the bill to enlarge the powers of the Freedmen's Bureau, and the bill now under consideration, "to protect all persons in the United States in their civil rights and furnish the means of their vindication."

These two bills, like the Siamese twins, came into the world together, and they were connected together by something like the umbilical cord that connected those two denizens of Asia who have taken up their residence upon the western continent. I have heard it said by some anatomists that if that cord was ever severed, the twins would die. I trust, if that would be the lamentable fate that would attend Cheng and his brother, that the umbilical cord that connects these two measures may be severed and that each of them may meet the fate, as anatomists predict of the Siamese twins upon a similar catastrophe.

I believe the honorable Senator, however, does not contemplate that these two bills shall be permanently united together. He declared that the first bill, to enlarge the power of the Freedmen's Bureau, was intended to be temporary in its existence and its operation. Whether it will be temporary or not, I suppose will depend upon the uses that may be made of it by the party in power in the future, and the necessity of those uses to themselves, according to the judgment of that party.

I propose to confine my attention, in the remarks which I am now about to make, to the proposition of amendment and the amendment to the amendment. However, the amendment to the amendment offered by the honorable Senator from Kansas [Mr. LANE] is not of any very material importance; but the bill as it was reported from the committee, and the amendment offered by the Senator from Illinois, I estimate of all the importance which he himself does, although he is the putative father of the measure.

The amendment now before the Senate proposes to declare all the negroes in the United States citizens of the United States. The honorable Senator from Illinois plays for three pockets in this bill. The first is, the bill itself, and the first and second sections, essentially, upon which he relies to confer upon the free negroes all the civil rights that under our Government appertain and belong to white citizens. The second pocket for which he is playing is this amendment, which simply proposes in a few summary words to enact that all free negroes born in the United States shall be held to be citizens, and consequently that they shall have all the rights and privileges of citizens. But the honorable Senator has still another pocket in reserve, which he announced the day before yesterday, and it is this: that these negroes, having been born in the United States of America, by that fact, and by the operation of our Constitution, would thereby be American citizens. If the latter proposition be true, I ask the honorable Senator, where is the necessity of troubling this Senate with the consideration and the decision of either of these other propositions? But I suppose gentlemen are admonished by experience, and they intend to use the same providence and throw wide their net in relation to the objects of this bill as they did in relation to the subject of negro slavery gen-

erally. They first had the proclamation of the President of the United States declaring that all slaves in the rebel States were made free. They then had the act of Congress liberating the wives and children of all negro soldiers; and, eventually, they had the amendment to the Constitution. I did not deem either of the first measures of the least importance, because I held that they were legally and constitutionally invalid; but when it came to an amendment to the Constitution of the United States which abolished slavery in the whole United States, I was disposed to concede its validity.

I shall now proceed to make a few remarks upon the amendment that is now under consideration, offered by the honorable chairman of the Committee on the Judiciary. It involves the subject of naturalization under the Government and laws of the United States. There are, in my opinion, three modes by which naturalization may take place: one is by birth, not by the birth of negroes, but by the birth of white people; another is by being naturalized according to a uniform rule to be prescribed by Congress in conformity to the power vested in Congress by the Constitution of the United States; and the third is by treaty. I was interested by some conversation between the honorable Senator from Maryland [Mr. JOHNSON] and other Senators yesterday evening as to what had been the effect of the treaty for the acquisition of Florida, and other treaties that acquired foreign territory to the United States and brought in the inhabitants of those foreign territories. It was simply, in relation to citizenship, to make all the residents of the acquired territory who chose to continue their residence there after the territory was attached to the United States, citizens thereof. Then it follows that the Government of the United States, being authorized by the Constitution to negotiate treaties for the acquisition of foreign territory, as an incident to the treaty-making power, all the residents of that territory who choose to remain in it when it is incorporated and comes under the jurisdiction of the United States are, by the effect and operation of the treaty-making power, made citizens. That is a very plain matter. I do not see any difficulty in that to excite the inquiry or the cogitations of profound lawyers, constitutional or statutory. It simply amounts to this: that where the treaty-making power brings in a portion of foreign territory, all the inhabitants who come in with that territory are, by the treaty-making power, made citizens. There is an end to that matter then. It cannot be widened; it cannot be deepened; it cannot be confused nor obscured. The matter of citizenship is imported in the power and in its exercise just as any other appendage of the treaty would also be imported by the treaty-making power.

There is then but one other mode, according to my understanding of the Constitution, in which a citizen can be made by law or by artificial means; and that is in conformity to a uniform rule of naturalization established by Congress. The honorable Senator from Maryland and the honorable Senator from Illinois spoke of special acts of Congress being passed to admit the Stockbridge Indians, and other tribes of Indians, as citizens of the United States. According to my judgment, those laws passed inadvertently, without due consideration. They were attempts, by special acts of Congress, to make citizens, when the Constitution expressly declares that citizens shall be made only according to a uniform rule to be established by Congress.

That leads me step by step to the consideration of the main matter in this question: upon what description of persons does the power of Congress to make citizens operate? Who are the people who, by the exercise of the power of Congress, either in declaring a uniform rule of naturalization, or, if you please, by the passage of a special act, are to be admitted into citizenship? I deny that a negro or any white person born in the United States can be admitted to citizenship in that mode. It is not upon the native-born, black or white, that the

power of naturalization under this Government operates. It operates upon foreigners; it operates upon people who are either born out of the United States or who have gone out of the United States, and have assumed the relationship of obedience and fealty to a foreign Government or a foreign potentate. What powers exercised the right to make citizens before the present Constitution was adopted? Each State for itself. Whom did they make citizens of? Not of any native-born of the country, but invariably of foreigners, and nobody else but foreigners. I challenge the honorable chairman of the Committee on the Judiciary to show me an instance from our history where a native-born person of the United States was ever admitted to citizenship by any of the States before the adoption of the present Constitution unless that native-born person went to a foreign country and there assumed the relation of subject or citizen to that foreign country.

I state this further proposition: there never was a colony before the Declaration of Independence and there never was a State after the Declaration of Independence up to the time of the adoption of the Constitution, so far as I have been able to learn by the slight historical examination which I have given to the subject, that ever made or attempted to make any other person than a person who belonged to one of the nationalities of Europe a citizen. I invoke the chairman of the committee to give me an instance, to point to any history or any memento, where a negro, although that negro was born in America, was ever made a citizen of either of the States of the United States before the adoption of this Constitution. The whole material out of which citizens were made previous to the adoption of the present Constitution was from the European nationalities, from the Caucasian race, if I may use the term. I deny that a single citizen was ever made by one of the States out of the negro race. I deny that a single citizen was ever made by one of the States out of the Mongolian race. I controvert that a single citizen was ever made by one of the States out of the Chinese race, out of the Hindoos, or out of any other race of people but the Caucasian race of Europe.

I come, then, to this position: that whenever the States, after the Declaration of Independence and before the present Constitution was adopted, legislated in relation to citizenship or acted in their governments in relation to citizenship, the subject of that legislation or that action was the Caucasian race of Europe; that none of the inferior races of any kind were intended to be embraced or were embraced by this work of government in manufacturing citizens. I am not disposed to labor that proposition strenuously and elaborately, but I lay it down as a proposition that cannot be refuted, that whenever the different States of the Union were making citizens before the adoption of the present Constitution, all their purposes, all their intentions, and all their powers upon that subject were simply to make foreigners of the European family of nations citizens of the United States.

Now, sir, what is the rule of construction of our Constitution as laid down so frequently by the Supreme Court, and of the construction of every constitution and every instrument of writing? It is this, and the honorable Senator from Illinois will not controvert it: that the parties who frame an instrument give their own meaning, according to their understanding of the terms and language which they use, to that instrument, and that, therefore, in construing the Constitution of the United States, all we have to do is to read the language, and to ascertain from contemporaneous expositions, as well as from the force of the terms themselves, what particular meaning the framers of the Constitution intended their language to import. Whatever meaning they intended to attach to the language of that instrument or to any of its phrases, by that light and by that rule is the Constitution to be construed and interpreted.

I take an example. The Constitution defines treason. What has been the construction of all

of our courts in relation to the term "treason?" That the framers of the Constitution used that term precisely in the sense in which it was used in 23 Edward III, and as that term had been expounded by the courts at Westminster. By time and by the modifications of language the ideas and meaning, living and current, of the term "treason" might vary; but in the construction of the Constitution and in the definition of treason there would be no such variation. An enlightened and honest and able judge, called upon to define what treason was to a jury under the Constitution of the United States, would recur back to the meaning of that term as generally understood at the time the Constitution was adopted and as the framers of that Constitution intended it should be understood; and whenever the sense had thus been obtained the matter would be rendered clear and explicit, and the idea which the term imported at that day, and which those who made the Constitution and used this term intended to imply by it, would be accepted as the true construction of the Constitution.

I give one other example: the Constitution interdicts *ex post facto* laws; it declares that no *ex post facto* law shall be passed. That is a technical term; it is a term of art; and it has a specific meaning. When that clause of the Constitution is in court for construction, we do not resort to the ordinary acceptance and understanding of the term *ex post facto*. We hunt for its legal definition at the time the Constitution was adopted, how learned judges and learned lawyers in the profession understood the term, and through all future time, as long as that Constitution is respected, until it is changed in the mode prescribed by the instrument itself, will the meaning, as they understood it and intended to use it, be adopted by the courts.

Mr. TRUMBULL. Will the Senator from Kentucky allow me to ask him if he means to assert that negroes were not citizens of any of these colonies before the adoption of the Constitution?

Mr. DAVIS. I will come to that presently.

Mr. TRUMBULL. I understood him to assert that they were not citizens when the Constitution was adopted in any of the States, and to challenge contradiction.

Mr. DAVIS. I say they were not.

Mr. TRUMBULL. Does the Senator wish any authority to show that they were? If he does, I will state to him that I have before me—

Mr. DAVIS. When I get through you can answer me.

Mr. TRUMBULL. I understood the Senator to challenge me to produce any proof on that point, and I thought he would like to have it in his speech. I can assert to him that by a solemn decision of the supreme court of North Carolina they were citizens before the adoption of the Constitution.

Mr. DAVIS. If the honorable Senator will allow me, I will get along with my remarks.

Mr. TRUMBULL. I think you will get along better by not being exposed in your statements.

Mr. DAVIS. The honorable Senator is full of conceit, but I have seen less conceit with a great deal more brains than he has. If the honorable Senator will restrain himself he will have an opportunity after a while. That is not the main point that I am coming to. It is not the main buttress that I am attempting to throw up for the defense of the positions that I take.

I was speaking of the manner in which the Constitution is to be interpreted. I challenged the honorable Senator to deny the principles and canon upon which I proceeded to interpret the Constitution. If he denies them, when he gets up to speak he can maintain his position. I say now—and I made use of that argument to fortify this position—that when the term "naturalization" was introduced into the Federal Constitution, it was introduced with precisely the same meaning and understanding in which it had been understood and executed in the different States. By the old Articles of Confederation Congress had no power to naturalize a foreigner. The old Articles of Confederation

had no power to naturalize a foreigner. Each State naturalized foreigners for itself, and the States had various and discrepant systems. In some of the States it required a longer and in other States a shorter term of residence to authorize a foreigner to become a citizen. What was the consequence? The various systems of naturalization by the different States introduced confusion and disorder and inconvenience. It was with a view to prevent these inconveniences, by having a uniform system, that in the Convention of 1787 the whole subject of naturalization was given up to Congress. Each State yielded it for itself; it yielded it to the General Government. It yielded it in two forms only. The first form was as an incident of the treaty-making power. Whenever a foreign country or foreign subjects or citizens were annexed to the United States, citizenship accompanied it as an incident of the treaty-making power. They yielded it in this other form by naturalization. It was to obviate a discrepant and discordant system of naturalization by the various States that this power was vested by the Constitution in the General Government; and in what language was it vested? Congress shall have power to establish a uniform rule of naturalization. That is the language. Now, sir, my position is, that anything which does not amount to a uniform rule of naturalization does not fulfill the requirement of the Constitution, and is invalid. Does a little, petty law, local and almost personal in its character, applying simply to the Stockbridge Indians, or any other tribe of Indians, establish a uniform rule of naturalization? Not at all. Does the amendment of the gentleman establish a uniform rule of naturalization? Not at all. The naturalization spoken of here is the admission of a foreigner to the rights of citizenship. That is the subject; and under the provision of the Constitution I will read some authorities presently on that subject. There are but two modes in which a foreigner can be admitted to become a citizen of the United States. One is in case he shall have been an inhabitant of country acquired by the treaty-making power by the United States; and if he does not come up to that rule, the other is that he can only be admitted by a law of Congress establishing a uniform rule of naturalization. I therefore might say to the honorable Senator—but I have a stronger position behind yet—that his amendment not establishing a uniform rule, but being different, discrepant from the uniform rule of naturalization prescribed by the law of Congress, and Congress having only power to establish a uniform rule, his amendment is unconstitutional, because it does not come up to the criterion that is furnished by the Constitution.

But, Mr. President, my main position is that no native-born person of the United States of any race or any color can be admitted a citizen of the United States by Congress under the power conferred in relation to naturalization by the Constitution upon Congress. It is preposterous and absurd to pretend to make you, sir, or any gentleman born in the United States, a citizen of the United States under the power of Congress to pass a uniform rule of naturalization. Why? Because you are not a foreigner. This is the truth about it; it is a historical truth, and it establishes the principle, too, that all the action and operation of the State governments before the Constitution was formed, and the provision of the Constitution itself in relation to naturalization and investing Congress with that whole subject under the authority to establish a uniform rule of naturalization, refers exclusively to foreigners. You being born here might become the subject of this naturalization law and system; but what would be necessary before you could be placed in such a condition? You would have to go to some foreign country and sever your tie of allegiance to the Government of the United States, and assume that tie toward some foreign Government or foreign potentate before you could be the subject of naturalization here.

Now, sir, I will read from one or two authorities on this subject. Let me state the position

which I want the learned and able Senator and jurist from Illinois to assail if he can. I lay down the proposition that no man but a foreigner can be admitted a citizen of the United States under our naturalization laws or under any power which Congress has to naturalize. I read first from Story's Commentaries upon the Constitution, sections 1097, 1098, and 1099:

"Sec. 1097. The next clause is, that Congress 'shall have power to establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States.'

"Sec. 1098. The propriety of confiding the power to establish a uniform rule of naturalization to the national Government seems not to have occasioned any doubt or controversy in the Convention. For aught that appears on the journals, it was conceded without objection. Under the Confederation, the States possessed the sole authority to exercise the power; and the dissimilarity of the system in different States was generally admitted as a prominent defect, and laid the foundation of many delicate and intricate questions. As the free inhabitants of each State were entitled to all the privileges and immunities of citizens in all the other States, it followed that a single State possessed the power of forcing into every other State, with the enjoyment of every immunity and privilege, any alien whom it might choose to incorporate into its own society, however repugnant such admission might be to their polity, conveniences, and even prejudices."

It seems that the "prejudices" of a people were regarded in that primal and virtuous day that are now so fiercely struck at in this bill and its twin sister.

"In effect every State possessed the power of naturalizing aliens in every other State; a power as mischievous in its nature as it was indiscreet in its actual exercise. In one State, residence for a short time might and did confer the right of citizenship. In others, qualifications of greater importance were required. An alien, therefore, incapacitated for the possession of certain rights by the laws of the latter, might, by a previous residence and naturalization in the former, elude at pleasure all their salutary regulations for self-protection. Thus the laws of a single State were preposterously rendered paramount to the laws of all the others, even within their own jurisdiction. And it has been remarked with equal truth and justice that it was owing to mere casualty that the exercise of this power under the Confederation did not involve the Union in the most serious embarrassments. There is great wisdom, therefore, in confiding to the national Government the power to establish a uniform rule of naturalization throughout the United States. It is of the deepest interest to the whole Union to know who are entitled to enjoy the rights of citizens in each State, since they thereby in effect become entitled to the rights of citizens in all the States. If aliens might be admitted"—

Wherever there is a reference to the making of a citizen by naturalization it invariably applies to aliens. It does in all the debates and proceedings of the Convention. It does in every adjudication of every court in America upon the subject of naturalization. It has reference all the time and exclusively to aliens.

"If aliens might be admitted indiscriminately to enjoy all the rights of citizens at the will of a single State, the Union might itself be endangered by an influx of foreigners, hostile to its institutions, ignorant of its powers, and incapable of a due estimate of its privileges."

"Sec. 1099. It follows, from the very nature of the power, that to be useful it must be exclusive."

I read these passages for the purpose of showing that it was the purpose and the only purpose of the framers of the Constitution that this power to make citizens of people who were not born in the country should apply to foreigners and to foreigners alone. Upon that point I will read another authority. I have a good deal of it here with which I shall not trouble the Senate. I have before me the work of Mr. Woolsey on international law, a Connecticut writer of very great learning and ability. I read from his work, page 150, section sixty-six:

"Foreign residents in most Christian countries can sustain, in the course of time, a closer or more distant connection with the body-politic. They can acquire nationality, or in other words become naturalized, or they may remain in the territory as domiciliated strangers."

He says expressly that foreigners (not native-born subjects or citizens) can become naturalized; and then comes this language, to which I ask the attention of the honorable Senator from Maryland:

"Naturalization implies the renunciation of a former nationality, and the fact of entrance into a similar relation toward a new body-politic."

There is the definition, and the whole of it. Naturalization implies the renunciation of a former nationality, and the entering into a new

obligation of allegiance to another Power. Why, sir, in all the civil history of naturalization by the States or by the United States the gentleman cannot find an instance, nor a principle, nor a *dictum* where this change in the relationship of a person toward this Government was ever attempted to be made in relation to any individual whatever, unless that individual owed allegiance to another Government.

I could read from Kent; I could read from the decisions of the various courts, State and Federal, all to the same effect, that the subject upon which alone and exclusively the naturalization process or naturalization laws under the Constitution of the United States can operate, is a foreigner who owes allegiance to another potentate or to another Government. The books are filled with this class of cases. We concede here the right of expatriation. England does not. England has no law that establishes a uniform rule of naturalization. When naturalization takes place in that country it is by special act of Parliament. Although she admits in that form the subjects or citizens of other countries to incorporate themselves with the subjects of the Crown of Great Britain, she does not concede, or at least has not yet formally conceded, the right of any of her subjects to cut the bond between them and her Government.

So it is, Mr. President, wherever you can trace naturalization by Constitution, State or Federal, by laws, State or Federal, because even after the adoption of the present Constitution some of the States still claimed the right to have a concurrent power of naturalization. It was claimed by Pennsylvania and other States, but eventually our courts settled so distinctly and so authoritatively that the power was exclusive, and was intended to be sole and exclusive on the part of the General Government, that the States abandoned it. But wherever you can trace any Constitution, State or Federal, that makes a provision in relation to naturalization, wherever you can trace the enactment of a law in relation to that subject, wherever you can trace the admission of a person to the rights of citizenship, it will be found that those constitutions and those laws and those admissions applied to foreigners and never to native-born persons. It is not necessary to look to lexicographers for the definition of "foreigner." We all know that a foreigner is one who owes allegiance to another Government. Can the negro here, born within the United States, be said to be a foreigner? Does he owe any allegiance to another Government? Is he an alien and a stranger to our country and our laws and our Government? Not at all.

Does the honorable Senator from Illinois mean to assume the position that he declared with so much distinctness and emphasis a day or two ago, that everybody born in the United States is a citizen? What became of your slave negroes that were born in the United States? What became of your free negroes that were born in the United States? Sir, [Mr. Foot in the chair,] your State abolished slavery a great many years ago. I believe that eight of the original States abolished slavery many years ago. The five New England States (Massachusetts having abolished slavery while Maine was a part of that State,) New York, New Jersey, and Pennsylvania are the eight States to which I allude. They all abolished slavery, and in all of those States doubtless negroes and a good many negroes have been born of negro parents who were free. Does the honorable Senator intend to say that all the posterity of those freed negroes were citizens? A State now has no power to make a citizen. The States did have that power before the Constitution was formed; and just as the process and business of making citizens by naturalization was understood and practiced and intended by the States before the Constitution was formed, just in that sense, and to that extent, and with that scope of power, and no further, was the authority taken from the States and vested in Congress to pass naturalization laws.

Now, sir, to throw myself back upon the principle of construction which I stated at the start,

naturalization and citizenship must be understood in the sense and with the same import which were attached to those phrases by the framers of the Constitution; and where we can reach upon any controverted point to a reasonable degree of certainty what they did mean, that meaning we are bound to adopt in a faithful and just construction of the Constitution. What would have been the fate of such a proposition as this in the Convention of 1787? There were then free negroes in most of the States, and there were slaves in all the States; even slaves were held in Massachusetts. Notwithstanding Massachusetts contends that by her constitution of 1776 slavery was abolished, she held slaves many years afterward. But suppose in that Convention the proposition had been made which the honorable Senator now contends for, and it had been proposed to incorporate as one of the provisions of the Constitution that "all children of free negroes born hereafter shall be citizens of the United States," will the honorable Senator say that he believes such a provision as that would have been accepted by the southern men who were in that Convention? Will he say that it would have been practicable or possible to incorporate such a provision as that in the Constitution? Certainly not. When gentlemen concede that such a proposition could not have been incorporated in the Constitution, and that sooner than have accepted it the southern members would have broken up that body, and would have dispersed without making a Government at all, how can they in candor and in truth say that it comes within the scope and operation and meaning of the Constitution, as they who framed it intended it should read and mean and operate, that the children of negroes that were free should be citizens of the United States?

Mr. President, a grave hallucination in this day is to claim all power; and a minor error is that everything which passion, or interest, or party power, or any selfish claims may represent to the judgment or imagination of gentlemen who belong to strong parties, to be necessary or useful for the good and the domination of such parties, is seized upon in defiance of a fair construction of language, in outrage of the plain meaning of the Constitution. That is not the rule by which our Constitution is to be interpreted. It is not the rule by which it is to be administered. On the contrary, if the able, honorable, and clear-headed Senator from Illinois would do himself and his country the justice to place himself in the position of the framers of the Constitution; if he would look all around on the circumstances and connections of that day, on the purposes of those men not only in relation to forming a more perfect Union, but also in relation to securing the blessings of life, liberty, and property to themselves and their posterity forever; if the honorable Senator would construe the Constitution according to the light, the sacred and bright light which such surrounding circumstances would throw upon his intellect, it seems to me that he would at once abandon this abominable bill and would also ask to withdraw its twin sister from the other House that both might be smothered here together upon the altar of the Constitution and of patriotism.

Mr. President, we have had some able lexicographers in this country, and among them was Mr. Noah Webster. In his great and immortal vocabulary will be found the words "naturalize" and "naturalization," and the meaning which he appends to them. How has that great philologist and that great lexicographer reached the meaning of these terms? He has read our history, civil and political; he has seen all the important transactions in which these terms have been used—legislation, Constitution, judicial decision; he has seen the rendition of these terms by the men in America who best understood and who were most competent to give them a clear, a truthful, and a just rendition. After thus preparing himself to give his immortal exposition of the English language, he thus defines these terms:

"*Naturalization*. The act of investing an alien with the rights and privileges of a native subject or citizen.

"*Naturalize*. 1. To confer on an alien the rights and privileges of a native subject or citizen; to adopt foreigners into a nation or State, and place them in the condition of natural-born subjects.

"2. To make natural; to render easy and familiar by custom and habit.

"3. To adopt; to make suitable; to acclimate; as to naturalize one to a climate.

"4. To receive or adopt as native; natural or vernacular; to make our own, as to naturalize foreign words; to accustom; to habituate, as to naturalize the vine to a cold climate."

Could anything be more precise than these definitions? If men are searching for truth and principle, do they not find it here, and in the authorities which I have already read? To naturalize is to bring in an exotic. When applied to a man, it is to bring in a foreigner who owes allegiance and obedience to another State or Government; and nobody else is or can be the subject of this provision of our Constitution or of any legislation of Congress under it, and nobody else ever was. Then, how can the honorable Senator apply his amendment to negroes born in the United States? It is impossible.

I will say no more upon the subject of this amendment. When the honorable Senator's bill is before the Senate upon its merits, I intend to hit a lick at the thing generally. I only wish that I could hit it at all in proportion to its enormous demerits.

THE PRESIDING OFFICER, (Mr. Foot.) The question is on the amendment moved by the Senator from Kansas [Mr. LANE] to the amendment moved by the Senator from Illinois, [Mr. TRUMBULL.]

Mr. TRUMBULL. I trust that amendment of the Senator from Kansas, as now offered, will not be adopted.

Mr. POMEROY. I would inquire whether the amendment has been modified.

Mr. MORRILL. It has been to-day.

Mr. TRUMBULL. He withdrew his other amendment and offered one which perhaps the Secretary had better read.

THE SECRETARY. It is proposed by the Senator from Kansas to insert, after the word "power," the words "and Indians holding lands in severalty by allotment;" so as to make the amendment of the Senator from Illinois read:

That all persons born in the United States, and not subject to any foreign Power, and Indians holding lands in severalty by allotment, are hereby declared to be citizens of the United States.

Mr. TRUMBULL. I do not think it will do to adopt that amendment as offered. It applies to Indians holding lands by allotment. They may hold them all through the Cherokee nation; they may hold them outside of the organized jurisdiction of the United States in the Indian country. I think it would be unsafe to adopt such an amendment. I have no objection to the amendment in the form in which it was first proposed by the Senator from Kansas, to exclude from naturalization all Indians who owe allegiance to any tribal authority.

I trust, however, the amendment will not be pressed upon this bill. It is intended by the Senator from Kansas to reach a few Indians in that State. I have no objection to their being made citizens, but I trust it will be done in some separate bill, so as not to embarrass this general proposition.

Mr. POMEROY. I do not know but that the amendment may be too far-reaching, as the Senator suggests. The policy which the Government has adopted for a few years past is to separate some Indians who are competent and civilized from their tribes by giving their allotments in severalty. That policy has been adopted in my State, and that class of Indians should be citizens. I do not care whether they are made citizens by this bill or some other; but it is a very good provision so far as it relates to the Indians with whom I am acquainted. It may, as the Senator suggests, affect Indians in other sections of the country whom it should not reach. I do not know that fact. I would not myself press the amendment on this bill, for I would not embarrass the bill in any way. Still I think the amendment should be adopted in substance somewhere, because as it now is these persons who have their lands in sever-

ally and are to all intents and purposes citizens so far as owning property and doing business are concerned, escape all the responsibilities of citizens. Not being citizens under the law, we cannot tax them.

Mr. JOHNSON. Can you not tax their lands?

Mr. POMEROY. No, sir. We have had the question in the courts of our State ever since we have been a State; they have decided some times one way and sometimes the other, and now it has finally gone to the Supreme Court.

Mr. JOHNSON. You have clearly the right to tax property within the State.

Mr. POMEROY. But in the treaties with the Indians it was provided that the Indian lands should not be taxed, and that they should not be incorporated within the limits of any State. All these questions have been argued in the courts, and it has been generally held that the lands cannot be taxed, although the supreme court of my State at its last term did hold that they were subject to taxation. To settle the whole matter, I should be very glad to have a provision of this kind in some bill. If the Senator from Illinois thinks it will embarrass this bill, I would not press it here.

Mr. TRUMBULL. I hope it will not be pressed here.

Mr. JOHNSON. I am requested to say by the Senator from Kansas, who offered this particular amendment, that it would be very agreeable to him to have the Senate postpone action upon it until he could return to the Chamber, he having been called away a short time since on business, expecting to be back in about an hour.

Mr. TRUMBULL. There will be an opportunity to offer it again in the Senate. I hope it will not be adopted now. We are in Committee of the Whole, and if the Senator desires to have a vote upon the question in the Senate, he can offer the amendment again.

Mr. POMEROY. I think we had better vote on it in the Senate when my colleague is in his seat.

Mr. TRUMBULL. Does the Senator feel authorized to withdraw the amendment? If not, I ask that a vote be taken upon it.

Mr. POMEROY. I would rather have it withdrawn now, and then let us have the vote taken on it in the Senate when it is offered again.

The PRESIDING OFFICER. No person is competent to withdraw an amendment in the absence of the mover. It must be disposed of by vote of the Senate.

Mr. TRUMBULL. That vote now determines nothing; the amendment can be offered again in the Senate.

Mr. JOHNSON. I am not sure that I am not authorized to withdraw the amendment from what the Senator from Kansas said to me. He did not exactly authorize me to withdraw the amendment, but he expressed the wish that there should be no vote taken upon it in his absence, and if that cannot be avoided except by withdrawing the amendment, I think I am authorized to ask permission of the Senate in his behalf to withdraw it.

Mr. POMEROY. It can be offered again in the Senate even if voted down now.

Mr. JOHNSON. I know, but then there is a vote against it.

The PRESIDING OFFICER. In the opinion of the Chair the mover of a proposition cannot authorize another person to act in his stead to withdraw it. That can only be done by the mover himself, or by vote of the Senate.

Mr. TRUMBULL. We can pass upon the amendment and reject it without a division. That does not prejudice it or affect it at all when offered again in the Senate.

The PRESIDING OFFICER. The Chair will put the question on the amendment to the amendment.

Mr. HENDERSON. It struck me yesterday while we were speaking of the original amendment offered by the Senator from Kansas, who is not present, that it accomplished all that he desired, and I think now that it does. If the

Senator from Illinois who has charge of this bill has no objection to it, I suggest that we adopt the amendment in the form in which it was presented yesterday.

Mr. TRUMBULL. That is the very thing that I proposed before.

Mr. HENDERSON. I think the Senator's objections are perfectly good against the amendment as it now stands, though I differ from him in his construction of the amendment as presented yesterday. I think that when an Indian withdraws from the tribal authority, according to the amendment of the Senator from Kansas as offered yesterday, and purchases land, and lives separate and free from the tribal authority, he would become a citizen although he may have grown to the years of manhood under tribal authority. I think the amendment will accomplish that purpose, and if the Senator from Maryland has authority to act in the premises, I suggest that he withdraw the amendment as it now stands and then offer it in the other form, or is it now in order to move it in that form?

The PRESIDING OFFICER. The bill is now before the Senate as in Committee of the Whole. After it shall have been reported to the Senate it will be open to further amendment, and this proposition may be again moved.

Mr. POMEROY. The amendment itself as it now stands is an amendment to an amendment, and therefore a further amendment is not now in order.

Mr. HENDERSON. We can vote down the amendment to the amendment, and then adopt the other amendment to which I have referred, and I suggest that that course be adopted.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment moved by the Senator from Illinois.

Mr. POMEROY. I move now to amend the amendment by inserting the same language which was proposed by my colleague yesterday. I move to insert the words "tribal authority" after the word "Power."

Mr. TRUMBULL. There is no objection to that.

Mr. JOHNSON. That will not accomplish the purpose, as I think. These persons who hold lands in Kansas went there long subsequent to their birth, as I suppose, and they were born subject to tribal authority. As I understand the amendment, if adopted in the shape in which it is now proposed, no Indians that were born subject to tribal authority, no matter what may be their present condition, will be made citizens. If the word "now" were inserted before the word "subject," perhaps it would answer the purpose.

The PRESIDING OFFICER. As this is an amendment to an amendment, it is not open to a third proposition of amendment. The question must be taken upon the words as moved by the mover.

Mr. GUTHRIE. I think that when a person who is not a citizen becomes a citizen of the United States there is an obligation on each side. When a foreigner becomes a citizen we have been in the habit of requiring his assent and application to the assumption of the responsibilities of a citizen. Now, the intention obviously is to extend the list of citizens further, without asking the assent of the persons over whom you propose to extend these responsibilities. I do not think that is exactly proper legislation. In the case of foreigners we require them to apply to the courts, and declare on oath their willingness and desire to become citizens. I am not willing to vote to impose the duties of citizenship upon these persons without their consent. Here is a provision that Indians shall become citizens of the United States without their consent or the consent of those exercising authority over them. I cannot consent to impose citizenship and its liabilities and responsibilities upon a people without their assent.

Mr. POMEROY. The argument of the Senator from Kentucky [Mr. GUTHRIE] applies with equal force to the whole bill. He objects to

conferring citizenship upon the Indian because the Indian has not consented to it. That argument will apply with equal force to the whole bill. It proposes to make citizens of the colored people of this country. It is an act of legislation in regard to which they have not been consulted. If the objection applies with any force against the Indian it does against the negro, and all the provisions of the bill relating to him. But, sir, I apprehend that the bill will be found to accomplish its purpose in reference both to the negro and the Indian. There is no reason why the two should be separated, so far as their relation to the Government is concerned, except in regard to such Indians as have tribal relations, and are responsible and amenable to a government of their own.

Mr. CONNESS. I wish to suggest that under the amendment proposed in reference to Indians, the Indians under the control of the United States upon the public reservation which are maintained by the United States for their care and support would thus be made citizens of the United States. They certainly would under the amendment as it now stands, with the further amendment proposed by the Senator from Kansas; and certainly that cannot be contemplated. We have in the State of California public reservations upon which the Indians are gathered in considerable numbers. They have no capacity for citizenship and there would be no propriety in extending citizenship to them, but it would be a great public evil and wrong. They are entirely under the control and disposition of the United States and its officers; they are not under the direction of any tribal authority whatever. They are not excepted by the amendment, and would become citizens if they were born in the United States. They must be excepted also, for that portion of them that live in California, commonly known as Digger Indians—the term applied to describe their tribe—is perhaps the lowest class known of Indians, and utterly and totally unfit to become citizens, apart from their being taken care of by the Government. The Senator from Kansas will perceive on the rereading of the amendment that they would be made citizens.

Mr. POMEROY. I was not aware that there were any Indians on reservations that had no tribal authority or no tribal organization.

Mr. CONNESS. There are.

Mr. POMEROY. Those that I am acquainted with have always had an organization of their own. If they have no organization I cannot understand what officers of the United States are over them. We send Indian agents to the tribes, but always where they have an organization. I have never known any officers of the United States to have control over Indians without an organization.

Mr. CONNESS. The Superintendent of Indian Affairs and his agents and employes have control of them. These Indians are brought in and placed upon reservations. They are cut off from all connection with their tribes. The tribes are not allowed to have any connection whatever with them. They are in all respects subject to the authority of the agents of the Government.

Mr. POMEROY. Have they no chiefs, no bands?

Mr. CONNESS. No, sir; there is no such thing known.

Mr. POMEROY. I do not know anything about that case.

Mr. CONNESS. They have no competency for citizenship.

Mr. RAMSEY. The people of Minnesota, recognizing the remote possibility of an Indian being qualified for citizenship, have made provision by their constitution that Indians having acquired the habits of white men, derisively said to be "the wearing of breeches and drinking whisky," may be admitted by the courts to citizenship. I am not aware, however, that there is any one instance of the exercise of this power by our judiciary. This matter of tribal government is a very loose and ill-defined thing, and any law to be practical should be more definite.

Then, again, Mr. President, there have been large numbers of roving Indians on our frontier, and they were the most mischievous of the race, that were outlaws, refugees from all tribal authority, and recognized no such authority. Under this amendment of the Senator from Illinois, if it become law, these most obnoxious of all Indians would be admitted to the inestimable privilege of citizenship, a thing, of course, not desired by any member of the Senate, and most odious to the people of the frontier States and Territories.

Mr. President, should this amendment to the amendment be rejected, I will then, to meet this difficulty, propose to add these words, "or Indians not admitted to citizenship by the laws of any of the States." My object is to exclude all Indians from citizenship except such as the laws of any one of the States elevate to such a status.

Mr. TRUMBULL. I should be very glad to accommodate our friends who feel some interest in regard to the Indians located in their respective States, but the Senate will perceive how difficult it is to accommodate the different interests that are represented here. The Senator from Kansas desires that the Indians who have so far separated from their tribes as to have lands set apart to them severally shall be declared citizens of the United States. The Senator from California desires that the Indians in his State who are placed upon reservations and are not under tribal authority, as I understand him, should not be citizens. He thinks that they have not so far withdrawn from their wild relation, being fugitives or refugees, as they are described by the Senator from Minnesota, that they can properly be declared citizens.

Now, I should be very glad if our friends would not embarrass this general bill with provisions in regard to this particular class of persons. Let them be legislated for specially. Of course we cannot declare the wild Indians who do not recognize the Government of the United States at all, who are not subject to our laws, with whom we make treaties, who have their own regulations, whom we do not pretend to interfere with or punish for the commission of crimes one upon the other, to be the subjects of the United States in the sense of being citizens. They must be excepted. The Constitution of the United States excludes them from the enumeration of the population of the United States, when it says that Indians not taxed are to be excluded. It has occurred to me that perhaps an amendment would meet the views of all gentlemen, which used these constitutional words, and said that all persons born in the United States, excluding Indians not taxed, and not subject to any foreign Power, shall be deemed citizens of the United States.

Mr. CONNESS. That will do.

Mr. TRUMBULL. But I do not know that that would meet the view of the Senator from Kansas.

Mr. POMEROY. I do not know but that it would. All that we ask is that those who are taxed shall be citizens.

Mr. CONNESS. Then that will meet the views of all.

The PRESIDING OFFICER. The question is on the amendment moved by the Senator from Kansas to the amendment moved by the Senator from Illinois.

Mr. CONNESS. I suggest to the Senator from Kansas at present to withdraw the amendment, and the matter can be considered and acted upon in the Senate. Then we shall undoubtedly be able to adjust the language to suit all parties.

Mr. POMEROY. I shall be very glad not to embarrass the bill at this stage, and I withdraw my amendment to the amendment with the understanding that I shall move it again in the Senate after we have matured the bill.

The PRESIDING OFFICER. The amendment to the amendment being withdrawn, the question recurs on the amendment to the first section of the bill moved by the Senator from Illinois. It will be the right of the Senator

from Kansas, understanding or no understanding, to move his amendment in the Senate.

Mr. TRUMBULL. I will move to insert these words in the amendment pending—I think they will perhaps meet the views of all gentlemen—"excluding Indians not taxed," after the word "power."

The PRESIDING OFFICER. Does the Senator so modify his amendment?

Mr. TRUMBULL. I will so modify it that it will read "that all persons born in the United States, and not subject to any foreign Power, (excluding Indians not taxed,) are hereby declared to be citizens of the United States, without distinction of color."

The PRESIDING OFFICER. The Senator has a right to modify his amendment, and the question is on it as thus modified.

Mr. HENDRICKS. Is it competent for the Senator from Illinois to make that a part of his original amendment?

The PRESIDING OFFICER. It is competent for the Senator from Illinois to modify his own amendment.

Mr. HENDRICKS. I should object to it if I had the power to do so. I do not like to see the right of citizenship depend on the question whether a man is taxed or not. I do not know that that has ever been done in any Government. Citizenship is a very high right. It is the right to be considered a member of the political community, and for us to say that Indians or anybody else shall be citizens or not citizens, dependent upon the question whether they pay taxes, is certainly a very objectionable proposition.

I do not intend to discuss this proposed amendment to the bill. I rose mainly to suggest to the Senator from Illinois that he had better leave out those words. This is a bill for a particular purpose, as I understand from him, to accomplish what he thinks is required by the second section of the amendment to the Constitution. That second section certainly does not require that we shall now define citizenship. The discussion thus far has satisfied me that it is a very difficult thing to do so. The framers of the Constitution did not undertake to do it; the legislators of the Government up to this time have not undertaken it; and an examination of the works upon the subject, and of those that treat incidentally of the subject, satisfies me that it is a difficult thing to define citizenship. I do not want to see it cheapened in this country. In times past, to be called an American citizen was a very proud title. Now, if we are going to change it, if we are going to extend it to Indians, who have never been regarded as citizens, I think we should do it in a separate bill where the whole subject can be fully considered. It is not germane to this bill, and I suggest to the Senator that he will avoid trouble himself in the management of his bill and relieve the Senate from embarrassment by leaving it off the bill altogether.

Mr. TRUMBULL. My own opinion is that all these persons born in the United States and under its authority, owing allegiance to the United States, are citizens without any act of Congress. They are native-born citizens. That is my judgment about it; but there is a difference of opinion upon that subject. The Senator from Kentucky [Mr. Davis] thinks differently, and some of the courts in the southern States have held differently. The recent Attorney General gave it as his opinion that free persons of color were citizens at the time of the adoption of the Constitution, and are now. The Senator from Kentucky, who has based his argument and his hour's speech upon the supposition that negroes cannot be citizens because they were not citizens when the Constitution of the United States was adopted, has forgotten the history of the country. By the Articles of Confederation free persons of color were citizens, just as much citizens as white persons. The fourth of the fundamental Articles of the Confederation was as follows:

"The free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all the privileges and immunities of free citizens in the several States."

That was one of the Articles of Confederation, that the free inhabitants, excepting paupers, vagabonds, and fugitives from justice, should be citizens of the several States; and when that clause was under consideration in the convention which adopted the Articles of Confederation it was moved to insert the word "white;" and this meets the precise question put by the Senator from Kentucky. He wants to know if the southern States would have submitted to have Africans or negroes made citizens. They did submit to it, and there were only two States opposed to it. On the 25th of June, 1778, the Articles of Confederation being under consideration by the Congress, the delegates from South Carolina moved to amend this fourth article by inserting after the word "free" and before the word "inhabitants" the word "white," so that the privileges and immunities of general citizenship would be secured only to white persons. Two States voted for the amendment, eight States voted against it, and the vote of one State was divided.

Now, is there any question or could there be any, that free persons of color were citizens under the Articles of Confederation? How was it in North Carolina? I happen to have before me the report of the decision made in 4 Devereux's and Battle's Reports, in the case of *The State vs. Manuel*, in which the opinion was delivered by Judge Gaston. He says:

"According to the laws of this State, all human beings within it, who are not slaves, fall within one of two classes. Whatever distinctions may have existed in the Roman laws between citizens and free inhabitants, they are unknown to our institutions. Before our Revolution, all free persons born within the dominions of the King of Great Britain, whatever their color or complexion, were native-born British subjects—those born out of his allegiance were aliens. Slavery did not exist in England, but it did in the British colonies. Slaves were not in legal parlance persons, but property. The moment the incapacity, the disqualification of slavery, was removed, they became persons, and were then either British subjects, or not British subjects, according as they were or were not born within the allegiance of the British king. Upon the Revolution no other change took place in the laws of North Carolina than was consequent on the transition from a colony dependent on a European king to a free and sovereign State. Slaves remained slaves. British subjects in North Carolina became North Carolina freemen. Foreigners, until made members of the State, remained aliens. Slaves manumitted here became freemen; and, therefore, if born within North Carolina are citizens of North Carolina, and all free persons born within the State are born citizens of the State. The constitution extended the elective franchise to every freeman who had arrived at the age of twenty-one, and paid a public tax; and it is a matter of universal notoriety, that under it free persons without regard to color claimed and exercised the franchise, until it was taken from free men of color a few years since by our amended constitution."

This is from the opinion of a court in North Carolina, and that opinion is referred to in subsequent decisions of the courts in North Carolina with approbation. The Senator from Kentucky says if they are already citizens by the Constitution, why do you declare it in a law? We often pass laws to remove doubts, and I should like to remove the doubt even from the mind of the Senator from Kentucky, if that were possible.

But the Senator from Indiana objects that this amendment as now proposed, including Indians not taxed, is an invidious distinction. He does not want to see this idea of property introduced into the law as a requisite for citizenship; he would not recognize property as giving this high privilege of being an American citizen. The Constitution of the United States has used this language in regard to the Indians. The Indians have separate governments of their own. They do not recognize nor are they made subject to the laws of the United States. They make and administer their own laws; they are not counted in our population; they are not represented in our Government; and the Constitution of the United States in determining who shall be represented says:

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons."

Does the Senator from Indiana want the wild, roaming Indians not taxed, not subject to our

authority, to be citizens of the United States—persons that are not to be counted in our Government? If he does not, let him not object to this amendment that brings in even the Indian when he shall have cast off his wild habits and submitted to the laws of organized society and become a citizen. I can see no objection to the amendment in its present form. I hope it may be adopted for the purpose of removing doubts, not because I suppose it necessary, for I believe that the native-born person of African descent now who is a freeman in this land is as much a citizen as any of us.

Mr. HENDRICKS. I have no desire that the savage Indian shall be declared a citizen of the United States. I have no desire that any Indian shall be declared a citizen of the United States. I do not think he is now; and I do not think we ought to make him such. I think he is not, because two of the most learned of our Attorney Generals have so decided when the question was submitted to them, that he is not a citizen of the United States. The clause of the Constitution to which the Senator has referred has nothing to do with the question of citizenship, and therefore he cannot use it in reply. It is on a question of taxation and representation, what the basis of each shall be. My objection is to his proposition of making property a test of citizenship. If it is right in regard to the Indian, why is it not right in regard to the African, and then why not right in regard to the white man? What the Senator wants, as I understand, is civilization on the part of the Indian, and I presume he wishes to make the holding of property the test of intelligence on the part of the Indian. If he be a tax-payer, he is presumed to be sufficiently intelligent to be a citizen of the United States. I do not admit the test; therefore I object to the proposition.

Mr. DAVIS. I will say a word or two in reference to what the Senator from Illinois has said. I assumed that the gentleman's proposition of amendment could not be entertained. First, I denied the proposition which he made in his speech of the day before yesterday that a negro was a citizen. I assumed the other proposition that whether a negro was a citizen or not, he was not a foreigner; and not being a foreigner he cannot be naturalized by any act of Congress, special or general; that nobody but a foreigner can be naturalized.

Now, by way of repelling the first position, the honorable Senator introduces a decision of one of the North Carolina courts that a negro was a citizen in North Carolina. When was he made a citizen in North Carolina if he was a citizen there? It was before the Constitution was formed. He had the right to vote in North Carolina. Will the honorable Senator say that if that negro, having the right to vote in North Carolina, had gone over to Virginia, or South Carolina, or Georgia, he would have been a citizen there and entitled to the privileges of citizenship? He might have claimed them, but they never would have been accorded to him.

The mere right to vote does not amount to citizenship. Citizenship, under the Constitution, is something different from what it was before the Constitution was formed. Before the Constitution was formed every State made its own citizens; every State coined its own money. Since the formation of the Constitution, there is but one power to coin money, there is but one power to make citizens, and that is the Government of the United States. The State of Illinois admitted unnaturalized foreigners who had been resident in that State six months to vote. Did the fact that Illinois permitted an unnaturalized foreigner who had been resident there six months to take part in her government make him a citizen of the United States? Not at all.

My position is that this is a white man's Government. It was made so at the beginning. The charters that were granted by the different sovereigns of England to the various colonies were granted to white men and included nobody but white men. They did not include Indians.

They did not include negroes. When the troubles with the mother country commenced in 1764, and culminated in revolution and a Declaration of Independence in 1776, all of that protracted and important transaction was by white men, and by white men alone. The negro had nothing to do with it, no more than the Indian; he was no party to it. It was not for his grievances that that struggle was made; it was not to reform his wrongs that that bloody war was waged; it was not to establish a Government in which he was to be a party or a power that the Declaration of Independence was enunciated to the world and the old Articles of Confederation formed; it was not to make him a party to our present Government that the Constitution was formed. He was no party in the Convention; he was not represented in the Convention which framed the present Constitution. It is a white man's Government. I say that the negro is not a citizen. He may be made a citizen by power, but it will be in disregard, I think, of principle. I deny that this is a Government of amalgamation. I deny that the governing population, the population that is clothed with political power and political sovereignty, is the result of miscegenation. It is a white population, and not a negro population or an Indian or a mixed population. That is the truth of history. It is the truth of principle. Power and numbers may trample that truth under foot and disregard it; but if Marshall and Story and Washington and their compeers upon the supreme bench were here to rule this principle, they would rule it as our fathers understood it, in my judgment.

I still then reiterate the position that the negro is not a citizen here according to the essential fundamental principles of our system; but whether he be a citizen or not, he is not a foreigner, and no man, white or black or red or mixed, can be made a citizen by naturalization unless he is a foreigner. You cannot make a citizen in that way of a native. You cannot make a citizen of anybody that is not a foreigner. You cannot transmute into a citizen any man but one who owes allegiance to a foreign Government or a foreign potentate.

If the honorable gentleman is so confident in his positions and so strongly intrenched and fortified in them as he appears to be, let him bring up and examine a principle, a *dictum*, where anybody but a foreigner was ever admitted to be naturalized in the States or in the United States. Let him bring up a solitary example where a native of the country, who had never become denationalized by leaving it, and who owed no allegiance and no obedience to a foreign Government or a foreign potentate, was ever admitted by any process whatever to American citizenship.

Mr. CLARK. I wish the Senator from Kentucky would tell us what constitutes a citizen under the Constitution.

Mr. DAVIS. No foreigner is a citizen in the fullest sense of the word at all.

Mr. CLARK. The Senator is now telling us who is not a citizen, but my question is what constitutes a citizen?

Mr. DAVIS. I leave that to the exercise of your own ingenuity by to-morrow. [Laughter.]

Mr. CLARK. That is it. Washington is dead; Marshall is dead; Story is dead; I hoped the Senator from Kentucky would have enlightened us. He says a negro is not a citizen, and a negro is not a foreigner and cannot be made a citizen. He says that a person who might be and was a citizen before the Constitution, is not a citizen since the Constitution was adopted. What right was taken away from him by the Constitution that disqualifies him from being a citizen? The free negroes in my State, before the Constitution was adopted, were citizens.

Mr. DAVIS. Will the honorable Senator allow me to ask him a question?

Mr. CLARK. Certainly, because I asked the Senator to define what a citizen was.

Mr. DAVIS. Was a free negro in New Hampshire before the Constitution a citizen of the United States?

Mr. CLARK. He was a citizen of my State.

Mr. DAVIS. That being admitted, was he a citizen of the United States?

Mr. CLARK. He was in my judgment a citizen of the United States.

Mr. DAVIS. If he went to Virginia or South Carolina, would he have been entitled to citizenship there?

Mr. CLARK. I think he would; I have not any doubt about it.

Mr. DAVIS. Neither have I any that he would not.

Mr. CLARK. I think he would, because the Constitution has provided that a citizen of one State shall have the rights and privileges of citizens in the several States.

Mr. JOHNSON. But the Senator from Kentucky asks how it was before the Constitution.

Mr. CLARK. He was a citizen before the Constitution made that provision.

Mr. JOHNSON. That was the question put by the Senator from Kentucky.

Mr. CLARK. When the Senator from Kentucky says he was not represented in the Convention that formed the Constitution, he says what was not true in fact.

Mr. DAVIS. Will the Senator allow me to ask a question?

Mr. CLARK. Certainly.

Mr. DAVIS. The State of New Hampshire had or might have had her separate State coin, her separate coined money, before the Constitution was adopted. Is not that true, that she either had or might have had her own coin? I pause for a reply.

Mr. CLARK. Oh, certainly, sir. I did not suppose the Senator was waiting.

Mr. DAVIS. If she had her own coin emitted and circulated before the Constitution was formed, would the adoption of the Constitution have made that coin of the United States? She had her own citizenship according to her own laws; and because she had her own citizenship before the Constitution was adopted, the Constitution of the United States did not on its ratification adopt her citizenship and her citizens as citizenship and citizens of the United States.

Mr. CLARK. I do not propose to discuss the question of coinage; it is the question of citizenship that I am after. Before the Constitution was adopted the free black man in my State was just as much a citizen as the white man; and when delegates were chosen to the Convention which adopted the Constitution he had a right to vote, and undoubtedly did vote, as well as the white man. They formed that Constitution. In that Constitution there is nothing declaring that a negro shall be a citizen of the United States, and there is nothing declaring that a white man shall be. They stand on the same foundation. There is nothing declaring that the black man shall not be a citizen, nothing declaring any distinction between them; and it is a distinction which the Constitution does not recognize when the Senator from Kentucky undertakes to say that it excludes the black man and does not exclude the white man.

Mr. DAVIS. The honorable Senator will permit me to explain that I did not say it excluded the black man. I say it ignored the black man; it paid no attention to him; it was made by a different race of beings; it did not comprehend him; he had nothing to do with it any more than the Indian of the forest had, any more than the Chinaman in California had in the formation of the constitution of that State.

Mr. CLARK. I do not admit what the Senator says; I do not admit that it ignored him; that would be the same thing as to deny him citizenship; but I do not assert that the free black man was a part of the people of the United States, and "we, the people," formed that Constitution, and therefore are entitled to the rights of it. I say the free black man is a citizen under the Constitution, because he held that right before, and if the Senator wants to know when he became a citizen of this country I will tell him: he became so when he helped to achieve the independence of the country equally with the white man; and as the Constitution did not exclude

him he held his rights under the Constitution. He assisted in my State in electing delegates to that Convention, and so in other States.

I desire to say further, and I will say now, Mr. President, though not exactly germane to this point, that in my State there is not a single disqualification or discrimination between the white man and the black man, and there is not to be found on the statute-book any act making him free, for he never was a slave there. He may, in some cases, have been held in duress; he was always a freeman legally.

Mr. DAVIS. Will the honorable Senator answer me a question?

Mr. CLARK. I will try to do so.

Mr. DAVIS. Have or have not many Africans been bought and sold as slaves in New Hampshire?

Mr. CLARK. I have no doubt they have been bought and sold, not by law, but by violence and wrong; certainly they have. In the course of my practice in the State of New Hampshire I did once find among some old papers a bill of sale of a negro, dated in 1792; and it was the only instance that I ever did find within that State. I have searched the statutes from beginning to end; I have searched the old laws and the constitution, and I can find no law that ever recognized a slave, nor can I find any law that ever set a slave free.

Mr. DAVIS. Will the honorable Senator permit me to ask him a question?

Mr. CLARK. Certainly; as many as the Senator chooses.

Mr. DAVIS. Did you ever find a law declaring a horse to be property?

Mr. CLARK. Yes. I have found it.

Mr. DAVIS. I have not. We have none in our State. It probably exists by usage.

Mr. CLARK. So it exists in my State by custom; but we recognize it as property by statute as well. We never did recognize a negro as property. We always recognized him as a man and as a citizen.

Mr. DAVIS. How did your people sell him?

Mr. CLARK. They sold him very much as a man steals a horse.

Mr. DAVIS. Your countrymen stole him and sold him.

Mr. CLARK. I do not know whose countrymen sold him. I believe my people are like other people, and if they did steal and sell a negro they did a great wrong to the negro. No matter where slavery exists, be it in New Hampshire or Kentucky, it is a violence and a wrong. [Applause in the galleries.]

The PRESIDING OFFICER. Order! order! These demonstrations must not be repeated. They are in violation of the order and decorum of the body. If they are repeated, the Chair will feel compelled to order the Sergeant-at-Arms to clear the galleries at once.

Mr. CLARK. I desired, Mr. President, that the Senator should tell me what in his opinion constituted a citizen under the Constitution. Free negroes were citizens before the Constitution, he admits, in my State.

Mr. DAVIS. I will answer the honorable Senator. We sometimes answer a positive question by declaring what a thing is not. Now the honorable Senator asks me what a citizen is. It is easier to answer what it is not than what it is, and I say that a negro is not a citizen.

Mr. CLARK. Well, Mr. President, that is a lucid definition. [Laughter.]

Mr. DAVIS. Sufficient for the subject.

Mr. CLARK. That is a begging of the question. I wanted to find why a negro was not a citizen, if the gentleman would tell me. If he would lay down his definition, I wanted to see whether the negro did not comply with it and conform to it, so as to be a citizen; but he insists that he is not a citizen.

Mr. DAVIS. I will answer that question if the honorable Senator will permit me. Government is a political partnership. No persons but the partners who formed the partnership are parties to the Government. Here is a Government formed by the white man alone. The negro was excluded from the formation of our

political copartnership; he had nothing to do with it; he had nothing to do in its formation.

Mr. STEWART. Allow me to ask a question. Is it a close corporation, so that new partners cannot be added?

Mr. DAVIS. Yes, sir; it is a close white corporation. You may bring all of Europe, but none of Asia and none of Africa into our partnership.

Mr. CLARK. Let us see, Mr. President, how that may be. Take the gentleman's own ground, that government is a partnership, and those who did not enter into it and take an active part in it cannot be citizens. Is a woman a citizen under our Constitution?

Mr. DAVIS. Not to vote.

Mr. CLARK. I did not ask about voting. The gentleman said a while ago that voting did not constitute citizenship. I want to know if she is a citizen. Can she not sue and be sued, contract and exercise the rights of a citizen?

Mr. DAVIS. So can a free negro.

Mr. CLARK. Then if a free negro can do all that, why is he not a citizen except that the Dred Scott decision says that—

Mr. DAVIS. Because he is no part of the governing power. That is the reason.

Mr. CLARK. I deny that, because in some of the States he is a part of the governing power. The Senator only begs the question; it only comes back to this, that a nigger is a nigger. [Laughter.]

Mr. DAVIS. That is the whole of it. [Laughter.]

Mr. CLARK. That is the whole of the gentleman's logic. [Laughter.]

Mr. JOHNSON. Mr. President, but for the decision in the Dred Scott case, to which allusion has been made, perhaps the question would be free from all difficulty; but, as the Senate are already informed, the decision in that case was that, because of the particular condition of the African, neither he nor any of his descendants were citizens. The Senate will find, by referring to that decision, that the court put it entirely upon the ground that the Africans were imported into the United States as slaves, and bought and sold as property, and according to the view that the court took all their descendants partook of that condition; that is to say, they inherited the disqualification of the ancestor. The sins of the ancestor, if they could be called sins, were visited upon the children. They applied that principle by saying that the disqualification of the ancestor because of his condition was to be visited upon the children. It is very obvious upon the reading of that opinion that the court would have come to a different conclusion, provided the Africans had immigrated to the United States as immigrants, instead of coming here as property. If they had come as men and had not been brought in as chattels, then they would have been citizens of the United States. It is also evident that if the Supreme Court had taken the view taken by the honorable member who has just addressed the Senate, [Mr. CLARK,] that there were in the States Africans or descendants of Africans at the time of the adoption of the Constitution who were citizens of the States in which they might be, they would have been citizens of the United States. That is obvious, as I think, from a paragraph in the opinion to which I invite the attention of the Senate, which will be found in 19 Howard, page 406:

The court say, after stating the case:

"The question then arises, whether the provisions of the Constitution, in relation to the personal rights and privileges to which the citizen of a State should be entitled, embraced the negro African race at that time in this country, or who might afterward be imported, who had then or should afterward be made free in any State; and to put it in the power of a single State to make him a citizen of the United States, and endue him with the full rights of citizenship in every other State without their consent."

The court put the question and say:

"The court think the affirmative of these propositions cannot be maintained."

And then follows the passage to which I wish to make particular reference:

"It is true that every person,"—

Without reference to color, black or white—

"It is true that every person, and every class and description of persons, who were at the time of the adoption of the Constitution recognized as citizens in the several States became also citizens of this new political body, but none other; it was formed by them, and for them and their posterity, but for no one else."

Then the court, after entering into a historical examination of the fact whether these people were recognized as citizens of the several States, and coming to the conclusion that they were not so recognized, came to the consequent result that, not being citizens of the States according to the view taken by the court, they were not under the Constitution made citizens of the United States. But if the court had taken the view taken by the honorable member from New Hampshire, that there were in the State of New Hampshire Africans who were citizens of the State, recognized as citizens of the State, participating in the political government of the State, and therefore participating in the election of members of the Convention, and participating in the question whether the Constitution was to be adopted or not, they would have come to the conclusion that they were citizens. The error, therefore, that the court have committed, if they have committed an error at all, a question that I do not propose now to discuss, is not in the principle maintained by the honorable member from New Hampshire but in the historical fact, were or were not negroes in the States of the United States citizens of such States, all or any one, at the time the Constitution was adopted. If the court, to repeat, had come to the conclusion that they were such citizens, then according to their own view it would have followed that they became under the Constitution citizens of the United States, it being true, to repeat the language of the court—

"That every person and every class and description of persons who were at the time of the adoption of the Constitution recognized as citizens in the several States became also citizens of the United States."

But the Supreme Court have decided that negroes are not citizens, and the decision stands before us. Whether it will be recognized hereafter when the question arises in that tribunal at any subsequent time is a matter that I do not propose now to inquire into: there it is, and we have a right to suppose that it may control subsequent decisions; and if it does control subsequent decisions, the result will be that this law will not be operative because the court came to the conclusion that no African who was brought into the country as a slave and sold as a slave was himself, or any of his descendants, a citizen of the United States within the meaning of that term as found in the Constitution of the United States.

But now suppose that those who take a view different from that taken by the Supreme Court take the proper view, that they may be made citizens notwithstanding the Constitution of the United States; let me for a moment address myself to the objection stated by the honorable member from Kentucky. I understand the honorable member as saying that, under the Constitution of the United States, no person can be made a citizen of the United States by legislation except under that clause of the Constitution which gives to Congress the authority to establish a uniform rule of naturalization. That is his proposition. Now, where does that lead us? See the condition in which we should be placed if that proposition is right.

Mr. DAVIS. The honorable Senator does not apprehend me exactly as I intended to express myself. I mean that no person can be naturalized as a citizen of the United States unless that person be a foreigner.

Mr. JOHNSON. That I understand to have been the proposition of the honorable member, and now I concede it under that clause. I admit that the honorable member is right in saying that that clause was intended to apply only to foreigners who might come to the United States and desire to take upon themselves the character of citizens. Under your naturalization laws, therefore, passed in pursuance of that authority, there is no power to make citizens of

the United States under that clause other than those who are foreigners, and subject, therefore, to the Government from which they come. I have no doubt that is true; but does it follow from that that these negroes cannot be made citizens? That would be an extraordinary condition for the country to be in. Here are four million negroes. They are not foreigners, because they were born in the United States. They have no foreign allegiance to renounce, because they owed no foreign allegiance. Their allegiance, whatever it was, was an allegiance to the Government of the United States alone. They cannot come, therefore, under the naturalizing clause; they cannot come, of course, under the statutes passed in pursuance of the power conferred upon Congress by that clause; but does it follow from that that you cannot make them citizens; that the Congress of the United States, vested with the whole legislative power belonging to the Government, having within the limits of the United States four million people anxious to become citizens, and when you are anxious to make them citizens, have no power to make them citizens? It seems to me that to state the question is to answer it.

Mr. DAVIS. Will the honorable Senator allow me a moment?

Mr. JOHNSON. With pleasure.

Mr. DAVIS. I admitted in the commencement of my remarks that there were two modes of making citizens of foreigners under the Constitution of the United States. The first was by a uniform rule of naturalization to be prescribed by Congress; the second was that where a treaty was negotiated between the United States and a foreign Government by which we acquired territory that contained inhabitants, those inhabitants, by necessary implication, were admitted to citizenship. Now, I put this question in the form of a principle to the Senator: when there are two modes expressed in the Constitution by which this thing may be done, one by express provision and the other by necessary implication, does, or does not, the enumeration of these two modes exclude all other modes?

Mr. JOHNSON. Certainly, so far as the particular persons who would be embraced by the particular modes are involved. But suppose there had been no power given in the Constitution to Congress to naturalize.

Mr. DAVIS. Then we should have had no power to naturalize.

Mr. JOHNSON. That would be a Government of an extraordinary kind.

Mr. DAVIS. No power having been given by the Constitution to the General Government to naturalize a negro, a negro cannot be naturalized.

Mr. JOHNSON. I am not speaking of the negro; I am speaking of anybody.

Mr. DAVIS. I answered your proposition and I put you mine. I deny the power in the case you state.

Mr. JOHNSON. Why is there not a power given to naturalize the negro? Suppose a negro came from Africa now, could he not be naturalized?

Mr. DAVIS. I say not.

Mr. JOHNSON. Why not? Only because the term "white" is contained in our naturalization laws. But I am speaking of the clause of the Constitution in reference to naturalization. The constitutional clause does not use the term "white." Congress might pass a naturalization act that would embrace the negro immigrant as well as the white immigrant. There can be no doubt about that. Then it is not because of their color that the fundamental objection supposed to exist in the mind of the honorable Senator from Kentucky applies.

Mr. DAVIS. Will the honorable Senator permit me to explain?

Mr. JOHNSON. With pleasure.

Mr. DAVIS. This is a Government and a political organization by white people. It is a principle of that Government and that organization before and below the Constitution, that nobody but white people are or can be parties to it.

Mr. JOHNSON. I do not think that is an answer to my question. But let me ask the honorable Senator why it was that Congress, when it passed the naturalization act, put in the word "white," and what would have been the effect of the law if that word "white" had not been inserted? Suppose they had provided for the naturalization of all foreigners, would not the black men have been included?

Mr. DAVIS. I say not.

Mr. JOHNSON. So far as the Constitution is concerned, why not? The honorable member reads the Constitution as if it said that none but white men should become citizens of the United States; but it says no such thing, and never intended, in my judgment, to say any such thing. If it had designed to exclude from all participation in the rights of citizenship certain men on account of color, and to have confined, at all times thereafter, citizenship to the white race, it is but fair to presume, looking to the character of the men who framed the Constitution, that they would have put that object beyond all possible doubt; they would have said that no man should be a citizen of the United States except a white man, or rather would have negatived the right of the negro to become a citizen by saying that Congress might pass uniform rules upon the subject of the naturalization of white immigrants and nobody else; but that they did not do. They left it to Congress. Congress, in the exercise of their discretion, have thought proper to insert the term "white" in the naturalization act; but they may strike it out, and if it should be stricken out, I do not think any lawyer, except my friend from Kentucky, would deny that a black man could be naturalized, and by naturalization become a citizen of the United States.

But to go back to the point from which the questions of my honorable friend from Kentucky caused me to digress, we have now within the United States four million colored people, the descendants of Africans, whose ancestors were brought into the United States as chattels. It was because of that condition that they were considered as not entitled to the rights of citizenship. We have put an end to that condition. We have said that at all times hereafter men of any color that nature may think proper to impress upon the human frame, shall, if within the United States, be free, and not property. Then we have four million colored people who are now as free as we are; and the only question is, whether, being free, they cannot be clothed with the rights of citizenship. The honorable member from Kentucky says no, because the naturalization clause does not include them. I have attempted to answer that. He says no, because the act passed in pursuance of that clause does not include them. I have answered that by saying that that act in that particular may be changed.

Mr. DAVIS. Will the honorable Senator permit me to ask him a question?

Mr. JOHNSON. Certainly.

Mr. DAVIS. Has the Government of the United States any power that is not conferred upon it by the Constitution?

Mr. JOHNSON. Certainly not.

Mr. DAVIS. Where is the power in the Constitution, or the provision in the Constitution, that gives the right to the Government of the United States to make a citizen of a native-born negro?

Mr. JOHNSON. I do not know that there is any particular clause that says the child of a native-born negro is to be a citizen, but it would be an extraordinary thing if under the judiciary clause it were not in the power of Congress to authorize a native-born negro, to use the language of my friend from Kentucky, to sue.

Mr. DAVIS. I reckon the language is good.

Mr. JOHNSON. I am not saying it is not good. I used it because I was sure it was good, as you used it. I would not have used it except upon your authority. [Laughter.]

Mr. DAVIS. You are getting modest.

Mr. JOHNSON. Now, Mr. President, if we can, by legislation, authorize the negro to

sue, we are authorized to go one step at least toward making him a citizen. If we can authorize him to contract we take another step. If we authorize him to testify we take another step; and so to go on by assuming that we authorize him to do every other act that a white man can do, short of the right of voting, what is there in the Constitution which denies us the power to stop when we come to the exercise of that right? I can find nothing in the Constitution which leads to that result. If I am right in the opinion which I entertain, that we can authorize them to sue, authorize them to contract, authorize them to do everything short of voting, it is not because there is anything in the Constitution of the United States that confers the authority to give to a negro the right to contract, but it is because it is a necessary, incidental function of a Government that it should have authority to provide that the rights of everybody within its limits shall be protected, and protected alike. It would have been a disgrace to the members of the Convention, in my judgment, if they had looked to the condition of things which now exists; or, without looking to that condition of things, if they had looked to the contingency sure to happen, and which was rapidly occurring at the time when the question became a matter of political agitation, that slavery would sooner or later be abolished by State legislation or State action, and had denied to the Congress of the United States the authority to pass laws for the protection of all the rights incident to the condition of a free man.

I rose, Mr. President, with no view except to state the particular observations that I have stated, and will therefore say nothing further.

Mr. DAVIS. I differ *toto celo* from the honorable Senator from Maryland upon this proposition. My opinion is that the Constitution of the United States never intended to place free negroes or slave negroes under the jurisdiction of the General Government at all; that the whole subject of free negroes and of slave negroes is left by the Federal Constitution, and was intended to be left by the Constitution, under the jurisdiction and exclusive control of the several States.

Mr. STEWART. Will the gentleman allow me to ask him a question?

Mr. DAVIS. Yes, sir.

Mr. STEWART. Have we not a provision which is now a part of the Constitution, which expressly provides that we may legislate on this subject?

Mr. DAVIS. If the honorable Senator wants my opinion, I say that that provision is revolutionary. Have Congress and the Legislatures of the States the right to change our form of Government? Have they a right to establish a monarchy? Have they a right to establish a Presidency for life? Have they a right to establish a Senate for lifetime, or a Senate that would transmit its honors and its offices to their posterity? Sir, the power to change the Constitution is a power simply to amend; it is not a power to revolutionize; it is not a power to subvert; it is not a power to change our form of Government. Notwithstanding the high authority of the Senator from Maryland, and also of the Senator from Nevada, my position is—I may be overruled and expect to be overruled in it, but still it is my opinion—that under the power simply to amend the Constitution of the United States there is no power to revolutionize it, to subvert it, or to change it from a republic to a monarchy, and these acts cannot be effected by any power except the power of revolution.

Mr. MORRILL. I desire to make some observations upon this bill. I do not know whether it is the purpose of the chairman of the Committee on the Judiciary to bring it to a vote to-night—

Mr. CLARK. If the Senator will give way, I will move an adjournment.

Mr. MORRILL. I yield for that purpose.

Mr. CLARK. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 31, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

USE OF THE HALL.

Mr. WASHBURNE, of Illinois. Mr. Speaker, I rise to a privileged question. I am directed by the Committee on Rules to report the following additional rule.

The Clerk read, as follows:

Add at the end of the rules:

RULE.—The Hall of the House shall not be used for any other purpose than the legislative business of the House, nor shall the Speaker entertain any proposition to use it for any other purpose, or for the suspension of this rule: *Provided*, That this shall not interfere with the performance of divine service therein under the direction of the Speaker, or with the use of the same for caucus meetings of the members, or upon occasions where the House may, by resolution, agree to take part in any ceremonies to be observed therein.

Mr. WASHBURNE, of Illinois. Mr. Speaker, I will make a brief statement in regard to this matter. The House will recollect that the instructions to the Committee on Rules were positive to report a rule to prevent hereafter the use of this Hall for any other purpose than the legitimate business of legislation; and we have so reported, with the proviso read by the Clerk, that it shall not interfere with the use, under the Speaker's direction, of the Hall for divine service, or on the occasions of the ceremonies in honor of the late President, Mr. Lincoln, and touching the demise of our recent associate, Hon. Henry Winter Davis. With that proviso, I think that the House will agree unanimously to the rule we have submitted.

I will state further, sir, that I think the attention of the House has not been sufficiently called to this subject. We have found, on making inquiries of the Doorkeeper, some curious facts in reference to the absolute expenses of the Hall for one evening. The expense for gas, as near as it can be figured out, every evening we grant the use of this Hall, is \$150, being at the rate of twenty-five dollars an hour, and the Hall having to be lighted up at six o'clock, and the gas generally not being turned off until twelve o'clock. Then there is the additional expense of twenty-five dollars for heating the Hall. Besides, the wear and tear of the furniture and the injury of the carpets are more in one evening, when the Hall is loaned, than in one week when the Hall is used for legitimate legislative purposes. So we are told by the Doorkeeper; and furthermore that there has not been a single meeting that the desk of some member has not been broken open and rifled despite the watchfulness of the officers of the House.

I think it right and proper we should put an end to this matter. It is a stringent rule, and a stringent rule is necessary. Frequently these meetings are called for benevolent purposes, and members do not feel disposed to oppose them.

Mr. BINGHAM. Let me inquire whether the rule makes an exception of the use of this Hall for the contemplated services to the memory of the late President.

Mr. WASHBURNE, of Illinois. If the gentleman had heard the proviso read, and had heard my remarks, that would have been fully explained. We have a proviso for that very purpose, and all such purposes.

Mr. KELLEY. I desire to know whether the resolution is to operate to repeal the grants already made.

Mr. WASHBURNE, of Illinois. Not at all. It repeals nothing. The permissions that have been granted, of course, hold good. This is only for the future. I demand the previous question.

Mr. STEVENS. I would suggest whether we should not except the use of the House for the 12th and 22d of February.

Mr. WASHBURNE, of Illinois. That is provided for in the proviso.

Mr. STEVENS. The House has not yet taken any action in regard to the 22d of February.

Mr. WASHBURNE, of Illinois. The pro-

viso applies to precisely such cases as the gentleman refers to. I ask that the whole rule may be read.

The SPEAKER. The Chair will state that the understanding of the Committee on Rules would be, that as the obsequies of the late Henry Winter Davis were arranged by a meeting of members of the House called in the Capitol, the use of the Hall would not be excluded by this rule as it stands. Where the House participates in any service the Hall is not to be prohibited by this rule. The Chair will also state that the House has granted its consent by yeas and nays for the use of the Hall by the Christian Commission on their anniversary, so that that would be excepted, and they would have a right to hold their meeting on Sunday, the 11th of February. And so in regard to the funeral obsequies of the late President, as that has been arranged by the joint action of both Houses. This has been discussed in the Committee on Rules.

Mr. STEVENS. May I say this? That although the arrangement has been made by members of the House in regard to the funeral obsequies of the late Henry Winter Davis, it was not by action of the House, but by members outside.

Mr. WASHBURNE, of Illinois. I ask the unanimous consent of the House now, that the use of the Hall should be granted for that purpose before the rule shall be adopted.

Mr. HILL. I would ask whether the proviso does not embrace in spirit that particular occasion. Is it not the intention of the resolution to embrace it?

Mr. WASHBURNE, of Illinois. I think the intention is express and clear; but to avoid all doubt I ask the unanimous consent that the Hall be granted for the funeral obsequies of the late Henry Winter Davis.

The SPEAKER. That is out of order.

Mr. WASHBURNE, of Illinois. Let the rule be read again.

The Clerk read the rule again.

The call for the previous question was then seconded, and the main question ordered; and under the operation thereof the rule was adopted.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the rule was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

INTERNAL REVENUE ACT.

Mr. MORRILL, from the Committee of Ways and Means, by unanimous consent, introduced a bill to declare the meaning of certain parts of the internal revenue act, approved June 30, 1864, and for other purposes; which was read a first and second time, referred to the Committee of the Whole, and ordered to be printed.

COMMUTATION OF RATIONS.

Mr. KETCHAM, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of authorizing the payment of commutations of rations to all prisoners of war for the period of their confinement, and that they report by bill or otherwise.

THE LATE ARSENAL EXPLOSION.

Mr. INGERSOLL, from the Committee for the District of Columbia, asked leave to report a joint resolution for the relief of the sufferers by the late explosion of the United States arsenal in the District of Columbia, and asked its consideration at the present time.

Mr. DAVIS objected.

TERRITORY OF MONTANA.

Mr. McLEAN, by unanimous consent, introduced a bill to amend an act entitled "An act to provide a temporary government for the Territory of Montana," approved May 26, 1864; which was read a first and second time, and referred to the Committee on Territories.

Also, a bill to regulate the fees of officers in the United States courts in the Territory of Montana; which was read a first and second

time, and referred to the Committee on Territories.

Mr. CONKLING called for the regular order of business.

Mr. RAYMOND. I ask my colleague to allow me to present joint resolutions of the State of New York for reference.

Mr. CONKLING. I think we had better have the regular order. If I give way to my colleague I shall have to yield to others.

The SPEAKER proceeded, as the regular order of business, to call the committees for reports, commencing with the Committee on Commerce.

TREATY OF WASHINGTON.

Mr. WASHBURNE, of Illinois, from the Committee on Commerce, reported back, with the recommendation that it do pass, a bill to further secure to American citizens certain privileges under the treaty of Washington.

The bill provides that the produce of the forests of the State of Maine upon the St. John river and its tributaries, owned by American citizens and sawed and hewed in the Province of New Brunswick by American citizens, the same being unmanufactured in whole or in part, which is now admitted into the ports of the United States free of duty, shall continue to be so admitted under such regulations as the Secretary of the Treasury shall from time to time prescribe. The bill is to take effect from and after March 17, 1866.

Mr. WASHBURNE, of Illinois. I will explain in one word the object of this bill. Lumber which is cut on American soil cannot be got to market except by coming down the St. John river and touching in the Province. The object of this bill is to prohibit the collection of duties on such lumber in our own ports. It is recommended by the Secretary of the Treasury, and the subject has been fully considered by the Committee on Commerce. I believe there is no objection to it from any source.

Mr. MORRILL. I presume the bill is all right; but I should like the gentleman to allow time for the Committee of Ways and Means to examine the subject.

Mr. WASHBURNE, of Illinois. The gentlemen from Maine are very much interested in this bill. If it involves a question of which the Committee of Ways and Means has jurisdiction, I do not wish to press it.

Mr. MORRILL. I will not make any objection to the bill.

The bill was ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

THE FISHING BOUNTIES.

Mr. WASHBURNE, of Illinois. I am directed by the Committee on Commerce to report back a bill to repeal the fishing bounties, with a proviso. Long looked for come at last.

The bill was read. It repeals all laws and parts of laws allowing fishing bounties.

The committee reported the following proviso:

Provided, That from and after the 15th day of February, 1866, vessels licensed to engage in the fisheries may take on board imported salt in bond, to be used in curing fish, under such regulations as the Secretary of the Treasury shall prescribe; and upon proof that said salt has been used in curing fish the duties on the same shall be remitted.

Mr. WASHBURNE, of Illinois. This is an absolute repeal of the fishing bounties, with a proviso that fishermen may purchase their salt in bond free of duty.

Mr. BROOKS. I believe that this is a very good bill as far as it goes; but so far as the shipping interests of the country is concerned, would it not be fair to extend the drawback to cordage, iron, and things of that sort?

Mr. MORRILL. I hope the chairman of the Committee on Commerce will not ask action of the House on this bill at this time. The Committee of Ways and Means would desire

to consider this bill in connection with other subjects.

Mr. WASHBURNE, of Illinois. I will withdraw the bill for the present.

MARINE HOSPITALS AND REVENUE CUTTERS.

Mr. WASHBURNE, of Illinois, from the Committee on Commerce, reported back House bill No. 184, to authorize the sale of marine hospitals and of revenue cutters.

The bill authorizes the Secretary of the Treasury to lease or sell at public auction, to the highest and best bidder, for cash, after due notice in the public newspapers, such marine hospitals and lands appertaining thereto as he may deem advisable; and it empowers him to make, execute, and deliver all needful conveyances to the lessees and purchasers thereof respectively, and appropriate the proceeds of said leases and sales for the marine hospital establishment.

The second section of the bill authorizes the Secretary of the Treasury, in his discretion, to sell to the highest and best bidder for cash, after due notice, such revenue cutters as he shall find to be ill-adapted to the purposes of the revenue service, and to expend the proceeds of such sales in the purchase or construction of other vessels better suited to the wants of said service.

Mr. WASHBURNE, of Illinois. I am instructed by the Committee on Commerce to offer the following proviso to the first section of the bill:

Provided, That no one of the marine hospitals shall be exposed to sale or lease where the relief furnished to sick mariners shall show an extent of relief equal to twenty cases per diem on an average for the last preceding four years; or where no other suitable and sufficient hospital accommodation can be procured upon reasonable terms for the comfort and convenience of the patients.

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I have a communication here to the Secretary of the Treasury, which I ask to have published in the Globe for future reference.

No objection was made.

The communication is as follows:

TREASURY DEPARTMENT, January 22, 1866.

Sir: I have the honor to acknowledge the receipt of a letter from the Committee on Commerce of the House of Representatives to the Secretary of the Treasury, requesting a copy of my report relative to the marine hospitals visited last year under instructions from the Department.

As my report on my return was oral and not required to be made in writing, a literal compliance with the request of the committee is impracticable; but I will, by reference to my notes, endeavor to present a narrative of my visit of inspection, with the result of my observations.

The marine hospital fund has for many years been insufficient for the support of these entitled to its benefits, and large appropriations have been annually required from Congress to supply the inadequate tax levied on the sailors' wages; and the Secretary of the Treasury has been desirous to devise some plan by which this trust fund might be expended with greater efficiency and frugality.

I was therefore instructed, under date of August 1, 1865, by the honorable Secretary of the Treasury to visit and inspect the marine hospitals of the United States, except those on the Pacific coast, and to report their condition, particularly as to the locality, site, and scope of accommodation; to designate the ports where hospitals could be advantageously discontinued, and the places where hospital relief could be better administered by private contract; to ascertain the number of sick seamen relieved at the respective ports during the past year, with the average cost of each patient, and to present a statement showing the difference of cost between relief administered under private contract and in a hospital proper.

In conformity with these instructions, I set out on the 8th of August to visit, in the order specified, the following hospitals: Chelsea, Massachusetts; Portland, Maine; Burlington, Vermont; Cleveland, Ohio; Pittsburg, Pennsylvania; Detroit, Michigan; Chicago, Illinois; Galena, Illinois; Burlington, Iowa; St. Louis, Missouri; Cincinnati, Ohio; Louisville, Kentucky; Evansville, Indiana; Paducah, Kentucky; Napoleon, Arkansas; Vicksburg, Mississippi; Natchez, Mississippi; McDonough, Louisiana; New Orleans, Louisiana; Mobile, Alabama; Pensacola, Florida; St. Marks, Florida; Charleston, South Carolina; Washington, North Carolina; Ocracoke, North Carolina; and Norfolk, Virginia; in all twenty-seven marine hospitals.

Chelsea, Massachusetts.—This hospital is located at Chelsea, near Boston, on an elevated site, and can accommodate at one time about one hundred and fifty patients. The wards are clean and finely ventilated and the house was in perfect order. The lot on which it is built comprises about ten acres, on which are raised all the vegetables used in the house. During the year ending June 30, 1865, seven hundred and eighty patients had been under treatment in the hospital,

two hundred and fifty-six of whom were seamen of the United States Navy, whose expenses were paid by the Navy Department.

There is a large tract of land in Chelsea occupied by the old marine hospital. It comprises about seven acres, embracing about one hundred and fifty thousand square feet of city lots, twenty-five in number. The corporation clerk kindly furnished me with a schedule of these lots, which, at an estimate of twenty-five cents a foot, would produce about thirty-seven thousand dollars. There is, besides these, the lot on which the old hospital stands, now occupied as a public school, containing about forty-four thousand square feet, which, at an estimate of thirty cents a foot, would produce about sixteen thousand dollars. The building is valued, for public sale, at about three thousand dollars. A wharf lot, also included in same property, contains about one hundred thousand square feet, and is valued at about thirty thousand dollars. I respectfully suggest that this property be sold.

The lot on which the marine hospital now in use stands is valued at \$300,000. There are not sufficient accommodations at Boston for the number of sailors requiring relief at that port, and I respectfully suggest that the marine hospital at Chelsea be continued and sustained by Government. Some repairs are needed, which may require an expenditure of about three thousand dollars.

Portland, Maine.—This marine hospital is located on high ground surrounded by the flats of the Presumpscott river, comprising about eleven acres. The physician informed me, that these flats exhale no morbid atmosphere, and that the patients are never attacked by fevers caused by malaria. The hospital can accommodate about sixty patients. During the fiscal year ending June 30, 1865, eighty-three sick sailors were admitted to the hospital. The past year, however, is no fair criterion of the usual number of patients. The piracies during the late rebellion discouraged commerce, and the number of sailors was much less than in former years. All the wards of the hospital will be needed hereafter. There is no private hospital at Portland, and were this hospital discontinued, there would be no refuge to sick sailors but the almshouse. The interests of commerce, therefore, require the continuance of this marine hospital by the Government. It is kept in fine order.

Burlington, Vermont.—This marine hospital occupies a lot ten acres in extent, about two miles south of the city. It is well built, but it has never been regularly organized. It is under charge of the collector of the port. During the late rebellion it was transferred to the War Department for use as a military hospital. The building is in good repair, and has been since restored to the Treasury with substantial frame buildings, about two thousand feet in extent, erected by the War Department. During the fiscal year only fourteen sick sailors were admitted to the hospital. The building is a mere expense to the Government, and I respectfully suggest that it be sold.

Cleveland, Ohio.—This marine hospital is built within the corporation limits, on a lot containing about eight acres; and its site is about eighty feet above the lake. It is very much out of repair, and requires considerable outlay to render it a comfortable habitation. During the fiscal year ending June 30, 1865, two hundred and thirty patients were admitted, at an expense of \$9,521. A large hospital is in process of erection at that port, with ample capacity for marines; and it is respectfully suggested that the marine hospital could be advantageously discontinued, and the property sold.

Pittsburg, Pennsylvania.—This marine hospital is located about three miles west of the city on a lot containing ten acres. It can accommodate about one hundred and fifty patients. During the fiscal year of 1864-65 one hundred and fifteen sick sailors were admitted. The site is low and altogether unsuitable for hospital purposes. Large rolling-mills and furnaces have been erected on the lots contiguous with each side, and the air is filled with smoke and coal dust and noise. Ample private accommodations are available in the city for sick sailors, and a sale of the marine hospital property could be advantageously made. I therefore respectfully suggest that this marine hospital be discontinued and the property sold.

Detroit, Michigan.—This marine hospital is located near the city on a lot containing about four acres. The building can accommodate about one hundred patients. During the fiscal year of 1864-5 two hundred and fifty-nine sick seamen were admitted.

This port is the thoroughfare on the route of the great lake trade, and is readily accessible to almost every sailor employed therein. There are no private hospitals in Detroit affording accommodations sufficient for the sailors. The marine hospital is in admirable order, and the expenditures are frugally made. The building needs considerable repair and improvement. I respectfully suggest that this hospital be continued.

Chicago, Illinois.—This marine hospital having been sold, no particular report need be submitted. The trade of Chicago is very great, and a large number of sailors visit the port. During the fiscal year of 1864-5 five hundred and twenty-seven sick sailors were admitted. There are no private hospitals at Chicago affording accommodation for the number of seamen requiring relief. Some provision must, of course, be made for these beneficiaries after the building now occupied shall have been transferred to the purchaser.

Galena, Illinois.—This marine hospital is located on high ground, containing about thirteen acres, about one mile southwest of the city. There are accommodations for about thirty patients, but there were no patients at all at the time of my visit. The trade at that port is so limited that few applications for hospital relief are made. Months elapse without an admission being sought. I respectfully suggest the discontinuance of this hospital and sale of the property.

Burlington, Iowa.—This marine hospital is located about a mile south of the city on high ground con-

taining about eleven acres. The accommodations are not sufficient for more than ten patients. No application for relief has been made during fiscal year of 1864-5, and it does not seem probable that it would ever be required for a hospital. The lot extends to the waters of the Mississippi, and might produce at public sale \$5,000. The building needs repair. I respectfully suggest that this, and this property be sold.

St. Louis, Missouri.—This marine hospital is located near the city on a lot containing about sixty acres. There are accommodations for about fifty patients, but no sick sailors have been admitted during the fiscal year 1864-65, as it was transferred during the rebellion to the War Department, and is now used as a military hospital. There are ample provisions in the private hospitals at St. Louis for the care of sick seamen, and the marine hospital could be advantageously sold. I therefore respectfully suggest the sale thereof.

Cincinnati, Ohio.—This marine hospital is located on the corner of Sixth and Lock streets, in the city of Cincinnati. The building can accommodate about eighty patients. No sick sailor has been admitted during the past fiscal year, as it is now in charge of the War Department, to which it was transferred during the rebellion for a military hospital. The lot is surrounded by factories, and is unfit for a hospital. Ample provision could be made for sick seamen by private hospitals, and I respectfully suggest that this marine hospital property be sold.

Louisville, Kentucky.—This marine hospital is located about two miles from the city on a lot containing about nine acres. It needs an expenditure of at least \$20,000 to render it a salubrious habitation. No patient has been admitted during the past fiscal year. The private hospitals in the city are amply sufficient for the care of sick seamen at that port. I therefore respectfully suggest that this marine hospital be sold.

Evansville, Indiana.—This marine hospital is located near the city on a lot about three acres in extent. It might accommodate fifty patients. It is not under regular organization, but a contractor is permitted to occupy the building and receive sick seamen therein at a weekly cost of \$6.90. There were eighteen sailors under treatment there at the time of my visit. The building is in bad condition, and the river is gradually but surely encroaching on the foundations. It has been estimated by competent engineers that an expenditure of \$50,000 would be necessary to rescue the site. I respectfully suggest that this marine hospital be sold.

Paducah, Kentucky.—This marine hospital was demolished during the rebellion and I was unable to trace its foundations. The lot, about four acres in extent, might, however, be sold, for it is not probable that another marine hospital will ever be erected thereon.

From Paducah I set out for Napoleon and the remaining ports named in my instructions, but when I reached Memphis the surveyor of the customs handed me a telegram and a letter from the Secretary of the Treasury, recalling me to my desk at Washington. Had I continued my tour of inspection, I could not have returned to the discharge of my current duties under three months—too long a period of absence. I have for several years administered, under the orders of the Secretary of the Treasury, the affairs of the marine hospitals of the United States, and my experience, together with my observations on my late visit, has led me to the conclusion that the system of relief is itself defective, and its resources altogether inadequate to meet the demands upon the fund.

The sailors of the mercantile marine have, in the first place, no claim on the general Treasury. The workmen in any other branch of business are as much entitled to such relief as marines. But custom has so long conceded this privilege to this class of citizens, that any attempt to inquire into its expediency would be, at least in the present instance, unenforced.

It is, however, within the power of Congress to enlarge the resources of the marine hospital fund.

The act of July 16, 1798, provided that this fund should be formed out of general donations and from a tax of twenty cents a month out of the wages of seamen. At that time, the rate of monthly wages seldom exceeded ten dollars. Since then the expansion of our commercial relations has increased the demand for labor, and the ratio of wages has been so advanced that twenty-five or thirty dollars a month has become the minimum compensation.

The customs' officers have unanimously pressed this point on my attention, and none of them suggested less than a monthly contribution of fifty cents from every seaman. The income from such a tax would be amply sufficient to defray all the expenses of hospital relief.

The discontinuance and sale of unnecessary buildings and property would relieve this trust fund from serious embarrassment. Many of these buildings have been for years unused, and the employment of stewards and watchmen to take care of them has served still more to deplete the fund. The Department has ascertained that relief can be administered more frugally and efficiently by contract with private or municipal institutions. At the sea-ports of New York, Philadelphia, Baltimore, and New Orleans, sick and disabled seamen are provided for by private contract at a less cost than would attend a regular hospital organization under the Government. These contracts continue in force only for a regular fiscal year; so that an annual renewal to the lowest bidder secures each party from injustice or extortion.

There is no reason why the contract system should not be generally adopted for the administration of hospital relief. At almost every port there are ample facilities for obtaining proper accommodations for sick and disabled seamen at private eleemosynary institutions.

All which is respectfully submitted by your obedient servant,
S. YORKE AT LEE.
Hon. HUGH McCULLOCH, Secretary of the Treasury.

The bill as amended was then ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

MR. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ST. LOUIS A PORT OF ENTRY.

Mr. WASHBURNE, of Illinois, from the Committee on Commerce, reported adversely upon a bill to establish a port of entry at St. Louis, Missouri; the bill was laid on the table.

PROPELLER F. W. BACKUS.

Mr. WASHBURNE, of Illinois, from the Committee on Commerce, also reported adversely upon the petition for a change of the name of the propeller F. W. Backus; the petition was laid on the table.

MARITIME LIENS.

Mr. ELIOT, from the Committee on Commerce, reported back House bill No. 64, to limit the liabilities of ship-owners concerning maritime liens, and for other purposes; and moved that the same be referred to the Committee on the Judiciary.

The motion was agreed to.

REGISTRY OF VESSELS.

Mr. ELIOT, from the Committee on Commerce, also reported a bill to regulate further the registering of vessels, with a recommendation that it do pass.

The bill was read at length. It provides that no ship or vessel which has been recorded or registered as an American vessel pursuant to law, and which shall have been licensed or otherwise authorized to sail under a foreign flag or the protection of a foreign Government during the existence of the rebellion, shall be deemed or registered as an American vessel, or shall have the rights and privileges of American vessels, except under an act of Congress authorizing such registry.

Mr. ELIOT. I am instructed by the Committee on Commerce to ask for the consideration of this bill at this time.

Mr. BROOKS. Will the gentleman from Massachusetts [Mr. Eliot] explain the purpose and object of this bill.

Mr. ELIOT. This bill affects only a single class of vessels. Where vessels which were American have been sold during the rebellion and put under foreign flags by their owners, we all understand that in order that they may again have the benefits of American registry, application must be made to Congress. This bill, therefore, does not affect that class of vessels. But there have been vessels owned by Americans which during the rebellion have procured licenses, or permits in the nature of licenses or sea letters, by which they have enjoyed the protection of foreign flags without having changed their ownership. Remaining upon the record the property of Americans, they have sailed under the flag of foreign nations under licenses obtained from foreign Governments.

Now, the object of this bill is to provide that these vessels, which have thus sought the benefit of foreign flags during the rebellion while still owned by Americans, shall not be deemed hereafter as American vessels, or privileged as such, unless upon a case shown to Congress it should be found proper to authorize the registry of them and the continuance of them as American vessels. That is the sole object and scope of this bill.

There have been cases where disloyal men have availed themselves of the flags and privileges of foreign nations. And it has been thought right by the Committee on Commerce to report this bill and urge its passage, so that after these owners have sought the protection of a foreign nation, if any of them want the protection of their own flag, they shall make a case and show Congress that they have not forfeited their right to ask for such protection.

Mr. SPALDING. I wish to inquire of the gentleman from Massachusetts [Mr. Eliot] if

the law as it now stands permits the owners of vessels which have been sold in the way and manner he describes to take an American register without further action by Congress?

Mr. ELIOT. No, sir; it does not.

Mr. SPALDING. Then what is the necessity of this bill?

Mr. ELIOT. Because this bill only affects vessels which have not been sold, but which have nevertheless sought the protection of foreign flags.

Mr. SPALDING. Still retaining their American ownership?

Mr. ELIOT. Yes, sir.

Mr. SPALDING. Is that the only class of vessels to which this bill relates?

Mr. ELIOT. That is all.

Mr. BROOKS. Will the gentleman yield to me one moment?

Mr. ELIOT. Yes, sir.

Mr. BROOKS. There seems to be some doubt as to the nature and effect of this bill; and I must confess that I do not quite understand its operation, notwithstanding the explanation of the gentleman from Massachusetts.

Mr. ELIOT. Perhaps I can explain it in this way: let me suppose that there have been vessels owned, we will say in Baltimore, which have, during the rebellion, continued the property of the old owners, but in order to enjoy a freer right of way upon the ocean, and to avoid the embarrassments to which vessels sailing under the American flag were subjected by reason of the depredations of the rovers upon the seas, they have procured, in different forms—the forms of sea-letter or license—a right to enjoy the protection and the privileges of foreign vessels, and have sailed under foreign flags, while their loyal neighbors, with the stars and stripes at their masthead, have been subjected to great embarrassments, which I need not detail here, for they are familiar to the gentlemen of the House. Now, sir, we have believed that when American owners have seen fit to seek that foreign protection, unless there were strong reasons why they should have done so, their vessels ought not now to retain the character of American ships.

I will say, sir, that I understand the decision at the Treasury Department to have been that where these vessels, although owned at home, have procured foreign licenses, they cannot, under the law as interpreted by that Department, be continued under American registers. If that decision were entirely safe—if that construction were, in the judgment of the committee, entirely sound—they would not probably have deemed this legislation necessary. But there is a doubt whether vessels which have continued in the hands of American owners but have been put under the protection of foreign flags may not have the right to sail again as American vessels; and it was believed that it was due to the loyal men who have suffered through this rebellion, who have clung to the flag, encountering the disadvantages and dangers to which their loyalty subjected them, that they should be recognized as the class to continue in the enjoyment of the right to float the flag upon their masts, and that those who have waived its privileges should not now seek to regain them, unless they can show that they ought, under the circumstances of the case, to have that right granted. In that case they will apply to Congress, and legislation can be had.

Mr. BROOKS. I ask the gentleman from Massachusetts to yield to me for one moment.

Mr. ELIOT. I will do so.

Mr. BROOKS. Mr. Speaker, there is great disadvantage in acting upon an important bill like this, affecting the whole commerce of the Atlantic and the Pacific, as well as that of the lakes, without some better understanding of the bill than it is possible for us to have upon the mere reading of the bill by the Clerk. I would suggest to the gentleman from Massachusetts that he allow us to have the bill in a printed form before it be put upon its passage; or if it will suit the gentleman better, it might be passed to-day, with the understanding that it shall be printed, and shall be subject to re-

consideration. Then the subject can be brought up and disposed of finally to-morrow.

While I am up, let me make an additional remark. Though the gentleman cites Baltimore as a place where these licenses have been taken, I will venture to say to him that, if the statistics could be obtained, they would show that more of such licenses have been taken in Massachusetts and Maine than in any other State of the Union. And why? Not because the ship-owners there were more disloyal than they were elsewhere, but because they have more shipping than the citizens of any other State in the Union except the State of New York. When the Federal Government was unable to protect its shipping, when piratical cruisers were abroad upon the ocean, partly in consequence of the indisposition of our Government to quarrel with foreign Powers, especially with France and England, because of the fitting out of such cruisers in those countries, every possible advantage was taken of foreign licenses and foreign flags for the purpose of securing the safe transportation of freights on the ocean. This disloyalty, if it was disloyalty, prevailed more in New England than in the State of Maryland; it prevailed most where there was most shipping.

I did not, however, rise to oppose the bill, but simply to ask that more time for examination be allowed before the bill be finally passed.

Mr. PIKE. Will the gentleman from New York [Mr. Brooks] allow me to say a word?

Mr. BROOKS. Yes, sir.

Mr. PIKE. I think the gentleman from New York [Mr. Brooks] is under a misapprehension as to the State of Maine; for, if I understand the provisions of this bill, it does not effect the vessels transferred by the ship-owners of Maine, because almost all of those vessels were transferred to British owners. The British registry law requires that there shall be a British ownership in order to obtain a British register. If I understand it, the bill does not provide for that class of cases. And if the gentleman will allow me still further, I will say that while there were many loyal and well-meaning people who transferred ships during the war, the most of those who did so damned the flag that could not protect them. I am opposed to allowing any of them to come back.

Mr. BROOKS. That was the general feeling among the whole commerce of the country; and I have no doubt as many were sold as were licensed. If, therefore, there was any disloyalty in that, the disloyalty extended to all parts of the country.

I do not rise to support or oppose the bill, for I do not clearly understand its provisions. I want to read it in print, and then I will have some fixed opinions on the subject.

Mr. SPALDING. I hope the gentleman from Massachusetts will consent to have the bill printed and laid before the House in proper form.

Mr. ELIOT. I yield now to the gentleman from Maine, [Mr. Lynch.]

Mr. LYNCH. Mr. Speaker, I hope that action on this important measure will not be deferred. I believe that immediate action is demanded. Every day vessels are coming back by an evasion of the present revenue laws, and are taking out American registers.

If gentlemen will refer to the law of December 23, 1852, they will find that it provides for the issue of American registers to foreign vessels wrecked and sold to an American, where the amount of repairs shall be three fourths of the value of the vessel when repaired. Under this law a great many vessels have obtained American registers. I have a long list of vessels which have obtained registers under this law through the custom-house at the port of New York; and it is a very significant fact that all of these vessels were formerly American and transferred during the war to a foreign flag. They come back in this way: a man who had put his vessel under a foreign flag, and has enjoyed all the advantages of its protection during the entire period of the rebellion, now desiring to procure an American register, adopts this

ingenious plan to evade the law: the vessel is grounded at some obscure place along the coast, and is then advertised as a wrecked vessel in some obscure newspaper; the owner buys her in at a nominal price, purchases sails, anchors, and rigging, amounting to more than three times the price paid for the vessel, thus making the repairs amount to more than three fourths of the value of the vessel. After obtaining an American register these sails, anchors, and rigging are sold. More than twenty vessels have come back by thus evading this law. Others have come back under an opinion of the Solicitor of the Treasury that vessels owned by Americans who took up a temporary residence in a foreign country during the war, and sailed during this time under a foreign flag and foreign register, were not divested of their American character. I think quite a number of vessels came back under this decision; but on the Secretary of the Treasury having his attention called to the subject, I believe he does not favor this construction of the law. I think it is agreed that an American vessel has a national character which does not depend wholly upon ownership.

Now, the question arises, whether it is right to allow vessels to come back in this way by an evasion of the spirit of the laws; whether it is just to those owners of vessels who have refused to desert the flag of their country in her hour of peril? It is a cowardly argument to offer in behalf of these ship-owners, to say the country could not protect them. On the same principle the whole population might leave with their property and place themselves under foreign protection. It is for the people to protect the country in time of war; they are part of the country, and ought not to desert her when in danger. It would certainly be dangerous policy for a nation to offer inducements for its citizens to desert with their property and identify their interests with its enemies in time of war.

Let me for a moment call the attention of members of this House to the position of these American ship-owners while their vessels enjoyed the protection of a foreign nation during the rebellion. Their interests were not only alienated from their own country, but were identified with foreign ship-owners, whose interests were promoted by a destruction of American commerce. Every American ship-owner whose vessel sailed under the flag of England during the rebellion had precisely the same pecuniary interest in the destruction of American commerce as had the English ship-owner.

Now, is it policy for the Government to allow, to encourage her citizens to desert her during war, and then to return with the return of peace and have the same advantages as those who have suffered by standing by her? I trust we shall not so decide.

Mr. KASSON. Allow me to ask the gentleman a question. What amount of tonnage will be affected by this proposition?

Mr. LYNCH. I cannot tell the gentleman.

Mr. WASHBURN, of Illinois. With the permission of the gentleman I will answer that question. The Secretary of the Treasury has addressed a letter to the Committee on Commerce, in which he says that eight hundred thousand tons of our shipping have been transferred for that purpose.

Mr. KASSON. May I then ask of either of the gentlemen this question? It is known that in the Danish war the commerce of the free cities of Germany sought a like protection. It is customary in all wars that private property on the seas shall protect itself in the best way it can where convoy is not furnished. Now, I wish to ask, what will be the effect of this upon the restoration of the amount of American shipping in foreign countries? And what will be the practical effect upon the commerce of the ocean now afloat if this is not adopted? It seems to be a practical question as to whether its adoption or rejection will best promote the prosperity of the commerce of the United States.

Mr. WASHBURN, of Illinois. The amount of foreign tonnage is about five millions; eight hundred thousand has been transferred.

Mr. LYNCH. I think the chairman of the Committee on Commerce is a little mistaken in his statement; or rather his statement would seem to convey a wrong impression. Eight hundred thousand tons of shipping I understand to be the whole amount that has been destroyed, sold, and transferred by these bogus transfers.

Mr. WASHBURN, of Illinois. Oh, no; eight hundred thousand has been transferred. The Secretary of the Treasury recommends distinctly the passage of this law. He believes that these men, after having transferred their ships in that way, and received the benefit of it, have no right to come back now and claim to come on the same footing with others.

Mr. LYNCH. I understand now from the gentleman from Illinois that eight hundred thousand tons have been transferred. But the gentleman will bear in mind that probably three fourths or seven eighths of those transfers were *bona fide*. A great many merchants found, when exchange was very high, that it was to their advantage to sell their shipping to foreigners. To that no one objects. Only a small percentage, perhaps, has passed under a foreign flag.

Mr. WASHBURN, of Illinois. In this connection, to show the extent of this thing and the means supposed to be necessary in order to get it through Congress, I will ask the Clerk to read the following confidential circular which has been sent to me.

The Clerk read the circular, as follows:

BOSTON, November 1, 1865.

SIR: Having been advised that you have the control of an American-built vessel, which has been transferred to a foreign flag, we take this method of informing you that we propose to endeavor to procure the passage of an act of Congress restoring such vessels to the flag of the United States, and authorizing their registration as vessels of the United States. As the necessary preliminaries will involve quite an expenditure of time and money, we desire to be secured against loss by those peculiarly interested, and propose that a small amount (say ten cents per ton as by present register) be paid in advance by each party desirous of the passage of such an act. We have taken steps to interest all parties in the United States having vessels in the above condition, and think our facilities for securing the passage of this act are such as will insure success. Mr. J. W. Hannum, ship broker, No. 3 Commercial street, has the necessary paper for signature, and is authorized to receive the above-named subscription, to enable us to commence understandingly; and if considered favorably by you, we respectfully suggest that you call upon him at your earliest convenience, as it is necessary that immediate action should be taken.

Very respectfully, &c., R. S. S. ANDROS,

27 State Street.

J. P. TUCKER,

Late Surveyor Port of New Orleans.

P. S. For reasons which will be obvious to you, we request that you will regard this circular as confidential.

Mr. ELIOT. I desire now to call the previous question.

Mr. SPALDING. Will the gentleman give me five minutes?

Mr. ELIOT. I would inquire of the Speaker when the morning hour will expire.

The SPEAKER. The morning hour will expire twenty-eight minutes after one o'clock.

Mr. ELIOT. I yield.

Mr. SPALDING. If I had the honor, Mr. Speaker, to represent the State of Maine, as my learned friends do who have spoken on this question, I have no doubt I should be on the same side as they, because for a longer period of time than has passed over my head the ship-building interest of Maine has been protected by our registry laws. I hold that our ship-builders now can without this protection compete with those of any portion of the globe. There is no doubt about that. On the second day of the present session I introduced a bill to change our registry law to enable every *bona fide* American owner of a ship to obtain a register under our laws, subject to the discretion of the Secretary of the Treasury. That bill is now in the hands of the committee; but I understand that it is to be given the go-by, and that our registry laws are to be preserved, as they have been for years to come, for the benefit of the ship-builders of Maine.

Now, sir, I commend the gentlemen for their

industry in protecting their important interest. But I am the Representative of a section of the country which is engaged in commerce—inland commerce, if you please—but nevertheless an extensive interest, and one that is growing every day and every hour. And I am applied to every day by individual owners of vessels to have a law passed to give them the right to register vessels that have been bought from the Canadians. But they cannot have that privilege. On the contrary, if any of my constituents engaged in foreign commerce see fit to obtain a license of the British authorities, (which I hope none of them will be obliged to do,) for the purpose of running their vessels in the neighborhood of a piratical flag, they are now to be put under the ban. Why? I have yet to learn that lesson in ethics which makes it necessary to punish these men for resorting to this course for the purpose of protecting their property. Is there anything wrong in it? Is there anything unpatriotic in it? Because some portion of our citizens, unfortunately, I am sorry for it, have been compelled to make sacrifices of their ships fired upon the ocean by a piratical flag, ought we to have others of our citizens subjected to inconvenience, because they resorted to another mode to save their ships from the same disaster? What sort of morality calls for that?

Mr. LYNCH. Will the gentleman allow me?

The SPEAKER. The gentleman has but one minute more to speak.

Mr. SPALDING. I appeal to the Committee on Commerce to let this bill, which is of so much importance, be printed, and that a day be set apart when we can examine it and have a vote on it understandingly. That is all I ask.

Mr. PIKE. I ask the gentleman from Massachusetts to yield to me for one moment. I want to say a word or two.

Mr. ELIOT. I will yield three minutes to my friend from Maine.

Mr. PIKE. The gentleman from Ohio [Mr. SPALDING] has taken the remarkable position that American ships are by our registry laws largely protected in their business. I will ask him to tell me in what particular a ship of a thousand tons in the port of New York has any advantage over foreign ships save on voyages to California and coastwise, which, as we know, are of no sort of consequence to ships of that magnitude. In no other particular has she any advantage in the rate of freights, of insurance, or in any conceivable particular there or in any foreign port on this globe. Now, then, having no advantage whatever in these particulars, I say to him this, that in the Province of New Brunswick, and New Brunswick is but a duplicate of Canada, ships can be built to-day for forty dollars a ton that cost in the United States in our currency \$100 a ton. I have from an accurate ship-builder a statement which I propose to exhibit to the House at the proper time of the amount of duties paid in gold upon the materials that enter into the construction of vessels, and on a seven hundred and fifty ton ship built last year there was paid the sum of \$5,000 in gold for duties on materials to go into the construction of that ship. Now, every gentleman who knows anything about the cost of the construction of a ship of that magnitude knows that that simple item is sufficient, if continued, to transfer ship-building from the State of Maine or any other State in this Union to the British Provinces, where ship-builders escape all such duties.

The SPEAKER. The gentleman's three minutes have expired.

Mr. GARFIELD. Will the gentleman from Massachusetts yield to me for five minutes?

Mr. PIKE. Three minutes is a very short time in which to discuss the shipping interests of the country.

Mr. ELIOT. I must ask the previous question on the bill. If the House desires further discussion upon it, I have no objection to their voting it down.

Mr. GARFIELD. I hope the House will vote down the previous question. The West desires to be heard upon this question.

Mr. PIKE. American tonnage ought to be heard on it.

Mr. ELIOT. There seems to be a general wish to have this subject go over until to-morrow. I have no objection to its doing so, and I move that the bill be printed in the mean time.

The motion to print was agreed to; and the further consideration of the bill was postponed until to-morrow.

BASIS OF REPRESENTATION.

Mr. STEVENS. The joint committee on reconstruction, to which was recommitted joint resolution No. 51, proposing an amendment to the Constitution of the United States in relation to the basis of representation, together with all propositions submitted in this House in relation to that subject, have directed me to report the joint resolution back, modified to read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE.—Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation.*

I now move the previous question.

Mr. SCHENCK. I ask the gentleman from Pennsylvania to yield to me for a few moments to allow me to offer a substitute for his resolution.

Mr. STEVENS. I withdraw the demand for the previous question to enable the gentleman to offer his proposition, so that we may have a direct vote upon it.

Mr. SCHENCK. I offer the following as a substitute for the proposition reported by the gentleman from Pennsylvania from the joint committee on reconstruction:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE.—Representatives shall be apportioned among the several States which may be included within this Union according to the number of male citizens of the United States over twenty-one years of age having the qualifications requisite for the electors of the most numerous branch of the State Legislature. The Congress, at their first session after the ratification of this amendment by the required number of States, shall provide by law for the actual enumeration of such voters; and such actual enumeration shall be separately made in a general census of the population of all the States within every subsequent term of ten years, in such manner as the Congress may by law direct. The number of Representatives shall not exceed one for every one hundred and twenty-five thousand of actual population, but each State shall have at least one Representative.

Mr. STEVENS. I now renew the demand for the previous question.

Mr. ELDRIDGE. I desire to inquire of the gentleman from Pennsylvania wherein the report which he now makes differs from the proposition which he formerly reported from the committee on reconstruction.

Mr. STEVENS. The committee, in obedience to what they thought was a general feeling in this House, have struck out the words "and direct taxes," so as to leave that subject for the future action of Congress, if it shall be deemed necessary, without embarrassing the present proposition with it.

Mr. ELDRIDGE. The other proposition remains the same?

Mr. STEVENS. Precisely the same.

Mr. WRIGHT. In consideration of the gravity of this question, it being one which will affect the welfare of the nation, would there be any impropriety in having the report of the committee laid on the table for a short time, in order that it may be printed, so that members may know what they are called upon to decide?

Mr. STEVENS. As we have already had a week's debate upon this subject, and there is

but a single change, striking out the words "and direct taxes," I cannot see the propriety of detaining the House longer upon it.

Mr. HILL. Will the gentleman from Pennsylvania [Mr. STEVENS] allow me to offer an amendment to the amendment of the gentleman from Ohio, [Mr. SCHENCK?]

Mr. STEVENS. I cannot yield for any more propositions.

The question was upon seconding the demand for the previous question; and being taken, there were—ayes 73, noes 49.

So the previous question was seconded.

The main question was then ordered.

Mr. STEVENS. I will yield to the gentleman from Ohio [Mr. SCHENCK] five minutes of my time, as he desires to make some explanation of his amendment.

Mr. SCHENCK. Mr. Speaker, as a matter of course I cannot, within that limited time, go into a prolonged explanation of the proposition I have submitted as a substitute for that reported by the joint committee.

If the members of this House will turn to their files and examine House resolution No. 1, as printed, they will find the amendment which I have just offered, with a few slight variations, which I will proceed to state. In the original resolution the word "apportioned" was misprinted "appointed;" that error is corrected. After the word "citizens" the words "of the United States" have been inserted, and near the close, after the words "one hundred," the words "and twenty-five" are inserted; so as to provide that the representation of a State shall never be less than one Representative for one hundred and twenty-five thousand of population. These are the only changes that I have made in the proposition as originally introduced by me at the commencement of this session.

I desire to submit to the several States an amendment to the Constitution which shall base representation upon suffrage, that right of suffrage to be exercised by male citizens of the United States over the age of twenty-one years, having the requisite qualifications of electors of the most numerous branch of the Legislature of the State in which they respectively reside. It is a plain, practical proposition. It leaves to the census-takers to ascertain, when visiting the domiciles of the citizens, how many of them are voters within the terms of this description. It leaves no room for question as to whether any portion of the citizens of the State have been excluded from the right of voting on one account or on another. Nor is there required any estimate of the proportional number who have been included or excluded. In fact, it leaves nothing open for discussion, or wrangling, or difficulty, or difference in any Congress that shall be called upon to apportion Representatives upon the principle I have suggested.

This matter is one which has been discussed before the people very generally during the past year at least, and upon which I think the mass of them to a great extent have been informed. And I think if there is to be a cure for this evil of unequal representation, that cure had better be a plain, practical one, which shall give representation to the different States just in proportion to the number of persons within their limits that the States themselves say are competent and proper to take part in the Government of the country. The office of elector, for in one sense it is an office, is to be settled by the State organic law. And thus the number of persons fitted and qualified to take part in carrying on the government of this country being determined by each State for itself, it will then be left to Congress to apportion Representatives among the several States according to the number of persons thus qualified.

I would be glad to discuss some points connected with the question of the propriety of adopting this basis of representation more fully than I have yet done. But I cannot do so within the time allowed me. And with this very brief explanation I leave my proposition to meet its fate, hoping that we may have a direct vote upon it, which will manifest the sense of the

House. Some remedy for this great evil of unequal relative representation must be provided in the Constitution of the nation; and if this, which I think the best, amendment to that end be not adopted, we must agree upon some other plan that will.

Mr. BENJAMIN. I ask the gentleman from Pennsylvania [Mr. STEVENS] to grant me five minutes.

Mr. STEVENS. I yield to the gentleman that much of my time.

Mr. BENJAMIN. Mr. Speaker, the State of Missouri, which would be more sensibly affected by the proposition of the gentleman from Ohio [Mr. SCHENCK] than any other State represented upon this floor, has not yet had an opportunity to express herself, through her representation here, upon this question.

If I correctly understand the proposition of the gentleman from Ohio, it proposes to base representation upon voters as determined by the laws of the respective States. It is well known to every gentleman upon this floor that the State of Missouri has endeavored, and as she thinks, has succeeded, in placing the government of that State in loyal hands; in other words, she has disfranchised the rebel element of that State. In doing this she has probably disfranchised one half of the voters of that State. Hence, by the adoption of the substitute of the gentleman from Ohio the delegation of the State of Missouri on this floor would be reduced from nine members to a number not exceeding four. By the adoption of this proposition we should virtually say to that State "If you remove that restriction upon the rebel element of that State, so that that element shall control the destiny of that State and send a rebel delegation to Congress, you may continue to have nine members; but if, on the other hand, you adhere to that restriction which you have imposed, you shall have only three or four Representatives." The adoption of this proposition would virtually say the same thing to every one of the southern States that is to-day knocking at our doors for admission. You would thereby say to the State of Louisiana, "If you shall reconstruct upon the principle which has been adopted by Missouri and Maryland, you shall be restricted to one member; whereas if you permit the whole of the rebel element within your borders to control your destinies you shall have five Representatives."

The reconstruction policy of Missouri we of that State hold up as a model for imitation by the States of the South; and I for one declare here to-day that when any one of the lately rebellious States shall present herself here, taking the same position that Missouri has taken, showing a determination to place and continue in loyal hands the destinies of the State, I am ready at any time to vote for the admission of such State. The effect of the proposition of the gentleman from Ohio, so far as regards Missouri, would be to a great extent to stifle the Union sentiment of the State. The representatives of the Union cause there would be unable to go before the people and sustain themselves under the operation of such an amendment. The proposition would prove in its practical workings decidedly unjust in every State where the rebel element prevails, and more particularly in the State I in part represent. I hope this House is not disposed to perpetrate such an injustice.

Mr. Speaker, another objection to this proposition is that it is impracticable; it cannot be carried out. The right of suffrage in the State of Missouri is based upon the oath of the party. No individual can deposit his ballot unless he subscribes an oath that during the rebellion he has been loyal and has never in any manner given aid or comfort to the enemy. Are you going to require the census-taker to hunt out every male citizen of the State and administer to each one that oath? You cannot ascertain who are voters in that State except by tendering to every male citizen the oath prescribed by the laws of that State. Will you say to the census-taker in that State that he shall personally propose to every male citizen of the

State that oath of loyalty, and shall count every man who takes it? Everybody can see that such a thing is utterly impracticable. The census-taker would fail to find many who were really entitled to vote. Thus a portion of the loyal men, the voters of the State, would be excluded from the enumeration, and thus the representation from our State would be still further reduced. I contend that it would be utterly impossible for the census-taker to ascertain the exact number of those really entitled to the right of suffrage; and thus the injustice of the proposition is still further aggravated.

Mr. STEVENS. Mr. Speaker, all I shall attempt on this occasion is to place before the House distinctly, and I hope intelligibly, the true meaning of the proposition submitted by the committee, noticing slightly the objections which have been made to it.

It is true we have been informed by high authority, at the other end of the avenue, introduced through an unusual conduit, that no amendment is necessary to the Constitution as our fathers made it, and that it is better to let it stand as it is. Now, sir, I think very differently, myself, for one individual. I believe there is intrusted to this Congress a high duty, no less important and no less fraught with the weal or woe of future ages than was intrusted to the august body that made the Declaration of Independence. I believe now, if we omit to exercise that high duty, or abuse it, we shall be held to account by future generations of America, and by the whole civilized world that is in favor of freedom, and that our names will go down to posterity with some applause, or with black condemnation if we do not treat the subject thoroughly, honestly, and justly, in reference to every human being on this continent.

Sir, our fathers made the Declaration of Independence; and that is what they intended to be the foundation of our Government. If they had been able to base their Constitution on the principles of that Declaration it would have needed no amendment during all time, for every human being would have had his rights; every human being would have been equal before the law; and no oppression could have been effected except through usurpation against the principles of that Government.

But it so happened when our fathers came to reduce the principles on which they founded this Government into order, in shaping the organic law, an institution hot from hell appeared among them, which has been increasing in volume and guilt ever since. It obstructed all their movements and all their actions, and precluded them from carrying out their own principles into the organic law of this Union. But rather than not have harmony among those thirteen colonies, they postponed and compromised. They compromised their principles for what they deemed a greater good, believing a short time would work a cure, and purify the institution which they admitted to be clogged by it.

At that day ninety bales of cotton left the United States in one year, and now we have millions of bales exported; then but few slaves comparatively existed, there being only three millions of the whole population, and now the black population has risen above the whole population of that day to four millions, who are either to be treated as our fathers declared by solemn declaration they ought to be treated, or to be oppressed by us as insolent tyrants, by which we will deserve the execrations of the human race. It has come to that. The time has come when we can make the Constitution what our fathers desired to make it. The time has come when through blood every stain has been washed out unless we choose to reestablish it.

God forbid I should so adopt the principle of the gentleman from New York, [Mr. RAYMOND,] that this Constitution needs no amendment. I would rather not live than live and be so disgraced by such a sentiment. Now, when everything is in our power; when the rebels have lifted their parricidal hands against the country, and cut themselves off from every right under

the laws of the Union, and every right under a repudiated Constitution, shall we so recall this desire of our fathers as to place it upon the broad foundation of human rights, or shall we still cut off a portion of those rights, and still crush beneath our feet four million immortal men? That is the question presented to us; and yet we are told that no amendment is necessary. Sir, let me tell the gentleman who says this, and those who say it, for his public information now, and for the information of philanthropists and the friends of freedom and of the human race, that I do not envy them the position in which this, and only this, will put them. Excuse me, sir, for going so far in my remarks at this time.

Mr. RAYMOND. I rise simply to remark that if the gentleman understood me to say no amendments whatever were needed to the Constitution, and the Constitution was better without them, he misunderstood me, for I expressly said in this very point of representation that some amendment was necessary.

Mr. STEVENS. I refer not only to the gentleman from New York, but to what I take to be an authorized utterance of one at the other end of the avenue. I am glad the gentleman has explained it in that way.

Now, sir, since I have referred to that, I believe I am right, for I have no doubt that this is the proclamation, the command of the President of the United States, made and put forth by authority in advance, and at a time when this Congress was legislating on this very question; made, in my judgment, in violation of the privileges of this House; made in such a way that centuries ago, had it been made to Parliament by a British king, it would have cost him his head. But, sir, we pass that by; we are tolerant of usurpation in this tolerant Government of ours.

Now, sir, let me consider what is the meaning of the proposition made by the committee; how far it ought to be affected by any modifications. It has been amended by the committee in obedience to what is supposed to be the sense of the House. The committee have reported back the simple proposition that representation shall be apportioned among the States in proportion to their numbers, provided that when the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation.

But some of our friends are apprehensive that this is an implied permission to the States to regulate the elective franchise within the States. Now, sir, I venture to say that there is no good philologist who, upon reading this proposed amendment, will for a single moment pretend that it either grants a privilege or takes away a privilege from any State on that subject. It does, however, punish the abuse of that privilege if it exists. Now, I hold that the States have the right, and always have had it, to fix the elective franchise within their own States. And I hold that this does not take it from them. Ought it to take it from them? Ought the domestic affairs of the States to be infringed upon by Congress so far as to regulate the restrictions and qualifications of their voters? How many States would adopt such a proposition? How many would allow Congress to come within their jurisdiction to fix the qualification of their voters? Would New York? Would Pennsylvania? Would the northwestern States? I am sure not one of them would. Therefore, if you should take away the right which now is and always has been exercised by the States, by fixing the qualification of their electors, instead of getting nineteen States, which is necessary to ratify this amendment, you might possibly get five. I venture to say you could not get five in this Union. And that is an answer, in the opinion of the committee, to all that has been said on this subject. But it grants no right. It says, however, to the State of South Carolina and other slave States, true, we leave where it has been left for eighty years the right to fix the elective franchise, but you must not abuse it; if you do, the Constitution will im-

pose upon you a penalty, and will continue to inflict it until you shall have corrected your actions.

Now, any man who knows anything about the condition of aspiration and ambition for power which exists in the slave States knows that one of their chief objects is to rule this country. It was to ruin it if they could not rule it. They have not been able to ruin it, and now their great ambition will be to rule it. If a State abuses the elective franchise and takes it from those who are the only loyal people there, the Constitution says to such a State, you shall lose power in the halls of the nation, and you shall remain where you are, a shriveled and dried-up nonentity instead of being the lords of creation, as you have been, so far as America is concerned, for years past.

Now, sir, I say no more strong inducement could ever be held out to them, no more severe punishment could ever be inflicted upon them as States. If they exclude the colored population they will lose at least thirty-five Representatives in this Hall. If they adopt it they will have eighty-three votes. Take it away from them and they will have only from forty-five to forty-eight votes, all told, in this Hall; and then, sir, let them have all the copperhead assistance they can get, and liberty will still be triumphant. Now, I prefer that to an immediate declaration that all shall be represented; for if you make them all voters and let them into this Hall, not one beneficial act for the benefit of the freedmen or for the benefit of the country could ever be passed. Their eighty-three votes, with the Representatives of the Five Points and other dark corners, would be sufficient to overrule the friends of progress here, and this nation would be in the hands of secessionists at the very next congressional election and at the very next presidential election. I do not, therefore, want to grant them this privilege at least for some years. I want, in the mean time, that our Christian men shall go among the freedmen and teach them what their duties are as citizens; they know them now much better than their masters, and I hope their masters will take notice of what they learn. I say I want our Christian men to go among them, the philanthropists of the North, the honest Methodists, my friends, the Hard-shell Baptists, and all others; and then, four or five years hence, when these freedmen shall have been made free indeed, when they shall have become intelligent enough, and there are sufficient loyal men there to control the representation from those States, I shall be glad to see them admitted here. But I do not want them to have representation—I say it plainly—I do not want them to have the right of suffrage before this Congress has done the great work of regenerating the Constitution and laws of this country according to the principles of the Declaration of Independence.

Hence I object to the amendment of my friend from Ohio, [Mr. SCHRECK.] He says that if we allow these people representation in proportion as they extend the suffrage we shall encourage them to extend it to the colored race. Well, that is the very objection. They will give the suffrage to their menials, their house servants, those they can control, and elect whom they please to make our laws. That is not the kind of increase of suffrage I want. I want all such men cut off from it. But when they have said to all the freedmen, to the former slaves, "You are men and you shall be represented," then let them come here. I shall not be here to see them, as I did their masters, who a few years since drew pistols and daggers upon me when I was making such a speech as this, yet a free people will be here represented, and they will take care of themselves.

But I have another objection to the amendment of my friend from Ohio. His proposition is to apportion representation according to the male citizens of the States. Why has he put in that word "male?" It was never in the Constitution of the United States before. Why make a crusade against women in the Constitution of the nation? [Laughter.] Is my friend as much afraid of their rivalry as the gentlemen

on the other side of the House are afraid of the rivalry of the negro? [Laughter.] I do not think we ought to disfigure the Constitution with such a provision. I find that every unmarried man is opposed to the proposition. Whether married men have particular reason for dreading interference from that quarter I know not. [Laughter.] I certainly shall never vote to insert the word "male" or the word "white" in the national Constitution. Let these things be attended to by the States.

Now, sir, there is another fatal objection to the proposition of my friend from Ohio. If I have been rightly informed as to the number, there are from fifteen to twenty Representatives in the northern States founded upon those who are not citizens of the United States. In New York I think there are three or four Representatives founded upon the foreign population, three certainly. And so it is in Wisconsin, Iowa, and other northern States. There are fifteen or twenty northern Representatives that would be lost by that amendment and given to the South whenever they grant the elective franchise to the negro.

Now, sir, while I have not any particular regard for any foreigner who goes against me, yet I do not think it would be wise to put into the Constitution or send to the people a proposition to amend the Constitution which would take such Representatives from those States, and which therefore they will never adopt. I have no hope that any such proposition would ever be adopted. Let us try to be practical. On the 6th day of December last I introduced a proposition to amend the Constitution founding representation upon the voting basis and excluding the foreign population, as the proposition of my friend from Ohio does. It was dear to my heart, for I had been gestating it for three months. [Laughter.] But when I came to consult the committee of fifteen and found that the States would not adopt it, I surrendered it. Now, cannot my friend from Ohio give up his darling, too? [Laughter.]

I had another proposition, which I hope may again be brought forward. It is this:

All national and State laws shall be equally applicable to every citizen, and no discrimination shall be made on account of race or color.

There is the genuine proposition; that is the one I love; that is the one which I hope, before we separate, we shall have educated ourselves up to the idea of adopting, and that we shall have educated our people up to the point of ratifying. But it would not be wise to entangle the present proposition with that one. The one might drag down the other; and although I have not obtained what I want, I am content to take what, after comparing ideas with others, I believe we can carry through the States; and I believe we can carry this proposition.

Some gentlemen say this principle if adopted will be abused. Some learned gentlemen on the other side, for whose feelings I have great regard, seem to think so. And when I say "on the other side" I do not want to be misunderstood—I mean some of our friends on the other side of the Chamber. [Laughter.] The others there have not spoken; but I have as much regard for the others when they speak. It is said that this principle might be evaded by saying that no man who had ever been a slave shall vote, and that that would not be a disfranchisement on account of race or color. Allow me to say that that suggestion must have been made hastily and not with that well-considered judgment which generally characterizes those gentlemen. Sir, no man in America ever was or ever could be a slave if he was a white man. I know white men have been held in bondage contrary to law. But there never was a court in the United States, in a slave State or a free State, that has not admitted that if one held as a slave could prove himself to be white he was that instant free. And therefore such an exclusion, on account of previous condition of slavery, must be an exclusion on account of race or color. Therefore that objection falls to the ground.

Now, the question is narrowed down to the sole question of a choice between the proposition of the committee and the proposition of the gentleman from Ohio, [Mr. SCHENCK.] There is no necessity, then, unless I desire to exhibit myself, for my proceeding any farther in this matter. Nor do I propose to go into an examination of what was perhaps the not quite pertinent argument of the gentleman from New York, [Mr. RAYMOND.] All I want is that two thirds of each branch of this Congress shall vote affirmatively on this question. And while I should take pleasure in having the President approve of our conduct, yet he has nothing to say about it on this question. We do not send it to him and ask his opinion about it, and therefore it was all the more kind in him to send us his opinion without being asked for it.

Mr. SMITH. I would ask the gentleman from Pennsylvania [Mr. STEVENS] to permit to be read the paper which has called forth his remarks, so that we may understand to what he alludes when he speaks of the President undertaking to dictate to Congress.

Mr. STEVENS. I have no objection to having it read, except that it will take more time than its importance warrants.

Several MEMBERS. Let it be read.

The Clerk read, as follows:

"The following is the substance of a conversation which took place yesterday between the President and a distinguished Senator, as telegraphed North by the agent of the Associated Press:

"The President said that he doubted the propriety at this time of making further amendments to the Constitution. One great amendment had already been made, by which slavery had forever been abolished within the limits of the United States, and a national guarantee thus given that the institution should never exist in the land. Propositions to amend the Constitution were becoming as numerous as preambles and resolutions at town meetings called to consider the most ordinary questions connected with the administration of local affairs. All this, in his opinion, had a tendency to diminish the dignity and prestige attached to the Constitution of the country, and to lessen the respect and confidence of the people in their great charter of freedom. If, however, amendments are to be made to the Constitution, changing the basis of representation and taxation, (and he did not deem them at all necessary at the present time,) he knew of none better than a simple proposition, embraced in a few lines, making in each State the number of qualified voters the basis of representation, and the value of property the basis of direct taxation. Such a proposition could be embraced in the following terms:

"Representatives shall be apportioned among the several States which may be included within this Union according to the number of qualified voters in each State.

"Direct taxes shall be apportioned among the several States which may be included within this Union according to the value of all taxable property in each State."

"An amendment of this kind would, in his opinion, place the basis of representation and direct taxation upon correct principles. The qualified voters were, for the most part, men who were subject to draft and enlistment when it was necessary to repel invasion, suppress rebellion, and quell domestic violence and insurrection. They risk their lives, shed their blood, and peril their all to uphold the Government and give protection, security, and value to property. It seemed but just that property should compensate for the benefits thus conferred by defraying the expenses incident to its protection and enjoyment.

"Such an amendment, the President also suggested, would remove from Congress all issues in reference to the political equality of the races. It would leave the States to determine absolutely the qualifications of their own voters with regard to color; and thus the number of Representatives to which they would be entitled in Congress would depend upon the number upon whom they conferred the right of suffrage.

"The President, in this connection, expressed the opinion that the agitation of the negro-franchise question in the District of Columbia at this time was the mere entering wedge to the agitation of the question throughout the States, and was ill-timed, uncalculated, and calculated to do great harm. He believed that it would engender enmity, contention, and strife between the two races, and lead to a war between them which would result in great injury to both, and the certain extermination of the negro population. Precedence, he thought, should be given to more important and urgent matters, legislation upon which was essential for the restoration of the Union, the peace of the country, and the prosperity of the people."

Mr. STEVENS. I am rather glad the gentleman from Kentucky [Mr. SMITH] called for the reading of that paper, because it shows that the President and I agree exactly, on one point at least; for he leaves out the word "male" in condemnation of the gentleman from Ohio, [Mr. SCHENCK.] I am very glad he called for the reading of the paper.

Mr. INGERSOLL. I would like to ask a

question of the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. STEVENS. Very well.

Mr. INGERSOLL. I would like to ask the gentleman by what authority does he claim that the paper just read expresses the views of the President?

Mr. STEVENS. I think I have good reasons for saying that it emanated from the President.

Mr. INGERSOLL. Has the gentleman any objection to stating what those reasons are?

Mr. STEVENS. I have no right to tell the secrets of the Executive. [Laughter.]

But we know perfectly well that the President has nothing to do with this matter. The passage of this amendment by a two-thirds vote of both Houses of Congress will carry it before the State Legislatures for ratification without regard to the approval or disapproval of the President. It is true that the constitutional amendment for the abolition of slavery was, after its passage by both Houses of Congress, sent inadvertently to President Lincoln for his signature. But although he signed it because he approved it, yet, acting with the sagacity and the modesty which were so characteristic of him, he sent to Congress a message stating that that body, in sending him that joint resolution for approval, had done what the Constitution did not require. We shall not trouble President Johnson by sending him this amendment if it should be passed by Congress, because it is not necessary to submit it to him for his approval.

As I said before, I do not intend to refer particularly to the able, elaborate, and eloquent speech of my friend from New York, [Mr. RAYMOND,] because that speech had, to a great extent, no connection whatever with this question, except, possibly, so far as the status of the States may be affected by this amendment. He still persists in saying that the seceded States are, and always have been, in the Union; that the Constitution would not allow them to go out. He took the same ground before. I had undertaken to prove that they were out of the Union, not by our consent, but by operation of law. I had stated that they formed the confederate government as States; that they had raised large armies; that they had done what no State could constitutionally do, issued letters of marque which were recognized by us and the civilized world. There is no doubt, sir, that for three years we acknowledged that rebel government as a belligerent, as did the whole civilized world. But whether we so acknowledged the rebels or not, the law of nations declares that when they had established a government, and maintained themselves for a sufficient length of time to rise above the position of mere murderers or insurrectionists, they became belligerents; and it does not make a particle of difference whether the parent Government recognizes them as belligerents. In this case, however, the acknowledgment of our own Government and the well-settled doctrine of the law of nations combined in conceding to the States in rebellion this position.

The gentleman cannot deny this state of facts; and yet he reiterates the doctrine, "once a State always a State." May I be pardoned for reading a paragraph from Vattel?

"When a nation becomes divided into two parties absolutely independent, and no longer acknowledging a common superior, the State is dissolved, and the war between the two parties stands on the same ground in every respect as a public war between two different nations."

Again, I read:

"The conventions, the treaties, made with a nation are broken or annulled by a war arising between the contracting parties."

This is the doctrine of Vattel, as well as of Grotius and Rutherford and Puffendorf. The gentleman from New York denies it. I admit the weight of the gentleman's authority; but I am not willing that all those sages of the law, clad in the panoply of ages, and fortified by the opinion of the civilized world, should be broken down and annihilated by the single arm of my

friend from New York, however powerful he may be in assault and cunning in defense.

One word as to another portion of the gentleman's speech. I could not but admire (an admiration mingled with wonder) the amiability of temper, the tenderness of heart, the generosity of feeling, which must have prompted some of the closing sentences of the excellent and able speech delivered by the gentleman on last Monday. His words were these:

"The gigantic contest is at an end. The courage and devotion on either side which made it so terrible and so long, no longer owe a divided duty, but have become the common property of the American name, the priceless possession of the American Republic, through all time to come. The dead of the contending hosts sleep beneath the soil of a common country, under their common flag. Their hostilities are hushed, and they are the dead of the nation forevermore."

Sir, much more than amiable, much more than religious must be the sentiment that would prompt any man to say that "the courage and devotion" which so long withstood our arms, prolonging the terrible conflict of war, and sacrificing the lives of thousands of loyal men, are hereafter to be the common boast of the nation, "the priceless possession of the American Republic through all time to come;" that it is the pride of our country so many infamous rebels were so ferocious in their murders.

Sir, we are to consider these dead on both sides as the dead of the nation, the common dead! And so I suppose we are to raise monuments beside the monuments to Reynolds and others to be erected in the cemetery on the battle-field of Gettysburg; we must there build high the monumental marble for men like Barksdale, whom I have seen in this Hall draw their bowie-knives on the Representative of the people; men who died upon the battle-field of Gettysburg in arms against the Government, and where they now lie buried in ditches "unwept, unhonored, and unsung!" They are, I suppose, to be raised and put into the fore-front ranks of the nation, and we are to call them through all time as the dead of the nation! Sir, was there ever blasphemy before like this? Who was it burnt the temple of Ephesus? Who was it imitated the thunder of Jove? All that was poor compared with this blasphemy. I say if the loyal dead, who are thus associated with the traitors who murdered them, put by the gentleman on the same footing with them, and are to be treated as the "common dead of the nation"—I say, sir, if they could have heard the gentleman they would have broken the ceremonies of the tomb and stalked forth and haunted him until his eye-balls were seared.

Mr. RAYMOND. May I ask the gentleman's indulgence for one moment?

Mr. STEVENS. Wait until after the vote has been taken.

Mr. RAYMOND. There will be no time then; I prefer it now. It is simply for a personal explanation.

Mr. STEVENS. I yield to the gentleman.

Mr. RAYMOND. Mr. Speaker, the gentleman in his closing remarks has misapprehended and misstated both my words and my meaning. I take it for granted the gentleman from Pennsylvania, and every other gentleman of this House, can distinguish between courage as an element of character, and the cause in which that courage has been shown; and I am sure there is no man upon this floor who will not say that the courage, the persistent determination, shown by the rebels in their resistance to the Government, if shown in a good cause, would have been worthy of all admiration and respect. I was speaking of that courage as a quality of character, not of the cause in which it was shown; and what I meant to say—and what I trust I shall not be accused of blasphemy for saying—is simply this: that that courage, if it had been shown under a common flag, in a common cause with us, to sustain the flag and glory of this great country, would have done honor to the American name. I have no hesitation in expressing for it my admiration in that sense and to that extent.

As to building monuments to the rebel dead and singing peans in their praise, I have only

to say that the whole of it is a figment of the gentleman's very prolific imagination. I neither said nor intimated anything which could bear any such construction.

Mr. STEVENS. Let me, in reply to the gentleman, read from his speech:

"The gigantic contest is at an end. The courage and devotion on either side which made it so terrible and so long, no longer owe a divided duty, but have become the common property of the American name, the priceless possession of the American Republic through all time to come. The dead of the contending hosts sleep beneath the soil of a common country, under their common flag. Their hostilities are hushed, and they are the dead of the nation forevermore. The victor may well exult in the victory he has achieved. Let it be our task, as it will be our highest glory, to make the vanquished and their posterity to the latest generation rejoice in their defeat."

The SPEAKER. The gentleman's hour has now expired.

[Cries of "Question!" "Question!"]

Mr. J. L. THOMAS. As the previous question has been seconded and no further debate on the question is in order, I ask permission of the House to print some remarks which I intended to deliver on the subject.

There was no objection, and it was ordered accordingly.

[The speech will be published in the Appendix.]

Mr. WRIGHT moved that the further consideration of the subject be postponed until the first Monday in December next.

The SPEAKER stated the motion was not in order as the main question had been ordered to be now put.

The question recurred on Mr. SCHENCK's substitute.

Mr. SCHENCK demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 29, nays 131, not voting 23; as follows:

YEAS—Messrs. Anderson, Bromwell, Bundy, Reader W. Clarke, Sidney Clarke, Darling, Davis, Defrees Farnsworth, Abner C. Harding, Hayes, Hill, Chester D. Hubbard, James R. Hubbell, James Humphrey, Ingersoll, Kuykendall, William Lawrence, Marshall, McCullough, Miller, Orth, Pike, Ross, Schenck, Shellabarger, Sloan, Thornton, and Robert T. Van Horn—29.

NAYS—Messrs. Alley, Allison, Ames, James M. Ashley, Baker, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Boyer, Brandegee, Brooks, Broomall, Buckland, Chandler, Cobb, Conkling, Cook, Cullom, Dawes, Dawson, Delano, Deming, Denison, Dixon, Donnelly, Eckley, Eggleston, Eldridge, Eliot, Farquhar, Ferry, Finck, Garfield, Grider, Grinnell, Griswold, Hale, Aaron Harding, Harris, Hart, Hogan, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Hulburt, James M. Humphrey, Jenckes, Johnson, Julian, Kasson, Kelley, Kelso, Kerr, Ketcham, Ladin, Latham, George V. Lawrence, Le Blond, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, Mercer, Moorhead, Morrill, Morris, Moulton, Myers, Niblack, Nicholson, Noel, O'Neill, Paine, Patterson, Perham, Phelps, Plants, Pomeroy, Price, Samuel J. Randall, William H. Randall, Alex. H. Rice, John H. Rice, Ritter, Rogers, Rollins, Sawyer, Scofield, Shanklin, Smith, Spaulding, Starr, Stevens, Strouse, Taber, Taylor, Thayer, Francis Thomas, John L. Thomas, Trimble, Upson, Van Aernam, Burt Van Horn, Voorhees, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Wright—131.

NOT VOTING—Messrs. Ancona, Delos R. Ashley, Baldwin, Culver, Driggs, Dumont, Glossbrenner, Goodyear, Henderson, Higby, Jones, Loan, McRuer, Newell, Radford, Raymond, Ritter, Rousseau, Sitgreaves, Stillwell, Trowbridge, Winfield, and Woodbridge—23.

So the substitute was rejected.

During the vote,

Mr. JOHNSON stated that his colleague, Mr. GLOSSBRENNER, was detained from the House by illness.

The vote was then announced as above recorded.

The joint resolution, as modified by the joint committee, was then ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time.

Mr. STEVENS demanded the previous question on the adoption of the joint resolution.

The previous question was seconded, and the main question ordered.

Mr. LE BLOND. I demand the yeas and nays on the passage of the joint resolution.

The SPEAKER. The Chair thinks the ques-

tion should be taken by yeas and nays, as it requires a two-third vote under the Constitution, and the Chair would not like to decide on its own count whether there were two thirds voting in the affirmative or not.

Mr. JOHNSON. I call for the reading of the joint resolution.

The Clerk read the joint resolution.

The question was then taken on agreeing to the joint resolution as modified by the committee; and it was decided in the affirmative—yeas 120, nays 46, not voting 16; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baker, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Brownell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Davis, Dawes, Defrees, Delano, Deming, Dixon, Donnelly, Eckley, Eggleston, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Abner C. Harding, Hart, Hayes, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hulburt, James Humphrey, Ingersoll, Julian, Kasson, Kelley, Kelso, Ketcham, Kuykendall, Ladin, George V. Lawrence, William Lawrence, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spaulding, Starr, Stevens, Stillwell, Thayer, Francis Thomas, John L. Thomas, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—120.

NAYS—Messrs. Baldwin, Bergen, Boyer, Brooks, Chandler, Dawson, Denison, Eldridge, Eliot, Finck, Grider, Hale, Aaron Harding, Harris, Hogan, Edwin N. Hubbell, James M. Humphrey, Jenckes, Johnson, Kerr, Latham, Le Blond, Marshall, McCullough, Niblack, Nicholson, Noel, Phelps, Samuel J. Randall, William H. Randall, Raymond, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Smith, Strouse, Taber, Taylor, Thornton, Trimble, Voorhees, Whaley, and Wright—46.

NOT VOTING—Messrs. Ancona, Delos R. Ashley, Culver, Driggs, Dumont, Glossbrenner, Goodyear, Henderson, Higby, Jones, Loan, McRuer, Newell, Radford, Trowbridge, and Winfield—16.

The SPEAKER. Two thirds having voted in the affirmative, I declare the joint resolution to have been adopted.

Mr. LONGYEAR, during the roll-call, stated that his colleague, Mr. DRIGGS, was absent on leave.

Mr. CONKLING. I move that the House reconsider the vote by which the joint resolution was adopted, and to lay that motion on the table.

The latter motion was agreed to.

HOLDING AN EVENING SESSION.

Mr. STEVENS. May I ask now unanimous consent to take a recess and have an evening session? Last evening there was a failure. Some gentlemen were ready and others were not.

Mr. BROOKS. With the understanding that no business be done?

Mr. STEVENS. Certainly; to have discussion only on the President's message.

No objection being made, it was so ordered.

FREEDMEN'S BUREAU.

The House then resumed the consideration of the special order, being Senate bill No. 60, to enlarge the powers of the Freedmen's Bureau, with certain amendments reported in the nature of a substitute from the select committee on the Freedmen's Bureau, Mr. DAWSON being entitled to the floor.

Mr. DAWSON. Mr. Speaker, I am opposed to the bill under consideration in all its provisions, and I trust that before I have concluded my remarks I shall have furnished some reasons why it should not become a law.

In venturing to claim the attention of the House and speak to the state of the nation, I feel it a circumstance demanding my first and most grateful recognition that we are here once more to legislate for a united country. Next to the overthrow of the Government and the ruin of the country, the greatest of national calamities is a great civil war. With the legions of miseries which hang around the march of hostile armies four years of carnage had made us so familiar that we had begun to grow cal-

lous under the repeated exhibition. Death on the most extended scale, numbering its victims by thousands, inflicted by the bullet, by disease, and by famine; mutilation in every horrid form; households stricken by the loss of friends, and under the dark shadow of inconsolable grief—these are but a few of the sad incidents to war, and most of all to war between brethren.

For this propitious result I deem it proper to render, with prompt and unflinching heartiness, my tribute of praise to that valor, skill, and endurance of our armies which have been exhibited since the outbreak of the rebellion. It is a matter of common pride, and not of party triumph, that through all the trials of the war order in general prevailed in the North. Supported by the love of country, the people of the North have patiently borne, in the invasion of their rights of person and property, and in new modes of trial, flagrant abuses of power.

In common with the great party to which I belong, I have differed from the directors of our national councils as to the original necessity for the war; as to its purposes when undertaken; as to the measures adopted for securing the proposed results; and to the necessity of protracting the struggle, at such frightful expenditure of blood and treasure, to its recent close. I have heretofore declared my faith in the efficacy of a different policy, in securing, at an early day, every legitimate and proper result; and I am still of opinion that, if the policy of peace upon the constitutional basis had been assented to, peace might have been had two years earlier, with a saving of the horrible bloodshed which we have witnessed since, involving a quarter of a million lives; with a saving of one half the war debt, and of that terrible and almost irreparable destruction of property, and that political and social disorganization which are the legacies entailed by the war upon the statesmen of to-day. But peace, though gained even at such tremendous sacrifices, is yet not the less precious, not the less grateful. But now that the war has reached its close, it appears to me that the country, with a view to the preservation of everything valuable in our institutions, had never more need of calm and enlightened action on the part of its rulers. In returning to that normal condition from which we were so rudely jostled by late occurrences, it is incumbent on us to meet the new condition of things with a spirit alike tenacious of established principles, and averse to precipitate change under the imputed character of reform. We must see to it that the grand features of our political system, conceived in such wisdom by the fathers, and the liberties of the American citizen, inherited mainly from our ancestors, may be preserved in their purity and vigor, without any taint of feebleness or stain upon their luster.

I do not say that it is entirely practicable to rid ourselves of partisan prejudice, but we must do so if we would see our conclusions verified by time. The petty passions of the hour must be discarded, when our deliberations are to affect not only the present, but unborn generations. We may all concede to our extremest opponents the merit of upright intentions; but we are equally to remember, that well-intentioned ignorance has filled the world with suffering. This is a truth emblazoned, in melancholy characters, upon every page of history. Hence the necessity, in a great juncture like the present, of obtaining full and correct information upon the issues which we have to settle; of contemplating with such breadth of vision, the material facts of the situation, as shall enable us truly to apprehend their bearings and relations. For the views which I now advance I assume no other merit than that of a careful, earnest, and, so far as I am conscious, of a disinterested examination of the subjects which are now the center of the common interest.

The close of the war, then, finds us surrounded with a set of questions of the highest importance. The true theory of our Government often announced, and often, alas! lost sight of, must be perseveringly reasserted and

maintained. A solution must be found for the problem of our national debt and finances, so that the country may be relieved of its burdens, and again enjoy a currency of intrinsic value, as contemplated by the Constitution. Our domestic and foreign trade must be settled upon the basis of sound economical principles, and restored to those harmonizing and fructifying channels from which unhappy events have diverted them. The privileges and immunities of the American citizen must be so clearly defined that they may be secure from usurpation in war as well as in peace. The limits of martial law must be settled with such distinctness that it may not be permitted to supplant the civil, and that it may not be stretched by the hand of power to partisan purposes and individual oppression. The Union must be restored upon the constitutional basis of absolute and perfect equality of the States. The restoration should be immediate and the reunion cordial. The dignity of the country, as well as its safety, must further be supported by the unqualified reassertion of the Monroe doctrine.

It would be a fatal error to suppose that now that the war has been concluded under a Republican Administration the popular seal has been set upon the Federal theory of consolidation. Those who entertain this idea must remember that the popular support of the war was prompted by the determination to preserve the integrity of the Union. No sanction was thereby intended of any change in the Constitution, either in letter or by construction.

I maintain, sir, and it has ever been maintained by the Democratic party, that the State-rights doctrines, properly stated, present the true theory of the Government. The question arose in the contest between Jefferson and Adams in 1801, and the election of Mr. Jefferson was a popular vindication of these doctrines as against the Hamiltonian theory of centralization supported by Mr. Adams.

The Federal idea, which it was attempted to realize by a latitudinarian construction of the Constitution, was that of a consolidated system of government, in which the undelegated powers of the States were to be absorbed, and the spirit of monarchy to be thus infused into our democratic forms. The assumption by the central power of the disposition of those details which the Constitution left to the States was to operate, as far as the States were concerned, as a consolidated despotism. It was the favorite tenet of the Federal faith that force or interest were the only successful means of governing men. Force being excluded by the nature of the case, the resort was necessarily to the influences of corruption; and Government patronage, in its multifarious branches and details, was to crown the execution of the plan. As far as Hamilton's influence extended, and it was very potent, this turn had been given to the policy of the first Administration under Washington. Hence the bitterness with which they contested every inch of debatable ground. Historically, and in the light of the simple facts, there could be no doubt of the correctness of the Democratic view.

The States or colonies had been independent of each other before the Revolution, each owing allegiance only to the British Crown. When by the success of the Revolution that allegiance became severed, the sovereignty, which before resided in the monarch, reverted to each independent community or State. In acceding to the new Government, the States acted upon their own separate responsibilities as sovereignties, and not by a simultaneous act of the people of all the States as individuals. When, then, we seek to ascertain the kind of Government which they adopted, we have only to turn to the provisions of the charter by which they agreed to be bound. We there find that they surrendered the control, as separate communities, over certain subjects, the disposition of which they determined to be more wisely vested in a central Government. In so doing, the sovereignty of the peoples of the several States and their

allegiance became a divided one. The sovereignty, within the sphere of the granted powers, was in the central Government, and allegiance due to it within that sphere. As to the powers not specifically granted in the charter, they remained with the States, in which they had always been, constituting the State sovereignty, which rightfully claims, within the sphere of the reserved or ungranted powers, the allegiance and rightful obedience of every citizen within their respective territories.

This was the true Democratic doctrine in the days of Jefferson, and it is the true Democratic doctrine now. Extreme men of the Federal school, from that day to this, have ignored State rights, while extreme men of the opposite view have repudiated the authority of the central Government in cases where it properly exists. Jefferson assumed his position between these two extremes of consolidation and secession. In that "golden mean" he planted the party of which he was the illustrious founder, and there it has ever since remained. His policy was conservative alike of the constitutional powers of the central Government and of those of the States, and opposed to the extreme Federalists and extreme State-sovereignty men.

The Virginia and Kentucky resolutions of 1798, which embody the doctrine of State rights, were commented upon by President Johnson in his able speech in the Senate in 1861. He stated with fidelity their true history and meaning.

The views of the extreme State-sovereignty men, as reduced to practice in the act of secession, have been suppressed by physical force, and the just authority of the Government has been successfully and rightfully reestablished. But the doctrine of State rights is in nowise affected by the result. It remains the only true and stable foundation of our republican system. State rights comprehend that portion of the State sovereignty not delegated by the Constitution to the Federal Government, and the two expressions are of coextensive and identical import. That the States are sovereign in this sense; that is as possessing all the undelegated powers of sovereignty, it is late in the day to question. The Union was thus the result of mutual concession; and from the testimony of its founders could not have been formed in any other way.

The country although relieved by the war is without a reliable currency. Gold, as the constitutional standard of value, has been departed from, and a currency immensely inflated based on the national debt has taken its place. It has further to struggle with the great and galling evils induced by the contraction of a war debt so vast that the mind sinks in the effort to grasp its magnitude. Instead of adhering to a currency of the constitutional standard, the precious metals or paper convertible into them at the will of the holder, resort was had to paper which represented no value in the possession of the Government, which was inconvertible, and represented only so much public indebtedness.

It could not have been through ignorance that Mr. Chase, the financial minister, inaugurated this expedient at the sacrifice of the constitutional currency by the introduction of the legal tender. It was not only a violation of the Constitution, but confiscation of private estates, an unsettling of all values, and a fatal stab at the foundation of financial integrity. Our own revolutionary experience must have been present to his mind. The disastrous experience of France under Laid, Necker, Turgot, and Colonne, was uttering through the voice of history its decisive condemnation of the plan. He has then in defiance of such experience and constitutional obligation committed the country to a scheme calculated long to embarrass his successors, and from which the present generation will in vain look for relief.

In January, 1861, the circulation of all the banks in the United States was \$202,005,000. The amount of specie in the banks was \$87,674,000. The currency was gold or convertible paper, at the will of the holder. The ex-

penditures of the Government were at the same time about \$83,000,000 per annum, which was fully met by the revenue, and there was but about \$75,000,000 of public debt. At the present time the Government debt, on the 31st October, 1865, is stated at \$2,740,854,750. Add to this \$600,000,000 which it will take to equalize bounties, together with the millions that will be required to pay damages to the property of loyal men occasioned by the armies, with the additional millions to pay pensions, and we have a debt equalled only by that of Great Britain, contracted in centuries of foreign wars. The estimated expenses for the present fiscal year, as stated in the report of the Secretary of the Treasury, are \$857,921,717 47. To meet these and discharge the interest on the public debt, we have only the receipts, actual and estimated, the current fiscal year, from customs, of \$147,009,583 03, the inconsiderable receipts from the public lands amounting to \$632,890 63, from direct tax \$31,111 30, and those from internal revenue amounting to \$271,618,885 65, and from miscellaneous sources to \$48,393,729 94. The balance, amounting to \$389,377,207 77, is reduced, by the application of \$277,182,260 57 of borrowed money, to the sum, as stated by the Secretary of the Treasury, of \$112,104,047 20, which is still to be provided for in the method adopted by Mr. Chase of Government loans or inconvertible promises to pay.

It is the evil of paper currency, that while the debt of the country represented by bonds and bills is but a substitute for capital, in the absence of any check arising from the necessity of redemption in specie, it is continually tending to augmentation. This is because inflation first raises prices, and more inflation is demanded at each step of the progress. With a given amount of circulation, prices at once adjust themselves to that amount; but when this is once done, the increase of the circulation goes no further than the circulation before the inflation. Hence the same reason which begat the first inflation begets a second.

It is obvious that under the system which has thus been fastened on the country there must be a deficit, not only the present year, but for years to come. A regard to sound principles imperatively requires, that, unless we are content to run along the high-road to bankruptcy and ruin and practical repudiation, adequate provision should be made for discharging with certainty and promptness the annual interest upon every addition to the public indebtedness. It is equally necessary that a rigid system of retrenchment and economy should be adopted in every branch of the public service, that the Government expenditures should be reduced to the minimum consistent with the interests of the country.

A sinking fund should also be provided for the gradual extinguishment of the principal of the debt, that the people may have some assurance that, though the process may be slow and the end remote, the yoke of this terrible burden may not press upon the necks of themselves and descendants forever; and yet the agents of the Government, the especial pets of Mr. Chase, appeal to the people for increased loans upon the distinct assertion that the national debt is a "national blessing." That public loans should be asked on such a plea as this is a marvel. The audacity of the proposition is without a parallel. In support of this reckless maxim the over-zealous agent refers his countrymen to the example of England. Instead of being an example of a national debt being a national blessing she has been the victim of a national debt. With vast advantage in geographical position, girt with oceans and channels, she has heretofore controlled the commerce of the world. With a sturdy and skillful population, with hills and mines of developed minerals, and a Government that has stood defiantly the slow evolution of a thousand years, yet her lands are monopolized by a population not exceeding thirty thousand in number. The great mass of the population of twenty-seven millions are but tenantry and operatives. Mr.

Gladstone, in May, 1864, declared in a speech in the British Parliament that less than one fiftieth part of the working men in England are in the enjoyment of the franchise.

The Chairman of the Ways and Means, and now of Appropriations, has boldly stated that the present taxes must be doubled or the debt repudiated.

A wise statesmanship, while encouraging, by adjusting oppressive taxes and inconsiderate restrictions upon our variegated industry, and developing our resources, agricultural as well as manufacturing, may yet lighten, in a very great degree, the burdens of the people; but to double the present tax will be more than the straw that breaks the camel's back. As a Representative of Pennsylvania—the greatest of the States in the material from which wealth is created and whose industry is largely engaged in manufactures—I confess to a just pride in her position. I am proud of her sturdy, intelligent, and enterprising population, and earnestly seek the promotion of all her great interests. We cannot, however, shut our eyes to the new condition of things which has been forced upon us by recent events and by the general progress of the world. Slavery having been extinguished in the South, she will demand more strenuously than ever the abolishment of commercial restrictions by the North. The West, an empire within herself, with a voice which it will be impossible to deny, will join in the same demand. It is therefore our policy to appreciate our natural advantages, and to moderate our demands to the realities which are before us. The recent experience of other countries appears to be decisive in favor of a liberal commerce. It was lately shown by Mr. Gladstone, the enlightened Chancellor of the English Exchequer, that a wonderful development of the commercial energies of that country has taken place since the relaxation of the Government restrictions. The masses of England, under the lead of Peel and Cobden, demanded cheap bread. The masses of this country demand cheap fabrics as well as cheap bread.

Similar financial and commercial prosperity have been presented in France by the policy, carefully modeled after the English system, which has been adopted since the accession of the present Emperor; her commercial development has outstripped the expectations of even the most sanguine; and while yielding a revenue greater than ever before, the people have been materially relieved of the burdens of taxation. Commerce, it must be remembered, has given life and prosperity to every nation to the exact extent in which each has enjoyed it. The ships of all civilized nations now meet, more than ever, in friendly rivalry upon every sea. The share of trade, however, which will fall to each nation will be determined by the natural resources, the development, and enlightened and liberal policy of each. England has grown preëminently great by her commerce. The commerce of India, probably the oldest of all countries in civilization, the most numerous in population, and the greatest in the value of its products for exchange, has enriched, successively, Tyre and Sidon and Alexandria, Byzantium and Carthage, and in modern times has poured its rich streams into Portugal, Holland and Venice, London and Paris and New York.

England, we shall not soon forget, sowed the seeds of our discontent, with the view of annihilating our republican example and our commercial importance. She pursued her object with such zeal and energy that slavery, the apple of discord, has disappeared from our political contests and left us a great and powerful nation. In the future our progress will be steady and advancing. New York is rapidly attracting to herself the importance of London, must soon become the great distributing commercial center of the world, and the British Government will yet be revolutionized by the force of our republican example.

Now that the rebellion has been suppressed, we are to look with careful solicitude that the genius of our Government is not changed in

the operation. The growth of the war power, under the despotic plea of "necessity," had come to overshadow the liberty of the citizen to such an extent that we seemed rather the subjects of imperial sway than members of a democratic Republic, whose rights and privileges are defined and guaranteed by a written charter in the most solemn form known among men. But what avail written charters or established rights when they may be set aside by the stroke of a cabinet minister or a presidential pen? What is this but the exercise of the principle of imperialism? For that principle, as laid down by Justinian in his Institutes, is "*Quod placuit principi habet legis vigorem*," what pleases the prince has the force of law. If this kind of administration is sanctioned, our written charters will become obsolete. They will remain a dead letter in the volume of the fundamental law. They will have become outgrown and superseded by a new system of extra-constitutional practices. Our people have, therefore, to watch narrowly, that in conquering the South we have not conquered our liberties.

The constitutional provisions guarantying the liberties of the American citizen are those contained in the fourth, fifth, and sixth articles of the amendments. They secure him in the possession of personal liberty and property, against unwarrantable search and seizure, and in the right to a trial by jury. These are the American's birthright and the pillars which support our democratic government. They are of such transcendent importance that their violation is not to be tolerated for a moment, under whatever circumstances of popular excitement, or upon whatever pretext. In the night and storm of civil faction and ferment they are to the citizen what the constellations are to the mariner. However the tempest may rage, and the clouds obscure the face of the heavens, he knows that, so long as his guiding stars are visible, he is sure of his reckoning, and can steer safely for "the haven where he would be."

There are a few points which, if we are to remain a free people, must be understood by the humblest citizen. He should understand that the Constitution, and the laws made under it, are the only law of the land for all who have not voluntarily subjected themselves to another code. There is no other code except for the military and naval service, and, under certain circumstances, martial law.

Military law is the code established under the authority of the Constitution for the government of the land and naval forces; and martial law is that which is exercised by the commander of an army, in a state of war, over the territory which it occupies. It is the law of arbitrary discretion, of despotic power, and is, from the necessity of the case, the only law which can be exercised in conquered countries, in rebellious districts, in the camp, and in the field. Military law, administered upon its proper subjects, is a part of the law of the land. Where a party is properly subject to be tried by military or by martial law, the tribunal and mode of procedure are those known to those species of law respectively. In all other cases the Constitution declares that no person shall be held to answer for an infamous crime unless upon presentment of a grand jury, nor tried unless by a jury except in certain cases specified. This clause of the Constitution prevails at all times, and in all places, unless force or armed occupation set it aside, or unless the party to be tried has resigned his civil rights by becoming a soldier or a sailor.

The state of martial law is incident to the locality in which armed forces are present in conflict, or on the march, or in preparation for conflict; and the effect is the suspension of civil law in that locality. The mere existence of a state of war does not supersede the Constitution and civil law anywhere else. Wherever the civil courts are open, and justice regularly administered, the civil procedure is that alone which is applicable to any one charged with an

infamous crime. The civil law cannot be superseded or suspended throughout the country—not even by the President, as Commander-in-Chief of the Army and Navy, nor by Congress.

Another of the great palladia of liberty, the *habeas corpus* writ, was indeed authorized by Congress to be suspended by the President. But this did not change the common law in regard to illegal arrests. Whoever, holding whatever executive position, shall order the arrest of a citizen upon a general warrant—that is, a warrant not assigning the cause of arrest, and not upon probable cause supported by oath or affirmation—is a trespasser; and no official character, and no imagined necessity, or expediency, can shield him from responsibility to the party injured.

The tendency to abuse, which ever attends the possession of power, was the very cause why the great personal guarantees of which I have spoken were placed in the Constitution. It is true—and I would that every citizen of the land were duly impressed with the fact—that the charter of our liberties is amply full and clear. But it is in vain that this is so, if we, for whose benefit it was intended, fail in the trying hour to insist on its observance. The existence of these abuses is furnishing the newest and strongest arguments to despotism. We seem to have forgotten the lessons of history—of that English history with which our fathers were so familiar. When they inserted those priceless provisions in the Constitution, they had a vivid memory of the glorious utterances of Magna Charta, sounding through centuries a voice to which every British descendant listens with an enchanted ear. They had a vivid memory of those engines of oppression which brought the head of Charles I to the block. I believe, sir, that at no time during the war has there been any occasion for a resort to instruments of that kind, and that the success of the war has not been in any measure due to their employment.

Whatever advantage, for a particular purpose, these methods may possess over the constitutional ones, they are against the spirit of our people and the nature of their institutions. It was, therefore, that the authors of our system made patriotic sacrifices for the sake of the greater good of preserving American freedom and manhood.

So great have been the changes in the working of our institutions under the late Administration, so strong the tendencies to imperialism, that they have been commented upon by English statesmen, and regarded as conclusive proof that our Republic has already faded away as a thing of the past, and that we are henceforth to be controlled by an absolute Government.

Now, sir, it will be the fault and folly of our people, if they permit the flagrant abuse of legitimate powers, which characterized the last Administration, to settle into established practice and permanent change of Government. Yet are the facts upon which I have commented sufficient to excite the deep concern of every one who loves his country and desires the perpetuity of her institutions.

The war between sections in this country having closed, let us hope forever, it is our part now to maintain our national traditions, and seek the unobscured fulfillment of our mission. There is greater unanimity, perhaps, upon no one subject among our people than upon that which claimed this continent for republicanism, free from European interposition. It needs no prophet to predict at no distant day voluntary aid to the Liberal cause from multitudes of disbanded soldiers, both Federal and confederate. This must bring the question of Maximilian's empire to a speedy solution, either by the abandonment by Napoleon of his support, and the retirement of the Austrian prince, or to a declaration of war by France to maintain his position.

Mr. Jefferson was the father of our policy of expansion. Ever since the publication of his views in 1803, and afterward in his letter to Mr. Monroe, it has been the end of Englishmen to baffle the object.

It is an undeniable fact that during the administration of Mr. Lincoln, in our diplomatic intercourse with foreign Powers, the American eagle has been made to bow his head and droop his plumes in humiliation and shame.

When the House of Representatives assumed the independence to reassert the Monroe doctrine, was not the full expression of congressional opinion upon the subject stifled in the Senate, and an apology forthwith sent to Louis Napoleon? Later still, when Mr. Lincoln was renominated at Baltimore, was not the nomination accepted by him, with the exclusion of the resolution affirming the Monroe doctrine? What is all this but a renunciation of the favorite policy of expansion?

But what is there in our history which makes the assertion of that principle less necessary now than at any former day? The Monroe doctrine declared that this continent must be secure for the free development of republican institutions without European interposition. This doctrine, so eminently reasonable and just, had been affirmed by our most prominent statesmen, without distinction of party, prior to 1861. Nor was there any imperative necessity for renouncing, or even waiving it; for the elements have all the time been in existence for checkmating the pretensions of England and France. These were to be found in the friendship of Russia and in the South American republics. Russia has long been the terror of western Europe; and a league of the republics of the western continent would have rendered French tenure of Mexico a thing of the past.

But the administration of Mr. Lincoln conceded the doctrine; and the incipient step toward crippling, and if events should favor, of annihilating, American democracy by the establishment of absolutism in Mexico, was permitted to become a Gallic success.

While such are the facts in regard to the Monroe doctrine, as presented by recent events, I am gratified to see that the President, true to his early teachings, has shown a determination to maintain the national dignity and our ancient policy.

It was not long since urged, with his peculiar force and eloquence, by M. Thiers, in the French Chambers, that it was unwise in France to favor the erection of a great independent Power on her own borders. He had allusion to the unification of Italy, but the remark has an application of strong significance for this country in reference to Mexico and Canada, which the Powers interested may do well to heed. The existence of a monarchy in Mexico on the south and of a monarchy in Canada upon the north, thus girdling and hampering our republican energies, is a restraint and a danger which cannot much longer be tolerated.

I adhere, Mr. Speaker, to the declaration which I have made here before, that the late terrible war could have been avoided. But a President had been elected upon a revolutionary platform; and the radical element in the North, stimulated by an unchristian trade or appeal from the pulpit, united with an unbridled and arrogant element from the South, did the work of desolation and death; and over the sad struggle the tears of humanity must continually flow. Perhaps it is charity to say that the bloody drama, in its progress and results, finds corresponding analogy in the storms of the physical world, which, with divine mystery, purify while scattering destruction and death.

The meddling of one-idea politicians with State institutions and property brought on the war; and now that it is concluded, they continue their agitations in the same mischievous spirit. In obedience to the teachings of the "higher-law" doctrines, they postpone all considerations to the realization of a legalized equality of races. Time was when the highest law which the good citizen could recognize involved obedience to the paramount law of his country. But with the class of politicians under notice that notion has long been discarded as an antiquated error.

It matters not that their principles were re-

puted by all statesmen of both parties in the country. It matters not that this Government was made by and for the white race; that the States reserved the right of making their local laws; and that the Union could not otherwise have been formed. It matters not that a million of lives have been sacrificed in the effort to reduce their pernicious theories to practice. Still they falter not in the contest; still they hug to their bosoms the phantom of negro equality; still they claim for one section the right to control the local affairs of others. They hold that the white and black race are equal. This they maintain involves and demands social equality; that negroes should be received on an equality in white families, should be admitted to the same tables at hotels, should be permitted to occupy the same seats in railroad cars and the same pews in churches; that they should be allowed to hold offices, to sit on juries, to vote, to be eligible to seats in the State and national Legislatures, and to be judges, or to make and expound laws for the government of white men. Their children are to attend the same schools with white children, and to sit side by side with them. Following close upon this will, of course, be marriages between the races, when, according to these philanthropic theorists, the prejudices of caste will at length have been overcome, and the negro, with the privilege of free miscegenation accorded him, will be in the enjoyment of his true status.

To future generations it will be a marvel in the history of our times, that a party whose tenets were such wild ravings and frightful dreams as these should be permitted, in their support, to urge the country into the hugest and most destructive of civil wars, and should, when war was inaugurated, be permitted to shape its policy in furtherance of their peculiar ends. For the full realization of their plans, they are ready to sacrifice not only our priceless system of government, but even our social superiority itself.

We have to remember, on the other hand, that negro equality does not exist in nature. The African is without a history. He has never shown himself capable of self-government by the creation of a single independent State possessing the attributes which challenge the respect of others. The past is silent of any negro people who possessed military and civil organization, who cultivated the arts at home, or conducted a regular commerce with their neighbors. No African general has marched south of the desert, from the waters of the Nile to the Niger and Senegal, to unite by conquest the scattered territories of barbarous tribes into one great and homogeneous kingdom. No Moses, Solon, Lycurgus, or Alfred, has left them a code of wise and salutary laws. They have had no builder of cities; they have no representatives in the arts, in science, or in literature; they have been without even a monument, an alphabet, or a hieroglyphic.

Civilization among the whites has, indeed, been a thing of progress; but that progress has been steady and sure. When Julius Cæsar landed in Britain he found the Britons savages, painted warriors. Four hundred years after, Hengist and Horsa made a lodgment upon the island, and their Saxon followers laid the foundation of English civilization. And let it be remembered that this was by no means the commencement of civilization. Before this, Cicero, in the midst of an intelligence transmitted from northern Africa to Greece, and from Greece to Rome, had electrified the Roman Senate with his eloquence and Cato had dignified it with his justice. Long before this Plato had taught his divine philosophy, and Homer had published his immortal song, in that immortal language, too, in which St. Paul gave his religion to the world. The African was yet not so far away in his Libyan home but he might have heard the clinking of the hammers upon the walls of Alexandria, as they rose in architectural beauty and commercial grandeur at the mouth of the Nile, or of Thebes, with her hundred gates, higher up. He might have heard

of the pyramids, those vast structures which have excited the wonder of the centuries which have rolled over them since their erection by the Ptolemies. But the negro is to this day, in Africa, a savage and a cannibal.

It is impossible that two distinct races should exist harmoniously in the same country, on the same footing of equality by the law. The result must be a disgusting and deteriorating admixture of races, such as is presented in the Spanish States of America by the crossing of the Castilian with the Aztec and the negro. The prejudice of color is one of those facts implanted by Providence for wise purposes. Among others it is doubtless for the purpose of preserving a race homogeneous, which is the source of its true strength and permanent improvement. Physiologists instruct us that a race may be improved by the union of valuable qualities among the same race or others of similar characteristics, but not by the indiscriminate amalgamation of superior with greatly inferior races. It is the homogeneous races which have controlled the world. The Jew, though without a country and everywhere the object of prejudice, yet maintains his physical and mental excellence even to the present day; and it is because he intermarries chiefly with his own race. The Anglo-Saxon, the dominant and most advanced in civilization upon the globe, owes its superiority to its homogeneity or alliance with others of kindred excellence.

We have, then, to insist upon it that this Government was made for the white race. It is our mission to maintain it. Negro suffrage and equality are incompatible with that mission. We must make our own laws and shape our own destiny. Negro suffrage will, in its tendency, force down the Anglo-Saxon to the negro level, and result inevitably in amalgamation and deterioration of our race. The proud spirit of our people will revolt at such certain degradation, while American women, the models of beauty and superiority, will indignantly execrate the men who advise and dictate the policy.

The pictures of negro suffering in the South, as a consequence of the disorganization of society, are calculated to touch the hearts of all not utterly callous to human affliction. These cannot be fairly charged upon the former masters of the blacks, because the latter are mostly as destitute, save in the naked proprietorship of the soil, as their former slaves. The condition of the southern negro is indeed such as strongly to appeal to our sympathies. What, with deep concern we may inquire, is to become of him? It is certain that no scheme of philanthropy can be considered successful, or even justifiable, that, under pretense of bettering the condition of a race, removes the same from a competence to a state of destitution and death.

It requires no great prescience to predict what, as a result of the destruction of the labor system of the South, must be the fate of the negro. This is already foreshadowed in certain facts gathered from the statistics of northern cities. It thus appears that, with every advantage of procuring a livelihood possessed by the white inhabitants of New York and Boston, and with laws which, in the sense of his peculiar friends, eminently favor him, his numbers have not increased in those localities, but show a remarkable diminution. It is also a fact equally well established, that the mortality among this people in the South during the war has been beyond example, even in those districts from which slavery has been expelled by the advance of our armies. Thus it is demonstrated that when left to their own control the colored population lack the qualities requisite to a provision for their own subsistence and the raising of families. The history of San Domingo and Jamaica, after their emancipation, teaches a fruitful yet melancholy lesson of this truth. Thus the doom of the negro is written with that of the American Indian, in rapid and sure extinction; and when the future historian shall inquire into the cause of his decay, and

shall find it in the misguided efforts of his friends, he will ask the significant question, whether it would not have been true benevolence to permit him to continue to live under a gradual emancipation than not to live at all.

The southern people as a result of the war have lost their property in slaves. Their rights as political communities are, however, in other respects unimpaired. They are entitled to continue State governments—have the exclusive right to determine what classes of their population shall be entitled to vote, and their Representatives have the same right as others to seats upon this floor. Their admission as such cannot rightfully be denied them.

Mr. Lincoln, in April, 1861, and afterward in February, 1863, speaking through Mr. Seward, the present as well as the then Secretary of State, to the Government of France and to the world, declared:

"That there is not even a pretext for the complaint that the disaffected States are to be conquered by the United States if the revolution fail, for the rights of the States and the condition of every human being in them will remain subject to exactly the same laws and forms of administration, whether the revolution shall succeed or fail. In the one case the States would be federally connected with the new confederacy, in the other they would as now be members of the United States; but their constitutions and laws, customs, habits, and institutions in either will remain the same."

* * "That the Congress of the United States furnishes a constitutional forum for debates between the alienated parties. Senators and Representatives from the loyal portion of the people are there already, fully empowered to confer, and seats also are vacant and inviting Senators and Representatives of the discontented party who may be constitutionally sent there from the States involved in the insurrection."

President Johnson in his message maintains without reserve that—

"The amendment to the Constitution being adopted, it would remain for the States whose powers have been so long in abeyance to resume their places in the two branches of the national Legislature, and thereby complete the work of restoration."

The Democracy stand by the President in his effort to "complete the work of restoration," and congratulate the country that there is a firm, strong hand upon the helm, and a clear eye which looks out upon the darkness, and which no order of any caucus can turn from the polar star that guides his course.

We have subdued the rebel armies which were the first obstacle to the restoration of the Union. But the work is not done. It is natural that disaffection should exist to some extent in the southern mind to the Government of the victors. Unless by timely clemency and the liberal pardon of offenders with a general amnesty at an early day this feeling can be eradicated, the Union will be but nominal, and can only be maintained by standing armies and garrisoned towns. That apparatus, the privation of personal liberty and the rights of full citizenship, which are so offensive to freemen, and which have distinguished Russia, Austria, and Venice, will have to be maintained, and if maintained for any great length of time will pass by easy transition into imperialism and over the whole land.

Mr. Speaker, I have but a word to add concerning the relation of the General Government to the States, and of the States to one another. I have listened with respect and attention to the principles of international law as they have been discussed with rare ability by the distinguished gentlemen on the other side of the House, but I think they have failed to prove out of Grotius and Vattel and Puffendorf that America has no laws, no Constitution, and no Union among her great sisterhood of States. We must not forget that we are considering a question purely of internal administration, which must be settled solely by the municipal laws of our own country, and not by the laws of nations. The question before us is, what are the rights and obligations of our own citizens toward their own Government in time of peace? and not, what are the relative duties of two foreign countries in time of open and flagrant war? The law of nations takes no cognizance of that which is done in time of peace by a single Government with its own people.

It is true that where a people divide, and the

parties become hostile to one another and take up arms and thus make a civil war, the common humanity of the world will insist that the contest between them, as long as it continues to be a military contest, shall be carried on according to the rules and principles which apply to separate belligerent nations.

I maintain that when the rebellion was suppressed the law resumed its authority. The law was suspended during the rebellion because it could not be executed; but it was not repealed, destroyed, or abolished. If the sovereign whose power has been opposed by an insurgent force is an absolute despot, he may wreak his vengeance at will, as Russia did upon Poland and Austria upon Hungary. If he is a limited monarch, he must govern after a rebellion as he did before, according to the laws of the realm. If the armed opposition was made against a constitutional republic, it is absurd to say that the officers or legislators of the Government have acquired from the rebellion a power which the constitution did not give them. It is equally absurd to say that the laws were abolished by the very war which was waged for their preservation. We must remember that this Government has not been revolutionized by the southern rebellion, and I deny that it has added one particle to the power of any man who holds office under the United States.

I believe most devoutly in the Constitution framed by the fathers of the Republic, and in that Union which was the result of the Constitution. I have no faith in any other mode of bringing the States together. We must still look to that Constitution and the laws for a justification of all we do, and every citizen may still plead that he owes no obedience to mere arbitrary power because there is no arbitrary power in existence.

I happen to represent a region of country which was once in rebellion against the United States. The insurrection was put down by superior military force. In those days, under the lead of Washington and Hamilton, the monstrous doctrine that as a conquered people they and their children had no rights under the Constitution was never thought of. They submitted to the law and the law protected them.

The people of the South have submitted to the authority and Government of the United States. What is that Government? The Constitution and laws. But our radical friends say their submission was made to the will of the dominant party in this House and the Senate.

Did secession destroy the Union? Certainly not, for secession was a nullity. Did the war which we carried on to enforce the laws destroy the obligation of the laws? A secessionist might say so, but in the eyes of a Union man there can be nothing more absurd or disloyal. Where, then, is the authority to govern without law? It will not be pretended that there is a divine right. We must come back, then, to the fundamental law, which is the true source of all power, and the true standard of duty for all the people who are under our jurisdiction.

The committee on reconstruction has proposed an amendment to the Constitution excluding from the basis of representation all persons denied the franchise on account of race or color. This proposition strikes at the Constitution in its most vital particular, and has many advocates without much consideration. The whole question of representation was settled by our fathers with great difficulty, after a most careful and matured deliberation. It is unwise to disturb it. The policy of amendment once introduced will not stop with curtailing the representation of the southern States. Under the Constitution all legislative powers consist of a Senate and House of Representatives, the legislative powers of the Senate being equal to that of the House. In addition to this the Senate is a part of the treaty-making and appointing power. If it is intended that representation shall be based upon numbers, then we must remodel that part of the Constitution which gives to New England and several of the new States a voice so largely

disproportionate to their population. The six New England States, with a population less than New York, and but little greater than Pennsylvania, have twelve Senators, while each of the latter have but two. With this disproportionate power New England has shaped the policy of the Government to her own advantage, in the navigation laws, in the fisheries, and in the protective policy. The great agricultural interests of the country, and especially of those States situate in the valley of the Mississippi and around the Gulf of Mexico, have been tolled by her for more than fifty years. The instincts of empire stimulated by the example of amendment will arouse this interest to circumscribe a power so full of exaction and prohibition. Such reform would readily commend itself to the judgment as well as the passions of men, and soon become an element of party warfare. Be careful, then, how you lay the hand of innovation on this part of the Constitution.

The idea of a certain class of politicians, of confiscating the lands of the South and parceling them out among negroes and adventurers, has for its object the extermination of the present generation of southern whites, and shows the barbarous *animus* of that most impracticable party. They would adopt that same policy of irritation which was attempted by Elizabeth and James in Ireland, and which has been fruitful only of heart-burning and discontent to the present hour.

It is not the policy of the Government to keep it pressed upon the minds of the South that they are subject to a galling yoke. Neither is it right. The people of the South when they have once given in their adhesion to the Government are as much freemen, as much entitled to protection in the rights of self-government, as any portion of the North. There is a broad distinction between power and right, and while the Government possesses the power she should exercise it in subordination to those great principles of democracy and republicanism which constitute the basis of our system. It is a plain violation of these to force upon the South any modification of her social condition, any political *status* not sanctioned by her people through their law-making assemblies.

Such a policy may drive a people to despair, may prepare the fuel for lighting anew the flames of insurrection; but will never generate love for the Government which thus seeks to oppress them. True statesmanship will not attempt to succeed by such means. A strict regard for justice, abatement of extreme pretensions; a steady effort to show the South that the war was not waged out of hatred to her people, but only for the preservation of the national territory unfractured; a careful regard for her interests in common with those of the other States, these, I believe, are the only means which will ever succeed in obliterating the silent but corroding memories of errors, wrongs, and sufferings; of offacing the deep scars of civil bloodshed and warming the estranged hearts of our countrymen toward a common Government once more. The expressed desire of the South, if conquered, to belong to a strong Government, and her readiness to resent the imagined injury inflicted upon her by the neutrality of the European Powers, should be wisely taken advantage of to revive and rivet the Union feeling.

We ask indemnity from England for the ravages of anglo-rebel cruisers. We protest against the establishment of a monarchy on the ruins of the Mexican republic, and we are anxious to preserve the national faith and lessen the evils of a redundant currency. A cordial reunion of the States will do more to settle our foreign complications than "an army with banners." It would stimulate a revival of our industrial pursuits and divert into new channels a portion of our paper issues. It would encourage a speedy and active cultivation of the lands of the South, add largely to the public revenue, and increase the basis of security for the payment of the public debt. Who can hesitate to coöperate for such a purpose—to restore the Union,

to reunite a people, to reestablish an empire of free Commonwealths, and make it irresistible and imperishable? And yet the caucus of the dominant party originated the joint resolution and the committee of fifteen, to which is committed without debate whatever relates immediately or remotely to the restoration of the Union. A policy thus struck out in advance of the message has forestalled the action of Congress and virtually notified the President that the "information of the state of the Union" which the Constitution requires him to give is immaterial and disregarded. It presumed the States in which insurrection lately prevailed to be no States, and, as a consequence, that all his acts looking to their restoration were simple usurpations.

In the rise and progress of this war we have seen a frightful display of the wild and reckless passions of our nature, manifesting itself in proscription, confiscation, and an utter disregard of the rights of person and property, of freedom of speech and publication, and of trial by jury. If we look back to the instructive records of that Commonwealth which was the greatest which preceded our own, we find that when once a faction which dominated resorted to proscription and the gratification of malignant passion this was the natural excuse for the opposite faction, on succeeding to power, of retaliating the same abuses. Sylla was the leader in this sanguinary policy. Then it was freely resorted to by Marius and by Cinna. Even Cicero, with all his high-toned principles, descended to this abuse in the punishment, without law, of the Catilinian conspirators. A reaction was the natural consequence. The infliction of punishment contrary to law excited a sympathy with the vicious, and Cicero himself was soon a sufferer by the same code. The event proved the wisdom of Julius Cæsar, who in the Senate counseled moderation as at all times the true policy. It does not detract from the value of Cæsar's counsel that he was himself assassinated in turn—for corruption had become too general and deep seated to admit of any but a forcible remedy—and that through such a horrible highway of blood the republic became merged in the empire. May we not ask, do these extra-constitutional and unlawful acts upon the part of our rulers mark the steps of a like progress on our part toward the repose of absolutism?

Would it not be far better in this condition of things to repeal this sweeping and revolutionary confiscation law? For, what is the end and object of that act? If it is a punishment, then I am fortified by the opinion of Montesquieu, that all such punishments are unwise. The following is the language which he uses in his *Spirit of Laws*:

"As soon as a republic has compassed the destruction of those who wanted to subvert it, there should be an end of examples, punishments, and even of rewards."

"Great punishments, and consequently great changes, cannot take place without investing some citizens with too great a power. It is therefore more advisable in this case to exceed in lenity than in severity; to banish but few rather than many; and to leave them their estates rather than to make a great number of confiscations. Under pretense of revenging the republic's cause, the avengers would establish tyranny. The business is not to destroy the rebel, but the rebellion. They ought to return as quick as possible into the usual track of government, in which every one is protected by the laws, and no one oppressed."

We must remember that in the struggle through which we have passed a million of our people have been slain, and among others the Washingtons, Marshalls, and Monroes; and that Virginia has been desolated and dismembered. It was this same Virginia that, in the struggle of 1776, marched to the relief of Massachusetts. In that eventful conflict she was to Massachusetts as the shield of Achilles to the Greeks. She furnished the author of the Declaration and the leader of the continental army which carried the Revolution to success, and afterward the statesmen who laid the foundation of the Government.

The Republican party has accomplished its mission, which was the abolition of slavery. For the rest there is no longer any bond of

union among its members. The numerous propositions to amend the Constitution are but the signals of distress, while the despairing cry is heard from every portal. The Democracy have no changes to make. Their principles are identical with the prosperity of the country, and are as perpetual as the Government itself. They have only to adhere to those principles; in the breadth and vigor with which they were thus announced in Mr. Jefferson's inaugural:

"Equal and exact justice to all men, of whatever state or persuasion, religious or political; peace, commerce, and honest friendship with all nations, entangling alliances with none; the support of the State governments in all their rights, as the most competent administrators of our domestic concerns, and the surest bulwarks against anti-republican tendencies; the preservation of the General Government in its whole constitutional vigor, as the sheet-anchor of our peace at home and safety abroad; a jealous care of the rights of election by the people, a mild and safe corrective of abuses which are lopped by the sword of revolution, when peaceable remedies are unprovided; absolute acquiescence in the decisions of the majority, the vital principle of republics, from which is no appeal but to force, the vital principle and immediate parent of despotism; a well-disciplined militia, our best reliance in peace, and for the first moments of war, till regulars may relieve them; the supremacy of the civil over the military authority; economy in the public expense, that labor may be lightly burdened; the honest payment of our debts, and sacred preservation of the public faith; encouragement of agriculture, and of commerce as its handmaid; the diffusion of information, and arraignment of all abuses at the bar of the public reason; freedom of religion, freedom of the press, and freedom of person, under the protection of the *habeas corpus*; and trial by juries impartially selected."

These, Mr. Speaker, are the immutable principles of eternal justice, and must be recognized as the governing law of our race. The disorganization of society induced by the late struggle, and the demoralizing spirit of plunder which is abroad in the land, may for a time retard their adoption, but their full and general recognition cannot long be delayed. In the language of Henry Clay, "truth is inevitable and public justice certain."

In restoring to order the scattered parts of a Government and people returning to peace after a terrible civil war, the principles of justice must be preserved. With a just sense of right, and with comprehensive view, we must not only forget the past, but we must, by an equal distribution of the benefits as well as the burdens of Government, make it the interest of all sections to uphold and defend it. Such interest is the great regulating principle, the true bond of Union; the cohesive power that holds Governments together, and makes a nation truly great and prosperous. For a time the southern States may be denied the privileges of a reunion, and of a representation on this floor; the writ of *habeas corpus* may be suspended; arbitrary arrests may be renewed; military commissions continued; and the cry of an unbridled fanaticism heard over the voice of struggling justice; but so certainly as the waters find their level, or the magnet points to the pole, will that spirit of liberty and independence which the Almighty blew into our nostrils with the breath of life conduct our principles to final triumph.

Mr. TAYLOR. Mr. Speaker, I desire to urge a few objections to the bill now before us, which I deem pertinent, and which I think should have some influence in the final action of this House. It is a measure intended to affect specially and beneficially a large number of our people, and will, in its operations, concern and affect immediately and remotely the whole community. Before proceeding further, I will here state that my remarks will be upon the bill as it came from the Senate. A few amendments have been reported by the committee which do not materially change any of its features, or involve any principle in it, but have reference mainly to detail.

In opposing this bill, I want it distinctly understood that it is not because I think the General Government should not, and ought not, to render a certain amount of aid and assistance to the unfortunate class which the friends of this bill propose to render. It is because, to my mind, the object attempted to be reached is sought for in a most extravagant and loose way, and because I think the same result can be at-

tained with as much certainty, and be as effective in a more direct and economical manner. That this helpless class of persons need, for a time at least, the sure and protecting aid of the General Government, and not be left to the ill-advised and fitful efforts of the well-intentioned benevolence of individuals, no one, it seems to me, can for a moment doubt.

At the last session of the Thirty-Eighth Congress a bill was passed creating the present Freedmen's Bureau. At that time the military, to whom were intrusted the care and protection of the freedmen, were so actively engaged in their operations in the field that but little time could be devoted to the interest of the freedmen; hence a necessity arose for the bureau.

But a great change has taken place since that time. Peace now, through the well-directed efforts of our able and patriotic leaders, pervades the whole land, and the military is now in a condition to assume the charge which it was advisable a year ago to relieve it from.

My first objection to this bill is, that it proposes to enlarge the powers of the bureau, and to extend the theater of its operations; and why these increased powers I am at a loss to understand.

In neither the reports of General Grant nor General Howard do I find that it is asked; and the impression made upon my mind from a careful reading of those able reports was that if any further legislation were needed on this subject it should have been to contract its powers, and not to increase them.

The first section of this bill proposes to extend the jurisdiction of the Bureau of Freedmen in all parts of the United States, which is to be interpreted to mean, as I take it from what follows, that the President may divide the whole United States into twelve districts, and appoint assistant commissioners for such districts, and agents in every county and parish in the country.

The explanation which will be given to this provision by the friends of this measure I suppose will be that it was necessary to make the act general, that the operations of the bureau might be extended into the States of Delaware, Maryland, Kentucky, and Missouri, or parts of them. If that be the explanation, why not limit the operations of the bureau to the eleven rebellious States and the States named? I do not suppose that it will be claimed that there is a necessity for extending the operations of the bureau beyond the States which I have named, nor do I suppose that it is so intended; yet at the discretion of the President, in addition to the Commissioners and assistant commissioners, two thousand and sixty-four agents and four thousand one hundred and twenty-eight clerks, may be appointed at an expense of \$8,046,600 to the Government. Such a thing I can hardly think is contemplated at this time, nor can I believe that it would be permitted by the present Executive.

But as the bureau is continued indefinitely, or until otherwise provided by law, an unscrupulous President, for party purposes, has it in his power at any time to pension on the Government this large number of persons at the expense of the nation.

This, Mr. Speaker, whatever others may think of it, I denominate loose legislation.

Mr. Speaker, this act discriminates and favors one class at the expense of another; or in other words, its benefits and immunities are special, and not general.

The Freedmen's Bureau was established ostensibly for the aid and protection of refugees and freedmen. At the time the bureau was created there was a large class of refugees, or persons, both white and black, who were very properly denominated refugees; persons who had escaped and broke through the enemy's lines into our own for safety. But now, since the war has ceased, the term "refugees" ceases to describe any class of persons among us. That class of persons which the word refugees was descriptive of have now returned to their homes; and the great change wrought by the termination of the war in the circumstances and con-

dition of that class of persons leaves the name refugee without a meaning, as in its original application, therefore obsolete and inapplicable in describing any class of persons now having a habitation within the United States.

Now, according to my understanding of the meaning of the name refugee as it is used in the bill creating the bureau and the bill now before us, the present proposed legislation is solely and entirely for the freedmen, and to the exclusion of all other persons, whether white or black, be their circumstances what they may.

This, sir, is what I call class legislation—legislation for a particular class of the blacks to the exclusion of all whites, and all blacks who in being deprived of the benefits and immunities extended by this bill will have cause to think it a misfortune to have been free.

Such partial legislation, Mr. Speaker, cannot be lasting; it seems to me to be in opposition to the plain spirit pervading nearly every section of the Constitution that congressional legislation should in its operation affect all alike.

No special and discriminating legislation that I am aware of has yet in this Republic stood the test of time, nor do I believe that it ought or will; and I warn the gentlemen in their zeal to elevate and ameliorate the condition of the freedmen not to allow this bill to pass regardless of the great principle, equality before the law, about which so much has been said during the past four years.

In my opinion if they do, the aid which they will render can only be temporary and not permanent, and in the reaction which is sure to follow, the injury and harm which will fall upon the head of the poor black will be greater than the present and temporary good afforded.

It is said that it is a characteristic of zealots and fanatics to carry things to extremes. Many persons in our community have been proclaiming equality before the law so long, taking their text from the institution of slavery, that now there is an opportunity to establish so desirable a principle in our Government, that perhaps it would be well to stop and consider whether or not by passing this bill in its present shape we shall not overlap the mark and land on the other side, and before we are aware of it, not have the freedmen equal before the law, but superior.

It seems to me, Mr. Speaker, that this idea is worthy of some consideration, and I commend it to those who are really desirous of benefiting the freedmen permanently and substantially.

Now, Mr. Speaker, I desire to call the attention of the House to the cost of this bureau for one year. In doing so I will first show what it might cost if the President should in his discretion use to the full limit the authority and power given him by the provisions of this bill.

The bill provides in its first section that the President may divide the section of country containing refugees and freedmen into districts, each containing one or more States, not to exceed twelve in number. Under this wide and comprehensive discretion I see no difficulty in the way of the President dividing the whole United States into twelve districts.

Again, in the second section it is provided:

That the Commissioner, with the approval of the President, may divide each district into a number of sub-districts not to exceed the number of counties or parishes in such district, and shall assign to each sub-district at least one agent, who shall receive a salary not exceeding \$1,500; and each agent of a sub-district may employ two clerks of the first class.

Now, supposing the President should, in the exercise of his discretion given to him by this bill, appoint all the officers that the bill will allow him to appoint and from civil life, the following will show the cost to which the Government would be subjected:

Salary of Commissioner for one year.....	\$3,000
Salary of twelve assistant commissioners for one year.....	30,000
Salary of clerks to Commissioner for one year.....	15,300
Salary of clerks to assistant commissioners for one year.....	91,200
Salary of agents in 2,081 counties.....	3,026,000
Salary of clerks to agents.....	4,953,600
Total salaries alone.....	\$8,189,100

Statement of salaries of Commissioner, assistant commissioners, agents, and clerks.

Commissioner.....	\$3,000
Assistant commissioners.....	30,000
Agents, free States.....	1,379,000
Agents, former slave States.....	1,767,000
Agents' clerks, free States.....	2,126,400
Agents' clerks, former slave States.....	2,827,200
Commissioner's clerks.....	15,300
Assistant commissioners' clerks.....	91,200
Total salaries.....	\$8,189,100

STATES.	Number of counties.	Salaries of agents.	Salaries of clerks.	Total.
California.....	44	\$66,000	\$105,600	\$171,600
Connecticut.....	8	12,000	19,200	31,200
Illinois.....	102	153,000	244,800	397,800
Indiana.....	92	138,000	220,800	358,800
Iowa.....	98	147,000	235,200	382,200
Kansas.....	41	61,500	98,400	160,900
Maryland.....	16	24,000	38,400	62,400
Massachusetts.....	14	21,000	33,600	54,600
Michigan.....	63	94,500	151,200	245,700
Minnesota.....	65	97,500	156,000	253,500
Missouri.....	66	99,000	158,400	257,400
New Hampshire.....	10	15,000	24,000	39,000
New Jersey.....	21	31,500	50,400	81,900
New York.....	60	90,000	144,000	234,000
Ohio.....	88	132,000	211,200	343,200
Oregon.....	21	31,500	50,400	81,900
Pennsylvania.....	65	97,500	156,000	253,500
Rhode Island.....	5	7,500	12,000	19,500
Wisconsin.....	19	28,500	45,600	74,100
Vermont.....	14	21,000	33,600	54,600
Total.....	886	\$1,329,000	\$2,126,400	\$3,455,400

STATES.	Number of counties.	Salaries of agents.	Salaries of clerks.	Total.
Maryland.....	20	\$30,000	\$48,000	\$78,000
Virginia.....	148	222,000	355,200	577,200
North Carolina.....	87	130,500	208,800	339,300
South Carolina.....	30	45,000	72,000	117,000
Georgia.....	132	198,000	316,800	514,800
Florida.....	37	55,500	88,800	144,300
Alabama.....	62	93,000	148,800	241,800
Mississippi.....	60	90,000	144,000	234,000
Arkansas.....	113	170,000	272,000	442,000
Louisiana.....	48	72,000	115,200	187,200
Texas.....	131	196,500	314,400	510,900
Kentucky.....	109	163,500	261,600	425,100
Delaware.....	3	4,500	7,200	11,700
West Virginia.....	84	126,000	201,600	327,600
District of Columbia.....	1	1,500	2,400	3,900
Total.....	1,178	\$1,767,000	\$2,827,200	\$4,594,200

Now, sir, there have been about three million five hundred thousand slaves liberated by the amendment to the Constitution; say that one tenth of the whole number, which I think a small estimate, should require aid in the way of clothing, food, medicines, and transportation, at a cost of fifty dollars per head.

This would increase the expense.....	\$17,500,000
Add to this the estimate of General Howard for the following expenditures for the fiscal year commencing January 1, 1866:	
For stationery and printing.....	63,000
For quarters and fuel.....	15,000
For school superintendents.....	21,000
Sites for school-houses and asylums.....	3,000,000
Telegraphing.....	18,000

And we have a grand total of..... \$8,807,000

I have no idea that it is contemplated for a moment to extend the operations of the bureau

over the whole United States, but think I have shown conclusively that it might be so extended.

I can see no necessity for such an unlimited discretion, and when there is no necessity beyond that which is required to accomplish and carry out the object sought for, it seems to me that it would be wise to withhold it.

But to show the cost or proximate cost of the bureau for one year, confining its operations to the hitherto slave States, we have only to deduct from the above grand total the salaries of agents and their clerks in the nineteen free States, \$3,455,400, and the cost will be \$25,351,600. That it is intended to put the bureau in full operation in every county and parish of the hitherto slave States, including Delaware, Maryland, Kentucky, and Missouri, I have not the least doubt, nor have I any doubt but that it is intended to extend it into parts of some of the border States.

Now, sir, I do not think that I can be charged with having over-estimated the expense of the bureau; on the contrary, I have rather under than over-estimated its cost, and have left out of the calculation many costly items which, upon a closer analysis, will be found incident to a full development of the plan of the Freedmen's Bureau:

Section-four provides:

That the President is authorized to reserve from sale or from settlement, under the homestead and pre-emption laws, and to set apart for the use of freedmen and loyal refugees, male or female, unoccupied public lands in Florida, Mississippi, Alabama, Louisiana, and Arkansas, not exceeding in all three million acres of good land.

Now, Mr. Speaker, I should like to know the necessity of setting apart three million acres of land for the exclusive use of the freedmen in the particular States named.

We have in the southern States about thirty million acres of unoccupied public lands. Why not then, Mr. Speaker, throw these public lands open to all loyal citizens, under the pre-emption and homestead laws, and if necessary to restrict the quantity to forty acres, do so? And if the freedmen or any other loyal citizen desire to become freeholders, give them the opportunity; and if the costs of entering such lands be too much, which I believe is ten dollars, then reduce it, or make no charge at all. I believe that it would be to the pecuniary advantage of the Government to give these lands to parties who would reclaim and improve them rather than they should remain unoccupied and a waste.

I believe that it is the true policy of the Government to encourage emigration to the southern States and the speedy settlement of these lands. Their enhanced value by improvement would give to the Government a revenue from taxation in a very short time more than sufficient to pay their first cost and the expense of bringing them into market.

This plan, it seems to me, would be more equitable and less objectionable, on the ground of special legislation, than that suggested by the bill. It certainly would afford all who were disposed to avail themselves of the liberal provisions of the homestead act—a home by taking the trouble to enter the land and expending the labor necessary to comply with the requirements of the act.

Again, section six provides:

That the Commissioner, under the direction of the President, is hereby empowered to purchase or rent such tracts of land in the several districts aforesaid as may be necessary to provide for the indigent refugees and freedmen dependent upon the Government for support.

This provision, Mr. Speaker, is too plain to need comment. Section four provides for the setting apart three million acres of land for the freedmen, yet the framers of this bill, seemingly in doubt as to whether three million acres will be sufficient, ask that the Commissioner, under the direction of the President, may purchase, without limit other than his own judgment, additional land. I do not know how this proposition will strike others, but to my mind it seems singular that the Government, being in possession of from twenty-five to thirty million acres of unoccupied lands in the southern States,

should be asked, without limit as to quantity or value, to purchase additional lands.

What additional expense the Government will be put to in the purchase or renting of lands will be left entirely to the Commissioner, and what that may be is a matter of speculation. But judging from the appropriation which he asks for the purchase of sites for school-houses and asylums, \$3,000,000, one might reasonably suppose that it would be a pretty large sum.

Section five provides for the confirming of the possession of the freedmen for three years in the occupancy of the lands upon which they were settled pursuant to General Sherman's special order, dated January 16, 1865.

That General Sherman had a right to settle the freedmen on these abandoned lands at the time he did so I have no doubt. They were held by military power, and the laws of war justified him in setting them apart for the safety of those who claimed and were entitled to his protection. His authority being one originating out of the condition of things occasioned by a state of war, in my judgment ceased after its termination, and the control which he assumed over civil affairs, and which he was justified in assuming during the war, lapsed back to the legally constituted civil authorities at its close.

It seems to me a monstrosity, that a Government which is instituted for the protection of persons in the possession and enjoyment of their property should be despoiled of it, and that it should be given to others without the slightest consideration. Neither municipal nor international law will justify such an assumption, and to my mind such legislation can only lead to vexatious litigation, and with but one end—a judicial decision that the law is unconstitutional and of no effect.

And I submit whether or not it would not be wise in Congress to remove the freedmen to some of the unoccupied lands, where they would have an undisputed title to their homesteads, and prove in the end to be to their very best interest.

Having shown what seems to me objectionable features in this bill, I submit to this House whether the end which it aims to accomplish cannot be obtained just as surely, and with as great a degree of certainty, in another way, and with a great saving to the Treasury.

General Grant, in his report of December 18, says in substance that it will be necessary to keep garrisons in the States lately in rebellion until such time as labor returns to its proper channels and civil authority is fully established. That being the case, why cannot the aid and protection rendered through the Freedmen's Bureau be rendered through this channel? As it is, the bureau depends entirely upon the military to make its authority effective.

A well-established military garrison has all the appliances at hand to aid the destitute freedmen, women, and children, and the force to protect them. What more is needed? The foregoing conforms with General Grant's view, that there is no necessity of the expense of a separate organization. He says, in concluding the report before alluded to, that—

"The Freedmen's Bureau being separated from the military establishment of the country requires all the expense of a separate organization. One does not necessarily know what the other is doing, or what orders they are acting under. It seems to me that this could be corrected by regarding every officer on duty with troops in the southern States as an agent of the Freedmen's Bureau, and then have all orders from the head of the bureau sent through department commanders. This would create a responsibility that would secure uniformity of action throughout all the South, would insure the orders and instructions from the head of the bureau being carried out, and would relieve from duty and pay a large number of employees of the Government."

This to my mind is conclusive that the Freedmen's Bureau, with its elaborate and expensive organization, is not needed; that all that can be done for the freedmen by that institution can be done through the military garrisons that are now established throughout the South with equal certainty and effect, and a saving to the Government of millions of dollars.

I desire to call the attention of the House

to a remark contained on page 13 of General Howard's report. He says:

"My objection to the system I have been obliged to adopt has been its tendency to check individuality, not sufficiently encouraging self-dependency."

This is truly a grave and serious objection, and one that should engage the attention of the friends of the freedmen. Too much can be done as well as not enough. By doing too much you prolong his dependence and encourage idleness; and when you withdraw the aid and support of the Government you will leave him in a worse condition than when you found him.

In conclusion, permit me to say that I have criticised what I conceive to be imperfections in this bill with no unfriendly feeling toward the freedmen. I think they need and should have the fostering care of the Government to a reasonable extent, and that I think they can have and should have through the military, and the Government be relieved from the expense and cost of sustaining two organizations to perform the office which one can as effectually and thoroughly perform as the two.

Mr. DONNELLY obtained the floor.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. McDONALD, its Chief Clerk, announcing that the Senate had passed a joint resolution (S. No. 25) tendering the thanks of Congress to Vice Admiral David G. Farragut, and to the officers, petty officers, seamen, and marines under his command, for gallantry and good conduct in the action in Mobile bay on the 5th August, 1864; in which he was directed to ask the concurrence of the House.

PILOTS IN GOVERNMENT EMPLOY.

Mr. KERR. Mr. Speaker, I hope the gentleman from Minnesota [Mr. DONNELLY] will give me the floor a few moments before he commences his remarks on the pending bill.

Mr. DONNELLY. If it does not come out of my time I will do so with pleasure.

Mr. KERR. Mr. Speaker, on the 16th day of December last I had the honor to submit the following resolution, which was referred to the Committee on Naval Affairs:

Resolved, That the Committee on Naval Affairs, when appointed, be instructed to inquire into the justice and expediency of providing by law that all pilots engaged in the gunboat or other naval service of the Government during the late war, shall be deemed to have been officers within the terms of the rules and regulations of the service on that subject, and entitled to the same extra pay and rations as other officers in the same service whose monthly compensation was the same; and that the said committee report by bill or otherwise.

On the 18th instant that committee, by Mr. DARLING, submitted the following report; which was laid on the table, and ordered to be printed:

That any further or new legislation on the subject is inexpedient.

The committee find on investigation that a very large proportion of the persons intended to be benefited by further legislation were, and are now, living in the States lately in rebellion, were prior to the late war engaged in piloting vessels in the civil service in those States, and were in many instances forced into the service of piloting the war vessels of the United States against their wishes, although they were generally out of employment. The committee also find that it is not just or expedient to class such persons with those officers of the Navy who volunteered their services in behalf of the Government, and they submit that if there are any exceptions to the rule above stated, such cases can only be reached by special legislation.

The committee also find that all persons employed in the service specified in the resolution have been as well paid by the Government as they were before or have been since in the civil service; and that so far from having been injuriously affected by the war, their business was generally increased, and in many instances they have been materially benefited.

My present purpose is to ask the favor of the House to take that resolution and report from the table, and commit them to the Committee on Military Affairs for further consideration. And before the motion is put, I beg the indulgence of the House while I submit a few remarks explanatory of my reason for making it.

I will not for a moment believe that the Committee on Naval Affairs would intentionally do the slightest injustice to the class of persons referred to in my resolution. But their report must have been made upon an entire misapprehension of facts, for, in my judgment, it does

very great injustice to the class named, besides denying to them what I conceive to be an obvious right.

The Navy Department, some time in July, 1865, in reference to the gunboat service on our western rivers, directed that officers should be allowed one month's leave for each year of service, and it was the expectation of the pilots engaged in that service that they would be treated as officers, and receive the benefit of the same leave. But the law was otherwise construed by the Secretary of the Navy, and I do not now question the legal propriety of that decision. The pilots, however, appeal to the Government to be placed upon as favorable a footing in that one respect as other officers in the same service.

The kind of service rendered by them was fully as onerous, important, and responsible as that performed by any officers of subordinate ranks in the western naval service. Their capacity to render that service with efficiency and safety to the Government was the result of long years of patient labor and observation. It was not acquired in a day, and in the conduct of the vast commerce of the western rivers, piloting is justly esteemed a calling of great importance and respectability. It will surely not be pretended that they were subjected to any less danger in the discharge of their important duties than the officers of the boats they were piloting. They were exposed, in a greater degree, than any officer of the boats to the deadly aim of the rebel sharpshooters who infested the banks of the rivers they were piloting. They were liable at almost any moment to become the victims of unseen enemies. Their positions denied them the ability or right to guard their own safety, and compelled them to be mindful only of the security of their vessels against the dangers of the rivers, and often under circumstances demanding the very highest degree of self-possession and bravery.

They received for their services \$250 per month, and rations worth thirty cents per day. It cost them but little if any less than one dollar per day to live. In the merchant service, I am informed by several pilots of the highest credibility, they could at the same time have gotten from \$500 to \$750 per month, with boarding. These facts alone sufficiently explain any reluctance that any of them may have manifested to leaving the merchant service for the naval service. But a large majority of them entered the latter service voluntarily, and continued in it until the close of the war. They will certainly learn with surprise, "that so far from having been injuriously affected by the war, their business was generally increased, and in many instances they have been materially benefited."

But I should not have felt disposed to ask any further attention to this subject now if it were not made my duty to do so by the reflection which is contained in the report of the committee against the loyalty and patriotism of the pilots. I respectfully but earnestly protest that the remarks of the committee do them great wrong in these particulars. If they have any foundation in fact to sustain them, they must rest upon the merest individual instances, and certainly do not justify reflections affecting so injuriously a whole class. So far as I know the pilots to be benefited by the desired legislation in this case, not one of them resides in a State lately in rebellion. And as to the pilots as a class, I esteem it alike a pleasure and a duty to assure the House, upon my general knowledge of their character, derived from a long residence near the falls of the Ohio river, that there cannot be found in the country any class of men more unequivocally loyal, patriotic, and gallant in their fidelity to our country and Government. As a fitting and somewhat authoritative answer to these reflections of the honorable committee, I ask attention to the opinion of Rear Admiral David D. Porter, as I read it from the report of that officer to the Secretary of the Navy, under date of April 14, 1864, at page 522 of Message and Documents, Navy Department, 1864-65:

"There is a class of men who have during this war

shown a good deal of bravery and patriotism, and who have seldom met with any notice from those whose duty it is to report such matters. I speak of the pilots on the western waters. Without any hope of future reward, through fame or in a pecuniary way, they enter into the business of piloting the transports through dangers that would make a faint-hearted man quail. Occupying the most exposed positions, a fair mark for a sharpshooter, they are continually fired at, and often hit, without so much as a mention being made of their gallantry. On this expedition they have been much exposed, and have shown great gallantry in managing their vessels while under fire in this, to them, unknown river. I beg leave to pay this small tribute to their bravery and zeal, and I must say, as a class, I never knew a braver set of men."

This report was written upon the flag-ship Cricket, Mississippi squadron, off Grand Ecure, Louisiana.

I now move the reference to the Committee on Military Affairs.

No objection being made, leave was granted, and the report was taken from the table, and referred to the Committee on Military Affairs.

CONTESTED SEAT.

Mr. BROOKS. I rise to a question of privilege. I ask that the papers now in possession of the Clerk relating to the contested case of Dodge vs. Brooks be ordered to be printed.

The SPEAKER. The committee has power to order them printed. They will be taken from the files of the Clerk and referred to the Committee of Elections.

CLEMENT REEVES.

Mr. NICHOLSON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be, and is hereby, instructed to communicate to this House any information in his possession relative to the seizure of a certain piece of land on the Delaware river, near Delaware City, Newcastle county, in the State of Delaware, the property of Clement Reeves, and the erection thereon of fortifications; whether the same is still held, and whether the said Clement Reeves has received any and what compensation for such seizure and occupation.

HOLDING AN EVENING SESSION.

Mr. WILLIAMS. I move to reconsider the vote by which the House ordered an evening session to be held to-night.

The SPEAKER. The Chair may be permitted to say that such a reconsideration could hardly be regarded as keeping good faith to the House, and to those members who have left the Hall with the express understanding that there will be an evening session. The Chair is informed that there are several gentlemen who desire to speak to-night.

Mr. WILLIAMS. My understanding is different from that expressed by the Chair, and therefore it was that I submitted the motion to reconsider.

Mr. HUBBELL, of Ohio. As the Chair has remarked that it would hardly be keeping good faith toward members for the House now to reconsider the order for an evening session, I desire to make a suggestion on the question of good faith. The House orders an evening session; yet when the evening comes there is nobody here but the pages and a few gentlemen, generally those who desire to speak. Now, I would like to ask the Chair if that is keeping good faith on the part of members toward those who may have consented to occupy the evening rather than the day time for their own speaking.

The SPEAKER. The gentleman from Ohio [Mr. HUBBELL] obtained the floor on Saturday last, but declined to speak then. The Chair has positive information that the gentleman from Pennsylvania, [Mr. KELLEY,] and the gentleman from Indiana, [Mr. STILLWELL,] desire to speak this evening. And the Chair will, at the risk of the censure of the House, decide that the House having by unanimous consent ordered that there shall be an evening session, for debate only upon the President's annual message, when the House shall be ready to adjourn this afternoon it must be with the view of having a session to-night at half past seven o'clock.

Mr. BROOKS. It is of high importance that members of the House should be educated to the point of remaining here until the close of the day's session. We passed a law here the

other day when only six members were present. And I think the best way is to educate members up to their duty of remaining here, and thereby keeping good faith to the House and the country.

Mr. ELIOT. Is there a quorum now present?

The SPEAKER. There is not. And the Chair would hold that the motion to reconsider would fail from the want of a quorum.

Mr. HUBBELL, of Ohio. The Chair observed a moment ago that the gentleman from Ohio—myself—obtained the floor on Saturday last, but declined to speak at that time. I did obtain the floor, but it was late in the day's session; and at the request of members I gave way to a motion to adjourn. It was not that I declined to speak, for I was willing to go on; but I yielded the floor at the request of others. It was no fault of mine that I did not speak then. I am willing to yield the floor to-night to the gentleman from Pennsylvania, [Mr. DENISON.]

The SPEAKER. That gentleman is not now present. The Chair was informed by the gentleman from Pennsylvania [Mr. KELLEY] that he would certainly be here this evening and be ready to speak. The Chair only desires to carry out the order of the House.

The motion to reconsider the order of the House for an evening session was not pressed to a vote.

TAX ON RAILROAD COUPONS.

Mr. KERR, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas the internal revenue law, as it is now construed, requires all railroad companies to pay to the Government a revenue tax of five per cent. on all coupons due from said companies to the holders of their bonds, whether the companies are able to pay the bonds themselves or not; and whereas it is manifestly unjust to require the payment of such tax when the companies are unable to pay the coupons themselves: Therefore,

Resolved, That the Committee of Ways and Means be instructed to consider the propriety of so changing the law as to make such tax payable only when the coupons themselves are paid by such companies to the holders of the same, and to report by bill or otherwise.

W. G. RAYMOND AND OTHERS.

Mr. WINDOM, by unanimous consent, introduced a bill for the relief of W. G. Raymond, and the heirs of J. D. Turner, deceased; which was read a first and second time, and referred to the Committee of Claims.

And then, on motion of Mr. POMEROY, (at four o'clock and twenty-five minutes p. m.,) the House took a recess until seven and a half o'clock p. m.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m., (Mr. GRINNELL occupying the chair as Speaker *pro tempore*,) and resumed as in Committee of the Whole on the state of the Union the consideration of the President's annual message.

AMENDING THE CONSTITUTION.

Mr. DENISON. Mr. Chairman, I voted a few days since against a proposition to amend the Constitution of the United States in such manner as to prevent any State from levying taxes to pay debts contracted in carrying on the rebellion; and as my vote was different from that of all the Democrats of my own State, and most of the Democrats of the House, I have desired this opportunity to explain, not the vote, but the reasons for the vote, as a mark of respect for the opinions of my colleagues and the three hundred and fifty thousand Democratic voters in my own State, whose interests and opinions we are presumed, in some manner, to represent; and as I intend to give the same vote upon some twenty-five or thirty similar propositions now pending before Congress, I shall explain my views of the power to amend the Federal Constitution more fully on that account. And yet I am not unmindful of the fact that one who proposes at this day to discuss the power to amend the Constitution must appear like one repeating a tale twice told. And I further state that I do not speak for any side of this

House, nor any party of men, not even for my own district, unless my constituents choose to adopt what I say; so that no one is accountable for such views as I may utter excepting myself.

The proposition against which I voted was introduced in this House, and under the pressure of the previous question passed without debate, without consideration, and with very extraordinary and indecent haste, considering the great power which it proposes to transfer from the States to the Federal Government and the Federal courts. Under this amendment the Federal Government would have the power and the right to inquire into the constitutionality of a tax levied to repair a township bridge; to stand between the State and its tax-payer, and superintend the collecting and disbursing of all taxes in a State lest the debts paid may have been contracted in carrying on the rebellion; for a tax levied and collected for a lawful purpose might be diverted after it had reached the treasury and it would then be a most interesting employment for the Supreme Court to compel the State to refund to the citizens the taxes improperly collected or improperly paid out.

The only good which I can see in this very great change in the organic law of this nation, is that the Supreme Court would not be idle for the want of business, and its judges would not have time to travel about the country making speeches to the negroes, and in that way electioneering for the office of President. The provision will be found to be impracticable and worthless.

Nor would I desire that the Federal Government or any State government should assume to pay, or levy taxes upon the citizen to pay, debts contracted in carrying on the rebellion. God knows we have debts enough of our own to pay. Nor do I know of but one class of men who intend that the Federal Government shall assume and pay the debts of the confederate or rebel States, and that embraces the extreme abolitionists, or that class of men who claim that such States were alien enemies, and are now conquered provinces, for they well know that, as such, the conqueror takes the provinces with their burdens upon them; that if they are successful in thus holding, they must, according to the law of nations, pay their debts. And they must further know, that in pursuance of this well-settled principle of international law, Great Britain is even now gathering up her accounts to make a demand upon our Government for the payment of the debts of the confederacy, and if the theory of the Radicals be true, she will make you pay them. But I am not willing to pay their debts, nor in favor of so treating them as to make the Federal Government in any manner liable for them. Nor is it necessary to alter the Constitution to meet this end, a remedy already being provided in the Supreme Court for the express purpose, and which would most assuredly decide against the payment of any such debt.

But, sir, I have other reasons for my vote, and to my mind higher considerations than can arise from taxes or debts in any form. It will be observed that the proposed amendment is to give the Federal Government the power and the right to dictate to sovereign States the debts which they shall not pay. This is a very extraordinary power to place in the Federal Constitution, to compel States to repudiate debts, a course which States, like individuals, are sufficiently prone to follow without the excuse which you propose to furnish. And this may be the wrong time to set the example of repudiation, until we see our own vast debt provided for. More than two thirds of this House appear to have no doubt of the policy or the power to make so great a change in the organic law of this nation. I deny the policy, and very much doubt the power, even though you hang upon your proposal the odious words "rebel debt." By looking at our files it will be seen that you have one proposition to grant the right of suffrage to certain negro soldiers who served in the war, another to grant certain lands in pursuance of some military order of one General Hunter, another

that no State shall make any distinction in the civil rights of persons residing therein on account of color or descent, and another providing for colored persons sitting as jurors, and I believe some twenty or thirty others.

There is one peculiarity which runs through all of these proposed amendments, and that is, to add to the powers delegated to the Federal Government, and to that extent take from the reserved rights of the States.

These propositions have come upon us with such rapidity and profusion as to indicate that Congress had no other business to require its attention; and that the people had become so weary of "the best Government ever devised by the wisdom of man" that they had selected and sent here the most ultra men in the land to destroy it by usurpations of power under the guise of constitutional amendments.

In my judgment, it is a matter of grave responsibility to make vital changes in the organic law of a nation, and should not be done except upon the most urgent necessity, and upon points wherein we have the undoubted right, and at a time when the public mind is in condition for serious deliberation. Surely not when one third of the States are unrepresented in Congress.

It becomes us, as we regard the oath which we have taken, to look well at the charter under which we claim these powers, to see if we have the right to make these changes lest we place acts upon the record of this nation which are evidence of our presumption, as well as our imbecility, wickedness, and folly.

In order to understand what powers are placed under the control of two thirds of Congress and three fourths of the States, it is important to look at the condition of the States and the people before the adoption of the Constitution of 1789, as well as the Constitution itself.

In looking at that period in our history as a people, the first important paper that we find is the Declaration of Independence, standing comparatively alone, and marking the birth of a great nation. In that instrument we find three distinct propositions. The first is, "that all men are created equal;" but they did not state that as the reason for their independence, or they would have enunciated the fact, and claimed by virtue thereof the right to be free; nor did they regard this abstract proposition as the basis of government, excepting so far as it applied to themselves and the white people whom they represented, for they then had two distinct races of men in their midst who were not then, nor have they since, been permitted to realize the great truth "that all men are created equal." Neither the Indian nor the negro have been permitted to participate in the affairs of this Government up to this hour. The negro was enslaved and the Indian has been moved from land to land, and we appear to have kept him as an excuse for squandering millions of money, which we generally place in the hands of a well-organized band of thieves, who stand between the Treasury Department and the Indian; and that is a most fortunate tribe which receives one tenth of the money appropriated. And yet we continually hear repeated "All men are created equal."

The country is now filled with fatter-day saints, who claim that it has especial reference to the negro, and are willing to sacrifice their own Government and the liberties of their own children to make it true. And yet it would be fair to presume that the great men who made our system of government understood the great truths which they uttered and the provisions of the Constitution which they had established, and were able to apply them to the ruling of the people.

The second proposition in that instrument is that all just Governments are founded upon the consent of the governed; and based upon this second proposition, the colonies no longer consenting to be governed by Great Britain because certain of their chartered rights as Englishmen had been violated and disregarded, the authors of the Declaration proclaim their third proposition, "that these colonies are, and of right

ought to be, free and independent States." And to maintain this conclusion they enter into Articles of Confederation, put their men and means in a common fund, fight the battles of the Revolution, obtain their independence, and repudiate their debts.

The Confederation was merely an agreement between sovereign Powers, and provided, in so many words, that each State should maintain its sovereignty in all respects wherein the power had not been delegated to the Confederation. The independence thus acquired left each State not only free and independent of Great Britain, but of each other, and, as such, they had a right to declare war, make peace, contract alliances with any other or foreign Power and do any and all things which sovereign Powers may do. And it was the representatives of these Powers that made the Constitution, and they stated in the beginning of their labors the objects at which they aimed. They represented sovereign Powers, and they intended to relinquish enough of the powers they represented to accomplish the objects of the Federal Union, and no more. They left us a very peculiar system of government, and if sovereignty means that power over which there is no superior, whose decrees when made are final, then our whole system of government is made up of local sovereignties, each absolute within its own local jurisdiction, and acting as so many checks against the flowing of power into a centralized despotism.

When the people of a township, a county, or State, have determined by ballot the choice of officers to execute the laws of each municipal corporation, they have exercised one of the attributes of sovereignty.

The States furnish the courts to protect the citizen in his rights of person and of property, the descent of estates, and regulate all of the domestic relations of the citizen under the Government. Each State is as entirely independent of every other State as if it were a foreign Power, and just as independent of the Federal Government within the reserved powers and in all respects wherein the powers have not been delegated in the Constitution. And the Federal Government is as completely a consolidated Government and as perfect a Union, within the delegated powers, as it would be if there were no State governments in existence; and each is as completely master of their respective powers as they would be if the other did not exist.

It is to the Constitution alone that we must look to ascertain what powers were delegated and what reserved, and the condition of the reserved rights, whether reserved absolutely to the States, or whether the reserved rights were to be taken away by the will of any other power than the people of the State for whose benefit the reservation was made.

Any person may invest a portion of his estate in the stock of a bank, and thus place that much of his earnings under the control of the majority of the stockholders or directors of such bank, but they do not thereby get any right to control that portion of his estate which he retains; that part of his property still belongs to him, and is under his control as much as if he had no interest in the bank, and he cannot be made to part with it except with his own free will. So it was competent for the States when they created this governmental organization called the United States, by the Constitution, to delegate therein certain powers and the right to do certain things, and thus place the powers delegated under the control of the Federal majorities, and reserve certain other powers to be controlled by the people of each State, and for the exercise and control of which they were not to be answerable to any other power.

If the States did thus absolutely and unconditionally reserve these powers, then they cannot be taken away by two thirds of this House and three fourths of the States any more than the majority of the stockholders of a bank, in which I might have stock, could take my horse or my farm for the use of the corporation, because the States never placed these reserved powers in the common fund of powers to be controlled by Federal majorities. Their con-

dition was the same as to these reserved powers after the adoption of the Constitution as before. The people of each State constituted a sovereignty before the adoption of that instrument. They were equally sovereign over the reserved rights after its adoption, and they cannot be taken away, except by the will of each State, unless there be something in the Constitution to authorize it; for a State, like an individual, cannot be bound further than it agrees to bind itself. Have the States parted with their absolute control over these reserved rights by agreeing to the power to amend the Federal Constitution? If so, then these powers were not reserved absolutely, but only retained until the Federal majorities as represented by two thirds of Congress and three fourths of the States may choose to transfer them, against the will of the people of a State, or it may be one fourth of the States, from the respective States to the Federal Government. This point ought to be settled by the Constitution, and I think it is. We find therein two provisions bearing directly upon the power of amendment. The first is the fifth article, and is in these words:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments, which in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: *Provided*, That no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate."

And the other is the tenth amendment, and in the following words:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

The tenth amendment fixes the type of limitation upon the organic law, and makes the Federal Government one of delegated and not original powers. We are not, therefore, to take any power by inference. The power to be exercised must be clearly expressed in the Constitution, or we cannot take it. We have in the fifth article of the Constitution the right to amend, for such is the word used, but not to make anew. It would not be an amendment to abolish this Constitution and adopt the old Articles of Confederation, or the unwritten constitution of England, or the laws and customs of France or Russia.

An amendment must, therefore, be of something germane to the instrument; it must be of something which we already have in the Constitution or it is not an amendment, but the making of a new Constitution, and would only be binding upon such States as agree to be bound by it, and could not become a part of the Constitution until every State should adopt the same. If one State should refuse its consent, it would not, by virtue of our Constitution, be binding upon any, because while that instrument provided that when it should be ratified by nine States it should be binding upon the nine, it made no provision either for making a new Constitution, nor for its own destruction.

This view would limit the amendatory power of the Constitution to the scope of the delegated powers from the States to the Federal Government, and prohibit the taking of any powers not delegated: and that the men who made the Constitution so understood it is shown by the instrument itself. The first exception to the to a power of amendment, in the fifth article, refers delegated power—the right to control foreign commerce. The second exception to the exercise of the power refers to the manner of voting by States or a method of doing business under the Constitution, and not a delegated power. As germane to the general power to regulate foreign commerce, an amendment could have been made prohibiting the slave trade before 1808, and for this reason a particular limitation upon the amendatory power of the Constitution was necessary to guard it. As an incident to the legislative power vested

in a Congress of the United States in providing methods to do business under the Constitution, it would be competent to change the Constitution by amendment in such manner as to deprive a State of its equal vote in the Senate, and to prevent this the second particular limitation is found in the proviso.

From this it appears that the framers of the Constitution regarded the amendatory power as applicable to its delegated powers or grants and its methods of doing business, and for that reason made these exceptions to the exercise of the power. These exceptions furnish the rule for the exercise of the power of amendment. Under this rule you may so modify the Constitution by amendment in its delegated powers and methods of doing business as to give it upon its own principles a more complete effect.

This construction would give sufficient scope and influence to the power of amendment in the fifth article. It can act upon any and all of the delegated powers. Two thirds of Congress and three fourths of the States may so change the Constitution as to make the justices of the Supreme Court elective. They might make the office of President to continue for ten or twenty years. Under the power to coin money and regulate the value thereof, you might so amend the Constitution as to get power to make a "greenback" a legal tender for the payment of debts; and so on through all of the delegated powers. But it is claimed as a fair rule of construction, that denying the power to amend in two particulars admits the power in all other respects; and this is the correct rule, and the men who made the Constitution so understood it, and to avoid the operation of this rule, and that there should be no implied or constructive powers in the Constitution, they adopted the tenth amendment, declaratory of its meaning, namely, that "the powers not delegated to the United States are reserved to the States respectively or the people."

The tenth amendment was in lieu of the article in the Confederation providing for the sovereignty of the States; and was placed there for the express purpose of keeping the reserved rights of the States from the control of the Federal majorities. And this restriction upon the authority or scope of the Constitution includes its amendatory power, as well as all other powers and grants it contains.

Unless the scope of amendment is limited, it is difficult to see the use of the exceptions in the proviso, or in what manner the restriction attaches to the power of amendment in the fifth article. The amendatory power of the fifth article in the Constitution is as much within the general restriction of the tenth amendment attaching to all the other delegated powers contained in the organic law as it is within the two special limitations contained in the proviso; otherwise the power of amendment could be resorted to in defiance of the two special limitations, and they could be taken from the Constitution by amendment. To assume this conclusion would not do justice to the patriotism or wisdom of the great men who made and adopted the Constitution for the welfare of this people.

This construction affords abundant room and scope for the amendatory power of the fifth article to act upon and modify any and all of the delegated powers, and gives a clear and distinct office to be filled by the tenth amendment. Each provision is consistent with the other, and the Constitution consistent with itself. For a period of more than seventy years no other use was ever attempted to be made of this power of amendment. The first ten amendments to the Constitution were only declaratory of its meaning and in limitation of its power, and stand as a bill of rights for the citizen or a perpetual protest against any encroachment upon the reserved rights of the States or the people of the States.

The eleventh amendment was proposed in 1791, and is a limitation upon the judicial power of the United States. The twelfth amendment, in 1803, was a change in the mode of electing

the Vice President, preserving the system of Electors as provided in the Constitution. It would be competent for two thirds of Congress and three fourths of the States to abolish the Electors and provide for a direct vote of the people for the office of President and Vice President by amendment; for it would be within the amendatory power of the fifth article, as it only relates to the delegated powers or a method of proceeding as provided in the Constitution. No attempt has ever been made to make a different use of this power of amendment until this war uprooted and overturned the foundations of all law, and substituted the wicked passions of angry men in their stead.

If the opposite view of this power be correct, then there is no limit to the power of amendment excepting the discretion of two thirds of Congress and three fourths of the States, and it renders the tenth amendment of the Constitution without force or meaning. This provision speaks of delegated powers. What are delegated powers? I employ an agent to buy me a farm; he acts under delegated power. The original power is with me, and he must act according to his power or he acts without authority. This provision also speaks of reserved rights. What! a reserved right taken away without the consent of the party for whose benefit the reservation was made! Was ever such a right called a reserved right? A person may sell his farm and reserve the minerals under the same with the power to remove them, or he may sell the minerals and reserve the farm. Upon this simple principle, which no one ever doubted, depends the title to millions of property in my county alone. What would the owners of those rich coal mines think of reserved rights if told that they could be taken from them without their consent? And yet you ignore their title by the construction which you adopt to take reserved powers from the States to the Federal Government. Your construction would enable you so to amend the Constitution as to strike from the fifth article the words two thirds and three fourths, and substitute the word majority; making our Constitution a mere barometer to measure the ups and downs of party, and worthless. The same power which will enable you to control the gathering of taxes in a State would enable you to remove from the Constitution the injunction that you shall guaranty to each State a republican form of government, and then abolish the Legislature and the local or State courts, and then the State itself. Then the American Congress becomes what the British Parliament always has been, omnipotent, and the Constitution becomes an instrument of original and no longer delegated powers. Some of the majority in this House appear to talk as if there were rights reserved to the States, but they do not state that they are nor where the rights of the States cease and those of the Federal Government begin. Let them make the point where the Constitution has. Those not delegated are reserved. It cannot be that a solemn provision of the Constitution, like the tenth amendment, was placed there for no purpose.

No, sir, it was by this that the framers of the Constitution intended to seal up the reserved rights of the States, as a miser does his wealth, beyond the reach of profane hands. It lifts the Constitution above the filth of party politics and beyond the reach of party malice, and makes it truly national; for nothing less than the whole nation can change it in its powers. Like the heavens, which are over all, and send upon all the bright sunshine and showers, and "with the early and later rains" fill the earth with rich bounties and blessings for all, and yet is beyond the reach of all, so does this place the Constitution around and over all, protecting all, and furnishing prosperity and happiness and liberty for all, and yet is beyond the reach of any less than all. These amendments speak of the rights of trial, the qualifications of jurors, the right of suffrage. If these rights are not sacred, and sacredly reserved to the States, then we have none that are. These are the richest jewels of this people, any one of which is of more value than all the gems that

were ever dug from the mountains and all the pearls the ocean ever concealed. And yet you propose to take this rich and priceless inheritance, which descended from our fathers, and bestow it upon another and a foreign race!

Such being my view of the powers delegated to the Federal Government and the rights reserved to the States, I cannot vote for any amendment of the Constitution, excepting such as relate to the delegated powers or the methods of doing business, giving it a more complete effect upon its own principles. The propositions before us are not amendments, but new and additional powers, and if adopted, would be usurpations and invasions upon the reserved rights of the States or the people. I cannot vote for any amendment which will confer any new or additional power to those already delegated in the Constitution. I am fully satisfied that sufficient power was delegated in that instrument, to say nothing of the enlarged powers by construction, and the still greater by congressional, executive, and military usurpations. But, as it is, this war never could have taken place if the rights of each State had been respected by Congress and the people of every other State. We have heard very much of "the first gun" in this rebellion. That first gun was not fired by the rebels at Fort Sumter, nor by old John Brown in Virginia, but it was fired by the American Congress when that body passed the Missouri compromise and usurped the right to legislate upon the subject of slavery, a mere domestic institution, resting with the people of each State, as other domestic institutions now do; and that usurpation having been acquiesced in by the people North and South, led to the belief that at least one of the reserved rights, one of the domestic institutions, was liable to be influenced and controlled by Federal majorities. And the people of New England have been firing guns ever since; and after forty years of insult and outrage they had a return shot, ending in war; and after four years of most bloody conflict, not instituted but perverted for that purpose, slavery has been abolished. And I say, peace to its ashes! I would not disturb the slumbers of the dead if I had the power, and I hope that every State which ever was in this Union will ratify the amendment of the Constitution, that there be no more slavery in this land, and we shall then have at least one question settled forever.

If this war had been carried on for the purpose of compelling the States North and West to adopt slavery against the will of the people of such States, then you could appreciate the view which I now take, and you would point to the provision of the Constitution to which I have called your attention, and claimed that the organic law protected your domestic institutions and justified you in changing or abolishing them, as the people of each State might choose, and all men would have said that you were right.

A leading and highly respectable journal in the city of Philadelphia declares that by casting the vote to which I have alluded I have rendered myself infamous, and that I do not represent the true sentiment of my district. When I think I do not represent the views of my constituents I will resign and go home: but all the men in my district or my State could not get me to vote for any of these usurpations of power, even though they are called amendments. I must be permitted to keep my oath and support the Constitution as I understand it.

And it is to be expected that I should be misunderstood, misrepresented, and abused; such has been the sure fate of men with firmness enough to stand in the face of popular prejudice and uphold what they believe to be right. St. Paul dared to be a Christian, and for this he was twice beaten with rods, once stoned, and made to fight with wild beasts at Ephesus. And before and ever since the ignorant and the prejudiced have been ready to sing psalms and songs of praise to the party in power, however corrupt and wicked, and shout "Great is Diana of the Ephesians," "Release unto us, Barabbas!" and they can now add, "for he is one of us." But so long as I am in this House you shall have one vote for the old Constitution, and with God's

help, one vote against all of your efforts to usurp new powers for the Federal Government; and that embraces all of your proposed amendments. I have no desire to change the Constitution which the fathers gave us, the Bible which they read, nor the God which they worshiped. But I do not expect this House to listen to me or heed what I say. "If they hear not Moses and the prophets, neither will they be persuaded though one rose from the dead." If you believe not the Constitution and the laws, neither would you be persuaded if God should send Washington and Jefferson and Jackson and Webster and Clay and all the dead patriots and heroes of our land to testify against you. You would call them old slaveholders or copperheads, and bid them go where they had business.

Your purposes are clearly indicated in your proposed amendments. The followers of the veiled prophet are about to see his features; the veil is being removed. But where is the caldron of heated oil? The people must prepare it. You are about to destroy the Constitution of our fathers. The "league with death and covenant with hell" must be removed and the Chicago platform of 1860 substituted in its place. Nor does it matter that it was a sectional, abolition platform; we must have a sectional, abolition Constitution. But is there no other sacrifice which can be taken in its stead? When Abraham was about to sacrifice his only son, Isaac, as he believed, by the command of God, and when he had built the altar and prepared the wood, another sacrifice was provided. I know that you have the altar and the wood ready to sacrifice our Constitution, and I ask you to call upon the deities which you worship and see if some substitute cannot be found; call upon the negro or the Republican party, and it may be that something less dear to the American people than their Government might answer. But if not, when you see the smoke ascending from the altar and the sacrifice, remember that it takes with it the liberties of your country and the liberties of your children, and that your children's children will condemn you for the sacrifice.

PROTECTION TO AMERICAN LABOR.

Mr. KELLEY. Mr. Chairman, the eloquent gentleman from Indiana, [Mr. Voorhees], whose voice during the war has been so potent in the councils of the Democratic party, and who has borne so prominent a part on this floor in resisting all the legislation by which the rebellion was to be, and has been, crushed, in the course of his recent defense of the President's message and policy landed him as a champion of free trade. He said the President had struck "a manly and honest blow" at the protection afforded by the tariff to the varied industries of the country, and cited this brief extract from his message in proof of his assertion:

"Now, in their turn, the property and income of the country should bear their just proportion of the burden of taxation, while in our import system, through means of which increased vitality is incidentally imparted to all the industrial interests of the nation, the duties should be so adjusted as to fall most heavily on articles of luxury, leaving the necessities of life as free from taxation as the absolute wants of the Government, economically administered, will justify."

Entertaining, sir, the views I do, and which I propose to submit to the committee, I had found in that portion of the President's message the expression of a desire to foster the industry, develop the resources, and increase the wealth and power of the country. Till the gentleman called my attention to the fact, I had not observed that his expression was enigmatical and susceptible of at least a double construction. I will not, however, detain the committee by endeavoring to ascertain the President's meaning, which time will disclose: but without abandoning the hope that my apprehension of his words is correct, will proceed, in a general way, to demonstrate that the gentleman's views as to how we may best equalize and increase the wealth of the people of the United States are erroneous. In the course of his remarks he said:

"We have two great interests in this country, one of which has prostrated the other. The past four years of suffering and war has been the opportune harvest of the manufacturer. The looms and machine shops

of New England and the iron furnaces of Pennsylvania have been more prolific of wealth to their owners than the most dazzling gold mines of the earth."

Again:

"The present law of tariff is being rapidly understood. It is no longer a deception, but rather a well-defined and clearly recognized outrage. The agricultural labor of the land is driven to the counters of the most gigantic monopoly ever before sanctioned by law. From its exorbitant demands there is no escape. The European manufacturer is forbidden our ports of trade for fear he might sell his goods at cheaper rates and thus relieve the burdens of the consumers. We have declared by law that there is but one market into which our citizens shall go to make their purchases, and we have left it to the owners of the market to fix their own prices. The bare statement of such a principle foreshadows at once the consequences which flow from it. One class of citizens, and by far the largest and most useful, is placed at the mercy, for the necessities as well as luxuries of life, of the fostered, favored, and protected class to whose aid the whole power of the Government is given."

And again:

"Free trade with all the markets of the world is the true theory of government."

Sir, as I proceed, it will, I think, appear that we have more than "two great interests," and that protection such as can only be afforded by a tariff is required by them all; and that they are interwoven with such exquisite harmony that no one of them can suffer alone; and that to destroy any one is to impair the vital power of all.

Gruff old Samuel Johnson said in substance that, when he contemplated the many diseases to which human life is a prey and the countless means for its destruction, he wondered that anybody lived to maturity; and when, on the other hand, he beheld the infinitude of specifics offered for every form of disease he was led to wonder that people ever died. And the thought recurs to me as I contemplate the condition of our country from either of two stand-points—that of the despondent patriot and of him who conceals his determined treason under expressions of acquiescent loyalty, or that of the cheerful patriot who knows something of our unmeasured resources. Regarding our debt, which set forth in figures seems so crushing, and our pension lists, which, embracing more names than did the muster rolls of the contending armies at Waterloo, announce the fearful amount of infirmity, widowhood, and orphanage for which we are bound to provide; remembering how the ruling powers of other nations hate us; looking at the immense extent and resources of the British dominions on our north, and considering how sedulously the imperial Government has pursued the design of uniting those dominions and constructing such governmental works as would "render Canada accessible to her Majesty's forces at all seasons of the year," and that "as well upon grounds peculiar to Canada as from considerations affecting the interests of the other colonies and of the whole empire;" remembering, again, the Monroe doctrine, and the fact that he who occupies the throne of Mexico is, though an Austrian, the creature of the ambitious man whose will is law to France; and, in view of these facts, considering the internal condition of our country, with nearly a million square miles of our territory desolated by four years of stubborn war, and with its people divided into three classes, distrusting and hating each other—four millions of them born as things for a market and strangers to the enjoyment of any human right; six or eight millions more poor and ignorant nearly as they, and unused and averse to labor, less hopeful, and tending each year more nearly to dependence on the rifle, the net, and the line; and the remaining class, less numerous than either of the others, but possessing all the wealth and culture, acknowledging themselves a conquered people, but with rare exceptions proving by all their acts that they are unconquered, and that they hate the Union, its Constitution, and the people who maintained the unity of the one and the sovereignty of the other as intensely as they did when they began the unholy war of history; regarding, I say, these facts, the disguised traitor may still hope for the accomplishment of his purpose, and the despondent patriot may well despair.

On the other hand, he who contemplates our geographical position, which makes us, on the one ocean, business neighbors to seven hundred

and fifty millions of the people of Asia, and on the other to two hundred and fifty millions of the busy people of Europe, our vast agricultural resources, our unestimated mineral wealth, the magnitude of our rivers, and the natural wealth of the country they drain, the capacity of our people for enterprise, their ingenuity, and their persistence, and who withal comprehends the laws of political economy and social science, and believes that a free and educated people will give practical effect to great truths, smiles with derision upon him who sees danger to our country in the complicated facts suggested.

I have before me, sir, the yellowed pages of a pamphlet, printed in London in 1677, which contains a panacea for all our ills, the suggestions of which, illustrated by the experience of our own and other nations, will, if applied to our resources, bring permanent peace and prosperity to our country, elevate the freedman into the prosperous and intelligent citizen, bless the master spirits of the South with wealth beyond their past imaginings, and give them, "the mean whites," as they designate their poor neighbors, as sturdy competitors in the race of life; will reconstruct their broken railroads and canals, rebuild their ruined cities, towns, and villages, and make their barren and wasted fields to bloom and blossom as those of the fairest portions of the North, of Belgium, France, or England.

This quaint old pamphlet was written by "Andrew Yarranton, Gentleman," and is entitled, "England's Improvement by Sea and Land. How to outdo the Dutch without Fighting, to Pay Debts without Moneys, to set at Work all the Poor of England with the Growth of our own Lands." It disposes very effectually of the gentleman's [Mr. Voorhies] proposition that free trade "is the true theory of government."

When Andrew Yarranton wrote, the Dutch were disputing the supremacy of the seas with England, and she was exporting raw materials and buying manufactured articles; and one object of his pamphlet was to relieve the English people from the taunt of the Dutch that they "sold their whole skins for a sixpence, and bought back the tails for a shilling"—a commercial policy which the American people, with rare and brief exceptions, have steadily pursued. To Yarranton and Sir George Downing, author of the Navigation Act, an American by birth, and a member of the first graduating class of Harvard college, England, in my judgment, owes more of her wealth and power than to any other two men, however illustrious their names may be in her history. Before they influenced her counsels Holland was mistress of the sea. But the Navigation Act and the employment of her people on the growth of her lands, transferred the scepter to England. The purpose of Downing's bill as declared in its preamble, was "to keep his Majesty's subjects in the plantations in a firmer dependence," to "increase English shipping," and to insure "the vent of English woollens and other manufactures and commodities." What Yarranton and Downing taught their country we can practice for the benefit of ours. And as England outdid the Dutch without fighting, so can we outdo her by the arts of peace, and enforce the Monroe doctrine against the world without firing a gun; and, vast as is our indebtedness, strangers will come and cast their lot with us and liquidate it if we so legislate as "to set at work all the poor of" the United States "with the growth of our own lands." They will bring with them arts and industries and implements with which we are not familiar; will open new quarries, mines, and ore banks; will build new furnaces, forges, mills, and workshops; will revive wasted lands and open new fields, and by creating a home market will enable the farmer to practice skillful and remunerative husbandry, and will create American commerce by enabling our merchants to supply ships with assorted cargoes of American goods.

THE ONE WANT OF OUR COUNTRY.

Sir, the pressing want of our country is men. We need not sigh for additional territory. We

need go to no foreign nation for any product of agriculture. Abundant as are our ascertained stores of gold, silver, coal, iron, copper, zinc, lead, cinnabar, kaoline, petroleum, and the infinite number of substances man has utilized, the extent of our mineral wealth is unmeasured and unimagined. And our ocean-bound coasts, the immense inland seas that bound us on the north, the land-locked Gulf that laves our southern shores, and our grand rivers, impel us to commercial enterprise, and proclaim the one great want of our country to be man. Labor alone can make these unparalleled resources available; and when by securing to industry its just reward we shall develop and attract hither from other lands a supply of labor that will make the march of our conquest over the elements of our wealth steadily progressive, our debt, though expressed by the numerals required to tell it now, will shrink into comparative insignificance, and the Powers which by treachery and disregard of international law during the last four years would have destroyed us, will assume relatively Lilliputian proportions.

These are not new thoughts. So long ago as 1689, Locke, in his Essay on Civil Government, said:

"Let any one consider what the difference is between an acre of land planted with tobacco or sugar, sown with wheat or barley, and an acre of the same land lying in common, without any husbandry upon it; and he will find the improvement of labor makes the far greater part of the value. I think it will be but a very modest computation to say that of the products of the earth useful to the life of a man, nine tenths are the effects of labor. Nay, if we will rightly consider things as they come to our use, and cast up the several expenses about them—what in them is purely owing to nature, and what to labor—we shall find that in most of them ninety-nine hundredths are wholly to be put on the account of labor. There cannot be a clearer demonstration of anything than several nations of the Americans are of this, who are rich in land and poor in all the comforts of life; whom nature having furnished as rich as any other people with the materials of plenty, that is a fruitful soil, apt to produce in abundance what might serve for food, raiment, and delight, yet for want of improving it by labor have not one hundredth part of the conveniences we enjoy."

But to make labor fully available it must be steadily employed and generously rewarded, and to secure these results the employments of a country must be largely diversified. A nation whose territory is broad and remote from dense populations cannot, by pursuing commerce and agriculture alone, prosper or endure. This is the decree of nature. Land, as well as man, requires rest and food; and a purely agricultural and commercial nation can afford neither of these. The social history of the world verifies this proposition. To make a nation prosperous remunerative employment must be accessible to all its people; and to that end industry must be so diversified that he who has not the strength for agricultural or other labor requiring muscle may make his feeble sinews available in some gentler employment. Agriculture and commerce afford few stimulants to inventive genius; diversified industry offers many. Childhood in a purely agricultural community is wasted in idleness, as are the winter months of its robust men, and to realize the truth of the maxim that time is money, the varied industry of a country should offer employment to all for all seasons of the year, that each day may be made to earn its own subsistence. And herein is illustrated the harmony of interests, for where diversity of employment is successfully promoted, agriculture finds its readiest markets and earns its richest rewards: for within accessible distance from the city or town the farmer has a market for those perishable productions which will not bear extended transportation, but the cultivation of which, in alternation with white or hard crops, strengthens and enriches his land. But of this hereafter.

WHY THE SOUTH DEMANDED FREE TRADE.

Unhappily, sir, it has not been the policy of those who have governed our country to permit, much less to encourage, such needed diversification of employment and productions. I have before me an imperial octavo volume embracing more than nine hundred pages, and illustrated with the likenesses of many distinguished southern statesmen and teachers. It

is entitled "Cotton is King, and Pro-Slavery Arguments, comprising the Writings of Hammond, Harper, Christie, Stringfellow, Hodge, Bledsoe, and Cartwright on this Important Subject, by E. N. Elliott, LL. D., President of Planters' College, Mississippi, with an Essay on Slavery in the Light of International Law, by the Editor." This volume, so valuable to the future historian, bears the imprint of Prichard, Abbott & Loomis, Augusta, Georgia, 1860. And the title page announces that it was "published and sold exclusively by subscription." When this work was published, the establishment of the southern confederacy was, doubtless, a foregone conclusion in the minds of its publishers and their patrons; and there was, therefore, no further reason for the southern leaders disguising the purposes they had had in view while governing our country in the name of the Democratic party. I refer to it in order that these distinguished writers may, for themselves, declare the aims and motives that governed them. The objects they proposed to attain are thus expressed under the head of "Economical Relations of Slavery:—"

"The opposition to the protective tariff by the South arose from two causes: the first, openly avowed at the time, and the second clearly deducible from the policy it pursued; the one to secure the foreign market for its cotton, the other to obtain a bountiful supply of provisions at cheap rates." * * * "But they could not monopolize the market unless they could obtain a cheap supply of food and clothing for their negroes, and raise their cotton at such reduced prices as to undersell their rivals. A manufacturing population, with its mechanical coadjutors in the midst of the provision growers, on a scale such as the protective policy contemplated, it was conceived would create a permanent market for their products and enhance the price; whereas if this manufacturing could be prevented, and a system of free trade be adopted, the South would constitute the principal provision market of the country, and the fertile lands of the North supply the cheap food demanded for its slaves."

Again:

"By the protective policy, the planters expected to have the cost of both provisions and clothing increased, and their ability to monopolize the foreign markets diminished in a corresponding degree. If they could establish free trade, it would insure the American market to foreign manufacturers, secure the foreign markets for their leading staples, repress home manufactures, force a large number of the northern men into agriculture, multiply the growth and diminish the price of provisions, feed and clothe their slaves at lower rates, produce their cotton for a third or fourth of former prices, rival all other countries in its cultivation, monopolize the trade in the article throughout the whole of Europe, and build up a commerce that would make us the ruler of the seas."

Again:

"The markets in the Southwest, now so important, were then quite limited. As the protective system, coupled with the contemplated internal improvements, if successfully accomplished, would inevitably tend to enhance the price of agricultural products, while the free-trade, anti-internal-improvement policy would as certainly reduce their value, the two systems were long considered so antagonistic that the success of the one must sound the knell of the other. Indeed, so fully was Ohio impressed with the necessity of promoting manufactures that all capital thus employed was for many years entirely exempt from taxation."

"It was in vain that the friends of protection appealed to the fact that the duties levied on foreign goods did not necessarily enhance the cost to the consumer; that the competition among the home manufacturers and between them and foreigners had greatly reduced the price of nearly every article properly protected; that foreign manufacturers always had, and always would, advance their prices according to our dependence upon them; that domestic competition was the only safety the country had against foreign imposition; that it was necessary we should become our own manufacturers in a fair degree to render ourselves independent of other nations in time of war as well as to guard against the vicillations in foreign legislation; that the South would be vastly the gainer by having the market for its products at its own doors and avoiding the cost of their transit across the Atlantic; that, in the event of the repression, or want of proper expansion, of our manufactures by the adoption of the free-trade system, the imports of foreign goods to meet the public wants would soon exceed the ability of the people to pay, and inevitably involve the country in bankruptcy. Southern politicians remained inflexible and refused to accept any policy except free trade and the utter abandonment of the principle of protection. Whether they were jealous of the greater prosperity of the North and desirous to cripple its energies, or whether they were truly fearful of bankrupting the South, we shall not wait to inquire."

The author doubtless felt that it would be sacrilegious to inquire too curiously into the motives of the ministers of a monarch so absolute as King Cotton, but we, who do not live in the fear of his majesty, may freely, and not

without advantage, consider the questions propounded.

And again, in connection with the assertion that with slave labor they could not become manufacturers, and must therefore remain at the mercy of the North, both as to food and clothing, unless the European markets should be retained, the writer says southern statesmen saw that—

"Combinations of capitalists, whether engaged in manufacturing wool, cotton, or iron, would draw off labor from the cultivation of the soil, and cause large bodies of the producers to become consumers, and that roads and canals, connecting the West with the East, were effectual means of bringing the agricultural and manufacturing classes into closer proximity, to the serious injury of the planters."

These honest and fearless exponents of the free trade of which the gentleman from Indiana [Mr. Voorhees] says the President is an advocate seem to have considered the chief end of man, that is, of all American men, save slaveholding planters, to be to produce cheap food for slaves; and in this book, so remarkable for its frankness, we find a quotation from a speech made by one of them, which runs as follows:

"We must prevent the increase of manufactories, force the surplus labor into agriculture, promote the cultivation of our unimproved western lands, until provisions are so multiplied and reduced in price that the slave can be fed so cheaply as to enable us to grow our sugar at three cents a pound. Then, without protective duties, we can rival Cuba in the production of that staple and drive her from our markets."

RESULTS OF FREE TRADE.

By the persistent and domineering pursuit of these ends by the South, and the unhallowed spirit of compromise which always controlled the North, the manufactures of the country were destroyed; and the West (for great railway thoroughfares had not then been constructed) having been reduced to dependence on the South for her market, consented with Pennsylvania, New York, and New England, to her own ruin. It may be that having deprived herself of any other market, her poverty and not her will consented; but the story of her seduction and ruin is thus happily told in "Cotton is King:"

"The West which had long looked to the East for a market had its attention now turned to the South, the most certain and convenient market for the sale of its products; the planters affording to the farmers the market they had in vain sought from the manufacturers. In the mean time steamboat navigation was acquiring perfection on the western rivers, the great natural outlets for western produce, and became a means of communication between the Northwest and the Southwest, as well as with the trade and commerce of the Atlantic cities. This gave an impulse to industry and enterprise west of the Alleghanies unparalleled in the history of the country. Whitherso the bounds of slave labor were extending from Virginia, the Carolinas, and Georgia, westward over Tennessee, Alabama, Mississippi, and Arkansas, the area of free labor was enlarging with equal rapidity in the Northwest, Ohio, Indiana, Illinois, and Michigan. Thus within these provision and cotton regions were the forests cleared away or the prairies broken up simultaneously by those two antagonistic forces. Opponents no longer, they were harmonized by the fusion of their interests, the connecting link between them being the steamboat. Thus also was a tripartite alliance formed, by which the western farmer, the southern planter, and the English manufacturer became united in a common bond of interest, the whole giving their support to the doctrine of free trade."

With this unnatural alliance the work seemed to be completed, and in verification of the theories of the northern leaders of the Democratic party who, like the gentleman from Indiana, [Mr. Voorhees,] took their opinions from the southern planters, the commerce of our country should have rapidly expanded, and Great Britain furnished a market for all our surplus grain. But what were the results? The laboring people of the manufacturing States were soon without employment and living upon past earnings. The deposit lines in our savings banks ran down; the banks of discount and deposit lost their specie; merchants made small sales, or sold on long and uncertain credits; and sagacious men saw that bankruptcy impended over all. The ruined people of the North and East were unable to pay for the products of the South or West. Large numbers of them, abandoning the callings to which they had been trained, and in the pursuit of which while providing amply for the support of their families they could have accumulated capital and added to

the national wealth and power, became unskillful farmers on mortgaged land in the distant West. England, no longer simply mistress of the sea, but the commercial mistress of the world, seeking customers who could pay for what they purchased, bought her grain from the Baltic, from Egypt, or wherever she could buy it cheapest or with greatest convenience; and the western farmer, having supplied the coarse provisions that were required as cheap food for the slaves, and more costly food for two hundred and fifty thousand masters, saw his wheat rot in the field, and consumed his corn as fuel.

But what was the effect of this free-trade alliance upon the interests of the planters? Did it enlarge their markets, increase the price of their staple, and by a golden harvest to them seem to compensate for the universal ruin in which it had involved the people of the North? We will see. Had cotton manufactures in this country been fostered, the manufacturers of England and America would have been competitors in the cotton market, and, as competition among buyers ever does, would have maintained the price of that commodity. But the mad pursuit of cheap food for slaves had destroyed competition for the planters' product. Their policy had given England and her continental rivals a monopoly of the markets of the world for cotton goods. They had made England, to whose ports the fabricants of Europe went for their supply, their only customer; and she, having an immense accumulated capital which yielded but small interest, while they were needy debtors compelled to borrow, and often at any rate of interest, found herself in a condition to control the price of their commodity. Perceiving the vast relative importance of a continued supply of cheap cotton to an immediate return of interest on the capital involved in one year's supply, the English merchants accumulated cotton to an extent that enabled them to decline further immediate purchases from those who were always in debt to their factors, and whose necessities would soon compel them to sell at any price. And the author from whom I have quoted so extensively gives us, on page 72 of the volume, the legitimate result of the folly of the chief American party to the tripartite alliance in favor of free trade, when he says:

"Cotton, up to the date when this controversy had been fairly commenced, had been worth, in the English market, an average price of from 29 7-10 to 43 4-10 cents per pound; but at this period a wide-spread and ruinous depression occurred, cotton in 1826 having fallen in England as low as 11 9-10 to 18 9-10 cents per pound."

Thus had free trade, the reign of which the Democratic party is endeavoring to restore, accomplished its mission in the United States. Commerce, manufactures, and agriculture, involving the merchant, the artisan, the farmer, and the planter, were all prostrate and at the mercy of the capitalists of Great Britain, whose selfishness is only equalled by that of the class whose arrogance and unreasoning will had thus subjected the entire people of our country to their control.

EFFECT OF FREE TRADE ON THE POOR WHITES OF THE SOUTH.

Mr. Chairman, having ascertained the result of the planters' free-trade policy upon their own interests and those of the people of the North, let us contemplate the condition of the masses of the people of the cotton States. I will not detain you by any reference to that of the slaves and free people of color. Other occasions will be more fitting for that. But on nearly one million square miles of territory which the planters regarded as their exclusive domain, were some six or eight million people designated as "poor" or "mean whites," to whom are accorded all the rights of citizenship, and I will inquire whether their interests had been promoted by this policy, otherwise so unmitigatedly selfish? Let us, in contemplating their condition for a few moments, do it, not from our stand-point, but through the eyes of southern men.

Mr. Tarver, of Missouri, in the course of a

paper on Domestic Manufactures in the South and West, published in 1847, says:

"The free population of the South may be divided into two classes—the slaveholder and the non-slaveholder. I am not aware that the relative numbers of these two classes have ever been ascertained in any of the States, but I am satisfied that the non-slaveholders far outnumber the slaveholders—perhaps by three to one. In the more southern portion of this region, the non-slaveholders possess, generally, but very small means, and the land which they possess is almost universally poor, and so sterile that a scanty subsistence is all that can be derived from its cultivation; and the more fertile soil, being in the possession of the slaveholder, must ever remain out of the power of those who have none."

*"This state of things is a great drawback and bears heavily upon and depresses the moral energies of the poorer classes." * * * "The acquisition of a respectable position in the scale of wealth appears so difficult, that they decline the hopeless pursuit, and many of them settled down into habits of idleness, and become the almost passive subjects of all its consequences. And I lament to say that I have observed of late years that an evident deterioration is taking place in this part of the population, the younger portion of it being less educated, less industrious, and in every point of view less respectable, than their ancestors."*

Governor Hammond, when addressing the South Carolina Institute in 1850, spoke of this portion of the people of the South when he said:

"They obtain a precarious subsistence by occasional jobs, by hunting, by fishing, by plundering fields or folds, and too often by what is in its effects far worse—trading with slaves, and seducing them to plunder for their benefit."

William Gregg, Esq., when addressing the same Institute in 1851, said:

*"From the best estimate that I have been able to make, I put down the white people, who ought to work, and who do not, or who are so employed as to be wholly unproductive to the State, at one hundred and twenty-five thousand." * * * "By this it appears that but one fifth of the present poor whites of our State would be necessary to operate one million spindles." * * * "I have long been under the impression, and every day's experience has strengthened my convictions, that the evils exist in the wholly neglected condition of this class of persons. Any man who is an observer of things could hardly pass through our country without being struck with the fact that all the capital, enterprise, and intelligence is employed in directing slave labor; and the consequence is that a large portion of our poor white people are wholly neglected, and are suffered to while away their existence in a state but one step in advance of the Indian of the forest."*

Hon. J. H. Lumpkin, of Georgia, in a paper on the Industrial Regeneration of the South, published in 1852, in advocacy of manufacturing establishments which had been attempted in Georgia, and the establishment of which had been resisted on the ground that they would become hot-beds of crime and endanger the safety of slavery, said:

*"It is objected that these manufacturing establishments will become the hot-beds of crime." * * * "But I am by no means ready to concede that our poor, degraded, half-fed, half-clothed, and ignorant population—without Sabbath schools or any other kind of instruction, mental or moral, or without any just appreciation of character—will be injured by giving them employment which will bring them under the oversight of employers who will inspire them with self-respect by taking an interest in their welfare."*

Down to that time free trade had certainly done but little to bless the poor white people of the South. Nor does it seem from recent descriptions, and from our observation of them in military prisons and hospitals, to have materially benefited them down to the present day. J. K. Gilmore, Esq., "Edmund Kirke," in his discourse on the social and political characteristics of the southern whites, before the Jersey City Literary Association, estimated the number known as the "mean whites" at over four millions, and described them as "herding together in sparse communities and gleaning a sorry subsistence from hunting, fishing, and poaching, in the mountain districts of Virginia, upper Georgia, Alabama, Mississippi, and in the sand hills of North Carolina and the barrens of Tennessee, and throughout the rest of the South; as hovering around the borders of large plantations, quartering themselves upon the 'chivalry,' stealing the deer from their forests and the hams from their smoke-houses." He said they were tolerated by the planters for the two hundred thousand votes they gave for slavery and the mad theories of the planters, and added, "They are far below the slaves in morals and civilization; are indolent, shiftless, thieving lying;

given to whisky-drinking, snuff-dipping, clay-eating, incest, and all manner of social vices. Not one in a thousand of them can read; not one in ten thousand can write;" and he said that he "had met many who had never seen a book or newspaper, and some who had never heard of a Bible or a spelling-book."

Mr. B. C. Truman, an accredited correspondent of that journal, in a letter to the *New York Times*, dated Montgomery, Alabama, October 23, 1885, said:

"There is a class of beings in all the southern States known as poor whites. The little monosyllabic adjective does not give the faintest idea of these things with bodies and souls. How under the heavens they live is a question for the philanthropist, if indeed that paragon of benevolence has ever visited the region in which they exist—the 'homes' of the poor whites. In a visit to Spanish Fort a few days ago in company with a naval officer we stopped at the 'shebang' of one of these species. Most of these poor whites are natives. The individual whom we called upon, however, was a Scandinavian, but had lived in the place we found him for thirty years. For a long time he made his living by manufacturing turpentine; but the trees ran out years ago, and since then he has lived upon what he has raised, buying nothing but sugar and coffee, for which he traded chickens and eggs. His wife was of the regular mold, lean and long, with seven little children by her side, and a pipe in her mouth. I told her I was a newspaper correspondent, and she did not know what that was. I endeavored to explain, and found that she did not know what a newspaper was, and yet she resides within twenty miles of Mobile. The husband could not read or write his name, but could drink like a fish. Both husband and wife had on wooden shoes, while the children exhibited no feet covering except what nature had provided for them.

"Throughout the southern portion of Alabama, upon both sides of the river, is what is known as the 'piney woods country.' It is one of the most barren sections I have ever seen. Neither corn nor cotton will grow to any extent. Sweet potatoes are the chief product, and this vegetable and bacon, and a little corn bread, form the bill of fare morning, noon, and night all the year round. These people are scattered all through these piney woods, and live in log huts which in a way protect them from the tempestuous weather and violent storms of wind and rain which howl through this barren waste during certain periods of the year. Oh, how I pity these poor beings who have been the recipients of uncounted woes and unheard-of sufferings during the long, long years of African slavery!"

And Dixon, the traveling correspondent of the *Boston Daily Advertiser*, whose admirable letters prove him to be a keen observer and faithful reporter, writing from Fort Valley, Georgia, November 15, said:

"Whether the North Carolina 'dirt-eater,' or the South Carolina 'sand-hiller,' or the Georgia 'cracker,' is lowest in the scale of human existence would be difficult to say. The ordinary plantation negro seemed to me, when I first saw him in any numbers, at the very bottom of not only probabilities, but also possibilities, so far as they affect human relations; but these specimens of the white race must be credited with having reached a yet lower depth of squalid and and beastly wretchedness. However poor or ignorant or unclean or improvident he may be, I never yet found a negro who had not at least a vague desire for a better condition, an undefined longing for something called freedom, a shrewd instinct of self-preservation. These three ideas, or, let me say, shadows of ideas, do not make the creature a man, but they lift him out of the bounds of brutelike. The Georgia 'cracker,' as I have seen him since leaving Milledgeville, seems to me to lack not only all that the negro does, but also even the desire for a better condition, and the vague longing for an enlargement of his liberties and his rights. I walked out into the country back of Albany and Andersonville, when at those places, and into the country back of Fort Valley this morning; and on each occasion I fell in with three or four of these 'cracker' families. Such filthy poverty, such foul ignorance, such idiotic imbecility, such bestial instinct, such groveling desires, such mean longings, you would question my veracity as a man if I were to paint the pictures I have seen! Moreover, no trick of words can make plain the scene in and around one of these habitations; no fertility of language can embody the simple facts for a northern mind; and the case is one in which even seeing itself is scarcely believing. Time and effort will lead the negro up to intelligent manhood; but I almost doubt if it will be possible to ever lift this 'white trash' into respectability."

Sir, is not the gentleman from Indiana [Mr. VOORHEES] mistaken in asserting that free trade "is the true theory of government," and can a policy which produces such results as I have depicted be wise? Can we rely on it to pay the interest on our debt, to meet the pensions we owe to those who have been disabled in our service, or to the widows and children, or aged and dependent parents, of those who have laid down their lives in our cause? Such free trade as he advocates can produce but one result; and that is bankruptcy, personal, cor-

porate, State, and national. It is against the laws of nature and the providence of God. It involves as a necessary consequence idleness for one half the year to all, and for all the year to many of our people who would find adequate and remunerative employment under a system of diversified labor.

HOW ENGLAND ESTABLISHED HER SUPREMACY.

The propositions I have enunciated are not deduced from our experience alone. All history affirms them. Other nations have tried free trade and ever with the same result. England, the workshop of the world and mistress of the seas as she proclaims herself, tried it, and from the time of Alfred to that of Edward the Confessor, sold her skins for a sixpence, and bought back the tails for a shilling, by exchanging her unwrought wool for Dutch and Flemish clothing; and the question as to how population might be prevented from exceeding the ability of the land to feed the people perplexed her rulers throughout the long period.

Even so late as the thirty-sixth year of Elizabeth's reign a law was enacted against "the erecting and maintaining of cottages," which, after reciting that "great inconveniences have been found by experience to grow by erecting and building of great numbers and multitudes of cottages which are daily more and more increased in many parts of this realm" enacts that no such tenement shall be erected unless four acres of land be attached to it. And Charles I, in 1630, issued a proclamation "against building houses on new foundations in London or Westminster, or within three miles of the city or king's palaces." This proclamation also forbade the receiving of inmates in the houses which would multiply the inhabitants to such an excessive number that they could neither be governed nor fed. The population of England has quadrupled since then, and her modern capitalists, regarding labor as raw material, maintain a supply in sufficient excess of the demand to cheapen it to the lowest point, to which end the British Islands raise a quarter of a million of people, chiefly Irish, for annual exportation, feeding them in their unproductive infancy and childhood; yet the English people are better fed, clothed, housed, and paid than they ever were before.

The change has been wrought by the diversification of her industry, which has been accomplished by so legislating as to set at work all the poor of England with the growth of her own lands; and the contrast which Ireland presents, of years of famine and an industrious people, whose attachment to their native land is intense, fleeing by millions from the homes of their childhood and the graves of their ancestors, is the result of that one-sided free trade which England has forced upon her since the Union, by which her woolen, worsted, silk, cotton, and linen factories have been destroyed. Protected by her legislation of 1783, these and other branches of diversified industry were prosperous and her people contented at the date of the Union. But English free trade having done its work nothing is now of so little value in Ireland as an able-bodied laborer with a good appetite. Let him who would understand the causes of the miseries of the Irish people and the depopulation of their country read the thirteenth chapter of Henry C. Carey's *Slave Trade, Domestic and Foreign*. It is a brief story but pregnant with instruction.

I cannot tell, sir, when England first determined to abandon dependence on the production and exportation of raw materials, but find by reference to McCallagh's *Industrial History*, page 74, that in 1337 she passed an act imposing

"A duty of forty shillings per sack on all wool exported by native merchants and sixty shillings on all exported by foreigners. The next year a Parliament was held at Westminster that went still further in the same direction, enacting that no wool of English growth should be transported beyond seas, and that all cloth-workers should be received, from whatever parts they should come, and fit places should be assigned them with divers liberties and privileges, and that they should have a certain allowance from the king until they might be in a way of living by their trade."

While England remained a purely agricultu-

ral country her capitalists encountered the difficulties which those of the South have to overcome, and Wade, in his *History of the Middle and Working Classes*, page 31, says:

"In the year 1376 we have evidence of a strong disposition to vagrancy among laborers, in a complaint of the House of Commons that masters are obliged to give their servants high wages to prevent their running away; that many of the runaways turned beggars and lived idle lives in cities and boroughs, although they have sufficient bodily strength to gain a livelihood if willing to work, and that the chief part turned out sturdy rogues, infesting the kingdom with frequent robberies."

There are those who utter such complaints in our days, and especially deplore the fact that they "are compelled to give their servants high wages to prevent their running away." At a meeting of the planters of Marlboro' district, South Carolina, the proceedings of which I find reported at length, and properly attested, in the *Charleston Daily News* of December 9, the following, with many like resolutions, were adopted:

"*Resolved*, That, if inconsistent with the views of the authorities to remove the military, we express the opinion that the plan of the military to compel the freedman to contract with his former owner, when desired by the latter, is wise, prudent, and absolutely necessary.

"*Resolved*, That we, the planters of the district, pledge ourselves not to contract with any freedman unless he can produce a certificate of regular discharge from his former owner.

"*Resolved*, That under no circumstances whatsoever will we rent land to any freedmen, nor will we permit them to live on our premises as employees.

"*Resolved*, That no system can be devised for the present which can secure success where the discipline and management of the freedman is entirely taken out of the hands of the planter, and we invoke the authorities to recognize this fact, which cannot but be apparent to them.

"*Resolved*, That we request the military to cease the habit of making negroes act as couriers, sheriffs, and constables, to serve writs and notices upon planters—a system so destructive to good order and discipline."

It is evident that neither the thunders of Gillmore's "swamp angel," nor the howl of her ponderous shells, had sufficed to awaken these somnolent gentlemen to consciousness of the fact that the fourteenth century had passed in the Palmetto State.

Englishmen in those early days exhibited the same elements of character as the negroes of our days, showing that however the complexions of races may differ, the impulses and yearnings of humanity are the same in all times and among the children of all climes. Each man embraces the elements of perfect manhood and the germ of every human faculty and emotion; and the Afro-American, in his new-found freedom, desires, as did the English laborer of the fourteenth century, to work for whom he pleases, at what he feels he can work best, and in the field which will give him the amplest reward.

Slight as the stimulants applied to British manufacturing industry by parliamentary protection had then been, they caused the landholders to manifest as much anxiety for despotic control over the laboring people as do the pardoned rebels of the South; and Wade tells us that the complaints of the Commons in 1406 furnish evidence of the competition which had commenced between rural and manufacturing industry at that day, and that—

"To avoid the statutes passed some years before for compelling those who had been brought up to the plow till they were twelve years of age to continue in husbandry all their lives, agricultural laborers had recourse to the expedient of sending their children into cities and boroughs, and binding them apprentices when they were under that age; and that further, in order to counteract this, it was enacted that no person, unless possessed of land of a rental of twenty shillings a year should bind children of any age apprentices to any trade or mystery within a city, but that the children should be brought up in the occupation of their parents, or other business suited to their conditions."

But even in those dark days the British Government seems to have been more enlightened than they who claim the right to legislate for the South, or Brevet Brigadier General Fullerton, late Commissioner of the Freedmen's Bureau at New Orleans; for it provided that such children were nevertheless to be allowed to be sent to a school in any part of the kingdom; which their proposed legislation and his arbitrary orders for the government of the

laboring people of Louisiana would effectually prohibit.

These stupid parliamentary restrictions on the freedom of laborers were not to endure forever, and the progress of England in the development of her resources has been marked by a constantly-growing system of protection, not always judicious, sometimes infringing the rights of the subject, but tending constantly to build up the power of the kingdom, increase the material comfort of the subject, and give her ascendancy over the nations of the world.

In 1727 Dean Swift, appealing to the Irish people in behalf of Ireland, said:

"One cause of a country's thriving is the industry of the people in working up all their native commodities to the last; another, the convenience of safe ports and havens to carry out their goods, as much manufactured, and bring those of others as little manufactured; as the nature of mutual commerce will allow; another, the disposition of the people of the country to wear their own manufactures and import as little clothing, furniture, food, or drink as they can conveniently live without."

These were not abstract notions with him, for by that time England had become thoroughly protective in her policy, and was increasing in population, wealth, and power; while Ireland, though not wholly disregarding the necessity of protecting her own workmen and developing her resources, exhibited a tendency to be governed by that plausible but shallowest of economical sophisms which teaches that it is wise, regardless of all other circumstances and conditions, to buy where we can buy for least money and sell where we can sell for most, and was sinking in the scale of national consideration. How protective England had become, is illustrated by the fact that from having for many centuries exchanged her raw wool for manufactured cloths, she had in 1600 prohibited the exportation of *unmanufactured* wool. This prohibition continued till 1825. And to protect her silk manufacturers, from 1765 to 1826, she prohibited the importation of silk goods manufactured in other countries, and confirmed the parliamentary prohibition by a reservation in the treaty of commerce concluded with France in 1786. She also prohibited the export of tools and machines used in various branches of manufactures. In 1696 she prohibited by special act of Parliament the exportation of Lee's stocking-frame—a machine invented nearly a century before. She also prohibited by various acts the exportation of certain machinery used in woolen, silk, cotton, and linen manufactures. Such favor did protection to English labor find that her laws prohibiting exportation were made to embrace presses or dies for iron buttons, engines for covering whips, tools for punching glass; in fact, anything for which it was thought worth while on the part of any class of manufacturers or mechanics to seek protection at the hands of the Legislature by securing Englishmen a monopoly of the implements required for the production of their goods.

And when, in 1824, a commission, created to inquire into the expediency of repealing these prohibitions, reported generally in favor of the repeal, it was unable to recommend their unconditional abrogation, but qualified the suggestion by recommending that the Privy Council should continue to exercise their discretion in permitting the exportation of such tools and machinery then prohibited as might appear to them not likely to be prejudicial to the trade or manufactures of the United Kingdom, "because it is possible that circumstances may exist which may render a prohibition to export certain tools and machines used in some particular manufactures expedient." To justify even this conditional repeal the commission set forth the advantages England had derived from the protection of her infant or feeble industries in the following language:

"Placed beyond all comparison at the head of civilization as regards manufacturing skill, with capital far more ample than is possessed by any other people, with cheap and inexhaustible supplies of iron and fuel, and with institutions every way favorable to the development of the industry and ingenuity of her citizens, she must always be able at least to maintain her superiority of position where circumstances are in other respects equal, and be ready to turn to the

utmost advantage every improvement which may reach her in common with her less powerful rivals."

It was not, we perceive, until by adequate protection to her labor she had kept the balance of trade in her favor long enough to make capital so abundant as to secure a steady and ample supply of money at low rates of interest; and by setting all her people to work on the growth of her lands had trained artisans and accumulated an abundance of superior machinery, which had paid for itself by profits on its use, that England was willing to admit the labor of the world to compete with that employed in her varied industries.

Nor had she resorted to these devices alone in her progress to this assured position, for an English writer, Porter, on the Progress of the Nation, says:

"Previous to 1825 the jealousy of our Legislature in regard to the progress of foreign manufactures was extended so far as to interfere even with the natural right of working artisans to transfer their industry to countries where it could be most profitably exerted. Any man who had acquired a practical knowledge of manufacturing processes was thereby rendered a prisoner in his own country, and not only might the arm of the law be interposed to prevent his quitting his native shores, but heavy penalties were imposed on all persons who should abet the expatriation of one of our artisans."

ENGLAND PREACHES BUT DOES NOT PRACTICE FREE TRADE.

These, however, were not the most effective means by which England has protected her capital and augmented her power. While prohibiting the exportation of tools and machines, and restraining her skilled workmen from emigrating, she was, from so early as 1837, as we have already seen, encouraging by special grants and privileges the artisans of other countries to bring with them the implements of their industry and employ them within her limits. Her policy is unchanged. The free trade she proclaims is theoretical, plausible, and delusive. Her revenue laws, and her treaty stipulations, however recent, with France, Portugal, the United States, and other countries, if they treat of the question of trade, guard the manufactures of England against the competition of those of any foreign nation.

The world hailed her welcoming of foreign grain as a step toward really reciprocal free trade. Her statesmen, however, saw in it a master-stroke by which her manufacturing supremacy would be maintained. Sir Robert Peel knew that the manufactures of England were the source of her power; that cheap food for her laborers was an element of cheap production; that so long as other nations would employ her to manufacture their raw materials it was immaterial whether she raised any grain at all; and that every acre of her arable land not required to raise green vegetables and the soft fruits which do not bear transportation, might be appropriated to sheep walks and pasturage, and, through her well-protected and diversified industry she would draw from the prairies of the United States, the banks of the Nile, and the shores of the Baltic a supply of food far more generous than the insular dimensions of England could possibly yield.

Her policy is to undersell all others. To do this she must depress the wages of labor, and to accomplish this she must provide her laboring people at the lowest possible prices with the simple and coarse fare on which her low wages compel them to live. To have retained the duties on grain would have been, in so far, to tax raw materials, as we do, and she is too astute for that. She wants cheap food for her slaves as the southern planters did for theirs, and gets it as they did by forcing British free trade on the American people. She is the foe of the working-men of every country, and impairs their wages by depressing those of the men upon whose toil her own power depends. She protects the capital of England as we wish to protect the labor, ingenuity, and enterprise of the American people. Her aim is to be the workshop of the world, and to bind the people of all other lands to the rude employments of unskilled agriculture.

The agricultural interest resisted the repeal of the corn laws. To admit grain duty free it was said would ruin the farmers and lessen the market and taxable value of the land of the kingdom. But her experience has demonstrated the laws of social science and proved the harmony of interests by increasing the agricultural products of England in a ratio equal to the increased amount of her import of raw material and the extent of her home market.

FREE TRADE EXHAUSTS LAND AND IMPOVERISHES FARMERS.

I have said, sir, that a nation cannot prosper by commerce and agriculture alone; and our bitter experience of wasted lands and oft-recurring bankruptcy contrasted with the steadily increasing affluence of the agriculturists of England confirms the fact. Let us examine this question. We boast ourselves an agricultural people and are content to look to nations beyond the seas for the fabrics we consume and a market for our products. Not having a home market we cannot diversify our crops, but must confine ourselves to the production of those commodities which will keep long and bear transportation: Wheat, corn, pork, cotton, rice, tobacco, and hemp are our great staples, and our crops, omitting those produced within a radius around the large cities, narrowing as they diminish in importance, diminish from year to year, while those of England, stimulated and varied by a home market, increase so wonderfully that science pauses before declaring that she has yet ascertained the measure of wealth a single well-fed acre under scientific culture will yield. The virgin soil of America gives back to the farmer at least thirty bushels of wheat to the acre; and in his early crops he does not fear the Hessian fly, the midge, weevil, or any insect-destroyer of grain. In the old wheat-growing States remote from cities, the same amount of labor bestowed upon an acre is rewarded by but seven or at best ten bushels, and the farmer regards himself as lucky whose fields are not visited once in three years by some of the deadly foes to wheat—the insects that live and swarm upon the diseased juices of feeble grain, the offspring of famished soil. The most carefully-prepared tables I have been able to find give twelve bushels or less as the average wheat crop per acre of America.

In England the fields are enriched by the bones, woolen rags, and other nutritious manures which we export; the grain crop is followed by a green crop, or those vegetables, the tops of which absorb from the atmosphere and return to the earth the aliment abstracted by cereals, and the amount of labor which, when England was a purely agricultural country, drew but from twelve to fifteen bushels of wheat from an acre, is now rewarded by from thirty-eight to forty-three bushels, or the equivalent thereof in roots for the sustenance of man and beast. Under our exhausting process of dragging or torturing from the earth the last elements of the white crop, and our exportation of stimulants and manures, our very fruit crop is disappearing. The diseased trees of the orchard, the apple, the pear, the plum, blossom and bring forth fruit, and the borer, the curculio, and others of the insect tribe that are sent to scourge us into good husbandry, revel in it, and it falls before maturity as if to give some subsistence to the starved stem that gave it its sickly life. This is no fancy sketch. In endeavoring to sell in the dearest money markets and buy where we can buy for least money, we have sold the very life of our acres and mortgaged ourselves to a class of middle-men, mostly foreigners, who take the results of our industry as the price of carrying our products to market and bringing us the few and inferior commodities—the tails—we receive in return for our skins. Our life is an inevitable game of cross purposes. Ambitious of commercial importance we produce only raw materials and can have no commerce, but must enhance the maritime power of our rival by employing her ships, sailors, and mer-

chants to do our carrying; and while eager to keep down our steadily-increasing foreign indebtedness we ship our least bulky but most potent manures in the same British vessels that carry away our cotton, corn, and gold. The real balance of trade is ever against us, and our debts—commercial, corporate, and State—are ever increasing. Let us mine gold and silver never so fast, we can keep none of it. Our suspensions of specie payments are periodical. Protective England maintains the balance of trade as steadily in her favor; and her statisticians calculate that her annual accumulation of surplus capital has attained the enormous dimensions of £50,000,000 or \$250,000,000. England offers no investments for this annual increase, and the managers of the railroads that carry our crops over our own soil to the sea-board for shipment extort exorbitant freights to enable them to pay interest on bonds sold at low rates to foreign holders, or pay large dividends to British capitalists who, in default of other investments offering profits equally great, have taken the stock. Without manufactures we can have neither commerce nor commercial marine; for a purely agricultural people, depending on foreign nations for a limited market, have nothing with which to freight vessels to the general markets of the world, and no assorted commodities to exchange for those that would enrich the country and build up upon the sea-board commercial emporiums with native citizens and American interests.

But, sir, let us look a little more closely at the effect of the mad theories propounded by the gentleman from Indiana [Mr. VOORHEES] on the land of the country. Professor Henry gave it as his opinion, some years ago, (and I believe it to be true to-day,) that there was more wealth invested in our soil in fertilizing matter at the moment this country was discovered by Columbus than there is at present above the surface in improvements and all other investments. Ohio, justly proud of her comparatively superior American agriculture, was admonished by John H. Klippart, Esq., corresponding secretary of her State Board of Agriculture in 1860, that her staple crop, wheat, was annually decreasing in its yield per acre; that in less than fifty years the average product was reduced from thirty to less than fifteen bushels per acre, and that unless her farmers turned their attention, and that very soon, to the renovation of their wheat lands, even Ohio would soon be one of the non-wheat-producing States. During the first five years of the last decade her corn crop averaged 36 $\frac{1}{2}$ bushels to the acre, while during the last five years of the decade its average had fallen to 32 $\frac{1}{2}$ %. It matters little, practically, whether a man sell his acres or sell only their vital principle. It would have been better, could we have done it, that we had exported our acres in all their breadth and depth than to have extracted from them as we have, and exported or burned as fuel their productive power. We should then have seen that that market in which goods can be bought for the least money is not always the cheapest, and realized how fearful a price we were paying for the tails of the skins we had sold so recklessly.

I have referred to Ohio as an example, not because her case is exceptional, but because if it be exceptional it is in favor of her better than average American husbandry.

The South has been less desolated by war than by long-continued unreciprocal free trade with England. The ravages of war can soon be repaired. Houses, canals, and railroads can soon be rebuilt. Villages, as unimportant as those of the South, (and in this I embrace her cities all other than New Orleans,) are things of very rapid growth in countries where men are free to exercise their skill or enterprise, and industry is well rewarded. But who shall restore her waste lands? War was not the demon that blasted them; it was the free trade that England imposes on semi-civilized nations; it was the desire to create a monopoly of the cotton and sugar trade; it was the belief that a

poor and ambitious people whose expenditures anticipated their annual crop could be victorious in a contest with a wealthy people whose diversified industry gave them the control of all markets, and whose surplus capital enabled them to choose their own time and place for purchasing. I will not describe what I have seen in the South, or take the reports brought by northern men. Let southern men describe the condition of their plantations.

A southern journal, which is quoted by Carey in his Social Science, but of which the name is not given, says:

"An Alabama planter says that cotton has destroyed more than earthquakes or volcanic eruptions. Witness the red hills of Georgia and South Carolina, which have produced cotton till the last dying gasp of the soil forbade any further attempt at cultivation; and the land, turned out to nature, reminds the traveler, as he views the dilapidated condition of the country, of the ruins of ancient Greece."

Dr. Daniel Lee, in his Progress of Agriculture, in the United States Patent Office Report for 1852, says:

"Cotton culture presents one feature which we respectfully commend to the earnest consideration of southern statesmen and planters, and that is the constantly increasing deterioration of the soil devoted mainly to the production of this important crop. Already this evil has attained a fearful magnitude; and under the present common practice it grows a little faster than the increase of cotton bales at the South. Who can say when or where this ever-augmenting exhaustion of the natural resources of the cotton-growing States is to end, short of their ruin?"

De Bow, in his Resources of the South, published in 1852, says:

"The native soil of middle Georgia is a rich argillaceous loam, resting on a firm, clay foundation. In some of the richer counties nearly all the lands have been cut down and appropriated to tillage; a large maximum of which have been worn out, leaving a desolate picture for the traveler to behold—decaying tenements, red old hills, stripped of their native growth and virgin soil, and washed into deep gullies, with here and there patches of Bermuda grass and stunted pine shrubs, struggling for a scanty subsistence on what was once one of the richest soils of America."

Governor Hammond, in an address before the South Carolina Institute in 1849, after presenting the same class of facts, said:

"These are not mere paper calculations, or the gloomy speculations of a brooding fancy. They are illustrated and sustained by facts, current facts of our own day, within the knowledge of every one of us. The process of impoverishment has been visibly and palpably going on step by step with the decline in the price of cotton."

Clement C. Clay, of Alabama, speaking in the United States Senate, said:

"I can show you, with sorrow, in the older portions of Alabama, in my native county of Madison, the sad memorials of the artless and exhausting culture of cotton. Our small planters, after taking the cream of their lands, unable to restore them by rest, manures, or otherwise, are going further West and South in search of other virgin lands, which they may and will despoil and impoverish in like manner."

"In traversing that county, one will discover numerous farm-houses, once the abode of industrious and intelligent freemen, now occupied by slaves, or tenantless, deserted, and dilapidated; he will observe fields, once fertile, now unfenced, abandoned, and covered with those evil harbingers, foxtail and broom-sedge; he will see the moss growing on the moldering walls of once thrifty villages, and will find 'one only master grasp the whole domain' that once furnished happy homes for a dozen white families. Indeed a country in its infancy, where fifty years ago scarce a forest tree had been felled by the ax of the pioneer, is already exhibiting the painful signs of senility and decay apparent in Virginia and the Carolinas."

Dr. Lee, in the paper to which I have already referred, says:

"Of the land cultivated in this country, one hundred million acres are damaged to the extent of three dollars per acre per annum, or, in other words, a complete restitution of the elements of crops removed each year cannot be made short of an expense of \$300,000,000."

FREE TRADE KEEPS US IN SUBJECTION TO ENGLAND'S COLONIAL POLICY.

Sir, this is a melancholy picture to contemplate—a country wasted in its youth, and its people impoverished in the midst of abounding natural riches. And, sir, what adds to its sadder character is the fact that it is not accidental—that it is not the result of Providence, save as Providence permits some men to trifle with their rights and interests and others to take advantage of their wickedness, weakness, or folly. It is the work of man; it is the

result of design; it has been brought about as the end sought to be obtained by the sagacious and far-seeing legislators who have guided the counsels of Great Britain and their allies, the free trade leaders of the Democratic party of our country. The laws by which these melancholy results were produced are demonstrable, and have long been well understood. They are the golden rule as administered by selfish and perfidious England to young or feeble nations and her own colonies. They were understood by Locke when he prepared his essay on Civil Government. Dean Swift, as I have shown, expounded them when he endeavored to inspire the people of Ireland with wisdom and save to that unhappy country a future. They were understood by Andrew Gee when he published his work on Trade in 1750, and among other illustrations of his clear apprehension of them said:

"Manufactures in our American colonies should be discouraged, prohibited." * * * "We ought always to keep a watchful eye over our colonies, to restrain them from setting up any of the manufactures which are carried on in Great Britain; and any such attempts should be crushed at the beginning." * * * "Our colonies are much in the same state as Ireland was in when they began the woolen manufacture, and as their numbers increase, will fall upon manufactures for clothing themselves, if due care be not taken to find employment for them in raising such productions as may enable them to furnish themselves with all the necessaries for us." * * * "As they will have the providing rough materials to themselves, so shall we have the manufacturing of them. If encouragement be given for raising hemp, flax, &c., doubtless they will soon begin to manufacture, if not prevented. Therefore, to stop the progress of any such manufacture, it is proposed that no weaver have liberty to set up any looms, without first registering at an office, kept for that purpose." * * * "That all spinning-mills, and engines for drawing wire or weaving stockings, be put down." * * * "That all negroes be prohibited from weaving either linen or woolen, or spinning or combing wool, or working at any manufacture of iron, farther than making it into pig or bar iron. That they also be prohibited from manufacturing hats, stockings, or leather of any kind. This limitation will not abridge the planters of any liberty they now enjoy; on the contrary, it will then turn their industry to promoting and raising those rough materials." * * * "If we examine into the circumstances of the inhabitants of our plantations, and our own, it will appear that not one fourth of the product redounds to their own profit, for, out of all that comes here, they only carry back clothing and other accommodations for their families, all of which is of the merchandise and manufacture of this kingdom." * * * "All these advantages we receive by the plantations, besides the mortgages on the planters' estates and the high interest they pay us, which is very considerable."

I think, sir, that I have shown by the extracts I have made from that remarkable book, "Cotton is King," that the men of the South understood the laws of trade (certain as that of gravitation) well enough to comprehend the fact that free trade must ultimately destroy the varied interests of the North. They may not, mad with ambition as they were, have seen that the operation of the laws whose penalties they were inflicting upon others would involve them in common destruction; but that they understood the fatal operation of free trade upon the great interests of the country is apparent in every chapter of the essay from which I have quoted.

I know not, sir, whether the gentleman from Indiana [Mr. VOORHEES] has studied the laws of social science, but they have been thoroughly comprehended by the statesmen of England, and furnish the key alike to her diplomacy and legislation. Illustrative of this is the case of Portugal. In the latter part of the seventeenth century she had established manufactures of woolen goods, which were thriving, adding to the comfort and prosperity of her people, and to her own respectability and power. They, however, needed protection against the hostile capital and more fully developed industry of England, and in 1684 the Government, discovering the advantages it derived from these manufactures, resolved to protect them by prohibiting the importation of foreign fabrics of the kind. Thenceforward their increase was so rapid as to attract the attention of British capitalists, who determined upon their destruction. This was not to be accomplished at once; but, evading the technical language of the law, they manufactured articles under names and of descriptions not precisely

covered by the act of prohibition, which would supply their places, and threw them, in great abundance, into the Portuguese markets. The effect upon the industry of the country was soon felt, and the Government gave its attention to the matter and prohibited the introduction of these "serges and druggets." But British capitalists were as determined that their fabrics should clothe the people of Portugal as they have since been that we should consume their cotton, woolen, steel, iron, and other goods; and what they had been unable to accomplish by the mere force of capital or by skillful evasions of Portuguese laws, they at last achieved by diplomacy. Portugal failing to perceive that England could not produce Portuguese wines, as she cannot produce American cotton, hemp, rice, tobacco, and grain, listened to the words of such diplomacy as induced us to enter into the Canadian reciprocity treaty, and subjected the energy, ingenuity, and industry of her people and the raw material of the country to the control of the Government and capitalists of England; the inducement to this step, artfully put forward by Great Britain, was that the wines of Portugal should be admitted into Great Britain at a duty one third less than that imposed on wines imported from other countries. The effect of this treaty on the industry of Portugal is narrated by an English writer, who says:

"Before the treaty our woolen cloths, cloth serges, and cloth druggets were prohibited in Portugal. They had set up fabrics there for making cloth, and proceeded with very good success, and we might justly apprehend they would have gone on to erect other fabrics until at last they had served themselves with every species of woolen manufactures. The treaty takes off all prohibitions and obliges Portugal to admit forever all our woolen manufactures. Their own fabrics by this were perfectly ruined, and we exported £100,000 value in the single article of cloths the very year after the treaty."

"The court [of Portugal] was pestered with remonstrances from their manufacturers when the prohibition was taken off pursuant to Mr. Methuen's treaty. But the thing was passed, the treaty was ratified, and their looms were all ruined."—*British Merchantmen*, vol. 3, p. 233.

In the spirit of the diplomacy of Methuen was the parliamentary eloquence of Henry, now Lord Brougham, in 1815. Having described the effect of the peace of 1814, which bound continental Europe to the use of British manufactures, and produced an excessive exportation of British goods in that direction, he said:

"The peace of America has produced somewhat of the same effect, though I am very far from placing the vast exports which it occasioned upon the same footing with those to the European market the year before, both because ultimately the Americans will pay, which the exhausted state of the Continent renders very unlikely, and because it was well worth while to incur a loss upon the first exportation in order by the glut to stifle in the cradle those rising manufactures in the United States which the war has forced into existence contrary to the natural course of things."

Though I should not pause here, I cannot abstain from asking the gentleman from Indiana [Mr. Voorhees] whether he is ready to permit "British capitalists" to glut our markets and stifle in the cradle the rising manufactures which the late war has called into existence? In further proof that they will do so and throw the workmen engaged in our furnaces, forges, factories, and workshops out of employment if we do not protect them, let me add that the commission appointed under the provisions of the act of 5th and 6th Victoria, chapter ninety-nine, showed how well it understood that the supremacy of Great Britain depends on the maintenance at whatever cost of her manufacturing supremacy, when, in the report to Parliament in 1854, it said:

"I believe that the laboring classes generally, in the manufacturing districts of this country, and especially in the iron and coal districts, are very little aware of the extent to which they are often indebted for their being employed at all to the immense losses which their employers voluntarily incur in bad times, in order to destroy foreign competition, and to gain and keep possession of foreign markets. Authentic instances are well known of employers having in such times carried on their work at a loss amounting in the aggregate to three or four hundred thousand pounds in the course of as many years. If the efforts of those who encourage the combinations to restrict the amount of labor, and to produce strikes, were to be successful for any length of time, the great accumulations of capital and the large number of workmen employed in the iron and coal districts would be made which enable a few of the most wealthy capitalists to overwhelm all foreign competition in times of great depression, and thus to clear the way for the whole trade to step in when prices revive, and to carry on a great

business before foreign capital can again accumulate to such an extent as to be able to establish a competition in prices with any chance of success. The large capitals of this country are the great instruments of warfare against the competing capitalists of foreign countries, and are the most essential instruments now remaining by which our manufacturing supremacy can be maintained; the other elements—cheap labor, abundance of raw materials, means of communication, and skilled labor—being rapidly in process of being realized."

FRANCE, ENGLAND, PRUSSIA, SHODDY.

Nor, sir, have other nations failed to discover that social life is not subject to chance, or to enforce what are now termed the laws of social science. Indeed, the more sagacious and powerful nations have been compelled in self-defense to do what we—grand as are the dimensions and resources of our country—must do or be forever dependent and subject to ever more frequently-recurring periods of bankruptcy, private, corporate, State, and national.

Carlyle's brilliant word-painting depicts the horrors that flowed from contempt for the value of labor in France, and the historian of the rebellion just crushed will portray those which flowed from our disregard of the rights of the laboring people of our country. Had Louis XIV appreciated the value and national power of the skilled industry of France he would not have revoked the edict of Nantes, upon which, says Hume:

"Above half a million of the most useful and industrious subjects deserted France, and exported, together with immense sums of money, those arts and manufactures which had chiefly tended to enrich that country." * * * "Near fifty thousand refugees passed over into England."

Since the days of Colbert, however, with the exception of a brief term during which she adhered to the stipulations of a "reciprocity treaty," into which England inveigled her, France has protected her industry by prohibitory acts, by bounties or concessions, and by high protective duties. Her present astute ruler and the British Government have recently attempted to dazzle and mislead other nations with theories of free trade which neither was willing to carry into operation; but the tariff act prepared by M. Chevalier, after conference with Mr. Cobden, who, in his desire to improve the condition of the laboring classes of England by securing them cheap food, was led to adopt all the fallacies of the school of free traders, is perhaps the most scientifically protective revenue law ever devised.

France permits none of her raw material, which is not absolutely in excess of her demand for food or fabrics, to be exported; nor will she admit into her ports any article that may come in competition with her industry without requiring it to pay her and her people adequate compensation for the injury such admission might inflict. A recent illustration of this is before us. The free-trade papers are announcing that France has determined to admit raw whalebone free of duty. They cannot, however, tell us that she has consented to admit foreign hops on the same terms; for while inviting cargoes of whalebone to her ports, she has rejected the application for the free admission of hops. She welcomes the product of the American whaler, for whalebone enters into an infinite number of her manufactures. She has no domestic source from which she can derive the article; and the duty upon it, as upon any raw material, was a tax upon her manufacturers, or a bounty to their rivals. She therefore remits the duty for the same reason that she taxes hops. She produces much wine, and but little beer; and her own soil and labor furnish her with an adequate supply of hops for all uses within her limits. To admit them would be to injure her agriculturists, and, perchance, to stimulate an appetite for a beverage that might injure the markets for French wines.

We ship in the same vessel our wheat, and the bones, rags, and other refuse matter which would, were our own industry broadly diversified, after application to many purposes of use and pleasure, restore to the earth the elements extracted from it by the tons of wheat which they accompany to foreign markets. These France, England, and Germany guard most

sedulously, and in a pamphlet now before me, entitled "The History of the Shoddy Trade, its Rise, Progress, and Present Position," published in London in 1860, I find that in England—

"Materials regarded at one time as almost worthless, are converted, by the improved processes of manual labor and machinery, into valuable elements of textile manufactures. The seams or refuse of rags are used, after lying to rot, for the purpose of manuring arable land, particularly the hop grounds of Kent and adjacent counties, and are also made into flock partially for bedding and stuffing uses. They are, moreover, (which seems strange indeed,) manufactured into a chemical substance, namely, prussiate of potash, a valuable agent in dyeing. Shoddy dust, too, which is the dirt emitted from rags and shoddy in their processes, is useful as tillage in like manner with the waste which falls under scribbling-engines. The latter is saturated with oil, in which consists, mainly, the fertilizing property. Waste is of more value than dust for farming purposes, the former having been generally about double the price of the latter; but dust has of late increased in value so as to be well nigh equal to waste. A large quantity of these materials is annually sent from this district (the West Riding of York) into Kent and other counties to till the soil. Shoddy dust is useful in other respects than as tillage. It is now even carefully preserved in separate colors and applied in the manufacture of flock paper-hangings, which are the best description of this article. Not a single thing belonging to the rag and shoddy system is valueless or useless. There are no accumulations or mountains of debris to take up room or disfigure the landscape; all, good, bad, and indifferent, are beneficially appropriated."

Of these valuable materials this little work shows me that America furnishes England more than any other nation, and that in point of quality her woolen rags are the best, even better than those derived from the city of London; that so largely are we the consumers of the cloths manufactured in greater or less part from our own refuse matter, that a commercial crisis in this country affects every manufacturer in the shoddy districts; and that the most calamitous eras in the history of the generally thriving towns depending on this manufacture were the years immediately following 1837 and 1857, when their industry was entirely suspended by the destruction of the American market.

France, less lavish of her wealth and more careful of the welfare of her people than we, sedulously guards such elements of wealth and comfort. How sedulously, will appear from the following extract from the little work I have just quoted:

"As to rags, we have not been able to import any from France, on account of their having been prohibited as an article of export; but according to the treaty of commerce just concluded between France and England [that arranged between Chevalier and Cobden] the former has engaged to remove the prohibition, but reserves the privilege of imposing a heavy duty on rags shipped thence to this country. The amount of duty has not been fixed yet, we believe; but there are fears on our part that it will be such as to preclude either paper or woolen rags being brought over to any material extent."

The fear expressed by the writer was well founded. Shrewd men played at an intricate game when that treaty was made; and while France consented far enough to give a text upon which she and England might preach free trade to the other nations of the world, she reserved to herself the amplest power to maintain the most perfect defensive warfare between her interests and those of aggressive England.

Prior to 1844 England herself subjected rag-wool, that is, shoddy-wool prepared from rags by any other nation, to a duty of a half-penny per pound; but when other nations refused to sell her their rags in bulk, the prepared or rag-wool became the nearest approach she could obtain in adequate supply to that species of raw material, and she abolished the duty which, light as it was, favored the industry of her rivals.

Nor is Prussia behind France and England in this matter, for the same pamphlet tells me that at Berlin there are a number of manufactories of rag-wool, several of which have been established by enterprising Englishmen from the shoddy towns of Dewsbury and Batley.

"These factories," says the writer, "produce both shoddy and mungo, and appear to be successful undertakings. The principal reason why our countrymen prosecute this business at Berlin and other places in Prussia is because that Government levies a heavy duty on the exportation of rags, and permits shoddy, the manufactured article, to go out free, thus affording facilities for an export trade in rag-wool not extended to rags."

Insignificant as the territory of Prussia is

in comparison with ours, the Government has found it well to insist upon Englishmen who wish to work the raw materials of the country coming with capital and machinery to furnish employment to the men, women, and children of the country with the growth of the land, and to supply agricultural stimulants and a market for agricultural products within its limits, rather than repeat the unsuccessful experiment of clothing the people in foreign goods by selling their raw material at a price fixed by a distant customer and buying it back in cloth at prices fixed by the same party. Will the American people never learn this simple lesson?

SECRET OF BONAPARTE'S POWER.

The first Napoleon said, and his words cannot be too often repeated in a republican country, a majority of whose people are dependent on their labor:

"In feudal times there was one kind of property—land; but there has grown up another—industry. They are alike entitled to the protection and defense of the Government."

And how did he attempt to protect and defend what was and ever will be almost the only property and dependence of the majority of the people—their skill and industry? Let us learn from Chaptal, his Minister of the Interior, who in his work on the Industry of France, says:

"A sound legislation on the subject of duties on imports is the true safeguard of agriculture and manufacturing industry. It countervails the disadvantages under which our manufactures labor from the condition of the price of workmanship or fuel. It shields the rising arts by prohibitions, thus preserving them from the rivalry of foreigners until they arrive at complete perfection. It tends to establish the national independence, and enriches the country by useful labor, which, as I have repeatedly said, is the principal source of wealth."

"It has been almost everywhere found that rising manufactures are unable to struggle against establishments cemented by time, nourished by numerous capitals, with a credit established by continued success, and conducted by numbers of experienced and skillful artists. We have been forced to have recourse to prohibition to ward off the competition of foreign productions."

"I go further: even at the present time, when these various species of industry are in a flourishing state, when there is nothing to desire with regard to the price or quality of our productions, a duty of but fifteen per cent, which would open the door to the competition of foreign fabrics, would shake to their foundations all the establishments which exist in France. Our stores would in a few days be crowded with foreign merchandise, which would be sold at any price in order to extinguish our industry. Our manufactures would be devoted to idleness through the impossibility of the proprietors making the same sacrifices as foreigners; and we should behold the same scenes as followed the treaty of commerce of 1786, although it was concluded on the basis of fifteen per cent."

"Cotton yarn forms the raw material of our numerous laces and calicoes. If we freely open our ports to this material, which has undergone but a single operation, behold the infallible results. One hundred million livres at present production would be destroyed for the spinning manufactures of France, because it is invested in buildings, utensils, and machinery constructed for this purpose alone; two hundred thousand persons would be deprived of employment; eighteen millions of manual labor would be lost to France, and our commerce would be deprived of one of its principal resources, which consists in the transportation of cotton and wool from Asia and America to France."

"Let it not be presumed that I deceive myself. I am well acquainted with the state of our cotton spinning and that of the two neighboring countries. In France, it is true, manual labor is cheap, but on the other side more extensive establishments, supported by large capitals, afford advantages against which it is impossible for us yet to struggle. To this must be added that the English spinning machinery has been in use for sixty years, that the proprietors are indemnified for all the expenses of their first establishment, that the profits have been converted into new capitals, whereas ours are of recent formation, and the interest of the first investment ought for a long time to be computed in all the calculations of the profits of the manufactory. The English manufacturer, reimbursed for his first investment, and possessing a large capital, is able to make sacrifices to overtake and level us, whereas the French manufacturer is destitute of defense unless protected by the tariff."

Chaptal understood as thoroughly as Brougham that England had the power, and that it was her constant policy to "stifle the infant manufactures" of other nations "in the cradle." His language is as applicable to our interests now as it was to those of France when uttered; and we can find no other safeguard for our agricultural and commercial interests than such sound legislation on the subject of duties on imports as protected the infant but rising manufactures of France.

I cannot abstain, sir, from submitting to your

consideration in this connection a brief specimen of vigorous condensation from the instructive address of John L. Hayes, Esq., before the National Association of Wool Manufacturers:

"No sooner had the First Consul Bonaparte grasped with a firm hand the reins of state, than he resolved to develop upon the French soil all the elements of wealth concealed within its bosom. He wished to appropriate for France all sciences, arts, and industries. Made a member of the Institute he uttered this noble sentiment: 'The true power of the French republic should consist, above all, in its not allowing a single new idea to exist which it does not make its own.' To learn the necessities and resources of the nation, he called upon savans, painters, and artisans to adorn with their productions the vast hall of the Louvre. From this epoch a new career was opened to the industry of France, which found its most magnificent protector in the chief of the State. Napoleon said: 'Spain has twenty-five million merinos; I wish France to have a hundred millions.' To effect this, among other administrative aids, he established sixty additional sheep-folds to those of Rambouillet, where agriculturists could obtain the use of Spanish rains without expense. By the continental blockade, he closed France and the greater part of Europe against English importations; and the manufacturers of France were pushed to their utmost to supply, not only their domestic, but European consumption. They had to replace, by imitating them, the English commodities to which the people had been so long accustomed. The old routines of manufacturing were abandoned, and the reign of the emperor became, in all the industrial arts, one long series of discoveries and progress. Napoleon saw that the conquest of the industry of England was no less important than the destruction of its fleets and armies. He appealed to patriotism, as well as science and the arts, to aid him in his strife with the modern Carthage. Visiting the establishment for printing calicoes of the celebrated Oberkampf, Napoleon said to him, as he saw the perfection of the fabrics: 'We are both of us carrying on a war with England; but I think that yours, after all, is the best.' These words," says M. Randoing, "so flattering and so just, were repeated from one end of France to the other; they so inflamed the imaginations of the people that the meanest artisan, believing himself called upon to be the auxiliary of the great man, had but one thought, the ruin of England."

WHAT PROTECTION HAS DONE FOR GERMANY.

Before the establishment of the Zoll-Verein, which occurred in 1835, Germany exported raw materials. Having sold her skins for a sixpence, she bought back what few tails she could, at any price. Her laboring people were poor, and, as is now the case in Ireland, in such excess of her ability to feed and clothe them, that she was ever ready to sell a contingent to any party that might be engaged in war, and if need be to swell the ranks of both contending armies in any war. In the absence of protective duties, there was nothing of so little value to her as an able-bodied German peasant. But the establishment of that Customs-Union has changed all this. It protects her industry, and as a consequence she imports raw materials from America and all other countries that adhere to her ancient semi-barbarous policy, and exports her grain and wool condensed into broadcloth and the multifarious products of well-protected industry. The annual crop derived from her soil increases per acre steadily as that of England, and in about the ratio of the diminution of ours. Wise laws have here again demonstrated the truth that there is a harmony between the varied interests of the people of a country, and that by a wide and universal diversification of employments the welfare of each and all is advanced.

Forty years ago England had not perfected her protective system so far as to admit all raw materials free of duty, and Germany sold her thirty million pounds of raw wool, upon which she collected a duty of twelve cents a pound, part of which when manufactured into low grades of cloth she sold at immense profits in Germany. But thirty years of protection have changed all this. Germany now raises over seventy million pounds of wool, and imports very considerable quantities; and having compacted her grain and wool into fine cloths she exports them to all parts of the world. When the Zoll-Verein was formed, says Henry C. Carey,

"The total import of raw cotton and cotton yarn was about three hundred thousand cuts; but so rapid was the extension of the manufacture that in less than six years it had doubled; and so cheaply were cotton goods supplied, that a large export trade had already arisen. In 1845, when the union was but ten years old, the import of cotton and yarn had reached a million of hundred weights, and since that time there

has been a large increase. The iron manufacture, also, grew so rapidly that whereas, in 1834, the consumption had been only eleven pounds per head, in 1847 it had risen to twenty-five pounds, having thus more than doubled; and with each step in this direction, the people were obtaining better machinery for cultivating the land and for converting its raw products into manufactured ones."

WASHINGTON, JEFFERSON, AND JACKSON.

In what strange contrast with this policy so fruitful of blessings has been that which we have pursued, and of which the gentleman from Indiana [Mr. Voorhees] claims President Johnson as an adherent. Opposed to privileged classes, we have legislated in the interests of but one class, and that an oligarchy; proclaiming "the greatest good of the greatest number" as our supreme desire, we have so legislated as to impair the value of labor, the only property of a majority of our people; vaunting our national independence, we have so legislated as to prevent our escape from a condition of commercial, manufacturing, and financial dependence; and while justly proud of our general intelligence, we have so legislated as to justify the manufacturing and commercial nations of the world in classing us among the semi-barbarous governments whose people, rich in natural wealth, have not the capacity to mold and transmute raw materials into articles of utility, comfort, and refinement, and in ranking the people of the United States, in their estimation, with those of Turkey, Portugal, Ireland, and the mixed races of Central and South America. The fathers of the country were, in this matter, wiser than their children. They had suffered from the rigid enforcement by Great Britain of Andrew Gee's suggestion to "keep a watchful eye over our colonies, and restrain them from setting up any of the manufactures which are carried on in Great Britain;" and they knew that if the nation they had founded was to be powerful, and its people prosperous, they must be relieved from that policy by the only means possible—the adherence to those defensive laws which would protect an infant against the aggressions of a giant. The Constitution was adopted in 1787; President Washington was inaugurated in 1789, and in his address of the 8th of January, 1790, said:

"The safety and interest of the people require that they should promote such manufactures as tend to render them independent of others for essential, particularly for military supplies."

And on the 15th of the same month, Congress resolved

"That it be referred to the Secretary of the Treasury to propose and report to this House a proper plan or plans conformably to the recommendations of the President in his speech to both Houses of Congress, for the encouragement and promotion of such manufactures as will tend to render the United States independent of other nations for essential, particularly for military supplies."

And in 1791 Congress adopted an act for imposing duties on imports, the preamble of which contains the following language:

"Whereas it is necessary for the support of the Government, for the discharge of the debts of the United States, and the encouragement and protection of manufactures, that duties be laid on goods, wares, and merchandise imported."

In a communication five years later than this, Washington said:

"Congress have repeatedly directed their attention to the encouragement of manufactures. The object is of too much importance not to insure a continuance of these efforts in every way which shall appear eligible."

And Mr. Jefferson, in his message of 1802, said that—

"To cultivate peace, maintain commerce and navigation, to foster our fisheries, and protect manufactures adapted to our circumstances, &c., are the landmarks by which to guide ourselves in all our relations."

These expressions are inconsistent with the opinions adverse to the policy of fostering manufactures in this country embodied by Jefferson in his Notes on Virginia in 1785; but he was not one of those fools who hold it a weakness to change an opinion, even under the discipline of experience; and in a letter to Mr. Benjamin Austin, dated January 9, 1816, when the subject of a protective tariff was agitated by the people and was about to be brought to the attention of Congress, said in support of his matured judgment:

"You tell me I am quoted by those who wish to continue our dependence on England for manufac-

tures. There was a time when I might have been so quoted with more candor." * * * "We have since experienced what we did not then believe, that there exists both profligacy and power enough to exclude us from the field of interchange with other nations—that to be independent for the comforts of life, we must fabricate them ourselves. *We must now place the manufacturer by the side of the agriculturist.*"

"He, therefore, who is now against domestic manufactures must be for reducing us either to dependence on that foreign nation, or to be clothed in skins and to live like wild beasts in dens and caverns. I am proud to say that I am not one of these. *Experience has taught me that manufactures are now as necessary to our independence as to our comfort; and if those who quote me as of a different opinion will keep pace with me in purchasing nothing foreign where an equivalent of domestic fabric can be obtained, without any regard to difference of price, it will not be our fault if we do not have a supply at home equal to our demand, and wrest that weapon of distress from the hand which has so long wantonly violated it.*"

General Jackson's oft-quoted letter to Dr. Coleman, of North Carolina, was about eight years later than that of Mr. Jefferson, and nothing that he ever wrote illustrates more admirably his strong common sense and devotion to the rights and interests of all the people of the Union which he so resolutely defended. Writing to one of that class who have been pleased to call themselves "planters," to distinguish them from the "hard-fisted farmers" of the North, upon whose interests they were then waging war, that they might secure cheap food for their slaves, he said:

"I will ask, what is the real situation of the agriculturist? Where has the American farmer a market for his surplus products? Except for cotton, he has neither a foreign nor a home market. Does not this clearly prove, when there is no market, either at home or abroad, that there is too much labor employed in agriculture, and that the channels of labor should be multiplied? Common sense points out at once the remedy. Draw from agriculture the superabundant labor; employ it in mechanism and manufactures, thereby creating a home market for your breadstuffs, and distributing labor to a most profitable account; and benefits to the country will result. Take from agriculture in the United States six hundred thousand men, women, and children, and you at once give a home market for more breadstuffs than all Europe now furnishes us. In short, sir, we have been too long subject to the policy of the British merchants. It is time we should become a little more Americanized, and instead of feeding the paupers and laborers of Europe, feed our own; or else, in a short time, by continuing our present policy, we shall all be paupers ourselves."

MAN CANNOT COMPROMISE PRINCIPLES.

Mr. Chairman, why have we not regarded the teachings of history, the monitions of the fathers, the oft-recurring and bitter experience of the past? Why have we been content, at intervals of from seven to ten years, to find the mass of artisans and artificers of the country without employment, drawing from the savings bank their hoarded earnings, seeing the little homes, under the roofs of which they had hoped in ripe age to die, passing under the sheriff's hammer; and to see the forge, the furnace, the mill, and the workshop idle, and changing hands by forced sale oftentimes at less than a fourth, and sometimes at but a tithe of their original cost? Why have we been content to see the crop of the farmer rot in the field, while the laboring people of the cities were gnawed by hunger, and causing doubts of the stability of republican institutions by threatening, and in at least one instance absolutely perpetrating, bread riots? Why has our march of emigration been a march of desolation, and the son of him who emigrated to Ohio as the far West, finding his labor unrewarded by the famished land, been constrained to cry "Westward ho!" and go to contend with the trials and deprivations of frontier life, and found a new State still more remote from markets?

And why was it, sir, that when those who would overthrow our Government fired upon the flag, that, with our unequalled ingenuity, our sheep walks of limitless extent, our boundless water power, and our measureless stores of coal and iron, we were unable to provide adequate clothing and arms for the seventy-five thousand men summoned to our defense? There is but one answer to all these questions. We suffered all these ills because we had disregarded the laws I am endeavoring to illustrate and other fundamental truths in which, on every public occasion, we proclaim our belief; had endeavored to maintain in this free and

busy age an anachronism, involving the denial of all rights, and the repression of the native ability of the laborers of one half of our country; and had endeavored to prove the solecism that slavery is an essential element of free institutions, and adds to the power of a country contending for supremacy with nations that are using every expedient to animate the industry, ingenuity, and enterprise of their people. By oppressing others we enfeebled and degraded ourselves. Slavery has its laws, and they are irreconcilable with those which quicken industry and develop material power. Time will not permit, nor is this the occasion for their discussion. It is enough for the present to say that they do not tolerate intelligent or required labor. They were understood and enforced by the slave-owning oligarchy, and were submitted to by the masses of the people, whose pride of race artfully fostered, deluded them into the belief that the inequalities of caste were consistent with the democracy of a professedly Christian republic. At last the delusion is dispelled, and with it go the cruel necessities by which those who, being freemen, were, under the compromises of the Constitution, enslaved by the inherent laws of slavery; and our country having corrected the solecism and banished the anachronism, may now enter upon a career of competition with the most advanced nations of the world. The vast and varied attractions the United States present to the hopeful, the enterprising, the ingenious and the skilled workmen of the world, are the means by which we may enfeeble all rival Powers, while building up our own, and augmenting the prosperity of our rapidly-increasing people. Slavery being dead, let us entomb with it its twin barbarism, British free trade. Henceforth our legislation may well be directed to advancing the greatest good not only of the greatest number, but the unquestioned good of all; and in this it will stand in strange contrast with its purposes and policy in the past. To show how wide that contrast will be, let me turn again to *King Cotton*. On page 96 of this royal volume I find it written:

"At the date of the passage of the Nebraska bill, the multiplication of provisions by their more extended cultivation, was the only measure left that could produce a reduction of prices and meet the wants of the planters. *The Canadian reciprocity treaty, since secured, will bring the products of the British North American colonies, free of duty, into competition with those of the United States when prices with us rule high.*"

This was not written by an English hand.

Our forges, furnaces, and factories were unprofitable capital. Coal, ore, and limestone lay undisturbed in the places of their original deposit, and mechanics of skill and energy went begging for employment. Yet an American writer rejoiced that the means had been secured by which the farmers of the country could be made to suffer with the afflicted multitude. With that want of patriotism which has long characterized the leaders of the Democratic party, he exulted over the subjection of the agricultural interests of his country to those of British North America by that misnamed reciprocity treaty with Canada which southern influence had forced upon us, and lauded it as the sure means by which the farmer should be driven to a still greater distance from all other markets than that afforded by the few hundred thousand men who regarded no interests but their own, and believed that these could only be protected by procuring still cheaper food for their millions of slaves.

But listen to him again. On page 123 I find the following:

"From what has been said, the dullest intellect cannot fail now to perceive the rationale of the Kansas-Nebraska movement. The political influence which these Territories will give to the South will be of the first importance to perfect its arrangement for future slavery extension, whether by division of the larger States and Territories now secured to the institution, its extension into territory hitherto considered free, or the acquisition of new territory to be devoted to the system, so as to preserve the balance of power in Congress. *When this is done, Kansas and Nebraska, like Kentucky and Missouri, will be of little consequence to slaveholders compared with the cheap and constant supply of provisions they can yield. Nothing, therefore, will so exactly coincide with southern interests as a rapid emigration of freemen into these new Territories. White free labor, doubly productive over slave labor in grain-growing, must be multiplied within their limits, that the*

cost of provisions may be reduced, and the extension of slavery and the growth of cotton suffer no interruption. The present efforts to plant them with slavery are indispensable to produce sufficient excitement to fill them speedily with a free population; and if this whole movement has been a southern scheme to cheapen provisions and increase the ratio of the production of sugar and cotton, as it most unquestionably will do, it surpasses the statesmanlike strategy which forced the people into an acquiescence in the annexation of Texas. And should the anti-slavery voters succeed in gaining the political ascendancy in these Territories, and bring them as free States triumphantly into the Union, what can they do but turn in as all the rest of the western States have done, and help to feed slaves, or those who manufacture or sell the products of the labor of slaves?"

These paragraphs show that the slaveholders achieved what an examination of the topography of the country might have led them to regard as a last grand triumph. Their system held undisputed sway; and let me ask whether, had they been content to live under the Government that existed, it could have prospered long? Two interests alone were to be pursued: the growing of grain in the North and West, and the growing of cotton, sugar, rice, tobacco, and hemp in the South. In the light of the extracts, showing the rapid exhaustion of our soil by the exportation of its products, which I presented in the earlier part of my remarks, and of the experience of every farmer and planter, will it be asserted that this system of culture could long have continued? Science could have calculated the years of its possible duration with almost perfect accuracy. When, under such a system, could the earth have rest for recuperation? And whence could come the stimulants to restore its wasted energies? The system omitted these essential conditions of prosperity, and thereby provided for its own decline. The scheme was an impracticable one, which though it might have served as a temporary expedient, could not endure, for it was in conflict with the laws of Providence.

It may be that an indistinct perception of this drove the oligarchy to the madness of war; for all now admit that there was not, in the election of Mr. Lincoln, or the purposes of the Republican party, anything to justify their attempt to destroy the Union by war. But, be this as it may, the war did but hasten, by a few years, the inevitable termination of their persistent folly and crime. The commercial crisis of 1860, following so closely upon that of 1857, and repeating, as both did so minutely, in all their details, the disastrous and wide-spread incidents of 1837 and 1840, would in themselves have constrained the people to demand such legislation as would promote and secure a diversification of our industries, the development of our resources, and the laying of foundations for a widely-extended commerce. The American people had become too numerous, too enlightened, too energetic, and had endured too many of these commercial crises to have been willing longer to submit their fortunes and destinies to the control of the few arrogant theorists, whose views were so narrow and whose fancied interests were so diametrically opposed to those of all the rest of their countrymen.

THEN AND NOW.

Sir, let us contemplate for a moment our condition when the champions of slavery and free trade fired on the flag of the country. April, 1861, found us unable to clothe our soldiers or furnish them with implements and munitions of war. When the President called for seventy-five thousand troops, and that number of the flower of our countrymen promptly responded, they were clad, not in our blue alone, but in gray, the chosen color of our enemy, in black, in red, or any other color, because we had not the proper material with which to clothe them. We had not the quality of iron from which to fashion a gun barrel, nor could we make it. We had not blankets to shield our men from rain or frost, in camp or bivouac; and as the people regarded the base character of the articles with which our Army was provided, many of which had been made from American rags in the shoddy towns of Yorkshire, they raised a universal cry of "fraud" against both public officers and contractors. Our mills, forges, furnaces, and

factories stood still. The frugal laborer was living upon the earnings of past years. Commerce, having dwindled from the expiration of the protective tariff of 1842, had ceased to animate our ports. The crops of the West stood ungathered in the fields, and the bankruptcy of 1857, from which we had not yet recovered, had returned to sweep away the few who had withstood the surge.

But the case is altered now. Necessity has compelled us to do what reason and experience long ago suggested. The fact that we determined to pay in gold the interest on our bonds and to obtain the required bullion by collecting the duties on imports in coin, has done much to animate and diversify our industry. This fact and the general results of the war—for the duties we lay on raw materials and our internal taxes more than counterbalance the protection afforded to many branches of industry by our tariff laws—have enabled us to recover from our prostration and started us in a career of prosperity and progress; and if wisdom guide our legislation, the waste lands of which I have read will soon be reinvigorated; the ancient village will be absorbed in the expanding city; new towns will mark the plain and river bank; and where the mean white and the negro have loitered listlessly through the months, diversified and well-paid industry, quickening their energies and expanding their desires, will employ all their hours, and enable each to carve his way as an American citizen should do in a career that will afford him pleasure or profit. The gentleman from Indiana [Mr. Voorhees] may desire to recall the idleness and misery of 1860, but I cannot believe that he is justified in intimating that President Johnson sympathizes with him in this respect.

VIRGINIA.

General Frank P. Blair, jr., intent upon neutralizing any service he may have rendered the country during the war, having gathered about him the representative men of the eighty thousand disfranchised traitors of Missouri with whom he now affiliates, recently charged, as does the gentleman from Indiana, that the Republican party of the country is under the control of men whose object is to aggrandize New England, and by a protective tariff tax the agricultural interests of the country for the benefit of a few wealthy manufacturers, and that the resistance offered to the admission of representatives of the conquered but unregenerated people of the South in Congress is the result of this purpose. How false this is he well knows; for every member of the family in the councils of which he bears so distinguished a part, and which always speaks as a unit, may be shown, by their published utterances, to understand that protection to American industry is essential to the prosperity of the agricultural interests of the country. Adequate protection to American industry, its defense against the assaults of the accumulated capital, machinery, cheap labor, and skill of foreign countries, is of less importance to the middle and New England States than to any other portion of the country. The wasted South most needs it; and next to the South the Northwest, rich in all the elements of manufacturing greatness, and poor only from her want of local markets, which the diversification of her industry and development of her multifarious resources would create.

Sir, Virginia is not a New England State; nor do her people delight in being called Yankees, though they will hereafter be as proud as we are of our national cognomen. But no portion of our country, unless it be General Blair's own Missouri, with her boundless stores of varied mineral wealth, would be so blessed by setting all its poor at work upon the growth of its own lands as Virginia. A discriminating writer, who in August last traversed a large portion of the gold region of the State, in company with three eminent mineralogists, in the course of an article in the December number of Harper's Magazine, says:

"To give any adequate description of the mineral wealth which Virginia contains, would be not only to minutely describe every rod of her entire length, embracing

hundreds of miles, but to enumerate almost every mineral of value hitherto known among mankind. It is not in gold alone that she abounds—but, scattered in profusion over almost her entire surface, are to be found iron, copper, silver, tin, tellurium, lead, platinum, cinnabar, plumbago, manganese, asbestos, kaolin, slate clay, coal, roofing slate of the greatest durability, marbles of the rarest beauty, soap stone, sulphur, hone-stone equal to the best Turkey, gypsum, lime, copperas, blue stone, grind stone, cobalt, emery, and a variety of other materials that we have hitherto been compelled to import or to do without. Indeed, it may be said, without exaggeration, that in the single State of Virginia, in the most singular juxtaposition of what might be considered geologically incongruous materials, is to be found an almost exhaustless fund of God-given treasures, more than enough to pay off our whole national debt, and only awaiting the magic touch of capital and enterprise to drag them to light for the benefit of man."

Of what avail have these boundless deposits of multiform riches been to the people of Virginia, and what have the Democratic party, slavery, and British free trade done for their most fortunately situated and devoted adherents? The aristocracy of Virginia have withheld from the laborer his hire, and the native fertility of their land has wasted away. They have traded in human muscles as a source of power, and laboring men have shunned their inviting climate; and their water power, exceeding in one year the muscular power all the slaves found in the United States at the taking of the last census, could put forth in a lifetime, has flowed idly to the sea, often through forests so wide that it could "hear no sound save its own dashing." And the State, from having at the close of the last century been the first in point of population and political power, fell, in sixty years, as is shown by the census of 1860, to be the fifth in population, and to rank the equal of free young Indiana in the fifth class in political power.

The laws of Providence are inflexible and it could not be otherwise. Despising labor, the Heaven-appointed condition on which alone man shall eat bread, she tended year by year toward poverty and want, and though she raised millions of laboring people of every shade of human complexion, the sweat of their brows enriched not her fields but those of other States. Like Germany before the establishment of the Zoll-Verein, and Ireland since the Union, she raised little else than laboring people for exportation. If he that fails to provide for his family be worse than an infidel, what shall be said of the Government that drives the heirs to so goodly a heritage as the lands of Virginia forth to dwell among strangers in want and ignorance.

The Republicans of New England and the middle States would make all her people comfortable, happy, and intelligent, in the homes of their fathers. We of Pennsylvania will welcome them to generous rivalry in every branch of industry to which we have devoted ourselves. In this age of iron, fire is force, and Virginia is underlaid by the purest fuel. If she wishes to leave her rich gold and silver mines in all their wealth to posterity, let her rival us in contributing to the needed supply of iron and steel for the exhausted South. Her kaolin is equal to any in England, and why will she not lessen our dependence on that country by building up an American Staffordshire, and embodying in porcelain the conceptions of American art? And as the product of the quarries of New Jersey and northeastern Pennsylvania have driven British roofing and school slates from our northern market, why will not she send hers to every market in the South? The country would be none the less powerful or respectable if every child in that section, however black, were expert in the use of the slate and pencil, or if their now squalid homes were embellished, as are those of many of the working people of the North, by ornate brackets, bracket shelves, mantles, pier slabs, and table, bureau, and washstand tops of whatever body but the connoisseur and expert mistakes for porcelain, mosaic, or Spanish, Egyptian, red and green Pyrenean, verd-antique, Siennese, porphyry, brocatel, or other marbles, but which are produced at little cost from the slate of Lehigh county.

PENNSYLVANIA CHALLENGES GENEROUS COMPETITION.

Is it said, sir, that Pennsylvania seeks to ob-

tain a monopoly of the American iron market? Why, then, does she ask you to so legislate that capital shall find its advantage, and the laborer become rich, in working the unmeasured iron and coal-beds of her near neighbors, Maryland, Virginia, West Virginia, Kentucky, and Tennessee? England can no longer supply herself with charcoal pig iron. She has not the fuel. Her forests have yielded to the demand for pasturage and sheep walks. She is in this respect dependent on foreign countries, and buys such pig metal as raw material where she can get it best and cheapest, from Sweden, Norway, Russia, or Nova Scotia, all of which are in the same isothermal zone in which are found, underlying forests which yield an average of fifty cords per acre, the inexhaustible beds of better than Swedish ore of the Marquette region of Michigan and Wisconsin. And, gentlemen of the Northwest, I ask you whether patriotic Pennsylvania manifests a disposition to tax you for her advantage when she challenges your competition, and implores you to help her to outdo England without fighting, and enrich yourselves by setting unemployed laborers at work with the growth of your own lands. The Bessemer or pneumatic converter is coming largely into use, and the exigencies of the war and the incidental protection it has given our industry have created manufactories of American steel; and in each of these facts you have a guarantee of steady increase in the demand for your unrivaled product, and of the profits of the railroad companies, which will carry away your commodities and return with people to build the cities your expanding iron and steel works must create. A few figures will verify these assertions. Dr. Robert H. Lamborn, than whom there is no more careful statistician, tells us that—

"By comparing the production of this region with that of other iron districts, it will be found that it produced in 1864 more pig metal than Connecticut or Massachusetts in the same year, and sixty per cent. more than New York in 1850. Reckoning ore and metal together, the mines of Marquette threw into consumption in 1864 one hundred and fifty-four thousand nine hundred and five tons of metal, or three fifths as much as the total pig-iron production of the United States, according to the census returns of 1850, and one eighth of all the pig iron produced by the United States in 1864."

In view of these gratifying facts, can it be possible that the people of the Northwest are anxious for an early renewal of the "tripartite alliance formed by the western farmer, the southern planter, and the English manufacturer," so exultantly referred to in "Cotton is King," by which the furnaces producing all this metal shall be closed, and their proprietors and the laborers they employ reduced to bankruptcy, as those of Ohio and Pennsylvania have so often been by British free trade?

If, gentlemen of Missouri, Pennsylvania is seeking a monopoly, why do her people labor to persuade you to produce at the base of Iron mountain and Pilot Knob the utilities to the creation of which they devote their capital and industry? No, our efforts are not selfish. We wish to raise the prostrate South and give her an onward and upward career, and to secure to the American laborer wages so liberal that the report thereof shall invite to our shores the skilled and enterprising workmen of every craft and country. By employing all our people with the growth of our own lands we can create an urgent demand for labor, and thereby solve the most difficult problem before the country; for when labor is in quick demand its value will be regarded and the rights of the laborer protected.

By no other means can the exhausted South be restored or the work of her recuperation be commenced. Who will emigrate to the recently insurgent States? Vast and varied and peculiar as are their natural resources, will capital, proverbially timid as it is, fly to a region characterized by turbulence and lawlessness, or enterprise to a land in which labor is regarded as the disgraceful office of a subject race, and where legislation is employed to repress the intellect and suppress the aspirations of the laboring people for a higher and better life? Sir,

there is not a northern State that does not outbid them for emigrants and offer superior inducements to the capitalist and those that are infinitely more attractive to him who has but his labor and that of his family to sell. Pennsylvania needs a million laborers. She can feed and clothe and house them all should they come to her in the current year. We want them to gather and refine petroleum, to construct and manage railroads, to conduct our internal carrying trade, to build factories, forges, furnaces, founderies, and the towns they will beget; to quarry slate, zinc, coal, iron, marble, and the thousand other elements of wealth condensed within the limits of our State. Inert, as these natural elements of wealth are, they are of no available value; but the quickening touch of labor will transmute them all to gold, and energy and enterprise and capital, in the hands of men whose earlier years were passed in manual labor, are holding out to industry the richest bribes to induce it to come and help pay our national debt and increase our country's power by enriching themselves and us. But, sir, we offer higher inducements than wages in dollars and cents. Our equal laws, recognizing that the children of a State are its jewels, put a school-house near every laboring man's dwelling, and as a reward for his industry, and to increase the power of the State, secure to each child coming into it the keys of all knowledge in the mastery of the English language, the art of writing, and at least the elementary rules of arithmetic. And in the neighborhood of every hamlet the church spire points the way from earth to heaven. Before the altar employer and workman meet as equals, and in the same class in the Sunday-school their children learn practical lessons of Christian equality.

A SUGGESTION AND EXAMPLE TO THE SOUTH.

These are conditions that the South cannot yet offer to the emigrant from our fields or those of Europe. If she would prosper she must Americanize her system of life, abandon her contempt for labor, and her habits of violence and disregard of law. She must learn to respect man as man, and stimulate his exertions by quickening his intellect, expanding and chastening his desires, and insuring him a just reward for whatever he shall put forth in the way of industry or ingenuity or enterprise. She can only create the elements of her new and great future by developing the resources now at her command, the chief of which she will find to be her apt and docile laboring people. Her present purpose seems to be not to do this, but to enter on a new career of oppression. Her dream is still of dominion over large plantations and imbruted laborers. Let her abandon the problem, "How can I make my laborers work?" and occupy herself upon the gentler one, "How can I induce these people by whom I am surrounded to enrich themselves and me?" and she will begin to learn how rich and powerful she is. When she shall have accomplished thus much, when her laborers are freely paid and her common schools offer shelter and culture to the laborer's child, she may successfully appeal to those who can elsewhere find wages, security, and equal chances in life to come and cast their lot with her. She should hasten the coming of that day. In common with us, she is burdened by the debt of \$3,000,000,000 in which she has involved us. Let her remember that she, too, has coal, iron, lead, copper, zinc, silver and gold, cinnabar, tellurium, and all the elements of manufacturing and commercial power which characterize so abundantly every section of our country; that she has broad land which will not be fully worked when every man and woman within its limits may say with truth, "I am indeed an American citizen, and have, by my well-requited voluntary labor, earned the bread my dear family has this day eaten." And she will find that she has added vastly to her wealth when the field hand shall have been transformed into a skilled workman; when he who, under the

lash, has lazily hoed cotton or corn, under the stimulus of liberal wages, converts ore and coal into rails, cannon, or anchors, or into any of the thousand minor fabrics from the fish-hook and the sail or packing needle to the heavy and complicated lock advertised in the catalogue of one concern, that of Russell & Erwin, of New Britain, in Connecticut—a State producing so little iron as to be scarcely remembered when enumerating the iron-producing Commonwealths of the country. This concern, I am informed, sold but \$30,000 worth of goods in the first year of their operations, and \$3,000,000 worth during the last year. Meanwhile it has concentrated in the village enlivened by its works a thriving and highly-educated population, and has converted unskilled laborers into mechanics and accomplished mechanicians, though their hands were no nimbler or their minds more comprehensive or versatile than those of the laborers to be found in the devastated South, whose extermination or expatriation seems to be within the purview of those who assert their right to control the policy of that section.

It is not for the rich, the comparatively few who have accumulated capital, that we demand protection. We ask it in the name of the millions who live by toil, whose dependence is on their skill and ability to labor, and whose labor creates the wealth of the country. To what fearful competition they are subjected when by withholding protection we leave them undefended against the assaults of British capital, is aptly set forth by Daniel J. Morrell, Esq., in his admirable letter to the secretary of the American Iron and Steel Association. He says:

"That portion of the price of a ton of imported iron which stands for the wages of labor, represents coarse food, mean raiment, and worse lodging, political nullity, enforced ignorance, servitude in a single occupation, with a prospect of eventual relief from the parish."

"That portion of the price of a ton of American iron which stands for the wages of labor, represents fresh and wholesome food, good raiment, the homestead, unlimited freedom of movement and change of occupation, intelligent support of all the machinery of municipal, State, and national Government, with a prospect of comfortable old age, at last dividing its substance with blessings among prosperous children."

"Thus it is easy to see why imported iron may be cheap and American iron dear; for the latter, in addition to its other burdens, pays an extraordinary tax to freedom and enlightenment, which are assuredly deserving of protection."

Mr. Morrell evidently does not agree with the magnates of the South in their opinion that the way to make a State great and powerful is to oppress and degrade its working people.

WE CAN PAY OUR DEBTS "WITHOUT MONEYS."

I have never been able to believe that a national debt is a national blessing. I have seen how good might be interwoven with or educed from evil, or how a great evil might, under certain conditions, be turned to good account; but beyond this, I have never been able to regard debt, individual or national, as a blessing. It may be that, as in the inscrutable providence of God it required nearly five years of war to extirpate the national crime of slavery, and anguish and grief found their way to nearly every hearth-side in the country before we could recognize the manhood of the race we had so long oppressed, it was also necessary that we should be involved in a debt of unparalleled magnitude that we might be compelled to avail ourselves of the wealth that lies so freely around us, and by opening markets for well-rewarded industry, make our land, what in theory it has ever been, the refuge of the oppressed of all climes. England, if supreme selfishness be consistent with sagacity, has been eminently sagacious in preventing us from becoming a manufacturing people; for with our enterprise, our ingenuity, our freer institutions, the extent of our country, the cheapness of our land, the diversity of our resources, the grandeur of our seas, lakes, and rivers, we should long ago have been able to offer her best workmen such inducements as would have brought them by millions to help bear our burdens and fight our battles. We can thus raise the standard of British and continental wages and protect American workmen against ill-paid competition. This we must do

if we mean to maintain the national honor. The fields now under culture, the houses now existing, the mines now being worked, the men we now employ, cannot pay our debt. To meet its annual interest by taxing our present population and developed resources would be to continue an ever-enduring burden.

The principal of the debt must be paid; but as it was contracted for posterity its extinguishment should not impoverish those who sustained the burdens of the war. I am not anxious to reduce the total of our debt, and would, in this respect, follow the example of England, and as its amount has been fixed would not for the present trouble myself about its aggregate except to prevent its increase. My anxiety is that the taxes it involves shall be as little oppressive as possible, and be so adjusted that, while defending our industry against foreign assault, they may add nothing to the cost of those necessities of life which we cannot produce, and for which we must therefore look to other lands. The raw materials entering into our manufactures, which we are yet unable to produce but on which we unwisely impose duties, I would put into the free list with tea, coffee and other such purely foreign essentials of life, and would impose duties on commodities that compete with American productions, so as to protect every feeble or infant branch of industry and quicken those that are robust. I would thus cheapen the elements of life and enable those whose capital is embarked in any branch of production to offer such wages to the skilled workmen of all lands as would steadily and rapidly increase our numbers, and, as is always the case in the neighborhood of growing cities or towns of considerable extent, increase the return for farm labor; this policy would open new mines and quarries, build new furnaces, forges, and factories, and rapidly increase the taxable property and taxable inhabitants of the country. Would the South accept this theory and enter heartily upon its execution, she would pay more than now seems her share of the debt and feel herself blessed in the ability to do it. Her climate is more genial than ours; her soil may be restored to its original fertility; her rivers are broad, and her harbors good; and above all, hers is the monopoly of the fields for rice, sugar, and cotton. Let us pursue for twenty years the sound national policy of protection, and we will double our population and more than quadruple our capital and reduce our indebtedness *per capita* and per acre to little more than a nominal sum. Thus each man can "without moneys" pay the bulk of his portion of the debt by blessing others with the ability to bear an honorable burden.

How protection, by animating, diversifying, and rewarding industry, will pay our debt is well shown by the experience of the last five years. And though we do not owe that experience to sagacious legislation, but, as I have said, to the incidents of the war, it should guide our future steps. The disparity between gold and paper has added to the duties imposed on foreign products, and enabled our manufacturers to enter upon a career of prosperity such as they have never enjoyed, save for a brief period, under the tariffs of 1824 and 1828, and again for four years under that of 1842, a prosperity in which the farmers are sharing abundantly, as is shown by the fact that they are now out of debt, though most of their farms were mortgaged five years ago. When the war began we could not, as I have said, make the iron for a gun-barrel; we can now export better gun-barrels than we can import. We then made no steel, and had to rely on foreign countries for material for steel cannon and those steel-pointed shot by which only we can pierce the five-and-a-half-inch iron-clads with which we must contend in future warfare. Many of our regiments that came first to the capital came in rags, though every garment on their backs was new, and many of them of freshly imported cloth. But, sir, no army in the world was ever so substantially clothed and armed as was that which for two days passed in review before the President of the United States and the Lieutenant

General after having conquered the rebellion, and which, when disbanded, was clad in the product of American spindles and looms, and armed with weapons of American materials and construction.

It is said that ten years ago "a piece of Lake Superior iron ore was a curiosity to most of our practical metallurgists." In 1855 the first ore was shipped from Marquette county. How rapid the enlargement of the trade has been is shown by the following statement:

In 1855 there were exported.....	1,445 tons.
1856.....	11,594 "
1857.....	26,184 "
1858.....	31,135 "
1859.....	65,679 "
1860.....	116,948 "
1861.....	45,430 "
1862.....	115,720 "
1863.....	185,275 "
1864.....	255,123 "

The production of charcoal pig iron in that region, we are told by Dr. Lamborn, commenced at the Pioneer works near the Jackson mine in 1858. Those works were the pioneers of a great army, and already the Collinsville, the Forrestville, the Morgan, and the Greenwood furnaces are in profitable operation. The production of charcoal iron in that county has been as follows:

In 1858 there were exported.....	1,627 tons.
1859.....	7,258 "
1860.....	5,680 "
1861.....	7,970 "
1862.....	8,590 "
1863.....	8,908 "
1864.....	13,832 "

And though we produced no steel in 1860, a table constructed from information furnished by the report of the Commissioner of Internal Revenue for the year ending June 30, 1864, shows that the Government had in that year derived \$391,141 39 of internal revenue from the steel made and manufactured in the United States during that year.

Time will not permit me to indicate the many new branches of industry which have sprung up, or the vast extension and improvement of those which, under our old free-trade system, had found an insecure footing and were enduring a sickly existence. I may, however, venture on a few remarks upon this head. California is not a New England or an eastern State; she has perhaps been less affected by the war than any other State, unless it be Oregon; and I find that, though she raised in 1859 but 2,378,000 pounds of wool, she raised in 1863 7,600,000, and in 1864, 8,000,000 pounds. She is, we are assured by her papers, realizing the advantage of bringing the producer and consumer together; and though during the last year she shipped to New York some 7,500,000 pounds of wool, she is showing that her people understand the importance of saving the double transportation they would otherwise pay on those of their own products they might consume—that for carrying the raw material to the factory, and that for bringing the fabrics back again. I find in one of her papers the following statement:

"CALIFORNIA WOOLEN MILLS.—The Pioneer Mill, at Black Point, California, has thirty-one looms at work now, consumes annually 1,200,000 pounds of wool, employs 220 laborers, pays out \$100,000 yearly in wages, uses a capital of \$500,000, and runs fifty-two sewing machines. About one fourth of the wool purchased is used in making blankets, the importation of which has now entirely ceased, the home production having taken entire possession of the market. Nearly half the production is flannel, which is gradually crowding the imported article out of the market. About one third of the wool consumed at this mill is made into tweeds and cassimeres, which is mostly made up into clothing in San Francisco. Broadcloth is not made there in quantity, because of the scarcity of pure merino wool. The Pioneer and Mission Mills together consume about 2,400,000 pounds of wool, employ about 450 laborers and \$1,000,000 of capital, and pay out \$200,000 in wages annually."

Well done, California. Your tweeds and cassimeres and blankets will crowd foreign articles not out of your own State alone, but out of the markets of the States of the Pacific slope. You will soon need machinists to construct your sewing-machines and make the tools for those who do such work. Land around your cities will grow in value; and those who own it need not compete with farmers so distant from market as to limit them to the production of grain alone. Hay, potatoes, turnips, and all other roots for

the sustenance of man and beast and fruits for the table, may engage their attention and give them ample reward for their labor.

Oregon has also felt the quickening influence of the times. She paid to the internal revenue department, during 1864, taxes on the manufacture of \$128,620 67 of woollen cloth.

THE PEOPLE OF THE PRAIRIES NEED A PROTECTIVE TARIFF.

The people of the prairies, next to those of the desolated South, are interested in the creation and maintenance of diversified industry. While they depend on grain-growing, and that commerce which English free trade permits the producers of raw materials to enjoy, cities will be founded and grow at points on the lakes and rivers; but none of these even can be great cities without manufactures. Here and there a concentration of railroads may also create a first-class town or an inferior city; but the rest of their wide country will be but sparsely populated by an agricultural community, and dotted at wide distances apart by beautiful villages such as now gratify the eye of the traveler through the West.

The prairie States have within them the elements of innumerable profitable industries. The western farmer clears his new land by girdling and burning the primitive forests. The wood is not without value, and condensed as it might be, it would bear transportation to a market. Constituents of mine have been for two years engaged in erecting works which cover over fifteen acres of land for the production of paper pulp from wood. There now lie around their vast buildings thirty-five thousand cords of wood; and in a few days they hope to put their works in operation. For awhile they ran part of their machinery and produced to their entire satisfaction and that of the trade pulp which, intermingled with five per cent. or less of that produced from cotton rags, furnished admirable printing paper.

Now, the corn husks—ay, and the corn with the husks—of the farmers of the West, go to waste, or find no better use than supplying them with fuel during the winter. The following article, clipped from the New York Evening Post of November 25, invites them to experiment and learn whether they act more wisely in wasting this material than the southern planters, who feared the establishment of American manufactures, did in failing to utilize their cotton seed, which, if we may accept De Bow's authority, would have produced from \$100,000,000 to \$120,000,000 per annum if converted into oil and oil cake:

"At a recent meeting of the Institute of Technology in Boston, Mr. Bond made a statement of results recently attained in this country and in Europe in the manufacture of paper from corn husks. Experiments upon this material have been in progress in Bohemia since 1854, but have not reached a satisfactory result until within the last two or three years. In the successful processes lately adopted the husks were boiled in an alkaline mixture, after which there remained a quantity of fiber mixed with gluten. The gluten was extracted by pressure, forming a nutritious article like 'oil cake,' and then the fiber was subjected to other processes in which it produced the real paper 'stock' or 'pulp,' and left a fiber which has been made into strong and serviceable cloth. The husks yield forty per cent. of useful material; ten per cent. of fiber; eleven per cent. gluten, and nineteen per cent. of paper stock. This paperstock is equal to that made from the best linen rags. Allowing the profit of thirty-eight per cent. to the manufacturer, the different articles can be produced for six cents per pound for fiber, one and a half cent for gluten, and four cents for paper stock."

Were this branch of manufactures well established on the prairies, the press of the West would give up its denunciations of the paper makers of the country as conspirators, monopolists, and extortioners, and cease to publish such paragraphs as the following, clipped from a recent number of the Galena (Illinois) Gazette:

"We understand that many of the people of Warren and other towns in the east part of the county are using corn for fuel. We had a conversation with an intelligent gentleman who has been burning it, and who considers it much cheaper than wood. Ears of corn can be bought for ten cents per bushel by measure, and seventy bushels, worth seven dollars, will measure a cord."

Could the people of Illinois bring themselves

to believe that they are capable of doing any other labor than raising raw material, they would bring into use cheaper fuel than corn or wood at seven dollars a cord. Their lands are underlaid by lead, zinc, copper, and iron; and would they determine to bring their metals into market as much manufactured as their skill and supply of labor will permit, they would, by creating a demand for fuel, compel the development of the magnificent deposits of bituminous coal through which the Illinois Central railroad runs. Let them be admonished before it is too late that the fertility of their soil, exuberant as it is, is not exhaustless.

But, inviting as is this branch of my subject, I must leave it with the remark that, ignorant as we are of the extent of our mineral deposits, we are more ignorant of the uses to which may be applied many elements of life with which within a limited range of purposes we are quite familiar; and that, varied and wide as are the expanding opportunities to achieve usefulness and wealth, he who embarks his capital or enterprise in such as will yield the most golden results will not be more benefited by the introduction of new branches of manufacture than the owners of land, who will find in the markets of the village and the refuse of the factory the means of following the methods of English husbandry, and succeeding the exhausting white crop by a green one, and giving to the soil each year more of the elements of fertility than the crop abstracts from it; and who, having a market at their doors, will save the transportation which now makes a yard of Manchester cloth worth many bushels of wheat in Kansas, and a bushel of Kansas wheat worth many yards of the same cloth in Manchester. Under free trade transporters, factors, and commission men have absorbed what would have been the joint profit of the American manufacturer and the grain-grower, had the producer and the consumer been side by side or in reasonable proximity to each other.

DOMESTIC COMMERCE IS MORE PROFITABLE THAN FOREIGN.

There is other commerce than that between foreign nations. France and England lie nearer to each other than New Jersey and Ohio, or than Indiana and Missouri. Commerce between New England and the Pacific slope takes place at the end of longer voyages than that between New and Old England. A quick market and active capital make prosperous commerce. Interest on borrowed capital is often a fatal parasite, and a nimble sixpence is always better than a sluggish shilling. Commerce is the traffic in or transfer of commodities. It should reward two capitals or industries—those of the producer of each commodity; and where trade is reciprocal, and really free, each man selling or buying because he wishes to do so, it does reward both. It is, therefore, apparent, that if we consume American fabrics, as well as home-grown food, these two profits, and a third, (two of which now accrue to foreigners, one absolutely and the other in great part,) would remain in the country. These are the profits on the production of raw material, on its manufacture, and on its too often double transportation. But trade between a country in which capital is abundant, and the machinery of which, having paid for itself in profits already realized, is cheap, as is the case in England, and a new, or in these respects poor, country, as is ours, is never reciprocal; for the party with capital and machinery fixes the terms on which it both buys and sells.

In addition to keeping both profits on our commerce at home and doing our own carrying, the diversification of our industry will insure markets for all our products, and render the destruction of any one of the leading interests of the country by a foreign commercial Power an impossibility. By securing the home market to our industry, and giving security to the investment of capital in furnaces, forges, mills, railroads, factories, foundries, and workshops, we can steadily enlarge the tide of immigration. Men will flow into all parts of our country—some

to find remunerative employment at labor in which they are skilled; some, finding that land, mineral wealth, water-power, and commercial advantages are open to all in an eminent degree, will come in pursuit of enterprises of moment, and each new settlement, each new village or town, and each new branch of industry established, around which thousands of people may settle, will be a new market for the products of our skill and industry: so that we shall not only become independent of Great Britain in so far as not to depend on her for that which is essential to our comfort or welfare, but independent in having a population whose productions will be so diverse that though the seas that roll around us were, as Jefferson once wished them, "seas of fire," our commercial, manufacturing, and agricultural employments could go on undisturbed by what was happening in other lands. When we shall have attained this condition of affairs we will build ships and have foreign commerce, for we will have that to carry away which, being manufactured, will contain in packages of little bulk our raw material, food, mechanical skill, and the labors of our machinery, impelled by our coal; and in exchange we will get whatever of raw material we do not produce, and the ability to retain the basis of a sound currency which England and France, by the free trade they preach but do not practice, now draw from us and other countries in the position we so humbly occupy of producers of raw material, whose people lack the foresight or the ability to supply themselves with clothing and the means of elegant life.

WHAT CONGRESS SHOULD DO.

Mr. Chairman, it is not my purpose to propose any specific modifications of our tariff or internal revenue laws. They operate most unfortunately upon several leading interests of the country and eminently so on the producers of umbrellas, manilla cordage, and railroad iron. But I have confidence in the gentlemen composing the Committee of Ways and Means, and the suggestive report of the United States Revenue Commissioner is now before us. The responsibility will justly rest on Congress, if with such aids we fail to correct those incongruities in our laws which have prostrated several important branches of manufactures to the injury of the laboring people of the country.

I may, however, remark that I am opposed to prohibitions or prohibitory duties, but will gladly unite in imposing on foreign manufactured commodities such discriminating duties as will defend our industries from overwhelming assaults at the hands of the selfish capitalists who see that Britain's power depends on Britain's manufacturing supremacy, and are ever ready to expend a portion of their surplus capital in the overthrow of the rising industries of other nations. Judicious legislation on this subject will, by inviting hither her skilled workmen and sturdy yeomen, so strengthen us and enfeeble England that she will not make railways and other improvements for military purposes in Canada, for she will see that, when Canada shall be made the base of military operations against the United States, her American dominions will pass promptly into our possession.

WE ARE STILL IN COLONIAL BONDAGE TO ENGLAND.

I find, sir, in a journal upon which I am in the habit of relying, in an article on the British exports of iron and steel, the statement that during the seven months terminating July 31, 1865, the United States purchased more than one third of the railroad and bar iron exported by England. While we were thus adding to the wealth and power of England, by purchasing one third of her entire export of railroad and bar iron, one of her "men-of-war," commanded by an American traitor, was destroying our unarmed whalers engaged in the peaceful pursuits of their dangerous trade, and our furnaces, forges, and rolling-mills were idle, or but partially employed. The internal taxes levied directly and indirectly on a ton of American railroad iron are heavier than the duty imposed on a ton of foreign rails by our tariff, and at this time most of the fur-

naces and rolling-mills of our country are suspended. The Pennsylvania iron works at Danville, in that State, make both pig and railroad iron. The invested capital of the company is \$1,500,000. When in full operation it employs twelve hundred men, upon whom not less than five thousand women and children depend. The works are adapted to the production of both pig iron and rails. They cannot, however, produce an adequate supply of iron for the rolling-mills, and the company are annual purchasers of pig iron. Their capacity is twenty-seven thousand tons pig iron and thirty-three thousand tons of rails. Their actual production in the two last years was but as follows:

In 1864, Pig iron.....	17,151 tons.
Rails.....	22,512 "
In 1865, Pig iron.....	14,758 "
Rails.....	15,956 "

The Rough and Ready rolling-mill, in the same town, is capable of producing about twelve thousand tons of rails per annum. Its proprietors purchase their pig iron. Its production during the two last years has been in the exact proportion to its capacity as that of the Pennsylvania works. The difficulty with both is that our internal taxes so far more than counter-balance the protection afforded by our tariff that when gold ranges at less than forty British iron masters can undersell either in our own markets. Our laws instead of protecting American labor discriminate against it and in favor of that of England. The duties and internal taxes on iron evidently need revising. The interest is depressed, not only in Pennsylvania, but in every part of the country. During the latter part of the seven months referred to four rolling-mills in southeastern Ohio, with a capacity of sixteen thousand tons of rails per annum, were idle, and the blast furnaces in the region which can produce one hundred and thirty-five thousand tons of charcoal pig metal, produced in 1865 but forty-five thousand.

Of the twenty furnaces on and near the Allegheny river, in Pennsylvania, only eight were in blast at the close of the year. I am told there are nine blast furnaces in Missouri capable of producing about forty-five thousand tons, and that but three are now in operation. But one of the four blast furnaces near Detroit was in operation in December. The twenty-five rolling-mills of Pittsburgh were, I am informed, then running but quarter-time, and the production of bloom iron in the counties of New York bordering on Lake Champlain was in 1865 but about one third of that of 1864. Let me ask, sir, whether Congress is faithful to the laboring men of the country when it deprives them of the opportunity to enrich themselves and the country by expending their labor on the growth of our own lands.

From the same journal I also learn that, during the same seven months, the United States imported more than one half of the unwrought steel exported from Great Britain, while a very carefully prepared list of the steel-works of the country, showing the kinds of steel made, the product for the last year, and the capacity of each, shows that the product during the last year was but eighteen thousand four hundred and fifteen tons, though the capacity of the works is forty-two thousand one hundred tons. It thus appears that we could have made of the growth of our own lands, and by the employment of our own people, every ton of rails, bar iron, and unwrought steel we imported during that period. Will the gentleman from Indiana [Mr. VOORHEES] say that it would not have been wise to withhold this patronage from our treacherous rival and bestow it upon our toiling countrymen?

The western farmer and railroad man say "Let me buy iron and steel cheap; it is my right to buy where I can buy for least money;" and their Representative, complying with their wishes, refuses to put an adequate duty upon iron and steel. May it not be pertinent to remind these gentlemen that the manufacturers of the iron and steel they import live in houses built of British timber and British stone, and furnished with British furniture; that they are

taught, so far as they are educated, by English teachers; attended in sickness by English doctors; clothed and shod by English artisans; and that their wages are expended in confirming British supremacy by augmenting British industry and British commerce; that they are fed with wheat gathered on the banks of the Nile and the Baltic, or wherever England can buy it cheapest; and that General Jackson's assertion, that to transfer six hundred thousand men from agricultural to manufacturing employments would give us a greater market for our agricultural products than all Europe now supplies, is as true now as it was when first uttered. But that, if we import the men to make the iron and steel we will need for 1866, 1867, and 1868, the implements with which they will dig the limestone ore, and mine the coal, will be of American production; the food they will eat will be grown on American soil; the timber of the houses they will occupy will be cut from American forests; the stones with which it will mingle will be quarried from American quarries; and the tailor, shoemaker, and hatter, the teacher, preacher, and doctor, and all others whose services they will require, and whose presence will augment the population of the village, the town, or the city will be Americans, and depend for their supplies on American labor. And may I not ask whether the farmers of the country, in being relieved from colonial dependence and having a steady market thus brought to their door—a market in which wheat from the banks of the Nile and the shores of the Baltic will never compete with and cheapen theirs—would not, though they paid more dollars per ton, find that they were buying their iron and steel cheaper if they gave fewer bushels of wheat for it, and less frequently consumed their surplus crops as fuel or permitted them to rot in the field? He does not buy most cheaply who pays least money for the articles he gets, but he who gives the least percentage of his day's, month's or year's labor in exchange for a given commodity; and tested by this standard, the cheapest market in which iron and steel can be bought for American purposes will be found in the protected market of America.

PROTECTION CHEAPENS GOODS.

But protection begets competition and invariably cheapens the money value of commodities. This is not mere theory; it is fact established by the experience of all nations that have protected their industry. Washington's Secretary of the Treasury understood this as perfectly as the adept in social science understands it today. Every nation that ever protected its industry improved the quality and lessened the price of its productions; and no people, while not protecting their manufactures, have ever been able to hold a fair position among the commercial nations of the world, because they could not compete in cheapness with protected industries. While Holland protected her industry more adequately than England, she sold her cheap goods in that country and maintained her supremacy on the seas. It was thence that the Dutch raised the ire of Andrew Yarrinton by taunting Englishmen with their want of skill, and England with her want of civilization, in selling her raw products at the price others would give, and buying back part of them when manufactured at the price at which others would sell. But when England perfected her protective system, her superior advantages in coal and iron gave her commercial supremacy, by enabling her to cheapen articles she had believed herself unable to produce, and to employ British ships in carrying English fabrics to mere growers of raw material in every part of the world.

France, as I have shown, protects her industry, and her silks, laces, cloths, cassimeres, and products of iron and steel hold their place in the markets of the world in spite of England's larger commercial marine and more abundant supply of coal and iron. Has protection increased the price of anything but labor in Germany? Before the establishment of the Zoll-Verein or Customs-Union she exported nothing

but raw materials, and was only too happy, as I have shown, to send with these her peasantry either for war or civic purposes; but under the influence of protection the value of man has risen in Germany, and that of German products fallen in the markets of the world, till her cloths and the multifarious products of her diversified industry compete with those of England and France in the markets of the United States and other nations whose people devote themselves exclusively to the production of raw materials. Even Russia, with her thirty millions of recently freed serfs, who enter upon the duties of freemen without disturbance, because the wise emperor who enfranchised them had secured employment and wages for each by protecting the industry of all, is now entering into the general markets of the world in competition with France, Germany, Belgium, and England. But we enter no foreign market with productions which attest our wealth, skill, genius, or enterprise; and the prices of what we do export—grain, coarse provisions, and whisky—depend on such contingencies as drought, excessive rain, the potato rot, or other widespread calamity for a transatlantic market. When good crops prevail in Europe there is no market there for us. Consistent with the experience of other nations has been our own. Under the tariffs of 1824 and 1828 the prices of all those commodities in the production of which our people engaged to any extent fell rapidly. When the tariff of 1842 went into effect our country was flooded with British hardware of every variety, from a tenpenny nail to a circular saw, and from table cutlery to butt hinges, thumb latches, &c. But when 1847 came round, four years of adequate protection had so stimulated the skill and ingenuity of Americans, and had brought from Great Britain so many skilled workmen, that our own market, at least, was ours for an infinite variety of iron-ware, and we have held it in many departments of the business from that day to this, no nation having been able to undersell us in our own streets. If, sir, we are now paying too high for iron and steel-ware, we are but suffering the penalty of our folly. Had we continued the protection afforded by the tariff of 1842, or modified it from time to time as branches of business and the condition of the market required, by transferring the duties that had defended and advanced a branch of industry to articles needing greater protection, we would now be producing an adequate supply of cheap iron for our own use, and competing with France and England in the markets of Mexico and Central and South America. We are thus, I say, paying the penalty of our own folly in having destroyed our industry and rendered the investment of capital in manufacturing enterprises insecure. Let but the capitalists of the country know that Congress will so revise the duties on railroad iron as to give it adequate protection over the taxation its production encounters under the law for raising internal revenue, and competition will spring up all over the country and wake from the growth of our own lands cheaper and better iron or steel rails than we can import.

How can it be otherwise? Do not the people of Michigan and Wisconsin wish to develop their resources and make them available? Are the people of Missouri insensible to the advantages which would flow from deriving income from the conversion of their mountains of ore into rails, machinery, and hardware? Will not the people of Tennessee allow the descendants of the colored men who worked his furnaces and gave Cave Johnson his majority in his first contest for Congress, and others like them, to enrich that devastated State by working her mines and bringing her forges and furnaces again into profitable use? And why may not the whir of the rolling-mill be heard throughout Kentucky, Tennessee, Virginia, Georgia, and other southern States which are heavily underlaid with iron? There will be quick demand for the yield of all if we determine to develop the wealth of our whole country, and interlace its parts, as we should, with railroads. By excluding from our markets one third of the an-

ual export of railroad and bar iron from England we will bring hither the men who make it. Why should we, with the capacity established in five years—for when the war began and furnished its incidental protection, the manufacture of steel was unknown in our country—why should we, who in five years have created facilities for manufacturing about fifty thousand tons of steel per annum, buy from England one half of her entire export of unwrought steel? Rather let us enfeeble her and strengthen our country by bringing hither the men who make it. The iron of the States I have named, and I may say of almost every State of the Union, would give us steel as pure and tenacious as England can make. The establishment of this branch of trade would lead to immense internal commerce, and reward our railroads with business that would flow both ways in all seasons of the year. The ores of the Marquette region will be in request in every iron-producing State as those of Sweden, Norway, Russia, and Nova Scotia are in France and England.

WHY AN EXPORT DUTY SHOULD BE LAID ON COTTON.

Mr. Chairman, permit me, in drawing to a conclusion, to repeat that we need not resort to the prohibitions which have been practiced by other countries. Our natural advantages and those which spring from our personal freedom, are sufficient to relieve us from all difficulty on this point. There is, however, one of our agricultural productions upon which, did the Constitution permit, I would lay an export duty; and that is cotton. And I hope the Constitution will be so amended as to permit it; for though for years—for the life of more than a generation—the country was ruled in the interest of slavery, to the destruction of the interests and rights of our free laborers, by the pretended apprehension that if American cotton were not cheapened rival fields would be developed, the delusion has been dispelled, and all men know that ours are the only available cotton fields of the world. For five years we maintained along the coast of the cotton States a blockade such as never was attempted before. The people of those States planted no cotton and burned much of what they had produced, and did all that madness or ingenuity could suggest to develop rival fields if any existed; and what is the result? Necessity constrained the temporary use of Indian cotton, and Calcutta became so rich that her *ryots* put silver tires around their cart wheels. But when the power of our armies had reopened the cotton fields of the South, when it became known that freedmen were working upon the Sea Islands, and apparent that our Government was again to possess the cotton region of the South, there came a fearful revulsion in India, and all men acknowledged that God had given the United States a monopoly of the available cotton fields of the earth. Upon that one production we should put an export duty, and the result would be that the men of the cotton States, no longer dependent on England for a market for their bulky raw material, would, with their cheaper fabrics, drive her cotton goods from the markets of the world. Though I would not, by legislation, prohibit the export of the elements of any branch of manufacture or machinery, I will endeavor to retain in the country many of the elements of manufactures that now go abroad, by making them more valuable in this country than in any other, and by impressing upon the American people the conviction, so long ago inculcated upon the people of Ireland by Dean Swift, that to enrich themselves they must

"Carry out their own goods as much manufactured and bring in those of others as little manufactured as the nature of mutual commerce will allow."

To gratify our patriotic desires we need not resort to prohibitory duties. We can nationalize our policy by relieving from duty tea, coffee, and any raw material which we do not produce, but which enters into our manufactures or arts. I would give the wool-growers protection, but would stimulate the manufacture of carpets and increase the demand for American wool by ad-

mitting free of duty those low grades which we do not produce; and would lay light duties on those articles in the manufacture of which machinery has been perfected and large capitals have been accumulated, especially where the original cost of the machinery has been returned in profits; and would make them heavier and heaviest upon those branches of industry which are most feeble but give assurance of ultimate success. When we do this our country will cease to be a mere agglomeration of sections, and we will be a national people, homogeneous in our interests by reason of their immense diversity.

Such, sir, is my plan for enforcing the Monroe doctrine, acquiring Canada, paying the national debt, and by relieving the South of its embarrassment, recementing the shattered Union. The poor whites must be weaned from the rifle, net, and line, by the inducements of well-rewarded labor. Their idle wives and children may thus be brought to habits of order, method, and industry, and in a few years we shall cease to remember that in this nineteenth century, and under our republican Government, there were for several decades millions of people tending rapidly to barbarism. The same inducements will disclose, even to the eye of prejudice, the manhood of the freedman, and that kindly relation between the employer and his employé which exists throughout the busy North and East will spring up in the South. Oppressed and degraded as he has been, the colored man will find that there are fields open to his enterprise, and a useful and honorable career possible to him, and will prove that, like other men, he loves property and has the energy to acquire it, the ability to retain it, and the thrift to make it advantageous to himself, his neighbors, and his country.

Let us then measure our resources by experiment and open them to the enterprise of the world; and the question whether we owe three hundred or three thousand millions will, ten years hence, be one of trifling importance; and, as Andrew Yarrinton showed the people of England how to "outdo the Dutch without fighting," we will find peace hath her victories for us also; Canada will come to us like ripe fruit falling into the hands of the farmer; and if Maximilian remain in Mexico, it will be as the citizen of a republic and an adherent of the Monroe doctrine.

RECONSTRUCTION.

Mr. PAINE. Mr. Chairman, in the discussion of the effect of the rebellion upon the relations of the late rebel States to the Federal Constitution it becomes necessary, at the outset, to assure ourselves that we use the word State in the right sense, for even in its application to political societies and governmental organizations it has essentially different significations. Its meaning is sometimes purely geographical. Sometimes it is used to designate the Government itself. By this word we sometimes mean the people constituting a political society, within certain geographical limits, in their highest sovereign capacity. They are then invested with all the attributes of sovereignty as such political society, and therefore constitute an absolutely sovereign State, a nation. England is such a State to-day. The people of England hold all sovereign powers in their highest form as people of England. They are not invested with one portion of them as people of England, and with another portion by virtue of some other political connection or condition. And England is an absolute sovereignty. Her government, whatever successive forms it takes, represents all possible sovereign power. Whether as a despotism, or a Commonwealth, or a constitutional monarchy, she is always the sovereign State of England. In another sense, quite distinct from all of these, this word designates a political society, within certain geographical limits, organized under a particular government. Such is its signification when applied to one of the States of the American Union. The State of New York is a political society, existing within defined boundaries, under the particular governmental organization which consti-

tutes and keeps her one of the United States, or she is no State at all. New York is not an absolute sovereignty. Her people are invested with only a part of the powers and attributes of sovereignty as people of New York. They hold the rest as people of the United States.

The people of the United States together, in their two-fold relation to the State and the Union, constitute an absolute sovereignty, a complete State, like England. Such a State, although rude and only half-fledged, was each of the original thirteen before the adoption of the national Constitution. Such a State not one of them has been since the adoption of that Constitution. Such a State not one of those admitted since its adoption has ever been for a single moment. Its framers have given us everywhere, on the same ground, two co-existent governments, each perfect within its own sphere, and yet neither complete in itself nor independent of the other. Neither the States nor the national Government separate from each other are States or anything else known to the Constitution. They are complements of each other. The existence of each is essential to the existence of the other. The States, moving in their orbits round the central sun, the Constitution, form the great national system known as the American Union. If the central power of the Constitution is essential to the existence of the nation, so also is it essential to the existence of the States. When it shall be cut off from any one of the States, whatever else that State may become, whether a mere Territory or an independent sovereignty, it will no longer be a State of this Union. Although the people and the soil will remain, the body-politic known to the Constitution as an American State will have perished. In no State of the Union can the machinery of State government operate or exist for a moment if the vital force of the Federal Constitution is withdrawn, because there can be no State Constitution whereof the national Constitution is not the corner-stone, there can be no State officer whose official character is not based upon an oath to the national Constitution; when that foundation is destroyed, whatever else he may be, he is not an officer of an American State. Nor is a government administered by such officers a government of a State of the Union, whatever other thing unknown to the Constitution it may be.

Now, if from a State like England or France in our premises, we leap to a State like New York or Alabama in our conclusions, our reasoning may of course be fallacious. If we argue that all States, meaning such States as England, are immortal, and therefore a particular State, meaning such a limited State as Alabama, is immortal, the fallacy will be transparent and puerile. If we affirm that "a State cannot die," "a dead State is a solecism, an impossibility," referring to an absolute sovereignty like England, and therefore Alabama has never during the rebellion ceased to be a State of this Union, our error will be without excuse. All reasoning from a sovereign State, like England, to a limited State, like Alabama, will be utterly fallacious, because the analogy is utterly wanting.

But it is not true, sir, that even such sovereign States as England are immortal. They may perish through subjugation or by the voluntary surrender of their sovereignty without any such extraordinary visitation as the depopulation or submersion of their soil. It has been a common occurrence in human history. It has happened to Ireland, Poland, and scores of other nations by subjugation. Absolute sovereignty was lost to Texas and to the old thirteen States by voluntary surrender. The soil of Scotland is still above the sea. Her people are there. She is not without government. Even her old name remains. But the sovereign State of Scotland has disappeared from the face of the earth. It is dead.

These propositions respecting the immortality of States are not true, then, even when applied to such complete sovereignties as England, Scotland, Poland, or the aggregate American

Republic. They are still more erroneous when applied to these limited sovereignties, the States of the American Union.

If the people of Pennsylvania were invested with the highest capacity of sovereignty as people of Pennsylvania, in which case Pennsylvania would belike France, absolutely sovereign and independent, then would it indeed be true that whatever changes might befall her, short of actual loss of sovereignty by surrender or subjugation, she would, whether as a despotism, a constitutional monarchy, or a republic, always remain the sovereign State of Pennsylvania. But the people of Pennsylvania are not invested with the highest capacity of sovereignty as people of Pennsylvania, but as people at once of Pennsylvania and of the United States; and when the constitutional relation between the State and the Union is broken up, although the people and soil and name may remain, yet the thing known to the Constitution as the State of Pennsylvania dies as surely as the branch dies if severed from the tree.

I will indicate, sir, a few of the forms in which death, welcome or unwelcome, may overtake one of the States of the American Union.

If those who assert that, "Alabama, once a State must always be a State," that "the State of Alabama can never die," only mean that her soil will, unless depopulated or submersed, always remain with her people upon it, under one name and form of government or another, the proposition is worth neither asserting nor answering. It amounts to nothing more than that physical geography will remain as it is unless changed. If, however, the proposition means that the State of the American Union known to the Constitution as the State of Alabama must always remain such, it is not true.

In the first place, the national Constitution itself provides for the most quiet and orderly death and burial of such an "immortal" State. The framers of that instrument have deliberately and precisely indicated the proceedings by which Alabama might have ceased to be a State of the Union, have actually prescribed her funeral ceremonies. And these proceedings and ceremonies are so utterly devoid of pomp and circumstance that six votes may be decisive of her fate, of which six votes only two need be cast by her own citizens.

The third section of the fourth article of the Constitution stands in these words:

"New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress."

If, therefore, the Legislatures of Alabama and Mississippi had, by a majority of one vote in each branch, enacted the political death of these two States, and the organization of a new State with a new name by a junction of the two, and if Congress had a few days later, by a majority of one in each branch, ratified this arrangement, then would the last have been heard of the "immortal" State of Alabama. The map would no longer show even her name. Into such a narrow, unhonored grave collapses the huge balloon of State immortality. Against the erection of a new State by the junction of Alabama and Mississippi would perhaps be urged the grave constitutional objection that such a subtraction of one from the number of the States, without a corresponding diminution of the number of stars on our flag, would make "that flag a flaunting lie." But then an appeal to the paint pot would obviate this objection.

Again, Rhode Island, for example, may in the distant future be driven by the exigencies of history from commerce and manufactures back to agriculture. Depopulated by emigration and miserably poor, she may grow weary of the burden of her State government and come to regard it as a curse rather than a blessing. If Rhode Island shall then abrogate her State constitution, rescind her ratification of the national Constitution, vacate every State office, repeal every law, recall from Congress her Sen-

ators and Representatives, solemnly renounce forever all her rights as a member of the Union, and ask the Federal Government and her sister State of Massachusetts to permit her to become again, what she had been for thirty years preceding 1662, a part of the State of Massachusetts—what, sir, becomes of the State of Rhode Island? She is politically dead. The people remain, the land remains, both subject to the Federal Constitution; but that organization of political society, under the Constitution, within her borders, which constituted and kept her a State of the Union no longer exists. That limited sovereignty which she formerly cherished as a blessing she has now thrown away as a curse. If, in compliance with her request, she is annexed to Massachusetts, her last vestige of separate sovereignty is irretrievably lost. It will be idle for her afterward, in the day of returning prosperity, to insist upon resuming, at her pleasure, her functions as a State, on the preposterous plea that once a State she always was and still is a State, and has lost none of her State rights under the Constitution.

If she is not annexed to Massachusetts she becomes at once a part of the unorganized territory of the United States. A territorial government is then to be speedily provided. And if, becoming rich and strong once more, she desires to resume her State sovereignty, she has no other door of entrance into the Federal Union than that provided in the Constitution for the admission of new States.

If in all this Rhode Island should make no attempt to join a hostile Power, should perform no hostile act, should manifest no purpose to harm the Republic, nevertheless she could not, after her voluntary abrogation of all her rights and functions as a State, insist upon her constitutional right to resume those functions at her pleasure without the acquiescence of the Federal Government or the other States. The question of her political death she assumed to decide for herself, as she had a right to do; but upon the question of her resurrection it would be for Congress to speak.

Now, suppose that she had rescinded her ratification of the Federal Constitution, renounced her allegiance to it and her rights under it, and recalled from Congress her Senators and Representatives, without abrogating her State constitution or vacating her State offices; then would her condition be, if possible, more fatal than in the case first supposed to all claim to the rights of one of the sovereign States of the Union. Having with her own hand severed the constitutional bond which sustained the State relation and existence, the affected retention of a State government would have been in itself a menace, a preposterous claim of independent sovereignty within the geographical limits of the Union, in open defiance of the Constitution, and at the expense of the national existence, which claim self-preservation and the maintenance of the Constitution would compel the national Government to crush.

South Carolina repealed the ordinance by which she had ratified the Federal Constitution, renounced all interest in and allegiance to the Union, called home her Senators and Representatives, and yet affected to retain her State government. Certainly this, if persisted in for four years, would not only have remitted her to a territorial condition, under the Constitution, and rendered the assent of the Federal Government necessary to her resumption of the functions of a State, but would have compelled the national Government to crush her menacing, dangerous pretense of independent sovereignty within the territorial limits of the Republic. In the absence of traitorous or criminal intent, and of lasting peril to the Union, the country would naturally have been most lenient as to the conditions of her reconstruction, would have welcomed her back as the joyful father welcomed the returning prodigal.

But South Carolina, like the other rebel States, went further than that. She took another step which gave a worse complexion to her case. She undertook to transfer her allegiance to a hostile government which could

only exist on the ruins of ours, and waged war against the Union for four years, seeking not merely the injury but the disintegration and absolute ruin of the Republic. And yet it is claimed that during this whole time she actually remained a State of the Union, with such sovereignty and such rights as the Constitution secures to the States of the Union, with the right at any moment when the whim seized her, before, at, or after her defeat, to drop the sword and resume, unquestioned, her place among the States; that her practical relations to the Constitution were merely disturbed by the war.

Sir, these relations were not merely disturbed; they were utterly destroyed. Among the relations which she sustained to the Union were eight, vital in their character, affecting respectively the Federal revenues, the jurisdiction of the Federal courts, the official oaths of State officers, allegiance to the United States, representation in the Federal Congress, the privileges and immunities of citizens in the several States, the effect to be given in each State to the public acts, records, and judicial proceedings of the other States, and the Federal regulation of our foreign affairs and inter-State commerce. In not one of these relations has there been, during four years, one single spark of life. They, and the State whose breath and blood they were, are dead, and the trump of her resurrection will be something else than the whistle of a secretary's proclamation. It is true that she has not shaken off the national sovereignty; that not by the mere pendency of war, but only by final success in war, could she escape her obligations to the Union and the Constitution. But on the other hand, it is equally true that her acts, although powerless and void to take her out of the jurisdiction of the Constitution, did terminate her State existence; and therefore consign her to the condition of an unorganized territory, to be organized as a Territory or admitted as a State, according to the judgment and discretion of the Congress of the nation.

It is urged by the earnest champions of the immortality of these States, that the provision of the Constitution which binds the United States to guaranty to every State in the Union a republican form of government is a pledge of intervention to States, as States, not Territories; and therefore the clause, in fact, provides not only for a guarantee of a republican form of government to the States, but also for a guarantee of their perpetuity as States.

Sir, this doctrine of a double-headed guarantee will bear no scrutiny. Neither standing alone nor construed by the context will the clause yield such a twofold guarantee. Every word used is essential to the single guarantee of a republican form of government. And it is but a shabby compliment to the wisdom of the statesmen who framed the Constitution, to say that they have, in one section, bound the United States to guaranty that Alabama shall live forever as a State of the Union, after having, in the very next preceding section, deliberately provided a most unostentatious ceremony whereby six votes might finally decide for her the question of life or death. But this is the precise compliment which this doctrine of a double guarantee pays to the framers of our Constitution; for if that instrument has, in one section of the fourth article, guaranteed that Alabama shall forever remain a State, it has also in another section of the same article guaranteed that Alabama may cease to be a State whenever her death-warrant shall be signed by her own Legislature, with the assent of the Legislature of an adjacent State and of Congress.

Not only does this provision contain no guarantee that she shall always remain the State of Alabama, but it involves no guarantee that she shall always remain a State, or a part of a State, under any name or form. It is nothing more than it purports to be—a provision for a guaranty of republican governments to the States of this Union, while they are States, leaving the question whether they shall forever remain States to be decided by something outside of this section. It might as well be claimed

that the clause which guaranties full faith and credit in each State to the public acts, records, and judicial proceedings of every other State, guaranties also that the States shall always remain States because the pledge is made to the States. It might as well be claimed that the section which guaranties to the citizens of each State all the privileges and immunities of citizens in the several States also guaranties that such citizens shall always remain citizens, shall never, by crime or expatriation, or otherwise, lose or throw off their citizenship, because the pledge is made to citizens.

Nor can you find, sir, anywhere in the Constitution a guarantee that a State shall never put off the garments of State sovereignty, never, through the crime or choice of her citizens, return to the territorial condition. There is no such provision expressed or implied in the Constitution. There ought to be no such provision there. The time may come when it will be a grievous hardship for a particular State to be forcibly compelled, by the United States, to maintain against her own interest and choice the burden of a State government. The time has already come when it will be an intolerable hardship to the rest of the Union to permit States, which, attempting murder, perpetrated suicide, to become living States again without security against future crime.

Nor is it true that if these rebellious communities were Territories and not States, their people could not have been traitors against the United States. For Territories are subject to the Federal Constitution and laws no less than States. There is nothing in this condition any more than in that of States to absolve their citizens from allegiance to the Federal Constitution or diminish the turpitude of the crime of treason against the United States. So far as the punishment for treason is concerned, if the doctrine that they were States in the Union has any advantage over the doctrine that they were States out of the Union, it rests upon the ground that in a conflict of State and Federal allegiance the Federal Constitution is paramount for States in the Union, and a nullity for the States out of the Union. But the position that they were mere Territories of this Union has this advantage over both, that for the people of a Territory the Federal Constitution is not only the paramount but the sole bond of allegiance.

Nor does this doctrine entail upon the United States as conquerors the payment of any portion of the rebel debt. Not upon this foundation, if upon any, can rest the claim that the nation, which, without intermission, struggled to subdue the rebels, became, when successful, bound by the law of nations to pay, to foreign or domestic creditors, the debts incurred in resisting its authority. Whatever liabilities may result from the doctrine that South Carolina left the Union and incurred debts as a sovereign State, or as a member of a sovereign confederacy, which doctrine I repudiate; whatever liabilities may result from the doctrine that during the war she remained a State of the Union and incurred debts as such State, which doctrine I also repudiate; it is very clear that the only payments which her European creditors can hope to realize from meddling with our territories, will be such as can be made through the thwarts of old Farragut's guns.

In my judgment, then, the constitutional relation of these communities to the Federal Government is that of unorganized territories. But they sustain at the same time another relation; that of the conquered to the conqueror under the laws of war. If it would be the right and duty of the Government to maintain the authority of the Constitution and the integrity of the Republic, by crushing a claim to absolute sovereignty on the part of a State, even though such State should not herself first draw the sword, still clearer will be the right, still more imperative the duty of the Government, if the State herself first flies to arms, and, in alliance with other armed enemies, attempts to destroy the nation.

And the right to draw the sword in defense

of the national existence is the right to hold the sword unsheathed until such defense is completely achieved and crowned with solid guarantees of future security and peace. The doctrine to which the Democratic party has steadily adhered, since the day of its enunciation by Mr. Buchanan, is that the Republic had no right to resist by force of arms the attempt of the rebels on its life because "the Constitution contains no provision authorizing the coercion of a sovereign State." Others believed that in the clauses authorizing Congress to provide for the common defense and general welfare, for calling forth the militia to execute the laws and suppress insurrections, for arming and governing the militia, and for the punishment of treason, and requiring the President, who is Commander-in-Chief of the Army and Navy, to take care that the laws be faithfully executed, could be found ample authority to defend the Republic by force of arms against the assaults of a State as well as against assaults from any other quarter.

But the existence of this power in the Federal Government is not dependent upon constitutional provisions. Its expression in the written Constitution would be only a formal recognition of a power which would exist, valid and complete, whether so recognized or not. The American people organized into political society under the State and national Governments are, in the aggregate, invested with all the inherent rights and attributes of sovereignty which belong to any independent nation.

First and foremost among these is the right of self-preservation, which is as clearly inherent in nations as in individuals, is indeed inseparable from the very idea of national sovereignty. It can neither be strengthened nor impaired by written constitutions; and if any nation on the face of the earth has the inherent right to defend itself against foreign or domestic foes, this Republic has that right; and the defense must be made decisive and complete. If it was the right of the nation to undertake the war, it was the duty of the nation to carry it forward to its legitimate end. That end is the solid rock of national salvation. It was to be expected, sir, that the northern men who could assert that the Republic had no right to resist, by arms, an armed attempt upon its life would not hesitate to assert also that the belligerent rights of the nation terminated at the instant of the military surrender of the rebel armies. But the second proposition is as false as the first. This nation was not, at the instant of military victory, to be, as in the twinkling of an eye, stripped of the right to exact securities for future life and peace, which pertains to all belligerent Powers, unless the war was waged, not for national salvation, but for military triumph. But if we undertook and waged this war for the achievement of military victory, we are the bloodiest butchers in the annals of our race.

These rebel communities sustain, therefore, the twofold relation of inhabitants of Territories subject to the Constitution, and of enemies conquered in war. All the rights springing from both of these relations vest in the United States; and it is at the option of the United States to exercise one class or the other, or both, in the reconstruction of the late rebel States.

How and by what department of the Government are those rights which vest in the nation as the sovereign of the Territories to be exercised? Fortunately we are not without beacons, set in the Constitution, to guide us forward from the point where the civil authority succeeds the military power. In the first place the control of the Territories is vested in Congress. If in the judgment of Congress it shall be necessary to organize and govern the late rebel States as Territories, upon Congress will devolve the duty of providing for their organization and government. In the next place, the power to admit new States is given to Congress. And when in the judgment of Congress it shall be proper to admit these Territories as States of the Union, it will be for Congress to provide the necessary legislation. And finally,

the Constitution provides that "the United States shall guaranty to each State in this Union a republican form of government," not quibbling over a distinction between form and substance, but indicating the kind of government to be guarantied, as distinguished from monarchical or other forms. Is the authority for the practical realization of this guarantee vested in the Federal or in the State governments? On this point there is no such ambiguity in the Constitution as appears in the clause relating to fugitives from labor. Its language is explicit. The United States are to enforce the guarantee.

And yet, when we inquire into the precise method prescribed for its enforcement, the case is not so clear. Other powers are given to Congress, to the judicial department, to the President. But this is not specially assigned to either department of the Government. It is given to the United States. How, then, will the United States practically execute the provision? In my judgment, the power is to be exercised by Congress when the act to be performed for the realization of the guarantee is a legislative act, by the President when executive action is proper, and by the judicial department when judicial action is demanded, and, in general, by those branches of the Federal Government whose functions embrace the acts to be performed.

If an existing State should throw off the republican form and become a monarchy, it would be necessary to cure the evil, although, perhaps, difficult either to indicate or execute the remedy. But in the case of States applying for admission to the Union there can be no such difficulty. An act of Congress is the only machinery for the enforcement of the guarantee.

This provision has hitherto remained virtually a dead letter as against the despotism of slavery, because slavery has hitherto maintained for its own benefit a law higher than the Constitution, has in fact held the Constitution itself in chains. Now that a million bayonets have emancipated the Constitution as well as the slaves, it is time that this provision should cease to be a dead letter, that the word republican should cease to reek with the slime of slavery. If Congress shall be false to the obligation imposed by this provision it will not now, as heretofore, be able to plead the fear of a power higher than the Constitution as a justification for setting at naught the letter of the Constitution and the law of God.

Our rights of conquest are, in my judgment, subject to no limitations except those of humanity. The Republic is the sole judge of the extent of these limitations, and is, under the law of nations, responsible to no human tribunal for the manner in which these rights are exercised. The fact that the southern people were subjects of the Constitution, as well as enemies in war, affects not the extent of our rights of conquest, but only the question who shall exercise them.

The President is not the war power of the nation. He is a conspicuous part, but not the whole of it. Under the Constitution Congress declares war, grants letters of marque and reprisal, makes rules concerning captures on land and water, raises and supports armies, provides and maintains a navy, makes rules for the government and regulation of the land and naval forces, provides for calling forth, arming, and disciplining the militia, and exercises exclusive authority over all forts, arsenals, magazines, and dock-yards. The President is Commander-in-Chief of the Army and Navy which Congress raises and provides. Here, as elsewhere, he executes the laws which Congress enacts. That part of the war power which is legislative in its nature belongs to Congress. That which is executive belongs to the President. Such a division is unknown to absolute monarchies; and hence they can afford us in this case neither precedents nor principles. With a foreign nation he may make peace, by virtue of his treaty-making power, and yet even then his action will be rendered nugatory by a renewed declaration of war. But when Congress recog-

nizes war in insurrection he has no power to conclude or proclaim peace except such as is bestowed and may be resumed by Congress. The President is bound to obey all constitutional laws of Congress relating to war, just as he is bound to obey any other constitutional laws. To those whom the virtual dictatorship of the President, enforced by circumstances during the war, has not wholly blinded to the constitutional line of demarcation between the legislative and executive departments of the Government, it cannot be difficult to determine which of these rights are to be exercised by Congress and the President, respectively, in this case.

If the mere pendency of war exempted the rebels from the jurisdiction of our Constitution, then had the President and Senate the constitutional power, not indeed to reannex them, but to give them absolute independence, before or after the surrender of their armies, and so to cast them off beyond the reach of Congress, because the treaty-making power is vested in the President and Senate. But this treaty-making power being unexercised, everything would devolve on Congress except the mere maintenance of order through the Army and Navy until Congress could express its will in legislation. If, however, the late rebel States did not, as the result of the mere pendency of war, become separate States, the whole power to dispose of them rests without restriction or limitation in the legislative department of the Government. The only constitutional power of the President over them, after actual hostilities ceased, is to preserve order by means of the Army and Navy until the voice of the law-making power can be heard. This would be all different in Russia. It will sooner or later be all different here, if we suffer the executive strain upon our Constitution which we have tolerated as a necessity in time of war to be perpetuated in time of peace.

But gentlemen affirm that it is now all different here; that the entire political work of reconstruction intervening between the cessation of hostilities and the scrutiny of credentials by the election committees of Congress, devolves on the President as Commander-in-Chief. And they present this reasoning in support of the position. The military surrender of the rebels on the field of battle must, it is said, be followed as an act of justice by a surrender on the field of political controversy. Whoever had the right to dictate the terms of the military surrender, has also the right to dictate the terms of the political surrender. The former right belonged to the President. Therefore the latter also belonged to him. This right to insist upon what is termed a political surrender, is probably a cautious expression for the right of conquest. It must be that or nothing. For certainly it can only be derived from the relation of the conquered to the conqueror under the law of nations, unless you look to the relation of the sovereign to unorganized territory under the Constitution. In no event can it possibly exist as against a State of the Union. But the objection to this reasoning is, that there is no truth in the main proposition. The possession of this right in the one case does not involve the possession in the other. The right to fix the conditions of the military surrender devolved upon the President because he was the military Commander-in-Chief, and what he did lay strictly within the scope of his military duty. But the political surrender, if you please to call it such, is quite another thing, and lies just as certainly without the scope of his military duty.

It will not do, sir, to say that the rebels, having the power to choose, selected him as the functionary to whom they would surrender, and thereby invested him, at their own option, with functions not provided by the Constitution. They surrendered to him, because there was no other Commander-in-Chief to whom they could surrender. And he accepted their surrender in the only capacity in which he could accept it, in his military capacity. Neither they nor he could transform the power which executes the laws into the power which makes them, any more than they could invest the chief judicial

officer with the functions of law-maker or Commander-in-Chief.

Now, if gentlemen shall appeal to the American people, or to this Congress, to ratify and legalize particular measures of a heroic and patriotic President, adopted in the exercise of his discretion as a military commander and civil ruler compelled to bear a burden of overwhelming responsibility on an untrodden road, to this appeal the people and this Congress will, I doubt not, respond with a generosity which will go as near as stern justice and plighted faith will permit to the extreme verge of the Constitution. But when they appeal to our grateful admiration for a man who stood like a rock against the storms of treason on the soil of Tennessee, and ask us, not to ratify particular measures, but to admit them to have been absolutely valid and constitutional in their inception, and within his exclusive jurisdiction, they ought to be able to lay their hands upon that article of the Constitution which authorizes the President to create and fill the office of civil Governor of one of these States; which they pronounce just as truly States of the Union now as they were before the war; on that article which authorizes the Federal Executive to brush aside a State government as a cobweb, to summon a State constitutional convention, to prescribe the qualifications of electors, to prescribe the qualifications of members, to prescribe requisites of the new constitutions, to prescribe legislation for the new Legislatures. More than that, sir, they ought to be able to show us the very section and the very clause which transfer such sacred and time-honored rights of States as these to the Commander-in-Chief of the Army and Navy; the very section and the very clause which invest him with such superhuman attributes that South Carolina can lie at his feet, a conquest of war, and yet at the same instant stand up before him "as truly a State of the Union as she was before the rebellion."

Sir, nothing of this kind stands written in the Constitution. Nor is there any truth in the plea that all this has been done, not in derogation but in aid of whatever of State sovereignty was left to South Carolina by the war. We have not waged this war against an abstraction called rebellion, but against living rebels. It was the people of the South who filled the rebel armies as officers and soldiers, who maintained and directed the rebel State governments, who provided means to carry on the war. They have not been fighting on our side against their own State governments and their own rebellion; they have not, for four years, supplicated us for deliverance from their own rebellion and rulers. If these communities were indeed States of the Union when the rebellion collapsed, "just as truly as before the war," their governments were just as truly State governments; for no man can deny that they rested on whatever of State rights and sovereignty remained to their people. And granting that South Carolina remained a State of the Union, she had the right to choose and keep her Governor if she had any rights at all; she had the right, if she had any rights at all, to decide whether and when she would have a new or an amended constitution; what should be the qualifications of her electors and of her constitution-makers; what should be the character of her new constitution and of her State legislation, subject only to the requirements of the Federal Constitution itself.

Sir, the man who asks us so to trample down cardinal principles of our Constitution ought to bear in mind that this will have to do, not merely with the present but also with the future; that the power which, by this subversion of the constitutional barriers between the legislative and executive branches of the Government, he would to-day put into the hands of a patriot, may to-morrow fall into the hands of a traitor; he ought to take heed lest the Democratic party, a frozen, harmless copperhead to-day, warmed to life to-morrow in his own bosom, sting to death the nation which the President has done so much to save.

Mr. Chairman, there is a tide in the affairs of nations, as of men, which, taken at the flood,

leads on to fortune. The Republic rocks upon a flood-tide now. It is for this Congress to seize or lose a golden opportunity which centuries may not bring back. And when history shall summon us to judgment, the attempt to shift this burden of responsibility from our own to the President's shoulders will meet the scorn and execration which it merits.

For one I will attempt no such evasion of duty. When the gentleman from New York [Mr. Raymond] exhorted you to remember that they who have fallen in this war on either side are the nation's dead, and their courage and devotion the priceless possession of the Republic; when he sought thus to blind your eyes by tears shed over rebel graves to the enormity of the crime he would have you perpetrate upon the name and race of my black comrades in arms, who have died that this nation might live, I felt again something of the pain with which I heard that a Federal officer had drunk wine with the butcher of Fort Pillow, while his hands yet dripped with the blood of his victims. I, too, believe in brotherly love; but it is in that brotherly love which is radiant in the light of God's justice, not in that which, turning its back on loyal whites and loyal blacks, weeps with living oppression over the grave of dead treason. "The nation's dead!" Ay, sir, dead patriots and dead traitors. If the distinction between loyalty and treason has so soon disappeared in the quicksands of our consciences, it nevertheless stands written in fire on millions of bereaved loyal hearts in this Republic. No such sentimentality as this shall serve as my pretext for delivering over the loyal whites of the South to the torments of baffled treason, or for breaking the nation's faith plighted to the freedmen. Never, through my vote, shall rebels have any power either to pay the debt incurred in the attempt to destroy the Republic, or to repudiate the debt incurred in its salvation. Never, with my consent, shall one bloody-minded, bloody-handed traitor of South Carolina have greater power on this floor than three bullet-ridden patriots of Wisconsin. More than that, sir: never, with my consent, shall another Representative from South Carolina enter this Hall until her black patriots shall be equal at the ballot-box to her white traitors.

Mr. HUBBELL, of Ohio, obtained the floor. And then, on motion of Mr. KELLEY, (at fifteen minutes after ten o'clock p. m.,) the House adjourned.

IN SENATE.

THURSDAY, February 1, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair has received and been requested to present to the Senate the memorial of William A. Buckingham and divers other prominent citizens of Norwich, in the State of Connecticut, asking for an appropriation for the improvement of the river Thames; also, a communication from his Excellency the Governor of the Commonwealth of Massachusetts, and another from his Excellency the Governor of the State of New Hampshire, commending the subject to the favorable consideration of Congress. These papers are very brief, and the subject is one of great importance, not merely to the people in the locality, but to the adjacent States, and the Chair would therefore ask the permission of the Senate that these papers may be printed and referred to the Committee on Commerce. If there be no objection that order will be entered. It is so ordered.

Mr. BROWN presented a memorial of the common council of the city of St. Louis, the county court of St. Louis county, and the Union Merchants' Exchange, of the city of St. Louis, praying that Congress will grant the necessary authority to the citizens of St. Louis and to the citizens of the State of Illinois to construct and maintain a bridge over the Mississippi river at

that point; which was referred to the Committee on Post Offices and Post Roads.

Mr. WILLEY. I present the petition of Mrs. Mary E. Twiford, setting forth that through her instrumentality—and the accompanying papers seem to establish the fact—the capture of Norfolk took place by her signaling our fleet, and that, in consequence of that manifestation of her loyalty, her house with all she had was burned up. She offers her memorial setting forth these facts, with the accompanying papers proving the allegations in the memorial to that effect, and asking for relief either for the property she lost in consequence of that act, or for compensation for the services rendered by her to the United States. I move the reference of the papers to the Committee on Claims.

The motion was agreed to.

Mr. LANE, of Kansas, presented a petition of settlers on the absentee Shawnee lands of Kansas, praying that they may be allowed to purchase those lands at \$1 25 per acre; which was referred to the Committee on Indian Affairs.

REPORTS OF COMMITTEES.

Mr. WADE, from the Committee on Territories, to whom was referred a bill (S. No. 32) to prevent the absence of territorial officers from their official duties, reported it without amendment.

He also, from the same committee, to whom was referred a bill (S. No. 113) in relation to public highways, reported it without amendment.

Mr. POMEROY. The Committee on Public Lands, to whom was referred a memorial of a committee appointed at a meeting of the National Normal School Association, held at Harrisburg, August 15, 1865, praying for a grant of public lands to establish normal schools in each of the States, have had the same under consideration, and deeming legislation on the subject inexpedient, ask to be discharged from the further consideration of the subject.

The report was agreed to.

COLUMBIA AND WILLAMETTE RIVERS.

Mr. NESMITH submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be directed to inquire into the expediency of making an appropriation for the improvement of the navigation of the Columbia and Willamette rivers, and report by bill or otherwise.

CONSTITUTIONAL GUARANTEES.

Mr. BROWN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the joint committee on reconstruction be directed to inquire into the expediency of amending the Constitution of the United States so as to declare with greater certainty the power of Congress to enforce and determine by appropriate legislation all the guarantees contained in that instrument, and more especially, first, that which recites the people, without distinguishing them by color or race, as those who are to choose Representatives; second, that which secures the citizens of each State all privileges and immunities of citizens in the several States; third, that which enjoins upon the United States the guarantee to every State in the Union of a republican form of government.

JURISDICTION OF UNITED STATES COURTS.

Mr. POLAND submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be directed to inquire as to the expediency and constitutionality of extending the jurisdiction of the courts of the United States over all suits brought against any person for acts done under the authority or in aid of the military forces of the United States, and also of all suits brought against any person for any act done under the authority or in aid of the so-called Confederate States, and report by bill or otherwise.

APPORTIONMENT OF REPRESENTATION.

Mr. FESSENDEN. I ask permission of the Senate to say a word by way of giving information to the body, which I think it may be advisable to give. I was obliged to leave the Senate yesterday at a somewhat early hour on account of the fact that I was quite unwell. I understand that afterward a joint resolution was received from the House of Representatives and is now upon the table, proposing an

amendment to the Constitution—a resolution reported from a joint committee upon which the Senate has placed me. I am not in a condition to ask the Senate to proceed with it to day, even if I deemed it advisable to press its consideration now. On reflection, that inasmuch as my friend from Illinois [Mr. TREMBULL] has under consideration an important bill with which he wishes to proceed, I have thought it advisable to defer it a day or two, and to say to the Senate that if nothing occurs to render that course unwise I shall ask them to take up the joint resolution on Monday morning and proceed with its consideration. I hope that then the Senate will be willing to consider it and to continue its consideration until it shall be finally acted upon. It is proper that it should be taken up and acted upon soon, because many of the State Legislatures are now in session, and if it is to pass, it is desirable to send it to them before many days shall have elapsed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a bill (H. R. No. 204) to regulate the registering of vessels; in which it requested the concurrence of the Senate.

MILITARY TRIAL OF DAVIS AND CLAY.

Mr. HOWARD. If there be nothing pressing before the Senate this morning, I move to take up the resolution that I submitted some time since in reference to the trial of Jefferson Davis.

The motion was agreed to; and the Senate proceeded to consider the following resolution, submitted by Mr. HOWARD on the 10th of January:

Whereas by the report of the Secretary of War to the President, dated January 4, instant, it appears that Jefferson Davis, late president of the so-called Confederate States, is now held in custody, charged with the crimes of having incited the assassination of Abraham Lincoln, President of the United States, and with the murder of soldiers of the United States held as prisoners of war during the rebellion, and other cruel and barbarous practices, in violation of the rules and usages of civilized warfare; and whereas by the same report it appears that Clement C. Clay is also held in custody, charged with complicity in said assassination, and with organizing bands of pirates, robbers, and murderers in Canada, to burn the cities and ravage the commerce and coasts of the United States on the British frontier, in violation of the same rules and usages: Therefore,

Resolved by the Senate, (the House of Representatives concurring.) That it be respectfully recommended to the President that said Jefferson Davis and Clement C. Clay be, without unnecessary delay, tried by a military commission upon said charges.

Mr. HOWARD. I offer an amendment to the resolution to come in at its close:

Or such other crimes in violation of the usages of war as may be preferred against them or others acting in concert with them.

The PRESIDENT *pro tempore*. Those words will be added to the Senator's resolution; as it is his own resolution, and it is within his power to modify it.

Mr. HOWARD. Mr. President, on the 21st of December last, I submitted to the Senate a resolution of inquiry respecting Jefferson Davis, in which the President of the United States was requested to inform the Senate upon what charges and for what reasons he was held in confinement and why he had not been put upon his trial. In answer to this resolution of the Senate, the President sent to us in a brief message two statements, the one being a communication from the Secretary of War, dated the 4th of January, and the other emanating from the Attorney General of the United States of the same date. In the former communication the Secretary of War informs the President—

"1. That Jefferson Davis was captured by United States troops in the State of Georgia, on or about the 10th day of May, 1865, and by order of this Department has been, and now is, confined in Fortress Monroe, to abide such action as may be taken by the proper authorities of the United States Government.

"2. That he has not been arraigned upon any indictment or formal charge of crime, but has been indicted for the crime of high treason by the grand jury of the District of Columbia, which indictment is now pending in the supreme court of said District. He is also charged with the crime of inciting the assassination of Abraham Lincoln, and with the murder of

Union prisoners of war, by starvation and other barbarous and cruel treatment toward them.

The President deeming it expedient that Jefferson Davis should first be put upon his trial before a competent court and jury for the crime of treason, he was advised by the law officer of the Government that the most proper place for such trial was in the State of Virginia. That State is within the judicial circuit assigned to the Chief Justice of the Supreme Court, who has held no court there since the apprehension of Davis, and who declines for an indefinite period to hold any court there.

The matters above stated are, so far as I am informed, the reasons for holding Jefferson Davis in confinement, and why he has not been put upon his trial.

The Secretary adds:

Besides Jefferson Davis, the following persons who acted as officers of the rebel government are imprisoned, to wit: Clement C. Clay, at Fortress Monroe, charged among other things with treason, with complicity in the murder of Mr. Lincoln, and with organizing bands of pirates, robbers, and murderers in Canada to burn the cities and ravage the commerce and coasts of loyal States on the British frontier; D. L. Yulee, at Fort Pulaski, charged with treason while holding a seat in the United States Senate, and with plotting to capture the forts and arsenals of the United States, and with inciting war and rebellion against the Government; S. R. Mallory, at Fort La Fayette, charged with treason, and with organizing and setting on foot piratical expeditions against the United States commerce and marine on the high seas.

Other officers of the so-called confederate government, arrested and imprisoned, have been released on parole to abide the action of the Government in reference to their prosecution and trial for alleged offenses, on their applications for amnesty and pardon. Among these are G. A. Trenholm, secretary of the treasury; John A. Campbell, assistant secretary of war; James A. Seddon, secretary of war; John H. Reagan, postmaster general; R. M. T. Hunter, senator; Alexander H. Stephens, vice president, and sundry other persons of less note.

It seems that the Attorney General of the United States, in answer to a request made him by the President, has given an opinion upon a question of law arising in these cases. The ground taken by the Attorney General of the United States is very plainly set forth in the communication which he has made to the President, and which has been laid before us; and in order that no injustice may be done him, I shall trouble the Senate with reading a few extracts from his communication to the President. The Attorney General says:

"When the war was at its crisis, Jefferson Davis, the commander-in-chief of the army of the insurgents, was taken prisoner, with other prominent rebels, by the military forces of the United States. It was the duty of the military so to take them. They have been heretofore and are yet held as prisoners of war. Though active hostilities have ceased, a state of war still exists over the territory in rebellion. Until peace shall come in fact and in law they can rightfully be held as prisoners of war."

Again, he says:

"In that clause of the Constitution mentioned in the resolution of the Senate, it is plainly written that they must be held in the State and district wherein the crime shall have been committed. I know that many persons of learning and ability entertain the opinion that the commander-in-chief of the rebel armies should be regarded as constructively present with all the insurgents who prosecuted hostilities and made raids upon the northern and southern borders of the loyal States.

"This doctrine of constructive presence, carried out to its logical consequences, would make all who had been connected with the rebel armies liable to trial in any State and district into which any portion of those armies had made the slightest incursion. Not being persuaded of the correctness of that opinion, but regarding the doctrine mentioned as of doubtful constitutionality, I have thought it not proper to advise you to cause criminal proceedings to be instituted against Jefferson Davis, or any other insurgent, in States or districts in which they were not actually present during the prosecution of hostilities."

It will be seen from this, Mr. President, that in the opinion of the Attorney General it is incompetent and unconstitutional to put any of the insurgents upon trial for treason in any State or district except that in which the crime was actually committed, and in which the accused was personally present at the time of the commission of the crime. This is a grave and important question, and I propose to trouble the Senate for a few minutes with its discussion, not relying with the utmost confidence upon my own opinions, but endeavoring to set forth my views upon this question of law with becoming brevity, and at the same time with such clearness as I may be master of.

One thing is certain, that if there be any expectation which has been more prevalent than another among the loyal people of the United States, it is that it is due to our dignity as a

nation, it is due to the justice of the nation, it is due to the obligations which we owe to the Constitution and to the nation, that there should be an arraignment and punishment according to the forms of law at least of the ringleaders of this rebellion. I think that I do not overstate the truth when I say that this expectation is in no degree at this time diminished, but that unless some earnest *bona fide* endeavor shall be made to execute the law upon some at least of the traitors who have done such wrong to the Government of the United States, the feeling of disappointment, not to say disgust, will be very strong and pervading throughout the United States.

Davis was president of the rebel government, and, as such, commander-in-chief of its armies and navy. His commands, in carrying on the war, were supreme and irresistible. His will was the origin of every movement in conducting their operations. It pervaded and directed every hostile act. He was the master of the rebellion and gave it animation and activity throughout its whole extent, from the Atlantic to the Rio Grande. His commands directly or remotely, but in every case effectually and responsibly, caused every advance of the rebel forces, every attack, every battle, every death of the Union forces. His orders alone gave energy to every blow on every field in every State along the whole line of fifteen hundred miles from east to west, and from the Gulf of Mexico to the Canadian frontier. It was his hand that shed the blood or caused the death of more than a quarter of a million of men and the waste and destruction of more than six thousand millions of property. His irresistible commands—irresistible to those subject to them—were present everywhere, at the first Bull Run, at Malvern Hill, at the battles on the Rappahannock, at Centerville, at Shiloh, at Vicksburg, at Gettysburg, as well as at the massacre of Fort Pillow, and other minor butcheries. He was the war. His sole will directed and controlled it everywhere. It was war, complete in form and attributes, not confined to a narrow theater compressed on all sides to small dimensions by the barriers of predominating loyalty, like Monmouth's rebellion in England, the rebellion of Shays in Massachusetts, or the whisky insurrection of Pennsylvania, but broad, pervading, covering in territorial extent almost scores of degrees of latitude and longitude, and bounded only by the long lines of bayonets, irregular and wavering, sometimes advancing and sometimes receding. It was war, both by land and sea. It had its neutralities, its battles, its sieges, its capitulations, its surrenders, its exchange of prisoners, its privateers, letters of marque, its blockades, its captures, prizes, flags of truce. And on the part of the rebels all these operations were carried on by and under the direction of one man, and he was Jefferson Davis, the supreme commander, who had full power to enforce his commands—a power given him by the whole rebel community as a political, organized community, holding and exercising for the time being—whether rightfully or wrongfully is wholly immaterial to the argument—an absolute national independence, though unrecognized by us or any foreign nation. Davis was the chief; he was the master and director of this immense, this wasteful, bloody, and most wicked war, and responsible for every drop of blood shed in it. His spirit, his intention and purpose, his will was everywhere; and though his physical arm did not give any blow, no blow was struck which was not directed by his mind, no Union soldier bled or languished who was not the victim of his traitorous malignity; and this though he was at Richmond, in Virginia, and his victim in Louisiana or Ohio.

The ground taken in the opinion of the honorable Attorney General is, that Davis cannot be tried for treason in any State or district in which he was not actually present in person during the prosecution of hostilities there; that is, that he being at Richmond, in Virginia, and such commander-in-chief, exercising such supreme control over his subordinates, and they fighting a battle in Ohio, cannot be put upon

his trial in Ohio for the treason of fighting that battle. Such a trial he holds to be forbidden by the Constitution of the United States.

If this be a correct view of the instrument, then some very singular and most inconvenient consequences must flow from it.

Davis might have been standing but an arm's length south of the northern limit of Virginia, while his army was in Ohio fighting a battle under his immediate eye and orders on the north side of the line; and yet he could not be indicted and tried for fighting this battle in Ohio, because he was not personally and corporally present in the State of Ohio.

He might have posted himself just over the Canada line, or on an island of the British West Indies, and thence in person fitted out and directed expeditions against the lives and property of Union men—as, in fact, he did by his agents; expeditions to carry on the work of war, robbery, and murder—and not be guilty of treason, because he was not actually present within the State or district where hostilities took place.

And is it so? Is it true that the framers of the Constitution have left their work thus imperfect? Did they intend to cover with immunity from the responsibility of treason the man who should command and commit it, but who should happen to be personally and corporally at the time in another State or district whose people were so universally disloyal that a jury could not be found among them sufficiently loyal and virtuous either to convict or indict the offender? or the American citizen who, as a rebel and traitor, should hurl the bolts of war against his country from a foreign soil? Could they have contemplated such results? Did they intend that the ringleader, the author of the treason, should thus, by fortunate trickery or fortunate accident, escape the just penalty of his crime, while the subordinates who could not disobey his commands, but at the peril of their lives, are subjected to all the legal consequences of his crime? Is the judicial department of the Government in an attitude so ridiculous, so miserable and pitiable before the world, that it can punish only the men who fought the battle in Ohio under the constraint of instant death if they refused, but is without power to punish the leader, the director, the author of the bloodshed, because, forsooth, he stood upon the soil of Virginia at the time; or because, in the case of a rebel invasion from a foreign country, he was in that foreign country? Is it impotent to punish gigantic guilt endowed with perfect freedom of will and of choice, and powerful only to punish the guilt of weakness acting under a compulsion it is unable to resist?

If such be the law of the land, it surely demands the serious attention not only of the judiciary but of the American people at large.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business, which is Senate bill No. 61, which is now before the Senate.

Mr. TRUMBULL. I understand from the Senator from Michigan that he will conclude his remarks in a few moments. I am willing, therefore, that that bill should be laid aside informally until he concludes his remarks.

The PRESIDENT *pro tempore*. In compliance with the suggestion of the Senator from Illinois the bill before the Senate will be laid aside informally, if there be no objection. It is laid aside.

Mr. HOWARD. Mr. President, with great respect for the legal attainments and high character of the Attorney General, I must take the liberty to dissent from his view of the law of treason as presented in his letter to the President, and beg the indulgence of the Senate for a moment in stating the grounds for my dissent.

Section three of article three of the Constitution, as framed in 1787, declares that—

"Treason against the United States shall consist only in levying war against them, or adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."

It is quite plain that in this provision two kinds of treason are defined; the first consists simply and purely in levying war against the United States. As treason can be committed only by a citizen owing allegiance to the United States, this kind of treason must be perpetrated by a citizen, who is a rebel and traitor, seeking by levying war to overthrow the authority of the Government. It is insurrection or rebellion, in the proper and technical sense of the laws of nations. The other kind of treason consists not in levying war against the United States in the form of a rebellion or insurrection, but in adhering to the foreign enemies of the United States, and in giving aid and comfort to those enemies.

The crime in the first case is the levying of a rebellious war; in the second case it is the act of adhesion to our foreign enemies, evidenced or demonstrated by rendering those enemies material aid and security in prosecution of their hostilities against us. This overt act of adhesion might undoubtedly, and in most instances would, be committed within the limits of the United States; and there is not the slightest ground to doubt the power of Congress under the unamended Constitution to bring the offender to trial at any place they might select for the trial, for in section two of article three it is provided that—

"The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the State where said crimes shall have been committed; but where not committed within any State, the trial shall be at such place or places as the Congress may by law have directed."

By the sixth amendment to the Constitution, made in 1789, it is declared that—

"In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law," &c.

Now, as I understand the Attorney General, he must hold that both these kinds of treason—for this amendment makes no distinction as to the place or mode of trial—are to be tried within the district wherein the crime was committed; and that as to the crime of adhesion to foreign enemies, the clause I have cited from the unamended Constitution is repealed and annulled by the amendment. His proposition must necessarily lead to this result. The amendment makes no exception in favor of treasons committed out of the limits of the United States. It declares, in general terms, that in all criminal prosecutions the trial shall be had in the district wherein the crime shall have been committed. And if it was not committed within any district the conclusion seems irresistible that it cannot be had at all, and that hence Congress has been stripped of the power plainly given by the unamended instrument.

It is impossible to suppose that the learned Attorney General can accept a logical result so dangerous to the public security and interests. Surely he will not upon reflection insist that an American citizen who joins the foreign enemies of the United States in a foreign country, and there gives them aid and comfort, thus committing the overt act of treason as defined by the Constitution, is not triable and punishable for that high crime. He will not so construe the instrument as to give to every American citizen an open license to join the enemies of his country in foreign lands or on the high seas under which he can escape the doom of traitors. This would be such a narrow, strict construction as would bring upon us the derision of all other nations.

I put both kinds of treason upon the same footing as to the place of trial because the Constitution so places it. No argument can be urged as to the one kind that is not applicable to the other; and if I have shown the absurdity of the doctrine of actual corporeal presence in the case of an act of adhesion in a foreign country, it is worth our while to consider seriously whether it is not equally faulty as applied to acts of levying war by rebels.

An overt act of levying war must be committed, for the clause requires this overt act to be proved by two witnesses. This overt act is the

evidence of the treason, of the crime charged, but is not necessarily the crime. On the trial of Colonel Burr for treason in 1807, before Chief Justice Marshall, that profound jurist, taking this clear distinction, remarked:

"The counsel for the prosecution have charged those engaged in the defense with considering the overt act as treason, whereas it ought to be considered solely as the evidence of the treason; but the counsel for the prosecution seem themselves not to have sufficiently adverted to this clear principle, that though the overt act may not be itself the treason, it is the sole act of that treason which can produce conviction. It is the sole point in issue between the parties. And the only division of that point, [the overt act,] if the expression be allowed, which the court is now examining, is the constructive presence of the prisoner at the fact charged."

The fact charged was the levying of war against the United States on Blennerhassett's Island, in the Ohio river, but within the State of Virginia.

Now, if it be a clear principle that the overt act is not necessarily the treason, but only evidence of it; that is to say, following out the reasoning of the Chief Justice, if the overt act may consist of something which, considered by itself and unconnected with an act of war, is not treason, but becomes evidence of treason only when connected by intention and conspiracy with the act of levying war, and if this overt act may be done, as it is often done, in a State or district different from the one in which the war is actually levied; if the overt act may not necessarily be the whole of the *corpus delicti*, (and the Chief Justice asserts this emphatically); if, in other words, the accused is not or need not be put on trial for the mere overt act except as connected with and forming a part, so to speak, of the *corpus delicti*, the levying of war; then undoubtedly the overt act may be committed in one district and the main act of levying of war in another; so that this principal act draws after it the overt act committed by the accused, thus making both one act. And in the cases I have put of the battles in Ohio and on the Canadian frontier, the commander of the rebel forces would be to all intents and purposes present as principal at the act of war. It is utterly impossible to suppose that any enlightened court would not hold him to be present according to the ancient and well-established principles of criminal law. The rule is that he is present at the commission of a felony who is near enough to the spot to aid and abet in it, with the intention to render aid, and in a condition to do so.

Foster, Hawkins, Hale, all concur, in stating the rule to be that—

"In order to render a person an accomplice and a principal in felony, he must be aiding and abetting at the fact or ready to afford assistance if necessary."

Judge Marshall adds the words:

"That is, at the particular fact which is charged, he must be ready to give immediate and direct assistance."

And Foster adds, what is the undoubted rule of law:

"That when the law requireth the presence of the accomplice at the perpetration of the fact, in order to render him a principal, it doth not require a strict, actual, immediate presence, such a presence as would make him an eye or ear witness of what passeth."

No author has undertaken to state at what precise distance the accomplice must be from the scene in order to be present as a principal, for it is in the nature of things impossible to lay down any rule as to the distance or location of the person who is present. He must, of course, be leagued in the conspiracy and participate in the common object of the conspirators, and he must be ready to render assistance if necessary. This is the definition which the law gives of presence. It assumes not to go beyond it, or to establish metes and bounds; and the question whether the circumstances in proof come up to this definition, the question whether they make out presence at the perpetration of the crime, is not a question of law, but of fact for the jury, not the court, to pass upon.

If it be said that the accused must be actually in the district at the time and place of the commission of the act of treason, my reply is that the Constitution does not say so. It says his trial shall take place in the State or district

wherein the crime was committed; and I have already shown that his being out of the district at the time is really immaterial; at any rate, it is not in itself such negative evidence as to relieve him from the charge of being present, aiding and abetting.

In order to commit the crime he must be present; that is, ready and able to render assistance. Legal presence cannot, therefore, be any more confined within geographical limits than acts of aid and assistance can be so confined; and surely the law does not assume to overrule the laws of nature, and say that an act which, by them, really and in point of fact gives such aid and assistance, does not accomplish that end because done within certain geographical limits. Such an idea defeats and destroys the real doctrine of presence as understood at the common law and as expounded by all courts and accredited writers. The being engaged in the general conspiracy, and being ready and able to assist in the perpetration of the crime, are the elements of legal presence; and whether that presence has been made out by the proofs is a question not for the court, but for the jury. Every fact and circumstance tending to show that the accused was engaged in the general conspiracy, was ready and was able to contribute aid, and did in some way contribute aid—in however remote a degree, and however minutely, as Chief Justice Marshall expresses it—in the commission of the crime, is admissible evidence to the jury of the guilt of the accused, of his legal presence as principal. To deny this is to impair and belittle the rule, to fritter it away, to deprive it of one half its efficacy by refusing it application to cases which must have been in contemplation of the authors of the Constitution.

And this doctrine of the legal presence of the offender and his guilt as principal in the jurisdiction where the crime is committed is in accordance with the decisions of American as well as English courts. The books of each country abound in cases showing it to be the rule of law that where the crime has been begun in one jurisdiction and is consummated in another, the act is, in contemplation of law, done where the crime becomes complete; and in case of a shot fired from one foreign country into another, by which a person in the latter is killed; or of a shot fired from on board a vessel of one country to that of another on the high seas, by which a person is killed on board the latter; or of the crime of counterfeiting or forging commenced in one State and consummated in another by agents, though innocent, of the offender; or of poison administered in one jurisdiction and destroying its victim in another; and even of a mortal blow struck in one country, of which the subject dies in another—all these cases go to show that in law the place of the consummation of the crime is the place where the principal is present and incurs the guilt. And it seems to me the rule is the plain and obvious dictate of good sense and common justice, and stands in need of no labored argument to give it practical effect.

It is true that Davis was in Virginia at the time the battles were fought in Ohio and Pennsylvania, and probably in Richmond. But that he was leagued in the conspiracy to fight those battles and all others that occurred all will admit, for he was the commander of all the rebel forces. That it was done under his commission and therefore by his procurement there can be no doubt, for he was the responsible head of every rebel military movement. That he was ready and able, though at Richmond, to render aid and assistance to the rebels who carried war into those States; that he actually did it by sending troops and supplies of money and arms, by couriers, spies, and telegraphic dispatches, and all the usual methods practiced by commanders in the field, cannot, I suppose, be doubted. And if he was thus ready and able and actually did such acts by way of aiding and abetting in those battles, he was in law and common sense as much "present" at the commission of the crime in those States and as much responsible as principal in them as was John Morgan

or Robert E. Lee, his instruments. He was a principal traitor everywhere. The commissions he gave to his subordinates, his instructions to them, whether general or particular, authorizing acts of hostility, coupled with the irresistible power vested in him as commander-in-chief, made his presence ubiquitous, extending it and the guilt implied by it to every act of war by land or sea. The rule itself, devised by reason for the protection of civil society, as laid down by the ancient authors I have cited, feels no stretch, no violence, in being made to cover all such cases, and no construction of the rule falling short of this can come up to the true purposes of the Constitution.

I beg not to be misunderstood; I am speaking of Davis as president and commander-in-chief, having the powers notoriously possessed by him, pervading, despotic, resistless. While I hold him to have been everywhere present as a principal, in the sense of the rule of law, and consequently triable wherever the "crime was committed"—present in Virginia, in Tennessee, in Kentucky, in Ohio, in Pennsylvania, and in Vermont, (if the St. Albans raiders acted under his commission,) I do not claim that every other rebel, officer and soldier, was "constructively present" at the same times and places. The Attorney General, in his letter to the President, objects to what he denominates "constructive presence," that it implies, if carried out to its logical results, that every rebel was present and responsible for every act of war committed by any other rebel of whatever grade or condition. This, I must say, is a forced inference, and not justified at all, either by the reason of the rule or the terms in which it is usually expressed. To be present is to be aiding and abetting at the fact and ready to afford assistance; but it is not necessary that the party should be an eye or ear witness. All that is required is that he should be so situated that he can render assistance, and that he be willing and intending to assist.

Now, it is notorious that the rebellion has been attended on the part of Davis, as on our own part, by a division of territory into sundry military departments, to which were assigned separate departmental commanders, each with special powers over the troops assigned him, and independent of all others except the commander-in-chief, and each army has been subjected to the orders of a particular general responsible only to his superior in command. To hold, therefore, that each of these commanders, much less the soldiers under him, was present and responsible for whatever was done by any and all other persons in promoting the war—present at overt acts of which they knew nothing, and in which they could not participate if they would, is openly to violate the rule itself. It is to confound the distinction between the law and the fact, to force the rule to imply a different state of facts from that which it contemplates. Surely, neither Hood nor his men on the east side of the Mississippi were guilty of being present at the operations of Kirby Smith in another department on the west side. And why? Simply because they were not ready, able, willing, and intending to aid and assist him. They were not, as to Smith's particular overt acts, his accomplices, while at the same time Davis, who was able and willing and actually rendered aid, was the accomplice of each, and the accomplice of every man who raised his arm against his country during the war. He accepted that bad eminence; Lee accepted the next rank in the grandeur of infamy, perfidy, and murder; Breckinridge another, and others still had their separate parts assigned them in the great drama of treason and civil war. Surely the Attorney General does not mean to say that the rule of law relating to presence, as I have stated it from the books and from the highest adjudications, would make each of these subordinates as well as his men criminally responsible for what all the others did. And yet by using the expression "constructive presence," unknown both to the Constitution and to the common law as it respects treason, he leaves it to be inferred that some class or party among us embrace the ab-

surd opinion that every rebel, high or low, was in contemplation of law present and responsible at the commission of the crime by every other, though in no situation to aid and abet that other; and seems to hold that while this constructive presence is legal absence, actual presence must imply, if not personal presence and immediate personal participation in the overt act, at least personal presence and participation within the boundaries of the State or district where the crime was actually committed. But properly speaking there is no such thing as constructive presence known to the law of treason, nor, indeed, any other felony. Those alone are present who either commit the criminal act or are leagued in the conspiracy and so situated in reference to that act as to be ready, able, and willing to assist in it. In all felonies except treason those who incite the crime or render assistance afterward, but who are not so situated at its perpetration, are accessories either before or after the fact. But as in treason the crime consists not in such accessorial acts but only in acts of levying war, there are none but principals, and a principal in felony must of course be one who is present.

The term "constructive presence," therefore, as employed by the learned Attorney General, if intending anything not implied by the accepted definition of legal presence, means exactly the contrary. Legal presence, I cannot doubt, comprehends, in the case of a commander, all military orders and acts of procuring, or, in other words, causing acts of war to be committed by his soldiers or subordinates, wherever given and done, and render him triable in any judicial district in his department where those orders are executed or those acts result in levying war; for this presence results directly from the military authority he holds and exercises. This authority is just as effectual in one place within his department as in another. The doctrine of legal presence was devised for the purpose of testing and making out the guilt of a traitor, not to screen him. It was for the great purpose of protecting society and Government from tumult, anarchy, and violence, not "to screen the guilty and to varnish crime." It was devised as a plain, practical rule of common sense by which courts were to hold the man guilty who was really so; not to enable the powerful, the cunning, and the wary to "entangle justice in the net of law," and escape her falling ax by the dexterous maneuver of darting from one place to another.

I cannot resist the conclusion that Davis may be legally tried in any judicial district where hostilities have taken place; and that each of his subordinate generals may in like manner be tried for all the acts of their respective commands committed in their respective departments. I see no difficulty in applying the ordinary doctrine of legal presence to all these cases. But upon the doctrine of the Attorney General I foresee no prosecutions for treason. I foresee that justice will be cheated of her due, of victims whose lives have been a thousand times forfeited to their country by the crimes they have committed against her laws, and all other laws, human and divine; offenders whose condign punishment for treason against that country is demanded by the outraged feelings of every true man in the land, by the dying groans of the myriads of the loyal who have fallen, by the cries of the widows and orphans left to mourn and to suffer, by the dignity of this nation as one of the family of nations, and by the voice of eternal justice, without whose favor neither a nation nor an individual can prosper. It is true the war has ceased to drench the earth with blood; the rebels have laid down their arms; they are conquered, but with a supercilious sneer at their conquerors, kindly and condescendingly assure them that they "accept the situation," that southern independence is a failure, and that they are willing and ready again to be represented in Congress; but we all know that at heart they hate and detest the Government they betrayed four years ago, and which now holds them in the iron grip of

conquest. They hate it, and hate the loyal people who uphold it, for the same reason that any criminal who has sought the life of an innocent man hates the man who has brought him to justice. They hate it because their failure to shake off its authority has deeply stung their pride and brought a total eclipse upon their vainglory and their vanity; because, seeing among themselves the desolation of war, and the poverty, starvation, and beggary it has brought to their own doors, they recognize in these the lasting, the unanswerable evidences of their own folly, weakness, and madness. And as they gaze upon the picture their hearts derive comfort only from a closer attachment to the lost cause and to the leaders and demi-gods they have so long worshipped.

It is, sir, utterly vain to think of obtaining a conviction of those leaders at the hands of a jury made up of such materials. They would be far more likely to bring in a verdict of guilty against the judge on the bench, the President of the United States, or some of the heads of Department. At any rate I regard it as wholly out of the question to try and convict Davis or any other rebel leader of the crime of treason in any rebel State, for the plain reason that no impartial jury can be there found to try him. The doctrine of the Attorney General, if it shall be adhered to, practically defeats it; defeats the just expectations of the country, and sets aside all that the President has said about making treason odious. I predict, sir, that no such conviction, no such trial, will ever be had. Treason will not thus be made odious, but will go without day.

The President, in his message at the opening of the session, very patriotically remarks that persons who are charged with the commission of treason should have a fair and impartial trial in the highest tribunals of the country, in order that the Constitution and laws may be fully vindicated, the truth clearly established and affirmed that treason is a crime, that traitors should be punished, and the offense made infamous. But how can this be done upon the principles of law held by the Attorney General? However well intended by the President, this declaration must remain without any practical value whatever so long as it is hampered and loaded down by official construction of the Constitution which renders it useless—a construction which has never received the sanction of the Supreme Court, nor fully of any circuit court of the United States, because the question has never been fully and fairly presented to them.

No, sir, this style of showing that treason is a crime, and making it infamous, is a mere delusion. It is recommending to be done that which will not be done, and cannot be done under the doctrines now prevailing in the office of the Attorney General; and it only remains for the President to do what is recommended by the resolution under consideration, and put Davis and his fellow-prisoners on trial before a court, and for a crime as to which he at least needs no professional advice at this time.

The PRESIDENT *pro tempore*. Senate bill No. 61 is now before the Senate.

Mr. HOWARD. If there be no objection—I presume there will not be—I should like to have a vote taken on this resolution.

Mr. SAULSBURY. I prefer that it should go over. I wish to make some remarks on the resolution.

Mr. TRUMBULL. I call for the order of the day.

PROTECTION OF CIVIL RIGHTS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 61) to protect all persons in the United States in their civil rights, and furnish the means of their vindication, the pending question being on the amendment of Mr. TRUMBULL, to insert after the word "that" in the third line of the first section the words:

All persons born in the United States, and not subject to any foreign Power, excluding Indians not taxed, are hereby declared to be citizens of the United States, without distinction of color, and.

Mr. MORRILL. Mr. President, it is not my purpose to enter upon any general discussion of the character of this bill or the measure at large. It has been denominated by the honorable Senator who reported it to the Senate [Mr. TRUMBULL] as an important measure, and it has been so characterized by the honorable Senator from Kentucky, [Mr. DAVIS] and it undoubtedly in its general scope and bearing is of the highest importance. But I purpose to address myself, in the brief moments that I shall ask the indulgence of the Senate, to the amendment simply and alone. This amendment is important or unimportant as we understand the principles of public law applicable to the general subject. It is important as a declaration of American law I concede. It is important moreover as a definition.

If there is anything with which the American people are troubled, and if there is anything with which the American statesman is perplexed and vexed, it is what to do with the negro, how to define him, what he is in American law, and to what rights he is entitled. What shall we do with the everlasting, inevitable negro? is the question which puzzles all brains and vexes all statesmanship. Now, as a definition, this amendment settles it. Hitherto we have said that he was a nondescript in our statutes; he had no status; he was ubiquitous; he was both man and thing; he was three fifths of a person for representation and he was a thing for commerce and for use. In the highest sense, then, in which any definition can ever be held, this bill is important as a definition. It defines him to be a man and only a man in American politics and in American law; it puts him on the plane of manhood; it brings him within the pale of the Constitution. That is all it does as a definition, and there it leaves him.

But, sir, as a question of law I do not attach any very great importance to the declaration. It is not an enactment in the sense of the law, and the honorable chairman so understands it. He understands that it is an affirmative proposition. It affirms the high principles of American law, and that only. Therefore, it is not an enactment in the sense of the law, in the sense of legislation, but a declaration of a grand, fundamental principle of law and politics, and as such I hail it; as such it has a transcendent importance; as such it is without a parallel in the history of the legislation of this country or perhaps of any other.

As matter of law, does anybody deny here or anywhere that the native born is a citizen, and a citizen by virtue of his birth alone? The honorable Senator from Kentucky has vexed himself somewhat I think with the problem of the naturalization of American citizens. As he reads it, only foreigners can be naturalized, or, in other words, can become citizens; and upon his assumption, four million men and women in this country are outside not only of naturalization, not only of citizenship, but outside of the possibility of citizenship. Sir, he has forgotten the grand principle both of nature and nations, both of law and politics, that birth gives citizenship of itself. This is the fundamental principle running through all modern politics both in this country and in Europe. Everywhere where the principles of law have been recognized at all, birth by its inherent energy and force gives citizenship. Therefore the founders of this Government made no provision—of course they made none—for the naturalization of natural-born citizens. The Constitution speaks of "natural born," and speaks of them as citizens in contradistinction from those who are alien to us. Therefore, sir, this amendment, although it is a grand enunciation, although it is a lofty and sublime declaration, has no force or efficiency as an enactment. I hail it and accept it simply as a declaration.

The honorable Senator from Kentucky, when he criticises the methods of naturalization, and rules out, for want of power, four million people, forgets this general process of nations and of nature by which every man, by his birth, is entitled to citizenship, and that upon the gen-

eral principle that he owes allegiance to the country of his birth, and that country owes him protection. That is the foundation, as I understand it, of all citizenship, and these are the essential elements of citizenship; allegiance on the one side and protection on the other.

But, sir, this amendment to which I address myself is important in another respect. It marks an epoch in the history of this country, and from this time forward the legislation takes a fresh and a new departure. Sir, to-day is the only hour since this Government began when it was possible to have enacted it. Such has been the situation of politics in this country, nay, sir, such have been the provisions of the fundamental law of this country, that such legislation, hitherto, has never been possible. There has been no time since the foundation of the Government when an American Congress could by possibility have enacted such a law, or with propriety have made such a declaration. What is this declaration? All persons born in this country are citizens. That never was so before. Although I have said that by the fundamental principles of American law all persons were entitled to be citizens by birth, we all know that there was an exceptional condition in the government of the country which provided for an exception to this general rule. Here were four million slaves in this country that were not citizens, not citizens by the general policy of the country, not citizens on account of their condition of servitude; up to this hour they could not have been treated by us as citizens; so long as that provision in the Constitution which recognized this exceptional condition remained the fundamental law of the country, such a declaration as this would not have been legal, could not have been enacted by Congress. I hail it, therefore, as a declaration which typifies a grand fundamental change in the politics of the country, and which change justifies the declaration now.

The Senator from Kentucky denounces as a usurpation this measure, and particularly this amendment, this declaration. He says it is not within the principles of the Constitution. That it is extraordinary I admit. That the measure is not ordinary is most clear. There is no parallel, I have already said, for it in the history of this country; there is no parallel for it in the history of any country. No nation from the foundation of government has ever undertaken to make a legislative declaration so broad. Why? Because no nation hitherto has ever cherished a liberty so universal. The ancient republics were all exceptional in their liberty; they all had excepted classes, subjected classes, which were not the subject of government; and therefore they could not so legislate. That it is extraordinary and without a parallel in the history of this Government or of any other does not affect the character of the declaration itself.

The Senator from Kentucky tells us that the proposition is revolutionary, and he thinks that is an objection. I freely concede that it is revolutionary. I admit that this species of legislation is absolutely revolutionary. But are we not in the midst of revolution? Is the Senator from Kentucky utterly oblivious to the grand results of four years of war? Are we not in the midst of a civil and political revolution which has changed the fundamental principles of our Government in some respects? Sir, is it no revolution that you have changed the entire system of servitude in this country? Is it no revolution that now you can no longer talk of two systems of civilization in this country? Four short years back I remember to have listened to eloquent speeches in this Chamber, in which we were told that there was a grand antagonism in our institutions; that there were two civilizations; that there was a civilization based on servitude, and that it was antagonistic to the free institutions of the country. Where is that? Gone forever. That result is a revolution grander and sublimer in its consequences than the world has witnessed hitherto.

I accept, then, what the Senator from Kentucky thinks so obnoxious. We are in the midst

of revolution. We have revolutionized this Constitution of ours to that extent; and every substantial change in the fundamental constitution of a country is a revolution. Why, sir, the Constitution even provides for revolutionizing itself. Nay, more, it contemplates it; contemplates that in the changing phases of life, civil and political, changes in the fundamental law will become necessary; and is it needful for me to advert to the facts and events of the last four or five years to justify the declaration that revolution here is not only radical and thorough, but the result of the events of the last four years? Of course I mean to contend in all I say that the revolution of which I speak should be peaceful, as on the part of the Government here it has been peaceful. It grows out, to be sure, of an assault upon our institutions by those whose purpose it was to overthrow the Government; but on the part of the Government it has been peaceful, it has been within the forms of the Constitution; but it is a revolution nevertheless.

But the honorable Senator from Kentucky insists that it is a usurpation. Not so, sir. Although it is a revolution radical, as I contend, it was not a usurpation. It was not a usurpation, because it took place within the provisions contemplated in the Constitution. More than that, it was a change precisely in harmony with the general principles of the Government. This great change which has been wrought in our institutions was in harmony with the fundamental principles of the Government. The change which has been made has destroyed that which was exceptional in our institutions; and the action of the Government in regard to it was provoked by the enemies of the Government. The opportunity was afforded, and the change which has been wrought was in harmony with the fundamental principles of the Government.

But, Mr. President, it is said that this amendment raises the general question of the antagonism of the races, which we are told is a well-established fact. It is said that no rational man, no intelligent legislator or statesman should ever act without reference to that grand historical fact; and the Senator from Pennsylvania [Mr. COWAN] on a former occasion asserted that this Government, that American society, had been established here upon the principle of the exclusion, as he termed it, of the inferior and the barbarian races. Mr. President, I deny that proposition as a historical fact. There is nothing more inaccurate. No proposition could possibly be made here or anywhere else more inaccurate than to say that American society, either civil or political, was formed in the interest of any race or class. Sir, the history of the country does not bear out the statement of the honorable Senator from Pennsylvania. Was not America said to be the land of refuge? Has it not been since the earliest period held up as an asylum for the oppressed of all nations? Hither, allow me to ask, have not all the peoples of the nations of the earth come for an asylum and for refuge? All the nations of the earth and all the varieties of the races of the nations of the earth have gathered here. In the early settlements of the country, the Irish, the French, the Swede, the Turk, the Italian, the Moor, and so I might enumerate all the races and all the variety of races, came here, and it is a fundamental mistake to suppose that settlement was begun here in the interests of any class or condition or race or interest. This western continent was looked to as an asylum for the oppressed of all nations and of all races. Higher all nations and all races have come. Here, sir, upon the grand plane of republican democratic liberty, they have undertaken to work out the great problem of man's capacity for self-government without stint or limit.

Then the honorable Senator advances one step further, and contends that not only was society formed in the interests of a race—the superior race as he is pleased to call it—but that Government here was organized in the interest of a race. I deny it utterly. I deny that Government was organized in the interest of any race or color, and there is neither "race"

nor "color" in our history politically or civilly—not a bit of it. Is there any "color" or "race" in the Declaration of Independence, allow me to ask? "All men are created equal" excludes the idea of race or color or caste. There never was in the history of this country any other distinction than that of condition, and it was all founded on condition.

We have been told, Mr. President, that this question of race was clearly recognized and settled in a case that was before the Supreme Court some years ago—the Dred Scott case so called. I will read from that case. I read first from the syllabus of it: "A free negro of the African race, whose ancestors were brought to this country and sold as slaves, is not a 'citizen' within the meaning of the Constitution of the United States," not on account of his race or on account of his color, but on account of his condition. The point of the decision is that an African who was brought into this country and sold as a slave was not an American citizen. The Chief Justice in delivering the opinion of the court in that case, after quoting the language of the Declaration of Independence, "We hold these truths to be self-evident, that all men are created equal," &c., proceeds to say:

"The general words above quoted would seem to embrace the whole human family, and if they were used in a similar instrument at this day would be so understood. But it is too clear for dispute that the enslaved African race were not intended to be included."

Not the colored man, not the African as a race, but "the enslaved African race," he says, "were not intended to be included, and formed no part of the people who framed and adopted this Declaration." On what ground? Simply, I repeat, on the ground of their condition, because they were not in a condition to take part in the Government of the country. Further on the same idea is repeated in this language:

"No one of that race had ever migrated to the United States voluntarily; all of them had been brought here as articles of merchandise. The number that had been emancipated at that time were but few in comparison with those held in slavery; and they were identified in the public mind with the race to which they belonged, and regarded as a part of the slave population rather than the free."

Further on the same sentiment is repeated again:

"Indeed, when we look to the condition of this race in the several States at the time, it is impossible to believe that these rights and privileges were intended to be extended to them."

Why? On account of their condition, not on account of their race.

Mr. President, although to repeat what I said in the beginning, I attach no importance to the declaration of this amendment as a matter of law, as a matter of enactment, giving legislative force or legislative sanction to this bill, I do hail it as the grandest declaration in all time as a legislative act, and I congratulate the chairman of the Committee on the Judiciary that it has fallen to his good fortune to be the instrument for the introduction of such a declaration.

The PRESIDING OFFICER, (Mr. DOOLITTLE in the chair.) The question is on agreeing to the amendment of the Senator from Illinois, upon which the yeas and nays have been ordered.

Mr. TRUMBULL. I ask for the reading of the amendment.

The Secretary read the amendment.

Mr. HENDERSON. The Senator from Minnesota and the Senator from California yesterday made some objections to regarding as citizens of the United States Indians who owed no allegiance whatever to their tribes, who were not connected with the tribes. I should like very much to hear the reason of the objection. The State, as I understand, can exclude them from the ballot-box just as well after we declare them to be citizens of the United States as it could before. The State will not be compelled thereby to admit them to the ballot-box. What objection can the Senators have to declaring Indians living in the country, although they may not be taxed, to be citizens of the United States?

Mr. RAMSEY. Our objection has been over-

come by the modification of the amendment. The objection was addressed to the amendment as it then stood, but that amendment has now been modified.

Mr. HENDERSON. The Senator will understand me as objecting to the amendment as it now stands. An individual of the Caucasian race, whether he pays a tax in a State or not, is undoubtedly regarded as a citizen of the United States. Why make it obligatory upon the Indian, owing no allegiance to any tribal authority, to pay a tax before he can be regarded as a citizen of the United States? As the Senator from Indiana [Mr. HENDRICKS] very properly remarked, the United States citizenship in that case is dependent upon nothing except the possession of property upon which a tax is actually paid. I suppose that according to the rule adopted in the amendment, a State ought to be permitted to exclude any white man from taxation, and by so doing to deny him the rights of citizenship. Why not?

My point is that the Indian, if he is connected with no tribe, whether he is taxed or not, ought to be a citizen of the United States. What harm can there be in declaring that fact? What injury can it do? I ask the Senator from Minnesota. The State need not admit him to the franchise. He may be a citizen of the United States, and yet not have all the privileges and all the immunities of a citizen of the State in which he may be. The State may deny him any of them that it chooses to deny. But why not declare him a citizen of the United States? What harm can there be in that? It will enable him to sue in the courts of the United States to enforce his rights there, and I cannot see for my part what else it will do. As the Constitution now stands, of course the State cannot be injured in any of its reserved powers.

It can certainly do none of the States any harm to declare that the Indian himself, owing no allegiance to any tribe, and thereby not falling within the exception of the amendment as owing allegiance *quasi* to a foreign Power, (regarding the Indian tribes as foreign Powers,) separated from the tribe, shall be regarded as a citizen of the United States. I have heard no reason yet, and I desire to hear it if there be any. I am opposed to the amendment as it now stands, for the reason that it does make an exception. Now that we are fixing the law on the subject, why not declare every man born in the United States to be a citizen of the United States, irrespective of race or previous condition? Is there any objection to it?

You may declare him a citizen of the United States without doing any harm, as I before stated, and why not do it? Why not make the rule general? You propose to declare that all the negroes are citizens. I say that is perfectly right, though I do not deem it necessary so to declare by this amendment, because I think that is the case already. I do not choose, however, to enter into any argument on that point. I hold that every man born within the United States, and who has been liberated by the constitutional amendment, is a citizen of the United States. I shall not now go into an argument in regard to the powers of the States, to consider whether the States may not deny all the privileges and rights of State citizenship to the negro. I am speaking only of this privilege of each individual, as I hold, to be a citizen of the United States; and I can see no reason operating against the Indian. The negro of Georgia to-day, whether he pays a tax or not, is declared to be a citizen of the United States. Why not? He may pay no tax to the State of Georgia; but should that fact deprive him of the privilege of being a citizen of the United States? Was he not born here? Does he owe any allegiance to a foreign Power? Is he not bound to bear arms in defense of his country? Certainly he is. Cannot the State of California or Minnesota, where the Indian is living among the whites, owing no tribal allegiance, compel him to bear arms in defense of the State and the United States? Unquestionably so. Why not, then, make him a citizen of the United States?

Shall Georgia, or Florida, or Virginia; or any other State, have the power to say, ought it be allowed to say, "We will not tax the negroes, and thereby nullify the declaration of the United States Congress that they are citizens of the United States?" If the mere fact of paying a tax in the respective States shall confer citizenship, why not make that applicable to the negro as well as the Indian? Is there any reason for the discrimination? Why discriminate when laying down a great and broad principle? Why not make it general and universal? There is no reason in the world why it should not be so. We give these Indians in the States no rights that the States may choose to deny to them by simply declaring the universal fact. Let us make it universal.

The original proposition of the Senator from Illinois was correct. What do you mean by "Indians not taxed"? Do you mean not taxed by State authority, or not taxed by Federal authority? If one of these Indians in Minnesota owns property, whether the State taxes him or not, are you not going to tax him by Federal authority? If he executes an instrument there, must he not procure a revenue stamp and use it just as anybody else? If he has an income, does not the United States assessor assess the income of that Indian in Minnesota just exactly as he assesses the income of the white man? Why then not give him the rights of United States citizenship if he is not connected with a tribe and thereby *quasi* a foreigner owing allegiance to a *quasi* foreign Power? I do not understand that this discrimination can be rightfully or properly made, and therefore I am opposed to it unless I can hear some better reason given for it than I have heard heretofore. I do not see any good reason for it.

Mr. DOOLITTLE. I desire to say a single word on this subject by way of reply to my friend from Missouri. From time immemorial, indeed in the Constitution itself, this very distinction between Indians taxed and Indians not taxed has been a fundamental distinction. In the enumeration of the people of the United States who are made the basis of representation and taxation, Indians not taxed were expressly excluded.

Mr. HENDERSON. So were negroes excluded.

Mr. DOOLITTLE. Two fifths were excluded and three fifths were counted; but that referred undoubtedly to Africans in a state of slavery.

Mr. HENDERSON. I am talking about citizenship. Slaves were not then citizens at all; now they are.

Mr. DOOLITTLE. Indians not taxed were excluded because they were not regarded as a portion of the population of the United States. They are subject to the tribes to which they belong, and those tribes are always spoken of in the Constitution as if they were independent nations, to some extent, existing in our midst but not constituting a part of our population, and with whom we make treaties.

There is another reason why the Indians not taxed ought not to be included in this grant of citizenship. If you make them citizens, of course they will not only have the privileges of citizens, but they will be subjected to the duties of citizens. They will not only have the right to sue, but they will be liable to be sued. They will not only have the right to make contracts, but they will be bound by their contracts; and that is a policy which the Government has resisted from the beginning in its dealings with the Indians, except with those Indians who have become citizens and are liable to be taxed. Then they are regarded as citizens of the United States. Without going into the argument at length, I am decidedly of the opinion that if by declaring the Indians to be citizens you are going to bind them by their contracts and permit them to be sued as other citizens are in the courts of the United States, the Indians are not yet prepared for citizenship.

Another answer to my friend is, that so far as relates to the Indian population they can be provided for specially by other acts of Congress

when the question shall arise. It is not necessary to provide for it in this bill, for if you do, it will give rise to difficulty. If you undertake to provide in this proposition that every Indian born in the United States who may not be for the time being incorporated in any tribe shall be a citizen of the United States you may compel some of us to vote against the amendment altogether. Although some of these Indians may be disconnected from their tribes; and may be wandering in bands and in families, as there are some in the State of Wisconsin and in other States, I do not think they are yet in a condition to be incorporated as part of the citizens of the United States and made liable to be bound by the contracts which they may make and to be sued upon their contracts.

Mr. RAMSEY. The Senator from Missouri seems to base his position upon the mistaken theory that all Indians who are no longer connected with their tribes or under a tribal government are civilized Indians, living as farmers, or in some other way earning a livelihood in the white settlements. That is an entire mistake. Where that happens to be the case, they are probably civilized Indians, holding property, and taxed in that way. But in all the border States there are large numbers of wild, savage Indians, as uncivilized and as untamed as any on the plains, who have no tribal government, who are outlaws from their tribes and their nations. It certainly is not the intention of the Senator or the intention of the Senate to admit Indians of that class to citizenship. It has been the policy of the Government from its foundation not to consider them as citizens. There are large numbers of Indians who acknowledge no tribal government at all, who have no connection with any tribes, and who, unless some modification of this amendment is made, would be admitted to citizenship under it, which certainly cannot be the intention of the Senate or the Government.

Mr. TRUMBULL. The Senator from Missouri assumes that there is a sort of property qualification to citizenship. Such is not the meaning of the provision. The Senator from Missouri and myself desire to arrive at the same point precisely, and that is to make citizens of everybody born in the United States who owe allegiance to the United States. We cannot make a citizen of the child of a foreign minister who is temporarily residing here. There is a difficulty in framing the amendment so as to make citizens of all the people born in the United States and who owe allegiance to it. I thought that might perhaps be the best form in which to put the amendment at one time, "That all persons born in the United States and owing allegiance thereto are hereby declared to be citizens;" but upon investigation it was found that a sort of allegiance was due to the country from persons temporarily resident in it whom we would have no right to make citizens, and that that form would not answer.

Then it was suggested that we should make citizens of all persons born in the United States not subject to any foreign Power or tribal authority. The objection to that was, that there were Indians not subject to tribal authority who yet were wild and untamed in their habits, who had by some means or other become separated from their tribes and were not under the laws of any civilized community, and of whom the authorities of the United States took no jurisdiction. The Senator from California [Mr. CONNESS] told us that there were in his State Indians who had been placed upon reservations under charge of Indian superintendents who had been separated from their tribes and were not under any tribal authority, but they were there under the regulations of treaties which had been made with them, and were supplied and looked after by our Indian agents the same as other Indians who were perfectly wild, not submitting at all to the usages of civilized life, and it could not be intended to make that class of persons citizens.

Then it was proposed to adopt the amendment as it now stands, that all persons born in the United States not subject to any foreign

Power, excluding Indians not taxed, shall be citizens. What does that phrase "excluding Indians not taxed" mean? The Senator from Missouri understands it to be a property qualification to become a citizen. Not at all. It is a constitutional term used by the men who made the Constitution itself to designate, what? To designate a class of persons who were not a part of our population. That is what it means. They are not counted in the census. They are not regarded as a part of our people. The term "Indians not taxed" means Indians not counted in our enumeration of the people of the United States.

Mr. JOHNSON. Considered virtually as foreigners.

Mr. TRUMBULL. Considered virtually as foreigners, as a description of persons connected with those tribes with whom we make treaties. That is what the phrase means. Whenever they are separated from those tribes, and come within the jurisdiction of the United States so as to be counted, they are citizens of the United States. It is not intended as a property qualification. That is not the meaning of it. The Senator wants to know why, if an Indian cannot be a citizen without being taxed, should a white man or a negro be a citizen without being taxed. If the negro or white man belonged to a foreign Government he would not be a citizen; we do not propose that he should be; and that is all that the words "Indians not taxed," in that connection, mean.

Mr. HENDERSON. "Not taxed" by whom? By Federal authority or by State authority?

Mr. TRUMBULL. By anybody. The term here is meant to embrace those persons who yet belong to the Indian tribes, foreign Governments. "Indians not taxed" is a term used to designate those Indians yet belonging to a foreign Government, and not counted as a part of our people.

Mr. HENDERSON. The Senator would certainly accomplish that object by his original amendment, to insert the words "not owing allegiance to any tribe." I barely throw out these suggestions for the consideration of the Senate. I certainly am offering no opposition to the amendment of the Senator from Illinois, because I shall vote for the very broadest proposition on this subject. The Senator from Wisconsin answered me that if we declared these Indians to be citizens of the United States they would be permitted to make contracts, if I understood him properly, and that was the objection he had to it. Why, sir, I suppose that any State, even after we declared the Indians to be citizens of the United States, would have a perfect right, if it saw fit, if it thought they were savages or barbarians or anything of that character, to deny them the right to make contracts.

Mr. JOHNSON. Oh, no.

Mr. HENDERSON. I will ask the Senator from Maryland, who seems to dissent from the proposition, if the minor, born of white parents, eighteen or nineteen years of age, is not a citizen of the United States? Can he make a contract under State laws? Then will the Senator tell me why a State cannot deny to an Indian after he has been declared to be a citizen of the United States the right to make a contract?

Mr. GRIMES. Can a State deny to an Indian the right to contract or to sue when we make him a citizen by this bill with all the rights of a citizen under the Constitution of the United States?

Mr. HENDERSON. I suppose he would take those rights in deference to the laws of the respective States. You must look to them. Our Government, as I understand it, is a complex piece of machinery. There are certain powers granted to the Federal Government, and those we can exercise here; all others are reserved to the States; and I do not understand that by declaring a man to be a citizen of the United States we thereby take away the right of a State to declare whether he is competent to make a contract or not. The lunatic

is not authorized to make a contract by State law, certainly not by Federal law.

Mr. WILLIAMS. I should like to ask the Senator what rights, then, are conferred upon the Indian by declaring him to be a citizen in this bill.

Mr. HENDERSON. When I started the proposition here, I did not think it would involve me in the difficulty of explaining all the rights that belong to an American citizen, and certainly it would be a difficult matter for me to do it now, without having examined the subject. I ask the Senator from Minnesota and these other Senators who are objecting to it, what rights would be granted by a declaration of this sort that would interfere with the authority of their respective States which they desire to retain? I do not choose now to define, and I frankly say to the Senator from Oregon that I might commit some blunders if I were to undertake to define the rights of an American citizen. I do not choose to enter into that subject. I only ask the Senators to tell me what difficulties their respective States would have to meet in prescribing such rules and regulations for the government of that population as they might see fit. I have not heard a single word on their part to indicate to me that there is any objection to it. I prefer the original amendment as offered by the Senator from Illinois, that all persons born on the soil of the United States shall be citizens except those who owe allegiance to some foreign Power at the time, or are connected with tribes of Indians. I think that that is the proper rule; I can see no objection to it; but I do not wish to throw anything in the way of the bill.

Mr. LANE, of Kansas. The proposition as it now stands before the Senate does not reach the object that I intended, and as I perceive that it will embarrass the bill in its present shape, especially in the House of Representatives, I suggest to the Senator from Illinois whether it would not be better to strike out that provision in reference to the Indians not taxed. It does not reach the object that I desire to reach. The Indians holding their lands in severalty by allotment are not taxed. Those are the Indians that I desire to reach; and I propose, at the suggestion of the chairman of the committee and the Senator from Massachusetts, to introduce a separate bill giving to those Indians holding their lands in severalty by allotment in Kansas the power to sell their timber and their lands. I am extremely anxious to have this bill passed, and passed as soon as possible. I suggest, therefore, whether it would not be better to strike out that portion of the amendment.

Mr. WILLIAMS. I desire to ask the honorable Senator from Illinois one question in reference to this proposed amendment. What effect will it have upon the original section? Does it enlarge the powers and rights conferred and enumerated in that section, or does it restrict them? If it enlarges them, how and to what extent? If it restricts them, in what respect? May it not be that this proposed amendment will produce no practical good, while it will excite prejudice and hostility to the bill? The proposed amendment undertakes to declare that certain persons shall be citizens, excluding another class of persons; but the original bill provides that all the inhabitants of every State and Territory in the United States shall possess certain rights, which are enumerated in the section, and comprehend, as it seems to me, all the civil rights that belong to a citizen. Now, if a bill is passed by Congress conferring upon all the inhabitants of every State and Territory all the civil rights that belong to a citizen, what necessity is there for declaring that a certain class of persons shall be citizens, excluding another class? I simply desire to know whether this proposed amendment is to change the meaning and effect of the original bill or not; and if it is to change it, I desire to know in what respect it will accomplish that change; and then I can vote understandingly upon the amendment.

I wish to say one word upon the remarks submitted by the Senator from Missouri, as also upon

the remark submitted by the Senator from Kansas. There are Indians in the States and Territories of the United States outside of Kansas. There are thousands of Indians in the State of Oregon. They are generally collected upon reservations. Some of these Indians are there by virtue of treaties; some are there in consequence of the Indian wars that have occurred from time to time in that country; and they are there, and held there by compulsion. The Government of the United States feeds, clothes, and takes care of these Indians, treats them as wards, treats them as incapable of self-government; and they are governed by such rules and regulations as are prescribed by the Government from time to time, and as the necessities of the case seem to require.

Mr. HENDERSON. Will the Senator allow me to ask him a question?

Mr. WILLIAMS. Certainly.

Mr. HENDERSON. I ask him if he is not in favor of now making all the negroes in the southern States citizens of the United States?

Mr. WILLIAMS. Certainly.

Mr. HENDERSON. He is now objecting to making the Indians citizens on the ground that the Government of the United States is taking care of them. Let me ask the Senator if we have not just passed a bill enlarging the powers of the Freedmen's Bureau and declaring those negroes incompetent to make contracts, and putting their contracts under the superintendence of the agents of the Freedmen's Bureau, whom we have sent down into the southern States, or will send down there under that bill, to superintend their contracts? Have we not also provided that the Secretary of War shall issue provisions, subsistence, clothing, &c., for the use of those negroes? Have we not put all their contracts under the supervision of this Freedmen's Bureau? If the objection of the Senator on that score is good as against the Indians, it is certainly good as against the negroes and the poor whites of the southern States who are reduced to poverty to-day.

Mr. WILLIAMS. I am simply describing the condition of these Indians. I understand the honorable Senator to be in favor of making a distinction between one class of Indians and another class of Indians in the United States. He does not pretend to say that Congress ought to declare all the wild and savage Indians of the United States citizens of the United States, but he proposes to make a distinction between one class of Indians and another class of Indians by declaring that those under tribal authority shall not be citizens, and those that are not under tribal authority shall be citizens. I insist that the proposed amendment is more convenient and more certain than the plan advocated by the Senator. Thousands of these Indians in the State that I have the honor to represent are collected upon reservations; they are not subject to tribal authority; their tribes are broken up and destroyed; they consist of the fragments and remnants of tribes gathered together upon these reservations; but they are no more competent or qualified to vote than they were when they existed as original tribes.

Mr. HENDERSON. We do not make them voters.

Mr. WILLIAMS. They are to be made citizens, and I say they are no more qualified to become citizens than when they existed as original tribes. I do not exactly understand what the Senator means when he insists that Congress shall make them citizens and does not claim that any right attaches to that character.

Mr. HENDERSON. Will the Senator permit me to ask him, if citizenship be conferred upon the Indian, what right will be conferred that he objects to? The Indian, like the negro, was born upon our soil, and I say let him be declared a citizen also, unless some right will be thereby conferred upon him that will conflict with the general interests of the States. Will the Senator tell me what interest will be conflicted with, what power of the State to take care of the Indians will be denied by this legislation? I am seeking light on this subject, and

if the Senator can answer that question satisfactorily, I shall withdraw all objection to the amendment as it stands.

Mr. WILLIAMS. Much of the legislation of a State proceeds upon the assumption that certain persons have rights as citizens. They are described in the legislation of the States as citizens, and the Constitution of the United States describes certain persons as citizens of the United States. The Constitution of the United States provides that no person but a native-born citizen of the United States, with other qualifications as to age and residence, shall be President of the United States; that no person not possessing the qualifications prescribed in it shall be a Senator or Representative. If this bill makes these persons citizens within the meaning of the Constitution of the United States, I ask if they do not become eligible to these different offices? Is not any man in the United States, who is a citizen of the United States, within the meaning of the Constitution, eligible to the office of President or Senator or Representative? Is the Congress of the United States prepared at this time to adopt a proposition that negroes and Indians and Chinese and all persons of that description shall be eligible to the office of President of the United States, Senator, or Representative in Congress, before they are allowed to vote? I might refer, I think, to other instances to show that rights might follow if these persons are declared to be citizens of the United States.

Now, sir, in the State of Oregon it has been found necessary to pass laws regulating the intercourse between the Indians and white persons. The Indians are put under certain disabilities, and it is supposed that those disabilities are necessary in order to protect the peace and safety of the community. As an illustration, it is made an indictable offense in the State of Oregon for any white man to sell arms or ammunition to any Indians. Suppose these Indians have equal rights with white men in that State. Then if a man is indicted for selling arms and ammunition to an Indian, may he not defend that prosecution successfully upon the ground that Congress has declared that an Indian is a citizen, and has the same right to buy and hold any kind of property that a white man of the State has? In that way, the white people of that State would be deprived of the power of protecting themselves, or of enacting such laws as they might deem necessary for their own protection.

I might refer to another law in reference to the sale of intoxicating liquors in the State to Indians. A white man has the legal right in the State of Oregon to buy a gallon or a barrel of whisky; but the law forbids white men selling whisky to Indians, because it endangers the peace and safety of the community. But if Congress declares that Indians in the State of Oregon shall have the same right to buy and hold all kinds of property that white men have, then, it seems to me, if a man is indicted in that State for selling liquor to Indians, by which he puts the lives of the white people in peril, he may defend himself upon the ground that Congress has declared that an Indian has as much right to buy, sell, and use that kind of property as a white man has.

Mr. HENDERSON. I desire to ask the Senator if the law of Oregon now does not forbid the selling of intoxicating liquors to minors under twenty-one years of age, under a penalty?

Mr. WILLIAMS. I think not. There is no such law in that State to my knowledge.

Mr. HENDERSON. It is the law in my State, and perhaps in almost every State in the Union, and the power to pass such a law has never been denied to the States.

Mr. WILLIAMS. Minors, the sons of white men, are not savage Indians. Liquor may perhaps be sold with safety to the sons of white men, while to sell a quart of liquor to an Indian may imperil the lives of the people in a whole neighborhood; but there is no such law as that in the State of Oregon.

I insist, Mr. President, that if this proposed

amendment is to be adopted by the Senate, it is in the best form in which it can be put at this time, and that the distinction which is made in it is the most convenient and certain one that can be adopted. The object is not to make taxation a criterion or a test of citizenship; but, although it is not absolutely certain, and may operate with hardship, perhaps, in individual cases, it is the most certain way of defining the distinction between wild, savage, and untamed Indians, and those who associate with white people, own property, and exercise the privileges that generally attend a citizen in the community. I do not see that anything is to be gained by changing the amendment in that respect, and I hope, if it be adopted at all, it will be adopted in its present shape.

The PRESIDING OFFICER, (Mr. DOOLITTLE.) The question before the Senate is on the adoption of the amendment of the Senator from Illinois, [Mr. TRUMBULL,] upon which the yeas and nays have been ordered.

Mr. JOHNSON. I suggest to the honorable chairman of the committee—certainly not with a view to defeat his proposition, but with a view of making it to me more acceptable—whether it is not advisable to strike out the latter part of the amendment. The amendment as it stands is that all persons born in the United States, and not subject to a foreign Power, shall, by virtue of birth, be citizens. To that I am willing to consent; and that comprehends all persons, without any reference to race or color, who may be so born. That being so, why is it necessary to add to the amendment the words "without distinction of color?" I think it very advisable that all questions of that sort, all questions involving the rights which may be supposed to exist in one race and not to exist in the other, should be done away with as soon as possible; and the striking out of the words to which I have alluded, the latter words of the amendment, will leave the amendment just as operative as it will be if the words are retained. I should hope the honorable member and the Senate would have no objection to striking out those words. If the Chair will permit me, I will ask to have the amendment read.

The Secretary read the amendment, to insert after the word "that," in the third line of the first section, the words:

All persons born in the United States, and not subject to any foreign Power, excluding Indians not taxed, are hereby declared to be citizens of the United States, without distinction of color, and,

Mr. JOHNSON. Strike out the latter words, "without distinction of color," and it would be very clear that everybody born in the United States would be a citizen, and, unless it be true—and I, certainly, am not the person to admit that it is true for a moment—that a black man is not a person, all black persons born in the United States, who are not subject to any foreign Power, would become citizens by virtue of birth.

Mr. TRUMBULL. I agree with the object which the Senator from Maryland has in view, and, in my opinion, it would not make any difference if those words, "without distinction of color," were stricken out; but it is desirable to make the bill specific and to have no misunderstanding about it. It is contended and gravely argued here in the Senate that this is a white man's Government, made by white men, and for white men, and that the negro is not included in the Government. The Declaration of Independence declares that "all men are created equal." I suppose that means the colored man as much as the white man.

Mr. JOHNSON. Undoubtedly.

Mr. TRUMBULL. The Senator from Maryland thinks it does. It declares also that "they are endowed by their Creator with certain inalienable rights, among which are life, liberty, and the pursuit of happiness; that to maintain these ends Governments are instituted among men." I think that declaration, that "all men are created equal," applied as much to the black as to the white man; but the Senator from Kentucky [Mr. DAVIS] will not admit that. I think it is best, therefore, when we are

enacting a statute on this subject declaratory of what the law is, (for that is all this bill amounts to,) to put it beyond question.

The Senator from Oregon asked if these persons were not citizens without this declaration. In my judgment they are; in my judgment, persons born in the United States and owing no allegiance to any foreign Power are citizens without regard to color; but it is desirable to place this matter beyond question, and therefore we are passing a law declaratory of what, in my judgment, the law now is, in order to remove any doubts that anybody may have about it; and for that reason I think it better to retain the words without "distinction of color," that there may be no dispute that the word "persons" means everybody. If the Declaration had said, "all men are created equal without distinction of color," it seems to me it would not have been possible even for the Senator from Kentucky to contend that negroes were not embraced; but he does now so contend. Therefore, I think we had better retain the words "without distinction of color."

Various suggestions in regard to amendments have been made to which I, individually, would have no objection, but I see that the moment we yield to an amendment in order to satisfy one member of the Senate, we get into a difficulty with some other member. We have that difficulty now in regard to the Indians. I wish this whole Indian question was out of the way. It is not the great object of the bill. I was satisfied with the proposition as we first had it; but in order to remove the objections of others we have changed its phraseology until now it stands in the form in which it has just been read from the desk; and that, upon the whole, I think, is the best form in which we can put it, and I trust the Senate will adhere to it as it is.

Mr. LANE, of Kansas. I have no objection to that course.

Mr. JOHNSON. The Senator from Illinois, certainly, does not understand me as opposed to his amendment.

Mr. TRUMBULL. Not at all.

Mr. JOHNSON. What I suggested was—and I submit that there is some degree of force in the objection—that it is very desirable that we should cease to consider for a moment that, in relation to citizenship and rights, there is, as far as the Constitution of the United States is concerned, any difference on account of color. The honorable member admits that the omission of the words which I have suggested should be stricken out will leave the provision precisely the same. His objection to striking them out is, that there may be persons in the United States who will hold that the provision, if it is so changed, would not comprehend the negro. It is impossible to provide against every possible doubt that may be suggested by any one man or any dozen men in the United States. There are all sorts of notions, having no foundation in fact or in law, broached from time to time by individuals or classes of individuals; but I suppose that if the Constitution declared that all persons born in the United States should be citizens, nobody would be able to raise a reasonable doubt that it included the black man.

The idea to which the honorable Senator alluded, which has operated upon the mind of my friend from Kentucky, and operated upon the minds of the Supreme Court, as a reason why the general phraseology to be found in the declaration of rights was not comprehensive of the negro, was founded upon what was supposed to have been the condition of the United States at the time, with reference to the black race. They were all then slaves. In the judgment of many, being slaves, they were not persons within the meaning of the phrase used in the declaration of rights; and I am sure the honorable member will recollect that the Chief Justice, in giving the opinion of the Supreme Court in the case to which reference has been frequently made, concedes that if the words that are found in the Declaration of Independence were used now, or if at the time they were used there was no such thing as the slavery of Africans, and the same number of Africans had

been in the United States, they would have been included within the general phraseology of persons entitled to certain inalienable rights; and I suppose no man in his senses could doubt that the use of those words would comprehend black as well as white, provided black as well as white were free men. It is idle to deny that a negro is not a man. It is idle to deny, therefore, that a negro is not a person. They are endowed certainly with some of the qualities of the white man. Whether they are endowed with all the intellectual capacity of the white man is a question about which differences of opinion have prevailed and may continue to prevail; but they have the same faculties, are subject to the same diseases, cured by the same medicines, endowed with the same affections. Nobody that knows the race can doubt that. Whether they are in all cases as keen in their affections as the white man may depend upon their cultivation, intellectually and morally; but that they are capable of a cultivation, intellectual and moral, that will make them regard the marriage relations just as absolutely and as affectionately as the white man, and regard their children with the same affection that the white man regards his children, I suppose nobody will doubt. Subject to the same complaints, cured by the same medicines, sustained by the same food, who could deny for a moment that the black man is a man and a human being; and if he be a man and a human being, who can doubt for a moment that he is a "person?"

I conclude, therefore, with what I said in the beginning, that it seems to me very desirable that we should upon the very first occasion that arises, and upon every occasion, if any future occasion should arise, say at once, virtually, by ceasing to use the term "distinction of color," that in the judgment of the American Senate and of the people of the United States there is no such distinction. If the Senator objects to the amendment that I suggest, I do not insist upon it.

Mr. HENDRICKS. While I dissent entirely from the construction which the Senator from Illinois puts upon the Declaration of Independence, I was pleased with one suggestion that he made, and that was, that in defining the right of citizenship there should be no room for doubt. The question that is before this Congress, and that must now go to the country, is that which was started by the Senator from Massachusetts, [Mr. SUMNER,] whether all persons living in this country are to be equal before the law without distinction of color. That is the question which he raised, and which we have now arrived at. I am perfectly content that that question shall go to the country. If the people agree to the proposition, I am content; if it is satisfactory to the white men of this country to admit into the political community Indians and other colored people, I shall no longer object; but I am gratified that the Senator from Illinois makes it in plain words, so that the issue shall be distinctly before the people.

Mr. HENDERSON. I ask if it is in order to amend the amendment.

The PRESIDING OFFICER. It is in order.

Mr. HENDERSON. Then I move to amend the amendment by striking out the words "not taxed" and inserting the words "not subject to tribal authority."

Mr. TRUMBULL. That is the way it was before.

Mr. HENDERSON. I would rather have it in that way; but I am not particular about it. I ask that the amendment may be read as I propose to amend it.

The SECRETARY. In the third line of the amendment it is proposed to strike out the words "not taxed" and to insert "not subject to tribal authority;" so that the amendment will read:

All persons born in the United States and not subject to any foreign Power, excluding Indians not subject to tribal authority, are hereby declared to be citizens of the United States.

Mr. TRUMBULL. I suggest to the Senator from Missouri, if he wishes to make that amendment, to insert those words right after the word

"Power;" so that it will read, "not subject to any foreign Power or tribal authority."

Mr. HENDERSON. I accept the modification. I think that is the best place to insert it.

Mr. JOHNSON. That is the original proposition.

Mr. TRUMBULL. Yes, sir, we have got back to it now.

Mr. HENDERSON. It is a general principle, and I prefer it in that form. I think while we are meeting this question we might as well meet it fairly and entirely. I cannot see any reason, nor have I heard a particle of reason given in the speeches that have been made, why this proposition should not be adopted.

Mr. RAMSEY. The Senator from Missouri has been told several times that there are in the border States large bodies of Indians not subject to tribal authority who are as wild and as untamed as any that roam over the plains. Would he make them citizens?

Mr. HENDERSON. I understand that perfectly well; but will the Senator tell me how this declaration, that they are citizens of the United States, will interfere with the legislation of the State of Minnesota?

Mr. RAMSEY. The Senator from Oregon has already explained that matter. There are many differences in State laws between these Indians and white men, and certainly you do not desire to confer on all these Indians the rights of citizenship; and yet you do that by this legislation.

Mr. HENDERSON. The Senator from Oregon stated that if we declared them to be citizens of the United States, the State of Oregon perhaps could not forbid the sale of whisky to them, that the keeper of the dram-shop would be compelled to sell whisky to them the same as to other individuals. Why, sir, there is a law on the statute-book, I think, of every State in the Union, unless it be Oregon alone, that prohibits tavern-keepers and dram-shop keepers from selling liquor to minors. Are they not citizens of the United States? I think so, unquestionably; and why cannot the Legislature of Minnesota or of Oregon forbid the selling of whisky to Indians after the passage of this law? Certainly there can be no objection to their doing so. I think while we are declaring a general principle, we ought to meet the question boldly and fairly. There are but few Indians as I understand not subject to tribal authority in these different States, and surely it will not put the States or the people of the respective States where they are to the inconveniences that Senators suppose. The declaration of citizenship does not confer any right the exercise of which on their part cannot be restrained by a State Legislature so as to protect the general peace and welfare of the States. I am sure of that.

Mr. TRUMBULL. As there is so much difficulty about this matter, and as it seems impossible to satisfy all gentlemen as to this phraseology, I think we had better stand by the constitutional phrase "excluding Indians not taxed." That means Indians not counted as a part of our population. It is not a property qualification at all. The people will not so understand it, and we do not so understand it. I hope the amendment suggested by the Senator from Missouri will not be adopted. Let us vote upon the proposition as we have it. I think it is in the best form in which we can place it.

Mr. HENDERSON. One word in reply. It used to be supposed that this Government was made exclusively for the white man, and it was so decided. We are deciding to-day that it was made for the white man and the black man, but that the red man shall have no interest in it.

Mr. TRUMBULL. We are not deciding any such thing.

Mr. LANE, of Kansas. I assure the Senator from Missouri that as far as the State of Kansas is concerned, he is proposing to make citizens of the very lowest class of Indians, the vagrant Indians who have separated themselves from their tribal authority.

Mr. HENDERSON. What harm will that do?

Mr. LANE, of Kansas. I think it is unjust to the better class of Indians.

The PRESIDING OFFICER. The question is on the amendment to the amendment.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs upon the amendment of the Senator from Illinois, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 31, nays 10; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Cragin, Doollittle, Fessenden, Foot, Foster, Grimes, Harris, Henderson, Howard, Johnson, Kirkwood, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Norton, Nye, Poland, Pomeroy, Ramsey, Sprague, Stewart, Sumner, Trumbull, Wade, Willey, Williams, and Wilson—31.

NAYS—Messrs. Buckalew, Cowan, Davis, Guthrie, Hendricks, McDougall, Nesmith, Riddle, Stockton, and Van Winkle—10.

ABSENT—Messrs. Brown, Conness, Creswell, Dixon, Howe, Saulsbury, Sherman, Wright, and Yates—9.

So the amendment was agreed to.

Subsequently (during the course of Mr. DAVIS's remarks, and by his permission) the following explanations were made:

Mr. SHERMAN. I ask the indulgence of the Senate to allow me to record my vote on the amendment of the Senator from Illinois. I was called out of the Chamber before the roll was called, and I ask the liberty of being allowed to record my name on the amendment. I vote "ay."

The PRESIDING OFFICER. By unanimous consent, perhaps the Senator from Ohio will be permitted to record his vote.

Mr. CLARK. I do not think it can be done even by unanimous consent.

Mr. SHERMAN. I am informed by several Senators that this has not been allowed in the Senate even by unanimous consent. I desire to say, therefore, that if I had been in my seat I would have voted "ay."

The PRESIDING OFFICER. I understand the rule is positively against it; that unanimous consent will not allow a vote to be recorded after the result has been announced.

Mr. CONNESS. Being absent temporarily I wish to make the same statement made by the Senator from Ohio, that I would have voted for the amendment if I had been present.

Mr. HOWE. If this is a time for defining our positions, I think I ought to take occasion to say that I would have voted the same way if I had been present.

Mr. DAVIS. Mr. President, I will state the various points which I made yesterday in the course of the desultory and running conversation between various Senators and myself, and shall then proceed to express my views in opposition to the bill. I hold:

1. Two centuries ago, and upward, the continent of North America was settled and taken possession of by the Governments and people of Europe, English, Irish, Scotch, French, Netherlands, Germans, Swedes, Danes, Norwegians, Italians, Spanish, and Portuguese, all of the white race.

2. The negro, or any other race, had no ownership, proprietary power or government in their respective settlements—all was exclusively with the particular European nationality that had made the settlement.

3. All these settlements within the boundary of the original thirteen States had become, many years before the Declaration of Independence, possessions and colonies of the British empire, each one being a slaveholding community, and owning negroes of African birth and descent as property and chattels.

4. While all the colonies were thus slaveholding, the troubles between them and England began, to redress no wrongs or oppressions of the negroes, free or slave, in all or any of the colonies: but to redress the wrongs and oppressions of the white people alone inflicted by the Government of England.

5. This long and obstinate struggle was undertaken, managed, and adjusted by the white people exclusively, as their own quarrel and for their own benefit; and in this great and

complex transaction the negro and Indian were ignored—they were not parties to it. If a few hundred of both those races appeared occasionally in the battle-fields on the side of the colonies it was as their slaves and allies, and not as coparties.

6. The first or revolutionary Confederation among the colonies, then their Articles of Confederation, then their Declaration of Independence, and then the present Constitution of the United States, were all acts of the white people of the colonies, undertaken and performed by them exclusively for no object or benefit but their own. The negroes or Indians were not parties to them or either of them; and they were intended to be and were not affected or reached by them. But they were undertaken, done, and performed, and produced precisely then the same results as though the negro and the Indian had not been in being; and those results were intended to be and were limited to the white people alone.

7. No slave negro was made free, or had any addition whatever to his privileges by the Articles of Confederation, or the Declaration of Independence, or the Constitution of the United States; nor were the rights or liberties of any free negro added to by either of those instruments. The condition of both slave and free negro, in every State, continued precisely the same after the Articles of Confederation, the Declaration of Independence, and the Constitution that it had been before.

8. Naturalization is the admission by Government of a foreigner to the privileges, or a portion of the privileges, of a citizen. Before the present Constitution this power was exercised by each State for itself, which produced diverse and discordant systems. For the purposes of uniformity the power of naturalization was by the States surrendered to the Government of the United States by the Constitution. That the power was delegated and reserved to the extent that the States had exercised. That they had exercised it only to naturalize foreigners, and foreigners of the European nationalities; and the United States receiving from them this power as they had always exercised it were also limited to foreigners of the European branches of the Caucasian race of men.

9. That the fundamental, original, and universal principle upon which our system of government rests, is that it was founded by and for white men; that it has always belonged to and been managed by white men; and that to preserve and administer it now and forever is the right and mission of the white man. When a negro or Chinaman is attempted to be obtruded into it, the sufficient cause to repel him is that he is a negro or Chinaman.

Having thus stated my positions in a short compass, I proceed to lay before the Senate my objections to this most offensive measure. To me this measure and its twin sister that was passed a few days ago by the Senate are the most offensive of all the measures that have ever been before Congress, and upon which I have been called to act. The first was intended to have a peculiar application to my State. As the honorable chairman who reported it avowed frankly it was intended to entrap Kentucky and Delaware, and it is designed especially, as I know by an interview with the commissioner of the Freedmen's Bureau for that State, that I had a few moments ago, to punish Kentucky; not because Kentucky went into the rebellion, not because Kentucky was true to the Constitution and true to her rights. Yes, Mr. President, my gallant and true State is now an object of more, and is more the special subject of vengeance upon the part of the majority who have possession of this Government than any State in the Union; and the sole cause of offense, the sole reason for these particular feelings of revenge and vengeance is simply that she would not bow her neck to Baal. It is because she had the manliness and the intelligence and the courage to stand by the Constitution, and stand for her rights under the Constitution; and I hope and I believe that she will continue to do that forever.

Mr. President, the honorable chairman of the

Committee on the Judiciary, who introduced this measure, the other day attempted to respond to and obviate an objection of mine to the introduction of the Freedmen's Bureau into the State of Kentucky, and he read an extract from the act of Congress passed at the last session, establishing the Freedmen's Bureau, and relied upon that law as justification and authority for carrying the Freedmen's Bureau into Kentucky. He read this clause in the first section of the act of last year:

"That there is hereby established in the War Department, to continue during the present war of rebellion, and for one year thereafter, a Bureau of Refugees, Freedmen, and Abandoned Lands, to which shall be committed, as hereinafter provided, the supervision and management of all abandoned lands; and the control of all subjects relating to refugees and freedmen from rebel States, or from any district of country within the territory embraced in the operations of the Army."

That learned and profound lawyer assumed that the latter words which I have read authorized the introduction of the Freedmen's Bureau into Kentucky. Taking the whole sentence, it simply authorizes the establishment within the War Department here in the city of Washington of a Freedmen's Bureau. The War Department and other Departments of the Government have different bureaus. Does an act of Congress which authorizes the establishment of any one or all of those bureaus, or, if you please, of another bureau in any Department in Washington city, authorize a branch of that bureau to be carried into Kentucky, or into all the States? Certainly not. And yet that is the absurd and preposterous conclusion to which the honorable chairman of the Committee on the Judiciary leaped, that because this law authorized the establishment of a Freedmen's Bureau in the War Department, which bureau should take cognizance of freedmen and refugees from any State that had been affected by the rebellion, therefore the Secretary of War was authorized by this law to carry the Freedmen's Bureau into each and all the States that had been reached by the enemy and had been invaded by the enemy. Sir, it authorizes no such conclusion; but here is the letter of the law itself in another section which places this matter beyond all doubt or cavil:

"Sec. 3. And be it further enacted, That the President may, by and with the advice and consent of the Senate, appoint an assistant commissioner for each of the States declared to be in insurrection, not exceeding ten in number."

It was this section of the law to which I had reference when I admonished the honorable Senator that the Freedmen's Bureau was established in Kentucky without the authority or the semblance of law; and I read the law now to show that it only authorized the sending of assistant commissioners into the rebel States, and Kentucky never having been a rebel State there was no authority whatever to carry the bureau into that State. And yet, General Fiske, who is now in this city, under the direction, I suppose, of the Secretary of War, has established a Freedmen's Bureau, and a military government connected with it, in the State of Kentucky, without authority of law, and invested, or attempted to invest, that Freedmen's Bureau there with the power of striking down the whole fabric of our State government and all of its officers, executive, judicial, and legislative, of prescribing laws repugnant, not only to the laws of our State, but to our constitution, requiring the arbitrary, despotic, military edicts which he has dared to promulge in a State that has always been loyal, to be executed, and denouncing as criminals the courts and the executive officers of the State who presume to execute her constitution and her laws where they are in conflict with this military code. I read the other day—and I am not going to repeat—the code, the unmitigated military despotism that the Secretary of War, by his military satrap, General Fiske, has proclaimed, not for the government of, but to tyrannize over and oppress, the people of Kentucky, and to overthrow their government.

Mr. President, I think the gentlemen will learn something after awhile from experience. They will learn that the Constitution is a very important instrument, that it was most nicely and ar-

tistically and ably put together, and that it was put together by master workmen. They will find, I think, as time and events roll on, that as they make one encroachment upon it two or three more will be made necessary, and they will find "confusion worse confounded" the more encroachments and the more innovations they make upon the Constitution. I think that they ought to be admonished now of the folly of persevering in the reckless innovation that so many Constitution tinkers are endeavoring to bring upon that sacred instrument. Mr. President, here is one of them:

"1. That neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.
2. Congress shall have power to enforce this article by appropriate legislation."

I assume that the second clause does not give a particle of power to Congress which Congress did not possess before. Here is a clause which I will read in the original text:

"Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or office thereof."

When this amendment which I have read was pending before the Senate, the second section attracted my attention, as it doubtless did that of every gentleman; and the reason that it was not specially objected to was that the original Constitution contained the clause which I have just read, and the original Constitution gave every power that Congress now has under the second section of this amendment. If this second section had not been attached to the amendment, what powers would Congress have had in relation to the abolition of slavery? It would have had the power to pass all laws necessary and proper for carrying into execution the first section of the amendment which abolished slavery. Does the second section give any added power to Congress? I say it does not—not one particle.

The honorable Senator from Illinois has attempted to scatter wide the effect and operation of the second section, but I think that he is guilty of an error in attempting any such enlargement of power from that section of the amendment. I hold that under that second section Congress can pass only such laws as are necessary and proper for carrying the first section into effect, and that Congress would have every tittle and iota of that power without the second section, under the clause which I have read, and therefore, that that second section is mere tautology, it is a mere investment of power which the original text of the Constitution would have invested Congress with without the second section.

I may ask the honorable Senator and all the members of the Senate who voted for this constitutional amendment if their single and isolated purpose was not to free the negro? Had they any purpose beyond manumitting or freeing the negro? I will answer that question for them. They had none other. They could have had none other. Then the effect and meaning of the amendment is just the same as though "the negro" had been inserted in the amendment. I will insert that phrase by way of testing the true meaning and the utmost scope and operation of this amendment, and let me read it in that way:

Neither slavery nor involuntary servitude of the negro, except as a punishment for crime whereof he shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

I ask the honorable Senator if that is not a fair rendition of the amendment. I ask him whether the purpose and the intention, whether the language and operation of this amendment is not limited strictly and literally to the negro. If so, it might have been worded just as I have now read it, and it would not have modified the sense or meaning of the amendment a particle. This is simply, then, an amendment to the Constitution declaring that the negro shall no longer be a slave in the United States, and that is the whole of it.

The honorable Senator himself, I suppose, will not attempt to derive the power to pass this bill from any other clause of the Constitution than this amendment. If the power existed before, and from the adoption of the Constitution, why has it not been attempted to be asserted before? If all the rights with which this bill seeks to invest the negro might have been conferred upon him by other clauses of the Constitution than this amendment, I ask the honorable Senator from Illinois why he and his coadjutors, the friends of the negro, have not in bygone years and from the time of the frenzy of the public mind in the United States in favor of manumission, asserted the power to confer these privileges and these rights upon the negro? There can be but one answer to that question, and that answer is that these powers were not conferred by the Constitution until this amendment was adopted. Now, let us examine and see whether this amendment of the Constitution confers any such powers.

Mr. President, I stated yesterday that there were eight States in the United States that had abolished slavery—five New England States, and New York, New Jersey, and Pennsylvania. I ask the honorable Senator if the measures of those States to abolish slavery were not effective? Did they not achieve the purpose for which they were intended? Did they not abolish slavery? To hear the honorable Senator from New Hampshire, [Mr. CLARK] a person who had read nothing about the subject would come to the conclusion that there never was but one negro in New Hampshire, or at least that the honorable Senator had never heard of or come across the mention of but one negro.

Mr. CLARK. I never said any such thing, nor did I intimate any such thing.

Mr. DAVIS. The honorable Senator said he had heard of the transfer of but one negro in the State of New Hampshire.

Mr. CLARK. I said that I had found in the course of my practice one bill of sale; and it was the only bill of sale I ever did see. But if the Senator will look at the census of 1790, I think he will find that we had between three and four hundred slaves.

Mr. DAVIS. I had observed that.

Mr. CLARK. I was aware of the fact.

Mr. DAVIS. In 1820 you did not report any slaves at all, but in 1830 you reported three, so that you had been in the slave trade at least to the extent of three slaves. [Laughter.]

Mr. CLARK. The Senator will pardon me. Some of those people who held slaves down in the southern country wandered into our country bringing three slaves with them. I think in 1840 somebody brought one. We felt very much aggrieved by it, and hope they will not bring any more.

Mr. DAVIS. Oh, how holy, how immaculate! If New Hampshire had just possessed the cotton climate and cotton soil, how many slaves would she have had?

Mr. CLARK. I cannot say. We do not claim that we are any better than other people. We never had so many slaves as others and we got rid of them earlier.

Mr. DAVIS. I think you are very well off if you are not shown to be a great deal worse than other people. [Laughter.]

Mr. CLARK. That may be.

Mr. DAVIS. Well, Mr. President, in 1790 New Hampshire had as many slaves as the honorable gentleman concedes she had. She had altogether six hundred and thirty-three negroes; but in the presence of the refined and delicate Senator from Maryland [Mr. JOHNSON] I am almost afraid to articulate the word "negro," it seems to shock his nerves so much, [laughter;] but I hope he will get used to it before I am done with this subject. I believe it is the proper term. I believe that ethnologists and anatomists and naturalists all classify the races into the white race, the negro race, and the colored race; all the intermediate races between the white and the negro are called colored. Now, however, some gentlemen are becoming so polite that they cannot afford to use the term

"negro" as applied to an African either by nativity or descent. I have not got quite that far yet.

Here were eight States that held negroes which manumitted them, set them free. What were the consequences of these acts of manumission in the five New England States, in New Jersey, in New York, and in Pennsylvania? What was the legal effect of these acts of manumission? What results and rights did they bring to the negro? Did they do anything more or less than simply to destroy his slavery; that is, the subjection of the negro to the white master? Was there any other result or any other right that came to a single negro in all those States when their acts abolishing slavery passed and became operative, and some of them did not become operative fully, were not consummated into action for very many years. There was a negro sold in the State of my honorable friend from Pennsylvania in the year 1823 under execution to pay a debt, and the reports of his courts show it. But I ask gentlemen what legal results, what privileges, what rights ensued to the negro upon the consummation of the several acts of manumission by those States? Slavery is the subjection of one man to another. Slavery may be legal, or it may be violent and lawless. Where one man by superior force subjects another to him without authority of law, that is unlawful slavery; but where one man or class of men are subject to another man or class of men by authority of law, that is lawful slavery.

Anything that destroys this legal slavery of one man to another manumits him. If it is done under the authority of the laws of the States that authorize owners to emancipate slaves, in relation to an individual master and an individual negro, it destroys the slavery of the individual negro. If it is done by the proper authority, legislative or sovereign, of the State in relation to all negroes, the only effect of this general and multitudinous act is to effect for all simply what had been effected for one by the private act of emancipation of the owner for an individual slave.

Suppose the one mode or the other had been adopted in Kentucky; suppose all the owners of slaves there, by deeds of manumission authorized by our legislation, had liberated all their slaves according to the forms required by our law, what would have been the result? They would have been free. Here you have intervened, and you have passed an amendment to the Constitution which, I say, violates the fundamental law of the land and the principles upon which our Government is based; but I do not make that question at all. I concede it to be concluded against me. I have to receive it as being properly done, and I do so. Then, conceding that you have passed a valid constitutional amendment abolishing slavery in the State of Kentucky and throughout the United States, I ask the two fathers of this proposition, the Senator from Missouri and the Senator from Illinois, would or would not slavery in every solitary instance in Kentucky, if the mode had been by private acts of manumission by the owners, have ceased? How would it have ceased? The legal obligation of all men to serve other men, or the legal right of all the owners of slaves to require their slaves to serve them and command their time and the fruits of their labor, would have been extinguished, whether the one mode or the other had been adopted. It would have been extinguished if all the slaves had been manumitted by deeds of manumission. It has only been extinguished by the adoption of the constitutional amendment which I just read. The two modes are different, but their results, their legal consequences, and the rights and privileges which they bring to the negro, are precisely the same. The learned lawyer and Senator from Maryland cannot draw a distinction rightfully taken between the legal effects of the two modes of manumission. I have known thousands of slaves to be liberated by deeds of manumission in Kentucky, and I have adverted to the conventional acts of seven States in relation to the same matter and to bring about

the same result. I ask any candid and intelligent lawyer or historian of either of the States I have named, was it ever contended in any court by any lawyer that any other consequence had ensued on the abolition of slavery by a private deed of emancipation or by an act of the Legislature or the convention of a State abolishing slavery generally in the State than the simple abrogation of slavery, that is, the legal subjection of the negro to the owner? What rights, civil or political, did a negro ever acquire heretofore under or by either mode of emancipation?

The honorable Senator from Maryland not only concedes that these civil rights may all be granted, but as I understood him last evening, he conceded that Congress could confer on the free negro a right to vote. The amendment of the Constitution makes the negro free. According to his principle and his theory, but not according to mine, it makes the negro a citizen. I say it does no such thing. It simply abolishes the legal servitude of one man to another; it severs all connection between the slave and the master. Where the act is general, applying to all the slaves in the United States, it has that effect and only that effect as between all owners and all recent slaves. It simply destroys the legal subjection of the slave to the master. That was its sole object. It never was contended for until these times of fanaticism and of unreasoning philanthropy for the negro, that it ever had any other result heretofore.

Suppose a negro liberated by deed of manumission in Kentucky, having got it under the seal of the county, executed according to the forms of the law and enrolled in parchment that he might carry his charter of freedom with him, and with that charter of freedom ten or fifteen years ago he had gone up to a poll where an election was going on in the State of Kentucky, and had claimed a right to vote because the deed of manumission had made him a citizen and invested him with a part of the political sovereignty of the State and of the United States. Such a claim never was thought of and never was made; and it is just as baseless to attempt to make it apply to civil rights or to political rights or the right to vote under this amendment of the Constitution, as it would be under that deed of manumission. In New York, in Massachusetts, in any other State of the Union where slavery has been abolished by the authority of the State, was any such claim ever made? Was it ever allowed? Did your Parsons and your other great lights of the law in Massachusetts ever rule that by the abolition of slavery by her constitution of 1776, or by the bill of rights, one of the consequences and legal effects of that bill of rights or of that constitution in addition to manumitting the slave, was to make the slave a citizen and to confer upon him all civil and political rights? The thing never was thought of. These are errors that have sprung up in the hot-bed of fanaticism and fierce political contention. They are not sound principles of law; they will abide no tests of logic or of law that can be brought to bear upon them.

A few days ago I begged, almost implored, the honorable chairman of the Committee on the Judiciary to insert a few words in his Freedmen's Bureau bill, which is in fact a part of this. Indeed they might both have been incorporated into the same bill. I importuned him, almost implored him to allow the insertion of a clause providing that that bill should have no application in any State where the courts were open, and where the civil law could be enforced by the courts. I assured him that that was the condition of Kentucky as much so as it was the condition of Illinois. I thought I appealed to him in terms that might almost have brought iron tears down his cheek, but he remained firm and fierce and obdurate. Here is my State that has given half of her white military population to the Army; and about three-fourths of her negro population have been stolen and taken into the Army, making, out of about one hundred and eighty thousand military popula-

tion, something like one hundred thousand soldiers, white and black. My State has stood by the Constitution. I have stood by it through sunshine and storm, through good and through evil report. On the one hand, my life has been imperiled by the secessionists and their sympathizers, and on the other it has been imperiled by the lawless military tyrants that have appeared in my State and trampled under foot its constitution and laws and the liberties of its people. But I defy them all. I am still true to the Constitution, and I intend to be; and all its enemies, whether they are from Jefferson Davis's host, or whether they are from the civil and military officers of the United States, are equally my foes; and I will strike them with all the feeble force that I can, let the foe to the Constitution and liberties of my countrymen come from the one camp or the other. I will do so while there is a pulsation in my heart, and while a muscle can move in this feeble arm.

But I could not induce the honorable Senator from Illinois to give any immunity whatever to my State; he got up and in his magisterial way he proclaimed the condition of the rebel States (which did not apply to Kentucky) and asked—that was the substance of his interrogatory—are you not in favor of a measure that is so necessary to preserve the order and peace and security and liberties of the people in the rebel States? Let me give you a picture of the condition of things in one of those States. I have before me an address issued by Messrs. Byers, Kyle, and Johnson, Representatives-elect from the State of Arkansas. What do they say in relation to that State, and her claim to be represented in the two Houses of Congress, and in relation to the condition of the courts, and the ability of the courts there to enforce the civil laws? These gentlemen say:

"January, 1864, the loyal citizens of the State of Arkansas elected delegates, held a convention, formed a constitution, and established a provisional State government, until the proper officers under the constitution could be elected and qualified. This constitution, first, abolished slavery; second, declared void the ordinance of secession; third, repudiated the rebel war debt; fourth, provided for the election of officers and for the ratification or rejection of the constitution by a vote of the citizens."

Was that not submission enough? In the name of reason and of justice, what more can be asked from a people?

"The State Legislature assembled and passed a law which provided that no person shall vote at any election until he has first taken and subscribed an oath that he will support the Constitution of the United States and the constitution of the State of Arkansas, and that he has not voluntarily borne arms against the United States or the State of Arkansas, or aided, directly or indirectly, the rebellion since the 18th day of April, 1864. The Legislature also ratified the amendment to the Constitution of the United States abolishing slavery."

"Every county in the State has been regularly organized by the election of county and local officers. The courts have been held, and taxes assessed and collected."

"The United States district court for the State has been held, and the laws administered therein, for more than one year past."

That is the condition of Arkansas; and yet the honorable Senator from Illinois inexorably insists that the Freedmen's Bureau shall not only go into ruthless operation in the State of Kentucky but also in the State of Arkansas. I have said here on this floor that gentlemen do not wish reconstruction. They do not intend that Arkansas and the other States lately in rebellion shall be represented in the two Houses of Congress. Why? They have certain favorite party measures, violating the Constitution, violating all justice and the soundest policy, which they are determined to pass—measures of legislation, amendments of the Constitution. They know that if these States are once admitted to representation in the two Houses, if the Union is restored, if it is not kept dissolved by their own arbitrary majority, if the States become reunited in the Union and under the Government, the Representatives and Senators from the late rebel States would defeat all their enormous party measures and all their amendments to the Constitution, that have no other purpose whatever than to enable them to hold

on to power *per fas aut nefas*, without regard to consequences.

I objected the other day that the bill to enlarge the powers of the Freedmen's Bureau, and this bill, and the various amendments to the Constitution, should not now be passed; and I said that no legislative measure which vitally and deeply affects the southern States should be passed until those States were admitted by their Senators and Representatives to their just influence and power in the Government. I have stated heretofore, and I believe it, that all those States have a truer loyalty now, and a deeper and more faithful devotion to the Constitution and to all of its principles, to our form of government, to the just authority of the Government and all of its officers, than have the mass of the radical party. I may be mistaken in expressing that belief, but it is my deep conviction. When I stated this objection the other day the honorable Senator from Illinois answered me thus:

"What is the Senator from Kentucky here for? Why does he not go home? Why is he sitting here but to pass laws? Is it unconstitutional to pass this bill because some States are not represented here? Why, sir, what sort of a Government would it be if some State, by withdrawing its representation, could take away the constitutional power of the Congress of the United States to pass a law? The absurdity of the proposition is such that it needs not to be argued to be refuted."

That is not my proposition; it is his own proposition. He builds up a man of straw to knock him down. I did not say that if one State or many States chose voluntarily to absent themselves from the halls of legislation therefore legislation should cease. That is the case which the honorable Senator is presenting, but it was not the case which I presented, nor is it the case in fact now existing in the country. Here are eleven States that have acknowledged in every form in which it is possible to make the acknowledgment, their subjection to the Constitution and the laws, their willingness and purpose to abide by the Constitution and laws, and to support them. I have read from the address of the representatives from Arkansas, showing how that State has presented herself. In the form substantially in which that State comes they all ask to be admitted to their share and position in the Government; they ask to have their representatives in the Senate and in the other House. Why should they not have them? Is there any principle of constitutional law or of sound policy that would still exclude them? That is the case which I put. And why are they now in that predicament? Why are they standing out in the cold, unrepresented and paying taxes to this great Government, all their most vital and essential interests being subjected to its legislation, their institutions and their political power in the Government being operated upon permanently in their absence by the passage of constitutional amendments through the two Houses of Congress? Why are they in that predicament, shorn of their constitutional rights and of all their power under the Government? The honorable Senator need not shake his gory locks at me, nor at the southern States; it is not they that keep themselves in that position. It is he and his associates here who have dissolved the Union and who keep it dissolved by shutting the door of the two Houses of Congress upon the face of the Representatives both of the States and of the people of those States. They keep it shut, and they can laugh and they can rejoice at the writhings of their victims. They would feel differently if they occupied their position.

Why do you not admit their members? Can you expect that eleven States thus lawlessly and outrageously and tyrannically excluded from all part in their Government will acquiesce under measures that are passed by you after you have thus dissolved the Union by excluding them, and when your sole purpose in thus excluding them and dissolving the Union was to impose upon them unjust and oppressive measures which you could not pass if they were here present?

Mr. President, I objected to the Freedmen's

Bureau bill upon several constitutional grounds. One was that it blended two of the departments of the Government, and authorized the President to transfer military officers to those *quasi* courts, and empowered those *quasi* courts to hear judicial cases and questions that can go constitutionally only before the courts of the United States created in conformity to the Constitution. *How did the honorable Senator answer that objection? He said:

"But he says [alluding to myself] that there is a clear violation of the Constitution in this bill, because judicial power is by it conferred upon the officers and agents of the Freedmen's Bureau. He says it is admitted that such power is conferred, and then he reads the clause of the Constitution of the United States which declares that the judicial power shall be vested in a Supreme Court and inferior courts, to be established by Congress; and he says these officers of the Freedmen's Bureau are not the courts contemplated by the Constitution. And he reads another clause to show that the right of trial by jury is secured to parties; and he says no jury trial is provided for here. Of course not; but how plain a statement shall answer that whole argument."

Now, let us hear the plain statement of the gentleman that was intended to answer the whole argument:

"Are there not other provisions of the Constitution? Has the Senator from Kentucky never read that the Congress of the United States shall have authority to call forth the militia to put down insurrection and rebellion? Does not the Senator from Kentucky know that from eleven States of this Union every court has been expelled and driven out?"

No, sir; I know no such thing. I know the contrary and I have proved the contrary in relation to Arkansas by the testimony of her Representatives elected to Congress. What is true of Arkansas is substantially true of the other States lately in rebellion. There is not a State in the Union now where the civil law and the civil courts may not be reestablished and put into complete and peaceful operation. There is not a State in which the civil courts and civil law are now deposed by the rebellion. But even if the fact were so in the rebel States, does that prove that Kentucky should be subjected to the Freedmen's Bureau? And yet what I have read is the sole answer which the gentleman deigns to make to all the constitutional objections which I raised to that bill.

Another one was that it created a court of a military bureau, that it made the Commissioner, assistant commissioners, and agents of this bureau judges, and that it invested in them judicial powers, and I read the Constitution to prove that all judicial power in and under the Government of the United States was to be exercised by the Supreme Court or by such inferior courts as Congress may from time to time establish. I showed, or attempted to show, that this reason of "military necessity" never had any application in Kentucky, or, if any, but for a few days. It has no application in fact and in truth anywhere; and when I object to a military drum-head court-martial that have not sense enough or information enough to know what a writ of *habeas corpus* is, and on what terms and conditions a writ of *habeas corpus* should be granted, that are themselves members of a perfect despotism, because every army is a despotism, that know nothing of the principles or essences of liberty; when I object to such men as these being clothed with the judicial powers created by the Constitution of the United States, and invested specially in courts, the Senator from Illinois asks me this question:

"Are there not other provisions of the Constitution? Has the Senator from Kentucky never read that the Congress of the United States shall have authority to call forth the militia to put down insurrection and rebellion?"

The insurrection and rebellion has been put down long enough for a crop to grow and mature; and all nature is sleeping now, to prepare her recuperative energies to bring on another crop, in the depths of winter; and yet when I object to military bureaus and military satraps exercising the judicial powers of the United States that are vested by the Constitution in the courts, the gentleman asks me, have I not read the provision of the Constitution which authorizes the President to call out the militia to put down insurrection?

Mr. President, I took another objection, and a very grave objection, to the Freedmen's Bureau, to its exercise of any jurisdiction in Kentucky, in Arkansas, anywhere. It deprives the citizen of his constitutional right to trial by jury in cases where the matter in contest amounts to twenty dollars. I read the learned opinions of the Supreme Court establishing that invaluable, inappreciable principle of the Constitution. Who would be willing to expunge that principle from the Constitution, the right to trial by jury? In criminal cases it has passed from us so long that we have almost forgotten that it ever had any practical existence. We have had the practical enjoyment of the right of trial by jury in civil cases in Kentucky; but here comes forward this measure of despotism, of iron military despotism, backed up by the first lawyer of this body, and who gravely—no, not gravely, but with perfect indifference—introduces a bill into the Senate of the United States to abolish our courts, State and Federal, in Kentucky, so far as controversies between the free negro and the white man may arise, and to vest them, against the plain and positive provisions of the Constitution, in a sort of military subordinates. I objected, in addition, that it deprives the people of the right of trial by jury. To these, and other grave objections which I make to the bill, the honorable Senator from Kentucky not read the provision which authorizes the militia to be called out to tor contents himself with this reply:

"Has the Senator from Kentucky not read the provision which authorizes the militia to be called out to put down insurrection?"

Was ever such a profound and able argument made in any body as that?

But, Mr. President, I will hurry on to consider the provisions of the pending bill. The Senator says that the principal matter, the *gravamen* of the bill, is in the first section. I will read it:

That there shall be no discrimination in civil rights or immunities among the inhabitants of any State or Territory of the United States on account of race, color, or previous condition of slavery.

I will ask the honorable Senator, what rights do these words establish? The section goes on afterwards and specifics:

But the inhabitants of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right to make and enforce contracts, to sue, be parties and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding.

Again:

SEC. 2. And be it further enacted, That any person who under color of any law, statute, ordinance, regulation, or custom, shall subject, or cause to be subjected, any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding \$1,000, or imprisonment not exceeding one year, or both, in the discretion of the court.

Mr. JOHNSON. Mr. President—
The PRESIDING OFFICER. Does the Senator from Kentucky yield?

Mr. DAVIS. Yes, sir.

Mr. JOHNSON. It is rather late in the day, and my friend from Kentucky will take some time yet to conclude his remarks. I propose, with his consent, that the bill now be passed over for to-day, and that the vote be taken to-morrow at two o'clock, if that is the pleasure of the Senate.

Mr. SAULSBURY. I desire to be heard for a short time before the vote is taken.

Mr. JOHNSON. I did not know before that my friend from Delaware proposed to say anything upon this bill. Let us then fix three o'clock to-morrow as the hour for taking the vote; I

am sure there will be no objection on the part of the chairman of the committee to make this arrangement.

Mr. DAVIS. I am wound up; I am obliged to run down. [Laughter.]

Mr. TRUMBULL. I shall for myself make no objection to taking the vote at two or three o'clock to-morrow. If it is understood generally in the Senate that there is not a disposition to protract the debate longer than say three o'clock to-morrow, I am perfectly willing to adjourn now.

The PRESIDING OFFICER. Do I understand the Senator from Maryland as moving an adjournment?

Mr. JOHNSON. Yes, sir, with that understanding, that the vote shall be taken to-morrow at three o'clock.

Mr. HENDRICKS. With the consent of the Senator from Maryland, I will state that that is entirely satisfactory to me, with this further understanding, that if amendments be proposed a reasonable time shall be allowed for their explanation. It is possible the Senator from Kentucky will not occupy until three o'clock. I desire to propose one amendment to the bill. The Senator from Oregon [Mr. WILLIAMS] tells me that he wishes to propose an amendment. I have no desire to engage in any general discussion of the bill, but simply to address myself to the amendment I shall propose.

Mr. TRUMBULL. I would say that of course in fixing the hour at three o'clock I should not expect, so far as I am concerned—I can speak only for myself—to prevent the offering of any amendment and the making of any statement in reference to it.

Mr. JOHNSON. Say four o'clock.

Mr. TRUMBULL. Perhaps we had better have it understood, as amendments are likely to be offered, that after three o'clock any amendment may be offered and any amendment may be explained. What I mean is to have it understood that we can get a vote to-morrow without protracting the session unnecessarily. With that understanding I am willing that we shall now adjourn until to-morrow, and then at sometime after the Senator from Kentucky shall have concluded his remarks we may act on such amendments as may be offered.

Mr. DAVIS. I submit to the pleasure of the Senate.

Mr. HENDRICKS. I do not know what the Senator from Illinois means by allowing a statement or explanation of an amendment. The amendment which I shall propose I shall wish to present in some decent shape to the Senate. I do not want any misunderstanding on this point. I do not wish to discuss the bill generally, except for the purpose of illustrating the amendment I shall propose. That amendment will be to strike out the last section of the bill. The Senator from Oregon wishes to propose an amendment, and of course, I presume, to explain it.

Mr. TRUMBULL. I think there will be no difficulty on that point. With the understanding that all general debate on the bill shall close at three o'clock to-morrow, I have no objection to an adjournment.

Mr. JOHNSON. I renew the motion to adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, February 1, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BORTON.

The Journal of yesterday was read and approved.

LEAVE OF ABSENCE.

Mr. CONKLING. I rise to a privileged question. My colleague, Mr. HULBURD, has been called away by the serious illness of a near relative. I ask leave of absence for him for a week.

There being no objection, the leave was granted.

PERSONAL EXPLANATIONS.

Mr. CONKLING. I ask leave to make a brief statement.

No objection was made.

Mr. CONKLING. I ask for the reading of the statement which I send to the Clerk's desk. It is in the Albany Argus of January 25.

The Clerk read as follows:

"THE CONKLING PROVISIO.—New York, which now abridges suffrage on account of color, would lose two or three Representatives in the event of its refusal to remove the existing restriction."—*Troy Whig.*

"It is probably a recommendation with the Representative of New York, of the vindictive and coercive school to which Mr. CONKLING belongs, that the measure he proposes punishes and in a measure disfranchises his State. In the original formation of the Constitution New York surrendered a great deal of her position, and consented to an equality of representation with smaller and less populous States. The power she has given to others has been ungenerously used against her; and instead of readjusting the measure of representation on the basis of equality he brings forward a contrivance to aggravate the injustice at the expense of his own State. Mr. CONKLING's scheme, like the census of Depew, shows how little pride in their own State the new-light politicians have, and in the great struggle of politics and of sectional greed and rapacity how false they prove to their State. An attorney who so disgraces the rights of his clients, under some delusion of fanaticism or fancied revelation of the higher law, would be justly regarded with contempt."

Mr. CONKLING. Mr. Speaker, of the spirit of this article, or of the assault made upon me personally, I, of course, shall take no notice.

I rise to correct the error of fact into which the writer seems to have fallen. The proviso denounced, having passed this House by more than two thirds of its votes, and awaiting only the favorable action of the Senate to go to the Legislatures of the States, should not be incumbered by misrepresentation so gross as this.

I take occasion, therefore, to state the facts as they are, not from any pride of paternity, but to give the proviso a fair hearing before the public.

It is not true that New York will lose by it in any event. Should New York disfranchise every black man within her borders, and should every southern State give every black man the ballot, New York even then could not lose a single Representative. This is made clear by the United States census of 1860.

New York had in 1860 only forty-nine thousand and five colored persons all told, and this was twenty per cent. less than twenty years ago. The number of population necessary to one Representative is one hundred and twenty-seven thousand, so that should New York shut out all her black people the number is too small to take away a single Representative, and too small to add one should all the blacks be counted.

What is true of New York is still more true of every other State heretofore a non-slaveholding State, because small as is the colored population of the State of New York, it is larger than that of any other northern State, Pennsylvania alone excepted.

The House will see that under the amendment no northern State would lose a single Representative to which it is entitled now, even should the southern people admit their entire colored population to the right to vote. This is not to be expected, I take it, for the present at least.

With the amendment working as the southern States will probably allow it to work, at all events until the blacks are better prepared to become voters than they are now, the necessary result will be to increase the representation of New York and all the other States in which the colored element is small.

Had we adopted the idea of making male voting citizens the basis of representation, it might well and truly have been said that New York would lose.

By the census taken only last year there were in New York three hundred and ninety-nine thousand four hundred and fifty-six aliens, that is to say, unnaturalized foreigners. They are all counted now in the basis of representation. They all will be counted under the amendment as we passed it. But in the basis of voting citizens they would all be excluded, and the State would lose at once three Representatives and

the fraction of a fourth. Several other northern States would lose, some of them in still larger proportion, by the voting basis.

Why should they submit to such a loss?

The loss would go to the South. Why?

Because emigration moves on lines of latitude, not on lines of longitude. Those coming here from the Old World keep in the same range of temperature to which they are accustomed. They do not land at Charleston or New Orleans, but at New York, and then spread westward. Migration from the North to the South is likely to be of our native population, carrying citizenship with them and swelling the basis of representation wherever they go, whereas the North will always have a large infusion of foreigners not yet citizens. And therefore, if we should base representation on male citizens alone, we should inflict on the North a perpetual and increasing loss, and give the South a perpetual and growing gain. The amendment we have adopted takes from the States North and West nothing, and it has the further merit of providing not only that all citizens shall be represented as they now are, but that all foreigners shall be represented also as they now are.

Mr. TROWBRIDGE. I desire to state that I was confined to my room all yesterday by a sick headache. If I had been present, I should have voted for the constitutional amendment reported by the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. BOYER. I desire simply to say that my colleague, Mr. ANCONA, was taken seriously ill on Monday last, and is now confined to his bed. This fact will explain his absence from the Hall during the last few days.

NAVIGATION OF THE MISSISSIPPI RIVER.

Mr. DONNELLY, by unanimous consent, introduced a bill to improve the navigation of the Mississippi river to the cities of St. Anthony and Minneapolis, in the State of Minnesota; which was read a first and second time, and referred to the Committee on Public Lands.

Mr. WASHBURN, of Illinois. Should not that bill properly go to the Committee on Commerce?

The SPEAKER. The Chair is informed by the Clerk that the bill has relation to public lands.

COMMITTEE ON MINES AND MINING.

Mr. HIGBY. I ask unanimous consent to offer the following resolution:

Resolved, That the Committee on Mines and Mining be allowed to have a clerk, who shall receive the usual compensation fixed by the House for clerks of committees.

I will only say that that committee has now so much business on its hands that it cannot get along without a clerk.

Mr. WASHBURN, of Illinois. I object to the resolution.

QUARANTINE IN NEW YORK.

Mr. WARD, by unanimous consent, presented concurrent resolutions of the Legislature of the State of New York, relative to quarantine in the port of New York; which were referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. ELIOT. I demand the regular order of business.

Mr. BOYER. I ask the gentleman from Massachusetts to withdraw that call for a moment till I can make a statement in the nature of a personal explanation.

Mr. ELIOT. I withdraw the call for that purpose.

WAYS AND MEANS.

Mr. MORRILL reported, from the Committee of Ways and Means, a bill to amend an act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1865; and moved that the bill be printed and be made the special order for consideration by the House on Thursday, the 8th instant, after the morning hour.

The motion was agreed to.

Mr. WASHBURN, of Illinois. I desire to

ask the chairman of the Committee of Ways and Means [Mr. MORRILL] at what time he proposes to have action upon the loan bill.

Mr. MORRILL. Just as soon as the business of the House will permit.

TAX ON WHISKY.

Mr. STEVENS. I desire also to ask a question. I see that the internal revenue commission have recommended a reduction of one dollar per gallon in the tax upon whisky. Unless it be known to the country whether that recommendation meets the approbation of Congress, many million dollars of revenue may be lost during the next few months, because many manufacturers will suspend operations until the question shall be settled. I desire to suggest to the chairman of the Committee of Ways and Means, that unless the committee intend to adopt, in that particular, the recommendation of the commission, a joint resolution declaring that Congress will not reduce that tax ought to be introduced and passed. Unless something of this kind be done, great confusion will be experienced in the country, and the Government will lose a very large amount of revenue.

Mr. WASHBURN, of Illinois. And destroy the interest of western farmers.

Mr. MORRILL. In response to the gentleman from Pennsylvania, [Mr. STEVENS,] I will say that the Committee of Ways and Means have not yet taken up the report of the commission. It has not yet been printed by the Public Printer. On this matter, if an original question, I may say that the Committee of Ways and Means would have come to the same conclusion as the revenue commissioners; but the duty having been established, I take the liberty to say, if they do come to that conclusion, it will be with very great reluctance.

Mr. WENTWORTH. Is the question before the House on which the gentleman from Pennsylvania made a remark?

The SPEAKER. The question before the House is the bill reported from the committee.

Mr. WENTWORTH. I want the same privilege our leaders have. [Laughter.]

The SPEAKER. If there be no objection the gentleman may be heard.

There was no objection.

Mr. WENTWORTH. In reference to introducing resolutions calling for expression of members of this House on that subject, I would advise members first to see for themselves. We have ordered an extra number of that report, together with the bill accompanying it; and I suppose each member would at least be entitled to have a copy upon his desk. Then, when each member shall have read that report and bill he will be prepared to judge whether it will affect him or his constituents; that is unless we have, what is too often done in this House, men rise in their place and call for the previous question, and ask their friends to sustain them because they happened to submit the resolution. On this occasion I call on members to read the report and bill for themselves before the question shall be sprung on them.

The bill was read a first and second time, ordered to be printed, and made the special order for Thursday next after the morning hour.

EXCUSED FROM COMMITTEE SERVICE.

Mr. DRIGGS. I rise to a privileged question. I am now on three important committees, and I find it impossible to attend to the duties of them all. I ask to be excused from further service on the Committee on Invalid Pensions.

The SPEAKER. The gentleman has the right to be excused, being on two other committees.

BASIS OF REPRESENTATION.

Mr. DRIGGS. While I am up I will attend to another matter. I understand under the new rule a member is not allowed to ask unanimous consent to record his vote unless he were present when the vote was taken.

The SPEAKER. That is the rule.

Mr. DRIGGS. I was absent yesterday when the vote was taken on the constitutional amend-

ment in reference to the basis of representation, engaged in business connected with the public lands, by order of the House. I regret I was not present; if I had been, I would have voted in the affirmative.

Mr. NEWELL also stated he was unavoidably absent; and, if present, would have voted in the affirmative.

LAW OF NEW MEXICO.

Mr. CLARKE, of Kansas, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Judiciary Committee be instructed to examine the laws of the Territorial Assembly of the Territory of New Mexico, and make inquiry into the nature of certain acts concerning free negroes and the relations of master and servant; and report by bill or otherwise.

SPEAKER'S TABLE.

Mr. RICE, of Massachusetts, by unanimous consent, moved to take from the Speaker's table Senate bill No. 94, to amend an act entitled "An act for the relief of seamen and others borne upon the books of vessels wrecked or lost in the naval service," approved July 4, 1864, and for other purposes; and Senate joint resolution No. 25, tendering the thanks of Congress to Vice Admiral David G. Farragut, and the officers, petty officers, seamen, and marines under his command, for their gallantry and good conduct in action in Mobile bay on the 5th of August, 1864; and that they be referred to the Committee on Naval Affairs.

The motion was agreed to.

BRIDGES DESTROYED DURING THE WAR.

Mr. LATHAM, by unanimous consent, submitted joint resolution of the Legislature of West Virginia concerning the repair of bridges, &c., destroyed by the Union armies as a means of safety during the rebellion; which was ordered to be printed, and referred to the Committee of Claims.

TRANSFER FROM VIRGINIA TO WEST VIRGINIA.

Mr. LATHAM also presented joint resolution of the Legislature of West Virginia, asking for speedy action in consenting to the transfer of Berkeley and Jefferson counties from Virginia to West Virginia; which was ordered to be printed, and referred to the Committee on the Judiciary.

RAILROADS IN WEST VIRGINIA.

Mr. LATHAM also presented a joint resolution of the same Legislature, asking for the passage of the bill entitled "A bill granting lands to the State of West Virginia to aid in the construction of certain railroads; which was referred to the Committee on Roads and Canals, and ordered to be printed.

HOSPITAL BUILDINGS IN WEST VIRGINIA.

Mr. LATHAM. I also ask unanimous consent to submit for action at this time a joint resolution donating certain property of the United States to boards of education of certain townships of Taylor county, West Virginia.

Mr. WASHBURN, of Illinois. Let the resolution be read.

The Clerk read the joint resolution.

It provides that the buildings and lumber of the United States at Grafton, Webster, and New Creek, West Virginia, lately used for hospitals and for quartermaster and commissary purposes, be donated to the boards of education of those townships.

Mr. WASHBURN, of Illinois. I will not object to that resolution going to the Committee on Military Affairs, but I do object to its passage now.

The joint resolution was accordingly read a first and second time, and referred to the Committee on Military Affairs.

PENSIONS.

Mr. FERRY, by unanimous consent, introduced a bill supplemental to the several acts relating to pensions; which was read a first and second time, ordered to be printed, and referred to the Committee on Invalid Pensions.

JOINT RESOLUTIONS.

Mr. RAYMOND. I ask that certain joint resolutions of the Legislature of the State of New York, which were presented yesterday, be considered as presented to day in open House, and that they be ordered to be printed.

No objection being made, it was so ordered.

LIGHT-HOUSE BOARD.

Mr. KASSON. I ask unanimous consent to present the following resolution:

Resolved, That the Committee on Naval Affairs inquire into and report upon the expediency of dispensing with the Light-House Board, and placing the duties thereof in charge of a bureau of the Navy Department.

Mr. WASHBURN, of Illinois. I object to that resolution going to the Committee on Naval Affairs. Let it go to the Committee on Commerce.

Mr. KASSON. I prefer that it should go to the Naval Committee.

Mr. WASHBURN, of Illinois. It belongs to the Committee on Commerce. If the gentleman will so modify it I will not object.

Mr. KASSON. Very well.

The resolution was accordingly referred to the Committee on Commerce.

Mr. ELIOT called for the special order.

RAILROAD FARES AND FREIGHTS.

Mr. BIDWELL. I ask unanimous consent to report back a resolution from the Committee on Agriculture and have it referred to the Committee of Ways and Means.

Mr. ELIOT. I will yield a moment for that purpose.

Mr. BIDWELL. The author of the resolution, on my right, [Mr. HARDING, of Illinois,] wants to have a word to say on the resolution, and I desire it to be so placed that he can have that opportunity.

Mr. FARNSWORTH. Let us hear the resolution read.

The Clerk read the resolution, as follows:

Resolved, That the Committee on Agriculture be instructed to inquire into the expediency of so graduating taxation for revenue upon "fares and rates" charged by railroad companies and others for the transportation of passengers and freights over the highways of commerce, that while necessary revenue shall be derived, relief may incidentally result to the agricultural and other interests of the country from the high, oppressive impositions that are now crushing those interests, especially in the West; and whether, by the judicious and lawful exercise of the power of Congress to raise revenue and to regulate trade and commerce among the States, relief may not be afforded to the farmers and consumers of the country from the exorbitant exactions of combined monopolies.

Mr. BIDWELL. I observe that there are two questions involved in this resolution. One is the raising of revenue, the other, and a very important one, that of the constitutionality of the measure. It will be seen, therefore, why the Committee on Agriculture thought proper to refer it back before going so far as to elaborate a measure on the subject. I hope that an opportunity may be allowed for the author of the resolution to be heard.

Mr. HARDING, of Illinois. I do not design, under the calls for the regular order of business, to detain the House from the consideration of the subject which they have determined to consider at this time. I simply desire to say that the operations of the railroads of the United States present facts of great importance to the country, and furnish great reason for restraining and regulating legislation. The influence of these facts is manifested by the communications which every mail brings to us from the great West. The numerous meetings of the people in assemblies and in conventions, and their speeches, resolutions, and resolves, all manifest themselves so plainly that no member upon this floor can have failed to notice that discontent and complaint pervade the entire West. In this belief, and referring to the numerous publications upon this subject, I will leave the House to judge how important these facts must be, connected with the transportation system of this country, to produce so much attention in times of so much interest.

It is true, according to my observation, that

beyond the necessary imposition for the cost of transportation, exorbitant exactions, amounting to the imposition of export and import duties, are imposed upon the productions of the agriculture of the West. I wish to be understood that the railroads of the country, especially in the West, are doing what Congress itself is prohibited from doing by the Constitution. We cannot levy an export duty, but the railroads do restrict commerce and completely and effectually suppress and inhibit it in many instances. In Illinois, for instance, if gentlemen will look, they will see that railroads constructed by land grants, constructed for the public use by contributions of individuals, and by taking (of public) lands without compensation to individuals for right of way, are operating upon a system of charges exceeding, in some cases ten dollars a ton for a hundred miles. Greater charges are exacted, for instance, from Rock Island to Davenport than are exacted from Pittsburg to Chicago.

The combinations which exist in reference to the means of transportation have destroyed all the ordinary competition in that business, and left the entire West at the mercy of these combinations. They almost control the entire channels of commerce throughout the country. The rivers, our last means of transportation, are about to shake hands with the railroads, and in many instances a union is already effected by which we pay the same rates upon the water that we do upon the railroads.

It is already written in the "books" that "even now in the United States railroad companies control legislation in many of the States; that the day for general combination is approaching;" and it is already seen and felt, by my constituents at least, "that of all governments the most exhaustive and oppressive is that of the transporters." When under the lead of the Vanderbilts and others, these lines on the rivers shall be completely combined with the railroads, we may well distrust the future of our country. I was gladdened by the unanimity with which this House asserted the power to authorize transportation, and but for the provision giving the right to all railroads to demand unlimited compensation, I should have voted for it with all my heart. I then believed it released or tended to relax the obligations of land-grant railroads, and especially the Illinois Central, from contracts to transport for Government without compensation; and I now think that Congress should further assert this power to prevent gross impositions by these public agents upon the interests of the country. We can legislate to facilitate inland intercourse directly or indirectly by graduating taxation upon their earnings according to the charges by which these earnings are exacted, so as to limit them within fair bounds.

And now, sir, in this state of things, I ask the House to give to this subject such attention as will enable them to vote relief at least to the constituents of the gentlemen from the West.

Mr. WASHBURN, of Illinois. Will my colleague allow me a moment?

Mr. HARDING, of Illinois. Certainly.

Mr. WASHBURN, of Illinois. My colleague has spoken and spoken truly of the railroad combinations and monopolies in the Northwest which are destroying all the productive interests of the people of our State. His constituents will thank him for his good words.

Mr. JOHNSON. What is before the House?

The SPEAKER. A proposition to discharge the Committee on Agriculture from the further consideration of the resolution.

Mr. JOHNSON. Is it debatable?

The SPEAKER. It is.

Mr. WASHBURN, of Illinois. I only interrupted my colleague to thank him for his pertinent observations on a subject in which my constituents have a common interest with his own. It is the oppression of the great producing interests of our constituents by the exactions of the railroads in our State. Our people must have relief in some way from the present state of things, and as one means of

relief I wish to say we must look to the improvement of the rapids of the Mississippi river and Rock river, and that the public interest will demand just and liberal appropriations by Congress for that purpose. But there is a matter in this connection to which I wish to call the attention of my colleague [Mr. HARDING] and of the House. It is the obstruction of the navigation of the Mississippi river by building railroad bridges across that river, which fearfully impede and obstruct its navigation, and which make our people more and more subject to the extortions of the railroads. The two bridges already built have proved great and serious impediments to the free navigation of the river, and added to the cost of the transportation of what they have had to send to market. If the Mississippi can be closed up or obstructed, our farmers will have to seek their markets over the railroads, with their frightful rates of freight, consuming their hard earnings. I allude to this now, to say that this question of obstructing this river by bridges is becoming a very important one, as many bridges are proposed to be built. There is already a bill before Congress to legalize and make a post route of one of these bridges recently completed at Clinton, Iowa, which has proved a great obstruction to the free navigation of the river, and when the time comes, if the bill ever gets favorably reported upon, I shall appeal to the House in the interests of the people in the valley of the Mississippi, to protect the great natural channels of communication from obstruction and impediment created by these bridges. I wish to be understood as not being opposed to bridging the river at any point, if it can be done without interfering to any extent with the free navigation of the stream, but the bridges already built do interfere, and no more such can be permitted to be built.

Mr. HARDING, of Illinois. I accord in the remarks of my colleague in relation to the obstructions of the railroads.

Mr. ELIOT. I must now demand the regular order of business.

The Committee on Agriculture was then discharged from the further consideration of the resolution, and it was referred to the Committee of Ways and Means.

NATIONAL MILITARY AND NAVAL ASYLUM.

Mr. SCHENCK. At the last Congress a law was passed chartering a military and naval asylum for invalid soldiers and sailors. It was found impossible, from the great number of corporators named in the bill, after three or four attempts made, to get together a quorum of them so as to organize and establish the corporation under the law. The Senate has passed a bill, (S. No. 54,) which is now upon the Speaker's table, amending the charter in such way as to enable them to go on and elect a board of directors. It becomes important that they should be enabled to do so, that they may obtain the title to property which will probably be offered to the corporation. I therefore ask that the bill may be taken from the Speaker's table and referred to the Committee on Military Affairs.

No objection being made, the bill (S. No. 54) to amend an act entitled "An act to incorporate a national military and naval asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States," was taken from the Speaker's table, read a first and second time, and referred to the Committee on Military Affairs.

REGISTRY OF VESSELS.

Mr. ELIOT called for the special order.

The House accordingly resumed the consideration of House bill No. 204, to regulate further the registering of vessels.

The bill was read at length. It provides that no ship or vessel which has been recorded or registered as an American vessel pursuant to law, and which shall have been licensed or otherwise authorized to sail under a foreign flag or the protection of a foreign Government during the existence of the rebellion, shall be deemed or registered as an American vessel,

or shall have the rights and privileges of American vessels, except under an act of Congress authorizing such registry.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. ELIOT. I demand the previous question.

The House divided; and there were—ayes 55, noes 56.

Mr. GARFIELD called for tellers.

Tellers were ordered; and Messrs. ELIOT and BOYER were appointed.

The House again divided; and the tellers reported that there were—ayes 71, noes 60.

So the previous question was seconded, and the main question ordered; which was upon ordering the bill to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. SPALDING called for the yeas and nays.

The yeas and nays were ordered.

Mr. GARFIELD. I desire to say a few words upon this bill before a vote is taken upon its passage.

Mr. SPALDING. Is it in order to offer an amendment now?

The SPEAKER. Not after the engrossment of the bill.

Mr. SPALDING. Will my colleague [Mr. GARFIELD] yield me a few moments of his time before he takes his seat?

Mr. GARFIELD. I will do so.

Mr. SPALDING. I want but five minutes.

Mr. GARFIELD. Mr. Speaker, without having examined carefully into the navigation laws of this country, I have looked enough into them to be satisfied of one or two things, which I desire to suggest to this House before the vote is taken upon the passage of this bill.

In the first place, we have navigation laws borrowed from those monuments of tyranny, the navigation laws of Great Britain, which more than any other laws ever enacted by the Parliament of Great Britain were the cause of the American Revolution. Among other features of our navigation laws is one that forbids the buying a vessel from a foreign country and sailing it under our flag, if it is a foreign bottom, no matter how cheap we may purchase it, or under what circumstances we may obtain it. Unless we ourselves lay out upon it more in value than the original value of building the bottom abroad, we cannot sail it under the American flag. That, of course, shuts out all foreign-built vessels, however valuable they may be at any time. But I am not discussing that now, nor will I enter into a consideration of that subject at this time.

But the question now under consideration is this: during this great war, when we were unable to protect our shipping on the high seas, to protect our ships sailing under our flag, there were many patriotic American citizens who simply registered their vessels for sailing under a foreign flag, that they might carry on their commerce without having their property destroyed by the pirates infesting the seas. Now, when eight hundred thousand tons of American shipping have thus been transferred by registry or by sale to a foreign flag, it is proposed that none of it shall ever be returned except by express act of Congress. One fifth of our entire merchant marine has left us, and by this bill all that will be excluded from our merchant service entirely.

Now, one gentleman who has spoken upon this question has spoken of these vessels as deserters in the same way precisely as we speak of deserters from our Army. I care far more about our tonnage on the sea than I care about the individual shipper who took a register under a foreign flag. It is not a question now with me what the status of the shipper himself may be. I do not propose to injure all the interests of our merchant marine for the purpose of spiting a few of our speculators. It seems to me it would show a great want of proper policy on our part to do so.

Mr. LYNCH. Will the gentleman allow me to interrupt him a moment?

Mr. GARFIELD. Yes, sir.

Mr. LYNCH. What I did say was this: that it would be very impolitic for any Government to encourage the desertion of its citizens with their property during a period of war, those citizens identifying their interests for the time being with the interests of the enemy. My remarks had no reference whatever to "skip-pers." I did say, and I now repeat, that every man who during the war put his vessel under a foreign flag identified his interests with those of the foreigners who were assisting in the destruction of our commerce; and if we encourage such desertion, and pay a premium upon it, some of our citizens will always desert us with their property in time of war. I hold that we should not give encouragement to conduct of this sort.

Mr. GARFIELD. Mr. Speaker, if in time of war I own a piece of property which I cannot keep safely in this country, and the keeping of which will ruin me pecuniarily, I ask whether the Congress of my country should prohibit me from selling that property to foreigners, or if I have sold it, prohibit me from repurchasing it and using it here in my country where I first acquired that property. If I sell to a Canadian or any other foreigner an engine which I own, and which I have used perhaps to operate a saw-mill on the Ohio, is it right that I should be prohibited from repurchasing that engine by and by, and using it in this country? Now, sir, this bill proposes that, whenever an American vessel shall have been sold to a foreigner, or even registered to sail under a foreign flag, such vessel shall never be permitted to reënter our service without special authority from Congress.

Mr. STEVENS. I desire to ask the gentleman whether this bill is to operate upon *bona fide* sales, or only upon such as are simulated.

Mr. GARFIELD. It covers, I understand, all sales, *bona fide* as well as simulated.

Mr. ELIOT. If the gentleman will yield to me for a moment, I think I can show that he misapprehends entirely the provisions of this bill.

Mr. GARFIELD. I yield to the gentleman.

Mr. ELIOT. This bill does not refer to sales of vessels at all, neither sham sales nor *bona fide* sales. It only covers a class of cases where American ship-owners have obtained for their vessels the protection of foreign Powers, have procured permits or licenses from foreign Governments, thus waiving the benefit of their own flag for the sake of securing the protection of foreign Powers. The bill provides that in such cases the vessel shall no longer be deemed an American vessel, unless the party interested can satisfy Congress that the vessel ought to be granted an American register.

Mr. GARFIELD. Mr. Speaker, the case as the gentleman states it is all the worse for his cause. He says that the bill does not apply to a case where a vessel was sold, alienated, to a foreigner, but merely to cases where vessels were registered to sail under a foreign flag which could protect them. What the owners in the latter cases did is not nearly so bad as the act of those who alienated their vessels to foreigners. I say that the owner of a vessel, if our flag cannot protect it, ought to be entitled to register his vessel under a flag that can protect it; and when we are again able to protect it, I am in favor, if not for his sake, at least for the sake of the merchant service, of allowing his vessel to come back and sail under our flag, and thus increasing our tonnage.

I maintain that this question is a matter of tonnage, and not of men. I am in favor of the amendment suggested by my colleague, [Mr. SPALDING,] that all these cases be referred to the Secretary of the Treasury, who may look into the question of the loyalty of the owner, and that, if he be a loyal man, the Secretary of the Treasury shall be authorized to reregister his vessel. I would be the last man to grant any favor to a rebel; but I would grant favors to the American merchant service. I would increase our

tonnage. Some gentlemen here propose to wait for the increase of our tonnage until the ship-builders of Maine and New Hampshire, and other States on the Atlantic sea-board, can build us vessels. The gentleman from Maine [Mr. PIKE] has said that in Nova Scotia vessels can be built at a cost of forty dollars to the ton, while in Maine their construction costs \$100 to the ton. Therefore, it is urged, we cannot compete with foreign ship-builders.

Now, I do not propose to give the men in the Atlantic cities sixty dollars on the hundred more, when we can get, without paying out our money all over the country, increased service for the country by simply reregistering the vessels which we could not protect.

Mr. PIKE. Will the gentleman allow me to interrupt him?

Mr. GARFIELD. Yes, sir.

Mr. PIKE. Will the gentleman tell me what difference it makes to the shipper in New York whether he imports his goods in British bottoms or in American bottoms? What difference is there in insurance? And will he tell me further, whether it is not a fact that of the goods imported more than seventy-five per cent. does not come in British bottoms?

Mr. GARFIELD. I will answer the gentleman with one general fact, namely, that for some reason deemed good by the owners of those vessels which have been registered under foreign flags they desire to come back. That is proved. If it is for the advantage of the ships to come back for business they will come back.

Mr. PIKE. The gentleman speaks not of ship-builders but of merchants. He says that merchants would forthwith have to pay enhanced prices for vessels. I ask him whether he cannot employ British ships on precisely the same terms to import his goods as American ships? Let him answer that question.

Mr. GARFIELD. Mr. Speaker, we are talking now of shipping, and not of the interests of merchants in New York. We are talking of our general power to export and import goods; and now, when it has proved that a part of our tonnage has gone during the war, we are asked to keep it out in order that the ship-builders of this country may have the job of filling the vacuum. I propose we shall fill that vacuum by the most expeditious method in our power.

I call this House to witness that at the last session I declared, as I declare now, myself forever opposed to all monopolies, whether of railroads, ship-builders, or of any other association which proposes to cripple the commerce, whether among the States or upon the high seas, of the Republic of the United States. I look on this as one of those monopolies, and I am surprised my able and distinguished friend from Illinois, [Mr. WASHBURN,] from the Galena district, should vote in any other way than against this measure, he being so strong an anti-monopoly man as he has so often avowed himself to be on this floor. I do not care what political company it puts me in; I do not care who associates with me; I shall associate with every man who puts his foot down upon these monopolies, as I declare this to be.

I now yield to my colleague, [Mr. SPALDING,] as I promised to do; but I will hold the floor to call the previous question, as I have promised the gentleman from Massachusetts [Mr. ELIOT] to do.

Mr. SPALDING. Mr. Speaker, I do not believe the merits of this question are fairly understood by the House; and it will be my purpose in a very short space of time to put them in possession of the facts.

This bill, entitled "An act further to regulate the registration of vessels," is one of two things: it is a bill either of pains and penalties, that is, a bill intended to punish American citizens who were ship-owners, and who during the rebellion risked their ships on the ocean under license derived from some foreign Power, or else it is a premium to that class of our country which has most to do with building ships. It is one of the two, and gentlemen cannot evade it. They must either determine to punish these ship-owners under foreign licenses to protect

them from rebel cruisers, or else this is intended as a gratuity to the ship-building interest of our country. I object to it on either ground. It is unfair, unjust; it is not honest legislation for the whole country.

Why, so far as regards the first proposition, it being designed to punish our citizens who ran their vessels under a license, I appeal to history to answer if we had a vessel on the ocean during the war of 1812 with Great Britain unless that vessel had the license of the French or some other foreign Government. And who in those days ever undertook to say that the vessel should be confiscated by the American Government, or its owners and navigators punished because they tried that scheme of rescuing their property from the depredations of the enemy? Nobody, no man in the world.

Well now, what is the pretense here? That disloyal citizens owned and ran these vessels that were protected from the ravages of the enemy by some license under Great Britain or France, or some other naval Power. Were they disloyal? The bill does not say it. For aught we know the most loyal citizens we have in the country resorted to this means of running their ships in safety across the perilous ocean. The question might arise whether that did afford them protection. And those that were rescued from the perils which environed them, and are now ready to contribute to the benefit of American commerce, are to be turned backward by the effect of this bill and told that they are no longer to be regarded as American ships. That is it. They were built in America, they were owned in America, and they were registered in America; but because they ran on the ocean and escaped the perils of the rebel flag they are now to be turned backward and to be told, "You are not to have the privilege of an American register." That is one phase of the question.

The other phase of the question is, can we afford to exclude the vessels which now seek to be employed under their American registers on any account like this, even if it be to favor the ship-building interest of the country? Why, Mr. Speaker, our United States tonnage at the breaking out of the rebellion was something like five million tons. The Secretary of the Treasury says that there have been transferred to foreign owners during the rebellion eight hundred thousand tons; and there have been destroyed by the piratical flag one hundred and ten thousand tons. Now, here is the sum of nine hundred and ten thousand tons of our commercial marine which has gone out of our commercial list. We are in want, greatly in want, of vessels to do our carrying trade at this moment upon the ocean. We want to increase our marine; and instead of taking measures in Congress to increase it, as I had hoped would be done, we are excluding such as are already invested with American registers, because they have saved themselves from danger of destruction on the ocean.

Now, I wish to call attention to one other fact. By the census report of 1860 I find that the annual value of products of ship-building in the United States in that year was \$11,667,661. On turning to the census report of Maine and Massachusetts I find the annual value of the products of ship-building of Maine in 1860 was \$1,137,814, and of Massachusetts \$1,678,605. Thus the two States of Maine and Massachusetts have one fourth part of the products of all the ship-building interest of the United States.

Now, those States have lost nothing of their interest since the year 1860. It is rather on the increase, and now they are in a condition to take advantage of a bill like this proffered by the gentleman from Massachusetts. They have their ships in the course of construction if not already constructed, and they are ready to enter the market for the high rates which must necessarily follow the contraction of our commercial marine by the passage of a bill like this. I contend that it is the height of folly for an American Congress at this time, when we have a surplus of products to be sent abroad, to cur-

tail our American shipping. The effect of such a bill as this will undoubtedly be to put up prices; and those of my associates from the West who are so strenuous in denouncing all these conspiracies or combinations to restrict us from the West to the East are interested in opening this navigation from our seaboard to Europe, and from one part of our coast to another.

Mr. PIKE. I ask the gentleman to yield.

Mr. SPALDING. I do not want to be interrupted at this moment by my friend from Maine. I would say to him that I understand that he, as a ship-owner, would prefer an American register to an English one for his ship.

Mr. PIKE. I merely wanted to ask a question for information.

The SPEAKER. The gentleman's five minutes have expired.

Mr. GARFIELD. I will allow him one minute further.

Mr. SPALDING. I was only about to say that the amendment which I did contemplate offering, and one which I may yet put in the shape of a bill if this is voted down, was to leave this whole subject to the discretion of the Secretary of the Treasury. By my contemplated bill I intended to provide that all vessels owned wholly by citizens and residents of the United States shall be entitled to American registers, under such restrictions and limitations as the Secretary of the Treasury shall see fit to impose. Now, if that does not open the door sufficiently for pains and penalties, then I do not know what would. I think that would be the wisest and most advisable course for us to pursue in legislating upon this subject, if we legislate at all. But if we pass this bill we are ruling out of our commercial marine ships that are necessary to the country, and never more so than at this time.

Mr. GARFIELD. I now yield the floor for ten minutes to the gentleman from Maine, [Mr. BLAINE.]

Mr. BLAINE. I think it important that the House should come back to a distinct understanding of the question involved in this bill, and I will state it as briefly as possible. At the beginning of the war, as I can show from reliable statistics in my hand, we had twenty-five hundred thousand tons of shipping engaged in the foreign trade. As the war grew hot and dangers multiplied on the ocean, eight hundred thousand tons of this shipping took refuge under a foreign flag. The flag of our own nation was hauled down, and protection was sought under the flag of our neutral enemy, Great Britain. I do not question the right of the owners of this shipping to act in this way, and many who did so are honorable and patriotic men. All contend is that, having made their election, they shall abide by it. They escaped all the hazards to which our flag was subjected; they gained all the profits of their alien connection; and for one I am not now willing to put them on the same ground with those ship-owners who took all the risks of standing by the American flag in good report and in evil report, in our dark days as well as in our bright days. The ship-owners who took British registers escaped the heavy war risks to which American registers were subjected, and now to place them on the same footing with those who hazarded everything rather than sail under a foreign flag would be flagrantly unjust. To contend for such a policy is as illogical and absurd as the position of those who claimed for the southern rebels all the advantages and immunities of belligerents outside of the Union and citizens inside of it at the same time. The ship-owners who changed their registers sought the protection of Great Britain when there was danger at home; and now they wish, when that danger is over, to return to our flag and share the profits that can be derived from American registry. I think, sir, it would be cruelly unjust for the American Congress to permit this policy, and thus turn their backs on those ship-owners who, under all the seductions of profit and against all the perils of war, refused to take refuge for a single hour under any other flag than that which was

floating over the armies of the Union, and which protects us in this Capitol to-day.

I have said, sir, that many who sought these foreign registers were high-minded, honorable, and patriotic men. I am personally acquainted with some of them, and it gives me pleasure to speak of them in this way. But, sir, there is good reason to believe that all of them were not of this class; that some of them were unpatriotic and even criminal, and that, while securely concealed behind their British registers, they were sharing in the enormous profits derived from running our blockade, and engaging, to the detriment of the Union cause, in all the illicit commerce which the English flag covered during the four years of bloody war from which we have just emerged. I think the American Congress should be slow to allow even one man who has acted thus to bring his property back under the protection of our laws. We may not be able to punish such men by criminal prosecutions, but we certainly should not go out of our way to show them favors and confer benefits upon them.

But I do not put this question on the ground of simply giving their just dues to those who took this course with their shipping, much less do I base my action on a feeling of "spite," as the gentleman from Ohio [Mr. GARFIELD] has intimated. I conceive that it involves a point of future interest and of far-reaching importance, because if we treat these ship-owners who left our flag with the same liberality that we do those who stood by it, we offer a sort of premium to our whole navigation interest to seek foreign registers the moment we have a war with any Power. And should we allow the eight hundred thousand tons of shipping now under discussion to come back under our flag, you will see double or triple that amount leave us if we should unfortunately become engaged in another war. I think that consideration should have great influence on our action on this question.

One word more, Mr. Speaker. The whole tone of the speeches we have had from both the gentlemen from Ohio [Mr. SPALDING and Mr. GARFIELD] was for free trade. They urge that we shall buy our ships wherever we can get them cheapest, and that all restrictions as to registry should be abolished. Well, sir, if we are prepared to reduce this free trade theory to practice, why not have it in everything? There is no branch of American industry that is today so little protected and so much oppressed by our revenue laws as ship-building. It is taxed at all points, and nearly taxed to death; and I submit to these new advocates of free trade that it would be better to begin with some interest that is essentially protected by our laws to-day. If we are going to have free trade, let us have it equally and impartially applied to all the industrial interests of the land; but for myself I am opposed to it altogether. In theory and in practice, I am for protecting American industry in all its forms, and to this end we must encourage American manufactures and we must equally encourage American commerce.

Mr. GARFIELD. I now yield to the gentleman from Maine [Mr. PIKE] for five minutes.

Mr. PIKE. I desire to say a few words to the gentleman from Ohio, [Mr. SPALDING,] who gives as a reason why this bill should not be passed that the West wishes to ship its products abroad, and needs additional shipping for that purpose. I will ask the gentleman to tell me why the West cannot ship from the port of Boston or New York, or from other ports, to Liverpool, as well in British bottoms as in American? Would they have to pay a penny more to do so? They would not; and I may state this fact to him, that of the imports into this country for the last ten years more than seventy-five per cent. have been brought in British bottoms. So that the West does not suffer in any way whether these vessels are brought back or not.

Now, as to free trade, I have this to say, that if the navigation laws are to be broken down and free trade to be instituted, do it squarely, and not simply allow these fellows to come back,

who, rather than pay the war rate of insurance and protect their property in that way, sneaked off under the flag of Great Britain, and desire to come back now that a peace has been restored which they did not help to bring about.

For one, if I have to vote for the one measure or the other, I shall cheerfully vote for the foreigner to come here and take out an American register upon equal terms with American ship-owners rather than vote to allow these fellows to return who went off under a foreign flag in time of danger to save insurance. If we are to give American registers to any part British tonnage let us give them to those who were never with and of course never deserted.

As the gentleman from Ohio [Mr. SPALDING] has referred to me as a ship-owner, I will say that I am sorry that I am not; although under present circumstances, when shipping is so much depressed, it would add very little to my humble profits. This bill is a matter of but small consequence to the State of Maine. It does not affect, I believe, a single vessel that was transferred from Maine owners, and will not bring back one single vessel into Maine. It is only because the question of the navigation laws has been brought into the discussion that I speak of it at all.

I hope, as an indication of the feeling of this House, we will pass the bill simply as an expression of opinion in relation to the conduct of those men who now desire substantial favors at our hands.

Mr. GARFIELD. I will now yield the floor to the gentleman from Massachusetts [Mr. BANKS] for five minutes.

Mr. BANKS. I have but a word or two to say on this question. I have listened attentively to the arguments of gentlemen upon this bill, and if I thought they were applicable to the subject embraced in the bill, I might be disposed to vote against it. But I believe the purpose of the bill, and the general subject discussed by gentlemen who are opposed to it, are entirely different.

This bill does not propose final legislation. It is provisional; it is temporary; and I think it is entirely just. It says, in substance, that the man who has deserted his country and its flag in the hour of its danger and peril; who has by his desertion forsworn his name as an American; who has escaped the burdens imposed upon his countrymen, and who has avoided the perils that have environed his country in time of war, shall not resume its high privileges now without the authority of law.

That is all that the bill declares. The gentleman from Ohio, [Mr. SPALDING,] on the other side of the House, and the gentleman from Ohio, [Mr. GARFIELD,] on this side of the House, if they wish these deserters to avail themselves of the privileges of American citizens, are at liberty at any time to introduce a bill prescribing the conditions upon which they shall regain those privileges. Let them do it. Let them define in a legislative act upon what ground and under what circumstances a man who, in the time of his country's danger, has shown himself to be an enemy of that country, shall come back and claim its privileges upon the return of peace.

Mr. THAYER. I ask the gentleman from Ohio [Mr. GARFIELD] to yield to me for a few moments.

Mr. GARFIELD. I yield to the gentleman.

Mr. THAYER. Mr. Speaker, the subject before the House is one of so much magnitude that I trust the House will not allow its patriotism to run away with its common sense. It is a subject which should be looked at through a somewhat cooler medium than that of the passions to which appeals are made in connection with it.

I was a little surprised, sir, at a question put by the gentleman from Maine, [Mr. PIKE,] when he asked what difference it made whether the merchants of this country transported their merchandise in British, French, or American ships.

Mr. PIKE. What difference in the amount they pay? That was my question.

Mr. THAYER. If the gentleman confines his inquiry to a difference in the amount of freights, I do not know that it makes any difference.

Mr. PIKE. That was the extent of my inquiry.

Mr. THAYER. But, Mr. Speaker, there is, I suppose, no gentleman upon this floor who will attempt to deny that it is of the first magnitude with regard to the interests of this country that we should have a great and flourishing commercial marine. Where, sir, did you get your Navy during the late war except from the American marine? What would you have done for a Navy if you had not had that marine at your command, and if you had not impressed into the service of the country the ships belonging to American merchants? Nay, more, will any gentleman contend that it is for the advantage of this country that its mercantile interests should depend upon the shipping of a foreign nation, or that the merchants of America should have their interests subjected to the fluctuations and uncertainties of a marine that disappears from the ocean whenever there is a European war, or the agitation of such a war, and reappears only when peaceful times return? Viewing the subject in this light, regarding it as material to the best and highest interests of this country that we should have a great and flourishing mercantile marine, how can any man, upon such grounds as are presented here, vote for such a measure as this, which will expunge so great a proportion of our shipping?

Now, sir, it is said that we should inflict this punishment, not only upon the owners of these vessels, but upon the interests of the country, for an imaginary offense of these ship-owners. The gentleman from Massachusetts [Mr. BANKS] has spoken of the owners of these vessels as "deserters." Sir, I cannot consider them in any such light. I do not know that the citizens of the United States had any interest in having their ships burned upon the high seas by rebel pirates. I do not know what interest of this country would have been subserved by flinging in the way of the enemies of this country the ships of these owners. And if, at any time, when the Government of the United States was unable to protect the shipping of our country, the owners of that shipping chose to resort to a foreign registry for the purpose of preventing the destruction of their property, I see no reason why, not only their interest, but the common interests of the country, which are involved in this question, should be overriden and crushed because of an act of that kind—an act not nefarious in itself. I think that there are higher interests involved than the interests of these owners, and that those higher interests demand that this measure should not become a law.

Mr. WASHBURN, of Illinois. Will the gentleman from Ohio [Mr. GARFIELD] now yield to me?

Mr. GARFIELD. I yield to the gentleman for five minutes.

Mr. WASHBURN, of Illinois. Mr. Speaker, I thank the gentleman from Ohio for yielding to me for a few moments, particularly as he took occasion to refer to me personally in his remarks on this bill.

I will, however, allude in the first place to the remark which has just fallen from my distinguished friend from Pennsylvania [Mr. THAYER] in regard to the policy of this measure. Let me say to him, and to this House, this bill but carries out the policy of the Government from its earliest foundation; and when the gentleman asks us to consider this question carefully and deliberately, let me refer him to the opinions and recommendations of the Secretary of the Treasury, which he has sent to this House in answer to a resolution adopted by the House on this very subject. Let me say further, sir, with all modesty, that I believe the Committee on Commerce, which is charged by the House with the consideration of all matters connected with commerce, has some regard for those great interests of the country; and they have reported this bill with a rare degree of unanimity. They believe the interests of the country

and the demands of an enlightened patriotism require that we should pass such a measure as this.

The gentleman asks us how we can build up a flourishing marine when we pursue such a course as this. I ask my distinguished friend from Pennsylvania how we can build up a commercial marine when we permit these men in time of war to desert our flag and put their ships under another and a foreign flag? Is that the way to build up and protect a commercial marine, to put a bounty on desertion? Sir, I trust the House will never sanction such a principle.

My friend from Ohio [Mr. GARFIELD] spoke of this as a monopoly. I do not look on it in that light. And he wondered why I was on that side, as he rightly understood me to be unalterably opposed to all monopolies and special privileges. He was right. I was opposed to all monopolies of railroads; I was opposed to the monopoly of slavery; I was opposed to "express" monopolies; and, unlike my friend from Ohio, I was in the last Congress opposed to the "whisky monopoly." [Laughter.]

Mr. Speaker, the opinions of the Secretary of the Treasury are more important than anything I may say, and I send up his letter to be read.

The Clerk read, as follows:

TREASURY DEPARTMENT, January 18, 1866.

SIR: By a resolution adopted in the House of Representatives February 23, 1865, I am directed to communicate at the present session facts and information concerning the decrease of our mercantile marine and to suggest such remedial legislation as I may deem expedient. Appended to the resolution is a communication from Mr. Easton, United States consul at Cork, presenting an outline of a plan to encourage and stimulate the building of ships, in which he assumes the loss to our commercial marine in the past five years to be four million tons, the total American tonnage being stated in round numbers at five millions before the late war. It is, however, ascertained by diligent inquiry that shipping to the amount of but 910,466 tons has actually disappeared from our lists from all causes—800,303 transferred to foreign owners, and 110,163 destroyed by pirates, being less than one fifth, instead of four fifths.

In addition to the resolution above mentioned, I have likewise received a copy of another, instructing the Committee on Commerce of the House to inquire into the expediency of so amending the registry laws of the United States as to admit of the registry of any vessel actually owned by a citizen of the United States, without reference to the place of construction. I have the honor, therefore, to submit an expression of my views upon the whole subject.

The existing laws exclude from the privileges of the American flag all foreign-built vessels, and those vessels of domestic build which, after having been once documented under our laws, are transferred to foreign ownership.

This policy of exclusion has been uniformly adhered to since the first establishment of our commercial system, and no general law has at any time prevailed at variance with it, except the act of 2d December, 1852, which permits, under certain conditions, the registry of foreign-built vessels, wrecked in the waters of the United States.

The prohibition, as far as it relates to vessels of foreign build, rests upon the second section of the navigation act of December 31, 1792, and is calculated to cherish and encourage domestic ship-building, which has been regarded vital to our commercial interests, and whatever opinion may be entertained as to the propriety of our eventual relaxation of the stringency of the laws, I do not regard the present as an auspicious moment in which to make the experiment, involving, as it would, so radical a change in the established policy of the Government.

The act of June 27, 1797, forbidding the registry of a vessel built and registered in the United States, but subsequently transferred to a foreigner, rests upon a different but quite as cogent reason, namely, the facility that a privilege of unrestrained transfer would afford for the perpetration of frauds and the evasion of the navigation laws.

During the late war the transfer (in many cases it is believed fictitious or fraudulent) of American bottoms to a foreign flag has been a favorite expedient by which to escape the payment of war rates of insurance, and to avoid the risk of capture. Upward of eight hundred thousand tons of shipping have thus disappeared from our records, for a large portion of which the owners are now claiming readmission when the risks of war are no longer imminent and the privileges of an American registry are again appreciated.

They transferred their vessels with a full knowledge of the sacrifice they incurred, regarding, it must be supposed, the temporary security from losses an equivalent to it, and I should be unwilling to advise in their favor any relaxation of the rigor of the laws.

Neither do I on the other hand recommend any additional encouragement of ship-building by allowance of drawback or otherwise. Enjoying as they do an absolute protection from foreign competition, I cannot conceive that our domestic ship-yards require any further stimulus or more extended privileges.

I am, sir, very respectfully,

H. McCULLOCH,
Secretary of the Treasury.

Hon. SCHUYLER COLFAX,
Speaker of the House of Representatives.

Mr. WASHBURN, of Illinois. That shows the reasons which may be so justly urged in favor of what the gentleman calls a "monopoly." I am opposed to all monopolies; and I am opposed to rebels, secessionists, copperheads, or even so-called "loyal men," who deserted the star spangled banner in time of war and sought shelter under the cross of St. George. As they made their bed, so let them sleep.

• Mr. GARFIELD. Mr. Speaker, I have only two things to say before I call for the previous question and close the debate.

The distinguished gentleman from Massachusetts [Mr. BANKS] said this was a proposition to exclude men who had deserted our flag. I declare the gentleman has not met the point. It is not a law against men; it is a law against tonnage and not men. He may make all the legislation he pleases against letting a disloyal class come back, and I will vote with him. Let him make that discrimination.

He says we propose to change the policy of the Government. My answer is in one word. It is the gentleman himself who is proposing to change the policy of the Government, as the Secretary of the Treasury is every day allowing these vessels to be reregistered. The Committee on Commerce propose to change the law so that he may not allow them to be registered. They propose in this change of the law to keep these vessels out of our merchant marine. We are simply opposing a change of the law in favor of a monopoly.

The gentleman from Maine [Mr. BLAINE] says if we make free trade on this subject let us make free trade in all. He will not deter me from my purpose by shaking that red rag before me. I do not care what name he calls it; I know it is not free trade; I only know that what he proposes is to discriminate as to all other property and in favor of the property of the shipbuilders. If he will apply the same law to property in ships that he applies to property in all that we own in the great West, then he will find that he cannot maintain his law. All I ask is that the same law shall be applied to both. I call the previous question.

The call for the previous question was seconded, and the main question was ordered.

The question was then taken on the passage of the bill, on which the yeas and nays had been ordered, and there were—yeas 99, nays 52, not voting 31; as follows:

YEAS—Messrs. Alley, Allison, Anderson, James M. Ashley, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Brownell, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Darling, Dawes, DeForest, Denning, Dixon, Donnelly, Driggs, Eckley, Eggleston, Eliot, Fougabar, Ferry, Grinnell, Abner C. Harding, Hart, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Donas Hubbard, John H. Hubbard, James Humphrey, Jencks, Julian, Kelley, Kelso, Ketcham, Kykendall, Ladin, George V. Lawrence, William Lawrence, Longyear, Lynch, Marvin, McClure, McKee, Mercut, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Putno, Patterson, Perham, Phelps, Pike, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Shellabarger, Sloan, Starr, Stillwell, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—99.

NAYS—Messrs. Baker, Bergen, Boyer, Brooks, Buckland, Cook, Cullom, Davis, Denison, Eldridge, Farnsworth, Finck, Garfield, Griswold, Hake, Aaron Harding, Harris, Hayes, Hogan, Edwin N. Hubbell, James R. Hubbell, James M. Humphrey, Ingersoll, Johnson, Kerr, Latham, Le Blond, Marshall, McCall, Niblack, Nicholson, Noell, Orth, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Scofield, Shanklin, Sitgreaves, Spaulding, Strouse, Taylor, Thayer, Thornton, Trimble, Robert T. Van Horn, Voorhes, Wentworth, Williams, and Wright—52.

NOT VOTING—Messrs. Ames, Ancona, Delos R. Ashley, Blow, Broomall, Bundy, Chanler, Culver, Dawson, Delano, Dumont, Glosbrenner, Goodyear, Grider, Henderson, Higby, Hubbard, Jones, Kasson, Loan, Marston, McIndoe, McKuer, Plants, Radford, Smith, Stevens, Taber, Welker, Whaley, and Winfield—31.

So the bill was passed.

Mr. ELIOT. I move to reconsider the vote by which the bill was passed, and to lay that motion on the table.

The latter motion was agreed to.

During the roll-call,

Mr. PATTERSON stated that his colleague, Mr. MARSTON, was detained at his room by sickness.

CONTESTED SEAT.

Mr. RAYMOND. Mr. Speaker, a motion was adopted last evening by the House referring to the Committee of Elections certain papers in the possession of the Clerk relating to the contested seat in the eighth district of New York. I now desire to submit a motion to reconsider that vote.

Mr. BROOKS. I moved to reconsider the vote last evening; I believe, and it was not entered.

The SPEAKER. The Chair is under the impression that the motion was not made.

Mr. BROOKS. I wish the gentleman from New York would state his reasons for making the motion.

Mr. RAYMOND. I would like to ask the privilege, when the question comes up, for the contestant to be heard. It is according to usage, I believe.

Mr. BROOKS. I do not know what object the gentleman has in stopping the publication of these papers. I am unable to see it.

Mr. RAYMOND. The object is to have the question fairly considered, as it was not when the vote was taken. I have no feeling in the matter. I think it is in accordance with usage.

The SPEAKER. The gentleman from New York [Mr. Brooks] can arrange as to the time when he will call this up. The special order is now before us.

Mr. RAYMOND. The matter may lie over for one, two, or three days, as will suit the convenience of the sitting member.

Mr. BROOKS. I am very much surprised at the motion of my colleague. I am not only surprised, but I am amazed. I cannot understand it.

The SPEAKER. The House is now engaged in the consideration of the special order—the Freedmen's Bureau—on which the gentleman from Minnesota [Mr. DONNELLY] has the floor.

RAILROAD LAND GRANTS.

Mr. PRICE. I ask the gentleman from Minnesota to yield to me for the purpose of taking from the Speaker's table Senate bill No. 83, and referring it to the Committee on the Pacific Railroad.

The bill was then taken up—it being an act to extend the time for completing certain land grants to the railroads in the States therein mentioned—read a first and second time, and referred to the Committee on the Pacific Railroad.

CONTESTED SEAT—AGAIN.

Mr. DAWES. Mr. Speaker, how did that come up? I was trying to get the floor, when I understood it to be assigned to the gentleman from Minnesota [Mr. DONNELLY] on the special order.

The SPEAKER. The gentleman from Minnesota yielded the floor to the gentleman from Iowa.

Mr. DAWES. I presume it is all right; but will the gentleman from Minnesota [Mr. DONNELLY] yield me the floor a moment in relation to the matter that has just gone by?

Mr. DONNELLY. I yield.

Mr. DAWES. A motion has been made by the gentleman from New York [Mr. RAYMOND] to reconsider the vote of the House by which certain papers were referred to the Committee of Elections. I do not know the merits of the case, nor do I desire to interfere in the matter; but he suggested that he desired the motion should lie over for a few days. It is upon that point I wish to be heard. I think, whatever may be the merits of the matter of reference—in regard to the right or wrong of which I have no information—the House ought to indulge the sitting member and the contestant for a few moments before disposing of the question; and if this question is to be put over for several days, it will interrupt the hearing of the case before the committee, and very much derange the business which is crowding that committee, so that they have no time to spare.

I suppose there may be good reasons. I have heard suggestions made of the reasons why the matter should be brought before the House; but I do not know why it could not be disposed of now, if the gentleman from Minnesota will allow the special order to be postponed for a few moments, so as to let the Committee of Elections know whether they are to delay the hearing of the case for the printing of a very large mass of matter. That is all I desire to say.

The SPEAKER. The Chair will state that if the gentleman from Minnesota yields, the House can take up this matter as a question of privilege; but a motion to reconsider can only be called up as a privileged motion when there is no other business before the House. It can be called up to-morrow morning after the reading of the Journal, before any other business comes before the House.

Mr. DAWES. I do not propose to enter into a discussion of the matter at all. I only desire the House to understand that this proceeding may very much interfere with the business before the Committee of Elections.

Mr. RAYMOND. I desire to say that my only object in making this motion was to obtain from the House, if possible, an opportunity for the contestant to be heard, whether heard to-day or to-morrow is a matter of entire indifference to me. I suppose that end can be reached whenever the sitting member and the contestant are prepared to present whatever they desire on the subject.

Mr. DAWES. I submit to the gentleman from New York that the matter had better be delayed.

Mr. DONNELLY. I must decline to yield further.

FREEDMEN'S BUREAU.

The House then resumed the consideration of the special order, being Senate bill No. 60, to enlarge the powers of the Freedmen's Bureau, with certain amendments reported in the nature of a substitute from the select committee on the Freedmen's Bureau.

Mr. DONNELLY. I ask the Clerk to read an amendment which I offer to the bill.

The Clerk read the amendment, as follows:

After the word "school," in line seven, section six, insert the following:

And the Commissioner may provide a common-school education to all refugees and freedmen who shall apply therefor.

Mr. ELIOT. Will the gentleman from Minnesota yield to me for a moment to make a statement?

Mr. DONNELLY. I yield to the gentleman.

Mr. ELIOT. It is my intention to call the previous question on the pending motion to-morrow at three o'clock. I say this for the purpose of giving notice to gentlemen on both sides of the House that I propose then to bring the discussion to a close.

Mr. STEVENS. I desire to know if the gentleman intends to call the previous question without affording an opportunity for amendment? I have one or two amendments which I deem very important, and I am anxious to offer them before the previous question is called.

Mr. BANKS. I desire also to offer an amendment.

Mr. ELIOT. I really cannot answer the question of the gentleman from Pennsylvania [Mr. STEVENS] now, except so far as to say that I shall be glad to have gentlemen offer their amendments and have them read at such time as it shall be within the rules of the House for them to do so, but I cannot at this time agree to have any amendments to the bill made.

The SPEAKER. The rule allows very limited power of amendment. The only amendment in order now is an amendment to the amendment of the gentleman from Minnesota, or an amendment to the original bill.

Mr. BANKS. I will read the amendment I desire to offer when the proper time comes. I shall move, if I am permitted to do so, to amend the seventh section of this bill by in-

serting after the word "including" the words "the constitutional right to bear arms;" so that it will read, "including the constitutional right to bear arms, the right to make and enforce contracts, to sue," &c.

Mr. STEVENS. I suppose it will be in order, if the previous question is not called, to offer a substitute, notwithstanding the pending amendment.

Mr. BROOKS. I object to this whole order of proceeding.

The SPEAKER. The gentleman is correct in his point of order. This discussion is not explanatory of the pending measure.

Mr. BROOKS. As a free white man, I desire at least an equal chance with the black man to be heard.

Mr. DONNELLY. Mr. Speaker, the bill to which I offer this as an amendment is one of those great and necessary measures growing inevitably out of the rebellion. Having made the slave a freedman, the nation needs some instrumentality which shall reach to every portion of the South and stand between the freedman and oppression.

I have proposed the amendment which has been read at the Clerk's desk to increase the powers thus granted; so that this bureau, while it protects and directs the negro, may educate him, and fit him to protect and direct himself in that not distant day when the bureau must necessarily be withdrawn.

In this connection I propose to submit to the House a few general remarks, touching, however, the bill under consideration.

It is a subject of congratulation that we have passed beyond those old and bitter days when revenge and intolerance were the guiding principles of Governments. As victors in the mighty struggle which has but lately terminated, and as the superiors of the South in enlightenment and Christianity, we can afford to be magnanimous to the greatest degree compatible with public safety. That alone should be the limit of our generosity, and beyond that we should not go a hair's breadth.

We must cultivate an enlarged national spirit. We are and must always be one people. We cannot advance the nation by despoiling any part of it. We cannot strengthen liberty here by inaugurating oppression elsewhere. We must hasten that day when we will be in mutual regard, as we are in name, one people.

We must do all things necessary for the welfare of the South, as well those things which she desires as those which she does not desire.

But we must be the judges of that which is for her welfare. We have no right to assume that she was wrong in her rebellion, and right in all the causes that led to it, and all the consequences that flowed from it.

The southern insurrection was but the armed expression of certain popular convictions, which in their turn arose from peculiar social conditions. The disease was radical and the remedy must be not less so. We must lay the ax to the root of the tree. We must legislate against the cause, not the consequences; otherwise we become the mere repressers of disturbances, not a wise and provident Government; we play the part of the executioner, not the law-maker.

Having prohibited slavery, we must not pause for an instant until the spirit of slavery is extinct, and every trace left by it in our laws is obliterated.

The spirit of humanity cannot be illiberal. Reform cannot work injustice. The right wrongs no man. In all this we shall bless and benefit the South and lift her up to a higher plane of prosperity and greatness. It will be a work of mercy. To do otherwise would be to leave her a prey to that misgovernment which has already blasted her fair fields and filled her habitations with mourning.

Mr. Speaker, it appears to me that in the solution of this question we approach the great test, I may say the crucial test, of our institutions and of the popular judgment.

This is our time of opportunity.

The whole South overthrown, disrupted, disorganized, lies at our feet; it is for us as victors to prescribe the terms. If we fail to take advantage of the occasion which an unexampled war and unexampled success have given us, it is impossible to estimate the evils that will follow. We may almost repeat the melancholy prophecy of Henry Winter Davis: "a failure now will be final for our generation."

Our great danger is indifference.

In the exultation of success many imagine that our country has swept past all peril. It is not given us to know the dangers that await us. Who could have foreseen the terrible war in which we have been engaged? Who can anticipate the quarter from which the next blow will descend? It should never be forgotten that nearly all the nations of the world are arrayed against us; and that the enemies of liberal principles are numerous and active everywhere. While we may not fall upon that "universal war of opinion" foretold by Mr. Seward, nevertheless we must expect many open and not a few insidious attacks upon our life. Be assured of this, that if by neglect we leave the avenues that lead to the national heart unguarded they will swarm with our enemies.

Indifference calls to its aid all the specious arguments of hope.

We are told that time and change of circumstances will cure all the evils of the South.

Sir, I grant you that if the mind of the North asserts its majestic sway in the South, and if this measure and kindred measures demanded by the majority in Congress are passed and enforced, we have much to hope for. But if we permitted the reënslavement of the freedman or his reduction to a condition of peonage, the case would be far different. The indignation of the world would once more isolate the South; and they would meet that indignation as they met it in the old days of slavery, with dark and defiant brows. Instead of being absorbed in the conquering population, like the Scotch or the Welsh, they would remain, like the Irish or the Poles, a distinct people. They would possess a public sentiment, a history, a literature of their own. Their representative form of government would intensify that public sentiment. The battles of the rebellion would be fought over and over again upon this floor; crimination and recrimination would be the burden of every debate; and the bitter feelings of both sections would be maintained at white heat by the appeals of passionate leaders. Nor would this be all. The children of these people would be educated to reverence the leaders of the rebellion, and to place Lee beside Washington in the niches of their hearts. Time will afford us no relief. A new generation is not a new people. The Irishman of to-day hates England with as intense a hatred as the Irishman who fought against Elizabeth.

He must indeed be of a sanguine temper who can see in such a future anything but violence and disaster.

But we are told immigration will cure all this.

Immigration moves only in the direction of prosperity. The amount of immigration to a country is a fair indication of the number of advantages it enjoys. If you hand the South over to themselves; if you permit the oppression of the freedman; if you permit the reëstablishment of slavery under a new name, you will shut off immigration as effectually as it was shut off in the old days of slavery. The northern man would not be welcome there. The European would not go there to labor in competition with a wretched and degraded race.

If by wise laws you make the South prosperous and happy, then you may expect immigration to pour in from every quarter. If by neglect you leave her misgoverned and miserable, she will hold out no more temptation to the emigrant than Mexico now does.

But we are told we must not pass such laws as this; we must not intrude upon the South; we must "trust the South." All that she asks, we are told, is that we will leave the negro to her to manage.

Mr. Speaker, we have trusted the South since the formation of the Government.

The framers of the Constitution trusted that slavery would speedily perish from the land. To this end they interdicted the slave trade and the extension of slavery to the northwestern Territories. What has been the result? From a quarter of a million the slaves increased to four millions; from a weak and helpless evil, slavery grew into a powerful, warlike, and aggressive system. The life of the nation well-nigh paid the forfeit for this first great error.

But still we trusted her. We trusted she would never seek to possess herself of the whole of our Territories. The Dred Scott decision was her answer.

We trusted on. We believed she would never attempt to destroy the life of the nation. The confederacy was the reply.

Even then we trusted her. We believed it was but a feint, an electioneering trick, and that she could not mean to destroy the life of the nation. The guns that thundered against Fort Sumter dispelled that delusion.

But even yet the sublime faith of many did not desert them. They hoped against hope. For two long years the war was conducted under the belief that the South would yet return willingly to the Union. Who can count the heaps of slain, the piles of treasure, the lost opportunities that terrible error cost us?

But, sir, faith was not even yet dead. In the year 1864 a great party met in convention in Chicago and resolved to "trust the South." Our armies were to be recalled and disbanded, all violent measures were to be given up, and we were to throw ourselves upon the compassionating bosom of the South and trust to her to reestablish the Union.

It were time this fantasy were dead.

"The times have been,
That when the brains were out the man would die;
And there an end; but now they rise again,
With twenty mortal murders on their crowns,
And push us from our stools."

But it is not dead. The war has triumphed; the South is prostrate; the safety of the country, the public faith, the plainest dictates of common sense and common humanity all demand that we shall inaugurate sweeping measures of reform, and regenerate and rejuvenate the South; but in the very moment when we are moving on to the performance of our grand duty we are again met in the face by the same clamor, "We must trust the South."

Sir, I am ready to trust the South when we have reformed the South, and not till then. The South that made the rebellion, in the same temper in which she made it, I never will trust.

We did not trust the suppression of the rebellion to the operations of time or immigration. We cannot trust the eradication of the causes of the rebellion to any such agencies. As we relied in the one case upon the strong arms and sharp weapons of our soldiery, so in the other we must rely upon the clear perception and the resolute determination of our statesmen.

Away with all such false and delusive hopes! They are the snare of the weak and the argument of the crafty. Tyranny has no more formidable weapons in all its armory.

Are we to believe that posterity will possess more courage, more judgment, more virtue than ourselves after we have embarrassed them with the results of our own cowardice and imbecility? Is it to be believed that the pure, sweet waters of good government can flow from the impure fountains of legislative neglect?

This is our opportunity. We must avail ourselves of it. We cannot shuffle off this coil upon the shoulders of posterity. The world will judge us by the completeness and thoroughness of our work.

Shall nothing be born of this mighty convulsion, mightier by far than the old Revolution, mightier than all the revolutions of the world? Will the timidity of men halt far behind the prodigious strides of events? Shall the earth be shaken to its very center and not a single idol in the old temple be thrown to the ground?

Sir, this is a new birth of the nation. The Constitution will hereafter be read by the light of the rebellion; by the light of the emancipation; by the light of that tremendous uprising of the intellect of the world going on everywhere around us. He is indeed fearfully cramped by the old technicalities who can see in this enormous struggle only the suppression of a riot and the dispersion of a mob. This struggle has been as organic in its great meanings as the Constitution itself. It will leave its traces upon our Government and laws so long as the nation continues to exist.

There are certain measures upon which the dominant party seem agreed. They are:

1. The amendment to the Constitution prohibiting the payment of any debt contracted in furtherance of the rebellion.

2. The amendment to confine the basis of representation to those actually represented in Congress.

3. The passage of the bill now under consideration, enlarging the powers of the Freedmen's Bureau.

The first two practically amount to little. The rebellion having failed, it followed that those who furnished means to it should lose them. Slavery having perished, it became a necessary consequence that any inequality of representation originating out of slavery should perish with it.

Are we to stop here? Are the labors of the mountain to produce only this?

Certainly not. There is an amendment offered by the distinguished gentleman from Ohio [Mr. BINGHAM] which provides in effect that Congress shall have power to enforce by appropriate legislation all the guarantees of the Constitution.

Why should this not pass? Are the promises of the Constitution mere verbiage? Are its sacred pledges of life, liberty, and property to fall to the ground through lack of power to enforce them? Shall the old reign of terror revive in the South, when no northern man's life was worth an hour's purchase? Or shall that great Constitution be what its founders meant it to be, a shield and a protection over the head of the lowliest and poorest citizen in the remotest region of the nation?

No argument can resist such a measure. If you will not enforce your guarantees strike them out. Let them not stand upon the front of the temple empty lies and deceitful cheats. Let it be at once understood that there is no national protection in our land for life, liberty, or property, and let the law of "the good right hand" at once prevail.

The third measure, that under consideration, should not awaken opposition. It is right and necessary. So long as oppression continues the Government must intervene in behalf of justice and liberty, and through what machinery can it better intervene than through this bureau?

But, sir, even more than all this is needed. What, let me ask, is the condition of the mind of the South?

A distinguished gentleman on this floor has said that in the last analysis the sovereignty of the country is the ballot. This it is that makes Congresses, Presidents, laws, and policies. But there is something behind even this. There is the judgment of the citizen to direct the ballot. Hence the ballot itself, laws, policies, Congresses, and Presidents are but the formal expressions of that judgment; and as that judgment is, so will be the nation. The best laws will not save an unworthy people from ruin, as is seen in the case of the South American republics. The worst forms of government will not prevent a clear-headed race from struggling up to prosperity, as is seen in the history of England. You may have as many constitutions, and as perfect as the fertile Sieyès kept in the pigeon-holes of his desk, but they will prove of no avail if the people are not fit to receive them. Gentlemen demand that the ballot shall be universal. They must go further; they must insist that capacity to properly direct the ballot shall be likewise universal.

Said Washington:

"In proportion as the structure of government gives force to public opinion it is essential that public opinion should be enlightened."

Said Jefferson, in the famous Ordinance of 1787:

"Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall be forever established."

Says Horace Mann:

"If republican institutions do waken up unexampled energies in the whole mass of the people, and give them implements of unexampled power wherewith to work out their will, then these same institutions ought also to confer upon that people unexampled wisdom and rectitude." "I know we are often admonished that without intelligence and virtue as a chart and a compass to direct us in our untried political voyage we shall perish in the first storm; but I venture to add, that without these qualities we shall not wait for a storm—we cannot weather a calm. If the sea is as smooth as glass, we shall founder, for we are in a stone boat."

Let us inquire, what is education?

It is a means to an end—the intelligent action of the human faculties. He who is opposed to education is opposed to the enlightenment of the people, and must necessarily be their enemy, since he seeks to himself some advantage out of their ignorance, and strives to obscure their judgment that he may the better mislead them.

It is not necessary to demonstrate the importance of education. The common sense of mankind approves it; the success of our nation attests it; a million happy homes in our midst proclaim it. Education has here fused all nations into one; it has obliterated prejudices; it has dissolved falsehoods; it has announced great truths; it has flung open all doors; and thank God, it has at last broken all the shackles in the land! The rebellion sprang from popular ignorance; its suppression came from popular education. When the Englishman described the North as a land "where every man had a newspaper in his pocket," he touched at once the vital point of our greatness and the true secret of our success.

Let the great work go on. Its tasks are but half completed. Let it go on until ignorance is driven beyond our remotest borders. This is the noblest of all human labors. This will build deep and wide and imperishable the foundations of our Government; this will raise up a structure that shall withstand the slow canker of time and the open assaults of violence. The freedom of the people resting upon the intelligence of the people! Who shall destroy a nation founded on this rock?

The one great error of our country has been that education was not from the very first made a matter of the State, and as essential to the citizen as liberty itself. Education means the intelligent exercise of liberty, and surely without this liberty is a calamity, since it means simply the unlimited right to err. Who can doubt that if a man is to govern himself he should have the means to know what is best for himself, what is injurious to himself, what agencies work against him and what for him? And the avenue to all this is simply education. Suffrage without education is an edged tool in the hands of a child—dangerous to others and destructive to himself.

Now, what is the condition of the South in reference to all this?

I assert that it is such as would bring disgrace upon any despotism in Christendom.

The great bulk of the people are rude, illiterate, semi-civilized; hence the rebellion; hence all the atrocious barbarities that accompanied it.

The number of ignorant is indicated by the proportion unable to read and write; indicated, I say, but not fully shown, because, of the practically ignorant, of those who read neither books nor newspapers, and are thus cut off from acquiring information through its ordinary channels; the proportion who have never learned their letters or to write their names may be small indeed.

I repeat, the condition of the South in this respect would be shameful to any semi-civilized people, and is such as to render a republican Government, resting on the intelligent judgment of the people, an impossibility.

I appeal to the revelations of the census. My statistics do not include the former slaves, but the white people of the South

and the few freed negroes found among them in 1860.

In the first place I would quote the following

very complete table, furnished me by the Census Bureau, and giving the total results upon this subject for the whole United States:

Persons over twenty years of age unable to read and write, eighth census, 1860.

STATES.	White.			Free Colored.			Native.	Foreign.	Total.	Per-centage
	Male.	Female.	Total.	Male.	Female.	Total.				
Alabama.....	14,517	23,088	37,605	192	263	455	37,302	758	38,060	7.20
Arkansas.....	9,379	14,263	23,642	10	13	23	23,587	78	23,665	7.20
California.....	11,835	7,154	18,989	497	207	704	11,509	8,184	19,693	5.17
Connecticut.....	3,405	5,083	8,488	181	164	345	925	7,908	8,833	1.94
Delaware.....	2,838	3,823	6,661	3,056	3,452	6,508	11,503	1,666	13,169	12.00
Florida.....	2,378	2,963	5,341	48	72	120	5,130	311	5,441	6.94
Georgia.....	16,900	26,784	43,684	255	318	573	43,550	707	44,257	7.44
Illinois.....	24,786	33,251	58,037	632	695	1,327	39,748	19,616	59,364	8.46
Indiana.....	24,297	36,646	60,943	869	904	1,773	55,903	6,813	62,716	4.61
Iowa.....	7,806	11,976	19,782	92	77	169	12,903	7,048	19,951	2.96
Kansas.....	1,228	1,776	3,004	25	38	63	2,695	372	3,067	2.86
Kentucky.....	28,742	38,835	67,577	1,113	1,350	2,463	65,749	4,291	70,040	7.53
Louisiana.....	8,051	9,757	17,808	485	717	1,202	15,679	3,331	19,010	5.05
Maine.....	4,282	4,270	8,552	25	21	46	2,886	6,212	8,598	1.87
Maryland.....	7,290	8,529	15,819	9,904	11,795	21,699	33,780	3,738	37,518	6.25
Massachusetts.....	16,969	20,293	37,262	291	368	659	2,004	44,917	46,921	3.81
Michigan.....	8,596	8,845	17,441	558	486	1,044	8,170	10,315	18,485	2.47
Minnesota.....	2,382	2,369	4,751	6	6	12	1,055	3,708	4,763	2.77
Mississippi.....	6,256	9,270	15,526	50	60	110	15,136	600	15,736	4.40
Missouri.....	24,255	35,405	59,660	371	514	885	51,173	9,372	60,545	5.57
New Hampshire.....	2,023	2,660	4,683	15	19	34	1,093	3,624	4,717	1.45
New Jersey.....	8,436	10,840	19,276	1,720	2,085	3,805	12,937	10,144	23,081	8.43
New York.....	47,703	68,262	115,965	2,653	3,260	5,913	26,183	95,715	121,878	8.14
North Carolina.....	26,024	42,104	68,128	3,067	3,782	6,849	74,877	100	74,977	11.33
Ohio.....	23,297	33,345	56,642	2,995	3,191	6,186	48,015	16,813	64,828	2.77
Oregon.....	762	737	1,499	7	5	12	1,200	311	1,511	2.88
Pennsylvania.....	27,500	44,596	72,096	3,893	5,466	9,359	44,930	38,585	83,515	2.80
Rhode Island.....	2,057	3,795	5,852	119	141	260	1,202	4,910	6,112	3.50
South Carolina.....	5,811	8,981	14,792	633	783	1,416	15,792	416	16,208	6.34
Tennessee.....	27,358	43,001	70,359	952	1,095	2,047	69,262	2,792	72,054	8.64
Texas.....	8,514	9,900	18,414	25	37	62	11,832	6,644	18,476	4.38
Vermont.....	4,467	4,402	8,869	27	20	47	933	7,983	8,916	2.83
Virginia.....	31,178	42,877	74,055	5,489	6,908	12,397	83,300	3,152	86,452	7.82
Wisconsin.....	7,465	8,983	16,448	53	45	98	2,663	13,883	16,546	2.13
Total.....	448,847	839,863	1,288,710	40,099	48,214	88,313	894,106	342,917	1,237,023	-

TERRITORIES.	White.			Free Colored.			Native.	Foreign.	Total.	Per-centage
	Male.	Female.	Total.	Male.	Female.	Total.				
Dakota.....	62	15	77	-	-	-	60	17	77	-
District of Columbia.....	1,258	2,248	3,506	1,151	2,224	3,375	4,860	2,021	6,881	-
Nebraska.....	317	304	621	6	7	13	357	277	634	-
Nevada.....	138	5	143	6	1	7	40	110	150	-
New Mexico.....	16,008	16,750	32,758	12	15	27	31,626	1,159	32,785	-
Utah.....	98	225	323	-	-	-	162	161	323	-
Washington.....	295	142	437	1	-	1	207	231	438	-
Total.....	18,176	19,689	37,865	1,176	2,247	3,423	37,312	3,976	41,288	-
	467,023	659,552	1,126,575	41,275	50,461	91,736	871,418	346,893	1,218,311	-

It appears from this table that the adult male white and free negro population of the United States, in 1860, over twenty years of age, who could not read and write was but little short of half a million. In other words, that in the last presidential election, if the entire population of the United States had voted, half a million votes would have been cast by men who could not read and write.

When we recollect that upon our presidential elections depend the great interests and the life of the country, and remotely the cause of all mankind, we may well stand appalled before this vast force of half a million ignorant men deciding the destinies of the world.

But if we look exclusively at the southern States we find still greater cause for surprise and alarm.

The following table shows the number of illiterate male whites in seven southern States; also the total vote of those States in 1860, and the vote given in each State in the same year for Breckinridge:

STATES.	No. of illiterate males over 20 years.	Total vote in 1860.	Vote for Breckinridge, 1860.
Delaware.....	2,838	16,039	7,337
Virginia.....	31,178	167,223	74,323
North Carolina.....	26,024	96,230	48,539
Tennessee.....	27,358	145,333	64,709
Alabama.....	14,517	90,357	48,831
Arkansas.....	9,379	54,053	28,732
Kentucky.....	28,742	146,216	53,143
Total.....	140,036	715,551	325,614

If we examine this table, we find that in the seven States named the number of illiterate is about one fifth the total number of voters, and nearly one half the total vote for Breckinridge, the representative of disunion and secession.

If, however, we add to each man entirely illiterate one other who, while able to read and write his name, derives no practical advantage from these mere rudiments of education in forming his opinions, we will find the total to be more than one third of the total vote and five sixths of the vote for Breckinridge.

The total number of illiterate in the southern States in 1860, over twenty years of age, exclusive of the then slaves, was 545,177. In these, with the comparatively ignorant associated with them, we see the upholders of the rebellion at the ballot-box and in the field. Without these it could never have been inaugurated, or if inaugurated could never have maintained itself for six months against the mighty levies of the Union.

But, it may be said, these evils will correct themselves. The testimony is all the other way:

From 1840 to 1860, a period of twenty years, the number of illiterate over twenty years rose from 549,693 to 1,218,311; in other words, an increase of considerably more than one hundred per cent.!

At the same ratio of growth it would be 2,674,472 in 1880; 5,823,700 in 1900; and in 1920 it would amount to the enormous total of 12,596,688.

In other words, in fifty years from the taking of the next census, the illiterate in the United States over twenty years, exclusive of the freedmen, will be 12,500,000, four times the number with which the nation commenced its career, nearly one half the total white population in

1860, and representing a voting force one third greater than the total vote at the presidential election in 1860; that is to say, over 6,000,000 voters!

Who will pretend that with such a mass of ignorance the Government could survive? It would be buried in the most disgraceful anarchy the world has ever seen.

But, Mr. Speaker, even these appalling figures do not tell the whole story. These figures do not include the then slaves, now freedmen. We must add to the ignorant population of the South the 4,000,000 blacks just released from slavery.

The figures would stand as follows:

Year.	NUMBER OF ILLITERATE.		
	White.	Black.	Total.
1880.....	2,674,472	3,309,175	5,983,647
1900.....	5,823,700	4,765,212	10,588,912
1920.....	12,596,688	5,994,812	18,591,500

So that in fifty years from the next census, a very short period in the life of a nation, when it is supposed that the total population will be 120,000,000, the illiterate will be one fifth of the entire number and nearly one third of the entire vote.

I trust, then, that no gentleman will doubt the propriety of the amendment I have submitted. We are interfering in behalf of the negro; let us interfere to educate him. We thus strike out at one blow a large proportion of the ignorance of the South; we shame the whites into an effort to educate themselves, and we prepare thus both classes for the proper exercise of the right of suffrage.

Nor shall it be said that the ignorance revealed by these statistics is an exotic, that it results from foreign immigration. While it is true that in the North a large proportion of the illiterate are from foreign lands, in the South

the reverse is the case. In North Carolina, in 1860, the illiterate persons of native birth were 74,877, while those of foreign birth were but 100. In Alabama the illiterate of native birth were 37,302, while those of foreign birth were 2,668.

The total number of illiterate foreigners in the United States in 1860 was 342,917; while, I am sorry to say, those born under our institutions, and unable at the age of twenty years to read and write, were 834,106.

Let us however, set aside the foreign infusion altogether, and divide the illiterate according to the natural divisions of the country.

The results are as follows:

Section.	No. of illiterate of native birth.	Total population.
New England States.....	8,543	3,135,283
Middle States.....	93,533	7,571,101
Southern States.....	545,177	12,128,078
Western States (Ohio, Indiana, Illinois, and Kansas).....	146,321	5,509,096
Northwestern States (Michigan, Iowa, Minnesota, and Wisconsin).....	24,791	2,371,930
Pacific States.....	12,709	432,459

A comparison of these figures leads to some surprising results. If, for instance, the ratio of the New England States held good, we should have less than 80,000 native-born illiterate persons in the United States instead of the 834,000 we now have. In other words, the illiterate native voters of the country would be less than 40,000, instead of being over 400,000!

On the other hand, we find that the southern States have a population about equal to the middle and western States combined, while the number of illiterate in the former is 545,177, as against 241,854 in the latter; and this not including the vast number of illiterate freedmen in the South, who would make the disproportion still greater. So that the South outnumbered in illiterate the most unfavorable portions of the North more than two to one.

As compared with the New England States the disproportion is still more striking. At the ratio of New England the southern States should have but 34,000 illiterate persons; as it is the number is 545,177.

The whole United States, with a population of 27,000,000, contains 834,106 illiterate persons, and of these 545,177 are found in the southern States with a population of 12,000,000. In other words, the entire populous North contains but 288,923, while the sparsely settled South contains 545,177.

Who can fail to see in this vast disproportion the cause of the rebellion? In the language of Henry Ward Beecher:

"As upon the coast you can trace the line between the dark and treacherous sea on the one hand, and the firm and trusty land on the other, by the row of light-houses; so you can mark between the deep, damnable wickedness of treason and the supernal luster of patriotism by the line of school-houses."

Now, Mr. Speaker, I put it to this House, and through it to the whole people of the country, North and South, whether this state of things is to continue. This is not a political question. It rises above the level of politics and directly affects the welfare of all the people and the life of the nation itself.

Mr. ROUSSEAU. I desire to ask the gentleman if, notwithstanding all that ignorance, he wants to add to it by allowing the colored population to vote.

Mr. DONNELLY. In answer to that I will say that I have offered an amendment which provides that it shall be the principal duty of the Freedmen's Bureau to educate that negro population and so fit them eventually for the right of suffrage. And the amendment at the same time leaves the door open for white refugees. So that while I am stating an evil I am proposing a remedy.

Mr. ROUSSEAU. Is the gentleman in favor of allowing the right of suffrage to the colored people in the southern States at this time?

Mr. DONNELLY. When that question comes up for action I shall be prepared to express an opinion. In the mean time I will say that I am prepared to follow the course indicated by the distinguished gentleman from Pennsylvania [Mr. STEVENS] in his remarks on yesterday,

that we must first prepare and fit the people of the South for the right of suffrage by the education of the mind of the South.

Now, having answered the question of the gentleman in reference to that portion of our population that throughout the wars sympathized with the cause of the Union, I will ask him a question. Is he prepared to extend the right of suffrage to that portion of the population that constantly fought against the Union and sought to destroy it, and who, as I have shown by these statistics, are, the great bulk of them, equally ignorant with the blacks? I would like an answer from the gentleman.

Mr. ROUSSEAU. I was engaged in conversation when the gentleman asked his question. Will he propound it again?

Mr. DONNELLY. I have answered the gentleman in regard to giving the right of voting to the black population who sustained the cause of the Union with their sympathy, with material aid, and to the number of nearly two hundred thousand by arms, but who, I admit, are ignorant. I now ask the gentleman if he is willing that the equally ignorant white population of the South who were opposed to the Union shall be invested at once with the right of suffrage?

Mr. ROUSSEAU. I am in favor of allowing those to vote who have been engaged in the rebellion against the Government, provided they have been pardoned by the Executive and are now for the Government.

Mr. DONNELLY. I would ask the gentleman, as a question of principle, whether an executive pardon is able to change the minds and hearts of men? Whether a rebel with a pardon in his pocket is not just as rank a rebel as before he received it?

Mr. ROUSSEAU. I would ask the gentleman whether he has ever done anything more than make speeches to put down the rebellion?

Mr. DONNELLY. I will answer that question by saying that when this great civil war was in its full strength, and the great political issue was whether this Union should be maintained by the reelection of Abraham Lincoln to the presidential chair, I did yeoman service to secure that result; which, more than anything else, more than armies or battles, tended to crush out the rebellion, by proving distinctly to the South that the cause of the South was forever hopeless. I hold that the man who fought copperheads is entitled to as much credit as the man who fought rebels.

Mr. ROUSSEAU. I desire to ask the gentleman whether he sustains the policy of Abraham Lincoln and Andrew Johnson.

Mr. DONNELLY. I do adhere to the policy of Abraham Lincoln, as I understand it, and of Andrew Johnson as I approve it.

Mr. ROUSSEAU. How much of Andrew Johnson's policy does the gentleman approve?

Mr. DONNELLY. So much as tends to the preservation of the Union and the maintenance of the liberty and equal rights of every man living under the shadow of our flag.

Mr. ROUSSEAU. I ask the gentleman whether he does not approve of Andrew Johnson's policy so far as the gentleman from Pennsylvania [Mr. STEVENS] approves of it.

Mr. DONNELLY. I approve of Andrew Johnson's policy as enunciated in his speech at Nashville, in which he told the black men that if they had no other Moses he would be their Moses. [Applause.] I ask the gentleman whether he approves that portion of Andrew Johnson's policy.

Mr. ROUSSEAU. If any man wants to be a Moses in behalf of the colored race, I am in favor of his assuming that character.

Mr. DONNELLY. I will ask whether the gentleman wants Andrew Johnson to be such a Moses?

Mr. ROUSSEAU. Certainly, when it is necessary. Will that gratify the gentleman?

Mr. DONNELLY. It will gratify me and the country too.

But, to proceed with the remarks I was making when interrupted. If, sir, this enormous growth of ignorance is to continue we can meet

with no fate save that which has overtaken too many of the free Governments of the world.

We cannot count upon our representative system. The struggle we have gone through shows too plainly that reforms must originate with the people. The people may be converted, the representatives never. They are precisely what the people behind them are, and no more. If the people are ignorant, they will have demagogues for their representatives.

The preservation of this Government through the many dangers that have encompassed it since its birth I look upon as the marvel of modern times. The hand of God is plainly visible in it. Let us do our part now to prepare the way for the mighty future that awaits us. There is no loftier task on earth.

We cannot leave the population of the South, white or black, in the condition they are now in. We must educate them. When you destroy ignorance you destroy disloyalty; for what man with a free, broad scope of mind, and with a knowledge of all the facts, can fail to love this just, benevolent, and most gentle Government?

Let us turn, then, to the next consideration. What chance is there for the black man in the South without the intervention of this bureau?

We have liberated four million slaves in the South.

It is proposed by some that we stop right here and do nothing more. Such a course would be a cruel mockery.

These men are without education, and morally and intellectually degraded by centuries of bondage. They have neither the arts nor the knowledge nor the power of combination to protect themselves against the superior race from whose grasp they have just been forcibly wrested. That race did not willingly yield them up; to abandon them to their former masters would be to consign them once more to inevitable slavery. The master would have every inducement to reenslave his former bondsman, and not a single barrier would stand in his way.

But it may be said the amendment to the Constitution prohibiting slavery would protect them. Sir, a grand abstract declaration, unenforced by the arm of authority, is not a protection.

But gentlemen seem to forget that slavery is not confined to any precise condition. Every country tolerating slavery has affixed to it conditions peculiar to itself. The old Roman slavery was in many essentials different from the southern institution; and modern slavery has presented many different phases.

Slavery consists in a deprivation of natural rights. A man may be a slave for a term of years as fully as though he were held for life; he may be a slave when deprived of a portion of the wages of his labor as fully as if deprived of all; he may be held down by unjust laws to a degraded and defenseless condition as fully as though his wrists were manacled; he may be oppressed by a convocation of masters called a Legislature as fully as by a single master. In short, he who is not entirely free is necessarily a slave.

What has the South done for the black man since the close of the rebellion?

Let us examine the black codes of the different States adopted since that time.

In South Carolina it is provided that all male negroes between two and twenty, and all females between two and eighteen, shall be bound out to some "master." The adult negro is compelled to enter into contract with a master, and the district judge, not the laborer, is to fix the value of the labor. If he thinks the compensation too small and will not work, he is a vagrant, and can be hired out for a term of service at a rate again to be fixed by the judge. If a hired negro leaves his employer he forfeits his wages for the whole year.

The black code of Mississippi provides that no negro shall own or hire lands in the State; that he shall not sue nor testify in court against a white man; that he must be employed by a master before the second Monday in January, or he will be bound out—in other words, sold into slavery; that if he runs away the master

may recover him and deduct the expenses out of his wages; and that if another man employs him he will be liable to an action for damages. It is true the President has directed General Thomas to disregard this code; but the moment the military force is withdrawn from the State that order will be of no effect.

The black code of Alabama provides that if a negro who has contracted to labor fails to do so he shall be punished with damages; and if he runs away he shall be punished as a vagrant, which probably means that he shall be sold to the highest bidder for a term of years; and that any person who entices him to leave his master, as by the offer of better wages, shall be guilty of a misdemeanor, and may be sent to jail for six months; and further, that these regulations include all persons of negro blood to the third generation, though one parent in each generation shall be pure white; that is, down to the man who has but one-eighth negro blood in his veins.

The Mississippi Legislature passed a law prohibiting negroes from acquiring lands or real estate. This was promptly overruled by the United States authorities. Whereupon the Legislatures of Mississippi and Alabama passed laws making the owner of the property, who rents or leases a negro a house or land, responsible for everything he buys—his meat, his bread, his doctor's bill, and even his taxes. Of course no one will rent a black man a house or lease him land under such a law; and of course also the negro will have to be driven out upon the highway and become a vagrant, and thus become subject to the vagrant law.

The black code of Tennessee provides that the vagrant negro may be sold to the highest bidder to pay his jail fees; and to make sure that he be kept a vagrant no housekeeper shall harbor him; his children may be bound out against his wish to a master by the county court; if his master fails to pay him he cannot sue him nor testify against him. It further provides that colored children shall not be admitted into the same schools with white children, while it makes no provision for their education in separate schools.

The black code of Virginia provides that any man who will not work for "the common wages given to other laborers" shall be deemed a vagrant; the masters have formed combinations and have put down the rate of wages to the freedmen below a living price; the negro refusing to work for these wages is seized as a vagrant, sold to service "for the best wages that can be procured" for three months; if he runs off he shall work another month with ball and chain for nothing.

It is true General Terry has declared that the order shall not be enforced; but of what avail will this be when the military are withdrawn and Virginia is reconstructed?

All this means simply the reestablishment of slavery:

1. He shall work at a rate of wages to be fixed by a county judge or a Legislature made up of white masters, or by combinations of white masters, and not in any case by himself.
2. He shall not leave that master to enter service with another. If he does he is pursued as a fugitive, charged with the expenses of his recapture, and made to labor for an additional period, while the white man who induced him to leave is sent to jail.
3. His children are taken from him and sold into virtual slavery.
4. If he refuses to work he is sold to the highest bidder for a term of months or years, and becomes in fact a slave.
5. He cannot better his condition; there is no future for him; he shall not own property; he shall not superintend the education of his children; neither will the State educate them.
6. If he is wronged he has no remedy, for the courts are closed against him.

Said a Georgian the other day:

"The blacks eat, sleep, move, live, only by the tolerance of the whites, who hate them. The blacks own absolutely nothing but their bodies; their former masters own everything, and will sell them nothing. If a black man draws even a bucket of water

from a well, he must first get the permission of a white man, his enemy. If he sleeps in a house over night, it is only by the leave of a white man. If he buys a loaf of bread, he must buy of a white man. If he asks for work to earn his living, he must ask it of a white man; and the whites are determined to give him no work, except on such terms as will make him a serf and impair his liberty."

This, then, is slavery, less the protection which the master formerly afforded his chattel. The slave now has a mob for his master. General Schurz says, in his admirable report:

"The emancipation of the slaves is submitted to only in so far as chattel slavery in the old form could not be kept up. But although the freedman is no longer considered the property of the individual master, he is considered the slave of society; and all independent State legislation will show the tendency to make him such. The ordinances abolishing slavery, passed by the conventions under the pressure of circumstances, will not be looked upon as barring the establishment of a new form of servitude."

The enemies of the black man, those who opposed his liberation, now point to him and say, "See the condition to which you have reduced him. He is worse off than before. His race is perishing from the face of the earth under the innumerable miseries which liberty has inflicted upon it."

For once, with the help of Almighty God, I shall never consent to such cruel injustice. Having voted to give the negro liberty, I shall vote to give him all things essential to liberty.

If degradation and oppression have, as it is alleged, unfitted him for freedom, surely continued degradation and oppression will not prepare him for it. If he is not to remain a brute you must give him that which will make him a man—opportunity. If he is, as it is claimed, an inferior being and unable to compete with the white man on terms of equality, surely you will not add to the injustice of nature by casting him beneath the feet of the white man. With what face can you reproach him with his degradation at the very moment you are striving to still further degrade him? If he is, as you say, not fit to vote, give him a chance; let him make himself an independent laborer like yourself; let him own his homestead; let the courts of justice be opened to him; and let his intellect, darkened by centuries of neglect, be illuminated by all the glorious lights of education. If after all this he proves himself an unworthy savage and brutal wretch, condemn him, but not till then.

He must have this opportunity. He cannot remain in an amphibious condition between liberty and slavery. He must be either full slave or full freeman; he must either be master of himself or the servant of another.

Do not believe the delusive hope uttered by some that the race which has all the privileges will some day willingly divide them with the race that has none. The world's history tells us no such story. The Old World's royalties and aristocracies rest upon ancient conquests; and yet how unwilling, even after centuries have passed, have the victors ever been to permit the vanquished to rise! Let the wretched condition of the masses in those countries at the present day testify.

Is the right of suffrage necessary to the negro?

The right to vote is the right of self-protection, through the possession of a share in the Government. Without this a man's rights lie at the mercy of other men who have every selfish incentive to rob and oppress him. This is the great central idea of a republican Government. The absence of this is the source of all despotism. I would ask, what white man would consider himself safe without the right to vote, especially if the Government was exercised exclusively by a hostile race?

What shield and safeguard can the negro have if it be not the right to vote? To whom can he appeal when the highest earthly tribunals are filled by his enemies?

No man can rest with safety upon the mercy and generosity of any other man. The law protects the ward from its guardian, the child from its parent, the wife from her husband, nay, even the dumb brute from its owner. Can we then, as the Representatives of a free people, consign a helpless race to the mercy of its heredi-

tary oppressors? Can we, in the heart of a free Government, permit the erection of such a strange and abnormal system of despotism? [Here the Speaker's hammer fell.]

Mr. KELLEY. I move that the time of the gentleman from Minnesota be extended so as to enable him to conclude his remarks.

No objection was made.

Mr. DONNELLY. I thank the House for the courtesy it has extended to me.

Mr. Speaker, it is as plain to my mind as the sun at noonday, that we must make all the citizens of the country equal before the law; that we must break down all walls of caste; that we must offer equal opportunities to all men.

Injustice is the mother of revolutions. In no case has rebellion raised its head in the midst of equal laws; for what more can a man ask than equality? But I challenge the historian to point to a single community where unjust laws have not sooner or later given birth to revolutions; to the efforts of one class to perpetuate and of the other to resist injustice.

Mr. ROUSSEAU. Will the gentleman allow me to ask him one question? He has just said that rebellion or revolution never takes place where equal laws exist. What does he think of the late rebellion in that view of the matter?

Mr. DONNELLY. My answer to that is afforded by the very expression which I have just used, that, where unjust laws exist, rebellion is the result of the efforts of one class to perpetuate and of the other to resist injustice. Sir, it was the unjust laws of the South, it was the oppression of the blacks by the whites, that led to the late rebellion. If there had been no slavery there could have been no rebellion.

If you give the negro an equal opportunity with the white man, he becomes perforce a property-holder and a law-maker, and he is interested with you in preserving the peace of the country. If you hand him over to oppression, if you deprive him of all hope, if you debase him into a brute, you can expect nothing from him but poverty, turbulence, and wretchedness. If then your object, if the object of all government, is to advance the prosperity of the people, can you do so by ruining one eighth of the entire population?

The true issue before the South is justice or anarchy. We must save the South from herself. The negroes now know themselves to be freemen. They may be made savages, but never again slaves. The cruel, heartless course the South seems bent on pursuing will sooner or later set the land aflame with insurrection. And in that day are we ready, we, the Christian people of the North, to hold down with our armies the poor writhing wretches who will tell us that their title deeds of liberty bear our superscription; and who will fling into our faces while we are manacled them the sacred promises of the proclamation of emancipation? Never! never! This thing cannot be. Our own hearts would revolt at it; the world would cry us Shame! The name of American would become an epithet of contempt in the mouth of all mankind.

We must hold our faith. We made great vows to God when the fury of the tempest smote us, and night and darkness seemed settling down upon our frail bark forever. Let us not, like the drunken sailors of the Mediterranean, abandon those vows amid the profligacy of the harbor. It becomes a great people to hold its faith as the most sacred thing beneath the wide canopy of the heavens.

If it is, then, true that we must make the freedmen fully free, and if the right of suffrage is necessary to this freedom, then it is equally necessary that education should accompany freedom.

Mr. ROUSSEAU. I wish to ask the gentleman whether he favored negro suffrage and voted for it at the last election in his State.

Mr. DONNELLY. I am proud to say that I not only voted for it, but that I drew the resolution which was passed by the Republican State convention of Minnesota, indorsing that doctrine; and that I canvassed two thirds of the

territory of that State in behalf of it, and, thank God, I am ready to do so again to-morrow.

Pass the amendment I have proposed, and the Freedman's Bureau will not only protect the negro now but give him the means of self-protection hereafter. Without this the ballot is a useless, perhaps a pernicious, instrument in his hands. Without this your bureau will be but a temporary relief, and in a short time the negro will relapse into oppression. Educate him, and he will himself see to it that common schools shall forever continue among his people; and in doing him an act of justice you will increase the safety of the nation forever.

Let not the objection of expense be made. No outlay is too great which is necessary to the safety of the people, since in that is involved all the wealth of the country. It is a madman's economy to save money by rendering the people unfit for self-government and then lose all in the misgovernment which is sure to follow.

Universal education must go hand in hand with universal suffrage. Either alone will be unavailing; together they will create the mightiest Government and the ablest race the world has ever known.

If you pass the amendment I have offered, the Freedman's Bureau becomes an instrumentality of more good than was ever before achieved in the world by any merely human agency. Its influence will be greater than even Jefferson's famous ordinance, which gave to freedom the Northwestern Territory. And who shall count the results yet to flow from that great measure? A thoroughly educated negro population in the South means a white population forced into education through mere shame; it means an intelligent, and necessarily, a loyal people; it means industry, prosperity, morality, and religion everywhere; a land rejoicing in wealth and glorious with liberty.

Mr. GARFIELD obtained the floor.

Mr. MOORHEAD. I ask the gentleman from Ohio to yield to me for a moment.

Mr. GARFIELD. I cannot refuse the request of the future Governor of the State of Pennsylvania. [Laughter.]

MANUFACTURES OF PITTSBURG.

Mr. MOORHEAD. I ask unanimous consent to lay before the House a letter from the Board of Trade of Pittsburgh, correcting an error which has been made in an official statement of the Secretary of the Interior in reference to the manufactures of that city. I will not ask that the paper be read, as it might detain the House too long, but I desire that it shall be printed, and also that it be published in the Globe.

The SPEAKER *pro tempore*, (Mr. DAWES in the chair.) If there be no objection the communication will be received and that order will be made.

There was no objection.

The communication is as follows:

ROOMS OF THE BOARD OF TRADE OF PITTSBURG.
PITTSBURG, January 27, 1866.

SIR: A statement made officially to the House of Representatives of the manufacturing production of the principal cities of the United States announces to the world that Pittsburgh, proud of the cognomen of the Birmingham of America, has been sailing under false colors, and is, on high authority, pronounced an inconsiderable manufacturing town, of less productive capacity than Richmond, Virginia.

In that statement the manufacturing product of Pittsburgh is given at \$11,000,000 annually. Feeling that it is of vital importance to Pittsburgh that Congress should be disabused of impressions so incorrect, I hasten to present you some facts, which should if possible be formally read to the House of Representatives in correction of the statement they have received.

The community of Pittsburgh, although divided into several municipalities under diverse police regulations and officials, is a compact mass of over one hundred and fifty thousand population, within a radius of five miles, and the surveyor's instruments alone tell where one borough ends and another begins.

Pittsburg proper is but the counting-house of this manufacturing population. Nearly all the great industrial works, whose accounts, office, and banking business center in the city, lie around her outskirts, and but few within her immediate limits.

The figures of the statement referred to were probably made up from the census returns of 1850. Those returns so far as they relate to Allegheny county are extremely incomplete, and nearly worthless. In those returns at best the sum of the products of Pittsburgh

would be classed under the heads of the various boroughs, and but a limited portion under the head of Pittsburgh. With as much propriety should those amounts be classed under the heads of the several wards of the city, as any one of those taken as the census of the production of the whole.

The returns of sales made to the revenue officers, so far as they reach, are the best data of production. They do not, however, fully exhibit the facts, for the reason that the amounts unsold of the productions of any distinct period of time are to be added to the amount of those sold.

From returns made to revenue officers for a period of eighteen months, from September, 1863, to March, 1865, I give you the figures of some of the more important articles manufactured at Pittsburgh.

These figures are not an exhaustive or elaborate census of the manufactures of the city, but a condensation of some statistics derived from internal revenue returns in my possession upon leading articles. The figures are as follows:

Articles of Iron and Steel.

Axes, shovels, saws, spades, mattocks, picks,	\$1,123,146
Boilers, shafting, steamboat irons, oil tools,	
heavy blacksmithing.....	1,640,168
Bolts, nuts, spikes, rivets, washers, nails.....	3,518,559
Railroad chairs, springs, and axles.....	1,200,000
Iron and steel, bar, sheet, pig, plate, &c.....	28,843,123
Wrought iron, gas pipe, horse shoes, edge tools, iron ware.....	481,120
Machinery, castings, domestic hardware.....	6,392,087

Articles of Wood.

Barrels, barges, doors and sash frames, furniture, blocks, boxes.....	2,180,833
Chemicals.....	467,064

Articles of a Vegetable Nature.

Tobacco, linseed, canvas, varnish.....	2,414,126
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Textile Fabric.

Clothing, woolen goods, cotton goods.....	4,272,403
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Articles of Copper and Brass.

Refined and sheet copper, copper ware, japanned ware.....	2,184,206
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Articles of Combined Materials.

Agricultural implements, steamboats, carriages, wagons, harness, brushes, cars, guns, and rifles.....	1,922,117
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Products of Minerals and Earthy Substances.

Glass, refined oil, white and red lead, salt, queensware, soap, &c.....	14,385,211
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Articles from Animals.

Leather, lard oil, glue, boots and shoes.....	2,553,307
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Articles of a Liquid Nature.

Alc, whisky, wine, vinegar*.....	773,114
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\$74,350,589

These figures make the sales of these few items in the period embraced over \$74,000,000.

Although but a partial exhibit of the productive capacity and actual yield of Pittsburgh manufactures they are more than ample to show that Pittsburgh, instead of the fourteenth city of the Union in point of manufactures, is without doubt the third. If the manufacturing statistics of Pittsburgh were as elaborately collated as in other cities, where every article of raw material as well as those in the least transmuted is classed in the list of products, there is no doubt in my mind that Pittsburgh would lay claim to being the second manufacturing community of the Union.

Permit me in this connection to ask your attention to the necessity of the organization by the Government of some department similar, or of similar effects, to the national Board of Trade of Great Britain. That body make complete and detailed reports monthly of the trade and manufactures of that nation. Under the present census organization the people of the United States are, six years after the taking of the census of 1860, but partially acquainted with its results, while so imperfect are its figures that a high Government official is unwittingly made to commit a great act of injustice to the community of Pittsburgh, and, no doubt, from the same cause, to other cities as well.

Statistics are the data for not only the government of commercial transactions, but the foundation upon which the financial estimates of a nation should be made. To be valuable they should be fresh; the reflection of the current transactions of the country, not the echo of long past years. To be reliable they should be the result of competent labor, of intelligent minds, not the uneducated gatherings of incompetent and often ignorant men, claiming desultory employment as a reward for partisan devotion, as has been the case in the taking of the census heretofore.

The organization by Congress of a national Board of Trade, and an effort by that body to have the States also organize State boards, would put in motion a system of statistical information of great ultimate value.

Through such a system the country would be furnished with reliable statistics, and Congress would have a responsible source from which to learn the wants of the business of the nation, and form just estimates of its resources and its progress.

Very respectfully, your obedient servant.

GEORGE H. THURSTON,

President of the Board of Trade of Pittsburgh.

To Hon. J. K. MOORHEAD, Washington, D. C.

* The fact that several breweries were confiscated last year for false returns accounts for the smallness of this class of product.

FREEDMEN'S BUREAU—AGAIN.

Mr. GARFIELD addressed the House. [His speech will be published in the Appendix.]

Mr. KERR obtained the floor.

Mr. LE BLOND. The gentleman from Indiana yields to me to move that the House do now adjourn.

Mr. ELIOT. Mr. Speaker, I will state that I have given notice to the House I shall ask for a vote on the pending bill to-morrow at three o'clock. Several gentlemen desire to be heard on it. I want to say now there has been one speech made on that side of the House, and one speech made on this side, since the bill has been under debate, both of which were out of order, and that I shall feel it incumbent on me to take a point of order on other gentlemen on the one side or the other who do not confine themselves to a fair debate on the measure. I was not able to do it during the remarks of my friend from Ohio, [Mr. GARFIELD,] because I had consented that the gentleman from Pennsylvania [Mr. DAWSON] should take a wide range. I feel it to be my duty to say now that the bill should be debated. As I have said, I desire that the vote shall be taken to-morrow at three o'clock. If the gentleman wants to debate it, I shall be glad to hear him; but I hope the House will not adjourn. Let those who wish to debate the bill have an opportunity to be heard.

Mr. STEVENS. Let us take a recess until half past seven this evening.

Several MEMBERS. For what purpose?

Mr. STEVENS. For the purpose of debate alone.

Mr. THAYER. I object, unless gentlemen shall promise to conform to the rules of the House.

Mr. KERR. I do not want to go on this evening.

Mr. LE BLOND. I ask that my motion to adjourn shall be put to the House.

Mr. STEVENS. I ask the gentleman to withdraw the motion, so as to permit me to make another suggestion, that the House shall have an evening session for debate on the President's message alone.

Mr. HUBBELL, of Ohio. I object.

Mr. KERR. I withdraw my objection if the debate to-night is to be confined to the President's message.

Mr. LE BLOND moved that the House do now adjourn.

The motion was disagreed to.

IMPROVEMENT OF THE OHIO RIVER.

Mr. TRIMBLE. I ask the gentleman from Indiana to yield to me for a moment.

Mr. KERR. Certainly.

Mr. TRIMBLE. I ask the unanimous consent of the House to present a communication from Colonel Tal. P. Shaffner in reference to widening and deepening the Ohio river at the Grand Chain.

There was no objection, and the paper was received and referred to the Committee on Commerce.

Mr. TRIMBLE moved that the House do now adjourn.

The motion was disagreed to.

FREEDMEN'S BUREAU—AGAIN.

Mr. KERR. Mr. Speaker, it is surely safe to assume that our country has known no hour, since the organization and establishment of our matchless form of Government, when its circumstances demanded in its Representatives a higher order of statesmanship, or a more unselfish devotion to those great principles of our system which stand like beacon-lights against dangerous boundaries, inviting the embarrassed mariner to safer paths. Desiring to keep these lights in view, and confessing with sincere earnestness my lack of both ability and experience, I beg leave to submit a few reflections upon some of the solemn questions that demand appropriate action at our hands. And I shall endeavor to do this in a spirit unshaded by the impulses of partisan feelings.

The true relations of the several States to the Union have always presented problems of great

interest and considerable difficulty for determination by one or another of the departments of the Government. But now for the first time we are compelled to confront questions resulting from the temporary suspension of the constitutional relations between the United States and some of the States. This suspension was the result of a state of war between the legitimate Government and the States that attempted to secede therefrom. It is conceded by most men, and is declared by the highest judicial tribunal in the Union, that during that state of war the respective parties to it sustained to each other the relations of belligerents. At the threshold, therefore, it becomes material to inquire what is meant by a state of belligerency. In its primary signification, it means a state of war. It implies an issue, asserted on the one side and denied on the other, and submitted for decision to the solemn arbitrament of arms. The recognition of the existence of war; the tacit or express admission of belligerent rights by the legitimate Government, concedes nothing inconsistent with its claim of sovereignty over the revolted people and Territory. It does not even concede the existence of a Government *de facto*. But if it did, it would not at all impair the force of my argument, because the very term *de facto* implies a spurious Government, without rightful existence, as contradistinguished from a Government *de jure*, of right, or having rightful existence.

Mr. ELLIOT. Mr. Speaker, I rise to a point of order. The bill under consideration is a special order, and the gentleman from Indiana from the beginning of his speech shows he is about to discuss general questions, interesting to us all, of reconstruction and the condition of the rebel States. I have just given notice, whether the remarks came from one side or the other of the House, I should feel myself compelled to make the point of order. There are gentlemen who want to debate this bill who have had no opportunity to-day. I make the point of order that the gentleman's remarks are not in order.

The SPEAKER *pro tempore*. (Mr. DAVES in the chair.) The Chair is not able to sustain the point of order, as he has not heard enough of the remarks of the gentleman from Indiana. The gentleman, however, must confine his remarks to the bill before the House.

Mr. KERR. I agree with the gentleman from Massachusetts that it is in fact somewhat difficult to keep within the precise limits of that necessary discussion which should characterize the debates of this House; but here is a bill demanding at our hands action, which from its very nature goes into the States lately in rebellion, and can go there only on the ground taken by those who advocate this measure, that by reason of the rebellion they have the right to go there with this administration of government, dictated and controlled by Congress.

And yet they say, that in the discussion of this kind of measures we shall not take this wide range, of the true relations between the States and the Union. Now, I do not want to take as wide a range as the gentleman from Ohio [Mr. GARFIELD] has taken, but I do want a liberal limit within which to express my ideas. And I say here, that this shall be confined to the discussion and elucidation of the bill before us.

Mr. RICE, of Maine. I rise to a point of order.

The SPEAKER *pro tempore*. There is one point of order already made and pending; therefore the Chair does not entertain the point at this time. The point pending is raised by the gentleman from Massachusetts, [Mr. ELLIOT,] that the argument of the gentleman from Indiana was not applicable to the bill before the House, and the Chair is listening to the suggestion which the gentleman from Indiana is making in order to satisfy the Chair that his remarks are pertinent.

Mr. HIGBY. I ask the gentleman from Indiana to give way to a motion to adjourn.

The SPEAKER *pro tempore*. Does the gentleman from Indiana give way?

Mr. KERR. Yes, sir.

Mr. HIGBY. I now move to adjourn.

The motion was agreed to; and thereupon (at four o'clock and fifty minutes) the House adjourned.

IN SENATE.

FRIDAY, February 2, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.
The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair has received and been requested to present to the Senate the petition of Mrs. Elizabeth R. Smith, of New London, Connecticut, the widow of Richard H. Smith, late a lieutenant in the third United States artillery, who was lost on board the steamer San Francisco, on the 24th of December, 1853, bound from New York to California with his regiment. The petitioner prays that compensation may be made to her for the property which was lost on the steamer and which was nearly all they had in the world. This petition will be referred, if there is no objection, to the Committee on Claims. It is so referred.

Mr. SHERMAN presented a petition of citizens of Ohio who served as soldiers in the armies of the United States, praying for an equalization of bounties; which was referred to the Committee on Military Affairs and the Militia.

Mr. HOWE presented a petition of citizens of Manitowoc, Wisconsin, praying for an appropriation for the improvement of the harbor at the mouth of the Manitowoc river; which was referred to the Committee on Commerce.

Mr. HOWE. I also present the memorial of A. C. Sheldon and a large number of other citizens of the State of Wisconsin, praying that that portion of our people of African descent resident in the late insurgent States who were born on our soil; who have toiled without recompense that the nation might grow in wealth; who have willingly fought and labored in the Federal armies that the Republic might live and "receive no detriment;" who, during the late struggle for the preservation of our Union, were ever found faithful and loyal, while treason seemed to be or was the normal condition of many of the whites in the insurgent States; and who, by the chances of war, have been raised to the condition of free men, shall henceforth be classed as citizens of the United States; that the general rights and franchises belonging to citizens of the United States be henceforth extended to them; that the Government of the United States protect them in the exercise of those rights and franchises; that the recognition of said rights and franchises by the several late insurgent States, and also the recognition of the equality of the freedmen before the law with the citizens thereof, be a condition precedent to the readmission of said States to the full privileges of loyal States of the Union; that the Government retain the organization known as the Freedmen's Bureau over the late slave States of the Union, and increase its authority and efficiency; and that a system of free education be devised and put into operation in the insurgent States for the benefit of the children of all classes of the people thereof. I move the reference of this memorial to the joint committee on reconstruction.

The motion was agreed to.

Mr. BROWN presented the memorial of A. L. H. Crenshaw, praying for compensation for property alleged to have been taken and destroyed by the United States authorities in the State of Missouri, while he was a prisoner of war on suspicion of being a rebel spy; which was referred to the Committee on Claims.

Mr. WILLIAMS presented resolutions of the Legislature of Oregon, in favor of the city of Portland, in that State, being included in the port of entry at the mouth of Columbia river, so that vessels entering at Astoria may unload at Portland, and that bonded warehouses may be established at the latter place; which were ordered to lie on the table, and be printed.

REPORTS OF COMMITTEES.

Mr. MORGAN, from the Committee on Commerce, to whom was referred the bill (S. No. 39) to amend the acts relating to officers employed in the examination of imported merchandise in the district of New York, reported it with amendments.

Mr. ANTHONY, from the Committee on Claims, to whom was referred the petition of F. A. Lewis, praying for compensation for negroes, horses, sheep, hogs, corn, &c., alleged to have been lost to him in consequence of the legislation of Congress and by acts of soldiers of the United States, and for indemnification against loss by certain acts of the so-called Confederate States, submitted an adverse report; which was ordered to be printed.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred the petition of William C. Anderson, jr., praying for a settlement of his father's accounts as pension agent at St. Louis, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. HOWE. The Committee on Claims, to whom was referred a joint resolution (S. R. No. 12) to refer the claim of Gustavus A. Balzer to the Court of Claims, have directed me to report it back adversely; and I move its indefinite postponement.

The motion was agreed to.

CHARLES F. ANDERSON.

Mr. BROWN. I am instructed by the Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. No. 143) for the relief of Charles F. Anderson, to report it back without amendment and recommend its passage, and I ask for the present consideration of the bill.

The PRESIDENT *pro tempore*. It requires the unanimous consent of the Senate to consider the bill on the day on which it is reported.

Mr. BROWN. I will explain the bill in a moment. This is a bill to compensate Mr. Anderson for his services as an architect, which passed the Senate at the last session and went to the House and was taken up and passed there, but, by some oversight, it was not handed to the President for his signature. It also passed the Senate at two preceding sessions. This is precisely the same bill, and I presume there will be no objection to it. I therefore ask that it be put on its passage at once.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which directs the Secretary of the Treasury to pay to Charles F. Anderson, architect, the sum of \$7,500, in full, for time, labor, and expense in preparing plans and drawings for the Capitol extension.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. LANE, of Kansas, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 122) for the relief of John T. Jones, an Ottawa Indian, for depredations committed on his property by white persons in Kansas Territory; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. NESMITH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 123) granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, or the navigable waters of the Columbia river, in Oregon; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 124) to incorporate the Washington Canal Company, in the District of Columbia, and for other purposes; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. CONNESS asked, and by unanimous

consent obtained, leave to introduce a bill (S. No. 125) granting aid in the construction of a railroad and telegraph line from the town of Folsom to the town of Placerville in the State of California; and a bill (S. No. 126) granting lands to aid in the construction of a railroad and telegraph line from the city of Placerville, in the State of California, to the most feasible point of intersection with the Pacific railroad, in the State of Nevada; which were severally read twice by their titles, referred to the Committee on Public Lands, and ordered to be printed.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 28) carrying out the guarantee of a republican form of government in the Constitution of the United States, and enforcing the constitutional amendment for the prohibition of slavery; which was read twice by its title.

Mr. JOHNSON. I ask that the resolution be read at length.

The Secretary read it, as follows:

Whereas it is provided in the Constitution that the United States shall guaranty to every State in the Union a republican form of government; and whereas by reason of the failure of certain States to maintain Governments which Congress can recognize, it has become the duty of the United States, standing in the place of guarantor, where the principal has made a lapse, to secure to such States, according to the requirement of the guarantee, governments republican in form; and whereas, further, it is provided in a recent constitutional amendment, that Congress may "enforce" the prohibition of slavery by "appropriate legislation," and it is important to this end that all relics of slavery should be removed, including all distinction of rights on account of color; now, therefore, to carry out the guarantee of a Republican form of government, and to enforce the prohibition of slavery,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in all States lately declared to be in rebellion there shall be no oligarchy, aristocracy, caste, or monopoly invested with peculiar privileges or powers, and there shall be no denial of rights, civil or political, on account of color or race; but all persons shall be equal before the law, whether in the court-room or at the ballot-box; and this statute, made in pursuance of the Constitution, shall be the supreme law of the land, anything in the constitution or laws of any such State to the contrary notwithstanding.

Mr. SUMNER. I move that this joint resolution be printed and lie on the table for the present. I give notice that I shall move it at the proper time as a counter proposition to the resolution proposing a constitutional amendment.

The joint resolution was ordered to lie on the table and be printed.

EXHIBITION OF MINERAL SPECIMENS.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 27) for the exhibition of specimens of gold and silver and other minerals, the product of the United States; which was read twice by its title.

Mr. NYE. I ask for the present consideration of the joint resolution.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. As it is deemed desirable that a collection of specimens of the gold and silver and other minerals of the United States should be made, and space provided for their exhibition and examination, in order that the citizens of the United States and other persons may obtain some adequate idea of the abounding and undeveloped wealth of the various portions of the public domain, and as the Patent Office, where are collected the models illustrating the inventive genius and productive industry of the people, and samples of the products of agriculture, is also deemed the proper place for an exhibition showing the mineral wealth of the country; the resolution, therefore, authorizes and requires the Secretary of the Interior to set apart in the Patent Office building such space as may be spared for the purpose, for the arrangement and exhibition, in cases specially provided and under his direction, of such specimens of gold and silver and other minerals, the product of mining skill and industry in the United States, as may be contributed for the purpose by its citizens; which

specimens are to be considered as deposits, to be duly receipted for, and to remain the property of the depositors, and subject to their order.

The joint resolution was reported to the Senate without amendment; ordered to be engrossed for a third reading, read the third time, and passed.

HOUSE BILL REFERRED.

The bill (H. R. No. 204) to regulate the registering of vessels, was read twice by its title, and referred to the Committee on Commerce.

LAND LOCATIONS IN MISSOURI.

Mr. HARRIS. I move to postpone all prior orders and take up Senate bill No. 36.

The motion was agreed to; and the bill (S. No. 36) quieting doubts in relation to the validity of certain locations of lands in the State of Missouri, made by virtue of certificates issued under the act of Congress of February 17, 1815, was considered as in Committee of the Whole.

The bill contains two sections, the first of which provides that all locations of lands in the State of Missouri, purporting to have been made by virtue of certificates issued under the act of Congress, approved February 17, 1815, entitled "An act for the relief of the inhabitants of the late county of New Madrid, in the Missouri Territory, who suffered by earthquakes," which are invalid in consequence of having been made or located after the expiration of the time specified by law for making those locations, shall be as valid and as binding as if they had been made and fully completed within the time prescribed by law, provided they are according to law in all other respects; but this provision shall not apply to, comprehend, include, or extend to any land within township forty-five, north of the base line, in range seven, east of the fifth principal meridian line, in said State of Missouri.

By the second section the United States grant, relinquish, and convey in fee simple, and in full property, to James Y. O'Carroll, or his legal representatives, all of the right, title, and interest of the United States in and to all of the land within survey No. 2498, in township forty-five, north of the base line in range seven east of the fifth principal meridian line, in the State of Missouri, being the same land that was located by virtue of the certificate No. 150 issued to James Y. O'Carroll or his legal representatives, under the act of Congress approved February 17, 1815. There is, however, a proviso that nothing in this section shall grant, relinquish, or convey the whole or any part of any lot, tract, piece, or parcel of land in that township, which has been heretofore confirmed by the United States to any person or persons, or to the legal representatives of any person or persons; and that nothing in this section shall in any manner abridge, divest, impair, injure, or prejudice any valid adverse right, title, or interest of any person or persons in or to any portion or part of the land which is granted, relinquished, and conveyed by the section.

The bill was reported to the Senate without amendment.

Mr. TRUMBULL. I would inquire of the Senator from New York if the proviso to the last section ought not to extend to the first. It occurs to me that under the first section of the bill there might be adverse rights; I do not know that there are any, but if there should be, ought they not to be protected in the same way as they are against the title that is acquired under the second section.

Mr. HARRIS. I understand that the first section of the bill applies to locations actually made—of course, therefore, there can be no adverse rights—locations made under land warrants granted under the act of 1815; but there is a doubt as to the validity of these locations under a decision of the Supreme Court which holds that no warrant, where the survey was not made within the time limited for the location, is valid. It is merely to validate locations which were supposed to have been well made before. It is, therefore, only to confirm the titles to locations actually made, but where no survey had been made in time. I have a letter

from the Commissioner of the General Land Office approving of the bill.

Mr. TRUMBULL. I will not persist in moving any amendment to the bill. I only wished to call the attention of the Senate to it. I observe that the first section of the bill reads, "That all locations of lands in the State of Missouri, purporting to have been made by virtue of certificates issued under the act of Congress," &c., shall be confirmed. There evidently is some dispute about this, or else there could be no occasion for the act. I am well aware that such is the case in regard to old confirmation claims. We have had a good many of them in the State of Illinois. There is a case now pending in the Supreme Court of the United States where a party claims land under a grant prior to 1800. That same land has been entered and patented by parties within a few years. That question is now being tested as to which of the parties is entitled to the land, in consequence, as is alleged, of a defect in the original grant, which, of course, would take the land if it were perfect.

Now, here it seems there is some question about these locations. I am not advised with regard to these particular lands, and only desire to call the attention of the Senator to the exception which I see is confined merely to the last section. It would do no hurt by possibility to say that "nothing in this act shall in any manner interfere with other claims." I am not sufficiently advised on the question to insist on it, but I suggest to the Senator that it is possible it might do injustice without a proviso.

Mr. HARRIS. I am in favor of some such provision as that, although I have no idea that it can apply to the first section. The trouble in relation to it is making out a perfect chain of title in the present occupants, holders, and claimants of these lands, inasmuch as the Supreme Court have held that their location is not valid. I have no objection to amending the bill in the way suggested by the Senator from Illinois.

Mr. TRUMBULL. It can do no harm, and I think it a safer way of legislation. If it meets the views of the Senator from New York I move to amend the proviso by striking out the word "section" and inserting the word "act," so as to make it apply to the whole act.

The amendment was agreed to.

Mr. TRUMBULL. The word "section" occurs twice in the proviso.

The PRESIDENT *pro tempore*. Wherever it occurs in the proviso the word "act" will be substituted for it.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

SALE OF STAMPS AND ENVELOPES.

On the motion of Mr. DIXON, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 71) relative to the sale of postage stamps and stamped envelopes on credit, the pending question being on the amendment reported by Mr. Dixon from the Committee on Post Offices and Post Roads, to strike out all of the bill after the enacting clause, and to insert the following in lieu thereof:

That the Postmaster General be, and he is hereby, authorized, whenever in his opinion the public service shall require, until the 30th day of June, 1868, to deposit postage stamps and stamped envelopes with such persons as he may select, for sale. The persons with whom stamps and stamped envelopes are so deposited shall engage to sell and circulate the same under the instructions of the Postmaster General, and shall give bond in such sum as the Postmaster General may direct, with one or more sureties, conditioned for the faithful keeping of the stamps and stamped envelopes so intrusted to them, and for the payment to the Post Office Department, in such manner as directed by the Postmaster General, of the moneys arising from the sale thereof.

SEC. 2. And be it further enacted, That the Postmaster General may allow to such depositaries, under the provisions of this act, a commission not exceeding five per cent. on all sales of stamps and stamped envelopes by them made, and the Auditor of the Treasury for the Post Office Department shall audit and settle all such accounts. Such persons shall be deemed receivers and custodians of public money. They shall not sell stamps or stamped envelopes on credit, but shall sell them invariably for coin or United States Treasury notes, and at a price not exceed-

ing the price of such stamps and stamped envelopes as provided by law. They shall be subject to all the pains, penalties, fines, and forfeitures now provided by law in cases of receivers and custodians of public money, and of postmasters and other persons to whom the sale of stamps and stamped envelopes is intrusted.

Mr. SUMNER. I should like to have an explanation of the amendment.

Mr. DIXON. The amendment proposed by the committee does not very much change the character of the bill; perhaps it does not change its legal effect at all. The bill originally provided that the Postmaster General might, at his discretion, sell on credit to such persons as he might think proper postage stamps and stamped envelopes. That was objected to as seeming to allow a sale on credit in certain cases, which was thought by the Senator from Nevada to be objectionable. To obviate this difficulty in a manner satisfactory to him, we propose to change the bill to the form now proposed, authorizing the Postmaster General to deposit with certain persons postage stamps and stamped envelopes for sale. That is the change and the only change which has been made in the bill by this amendment. It was thought better upon the whole to strike out the original bill and substitute a provision drawn in this form.

I will say, Mr. President, a very few words in regard to the object of the bill in addition to what I had the honor of submitting to the Senate a few days ago. The present condition of the States lately in rebellion is this: very few, or comparatively few, postmasters have been appointed, although the number itself seems large. It is, in comparison to the whole number, only about one fourth. There were formerly in those States eight thousand postmasters; there are now, I think, in round numbers, about two thousand appointed. The law provides that postmasters shall reside, at the time of their appointment, as it is understood, within the delivery of the post office for which they are appointed. It is, therefore, impossible to appoint some parties, indicated by the Senator from Nevada, who are now, perhaps, refugees from that country. Besides, if they could be appointed, the compensation would not pay them. The compensation of the greater number of these post offices is not such as to be profitable or even to support the postmaster. Then there is another difficulty in the way of the appointment of postmasters. The law requires that the postmasters shall take a retrospective test oath that they have never, in any manner, taken any part in the late rebellion.

For these reasons it is very difficult to find persons who can be appointed postmasters in large portions of that country, and as postmasters are the only persons who can receive postage stamps without paying for them at the time of their receipt, the people there are often obliged to pay as much as twenty-five and fifty cents postage on a single letter.

The business of the Post Office Department is to sell stamps. The Postmaster General supports his Department by the sale of stamps. He cannot at present, in very large districts of country, sell them at all, because parties cannot be found to advance the money, and indeed they have not the money to advance. Men can be found, however, who can receive the stamps and give bonds that they will pay for them, and they can sell them for cash and then refund the money to the Department. The object of the bill is to allow that to be done.

Mr. SUMNER. I do not mean to oppose the passage of this bill, but I think we ought to take advantage of this opportunity to give a warning again to the proper officers of Government that they must obey the laws of Congress. The bill as it was originally introduced by my friend from Connecticut was to enable the Postmaster General to get around the test oath. That was its object. It was so exposed by my friend from Nevada, [Mr. NYE.] I do not know that it is much changed by the amendment that is now under consideration.

Mr. CONNESS. It is not changed at all.

Mr. SUMNER. The Senator says it is not changed at all. Very well. I was about to say that I am not going to oppose it, but I wish

here again to give notice to the proper authorities that they must obey the laws of the land, and I wish the Postmaster General of the United States to take notice. He is very much misrepresented, or he has not always lent his influence in favor of obedience to the laws of the land. Here on my table are letters, and I received one this morning of an important character, showing that there are at least some things in the Post Office Department leading in the same direction that we have had occasion to criticize in the Treasury Department through the defection of the latter Department to the law of the land. For instance, I have a letter here from Charleston, South Carolina, where the writer says:

"The post office is like everything else they do. The most of the employees belonged in the rebel army. No one else will get anything else to do here. The President's proclamation, saying 'Give the appointments to all loyal southerners,' was a regular humbug. If he had said 'Give it to all rebels,' then it would have been more properly spoken, for the latter is invariably the case."

As I said before, I received a letter this morning, which was also from Charleston, from which I have just read. The letter was from a person whose name, if I should mention it, would not be unknown on this floor, and who has personal relations with a very prominent member of the Administration, in which he makes the same complaint, and especially with regard to the post office at Charleston, that Union people have no chance; it is rebels only that can find a place under these new auspices. Here, for instance, is another letter which I have received, signed very extensively by gentlemen from Georgia, and also from Virginia, from which I will read only a brief extract:

"The President, early in his administration, said that no rebel should be appointed to office in the South; and if loyal men could not be found in sufficient numbers, then he would import them."

"Import them," let me remind my friend from Connecticut, take them to the place where the office was to be filled and plant them there—that was the language of the President, and is so quoted by these gentlemen. They proceed:

"But this is all forgotten now, and Congress is deliberately asked by a Cabinet officer to repeal the test oath that rebels may get pay for positions which they now fill contrary to law. This is a deliberate bribe for treason and an insult to loyalty, and hence the common assertion among Union men, that it pays to be a rebel. This is doubtless the fact in Georgia as in Virginia. They get the offices in the revenue departments, as well as in the post offices and the mail contracts, as may be seen by a slight examination, nearly all over the State. Not many weeks since, two loyal men from this district?"

This is from Fredericksburg—

"were applicants for mail routes; one had been a scout in the Union Army. The route for which this last applied was given to a rebel colonel, and the first to a rebel soldier. The assertion that loyal and capable men to fill the revenue offices in Georgia cannot be obtained and rebels have to be appointed instead, is doubtless a gross misrepresentation in the rebel interest, the same falsehood having been circulated as regards this State?"

That is, Virginia.

"Such statements are an insult to the loyal men of the South, and as such we repel them with indignation and scorn, come from whatever source they may."

Here is another letter from a person well known, in reply to the very suggestion that Union people cannot be found to fill these offices:

"And among this pile of ruined rubbish we once in awhile meet with a Union volunteer. There is no mistaking the plant when pure. I found some of the purest in the South I have ever met. No class of Americans have suffered so much and none have had so little encouragement. To be a southerner by birth and a Union man is to incur the undying hatred of all good disloyalists."

"Before closing my letter I will call your attention to Mr. Secretary McCulloch's report on the employment of men who cannot take the oath. I differ from Mr. McCulloch in this matter of appointments in the States lately in rebellion. I do not believe there is any necessity for employing one man who cannot take the oath. I can fill all the offices under the Government at the South by able and talented southern Union soldiers. There are ten in this city, and not one of them can get employment from the Government. There is not a Union soldier employed in any civil office under the Government in this city, while it is notorious that many in this city and State are employed who cannot take the oath."

Now, sir, I do not know that the Postmaster General has erred as openly, as defiantly, as

wrongly as the Secretary of the Treasury has erred, but according to the testimony of these letters he has failed to exert any decisive influence for loyal men, and I think, now that we are about to pass this bill, he ought to take notice that by the law of the land loyal men only are to receive appointments from the Government, and that to the extent of his influence loyal men should be encouraged in the post offices of the country. I do not know that he has made appointments in defiance of law; but it will not be denied that there are post offices which are nests of disloyalty.

Mr. DIXON. I think the Senator from Massachusetts will be happy to hear that he is mistaken with regard to the practice of the Postmaster General on this subject. The Postmaster General informed me, in the presence of the honorable Senator from Nevada, that he had never, knowingly, appointed any man to the office of postmaster who could not take the test oath, and was not a loyal man.

Now, with regard to another intimation of the Senator, he states that men should, or might, in certain cases be imported to fill these offices.

Mr. SUMNER. President Johnson says that.

Mr. DIXON. Very well; President Johnson took that ground. Now, I wish the Senator to look for a single moment at the provision of the law in regard to postmasters. The law provides that the postmaster shall be a resident of the delivery district. It is possible there might be some refugee found who might be considered a resident of some of these districts, but how many districts must there be in which no such men can be found. You perhaps could find many men in the city of Washington who could be imported into these districts, but it must be a district in which the person formerly resided, or he does not come within the law.

But again, what is the office worth? Fifty, seventy-five, or a hundred dollars; a large majority of them, almost all, less than \$100. Can you send a man down there to fill that office for that salary? Of course you cannot. It is therefore utterly impossible to appoint postmasters unless you can find some man within the delivery district who can take the test oath. In point of fact, it is considered somewhat difficult to get men to take the offices at all, not only in that portion, but in many other portions of the country, where the pay is small. You must find some retailer at a cross-roads to take it, or it will not be taken at all. The pay is nothing. The office is a mere convenience to the neighborhood.

It is my opinion that the Postmaster General has honestly obeyed the law upon this subject. We have his statement with regard to it. If he has not, what is the object of this bill? If he is appointing disloyal postmasters, they cannot receive the stamps without paying for them. It is because he will not do that that he desires the privilege of depositing stamps with parties who cannot be appointed to the office. We never have taken the ground, nobody has gone so far, the Senator from Massachusetts does not go so far, as to say that the Government should not sell a postage stamp to a man who cannot take the test oath. Nobody claims that. I think, therefore, that the Senator, as well as the Senator from Nevada, will withdraw his objection to this bill, if he has any.

Mr. WILSON. Mr. President, in the form in which this bill now stands I shall vote for it very cheerfully. I think it is intended for a good purpose by the Postmaster General, who, I believe, desires to comply with the existing laws. I believe it is his intention to comply with the law in the future. I think that if we pass this bill it will do us no harm and may be of advantage to that section of the country. While I go as far as he who goes farthest in demanding all the necessary guarantees for the security of the rights of all men, and for the repose of the country in the future, I intend to give every vote that I am called upon to give here that will develop and improve the condition of that portion of our common country. That they will reap every act of ours with

reproaches is possible; but we have had a great contest; they are defeated; we are the victors; we are not their enemies, but we are the friends of our whole country and the cause of justice and liberty. We can afford to do right and be just, and let them say or do just what they please, it is our high duty to the whole country and all its people. Whenever I can give a vote that shall improve the value of an acre of land, or secure the rights or interests of any man there, or develop the resources of that portion of the country, or in any way accommodate that people, I intend to give that vote. I believe this measure will be for their interest, and will harm no one in any respect whatever; and so believing I shall vote for it.

I believe it to be the duty of the executive officers of the Government to religiously comply with the laws of the land, and to employ proper men in that section of the country to fill the offices and to do the business; but under existing laws the Postmaster General cannot accommodate, at any rate at once, the people of that section of the country; and I understand that this bill is introduced here with the view of accommodating the people on account of the difficulty of finding loyal men to fill their post offices. Believing that its passage can do no harm to the country, that it will be safe, and will be an advantage not only to that section but to all portions of the country, I shall cheerfully vote for it.

Mr. NYE. I am not quite willing to be left in exactly the position in which I am placed by being told by the Senator from Connecticut and my honorable friend from California that there has been no change in the bill, and yet that I am satisfied with it as it is, when I opposed it so strenuously the other day. If their construction of the bill is true, I desire still to oppose it; but, sir, I do not think it is true. What satisfied me with the bill was, that they struck out the words "selling upon credit." I am willing that the Postmaster General shall be responsible for these stamps, and deposit them where he pleases; he must account to the Government for them; but I was entirely unwilling that he should open the Department as a department of merchandise and for selling stamps upon credit. If that makes no difference in the bill, I am unable to comprehend what my friends would call a difference.

Mr. DIXON. If the Senator will allow me, I will state that the Postmaster General did consider that this amendment made an important difference in the bill, and he told me that he intended to have it drawn in this shape at first, but by mistake it was drawn up by a clerk in the form in which it was originally presented here, which was objectionable to him. I merely intended to say that I did not see that the amendment altered the bill in its legal effect.

Mr. NYE. I do.

Mr. CONNESS. I will not undertake to add anything to what has been said on this subject as the time for voting has arrived, if the bill is to be voted upon this morning, and I hope we may get a vote. If the Senator from Nevada is satisfied with the change, I am sure I am. I know there is a change in the language.

Mr. NYE. If my friend is satisfied with it, I am. If he is satisfied with his version that there is no change, I am satisfied with my own, that there is a most material one; and so was the Postmaster General.

Mr. CONNESS. Then we are both pleased.

Mr. COWAN. I have only a word to say, and it is rather general than particular. It has been the custom here recently to assail members of the Cabinet for derelictions of duty, and to base charges against them upon anonymous letters. Sir, I think that is not fair to gentlemen holding the responsible positions that the Postmaster General and the Secretary of the Treasury hold to this country. I think it is exceedingly unfair that their influence and the confidence the country has in them should be attempted to be weakened and destroyed in this way. Here we have letters read this morning which assail the action of the Postmaster General. Have the writers of those letters, if

they are respectable men—and perhaps the legal presumption, if all legal presumptions are not now to be traversed, is in favor of the fact that they are respectable—have they informed these officers of the means by which these difficulties can be avoided? And if they have not informed them, by what warrant are they to come here, in the first and the highest council of the country, to assail them? The writer of one of these letters says there is no difficulty about this matter; the Postmaster General is entirely derelict in his duty, or he is mistaken as to the means which he has within his reach to perform that duty. He says he could fill all the offices in the South ten times over with loyal men, with Union soldiers, if you please. Why has he not given the proper officer that information? Why does he wait until that officer comes here and asks for power to avoid the difficulty before he discloses that there was a legitimate and lawful means of performing it within the reach of the officer?

Mr. President, I have no disposition to become either the counsel, the advocate, or the friend of these officers; but I do dislike, in an assembly of this kind, where these men have no opportunity to be heard in reply, that these insinuations should be cast upon them, and that the country should be led to believe that somehow or other, covertly, they are trying to do something which is inconsistent with the duty they owe to their country and their sworn obedience to the law. This is openly charged here as being in violation of the law. It either is, or is not. If it is in violation of the law, I would be more inclined to believe the officer, that the obstacle in his way was insurmountable, and that he violated the law only because there was a paramount obligation resting upon him to carry out a higher and a paramount law.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. DIXON. I hope that by general consent the vote will be allowed to be taken upon this bill.

Mr. COWAN. I hope that will be done. I understand there is no serious objection to the passage of the bill, and I desire its passage because I think it is necessary to the proper working of the Department.

Mr. TRUMBULL. I must insist on the order of the day this morning, because we have an hour fixed for voting upon it, and if we lose part of the time now it will interfere with that arrangement.

Mr. DIXON. The Senator must see that the bill can be passed now immediately.

Mr. TRUMBULL. Senators are constantly rising to speak upon it.

Mr. DIXON. There will be no further debate.

Mr. TRUMBULL. If the vote can be taken at once without further debate, I will not object.

Mr. CONNESS. I move that the order of the day be laid over informally until a vote can be taken upon this bill.

The PRESIDENT *pro tempore*. It will be laid aside informally if there be no objection. None being made, Senate bill No. 71 is still before the Senate, and the question is on the amendment reported from the Committee on Post Offices and Post Roads.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. DIXON. I move to amend the title of the bill by striking out the words "on credit," so that it will read: "A bill relative to the sale of postage stamps and stamped envelopes."

The PRESIDENT *pro tempore*. That amendment will be made, and that will stand as the title of the bill, if there be no objection.

Mr. NYE. It seems to me, to make the title consonant with the bill, it should read: "A bill to authorize the Postmaster General to de-

posit postage stamps and stamped envelopes for sale."

Mr. DIXON. I consent to that amendment. The PRESIDENT *pro tempore*. The title of the bill will be so amended.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the amendments of the Senate to the bill (H. R. No. 61) to establish certain post roads, with an amendment, in which it requested the concurrence of the Senate.

PROTECTION OF CIVIL RIGHTS.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is now before the Senate as in Committee of the Whole, being the bill (S. No. 61) to protect all persons in the United States in their civil rights, and furnish the means of their vindication; upon which the Senator from Kentucky [Mr. Davis] is entitled to the floor.

Mr. DOOLITTLE. I ask the Senator from Kentucky to give way to allow me—

Mr. TRUMBULL. I hope not.

Mr. DOOLITTLE. It will not take so long as the objection. I merely desire to obtain leave to withdraw from the files some papers.

The PRESIDENT *pro tempore*. The Senator from Kentucky is entitled to the floor. Does he yield?

Mr. DAVIS. If the honorable Senator from Illinois will not take it out of my time.

Mr. JOHNSON. Will the honorable Senator from Kentucky allow me to make a motion?

Mr. DAVIS. If this time is not charged against the bill, if I receive credit for it, I am willing to give way.

Mr. JOHNSON. It will take but a moment to act on the motion I desire to make.

Mr. DAVIS. With the general understanding that we shall have what time is lost by these preliminary proceedings, I am ready to give way.

Mr. TRUMBULL. I object to any interference with the bill under consideration.

The PRESIDENT *pro tempore*. The Chair would respectfully ask the Senator from Kentucky if he yields the floor to the Senator from Wisconsin.

Mr. DAVIS. Under the protest of the honorable Senator from Illinois I do not feel willing to do so.

Mr. DOOLITTLE. Will the honorable Senator from Kentucky—

The PRESIDENT *pro tempore*. The Senator from Kentucky has the floor, and declines to yield. It is his prerogative to hold the floor.

Mr. DOOLITTLE. I appeal to the Senator from Kentucky—

Mr. DAVIS. I yield the floor for the purpose the Senator from Wisconsin desires.

Mr. DOOLITTLE. I desire to state to the honorable Senator from Kentucky that I did not seek the floor for any purpose of interfering with his remarks, but merely to ask leave to withdraw from the files certain papers and refer them to a committee.

Mr. DAVIS. I am satisfied—

Mr. DOOLITTLE. If this explanation is not satisfactory—

Mr. DAVIS. It is perfectly so to me, but whether it is to the Senator from Illinois is another question. [Laughter.]

Mr. TRUMBULL. It is not satisfactory to me. We have a morning hour for all this morning business, and it interrupts the progress of business, delays our proceedings, to come in at these irregular times with business belonging to the morning hour. If the Senator from Wisconsin will state that there is any importance whatever in withdrawing the papers to-day, instead of the next morning hour, I shall withdraw any objection.

The PRESIDENT *pro tempore*. The Senator from Wisconsin asks leave to have an order entered to have certain papers withdrawn. It requires the common consent of the Senate to entertain that motion, there being another matter before the Senate. Does the Chair under-

stand the Senator from Illinois to object to the motion being entertained?

Mr. TRUMBULL. Yes, sir, I object.

The PRESIDENT *pro tempore*. The Senator from Kentucky will proceed with his remarks.

Mr. DAVIS. I am very sorry that the obduracy of my friend from Illinois will not permit me to exercise my usual courtesy toward the honorable Senator from Wisconsin and the honorable Senator from Maryland. It would afford me great pleasure to do so.

The honorable Senator from Illinois stated yesterday—but he was brought to that position very late in the debate—that the object of this bill was essential to perform the office of a declaratory law; that this bill was merely intended to declare some principles of the Constitution. I propose to test the sincerity of the honorable Senator by offering an amendment which I send to the Chair and ask to have read; and upon it I have some remarks to make. I offer it as a substitute for the whole bill.

The Secretary read the amendment, which was to strike out all after the enacting clause of the bill and insert the following:

The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States.

And be it further enacted, That any person or persons who shall subject or cause to be subjected a citizen of any of the United States to the deprivation of any privilege or immunity in any other State to which such citizen is entitled under the Constitution and laws of the United States, such person or persons shall be liable to be sued for damages by the party injured, and shall also be deemed to be guilty of a misdemeanor, and on conviction thereof shall be punished by fine not exceeding \$1,000, or imprisonment not exceeding one year, or both, in the discretion of the jury.

Mr. DAVIS. Mr. President, I hold that there is no legitimate power to pass any law connected with the subject of this bill, except what is contained in the clause of the Constitution which declares that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." If there is any broader or other power vested in Congress to pass the measure under consideration, or any cognate measure, I would thank the able and learned Senator from Illinois to point it out to the Senate. Holding that, then, to be the sole and exclusive power that is vested in Congress over the subject-matter of this bill, I will proceed to make some remarks upon the amendment and upon the bill.

What does the amendment propose to do? It recites almost literally, certainly substantially, the clause of the Constitution declaring that the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States. An act of Congress that is not declaratory in its character, but is intended to execute and give effect to that clause of the Constitution, is every law and contains every provision in relation to the subject that can be properly comprehended in a law of Congress. I then by my amendment propose to embody this provision of the Constitution in the law, and to declare that the rights secured by this provision of the Constitution shall be made good to each citizen of the United States by legislative enactment, and by an enactment having the sanction of the same penalty which the honorable Senator from Illinois has proposed to attach to his bill.

Mr. President, since last evening I have been looking into the bill that is now under consideration, and the more I study it and the better I understand it, according to my feeble reason, the more offensive it is to me, and in my opinion the more vulnerable it is to objections growing out of the Constitution, and to objection on the ground of injustice and impolicy generally.

Before I proceed further, the nature of the subject-matter of my amendment requires me to make a general remark in relation to the theory and principle of our Government. The General Government is only invested with power over such matters as concern the relations between the United States and foreign countries, among the States themselves, and between the United States and the Indian tribes. All other

matters of Government, as a general rule and a general principle, are reserved to the States respectively or the people, and the General Government, by any of its departments, has no jurisdiction over those other subjects. One of the articles of amendment to the Constitution adopted soon after the organization of the Government explicitly states this principle in express language; but the Supreme Court have said, and in my judgment most truly, that that article reserving to the States the powers not delegated need not have been introduced; that the Constitution, from its very nature and its principles, would have meant the same without that article that it does with it; but to prevent any doubt upon the point, and to place it beyond all controversy, the Constitution expressly says that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." If there ever was a principle of government that was in conflict with a proposed bill, this principle is in conflict with the bill under consideration. The ingenuity of man could not frame a bill that would be more generally and more flagitiously in conflict with the two clauses of the Constitution which I have just read. Every power of legislation and of government that is not delegated by the Constitution to the General Government is reserved to the States respectively, or to the people. In other words, the General Government, and consequently the Congress of the United States, has no jurisdiction over any subjects except those that are delegated by the Constitution to the General Government. The honorable Senator from Illinois, I presume, will not controvert this principle; but I can hardly say that, for I do not know now what he would not controvert. He seems to be one of the progressives. This is a moving age, and the tendency to encroach upon the Constitution, the tendency to despotism and consolidation, is moving on, and the bill now under consideration, and its Siamese twin that we passed last week, give about as much impetus in that direction as any two measures that have ever been before Congress.

Now, Mr. President, what is the power that is vested in Congress on the subject of this bill?

"The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

If the Senate would act legitimately upon this subject, its action must be confined to such matters as concern the citizens of different States. It has no power whatever to act in relation to the matters of this bill so far as those matters concern the citizens of a single State. Let me illustrate this, if I can, by the subject that is the main subject of this bill, the free negro. There are, let me say for argument's sake, two hundred thousand free negroes in the State of Kentucky that were born there, that have never been residents of any other State. The honorable Senator proposes to make these two hundred thousand negroes and every free negro in America, whether he has ever been out of the State in which he was born and in which he resides, or not, the subject of this bill. It is not competent for the Senate to pass a bill embracing such classes of our population. The clause of the Constitution which I have read does not refer to people in their condition. It refers to the citizens of each State being entitled to all privileges and immunities of citizens in the several States. When does this principle of the Constitution apply? Under what state of facts does it arise? To what state of facts can it be made applicable? Only when a citizen of one State goes into another State, either to change his residence to that other State, or to acquire property there, or to exercise some other right or privilege which a citizen of that other State is entitled to in that State.

I do not know that I make myself understood by the honorable chairman. I will endeavor, though, to do so. He proposes now to apply his bill to every citizen of the United States, without regard to color, where that citizen is domiciled in the State in which he was born,

and when he has no purpose to leave and is not in the act of leaving that State to go into another; and that is intended to be the great form in which this bill is to have all of its application. Now, I say that the bill constitutionally can have no such application.

I agree that if the negro is a citizen he is to be treated exactly as a white citizen except so far as, if to any extent, there be exceptions to his prejudice and in favor of the white citizen by the express language of the Constitution. I made the issue with the honorable Senator the other day, which I still maintain, that a negro is not a citizen; but if the proposition be true that a negro is a citizen, I concede that he is entitled to every right, every privilege, and every immunity to which a white citizen is entitled under the Constitution. My position is, that if a white man was claiming the benefit of this provision of the Constitution, and he was a resident of the State of Maine or of the State of Kentucky, remaining there, not going into another State for the purpose of changing his residence or to claim any immunity or privilege of a citizen in another State, under the Constitution, we could not embrace him by any act which we could pass in virtue of this provision of the Constitution. Certainly, by a legal mind as astute and as learned as that of my friend from Maine [Mr. MORRILL] that proposition cannot be doubted. Now, sir, I throw myself back upon the original, primary, general principle of the division of the powers of the Government which I stated at the commencement of my remarks this morning, namely, that in relation to the citizens of a State and to all questions and matters that arise within a State and that do not relate to acts, privileges, and immunities that lie between two States, but that are entirely local to a particular State, jurisdiction was expressly reserved by the States to themselves and withheld from and denied to the General Government. I suppose that no sound lawyer, whose mind is free from prejudice and has not been infected by the fanaticism and the wild dreams of liberty and of philanthropy that have sprung up in this day and generation, would doubt that principle.

What, then, does this bill propose to do? It proposes to go into Kentucky, and to regulate the free negro of that State who was born there, who has lived there always, whose business and interests are entirely local to that State. Where is the clause in the Constitution that authorizes Congress to interpose by its legislative powers, and to seize from the State of Kentucky her exclusive right to control the negro population that I have thus described, and all their transactions and all their interests—to draw this local subject, reserved by the States to themselves in the Constitution, to the legislative powers of Congress?

Sir, the authorities which were the other day read and relied upon by the honorable Senator from Illinois overthrow his premises; they contravene his principles and all the conclusions which he draws from them. They expressly and explicitly sustain the view which I am now taking of the subject. Let me turn to those authorities and read a few passages from them. First, let me read from the case of *Campbell vs. Morris*, in 3 Harris & McHenry's Reports. In that case Mr. Justice Chase said:

"By the second section of the fourth article of the Constitution of the United States the citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States."

"Privilege and immunity" are synonymous, or nearly so. Privilege signifies a peculiar advantage, exemption, immunity; immunity signifies exemption, privilege.

"The peculiar advantages and exemptions contemplated under this part of the Constitution may be ascertained, if not with precision and accuracy, yet satisfactorily."

"By taking a retrospective view of our situation antecedent to the formation of the first General Government, or the Confederation, in which the same clause is inserted *verbatim*, one of the great objects must occur to every person, which was the enabling the citizens of the several States to acquire and hold real property in any of the States, and deemed necessary, as each State was a sovereign, independent State, and the States had confederated only for the purposes of general defense and security, and to promote the general welfare."

"It seems agreed, from the manner of expounding or defining the words 'immunities' and 'privileges' by the counsel on both sides, that a particular and limited operation is to be given to these words, and not a full and comprehensive one. It is agreed it does not mean the right of election, the right of holding offices, the right of being elected."

And in this respect the decision was somewhat with the great authority of my honorable friend from Maryland:

"The court are of opinion it means that the citizens of all the States shall have the peculiar advantage of acquiring and holding real as well as personal property, and that such property shall be protected and secured by the laws of the State in the same manner as the property of the citizens of the State is protected. It means such property shall not be liable to any taxes or burdens which the property of the citizen is not subject to. It may also mean, that as creditors, they shall be on the same footing with the State creditor, in the payment of the debts of a deceased debtor. It secures and protects personal rights."

These principles are all correctly laid down, according to my judgment. I agree with the Maryland judge in relation to these premises. He further says:

"The way to expound a clause in the General Government or Constitution of the United States is by comparing it with other parts, and considering them together; and to lay a foundation for a right exposition in the present case, it will be proper to suggest a few plain principles."

"1. That Congress can exercise no power as a legislative body but what is vested in them by the Constitution; it being under and by virtue of that instrument alone they derive their powers."

The Supreme Court also consider Congress as possessing those powers which arise from the Constitution by necessary implication; but this decision goes on:

"2. All power, jurisdiction, and rights of sovereignty, not granted by the people by that instrument, or relinquished, are still retained by them in their several States, and in their respective State Legislatures, according to their forms of government."

"Uniformity of laws in the States is contemplated by the General Government only in two cases, on the subject of bankruptcies and naturalization."

"The legislative powers of Congress are particularly defined in the eighth section of the first article."

"Those powers do not interfere with or abridge the power of the States to make local regulations, the operation of which is confined to the State."

There is the great principle to which I wish to invite the attention of the honorable Senator from Illinois, and of gentlemen upon this floor who advocate and intend to vote for this bill. This authority is express that Congress has no powers except what are conferred by the Constitution; that outside of the powers conferred by the Constitution, Congress can exercise no legislative authority whatever; that the legislative powers of Congress are particularly defined in the eighth section of the first article of the Constitution, and those powers this court say expressly "do not interfere with or abridge the power of the States to make local regulations the operation of which is confined to the State." The power of the State of Kentucky to legislate for her own free negroes, in relation to all their rights, privileges, and immunities, in relation to all their property, so far as those laws are to apply locally to that State and operate within that State, according to the authority relied upon by the honorable Senator from Illinois himself, is a power that belongs exclusively to the State, and Congress has no authority to grasp it as a subject of congressional legislation. That is in obedience to the great principle by which the powers of the State governments and those of the General Government are separated. It is in conformity to and in strict harmony with the great principle that Congress has no power to regulate any concerns in the States except those that relate to two or more States; that within a single State, all subjects of legislation, all persons that are subject to legislation, and all their rights, privileges, and immunities, so far as these are limited and restricted to the State and the laws, are to operate within the State, belong to the State exclusively. This opinion further says:

"The restrictive clauses in the tenth section of the first article, limiting the powers of the States, are confined to certain enumerated cases, none of which comprehend the subject under consideration: the power of regulating process for the more effectual recovery of debts."

That reasoning establishes another principle, that when a matter is enumerated specially: when a power is conferred by express words,

and that power is vested in a particular magistracy, no other power can be claimed, and no other magistracy than the one named can exercise that power within the Constitution.

Now let me read a few sentences from the decision of Chief Justice Parker in the case in 6 Pickering, to which the honorable Senator referred. There is a point of debate and of doubt between his opinion and those of his associate judges; and it is whether after a citizen of one State has moved to another State, and become a resident of that other State, he can claim any right whatever under the clause of the Constitution which gives to the citizens of one State the privileges and immunities of citizens in the several States. Chief Justice Parker seems to think that this right attaches and can only be claimed and exercised when the citizen has moved from one State to another. The two other judges, in rendering their opinions, treat it differently, and, in my poor judgment, treat it correctly. They hold that where a citizen of one State has removed to another to reside there, he ceases to be the subject of the provision of the Constitution which I have read in relation to the rights of a citizen in another State. It is only when he goes there as a visitor, when he goes there to purchase property, when he goes to the second State for purposes of temporary residence, or to do any act which the citizen of one State may lawfully and constitutionally claim to do in another State—it is only while he occupies that predicament and that condition that he places himself within the pale of this constitutional provision. So Judge Chase, of Maryland, adjudged, as I understand his opinion; and so did Mr. Justice Washington in the opinion which is reported in his Circuit Court Reports; but Mr. Chief Justice Parker seems to treat the matter differently; and I will read from his decision so much as bears upon this point:

"Before the adoption of the national Constitution, if a husband of Massachusetts deserted his wife and removed into another State, making no provision for her, and forbidding her to follow him, assuming a new marriage relation *de facto* in his adopted State, the wife remaining here working for her support, he exercising all the rights of a citizen of the other State and never intending to return, would not this amount to an abridgment of his native State, so that his wife might have the privileges and be liable to the burdens of a *feme sole* here? We think it would. Does then the Union of the States, or the provision in the Constitution referred to, make a difference? The jurisdictions of the several States as such, are distinct, and in most respects foreign. The Constitution of the United States makes the people of the United States subjects of one Government *quoad* everything within the national power and jurisdiction, but leaves them subjects of separate and distinct governments."

As to everything not within the Federal jurisdiction the States are considered as separate and foreign governments. That is an indubitable principle of our system, and it is here recognized distinctly by Chief Justice Parker; and he goes on to say:

"The privileges and immunities secured to the people of each State in every other State, can be applied only in case of removal from one State into another."

In that position I think the learned judge was in error, but I may be mistaken.

"By such removal they become citizens of the adopted State without naturalization."

I admit that they have a right to go there and become residents there. That is a right which appertains to them as citizens of the State from whence they removed; but when they have moved and changed their residence they have exhausted all the rights that they are entitled to under the provision which I have read from the Constitution, and they become subject to the same laws and the same rules of legislation that the citizens of the State to which they have removed are subject. The learned judge says:

"By such removal they become citizens of the adopted State without naturalization, and have a right to sue and be sued as citizens; and yet this privilege is qualified and not absolute, for they cannot enjoy the right of suffrage, or of eligibility to office, without such term of residence as shall be prescribed by the constitution and laws of the State into which they shall remove. They shall have the privileges and immunities of citizens, that is, they shall not be deemed aliens, but may take and hold real estate, and may, according to the laws of such State, eventually enjoy the full rights of citizenship without the necessity of being naturalized."

I accord to the positions which are here stated; but I go further, and I say that the rights which may be claimed by a citizen of one State in another State take effect and apply to the citizen practically before he has removed his residence into the other State, and they apply for some purposes after that removal has taken place.

"The constitutional provision referred to is necessarily limited and qualified, for it cannot be pretended that a citizen of Rhode Island, coming into this State to live, is *ipso facto* entitled to the full privileges of a citizen, if any term of residence is prescribed as preliminary to the exercise of political or municipal rights. The several States, then, remain sovereign to some purposes, and foreign to each other, as before the adoption of the Constitution of the United States, and especially in regard to the administration of justice, and in the regulation of property and estates, the laws of marriage and divorce, and the protection of the persons of those who live under their jurisdiction. No process can go from one State into another, nor can the citizen of one State be made amenable to the laws of another, unless he come within its jurisdiction."

What principles are here laid down? That for all purposes of government except those vested in the Government of the United States by the Constitution expressly, the States occupy the position and relationship of foreign Governments; each State legislates for itself as distinctly as a foreign Government would legislate, and is no more bound by the legislation of Congress in relation to the matters herein enumerated than would be the Government of England or of France or of any foreign country. Let me read again from this decision:

"The several States then remain sovereign to some purposes and foreign to each other, as before the adoption of the Constitution of the United States, and especially in regard to the administration of justice, and in the regulation of property and estates, the laws of marriage and divorce, and the protection of the persons of those who live under their jurisdiction."

Here is the authority relied upon by the honorable Senator from Illinois himself, which expressly and triumphantly overturns the position which he assumes in his bill. In this bill he proposes to legislate by Congress for the resident negro in Kentucky, born there, who has always lived there, and who intends to remain there for his lifetime, and for every negro in America. This authority holds that the States are sovereign, "especially in regard to the administration of justice, and in the regulation of property and estates, the laws of marriage and divorce, and the protection of the persons of those who live under their jurisdiction." This authority expressly lays it down that all these subjects are the distinctive and exclusive subjects of State legislation; that over them the authority, the jurisdiction of the respective States is as though the States were foreign countries. It occurred to me from the manner in which the honorable Senator was scrapping these opinions, that he was not reading the whole of them, that he was not reading enough of them to give the Senate a full and just conception of the principles decided by them; and when they are referred to, my suspicion is abundantly confirmed, is clearly established; for, on eviscerating the opinions and seeing the principles that are decided in them, I find that they are not only in conflict with, but that they expressly overturn all the provisions of the honorable Senator's bill, even upon the principle that the negro is a citizen, so far as the bill is intended to operate upon the local inhabitants of Kentucky, or of any other State. Now, sir, I turn your guns upon you, and I am endeavoring to make them thunder in your frail works, and it requires but one or two shots to utterly demolish them; and here is a shot that does utterly demolish them:

"The several States, then, remain sovereign to some purposes and foreign to each other, as before the adoption of the Constitution of the United States, and especially in regard"—

Especially do they remain foreign to each other and to the General Government just as they were before the adoption of the Constitution of the United States, says the learned judge—

"In regard to the administration of justice, and in the regulation of property and estates, the laws of marriage and divorce, and the protection of the persons of those who live under their jurisdiction."

Will the honorable Senator when he comes to respond, if he deigns to reply—I do not care whether he does or not—tell the Senate from whence he derives the power to apply this bill to a free negro or a white local resident citizen of Kentucky, who is not going into another State, who has no business transactions in another State, who does not propose to go into another State at all? In relation to the administration of justice to such people, in the regulation of the property and estates of such people, in the laws of marriage and divorce as applicable to such people, and in the protection of the persons of those people who live entirely and exclusively within the jurisdiction of Kentucky and the other States, where is the authority derived by which Congress claims the right to legislate in respect to them as people, without any regard to their relationship, personal or business, with any other State?

I have got the other decision to which the honorable Senator referred before me, but I will not read from it except to quote the extract which the honorable gentleman embodied in his speech and upon which he relied, and it is just as hostile to his position and his bills as the two from which I have read.

"But, sir," says the honorable gentleman—

"The decision most elaborate upon this clause of the Constitution is to be found in Washington's Circuit Court Reports, in a case which was reserved for consideration after argument. I will read several sentences from the opinion of the circuit judge, because it will bespeak that he enumerates the very rights belonging to a citizen of the United States which are set forth in the first section of this bill."

Yes, he does, but to whom does he attach them? Who does he say are entitled to these rights? The citizens of the other State; and not the citizen of the State who has been born in and has been local to his State all the time. Let me read what the honorable Senator has extracted from Judge Washington's decision:

"The next question is, whether this act infringes that section of the Constitution which declares that the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States?"

"The inquiry is, what are the privileges and immunities of citizens in the several States? We feel no hesitation in confining these expressions to those privileges and immunities which are in their nature fundamental; which belong of right to the citizens of all free Governments; and which have at all times been enjoyed by the citizens of the several States which compose this Union, from the time of their becoming free, independent, and sovereign. What these fundamental principles are it would perhaps be more tedious than difficult to enumerate. They may, however, be all comprehended under the following general heads: protection by the Government; the enjoyment of life and liberty, with the right to acquire and possess property of every kind; and to pursue and obtain happiness and safety, subject, nevertheless, to such restraints as the Government may justly prescribe for the general good of the whole. The right of a citizen of one State to pass through, or to reside in any other State, for purposes of trade, agriculture, professional pursuits, or otherwise; to claim the benefit of the writ of *habeas corpus*; to institute and maintain actions of any kind in the courts of the State to take, hold, and dispose of property, either real or personal; and an exemption from higher taxes or impositions than are paid by the other citizens of the State, may be mentioned as some of the particular privileges and immunities of citizens, which are clearly embraced by the general description of privileges deemed to be fundamental; to which may be added the elective franchise, as regulated and established by the laws or constitution of the State in which it is to be exercised."—*Coryfield vs. Coryell*, 4 Washington's Circuit Court Reports, page 330.

In relation to the other rights, except the right to vote, which this judge says only attaches when the party removing from one State into another has become a citizen of the second State, and has conformed to all the laws regulating the right to vote in that State, what description of persons does he apply then to? Who does he say are entitled to these other rights?

"The right of a citizen of one State to pass through, or to reside in any other State, for purposes of trade, agriculture, professional pursuits, or otherwise; to claim the benefit of the writ of *habeas corpus*; to institute and maintain actions of any kind in the courts of the State to take, hold, and dispose of property, either real or personal; and an exemption from higher taxes or impositions than are paid by the other citizens of the State, may be mentioned as some of the particular privileges and immunities of citizens, which are clearly embraced by the general description of privileges deemed to be fundamental; to which may be added the elective franchise, as regulated and established by the laws or constitution of the State in which it is to be exercised."

All these rights and privileges are attributed by the decision of the court to the citizens of one State going into another State. If Senators will examine this opinion, they will find that every doctrine laid down by it, and every right and privilege of the citizen that it establishes under the clause of the Constitution which I have read, appertains to a citizen residing in his own State and claiming these immunities or privileges in another State, or they attach to a citizen of one State who has removed into the other State and changed his relationship.

The opinions relied on by the honorable Senator do not establish any other proposition. On the contrary, they negative almost in positive terms—they do, as satisfactorily as though the language they used was ever so positive, negative the idea that a citizen, black or white, of a State, born in that State, having no business, no transactions in another State, not having gone into another State to change his place of residence, but still living and residing in the State where he was born, is or can become the subject of congressional legislation under this provision of the Constitution. Such a citizen is not in a condition, not in a predicament, to claim the advantage of this provision of the Constitution.

Mr. President, I then come to the conclusion, and I think that it is legitimately reached, it is reached in virtue of the gentleman's authorities, that his bill, so far as it legislates upon the person or property of white citizens or negroes who have always lived in one State, and who have no business and no transactions and claim no rights and no immunities in another State, is flagrantly unconstitutional and void.

There is one other feature of the bill upon which I shall say a word. I was surprised and astonished to hear the honorable Senator from Maryland [Mr. JOHNSON] announce that all negroes born in the United States were citizens, and that Congress might pass an act declaring them to be citizens, and that they would thereby be entitled to the right of suffrage.

Mr. JOHNSON. The honorable Senator misunderstood me. I said that but for the decision in the *Dred Scott* case I should have held so.

Mr. DAVIS. Well, sir, if that decision had never been rendered I think the proposition that they were not citizens and would not be entitled to vote is just as strong. I ask the honorable Senator if Congress can make a citizen at all. I say Congress cannot. Congress has no power to make a citizen. If Congress has the power to make a citizen, it has the power under the Constitution. Will the honorable Senator from Maryland or the honorable Senator from Illinois read me the provision of the Constitution that authorizes Congress to make a citizen, or refer me to it? The only power of Congress over that subject is contained in these words:

"Congress shall have power to adopt a uniform rule of naturalization."

Congress may create the rule; it may prescribe the authority to make a citizen; but it cannot exercise that power itself. Congress may establish courts inferior to the Supreme Court; but that does not authorize Congress to adjudicate cases, or to exercise any of the judicial power of the Government. It may create tribunals—that the Constitution authorizes—to administer those powers; but the faculty and the power of Congress to organize those tribunals does not authorize Congress to do the acts of adjudication or of administration which these functionaries, after they are organized by Congress, are authorized by the Constitution to execute. I say it would be just as legitimate and as constitutional for Congress, under its power to pass laws establishing courts subordinate to the Supreme Court, to assume the prerogative of deciding the causes which those inferior courts may decide after Congress has organized them; and this position is so absurd that a mere statement of it must, to the mind of the honorable Senator himself, lead to a refutation of his proposition.

Congress has no power to make a citizen.

Every particle of power which Congress has on the subject is to establish a uniform rule of naturalization. When Congress has established that uniform rule of naturalization—which it has done, and the power has been exercised under the Government almost from its foundation—the authority of Congress is exhausted; it has no further power whatever over the question of naturalization or citizenship.

I conceded the other day that the treaty-making power, when it acquired foreign territory with inhabitants, and those inhabitants chose to remain on and after the transfer of the territory to the United States, was, by necessary implication, clothed with the faculty of making a citizen. When the Constitution itself has said by express words and by necessary implication how citizens may be made, when the Constitution has provided that they can be made only in two ways, I assume it as an undoubted constitutional principle that they cannot be made in any other. They may be made by treaty acquiring territory with inhabitants, or they may be made according to the uniform rule of naturalization which Congress is authorized by the Constitution to establish; and they cannot be made in any other way.

It has been assumed here by various gentlemen, and I believe by my learned and most respected friend from Maryland, that any person, be he of what race or color he may, born within the United States, is by the effect and operation of our Constitution made a citizen. If that principle be true now, it was always true since the adoption of the Constitution, it is true in relation to the Indian, it is true in relation to the negro, it is true in relation to the slave negro as well as the free negro. There were free negroes born in the New England States and in Pennsylvania and New York seventy or eighty years ago. When was it ever before claimed in the Senate of the United States, or anywhere in this broad land, for those negroes born from free negro parents, that they were citizens?

Mr. JOHNSON. It was not only claimed, but the Supreme Court in the decision of the *Dred Scott* case necessarily conceded that if there had been at any time, now or when the Constitution was adopted, an African who came to the United States in a different capacity from a slave, or who was the descendant of one who did come otherwise than as a slave, he would be a citizen.

Mr. DAVIS. Will my honorable friend point out to me the distinction and the constitutional rule that makes a distinction between a free negro and a slave negro?

Mr. JOHNSON. I give you what the court said.

Mr. DAVIS. Well, that is a *dictum*. The honorable Senator, as I said the other day, is one of the ablest lawyers, and I believe the ablest living lawyer in the land. I have seen gentlemen sometimes so much the lawyer that they had to abate some of the statesman, [laughter;] and I am not certain, I would not say it was so—I will not arrogate to myself to say so—but sometimes a suspicion flashes across my mind that that is precisely the predicament of my honorable friend. My honorable friend knows that when an opinion is rendered by a court, the opinion is authority only upon the question before the court, the question *coram judice*. It has often been said, and I am not certain that the incumbent of the Chair [Mr. HOWE] and all the gentlemen on the Republican side of the Senate have not assumed again and again that Lord Mansfield, in the celebrated case of *Sommersett*, decided that slavery did not and could not exist in England. He decided no such principle. He decided diametrically the reverse. He decided that slavery then existed in England, that slaves then might be sold, and if sold for a price to be paid in the future, the sale was a sufficient consideration to maintain the writing and to maintain a suit upon the writing in any of the courts of Westminster Hall. He decided expressly that slavery existed in every English colony in America, that slavery then existed

in England, that property in slaves was then recognized in England, and that the sale of slaves was a good and sufficient consideration to uphold a contract and a suit and a recovery upon that contract in Westminster Hall. And what did he decide? He simply decided nothing else but this: that there were laws in England passed by Parliament that were incompatible with the owner of Sommersett taking him forcibly from England back to a slave colony in the West Indies; that these laws required him to issue a writ of *habeas corpus* discharging Sommersett from the ship in which he was held a prisoner with the purpose of being transported to one of the British West India islands. He decided, furthermore, that but for those laws, which were incompatible with that amount of restraint and coercion which the owner of Sommersett was endeavoring to exercise over him, he would not have granted the writ of *habeas corpus*, and it would have been impossible to do so. If any gentleman will read that case, he will find that Lord Mansfield stated that there were fifteen thousand slaves at that time on the island of England; fifteen thousand Africans held in slavery, estimated by him to have been worth £700,000; and he states in the clearest and most explicit language that if any of those fifteen thousand slaves were sold in England and a note executed for the price, the sale would be a good and sufficient consideration to maintain the contract and to authorize a judgment upon that contract before him, or before any of the courts of the kingdom.

But I go on; I beg pardon for this digression. I maintain that a negro cannot be made a citizen by Congress; he cannot be made a citizen by any naturalization laws, because the naturalization laws apply to foreigners alone. No man can shake the legal truth of that position. They apply to foreigners alone; and a negro, an Indian, or any other person born within the United States, not being a foreigner, cannot be naturalized; therefore they cannot be made citizens by the uniform rule established by Congress under the Constitution, and there is no other rule. Congress has no power, as I said before, to naturalize a citizen. They could not be made citizens by treaty. If they are made so at all, it is by their birth, and the locality of their birth, and the general operation and effect of our Constitution. If they are so made citizens, that question is a judicial question, not a legislative question. Congress has no power to enlarge or extend any of the provisions of the Constitution which bear upon the birth or citizenship of negroes or Indians born in the United States. All the provisions, all the principles, all the rights which the Constitution established in relation to those matters are fixed, immutable as the Constitution itself, and Congress by no ancillary legislation can enlarge the effect or the operation of any of those provisions or principles of the Constitution or of any rights that could be claimed under them. Then, if a negro is a citizen of the United States at all, he is a citizen by birth and by operation of the Constitution, and his rights are not to be increased or fortified, nor can they be weakened or restricted or diminished by congressional legislation. He holds them by a higher warrant than any law of Congress. He holds them by the Constitution of the United States. That Constitution cannot be interpreted even, much less can it be expanded or restricted by a law of Congress.

What, then, does my amendment propose? It incorporates the provision of the Constitution relative to the rights of a citizen in one State in other States; it recognizes those rights, and declares that they exist under and according to the terms and language of that clause of the Constitution, and it then adopts the penal sanction which the honorable Senator from Illinois has provided in his bill, and it declares that any person who deprives any citizen whatever of any rights under that clause of the Constitution commits a misdemeanor, and shall be subject to the penalties denounced by the bill.

Mr. President, if there was any despot in Europe or in the world that wanted a master

architect in framing and putting together a despotic and oppressive law, I would, if my slight voice could reach him, by all means say to him, seek the laboratory of the Senator from Illinois. If he has not proved himself an adept in this kind of legislation, unconstitutional, unjust, oppressive, iniquitous, unwise, impolitic, calculated to keep forever a severance of the Union, to exclude from all their constitutional rights, privileges, and powers under the Government eleven States of the Union—if he has not devised such a measure as that, I have not reason enough to comprehend it. What does it do?

It attempts to confer, by the first section, upon all the inhabitants of the United States, of every race and color, wheresoever resident in them, the right to make and enforce contracts; to sue, be parties, and give evidence; to inherit, purchase, lease, sell, hold, and convey real and personal property; and the full and equal benefit of all laws and proceedings for the security of person and property; and it exempts them from all punishment, pains, and penalties except such as are common and uniform to all the people. If that is not centralizing with a vengeance and by wholesale, I do not know what is. Here the honorable Senator in one short bill breaks down all the domestic systems of law that prevail in all the States, so far not only as the negro, but as any man without regard to color is concerned, and he breaks down all the penal laws that inflict punishment or penalty upon all the people of the States except so far as those laws shall be entirely uniform in their application. To the extent that there is any variance in those laws, this short bill breaks them down. To the extent that a negro is by them subjected to a severer punishment than a white man, this short bill repeals all the penal laws of the States. In relation to the citizens of a State, to their rights, privileges, and immunities, as they are to be claimed within that State now and forever, it proposes to do exactly what all these authorities say Congress cannot do, because they say in the most distinct terms that the citizens of each State, so far as their rights are limited by the boundary of that State, so far as their property and contracts are limited to that State, so far as penalties and punishments are limited to acts done within that State, are exclusively the subjects of State legislation, and Congress has no power whatever to legislate in relation to them.

The second section declares all persons who shall subject or cause to be subjected any person to the deprivation of any right secured or protected by the first section to be guilty of a misdemeanor, and that the punishment shall be a fine not exceeding \$1,000 and imprisonment not exceeding twelve months, one or both, at the discretion of the court.

I have before me the law of the Senator's own State, which makes it a highly penal offense for any officer who is authorized to issue a marriage license to issue a license for the marriage of a white person and a negro. I need not read the law. It makes it a highly penal offense for any preacher of the gospel to solemnize such a marriage. What does the gentleman's bill do? If the clerk issues such a license and the license is consummated by a preacher marrying the negro with the white person, the negro has incurred a penalty by the laws of Illinois for which he may be prosecuted. Suppose the negro is indicted for this offense, and he is tried by a jury and convicted, and the judge sentences him to the penalty denounced by the law, what application, then, has the honorable Senator's bill? All the parties who were engaged in bringing this negro to a punishment to which a white person who had committed the same act would not be—the grand jury, the petit jury, the judge, and the officer of the law who is about to carry the judgment of the court into execution, would all, according to the honorable Senator's bill, be guilty of a misdemeanor, and each of them would be subject to a fine of not exceeding \$1,000 and imprisonment not exceeding twelve months, one or both,

at the discretion of the court. Does the honorable Senator think such a law would be constitutional and valid in relation to parties who had been born in the State of Illinois, and who were living there?

Let me put the case from my own State, which I mentioned when the other bill was pending. By the law of my State a negro who commits a rape upon a white woman is subject to death, as he ought to be; and he ought to die, and I hope he always will die for any such offense. When that offense is committed by a white man, it is punished by confinement in the penitentiary for a term of years. What does the Senator's bill say? That any man or any court or any officer of the law who presumes to inflict upon a negro a different punishment than that to which a white man is subject for the same act, shall himself be regarded as an offender against the law, liable to pay a penalty of \$1,000, or to imprisonment not exceeding twelve months, or both, at the discretion of the court. Does the honorable Senator mean to assume the position that the State of Kentucky has not the right to punish a negro who has committed that enormous offense by death, when it punishes a white man who commits it by a different mode and different degree of punishment? Does he say that the judges and officers who are sworn to uphold the constitution of the State of Kentucky, and to enforce her laws, by carrying this law into operation can be guilty of a high misdemeanor against the Government of the United States that shall subject them to the pains and penalties of his bill? Sir, it is preposterous, it is absurd and unsound to the last degree. The Congress of the United States have no right to take jurisdiction over such a case or the parties to such a transaction. They have no right to declare and to denounce such punishment against the State courts and State officers for thus executing the constitutions and penal laws of the States.

These are only examples. The cases would occur every day; they would be more numerous than the fleeting minutes. The cases of wrong and outrage would be innumerable upon the reserved rights of the States, upon their powers to legislate for their own domestic concerns, in relation to their own people, the punishment of their own people, the property and estates and transactions and contracts of their own people. All these subjects belong to the States exclusively, and Congress cannot, without usurpation and a violation of the Constitution, interfere with them. The cases of offense and misdemeanor that in these respects the honorable Senator's bill would bring up every day in the United States would be as numerous as the passing minutes. The result would be to utterly subvert our Government; it would be wholly incompatible with its principles, with its provisions, or with its spirit. It would leave the General Government no longer a limited Government of delegated authority, with no powers except those expressly or by necessary implication given to it by the Constitution. It would produce a perfect and despotic central consolidated Government. All the State governments and State constitutions would be brought in ruins prostrate to the feet of the oligarchy of Congress—an oligarchy more despotic than that of the Council of Five Hundred or the Council of Ten of Venice, or any other council of despotism that ever was organized.

The bill is outrageous. I am amazed that any man of intelligence who has read law can shut his eyes against its enormous unconstitutionality. The men who do so, if they are honest, are forgetting their knowledge of the Constitution; and they have only to let that disease of forgetfulness go a little further, and they will know nothing at all about it.

Section three provides that all suits brought in State courts that come within the purview of the previous sections may be removed into the Federal courts. See what an enormous, oppressive provision of the honorable Senator's bill that is. Here is a suit in a State court between parties who are resident in the State, who have never had residence out of it, about a

transaction that has transpired wholly within the State. Who has the right, what power has the right, to prescribe a code to regulate such matters, and to try the parties? The State, no authority but the State. Congress has no power over such parties and over such subjects of suit—not a particle. Your own courts have so decided; the Constitution so reads; reason cannot doubt the truth of that position. All such cases and contracts and persons are exclusively within the control of State authority, State law, and State courts; and yet where those State laws and those State courts are resorted to for the redress of such wrongs, your act comes in and most unjustly and unconstitutionally and oppressively provides for the removal of all such cases into the Federal courts.

The fourth section requires the United States attorneys, marshals, and deputy marshals, to institute both penal proceedings and civil suits, in the names of persons who may be injured by any violations of the letter of this act, at the cost of the United States, and authorizes the United States courts to appoint commissioners without limit in point of number, to enforce this act. What is the effect of that? This is an act for the benefit of the free negro, not the white man. If there had been no free negro, this act never would have been heard of. What does it provide? If, according to the letter of this unconstitutional, void, and iniquitous act, a free negro's rights are infringed, the attorneys and marshals of the United States are required to institute both civil and penal proceedings for the benefit of the negro, to bring a criminal prosecution on behalf of the United States, and also a suit in the name of the negro, against the white officers who infringe his rights under this act, and these suits, civil and penal, are to be prosecuted for the benefit of the negro at the cost of the Treasury of the United States. Sir, when was the white man so favored by congressional legislation? When did the learned chairman of the Committee on the Judiciary introduce a bill that, where the rights of a white man were impugned or violated, it should be the duty of the attorneys and the marshals and the deputy marshals of the United States both to prosecute penal and to sue civilly in the name of the negro for his violated rights, and to sue at the cost of the Treasury of the United States? It is a most diabolical feature.

Section five vests these commissioners with judicial powers to enforce the act. I have read repeatedly from the Constitution of the United States the express and emphatic words that all the judicial power of the Government is vested in the Supreme Court and in such inferior courts as Congress may from time to time establish; but here the honorable Senator's bill authorizes the courts of the United States to appoint commissioners without number, legions of them. The names of these commissioners are not submitted to the Senate of the United States for confirmation. They are not courts, they are no part of the judicial branch of the Government; they are not officers nominated by the President and approved of and consented to by the Senate; they are appointed by the will, the dictum of the courts. In times of heated political presidential contests the Executive may cover the face of the country with them, and these men might go on, against the Constitution of the United States, exercising judicial power under this lawless and unconstitutional act, controlling the voters of the land, imprisoning and fining, or bringing up for imprisonment and fine, and other modes of punishment, all the contumacious, all the free citizens of America that would not vote according to their behest. And this enormous power of creating such a numerous tribe of myrmidons with despotic power is vested by this bill in the courts, and these officials are to exercise judicial powers!

The sixth section requires the marshals and deputy marshals to execute all processes issuing in virtue of this act, under the penalty of \$1,000, and authorizes the commissioners to call to the aid of such marshals and deputy marshals the

bystanders, the *posse comitatus*, and then the Army and the Navy of the United States. Yes, sir, here is a law made almost *eo nomine*, made unquestionably for the benefit of the free negro and in violation of the Constitution, and the marshals are required, under the penalty of \$1,000 for every instance of defalcation, to execute the process under this void and unconstitutional law, and if they fail to do so the commissioner is authorized by this most monstrous and abominable bill to summon every bystander to aid the marshal in the execution of this unconstitutional law, to summon the *posse comitatus* of the county in which the process is to be executed to aid in it, and, if necessary, to summon the entire Army and Navy of the United States to execute such void process.

When, sir, was such partiality ever shown for the white man, the sovereign, citizen, and lord of this land—him who made the Government, who won its independence, who established, as he thought, the deep and firm foundations of a free Government in a written Constitution, and whose mission it is to uphold and to defend that Government for himself and for his latest posterity? When was such partial, unjust, and iniquitous legislation devised for the white man who achieved all this good for his country and for the world? Never, never. But the negro and his insane friends bring up now for the first time such monstrous legislation.

There is another most remarkable feature. All persons who violate the rights of the negro under this act are subjected by it to two penalties of \$1,000 each, one for the benefit of the United States, and the other for the benefit of the injured negro in the form of liquidated damages. The honorable Senator knows what liquidated damages are, and so does every lawyer. When damages are liquidated they are no longer a penalty or in the nature of a penalty. When they are liquidated by the law, the whole of the nominal amount may be collected without regard to the heinousness of the case in which they are due. Here now is an act that creates two separate penalties on a defaulting officer. If the officer assumes not to execute the process because it is void, being under an unconstitutional law, he is subjected to two penalties. The honorable Senator must be a lineal descendant of Draco of old. He imposes two penalties of \$1,000 each, one for the benefit of the United States, and the other for the benefit of the free negro whose rights, according to the letter of this monstrous and unconstitutional law, have been violated; and the penalty in favor of the free negro is assessed in the form of liquidated damages, and the mandate of the court goes inexorably to the marshal to pay to the negro his \$1,000 liquidated damages. The contest may be about a cow, or a month's work, or some other trifle of no significance; the white man may be right and the negro wrong; the whole proceeding may be void; but without regard to these questions, the marshal is inexorably to execute the writ; and if he is guilty of any defalcation, any neglect in the energetic pursuit of the party named in the process, he incurs two penalties of \$1,000 each. That to the Government of the United States may be ameliorated; the President may remit it; or it may be decided by the courts that the real amount of damage sustained by the negro, and not the penalty, is the criterion of the recovery against the marshal for the first \$1,000; but no such mitigation or defense can be brought up for the second. The second is for the benefit of the negro. No law relaxes when the penalty is for the benefit of the negro. No law can be mitigated by justice, by mercy, or by humanity, when its enforcement is for the benefit of the negro; it is as unalterable as the laws of the Medes and Persians, and as inexorable as tyranny itself.

The eighth section of this bill gives a fee to the commissioner of ten dollars in every case and five dollars to the marshal for every arrest. The ninth section makes the courts of the United States and all their officers and paraphernalia tributary to the execution of this law, and

the tenth section provides for the use of the Army and the Navy and the militia to carry out this execution of justice to the negro.

Mr. President, was it for these fruits and these laws that we went into this war? Was it for these fruits and these laws and these oppressions that two million and a quarter of men were ordered into the field? Was it that the American people might enjoy these as the fruits of the triumphant close of this war that hundreds of thousands of them have been mutilated on the battle-field and by the diseases of the camp, and that a debt of four or five thousand million dollars has been left upon the country? If these are to be the results of the war, better that not a single man had been marshaled in the field nor a single star worn by one of our officers. These military gentlemen think they have a right to command and control everywhere. They do it. They think they have a right to do it here, and we are sheep in the hands of our shearers. We are dumb.

Mr. President, I do not know how soon, for my action on the present occasion, I shall be compelled to silence by the military power of my country, by the men who ought to be subordinate to the civil power. When the Father of his Country surrendered his military commission, his proudest and most glorious boast was that he had always kept the military subordinate to the civil power. Times have changed. The military power is now rampant and triumphant, and all we have to do is to bow our heads. But I live in the hope that a better day is coming, when the proudest military man in the land, with all his bloody laurels, will find that he is but an instrument in the hands of the law, and that he has to yield the same submission to the law that the humblest citizen of the land does.

Mr. TRUMBULL. Mr. President, I will occupy a very few moments of the attention of the Senate after this long harangue of the Senator from Kentucky, which he closed by declaring that we are dumb in the presence of military power. If he has satisfied the Senate that he is dumb, I presume he has satisfied the Senate of all the other positions he has taken; and the others are just about as absurd as that declaration. He denounces this bill as "outrageous," "most monstrous," "abominable," "oppressive," "iniquitous," "unconstitutional," "void."

Now, what is this bill that is obnoxious to such terrible epithets? It is a bill providing that all people shall have equal rights. Is not that abominable? Is not that iniquitous? Is not that most monstrous? Is not that terrible on white men? [Laughter.] When was such legislation as this ever thought of for white men?

Sir, this bill applies to white men as well as black men. It declares that all persons in the United States shall be entitled to the same civil rights, the right to the fruit of their own labor, the right to make contracts, the right to buy and sell, and enjoy liberty and happiness; and that is abominable and iniquitous and unconstitutional! Could anything be more monstrous or more abominable than for a member of the Senate to rise in his place and denounce with such epithets as these a bill, the only object of which is to secure equal rights to all the citizens of the country, a bill that protects a white man just as much as a black man? With what consistency and with what face can a Senator in his place here say to the Senate and the country that this is a bill for the benefit of black men exclusively when there is no such distinction in it, and when the very object of the bill is to break down all discrimination between black men and white men?

Now sir, what becomes of all the Senator's denunciation? The bill is applicable exclusively to civil rights. It does not propose to regulate the political rights of individuals; it has nothing to do with the right of suffrage, or any other political right; but is simply intended to carry out a constitutional provision, and guaranty to every person of every color the same civil rights. That is all there is to it. That is

the only feature of the bill, and all its provisions are aimed at the accomplishment of that one object.

But, says the Senator, it breaks down the local legislation of all the States; it consolidates the power of the States in the Federal Government. Why, sir, if the State of Kentucky makes no discrimination in civil rights between its citizens, this bill has no operation whatever in the State of Kentucky. Are all the rights of the people of Kentucky gone because they cannot discriminate and punish one man for doing a thing that they do not punish another for doing? The bill draws to the Federal Government no power whatever if the States will perform their constitutional obligations.

But the Senator occupies an hour of his speech to show that certain cases which I thought proper to refer to in a few remarks, the other day, in order to ascertain what was meant by the term "citizen of the United States," have no application to the rights of a citizen in a State. Those cases, he says, were based upon that clause of the Constitution which declares that the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States, and they relate entirely to the rights which a citizen in one State has on going into another State, and not to the rights of the citizens belonging to the State. I never denied that. I would have told the Senator in one moment that the cases were not introduced for any such purpose as he supposes, but they were introduced for the purpose of ascertaining, if we could, by judicial decision what was meant by the term "citizen of the United States;" and inasmuch as there had been judicial decisions upon this clause of the Constitution, in which it had been held that the rights of a citizen of the United States were certain great fundamental rights, such as the right to life, to liberty, and to avail one's self of all the laws passed for the benefit of the citizen to enable him to enforce his rights; inasmuch as this was the definition given to the term as applied in that part of the Constitution, I reasoned from that, that when the Constitution had been amended and slavery abolished, and we were about to pass a law declaring every person, no matter of what color, born in the United States a citizen of the United States, the same rights would then appertain to all persons who were clothed with American citizenship. That was the object for which those cases were introduced. The Senator seemed to suppose, and argued to show what no one would controvert, that they were not cases deciding upon the rights of the citizen in the State in which he resided.

But the Senator goes on to say that there is no such thing as naturalizing a person except he be a foreigner; that there is no authority in the Congress of the United States to declare a person a citizen except it be by way of naturalizing a foreigner. I have already said that in my opinion birth entitles a person to citizenship, that every free-born person in this land is, by virtue of being born here, a citizen of the United States, and that the bill now under consideration is but declaratory of what the law now is; but, inasmuch as some persons deny this, I thought it advisable to declare it in terms in the statute itself. But, sir, this is not the first time that this has been done. If the Senator from Kentucky had read the statutes of his country he would have ascertained that persons had been made citizens by act of Congress three score years and more ago. As long ago as 1802 the Congress of the United States declared that the children of persons naturalized in this country, if the children were under age, should become citizens of the United States. Without going through any process of naturalization at all, they were declared by act of Congress to be citizens of the country.

Again, sir, in 1843, Congress declared:

"That the Stockbridge tribe of Indians, and each and every one of them, shall be deemed to be, and are hereby declared to be, citizens of the United States to all intents and purposes, and shall be entitled to all the rights, privileges, and immunities of such citizens, and shall in all respects be subject to the laws of the United States."

That was in 1843. These Stockbridge Indians were born within the United States, and Congress declared by an act that without going through any process of naturalization they were and should be citizens of the United States, with all the rights pertaining to citizens.

This, sir, I believe answers the whole speech of the Senator. I think it was made up of statements that there was no precedent for an act of this kind, which is contradicted by a reference to the laws of denunciations—

Mr. DAVIS. I did not say that there was no precedent for it. I said expressly yesterday that in my opinion the precedents were inadvertently passed, and that at any rate they were outside of the power of Congress.

Mr. TRUMBULL. The Senator chooses to regard everything to be outside of the power of Congress by denouncing it as such. As I said, his speech is made up of these denunciations, piling up adjectives, and denouncing as outrageous a bill which contains but one single principle, and that to establish equality in the civil rights of citizens of the country, and in reading from decisions to controvert a point which nobody had made before the Senate.

He also brings up again the question of marriage between whites and negroes. He is troubled about amalgamation, and becomes excited and vehement in talking about it. I should have supposed that at his time of life he would feel protected against it without any law to put him in the penitentiary if he should commit it. [Laughter.] Sir, we need no law of the kind where there is no disposition for this amalgamation. I apprehend that if the States prefer to pass laws on that subject—and I have answered that question two or three times—

Mr. DAVIS. Why did your own State pass such a law?

Mr. TRUMBULL. Does not the Senator from Kentucky know that we have a great many Kentuckians in Illinois? [Laughter.] A great many of his people settled nearly the whole of the lower part of my State, and as they came over from under such a law and had to be restrained at home, we were afraid to risk them when they got into Illinois. [Laughter.] But, sir, now that Egypt is redeemed, I do not think there will be any necessity for continuing that act in my State. [Laughter.]

Now, sir, the hour having arrived when we agreed to vote upon this bill, without taking up further time, I trust the Senate will take action upon it.

Mr. HENDRICKS. I do not understand that the hour has arrived when the Senate agreed to take a vote on this bill. The understanding was that the general debate upon the bill should close at three o'clock, and then amendments should be offered and discussed, and the vote taken at four o'clock. Pursuant to that understanding, I propose as an amendment to strike out the last section of the bill, which I will ask the Secretary to report to the Senate.

Mr. TRUMBULL. The Senator is quite right in his understanding. I will state to him, however, that we are still in Committee of the Whole, and the committee's amendments have not been acted upon. The Senator can propose his amendment at any time, but it would be more regular perhaps to pass upon the amendments that have been made in the committee first.

Mr. HENDRICKS. I will first discuss this amendment.

The PRESIDING OFFICER, (Mr. Howe in the chair.) The Chair is informed that all the amendments of the committee have been agreed to in Committee of the Whole, and the question now is upon the amendment offered by the Senator from Kentucky, to strike out the whole of the bill after the enacting clause and to insert a substitute.

Mr. HENDRICKS. What I wish to say is upon the amendment that I propose, and the connection of this section with the rest of the bill. I understand that the Senator from Kentucky [Mr. GUTHRIE] wishes to submit some observations on the bill generally, and of course

the Senate will desire to hear him, and I yield the floor for that purpose.

Mr. GUTHRIE. I have a very distinct—
The PRESIDING OFFICER. Will the Senator from Kentucky allow the Chair to inquire if the amendment moved by the Senator from Indiana is withdrawn?

Mr. HENDRICKS. I do not withdraw the amendment. I wish to submit some remarks upon it after the Senator from Kentucky shall have concluded.

Mr. GUTHRIE. Mr. President, I have a very distinct conviction in my mind that this bill is not warranted by the Constitution and is not warranted by good policy and sound statesmanship; but at this hour I cannot do justice to the subject nor to myself by going into it. However, I will make a few remarks to satisfy the gentleman from Illinois that my objections to this bill are well founded, and such as I believe in, and such as I believe the country will come to.

It is now nine months since the war has ceased. The rebellion has been crushed. The adoption of the amendment to the Constitution by the requisite number of States has been announced by the only authority that had the right to announce it, the Secretary of State. But before it was announced this bill was concocted, not exactly in its present form, and it has been progressive, changing like the chameleon.

Now, what is the pretense for the passage of the bill? It is found in the constitutional amendment abolishing slavery, in these words:

"Neither slavery, nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist in the United States, or in any place subject to their jurisdiction."

The nation has accepted that amendment; it is the language of the nation. My doctrine is that slavery exists no longer in this country; that it is impossible to exist in the face of that provision; and with slavery fell the laws of all the States providing for slavery—every one of them. I do not see what benefit can arise from repealing them by this bill, because if they are not repealed by the Constitution as amended, this bill could not repeal them. I hope that all the States in which slavery formerly existed will accept that constitutional provision in good faith. I myself accept it in good faith. Believing that all the laws authorizing slavery have fallen, I have advised the people of Kentucky, and I would advise all the States, to put these Africans upon the same footing that the whites are in relation to civil rights. They have all the rights that were formerly accorded to the free colored population in all the States just as fully this day as they will have after this bill has passed, and they will continue to have them.

Now, to the States belong the government of their own population, and those within their borders, upon all subjects. We, in Kentucky, prescribe punishment for those who violate the laws; we prescribe it for the white population; we prescribe it for the free African population, and we prescribe it for the slave population. All the laws prescribing punishment for slaves fell with slavery, and they were subject afterward only to the penalties which were inflicted upon the free colored population, they then being free. Slaves, for many offenses, were punished far less than the free colored people. No slave was sent to the penitentiary and punished for stealing or anything of that kind, whereas a free person was. But all these States will now, of course, remodel their laws upon the subject of offenses. I would advise that there should be but one code for all persons, black as well as white: that there shall be one general rule for the punishment of crime in the different States. But, sir, the States must have time to act on the subject; and yet we are here preparing laws and penalties, and proposing to carry them into execution by military authority, before the States have had time to legislate, and even before some of their Legislatures have had time to convene. I think the States of this Union are entitled to some little consideration before you inflict military government upon them,

which this bill does. The first section of this bill attempts to repeal all the State laws and to enact new laws for them, the enforcement of which is put in new hands; and the fourth section creates an army of informers and spies to seek out those who offend against this law, and to prosecute them at the expense of the United States. The pretense for passing such a measure as this is found in the second section of the constitutional amendment abolishing slavery, and which declares that—

"Congress shall have power to enforce this article by appropriate legislation."

Sir, the American people are the most law-abiding people on the face of the earth. If there was an attempt to enslave an African after the passage of this constitutional amendment, the writ of *habeas corpus* would relieve him, and as soon as the courts had declared the law on this subject there would be a general obedience to it. Those individual cases of outrage and wrong that no Government can provide against might occasionally occur and no doubt would occur. Now, is it fair to these States that we should take them up on suspicion and put them under a military despotism in order to enforce this law? According to my understanding of the Constitution of the United States and the sense of the people who adopted this constitutional amendment, they never intended to turn over the State governments and subject them to the dominion of Congress.

Now, what is the result of this bill? It enforces through its own officers and through its own agents a prosecution of the citizens who infract it, or commit what they suppose is an infraction of it, in favor of the black population, and in favor of the black population only; taking it for granted throughout that the wrong is on the side of the white man alone; making no provision for prosecuting a black man for any crime that he may commit against a white man. I say it never was the intention of the Constitution that these States should be subject to Congress; that we should have one set of officers prosecuting the white man, and the officers of the State prosecuting the colored man for offenses committed by him. Under the pretense of giving effect to the freedom of the slave, you have originated a system that is constantly interfering with the laws of the States, and constantly interfering with the citizens of the States, bringing them before your tribunals and questioning them whenever they attempt to enforce a State law against a black man.

Sir, if I know myself, I am determined, in carrying out the amendment to the Constitution, to do as equal justice to the black man as to the white man in all respects; but I am not willing to believe, and I do not believe, that there is any authority under it to overturn the State governments, and permitting the Federal Government to run into the States to make laws on this subject when it enters into the States for nothing else. I tell you, gentlemen, it is my firm conviction that it can lead to nothing but strife and ill-feeling, which will grow and continue to grow. Where it will end, God only knows. The time will not always be that the citizens will be content that the State governments should be interfered with, and that there should be in each State two sets of police officers, one to punish those who commit what they presume to be offenses against the Africans, and another to punish the African for his crimes under the State laws, and that punishment should be made the pretense of prosecuting the white man in your courts. The thing will not work; it ought not to work; and it never should have been introduced here. It is not necessary to secure the freedom of the African. Slavery does not exist. The ordinary process and proceeding of law is ample for his protection. But when you overturn the State governments, interfere by your legislation with their laws, supersede their courts, keep up a constant contention between the individuals and the tribunals, you are destroying the unity of this Government, and the purposes for which the States were formed.

In this simple view of the subject, I consider

that there is no warrant in the Constitution for such legislation as this, and it is impossible that there should be, and besides, it will be the most impolitic law that ever was passed. The gentleman from Illinois says that this is simply a bill providing that all persons shall have their rights. I might return the compliment by saying that it is simply a bill declaring that we have established a military despotism and the laws are to be enforced at the point of the bayonet. This bill and the one passed last week invoke military power everywhere, and throw the protection of the military over anything. Gentlemen, is this a proper answer to this war, to the gallantry of our officers and soldiers, and to the hope of the American people that we should have a restored Union? Is it a proper answer to those who have lent you their money and whom you yet owe, to sow this cause of dissension between the States, this pestering interference that will lead to dissension, and God knows what else it will lead to? I say that this bill, as well as the kindred measure passed last week, should not be passed on account of economy. It should not be passed on account of your creditors. How many creditors have you now knocking at your doors for money and property seized and put into your Treasury, whom you cannot pay, whom you are afraid to make appropriations for? And yet you are taking by these bills more money from the Treasury than would pay probably the principal of the debt due to these men. Is it just to the creditors to whom you owe this money that you should leave their claims unsettled, and that you should attempt to carry on this Government by such legislation as this?

Gentlemen, I am not going to inflict a long speech upon you. Kentucky has had her share of talking here, and, sir, she has had her share of suffering during this war. At one time she was invaded by three armies of the rebellion; all but seven or eight counties of the State at one time were occupied by its armies, and her whole territory devastated by guerrillas. We have suffered in this war. We have borne it as best we could. We feel it intensely that now, at the end of the war, we should be subjected to a military despotism, our houses liable to be entered at any time when our families are at rest, by military men who can arrest and send to prison without warrant, and we are obliged to go, and we are obliged to pay any fines they may impose. I do not believe that you will lose anything if you pause before passing such legislation as this, and establishing these military despotisms, for we do not know where they are to end.

Gentlemen, I will not detain you any longer.

Mr. HENDRICKS. I do not agree with some Senators that this is a more dangerous bill to the country than the one that was passed last week. If the amendment which I have proposed should be adopted and the last section stricken from the bill, it will be a much less dangerous bill, in my judgment, than the Freedmen's Bureau bill, for the reason that that bill sends an army of irresponsible officers among the people to control their affairs, and from their actions and their decisions there is no appeal to the courts; but this bill sends the people with their causes into the courts of the United States, and if a great wrong be done in any of the inferior courts perhaps an appeal will lie to a court where justice will be done. I am not so much afraid of any law that sends the people to the courts as I am of a law which places them under the control and power of irresponsible officials.

But the section which I propose to strike out is an unnecessary and very dangerous one, and I submit it to the judgment of the majority of this body whether it ought to be enacted into a law. This bill is a wasp; its sting is in its tail. Sir, what is the bill? It provides, in the first place, that the civil rights of all men, without regard to color, shall be equal; and, in the second place, that if any man shall violate that principle by his conduct, he shall be responsible to the court; that he may be prosecuted criminally and punished for the crime, or he

may be sued in a civil action and damages recovered by the party wronged. Is not that broad enough? Do Senators want to go further than this? To recognize the civil rights of the colored people as equal to the civil rights of the white people, I understand to be as far as Senators desire to go; in the language of the Senator from Massachusetts [Mr. SUMNER] to place all men upon an equality before the law; and that is proposed in regard to their civil rights.

Then, sir, we have the framework for the execution of these two sections. I recollect that during the holidays it was heralded to the country that a great achievement was to be expected from the Senator from Illinois; that he was going to introduce a bill as soon as Congress reassembled recognizing the civil rights of the colored people as equal to the civil rights of the white people; that he was going to so frame his bill as that these rights should be positively and certainly secure, and that to accomplish this he had adopted the framework and the fashion of the former fugitive slave law. That was regarded as a great achievement, and much credit was claimed for the Senator because when he came to prosecute and follow white men he had adopted the language and the framework of a law which was intended to recapture runaway slaves—a law which in its framework and details was denounced as most unjust and dangerous. And yet it was regarded as a feat and an accomplishment for the Senator from Illinois to incorporate into this bill the language of that law:

Why, sir, this bill provides that there shall be commissioners, not ordinary commissioners that the courts in the exercise of their judgment and discretion shall appoint, but extraordinary commissioners, and from its language it seems to contemplate that there shall be a commissioner in every county of the United States, and these commissioners are authorized to appoint as many agents or deputy marshals as they may see fit to appoint, and these deputy marshals may call upon the body of the people, for what purpose? To pursue a runaway white man. Oh, I recollect how the blood of the people was made to run cold within them when it was said that the white man was required to run after the fugitive slave; that the law of 1850 made you and me, my brother Senators, slave-catchers; that the *posse comitatus* could be called to execute a writ of the law for the recovery of a runaway slave under the provisions of the Constitution of the United States; and the whole country was agitated because of it. Now slavery is gone; the negro is to be established upon a platform of civil equality with the white man. That is the proposition. But we do not stop there; we are to reenact a law that nearly all of you said was wicked and wrong; and for what purpose? Not to pursue the negro any longer; not for the purpose of catching him; not for the purpose of catching the great criminals of the land; but for the purpose of placing it in the power of any deputy marshal in any county of the country to call upon you and me, and all the body of the people to pursue some white man who is running for his liberty because some negro has charged him with denying to him equal civil rights with the white man. I thought, sir, that that framework was enough; I thought, when you placed under the command of the marshal in every county of the land all the body of the people, and put every one upon the track of the fleeing white man, that that was enough; but it is not. For the purpose of the enforcement of this law, the President is authorized to appoint somebody who is to have the command of the military and naval forces of the United States—for what purpose? To prevent a violation of this law, and to execute it. Let me read it, as I do not get the words exactly:

SEC. 10. And be it further enacted, That it shall be lawful for the President of the United States, or such person as he may empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia, as shall be necessary to prevent the violation and enforce the due execution of this act.

What violation, sir? The denial of equality

to the colored people. Some man disputes the proposition; some judge proposes in his adjudication not to recognize the civil equality of the colored people. Now the military may be called in to prevent the violation of this law. Before there is a violation, before a crime is committed, the military may be brought to bear upon any person who is charged with a design to violate the law. Then if there shall be a violation, if some judge of a court shall hold that the colored man is not entitled to equal civil rights with the white man, the military force may be called in to execute this law. How and why? Are we not in a time of peace? Where is society now disturbed? Upon our honors we must legislate fairly for the country. We have no right, in the form of legislation, to go to punishing men, and I cannot believe that Senators intend any such thing. If you create an army of officers to execute this law, and if you authorize the deputy marshals everywhere to call upon the whole body of the people to execute it, why is it that the military shall be brought in to execute this law of all the laws of the United States, the only law relating to the civil affairs of the people? Is it right? Are you willing to do it in reference to other laws? Are you willing to say in your laws declaring and protecting the civil rights of white men that they shall be enforced at the point of the bayonet? I know you would not. You would say that the military must not be brought in except where there is an insurrection, or when there is such an interference with the enforcement of the laws as justifies the interposition of the military power of the country.

In the State of Indiana we do not recognize the civil equality of the races. I refer to Indiana, as the Senator from Maryland [Mr. JOHNSON] referred to his State the other day, as a mere mode of illustration. The policy of that State was to prevent the further immigration of colored people into the State after 1852, and as a means of preventing that we denied to the colored people who might come into the State after that date the right to acquire real estate. Suppose that during the past thirteen years some colored man has come into the State of Indiana and has purchased real estate. He brings his action of ejectment after the passage of this law to recover that land. Our supreme court has decided that law of the State to be constitutional. That decision of the supreme court is the rule of decision for all the inferior courts of the State. The trial of the ejectment comes off before the circuit or common pleas court of the State, and the judge instructs the jury that under the law and constitution of the State of Indiana this man could not acquire an interest in real estate and that he cannot recover. Here is a denial of a civil right, it is claimed; but it is a question of law; and you make that judge not only responsible in the civil but in the criminal courts of the United States for his adjudication. You make him a criminal for following the authority of the supreme court of the State. You make him a criminal because he obeys the constitution of the State. You make him a criminal because he enforces the law of the State as it is plainly written before him. You are not content with capturing him, but you call in the military power of the country and you stop his court. You will not allow that case to go to judgment, but when it is announced to the jury that this is the rule that must govern them, I suppose the military must be brought in to prevent a verdict and a final judgment. That would be preventing a violation of the law. Is this law to make a good title in Indiana? Is this law to have the force of vesting in the colored people who came into that State since 1852 a good and sufficient title to land when the constitution and the law of the State denied that right? You are not content that this judge may be pursued by a host, an army of marshals, and the body of the people, but a military chieftain is to be called in that this may not go into the judgment of the court.

I am giving an extreme case, but it is a case that all Senators will admit might occur under

this law. A court may be stopped midway in the investigation of a cause; and to prevent its judgment, the military are authorized to interfere. Do Senators desire that? I thought the time for military government had passed. It may not have passed here, but this military control, I believe, is about passed. I believe, taking the course pursued by the Administration in disbanding the armies, that it has substantially passed at the other end of the avenue, and a desire for its continuance has passed away from the hearts of the people. Two years ago it was a very easy thing anywhere throughout the North to maintain a military force and to repress a public sentiment that was offensive to the authorities in power. It is not so now, sir; and I am very glad of it. I never want to see a return to the time when a man's house may be surrounded by armed men in the night time, and he may be carried off to a distant portion of the State.

Mr. JOHNSON. And out of it.

Mr. HENDRICKS. And out of the State and cast into a dungeon, and denied that trial which the Constitution and laws of the country have guaranteed to him. I never want to see the time return when a man in the middle of the night shall hear the stealthy tread of the spy at his door, in the forcible language of the Senator from Pennsylvania, [Mr. COWAN,] when he shall hear the breathing of the spy at his keyhole; when he shall hear the jingling of false keys at his girdle. If men are guilty of crimes, let them be brought before the courts. Do not you Senators want it to be so? Are there any Senators here that want this to be a country governed by military power? Now, in a time of peace, when the southern armies are abandoned, when the States are rapping at your door for admission, when they wish to be heard when we legislate in regard to them; at this time of profound peace in the country, when there is a more perfect subjugation to law, if I may use that expression, than at any period heretofore, we propose that a law for the benefit of the colored people shall be executed at the point of the bayonet.

It seems to me that I need add nothing further. I repeat that it is enough that you clothe the marshals under this bill with all the powers that were given to the marshals under the fugitive slave law. That was regarded as too rigorous a law, as too arbitrary in its provisions, and you repealed it. You repealed it before the constitutional amendment was adopted. You said it should not stand upon the statute-book any longer, that no man, white or black, should be pursued under the provisions of that law. Now, you reenact it, and you claim it as a merit and as an ornament to the legislation of the country; and you add an army of officers and clothe them with the power to call upon anybody and everybody to pursue the running white man. That is not enough, but you must have the military to be called in, at the pleasure of whom? Such a person as the President may authorize to call out the military forces. Where it shall be, and to whom this power shall be given, we do not know.

Mr. President, I do not intend to discuss the bill. I hope it will not pass; I think it will do no good; but if it must pass, let us not unite the sword with the court.

Mr. LANE, of Indiana. Mr. President, I shall detain the Senate but a very few moments at this stage of the proceedings, for I am as anxious to have a vote as any one; but it is perhaps necessary for me to say a few words in explanation of the reasons for the vote I shall give.

My distinguished colleague, if I understand him aright, places his objection to this bill, first, upon the ground that we have pressed into the service the machinery of the fugitive slave law; and secondly, that we authorize this bill to be enforced by the military authority of the United States. It is true that many of the provisions of this bill, changed in their purpose and object, are almost identical with the provisions of the fugitive slave law, and they are denounced by my colleague in their present application;

but I have not heard any denunciation from my colleague, or from any of those associated with him, of the provisions of that fugitive slave law which was enacted in the interest of slavery, and for purposes of oppression, and which was an unworthy, cowardly, disgraceful concession to southern opinion by northern politicians. I have suffered no suitable opportunity to escape me to denounce the monstrous character of that fugitive slave act of 1850. All these provisions were odious and disgraceful in my opinion, when applied in the interest of slavery, when the object was to strike down the rights of man. But here the purpose is changed. These provisions are in the interest of freemen and of freedom, and what was odious in the one case becomes highly meritorious in the other. It is an instance of poetic justice and of apt retribution that God has caused the wrath of man to praise Him. I stand by every provision of this bill, drawn as it is from that most iniquitous fountain, the fugitive slave law of 1850.

What possible wrong can be inflicted upon any one by the provisions of this bill? These men are free by a threefold title. They have a threefold claim to their freedom. They are free, first, by the proclamation of the President of the United States. Many of them are free, from having fought during the late rebellion in the Army of the United States, and by the laws of all nations, Christian and savage, and by the usage of all nations, the moment you make them soldiers in your Army you manumit and declare them free. They are free by the constitutional amendment lately enacted, and entitled to all the privileges and immunities of other free citizens of the United States. It is made your especial duty by the second section of that amendment, by appropriate legislation, to carry out that emancipation. If that second section were not embraced in the amendment at all your duty would be as strong, the duty would be paramount, to protect them in all rights as free and manumitted people. I do not consider that the second section of that amendment does anything but declare what is the duty of Congress, after having passed such an amendment to the Constitution of the United States, to secure them in all their rights and privileges. My distinguished colleague seems to take exception to the term "equality before the law."

What are the objects sought to be accomplished by this bill? That these freedmen shall be secured in the possession of all the rights, privileges, and immunities of freemen; in other words, that we shall give effect to the proclamation of emancipation and to the constitutional amendment. How else, I ask you, can we give them effect than by doing away with the slave codes of the respective States where slavery was lately tolerated? One of the distinguished Senators from Kentucky [Mr. GERRIE] says that all these slave laws have fallen with the emancipation of the slave. That, I doubt not, is true, and by a court honestly constituted of able and upright lawyers, that exposition of the constitutional amendment would obtain.

But why do we legislate upon this subject now? Simply because we fear and have reason to fear that the emancipated slaves would not have their rights in the courts of the slave States. The State courts already have jurisdiction of every single question that we propose to give to the courts of the United States. Why then the necessity of passing the law? Simply because we fear the execution of these laws if left to the State courts. That is the necessity for this provision.

Then my colleague asks, why do you invoke the power of the military to enforce these laws? And he says that constables and sheriffs and marshals when they have process to serve have a right to call upon the *posse comitatus*, the body of the whole people, to enforce their writs.

Here is a justice of the peace in South Carolina or Georgia, or a county court, or a circuit court, that is called upon to execute this law. They appoint their own marshal, their deputy marshal, or their constable, and he calls upon the *posse comitatus*. Neither the judge, nor the jury, nor the officer as we believe is willing

to execute the law. He may call upon the people, the body of the whole people, a body of rebels steeped in treason and rebellion to their lips, and they are to execute it; and the gentleman seems wonderfully astonished that we should call upon the military power. We should not legislate at all if we believed the State courts could or would honestly carry out the provisions of the constitutional amendment; but because we believe they will not do that, we give the Federal officers jurisdiction. Because we believe they will not do it, because we believe their people will not carry it out, we authorize the President of the United States to do what he would have a perfect right to do without the enactment of such a law under peculiar circumstances. Where organized resistance to the legal authority assumes that shape that the officers cannot execute a writ, they have a right through the Governor of the State to call upon the President to see that that law, as well as every other law, is faithfully executed. We propose by law to say that the military may be called in for the execution of this law.

But to return to the fugitive slave law; how long is it since in Boston, the proud metropolis of New England, the military were called in to execute the fugitive slave law and to suppress a riot growing out of the attempt to enforce it?

I think, then, that the provisions of this bill are admirably calculated to secure to these colored persons their rights under the constitutional amendment, and I think the provision contained in the last section of the bill more important than any other, and that is, that the President shall have a right with the strong arm of military authority to see that this law is carried out; and I say without that provision this act would be a mockery and a farce. It will not be worth the paper upon which it will be engrossed unless you make it a law in deed and in fact, and authorize the judicial officers appointed under it to call upon and to command the military power of the country for the purpose of carrying it out.

But what harm is to result from it? Who is to be oppressed? What white man fleeing, in the language of my colleague, pursued by these harpies of the law, is in danger of having his rights stricken down? What does the bill provide? It places all men upon an equality, and unless the white man violates the law he is in no danger. It takes no right from any white man. It simply places others on the same platform upon which he stands, and if he would invoke the power of local prejudice to override the laws of the country, this is no Government unless the military may be called in to enforce the order of the civil courts and obedience to the laws of the country.

Mr. WILSON. Mr. President, the hour fixed for taking the vote has arrived, but I desire to occupy the time of the Senate for a few moments to notice a remark that fell from the Senator from Kentucky, [Mr. GUTHRIE.] The Senator tells us that the emancipated men ought to have their civil rights, that the black codes fell with slavery; but the Senator forgets that at least six of the reorganized States in their new Legislatures have passed laws wholly incompatible with the freedom of these freedmen; and so atrocious are the provisions of these laws, and so persistently are they carried into effect by the local authorities, that General Thomas in Mississippi, General Swayne in Alabama, General Sickles in South Carolina, and General Terry in Virginia have issued positive orders forbidding the execution of the black laws that have just been passed. General Sickles has just issued an order in South Carolina of twenty-three sections, more full, perfect, and complete in their provisions than have ever been issued by any official in the country, for the security of the rights of the freedmen. On the 12th day of January last, General Grant, unquestionably with the approbation of the President of the United States, issued this order to all the commanders of our armies in the rebel States—

Mr. SAULSBURY. Will my friend from Massachusetts allow me to ask him a question? Mr. WILSON. Certainly.

Mr. SAULSBURY. Will the Senator state what he considers the authority of General Terry to make such an order within the State of Virginia? Where does he get the authority to make such an order as that?

Mr. WILSON. General Terry is in command of the department of Virginia, and Virginia is under martial law, and General Terry, as commander in that State, seeing that the vagrant laws of that State were used to make slaves of men whom we have made free, issued a positive order forbidding the execution of the vagrant laws on that population. I thank General Terry for that order. In North Carolina two men were sold into slavery for years under the vagrant laws, and a military commander in that State interposed, forbade the execution of the sentence, and secured their liberty.

General Grant on the 12th day of January issued this order, doubtless with the approval of the President of the United States and the Secretary of War, as it certainly has the approval of the people of the whole country:

"Military division and department commanders, whose commands embrace or are composed of any of the late rebellious States, and who have not already done so, will at once issue and enforce orders protecting colored persons from prosecution in any of said States charged with offenses for which white persons are not punished in the same manner and degree."

So unjust, so wicked, so incompatible are these new black laws of the rebel States, made in defiance of the expressed will of the nation, that Lieutenant General Grant has been forced to issue that order which sets aside the black laws of all these rebellious States against the freedmen, and allows no law to be enforced against them that is not enforced equally against white men. I think, and I am sure the Senate and the country will thank, the illustrious commander of our armies for commanding the officers of military divisions and departments to issue at once and enforce orders protecting colored persons from prosecution under these inhuman and unchristian enactments. This order issued by General Grant will be respected, obeyed, and enforced in the rebel States with the military power of the nation. Southern legislators and people must learn, if they are compelled to learn by the bayonets of the Army of the United States, that the civil rights of the freedmen must be and shall be respected; that these freedmen are as free as their late masters; that they shall live under the same laws, be tried for their violation in the same manner, and if found guilty punished in the same manner and degree.

This measure is called for because these reconstructed Legislatures, in defiance of the rights of the freedmen and the will of the nation embodied in the amendment to the Constitution, have enacted laws nearly as iniquitous as the old slave codes that darkened the legislation of other days. The needs of more than four million colored men imperatively call for its enactment. The Constitution authorizes and the national will demands it. By a series of legislative acts, by executive proclamations, by military orders, and by the adoption of the amendment to the Constitution by the people of the United States, the gigantic system of human slavery that darkened the land, controlled the policy and swayed the destinies of the Republic, has forever perished. Step by step we have marched right on from one victory to another with the music of broken fetters ringing in our ears. None of the series of acts in this beneficent legislation of Congress, none of the proclamations of the Executive, none of these military orders protecting rights secured by law will ever be revoked or amended by the voice of the American people. There is now

"No slave beneath that starry flag.
The emblem of the free."

By the will of the nation freedom and free institutions for all, chains and fetters for none, are forever incorporated in the fundamental law of regenerated and united America. Slave

codes and auction blocks, chains and fetters and bloodhounds are things of the past, and the chattel stands forth a man with the rights and the powers of the freemen. For the better security of these new-born civil rights we are now about to pass the greatest and the grandest act in this series of acts that have emancipated a race and disenthralled a nation. It will pass, it will go upon the statute-book of the Republic by the voice of the American people, and there it will remain. From the verdict of Congress in favor of this great measure no appeal will ever be entertained by the people of the United States.

Mr. COWAN. I had not intended, sir, to say a word further in this discussion, and I only rise now to enter my solemn protest against and my solemn dissent from the doctrines advanced by the honorable Senator from Indiana; and I do so rather from the very high regard I have for him as a man, and the high respect I have for him as a lawyer and a jurist. Had what he said fallen from most other men, I should have contented myself by keeping my seat; but that doctrine coming from him, I feel called upon, and I cannot resist the call, to enter my protest and my dissent.

Sir, I will never agree that the military power of this country shall be substituted for the writ of error or the *certiorari*. To do so is to substitute a military despotism instead of a civil Government. What is the proposition as understood by both the honorable Senators from Indiana, who have commingled in this debate? There is no doubt, and there can be no dispute about it. It is simply this: by the amendment to the Constitution it is said that the slave codes of the several States have been abolished. Grant it. Nobody ever disputed or denied it, because when there ceases to be slaves there ceases to be a slave code; when the subject-matter is destroyed upon which the law was to operate, the law itself ceases to be.

But this is not a bill simply for the abolition of slave codes. This is a bill for the abolition of all laws in the States which create distinctions between black men and white ones. This is a bill which repeals—

Mr. STEWART. Allow me to ask—

Mr. COWAN. No, sir; in a moment you will have an opportunity to reply, and I do not wish to be cross-examined or harassed during the progress of what little I have to say.

This is a proposition to repeal by act of Congress all State laws, all State legislation, which in any way create distinctions between black men and white men in so far as their civil rights and immunities extend. It is not to repeal legislation in regard to slaves. When there was no such thing as a slave in the land, of course all laws relating to slaves fell with it. I hold—educated in the school in which I have been educated, and it was not that of the strictest constructionists, nor was it in that latitudinarian school which can extract anything from the terms and provisions of the Constitution, but it was in the fair construction school—that no power has ever been delegated to this Government to repeal State legislation, which legislation was confined to the relation of the citizens of the State making the legislation among themselves. I have never known that anybody pretended that it possessed such power. This bill pretends to repeal those laws, to set them at naught; and it pretends moreover to go further, and to make the State officers who attempt to execute those laws criminals, and to punish them criminally, and, if resistance is offered to that punishment, that the military of the United States is to step in and to inflict it. Now I beg Senators to pause, because this legislation not only affects the States lately in rebellion, but it affects all the States; and if it is good with regard to the State of South Carolina it is good with regard to the honorable Senator's own State of Indiana; it is good with regard to the State of Ohio, it is good with regard to my State, and it is good clearly with regard to all the States.

Now, sir, what is the law, and what has been the law in our country, the acknowledged law

of the country, the law of the country which allowed to all and afforded to all men everywhere an ample, fit, civil remedy—not a remedy at the point of the bayonet, but a remedy upon the tongue of the advocate and in the judgment of the judge? If we have the power to override State legislation by this bill, it is either constitutional or it is not constitutional. There is the alternative, and either horn of the dilemma may be taken by the advocates of the bill. If it be constitutional the State courts are bound to execute it. But our honorable friend says the State courts will not execute it. Suppose they do not. There have been laws of the Union heretofore which the State courts refused to execute; but I have yet to learn that anybody ever proposed that those courts could be enforced to its execution at the point of the bayonet. What is the rule, then? If the State court decides that the act of Congress which restrains and limits their powers is constitutional, then the State court executes the law, and there is no trouble about it. If that court, however, on the other hand, decides that it is unconstitutional, what then? By the law now, the party injured has his remedy by a writ of error; and the Supreme Court—that civil tribunal set up by the will of the nation as embodied in the Constitution and the laws—is the tribunal to determine whether that appeal is upon just grounds or not. Are we to overthrow everything? Are we going to turn this into a military dictatorship? Are we going to abandon the province of reason and resort entirely to that of force? Are we going to substitute the bayonet and the saber for argument and law and reason? Surely not; and yet that is the proposition.

For the sake of the argument, I will admit that there is a fair dispute as to whether this bill is constitutional or not; and admitting that that is fairly in dispute, I say that at any other time, and under any other circumstances, a bill would have been brought up declaring that those laws should not and ought not to be enforced, and that would have raised the question as to the constitutionality of the measure. If the State court had decided that the law was constitutional, of course then you would have attained your end. If not, as I said before, a writ of error or appeal is the proper remedy by the party injured.

But now look at the proposal. If the State court decides in favor of the State laws, who is to decide whether those State laws are overridden by this general bill? I put the question here and demand an answer, who is to decide that point? Is it a judge learned in the law? Is it a court established by the law? Is it the Supreme Court of the United States, the highest judicial tribunal of the land? No, sir. By the bill, and by the admission of the gentlemen who have argued in favor of it, it is to be determined by the military, and the military are to decide whether the statute in question is overridden by this bill or whether it is not. I ask American Senators and I ask American citizens whether this Government has come to that, or whether it has not.

I had hoped never to stand in this body and hear a Republican Senator, and not only a Republican Senator but Republican Senators excuse and apologize, or rather triumphantly cite the fugitive slave law of 1850 as a model for their present legislation. Sir, if there is a precedent upon our records which above all others ought to be avoided by prudent men, by law-abiding and law-loving men, it is that fugitive slave law of 1850. But it is said the Supreme Court decided that it was constitutional. I grant it, and I submitted and obeyed it because they did so decide, and because we had all agreed that we would submit to their decisions. At the same time it was within the province of every good man, every honest and just man, and every learned lawyer throughout the land, to struggle and strive to have that decision reversed. I do not believe it was constitutional; it never was constitutional. The clause which required the rendition of fugitives from justice, and the clause which required the rendition of

fugitive slaves, were *in hæc verba, in pari materia*, and they ought to be construed in the same way precisely.

What was the law by which the rendition of criminals was provided for between sovereign States? That the reclamation must be made upon the sovereign power of the State in order to restore the alleged criminal. What, then, was intended by the framers of the Constitution? That the reclamation ought to have been made upon the sovereign power of the State to return the fugitive from labor, the one who had owed service in a State and had escaped from it. That was the proper remedy. And, Mr. President, when the slave States themselves met to make their confederacy, they paid perhaps the highest compliment to the Constitution of the United States that was ever paid to any instrument in the world. No rebellion, no insurrection, no separation has occurred heretofore in any country where the separatists or the rebels took the constitution of the country they had left almost literally and adopted it for themselves; and yet the rebels did that, with one exception in regard to the term of the President, which they extended to six years; and with regard to the fugitive slave clause. They put the true construction upon it there, and by a new article of their constitution, they declared that the fugitive was only to be delivered up on reclamation made upon the Governor of the State to which the fugitive had escaped. They thereby ratified, sanctioned, and admitted that the construction contended for by northern men for long, long years of that clause was the true one; so that even southern authority, even slaveholding reason, even the argument which grows out of slavery will not sustain the fugitive slave law as a precedent for anything which we may do here in considering the rights of the States and of the people of the States under this Union.

But, Mr. President, I beg to protest, whenever any inferior court of the United States, any supreme court of a State, or any inferior court of a State, makes a decision which is against a law of the United States, the paramount law, or against the constitutionality of that law, the remedy is not the military; it is not the bayonet; the remedy is an appeal to the superior, the higher tribunals of the country.

The honorable Senator asks, who would be injured by this? As I said before, the relations of the citizens or inhabitants of the several States are peculiarly within the legislation of those States. You heard the other day, sir, that Maryland has an act of her Legislature by which a black man is forbidden to marry a white woman. Is that competent? Is not the State of Wisconsin competent to-day to legislate upon that relation between her citizens? Are not the several States sovereign enough to determine upon this question of miscegenation? Are they not as sovereign to determine upon it as they are upon the question of polygamy, the question of incest, or any other question which it is believed and is thought would materially affect the interests of the community constituting the State?

Now, let us take a case. A black man in Maryland, after the passage of this act, marries a white woman, and he is arraigned under the law of Maryland forbidding it, and the Maryland judge, does what? What would the Maryland judge do? I ask what Senators would do if they were sitting in his place administering the laws of Maryland? Here is an act of Congress which declares that, as to all civil rights and immunities, the negro is to be put upon precisely the same footing as the white man. This judge in Maryland decides that the negro has a right to marry a white woman—that repeals the laws of Maryland; or he decides that a black man has not a right to marry a white woman, and he undertakes to impose upon him the penalties which the Maryland statute provides. What is the remedy of this bill? What is the remedy of my honorable and learned friend from Indiana? It is that the President shall intervene with bayonet and ball in order

to do, what? To stop the execution of the decree or sentence of the court of Maryland. Now, I ask—I ask it in all seriousness; I ask it from Senators who are intrusted by the people of the several States with the highest interests known among men—whether that is prudent, politic, lawful, or constitutional? I ask again whether it is not in the face of all the world's experience, from the first line of recorded history down to the present day, that that question, or any such question, should be submitted to the military power of any Government whatever.

There it is; words cannot make it plainer; reason cannot elucidate it; no language can strengthen it or weaken it, one way or the other. There is the question, whether a military man, educated in a military school, accustomed to supreme command, unaccustomed to the administration of civil law among a free people, is to be intrusted with this appellate jurisdiction over the courts of the country; whether he can in any way, whether he ought in any way to be intrusted with such a power? I for my part will never agree to it; and I should feel myself recreant to every duty that I owed to myself, to my country, to my country's history, and I may say to the race which has been for hundreds and thousands of years endeavoring to attain to something like constitutional liberty, if I did not resist this and all similar projects.

I ask you, where is this to end? If this is to be a consolidated Government, if all power is to be concentrated at Washington, if all the powers heretofore reserved to the States are to be given to this Government, let us know it. I am not very certain that, personally, I should have any very great objection to it. One great Government for this great empire might be perhaps cheaper, might perhaps induce a greater homogeneity among the people than the several State governments which exist now; but that is not the question for determination. We sit here by virtue of authority derived from the American people, hedged, limited, circumscribed, and bounded by the terms of the great organic law, the Constitution, and it is not for us to transcend that until the will of our principals in that behalf is known and signified according to the forms in that Constitution laid down for the purpose of making amendments to it. Then, I say, if we are to preserve this form, if this is to be a Union of States, and a Union of States which shall have all the rights reserved that have not been delegated to the General Government, and if that is the theory on which we are to proceed, if the people of the several States in their domestic and civil and political relations are to be regulated by the States, then, certainly, upon no known principle of the law can this bill be justified, and particularly by no known principle of any constitutional law or of any sound reason can the principle of substituting military power for a writ of error be sustained or maintained.

Mr. McDUGALL. Mr. President, I cannot consent that this bill shall receive the forms of law and content myself with simply recording my vote against it; and I rise now to say that against this and all like legislation I desire to enter the protest of my opinion; and I do so both upon the ground of questions of constitutional law, and also upon those of sound policy. I agree with the Senator from Kentucky, [Mr. GUTHRIE,] as to the true interpretation of the Constitution as affecting this bill; and also as to his views with regard to the policy of the reestablishment of harmony throughout the Union. And I agree with my friend from Indiana, [Mr. HENDRICKS,] upon the question of policy raised by him; also with the Senator from Pennsylvania, [Mr. COWAN,] They have fully expressed my views in more apt words and with closer logic than is within the grasp of my intellectual powers. I am content with what they have said, and will not undertake to address the Senate. I merely rise to remark that with them I think this and similar legislation is fraught with infinite mischief both as infringing clearly upon the Constitution and

also upon the rules of sound governmental policy.

Mr. TRUMBULL. Mr. President, I was in hopes that we might have come to a vote at an earlier hour than this, but inasmuch as several objections have been recently stated to the bill which were not urged before, I trust I shall be pardoned for occupying the attention of the Senate a very few minutes, and a few minutes only.

The Senator from Kentucky [Mr. GUTHRIE] has made a very candid and considerate speech in reference to this bill, placing his objections to it upon the ground of policy; and some of its features he thinks also are not constitutional. If all the people of this country were like the Senator from Kentucky, there would be no occasion for this bill. He says that when slavery was abolished the slave codes in connection with it were abolished, and that he will advise the people of Kentucky to extend the same civil rights to the black population that the white population have. He believes that they are entitled to them. Now, sir, that is all that is provided for by the first section of this bill; he then can have no objection to the first section of the bill, for it simply provides that all the inhabitants of the United States shall be entitled to the same civil rights. That meets the view of the Senator from Kentucky. Why does he object to it? He objects to it because he says the States will do this. I answer to him that if everybody was of the same opinion that he is, and would act upon it, the States would do it, and there would be no occasion for the passage of the bill; but my friend from Massachusetts [Mr. WILSON] has just cited the attention of the Senate to laws passed in half a dozen of the rebellious States under their recent organizations, in which they have discriminated against the negro on account of his color; so that all persons will not do what the Senator from Kentucky says they ought to.

Then what is our duty? Agreeing as I do with him that all slave codes fall with slavery, that it is the duty of the States to wipe out all those laws which discriminate against persons who have been slaves, yet if they will not do it, and Congress has authority to do it under the constitutional amendment, is it not incumbent on us to carry out that provision of the Constitution? That is all we propose to do.

The second section of this bill merely punishes persons who violate what it is admitted they ought not to violate. It does seem to me that there can be no objection to the passage of such a law by Congress on the part of any one who admits that negroes are now entitled to the same rights as white people; and not only that there can be no objection to it but that there is a positive duty upon us to pass such a law if we find discriminations still adhered to in the States where slavery has recently existed.

The Senator from Indiana [Mr. HENDRICKS] objects to the bill because he says that the same provisions which were enacted in the old fugitive slave law are incorporated into this, and that it has been heralded to the country that it was a great achievement to do this, and he insists that if those provisions of law were odious and wicked and wrong which provided for punishing men for aiding the slave to escape, therefore they must be wicked and wrong now when they are employed for the punishing a man who undertakes to put a person into slavery. Sir, that does not follow at all. A law may be iniquitous and unjust and wrong which undertakes to punish another for doing an innocent act, which would be righteous and just and proper to punish a man for doing a wicked act. We have upon our statute-books a law punishing a man who commits murder, because the commission of murder is a high crime, and the party who does it forfeits his right to live; but would it be just to apply the law which punishes a person for committing murder to an innocent person who had killed another accidentally, without malice? That is the difference. It is the difference between right and wrong, between good and evil. True, the features of the fugitive slave law were abominable when they were

used for the purpose of punishing, not negroes as the Senator from Indiana says, but white men. The fugitive slave law was enacted for the purpose of punishing white men who aided to give the natural gift of liberty to those who were enslaved. Now, sir, we propose to use the provisions of the fugitive slave law for the purpose of punishing those who deny freedom, not those who seek to aid persons to escape to freedom. The difference was too clearly pointed out by the colleague of the Senator [Mr. LANE] to justify me in taking further time in alluding to it.

But the Senator objects to this bill because it authorizes the calling in of the military; and he asserts that it is the only law in which the military is brought in to enforce it. The Senator from Pennsylvania [Mr. COWAN] follows this up with a half hour's speech, denouncing this law as obnoxious to the objection that it is a military law, that it is taking trial of persons for offenses out of the hands of the courts and placing them under the military—a monstrous proposition, he says. Is that so? What is the law? The first section provides, as I said, for securing equal civil rights to all persons. He has no objection to that. [Mr. WADE. Yes, he has.] No; I do not understand him to object to that. He thinks they are all entitled to equal civil rights.

Mr. COWAN. Certainly.

Mr. TRUMBULL. The Senator says, as I understand him, that nobody has denied that. The second section of this bill provides for the punishment of those who do deny it. Has the Senator from Pennsylvania any objection to that?

Mr. COWAN. Not when it is done in the right way.

Mr. TRUMBULL. Not when it is done through the courts? All the rest of the bill provides for doing it through the courts, in no other way. It is a court bill; it is to be executed through the courts, and in no other way. But does the Senator mean to say it is a military bill because the military may be called in in aid of the execution of the law through the courts? Does the Senator from Pennsylvania—I should like his attention, and that of the Senator from Indiana, too—deny the authority to call in the military in aid of the execution of the law through the courts?

Mr. HENDRICKS. If the Senator will allow me, I wish to ask him a question. The preventive power of the court is exercised by the writ of injunction. Now I want to know of the Senator what he means in this bill by conferring upon the military the authority to prevent a violation of this law. Is that in aid of a court, before there is any violation, and before a case can come before a court?

Mr. TRUMBULL. I mean, Mr. President, that the militia and the military may be called out whenever there is a combination of persons in any of the rebellious States so powerful that the marshals and civil officers in the ordinary course of judicial proceedings cannot execute the law. I mean that the military may be called upon at that time. I mean that whenever there shall be a combination there to protect a man who has violated this law, and the marshal is driven off, he may call a file of soldiers to go with him and seize the individual who sets at defiance the process of the court.

Mr. HENDRICKS. The Senator does not in that combat any position that I assumed. I admitted that when the execution of process of the law was resisted by a combination of people, that insurrection, for the time being, might be put down by the military power of the Government. I said so. Now I repeat the question, what is meant in this bill by the preventive power of the military? Before a crime is committed, before a wrong is done under this bill, the President, or any person whom he may appoint, may call in the military power of the Government to prevent a crime. How is that in aid of the courts of the country?

Mr. TRUMBULL. Yes, sir; that is in aid of the execution of this law. Let me read a clause from the Constitution which seems to

have been forgotten by the Senator from Pennsylvania and the Senator from Indiana. The Senator from Pennsylvania, who has denounced this law, has been living under just such a law for thirty years, and it seems never found it out. What says the Constitution?

"Congress shall have power to provide for calling forth the militia to execute the laws of the Union."

Then cannot the militia prevent persons from violating the law? They are authorized by the Constitution to be called out for the purpose of executing the law, and here we have a law that is to be carried into execution, and when you find persons combined together to prevent its execution, you cannot do anything with them! Suppose that the county authorities in Muscogee county, Georgia, combine together to deny civil rights to every colored man in that county. For the purpose of preventing it, before they have done any act, I say the militia may be called out to prevent them from committing an act. We are not required to wait until the act is committed before anything can be done. That was the doctrine that led to this rebellion, that we had no authority to do anything till the conflict of arms came. I believed then in 1860 that we had authority, and if it had been properly exercised; if the men who were threatening rebellion, who were in this Chamber, defying the authority of the Government, had been arrested for treason, of which, in my judgment, by setting on foot armed expeditions against the country, they were guilty; and if they had been tried and punished and executed for the crime, I doubt whether this great rebellion would ever have taken place.

Under that clause of the Constitution which authorizes Congress to provide for the calling forth of the militia to execute the laws of the Union, Congress at an early period of our history passed this act:

"That whenever the laws of the United States shall be opposed, or the execution thereof obstructed, in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this act, it shall be lawful for the President of the United States to call forth the militia of such State, or of any other State or States, as may be necessary to suppress such combinations, and to cause the laws to be duly executed; and the use of militia so to be called forth may be continued, if necessary, until the expiration of thirty days after the commencement of the then next session of Congress."

The militia, it will be seen, may be called forth to cause the laws to be duly executed; that is, to prevent persons from preventing their execution; and a subsequent statute of the United States authorizes the Army and the Navy to be used wherever the militia may be used. There is another statute, to which I beg leave to call the attention of the Senator from Pennsylvania, and under which he has lived for thirty years without ever having known it; and his rights have been fully protected. I wish to call attention to a section from which the tenth section of the bill under consideration, at which the Senator from Indiana is so horrified, is copied, word for word, and letter for letter. The act of March 10, 1836, "supplementary to an act entitled 'An act in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein mentioned,' approved 20th of April, 1818," contains the very section that is in this bill, word for word.

Mr. FESSENDEN. Read it. What is the subject-matter of the act?

Mr. HENDERSON. It is on the subject of revenue.

Mr. TRUMBULL. It relates to the collection of the revenue, I believe; and it contains this section:

"That it shall be lawful for the President of the United States, or such person as he may empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia, as shall be necessary to prevent the violation and to enforce the due execution of this act, and the act hereby amended."

Mr. FESSENDEN. That was passed under a good Democratic Administration.

Mr. TRUMBULL. Yes, sir, passed in 1838, and approved by Martin Van Buren.

Mr. FESSENDEN. A good precedent.

Mr. TRUMBULL. It did not horrify the country; it did not destroy all the liberties of the people; it did not consolidate all the powers of the Constitution in the Federal Government; it did not overthrow all the courts, and it has existed now for nearly thirty years! What becomes of all this objection?

Mr. HOWARD. And it did not take the place of a writ of error.

Mr. TRUMBULL. No, it did not take the place of a writ of error; the courts still exist. Now, is it not absurd, preposterous, and unjust to denounce this law as taking from the courts their jurisdiction? It does no such thing. It is in aid of the exercise of the powers of the courts; it is to clothe the courts with authority to carry into execution the writs they issue, the judgments they give. That is all there is of it. It is no new provision, no unheard-of thing. There is a precedent for it in the acts of Congress *verbatim*, and the authority is expressly given in the Constitution of the United States.

Now, sir, I cannot take time to reply in detail to every one of these objections as they are made. I am desirous to get a vote on this bill; we expected to get a vote to-day, before this hour; but I have felt compelled, when these questions are persistently urged upon the Senate and these perversions of the bill are attempted to be impressed upon the country, to correct some of them; and if I do not correct others it is not because I suppose they are not unfounded, but because at this hour of the day I think, with the corrections I have made, the country itself will make the corrections of the other misstatements or misapprehensions of the bill.

Mr. SAULSBURY. It is not my purpose to continue the debate, but I think I may be pardoned for making a suggestion. When American liberty is to be subverted, when the whole character of our Federal existence is to be changed, when a republican form of government is to be changed into a consolidated despotism, I think we ought to have the opportunity to think a little when we come to pass an act that is to convert this free republican form of government into an absolute despotism; we ought to retire to our chambers and deliberate. Therefore, sir, without any desire, without any intention to mingle in this debate, I appeal to the honorable gentleman who has this bill in charge not to take the vote to-night. Let us retire to our chambers, and, after the words—the eloquent, warning words of the able and the distinguished Senator from Kentucky, [Mr. GUTHRIE,] who now is a link between the past and the present—let us go home, and if the fatal deed is to be done, let it be done to-morrow. I therefore move that the Senate do now adjourn.

The motion was not agreed to.

The PRESIDING OFFICER, (Mr. HOWE.) The question is on the amendment offered by the Senator from Indiana, to strike out the tenth section of the bill.

Mr. HENDRICKS. On that amendment I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 12, nays 34; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Guthrie, Hendricks, McDougall, Nesmith, Norton, Riddle, Saulsbury, Stockton, and Van Winkle—12.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Dixon, Doolittle, Fessenden, Foot, Foster, Harris, Henderson, Howard, Howe, Kirkwood, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, Wade, Willey, Williams, Wilson, and Yates—34.

ABSENT—Messrs. Creswell, Grimes, Johnson, and Wright—4.

So the amendment was rejected.

Mr. HENDRICKS. It is due to myself and to the Senator from Illinois that I should say that the act from which he read was an act to prevent the organization and equipment of military expeditions upon our shores against foreign Powers with which we are at peace. It was a military law. My statement was that no precedent of a provision like that contained in the tenth section of this bill is to be found in any law regulating the civil rights of the people.

The PRESIDING OFFICER. The ques-

tion recurs on the amendment offered by the Senator from Kentucky, [Mr. DAVIS.]

The amendment was rejected.

Mr. SAULSBURY. I move to amend the bill in the second line of the first section by adding after the words "civil rights" the words "except the right to vote in the States."

Mr. TRUMBULL. I will only say in reference to that matter, that that is a political privilege, not a civil right. This bill relates to civil rights only, and I do not want to bring up the question of negro suffrage in the bill. I hope the Senator will not persist in any such amendment.

Mr. SAULSBURY. I want to test that very fact. I may be mistaken, but for twenty years I have had to use the law as an instrument, as the workman uses his instruments, to make a living, and I do hold that under the words "civil rights" the power to vote is given, because it is a civil right. The honorable chairman of the Judiciary Committee who has this bill under charge says he does not mean to confer that right. His meaning cannot control the operation or the effect of this law, if the bill shall become a law. I believe that if this bill is enacted into a law your judges in most of the States will determine that under these words the power of voting is given. The honorable Senator cited an authority the other day, from Maryland I think it was, in which it was decided that that right was conferred after domicile had been acquired according to the laws of the State. Sir, I wish to exclude that very idea; and if you do not mean to confer that power I want you to say so. However highly I esteem the learning of the honorable chairman of the Judiciary Committee, I am not willing to trust to his declaration that that power is not to be conferred, and I want this Congress to say that in conferring these civil rights they do not mean to confer the right to vote.

Talk to me, sir, about the words "civil rights" not including the right to vote! What is a civil right? It is a right that pertains to me as a citizen. And how do I get the right to vote? I get it by virtue of citizenship, and I get it by virtue of nothing else. When this act is passed into a law, and I find a Republican judge in any of the States of this country deciding that under it a negro has the right to vote, I am not going to quarrel with the opinion of that judge, because I believe he is deciding the law correctly. Sir, if you do not intend to confer that right, say so. If you do not mean to invade the States of this Union, and take from them the right to prescribe the qualifications of voters, say so. That is all I ask. Do not leave it in doubt.

As I said the other day, I know but two foundations of right that any man has: one is a right founded in nature; the other is a right founded in law. Under the law of nature I have got no right to vote. Under the law regulating society and government I have a right to vote. I get it simply on the ground of my citizenship; and your bill confers that right.

It will not do for the honorable chairman of the Judiciary Committee to say that by specifying in other lines of the first section the right to sue and be sued, and to give evidence, to lease and to hold property, he limits these rights. He does no such thing. He may think that that is the intention; but when you come to look at the powers conferred by this section, and when you consider the closing words of the section, giving to everybody, without distinction of race or color, the same rights to protection of property and person and liberty, when these rights are given to the negro as freely as to the white man, I say, as a lawyer, that you confer the right of suffrage, because, under our republican form and system of government, and according to the genius of our republican institutions, one of the strongest guarantees of personal rights, of the rights of person and property, is the right of the ballot.

Now, gentlemen, let us deal fairly, squarely, and honestly with each other. If you do not mean to confer this power, say so. I only ask you to say, by my amendment, that you do

not mean by this bill to confer that power. If you vote down my proposition, what will be the interpretation put upon your law? If it shall go before any judicial tribunal of this country, and they find that you voted down this amendment, what is the interpretation they will put upon it? That you meant to confer the power, simply because you refused to say that you did not.

But, sir, I will not argue the question. It is a foregone conclusion that this bill is to pass, and I shall not detain the Senate. I want a distinct vote, however, upon my proposition, and I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 7, nays 39; as follows:

YEAS—Messrs. Cowan, Davis, Hendricks, Nesmith, Riddle, Saulsbury, and Stockton—7.

NAYS—Messrs. Anthony, Brown, Buckalew, Chandler, Clark, Conness, Cragin, Dixon, Doolittle, Fessenden, Foot, Foster, Guthrie, Harris, Henderson, Howard, Howe, Kirkwood, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Norton, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—39.

ABSENT—Messrs. Creswell, Grimes, Johnson, and Wright—4.

So the amendment was rejected.

Mr. NORTON. I move to amend section seven by striking out all after the words "United States" in line twenty-five, as follows. The words to be stricken out are—

And in case of the escape of the person for whose arrest such warrant or process was issued, shall moreover forfeit and pay, by way of civil damages, to the party claiming to have been aggrieved by his act, the sum of \$1,000, to be recovered by action of debt in any of the courts aforesaid within whose jurisdiction the said offense may have been committed.

This section seven provides that any person who shall obstruct or hinder or prevent an officer or other person charged with the execution of process issued under the provisions of the act from making an arrest, or shall rescue, or attempt to rescue, a person so arrested under a warrant, or the officer permits him to escape, he shall be guilty of an offense, and if convicted be subject to a fine. This part which I propose shall be stricken out predicates of that offense a civil liability to the person who made the complaint, or to any person who may feel aggrieved, and it being a public offense I suppose any member of the public may consider himself aggrieved. It seems to me that it is certainly improper to predicate of a crime or the commission of a public offense a civil liability to be responded to in a civil action of debt. I think for that reason so much of the section ought to be stricken out.

Mr. TRUMBULL. I think the bill is sufficiently efficient without this clause in it. I am not particular about it myself. It is, however, reported by the committee, and I do not feel at liberty to consent to the amendment; but I have no objection to its being adopted. I think the bill would be perfect without it.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. HENDRICKS and Mr. WILSON called for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The Secretary proceeded to call the roll, and Mr. ANTHONY responded to his name.

Mr. NORTON. Mr. President—

Several SENATORS. Too late.

The PRESIDENT *pro tempore*. Debate is not in order, the call of the roll having commenced, and a response having been made.

Mr. MORRILL, (when Mr. JOHNSON's name was called.) The Senator from Maryland was necessarily called away some time ago, and he desired me to say that if present he would vote against the passage of the bill.

The call was concluded with the following result:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Dixon, Fessenden, Foot, Foster, Harris, Henderson, Howard, Howe, Kirkwood, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Stew-

art, Sumner, Trumbull, Wade, Willey, Williams, Wilson, and Yates—33.

YAYS—Messrs. Buckalew, Cowan, Davis, Guthrie, Hendricks, McDougall, Nesmith, Norton, Riddle, Saulsbury, Stockton, and Van Winkle—12.

ABSENT—Messrs. Creswell, Doolittle, Grimes, Johnson, and Wright—5.

POST ROADS.

The amendments of the House of Representatives to the Senate amendments to the bill (H. R. No. 61) to establish certain post roads were referred to the Committee on Post Offices and Post Roads.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, in answer to a resolution of the Senate of the 16th of January, calling for the correspondence which may have taken place between himself and any of the judges of the Supreme Court touching the holding of the civil courts of the United States in the insurrectionary States for the trial of crimes against the United States; which was, on motion of Mr. TRUMBULL, ordered to be printed, and lie on the table.

The PRESIDENT *pro tempore* also laid before the Senate a message from the President of the United States communicating, in compliance with a resolution of the 30th of January, a communication of General Sherman, relative to the condition of the States in his military department; which, on motion of Mr. TRUMBULL, was referred to the joint committee on reconstruction, and ordered to be printed.

The PRESIDENT *pro tempore* also laid before the Senate the following message; which, on motion of Mr. SUMNER, was referred to the Committee on Foreign Relations, and ordered to be printed:

To the Senate and House of Representatives:

Believing that the commercial interests of our country would be promoted by a formal recognition of the independence of the Dominican republic, while such a recognition would be in entire conformity with the settled policy of the United States, I have, with that view, nominated to the Senate an officer of the same grade with the one now accredited to the republic of Hayti; and I recommend that an appropriation be made by Congress toward providing for his compensation.

—ANDREW JOHNSON.

FEBRUARY 2, 1866.

ADJOURNMENT TO MONDAY.

Mr. FOOT. I move that when the Senate adjourn to-day, it be to meet on Monday next. The motion was agreed to.

On motion of Mr. POMEROY, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, February 2, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

PACIFIC RAILROAD.

Mr. KASSON, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Pacific Railroad inquire into and report, by bill or otherwise, on the expediency of extending an additional amount of Government aid to extend the Iowa branch of said railroad to the capital of Iowa until the amount shall equal that authorized in aid of the Kansas branch of the Union Pacific railroad.

HARBORS ON LAKE ERIE.

Mr. SPALDING, by unanimous consent, introduced a bill to provide for the repair and improvement of the harbors of Cleveland and Fairport, on Lake Erie; which was read a first and second time, and referred to the Committee on Commerce.

SUITS AGAINST FEDERAL OFFICERS.

Mr. McKEE. I ask leave to introduce a bill to amend the indemnity act of the 3d of March,

1863, with an accompanying memorial of citizens of Kentucky.

Mr. HARDING, of Kentucky. I ask that the bill be reported.

The Clerk read the bill. It provides that in any civil or criminal prosecution commenced in any State against an officer, civil or military, for arrest during the existence of the rebellion, upon affidavit of the defendant showing that the arrest was made in good faith and in pursuance of orders of a superior officer, the action may be removed to the Court of Claims.

Mr. HARDING, of Kentucky. I object to its consideration.

Mr. McKEE. I will, then, bring it up on Monday morning when bills on leave are called for.

Mr. HUBBELL, of Iowa, by unanimous consent, introduced a bill for the payment of damages caused by the destruction of property of citizens of Iowa by certain Indians therein named; which was read a first and second time, and referred to the Committee on Indian Affairs.

CONTESTED-ELECTION CASE.

Mr. RAYMOND. I rise to a question of privilege. I made a motion yesterday, in the case of the contested election in New York city, to reconsider the vote by which certain papers were referred to the Committee of Elections. As I said then, I did it simply to allow the claimant to be heard before the House. Some objection was made on the part of several members that it might delay the matter too long. I wish to inquire now whether it will meet the convenience of the gentleman from New York [Mr. Brooks] to have the matter discussed, or whether he prefers to have it put off until another day.

Mr. BROOKS. I have been before the Committee of Elections this morning for two hours, and have been addressing that committee, so that I feel physically unable to proceed with any discussion on the subject. It would suit me better to have it go over till Monday.

Besides, let me remark that to-day there occurs, by order of the House, at three o'clock, a vote on the Freedmen's Bureau bill, and if discussion arises on that subject now it will occupy the attention of the House up to that time; so that members from Kentucky and others who desire to speak will be quite unable to do so.

I wish the House to decide for itself. I do not wish to shrink from any discussion; though, as I say, I am physically unable this morning to do justice to any subject that comes up for discussion.

Mr. ELIOT. I wish to say, in consequence of what took place yesterday, and of the fact that there are several gentlemen on this side of the House who desire to debate this bill, and in view of the fact that a question of privilege has been raised by the gentleman from New York, I have agreed that the debate on the Freedmen's Bureau bill might continue through to-day and to-morrow, and that after the morning hour on Monday I would demand the previous question. And I wish to say, at the same time, that I desire that gentlemen who have the floor should debate that bill, and that I shall have to make a point of order if general debate is indulged in.

Mr. DAWES. In reference to this matter of privilege, as I stated yesterday, I do not intend to participate in the debate upon the immediate question before the House, which is whether certain papers shall be referred to the committee and be printed. But I have this to say, that I do think it is the duty of the House to decide to-day whether that mass of testimony shall be referred to the committee and be printed. I will, with the leave of the House, state the case, and state also why I think it is due to the committee that they should decide it to-day.

The case is this: in the contested case of Dodge vs. Brooks, the testimony, as the committee supposed, was submitted to the House at the commencement of the session and referred to the committee with authority to cause to be printed such portions of it as in their opin-

ion it was proper to print, under a general order touching all the contested cases of elections. Upon an examination of the papers in this case, which were referred to the committee, it was found that it contained only the testimony upon one side of the case. The committee called upon the sitting member [Mr. Brooks] for his testimony, and they have frequently called for it from that day to this. Within a few days past there has appeared in the Clerk's office a large package of papers addressed, not to the Clerk of the House—

Mr. BROOKS. Will the gentleman from Massachusetts [Mr. Dawes] allow me?

Mr. DAWES. I am not arguing the merits of the case of the gentleman.

Mr. BROOKS. But the gentleman is in error in point of fact. I desire to say that upon the very first call or intimation made in the committee that it was my duty to transmit the testimony in the possession of the Clerk of the House to the committee, I caused that transmission to be made by my own movement in the House; and that prior to that time no notice was given to me by the committee of which I was informed.

Mr. DAWES. I have reason to suppose that long before the holidays the clerk of the committee distinctly informed the gentleman from New York [Mr. Brooks] that there was no testimony in this case in behalf of the sitting member, and that if he had any to produce it must be produced immediately, in order that it might be printed with the other matter; that the other matter was to be sent to the printer upon a given day, and the committee was desirous of having his testimony submitted, that all the matters might go together to the printer and be printed in one book. After that the notice was repeated through the clerk of the Committee of Elections to the sitting member to produce his testimony, if there was any, that it might be printed with the testimony of the contestant, so that when the case might be ready for hearing there would be no cause or occasion for delay. This was before the holidays.

After the holidays notice was given to these parties that the case would be ready for hearing on a given day. That notice was extended from time to time. There never has been an intimation to the committee from any quarter that there was any testimony whatever to be printed until within a few days past. There then appeared, I understand, not in this House, but in the Clerk's office, a large mass of papers purporting, as the Clerk of the House is informed—I have not seen the inside of it—to be testimony for the sitting member. It was not directed to the Clerk of the House, or to the House, but as it stands now in the Clerk's office it is directed to the sitting member by name. Where it has been during the time since the taking of the testimony closed by law I do not know. By the statute the time for taking the testimony in this case closed nearly a year since.

The statute requires that the testimony shall be reduced to writing immediately upon its being taken, in the presence of the parties, by the judge taking the testimony, and by him sealed up and forthwith sent to the House of Representatives, directed to the Clerk of the House of Representatives.

It is under these circumstances, Mr. Speaker, and after the case has been in hearing for two or three days before the committee, that in the absence of the committee from the House night before last, this package of papers in the Clerk's office was referred to the committee on the motion of the gentleman from New York, [Mr. Brooks,] and ordered to be printed.

Mr. UPSON. Before the recess.

Mr. DAWES. I am informed that the motion was made just before the recess, on day before yesterday.

I have no opinion to express on the question whether the testimony was properly taken or not, or whether properly sent to the House, directed to the sitting member or not, for I have not heard the sitting member on that point. I have this to say: that the committee took all

the pains in their power to prevent just such a position of affairs as has occurred here to-day, namely, that they should go through five hundred and forty pages of printed matter on the part of the contestant, and then sit down one month after, when the testimony of the sitting member can be printed, and wade through all that.

The committee took all the pains they could to inform the sitting member that such would be the result, unless some pains were taken to have his testimony produced at the commencement of the session and sent to the printer with that of the contestant, and printed in the same book. It is the first case in my experience when the committee have been running round after parties asking for their testimony. They have not been very successful in this case, and I hope the House will now say whether the committee shall stop their work and rest on their oars while a book of some five, six, or seven hundred pages shall be printed for their benefit. That is all I have to say. I have no desire to influence the House on the question whether this testimony shall be referred or not, but I desire to have the question decided to-day, because if the House decides to have these papers printed, I hope the printer will work Sunday, if necessary, so that we may have this book printed by Monday morning.

Mr. RAYMOND. I had no object in calling up this motion except to enable the parties interested to be heard before the House, and that the House might come to a decision. I will now yield the floor to my colleague, [Mr. BROOKS.]

Mr. BROOKS. I do not want to take the floor by my colleague's courtesy. I claim it as a right.

Mr. RAYMOND. I surrender the floor unconditionally.

Mr. BROOKS. Mr. Speaker, nothing could so much surprise me, except the surprise I had yesterday from my colleague from New York, [Mr. RAYMOND,] as the remarks of the honorable gentleman from Massachusetts. If he, as a Representative of that State, desires to be rid of me at this early period of the session, he has taken a very summary step toward doing it by exerting the influence of that committee of which he is the organ to suppress the publication of all the testimony on my side, and if the House is to follow his lead, I may as well at this moment submit to what has been the fate of others, take up my hat and retire and go home to my constituency, leaving a large portion of the city of New York unrepresented as well as a large portion of our whole country.

Mr. DAWES. I failed to make myself understood if I made the gentleman understand that I am anxious to have him leave this House, or that I expressed an opinion one way or the other upon the merits of his case. I merely felt it my duty to state to the House these circumstances as a reason why they should pass upon this question.

Mr. BROOKS. Mr. Speaker, the whole tone and tenor of the remarks of the honorable gentleman from Massachusetts, whether he intended it or not, are of a character to prejudice at least his side of the House against me as the sitting member, and to give the whole advantage of his position and his prejudice to the contestant.

The honorable gentleman from Massachusetts—and he is a man of honor, well entitled to the appellation of the honorable gentleman—will not rise in his place and say that he has officially given a notice, officially by sign and signature, of any necessity of my presenting these papers until officially he notified me to appear before him, when, upon the very day after, I made the motion in the House. The clerk of the Committee of Elections is connected with the public press, as most of the clerks of committees in this House are, and as a brother press-man I have had frequent conversations with him on this and on other subjects. But never, with my understanding, so help me God, was any official information given to me from the Committee of Elections that I was under an imme-

diately order to present these papers to that committee, and on the very first intimation from the honorable gentleman from Massachusetts I hurried to this House, and in no secret hour, at no evening session, but in the presence of the House, in its ordinary session, I asked that these papers be referred to the Committee of Elections, and printed.

And the first intimation that I ever had was from my honorable colleague [Mr. RAYMOND] connected with me in the public press—"Ettu, Bruke!"—that there was an intention on the part of somebody to suppress the publication of my testimony in this case.

Mr. DAWES. Mr. Speaker, while the law in reference to testimony in cases of this kind requires that it shall, for some wise purpose—I suppose that it may be safely kept—be sent immediately to the Clerk, the gentleman justifies the withholding of this testimony from the House from last March till last week by the statement that he has not had any written notice under my hand.

Mr. BROOKS. Or official notice of any kind.

Mr. DAWES. Official notice, signed with my name as chairman of the Committee of Elections for the Thirty-Ninth Congress. I suppose the gentleman considers that necessary. I have only to say in answer to that—

Mr. BROOKS. There has been no notice, written or unwritten, *scripta* or *non scripta*.

Mr. DAWES. One thing at a time. I have only to say, Mr. Speaker, that the Committee of Elections directed its clerk more than once before the holidays to go to the sitting member in this case and tell him that, if he expected his testimony to be printed by order of the committee, it must be produced at once, so that it might go to the printer along with the other testimony and be printed in the same book. The clerk of the committee came back to the committee and reported that he had so notified the sitting member more than once.

Mr. STEVENS. Under seal?

Mr. DAWES. Not under seal—not under the broad seal.

Mr. STEVENS. That will not do, then!

Mr. DAWES. I do not know but that the law requires the notice to be in writing; but I did not understand that the gentleman, in response to the verbal notice of the clerk of the committee, made any objection at that time to the fact that it was not in writing. I have this to say: that the law imposed upon him the duty to send the testimony here nine months ago, not to keep it till this time. It was altogether a work of supererogation on the part of the committee to say a word to him about it. But the committee apprehended that just at the time when this case would be taken up we should experience just such a state of things as this; and in order to be ready, the committee requested him over and over again to bring forward these papers.

Now, I have a question or two to ask the gentleman: First, where have these papers been since last March?

Mr. BROOKS. For the last ten or fifteen days they have been in possession of the Clerk of the House, to whom I was directed to deliver them by the law of the United States. I have further to say that when he asks me with so much force where they have been since March last, he might with quite as much force ask the contestant where his papers have been since March last; for those papers did not turn up here till the first week in December, not even on the desk of the Clerk.

But, Mr. Speaker, I complain more of the spirit, the zeal, the energy, the enthusiasm of the chairman of the Committee of Elections, in a matter of this sort, and more of the spirit which my colleague [Mr. RAYMOND] manifests here, than I do of the charges which the gentleman makes against me; and in the course of my remarks I will show how vague, futile, and unjust all those charges are.

Mr. DAWES. I will ask the gentleman—let him put his answer on the record—whether he has one word of complaint against me when sitting to hear any question of fact or point of

law which he has ever presented touching his case?

Mr. BROOKS. Never, never. I will do the honorable gentleman the justice to say that I have the highest respect for him as a man and as a Representative here; and therefore I am the more surprised and amazed that he exhibits so much feeling and earnestness (so it seems to me) to suppress the publication of my testimony without hearing from me one word whatsoever.

Mr. DAWES. Mr. Speaker, I have not had the slightest objection to the printing of this testimony. I took some pains, and all that I have said to the House has been with the view of convincing the House that I did take some pains, to have that testimony before the committee early. My complaint is that the Committee of Elections have been trifled with in their effort to get this testimony, not that I desire to shut the gentleman's mouth or close the door against one particle of his testimony.

But I have a little desire to defend the Committee of Elections on this point, and no further. I have never, sir, forgotten to satisfy and urge the House to print the gentleman's testimony. I have come here, Mr. Speaker, to state that the gentleman has been guilty of laches; and that it has involved the Committee of Elections in great trouble and great expenditure of their time; that that committee are somewhat worn and fatigued, and that it is with some difficulty a quorum can be got together at the hour of appointment to continue these hearings. And are we to be carried down into the cholera season without one particle of excuse given for this delay in the face of the law?

That is all I have to say. And if the gentleman imagines I have taken sides with the contestant in this case, I pray him to remember I have quite as much to defend my course on this side of the House; and I must soon hope to be delivered from the position I am in, if I am to be fired into from both sides, and it is to be charged that I manifest inordinate zeal one way or the other in the hearing of these cases.

Mr. RAYMOND. I desire to relieve myself from the complaints my colleague makes of having shown an improper and discourteous spirit toward him in regard to this matter.

I think I may fairly appeal to him, sir, to say it is not my habit in the press or out of the press to show discourtesy to any one with whom I may be connected. In this matter my fault, if fault it is, grows out of what has more than once got me into trouble, a desire to be over-courteous to both sides. I was not present when the motion was made by my colleague from New York, and was adopted, referring these papers to the Committee of Elections with an order to print them; and the next day I was appealed to by the contestant to make a motion for the reconsideration of that resolution, on the ground that it was passed without his being heard at all, and that he was desirous of being heard on that precise point. I declined for some little time, thinking some one more familiar with the case should make the motion; but finally, after his appeal to my courtesy, I made the motion. I disclaimed at the time to the sitting member any desire whatever to do him injustice, to prejudice his case, or put him to the slightest inconvenience; and when he complained in the House or out of the House, I forget which, yesterday, that this motion would have the result to postpone the consideration of this matter indefinitely, I told him, so far as I was concerned, I would do all I could to bring this motion to a speedy hearing. It was for that purpose I called the motion up this morning, the day after the motion was made. My first fault was in being over-courteous to the contestant, if fault it was; my second fault, if any, in being over-courteous to the sitting member.

I desire by these words simply to relieve myself from any thought or purpose of being discourteous to either. I simply want the matter fairly before the House.

Mr. BROOKS. Mr. Speaker, I forbear enter-

ing into any discussion with my colleague on the matter of courtesy or discourtesy, as the gentleman is the best judge of that himself; but in reply to the honorable gentleman from Massachusetts, [Mr. DAWES,] who, I really believe at heart to be desirous to do justice, but who seems to have been irritated at me without any comprehension of the cause on my part, I desire to say he constantly uses language in this debate, in application to me, which shows some feeling for which I can but partially account. He says I have trifled with the Committee of Elections. It is not true. It is not true I ever have had any notice to supply or furnish my papers from that committee which I have considered official or unofficial. The honorable gentleman from Massachusetts does not pretend to say that he has given me any formal written notice from the secretary of that committee.

The honorable gentleman from Massachusetts also wants the House to go on with this subject early, and he stated with much feeling that the reason why he wants to go on with it early was that the cholera season shall not arrive and members be compelled to adjourn. All this I say shows matter of feeling which I regret to see on the part of the honorable chairman of the Committee of Elections.

Now, Mr. Speaker, let me call the attention of the House to what the law requires of me as the sitting member. It will be found in Brightley's Digest, 255:

"The said magistrate (meaning the judge who is authorized by law to take evidence in case of a contested election) is hereby authorized and required to cause to be reduced to writing in his presence, and in the presence of the parties or their agents, if attending, and to be duly attested by the witnesses respectively: after which he [the said magistrate] shall immediately transmit by mail the said testimony, duly certified under his hand and sealed up, to the Clerk of the House of Representatives for the time being, together with a copy of the subpoena and of the notice served upon the party, as provided in the preceding section."

If any error whatsoever, it has been committed on the part of the magistrate who had the custody and possession of these papers, and who transmitted them to the clerk of the Committee of Elections, as required by law. I could not force Judge Brady, of New York, nor Judge Russell, nor Judge Barnard, who took this testimony, to submit it here at an earlier day, and if they failed in the execution of the law the honorable gentleman from Massachusetts [Mr. DAWES] ought to have asked for a process from this House to serve upon those judges to compel them to submit the testimony here. I have only to say that I have exerted all the power which I have physically, pecuniarily, and intellectually to produce the earliest transmission of this testimony to the Clerk of the House, as required by law. And no man has more deeply regretted or been more injured by the delay in the transmission of it than I have myself.

What has been the effect of this delay? Why, an *ex parte* account has gone all over the country of frauds committed in my district, which are not founded on one word of truth from beginning to end. Never was there a fairer election in any case in the world. I ran as no Republican candidate; I ran as no Democratic candidate. I ran without a single inspector of election, a single register, a single canvasser in my favor, while the whole body of canvassers, registers, and inspectors were appointed by the combined influence of Tammany Hall and of the Republican party to deprive me of my just rights and of my just vote before the people of New York. The very first, the opening part of the testimony, on the part of the contestant, discloses my position—that of Mr. Sherwood, page 80 of the document before the House.

"Question. Who was considered peculiarly the Democratic nominee?"

"Answer. Mr. Barr, I understood."

"Question. Had he what is more generally known as the regular nomination of the Democratic party?"

"Answer. He had, sir."

Well, sir, that is my position. Tammany Hall and the Republican organization, which creates three registers, three inspectors of election, and three canvassers, organized every one of those registers, canvassers, and inspectors in opposition to me; and I had not a single friend on the whole list. And if any frauds were perpetrated they were perpetrated by the Republican candidate, Mr. Dodge, and by the Tammany candidate, Mr. Barr. There were three of us running: Mr. Barr as the Tammany Democrat, Mr. Dodge as the Republican candidate, and I, on my own hook, smashed all the machines got up in that election.

Now, sir, how could fraud be committed? What object had I in having it done? Why should not I wish my testimony to go before the country at an early period, when I know and others know that *ex parte* statements have gone forth from official persons in this House—I will not say employed by the contestants, but garbled testimony from this *ex parte* record—to exhibit fraud on my part, when I had not a single officer of election whatsoever to commit a fraud?

No man regrets more than I do that the magistrate who had this testimony in charge did not submit it at an earlier period. And, Mr. Speaker, why was it not submitted at an earlier period? There are incidents in this election which will explain that as we approach it and examine it by and by, if the House ever chooses to take this testimony and examine it at all; if it is not shut out in this summary manner, which seems to be proposed by some parties in this House.

Sir, this has been a contest in the city of New York between the dollar, the almighty dollar, and numbers, almighty numbers. Never was there a harder contest between those powers. The contestant is a man whose income is \$1,000 a day every day he lives. His recorded, registered income is over \$1,000 every day that he lives; and when he went into the examination of this testimony, he was able to procure the ablest reporters, the best phonographic writers, without regard to money or expense whatsoever, while I, humble in my means, nothing but the publisher of a newspaper, a mere printer, and nothing but the printer of a newspaper, and restricted in my means, was compelled to employ reporters at a cheaper rate, not as good phonographic writers; and the consequence was that Mr. Dodge, with his means, was at an early period able to present these documents while it took a much longer time upon the part of the lawyer employed by me, and the judge who had the taking of the testimony, to prepare mine. The consequence was that not until after the holidays could a judicial record be made up that the judges would certify; and when they were satisfied with the record, as soon as possible, after the 1st of January, they made up the record of that testimony and transmitted it to the Clerk of the House.

GENERALS MEADE AND THOMAS.

Mr. GARFIELD. I ask the gentleman from New York to give way while I move that a recess of ten minutes be taken to allow the Speaker to present to this House the commander of the army of the Potomac and the commander of the army of the Cumberland, General George G. Meade and General George H. Thomas.

Mr. BROOKS. Nothing will give me greater pleasure, and let the record of the fact go out with my speech to the country.

Mr. GARFIELD's motion was agreed to; and thereupon the House took a recess for ten minutes.

[The SPEAKER, having conducted Generals Meade and Thomas to the Speaker's desk amid great applause, said:

Gentlemen of the House of Representatives, while time shall last and the Republic shall endure, none of us can ever fail to be grateful

to the officers and soldiers who periled their lives for its preservation. True as the truest, and brave as the bravest, were Major General Meade, commander of the army of the Potomac, and Major General Thomas, commander of the army of the Cumberland, whom I have the pleasure, under your order, to introduce to you to-day. [Great applause.]

General Meade said: Gentlemen of the House of Representatives, impressed as I am with the solemnity of this occasion, introduced to you in so complimentary and distinguished a manner as I have been by the Speaker of your House, it is almost impossible for me to say in fitting terms how grateful I am myself, and how grateful is my friend and brother officer, General Thomas. If we may be permitted to construe the distinguished honor you have conferred upon us into a mark of your approval of our course during the great struggle which, by the blessing of God, has been so triumphantly and gloriously terminated, it will be to us ampler reward for all that we have done in our humble capacity. We shall ever bear it in grateful remembrance, and shall ever be most sincerely thankful. [Great applause, and loud calls for "Thomas."]

General Thomas said: Gentlemen, it was not my intention to have said anything, trusting to General Meade to express our feelings; but since you have called upon me to say a few words, all I will say is that I join with him in every word he has uttered, and most heartily and sincerely thank you for this compliment. [Applause.]

Mr. SPALDING called for three cheers for the two generals.

In response to this call the members of the House and the spectators in the galleries joined in a round of enthusiastic applause.

The two generals then came upon the floor, and the members of the House were introduced to them by the Speaker.

At the expiration of the recess the House resumed business.]

PATUXENT RIVER, MARYLAND.

The SPEAKER, by unanimous consent, laid before the House a report from the Superintendent of the Coast Survey, transmitting a statement of the advantages of the Patuxent river for the establishment of a navy-yard, in response to a resolution of the House of January, 17, 1866.

Mr. PHELPS. I move that the report of the Superintendent of the Coast Survey be referred to the Committee on Naval Affairs, and that it be printed.

The motion was agreed to.

CONTESTED-ELECTION CASE—AGAIN.

Mr. BROOKS. When I was so agreeably interrupted a short time since, I was explaining to the House that the month's delay in the matter of my testimony beyond that of the contestant—for the testimony of the contestant was not laid before this House until the first week in December, and mine was presented early in January—the sole cause of the delay on my part was because the phonographers that I was enabled to employ were not able with sufficient rapidity to furnish the testimony which the judges were willing to certify until a month later than the time the testimony of the contestant was presented. Therefore, my lapse was the lapse of but a single month, or a few days over.

And I may add here that the very moment the testimony came under my control, I hurried with it and put it in the possession of the Clerk of the House. I made that fact known to all who were interested.

Now, I put it to this House, if in a contest of this sort, because of mere clerical inability, and because of inability to employ at sufficient high rates phonographers who could do the work satisfactorily to the judges in order that they might certify to it, it is fair and just that my testimony should be refused publication, while the contestant by his greater power in those respects is to have all this advantage before the House and before the country. If so, then no greater act of injustice whatsoever could possibly be committed.

The whole expenses of my election were under \$300, while the contestant in this case, in the taking of testimony, in the providing of judges to examine it, and in the reporting of that testimony, with the expense of summoning all the witnesses, has already cost me nearly \$3,000. Hence when I say that this is a contest between money and numbers, I but charge a fact which is verified by the official testimony in this case which I hold here in my hands. The testimony in behalf of the contestant amounts to five hundred and forty-one printed pages, and I presume mine, when printed, will amount to nearly quite as much. The expense of taking this testimony was so great that if I had been aware of the contest to which I was to be subjected, the expense of it to one of my humble means, I would have entered the portals of this House upon the *ex parte* case, to be examined wholly with reference to any testimony upon the other side. I never would have incurred the expenditure of \$3,000 for a seat in the House of Representatives.

The attorney in this case on behalf of the contestant was Mr. W. W. Phelps. This gentleman was examined before the judge, and his testimony is here recorded in this book on behalf of Mr. Dodge. I will read from his testimony:

"Question. What do you know as to the expense of the election to Mr. Dodge?"

"Answer. Of the gross amount of the expenditure to which he was put for election purposes I have no idea, except that it was very small considering the size of the district.

"Question. You have no idea what the amount was?"

"Answer. No, sir; except that I would be pretty sure that it was not \$15,000, and was not \$12,000—was not \$10,000, I think; I do not think it was as much as \$10,000.

"Question. Do you know of any particular sum as having been expended yourself?"

"Answer. Nothing, except an awful printer's bill.

"Question. What was the amount of the printer's bill?"

"Answer. Fifteen hundred and odd dollars.

"Question. Do you know any other item of expenditure?"

"Answer. None, except for hiring the Cooper Institute, which we did not use; we were going to have General Wool and others there, but we concluded not to do it; we had to pay \$200 for that.

"Question. You know of no other item?"

"Answer. Not large amounts, except what I heard testified by Mr. Cowdin.

"Question. Did you ever have any communication with anybody in reference to this Barr matter?"

"Answer. Nothing, except that I was on the executive committee, and used to meet down there, and urged the importance of contributing liberally to Mr. Barr, who was a good sound Union man, because I would rather he would be elected than Mr. Brooks; I urged that strongly.

"Question. Was that before the payment to Mr. Barr?"

"Answer. Yes; I didn't know there had been any payment to him; I guess no one but Cannon and Cowdin knew it, unless I was supposed to know when they said we would take care of it.

"Question. In what assemblage was that said?"

"Answer. No assemblage; only when I saw Mr. Cannon in my office, he said we would make a great mistake if we didn't keep Barr on the track.

"Question. You didn't expect to be understood as having done that from motives of unimixed philanthropy?"

"Answer. No, sir; my object was to elect Mr. Dodge, if I could, as being the best Union man. My next object was to elect Mr. Barr in preference to Mr. Brooks. I thought Mr. Dodge would make the strongest run until three or four days before the election—until it was said that all the river districts were going Brooks, and that we were used up unless we could help Mr. Barr.

"Question. Do you know if Barr got any money from a Republican source?"

I ask the attention of gentlemen of the House to this part of the testimony, for they will learn from it something as to the manner in which elections are conducted in the city of New York. An ingenious candidate sometimes contrives to get both the Republican and the Democratic nomination; but as the Republicans will not always stand that, and the Democrats will not always stand it, a bargain is sometimes struck, and two candidates, one nominally representing each party, are nominated in order to effect the election of some other and favorite candidate. This was the process in this case:

"Question. Do you know if Barr got any money from a Republican source?"

"Answer. No, except the \$2,000. That was not enough to make that had forty-five districts to take

"Question. Have you never heard of his receiving any money?"

"Answer. No, except when we saw it in such pa-

pers as the Leader, it was a joke to ask Mr. Dodge where the \$25,000 was.

"Question. You do not know definitely of any other sum?"

"Answer. No; that was all. It was not an expensive election."

Ten thousand dollars was all that was spent—"We would have made it far more so if we had only known as much as we know now."

Hence, when I say that this was a contest with the "almighty dollar" from beginning to end, I think I establish it by such facts as these. The parties interested spent the amount of money that was necessary in running both the Republican and the Democratic machine, and they would have given a great deal more money to the Democratic machine if they had known that it was necessary. Now, I ask the attention of my Republican friends on the other side of the House to the consideration of this fact. In their estimation no election was of more importance than the contest between Mr. Lincoln and General McClellan. In their judgment the restoration of the Union, the interests of human liberty, the abolition of slavery, all depended upon the election of Mr. Lincoln. Yet in this case we find the contestant who is now before this House giving \$2,000 to run the Democratic machine, to be used as well against Mr. Lincoln as against General McClellan, and that contestant now comes before this House and asks that the papers which I have obtained in this election shall not be published, and he expects a party majority of this House to do me the injustice of refusing to publish those papers. Mr. Speaker, I know that the Republican majority will never do it. God never made men who, under these circumstances, would be guilty of such an injustice.

No party bond, no party obligation, could induce the Republican majority in this House to commit so great an injustice against the sitting member. Not even the gentleman from Pennsylvania, [Mr. STEVENS,] if he should insist upon it as a party question, would be able to bring about such a result. Hence I know that, if not one Democratic vote were given in this House, I could fearlessly throw myself upon the justice of the Republican majority, feeling assured that it would order the publication of my papers in this case, where the contestant has given \$2,000 to Tammany Hall to run the Democratic machine.

But, sir, this is not all. This delay in the transmission of the testimony has been obtained with the consent of the attorney of Mr. Dodge, as well as by the action of the judges in the case. I send to the desk, to be read by the Clerk, a note from the attorney of Mr. Dodge, W. W. Phelps. His handwriting will not be denied by the contestant. The note is dated "Saturday, a. m.," and that "Saturday, a. m." was during the holidays, in the latter part of December or the beginning of January.

The Clerk read, as follows:

SATURDAY, A. M.
MY DEAR SIR: Have just received a telegram calling me out of town. Get key from janitor up-stairs, to take your testimony off my desk. I assent to any correction in the rest, not altering the sense, and authorize you to make it, and forward the testimony. I shall be back Monday, p. m.
Yours,
W. W. PHELPS.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. W. G. Moore, his Private Secretary, who also informed the House that the President had approved and signed a joint resolution of the following title:

Joint resolution (H. R. No. 53) authorizing the Secretary of War to grant the use of a portion of a military reserve on St. Clair river, in the State of Michigan, for railroad purposes.

CONTENDED-ELECTION CASE—AGAIN.

Mr. BROOKS. So, Mr. Speaker, you see the lawyers were working amicably together in December last and early in January, in the preparation of testimony to be submitted to this House.

Mr. DAWES. I want a clear understanding of this matter. Am I to understand that in the latter part of last December and early in

January the lawyers in this case were working over the testimony which the law required to be here last March?

Mr. BROOKS. Yes, sir; there is the record. Mr. DAWES. Am I to understand that? I want to know.

Mr. BROOKS. Yes, sir.

Mr. DAWES. That is all I want to know. Mr. BROOKS. If I knew what inference the gentleman derived from that knowledge I might have nothing more to say.

Mr. DAWES. I only want to say that when Congress passed the law of 1851 they thought they had contributed somewhat to the honesty of an investigation of this character by requiring that the testimony, as soon as it was taken, should be reduced to writing, and in the presence of the parties sealed up and sent to the Clerk, so there should be no occasion for temptation after the testimony had been taken on either side. I suppose that was the reason: I want the Committee of Elections to know they are to pass on a case made up in the city of New York during a few months past.

Mr. BROOKS. It was done by common consent of the parties. The testimony to be published, for I presume it will be by the consent of the Republican majority of this House, will show that both the parties have agreed to it. There is not one point or iota of dispute as to the testimony. Mr. Dodge's attorney has examined and assented to the testimony I have submitted; and my attorneys have examined and acquiesced and agreed to the testimony which Mr. Dodge has submitted. It was a matter of amity and consent between the attorneys; and there is the record which I read to this House. The insinuation of the honorable gentleman from Massachusetts, that the parties have tampered with this testimony, I am surprised, or rather should be surprised, if I could have been surprised at anything which has taken place to-day in the discussion of this matter, to hear the gentleman make that remark.

Mr. DAWES. I do not want the gentleman to understand me to make an insinuation of that kind. I am simply desirous of understanding the whole facts. If the House refers to us such testimony, taken in that way, I will understand it to be instructions to us to take that testimony, notwithstanding the requirements of the statute.

Mr. BROOKS. I deeply regret the gentleman should not use with more care words in discussion, and especially such important discussion as this; and that he should seem to convey any such imputation against myself or anybody else of tampering with that testimony. Neither party raises such a question to any testimony the parties have submitted.

I beg the pardon of the House, Mr. Speaker, through you, for having so long entered into a preliminary examination of this case. I have felt it to be my duty, from the extraordinary course adopted to prevent the publication of my testimony through no fault of mine whatever. I know there is an immense Republican majority in this House. I know my destiny is with the honorable men on that side of the House. I know they will act as judges and not as partisans on this question. But whatever may be my destiny or fate here, I shall submit to it as a man of honor, guilty of no fraud and no injustice, and who has attempted to make an experiment before the American people, to see whether in a large Democratic district a member of Congress may be elected on the course he pursued in this House without any reference to the Democratic or the Republican party.

I have attempted to establish a precedent; and if the House puts their veto on that by allowing this contestant, in this side-way process, to put himself into this House, all will be reduced to party mechanism. Men, independent of party, will cease to have weight and influence in the country, and every man will become not only a tool of his party but a tool of mere party mechanism.

I desire to ask for information, what portion of the delay of causing the printing now of the

testimony of the sitting member is to be ascribed to me? I understand one of the grounds on which objection is made here is that this House will be unable to reach that at the proper time when it ought to be reached. And then I trust we shall have some information as to what are the statutes controlling the taking of testimony and presenting it to the Clerk in this case, and how far that statute has been complied with.

Mr. CONKLING. The contesting member, as I understand it, desires to occupy the floor, and technically he is entitled to it. I suggest, therefore, that my colleague will get from him what he desires on that subject.

Mr. JOHNSON. I desire to ask a single question of the gentleman from New York [Mr. Brooks.] There seems to be an issue partly made up by the gentleman from Massachusetts [Mr. Dawes] which is not fully met by the gentleman from New York; and that is, that information was given in some sort of official way to the sitting member of the fact that the Committee of Elections required that his papers and testimony should be filed. I desire to inquire of the gentleman whether the clerk of the committee, when he called on him, informed him that the Committee of Elections had passed a resolution requiring him to file these papers, and whether the sitting member was notified that it was by authority?

Mr. BROOKS. I never had any information, as I understood it, officially or unofficially, in any form from the clerk of the Committee of Elections, that that committee desired my papers. In conversation with him at various times and at various places, he asked me where my papers were. I explained to him in conversation the very same facts and the causes of the delay which I have submitted to the House here to-day, and how much I regretted it. And I think at one time I suggested to him, if not to others, that I should feel it my duty, if the papers did not soon come, to appeal to the House and ask the Sergeant-at-Arms to be sent in pursuit of them. But I never had an intimation, officially or unofficially, certainly no paper whatsoever, on that subject.

Mr. DAWES. It is due to the Committee of Elections that I should state that they understood, as a committee, that at least a dozen times the gentleman from New York [Mr. Brooks] had been notified. They understood it as distinctly as possible, and at no time has it come to the knowledge of the committee that the gentleman was not entirely ready to proceed with his hearing until such hearing had been proceeded with two days, and the first intimation the committee ever had from the gentleman from New York, that I know of, that he was not entirely ready to begin and conclude the hearing, was when we took up the Globe yesterday and saw there that on the day before he had caused his papers to be referred to the committee. The committee did not know how it was. Just about a week ago we learned from the Clerk of the House that the gentleman from New York [Mr. Brooks] had deposited with him a package of papers directed to the sitting member, with instructions to keep them there until they were called for. That is all the committee knew. I am certain in the statement I now make in reference to the notice by the committee to the sitting member from the clerk.

Mr. BROOKS. Will the gentleman allow me to ask a question? I suppose I may ask it as I have been before the committee. I ask him if I have not made two points before the committee, namely: first, that the notice given me of a contest was not within the time required by law, and that until that point was decided I was not under the necessity of bringing my papers before the Committee of Elections, because if the committee decided in my favor there would never be any need of printing or publishing the papers; and second, that the contents of the notice were not given according to law? And I ask him if that argument is not now pending before the Committee of Elections, and if I have not contended, as

I still contend, that so far as my action is concerned, it was not necessary for me to seek for the publication of these papers until the Committee of Elections first decided that the notice was given within the thirty days required by law, and that the contents of the papers were according to law. The papers were in the Clerk's possession, and the moment either of these points was decided against me it was my duty to bring them before the committee, and not until then. That was the view I took of the case.

Mr. DAWES. If it is no breach of privilege for me to state what has transpired before the committee, I will simply state that the committee, after having done through their clerk what I have stated toward getting this case in readiness, notified the parties to appear at a given time and be heard, without any intimation from either party that they were not ready. The parties appeared before the committee without any intimation of the kind suggested by the gentleman from New York to the committee or in their hearing, and the committee proceeded in the ordinary way to the hearing of the case during one day. The next day the gentleman from New York desired to interrupt that argument and to take the two points which he has now suggested, and the committee permitted him to take the two points. Then for the first time the gentleman suggested that he proposed to hear this case as made up by the contestant first, and, if it became necessary for him, after that he proposed to have certain papers in the Clerk's office submitted to the House and referred to the committee. The committee replied to that that they understood the parties were to make up their record before they commenced their hearing, and that if he was ready to go to the hearing, upon the case as made up, let him say so; if not, to say so and show some reason why he was not.

Mr. BROOKS. Will the chairman of the Committee of Elections answer this question: if the committee had decided the first point in my favor, would it have been necessary to publish my papers at all?

Mr. DAWES. Certainly not; but I submit that it was not for the gentleman from New York to take that risk. It is the risk that every party in a court takes if he relies upon a simple point and prefers not to prepare his case otherwise.

Mr. BROOKS. But I did not rely on a single point. I relied on another point before the committee, and I want the gentleman to answer this question: if the notice was not in accordance with law, would it be necessary then to print my papers?

Mr. DAWES. Everybody understands that it would not be. Everybody understands that when a party is summoned into court he makes such preparation to meet the case as he thinks the case demands, and if he has confidence enough in any particular point not to deem it necessary to make up a record involving any other points, he goes to trial on that point.

Mr. HALE. The question which I ask the chairman of the Committee of Elections, for the information of the House, is this: what would be the probable extent of the delay to be caused by the printing of the evidence of the sitting member?

Mr. DAWES. I am unable to say, for I have never seen it. I have only heard from the sitting member that it is very much more voluminous than what we have already, which makes five hundred and forty-one pages.

Mr. FARNSWORTH. I would like to know from the gentleman from Massachusetts, for my own information and for that of the House, whether the law requires that the testimony in contested elections shall be presented to the House by any particular time.

Mr. DAWES. The law requires the parties on both sides to cause the evidence to be reduced to writing when it is taken, and the law limits the time of taking testimony to sixty days. It must be taken within that time. That time ended in April last year. The law requires the testimony to be reduced to writing by the officer

taking it in the presence of the parties then and there, and within that time, and by him sealed up and directed to the Clerk of the House of Representatives, and sent to the Clerk, and by him presented to the House.

Mr. FARNSWORTH. I understand this to be merely a question about printing.

Mr. BROOKS. There is nothing about printing in the law.

Mr. DAWES. It is more than a question of printing as it is presented to the House. It is an instruction to the committee to receive and consider as taken conformably to law testimony which comes in under these circumstances, and they cannot help themselves.

The SPEAKER. The gentleman from New York [Mr. Conkling] asks that the contestant, Mr. Dodge, be allowed to address the House. Is there objection?

Mr. BROOKS. I shall not object—although the gentleman has certainly no legal or constitutional right to appear in the case—if it is understood that I shall have an opportunity to reply to him.

Mr. CONKLING. Does my colleague say that the contestant has no right to be heard?

Mr. BROOKS. He has no such right under the rules and orders of the House at this period. He is not so much a member of the House and entitled to be heard here as are the members from Tennessee.

Mr. CONKLING. Then I beg to remind my colleague that his lack of right to be heard must be owing entirely to a technical omission in the resolution. I think I am right in saying that the usage of the House is uniform that contestants are allowed to be heard when their cases are under consideration.

Mr. BROOKS. But the case is not under consideration. There is no precedent for allowing a contestant to be heard at this stage. But do not understand me as objecting. I do not object, with the understanding that I shall have a right to reply.

The SPEAKER. The Chair will state that he has examined the resolution, and it does not give the right to the contestant to speak upon the case. But the uniform usage of the House has been that whenever a contested-election case is before the House, the majority of the House can give the contestant a right to be heard.

Mr. GRINNELL. I move that the contestant in this case, Mr. William E. Dodge, be allowed to address the House at this time.

The motion was agreed to.

Mr. DODGE then took the floor.

Mr. ELDRIDGE. I move that the sitting member in this case be allowed to reply to the contestant.

The SPEAKER. The contestant is now entitled to the floor. After he shall have concluded his remarks, the motion of the gentleman will be in order.

Mr. ELDRIDGE. Is the contestant entitled to address the House without its unanimous consent?

The SPEAKER. He is; the Chair has just decided that he can do so by vote of the majority of this House. Before he proceeds with his remarks, the Chair will ask leave to lay before the House two messages from the President of the United States.

DOMINICAN REPUBLIC.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

To the Senate and House of Representatives:

Believing that the commercial interests of our country would be promoted by a formal recognition of the independence of the Dominican republic, while such a recognition would be in entire conformity with the settled policy of the United States, I have with that view nominated to the Senate an officer of the same grade with the one now accredited to the republic of Hayti, and I recommend that an appropriation be made by Congress toward providing for his compensation.

ANDREW JOHNSON.

WASHINGTON, January 30, 1866.

Mr. BANKS. I move that the message be referred to the Committee on Appropriations, and be printed.

The motion was agreed to.

IMPERIAL MEXICAN EXPRESS COMPANY.

The SPEAKER, by unanimous consent, also laid before the House the following message from the President of the United States:

To the House of Representatives:

In compliance with the resolution of the House of Representatives of the 10th ultimo, requesting information in regard to the organization in the city of New York of the Imperial Mexican Express Company, under a grant from the so-called Emperor of Mexico, I transmit a report from the Secretary of State and the papers by which it was accompanied.

ANDREW JOHNSON.

WASHINGTON, February 1, 1866.

Mr. BANKS. I move that the message and accompanying papers be referred to the Committee on Foreign Affairs, and be printed.

The motion was agreed to.

CONTESTED-ELECTION CASE—AGAIN.

Mr. INGERSOLL. If it is in order, I would like to move that the sitting member in this case [Mr. Brooks] shall be allowed to reply to the remarks of the contestant.

The SPEAKER. The contestant is now entitled to the floor, and that motion is not now in order.

Mr. DODGE, (the contestant.) I am very much obliged to this House for the courtesy extended to me on this occasion, and I will not trespass upon its attention by any extended remarks.

The election in question was held on the 8th day of November, 1864. Immediately after that election there were very strong evidences that there had been irregularities and frauds in the eighth election district of New York more than sufficient to overcome the small plurality claimed by the sitting member. The whole vote of the district was about 22,000; and the sitting member claims a plurality of 148 votes. Reluctant as I was to enter into such a contest, yet I was urged to it from all parts of the country, and especially by those who had taken a deep interest in the canvass in my own district. And out of deference to them and to public sentiment generally, I felt it to be a duty to expose, as I thought I had an opportunity to expose, the machinery by which for years the wealth and influence of the mercantile portion of the city of New York had been deprived of a proper representation on the floor of Congress. The necessary legal notice was made and served upon the sitting member. On the 20th day of February we convened to take the testimony under my notice, and on the 8th of April the taking of the testimony on the part of the sitting member was closed.

The testimony taken on my part was taken in charge by Judge Brady, before whom it was taken. He took charge of all the papers, sealed them up according to law, and they were transmitted to the Clerk of the House of Representatives during the fall, and were here in his possession before the opening of Congress. And on the second day of the session my friend from New York [Mr. Raymond] moved that the papers presented on my part be referred to the Committee of Elections, and be printed; and he likewise moved that the contestant have the privilege of the floor. I have sat here for two months, taking a deep interest in the debates that have been going on, but compelled to be a silent listener. I have been exceedingly anxious on personal grounds that this contest should be settled at as early a day as possible. I stated to the chairman of the committee that I believed that my papers were the first thing before the committee; that they had been presented before the papers of any other contestant, and that I hoped my case would be taken up immediately. The chairman said to me in reply that the committee had as yet only one side of the case before them; that the papers of the sitting member had not been pre-

sented. I immediately wrote to my counsel in New York, stating to him that, notwithstanding the promises that had been made to him by the counsel of the sitting member, that under no circumstances should the sending forward of that testimony be delayed beyond the opening of Congress, it was impossible for me to obtain a hearing before the committee, because the papers of the sitting member were not here. I constantly annoyed the chairman of the committee by asking him when my case would come up, and continually received the reply that the papers on the other side had not been received, and that he had more than once notified the sitting member through the Clerk of the House that the committee were ready to have the testimony on my side printed, and that if he had any testimony to print, it must be here.

Knowing that there was to be a prolonged adjournment for the holidays, I sent again to my attorney in New York and urged him to see the attorney of the sitting member and ascertain whether it was not possible to have the testimony sent here, that it might be printed, that the case might come before the committee, so that I might know whether I was to have the privilege of participating in the important discussions of this body or whether I was to return to my home and engage in my ordinary mercantile business. My attorney wrote to me, from day to day, that those papers would be here.

I knew where those papers were. I knew where they had been ever since the close of the investigation. I knew where they had been through the spring and the summer and the fall: that they had never been in the hands of the judge. They were in the hands of the attorney of the sitting member, who had assured my attorney that they should be ready in time. The attorney of the sitting member stated that for this purpose he had taken the papers with him into the country during the summer, that he might embrace the opportunity to examine and arrange them. When, late in the fall, he was again urged to produce those papers, he pleaded want of time, professional engagements, and the great difficulty of getting the papers in order. He said that he was very anxious to do so, and for that reason, as he had business out in the oil regions, to examine into the title of some lands there, he would take the testimony out with him, that he might take advantage of any leisure time to prepare it for transmission to the House.

I repeatedly urged my attorney to see whether it was not possible to get those papers here; for I took it for granted that I should get no hearing till they came. He called again and again on the attorney of the sitting member, and that attorney finally said to him, "Come here to the office and look over the matter with me here, and see whether it is all right." My attorney assented to that, and told him, "Fix it all up in your own way; only get off the papers as quickly as you can," and wrote him a note which has been read at the desk, the whole object being to get the papers here, if possible, that we might go on with the investigation.

I knew perfectly well that the sitting member, who has been so long a member of this House, and who ought to be familiar with the statute on this subject, was not conforming to that statute, but that he was delaying and delaying. Why he was doing so I could not understand, but it was perfectly plain that he was doing so. I was anxious that the papers should be sent here. I wanted them published in time. I wanted them published with the testimony on my own side, because the cross-examinations on the taking of his testimony are quite as valuable to me, in many instances, as the examination of my own witnesses.

At last, sir, we obtained a hearing before the committee. My counsel left his business in New York and came forward for five days before the committee. Mr. Brooks was there. He was there with his books. The chairman said they were ready to hear the argument. My attorney's argument occupied an hour or

an hour and a half. Not a word was spoken by Mr. Brooks. Not an objection was made by Mr. Brooks; not a word about his papers. I took it for granted that he had made up his mind they were of little value, and that he would go into the contest on my papers, where he had such a lengthy cross-examination.

On the second day of the committee I was met there by an unexpected motion on the part of Mr. Brooks. The motion was to turn me out of the committee, and have the case, as the lawyers say, quashed, because I had no standing before the committee, having failed to comply with the statute by not giving him notice of thirty days. He argued that case before the committee. He argued during two sessions of the committee whether the thirty days should be from the report of the county canvassers or the report of the State canvassers. I have no information of the decision of the committee, but I have understood unofficially it was unanimously against him.

I thought he would be prepared now to go on with the examination, but he now raises another question for the decision of the committee, and that is want of sufficient and explicit notice to him as to the specifications and charges I have made. That he is now arguing, or in the process of arguing. Now, sir, although for more than eight months the sitting member had not in any way conformed to statutes so clear and so specific, which he of all other men ought to have known, and which I could hardly be expected to know, he being a member of Congress for so long and accustomed to the routine of this House—that he should not have known this, I say, was very strange. I was satisfied there was something—what it was I could not imagine—that there was something which satisfied him this would be of no consequence, for he would not have any necessity to use it; that there would be no necessity to present it.

Now, Mr. Speaker, I never would have raised the question whether or not he had complied with the statute if his testimony had been here in time. If it had been here to have been printed I would never have objected to it; but he has had my book—which he has read here to-day—in his hands for weeks, while I have not had an opportunity to see his.

Now, at this late period of the session, when two months have already expired, and when questions of such large interest to the nation, and especially to the commerce of the city which I believe I was called on to represent—which I have not a doubt I am legally entitled to represent—when questions of such vast magnitude are coming before the House, I feel that I ought to have an opportunity to participate in its deliberations if I am to have an opportunity at all.

But, sir, I have been met on his part by a strict conformance to the statute, requiring from me the most strict adherence to the law, and now I feel it to be my duty to state to the House most clearly and positively that the gentleman has not in any way adhered to the statute. The statute was read by the chairman of the committee, and with your permission I will refer to it again. It declares that the testimony of the witnesses, together with the questions proposed by the parties or their agents, such magistrate is authorized and required to cause to be reduced to writing in his presence and in the presence of the parties or their agents, signed and duly attested by the witnesses respectively, which he shall immediately transmit by mail, duly certified under his hand and seal, to the Clerk of the House of Representatives for the time being. Now, Mr. Speaker, if I may conclude that the sitting member has had in his hands or the hands of his counsel this testimony for the last eight months, then I say that I shall not have to prove that it has been in the hands of his counsel and not in the hands of the judge at all.

I aver that, although there may possibly be inside of the package a letter of Judge Russell saying "I herewith transmit," &c., Judge Russell has had nothing to do with these papers. They have been in the possession of Mr. Brooks or his counsel for more than eight months, and

now he comes here and proposes to shut me out under the plea that I have not conformed to the statute.

Now, Mr. Speaker, I feel that I have a right, after this long detention, to claim before this House that the gentleman, in order to have a standing before that committee, and to allow his papers to go there, must prove to the House that he has conformed to the statute. Now, I happen to have in my hand a copy of a receipt of Adams Express Company, transmitting the package from New York, which I will ask the Clerk to read. It will be seen that it is from Mr. Waterbury to Mr. Brooks. Mr. Waterbury is the gentleman's counsel.

The Clerk read the receipt, as follows:

NEW YORK, January 19, 1866.

Received, of N. J. Waterbury, one package; value not given; marked, Hon. JAMES BROOKS, Washington, D. C.

For the company:
Freight collected.

COLBY.

Mr. DODGE, (the contestant.) That package arrived here on the morning of the 20th of January. When the honorable gentleman received it I cannot say, but I know it was delivered on the 20th. The Clerk of the House, on the 24th, received the package from the honorable gentleman, with a request that he would take care of it until called for. Not knowing how valuable it might be, or what it might contain, he took good care of it, and I believe he now has it—a package, not addressed to him as Clerk of the House, but addressed to Hon. JAMES BROOKS. It was not enough that the gentleman should have had for eight months the testimony in his sole possession, but he must hold on to it even after it goes to Washington. He said nothing about its having to go to the committee. He did not go to the chairman and say, "I have been disappointed, and was not able to get this evidence before; but at last I have got it, and here it is." Not at all. What keeps it? Why, he never expected at all to have it printed or presented to the committee. He expected to send me home, because he would require from me the strictest performance of the requirements of the statute. He thought he had got me, but he found himself mistaken. And now he comes before this House, after having kept me here two months, and asks that his package shall be sent to the committee, with a request that the contents shall be printed, taking at least four or six weeks to print them, and sending me directly home in the midst of the argument, or requiring me to go through with mine and then taking his up when his testimony comes in.

I feel that it would be a very strange precedent for this House to set, and I cannot see how the Committee of Elections could ever get on in future, if a statute so plain, so specific, requiring that the evidence should be kept in the hands of the judge that takes it and by him held fast, sealed up, and sent to the Clerk of the House, is disregarded. I cannot see how this House can consent to such a precedent as to allow a member for eight long months to keep it in his own possession, then have it transmitted to him in Washington, then hold it there himself, and wait as long as possible to see whether his points are going to be held, and if they are not, then go before the House after all this detention and ask them to allow him to have his papers printed.

Sir, I was going to say I object, but I have no right to object, because I do not belong here. I was only going to suggest that I think I have a right to complain. Not that I would retort upon the gentleman; I have no such wish. Not that I am afraid of his testimony; I only wish it had been here in time to be printed. But I do not want, if I am entitled to a place on this floor, to sit here silently and have all these great financial and other important measures passed, I having no voice in the matter. Nor do I want to be kept from my business for two or three months longer, if I am not entitled to a seat here. I complain that the gentleman has met me in committee with a strict and determined adherence to everything within the statute, and then

comes into this House, without having conformed to a single one of them, and asks that I may be longer detained, and that the House may go behind the statute and set a precedent here that may be injurious for all time to come, by saying that a member may keep his testimony, carry it with him in the country, take it to the oil regions, send it wherever he pleases, and then come in and ask that it may be printed.

And now, Mr. Speaker, having detained the House longer than I expected, I will say in answer to the gentleman's remarks, that they have nothing to do with this question of printing. He has talked about money, he has talked about party, he has talked about his being a candidate, not of the Democratic or Republican party, but of the people. Mr. Barr was the regular nominee of Tammany Hall; but Mr. Barr was known to be a loyal Democrat, what we in New York call a noble "war Democrat," who broke away from his associates and determined to stand by and sustain the country. Mr. Brooks's friends, not satisfied with that nomination, had him nominated at Mozart Hall by the Fernando Wood wing of the Democracy. There were a few, some four or five thousand, good war Democrats in the district who were willing to break away and support Mr. Barr, but the great mass of "the unterrified Democracy" of the district voted for Mr. Brooks. That is well known. They voted for him *en masse*. And why? Because they were mostly men who had skulked away and refused to come up and enlist; who had hid themselves away and refused to enlist until the bounties were raised so high that their cupidity overrode their political preferences; and then they came in. It was understood that Mr. Brooks was the representative of the party who had opposed the war, and that class of the Democracy went for Mr. Brooks.

The gentleman has referred to the cost of the election and the expenditure of money. He has spoken of \$10,000 having been expended by myself. Has he read the cross-examination of my counsel? The question was asked by his counsel, "What did it cost Mr. Dodge to carry on the election? Did it cost him \$15,000?" "No, I do not think it cost anything like that." "Did it cost him \$12,000?" "No, I do not think it did." "Did it cost him \$10,000?" "No, I do not think it did." The sitting member says the election did not cost him \$300. It did not cost me \$10,000, nor \$7,000, nor \$6,000. But I do not know that that has anything to do with the question whether these papers are to be printed or not.

The gentleman has spoken of the evidence here as being *ex parte*, and says that he would have to go before the committee upon *ex parte* testimony. Now, if gentlemen will look over the printed testimony on my behalf, they will find that where my counsel would ask a witness four or five direct questions, the cross-examination by Mr. Brooks's counsel occupies three, four, and five pages, thus occupying nearly all of my time; still, I was able to get in enough to show before the Committee of Elections, as I doubt not, the fact that I am entitled to a seat upon this floor.

Mr. BROOKS obtained the floor.

Mr. INGERSOLL. I desire to move that the gentleman from New York, the sitting member, be allowed an opportunity to reply to the contestant.

The SPEAKER. The gentleman from New York has the floor, no other gentleman claiming it.

Mr. BROOKS. Mr. Speaker. I return my thanks to the gentleman from Illinois for his kindness in endeavoring to give me an opportunity to address the House in reply to the contestant. I shall not ask the attention of the House for any length of time, because the contestant has given me very little to reply to. He commenced his remarks by saying that it was time that the wealth and influence of the people of New York should have representation upon the floor of this House. My honorable colleagues from New York, over the way, are hardly complimented by the remarks of the con-

testant, to say nothing of my honorable colleagues on this side of the House, when he complains that the wealth and influence of New York have not proper representation upon the floor of this House. My honorable colleague from New York, over the way, [Mr. RAYMOND,] represents a very respectable amount of money and property, and, as you have often seen on the floor of this House, is very well able to represent it; and my colleague over the way, in the rear of the contestant, [Mr. DARLING,] represents yet more money, more wealth, and more influence.

Mr. DODGE, (the contestant.) I was very careful to say "heretofore." I did not speak of the Representatives now upon the floor.

Mr. BROOKS. How long heretofore? When Mr. Cambreling and Julian Verplanck were here?

Mr. DODGE. That was many years ago, when I was a small boy.

Mr. BROOKS. And, my friend, you have only got to be a very large boy to make such charges. [Laughter.] Sir, the contestant only illustrates the spirit in which this contest has been managed throughout when he complains that my honorable colleague behind me, [Mr. CHANLER,] and my honorable colleagues heretofore, many of them men of eminent position and wealth and property, have not been proper Representatives of New York on the floor of this House.

And in order that there should be a proper Representative here it is very necessary that I should be thrown out of my seat, and that he may be thrown in.

The honorable gentleman mistakes the arena before which he is arguing this case. This is not the city of New York; it is the House of Representatives. This is not Wall street; not a stock board where stock speculation is going on all the while. It is a representative body of the industry, of the agriculture, of the labor, as well as of the property, of the country. And one hundred thousand laborers are represented here where there is one man of property represented. There are enough members on the floor of this House to represent the wealth of New York, even if I was not here at all. There are enough from other portions of the country to take good care of that interest. And when the contest arises one man of wealth and power will whip out all the Representatives of the lobby that may be about the Capitol. The more Representatives of labor, industry, and agriculture there are the better. Let us hear no more of that species of argument.

Mr. CONKLING. If I do not interrupt my colleague [Mr. Brooks] as he is replying for a purpose, I would like to call his attention to the particular question which strikes the minds of gentlemen in this part of the House, my own among others, as the real question here. If he has any objection I will not do it.

Mr. BROOKS. I have not the least objection.

Mr. CONKLING. The statute makes it obligatory upon contestant and sitting member alike to forward presently, I believe the word is "immediately," to the Clerk of the House the testimony which is taken; and by the Clerk of the House it is to be preserved, in theory of law, against all intermeddling and encroachment. Of course I do not mean to suggest now that there has been anything of that sort in this case. This is a matter of statute regulation. The gentleman will therefore appreciate, as part of the suggestion I make, that no notice is necessary by any committee to any one, in theory of law and in practice. In fact every man, be he sitting member or be he contestant, is as much bound to take notice of that statute as he is bound to take notice of any other law upon the statute-book.

Now, looking to this as a precedent, I ask the gentleman to explain, if he will, by what propriety the House can direct the Committee of Elections to do the very thing in this case which the statute says it shall not do, and to override the very consideration, for the sake of which alone the statute was enacted. How can this

House properly establish for a precedent that the Committee of Elections shall disregard a statute which says, virtually, that no evidence shall be before it for this purpose except that evidence which was, according to the statute, transmitted to the Clerk of the House, and by him kept? How can the House properly say that the committee shall take into consideration in determining this case the very evidence excluded, and not only excluded, but branded by the statute as improper evidence, illegal evidence, incompetent evidence to be before the committee at all? Now, if the gentleman will relieve this case from the difficulty which presents itself in the view of establishing such a precedent as that, he will relieve me, and, I have no doubt, other gentlemen in regard to this question.

Mr. BROOKS. If there has been any neglect or violation of the law in this case by either party it has been done by both parties. It is not pretended that the testimony of the contestant was brought here until late in November or in December. The taking of the testimony was closed on both sides in April last; no testimony has been taken on either side since April last. And the testimony of the contestant in this case was not presented to this House until the first week in December, and it was not brought to the Clerk of the House until some time in November.

Mr. CONKLING. Will my friend allow me—

Mr. BROOKS. I will proceed to answer the point of his inquiry.

Mr. CONKLING. Allow me right here to say that the argument of the gentleman does not touch the point I make, because the evidence on the other side not being here, we are not acting upon it. When it comes up no doubt we will consider that question.

Now, regardless of what has been done on the other side, and pointing the inquiry to this evidence, I would like an answer.

Mr. BROOKS. The gentleman must let me answer in my own way. My mind is not legally constructed as the gentleman's mind is, and therefore I must approach the inquiry in the way that best suits my ability.

The Constitution of the United States gives this House the right to take testimony at any time. It can go on now, and take all the testimony in the case anew. This House can order the whole testimony to be taken over again.

Now, sir, as the gentleman chooses to confine me to the law, I desire to call the attention of the House to the statute, for I have literally and strictly complied with it. If anybody is in fault in this case it is the judge, or the judges, against whom the wrath of the House should be directed. The statute provides—

"The testimony of the witnesses, together with the questions proposed by the parties or their agents, the said magistrate"

Not the sitting member—

"is hereby authorized and required to cause to be reduced to writing in his presence"

Not to send to the Committee of Elections to be printed—

"and the presence of the parties or their agents, if attending, and to be duly attested by the witnesses respectively, and certified by the judges."

All of which has been done; there is no dispute whatever about that fact. If these formalities have not all been correctly observed the Committee of Elections will attend to that, and will take care to throw out the testimony.

"After which he"

Not the sitting member or his attorney, but the magistrate—

"shall immediately transmit by mail the said testimony, duly certified under his hand and seal, up to the Clerk of the House of Representatives for the time being."

Now the contestant in this case says that this package was transmitted to the Clerk of the House on the 24th of January, and he arrives at that fact by a certificate from the Adams Express. Well, I will admit that the Adams Express has brought on this season two things for me—first a pair of boots, and second, the testimony in regard to this contested election; but

whether this certificate relates to the boots or the testimony is not stated in the certificate. I will, however, admit the fact to be as the contestant has assumed. I was not here when that testimony came to the hotel where I am boarding; but on the very day on which it came into my possession, I brought it to the Clerk of this House and deposited it with him, as the law requires me to do, subject to the order of the Committee of Elections. In that way, I discharged my whole duty.

I never have seen an iota of that testimony since last April; and I have no more idea than the contestant, not half so much, perhaps, in reference to the contents of that testimony. He and his attorneys have looked over it again and again; but I have left the matter to my attorneys and do not know what there is in it, except so far as I heard it in March last.

The gentleman seeks to hold me to a strict accountability to the law, because, as he says, I seek to hold him to such an accountability. Who began this matter of insisting on a strict accountability to law? The gentleman ingeniously contrived to issue his notice to commence taking testimony in this contested election on the 20th of last February. I was then here as a member of this House. A most important session was then drawing to its close. The measures then pending, among them the internal revenue bill and the tariff bill, of great interest to the people of New York, so largely taxed, required my presence here. But the contestant so arranged his case that his testimony could not be taken until the 20th of February, so that I had presented to me the alternative of neglecting the important interests which I represented here, or going to the city of New York to attend to my contested election.

I chose to attend to my duty here, and to attend to my constituents with regard to this contested election; and in order to obtain the sanction for or against it of the Committee of Elections and of its chairman, I addressed a letter to him at that time, and that letter is appended to these documents, asking that chairman to state to me, in order to lay before the judge and Mr. Dodge himself, what was the practice in this case when a man was member of Congress, and what ought to be the action of Mr. Dodge and the House. I ask the Clerk to read this letter to show who it is who first took these sharp points.

The Clerk read, as follows:

HOUSE OF REPRESENTATIVES, February 22, 1865.

DEAR SIR: I am in receipt of your note of this date inquiring whether it would be agreed by parties to a contested-election case to extend the time for taking testimony beyond the sixty days provided by law, so that the testimony could be received and recognized as properly taken by Congress. What is the practice here in that regard? There have been since I have been upon the committee repeated instances of the extension of the time by agreement, and no question ever raised as to the validity or propriety of the proceeding. Several in the present Congress: one where answer and all proceedings after notice were postponed by agreement till after the adjournment, two years ago, *Rice vs. Sleeper*—a closely contested case. This was done at the request and for the convenience of Mr. Rice engaged here. You also inquire about the case of *Vallandigham vs. Campbell* in this regard. Mr. Campbell was at the time of taking the testimony in that case chairman of the Committee of Ways and Means, and begged for an extension of time by agreement, because he could not leave his duties here. It was refused by Mr. Vallandigham. Mr. Campbell's political friends here thought it very hard treatment, and he asked the House for that reason to grant him a further time to take testimony. Mr. Campbell's friends all voted to give the further time, and Mr. Vallandigham's friends all voted against it. It was made a subject of just complaint by Mr. Campbell's friends. It was then the freely expressed opinion of those friends of Mr. Campbell, that as neither party could suffer by mutual agreement for postponement, it was not quite right to compel Mr. Campbell to leave his duties here to take depositions.

I do not desire, of course, to interfere with any one's ideas of his right or duty in what I have said, but only to answer your inquiries.

I am truly yours,

H. L. DAWES.

Hon. JAMES BROOKS.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed without amendment House bill No. 143, for the relief of Charles F. Anderson; and that it had also passed the following bills and joint resolution; in which he

was directed to ask the concurrence of the House:

An act (S. No. 36) for quieting doubts in relation to the validity of certain locations of land in the State of Missouri by virtue of certificates issued under act of Congress of February 17, 1815;

An act (S. No. 71) to authorize the Postmaster General to deposit postage stamps and stamped envelopes for sale; and

Joint resolution (S. No. 27) for the exhibition of specimens of gold and silver and other minerals, the product of the United States.

CONTESTED-ELECTION CASE—AGAIN.

Mr. BROOKS. Mr. Speaker, it is not only proved by that letter of the chairman of the Committee of Elections, but by the printed testimony, which I will read:

"Mr. Waterbury then asked for an adjournment of the proceedings for ten or twelve days, which was objected to by Mr. Phelps. Mr. Waterbury then, on behalf of Mr. Brooks, offered to consent in writing to extend the time beyond the sixty days provided by act of Congress for commencing and closing the proceedings, if an adjournment should be granted for the time required by Mr. Brooks. The counsel for Mr. Dodge declined to assent to the proposed extension of time and adjournment, and the proceedings were thereupon adjourned until the 23d day of February, 1865, at 7 o'clock p. m. At the time to which the proceedings had been adjourned, as just mentioned, the parties again appeared, when Mr. Waterbury renewed his application for an adjournment, and in support of it read extracts from the published proceedings in the *Winter Davis* contested-election case, and also a letter from the Hon. H. L. Dawes, (which letter or a copy thereof will also be found in the appendix,) insisting that the consent, if given, to extend the time beyond the sixty days would not prejudice the rights of Mr. Dodge. Mr. Phelps, on behalf of Mr. Dodge, declined to consent to the adjournment."

I never had proper time to take testimony. The whole ten days were lost to me. I had to work through counsel who knew nothing of the case.

Here we find that sharp practice on the part of the contestant from the beginning, and he has no right to complain now that I met him with early objections before the Committee of Elections.

Now, I think I have complied with my whole duty as required by the law. I have never been obliged to ask for the printing of these papers. I did ask the House for it, and the House consented, and now the attempt is made to take it back by reconsideration. It is not necessarily indispensable that these proceedings should be in print, but it is for the convenience of the committee. It is, however, a matter of strong justice that they should be printed. It is in the power—and I ask the attention of the Republican part of the House to this declaration—it is in the power of the Printing Bureau in this city to bring back all of that testimony by Wednesday next and have it properly printed. If it is necessary—I know the powers of that printing office—it could bring it back on Monday morning next. I do not care how quickly it is brought back.

Mr. DODGE, (the contestant.) I wish to make a suggestion. I said in my remarks that I should never have raised the question at all in this House in regard to the breach of the statute on the part of the gentleman if it had not been for the manner in which I have been delayed for two or three days in committee. I am willing now, so far as I am concerned, out of courtesy to the gentleman—but I forget, he does not want my courtesy—I am willing to withdraw any objections I have made before the House, if it is the desire of the committee, in order that these papers may be printed as rapidly as possible, and that the committee may at once proceed with the examination of this matter.

Mr. BROOKS. You might work the committee to death.

Mr. DODGE, (the contestant.) I do not want them worked to death.

Mr. BROOKS. I can work all day and all night, and endure as much as any man.

Mr. DODGE, (the contestant.) I would remark to the gentleman, before the committee has taken up any time in reference to wealth and other outside things, I would like to get at

this matter, if that is understood, and go right into the investigation of the question at issue.

Mr. BROOKS. The gentleman will soon learn that neither he nor I can control the proceedings of this House. If he should have the good fortune to be brought on the floor of this House to-morrow he will soon find that nothing will be done here until next June or July except to debate certain measures. It is not in the power of either of us to hurry the committee, cholera or no cholera. All of us know that we have got to sit here till July or August. Hence, not only the House, but the gentlemen on the committees, will enjoy themselves socially, as well as politically, spite of any hurrying we can inflict upon them. No influence can induce them to hurry; neither his nor mine; and when he has been here a little longer he will find out that this is not New York city, but a very different sort of a place; and that whenever this body undertakes to hasten it hastens very slowly.

So far as I am concerned, I am willing to act. But there are other cases pressing here. My friend on the left, [Mr. HARRIS,] this disloyal gentleman, is to be turned out of the House; and he ought to be, if he is a rebel. He is anxious for a hearing before the Committee of Elections, and he cannot get it.

Mr. RAYMOND. Will the gentleman allow me a question?

Mr. BROOKS. Certainly.

Mr. RAYMOND. I have already explained the motive which induced me to make the motion to reconsider the vote already taken, and that was simply to have some explanation of the causes of delay. I understand the contestant now to say that he was entirely willing that this matter shall be dropped if the sitting member will assure him that he intends to go forward promptly and readily with the investigation of this matter.

Mr. BROOKS. I will go as fast as possible. What a pity it is that we have wasted the time of this country from a quarter past twelve to a quarter to three in debate upon this matter!

Mr. RAYMOND. I do not think this time has been wasted. We have arrived at some knowledge of the facts of the case, with which we had not the slightest acquaintance before. I think the time so far has been well spent, and if the two contestants are now agreed that time enough has been spent in the matter, I am quite willing to withdraw the motion.

Mr. BROOKS. I have something more to say, but I have nothing further now if that is the understanding. All I want is to have the papers printed.

The motion to reconsider was accordingly withdrawn.

The SPEAKER then proceeded to call the committees for reports of a private nature, beginning with the Committee of Elections.

Mr. JOHNSON. I rise to a privileged motion. I move to reconsider the vote by which these papers have been referred, and to lay that motion on the table.

The SPEAKER. It is too late; it must be made on the same day or the day succeeding.

Mr. JOHNSON. Then there is no use in my motion at all.

EMPLOYÉS IN THE PRESIDENT'S HOUSE.

Mr. SPALDING, from the Committee on Appropriations, reported back a bill to authorize the President to appoint certain officers of his household, and fixing their salaries, and asked that it be referred to the Committee of the Whole, to be made the special order for Tuesday next.

The SPEAKER. There are three or four special orders which antedate it.

Mr. SPALDING. I will run the risk.

The order was accordingly made.

Mr. ELIOT. I make objection to any more special orders being made before the consideration of the Freedmen's Bureau. I now move that the order of the morning hour be dispensed with.

The SPEAKER. That can only be done by unanimous consent.

Mr. ELIOT. I ask, then, that it be dispensed with, and that the House resume the consideration of the Freedmen's Bureau. The gentleman on the other side [Mr. KERR] has the floor, and I am desirous to have the debate continue and close.

Mr. HALE. I object.

QUARANTINE IN NEW YORK.

Mr. RAYMOND, by unanimous consent, introduced a bill to provide for the erection of warehouses in the port of New York, for the reception of merchandise arriving in vessels subject to quarantine by the laws of the State of New York; which was read a first and second time, and referred to the Committee on Commerce.

Mr. RAYMOND also, by unanimous consent, introduced a joint resolution authorizing and directing the Secretaries of War and the Navy to place hulks and vessels at the disposal of the commissioners of quarantine in New York; which was read a first and second time, and referred to the Committee on Commerce.

Mr. BENJAMIN. I now demand the regular order of business.

Mr. INGERSOLL. I ask the gentleman to withdraw the demand to enable me to introduce a proposition to prevent the cholera coming to this city.

Mr. BENJAMIN. I cannot withdraw it for any purpose.

Mr. INGERSOLL. Well, he will be the first man to take it. [Laughter.]

REV. JOHN C. JACOB.

Mr. WARD, from the Committee of Claims, reported back, with the recommendation that it do not pass, bill of the House No. 113, for the benefit of Rev. John C. Jacobi; and the same was laid upon the table.

SARAH WITT.

On motion of Mr. WARD, the Committee of Claims was discharged from the further consideration of bill of the House No. 133, for the relief of Sarah Witt; and the same was referred to the Committee on Invalid Pensions.

JOHN WHISTLER.

Mr. WARD, from the Committee of Claims, made an adverse report on the petition of John Whistler, and others, for compensation for destruction of property; which was laid on the table, and ordered to be printed.

NAVAL OFFICERS, AND OTHERS.

Mr. WARD also, from the same committee, made an adverse report on the petition of naval officers, masters of merchant vessels, marine insurance companies, and others, asking for compensation; which was laid upon the table, and ordered to be printed.

ADDIE THOMPSON.

Mr. SLOAN, from the Committee of Claims, made an adverse report on the petition of Addie Thompson, of Norwich, New York, asking for relief; which was laid on the table, and ordered to be printed.

NANCY M. WILSON.

Mr. SLOAN also, from the same committee, made an adverse report on the petition of Mrs. Nancy M. Wilson, late of the State of Missouri, asking compensation for property destroyed by the Union Army and by guerrillas during the late war; which was laid on the table, and ordered to be printed.

MURPHY V. JONES.

Mr. SLOAN also, from the same committee, made an adverse report on the petition of Murphy V. Jones; which was laid on the table, and ordered to be printed.

SAMUEL V. B. STRIDER.

Mr. SLOAN also, from the same committee, reported back, with the recommendation that it do not pass, bill of the House No. 110, for the relief of Samuel V. B. Strider, and the same was laid upon the table.

J. DUDGING.

Mr. SLOAN also, from the same committee,

made an adverse report on the petition of J. Dudding, for relief; which was laid upon the table, and ordered to be printed.

FREDERICK SHERIDAN.

Mr. SLOAN also, from the same committee, made an adverse report on the petition of Frederick Sheridan, praying compensation for injuries received in the Government service; which was laid upon the table, and ordered to be printed.

PATRICK M'NAMARA.

Mr. SLOAN also, from the same committee, made an adverse report on the petition of Patrick McNamara; which was laid upon the table, and ordered to be printed.

C. J. FIELD AND C. F. CLAY.

Mr. SLOAN. I am also instructed by the Committee of Claims to make an adverse report on the claim of C. J. Field and C. F. Clay. I will state that this case comes within the resolution adopted by the House the other day on motion of the gentleman from Ohio, [Mr. DELANO.]

The report was laid upon the table, and ordered to be printed.

PHINEAS T. FRAZEE.

Mr. WASHBURN, of Massachusetts, from the same committee, made an adverse report on the claim of Phineas T. Frazee; which was laid on the table, and ordered to be printed.

ORDER OF PROCEEDING TO-MORROW.

Mr. STEVENS. I understand it has been arranged to have to-morrow devoted to debate upon the Freedmen's Bureau bill. A great many members wish to know if any other business is to be done to-morrow excepting debate.

Mr. ELIOT. I suppose that by a general understanding of the House the whole of to-morrow will be occupied in debating that bill, without taking any vote on it or doing any other business.

The SPEAKER. The Chair will ask whether it is intended to exclude the introduction by unanimous consent of resolutions or bills for reference merely.

Mr. WASHBURN, of Illinois. I think we better have it understood that no business at all will be done to-morrow.

The SPEAKER. Unless some objection be made, it will be entered as the order of the House that no business be done to-morrow, but that the session shall be devoted exclusively to debate upon the Freedmen's Bureau bill as the special order.

No objection was made.

COMMODORE JOHN A. WINSLOW.

Mr. WASHBURN, of Massachusetts. I am instructed by the Committee of Claims to report back the memorial of Commodore John A. Winslow, for relief for property destroyed or appropriated by the Government during the rebellion, and I ask that the committee be discharged from the further consideration of the same.

Mr. BANKS. I would like to ask my colleague [Mr. WASHBURN] if there has been any hearing before the committee in that case. The reason I make the inquiry is that Commodore Winslow has informed me that some information upon this subject has been forwarded which I am sure the committee has not yet received. It is well known that Commodore Winslow commanded the frigate which destroyed the rebel pirate Alabama, and he should have an opportunity to be heard.

Mr. WASHBURN, of Massachusetts. The House has passed a resolution which covers this case, in the opinion of the committee, and therefore there is but one course to be pursued.

Mr. BANKS. If that is so I have nothing more to say.

The motion of Mr. WASHBURN, of Massachusetts, was then agreed to.

ROBERT MORRIS.

Mr. WASHBURN, of Massachusetts, also, from the Committee of Claims, made an ad-

verse report upon the petition of Robert Morris; which was laid on the table, and ordered to be printed.

WILLIAM JOHN HARDING.

Mr. WASHBURN, of Massachusetts, also, from the same committee, made an adverse report upon a bill (H. R. No. 137) for the relief of William John Harding; which was laid on the table, and ordered to be printed.

DAVID ELLIOTT AND GEORGE H. A. KUNST.

Mr. WASHBURN, of Massachusetts, also, from the same committee, made an adverse report upon the petition of David Elliott and George H. A. Kunst; which was laid on the table, and ordered to be printed.

HARRISON RINGGOLD.

Mr. WARD, from the same committee, made an adverse report upon the petition of Harrison Ringgold for compensation for property destroyed; which was laid on the table, and ordered to be printed.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. STEVENS, by unanimous consent, reported from the Committee on Appropriations, a bill making appropriations for the legislative, executive, and judicial expenses of the Government, for the year ending June 30, 1867; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and made the special order for Monday, the 12th instant, after the morning hour, and from day to day until disposed of; and ordered to be printed.

THOMAS FOSTER.

Mr. STEVENS also, by unanimous consent, from the Committee on Appropriations, reported back the petition of John Foster, chief messenger in the Third Auditor's office, Treasury Department, and moved that the same be referred to the Committee of Claims.

The motion was agreed to.

CHARLES H. TORREY.

Mr. NIBLACK, from the Committee of Claims, made an adverse report on the petition of Charles H. Torrey; which was laid on the table, and ordered to be printed.

R. L. B. CLARKE.

Mr. NIBLACK also, from the same committee, reported back the petition of R. L. B. Clarke; and moved that the same be referred to the Committee of Elections.

The motion was agreed to.

ABELARD GUTHRIE.

Mr. NIBLACK also, from the same committee, reported back a bill for the relief of Abelard Guthrie; and moved that the same be referred to the Committee of Elections.

The motion was agreed to.

HENRY HAYES.

Mr. THORNTON, from the same committee, made an adverse report upon the memorial of Henry Hayes; which was laid on the table, and ordered to be printed.

HARRISON GILL.

Mr. THORNTON, from the same committee, made an adverse report upon the petition of Harrison Gill.

Mr. McKEE. I understood in committee that this case was not to be reported upon until we had had some further action upon it.

Mr. THORNTON. I know there was some conversation in committee, but my understanding was that, upon the memorial and vouchers as presented, the committee had agreed to report adversely upon this claim.

Mr. McKEE. My understanding was that the report was not to be made for the present.

Mr. THORNTON. Very well; then I will withdraw it.

The report was accordingly withdrawn.

COLONEL R. E. BRYANT.

Mr. McKEE, from the Committee of Claims, reported a bill for the benefit of Colonel R. E.

Bryant, late commissary of subsistence, &c.; which was read a first and second time.

Mr. WASHBURN, of Illinois. Let the bill be read at length.

The bill was read. It directs the proper accounting officer of the Treasury Department to allow Colonel R. E. Bryant, late commissary of subsistence, on a settlement of his accounts, a credit of \$1,484 13, the vouchers and accounts for which were lost or destroyed, falling into the hands of the enemy at Holly Springs, Mississippi, on the 20th of September, 1862, if on examining the evidence the Commissary General shall deem him justly entitled to the credit; but the same is not to be allowed without the Commissary General shall certify his approval thereof.

Mr. WASHBURN, of Illinois, called for the reading of the report, and it was read.

It states that Colonel Bryant kept all his accounts correctly and had proper vouchers for them; but that one voucher for \$1,088 63 was lost in the course of transmission to the proper Department; that another voucher for \$395 50 was destroyed, together with Colonel Bryant's books and papers, at the capture of Holly Springs, Mississippi, on the 20th of December, 1862; that by reason of this destruction of his books and papers Colonel Bryant could not make reports covering the deficits.

Mr. WASHBURN, of Illinois. As the bill provides that this credit shall not be allowed except upon examination by the Commissary General, I shall not object to the passage of the bill, as I should otherwise do.

Mr. RANDALL, of Pennsylvania. I desire to say, in connection with this bill, that there are many other cases of the same class, and it occurs to me that there should be some general law to cover such cases. There is a law, February 7, 1863, which provides for the settlement of all claims of this kind where the rank of the officer is not higher than a captain. This case is excluded from the operation of that law.

I have no objection whatever to the passage of this bill; but I take this opportunity to suggest to the committee the propriety of preparing a general bill embracing all cases of this kind, so as to dispense with the necessity of legislating here upon each separate case. The settlement of these claims, like claims for commissary stores captured, should properly be intrusted to either the Commissary General or the Secretary of the Treasury.

Mr. WASHBURN, of Illinois. I differ with my friend from Pennsylvania as to the propriety of passing any general law to cover cases of this sort. If there are any individual cases which are meritorious, we have abundant time to pass upon them. I doubt whether a general law could be so framed as to embrace only cases really meritorious.

Mr. RANDALL, of Pennsylvania. Mr. Speaker, I take issue with the gentleman from Illinois. I think that bills of this character do not generally receive in this House that degree of consideration to which often their merits entitle them. Cases of this sort are much more likely to receive proper examination at the hands of some appropriate executive officer, whose sworn duty it shall be to examine them carefully. In this way, too, the interests of the Treasury would be more effectually guarded than they frequently are in instances where special legislation is obtained to meet particular cases. I do not mean to intimate that the committee do not give these cases all the investigation in their power; but they have not the time which an executive officer of the Government, charged with the examination of such matters, would have. I am in favor of a general law, under which some responsible officer or officers of the Government shall be charged with the examination of cases of this description. I think that these losses should not be thrown upon the Government without the most careful consideration.

Mr. McKEE. With due deference to the gentleman from Pennsylvania, I think we need no general law on this subject. A general law, instead of relieving us from embarrassment,

would only tend to create confusion. This is one of a class of cases which no general law can possibly reach, but which must be acted upon individually, according to their respective merits. The bill, in this case, provides that, before credit shall be given, satisfactory evidence must be presented to the Commissary General, so that the interests of the Treasury are properly guarded. The bill does not make any appropriation of money.

I call the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. McKEE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

JOHN W. CAMPBELL.

Mr. McKEE, from the Committee of Claims, reported a bill for the benefit of John W. Campbell; which was read a first and second time.

The bill, which was read, directs the proper accounting officers of the Treasury to allow John W. Campbell, late quartermaster of the seventh Kentucky cavalry, on the settlement of his accounts, \$4,770, money expended for the use of said regiment, the vouchers and accounts having been lost or destroyed by falling into the hands of the enemy at Cynthiana, July 17 and August 23, and Richmond, Kentucky, August 30, 1862, respectively, if on examining the evidence the Quartermaster General shall deem him entitled to such credit.

Mr. McKEE. Mr. Speaker, I will say in regard to that bill that it is exactly of the nature of the one just passed. The evidence is stronger, if possible, that this officer has done his whole duty, and that the papers and vouchers were lost by falling into the hands of the enemy. There is in the petition a full statement of every dollar and every cent which passed into his hands. I demand the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time, and passed.

Mr. ROLLINS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

J. INGE HAMPTON.

Mr. ALLEY, from the Committee on the Post Office and Post Roads, made an adverse report on the petition of J. Inge Hampton, of Iowa; which was laid upon the table, and ordered to be printed.

POST ROAD BILL.

Mr. ALLEY. I ask the unanimous consent of the House to take from the Speaker's table the amendments of the Senate to House bill No. 61, to establish certain post roads.

There was no objection, and the amendments were taken up.

The SPEAKER stated that he had examined the amendments of the Senate, and that they contained nothing but for the establishment of post roads.

Mr. ALLEY. I am instructed by the Committee on the Post Office and Post Roads to move that the amendments of the Senate be concurred in with sundry amendments.

The SPEAKER. If there be no objection, the reading of the amendments will be dispensed with, as they are merely for the establishment of post roads asked for by members of Congress.

The amendments of Mr. ALLEY were agreed to; and the amendments of the Senate, as amended, were concurred in.

Mr. ALLEY moved to reconsider the vote by which the amendments were concurred in; and

also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ADVERSE REPORTS.

Mr. WILSON, from the Committee on the Judiciary, made the following adverse reports; which were laid upon the table, and ordered to be printed:

The memorial of Robert A. Hill for the relief of certain persons residing in the State of Mississippi:

The petition of Philip Frazer, district judge of the district of Florida, for increase of salary; and

The petition of A. G. Miller, for reimbursement of expenses incurred in an effort to impeach him in the Thirty-Eighth Congress.

HEIRS OF SHABONA.

Mr. WINDOM, from the Committee on Indian Affairs, made an adverse report on the petition of C. W. Marsh and others, for an annuity or some other relief for the heirs of Shabbona; which was laid on the table.

BARNEY CAIN.

Mr. PERHAM, from the Committee on Invalid Pensions, reported adversely on Senate bill No. 58, being an act for the relief of Barney Cain; which was laid on the table.

WIDOWS, ETC., OF DECEASED PRISONERS.

On motion of Mr. PERHAM, the Committee on Invalid Pensions was discharged from the consideration of the memorial of Lydia J. Stull, praying that widows and orphans, &c., of prisoners that died at Andersonville and other rebel prisons be allowed the same commutation for rations as may be allowed to the surviving soldiers and officers discharged from said prisons; and the same was referred to the Committee on Military Affairs.

JAMES FRIGATE.

Mr. PERHAM, from the same committee, reported adversely on the petition of James Frigate, for an increase of his pension, or for a back pension; which was laid on the table.

GLOVER BROUGHTON AND OTHERS.

Mr. PERHAM, from the same committee, made an adverse report on the petition of Glover Broughton and twenty-two others, residents of the town of Marlborough, Massachusetts, who served on board of a privateer in the war of 1812, praying for relief; which was laid on the table.

DATE OF PENSIONS.

Mr. PERHAM, from the same committee, reported adversely on the petition of citizens of New Hampshire, praying that the pension law be so amended as to allow to soldiers pensions from the date of their discharge; which was laid on the table.

CORDELIA MURRAY.

Mr. PERHAM, from the same committee, asked leave to report the following bill, and to have it considered at the present time: an act for the relief of Cordelia Murray, widow of George W. Murray. It provides for the payment to Cordelia Murray of the pension granted to George W. Murray by an act of Congress approved December 20, 1864.

The bill was read a first and second time, and ordered to be engrossed for a third reading; and being engrossed, was read the third time, and passed.

Mr. PERHAM moved to reconsider the motion by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ROBERT HENNE.

Mr. PERHAM, from the same committee, asked leave to report a bill for the relief of Robert Henne, and to have it considered at the present time. The bill provides for an increase of pension to Robert Henne, late of company I, twelfth Missouri infantry, from seventeen to twenty-five dollars per month.

It was read a first and second time, and ordered to be engrossed for a third reading.

Mr. JOHNSON. I ask for the reading of the report.

The Clerk read the report.

Mr. JOHNSON. I am not disposed to make any opposition to the bill, but I suggest at this time that there is need of general legislation to provide for classes of this character, which are not now provided for. I took occasion some time ago, when the question of the appropriation of money for the payment of pensions was before the House, to state that there was a class of pensioners who were not provided for sufficiently in the general law. We go so far as to say that a man who is disabled from earning his own livelihood by labor shall have full pay. There is another class of persons not provided for. You limit pensions to that class who have lost two arms and two eyes. Men may be disabled otherwise so as to be unable to help themselves. I know a case in which a soldier was shot through the body in the spring of 1862. He is confined to his bed and is dependent on the charity of his neighbors for his support. The neighbors come in and wait on him night and day. Now, that class ought to be provided for by some general law, and I submit that the Committee on Invalid Pensions ought to bring in a bill of that character. Because it is not every person that is so situated that he can get the ear of a member of Congress, or get persons to draw up a petition and make his case known, so that Congress, by special legislation, can reach his case. I have no objection to this bill, but I repeat that we ought to have a general law.

Mr. PRICE. I want to say to the House, in reference to this case, that I am personally acquainted with the applicant, and if there are any cases in the country in which additional pensions are required, this is certainly one of those cases. This man, with but one arm at the commencement of this rebellion, insisted persistently until he got himself into the service of his country. He followed the flag not only with his own regiment from Iowa, but when he could no longer retain a place there, he went into Missouri and joined a regiment there, and defended the flag until, in addition to the loss of an arm, he lost the use of the other arm, and was under the necessity of having a leg amputated. Such men, who rallied to the defense of their country under such circumstances, in the hour of her darkest peril, ought to be remembered by the friends of the nation when peace has once more dawned on the country.

Mr. PERHAM. Perhaps I ought to say, in reply to the gentleman from Pennsylvania, [Mr. JOHNSON,] that the Committee on Invalid Pensions have now under consideration various propositions for the amendment of the pension laws, among which is the one to which he has referred, and it will be considered and reported on in due time.

Mr. ROUSSEAU. I am in favor of a general law on this subject, but I have no disposition to interfere with the passage of this bill. It does seem to me that the House will do itself great credit and the country great service by passing a general measure such as is suggested; but I do not desire to delay the passage of this bill, of which I am in favor.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

CLARISSA BENSON AND ELLEN HUGHES.

Mr. TAYLOR, from the Committee on Invalid Pensions, made an adverse report on the memorial of Clarissa Benson and Ellen Hughes; which was laid upon the table, and ordered to be printed.

WILLIAM G. INGRAHAM.

Mr. TAYLOR, from the same committee, made an adverse report on the petition of William G. Ingraham, of Westfield, New York, ask-

ing for an increase of pension; which was laid on the table, and ordered to be printed.

JOHN ALFORD.

Mr. TAYLOR, from the same committee, made an adverse report on the petition of John Alford, asking an increase of pension; which was laid upon the table, and ordered to be printed.

CHARLES YOULY.

Mr. TAYLOR, from the same committee, reported a bill for the relief of Charles Yould; which was read a first and second time.

The bill directs the Secretary of the Interior to pay out of any fund which may have been appropriated for the payment of pensions, to Charles Yould, of Dunkirk, Chataque county, New York, late private in company D, seventy-second regiment New York volunteers, the sum of \$135 33 $\frac{1}{3}$ cents, being at the rate of five dollars per month from the 25th day of November, 1862, to the 27th day of February, 1865.

The report was read.

Mr. WASHBURN, of Illinois. The amount of money involved in this case is very small, but it seems to me that this bill establishes a very vicious principle. It changes the general law in regard to pensions, by allowing a party to come in and prove that he sent his papers, but that they did not reach the Pension Office. The rule is that a party can only receive his pension from the time that his papers are filed. This bill takes claimants out of that rule, and leaves it open to parties to prove in every case the time at which the papers were put in the post office. I am not unwilling to give this party \$135 33 $\frac{1}{3}$, the sum named in the bill, but I do object to the establishment of this principle, as it will lead to great abuse.

Mr. TAYLOR. The gentleman is right in part but not in whole. The present pension law gives a pension from the date of the discharge if the application is made within one year thereafter. This man Yould forwarded his application within that time. And it is proved by evidence satisfactory to the committee that through no negligence of his the application failed to reach the Pension Office in time. As soon as he learned that that was the case he renewed his application, but that was after the expiration of a year from the time of his discharge. It was the fault of the mail, or of the clerk of the Pension Office, who should have acknowledged the receipt of it as provided by law. The man has used all diligence in his power, and the committee do not consider that it was any fault of his. And therefore we propose to allow him the small amount of five dollars a month from the time of his discharge to the filing of his application.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill, upon which the House divided; and there were—ayes seventy, noes not counted.

So the bill was passed.

Mr. TAYLOR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NAVY PENSIONS.

Mr. HARDING, of Kentucky. I ask unanimous consent to report back from the Committee on Invalid Pensions House bill No. 82, allowing persons having lost one foot and one hand in the naval service of the United States the same pensions now allowed to persons having suffered the same loss in the military service, with an amendment in the nature of a substitute, upon which I am directed by the committee to ask action at this time.

Mr. WASHBURN, of Illinois. Let the substitute be read.

The substitute was read. It provides that persons in the naval service of the United States, who have lost one foot and one hand in the line of their duty, shall be allowed the same

pensions as is allowed by law to persons in the military service who have suffered similar losses; and also that the provisions of section five of the pension law of July 4, 1864, shall apply to persons in the naval service.

Mr. HARDING, of Kentucky. The term "military" in the former law was construed not to include persons in the naval service of the United States. The design of this substitute is to equalize the pension law.

Mr. RICE, of Massachusetts. The Committee on Naval Affairs have had referred to them a Senate bill which I think covers the same ground as this, and which they will report whenever an opportunity presents itself. If it is in order, I will report that bill from that committee at this time.

Mr. WASHBURNE, of Illinois. Do I understand the gentleman from Massachusetts [Mr. RICE] to say that the Senate bill is precisely like the one reported from the Committee on Invalid Pensions?

Mr. RICE, of Massachusetts. It is not precisely the same, but it is intended to effect the same object.

Mr. WASHBURNE, of Illinois. Then I would suggest to the gentleman from Kentucky [Mr. HARDING] that he accept the Senate bill as a substitute for his.

Mr. HARDING, of Kentucky. I will hear the bill read first.

The Senate bill (No. 24) to amend section five of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July 4, 1864," was then read.

It provides that the section referred to shall be amended so as to allow persons in the military or naval service of the United States, who have lost both feet in the line of their duty, a pension of twenty dollars per month; and those who, under like conditions, have lost both hands or both eyes, a pension of twenty-five dollars per month.

Mr. BENJAMIN. That Senate bill does not cover the entire ground covered by the bill reported by the gentleman from Kentucky, [Mr. HARDING.] There is another law discriminating between those who have lost limbs in the military service, which does not apply to persons in the naval service. It is a law passed subsequently to the act of July 4, 1864, and provides for those who have lost one foot and one hand in the military service. The bill reported by the Committee on Invalid Pensions refers to that class of cases, extending pensions to the naval service.

Mr. RICE, of Massachusetts. Then I prefer the other.

The SPEAKER. The morning hour is just about to expire. If this discussion continues the bill will go over.

Mr. HARDING, of Kentucky. I call the previous question.

The previous question was seconded, and the main question ordered; which was upon agreeing to the substitute reported by the committee.

The substitute was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HARDING, of Kentucky, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The morning hour having expired, the business now in order is the consideration of the bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau, on which the gentleman from Indiana [Mr. KERR] is entitled to the floor.

Mr. HARDING, of Kentucky. I appeal to the gentleman from Indiana to yield to me for a moment, that I may report and have passed a bill for the relief of an aged lady.

Mr. KERR. I cheerfully yield to the gentleman for that purpose.

CATHARINE MOCK.

Mr. HARDING, of Kentucky, by unanimous

consent, reported from the Committee on Invalid Pensions a bill for the relief of Catharine Mock; which was read a first and second time.

It provides for the payment of a pension of eight dollars per month to Catharine Mock, of Baltimore, widow of William H. Mock.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HARDING, of Kentucky, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. LAFLIN. I ask the gentleman from Indiana [Mr. KERR] to yield to me for a moment that I may report a resolution from the Committee on Printing.

Mr. KERR. I yield to the gentleman.

REPORT OF REVENUE COMMISSION.

Mr. LAFLIN, by unanimous consent, reported from the Committee on Printing the following resolution; which was read, considered, and agreed to:

Resolved, That twenty thousand extra copies of the communication from the Secretary of the Treasury, with the accompanying report of the commission appointed to make a revision of the revenue laws, pursuant to the act of March 3, 1865, be printed for the use of the members of this House, without covers, excluding forms of bills.

Mr. LAFLIN moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ROLLINS. I ask the gentleman from Indiana [Mr. KERR] to yield to me for a moment, that I may make a report.

Mr. KERR. I yield to the gentleman.

MESSENGERS FOR HOUSE POST OFFICE.

Mr. ROLLINS, by unanimous consent, reported back from the Committee of Accounts the following resolution; which was read, considered, and agreed to:

Resolved, That the Postmaster of the House of Representatives be allowed two additional messengers for the term of two months, to be paid out of the contingent fund of the House, at the rate of seventy-five dollars per month.

Mr. ROLLINS moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

A. GUTHRIE AND R. L. B. CLARKE.

Mr. DAWES. With the consent of the gentleman from Indiana, [Mr. KERR,] I move to reconsider the vote by which the House, a few moments ago, referred to the Committee of Elections the petition of R. L. B. Clarke. I also move to reconsider the vote by which the bill for the relief of Abelard Guthrie was referred to the same committee. I desire that both motions shall be entered. I think that the House, in referring those two matters to that committee, must have acted under a misapprehension.

FREEDMEN'S BUREAU.

The House, agreeably to order, resumed the consideration of the bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau, on which Mr. KERR was entitled to the floor.

The SPEAKER. Before the gentleman from Indiana proceeds, the Chair desires to make a statement. By order of the House, to-morrow will be devoted exclusively to speeches upon this bill, no vote to be taken. The Speaker will be compelled to be absent to-morrow, the last day on which he purposes to be absent during the session. He has requested the gentleman from Illinois [Mr. WASHBURNE] to act as Speaker *pro tempore*.

Mr. KERR. Mr. Speaker, it is surely safe to assume that our country has known no hour, since the organization and establishment of our matchless form of Government, when its circumstances demanded in its Representatives a higher order of statesmanship, or a more unselfish devotion to those great principles of our

system which stand like beacon-lights against dangerous boundaries, inviting the embarrassed mariner to safer paths. Desiring to keep these lights in view, and confessing with sincere earnestness my lack of both ability and experience, I beg leave to submit a few reflections upon some of the solemn questions that demand appropriate action at our hands. And I shall endeavor to do this in a spirit unshaded by the impulses of partisan feelings.

The true relations of the several States to the Union have always presented problems of great interest and considerable difficulty for determination by one or another of the departments of the Government. But now for the first time we are compelled to confront questions resulting from the temporary suspension of the constitutional relations between the United States and some of the States. This suspension was the result of a state of war between the legitimate Government and the States that attempted to secede therefrom. It is conceded by most men, and is declared by the highest judicial tribunal in the Union, that during that state of war the respective parties to it sustained to each other the relations of belligerents. At the threshold, therefore, it becomes material to inquire what is meant by a state of belligerency. In its primary signification, it means a state of war. It implies an issue, asserted on the one side and denied on the other, and submitted for decision to the solemn arbitrament of arms. The recognition of the existence of war, the tacit or express admission of belligerent rights by the legitimate Government, concedes nothing inconsistent with its claim of sovereignty over the revolted people and territory. It does not even concede the existence of a Government *de facto*. But if it did, it would not at all impair the force of my argument, because the very term *de facto* implies a spurious Government, without rightful existence, as contradistinguished from a Government *de jure*, of right, or having rightful existence.

It simply admits the verity of existing facts; and thereupon certain well-established principles of international law and the laws of war become operative between the contestants, to limit their rights and powers pending the strife, and regulate the manner of conducting the bloody arbitration. It involves no admission of separate nationality or independence to the revolted States. On the contrary, it is the most solemn denial of all such claims. Nationality or independence is the very issue to be tried, and for the rightful Government to admit it would be worse than absurd, and suicidal. These belligerent rights are recognized of necessity in the interest of civilization and humanity. War without them would be such a mode of mutual destruction and carnage as has not disgraced any civilized nation for many centuries. War is that abnormal, convulsive condition of society, the culmination of human passions, which snatches the scepter from the hand of civil power, and substitutes for a time the laws of force for those of reason and choice. But, in the wise providence of God, the desire of self-preservation ultimately subordinates to itself the impulse for mutual destruction, and war becomes a temporary condition; and all its usages, rules, and laws, are likewise temporary. By Governments, maintained for the aggrandizement of the rulers, war may be prosecuted to destroy, and conquest and indiscriminate confiscation or appropriation of property may be the results. But in Governments based upon the will of the people, and administered in the interest of republican liberty, war is prosecuted by the legitimate Government, not to destroy nor for conquest, but to protect and preserve; not to deny, but to maintain and support the right of self-government; not to consolidate or centralize power, but to maintain and enforce the law; not to take the lives of States, but to preserve them, "with all the dignity, equality, and rights of the several States unimpaired." These principles have always been avowed and never repudiated by the organs of our Government during the late war. They are also approved and promulgated by the most respectable writers on such subjects.

The only righteous end of any war is just and honorable peace, and, in such a Government as ours, if war become necessary to suppress insurrection or rebellion, its ultimate purpose cannot be enlarged beyond that of a national war. It is limited to the vindication of the rightful authority of the Government. Its office is done when obedience to the law is secured, for such obedience is the highest aim of war; such obedience is peace.

It indicates a confusion of ideas to speak of a number of people or a State in rebellion, as an independent belligerent. It is an inversion of the order of cause and effect. Independence is the result for the attainment of which the rebels have assumed an attitude of belligerency. But belligerency is not independence, and is never allowed to determine the civil relations of States. The only code established by belligerency is that which regulates the conduct of war. It ceases to have any field of jurisdiction as soon as war ends and peace begins. When the temple of war is closed, the code of war is sealed and laid aside to await the renewal of human strife.

The learned annotator of our greatest textbook on international law, Mr. Lawrence, says:

"The recognition of belligerent rights in a colony or portion of a State in revolt from or opposition to the metropolis is not to be confounded with the acknowledgment of the absolute independence of such province or colony."—*Wheaton, International Law*, p. 40.

Judge Sprague, of Massachusetts, one of our most upright and learned Federal prize judges, in his opinion in the case of the *Amy Warwick*, illustrates the same idea in the following clear and forcible language:

"It has been supposed that if the Government have the rights of a belligerent, then, after the rebellion is suppressed, it will have the rights of conquest; that a State and its inhabitants may be permanently divested of all political privileges and treated as foreign territory acquired by arms. This is an error, a grave and dangerous error. *Belligerent rights cannot be exercised where there are no belligerents.* Conquest of a foreign country gives absolute and unlimited sovereign rights. But no nation ever makes such a conquest of its own territory. If a hostile power, either from without or within a nation, takes possession and holds absolute dominion over any portion of its territory, and the nation, by force of arms, expels or overthrows the enemy and suppresses hostilities, it acquires no new title, but merely regains the possession of which it had been temporarily deprived. The nation acquires no new sovereignty, but merely maintains its previous rights."—*Law Reporter*, June, 1862, p. 498.

President Woolsey, of Yale college, in his work on international law, published in 1864, at page 231, uses the following just expressions:

"The same rules of war are required in such a war [civil war] as in any other; the same ways of fighting, the same treatment of prisoners, of combatants, of non-combatants, and of private property by the army where it passes; so also natural justice demands the same veracity and faithfulness which are binding in the intercourse of all moral beings. Nations thus treating rebels by no means concede thereby that they form a State, or that they are *de facto* such. There is a difference between belligerents and belligerent States which has been too much overlooked."

Every just conclusion or inference of law arising out of the opinion of Justice Grier, in the prize cases in 2 Black's Reports, is in exact harmony with these authorities. The court in these cases merely recognizes the fact that a state of war exists, and has been declared to exist by the executive department of the Government, and thence rightfully deduces the right of the Government to resort to a blockade as a means of warfare, and to make prizes of vessels that attempt, after due notice, to disregard that blockade. The judge says:

"The laws of war, as established among nations, have their foundation in reason, and all tend to mitigate the cruelties and miseries produced by the course of war. Hence the parties to a civil war usually concede to each other belligerent rights. They exchange prisoners, and adopt the other courtesies and rules common to public or national wars." * * *

"By the Constitution, Congress alone has the power to declare a national or foreign war. It cannot declare war against a State, or any number of States, by virtue of any clause in the Constitution. The Constitution confers on the President the whole executive power. He is bound to take care that the laws be faithfully executed."

"It is not necessary that the independence of the revolted province or State be acknowledged in order to constitute it a party belligerent in a war according to the law of nations."—2 Black's Reports, pp. 668, 669.

He also says that in organizing the rebellion the seceding States acted as States, claiming to be sovereign over all persons and property within their respective limits, and asserting a right to absolve their citizens from their superior allegiance to the Federal Government, and that their right to do so was then being decided by wager of battle. But that wager has been decided against them, and the right is therefore denied.

Judge Grier says that Congress has no constitutional right to declare war against any State or States of the Union. Unless the United States is a confederation of States, as contradistinguished from a general government formed by the people of all the States, and unless each State in the confederation is an independent nation, then his position is logical and undeniable. No Government can declare war against its own subjects. Its whole duty is to enforce submission and obedience to law and to its rightful supremacy. The duty of the Executive is to see that the laws be faithfully executed, and of Congress to give him every needed and rightful facility for the accomplishment of that end; and if in the prosecution thereof a state of war ensue, and belligerency be recognized as resulting therefrom, then the Executive and Congress are certainly at liberty to resort to all the means rendered necessary or expedient and lawful by those conditions. But the moment the resistance to the law is overcome, and its supremacy is recognized and obedience restored on the part of the rebels, the former relations between the United States and the States which had attempted to secede survive and become operative again. In the language of Judge Sprague:

"The nation acquires no new sovereignty, but merely maintains its previous rights," and any other theory would be "a grave and dangerous error." "Under our Government the right of sovereignty over any portion of a State is given and limited by the Constitution, and will be the same after the war as it was before it."

But the relations of the people lately in arms, in rebellion against the Government, would be quite another thing. The punishments of violated duty and outraged law would continue suspended over them individually which must be suffered in their bodies or estates, or both, unless they are relieved therefrom by the clemency of the Executive or the Government. These questions, however, I do not propose now to discuss.

If the country accepts the theory of the honorable gentleman from Pennsylvania, [Mr. STEVENS,] and others on this floor and elsewhere of like opinions with him, that the people and States of the South actually succeeded by their rebellion in effecting in legal contemplation such a complete severance of their former constitutional relations to the Federal Government as that, upon the suppression of their wicked rebellion those relations do not survive and become operative again, then it should also accept the logical and lawful results of that theory, the "radical consequences" so much deprecated by Judge Sprague. What are those results? They may be briefly stated to be:

1. That the war was not prosecuted for the restoration of the Union, or to the end that the seceding States might survive the conflict as members of the Union, but in fact was prosecuted for the conquest of independent States, notwithstanding the almost daily repeated declarations of our Government to the contrary, addressed to the people of the whole country, both North and South, and to foreign nations, and made in the most solemn forms of executive messages and proclamations, laws of Congress, and military proclamations and orders, from the commencement of the war to this present hour, including the proclamation of the Secretary of State announcing the abolition of slavery by constitutional amendment adopted by three fourths of all the States.

2. That those constitutional relations having been completely severed, secession then became an accomplished fact, and the so-called confederate States an independent nation, and their citizens aliens and foreigners, not rebels and traitors liable to be punished under the muni-

cipal law for their crimes, and the Federal Government did not suppress the rebellion but conquered the confederate States, and now holds them as conquered territory, subject to the absolute control and disposition of the United States, uncontrolled by any laws or constitutions.

3. That secession having become an accomplished fact, the confederate States became a nation, and therefore possessed the right and power inherent in every nation to contract debts which are valid and binding upon its people, and as the conquest of one nation by another does not cancel the debts of the conquered nation, the public debts of the confederate States, and of the several States in the confederacy became the debts of the United States, and so far as they are held by the citizens of foreign nations, they cannot be repudiated by the United States without dishonor and giving cause of war. Mr. Wheaton says that, in case of conquest of one nation by another:

"As to public debts, whether due to or from the revolutionized State, a mere change in the form of Government or in the person of the ruler does not affect their obligation. The debts being contracted in the name of the State, by its authorized agents, for its public use, the nation continues liable for them, notwithstanding the change in its internal constitution. The new Government succeeds to the fiscal rights and is bound to fulfill the fiscal obligations of the former government. It becomes entitled to the public domain and other property of the State, and is bound to pay its debts previously contracted."—*Wheaton's International Law*, p. 52.

The country cannot accept theories bearing such fruits as these; it will prefer to hold fast to the better doctrines of the late President on this subject, and of every department and officer of the Government heretofore, and of Congress as declared in its numerous resolutions declaratory of the purposes of the war, and of every officer and soldier in the Army and Navy of the United States, and of the present Executive—all based upon the principle that the seceding States were never, in fact or law, out of the Union, but only engaged in a treasonable and sanguinary but unsuccessful effort to get out. The rebels said, in their madness, that they had in fact severed their relations and obligations to the Federal Government, but the latter never admitted such a result, but claimed, on the contrary, that they had in truth only succeeded in taking their Representatives out of Congress and making a bloody war in a cruel and wicked attempt to establish their independence of the Union. Congress during the war never ceased to treat them as States in the Union. It enacted laws which by their terms embraced all the States in rebellion. It apportioned Representatives to all the States by their respective names on the basis of the census of 1860. It levied direct taxes upon all the States by name, whether in rebellion or not. All its general laws are designed to operate alike in all the States. Its system of internal revenue applies alike to all the States; and it has never been admitted or holden that the failure to use the prescribed stamps in the rebellious States was not attended with the same legal results there as in the loyal States. In all our intercourse with foreign nations the rebellious States have been claimed to be in the Union, subject to its laws, and, when they would abandon resistance thereto and return to their obedience, entitled to its benefits and to resume all their civil and political relations with it. These relations were only suspended for the time being by the existing state of war. The pretended government called the "confederate States" had no legal existence; it was a myth, a dream, never vitalized, never realized. It was not that government that we were fighting, but the actual, living, and material obstacles in the shape of armies and all the enginery of war, which were interposed by the people of the rebel States between us and the enforcement of the laws.

This doctrine was never supposed to lead to the absurd conclusion that all the rebel armies were mere bands of organized murderers, until it became the design of some in the country to prevent the restoration of the Union, to the end that they might the better gratify a thirst for

vengeance and impose conditions inadmissible under any correct theory of the contest, and secure certain *partisan* advantages in the country. When resistance to the rightful authority of government becomes the joint act of great numbers of persons, and assumes the forms and instruments of war, and can only be overcome by the use of the like forms and instruments, it should be treated as war, and, by the common consent of civilized nations and of approved writers on the laws of nations and of war, it is so treated. Let one citation on this point suffice. Vattel says:

"Whenever, therefore, a numerous body of men think they have a right to resist the sovereign, and feel themselves in a condition to appeal to the sword, the war ought to be carried on by the contending parties in the same manner as by two different nations."

He admits, however, that—

"A prince, of a cruel and arbitrary disposition, will immediately pronounce that the laws of war were not made for rebels, for whom no punishment can be too severe."

But he invokes an appeal to more sober reason, and says we should—

"Recollect that all of the sovereign's rights are derived from those of the State or of civil society, from the trust reposed in him, from the obligation he lies under of watching over the welfare of the nation, of procuring her greatest happiness, of maintaining order, justice, and peace within her boundaries."—Vattel, pp. 426, 421.

The teachings of public law are therefore in harmony with the true interpretation and the requirements of our Constitution. The obligations and duties of the Federal and State Governments in all their relations to each other are reciprocal, and the neglect of them by the one does not relieve the other from its duty to observe them. Indeed, throughout the whole contest no other motive principle was ever appealed to or avowed on our part but the desire to meet and discharge these obligations and duties. The views of Judge Sprague and of Vattel, although written under widely different circumstances and in different ages, could not well have been made more applicable to the condition of our country.

The force of these principles cannot be impaired by any fanciful definitions of the word State, either in its general or constitutional sense. Some attempts of that kind, with which this House has been entertained, have exhibited more cunning than candor. It is assumed by the honorable gentleman from Ohio [Mr. SHELLABARGER] that a State "is a multitude of people united together by a common interest and common laws, to which they submit with one accord." This definition is quoted from Burlamaqui, and was written by him in reference to nations generally, and is now made to define a State in this Union. What does this definition require? Does it require that every citizen of each State shall submit "with one accord" to the laws of that State, and that his disobedience shall cause the destruction of the State? If so, how long could any State on earth exist? If the perpetuity of States is thus at the mercy of every citizen, it would require a political millennium to preserve it. Does it mean that the disobedience of the Federal laws by any citizens of a State, or even by the Legislature of a State, works the destruction of such State, or severs its relations to the Union? If so, our Federal Government is indeed a rope of sand. It lacks the first element of the power of self-preservation—the right to treat every act of its citizens, or of its component States, designed to sever their obligations to it, as void and of no effect—and its existence is maintained by a feeble thread. If this definition is to be accepted as a canon of constitutional construction, then it must be conceded that many of the now "loyal" States have often been out of their proper relations and appropriate orbits, and that the Union has been several times dissolved, because many citizens in those States have always been habitually disobedient of certain laws of the United States, and many State Legislatures have enacted laws that have been judicially held to be unconstitutional and void, and have by State legislation practically nullified within their States a solemn requirement

of the Constitution. But, strange as it may appear, those States were never supposed on that account to have ceased to be States in active vital relations with the Union, or to have "abdicated" or "forfeited" their State existence, or dissolved the Union. They were never taken charge of by Congress for the purpose of teaching them obedience, or to secure *guarantees* against disobedience. But such citizens were treated as individual offenders, and such enactments were held to be void, although they were practically operative in those States.

Then it is claimed by the same honorable gentleman that in order to constitute a State of our Union, first, "its citizens must owe, acknowledge, and render supreme and *habitual* allegiance and obedience to the Constitution, laws, and treaties of the United States in all Federal matters;" and second, "all the members of the State Legislatures, and its executive and judicial officers, shall be bound by oath or affirmation to support the Constitution of the United States;" and third, it must have been admitted into the Union; and fourth, have thus become entitled as a State to participate in the control of the Federal Government. Now, as a statement of the duties of citizens and States toward the Union, this is excellent doctrine, and I endorse it; but as a definition of a State I am unable to perceive its propriety, although most emphatically assured by the honorable gentleman that "no one who can read the Constitution will deny that each State in this Union must have every one of these *properties* before it can *commence* to exist in the Union, because the Constitution so declares." I have searched in vain for such a declaration in the Constitution. Nor can I find any provisions in that glorious bond of government which, taken separately or together, justify any such conclusions or afford any rational or logical ground for such an assumption. It would poorly commend the wisdom of its framers if it were there. It would require many things to be done by the State and its citizens as conditions precedent to its existence which can only be done after its creation as a State. The State must exist before its citizens can owe allegiance or render obedience to the Federal Government as citizens of the State. The State must exist before it can have a Legislature, or judges, or a Governor who can swear fidelity to the Constitution. Then the Constitution says:

"The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same."

There is nothing in this provision about conditions precedent. When new States are admitted into this Union the only requirement as conditions precedent are that the people of a prescribed territory shall make and adopt a constitution republican in form; and when these things have been done and duly certified to the President, he by proclamation announces the creation of a State. Then, and not before, its duties and obligations as a State in the Union and those of its citizens attach. It is thenceforth a member and its citizens are subjects of an indestructible Union.

The acts of such State in its corporate capacity, which are in violation of the Federal Constitution, are simply void. Suppose its Legislature and its judges and Governor should refuse or fail to take the constitutional oath of office, or should take the oath and then violate it by the enactment of an unconstitutional law, or by a like decision of its courts, or by a like act of its Governor, which have too often been done in both sections of the Union. Would these things take the State out of vital relations with the Union? Would they work a dissolution of the Union? Or make dead States? Surely not. The Government would merely vindicate its authority by its appropriate officers and tribunals. The principle and legal results would be the same whether the rightful authority of the Government were thus resisted by officers or citizens of the State; by one hundred, one thousand, or one hundred thousand. If the resistance could not be overcome by the ordinary agencies of civil power,

then the Government would be equally bound to use other appropriate means to vindicate and reestablish its authority. But such vindication can result in no enlargement of the powers of the Government. The Constitution is still the supreme law. If the people of any of the States have dropped out of their official relations with it, it is their duty, by their own voluntary acts, in accordance with their own laws, to resume those relations. With the right understanding of these practical questions the abstract definition of a State has but little to do. The ideas of the publicists on these subjects have but little relation to such a system of States and government as that of our American Union. The highest authority and safest guide for us on these questions is the Constitution itself.

We may say, in the language of a distinguished publicist, that a State is, "in its most enlarged sense, a self-sufficient body of persons united together in one community for the defense of their rights, and to do right and justice to foreigners." Or we may say, in the language of another, that "in a more limited sense, the word State expresses merely the positive or actual organization of the legislative and judicial powers." In other words, in one case, the State is made nearly synonymous with the *people*, and in the other with the *Government*. But none of these propositions can control the obvious intention of the Constitution, that the States should continue perpetually as component parts of the Union, with the perfect and guaranteed right of local self-government, in subordination to the rightful authority of the Federal Government.

It is substantially assumed by the same honorable gentleman that the closing of the southern ports during the war was a regulation of commerce in the constitutional sense of that expression, and that those ports could not have been closed if those States had the rights of States in the Union. But it is a mere perversion of terms to call a blockade a regulation of commerce. The blockade was merely the exercise of a belligerent right by the Federal Government as a war measure, a means to suppress the rebellion. The Supreme Court say, in the prize cases, that "one belligerent engaged in actual war has a right to blockade the ports of the other," and that, "to create this and other belligerent rights, as against neutrals, it is not necessary that the party claiming them should be at war with a separate and independent Power. The parties to a civil war are in the same predicament as two nations who engage in a contest and have recourse to arms." The blockade was declared as a means of crippling the power of the rebellion. It in no way recognized the independence of the States whose ports were blockaded, or impaired their equal rights in the Union upon the restoration of peace. If it did, then the President or Congress could now, in time of profound peace, declare a valid blockade of the same ports, or Congress might now, in the adjustment of tariffs, give preferences to the ports of other States over those of the States lately in rebellion. But he would be a bold advocate of confusion and revolution who would maintain the right to exercise such powers now. I answer the honorable gentleman on these points by reference again to the decision of Judge Sprague in the case of the *Amy Warwick*, which commends itself alike by its sterling common sense, patriotic fidelity to the Constitution, and entire consistency with the principles of public law.

But, lest these doctrines of the practical independence of the southern confederacy, of the suicide of the rebel States, of the forfeiture of their rights as States, and of their corporate existence, or of whatever else it may be called, may not be entirely satisfactory to all, it is suggested that, if these rebel States are still in the Union, in a state of suspended animation, then, under the authority of the provision of the Constitution that "the United States shall guaranty to every State in this Union a republican form of government," they may be taken into a sort of national guardianship by the Federal Gov-

ernment, and constitutions formed for, or dictated to, them, that shall be republican in form. This doctrine would, certainly, be a very desirable one to the advocates of it if they were intrusted with the duty of making those constitutions. But let us inquire briefly into the proper construction of that provision in our Constitution. What does it mean?

It may be first observed, that this important provision is based upon the recognition of several principles of vital importance to the success and harmony of our system of government. It requires that the States to be dealt with under this power must be "States in this Union," and not foreign States, or States out of the Union, which are to be clothed in republican forms of government by Congress and then brought into the Union. If the latter kind of States desire admission into the Union, the duty of Congress is derived from the grant of power to admit new States.

It also requires that every State in this Union shall be entitled to have and maintain a separate State government, based on the right of the people to govern themselves through public organs of a representative character, chosen by themselves. Otherwise, their government would not be republican in form or substance.

It supposes that as the guarantee is of perpetual obligation, the Union and the States guaranteed shall also be perpetual, and that therefore no State has any right or power, by suicide, forfeiture, or otherwise, to destroy its republican form of government, its Statehood in the Union, or sever its connection with the Union. The States, in contemplation of law and of the Constitution, must continue to exist as States, and must exercise their right of self-government so far only in subordination to the Federal Government as their powers are limited by the Constitution of the United States.

The great object of this provision is to secure general harmony of fundamental principles of Government between the Union and States of which it is composed. It is not designed to secure a system of government in each State in which the local administration shall be exactly the same in form or principle as that in every other State. How much or how little power shall be imparted to the State government by the people of the State, what restrictions shall be imposed upon it, how many departments there shall be, what shall be the duties of each department, whether the Legislature shall consist of one or two branches, what shall be the official names of their officers, and all other matters relating to the internal affairs of the State, so its essential right of local self-government, are left by the Constitution of the United States to the sole determination of the people of the State, except in the few particulars in which powers are withheld from the States and the people by the Federal Constitution. That this provision does not imply a necessity for any precise form or uniform arrangement of State governments is rendered clear beyond doubt by the historical fact, that when it was adopted there were no two States in the Union whose State constitutions and forms of government did not differ in numerous and very important respects. Indeed, the State of Connecticut continued to exist under the royal charter, without any constitution in the American sense, until 1818, and the State of Rhode Island until a still more recent period.

It is, if possible, still more clear that this guarantee was not intended by its authors, or by the States or people, to secure a uniform rule or basis of suffrage in the several States as a necessary element in a "republican form of government." Such general suffrage as then prevailed in the States was, no doubt, considered an indispensable part of the republican system of government intended to be established in this country, but the contemporaneous regulations in the different States on the subject of suffrage were so diverse, both in extent and principle, as to render incontrovertible the conclusion that it was the intention of all parties, makers and people and States alike, that all matters pertaining to the basis of suffrage

should be left to the exclusive control of the States respectively.

What, then, does this guarantee mean? Can we do better than to consult the fathers, the makers and earliest expounders of the Constitution, for an answer to this inquiry? Alexander Hamilton, in the twenty-first number of the *Federalist*, says:

"The inordinate pride of State importance has suggested to some minds an objection to the principle of a guarantee in the Federal Government as involving an officious interference in the domestic concerns of the members. A scruple of this kind would deprive us of one of the principal advantages to be expected from union, and can only flow from a misapprehension of the nature of the provision itself. It could be no impediment to the reforms of the State constitutions by a majority of the people in a legal and peaceable mode. This right would remain undiminished. The guarantee could only operate against changes to be effected by violence. Toward the prevention of calamities of this kind too many checks cannot be provided." A guarantee by the national authority would be as much directed against the usurpations of rulers as against the ferments and outrages of faction and sedition in the community."

James Madison, in the forty-third number of the *Federalist*, says:

"It may possibly be asked whether it may not become a pretext for alterations in the State governments, without the concurrence of the States themselves. It may be answered that, if the General Government should interpose by virtue of this constitutional authority, it will be of course bound to pursue the authority. But the authority extends no further than to a guarantee of a republican form of government, which supposes a preëxisting government of the form which is to be guaranteed. As long, therefore, as the existing republican forms are continued by the States they are guaranteed by the Federal Constitution. Whenever the States may choose to substitute other republican forms, they have a right to do so, and to claim the Federal guarantee for the latter. The only restriction imposed on them is that they shall not exchange republican for anti-republican constitutions."

Justice Story, in his *Commentaries on the Constitution*, quoting these opinions of Hamilton and Madison, says:

"The *Federalist* has spoken with so much force and propriety upon this subject that it supersedes all further reasoning."

Now, these expositions seem eminently reasonable and just, they are certainly worthy of the very highest respect, and then they have the singular merit of suggesting an interpretation that is in every respect practical and consistent with the great American principle of local self-government. They do not permit the Federal Government to embark upon a wild sea of experiment, or to depart from the safe anchorage of fundamental principle. They assign to the Federal Government the high duty of external protection, and leave to the people of the States the inalienable right of internal self-control. They give to the Federal Government no license or color of right to go into any State and assume the control or management of any of the domestic concerns or relations of the people of such State. These constitute the appropriate, peculiar, and exclusive subjects of State control; and they cannot be wisely or safely intrusted to any other. The States in these matters cannot be legally or constitutionally superseded by any "bureau" of the Federal Government.

In other words, that provision amounts only to a guarantee by the United States to the States of governments already established in the States respectively which are republican in form, and imposes upon the United States an obligation to protect the States in the enjoyment of such established governments against the wicked efforts of all enemies, either from within or without the States, by violence to overthrow or usurp or change them. Both authority and reason concur in this interpretation. It is in beautiful harmony with the doctrine of the reciprocal obligations arising out of our complex system of government between the Union and the States. It is also entirely consistent with every practical construction of it by our Government either before or during the rebellion.

There appears, therefore, to be no respectable color of authority under the provision in question for Congress to assume the guardianship of the States lately in rebellion, either as a conquered nation, or as States or as territory, or to

ignore their continued statehood in the Union, or to govern them as dependencies or colonies of Congress, by agents and officers, military or civil, appointed by Congress. It affords still less countenance to the fatal doctrine that Congress may dictate forms of government to those States. That doctrine repudiates the most vital principle of our system of government—that the people are to be regarded as the sole original source of all political authority, that all legitimate government must rest upon their will. If a despotism or a permanent military government were established in any State by internal or external enemies, it would be the duty of Congress to overthrow it, because violative of every essential principle of republican government. But it would not, therefore, become the duty of Congress to frame and put in force another government in such State, for, as Mr. Madison says, the guarantee supposes a preëxisting government, republican in form, which, on the overthrow of such despotism or military government, merely resumes its sway over the State. If a new government is to be made, and not an old one revived, the people of the State must make it, not Congress. If there be two hostile parties in the State, the President or Congress may interpose to maintain order until the people can reconstruct their own government upon a republican basis. Here is to be found one of the strong foundation principles upon which the present Executive rests his effective and beneficent policy of restoration, by which he has already accomplished so many results alike surprising and encouraging to the country and to the friends of our Government throughout the world.

But the honorable gentleman from Pennsylvania attempts to destroy this foundation by the citation of an *obiter dictum* from the opinion of the late distinguished and excellent Chief Justice in the case of *Luther vs. Borden*, (7 Howard, page 1.) He is the same excellent Chief Justice whom the honorable gentleman informs the country he is afraid has been "damned to everlasting fire." And the honorable gentleman from Ohio cites the same *dictum*, and also an opinion from 1 Bishop on Criminal Law, in section one hundred and thirty-three, to the same effect, which rests upon no other authority than that *dictum*. The quotation is:

"Under this article of the Constitution [the one above cited] it rests with Congress to decide what government is the established one in a State. For, as the United States guaranty to each State a republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not."

This opinion of the Chief Justice was not called for by any question in the case decided by him. It is not incorporated into the statement of the decided points in the case by the reporter. To determine the appropriateness of it, as a passing comment by the judge, we must look into the facts of the case itself. The case was a common action of trespass for unlawfully entering another man's house to arrest him for alleged crime. It arose in 1842, and was commenced in the State of Rhode Island. The person making the arrest was acting under the authority of the established government of that State under its royal charter. The person arrested was claiming some authority under the new government of that State alleged to have been established by the people under the leadership of Thomas W. Dorr. The case therefore supposes two separate governments claiming to have lawful existence in the same State at the same time. Which was the legitimate government was the question to be settled in the case by the court. It was decided by the State court of Rhode Island, and affirmed by the Supreme Court of the United States, to be the old charter government.

Does any such state of facts exist now? Is Congress called upon now to determine which of two governments in any southern State is the legitimate one? Do two delegations from any one State ask admission to Congress as representatives of two separate State governments in that State? There is no such case. The

authority, therefore, has no weight. It is not inconsistent with the action or policy of the President toward the southern States. I believe two senatorial delegations do ask admission to the other end of the Capitol from the State of Louisiana, but both claim to represent the same State under the same State constitution and government. I believe also that one gentleman, not of the regular delegation to this House, from that State asks admission here as a delegate from the Territory of Louisiana, and is said to base his claim chiefly upon the suffrages of African citizens of that State. This hardly presents a case to which the remarks of Chief Justice Taney in the Rhode Island case are applicable. No law of Congress is needed to determine which set of Senators should be admitted to the Senate from the State of Louisiana. That question is referred by the Constitution of the United States to the exclusive adjudication of the Senate itself.

"Each House shall be the judge of the elections, returns, and qualifications of its own members."

It is due to the whole country, and especially to the States in question, that each branch of this Congress should assert its own dignity and resume the exercise of its own functions in this particular, and receive and consider and decide for itself the applications of Representatives for admission to it from southern States. Any other course can only work injustice, mischief, and strife.

It may be further remarked, in connection with the case of Luther against Borden, that Congress never did decide which of the two governments in Rhode Island was the legitimate one; but the President of the United States did, and the court in that case say that he was fully authorized so to decide, and that his decision was binding upon the court. The present Executive was met by no such embarrassment. There has never ceased to be a government in every southern State that, in the sense of the framers of our Constitution, was "republican in form," except in so far as they attempted, by changes in their constitutions, to deny the rightful authority of the Federal Government. But the administration of those governments was usurped during the rebellion. That usurpation has been completely overthrown and abandoned. Most of those governments are again committed to the control and administration of officers chosen according to their own requirements. The interposition of the Executive has been such only as seemed to him to be necessary to enable the people to effect the reorganizations of their former rightful governments. He has also urged the adoption by them of certain measures which were necessary to insure more harmonious submission by the people of those States to proper Federal authority. No patriot, North or South, should complain on account of such recommendations, nor withhold from the people of those States great praise for the prompt and cheerful manner in which they have adopted them.

It may also be observed in connection with the same case, and as illustrating the true interpretation of the provision guarantying to the States governments "republican in form," that the government in Rhode Island, held by the President in 1842, and by the Supreme Court in 1848, to be "republican in form," and, therefore, as good as the United States was bound to guaranty to that State, was the same government organized and maintained under the charter granted in 1663 by Charles II to the "Governor and Company of the English Colony of Rhode Island and Providence Plantations in New England in America," and that, under that republican government, in 1842, no man was entitled to vote unless he was a freeholder, an owner of land. That State must needs have been divided into small sections to give many citizens a chance to become qualified to vote. It was not thought then that Rhode Island needed to be reconstructed by Congress. The constitution of that State now requires that the right of suffrage shall only be exercised by persons owning real estate worth \$184 each, or having an equivalent rental value.

It is maintained by the honorable gentleman from Ohio [Mr. SPALDING] that Congress acquires such powers to take charge of the States lately in rebellion as are necessary to enable it to accomplish the ends desired by him, from the last clause of the eighth section of the first article of the Constitution, which recites, after the preceding enumeration of the powers of Congress:

"And to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

Mr. Speaker, there are but few provisions in our Constitution that have heretofore challenged more elaborate and profound examination, either by courts or statesmen, than the one just quoted; and I supposed that a conclusion had been reached, alike obligatory upon the courts and Congress, and satisfactory to the people. That conclusion, expressed in the language of Justice Story, is that—

"The plain import of the clause is, that Congress shall have all the incidental and instrumental powers necessary and proper to carry into execution all the express powers. It neither enlarges any power specially granted, nor is it a grant of any new power to Congress; but it is merely a declaration for the removal of all uncertainty, that the means of carrying into execution those otherwise granted are included in the grant. Whenever, therefore, a question arises concerning the constitutionality of a particular power the first question is, whether the power be expressed in the Constitution. If it be, the question is decided. If it be not expressed, the next inquiry must be whether it is properly an incident to an express power, and necessary to its execution. If it be, then it may be exercised by Congress; if not, Congress can not exercise it."—*Story on the Constitution*, sec. 1243.

This opinion is substantially concurred in by no less competent and distinguished personages than Alexander Hamilton, (*Federalist*, No. 33,) James Madison, (*Federalist*, No. 44,) Thomas Jefferson, and James Monroe, and nearly every other statesman of past times in our country. I think the country will be content with this construction, so deliberately given, and by such unselfish patriots, and will not suffer itself long to hanker after the exercise of ungranted power for the purpose of prolonging an estrangement that appeals so loudly for the healing counsels of peace and union. The power sought by the honorable gentleman must find a more substantial foundation than the one on which he has seen fit to rest it. It should have an abiding place in some express grant of power, or should arise by a fair and just implication from such a grant. If there had been any such in the Constitution, it is fair to presume that that learned gentleman would have cited it. It is not there. It would be extraordinary, indeed, if it were. It would be a most dangerous power to repose anywhere, except in the collective body of the people. It is asked in reference to the States lately in rebellion—

"Where does the Constitution of the United States lodge the power to prescribe an effective remedy for this impaired vitality, and to restore to healthy action these suspended functions?"

I would answer that, so far as external aid is required, it should come from the President, in the form of amnesty, with such exceptions and qualifications as the future and permanent welfare of the country demand; but after these things are done, the physician who is invested with the constitutional right and natural capacity to prescribe an effective remedy for this impaired vitality, and to restore to healthy action these suspended functions, is the people of those States respectively. Their right to self-government was not sacrificed by their attempted separation from the Union, except so far as they may be individually deprived thereof by conviction of crime. That right has not become the property of Congress. It belongs to the people. And Congress is not even their guardian in matters of local State government. Those States are either in the Union or out of it. If they are only half in, for the purpose of being governed by Congress, they might as well be entirely out, for there would then be no more difficulty in governing them by Congress; besides, if they were entirely out, as is boldly claimed by the honorable gentleman from Pennsylvania [Mr. STEVENS] and others, there would

then be less dispute about the right of Congress to govern them. But Mr. Lincoln, in his first inaugural, said:

"In contemplation of universal law, and of the Constitution, the union of the States is perpetual."

And,

"It follows from these views that no State, upon its own mere motion, can lawfully get out of the Union; that resolves and ordinances to that effect are legally void."

And the present Executive says the same thing, and is acting, in the discharge of his solemn duties, consistently therewith.

The honorable gentleman from Pennsylvania [Mr. STEVENS] assumes that those States are out of the Union, and can only come in as new States, and the honorable gentleman from Ohio, [Mr. BINGHAM,] "for the sake of the argument," assumes that the position of the Executive that they are still in the Union is correct, but both gentlemen and their followers strike hands in their determination to keep them out of Congress, and not recognize them as vitalized and acting members of the Union until certain constitutional amendments can be adopted by the other States and put into operation as the supreme law of the land; until, in other words, a new Constitution, a new Federal Government, can be formed, without their cooperation or consent, into which, and into obedience to which, they shall afterward be compelled to come. It strikes me that would be reconstructing the Union *with a vengeance*. We will change the Constitution to suit our views; we will change the qualifications for members of Congress so that no man who participated in the rebellion shall ever be eligible to a seat in the Senate or House; we will change the basis of representation in Congress so that none but voters shall be counted; we will give Congress the right to impose duties on exports from States so that we can tax the cotton raised in the South at the rate of \$100,000,000 per annum or more; we will give to Congress the right to legislate for and control the negro population of the States in their relations and intercourse with the white population; we will give to Congress the right to make uniform the civil rights of the people of all the States, so that under the cover of that right it may regulate the right of suffrage in the States, and thereby control the States themselves, and revolutionize and centralize the Government; we will, by way of anticipation, insert into the Constitution express prohibitions upon the States and the people against doing any mean or wicked things in the future; and then, all these things done, we will not invite the southern States to come into the Union and enjoy with us this new order of things, but we will make them come in; and then we will boast of our glorious system of self-government, and claim that all rightful government rests upon the consent of the governed.

Mr. Speaker, it is not in this way that the genius of free government can be illustrated; that enduring peace can be secured; that national prosperity can be reestablished; that fraternal intercourse between the sections of our country can be restored; that confidence and content can be brought back to the people of the South; that the malignant elements of discord can be kept out of our national councils, or that the bleeding wounds of our country and our countrymen can be healed. Such policy, in my humble judgment, if the power to enforce it were clear beyond doubt, would be most unwise and suicidal.

"It is excellent
To have a giant's strength; but it is tyrannous
To use it like a giant."

Mr. Speaker, so far as the President is concerned, I beg leave to say that I only know him as the chief Executive of the Union. I do not enjoy his confidence or that of any gentleman in his Administration, so far as I am advised. I only know that in the discharge of the important duties committed to me, under the guidance of my own judgment and conscience, enlightened somewhat by the wisdom and examples of the past, I am compelled to choose between the policy adopted by the Executive for the

restoration of the Union and that advocated by the majority on this floor, and to approve the former, because I believe it to be right and consistent with the supreme law and the highest good of the country. I think those States should be permitted to resume their connection with the Union. Their Representatives should be admitted to Congress if they come here with the requisite "qualifications" under the Constitution, which should be determined by each House for itself, and not by either or both for the other. It need not be expected that they will always send here men of sound discretion, of prudent self-possession, whose conduct will always be unexceptionable. Nor will they do so any more if they are kept out for an indefinite number of years. No section of our country has ever attained such excellence in its representation here, nor will it ever, until the high noon of a political millennium yet only dreamed of by the Utopian. In free Governments, the highest good is only realized as the fruit of the freest conflict of opinions, of truth with error. Out of such contests, truth always gains the ultimate and lasting victory. But by every day that these States are kept out of their proper relations to the Union, the chances for a speedy restoration of sentiments of confidence, sympathy, good will, and genuine nationality, which are above all things desirable, will be diminished, and ultimate success made more difficult.

I deprecate, as alike dangerous to the peace and happiness of our country and subversive of the true and most conservative principles of our Government, that fatal policy which would erect in this Capitol a great consolidation and centralization of power. In my judgment, there is not to be found in the pathway of either the Union or the States to the perfection of human government so great a danger as this. It threatens a system of constantly recurring encroachments by the Federal Government upon the cherished principle of local self-government. The continual demand for more power to be conferred upon the General Government should alarm every patriot in the land. The General Government was not created to administer the local, private, or personal interests of the people. It is ill adapted to the discharge of such duties. The duties imposed on it are chiefly external, general, international. It was intended by the fathers to cherish and protect, not to war upon, the vital principle of self-governing communities—States, counties, townships, and cities—which are the only competent and safe guardians of that great mass of power which presides over the administration of the daily affairs and fireside interests of society. This power will always be best administered the nearer the power itself, and the agents by which it works, are brought to the people to be affected by it, and the more directly its agents are made answerable to them. This intimate relation between power, its agents, and the people, constitutes the only school in which the capacity for self-government can be developed, and that feeling of deep, abiding, active, personal responsibility in the citizen cultivated and strengthened which is so necessary to fit him at once to appreciate and to protect both the general and the local governments. It is only by the freest operation of this principle that that individuality can be acquired by the citizen and imparted by him to the State which is necessary to develop and preserve the highest interests and greatest good of both. The surest guarantee for the perpetuity, prosperity, and happiness of our country can be found in the faithful observance by both the Federal and State Governments of the respective limitations upon their power and the faithful discharge by each of its appropriate duties without interference with the other, which is but yielding obedience to that great principle of local self-government which constitutes the chief kernel of eternal truth which has borne such beneficent fruit to our country in the past.

In the eager search after radical power on which to erect Federal bureaus and other machinery for the control by Congress of the

domestic affairs of the States, it is claimed to be found in the last amendment of the Constitution, which reads as follows:

"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

"Sec. 2. Congress shall have power to enforce this article by appropriate legislation."

It is claimed that the last clause grants power to Congress not only to prevent the reenslavement of the negro, but to assume the special control of him, and to take him out of the control of the States of whose population he is a part, in order to secure to him at least all civil rights that are enjoyed by the white people, and, as claimed by some, to secure to him equal political rights with the white men, both as a citizen of the State and of the United States. I deny this construction as being most untenable upon every rational principle of constitutional interpretation. The States by the adoption of this amendment certainly did not mean to surrender to Congress their cherished right of exclusive government over their own citizens in all matters of domestic concern. They only intended by this amendment to abolish slavery and forever prevent its reestablishment in any part of the country.

Its great object is to prevent the acquisition by man of property in his fellow-man in such manner as to enable him to extort from the latter involuntary service. Such legislation only is authorized by this amendment as is necessary to prevent these things. This purpose is plain, and requires but a slight effort of honest reflection to understand it. The second clause, in my judgment, adds nothing to the power given to Congress by the first. This view is sustained by every approved interpretation of analogous provisions in the Constitution. Here I refer again to section 1243 of Story's Commentaries on that instrument, already cited by me. Slavery was a domestic relation, not a public relation. It was a relation between individuals which gave to one of them the power to control the will and conduct of the other. The severance of that relation puts an end to slavery, and was the beneficent object of this amendment. But the regulation of the ordinary civil relations of the negro to the society in which he lives, by the enactment of laws of a local and merely municipal character to control his contracts, and bestow upon him civil privileges having no necessary connection with his personal freedom, are wholly unauthorized by any warrant in any part of the Constitution. And any attempt to do such things will be simply revolutionary of the most valuable principles of our Government, and cannot fail sooner or later to lead to the establishment of a centralized and consolidated Government but little better than a despotism.

I now come to the consideration more in detail of the bill now pending before the House, for the extension of the powers of the Freedmen's Bureau. It involves principles of the gravest importance, that should receive the most careful and deliberate attention by every member of this House.

I oppose the bill because it proposes, as it now stands on our files, to create and perpetuate in this country an institution or a bureau as permanent in every respect, as all-pervading in every respect, as any other Department of the Government of the United States. It proposes not as heretofore to confine this Freedmen's Bureau to the States lately in rebellion, but to extend it to all the States wherever you may find freedmen or refugees: in other words, the future jurisdiction of this bureau is to be co-extensive with the Union itself.

Now, sir, it seems to me when Congress undertakes by this kind of law to take the guardianship of an entire class of people on itself, and constitute them the wards of the Federal Government, and constitute the Federal Government the special guardian and protector and comptroller of that class, it undertakes to do something for which there can be found in our Constitution no shadow of warrant. Therefore I am opposed to this bill. I take it to be the

duty of a faithful Representative here, both as a good citizen of the country and as a sworn officer of the Government, to consider, when a proposition of this sort is submitted to him, whether Congress possesses the power which the measure proposes to exercise. Applying that rule to this bill, I feel compelled to say, after most diligent search through the Constitution of the country, and applying to that a liberal rule of interpretation, I am unable to find any shadow of authority, any single line or warrant for any such exercise of power as this bill proposes. It will not be pretended this power is found in any express grant of the Constitution.

From what express power can it be fairly implied? I know of none. Why should Congress undertake to control, to govern, to educate, to feed, to procure homes and farms, for freedmen and refugees any more than for any other class of citizens of this country whose necessities might be as great, and who appeal as strongly to the sympathies of members of this House and to the whole country? The attempt to exercise so radical a power as this cannot fail to excite in the minds of the people of this country a well-grounded fear that there exists here a settled and deliberate and wicked purpose on the part of Congress, to a very great extent, to disregard the limitations upon its own power contained in the Constitution, and subvert the essential and fundamental principles of that Government by their legislation here, and attempt to build up in this country an institution, under the influence and patronage of the Federal Government, which has no other purpose and can accomplish no other end than to gratify the wild whims and crotchets of a reckless fanaticism. The people who are proposed to be controlled by this bill are as much citizens of the States where they live as any other class of citizens. They constitute as much a part of the population of the States where they reside as we do of the States we represent; just as much as any other class of men in the country do. Why, then, should we single them out and make them the special beneficiaries of congressional protection? They are free men. They need no guardianship but the fostering care of their own local State governments.

Now, I will invite attention for a little while to the details of this bill; and in this connection I invite correction from the honorable gentleman from Massachusetts, [Mr. Eliot,] if I make any statement not authorized by the bill. This bill proposes to create a permanent bureau for the control of freedmen and refugees, at the head of which there shall be a Commissioner with a salary of \$3,000; the country may be divided into a number of sub-districts not to exceed twelve; and there may be appointed a number of assistant commissioners who shall not exceed the number of districts, with a salary for each of \$2,500; to the chief Commissioner there may be assigned by the Secretary of War ten clerks, the salaries of whom I am unable from the bill to determine. Each of the assistant commissioners may have three clerks with a compensation that shall not exceed \$1,000.

Then the entire country from Texas to Maine, and from South Carolina to Oregon, may be divided into sub-districts, which shall consist each of a county or parish. For each of these sub-districts, which possibly may be equal in number to the whole number of counties and parishes in the Union, there may be assigned one or more sub-agents with a salary of from \$500 to \$1,200 per annum, according to the amount of service rendered by them respectively, and to each of those sub-agents, if necessary in the opinion of the Commissioner, there may be assigned one clerk, at an annual salary not exceeding \$1,000 each.

Now, Mr. Speaker, that involves the creation of a small army of agents and commissioners, whose jurisdiction and control shall pervade the whole country, shall extend into every State, into every congressional district, into every county, into every township and city of this broad Union, provided only that they can find some freedmen or refugees upon whom to exer-

cise their jurisdiction. I submit that before a measure of this kind should be adopted, we should reflect most carefully upon what we are doing. We should remember that this country is now almost crushed into the very earth with its accumulated burden of public debt, of State debts, of county debts, of city debts, of township debts, of individual debts. We should bear in mind that we may impose upon the people of this country by this kind of latitudinarian and most dangerous legislation a burden that is too heavy to be borne, and against which the day may come when the people, as one man, will feel themselves called upon to protest in such a manner as forever to overthrow that kind of legislation and condemn to merited reproach those who favor it.

This bill, taken in connection with the report of the present Commissioner of the bureau, proposes to require at the hands of Congress an appropriation of nearly twelve million dollars. That is almost equal to the annual expense of our entire Government during the first two or three Administrations. They propose in addition to that very great outlay to authorize the officers of the Government who shall have more or less connection with the administration of this bureau to expend unlimited sums of money.

In this connection I invite attention to the third section of the bill, which authorizes the Secretary of War, in his own discretion, without being restrained by any limitation upon its exercise, by any safeguards of any kind, to expend in behalf of these freedmen and refugees such supplies of provisions, clothing, fuel, medical stores, and transportation as shall be necessary from time to time for their protection and to advance their interests. Where is the limit upon the exercise of that great power by that officer? There is none. He may charter railroads to transport them for place to place. He may do for them what they, and they alone, should do for themselves.

It may be said that he is acting under the obligation of an oath of office, and that he stands in high position, and is surrounded therefore by all those motives which ordinarily prompt honorable men to discharge in a proper way and within proper limits their official duties. But let me call the attention of this House to the fact that in the practical administration of the affairs of this Government in its various departments there is not always that nice regard for the proprieties of official action that ought always to characterize public officials. I need not at this day invite attention to the fact that even high Government officers may err. They may suffer their judgment to be warped or controlled by their feelings. They may suffer themselves to be led astray from the strict path of official duty by partisan feelings. I do not know what the present officers might do, but I do say that the danger of their doing it is at least great enough to justify us, whose duty it is, to surround them with such guards and limitations as will prevent its occurrence.

Taking that section, then, as it reads, I submit that it is within the power of the Secretary of War, in addition to the \$12,000,000 that the Commissioner asks for now, to expend \$12,000,000 more—ay, twenty, thirty, one hundred millions more, upon this same class of men, women, and children.

Then let me invite attention to the provision of the fourth section of this act. It is proposed to set aside a certain portion of the public lands in the States of Florida, Mississippi, Alabama, Louisiana, and Arkansas, not exceeding in the number of acres three millions, for the exclusive use of the freedmen and refugees. It is made the duty of the Commissioner who shall control this bureau, under certain limitations and regulations, to assign these public lands in quantities of forty acres to the use and occupancy of these freedmen and refugees.

Now, so far as that appropriation is concerned, I will not question the propriety or justice of it, although the manner of its execution is very defective. I am in favor of allowing these people to acquire land in the country, and to become owners of homesteads, just as much as any other

class of men, and upon just the same terms as any other class of men in the country. I am in favor, upon principle, of allowing every man in the country to become a land-owner. The people of this country will thus become better citizens; they will acquire a more direct and active interest in the Government, and will necessarily become more intelligent and orderly citizens, and better men.

But this section does not stop here. It proposes to go further, and to make the Commissioner of the bureau, under the Federal Government, a sort of grand landlord of all these freedmen and refugees who shall see fit, for the time being, to squat upon these public lands. In other words, these public lands are not to be assigned to these freedmen and refugees as purchases merely, but antecedent to the time when they are expected to become able to purchase them, they are to be allowed to rent the lands of the Federal Government, and become tenants of the Government, and to pay a certain prescribed rate of rent for the use of the lands.

Now, I would like to know, and I should certainly be grateful to the honorable gentleman from Massachusetts [Mr. ELIOT] if he would inform me, where it is in the Constitution that the power is vested to create this kind of department in the Federal Government, to make this Government a landlord, to make this Government a great proprietor for the purpose of cultivating its own public domain. I can find no such power anywhere, nor have I heard any gentleman here undertake to point out where it is to be found.

But, Mr. Speaker, I am more especially opposed to this bill on account of the provisions of the fifth section, which I will now read:

That the occupants of land under Major General Sherman's special field order, dated at Savannah, January 16, 1865, are hereby confirmed in their possession for the period of three years from the date of said order, and no person shall be disturbed in or ousted from said possession during said three years unless a settlement shall be made with said occupant by the owner, satisfactory to the Commissioner of the Freedmen's Bureau.

Mr. CHANLER. Will the gentleman yield to me for a moment?

Mr. KERR. I yield for a moment.

Mr. CHANLER. I wish to make a statement to the House in regard to that order of General Sherman. There is in the hands of the President at this moment a declaration, which I have seen, written by General Sherman and signed by him, declaring that when he made that order, or when he gave to the freedmen a place of refuge by that order, his purpose was not to give them a permanent title in the land, but to secure them only a temporary possession, a possessory title, for the purpose of giving homes to the camp-followers who were old and decrepid. He purposely and specially excepted from that order all able-bodied men, and never dreamed that his order would carry with it the shadow of a title. He did not intend to assume, as the declaration in this section goes to show, that he could invade the rights of property or grant titles under a military order. He repudiates the whole doctrine assumed by this section. That letter should now be before the country, and in the hands of this House. It was in my hands to present to this House, but owing to the delay consequent on the debate, I withdrew my claim to present it, and it was given to my colleague [Mr. RAYMOND] to present to this House.

I make this statement in order that the gentleman, in making his argument upon this bill, may understand the exact position that General Sherman takes, and that neither General Sherman nor any other officer may be dragged into this attempt to usurp legislative power under military orders.

Mr. ELIOT. Will the gentleman from Indiana [Mr. KERR] yield to me for a moment?

Mr. KERR. Certainly.

Mr. ELIOT. With the leave of the gentleman from Indiana, [Mr. KERR,] I will say a few words in reply to what has just fallen from the gentleman from New York, [Mr. CHANLER.] I understand him to say, and I desire to see if I understand him correctly, that a letter has

been written by General Sherman to the President, which the gentleman from New York [Mr. CHANLER] was requested to communicate to this House, and which he has left in the hands of his colleague, [Mr. RAYMOND,] expecting that he would do it. Am I right?

Mr. CHANLER. Not exactly.

Mr. KERR. I hold in my hand that Order No. 15, of General Sherman. If it will relieve gentlemen of this cross-discussion, I will incorporate the material part of it in my remarks.

Mr. ELIOT. I understand the gentleman from New York [Mr. CHANLER] to admit that I am correct in what I supposed he intended to say—that he was authorized either by General Sherman or the President to communicate that letter to this House.

Mr. CHANLER. No such thing. I will not delay the argument of my friend from Indiana [Mr. KERR] by undertaking to reply to the very unfair insinuation of the gentleman from Massachusetts, [Mr. ELIOT.] But I will say that I had nothing to do with General Sherman or the President. I only stated the fact that such a paper as that was seen by me, and that it had been placed in the hands of my colleague, [Mr. RAYMOND.]

Mr. GRINNELL. When was it written?

Mr. CHANLER. It may have been written within forty-eight hours, so far as I know. I made the declaration that such a letter has been written; that it was written at the express request of the President; I had nothing further to do with it.

Mr. ELIOT. I understood the gentleman to say it was put in his hands to communicate to this House.

Mr. CHANLER. I did say I had been requested to communicate it to this House.

Mr. ELIOT. By whom?

Mr. CHANLER. I will not say. The gentleman knows as well as I do, and he can make the declaration. But his object now is to throw a doubt or some slur upon my statement. He knows the truth of my assertion. I made the statement merely in order that my friend from Indiana [Mr. KERR] in his argument should make no mistake on this point. I am doing it in fair play to him, and not for the purpose of interrupting or embarrassing his argument.

Mr. ELIOT. The gentleman declines to say how he received this information. I know, but I shall not say if he does not.

Mr. Speaker, I have seen that letter, and I take it upon myself to say that the gentleman from New York has not stated its contents correctly. It is no purpose of mine to cast a slur upon the motives of anybody; and if the gentleman had known me better he would have withheld what he has seen fit to say upon that subject. The letter to which he refers does undertake to state what were the motives or intentions of the distinguished general in making the order which is known as Special Order No. 15; and it may hereafter be well enough for this House to determine whether the motives of that general in his action in this case are so much to be regarded as to what he did. It is the order that concerns us, not the motives of the general who made it.

In that letter it is stated that the order making allotments was not intended to operate permanently. This bill does not assume that it was designed to operate permanently, but only until some other order should interfere with it or until legislation should be had; and by this bill we seek to consummate the legislation which was contemplated in that order.

As to the statement that General Sherman, in his letter or by his order, repudiated the idea that there were to be upon those allotments men who were not aged or infirm, that, according to my recollection, is not correct. General Sherman did state that there were young and able-bodied men who it was desirable should be in the Army of the United States as soldiers. So it is stated in the order; by that order they are invited to enlist, and under it they did enlist. General Sherman does state in his letter that it was supposed that these allotments were many of them to be for the benefit of the old,

the infirm, and of women while their husbands or male friends were absent in the service of the country. So the order states. But I respectfully say that it is not correct to affirm that General Sherman in his letter places upon his former action such a construction as to bring it in conflict with the provisions of this bill.

Several MEMBERS. Let us have the letter.

Mr. CONKLING. Let me ask the gentleman from Massachusetts [Mr. ELIOT] where that letter is.

Mr. ELIOT. I suppose that it is in the hands of the commissioner of South Carolina.

Mr. KERR. If the honorable gentleman from Massachusetts will present that letter, I will give way for that purpose.

Mr. ELIOT. Why, sir, I had not the letter in my hands for five minutes. It was to-day shown to me in company with my distinguished friend from Ohio, [Mr. BINGHAM,] and was read by both of us.

Mr. KERR. Has the gentleman that letter now in his possession?

Mr. ELIOT. Certainly I have not. It is, I suppose, in the hands of the party who obtained it from the President. It was a letter addressed by General Sherman to the President, and will, I have no doubt, find its way in some manner to this House. I have it not, or I would produce it with great pleasure.

Mr. KERR. I will read the first paragraph of that famous field order, No. 15:

"The islands from Charleston south, the abandoned rice fields along the rivers for thirty miles back from the sea, and the country bordering the St. John's river, Florida, are reserved and set apart for the settlement of the negroes now made free by the acts of war and the proclamation of the President of the United States."

Much has been said as to the intentions of the distinguished general by whom this order was promulgated. I know not what were the intentions in his own mind at the time. Nor is it material to know what they were. The order is now history, a public record, and must be so considered. But I doubt not the general's intention was in harmony with correct legal construction.* There is a legal rule by which we may all determine for ourselves from the face of the order what were the intentions of the distinguished general who made it. It is a rule of interpretation that when an officer of the Government makes an order of this kind he intends to go just so far and no further than he has legal power to go; that he means no assumption of power he does not possess.

* General Sherman's letter referred to:

WASHINGTON, February 2, 1866.

SIR: I have the honor to acknowledge the receipt of your letter of February 1, and, in compliance with your request, I inclose herewith a copy of field order No. 15, of 1865, with this brief history of the origin and reasons for making it:

Hon. E. M. Stanton, Secretary of War, came to Savannah soon after its occupation by the forces under my command, and conferred freely with me as to the best method to provide for the vast number of negroes who had followed the army from the interior of Georgia, as also of those who had already congregated on the island near Hilton Head, and were still coming into our lines. We agreed perfectly that the young and able-bodied men should be enlisted as soldiers, or employed by the Quartermaster in the necessary work of unloading ships and for other army purposes; but this left on our hands the old and feeble, the women and children, who had necessarily to be fed by the United States.

Mr. Stanton summoned a large number of the old negroes, mostly preachers, with whom he held a long conference, of which he took down notes. After this conference he was satisfied that the negroes could, with some little aid from us, by means of the abandoned plantations on the sea islands and along the navigable rivers, take care of themselves. He requested me to draw up a plan that would be uniform and practicable. I made the rough draft, and we went over it very carefully. Mr. Stanton making many changes, and the present order No. 15 resulted and were made public.

I knew, of course, we could not convey the title to land, and merely provided possessory titles to be good so long as war and our military power lasted. I merely aimed to make provisions for the negroes who were absolutely dependent on us, leaving the value of their possession to be determined by after events or legislation. At that time, January, 1865, it will be remembered that the tone of the people of the South was very defiant, and no one could tell when the period of war would cease; therefore I did not contemplate that event as being so near at hand.

I am, with great respect, your obedient servant,

W. T. SHERMAN, Major General.

To ANDREW JOHNSON, President of the United States.

Mr. BINGHAM. Will the gentleman from Indiana [Mr. KERR] allow me to say one word of explanation in reference to this letter of General Sherman?

Mr. KERR. Yes, sir.

Mr. BINGHAM. Mr. Speaker, I desire to state my recollection of the communication made by the commissioner of South Carolina. When he came to-day and showed this letter to the honorable chairman of the freedmen's committee [Mr. ELIOT] and myself, I thought that, as a member of the House, I ought to know how came General Sherman to be writing any letters on the subject. I therefore ventured to make that inquiry, to which the commissioner of South Carolina, according to my present recollection—of course the honorable chairman of the committee will correct me if I am mistaken—replied that the President had made the request of General Sherman. As I understand the matter, General Sherman simply made a respectful answer in accordance with the request of the President of the United States.

Mr. KERR. Mr. Speaker, viewing this document as a legal paper demanding a legal interpretation, I proceed to say that, in my judgment, General Sherman by this order only accomplished this much: he took possession during war of a prescribed territory of the enemy in the exercise of a belligerent right, which he as general in command of the armies of the Government in that department had the right to do, and General Sherman never attempted by anything contained in this order, because he had no power to accomplish such a result, to give to these freedmen and refugees any title to the lands in question. The act of General Sherman was simply the exercise of a belligerent right. It could exist only so long as the belligerency existed. The moment peace was restored, the moment war ceased, this order ceased to have validity or vitality. I say, therefore, the moment this war terminated this order became void. It had spent its force. It had accomplished its end. It had done its full office, and could do no more. I take it to be the law, both the international and public law of this country, that no Government can take property of this kind from one citizen and give it to another. No Government by a mere act of legislation can divest a title from one party and vest it in another.

Now, in sustaining my position on that point, and to show the House and the country that I am sustained by authority of the highest rank, I beg leave to quote two or three pertinent authorities.

I will first cite Halleck's International Law, page 456, paragraph twelve:

"Private property on land is now, as a general rule of war, exempt from seizure or confiscation; and this general exemption extends even to cases of absolute and unqualified conquest. Even where the conquest of a country is confirmed by the unconditional relinquishment of sovereignty by the former owner, there can be no general or partial transmutation of private property in virtue of any rights of conquest. That which belonged to the Government of the vanquished passes to the victorious State, which also takes the place of the former sovereign in respect to the right of eminent domain; but private rights and private property, both movable and immovable, are in general unaffected by the operations of a war, whether such operations be limited to mere military occupation or extend to complete conquest. Some modern text-writers—Hautefeuille, for example—contend for the ancient rule, that private property on land is subject to seizure and confiscation. They are undoubtedly correct with respect to the general abstract right, as deduced from the law of nature and ancient practice; but while the general right continues, modern usage, and the opinions of modern text-writers of the highest authority, have limited this right by establishing the rule of general exemption."

I will now read a short extract from the decision of Judge Sprague of the district of Massachusetts, already referred to.

Judge Sprague says:

"An objection to the prize decisions of the district court has arisen from an apprehension of radical consequences. It has been supposed that if the Government have the rights of a belligerent, then, after the rebellion is suppressed, it will have the rights of conquest; that a State and its inhabitants may be permanently divested of all political privileges, and treated as foreign territory acquired by arms. This is an error, a grave and dangerous error. Belligerent rights cannot be exercised when there are no belliger-

ents. Conquest of a foreign country gives absolute and unlimited sovereign rights. But no nation ever makes such a conquest of its own territory. If a hostile Power, either from without or within a nation, takes possession and holds absolute dominion over any portion of its territory, and the nation by force of arms expels or overthrows the enemy, and suppresses hostilities, it acquires no new title, but merely regains the possession of which it had been temporarily deprived. The nation acquires no new sovereignty, but merely maintains its previous rights. During the war of 1812 the British took possession of Castine, and held exclusive and unlimited control over it as conquered territory. Castine was restored to us under the treaty of peace, but it was never supposed that the United States acquired a new title by the treaty, and could therefore govern it as conquered territory."

And in this same connection I will cite from the same author another brief extract. I will remark, however, that upon the principles of public law, as well as the Constitution of our country, when a rebellion or insurrection is suppressed by the legitimate Government, the Government itself may have the right, as against the individuals lately in rebellion or insurrection, to consider them as individual offenders against the laws of the country, and it may denounce against them as such offenders the punishment which their crimes deserve. But under those principles, I say it is not competent, by a mere declaration of the Government or a mere law of Congress, to take from the people of any section such property without proof of guilt, without proceedings to confiscate their estates, without taking any of the steps required by the Constitution, where it says that no person shall be deprived of life, liberty, or property without due process of law. I say that when the Government desires to take from one citizen his property and give it to another, or make it the Government's own property, it must do it by proceeding in pursuance of law against the offender himself.

Judge Sprague says, in answer to this view of the case:

"Under despotic Governments the power of municipal confiscation may be unlimited; but under our Government the right of sovereignty over any portion of a State is given and limited by the Constitution, and will be the same after the war as it was before. When the United States take possession of any rebel district, they acquire no new title, but merely vindicate that which previously existed, and are to do only what is necessary for that purpose. Confiscations of property, not for any use that has been made of it, which go not against any offending thing, but are inflicted for the personal delinquency of the owner, are punitive, and punishments should be inflicted only upon due conviction of personal guilt."

In the same connection I will invite attention to the opinion of Alexander Hamilton, one of the earliest, greatest publicists of this country. In replying to those who represent the confiscation or sequestration of debts as our best means of retaliation and coercion, as our most powerful, and sometimes as our only means of defense, he says:

"So degrading an idea will be rejected with disdain by every man who feels a true and well-informed national pride; by every man who recollects and glories that in a state of still greater immaturity we achieved independence without the aid of this dishonorable expedient. The Federal Government never resorted to it, and a few only of the State governments stained themselves with it."—*Hamilton's Works*, vol. 7, p. 329.

One more authority, too pertinent to be omitted, is from the opinion of Chief Justice Marshall, in the *United States vs. Percheman*, 7 Peter's Reports, page 86:

"It may not be unworthy of remark that it is very unusual even in cases of conquest for the conqueror to do more than to displace the sovereign and assume dominion over the country. The modern usage of nations, which has become law, would be violated, that sense of justice and of right which is acknowledged and felt by the whole civilized world would be outraged, if private property should be generally confiscated and private rights annulled."

Now, resting my opinion on these authorities, I insist that Congress has now no legal or constitutional right in time of peace, when there are no belligerents, to go into the States named in that order, or any other State, and take even the possession of the lands of the people from the owners and give them to anybody else. Much less have we any right to take from them the fee, the absolute estate in those lands. This kind of legislation can only be designed to operate as a punishment, not against the thing taken, but against the land-owner. The authorities say that this kind of punishment can only

be inflicted after due proceedings against the respective owners for the purpose of confiscation or punishment in some way prescribed by law under the Constitution of the country. This attempt on the part of this House and of Congress to act upon the assumption that war is still flagrant in this country I look upon as being radically and wickedly wrong. War does not prevail now. On the contrary, peace prevails throughout our entire boundaries. There is no army anywhere arrayed against the Federal authority. There is no individual man in this country that is now holding out any resistance to the Government. The Executive has announced officially to the country, to Congress, and to the world that the rebellion is now suppressed; that the States in the South have returned to obedience to law, and that the laws are now being enforced and observed in the South.

Mr. WILLIAMS. Will the gentleman allow me to ask a question?

Mr. KERR. Certainly.

Mr. WILLIAMS. Will he be good enough to state when and where the Executive has made any such announcement as that to which he refers; and whether the latest outgoing from that Department of the Government has not been that contained in the opinion of the Attorney General conveyed to the Senate by the President, which is to the effect that the war against the rebellious States was not yet ended?

Mr. KERR. I know well what the Attorney General has said; and while I entertain toward that officer high personal regard, based upon a very pleasant personal acquaintance, I beg leave respectfully to say here that in my judgment the position upon that subject assumed by him in that communication is as radically wrong in principle and in fact as the other position to which I have referred here.

I prefer to take the announcement of the President himself, as he knows what the facts are. We all know, in spite of the letter of the Attorney General, that there is no war in this country. It is a patent, notorious, and undeniable fact that there is no enemy in arms anywhere. Gentlemen must not undertake in this country to perpetuate a war upon paper. They have no right to keep asunder the different sections of this nation upon any assumed or imaginary state of hostilities until they can accomplish certain cherished partisan purposes.

I have not the communication of the President at my desk now, but will incorporate it in my remarks.

Mr. WILLIAMS. I was about to ask the gentleman when and where the President had made the announcement to which he referred.

Mr. KERR. The statement is contained in the answer of the President in reply to a resolution of the Senate, and is dated December 18, 1865, and accompanied the letter of Lieutenant General Grant.

Mr. WILLIAMS. I think the gentleman will look in vain for anything of the sort in that letter.

Mr. KERR. Let the letter speak for itself. It reads as follows on the point in question:

To the Senate of the United States:

In reply to the resolution adopted by the Senate on the 12th instant, I have the honor to state that the rebellion waged by a portion of the people against the properly constituted authorities of the Government of the United States has been suppressed; that the United States are in possession of every State in which the insurrection existed; and that, as far as could be done, the courts of the United States have been restored, post offices reestablished, and steps taken to put into effective operation the revenue laws of the country.

As the result of the measures instituted by the Executive, with the view of inducing a resumption of the functions of the States comprehended in the inquiry of the Senate, the people in North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Arkansas, and Tennessee, have reorganized their respective State governments, and "are yielding obedience to the laws and Government of the United States" with more willingness and greater promptitude than under the circumstances could reasonably have been anticipated. The proposed amendment to the Constitution, providing for the abolition of slavery forever within the limits of the country, has been ratified by each one of these States, with the exception of Mississippi, from which no official information has yet been received; and in nearly all of them measures have been adopted or are now pending to confer upon freed-

men rights and privileges which are essential to their comfort, protection, and security.

Now, a word more. I am opposed to this bill on other grounds. Let us see what it proposes to accomplish in other respects. The commissioners and assistant commissioners and sub-agents and clerks in this bureau are made, as it were, absolute and exclusive governors and rulers of the freedmen and refugees of this country. There is to be built up within the States of this Union by this bill a sort of *imperium in imperio*, a sort of government within a government. It is an attempt upon the part of the Federal Government, in other words, to usurp and take from the States their sacred and inalienable right to control and govern their own people in all matters relating to their domestic and local interests.

But not only that. This bill proposes to make it the duty of the Executive, when this bureau shall be organized all over this country, to come to the rescue of all these various officers with the military power of the Union. The bill says in the second section:

And the President of the United States, through the War Department and the Commissioner, shall extend military jurisdiction and protection over all employes, agents, and officers of this bureau in the exercise of the duties imposed or authorized by this act, or the act to which it is additional."

What does that mean? Are we to have organized all over this country a system of petty tribunals, to be at once protected by and to perform their duties according to the rules of military or martial law, and to be wholly independent of and superior to the States, and all the civil tribunals of the States where they exist? The inquiry may well strike the mind with utter incredulity, the thing proposed is so strikingly inconsistent with the genius of our boasted institutions. But it is true. And it is not relieved by the provision of section eight, that—

The jurisdiction conferred by this and the preceding section on the officers and agents of this bureau shall cease and determine whenever the discrimination on account of which it is conferred ceases, and in no event to be exercised in any State in which the ordinary course of judicial proceedings has not been interrupted by the rebellion, nor in any such State after said State shall have been fully restored in all its constitutional relations to the United States, and the courts of the State and of the United States within the same are not disturbed or stopped in the peaceable course of justice—

because, by its terms, that section relates alone to the jurisdiction conferred by sections seven and eight. All the powers conferred by the other sections operate without limit as to time or territory. In all my observations in the business of making laws I never yet had occasion to analyze a bill the terms of which, in the bestowal of power, were so loose, unguarded, and dangerous as those of the bill now before the House, with its proposed amendments. Take for example, a part of section six. Read it:

The Commissioner shall, under the direction of the President, procure in the name of the United States, by grant or purchase, such lands within the districts aforesaid as may be required for refugees and freedmen dependent on the Government for support; and he shall provide or cause to be erected suitable buildings for asylums and schools; and the Commissioner may provide a common-school education for all refugees and freedmen who shall apply therefor.

The lands to be acquired may be anywhere in the United States, and there is no limit as to amount or cost or quality, except the discretion of the officers. Any freedman or refugee may apply for a common-school education, whether male or female, young or old, octogenarian or infant; and the Commissioner may provide it at the expense of the country. What is a "common-school education," and how long will it take some negroes to acquire it? What will it ultimately cost the people? But enough of this.

The whole system is wrong. The principle of the bill is wrong. The assumption that Congress may take such charge of any class of people is radically wrong. These negroes are free men. They can only become good citizens, capable of self-support and self-government, by the discipline of absolute self-dependence. They must be left substantially to work out their own destiny. You can never make them able to take care of themselves by this system of Government nursery. Give them

full and ample protection for person and property, and they will do better than they can be made to do under this system. Their greatest amelioration must arise out of the feelings of sympathy and friendship between them and the whites. The great law of intelligent self-interest, if left free to work, without extraneous interference and irritations, must soon convince both races that they can best and most effectively serve themselves and develop their separate interests by serving each other and aiding each other in a spirit of mutual kindness. It will require and ultimately accomplish the highest development of the capacities of each race, and lead to more enduring happiness and prosperity than can otherwise be secured.

But the policy contemplated in this bill, by exciting false and delusive hopes in the minds of the negroes, will only lead to ever-increasing hostility between the races and frequent conflicts of authority in the States where they are, and will only put off any genuine and enduring improvement in the condition of the freedmen and prevent the early solution of the great problem of labor in the southern States, and thus retard the prosperity of the country and of both races.

Mr. HILL. I move to amend the pending motion to recommit the bill by adding to it instructions to the committee to amend the bill as follows:

Amend the first section by striking out of lines six and seven the following words, namely, "in all parts of the United States," and insert in lieu thereof the following, namely, "in all the States lately in rebellion, and also in the States of Delaware, Maryland, Kentucky, and Missouri."

Amend the proviso in the fifth section by inserting in line ten, between the words "the" and "owner," the word "former."

Amend the proviso in the fifth section by inserting in line ten, between the words "the" and "owners," the word "former," and strike out all between the word "authorized," in line twelve, and "to," in line fourteen, of said section.

Mr. MARSHALL obtained the floor.

Mr. WASHBURN, of Illinois. Will the gentleman yield to me for a moment to offer a resolution for reference to a committee?

Mr. MARSHALL. Certainly.

STEAMBOAT PILOTS, AFRICAN TRADE, ETC.

Mr. WASHBURN, of Illinois, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire as follows, and report by bill or otherwise, namely:

1. Whether any legislation is necessary to prevent the combination of pilots of steamboats on the western waters.
2. Into the expediency of abolishing the offices of naval officers and surveyors.
3. Into the condition of the American trade on the coast of Africa, and what measures, if any, are necessary to extend and protect it.

Mr. MARSHALL resumed the floor, but yielded to

Mr. RITTER, who moved that the House adjourn.

The motion was agreed to; and accordingly (at four o'clock and fifty-five minutes p. m.) the House adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, February 3, 1866.

The House met at twelve o'clock m., Mr. WASHBURN, of Illinois, occupying the chair as Speaker *pro tempore*.

Prayer by the Chaplain, Rev. C. B. BOXTON. The Journal of yesterday was read and approved.

The SPEAKER *pro tempore*. The House is in session, under order of the House, for the purpose only of debate upon the Freedmen's Bureau bill, as the special order. No business is in order, and no motion will be in order except a motion to adjourn.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. WILLIAM J. McDONALD, its Chief Clerk, informed the House that the Senate had passed a bill (S. No. 61) to protect all persons in the United States in their civil rights, and to furnish the means

of their vindication; in which he had been directed to ask the concurrence of the House.

Mr. WILSON, of Iowa. Would it be proper, under the order of the House on yesterday, for me to move the reference of this bill to the Committee on the Judiciary, and that it be printed?

The SPEAKER *pro tempore*. The Chair thinks such a motion would not be in order, as it is in the nature of business.

FREEDMEN'S BUREAU.

The House, agreeably to order, resumed the consideration of the bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau, on which Mr. MARSHALL was entitled to the floor.

Mr. MARSHALL. As I am quite unwell this morning, I should not attempt to enter into any discussion of the important measure now before the House for its consideration if it were not for the fact that I deem it to be my duty as a member of the committee that reported this bill to the House, and as a Representative of a constituency interested in this proposed legislation, to express briefly the objections which I have to the passage of this bill. And as I have no prepared speech for the occasion, I do not propose to enter into a full or elaborate discussion of all the important questions which naturally and irresistibly present themselves to the mind in considering this bill. Its importance cannot well be magnified. It inaugurates a measure which must result in the expenditure of untold millions of money to be wrung from the toiling and already oppressed masses of the country. It involves principles, as I conceive, running antagonistic to the fundamental principles of the Government, and such being the case it is difficult to conceive of a measure involving more important consequences than the one now before the House.

The professed object of the bill—to look after and take care of that race of men who have recently, by the revolution that has swept over the country, been freed from the bonds of slavery, men who are houseless and homeless—may be considered in one point of view a very charitable and laudable purpose. If this Government has the power to enact such a bill as this; if we have the money which we can, without oppression of the people, appropriate to such purposes; and if we had no more laudable claims upon us that are pressing upon our attention at this time, then this measure might be deemed a laudable one. To look after the oppressed, to educate the ignorant, to raise up those who are bowed down by oppression, and place them upon vantage ground from which they can work out their own destinies, and achieve such position as they have the merit within them to attain, is unquestionably a laudable purpose. It is one of those purposes which might appeal strongly to the kind offices of the wealthy and benevolent of the country.

But I deny at the very outset that this Federal Government has any authority to become the common almoner of the charities of the people. I deny that there is any authority in the Federal Constitution to authorize us to put our hands into their pockets and take therefrom a part of their hard earnings in order to distribute them as charity. I deny that the Federal Government was established for any such purpose, or that there is any authority or warrant in the Constitution for the measures which are proposed in this most extraordinary bill.

I do not desire to dwell too long on these general objections. Every dollar that you take from the citizen without warrant of the Constitution is nothing more than robbery. Now, what does this bill propose to do? It proposes to establish by Federal power, to be supported by Federal bayonets in all the States of this Union, and in every county thereof, if the Secretary of War sees proper so to do, a separate and independent local jurisdiction and government for the purpose of governing, feeding, clothing, educating, and providing homes for the emancipated slaves, and of interfering with and controlling the local government and police of the people of those States; to establish an

empire within an empire, providing one government for one race and another for another. I would like for some gentleman to explain to this House where this Congress gets authority for the passage of any such law.

It is a fundamental principle of American law that the regulation of the local police of all the domestic affairs of a State belongs to the State itself, and not to the Federal Government. This is a principle which has never been denied until recently. The Federal Government has never attempted to act upon any other principle until this system of measures was inaugurated. Whence comes the power to carry out such measures as this? If no such power is conferred upon the Government by the Federal Constitution, then the attempt to thrust your hands into the pockets of the people to raise money for this purpose, is, I repeat, nothing more than robbery, and it cannot properly be designated in any other way. I want some gentleman to tell me where is the authority to go into the States and establish a distinct local jurisdiction, separating as to governmental control two races of people, creating one species of government for one class of the population, while another class have another species of government.

I know that in these latter days it is deemed by many of those who are overburdened by superabundant and superlative "loyalty" somewhat treasonable to speak of the Constitution of our country. But, sir, I know of no loyalty except that which is due to the Constitution and laws. A few years ago that was the only test which any one thought of requiring. The only question was, is a man true to the Constitution and obedient to the laws? It is only one or two years ago that we were told that the President was the Government, and that every man was disloyal who did not approve every act of his, although those acts might be deemed usurpations. But we have now gone even further than that. It is now disloyal for a man to raise his voice in opposition to the decrees of a revolutionary cabal that has been organized here for the purpose of controlling the destinies of this country. Even the President of the United States himself is not now exempt from the charge of disloyalty. He is arraigned and the most blasphemous maledictions hurled against him for having expressed his opinions in friendly converse in regard to proposed amendments of the Constitution of our country, and he is charged with having been guilty of an act which in any other country would have cost him his head. There has been established here a despotism, a dictatorship, a tribunal as lawless and revolutionary in its purposes as the organization of the Jacobins in France, when they inaugurated the proceedings which brought the unfortunate Louis XVI to the block; and this revolutionary cabal of our day is, in my judgment, animated by similar passions and seeking similar objects.

A Representative from the great commercial metropolis of this country had the audacity to express on this floor a generous and liberal sentiment in regard to the brave, unfortunate, though erring, men on the other side of the Potomac who fell during the late terrible civil war, and whose bones are now bleaching on the soil of their desolated country; and for that simple expression of generous feeling he is to be denounced, crushed, immolated. Maledictions, such as were never heard in a deliberative body, are hurled against him; and an attempt is made to arouse the worst passions of the mob against him for the expression of his sentiments in this body where we are all peers and have equal rights under the Constitution and laws.

Now, sir, I believe the honorable chairman of the committee on freedmen, [Mr. ELIOT,] who has reported this bill to the House, and is responsible for its management, is now upon the floor; and I should like to know by what authority, by virtue of what clause of the Constitution, this bill is to be pressed upon the House and forced upon the country. Where is the authority? Does the gentleman, or any of the friends of this measure, insist that Con-

gress has power to enact any law unless that power is given by the Constitution? Now, the power to regulate their own domestic institutions and their own local police is expressly reserved to the States. Sir, the Federal Government has never had any such power. So jealous, indeed, were the colonies of this right to regulate and control their internal police, that during the throes of their terrible conflict for independence they refused to surrender to the revolutionary Congress any such power. They did so when the Declaration of Independence was made. They did so when the Articles of Confederation were adopted, and they did so when the Government was formed under which we are now acting, and the Constitution which we are sworn to obey. These facts are trite, but seem to have been forgotten, and men seem to act in these times as if the Government had the power to pass any law whatever without regard to the limitations of the Constitution; to rob the people by unjust taxation; to take the hard earnings from the white people of the West, who, unless wiser counsels prevail, will themselves soon be reduced to worse than Egyptian bondage. I demand to be informed here upon this floor by what power you put your hands into their pockets and drag from them their money to carry out the purposes of this measure.

The convention of Maryland, on the 28th of June, 1776, before the Declaration of Independence was adopted, passed the following resolution:

"That the deputies of said colony, or any three or more of them, be authorized and empowered to concur with the other United Colonies, or a majority of them, in declaring the United Colonies free and independent States, in forming such further compact and confederation between them, in making foreign alliances, and in adopting such other measures as shall be adjudged necessary for securing the liberties of America, and that said colony will hold itself bound by the resolutions of the majority of the United Colonies in the premises: *Provided*, That the sole and exclusive right of regulating the internal government and police of that colony be reserved to the people thereof."

And this resolution was laid before the Continental Congress some days before the Declaration was adopted, as a limitation upon the powers of the delegates to bind the State of Maryland, and as an annunciation of the sense in which the people thereof accepted said Declaration.

Other colonies adopted similar resolutions. They were sent to the delegates and presented to the Continental Congress. It was understood at all times, and has been a part of the public law of this country, that the Continental Congress acquired no right even during the throes of the revolutionary struggle to interfere with the internal police of the people of the States.

And, sir, when the Articles of Confederation were formed it was provided in article two—

"That each State should retain its sovereignty, freedom, and independence, and every power, jurisdiction, and right which was not, by those Articles of Confederation, delegated to the United States in Congress assembled."

And when the Federal Constitution was adopted, establishing the Government under which we now live, although by a fair construction of that instrument, any court would have held that the Federal Government thereby acquired no powers except such as were delegated to it by the Constitution itself, yet for fear of a latitudinarian construction an amendment was adopted declaring that—

"All the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people."

No man who has any regard for the principles of the Constitution will controvert this exposition of the powers of the Federal Government. And as we are sworn here in the first place to have regard in all our acts upon this floor to this great fundamental instrument, I again call upon the advocates of the bill to tell me where they find in this Constitution any authority to take uncounted millions of the people's money to feed, clothe, educate, and buy lands and houses for the emancipated negroes of the South; and

where the power to usurp the local jurisdiction of the States; and I will cheerfully give way to any one who will undertake to furnish the information.

I know that some have pretended that Congress acquires the powers asserted in this bill by virtue of the second clause of the amendment to the Constitution recently adopted. That amendment is as follows:

"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall be duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

"Sec. 2. Congress shall have power to enforce this provision by appropriate legislation."

Congress has power to enforce what? The abolition of slavery. This is not denied. Slavery is abolished throughout the entire land. If any man asserts the right to hold another in bondage as his slave, his chattel, and refuses to let him go free, Congress can by law, under this clause, provide by appropriate legislation for the punishment of the offender and the protection from slavery of the freedman. But Congress has acquired not a particle of additional power other than this by virtue of this amendment. Whether it was right or wrong to abolish slavery in the manner in which it was done, none deny that it is now abolished. Not one man in the whole land is attempting, by virtue of local law or otherwise to hold another man in bondage as his slave, in the sense in which this term is used in American law.

The power which one man claims to the service of another—the power to hold him in subjection to his will, and to sell him as property—that was slavery as understood at the time this section was ingrafted in the Constitution.

Now, sir, under this second section, unquestionably if there is any attempt to reduce these men again to this kind of slavery, if any master refuses to allow his former slave to go at large, to leave his plantation, his county, or State, to have perfect right of locomotion, then it is within the power of the Federal Government, under this clause, to interpose, and to provide by law for a punishment for such an attempt. But, sir, does that empower this Government to correct or interfere with legislation in regard to different classes in the same State, or different peoples in this Government? Unquestionably not. In California legislation discriminates against a class of Asiatics that have settled among them. In the State of Illinois we do not grant to the African race all the privileges and immunities which are granted to the white race. But, sir, is the black man in Illinois in consequence of that a slave? If unjust and unequal laws make all slaves who are injured thereby, then, sir, we of the West are all now reduced to slavery. Although we have the finest country on earth, our people are now borne down almost to the verge of poverty by a system of class legislation. The manufacturers and capitalists of the country, taking advantage of the power they have acquired in the national Legislature, have imposed a most unjust and outrageous tariff and financial system upon us by the combined effect of which the mass of the people in the West are now compelled to pay from two to four times as much for any article of merchandise they buy as they have ever been required to pay at any former time, and while this is so their grain is rotting in their granaries for want of markets. And yet you have sent your tax-gatherers to every man's homestead; they are in every county, North and South; they are diving into the cellars, scrambling into the garrets, and prying everywhere to find something on which to lay their inexorable grasp. Every article that the farmer buys is doubly taxed before it reaches him. A few years ago, during those Administrations which the saintly patriots on this floor are so eloquent in denouncing, the poor man of the West could with one dollar buy ten yards of the heaviest brown sheetings for his family. Now it takes five dollars to buy the same goods. And, sir, it is no exaggeration to say that of the larger part of this additional four dollars you are literally robbing him, by the jugglery of class legislation, enacted in part to add to the

swollen hoards of the manufacturers of New England, and the bankers, speculators, and bond-holders of the country. The farmer is taxed on everything he eats, drinks, or wears, on all that he owns, all that he buys, and all that he sells; on the bed on which he lies down to die, and on the coffin in which he is buried. And even then he does not escape you, for before the clods are settled upon his grave your tax-gatherer lays his grasp upon the heritage he leaves to his children.

All this he might endure if the burdens you impose fell equally upon all classes. But, sir, while the western farmer is thus literally hunted down the wealthy bond-holder, who counts his income by the hundred thousand dollars, is by your legislation actually exempted from taxation, while the lordly manufacturer is protected—yes, that is the word—protected in the privilege of charging for his goods double what they could be bought for if free competition with the world were allowed by your laws. The increase in wealth of these favored classes is without a parallel. Their incomes are more than princely. They dazzle us with their lordly equipages as they dash by us. Their palatial residences, whose glittering domes almost kiss the heavens, rise as if by magic before our astonished gaze. And this political jugglery, this legislative system of robbery, has not only been permitted, but, sir, these laws have been enacted without so much as a protest from the Representatives of the West of the dominant party. These gentlemen have been so much occupied in glorifying and magnifying their own immaculate virtues and rampant patriotism that they have entirely forgotten the interests of their constituents. But, sir, the people of the West are beginning to understand this legislative hocus-pocus by which their money is conjured out of their pockets into the plathoric coffers of the money lords of the land; and a storm is now gathering that will hurl from their seats many over-righteous patriots, who are now so completely absorbed with the contemplation of their own exalted virtues that they do not even now suspect the danger.

If, then, unjust legislation makes slaves of those who are wronged thereby, we of the West are this day being subjected and reduced to worse than Egyptian bondage. But this is not the sense in which the word was used in the Constitution. It referred to slavery only as it was known in the southern States, the system by which one man held another as his property. That system of slavery is abolished, and the Federal Government has the right to see that men are not reduced to that system of slavery, and they have no power beyond that under that clause of the Constitution.

Now, to come down to some of the details of this bill. Section six gives the right to the Freedmen's Bureau to go into the States, *ad libitum et ad infinitum*, without any limit but their own discretion, and buy up the lands of the country. And for what? For the purpose of settling thereon the freedmen of the country, and protecting and maintaining them until they become, I suppose, a self-sustaining institution.

Again, I ask where they obtain the power to do that. I deny it, and the duty devolves upon those who claim that the power exists to show it. If any gentleman thinks there is any such power in the Constitution, let him name it now. I am ready to hear it. I deny that there is in the Federal Constitution any power given to Congress to authorize the Secretary of War, or any one else, in the name of the Government, to go into the States and buy up the lands of the country and sell them out again. Congress has power to dispose of the public lands, and it is only under that provision of the Constitution that the public domain is disposed of; but Congress has no power under the Constitution to buy up lands for the purpose of speculation, or for any charitable or other purpose whatever.

I shall confine my remarks mainly to the bill as it passed the Senate and is now before the House. I am aware that some amendments have been offered. Whether they shall be adopted or not, they do not in my judgment to any

great extent remove the objections which I entertain to the bill now before the House. I wish to call the attention of the House first to the provisions of section seven. I will read it, that the points I intend to make may be better understood by those who favor me with their attention:

Sec. 7. *And be it further enacted*, That whenever in any State or district in which the ordinary course of judicial proceedings has been interrupted by the rebellion, and wherein, in consequence of any State or local law, ordinance, police, or other regulation, custom, or prejudice, any of the civil rights or immunities belonging to white persons, including the right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to have full and equal benefit of all laws and proceedings for the security of person and estate, are refused or denied to negroes, mulattoes, freedmen, refugees, or any other persons, on account of race, color, or any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or wherein they or any of them are subjected to any other or different punishment, pains, or penalties, for the commission of any act or offense, than are prescribed for white persons committing like acts or offenses, it shall be the duty of the President of the United States, through the Commissioner, to extend military protection and jurisdiction over all cases affecting such persons so discriminated against.

Now, I contend that under the construction which may and probably will be put upon this section and the subsequent sections, this bill will establish military law in every State and in every county of the United States, and give the military arm of the Government power to go into Kentucky, into Tennessee, or into Illinois, and there establish military tribunals for the purpose of protecting the freedmen, and override the laws of the States.

Now, it so happens that in the State of Illinois, in Indiana, and in many others of the northern States, a discrimination in some respects is made against those of the African race, and I contend that wherever any such discrimination is made against them, under the provisions of this bill, it is within the power of the Federal Government to send its officers there and establish military tribunals within every State and district of the Union.

Mr. ELIOT. I would ask the gentleman from Illinois [Mr. MARSHALL] whether he would be understood as saying that in the State of Illinois the ordinary course of judicial proceedings has been interrupted by the rebellion?

Mr. MARSHALL. This bill is to be construed by a class of men to whom I shall refer directly, and who I suppose may be called judges, who are created by this bill as officers, from whose decisions there is no appeal, and which the military is to be called upon to enforce. I intend briefly to show the reasons for my saying that under this bill you are establishing military tribunals in every county in the United States, in each State "where the course of judicial proceedings has been interrupted by the rebellion." Now, I say that in one sense the course of judicial proceedings has been interrupted by the rebellion in every State in the Union. During the rebellion, and as a result of it, the privilege of the writ of *habeas corpus* was suspended, and martial law was declared as the law of the land over this entire Union. Men were arrested in disregard of the laws of the States, and the judges of the State of Illinois were prohibited from exercising their jurisdiction and duties in many respects, and one of them, Judge Constable, was imprisoned in consequence of the performance of his official duties. He was seized and dragged off to another State and there kept in custody, because he attempted to enforce the laws of the State of Illinois. Another eminent judge of my State was dragged away from his home and official duties and imprisoned for months within sight of this Capitol. Martial law prevailed as the law of the land, as the result of the rebellion, in every State of the Union, and the course of judicial proceedings was to that extent interrupted, as the result of the rebellion in every State. Whether that would be the construction that a Chief Justice Marshall or any other eminent jurist would place upon this provision, I cannot say. We are to consider whether those who are to enforce this law, and from whose

decision, there is no appeal, will so construe it. They are to be the servants of the man who may be at the head of the War Department. And he is to send his military satraps into every county and district of these States. And they may enslave and put down the entire white people of the country by virtue of this law.

Mr. ELLIOT. If I understand the gentleman correctly he has taken the ground that in his judgment the ordinary course of judicial proceedings has been interrupted in every State of the Union in consequence of the rebellion. If that is his view, then the course of his argument is legitimate. I take issue with him upon that view, and desire to say simply that this seventh section applies only to those States and districts wherein the ordinary course of judicial proceeding has been interrupted, and nowhere else.

Mr. MARSHALL. I admit that all I have said in regard to this turns on the construction to be given to this section of the bill. I have said that I do not know whether the construction I have suggested would be placed upon this provision by our most eminent jurists; but I do know that these men who are to be appointed, and who are to have the powers of judges, who are to be unsworn, so far as I know or can learn from the provisions of the bill, are to construe this act as they please, and their construction is to be maintained by the military arm of the Government.

Instead of this being called a bill for the protection of freedmen and refugees, it ought to be called a bill for the purpose of destroying the Constitution of the United States and subjecting the people thereof to military power and domination. That would be a much more appropriate title.

And what are these discriminations, which, if made, are to lead to the subversion of the laws of the States and to foisting military law upon the people of the country? I suppose that to testify in courts of justice is a civil right. Now, in Illinois until last winter that right was denied to the children of Ham. I suppose the right to sit upon juries is a civil right. Now, if on account of any local law or prejudice they are denied any civil rights accorded to white men, these military tribunals and these agents of the Government are to be foisted upon the country for the purpose of taking charge of and protecting these people. I suppose the right to marry a white woman is a civil right which belongs to the white men of Illinois; it is denied to the black man there. And if any judge undertakes to punish him for attempting to exercise that civil right, your military judges are to interfere, and without indictment or jury, to punish the judge by a fine of \$1,000, and imprisonment for one year, and there is no appeal from their decision. This is so palpably in violation of article six of the amendments to the Constitution, which declares that "in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed," that it will not bear discussion or argument.

I suppose, sir, that to vote at elections is a civil right. We deny that right to the negro in Illinois. Now, I want to know whether you are going to pass through this House and force upon the country a bill under which, if the judges of elections in Illinois or any other State refuse, under the law of the State, to allow negroes to exercise the elective franchise, your little military judge, backed by military authority, can step in and arrest these judges of election, and imprison them twelve months and fine them each \$1,000. Yet such is the construction of which this bill is susceptible; such is the construction which any man who may see proper to abuse power would willingly place upon it.

The gentleman will not deny that these rights to which I have referred are civil rights. No gentleman in the House will deny it. Yet, by the provisions of this bill, if, on account of any local law or local prejudice, any State should deny to the black man any civil right which is

accorded to the white man, these military tribunals are to interpose and punish the judge or other officer of the law who shall attempt to enforce the local law.

Now, sir, let me comment a moment on the eighth section of this bill. It provides for the appointment of agents who may be sent into every county of the United States, or if the amendment offered yesterday by the gentleman from Indiana should be adopted, into every county of fifteen States of this Union. Over a thousand men at least are to be sent out under the direction of the Secretary of War as the agents of the Freedmen's Bureau, who are to sit as judges and enforce this bill, if it should become a law, placing their own construction upon it; and from these decisions there is to be no appeal.

And who are to be these judges? I know not who they will be; but it seems to me, without intending to make any invidious remarks, that if you wish to oppress a people, if you wish to drive from their breasts every sentiment of loyalty, if you wish to perpetuate the spirit of disunion, if you wish to make a restoration of fraternity impossible, you could devise no better scheme for that purpose than that which is embodied in this bill, the operations of which must tend to revive the flames of civil war and involve us again in all the horrors of anarchy, misrule, and despotism.

Who are to be sent out as agents of this bureau? Will they be men selected on account of their judicial knowledge? Not at all. They will be the mere satraps or parasites of power, who will doubtless, many of them, go forth as spies. I know not whether they would be sent for that purpose; but the power at least is granted in the bill; and we ought to be careful in granting to any man on earth unlimited powers of this kind. Beyond a doubt, many of these agents will act as informers and libelers of the people among whom they will be sent. Many of them would doubtless be respectable men, while others might merely act as super-servicable creatures of some political schemer, whose purposes would be subserved by whatever libels and slanders might be collected by these agents.

But the jurisdiction conferred by this eighth section is not to be exercised except in States whose constitutional relations with the Government are suspended. How do I know that some revolutionary cabal may not insist at some time that the constitutional relations of Illinois with the Federal Government are suspended? Why are not the constitutional relations of all the States to the Government restored now? The flag of the Union is floating over every town and hamlet of the nation; the laws of the Federal Government are nowhere resisted; for nine months no man has been found in arms against the Government; your courts can conduct their proceedings without interruption in every county of every State, North and South; your tax-gatherers have already penetrated every part of the land and are collecting money for the support of the Government. Those States have their Governors, their Legislatures, their laws, in full operation. Why are not their constitutional relations to the Government restored? It is for the simple reason that a revolutionary cabal at the commencement of this Congress refused to allow them representation upon this floor. Will gentlemen deny if they were admitted, if their Representatives were here, that their constitutional relations would not be fully restored? Our revenues are collected there. Custom house officers are in every part of the South. The laws are nowhere resisted. If, by placing your doorkeepers at the doors of this Hall and shutting out their Representatives, you destroy their constitutional relations to the Federal Government, what, then, is to hinder the dictator of this House or this revolutionary cabal to refuse to admit the delegation from Illinois, to declare that their names shall be stricken from the rolls, and we to be told when we come here that we have no right to seats in this Hall? This is a new and very summary way to bring

about disunion. If we were refused our seats upon this floor would you say that the constitutional relations of Illinois to the Government would be destroyed? And, so far as the enforcing the laws of the Government is concerned, this is the only difference between Tennessee and Illinois to-day.

I believe the man who is at the head of the Freedmen's Bureau is a good man, a gallant and excellent officer; but, sir, we should place in no man unlimited power. What is to be the amount of the expenditures under this law? It may be twenty million and it may be two hundred million. You may buy up lands without limit. You may purchase provision and grant transportation at pleasure.

Has it come to this in this free Government, that you shall place in the hands of any man, that you shall not how esteemed he may be, the power to squander the people's money at pleasure, to feed, support, and educate the negroes of the country?

If the power should unfortunately be placed in the hands of a man who would abuse it, we would see marched into the States, and especially into the southern States, parasites, who would know nothing but to do the bidding of their master. They will do everything to perpetuate strife and to prevent the restoration of fraternal feelings between all the sections of the country. There is not a man on the face of the earth into whose hands I would place such power. I do not know that these powers would be abused, but I would never place in the hands of any man unbridled, unlicensed power. It is almost impossible for any man to resist the temptation to abuse such authority.

Mr. Speaker, what time have I left?

The SPEAKER. Seven minutes.

Mr. MARSHALL. I have occupied a great deal more time than I expected when I began. My remarks, I know, have been very desultory. I have made these criticisms in good faith. I think there is no warrant in the Constitution for the enactment of any such law; and if there was any such power it would still be a great wrong to so use it. There are others who have higher claims to our consideration. In Tennessee and other southern States thousands of loyal men left their homes to battle for the flag of the Union; and in many cases their entire property was seized in their absence and appropriated to the use and support of the Federal armies, and their families reduced to poverty and want. These brave men, after their long services to the country, return to find their homes desolate, and their wives and children in poverty and rags. And they now come here to ask the Government to pay only for the property actually taken for the use of the Government. The claim of these men to such compensation is a just and holy one. This is not denied. But I do not hear of the enactment of a law to pay these claims. You have, on the contrary, passed a resolution that such claims shall not be considered, because, as you allege, the Government is not now able to pay these debts. No "loyal" voice is raised in these Halls to denounce the outrage. No peans are sung in praise of those wronged defenders of their country. They happen, unfortunately, to be white men and white soldiers, and they may starve and die from want, and no wail will be raised in their behalf; but when money is wanted to feed and educate the negro I do not hear any complaints of the hardness of the times or of the scarcity of money.

I, sir, am very far from wishing to oppress the negro. I have no objection to your giving him the benefit of a generous homestead law. Let him go, if you please, on to the public and unoccupied lands and obtain for himself a home. Give him ample time to pay therefor and acquire a perfect title. But I insist that you shall not for his sake heap further burdens upon the oppressed white men of your country.

But, sir, there is another, a higher and holier claim still upon the justice, not the charity, of the country; that of the white soldiers who fought the battles of the Republic. Especially

is this so of those gallant men who in 1861 and 1862, when the dreadful storm of civil war raged in all its fury, did not stop to make terms with their imperiled country, but, snatching a hasty kiss from their wives and their little ones, rushed to the front of battle and held aloft the stars and stripes amid the iron hail that literally rained around them. During their absence your currency became inflated, the necessities of life rose to fabulous prices, and the pittance you gave them would not buy bread for their famishing babes. And, sir, but for the kind charities of neighbors and friends many of them would have perished miserably in starvation and beggary. Thousands of these brave men went to battle never to return. Their bones lie bleaching on the battle-fields made sacred by their martyrdom. The survivors, and the widows and orphans of those who have fallen, come here with their just petition to have a bounty paid them equal to that given to those who remained behind and made terms with the Government. I speak not for the three months' men, or the one years' men. I speak for those who then enlisted for three years and bore the heat and burden of the day. They do not ask for the extravagant local bounties paid to many who enlisted at a later day. They do not even ask for the largest bounties paid by the Government itself. But they do insist that you shall make up to them the \$300 afterward paid to all who volunteered for the same period of time. Can there be any juster, higher, or holier claim than this?

Many of these gallant men have gone down to their graves, while others in ruined health have returned to homes, desolated by poverty. The enormous taxation oppresses those returned veterans or the bereaved families of those whose bones rest on the southern soil. No juster claim can be brought before Congress. But unfortunately they are white men, white soldiers of the Republic, and so the claim which they send up from their impoverished homes is not listened to. The aggregate amount of this claim has been scandalously magnified, but it is certain that it cannot exceed what in all probability will be the cost to the Government of the measure you are inaugurating by the passage of this bill. But this bounty claim is for the benefit of white soldiers, and their widows and orphan children, and their claims will not be heeded. No report is likely to be made in their favor, but we have been consuming two whole months in legislating for the negro. Now, sir, if either is to be postponed, I am decidedly in favor of postponing the negro and letting the white soldier, who fought so gallantly for his country, be paid what is so justly due him.

Sir, there are poor white men in our country who need the charity of the Government as much, at least, as colored men. Look around these galleries. Our constituents cannot spare time to come here day after day and listen to the discussions in these Halls, but from the commencement of this session until now you find your galleries crowded with the children of Ham, who are to be fattened out of the Treasury of the country. These are the people that come here day after day, and darken these legislative Halls, while my constituents are toiling at home unable to pay the tax-gatherer. For want of a market, their grain rots in the granary, while we have for our audience these lazy vagabonds, but in this dispensation highly favored citizens of African descent.

Sir, this measure that is proposed is an enormity that the people will not bear; and I warn my colleagues and Representatives from the West that when the people of that section understand that this whole Government is in the power and control to-day of the manufacturers of Pennsylvania and New England, and the capitalists of Wall Street, that it has been run for the last four years in their interest, that it is now being run in the same interest, and that the leading measures before this Congress are being put through in that interest, and in the interest of the negro, to the utter ruin of the laboring white men of the country, they will rise

up in indignation and in such a way as to make themselves heard against this most outrageous legislation.

[Here the hammer fell.]

Mr. HUBBARD, of Connecticut. Mr. Speaker, I did not expect to speak on this subject until last evening, and therefore I shall occupy the time of the House but for a short period, when I shall yield the floor to my friend from Illinois, [Mr. Moulton.]

Perhaps, sir, it is impossible to frame a law upon a subject of such vast importance as is involved in this bill that at the outset will be satisfactory to all. Even the friends of the bill who are not of the committee, and who have not found time to study it, may think they see some faults in it, while it is to be expected that our friends on the other side, who are opposed to all legislation on the subject, will be very sharp in their criticisms. I consider the bill as perfect as we can get it. It will be at all times under the control of Congress, subject to amendment or repeal. The great events which have just now transpired, and which have in so high a degree changed the condition of public affairs, require in my judgment the adoption of the provisions of this bill, at least for a temporary period. It does not abridge the right of any one.

Some of our friends on the other side used to declare that if we gave freedom to the slaves all at once, even in one year, they would perish from off the face of the earth. The gentlemen did not seem to understand, or they were unwilling to acknowledge, that the highest interest of the Republic for all time to come required emancipation, although thousands upon thousands should perish in consequence thereof.

The object of the Freedmen's Bureau is employment to the emancipated with compensation secured for their labor. This is one of the leading features of the bill, to give employment to these unfortunate men who are now wandering over the country homeless and friendless, so that the prophecy that they would all perish under immediate emancipation shall not come to pass.

Another object is to give them an opportunity to learn to read and to protect them reasonably in their civil rights. They ought not to be left to perish by the wayside in poverty and by starvation when the country so much needs their work. It is not their crime nor their fault that they are so miserable. From the beginning to the present time they have been robbed of their wages, to say nothing of the scourgings they have received. I think that the nation will be a great gainer by encouraging the policy of the Freedmen's Bureau, in the cultivation of its wild lands, in the increased wealth which industry brings, and in the restoration of law and order in the insurgent States.

The gentleman from Illinois some twenty times in the course of his eloquent speech this morning called upon some one to tell him where Congress gets the power to enact such a law as this. I will endeavor to answer him in my poor way. And, in the first place, I commend to him to read the second section of the article of the immortal amendment of the Constitution giving to Congress power to pass all appropriate laws and make all appropriate legislation for the purpose of carrying out its provisions. I commend to his careful study the spirit of the second section of that immortal amendment, and I think if he will study it with a willingness to be convinced he will see that it has given to this Congress full power in the premises. Moreover, sir, I read in the Constitution that Congress has been at all times charged with the duty of providing for the public welfare, and if Congress shall deem that the public welfare requires this enactment, it is the sworn duty of every member to give the bill his support.

Sir, there is an old maxim of law in which I have very considerable faith, that regard must be had to the public welfare; and this maxim is said to be the highest law. It is the law of the Constitution, and in the light of that Constitution as amended I find ample power for the enactment of this law. It is the duty of Congress

to exercise its power in such a time as this, in a time of public peril, and I hope that nobody upon this side of the House will be so craven as to want courage to come up to the question and give his vote for the bill. It is necessary to provide for the public welfare.

Mr. Speaker, I feel proud of my country when I behold it stretching out its strong arm of power to protect the poor, the ignorant, the weak, and the oppressed. I see in it the prosecution of a righteous purpose which cannot fail to secure the favor of Heaven. I see in it that which will bring my country a richer revenue of honor than all the eloquence of her forums or the glory of her battle-fields. I see in it infallible evidence that the nation is fast becoming what it was intended to be by the fathers—the home of liberty and an asylum for the oppressed of all the races and nations of men.

The words caste, race, color, ever unknown to the Constitution, notwithstanding the immortal amendment giving freedom to all, are still potent for evil on the lips of men whose minds are swayed by prejudice or blinded by passion, and the freedmen need the protection of this bill.

The era is dawning when it will be a reproach to talk in scorn about the distinctions of race or color. Our country is, and must be, cosmopolitan. The fathers invited the oppressed of all nations to come here and find a happy home. Many of them, from many nations, have come, and more are coming. They have come from the continents, and from all the isles of the sea. Jew and Gentile, Christian and Pagan, are here. Africa; once the home of Hannibal, poor, benighted Africa, so long groaning in bondage, so long peering with dim eye into the darkness in search of the light of the one true God, came with a clanking chain! But, by the aid of a strong Arm from on high, we have been able to set her children free; and they are now American citizens, all. We have among us men of all nations, of all kindreds and tongues. They all meet here to worship at freedom's shrine, and the Constitution intends they shall all be made politically free and equal.

It is in vain that we talk about race, caste, or color; in vain that we proudly talk about the Puritan, with his stubborn courage, his love of God, and his fidelity to man; in vain that we boast of the Cavalier, whose motto was—

"He either fears too much,
Or is deserving small,
Who dares not put it to the touch,
To win or lose it all!"

in vain to boast of the Anglo-Saxon stream, when a thousand rivers, from a thousand sources, are running into it ever. I repeat the sublime declaration that "all men are born free and equal."

This was a proclamation of political freedom and equality to all the races of men. The sooner the South gives heed to it the sooner she will be reconstructed. The sooner the North and South both give heed to it the better for all. It bears the seal of inevitable destiny, and whoever fights against it fights against God, and strikes in vain. Our Republic is yet in its young years, but the divine principles implanted in its bosom will not cease to animate it till all the men of all the races and bloods in our wide domain become politically free and equal. Whenever this desirable attainment shall be achieved and realized, the sword may be beaten into plowshares, and the spear into pruning-hooks.

This bill is as perfect as we can get it. It is intended to cast the shield of protection over four million American citizens, including old men, young men, and women and children. They are loyal and faithful, every one. Their young men have searched the battle-field for our wounded soldiers, and nursed them, when dying, into life; while their old men and women and children have prayed to God for the success of the nation's banner. They need schools and protection. They are not permitted to sue in the courts or testify against a white man. We owe them protection in return for their faithful

allegiance, and I hope the bill will receive the undivided support of this side of the House.

I now yield to the gentleman from Illinois, [Mr. MOULTON.]

Mr. MOULTON. Mr. Speaker, I desire to submit some thoughts in connection with the bill now under consideration, and in doing so I desire, as far as my time will allow, to answer some of the objections that have been urged, especially by my distinguished colleague from the eleventh district of Illinois, [Mr. MARSHALL.] It will be impossible for me, in the short time allowed to me, to enter as fully into the consideration of this question as I should desire.

I will, therefore, proceed at once to submit as briefly as I can some reasons why I shall vote for this bill. What is the object of this bill? As I understand it, it is to protect four million people who have so long been denied civil rights in the southern States, and who are now dependent to a greater or less extent for the enjoyment of whatever rights they have upon protection from our Government. This state of things is one of the consequences of the war. These men have been thrown upon our hands in a helpless condition; they are unable to defend themselves, and are in the midst of a population whose prejudices have ever been against them.

Now, in regard to the first of the objections made by the distinguished gentleman from Illinois, [Mr. MARSHALL,] as well as by the gentleman from Indiana, [Mr. KERR,] on yesterday, which is that this bill is in violation of the Constitution of the United States, that we have no authority whatever to pass any such bill as this, permit me to say that this is the very argument that we have heard from the other side of this Chamber for the last five years with reference to every single measure that has been proposed to this House for the prosecution of the war for the Union. No measure has been passed for the benefit of the country, for the prosecution of this war, for the defense of your rights and mine, but has been assailed by gentlemen on the opposite side of this House with the argument that the whole thing was unconstitutional. This objection has been set forth in very elaborate, distinct, and set phrase in the platform they adopted at Chicago. It was the *gravamen* of the charge they made against the Administration, that its acts were unconstitutional and void, and were usurpations.

Now, the gentleman from Illinois [Mr. MARSHALL] asks us on this side of the House to inform him where we get the power to pass this bill for the protection of this class of people in the South. I will recite some of the provisions of the Constitution in which I believe ample and sufficient constitutional authority can be found for every word and every letter in this bill. The Constitution declares that Congress shall have power to declare war and make rules and regulations concerning captures on land or upon water; that Congress shall have power to raise and support armies; that Congress shall have power to make rules for the government and regulation of the land and naval forces of the United States; that Congress shall have power to provide for calling out the militia to execute the laws, to suppress insurrection, to secure tranquility, and to repel invasion; that Congress shall have power to make all laws necessary and proper for carrying into execution the foregoing powers. And it is also made the duty of Congress to guaranty to each State a republican form of government, and to provide for the common good and for the general welfare. The Constitution also provides that the citizens of each State shall be entitled to all the immunities and privileges of the citizens of the respective States. And last, though not least, the constitutional amendment which has just been ratified for the abolition of slavery provides that Congress shall by proper legislation carry into execution the provisions of that amendment.

Here, Mr. Speaker, is where I find ample and sufficient power for the enactment of every provision of this bill. This bureau is com-

pletely and entirely a military establishment. It is not dependent at all upon the civil authority of this Government. It proceeds upon the assumption that it emanates from the President of the United States as Commander-in-Chief, and it is to be executed through the military department of this Government.

Now, I understand that in time of war whatever is necessary for the purpose of carrying on the war and bringing it to a triumphant conclusion, provided it be in accordance with the laws of nations, is within the authority of the conquering Power. This Government is now acting upon the assumption that war exists to-day in all the rebel States. The Government has proceeded upon that policy up to the present moment. Military orders are being issued every day for the regulation and government of affairs in those States.

Why, sir, General Grant a few days ago, perhaps the 14th or 15th of last month, issued an order embracing substantially the provisions of this bill, and applying them to all the southern States. That order provided that wherever any discrimination had in any of those rebel States been made in regard to the freedmen or the refugees or the loyal people, these should be completely and perfectly protected against the enforcement of all orders or statutes emanating from State or local authority. I would like to ask the gentlemen on that side whether they consider that order constitutional or not; for I understand they intend to run General Grant as their candidate for President in 1868. General Grant's order is in these words:

[General Orders, No. 3.]

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, January 12, 1866.

To protect persons against improper civil suits and penalties in late rebellious States.

Military division and department commanders, whose commands embrace or are composed of any of the late rebellious States, and who have not already done so, will at once issue and enforce orders protecting from prosecution or suits in the State, or municipal courts of such State, all officers and soldiers of the armies of the United States, and all persons thereto attached, or in anywise thereto belonging, subject to military authority, charged with offenses for acts done in their military capacity, or pursuant to orders from proper military authority; and to protect from suit or prosecution all loyal citizens, or persons charged with offenses done against the rebel forces, directly or indirectly, during the existence of the rebellion; and all persons, their agents and employes, charged with the occupancy of abandoned lands or plantations, or the possession or custody of any kind of property whatever, who occupied, used, possessed, or controlled the same pursuant to the order of the President, or any of the civil or military departments of the Government, and to protect them from any penalties or damages that may have been or may be pronounced or adjudged in said courts in any of such cases; and also protecting colored persons from prosecutions in any of said States charged with offenses for which white persons are not prosecuted or punished in the same manner and degree.

By command of Lieutenant General Grant:
E. D. TOWNSEND,
Assistant Adjutant General.

Sir, I repeat, we have proceeded up to the present moment upon the assumption that war still exists. Military officers all through the southern States have issued orders nullifying completely the statutes of those States.

Mr. THORNTON. Will my colleague yield to me for a moment?

Mr. MOULTON. I will.

Mr. THORNTON. I do not like to take up the gentleman's time; but as I desire to understand his position, I wish to ask him whether he assumes that the war is not over?

Mr. MOULTON. I do.

Mr. THORNTON. Then I would call the gentleman's attention for a single moment to the following letter of General Grant to the President of the United States:

"There is such universal acquiescence in the authority of the General Government throughout the portions of country visited by me that the mere presence of a military force, without regard to numbers, is sufficient to maintain order. The good of the country and economy require that the force kept in the interior, where there are many freedmen, (elsewhere in the southern States than at forts upon the sea-coast no force is necessary) should all be white troops."

Mr. MOULTON. That letter of General Grant does not militate at all against the position which I assume. Allow me to remark,

sir, that General Grant was in the southern States for only a very few days, and had but little opportunity to ascertain the feeling of the people there. But, sir, the highest law officer of this Government has declared in an official communication which has been transmitted to Congress, that the war is not yet ended, and that war exists in the southern States. In addition to that, the order of General Grant, to which I have already referred, the order recently issued by General Terry in Virginia nullifying the action of the Legislature of that State, and other orders of a similar nature, issued with the sanction of the President of the United States, are all acts of war in contemplation of law. Of the same nature is the act of the President in the appointment of provisional governors.

Here is where I find the authority for the establishment of this bureau. It is a military establishment; and it is absolutely necessary for the protection of the freedmen and refugees in the South.

But, sir, let me state another reason why I am in favor of this bill. My friends upon the opposite side have protested all along against emancipation, on the ground that the negroes would flock into the free States, and that we would be overrun with that class of population. I repeat, sir, if they are sincere in their desire to keep the negroes from the free States they ought to join me and the Republicans on this side of the House in passing this bill. Why? The very object of this bill is to protect the freedmen and refugees in their rights; and let me say, whenever the colored man is completely and fully protected in the southern States he will never visit Illinois, and he will never visit Indiana, and every northern State will be depopulated of colored people, as will be Canada. I say that one of the objects of the bill is to protect these men in their civil rights against the damnable violence of the leading men in the southern States. That is one of the objects of the bill.

There is another reason why I understand gentlemen on the other side oppose this bill. The object of the bill is to protect the colored man. The pro-slavery party on the other side of the House from the foundation of the Government up to the present time have done everything they could against ameliorating the condition of the colored men. No act was ever passed or proposed to be passed for the benefit of the colored man that the Democratic party, the pro-slavery party, did not vote against it. It would have been inconsistent if they had not opposed this bill. One object of the bill is to ameliorate the condition of the colored man and to protect him against the rapacity and violence of his southern persecutors.

Let me notice the argument of my colleague, [Mr. MARSHALL.] I think I have fully answered the objection that it has no foundation in the Constitution. Let me say that I think the provisions of this bill are in accordance with the acts of the Government in reference to similar subjects. Our Government has continually appropriated money for persons similarly situated to these freedmen. Africans brought to our coast in contravention of our treaties in reference to the slave trade have been taken charge of by the Government, and sent back to their own homes, and money has been appropriated by which they have been provided for for years. Where did you get the authority to do that? I may allude to the same practice in regard to the Indian tribes. Only a few days ago a bill was introduced into this House by which we appropriated half a million of money for some half-starved Indians. The gentleman from Kansas [Mr. CLARKE] said they were in a starving condition, and that unless we made the appropriation they would commit depredations upon the white people. We appropriated the money. It was in accordance with the practice of the Government, which has its foundation in the Constitution.

The gentleman has made another objection to this bill; and let me say that all the objections he has urged against this bill, when ex-

amined critically, have no foundation in the bill itself, but only in the imagination of my distinguished colleague.

He says this bill provides one law for one class of men, and another law for another class. The very object of the bill is to break down the discrimination between whites and blacks. The object of the bill is to provide where the refugees and freedmen are discriminated against, where a State says, as many do in the South, that the black man shall not make contracts, that the black man shall not enjoy the fruits of his labor, that he shall be declared a vagabond, a vagrant, and the same laws do not operate against the white men—that such discrimination shall not exist, notwithstanding the statutes of any State. Therefore I repeat that the true object of this bill is the amelioration of the condition of the colored people.

Mr. KELLEY. I desire to make a suggestion at this point. I will not detain the gentleman a moment.

Mr. Speaker, just at this point I desire to say that a distinguished general, a citizen of Alabama, who recruited his regiment of loyal Alabamians, served with them with distinction in the war, marched with Sherman during the whole of his grand march, waited upon me last evening, and gave me, among other things, an Alabama newspaper, which I regret I have not brought to the House this morning, showing the execution of one woman and five men for larceny, under a sentence of the court; one woman and one man for stealing a horse, and one man for stealing a watch.

A MEMBER. Hung?

Mr. KELLEY. Yes, sir, hung. One man was sentenced to ninety-nine years' imprisonment, if my memory serves me, for attempting to steal a horse.

Mr. ROUSSEAU. Was that under the decision of a court and jury, or of a mob?

Mr. KELLEY. It was in the regular court proceedings in a leading journal of the State of Alabama, and was indorsed by the editor in an article announcing that the negroes must be kept away from the cities and towns, and that the plantation was the place for them. It had the elaborate indorsement of the editor.

Mr. SMITH. Will the gentleman allow me?

Mr. KELLEY. With the consent of the gentleman from Illinois, [Mr. MOULTON.]

Mr. SMITH. I would ask the gentleman from Pennsylvania if he has never read in the newspapers of white men in South Carolina and the South having been hung for stealing horses?

Mr. KELLEY. I was coming to the matter implied by the question of my distinguished friend from Kentucky.

Mr. SMITH. All I wish is, that there shall be equal justice done to the people of the South as to representations on this floor.

Mr. KELLEY. And for that purpose I desire the passage of the Freedmen's Bureau bill. For I turned to the distinguished gentleman who brought me the account of that last outrage, and to the other citizens of Alabama who were with him, and I said, "Is this the punishment you mete out to white men in your State for such offenses?" And they answered unanimously, "No."

Several MEMBERS. Who was it?

Mr. KELLEY. It was General Spencer, of Alabama, the colonel of the first regiment of loyal Alabamians. He is not a man who conceals his name.

Mr. ROUSSEAU. I wish to say that he may be a distinguished man, but it is the first time I ever heard of him.

Mr. KELLEY. That is quite possible. He may be a distinguished general; for all the intelligence of the country does not reach the central part of Kentucky. [Laughter.]

Mr. ROUSSEAU. I wish to say that I had command of northern Alabama and middle Tennessee for nearly two years, and I believe I know every loyal and disloyal man of prominence in that country. I will not say that Colonel Spencer may not have been there, and I deny, in common with the whole army

of that country, that he is a distinguished general or a distinguished anything else.

Mr. KELLEY. I would take the word of old Tecumseh Sherman against that of my distinguished military friend, much as I value him. I know that General Spencer served with mark under General Sherman, and I think at one time upon his staff.

I simply wanted to call attention to the fact that they hang black men and women for larceny in Alabama, and that they sentence them to ninety-nine years' imprisonment, and there is no such punishment meted out to the white rebel who steals a black man's horse.

Mr. MOULTON. I want to call attention as briefly as I can to other objections to this bill by my friend from Illinois, [Mr. MARSHALL.] His principal objections to this bill were that the Government proposes to put its hand into the pockets of his constituents for the means of supporting colored people, refugees, negro schools, &c. Now, permit me to say that this argument addressed to the pocket has always been the argument in the mouths of demagogues everywhere and on all occasions. We have heard it in this Hall. Whenever the gentleman desires to make a speech for consumption at home he always appeals to the pockets of his constituents rather than to their common sense and reason.

Now, sir, permit me to inform that gentleman that the Freedmen's Bureau has been in operation for about nine months, and not a single dollar has ever been appropriated from the Treasury for the support of this bureau.

And let me tell another fact: that more than four million dollars are now placed to the credit of this bureau, not from the Treasury, to be expended under the officers and commissioners that may be appointed by this bill. So much for the expense.

But admitting that appropriations are to be made, I say that a solemn duty devolves upon this Congress to make that appropriation and to see that it is applied in accordance with the provisions of this bill.

The gentleman says there is no limitation to the expenditures. That is all true. But I will assume that Andrew Johnson, their candidate, the man to whom they look for their position hereafter, is honest; and if so, that he will appoint honest men who will discharge their duty in accordance with the provisions of this bill and under the regulations of the War Department.

My friend further says that this bill is an infringement of the local laws and usages of the States into which it goes. Permit me to say that this bill does not operate in that way at all. It only proposes that where the black man is unjustly discriminated against, or where any attempt is made to enforce unjust and unequal local civil laws against him, the military commission appointed by this bill shall interfere in his behalf.

My colleague says that it is a civil right to sit on juries, and that it is a civil right for a black man to marry a white woman. Now, I deny that it is a civil right for anybody to sit on a jury; I deny that it is a civil right for a white man to marry a black woman or for a black man to marry a white woman. It is a simple matter of taste, of contract, of arrangement between the parties. No man has a right to marry any particular woman, black or white. It is a matter of mutual taste, contract, and understanding between the parties. Besides, there is no deprivation of that right. The law, as I understand it, in all the States, applies equally to the white man and the black man, and there being no distinction, it will not operate injuriously against either the white or the black.

So far as the matter of sitting on juries is concerned, it is not a civil right, and why? Because you cannot enforce it by a civil writ. I understand that the civil rights referred to in the bill are not of the fanciful character referred to by the gentleman, but the great fundamental rights that are secured by the Constitution of the United States, and that are defined in the Declaration of Independence, the

right to personal liberty, the right to hold and enjoy property, to transmit property, and to make contracts. These are the great civil rights that belong to us all, and are sought to be protected by this bill.

Mr. THORNTON. On the point upon which my colleague is now speaking, civil rights, I would ask him if a marriage between a white man and a white woman is a civil right?

Mr. MOULTON. It is not a civil right.

Mr. THORNTON. It is not?

Mr. MOULTON. No, sir, not in my opinion.

Mr. THORNTON. Then what sort of a right is it?

Mr. MOULTON. Marriage is a contract between individuals competent to contract it.

Mr. THORNTON. Is it a political or a civil right?

Mr. MOULTON. It is a social right. I understand that a civil right is a right that a party is entitled to and that he can enforce by operation of law.

Mr. THORNTON. I would ask my colleague if marriages are not contracted in all the States of this Union by virtue of provisions of law?

Mr. MOULTON. I think, perhaps, they are to a greater or less extent.

Mr. THORNTON. Then is not a contract provided for by law a civil right?

Mr. MOULTON. It is not especially provided for by the law regulating it. The right to marry is a right which cannot be enforced. There are a great many things a man can do that are imperfect obligations which cannot be enforced by law, and hence are not civil rights contemplated by this bill.

Mr. THORNTON. I call my colleague's attention to section seven, upon which he is now commenting, which provides that—

Whenever in any State or district in which the ordinary course of judicial proceedings has been interrupted by the rebellion, and wherein, in consequence of any State or local law, ordinance, police, or other regulation, custom, or prejudice, any of the civil rights or immunities belonging to white persons, including the right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to have full and equal benefit of all laws and proceedings for the security of person and estate, are refused or denied to negroes, mulattoes, freedmen, refugees, or any other persons, on account of race, color, or any previous condition of slavery or involuntary servitude, &c.

Now, I insist that by fair, legitimate construction under that section, if the civil right of marriage was denied to a black man with a white woman, it would make the white man who denied it amenable to the penalty of \$1,000 fine and one year's imprisonment under this law. I call his attention to it, and I ask him to reply to it.

Mr. COOK. I would like to ask my colleague [Mr. THORNTON] whether he thinks that a white man has the right by law now to marry a black woman, and if that is the civil right of the white man?

Mr. THORNTON. That depends on the law. In the State of Illinois, as my colleague knows very well, it is against the law. It depends on the state of the law everywhere whether the thing can be done of which he inquires. If the law were against it, of course a black man could not marry a white woman. If the law allowed it, as it does allow it in the case of a white man and a white woman, it would be legal.

Mr. COOK. Is it as competent to prevent, by provision of law, a black woman from marrying a white man, as it is to prevent a white man from marrying a black woman?

Mr. THORNTON. I suppose it is.

Mr. MOULTON. The remarks that I made in connection with this matter were made for this purpose: I say that the right to marry is not strictly a right at all, because it rests in contract alone between the individuals, and no other person has a right to contract it. It is not a right in any legal or technical sense at all. No one man has any right to marry any woman he pleases. If there was a law making that a civil right, then it might be termed a civil right in the sense in which it is used here. But there being no law in any State to that effect, I insist

that marriage is not a civil right, as contemplated by the provisions of this bill.

Now, let me call the attention of this House to one or two other remarks of the gentleman from Illinois, [Mr. MARSHALL.] He alludes to the condition of the negro in the State of Illinois, and says that this bureau might operate there. In my humble judgment, it would be impossible for this bureau to operate there, for these reasons: in the first place, the ordinary course of judicial proceedings have never been interrupted in our State; and in the second place, there is now no law upon our statute-book discriminating between the whites and the blacks other than the constitutional provision regulating suffrage. At the last session of our Legislature they swept from our statute-books all those odious black laws making discrimination between the whites and the blacks, so that to-day in the State of Illinois a black man can now give testimony in our courts; a black man can make contracts; a black man can purchase property, and hold it and transmit it as he pleases. He can come into and go out of the State at pleasure. Such is the condition of the law in the State of Illinois to-day, and therefore it is not possible this bureau could operate in Illinois.

But the distinguished gentleman from Illinois [Mr. MARSHALL] says this bill makes the bureau perpetual. He says that it may last always, and that there is no knowing how long it will continue or who may be appointed. Permit me to say that any State in this Union can terminate the operation of the law within its own limits whenever it chooses to do so; it is entirely within its own power to do so. Let me refer to the eighth section of this bill to show that fact. It contains, among other provisions, the following:

The jurisdiction conferred by this and the preceding section on the officers and agents of his bureau shall cease and determine whenever the discrimination on account of which it is conferred ceases, and in no event to be exercised in any State in which the ordinary course of judicial proceedings has not been interrupted by the rebellion, nor in any such State after said State shall have been fully restored in all its constitutional relations to the United States, and the courts of the States and of the United States within the same are not disturbed or stopped in the peaceable course of justice.

This bill, then, expressly provides for the cessation of this bureau in any State. It puts it in the power of any State in this Union to exclude it from its limits by ceasing to make unnatural discriminations between their own citizens. It seems to me that there is no objection upon that score.

Another objection is urged, that this bill gives the Government power to go into any of these States and appropriate public lands and distribute them among the freedmen and among the refugees. Is not that the constitutional power of the Government now? It is a power that has been exercised by this Government from its very foundation—the providing homesteads for the indigent and the poor of our country. It has always been exercised by the Government. And I am in favor of this bill, because it seeks to appropriate, in the first place, the public lands, and then to acquire lands by purchase in any one of these States from any one who desires to sell, in case the Government wants it. That is all there is about it.

Now, sir, my distinguished colleague [Mr. MARSHALL] assumed, as I understood, that there is no difference between the State of Tennessee and the State of Illinois with reference to their right of representation upon this floor, except that the Doorkeeper excludes those who claim seats as Representatives from Tennessee, while the Representatives from Illinois are admitted; and I understood him by inference to affirm that the other southern States are as much entitled to representation on this floor as Illinois or any other State. Did I understand my friend correctly?

Mr. MARSHALL. I was speaking in reference to the restoration of the southern States to their constitutional relations to the Union. In order that I may give my colleague an intelligent answer, I would ask him this question: if the Senate and House of Representatives should

admit Senators and Representatives from the southern States, would not the constitutional relations of those States to the Union be restored?

Mr. MOULTON. I think they would.

Mr. MARSHALL. Well, sir, I said that it was within the power of the majority here to direct the Clerk to exclude from this Hall all the members from Illinois; and as Tennessee now has a loyal Governor and is obeying the laws of the United States—as the courts are now being held there—I said that the exclusion of Tennessee from representation in this Congress is all the difference now existing, so far as I can see, between the State of Tennessee and the State of Illinois; and I think that this House has the same power to exclude by brute force the members from Illinois that it has to exclude the Representatives from Tennessee.

Mr. MOULTON. I ask my colleague to answer the question which I put to him, whether, in his opinion, the State of Tennessee, or Alabama, or Mississippi, or any one of those southern States, is entitled of right to representation upon this floor?

Mr. MARSHALL. When they send here loyal Representatives who can take the oath prescribed by the Constitution and the laws, those Representatives, I think, are entitled to be sworn in and to take their seats as Representatives of their constituencies.

Mr. MOULTON. I would ask my colleague whether he is in favor of enforcing or repealing the test oath.

Mr. MARSHALL. That is a new question entirely. If the gentleman will give me time to explain my views on that subject I will do so.

Mr. MOULTON. Cannot the gentleman answer yes or no? I am aware that it is a hard question, and I will not embarrass him by pressing it, if he prefers not to answer.

Mr. MARSHALL. I feel no embarrassment whatever on the question. I state to my colleague that if he will give me time to express my views in regard to that test oath, I will do so at this time.

Mr. MOULTON. I understand that my colleague declines to answer the question.

Mr. MARSHALL. No, sir; I do not decline; I do not do anything of the kind.

Mr. MOULTON. I have no objection to allowing the gentleman all the time he may desire, if it is understood that it is not to come out of my time.

Several MEMBERS. Oh no; go on.

Mr. MOULTON. Mr. Speaker, permit me to say with reference to those States; that the difference between the gentlemen on the other side and us on this question is that they are willing that whoever come up here as Representatives, and can take that oath, shall be admitted as members of this House, while we upon this side are not satisfied with that, but desire to know the sentiment, the spirit, the feeling of the men who elect them. Take Tennessee, for example. What is the condition in Tennessee to-day. It is true that high-minded, loyal, patriotic men, whom I respect as much as anybody, are here to-day seeking to represent Tennessee. But what is the testimony from Tennessee to-day? Why it is this: it is true, by the aid of Federal bayonets most of these men were elected. The rebels were deterred from the ballot-box. But when you withdraw the Federal power from the State of Tennessee there will be two rebels to one loyal man; and the next delegation sent up here will be as different from the honorable men here to-day as the sun is from darkness. Where then will be the State of Tennessee?

The position of the Union party on this side of the House is that we must be satisfied there is a majority of loyal constituency behind that can control the State in favor of the Government, and in favor of the flag, who will stand by the Government and support it in good faith and spirit in all of its constitutional acts.

The gentleman says this is a reiteration of the negro question. Permit me to say to the gentlemen on the other side, so long as this present unnatural condition of things remains, so long

as four million men in the southern States are deprived of all their civil rights, so long as that condition exists, there will be agitation to all eternity. Permit me to say, this agitation will continue, and that I am in favor of continuing this agitation until every man shall be protected in all his civil rights under the laws. That is the kind of agitation I am in favor of; and permit me to say, Mr. Speaker, that this sentiment is held by the great mass of the people; not only in my State, but throughout the Northwest.

I repeat, that such an unnatural condition of things cannot exist in any free Government, such as four million men being crowded out, deprived of their rights, and with no security against the rapacity and violence of their persecutors. No republican institutions can exist or ever did exist under such circumstances. I repeat again, sir, that the continuance of this bureau depends entirely upon the people of the southern States themselves; that they can remove it sooner, but that it may be continued and ought to be continued for the purpose of the protection of this helpless class of people.

So far as the expenses connected with this bureau are concerned, of course appropriations will have to be made. It grows out of the necessity of the thing itself. We cannot help it. Let me put the proposition, and let gentlemen answer it if they can. Suppose the Federal power was removed from the southern States to-day; suppose the Army was removed; suppose there was no Freedmen's Bureau for the purpose of protecting freedmen and white refugees there, what would be the consequences? Why, sir, the entire body of freedmen would be annihilated, enslaved, or expatriated. No Union man would have any rights there at all. The testimony which will be published that has been exhibited before the committee of fifteen will astonish the world as to the hypocrisy of southern leaders and the condition of things in the South.

Mr. Speaker, I will detain the House but a moment longer. It has been urged here, and it is the great objection which seems to have been urged against this bill, that it takes the property of one man and gives it to another. Permit me to say there is no provision in this bill which authorizes any such thing. The Opposition say that by the order of the Government permission is given to refugees and freedmen to locate on certain lands in the South. That is true. They are now located on certain lands in the South. They were located there by the order of General Sherman more than a year ago, when he stood there as the conqueror of that country. Every one admits that at the time the order was made it was legal, it was constitutional, and it was strictly in accordance with the laws of war. I would like to have my friends on the other side answer whether it was or was not in accordance with the laws of war when the order was made. If the order was constitutional when it was made as an act of war for the purpose of protecting those freedmen and refugees, and as the Departments of the Government still decide the war has not ended, what is the reason why we shall not continue the operation of this order until the war entirely ceases? I should like to have the honorable gentleman on the opposite side answer that question.

It is not taking the property of one man to give it to another. It is the direct act of the conqueror sanctioned by war, and that war is not yet ended. We are occupying those lands which ought to be confiscated as the property of the public enemy.

This, Mr. Speaker, is the substance of the objections urged against this bill. It seems to me that they have been sufficiently answered. They do not militate against the main provisions of the bill, and we ought to pass it. We are in duty bound to pass it, and we will be derelict to our duty if we do not. The people everywhere demand its passage.

LIGHTING THE DOME OF THE CAPITOL.

The SPEAKER *pro tempore*, (Mr. GRINNELL

in the chair,) by unanimous consent, laid before the House the following communication:

OFFICE OF THE COMMISSIONER OF PUBLIC BUILDINGS,
CAPITOL OF THE UNITED STATES,
WASHINGTON CITY, February 3, 1866.

DEAR SIR: The dome will be lighted by Gardiner's electric apparatus at precisely seven o'clock this evening.

I think, if the members could be notified of the fact, that many of them would be glad to be present with their ladies.

The manner of lighting is a great triumph of art, and the picture in the dome appears much better by gas-light than by daylight.

If you think proper, please cause the members to be informed.

Yours, very truly,
B. B. FRENCH,
Commissioner Public Buildings.

Hon. SCHUYLER COLFAX,
Speaker House of Representatives, United States.

FREEDMEN'S BUREAU—AGAIN.

Mr. RITTER obtained the floor.

Mr. SMITH. I ask the indulgence of my colleague to offer an amendment.

The SPEAKER *pro tempore*, (Mr. GRINNELL in the chair.) It is not in order.

Mr. SMITH. May I have it read?

The SPEAKER *pro tempore*. If it is in the nature of an argument it may be read.

Mr. SMITH. Can I have it read for the purpose of offering it on Monday?

Mr. RITTER. I yield for the purpose of having it read.

Mr. BANKS. If it is a proposition that leads to action either now or on Monday it cannot be read.

Mr. SMITH. My colleague agrees that it may be read.

The SPEAKER *pro tempore*. If it is part of the speech of the gentleman from Kentucky it may be read.

Mr. RITTER. I decline to have it read as a part of my speech.

The SPEAKER *pro tempore*. Then the gentleman from Kentucky [Mr. RITTER] will proceed.

Mr. RITTER. Mr. Speaker, it may be truly said that the people of the United States are indeed a progressive people. We have made most rapid progress during the last five years in destroying property and in taking the lives of human beings and in increasing our national debt, and still we are not contented; bills are being presented to this House almost daily making additional demands for increased expenditures by increasing and enlarging the machinery of our Government, so that new offices are being multiplied to an enormous extent.

Indeed, sir, we have already gone so far in that direction that when we see such bills as the one now before this House, to enlarge the powers of the Freedmen's Bureau, with all that it requires, we may well begin to fear that we have not only destroyed vast amounts of property and of human life, but that we will very soon destroy that also which should be most dear to every American citizen, the credit of this nation. Sir, the powers of that bureau, which this bill proposes to enlarge, are already larger than anything of its kind that the world ever knew. No history, Mr. Speaker, with which I am acquainted gives any account of anything similar to this bureau. It is, sir, if I understand it, an illegitimate sprout of the Federal Government; it is, in other words, a government within a Government; it is not made for all the people, but for a part of the people only; it is not made for the white people of these United States, but for the colored people; but the enormous and vast amount of money required to sustain it, all or nearly all has to be paid by the white people.

Mr. Speaker, why is it necessary to continue this most powerful and expensive establishment? What is it that makes it right and proper for us to force upon the hard-working and honest people of the United States an annual tax of from twelve million dollars to probably a hundred or two hundred and fifty million dollars? Is it because of the war? No, sir; there is no war now between the people of the United States. Is it slavery? No, sir; there is no slavery in this country now; and while slavery did exist in

this country no such necessity was ever thought to exist. Sir, if it is necessary, I affirm that it is because we have abolished slavery, and for no other reason. When the question of the amendment of the Constitution abolishing slavery was before the people, they were told that all that was necessary to settle forever the vexed and exciting questions about the negro was to vote for the amendment, abolish slavery, and that we would have no more trouble in regard to the negro race. Sir, I put the question to you, and through you, to this House and to the country, how many votes would have been given for abolishing slavery if the people had been made to know that, by abolishing slavery, they were bringing upon themselves an annual tax, for an indefinite period, of from twelve to two hundred and fifty million dollars? For one, sir, I do not believe that one half of the votes could have been obtained for that measure.

Mr. Speaker, we are here as the Representatives of the people who have to support this Government; they have honored us with this high position, not that we should unnecessarily burden them with taxation, but that we should only require such an amount of taxes as will be necessary to pay the expenses of the Government, economically administered, and in a reasonable time to pay all the just claims against the Government. Believing this to be the proper rule for our action here, I appeal to every gentleman in this House to pause and to give due consideration to the bill now before this House before he casts his vote for it.

Sir, the establishing or continuance of the Freedmen's Bureau is, in my judgment, not only unnecessary, but it is worse than nothing. If the vast amount of money required by this bill must be paid to the officers and employés under it, it would be far better to require them to remain at home, and let the people in each State regulate their own affairs in their own way, being subject to the Constitution of the United States and laws passed in accordance with it.

Mr. Speaker, it has, I believe, always been held by the purest and best statesmen in our country that it is extremely dangerous to put too much power into the hands of one or even a few men; but judging from the bill now before us, I suppose that that good and wholesome doctrine must go overboard, as well as every other principle in our old Government which we have all so long professed to admire.

The first section of the bill to enlarge the powers of the Freedmen's Bureau, and which we now have under consideration, contains these words, "That the act to establish a Bureau for the relief of Freedmen and Refugees, approved March 3, 1865, shall continue in force until otherwise provided by law, and shall extend to refugees and freedmen in all parts of the United States," &c. Now, sir, I understand that the word "refugees," as used above, is intended to designate loyal whites who have had to leave their homes for their own safety, and have not been able on account of the danger of personal violence to return to their homes; and if I am right in this, I suppose that there is now none of that class anywhere in the United States. We are told that peace reigns now throughout our whole country, and that there is no danger to be apprehended in traveling in any portion of our country, except it may be from thieves and robbers; and if there are any now being supported by the Government, it is certainly wrong, unless the Government intends to take from the States that great privilege of supporting their own poor.

But it will be seen from that portion of the bill which I have quoted that the powers of this bureau are extended to every State in this Union. Why is it, sir, that this almost unlimited power should be extended everywhere? Why extend it to the northern States? Have they any refugees or freedmen there that they are unwilling to treat justly? I cannot think that the people of the northern States require that they should be interfered with in the management of their own affairs. No, sir; but on

the contrary, judging from their almost continual intermeddling and interference in the affairs of other States, that they, like some of other days, were even above suspicion. Why, then, extend this vast machinery to those States? I may be told that the President will not, by appointing officers in every county in these States, so enlarge the expenditures of our Government, because it will be unnecessary to do so. If this be true, where, I ask, is the necessity for granting that power? This bill, if I am correctly informed, was drafted by a gentleman of great ability and experience. Surely he would not have granted this immense power without some grand object to be attained by it.

Mr. Speaker, I would not willingly come to the conclusion that this enlargement of the powers of this bureau was made for party or political purposes. But, sir, suppose this to have been the design; what other machine could have been put in operation that would give hope for the accomplishing of half so much? What more could a President desire (who might think proper to use such means) than to have the power to appoint a man of his own choice in every county in the United States, clothed with the power conferred by this bill? And not only this, but it confers the power to appoint hundreds of others, making altogether an army of office-holders, scattered all over the United States, whose influence may be brought to bear, in any political contest, greatly against the wishes and interests of the people.

In the second section of this bill we have the following, to wit:

That the Commissioner, with the approval of the President, may divide each district into a number of sub-districts, not to exceed the number of counties or parishes in such district, and shall assign to each sub-district at least one agent, either a citizen, officer of the Army, or enlisted man, who, if an officer, shall serve without additional compensation or allowance, and if a citizen or enlisted man shall receive a salary not exceeding \$1,200 per annum. And the Commissioner may, when the same shall be necessary, assign to each assistant commissioner not exceeding three clerks, and to each of said agents one clerk, at an annual salary not exceeding \$1,000 each, provided suitable clerks cannot be detailed from the Army. And the President of the Commissioner, shall extend military jurisdiction and protection over all employés, agents, and officers of this bureau in the exercise of the duties imposed or authorized by this act, or the act to which this is additional.

Mr. Speaker, I have quoted this section of the bill to show the vast extent to which it is intended that this machine shall go. If it is thought proper by the Commissioner and the President, every county or parish in the United States is to be considered a district, and each one is to have an agent, and if that agent be a citizen or enlisted man he is to have a salary of \$1,200 per annum. If, however, he should be an officer he may receive whatever he may be entitled to as an officer in the Army. Here, sir, we have a vast field opened out for the retention of military men. No other Government, I apprehend, has ever progressed so far in a time of peace. But, sir, this is not all. By the same section of this bill it is, in my judgment, made absolutely necessary to retain a large army in the field, if for no other purpose but simply to protect the employés, agents, and officers of this bureau. I am informed by General Howard, the Commissioner of this bureau, that at the time of making the report which was made by him to the present Congress there were in the employment of the bureau four hundred and thirteen officers and three hundred and seventy-five civilians, beside ten commissioners and himself, making in all seven hundred and ninety-nine men. This, it will be remembered, was when this bureau was restricted (by the law which gave it birth) to ten States. Now, if it required seven hundred and ninety-nine men to work this machine in ten States, how many will it take to work it in thirty-six States?

The third section of this bill says—

That the Secretary of War may direct such issues of provisions, clothing, fuel, and other supplies, including medical stores and transportation, and afford such aid, medical or otherwise, as he may deem needful for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen,

their wives and children, under such rules and regulations as he may direct.

Sir, was there ever such vast and extensive power given to any man before by any Government on this globe? There is no amount that he may not take; there is no end to the debt that he may entail upon this Government, provided only that he may deem it needful. I may be told, sir, that the Secretary of War is an honest man, and that he will only issue such provisions as may be necessary. This may be true, sir; that he is honest in the strictest sense of that term it is not my purpose to question in the slightest degree; but if he is, I desire to keep him honest, and not to place a temptation before him of this character. By such means there is no doubt in my mind but that many honest men, even in our own country, have been induced to commit crimes which they never would have desired to do if the temptation had not been presented to them. It is therefore, Mr. Speaker, most improper and unsafe to confer more power upon any officer of this Government than is absolutely necessary to enable him to carry out the purposes for which the power is granted. Suppose that we should be so unfortunate as to have a dishonest man placed at the head of the War Department, what restriction does this bill place upon him in regard to this matter? None, sir; not a single one, except that he may deem it needful. How many of his friends, his political admirers, or those who will do his bidding, may he not enrich under the power here conferred only upon the condition that he may deem it needful for the temporary support of the freedmen, their wives and children?

The fourth section of this bill authorizes the President to reserve from sale or from settlement, for the use of freedmen and loyal refugees, unoccupied public lands in the States of Florida, Mississippi, Alabama, Louisiana, and Arkansas, not exceeding in all three million acres of good land. These lands are to be allotted and assigned to the freedmen and refugees in parcels not exceeding forty acres to each. These lands they are to have at such annual rent as may be agreed upon between the Commissioner and themselves. The rental shall be based upon a valuation of the land, to be ascertained in such manner as the Commissioner may, under the direction of the President, by regulation prescribe.

In the sixth section of this bill it is provided: That the Commissioner shall, under the direction of the President, procure in the name of the United States, by grant or purchase, such lands within the districts aforesaid as may be required for refugees and freedmen dependent on the Government for support; and he shall provide or cause to be erected suitable buildings for asylums and schools. But no such purchase shall be made, nor contract for the same entered into, nor other expense incurred, until after appropriations shall have been provided by Congress for such purposes. And no payments shall be made for lands purchased under this section, except for asylums and schools, from any monies not specifically appropriated therefor. And the Commissioner shall cause such lands from time to time to be valued, allotted, assigned, and sold in manner and form provided in the fourth section of this act, at a price not less than the cost thereof to the United States.

Here, Mr. Speaker, we have, in my judgment, a development of the grand purposes and designs of those who introduced this bill. It is, sir, I have no doubt, to commence a colony in each one of the five States above named, which is ultimately to drive out the entire white population of those States and fill their places with the negro race. And whether this is the design or not, it is certain in my judgment to have this effect. And they could not have devised a more effectual scheme for that purpose. Sir, let us look at these provisions: in the first place they set apart the unoccupied public lands in those States for the use of the colored people. It is true they speak of loyal refugees; in this they may include white persons. But I presume that we all know that none of this class will be there. These lands are now in a wild state; they are either in forests or prairie. What is the first thing to be done? Are the colored people to go there and make their own improvements at their own expense as the white people in this country have always had

to do? No, sir, we are to be more kind and liberal to them. The Secretary of War is to be clothed with authority to erect shelters and furnish provision, clothing, medical attention, and, in a word, do everything that he may deem needful for temporary support. But, sir, they do not stop here; this is not enough; the Commissioner is authorized to purchase sites and buildings for schools and asylums, to be used by these people, but to be held as United States property. And not only this, the Commissioner under the direction of the President is to have power to purchase or rent such tracts of land in the several districts aforesaid as may be necessary to provide for the indigent refugees and freedmen dependent upon the Government for support. Sir, who can estimate the cost for all this? How much is it to cost the Government to build shelters on all this unoccupied public land? What sort of shelters are they to be? How much is it to cost to feed, clothe, and furnish medical aid, &c., to these people until they can support themselves? Will they ever be in a condition to support themselves? How much is it to cost to purchase sites and buildings for schools and asylums? How many tracts of land will the Commissioner purchase under this authority? What is to be the size of the tracts? How much is he to pay per acre? How many farms will he rent, and what is he to pay for rent? Sir, these are important questions, the answers to which the people have a right to demand. But, sir, they will demand in vain; no living man can tell. And another still more important question, Mr. Speaker, is, how long is the Government to support these people? Will the white people who have to support the Government ever get done paying taxes to support the negroes? If this is not to continue always, why did not those who introduced this bill fix a time when all this was to stop?

Mr. Speaker, I have said that in my judgment, if this bill is passed, that its effect would be to drive the white people all out of the States named, and substitute in their place the colored people. Sir, it is not to be expected that the two races will live contentedly where there are large numbers of the colored people living near to neighborhoods settled with white persons; experience has proved to many of us, that wherever large numbers of colored people live, that the white people living within five or ten miles of the place become sufferers to a very large extent. Now, sir, if this should be the case (as I have no doubt it will) in the States in which you propose to establish these people, the whites and blacks will disagree to such an extent that when people find that the colored people are permanently established they will be compelled, in self defense, to seek a home somewhere else. No doubt, Mr. Speaker, but that those who prepared this bill saw that the difficulties and disagreements to which I have just alluded would arise, and hence they require that military jurisdiction and protection shall be extended, so as to give safety in their movements; and if the white inhabitants become dissatisfied, the Commissioner is prepared with authority by this bill to buy them out and put the negroes upon the land. Who, then, can doubt as to what is to be the effect of this bill if it becomes a law? But, sir, it may be said that the Commissioner is restrained or prohibited from purchasing or making contracts for these lands until Congress shall have made an appropriation to pay for them. Sir, if this bill is passed, I do not suppose that there will ever be much difficulty in getting Congress to make an appropriation, if it be recommended by the President and the Commissioner of this bureau. Sir, the necessity for purchasing these lands is admitted by those who vote for this measure; and if this is not so, why is it put in this bill?

Now, sir, there is another consideration which may afford a reason for extending this bureau to all parts of the United States. The Secretary of War is authorized to furnish transportation to these people to any extent that he may deem needful. And I understand that there

are now large numbers of these people in some of the northern States, and also in Canada, who are anxious to return to their old homes, now that slavery is abolished. There are, I am informed, others who desire to emigrate to the northwestern States. Now, sir, if this be true, the Secretary of War is ready by authority to pay for the transportation of these people where ever they may wish to go. Surely, sir, we are extremely kind to these people. Why is it that they cannot pay their own transportation as the white people have to do? Have we not taxes enough to pay without adding to the enormous burdens now pressing upon us, simply to transport the negroes and their effects from one part of the country to another? Surely, sir, it is time to stop this sort of legislation.

Mr. Speaker, there is another portion of this very extraordinary bill to which I desire to ask the attention of this House. It is the fifth section of the bill, and reads as follows:

That the occupants of land under Major General Sherman's special field order, dated at Savannah, January 16, 1865, are hereby confirmed in their possession for the period of three years from the date of said order. And no person shall be disturbed in or ousted from said possession during said three years, unless a settlement shall be made with said occupant by the owner, satisfactory to the Commissioner of the Freedmen's Bureau.

Now, sir, I do not propose at this time to express any opinion in regard to the action of Major General Sherman upon that occasion. I only desire to say in regard to him that I regard him as one of the best military men known to this or any other age, a sound patriot and an able statesman. But, sir, I cannot see the propriety or the justice in singling out these people and bestowing upon them greater favors than upon any other colored people. Neither do I see the propriety nor justice in taking from the white people that which actually belongs to them and bestowing it upon any portion of the African race. Sir, I deny that Congress has the right thus to interfere with private property. The Constitution, which we have all taken an oath to support, expressly prohibits and forbids the taking of private property without just compensation. Sir, shall we now in time of peace disregard that Constitution and that oath for any purpose, much less to take property from white persons, who are, as I understand, the actual owners of the property, and give it to colored people or to any other race? For one, sir, I cannot do it. But, Mr. Speaker, suppose we have the right or authority under the Constitution to continue these people in possession of the lands referred to, would it be expedient, would it be better calculated to promote the interest of the Government than to allow the owners to take possession of their own lands? Sir, it is necessary in the present affairs of our country that the Government should afford all proper facilities to the people in order that they may be enabled to assist in paying the immense debt now resting upon us. Do gentlemen suppose that these lands in the possession of the colored people will afford any revenue to this Government? If so, I must confess, sir, that they differ very greatly from myself. But, Mr. Speaker, there is one condition upon which this bill does agree that the owner may have his land, and that is that he shall first have a settlement with the occupant, and of course get his consent, and then make the arrangement satisfactory to the Commissioner of the Freedmen's Bureau. Sir, why is it, if these people are free and are qualified to exercise the highest privileges that can be bestowed upon freemen, namely, the right of suffrage, why is it that they cannot be allowed the poor privilege to make a contract to give up to the owner property to which he has no right without having to obtain the consent of the Commissioner of this bureau? Sir, I do not covet such freedom as that, neither can I believe that where such supervision is necessary in order to protect the colored race that they are qualified to come in and take an equal stand by the side of the more intelligent, and participate in ruling this great nation by the exercise of the right of suffrage.

Mr. Speaker, there is another fact connected

with this subject to which I desire to call the attention of this House, and that is the condition of the people who are the owners of these lands. I understand, sir, that perhaps the only property that they now own upon this earth is these lands. Many of these people are now old, and are tottering on the brink of the grave; many others, who are children, who are unable to do anything for a support, but who are as innocent, so far as the rebellion is concerned, as the child unborn; many others, females, who have no other means to depend upon for support except these lands. Sir, is it possible that gentlemen upon this floor can disregard the appeals that must be made by a knowledge of these facts, knowing these helpless people are now destitute? Sir, look at their condition. I imagine that I can almost hear the plaintive cries of these innocent children asking and beseeching their widowed mothers for bread or a morsel of something to eat. Yet that kind mother is unable to furnish that morsel, because all she owns has been taken by this Government and turned over to the colored people. Sir, I trust that that injustice will be continued no longer, but that these lands will be given back to their owners.

But, Mr. Speaker, a very objectionable feature of this bill is yet to be alluded to. It is that which requires a large army to be kept in the field in order to sustain and enforce obedience to this bureau and all of its requirements. Sir, who can tell how many soldiers it will take and what it will cost the white people of the United States to support and pay these soldiers? Sir, I learn from Major General Howard, as before stated, that the bureau had, at the time of making his report, three hundred and seventy-five civilians employed at an average of \$100 per month, and four hundred and thirteen officers at an average pay of a captain in the line of the Army, which I suppose to be about one hundred and eighteen dollars and fifty cents per month; seven commissioners, receiving the pay of brigadier general, which I believe is \$299 50 per month. Two receiving the pay of colonels, which I think is \$194 per month, and one who is receiving the pay of major, which I suppose is \$151; and Major General Howard himself is receiving the pay of a major general, which I understand to be \$445 per month. This, sir, will require annually the clever little sum of \$1,075,452. Now, sir, add to this the amount that will be required to pay the soldiers that must be kept for their protection, and then add the additional number of men that must be employed to work this machine all over the United States, and remember at the same time that the Commissioner of this bureau has already made a call for an appropriation, while he is only working in ten States, for nearly twelve million dollars for the next year. Who, sir, can tell what all this will amount to?

Mr. Speaker, I desire to call the attention of the House to the great progress that we have made in increasing the expenditures of this Government during the last forty-two or three years. By reference to Mr. Benton's Thirty Years' View, volume one, page 230, it will be found that General Smith, of Maryland, a member of the Senate of the United States, makes the statement that in 1822 the ordinary expenses of the Government were \$9,827,643, and in 1823 the expenses amounted to the sum of \$9,784,154. Now, sir, who could have thought at that day that in the comparatively short time of forty-three years it would require the sum of even \$12,000,000 to fix up a machinery alone for the benefit of three or four million negroes, and more especially, sir, when it is understood that in 1820 we had a population, including white and colored, of 9,633,545. Mr. Speaker, how long will it be at this rate—when we take into consideration the fact that our Government proper, besides this little bureau machine, is now costing us hundreds of millions of dollars—how long, sir, will it be before we have to call in the services of Mr. Kennedy, of census notoriety to estimate the amount of the debt we owe? Sir, it is time that we should stop all

useless expenditures, and let us return and imitate the examples given by our fathers, so that we may, like them, pay all just claims against us, and thus maintain the high credit of this great nation.

Mr. Speaker, I now desire to call the attention of the House to what I think has been, in most places, the effect of the operations of this bureau. I never did believe that it was doing the colored people any good, and I feel very sure that it has done the white people a great deal of harm. If in the place of establishing this bureau the authorities who made it had directed the colored people who were not in the Army to have remained at home with their owners until the ratification of the amendment to the Constitution abolishing slavery, there would have been nothing for this bureau to do, and the colored people would all have gone home, their owners would have supported them, and they would not have cost the Government one dollar, and would have been better cared for; and many poor colored women and children who are now resting in their lonely graves, or in the bottom of some river, would to-day be enjoying freedom with far better prospects than those who have been under the direction of this bureau. Sir, look at the condition that these people have been in, collected together in large numbers at the different camps or places of rendezvous, many of them doing nothing, without a shelter to put their heads under except as they crowded into tents or vacant houses in large numbers, sometimes having furnished to them by the Government plenty to eat, at other times being without anything, many of them living in filth and often exposed to inclement weather. This condition being such as they were not accustomed to, did of course bring on sickness and disease, which has terminated in the death of vast numbers of these people.

But, sir, the bureau was established, and the agents appointed to manage these people have generally been such as were deeply impressed with the belief that the former owners were the colored man's strongest enemy. Hence their actions have been predicated upon this, no doubt, honest conviction as to some of them, yet in fact a great error. The truth is that it was exactly the reverse, and I have no hesitation in saying to-day that in a very large majority of cases the former owner is their warmest friend; but, sir, many of the colored people were induced to think otherwise, and the action of the agents being predicated upon the conviction that their former owners were the negro's enemy, of course almost everything they have done has had a tendency to keep up that impression in the minds of the negroes, and hence the necessity, in the estimation of the managers, for a continuance of the bureau, and for a continuance of their official positions and their salaries; and together with the fact that it may be made a most powerful political machine to retain or destroy party purposes or power. Now, sir, to show that I am right in this, let me call the attention of this House to a letter recently addressed by Governor Orr, of the State of South Carolina, to the President of the United States. From this letter we learn that a Major Delany, a colored officer, was sent on an official tour of inspection, from department headquarters, through the sea-coast parishes. After having performed the duty assigned, the major says:

"I have met with a general representation of the intelligence and former wealth of the planters and large land owners of these districts, and large numbers of the freedmen of both sexes and every condition among them, and have generally found the planter ready and willing to enter into any agreement reasonable and just to both parties, planters and freedmen. All with whom I have yet met and had conversation on the subject of the planting interest, readily indorse the most liberal desires of the Government and the bureau toward the freedmen. And the freedmen express the most anxious desire to go to work on plantations, and simply hesitate for the purpose of receiving definite orders from the Government that they cannot obtain the lands by purchase or otherwise, when they will readily enter into arrangements to work or give place to those who will."

The Governor then says that—

"In the upper portions of this State, where the Freed-

men's Bureau has never been organized and where post commanders chiefly had charge of the relations and conditions of the freedmen, this delusion was never as strong as lower down, and yet it was strong enough to prevent any contracts being made before the 1st of January, 1865. Up to that time the freedmen believed in the certainty of their future proprietorship. Since that day has passed they are manifesting much greater willingness to meet the necessities of their condition. But in the lower part of the State the condition of things is different. Here scarcely a contract has been or can be made. The delay in carrying out your instructions positively, which has continued from General Howard's visit in October to Captain Ketchum's return in the last few days, rendered the freedmen, as a body, incredulous of any restoration. They have in many places quietly but firmly refused to accept any terms. But I regret to say that within the last few days they have in some instances resorted to violence, burning down dwellings, destroying bridges, intrenching themselves in their quarters, and refusing either to contract or give way to those who will. And in these cases it is proper to say that the contracts offered them have been approved by the United States authorities as liberal and just."

Now, sir, if this be true, as I have no doubt it is, why should we enlarge the powers of this bureau, and extend it to every State and county in the United States, and prolong its existence for an indefinite period?

Mr. Speaker, that there will be some difficulties between the ill-disposed white men and the colored people no man can doubt, no matter what plan may be adopted by the Government. But, sir, I hold that there are good men enough in every State and county in these United States to regulate and control their communities so as to have justice done to all of their inhabitants as far as it can be done; and if left to themselves to regulate their own affairs in their own way, being subject to the Constitution and laws of the United States and the constitution and laws of their own States, that they will accomplish the grand objects for which this Government was instituted much sooner and much more happily than will be done if men are sent from other States, who are strangers to the dispositions and habits of our people, men who come there with firm convictions, made mostly by misrepresentations by interested parties or those who do not know the true facts of the case, with power to institute new courts, to be themselves the judges and jury, to drag the citizens into a court established not for all, but alone for the benefit of the negro, and where in almost every case the impression is made that the negro is by the judge the preferred man of the crowd. Sir, it is mere folly to suppose that harmony and good feeling can prevail under such circumstances. Sir, allow me to say again, that in the country where I live there is no ill feeling against the negro on account of his having been made free. All know that it was white people who did that, and no one blames the negro for wanting to be free; and I am sure that it is the intention of all good men throughout the entire State to submit to the powers that be, obey the Constitution and laws of the country, as a very large majority of her citizens have always done, and thus do equal justice to all.

Mr. ROUSSEAU obtained the floor.

Mr. KELLEY. Will the gentleman yield to me a moment. I do not desire to disturb the gentleman in the course of his remarks. I went to my room since I last had the pleasure of addressing the House and found the newspaper to which I referred. It is the Tuscaloosa Observer of Saturday, December 9, 1865, being the twenty-sixth number of the nineteenth volume of that paper. I find that I was mistaken in saying that five persons had been hung; there were three—two men and one woman:

"CIRCUIT COURT.—The following are some of the leading cases tried and disposed of by the court, up to Friday, 8th instant, to wit:

"KINION, a freedman—Larceny; Penitentiary for 5 years.

JOHN and ROMAN, freedmen—Larceny of horse; Penitentiary for 12 years.

DAVID, a freedman—Larceny of horse; Penitentiary for 99 years.

AARON and ELI, freedmen—Larceny of horses; Aaron to be hanged—Eli, Penitentiary for 25 years.

ROBIN, a freedman—Assault to murder; Penitentiary for 3 years.

RILEY, a freedman—Stealing watch from dwelling; Penitentiary for 5 years.

ELIZA, a freedwoman—Larceny; Penitentiary for 5 years.

ELSEY and PHIL, freedmen—Larceny of horses; to be hanged.

"SALLY, freedwoman—Larceny from a dwelling; Penitentiary for 5 years.

"EMELINE and MARGARET—Murder; case undecided.

The criminal docket for this special term is large beyond precedent; and unless the negro population reform, and that speedily, penitentiaries will have to be erected in every county instead of every State. This is a lamentable state of things, but is nevertheless true in every particular. The negro, ought, if possible, to be kept from congregating in our towns and cities, his true place being the plantation. Separated from this, he cannot obtain a bare subsistence; hence he has necessarily to plunder and steal to supply the wants of nature. This will be a grave subject for our law-makers to cogitate upon."

Mr. DAWES. What is the judge's name?
Mr. KELLEY. It is not given—simply the proceedings in the circuit court in Alabama.

Mr. DAWES. Was it in a State court or a United States court?

Mr. KELLEY. A State court, I presume, although it is not distinctly announced.

Mr. ROUSSEAU addressed the House. [His speech will be published in the Appendix.]

Mr. SHANKLIN obtained the floor.

Mr. SMITH. If my colleague will give way, I will state that I withdraw my objection to an evening session.

Mr. SHANKLIN. I have no objection to that.

Mr. SMITH. As my colleague is willing to yield for a recess, I will move that the House now take a recess until half past seven o'clock p. m.

The SPEAKER *pro tempore*, (Mr. GRINNELL in the chair.) The Chair can entertain no motion but to adjourn. But the object of the gentleman can be attained by unanimous consent.

No objection was made.

And the House accordingly (at four o'clock and thirty minutes p. m.) took a recess until half past seven o'clock p. m.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m., Mr. GRINNELL, as Speaker *pro tempore*, in the chair.

FREEDMEN'S BUREAU.

The House resumed the consideration of the substitute reported from the select committee on freedmen's affairs for Senate bill No. 60, to enlarge the powers of the Freedmen's Bureau; upon which Mr. SHANKLIN was entitled to the floor.

Mr. ROUSSEAU. Will my colleague [Mr. SHANKLIN] allow me a moment, for the purpose of making an explanation?

Mr. SHANKLIN. Certainly, with pleasure.

Mr. ROUSSEAU. General Spencer was alluded to during the discussion this afternoon, and I then said that I knew of no such general in Alabama, and I gave my reasons for my statement. Since then I have ascertained that General Spencer is a real personage; that he went to Alabama from Kansas as a sutler of a Kansas regiment. He was a very clever gentleman, no doubt, and he was appointed colonel of an Alabama regiment, at Tuscaloosa, by General Dodge. I had never heard of the gentleman, before, and I would be very sorry to do him any injustice. I understand he is a clever man, and has done some service to the country. But he was not in the service in Alabama while I was there, but went with General Sherman on his march; hence I knew nothing of him.

Mr. SHANKLIN. Mr. Speaker, since I have had the honor of a seat on this floor I have been a silent but I hope a not inattentive observer of the passing events in this House. I would have rejoiced if I could consistently have remained silent, consistently with the duty which I owe to myself and to an intelligent and patriotic constituency who have so generously confided their interests to my care. I would prefer to continue a course which would have been most congenial to my feelings. But when a measure of such great and vital importance to my native State, which I have the honor in part to represent upon this floor, and to eleven other States in this Union that have no Representatives here—a measure intended to operate peculiarly upon my State and those others

without a voice here, for the doors of this Hall have been closed and barred against them, I feel that I would be criminally recreant to my own duty and my responsibility to my constituency if I remained silent or failed to enter my solemn protest against the passage of this measure.

I do not intend, as many gentlemen who have preceded me in this debate have seen proper to do, to launch out into the wide field of party and political discussion. I design to confine myself closely to the subject which is before us now for consideration.

The bill under consideration proposes to extend the provisions of an act of the last Congress, which establishes the Freedmen's Bureau in the War Office of this Government. According to the provisions of that act of the last session the jurisdiction of this bureau was confined to the States which had been in rebellion. It was stated to be a necessary war measure, and according to its own limitations it was to exist and continue so long as that war should continue, and for twelve months after its expiration. This bill proposes to extend the operation of this bureau for an indefinite period of time, and not only to extend the time of its operation, but also to add to its present powers the most alarming powers that have ever been suggested by any man upon any subject in a free republican Government.

According to the provisions of the bill now under consideration, the President of the United States is to have the right to appoint, by and with the advice of the Senate, twelve assistant commissioners of the Freedmen's Bureau. That is, he is to have the right to lay off the whole country into districts, not to exceed twelve in number, and to appoint an assistant commissioner for each one of those districts. And it is further proposed that in each of those twelve districts sub-commissioners may be appointed equal to the number of counties or parishes in that district.

I do not know how many counties there are in all the States of this Union; I have understood, however, that there are one thousand eight hundred and seventy. If there be that number of counties in the whole Union, then, according to the provisions of this bill, there may be appointed one thousand eight hundred and seventy sub-commissioners, in addition to the assistant commissioners and the chief Commissioner. According to the provisions of the bill, the chief Commissioner of this bureau is to have the right to employ ten clerks. Each of the twelve assistant commissioners is to be authorized to employ six clerks; and each of the sub-commissioners, numbering in all one thousand eight hundred and seventy, is to be authorized to employ two clerks. Do you not see, sir, what a host of officers are proposed to be created by this measure, extending all over the United States? There are to be one thousand eight hundred and seventy sub-commissioners, and more than three thousand seven hundred clerks.

This is not all. The bill provides that the Secretary of War shall issue rations and clothing, and supply medical attendance to these freedmen. How many quartermasters, how many commissaries, and how many clerks are to be employed in this way, no human being can tell. They may number thousands. Under the provisions of this bill, officers may be created to the number of ten thousand, or twenty thousand, or even fifty thousand, if party necessities require it.

All these officers are to have good salaries. The chief Commissioner is to receive \$3,000 per annum. The twelve assistant commissioners are to have, I believe, about \$2,500 a year. The sub-commissioners are to be paid at a rate not exceeding \$1,500 a year. These various clerks are to receive some \$1,200 a year. It is provided that the salaries shall not exceed those sums; but whoever knew an instance in which the largest amount of salary allowed by law was not paid?

Then, as these freedmen are to have medical attention, how many physicians or surgeons will be employed to attend to the four million

freedmen and refugees? No human being can now tell.

Now, Mr. Speaker, what is to be the jurisdiction of the vast army of officers to be created by this bill? In the first place, they are to have jurisdiction and control over three million acres of "good land" in the States of Florida, Alabama, Mississippi, Louisiana, and Arkansas. It must be "good land." Poor land will not do for these "American citizens of African descent" to live upon. The poor land of the mountain and the hill-side must be appropriated to the poor white laborer. This favorite race, the negroes, must have good land.

These three million acres of land are to be divided into farms or lots not exceeding forty acres and set apart for the use of these freedmen. In addition to that, this bill provides that the President of the United States, through the Secretary of War and the Commissioner of the Freedmen's Bureau, may purchase any additional amount of land wherever the operations of this bureau may extend, for the purpose of providing homes for the freedmen. Thus, Mr. Speaker, there is no limit to the amount of land that may be controlled and managed by this bureau.

Again, the bill authorizes the purchase of land for the erection of school-houses and other institutions necessary for the freedmen. If school-houses be erected, you must have preachers or teachers; and no doubt those political preachers who have covered the land during the war will be the favored recipients of these appointments. You must provide for them, and they will doubtless be sent to those school-houses to teach those freedmen. What will they teach them? I suppose that in the first place they will teach them to spell a little and read a little; and then I suppose they will be taught a little of the Lord's will and a great deal of the wiles and wickedness of the devil.

But these four million freedmen are to be taught their duty. And what is that great duty? In the first place, they must be taught to hate the people among whom they live with all the hatred of their nature. That is an important matter to teach them—to hate those who had been their masters, and with whom they had lived. Next in importance, they must be taught by these political preachers to vote the whole Abolition or Republican ticket.

Now, Mr. Speaker, these are important matters to operate for party purposes; but they are expensive matters to the country, which is already borne down with debt. What will all this machinery cost the Government of the United States if it be put into full and successful operation with thousands of officers all with rich salaries? My colleague who sits on my left, to-day estimated the cost of this machinery when put into operation, at \$10,000,000 per annum. I am satisfied my friend did not cipher this out according to the Republican rules. If he had he would have made it ten times ten million dollars when this bill goes into operation. I saw a calculation which was made by a distinguished Senator, and according to that calculation it will cost the Government of the United States to put this gigantic machinery into operation more than \$250,000,000; and if it is put into operation with all of its appendages and paraphernalia, perhaps \$250,000,000 would be inadequate for the purpose.

But we are told that three million acres of land are to come under the operation of this bureau; and there is something in the bill about the manner of ascertaining the value of the rent for the land. Now, does any man who knows anything about the character and habits of the negro when left to himself suppose one dollar of money raised from these lands will ever reach the Treasury of the United States? Why, sir, it will stop between the negro who enjoys the land and the Treasury of the United States, and find its way into the pockets of the vampires who are sucking the life-blood of the nation. Never a dollar of money will reach the Treasury of the United States.

Mr. Speaker, what will be the cost if this bill provides that these negroes—I beg pardon for

using the word negro as it is not fashionable, but freedmen—shall be fed and clothed? What is it to cost to feed and clothe them? Can any man tell me? Some of these men I know are disposed to work if left to themselves. They are honest men and disposed to work for a living, but many more have no such disposition. These lazy and worthless men will gather around the Freedmen's Bureau to be fed and clothed, and those who are disposed to work, seeing these men who they know to be inferior to themselves, taken care of, fed and clothed and housed, will ask why they should not also enjoy the beneficence of the Government. The effect of this measure upon the negro population—and I speak from my knowledge of the negro population—will be to paralyze their energy, destroy their industry, and make them paupers and vagabonds.

Mr. Speaker, I have only given the outlines of the powers and jurisdiction and extent of this gigantic monster called the Freedmen's Bureau. I shall now call your attention to the reasons assigned for the creation of this monster, and they are few; its creation is a violation of the Constitution, every principle of the Constitution of our fathers. I have heard no gentleman attempt to justify the creation of this Bureau from that Constitution of the United States. They refer to the second section of the amendment to the Constitution. When the question of the ratification of the amendment to the Constitution was up in my State, those who were opposed to it opposed it upon the ground that it would be construed to give power to Congress to legislate on the subject. They told us our suspicions were unfounded, and that the second section gave no such powers to the United States; that it was only intended to carry out and secure to the negro his personal freedom, such as all the free negroes then enjoyed; that they and their friends of the amendment was as much opposed to negro equality or negro suffrage or to conferring the power on Congress to extending these privileges to the negro, as those that opposed the amendment; that the section was not susceptible of any such construction. And under that protest they induced thousands to vote for the amendment, believing that by freeing the negro they would exclude from the Halls of Congress that exciting question.

What is the next argument in favor of the creation of this unrestricted, dangerous monster? It is the necessity of it. It is said that here are four million ignorant and helpless negroes that have been thrown upon the country by this war who cannot provide for themselves, and that something must be done. There is a necessity! Whether it is a military necessity or a moral necessity I do not know, but a necessity of some kind for the protection and support of these people. And the honorable chairman of the committee who reported this bill says it is necessary to protect these people against the prejudice and hatred of those who have been their masters. I would say to the gentleman that he knows nothing of the feelings of these men toward that unhappy class when he supposes that the masters entertain any feelings of hostility or unkindness to that unfortunate race. They have compassion upon them. That feeling of friendship and kindness which grew up during their servitude is not obliterated by the act of emancipation at all. I speak as one who was born and reared among slaveholders and among slaves. And I speak what I know when I say that though there may be exceptional cases, yet, as a general thing, there is no feeling of hostility upon the part of the masters toward this unfortunate class, but, on the contrary, a degree of sympathy and of kindness that is unknown to or not understood by the people of the North.

I can say to that gentleman furthermore, that so far as regards any feeling of prejudice or hostility being created by the act of emancipation, it is not toward the negro, but toward that class of fanatical abolitionists of the North who have come down among the negroes in the southern country, and by promises, persuasions, and misrepresentations have demoralized the ne-

groes, who were a contented, quiet, and peaceable class heretofore, well fed and well clothed. These abolitionists have rendered the negroes not only worthless, but through the demoralizing influences of the fanatical abolitionists the negro has commenced lying, stealing, and pilfering.

We are further told, as another reason why this measure shall be adopted, that it is necessary to educate the negro, that he is in a state of ignorance and stupidity, and that as we are going to make him an American citizen, and that speedily, it is necessary to educate him. Sir, I believe it is necessary to educate him; but is the machinery of this bill the appropriate means of doing so? Does it provide in the proper manner for his education? Why have this legion of officers there to superintend their control? A few days ago, when a proposition was before the House to confer the right of suffrage in this District, he was then held up as a man of talent and of genius. He seemed to be intuitively educated and capable of exercising all the rights of the freeman. But when it becomes necessary to create all these offices for party purposes, then the negro must be degraded, unfit for anything, unable to take care of himself, so that he must be educated in order to be able to discharge the high and responsible duties of an American citizen.

Mr. Speaker, as a principle of law I hold that no individual or party can avail themselves of the necessity which they themselves have created by their own improper and unlawful act. It is a maxim of law that no man shall take advantage of his own wrong. Now, if this necessity has been created by the party who are urging this measure, they have no right to avail themselves of it.

But how did that necessity spring up? It sprung from the same source from which all our difficulties arose during the last three years of this war. And that was, involving the negro question in the prosecution of the war. There was no necessity—I boldly assert it—of dragging that question into the war. I know some gentlemen thought it was necessary in order to put down the rebellion to destroy the institution of slavery, but I deny it. I hold, and I think I can demonstrate it to the satisfaction of any impartial mind, that by dragging that question into the war you prolonged it and intensified it, and it has cost this nation the blood of thousands upon thousands of our citizens, and it has cost us millions of treasure. Not only that, but it has caused the desolation of a large portion of this country by dragging into the issue the negro question. We have every reason to believe, from all the information we have, that at the outset of the war the southern people were divided and that a majority of them in most of the seceding States were opposed to the acts of secession and opposed to the war; but, unfortunately for them, unfortunately for us, the military and civil power in those States was in the hands of men who wanted a separation of the Union, and the majority of the people were coerced and dragged into the war against their consent and will, and the Government of the United States was unwilling or unable to give to the people that protection and support which their condition required. Hence they were subjugated and controlled by the secessionists, while their sentiments were true and loyal to the Government of the United States and the flag of the country. But when this negro policy was inaugurated and put in force, then they saw a war made upon their institutions, a war upon their property and their homes, and they lost that zeal which they had felt for the Government previous to that time; they were united to a considerable extent by the adoption of this policy, and the arm of the rebel government was strengthened. You divided public sentiment at home, and, to some extent, paralyzed our power to suppress this rebellion. If this war had been conducted on strictly constitutional grounds the rebellion, in my judgment, would have ceased long before it did cease, and the country to-day would have been in peace, harmony, and prosperity.

But, Mr. Speaker, I will not pretend to discuss that subject further at this time. One gentleman said that it was necessary this bill should pass in order to educate these negroes in the southern States. The gentleman from Minnesota, [Mr. DONNELLY,] a gentleman who comes from a State located in the northwest corner of creation, tells us that it is necessary that this bill shall pass in order to build up a great system of education in the South. And yet he, a gentleman who comes from a State where the track of the wild Indian and the buffalo is not yet obliterated by the march of civilization—and if they were they may be succeeded by the track of the grave and philosophical ass, and I do not know that the world would gain much thereby—rises in his place upon this floor and declares that the mass of the people in the land of Washington, Jefferson, Madison, Monroe, Marshall, Patrick Henry, Jackson, and Clay, who have shed more glory and renown upon the American name and character, is semi-civilized and barbarous, and that we are ignorant, and therefore we must disseminate schools there in order to educate its "ignorant and illiterate" population. He tells you that it is necessary that the General Government shall send to that benighted land their northern teachers to enlighten the people. Sir, we are told in Holy Writ that when Moses was leading the children of Israel through the wilderness they became wicked and degenerate, and it was necessary to raise a brazen serpent in the wilderness, that whoever looked upon it might be healed of their maladies. Might we not ask this distinguished philosopher, who comes from a land where the great luminary of day shines but a few hours each day at some seasons of the year, to come and take a position upon the highest peak of the range of Alleghany mountains in the domain of my friends from West Virginia, and hold himself up there, that these benighted people of the South might come and look upon him, and be relieved of their ignorance and stupidity?

But, Mr. Speaker, we are told that there is another reason why this bill ought to pass; that it ought to pass as a punishment to those men who have sinned against the Government of the United States. They have sinned. Sir, I have ever held in detestation the doctrine of secession. I have ever detested the acts of those men who plunged this country into revolution and war; but while I have detested that doctrine as a political heresy, I have, at the same time, more detested and condemned as a political heresy the doctrine of abolition. But we are told that we must adopt this and kindred measures as a punishment upon these people for their sins. Well, we have punished them. They have sinned, and sinned greatly, and we have punished them, and punished them severely. We have drenched their land with the blood of their young men; we have desolated their fields and burned their houses, and destroyed their cities and villages. We have brought them to terms; we have made them surrender their armies and ask pardon of this Government. Have we not done enough? Have we not punished them for their sins, however great they may have been?

The gentleman from Indiana, [Mr. JULIAN,] a few days ago, in the discussion on the negro suffrage bill for the District of Columbia, said that he advocated that measure as a measure of retributive justice, as a punishment upon these people. He upon that occasion further stated, "that Congress in this District had the power to punish by ballot, and there will be a beautiful poetic justice in the exercise of this power, so let it be applied."

There may be poetry, and music, too, to the ear of the gentleman in inflicting punishment upon an unarmed and helpless enemy; the cries of the old and decrepid men, the helpless women and children. But there is no such pleasure enjoyed by our brave and gallant soldier, who met the armed enemy on the field of battle. Ask your brave soldiers for what they fought the battles of their country. They will tell you that those men had outraged their

country's honor and flag, and they have compelled them to surrender their political heresy; they have devastated their country; they have burned their cities and towns, and have inflicted full and complete punishment upon them. And now these gentlemen, who during the war did not with arms undertake to punish these men, come up and propose to make such legislation for their further punishment. And, now that the young and able-bodied men of these States have been killed in battle by the hundred thousand, the old men and the women and children are to be punished by legislative enactment. We are told that these measures are necessary for the punishment of these people.

And who are you going to punish? Will you kill a dead man? That, I believe, was attempted on one occasion. We are told that Falstaff killed Hotspur after he was dead, and took the body on his back, and carried it off as proof of his valor. He was one of those prudent men who would rather kill dead men than undertake to kill live men with weapons in their hands. And I suppose there will be about as much glory in punishing the decrepit old men and the women and children in these southern States as there was in Falstaff exercising his prudent valor upon the lifeless remains of Hotspur.

But I will consider more particularly the features of this gigantic bill, with all its dangerous powers. By the seventh section it is provided that wherever any discrimination is made between the whites and blacks on account of color or race, these commissioners, with full military power and jurisdiction, are to take cognizance of it, and try all cases that may arise according to rules and regulations which may be prescribed by the Secretary of War, under the direction of the President. What cases are provided for by this bill as coming within the jurisdiction of these commissioners? All cases of discrimination made by the laws of the State or by custom or by habit? And how are these commissioners to try these cases under rules which may be prescribed by the President of the United States? How can the President prescribe rules for them, except by annulling the provisions of your constitutions and all your laws, and the customs and habits of society, in regard to color or race? The Commissioner is to wipe them all out by his own individual power, and there is to be no appeal from his decision.

And the eighth section of this bill provides that if any one shall under any State law, ordinance, rule, regulation, custom, or habit, deprive any portion of the community on account of race or color of any civil right or privilege, he shall be subject to arrest and brought before this tribunal, tried, and sentenced to pay a fine of \$1,000, or to be imprisoned for twelve months, or both, at his discretion. There is to be no investigation before a jury, and no appeal from the decision of the Commissioner, who is to decide on *ex parte* testimony.

Now, is that a free country where laws of this sort can exist? According to the literal construction of the provisions of this bill, you may inflict this punishment upon the judge of your State court, who has taken an oath to support the constitution of the State and enforce its laws. Any discrimination between a white man and a negro may be so punished. The discrimination may be in favor of the negro, as is the case in some respects under the laws of Kentucky. In that State if a white man commits a larceny he is punished by confinement in the penitentiary not exceeding five years, at the discretion of the jury. If the slave committed a similar offense he was punished by lashes not exceeding thirty-nine. The white man may be punished in the penitentiary to a greater extent than the negro would be.

If there is any discrimination by the laws of the State, and the judge observes the oath he has taken to support the constitution and laws of his State, he is subjected to the jurisdiction of this Freedmen's Bureau, and may be fined and imprisoned without any possible chance for him to secure a trial by jury or to take an appeal from that decision. Is that freedom?

Is that justice? No, sir, it is not. It is tyranny, it is despotism of the worst kind, and should be condemned by every citizen that loves justice or civil liberty.

This bill is intended to operate upon States which have been in rebellion, and upon those border slave-holding States which stood like bulwarks between the rebels and the northern States during this gigantic war. The gentleman from Illinois [Mr. HILL] has offered an amendment to this bill proposing to limit the jurisdiction of this Freedmen's Bureau to the States recently in rebellion, and the four slave States of Delaware, Maryland, Kentucky, and Missouri, which adhered to the Union. If these other States are exempt from the operations of this bill, why should Kentucky, Missouri, Maryland, and Delaware be included? Because they have suffered more during this war than the more northern States? Because their fields, their villages, and their towns have been burned, and their people robbed and murdered? Because every disaster attending the war has been inflicted upon them? Is this the reason they must be put under the jurisdiction of this Freedmen's Bureau? Is it fair, is it just, to subject them to this system of government? In placing them under the jurisdiction of this bureau, is it the object to insult and humiliate the people of those States and degrade their manhood? It cannot be pretended that Ohio, Indiana, Illinois, Pennsylvania, and many other of the northern States have not within their limits large numbers of freedmen and refugees. I have no doubt that there are in the State of Ohio to-day fifty thousand of these people, and an equal number in the States of Indiana and Illinois respectively. Why are the free negroes in those States to be neglected and overlooked? Do they not stand as much in need of protection (if protection of these people is the object of the bill) as the freedmen in the State of Kentucky? I contend that in Kentucky the free negroes are treated with more humanity and consideration than in the States I have mentioned. Our laws in Kentucky are as favorable to the freedmen as the laws of either of those States. Our people are as kind, as liberal, and as just toward the freedmen as the people of the States I have named. My own State has sacrificed not less than two hundred million dollars of property to maintain this Union, while many of the northern States, and particularly New England, grew rich from her manufactures during the war. Kentucky has poured out as much blood to sustain the flag of the country as any other State of no greater population. And for this she is to be insulted and degraded by the presence of a tribunal more despotic than can be found in any civilized country upon the globe?

But, Mr. Speaker, there are eleven States that have no Representatives upon this floor; and upon these this bill is designed particularly to operate. I ask whether it is just or magnanimous to impose upon those States a system of government like this without allowing their wishes to be heard in reference to the matter? Why not allow them to be heard? Why not give them an opportunity to plead their own cause, to represent their own most vital interests? I affirm, sir, that in legislating for those States, or without allowing them any representation in these Halls, you are violating one of the cardinal principles of republican government; you are tearing down the main pillar upon which our whole fabric of Government rests; you are sowing broadcast the seeds of revolution and ruin. Mr. Speaker, if the object of gentlemen here is to restore harmony and peace and prosperity throughout the Union, why do they adopt measures thus insulting, tyrannical, and oppressive in their character? Is this the way to restore harmony and peace and prosperity? How can you expect to gain the respect and affection of those people by heaping upon them insult and injustice? If they have the spirit of their ancestors, you may crush them, you may slay them, but you can never cause them to love you or respect you; and they ought not while you force upon them

measures which are only intended to degrade them. Let us rise to the spirit of true wisdom and statesmanship, and treat those people in a manner calculated to win back their affection for the Union. Let us treat them with humanity and kindness, or at least with justice. I believe that they are anxious to perform in good faith the duties of American citizens if they be met in a proper spirit; but so long as such measures as negro suffrage, negro equality, and the Freedmen's Bureau are thrust upon these people, you may expect no restoration of peace and brotherly love. By such unjust and tyrannical legislation you will only kindle the flames of discontent and help to render a return of our country's former harmony and prosperity impossible.

Mr. PHELPS and Mr. CHANLER addressed the House. [Their remarks will be published in the Appendix.]

At the conclusion of Mr. CHANLER's remarks, Mr. TRIMBLE obtained the floor, but yielded to

Mr. HOGAN, who moved that the House adjourn.

The motion was agreed to; and (at nine o'clock and thirty minutes p. m.) the House adjourned.

IN SENATE.

MONDAY, February 5, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of Friday last was read and approved.

PERSONAL EXPLANATION.

Mr. DOOLITTLE. Mr. President, I deem it proper to say in consequence of my not being present when the final vote was taken on Friday on the bill (S. No. 61) to protect all persons in the United States in their civil rights and furnish the means of their vindication, that had I been present I should have voted in favor of its passage.

PETITIONS AND MEMORIALS.

Mr. RAMSEY presented a memorial of a convention of teachers and friends of popular education, held at Winona, Minnesota, on the 30th and 31st of August, 1865, recommending the establishment of a national bureau of education, and the granting of lands to the several States for the establishment and support of training schools for teachers, as has been done for the establishment of agricultural colleges; which was referred to the Committee on Public Lands.

Mr. CHANDLER presented a petition of citizens of Michigan, praying Congress to levy a tariff sufficient to give adequate protection to American industry; which was referred to the Committee on Manufactures.

He also presented a petition of citizens of South Haven, Michigan, praying for an appropriation for the purpose of building a light-house and pier light at the mouth of the South Black river, in the county of Van Buren, in that State; which was referred to the Committee on Commerce.

He also presented a petition of citizens of South Haven, Michigan, praying for an appropriation for the improvement of the harbor at the mouth of South Black river; which was referred to the Committee on Commerce.

Mr. WILSON presented the petition of General Philip H. Sheridan and other officers of the Army, praying for an increase of the compensation of Army officers; which was referred to the Committee on Military Affairs and the Militia.

He also presented the petition of Warren Garrett and others, citizens of Wilmington, in the State of Delaware, praying Congress to so amend the Constitution as to forever prohibit any State from making any distinction in civil rights and privileges between persons on account of race or color; which was referred to the joint committee on reconstruction.

Mr. FOOT presented a petition of citizens of Washington, praying that early action may be taken in relation to the purchase of squares 687 and 688, embraced within the proposed

extension of the Capitol grounds; which was referred to the Committee on Public Buildings and Grounds.

Mr. HOWARD presented a petition of citizens of Detroit, Michigan, praying Congress to levy a tariff sufficient to give adequate protection to American industry; which was referred to the Committee on Finance.

Mr. CLARK presented the petition of Mrs. Rebecca S. Minor, praying for compensation for property taken and used by the United States Army in the years 1863 and 1864, in Natchez, Mississippi; which was referred to the Committee on Claims.

Mr. GUTHRIE presented a petition of manufacturers of agricultural implements, praying for a reduction of the taxes upon sales of agricultural implements, and for the removal of the tax now assessed upon castings made by themselves for their own machines; which was referred to the Committee on Finance.

Mr. NESMITH presented the memorial of Robert W. Dunbar, praying to be reimbursed for damages sustained by him in consequence of a revocation of his appointment as agent to take charge of public property at Orford, in Oregon; which was referred to the Committee on Claims.

Mr. COWAN presented a petition of citizens of Fayette county, Pennsylvania, praying that an amendment to the Constitution be adopted to prevent any State from making a distinction hereafter in civil rights and privileges among the naturalized citizens of the United States residing within its limits, or among persons born on its soil, on account of race, color, or descent; which was referred to the Committee on the Judiciary.

Mr. SHERMAN presented a memorial of the executive committee of the Montgomery County Tobacco Growers' Association of Ohio, praying to be placed upon an equality in relation to the tax on tobacco according to the relative value of the tobacco produced in that portion of the State; which was referred to the Committee on Finance.

He also presented three petitions of manufacturers of agricultural implements, praying for a reduction of the tax upon sales of agricultural implements, and for the removal of the tax now assessed upon castings made by themselves for their own machines; which were referred to the Committee on Finance.

He also presented the petition of George H. Wells, a citizen of Marietta, Ohio, praying for compensation for the loss of his steamboat, Southern Merchant, which, he alleges, was taken from him by the rebels at the beginning of the war, was recaptured by our forces from the rebels, and was sold by the United States; which was referred to the Committee on Claims.

Mr. GRIMES. I present the petition of Miss Clara Barton, which, as it contains some very interesting statements, I will ask the indulgence of the Senate to read and to more particularly state to the Senate than ordinary petitions are stated. She states that during the time our prisoners were being landed at Annapolis last winter she received a large number of letters from all parts of the country, mostly from the wives and mothers of soldiers, desiring her personal assistance in searching for their lost husbands and sons who, they had reason to fear, had languished or died in southern prisons. The intense anxiety and excitement, amounting in many instances nearly to insanity, which characterized these letters, led her to regard this as the most poignant grief, and perhaps the most pressing necessity at that moment known to our people, prompting her at the same time to devise some means of relief. She decided, if possible, to obtain permission from the Government to inform the public that she would receive and answer all letters addressed to her at Annapolis by the friends of prisoners; that she would then publish the names thus obtained in lists, and cause them to be posted in the barracks, with the request that all paroled prisoners would examine, and transmit to her, by letter or otherwise, such information as they might possess of all persons

whose names appeared there. The information thus gained was forwarded to the person who had made the inquiry, including always the address of the soldier who had conferred the information, thus placing in communication the friends of the missing man and the person professing to have knowledge of him, with a view to further inquiry if desirable, or of protecting themselves against imposition or mistake by a course of personal investigation, constituting the friends as well as herself judges of the accuracy of the intelligence conveyed.

Her suggestions were received by President Lincoln and submitted to Major General Hitchcock, under whose direction a few lines addressed to the friends of Union prisoners appeared in the Chronicle newspaper of this city, and were copied by other papers. In four days three hundred and sixty letters awaited her at Annapolis, and they continued to follow at the rate of a hundred per day until the order for discharging prisoners of war and returning them to their homes rendered it necessary for her either to abandon the search or change her original plan, the results of which had exceeded her expectations. The information sought rested almost entirely with returned prisoners who would now become citizens and scattered over the entire country. They were enfeebled men, and the knowledge of the facts now living in their memories would die with them. She thought her duty plain, and determined to continue her search by means of printed rolls circulated over the entire loyal States. This required substantial aid, and she sought it at the hands of our present Chief Magistrate, with the indorsement of a number of general officers, among whom was Lieutenant General Grant. By special direction of President Johnson, the printing of the rolls was assumed by the Government.

Securing the services of competent clerks, she recommenced her duties in May. Under this enlarged system she was no longer under the necessity of confining her labors to prisoners, and she decided to include in her search all missing men of the Army. During the month of June she printed and put in circulation twenty thousand copies of a roll containing fifteen hundred names of soldiers who had disappeared from the knowledge of their families and friends, and of whose personal existence or condition no knowledge was to be obtained from official sources. A copy of this roll was sent to every point from which it was thought information might be derived, including every post office in the loyal States, accompanied with a request for information as to each and every name contained on it. Each name in regard to which inquiry had been made was, as received, entered upon a book in ledger form, in alphabetical order, specifying, first, the name of the missing soldier with a number designating the order of the receipt of the inquiry; second, his company, regiment, and arm of the service; third, the name and residence of the person making the inquiry; and fourth, the date of its receipt. Corresponding columns were left for entries of information that might be received, and in these were noted as received the name and address of the person giving the information, the date of its receipt, and a brief note of its nature. Sometimes more than one inquiry was made for the same soldier, and often information concerning him was received from more than one person, but in either case all were noted under the same name and number on the register. As information was received from any quarter it was at once communicated to the person or persons making the inquiries, together with the name and address of the person giving the information, thus putting the seeker in direct communication with the possessor of information. Of the fifteen hundred names contained on this first roll she received information of something over one thousand, or more than two thirds of the entire number.

In July last she issued a second roll containing about the same number of additional names, but this roll, from want of means to carry out her project according to its original design, was

never fully circulated. She has since received inquiries for still other missing men, sufficient to make probably more than three other rolls of the same size, or to the total amount of probably seven thousand five hundred men.

This entire labor of correspondence, of registry, of preparation, and publication of rolls, has so far been carried on by her own efforts and at her own expense, with the exception only of the printing of rolls as before stated. She states that she has been compelled to suspend her operations simply from the lack of means to carry them on, the work having so far outgrown her expectations. And yet the work can hardly be said to have been fairly commenced. The inquiries received probably include but a small fraction of those reported "missing;" and whose friends still wait in suspense and lingering hope, harder to bear than even the certainty of death. And of those for whom she has received inquiries but a small proportion have yet been properly sought after, and that information obtained of them which the system properly carried out would bring to light.

She thus finds herself to-day, she says, in possession of a well-organized system of successful search for the missing men of the United States Army. Having originated and carried it forward by herself eight months, and, as she believes, fully demonstrated its practicability, exhausting her means in the effort, she has decided to submit it to the Government for its more wise consideration and action if deemed proper. In order to secure the best measure of success, the work must be vigorously prosecuted, as the sources of information are rapidly wasting away by disease and premature death.

She has found that a soldier's name stands sometimes upon the official records of his Government with the dark word "deserter" written against it, while his family has evidence more or less positive that he lay long months after this an honest captive in rebel prisons and died there. The same course which would serve to throw light upon this case, would aid in bringing to view precisely the opposite, if it existed. Such cases as the above, together with all those respecting whose fate the records are silent, she would suggest as suitable names to be placed upon rolls for distribution throughout the country, after the manner in which she has hitherto, without access to records, found it necessary to deal with all.

There will, when all has been done which lies in mortal power, be still a percentage remaining of men upon whose fate no light will ever gleam until the graves open and the sea gives up its dead; but this will be less than is generally at this day supposed. Her observation warrants her in venturing the opinion that with suitable facilities some trace may be gained of four fifths of all who have disappeared amid the quicksands of war.

How this work shall be carried on in the future is for the Government to decide. That it should not be permitted to cease would seem to be a proposition on which all right-minded persons must agree. The Government owes it no less to the brave men who lie in unknown graves than to the anxious and longing friends in whom hope is not yet wholly dead, to see that no stone is left unturned to complete the personal record of all its preservers. Whether the work shall be continued by the Government in her hands or placed in those of others she leaves for the wisdom of Congress to determine; and she submits this statement of what she has done and designed, with the prayer that it may in some form be assumed by the Government whose duty it would seem to be to perfect it.

Mr. President, I move that this petition, with the accompanying papers, be referred to the Committee on Military Affairs and the Militia, and I trust that it will receive the early and favorable consideration of that committee.

The motion was agreed to.

PAPERS WITHDRAWN.

On motion of Mr. HARRIS, it was

Ordered, That the heirs of Joshua Chamberlain have leave to withdraw their petition and other papers from the files of the Senate.

Mr. DOOLITTLE. I ask leave to withdraw from the files of the Senate the papers relating to the claim of the Chippewa, Ottawa, and Potawatomi Indians, in the State of Michigan. No adverse report has been made, but on the contrary, a favorable report was made.

The PRESIDENT *pro tempore*. That order will be made, if there be no objection.

Mr. DOOLITTLE. I also move that the petition of Preston Starritt, claiming pay which he alleges to be due him as a messenger in the Senate, be withdrawn from the files of the Senate and referred to the Committee on the Judiciary.

The PRESIDENT *pro tempore*. That order will be made, if there be no objection.

Mr. CLARK. I wish to say one word in regard to the motion submitted by the Senator from Wisconsin. I find that when papers are withdrawn from the files of the Senate, the rule is that they shall only be withdrawn when there has been no adverse report. The clerks of the Senate, if they do not find an adverse report written out and with the papers, send down the papers to the committee to which they are referred though there is clearly evidence on the papers that there have been one or more adverse reports. I think that practice should be corrected. I think, if there is anything in the papers that shows the claim has been reported upon adversely, it should not be again referred to a committee without the unanimous consent of the Senate.

REPORTS OF COMMITTEES.

Mr. CLARK, from the Committee on Claims, to whom was referred the petition of David Baker and others, owners of the brig Sabao, praying for remuneration for the loss of their vessel destroyed by the rebel steamer Jamestown, at Fortress Monroe, on the 12th of April, 1862, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of J. W. Downey, praying for relief for property sold under the confiscation act, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Selina Barclay, praying for remuneration for the loss of her property caused by the burning of the navy-yard in Portsmouth, Virginia, in April, 1861, submitted an adverse report; which was ordered to be printed.

Mr. LANE, of Indiana, from the Committee on Military Affairs and the Militia, to whom was referred a resolution of the Legislature of Minnesota in favor of the passage of a law granting a bounty to certain members of the second Minnesota cavalry, submitted an adverse report thereon.

Mr. ANTHONY, from the Committee on Claims, to whom was referred the petition of J. W. Gordon, late major in the eleventh United States infantry, praying that the proper accounting officers of the Treasury may be authorized to credit him for payments of bounty to enlisted men, reported a bill (S. No. 127) for the relief of Jonathan W. Gordon, late major in the eleventh regiment of infantry; which was read and passed to a second reading.

Mr. WILLIAMS, from the Committee on Claims, to whom was referred the petition of Clara Moore, praying for the payment to her of the amount of the claim of her husband for money paid for additional clerks and office accommodations for those clerks in the register's office, at Leecompton, Douglas county, Kansas, submitted an adverse report; which was ordered to be printed.

Mr. HENDERSON, from the Committee on Claims, to whom was referred the petition of James Larry, praying for compensation for losses sustained by him in the occupation of his property by the United States Army near Cold Harbor, Virginia, in June, 1864, submitted an adverse report thereon.

REGISTERING OF VESSELS.

Mr. CHANDLER. The Committee on Commerce, to whom was referred a bill (H. R. No.

204) to regulate the registering of vessels, have instructed me to report it back without amendment and with a recommendation that it pass. I ask the unanimous consent of the Senate to act upon this bill at this time.

The PRESIDENT *pro tempore*. It requires the unanimous consent of the Senate to consider the bill on the day it is reported.

Mr. SHERMAN. I should like to hear it read first.

The Secretary read the bill, as follows:

Be it enacted, &c., That no ship or vessel which has been recorded or registered as an American vessel pursuant to law, and which shall have been licensed or otherwise authorized to sail under a foreign flag, and to have the protection of any foreign Government during the existence of the rebellion, shall be deemed or registered as an American vessel, or shall have the rights and privileges of American vessels, except under the provisions of an act of Congress authorizing such registry.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the bill just read?

Mr. SHERMAN. I prefer that it should lie over. It is a very important rule.

The PRESIDENT *pro tempore*. It lies over under the rule, objection being made.

BILLS INTRODUCED.

Mr. LANE, of Indiana, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 128) authorizing limited partnerships in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 129) for the relief of the heirs of James Bowden; which was read twice by its title, and referred to the Committee on Public Lands.

RECLAMATION OF SWAMP LANDS.

Mr. FOOT submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the Senate a copy of the memorial of Brevet Brigadier General B. S. Roberts, United States Army, setting forth his view of a plan for reclaiming the swamp and waste lands of the lower Mississippi river.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 82) allowing persons having lost one foot and one hand in the naval service of the United States the same pension now allowed to persons having suffered the same loss in the military service;

A bill (H. R. No. 214) for the benefit of Colonel R. E. Bryant;

A bill (H. R. No. 215) for the benefit of John W. Campbell;

A bill (H. R. No. 216) for the relief of Cordelia Murray;

A bill (H. R. No. 217) for the relief of Robert Henne;

A bill (H. R. No. 218) for the relief of Charles Youley; and

A bill (H. R. No. 219) for the relief of Catharine Mock.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 214) for the benefit of Colonel R. E. Bryant—to the Committee on Claims.

A bill (H. R. No. 215) for the benefit of John W. Campbell—to the Committee on Claims.

A bill (H. R. No. 216) for the relief of Cordelia Murray—to the Committee on Pensions.

A bill (H. R. No. 217) for the relief of Robert Henne—to the Committee on Pensions.

A bill (H. R. No. 218) for the relief of Charles Youley—to the Committee on Pensions.

A bill (H. R. No. 219) for the relief of Catharine Mock—to the Committee on Pensions.

A bill (H. R. No. 82) allowing persons having lost one foot and one hand in the naval service of the United States the same pension now

allowed to persons having suffered the same loss in the military service, was read by its title.

Mr. LANE, of Indiana. The Committee on Pensions have reported a bill precisely identical with this, which has already passed the Senate and been sent to the House.

The PRESIDENT *pro tempore*. This bill will be referred to the Committee on Pensions, if there be no objection.

J. B. RITTENHOUSE.

Mr. NYE. I move to take up Senate bill No. 80. It is a bill of a single section, and will take but a moment to consider it.

The motion was agreed to; and the bill (S. No. 80) for the relief of J. B. Rittenhouse, fleet paymaster of the Pacific squadron, was read the second time, and considered as in Committee of the Whole. It directs the proper accounting officers of the Treasury, in the settlement of the accounts of J. B. Rittenhouse, fleet paymaster of the Pacific squadron, to release him from all accountability for the amount of \$18,509, public money, stolen from him on the evening of October 30, 1865, while on duty at Panama, or such portion thereof as he shall fail to recover.

Mr. NYE. I will detain the Senate but a moment with a brief statement of the facts in regard to this bill. Mr. Rittenhouse is the fleet paymaster of the Pacific squadron, and is stationed at Panama. On the evening of the 30th of October last, his safe was opened by false keys and \$13,500 taken therefrom. He immediately reported the facts to the commanding officer of the squadron, Commander Paulding, and he instituted or organized a board of inquiry to investigate and report upon the facts of the case. They did so fully, which proceedings and findings are to be found in the printed report accompanying the bill. The board of inquiry found that the paymaster was entirely excusable from any fault of the robbery. Subsequent to that time a boy that he had in his employ made the following confession with regard to the manner in which the money was stolen:

Confession of Fritz D. D. Icke, 16th December, 1865.

Fritz D. D. Icke, being sworn, deposed as follows: Know a man by the name of Mark Bradley, and have been in the habit of going to his saloon. He keeps a bar-room in the lower part of the town, near the eastern gate. He asked me to get an impression of the key of Fleet Paymaster J. B. Rittenhouse's safe. He told me to take a piece of paper and press the key upon it. I took the impression in this way, and gave it to Bradley, who made a key of iron, which I saw him do. One day, the paymaster told me to get a bottle of wine from a chest within the adjoining room, and gave me the key of this chest, which was attached to a bundle of keys, among which was the safe key. I then took the impression of the safe key. I took the impression while I was in the adjoining room.

Question. Did Bradley ask you to do this?
Answer. Yes, sir. He said he would give me some of the money. He told me he wanted the impression of the safe key so that he could get into the safe. Did not know how much money was in the safe. Bradley gave me seven dollars after the robbery, at different times. I saw Bradley down town on the afternoon of the 30th of October, and he asked me if there was a lot of money in the safe. I told him yes. Bradley did not come here himself to get the money, but gave the key to a man called Ned, who was at Bradley's place, and who knew all about the matter. Ned came here at about seven o'clock in the evening, while I was here alone, and gave me the key. I opened the safe, and Ned took out the money and carried it away in a basket. Ned was a small, sickly looking man.

Question. Did Foster have anything to do with the robbery?

Answer. No, sir; he had nothing to do with it. Bradley made the key, and Ned came and got the money. I opened the safe for him, and locked it again, giving him the key, which he took away. Ned promised me about three thousand or three thousand five hundred dollars, but said that Bradley would not give me more than four or five hundred dollars. Don't know whether or not the money is still at Bradley's. Four or five days before the robbery, Bradley asked me whether or not there was much money in the safe. I told him I thought not, but that there probably would be more at the end of the month. After Bradley made the key, he gave it to me one day to see if it would fit. I tried it, and found that it opened the safe, and then returned it to him.

LEONARD PAULDING,

Lieutenant Commander, Senior Officer.

SOMERSET ROBINSON,

Surgeon, United States Navy.

WILLIAM B. LITTLE,

United States Consul.

JUAN JOSE DIAZ,

E. DILLINGHAM,

Fleet Paymaster's Clerk.

Subsequent to this time \$5,260 in gold was found secreted behind a clock belonging to

Bradley. A full investigation of this matter led the committee to which it was referred to the conclusion that this bill ought to pass. It provides that the proper accounting officer of the Treasury shall relieve this paymaster from accounting for such portion of the money as he does not find. The report of the facts also shows that he is a man who has been long in the employ of the Government, and has been a most faithful and reliable officer in all positions in which he has been placed. I hope, therefore, that the bill will be passed.

Mr. SHERMAN. I would like to ask the Senator from Nevada if the paymaster did not appoint this clerk who seems to have been in collusion with the robber.

Mr. NYE. No, sir; he was a boy that Commander Paulding sent to assist him from a ship lying in the harbor.

Mr. SHERMAN. This clerk, then, was not appointed by the paymaster?

Mr. NYE. No, sir; he was sent to him from the receiving ship in the harbor.

Mr. SHERMAN. Had he any power or control over him?

Mr. NYE. No, sir; he was a mere servant.

Mr. NESMITH. I will ask the Senator from Nevada if there is a printed report in this case.

Mr. NYE. There is a very full report accompanying the bill. I have stated the substance of it. I will state to the Senators from Ohio and Oregon that this is a case where there is clearly not the least blame to be attached to the paymaster. It was fully investigated before the Committee on Naval Affairs. The character of the man is certified to by various other persons as being of the highest probity.

Mr. HOWARD. I understand from the Senator from Nevada that this money was lost by the fleet paymaster without any fault of his own; that his safe was entered by a robber and his money taken away, and that he has recovered only a small portion of it since the robbery was committed. I have not read the whole report of the case, but from what I have read, it seems to me it is a case in which relief ought to be granted.

Mr. NESMITH. I have not yet obtained the report, and I would prefer that the bill should lie over until time can be had to make an examination of it. I know that at the last session of Congress a similar bill was passed here, and it struck me at the time that it was opening a very wide door for frauds to reimburse men who had lost money and were legally responsible for the custody of it. While I have not made up my mind on this bill, I prefer that it should lie over until I can have an opportunity to examine it more particularly.

Mr. NYE. I will state that on the morning the money was lost Mr. Rittenhouse immediately reported the fact to Commander Paulding, the senior officer upon that station, who, on that very day, convened a board of inquiry to examine into the matter, and they made a most thorough and perfect examination. On the very day that the money was ascertained to be lost, the paymaster himself issued a reward of \$5,000 for its recovery. The report likewise shows that he immediately started a man for California, where this boy said the robber had gone, at his own expense, to arrest the principal in the robbery. I understand that he has not been able to make the arrest; but from all the investigation of the Department itself, and from all the papers contained in this report, it is a case where there could not have been the least possible fault in the paymaster. He used all the means for keeping this money that the Government furnished him with. The impression of the key was taken unbeknown to him. In that way this loss occurred. Five thousand two hundred and sixty dollars of the money has been recovered.

Mr. COWAN. Does this bill come from the Committee on Claims?

Mr. NYE. It comes from the Committee on Naval Affairs, who have investigated it and reported unanimously in favor of it. If the Senator desires further examination, I cannot see any necessity for it.

Mr. COWAN. Other cases of this kind have always been considered by the Committee on Claims.

Mr. GRIMES. There is no controversy as to the facts of this case. There is no doubt that the money was lost, and there is no doubt that it was lost without any dereliction, malfeasance, nonfeasance, or misfeasance on the part of Paymaster Rittenhouse. A board was immediately authorized by the commanding officer at that station to investigate the subject, a mixed board, composed of naval officers of the line and of the staff, and the chief of police at Panama, and they have thus reported. Since that report was made, a part of the money has been discovered where it was secreted, going to confirm the correctness of the conclusion to which this mixed board arrived. Paymaster Rittenhouse used all the means for the safety of the money intrusted to him that it was possible for him to use. It seems to me there could not be a clearer case.

The Senator from Ohio seemed to be under a misapprehension in supposing that it was the clerk of the paymaster who was in collusion with the robbers. If so, that would be a strong point against Paymaster Rittenhouse; but it was not the clerk, it was a watchman, a man who had been detailed from one of the ships in the harbor, belonging to the crew of the vessel, to serve in the capacity of watchman at the headquarters on shore, and the testimony goes to show that he was rather a simple-minded young man. If there was anything improper or any neglect on the part of Paymaster Rittenhouse, it was that when he discovered that this young man was not a very smart and intelligent lad, he did not apply to the commander of the vessel to have him discharged; but I do not know that he reached the conclusion that I have, that he was not an intelligent lad. It seems to me that there could not be a more equitable case presented for the consideration of Congress than this.

Mr. COWAN. My objection is that it is simply equitable. It is perfectly clear there is no legal obligation resting on the Government to pay claims of this kind, and it seems to me to be a very doubtful policy for us now to adopt to pay equitable claims when we are refusing legal claims by the million. Why should we? What more merit has one of these officers who has been robbed in this way than those people whose property has been swept away in battle for the life of the Republic? They cannot be paid. I understand the Departments now refuse to recognize any claim unless it is based upon a contract, whereas other claims where property has been taken for public use have just as much legal force and validity if it was taken in an emergency as if it was taken upon a contract, and if we cannot pay legal contracts I think we ought to hesitate a good while before paying these equitable claims.

Mr. LANE, of Indiana. I think the principle upon which our legislation has proceeded heretofore in such cases has been about this: the Government has reimbursed two or three disbursing officers for losses by fire and captures by the enemy. In no other cases, I think, have the Government reimbursed these losses by their disbursing agents. At the last session of Congress there was a case presented from the State of New York where a paymaster, in receiving money from the teller of a bank, was robbed at the counter of the bank, and there was very great uncertainty in the proof as to whether the money had ever passed or not. That is the only case that I remember in which a law has been passed similar to the one now asked for. There it was very doubtful; and the preponderance of proof seemed to be that the money had never passed into the hand of the paymaster. The moment the money, or draft, or requisition passes into his hands, it becomes his money, and its proper disbursement is secured by bonds that are taken by the Government. If we establish the precedent here of making good the loss to this man for stolen property, it may have the effect to lessen the vigilance of these officers in the custody of

public property. I know nothing of this case, and of course take the facts precisely as reported, that this paymaster was robbed without any fault on his part, and that he is an honest and faithful officer; but granting all these things, I think the Government cannot step in and become the guarantor for the safe custody of money in the hands of its disbursing agents.

A few days since a much stronger case than this was presented from the pension agent in the city of New York, and referred to the Committee on Pensions. In that case he claimed that he was robbed; he pursued the robber to Albany, and upon full proof had him convicted and sent to the penitentiary for five years; but we supposed, the money being his own the moment it was drawn, and not belonging to the Government, that he, like every other individual, was responsible for his own losses. The Senate will perceive very readily that although this case may be perfectly honest in every feature of it, still if you adopt the principle of making good to the loser all such losses, you may invite collusion between an unfaithful officer and dishonest accomplices. I do not believe that such legislation should be entered upon at this time.

Mr. CLARK. This is not new legislation, as the Senator from Indiana supposes.

Mr. LANE, of Indiana. It is during my experience, since I have been in the Senate.

Mr. CLARK. I cannot undertake to account for the Senator's experience, but it is not new to many of us here, and certainly not new in the experience of the Committee on Claims. The paymaster is the Government's officer. The Government intrust to him the funds of the Government for a specific purpose, and all that has been required of the paymaster is, to guard the money faithfully with the means that are placed at his disposal, and to see it correctly disbursed. It has been the practice of the Government, where an officer of that kind has been robbed or has lost money without any fault of his own, and the Government are satisfied there is no collusion and he has done everything that he could do to protect and keep the money safely, to reimburse him and relieve him from the obligation. It is not understood to be his money, so that he is liable at all hazards. It is very true, the Government may not relieve him unless they choose; but you will recollect, Mr. President, and the Senator from Indiana, I think, will recollect, that we relieved all the paymasters in the case of a steamer where the money was burned.

Mr. LANE, of Indiana. Certainly, I said so.

Mr. CLARK. But in that case the money was just as much the money of the paymasters as in this case. It had passed into the hands of the paymaster; and if they are to be charged with the money as their own money, there should have been no more relief in that case than in this. If they misappropriate the money, they are liable to punishment. But there is, as the Senator supposes, danger of collusion. Take the very case in hand. Suppose that this paymaster if he had chosen, or if it was in his mind so to do, had colluded with this watchman to take an impression of that key and give it to a third man to steal that money for a consideration to him.

Mr. KIRKWOOD. Will the Senator allow me to ask a question right here?

Mr. CLARK. Certainly.

Mr. KIRKWOOD. Is there any evidence showing how the impression of the key was procured?

Mr. NYE. Yes, sir; the boy says the paymaster gave him the bunch of keys to get something from a chest in an adjoining room, and then he took an impression of the key with paper.

Mr. CLARK. I cannot say what the facts are in this case, because it is a case I have not examined. I am speaking as to the principles which govern this case. There is sometimes great difficulty in ascertaining whether the officer has not colluded with the person committing the robbery, and hence it becomes very necessary for the committee to examine

that portion of the case very strictly. I do not know what has been done in this case. I do not know whether this man kept his safe where he ought to have kept it, or whether he kept it in the best place with the utmost care.

Mr. GRIMES. I will state that in this case the paymaster was required by order of the Navy Department to keep his headquarters at Panama. The headquarters building was furnished to him. This safe itself was furnished to him, and the man who was required to protect it as a guard was furnished to him by the Government.

Mr. CLARK. I am only speaking of the necessity of very great carefulness in examining testimony on a point of that kind. I have in my mind now a case similar to this where an officer in our Army during the war with Mexico had his safe broken open, and he was finally relieved by the Government. It did not appear at first that he had used all the diligence and care that he ought to have done in keeping his safe, but finally the Government relieved him. There are numerous such cases. If the committee are satisfied that the man kept the money with all the care that could be required of him, and it was lost without any fault of his, then in my judgment the Government should reimburse him.

Mr. WILSON. It may be that this bill is all right; but even if it be right, I do not intend to vote for it. I believe that if it be right and if we pass it, a great deal of wrong will follow after it, and it will be used for that purpose. I think that we had better wait until we have the greater portion of our paymasters' accounts settled and have them discharged before passing such a measure as this. I remember that a year or two ago a paymaster at New Orleans professed to have lost a large amount of money. The robbery was charged upon a black man. He was arrested and tortured until he made a confession. That paymaster came to this city, and came to me with his papers, asking that we should pass a bill to reimburse him. I told him that whether his case was good or not, he must wait until the war was over; that we had better not, as a matter of policy, enter upon any of these payments now, or the effect would be to make the officers careless and dishonest, and make them collude with others, and the Government would lose thousands of dollars by it, and I should vote for no case whatever while the war lasted. He went away, and within one week was arrested, imprisoned in this city for robbing himself, was tried, convicted, and is now in the penitentiary. The poor man that he tortured until he made him make a confession to avoid further punishment was sent to the Dry Tortugas.

That is the case of one paymaster, and we do not know how many others may collude with dishonest persons. This man can wait. Let this claim and all others of the same kind lie over until we discharge most of the paymasters, who have had over a thousand million dollars intrusted to them in the Army, and which they have paid out, and they close up their accounts. Some of us feared that many paymasters would never be able to make up their accounts, and the Government would lose millions of dollars. We lost in the war of 1812 over two million dollars by paymasters. In this war, although we have paid out over a thousand million dollars to the Army, the report of the Paymaster General shows that we have not lost more than a quarter million dollars. I think we ought to hold paymasters to a rigid accountability for the money placed in their hands. We ought not, at any rate, to be in any hurry to relieve any man. It may be an inconvenience to him; but I believe if we pass this bill, although it may be equitable, it will drag along with it many dishonest cases, and may induce men hereafter to rob themselves, or collude with others, or do some dishonest thing. I think this matter had better lie over for the public good. I shall vote against it.

Mr. JOHNSON. I know nothing of the facts of this claim; but assuming the facts to be as stated by the honorable member from Nevada,

with due respect to my friend from Massachusetts, it appears to me to be a clear case as against the Government. These officers are but the agents of the United States; they have in their hands the money of the United States; and their whole obligation is to take all reasonable or all possible care of the money. There can be nothing clearer than that, as I think; and if we become satisfied in any individual case that all care has been taken, then it seems to me to follow, upon the principle of justice recognized everywhere, that the officer should be indemnified. There is no distinction between the agent of an individual principal and an agent of the Government as the principal. In each case the agent is not to suffer from conducting properly and honestly and with sufficient care the business of his principal. The doctrine laid down by the honorable member from Massachusetts, if pushed to its extent, would be pregnant with very great mischief. The Secretary of the Treasury has the custody of the money of the Government. The Treasurer of the United States has it, perhaps, more immediately in his own hand. The two together have the custody of the whole treasure of the Government. Suppose a man breaks into the Treasury Department and robs the Treasury of bonds or of money. Will the honorable member say that the Secretary of the Treasury or the Treasurer is to bear the loss? I should think not. Why not? Only because in a case of that description it would be admitted that both these officers had acted fairly, with proper diligence, with proper care; and if it would be right, if such a case should occur, as to them, that they should be indemnified, why is it not right in relation to a paymaster?

It seems to me, so far from this principle being pregnant with mischief in the end, that the inexorable rules which the honorable member proposes should be adopted would be followed by mischievous consequences. You will not be able to get an honest man, perhaps, to take this office if, after using all possible diligence and he is robbed, he is to be ruined absolutely. Some knave will be anxious to get it, who does not care whether he is ruined or not, who may pocket the money, and who may attempt to satisfy the Congress of the United States that he has been robbed, when, in point of fact, he has not. But in the case of an honest paymaster—and this man is supposed to be honest—nobody can infer that when he states that he has been robbed he has not been robbed, but still has the money. I understand the committee say every possible diligence was taken that could be taken. I submit it is a clear obligation on the part of the United States to indemnify the officer.

Mr. CLARK. Mr. President—

Several SENATORS. Let the bill go over.

Mr. CLARK. I have no objection to the consideration of this case being postponed, but I want to make a suggestion or two in answer to what was said by the Senator from Massachusetts, that a man who has a claim against the Government must wait or may wait, and that he would not vote for this claim even if he believed it to be right. I understand him to put it upon that ground. I want the Senate to consider for a moment what that ground is. Take the case of a man who is admitted to have an honest claim against the Government, a claim which the Government ought to pay. The Senator says let it go over. Now, I submit to the Senate that if the Government ought to pay it, it ought to pay it now, and the obligation to pay it now is as strong as it is to pay it at all, and it is as much bound to do it. The Government is strong; the Government has the means of discharging the obligation, and perhaps this poor man, or some other poor claimant, is very much embarrassed and suffers great hardship and wrong by the delay of the Government. What I insist upon is, that you should examine the claim, and if you are convinced it is meritorious, you should pay it; if it is not meritorious, reject it; but do not postpone the man from term to term until weary with coming here

he gives up in despair and leaves you to enjoy what you ought to pay him. Why, sir, this is but repudiation in the beginning. If any merchant or any honorable man should so conduct himself with claims against him, and, admitting them to be honestly due, should postpone them from time to time, he would most assuredly lose his credit, as he would deserve to do. The difficulties may be thick around this Government and its responsibilities large, but I am for meeting them now as far as we can and looking them in the face, and adjudicating upon them, without postponing them.

I have no objection to this bill going over for further consideration. I have no objection to every Senator examining the claim from the beginning to the end with the most scrutinizing care. I would, in a case like this, require very thorough evidence. I would require evidence that the paymaster was a man of such high character that he could not be believed to be concerned in an operation of this kind. I admit that cases may arise such as have been mentioned by the Senator from Massachusetts, but that does not disturb the great principle that when you come to the conclusion a man ought to be paid, you should pay him. It is no answer to me when I have a claim, that B had a dishonest one which the Government paid. The question is about my claim, whether that should be paid; and if I establish a good claim against the Government, they should not claim to relieve themselves by saying that B had a dishonest one. I know there are many men who would sponge on the Government. There are men who would have coined the blood of the soldiers into dollars if they could; but let the Government be just, let it be honest, and let it secure the affections of the people by its justice and its honesty.

Mr. NESMITH. Every dollar of money wrung from the earnings of the people to carry on this great Government has to be intrusted to the custody of some person, and the safeguards for the protection of the public funds and the proper custody and disbursement of those funds cannot be too great. Men seek these offices and all the security the Government can take is their bonds. I do not say there are not cases where I would vote for the relief of an officer, where he had lost money under circumstances where he had used all diligence for its protection, where it had been destroyed by fire or captured by the public enemy. Those are cases where relief should be granted; but before I would vote for the relief of an officer who had been robbed or had money stolen from him, I must have the most clear and incontrovertible evidence of it. Upon any other hypothesis you would throw the door open to the most illimitable robberies, and I apprehend in the settlement of the public accounts there will hardly be an officer who is a defaulter but will concoct some sort of a story about having been robbed.

Now, sir, this case, from the brief examination that I have been able to give the report, does not come under the category which I have laid down. I will read one sentence from the letter from Commander Paulding, which, I think, shows conclusively that this paymaster did not use due diligence. He says:

"It seems that one day Paymaster Rittenhouse wished him"—

That is, the boy who helped to steal this money—

"to take something from a locker in the next room, taking the bunch of keys from his neck and pointing out the one which fitted the locker; the boy, who had been previously instructed by this man Bradley, took a small piece of writing paper, wetted it with his tongue and took the impression of the wards of the key of the safe; he gave Bradley this impression, and saw him make the key out of a piece of iron."

Here is a case where a custodian of the public money having locked it in a safe, parted with the possession of the key of that safe, and put it in the hands of an irresponsible party who subsequently turns out to be a thief. I do not think that any officer who is disbursing public money and acting with a due regard for the

interests of the Government can take risks of that kind. He might as well go off and leave his safe open, if he is going to put his key into the possession of every irresponsible person who wants possession of it. Under the circumstances, with this paragraph in Commander Paulding's letter, it is a case where no sort of diligence was exercised, and if we can grant relief in this case we can grant relief where a man absolutely and intentionally puts his keys in the hands of a person with the intention to rob him. I do not say that this paymaster had any collusion with this party, but I do say that he manifested a disregard of the public interest, by permitting the key of his safe to go into the hands of an irresponsible person, which should make him responsible for the amount of money lost.

Mr. FESSENDEN. Mr. President, I gave notice a few days since, that on this Monday morning I would ask the Senate to proceed to the consideration of the joint resolution proposing an amendment of the Constitution, reported from the committee on reconstruction, so called; and as I understand that the honorable Senator from Massachusetts [Mr. SUMNER] designs to speak upon the resolution, and is prepared to do so, and it was generally understood that he would do so to-day, I shall make the motion, although perhaps under other circumstances I would not do it, owing to my own condition. I will, therefore, move that the further consideration of the bill now before the Senate be postponed, with a view to proceed to the consideration of that joint resolution.

Mr. STEWART. I have been waiting for a long time to get an opportunity to call up Senate bill No. 74 for the admission of Colorado. I think that the Senate ought to act upon that subject speedily. Before we enter upon the consideration of a subject that is going to occupy a very long time, and will be discussed here probably for weeks, I think we should give some consideration to this question of the admission of Colorado. It will take but a very short time, I apprehend. It is due to those people that the question should be determined speedily, that they may know what the Senate are disposed to do upon the subject.

Mr. FOOT. That will be debated at length when it is taken up.

Mr. WILSON. You cannot do anything with that to-day.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maine.

The motion was agreed to.

The PRESIDENT *pro tempore*. Will the Senator from Maine designate which of the two joint resolutions he asks the Senate to take up?

Mr. FESSENDEN. The one that came from the House of Representatives last week.

APPORTIONMENT OF REPRESENTATION.

The Senate, as in Committee of the Whole, proceeded to consider the following joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States:

Resolved, &c. (two thirds of both Houses concurring.) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE — Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation.

Mr. SUMNER addressed the Senate, but without concluding gave way to

Mr. MORGAN, on whose motion the Senate proceeded to the consideration of executive business.

After some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, February 5, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

LEAVE OF ABSENCE.

Mr. NEWELL. My colleague, Mr. WRIGHT, is very sick, and I ask that he be excused from attending the House until sufficiently recovered to do so.

There being no objection, indefinite leave of absence was granted to Mr. WRIGHT.

The SPEAKER proceeded, as the regular order of business, to call the States and Territories for bills on leave, to be referred to the appropriate committees without debate, not to be brought back by motions to reconsider, commencing with the State of Maine.

SPECIAL CENSUS.

Mr. BLAINE introduced a bill providing for a special enumeration of the inhabitants of the United States prior to October 1, 1866; which was read a first and second time, referred to the joint committee on reconstruction, and ordered to be printed.

COURT OF CLAIMS.

Mr. DAWES introduced a bill to amend an act amending the act establishing a court for the investigation of claims against the United States; which was read a first and second time, and referred to the Committee of Claims.

PENNSYLVANIA INSTITUTION FOR THE BLIND.

Mr. MILLER introduced a bill to exempt from taxation the Pennsylvania Institution for the Instruction of the Blind; which was read a first and second time, and referred to the Committee of Ways and Means.

MUTUAL FIRE INSURANCE COMPANY.

Mr. MERCUR introduced a bill to amend an act to incorporate the Mutual Fire Insurance Company of the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

CATHARINE SHISLS.

Mr. LAWRENCE, of Pennsylvania, introduced a bill authorizing the Quartermaster General to settle the claim of Catharine Shisls, of Washington county, Pennsylvania; which was read a first and second time, and referred to the Committee of Claims.

TWO BROTHERS, OF WALLACEBURG.

Mr. HOLMES introduced a bill authorizing the issue of an American register to the schooner Two Brothers, of Wallaceburg; which was read a first and second time, and referred to the Committee on Commerce.

RICE M. BROWN.

Mr. HILL introduced a bill for the relief of Rice M. Brown; which was read a first and second time, and referred to the Committee on Military Affairs.

INDEMNITY ACT.

Mr. McKEE. I ask to have this bill, being a bill to amend the act of indemnity, approved March 3, 1863, referred to the Committee on the Judiciary.

Mr. HARDING, of Kentucky. I would ask my colleague if this is the same bill he desired to introduce the other day.

Mr. McKEE. It is.

Mr. HARDING, of Kentucky. Is it in order for me to move to reject the bill?

The SPEAKER. The Chair is of opinion that the gentleman has the right to object to its introduction, when the question of granting leave must be acted on without debate. The Clerk will report the bill, after which, if there is objection, the question will be taken upon granting leave for its introduction and reference at this time.

The bill was read at length. The first section provides that in any suit or prosecution, civil or criminal, which has been or shall be

commenced in any State court, against any officer, civil or military, or against any other person for any arrest or imprisonment made, or any other trespass done or committed, during the time of the rebellion, the defendant may file a petition to remove the cause for trial in the United States Court of Claims; and upon affidavit that the arrest, imprisonment, or trespass was made or committed by him as an officer of the United States in pursuance of orders from his superior officer which he was bound to obey, and at a time when the rebel forces had invaded or were about to invade the place where the arrest was made, and that he had cause to believe that the person or persons arrested if left at large would impede the operation of the United States forces, and that the arrest was reported to his superior officer, who approved and sanctioned the arrest, and the party arrested was received from his hands by officers of the United States, and held by them with the knowledge and approval of the Secretary of War and the President of the United States, as he believes, it shall be the duty of the State court to proceed no further in the cause, but to dismiss the same and strike it from the docket, and make proper orders for its transfer and removal to the United States Court of Claims, where the cause shall be filed and disposed of as are other claims against the United States; and upon the plaintiff showing undoubted loyalty, and that his arrest and imprisonment was made without reasonable or proper cause, the court shall assess an amount in damages in his favor which shall be paid as other claims out of the Treasury of the United States.

Section two provides that it shall be lawful in any such suit or prosecution for either party to move the transfer of the same by appeal or writ of error to the circuit court of the United States, and thence to the Supreme Court of the United States, whenever the State court shall have decided the motion for the removal of the cause for trial, as prescribed in the first section.

Section three provides that upon the filing of a copy of the record made in the State court in the suit or prosecution described in this act down to and inclusive of the judgment of the court upon the motion for removal, it shall be the duty of the United States circuit court to cause the removal or transfer of the suit or prosecution, with all the papers connected therewith, by *mandamus* or such other order as may be necessary to effect the removal aforesaid.

Section four provides that in all cases where judgment has been obtained against any party described in the first section, upon the party filing a record of the act upon which the judgment was obtained, with an affidavit setting forth the facts as herein provided, in the circuit court of the United States, it shall be the duty of the circuit court, by *supersedeas* or such other order as may be necessary, to stay all proceedings which may be commenced or authorized to be commenced by reason of any judgment in the State court; and any officer of any State court who shall refuse to obey or comply with any order from the United States court shall be subject to a penalty of a fine of not less than \$500 nor more than \$5,000, or imprisonment not more than three years, or both, in the discretion of the court, the proceedings against the officer disregarding the order to be held in the court from which the order may issue.

The SPEAKER. The Clerk will read the rule under which the House is now acting.

The Clerk read, as follows:

"On each Monday succeeding that upon which a call for reports takes place as above, it is made the duty of the Speaker to call the States and Territories first for bills on leave for reference only and without debate, and not to be brought back by motions to reconsider."

The SPEAKER. The general usage of the House has been on each alternate Monday to receive all bills presented and refer them to their appropriate committees under the injunction that they are not to be brought back by motions to reconsider. The gentleman from Kentucky [Mr. HARDING] objects to the introduction of the

bill of his colleague, [Mr. McKee.] And the language of the rule is such that in the opinion of the Chair the gentleman has the right to make the objection.

Mr. WASHBURN, of Illinois. I would ask if that does not change the entire spirit and object of the rule.

The SPEAKER. The Chair thinks it does; but the language of the rule is, "bills on leave."

Mr. WASHBURN, of Illinois. Then, if any gentleman objects to the introduction of any bill, it can only be done by a majority vote of the House.

The SPEAKER. This is the first time the question has arisen in the House under this rule, or during the Speaker's service in the House, that he can remember; but the Chair is of opinion that according to the language of this rule, if objection is made by any gentleman to the introduction of any bill he must have leave granted by a vote of a majority of the House, which must be taken without debate.

Mr. McKee. I call for the yeas and nays on the question of granting me leave to introduce this bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 116, nays 14, not voting 52; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, De los R. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bingham, Blaine, Blow, Boutwell, Bromwell, Broomall, Hendon W. Clarke, Cobb, Cullom, Dawes, DeForest, Deeming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Hale, Honor C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Asahel W. Hubbard, Dennis Hubbard, John H. Hubbard, James R. Hubbell, James Humphrey, Jencks, Julian, Kasson, Kelley, Kelso, Ketchum, Kuykendall, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, McClurg, McIndoe, McKee, McRuer, Mercer, Miller, McRehnd, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rogers, Rollins, Rousseau, Sawyer, Schellabarger, Smith, Spalding, Starr, Stillwell, Thayer, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Upson, Van Arnam, Burt Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—116.

NAYS—Messrs. Boyer, Dawson, Eldridge, Finck, Glossbrenner, Aaron Harding, McCullough, Niblack, Noel, Samuel J. Randall, Ritter, Sitgreaves, Strouse, and Trimble—14.

NOT VOTING—Messrs. Ancona, James M. Ashley, Bergen, Bidwell, Brandegee, Brooks, Buckland, Bundy, Chanler, Sidney Clarke, Conkling, Cook, Culver, Darling, Davis, Delano, Denison, Goodyear, Grider, Grinnell, Griswold, Harris, Hogan, Hotchkiss, Chester D. Hubbard, Edwin N. Hubbell, Hulburd, James M. Humphrey, Ingersoll, Johnson, Jones, Kerr, Le Blond, Lynch, Marshall, Marston, Marvin, Nicholson, Radford, Ross, Schenck, Seefeld, Shanklin, Sloan, Stevens, Taber, Taylor, Robert T. Van Horn, Voorhees, Welker, Winfield, and Wright—52.

So leave was granted for the introduction of the bill.

The bill was read a first and second time, and referred to the Committee on the Judiciary.

EZEKIEL P. MULFORD.

Mr. SMITH introduced an act for the benefit of Ezekiel P. Mulford; which was read a first and second time, and referred to the Committee on Military Affairs.

SUSAN MEADOR.

Mr. GRIDER introduced a bill for the benefit of Susan Meador; which was read a first and second time, and referred to the Committee of Invalid Pensions.

J. STOUT PARKER.

Mr. NEWELL introduced a bill for the relief of J. Stout Parker; which was read a first and second time, and referred to the Committee of Claims.

ALEXANDRIA AND WASHINGTON RAILROAD.

Mr. INGERSOLL introduced a bill to amend an act to extend the charter of the Alexandria and Washington railroad, passed March 3, 1863; which was read a first and second time, and referred to the Committee for the District of Columbia.

GREAT FALLS ICE COMPANY.

Mr. INGERSOLL also introduced a bill to incorporate the Great Falls Ice Company, of

Washington, District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

METROPOLITAN INSURANCE COMPANY.

Mr. INGERSOLL also introduced a bill to incorporate the Metropolitan Fire and Marine Insurance Company of the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

PUBLIC BUILDINGS AT CAIRO, ILLINOIS.

Mr. KUYKENDALL introduced a bill to provide for the construction of a custom-house, post office, and court-house at the city of Cairo, Illinois; which was read a first and second time, and referred to the Committee on Commerce.

NATIONAL CAPITAL INSURANCE COMPANY.

Mr. BROMWELL introduced a bill to incorporate the National Capital Insurance Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

SWAMP LANDS IN ARKANSAS, ETC.

Mr. THORNTON introduced a bill to amend an act entitled "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits," approved September 28, 1850; which was read a first and second time, and referred to the Committee on Public Lands.

IMPROVEMENT OF MISSISSIPPI RIVER.

Mr. HOGAN introduced a bill for the improvement of the Mississippi river; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

AMENDMENT OF THE CONSTITUTION.

Mr. KELSO introduced a joint resolution to amend the Constitution of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

NATIONAL TELEGRAPHIC UNION ASSOCIATION.

Mr. BEAMAN introduced a bill to incorporate the National Telegraphic Union Association; which was read a first and second time, and referred to the Committee on the Judiciary.

WAUGOOSHANCE LIGHT-HOUSE.

Mr. FERRY, by unanimous consent, introduced a joint resolution of the Legislature of Michigan, relating to the unsafe condition of Waugooshance light-house, in the straits of Michilimackinac; which was read a first and second time, and referred to the Committee on Commerce.

LIEUTENANT JOHN H. HAMLIN.

Mr. LONGYEAR introduced a joint resolution in the matter of Lieutenant John H. Hamlin; which was read a first and second time, and referred to the Committee on Military Affairs.

HABEAS CORPUS, ETC.

Mr. WILSON, of Iowa, introduced a bill to amend an act entitled "An act relating to habeas corpus and regulating judicial proceedings in certain cases," approved March 3, 1863; which was read a first and second time, and referred to the Committee on the Judiciary.

OATH FOR PUBLIC OFFICERS.

Mr. WILSON, of Iowa, also introduced a bill to prescribe an oath for public officers and members of the bar, and for other purposes; which was read a first and second time, and referred to the Committee on the Judiciary.

MILITARY ROAD IN WISCONSIN.

Mr. McINDOE introduced a bill granting lands to the State of Wisconsin to aid in the construction of a military, wagon, and postal road from Eau Claire, via Chippewa Falls, to Lake Superior, in that State; which was read a first and second time, and referred to the Committee on Public Lands.

BARBARA SAMSON.

Mr. WINDOM introduced a bill for the relief of Barbara Samson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

BOUNDARIES OF NEVADA.

Mr. ASHLEY, of Nevada, introduced a bill concerning the boundaries of the State of Nevada; which was read a first and second time, and referred to the Committee on Territories.

POST ROADS IN NEVADA.

Mr. ASHLEY, of Nevada, also introduced a bill to establish certain post roads; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

LAND GRANTS TO NEVADA.

Mr. ASHLEY, of Nevada, also introduced a bill concerning certain lands granted to the State of Nevada; which was read a first and second time, and referred to the Committee on Public Lands.

PUBLIC LANDS IN NEVADA.

Mr. ASHLEY, of Nevada, also introduced a bill concerning the public lands in the State of Nevada; which was read a first and second time, and referred to the Committee on Public Lands.

ROADS IN WASHINGTON TERRITORY.

Mr. DENNY introduced a bill to provide for the construction and improvement of certain roads in Washington Territory; which was read a first and second time, and referred to the Committee on Territories.

HOMESTEADS FOR ACTUAL SETTLERS.

Mr. BRADFORD introduced a bill for an act to amend an act entitled "An act to secure homesteads for actual settlers on the public domain, and for other purposes," which was read a first and second time, and referred to the Committee on Public Lands.

PUBLIC BUILDINGS IN IDAHO.

Mr. HOLBROOK introduced a bill making appropriations for public buildings in the Territory of Idaho; which was read a first and second time, and referred to the Committee on Territories.

LAND OFFICE IN IDAHO.

Mr. HOLBROOK also introduced a bill to establish a land office in the Territory of Idaho; which was read a first and second time, and referred to the Committee on Public Lands.

POST ROADS IN IDAHO.

Mr. HOLBROOK also introduced a bill to establish post roads in the Territory of Idaho; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

BOUNDARY BETWEEN OREGON AND IDAHO.

Mr. HOLBROOK also introduced a bill for the survey of the boundary between the Territory of Idaho and the State of Oregon; which was read a first and second time, and referred to the Committee on Territories.

STANDARD OF WEIGHTS AND MEASURES.

Mr. ALLISON introduced a bill to fix the standard of weights and measures; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

AMENDMENT TO THE CONSTITUTION.

Mr. WILLIAMS introduced a joint resolution to amend the Constitution of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

REMOVAL OF DEAD BODIES.

Mr. WARD introduced a bill to punish for the removal of dead bodies from graves and other places of interment in the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

CLAIMS.

Mr. KERR. Mr. Speaker, I hold in my hand several applications for the payment of claims

for damages, and as they all refer to one another, I ask to present and refer them *en masse*.

The SPEAKER. Only bills and joint resolutions are now in order; and the business after that is the call of States for resolutions, commencing with the State of Illinois.

INFORMERS UNDER INTERNAL REVENUE LAW.

Mr. FARNSWORTH submitted the following resolution, on which he demanded the previous question:

Resolved, That the Committee of Ways and Means be instructed to report a bill to this House repealing such provisions of the internal revenue law as allow informers to receive a moiety of fines for an infraction of that law.

Mr. MORRILL. I ask the gentleman to modify it so as to make it a resolution to inquire into the expediency.

Mr. FARNSWORTH. It is a very simple question, and I would like to get an expression of the House upon the instruction.

Mr. MORRILL. It ought not to be acted upon without consideration.

Mr. FARNSWORTH. I will change it, but I hope the committee will report soon, and that the House will act upon the subject. It is growing into a monstrous evil throughout the country.

The SPEAKER. If it gives rise to debate it goes over.

Mr. FARNSWORTH. I will modify it and make it a resolution of inquiry.

The resolution, as modified, was agreed to.

WHITE MAN'S DAY.

Mr. ROSS. I offer the following resolution, and demand the previous question upon it:

Whereas two months of the first session of the Thirty-Ninth Congress have expired, and but little progress been made in perfecting and maturing the important public measures so anxiously hoped for and expected by our constituents; and whereas a large portion of our time has been devoted to legislation for and in behalf of freedom: Therefore,

Be it resolved, That the Committee on Rules be instructed to inquire into the expediency of reporting a new rule for the government of the House, to the effect that one day in each week be set apart by the Speaker of the House to be exclusively devoted to the public business of the country, and that during this Congress it be known as and called the "white man's day."

Mr. WASHBURN, of Illinois. I move that the resolution lie on the table.

The motion was agreed to.

LEVYING CONTRIBUTIONS ON SECEDING STATES.

Mr. McCLURG offered the following resolution:

Whereas it is clearly manifest that the continued contumacy in the seceding States renders it necessary to exercise congressional legislation in order to give to the loyal citizens of those States protection in their natural and personal rights enumerated in the Constitution of the United States, and in addition thereto makes it necessary to keep on foot a large standing army to maintain the authority of the national Government and to keep the peace; and whereas the country is already overburdened by a war debt incurred to defend the nation against an infamous rebellion, and it is neither just nor politic to inflict this vast additional expense on the peaceful industry of the nation: Therefore,

Resolved, That it be referred to the joint committee of the Senate and House to inquire into the expediency of levying contributions on the seceding States to defray the extraordinary expenses that would otherwise be imposed on the General Government, and that said committee be instructed to report by bill or otherwise.

Mr. KERR. I move to lay the resolution on the table, and on that I call the yeas and nays.

The yeas and nays were not ordered.

The question being taken upon agreeing to the resolution, no quorum voted.

Tellers were then ordered; and Messrs. McClurg and Kerr were appointed.

The House divided; and the tellers reported—ayes 41, noes 65.

So the resolution was not laid on the table.

Mr. RANDALL, of Pennsylvania. I rise to debate the resolution.

The SPEAKER. Then it goes over under the rule.

AMENDMENT TO THE CONSTITUTION.

Mr. ANDERSON introduced a joint resolution to amend the Constitution of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

EMPLOYMENT OF COLORED TROOPS.

Mr. BLOW. I offer the following resolution, and demand the previous question upon it:

Resolved, That the Committee on Military Affairs be directed to inquire and report upon the expediency of authorizing the employment of colored troops, with their consent, in the construction of railroads in the departments or districts where they may be stationed.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills reported that the committee had examined and found truly enrolled a bill of the House (H. R. No. 143) entitled "An act for the relief of Charles F. Anderson."

HARBOR OF ST. JOSEPH, MICHIGAN.

Mr. UPSON introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of making an appropriation to assist in the improvement of the harbor of St. Joseph, Michigan.

WIDOWS OF REVOLUTIONARY SOLDIERS.

Mr. UPSON also submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Revolutionary Pensions be instructed to inquire whether any further legislation is necessary or appropriate for the aid and benefit of the surviving widows of soldiers of the Revolution, and to report by bill or otherwise.

ENROLLMENT SURGEONS' REPORTS.

Mr. LONGYEAR submitted the following resolution:

Whereas the reports of the surgeons of the boards of enrollment during the late war now on file in the Provost Marshal General's Bureau have been collected at great expense, and contain much information valuable to the world generally, and to the Government particularly, in any future emergency:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of the compilation and publication of the said reports, and report by bill or otherwise.

Mr. SCHENCK. That matter has already been referred to the Committee on Military Affairs.

The resolution was agreed to.

LOCATION OF THE CAPITAL.

Mr. DRIGGS introduced a joint resolution referring the subject of the permanent location of the capital of the United States to the joint committee on reconstruction; which was read a first and second time.

The resolution is as follows:

Whereas the removal of and permanent location of the capital of the United States is a subject of great importance, and one which is sure to be demanded in the future on account of the increasing population of the great West; and whereas twenty odd States have been added to the Union since the location of its capital here, rendering its present site entirely out of the geographical and business center of the States, as well as of the inhabitants thereof; and whereas we consider that all wise legislation should look as well to the interest of the future millions who are to inhabit the undeveloped portion of our country as to the present day and hour; and whereas we believe it is justly due to the interest and convenience of the great majority of the people of the States who have always been loyal and true to the Government that their capital should be located in a central position where it will be secure against future attacks and destruction by foreign enemies, and where their Representatives can legislate for the enfranchisement of citizens, or pass such other laws as may be deemed proper without incurring menacing threats from its surrounding inhabitants; and whereas those who are opposed to a change freely admit that the removal of the capital is only a question of time, and in view of the possibility, not to say probability of such an event, we consider it unwise and imprudent to spend any more money upon public works in the District than to complete such as have been commenced until the question is definitely settled: Therefore,

Resolved, (the Senate concurring), That the joint committee on reconstruction be directed to take the subject under consideration, and report to Congress by bill or otherwise for such action as may be thought proper regarding the removal or permanent retention of the capital of the United States in the District of Columbia.

Resolved, That the committee have leave to report either during the present or next session of Congress.

Mr. BROOKS. I hope there will be no objection to that resolution.

Mr. DRIGGS. I demand the previous question.

The previous question was seconded, and the

main question ordered; and under the operation thereof the joint resolution was referred to the joint committee on reconstruction.

PAVING OF PENNSYLVANIA AVENUE.

Mr. McINDOE submitted the following resolution, upon which he demanded the previous question:

Resolved, That the Committee for the District of Columbia be hereby instructed to inquire into the expediency of paving Pennsylvania avenue with the Nicholson pavement, and to report by bill or otherwise.

The previous question was seconded, and the main question ordered.

Mr. WASHBURN, of Illinois. I do not want any such instruction given to the committee. I hope the resolution will be voted down. The resolution was rejected.

VINDICATION OF CIVIL RIGHTS.

Mr. WILSON, of Iowa. I ask unanimous consent that a bill now on the Speaker's table, being Senate bill No. 61, to protect all persons in the United States in their civil rights, and to furnish the means of their vindication, be taken therefrom and referred to the Committee on the Judiciary, and be printed.

No objection was made.

The bill was accordingly read a first and second time, and referred to the Committee on the Judiciary, and ordered to be printed.

EXPENSES OF JOINT COMMITTEE.

Mr. STEVENS. I ask to have taken from the Speaker's table a Senate joint resolution making an appropriation for the expenses of the joint committee on reconstruction. It is necessary to have prompt action on that resolution in order that the fees of witnesses and other expenses of the committee may be paid.

The title of the resolution was read, being Senate joint resolution No. 26, for the payment of expenses incurred by the joint committee to inquire into the condition of the States which formed the so-called confederate States of America.

Mr. ROSS. I object.

Mr. STEVENS. Would it be in order for me now to move to proceed to business on the Speaker's table?

The SPEAKER. That motion would be in order.

Mr. STEVENS. Then I submit that motion. The motion was agreed to.

PENSION APPROPRIATION BILL.

The SPEAKER stated the first business on the Speaker's table was the concurring in the Senate amendments to House bill No. 86, making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th of June, 1867.

The amendments of the Senate were read.

The first amendment was to strike out the word "per" and insert the words "as provided for by;" so that the clause will read:

For revolutionary pensions, and pensions of widows, children, mothers, and sisters of soldiers, as provided for by acts of March 18, 1818, &c.

The amendment was concurred in.

The next amendment was to insert after the words "1862" the words "and for compensation to pension agents and expenses of agencies."

Mr. WASHBURN, of Illinois. I would like to be informed of the effect of this amendment. What necessity is there for changing the existing law in this respect? And I would ask if it is proposed to give those agents any additional compensation?

Mr. STEVENS. I understand that this adds nothing to their compensation; it only makes it more specific.

Mr. WASHBURN, of Illinois. I would like to have that clause read as it is proposed to amend it.

It was read, as follows:

For revolutionary pensions, and pensions of widows, children, mothers, and sisters of soldiers, per act of March 18, 1818; May 15, 1828; June 7, 1842; July 4, 1836; July 7, 1838; March 3, 1843; June 17, 1841; February 2; July 21, and July 29, 1848; February 3, 1853; June 3, 1858; and July 14, 1862, and for compensation to pension agents and expenses of agencies, \$9,800,000.

Mr. STEVENS. I understand the gentleman from Illinois [Mr. WASHBURN] to ask if the appropriation remains the same.

Mr. WASHBURN, of Illinois. No, sir; but whether a construction can be given to the law, as now proposed to be amended, which will allow any compensation in addition to what has heretofore been given by existing laws.

Mr. STEVENS. I understand it will not have that effect.

Mr. BROOKS. I have not had time to examine this bill. But I will ask the gentleman from Illinois, [Mr. WASHBURN,] as he seems to have examined the bill, whether there is any thing in it providing that national banks shall act as pension agents, in order to relieve the country from that heavy expenditure. I think there ought to be some provision made in some of these pension bills that the national banks shall incur the expenses now incurred by the pension agencies for the payment of pensions, &c. These banks are deriving great advantages from the Government, and they ought to incur these expenditures. We were promised in the last Congress that some provision of this sort should be made.

Mr. WASHBURN, of Illinois. There is nothing of that kind in this bill. And however favorable I might be to the proposition of the gentleman from New York, [Mr. BROOKS,] I should oppose it in this bill as being independent legislation in an appropriation bill, which the gentleman agrees with me should be kept cut of such bills.

The amendment of the Senate was concurred in.

The next amendment was to insert at the end of the bill the following as a new section:

SEC. 2. *And be it further enacted*, That the following sum be, and the same is hereby, appropriated to supply a deficiency in the appropriation for the fiscal year ending June 30, 1866, out of any money in the Treasury not otherwise appropriated:

For revolutionary pensions and pensions of widows, children, mothers, and sisters of soldiers, as provided for by acts of March 18, 1818; May 15, 1828; June 7, 1832; July 4, 1836; July 7, 1838; March 3, 1843; June 7, 1844; February 2, July 21, and July 29, 1848; February 3, 1853; June 3, 1855, and July 4, 1862, \$2,500,000.

The amendment was concurred in.

The next amendment was as follows:

To insert after the words "July 14, 1862," the words "to be paid out of the Navy pension fund; so that the same will read:

Nor Navy pensions to widows, children, mothers and sisters, per act of August 11, 1848, and July 14, 1862, to be paid out of the Navy pension fund, \$140,000.

The amendment was concurred in.

The next amendment was to amend the title by adding the words "and additional appropriations for the year ending the 30th of June, 1866."

The amendment was concurred in.

Mr. STEVENS moved to reconsider the votes by which the House concurred in the several amendments of the Senate; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MADISON'S WRITINGS.

The next business upon the Speaker's table was Senate joint resolution No. 17, directing the distribution of the writings of James Madison.

The joint resolution was read a first and second time.

It directs the Joint Committee on the Library to distribute by mail or otherwise the five hundred copies of the writings of James Madison, published by authority of Congress, as follows: to the President of the United States, one copy; to the libraries of the different Executive Departments and of the Postmaster General and Attorney General, one copy each; to each member of the present Senate and House of Representatives, one copy; to the Library of Congress, ten copies; to the libraries of the several States and Territories of the Union, one copy each; to such public and college libraries as may be designated by the present Joint Committee on the Library, one hundred copies; the

residue to be retained in the Department of the Interior for future distribution.

Mr. STEVENS moved to refer the joint resolution to the Joint Committee on the Library.

Mr. WASHBURN, of Illinois. I hope we shall not proceed to vote ourselves books at this early period of the session. I move that the joint resolution be laid on the table.

Mr. KELLEY. Mr. Speaker—

The SPEAKER. The motion to lay on the table is not debatable.

Mr. WASHBURN, of Illinois. I withdraw my motion for the present, that the gentleman from Pennsylvania [Mr. KELLEY] may explain this matter.

Mr. KELLEY. I desire simply to state that this resolution has been before the Joint Committee on the Library, having been examined by that committee before its passage in the Senate. It provides, not for the purchase of any books, but simply for the distribution of books now on hand.

Mr. SCOTFIELD. I would like to inquire of my colleague [Mr. KELLEY] whether these books have been paid for, whether, after the passage of this resolution, we may not be called upon to pay for these documents.

Mr. KELLEY. As I understand, the Government purchased some time ago a certain number of copies of this work, and has them now on hand. This resolution simply provides for the distribution of these documents, which the Government bought and paid for long ago. It does not contemplate the purchase of a single volume.

Mr. WASHBURN, of Illinois. I renew the motion that the joint resolution be laid on the table.

The motion was not agreed to.

Mr. SPALDING. I hope that the motion to refer this resolution to the Committee on the Library will be withdrawn, and that the resolution will be passed now.

Mr. STEVENS. I withdraw the motion to refer.

The joint resolution was ordered to be read a third time; was read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONTESTED ELECTION FROM MICHIGAN.

Mr. SCOTFIELD, from the Committee of Elections, to whom was referred the petition of Augustus C. Baldwin, claiming to be entitled to the seat now occupied by ROWLAND E. TROWBRIDGE as a Representative from the fifth congressional district of Michigan, submitted a report, accompanied with the following resolution:

Resolved, That ROWLAND E. TROWBRIDGE is entitled to a seat in this House as a Representative from the fifth congressional district of Michigan.

The report and resolution, with the accompanying papers, were laid on the table and ordered to be printed.

Mr. MORRILL. I ask unanimous consent to call up the bill No. 201. I do not think it will take five minutes to pass it.

Mr. LE BLOND. Does the gentleman wish to call up that bill for action now?

Mr. MORRILL. Yes, sir.

Mr. LE BLOND. I insist upon the regular order.

Mr. MORRILL. Then I move a suspension of the rules.

The SPEAKER. The House is now acting under a suspension of the rules. The bill now in order, the Freedmen's Bureau bill, is a special order, made such under a suspension of the rules.

FREEDMEN'S BUREAU.

The House, agreeably to order, resumed the consideration of the bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau.

Mr. TRIMBLE. Mr. Speaker, I had not intended to trouble this House with any remarks after the very able remarks of my colleagues from Kentucky and others in opposition to the

bill. But when I consider the magnitude of the principles involved in this measure, I feel it my duty to enter my solemn protest against it and to present my views in relation to the measure.

I feel I would be recreant to the cause of both white and black who are to be operated upon by this bill.

Sir, it will not be my purpose on this occasion to deal in denunciations, criminations, or recriminations. I shall endeavor not to appeal to the passions of any one section of this country for the purpose of arousing their prejudices against the inhabitants of another. I shall not attempt either to appeal to the prejudices which may exist in the minds of any one in this country against either white or black. Unfortunately for our beloved country too much of that spirit has been indulged in from one end of the country to another. My effort, sir, shall be to appeal to your patriotism, to your love of country, of justice, and fairness, from one end of this now divided country to the other.

Mr. Speaker, this bill and its provisions are to operate upon the entire country from ocean to ocean, from the lakes to the Gulf. I propose to enter on the objections I have to this bill, and the constitutional reasons that induce me to vote against it; and I firmly believe those objections are of such character, if they were considered calmly and coolly by this House, it would not receive the sanction of a majority upon this floor. The principle of this bill strikes down, in my judgment, the foundations upon which civil liberty rests, and obliterates the Constitution and the rights of citizens in the States and individuals under that Constitution. Under the provisions of the bill no man, white or black, when those provisions are brought into successful operation, can feel that he is an American citizen and entitled to the protection which the laws of the land afford to him.

It has been the boast, sir, of this country that this land was to be the asylum for the oppressed of every nation and every clime. Let that remain the boast and pride of this country. Let us not by our own acts, let us not by our own laws, strike down the liberties of white and black under the provisions of this bill. Let us hold this land out as the asylum for the oppressed everywhere; let us still invite them to our shores; and let us protect them in all their rights under the Constitution of our fathers.

Under the provisions of this act land is to be taken, farms are to be opened, and all branches of industry are to be operated upon. Where is the warrant for this? Where is the authority under the Constitution for such a power to buy and take land, to distribute land to this unfortunate class of the people? Where is the authority and warrant in the Constitution for that purpose? I have read that Constitution in vain to find the shadow of authority for the passage of a bill with such extraordinary powers as these. It is in plain and open violation of that section in the Constitution of the United States that provides that no bill of attainder shall be passed by Congress. It is in plain and open violation of that provision which declares that Congress shall have power to declare the punishment of treason, but no attainder for treason shall work corruption of blood or forfeiture, except during the life of the person attained.

I hold this bill is in open and plain violation of that provision of the Constitution. There exists no power in this Government to deprive a citizen of the United States of his property, to take away the hard earnings of his own industry and bestow them upon this class of citizens. The only way you can take property in South Carolina, Georgia, or any other State, is to take that property under the Constitution of the United States and the laws passed in pursuance thereof. It declares that no bill of attainder shall work corruption of blood or forfeiture, longer than the life of the person attained. When you have taken the property of a man convicted of the high crime of treason, when he is dead you have no right to deprive his orphans of that property. This is one of

the great safeguards thrown around the people. The people of the United States in the war with the British Crown, learned that to be and to remain free we should adhere to the great truth, the price of liberty is eternal vigilance. We will stand by the great constitutional principle that no power was placed in the hands of any body or party to deprive American citizens of their rights. The Constitution provides that no man's private property shall be taken for public use without first rendering to him just compensation therefor.

Sir, it has been the custom and practice of this Government when they desired to establish navy-yards and arsenals in any of the States to obtain the consent of those States, and for those States to yield to the Federal Government exclusive authority over such property. But this bill not only proposes to make the Government a great land-owner, but to build school-houses, establish colleges, and to inaugurate a system of machinery that will involve this country in millions and millions of liability, when I think that every consideration should appeal to us to-day to economize, to save, as far as in our power lies, the masses of this country that are now tax-ridden from any additional taxation. This bill not only violates this plain provision of the Constitution that I have read, but it strikes down and obliterates that great writ of *habeas corpus* that should be the pride and boast of every American freeman from one end of this land to the other, and which should be extended to all under the Constitution of the United States.

Mr. GRINNELL. I would like to ask the gentleman if in the State of Kentucky the writ of *habeas corpus* is not already suspended.

Mr. TRIMBLE. I will answer the gentleman. I know that the privilege of the writ of *habeas corpus* was suspended, by an order of the President of the United States, from one end of this country to the other, and that the President, under authority given to him by Congress, had restored that writ to all the States of the Union, excepting, I believe, in his proclamation, the States recently in rebellion, the State of Kentucky, and the District of Columbia. I believe that to be the fact. But, sir, as a question of law, in my humble judgment, the writ of *habeas corpus* is restored to-day from ocean to ocean and from the Gulf to the lakes, by reason of the fact that we are now in peace. Peace prevails from one end of this land to the other. Nowhere is there a hostile flag or a hostile armed foe.

Mr. GRINNELL. I wish to ask, then, how it can be asserted that this strikes down anything so long as the gentleman admits that the privileges of the writ are already suspended, unless he wishes to take issue with the President of the United States.

Mr. TRIMBLE. I do not wish to take any issue with the President of the United States, but I thought that I had made myself understood to the gentleman by stating that as a matter of law, in my opinion, that great writ of right was restored to the poorest and humblest man in this broad land, even to my colored friends, if I have any, if the amendment is valid.

Sir, where is the authority for the suspension of the writ? Where does the gentleman and his party derive the authority to suspend it? They derive it from the Constitution of the United States, because the power exists nowhere, not even in the legislative, executive, or judicial branch of this Government, except in cases arising out of war, insurrection, and rebellion. The authority is in the Constitution, and there, too, is the limitation. And as soon as war, insurrection, or rebellion ceases, the writ is restored to every citizen in the States. The power to suspend the writ ceases with the termination of the rebellion. Has it not terminated? Is there a jury of intelligent Englishmen or Americans anywhere to be found who would decide upon the facts presented, that we are not at peace to-day and no longer in a state of war?

But while I say this I do not intend to be understood as making any assault upon the Pres-

ident of the United States because he has not restored that writ, for I believe, and I think I know, that Andrew Johnson is too good a lawyer not to know that when the reasons for that suspension shall have passed away, the writ returns by reason of the fact.

Pray, sir, if the war is not ended, how long is it to continue? I know there is a party in the section where I live who would like to have it continue always. There is a party there that desires to make money. I do not speak of the great political party in Kentucky that opposes me. I speak of a party in Kentucky—very small indeed—that regretted from the bottom of their hearts when the war ceased, when General Lee surrendered to the Federal forces. It stopped too soon for their cotton speculations, too soon for them to continue to ply their calling and wring out of the hard earnings of the people of the South, loyal and disloyal, their money, and place it in their own pockets. Sir, there is clamor of this kind in my section of the country, and we should meet facts as they exist. We are at peace; let us so recognize it, and thank God that it is so.

Sir, is there a provision in this bill that gives to the man that shall be arrested under it the right to a trial by jury, the right to appeal to the law, the right to execute bail? None, sir. It places in the power of these agents of the Freedmen's Bureau unlimited and despotic power to fine and imprison, from which, in my judgment, there is no escape; and as a friend of that race about which much has been said here, I would upon this occasion, as upon all others, do justice to them, and see that their rights under the Constitution of the country are respected; but I appeal to you to pause before you pass this bill, if the object and purpose of its passage is to benefit and protect them. In my judgment, such an engine of power has in no instance in the history of the civilized world ever been productive of good to those upon whom it was intended to confer favors. Such power should not be deposited in the hands of anybody, and I would save and protect them from the exercise of such enormous powers.

Sir, that I may be correct in regard to the power of the Government in the suspension of this right, I desire to read from the Constitution:

"The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion and invasion the public safety may require it."

There was a rebellion; but does that prove that rebellion must exist throughout all time? The very moment that rebellion was over, the very moment the insurrection was suppressed, the power existed nowhere to suspend that writ. This bill is in violation of that provision of the Constitution. It is also in violation of this provision of the Constitution of the United States:

"The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office."

Sir, I would ask whether these agents of the Freedmen's Bureau, numbering, I believe about eighteen hundred, are not judicial officers, with authority to fine \$1,000 and imprison one year? Would they not be considered in this country or in any other as exercising judicial powers? A common magistrate, whose jurisdiction is limited to fifty or a hundred dollars, is a judicial officer. By this bill you clothe the agent of the Freedmen's Bureau with power to arrest at his will and pleasure. He is made the sole judge. The great safeguard thrown around the citizen that no man shall be arrested except upon affidavit and information, is stricken down, and the officers of this bureau can arrest the honorable Speaker of this House or anybody else they may find in these States down there, if they, in their judgment, conceive they have violated any of the extraordinary provisions of this bill. They could arrest General Grant or General Sherman, or any of our greatest officers. And, sir, where is there any re-

dress? There is no trial by jury, no right to the writ of *habeas corpus*, no right to appeal. If there be any provision in the bill which preserves those rights, I would like the honorable chairman of the select committee to point it out.

Sir, I am for peace. I desire to see this country restored. I desire to see legislation here that will be acceptable to the people of this whole country. I desire to see laws that shall operate equally and alike upon all portions of this great country, and that shall shed their benign influence upon all the citizens of this land alike, as the dews of heaven fall alike upon all. Let us have no legislation that is to apply to the people North or to the people South. We are not now at war; we are at peace.

Sir, in addition to the clauses of the Constitution which I have read which this bill violates, in my judgment it strikes down every one of the amendments made to the Constitution of the United States, which I will read. It is in violation of the plain provisions of those amendments. I have looked in vain for any warrant or authority in any one of the articles or sections of this Constitution for the enormous powers conferred by this bill. Nowhere in the Constitution do I find any such warrant or authority.

"The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Is not this great safeguard of the people, is not the right of the black man as well as the right of the white man, invaded by this bill, and in violation of that provision of the Constitution?

The Constitution says:

"No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation."

The Constitution also says:

"In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation: to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

Is there anything in this bill that gives to this poor, unfortunate class of men, or to the white men of the South, these inalienable rights of an American freeman? If they are free, if they are entitled to their freedom under the Constitution of their country, then give it to them, and extend to them the privileges of freedmen, protecting them in the enjoyment of their liberty and their property and the just reward of their own labors; and do not impose upon them such a law as this, with such despots as I fear we will have under it, for the purpose of crushing them out.

Mr. GRINNELL. The gentleman speaks about securing the rights of all parties. I wish to know how he regards that law of Kentucky which makes it a felony for a certain class of people to go into the State, and whether he thinks the Freedmen's Bureau may not properly rectify such a law as that.

Mr. TRIMBLE. So far as any law is concerned that exists in the State of Kentucky, I will say to that gentleman, with all due deference, if he will let Kentucky manage her own affairs she will manage it very much better than anybody here can do it. The people of Kentucky will protect their people in all their rights, if their protection is left to them.

And I will say that there are laws in other States making discriminations and distinctions in regard to this class of persons. There are such laws in Illinois, in Indiana, in Ohio, and in many other States. The law of the State of Illinois makes it a felony for a negro to come

into that State. And the law of the State of Indiana also does the same.

Mr. INGERSOLL. I will state that that law has been repealed now. It was once the law of Illinois, but the enlightened civilization of the nineteenth century has overridden that barbarism.

Mr. TRIMBLE. Does not the constitution of the State of Illinois to-day prohibit free negroes from coming into that State?

Mr. INGERSOLL. Illinois has repealed all laws in that regard.

Mr. TRIMBLE. Has there been an amended constitution submitted to the people since the commencement of the war?

Mr. FARNSWORTH. That was not adopted; it was voted down by the people.

Mr. MARSHALL. It is due to the truth of history that I should say that my colleagues [Mr. INGERSOLL and Mr. FARNSWORTH] are mistaken in regard to the constitution of Illinois. The constitution of 1848 provides that the Legislature of Illinois shall pass laws prohibiting negroes coming into that State.

Mr. INGERSOLL. But there is no such law.

Mr. TRIMBLE. My argument was that there was a provision in the constitution of Illinois to that effect.

Mr. INGERSOLL. I understood the gentleman to state that there was a law in the State of Illinois making it a felony for a negro to come into that State.

Mr. TRIMBLE. I intended to refer to the constitution of the State of Illinois. If I said "law" it was by mistake, for I had in my mind the fact that the people of Illinois had, by a very large majority, adopted that constitution.

Mr. INGERSOLL. All laws upon that subject which have ever been in force in the State of Illinois have been repealed.

Mr. TRIMBLE. If the Legislature of the State of Illinois have not passed laws in accordance with the constitution of the State, that is a question for the people of the State to take cognizance of.

But there are other States that make discriminations, that would place these parties in the condition of felons, if, under the provisions of this bill, they should be brought before one of these jurists who are to be appointed in every county in this country; for the provisions of this bill, as I understand, apply to the whole country, North, South, East, and West. It includes the northern States, every single one of them. There is, I believe, an amendment pending which proposes to limit the operations of the bill to the States lately in rebellion, and the State of Kentucky, with the other border States. But, sir, I trust that partial legislation will not be adopted by the Congress of the United States. What have Kentucky and the other border States done during this controversy that they should be singled out here for class legislation, that they should be made subject to legislation which is calculated to degrade them in their own estimation and in the estimation of every honest man from one end of this country to the other. Sir, Kentucky has stood as a wall of fire between the Government and those men in the South who were endeavoring to overthrow it. The bones of the sons of Kentucky lie upon every battle-field: their blood has crimsoned the soil of every State where the operations of this war have extended. Both armies have marched and countermarched over the fields of Kentucky. She has complied with every requisition of the Federal Government.

Mr. GRINNELL. Inasmuch as the gentleman is eulogizing the patriotism of Kentucky, I wish to ask him whether Kentucky did not, at the opening of the war, declare her "neutrality," and proceed to raise troops and organize an army for her own defense as against the Government, and whether she did not refuse to allow the armies of the Union to cross her soil?

Mr. TRIMBLE. I believe that at one time there was something said there about neutrality; but I believe there has never been a time when in Kentucky, from one end of her borders

to the other, a majority of her people have not stood ready to support the Union, the Constitution, and the laws passed under it. There has never been a time when Kentucky has shrunk from her duty to the Constitution and the laws. Notwithstanding all the efforts of the South to precipitate Kentucky into the rebellion, she steadfastly refused to take part in that rebellion and has uniformly stood by the Constitution. In spite of all the efforts of certain parties within her borders, she has maintained her fealty to the Constitution, as she does to-day.

Mr. GRINNELL. I desire to ask the gentleman whether his colleague [Mr. ROUSSEAU] was not during the war obliged to go over into the State of Indiana for the purpose of organizing his regiment?

Mr. TRIMBLE. I believe that my distinguished colleague did raise his regiment and camp upon the opposite side of the river.

Mr. GRINNELL. Because he was obliged to do so.

Mr. TRIMBLE. I say, sir, that, according to my information, the action of Kentucky at that time met with the cordial indorsement of the then Chief Magistrate of the nation.

The men who were raised by General ROUSSEAU were Kentuckians. Kentucky has complied with every requirement that has been made upon her by this Government; and she stands here to-day claiming through her Representatives the same protection and the same rights which are enjoyed by any other loyal State. All I ask for Kentucky I am willing to yield to Massachusetts or any other State. But, sir, I enter my solemn protest against this class legislation, which, instead of bringing peace and harmony to the country, will only tend to embitter the feelings of one section of the country against another.

Sir, I appeal to the gentlemen who are to follow me to show any warrant or authority in the Constitution for the passage of this measure. I ask it. No where can I find it. I was referred the other day by a distinguished gentleman on the opposite side that they obtained it under the provision for the general welfare of the country, and under the provision of the Constitution as recently amended, I believe known as the thirteenth article of the amendments to the Constitution of the United States. But, sir, I have looked in vain to that amendment to find a shadow of authority in it for the provisions of this bill. Sir, this bill is in violation of that amendment, made by that party now in power; and I ask if they are not estopped from violating the provisions of their own amendment. That amendment declares—though I have it not now before me—that slavery or involuntary servitude shall never hereafter exist in the United States, except for crime, and then only after due conviction. That is the language of the amendment. Sir, is not this bill in violation of it? Do you not enslave men under this bill, without due conviction, without trial by jury, and without any of the guarantees secured to you and me, and which ought to be secured through all time to the poorest and humblest men in the country. I think, sir, there is no authority in that amendment for this bill.

But they say they have authority under the second section; that that gives Congress the right to pass appropriate legislation. Well, according to all fair and reasonable construction, I think the only authority which can be found in that second section will be to give to Congress the right to carry out the true intent and spirit of the section. They cannot claim under that any other power. What was the object and intent of that? It was to give to these men their freedom. That was the whole purpose of it. That has been understood, and the language of that amendment has been adjudicated upon by the highest tribunals of the land. It is understood. Nothing can be claimed under that second section of the amendment except to give to these people their right to their freedom. Does this bill do it? Does it not deprive them of the right which they were to obtain under this constitutional provision if valid?

It may be, sir, that they claim constitutional authority for this measure upon some one of the amendments now pending in the Houses of Congress, and which have not been acted upon, and which have not, of course, been approved and ratified by the President and the States. It may be that they claim authority under the amendments they propose to make to that instrument.

It was enunciated by the distinguished leader of the Opposition upon this floor that it was not necessary or proper that amendments to the Constitution passed by Congress should be submitted to the President for his approval and signature; that it was entirely a work of supererogation. It may be that gentlemen on that side of the House, in their zeal for constitutional amendments, may come to the conclusion it is not necessary to refer them to the States to be ratified. We are not a constitutional convention; we are here by virtue of the Constitution, sworn to protect and support that instrument, and to exercise under that instrument the privileges and powers delegated to us by the States, not to trespass or trample upon the rights of the States.

We are told that nineteen States are sufficient for the adoption of the amendment. The Constitution declares that every order and resolution requiring the concurrence of the House and the Senate shall be presented to the President of the United States. Under that provision of the Constitution these amendments must receive the sanction of the President before they can be referred to the States for ratification. Sir, if they have the right to exclude the Executive they have the right to exclude the sanction of the States.

One great reason why I feel so much solicitude in reference to this bill is that it is to operate for weal or woe upon a people who are denied their rights upon this floor, upon a people who, in my judgment, are willing and anxious to conform to any law of Congress passed in pursuance of the Constitution. They are denied this. But we are to legislate for them without their sanction, without their consent. Sir, there is a great principle running through the constitutions of nearly all our States, that all governments derive their just powers from the consent of the governed. Is there any consent of these people whose interests and rights are to be affected by this bill? None whatever. There is none here to speak for them. No appeal of theirs can be heard.

Sir, I ask you in all justice, in all candor, would it not be better, would it not be in a spirit of harmony, of justice, and of peace, before you pass this measure affecting so vitally the interests of the South, that they should be permitted at least to have seats upon this floor, and that we should hear them? But they are even denied the courtesy which has been extended to contestants through all the past a seat upon this floor.

Sir, there are thousands and thousands of widows and orphans in that section whose husbands and fathers have fallen in defense of the flag of their country, who will be affected, and who will feel the tyranny and oppression of this bill. There is not one in that vast region, in my judgment, who, if this bill goes into operation, will not have cause to regret the day and hour of its passage. The colored race, in my judgment, will have cause to exclaim, "Deliver me from my friends," when the workings of this bureau, as it may be worked under bad men, shall be brought to bear upon them and others.

The only person that I have the pleasure of a personal acquaintance who is connected with this bureau is its distinguished chief, General Howard. For him I have a very great respect. I believe him to be a soldier, a patriot, and a gentleman. But, sir, if even General Howard himself, much as I respect him, was to be placed in my county or my district with these extraordinary and dangerous powers, I, for one, would enter my protest. We cannot expect to obtain a competent class of men scattered over the country under the pay that is proposed, men skilled in the law, in the Con-

stitution, and in a knowledge of the rights of their fellow-citizens, to adjudicate upon these questions. It will probably be reposed in the hands of men who for party, sinister purposes, may use it as agents of that bureau are now using it in the South, to make slaves of these people—the only vestige, I believe, that is left in some of those States of that institution, so far as requiring the services of this people, can be found in some one of the established bureaus down there.

What, sir, is the history of this question? What do we find here to-day? We find the party that is pressing this bill invading the rights of the South, invading the States, invading our homes and our firesides, by officers unknown to the Constitution, and by authorities unwarranted by the Constitution. We find it done by the party which throughout the late terrible civil conflict professed to be for the Constitution and for the Union, and to be fighting to restore that Constitution and Government to its original purity. They professed that whenever there was no longer an enemy in the country the war ought to cease—that it was prosecuted in no spirit of vindictiveness but only to maintain the authority of the Federal Constitution and the laws, declaring all the time that the States were still in this Union and that there was no power by which they could go out; even declaring that any man or any set of men who advocated the doctrine that they could go out of the Union were guilty of a high crime. We find on the other hand Jeff. Davis and his party down South claiming the right to secede from this Union and to set up a government for themselves. And now when the war is over and the power and authority of the Federal Government are exercised from one end of the country to the other, unfortunately for the country these parties have changed sides. Davis and his friends now claim all the rights and privileges under the Constitution; that their States could not go out; that there is nothing but successful rebellion that could take them out. And we now find this party of the North declaring, by their action at least, that the eleven rebel States are out of the Union.

Sir, I cannot change backward and forward to suit these extreme parties. I stand where I stood at the commencement of this conflict when I declared to the people of my State that I did not intend to be driven into secession, did not intend to be driven by this party or the other party from the Constitution—

[Here the hammer fell.]

Mr. GRINNELL obtained the floor.

Mr. GRIDER. I ask that the gentleman have a few minutes to finish his speech.

Mr. GRINNELL. The gentleman was only going to occupy half an hour when he began.

Several MEMBERS. Let him go on.

Mr. GRINNELL. I have no objection if it does not come out of my time.

Mr. ELIOT. I object.

The SPEAKER. The Chair was informed, not being here on Saturday, that by arrangement with the Speaker *pro tempore* the gentleman was to speak but half an hour; but the Chair did not regard that, and allowed the gentleman to occupy an hour.

Mr. TRIMBLE. I will add but a very few remarks.

Mr. ELIOT. I yield for five minutes.

Mr. TRIMBLE. I have thus stated my constitutional objections to this bill, and I think that I am sustained by that instrument in every single point that I make in opposition to it; and I appeal to my friends who love this Union, who love it for all the memories of the past, who love it because it has protected them and theirs; I appeal to them to pause and reflect before they press this measure upon these people: for I tell you that, in my judgment, the effects of the provisions of this bill to us as a nation will not be told in our lifetimes. If legislation of this character is to be pressed here, I awfully fear hope will sink within us. Our love for this Union and desire for its restoration will be greatly weakened and estranged. I earnestly hope that this class of legislation

will cease, that crimination and recrimination shall cease, and that all parties shall meet here like brothers standing upon the same broad platform of the Constitution, demanding for each and every section of the country every right they have under that instrument.

Sir, I have no animosity in my heart against South Carolina, or against Maine, or against Massachusetts. I cannot forget Lexington or Bunker Hill, and every right which I claim for Kentucky I would yield to Massachusetts, and I demand it for South Carolina, and those other States that have no voice here to-day, whose country is now desolated from one end to the other, and whose widows and orphans are now appealing to Heaven that they may be protected in this hour of trial. We have a right to demand that laws which operate upon one section of this country shall operate equally upon others. That is all I ask, that is all I demand, and while I live I will claim that right for my State and every other State.

Mr. GRINNELL. Mr. Speaker, this bill now under discussion has been carefully considered by the committee on the Freedmen's Bureau, of which I have the honor to be an humble member; and I will say, as preliminary to the remarks which I desire to make, that I have been very much surprised at the course of certain gentlemen representing especially the State of Kentucky. I do not wonder that that State desires to stand well before the country as a patriotic and noble Commonwealth; but I cannot forget when I hear these extravagant claims set up here that her Governor, in the first year of the rebellion, refused to honor the call for troops made by the President of the United States in our darkest hour; nor can I forget that when her soldiers wished to organize regiments they were obliged to cross the Ohio river into the State of Indiana, that they might organize them free from the interference of the power of Kentucky neutrality. That is a fact in history, and I cannot overlook it when gentlemen here arraign the President of the United States because he has seen fit to suspend the privilege of the writ of *habeas corpus* in the State of Kentucky.

Sir, I differ with the gentlemen in reference to the course of the President of the United States in that regard. I have a profound admiration for his course in suspending that writ in old Kentucky as well as in South Carolina. I believe it ought to be suspended; that its restoration would bring anarchy and bloodshed. I should like to ask the gentleman from Kentucky who last addressed the House why he has any objections to its being suspended there?

Mr. TRIMBLE. To-day?

Mr. GRINNELL. Yes, to-day.

Mr. TRIMBLE. Certainly I have. I do not think the Constitution warrants its suspension in any part of the United States, now that the rebellion is at an end.

Mr. GRINNELL. Then the gentleman from Kentucky is opposed to the Attorney General, who is also from the State of Kentucky, and the President of the United States, who is from the State of Tennessee. I hope he will reconcile that with the fact that he is now professedly *par excellence* one of the friends of the President.

I know this, sir, that men from the northern States doing business in Kentucky are now being indicted and tried by the courts of that State, because they were acting under the military authority of the United States; and there would be no freedom for the loyal people of Kentucky to-day but for the suspension of this writ. And now, gentlemen from that State, five or six of them, are opposing this bureau. They dislike its operation, the presence of schools and real courts of justice, yet were not so unwilling that twenty-five thousand of these men whom we now propose to protect, the negroes, should come in and save the whites from the draft. The gentleman knows that twenty-five thousand negroes went from Kentucky in place of white men, and that those who are alive, with their families, are poor, unprotected in their rights, and mostly homeless.

And what does the gentleman now propose to mete out to this class and spare the Government the infamy of their neglect? The Kentucky Legislature has just been in session. It remained in session long enough, I am informed, to vote out every man who was elected as a Union man whom it was possible to rub out on the ground of military interference in the elections. They have, I hear, so constituted the Legislature that the traitor Breckinridge can be elected to the United States Senate sooner than an undoubted Union man could be. I suppose these facts are perfectly notorious.

Yet the gentleman from Kentucky [Mr. TRIMBLE] says that the laws of Kentucky are honorable, just, and suited to the condition of that State, but does not give what I waited to hear, illustrations. I charge that they are monstrous and damnable laws, such as would be a dishonor to the most barbarous nation on the face of the earth, and I regret to apply the sound political maxim that no State or nation is better than its laws. I would ask the gentleman why the Legislature of Kentucky at its late session did not change or amend those laws, so that they might show that there was honor in the Kentuckian heart, that they were willing to mete out justice to all men? As the gentleman gives me his attention, I will wait for a reply if he has one to make.

Mr. TRIMBLE. I would be happy to reply to the gentleman if it did not interfere with his remarks.

Mr. GRINNELL. I desire an answer; and shall not regard it as an interference with my remarks, as I am speaking without a manuscript.

Mr. TRIMBLE. Will the gentleman repeat his question?

Mr. GRINNELL. The gentleman says the laws of Kentucky are honorable, just, and suited to the condition of the people of that State. I ask that gentleman why Kentucky has not repealed or amended or changed her barbarous laws?

Mr. TRIMBLE. What barbarous laws?

Mr. GRINNELL. Those against the loyal black people of the State. For instance, that law which makes it a penal offense for a man who has worn the Government uniform and fought our battles to go into that State.

Mr. TRIMBLE. As I understand, the Legislature of Kentucky is still in session. And so far as I am concerned, and I know it is the desire of every member of the party I represent in Kentucky, I desire that that State shall provide to meet the altered condition of things, and do justice to every white man and every black man in Kentucky. I can tell the gentleman the reason it has not yet been done. They have not had time; they have been in session only some three or four weeks, and matters of very great importance have been before them. But I have no doubt the Legislature will do full justice to all classes of her population; and so far as I am concerned, I am willing to do it to-day. Kentucky will not be driven.

And having answered the gentleman, I desire to say that I do not wish to have any personal dispute with him. But it would seem that his remarks could be construed into something of that kind.

Mr. GRINNELL. My questions are personal, and could not be otherwise.

Mr. TRIMBLE. And your denunciations of the State of Kentucky, were they personal?

Mr. GRINNELL. I was denouncing wrong and oppression and wickedness and crime.

Mr. TRIMBLE. Does the gentleman intend those denunciations to apply to me?

Mr. GRINNELL. Not to the gentleman, personally, but to the State that he is defending here. And not only himself, but his colleagues, who do the same here day after day.

The Legislature of Kentucky has been in session for two months, and I have it from the best authority that every Union man elected to the Kentucky Legislature that it was possible for them to turn out under any pretext they have turned out of that body. Now, let us see what are the laws of Kentucky, which are so just and honorable and equitable. And when

we come to see what those laws are; and what are the rights of the white man, and that the black man has only partial rights, I think I shall be understood when I say that the writ of *habeas corpus* should be suspended until there is a spirit of justice exhibited by the State of Kentucky.

The white man in Kentucky can testify in the courts; the black man can testify against himself. The white man can vote; the black man cannot. The white man, if he commits an offense, is tried by a jury of his peers; the black man is tried by his enlightened, unprejudiced superiors. The rape of a negro woman by a white man is no offense; the rape of a white woman by a negro man is punishable by death, and the Governor of the State cannot commute.

A white man may come into Kentucky when he pleases; the free negro who comes there is a felon, though a discharged soldier and wounded in our battles. A white man in Kentucky may keep a gun; if a black man buys a gun he forfeits it and pays a fine of five dollars, if presuming to keep in his possession a musket which he has carried through the war. Arson of public buildings, if committed by a white man, is punished by imprisonment in the penitentiary for a term of from seven to twenty-one years; if committed by a black man the punishment is death. Arson of a warehouse, &c., when committed by a white man, is punished by imprisonment in the penitentiary from one to six years; when committed by a negro, the penalty is death.

If a white man is guilty of insurrection or rebellion he is punished by being called "chivalrous." I instance the rebel General Forrest, who murdered white men at Fort Pillow, and is reputed the most popular man South. If a negro rebels, or conspires to rebel, he is punished with death. These are specimens. Under this code sustained by public sentiment, most certainly that arch-traitor, Breckinridge, can come back to the Senate; and I apprise all the aspirants for senatorial glory in old Kentucky, who are not on that side, to

"Hang up the fiddle and the bow,
Lay down the shovel and the hoe."

I do not wish to be personal, and have no pleasure in these exposures; but so long as it is asserted that this Freedmen's Bureau is a partial, unnecessary, speculating affair, I wish to call attention to the fact that in the State of Kentucky, during the last five months, more white refugees than freedmen, in the proportion of seven and one fourth to one have received rations at the hands of the Government; that this bureau has kept in schools in the State of Kentucky fourteen thousand black people; and I do not know but that is more than all the white attendants of schools in that State, out of the cities. I do not know how that may be. I only know that loyal teachers are closing their schools, while rebels are obtaining a good support, and that statute may now be enforced which imprisoned a northern lady teacher in a penitentiary many years for pointing a negro to the north star.

And here I recall an incident. Not many years ago, a fugitive from Kentucky, partly white, a young man, came to my house. After he had eaten his breakfast he looked round and saw a picture on the wall, a representation of the Saviour upon the cross. Looking at that picture, he said, "What are they doing with that fellow up there?" "Why," said I, "that is the Saviour on the cross." "The Saviour?" "Yes—Jesus." "Oh, yes, I've heard of that fellow. He's dead now, I believe." Such is the ignorance which is the result of Kentucky's laws, forming a public sentiment which led it to be the truth of history, that before the rebellion Kentucky fattened her noble Durhams for northern shambles, and bred women and children and sent them down to the slave markets of the South. Yet now, when the Government, acting in concert with the philanthropic spirit of the country, proposes to feed the refugees and freedmen in that State, it is denounced as

unconstitutional, the offspring of false philanthropy. The claim of a race is denied, when

"Behold the hire of the laborers who have reaped down your fields, which is of you kept back by fraud, crieth; and the cries of them which have reaped are entered into the ears of the Lord of Sabaoth."

"Ye have lived in pleasure on the earth, and been wanton; ye have nourished your hearts as in the day of slaughter."

But let me press my application.

This bill is for the benefit of Kentucky and thousands in want. Your President has suspended the writ of *habeas corpus* there. He has been acting under his oath. Your Attorney General sanctions that suspension. The Cabinet of the United States sanctions it. This Congress believes it to be right. And what, I repeat, are you going to do with that people? I mean the refugees and colored people. They have no schools.

Mr. RANDALL, of Pennsylvania. Will the gentleman allow me to ask him a question?

Mr. GRINNELL. Yes, sir.

Mr. RANDALL, of Pennsylvania. I desire to know when the gentleman addresses this side of the House what he means by saying, "your President."

Mr. GRINNELL. The President has been so much complimented and praised as a great and good Union man, and as the Moses who was to lead the children of Israel—

Mr. RANDALL, of Pennsylvania. Will the gentleman allow me a word or two?

Mr. GRINNELL. Yes, sir.

Mr. RANDALL, of Pennsylvania. As one on this side of the House, I desire to say that I esteem him as the President of the whole country; and I support his policy because it is calculated to restore the Union as of yore. While I had no action in electing him, yet he commands my respect and support.

Mr. GRINNELL. If this comes out of my time I must object.

The SPEAKER. It does come out of the gentleman's time.

Mr. GRINNELL. The difference between the gentleman and myself is, that I had the honor to give the President my vote; and the gentleman had the honor of voting for—I have almost forgotten who—

Mr. RANDALL, of Pennsylvania. A general who was in the field. I do not know whether the gentleman was there or not.

Mr. GRINNELL. That is the difference between our friendships. I gave support then, and do now. I propose to read what my friend says in regard to this head. I quote from the language of the President:

"Good faith requires the security of the freedmen in their liberty and their property, their right to labor, and their right to claim the just return of their labor. I cannot too strongly urge a dispassionate treatment of this subject, which should be carefully kept aloof from all party strife. We must equally avoid hasty assumptions of any natural impossibility for the two races to live side by side, in a state of mutual benefit and good-will. The experiment involves us in no inconsistency. Let us, then, go on and make that experiment in good faith, and not be too easily disheartened. The country is in need of labor, and the freedmen are in need of employment, culture, and protection. While their right of voluntary migration and expatriation is not to be questioned, I would not advise their forced removal and colonization. Let us rather encourage them to honorable and useful industry where it may be beneficial to themselves and to the country; and, instead of hasty anticipations of the certainty of failure, let there be nothing wanting to the fair trial of the experiment. The change in their condition is the substitution of labor by contract for the status of slavery. The freedman cannot fairly be accused of unwillingness to work, so long as a doubt remains about his freedom of choice in his pursuits, and the certainty of his recovering his stipulated wages. In this the interests of the employer and the employed coincide. The employer desires in his workmen spirit and alacrity, and these can be permanently secured in no other way. And if the one ought to be able to enforce the contract, so ought the other. The public interest will be best promoted if the several States will provide adequate protection and remedies for the freedmen. Until this is in some way accomplished there is no chance for the advantageous use of their labor; and the blame of ill-success will not rest on them."

"I know that sincere philanthropy is earnest for the immediate realization of its remotest aims; but time is always an element in reform. It is one of the greatest acts on record to have brought four million people into freedom. The career of free industry must be fairly opened to them; and then their future prosperity and condition must, after all, rest mainly on themselves."

If they fail, and so perish away, let us be careful that the failure shall not be attributable to any denial of justice. In all that relates to the destiny of the freedmen, we need not be too anxious to read the future; many incidents which, from a speculative point of view, might raise alarm, will quietly settle themselves."

Now, Kentucky had the opportunity of doing something for the wives and children of twenty-five thousand black soldiers raised in that State, and she failed to do it. The President now asks that they shall be protected. General Grant desires that they shall be protected. General Howard, at the head of the bureau, who has received the gentleman's praise, and who is worthy of more than he received, recommends it. He says:

"4. Education is absolutely essential to the freedmen to fit them for their new duties and responsibilities. I find many enlightened and learned men in every State advocating the necessity and wisdom of establishing a system of education. Yet I believe the majority of the white people to be utterly opposed to educating the negroes. The opposition is so great that the teachers, though they may be the purest of Christian people, are nevertheless visited, publicly and privately, with undisguised marks of odium. In many parts of the country the hostility of the white people to the schools has been undisguised, and every effort has been made to get the buildings used for school purposes away from the teachers. It is difficult to describe the odium with which the excellent self-denying school teachers are met."

Mr. Stanton, the Secretary of War, who is becoming so peaceful as to be praised these days by Democrats—I hope he may survive it—recommends it. He says:

"Proper provision for the colored population whose condition has been changed by direct act of the Federal Government, to serve its own purposes in the conflict, is a solemn duty. More or less resistance to the performance of this duty is to be expected while any rebellious or hostile spirit remains, but the obligation to perform it cannot be evaded or thrust aside with national honor or safety. A numerous class of white persons suffering by the ravages of war have also a just claim for relief."

Does the gentleman from Pennsylvania indorse these recommendations which down through the centuries shall be for the honor of President, war minister, and general?

Mr. RANDALL, of Pennsylvania. I did not hear the gentleman's question.

Mr. GRINNELL. Do you indorse the recommendations of General Howard, General Grant, and the President in regard to the Freedmen's Bureau?

Mr. RANDALL, of Pennsylvania. I do not know exactly what those gentlemen have said. I am not going to indorse an *omnium gatherum* of quotations by the gentleman from Iowa.

Mr. GRINNELL. I have read what the President, General Howard, and the Secretary of War have said.

Mr. RANDALL, of Pennsylvania. I say that I indorse the President's policy so far as the treatment of the southern States is concerned. I believe all of his messages and public acts tend earnestly to a restoration of the Union.

Mr. GRINNELL. Do you indorse his recommendation in reference to the Freedmen's Bureau?

Mr. RANDALL, of Pennsylvania. I shall answer in reference to the Freedmen's Bureau, when I have the opportunity, at length.

Mr. GRINNELL. The gentleman does not find it convenient to answer at this time. I should like to have an answer before he claims to be the best and peculiar friend of the President. I should like to know where we stand. This bill is supposed to be favored by the President, the Secretary of War, General Grant, and General Howard, who are to execute it.

Mr. RANDALL, of Pennsylvania. The President of the United States does not, as I understand, recommend any such bill as this, which, according to my judgment, is in violation of the letter and spirit of the Constitution. It proposes to appropriate money without any color of law.

Mr. GRINNELL. And I state that to my knowledge, as informed, the President of the United States does indorse the substance of this bill.

Mr. RANDALL, of Pennsylvania. I call upon the gentleman to state where and when

the President has given his indorsement to this bill.

Mr. GRINNELL. I am very much in the condition of another gentleman here the other day; I am not at liberty to disclose the secrets of the President, if I had any.

Mr. RANDALL, of Pennsylvania. As we cannot take what is in the gentleman's mind, we must remain in the dark.

Mr. GRINNELL. If the gentleman doubts my assertion—

Mr. RANDALL, of Pennsylvania. I do not doubt his word, but I want the whole House to be as much enlightened as the gentleman himself.

Mr. GRINNELL. It is said that this is a partial bill, and I have this to say in regard to the objection: that during the administration of General Fisk, in the district of Tennessee and Kentucky, seven and a quarter greater supplies were meted out to the white people under his bureau than to the colored freedmen. It is to reach those in want, the white mountain refugee and the ex-colored soldier and slave, with his family; and I cannot conceive that any gentleman who has the honor of his country at heart, who believes in the emancipation proclamation, and that under the Constitution we are authorized to enact the laws that are necessary to carry out its provisions, can object to feeding and clothing the naked and ministering in hospitals to those who have been true to our flag and shed their blood in our cause.

Mr. SMITH. Will the gentleman yield?

Mr. GRINNELL. I cannot, as I hasten to submit a few items. This bureau is in charge of 800,000 acres of land, and 1,500 pieces of town property. It has issued more than 600,000 rations to refugees, and 3,500,000 to freedmen. It has treated 2,500 refugees in hospitals and decently buried 227 of them. It has treated 45,000 freedmen and made the graves for 6,000 of the number. Transportation has been furnished to 1,700 refugees and 1,900 freedmen. In the schools there are 80,000 people that have been instructed by this bureau. And now it is proposed to leave all these children of misfortune to the tender mercies of a people of whom it is true by the Spanish maxim, "Since I have wronged you I have hated you." I never can. Our authority to take care of them is founded in the Constitution; else it is not worthy to be our great charter. It gives authority to feed Indian tribes, though our enemies, and a just interpretation cannot restrain us in clothing and feeding unfortunate friends. In providing schools we can turn to the same authority which led to the gift of millions of acres of the public domain for the purpose of establishing agricultural colleges in this country.

These possessory titles under General Sherman's order to lands on the Sea Islands give constitutional gentleman great concern; but should they? Were not the lands abandoned, and had not those who followed General Sherman's army need of a home? There appeared gentlemen with a *suaviter in modo*, and set up that the negro was a disturbing force, and they wished him to "contract" or to remove where he might enjoy a forty-acre tract of land in Florida, and give up their possessory titles. I heard these gentlemen's plausible and earnest arguments for the recovery of millions' worth of lands forfeited, and I heard but one negro, an ex-slave, upon the same subject, and I am constrained to say that the simple honesty of the ex-slave was more persuasive than the *suaviter* of the ex-slaveholders and their advocates, who abjure as a punishment for rebels confiscation and the use of hemp.

Those lands by the sea, abandoned, were moistened with the sweat and blood of those who toiled there, patiently waiting for the year of jubilee: and when asked to restore them by an act of Congress I answer, I never will be a party to any such injustice. I believe it is the Christian duty of this Government, as it has been the duty of the various philanthropic societies and religious associations, to take care of these people. At the homes of the sons of the pilgrims on our

remotest prairies contributions are made for the refugees and freedmen, and the Society of Friends, who have gauged the dimensions of these suffering people, hid among the mountains in camps and hospitals, have set us an example of fidelity. They could not take up arms with a good conscience, yet they were the first in the hospitals and the longest there, refusing to receive compensation, munificent in their quiet charities; and now they come to us from Maryland, and all our States, asking protection for their agents and schools. Their school-houses have been burned since the sitting of this Congress, and so near to us that the very flames of the conflagration might have lighted up this Capitol. These are a few lines of their memorial:

"In Maryland, where emancipation was effected by statute law some time before the President's proclamation, about forty schools were established by the 'Maryland Association for the Moral and Intellectual Improvement of the Colored People' of that State. Of these about one fourth have been, within a few months, broken up; meeting and school-houses have been burned, and teachers assaulted and driven away. In the States recently in rebellion, they are subject to wrongs and outrages from which they have no redress under existing laws, which were made to subserve the system of slavery. Your memorialists therefore submit, that, as the Government, 'for its own purposes,' changed their condition and deprived them of the care incident to it, and upon which they depended, it has become bound, by every consideration of justice and honor, to assume their guardianship and to prevent them from suffering by the change. We are glad to see the subject so forcibly urged upon Congress both by the President and Secretary of War. In the opinion of your memorialists this solemn duty will not be accomplished by the mere adoption of the late amendment to the Constitution, which provides for the legal abolition of slavery. Much of the real and personal property in the parts of the country in which these 'wards' of the Government live, is, by reason of the rebellion, subject to forfeiture, and the lives of many persons to the penalties of treason. And if it be desirable to restore this property to those who have incurred its forfeiture, and proclaim a general amnesty on their behalf, it is not less desirable to fulfill the obligations of the Government toward the people who were their slaves, and whose unrequited toil accumulated much of that property."

Mr. Speaker, there is to-day devolved upon us—I care not who decries it; I will not evade it—a high, solemn, and religious duty. We should be worse than barbarians to leave these people where they are, landless, poor, unprotected; and I commend to gentlemen who still cling to the delusion that all is well to take lessons of the Czar of the Russias, who, when he enfranchised his people, gave them lands and school-houses, and invited schoolmasters from all the world to come there and instruct them. Let us hush our national songs; rather gird on sack-cloth, if wanting in moral courage to reap the fruits of our war by being just and considerate to those who look up to us for temporary counsel and protection. Care and education are cheaper for the nation than neglect, and nothing is plainer in the counsels of Heaven, or the world's history:

"There is the moral of all human tales:
'Tis but the same rehearsal of the past.
First freedom, and then glory; when that fails,
Wealth, vice, corruption—barbarism at last.
And history, with all her volumes vast,
Hath but one page."

This discussion is not plainly promotive of the most commendable temper. The honorable gentleman from Kentucky [Mr. ROUSSEAU] declared on Saturday as I caught his language that if he were arrested on the complaint of a negro and brought before one of the agents of this bureau, when he became free he would shoot him. Is that civilization? It is the spirit of barbarism, that has too long dwelt in our land, the spirit of infernal regions that brought on the rebellion and this war.

Mr. SMITH. Will the gentleman allow me a moment?

Mr. GRINNELL. I will yield for a question.

Mr. SMITH. I do not want to ask a question; I merely wish to make a remark.

Mr. GRINNELL. I decline to yield unless for a question.

Mr. SMITH. I wish to say that my colleague [Mr. ROUSSEAU] does not belong to that class of men that the gentleman from Iowa speaks

of. He served in the Union cause four years during the war.

Mr. GRINNELL. History repeats itself. I care not whether the gentleman was four years in the war on the Union side or four years on the other side; but I say that he degraded his State and uttered a sentiment I thought unworthy of an American officer when he said that he would do such an act on the complaint of a negro against him.

Mr. SMITH. I deny that my colleague made any such statement.

Mr. GRINNELL. I occupied the Speaker's chair when the gentleman's colleague was speaking, and I heard the words; but the gentleman has seen fit, like other gentlemen, to withhold his speech for revision, and I cannot, therefore, refer to it. I have no desire to do him the least injustice or impugn his honor.

Mr. SMITH. I will only say that my colleague did not say so.

Mr. GRINNELL. I am casting no reflection on the gentleman's colleague at all; but cannot forbear remarking that it would seem more becoming gentlemen who represent the State of the "great Commoner," who spoke in these Halls forty years ago, to have imbibed his spirit and principles evinced in a desire that slavery should die in his State by a constitutional limitation, rather than that manifested by the gentleman from the Ashland district, who did not believe in the proclamation of emancipation or in the disturbance of slavery. He did not like the educational and able speech of the gentleman from Minnesota, [Mr. DONNELLY,] and meant no compliments to us "so far north that we got a little sunshine, and where was yet the track of the buffalo and the Indian." True, ours is not the "sunny South," but a land of free schools and industrious habits, of requited labor; and we have proffered you nothing but kindness. The southern country cannot be regenerated without organized labor. Her people are crowded in towns, or roving from plantation to plantation, and require such directing minds as this bureau will furnish that early contracts may be made and there be found the comforts of home. There is a demand for that crop of three million bales of cotton, from which we can raise a hundred millions of revenue. If there is no quiet for the laborer, justice in enforcing contracts, and schools for the young, now thirsting for knowledge, the crop will not be raised, and suffering follows. Interest, honor, and humanity, then, are alike involved in carrying out the provisions of this freedman's bill.

I am ready to yield my preferences and cooperate with all sections, knowing that we rise or fall together in national character. I would have nothing partial or sectional, nor by a word or act hinder a State in the march to the noble position which her generosity or heroism may give title. To even that State which is so willing to receive a nation's dispensations to her poor, I would give a proud and commanding position among our Commonwealths.

I now, to show my regard for a gallant gentleman, yield the remainder of my time to the gentleman from Kentucky, [Mr. McKEE.]

The SPEAKER. There are fifteen minutes left of the time of the gentleman from Iowa, [Mr. GRINNELL.]

Mr. GRINNELL. I hope the gentleman from Kentucky [Mr. McKEE] will be allowed the five minutes that were taken out of my time by interruptions.

Mr. ELIOT. I object to that. I will give the gentleman five or ten minutes of the time to which I shall be entitled after the previous question shall have been ordered.

Mr. McKEE. I had intended, Mr. Speaker, to allow this discussion to close without a remark from me in regard to this bill. But as my own State has come in for such a large share in this discussion, and has taken such a large share of the opposition to this bill, I have felt it to be a duty which I owe not only to myself but to the loyal people I represent upon this floor, that I should say a few words in reply to

what I have heard urged here in opposition to this bill. I do not propose to wander from the bill, or to discuss anything outside of the bill, but to answer some of the objections made to it by my colleagues and other gentlemen upon this floor.

Now, sir, who have made objections to this bill? Who are the men who interpose objections to its passage? First, you find all those in this House who during the great struggle just closed have opposed every measure for crushing out treason. Again, you find outside of these Halls all that class of people who for the last four years we have been disposed to denominate as traitors—they are opposing this bill. They are calling out that this is a usurpation; they are denouncing it as a monstrous usurpation; they are telling us that it interferes with their rights. The same class of men who have opposed every act of the Administration proposed during the last four eventful years, set on foot and carried on to crush out a great conspiracy. In the main, these are the fierce and bitter opponents of this measure.

Now, what do we need to dispose of their objections? They tell us they have submitted to the laws; that they have accepted the results of the war; that they have taken the oath of allegiance to the Government required of them. And each one of those men, with that oath of allegiance sticking down in their breeches pocket, sworn to support the policy of the Government, now come up here and stand out against every single iota of that policy which they have held up their hands in presence of the Almighty and sworn to support. From that class of men comes the opposition to this bill almost wholly. And why do they oppose it? Simply because it interferes with that course which they have so long pursued; simply because it prevents them from exercising that tyrannical power which from the foundation of our Government they have been accustomed to use over one portion of the human race. They desire to continue that tyranny; they desire to continue that oppression; they desire to continue that wrong. And when this House and this Congress and this nation propose to protect all its people alike, then it is they come in here in opposition to such a course. Do you find those who sustained this war opposed to this bill? Do you find that great party of the Union who throughout the grand struggle stood up for the flag lifting their voices up against this bill? No, sir; with few exceptions, and may God help those who have strayed away, the great party who stood by the country in the death-grapple with treason, in which treason died and the nation survived, stands to-day for the completion of the work which four years of war carried so grandly on.

The gentlemen on the other side of the House are accustomed to say this is a monstrous usurpation. Why, sir, we have heard that talk for more than four years here. What bill has been introduced into and passed by Congress since the time this war began that this same party has not been accustomed to denounce as a monstrous usurpation of power? When the President of the United States issued his call for troops they cried out, "A monstrous usurpation of power." When he sent a requisition to the Governor of my own State, what was the response? "Not a man, not a dollar, to prosecute this wicked war against our southern brethren." And the Union party, God help them! in Kentucky, indorsed the sentiment at that day. I did not belong to that part of the Union party; I never belonged to that "neutrality concern." I never put in my oar to help propel that ship which was in favor of thundering forth with its cannon against the North and the South alike. I never belonged to that party which said, "We will stand as a wall of fire against either side." I thank God I never stood upon but one side, and that was the side of my country, against treason, against oppression, against wrong in all its forms.

And here I would say a word to those gentlemen who say that the course of the Government through its military satraps destroyed the Union party in Kentucky.

Mr. Speaker, the Union party in the State of Kentucky ruined themselves, because from the time the first gun was sounded they failed to come up to the mark and stand out for the right. There was the difficulty. Had the Union men of Kentucky in 1861 taken bold ground in favor of coercion and against treason, though we might have had a small party at that day, we would have had a great party to back us, the Government of the United States, which would have thrown its troops into the State of Kentucky, and we would have been saved from the evils that rolled over us after that time; and to-day we would have stood forth in our courage and strength the great party of the State; and instead of fawning at the feet of traitors, and not daring to brook their insults, they would have lain prostrate at our feet. Loyalty would have commanded a premium in the State, and treason held itself with a modesty it would certainly become its guilty actors everywhere to wear.

Gentlemen say that there is no need of this bureau; that we do not want it because peace has returned to our land. If we have peace to-day, why is it that the President of the United States keeps our armies in the field in the southern States? Why is it that all that rebellious country is laid off into military districts, with a military commander for each department? Why is it that martial law is in force there, and the *habeas corpus* is suspended? What says the Lieutenant General of the United States on this subject of peace? In a communication to the President of the United States, dated December 18, 1865, after an extensive tour—extensive in the distance traveled over, but very short in time—he said:

"I did not meet any one, either those holding places under the Government or citizens of the southern States, who think it practicable to withdraw the military from the South at present. The white and the black mutually require the protection of the General Government."

Does that look as if peace prevailed throughout the land? I think that the statements of the Lieutenant General flatly contradict those of gentlemen upon the other side of this House.

It is said, again, that there is no need of this bureau. What says the same high authority? I read from the same paper:

"In some form the Freedmen's Bureau is an absolute necessity until civil law is established and enforced, securing to the freedmen their rights and full protection."

Has any southern State given the freedmen "their full rights and full protection?" Is there a solitary State of those that have been in rebellion, (and I include my own State with the rest, because, although she has never been, by proclamation, declared a State in rebellion, I think she has been one of the most rebellious of the whole crew,) is there a single one of these States that has passed laws to give the freedmen full protection? In vain we wait an affirmative response. Until these States have done so, says this high authority, the Freedmen's Bureau is a necessity. This is to my mind a sufficient answer to the arguments of gentlemen on the other side. In none of those States has the black man a law to protect him in his rights, either of person or property. He can sue in a court of justice in my State, but he can command no testimony in his prosecution or defense unless the witness be a white man. We have one code for the white man, another for the black. Is this justice? Where is your court of justice in any southern State where the black man can secure protection? Again there is no response.

But gentlemen say that this war was waged for the purpose of preserving the Union, and that now at the end of the war the policy seems to be to perpetuate the Republican party. Now, sir, this war was waged for the Union; it was waged by the Republican party for the Union. Now, at the end of the war, when we have crushed out armed treason in the field, do the gentlemen who opposed this war desire this great Republican party now to put the Government into the hands of those whom they have crushed? What loyal man desires that traitors again re-

sume the helm of state? I desire to see the Government continued in the hands of loyal men who stood under their flag and fought against treason and traitors everywhere. I desire now, and in all time to come, to see the men who went forth to battle in defense of right, to sustain the Government handed down to us by our fathers, aided by their friends who sustained them in that effort, direct all our affairs for themselves, for their children, and for generations yet unborn.

Again, we have heard the same old cry which men who sat here in 1860 and 1861 heard then: "You may pass odious laws, but you never can enforce them." Well, we will try that proposition with the gentlemen who make it. I believe we can. I believe we are more powerful to-day than we were then; and if this people desire to get up another revolt, the quicker they go at it the better for us. We will sweep them out in the future as we have in the past, and the next blast will be like the simoom of the desert, so terrible that its opponents will never dare rise again. But I pray for better things; I pray God these men may return to reason, and accept the situation in the sense in which it was tendered by that great and good man, as he held out the oath which they so greedily devoured; that they will learn to know that they have committed a crime and that it is a mercy to them, and the lightest punishment for treason, that they cannot rule again.

No warrant in the Constitution for this law! None! I make the same response to that I have to the assumptions of gentlemen on the opposite side of the House. They have been proclaiming all the time we have had no warrant for anything we have done. They have said there was no authority in the President to appoint provisional governors for the rebel States. Yet they come here as champions for the President and his policy.

We are told that abuses may arise under this bureau; that it is intrusting too much power in the Secretary of War and the officers who are appointed under it. I think gentlemen, professing as they do to have ample confidence in the President and his Administration, need not fear that they will transcend their authority. It shows a lack of faith. I am not afraid of them.

Moreover, we are told that abuses will occur of men under the bureau. I suppose there never has been a law enacted since the time the Lord of heaven handed down the ten commandments to Moses upon Mount Sinai that has not been abused; but I have yet to learn that the abuse of a law justifies its repeal or non-enactment. These things can be corrected as one of my colleagues [Mr. ROUSSEAU] showed in a speech in opposition to the bill could be done in his own city. I have no doubt they can be corrected everywhere else.

They have told us this is a bill to humiliate the South, to humiliate that "brave and chivalric people," to lower their dignity if you choose! My own opinion about that is that it needs to be brought down. [Laughter.] This war has failed so far to bring that chivalry down as low as it ought to be brought to make them obedient to the law as good citizens, and to extend the right of protection to all men. We need something more to humiliate them.

Is it humiliation to that people to be brought under the same laws by which we are bound? We do not ask them to submit to anything that we are not willing to be bound by. Is that humiliation? To the proud and chivalric sons of the South it may be. To the Virginia and South Carolina slaveocracy perhaps it is. But they must learn that they lord it over their hundred slaves no longer.

A war of subjugation, say gentlemen, for the purpose of imposing terms upon these people. They have told you that in this House in 1861, after the battle of Bull Run, a resolution was passed in which we said to the world this was not a war of conquest and subjugation. I do not know, I have sometimes doubted if I had been a member at that time I would have voted for the resolution, for I have always held it was a war of subjugation, a war to subjugate an

armed power opposed to the Government of the United States, a war to subjugate armed treason and bring armed traitors back to an allegiance to the laws of the land.

Now, Mr. Speaker, I am told Kentucky does not want that law. I do not know; I believe that Kentucky sent into the field twenty-seven thousand soldiers of the colored race. They have been returned to their homes by the order of the Secretary of War, approved by the President, and they are allowed to retain their arms. I suppose those men, who are now freedmen, would like to have this law to protect them. There is one class who want this law. There is another class who want this law. They are the men who stood by this country during the great struggle, and do not want the country overrun by armed traitors who waged war against us.

My colleague from the first district [Mr. TRIMBLE] has said that Kentucky's slain lie upon every battle-field of the Republic. So they do, Mr. Speaker; and I regret that, as a loyal man, I must make the humiliating acknowledgment that Kentucky's traitors lie there, too.

Now, Mr. Speaker, there is one way Kentucky can yet get rid of the operations of this law; there is one way all the States from Kentucky to the Rio Grande can get rid of this law and all its abuses at the same time. Let them pass laws and enforce them in the courts giving to all men the same privileges to protection in civil tribunals.

Until that is done we need the law. We need it to restrain those men who stood out against their country, to protect the loyal of all colors. Having engaged in this great work, having crushed out the greatest conspiracy the world has ever seen, having swept the conspirators off from every position, it is our duty now to protect these men whom we have emancipated and made freemen in our land. And as a humble Representative of the State of Kentucky on this floor, as one claiming to have always stood by my country, I stand here to-day still contending for justice, for principle, for right. These people have been emancipated as one of the natural results of this war—a war forced upon the loyal people of the land by traitors. They can never be reenslaved. As freedmen they must have the civil rights of freemen.

Let the States in which they live pass such laws for their protection as will give them the same rights in their courts of justice that other men have. Give to them the right to protect themselves and there will no longer be any need of such a law as this. The time has gone by—yes, and I thank God it can never return—when a human being in this Republic because of his color can be treated as a brute; when the brutal master can have law to protect him in his crime. And now, when the great mad scheme to overturn and destroy the Republic has failed, when treason has been crushed, when a million men who have gone forth to battle have returned to their homes, men scarred upon a hundred battle-fields, must we say to this million men to-day, "All your efforts have been in vain?" Shall we say to the more than three hundred thousand men who have gone down to their graves on the bloody battle-fields, "Your lives have been offered up as a sacrifice for your country, and all in vain?"

Shall we say to the sixty thousand martyrs—victims to a cruelty more barbarous, deep, damning, and devilish than the world has ever seen, who went down to their graves starved in rebel prison pens—shall we say to those brave martyrs and to their widows and little ones at home, "Your graves are ruled over to-day by the same men that looked up to heaven and thanked God, while they had you in their power, that they had it thus in hand to see the 'Yankees die?'" Let us say to the widow and orphan of the brave soldier who, with his last dying gaze, as he lay starving in those horrid dens of iniquity, looked up to heaven, and his soul went to God as he thought of the loved ones at home, "The brave man perished a martyr to liberty, and as his redeemed spirit looks out through the windows

of heaven it beholds a land redeemed, disenthralled, and free." No, Mr. Speaker, let us proclaim to the world and let it go forth that, having conquered the rebellion, having subdued the rebel army, we are prepared to rule this land and make our people free. And when that proud old bird of freedom shall soar across the land, bearing in his beak the broad banner of beauty and glory, let all its stars unfold to the world proclaim in a language which will make thrones and tyrannies tremble to their centers, "This is the home of the free!" [Applause.]

The SPEAKER. The Chair will again remind gentlemen of the House of Representatives that they have adopted a rule prohibiting applause in the galleries, and that they must enforce that rule themselves.

ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill entitled, "An act (H. R. No. 36) making appropriation for the payment of invalid and other pensions of the United States for the year ending June 30, 1867, and additional appropriations for the year ending June 30, 1866;" when the Speaker signed the same.

FREEDMEN'S BUREAU—AGAIN.

Mr. STEVENS. I hope the gentleman from Massachusetts, [Mr. ELIOT,] before he calls the previous question, will withdraw his motion to recommit, which now cuts off amendment, as I understand it, until I can offer an amendment to the committee's amendment to this bill, which will leave it more acceptable to me.

Mr. ELIOT. I cannot do so at this moment.

Mr. SMITH. I ask the gentleman from Massachusetts to allow me to offer an amendment to the bill at this time.

Mr. ELIOT. I cannot.

Mr. SMITH. Then allow me to make a remark at this moment.

Mr. ELIOT. I cannot yield just now.

Mr. SMITH. I am sorry the gentleman from Massachusetts [Mr. ELIOT] is not disposed to be as courteous to me as he has been to other gentlemen upon this floor.

Mr. ELIOT. I wish to withdraw the motion I made to recommit this bill; and then, by instruction of the select committee on the Freedmen's Bureau, I wish also to withdraw the substitute which has been reported from the committee, and to offer another substitute in lieu thereof, which I will proceed to explain.

The SPEAKER. The amendment proposed by the gentleman from Minnesota [Mr. DONNELLY] falls with the withdrawal of the substitute first reported by the committee.

Mr. ELIOT. I have promised my friend from Minnesota [Mr. DONNELLY] to allow him to offer his amendment to this substitute, as he did to the one I have just withdrawn.

Mr. DONNELLY. I move to amend by inserting after the word "schools," in section six, the following:

And the Commissioner may provide a common-school education for all refugees or freedmen who shall apply therefor.

Mr. STEVENS. Can I offer a substitute for the one reported by the committee?

The SPEAKER. The gentleman from Minnesota [Mr. DONNELLY] has already proposed an amendment to the amendment reported by the committee.

Mr. STEVENS. Will the gentleman from Minnesota [Mr. DONNELLY] withdraw his amendment so as to give me an opportunity to offer my substitute for the one reported from the committee?

Mr. DONNELLY. If my amendment is withdrawn now, will I again have an opportunity to offer it?

The SPEAKER. The Chair understands that the gentleman from Massachusetts [Mr. ELIOT] proposes to call the previous question. If that call is sustained the gentleman will have no opportunity to offer his amendment.

Mr. DONNELLY. Then I must decline to withdraw my amendment.

Mr. ELIOT. Mr. Speaker, I will proceed now

to explain the changes proposed by the select committee in the substitute now reported, from the one reported from that committee the other day.

The first alteration they propose to make is in the first section. As it now stands the President may divide the section of country containing refugees and freedmen into districts not exceeding twelve in number, each containing one or more States. The committee propose to amend the section by inserting after the words "section of country" the words "within which the privilege of the writ of *habeas corpus* is at present suspended," so that it will then read, "and the President may divide the section of country within which the writ of *habeas corpus* is at present suspended, containing such refugees and freedmen, into districts;" &c.

Mr. SMITH. Will the gentleman from Massachusetts [Mr. ELIOT] permit me to ask him a question at this point?

Mr. ELIOT. If the gentleman thinks it important to interrupt me for the purpose of putting a question, I cannot object.

Mr. SMITH. I want to understand the bearing of the change in this section proposed by the committee. If the writ of *habeas corpus* is restored to any State, will the Freedmen's Bureau be therefore withdrawn from that State?

Mr. ELIOT. No sir; "within which the writ of *habeas corpus* is at present suspended."

Mr. SMITH. But should the writ of *habeas corpus* be restored?

Mr. ELIOT. Should the writ of *habeas corpus* be restored by and by, it would still follow that the writ of *habeas corpus* is at present suspended, and over that section of country the Freedmen's Bureau would still have jurisdiction.

The next amendments are in section five, by inserting before the word "owner" the word "former;" also the same word before the word "owners" in the proviso; also to strike out of the proviso the words "be entitled to" and insert the words "make application for;" also in the same proviso to insert after the words "by rent or purchase" the words "not exceeding forty acres for each occupant."

The section, if so amended, will then read as follows:

That the occupants of land under Major General Sherman's special field order, dated at Savannah, January 16, 1865, are hereby confirmed in their possession for the period of three years from the date of said order, and no person shall be disturbed in or ousted from said possession during said three years, unless a settlement shall be made with said occupant, by the former owner, satisfactory to the Commissioner of the Freedmen's Bureau: *Provided*, That whenever the former owners of lands occupied under General Sherman's field order shall make application for restoration of said lands, the Commissioner is hereby authorized, upon the agreement, and with the written consent of said occupants, to procure other lands for them by rent or purchase, not exceeding forty acres for each occupant, or to set apart for them out of the public lands assigned for that purpose in section four of this bill forty acres each, upon the terms and conditions named in said section.

The next amendment is in the seventh section, in the third line, after the word "rebellion," by inserting the words "and in which the privilege of the writ of *habeas corpus* is at present suspended."

The next amendment is in the seventh section, in the eleventh line, after the word "estate," by inserting the words "including the constitutional right to bear arms," so that it will read, "to have full and equal benefit of all laws and proceedings for the security of person and estate, including the constitutional right to bear arms."

The next alteration is in the eighth section, by inserting after the word "rebellion," in the fifth line, the words "and in which the privilege of the writ of *habeas corpus* is at present suspended;" and by inserting the same words in the twenty-fourth line after the word "rebellion."

Mr. Speaker, these are the alterations which I am instructed by the committee to make, and it will be observed that the effect of them is to limit the jurisdiction of the bureau, and that it confines it to States within which the privilege of the writ of *habeas corpus* is now suspended.

Mr. BENJAMIN. I wish to make one suggestion to the gentleman in reference to his amendment. I suggest to him that he modify the sentence "States in which the privilege of the writ of *habeas corpus* is now suspended." I suppose that, of course, means at the time of the passage of this bill, and that may be a little indefinite. I suggest to him that he indicate some particular time, say the 1st of January, 1866.

Mr. ELIOT. I cannot yield at present to that suggestion.

Mr. RAYMOND. Mr. Speaker, I have the consent of the gentleman from Massachusetts to occupy one moment in personal explanation, and I will avail myself of it now.

I was not in the House when the debate on this subject closed on Friday afternoon last, and until I saw the Globe containing the proceedings of that afternoon, I was not aware of some remarks which seem to have been made at that time by my colleague on the other side of the House, [Mr. CHANLER.] I find that while alluding to a letter said to have been written by General Sherman to the President of the United States in regard to his appropriation of certain lands for the use of negroes in the Sea Island plantations, my colleague says:

"That letter should now be before the country, and in the hands of this House. It was in my hands to present to this House, but, owing to the delay consequent on the debate, I withdrew my claim to present it, and it was given to my colleague [Mr. RAYMOND] to present to this House."

I know nothing about any such transaction as is there narrated. I knew nothing of any such letter having been placed in the hands of my colleague. I knew nothing of his having had any claim or yielded any claim to present such a letter to the House, and I certainly never for one moment dreamed of being a contestant with him for the presentation of such a letter, or for anything else. And now permit me to say in explanation of my connection with that letter simply this: I was told in conversation with a gentleman from South Carolina, from whom I endeavored to obtain information on this subject, that such a letter had been written, and he showed me the original letter. I asked him if he had any objection to my taking a copy, not for presentation to this House, but for publication in a newspaper with which I happen to be connected, and he assented at once; and it was thus, and for that purpose only, that the letter came into my hands. That is all I wish to say upon that subject.

If the gentleman from Massachusetts will permit me for a moment longer, I will avail myself of this opportunity further to say that the general purpose of this bill seems to be one that this Congress has no right to refuse to take some steps to attain. We owe, as a duty to those who have been set free, the protection which this bill affords.

I have no apprehensions as to the practical workings of this law. So far as I have been able to collect information from all quarters—and I have taken some pains to do so—I find that this law, like most other laws on our statute-books, works well where it is well administered. The practical operations of this bureau will depend upon the character of the agents into whose hands its management is intrusted. I certainly have no apprehension in this respect. I do not for one moment fear that the agents who will be appointed to carry this law into execution will not use the powers conferred upon them for the furtherance of the great object which we all have in view—the reconciliation, the protection, the security of all classes of those who are now our fellow-citizens in the southern States.

I believe that the law will be well carried out. I am quite sure that it will work well. I have no apprehension that it will result in the evil consequences so eloquently depicted on Friday last by the gallant gentleman from Kentucky, [Mr. ROUSSEAU.]

I am greatly obliged to my friend from Massachusetts [Mr. ELIOT] for the opportunity which he has afforded me to make these remarks.

Mr. CHANLER. Will the gentleman from

Massachusetts [Mr. ELIOT] allow me to say a few words, in order to set myself right?

Mr. ELIOT. No, sir, not now.

Mr. CHANLER. Not for a personal explanation in reference to the matter under debate?

Mr. ELIOT. I decline to yield to the gentleman from New York, [Mr. CHANLER.] I have already agreed to yield a few moments to the gentleman from Ohio, [Mr. SHELLABARGER.]

Mr. CHANLER. Mr. Speaker—

The SPEAKER. The gentleman from Massachusetts is entitled to the floor, and he declines to yield to the gentleman from New York.

Mr. CHANLER. Now, sir, I appeal to the House. The gentleman refuses to yield to me for a personal explanation in regard to a matter in which I am personally concerned—

The SPEAKER. The gentleman from New York is out of order. The gentleman from Massachusetts is entitled to the floor without interruption.

Mr. ELIOT. I have promised to yield a few moments to my friend from Ohio, [Mr. SHELLABARGER.]

Mr. CHANLER. I object to the gentleman yielding, unless he yields unconditionally.

The SPEAKER. The gentleman has the right to yield to whom he pleases.

Mr. CHANLER. If the gentleman excludes me from occupying the floor he should exclude others.

The SPEAKER. The rule under which the gentleman from Massachusetts has the right to yield to any member will be read.

The Clerk read, as follows:

"While a member is occupying the floor he may yield it to another for explanation of the pending measure as well as for a personal explanation."

Mr. CHANLER. Well, I ask the gentleman to yield to me for a personal explanation.

The SPEAKER. The gentleman from Massachusetts has the right to yield to the gentleman from New York, or to decline to do so; He declines; and the Chair protects him in his right.

Mr. SHELLABARGER. I suggest the following amendment, which I hope will be accepted by the committee on freedmen. I have shown it to all the members of the committee, except perhaps one.

Add at the end of section three the following:

Provided, That no person shall be deemed destitute, suffering, or dependent upon the Government for support, within the meaning of this act, who, being able to find employment, could, by proper industry and exertion, avoid such destitution, suffering, and dependence.

Mr. CHANLER. Mr. Speaker, I ask the gentleman from Ohio to allow me to make a statement. [Cries of "No!" "No!"] I simply desire to say that I never asserted that my colleague [Mr. RAYMOND] was under any obligation to present the letter which has been referred to. My knowledge of the facts was limited to his possession of the paper—

The SPEAKER. The gentleman from New York is out of order. He must resume his seat, or the Chair will be compelled to enforce the rule. The gentleman has several times appealed to the gentleman from Massachusetts, who has refused to yield.

Mr. CHANLER. I beg pardon of the Chair. I appealed to the gentleman from Ohio.

The SPEAKER. The gentleman from Ohio has no right to yield the floor.

Mr. CHANLER. Of course I did not know that. [Laughter.]

The SPEAKER. The amendment of the gentleman from Ohio is not in order at the present time.

Mr. SHELLABARGER. I was in the hope it would be accepted by the gentleman from Massachusetts.

Mr. ELIOT. I have no objection to accept it.

Mr. STEVENS. I understand the gentleman from Minnesota [Mr. DONNELLY] will withdraw his amendment so as to allow me to submit my substitute.

Mr. DONNELLY. I withdraw my amendment, because the gentleman from Pennsylvania [Mr. STEVENS] has informed me that he

has embodied that amendment in the substitute for the whole bill which he is about to offer.

Mr. STEVENS. I now offer a substitute for the whole bill.

Mr. ELIOT. I think the alterations in the bill made by the substitute can be read by the Clerk in one minute.

Mr. STEVENS. I propose to state them. The first is in section four, line six. I insert the words "and from forfeited estates of the enemy," so that it will read:

SEC. 4. *And be it further enacted*, That the President is hereby authorized to reserve from sale or from settlement, under the homestead or preemption laws, and to set apart for the use of freedmen and loyal refugees, male or female, unoccupied lands in Florida, Mississippi, Alabama, Louisiana, and Arkansas, and from forfeited estates of the enemy, not exceeding in all three million acres of good land; and the Commissioner, under the direction of the President, shall cause the same from time to time to be allotted and assigned, in parcels not exceeding forty acres each, to the loyal refugees and freedmen, who shall be protected in the use and enjoyment thereof for such term of time and such annual rent as may be agreed on between the Commissioner and such refugees or freedmen.

The next is to strike out these words:

Based upon a valuation of the land, to be ascertained in such manner as the Commissioner may, under the direction of the President, by regulation prescribe.

And in lieu thereof to insert, "not to exceed ten cents per acre per annum;" so that it will read:

The rental shall be not to exceed ten cents per acre per annum.

That is to give them homesteads at ten cents per acre instead of at their full value.

The next amendment is to strike out the words "the value of the land as aforesaid," and to insert "not exceeding two dollars per acre;" so it will read:

At the end of such term, or sooner, if the Commissioner shall assent thereto, the occupants of any parcels so assigned, their heirs and assigns, may purchase the land and receive a title thereto from the United States, in fee, upon paying therefor not exceeding two dollars per acre.

Section five is as follows:

SEC. 5. *And be it further enacted*, That the occupants of land under Major General Sherman's special field order dated at Savannah, January 16, 1865, are hereby confirmed in their possession for the period of three years from the date of said order, and no person shall be disturbed in or ousted from said possession during said three years unless a settlement shall be made with said occupant, by the owner, satisfactory to the Commissioner of the Freedmen's Bureau: *Provided*, That whenever the owners of lands occupied under General Sherman's field order, shall be entitled to restoration of said lands, the Commissioner is hereby authorized, upon the agreement, and with the written consent of said occupants to procure other lands for them by rent or purchase, or to set apart for them, out of the public lands assigned for that purpose in section four of this bill, forty acres each, upon the terms and conditions named in said section.

I move to strike out these words, "for the period of three years from the date of said order," and the words "during said three years," and to insert the word "former" before "owner." I may say these lands were given to these people with the understanding they were to possess them until Congress decided the title. The lands are the lands of rebels which were abandoned and seized. This bill authorizes their being turned out at the end of three years, which I wish to avert. To turn them out is an outrage I would never vote for.

Then comes in the amendment of my distinguished friend from Minnesota, [Mr. DONNELLY:]

After the word "schools," in line seven, section six, insert the following:

And the Commissioner may provide a common-school education for all refugees or freedmen who shall apply therefor.

I move then to strike out of sections seven and eight the words "except as a punishment for crime whereof the party shall have been duly convicted." I do that for this reason: although that was put in the constitutional amendment, it does not necessarily come in here. Under the pretense of that very clause they are taking men, as I have authentic information, for assault and battery and selling them into bondage for ninety-nine years.

Mr. Speaker, I would now suggest that we devote this evening to discussion of this bill. We can call the previous question and take the

vote in the morning. I ask the gentleman to let me offer a resolution for that purpose.

Mr. ELIOT. I want to take the vote now.

Mr. STEVENS. That is intended to keep debate up if the previous question is not called to-day. This evening let it be understood that the discussion be on this bill; after that on the President's message.

Mr. ELIOT. It seems to me we had better finish this bill and take a vote on it now.

The SPEAKER. The proposition of the gentleman from Pennsylvania requires unanimous consent.

Mr. ELIOT. I object to it. Mr. Speaker, how much time have I?

The SPEAKER. About twenty-eight minutes.

Mr. ELIOT. I do not propose to occupy the time of this House in protracted discussion of the provisions of this bill.

Mr. LE BLOND. I will inquire of the gentleman from Massachusetts if the amendment of the gentleman from Pennsylvania has been accepted by him or is in any shape pending before the House.

Mr. ELIOT. No, sir, it has not been and could not be.

The SPEAKER. It is pending as amendment to the substitute offered by the committee, and the first question will be on the amendment of the gentleman from Pennsylvania. [Mr. STEVENS.]

Mr. LE BLOND. Will it be in a position to be voted for?

The SPEAKER. Yes, sir.

Mr. LE BLOND. Then I would like to have it read.

The SPEAKER. It will be reported before it is voted upon.

Mr. ELIOT. Mr. Speaker, I shall occupy the attention of the House very briefly in closing the debate upon this bill, and possibly might refrain from speaking but that I wish to bring to the notice of the House a few facts from official sources concerning the operation and the value of the Freedmen's Bureau.

Three objections have been urged against this bill. Two gentlemen, my colleague on the committee, [Mr. TAYLOR,] of New York, and the gentleman from Maryland, [Mr. PHELPS,] very frankly admit that we are called on for some legislation to protect the freedmen who have been, by military emancipation and by constitutional amendment, brought under the guardian care of the Government, but they contend that the provisions of this bill are not such as commend themselves to their judgment. All the other gentlemen who have spoken on the other side of the House deprecate all legislation and deny that any bill, however drawn, having the objects in view sought to be effected can properly receive support. We see these millions of men overwhelmed in the rough seas, but we must not stretch forth the wand of the law to part the waters for their salvation.

Mr. PHELPS. As the gentleman has alluded to me, I would like to state just here, that in view of the amendment suggested by the gentleman from Ohio, [Mr. SHELLABARGER,] which has been accepted, as I understand it, I withdraw my objection to the bill, the principle of which, as I said before, I indorse, only objecting to matters of detail. I shall therefore vote for the bill.

Mr. ELIOT. I understand the gentleman from Maryland [Mr. PHELPS] to withdraw his objection to the bill, and shall certainly be glad to have his vote given in its behalf.

The first objection made to this legislation is that this whole bill, in its object, scope, purposes, and provisions, is in contravention of the Constitution. This would be a marvelous misfortune, if true, and would prove that our Constitution, ordained to promote the general welfare and to secure the blessings of liberty, had not within itself the power to do its work. It has not hitherto performed its full work, we know. When slavery lived, and within nearly one half of our Republic laws were in force which permitted and encouraged human bondage, the people could not be secured in the en-

joyment of these blessings. There is not, however, any provision in the Constitution which in specific words empowers us to pass this law, and there are some gentlemen who seem to require such specific grant of power before they can consent to act in this direction. But to those not unwilling to discern it the power to act is obvious enough.

No one will deny, at this time, the military power of the Commander-in-Chief to declare freedom when Mr. Lincoln acted. But no express grant of power to that effect can be found in the Constitution. We were in war. The institution of slavery was used as an instrumentality of war, powerful, effective, and controlling. Without it the rebel States would not have gone to war, and could not have conducted it. It was the back-ground of their strength. It supplied them with food and dug them intrenchments and supported them at home and in the field. It would have been madness in us and great folly not to have taken from them this strength. But more than that. The men who were made to work against us were our friends—the only friends we had in all the rebel States—ignorant it may be, degraded by slavery, but still our friends.

The President then, Mr. Speaker, had as Commander-in-Chief the power—no matter now about the right, the justice, as Mr. Lincoln said, but the power—to liberate the slave. By all the laws of war, since war was first waged, where slaves were held by either contending party, he had the power. Under the Constitution Congress had used its powers to raise and support armies, to make rules for the government of our forces, to provide for the suppression of the insurrection. All the war powers in the President were in force, and that was one of them. The freedmen were cast by that act upon our Government in a time of war. But the power to free them involved the duty to protect them, and for that protection Congress must provide, and every provision in this bill if fairly called for in order to protect them is thus justified. I read that Constitution with other eyes than those which look at it from the stand-point of the master. By that military emancipation they were made free; but in Kentucky, Delaware, Missouri, and Maryland, the Commander-in-Chief did not free them, nor in all of Louisiana or in Tennessee. Missouri and Maryland acted themselves. But in Kentucky and Delaware the chains were shackled fast until the amendment of our Constitution declaring all men free was ratified. And the second section of that amendment confers the power and so creates the duty for just such legislation as this bill contains, to give them shelter, and food, to lift them from slavery into the manhood of freedom, to clothe the nakedness of the slave, and to educate him into that manhood that shall be of value to the State.

The objection to this bill because of the fact that it left the whole country to be districted has been removed by the amendment which the committee have authorized me to report.

The objection which was urged last night, because of the expense which this bureau would create, is removed materially by the amount which the committee, on the part of the House, in the first and also in the present substitute have reported.

The argument on this point which was made by the gentleman from Kentucky was upon the bill as it came from the Senate; it was not upon the substitute which had been offered to the House by this committee.

The salaries which were discussed were those named in that bill and not in this.

The number of clerks objected to was the number provided for in the Senate bill and not in this.

By the terms of this bill gentlemen all understand that officers of the Army, or enlisted men, so far as their services can be procured, will be detailed for service here.

The expense as I believe, and as the friends of this measure who have examined this subject most carefully believe, will be fully borne, fully met, if only the bureau can have a fair chance, and the freedmen who are cared for by it can

have an opportunity to make their labor remunerative.

But the gentlemen from Kentucky have said that this bureau is not wanted anywhere, especially is not wanted there. And my purpose as much as anything else in asking the attention of the House now, was to lay before it the official evidence that I have here upon that subject.

First, I will read an extract from a report of General Howard, the brother of the Commissioner, concerning the white refugees. He says:

"At Atlanta, there was more of an accumulation of destitute freed people than I had seen elsewhere. The armies had more completely devastated all the country around. Many whites, at least three hundred families, as estimated by the sub-assistant commissioner, will suffer greatly this winter unless relieved by Government agency. The bureau officer had assisted some of these destitute refugees by transportation and rations. He was endeavoring to find places for the able-bodied colored people, and had already considerably diminished the numbers. By the help of the assistant commissioner of the State, he will be able to apprentice most of the homeless children. Many cases of violence to negroes in that section are reported to him, but his district is so large that he cannot, he says, rectify these evils except in comparatively few cases. Several good schools and a hospital are in successful operation at Atlanta; the former, as at Macon, being chiefly sustained by the benevolent associations of the North."

Concerning Florida, General Howard says:

"From conversation with Lieutenant Colonel Apthorpe, one of Colonel Osborn's inspectors, as well as from the other sources of information mentioned, [conversations with citizens of Tallahassee and vicinity and with Generals Foster and Newton,] I became convinced that there were rather more exceptions in Florida to the general rule, prevalent in southern Georgia, of prejudice and unjust dealing against the freedmen, but that still with the majority of the people there was the same unwillingness or moral incapacity to treat them with fairness and as freemen."

"I was informed by a high military official that since the hanging of a citizen for murder at Tallahassee, convicted by a military court, and the pending trial of another for shooting a negro, he had received letters from parties declaring they would not live in a country where a man must be hung for resenting an insult with arms, and where a man must be tried for his life for shooting a 'nigger.' He informed me also that certain of these parties had carried out their threat of leaving the State, and had gone to Texas to reside."

"From the same official I was gratified to learn as a testimonial to the good discipline of some of the colored troops and as an offset to the complaints against them in southern Georgia, that all the principal citizens of Jasper, Florida, petitioned for the return of a company of colored troops which had been ordered away from there. The constant quarreling between discharged Union and rebel soldiers resident there rendered the presence of troops necessary. The colored troops were put back to continue garrisoning the place."

"There is the same disposition to depreciate wages in Florida as in Georgia."

Concerning the necessity laid upon this bureau to provide for medical treatment of freedmen, I would state that from reports made to Surgeon Horner, medical chief of the bureau, it appears that—

"A majority of the physicians of the district (Virginia) refuse to render any services to these people unless compensated in advance."

"A much larger number of freedmen would be able, even in their present condition, to provide for their own medical care were it not for the system of charges for medical services and medicines through the State (Virginia) is at such a high rate. Few physicians, comparatively, as yet make the proper distinctions in favor of this class of persons, and still continue to demand payment in advance for all services rendered. Five dollars a visit, even for short distances, is no unusual charge, and an equally high rate for medicines."

"It is apparent that very few of the large number of freedmen find it possible in their present transition state to pay these rates, although in the larger places some have succeeded in so doing, and the number is increasing."

From North Carolina:

"A colored clergyman of Raleigh reported to Colonel E. Whittlesey, forty-sixth United States colored troops, that he was unable to obtain a physician to attend his sick family, and that a combination exists among the local physicians not to give medical attendance to colored people."

From Georgia Surgeon Lawton writes:

"I was there (at Macon) last week; saw the mayor and told him the Government did not intend to relieve local (civil) authorities of the care of the sick and infirm in the city. He said that the negro population was estimated at from eight to ten thousand in and around the city, gathered from all the neighboring counties, and the city was poor; could not, would not take care of them. Underneath the professed loyalty and Union sentiment of this State (Georgia) lies a deep, bitter feeling of hatred and animosity; years may soften it, but for the present all this feeling will crop out, as it does constantly, in acts of cruelty toward the

negro. The hate toward the northerners spends itself in that direction. I could spend the day in relating such acts.

In Atlanta, I know from personal inspection that multitudes of the feeble and women and children are living either in the open air, or such rude shelters of brush and logs and old tin from car roofs as they can construct, exposed to storms and cold, and such a life induces a large amount of sickness and a high rate of mortality.

I returned yesterday (January 26, 1866), from a tour of inspection of two weeks over the State. The demand increases, or else a knowledge of the needs of the freedmen grows upon me for help. Small-pox spreads with terrible rapidity and fatality, and generally civil authorities show a cruel heartlessness and wicked indifference to their wants which does little credit to their humanity."

From Texas the surgeon in charge writes that—

"Captain W. D. Wardlow, recently ordered to Homer, Angelina county, with two companies of the twelfth Illinois cavalry, reported his intention to arrest a planter named Herman Brown for killing a freedman. It is stated and corroborated by the evidence of the dying man that Brown had in his service the freedman's wife and denied him the right to see her, threatening to shoot him if he came again, which threat Brown carried out. Captain Wardlow says it is currently rumored that there is an organization with some of the planters to kill every freedman that leaves his former master. In San Augustine county a planter named Gadden informed his employes that they were not free until Christmas, and compelled them to stay."

I now, Mr. Speaker, read to you an extract from the report from Kentucky of Brevet Major General Fisk, assistant commissioner for Kentucky and Tennessee:

BUREAU FREEDMEN, REFUGEES,
STATES OF KENTUCKY AND TENNESSEE,
ASSISTANT COMMISSIONER'S OFFICE,
NASHVILLE, TENNESSEE, January 23, 1866.

GENERAL: I assure you that in no portion of the country is the bureau a more positive necessity than in many counties of Kentucky, and for the sake of the nation's plighted faith to her wards, the freedmen, and in behalf of humanity and justice, I implore you and the President to listen to no request for its withdrawal from the State until the civil authorities, in the enforcement of impartial laws, shall amply protect the persons and property of those for whose protection and defense this bureau is set.

I saw with my own eyes our fellow-soldiers, yet clad in the uniform of their country's Army, fresh from their muster out of service, who, within the last ten days, were the victims of fiendish atrocity from the hands of their former masters in Kentucky. These returned soldiers had been to their old homes for their wives and children, and had for this offense been knocked down, whipped, and horribly bruised, and threatened with shooting should they ever dare set their feet on the premises of their old master again and intimate that their families were free.

On the very day last week that Garret Davis was engaged in denouncing the Freedmen's Bureau in the United States Senate, his own neighbors, who had fought gallantly in the Union Army, were pleading with myself for the protection which the civil authorities failed to afford. The civil law prohibits the colored man from bearing arms; returned soldiers are, by the civil officers, dispossessed of their arms and fined for violation of the law.

I inclose herewith copies of two letters received from Meade county. Mr. Stewart is circuit judge. It would, I fear, do great harm were the bureau to be withdrawn from any portion of the county where slavery has ceased to exist as the result of the war, until the people shall have had ample time, under the guardianship of the Government, to adjust their new relations on the basis of impartial justice to all men.

I am, general, very respectfully, your obedient servant,
CLINTON B. FISK,

Brevet Major General, Assistant Commissioner.
Major General HOWARD, Commissioner, &c.

The letters referred to by General Fisk are as follows. The first is dated—

BRANDENBURGH, KENTUCKY, December 29, 1865.

SIR: I have the honor to inform you that the freedmen of this county have been grossly imposed on by former rebel owners. Whether they are rebels at present is for you to judge upon the information given me by the freedmen.

I will state one circumstance given me by Mr. H. Patterson, a member of company K, one hundred and eighteenth United States colored infantry. He was honorably discharged the service on the 15th day of September, 1865. He came to this place and sent to the county for his wife and children. Their former owner, Shacklett, of rebel notoriety, refused to give them up to their father and husband, and notifies the soldier if he comes on his lands for the purpose of getting them he will shoot him. He has not got them yet. Please inform me what course should be pursued in regard to the freedmen. We have no agent for the Freedmen's Bureau at this place. The disposition of the would-be rebels is to persecute the freedmen to the utmost extent.

Sir, another thing I wish to call your attention to is the oppression of returned Union soldiers. On the 18th of December, 1865, a Union soldier, formerly of the seventeenth Kentucky cavalry, came to this place and was grossly beaten by a former rebel soldier, guerrilla, and his friends—reasons, that he had sent negroes across the Ohio river. He was beaten for obeying an order issued by you to his officer and by his cap-

tain to him. The civil authorities have taken no notice of the disgraceful riot on the Sabbath, and such things have occurred on several occasions. The civil law here is in the hands of the rebels.

For character I refer you to Colonel E. W. Crittenden, United States Army, and Colonel James T. Bramlette, inspector general of Kentucky.

I am, sir, very respectfully, your obedient servant,
W. F. DENTON,
Formerly Lieutenant Twelfth Kentucky Cavalry.
Major General PALMER.

Now, sir, I give an extract from the letter of Judge Stewart, dated at Brandenburg, January 4, 1866:

General Fisk: * * * * There is a place about nine miles from this called Meadeville, formerly a guerrilla headquarters. At that place there has been a reign of terror for two weeks. The pretense of the rascals concerned in it is to expel all the freedmen.

They have made the declaration that no one shall hire a negro, not even the former owners of them.

One man's houses were burned some days ago on the faith of a rumor that he was about to hire his former slaves and put them there to live.

The family of a certain John Blunt Shacklett, together with a Jesse Murray Shacklett and Bill Shacklett—they attempted to carry out their purpose here day before yesterday. They with cocked pistols paraded several negroes about the street, and went in search of some who had been in the Army, and would undoubtedly have killed them if they had been found. Some of us (very few) went into business about this point, and they were soon cleaned out, two being badly wounded.

I learn that yesterday they were assembled in force at Meadeville; no process of law can be served upon them. Now what are we to do? I cannot undertake the business, for I have been thumped to death nearly heretofore.

Please inform me what may be looked for at once. Obediently, &c.

J. STEWART.

I just hear that yesterday at Meadeville, a certain Mayor Harrison proclaimed that any one who hired a negro deserved to hang, and should be hung.

This is a law they had charged as a spy, and I unfortunately lent a hand in getting him clear. It is certain he went to pilot Berry and his gang through here last fall, and ought to be had up for that.

MR. SMITH. Will the gentleman from Massachusetts [Mr. Eliot] allow me to say a word in reference to General Fisk?

MR. ELIOT. I am sorry to be compelled to decline.

MR. SMITH. I desire to say but a word in reference to a speech made by General Fisk, in Cincinnati, in reference to Kentucky.

MR. ELIOT. I must decline to yield.

MR. HARDING, of Kentucky. Will the gentleman from Massachusetts [Mr. Eliot] allow me to ask him a question? By whom is that report signed? Is it signed by General Fisk or some subordinate?

MR. ELIOT. It is an official report by General Fisk.

MR. HARDING, of Kentucky. Is it signed by General Fisk or by a subordinate?

MR. ELIOT. It is signed by General Fisk.

MR. HARDING, of Kentucky. I think the gentleman is mistaken.

MR. ELIOT. What I have had read is a certified copy of a report made and signed by General Fisk, as the gentleman will see by examining the copy just read by the Clerk.

MR. GRIDER. I would ask the gentleman from Massachusetts [Mr. Eliot] when he obtained the communication just read.

MR. ELIOT. My impression is that I have had the report of General Fisk for about a week. The two letters accompanying it I have procured since.

From the report of Colonel Whittlesey, assistant commissioner of North Carolina, I present the following extract:

"The method pursued may be best presented by citing a few cases, and the action thereon. From the report of Captain James, for August, I quote the following:

"I forwarded you, in his own language, a report of a case which occurred in Gates county, on the northern border of the State, far away from any influence of troops, and where the military power of the Government had been little felt. No doubt it illustrates others in similar localities far from garrisons and northern influences. The report will repay perusal, and appears to have been managed with admirable tact on the part of Captain Hill. Reports had reached me of the way in which David Parker, of Gates county, treated his colored people, and I determined to ascertain for myself their truth. Accordingly last Monday, August 20, accompanied by a guard of six men from this post, (Elizabeth City,) I proceeded to his residence, about forty miles distant. He is very wealthy. I ascertained, after due investigation, and after convincing his colored people that I was really their

friend, that the worst reports of him were true. He had twenty-three negroes on his farm, large and small. Of these fourteen were field hands. They all bore unmistakable evidence of the way they had been worked. Very much undersized, rarely exceeding man or woman, four feet six inches. Men and women of thirty and forty years of age looking like boys and girls. It has been his habit for years to work them from sunrise to sunset, and often long after, only stopping one hour for dinner—food always cooked for them to save time. He had and has had for many years an old colored man, one-eyed, and worn out in the service, for an overseer or 'over-looker,' as he called himself. In addition, he has two sons at home, one of whom has made it a point to be with them all summer long—not so much to superintend as to drive. The old colored overseer always went behind the gang with a cane or whip, and woe betide the unlucky wretch who did not do continually his part. He had been brought up to work, and had not the least pity for any one who could not work as well as he.

Mr. Parker told me that he had hired his people for the season; that directly after the surrender of General Lee he called them up, told them they were free, that he was better used to them than to others, and would prefer hiring them, that he would give them board and two suits of clothing to stay with him till the last day of January, 1866, and one Sunday suit at the end of that time, that they consented willingly—in fact preferred to remain with him, &c. But from his people I learned that though he did call them up, as stated, yet when one of them demurred at the offer, his son James flew at him and cuffed and kicked him; that after that, they were all perfectly willing to stay; they were watched night and day; that Bob, one of the men, had been chained nights, that they were actually afraid to try to get away. There was no complaint of the food, nor much of the clothing; but they were in constant terror of the whip. Only three days before my arrival Bob had been stripped in the field and given fifty lashes, for hitting Adam, the colored over-looker, while James Parker stood by with a gun, and told him to run if he wanted to, he had a gun there. About four weeks before, four of them who went to church and returned before sunset, were treated to twenty-five lashes each. Some were beaten or whipped almost every day. Having ascertained these and other similar facts, I directed him to call them up and pay them from the 1st of May last up to the present time. I investigated each case, taking into consideration age, family, physical condition, &c., estimating their work from eight dollars down, and saw him pay them off then and there, allowing for clothing and medical bill. I then arrested him and his two sons, and brought them here, except Dr. Joseph Parker, whose sister is very sick, with all the colored people I thought necessary as witnesses, intending to send them to Newbern for trial. But on account of the want of immediate transportation I concluded to release them by their giving a bond in the sum of \$2,000 to Colonel E. Whittlesey, assistant commissioner for the State of North Carolina, and to his successors in office, conditional as follows:

"That whereas David Parker and James Parker have heretofore maltreated their colored people, and have enforced the compulsory system instead of the free-labor system, now, therefore, if they, each of them, shall hereafter well and kindly treat, and cause to be treated, the hired laborers under their or his charge, and shall adopt the free-labor system in lieu of the compulsory system, then this bond to be void and of no effect, otherwise to remain in full force and effect, with good security."

Lieutenant Colonel Clapp, superintendent central district, reports three cases of cruel beating, which have been investigated, and the offenders turned over to the military authorities for trial; besides very many instances of defrauding freedmen of their wages.

From the reports of Major Wickersham, superintendent of the southern district, I quote the following:

"August 25, A. S. Miller, Bladen county, states that Henry Miller (colored) neglects to support his family. Action, required Henry Miller to use his wages for the support of his wife and children who have no claims on their former master, and can look to no one else than the husband and father for support."

"27. Betsey Powell (colored) states that Mrs. Frank Powell, Columbus county, has driven her away without pay for her labor. Gave letter to Mrs. Powell directing her to pay Betsey for her labor since April 27, 1865."

"29. Len Shiner (colored) states that he made an agreement with Mr. David Russell, of Robeson county, to work and gather his crop, for which he was to receive subsistence and one third of the crop when gathered. Mr. Russell has driven him off and refuses to pay. Wrote to Mr. Russell directing him to comply with terms of agreement, or furnish satisfactory reasons for not doing so. These are but examples of hundreds of complaints heard and acted upon by Major Wickersham and other officers in the southern district."

"The following cases are taken from the report of Captain Barritt, assistant commissioner at Charlotte. Morrison Miller, charged with whipping girl Hannah, (colored.) Found guilty. Action—ordered to pay said Hannah fifty bushels of corn toward supporting herself and children, two of said children being the offspring of Miller."

"William Wallace, charged with whipping Martha, (colored.) Plead guilty. Action—fined said Wallace fifteen dollars, with assurance that if the above of fence was repeated the fine would be doubled."

"Council Best attempts to defraud six families of their summer labor, by offering to sell at auction the crop on his leased plantation. Action—sent military force and stopped the sale until contract with laborers was complied with."

"A hundred pages of similar reports might be copied, showing, on the one side, that many freedmen need

the presence of some authority to enforce upon them their new duties, and on the other, that so far from being true that "there is no county in which a freedman can be imposed upon," (speech of Judge Reed in constitutional convention,) there is no county in which he is not oftener wronged, and these wrongs increase in proportion to their distance from United States authorities. There has been great improvement during the quarter, in this respect. The efforts of the bureau to protect the freedmen have done much to restrain violence and injustice. Such efforts must be continued until civil government is fully restored, just laws enacted, or great suffering and serious disturbance will be the result.

General C. W. Howard, as the result of his inspection, submits these considerations in his report:

"I. Agencies of the United States Government of some sort, similar to the existing bureau agencies, are for the present indispensable in every part of the two States visited.

"1. Great suffering and starvation would ensue among the refugees and freedmen in some sections were all Government aid withdrawn.

"2. Public sentiment is such that even should the laws be made impartial the negro could not obtain redress for wrongs done him in person or property.

"3. There seems to be a moral incapacity with the majority of white residents to treat him fairly in the ordinary transactions of business as, *e. g.*, in making contracts. His own inexperience in such things therefore renders necessary some agency to guard his interests.

"4. Existing theories concerning the education of laborers and the prejudices against the blacks, are such as absolutely to prevent the establishment of schools for the freedmen, even though the expenses were paid by the benevolent associations of the North, and the many successful schools now in operation would be broken up in most places on the withdrawal of the Government agencies.

"The same general observation will apply to all missionary work by northern agents, and from special inquiry and investigation of this subject I am convinced that very little in the way of moral and religious instruction for the freed people is to be expected at present from the members and ministers of the southern churches.

"II. On the other hand, it is for the interest of the whites for these agencies to remain, and the better class of the thinking men expressed themselves unhesitatingly in favor of it.

"1. The prevailing want of confidence on the part of the freedmen in those who have been slaveholders makes it necessary to have a third party (and a United States official is better than any other) to induce the freedmen to enter into contracts. Many of the white residents told me that no contracts would have been effected but for the bureau officers.

"2. Such agents are needed often to secure the fulfillment of contracts on the part of the freedmen both in the explaining the exact meaning and force of the contract and enforcing it by different motives and means.

"3. For the protection of the whites against any hostile combinations of the blacks. This will be needed as long as the present public sentiment of the whites continues, insuring a corresponding distrust and hostility on the part of the blacks.

"Our agents have done much to allay such ill-feeling," &c.

Mr. Speaker, in order to show somewhat the existing feeling in some portions of Maryland, I annex a letter recently written by a teacher of a freedmen's school:

To the Attorney of the Baltimore Association for the Moral and Educational Improvement of the Colored People:

HAGERSTOWN, MARYLAND, February 1, 1865.

DEAR SIR: The rebels have come out against me at last. Last week I was informed by the deputy sheriff that a gang of them were organized for the purpose of breaking up the school and blacking the teacher. Both the mayor and sheriff have warned the colored people to go armed to school, (which they do,) and if they attempt it to shoot as many as possible. On Monday night the deputy sheriff staid with us at the school. On the same night the rebels laid a trap for me, which I walked into, but got out again. I called into a colored church, as I was accustomed to do after school, when I discovered about twelve whites near the door, who, upon my entrance, locked the door and took possession of the key. They then commenced a row with the colored people. In the yard the fight became general. The whites swore vengeance on the colored people and the school. After I left they convoked again, and shots were fired. One of the colored men, thinking they had got me, ran to the jail for assistance, and was returning, and was on his own doorstep, when he was shot by a fellow near by, who, I believe, mistook him for me. The next night the school was very thin, owing to the fright, but about twenty returned colored soldiers came in and staid all the evening, all armed. The superintendent of schools came down and brought me a revolver. If they attack the school again I think they will get worsted.

Yours, very respectfully, G. A. TUCKER.

Rev. F. ISRAEL.

I now close by reading the last petition which I have received from Indiana:

To the Senate and House of Representatives of the United States in Congress assembled:

The executive committee of Indiana Yearly Meeting of Friends for the relief of Freedmen have examined Major General O. O. Howard's report. We

know the condition of the freedmen and their wants, and we believe that the honor and faith of the nation are pledged to their relief; and we pray that such action be had as to extend the powers of the bureau, and continue it until its legitimate work is accomplished.

On behalf of the committee,

TIMOTHY HARRISON,

Secretary.

RICHMOND, First month 30, 1865.

Mr. Speaker, I wish now to modify the amendment in the first section so that it will read "in which the privilege of the writ of *habeas corpus* was suspended on the 1st day of February, 1865;" and I wish the same amendment made wherever in the bill the same words occur.

Mr. STEVENS. I ask the gentleman if his time has expired.

Mr. ELIOT. I do not know.

The SPEAKER. The gentleman from Massachusetts has nine minutes remaining.

Mr. STEVENS. Does the gentleman intend to occupy that time?

Mr. ELIOT. No; I will yield it to my friend from Pennsylvania.

Mr. STEVENS. Mr. Speaker, I wish I had a little more time to explain the amendment which I have offered, for it is important in two or three particulars.

The bill as it now stands contemplates turning off the freedmen from the homesteads which were allotted to them by order of the Government, in three years.

Mr. ELIOT. No, sir; I beg the gentleman's pardon.

Mr. STEVENS. I have moved to strike out all that it says about three years, and about their possession being confirmed until a satisfactory arrangement between them and the former owners of the land. That is the first and most material amendment.

The bill provides that lands shall be rented to them at a price which they brought as a rental before the war upon a valuation. What boon is that to a freedman? It also provides that they acquire title to the public lands of the Government at a price not less than their valuation. What advantage is that to them? There are no public lands in these States except the everglades which are referred to. I have provided in my amendment that they may acquire title to the public lands and the confiscated lands of the enemy, so as to give them an opportunity to settle upon both.

I have also proposed to strike out the words "unless convicted of crime," &c., in that clause. I know that men are convicted of assault and battery and sentenced to slavery down there. I have authentic evidence of that fact in several letters, and therefore I propose to strike out those words.

Now, sir, if I had time, I could show the House that these freedmen have a right under our laws to the confiscated lands to the amount of forty acres each, on the lands where they are, assigned to them by the Government, under Order No. 11, that they should have them for homesteads.

I would like also to have time to show how much land we have there. We have lands there to the extent of more than one hundred thousand acres, and of more than one hundred million dollars in value. And yet, notwithstanding this, the freedmen have been and are being driven from lands which have been ordered to be confiscated as enemy's property, and which are covered over now with freedmen and villages, school-houses and churches, which they have built. Why, sir, General Fisk told me that within the last four weeks he had been compelled reluctantly to return twenty-two million dollars' worth of property in his district, which had been confiscated and was in the possession of the United States Government.

And I would also like to show, if I had time, that the Government has no such power. The pardoning power does not give it any such power. No power but the power of Congress can reach it, so that these lands can be returned to their former owners.

I should like also to show that the freedmen on the Sea Islands, who have gone there upon the faith of these forty-acre grants, and have

built for themselves comfortable houses and established communities there, have the right to retain those lands forever; and that it is a burning cruelty in us, by a provision of this kind, to allow them to be turned off in three years.

I should like also to show, as I can show, that there are sixteen thousand freedmen on the Peninsula between Fortress Monroe and Williamsburg, occupying lands seized by the Government, and which has become the property of the United States under our confiscation act—taken not as the property of traitors, but as enemy's property, and confiscated as the property of belligerents, not to be reached by any pardon on earth except the pardon of this Congress. Those sixteen thousand freedmen who are there in communities, who have built their houses, their churches, their school-houses, and who have over two hundred thousand dollars in savings banks, now receive notice to turn out, and reeking rebels are to be brought back and take their places, under the pretense that a pardon can restore to them lands which belonged to us and which we have given to these freedmen. God forbid that I should ever vote for such a bill as that.

Why, sir, as my friend from Iowa [Mr. GRINNELL] said, when that wise man the Emperor of Russia set free twenty-two million serfs, he compelled their masters to give them homesteads upon the very soil which they had tilled; homesteads not at a full price, but at a nominal price; "for," said he, in noble words, "they have earned this, they have worked upon the land for ages, and they are entitled to it." But, by this bill, we propose to sell our land at not less than the Government price, or to rent it at prices which these poor people can never pay. If this bill shall go into operation, that will be its effect.

Mr. ELIOT. Will the gentleman allow me to interrupt him a moment?

Mr. STEVENS. Certainly.

Mr. ELIOT. I wish to say that so far from that being the case, I have information from the head of this bureau that under the provisions of this bill all the rights of these colored men can be cared for with entire satisfaction to them; that it is all they ask, and all they want.

Mr. STEVENS. Let me read the language of the bill:

That the occupants of land under Major General Sherman's special field order, dated at Savannah, January 16, 1865, are hereby confirmed in their possession for the period of three years from the date of said order, and no person shall be disturbed in or ousted from said possession during said three years, unless a settlement shall be made with said occupant, by the owner, satisfactory to the Commissioner of the Freedmen's Bureau.

What does that mean?

Mr. ELIOT. Why does not the gentleman read the rest of the section? It continues thus:

Provided, That whenever the owners of lands occupied under General Sherman's field order shall be entitled to restoration of said lands the Commissioner is hereby authorized, upon the agreement, and with the written consent of said occupants, to procure other lands for them, by rent or purchase, or to set apart for them out of the public lands assigned for that purpose in section four of this bill, forty acres each, upon the terms and conditions named in said section.

Mr. STEVENS. Does that prevent the occupants from being turned out?

Mr. ELIOT. Certainly.

Mr. STEVENS. I do not think so; and I say that this bill is a robbery.

The SPEAKER. The gentleman's time has expired.

Mr. ELIOT. Before the vote be taken on seconding the demand for the previous question, I wish to say that I accept the amendment of the gentleman from Pennsylvania, to strike out in the seventh and eighth sections the words "except as a punishment for crime whereof the party shall have been duly convicted."

Mr. SMITH. I ask the consent of the gentleman from Massachusetts to offer an amendment to the Senate bill.

Mr. ELIOT. I have no objection to its presentation.

Mr. STEVENS. Is such an amendment in order?

The SPEAKER. It is. Both substitutes

propose to strike out the entire Senate bill. It is in order to perfect the Senate bill before striking it out.

Mr. SMITH. I move to amend the Senate bill by adding at the end of the last section the following words:

Provided, That none of the provisions of this act shall extend to, or be enforced in, the State of Kentucky.

The previous question was seconded, and the main question ordered.

The SPEAKER. The Chair will state the condition of the question.

The gentleman from Kentucky, [Mr. SMITH,] to perfect the original Senate bill, moves to amend it by exempting the State of Kentucky from its operation. The gentleman from Massachusetts, chairman of the select committee on freedmen, moves to amend the Senate bill by striking it all out and inserting a substitute which will be reported before the vote is taken. The gentleman from Pennsylvania [Mr. STEVENS] moves to amend the substitute by striking it all out and inserting another substitute. The first question will be upon the amendment of the gentleman from Kentucky, to perfect the original bill. The next question will be upon the motion of the gentleman from Pennsylvania to amend the amendment of the gentleman from Massachusetts. The next question will be upon the amendment of the gentleman from Massachusetts, who proposes a substitute for the Senate bill. If that should prevail, the question will then be upon ordering the bill to a third reading.

Mr. SMITH. I call the yeas and nays upon my amendment.

Mr. WASHBURN, of Illinois. I suggest to the gentleman from Massachusetts that, as it will be necessary to take votes on three or four different propositions before the bill can be disposed of, and as that will detain us to six o'clock, we allow the bill to go over until the morning.

Mr. ELIOT. I do not object, if that be the wish of the House.

EVENING SESSIONS.

Mr. STEVENS submitted the following resolution; which was read, considered, and agreed to:

Resolved, That on and after this day, until otherwise ordered, the House will take a recess daily at four o'clock and thirty minutes p. m., to meet again at seven o'clock and thirty minutes p. m., for debate only in the Committee of the Whole on the President's message.

PRIVATE LAND CLAIMS IN MISSOURI.

On motion by Mr. THAYER, by unanimous consent, Senate bill No. 36, to quiet doubts in relation to the validity of certain locations of land in the State of Missouri, made by virtue of certificates issued under act of Congress of February 17, 1815, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Private Land Claims.

The hour of half-past four o'clock p. m. having arrived, the Speaker stated that the House, under an order recently adopted, would take a recess until seven o'clock and thirty minutes p. m.

EVENING SESSION.

The House reassembled at seven o'clock and thirty minutes p. m., (Mr. HIGBY in the Chair as Speaker *pro tempore*), and resumed, as in the Committee of the Whole, the consideration of the President's annual message, on which Mr. HUBBELL, of Ohio, was entitled to the floor.

RECONSTRUCTION.

Mr. HUBBELL, of Ohio. Mr. Chairman, history is said to be philosophy teaching by example. In the annals of the human race the past five years of our own country will contain greater and sublimer lessons for the instruction of mankind than will be found in any other period of the same duration since the time when history commenced its record. In martial prowess and military achievements the great wars of Napoleon, commencing with

his Italian campaign in 1796, and continuing down to the battle of Waterloo, in 1815, which terminated the career of that wonderful man, who shook the earth as with the "throes of an earthquake," bore no comparison with those of our own country in the recent rebellion. In this war, dark, bloody, and fratricidal, countless millions of treasure and thousands of the most valuable lives, mostly among the middle-aged and young, have been cruelly and wantonly sacrificed. Surely our losses have been great, but how incalculably greater have been our compensations. For every sorrow there is a consolation, and for every grief there is a joy. As at Marathon, Yorktown, and Waterloo, in this terrible conflict of arms, the cause of justice, humanity, and liberty has been successful. In this sea of blood, wantonly shed, from the nation's escutcheon the dark stain of slavery has been washed away forever. A race of four million people, downtrodden and oppressed, the victims of the most unrelenting despotism, have been made free and restored to the rights of manhood. Upon the accession to the Presidency of the late President Lincoln there was no disposition on the part of any considerable portion of those mainly instrumental in his election to interfere with the peculiar institution in the States where it existed. Their only purpose was to arrest its further extension; and but for the rebellion this institution might have continued for a hundred years, or for an indefinite period of time. In all human probability, within the short period of fifty years the aggregate amount of human happiness will be much greater than it would have been if the war had not occurred. Indeed, mysterious and past-finding out are the ways of Providence. In the face of rapine, murder, and civil war, we dare not approve the events through which our country has just passed. In the face of emancipation and universal freedom to all men and all races we dare not condemn. So interwoven are the providences of God in the affairs of men that there are actions in human conduct of which human tribunals are incompetent to judge. When we look back at the condition of those before the war whose wicked counsel originated and whose mad ambition led the people of the so-called confederate States into the whirlpool of rebellion and civil war, and when we reflect how frantic with fury and madness they were, both those who led and those who followed, we can only account for their strange and suicidal conduct upon the supposition that communities and nations, like individuals, have their paroxysms of passion and insanity. How terrible have been their sufferings, how unprovoked was the rebellion, and how awfully sublime has been the retribution!

Prior to the war, for thirty years, with the exception of short intervals, the political power of the Government was controlled by that section that attempted to establish the so-called "confederate States of America." The leaders of the rebellion were the great barons and constituted the aristocracy of our country. They monopolized in the Senate, in the Cabinet, and in the field every place of honor and emolument. In all sectional and political controversies they were successful. Their treason, in the vain attempt to destroy our Government, has converted their opulence into poverty; their States have been desolated by war; their families and kindred have been slain in battle, and the peculiar institution whose area and power it was their purpose to enlarge and strengthen has been utterly and forever destroyed. Executive clemency alone can save them from exile, the prison, and the scaffold. In view of their treason and horrid crimes, who can say that this terrible retribution is not just, or that this punishment is not merited?

In the treatment of a conquered enemy or a fallen foe, sound philosophy and the principles of the Christian religion alike inculcate magnanimity as a duty on the part of the victors as well as a cardinal virtue.

Mr. Chairman, I now proceed to the discussion of the subject more immediately under consideration. The discussion of the Presi-

dent's message has assumed a wide range. It is impossible that it should have been otherwise; for the message embraces subjects the most momentous that ever occupied the thoughts of a deliberative body of men.

While the policy of the Administration in its efforts to reorganize civil Governments in the so-called "confederate States of America" is indorsed by the country, and cordially and earnestly approved by the loyal Union men, there are those who misapprehend, in my judgment, its principles and doubt its wisdom.

Mr. Chairman, we are now enjoying the light of what may be considered the bright day of the Republic; the military power of the rebellion has been broken; the resources of the confederate States have been exhausted; among the masses the spirit of insurrection has been subdued, and the leaders are either in exile or captivity or at the feet of the Executive, supplicants for mercy.

That we may the better understand the path of duty, as well as the policy, justice, and wisdom may indicate, it might not be unprofitable for us to go back in our history to what may be considered the dark day of the Republic. On the first Monday of December, 1863, the Thirty-Eighth Congress convened in this Capitol. Upon its immediate organization a powerful minority party appeared in the House of Representatives hostile to the national Administration, more or less in sympathy with the rebellion, and representing a constituency extending throughout the loyal States with sentiments and views in harmony with their own. Every measure proposed by the Administration party to strengthen the financial or military condition of the country was denounced and assailed by this party as unconstitutional and oppressive. The rebels, elated by their victories, were confident of success, and everywhere the war for the preservation of the Union and the suppression of the rebellion was pronounced a failure. The perils of our situation were greatly enhanced by differences of opinion among Union men upon the presidential question. In the then alarming and perilous condition of the country President Lincoln, on the 8th day of December of that year, issued his proclamation of amnesty and pardon, and proposed his plan for the reconstruction of order and civil government in the rebel States. The purpose of the President in his proffered pardon was to weaken the power of the rebellion by inducing the insurgents to abandon the bogus government of the so-called "southern confederacy" and return to their proper allegiance to the Government. Good faith on the part of those in authority, and especially the Chief Magistrate of a great nation, is always required. This proclamation of proffered mercy was unrescinded and in full force on the 14th of April, 1865, the day of his assassination.

I now propose to call the attention of the committee to some of the principal features of the amnesty proclamation of President Lincoln. The preamble recites the provision of the Constitution of the United States declaring that the President "shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment," makes a brief allusion to the laws of Congress, "declaring forfeitures and confiscation of property and liberation of slaves, all upon terms and conditions therein stated, and also declaring that the President was thereby authorized at any time thereafter by proclamation to extend to persons who may have participated in the existing rebellion, in any State or part thereof, pardon and amnesty, with such exceptions, and at such times, and on such conditions as he may deem expedient for the public welfare." The preamble then concludes with this important avowal:

"Whereas it is now desired by some persons heretofore engaged in said rebellion to resume their allegiance to the United States and reorganize loyal State governments within and for their respective States."

By reference to this part of the preamble it is plain to be seen that the President had in view two objects to accomplish: first, to weaken

the rebellion by proffering amnesty and pardon to those who desired to resume their allegiance to the United States; and second, to "reinaugurate loyal State governments."

I will now, Mr. Chairman, by the indulgence of the committee, read those parts of the proclamation I deem the most essential to a proper understanding of its import and purpose:

"I, Abraham Lincoln, President of the United States, do proclaim, declare, and make known to all persons who have directly, or by implication, participated in the existing rebellion, except as hereinafter excepted, that a full pardon is hereby granted to them and each of them, with restoration of all rights of property, except as to slaves, and in proper cases where rights of third parties shall have intervened, and upon the condition that every such person shall take and subscribe an oath, and thenceforward keep and maintain such oath inviolate; and which oath shall be registered for permanent preservation, and shall be of the tenor and effect following, to wit:

"I do solemnly swear, in the presence of Almighty God, that I will henceforth faithfully support, protect, and defend the Constitution of the United States and the Union of the States thereunder; and that I will in like manner abide by and faithfully support all acts of Congress passed during the existing rebellion with reference to slaves, so long and so far as not repealed, modified, or held void by Congress, or by decision of the Supreme Court; and that I will in like manner abide by and faithfully support all proclamations of the President made during the existing rebellion, so long and so far as not modified or declared void by the decision of the Supreme Court. So help me God."

The persons excepted from the benefits of the foregoing provisions are:

"1. All who are, or shall have been, pretended civil or diplomatic officers or otherwise, or domestic or foreign agents of the pretended confederate government.

"2. All who left judicial stations under the United States to aid the rebellion.

"3. All who shall have been military or naval officers of said pretended confederate government, above the rank of colonel in the army, or lieutenant in the navy.

"4. All who left seats in the Congress of the United States to aid the rebellion.

"5. All who resigned or tendered resignations of their commissions in the Army and Navy of the United States, to evade their duty in resisting the rebellion.

"6. All who have engaged in any way in treating otherwise than lawfully as prisoners of war persons found in the United States service, as officers, soldiers, seamen, or in any other capacity."

President Lincoln further declared:

"And I do further proclaim, declare, and make known, that whenever, in any of the States of Arkansas, Texas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, South Carolina, and North Carolina, a number of persons, not less than one tenth in number of the votes cast in such State at the presidential election of the year of our Lord 1860, each having taken the oath aforesaid and not having since violated it, and being a qualified voter by the election law of the State existing immediately before the so-called act of secession, and excluding all others, shall reestablish a State government which shall be republican, and in no wise contravening said oath, such shall be recognized as the true government of the State, and the State shall receive thereunder the benefits of the constitutional provision which declares that 'the United States shall guaranty to every State in this Union a republican form of Government, and shall protect each of them against invasion; and, on application of the Legislature, or the Executive, (when the Legislature cannot be convened,) against domestic violence.'"

It will be seen by this proclamation that President Lincoln looked forward to a "reinauguration," to use his own language, of "loyal State governments" in the rebel States at the earliest possible moment. His plan proposed that whenever it could be ascertained that one tenth in number of the votes cast in any one of the so-called confederate States at the presidential election in 1860, each having taken the oath prescribed, and being a qualified voter by the election law in force immediately before the so-called act of secession, and excluding all others, those persons should have the privilege of reestablishing a State government which was required to be republican in form; and when established it was to be recognized as the true government of such State. For the purpose of my argument, I am not called upon to argue the question whether this plan was a wise or a foolish one. It is a fact well understood that President Lincoln consistently and pertinaciously adhered to this plan for the reorganization of civil governments in the rebel States until the day of his death. In subsequent messages to Congress, in official proclamations, in private conversations, and by public address,

he reiterated and reaffirmed his adherence to this plan. In his last public address, on the evening of the 11th of April, he used the following language:

"In my annual message of December, 1863, and accompanying the proclamation, I presented a plan of reconstruction, as the phrase goes, which I promised, if adopted by any State, would be acceptable and sustained by the Executive Government of the nation. I distinctly stated that it was a plan which might possibly be acceptable, and also distinctly protested that the Executive claimed no right to say when or whether members should be admitted to seats in Congress from such States.

"The plan was, in advance, submitted to the Cabinet, and approved by every member of it. One of them suggested that I should then apply the emancipation proclamation thereto, except in parts of Virginia and Louisiana, and that I should drop the suggestion about apprenticeship for freed people, and that I should omit the protest against my own power in regard to admission of members of Congress; but even he approved every part and parcel of the plan which has since been employed or touched by the action of Louisiana."

It was in this speech he gave in his quaint and happy style his solution of the question as to the political status of the rebel States, "that they were not in their proper relation to the General Government." It is a fact well understood, that no measure of Mr. Lincoln's administration, except the emancipation proclamation, was more thoroughly discussed and better understood by the people than this. At the time it was proposed, political parties were directing their attention to the approaching presidential election, and Mr. Lincoln was a candidate for reelection. This measure became the subject, among both political friends and foes, of discussion and criticism, in oral controversy, and by the press. The feeble opposition to Mr. Lincoln among his political friends was hushed into silence by the unmistakable public voice demanding his renomination and reelection. The national Union convention on the 7th of June following, by a unanimous vote placed Mr. Lincoln before the public for a reelection. Subsequent to his nomination Congress passed a bill which was sent to the President for his approval, making provision for the reorganization of civil governments in the rebel States, essentially different in its provisions from the plan proposed by the President. Either for want of time, or disapproval of its provisions, or both, the President omitted to return the bill with his approval. On the 7th of August immediately following, two distinguished gentlemen occupying high official positions, one a member of the Senate and the other of the House of Representatives in the Thirty-Eighth Congress, arraigned the President in a paper published in the New York Tribune called the "Protest" with a bitterness that attracted the attention of the whole country. I have no disposition to reflect upon the honor or patriotism of the living or the memory of the dead; but I feel authorized by the facts in saying, in vindication of the truth of history, that upon the issue raised by those gentlemen with President Lincoln the loyal Union men of the country almost unanimously sustained the Executive. Upon this and other issues Mr. Lincoln was reelected President by an overwhelming and unprecedented majority; and there was no time during his Administration when the American people had more confidence in the wisdom and patriotism of his Administration than they had on the day he was stricken down by the assassin. I may have occasion, if my brief hour permits, again to allude to this congressional plan.

If I were called upon, Mr. Chairman, to explain the key to Abraham Lincoln's wonderful popularity, and his hold upon the hearts of his countrymen, my answer would be, "He possessed a soul free from all narrow-mindedness and prejudice." In him what a striking exemplification of the lesson inculcated by the renowned philosopher of poetry:

"The quality of mercy is not strained;"

* * * * *

"It is twice blessed;

It blesseth him that gives and him that takes."

In his second inaugural address, from the fullness of a magnanimous soul, Abraham Lincoln gave utterance to a sentiment that will

place his name in the list of the very few whose memory will never die:

"With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds, to care for him who shall have borne the battle, for his widow and his orphan, to do all which may achieve and cherish a just and a lasting peace among ourselves and with all nations."

Upon the accession of Andrew Johnson to the Presidency the path of duty was plain. A wise and harmonious Cabinet, enjoying the confidence of their countrymen, by the blessings of divine Providence, survived the assassination of President Lincoln. He had been the successful candidate for the second office on the same ticket, supported by the same party, and was supposed to entertain the same sentiments and views. On entering upon the discharge of the responsible duties of Chief Magistrate of the nation, Mr. Johnson found a policy inaugurated by his illustrious predecessor that had received the sanction of the American people in the most authoritative manner. Any departure on his part from that policy, in the absence of newly developed lights, would have been a betrayal of public confidence, and subjected him justly to the charge of perfidy to his party and the country. On entering upon the discharge of his duties, Mr. Johnson found the rebellion substantially suppressed. The amnesty proclamation issued by President Lincoln on the 8th of December, 1863, was still in full force, but it was thought by some pardon and amnesty could only be obtained under that proclamation for offenses committed prior to that date; and that a new amnesty proclamation might be required for those whose offenses were of a subsequent date. On the 29th day of May, 1865, President Johnson issued his proclamation of amnesty. The oath prescribed by Mr. Johnson I will now, by the indulgence of the committee, read:

"I do solemnly swear or affirm, in the presence of Almighty God, that I will henceforth faithfully defend the Constitution of the United States, and the Union of the States thereunder; and that I will in like manner abide by and faithfully support all the laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves. So help me God."

It will be seen this oath is precisely the same as that prescribed by President Lincoln, with this clause omitted:

"So long and so far as not modified or declared void by the decision of the Supreme Court."

I invite the examination of the committee to this proclamation. It will be seen that both reserved to themselves the privilege, upon special application, to grant special pardons, and both made exceptions. President Johnson's exceptions embraced the same as President Lincoln's, and in addition eight other classes which I will now read:

"7. All persons who have been or are absentees from the United States for the purpose of aiding the rebellion.

"8. All military or naval officers in the rebel service who were educated by the Government in the Military Academy at West Point, or at the United States Naval Academy.

"9. All persons who held the pretended offices of Governors of States in insurrection against the United States.

"10. All persons who left their homes within the jurisdiction and protection of the United States, and passed beyond the Federal military lines into the so-called confederate States, for the purpose of aiding the rebellion.

"11. All persons who have engaged in the destruction of the commerce of the United States upon the high seas, and all persons who have made raids into the United States from Canada, or been engaged in destroying the commerce of the United States upon the lakes and rivers that separate the British Provinces from the United States.

"12. All persons who, at the time when they seek to obtain the benefit thereof, by taking the oath herein prescribed, are in military or civil confinement or custody, or under bond of the military or naval authorities or agents of the United States, as prisoners of war, or persons detained for offenses of any kind, either before or after their conviction.

"13. All persons who have voluntarily participated in said rebellion, and the estimated value of whose taxable property is over twenty thousand dollars.

"14. All persons who have taken the oath of amnesty, as prescribed in the President's proclamation of December 28, or the oath of allegiance to the Government of the United States, since the date of said proclamation, and who have not thenceforward kept and maintained the same inviolate; provided, that

special application may be made to the President for pardon, by any person belonging to the excepted classes, and such leniency will be liberally extended as may be consistent with the facts and the peace and dignity of the United States."

I ought, perhaps, to call the attention of the committee in this connection to the act of Congress, approved July 17, 1862, entitled "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes."

The provision to which I call your attention reads as follows:

"Sec. 13. *And be it further enacted*, That the President is hereby authorized, at any time hereafter, by proclamation, to extend to persons who may have participated in the existing rebellion in any State, or part thereof, pardon and amnesty, with such exceptions, and at such time, and on such conditions, as he may deem expedient for the public welfare."

This law is now in full force.

Perhaps in the absence of this provision the President possessed the power under the constitutional provision to release forfeitures under the confiscation law, as well as to grant pardon and amnesty to rebels and other offenders, but whether the power is vested by the Constitution or not, the enactment of the law is a sanction by Congress of the exercise of that power on the part of the Executive.

It will be borne in mind that under Mr. Lincoln's plan and during his administration, military governors were appointed for the States of Tennessee, Louisiana, and Arkansas, civil governments restored, free constitutions adopted, and slavery was abolished.

On the 29th day of May, being the same day Mr. Johnson issued his amnesty proclamation, he issued his proclamation appointing William W. Holden, provisional governor of the State of North Carolina, and containing rules and regulations for his direction and guidance in his administration.

In like manner, immediately after, other provisional governors were appointed for the other so-called "confederate States," with like rules and regulations.

I shall only invite the attention of the committee to the North Carolina proclamation. The preamble recites the fourth section of the Constitution, declaring that the United States shall guaranty to every State in the Union a republican form of government, and protect each against invasion and domestic violence; makes the further recital of the constitutional provision, making the President Commander-in-Chief of the Army and Navy, as well as the chief executive officer of the nation, bound by solemn oath to see that the laws be faithfully executed; and making a further recital, that the rebellion which had been waged by a portion of the people of the United States against the properly constituted authorities of the Government thereof, in a most violent and revolting form, and which had deprived the people of North Carolina of civil government; and then the preamble concludes as follows:

"Whereas it becomes necessary and proper to carry out and enforce the obligations of the United States to the people of North Carolina in securing them in the enjoyment of a republican form of government."

I will now by the indulgence of the committee read that part of the proclamation I deem necessary to a proper understanding of its provisions:

"I, Andrew Johnson, President of the United States and Commander-in-Chief of the Army and Navy of the United States, do hereby appoint William W. Holden provisional governor of the State of North Carolina, whose duty it shall be, at the earliest practicable period, to prescribe such rules and regulations as may be necessary and proper for convening a convention composed of delegates to be chosen by that portion of the people of said State who are loyal to the United States, and no others, for the purpose of altering or amending the constitution thereof, and with authority to exercise within the limits of said State all the powers necessary and proper to enable such loyal people of the State of North Carolina to restore said State to its constitutional relation to the Federal Government, and to present such a republican form of State government as will entitle the State to the guarantee of the United States therefor, and its people to protection by the United States against invasion, insurrection, and domestic violence; provided that in any election that may be hereafter held for choosing delegates to any State convention as

aforesaid, no person shall be qualified as an elector, or shall be eligible as a member of such convention, unless he shall previously have taken and subscribed the oath of amnesty as set forth in the President's proclamation, May 29, 1864, and is a voter qualified as prescribed by the constitution and laws of the State of North Carolina in force immediately before the 20th day of May, A. D. 1861, the date of the so-called ordinance of secession, and the said convention when convened, or the Legislature that may be thereafter assembled, will prescribe the qualification of electors and the eligibility of persons to hold office under the constitution and laws of the State—a power the people of the several States composing the Federal Union have rightfully exercised from the origin of the Government to the present time."

In this proclamation the President required the military commander of the department and all other officers in the military and naval service to coöperate with Governor Holden in the organization of a State government. The Secretary of the Treasury, the Postmaster General, and the heads of the various Departments were required to appoint revenue officers, make provision for the collection of the revenues, appoint postmasters, mail agents, and establish a postal system throughout the State, and do all other things needful to a prompt and immediate execution of the laws of the United States in said State of North Carolina.

It will be seen by an examination of this plan of President Johnson's, that in all its essential features it is precisely the same as that inaugurated by Mr. Lincoln, and to which he adhered to the day of his death.

The provisional governor, William W. Holden, was required to call a convention to alter or amend the constitution and make immediate provision for the reestablishment of civil government in that State. He was further required to prescribe such rules and regulations as might be necessary for convening the convention, composed of delegates to be chosen by that portion of the people of that State who were loyal to the Government of the United States. And none were to be permitted to vote or be eligible to a seat in the convention, only those who had taken the oath prescribed in the amnesty proclamation of that date, and possessed the qualifications of a voter by the constitution and laws in force in that State on the 20th day of May 1861, the date of the so-called ordinance of secession.

Of course, Mr. Chairman, there are irregularities in this plan that a technical lawyer who has devoted himself for a lifetime to the quibbles of his profession would be likely to criticize and censure. The practical statesman, however, in a great emergency is required to rise above the narrow views of the profession. There is a law of necessity, anterior to all written constitutions and written laws, that in the convulsions of society must and often does regulate and govern the conduct of those in authority. Upon the suppression of the rebellion, so far as civil government was concerned, chaotic confusion reigned in the so-called confederate States. The pretended ordinances of secession and all authority and acts under them being a usurpation, were null and void. The constitution and laws in force at the time of their adoption, incapable of annihilation by force or violence, had lost their vitality in the absence of the proper machinery of Government to execute and administer them.

A restoration of order and civil government out of the chaos and confusion that prevailed in those States, would necessarily encounter technical irregularity, whether conducted by the legislative or the executive department of the Government.

Let us now look for a moment at the condition of affairs at the time Mr. Johnson entered upon the discharge of his official duties. The war was substantially ended. Lee had surrendered his army to General Grant, and the remaining military force of the southern confederacy was rapidly melting away. The constitutional amendment abolishing slavery had been proposed by Congress, but whether its ratification by the necessary number of States to secure its adoption could be obtained was a question, to say the least, that excited the fears as well as the hopes of the loyal men of the country.

The emancipation proclamation was a military measure. What its effect would be in sections in the rebel States, in abolishing slavery, where the relation of master and slave had not been severed by military force, when the war was over, and the local and municipal law sustaining that relation restored, was a question that even President Lincoln seemed to have his doubts. Secretary Seward, in his Auburn speech before the presidential election, in allusion to this question, said it would be one for the decision of the legislative councils and the judicial tribunals of the country.

This monster crime against humanity had shocked the moral sense of the world and deluged a nation in blood. In view of the desolation and sacrifices it had caused, all good men felt that the only safe and sure guarantee for our future safety and peace was to make irrevocable the destruction of this "sum of all villainies." With this cause of the war removed, the great mass of Union men believed the two sections of the country, "like kindred drops of water, would mingle into one." The President at once took a firm and a manly position. He said to the South, in the most emphatic and authoritative manner, in the work of reconstruction you must acknowledge and recognize the fact that a state of war has freed your slaves. In this bold, humane, and patriotic position he never faltered, and to-day we are a nation of freemen. No slave breathes our air; "the moment his feet press our soil his limbs swell beyond the measure of his chains, and he stands redeemed, regenerated, and disenthralled by the genius of universal emancipation." This, Mr. Chairman, is one of the fruits of that irregularity. The rebel States during the war had contracted untold millions of indebtedness, which the President required them, by an amendment to their constitutions, to repudiate. Another technical irregularity. A repeal of the ordinances of secession was another.

These are the fruits of that irregularity. It would have been just as easy for the President to have said to those States, "Take your constitutions and laws in force at the time of the adoption of the so-called ordinances of secession, and reconstruct civil governments upon their principles and in accordance with their provisions." It would have been certainly technically more regular, but by such a proceeding unarmisted rebels would have been restored to the possession of the local governments. The policy of the President seemed to be to interfere as little as possible with their former system of government, and at the same time secure the necessary guarantees for future peace. The proceeding of the barons of England at Runnymede in the thirteenth century, in extorting from King John the Great Charter, the foundation of English liberty, in a technical point of view was certainly one of great irregularity. Their defense was, a great occasion forced upon them the necessity for such a proceeding for their safety, and that event forms the greatest epoch in English history, and its influence upon the happiness of mankind will be felt down to the last syllable of recorded time.

In considering the policy of the President it must be remembered that in all the rebel States civil governments have been established and the provisional governments have been withdrawn, except in the State of Texas. A large military establishment and the Freedmen's Bureau are still retained to enforce obedience to the law as well as protection to the freedmen. How long it may be necessary to continue military garrisons and the Freedmen's Bureau in those States time, an essential element in all reformations, can alone determine. As soon as the Government can be relieved of their expense, in safety to the country, I am in favor of their withdrawal; but in this matter my policy is "to make haste slowly." And for the time being, at least, I am opposed to their withdrawal.

I have now done with this branch of my subject. It will be remembered President Lincoln, in his speech at the Executive Mansion, after

the surrender of Lee, from which I have already made quotations, said expressly with reference to the plan of reconstruction he proposed, "if adopted by any State would be acceptable and be sustained by the Executive Government of the nation." In the same speech, and almost in the same breath, he made the following emphatic declaration:

"I distinctly stated that it was a plan which might possibly be acceptable, and also distinctly protested that the Executive claimed no right to say when or whether members should be admitted to seats in Congress from such States."

It will be observed from the careful and cautious language of President Lincoln, there was another branch of the Government to which those States, when their civil governments were restored, would have to look for recognition. He said "it was a plan which might possibly be acceptable." Acceptable to whom? My answer is, acceptable to Congress, in whom is vested by the Constitution the supreme legislative power of the nation, subject only to its own limitations and restrictions. In the message we are now considering, President Johnson uses the following language, which may be considered the counterpart to the speech of President Lincoln which I have just quoted:

"Here it is for you, fellow-citizens of the Senate, and for you, fellow-citizens of the House of Representatives, to judge, each of you for yourselves, of the elections, returns, and qualifications of your own members."

The brief hour allotted will not permit me to discuss at this time the question of the political status of the so-called "confederate States." Upon the suppression of the rebellion they could not be considered States in political parlance, either in or out of the Union. The term "States" implies a political commonwealth, with executive, legislative, and judiciary departments. In those States, these, with all the machinery of civil government, were destroyed by the war. In the absence of civil governments and from the necessity of the case, the President established military governments, which have been superseded by civil governments, established under the military orders of the President in the manner I have already narrated. These civil governments, thus organized, are in the nature of military governments, being the agencies of the Commander-in-Chief, for those States whose rightful civil governments had been destroyed by the rebellion.

I therefore, Mr. Chairman, not only claim the right and power of Congress to review what has been done in the restoration of civil governments in the rebel States, but maintain that it is the duty of Congress, by appropriate legislation, to legalize their validity and restore those States to their proper relation to the General Government. Before this is done, Mr. Chairman, and members from those States are admitted to their seats in this House, I desire to see an amendment made to the Constitution changing the basis of representation from population to voters, or its equivalent, so as to conform to the new order of things created by the war. Ample and complete protection to the freedmen in all their rights of persons and of property to the full extent enjoyed by all non-voting classes is demanded alike by every consideration of humanity, as well as by the unmistakable voice of their grateful countrymen. In the darkest hour of our country's peril, by their fidelity to the cause of the Union they not only earned their freedom but that protection from the Government which the great and the good of all conditions of society demand for them.

As soon as these objects can be attained, and they elect loyal men who can take the oath, I am in favor of a restoration of all the States to their proper relation to the General Government.

I heartily approve of what has been done by the President. He has acted wisely, in good faith, and in obedience to the will of the nation. With malice toward none, with charity for all, his policy has been wise, magnanimous, and conciliatory.

In our deliberations it seems to me our aim

should be to heal and not to irritate, to bind up the nation's wounds, and so conduct our legislation as to restore to all parts of our heretofore unhappy and distracted country concord and harmony.

ADMISSION OF THE SOUTHERN STATES, ETC.

Mr. RANDALL, of Pennsylvania. Mr. Chairman, the subject now agitating the public mind is the reconstruction of the late rebel States governments. In considering it, we are met at the threshold with the question, have these States, by reason of the conduct and acts of a portion of their citizens, been thereby placed without the Union? And are they now in a territorial condition, and in consequence under the control of Congress, as in the case of Territories not formed into States? It is proper, in examining this matter, that we lay aside all bitterness of spirit, and seek to do that which is best for the good of the country. There is no occasion to dwell upon or reproduce the sorrows of the past.

If, as is contended, these States are out of the Union, then they have become a non-descript community, without law or order. I affirm that these States have never been out of the Union. To say they have is to admit the doctrine of the right of secession, and assert that we now hold them by force of arms. We have been fighting for nothing except to deny and prevent the exercise of the right of secession. This right could only be allowed by the consent of the States in the Union; and if not agreed to, then it must be obtained by force, which, until successful, is rebellion, being while in doubt by one side held to be rebellion, and by the other revolution; but failing in success, the rights and positions remain as before the war commenced. The fact that a majority of the people was in a state of insurrection does not carry with it a forfeiture of the State privileges and immunities, which are the right of those who remain loyal.

President Johnson has stated this doctrine in the most simple and conclusive manner, when he asserted in his message that a State cannot commit treason, but that individuals can commit treason and subject themselves to punishment, but cannot entail punishment upon those who have remained loyal and innocent. No one ever heard of an indictment against a State, city, or even a corporation for treason, murder, felony, or any other similar offense.

"Shay's insurrection" in Massachusetts occurred under the Articles of Confederation, and before the adoption of the Federal Constitution. And we have in our history but one analogous case, to wit, "the western insurrection" in the year 1794, which was organized by citizens of the western counties of Pennsylvania, the western part of Virginia, (now a part of West Virginia,) and the Northwestern Territory (now the State of Ohio.) They were in rebellion. General Washington proceeded against them, and when they submitted, the soil was again placed under their control, and their people were restored to all their civil rights. The late rebellion and the western insurrection do not differ one jot except in the magnitude of the numbers engaged.

I do not rely alone upon this precedent. I propose to show that the Republican party, who now claim to have the entire control of the terms of the readjustment of these vexed questions between the several State authorities and the Federal Government, have by their own acts and the legislation they have adopted deliberately established that these States have never been out of the Union, and they have been permitted to exercise the highest powers granted in the Constitution, on the assumption that they were part of the Union.

Let us examine the record of Tennessee. A majority of the people of that State voted to approve the act of secession. Notwithstanding, Andrew Johnson remained in the Senate of the United States as a Senator from that State for a long period of time after the secession ordinance was approved by the people, and yet no one in or out of the Senate ever called in ques-

tion his right to a seat in that body, thereby admitting that Tennessee was a State in the Union and had a right of representation in Congress.

Article two, section one, clause four, of the Constitution declares that—

"No person except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President."

Article twelve of the amendments adopted September 25, 1804, provides that—

"No person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States."

The Republican national convention convened to nominate candidates for President and Vice President was held in the city of Baltimore in June, 1864. Every delegate in that convention who voted to place Andrew Johnson in nomination as the Republican candidate for Vice President recognized and solemnly declared that Tennessee was a State in the Union, that Andrew Johnson was a citizen of that State, and by virtue of that political right and that alone was eligible to the office of Vice President of the United States. That convention, after argument and deliberation, determined by a decided vote to admit delegates from the States of Tennessee, Louisiana, and Arkansas, with all the privileges as equals in every respect with other delegates, and the delegates from those States voted and assisted in the nomination of candidates and the settlement of the platform of principles; and thus the convention clearly acknowledged that those States were then a portion of the Union. This was done in full response to the requirement embraced in the terms of the Constitution heretofore quoted.

Every State convention which ratified that nomination made the same declaration to the world.

Every qualified voter throughout the United States who voted the Lincoln and Johnson electoral ticket in his respective State reaffirmed this fact.

On the 7th day of December, 1864, the day on which the electors voted in the respective States, Andrew Johnson was a citizen of Tennessee and of no other State. It follows, then, that if Tennessee was not a State in the Union on that day, that Andrew Johnson was not a citizen of the United States, and not eligible to the office to which he was subsequently elected. This is one of the many absurdities to which gentlemen are driven who maintain that the rebel States are no portion of the Union.

On the 18th day of February, 1865, a joint convention of the two Houses of Congress was held "for the purpose of opening, determining, and declaring the votes for the offices of President and Vice President of the United States for the term of four years, commencing on the 4th of March next ensuing." And after opening and counting the votes, Vice President Hamlin, in the most solemn discharge of his duty, and without objection from any, said:

"Wherefore, I do declare that Abraham Lincoln, of the State of Illinois, having received a majority of the whole number of electoral votes is duly elected President of the United States for four years, commencing on the 4th of March, 1865. And that Andrew Johnson, of the State of Tennessee, having received a majority of the whole number of electoral votes for Vice President of the United States, is duly elected Vice President of the United States for four years, commencing on the 4th day of March, 1865."

Thus, declaring Tennessee to be a State in the Union.

Further, on the 4th day of March, 1865, Andrew Johnson was inaugurated Vice President of the United States, claiming to be and was declared to be a citizen of the State of Tennessee.

The ratification of the ordinance of secession of Tennessee by a majority of the voters of that State was announced by Governor Harris on the 24th of June, 1861. On the 2d day of December, 1861, Horace Maynard presented himself at the bar of the Thirty-Seventh Congress as a member from the State of Tennessee, was

qualified and took his seat. On the 23d of January, 1862, Mr. Clements was qualified; and on the 25th of January, 1863, Mr. Bridges appeared and was qualified. All these from the State of Tennessee. These gentlemen remained as sitting members until the expiration of the Thirty-Seventh Congress March 4, 1863. I would like to know the difference in the condition and the status of Tennessee at the dates I have named (all after the date of the secession ordinance,) and Tennessee, as we find her to-day. There is none, and none can be stated.

As if to make the position of the Republican party more glaring and bare in its inconsistency, the same gentleman, (Mr. Maynard,) who was qualified in December, 1861, and held his seat until March, 1863, now presents himself with similar credentials from the same district and people, and is at this time refused admission by this House.

It is impossible to escape from these free-will expressions and constitutional acts. If ever there was a question upon which the Republican party was collectively and individually committed, it is this which they now seek to avoid.

The Thirty-Eighth Congress passed an act, which was approved and signed by President Lincoln, entitled "An act to change the place of holding the circuit and district courts of the United States for the district of West Tennessee, and for other purposes." This law was to keep alive the powers of the United States court in the State of Tennessee, and for its removal to Memphis. The existence of Tennessee as a State was thereby fully acknowledged.

The most important and conclusive proof of the soundness of the doctrine I have stated is to be found in the recognition of West Virginia as a newly erected State in the Union. Before I proceed to examine the provisions of the Federal Constitution upon the subject of the admission of new States and the admission of West Virginia as an independent State in the Union, I will recapitulate some of the antecedents of that act. A convention, professing to represent the whole State of old Virginia, in April, 1861, determined to secede from the Union, and submitted their decision to a vote of the people of that State. The State authorities decided that a majority of the people had affirmed the act of secession. I do not enter into the accuracy of that vote, although I believe a majority of the people of Virginia was at that time opposed to secession.

The people of the western counties of Virginia were with great unanimity loyal and opposed to secession. A portion of what may be called East Virginia agreed in sentiment with the people of West Virginia. These people very properly determined to treat this act of secession as a nullity, elected a Governor and a Legislature. They organized and constituted what is called the "Pierpoint government" of Virginia. It has been held that the "Pierpoint government" was legally constituted, and I believe does not depend upon whether they had the allegiance of a majority of the people or not. They were the only loyal people in the State, and if the rest chose to disfranchise themselves, they could not expatriate that portion of the people who were true in their fidelity to the Constitution of the Federal Government. This principle is illustrated every day; the legality of an election never can depend upon the number of votes cast, and if a majority refuse to vote it does not impugn the validity of an election.

The people of West Virginia, in June, 1861, petitioned the Pierpoint Legislature to be formed and erected into a new and independent State. That Legislature, in August, 1861, granted the petition, and the Congress of the United States, and Abraham Lincoln, President of the United States, approved of and ratified these proceedings, and erected the western part of Virginia into a new State called West Virginia, which was thus organized. All the Federal officers were duly appointed by the President and confirmed by the Senate. She sent her three Representatives to this House, and they or their successors now occupy seats without cavil or

doubt. The Senators duly elected by the Legislature of West Virginia were admitted into the Senate of the United States, and they or their successors also occupy seats.

Before I proceed to take the constitutional view of the subject I beg leave to state a fact antecedent in date but important to the question I have under consideration.

The State of Virginia, before the erection of the new State of West Virginia, and after the so-called secession of Virginia, sent Representatives to this House, Messrs. Segar, Upton, Carlile, Brown, and Whaley, who were admitted to seats on this floor. The two former came from the eastern part of Virginia. The Pierpoint Legislature elected two Senators, Messrs. Willey and Carlile, in place of Messrs. Mason and Hunter. They appeared, were qualified, and occupied their seats to the end of their respective terms of office. The same action was had during 1861, 1862, and 1863 in reference to Representatives from the States of Tennessee and Louisiana.

The Constitution of the United States provides in the fourth article, section three, as follows:

"New States may be admitted by the Congress into this Union; but no new States shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States or parts of States without the consent of the Legislatures of the States concerned, as well as of the Congress."

This is the most potential power vested in Congress which relates to the internal concerns of the Union.

The erection of Vermont into a new State out of New Hampshire, Kentucky out of Virginia, Tennessee out of North Carolina, Mississippi and Alabama out of South Carolina and Georgia, and Maine out of Massachusetts, show that it is a power which has always been exercised with great care and after the most mature deliberation.

Apply these self-evident principles to the formation of West Virginia, and it establishes that Virginia after the vote of secession remained what Virginia was before the act, a free and independent State in the Union, competent to cede a portion of her territory to be erected into a new State; that Congress, when they confirmed the erection of West Virginia, recognized without limitation the power of Virginia to cede and the power of West Virginia to become a new State; that West Virginia stands at this day in the Union upon the same basis that Vermont, Kentucky, Tennessee, Mississippi, Alabama, and Maine occupy, and if you deny the right of old Virginia to grant the territory and of West Virginia to become a free and independent State, you must deny the right of all the others which have been formed out of the thirteen colonial States. The process of formation has been literally the same in each of the cases.

The constitutional principles I have asserted are fully sustained by a report of the Judiciary Committee of this House, upon the transfer of Jefferson and Berkeley counties from Virginia to West Virginia.

The report is based upon the constitutional declarations, that Virginia was a State in the Union at the time of the act of secession, has been so during the period of the late rebellion, is so now, and that there is no power in the Government to deprive it of its sovereignty as a State in the Union.

On page 7 of that report the committee state:

"It is perfectly clear to your committee that Congress has no power to institute any measures or proceedings to change the boundaries of adjacent States, or to transfer territory from one to another. The States alone can make any changes in their boundaries or transfer territory from one to another, and Congress has no power over the subject except to ratify what they may do; and certainly, the power to ratify implies the power to refuse to ratify."

I ask the members of this House to be guided by the report of the Judiciary Committee; be consistent, and when Virginia or any other former rebel State seeks representation in this Congress by loyal men to grant such representation.

I know of no higher law in the country than the exposition of the Constitution by the Supreme Court of the United States. A reference to the decisions of that court settles beyond all controversy the doctrine which I am now endeavoring to support. In volume second of the decisions of that court, reported by J. W. Wallace, is to be found the case of the *Circassian*. This case was an appeal from the decision of the district court of the southern district of Florida. Its merits depended upon a proclamation of Mr. Lincoln, issued April 19, 1861, and all the facts of the case occurred subsequent to the act of secession by the State of Florida. The court entertained jurisdiction of the case, and thus declared that Florida remained a part of and was in fact within the Union. This is the deliberate judgment of Chief Justice Chase and his associate judges.

The same principle was again recognized as to the State of Florida in the cases of the *Andromeda*, the *Venice*, and the *Beagorry*.

Again, this principle was held in the case of *Harvey vs. Tyler*, which is an appeal from the district court of the United States for the western district of Virginia. Justice Miller delivered the opinion of the court and fully recognized the code of Virginia as in force, and thus established that Virginia was in the Union and had always been during the pendency of the case, which embraces the entire period of the rebellion. This is one of the most important opinions ever delivered on the subject of titles to lands by that court, the facts and merits of which are well known to the members on this floor from the State of West Virginia. The judgment is not founded upon any fabulous case, but where large interests were actually at stake. The opinions of individuals are brought here to overturn the solemn and deliberate decision of the supreme judicial authority of this land. It is left to this House to determine which shall have the most weight.

I have selected the cases specified from the last volume of the decisions of that court. Many others could be cited upon the same point, but time and labor prevent.

Mr. Lincoln before his death made all the appropriate appointments of Federal and district judges, marshals, assessors, and collectors of revenue and other officers in the States of Tennessee, Virginia, Arkansas, Louisiana, North Carolina, and other rebel States where ever the authority of the Government of the United States could be reestablished within them. Mr. Johnson since his accession to the Presidency has done the same. And the Senate of the United States have confirmed these appointments. The Supreme Court of the United States have recognized all these appointments and acts whenever they have come under their judicial notice.

The Government of the United States is divided into three distinct departments, each independent of the other—the executive, the legislative, and the judicial. I have established by the record that each branch have in various ways and at different times affirmed that the rebel States have been without interruption and still are an integral part of the Union.

Throughout the whole period of Mr. Lincoln's administration, he uniformly promulgated one settled plan, that whenever the South should lay down their arms and surrender to the Government they would be received back; and almost the last public act of his, prior to his atrocious and fiend-like assassination, was to offer terms of peace, which, if they had been accepted, would now find these States fully represented in this House.

The act of Congress of March 12, 1863, protects the property of loyal citizens in the rebel States who have not given aid and comfort to the rebellion, and allows them two years after the suppression of the rebellion to recover their property. It is impossible to suppose that Congress would pass an act to protect the property of loyal citizens, and at the same time deprive them of their dearest political rights, one of which is representation in this House.

Mr. Lincoln, in his third annual message,

December 8, 1863, in discussing the reconstruction of the Union, expressed himself in the following words:

"In some States the elements for resumption seem ready for action, but remain inactive apparently for want of a rallying point, a plan of action. Why shall A adopt the plan of Brather than B that of A? And if A and B should agree, how shall they know but the General Government here will reject their plan? By the proclamation a plan is presented which may be accepted by them as a rallying point, and which they are assured in advance will not be rejected here."

The proclamation alluded to accompanied the message and is known as the "amnesty proclamation," and bears even date with the message quoted from. In this paper President Lincoln made a clear distinction between the States, as States, and the individuals within those States who had committed treason against the United States. These individuals he proposed to pardon upon certain conditions, with a limitation, however, as to certain other persons therein described. I quote:

"Therefore I, Abraham Lincoln, President of the United States, do proclaim, declare, and make known to all persons who have directly, or by implication, participated in the existing rebellion, except as hereinafter excepted, that a full pardon is hereby granted to them and to each of them, with restoration of all rights of property."

Then follow the conditions of such pardon, when he sets further forth—

"And I do further proclaim, declare, and make known, that whenever in any of the States of Arkansas, Texas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Virginia, Florida, South Carolina, and North Carolina, a number of persons, not less than one tenth in number of the votes cast in such State at the presidential election, A. D. 1860, each having taken the oath aforesaid and not having since violated it, and being a qualified voter by the election laws of the State existing immediately before the so-called act of secession, and excluding all others, shall reestablish a State government which shall be republican and in nowise contravening said oath, such shall be recognized as the true government of the State, and the State shall receive thereunder the benefits of the constitutional provision which declares that 'the United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion; and, on application of the Legislature, or the Executive, (when the Legislature cannot be convened) against domestic violence.'"

Under the provisions of this proclamation the State governments of Louisiana and Arkansas were reestablished, and have continued ever since. The difference now and then being, that at the time specified Mr. Lincoln held that one tenth was sufficient, if loyal and oath bound. And now the entire population are in like manner loyal and ready to subscribe to such oath.

Mr. Lincoln ever continued to treat two of these States as in the Union, and so declared in his proclamation of the 8th day of July, 1864, giving his reasons for failing to sign an act entitled "An act to guaranty to certain States whose governments have been usurped or overthrown a republican form of government," passed July 2, 1864; with this further declaration, that he should recognize the others in like manner as soon as they laid down their arms and conformed with the terms of his proclamation of that date.

I give the words of his proclamation of July 8, 1864:

"Now, therefore, I, Abraham Lincoln, President of the United States, do proclaim, declare, and make known, that, while I am (as I was in December last, when by proclamation I propounded a plan for restoration) unprepared, by a formal approval of this bill, to be inflexibly committed to any single plan of restoration; and while I am also unprepared to declare that the free State constitutions and governments already adopted and installed in Arkansas and Louisiana shall be set aside and held for naught, thereby repelling and discouraging the loyal citizens who have set up the same as to further effort, or to declare a constitutional competency in Congress to abolish slavery in States, but am at the same time sincerely hoping and expecting that a constitutional amendment abolishing slavery throughout the nation may be adopted, nevertheless I am fully satisfied with the system for restoration contained in the bill as one very proper plan for the loyal people of any State choosing to adopt it, and that I am, and at all times shall be, prepared to give the executive aid and assistance to any such people, so soon as the military resistance to the United States shall have been suppressed in any such State, and the people thereof shall have sufficiently returned to their obedience to the Constitution and laws of the United States, in which cases military governors will be appointed with directions to proceed according to the bill."

The gentleman from Ohio [Mr. SPALDING]

during the present session, in an elaborate speech, said:

"Now, a State may be in the Union as a subject of government, but may by misconduct forfeit its right as a part of the governing power."

The gentleman differs from my colleague from Pennsylvania, [Mr. STEVENS,] who is more consistent in his doctrine when he maintained that the southern States are a conquered people, and without a status as States in the Union. The doctrine of the learned gentleman from Ohio [Mr. SPALDING] amounts to this, that the eleven rebel States are in or out of the Union just as we please, and according as it suits our whim and caprice. His doctrine has not, as might appear, the merit of novelty. It is a paraphrase of the odious doctrine of nullification as adopted by the convention of South Carolina in 1832, which declared that South Carolina had the right to be in the Union or out of the Union, just as she pleased, and that she could declare that she was bound or not by the laws of the United States as she might determine.

The gentleman from Ohio [Mr. SHELLABARGER] has informed us "that he who speaks on legal questions must talk well or not talk at all." This, sir, is a truism applicable to all questions before the House; and notwithstanding the admonition delivered, I shall proceed to examine the cases which he has quoted, and show that they are either totally irrelevant, or negative the principle he was endeavoring to support.

The first case to which he has referred is that of *Penhallow et al. vs. Doane*, 3 Dallas, page 54. It is a long and tedious case, determined upon facts and decisions prior to the adoption of the Federal Constitution, and could not apply to the question of the right of a State to secede. The judge, Iredell, in delivering the opinion, entered into a lengthy discussion of the rights of the people collectively and individually under an absolute monarchy, a limited monarchy, and a republic. The learned judge could not have dreamed of or foreseen the present position of the South, and if he did it was as extra-judicial as the Dred Scott decision is alleged to be.

The gentleman, however, has selected a single sentence from the opinion of Judge Iredell. In 3 Dallas, 93, that court says:

"A distinction is taken at bar between a State and the people of a State. It is a distinction I am not capable of comprehending. By a State forming a republic, (speaking of it as a moral person,) I do not mean the Legislature of the State, the Executive of the State, or the judiciary, but all the citizens which compose the State, and are, if I may so express myself, integral parts of it, all together forming a body-politic."

If any inference, however, could be drawn favorably to the argument, the succeeding sentence of the opinion immediately dispels it, when he says:

"But in a republic, all the citizens as such are equals, and no citizen can rightfully exercise any authority over another but in virtue of a power constitutionally given by the whole community, and such authority, when exercised, is in effect an act of the whole community which forms such body-politic."

This citation reminds me of the couplet,
"Commentators have in Homer sought
More than Homer ever thought."

The next case is *Luther vs. Borden et al.*, 7 Howard, page 1. This case arises out of Dorr's rebellion in 1842, and decides that when there are two opposing governments set up in a State the Federal judiciary will recognize the decision of the State judiciary as to which is the true representative of the people. It has no reference to secession, and in my view no opinion of the court in this case can be made to bear upon the secession of the southern States.

Another authority relied upon is what is called the prize cases, reported in 2 Black, page 635. These cases have been frequently referred to by gentlemen in this House, but at the risk of repetition I will look into them, so as to make my argument plain and conclusive in this direction. These cases arose out of captures by our Navy of vessels attempting to violate the blockade of the southern ports and export cotton to Europe, which trade gave aid and comfort to the so-called confederate government. Justice Grier delivered an elaborate opinion, entering into a dis-

cussion of maritime rights. He, however, reduces the case to a single point, and says it is immaterial whether the ship and cargo belong to a loyal citizen, a rebel traitor, or an ally. The ground of seizure is the illegal traffic or the breach of the blockade. But lest it might be inferred that these southern States so in rebellion were no part of the Union, he says in another part of the opinion:

"By the Constitution, Congress alone has the power to declare a national or foreign war. It cannot declare war against a State or any number of States by virtue of any clause in the Constitution."—Page 668.

Thus the decision of the present Supreme Court of the United States asserts in an explicit manner that neither Congress, the judiciary, the President, nor any other authority in this Government can declare war against one or more States. The citizens of a State may rebel and be punished, but the States remain intact within the Union.

Another case cited, and the last I shall notice, is that of *Mrs. Alexander's cotton*, reported in 2 Wallace, page 417. She was the owner of seventy-two bales of cotton, which were seized by the naval forces of the United States. She was a rebel, had assisted in erecting a rebel fort, and in many ways aided the rebellion. Cotton, as the courts say, was an element of the war, and was relied upon by the so-called confederate government. That government had protected this very cotton from conflagration as a reward, and also to enable her to export it.

The court decided that it was forfeited to the United States.

But the court gave her the privileges if she could prove her loyalty and show no complicity with the rebel government, that she might come in and under the act of Congress of 12th March, 1863, at any time within two years, and receive the proceeds of her property which had been seized and sold by order of the court.

The decisions of the Supreme Court of the United States, as far as I am able to hear or read, fully acquiesce in the principle, that any loyal citizen who had done no act to aid or assist the rebellion, or who has not voluntarily permitted his property to be used by the rebel authorities, remains a citizen of the United States with the same rights and privileges which he had before the commencement of the rebellion, that he is now a citizen of the United States, and is entitled to all the rights of life, liberty, and property guarantied by the Federal Constitution, of which representation on this floor is one.

Since I had prepared the remarks heretofore submitted the President of the United States has communicated to the Senate a correspondence between himself and Chief Justice Chase, which requires my attention because the answer of the Chief Justice is at variance with the statements I have made.

On the 2d of October, 1865, the President wrote to the Chief Justice that it might become necessary that the Government should prosecute some for high crimes and misdemeanors committed against the United States in the district of Virginia, and inquires whether he or either of his associates will hold a court there during the autumn or winter.

On the 12th of October, 1865, Mr. Chase answers that he refuses to comply with the request; suggests that a military court would answer the purposes, and concludes by saying that he shall wait "until Congress shall have had an opportunity to consider and act on the whole subject."

The meaning of the answer is that the Chief Justice prefers a military court to the highest civil tribunal of the country, and that the trial by jury is dependent upon the opinion of a majority in Congress, and not upon the enforcement of the Constitution and the laws through the judiciary of the country.

I should not, however, have noticed this correspondence but for the following remark made by the Chief Justice:

"The Supreme Court has hitherto declined to consider cases brought before it by appeal or writ of error from circuit or district courts in the rebel portion of our country."

This is at total variance with the record.

In the prize cases reported in 2 Black, page 635, they were appeals from the Federal district courts of Massachusetts, New York, and Florida. The case of the *Brillante* was an appeal from the Federal district court of Florida, and no discrimination was made between that case and the others.

In 2 Wallace, page 135, the Supreme Court of the United States, at the December term, 1864, entertained an appeal from the district court of the southern district of Florida, in the case of *Circassian*. This case was argued and the opinion was delivered by the Chief Justice, affirming the judgment of the court below, condemning the ship and cargo as a lawful prize.

The same court entertained an appeal from the district court of the southern district of Florida, in the case of the *Venice*, and the opinion of the court was delivered by the Chief Justice, affirming the decree of the court below, restoring the ship and cargo to their owners. In the cases of the *Biagorry* and *Andromeda*, 2 Wallace, the court entertained similar appeals and pronounced the final decrees.

The case of *Harvey vs. Tyler* was an ejectment commenced before the rebellion began in the Federal court of the western district of Virginia, and was a decision upon a writ of error; this was during December, 1864.

Without fear of successful contradiction I assert:

1. That the Constitution of the United States was for a perpetual Union without limitation as to time; and that the eleven rebel States had no right to secede from and deny their allegiance to that Constitution and Union.

2. That the conventions of the States which adopted the acts of secession respectively exercised powers which they had voluntarily surrendered to the General Government, and are consequently null and void.

3. That the individuals who thus seceded, and those who aided and abetted them by force in this secession, are in their own proper persons liable for the acts and offenses they have thus committed against the Constitution of the United States and the laws thereunder; that these individuals are liable to the executive and judicial departments of the Government where the exclusive power rests to pardon or to punish.

4. That the citizens and inhabitants of the rebel States who remained faithful to the Union retain their rights and privileges in the same manner as though they had not been interfered with. They cannot be impaired nor taken from them by any power, and therefore those States remained as they were at the beginning and during the rebellion, in the Union. There is no distinction as to the rebel States. All of them stand upon the same footing in their relations to the Union. They differ only as to the order of dates in their respective acts of secession.

Before I conclude, I wish to place this subject in one more aspect.

The question now before the House is not the repeal of the test oath. We have all taken it, and at present no new member can be admitted without taking it. The issue to be decided is, whether loyal citizens of the southern States shall enjoy the rights of representation on this floor by loyal Representatives.

There is no principle in a republican Government more universally acknowledged than that taxation and representation are the correlatives of each other. The imposition of the ship tax cost Charles I his crown and his head. The imposition of the stamp tax and tea duty, cost the mother country the thirteen colonies. In both instances the impost was trifling, but it involved a principle which was sacred and inviolate. We are now imposing upon these loyal citizens all the taxes, duties, and burdens common to every part of our country. We are daily receiving revenue from them, and we are all anticipating the products of their soil to aid and assist us in meeting the expenses of and demands upon the General Government. Yet we refuse them representation on the floor of this House. I tell the majority here that such a

course is too odious and unjust to continue any length of time, and the sooner they abandon it the better for themselves and the country at large. Having clearly established in my argument that these States are in the Union, I shall briefly advert, before concluding, to a practical view of the subject as it relates to the future, one which we ought to consider and reflect upon.

I assert that the cultivation and productions of the South are necessary to the payment of the public debt. At no distant time the truth of this fact will be undisputed. Every day that the reconstruction of the rebel States is delayed the more is the ability of our keeping the public faith put in jeopardy.

With an adjustment of their labor system, which can best be made successful by experience among and with themselves, the South can aid materially in the payment of the national indebtedness, to an extent, as I consider, of one fourth, if not one third. Are the people of the North to continue to have this vast sum unnecessarily taken from their hard earnings? Yet such will be the inevitable result. Looking, therefore, at this question financially, and being anxious for all the relief we can obtain from our present heavy taxation, I consider that reconstruction should be immediate. It is manifest that the people of the southern States do not desire to, nor could they if disposed, make further resistance. Our best guarantee is that their lives and their happiness and prosperity as a people are directly involved for good or for evil.

The productions of the South are absolutely essential to our proper balance in trade with foreign countries, and a resumption of specie payments cannot with entire safety take place until foreign exchange shall be in our favor. In this mode the exportation of specie will be prevented and in all probability a crisis averted. The prosperity of the New England, the middle, and the western States alike is vitally at issue. If the better feeling of generosity to a fallen foe has no place in your minds, then self-interest should prompt the action I have indicated.

The financial reconstruction is as important to the welfare of the whole people as the geographical and political reconstruction of the States. It is as the right hand is to the left. Holding the sentiments and believing that the people of the South have been and are now willing to comply with every requirement suggested by Presidents Lincoln and Johnson, I shall vote for full restoration of the Union by admitting the southern States to a representation on this floor, and I shall vote against any proposition which shall hinder or delay the consummation of so great a national blessing.

LAW OF TREASON.

Mr. LAWRENCE, of Ohio. I would not consume the time of the House upon a subject to which our attention has been invited by the President in his message but for the fact that as yet it has received no consideration at our hands. Whatever of law may be necessary to enable the courts to perform their appropriate functions in civil and criminal cases, and whatever of congressional action may be requisite to bring military offenders to justice, it is the duty of Congress in the constitutional forms to provide.

I propose now, as briefly as I can, to vindicate the policy of the Government in relation to the trial and punishment of traitors, so that "with malice toward none, with charity for all, with firmness in the right, as God gives us to see the right," the nation, in the exercise of clemency, may yet demonstrate its power and its purpose to do justice. That policy was indorsed by resolutions I had the honor to introduce on the 20th of December, and is in brief this: that some of the great conspirators who inaugurated the rebellion, and of those most conspicuous in conducting hostilities, should be tried in the civil courts for treason and be punished; but that military offenders, as those who assassinated military officers on duty, and those guilty of the murder and starvation of Union prisoners of

war, should be tried and punished by military tribunals. (Attorney General's Letter, January 4.) I had not proposed to discuss this policy until I found it assailed in a dignified law book, and by traitors and their sympathizers everywhere.

THE NATION DEMANDS JUSTICE.

Governor Fairchild, of Wisconsin, uttered the loyal sentiment of the nation when, in his inaugural of January 1, he said:

"The verdict of the American people is, that any attempt to right fancied or real grievances by force of arms is treason. They ask, as they have a right to ask, that the highest judicial tribunal in the land shall give expression to that verdict, by a trial upon the charge of that high crime, in accordance with law, of the chief representative of the rebellion—the man who stood before the world as the acknowledged leader of traitors."

"Not until Jefferson Davis shall have been tried, convicted, and hanged for treason, and the fact that treason is a crime which cannot be committed with impunity shall have thus been full demonstrated, will the American people be content."

"The American people have demonstrated that the Union is one and indivisible; that its people, of whatever race or color, shall be forever free."

FOUR OBJECTIONS TO TRYING TRAITORS CONSIDERED.

The right to try, condemn, and execute the great conspirators has been denied, on the alleged authority of international and constitutional law, on these grounds:

1. That State secession is constitutional, and therefore the "levying of war" in its support is not treason.

2. That the rebellion was supported at least by a *de facto* government, to which we conceded belligerent rights, and therefore traitors are exempt from punishment.

3. That the Constitution declares that treason shall be tried "in the State where the crime shall have been committed," and there is not now any "State" legally existing in any of the country lately in rebellion, and therefore no civil court can be held.

And finally, it is said:

4. That it is impracticable to procure a competent jury for a civil trial, but that Davis at least should be tried and sentenced by a military tribunal.

The allotted time will not permit a full discussion of all these topics, nor is it necessary.

SECESSION UNCONSTITUTIONAL.

I will not argue the constitutional right of secession, for it is denied by all loyal men. If such right exist, the war on our part has been a stupendous crime against the Constitution and against humanity. Our whole history is full of the evidence and argument which disproves it, and to that I appeal. The verdict of war, "sanctified with the blood of half a million slain," has forever settled the question that there is no such constitutional right, and no other earthly tribunal can reverse or impair it.

SOVEREIGN AND BELLIGERENT RIGHTS—REBEL-LION PUNISHABLE AS TREASON.

But can this nation exercise sovereign as well as belligerent rights over rebels? In other words, do the belligerent rights conceded to rebels protect them from punishment in the civil courts?

The gentleman from Illinois, [Mr. FARNSWORTH,] during the discussion on the 21st of December, made the inquiry:

"I would like to ask the gentleman from New York whether he is entirely sure we have the right to try Jefferson Davis for treason, inasmuch as our Government has given to them belligerent rights, has recognized and respected the commissions that he has issued?"

This question must be answered in the affirmative upon two grounds: first, that treason was committed before belligerent rights had been acquired; and, second, that subsequent acts of treason are not by the law of nations exempt from civil punishment.

The voluntary "levying of war against the United States by one owing them allegiance, either perpetual or temporary, is treason." (United States vs. Wiltberger, 5 Wheaton, 97.)

That traitors did thus "levy war" is not denied. That they, citizens, did owe allegiance at the inception of the war and before any bel-

ligerent rights had been conceded is equally certain, and for that original "levying war" there is no shadow of defense. An act criminal when committed cannot become innocent by additional crime, (23 Law Register, Boston, 597; 2 Bishop's Criminal Law, 1204.)

I may admit that belligerent rights were conceded to the so-called "confederate States," (2 Black, 635,) and that the Constitution recognizes the law of nations as a part of the law of the land, (Attorney General's opinion, July, 1865.)

But as secession was unauthorized, the rebellion was not supported by a Government *de jure*. I might admit, what our nation denies, that the rebellion was supported by a *de facto* confederate Government; that insurrection had risen into rebellion, and this into civil war, yet all this does not, upon reason or authority, remove the penalties of treason.

This is affirmed by the elementary writers on international and criminal law and the highest judicial decisions.

Bello, whose work is cited with approval in the recent edition of Wheaton on International Law, says:

"When a sovereign has conquered the party opposed to him [in a civil war] and obliged it to demand peace, it is customary to concede to it a general amnesty, excepting from it the authors and chiefs, whom he may punish according to the laws."—*Principios de Derecho Internacional*, cap. x, page 267.

Vattel says:

"When the sovereign has subdued the opposite party, and reduced them to submit, and to sue for peace, he may except from the amnesty the authors of the disturbances—the heads of the party; he may bring them to a legal trial, and punish them if they be found guilty."—*Vattel, Droit des Gens*, liv. 3, ch. 18, sec. 205.

In Lawrence's Wheaton on International Law, it is said in a note to page 522.

"A civil war is when a party arises in a State, which no longer obeys the sovereign, and is sufficiently strong to make head against him, or when in a republic the nation is divided into two opposite factions and both sides take up arms."

"Civil war breaks the bonds of society and of the Government; it gives rise in a nation to two independent parties who acknowledge no common judge." "When the sovereign conquers the opposite party, and obliges it to demand peace, he may except from the amnesty, the authors of the troubles, the chiefs of the party, cause them to be judged according to the laws, and punish them if found guilty."

Bishop, in one of the ablest of all the works on criminal law, says:

"It is competent for the President, who is both military head and chief Executive of the civil department, to order a rebel captured in war to be tried by the judiciary, either during the progress of active hostilities, or after they have terminated in the subjugation of the rebel power."—*Sec. 1222*.

On the trial of the Savannah pirates in the southern district of New York, Nelson, J., with Shipman, J. concurring, said:

"It is claimed that the confederate States is a government at least *de facto*, and entitled to the rights and privileges that belong to a sovereign and independent nation." "This defense involves considerations that do not belong to the courts, questions which belong to the legislative and executive departments; and when decided by them the courts follow the decision; and until these departments have recognized the existence of the new government, the courts are obliged to regard the ancient state of things as remaining unchanged."—*Warburton's Trial*, 372.

In the prize cases, Mr. Justice Grier says:

"When the party in rebellion occupy and hold in a hostile manner a certain portion of territory," "the sovereign party treats them as insurgents, and rebels who owe allegiance, and should be punished with death for their treason."—2 Black, 667, *United States Supreme Court*.

And again the court say:

"Now it is a proposition never doubted that the belligerent party who claims to be sovereign may exercise both belligerent and sovereign rights."—4 Cranch, 272; *Congressional Globe*, Thirty-Seventh Congress, second session, part 3, p. 2189, May 19, 1862; *Rose vs. Humby*, 4 Cranch, 272; *Marshall, C. J., and Livingston, J.*, 288; *Cheviott vs. Fousot*, 3 Binney, R. 252; *Upton's Maritime Warfare and Prize*, 212; *Grotius, de Jure Belli ac Pacis*, lib. 1, cap. 3, sec. 1; *Rex vs. Gordon*, 1 East, P. C. 70; *Respublica vs. McCarty*, 2 Dall. 86; *Russ. on Cr.* 664; 1 *Hume's Cr. L.* 50; 1 *Allison Cr. L.* 627-673.

In England "the statute of 11 Henry VII, A. D. 1494, cap. 1, in effect declared that allegiance to a king *de facto* in exclusive possession protects the subject from future question." (2 English Statutes at Large, 82;

Hale, P. C., 104; 4 Stephen's Blackstone, 221; Rowland, Manual English Const., 162; Lawrence's Wheaton, 525, note.)

But the belligerent and *de facto* rights of Cromwell's Government did not protect his officers from punishment for treason against the regal Government.

Charles I was executed on the 30th of January, 1648, for treason under a judicial sentence and warrant of Cromwell's judges. When Cromwell's Government, in the person of his successor, was overthrown and Charles II succeeded to the throne, Thomas Harrison and others of the judges who had signed the death-warrant of Charles I were indicted, tried, and executed by the sentence of a civil tribunal. Harrison interposed as a defense the authority of Cromwell's Parliament, of a *de facto* Government, of belligerent rights.

On the 11th of October, 1660, on trial he said—

"I say what was done was done by the authority of the Parliament, which was then the supreme authority, and that those that have acted under them are not to be questioned by any power less than them."

"What, therefore, any did in obedience to that power and authority they are not to be questioned for; otherwise we are in a most miserable condition, bound to obey them that are in authority, and yet to be punished if obeyed."

The Lord Chief Baron, overruling the defense, said:

"For the House of Commons to do such an act, it was void in itself; nay, any authority without House of Lords and King is void." "King, Lords, and Commons is the ground of the English law; without that no act of Parliament binds."—*Trial of the Regicides*, 50-55; 5 *Hume's History England*.

This subject did not escape the wise scrutiny of the framers of our own Constitution. Anxious as they were to define and limit treason, they were unwilling that the plea of "belligerent rights" or of "a *de facto* Government" should remove its penalties. My colleague, [MR. SPALDING,] distinguished as a statesman and jurist, has reminded us that in the Convention which framed the Constitution a proviso was offered to the third section of the third article in these words:

"Provided, That no act or acts done by one or more of the States against the United States, or by any citizen of any one of the United States, under the authority of one or more of the said States, shall be deemed treason or punished as such; but in case of war being levied by one or more of the States against the United States, the conduct of each party toward the other, and their adherents respectively, shall be regulated by the laws of war and of nations."

But Luther Martin, in his report to the Maryland Legislature, said:

"This provision was not adopted, and the consequence is, that the State and every one of its citizens who acts under its authority (in making war upon the Government of the nation) are guilty of a direct act of treason."—*Elliot's Debates*, vol. 1, page 382.

All who voluntarily engage, then, in a civil war, and who may not be included in amnesty or pardon, are liable to suffer the penalties of treason by civil sentence.

NATIONAL COURTS MAY BE HELD IN REBEL STATES.

I pass on to consider the objection that there is no legally existing "State" in which civil trials can be had. We have high authority for saying that Davis may be tried in Ohio, Kentucky, Maryland, and Pennsylvania, in all which he levied war. An able elementary writer has summed up, as the result of the authorities, the law in these words:

"That when war is actually levied by an assemblage of men, in a posture of war for a treasonable object, any one who, being leagued in the general conspiracy, performs any overt act constituting a part in such fact of levying war, however remote from the scene of action, or however minute that part, is guilty as a principal traitor."—*Burr's Trial by Combs*, 357; and see *Senator Howard's Speech*, February 1, 1866.

But if it be assumed that he can only be tried in Virginia, and that this State is without a legal State government, and that a *de facto* government is not to be recognized, all of which admits of discussion, the national courts may still exercise jurisdiction, for the geographical State alone is necessary for that purpose. They have been exercising unquestioned jurisdiction in more than one of the rebel States.

It is monstrous to assert that traitors can escape the penalty of treason by overturning a

State government, by prefacing one crime with another.

Trials for treason may be had in Virginia, because it is the geographical State only which the Constitution demands—a question of venue merely.

Its object, says Judge Story,

"Is to secure the party accused from being dragged to a trial in some distant State away from his friends and witnesses."—2 *Story, Constitution*, 1799; 2 *Elliot's Debates*, 399.

As it is the duty of Congress to provide all necessary laws, we must inquire whether treason may be tried by civil or military tribunals, or all go unpunished.

TREASON NOT TRIABLE BY MILITARY TRIBUNAL—MILITARY OFFENSES MAY BE.

Mr. Bishop very strangely demands what the law does not permit after flagrant war has ceased, and after a surrender of all the rebel forces. He says:

"If, then, a leading rebel is to be executed, [merely as a conspirator,] the highest expediency, even almost the law itself, demands that he should not be sent to the judicial tribunals for his sentence, but that this shall be pronounced by a military tribunal."—2 *Criminal Law*, note, sec. 1222, edition 1865.

The Attorney General states the law differently:

"That the laws of war," says he, "authorized commanders to create and establish military commissions, courts, or tribunals for the trial of offenders against the laws of war, whether they be active or secret participants in the hostilities, cannot be denied."—*Opinion*, July, 1865. See *Executive Document No. 5, Senate, Thirty-Ninth Congress, first session*.

And he adds:

"It must be constantly borne in mind that such tribunals cannot exist except in time of war, and cannot then take cognizance of offenders or offenses where the civil courts are open, except offenders and offenses against the laws of war;"

which conspiracy and treason are not. But the war, in legal contemplation, begins and does not end until so declared by one or both of the political (not the judicial) departments of the Government.

The distinguished gentleman from New York [MR. RAYMOND] in describing the "period when war is not raging but is not yet ended" has described it as the period recognized by courts as "*non flagrante sed nondum cessante bello*." (Cross vs. Harrison, 16 How. 194; 2 Black. R. 667; 25 Wend. 483; Letter of Attorney General to President, January 4, 1866.)

It was upon the authority of this opinion, of July, 1865, that the assassins of President Lincoln, and the infamous Wirz, were tried by military tribunal; the latter for the starvation and murder of Union prisoners of war; and the pirate Semmes, and others are now under arrest for trial; in like manner all offenders against the laws of war—*hostes humani generis*.

The military jurisdiction is clear. Referring to Mary, Queen of Scots, Ward, in his Law of Nations, says:

"In the case of a prisoner of war detained always in prison, and assenting to an act against the life of his conqueror, the true manner of proceeding against him would be in the summary way of martial law, without having recourse to the municipal courts of the country."—*Vol. 2, p. 355; 25 Wend. 483; 1 Hilt. 377*.

The President in his proclamation of May 2, 1865, informs us that—

"It appears from evidence in the Bureau of Military Justice that the atrocious murder of the late President Lincoln was incited and procured by Jefferson Davis, Clement C. Clay, and other rebels and traitors."

That some of the great rebels did know of and sanction the deliberate murder and starvation of Union prisoners of war cannot be doubted.

If these shall not be hung for treason, for one I would say let them receive justice at the hands of a military tribunal for these offenses against the laws of war.

But treason cannot be tried in a military tribunal; it must be tried in the civil courts, or escape all judicial condemnation and punishment. The Attorney General says:

"I have ever thought that trials for high treason cannot be had before a military tribunal. The civil courts have alone jurisdiction of that crime."—*Opinion*, January 4.

Nor can a military tribunal try and condemn a great traitor merely as the leader of a great

rebellion. That would be to take military jurisdiction of treason under another name, unwarranted by enlightened precedent, contrary to the laws of nations, and revolting to the judicial and legal mind of the world.

THE PRESIDENT'S POSITION ON TRAITORS.

For one I indorse what the President says in his message on the subject of treason, that—

"Persons who are charged with its commission should have fair and impartial trials in the highest civil tribunals of the country."

And I am prepared to sanction all just legislation to accomplish it. Whoever repudiates this policy consents that treason shall escape all punishment. This will find a ready sanction and response in the sentiments and sympathies of rebels and of our enemies abroad; but of such I am not.

I indorse instead the Attorney General, who says:

"I think that it is the plain duty of the President to cause criminal prosecutions to be instituted before the proper [civil] tribunals and at all proper times against some of those who were mainly instrumental in inaugurating, and most conspicuous in conducting, the late hostilities. I should regard it as a direful calamity if many whom the sword has spared the law should spare also."—*Letter to President, January 4.*

The resolutions under consideration assign these reasons in favor of a civil trial:

"In order that the Constitution and the laws may be fully vindicated, the truth clearly established and affirmed that treason is a crime, that traitors should be punished, and the offense made infamous, and, at the same time, that the question may be judicially settled, finally and forever, that no State of its own will has the right to renounce its place in the Union."

These are the words of the President. They are his reasons, not mine. Gentlemen who repudiate them condemn him, and not me. Their surpassing wisdom overshadows the President, not me.

But certainly it is desirable to have a judicial condemnation of secession and treason.

HAVE CONFIDENCE IN COURTS.

The profound learning and loyalty and purity of the august judicial tribunals of the nation command the admiration and respect, not only of this but of every land, and no lawyer can doubt but that they will truly interpret the Constitution and laws. A failure to invoke their judgment will inspire with new life and vigor the heresy of secession, not yet extinct, but living among the disloyal of the South and their sympathizers North. Even President Buchanan, in his last annual message, denied the power of Congress "to make war against a State." He is a bad citizen who contemns all judicial opinion, for when rightly settled it becomes a part of the Constitution and laws, and carries conviction to the minds of the people when force operating on fears alone may not. A judicial condemnation of secession does sanctify in history with additional weight, not only the irreversible verdict of war, but the justice of our struggle to achieve it.

He who asserts that an adverse judicial decision—a conceded impossibility—can change or impair the verdict of the war, fails to comprehend the magnitude of its results, and distrusts the loyalty of the people. No, no, the national life does not, cannot depend on the fate of a traitor, or the judgment of a court; but the national justice will be shocked if all treason shall go unpunished, or if the nation is imbecile, judicially to declare it a crime.

Those who oppose civil trials lest failure may result must oppose military trials for the same reason; they would shield traitors from all punishment.

"The President deems it expedient that Davis should first be put upon trial before a civil court."—*Letter Secretary of War, January 4.*

He knows the evidence of treason is undoubted; he may know the proof for a military offense, and tribunal is less ample.

I might prefer the military trial first, but we cannot control or dictate the order of proceeding.

The President demands a civil, not a military trial, and this is better than none. The forty rebellions in the last eight centuries of English history furnish abundant examples of civil

trials, but not one of a military trial for treason or conspiracy merely. Mr. Bishop declares that a competent jury cannot be procured, but I affirm it can.

Chief Justice Marshall, in Burr's trial, referring to a case where there might be an "obvious impossibility of obtaining a jury whose minds were not already made up," as in a great rebellion, and speaking of the ordinary rule as to jurors, declared that in such case, "when this necessity exists, the rule perhaps must bend to it." And so jurors would be competent who could impartially try cases notwithstanding their opinions of general guilt against conspirators. Jurors generally will have no opinions as to the particular acts of treason which may be charged in an indictment; and a bill is now pending in the other end of this Capitol making jurors competent who can "impartially try the accused."

The marshal loyal, at least, under this Administration, may, by act of Congress of September 24, 1789, select a jury "from such parts of the district, [the whole State,] from time to time, as the court shall direct." (1 Stat. 88.)

By the act of Congress of June 17, 1862, the court may exclude all who have "adhered to any rebellion," since justice demands that treason should not be tried by traitors.

In the whole State of Virginia there are thousands of competent jurors, men who fled from rebellion and have since returned, besides northern citizens now there.

THE PRESIDENT WILL PUNISH TRAITORS.

Any citizen may volunteer advice to the President in relation to the execution of a civil sentence, and surely Congress may do as much. Enlightened history gives the precedent for this: (1 Howell's State Trials, 1190; 2 Strype's Annals, 134; 2 Ward's Law of Nations, 345; 11 State Trials, 807.)

But we tender no advice; we merely indorse the President's policy as declared by himself. In the Senate, March 2, 1861, the now President, then Senator, said:

"Show me who has been engaged in these conspiracies, who has fired upon our flag, who has given instructions to take our forts and custom-houses, and arsenals and dock-yards, and I will show you a traitor. Were I President of the United States, I would do as Thomas Jefferson did in 1806 with Aaron Burr. I would have them arrested; and, if convicted within the meaning and scope of the Constitution, by the Eternal God I would execute them."—*Andrew Johnson, in the United States Senate, March 2, 1861; Congressional Globe, vol. 44, part 2, pages 1351-1354.*

And this is but a repetition of what the great Commoner, Henry Clay, in the Senate in 1850, in speaking of Mr. Rhett, now infamously notorious, declared, when he said:

"If he pronounced a sentiment, attributed to him, of raising the standard of disunion and resistance to the common Government, whatever he has been, if he follows up the declaration by corresponding overt acts, he will be a traitor, and I hope he will meet the fate of a traitor."—*16 Benton's Abridgment, 594.*

Conventions and people in rebel States, and rebel sympathizing England, by her press and otherwise, have all been clamorous for pardon.

THE AMNESTY PROCLAMATION WISE.

The amnesty proclamation, in due time to be still more enlarged, presents an example of rare but wise magnanimity. But traitors alone should not dictate a policy that might restore Jefferson Davis to the Senate and to power. Let England be reminded of her own traditional policy, and be silent.

THE PRESIDENT INVITES THE ACTION OF CONGRESS AS TO TREASON.

But why should Congress resolve upon these questions? I answer, because the President invites our action on "the whole subject." His message tell us:

"That the circuit court of the United States would not be held in Virginia until Congress should have an opportunity to consider and act on the whole subject. To your deliberations the restoration of this branch of the civil authority of the United States is therefore necessarily referred."

And this he recommends, that civil trials may be had. When we make laws we must entertain if we do not express opinions on the purpose for which they are made. The punishment

of treason is a great national question, not to be measured by ordinary rules in time of peace.

The President and almost every loyal Governor by message, and many of the courts in charges to grand juries, have declared that treason has been committed and should be punished, and these resolutions declare the same. They express no opinion as to individual guilt save only as to Jefferson Davis, and whoever would affect scruples of his crime must ignore all history, doubt the existence of the war, leap over the sublime to the ridiculous, and become himself a traitor, or lack the capacity to comprehend treason. We only affirm what Governors and courts and people and all history have declared.

Mr. Bishop says:

"In a case like that of Mr. Davis, the Government has, during four whole years, in every variety of form, pronounced, not that there was a violent suspicion against him, but that, absolutely, he was guilty; and, on this declaration, the Government has pledged its credit to lenders of money to an enormous extent, and cemented the declaration in the blood of thousands slain."—*2 Criminal Law, sec. 1222.*

We have a right to prescribe terms of reconstruction, and make punishment one of them. (3 Howard, U. S., 589; 16 Howard, 369; 1 Black, 436-474; 5 Elliot's Debates, 492, August 29, 1787.)

CONCILIATION.

Gentlemen may talk of conciliation. I, too, am in favor of speedily inaugurating the era of "peace on earth and good will to all men"—an era of universal brotherhood and universal justice.

IRREVERSIBLE GUARANTEES.

When by irreversible guarantees secession shall be repudiated; the supremacy of national allegiance and national adjudications affirmed; a just basis of representation in Congress and the Electoral College secured; the rebel debt repudiated, the impudent claim of compensation for slaves made free shall be rejected; our national debt and obligations to Union soldiers placed beyond repudiation; with the personal rights of every citizen secured; with every State pledged to provide common schools for all its youth, then, with unqualified loyalty restored, the era of fraternity will be secured. I do not say that all these are indispensable prerequisites of reconstruction, but unconditional loyalty is. Each State must be judged on its own merits, since some may be prepared for reconstruction before others.

THE GREAT CRIME OF REBELLION.

And now let us contemplate the magnitude of the crime which is to be dignified into respectability by exemption from punishment.

It was against a Government which Alexander H. Stephens in January, 1861, declared was—

"The best and freest Government, the most equal in its rights, the most just in its decisions, the most lenient in its measures, and the most aspiring in its principles to elevate the race of man that the sun of heaven ever shone upon."

And further:

"That no man could name one governmental act of wrong deliberately and purposely done by the Government of Washington of which the South has a right to complain."

Nor was this rebellion the work only of the misguided and unpretending masses, over whose erring but repentant steps, the mantle of charity is gently laid, with amnesty and pardon, blessing alike the donor and recipients.

But it was the work of men, some of whom, like Davis and Lee, had been educated at the public expense in the nation's Military Academy for the purpose of vindicating the Government against all its enemies, but who when warmed into life in its bosom, sought to inflict the sting of death in its heart by employing the military skill which was the nation's property to accomplish its overthrow.

It was the work of men, some of whom held seats in Buchanan's Cabinet, and there aided in disarming, plundering, and reducing to the verge of bankruptcy the Government they were bound by honor and by oath to protect.

It was the work of men, some of whom were intrusted with the power of legislation in both

branches of Congress, who betrayed alike their trusts and their oaths to destroy the Constitution they had sworn to support.

It was the work of men, some of whom were high officers of the Army and Navy, nurtured with the nation's treasure, and intrusted with its power, who sundered the obligations of gratitude to their country, substituted perjury for patriotism, dishonor for duty, treachery for fidelity, and led the rebellion against the nation they had betrayed.

And then how great the crime in magnitude and character!

A gigantic rebellion waged for four years, carrying eleven States into the great revolt, supported by six millions of population, with immense armies incurring untold millions of debt, with the sacrifice of hundreds of thousands of lives, carrying devastation over more than half the Republic, disturbing the social fabric, jeopardizing the peace of nations, imperiling our national existence, and threatening to sweep free government from among men.

ATROCIOUS VIOLATIONS OF THE LAWS OF WAR.

But treason, infamous and odious as is the crime, is no name for the atrocities perpetrated under its authority. The rebellion opened with meditated but averted assassination and culminated in its execution. Its progress has been marked with savage barbarities which set at defiance the laws of nations, and the usages of civilized warfare. Its history is replete with the evidence of this. The deliberate plot to assassinate Mr. Lincoln, the President-elect, in February, 1861; the "massacre of the soldiers of the Massachusetts sixth in Baltimore on the 19th of April," of the same year; the inhuman "butchery and wanton slaughter at Fort Pillow;" the revolting murder and "deliberate starvation of Union prisoners of war in the prisons and prison pens of the rebel States," at Libby and Belle Isle, Sausbury and Columbia, Charleston and Andersonville, in all which "more than fifty thousand were tortured to death by exposure and starvation or consigned to lingering and hopeless disease;" the burning of the city of Lawrence and the slaughter of its inhabitants; the murderous St. Albans raid and robbery; the plot to burn northern cities and spread pestilence through the land, with emissaries plotting conspiracy in the North—these are some of the crimes of the rebellion.

Finally, the crowning infamy of all this stupendous treason, planned by rebels in Canada, and approved in Richmond, culminated in that last great stab at the nation's life, the assassination of the late but now martyred President Lincoln at a time when his own sublime utterance had scarcely died away upon his lips, "With malice toward none, with charity for all." These have passed to the darkest and bloodiest page of history.

The monuments of this treason are everywhere apparent—in three thousand millions of debt to tax the energies of a generation; in half a million graves, with the wail of the widow and the orphan all over the land.

FRATERNITY, WITH LOYALTY AND FUTURE SECURITY.

But, for one, I will be content that all this shall slumber undisturbed in the quiet repose of history, and I will open no bleeding wound of the melancholy past, if with guarantees for peace and restored loyalty we can furnish an admonition to all future conspirators against the nation's life that infamy and death await them, so that when the ancient concord of our fathers shall be resumed it shall remain unbroken for our children and their posterity forever.

Sir Matthew Hale, who was justly styled "that solid philosopher;" that pillar and basis of justice, who would not have done an unjust act for any worldly price or motive; that practical Christian, the highest faculty of the soul of Westminster Hall, declared that—

"In criminals of blood, if the fact be evident, severity is justice;" "that in business capital, though my nature prompt me to pity, yet to consider that there is also a pity due to the country."

This nation does not demand severity, but justice on a smaller scale.

Booth and Mary E. Surratt and Wirz, mere subordinates of Davis, have paid the penalty. If the "great leader of the rebellion" himself, "the colossal traitor of the age," if he, Jefferson Davis, can escape all punishment, then is this age and nation and humanity itself loaded with infamy, dishonor, injustice, and disgrace forever.

General Grant, in his report of December 18, to the President, declares that the people of the South are not in a condition—

"To yield ready obedience to civil authority." * * * "This would render the presence of small garrisons throughout those States necessary."

The patriot soldier, General Schurz, in his report more than confirms this by declaring "their loyalty consists in submission to necessity," and so does the President by holding military possession of those States.

The rebel population have construed clemency into cowardice. The punishment of treason will aid in securing obedience to law and hasten reconstruction.

CAPITAL PUNISHMENT.

Many intelligent and philanthropic men are opposed to all capital punishment.

One among the most eminent of this class has forcibly said:

"For more than thirty years I have been an advocate of the abolition of the death penalty, and yet I am free to say that, measuring the Government not by my standard but by its own [its] duty to the country, requires that Jefferson Davis should be hung by the neck till he is dead. If he is not to be hanged, then in the name of humanity and of God, let us abolish the gallows forever, for no other man can be criminal enough to deserve hanging."

Let the nation, then, be generous yet just. Let us inscribe on the Constitution justice for all men. Let us "bind up the nation's wounds and do all which may achieve and cherish a just and lasting peace among ourselves and with all nations."

RECONSTRUCTION.

Mr. STILWELL. Mr. Chairman, from the 14th day of April, 1861, when the American flag was fired on at Fort Sumter, until the surrender of General Lee and his whole army to General Grant, April 9, 1865, the people of eleven of the States of this Union were in armed rebellion against the national Government.

It was the proclaimed object of these people to cut the threads of national life, and sever the bonds of political Union.

It was the proclaimed object of the national Government to maintain its rightful authority over these States; to execute its laws and protect its flag over every foot of this widely extended territory; to mark and punish rebellion as a flagrant crime; and to bring back the deluded masses to a Union which for nearly eighty years had spread over them the mantle of peace and prosperity.

THE ISSUE.

That the public mind might be clearly informed of the issue involved; that no one might enter the army on either side under misapprehension; that when the battle was ended, and peace again restored, there should be no doubt or cavil in regard to the objects of the war, Congress, speaking in the name of the nation, passed, on the 23d of July, 1861, by a nearly unanimous vote, the following resolution:

"That this war is not prosecuted upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and all laws made in pursuance thereof, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; that as soon as these objects are accomplished the war ought to cease."

ITS OBLIGATIONS.

There is not in the whole history of legislation an act of greater solemnity, or a contract more binding. Am I wrong in calling it a contract? Did it not pledge the national faith to every one in arms, that when he should capitulate, the rights of his State and of self-government should be preserved to his children and

kindred, even though he might suffer the penalties of the law?

Did it not pledge the national faith to every Union man in the southern States, that, if he would stand fast to the Government, all his rights should be protected, and when peace should come, be fully restored to him? Did it not pledge the national faith to every man who enlisted in the service of his country, that no love of power, no lust of conquest, no military subjugation, should enter into the purposes of the war, but that it was waged merely to preserve, not to destroy Government?

Have not those in the southern States who have been true to their allegiance amid the most bitter persecutions known in the annals of history, who have seen their dwellings burned and their fields desolated, and who have fled to their mountains for refuge, and raised the flag on their summits, no claim to the fulfillment of this pledge? Have those at the North, who rushed to the battle-field to preserve national unity and restore national fraternity, no right to insist on the fulfillment of this pledge, without which they would have remained at home? Has not the nation itself a right to demand on this floor, and everywhere, that its plighted faith and its sacred honor, which have survived the storm of revolution, shall not perish in the halls of its own Capitol?

It is said, I know, that one Congress is not bound by the acts of a previous Congress, and that what was done in 1861 is not binding in 1866. Can this be so? Is the pledge of the national faith to pay money more binding than when it was made to preserve Government and protect liberty? Is the millionaire, who stays at home and lends his money, a more favored creditor of the nation than he who should his musket and goes to the field under the solemn pledge that State institutions should survive the shock of battle? National faith is essential to national life. It is the cementing bond of Union, the noblest attribute of government, and the virtue nearest allied to the great source of omniscient wisdom and justice.

This resolution adopted in the first year of President Lincoln's administration, shaped his policy and was the guide of his public life. All his acts had reference to it; under it he declared that to save the Union, (that is, to preserve the States,) was the first and great duty. To this everything was made subservient. If it could be done by protecting slavery, then slavery was to be protected. If it could best be done by destroying slavery, then slavery was to be destroyed. Hence, his administration was simple, straightforward, and consistent; and it is a matter of record that this policy received the unanimous support of his Cabinet.

His address to the people of Washington on the 13th of April, 1865, the last public act of his life, was the most studied, comprehensive, and perfect of the many papers which he has left for the instruction of posterity. It recapitulated all the principles laid down in the resolution, and gave to it a practical and tangible form. The system was perfect in all its parts, and complete in all its details. The time for practical application had come, and that application was about to be made by him, when the hand of the assassin deprived the nation of its head, the Constitution of its wisest defender, and the State governments of their truest friend.

By the action of our institutions the responsible duty of carrying out these measures devolved on the Vice President, Andrew Johnson. Here a wide field of ambition was opened to the new President. Armies were to be employed or disbanded; old States proscribed, or new ones brought into existence; the policy of the old Administration was to be continued, or a new policy adopted; and we all remember how the nation held its breath while these questions were under advisement.

At length the decree came forth that the policy of Abraham Lincoln was to be continued. That the resolution of July 23, 1861, which had formed the platform of the war, was also to be the platform of peace; and that those who had

pinned their faith on the solemn declaration of Congress. were not to be disappointed.

The South immediately showed signs of national life. Industry, apparently dead, began to revive; confidence, which had been lost, returned with a bold step; and hope, which was about to expire, was again lighted up in the hearts of the people. The North felt that their labors had not been in vain; that they were again to have a whole country, a united country, and that the blood which had been shed on many battle-fields would but cement and preserve our Union.

Congress had laid down the rule. President Lincoln had interpreted it, and President Johnson accepted the interpretation and followed it. How earnestly he has labored to carry forward this great work; how many great difficulties have been interposed both North and South, to its final accomplishment; how party strife has at last come in unbidden, even in the hour of the nation's greatest peril, to thwart the holy purposes of union and fraternity, I need not stop to say. That the matured plans of President Lincoln, faithfully carried out by President Johnson, will finally be accepted by the American people, is my firm belief and earnest hope.

CONGRESS.

Since the opening of the session of Congress many new theories of reconstruction have been put forward. For the past four years the ingenuity of the legal profession has employed itself in demonstrating that the Union of the States is indissoluble; that the Constitution has conferred no power either on the Supreme Court, on Congress, on the several States, or on the people of the States to break the bonds of its authority and release the people from their allegiance. We had supposed this to be a political axiom. After four years of bitter strife we had hoped that the bond of our Union, after it had been bathed in the blood of a half million of patriots, would never again be called in question. But, Mr. Chairman, in this we are mistaken.

The argument of the gifted and eloquent gentleman from Ohio, [Mr. SHELLEBARGER,] delivered in this Hall on the 8th of January, goes to prove that there is a power within the Government which can destroy it, and that that power has been successfully exerted. He has labored to prove that a noble Union of thirty-six States has been shattered in pieces, and that eleven of those States, broken and dismembered, are now drifting on the billows of revolution like the hulks of a fleet disabled and scattered by the storm. And, sir, by what train of argument has he reached a conclusion so opposed to the national instinct and the convictions of the public judgment.

He has searched the law of nations to find the definition of a State, as it lives in the family of nations—an independent sovereignty, coequal, existing under certain conditions, and possessing certain attributes, and then, sir, has applied that definition to the States of our Union—the States of a constitutional Government, in which each derives its characteristics and its attributes not from the law of nations, but from a written Constitution defining and limiting the powers of each and all, and marking with accuracy their joint and several duties and their mutual relations. His whole argument, based on his definition of a State, therefore falls to the ground, for the argument can apply only to what is covered by the definition, and hence is entirely inapplicable to States as they exist under our form of government.

ADMISSION OF STATES AND TREASON.

The gentleman from Ohio has bestowed much learning and labor on the question of admitting States into the Union, and has pointed out very clearly the antecedent conditions of such admission. But, sir, does all this show that the rights which are conferred by admission can be forfeited afterward? Does it show that a State can go out of the Union as well as into it?

"Treason against the United States shall consist in levying war against them, or in adhering to their enemies, giving them aid and comfort."—*Constitution*, art. 3, sec. 3.

Does this apply to individuals or to States? The next paragraph answers the question:

"No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."

Now, sir, the Constitution gives no definition of treason as applied to a State. It is the treason of the individual which the Constitution defines and for which it prescribes a punishment. This, sir, is both the letter and the spirit of the instrument. In neither a paragraph or a line of that instrument is there any allusion to the expulsion or punishment of a State. The person or individual is alone referred to, and the State, as such, is in no wise held responsible. The Government has retained, in its own hands, the power and right to punish treason. Having done this, would it be just to hold a State responsible when its citizens commit treason. Can Congress impose such responsibility?

WHAT THE CONSTITUTION GUARANTEES.

"The United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the Executive, (when the Legislature cannot be convened,) against domestic violence."—*Constitution*, art. 4, sec. 4.

Now, sir, what does this article of the Constitution guaranty? A republican form of government. To whom does it guaranty it? To every State in this Union. Does it guaranty it to States out of the Union? Certainly not. This power, therefore, can only be exercised by Congress over States in the Union, and not over States out of it. In fact, sir, the Constitution never contemplated the case of a State going out, or being out, of the Union. Gentlemen on this floor have labored, with much astuteness and learning, to show how a State may go out of the Union; and that, under their way, eleven of the States have actually gone out.

I beg leave to remind those gentlemen, with great respect, that although the mode is somewhat novel, the principle itself is not new. It is the same principle which first appeared in the celebrated resolutions of 1798, which was revived under the name of nullification by John C. Calhoun in 1830, and culminated in secession in 1861. It is the same vicious principle which has seduced the hearts of a portion of our people from their allegiance to government, which has trampled on our flag, which has bathed our land in blood and filled our homes with mourning. I had hoped, sir, that four years of war, and such a war, had wiped out forever from the public mind every thought of nullification, secession, and disunion, and that we had emerged from the bloody contest with but one national pulsation, that the States "are one and inseparable, now and forever."

The gentleman from Ohio has been at great pains to show that the Government has a right to treat every individual of a State that has been in rebellion as a public enemy; that is, adjudge him guilty of treason and deprive him of citizenship, while the Constitution expressly provides that "no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."

What, Mr. Chairman, would be the practical operation of this new doctrine of constructive treason; of declaring that whenever by fraud or violence a State government should be interrupted or overthrown the whole people within its borders, as a body, should be treated as public enemies and beyond the protection of the General Government. Would it not at once transfer the allegiance of every citizen from the national to the State government, and effectually destroy our entire system? When the storms of tumult and civil discord should rage, would the affrighted citizen fly to the flag of his country only to be told that his State had rebelled and that he himself was a traitor? What nerved the arms and inspired the hearts of so many true patriots in the South during the recent struggle? It was the conviction that citizenship could only be lost by individual acts and not forfeited by the acts of others. It was the conviction that the air they breathed was the atmosphere of the whole nation, and that

when the storm had passed it would again be pure, invigorating, and peaceful.

I know of no people, in any age or country, who adhered to their allegiance with greater fidelity, met danger with more determined bravery, who offered up their lives more cheerfully, and bore the flag of their country through fiercer storms than the Union men of the South. Andrew Johnson, in a speech to the people of Knoxville, thus describes their condition:

"My countrymen! my heart yearns toward you, and I am one of you. I have climbed yonder mountains, rock-ribbed and glowing in sunshine, in whose gorges, in whose caverns your sons, hunted like beasts, have fallen to rise no more. I do not speak of these things to draw your tears. It is not the time for tears, but for blows. I speak of them that I may fit your arms for unconquerable fight. And I speak of them because the mountain seems to talk to me. My house is among the mountains, and, though it is not far away, I cannot go to it. It is the place where I met and loved her who is the mother of my children. Do I not love the mountains? And if liberty is to expire, if freedom is to be destroyed, if my country in all its length and breadth is to tremble beneath the oppressor's tread, let the flag, the dear old flag, the last flag, be planted on yon rocky heights, and upon it let there be this inscription: 'Here is the end of all that is dear to the heart and sacred to the memory of man!'"

The doctrine of the gentleman from Ohio treats these men as public enemies, and deems them to have forfeited their political rights. And indeed, sir, his doctrine has received some sanction from the action of the House itself. The time, however, must come, and that soon, when we shall be brought face to face on all these great questions. We must decide whether those who were members of Congress during the most critical period of the rebellion, (including the President himself,) who went home and encountered all its furies, and have come back with certificates of election, are to be admitted, or are to be shot down, as rebels, at the door of the Capitol, not by the bullets of the enemy, but by the votes of Congress.

WHEN REPRESENTATIVES SHOULD BE ADMITTED.

Immediately after the military surrender of the rebel armies, the President had to accept the civil surrender of the people. The session of Congress had just terminated, and they would not reassemble until December. The Cabinet the legal advisers of Mr. Lincoln, were at their posts, and the President solicited their counsel and aid. All that Congress had asked, as conditions precedent to reconstruction, was the adoption of the constitutional amendments which they had passed. I think it must be admitted that after these had been accepted, in good faith, no subsequent conditions could justly be imposed. The President, however, acting in the true spirit that had governed his predecessors, went even beyond what he or Congress had asked, and suggested to the southern people that they would best promote the common interests of all by adding to the conditions which Congress had prescribed the utter repudiation of the confederate debt in all its forms, and a full guarantee to the African race of entire equality with the whites in all matters affecting personal liberty and civil rights.

My sentiments on these matters are fully stated in the following resolution which I had the honor of presenting to this House on the 19th day of December:

"Resolved, That when the people who have been in rebellion against the Government have submitted to the laws of the United States, adopted a republican form of government, repealed the ordinance of secession, passed the constitutional amendment forever abolishing slavery, repudiated the rebel war debt, and passed laws protecting the freedman in his liberty; the representatives of those people elected to Congress, and having received their certificates of election from their respective Governors, should be received as members of the Thirty-Ninth Congress when they shall take the oath prescribed by the last Congress, known as the test oath, without delay."

Under such conditions, when they are complied with in good faith, Mr. Chairman, I am ready to vote for the admission immediately of all loyal men who come here and take the prescribed oath that "they have never voluntarily assisted in the rebellion." What power, sir, has a right to exclude such representatives? If the rights of one man cannot be taken away by the misconduct of another, the loyal citizens of

every State of this Union have an equal right to be represented here. And when, sir, the subject has been fully considered, I feel that that right will be cheerfully and speedily accorded.

OUR FOREIGN RELATIONS.

Are there not, Mr. Chairman, strong motives arising out of our foreign relations, that should urge us to, harmony, fraternity, and union? Without these, we can never be great, we can never be strong. No sooner had the echo of the first gun fired at Sumter reached the British isle, than the old lion shook the dew-drops from his mane and began to growl. During the entire struggle, a rumbling sound ran through the entire British empire, indicating a wish to strike us if the happy moment should arrive. Privateers were fitted out under the very eye of the Government to prey upon our commerce; insulting paragraphs appeared in all their public journals; protection and sympathy were extended to rebels by public meetings and on all public occasions, and we were indebted for the preservation of peace to our great strength and the bravery of our troops in the field. France, our ancient ally, and who went with us, side by side, through the Revolution, also sought to profit by our misfortunes, and sent an army to Mexico to overturn a sister republic and establish there a monarchy, in direct hostility to the policy of our Government, proclaimed to the world forty years ago and followed implicitly by every Administration to the present time. Now, sir, with a knowledge of these facts, indicating a settled purpose abroad to profit by our divisions at home, is it wise to foment civil discord and divide in interest and sentiment this great nation, which should be bound together by all the ties which can unite a people?

OUR FINANCES.

The finances of a nation are alike the evidences of its greatness and the foundations of its power. No subject engages so earnestly the attention of a statesman as how to make labor most useful and productive. The southern States are capable of producing at the present moment, by a rightly adjusted system of labor, four million bales of cotton per annum, which at present prices would be worth \$800,000,000; add to this \$100,000,000 for rice and tobacco, and we have an annual amount, at present prices, for three articles alone, of one third of our entire national debt. Now, Mr. Chairman, instead of bringing these people back into the Union, encouraging and developing their industry, making them again a part of the Government and obliging them to contribute their full share in the payment of the national debt, there are gentlemen on this floor who would expend \$50,000,000 annually for the poor gratification of keeping them out of the Union for four years longer. We have been fighting for four years to bring them back into the Union. And how, sir, is this \$50,000,000 to be furnished? It is to be collected by the tax-gatherer from the honest laborer of the North. Is it worth while to sacrifice so much for passion and resentment? Is it not better to calm sectional strife, to heal the wounds of the nation, to absorb in the current of a healthy public sentiment the disloyalty which yet bursts from a few hearts as the mighty river carries the little rills which issue from the mountain side?

ELECTIVE FRANCHISE.

In regard to the subject of the elective franchise, I agree with the President in his message, which says:

"When, at the first movement toward independence, the Congress of the United States instructed the several States to institute governments of their own, they left each State to decide for itself the conditions for the enjoyment of the elective franchise."

I heartily concur in the above, and believe that the regulation of the elective franchise in all the States, and the qualifications of electors belong to the States each for itself, and are subjects in which Congress, under the Constitution, has no right to interfere; the policy of the President on this, as well as on many other subjects, was to preserve the Government as he found it,

and not to make a new one, the Constitution of the United States having referred the matter of suffrage to the States, and invested them with the exclusive power over it, and it was not competent for the President to interfere with a prerogative so expressly conferred upon them, and so long exercised by them.

I will not, Mr. Chairman, pursue this subject further. I rejoice in the great good which the recent contest has produced. I hope we may reap all its legitimate fruits. I hope it will make us a great and united people, with one language, one heart, one destiny. I rejoice, sir, that the African race has risen to the condition of freedom. In the dispensations of Providence the nation laid its hands on the bowed captives and they sprang to the dignity of freedom. It touched their sightless eyes and they opened to the morning light of perpetual liberty. At the beginning of the contest they appeared to be the orphans of Providence; at its close they are the wards of the Republic. Under Providence, the guiding legislation of Congress, and the wisdom and justice of those whom they live among, they are now to go forward to their final destiny. Starting as men, with perfect equality before the law, they will soon become an important part of the body politic. Time will wear away prejudice and soon reconcile all parties to the new condition of things.

Mr. Chairman, I am hopeful of the future. The Constitution, as it stands, is the bond of perfect union and the guarantee of innumerable blessings to this people. Under it we have grown to be a great and powerful nation. It seems to me to embrace within its ample folds every State and every individual of each State, whether he be rebel or loyal; and that it has full power to punish the one and protect the other. I hope, sir, that in settling the grave question before us we shall keep ourselves within the bounds of this great charter of our liberties, and that no considerations of party advantage or political power will swerve us from the line of duty at a moment so critical. If this be so the future presents no difficulties. The eleven eclipsed stars will pass from under the shadows which now obscure them, and return to the pure light of a restored and happy Union.

And then, on motion of Mr. VOORHEES, (at ten o'clock p. m.) the House adjourned.

IN SENATE.

TUESDAY, February 6, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.
The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the Senate of December 12, 1865, information in regard to the seizure of property, for a violation of the revenue laws of the United States, belonging to A. Rhombert & Co., of Dubuque, Iowa; which, on motion of Mr. GRIMES, was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

Mr. POMEROY presented a petition of citizens of New England, praying that in the passage of all bills establishing a new basis of representation there be no distinction on account of race, color, or sex; which was referred to the joint committee on reconstruction.

He also presented resolutions of the Legislature of Kansas in favor of an appropriation for the extension of the surveys of the public lands to the one hundredth meridian of longitude; which were referred to the Committee on Public Lands, and ordered to be printed.

He also presented resolutions of the Legislature of Kansas in favor of an appropriation for the erection at the capital of that State of a building for the accommodation of the United States courts and post office; which were referred to the Committee on Finance, and ordered to be printed.

Mr. STEWART presented the memorial of Wellington & Dorsey, of the State of Nevada, praying for the passage of a law by Congress to authorize the Postmaster General to pay them additional compensation for the performance of extra mail service rendered in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. ANTHONY presented the petition of Beals & Dixon, of New York, praying for legislation deemed necessary by the Secretary of the Treasury for the adjustment and payment of their accounts under a contract for supplying the granite for the construction of the extension of the Treasury Department; which was referred to the Committee on Finance.

Mr. WILSON presented two petitions of citizens of New England, praying that in the passage of all bills establishing a new basis of representation there be no distinction on account of race, color, or sex; which were referred to the joint committee on reconstruction.

Mr. SHERMAN presented a petition of manufacturers of agricultural implements, praying for a reduction of the tax on sales of agricultural implements and for a removal of the tax which is now assessed upon castings made by themselves for their own machines; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the memorial of James Bawden, praying for the enactment of a law authorizing the Secretary of the Interior to issue a patent to him for certain lands at Eagle Harbor, Lake Superior, asked to be discharged from its further consideration, and that it be referred to the Committee on Private Land Claims; which was agreed to.

He also, from the same committee, who were instructed by a resolution of the Senate to inquire into the expediency of appropriating \$100,000 for the erection of a court-house and post office at Topeka, in the State of Kansas, asked to be discharged from the further consideration of the subject; which was agreed to.

He also, from the same committee, to whom was referred a petition of citizens of Pike county, Missouri, praying for the passage of an act for the appointment of properly qualified local engineers for each county or district, whose duties it shall be to examine and decide upon the qualifications of each and every person in their district desiring to act as engineers and to have charge and control of the steam works in any mill or manufacturing establishment, asked to be discharged from its further consideration, the committee believing it to be a local State matter with which Congress has nothing to do.

The report was agreed to.

Mr. CHANDLER. The Committee on Commerce, to whom was referred a resolution instructing them to inquire into the manner in which American vessels, transferred during the rebellion to British owners, are now being refurnished with American registers, have directed me to report it back and ask to be discharged from its further consideration, inasmuch as the House of Representatives have passed a bill which covers the ground.

The report was agreed to.

Mr. CHANDLER. I now move to take up the bill (H. R. No. 204) to regulate the registering of American vessels, which is the bill to which I have just alluded.

The PRESIDENT *pro tempore*. Reports from committees are still in order.

Mr. SHERMAN, from the Committee on Finance, to whom was referred the bill (S. No. 84) to amend an act entitled "An act to incorporate the Freedmen's Saving and Trust Company," approved March 3, 1865, reported adversely thereon, and moved that the further consideration of the bill be postponed indefinitely.

The motion was agreed to.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred the message of the President of the United States,

recommending an appropriation toward providing for the compensation of a diplomatic agent of the United States at the Dominican republic, reported a bill (S. No. 130) to authorize the President of the United States to appoint a diplomatic representative to the republic of Dominica; which was read, and passed to a second reading.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had concurred in the amendments of the Senate to the bill (H. R. No. 36) making appropriation for the payment of invalid and other pensions for the year ending the 30th of June, 1867.

The message further announced that the House of Representatives had passed the joint resolution (S. R. No. 17) directing the distribution of the writings of James Madison; and the joint resolution (S. R. No. 25) tendering the thanks of Congress to Vice Admiral David G. Farragut, and to the officers, petty officers, seamen, and marines under his command, for their gallantry and good conduct in the action in Mobile bay on the 5th of August, 1864.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; which were thereupon signed by the President *pro tempore*.

A bill (H. R. No. 36) making appropriations for the payment of invalid and other pensions of the United States, for the year ending the 30th of June, 1867, and additional appropriations for the year ending the 30th of June, 1866.

A bill (H. R. No. 143) for the relief of Charles F. Anderson.

REFERENCE OF PAPERS.

Mr. STEWART. I move that the resolutions of the Legislature of Nevada in favor of a grant of lands and money to aid in the construction of the San Francisco and Washoe railroad and the Placerville and Sacramento railroad, which were presented on the 31st of January, be taken up and referred to the Committee on Public Lands, bills for that purpose being before that committee, introduced since that period.

The motion was agreed to.

Mr. CHANDLER. I move that the Committee on Public Lands be excused from the further consideration of the bill (S. No. 129) for the relief of the heirs of James Bawden, which I presented yesterday, and that it go, together with the papers in the case, to the Committee on Private Land Claims.

The motion was agreed to.

ARMY SUPPLIES IN DISLOYAL STATES.

Mr. WILLEY. I offer the following resolution:

Resolved, That the Committee on the Judiciary are hereby instructed to inquire into the justice and expediency of making provision by law for the auditing and payment of the claims of loyal citizens of the States lately in rebellion for quartermasters' stores or for subsistence actually furnished to the Army of the United States, and receipted for by the proper officers receiving the same, or which may have been taken by such officers without giving such receipt, so as to place said claims on an equal footing with the same character of claims for stores and subsistence furnished by loyal citizens of States not in rebellion as provided in an act of Congress entitled "An act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished to the Army of the United States," approved July 4, 1864.

I ask the indulgence of the Senate for a moment or two while I submit a few remarks in relation to this resolution. It may perhaps be within the recollection of the Senate that some time ago I introduced a bill amending the act named in the resolution, which bill was referred to the Committee on Military Affairs. That bill, in its second section, reads as follows:

SEC. 2. And be it further enacted, That all claims of loyal citizens for quartermasters' stores actually furnished to the Army of the United States, and receipted for by the proper officer receiving the same, or which may have been taken by such officers without giving

such receipt, may be submitted to the Quartermaster General of the United States, accompanied with such proofs as each claimant can present of the facts in his case; and it shall be the duty of the Quartermaster General to cause such claim to be examined, and, if convinced that it is just, and of the loyalty of the claimant, and that the stores have been actually received or taken for the use of and used by said Army, then to report each case to the Third Auditor of the Treasury, with a recommendation for settlement.

The third section of that bill was in the same words, except that it referred proofs of claims for subsistence supplies to the Commissary General. That committee, I perceive, has reported that bill back to the Senate adversely; and, as I understand, one of the controlling reasons influencing that committee in that determination was the fact that they supposed such claims would be so numerous as to impose a duty upon the officers specified in the bill so onerous that they could not satisfactorily discharge it; that at least it would interfere with the various duties already imposed upon those officers.

I hope, Mr. President, that no other reason constrained the committee to come to that conclusion; for, allow me to ask in a very few words, why the claim of a loyal man in a disloyal State for quartermasters' stores or subsistence supplies actually furnished to the Army of the United States, and actually used by the Army of the United States, is upon any other condition or in any other wise not equal in its demands upon the justice of Congress to a similar claim upon the part of a loyal citizen in a loyal State? It is to be presumed that these supplies were necessary, and the fact is, that they were always given at a time when they were peculiarly necessary. They were furnished to our armies far away from the base of supplies, where it was impossible to furnish them with the necessary supplies from the loyal States, and these loyal men were glad no doubt to have an opportunity, when their eyes were gladdened by the return of their old flag and by the sight of the forces of the Union, to render the aid and assistance which these supplies did actually give to the troops in our service. I demand to know, sir, upon what principle of justice or of propriety a loyal man coming to Congress with such a claim for compensation is to be rejected and his claim denied, when a man no more loyal than he is from the loyal States comes with his claim, and it is entertained and paid? What is the justice in the one case that does not apply in the other? What obligation is there resting upon Congress to pay for supplies actually furnished by a loyal man in a loyal State, that does not apply with equal, nay, sir, with greater force for the payment of supplies furnished by a loyal man in a disloyal State?

Mr. President, have you ever seen—no, sir, you have never seen—the loyal resident of a disloyal State during the late four years of terrible rebellion at his home surrounded by the enemies that surround him. Secure in your own northern home, surrounded by friends, protected in the enjoyment of all your civil rights by the laws which were in force around you, you have never seen and you have never felt the difficulties that surrounded the loyal men amid the persecutions and fires of persecution that afflicted them in the southern States. Sir, the danger for you was to be disloyal. Loyalty in your States was cause of no disability or detriment to your pursuits or to your interests. But how was it in the case of the men who furnished the supplies referred to in the resolution which I have had the honor to offer? Look at the loyal men in a southern State in their homes during these four years of terrible rebellion. Look at their condition. For the nights of these long four years these men never laid their heads upon their pillows, except under terrible apprehensions of personal violence before they awoke in the morning. Not an hour came to them that did not bring with it fears of distress and interruption in their pursuits. They never sowed knowing whether they would reap the reward of their own toil, and they never reaped with any assurance that they were to enjoy the fruits of their own labor; and

worse than all this, and more difficult to be endured was the fact that wherever they went in the midst of those who had heretofore been their friends, "the slow, unmoving finger of scorn" and contempt was pointed at them. And yet in the midst of all these trials and difficulties, when our forces occasionally found their way to their homesteads, and they were gladdened by the sight of the flag of their fathers, they willingly divided the small pittance that rebel oppression and rebel pillage and rebel persecution had left to them with our forces. They foraged our horses, they fed our famishing soldiers; and yet when they come here to ask compensation from Congress for services rendered under these circumstances, when they come here from the midst of the desolation and distress which their own loyalty to our flag has brought upon themselves and families, not as pensioners, not asking for the charity of Congress, but with a legal demand asking payment for value received, they are spurned from the Halls of Congress as if they were mendicants or rebels. No wonder, sir, that the cry comes from all over the southern States from Union men, "It were better for us if we had been rebels, then our property would have been protected, then our houses would have been left to us." But now when the war is over and victory has brought peace to us again, and throughout the length and breadth of our country our flag is still floating in supremacy; when they come under these circumstances, they are regarded in a light no better than the rebels themselves.

Sir, do we expect to rally a Union party in the South if we thus treat the just demands of the Union men? Is it any wonder that this cry comes to Congress? Are these Union men to be treated as rebels and no more? Is there any less justice in the claims which they present to Congress here for supplies actually furnished in carrying on the war than in the claims for supplies furnished by loyal men in the loyal States? Is this justice? I understand that one cause for reporting adversely to this bill was the apprehension that the claims would be so numerous and the burden of debt incurred would be so great that, under the existing circumstances of the country, we could not well meet the obligation. Sir, there is a great mistake in regard to that matter. Unfortunately—yes, sir, I say unfortunately—the number of these claims is but too small for the credit of the country; but small or great, and whether the country is able or unable, whatever may be its ability or disability to meet these just claims, the country can better afford to meet them, at least to assume the obligation to pay them at some time, than it can afford to reject them.

Sir, the character of this country is worth more than the few million dollars of debt that would be incurred by a recognition of these claims; and allow me to say that in my humble opinion, if the Congress of the United States rejects them, it will affix a stain upon the national escutcheon that no succession of years will ever be able to wipe away, and when the pen of the future historian writes the terrible character of this rebellion, its work will not be done; the ingratitude of Congress to the loyal men who have stood true to the flag during all these terrible years in the South will also demand some black lines to be inscribed upon the history of our country, in the chapter which shall record the incidents of this rebellion.

I trust that the Senate will allow this resolution to be referred, and I trust moreover that the Committee on the Judiciary will consider the matter, and will report some plan of relief for these noble men, these noble Romans, these men whom no persecution, no distress, no scorn, no contempt, no ostracism, nothing that the ingenuity of malice and rebellion could invent to traduce and destroy them, could overcome their fidelity to the flag, and they stand to-day as shining lights in a dark land, attesting their devotion to their country, and only asking that their just demands on the Government may be placed on an equal footing with the same character of demands on the other side of the line.

Mr. CLARK. I do not rise for the purpose of opposing the resolution of the Senator from West Virginia, but I desire to suggest to him that the better reference would be the Committee on Military Affairs, unless he has some particular preference in regard to committees. The Committee on Military Affairs naturally have more knowledge on this subject than the Judiciary Committee, from their familiarity with the business.

Mr. WILLEY. Perhaps the Senator did not hear me when I remarked that a bill for the amendment of the law now existing, looking to the accomplishment of this same object, has already been referred to the Committee on Military Affairs, and they have reported adversely, and indeed I offered this resolution proposing an inquiry by the Judiciary Committee, on the suggestion of a member of the Military Committee. It is a matter altogether immaterial to me to what committee it shall go; but I hope that to whatever committee the proposition may be referred, it will command the approbation of the committee, and that justice will be done to the claims of these persons.

Mr. DOOLITTLE. When this matter was before the Military Committee it was referred to me to look into as a member of the committee, and I made some inquiries on the subject. The bill as proposed conferred upon the Quartermaster General and the Commissary General the power to hear and determine these claims throughout not only the loyal States, as they are called, but the States wherein the rebellion had existed. From information which I received from the Commissary General and the Quartermaster General, and also at the War Department, I became satisfied that the cases which had already been thrown upon those Departments, and upon which they have been called on to act, have been so embarrassing and so numerous already that it was impossible for the officers at the head of those bureaus to give their personal attention and upon their personal responsibility to assume the duty of hearing and determining these claims; and it was deemed altogether unwise and dangerous to throw upon a bureau a vast number of cases to be heard and decided when the head of the bureau must of necessity trust the decision to mere clerks in the department under him, and that therefore it was necessary that some other tribunal should be created (if the Court of Claims itself is not empowered to hear and determine these claims) where both sides could be heard; where the party claiming damages upon the ground of his loyalty could appear, and where the Government could also appear to cross-examine the witnesses and investigate the claim, so as to know that the Government was not to be imposed upon by mere *ex parte* statements coming here from all that section of country over which our Army traversed, for supplies furnished to the Army, or pretended to be furnished to the Army. Persons will, as a matter of course, be tempted to assert their loyalty, and perhaps produce some evidence to show their loyalty in the absence of any one appearing for the Government. We should thus open a door into our Treasury which would take from it hundreds upon hundreds of millions; and therefore it was that the committee, upon my reporting the facts, were satisfied that this duty should not be imposed upon these branches of the War Department.

It is true, as my honorable friend from West Virginia has stated, that I suggested to him that it would be a proper matter to be considered by the Judiciary Committee whether any tribunal ought to be created, and how it should be created, so that these claims would actually be heard, and both sides be heard and properly passed upon with safety to the Government, and yet without doing injustice to the claimants. That was the ground substantially upon which the Committee on Military Affairs acted and upon which they instructed me to make the report.

Mr. WILLEY. I certainly would be the last person in the world to initiate a policy by which the Government would be imposed upon, or by

which claims presented by men who had not been loyal to the United States should be entertained and paid; but allow me by way of illustrating the propriety of some action in the case, just to read an account furnished by one of these men, received by me a day or two ago:

THE UNITED STATES

To NICHOLAS RHINE, Dr.
for (45) forty-five bushels of oats @ 60.....\$27 00
" (45) forty-five bushels of rye @ \$1 25..... 56 25
\$83 25

Eighty-three and 25-100 dollars.

I certify that the above account is just and correct, and that the articles so purchased are for public horses attached to my command, and that the same will be issued to the ration allowance, and that I cannot pay for the same for the want of funds.

H. F. HYMAN,
Captain Battery I, 1st regiment, Co. A, O. V., U. S. A.
CALIFASTER VALLEY, May 4, 1862.

I understand that this old man Rhine furnished not only these goods and others at various times to our forces, but furnished two loyal sons to the United States Army, one of whom, in evidence of his devotion, sleeps in southern soil, where he fell fighting bravely for his flag. When such a man—and there are many such—comes to the Congress of the United States simply asking payment for the supplies actually furnished to the United States, he should be placed upon an equal footing with a loyal man in a loyal State for such supplies furnished; and I think it would be exceedingly hard to reject the applications of such men, and to say that they are no better than the rebels among whom they lived.

Mr. WILSON. I have no objection to this resolution going to the Committee on the Judiciary. The Committee on Military Affairs have reported against the proposition submitted to them as stated by the Senator from Wisconsin, and I hold in my hand a bill prepared several days ago to repeal the law which authorized the Quartermaster General and the Commissary General to settle any of these accounts, and after action upon this resolution I propose to introduce that bill, and have it referred to the Military Committee. If the Committee on the Judiciary can devise any proper way, with proper guards, for entering upon the investigation and settlement of these demands, I should be very glad to support it; but I see plainly that hundreds of millions of dollars are to be called for from this Government to pay for damages and claims of various kinds and descriptions from the rebellious section of the country.

Mr. WILLEY. The Senator will observe that this does not apply to damages or anything of the kind.

Mr. WILSON. I understand that this proposition does not go to that extent; but I wish to say here now that I am opposed to paying one dollar for the damages occasioned by our armies or inflicted upon the people of the rebel States by our armies. I am opposed to it now, and I intend to oppose it so long as I have a seat in this body. Wherever we have taken property and used it for our armies and given receipts for it, I will fulfill the contract. We ought to do it. In those cases the parties ought to have their pay and have it promptly, and I suppose there are several such cases; but as to damages occasioned by the movements of our armies, or inflicted by our armies, I am opposed to payment now, and intend to oppose it to the end. The inhabitants of the States in rebellion must take the consequences of war and not inflict upon the people of this country the burden of having to pay for damages made necessary in order to subdue their rebellion.

I am perfectly willing that this resolution shall go to the Committee on the Judiciary, and I hope that committee will be able to devise some means by which the people of the loyal and disloyal States who have actually furnished supplies for our Army and have received receipts for the same shall obtain their pay as soon as possible. I do not, therefore, oppose the reference.

Mr. CLARK. I do not rise so much to talk to the resolution precisely as I do to comment on the remarks which have fallen from the Sen-

ator from Massachusetts. I cannot give my assent to them. It is the duty of this Government to be just, whether it has given a receipt or not. It is just as much the duty of this Government to pay for a house of a loyal man destroyed in West Virginia as it is to pay for the duck or the guns of a citizen of Massachusetts or a northern loyal State. The question is not where the man lives, but what service he has rendered your Government, or what you have taken from him which you ought to replace; and it will not do, in my judgment, for this Government blindly to say, "We will do this, and we will not do the other thing, even if we judge it to be right." The Government is to do right wherever the citizen may live who claims that it ought to do right. If the Government owes him a debt it ought to discharge it.

Sir, it is one of the things that we fought for, that we would hold the whole of this country under the jurisdiction of the national Government, and it must result from that, that we must be just to every citizen of that Government, wherever he resides. We have not fought to pay the citizens of the loyal States and turn the citizens of the disloyal States, if they have been true, out of doors or from under the Government's protection. We owe it to them all, and we owe it even more, if it can be possible, to those men who have stood true in this rage of rebellion and amid the rebels than we do to those of us who have not had that temptation. Sir, we never can know what those men have suffered. "Why," said a loyal man from Mississippi to me the other day, "I have known some of my neighbors to have lived two years in the woods, and never once gone home, because they would not be untrue or faithless to the Government." If such men have suffered losses and you have taken their property, shall you not pay them as well as a man who slept in his house every night and never was turned out, who never made any sacrifice except in the tax he has paid to the Government? Why, sir, it would be a reproach and a shame if we should acknowledge and act upon any such premises or foundation.

No, sir, we must be just; and let me say to the Senator from Massachusetts you have got to tax the people heavily and they will bear it if you are just; but if you are unjust, they will not bear it. Your Government must go upon its justice. Your people sustained you in putting down the rebellion. They will sustain you in being just to every citizen of the Government whom you owe, whatever may be the tax or the obligation imposed upon them. I would be careful, I would scrutinize; I never would pay a rebel a farthing except to buy him a rope; but where a man has been true, whether he lived in a loyal State or among rebels, I would be true to him. I would not exact faith and allegiance from him, and then turn him away from the door. Stand by the citizen, and the citizen will stand by you.

Mr. WILSON. Mr. President, I am not surprised at the earnest manner in which the Senator from New Hampshire has spoken. After having brought into this Senate and advocated paying for a building used by the rebels as an observatory to see the movements of our armies, I am not at all surprised at it. I say to that Senator if we are to pay the damages occasioned by the movements of our armies, hundreds of millions of dollars will be taken out of the public Treasury and put upon the people who fought the battles of this country. I will not vote a dollar of it.

The Senator talks about law. There is no law for it. We are asked to make a law for it. I am opposed to making a law for any such thing. I am opposed to paying the damages which our armies occasioned or inflicted. Are we to pay for the property destroyed by the march of Sherman's army from Atlanta to Savannah and from Savannah to North Carolina? Are we to pay for Phil Sheridan's destruction of property in the Shenandoah valley by the order of General Grant? We have destroyed millions and millions of property by our military movements. Are men to come here

now and tell us that they were loyal, and are the people of this country to be taxed to pay those men for the destruction occasioned or inflicted by our armies? Where is the law for it? The Senator says we are bound to do it by law. Where? Who made such a law and when was such a law made? No, sir, they want us to make a law of that character. I shall not vote for it. Thousands of men in this country have lost their all by the war. Are we to pay the merchants of New York, of Philadelphia, and of Boston for the losses occasioned by the war? Are we to pay them for their ships lost on the seas? Where are we to begin and where are we to stop?

I said in regard to the proposition made by the Senator from West Virginia that I was willing to pay loyal people who had furnished supplies for our Army, whether they lived in the loyal or the disloyal States. I am willing to treat one just as I will treat the other. Where we have given certificates that we have taken property there, I hold those certificates to be a contract; and if in some cases it can be clearly shown that the officers of our Army took property for the support of the Army, and that circumstances prevented their giving the proper vouchers for it, I am willing, on a most thorough and exact investigation, to pay for that property. But are we to pay for the thousands of dwellings burnt, for the miles of fence burnt up, for the vast amount of property destroyed by the march of our armies? Sir, all this was occasioned by the war; it was a part of the necessary loss brought upon the people by the movements of our armies, and I am not in favor of paying for the wood we have cut down or the fences we have burnt, or the wheat fields trampled under the march of our armies, whether it be in the loyal or disloyal States. We have had burdens enough imposed on the people of this country for generations to come, without having thousands and hundreds of thousands of traitors professing to be loyal, coming up to Congress every year and asking us to pay for every little damage occasioned by the movements of our armies. I do not believe in the justice of it. I believe it to be a wrong, utterly indefensible, to put upon the men who have saved this country, to put upon the soldiers of our armies who have by the orders of their commanders, or by the movements of the armies, destroyed property in their marches, the burden of paying for the property destroyed.

Sir, we have had a touch of this. A bill was passed at the last session, which, by an act that I regard as almost providential, did not become a law. Had it become a law, and had that bill been taken as a precedent here, it was a vote of more than \$500,000,000 out of the Treasury, and you had nowhere to stop without denying your own action. It is before us, and I trust in God it never is to pass, and that no such legislation is to receive the sanction of this nation that is to provide for the property destroyed by the movements of our armies.

Mr. CLARK. Mr. President, the Senator from Massachusetts is kind enough to say that he is not surprised at the course that I take. Let me tell that Senator that I am surprised at the course he takes. I was surprised to hear him say in the Senate yesterday, that he would not give a vote even if it were right. Now, sir, I never shall do that. Whatever may be the consequences, if I come to the conclusion that a thing is right to be done, I shall give my vote to do it; and so will the Senator from Massachusetts when he reflects. No man will do right more readily than he. It is only in his warmth and earnestness and zeal to save the country that he would be unjust to the citizens of the country by not discriminating between what ought to be done and what ought not to be done.

I am not afraid, Mr. President, to look these claims against the Government in the face. I have no idea that any large mass of them is to be paid. I have no idea that one in ten deserves to be paid among all the disloyal country; but if in those ten there is one to be paid, I will look after that one and rejoice that the one

which was lost is saved and has not gone with the other nine. I do not believe, I will not believe, that the men who fought and marched from the loyal States to save your country will be unjust to the men who fought and marched from the disloyal States. I do not believe that the men in Massachusetts would sanction the principle that the men in West Virginia true to your flag should be turned away by the cold shoulder of the Government. Sir, the men living in New England not only have brave hearts but they have warm hearts, and they will extend the hand of fellowship to the true soldier, be he wherever he may be, or be he white or be he black. The question is not where he lives, as I said before; the question is what he has done and what is the heart that he bears within his bosom. The question is not whether he has got a receipt in his pocket; the question is whether the Government is under obligation to him and ought to discharge it.

The Senator refers to the act that we passed at the last session that was defeated by a mistake of the clerk. Can the Senator tell the principle on which that act went? Can he tell whether that principle would embrace one hundred or five hundred or only ten cases? I can tell him that the man who made that claim was as loyal as any man in all the country, and that you took his property as much as you ever took the property of any person in the necessities of war.

Mr. President, this Senate is too just, it has committed to it too vast interests ever to turn its back upon its citizens; it will draw no line along by the Potomac and thence between Kentucky and Tennessee away to the West; but this is the whole country, and the loyal citizens of the whole country are the citizens of your Government demanding your protection, and they must and ought to have it. They will have it, and by and by the broad mantle of your justice and your love will cover all this country, and we shall be in the end, I hope, not rebels and loyalists, but all true to the flag, and ever hereafter maintaining it.

The resolution was agreed to.

APPORTIONMENT OF REPRESENTATION.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States.

Mr. DOOLITTLE. Before my friend from Massachusetts proceeds, I desire to submit an amendment which I shall offer to the pending resolution before the Senate by way of substitute, and I ask to have it printed and laid on our tables.

Mr. FESSENDEN and others. Let it be read.

The Secretary read the amendment of Mr. DOOLITTLE, which was to substitute for the article of amendment proposed by the House of Representatives the following:

After the census to be taken in the year 1870 and each succeeding census, Representatives shall be apportioned among the several States which may be included within this Union according to the number in each State of male electors over twenty-one years of age qualified by the laws thereof to choose members of the most numerous branch of its Legislature. And direct taxes shall be apportioned among the several States according to the value of the real and personal taxable property situated in each State not belonging to the State or to the United States.

The proposed amendment was ordered to be printed.

Mr. SUMNER concluded the speech which he began yesterday. To preserve the continuity of his argument, the speech is now published complete, as follows:

Mr. SUMNER. Mr. President, I begin by expressing my acknowledgments to the Senator from Maine, who yields the floor to me to-day, and also my sincere regret that anything should interfere with the opening of this debate by him. It is his right, and I enter upon it now only by his indulgence.

I am not insensible to the responsibility which I assume in setting myself against a proposition already adopted in the other House, and having the recommendation of a commit-

tee to which the country looks with such just expectation, and to which, let me say, I look with so much trust. But after careful reflection, I do not feel that I can do otherwise. Knowing, as I do, the eminent character of the committee, its intelligence, its patriotism, and the moral instincts by which it is moved, I am at a loss to understand the origin of a proposition which seems to me nothing else than another Compromise of Human Rights, as if the country had not already paid enough in costly treasure and more costly blood for such compromises in the past. I had hoped that the day of compromise with wrong had passed forever. Ample experience shows that it is the least practical mode of settling questions involving moral principles. A moral principle cannot be compromised.

Here are the words of the amendment:

Provided, That whenever the elective franchise shall be denied or abridged on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation.

I may be mistaken, sir, but I think it difficult to read this proposition without being painfully impressed by the discord and defilement which it will introduce into the Constitution, having among its specific objects the guarantee of a republican form of government. The discord is apparent on the face. The defilement is none the less apparent. Go back, if you please, to the adoption of the Constitution, and you will gratefully acknowledge that the finest saying of the times was when Madison, evidently inspired by the Declaration of Independence, and determined to keep the Constitution in harmony with it, insisted in well-known words, that "it was wrong to admit in the Constitution the idea of property in man." Of all that has come to us from that historic Convention, where Washington sat as President, and Franklin and Hamilton sat as members, there is nothing having so much of imperishable charm. It was wrong to admit in the Constitution the idea that man could hold property in man. Accordingly, in this spirit the Constitution was framed. This offensive idea was not admitted. The text at least was kept blameless. And now, after generations have passed, surrounded by the light of Christian truth and in the very blaze of Human Freedom, it is proposed to admit in the Constitution the twin idea of Inequality in Rights, and thus openly set at naught the first principles of the Declaration of Independence and the guarantee of a republican government itself, while you blot out a whole race politically. For some time we have been carefully expunging from the statute-book the word "white," and now it is proposed to insert in the Constitution itself a distinction of color. An amendment, according to the dictionaries, is "an improvement"—"a change for the better." Surely the present proposition is an amendment which like the crab goes backward.

Such is its appearance when you regard it merely in its form, without penetrating its substance; but here it is none the less offensive. The case is plain. There are among us four million citizens, now robbed of all share in the government of their country, while at the same time they are taxed according to their means, directly and indirectly, for the support of the Government. Nobody can question this statement. And this bare-faced tyranny of taxation without representation it is now proposed to recognize as not inconsistent with fundamental right and the guarantee of a republican government. Instead of blasting it you go forward to embrace it as an element of political power.

If, by this, you expect to induce the recent slave-master to confer the right of suffrage without distinction of color, you will find the proposition a delusion and a snare. He will do no such thing. Even the bribe you offer will not tempt him. If, on the other hand, you expect to accomplish a reduction of his political power, it is more than doubtful if you will succeed, while the means you employ are unworthy of our country. There are tricks and evasions possible, and the cunning slave-master

will drive his coach and six through your amendment staffed with all his representatives. Should he cheat you in this matter, it will only be a proper return for the endeavor on your part to circumvent him at the expense of fellow-citizens to whom you are bound by every obligation of public faith.

I know not if others will see this uncertainty as I see it; but there are two practical consequences having a direct influence on the times, which all must see as following at once from the adoption of the so-called amendment. In the first place, it will be a present renunciation of all power under the Constitution to apply the remedy for a grievous wrong, when the remedy, even according to your own recent example, is actually in your hands. You have already in this Chamber, only last Friday, decreed civil rights without distinction of color. Who can doubt, that by the same title you may decree political rights also, without distinction of color? But, having the power, it is your duty to exercise it. You cannot evade this duty without becoming partakers in the wrong. And this brings me to the second practical consequence which must ensue from the adoption of this proposition. You will hand over wards and allies, through whom the Republic has been saved, and therefore our saviors, to the control of vindictive enemies, to be taxed and governed without their consent; and this you will do for a consideration "nominated in the bond," by virtue of which men may do a great wrong, provided they will submit as a *quid pro quo* to a proportionate abridgment of political power. Who does not admire the English patriot who once said that he would give his life to serve his country, but he would not do a mean thing to save it. I hope we may act in this spirit. Above all do not copy the example of Pontius Pilate, who surrendered the Saviour of the World, in whom he found no fault at all, to be scourged and crucified, while he set at large Barabbas, of whom the gospel says in simple words, "Now Barabbas was a robber."

I speak with a sincere deference for those valued friends from whom I differ; but I submit that the time has come at last when we should deal directly and not indirectly with the great question before us, and when all compromise of Human Rights should cease, and especially there should be no thought of a three-headed compromise, which, after degrading the Constitution, renounces a beneficent power essential to the safety of the Republic, and, lastly, borrowing an example from Pontius Pilate, turns over a whole race to sacrifice. These objections I now present briefly on the threshold, without argument, and I advance to the main question which must dominate this whole debate. By way of introduction I send to the Chair a counter-proposition, which I desire to have read.

The Secretary read the following joint resolution:

A joint resolution carrying out the guarantee of a republican form of government in the Constitution of the United States, and enforcing the constitutional amendment for the prohibition of slavery.

Whereas it is provided in the Constitution that the United States shall guaranty to every State in the Union a republican form of government; and whereas by reason of the failure of certain States to maintain governments which Congress might recognize, it has become the duty of the United States, standing in the place of guarantor, where the principal has made a lapse, to secure to such States according to the requirement of the guarantee, governments republican in form; and whereas further, it is provided in a recent constitutional amendment that Congress may "enforce" the prohibition of slavery by "appropriate legislation," and it is important to this end, that all relics of slavery should be removed, including all distinction of rights on account of color: Now, therefore, to carry out the guarantee of a republican form of government and to enforce the prohibition of slavery, Be it resolved: That the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be no Oligarchy, Aristocracy, Caste, or Monopoly invested with peculiar privileges and powers, and there shall be no denial of rights, civil or political, on account of color or race anywhere within the limits of the United States or the jurisdiction thereof; but all persons therein shall be equal before the law, whether in the court-room or at the ballot-box. And this statute, made in pursuance of the Constitution, shall be the supreme law of the land, anything in the Constitution or laws of any State to the contrary notwithstanding.

Mr. SUMNER. Mr. President, in opening this great question, I begin by expressing a heart-felt aspiration that the day may soon come, when the States lately in rebellion may be received again into the copartnership of political power and the full fellowship of the Union. But I see too well that it is vain to expect this day, which is so much longed for, until we have obtained that security for the future, which is found only in the Equal Rights of All, whether in the court-room or at the ballot-box. This is the Great Guarantee, without which all other guarantees will fail. This is the sole solution of our present troubles and anxieties. This is the only sufficient assurance of peace and reconciliation. To the establishment of this Great Guarantee, as a measure of safety and of justice, I now ask your best attention.

The powers of Congress over this subject are as ample as they are beneficent. From four specific fountains they flow—each one sufficient for the purpose—all four swelling into an irresistible current, and tending to one conclusion: first, *the necessity of the case*, by which, according to the analogies of the "Territories," disloyal States, having no local government, lapse under the authority of Congress; secondly, *the Rights of War*, which do not expire or lose their grasp, except with the establishment of all needful guarantees; thirdly, the constitutional injunction to guaranty a Republican Form of Government; and, fourthly, the constitutional amendment by which Congress, in words of peculiar energy, is empowered "to enforce" the abolition of slavery "by appropriate legislation." According to the proverb of Catholic Europe, all roads lead to Rome, and so do all these powers lead to the jurisdiction of Congress over this whole subject. No matter which road you take, you arrive at the same point. Two of these powers have already been discussed exhaustively. The latter have been less considered, and it is on these that I shall speak especially to-day. I propose, with the permission of the Senate, to show the necessity and duty of exercising the jurisdiction of Congress so as to secure that essential condition of a Republican Government, the Equal Rights of All. And I put aside, at the outset, the metaphysical question, worthy of the schoolmen in the dark ages, whether certain States are *in* the Union or *out* of the Union. This is a question of form and not of substance, of words only and not of facts; for the substance is clear and the facts are unanswerable. All are agreed, according to the authority of President Lincoln, in his latest utterance before his lamented death, that these States have ceased to be "in practical relations with the Union;" and this is enough to sustain the jurisdiction of Congress, even without the plain words of the Constitution in two separate texts.

Necessity and duty commingle. If what is necessary is not always according to duty, surely duty is always a necessity. On the present occasion they unite in one voice for the Great Guarantee. It is at once a necessity and a duty. Glancing at the promises of the fathers, I shall exhibit: first, the overruling necessity of the times; and secondly, the positive mandate of the Constitution, compelling us to guaranty "a republican form of government," and thus to determine what is meant by this requirement; all of which has been fortified by the constitutional amendment authorizing Congress to enforce the abolition of slavery.

PROMISES OF THE FATHERS.

In the life of a nation, as in that of an individual, there are special moments when outstanding promises must be performed under peril of ruin and dishonor. Such is the present moment in the life of our Republic. There are sacred promises beginning with our history yet unperformed, and now the hour has sounded when continued failure on our part will open the door to a long train of woes. And there are yet other promises recently made for the national defense against a wicked rebellion, which, like those of an earlier date, are unper-

formed also. But the latter are all included in the former, so that our whole duty now centers in the performance of those sacred promises which are coeval with the national life.

Our fathers solemnly announced the Equal Rights of all men, and that Government had no just foundation except in the consent of the governed; and to the support of the Declaration, heralding these self-evident truths, they pledged their lives, their fortunes, and their sacred honor. Looking at this Declaration now, it is chiefly memorable for the promises it then made. Mighty words! Fit utterance for the giant infant then born. Fit device for the great Republic taking its place in the family of kings. Fit lesson for mankind. And now the moment has come when these vows must be fulfilled to the letter. In securing the Equal Rights of the freedman, and his participation in the Government, which he is taxed to support, we shall perform those early promises of the Fathers, and at the same time the supplementary promises only recently made to the freedman as the condition of alliance and aid against the Rebellion. A failure to perform these promises is moral and political bankruptcy. It is repudiation of moral and political duties, ending in the repudiation of the financial obligations of the country. So are your duties to the national freedman linked with your obligations to the national creditor, that you cannot repudiate the former without impairing the value of the latter. Whoever disowns any of the promises of the Republic leads the way in repudiation.

But you cannot be thus guilty. Even, if indifferent to the vows of the Fathers, necessity, in harmony with the plain injunction of the Constitution, will constrain you. On this there can be no doubt. You must perform these promises, and this brings me to the overruling necessity of the times.

OVERRULING NECESSITY OF THE TIMES.

I. Necessity is a peremptory instructor. It gives the law which no man can disregard. It will not hearken to apology or postponement. With a voice of command it insists that its behests shall be obeyed. And now this very necessity speaks to us with familiar tones.

Twice already, since rebel Slavery rose against the Republic, it has spoken to us, insisting; first, that the slaves should be declared free; and secondly, that muskets should be put into their hands for the common defense. Yielding to necessity, these two things were done. Reason, humanity, justice were powerless in this behalf; but necessity was irresistible. And the result testifies how wisely the Republic acted. Without emancipation, followed by the arming of the slaves, rebel Slavery would not have been overcome. With these the victory was easy.

At last the same necessity, which insisted first upon emancipation and then upon the arming of the slaves, insists with the same unanswerable force upon the admission of the freedman to complete Equality before the law, so that there shall be no ban of color in court-room, or at the ballot-box, and government shall be fixed on its only rightful foundation—the consent of the governed. Reason, humanity, and justice, all of which are clear for this admission of the freedman, may fail to move you; but you must yield to necessity, which now requires that these promises shall be performed.

The demand which I now make stands on necessity. You must grant it, or you will peril the peace of this Republic, and postpone indefinitely the great day of security and reconciliation. Therefore, in the name of that national safety, which is the supreme law, I begin my appeal. Whatever is required for the national safety is constitutional. Not only it *may* be done, but it *must* be done. Not to do it is to fail in duty. This Republic must be saved.

When I speak of necessity, I mean that overruling compulsion which cannot be disobeyed. In the present case it is compounded of moral duty and the instinct of self-preservation. The moral duty to perform these promises is as plain as the decalogue. The instinct of self-preser-

vation, impelling us to save the Republic, is in harmony with the requirements of moral duty. In denying justice now, you will not only be guilty of grievous wrong, but you will expose your country to incalculable calamity. The case is too clear for debate.

The irresistible argument for Emancipation was always twofold: first, its intrinsic justice, and secondly, its necessity for the safety of the Republic; all of which was expressed by President Lincoln in the closing words of his great Proclamation; when he said:

"And upon this act, sincerely believed to be an act of justice warranted by the Constitution upon military necessity, I invoke the considerate judgment of mankind and the gracious favor of Almighty God."

But the argument for Enfranchisement, which is nothing but the complement of Emancipation, is the same. Enfranchisement is not only intrinsically just, but it is necessary to the safety of the Republic. There is no reason, point, or suggestion once urged for Emancipation which may not be urged now for Enfranchisement. I shall not err if I say that Emancipation itself will fail without Enfranchisement.

By Enfranchisement I mean the establishment of the Equal Rights of All, so that there shall be no exclusion of any kind, civil or political, founded on color, and the promises of the Fathers shall be fulfilled. Such an act will be, in the words of President Lincoln, "an act of justice warranted by the Constitution upon military necessity."

As an act of justice, Enfranchisement has a necessity of its own. No individual and no people can afford to be unjust. Such an offense will carry with it a curse, which, sooner or later, must drag its perpetrator to the earth. But here the necessity from considerations of justice is completed and intensified by the positive requirements of the national safety, plainly involved in the performance of these promises.

Look at the unhappy freedman blasted by the ban of exclusion. He has always been loyal, and now it is he and not the rebel master who pays the penalty. From the nature of the case, he must be discontented, restless, anxious, smarting with a sense of wrong and a consciousness of rights denied. He will not work as if taken by the hand and made to feel the grasp of friendship. He will be idle, thriftless, unproductive. Industry will suffer. Cotton will not grow. Commerce will not thrive. Credit will fail; nay, it will die before it is born. On the other hand, his rebel master, with hands still red with the blood of his fellow-countrymen, will be encouraged in that assumption of superiority which is a part of the Barbarism of Slavery; he will predominate as in times past; he will be exacting as of old; he will be harsh, cruel, and vindictive; he will make the unprotected and trembling freedman suffer for the losses and disappointments of the Rebellion; he will continue to insult and prostitute the wife and children who, in ceasing to be chattels, have not ceased to be dependents; he will follow the freedman to by-ways and to obscure places, where he will once again play the master and assert his ancient title as lord of the lash. Scenes of savage brutality and blood must ensue. All this, which reason foretells, the short experience of a few months already confirms. And all this you sanction, when you leave the freedman despoiled of his rights.

But the freedman, though forbearing and slow to anger, will not submit to outrage always. He will resist. Resistance will be organized. And here will begin the terrible war of races foreseen by Jefferson, where God, in all His attributes, has none which can take part with the oppressor. The tragedy of St. Domingo will be renewed on a wider theater, with bloodier incidents. Be warned, I entreat you, by this historic example. It was the denial of rights to colored people, after successive promises, which caused that fearful insurrection. After various vicissitudes, during which the rights of citizenship were conferred on free people of color and then resumed, the slaves at last rose, and here the soul sickens at the recital. Then came Toussaint L'Ouverture, a black of an-

mixed blood, who placed himself at the head of his race, showing the genius of war, and the genius of statesmanship also. Under his magnanimous rule the beautiful island began to smile once more; agriculture revived; commerce took a new start; the whites were protected in person and property; and a constitution was adopted acknowledging the authority of France, but making no distinction on account of color or race. In an evil hour this policy was reversed by a decree of Napoleon Bonaparte. War revived, and the French army was compelled to succumb. The connection of St. Domingo with France was broken, and this island became a black republic. All this dreary catalogue of murder, battle, sorrow, and woe began in the denial of justice to the colored race. And only recently we have listened to a similar tragedy from Jamaica, thus swelling the terrible testimony. Like causes produce like effects; therefore, all this will be ours if we madly persist in the same denial of justice. The freedmen among us are not unlike the freedmen of St. Domingo or Jamaica; they have the same "organs, dimensions, senses, affections, passions," and above all, the same sense of wrong, and the same revenge.

To avoid insurrection and servile war, big with measureless calamity, and even to obtain that security which is essential to industry, agriculture, commerce, and the national credit, you must perform the promises of the Republic, originally made by our fathers, and recently renewed by ourselves. But duty done will not only save you from calamity, and give you security; it will also prepare the way for all the triumphs of the future, when through assured peace there shall be tranquillity, prosperity, and reconciliation, all of which it is vain to expect without justice.

The freedman must be protected. To this you are specially pledged by the Proclamation of President Lincoln, which, after declaring him "free," promises to *maintain* this freedom, not for any limited period, but for all time. But this cannot be done so long as you deny him the shield of *impartial laws*. Let him be heard in court and let him vote. Let these rights be guarded sacredly. Beyond even the shield of *impartial laws*, he will then have that protection which comes from the consciousness of manhood. Clad in the full panoply of citizenship he will feel at last that he is a man. At present he is only a recent chattel, awaiting your justice to be transmuted into manhood. If you would have him respected in his rights, you must begin by respecting him in your laws. If you would maintain him in his freedom, you must begin by maintaining him in the equal rights of citizenship.

And now the national safety is staked on this act of justice. You cannot sacrifice the freedman without endangering the peace of the country, and the stability of our institutions. Everything will be kept in jeopardy. The national credit will suffer. Business of all kinds will feel the insecurity. The whole land will gape with volcanic fire, ready to burst forth in a fatal flood. The irrepressible conflict will be prolonged. The house will continue divided against itself. From all these things, Good Lord, deliver us! But, under God, there is but one deliverance, and this is thorough justice.

I have said that the national credit will suffer; but this does not disclose the whole financial calamity. It is idle to suppose that recent rebels, restored to the privileges of citizenship, will give their votes cordially for that national debt which has been incurred in the suppression of their rebellion, or that they will willingly tax themselves for the interest on those enormous outlays by which their darling Slavery has been overthrown. The evidence shows that they are already set against any such contribution. As time advances, and their power is assured, in conjunction with northern sympathizers, they will openly oppose it; or if they consent to recognize it, they will impose the condition that the rebel debt shall be recognized also. All this is inevitable, if you give them the power; it is madness to tempt them.

But they will not have the power if the promises to the freedmen are performed. Here again justice to the freedman becomes a necessity.

It is sometimes said that we must not require justice to the freedman in the rebel States, because justice is still denied to the colored citizen in Connecticut and New York. Idle words of inconceivable utterance; as if the two cases bore any imaginable resemblance. There are rivers in the North and rivers in the South, but who says that on this account the two regions are alike? The denial of justice to the colored citizens in Connecticut and New York, is wrong and mean; but it is on so small a scale that it is not perilous to the Republic, nor is it vital to the protection of the colored citizen, and the protection of the national creditor. You are moved to Enfranchisement in Connecticut and New York, simply in order to do justice to a few individuals; but you are moved to it in the rebel States, in order to do justice to multitudes, also to save the Republic, which is imperiled by injustice on such a gigantic scale, and to supply needful protection to the national freedman and the national creditor. From failure on our part there is in one case little more than shame, while in the other case there is positive danger to the Republic, involving the fate of the national freedman and the national creditor, to whom we are bound by the most solemn ties. To a good man injustice, even on a small scale, cannot be tolerable. He will feel the necessity of resisting it; but where the victims are counted by millions, this necessity becomes a transcendent duty, quickened and invigorated by all the instincts of self-preservation. Therefore, I again say, for the national safety, do not fail to keep these promises.

It is sometimes said that the Constitution of the United States expressly reserves to the States, the power of determining who shall vote, because it declares, that "the electors in each State shall have the *qualifications* requisite for electors of the most numerous branch of the State Legislature." But this assumption proceeds on the fatal error, that, at any time under the Constitution, which makes no distinction of color, there can be any such oligarchical distinction as a "qualification," founded on color. But even assuming that this might be done in a period of peace, yet, beyond all doubt, at the present moment, from the necessity of the case—from the Rights of War—from the Constitutional clause of guarantee—and from the Constitutional Amendment, Congress, by its quadruple powers, is completely authorized to do all that it thinks best for the national security and the national faith in the rebel States. As well question Farragut in the maintop of his steamer—Sherman in his march across Georgia—or Grant in the field before Richmond, as question the authority of Congress on this occasion. But if the authority exists it must be exercised.

GUARANTEE OF A REPUBLICAN FORM OF GOVERNMENT.

II. And this brings me to the next form of this necessity and duty, as they appear in the guarantee clause of the Constitution. It is expressly declared that "the United States shall guaranty to every State in this Union a Republican form of government." These words, when properly understood, leave no alternative. They speak to us with no uncertain voice.

The magnitude of the question now before us may be seen in the postulate with which I begin. Assuming that there has been a lapse of government in any State, so as to impose upon the United States the duty of executing this guarantee, then do I insist that it is the bounden duty of the United States to see that such State has a "Republican government," and, in the discharge of this bounden duty, they must declare that a State, which in the foundation of its government, sets aside "the consent of the governed"—which imposes taxation without representation—which discards the principle of Equal Rights, and which lodges power exclusively with an Oligarchy, Aristocracy, Caste, or Monopoly, cannot be recognized as a "Repub-

lican government," according to the requirement of American Institutions. Even if it may satisfy some definition handed down from antiquity or invented in monarchical Europe, it cannot satisfy the solemn injunction of our Constitution. For this question I now ask a hearing. Nothing in the present debate can equal it in importance. Its correct determination will be an epoch for our country and for mankind.

Believe me, sir, this is no question of theory or abstraction. It is a practical question which you are summoned to decide. Here is the positive text of the Constitution, and you must now affix its meaning. You cannot evade it; you cannot forget it, without an abandonment of duty. Others in vision or aspiration have dwelt on the idea of a Republic, and they have been lifted in soul. You must consider it, not merely in vision or aspiration, but practically as legislators, in order to settle its precise definition, to the end that the constitutional "guarantee" may be performed. Your powers and duties are involved in this definition. The character of the Government founded by our fathers is also involved in it. There is another consideration, which must not be forgotten. In affixing the proper meaning to the text, and determining what is a "Republican government," you act as a court in the last resort from which there is no appeal. You are sole and exclusive judges. You may decide as you please. Rarely in history has such an opportunity been offered to the statesman. You may raise the name of Republic to majestic heights of justice and truth, or you may let it drag low down in the depths of wrong and falsehood. You may make it fulfill the idea of John Milton, when he said that "a commonwealth ought to be but as one huge Christian personage, one mighty growth or stature of an honest man, as big and compact in virtue as in body;" or you may let it shrink into the ignoble form of a pretender, with the name of Republic, but without its soul.

ORIGIN OF THE GUARANTEE.

Before considering this vital question, it will be proper to look at the origin of this "guarantee," and see how it obtained a place in the Constitution. Perhaps there is no clause which was more cordially welcomed; nor does it appear that it was subjected to any serious criticism in the National Convention, or in any State Convention. It is not found in the Articles of Confederation. But we learn from the *Federalist* (No. 21) "that the want of this provision was felt as a capital defect in the plan of the Confederation." Mr. Madison, in a private record made in advance of the National Convention, and which has only recently seen the light, enumerates among the defects of the Confederation what he calls "want of guaranty to the States of their Constitutions and laws against internal violence," and he then proceeds to anticipate danger from slavery, which could be counteracted only by such a "guarantee." In showing why this was needed he says that, "according to republican theory, right and power being both vested in the majority, are held to be synonymous; according to fact and experience, a minority may, in an appeal to force, be an overmatch for the majority," and he then adds, in words which furnish a key to the "guarantee" afterwards adopted, "where slavery exists the republican theory becomes still more fallacious;" (*Madison's Writings*, vol. i, p. 322)—thus showing that, at its very origin, it was regarded as a check upon slavery.

Hamilton was not less positive than Madison. In his sketch of a Constitution, submitted to the National Convention at an early stage of its proceedings, this "guarantee" will be found, and in the elaborate brief of his argument on the Constitution, (*Hamilton's Works*, vol. ii, p. 463,) it is specified as one of its "miscellaneous advantages." The last words of this remarkable paper are "guarantee of Republican Governments." Randolph, of Virginia, in his sketch of a Constitution proposed the "guarantee," and, in a speech setting forth the evils of the old system, he said that "the remedy must be in the republican principle." (*Elliot's*

Debates, vol. v, pp. 127, 128.) Colonel Mason, of Virginia, taking up the same strain, said that, though the people might be unsettled on some points, they were settled as to others, among which he put foremost "an attachment to republican governments." (*Ibid*, 217.)

The proposition in its earliest form was "that a republican government, and the territory of each State, ought to be guaranteed by the United States to each State." (*Ibid*, 128.) This was afterward altered so as to read, "that a republican Constitution and its existing laws ought to be guaranteed to each State by the United States." Gouverneur Morris made haste to say that the proposition in this form was "very objectionable," and he added that he should be very unwilling that such laws as exist in Rhode Island should be guaranteed. (*Ibid*, 352.) After discussion, it was amended, on the motion of Mr. Wilson, the learned and philosophical delegate from Pennsylvania, afterward of the Supreme Court of the United States, so as to read, "that a republican form of government shall be guaranteed to each State, and that each State shall be protected against foreign and domestic violence," (*Ibid*, 333;) and, in this form, it was unanimously adopted. (*Journal of Convention*, 113-189.) Afterward it underwent modifications in the Committee of Detail and the Committee on Style, (*Ibid*, 381,) until it received the final form which it now has in the Constitution, as follows:

"The United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the Legislature, or of the Executive, when the Legislature cannot be convened, against domestic violence."

Thus stands the "guarantee." If any further reason be required for its introduction into the Constitution it will be found in the prophetic language of the *Federalist*:

"It may possibly be asked, what need there could be of such a precaution and whether it may not become a pretext for alterations in the State governments without the concurrence of the States themselves. These questions admit of ready answers. If the interposition of the General Government should not be needed, the provision for such an event will be a harmless superfluity only in the Constitution. But who can say what experiment may be produced by the caprice of particular States, by the ambition of enterprising leaders, or by the intrigue and influence of foreign Powers?"—*The Federalist*, No. xxi; see also *Story's Commentaries on the Constitution*, vol. ii, sec. 1811.

The very crisis herein anticipated has arrived. "The caprice of particular States," and "the ambition of enterprising leaders" have done their worst. And now the "guarantee" must be performed, not only for the sake of individual States, but for the sake of the Union to which they all belong, and to advance the declared objects of the Constitution, specified in its preamble.

The text of this great undertaking is worthy of study. No stronger or more comprehensive words could be employed, whether we regard the object, the party guarantying, or the party guaranteed. The express object is a "republican form of government." This is plain enough. The party guarantying is not merely the Executive or some specified branch of the National Government, but "the United States," or in other words, the Nation. The Republic, which is the impersonation of all, guaranties a "republican form of government," and every branch of the National Government must sustain the "guarantee," including especially Congress, where is the collected will of the people. The obligation is not less broad when we consider the party guaranteed. Here there can be no evasion. The "guarantee" is not merely for the advantage of individual States, but for the common defense and the general welfare. It is a "guarantee" to each in the interest of all; and, therefore a "guarantee" to all. And such is the solidarity of States in the Union, that the good of all is involved in the good of each. For each and all, then, this "guarantee" must be performed when the *casus fœderis* arrives. As a guarantor, the Republic, according to a familiar principle, is called to act on the default of the party guaranteed; but when the default has occurred, then the duty is fixed in all its amplitude.

WHAT IS A REPUBLICAN GOVERNMENT?

The question then returns, what is "a Republican form of government," according to the requirement of the Constitution of the United States? Mark, if you please, that it is not the meaning of this term, according to Plato and Cicero; nor even according to the examples of history; nor according to the definitions of monarchical writers or lexicographers; but what is "a Republican form of government" according to the requirements of the Constitution of the United States? Of course these important words were not introduced and unanimously adopted without a purpose. They must be interpreted so as to have a real meaning. Any interpretation which renders them insignificant is on this account to be discarded as irrational and valueless, if not dishonest. They cannot be treated as a phrase only; nor as a dead letter; nor as an empty figure-head. Nor can they be treated as a mere profession and nothing more, so that the Constitution shall merely seem to be republican; reversing the old injunction "to be rather than to seem"—*Esse quam videri*. They must be treated as real. Thus interpreted they become at once a support of Human Rights and a balance-wheel to our whole political system.

REJECTED DEFINITIONS.

In determining their signification, I begin by putting aside what is vague, unsatisfactory, and inapplicable, in order to bring the inquiry directly to American Institutions.

I put aside all illustration derived from the speculations of ancient philosophers, because, on careful examination, it appears that the term "Republic," as used by them, was so absolutely different from any idea among us as to exclude their definition from the debate. This captivating term is of Roman origin. It is the same as Commonwealth and means the public interests. As originally employed, it was not a specific term, describing a particular form of government, but a general term, embracing all Governments, whether kingly, aristocratic, democratic, or mixed. Its equivalent in Greece was "Polity," which was the general term for all Governments. Therefore, the definition of a Republic, according to these ancient masters, is simply the definition of an organized Government, whether kingly, aristocratic, democratic, or mixed. Following this definition the words of the Constitution are only the "guarantee" of an organized Government, without determining its character. This, of course, leaves open the very question now under consideration.

While the nomenclature of ancient philosophers cannot be cited in determining the definition of a Republic, we may, nevertheless, be encouraged by them in demanding that all government, under whatever name it may be called, shall be to establish justice and secure the general welfare. Thus Plato, who commenced these interesting speculations, is pleased to liken government to a just man, delighting in justice always, however he may be treated by others; and the philosopher insists that every man is a government to himself, as every community is a government to itself. According to him, every well-ordered man, like every well-ordered community, is a Republic. Aristotle, in a different vein, and with more precision, says, in most suggestive words, that "every political society is a sort of community or partnership," (*Aristotle's Politics*, book i, cap. i,) that "the object of all good government is the common good," (book iii, cap. iv,) that "it is the best plan to admit to a participation in the governing power as many as can be admitted with safety; for where large numbers are excluded, there will be discontent and danger," (*Ibid*, book iii, cap. vi,) and that "when the One, the Few, or the Many govern well and for the common good, theirs must be called a good Government." (*Ib.*) Cicero gives to the same ideas new fervor and expansion, when he says, "A Republic is for the good of the whole people. But by the people I do not mean every assemblage of men, anyhow gathered together, but an assemblage united by a common accord respecting rights, and a common enjoyment of

the public weal." (*De Republica*, cap. xxv.) And then again, in another place, the Roman philosopher says, "Liberty can have no certain dwelling in any state *except where the laws are equal* and the power of public opinion is supreme." (*Ibid*, cap. xxxi.) But all these requirements or aspirations are applicable to any Government, of whatever form; and it is well known that Cicero recorded his preference for a Government tempered by an admixture of the three different kinds; so that we are not advanced in our definition, unless we insist that our Republic should have all those virtues which are accorded to the ideal Commonwealth. And yet there are two principles which all these philosophers teach us: the first is justice, and the second is the duty of seeking the general welfare.

I next put aside the examples of history, as absolutely fallacious and inapplicable. Governments in all ages have been called Republics, which can be no example to us. Indeed, there is hardly a government, from that of the great hunter, Nimrod, down to insulted and partitioned Poland, which has not been called a "Republic." In 1772, only a few years before the adoption of the National Constitution, Russia, Austria, and Prussia, after dividing Poland, undertook to establish certain fundamental laws for this conquered country, one of which was as follows:

"The government of Poland shall be forever free, independent and republican in form. The true principle of said government consisting in the strict execution of its laws and the equilibrium of the three estates, namely, the king, the senate, and the equestrian order."—*John Adams's Works*, vol. iv, p. 370.

But a government thus composed cannot be recognized in this debate as "republican in form."

At the adoption of the Constitution, the most competent persons, who disagreed on other things, agreed in discarding these examples. Alexander Hamilton and John Adams met here on common ground. The former, in the brief of his argument on the Constitution, thus exhibits the various forms of government to which the term "Republic" has been applied:

"A republic, a word used in various senses. Has been applied to aristocracies and monarchies. (1.) To Rome under kings. (2.) To Sparta, though a Senate for life. (3.) To Carthage, though the same. (4.) To United Netherlands, though Stadtholder, and hereditary nobles. (5.) To Poland, though aristocracy and monarchy. (6.) To Great Britain, though a monarchy."—*Hamilton, Works*, vol. ii, p. 463.

John Adams, in his *Defense of the Constitution of the United States*, written immediately anterior to the adoption of the National Constitution, thus concurs with Hamilton:

"But of all the words in all languages, perhaps there has been none so much abused in this way as the words *Republic*, *Commonwealth*, and *Popular State*. In the *Rerum publicarum Collectio*, of which there are fifty and odd volumes, and many of them very incorrect, France, Spain, and Portugal, the four great empires, the Babylonian, Persian, Greek, and Roman, and even the German, are all denominated 'Republics.'"—*John Adams's Works*, vol. v, p. 453.

In his old age, the patriarch expressed himself in the same sense and with equal force:

"The customary meaning of the words *republic* and *commonwealth* have been infinite. They have been applied to every government under heaven; that of Turkey and that of Spain, as well as that of Athens and of Rome, of Geneva and San Marino."—*Ibid*, vol. x, p. 378; *Letter of 31st March*, 1819.

And then again he said:

"In some writing or another of mine, I happened *currente calamo*, to drop the phrase, The word *republic*, as it is used, may signify anything, everything, or nothing. For this escape I have been pelted, for twenty or thirty years, with as many stones as ever were thrown at St. Stephen, when St. Paul held the clothes of the stoners. But the aphorism is literal, strict, solemn truth. To speak technically, or scientifically, if you will, there are monarchical, aristocratical, and democratical republics. The government of Great Britain and that of Poland are as strictly republics as that of Rhode Island or Connecticut."—*Ibid*, x, 379; *Letter of 30th April*, 1819.

In this latter remark, Mr. Adams simply repeats what he says in his treatise, when he calls England and Poland "monarchical or regal republics." (*Ibid*, vol. iv, p. 359.)

It is plain that our fathers, when they adopted the "guarantee" of "a republican form of government" intended something certain, or which at least, if not certain on the face, could be

made certain. But this excludes the authority of incongruous and inconsistent examples. They did not use words to signify "anything, everything, or nothing;" nor did they use words which were as applicable to England and Poland as to the United States. Therefore, I cannot err when I put aside all these examples, which, however they may illustrate the definition of Republican Government in times past, are utterly out of place as a guide to the interpretation of our Constitution. Something better must be found for this purpose; nor is it wanting.

I put aside also the definitions of European writers and lexicographers anterior to the Constitution; for all of these have the vagueness and uncertainty of political truth at that time in Europe. Among these none is of higher authority than Montesquieu, who brought to political science study, genius, and a liberal spirit. But even this great writer, who profited by all his predecessors, quickens and elevates without furnishing a satisfactory guide. He taught that "virtue" was the inspiring principle of a Republic, and by "virtue," he says that he meant the love of country, which, he says, is the love of Equality. This is beautiful; but, with curious inconsistency, he proceeds to include "democracy" and "aristocracy" under the term "Republic," the former being where the people in mass have the sovereign power and the latter "where the sovereign power is in the hands of a part of the people." When defining "democracy" he expresses the importance of the suffrage as one of the fundamentals of government, saying, among other things, that it was as important to regulate by whom the suffrage should be given, as in a monarchy to know who is the monarch. (*Esprit des Lois*, liv. ii, chap. 2 and 3.) But among all these glimpses of truth there is no definition of "a Republican form of government" which can help us essentially in interpreting the Constitution. Surely an aristocracy, "where the sovereign power is in the hands of a part of the people," cannot find a just place in our political system. It may be a "Republican form of government," according to Montesquieu, but it cannot be according to American institutions.

One of the ablest of the predecessors of Montesquieu, in modern times, was the Frenchman, John Bodin, who wrote nearly two centuries earlier. He uses the term "Republic" as it is used by the ancient writers, to embrace Monarchy, Aristocracy, and Democracy, which he calls "three kinds of Republics"—*trium rerum publicarum genera*. If the Republic is in the power of one, *penes unum*, it is a monarchy; if in the power of a few, *penes paucos*, it is an aristocracy; if in the power of all, *penes universos*, it is a democracy. Proceeding further he says, that a Democracy is "where all or the major part of all citizens, *major pars omnium civium*, collected together, have the supreme power." (*Bodin de Republica*, lib. ii, cap. 1.) Here the philosopher plainly follows the rule of jurisprudence in the case of corporations; but this definition seems to sanction the exclusion of a part of the citizens, less than a majority, while it is inadequate in other respects. It says nothing of equality of rights or of that great touchstone of the republican idea, the dependence of taxation upon representation.

There are other definitions which may be put aside. Thus, for instance, it has been often said, that a Republic is "a government of laws and not of men," and this saying found favor with some among our fathers. (John Adams's *Works*, vol. iv, p. 106.) Long before them Aristotle had declared, that such a government "would be the kingdom of God." But this condition, though marking an advanced degree of civilization and of course essential to a Republic, cannot be recognized as decisive. On its face it is vague from its comprehensiveness. It is enough to say that it would embrace England, whose government our fathers renounced in order to build a Republic. And still further, it would throw its shield over a government which had "framed iniquity into law." This will not do.

There is also a plausible definition by Miller, the learned author of the work on the British Constitution, who states, hypothetically, that by Republic may be meant "a government in which there is no king or hereditary chief magistrate." (*Miller's View*, vol. iii, p. 326.) But this again must be rejected as leaving aristocracies and oligarchies in the category of republics.

Sometimes it has been said, that a Government with an elective Chief Magistrate is a Republic. Here again nothing is said of aristocracy or oligarchy, which obviously may co-exist with an elective Chief Magistrate, as in the case of Venice, where the elected Doge was surrounded by an oligarchy of nobles; and in the case of Holland, where the elected Stadtholder was a prince surrounded by princes. But there are other instances which make this definition unsatisfactory, if not absurd. The Pope of Rome is an elective Chief Magistrate; so also is the Grand Lama; but surely the States of the Church are not republican, nor is Thibet.

Rejecting the definition founded on the elective character of the Chief Magistrate, we must also reject another, founded on "the sovereignty of more than one man." It has been said positively, by one who has written much on this subject, that "the strict definition of a Republic is that in which the sovereignty resides in more than one man." (*John Adams's Works*, vol. x, p. 378.) But this strict definition will embrace aristocracies and oligarchies.

I conclude these rejected definitions with that of Dr. Johnson in his Dictionary, which appeared before American Independence:

"*Republic*; (1)—Commonwealth, state in which the power is lodged in more than one. (2)—Common interest; the public."

All these definitions are as little to the purpose as the "vulgar error," chronicled by Sir Thomas Browne, that storks lived only in republics, or the saying of Rousseau, at a later day, that a society of gods would govern themselves democratically, or the remark of John Adams, that "all good government is, and must be republican." It is evident that we must turn elsewhere for the illumination which we need. If others thus far have failed, it is because they have looked across the sea instead of looking at home, and have searched foreign history and example, instead of simply recognizing the history and example of their own country. They have imported inapplicable and uncertain definitions, forgetting that the Fathers, by positive conduct, by solemn declarations, by declared opinions, and by public acts, all in harmony and constituting one overwhelming testimony, have exhibited their idea of a Republican Government in a way which is at once applicable and certain. They are the natural interpreters of their own Constitution. Mr. Fox, the eminent English statesman, exclaimed on one occasion in debate that, if by some interposition of Divine Providence all the wise men who ever lived in the world were assembled together, they could not invent even a tolerable Constitution; meaning, of course, that a Constitution must be derived from habits and convictions, and not from any invention. There is sound sense in the remark; and it is in this spirit that I turn from a discussion which has only this value, that it shows how little there is in the past to interpret the meaning of the Fathers.

TRUE SOURCE OF DEFINITION.

Every Constitution embodies the principles of its framers. It is a transcript of their minds. If its meaning in any place is open to doubt, or if words are used which seem to have no fixed signification, we cannot err if we turn to the framers; and their authority increases in proportion to the evidence which they have left on the question. By a "republican form of government" our fathers plainly intended that Government which embodied the principles for which they had struggled. Now, if it appears, that, through years of controversy they had insisted on certain principles as vital to free gov-

ernment even to the extent of encountering the mother country in war; that afterward, on solemn occasions, they had heralded these principles to the world as "self-evident truths;" that also, in declared opinions, they had sustained these principles; and that, in public acts, they had embodied these principles—then is it beyond dispute, that these principles must have entered into the idea of that government which they took pains to place under the "guarantee" of the United States. But all these things can be shown unanswerably.

In these words of hypothesis, I have already foreshadowed the four different heads under which these principles may be seen: *First*, as asserted by the Fathers throughout the long revolutionary controversy which culminated in war; *Secondly*, as announced in solemn declarations; *Thirdly*, as sustained in declared opinions; and *Fourthly*, as embodied in public acts.

PRINCIPLES ASSERTED BY OUR FATHERS PRECEDING THE REVOLUTION.

(1.) I begin with the principles asserted by our fathers throughout the protracted controversy that preceded the Revolution. If Senators ask why our fathers struggled so long in controversy with the mother country, and then went forth to battle, they will find that it was to establish the very principles for which I now contend. To secure the natural rights of men, and especially to vindicate the controlling maxim that there can be no taxation without representation, they fought with argument and then with arms. Had these been conceded at that time there would have been no Lexington or Bunker Hill, and the Colonies would have continued yet longer under transatlantic rule. The first object proposed was not independence but the establishment of these principles; and when at last independence was proposed, it was because it became apparent that these principles could be secured in no other way. Therefore, the triumph of independence was the triumph of these principles, which necessarily entered into and became the animating soul of the Republic which was then and there born. The evidence is complete, and if I dwell on it with some minuteness, it is because of its decisive character on the present occasion.

The great controversy opened with the pretension on the part of Parliament to tax the colonies. This pretension was first disclosed to Benjamin Franklin as early as 1754. It was at the time a profound secret; but this patriot philosopher, whose rare intelligence embraced the natural laws of government not less than those of science, in a few masterly sentences exposed the injustice of taxation without representation. For a moment the ministry shrunk back; but at last, when the power of France had been humbled, and the colonies were no longer needed as allies in war, George Grenville, blind to principle and only seeing an increase of revenue, renewed the irrational claim. The colonies were to be taxed by the Parliament in which they had no representation. Two million and a half of people—for such was the colonial population then—were to pay taxes without any voice in determining them. The men of that day listened to the tidings with dismay. They saw in this ministerial outrage the overthrow of their liberties, whether founded on natural rights or on the rights of British subjects. In their conclusions they were confirmed by two names of authority in British history—Algernon Sidney and John Locke, each of whom had solemnly asserted those liberties which were now in danger. One had borne his testimony on the scaffold; the other in exile.

Sidney, in his Discourses on Government, did not hesitate to say "that God has left to nations the liberty of setting up such Governments as best pleased themselves," and then again, "that all just magistratical power is from the people." (Discourses, p. 36, 14.) Such words were calculated to strengthen the sentiment of human freedom; but it was Locke who gave formal expression to the very principles which were now assailed. In a famous passage of his work on Civil Government, written dur-

ing his exile in Holland, this eminent Englishman bore his testimony thus:

"It is true government cannot be supported without great charge, and it is fit every one who enjoys his share of the protection should pay out of his estate his proportion for the maintenance of it. But still it must be with his own consent: *i. e.*, the consent of the majority, giving it either by themselves or their representatives chosen by them: for, if any one shall claim a power to lay and levy taxes on the people by his own authority and without such consent of the people, he thereby invades the fundamental law of property and subverts the end of government; for what property have I in that which another may by right take, when he pleases, to himself?"—*Locke's Civil Government*, book ii, ch. 7, ch. 14.

Here is a plain enunciation of two capital truths: first, that all political society stands only on the consent of the governed; and, secondly, that taxation without representation is an invasion of fundamental right. It was these truths that our fathers embraced in the controversy before them, and these same truths, happily characterized by Hallam as "fertile of great revolutions and perhaps pregnant with more," are as fertile and as pregnant now as then.

Unquestionably, Sidney and Locke exercised more influence over the popular mind, preceding the revolution, than any other writers. They were constantly quoted, and their names were held in reverence. But their authority has not ceased. As they spoke to our fathers, they now speak to us. *Sicut patribus, sic nobis.*

The cause of human liberty, in this great controversy, found a voice in James Otis, a young lawyer of eloquence, learning, and courage, whose early words, like the notes of the morning bugle mingling with the dawn, awakened the whole country. Asked by the merchants of Boston to speak at the bar against writs of assistance, which had been issued to enforce ancient Acts of Parliament, he spoke, not only as a lawyer, but as a patriot. His speech was the most important, that, down to that occasion, had ever been made on this side of the ocean. An eminent contemporary, who was present, says, "No harangue of Demosthenes or Cicero ever had such effect upon the globe as this speech." (John Adams's *Works*, vol. x, page 233.) It was the harbinger of a new era. For five hours the brilliant orator unfolded the character of these Acts of Parliament; for five hours he held the court-room in attentive and astonished admiration; but his effort ascended into statesmanship, when, after showing that the colonists were without representation in Parliament, he cried out, that, notwithstanding this exclusion, Parliament had undertaken "to impose taxes and enormous taxes, burdensome, oppressive taxes, ruinous, intolerable taxes," and, then, glowing with a generous indignation at this injustice, he launched that thunderbolt of political truth, "Taxation without representation is Tyranny." From the narrow court-room where he spoke, the thunderbolt passed, smiling and blasting the intolerable pretension. It was the idea of John Locke; but the fervid orator, with tongue of flame, had given to it the intensity of his own genius. He had found it in a book of philosophy; but he sent it forth as a winged messenger, blazing in the sky.

John Adams, who, as a young man just admitted to the bar, was present at this scene, dwells on it often with sympathetic power. There, in the old Town House of Boston, sat the five judges of the province, with Hutchinson as Chief Justice, in robes of scarlet, with cambric bands and judicial wigs; and there too in gowns, bands, and tie-wigs were the barristers. Conspicuous on the wall were full-length portraits of two British Monarchs, Charles II and James II; while in the corners were the likenesses of Massachusetts Governors. In this presence the great oration was delivered. The patriot lawyer had refused compensation. "In such a cause," said he, "I despise all fees." He spoke for his country and for mankind. Firmly he planted himself on the rights of man, which he insisted were, by the everlasting law of nature, inherent and inalienable; and these rights he nobly proclaimed, were common to all, without distinction of color. To suppose them surrendered in any other way than by

equal rules and general consent was to suppose men idiots or madmen, whose acts are not binding. But he especially flew at two arguments of tyranny: first, that the colonists were "virtually" represented; and secondly, that there was such a difference between direct and indirect taxation, that while the former might be questionable, the latter was not. To these two apologies he replied: first, that no such phrase as "virtual representation" was known in law or constitution—that it is altogether a subtlety and an illusion, wholly unfounded and absurd—and that we must not be cheated by any such phantom or any other fiction of law or politics, or any monkish trick of deceit and hypocrisy; and, then, in the second place, he said with the same crushing force, that, in the absence of representation, all taxation, whether direct or indirect, whether internal or external, whether on land or on trade, was equally obnoxious to the same unhesitating condemnation. The effect of this effort was electric. The judges were stunned into silence, and postponed their judgment. The people were aroused to a frenzy of patriotism. "American Independence," says John Adams, in the record of his impressions, "was then and there born; the seeds of patriots and heroes were then and there sown, to defend the vigorous youth. Every man of a crowded audience appeared to go away as I did, ready to take arms against writs of assistance. Then and there was the first scene of the first act of opposition to the arbitrary claims of Great Britain. Then and there the child Independence was born." (J. Adams's *Works*, vol. x, p. 247; see also pp. 293–375; Tudor's *Life of Otis*, pp. 71–77.) But this great birth is inseparably associated with the principle, then and there declared, that "Taxation without representation is Tyranny."

From this time forward Otis dedicated himself singly to the cause he had so bravely upheld, and the popular heart clove to him. He became the favorite of his fellow-countrymen. His arguments were repeated; his words were gratefully adopted, and the saying, "Taxation without representation is tyranny," became a maxim of patriotism. In May 1761, only a few weeks after this utterance, he was chosen a representative of Boston, in the Legislature, by an almost unanimous vote. The Crown officers were dismayed by this most significant election, and one of them, speaking with prophetic lamentation, said that "It would shake the province to its foundation," on which John Adams remarked, many years later when some of its results were already visible, "That election has shaken two continents and will shake four." (*Ibid.*, p. 248.) Of course this was simply because it affirmed and invigorated a practical truth of government, by which all the people are lifted to political power. At his new post of duty, Otis became the acknowledged leader, constant, fervid, eloquent, and according to his own language "daring to speak plain English." While still declaring an unhesitating loyalty to the Crown, and even pledging "the last penny and the last drop of blood, rather than, by any backwardness, his Majesty's measures should be embarrassed," he made haste to announce in words, where humor blends with truth, "that God made all men naturally equal; that the ideas of earthly superiority are educational and not innate; that no government has a right to make hobby-horses, asses, and slaves of the subject, nature having made sufficient of the two former for all the lawful purposes of man, from the harmless peasant in the field to the most refined politician in the cabinet; but none of the last, which infallibly proves they are unnecessary." But the case would have been imperfectly stated, if the patriot representative had not once more cried out against taxation without representation and warned against the calamities which must follow from this unquestionable tyranny. This early debate is preserved in a pamphlet, printed in 1762, and entitled "A Vindication of the House of Representatives of Massachusetts Bay, by James Otis, Esq.," which we are told, by an eminent authority, contains, in solid substance, all that is to be found in the Declaration of

Rights and Wrongs, issued by Congress in 1774, the Declaration of Independence in 1776, and the subsequent writings of those political philosophers who upheld the national cause. (J. Adams's *Works*, vol. x, pp. 300-312.) Pardon me if I dwell too minutely on this history. I do it only to illustrate the issue of principle actually made in the controversy with the mother country.

The controversy still continued, when in 1764, the orator, who had already by voice and pen maintained the cause of his country, put forth another publication, entitled, "The Rights of the Colonists asserted and proved." Mark, if you please, the vigor of the title. The rights of the colonists are not only "asserted," but "proved." Reprinted in London, this pamphlet was read by Lord Mansfield, Chief Justice of England, and was answered by Soame Jenyns, a partisan writer of the Crown. The copy I now hold in my hand has the imprint of London, and is marked third edition. Perhaps all things considered, it is the most remarkable pamphlet of our country and one of the most remarkable ever written. Recent events, verifying the truths it so early announced, elevate its place in history. Here will be found the same vital principles, enforced with learning and eloquence, which Otis had announced at the bar in the case of writs of assistance, and then again in the debates of the legislature; and here may be seen, not only the truths asserted by our fathers, but the unanswerable arguments by which they were vindicated. Even an abstract would be too long for this occasion; but the character of this *Defense of the American People*, not unlike Milton's famous *Defensio pro Populo Anglicano*, will appear in a few passages, where, as in gleams, may be discerned the *Idea of a Republic*.

I do not pause on the assertion, "that every man of sound mind should have his vote," or the authority which he invokes, when he says, "Lord Coke declares that it is against Magna Carta and against the franchises of the land for freemen to be taxed but by their own consent." Nor do I dwell on that admirable statement of much in little, where he says, "the first and simple principle is Equality and the Power of the Whole." (Page 14.) The Equality of All and the Power of All! The two buttresses of a just government. I come at once to the plain statement of fundamental right. Here are two sentences:

"The Supreme Power cannot take from any man any part of his property without consent in person, or by representation."

"Taxes are not to be laid on the people, but by their consent in person, or by representation."—Page 57.

Such, he says, are "the first principles of law and justice and the great barriers of a free state," and then he adds, "I ask, I want no more." And these principles he claims for all, without distinction of color.

"The colonists are by the law of nature free-born, as indeed are white and black. Does it follow that it is right to enslave a man because he is black? Will short, curled hair, like wool, instead of Christian hair, as it is called by those whose heart is as hard as the mother mill-stone, help the argument? Can any logical inference in favor of slavery be drawn from a flat nose, a long or a short face?"—Page 28.

Assuming that these rights are common to all, whether white or black, he then insists that any taxation, whether direct or indirect, without representation, is only another form of slavery:

"I can see no reason to doubt but that the imposition of taxes, whether on trade, or on land, or houses, or ships, or real or personal, fixed or floating property in the colonies, is absolutely irreconcilable with the rights of the colonists, as British subjects and as men. I say men, for in a state of nature no man can take my property from me without my consent. If he does he deprives me of my liberty and makes me a slave. The very act of taxing, exercised over those who are not represented, appears to me to deprive them of one of their most essential rights as freemen; and if continued seems to be in effect an entire disfranchisement of every civil right. For what one civil right is worth a rush after a man's property is subject to be taken from him at pleasure, without his consent?"—Page 37.

Such was the voice of James Otis, who was our John the Baptist. It was he who went before in this great controversy. He first stated the case between the colonies and the mother

country, and first developed the principles in issue. But though first, he was not long alone. Conspicuous among his followers was Samuel Adams, that austere patriot, always faithful and true, who desired to make Puritan Boston "a Christian Sparta." He was remarkable for the simplicity, accuracy, and harmony of his style, and on this account often held the pen for the Legislature or for the Town meeting. In obedience to the latter, he drew up instructions to the representatives of Boston, which were afterward adopted in Faneuil Hall, where repeating the very arguments of Otis, he says, "If our trade may be taxed, why not our lands? Why not the produce of our lands and everything we possess or make use of?" And then, advancing in the subject, he asks, "If taxes are laid upon us in any shape, without our having a legal representation where they are laid, are we not reduced from the character of free subjects to the miserable state of tributary slaves?" (John Adams's *Works*, x, p. 294.) In asking this question he leaves no room to doubt the answer it deserved.

Meanwhile Franklin, as the general agent of the colonies, had been maintaining the same principles in England. But the ministry, hurried on by that fatal folly which leads to destruction, persevered in their pretension. The stamp act was passed, and for the first time in our history papers were to bear stamps, in order to swell the revenue of the Crown. Massachusetts remonstrated against the tyranny, in formal resolutions, adopted unanimously, wherein it is declared, "that by the law of nature no man has a right to impose laws more than to levy taxes upon another; that the freeman pays no tax, as the freeman submits to no law, but such as emanates from the body in which he is represented; that the Parliament possessed no right of enacting laws binding upon the colonies, and that whatever legislative power to that effect had been exercised by the Parliament had been abusive and unlawful." (John Adams's *Works*, vol. i, p. 78.) In an address to the royal Governor, the Legislature, after setting forth the injustice of the stamp act, proceeded to say: "We must beg your Excellency to excuse us from doing anything to assist in the execution of it." The people in town meetings took up the strain and *all united against the act*. But Massachusetts was not alone. A writer in Virginia, catching the spirit of Otis, declared, in an elaborate pamphlet, that it was an "essential principle of the English Constitution that the subject shall not be taxed without his consent;" and then, again, quoting the words of another, said: "Men have natural and freemen legal rights which they may justly maintain, and no legislative authority can deprive them of." (*Considerations on the propriety of Taxes in the British Colonies*, p. 5.) The Legislature of Virginia, even before Massachusetts, adopted resolutions kindred in spirit, which were moved by Patrick Henry and heroically carried by his eloquent voice, even against the menacing cry of "treason." Thus spoke Virginia in one of these resolutions, exposing the true issue in question, and insisting that taxation and representation were inseparable:

"Resolved, That the taxation of the people by themselves or by persons chosen to represent them, who can only know what taxes the people are able to bear, or the easiest method of raising them, and must themselves be affected by every tax laid on the people, is the only security against burdensome taxation and the distinguishing characteristic of British freedom, without which the ancient constitution cannot exist."—*Wirt's Life of Patrick Henry*, p. 57.

Pennsylvania, by her House of Assembly, spoke also to the same effect as follows:

"Resolved, *Nem. Con.* That this House think it their duty thus firmly to assert with modesty and decency, their inherent rights, that their posterity may learn and know that it was not with their consent and acquiescence, that any taxes should be levied on them by any person but their own representatives."

The controversy still proceeded. At the invitation of Massachusetts a Congress assembled at New York in October 1765, where were delegates from Massachusetts, Connecticut, New York, Pennsylvania, Delaware, and South Carolina, which, after a session of three weeks,

adopted a declaration of colonial rights, where, among other things, it is declared:

"That it is inseparably essential to the freedom of a people and the undoubted right of Englishmen, that no tax be imposed on them but with their own consent, given personally or by their representatives."

"That the people of the colonies are not, and from their local circumstances cannot be represented in the House of Commons of Great Britain."

At last the stamp act was repealed, but the pretension of taxation was suspended rather than abandoned. A ministerial partisan continued to urge the scheme in the following barefaced words:

"All countries, unaccustomed to taxes, are at first violently prepossessed against them, though the price, which they give for their liberty, like an ox untamed to the yoke, they show at first a very stubborn neck, but by degrees become docile and yield a willing obedience." * * * "America must be taxed."—*Justice and Necessity of taxing the American Colonies Demonstrated*. London, 1766.

As time advanced the old audacity was revived; and, under the lead of the eccentric Charles Townsend, taxes were imposed by Parliament on tea, glass, lead, paper and painters' colors. The old opposition in the colonies was revived also, and taxation without representation was again denounced. Committees of correspondence were established and the work of organization began. The whole country was in a fever. Massachusetts, as in times past, did not hesitate to proclaim the true principle. At a Town meeting of Boston in 1772, there was a declaration of rights, "which no man or body of men, consistently with their own rights as men and citizens or members of society, can for themselves give up or take away from others;" and here we meet again familiar words:

"The supreme power cannot justly take from any man any part of his property without his consent in person or by his representatives."—Page 10.

Against all Parliamentary taxation, as often as it showed itself, this was the impenetrable buckler that was raised. But the mother country was perverse. Ship-loads of tea arrived. At Boston the tea was thrown into the harbor. The colonies entered into an agreement of non-importation. Then came troops, and the Boston Port Bill, by which this harbor was vindictively closed against commerce. The whole country, including even South Carolina, made common cause with Massachusetts. Gadsden exclaimed, "Massachusetts sounded the trumpet, but to Carolina is it owing that it was attended to." And Virginia exclaimed, "*We will never be taxed but by our representatives*. This is the great badge of freedom. Whether the people in Boston were warranted by justice when they destroyed the tea, we know not; but this we know, that the Parliament, by their proceedings, have made us and all North America, parties in the present dispute." (*Wirt's Life of Patrick Henry*, p. 99.) Meanwhile more troops arrived. All things portended strife; and yet the colonists did not ask for independence. They only asked for their rights, insisting always that there should be no taxation without representation. "The patriots of this province," said John Adams in 1774, "desire nothing new, they wish only to keep their old privileges. They were for one hundred and fifty years allowed to tax themselves. This plan they wish may continue forever." (John Adams's *Works*, vol. iv, p. 131.) And thus stood the two parties face to face.

Then came the Continental Congress, which at once put forth resolutions, where, after claiming the enjoyment of life, liberty, and property as natural rights, it was insisted that the colonists could be bound by no law to which they had not consented by their representatives. Here was the original programme of James Otis: first the rights of men, according to natural laws; and secondly, the principle that government, including of course taxation, depended on the consent of the governed. "*The foundation of English Liberty and of all free government*," said these resolutions, "is a right in the people to participate in their legislative council." (*American Archives*, 4th series, vol. i, p. 822.) In harmony with these resolutions were addresses of the Continental Congress to the people of Great Britain, to the people of the

Province of Quebec, and to the king himself, each of which pleads for Human Rights in the largest sense. The address to the people of England begins by an appeal for "the rights of men and the blessings of Liberty," and then insists "that no power on earth has a right to take our property from us without our consent." (*Ibid.*, p. 918.) The address to the people of the Province of Quebec, in similar spirit, says, "the first great right is that of the people having a share in their own government by their representatives, chosen by themselves, and in consequence of being ruled by law, which they themselves approve; not by edicts of men over whom they have no control. This is a bulwark surrounding and defending their property." (*Ibid.*, p. 981.) And the address to the king has the same key-note when it says, "Duty to your Majesty and regard for the preservation of ourselves and our posterity, the primary obligations of nature and of society command us to entreat your royal attention." (*Ibid.*) Thus constantly, down to the last moment, did our fathers set forth the principles which they sought to establish as essential to free government. Thus constantly did they testify to the cause for which I now plead.

Answering voices came back from England, all showing the principles in issue. The right of taxation was asserted; but there were many who disguised the tyranny by assuming that the colonies were "virtually represented." Sir James Marriott, the Admiralty Judge, insisted boldly, that, since the lands of the colonies, according to their charters, were held in socage tenure, "as of the royal manor of East Greenwich in Kent," and since East Greenwich was represented in Parliament, therefore our fathers were represented in Parliament. Perhaps that spirit of legal technicality, which is satisfied by mere form at the expense of reason, was never more strikingly illustrated than in this senseless argument. The whole pretension was scouted by Mr. Pitt, afterward Lord Chatham, in terms of indignant eloquence. "The idea," said he, "of a *virtual representation* of America in this House is the most contemptible that ever entered into the head of a man. It does not deserve a serious refutation." As the controversy continued, and especially as those masterly state papers—the addresses of the Continental Congress—reached England, the ministers of the king were put on the defensive. They retained as their advocate none other than Dr. Johnson, who, for a sum of money, lent the pen which had written *Rasselas*, the *Vanity of Human Wishes*, and the *English Dictionary*, to a rancorous attack on the principles of our fathers. Its concentrated spirit was all expressed in its title, "Taxation no Tyranny." Another pamphlet appeared in reply, with the epigraph, "Resistance no Rebellion," embodying the idea that, where there is taxation without representation, resistance is justifiable; and this was issue joined even at London. This was in 1775. Already the "embattled farmers" had gathered at Lexington and Bunker Hill; already Washington had drawn his sword at Cambridge, as Commander-in-Chief and generalissimo of the new-born armies; already war had begun. At last to the defiant watch-word "Taxation no Tyranny," sent from across the sea, our fathers returned that other defiant watchword "Independence." But in seeking Independence, they did not turn their backs upon the principles asserted throughout the long controversy. Independence was the means to an end, and that end was nothing less than a Republic, with Liberty and Equality as the animating principles, where the government should stand on the consent of the governed, or, which is the same thing, where there should be no taxation without representation; for here was the distinctive feature of American Institutions.

SOLEMN DECLARATIONS OF THE FATHERS.

(2.) The principles, heralded through fifteen years of controversy, were not forgotten when Independence was declared; and here I come to the second head of these illustrations.

It sometimes happens that men fail in support of the cause to which they are pledged, or content themselves with something less than the truth. But it was not so with our fathers. In declaring Independence they continued loyal to their constant vows. The natural rights of all men and the just foundation of government, which James Otis had first announced; which Samuel Adams had maintained with splendid simplicity; which Patrick Henry had vindicated, even against the cry of "treason," and which had been affirmed by legislative bodies and public meetings, were embodied in the opening words of the Declaration. There they stand, like a mighty overture to the new Republic, interpreting, inspiring, and filling it with their transforming power. These are the words:

"We hold these truths to be self-evident; that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; that, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed."

Foremost is the Equality of all men. Of course, in a declaration of rights, no such supreme folly was intended as that all men are created equal in form or capacity, bodily, or mental; but simply that they are created equal in rights. This is the first of the self-evident truths that are announced, leading and governing all the rest. Life, liberty, and the pursuit of happiness are among inalienable rights; but they are all held in subordination to that primal truth. Here is the starting-point of the whole, and the end is like the starting-point. In announcing that Governments derive their just powers from the consent of the governed, the Declaration repeats again the same proclamation of Equal Rights. Thus is Equality the Alpha and the Omega, in which all other rights are embraced. Men may not have a natural right to certain things, but most clearly they have a natural right to *impartial laws*, by which they shall be secured in Equal Rights. Equality in rights is the first of rights. It was because these truths had been set at naught by Great Britain, in her relations with our fathers, that Independence was declared. To these truths, therefore, was the new Government solemnly dedicated, as it assumed its separate and equal station among the Powers of the earth. Do you ask for the definition of "Republic?" Here it is by patriot lexicographers, whose authority cannot be questioned by us.

As the war of Independence began with a declaration of principles, so it ended with a like declaration. At its successful close, the Continental Congress, in an address to the people, by the pen of James Madison, thus announced the objects for which it had been waged, and thus supplied another definition of the new government:

"Let it be remembered that it has been the pride and the boast of America, that the rights for which she has contended were the rights of human nature. By the blessing of the Author of these Rights, they have prevailed over all opposition and form the basis of thirteen Independent States. No instance has heretofore occurred, nor can any instance be expected hereafter to occur, in which the unadulterated forms of Republican Government can pretend to so fair an opportunity of justifying themselves by their fruits. In this view the citizens of the United States are responsible for the greatest truth ever confided to a political society."—*Journal of Continental Congress*, April, 1783, vol. viii, p. 201.

Such was the sublime declaration. It was for the "rights of human nature" that our fathers went forth to battle, and these rights are proclaimed to "form the basis of thirteen independent States." But foremost among these rights is Equality, including of course the equal right of all to a voice in the Government. And this is the Republic which our fathers, with pride and boast, then gave as an example to mankind.

The same spirit appears in the National Constitution, which, by its preamble, asserts practically the same sentiments. Here it is:

"We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and to our posterity, do ordain and establish this Constitution for the United States of America."

Thus, according to this proclamation, the Constitution was ordained, not to create an oligarchy or aristocracy, not to exclude certain persons from the pale of its privileges, not to organize *inequality of rights* in any form, but "to establish justice," which is Equality; "to insure domestic tranquillity," which is vain without justice; "to provide for the common defense," which is the defense of all; "to promote the general welfare," which is the welfare of all; and "to secure the blessings of Liberty" to all the people and their posterity, which is to give to all the complete enjoyment of rights, foremost among which is Equality. Here, then, is another authoritative definition of the Republic which was formed.

Thus has our country testified to its idea of a Republic, not only throughout its long days of controversy, but in these solemn declarations, which are in themselves monumental acts.

OPINIONS OF THE FATHERS.

(3.) I am now brought to consider how these same principles have been sustained by eminent characters, whose names are historic, all testifying to them as essential to good government, which is only the synonym of republican government. In their weighty words you will find a definition, constantly repeated, which is in harmony with all the promises of the Fathers, whether in controversy or in these solemn instruments which are among the very title-deeds of the Republic.

I begin with Benjamin Franklin, who saw all questions of government with a surer instinct than any other person in our history. As early as 1736, while still a young man, he wrote an article on government, which was published in the *Pennsylvania Gazette*, where will be found these words:

"Popular Governments have not been framed without the wisest reasons. It seemed highly fitting that the conduct of magistrates, created by and for the good of the whole, should be made liable to the inspection and animadversion of the whole."—*Franklin's Works*, vol. ii, p. 230.

It is for the good of the whole, and not for an odious oligarchy or an aristocratic class that our patriot speaks, and in these words we find foreshadowed the idea of a republican government; but it was in the discussions on the stamp act, after Otis had fulminated his flaming bolt, that we find a fuller and more precise definition. Here it is, as adopted, if not written, by Franklin in 1769:

"That every man of the commonalty, except infants, insane persons, and criminals, is of common right, and by the laws of God, a freeman and entitled to the free enjoyment of liberty. That liberty or freedom consists in having an actual share in the appointment of those who frame the laws, and who are to be the guardians of every man; life, property, and peace; for the all of one man is as dear to him as the all of another; and the poor man has an equal right, but more need to have representatives in the Legislature than the rich one."

"That they who have no voice nor vote in the electing of representatives do not enjoy liberty; but are absolutely enslaved to those who have votes and to their representatives; for to be enslaved is to have governors whom other men have set over us, and be subject to laws made by the representatives of others, without having had representatives of our own to give consent in our behalf."—*Franklin's Works*, vol. ii, p. 372.

In these emphatic words will be found a complete vindication of the equal right of representation, as essential to free government, so much so, that where this does not exist, Liberty does not exist.

Jefferson has followed Franklin in the same vein, expressing himself with greater fervor. The author of the Declaration of Independence could not do otherwise. Constantly he testifies to his idea of a Republic. Thus he wrote to Alexander von Humboldt, under date of June 13, 1817, affirming the rights of the majority as "the first principle of republicanism," and assuming the principle of Equal Rights:

"The first principle of republicanism is, that the *lex majoris partis* is the fundamental law of every society of individuals of equal rights. To consider the will of the society constrained by the majority of a single vote as sacred as if unanimous is the first of all lessons in importance, yet the last which is thoroughly learned. This law once disregarded, no other remains but that of force, which ends necessarily in military despotism."—*Jefferson's Works*, vol. vii, p. 75.

In another letter to John Taylor, of Caroline, dated May 28, 1816, he thus defines a Republic:

"Indeed, it must be acknowledged, that the term republic is of very vague application in every language. Witness the self-styled republics of Holland, Switzerland, Genoa, Venice, Poland. Were I to assign to this term a precise and definite idea, I would say, purely and simply, it means a Government by the citizens in mass, acting directly and personally, according to rules established by the majority; and that every other Government is more or less republican, in proportion as it has in its composition more or less of this ingredient of the direct action of the citizens."—*Jefferson's Works*, vol. vii, p. 695.

Here again, while confessing the unquestionable vagueness of the term according to old examples, he assumes that in a Republic all the citizens must have a voice. And in another place he thus indignantly condemns denial of representation:

"And also that one half of our brethren who fight and pay taxes are excluded, like Helots, from the rights of representation, as if society were instituted for the soil and not for the men inhabiting it, or one half of these could dispose of the rights and the will of the other half without their consent."—*Ibid.*, p. 697.

Thus did he scout the whole wretched pretension of oligarchy and monopoly by which citizens are deprived of equal rights.

Madison was colder in nature than Jefferson, but they were associates in opinion, as in political life. The former in the debates on the Constitution thus condemned the denial of rights on account of color:

"We have seen the mere distinction of color, made in the most enlightened period of time, a ground of the most oppressive dominion ever exercised by man over man."—*Elliot's Debates*, vol. iv, p. 162.

Speaking directly of the right of suffrage, he uses the following language:

"The right of suffrage is certainly one of the fundamental articles of republican government, and ought not to be left to be regulated by the legislature. A gradual abridgment of this right has been the mode in which aristocracies have been built on the ruins of popular forms."—*Elliot's Debates*, vol. v, p. 338.

Thus declaring himself against "aristocracies," he naturally recognized the true idea, and here he was perplexed by the question of a property qualification, which he says in one place, "does not satisfy the fundamental principle that men cannot be justly bound by laws in making which they have no part." (*Ibid.*, p. 580.) And then again in another place, "It violates the vital principle of free government, that those who are to be bound by laws, ought to have a voice in making them, and the violation would become more strikingly unjust as the law-makers become the minority." (*Ibid.*, p. 582.) Thus completely recognizing the great American principle that just government can stand only on "the consent of the governed," he is brought to this conclusion:

"Under every view of the subject, it seems indispensable that the mass of citizens should not be without a voice in making the laws which they are to obey and in choosing the magistrates who are to administer them."—*Ibid.*, p. 583.

In one of the most remarkable chapters in the *Federalist*, Madison gives expansion to this idea in his formal definition of a Republic:

"If we resort for a criterion to the different principles on which different forms of government are established, we may define a republic to be, or at least may bestow that name on, a government which derives all its powers directly or indirectly from the great body of the people, and is administered by officers holding their offices during pleasure, for a limited time, or during good behavior. It is essential for such a government that it be derived from the great body of the society, not from an inconsiderable proportion, or a favored class of it; otherwise a handful of tyrannical nobles, exercising their oppressions by a delegation of their powers, might aspire to the rank of republicans, and claim for their government the honorable title of republic."—*Federalist*, No. 39, by Madison.

Thus, in these few significant words, does this authority teach that a Republic is a government "derived from the great body of the people," and not from "a favored class of it." Better words could not be found for the American definition.

Hamilton follows with, perhaps, equal authority. Though approaching political questions from opposite points of view, we find him on this occasion uniting with Franklin, Jefferson, and Madison. Here is a glimpse of the definition he would supply:

"As long as offices are open for all and no constitutional rank is established, it is pure republicanism."—*Hamilton's Works*, vol. ii, p. 47.

Not for an oligarchy, but for all is a Republic created. Then again he testifies for Equal Rights and against partial distinctions:

"There can be no truer principle than this, that every individual of the community has an equal right to the protection of government." "We propose a free government. Can it be so, if partial distinctions are made?"—*Ibid.*, p. 418.

And then again he says in positive words:

"A share in the sovereignty of the State, which is exercised by the citizens at large in voting at elections, is one of the most important rights of the subject, and in a Republic ought to stand foremost in the estimation of the law. It is that right by which we exist as a free people."—*Hamilton, Works*, vol. ii, p. 315.

He then portrays the principles of the Revolution as follows:

"They taught the inhabitants of this country to risk their lives and fortunes in asserting their liberty, or, in other words, their right in a share in the government. That portion of the sovereignty to which each individual is entitled, can never be too highly prized. It is that for which we have fought and bled."—*Ibid.*

More could not be said in the few words employed. But it is when Hamilton comes to consider the Constitution of the United States and to expound its provisions, that, while recognizing the anomalous condition of Slavery, and exposing what he calls "the compromising expedient of the Constitution," by which "the slave is divested of two fifths of the man," he yet declares "the equal level of free inhabitants," and announces "that if the laws are to restore the rights which have been taken away the negroes could no longer be refused an equal share of representation with the other inhabitants." Here are the important words:

"It is only under the pretext that the laws have transferred the negroes into subjects of property, that a place is disputed them in the computation of numbers; and it is admitted that if the laws were to restore the rights which have been taken away, the negroes could no longer be refused an equal share of representation with the other inhabitants."—*The Federalist*, No. 54, by Hamilton.

Thus, according to Hamilton, if the slaves are restored to the rights which have been taken away—in other words, if they become free men—they will be on the same equal level, and will be entitled to the same equal share of representation with the other inhabitants. The two ideas of Equality and of a right to representation, which were so early and so constantly avowed by the Fathers, are here again recognized as essential conditions of government; and this is the true definition of a Republic.

With these great representative names to illustrate the American idea of a Republic, I might close this catalogue. Surely this is enough. But there are yet others; whose authority cannot be disregarded.

Here is the testimony of that inflexible spirit, who had thought and acted much, Samuel Adams, in a letter to his kinsman, John Adams:

"That the sovereignty resides in the people is a political doctrine which I have never heard an American politician seriously deny." "We, the people, is the style of the Federal Constitution. They adopted it; and, conformably to it, they delegate the exercise of the powers of government to particular persons, who, at short intervals, resign their powers to the people, and they will resign them, or appoint others, as they see fit."—*John Adams's Works*, vol. vi, p. 421.

Here also is the testimony of another Republican, who signed the Declaration of Independence, Roger Sherman, in a letter to John Adams:

"What especially denominates it a republic is its dependence on the public, or people at large, without any hereditary powers. But it is not of so much importance by what appellation the government is distinguished, as to have it constituted to secure the rights, and advance the happiness of the community."—*Ibid.*, p. 437.

There also was John Adams himself, who was the least distinct of all the fathers on this question; but we find in the introduction to his *Defense of the American Constitution* a passage which is full of prophetic meaning. Here it is:

"Thirteen governments, thus founded on the natural authority of the people alone, without a pretense of miracle or mystery, and which are destined to spread over the northern part of that whole quarter of the globe, are a great point gained in favor of the rights of mankind."—*J. Adams's Works*, vol. iv, p. 233.

Here is a plain assertion that our thirteen States were founded "on the natural authority

of the people alone," and that they were destined to spread over all North America.

Here also is a voice from South Carolina, in a speech of Charles Pinckney, on the adoption of the Constitution:

"The doctrine of representation is the fundamental of a Republic." "As to the United Netherlands, it is such a confusion of states and assemblies, that I have always been at a loss what species of government to term it. According to my idea of the word, it is not a Republic; for I conceive it as indispensable in a Republic that all authority should flow from the people." "A Republic is where the people at large, either collectively or by representation, form the Legislature."—*Elliot's Debates*, vol. iv, pp. 326-328.

Colonel Mason, of Virginia, who always spoke with so much point, said in the National Convention:

"The true idea was that every man having evidence of attachment to and permanent common interest with the society, ought to share in all its rights and duties."—*Elliot's Debates*, vol. v, p. 397.

Here again was a plain recognition of the revolutionary idea. Here, also, is another voice from Virginia. I quote the words of a Virginia writer on government—John Taylor, of Caroline:

"The end of this guarantee is 'a republican form of government.' The meaning of this expression is not so unsettled here as in other countries, because we agree in one descriptive character as essential to the existence of a republican form of government. This is representation. We do not admit a Government to be even in its origin republican, unless it is instituted by representation; nor do we allow it to be so, unless its legislation is also founded upon representation."—*Construction Construed*, by John Taylor, of Caroline, p. 312.

I close this array, illustrative of opinion, by the words of Daniel Webster, in harmony with the rest:

"Now, fellow-citizens, I will venture to state in a few words what I take these American principles in substance to be. They consist, as I think, in the first place, in the establishment of popular governments on the basis of representation." "This representation is to be made as equal as circumstances will allow."—*Webster's Works*, vol. ii, p. 601.

Thus, at every stage, from the opening, when Otis announced the master principle, "Taxation without representation is Tyranny," all along to Daniel Webster, we find "representation" an essential element in the American definition of a republican Government.

PUBLIC ACTS OF THE STATES.

(4.) From authoritative opinions I now pass to public acts, which testify to the true idea of Republican Government. These public acts are of two different classes: first, by the United States, in their collective character; and secondly, by the States individually.

Looking at the States, in their collective character, we shall find that at the adoption of the National Constitution they had refused to recognize any exclusion from the elective franchise on account of color or race. The Fathers knew too well the requirements of a Republican Government to sanction any such exclusion. Recognizing Slavery as a transitory condition, which would soon cease, they threw over it a careful oblivion; but they were none the less jealous of the rights of all freemen. The slave did not pay taxes, and, so far as he was a person and not property, he was a part of the family of his master, by whom he was represented, so that the commanding principle of the Revolution was not disturbed in his case. But, on becoming a freeman, the slave stepped at once within the pale of taxation, and therefore necessarily of representation, since the two were inseparable. And this consideration was the guide to our fathers.

The Congress of the Confederation refused point blank to insert the word "white" in the Articles of Confederation. The question came up 25th June, 1778, on these words: "THE FREE INHABITANTS of each of these States (paupers, vagabonds and fugitives from justice excepted) shall be entitled to all privileges and immunities of FREE CITIZENS in the several States." The delegates from South Carolina moved, in behalf of their State, to limit this guarantee to "free white inhabitants." On the question of inserting the word "white," eleven States voted; two in favor of the insertion; one

was divided; and eight were against it. South Carolina, not disheartened, made another attempt, by moving to add, after the words "the several States," the further clause, "according to the law of such States respectively for the government of their own FREE WHITE inhabitants," thus seeking again to limit the operation of this guarantee. This proposition was also voted down by the same decisive majority of eight to three. And thus did our fathers testify to the right of representation without distinction of color. On other occasions, for successive years, they constantly gave the same testimony.

By two different acts of the Confederation, one in April, 1783, and another in April, 1784, the war expenses were apportioned among the several States, according to "the number of white and other free citizens and inhabitants," thus positively embracing colored persons. In the Act for the temporary government of the territory "ceded or to be ceded" to the United States, dated April 23, 1784, and drawn by Jefferson, the voters are declared to be the "free males of full age," without distinction of color. In the famous Ordinance for the government of the Northwestern Territory, drawn by Nathan Dane, of Massachusetts, adopted by the Confederation July 13, 1787, and then reenacted by our Congress, after the adoption of the Constitution, the voters are declared to be "free male inhabitants of full age"—again without distinction of color. Then came successive acts of Congress for the government of Territories, where the rule in the Ordinance for the northwestern Territories was followed, and there was no distinction of color. If this rule was changed, it was only when the partakers in the Revolution and the authors of the Constitution had ceased to exercise their influence over public affairs. The testimony of the Fathers was constant, and it is only of this that I speak on this occasion.

Turning from the States collectively, and looking at them individually, we shall find the same testimony. By the Constitution of New Hampshire, at the time of the adoption of the National Constitution, the suffrage was vested in "every male inhabitant of each town and parish" with certain qualifications, but without any exclusion on account of color. By the Constitution of Massachusetts, the suffrage was vested in "every male person" with certain specific qualifications, but without distinction of color. Rhode Island, at the adoption of the Constitution, was under her original colonial charter, which provided for elections by "the major part of the freemen of the respective towns or places," without distinction of color. Connecticut was likewise under her original colonial charter, which required that the voters should have "maturity in years, quiet and peaceable behavior, a civil conversation and forty shillings freehold or forty pounds personal estate," without distinction of color. By the Constitution of New York, the suffrage was vested in "every male inhabitant of full age," with certain specified qualifications, but without distinction of color. By the Constitution of Pennsylvania it was vested in "every freeman of the full age of twenty-one years," with certain specified qualifications, but without distinction of color. By the Declaration of Rights prefixed to the Constitution of Delaware, it was announced that "every freeman, having sufficient evidence of permanent common interest, with an attachment to the community, hath the right of suffrage," without distinction of color. By the Constitution of Maryland the suffrage was vested in "all freemen above twenty-one years of age," with certain specified qualifications, but without distinction of color. By the Declaration of Rights prefixed to the Constitution of Virginia it was announced that "ALL MEN having sufficient evidence of permanent common interest, with an attachment to the community, have the right of the suffrage," without distinction of color. And it is added

that "they cannot be taxed or deprived of their property for public use, without their own consent or that of their representatives so elected, nor bound by any law to which they have not in like manner assented for the public good." By the Constitution of North Carolina the suffrage was vested in "all freemen of the age of twenty-one years," with certain specified qualifications, and without distinction of color; and this rule continued down to 1835, when the Constitution was amended or rather, let me say perverted. That eminent citizen, Chief Justice Gaston, of North Carolina, in giving judgment at a later day, said: "It is a matter of universal notoriety that free persons, without regard to color, claimed and exercised the franchise." (4 Dev. and Battle, Rep. 35. The State vs. Manual.) By the Constitution of Georgia the suffrage was vested in "citizens and inhabitants," with certain specified qualifications, but without distinction of color. To these States I may add Tennessee, which was carved out of North Carolina, and followed her benign example. Her Constitution, which was adopted in 1796, vested the suffrage in "every freeman of twenty-one years," with certain qualifications, but without distinction of color; and this rule continued down to the perversion of the Constitution in 1834. Mr. Cave Johnson, of Tennessee, once Postmaster General, is reported to have said that he was originally elected to Congress by the votes of colored persons, and I have heard Mr. John Bell make the same confession with regard to himself.

It only remains to speak of South Carolina, the early and constant marplot of republican institutions, where, by the Constitution, the suffrage was vested "in every free white man, and no other person," with certain specified qualifications. This was the only State, among the original Thirteen, which at that time allowed a discrimination, founded on color, to find a place in its Constitution. It was the only State which, after uniting in a National Declaration, that "all men are created equal," openly and audaciously commenced the example of a "white man's Government." This apostate idea, which has since played such a part as a disturber of the national peace, was then and there born, as the opposite idea was born in Massachusetts, under the inspiring words of James Otis. And every other State followed this early voice. Their constitutions spoke of "persons," "inhabitants," "freemen," or better still "men," without any prefix of "white." Color was not mentioned. But even in South Carolina, which introduced the discreditable tyranny into her Constitution, this exclusion was more apparent than real. In point of fact, even as late as 1790, when the first census was taken, there were in this State only one thousand eight hundred and one free colored citizens. Of course their exclusion was wrong, mean, and un-republican; but I do not assert that it was on such a scale as to justify the interference of the Nation to reform it, especially where there was no lapse of the State Government. On the other hand its sufferance cannot be interpreted into a waiver of the principles for which the Revolution was fought.

Such are the public acts of the States collectively and individually at the time of the adoption of the National Constitution, illustrating with rare harmony the American idea of a Republic, and testifying against any exclusion founded on color. Add to these that the National Constitution, which carefully excepts "Indians not taxed" from the basis of representation, pays an open homage to the principle that there can be no taxation without representation. Add then, that it expressly founds the Government upon "the people," not only in the preamble, which begins "we, the people," but also in providing that the House of Representatives shall be "chosen by the people of the several States." Add also the crowning fact, that it recognizes no distinction of color—that it treats all with the same impartial justice—and who are you, sir, who will dare to foist into this Magna Carta an oligarchical idea which can find no sanction in its republican text?

AMERICAN DEFINITION OF A REPUBLICAN GOVERNMENT.

And here I bring this part of the argument to a close. We have seen the origin of the controversy which led to the Revolution, when Otis, with such wise hardihood, insisted upon Equal Rights, and then giving practical effect to the lofty demand, sounded the battle-cry that "Taxation without Representation is Tyranny." We have followed this controversy in its anxious stages, where these principles were constantly asserted and constantly denied, until it broke forth in battle; we have seen these principles adopted as the very frontlet of the Republic, when it assumed its place in the family of nations, and then again when it ordained its Constitution; we have seen them avowed and illustrated in memorable words by the greatest authorities of the time; lastly, we have seen them embodied in public acts of the States collectively and individually; and now, out of this concurring, cumulative, and unimpeachable testimony, constituting a speaking aggregation absolutely without precedent, I offer you the American definition of a Republican form of government. It is in vain that you cite philosophers or publicists, or the examples of former history. Against these I put the early and constant postulates of the Fathers, the corporate declarations of the Fathers, the avowed opinions of the Fathers, and the public acts of the Fathers, all with one voice proclaiming: first, that all men are Equal in rights; and secondly, that Governments derive their just powers from the consent of the governed; and here is the American idea of a Republic, which must be adopted in the interpretation of the National Constitution. You cannot reject it. As well reject the decalogue in determining moral duties, or as well reject the multiplication table in determining a question of arithmetic.

Counter to this irresistible conclusion there can be only one suggestion having any seeming plausibility, and this is founded on the contemporary recognition of slavery. On this point it is enough if I remind you, first, that our fathers did not recognize slavery as a permanent part of our system, but treated it as exceptional and transitory, while they concealed it from view by words which might mean something else; secondly, that the slave was always regarded, legally and politically, as a part of the family of his master, according to the nomenclature of Blackstone's Commentaries, which were much read at the time, where master and servant were grouped with husband and wife, parent and child, and, as in the case of wife and child, the slave was represented by the head of the family, who also paid the taxes on his account, so that, in his case, the cardinal principle of the Revolution, associating representation and taxation together, was not in any respect violated; and thirdly, that by the acts of the Continental Congress, and by all the State Constitutions, except that of South Carolina, all distinction of color was discarded in determining the elective franchise, and that one of the authorized expounders of the National Constitution at the time Alexander Hamilton announced in the *Federalist*, as if anticipating the very question now before us, IF THE LAWS WERE TO RESTORE THE RIGHTS WHICH HAVE BEEN TAKEN AWAY, THE NEGROES COULD NO LONGER BE REFUSED AN EQUAL SHARE OF REPRESENTATION WITH OTHER INHABITANTS. Such was the understanding, and such was the promise at the adoption of the Constitution. Such was the declared meaning of our fathers, according to the contemporary testimony of Alexander Hamilton. Therefore, while confessing sorrowfully their inconsistency in recognizing slavery, and throwing over their shame the mantle which the son of Noah threw over his father, we must reject every argument or inference on this account against the true idea of a Republic, which is none other than where all the citizens have an equal voice in the Government. As Washington, by his august example, gave to mankind a new idea of political greatness, so did the Fathers, by their great example, give to mankind a new idea of government. Do you ask again for

authority? I offer it to you. It is an early Dictionary of James Otis, Samuel Adams, Patrick Henry, and Benjamin Franklin. It is in the Lexicon of the Revolution. It is in the Thesaurus of our national history. It is in the Collection of Public Acts. This new idea was the great discovery of our fathers. Rob them of this, and you take from them their highest title to gratitude. Columbus, venturing into an unknown sea, discovered a New World of space; but our fathers, venturing likewise, discovered a New World of public duty. It is for us, their children, not to forget their discovery.

RECENT FRENCH DEFINITIONS.

After our own country, there is one other only which can help in determining what is a Republican form of government, and this is France. There, as in the United States, a Republic has been declared. If in the former country it failed to be maintained; still the generous effort has been made, and we have its testimony. This is explicit. As the Provisional Government in 1848 proclaimed the Republic, it was careful, after proper deliberation to proclaim at the same time "universal suffrage," which Lamartine, standing on the steps of the Hotel de Ville, and speaking in the name of the government, said was "the first truth and only basis of every National Republic." (*Garnier Pagés, Histoire de la Revolution*, tom. i, p. 328.) The proclamation of the Republic was itself submitted to the vote of "all the citizens;" and on the terms of this submission another member of the Government, of solid sense and perfect fidelity, thus expresses himself:

"By these words—all the citizens—the Provisional Government intended to consecrate definitively the fundamental principle of democracy; it intended to proclaim openly and forever the inalienable, imprescriptible right, inherent in each member of society, to participate directly in the government of his country; it intended to put in practice effectually and loyally the great principles until then shut up in the domain of the abstract theories of philosophy."—*Ibid*, tom. v, p. 348.

The same person, M. Garnier Pagés, who was at once an eminent actor in these scenes and their most authentic historian, thus again dwells on the true idea of a Republic:

"The Republic, that government of all by all where each has his place, his duty, and his right; the Republic, that is Liberty itself, the liberty to do every act and to put forth every thought not injurious to another; the Republic, that fraternal ground where are admitted all parties, the representatives of the past as well as those of the future, where every intelligence, and every association can develop its authority."—*Ibid*, tom. vii, p. 407.

To this authentic testimony of modern France, in harmony with our own country, I add the definition of a very recent foreign publicist, who, after dwelling on Equality as the idol sentiment of a Republic, says:

"This shows us the nature and the end of republican government. It is a Government founded on the general interests and equality."—*Block, Dictionnaire de la Politique*, article, République.

Admirable words! in themselves a definition. And here, before closing this testimony, let me call attention to two authorities, contemporary with our fathers, which stand apart, one English and the other German. The first is that of Dr. Richard Price, the friend of John Adams, who very early appreciated the American Revolution, and vindicated it before the world. Here is his idea of good government, compendiously expressed:

"Legitimate government consists only in the dominion of *Equal Laws* made with *common consent*, and not in the dominion of any man over other men."—*J. Adams's Works*, vol. iv, p. 401.

The German was none other than that great thinker, Emanuel Kant, who, in his speculations on Perpetual Peace, says, that to this end every State should be a Republic, which he defines as follows:

"That form of government where every citizen participates by his representative in the exercise of the legislative power, and especially in that of deciding on the questions of peace and war."—*Wheaton, History of Law of Nations*, p. 751.

The statement of Kant is as simple as Pure Reason, which is the title of his great work. It claims plainly for "every citizen" a share in the Government; and such is the definition furnished by this eminent philosopher, whose

name, rarely quoted in politics, is an unimpeachable authority.

REBEL STATES ARE NOT REPUBLICAN GOVERNMENTS.

Such is the definition of a Republican form of government. It remains now that we should bring these lapsed States to this standard, and see their small title to recognition. Authentic figures are not wanting. The census of 1860 discloses the population of the States in question. Here is the table:

States.	White population.	Colored population, slave and free, including Indians.
Alabama.....	526,271	436,930
Arkansas.....	324,243	111,307
Florida.....	77,747	62,677
Georgia.....	591,550	465,736
Louisiana.....	357,456	350,546
Mississippi.....	353,901	437,404
North Carolina.....	629,942	362,680
South Carolina.....	291,300	412,408
Tennessee.....	826,722	283,079
Texas.....	420,891	103,324
Virginia.....	1,047,299	549,019
	5,447,222	3,666,110

A glance at this table is enough. Taking the sum total of the population in the eleven States, we find 5,447,222 whites to 3,666,110 colored persons; and you are now to decide, whether in the discharge of your duties under the Constitution, and bound to guaranty a Republican form of government, you will disfranchise this mighty mass, shutting them out from those Equal Rights promised by our fathers, and from all voice in the government of their country. They surpass in numbers, by at least a million, the whole population of the colonies at the time our fathers raised the cry, "Taxation without Representation is Tyranny;" and now you are to decide whether you will strip them of representation while you subject them to a grinding taxation by tariff and excise, acting directly and indirectly, which dwarfs into insignificance everything attempted by the British Parliament. Our fathers could not bear a stamp act, in the making of which they had no voice, and they went forth to battle with the most formidable Power of the globe, rather than pay a tax of threepence on tea imposed by a Parliament in which they were not represented. Are you ready, sir, in disregard of this great precedent, and in disregard also of all the promises and examples of our past history, to thrust a single citizen out of all representation in the Government, while you consume his substance with taxation, subject him to stamp acts, compel him to pay a duty of twenty-five cents a pound on tea, and then follow him with your imposts in all the business of life? Clearly if you do not recognize his title to representation, you must at least by careful legislation relieve him from this intolerable taxation. Some of these millions, whom you thrust out, already contribute largely to the public revenue. How, then, can you deny them representation? Their money is not rejected. Why reject their votes? But if you reject their votes, you cannot take their money. As you can detect no color in their money, you ought to detect no color in their votes.

If looking at these States together the duty of Congress seems clear, it becomes clearer even when we look at them separately. Begin with Tennessee, which disfranchises 283,079 citizens, being more than a quarter of its whole "people." Thus violating a distinctive principle of republican government, how can this State be recognized as republican? This question is easier asked than answered. But Tennessee is the least offensive on the list. There is Virginia, which disfranchises 549,019 citizens, being more than a third of its whole "people." There is Alabama, which disfranchises 436,030 citizens, being nearly one half of its whole "people." There is Louisiana, which disfranchises 350,546 citizens, being one half of its whole "people." There is Mississippi, which disfranchises 437,404 citizens, being much more

than one half of its whole "people." And there is South Carolina, which disfranchises 412,408 citizens, being nearly two thirds of its whole "people." A Republic is a pyramid standing on the broad mass of the people as a base; but here is a pyramid balanced on its point. To call such a government "republican" is a mockery of sense and decency. A monarch, "surrounded by republican institutions," which at one time was the boast of France, would be less offensive to correct principles, and give more security to Human Rights.

It is not difficult to classify these States. They are aristocracies or oligarchies. An aristocracy, according to the etymology of the word, is the government of the best. An oligarchy is the government of the few, and is not even an aristocracy, but an abuse of aristocracy, as despotism is the abuse of monarchy. Perhaps these States may be characterized in either way; and yet the term aristocracy, especially in its origin, has something respectable which cannot be attributed to a combination, whose single distinctive element is the color of the skin.

The eminent publicist, Bodin, in his definition of an aristocracy, says that it exists *where a smaller body of citizens governs the greater*, and this definition has been adopted by others, especially by Montesquieu. But this is not satisfactory. Hallam, whose judgment is of the highest value, after discussing the merits of this definition, proposes the following most suggestive substitute:

"We might better say, that the distinguishing characteristic of an aristocracy is the enjoyment of privileges which are not communicable to other citizens simply by anything they can themselves do to obtain them."—*Hallam's Literature of Europe*, vol. ii, cap. 4, sec. 52.

These words completely characterize the aristocracy of color; for such an aristocracy is plainly in the enjoyment of privileges, which are not communicable to other citizens, by anything they can themselves do to obtain them.

To show that our rebel States are aristocracies or oligarchies is enough for the present occasion. But we must not forget that, born of Slavery, they have the spirit of that iniquity, so that they are essentially of a low type. Founded on the color of the skin, they are, beyond all question, the most senseless and disgusting of all history. Would you know to what they might incline? Listen to the frank words of the greatest Venetian writer, the famous Father Paul, while he counsels the privileged class, in a state refined by art and elevated by glory, how to use their powers. "If a noble," says he, "injure a plebeian, justify him by all possible means; but should that be found quite impossible, punish more in appearance than in reality. If a plebeian insult a noble, punish him with the greatest severity, that the commonalty may know how perilous it is to insult a noble." (*Sarpi, Opinione per il perpetuo Dominio di Venezia*, p. 13.) Such is the terrible rule laid down in a document, which taught how to make the power of Venice perpetual. But this same spirit predominates still in the rebel States. It rages there with more revolting cruelty than it ever raged in Venice. And such is the government which now claims recognition as "republican."

The pretension thus organized is hateful on another ground. It is nothing less than a Caste, which is at once irreligious and un-republican. A Caste cannot exist except in defiance of the first principles of Christianity and the first principles of a Republic. It is Heathenism in religion and tyranny in government. The Brahmins and the Sudras in India, from generation to generation, have been separated, as the two races are now separated in these States. If a Sudra presumed to sit on a Brahmin's carpet he was punished with banishment. But our recent rebels undertake to play the part of Brahmins, and exclude citizens, with better title than themselves, from essential rights, simply on the ground of Caste, which, according to its Portuguese origin, *casta*, is only another term for race.

But this pretension is in yet other respects hostile to good government. It is essentially

a Monopoly in a country which sets its face against all monopolies as unequal and immoral. If any monopoly deserves unhesitating judgment it must be that which absorbs the rights of others and engrosses political power. How vain it is to condemn the petty monopolies of commerce and then allow this vast, all-embracing monopoly of Human Rights.

Clearly, most clearly, and beyond all question, such a government cannot be considered "republican in form." Call it an Oligarchy, call it an Aristocracy, call it a Caste, call it a Monopoly; but do not call it a Republic.

DUTY OF CONGRESS.

Of course such a government can exist only in defiance of the Constitution, and it is the duty of Congress to interfere against it. President Johnson, in his annual message, says:

"In case of the usurpation of the government of a State by one man or an Oligarchy, it becomes the duty of the United States to make good the guarantee to that State of a Republican form of government."

The President forgets to mention an Aristocracy, and does not add, what is true, that the authority which must make good the guarantee is the sole judge of the exigency. To this end everything centers in Congress whose powers are commensurate with the occasion. In aid of the "guarantee" clause are those other words in the Constitution, providing that Congress "shall have power to make all laws which shall be necessary and proper for carrying into execution the powers vested in the Government of the United States." Under this ample provision there is a duty to be performed, by any means which may seem best. The jurisdiction is complete and it is in Congress. If any authority for this proposition were needed it would be found in the words of Chief Justice Taney, speaking for the Supreme Court of the United States:

"The fourth section of the fourth article of the Constitution of the United States provides that the United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion; and, on the application of the Legislature or of the Executive (when the Legislature cannot be convened) against domestic violence."

"Under this article of the Constitution, it rests with Congress to decide what government is established one in a State. For, as the United States guaranty to each State a Republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is Republican or not."—7 Howard Rep. 42, *Luther vs. Borden*.

In the exercise of this power two courses at least are open. One is to impose an irreparable condition upon the unrepudiated States, requiring them, before recognition, to reform their governments to the satisfaction of Congress. The other, and more direct course, is by Act of Congress, in performance of the "guarantee," and according to the plenary authority "for carrying into execution the powers vested in the Government of the United States," to provide all needful safeguards and especially to place the Equal Rights of All under the guardianship of National Law.

Against the exercise of this power there are but two arguments. First, that the Constitution, by providing that "the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature," has reserved to each State the power of excluding citizens merely on account of color, even though constituting more than a majority of the population. The other argument is that, since certain States at the North have disfranchised the few colored persons within their borders, the United States are so far constrained by this example that they cannot protect the millions of freedmen in the rebel States from disfranchisement, and cannot save the Republic from the peril of such a crying injustice. I know not which of these two arguments is the least reasonable, or rather, which is the most reprehensible. They are both unreasonable and both reprehensible. They both do violence to the true principles of the Constitution, if not to common sense.

It is true that, according to the text of the Constitution, each State may determine the "qualifications" of electors, but this can have

no application to an exigency like the present, where, at the close of a prolonged and desperate rebellion, the United States are obliged to guaranty to certain States a republican form of government. In the performance of this "guarantee," the United States can look only at the essential elements of such a government; nor more nor less; without regard to State laws. But I am not willing to rest the argument here. Even assuming that there has been no lapse of State governments, so as to bring the "guarantee" into operation—assuming that we are in a condition of assured peace—then I utterly deny that the power to determine the "qualifications" of electors can give any power to disfranchise actual citizens. It is "qualifications" only which the States can determine, meaning, by this limited term, those requirements of personal condition which are regarded as essential to the security of the franchise. These "qualifications" cannot be in their nature permanent or insurmountable. Color cannot be a "qualification," any more than size or the quality of the hair. A permanent or insurmountable "qualification" is equivalent to a deprivation of the suffrage—in other words, it is the tyranny of taxation without representation, and this tyranny, I insist, is not intrusted to any State of this Union. This is the very ground taken by Mr. Madison, when, defending the National Constitution in the Virginia convention, he said:

"Some States might regulate the elections on the principle of *Equality*, and others might regulate them otherwise." * * * "Should the people of any State, by any means, be deprived of the right of suffrage, it was judged proper that it should be remedied by the General Government." * * * "If the elections be regulated properly by the State Legislatures, the congressional control will very probably never be exercised. This power appears to be satisfactory and unlikely to be abused as any part of the Constitution."—*Elliot's Debates*, vol. iii, p. 347.

With these decisive words from one of the chief framers of the Constitution, backed by the reason of the case, I dismiss this objection to the little consideration it deserves. And I dismiss to the same indifference that other objection, that our hands are tied because certain Northern States have done a wrong and mean thing. Pray, sir, how can the failure of these States affect the power of Congress in a great exigency under the Constitution of the United States? But duty on the present occasion is identical with power. No matter if this power has been long dormant, it is none the less vital. It is like that slumbering statute, which Cicero describes as a sword in the scabbard, *tanquam gladius in vagina*. It only remains that it should be drawn forth.

This duty has been fortified by the Constitutional Amendment, which, after providing for the abolition of slavery, empowers Congress to "enforce" it by "appropriate legislation," thus heaping Ossa upon Pelion. Clearly under these words Congress may do what, in its discretion, seems "appropriate" to this end, and there is no power to call its action in question. On this point, the authority of the Supreme Court, in the masterly judgment of Chief Justice Marshall, is most explicit:

"The government, which has a right to do an act and has imposed on it the duty of performing that act, must, according to the dictates of reason, be allowed to select the means, and those who contend that it may not select any appropriate means, that one particular mode of effecting the object is excepted, take upon themselves the burden of establishing that exception." * * * "Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution are Constitutional."—4 Wheaton R. 409-421—*McCullough vs. Bank of Maryland*.

These words of the Chief Justice are reinforced by a kindred declaration from another great authority, Mr. Justice Story, speaking also for the Supreme Court, on an important occasion:

"The Constitution unavoidably dealt in general language. It was not intended merely to provide for the exigencies of a few years, but was to endure through a long lapse of ages; the events of which were locked up in the inscrutable purposes of Providence. Hence the Constitution leaves it to the legislative power from time to time, to adopt its own means to effectuate legitimate objects."—1 Wheaton R. 325; *Martin vs. Hunter*.

Apply these words to the present question, and the conclusion is irresistible. Whatever legislation shall seem to Congress "appropriate" to "enforce" the abolition of slavery; whatever "means" shall seem "proper" to this end, must be within the powers of Congress under the Constitutional Amendment. You cannot deny this principle without setting aside those most remarkable judgments which stand as landmarks of constitutional history. But who can doubt that the abolition of the whole Black Code, in all its oligarchical pretensions, civil and political, is "appropriate" to "enforce" the abolition of Slavery? Mark, if you please, the language of this grant. Congress may "enforce" abolition, and nobody can question the "means" which it thinks best to employ. Let it not hesitate to adopt the "means" which promise to be the most effective. As the occasion is extraordinary, so the "means" employed must be extraordinary.

But the Senate has already by solemn vote asserted this very jurisdiction. You have, sir, decreed that colored persons shall enjoy the same civil rights as white persons; in other words, that, with regard to civil rights, there shall be no Oligarchy, Aristocracy, Caste, or Monopoly, but that all shall be equal before the law without distinction of color. And this great decree you have made as "appropriate legislation" under the Constitutional Amendment "to enforce" the abolition of slavery. Surely you have not erred in this act. Beyond all question the protection of colored persons in civil rights is essential to complete the abolition of slavery; but the protection of colored persons in political rights is not less essential; and the power is as ample in one case as in the other. In each case you legislate for the maintenance of colored persons in that Liberty which has been so tardily accorded, and the legislation is just as "appropriate" in one case as in the other. The protection of colored persons in their civil rights by Act of Congress will be a great event. It will be great in itself. It will be greater still, because it establishes the power of Congress, without any further amendment of the Constitution, to protect colored persons in all their rights, including of course the elective franchise. There are precedents of Congress, as well as of courts, which are landmarks; and this is one of them.

Therefore, as authority for Congress you have two sources in the Constitution itself, first, the guarantee clause, and, secondly, the Constitutional Amendment; each sufficient—the two together a twofold sufficiency. To establish the Equal Rights of All, no further amendment is needed. The actual text is exuberant. Instead of adding new words, it will be enough if you give to those which exist the natural force which belongs to them. Instead of neglecting them, use them. Instead of supplementing them, interpret them. An illustrious magistrate once retorted upon an advocate, who, dissatisfied with a ruling of the court, threatened to burn his books, "You had better read them;" and so would I say now to all who think the Constitution needs amendment, you had better read it. Yes, sir, read it in the principles proclaimed by the Fathers before the Revolution; read it in the declarations of the Fathers when they took their place as a Republic; read it in the avowed opinions of the Fathers; read it in the Public Acts of the Fathers; and in all this beaming light you will discern its true meaning. Then again read it in that other light which, as from another sun, newly risen at mid-day, streams from the obligation of Congress to "enforce" the abolition of slavery. And then again read it in the glowing illumination of the war. But, in whichever light you read it, you will find always the same irresistible meaning. Even if the text were doubtful, the war makes it clear. The victory which overthrew slavery has carried with it all those glosses and constructions by which this wrong was originally fastened upon the Constitution. For generations the Constitution has been interpreted for Slavery. From this time forward it must be interpreted, in harmony with the Declaration of

Independence, so that Human Rights shall always prevail. The promises of the Fathers must be sacredly fulfilled. This is the commanding rule, superseding all other rules. This is one of the great victories of the war—perhaps the greatest. It is nothing less than the Emancipation of the Constitution itself.

THE BALLOT, THE ONLY SUFFICIENT GUARANTEE.

Mr. President, such is the testimony of history, authority, and Constitution, which binds the judgment on this occasion, leaving no alternative. Thus far, I have done little but bring the diversified testimony together and weave it into one body. It is not I who speak. I am nothing. It is the cause, whose voice I am, which speaks to you. But there are yet other things which, even at this late hour, crave to be said. And here, after this long review, I am brought back to more general considerations, and end as I began, by showing the necessity of Enfranchisement for the sake of Public Security and Public Faith. I plead now for the ballot, as the Great Guarantee; and the only *Sufficient Guarantee*—being in itself peacemaker, reconciler, schoolmaster, and protector—to which we are bound by every necessity and every reason; and I speak also for the good of the States lately in rebellion, as well as for the glory and safety of the Republic, that it may be an example to mankind.

Let me be understood. What I especially ask is impartial suffrage, which is, of course, embraced in universal suffrage. What is universal is necessarily impartial. For the present, I simply insist that all shall be equal before the law, so that, in the enjoyment of this right, there shall be no restriction which is not equally applicable to all. Any further question, in the nature of "qualification," belongs to another stage of the debate. And yet I have no hesitation in saying that universal suffrage is a universal right, subject only to such regulations as the safety of society may require. These may concern (1) age, (2) character, (3) registration, (4) residence. Nobody doubts that minors may be excluded, and so, also, persons of infamous life. Registration and residence are both prudential requirements for the safeguard of the ballot-box against the Nomads and Bohemians of politics, and to compel the exercise of this franchise where a person is known among his neighbors and friends. Education also, may, under certain circumstances, be a requirement of prudence, especially valuable in a Republic, where so much depends on the intelligence of the people. These temporary restrictions do not in any way interfere with the right of suffrage, for they leave it *absolutely accessible to all*. Even if impediments, they are such as may be easily overcome. At all events, they are not in any sense insurmountable, and this is the essential requirement of republican institutions. No matter under what depression of poverty, in what depth of obscurity, or with what diversity of complexion you may have been born, you are, nevertheless, a citizen—the peer of every other citizen, and the ballot is your inalienable right.

The ballot is a *peacemaker*, and, as we not told, Blessed are the peacemakers. High among the Beatitudes let it be placed, for there it belongs. Deny it, and the freedman will be the victim of a perpetual warfare. In ceasing to be a slave he only becomes a sacrifice. Grant it, and he is admitted to those Equal Rights which allow no sacrifice. Plutarch records that the wise man of Athens charmed the people by saying that *Equality causes no War*, and "both the rich and poor repeated it." And so master and slave will yet enjoy the transforming power of this principle. The master will recognize the new citizen. The slave will stand with tranquil self-respect in the presence of the master. Brute force disappears. Distrust is at an end. The master is no longer a tyrant. The freedmen is no longer a dependent. The ballot comes to him in his depression, and says, "Use me and be elevated." It comes to him in his passion, and says, "Use me and do not fight." It

comes to him in his daily thoughts, filling him with the strength and glory of manhood.

The ballot is a *reconciler*. Next after peace is reconciliation. But reconciliation is more than peace. It is concord. Parties that have been estranged are brought into harmony. They learn to live together. They learn to work together. They are kind to each other, even if it be only as the Arab and his horse; and this mutual kindness is a mutual advantage. Unquestionably, the ballot promotes this great boon, because it brings all into natural relations of justice, without which reconciliation is a vain thing. Do you wish to see harmony truly prevail, so that industry, society, government, civilization, may all prosper, and the Republic may wear a crown of true greatness? Then do not neglect the ballot.

The ballot is a *schoolmaster*. Reading and writing are of inestimable value, but the ballot teaches what these cannot teach. It teaches manhood. Especially is it important to a race whose manhood has been denied. The work of redemption cannot be complete if the ballot is left in doubt. The freedman already knows his friends by the unerring instinct of the heart. Give him the ballot, and he will be educated into the principles of government. Deny him the ballot, and he will continue an alien in knowledge as in rights. His claim is exceptional, as your injustice is exceptional. For generations you have shut him out from all education, making it a crime to teach him to read for himself the Book of Life. Let not the tyranny of the past be an apology for any further exclusion. Prisoners for a long time immured in dungeons are sometimes blinded as they come forth into the light of day; but this is no reason for continued imprisonment. To every freedman the ballot is the light of day.

The ballot is a *protector*. Perhaps, at the present moment, this is its highest function. Slavery has ceased in name; but this is all. The old masters still assert an inhuman power, and now by positive statutes seek to bind the freedman in new chains. Let this conspiracy proceed unchecked, and the freedman will be more unhappy than the early Puritan, who, seeking liberty of conscience, escaped from the "lords bishops" only to fall under the "lords elders." The master will still be master under another name, as according to Milton,

"New presbyter is but old priest writ large."

Serfdom or apprenticeship is slavery in another guise. To save the freedman from this tyranny, with all its accumulated outrage, is your solemn duty. For this we are now devising guarantees; but, believe me, the only sufficient guarantee is the ballot. Let the freedman vote, and he will have in himself under the law a constant, ever-present, self-protecting power. The armor of citizenship will be his best security. The ballot will be to him sword and buckler—a sword with which to pierce his enemies, and a buckler on which to receive their assault. Its possession alone will be a terror and a defense. The law, which is the highest reason, boasts that every man's house is his castle; but the freedman can have no castle without the ballot. When the master knows that he may be voted down, he will know that he must be just, and everything is contained in justice. The ballot is like charity, which never faileth, and without which man is only as sounding brass or a tinkling cymbal. The ballot is the one thing needful, without which rights of testimony and all other rights will be no better than cobwebs which the master will break through with impunity. To him who has the ballot all other things shall be given—protection, opportunity, education, a homestead. The ballot is like the Horn of Abundance, out of which overflow rights of every kind, with corn, cotton, rice, and all the fruits of the earth. Or better still, it is like the hand of the body, without which man, who is now only a little lower than the angels, must have continued only a little above the brutes. We are fearfully and wonderfully made; but as is the hand in the work

of civilization, so is the ballot in the work of government. "Give me the ballot and I can move the world," may be the exclamation of the race still despoiled of this right. There is nothing which it cannot open with almost fabulous power, like that golden mistletoe, offshoot of the sturdy oak, which, in the hands of the classical adventurer, unclosed the regions of another world, and like that golden bough, it is renewed as it is used:

"One plucked away, a second branch you see:
Shoot forth in gold and glitter from the tree."

If I press these illustrations, it is only that I may bring home to your minds that supreme efficacy, which cannot be exaggerated. Though simple in character, there is nothing the ballot cannot accomplish; like that homely household lamp in Arabian story, which, at the call of its possessor, evoked a spirit, who did all things, from the building of a palace to the rocking of a cradle, and filled the air with an invisible presence. But it is as a protector that it is of immeasurable power—like a fifteen-inch Columbiad pointed from a Monitor. Ay, sir, the ballot is the Columbiad of our political life, and every citizen who has it is a full-armed Monitor.

Having pleaded for the freedman, I now plead for the Republic; for to each alike the ballot is a *necessity*. It is idle to expect any true peace while the freedman is robbed of this transcendent light and left a prey to that vengeance which is ready to wreak upon him the disappointment of defeat. The country, sympathetic with him, will be in a condition of perpetual unrest. With him it will suffer and with him alone can it cease to suffer. Only through him can you redress the balance of our political system and assure the safety of patriot citizens. Only through him can you save the national debt from the inevitable repudiation which awaits it when recent rebels in conjunction with Northern allies once more bear sway. He is our best guarantee. Use him. He was once your fellow-soldier; he has always been your fellow-man. If he was willing to die for the Republic he is surely good enough to vote. And now that he is ready to uphold the Republic, it will be madness to reject him. Had he voted originally, the acts of secession must have failed. Treason would have been voted down. You owe this tragical war and the debt now fastened upon the country to the denial of this right. Vacant chairs in once happy homes, innumerable graves, saddened hearts, mothers, fathers, wives, sisters, brothers, all mourning lost ones, the poor now ground by a taxation they had never known before, all testify against that injustice by which the present freedman was not allowed to vote. Had he voted there would have been peace. If he votes now there will be peace. Without this you must have a standing army, which is a sorry substitute for justice. Before you is the plain alternative of the ballot-box or the cartridge box; choose ye between them.

Reason too in every way and with every voice cries out in unison with necessity. All policies, all expediences, all economies take up the cry. Nothing so impolitic as wrong; nothing so inexpedient as tyranny; nothing so little economical as the spirit of Caste. Justice is the highest policy, the truest expediency, and the most comprehensive economy. In this inspiration act. Do you wish to save the national credit, now imperiled by fatal injustice, and especially to secure gold as the national currency? Then do not let the question of Equal Rights disturb the country with its volcanic throes. You complain that labor is unorganized and that the cotton crop has failed. Do you wish labor to smile and cotton to grow? Then sow the land with Human Rights and encircle it round about with justice. The freedman will not, cannot work, while you deny his rights. Cotton will not, cannot grow in such an atmosphere. It is absurd to expect it. In using the freedman as you now do you imitate those barbarous Irish who insisted upon plowing by the horse's tail, until an Act of Parliament interfered to require plowing by har-

ness. The infinite folly must be corrected among us, if for no higher reason than because it is unprofitable. But it is contrary to nature, and on this account renders the whole social system insecure. Where Human Rights are set at naught there can be no tranquillity except that of force, which is despotism. This most reasonable conclusion is sustained by the philosophy of history, which, speaking by one of its oracles, the great Italian Vico tells us most sententiously that "nothing out of its natural state can either easily subsist or last long." Truer words were never uttered as a statement of philosophy or as a warning to injustice enacted into law.

GOOD AND GLORY OF THE REPUBLIC.

Mr. President, already I have taken too much time, and still the great theme, in its various and multitudinous relations, continues to open before us. At each step it rises in some new aspect—assuming every shape of interest and of duty—now with voice of command and then with voice of persuasion. The national security, the national faith, the good of the freedman, the concerns of business, agriculture, justice, peace, reconciliation, obedience to God—such are some of the forms it takes. In the name of all these, I speak to-day, hoping to do something for my country, and especially for that unhappy portion which has been arrayed in arms against us. The people there are my fellow-citizens, and gladly would I hail them, if they would permit it, as no longer a "section," no longer "the South," but an integral part of the Republic—under a Constitution which knows no North and no South and cannot tolerate any "sectional" pretensions. Gladly do I offer my best efforts in all sincerity for their welfare. But I see clearly that there is nothing in the compass of mortal power so important to them in every respect, morally, politically, and economically—that there is nothing with such certain promise to them of beneficent results—that there is nothing so sure to make their land smile with industry and fertility as the decree of Equal Rights which I now invoke. Let the decree go forth to cover them with blessings, sure to descend upon their children in successive generations. They have given us war; we give them peace. They have ragged against us in the name of Slavery. We send them back the benediction of Justice for all. They menace hate; we offer in return all the sacred charities of country together with oblivion of the past. This is our "Measure for Measure." This is our retaliation. This is our only revenge.

And here, I hope to be pardoned if I stop for one moment to express my unflinching confidence in the triumph of the cause. Timid or perverse counsels may postpone the glad consummation; but the contest now begun can end only when slavery is completely transformed by a metamorphosis, which shall substitute Justice for Injustice, Riches for Poverty, and Beauty for Deformity. From history we learn, not only the Past, but the Future. By the study of what has been we know what must be, according to unerring law. Call it, if you please, the logic of events, and infer the inevitable conclusion. Or call it, if you please, the Rule of Three, and from the results of certain forces determine the proportionate results of increased forces. There can be no mistake in the answer. And so it is plain that the Equal Rights of All will be established. Amid all seeming vicissitudes the work goes on. Soon or late the final victory will be won. I believe soon. Speeches cannot stop it; crafty machinations cannot change it. Against its irresistible movement politicians are as impotent as those old conjurors, who imagined that,

"By rhymes they could pull down full soon,
From lofty sky the wading moon."

These verses, which shine on the black-letter page of the great lawyer, Sir Edward Coke, aptly describe the incantations of our day to pull down Justice from her lofty sky. It cannot be done. In this conviction I can observe what comes to pass without losing faith. I can

listen with composure to arguments which ought not to be made, and I can see with equal composure how individual opinions hesitate between Congress and the President. It is not to the oscillations of the pendulum that we look for the measure of time, but to the face of the public clock and the striking of the church bell. The indications of that clock and the striking of that bell leave no room for doubt.

In the fearful tragedy now drawing to a close there is a destiny, stern and irresistible as that of the Greek Drama, which seems to master all that is done, hurrying on the death of Slavery and its whole brood of sin. There is also a Christian Providence which watches this battle for right, caring especially for the poor and down-trodden who have no helper. The freedman still writhing under cruel oppression now lifts his voice to God the avenger. It is for us to save ourselves from righteous judgment. Never with impunity can you outrage human nature. Our country, which is guilty still, is paying still the grievous penalty. Therefore by every motive of self-preservation we are summoned to be just. And thus is the cause associated indissolubly with the national life.

But in saving the Republic we elevate it. In overthrowing an oppressive injustice we give full scope to the principles of our government and fulfill that "Idea of a perfect Commonwealth," which has entered into the visions of philosophy and poetry. "I am all that has been, that is, and that shall be, and none among mortals has hitherto lifted my veil;" such was the enigma cut on the pavement of the temple of Minerva. For ages it remained unanswered; but the answer is now at hand. The Republic is all that has been, that is, and that shall be; and it is your duty to lift the veil. To do less than this were a failure, for such was the aspiration and promise of the Fathers when they assumed their first vows in the family of nations. To do this will fix the example of American Institutions. So long as slavery endured, it was impossible; so long as a Black Code, the wretched counterpart of slavery, endures in any form, it is impossible. To attain this idea we must proclaim the rule of Justice. Slavery thus far has been the very pivot, round which the Republic has revolved, while all its policy at home and abroad has radiated from this terrible center. Hereafter the Equal Rights of All will take the place of Slavery, and the Republic will revolve on this glorious pivot, whose infinite, far-reaching radiations will be the happiness of the Human Family. There is nothing that the imagination can picture which will not be ours. Where justice is supreme nothing can be wanting. There will be room for every business and for every charity. The fields will nod with increase; industry will be quickened to unimagined success, and life itself will be raised to a higher service. There will be that repose which comes from harmony, and also that simplicity which comes from one prevailing law, both of which are essential to the idea of the Republic. Our country will cease to be a patchwork where different States vary in the rights they accord, and will become a Plural Unit with one Constitution, one Liberty, and one Universal Franchise. With all these things the Republic will be a synonym for justice and peace, for these things will be inseparable from its name. In our longings we need not repair to philosophy or poetry. Nor need we go back to the memorable sage, who declared that the best government was where every citizen rushed to the defense of the humblest as if he were the State, for all this will be ours. Nor need we go back to that patriot king, in ancient tragedy, who, inspired by the Republican idea, exclaimed:

"The people I made supreme,
And on this city with an equal right
For all to vote, its freedom have bestowed."

Here at last, among us, all this will be assured, and the Republic will be of such renown and virtue that all at home or abroad who bear the American name may exclaim with more than Roman pride, "I am an American citizen," and if danger approaches, they may repeat the

same cry with more than Roman confidence, knowing well that this title will be a sufficient protection.

EQUAL RIGHTS OF ALL.

Sir, it is for you now to determine if all this shall be fulfilled. The whole case is before you in its grandeur and in its humanity, infinite as human aspirations, beautiful as the vision of a Republic. Do not turn away from it. Vindicate the great cause, I intreat you, by the suppression of all oligarchical pretensions and the establishment of those Equal Rights, without which Republican Government is a name only, and nothing more. Strike at the Black Code, as you have already struck at the Slave Code. There is nothing to choose between them. Strike at once; strike hard. You have already proclaimed Emancipation; proclaim Enfranchisement also. And do not stultify yourselves by setting at naught the practical principle of the Fathers, that all just government stands only on the consent of the governed, and its inseparable corollary, that *taxation without representation is tyranny*. What was once true is true forever, although we may for a time lose sight of it, and this is the case with those imperishable truths to which you have been, alas! so indifferent. Thus far the work is only *half done*. See that it is finished. Save the freedman from the outrage which is his daily life. As a slave he was "a tool without a soul." If you have ceased to treat him according to this ancient definition, it is only because you treat him even as something less. In your cruel philosophy he is only a "cipher," without the protection which the slave sometimes found in the self-interest of the master, or, rather let me say he is only a "cipher" where rights are concerned, but a numeral counted by millions where taxes are to be paid. The freedman is compelled not only to pay taxes; he must fight also, and he must obey the laws; three things which he cannot escape. But, according to the primal principle of Republican Government, he has an indefeasible right to a voice in determining how to be taxed, when to fight, and what laws to obey, all of which can be secured only through the ballot. Thus again, do I return to the same conclusion, which meets us at every point and every stage, as a commandment which cannot be disobeyed.

Would you secure all the just fruits of this terrible war and trample out the Rebellion in its pernicious assumptions, as in its arms? Then do not hesitate; and this is the last stage of the argument. The Rebellion began in two assumptions, both proceeding from South Carolina: first, the sovereignty of the States, with the pretended right of secession; and, secondly, the superiority of the white race, with the pretended right of Caste, Oligarchy, and Monopoly, on account of color. The first was often announced in every way. The second showed itself at the beginning, when South Carolina alone, among the thirteen States, allowed her Constitution to be degraded by an exclusion on account of color; but it did not receive an authoritative statement until a later day, when that wicked evangelist, Mr. Calhoun, taking issue with the Declaration of Independence, audaciously announced in the Senate that to declare all were born free and equal was "the most dangerous of all political errors; and that it had done more to retard the cause of civilization, and is doing more at present than all other causes combined; that we now begin to experience the danger of admitting so great an error to have a place in the Declaration of Independence." (Calhoun's *Speeches*, vol. iv, p. 54.) These two assumptions are kindred in effrontery. All agree that the dogma of State sovereignty must be repelled; but this is less offensive than that other dogma, having the same origin, that the Declaration of Independence is "the most dangerous of all political errors." To repel such an effrontery is not enough; it must be scorned.

The gospel, according to Calhoun, is only another statement of the imposture, that this august Republic, founded to sustain the rights

of Human Nature, is nothing but "a white man's Government." The whole assumption is ignoble, utterly unsupported by history, and insulting to the Fathers, while it is offensively illogical and irreligious. It is illogical, inasmuch as our fathers, when they declared that all men are created equal, gave expression to a truth of political science, which, from the nature of the case, admits no exception. As an axiom it is without exception; for it is the essence of an axiom, whether in geometry or morals, to be universal. As an abstract truth it is also without exception, according to the requirement of such truth. And finally, as a self-evident truth, so announced in the great Declaration, it is without exception; for only such truth can be self-evident. Thus, whether axiom, abstract truth, or self-evident truth, it is always universal. But the assumption is not only illogical, it is irreligious, inasmuch as it flies in the face of that living truth which appears twice at the Creation: first, when God said, "Let us make man in our image;" and, secondly, in the Unity of the race, then divinely appointed, and which appears again in the gospel, when it said, "God that made the world, and all things therein, hath made of one blood all nations of men." According to the best testimony now, the population of the earth—embracing Caucasians, Mongolians, Malays, Africans, and Americans—is about thirteen hundred millions, of whom only three hundred and seventy-five millions are "white men," or little less than one fourth, so that, in claiming exclusive rights for "white men," you degrade nearly three-quarters of the Human Family, made in the "image of God" and declared to be of "one blood," while you sanction a Caste offensive to religion, an Oligarchy inconsistent with Republican Government, and a Monopoly which has the whole world as its footstool.

Against this assumption I protest with mind, soul, and heart. It is false in religion, false in statesmanship, and false in economy. It is an extravagance, which, if enforced, is foolish tyranny. Show me a creature, with erect countenance looking to heaven, made in the image of God, and I show you a man, who, of whatever country or race, whether darkened by equatorial sun or blanched by northern cold, is with you a child of the Heavenly Father, and equal with you in title to all the rights of Human Nature. You cannot deny these rights without impiety. And so has God linked the national welfare with national duty, you cannot deny these rights without peril to the Republic. It is not enough that you have given Liberty. By the same title that we claim Liberty do we claim Equality also. One cannot be denied without the other. What is Liberty without Equality? What is Equality without Liberty? One is the complement of the other. The two are necessary to round and complete the circle of American citizenship. They are the two lobes of the mighty lungs through which the people breathe the breath of life. They are the two vital principles of a Republican Government, without which a Government, although republican in name, cannot be republican in fact. These two vital principles belong to those divine statutes which are graven on the heart of Universal Man, even upon the heart of the slave who forgets them, and upon the heart of the master who denies them; and whether forgotten or denied, they are more enduring than marble or brass, for they share the perpetuity of the Human Family.

The Roman Cato, after declaring his belief in the immortality of the soul, added, that if this were an error, it was an error which he loved. And now, declaring my belief in Liberty and Equality as the God-given birthright of all men, let me say, in the same spirit, if this be an error, it is an error which I love; if this be a fault, it is a fault which I shall be slow to renounce; if this be an illusion, it is an allusion which I pray may wrap the world in its angelic forms.

Mr. FESSENDEN obtained the floor.

Mr. MORRILL. I think it important to have

an executive session, and if it is agreeable to my colleague, I will make that motion.

Mr. FESSENDEN. It is a matter of indifference to me.

Mr. MORRILL. Then I submit that motion.

Mr. WILSON. I do not know that we have anything pressing in executive session, and if the Senator from Maine will yield the floor I should like to let this subject pass over informally and take up a little bill—

Mr. DOOLITTLE. I will state to my honorable friend that it is very important that we should have an executive session this afternoon.

Mr. WILSON. Very well. I shall not object.

Mr. MORRILL. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, February 6, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

COST OF NAVY-YARD AT PHILADELPHIA.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, transmitting a letter from the Fourth Auditor of the Treasury in regard to the cost of the navy-yard at Philadelphia, in response to a resolution of the House of January 11, 1866; which was referred to the Committee on Naval Affairs, and ordered to be printed.

INCOME FROM PROPERTY IN THE FUNDS.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting the report of Hon. S. S. Hayes, of the United States revenue commission, upon the income derived from property in the funds and taxation generally.

Mr. WENTWORTH moved that the letter of the Secretary, with the accompanying papers, be referred to the Committee of Ways and Means, and that the Secretary's letter be ordered to be printed.

The SPEAKER. As the Secretary of the Treasury differs from the report of the commissioner, perhaps the letter of the Secretary had better be read.

The Clerk read, as follows:

TREASURY DEPARTMENT, February 5, 1866.

SIR: I have the honor to submit to you a report from Hon. S. S. Hayes, a member of the United States revenue commission, upon the property in the funds and the income derived therefrom as a source of national revenue, the financial system of the United States, the creation of a sinking fund, and taxation in general.

The subjects upon which Mr. Hayes treats have been carefully considered, and his views are very ably and clearly presented in this report. I cannot indorse his conclusions; but it is due to him and the importance of the subject which he discusses that his report should be presented to and carefully considered by Congress.

I am very truly yours,

H. McCULLOCH.

Hon. SCHUYLER COLFAX,
Speaker of the House of Representatives.

Mr. WENTWORTH's motion was agreed to.

POST OFFICE ADVERTISEMENTS.

Mr. FARNSWORTH. I ask to introduce a joint resolution for publication of notices of mail lettings. It provides that the yearly advertisements and proposals to carry the mails of the United States, including the present year, shall be published for a period of six weeks in one newspaper printed in each congressional district in the several States where the mail service is to be performed.

Mr. KASSON. I hope the gentleman will not ask a vote without first hearing the views of the Post Office Department. The law as it now stands was designed to effect a very con-

siderable reduction in the printing expenses of the Department. The mail lettings are now published in pamphlet form and distributed to all the post offices and to contractors for the mails, besides the publication in newspapers. The notice now is just as effectually advertised for the interests of the Government as it would be in the way proposed. We ought not to return without good cause to the old plan, with its increased expenditures.

Mr. FARNSWORTH. It does not restore the old plan. At present the law provides that they shall be published in not exceeding five newspapers in every State and Territory. The operation of the law is to publish them in five newspapers in each State without reference to its size, so that in the small States they are published in five newspapers, while in the very large States of New York, Pennsylvania, Ohio, and Illinois, they are published in but five.

Mr. KASSON. I think the gentleman is in error about the publication in the small States being in five papers. A smaller number of papers is selected in the small States, as I am informed. Without intending any discourtesy, I hope the gentleman will allow me to make objection.

The SPEAKER. The gentleman from Iowa objects, and it is therefore not before the House.

Mr. FARNSWORTH. The gentleman from Iowa consents that the resolution be referred to the Committee on the Post Office and Post Roads.

The joint resolution was then read a first and second time, and referred to the Committee on the Post Office and Post Roads.

VICE ADMIRAL DAVID G. FARRAGUT.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, by unanimous consent, reported back Senate joint resolution No. 25, tendering the thanks of Congress to Vice Admiral David G. Farragut, and to the officers, petty officers, seamen, and marines under his command for their gallantry and good conduct in the action in Mobile bay, on the 5th of August, 1864; which was ordered to a third reading, and was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the House passed the joint resolution, and to lay that motion on the table.

The latter motion was agreed to.

NAVAL ACADEMY STUDENTS.

Mr. MILLER, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Naval Affairs be, and are hereby, requested to inquire into the propriety of so changing the law and regulations of the Naval Academy as to admit students therein up to the age of twenty-one years, so as to accord with those admitted into the Military Academy.

Bronze Doors of the Capitol.

The SPEAKER. Before the House proceeds to the regular order, the Chair desires to state that some Senators have stated to him that the bronze doors between the wings of the Capitol leading to the old Hall of the House of Representatives have been injured to some extent, and the Chair has found that one or two swords have been taken from the statuettes. The Chair, therefore, asks consent to refer the whole matter to the Committee on Public Buildings and Grounds.

Mr. WASHBURN, of Illinois. I suggest that the committee also inquire whether the Halls shall be occupied with little dry-goods and cake stands.

Mr. STEVENS. And I would like to have them examine and report what that monster is out there. [Laughter.]

Mr. WASHBURN, of Illinois. The inquiry should embrace the whole subject.

The SPEAKER. All those subjects will be referred to the Committee on Public Buildings and Grounds, and they may report to the House.

FREEDMEN'S BUREAU.

Mr. ELIOT. I call for the regular order.

The SPEAKER. The regular order is the consideration of the various propositions relating to the Freedmen's Bureau, on which the previous question was demanded and seconded yesterday, and the main question ordered. The Clerk will now report the propositions in their order.

The Clerk read the amendments proposed, namely, first, that of Mr. SMITH, excepting from the operation of the bill the State of Kentucky; second, the substitute offered by Mr. STEVENS; and lastly, the substitute for the Senate bill reported by the committee.

The question was then taken upon agreeing to the amendment to the amendment as proposed by Mr. SMITH; and it was decided in the negative—yeas 34, nays 181, not voting 17; as follows:

YEAS—Messrs. Boyer, Brooks, Chanler, Dawson, Eldridge, Finck, Glossbrenner, Grider, Aaron Harding, Harris, Hogan, Edwin N. Hubbard, James M. Humphrey, Kerr, Le Blond, Marshall, McCullough, Niblack, Nicholson, Samuel J. Randall, William H. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Smith, Strouse, Taber, Taylor, Thornton, Trimble, and Wright—34.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Dawes, DeFrees, Delano, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, James Humphrey, Ingersoll, Jenekes, Julian, Kasson, Kelley, Kelso, Ketcham, Kuykendall, Ladin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McKuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Pomeroy, Price, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spaulding, Starr, Stevens, Stilwell, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—181.

NOT VOTING—Messrs. Ancona, Bergen, Blaine, Blow, Culver, Davis, Denison, Goodyear, Griswold, Hulburd, Johnson, Jones, Noel, Radford, Robert T. Van Horn, Voorhees, and Winfield—17.

So the amendment was disagreed to.

The question recurred on the substitute offered by Mr. STEVENS for the substitute reported from the committee on freedmen.

Mr. STEVENS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 37, nays 126, not voting 19; as follows:

YEAS—Messrs. Ames, Baldwin, Banks, Brandegee, Bromwell, Broomall, Sidney Clarke, Cobb, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Farnsworth, Garfield, Henderson, Higby, Hotchkiss, Demas Hubbard, Jenekes, Julian, McClurg, McIndoe, Mercer, Moorhead, Morris, Paine, Sawyer, Schenck, Sloan, Spaulding, Stevens, Van Aernam, Williams, Stephen F. Wilson, and Windom—37.

NAYS—Messrs. Alley, Allison, Anderson, James M. Ashley, Baker, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Boyer, Brooks, Buckland, Bundy, Chanler, Reader W. Clarke, Conkling, Cook, Cullom, Darling, Davis, Dawes, Dawson, DeFrees, Delano, Eggleston, Eldridge, Eliot, Farquhar, Ferry, Finck, Glossbrenner, Grider, Grinnell, Griswold, Hale, Aaron Harding, Abner C. Harding, Harris, Hayes, Hill, Hogan, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, Edwin N. Hubbard, James R. Hubbard, James Humphrey, James M. Humphrey, Ingersoll, Kasson, Kelley, Kelso, Kerr, Ketcham, Kuykendall, Ladin, Latham, George V. Lawrence, William Lawrence, LeBlond, Loan, Longyear, Lynch, Marshall, Marston, Marvin, McCullough, McKee, McKuer, Miller, Moulton, Myers, Newell, Niblack, Nicholson, Noel, O'Neill, Orth, Patterson, Perham, Phelps, Plants, Pomeroy, Price, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rogers, Rollins, Ross, Rousseau, Scofield, Shanklin, Shellabarger, Sitgreaves, Smith, Starr, Stilwell, Strouse, Taber, Thayer, Thayer, John L. Thomas, Thornton, Trimble, Trowbridge, Upson, Burt Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, James F. Wilson, Woodbridge, and Wright—126.

NOT VOTING—Messrs. Ancona, Delos R. Ashley, Bergen, Blow, Culver, Denison, Goodyear, Hart, Asahel W. Hubbard, Hulburd, Johnson, Jones, Morrill, Pike, Radford, Francis Thomas, Robert T. Van Horn, Voorhees, and Winfield—19.

So the substitute of Mr. STEVENS was rejected.

During the roll-call,

Mr. CONKLING said: I wish to state that my colleague, Mr. HULBURD, is absent, by the leave of the House, in consequence of the illness of a near relative. I make this statement in reference to all these votes.

Mr. GLOSSBRENNER said: My colleague, Mr. ANCONA, is still absent on account of sickness. I am authorized to say that he would have voted against all these propositions.

The result of the vote having been announced as above recorded, the question recurred on the substitute reported from the select committee on freedmen, and, being put, said substitute was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. ELIOT demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. LE BLOND called for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 136, nays 33, not voting 13; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Bromwell, Broomall, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Davis, Dawes, DeFrees, Delano, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, James Humphrey, Ingersoll, Jenekes, Julian, Kasson, Kelley, Kelso, Ketcham, Kuykendall, Ladin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McKuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Pomeroy, Price, William H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Smith, Spaulding, Starr, Stevens, Stilwell, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—136.

NAYS—Messrs. Boyer, Brooks, Chanler, Dawson, Eldridge, Finck, Glossbrenner, Grider, Aaron Harding, Harris, Hogan, Edwin N. Hubbard, James M. Humphrey, Kerr, Le Blond, Marshall, McCullough, Niblack, Nicholson, Noel, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Strouse, Taber, Taylor, Thornton, Trimble, and Wright—33.

NOT VOTING—Messrs. Ancona, Bergen, Buckland, Culver, Denison, Goodyear, Hulburd, Johnson, Jones, Radford, Sloan, Voorhees, and Winfield—13.

So the bill was passed.

During the roll-call,

Mr. BOYER stated that his colleague, Mr. JOHNSON, was unavoidably absent. If here, he would undoubtedly have voted in the negative.

The result of the vote having been announced as above recorded,

Mr. ELIOT moved to amend the title of the bill so as to read as follows: "An act to amend an act entitled 'An act to establish a Bureau for the Relief of Freedmen and Refugees, and for other purposes.'"

The amendment was agreed to.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

FORTIFICATION BILL.

Mr. STEVENS, by unanimous consent, reported from the Committee on Appropriations a bill making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense, for the year ending 30th January, 1866; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and made the special order for Wednesday, the 15th instant; after the morning hour, and from day to day until disposed of, and ordered to be printed.

VINDICATION OF CIVIL RIGHTS.

Mr. WILSON, of Iowa, entered a motion to reconsider the vote by which the House, on yesterday, referred to the Committee on the Judiciary Senate bill No. 61, to protect all persons in their civil rights and to furnish the means of their vindication.

PERSONAL EXPLANATIONS.

Mr. ROUSSEAU. I desire, Mr. Speaker, to make a personal explanation. Before doing so I will ask the Clerk to read a paragraph which I have marked in the report of yesterday's debate, as published in the Daily Globe of this morning.

The Clerk read, as follows:

"Mr. GRINNELL. History repeats itself. I care not whether the gentleman was four years in the war on the Union side or four years on the other side; but I say that he degraded his State and uttered a sentiment I thought unworthy of an American officer when he said that he would do such an act on the complaint of a negro against him."

Mr. ROUSSEAU. Mr. Speaker, I did not use the language imputed to me by the member from Iowa, [Mr. GRINNELL.] And I pronounce the assertion that has just been read, that I have degraded my State and uttered a sentiment unworthy an American officer, to be false, a vile slander, and unworthy to be uttered by any gentleman upon this floor.

Mr. GRINNELL. Mr. Speaker, I have no explanation further than to say that the gentleman has withheld his remarks, and that I have published mine. I alluded to his remarks as I understood them, and stated distinctly that I had no desire to do the gentleman any injustice. I criticised his language as I understood it, and I stand by that criticism. If I did not represent his language correctly, then I make an apology to him in regard to that. But if I understood his language correctly I make no apology for my criticism of it.

Mr. ROUSSEAU. My object was not to obtain an apology from the gentleman, but to say what I have said.

Mr. GRINNELL. I have only to say that the gentleman's language is no offense to me. I stand here to discharge my duties as I understand they should be discharged, and I stand upon my rights as a member of this House, and when I criticised the laws of Kentucky I did so from a sense of my duty; and when I characterized the language of the gentleman as I did, it was because I believed it was unworthy of an American officer, and unworthy of his noble State; and I do not consider that he represented the spirit of the loyal army of the country when he declared he would shoot a citizen because that citizen might have informed against him.

Mr. ROUSSEAU. I see the gentleman does not appreciate his position more than he appreciates mine. I understand the gentleman is a preacher of the Gospel. But he has got to learn that charity that all other men understand. I am a new member here, but I have always endeavored to deport myself with the utmost courtesy and kindness toward every gentleman upon this floor. And it does seem to me that it came with exceeding ill grace from gentlemen who have sat in their houses, who have remained in the bosoms of their families in that safety which we were fighting for in the battlefield, to come here and not exercise even ordinary charity toward us, but, finding a member out of his seat, proceed to assail him, first by putting words in his mouth he did not use, and then offer him an insult on account of those words. I say the gentleman does not appreciate my position nor his own; and I tell him that; but that is his fault, and not mine.

Mr. GRINNELL. I have only to say that the gentleman has paraded his profession of arms before this House. I have not paraded mine. If he says that I am a clergyman, or was a minister, I have to answer that I was a man before I was a minister; and I claim now to be a man and an American citizen. I am not ashamed of my origin or of my profession. I am here to stand up for my principles and for my constituents and for my country.

EQUAL POLITICAL RIGHTS.

Mr. MORRIS, by unanimous consent, introduced a bill to secure equal political rights to every citizen of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

BERKELEY AND JEFFERSON COUNTIES.

Mr. LAWRENCE, of Ohio. I rise to a privileged question, and call up the motion to reconsider the vote by which the House sometime ago recommitted to the Committee on the Judiciary the joint resolution (H. R. No. 17) giving the consent of Congress to the transfer of the counties of Berkeley and Jefferson from the State of Virginia to the State of West Virginia. I desire that a vote may be taken on this subject. I hope that the motion to reconsider will be agreed to. I think there will be no objection to it. I trust that then the joint resolution will be passed.

The SPEAKER. The question will first be taken on the motion to reconsider. If that be adopted, the question will then recur on recommending the joint resolution to the Committee on the Judiciary. If that be determined in the negative, the question will recur upon ordering the joint resolution to be engrossed and read a third time.

The motion to reconsider was agreed to.

The question then recurring on the motion to recommit, it was determined in the negative.

The question then recurring on ordering the joint resolution to be engrossed and read a third time.

The joint resolution, which was read, recites in its preamble, that the General Assembly of Virginia, by an act passed on the 31st day of January, 1863, gave its consent to the county of Berkeley, of that State "being admitted to and becoming part of the State of West Virginia," and by an act passed on the 4th day of February, 1863, did, among other things, give its consent to the county of Jefferson, of said State, "being admitted to and becoming part of the State of West Virginia," which acts authorized the qualified voters thereof to hold an election within those counties on the 28th day of May, 1863, to ascertain the sense of said voters with respect to the transfer of those counties from Virginia to the State of West Virginia.

The preamble further states that the Governor of Virginia, in accordance with a further provision of the acts cited, did, on the 22d day of July, 1863, certify to the Governor of West Virginia that polls were opened in the county of Berkeley, on the 28th day of May, 1863, "for the purpose indicated in said act" of January 31, 1863, and that "a very large majority of the votes cast at said election were in favor of said county of Berkeley becoming part of the State of West Virginia;" and did, on the 14th day of September, 1863, certify to the Governor of West Virginia that polls were opened in the county of Jefferson on the 28th day of May, 1863, "on the question of annexation to said new State," and that "a very large majority of the votes cast at said election were in favor of annexation to the State of West Virginia."

The preamble also recites that the Legislature of West Virginia, by an act passed on the 5th day of August, 1863, did admit the county of Berkeley into and make it a part of the State of West Virginia; and, by an act passed on the 2d day of November, 1863, did admit the county of Jefferson into and make it part of the State of West Virginia; and that the State of West Virginia has, from the date of said acts of the Legislature thereof, exercised full and undisputed jurisdiction over said counties.

The joint resolution declares that the consent of Congress is given to the transfer of the counties of Berkeley and Jefferson from Virginia to the State of West Virginia; that the jurisdiction exercised over them by the State of West Virginia is approved and confirmed, and that those counties are henceforth part of the State of West Virginia.

Mr. LAWRENCE, of Ohio. The resolution

now before the House proposes to give the consent of Congress to the transfer of the counties of Jefferson and Berkeley from the State of Virginia to the State of West Virginia. When the resolution was reported back from the Committee on the Judiciary on the 12th of January last, it was accompanied by a written report, which was laid upon the table and ordered to be printed for the information of members of the House. Anything which I might now say upon this subject would simply be a repetition of what is contained in that report. I will, however, state in very brief terms the facts upon which it is asked that the consent of Congress shall be given to the transfer of these counties.

On the 19th of June, 1863, if I am not mistaken in the date, the constitution of West Virginia took effect under the proclamation of the President of the United States. It contained a provision authorizing the transfer of the counties of Jefferson and Berkeley from the State of Virginia to the State of West Virginia. That was a fundamental provision of the constitution itself. On the 31st of January, 1863, the State of Virginia passed an act authorizing the transfer of Berkeley county to West Virginia on a vote of the people of that county; and on the 4th of February, 1863, the State of Virginia passed an act authorizing the transfer of Jefferson county upon a vote of the people of that county.

In pursuance of those laws, a vote was taken in each of those counties, which vote resulted in favor of the transfer. The result of that vote was duly certified; and, from that time until the present, these counties have, by common consent, been regarded as constituting a part of the State of West Virginia. They have been so regarded upon the ground that their transfer from the State of West Virginia was authorized by the constitution of West Virginia; and that, therefore, the assent of Congress was not requisite. As, however, a question has been made whether the transfer would be valid without the consent of Congress, this joint resolution has been introduced, and reported back from the Committee on the Judiciary, merely for the purpose of settling the controverted question as to whether the assent of Congress is or is not necessary to the transfer. All the departments of the government of Virginia and West Virginia, and the executive department, at least, of the Government of the United States, have recognized the transfer as already made. The courts which are held there are held under the jurisdiction and laws of the State of West Virginia. Judgments have been rendered; transfers of property have been made; criminals have been tried and sentenced; and in every possible form the transfer has been regarded as complete.

Now, I do not wish to detain the House by any further statement of the facts, because I suppose it to be wholly unnecessary. My colleague on the committee, the distinguished gentleman from New Jersey, [Mr. ROGERS,] desires, I believe, to submit some remarks in opposition to the resolution; and I will yield to him for half an hour, which I hope will enable him to say all he desires to say; and then, if any further explanation be necessary, I may ask the privilege of saying a few words in reply to him. Before doing so, however, I desire to state an additional fact. It is exceedingly important that this matter should be disposed of now. The Legislature of West Virginia, on the 1st of February last, adopted resolutions, which I send to the Clerk's desk to be read, asking the action of Congress, so that this controverted subject may be settled.

The Clerk read, as follows:

Resolutions of the Legislature of West Virginia.

Whereas, on the 31st day of January, A. D. 1863, the Legislature of the State of Virginia passed a law giving the consent of said State to the county of Berkeley becoming part of the State of West Virginia, and authorizing a vote to be taken, in said county, on the fourth Thursday of May, 1863, upon the question of annexing said county to the State of West Virginia; and whereas, on the 4th day of February, A. D. 1863, a like law was passed by the Legislature of the State of Virginia authorizing the people of Jefferson county on the same day to take a vote upon annexing said county of Jefferson to the State of West Virginia;

and whereas, on the said fourth Thursday of May, A. D. 1863, a vote was taken in each of said counties in pursuance of said laws upon the question of annexing said counties to the State of West Virginia, and a majority of the votes cast in each of said counties was in favor of said annexation; and whereas, on the 22d day of July, A. D. 1863, His Excellency, Francis H. Pickens, then, and still, Governor of the Commonwealth of Virginia, certified to the Governor of the State of West Virginia, under his hand and the less seal of said State, that from the returns on file in his office a very large majority of the votes cast at said elections in said counties was in favor of said annexation; and whereas, on the 5th day of August, A. D. 1863, the Legislature of West Virginia passed a law accepting the transfer and annexation of said county of Berkeley to the said State of West Virginia; and whereas, on the 2d day of November, A. D. 1863, the Legislature of West Virginia passed a like law accepting the transfer and annexation of said county of Jefferson to the said State of West Virginia; and whereas ever since the passage of these laws the State of West Virginia, and the various State, county, and township officers of said State, have continually exercised exclusive and undisputed jurisdiction, and all the acts of municipal sovereignty necessary for the good government of said counties; and whereas it has been recently claimed and insisted that the transfer and annexation of said counties was not valid and complete until the same was ratified by Congress; and whereas the doubts and uncertainty created by such claims and representations tend greatly to create a spirit of insubordination and disloyalty to the laws and government of the State; therefore,

Be it resolved by the Legislature of the State of West Virginia. That our Senators and Representatives in Congress be requested to urge the speedy passage of a bill or joint resolution by Congress giving its consent to the annexation and transfer of said counties to the State of West Virginia, ratifying and approving the same.

Resolved. That the Governor be requested to furnish each of our Senators and Representatives in Congress a copy of the foregoing resolution.

Adopted January 13, 1866.

CLERK'S OFFICE, HOUSE OF DELEGATES,
WHEELING, January 22, 1866.

I certify that the foregoing is a true transcript from the record in this office.

WILLIAM P. HUBBARD,
Clerk House of Delegates and Keeper of the Rolls.

STATE OF WEST VIRGINIA,
OFFICE SECRETARY OF STATE.

I hereby certify that the foregoing is a true copy of the original filed in this office.

Given under my hand and the less seal of the State, [L. S.] at my said office in the city of Wheeling, this 25th day of January, 1866.

GRANVILLE D. HALL,
Secretary of State.

Mr. ROGERS. I hope the honorable gentleman who reported this bill will not confine me to half an hour. I cannot state my objections in thirty minutes.

Mr. LAWRENCE, of Ohio. I think that half an hour will be enough.

Mr. ROGERS. I am indebted to the gentleman's courtesy for the time I am to occupy; and as I am the only member of the committee who opposes the bill, I hope I will be allowed to have full time to state my objections and the reasons for them.

The SPEAKER. There are forty-five minutes of the gentleman's hour left.

Mr. ROGERS. Mr. Speaker, this is an application to Congress to give its consent to a transfer of Jefferson and Berkeley counties from old Virginia to West Virginia, some two years after that transfer was supposed to have been made. It was supposed, according to the theory of the report of the committee, that it was unnecessary to have any action on the part of Congress to ratify and consent to the transfer of a part of old Virginia to West Virginia. The report goes upon the hypothesis that the government under Governor Peirpoint was a government *de jure*, and that therefore any act of old Virginia under Governor Peirpoint consenting to the transfer of any part of its territory to West Virginia was an act of the sovereign power of old Virginia, and legal.

Mr. KELLEY. The gentleman assumes, as has been done several times upon the other side of the House, that West Virginia was recognized by the vote of the Republican portion of the House, upon the ground of the consent of the State of Virginia to the organization of the State of West Virginia. I am not, sir, prepared to say there were not some gentlemen upon this side of the House who voted upon that ground; but I am prepared to say that there was one who did not, that there were others who did not, and that there was one who appealed, in casting his

vote in that way, that he should not be misunderstood, and many others responded, saying they could not stultify themselves by assenting to the idea that the State of Virginia was in a condition to consent. We voted for her admission because the people of this portion of our territory had organized a State, and came to Congress asking for admission into the Union, and believing we had the right to admit them, as they had arranged all the proper preliminaries, we did so admit them. I wish to enter my protest against the idea being sent abroad any further, that our action recognizes Virginia as having the right to consent to anything which should be made a condition for the action of this Congress.

Mr. ROGERS. The report of the committee, unanimous, except so far as I am concerned, bases the authority of Congress to recognize the transfer of a part of old Virginia to West Virginia upon the ground that the State of old Virginia was a State *de jure* under Governor Peirpoint. It is asserted she had the right to transfer any portion of her territory, because she was a State *de jure*; and that by virtue of that fact old Virginia was recognized by all the departments of the Federal Government, and all the necessary machinery of government was carried on in old Virginia as in any other State of the Union. But when they came to another part of the case, and it is the main point, and it is asked whether it does not require the consent of old Virginia, West Virginia, and the Congress of the United States at the same identical moment to carry into effect a tripartite agreement for the transfer of a part of old Virginia to West Virginia, then they say it is doubtful whether Virginia is more than a mere government *de facto*.

Now, gentlemen will remember that the State of Virginia, before Congress had taken any action on this subject at all, several months ago, and since the war ended, passed a solemn act of her Legislature under her new constitution, counting these two counties into the State of old Virginia, and refusing her consent to the transfer of these counties to the State of West Virginia. That was before Congress had taken any action on this subject at all. The main question in this case then arises, whether that did not end the proposed agreement. I desire that you may regard this question as you would between any other two States; because it is an important one, in which not only the citizens of the State of West Virginia, old Virginia, and all the other States are particularly concerned, namely, whether a State, although it has given its consent that a part of its territory shall be given up to another State, may not withdraw that consent at any time before the other party, whose consent is necessary to make a legal arrangement between the parties, shall have given its consent; I mean by the other party the Congress of the United States.

Now, I hold that if the State of old Virginia was a sovereign State, if she was a State *de jure* at the time of the formation of the government of Virginia under Governor Peirpoint, she is a State *de jure* to-day, and that the authority which she exercised in taking away the consent which she had before given to the transfer of a part of her territory to West Virginia was a sovereign exercise of authority, which she had a right to make; and if she withdrew it at any time before Congress gave its consent—I mean the third party whose consent was required in order to complete the contract—then the contract was not completed and the grant was unexecuted.

Mr. WOODBRIDGE. I would like to ask my colleague on the committee whether the contract had not been ratified before this repeal by the old State of Virginia, which I understand occurred on the first day of the convening of the present session.

Mr. ROGERS. No, sir, it was not ratified. Congress never has given any ratification or consent, directly or indirectly, to the transfer of the counties of Berkeley or Jefferson to West Virginia.

Mr. WOODBRIDGE. I merely want to know whether that ratification was not per-

formed by all parties except the consent of Congress before the repeal of the law or grant by those States, and was not the jurisdiction of the two counties transferred?

Mr. ROGERS. The transfer of the jurisdiction of the two counties was not complete, and West Virginia had no right by law to exercise any authority over the counties of Berkeley and Jefferson until Congress had given its consent to the transfer. The act of Virginia authorizing the establishment of the State of West Virginia, reserved in the act the control and jurisdiction of those counties until Congress should give its consent to the acquisition of that territory by the State of West Virginia; and until that time the transfer was not complete. But these two counties were not included in the act of Congress. It is a condition of the act that Congress shall ratify the act of old Virginia consenting to the erection of West Virginia, and until Congress consents to the erection of that State, old Virginia has the entire and exclusive control and jurisdiction over the whole of the original State.

Mr. LATHAM. I wish to correct a mistake of the gentleman in regard to the act to which he refers, and which is now the matter under consideration by the House—not the act authorizing the erection of a new State. The act under consideration now, giving consent to the transfer of the two counties, was a subject which took place at a period subsequent to the act of the State of Virginia giving its consent to the establishment of the State of West Virginia and its admission into the Union by Congress. The act which gives the consent of the State of Virginia to the transfer of these two counties, states that the jurisdiction of the State of Virginia over these counties shall cease upon their admission by the State of West Virginia, without the consent of Congress. And the jurisdiction did so cease, was voluntarily withdrawn by their authorities, and the jurisdiction of West Virginia extended over them immediately upon their admission by the State of West Virginia. If the gentleman will allow me, I will read the act.

Mr. ROGERS. That will not be disputed; that is not the point I am making. The point is, that when West Virginia was put into an independent position as a State, old Virginia stated in her act giving her consent that she should have entire sovereign control over every foot of that State until Congress gave its ratification to the contract between the two States, and that originally, when West Virginia was admitted as a sovereign State into this Union, it was upon the express condition that certain counties, naming them, should constitute the new State, and that these counties remained subject to the sole control of the State of old Virginia. Now, suppose that at any time after old Virginia had given its consent, and before Congress had given its consent, and entered into the agreement necessary to complete the transfer, old Virginia had withdrawn her consent, could she not have done it? Is there a lawyer in this House who will say to me that although a State may consent to the transfer of a portion of its territory to another State on condition that she shall hold sovereign power over that territory till Congress recognizes the act, that she has not the right at any time before Congress ratifies the agreement to withdraw her consent from that contemplated contract? Is it in the eye of the law a consummated contract at any time unless the three parties consent and agree to the contract at the same identical time. Either party has a right to withdraw its consent at any time before the agreement is fully consummated.

Mr. LATHAM. I will just state that upon the admission of West Virginia into the Union there was no contract between Virginia and West Virginia. There could be none, because West Virginia had no existence until admitted into the Union by the Congress of the United States, and consequently it followed, as a matter of course, that the jurisdiction of the State of Virginia should be extended over all the territory which was erected into the State of West Virginia until West Virginia became a State by

admission into the Union by the Congress of the United States. There could be no agreement between the States until West Virginia became a State. After the act authorizing West Virginia to become a State in the Union, the Legislature of Virginia provided by two separate acts for the transfer of the counties of Berkeley and Jefferson, a clause of one of which reads thus:

"If a majority of the votes at the polls opened and held pursuant to this act be in favor of the said county of Berkeley becoming part of the State of West Virginia, then shall the said county become part of the said State of West Virginia when admitted into the same with the consent of the Legislature thereof."

Mr. ROGERS. We do not disagree at all upon that part of the case about the counties. I am coming to that directly, but that is not the point now. As to the point the gentleman raises, that because West Virginia had not then been established as a State, no contract could have been made between the States of West Virginia and old Virginia. Now, that is not so, because, under the Constitution of the United States, no State has a right to give up one inch of its territory to any political community, organized body, State, or Territory, or to any citizen, without the consent of Congress. And why? Because the citizens of the United States, according to the decision of the Supreme Court of the United States, are interested in the dismemberment and disintegration of the territory of the United States. No State can give up one foot of its territory to any other State, corporation, political body, or living individual without the consent of Congress as a party to the contract.

In support of this position I read from a case reported in 18 Howard, page 494, decided in the United States Supreme Court:

"By the tenth section of the first article of the Constitution, no State can enter into any agreement or compact with another State without the consent of Congress. Now, a question of boundary between States is in its nature a political question, to be settled by compact made by the political departments of the Government."

"And if Florida and Georgia had, by negotiation and agreement, proceeded to adjust this boundary, any compact between them would have been null and void without the assent of Congress."

I say that any agreement between the States of old Virginia and West Virginia with regard to the transfer of Berkeley and Jefferson counties was null and void. Every act, therefore, of the State of West Virginia exercising jurisdiction over these two counties was in violation of law and a usurpation. West Virginia has no more right to exercise the functions of a State over these counties than she would have over the State of New Jersey or any other State in the Union.

I read further:

"This provision is obviously intended to guard the rights and interests of the other States, and to prevent any compact or agreement between any two States which might affect injuriously the interests of the others. And the right and duty to protect those interests is vested in the General Government."

The Constitution of the United States, section three, article four, says no new State shall be formed or erected within the jurisdiction of any other State without the consent of the Legislatures of the States concerned, as well as of Congress. Now, West Virginia could be established in old Virginia by an act of the Legislatures and the consent of Congress, provided the organic law of the State authorized the Legislature so to do.

Now, I have another case here, a case which the committee have referred to in their report, and by which they attempt to sustain the position they take upon this point, and which shows point blank to the contrary, that that position is not tenable. No gentleman on the other side of the House, however prejudiced, can doubt that the position I take is tenable and cannot be contradicted or overthrown by any one. The tenth section of the first article of the Constitution of the United States provides that no State shall, without the consent of Congress, enter into any agreement or compact with another State. Now, I hold that a Legislature of a State cannot transfer the territory of

the State unless the State constitution provides for the act; and old Virginia having no such provision in her constitution, her consent to the transfer of these counties was void.

The committee refer to the case of Kentucky and Virginia, decided in the Supreme Court of the United States. And I am going to read that part of the case to which they refer. They refer to the case for the purpose of showing that because there was a provision in the constitution of West Virginia, that other territory might be added to that State with the consent of her Legislature. Therefore, when Congress admitted West Virginia into the Union as a State, it admitted her with the right to add territory to the State as she pleased without any further action by Congress at all. The committee proceed upon the assumption, in their report, that because there is a provision in the organic law of West Virginia that new territory may be added to it afterward by act of its Legislature, that gives West Virginia the right, and the unlimited right—because if you admit the principle at all, you must admit it as an unlimited right—to add all the territory she may see fit to add. And she may take in the whole of old Virginia; she may take in all the State of Maryland; she may take in all of Ohio and Pennsylvania, and so on until she has absorbed the whole Union in one conglomerated mass of sovereign power and jurisdiction without the consent of Congress, by annexing it to the State of West Virginia. If the theory and construction of the organic law of West Virginia is correct as given by the committee, if you admit the doctrine that because the constitution of West Virginia contains a clause giving the right to add new territory, she may annex these two counties without the consent of Congress, then you must go the whole length of allowing her to add all the territory of the United States if she sees fit, without the consent of Congress; and thereby destroy the whole unity of the States of this Government, and consolidate them under the name of the State of West Virginia. No lawyer will pretend that is so. It does not require a lawyer to see the absolute absurdity of any such theory as that upon which the hypothesis set forth in this report of the committee is based. That clause in the organic law of West Virginia simply authorized the Legislature to do what it could not do without it.

Allow me to read from Wheaton's Reports, volume eighth, in regard to the separation of Kentucky from Virginia, from the decision of the Supreme Court of the United States:

"The first objection is founded upon the allegation that the compact was made without the consent of Congress, contrary to the tenth section of the first article, which declares that 'no State shall, without the consent of Congress, enter into any agreement or compact with another State, or with a foreign Power.' Let it be observed, in the first place, that the Constitution makes no provision respecting the mode or form in which the consent of Congress is to be signified, very properly leaving that matter to the wisdom of that body, to be decided upon according to the ordinary rules of law and of right reason. The only question in cases which involve that point is, has Congress, by some positive act, in relation to such agreement, signified the consent of that body to its validity? Now, how stands the present case? The compact was entered into between Virginia and the people of Kentucky upon the express condition that the General Government should, prior to a certain day, assent to the erection of the district of Kentucky into an independent State, and agree that the proposed State should immediately after a certain day, or at some convenient time future thereto, be admitted into the Federal Union. On the 25th of July, 1790, the convention of that district assembled under the provisions of the law of Virginia, and declared its assent to the terms and conditions prescribed by the proposed compact; and that the same was accepted as a solemn compact, and that the said district should become a separate State on the 1st of June, 1792. These resolutions, accompanied by a memorial from the convention, being communicated by the President of the United States to Congress, a report was made by a committee to whom the subject was referred, setting forth the agreement of Virginia that Kentucky should be erected into a State, upon certain terms and conditions, and the acceptance by Kentucky upon the terms and conditions so prescribed; and on the 4th of February, 1791, Congress passed an act which, after referring to the compact, and the acceptance of it by Kentucky, declares the consent of that body to the erecting of the said district into a separate and independent State, upon a certain day, and receiving her into the Union."

Here is what the court say:

"Now, it is perfectly clear that, although Congress might have refused their consent to the proposed separation—"

Now, mark the theory of the honorable gentleman from Vermont, [Mr. WOODBRIDGE.] He asks me whether this contract was not complete between these two States without the ratification of Congress, and whether the grant has not been carried into effect, so that it cannot be recalled by the party that gave the grant. Now, I affirm that it can be recalled; it is not complete, because Congress may refuse its assent to the admission of any State; and if Congress can refuse its assent, can a compact, an agreement or a grant between parties, depending upon that assent, be completely and definitely fulfilled until that assent is given by the third party, who is to enter into the agreement as one of the parties?

Mr. WOODBRIDGE. I will ask my friend from New Jersey whether the contracting parties, West Virginia and "old Virginia," as he calls it, the one making the grant and the other receiving it, had not done all that they could do before the repeal of this grant by the Legislature of the so-called present State of Virginia. I think that all the gentleman's law could be answered, even though "old Virginia" were so far in the Union as a State as to make her ordinances valid at the time when she passed the recent act of repeal. But so far from that, I believe that any act that she might pass would have no control over the acts passed by a State which was at the time of the passage of the act recognized by the General Government as being a State in the Union; for when the last act was passed, although as a State she was not in the sense that some contend out of the Union, yet she was in such a condition that she had not the power to pass ordinances and laws of any binding force either upon Congress or the country.

I will say in addition, that the Legislature which passed the recent act of repeal was organized without taking the oath of office which has been prescribed by Congress or by its own constitution.

Mr. ROGERS. The present Legislature was organized under Governor Peirpoint and is now recognized as the Legislature of the State of Virginia *de jure*, by the President and other officers of the Federal Government, and she holds her powers to legislate now under and by the same authority she did when she passed the act giving her consent to the transfer, and by virtue of that same power she has withdrawn her consent and repealed her former law.

I ask the gentleman this question: suppose that we had had no war; that we had continued in peace and prosperity, and that old Virginia had passed an act of her Legislature to transfer a portion of her territory to West Virginia; that West Virginia had made a constitution similar to this, and that before Congress had given its consent old Virginia had withdrawn her consent from that proposed compact or agreement, would she not have had a right to do so at any time before Congress ratified that contract?

Mr. WOODBRIDGE. I will state, then, Mr. Speaker, as a matter of law, that if there were in this grant conditions precedent to be performed by the other party before the grant should become operative, then, if the conditions precedent were not performed, the grant might fall. But I contend that the ratification by Congress is not a condition precedent, and that such ratification subsequent to the full acceptance of the grant by the contracting parties is all that is necessary.

Mr. ROGERS. I will ask the gentleman one question. Could the grant be complete, and would a State have a right to take possession of the territory of another State, by virtue of acts of the Legislatures, before Congress had given its consent, and would the acts of that State over territory of the other State be legal without the consent of Congress?

Mr. WOODBRIDGE. I can only answer the gentleman by referring to what I have already said.

Mr. ROGERS. Now, sir, let me proceed with the decision I attempted to read. The court decides, and it is the Supreme Court of the United States, as follows:

"Now, it is perfectly clear, that although Congress might have refused their consent to the proposed separation, yet they had no authority to declare Kentucky a separate and independent State, without the assent of Virginia, or upon terms variant from those which Virginia had prescribed."

I ask what authority the Congress of the United States has this day to declare these two counties a part of the State of West Virginia without the consent of old Virginia. There is the point, the very point which is raised in this case, which the learned gentleman who made this report has referred to as sustaining his report. What right, I ask, has the Congress of the United States to ratify an act upon the part of West Virginia and old Virginia, which has been revoked upon the part of old Virginia, who has expressly withdrawn her consent before Congress has had an opportunity to express its assent.

THE SPEAKER. The gentleman's time has expired.

Mr. ROGERS. I hope the gentleman will not cut me off here.

Mr. LAWRENCE, of Ohio. How much time does the gentleman ask?

Mr. ROGERS. Half an hour more.

Mr. LAWRENCE, of Ohio. I do not object if it does not come out of my time.

Mr. ROGERS. Of course not.

Mr. HALE. I hope that the time of the gentleman from New Jersey will be extended half an hour, and that it will not be taken out of the time of the gentleman from Ohio.

There was no objection, and it was ordered accordingly.

Mr. ROGERS. Let me conclude reading the extract which I had commenced. It is the case of *Green vs. Biddle*:

"Now, it is perfectly clear, that although Congress might have refused their consent to the proposed separation, yet they had no authority to declare Kentucky a separate and independent State, without the assent of Virginia, or upon terms variant from those which Virginia had prescribed. But Congress, after recognizing the conditions upon which alone Virginia agreed to the separation, expressed by a solemn act the consent of that body to the separation. The terms and conditions, then, on which alone the separation could take place, or the act of Congress become a valid one, were necessarily assented to, not by a mere tacit acquiescence, but by an express declaration of the legislative mind, resulting from the manifest construction of the act itself. To deny this is to deny the validity of the act of Congress, without which Kentucky could not have become an independent State; and then it would follow that she is at this moment a part of the State of Virginia, and all her laws are acts of usurpation."

I want gentlemen to mark that.

The court further say:

"The counsel who urged this argument would not, we are persuaded, consent to this conclusion; and yet it would seem to be inevitable, if the premises insisted upon be true.

This decision shows that, until Congress gives its consent to the transfer of one part of a State to another, all the acts of the other over the new territory are usurpations. It has no right or power then until Congress has given its consent to that exercise of power.

But, sir, the Congress of the United States never gave its consent to the admission of West Virginia upon any theory that the counties of Berkeley and Jefferson were to form a part of the new State. I have the act of Congress for the admission of the State of West Virginia into the Union, which, whether purposely or otherwise, has been omitted from the report of the committee. It provides as follows:

"Whereas the people inhabiting that portion of Virginia known as West Virginia did, by a convention assembled in the city of Wheeling on the 20th of November, 1861, frame for themselves a constitution, with a view of becoming a separate and independent State; and whereas at a general election held in the counties composing the territory above said on the 3d day of March last the said constitution was approved and adopted by the qualified voters of the proposed State; and whereas the Legislature of Virginia, by an act passed on the 13th day of May, 1862, did give its consent to the formation of a new State within the jurisdiction of the said State of Virginia, to be known by the name of West Virginia, and to embrace the following-named counties:"

The act then designates the forty-eight coun-

ties which are to compose the State of West Virginia; and among them we nowhere find mention made of the counties named in the pending joint resolution; and they are not included in the forty-eight counties which Congress agrees shall constitute West Virginia. It does not name the counties of Berkeley and Jefferson.

The committee say this was a contract on the part of Virginia which cannot be recalled; and in order to substantiate that ground they refer to the action of Congress, Virginia, and West Virginia, giving their consent to the admission of the latter State into the Union, which cannot be now withdrawn. We are told when that contract was entered into it could no more be annulled than any ordinary contract in reference to land.

The gentleman also refers, as evidence to show that Virginia had no right to withdraw her authority and consent, that when jurisdiction was granted over the District of Columbia, and the States sold dock-yards, grounds for forts, and United States buildings to the Federal Government, they might withdraw their consent as well as in this case. Sir, they could not withdraw their consent. Why? Because it only took two parties to make that contract, namely, the Congress of the United States and the States where the dock-yards, buildings, grounds, and forts were located; and when Congress entered into that agreement with the State it was final and irrevocable, and required the action of no other party in order to complete it. Therefore, those cases have no bearing whatever on the point here.

Now, how does the case stand? If old Virginia was a *State de jure* in 1863, when West Virginia was admitted into the Union, and the last act of the Legislature of Virginia giving her consent to the transfer in 1863 was valid, and she a *State de jure*, how could she have been a government *de facto* in only two years after, because when she gave her consent to this transfer the State of Virginia was almost solely—much more than at any other time—under the control of the confederate army. How could she have been a *State de jure* then, with the right to exercise sovereign power in conveying away a part of her own territory any more than she was in 1865, when she revoked her consent, and after the Union has been restored, when the war was at an end, when peace reigned, when her Legislature has been recognized, when the mails are carried through her territory, and when her Governor and her Representatives to Congress, elected by the people, have been recognized by the executive branch of the Government? If the argument is good that because the departments of this Government recognized the State of West Virginia, and of old Virginia in 1862 or 1863, is it not good now? Do not they recognize it? Does not the President of the United States recognize it? Do not all the officers in the Cabinet recognize it in the same way?

Mr. WILSON, of Iowa. Will the gentleman yield for a question?

Mr. ROGERS. I will not object to yielding if it does not come out of my time. I have no time to spare. Now, the committee admit the fact that West Virginia has not acquired these two counties through any consent of Congress, unless article four, section sixteen of her constitution, by which she was admitted into the Union, can be construed constructively to give such consent, which seems to be the idea contained in the report of the committee on page 2. Now, I have shown by the opinions of the court that it is necessary for Congress to give consent, and by the act of Congress that it did not give its consent to the incorporation of more than forty-eight counties into the State of West Virginia.

I propose to offer an amendment to the report of the committee. Although I believe that every exercise of jurisdiction over these counties on the part of West Virginia is null and void, all I ask is that this question shall be sent back to the counties of Jefferson and Berkeley, so that the people may vote upon it according

to the laws of the country, whether they want to be admitted and incorporated into West Virginia or to remain with old Virginia. I propose this amendment, to come in at the end of the bill:

Provided, That the question of the annexation of the said counties shall be referred to a vote of the people of each of them at an election to be held on the second Tuesday of April next, by commissioners appointed by the Governor of Virginia, and a majority of the legal voters of said counties under the laws of Virginia shall, at said election, be found in favor of such annexation.

But how am I met? I am now going to answer that argument. I am met by the argument of the learned gentleman who reported this bill, that we have no right to send this proposition back to these counties for their action. Why not? When West Virginia presented herself here under the agreement between herself and old Virginia to be admitted into the Union by act of Congress, she was refused admission and was sent back and told that when that State abolished slavery she could be admitted under the Constitution as a free State by act of Congress. And a new section was added to the constitution, and it was submitted to the people in March, 1863, and in April, 1863, the State was admitted upon the conditions prescribed by Congress, to wit, the abolition of slavery. But that constitution was never submitted to these counties. And it was not until January, 1863, that Virginia gave her consent to the transfer of these counties by a mere act of her Legislature. She was a *State de jure* then, to exercise one of the highest acts of sovereignty in the transfer of her domain. She was a *State de jure* a few months ago in repealing her act for transfer. Her *de jure* sovereignty as a State has since been acknowledged in her ratifying the constitutional amendment. If she was not a *State de jure* in 1863, when she gave her consent, her act was null and void, and the exercise of authority by West Virginia is usurpation on that account; but upon every view of the case, West Virginia usurped her powers in controlling these counties before Congress consented.

If Congress had a right to send back West Virginia for the purpose of having a vote there and a new constitution formed, so that the requirements of Congress might be complied with by West Virginia, will any gentleman who is a lawyer tell me that Congress has not the right under that same inherent power to order that an election shall be held in these counties to take the sense of the people whether they shall be added on to West Virginia or remain in the gallant State of old Virginia?

Mr. LAWRENCE, of Ohio. If Congress now sends back the question to the people, by what means can Congress compel the people to take a vote upon this question?

Mr. ROGERS. By the same means by which Congress compelled West Virginia to take a vote on amending her constitution. An election may be held there in such manner as Congress may dictate under the laws of old Virginia. Congress has the right to send back this question to the people of these counties. The same thing was done in the case of Kansas. When the Territory of Kansas came here with a State constitution, because that constitution did not comply with certain conditions which Congress thought ought to be imposed, it was sent back to the people of the Territory, and they voted upon it before Congress would admit that Territory into the Union as a State. There is no doubt that anybody that has power to carry any act into effect has the inherent right to do everything that by necessary implication goes with it. I hold it a well-settled principle of law that old Virginia had no right to transfer part of her territory to another State unless her organic law gave her the right to do so. There was never any feature in the constitution of Virginia under which she could transfer her territory in this manner. This was a simple act of the Legislature of Virginia, held under the pressure of despotism and tyranny in time of civil commotion, and that Legislature had no right to transfer away a part of the territory of Virginia unless

the organic law gave the Legislature the power to do it. And to prove my position, we see by the report of the committee that the State of West Virginia has put in a section in its organic law that new territory may be admitted by the Legislature. But suppose the organic law of West Virginia had made no provision for that, will gentlemen on the other side tell me that West Virginia would then have had the right to make any such compact, by virtue of a mere act of her Legislature, any more than the soldiers of Pennsylvania and New York would have had a right to vote in the field without a change of the constitutions of those States? That clause in the organic law can only be construed to mean that new territory may be added to the State, by the Legislature, with the consent of Congress.

But, sir, I call the attention of the radical party on the other side of the House to the fact that if the assent of Congress is given to the addition of these counties to West Virginia, you recognize both West Virginia and old Virginia as States, legally constituted States, *States de jure*, incorporated into this Union. I would like the gentleman from Pennsylvania, [Mr. STEVENS,] the leader of the other side of the House, to show me the consistency of a vote upon his part for an act of Congress ratifying what the States of Virginia and West Virginia have done, when he claims that when the war was commenced the southern States became dead, lost their State existence, and became mere Territories.

And not only that, but the action of this House has decided that these counties did not constitute a part of West Virginia. I refer the House to the report made by the Committee of Elections in the case of McKenzie vs. Kitchen. All the members of that committee were men of intelligence and members of the Republican party, and most if not all lawyers.

That committee decided, without a dissenting voice, that Berkeley and Jefferson counties belonged to old Virginia, and that they were no part of the territory of West Virginia. The report says:

"But the claimant, McKenzie, by his notice of contest, contends that Berkeley county, where Kitchen received a large vote, and without which he would be in a small minority, was, on the day of election, no part of the seventh congressional district of Virginia, but was at that time a part of West Virginia, and consequently not entitled to vote for a Representative in this district."

That report was made on February 8, 1864, about two years ago. Let us see what it says further:

"Under the first of these acts of the State of Virginia, it does not appear that anything was done by the voters of Berkeley, Jefferson, and Frederick, to 'ratify and assent to the said constitution' of West Virginia, as provided in that act; and if not, of course the act had no effect in transferring the county of Berkeley to West Virginia."

That committee in their report admit that the constitution of West Virginia has not been submitted to the vote of the people of Berkeley and Jefferson counties. There was some clause in that constitution by which commissioners should set the time and places where the election should be held; but none was held. And the only election held in Jefferson and Berkeley counties was in two places, Harper's Ferry and Shepherdstown, which were both under the control of the military; and only about one hundred votes were cast out of a vote of twenty-five or twenty-six hundred votes. The committee say:

"If they did proceed to 'ratify and assent,' as therein required, still neither of these counties is embraced in the act of Congress admitting West Virginia, passed December 31, 1862."

The Committee of Elections make the same argument that I make now. When that argument was made by them, it was potential and powerful in this House; and when made by me, is it to be entitled to no consideration simply because I do not happen to agree with honorable gentlemen on the other side of the House? I submit that this is no political question, but a question of jurisdiction between States, which has yet to receive the sanction of the Supreme Court of the United States. And let us deal with this question as we would with any other

of like character. But I do not fear for the result. I have fear that the old, gallant State of Virginia, where the bones of Washington and Jefferson, and so many of the heroes of the Revolution repose, will be torn asunder by the action of this Congress, under the influence of party prejudice against that State.

The Committee of Elections proceed to say:

"But there is a further objection to this claim of Mr. McKenzie. The act of Congress admitting West Virginia into the Union enumerates the counties of the old State which shall compose the new one; and Berkeley is not one of them. Congress has never consented to the transfer of the county of Berkeley from the one State to the other; and without that consent it cannot be done. Berkeley county is therefore still a part of the old State of Virginia."

Are the action of Congress in refusing to admit either of the contestants into this House, the opinion of the very learned and legal gentlemen of the Committee of Elections, most emphatically deciding that Berkeley county belonged then to the old State of Virginia, to be regarded here as founded on the law and truth? And I ask the gentlemen on the other side if that report was true two years ago, is it not true to-day? Does not the same principle, which never dies or passes away unless the Government is subverted or overthrown, hold good yet?

And the committee go on to say that there were such military operations then being carried on there that they believe a fair election could not be held, and no fair election has been held there since that time, although the tramp of armies, the roar of artillery, and the sound of arms have passed away. I ask that we shall submit this question back again to the people of the counties of Berkeley and Jefferson, and let them say whether they want to constitute a part of the State of West Virginia or not.

Has Congress retroactive action? And is not this a retroactive law, an *ex post facto* law, one for the purpose of confirming acts upon the part of West Virginia, in exercising authority outside of her own dominions, which they admit they had no right to exercise, for they ask Congress to give their legislative sanction for their action, because West Virginia had no more right to exercise authority over these two counties than New Jersey had to exercise authority over those same counties.

Now, sir, I submit that there is no authority on the part of Congress to ratify this, that the three parties must consent altogether, and that until such consent be obtained, no act of this kind can be carried into effect, by reason of the well-established rule in reference to the construction of contracts; that if A, B, and C contract C constitutes an essential party to the contract as much as A and B, and without the concurrence of C in the contract it falls to the ground; and A and B may withdraw from it at any time before C has ratified it.

What is a contract? It is, according to the definition given by Blackstone, an agreement between two or more parties to do or not to do a particular thing. This is an agreement between parties to do a particular thing, and until the three parties have agreed to it, the contract is not consummated.

Now, sir, in the face of these grave doubts which are raised, will gentlemen object to allowing the people of these counties to say whether they desire that this transfer shall take place? If the theories of the gentlemen upon the other side are correct, West Virginia no more constitutes a State of the Union than the most remote Territory. It is, as I believe, a serious question whether West Virginia is a State; but I am not here to argue that question. I am willing to admit, purely for the sake of argument, that she is a State; but recognizing her as properly occupying the position of a State in the Union, the consent of the other contracting party to the transfer of any portion of her territory is necessary before Congress can carry it into effect.

Now, sir, here is the report of a committee of this House in the case of McKenzie vs. Kitchen; and this report takes the same ground that I now occupy, and makes the same argu-

ment. The gentlemen who made that report are gentlemen of talent and learning, and belong on the other side of the House, one of them the gentleman from Kentucky, [Mr. SMITH.] All agreed to the proposition that these counties could not be transferred to West Virginia from old Virginia, on account of Congress not having consented, and being a necessary party to the agreement. We make the same argument that the committee do in reference to the reorganization of the confederate States, by quoting the acts of the different branches of the Government recognizing them as States. But when that question is in issue we are told that that argument amounts to nothing. But that case has no bearing upon this. The Constitution confers no power on Congress to reorganize States, and the acts of secession having been void from the beginning, all action based upon them is equally void. The President has expended his authority in protecting the people in the organization of their States, and they are now as much States as they ever were, as they never did or could commit suicide without the consent of the other States.

Now, sir, what difference does it make what the Executive Departments of the Government have done in reference to this transfer? They are not authorized to control our action on a question of this character. Neither the President of the United States nor any member of his Cabinet has the right to recognize certain territory as constituting part of a certain State, so as to preclude the action of Congress on the question, or legalize an illegal act. Why? Because this question stands on a different ground from the question of reconstruction, because Congress alone has authority to regulate this matter, by virtue of the Constitution of the United States. Hence, I say, I do not care what action the Executive Departments may have taken with reference to this question. I do not care what Secretary Chase, or Secretary Stanton, or President Johnson, or the late President, Mr. Lincoln, or any other person connected with the executive department of the Government, may have done in reference to this question. It is a matter depending rightly upon the exercise of the sovereign power of the thirty-six States of this Union in Congress assembled. The consent of Congress is necessary before any such contract as this can be carried into legal effect. An act which is void *ab initio* cannot be rendered valid by retroactive legislation of one of the parties only.

We are all interested in this transfer. Pennsylvania is interested in it, New Jersey is interested in it, all the States are interested in it. If a Legislature in New Jersey should consent to the transfer of a large part of that State to the State of New York, and the people of the State of New Jersey should turn that Legislature out and put another Legislature in its place to recall that action, are we to be told that that cannot be done before the consent of Congress had been given to the transfer? I say that the people of a State have the power to annul any such act before it has been carried into effect. If they have not, then I say that power in this Government does not emanate from the people but from the representatives of the people, and Legislatures can dispose of the domain of States and prevent the repeal of the acts, before all the necessary parties have consented, and violate that plain rule of law, that a Legislature can pass no act that a subsequent one may not repeal.

According to the theory of gentlemen on the other side, the contract is complete, the agreement carried into effect, the grant executed and delivered, the property delivered into possession without the consent of Congress, and for that reason Virginia cannot withdraw her consent. According to that argument, if West Virginia has exercised sovereign control by virtue of a contract which cannot be revoked, then there is no necessity to have any act of Congress on the subject. If it is complete without Congress, then why come here and ask

Congress to act on it? If West Virginia has control over the counties of Berkeley and Jefferson, I ask gentlemen what is the use of this proposition at all? How inconsistent you are, even on your own theory. You say that the contract is complete, that these counties have been recognized by all the departments of the Government, that West Virginia has instituted courts in those counties, and tried and hung men there, and that was all legal; yet you come here by the report of this committee and ask Congress to ratify all these things, as if they were illegal. But there is no such authority in West Virginia, she has no sovereign control over these counties. As I have shown by the decision of the court, she has no power until the consent of Congress has been obtained.

[Here the hammer fell.]

Mr. LAWRENCE, of Ohio. Mr. Speaker, I have listened attentively to the remarks of my distinguished colleague on the Judiciary Committee, but he has failed to satisfy me that this resolution ought not to pass. It seemed to me that he has failed entirely to answer the arguments submitted in the report which I had the honor to make to this House on the 12th day of January last.

I believe, sir, that the State of Virginia assented to the transfer of the counties of Berkeley and Jefferson to the State of West Virginia. It seems to be conceded that the State of West Virginia agreed to the transfer, and that all that was necessary to complete the transfer was the consent of Congress. It seems to be conceded that if the consent of these two States and that of Congress had been obtained the transfer would have been complete. The gentleman tells us that the State of Virginia withdrew her assent, and therefore this transfer is not now legal. I am free to say that the Legislature of Virginia, the so-called Legislature of Virginia, since this Congress commenced, did pass an act withdrawing her assent to the transfer of these two counties from old Virginia to West Virginia; but it seems to me that withdrawal can have no effect on this bill for three reasons:

First, West Virginia having accepted the transfer and the State of Virginia having assented to it, that assent cannot by any subsequent legislation be withdrawn. On the faith of her assent given by the Legislature of Virginia to this transfer, West Virginia took jurisdiction over these counties, organized her courts, and assumed complete jurisdiction; and that jurisdiction has been recognized by Virginia, accepted by West Virginia, and acknowledged by the authorities of the national Government.

There is another reason why Virginia could not withdraw her assent to the transfer of these two counties, and that is because Congress has already assented to the transfer. This resolution is not introduced because it is absolutely necessary, but simply for the purpose of settling a controverted question. When Congress admitted the State of West Virginia into the Union, with a clause in her Constitution authorizing her to receive the transfer of these two counties, that was itself a consent on the part of Congress; and no further consent was necessary on the part of Congress.

Mr. DAWES. I would like to have the clause of the constitution read.

Mr. LAWRENCE, of Ohio. I will read the clause in the constitution of West Virginia. The second section of the first article of the constitution, after naming the counties absolutely made part of the State, provides:

"And if a majority of the votes cast at the election or elections held as provided in the schedule hereof, in the district composed of the counties of Pendleton, Hardy, Hampshire, and Morgan, shall be in favor of the adoption of this Constitution, the said four counties shall also be included in and form part of the State of West Virginia; and if the same shall be so included, and a majority of the votes cast at the said election or elections in the district composed of the counties of Berkeley, Jefferson, and Frederick, shall be in favor of the adoption of this constitution, then the three last-named counties shall also be included in and form part of the State of West Virginia."

Mr. DAWES. I would like to have my friend answer this question: whether the district composed of Jefferson, Berkeley, and Frederick,

is the district composed of Jefferson and Berkeley? It is the district composed of Jefferson and Berkeley which it is proposed to transfer to West Virginia, but there is another district known as Jefferson, Berkeley, and Frederick.

Mr. LAWRENCE, of Ohio. Oh, yes, the vote contemplated both of them. The vote was to be taken in the several counties.

Mr. DAWES. That is not the question I raised. It was, whether they consented that that particular district, composed of the several counties, should be transferred upon the vote of the several counties. Was it not that specific district, namely, the district composed of those three counties; and was that the same district which we propose now to transfer?

Mr. LAWRENCE, of Ohio. Two of the counties are.

Mr. DAWES. I do not understand the assent to be that these three counties, or any two, or any one of them, are transferred, but three. I suppose it to be this: that they may assent to a particular district embracing three counties for very good reasons. I do not say that they are so, for I do not propose to object to this resolution particularly; but they may have very good reasons why two of these counties should not go unless the third one went with them.

Mr. LAWRENCE, of Ohio. I will not controvert the gentleman on this subject, for I do not regard the question as at all material.

Mr. DAWES. While I am up I desire to put myself right on the record. Some gentlemen from these two counties sent to me (I do not know why, particularly) remonstrances against this measure, purporting to be signed by twelve hundred citizens of one of the counties and by six hundred of the other. I presented their petitions. I say I do not know why I was selected as the organ to present them, but I would inquire of the gentleman whether these parties had an opportunity to be heard before the committee?

Mr. LAWRENCE of Ohio. I will answer all that. The question which the gentleman makes is one of construction. That is, it is a question of the construction of this clause in the constitution of West Virginia, whether two of the three counties named in that district could become a part of West Virginia upon a vote taken in those two counties severally. Well, sir, I am not very particular as to what construction shall be put on that clause of the constitution of West Virginia, because if there be any difficulty about that clause, it is removed by other acts of the Legislatures of Virginia and of West Virginia.

Mr. DAWES. What I want to find out is whether these eighteen hundred people, whose petitions I presented, as will be found by referring to the Congressional Globe, have had an opportunity to be heard.

Mr. LAWRENCE, of Ohio. In answer to that, I have already stated, and the report to which I have already referred shows the fact, that laws were passed by the Legislature of Virginia, while that was a recognized State, giving the consent of the State to the transfer of those counties, and authorizing a vote of the people of those counties. And all these petitioners and remonstrants then had an opportunity to be heard when that question was voted upon by the people of those counties.

Mr. DAWES. What I wanted to know was this: some eighteen hundred men have selected me as their organ, every one of them an entire stranger to me, to present their remonstrance. Now, I wish to know if the committee gave them any opportunity to be heard, not whether they had some opportunity somewhere else.

Mr. LAWRENCE, of Ohio. I will state that all these remonstrances were before the committee, besides a large number of petitions asking the consent of Congress to the transfer of these counties.

Mr. DAWES. I know that the remonstrances were there, because I sent them there. I only want to know if the men had any opportunity to be heard, whether you gave them any notice. That is all. Just put that on the record.

Mr. LAWRENCE, of Ohio. No, sir; we did not send out a constable with summonses saying to these men that we were in session and would be pleased to hear them. They never asked any permission to be heard, and we never notified them that we were in session; but we were always ready to hear all who desired to be heard.

Mr. DAWES. I wish to inquire of the chairman of the Judiciary Committee, if he is in the House, whether he did not receive a note from one of these men requesting an opportunity to be heard.

Mr. LAWRENCE, of Ohio. The chairman is not here at present, or he could answer for himself. I would ask the gentleman from Massachusetts this question, whether those remonstrances are signed by men who were entitled to vote, whether they are not rebels who had no right to vote?

Mr. DAWES. I have already stated that every one of them is a stranger to me, and I know, of course, nothing about that. I suppose that a great deal the better way to ascertain that fact would have been to hear them. I would inquire of the gentleman one thing further: if the committee ever notified the member who presented these remonstrances that they were hearing this case, so that he could give notice to the parties?

Mr. LAWRENCE, of Ohio. So far as I am advised, no member of this House, and no citizen of either of these States, and no man has ever asked permission of the committee to be heard, but after a full examination of this whole matter the committee made this report:

"The information in possession of the committee leaves no doubt on their minds as to what would now be the result of a vote for the restoration of these counties to the State of Virginia. The question is one which has since the close of the war entered largely into the local politics of these counties. The party which styles itself the 'Union party,' and is called by its opponents the 'radical party,' is unanimously in favor of retaining these counties in West Virginia; while the democratic, or, as it styles itself, the 'conservative party,' is generally in favor of restoring them to the State of Virginia.

At the annual election held on the fourth Thursday of October, A. D. 1865, the Union ticket received in Berkeley county nine hundred and twenty-three votes, and the so-called democratic one hundred and thirty-seven votes; and in the county of Jefferson, the vote as returned by the supervisors of the county to the governor was for the Union ticket three hundred and four votes, and for the so-called democratic ticket one hundred and ninety-nine votes."

This report was made, printed, and laid on our desks on the 12th of January, and yet no request has ever been made to be heard in opposition to it, or at any time on the subject.

Mr. DAWES. I do not see that that answers my question. I have no doubt that that is the conclusion that the committee came to without a hearing.

I wish the gentleman to understand that I am in favor of giving the assent of Congress to this measure. I am on the record in the last Congress to that effect. I suggested to the members from West Virginia in the last Congress the necessity of obtaining that assent. I am here now, without any solicitation of my own, the organ of eighteen hundred men in these counties, whether loyal men or not, as remonstrants against this measure. I thought it was due to them that the committee should state to the House whether they had had an opportunity to be heard. There is always a decent way of doing everything, and I have no doubt the committee in this case have adopted that way. I do not mean to say that they have not.

The SPEAKER. The time of the gentleman from Ohio [Mr. LAWRENCE] has expired.

Mr. LAWRENCE, of Ohio. I hope my time will be extended a few minutes.

Mr. WEALEY. I do not wish to interfere with the gentleman from Ohio. I merely wish to answer the question of the gentleman from Massachusetts, [Mr. DAWES,] as regards the petitioners from these counties, of whom he states that he is the organ. He asked the gentleman from Ohio [Mr. LAWRENCE] whether they had had the privilege to be heard before the committee. I only desire to say that they

have another organ upon this floor, who has been heard to the fullest extent; I refer to the gentleman from New Jersey, [Mr. ROGERS.] That is all I desire to say, and I will now yield the remainder of my time to the gentleman from Ohio, [Mr. LAWRENCE.]

Mr. LAWRENCE, of Ohio. I say again, in answer to the inquiry of the gentleman from Massachusetts, that, so far as I am advised, the committee has never denied any gentleman the privilege of being heard before them in opposition to this resolution. On the contrary, so far as I know, no application has ever been made to the committee for a hearing; none has ever been made by the gentleman himself; and the distinguished gentleman from New Jersey, [Mr. ROGERS,] who opposes this resolution, was heard before the committee as he has been heard on this floor.

Mr. DAWES. I wish merely to state that I did not expect any invitation. It was not a matter that I desired to be heard upon. But I have been informed by these men, as a matter of complaint, that they addressed a note, on two different occasions, to the chairman of the committee [Mr. WILSON, of Iowa] begging an opportunity to be heard; and that they had had neither any notice nor any reply to their note. I wished to draw that out; that is all.

Mr. LAWRENCE, of Ohio. How that is I do not know. I never heard of any such note or any request to be heard.

Mr. DAWES. The gentleman will understand my position, I hope.

Mr. LAWRENCE, of Ohio. Yes, sir, I insist that the Legislature of Virginia, if it were a valid Legislature, could not now withdraw its assent to the transfer. It could not withdraw its assent to the transfer, because West Virginia has acted upon the faith of the transfer, upon the faith of the law giving the assent of the old State of Virginia to the transfer. That clause of the Constitution of the United States which requires the assent of Congress was not inserted for the benefit of the States concerned, but to enable the Congress to protect the interests of the United States. And therefore Virginia, old Virginia, has no right to claim any benefit from the fact that Congress had not given its assent to the transfer prior to the time when the so-called Legislature of the State of Virginia undertook to pass an act withdrawing her consent to the transfer. Virginia could make no such objection or resume her jurisdiction until Congress had refused assent to the transfer, or had for an unreasonable time delayed to assent.

Mr. WILSON, of Iowa. Will my friend from Ohio [Mr. LAWRENCE] allow me to interrupt him for a moment?

Mr. LAWRENCE, of Ohio. Certainly.

Mr. WILSON, of Iowa. I understand that the gentleman from Massachusetts [Mr. DAWES] has addressed an inquiry during my temporary absence from my seat to the Committee on the Judiciary. If he will now propound his question I will answer it.

Mr. DAWES. I will say to the gentleman from Iowa [Mr. WILSON] that I did not make the inquiry in any spirit of complaint. But the parties who have made me their organ (why they selected me I cannot tell) have complained to me that they had not been allowed an opportunity to be heard before the committee, and I inquired of the gentleman from Ohio [Mr. LAWRENCE] if the remonstrants had had an opportunity to be heard before the Committee on the Judiciary on this question. I did so that they might see in the report of our proceedings here an answer to my inquiry. The gentleman from Ohio replied that they had expressed no such desire to him. I then inquired if the chairman of the Committee on the Judiciary [Mr. WILSON] had received a note which they had addressed to him. I had understood from them that they had twice sent a note to him, but had received no reply.

Mr. WILSON, of Iowa. In answer to that inquiry I will make this statement: after this subject had been passed upon by the commit-

tee, and the report had been submitted by my colleague [Mr. LAWRENCE, of Ohio,] to the committee, and had been agreed to by them. I received a note from a Mr. Pendleton, who resides in one of these counties, not asking to be heard before the committee, but stating generally his reasons for not desiring this action on the part of Congress. It was not such a letter that I deemed it called for an answer from me, but a mere general statement to me of his objections to this proposed action of Congress. No one that I can now recall to mind asked of me an opportunity to appear before the committee, either asking it in person or by letter. If any such letters have been written, they have failed to reach me.

Mr. DAWES. One of the gentlemen told me that he had written such a letter.

Mr. WILSON, of Iowa. I can only say that if any such letters have been written to the chairman of the committee, they have failed to reach him.

Mr. DAWES. That is sufficient for my purpose; I only wish to have it appear in the Globe that these letters were not received.

Mr. WILSON, of Iowa. It may have been owing to the fact that that region of country is now in such a disturbed condition that the mails are irregular.

Mr. LAWRENCE, of Ohio. I have been interrupted so often that I am scarcely able to follow the line of argument that I was pursuing, though I had not expected to discuss this subject at all; and only after I heard the remarks of the gentleman from New Jersey [Mr. ROGERS] did I intend to speak at all. But I hope I shall be able to present this matter so that it will be understood by the House.

I will again state, and briefly, the position which I take in this matter. The consent of the old State of Virginia was given for the transfer of these counties of Berkeley and Jefferson to the State of West Virginia, and that transfer was accepted by West Virginia. The consent of Virginia was given by an act of her Legislature, authorizing a vote of the people of those counties to be taken. That vote was taken, and it resulted in favor of the transfer. Now, I maintain that Virginia could not withdraw her consent after once having given it, and that especially she could not withdraw it by any act passed by her present so-called Legislature. And this is the third ground I proposed to assign. She could not withdraw it for the reason that once having given it, and the State of West Virginia having accepted the transfer, the old State of Virginia could not, as a matter of good faith, and as a matter of law, now withdraw her consent; for a grant by one State having been accepted and acted upon by another becomes irrevocable, unless Congress interpose to object to it. As between the States the grant is at once operative, since they have performed all the Constitution requires of them to perfect the transfer. Congress may object, but the States may not, and Congress has not objected, nor yet suffered an unreasonable time to elapse before acting on it.

Besides, she cannot withdraw her consent by the act which her so-called Legislature assumed to pass since the commencement of this session of Congress, for the reason that this Congress has refused to recognize the existing government of Virginia as a lawful government. Why, sir, at the commencement of this session we refused to admit gentlemen claiming seats as Representatives from that district of country now called the State of Virginia. We have uniformly refused to recognize the existence of any valid legislative body or of any existing State government in the State of Virginia. It is a matter of historical notoriety that her present Legislature is assembled in direct violation of her own constitution; that its members have failed to take the oath prescribed by her own laws; that the number of the members has been increased in utter violation and contempt of her own constitution; that the existing body called the Legislature of Virginia is not a legal body at all; and Virginia though having a State government *de facto* is without any valid or

constitutional State government to-day. Therefore that Legislature could not by any act withdraw the assent of the State of Virginia, previously given by a legislative body which was recognized as a lawful body.

I have already, Mr. Speaker, attempted to demonstrate, by a reference to a clause of the constitution of West Virginia, that Congress has already assented to the transfer of these counties. My argument, it seems, was not quite satisfactory to the distinguished gentleman from Massachusetts, [Mr. DAWES.] I will not repeat the argument on that subject, contained in the report of the Judiciary Committee, but I invite the attention of the House to that, as it embodies my views, and which I regard as conclusive.

But, sir, Congress has, by other means, given its assent to the transfer of these counties. And how? Why, sir, the gentleman from New Jersey [Mr. ROGERS] was pleased to read to this House an extract from a report made by the Committee of Elections, February 8, 1864, in the case of *McKenzie vs. Kitchen*. He evidently examined that report somewhat hastily, for he failed to read the following very material portion of it:

"It may not be improper to call attention to the fact that while the whole number of votes cast was two thousand and fifty-nine, only nine hundred and sixty-two of these were cast for Mr. Kitchen; and that of those seven hundred and thirty were cast in the county of Berkeley, where Mr. Kitchen now resides, a county which, on the same day that these votes were cast, voted also unanimously to attach itself to West Virginia, and which has, so far as the Legislature of both States can effect it, been made a part of the new State, and separated from this district altogether."

This vote was followed by a surrender of jurisdiction over these counties by Virginia and an assumption of jurisdiction complete and exclusive by West Virginia, continued uninterruptedly from that day to this.

Mr. Speaker, Congress has by other means recognized these counties as constituting a part of West Virginia. On this floor are her Representatives, one of whom comes here with a certificate declaring that he was elected in the district composed in part of the counties of Berkeley and Jefferson. He has been admitted to a seat here as a Representative from that district. That is a recognition by this House at least of the fact that these two counties constitute a part of the State of West Virginia.

Those counties are represented, too, in the Legislature of West Virginia, and they are not represented in the so-called Legislature of Virginia. That body now sitting at Richmond does not claim to exercise jurisdiction over these two counties.

Mr. ROGERS. The gentleman will permit me to say that the Legislature of old Virginia does claim jurisdiction over those two counties, and they are both represented in that body.

Mr. LAWRENCE, of Ohio. I have not so understood.

Mr. ROGERS. The new constitution of old Virginia was adopted in 1864, and these counties, along with the county of Frederick, were constituted a judicial district, and to each one of them were apportioned two delegates in the Legislature of Virginia. By an act of the Legislature, of 1864, they are made a part of the eighth congressional district; and each county is now represented in that Legislature by two members.

Mr. HUBBARD, of West Virginia. Can the gentleman from New Jersey tell me the names of those members?

Mr. ROGERS. I cannot.

Mr. HUBBARD, of West Virginia. Can he tell me when those members were elected?

Mr. ROGERS. No, sir. They attempted to hold an election about a year ago, but Governor Peirpoint sent an army to prevent them. They have since held an election under the new constitution. They voted for the new constitution.

Mr. LAWRENCE, of Ohio. Then I am correct; neither of those counties are represented in that body sitting at Richmond, known as the Legislature. No elections have been held there.

So far from it, those counties have been recognized as part of West Virginia by the national Government, and a military force has been sent out by command of the President to prevent the authority of Virginia from having any control over them whatever.

Mr. Speaker, I have briefly answered the several grounds of objection which I understand have been taken by my colleague on the Judiciary Committee. I wish now to make a single remark in answer to what was said by the distinguished gentleman from Pennsylvania, [Mr. KELLEY.] He said, if I understood him correctly, that the new State government set up in Virginia under Governor Peirpoint, in 1861, derived its validity from the fact that it was admitted as a new State in the Union, and not because government was thereby guaranteed to an existing geographical State of the Union, and that West Virginia was admitted as a new State and derived no validity from the consent given to its erection by the Peirpoint new State government of Virginia.

Mr. KELLEY. I do not know whether I made myself understood. I wanted to state the proposition that some of the members of Congress who voted to admit West Virginia excluded as far as they could the conclusion that they voted for it upon the ground that the State of Virginia had given its assent. I was of that number. We believed the State of Virginia had been overthrown; that the territory belonged to the United States; that the people on it owed allegiance to whatever government was administered by the United States; that these were in the Union while the constitution of Virginia had been overthrown; that therefore the territory which had been known as the State of Virginia was mere territory which the Congress of the United States was bound to provide with government as fast as the armies of the United States could bring it under the control of the Federal Government, and they consented to admit West Virginia as a new State into the Union, as they would admit a new State made out of the counties of old Virginia and the border States.

Mr. LAWRENCE, of Ohio. Even without the consent of Virginia?

Mr. KELLEY. There was nowhere any State of Virginia to consent; it had been overthrown.

Mr. LAWRENCE, of Ohio. Well, Mr. Speaker, although it is not material to the question before the House, I will briefly state my position on that subject. I maintain that the original lawful State government of old Virginia was overthrown by the rebellion, but that the geographical State of Virginia and the population of Virginia all remained in the Union. I maintain that it then became the duty of Congress to guaranty to the geographical State a government republican in form; that Congress did it; that when the Peirpoint government was first set up in Virginia it became the *de jure* government of Virginia, and was recognized as republican in form, and had then the capacity to consent to the erection of the new State of West Virginia; that it did consent to the erection of the new State of West Virginia, and there became then two States in the territory formerly of Virginia—the State of Virginia and the State of West Virginia. I hold that since that time the government of old Virginia, which had been set up under Governor Peirpoint as a new State government, has ceased to be a *de jure* government, but the geographical State of Virginia as it exists after the erection of West Virginia still lives in the Union, and her people are in the Union; that they have simply a *de facto* government; that it is not a government *de jure*, and because it is not a government *de jure* this legislative body of Richmond had no authority by the passage of an act to withdraw consent which the prior *de jure* government of Virginia had given to the transfer of these two counties from old Virginia to West Virginia. That is my idea of the matter.

I have occupied more time than I ought to have done in answering my colleague on the committee. I have answered every objection

which I have heard, except one which has been sent to me in a newspaper with a passage marked so that I might notice it. The heading of the paper is as follows:

"THE NEW ERA.

E. W. ANDREWS, EDITOR AND PUBLISHER.
Martinsburg, West Virginia."

It is under date of Thursday, January 25, 1866. In that paper is an article, which I understand has been circulated extensively among members of Congress, containing these words:

"But why is it that neither in this report nor elsewhere is it attempted to be shown that the Legislature of Virginia has any power to alien these counties?"

This article refers to the report I had the honor to make to this House on the 12th of January last, and presents the inquiry whether the Legislature of a State has the power to consent to transfer counties from that State to another State. I am a little surprised this question should be made, because in the case of *Georgia vs. Florida*, 17 Howard's Reports, 478, the Supreme Court held that the power of changing State boundaries with the consent of Congress is one of the essential attributes of the limited sovereignty of States, expressly recognized by the national Constitution.

A different rule of construction is applicable when you come to interpret the Constitution of the United States and the constitution of a State. The authorities on this subject are collected in a case in the twentieth volume of the Ohio Reports, which I do not now have before me. The Constitution of the United States creates a national Government with limited powers, enumerated powers, and such incidental powers as are necessary to carry them into effect. But the government of every State in this Union is of a different character. It is of that limited sovereignty which a State may have, and its government is not a government of enumerated powers, but it is a government having all the powers of legislation which are not denied to it, either by the Constitution of the United States or by the constitution of the State. Now, among the powers of sovereignty in every international State is the power to transfer territorial jurisdiction. This power is recognized by the laws of nations. It is a part of the treaty-making power of all nations. But in our system that sovereign power has been restrained, so far as the States of this Union are concerned, by the Constitution of the United States. They cannot, as an absolute sovereignty may, transfer territories and territorial jurisdiction by any treaty-making power; they cannot transfer it to any foreign Government; but as between themselves territories and territorial jurisdiction may be transferred by the consent of Congress. This power has been exercised by the States in ceding jurisdiction to the national Government for forts, arsenals, dock-yards, and for the District of Columbia. It is a power not now to be doubted. As between Virginia and West Virginia, the territorial sovereignty over these two counties then has been transferred, and it only requires the assent of Congress to complete it. That is the very question now submitted to this House, to determine whether we shall give this assent.

Mr. STEVENS. Will the gentleman allow me a portion of his time?

Mr. LAWRENCE, of Ohio. I will yield to the gentleman ten minutes.

Mr. STEVENS. I deem it necessary to say a word. I mean to vote for this joint resolution as I voted for the admission of West Virginia. I mean to vote against the preamble, believing it all—not a lie, but not the truth—[laughter,] wholly inconsistent with the ideas which the majority of this House hold with regard to the State. When West Virginia came here to ask to be made a State it professed to come with the consent of old Virginia, and of new Virginia. The consent of old Virginia was given by a Legislature got up during the rebellion sitting in Wheeling, and the consent of new Virginia was got up in the same city of Wheeling, and they came here pretending that they had the consent of old Virginia, a hundred

thousand people all along between here and the borders of West Virginia, and yet not a man could go down even at that time to Alexandria without being taken for a foe and carried to Richmond. That was the consent of old Virginia.

Now, sir, any man who supposed that under the Constitution that State was legally divided by the consent of old Virginia and the assent of new Virginia, was a—very kind man [laughter] and believed what he wanted to believe. He had faith, because, as somebody has said here, "Faith means to believe a thing because it is impossible." Now, then, I voted for the admission of West Virginia; but at the time I stated that I hoped, while I was going to vote for it, that no man would think me fool enough to do so on the ground that the provisions of the Constitution which applied to the dividing of the States had been carried into effect. But I voted for it not unconstitutionally; I voted for it in perfect accordance with the Constitution, admitting a new State out of conquered territory. [Laughter.] And I hold that doctrine yet.

Now, sir, this assent of old Virginia to these two counties being annexed to West Virginia was of the same kind. I am sorry my friend has found it necessary to put it upon any other ground. What was the condition of the Legislature of old Virginia in 1863? Why, sir, over here at Alexandria, a little beyond it, our lines existed. After West Virginia was declared a State, the Governor of old Virginia, who had been elected by the vote of a few counties over the border, took his saddle-bags and went down to Alexandria and said he was still Governor of what was left of old Virginia, and sat there and ordered a convention for the purpose of altering the Constitution of old Virginia. Eleven townships or thereabouts, some of them in that neighborhood and one about Fortress Monroe, where our troops were located, elected seventeen men, by about seventeen votes apiece, for one million and a quarter of the people of old Virginia. These seventeen men came and held a convention at Alexandria, made a constitution, and proclaimed its adoption in the market-house of that place. Before they got through I believe the rebel army came there and drove them off.

Mr. DAWES. I would inquire if one of those seventeen was not the man that the gentleman voted to admit here as a Representative?

Mr. STEVENS. I never voted to admit anybody as a Representative but my friend did not ask me to vote for. [Laughter.]

Mr. DAWES. My friend is laboring under a mistake.

Mr. STEVENS. Well, I may be.

Mr. DAWES. The gentleman voted to admit a man that the Committee of Elections reported against.

Mr. STEVENS. I doubt it. Well, I do not know; I have not looked at it.

Mr. DAWES. I refer to Joseph Segar. The committee reported against him; he came here with only twenty-five votes.

Mr. STEVENS. I believe I voted him in, and then voted him out. [Laughter.]

Mr. DAWES. Is the gentleman certain about that?

Mr. STEVENS. No, sir, I am not. During those two years we made a most ragged record, as the gentleman well knows. [Laughter.]

Now, sir, I was describing this convention. I say that that convention, consisting of seven members, made a constitution and ordered an election for Governor, at which Governor Peirpoint was elected by thirty-three hundred votes, two thirds of them Yankee soldiers, and he was declared in the market-house of Alexandria Governor of the one hundred and fifty counties of Virginia. Call that a State, do you? And it was a Legislature consisting of eleven men called under the action of that convention that gave their consent, that these counties should be annexed to West Virginia.

Mr. LATHAM. Will the gentleman allow

me to correct an error of fact into which he has fallen?

Mr. STEVENS. With pleasure.

Mr. LATHAM. It was an act of the Legislature of Virginia at a time when the State of Virginia had jurisdiction over the whole of what is now West Virginia.

Mr. STEVENS. I am speaking of the last Legislature.

Mr. LATHAM. The last Legislature passed no such act.

Mr. STEVENS. I do not refer to the present Legislature. There was a Legislature consisting of eleven or twelve men before the present Legislature was elected. They sat at Alexandria.

Mr. LATHAM. This legislation took place before that.

Mr. STEVENS. Then there is not any consent at all. That other Legislature was dead and buried long ago.

Mr. LATHAM. All the legislation bearing on the question now before the House was passed by the Legislature of Virginia before the State of West Virginia was erected.

Mr. STEVENS. Well, sir, I do not know much about that, but I do know that it is said that Virginia has withdrawn her consent. Now, the present Legislature is certainly acting under the constitution that was made by these seventeen men at Alexandria. Well, after Lee's surrender, Governor Peirpoint took an omnibus—or I believe it was an ambulance—and took the records and all the officials, the whole government down to Richmond. [Laughter.] And then these eleven men constituting the new Legislature altered the constitution—the Legislature altered the constitution—and allowed other persons to be elected and rebels to come in, for Governor Peirpoint complained that unless they did that he could not find loyal men enough in the State to make up a Legislature. That is the government and that is the Legislature that has been withdrawing its consent! Sir, it is ridiculous. No man enjoys low comedy more than I do, but these low farces are too small to be acted on the theater of the nation; they ought to be spurned; there ought to be no sanction for them here.

I shall vote for the resolution just as it is reported, because I am willing to annex any part of our conquered province that was once Virginia to West Virginia, just as the Platte country was annexed to Missouri. I am willing to go further. I wish the State of West Virginia had taken her natural boundary, the crest of the Blue Ridge, so as to include the whole of the noble valley of the Shenandoah. I shall vote for the resolution upon the ground I have mentioned and none other, but I shall vote against the preamble, and I hope the House will vote it down, for it is not necessary and it is not quite true.

Mr. LAWRENCE, of Ohio. Mr. Speaker, I am sorry my distinguished friend from Pennsylvania cannot agree with me. I think, however, the difference between us is not a very material one in its practical results. I do not stand here to vindicate the government of Virginia since it has been transferred to Richmond. I am not here to assert that it is a legal government. But I do say that whatever government in a geographical State is recognized by Congress, is the government of that State, and it makes no difference whether it shall be composed of few counties or composed of many; whether it shall be able to exercise jurisdiction all over its geographical limits or over only a portion of them.

I maintain, then, that this State of West Virginia became a State by the joint action of Congress and the recognized State government in old Virginia; and that that recognized government in old Virginia (the government of Peirpoint, which was set up after the rebellion had driven out the original lawful State government) was a government lawfully set up under section four of article four of the Constitution of the United States.

Mr. BLAINE. Will the gentleman allow me to make an inquiry of him at this point?

Mr. LAWRENCE, of Ohio. Certainly. Mr. BLAINE. As there are several very able constitutional lawyers in this House, I desire to submit a query that seems pertinent to this discussion. Section three of article four in the Constitution reads thus:

"New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any other State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned as well as of the Congress."

The section seems to be divided into three clauses, and my query is, whether the second does not, by fair grammatical construction, contain an absolute inhibition on "the erection of a State within the jurisdiction of another State." In this way bringing that semicolon into conflict with some precedents in our history. I shall cheerfully vote for the pending bill, and I should find no difficulty in justifying the vote, if it were needful, on the ground that West Virginia was the creature of revolution, as I think she was in her origin as a State.

Mr. LAWRENCE, of Ohio. I deny that the State of West Virginia is the creature of revolution; it is wholly the creature of law; that is, it is a State lawfully created in the forms required and authorized by the Constitution. It is too late for this Congress to say that under the clause of the Constitution which the gentleman from Maine [Mr. BLAINE] has read a State may not be formed out of another State, for Kentucky was formed out of the State of Virginia.

Mr. BLAINE. Kentucky was ceded to the United States and afterward erected into a State.

Mr. LAWRENCE, of Ohio. That is the same thing.

Mr. BLAINE. I think the case somewhat different, but I confess to the gentleman from Ohio that I do not think there is much in the point I have raised except a criticism on punctuation.

Mr. LAWRENCE, of Ohio. The Government of the United States has acted upon this question already, not only in the case of Kentucky, but by admitting West Virginia as a State. I will say to the gentleman from Maine that the construction for which he contends is not the proper grammatical construction to be given to it, nor is it the construction put upon it by the jurists of this country. The construction for which I contend is the one always recognized, acted on, and so completely established that it is constitutional law not now to be questioned or overturned.

The effect of that section three of article four, so far as this question is concerned, is precisely as though it read, "New States may be admitted by the Congress into this Union; and no State shall be formed or erected within the jurisdiction of any other State without the consent of the Legislature of the State concerned, as well as of the Congress." For this purpose it reads just as though the clause which I have omitted to read was not in the section at all.

And now, one word as to the duty of Congress, where the government of a State is overthrown. The whole duty and the whole power of Congress on that subject is contained in section four of article four of the Constitution of the United States, which is in these words:

"The United States shall guaranty to every State in this Union a republican form of government," &c.

That clause contemplates or recognizes two things; first, that the government of a State is one thing; and, second, that the State itself, for certain purposes, is another thing. In other words, there may be a geographical State, which is a thing different and distinct from the government of that State. When the lawful government of a State is subverted and destroyed, as it may be by rebellion, it then becomes the duty of the United States, of Congress, to guaranty to the geographical State a republican form of government. The duty is not to guaranty to a portion of the geographical State, but to the whole of the geographical State, a republican form of government. The duty is

not to guaranty to the geographical State the same government which it had before, or to permit the people to resume the same government which they had before. But it is to guaranty a republican form of government; not the republican form of government which the State originally had.

It is to be any republican form of government which may be acceptable to Congress. And it was by virtue of that power that the Peirpoint government was established in the old State of Virginia, when by rebellion and treason the original lawful government of Virginia had been overthrown and abandoned. That is the position which I take; that is the view which I believe to be warranted by the clause of the Constitution which I have read. For when the geographical State has no government it has not a "republican form of government." The duty to guaranty government is, among other things, to provide the means of setting up a new State government when none exists. A guarantor is bound to do that which the principal ought to have done. The geographical State and the people never were and never can be out of the Union, but a State government may be abandoned or overturned, yet the nation cannot thus be destroyed. The national power may then be invoked to set up, to guaranty, new State government, and the power belongs to the nation, because it is essential to national life; for if left to the recreant States or the people thereof it might never be done by them.

Mr. STEVENS. Mr. Speaker, I desire to make a single remark somewhat personal to myself.

It has several times been said in the course of debate that I hold that the States that were engaged in the rebellion are dead. Now, I have never said anything of that kind. In my speech on this subject, I argued that, whether they are out of the Union, or dead, lying about in the Union, it amounts practically to the same thing. But I never pretended that those States are dead; I insist that they have never been dead, that they have always lived as States. The only difference in my position from that of some other gentlemen who have spoken is that I affirm that during the war they were States under the confederate government, and not under the Government of the Union.

Mr. LAWRENCE, of Ohio. Mr. Speaker, I was about to call the previous question; but, as I have twelve minutes of my time remaining, I yield the remainder of my time to the gentleman from Ohio, [Mr. BINGHAM,] with the understanding that he will call the previous question.

Mr. BINGHAM. Mr. Speaker, I wish to remark that the preamble of this resolution is wholly unimportant, and I trust it will be voted down. I submit that the State of West Virginia is a State of the Union. I submit to the House that it is too late to challenge the power of the Congress of the United States to authorize the formation of a new State within the jurisdiction of a State of this Union with the consent of the Legislature of such State; for it was done by the First Congress, composed in a great measure of the very men who framed the Constitution. The gentleman from Maine [Mr. BLAINE] is mistaken in his statement that the territory of Kentucky was ceded to the United States. I affirm that the State of Kentucky was erected within the territory of the State of Virginia, by the consent of her Legislature, and by act of Congress admitted into the Union.

Mr. DAWES. I would remind the gentleman from Ohio that the same thing was done in the case of the State of Maine, which was formed out of a part of the territory of the State of Massachusetts, with the consent of the Legislature of Massachusetts.

Mr. BINGHAM. Yes, sir; and the State of Vermont was formed in the same way from part of the territory of the State of New York, with the consent of the Legislature of New York.

Having had the honor to take some humble

part in the formation of the State of West Virginia, and her admission into the Union, I wish to say that in doing what I did, I but followed the example of the men who made the Constitution, and among them, of him whose peerless name is first attached to that great instrument.

Mr. Speaker, having said this much, I desire to repudiate once for all the statement of the venerable gentleman from Pennsylvania, [Mr. STEVENS,] that in the exercise of this power, I, as one of the majority of this House who admitted the State of West Virginia, did it as an act of sovereignty over a conquered territory and a conquered people. I deny that the armies of the Union have ever made one loyal citizen the enemy of my country or one root of the original Republic conquered territory by suppressing this unmatched and atrocious rebellion. The soil of the States that engaged in the rebellion remained through all the storm and darkness a part of my own, my native land in spite of the treason which was enacted upon it; and now that that treason has been subdued, it remains still a part and parcel of the native land of every natural-born citizen of the Republic. The loyal people of South Carolina, the loyal people of Virginia, are no more conquered subjects than is the venerable gentleman himself. They were all the while under the protecting shield of the Constitution. The armies of the Union struck to maintain the supremacy of the Constitution and to give effect to the laws, that the loyal might be protected and the disloyal crushed.

I deny ever having countenanced any such dogma as that the loyal people of West Virginia ever were conquered by our arms. The armed rebel was conquered. In accordance with the principle laid down by him who is sometimes called the Father of the Constitution, (Mr. Madison,) three hundred thousand of the loyal citizens of the State of Virginia, by reason of the rebellion and treason of the remaining seven hundred thousand of the citizens of that State, had the exclusive right of civil magistracy within the limits of the entire Commonwealth. No matter whether the loyal people of Virginia met in Richmond or Wheeling, in the persons of their chosen representatives; they asserted thereby their right, under the Constitution of the United States and in accordance with the statute law of the State of Virginia. When the majority of the State of Virginia turned traitors the minority of citizens therein who rejected the treason, being sufficiently numerous to constitute a State, had the right to assemble in any part of the State and exercise all the powers which pertained to them as citizens of the State, subject to the approval of Congress, but without question of the rebel majority. Why? Because in such loyal minority the entire sovereignty of the State abides, for the simple reason that the rebel majority in arms forfeited every right which belonged to them, whether as citizens of Virginia or citizens of the United States, by their treason. The traitor can never again exercise political rights in Virginia but by the will of the people of the United States.

I repudiate, as the gentleman does, this miserable contrivance here in Richmond called the Legislature of Virginia, for the simple reason that it has never been sustained and is not now sustained by a sufficient number of loyal men to constitute a State; but when a sufficient number of loyal citizens do petition in what is known as Virginia for recognition as a State, I say no man on this floor has a right to deny to them the right of local legislation, simply because, in the language of your Declaration, "the legislative powers of the people are incapable of annihilation" save by their own crime. Surely the traitor majority, by their great treason, cannot annihilate the right of the loyal people to local self-government.

That right sacred to the people of every State cannot be forfeited save by the act, the criminal act of the body of the community. So long as a sufficient number of the citizens of an insurgent State remain loyal to the Constitution to

constitute a State, the Congress may and ought to recognize their right of self-government.

West Virginia is a State. She has consented to the annexation of the counties of Berkeley and Jefferson. The people of those counties have consented to it. It remains for Congress to consent to it. I care not for the consent of Virginia, because she has no organized State government. West Virginia is a State. Her admission by the act of Congress into the Union concludes every department of the Government, so long as she is faithful to the Constitution and laws of the Union. There is no department of the Government to-day which may lawfully dispute the rights of West Virginia as a State of the Union.

Sir, permit me to say that the Federal judicial officer who officially questions and denies the authority of West Virginia as a State of this Union, so long as the present action of Congress stands unrepealed by the sovereign power of the American people, simply subjects himself, in my opinion, to impeachment, and ought to be driven in contempt and disgrace from his office. For the annexation of these counties to West Virginia nobody's consent is needed except the consent of the people thereof and of the State of West Virginia; and that consent has been given.

It only remains, therefore, for the people of the United States to say whether the people in the counties of Jefferson and Berkeley shall be transferred to the jurisdiction of West Virginia. The preamble, as I remarked before, has nothing to do with the purpose of the bill, and I shall vote to strike it out. What remains is perfectly intelligible. Congress thereby consents and declares that the two counties shall be transferred to West Virginia. I call for the previous question.

The previous question was seconded, and the main question ordered.

S. H. BOYD VERSUS JOHN R. KELSO.

The SPEAKER laid before the House papers in the matter of contest of S. H. Boyd vs. John R. Kelso; which were referred to the Committee of Elections.

CLEMENT REEVES.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting, in compliance with a resolution of the House, information in regard to the seizure of the land of Clement Reeves, on the Delaware river; which was laid upon the table, and ordered to be printed.

ENROLLED JOINT RESOLUTION SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution directing the distribution of the writings of James Madison; when the Speaker signed the same.

TRANSFER OF COUNTIES—AGAIN.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. ROGERS. I offered an amendment to the resolution, on which the question has not been taken.

The SPEAKER. The gentleman gave notice that he had an amendment to offer, but he did not offer it.

Mr. ROGERS. I ask leave to offer it now.

The SPEAKER. It can only be received by unanimous consent.

Objection was made.

Mr. LAWRENCE, of Ohio, demanded the previous question on the passage of the joint resolution.

The previous question was seconded, and the main question ordered.

Mr. ELDRIDGE demanded the yeas and nays on the passage of the joint resolution, and tellers on the yeas and nays.

Tellers were ordered; and Messrs. ELDRIDGE, and LAWRENCE of Ohio, were appointed.

The House divided, and the tellers reported—ayes twenty-seven.

So the yeas and nays were ordered.

The question was then taken on the passage of the joint resolution; and it was decided in the affirmative—yeas 112, nays 24, not voting 46; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Sidney Clarke, Cobb, Cook, Culom, Darling, Defrees, Deming, Dixon, Donnelly, Driggs, Dumont, Eekley, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Hale, Abner C. Harding, Hayes, Henderson, Highby, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Lathin, Latham, William Lawrence, Longyear, Marston, Marvin, McClurg, McKee, McCruer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Thayer, Trowbridge, Upson, Van Aornam, Burt Van Horn, Robert T. Van Horn, Warner, Elihu B. Washburne, Welker, Wentworth, Wataley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—112.

NAYS—Messrs. Baker, Boyer, Brooks, Chanler, Dawson, Eldridge, Finck, Glossbrenner, Aaron Harding, Hogan, James M. Humphrey, Kerr, Le Blond, Marshall, Niblack, Ritter, Rogers, Ross, Shanklin, Strouse, Taber, Taylor, Thornton, and Trimble—24.

NOT VOTING—Messrs. Ancona, Bergen, Blow, Reader W. Clarke, Conkling, Culver, Davis, Dawes, Delano, Denison, Eggleston, Goodyear, Grider, Griswold, Harris, Hart, Edwin N. Hubbell, Hulburd, James Humphrey, Johnson, Jones, Kuykendall, George V. Lawrence, Loan, Lynch, McCullough, Melndoe, Nicholson, Noell, Phelps, Plants, Radford, Samuel J. Randall, Raymond, Alexander H. Rice, Rousseau, Sitgreaves, Smith, Stilwell, Francis Thomas, John L. Thomas, Voorhees, Ward, William B. Washburn, Winfield, and Wright—46.

So the joint resolution was passed.

Mr. KELLEY. I move to amend the title so as to read as follows: "Joint resolution giving the consent of Congress to the transfer of the counties of Berkeley and Jefferson to the State of West Virginia." And on that I demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the motion was agreed to.

Mr. LAWRENCE, of Ohio. I move to reconsider the vote by which the joint resolution was passed, and to lay that motion on the table.

The latter motion was agreed to.

INTERNAL REVENUE.

Mr. MORRILL. I ask unanimous consent to take up House bill No. 201, to declare the meaning of certain parts of the internal revenue act, approved June 30, 1864, and for other purposes. It is important that this should be passed now, in order that the Department may prepare their blanks.

The SPEAKER. It will come up as unfinished business to-morrow before the morning hour.

The hour of half past four o'clock p. m., having arrived, the House took a recess.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m., (Mr. Cobb in the chair,) and resumed, as in Committee of the Whole on the state of the Union, the consideration of the President's annual message.

HARBOR OF ERIE, PENNSYLVANIA.

Mr. SCOFIELD. Mr. Chairman, I feel obliged to interrupt the interesting debate that has been going on for some days to discuss an item of business that deeply concerns my district and State.

I wish to call the attention of the House to the importance, not to say necessity, of making a moderate appropriation to improve or rather repair the harbor of Erie. Although this harbor is situated some ninety miles west from the eastern terminus of Lake Erie, it is considerably nearer to the Atlantic ports at Philadelphia and Baltimore than any other harbor on the lake, and by the short route now opened through Pennsylvania and New Jersey, it is only about equally distant from New York. Many and expensive channels of communication with the country east and south of it have been opened by the capital and enterprise of our State; for this is Pennsylvania's only port upon the great

chain of lakes. Both a canal and a railroad connect it with all the commerce of the Ohio river, with the iron and coal trade of Pittsburgh, and the peculiar manufactories of that city, and with the extensive fields of most excellent bituminous coal in western Pennsylvania and eastern Ohio. By continuous rail and unbroken gauge it is connected with the commerce of the world at Baltimore, Philadelphia, and New York, as well as with the vast mineral wealth of eastern and the lumber and rock oil of western Pennsylvania. In these channels of communication, the cities of Erie, Philadelphia, and Baltimore, as well as many counties and towns along the various lines, have made large investments in the hope that their respective localities might profit by as well as add to the immense traffic of our inland seas.

The harbor itself possesses extraordinary natural advantages. It is formed by a peninsula putting out from the shore in an arching direction, and bearing eastward and then southward until it dams off and landlocks a bay five miles in length and one fourth that distance in width. It is large enough to hold all the shipping on the lakes, and so well protected that the severest storms to which they are exposed do not in the least affect it. No engineering could have devised a better harbor. It would almost seem as if it had been arranged in the creation especially to throw into the markets of the world the vast mineral wealth hidden in the surrounding country. For near to and immediately in front of it are the great oil wells of Pennsylvania, whose steady flowing is shipped at Erie both east and west. Within a few hours' freighting distance, for we measure space by time now, stretching in a semicircle around this bay are beds of bituminous coal, exhaustless and almost as cheap as the waters of the lake. Much further to the east and across the Alleghany mountains, but higher and more accessible to this harbor than any other on the western waters, are the anthracite coal fields of our State—in quantity and quality, as everybody knows, unrivaled by the world. The Alleghany mountains are crossed on other routes, as for instance the Baltimore and Ohio and Pennsylvania Central, with terrific grades, but further north, on an air line between our harbor and this coal, the west branch of the Susquehanna has worn away the mountains and opened a channel through which the Philadelphia and Erie, but recently completed, passes almost on a dead level. It would seem as if God had lowered the crest of the mountains just in front of this harbor to allow this heavy but indispensable freight to pass upon gentle grades to the shipping of the lakes and the workshops and dwellings of the West.

So much for the value of the harbor. A word or two now as to the repairs needed. Many years ago a breakwater and two piers were constructed by the Government at the entrance of the harbor. The breakwater extends from the shore in the direction to meet the east end of the peninsula as it curves toward the mainland. Between this breakwater and the peninsula are the two piers, running at right angles to the breakwater, but parallel, of course, with the shore and each other. Between these two piers is the gate or entrance to the harbor. By a mistake, as is supposed, in the engineering, the outside pier is much the longest. It was supposed that this inequality in length of the piers would best protect the entrance against the formation of bars by the deposit of sand. The effect is just the reverse of the intention. The lake has its tides, as you may say, as well as the ocean, occasioned by the winds. The water rises in one part of the lake when the wind has been long in one direction, and falls when it changes. The swollen waters of the bay discharging between these piers creates at times a powerful current. This stream of water, after passing beyond the shore pier and finding no further obstruction on that side, while it is still crowded by the pier on the lake side, turns a short corner shoreward and passes off to the lake through short and irregular curves. Of course sand-

bars form on each side of this current over which vessels cannot pass. This narrow and crooked channel is difficult of navigation in fair weather and impassable in foul. We ask for an appropriation sufficient to extend these piers a little further into the lake, and make them of equal length, and also to dredge the channel impaired by the original error in their construction.

I do not ask this appropriation on behalf of the city of Erie alone, nor of my district contiguous to it, but rather in the name and on behalf of the great State within whose limits the harbor lies and by whose foresight and treasure the great works through which tide-water and lake commerce meet, and by which cheap transportation is furnished to that portion of her territory upon which the whole country is now in a measure dependent for iron, fuel, and light, were projected and built. My colleagues from the whole State will join me in asking Congress to give the assistance now so urgently needed and so long withheld.

On motion of Mr. COOK, (at forty minutes past seven o'clock p. m.,) the House adjourned.

IN SENATE.

WEDNESDAY, February 7, 1866.

Prayer by Rev. GEORGE W. BRIGGS, D. D., of Salem, Massachusetts.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. WADE presented a petition of citizens of Dayton, Ohio, and a petition of citizens of Ripley, Brown county, Ohio, praying for a reduction of the taxes imposed upon the sale of agricultural implements; which were referred to the Committee on Finance.

Mr. SUMNER. I have a memorial from a single citizen, but who is a representative man, an original anti-slavery man, and the editor of the leading religious paper of New England, protesting in the most earnest terms against the passage by the Senate of the constitutional amendment which has recently passed the House of Representatives. In his very brief petition he says:

"Whereas the Constitution of the United States provides that 'no State shall grant any title of nobility,' and that 'the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States;' and

"Whereas that revered instrument contains now no clause that would disgrace"—

That is his language—

"that would disgrace a free nation or contradict the declaration that all men are born equal; and

"Whereas a resolution for amendment of the Constitution has passed the House of Representatives, which, in the opinion of the undersigned, would repeal these provisions and contradict this declaration, he respectfully prays you to reject said amendment."

As that question is still pending, I ask that this memorial lie on the table, and at the same time I take the liberty of saying that I subscribe absolutely to this memorial.

The memorial was laid upon the table.

Mr. SUMNER. I present also the petition of Mrs. M. J. Walker, of the county of Warren and State of Mississippi, in which she sets forth at some length a claim for damages on account of what was done by General Slocum when in command of our troops in her neighborhood. The petition is sworn to and is vouched for in several different ways. I ask its reference to the Committee on Claims.

It was so referred.

Mr. SUMNER also presented a petition of the Female Anti-Slavery Society of Philadelphia, praying Congress, by an amendment of the Constitution, to forbid any State to make any distinction in civil rights and privileges on account of race, color, or descent; and also similar petitions from the Pennsylvania Anti-Slavery Society, from citizens of Montgomery county, Pennsylvania, and from citizens of Connecticut; which were referred to the joint committee on reconstruction.

He also presented a memorial of citizens of Connecticut, praying that no State recently in rebellion may be restored to the Union until adequate security has been obtained against a

renewed attempt to secede, against its being represented in Congress beyond its voting population, against any payment of debt incurred in rebellion, and against any distinction being made in its laws on account of color or descent, and praying for such an amendment of the Constitution as may be required to enforce the foregoing provisions; which was referred to the joint committee on reconstruction.

Mr. MORGAN presented the petition of the executors of the late Colonel D. D. Tompkins, who was an assistant quartermaster general in the United States Army, praying that the accounting officers of the Treasury may be authorized to audit and settle his accounts; which was referred to the Committee on Claims.

Mr. STEWART presented a petition of postmasters in the county of Alpine, California, and Douglas county, Nevada, praying that Gelatt & Moore may be compensated for services rendered in carrying the United States mails in those counties; which was referred to the Committee on Post Offices and Post Roads.

Mr. NORTON presented three petitions of citizens of Minnesota, praying that the soldiers who enlisted in the early part of the war of the rebellion may be placed on an equal footing as regards bounty with those who enlisted at a later period; which were referred to the Committee on Military Affairs and the Militia.

Mr. TRUMBULL. I have received and been requested to present to the Senate a memorial of the executive committee of the Indiana Yearly Meeting of Friends for the Relief of Freedmen, praying for the extension of the powers of the Freedmen's Bureau, and its continuance until its legitimate work is accomplished. As that subject has been acted upon, I move that the petition lie upon the table.

The motion was agreed to.

Mr. BROWN presented a petition of citizens of New England, praying that in the passage of all bills establishing a new basis of representation there shall be no distinction on account of race, color, or sex; which was referred to the joint committee on reconstruction.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. JOHNSON, it was

Ordered, That the memorial of Horatio Stone, praying for an appropriation to enable him to complete the statue of Hamilton, on the files of the Senate, be referred to the Committee on the Library.

On motion of Mr. HENDERSON, it was

Ordered, That the papers connected with the claim of A. S. Robinson, arising under the treaty of Guadalupe Hidalgo with Mexico, and the papers connected with the claim of J. W. Nye, for compensation for improving a lot of public ground, &c., on the files of the Senate, be referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred a petition of non-commissioned officers, musicians, and privates, who have been disabled in the United States service, praying for an increase of pension, reported a bill (S. No. 131) supplementary to the several acts relating to pensions; which was read and passed to a second reading.

Mr. LANE, of Indiana. I will state that this bill increases the pensions of private soldiers and non-commissioned officers from eight to twelve dollars per month.

Mr. GRIMES, from the Committee on Naval Affairs, to whom was referred the memorial of Robert B. Riell, a lieutenant in the United States Navy, praying that he may be promoted to the rank and place of commander in the Navy, from which, he alleges, he has been unjustly withheld, asked to be discharged from its further consideration: which was agreed to.

Mr. HENDRICKS. The Committee on the Judiciary, to whom were referred a memorial of the Chamber of Commerce of the State of New York praying for the passage of a law exempting suitors in the national courts of the southern States from the operation of State statutes of limitations for a period long enough to give loyal creditors an opportunity to enforce their claims, and a similar petition from the Boston Board of Trade, have instructed me to report them back with a recommendation that the committee be discharged from the further

consideration of the memorials, for the reason that further legislation, in the opinion of the committee, seems not to be necessary, as the act entitled "An act in relation to the limitation of actions in certain cases," approved June 11, 1864, seems to provide for the cases contemplated by the memorialists.

The PRESIDENT *pro tempore*. That order will be entered if there be no objections.

Mr. WILLEY, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 98) to incorporate the Metropolitan Fire and Marine Insurance Company of the District of Columbia, reported it without amendments.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred a joint resolution (H. R. No. 45) to change the name of the ship Art Union to the name of George M. Barnard, reported it without amendment.

Mr. CLARK, from the Committee on the Judiciary, who were instructed by a resolution of the Senate to inquire whether any further legislation is necessary to prevent the kidnapping of freedmen and the revival of the slave trade on the southern coast of the United States, reported a bill (S. No. 132) to prevent and punish kidnapping; which was read and passed to a second reading.

Mr. POLAND, from the Committee on the Judiciary, to whom was referred a bill (S. No. 59) to provide for the revision and consolidation of the statutes of the United States, reported it without amendments.

Mr. SPRAGUE. The Committee on Military Affairs and the Militia have instructed me to report adversely upon the petition of the officers and men of the steamer Union who were wrecked and taken prisoners while engaged in the expedition against Port Royal, off the coast of North Carolina, in 1861. The petitioners were prisoners from seven to eight months. While prisoners their families received one half the pay due them, and on their release the other half was paid, covering the whole time of their imprisonment. The petitioners pray for commutation of rations while prisoners, and compensation for clothing. All the clothing they had on board, except that on their persons, was lost. No fixed sum is asked for. The petitioners were never enlisted into the service of the United States, and do not come under the provisions of law for enlisted men. They were employes of the quartermaster's department, engaged at salaries and wages, and provisioned by agreement. The steamer was the property of the United States, and the petitioners may have been upon her in the service of her owners, having the compensation they afterward received from the quartermaster's department; or they may have been employed by agents of the department at given rates, or at rates prescribed by regulations. The rations were prescribed by regulations; but if a less amount was drawn than thus prescribed at any one time, no greater amount than that prescribed by regulation could be drawn at any other time. The engagement of the petitioners with the Government ceased when the ship was destroyed. The quartermaster's department having paid the petitioners during the period of their imprisonment, it is believed that it is some compensation for the loss of clothing.

BILLS INTRODUCED.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 133) granting lands to aid in the construction of a railroad and telegraph line from the waters of the bay of San Francisco to Humboldt bay, in the State of California; which was read twice by its title, and referred to the Committee on Public Lands, and ordered to be printed.

PUBLICATION OF THE LAWS.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Printing be directed to inquire what changes, if any, are necessary in the present laws providing for the publication of the laws of the United States.

REGISTERING OF VESSELS.

Mr. CHANDLER. I move to take up House bill No. 204, to regulate the registering of vessels; which was reported yesterday from the Committee on Commerce.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which provides that no ship or vessel which has been recorded or registered as an American vessel, pursuant to law, and which has been licensed or otherwise authorized to sail under a foreign flag, and to have the protection of any foreign Government during the existence of the rebellion, shall be deemed or registered as an American vessel, or shall have the rights and privileges of American vessels, except under the provisions of an act of Congress authorizing such registry.

Mr. SHERMAN. When that bill was called up yesterday, it struck me that the policy of excluding from the American marine all the vessels that temporarily took shelter under a foreign flag during the war, and when the Government of the United States was unable to protect them from the depredations of privateers, was a bad one. It certainly is the object of the Government of the United States to have as large a mercantile marine as possible; and I do not think we ought to blame the ship-owners who temporarily sought shelter under a foreign flag when their vessels were liable to be captured at any moment by privateers built in England, but sailing under the confederate flag. The object of this bill, if I understand it, is to punish the owners of these vessels by a forfeiture of all their rights, and to prevent them from again enrolling themselves under the American flag and carrying on ordinary commerce under the protection of the American law. That is the purpose. It seems to me to be an unwise one. It is too severe a punishment for seeking temporarily the protection of a foreign flag. It will reduce the American marine I do not know how many tons; the Senator from Michigan no doubt can tell us; but I am told a pretty large number. Perhaps he will inform the Senate the number of vessels which sought shelter under foreign flags during the recent war.

It seems to me, however, as the war is now over, that there is no impropriety or no impropriety in allowing these vessels again to be what they were before, American vessels, with all the privileges granted by our laws to American vessels. The punishment that is now sought to be inflicted upon the owners of these vessels is entirely too severe for the crime or offense that they have committed. Indeed, when any one owning a vessel sailing under our flag found that, on account of reasons beyond his control and beyond the control of the Government, his vessel was liable to capture and seizure by a pirate on the seas, I do not see anything very wrong in his temporarily placing his ship under the protection of another flag for the purpose of carrying on commercial operations. He did not renounce his allegiance; he simply placed his vessel in a more favorable situation to carry on commercial operations. There is no doubt that many of the owners of these vessels who thus sought to protect their property temporarily under a foreign flag are among our most eminent and most skillful commercial men; men who have been patriotic, and who have poured out their wealth freely, and in many cases have sent their sons into the war; and I do not think that they ought to be very severely punished for what they have done in this respect during the war. It was not regarded as a very great offense at the time. The discrimination against American vessels by insurance companies amounted to several per cent, and in some cases American vessels were absolutely driven off of certain trade and these owners were compelled by events, over which they had no control, either to sell their vessels outright, or to seek temporarily the protection of another flag. To exclude all of these vessels now from the American marine would be simply to punish ourselves without accomplishing any great good. This is the view that I take of it. If the Commit-

tee on Commerce have examined the question thoroughly and can give us any light upon it, I should be very glad to hear it. I read the debate in the House of Representatives on this bill. It excited some attention there, and it seemed to me no reason was given sufficient to justify us in striking out of the list of American vessels all the vessels that temporarily sought shelter under a foreign flag during the recent war.

Mr. CHANDLER. Mr. President, by a law of 1793 all vessels that have been absolutely sold and sold under a foreign flag are now prohibited from obtaining an American register. The sole object of this addendum to the old law is to place all on the same footing; that is, to prevent those who have made a pretended and fraudulent sale from standing better before the law than those who have made a *bona fide* sale. Under that old law of 1793, no ship that had been transferred to a foreign flag can return under the protection of the American flag without a specific act of Congress. I do not think myself that this bill is necessary. I think that that law of 1793 covers the entire ground. I do not believe that the person who made a pretended sale can to-day get his ship back without an act of Congress. But this bill places the honest and the dishonest man upon an exact equality before the law; they must each of them have an act of Congress to bring their vessel back under the American flag, and it is for Congress to decide in each case whether it is for the interest of the Government to permit them to resume their nationality. I am informed by shipping merchants largely engaged in commerce, that the great majority, four fifths of all our shipping merchants have paid the extra ten per cent. insurance imposed upon them during the war, and that a large proportion of those who have pretended to transfer their ships without an absolute sale were disloyal men who desired to obtain an advantage over the loyal man who would not change his flag. The object is to protect those who have stood by their flag, to give those who have made a false sale no benefit over those who have made a *bona fide* sale, so as to place them all upon an equality before the law. I think the old law covers the ground completely, and yet in the estimation of the House there was a doubt, and they have passed this bill to prevent pretended transfers from having a preference over real *bona fide* transfers which were prohibited under the old law.

The bill was reported to the Senate without amendment.

Mr. McDOUGALL. I desire simply to say that it is known to every one that we were not able to afford protection to our commercial marine pending the recent troubles. They were compelled to seek the protection of other flags in order to carry on our own home commerce and transact the business of our own people. It became a necessity for them to sail under the flags of other nations. They were not safe upon the high seas under our flag, and they could not pay the immense insurance risks that it was necessary to pay if they were under American colors. There is no sound reason in policy or in justice why any extraordinary burden, such as requiring a special act of Congress, should be imposed upon that large merchant marine that was compelled to occupy that position. I hope the bill will not pass, and upon the passage of it, when the question upon its passage shall be before the Senate, I should like to have the yeas and nays.

Mr. WILSON. I would like to have this bill go over until to-morrow morning.

Mr. CHANDLER. There is to be no more debate upon it. I will make no reply to the Senator from California. I hope the yeas and nays will be given the Senator.

Mr. WILSON. If there is to be a vote taken upon it, I have no objection.

Mr. CHANDLER. There will be a vote upon it. It is a clear case.

The bill was ordered to a third reading, and was read the third time.

The PRESIDENT *pro tempore*. On the

passage of the bill the yeas and nays are demanded.

The yeas and nays were ordered.

Mr. GRIMES. I understand this bill simply says that where a person has transferred a ship to a foreign flag during the pendency of the recent war, it shall not be recommissioned and reregistered as an American vessel until there shall be some action upon it by Congress in each particular case.

Mr. CHANDLER. That is the whole of it. Mr. GRIMES. That is the law now in regard to each particular case, and it seems to me eminently proper this bill should pass. There are cases, perhaps, where the party owning the vessel ought to be permitted to reregister his vessel, but there are certain cases where they ought by no means to be permitted to reregister their vessels. The Senator from Ohio speaks of this bill as being a penalty that is to be inflicted upon ship-owners who have transferred their vessels to a neutral flag. We ought to impose a penalty upon them. If you do not, Mr. President, when you have another war, the first day that war is declared, all the shipping of the United States will be transferred to a neutral flag; and how are you going to reinforce your Navy? How are you going to secure vessels to keep up a blockade such as you kept up during the recent war? There ought to be a penalty imposed on these men who have shirked the payment of this ten per cent. insurance which the honest and patriotic ship-owners have paid, and who now, after having enjoyed all the advantages of foreign vessels in the carrying trade, and after having filled their pockets with British gold, come here and ask to be put upon precisely the same foundation with the loyal ship-owners who have been paying, during the last five years, this ten per cent. insurance. I am as much interested in what gentlemen from the West call their interests in the carrying trade as any other man can be, but it seems to me it is manifestly due to the shipping interests of the country, and to the patriotism of the country, that a bill of this kind should pass.

The question being taken by yeas and nays on the passage of the bill, resulted—yeas 81, nays 12; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Harris, Henderson, Howe, Kirkwood, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Poland, Pomeroy, Ramsey, Stewart, Sumner, Tumbull, Van Winkle, Wade, Wiley, Williams, and Wilson—31.

NAYS—Messrs. Davis, Guthrie, Hendricks, Johnson, McDougall, Nesmith, Norton, Riddle, Saulsbury, Sherman, Sprague, and Stockton—12.

ABSENT—Messrs. Bucknow, Cowan, Crosswell, Howard, Nye, Wright, and Yates—7.

So the bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a joint resolution (H. R. No. 17) giving the consent of Congress to the transfer of the counties of Berkeley and Jefferson to the State of West Virginia, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had passed without amendment the following bill and joint resolution of the Senate:

A bill (S. No. 86) granting the franking privilege to Mary Lincoln; and

A joint resolution (S. R. No. 26) for the payment of the expenses incurred by the joint committee to inquire into the condition of the States which formed the so-called confederate States of America.

The message further announced that the House of Representatives had passed the joint resolution (S. R. No. 20) extending the time for the completion of the Burlington and Missouri River railroad, with amendments, in which the concurrence of the Senate was requested.

The message further announced that the House of Representatives had passed the bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau, with amendments, in which it requested the concurrence of the Senate.

EMANCIPATION AND REBEL DEBT.

Mr. WILSON. I move that the Senate take up Senate joint resolution No. 24, proposing an amendment to the Constitution, with a view to its reference.

The motion was agreed to, and the Senate proceeded to consider the resolution.

Mr. SUMNER and Mr. WILSON. Let it be read.

The Secretary read it, as follows:

Be it resolved, &c. (two thirds of both Houses concurring.) That the following article be proposed to the Legislatures of the several States, which, when ratified by three fourths of said Legislatures, shall be valid, to all intents and purposes, as a part of said Constitution, namely:

ARTICLE —. No payment shall ever be made by the United States, or any State, for or on account of the emancipation of any slave or slaves, or for or on account of any debt contracted or incurred in aid of rebellion against the national Government.

Mr. WILSON. I propose to refer this resolution to the committee on reconstruction; but before that motion is put, I desire to occupy the attention of the Senate for a few moments to explain the reason why I have introduced this resolution.

Mr. President, when the rebel chiefs raised the banners of revolution, four and a half million men, held as beasts of burden by constitutions and laws, usages and customs in fifteen States, were valued by their possessors at more than two thousand million dollars. These thousands of millions of capital invested in human sinews, hedged about and guarded by constitutional provisions, legislative enactments, judicial decisions, the quick instincts of personal interest, the jealousy of class and the pride of consummated power, then controlled institutions and States, and directed public councils. In the pride of assured possession the holders of these millions of beings, made in the image of the common Father of all the races and kindred of men, and of these vast material interests, then placed all upon the hazard of civil war. That civil war closed in utter defeat and overwhelming disaster to those dominating possessors of human chattels. These four and a half million slaves are things no longer, but men evermore. This capital invested in the bodies of our fellow-men was wrested from the gripe of its possessors by the hand of the war invoked to make slavery and the mighty interests pertaining to it a perpetual inheritance.

When the rebel slave-masters saw their vaunted confederacy crumbling and falling around them, they, true to human nature, indulged the delusive hope that some gradual system of emancipation would be inaugurated, or that some compensation for their lost millions would be made by the Government they had striven to destroy. While they were indulging in these illusions the President required them to amend their State constitutions, and to adopt the amendment to the Constitution of the United States for the utter extinction of slavery. Coming to the realization of their defeat, disaster, and humiliation, they yielded a reluctant consent to these requirements of the President of the United States. Though interest dictated a prudent reserve, utterances in Georgia, Louisiana, and other States give warning to the nation that the rebel slave-masters hope for compensation for slaves emancipated by national authority. Georgia adopts the constitutional amendment with the distinct avowal that it will not preclude her from seeking compensation for her emancipated bondmen, and political conventions in Louisiana emphatically declare their purpose to seek such compensation. Manifestations in many forms in other sections of the South give unmistakable indications that they are biding their time, when within these Chambers they will clamor for compensation for slaves wrenched from their possession by Federal power. Prudential considerations now impose silence upon them; but the "natural leaders" of the South know full well that, when these vacant chairs are again filled by the representatives of reorganized rebel States, the demand for compensation for slaves emancipated by our decrees will fire the southern heart and rally and unite the southern

people, as the echoes of the opening cannon on Sumter fired, rallied, and united them in the spring of 1861. Who is there among us that does not believe that these reconstructed but unrepentant rebels will seek the first, the last, and every occasion to wring from the nation some compensation for the millions emancipated by the fiat of the national Government? That statesman is indeed little read in the school of human nature who believes the people of the rebel States will not seek by all the means at their command to extort from the Federal Government some consideration for the lost millions invested in four million men, made free without their consent and against their will by the authority of the nation.

To these \$2,000,000,000 lost to them by enforced emancipation is to be added the confederate debt, amounting to thousands of millions more. The honorable Senator from Kentucky [Mr. GUTHRIE] told us the other day that the South had lost by the rebellion \$10,000,000,000. Impoverished by these immense losses, surrounded by the wastes of war, by the maimed soldiers of the rebel armies, and the widows and orphan children of men fallen in battle, the rebel leaders cannot, will not, dare not cease to demand some compensation, and to labor for some compensation, by every means within their power, or to war upon the national debt, which takes from the people of the rebellious States a portion of what the losses and waste of a four years' war left to them. He who expects other action than this from the leaders of southern opinion is but a poor student of human nature, and especially of slaveholding human nature.

To maintain the unity of the Republic, and preserve the menaced life of the nation, the Government of the United States summoned more than two million men to the field, organized vast armies, created naval squadrons for the blockading of southern ports, and carried on for more than four years a war of gigantic proportions. To support those vast armies, to create these great naval squadrons that hovered along the southern coast from the Potomac to the Rio Grande, the Government was compelled to call upon the loyal people for nearly three thousand million dollars. That people, animated with the same lofty and self-sacrificing patriotism that carried their sons to battle-fields, at this call of their country loaned these millions to feed, to clothe, to arm, to pay the soldiers of the Republic, and to pension the widows and orphan children of heroes fallen in battle for the existence of the Republic. With the same holy zeal that filled the ranks of our war-wasted battalions, that contributed seventy-five millions in charities to the sick and wounded defenders of their country, the loyal people—bankers, merchants, farmers, mechanics, laborers, all conditions of men, and women, too—in the dark and trying days of the rebellion, when men of little faith doubted the result of the struggle for national existence, and rebel sympathizers and rebel apologists prophesied disaster and national bankruptcy, trusted their interests and fortunes to the faith of their endangered country. These millions of the loyal people, loaned upon the plighted faith of the periled nation, created the armies and navies that lined the coasts, and swept the fields of rebellion till the slave-masters' confederacy crumbled into dishonored fragments. This national debt, created by the Government for the preservation of the national life, is as sacred as the blood of our heroes poured out on battle-fields. This national debt is the price of national existence. Faith, honor, interest, all alike demand that it shall be guarded as we guard and cherish the scarred heroes and the widows and orphans of the nation's dead.

This vast national debt, larger, if measured by interest, by the annual cost of carrying it, than the debt of England, will bear not lightly upon the resources of the nation. To fund it at reasonable rates, to provide the means promptly to meet the interest upon it, and to extinguish it at no distant period, to make the burdens bear as equally and lightly as possible

upon all interests, will tax the resources of statesmanship, and the patience, endurance, and patriotism of the people for years to come. Not only are the holders of these national securities concerned in whatever affects the public credit, but all conditions of men and all the pursuits of life are also concerned in whatever affects it. The national debt has been made the basis of our banking system and currency. Money-lenders and money-borrowers, merchants, manufacturers, business men of all occupations, depositors in savings institutions, and the laborers who carry home to wives and children the fruits of daily toil, all now have a direct, a personal interest in maintaining unimpaired the faith of the nation and the credit of its securities.

The holders of the public securities, the people, concerned in all their vital interests in maintaining the credit of the nation, in funding the public debt at low rates of interest, and providing for its ultimate extinguishment, and in the return at an early day to specie payments, now demand, and they have a right imperatively to demand, that the national securities, in which are blended all public and private interests, shall not be put at hazard by experimental legislation. National credit, like individual credit, is ever sensitive. It feels the approach of danger, be it ever so stealthy in its advances. The holders of the public securities cannot but anxiously note multitudinous indications of coming danger. With the clear vision of self-interest, they see, feel, realize that the guardianship of these thousands of millions of dollars, incurred to put down the rebellion, cannot be safely intrusted to the defeated rebels. The holders of the public securities, the possessors of the currency founded upon the public faith, the scarred soldiers of the Republic, and the heirs of fallen heroes, are hardly ready to intrust their inheritance, be that inheritance ever so small, to the men who have lost two thousand millions' invested in the sinews of a race emancipated by the national authority, and the holders of thousands of millions of confederate bonds and obligations. They know that these baffled and ruined men, smarting under defeat, poverty, and wounded pride, will be ready ever to make combinations with those who in the dark and troubled night of the rebellion predicted the scaling down or the repudiation of the national debt, to secure payment for rebel debts and emancipated slaves, or to scale down or repudiate the debt incurred for their overthrow. The holders of your securities, the people whose vital interests require that these securities shall be guarded against possible danger, imperatively demand that irreversible guarantees shall be made that the nation will never assume rebel debts nor pay for slaves emancipated by the needs or will of their endangered country.

The loyal people of the United States who risked their private interests in support of the national authority have a right to demand—it is their highest duty to demand—that the Government shall require, as a condition precedent to the admission of rebel States, that the fundamental law shall be so amended as to make it forever impossible that the public debt shall ever be endangered by the payment of a single dollar for emancipated slaves or confederate obligations. Let these words, or words to the same effect, be incorporated into the Constitution of the United States:

No payment shall ever be made by the United States or any State for or on account of the emancipation of any slave or slaves, or for or on account of any debt contracted or incurred in aid of rebellion against the national Government.

Let the confederate States be required, as a condition precedent to their admission into these Chambers, to adopt it. Its incorporation into the organic law of the land will hedge about the national debt with additional guarantees and securities, and make safer every interest of the country and the people.

Five years ago the leaders and organizers of the rebellion, without one grievance to be redressed, one wrong to be righted, one right to be vindicated, left these Chambers, turned their backs upon country, duty, and honor, and

sought, through the fire and blood of civil war, the dismemberment of the Republic and the death of the nation. Three hundred thousand loyal heroes, in the bloom of life, have died that the nation might live. Hundreds of thousands more, scarred and maimed, or bowed by wasting disease, linger among us, and a national debt of vast proportions burdens the industries of the future. These are the legacies treason leaves to the nation. Now, these people that five years ago called home their representatives, these men who made vacant these chairs, again seek admission to these Halls. Surely it is the right and the bounden duty of far-seeing statesmanship to demand and take reasonable security for the future of the country. Ere the representatives of rebellious States come back, a loyal people may require new guarantees for the safety of the country, saved by their money and their blood.

It is, to my poor comprehension, time lost to discuss the mooted problem whether the States lately in rebellion are or are not in the Union. The discussions of the schoolmen in the Middle Ages were hardly less fruitful of practical results. One thing is clear to the practical sense of the country; the people of the rebel States are as subject, individually and collectively, to the power, will, and authority of the nation as are the people of New England, of the central States, or of the West. Those insurrectionary States declared they would go out of the Union; the nation said they should not. They fought four years to get out of the Union; the nation fought four years to keep them in. They were defeated and their power annihilated. Not a flag of their waves, not a bayonet of their's glitters in the sunlight. The flag of united America floats over their strongholds, over city and hamlet, and the tramp of her conquering legions rings in the ear of a subjugated people. Courts and custom-houses and post offices are open, judicial officers and the collectors of foreign and internal revenues are there, and the authority and power of the national Government are as complete there now as on the day South Carolina led the dance of secession. The protection of the nation for person and property in the rebel States is now more potent than at any other period for the past generation; for all the purposes of governmental authority over the people of those States the Union is entire and complete.

True, the practical relations of the States to the Union are not completely reestablished. The Senators and Representatives from the rebellious States are not yet here to participate in our legislation and to frame laws for the country they have striven to blot from the map of nations. They cannot yet lay their hands upon the statute-book of the country, nor aid in shaping the future of the regenerated Republic. When they are to come is for the Congress of the United States to determine. Ere they shall come, we owe it to the country, to the interests of its loyal millions, to see that such conditions are imposed as justice and liberty, the enduring interests of the whole nation, and the public safety, require. We may not require of the returning representatives of rebellious States, as conditions of admission, that they shall always vote for taxes to pay the annual interest of the debt their treason imposed on their country, or for the extinguishment of that debt at no distant period; nor may we require of them that they shall vote to pay the pensions pledged to our scarred veterans, or to the widows and orphans of our slain heroes; but we can require, and we should require, as a condition precedent to their admission, the complete repudiation of all rebel debts, and the entire abandonment forever of all claims for an emancipated race. The people of the loyal States, if Congress shall give them the opportunity, will surely incorporate into the fundamental law of the land these words, or words of like import:

No payment shall ever be made by the United States, or any State, for or on account of the emancipation of any slave or slaves, or for or on account of any debt contracted or incurred in aid of the rebellion against the national Government.

Mr. POMEROY. I do not object to this

resolution, but I think the Senator from Massachusetts cannot but be reminded of what passed between him and myself when the bill to pay for slaves emancipated in the District of Columbia was before the Senate. I thought then it was a most injurious and wicked precedent for this Government to acknowledge by a payment that there could be any such thing as property in man. The Senator from Massachusetts then insisted that it was a sort of peace-offering that we ought to give to the slaveholders here. The other Senator from Massachusetts thought it was a ransom. But I have come to the conclusion that I was right then, and I believe I am now, that we ought from the beginning never to have paid a dollar in any form for property held in that regard. I believed that if we once established the precedent for it, it would be a dangerous precedent, and one which we had reason to believe would be followed. The effort of the Senator from Missouri [Mr. HENDERSON] to get \$15,000,000 in payment for the slaves emancipated in his State failed, to be sure, but it did not fail for lack of the votes of the Senators from Massachusetts. They both voted for it. It failed on other accounts. I am very glad, indeed, that this resolution has been introduced; but we ought to have taken the ground in the beginning never to pay a dollar for the emancipation of slaves, and then we should never have had a precedent.

Mr. WILSON. I suppose if all of us could have seen the end from the beginning we never should have offered Missouri any compensation for emancipation soon to come, nor should we have offered it to the people of the District of Columbia. We did not see the end from the beginning, and like practical men, putting liberty and the great cause above a few dollars, we commenced in this District by paying these people. I never regretted it. I do not think any harm will ever come of it. We have put down this rebellion at the cost of more than three hundred thousand lives and three thousand million dollars of national debt, and nobody knows how much of State and individual indebtedness has grown out of it. We have wrenched these slaves from their masters by power. It is more than we can expect of human nature that these men should never clamor for some consideration, and I think we have a right to take, and ought to take, security for the future.

Mr. POMEROY. That is what I think.

The PRESIDENT *pro tempore*. The question is on the motion to refer this resolution to the joint committee of fifteen.

The motion was agreed to.

FREEDMEN'S BUREAU.

On motion of Mr. TRUMBULL, the Senate proceeded to consider the amendments of the House of Representatives to the bill of the Senate (S. No. 60) to enlarge the powers of the Freedmen's Bureau.

Mr. TRUMBULL. I only desire at this time to move that the amendments of the House be printed, and referred to the Committee on the Judiciary.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a bill (H. R. No. 201) to declare the meaning of certain parts of the internal revenue act, approved June 30, 1864, and for other purposes, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bill and joint resolutions; which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 204) to regulate the registering of vessels:

A joint resolution (S. R. No. 25) tendering the thanks of Congress to Vice Admiral David

G. Farragut, and to the officers, petty officers, seamen, and marines under his command for their gallantry and good conduct in the action in Mobile bay on the 6th August, 1864; and

A joint resolution (S. R. No. 17) directing the distribution of the writings of James Madison.

HOUSE BILLS REFERRED.

The following bill and joint resolution from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 201) to declare the meaning of certain parts of the internal revenue act, approved June 30, 1864, and for other purposes—to the Committee on Finance.

A joint resolution (H. R. No. 17) giving the consent of Congress to the transfer of the counties of Berkeley and Jefferson to the State of West Virginia—to the Committee on the Judiciary.

APPORTIONMENT OF REPRESENTATION.

The PRESIDENT *pro tempore*. If there be no further morning business, the Chair will call up the unfinished business of yesterday, which is the joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States, the pending question being upon the amendment proposed by the Senator from Massachusetts, [Mr. SUMNER,] upon which the Senator from Maine [Mr. FESSENDEN] is entitled to the floor.

Mr. HENDERSON. With the very kind permission of the Senator from Maine, before he commences his argument, which I suppose will go to the whole question and be, as everything that comes from him is, able and exhaustive, I desire to submit an amendment to the amendment, so that the proposition that I had the honor to submit some days ago and had referred to the committee on reconstruction may at the same time be considered in the lengthy arguments of Senators upon the various propositions that may be submitted for the amendment of the Constitution.

The PRESIDENT *pro tempore*. The question will be on the amendment to the amendment, which will be read.

The Secretary then read the amendment to the amendment, which was to strike out all after the word "that" in the amendment, and to insert the following in lieu thereof:

The following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid to all intents and purposes as a part of the said Constitution, namely:

ARTICLE 14. No State, in prescribing the qualifications requisite for electors therein shall discriminate against any person on account of color or race.

Mr. FESSENDEN. Mr. President, I think I might raise a question, if I were so disposed, upon the propriety of the amendment submitted by the honorable Senator from Massachusetts. I am not aware that a bill can properly be offered as an amendment to a proposition to amend the Constitution. It is substituting one thing for another of a very different nature; and I do not see very well how, upon the same principle, the amendment of my honorable friend from Missouri can be offered as a substitute for the bill that is presented by the Senator from Massachusetts. I do not propose, however, to raise any question upon either, for it really makes no difference in this discussion. I take it, it is very possible that the amendment to the Constitution proposed by the committee, of which I have the honor to be a member, needs some correction. If so, Senators have had ample time to examine it, and they will be prepared, undoubtedly, to suggest what may be necessary in order to do what the honorable Senator from Massachusetts has said is the proper office of an amendment, improve the proposition which I have submitted on the part of the committee. I should be very glad to see it made stronger. If the complaint against it is that it is weak, I hope Senators will turn all their attention to the question of strengthening it, so that when it shall come to be finally adopted, if it ever is, it may meet

the approbation of the country, and accomplish the work for which it is designed.

Before proceeding to consider it, allow me to say a word upon a petition that has been presented this morning by the honorable Senator from Massachusetts, accompanied by the remark that he approved every word of it. I did not attend to its reading. I very seldom attend to the reading of petitions. I have taken pains to look it over since, and am a little surprised that he should have told the Senate, with due deference to the action of one branch of Congress on this subject, that he approved all that was said in this petition. Allow me to read it, sir. I think that the Senator accompanied it with the remark that it was from "a representative man." I do not know what is meant by "a representative man," or what the man who signs this petition—

Mr. SUMNER. I said he was the editor of the leading religious paper of New England.

Mr. FESSENDEN. Very well, then I know who he is. His name, it appears, is Isaac Farwell Holton; I dare say a very respectable and a very pious man. His petition is in these words:

"Whereas the Constitution of the United States provides that 'no State shall grant any title of nobility,' and that 'the citizens of each State shall be entitled to all privileges and immunities of the several States;' and whereas that revered instrument contains now no clause that would disgrace a free nation or contradict the declaration that all men are born equal; and whereas a resolution for amendment of the Constitution has passed the House of Representatives, which, in the opinion of the undersigned, would repeal these provisions and contradict this declaration, he respectfully prays you to reject said amendment."

The inference is that the passage of this resolution would disgrace a free nation and contradict the declaration that all men are born equal, and the honorable Senator from Massachusetts gives to that statement the sanction of his high authority. Sir, if I thought the passage of this resolution would disgrace this nation, I should not stand up here, even by the direction of a committee, to present it and to recommend it to the consideration of the Senate. If I thought it would repeal the declaration that all men are created equal and entitled to the same rights under the law, so far as that declaration exists, I trust I should be long—as long as the honorable Senator from Massachusetts—in standing here before the body of which I am a member and advocating its passage. Sir, it is something of an imputation even coming from the mouth of the Senator from Massachusetts to say that more than two thirds of the House of Representatives, and those his friends socially, and politically, and in every sense, and his constituents, have been guilty of fabricating and passing a resolution which is a disgrace to the country, and which repeals the cardinal principle upon which our institutions are founded. I think that the honorable Senator, when he gave the sanction of his high authority to declarations like these, had hardly well considered whether or not it was modest so to designate the action of many men who, though less eminent than himself, have each some claim upon the consideration of his country.

Now, sir, as I do not agree with this petition, I shall venture to do what becomes my duty as a member of the committee on reconstruction so-called, and that is to endeavor to present, not my own views entirely, but the views which actuated the committee in recommending this joint resolution which has been laid upon your table. The resolution under consideration, it will be noticed, is not the original one that I presented. After discussion in the House of Representatives, it was recommended to the committee, and was amended there by striking out the words, "and direct taxes." This was done for two reasons. In the first place, it was thought that it would be stronger without a provision having reference to direct taxes, upon which a question might be raised. In the next place, if the words "and direct taxes" were stricken out of the resolution, the result is precisely the same, because the direct taxes are by the Constitution levied and apportioned upon precisely the same principle. Therefore it was

entirely unnecessary to have the words in, and, in fact, the only argument in favor of it was that the two might go together in the same paragraph; but inasmuch as some objected to them, it was thought well enough to omit them. I have stated this preliminarily.

I wish to say another thing by way of introduction. It has been objected, I think, by an honorable gentleman in the other House, that the committee in reporting this resolution had traveled beyond its powers; that it was a question not submitted to them. I beg leave to say, lest any Senator who hears me should have the same impression, that a resolution substantially similar to this one was referred by the House of Representatives to the committee that had these subjects under consideration, and being sent to them for their consideration, of course they had the best right in the world to report upon it, and to report it in the shape in which it was originally sent, or in any other shape in which they chose to put it. I think, therefore, that the committee of fifteen is not open to animadversion as having exceeded its powers or taken upon itself anything that did not properly belong to it.

Something has been said, also, on different occasions, with reference to a disposition that is said to prevail now to amend the Constitution, and the forbearance of Congress has been invoked with regard to that venerable and great instrument. I believe that I have as much veneration for the Constitution as most men, and I believe that I have as high an opinion of its wisdom; but, sir, I probably have no better opinion of it than those who made it, and it did not seem to them, as we learn from its very provisions, that it was so perfect that no amendment whatever could be made that would be, in the language of the Senator from Massachusetts, an improvement. Why, sir, they provided themselves, as we all know, in the original instrument, for its amendment. They, in the very earliest days of our history, amended it themselves. They found defects in this great work of their hands, and they set themselves regularly to work to see if there was in the instrument, which ought to be perfect, and is as perfect, perhaps, as human hands can make anything, anything which might disfigure it, or which needed strengthening, or perhaps more elaboration. That was their opinion as proved by their acts; and I might add, that it is barely possible, if gentlemen will consider, that in the progress of ages, in the advance of time, circumstances may arise that will render it necessary, and have rendered it necessary, to revise the instrument and to accommodate its powers to the developments which time has made.

Such is eminently the condition of things now. We have had a great war. That war has resulted in overthrowing an institution of the States, one that had been a blight and a curse upon this nation from its very foundation. The contest in which we have been engaged has put an end to that institution. There are provisions in the Constitution having express reference to the existence of slavery, more especially the provision under consideration, that with reference to representation, which was made expressly because in some of the States there were a large number of people not recognized as freemen but held as bondmen, and not responsible for their own acts, that is to say, politically, or considered with reference to the political condition of the country. Under these circumstances, slavery being done away with, the provision of the Constitution which was made with reference to it becomes in a degree inoperative and may well be subject to revision.

It may be answered that the Constitution, in this particular, takes care of itself; that there is no difficulty about it; that the original provision that representation shall be founded upon population—including all persons, with one exception, and with regard to those three fifths—will take care of itself when they become free, because, of necessity, when they become free persons, the provision with regard to representation has reference to all, and it is a sim-

ple matter that now there are no classes of persons in the country who come within the description which was hinted at by the Constitution; all stand alike upon the same basis, and representation is properly founded upon population. This is all very well; there is no doubt of the correctness of the proposition so far as the construction of the Constitution is concerned; but, sir, it so happens that we cannot put out of sight one thing which has gone with us from the foundation of the Government and has come down to the present day, and that is, that slavery has existed; that it has been abolished within one or two months, substantially, since the declaration of the final action of the States; that there are left in several of the States of the Union a large number of persons ignorant and uneducated, who up to a very recent period have been held in bondage, considered by the Constitution itself as entirely unfit to be counted as a part of the people of the United States and represented as a whole; and that now, at the present moment, not only have they been made free, but they have been made free against the will of the remainder of the population of those States; to which must be added, the anger of those who have been compelled to submit to their freedom, the natural desire that the master has to retain power, the natural disinclination that he has to see his former slave placed upon a level with himself. All this is perfectly obvious, for we know—the history of the world shows—that those who once possess power never yield it willingly. Men are not made of such stuff that they can give up the possession of that which has been dear to them without a sigh and without a struggle. What then have we a right to suppose would be the result of leaving the constitutional provision where it is? Simply this, that so far as the power exists in the States, it would still be exercised to deny all political rights to those who have heretofore been considered unfit and not in a condition to exercise them. The result of that is what? The continuance of precisely the same rule, and the fostering of a feeling which the honorable Senator from Massachusetts has well proven to be contrary to the very foundation principles of a republican government. There can be no question that such would be the result; and we should have in a portion of the States all the people represented and all the people acting, and in another portion of the States all the people represented and but a portion of the people only exercising political rights and retaining them in their own hands. Such has been the case, and such, judging of human nature as it is, we have a right to suppose will continue to be the case.

Then the question arises whether it is not our duty to guard in some way against this, whether it is not the duty of Congress, if it can exercise it, and the duty of the people, to see not only that all men, all free men, have the rights that belong to them so far as we can contrive it, but that the temptation shall be removed to keep up a system which, if it does not end in tyranny or an oligarchy, or an aristocracy, has a tendency to make an oligarchy and an aristocracy in fact, and a feeling which as long as it exists and there is power to exercise it has a tendency only to injure the institutions of the State where it may exist and where the exercise of it may be found.

There is a simple way of doing this. I expected that the honorable Senator from Massachusetts, who does not like this amendment, would have proposed it. Why not propose a simple amendment precisely in the same terms the honorable Senator from Missouri [Mr. HENRISON] has—a proposition doing away at once with all distinctions on account of race or color in all the States of this Union so far as regards civil and political rights, privileges, and immunities? That would go to the root of the matter. I am free to confess that, could I legislate upon that subject, although I can see difficulties that would arise from it, yet trusting to time to soften them, and being desirous, if I can, to put into the Constitution a principle that com-

mends itself to the consideration of every enlightened mind at once, I would prefer something of that sort, a distinct proposition that all provisions in the constitution or laws of any State making any distinction in civil or political rights, or privileges, or immunities whatever, should be held unconstitutional, inoperative, and void, or words to that effect. I would like that much better; and I take it there are not many Senators within the sound of my voice who would not very much prefer it; but, after all, the committee did not recommend a provision of that description, and I stand here as the organ of the committee, approving what they have done, and not disposed to urge my own peculiar views, if I have any, against theirs, or to rely exclusively on my own judgment so far as to denounce what honorable and true men, of better judgments than myself, have thought best to recommend, and in which I unite and agree with them.

An objection that might be made to that, a real objection, would be its immediate operation. It would place the States which have recently been slave States in this condition, that they must either limit the suffrage too far or they must extend it too far for their own safety, or, at any rate, for what might be presumed to be their own good. I take it no one contends, I think the honorable Senator from Massachusetts himself, who is the great champion of universal suffrage, would hardly contend, that now at this time the whole mass of the population of the recent slave States is fit to be admitted to the exercise of the right of suffrage. I presume no man who looks at the question dispassionately and calmly could contend that the great mass of those who were recently slaves, (undoubtedly there may be exceptions,) and who have been kept in ignorance all their lives, oppressed, more or less forbidden to acquire information, are fit at this day to exercise the right of suffrage, or could be trusted to do it, unless under such good advice as those better able might be prepared to give them. If we passed a resolution of that kind, what would be the result? The result would be that the slave States, so called, must either admit all or else they must make a rule of exclusion which would cut off not only all or nearly all the colored population, but a very large portion of their own white population from the exercise of the right of suffrage, for it has been a characteristic of those States that they have been almost as unwilling to extend the benefits of education to the whites as to the blacks, and the result which I spoke of would follow: power would pass into the hands of the few, comparatively very few. The whole civil and political power of the State would be exercised by a very small number, and for a time, at least, it would be what the dictionaries define to be an oligarchy, the power of a few. I speak of this not as an argument that would prevent my putting into the Constitution a provision, not perhaps in terms, but in substance, like that which is offered by the honorable Senator from Missouri, if I could accomplish it. Of course I would trust to time, and it would have its effect. With that great principle lying at the bottom, after awhile the result would be attained, and we should have in the Constitution itself what I would like to see there, a glorious exhibition of what does, as the honorable Senator from Massachusetts proved to us, lie at the very foundation of republican government.

But, however this might be, (and I do not propose to enlarge upon it, I only propose to state the difficulties,) I am not convinced that suffrage is such a very natural right that it must necessarily be conferred upon every free man. I think no Senator will contend for that. In a republican Government it may be that it may receive the name of a right, although most people call it a privilege; but a voter is an officer, not in the same degree, perhaps, but as much so in substance as the man who enters the jury box, as any one who holds an office. It is a trust imposed upon him by the law, which he executes under the law; and although I hold that the exercise of the right of suffrage should

be extended just as fast and as far as the public good will allow, I do not hold that any man is injured when a just and reasonable law provides that something more is necessary to him than a bare existence as a free man in a community in order to exercise it.

While the honorable Senator from Massachusetts argued, and argued with great force, that every man should have that right, and that he should only be subject to disabilities which he could overcome, his argument, connected with the other principle that he laid down and the application of it that he made, that taxation and representation should go together, would just as well apply to women as to men; but I noticed that the honorable Senator dodged that part of the proposition very carefully. While he says that minors and insane persons and divers others, and perhaps those who were not well educated, might very properly be excluded, yet when it came to the question whether females should vote or not, I did not hear that he expressed any opinion upon that subject whatever; and yet his argument goes to that extent. If a necessary connection between taxation and representation applies to the individuals in a State, and that is his application of it—an application which our ancestors never made of it; they applied it to communities, not to individuals—I should like to have him tell me why every female that is taxed ought not to vote.

Sir, all this question with regard to the right is one after all, in my judgment, to be wisely considered by every State. You cannot settle it upon any minute principle, because the conditions of the States vary. In one State one rule may be beneficial, in another another. The only question is whether the law is just, and whether in the rules that are made in regard to it there is nothing that is at war with the great principle which lies at the foundation of our Government, that all men are and ought to be equal. I agree with the Senator from Massachusetts, that a caste exclusion is entirely contrary to the spirit of our Government, or of any republican form of government.

But, sir, it was not my intention to discuss that question; I come back to that which I stated: what are the objections to putting into the Constitution at once a provision doing away with all distinctions of this kind? I have given one answer which does not satisfy myself. But the argument that addressed itself to the committee was, what can we accomplish? What can pass? If we report a provision of this kind is there the slightest probability that it will be adopted by the States and become a part of the Constitution of the United States? It is perfectly evident that there could be no hope of that description. The argument with regard to Connecticut was not that the action proved aright, but I might appeal to the vote which was taken in one of our own New England States rejecting a proposition which proposed to do away with all distinctions between men on account of color; I might go to Wisconsin and appeal to my honorable friend who insists so strongly on having thirty-six stars, [Mr. DOOLITTLE] and ask him what probability there would be of its adoption in Wisconsin or in any of the western States, where the difficulty exists now. We must take men as we find them. Why, sir, if we proposed an amendment of this description, and if we passed it in Congress, of which probably there would be no sort of chance in the world, how long should we have to look to the States before it could become a part of the Constitution? I think it would go in Maine, because we are very liberal there, and particularly well educated. [Laughter.] I cannot answer for any other State, not even New Hampshire, for I believe New Hampshire will not allow Catholics to hold office; and if that is so it looks very much to me as if possibly they might reject such an amendment; but I think it would go in New Hampshire. But how is it in New York? New York makes the distinction to-day and insists upon it. Of course we should have all the States where slavery has existed against us. If that is so, if it would be a mere idle proposition, one that would not

commend itself to anybody, not in the first place to Congress itself, and in the second place not to the States themselves, should we be acting like practical and sensible men to throw everything else aside and put this question upon that alone? Whatever I might think of it, the committee thought otherwise, and that proposition therefore is not before the Senate.

Laying, then, that out of the question, there are but two propositions to be considered: one is whether you will base representation on voters, either voters generally or citizens who are voters; and the other is the proposition which is before the Senate. I suppose that the proposition to base representation upon actual voters would commend itself to the honorable Senator from Massachusetts. I believe I have in my desk a proposition he made to amend the Constitution, that was laid before the Senate so early in the session that the bell which called us together had hardly struck its last note before it was laid upon the table, in which he proposed that the representation of the United States should be based upon voters. Let me ask him if that does not leave in the hands of the States the same power that exists there now and has existed heretofore. What is the difference in fact? The slave States, unless prevented in some other way, might just provide that no person who is of a certain color or a certain race shall vote; and then it would have precisely the same effect that this proposition has in substance. How does the Senator find this so objectionable and that so suitable to accomplish the purposes which he desires to accomplish? The proposition came from him; of course it met his approval; of course he would desire to make it a part of the Constitution of the United States. What was the object? The object was precisely the same that we have here; and that is to limit the representation according to the extent of the suffrage, and in that way to hold out an inducement to the States to extend their classes of voters as far as possible in order to increase their political power. Was there anything else in it than that? If there was nothing else in it than that, is not this the same proposition so far as that particular point goes? The power exists now and will continue to exist unless it can be taken away by a statute, and of that I shall speak by and by.

The power exists now at the present time in all these States to make just such class or caste distinctions as they please. The Constitution does not limit them; the Constitution in terms gives us no power; it leaves to the States, as everybody knows, the perfect authority to regulate this matter of suffrage to suit themselves. What was the object of the honorable Senator when he offered that amendment? Was it not to limit that—not by law, but by simply holding out an inducement to the States which were recently slave States to extend the suffrage to the colored race and to all races for the sake of the political power which it would give? And yet in the beginning of his speech he talked of this proposition as another compromise with slavery. If this was a compromise so was that, for it did not profess to move an inch toward accomplishing the purposes which he and all others have so much at heart.

Mr. SUMNER. Will the Senator yield to me a moment?

Mr. FESSENDEN. Certainly.

Mr. SUMNER. The Senator will bear in mind that at the same moment that I introduced that proposition of amendment I introduced a bill, which was by act of Congress to declare that all men were equal before the law, and that there could be no denial of rights, civil or political. The two measures were to go together.

Mr. FESSENDEN. It is not for me to judge the honorable Senator's logic. I am unaware how far two measures so entirely distinct can go together, one an amendment to the Constitution to endure for all time, and which lies at the bottom as a foundation principle, the other an act of Congress that may be repealed tomorrow, and which provides no sanction, no penalty, no measure, no machinery, nothing

but a reenactment of the Constitution itself in language not half so forcible. I know that the honorable Senator would gladly make it as strong as possible. But I was appealing to him to answer me, not that I ask him to answer now, but in the ordinary form of address to answer me why and how he can denounce one measure in the strongest possible terms as a compromise, as showing a want of moral principle, as an abandonment of moral principle, while he himself offers another which is founded upon the same idea, and can only accomplish the same results.

Mr. SUMNER. I take issue with the Senator precisely on that point of the argument, and at the proper time shall answer him.

Mr. FESSENDEN. My friend from Iowa [Mr. GRIMES] suggests an inquiry, how does the Senator know but that this proposition will be followed by legislation? How does he know what has been the consultation of the committee or what the committee propose to do? The question is, how far is it good, and no further. Now, sir, I am not speaking of the words, but I am speaking of the effect of the two upon the question under consideration. The effect of limiting it to voters is simply to leave the power where it is, and leave it perfectly in the power of the States to regulate suffrage as they please. The proposition submitted by the committee goes that whole length. It leaves the power where it is; but it tells them most distinctly, if you exercise that power wrongfully, such and such consequences will follow. How far that shall be an argument I will speak of by and by.

What objection is there to basing representation upon voters? And here again I beg leave to state the views of the committee on that subject. There are several objections. In the first place, we naturally become attached to that to which we are accustomed especially if it is well founded in principle, and agreeable to us in all ordinary respects. The principle of the Constitution, with regard to representation, is that it shall be founded on population; that the people who are voters, males of twenty-one years of age, (as has been the ordinary construction,) are not the whole people of a State; and when a State has representation, the representatives, whoever they may be, do not consider themselves as representing males over twenty-one years of age alone, but as representing all, those under age as well as those over age, females as well as males. I do not know how the honorable Senator from Massachusetts feels, but I could hardly stand here easily if I did not suppose I was representing the ladies of my State. [Laughter.] I know, or I fancy I know, that I have received considerable support from some of them, not exactly in the way of voting, but in influencing voters. [Laughter.]

As I have said, we are attached to that idea, that the whole population is represented; that although all do not vote, yet all are heard. That is the idea of the Constitution. But another objection to basing representation upon voters is that it would be unequal. I have not taken the trouble to search the tables and see how far that inequality would go, what State it would operate in favor of and what State it would operate against; but we all know very well that it must necessarily operate most in favor of the new States, and the never the State the stronger would be the operation, because the newer the State is the greater is its proportion of males over twenty-one years of age and legal voters. We, of the old States, are not of opinion that the new States, made up as they are in the beginning, are any better able to conduct the affairs of Government than we are ourselves. We are willing to concede to them equality, but not superiority. It would, therefore, as I have said, and as has been argued—because this matter has been thoroughly discussed in the other House, and is perfectly familiar to everybody—produce an inequality, and a very considerable and striking one, so far as some of the States are concerned.

But again, it would hold out an inducement

to run the ballot to an unreasonable extent. A State being possessed of political power, naturally desiring more, might look around to see how it could make itself equal with another State, and thus might extend its franchise; and the other might see that it is likely to be overbalanced, and extend its franchise in the same way, and perhaps the result might be an unseemly race between States to increase their political power by increasing the number of their voters. Therefore, if you propose to do anything of that sort, you must limit yourselves, make your provision, and say how far it shall go.

It would operate badly, the committee thought, in some other particulars. Take, for instance, the State of Missouri. I understand that in that State rebels have been disfranchised, substantially; they are not allowed to vote. That may be a necessary and wise policy there. I am certain it would be wise to do it in a number of other States. Will you cut off from these States the power to do so? No, you do not cut off the power; but do you wish to hold out an inducement to them to repeal their law or to change their constitutions, if it is a constitutional provision, and allow rebels to vote, because you punish them with the loss of political power unless they do so? I do not know but that it would lead to a repeal of the test oath and certain registry laws and a great many things of that description, which are very beneficial safeguards with regard to the elective franchise anywhere and everywhere.

These in general were the objections which the committee had to basing this amendment of the Constitution, or this limitation, or whatever you may call it, upon voters; and if you extend it to citizens, or narrow it to citizens, you make it worse so far as many of the States are concerned; for my honorable friends from the Pacific coast, where there is a large number of foreigners, would hardly be willing to have them cut off; and they have no benefit of political power in the legislation of the country arising from the number of those foreigners who make a portion of their population. The difficulty is that you meet with troubles of this kind everywhere the moment you depart from the principle of basing representation upon population and population alone. You meet with inequalities, with difficulties, with troubles, either in one section of the country or the other, and you are inevitably thrown back upon the original principle of the Constitution. That is the idea of the committee. How far the committee is right about it, and how far the views which I have submitted, and which presented themselves to them, may be considered as after all of very small account in the consideration of a question so important. It is for the Senate to judge.

Then, sir, when we get beyond that, there is only one proposition left, and that is the proposition which the committee has adopted and recommended to Congress.

I will read it:

ARTICLE — Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation.

It will be noticed that the amendment which we have thus presented has one good quality: it preserves the original basis of representation; it leaves that matter precisely where the Constitution placed it in the first instance; it makes no changes in that respect: it violates no prejudice; it violates no feeling. Every State is represented according to its population with this distinction: that if a State says that it has a portion, a class, which is not fit to be represented—and it is for the State to decide—it shall not be represented; that is all. It has another good point: it is equal in its operation: all persons in every State are to be counted: nobody is to be rejected. With the very trifling exception fixed by the original Constitution, all

racess, colors, nations, languages, and denominations form the basis.

But, sir, the great excellence of it—and I think it is an excellence—is, that it accomplishes indirectly what we may not have the power to accomplish directly. If we cannot put into the Constitution, owing to existing prejudices and existing institutions, an entire exclusion of all class distinctions, the next question is, can we accomplish that work in any other way?

I am one of those who have always thought it was better to govern men by their own convictions of their own interests than by force. Even if we had the power to pass the other resolution, I am by no means certain that all the good we expect from it would follow, although it meets my wishes and my views. But here we are; the Constitution as it stands says that all persons shall be counted in order to form a basis of representation. We propose to alter that, and we propose to alter it in order to avoid a great evil and accomplish a great good. In attempting to make that alteration, we naturally inquire as to our power, what can we do? The opinion is that what I have specified cannot be done. The thing cannot be done in that way. The question then is, can it be done in any way, and if in any way, if any amendment to the Constitution would be acceptable to the people which has a tendency to accomplish the great result that we aim at, and is not in itself otherwise objectionable, why not take that? As I look at it we ought to be practical.

I do not think it my duty as a legislator in this Hall to trouble myself much about what are called abstractions. My constituents did not send me here to philosophize. They sent me here to act, to find out, if I could, what is best for the good of the whole, and to do it, and they are not so short-sighted as to resolve that if they cannot do what they would, therefore they will do nothing. Then let us look and see if this proposition which we have advanced to you has not a tendency to produce the great result that we wish to accomplish. I speak to our friends, not to those who are opposed to all efforts of this kind. I speak to those who are willing to do something.

Sir, it says to these people, to all people mind you, that all men should be equal; it says to all the people of the United States, "You shall be represented in Congress, but as we fear that you may be governed by narrow views, as we fear that you will do injustice to a portion of the people under your charge, and that you will not carry out the great principles which lie at the foundation of the Constitution itself, and of all free and republican government, as was so eloquently shown by the honorable Senator from Massachusetts yesterday, we say to you that you shall not have political power any farther than you show by your action that you are disposed to let all under your charge participate in it." Is not that a great principle? Is it not worth something by way of inducement? Is it a "mean compromise," for so it was denominated—that the committee of fifteen and the House of Representatives when they passed it placed themselves in the situation of Pontius Pilate, with the negro for the Saviour of the world and the people of the United States for Barabbas, as designated by the honorable Senator. Why, sir, I expected to hear him in the next breath go further than that and say that what with the Constitution of the United States and the constitutions of the States the negro had been crucified, and that now by the amendment to the Constitution the stone had been rolled away from the door of his sepulcher, and he had ascended to sit on the throne of the Almighty and judge the world! One would have been permitted to say with all respect, in as good taste as the other:

Now, sir, we propose this, and what does it lead to? Men love political power: they do not part with it easily; they love to increase it. Having a little, they are ready to grasp more. If this is the case, have we not done something if this amendment is passed, to say to men, "Your

political power shall be in exact proportion to your action in the right direction?" We say it not to one people alone, but to all. It cannot be pretended that this is applied to one State and not to another State. What would be the natural consequence? I have faith in the good sense of men. Those who were slaves are now free. It is naturally a sore subject to those who once owned them. In time that soreness and rawness will be healed and worn away, and men will begin to look about them and ask themselves, "Is it an object for us now to keep so large a portion of our population ignorant, stupid, unfit to vote, and at the same time take out of our own hands and deprive ourselves of the power they would give us in the Union of the United States? Shall we not rather make of this population a useful population? Shall we not rather educate it? Shall we not rather increase our own political power, raise ourselves to a level with those States which have the same population with ourselves?" Is it not natural to suppose that that would be the ordinary result, not immediately, but in the course of time? If it would be, the resolution has something to recommend it; it commends itself to me, not being all I would ask for, but much that could be gained, and if I can get no more I am most happy to take that, unless, indeed, it is attended with the effects suggested by the Senator from Massachusetts. If I believed his view to be correct I would vote against the proposition.

What are the two points that he makes? because having considered the advantages of the proposition, it remains to consider the objections. One of them is the objection stated in the petition which I have read this morning, substantially that it takes away the power from Congress to legislate upon the subject, which power it has now.

Mr. SUMNER. A present renunciation of the power.

Mr. FESSENDEN. Very well. How is it a renunciation of power? If that was his exact language, I misapprehended it.

Mr. SUMNER. That was my language.

Mr. FESSENDEN. Very well. How is it a renunciation of the power? We may pass a bill to-day, the Senator's bill, if he chooses, on the back of it and the strength of it. The power exists in the Constitution, the Senator argues, to legislate on the subject. He says that under the guarantee clause, and the clause which gives to Congress the power to carry into effect the powers granted and existing in the Constitution, we may legislate to-day and pass laws by which the suffrage will be given universally. That I understand is his idea. By presenting this proposition to the States, do we renounce that power? Can we renounce that power? How? Will the Senator tell me? In what way can Congress renounce a power that is given them by the Constitution? They may omit to exercise it; but there can be no renunciation. If it exists in the Constitution it stays there until changed; and not all the powers of all the Congresses that have existed since the Constitution was adopted can take away one jot or one tittle of it, however much they may neglect their duty. It is saying what? It is speaking the truth. Pass your law basing representation upon voters alone, and the power is there, if it exists at all, to do as any State pleases with regard to this question of representation. It may make the voters few or many. This resolution simply says, you have the power perhaps, but if you have it, and if you exercise it in the way that we fear you may, or that it is possible you may, these consequences follow. We put it in plain terms, leaving it to each State to do what it pleases.

Sir, I would like better—indeed I drew a resolution to that effect and should like to have it passed—to append to this very resolution another resolution amending the Constitution and giving power to Congress to legislate upon the subject in full. The Senator would not agree with me, because he says that power exists now. Let us examine that question for a moment. I do not know but that the power

does exist; my inclinations are all that way. I wish the power did exist, if it does not. But, sir, how did our ancestors, the fathers who made the Constitution, look upon this question of guarantee? Everybody will see—the Senator has certainly often contended and will not deny—that a constitution or a form of government which recognizes slavery is not a republican form of government, according to his definition, the American definition; and yet in the very instrument in which the fathers provided that the United States should guaranty to every State a republican form of government they recognized the existence of slavery unmistakably, and provided for it in the very clause that we have been considering with reference to representation. Did they then consider that the obligation to guaranty a republican form of government extended thus far, giving Congress the right to interfere in Virginia to examine her constitution? I ask the question that he may answer it, because after all he will admit, as a lawyer, as we all must, that in construing a constitution and construing a statute and construing any provision, we look at contemporaneous history in the first place, and we look more particularly when endeavoring to find out what the sense of an instrument is, at all its clauses, in order to get the meaning of all, for one explains the other. It would seem to me, then, that the Senator went a little too far with his argument as to the guarantee clause. What is understood by a guaranty? In the bill that he has presented, and upon which I desire to say a word by and by, he speaks of a guaranty as we speak of it at common law in the ordinary legal sense of the term. Is that all it means in the Constitution?

I may guaranty to the honorable Senator from Massachusetts the possession of his house, and I may propose to execute my guaranty, but he may say to me, "Sir, you need not trouble yourself about that; I release you; I do not wish to be put in possession of my house." I do not know of any right I have to say, "You shall be put in possession of your house, and I will put you into it whether or no." I think the common law acceptance of the term "guarantee," or the exposition of it, would hardly apply.

"Guarantee," as used in the Constitution, means something more. It means that every State shall have a republican form of government. It is a power granted for the benefit, not only of the particular State in question, whichever it may be, but of all the States. Whether you call it a compact or what not, it is a provision to secure by the power of the United States a republican form of government to every State that shall be a member of the Union. There is no doubt about that. But does it go further, and say that the United States shall have power to examine every statute passed by every State which has a republican form of government to begin with, and see whether it conforms to it, and if it does not, to order its marshals and its courts to interfere and set it right, and if the court is resisted, to turn out the military and raise an army in order to guaranty to every State a republican form of government, and see that its laws are all in accordance with it? Sir, it goes not beyond matters very substantial; it hardly goes into details like these.

If that is the meaning of the guarantee, and that is the way it is to be carried out, I take it the people of the United States may have enough on their hands. What army would answer the purpose? What extent of power would be necessary if this State and that State, which perhaps may have a provision that is in its nature somewhat wanting in republican essence, is to be brought by force of the United States through all its legislation and in all its legislation into exact accordance with the ideas of the honorable Senator from Massachusetts, or my ideas, or anybody's ideas? I take it that the term "guarantee," as used in the Constitution did not intend to go quite as far as this; at least it so strikes me. I wish I could believe with the Senator on this point; but when he argues that under this provision of the Constitution it

is the duty of Congress to examine the legislation of all the States, and see that every man votes who ought to vote, and nothing is wrong, and that his idea, or our idea, for it is the correct idea, of a republican Government is carried out in all its details, I think he goes considerably further than those who made the Constitution ever intended to go. I think the President has the idea that if any State should undertake to establish a different form of Government, if it should choose to have a monarchy, or the controlling portion of the people should choose to have an oligarchy, it then becomes the duty of Congress to interfere; if there is any outrageous violation of the principles which lie at the foundation of our Government, then it is their duty to interfere; but I hardly think that it goes so far as to give Congress the power to legislate upon every subject upon which it might think the States should happen to be wrong.

Mr. SUMNER. The Senator could not have been in his seat while I treated of that part of the question, for he has not stated at all my proposition. My proposition was identical with that of the President. It was in case of a lapse of a State government, and when it became the duty of Congress to interfere with reference to that government, it must see that it was republican in form. I expressly limited the application of the argument to such a case, and the Senator will bear in mind that the preamble of the joint resolution introduced by me goes on that theory. I have made no suggestion that under the guarantee clause we could revise the statutes of the States generally.

Mr. FESSENDEN. Very well, sir, the gentleman says I misapprehended him.

Mr. SUMNER. I think the Senator was not in his seat and could not have heard me.

Mr. FESSENDEN. It was not my intention to misrepresent the Senator.

Mr. SUMNER. Of course not.

Mr. FESSENDEN. I understood him, when he argued that we were bound to guaranty to every State a republican form of government, and that Congress had power to make all laws necessary and proper to carry out the several provisions of the Constitution, to hold, that for that reason Congress could legislate to see that no State whatever passed laws or attempted to execute laws which deprived freemen of their natural inalienable rights. If I misunderstood him, I stand corrected. I did not hear all the Senator said, but I heard the greater part of it and listened to it very attentively.

But let us take it on his own showing. The Senator says we may secure it in the States which have lapsed. That is a new phrase, but perhaps it is as good as any other. How does he propose to do it? By passing an act of Congress. Suppose we get them in. They have lapsed, but we avoid the lapse and take them back again, with an act of Congress providing that everybody shall have his rights under the Constitution. What is to prevent a repeal of the act of Congress after they get here; and if it be repealed what becomes of the guarantee? The Senator tells us that this proposition of his is proposed—mind you, is proposed—as a substitute for the constitutional amendment which is proposed by the committee. Now, what is there in it? But of that I shall speak by and by. I have been led aside from the line of my remarks. I was proceeding, in the first place, to speak of the first objection, and that was, that we avoided the power already existing to legislate on the subject and to do everything by way of legislation. That I have spoken of. Another was that we deliver over these people bound hand and foot to their former masters.

Does this amendment do any such thing? Are they not there now to the same extent? Take the Constitution as it is, are they there, or are they not? The States may legislate and exclude them if they please. When we simply provide one safeguard for them by inflicting a penalty, a punishment if you please, in the loss of political power upon the abuse of that power which the States now have, are we handing these people over in a style worthy of such epithets as were applied by the Senator to those

who are the authors and proposers of this resolution? Sir, I am at a loss to understand how it accomplishes any such thing. The Senator did not explain. He stated the proposition, but he left it to stand upon the force of his own forcible and eloquent language alone.

A more serious objection, in my mind, is the query whether it accomplishes in fact all that we desire to accomplish, whether it may not be avoided, whether by some trick of legislation, some form of speech which does not apply to the language of the resolution, it may not be left to operate in fact in the direction in which we design it should not, while the letter of the law is followed. That is my fear with regard to it, and that is what I wish Senators to look at; and if those defects do exist, I hope, before the resolution goes from our possession, either to the people or the other House, that all these things will be provided for. I do not pretend to point them out.

The honorable Senator from Massachusetts, in his very eloquent and able and exhaustive argument yesterday—one for which I am very much obliged to him, for although he did not approve in terms of this resolution, yet the principles he advocated with so much force all went, in my judgment, to show its necessity and to give it strength, if rightly understood—proposed something instead of the resolution. I have alluded to it. It is a proposed act of Congress; and permit me to say a few words as to its force and effect, and let us see how far the remedy would be followed. If he will excuse me, I cannot help alluding to the fact that it is in one sense like a very small dipper with a very long handle, for the preamble is very much more diffuse than the proposed enactment itself. His preamble is in these words:

Whereas it is provided in the Constitution that the United States shall guaranty to every State in the Union a republican form of government; and whereas, by reason of the failure of certain States to maintain governments which Congress can recognize, it has become the duty of the United States, standing in the place of guarantor, where the principal has made a lapse, to secure to such States, according to the requirement of the guarantee, governments republican in form; and whereas further, it is provided in a recent constitutional amendment that Congress may "enforce" the prohibition of slavery by "appropriate legislation," and it is important to this end that all relics of slavery should be removed, including all distinction of rights on account of color; now, therefore, to carry out the guarantee of a republican form of government and to enforce the prohibition of slavery—

I looked to see what came next. I supposed that after that preamble we should have some adequate machinery provided for the enforcement and the security of these rights; that we should have the matter put to the courts, and if the courts could not accomplish it, that we should have the aid of the military power, thus shocking the sensibilities of my honorable friend from Indiana [Mr. HENDRICKS] again. I do not know what good it does to merely provide by law that the provisions of the Constitution shall be enforced, without saying how, in what manner, by what machinery, in what way, to what extent, or how it is to be accomplished. Let me ask the honorable Senator this question: here is a legislative declaration; suppose the States say they will not do it, how can your bill prevent their having their own way? You do not send them to the courts. How does it read?

That in all States lately declared to be in rebellion there shall be no oligarchy, aristocracy, caste, or monopoly invested with peculiar privileges and powers, and there shall be no denial of rights, civil or political, on account of color or race.

Let us take the first clause. Does not the Constitution say that now? Does the Constitution authorize oligarchies, aristocracies, monopolies? Not at all. Are you not as safe under the Constitution as you are under an act of Congress? Why reenact the Constitution of the United States and put it in a bill? What do you accomplish by it? How is that a remedy? It is simply as if it read in this way: whereas it is provided in the Constitution that the United States shall guaranty to every State in the Union a republican form of government, therefore we declare that there shall be a re-

publican form of government, and nothing else. That is all that there is of it in that particular. What it is to avail practically is more than I can tell. I presume the honorable Senator will very easily explain it to me, but it reminds me—I say it with all respect—of a sort of poetical travesty of a law argument of an eminent lawyer of his own State, running somewhat in this way:

"Let my opponents do their worst,
Still my first point is point the first;
Which fully proves my case, because
All statute laws are statute laws."

The *sequitur* is obvious; the case is proved, because inasmuch as the Constitution provides that there shall be no aristocracy, no oligarchy, no monopoly, therefore Congress has resolved that there shall be not anything of the kind, but provided no mode whatever in which or by which to prevent it. Why not go further? If it is necessary to provide that there shall be no oligarchy, no aristocracy, no monopoly in the States once slave States, why not so provide for all the States? We have the same power of legislation.

Mr. SUMNER. "All the States" is the language of the proposition.

Mr. FESSENDEN. I hold the proposition in my hand, and have read from it.

Mr. SUMNER. I beg the Senator's pardon. It was altered when I sent it up to the desk. The Senator will find it in the Globe as it was offered.

Mr. FESSENDEN. I took it from the printed copy as laid on my table. I will read it as it is in the Globe:

That there shall be no oligarchy, aristocracy, caste, or monopoly, invested with peculiar privileges and powers, and there shall be no denial of rights, civil or political, on account of color or race anywhere within the limits of the United States, or the jurisdiction thereof.

A few moments ago, when I was arguing against the power to legislate in this way in regard to civil and political rights, on the ground of the guarantee, the Senator told me that he contended for no such thing, that he confined it to the States which were lately in rebellion.

Mr. SUMNER. Will the Senator allow me to interrupt him there? I should like to explain to him why that is altered. Last Friday this Senate solemnly declared that under the constitutional amendment it had power to decree the equal rights of all persons everywhere throughout the United States, without distinction of color. The moment that that was declared, I said to friends about me on both sides of this Chamber that that fixed the duty of Congress with regard also to political rights. If Congress can decree equality in civil rights, *a fortiori*, because it is much more important, it can decree equality in political rights; and as the preamble to my proposition recited two reasons or moving causes to the resolution, one the guarantee clause, and the other the constitutional amendment, I felt that it was my duty, acting upon the vote of the Senate, to insist that this declaration of equality for all should be coextensive with the Republic, claiming as I do under the guarantee clause that it operates necessarily *ex vi termini* within all those States where there has been a lapse of government, and claiming that under the recent constitutional amendment it operates everywhere within the limits of the Republic. That is the explanation.

Mr. FESSENDEN. I am obliged to the honorable gentleman for the explanation, but I confess my utter stupidity; I do not understand it, unless he means that in the first place he intended when he introduced his resolution to provide that there should be no oligarchy, &c., in the States which had been in rebellion, confining it to them, and leaving the other States to have oligarchy or aristocracy or anything they liked, and we not interfering. This he based on the guarantee clause. I suppose he will not deny that he knew all about the effect of the recent constitutional amendment at the same time.

But with reference to the rest of the States,

he does not rely on the guarantee clause, but he relies on the power to enforce the prohibition against slavery.

Mr. SUMNER. The power to carry out the constitutional amendment.

Mr. FESSENDEN. And that constitutional amendment abolishes slavery, does it not?

Mr. SUMNER. Yes.

Mr. FESSENDEN. Then there is a provision authorizing Congress to carry it into effect. So far as the slave States are concerned, he relies for this provision on the guarantee clause; and so far as the free States are concerned where there is no slavery and has not been, he relies on the slavery clause.

Mr. SUMNER. That is the Senator's statement.

Mr. FESSENDEN. The statement is perfectly plain. It was drawn originally, the honorable Senator says, on the guarantee clause, and confined to the slave States, and not extending even to all the slave States, but confined to the confederate States simply, under the guarantee clause on the ground of lapse. I call attention to that, and he says that now he has extended it to all the States under the provision of the constitutional amendment abolishing slavery, which gives Congress this power. The guarantee clause is enough for the confederate States, which have lapsed, and you need the clause in relation to the abolition of slavery to prevent it in the free States. That is the clause under which the Senator says it is extended to the free States. If that explanation is satisfactory to the Senator it is perfectly satisfactory to me.

Then the last clause of the Senator's resolution is, "And this statute, made in pursuance of the Constitution, shall be the supreme law of the land, anything in the constitution or laws of any such State to the contrary notwithstanding?" Would not a constitutional statute be the supreme law of the land without the addition of those words? By enacting a statute and saying at the close of it, "this statute enacted in pursuance of the Constitution shall be the supreme law of the land," do those words make it so? Would the Supreme Court be barred from examining into that question and seeing whether the law thus passed was in pursuance of any power granted by the Constitution?

I have examined this scheme simply because it is the remedy proposed by the honorable Senator. Contending that the proposition which has been brought in here by the committee of fifteen, and approved by more than two thirds of the House of Representatives, is merely trifling with our duties, an outrage, an abandonment of moral principle on the part of all who are concerned in it, the Senator proposes a remedy. I have seen how far the remedy went in some particulars, and I now ask him what particular force he applies or thinks due to this last clause, which declares that this statute shall be the supreme law of the land? Does this clause provide the machinery by which it is to be carried into execution? Does it provide courts to protect rights? Does it provide a military force? Does it provide anything? Words all, and words that may be repealed and struck from the statute-book to-morrow, having no force in themselves. So far as it does go it reenacts the Constitution. So far as it declares at the close what the Constitution declares in the same words substantially it is, of course, unnecessary. Then it leaves it to float upon the waters and take its chance of all the adverse currents which may strike it.

I should not have examined this proposition thus minutely had it not been for the very violent—I had almost said virulent—attack made upon the resolution of the committee. As the Senator chose to make that attack, it becomes, of course, my duty to examine his remedy to see the force there is in it, how far it goes, what it will do, what rights it will secure, what evils it will prevent. None, sir, none. It is of no more consequence to put that law upon the statute-book with regard to human rights, anywhere or under any circumstances, than it is to

put one totally irrelevant to the whole subject, because it has no sanction, it has no penalty, it has nothing in it which can accomplish the purpose. It is a mere legislative declaration, and a legislative declaration of a fact that exists, as the Senator says, and as I am willing to concede for the sake of the argument, in the Constitution itself.

Mr. SUMNER. That is all I intended.

Mr. FESSENDEN. That is all the Senator intended! Then where is his protection of human rights? If all he meant was a word upon the statute-book, what good has he done to him who was once a slave in securing him his rights? Sir, I am afraid that there are too many of these things—protections of human rights consisting of words alone! We, the committee of fifteen, recommend something more than words; weak it may be, but containing some force; having perhaps not sufficient present effect, but calculated to reach far into the future. It has that good if it has none other. This, according to the honorable Senator's admission—and he proposes it as an amendment, to strike out the whole resolution and substitute this—he intended simply as a legislative declaration of not the slightest force in the world. Of course, Mr. President, after that declaration of the honorable Senator it would ill become me to comment any further upon it and to show that it would be wholly without effect.

Mr. President, no man knows when he gets talking where he may wander, unless he is in the habit of arranging his thoughts better than I am mine. When I commenced this discussion I supposed that in the course of twenty minutes or half an hour, I could say all I wanted to say, and I should have said all I then wanted to say on the subject; but I have been led aside and astray by the collateral matters that have arisen here, until I have probably exhausted the patience of the Senate; I certainly have exhausted my own strength; but I will say to the Senate that I have not even finished that which I intended to say with regard to certain other matters. Believing that I might well discuss under this resolution the power of Congress in relation to the situation of these Confederate States at this time, and necessarily connected with it, what it would be wise to do. I had thought of taking some notice of the opinions advanced by the honorable Senator from Maryland [Mr. JOHNSON] a while ago, and the honorable Senator from Pennsylvania, [Mr. COWAN,] in reference to the principles upon which we are acting. But, sir—

Mr. JOHNSON and others. Let us adjourn, and you can go on to-morrow.

Mr. FESSENDEN. No, Mr. President, I will not speak two days. I beg the honorable Senator's pardon. I would rather omit entirely all I have to say on the subject now and take some other occasion, than to have an adjournment on my account.

Mr. JOHNSON. I am sorry for that.

Mr. FESSENDEN. And really, Mr. President, I do not know that it would be just or right to the Senate under existing circumstances for me to speak upon any other subject than that which is immediately under the consideration of the body. I do not approve of traveling into matters that are collateral, because it is simply availing ourselves of a place here to give utterance to ideas that do not perhaps belong to the occasion. I will follow out, therefore, my own rule, particularly as I have not strength enough left to do otherwise; but I wish to say in closing that I commend this joint resolution to the careful consideration of the Senate. It is not all that we could desire; it is not all that our constituents could wish; it does not accomplish, as it stands now, all perhaps that it might accomplish; but it is an important step in the right direction. It gives the sanction of Congress in so many words to an important, leading, effective idea. It opens a way by which the southern mind—to speak of it as the southern mind—may be led to do that which is right and just. I see that the honorable Senator from Delaware [Mr. SAULSBURY]

looks at me as if he thought that that was not a very safe supposition; but I have hopes, great hopes, of those who were recently confederates; and I believe that now that they have been taught that they cannot do evil to all the extent they might desire with impunity, and when their attention is turned of necessity in the right direction, the road will seem so pleasant to their feet, or at any rate will seem so agreeable to their love of power, that they will be willing to walk in the direction that we have pointed. If they do, what is accomplished? In process of time, under this constitutional amendment, if it should be adopted, they are led to enlarge their franchise. That necessarily will lead them to consider how much further they can go, what is necessary in order to fit their people for its exercise, thus leading to education, thus leading to a greater degree of civilization, thus bringing up an oppressed and downtrodden race to an equality, if capable of an equality, and I hope it may be, with their white brethren, children of the same father. And, sir, if this is done, (we cannot hope for it in a day, but if in a few years this is accomplished, and accomplished by the steady and silent operation of this constitutional provision which applies itself to the interests and to the love of power of men,) some of us may hope to live—I probably may not, but the honorable Senator from Massachusetts may—to see the time when by their own act and under the effect of an enlightened study of their own interests, all men may be placed upon the same broad constitutional level, enjoying the same rights and seeking happiness in the same way and under the same advantages; and that is all that we could ask.

Mr. LANE, of Indiana. Mr. President, I rise to ask the courtesy of the Senate, which I have never asked before, and I do it the more readily from the fact that I speak very rarely in this body. I desire to address the Senate; and the notes that I have made by way of preparation are at my room, and unless some gentleman prefers to go on now, I should very much prefer either an adjournment or an executive session, so that I may be permitted to speak to-morrow.

Mr. WILSON. Will the Senator allow me? Let this pass over informally so that we can take up a little measure of legislation.

Mr. LANE, of Indiana. With the understanding that I have the floor for to-morrow, I have no objection to that being done.

Mr. WILSON. Certainly.

The PRESIDING OFFICER, (Mr. Foor.) The Chair suggests that the proper disposition would be a motion to postpone the pending question until to-morrow.

Mr. GRIMES. I move that it be postponed until to-morrow at one o'clock.

The motion was agreed to.

DISTRICT OF COLUMBIA SCHOOLS.

Mr. WILSON. I move that the Senate take up the bill (S. No. 35) to grant one million acres of public lands for the benefit of public schools in the District of Columbia.

The motion was agreed to; and the bill was considered as in Committee of the Whole.

The PRESIDING OFFICER. The bill will be read.

Mr. WILSON. The Committee on Public Lands reported a substitute. I do not think it will be necessary to read the original bill, but let the substitute be read.

The PRESIDING OFFICER. If there be no objection, the substitute reported for the bill will be read.

The Secretary read the amendment, which was to strike out all after the enacting clause and insert the following:

That there be granted to the cities of Washington and Georgetown and the county of Washington, in the District of Columbia, one million acres of the lands of the United States subject to private entry at \$1 25 per acre, or less than that sum, to be divided between the cities of Washington and Georgetown and the county of Washington, according to the population thereof, as ascertained by the census of 1850, for the support of public schools.

Sec. 2. And be it further enacted, That the city of

Washington and the city of Georgetown and county of Washington shall not select, locate, nor hold the land granted in the first section of this act, nor any part thereof; but land scrip shall be issued for the same to the city of Washington, the city of Georgetown, and the county of Washington, corresponding in quantity with the land granted in the first section of this act, and to be apportioned as in the first section is provided, said scrip to be sold by said cities and county and assigned by such officers and in such manner as the Secretary of the Interior may order and prescribe; and the assignees of such scrip may locate the same upon any unoccupied public land of the United States subject to sale at \$1 25 per acre, or less; but mineral lands shall not be subject to location.

Sec. 3. And be it further enacted, That the expenses of the sale and assignment of such scrip, and the investment and management of the fund realized from the sale thereof, shall be paid by the said cities of Washington and Georgetown and county of Washington, so that the entire proceeds shall be applied without any diminution whatever to the purpose herein mentioned.

Sec. 4. And be it further enacted, That all moneys derived from the sale of the scrip hereinbefore provided for shall be invested in the stocks of the United States yielding not less than five per cent. upon the par value thereof; that the moneys so invested shall constitute a perpetual fund, the capital of which shall remain forever undiminished, and the interest of which shall be inviolably appropriated by said cities and county to the support and maintenance of public schools in said cities and county for the education of the children in said cities and county between the ages of five and seventeen years, to be used in the support and maintenance of such schools, without distinction of color or race of the children attending them.

Sec. 5. And be it further enacted, That if any portion of the fund invested as before provided, or any portion of the interest thereon, shall by any action or contingency be diminished or lost, it shall be replaced by the city or county to which it belongs, so that the fund shall remain forever undiminished; and no portion of the fund or the interest shall be applied toward the purchase of any site or for the construction of any school-house or building.

Sec. 6. And be it further enacted, That land officers shall receive the same fees for locating land scrip issued under the provisions of this act as is now allowed for the location of military bounty land warrants under existing laws: *Provided*, Their maximum compensation shall not thereby be increased.

Mr. SAULSBURY. I move to strike out, in the fourth section, the words "without distinction of color or race of the children attending them." I do not propose to debate this very new subject in the Senate of the United States; but as I wish to make one straightforward record while I live, and that a record in reference to the white and black races, I ask for the yeas and nays on the adoption of my amendment.

The yeas and nays were ordered.

Mr. HENDRICKS. I wish to inquire of the Senator from Massachusetts whether in this bill by this particular provision he means that the funds shall be equally distributed, or on the other hand that the children of different colors shall go to the same school. What is his purpose on that subject?

Mr. WILSON. We have provided by law for the establishment of colored schools here. Since emancipation we passed a school system for this District, a most excellent one, too, and under it a large number of colored schools have been established. I understand the bill to mean simply—and I think the Senator from Indiana must certainly understand it—that it divides the money *pro rata* according to the children, without any distinction of color, and those in the colored schools will receive the same benefit that those receive who are in the white schools.

Mr. SAULSBURY. I have no objection to the poor children of the District of Columbia or elsewhere being educated; but having been here now for some seven years, I never saw such zeal manifested in reference to the education of the children of this District until it became necessary to educate a large class of black children. We have a great many poor children in my State, and we provide schools for them. There were a great many poor children in the District of Columbia before the abolition of slavery; but there was no proposition then to take a million acres of the public lands and apply them to schools for children, either white or black, in this District, or in any State of the Union. I do not wish, however, to discuss the question.

Mr. JOHNSON. I understood the honorable member from Massachusetts to say that the law as it now stands authorize the establishment of schools for the education of colored children, but does not make it obligatory on the schools

where white children are received to receive the colored children; that is to say, there is no authority to have a mixture of children in any one school. I understood the honorable member to say so.

Mr. WILSON. Yes, sir.

Mr. JOHNSON. If that is so, it cannot be done under this amendment. I understand the whole amendment is that the appropriation which is here made is to be applied to the support and maintenance of all the schools. If it had said "all the schools," it would have included the colored schools as well as the white schools, and nothing more is done by superadding the words "without distinction of color or race."

It is true that perhaps until now no proposition of this sort has been made, either with reference to this District or any other part of the United States, whether included within a State or included within a Territory. But whatever may have been the origin or the motive for the establishment of schools and their support, as far as I am concerned, I would very willingly vote anything in reason to carry out the object. If the poorer class of white children in the District have not been properly educated before, and we are about to educate them now only because there are black children to be educated, that furnishes no objection to me in voting for the bill. I want all to be educated, and perhaps, looking to results, looking to policy, it is more peculiarly necessary that the blacks should be educated because they are without the means of educating themselves, whereas the mass of the white people have the means of educating their own children. I shall therefore vote for the amendment of the committee.

Mr. WILSON. I wish to say, Mr. President, to the Senator from Delaware, that I offered a bill containing this proposition to give a million acres of public land for educational purposes in the District of Columbia seven or eight years ago, some years before emancipation, and I think I have offered it annually from that time to this, or nearly every year. It has been in the Committee on the District of Columbia several times. Last Congress, I think, it went to the Committee on Public Lands and was not acted upon. This year it went to the Committee on Public Lands, and they have made a report in favor of it. I certainly hope that the Senate will pass the bill, that it will become a law, and that the children in this District, without distinction of color or race, of white or black, will have the advantages of it.

The Senator from Maryland tells us that the white people here have the means to educate their children. I think, if the Senator will read the reports made annually for the last seven or eight years in this District, he will come to the conclusion that they have not had the means to do it, or if they had the means they have neglected to use them.

Mr. JOHNSON. The Senator misunderstood me. I did not say so. I said if it was at all necessary to draw a distinction between the colored and the white children, it would be better to educate the colored, because as a general rule the white population had the means of educating their own children, which cannot be said as a general rule applicable to the colored race, not that there are not poor white children who ought to be educated.

Mr. WILSON. Only about one third of the white children of the District of Columbia are in the common schools of the District. The reason is, as everybody knows, that the people of the District of Columbia are a very poor people. There are but few ways here to earn much money. By building the Capitol extension and the other public works in this city, we have brought a great number of laboring men and mechanics and poor people here to live, and many of them come from places where there are good schools open to all, where the children of the poor are educated at the public expense. That is the case in some sections of the country, and it ought to be so everywhere. At this very time, as the last annual report shows, only

about one third of the white children of the District of Columbia are being educated in the public schools. We have got a great number of poor white children here that have no means of education.

Then we have undertaken, by what I think to be a very wise policy, to establish schools for the education of colored children here, and they are short of means; in fact, the great trouble in this District is the want of money. We have set apart during our history some seventy-five or eighty million acres of public lands for the benefit of schools in the States. It was a wise policy. Sir, we ought to have established at the foundation of this District a system of public schools, and this District should have been the pattern of the whole country, where children without distinction of color or race or condition of life could obtain a good common-school education. We neglected it, and we see the result.

Now, sir, I think considering the poverty of this District which is real, considering the fact that we own a vast amount of property here, that we have brought hundreds of people here to labor on the public works, that they are rearing families and are unable to educate them here as they would be in some other portions of the country, considering the fact that we long ago established a wise policy of setting apart portions of the public domain in the new States for the purposes of common-school education, I think we ought to pass a bill of this kind. I only regret that it is so little; but it may give perhaps a million dollars to the people of this District, the annual income of which will go not to build school-houses but for the purpose of educating children, and will be divided according to the number of children between certain ages without distinction of color or race. Nobody doubts that it will be a great blessing to the people of the District and improve the cause of education and consequently the force and powers of the community, moral, physical, and intellectual, that it will be a great advantage to them; and it does seem to me that it is a wise and sound policy to do it. I think that we ought not to go on as we have done, letting the children of the people of the District of Columbia, thousands of whom have been brought here by our wants and our needs, who are poor laboring people, go without the means of education when we have the power to aid them. I am therefore for this measure. I believe it to be a wise one.

I think farther, whatever we can fairly and properly do to build up the city of Washington, to improve the condition of this District, to make the District what it ought to be, we ought to do.

Mr. GRIMES. I think, Mr. President, that there need not be a very great controversy between the Senator from Delaware and the Senator from Massachusetts on the subject of the colored schools, for I imagine that if this bill shall pass there will not be a great many either of white or of colored schools supported by the funds that will be created by it. I should almost be willing to guaranty that these lands will not net to the city governments of Georgetown and Washington, and to the District of Columbia, ten cents an acre. Such, I can assure the Senator from Massachusetts, has been the experience heretofore on the part of all to whom grants of this kind have been made, and such will be the case from my knowledge of the authorities that have the control of affairs here in these cities and in this District in regard to this scrip if it shall be issued.

The Senator from Massachusetts bases this grant first on the poverty of the city of Washington. In regard to that the Senator is mistaken. According to the assessment returns, this is one of the wealthiest cities there is in the United States. There may be poor people here, and doubtless there are; but the assessment returns show what the value of the property is. Will the Senator produce them? Why, sir, the poor people of whom he speaks, who have been brought here as mechanics from the North and West, have really the control of

the city government. Why do they not levy a tax on the valuable property that is located here? The trouble is not that the people are poor, but the trouble is that they are not willing to tax the property that is subject to taxation for the purpose of educating their children; and no grant of land that can be made, and no scrip that the Senator can get us to authorize to be issued is going to improve the people of the District of Columbia in that regard. Let him turn out as a missionary and lecture the people in their various wards on the necessity of education, and when he has brought them up to the standard that will justify us in putting money into their hands for this object, let him come in here and ask for an appropriation of money out of the Treasury. That we can grant, that is the direct way of reaching this thing; but the indirect way that is now proposed, which, while it may possibly be a slight advantage to the citizens of the District, is destined to be a very great disadvantage to the new States, is not the kind of legislation that we should have.

Mr. President, I suppose that the members of this body understand that this bill, if it shall pass, will be the establishment of a new principle. The Senator says that we have been in the habit of making grants of lands to the western States for education. That is true; but they have been granted upon altogether a different principle than this. The Government had vast tracts of land. That land was subdivided, by the authority of Congress, into townships, and those townships were subdivided into thirty-six sections each. You wanted to sell those lands. They were the means from which you expected to derive your revenue for the purpose of carrying on your Government; and you said to the citizens of the North and East, "If you will go out West and buy these lands, and pay us \$1 25 an acre for them, we will set apart every sixteenth section in each one of these townships, which shall be used by you, and those who may associate with you, for the purpose of educating your children." It was an inducement to the people from the East, and from other sections of the country, to go to these western lands and locate on them, and pay into your Treasury the money that you said you would take for these lands. But here you propose to grant to the city of Washington lands or scrip, which is the same thing, for the purpose of establishing schools in this District. You might with equal propriety issue scrip to support the schools in the city of Boston.

But if there is such a necessity for the support of schools here, come to us and ask us in a manly, straightforward way to take money out of the Treasury. Does not the Senator know, does not the experience of everybody go to show, that this scrip will in a very short time and at a very low rate find its way into the pockets of the wealthy capitalists, and then it will be located, spread out on a township of land or several townships of land, and that land will remain for ten, fifteen, twenty, or twenty-five years without having a single occupant on it? And that is the danger and the damage that it is to work to the States where this land will be located and held in trust for the benefit of the cities of Washington and Georgetown.

In 1839, I think—the Senator from Kentucky [Mr. GERRITT] can probably tell me the date—there was granted to a charitable institution in Kentucky a township of land in the State of Florida; and one of the first subjects that I heard under discussion when I came to Washington was a bill introduced at the instance of the State of Florida to compel the State of Kentucky to sell that land. I suppose it has not been sold to this day. The argument that was urged by the State of Florida was that here was an entire township of land in one of their best counties that was owned by the State of Kentucky, granted for a charitable purpose, it is true, but there was not a single *bona fide* settler upon it; it retarded the settlement and prevented the development of the country. Now, the effect of the Senator's bill is precisely to accomplish the same thing

in the western States, not in my State—for I am not speaking for her; her public lands are all exhausted; but I am speaking for the other States and Territories. We have been through this experience; and we have got in some portion of our State almost whole counties taken up by non-residents in this way, preventing the settlement, preventing immigrants from coming there, preventing the development of the State; and I am now arguing for the purpose of preventing other States and Territories from having the same experience.

Mr. JOHNSON. From the organization of Iowa as a Territory and up to the present time, how much public land, either in the State or out of the State, has Iowa received?

Mr. GRIMES. I cannot state the precise amount or number of acres, but I will state this: that some of the Senator's constituents, and I presume he was instrumental in passing the bill through Congress, succeeded in securing a grant of land to certain railroads in the State of Iowa. Those railroads are owned entirely by eastern capitalists. One of the conditions of that grant was that every alternate section of land along the line of those railroads should be increased in value and raised from \$1 25 an acre to \$2 50 an acre; the result of which was that the settlers who went upon the lands were compelled to pay just double the price they would have paid if the grant had not been made. If the Senator regards that as a grant of land to Iowa, we had, I think, somewhere in the neighborhood of eighteen hundred thousand acres of land granted; but the Government is not injured by it. The Government derives just as much revenue from one half of the land that she would have derived from the whole of the land if the grant had not been made.

Mr. JOHNSON. I did not suppose the Government was injured: I only thought that perhaps Iowa was benefited.

Mr. GRIMES. I do not see any deduction that can legitimately be drawn from the inquiry of the Senator, in connection with this bill.

Mr. RAMSEY. I think it is desirable, if this bill is to become a law, to prevent the location of the scrip in any one of the States at all events. With that view, I offer this amendment—

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) There is a pending question before the Senate by way of amendment to an amendment. The amendment of the Senator from Delaware is an amendment to an amendment.

Mr. RAMSEY. If that shall be rejected, I propose to offer, as a proviso, that not over one hundred thousand acres of this scrip shall be located in any one State.

The PRESIDING OFFICER. It will be in order after a vote is taken on the amendment of the Senator from Delaware.

Mr. CONNESS. I wish simply to say that I concur in all that has been said by the honorable Senator from Iowa in regard to this bill. If the honorable Senator from Massachusetts, in the pursuit of his object, which is a worthy one, will show to the Senate the amount devoted to public education here both of white children and colored children, and its insufficiency, I will vote with him any sum of money that is necessary to the support of a proper system of education here from the national Treasury; but I agree entirely with what the Senator from Iowa has said: first, as to the insufficiency for purposes of education in the District of a donation of lands; next, as to the mischievous results that will almost certainly flow from such a donation; and therefore I shall vote against the amendments proposed and against the bill.

Mr. LANE, of Kansas. After years of effort we succeeded in grafting upon our laws the principle of homesteads. It was a long contest. In 1852 I remember voting for it in the lower House. So far as this bill goes it repeals the homestead principle. Most of the Senators are aware of the great injury that the holding of lands by non-resident speculators inflicts on the

new States. The Senator from Iowa has expressed that idea. It is the greatest infliction that can be visited on a new State. This scrip will depreciate in value, go into the hands of speculators, the land will be entered by them; and I desire to suggest that most of the land will be located in the State that I represent. We are the only State now that has large quantities of desirable public land; and the idea of locating a million acres of land in the State of Kansas, a body of land forty miles square, to be held indefinitely by non-residents is monstrous. Let me tell the Senator from Massachusetts this is educating the children of this District at the expense of the children of Kansas and the new States. We cannot establish schools where such an amount of non-resident land is held.

The Senator from Massachusetts will not vote more heartily a sum of money to educate the children of this District than I will. Let us do directly what he proposes, and vote the money. I was not aware that such a bill was before the Committee on Public Lands, or I should have certainly appeared before that committee and protested in the name of my State and my constituents against it. It is true, as stated by the Senator from Iowa, that so far as the money to be realized from this land scrip is concerned, it will be nothing. The proposition is to allow a million acres of land to be held in the new States by non-residents, resulting in no benefit to the children of this District. I ask Senators to pause before passing this bill. Announcing my willingness to vote any amount of money out of the public Treasury that is necessary to educate the children of this District without distinction of color, I ask the Senate to pause before passing this bill.

Mr. WILSON. Mr. President, if I believed what some of these Senators from the Northwest tell us, that this proposition to grant one million out of nine hundred million acres of public land for the benefit of schools was to fall with crushing power upon the northwestern States, and especially upon the State of the Senator of Kansas, I should certainly not press it on the Senate. I am among those who believe that God Almighty made the country for those who occupy it. I have always voted and I mean to vote, in spite of the narrow gauge that is brought in here by some Senators to run upon, for using the public land in such a way that it will improve the condition of the new States, educate their people, make internal improvements, settle up those States, and improve their condition in every way. I have so voted here, and I mean to vote so as long as I have a seat here.

Mr. LANE, of Kansas. Did you vote for the homestead bill?

Mr. WILSON. I voted for the homestead bill, and am for the homestead bill. I have been always for it since I was able to comprehend everything connected with it. I will say further than that, that I voted with the greatest reluctance for a bill passed here a year or two ago making a large grant of land for agricultural colleges. I did not believe in the wisdom of it, and I have not seen yet that it was entirely wise; but I know that the land granted has realized about eighty cents to the acre to the States. The scrip has sold and brought that to the persons who have held it.

Mr. GRIMES. What States?

Mr. WILSON. Several of them got eighty cents to the acre, and I have no doubt that this scrip will bring about that amount. We have got nine hundred million acres of public domain, and we have got the homestead law. The Senator from Kansas introduces almost every other day some proposition for a grant of land for railroads or some other improvements in the State of Kansas, and I have been accustomed to vote for all such measures, because I thought they developed the country, and made the land that we reserved and everybody else's land more valuable. But now here is a small measure to take a million acres out of nine hundred million acres of land, for the

benefit of the schools of the District of Columbia, the capital of this great nation, where we ought to have good school-houses, pattern houses, and where we ought to have good teachers, and ought to have all our poor children educated, ought to have the means by which every poor white boy and black boy, too, can obtain a good education.

Sir, I said the people of this District were poor. The Senator from Iowa tells me that it is one of the wealthiest districts in the country. There may be some men of wealth here—

Mr. GRIMES. I was not talking about wealthy men, but the wealth of the District, the assessable property of the District.

Mr. WILSON. There is unquestionably some property, but if you can find a poorer spot on God's heritage than the District of Columbia, I should like to have it pointed out. There is an immense population here, black and white, living from hand to mouth, ready to do any sort of thing to get the means to get through the day and the night, and who wake up the next day without anything to begin upon. I believe that our policy in erecting these public buildings, this very Capitol where we are assembled, has brought to the District a great many laboring men who have poor families. If these laboring men were in Philadelphia, New York, Boston, or in almost any other part of the country, their children would have the means of education; here it is very difficult to obtain them. I want to give them the means; and as the District of Columbia is under our control, I think we ought to aid them in it. The Senator from California suggests we shall not get it.

Mr. CONNESS. Not in this way.

Mr. WILSON. We shall get at least seven or eight hundred thousand dollars for educational purposes out of this measure. I have not a doubt of it.

Mr. CONNESS. Will the Senator permit me to say a word?

Mr. WILSON. Certainly.

Mr. CONNESS. As I do not wish to occupy any time again on the subject, I wish to call the Senator's attention to how this matter of donation of lands for purposes of education works. In 1850, when California became a State of the Union, she fell heir to five hundred thousand acres of land, which was a donation made, I believe, by law in 1841, for purposes of internal improvements; but California, as she thought wisely, in her constitution devoted that land to the purposes of education. Sixteen years have transpired since the State came to have a nominal title, such as this act would give to the District of Columbia, to those lands, and in that time five thousand acres of the five hundred thousand acres have been set apart by the Government of the United States to the State of California—five thousand of the five hundred thousand acres in sixteen years! The State issued scrip, as the District of Columbia probably will if this act shall pass, and it has resulted in complications that no person can understand nor even render clear now. After sixteen years five thousand acres of land are all of the five hundred thousand that have been set apart by the Government of the United States for the purposes of education. I tell the Senator, because I am equally earnest with him to aid in educating the children of this District, to ask for money so that you can get education, for you cannot get it from land, in my opinion.

Mr. LANE, of Kansas. I should like to ask the Senator from Massachusetts a question: he stated that I was in the daily habit of introducing bills—

Mr. WILSON. Every other day.

Mr. LANE, of Kansas. The railroad grants. Each of those bills provides that the odd sections shall be given to the railroads, and the even sections shall be increased in value double and sold for \$2 50 per acre. There is no provision in this bill from my reading of it that prevents the cities of Georgetown and Washington from taking that particular land that we hold at \$2 50 per acre, so that instead of granting them a million acres of land at \$1 25 you grant them

a million acres of land that we sell at \$2 50 per acre, by my reading of the bill.

Mr. WILSON. It may be—

Mr. HENDRICKS. The Senator from Massachusetts will allow me a moment. The Senator from Kansas is mistaken. This bill allows the scrip that may be issued according to its provisions to be located upon any land of the United States subject to private entry at \$1 25 per acre. It expressly excludes the location upon any land the price of which is above \$1 25 an acre. Any lands that are of less value than \$1 25 an acre may be located with the scrip, and not any above that price. I will read the provision to the Senator from Kansas so there shall be no question about it:

That there be granted to the cities of Washington and Georgetown and the county of Washington, in the District of Columbia, one million acres of the lands of the United States subject to private entry at \$1 25 per acre, or less than that sum.

The same provision is carried into the section regulating the location of the scrip, the second section, which I will also read:

And the assignees of such scrip may locate the same upon any unoccupied public land of the United States subject to sale at \$1 25 per acre, or less.

In the Committee on Public Lands, with a great deal of reluctance I could not agree to favor this bill, but I gave the Senator from Massachusetts a little assistance in framing it, and I think that if it is the purpose of Congress at all to aid the cause of education in this District this perhaps is as safe a bill as can be drawn. In drafting the amendment it was the purpose to avoid the difficulties that have been suggested by Senators. I think no Senator appreciates in a higher degree the injury done to a new country by large quantities of the land falling into the hands of non-residents, and I certainly should not, in drafting or aiding to draft any bill, seek to bring about such a result. I would desire to avoid it, and it is avoided by the provisions of this bill, as far as it is possible in the nature of the case. The land itself is not given to the District of Columbia; neither of the cities nor the county can locate the land. The Secretary of the Interior issues scrip representing upon its face a million acres, in suitable sizes for location, as is provided in the agricultural college law of two or three years ago. The Secretary of the Interior will issue to each of these cities scrip, as the population of the city may entitle it to, and the city will then sell the scrip in the market, and the purchaser of the scrip will locate the land in the western States or Territories. This does not cause the lands of the western States and Territories to fall into the hands of non-residents to a greater extent than existing laws will allow. Land warrants that have been issued to soldiers are located in the same way. The scrip that is issued by the Interior Department under the agricultural college law is located precisely in the same way.

Mr. GRIMES. Does the Senator say that if this bill shall pass there will not be any greater facilities than there are now? It is true that under the land-warrant system vast quantities of land were taken up, whole counties, and are held now by non-residents and unoccupied, because the warrants could be got at the rate of about seventy or eighty cents an acre. When this scrip is bought at twenty, twenty-five, or thirty cents an acre the owner of it can afford to enter and hold the land for a long time and pay taxes on it, when he could not afford to enter it and hold it and pay taxes on it if he entered the land at \$1 25 an acre. That is the difference between an entry under the scrip system authorized by this act and the present system of paying \$1 25 an acre.

Mr. HENDRICKS. Certainly, I understand that, and I did not wish to be understood as saying that speculators would be as likely to buy land with money at \$1 25 an acre as to locate it with scrip which costs them eighty cents. My purpose was to say just this: that it gives the same opportunity, and no greater opportunity than is given by the agricultural college law, or the bounty land warrant law. It is the purchaser of the scrip who makes the location. A wants to go

into the western country to buy lands; he finds this scrip in market at eighty cents an acre, and he buys it or uses it, whether for purposes of speculation or for the purpose of a homestead I cannot say. There are many citizens who would prefer to buy this scrip when they wish to get a homestead in the western country, rather than locate under the provisions of the homestead bill. I was an advocate of that bill when a member of the other House, and if I had been in Congress at the time of its passage, I should have voted for the homestead bill; but there is a serious difficulty in the location of lands anywhere under the homestead bill. Actual settlement and continued occupation for a series of years, I think five years, are required before the settler gets a title. If I were going to make a home and a farm in the western country, if I could possibly raise the money to buy the scrip at eighty cents and locate it on the land, I would prefer it rather than have my title held up in the General Land Office five years, and at the end of that time have to prove continued occupation and improvement through a series of years.

I have not been in favor of appropriating the public lands to any purposes outside of the land States themselves, and therefore had I been in Congress I should not, in all probability, have voted for the agricultural college bill, but I am not able to see how any Senator who supported that measure can oppose the present measure. This bill proposes to use the public lands to educate the children of the District of Columbia. Is that a purpose to which the Government of the United States is willing to lend its aid and support? This District of Columbia is under the legislation of Congress, and if the District were a part of a State in which there were public lands, I should certainly vote for such a measure as this; but having no interest in the public lands, except as its citizens form a portion of the population of the United States, I am not willing to vote for it for that simple reason. But the framework of the bill is not subject to the objections that have been suggested, as I think. If the District of Columbia could go out into Kansas and locate forty miles square, the objection of the Senator from Kansas would have very great force, it would certainly control the action of Congress; but if the District of Columbia is simply authorized to issue scrip and sell it to all the persons who may wish to buy lands there for homes or for other purposes, the bill is certainly not objectionable to the reasons so earnestly urged by the Senator from Kansas.

Mr. LANE, of Kansas. I should like to ask the Senator from Indiana what is the difference between these two cities going into Kansas and locating that land in a body, or permitting the scrip to go, as it will go, into the hands of a company of men or one individual of wealth who will locate it in a body. We have had some experience in this. That is to be the result. It is not to be divided out among actual settlers, but to be sold to speculators and to be entered in a body to remain there to curse my children and the children of the citizens of Kansas and other new States.

Mr. HENDRICKS. The question of the Senator from Kansas I will try to answer. If one man could buy this scrip and go and locate the whole of it in Kansas, the objection would be well urged, but we have got to take facts as they are. We know that no one individual is going to buy this scrip. We know from the history of the past that this scrip will fall into the hands of thousands and perhaps hundreds of thousands of people, if there were enough for that purpose.

Mr. LANE, of Kansas. There was scrip issued to the Sac and Fox Indians in our State. One hundred and ten thousand acres of that scrip fell into the hands of one individual, thirty thousand to another, and twenty-odd thousand to another. There are over one hundred and sixty thousand acres of land to be held by three individuals in the center of our State, on scrip similar to this, issued in the same way.

Mr. HENDRICKS. That is a singular circumstance that I never heard of before. My attention had never been called to the Indian scrip. I believe Indian matters are very likely to fall into the hands of a few persons. It seems that the Indians are used for the benefit of a very few people, and their scrip seems to result to the benefit of a very few people. Now, I know the fact that the land warrants that were issued to the soldiers under the acts of 1850 and 1855 did not fall into the hands of a few men, and I understand the fact to be that the scrip that is being sold by the States under the agricultural college law does not fall into the hands of a few men, but is purchased by men as they desire and need it, very much of it falling into the hands of men who make homes upon the lands where they locate the scrip.

This is all I desire to say, simply that this bill is framed as carefully as a bill can be, I think, to secure the ends intended, and also to prevent the accumulation of the lands in the hands of non-residents, to secure the fund permanently for the benefit of schools in this District; and the money that is received cannot be used for the support of schools, but when realized is to be invested in Government stock and the interest used for the support of schools. Should this scrip sell for eighty cents per acre, as suggested by the Senator from Massachusetts, it would bring \$800,000; that at six per cent. would be \$48,000 a year, which would be a great benefit to the schools. If on principle I could support the bill, I should be very happy to do so.

Mr. STEWART. I think we might avoid the difficulty of the scrip going on the market for a trifle by a slight amendment. I move to amend in the ninth line of the second section, after the word "sold," by inserting "at not less than eighty cents per acre."

The PRESIDING OFFICER. That amendment will not be in order until a vote is taken on the pending amendment. The present question is on the amendment of the Senator from Delaware to the amendment of the committee.

Mr. MORRILL. I do not know that I ought to mingle in the debate on this subject. I consider it so peculiarly a western question that I feel some little delicacy in saying anything on the subject; but from my connection with the Committee on the District of Columbia, I feel a little interest in the passage of the bill, if it can be passed without violating the interest which is represented here by Senators. In my country we make provision directly out of the public treasury in support of the schools. If the people in the District of Columbia had a treasury, I should think that a better way; but they have not, and they are obliged to rely in great part upon the action of Congress.

Now, what has particularly struck me is the character of the opposition to the bill. It is said in the first place that a grant of one million acres will not amount to anything, will come to nothing at all; that it will not benefit the schools; not more than \$50,000, it is said, will ever be raised to these cities for the benefit of the schools. I do not know how that will be. If that is so it would be an argument against the measure, I agree. Whether it is so or not, I do not know. I cannot understand exactly how it can be so, because it is said that the lands which have hitherto been granted, the moment they have passed out of the hands of the Government, as a general thing, particularly in the case of the railroad grants, (and I believe the honorable Senator from Iowa seemed to argue that it had the same effect if you granted the lands for schools,) have been increased in value twofold. If that is so, or if the result is anything in that proportion, we ought to expect a very large return.

Then it is said by the Senator from Kansas that this bill ought not to pass, because it will be peculiarly oppressive to his State, and he assumes that it would be practicable to locate forty miles square in one body, for speculators to cover that quantity of land with this scrip

and hold it until the growth of settlement had made it immensely valuable, and keep his children and the children of his constituents from the enjoyment of their rights. All that must be on the supposition that he and his children and the children of his constituents own all the land in Kansas, which we do not agree to. The children of the District of Columbia own it as much as he and his constituents, precisely; and that has nothing to do with the proposition, provided we think it is a reasonable one.

Then I do not understand how that is practicable, and it has no influence upon my mind for this reason: we have been doing this thing repeatedly. This is not novel, it is not new. As I understand, you granted to colleges for agricultural purposes land scrip precisely in the same way. This bill is patterned on that; I do not know that it is a transcript of it, but it follows the same principle precisely. That is a precedent for it, so that I cannot understand that there is any practical difficulty about it. The honorable Senator from Indiana, who may be supposed to know something about the West and western lands, and the Committee on Public Lands say that in form there is no difficulty about this.

Now, I should like to know how it turns out that the moment a bill appropriating only a million acres for the benefit of schools here comes to have the united opposition of persons who claim to own the public lands, who claim to understand most about the policy of the public lands. I have had occasion to look at the question of the public lands somewhat, to see how they have been distributed. I know the argument of my honorable friend from Iowa; it is, that every acre of land you have given to the western States for schools, for railroads, canals, wagon roads, as swamp lands, and what not, has all redounded to the great glory and benefit of the Treasury of the United States.

Mr. GRIMES. I think I can answer the question that the Senator from Maine has put. He asks how it happens that there is a united sentiment here on the part of the Senators from the Northwest when there is an application made to vote any public lands away. I think his own experience will furnish a sufficient answer to that, when I ask him how it happens that whenever there is a proposition here to repeal the fishing bounties, by which this Government has paid \$25,000,000 during the last sixty years, we have a united front against the passage of that bill from New England.

Mr. MORRILL. That helps me so far on in my argument. [Laughter.] That is our interest; that is our industry; these public lands belong to the West. [Laughter.] Touch them when you will, where you will, for any purpose, and the West says, "Hands off, that is ours." On a former occasion I tried to justify my interest, our great industry, by showing that outside of the local concern it had a grand national aspect; but this is not put upon any such ground as that. We are taking a million acres away from the wagon roads, canals, railroads, &c., of the West!

Now, I insist upon it that unless this can be met on some principle, the opposition is not exactly fair. This is the first grant I have ever known attempted to be taken from the West and appropriated, not to the West, not to the States, but to this place which is needy enough, Heaven knows. It is said this grant will cover over forty miles square. I have not computed it. What has this Government devoted to the interests of popular education in the western States chiefly, not the Northwest? Over fifty-four million acres, fifty times forty miles square. More than two thousand miles square the Government has devoted for the interest of popular education, and I glory in it. It is a grand policy for which I have never failed to vote, and think it was well bestowed, worthily bestowed. The same principle that authorized this Government to do that justifies this and demands it.

Then again for the public improvement, the general welfare, you vote your lands for roads of all descriptions—wagon roads, railroads,

and all variety of enterprises. Nobody has ever heard me grudge it or doubt the policy of doing it. Sometimes I have thought they were a little extravagant; when I have seen the tables covered here day after day with all sorts of projects, I have thought that the Government was pretty munificent, to say the least of it. Why, sir, what has this Government done for the railroads, counting out the great enterprise to which there is no end, the end of which no mortal man can see both in money and lands—I mean the road across the continent? Independent of that, we have voted for the enjoyment of States in the West over sixty-six million acres. And now, when we want only a million to educate the poor people in this District, we are met with this objection.

Besides that, not running on a line with this policy by any means, the legislation of the country shows that over sixty million acres of lands have been received by the land States as swamp lands, and an amount in addition to that claimed running up now as the Land Office shows to over seventy-four millions claimed by them as swamp lands; and you would have to sink an artesian well to find water on a good many of them. [Laughter.] The best lands in those States have been covered over under that policy, and the States have enjoyed them; and when the honorable Senator from Massachusetts, in his great solicitude to promote public education, comes in here and only asks a million acres, the Senator from Kansas rises and tries to make us believe that somebody will be oppressed if we do so.

I submit, Mr. President, that there is no apprehension of any danger of that description; and I submit that the precedents are ample to justify this. The precedent of giving lands to the agricultural colleges is exactly on a line with this. I take no interest in the matter except that I happen to be associated in some sense with the interests of this district which I know to be needy, needy above any community with which I am acquainted in the northern portion of this country, needing education and needing the encouragement of education more than any community I know. I hope the Senate of the United States, out of its great abundance, considering its liberality in the directions to which I have already referred, will feel that it is not a very extraordinary thing, to say the least of it, to make this grant.

Mr. LANE, of Kansas. Neither my children nor the children of Kansas claim to own the public lands of that State, but we have to travel the roads of Kansas, and such a grant as this prevents the construction of roads. We want to educate those children in our State. Such a grant as this prevents the education of the children of the State. Upon us devolves the duty of developing the State of Kansas and of settling it up. We protest against any action of this body that prevents the settlement of these new States, and we notify the Senate that such action as this will have that effect. The Senator speaks of large grants to new States. There is not one of them, except the swamp-land grant, that had not for its object the settling up of the States, the inviting of immigration. Every railroad has that effect. So far as Kansas is concerned, and I believe so far as Minnesota is concerned, we have never had and do not expect to ask for any swamp-land grant. We have had no grant except for objects inviting immigration, settling up the country, developing it, in which the State that the Senator from Maine represents is as much interested as we are.

I rose before the Senator from Maine to move a recommitment of this bill. I would like to have the opportunity of going before the committee and urging the objections there that my constituents have to the passage of the bill.

The PRESIDING OFFICER. Does the Senator from Kansas make a motion to recommit?

Mr. LANE, of Kansas. I did propose and expect to make that motion.

The PRESIDING OFFICER. The motion is in order, if made.

Mr. LANE, of Kansas. I make it.

Mr. GRIMES. A single word. The statistics furnished to us by the Senator from Maine are exceedingly interesting. I know he has been spending a long time in gathering them up. I have no doubt they are very accurate. I have no doubt he has stated to us precisely the number of acres that have been given to the various western States since the foundation of the Government for educational purposes. But I ask him to remember and the Senate to remember that the system of granting those lands was inaugurated by the Government and established before a single white man went upon them. They were not given for the benefit of the white men, or through any instrumentality of the white men after they occupied the land, but the system was created by his progenitors and the progenitors of the rest of us who emigrated from the East, for the purpose of inducing other men, their neighbors, to go and occupy these lands.

The Senator says that he has been appalled at the number of propositions that have been made here to grant lands for wagon roads, railroads, &c. I think he will bear me witness that I have voted against as many of them and have been as urgent against them as any one in this body. I have opposed nearly all of them, and I think it is exceeding bad policy for the Government to grant so large a portion of them. I want these lands saved for the purpose of enabling his constituents and mine to go upon them and occupy them as *bona fide* settlers. That is what the Government ought to use them for, because I can assure you, Mr. President, that nearly all the grants of land that are made to railroad and wagon roads (and let me assure the Senator from Massachusetts that that will be the result with his scrip) find their way into the hands of rich capitalists, and in eighteen months or two years after this grant is made the scrip will be held by the wealthy men of the country, and the tendency will be to exclude settlers.

Let me say further, Mr. President, what I believe I said when I was up before, that I am not speaking for the benefit of my State. There is not a foot of public land that I know of now in the State of Iowa. If there are any they are lands that nobody would occupy. But we have had experience in that State. We have had just such experience as I think you are now preparing for some of these other western States; and I do not want to see them put through the same process.

Now, I say again to the Senator from Massachusetts, I have not any conscientious scruples about voting money out of the Treasury to assist schools in the District of Columbia. Let him present a bill, and I will vote for it. Whenever he or the chairman of the Committee on the District of Columbia represent to me that the interests of this city require that we should vote money for the purpose of establishing or continuing a school already established, I will vote for it most cheerfully.

I oppose this bill because of the bad results that I think will flow from the establishment of this principle and from the issue of this scrip—results not to be experienced by the constituents of the Senator, but to be experienced by the constituents of the Senator from Minnesota and other western States and Territories. I object to the inauguration of this principle for that reason.

The Senator from Maine says that this principle is sustained by innumerable precedents. What are the precedents? He quotes one, and that is the agricultural college bill, and none other so far as I know, except the single case which I cited before where a grant of land of one township was made over forty years ago to the State of Kentucky for the purpose of supporting a deaf and dumb asylum, I think, that land being in the State of Florida, and it was a subject of controversy between the States of Kentucky and Florida up to the time that the secession movement was made five years ago. The precedent in the case of the agricultural college bill I do not think is worthy of being

followed. If we are going to do this this year, it has got to be followed in the future. It will be applied to other portions of the country than the District of Columbia, and nobody can tell where it is likely to end. I hope that the motion of the Senator from Kansas will prevail, and that this bill will be recommitted.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kansas, that the bill be recommitted to the Committee on Public Lands.

The motion was agreed to.

BURLINGTON AND MISSOURI RIVER RAILROAD.

Mr. GRIMES. I move to take up for concurrence the House amendments to Senate joint resolution No. 20.

The motion was agreed to; and the Senate proceeded to consider the amendments of the House of Representatives to the joint resolution (S. R. No. 20) extending the time for the completion of the Burlington and Missouri River railroad.

The first amendment was to insert at the end of line ten the words "due by reason of the completion of said section of twenty miles," so as to read, "said company shall be entitled to its lands due by reason of the completion of said section of twenty miles."

The amendment was concurred in.

The next amendment was in line seventeen to change the word "sections" to "section."

The amendment was concurred in.

On motion of Mr. BROWN, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 7, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOWEN.

The Journal of yesterday was read and approved.

SCHOONER WAVERTREE.

Mr. SPALDING, by unanimous consent, introduced a bill to authorize a register to be issued for the schooner Wavertree, of Cleveland, Ohio; which was read a first and second time, and referred to the Committee on Commerce.

LANDS IN KANSAS.

Mr. CLARKE, of Kansas, by unanimous consent, introduced a bill for a grant of lands to the State of Kansas in alternate sections to aid in the construction of certain railroads and telegraphs in the State of Kansas; which was read a first and second time, and referred to the Committee on Public Lands.

Also, a bill to subject Indian lands and allotted lands in Kansas to the laws thereof; which was read a first and second time, and referred to the Committee on Indian Affairs.

RESOLUTIONS OF KANSAS.

Mr. CLARKE, of Kansas, submitted concurrent resolutions of the Legislature of the State of Kansas concerning the United States circuit and district courts; which were referred to the Committee on the Judiciary.

Also, concurrent resolutions of the same Legislature asking for the extension of the survey of public lands to the one hundredth meridian of longitude; which were referred to the Committee on Public Lands.

SOSCOL RANCH.

Mr. ECKLEY, by unanimous consent, introduced a bill to amend an act entitled "An act to grant the right of preemption to certain purchasers on the Soscol ranch, in the State of California;" which was read a first and second time, and referred to the Committee on Public Lands.

INTERNAL REVENUE.

Mr. WASHBURN, of Illinois. I am directed by the Committee on Commerce to ask the consent of the House to have a bill reported and put upon its passage at the present time. I will ask to have the bill read. I think there

will be no objection to it. It is a matter of considerable importance demanding immediate action.

Mr. MORRILL. I must ask the gentleman to withhold it until we act on the bill which was pending last evening. I call for the regular order of business.

The SPEAKER stated that the regular order of business was the consideration of bill of the House No. 201, to declare the meaning of certain parts of the internal revenue act, approved June 30, 1864, and for other purposes.

Mr. MORRILL. The first part of this bill is intended to reach all the stockholders of certain corporations who are taxed by the internal revenue law, whether they are citizens, residents, or aliens. By a decision of the circuit court of Maryland it has been held that a certain section of the internal revenue law, intended to apply to the income tax, applied to the taxes which are collected from corporations, and therefore aliens escaped. The first part of the bill is intended to remedy that defect.

The latter part of the bill is intended merely to apply to returns that have been heretofore made in some instances by parties in coin, the taxes upon which have been paid in paper. I take it there is no objection to the bill. It meets the approbation of the Department.

Mr. DAVIS. I would ask the gentleman if this bill changes the existing law in regard to scrip dividends.

Mr. MORRILL. It simply provides that the law which applies to citizens who are stockholders shall apply to aliens also. It authorizes the corporation to deduct the tax from the dividends of the parties who own the stock, whoever they may be. That is done now in relation to our own citizens and to our citizens who reside abroad. By a decision of the courts of Maryland it is held, that in the case of foreigners the corporation cannot deduct the tax, and yet they have to pay it to the Government.

The bill was read. The first section provides—

That in section one hundred and twenty of the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, the words "all dividends in scrip or money thereafter declared due, and whenever the same shall be payable to stockholders, policy holders, or depositors," are hereby declared to mean all dividends in scrip or money whenever payable, and all stockholders, policy holders, depositors, or parties whatsoever, including non-residents, whether citizens or aliens.

The second section provides—

That in section one hundred and twenty-two of said act the word "stockholders" is hereby declared to mean all persons or parties whatsoever that are or may be stockholders, including non-residents, whether citizens or aliens; and the words "all such interest or coupons, dividends, or profits, whenever the same shall be payable," are hereby declared to apply to all such interest or coupons, dividends, or profits, whenever the same are or may be payable, and to whatsoever party or person the same are or may be payable, including non-residents, whether citizens or aliens.

It is provided by the third section—

That it shall be the duty of all persons required to make returns or lists of income and articles or objects charged with any duty or tax, as provided by the act aforesaid, or any act amendatory thereof, to declare in such returns whether the several rates and amounts therein continued are stated according to their values in legal-tender currency; and in case of neglect or refusal so to state, to the satisfaction of the assistant assessor or receiving such returns or lists, such assistant assessor is hereby required to make returns or lists for such persons neglecting or refusing, as in case of persons neglecting or refusing to make the lists or returns required by the acts aforesaid, and to assess the duty thereon, and to add thereto the amount of penalties imposed by law in case of such neglect or refusal.

The fourth section provides—

That whenever the rates and amounts contained in the lists or returns as aforesaid shall be stated in coined money, it shall be the duty of each assessor receiving the same to reduce such rates and amounts to their equivalent in legal-tender currency, according to the value of such coined money in said currency at the time and place where said lists or returns are receivable, and which value the said assessor shall determine. And the lists required by law to be furnished to collectors by assessors shall in all cases contain the several amounts of taxes or duties assessed, estimated, or valued in legal-tender currency only.

Section five declares—

That the provisions of this act shall, so far as necessary, apply to all returns, lists, assessments, and collections required by the acts aforesaid in addition to

those above mentioned, by whomsoever made, returned, assessed, or collected, in any mode, or for any purpose whatever. And the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, is hereby authorized to make all necessary rules and regulations for carrying this act into effect.

Mr. KASSON. I desire to ask the gentleman a question. This bill declares that the words "all such interest or coupons, dividends or profits, whenever the same shall be payable," shall apply to all such interest or coupons, dividends or profits, whenever the same are or may be payable. Now, I desire to inquire of the chairman of the committee [Mr. MORRILL] whether in the case of a declaration of interest due to these stockholders, but not paid, it would be covered under this declaration of meaning, although payable at some indefinite or definite future day. In other words, if these corporations attempt to evade this tax by postponing the payment of the dividends to some future time, would they be reached by this declaration of meaning?

Mr. MORRILL. I do not think that this bill changes the existing law in that respect. So far as dividends are concerned, the surplus profits must be reported and taxed each year. This bill quotes the present law and reenacts it so as to apply it to our own people and aliens alike. That is the whole extent of this bill.

Mr. KASSON. I fear it will then mislead us into another difficulty, that the law may be construed to mean that these corporations can only be taxed at the time the dividends are payable, and that if they merely issue certificates of claims to be paid in the future they will not be taxed.

Mr. MORRILL. The original law enforces all such interest or responsibility whenever the same is or may be payable. And that portion of the law is incorporated in this bill in precisely the same language.

Mr. KASSON. I always desire to follow the recommendation of the committee, and shall not vote against this bill, although I think there may be some difficulty under it.

I desire now to call the attention of the gentleman to what I suppose to be the omission of a word in one of these sections. Section four, as printed, reads:

That whenever the rates and amounts contained in the lists or returns as aforesaid shall be stated in coined money, it shall be the duty of each assessor receiving the same to reduce such rates and amounts to their equivalent in legal-tender currency, according to the value of such coined money in said currency at the time and place where said lists or returns are receivable, and which value the said assessor shall determine. And the lists required by law to be furnished to collectors by assessors shall in all cases contain the several amounts of taxes or duties assessed, estimated, or valued in legal-tender currency only.

I think the word "when" has been omitted after the word "time," in the clause "value of such coined money in said currency at the time and place where said lists or returns are receivable," &c.

Mr. MORRILL. I will move to amend the section by inserting the word "when" after the word "time."

The amendment was agreed to.

Mr. MORRILL. I now call the previous question.

The previous question was seconded, and the main question ordered; which was upon ordering the bill to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. MORRILL called the previous question. The previous question was seconded, and the main question ordered; and under the operation thereof, the bill was passed.

Mr. MORRILL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DIPLOMATIC APPROPRIATION BILL.

Mr. STEVENS, by unanimous consent, reported from the Committee on Appropriations

a bill making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1867, and for other purposes; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and made the special order for Thursday, the 15th instant, after the morning hour, and from day to day until disposed of, and ordered to be printed.

EXECUTIVE COMMUNICATION.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, transmitting a communication from the Commissioner of Internal Revenue in regard to certain income taxes collected from the estates of deceased persons who died previous to December 31, 1863, in answer to a resolution of the House of January 29, 1866; which was laid upon the table, and ordered to be printed.

QUARANTINE IN NEW YORK.

Mr. WASHBURNE, of Illinois. I rarely ask the attention of the House to anything out of the regular order of business; but I have a matter in charge from the Committee on Commerce which is of a strictly public character, and which is somewhat urgent. The committee have directed me to ask the consent of the House for its consideration at this time. I refer to a bill which was introduced by the gentleman from New York, [Mr. RAYMOND,] and referred to the Committee on Commerce, in relation to authorizing the Secretary of War and the Secretary of the Navy to place certain hulks and vessels at the disposal of the commissioners of quarantine, and other proper authorities at ports of the United States, in anticipation of the cholera.

Mr. INGERSOLL. Does it not require unanimous consent to consider this bill at this time?

The SPEAKER. It does.

Mr. INGERSOLL. I object to it at this time.

APPOINTMENT OF REAR ADMIRALS, ETC.

Mr. RICE, of Massachusetts, by unanimous consent, reported back from the Committee on Naval Affairs House bill No. 163, to further regulate the appointment of rear admirals, and for the appointment of certain volunteer officers to the regular Navy, and moved: that the same be printed and recommitted to the committee.

The motion was agreed to.

INDEX OF EXECUTIVE DOCUMENTS.

Mr. LATHAM reported, from the Committee on Printing, the following resolution:

Resolved, That the Clerk of the House be, and he is hereby directed, to prepare a digested index of the executive documents and reports of committees of the House of Representatives from 1839 to the close of the present Congress, to correspond with the index of the same documents from the commencement of the Government to the close of the Twenty-Fourth Congress.

Mr. WASHBURNE, of Illinois. I would like to inquire of the gentleman who has reported this resolution whether any estimate has been made of the cost of printing this index.

Mr. LATHAM. The committee have not taken into consideration the printing of the index, as that matter was not referred to them by the resolution, which was offered by the gentleman from Massachusetts, [Mr. BANKS.] The index will not be prepared until after the close of the present Congress; and when it shall have been prepared, an estimate of the cost of printing must then be made before it can be printed. The committee can then take into consideration the number to be printed as well as the expense, which was not a matter before the committee at this time.

Mr. WASHBURNE, of Illinois. If this resolution should be adopted, it will involve the printing of the work which is to be prepared by the Clerk. I would like to know from the committee, as they have of course made an estimate, how much it will cost to print this index after it shall have been prepared.

Mr. LATHAM. The resolution reported by the committee does not involve the printing of the document at all.

Mr. WASHBURNE, of Illinois. Then, Mr. Speaker, if this index is not to be printed, what is the object of having it prepared? Of what use will the mere manuscript copy be?

Mr. BANKS. With the consent of the gentleman from West Virginia, [Mr. LATHAM,] I will state my object in the introduction of this resolution.

A great many reports of great importance to the country, and embodying a vast deal of learning, are now hidden away in the Library of the House, so that there is no possible reference to them unless members take the trouble of going through the volumes one by one. Hence I introduced this resolution, proposing that the Clerk of the House be directed to make an index of these reports. I do not want this index printed at all. The cost of the preparation of this index will be inconsiderable; it probably cannot exceed fifty dollars. The object is to have an index prepared in manuscript, and deposited in the Library of the House of Representatives, so that members can ascertain what is contained in the various reports.

Mr. WASHBURNE, of Illinois. If the resolution provides simply for what the gentleman from Massachusetts [Mr. BANKS] states, I have no objection to it.

Mr. BANKS. It contemplates nothing more than that.

Mr. WASHBURNE, of Illinois. Does it provide for that alone in explicit terms?

Mr. BANKS. It does not provide for the printing of the index; it simply provides for the compilation of an index.

Mr. WASHBURNE, of Illinois. Does it provide for a manuscript index to be deposited in the Library of the House? I would like to have the resolution again read.

Mr. BANKS. Permit me to say, Mr. Speaker, that there is scarcely anything which would be more important and useful to the House than the work provided for by this resolution. The cost of its preparation will be comparatively nothing.

Mr. WASHBURNE, of Illinois. I move to amend the resolution so that it shall provide the manuscript shall be deposited in the Library, and shall not be ordered to be printed.

Mr. SPALDING. I suggest the gentleman from Illinois shall amend so as to provide for a limitation of the expense; provided it shall not exceed more than \$5,000.

Mr. BANKS. Mr. Speaker, the resolution provides that the index shall be in the custody of the Clerk of the House; and there is where it ought to be. There is an index from the commencement of the Government up to 1839, and this proposes simply to complete that index up to the present time. I hope that the resolution will not be amended.

Mr. LATHAM. I will state further in reference to the amendment, that the index cannot be printed under this resolution, and that after the manuscript has been prepared it will require further action of the House in order to have it printed.

I demand the previous question.

The previous question was seconded, and the main question ordered.

Mr. WASHBURNE, of Illinois, modified his amendment so as to provide that the manuscript shall be deposited in the Clerk's office of the House of Representatives.

The House divided on the amendment, and there were—ayes 25, noes 67.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays. I want to see whether we are to leave this entering wedge for the expenditure of thousands of dollars.

The House divided; and there were—ayes nineteen; not a sufficient number.

Mr. WASHBURNE, of Illinois, demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs. WASHBURNE of Illinois, and LATHAM, were appointed.

The House again divided; and the tellers

reported—ayes nineteen; not one fifth of those present.

So the yeas and nays were not ordered.

The amendment was disagreed to.

Mr. WASHBURNE, of Illinois, moved that the resolution be laid upon the table.

The House divided; and there were—ayes 23, noes 7.

Mr. SPALDING demanded the yeas and nays.

Mr. HARDING, of Kentucky, demanded tellers on the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

So the resolution was not laid upon the table.

Mr. SPALDING demanded a division on the adoption of the resolution.

The House divided; and there were—ayes 82, noes 16.

So the resolution was adopted.

Mr. LATHAM moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

REPRESENTATIVES FROM ALABAMA.

Mr. BROOKS. I rise to a question of privilege. I hold in my hand the credentials of six Representatives in Congress from Alabama. I suppose they must go to the tomb of the Capulets. [Laughter.]

MEMBERS on the Republican side. Yes, yes, that is it.

The SPEAKER. Under the order of the House they will be referred, without debate, to the joint committee on reconstruction.

WOMEN'S RIGHTS.

Mr. BROOKS. Mr. Speaker, while I am up, permit me to ask a question in reference to my duty on another subject. I hold in my hand the petition of a large number of women who, for my gallantry the other day, are favoring me with a considerable number of petitions claiming the right to vote; and on looking over the list of the committees of the House, I can find no committee to which I should refer that petition. I have thought of the Committee of Claims, but I do not know whether the chairman of that committee would be sufficiently gallant to give so important a petition its proper consideration. I have thought of the Committee on the Post Office and Post Roads, which refers to mails, and might also be supposed to take an interest in females. [Laughter.]

Mr. DAVIS. Let it be referred to a committee of old bachelors.

Mr. BROOKS. I next thought of the Committee on the Judiciary; but I thought my honorable friend from Iowa, [Mr. WILSON,] with whom I once served, would not have gallantry enough to give it attention. I therefore ask the advice of the House as to where this new subject, not recognized by the rules, shall be referred.

Mr. STEVENS. Let it go to a special committee, so that we may have a report on it.

Mr. BROOKS. I thank the honorable gentleman from Pennsylvania. I suppose the committee on reconstruction, which is absorbing everything, and which has just absorbed the credentials of the Representatives from Alabama, will have to take into consideration the claim of fifteen million women to the right to vote. I move its reference to that committee.

Mr. WILSON, of Iowa. I move to refer it to the Committee of Elections, where the gentleman may have an opportunity to advocate it. [Laughter.]

Mr. BROOKS. I am now serving every day on that committee, and I do not like it.

Mr. Brooks's motion was disagreed to.

Mr. DAVIS. I desire to say that this morning I sent to the Clerk of the House a similar petition to that referred to by the gentleman from New York, [Mr. BROOKS.] I ask therefore that it may be referred to the same committee.

ENROLLED JOINT RESOLUTION SIGNED.

Mr. GLOSSBRENNER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled joint resolution of the Senate (No. 25) tendering the thanks of Congress to Vice Admiral David G. Farragut, and to the officers, petty officers, seamen, and marines under his command, for their gallantry and good conduct in the action in Mobile bay, on the 5th of August, 1864; when the Speaker signed the same.

COMMUNICATION FROM SECRETARY OF WAR.

Mr. NICHOLSON asked leave to take up from the table a communication from the Secretary of War, which was laid on the table yesterday and ordered to be printed, and to have the same referred to the Committee on Military Affairs.

No objection being made, the communication was so referred.

The SPEAKER proceeded, as the regular order of business, to call the committees for reports, commencing with the Committee on Public Lands.

PUBLIC LANDS IN SOUTHERN STATES.

Mr. JULIAN, from the Committee on Public Lands, reported back House bill No. 85, for the disposal of the public lands for homesteads to actual settlers in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida, and asked its present consideration.

The Clerk read the bill. It provides that all the public lands in the States aforesaid shall be disposed of according to the stipulations of the homestead law of 1862, no entry to be made for more than eighty acres; provided that no discrimination shall be made on account of race or color, and that mineral lands shall be reserved.

Mr. TABER. As one of the members of that committee, I do not assent to this majority report, and I desire at the proper time to offer an amendment.

Mr. JULIAN. I am willing that the gentleman from New York [Mr. TABER] should have an opportunity to submit his amendment to this bill if he desires it.

Mr. TABER. I offer the following amendment:

And provided also, That nothing in this act shall be so construed as to preclude such persons as have been or shall be pardoned by the President of the United States for their participation in the recent rebellion from the benefit of this act.

Mr. THAYER. I would like to ask the gentleman from New York [Mr. TABER] what there is in the bill which gives rise to the necessity of the amendment he has offered.

Mr. TABER. By the provisions of the homestead law all persons that are not able to take an oath that they have at no time taken part against the Government in the rebellion have no right to participate in the benefits of the homestead act. The consequence is that all those who have served in the rebel army, no matter whether voluntarily or otherwise, are precluded from the benefit of the act. My amendment proposes that those who have been pardoned, and those that may be pardoned, may be permitted to enter upon those lands, the same as others.

Mr. JULIAN. I ask to have read a communication from the Department of the Interior as part of my remarks.

The Clerk read, as follows:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
February 5, 1866.

Sir: I have the honor to acknowledge the receipt of your note of the 3d instant, requesting a statement of the number of acres of public land remaining unsold in the five land States of the South, and my views briefly as to the policy and necessity of restricting the disposal of the public lands in said States to actual settlers, under the homestead law of 1862, considering the existing circumstances of the country.

The quantity of surveyed unsold public land in the States referred to is, in

Arkansas	9,298,012.70
Alabama	6,732,058.08
Florida	19,379,635.61
Louisiana	6,238,102.15
Mississippi	4,760,736.03
Total	46,398,544.87

The following tables, from the census returns of 1860, exhibit the population in each of said States, the number of square miles, the population to the square mile, the number of farms, acres improved and unimproved, average size of farms, the area in acres for each State, and the aggregate for the five States:

States.	Whites.	Free colored.	Slaves.	Civilized Indians.	Total.	No. square miles.	Population to square mile.
Alabama	536,271	2,690	435,080	160	964,201	50,722	18.9
Florida	77,747	322	81,745	10	140,424	50,268	2.8
Mississippi	383,809	773	438,031	172	791,305	47,136	16.7
Louisiana	387,486	13,647	387,226	172	768,002	41,316	17.1
Arkansas	324,133	144	111,115	48	435,450	52,198	8.3
Total	1,639,516	23,186	1,376,297	383	3,039,382	220,690	12.1

From which it will be seen that there are in the five States 160,888 farms, covering an area of 56,736,739 acres, only 16,796,113 of which are improved, leaving not included in farms and unimproved..... 103,704,861

From which deduct surveyed public land..... 46,398,544
Estimated unsurveyed public land..... 5,000,000
51,398,544

And we have..... 52,306,317

acres held by the several States and corporations under public grants and by individuals not engaged in agricultural pursuits, yet forming a part of the land monopoly in those States.

It is not possible from any data at hand to state with certainty the number of landholders within the States in question, but excluding town, city, and suburban property, it is believed the whole number will not exceed two hundred thousand in a population of more than three millions. Suppose these as heads of families or otherwise, to each represent five persons, and we have one million persons who may by operation of law become holders of real estate, and who have a present or prospective interest in the same, leaving two million thirty-nine thousand three hundred and eighty-two or more than two thirds of the population, landless; and this, too, in a strictly agricultural region, only one tenth of which is improved.

Is it not clear from these facts that to the extent to which it may be legally done the Government should promptly put a stop to further land monopoly in those States? In my judgment, such action is demanded by the best interests, not only of the non-landholders, but of all the people of those States and of the nation.

It may be said that the circumstances which have heretofore tended to land monopoly in those States, have so changed that no further danger of it exists.

It is admitted that the institution of slavery, now abolished, prompted land monopoly. But it is contended that the high price of the products of those States which does, and for some time to come must, prevail, is not less an inducement to such monopoly than was the institution of slavery. This, acting upon the whole capital and enterprise of the country, cannot fail to produce greater results in the direction of monopoly than did the institution of slavery acting only upon a section, and that the least enterprising one.

Besides, the knowledge that these valuable lands are now nearly all in private hands; that but fifty million acres remain at the low Government maximum price, and that the purchase perhaps of one half of this quantity, selecting the most desirable, would complete this gigantic monopoly, are inducements which will hardly be resisted.

Immediately upon the opening of the United States land offices in those States the public land will become subject to location with all the various kinds of Gov-

ernment scrip and warrants, much of which can now be purchased at from sixty to seventy cents per acre, and it is known that combinations of capital already exist for operations in this direction. That some of these would carry business and enterprise with them is no doubt true, but many, and the largest portion, would not. In either event the two million non-landholders in those States must so remain, or seek new homes in the distant States or Territories. The simple question is, do you prefer many or few landed proprietors in the section of country under consideration? If the former, sell under the homestead only. If the latter, no action is necessary.

Very respectfully, your obedient servant,
J. M. EDMUNDS, Commissioner.

Hon. G. W. JULIAN,
Chairman Committee on Public Lands.

Mr. STEVENS. Who wrote that letter?
The SPEAKER. The Commissioner of the Land Office.

Mr. STEVENS. Who is he?
The SPEAKER. J. M. Edmunds.

Mr. STEVENS. God help him! [Laughter.]

Mr. TABER. I move now that the bill as amended be printed, and laid before the House. It is a very important matter. There is a large amount of land to be disposed of, and the provisions of the bill ought to be thoroughly understood before it is acted upon. I move that the consideration of the bill be postponed, and that the bill be printed.

Mr. JULIAN. I hope a different course will be pursued. I yielded to the gentleman for the purpose of offering his amendment. I cannot yield for a motion to postpone.

Mr. RICE, of Maine. I move to amend as follows: in line twelve, after the word "acres," insert "and in lieu of the sum of ten dollars required to be paid by the second section of said act there shall be paid the sum of five dollars at the time of the issue of each patent."

The SPEAKER. That is not in order at this time. The motion of the gentleman from New York was to amend by adding to the bill a proviso at the end.

Mr. RICE, of Maine. I hope the gentleman from Indiana [Mr. JULIAN] will accept it, so that I can make my amendment.

Mr. JULIAN. I accept it, if there is no objection.

Mr. LE BLOND. I object.
Mr. RICE, of Maine. I will withdraw it, then, and offer it at another time.

The SPEAKER. The gentleman can only arrive at his object by offering it as a substitute.

Mr. RICE, of Maine. I will withdraw it, and offer it again after the pending amendment is disposed of.

The SPEAKER. If the previous question is moved on the bill and the pending amendments, the gentleman may not have an opportunity to offer it, because the previous question will not exhaust itself until the third reading of the bill. If the gentleman from Indiana moves the previous question only on the pending amendment, there will be an opportunity for the gentleman from Maine to offer his amendment.

Mr. RICE, of Maine. I understand the Speaker to say that I can offer a substitute for the bill?

The SPEAKER. The gentleman can offer a substitute embracing all the original bill and what he proposes to add to it.

Mr. RICE, of Maine. I offer that substitute.

Mr. JULIAN resumed the floor.

Mr. LE BLOND. I would like the gentleman to yield to me for a moment, that I may state the reasons why I think this bill ought to be recommitment and printed together with the report of the Commissioner of the General Land Office.

Mr. JULIAN. I must decline to do so. I prefer to submit what I have to say, and then I will yield for any questions. The bill reported by the Committee on Public Lands proposes to extend the homestead law of 1862 over the five land States specified in the bill. Those States contain of surveyed public lands which have been offered for sale forty-six million acres. The proposition is simply to extend the homestead law over the whole of that immense domain, and to that, I take it, no objection will be urged from any quarter in this House. If we

had adopted an extensive system of confiscation the necessity of this bill would have been less. As it is, homesteads are imperatively demanded both by the poor whites and the poor blacks of the South who have heretofore constituted the background of the institution of slavery, now abolished, creating a necessity for new openings for homesteads in that region and a wider field for free labor.

Mr. PLANTS. I will inquire of the gentleman from Indiana if this bill will not interfere with the operation of the freedmen's bill which we have just passed? Will it not come in conflict with that?

Mr. JULIAN. This bill is entirely consistent with that bill, and supplementary to it. It certainly does not abridge any right proposed to be conferred by the freedmen's bill.

Mr. CHANLER. I would ask the gentleman to what bill he refers, which he says this bill is supplementary to?

Mr. JULIAN. I said that this bill will be in aid of the freedmen's bill, and not in conflict with it.

Mr. CHANLER. What bill is it supplementary to?

Mr. JULIAN. If it changes the freedmen's bill at all it will be a change in the nature of a supplement, extending the rights conferred by the freedmen's bill, and not abridging them.

Mr. CHANLER. I understand the gentleman to say that this bill was supplementary to the freedmen's bill.

Mr. JULIAN. It is supplementary to the homestead bill, and extends the provisions of that bill over the five States specified in it.

The bill further provides that the quantity of land selected by any one person shall be eighty acres, and not one hundred and sixty acres, as provided in the homestead bill of 1862. The necessity of this modification of the homestead law in that region arises from the fact already stated: the increased necessity for homesteads in that section of country caused by the abolition of slavery and the demands of free labor. It is deemed, in view of the number who seek homes there and need them, that eighty acres will be an adequate amount in lieu of one hundred and sixty, as provided in the homestead bill.

The bill further provides that the sale of the public lands in all of these five States shall henceforth cease; that the whole of this domain shall be subjected to actual settlement under the provisions of the homestead law. As a matter of course this cuts off land speculation in the whole of that country. Without some provision of this kind, rebel speculators now hovering over the whole of that region and hunting up the best portions of it, and the holders of agricultural college scrip, who can take about eight or nine million acres of that land, and perhaps the whole of the best portion of it, can come down upon it at one swoop and cheat the actual settler, whether black or white, out of his rights, or even the possibility of a home to come in that region, driving the whole of them to some of our western Territories or to starvation itself.

According to the facts communicated by the Commissioner of the Land Office, there are only two hundred thousand landholders in the whole of that region, in a total population of over three millions. In other words, only one man in fifteen, or one fifteenth of the whole people of this exclusively agricultural region, are landholders. Thus two million eight hundred thousand out of the three millions are non-landholders, a phenomenon which certainly ought not to exist, or which, if allowed to exist, should not be extended. If you count every landholder as a head of a family, and the number of each family as five, there will still be only one million of persons in all that region who have any possibility of becoming landholders; and even upon that estimate there will still be more than two million landless people, out of three million population, in an exclusively agricultural community, and in a region of which only one tenth is cultivated or improved land. That is a very remarkable and a very startling condition of affairs in that region of

country. It is a condition of things which pleads imperatively for some policy which shall dedicate the whole of these forty-six million acres remaining unsold to actual occupancy and improvement under the homestead law. I need not dwell upon that further, for the point is too clear to require elucidation.

This bill further provides that the benefits of it shall be opened to all persons in the South without discrimination on account of race or color. That is undoubtedly the law already. But we have thought it wise to put in this bill an express stipulation that these benefits shall be open to men of color; and I wish to take this occasion to advertise as far as I may the fact that should this bill pass, all men will have the benefit of its provisions. It is the fact, unfortunately, that the great body of the colored people of this country, North and South, are to-day ignorant of the fact that a black man is legally a citizen of the United States. In consequence of the Dred Scott decision, and the power of latter-day Democracy in debauching the public sentiment of the country, it is not generally understood that black men have any rights in relation to the public domain of the country. We say, by the express provisions of this bill, that colored men shall have those rights, and we say so for the enlightenment of white people as well as black. I believe it is now unknown to multitudes of white men, even in the northern States, that colored men have any rights under the homestead law. We ought to make that fact known to black and white, so that the multitudes of landless people may understand what are their rights of acquiring homesteads.

I suppose that the provisions of this bill are now fully understood, and therefore, before I sit down, I propose to call the previous question on the amendment of the gentleman from New York, [Mr. TABER.] I wish to state, however, before doing so, that if his amendment is a desirable one it would be more appropriate as an amendment to the general homestead law than as an amendment to this particular bill. I submit to the gentleman that some proposition proposing a change of the homestead law will accomplish his object more thoroughly than he can do by an amendment to this bill, and I hope, as an amendment to this bill, it will be voted down.

Mr. LE BLOND. Will the gentleman yield to me for a few moments before he calls the previous question?

Mr. JULIAN. I will do so.

Mr. LE BLOND. I hope this House will not at this time act conclusively upon this bill, for the reason that it contains some provisions that, in my judgment, are not compatible with the best interests of the Government. I believe that this bill ought to be recommitted to the committee, and the report of the Commissioner of the General Land Office printed, in order that the members of this House may understand the real point that is involved in the bill now pending. I see, by the report which the chairman of the committee [Mr. JULIAN] sent to the Clerk's desk and had read for the information of this House, there is embraced the identical idea of the gentleman from New York, [Mr. TABER,] as contained in the amendment which he has offered. It is, that all those who have been engaged in the rebellion, whether they went into it voluntarily or were forced into it by surrounding circumstances, and have been pardoned by the President, shall not be excluded from this bill.

By reference to the second section of the act to which this is supplementary, it will be seen that it is provided that none of those who have been engaged in the rebellion shall enter any land whatever. Now, I am opposed in that way, or in any other, to exclude any portion of the American people, especially after the pardon of the Executive has been extended to them. And I hope that this bill will be recommitted, and that the report of the Commissioner of the Land Office will be printed, in order that we may fully understand the bearings of this bill.

I do not believe in the policy of persecuting these persons. In the language of the Com-

missioner, these individuals must live in our midst. Many of them have families; and they must maintain themselves or become dependent upon public charity for support. Now, sir, is it good policy on the part of the Government to exclude this class of individuals from obtaining a homestead when the result of such exclusion must be to make them paupers? I say that such a policy is bad, and ought not to be tolerated.

Mr. JULIAN resumed the floor, but yielded to

Mr. RICE, of Maine, who said: Mr. Speaker, as I had the honor to introduce this bill and move its reference to the committee, and as they have reported it back substantially as it was referred to them, I ask the attention of the House while I present some considerations in support of the measure.

Sir, in order to secure liberty and right and justice throughout these southern States which have been in rebellion, we must penetrate to the fundamental difficulties existing there—difficulties growing out of the abnormal condition of those States before they went into rebellion—one of which was the immense land monopolies which had grown up there for the support of slavery and oppression. Sir, it is impossible for us to give liberty, protection, and justice to the people of those States, unless we secure them in their homes and their homesteads.

The bill now before us will, in my judgment, accomplish this, and is therefore of great practical importance in its bearing upon these States, and upon the laboring masses of the people therein. What does it do? It lays its strong hand upon forty-six million nine hundred thousand acres of lands in five of these States, and in its iron grasp holds them forever from the rapacious talons of the monopolist and the speculator, and then distributes them in small parcels, under the beneficent provisions of the homestead law, to the oppressed, wronged, and suffering poor. It says to five hundred and eighty-six thousand two hundred and fifty of the landless, homeless, but loyal people of the South, stand up in the pride and independence of liberty and manhood. Gather around you your wives and your children, and build for yourselves and for them homes and homesteads—nurseries of independence, citadels of liberty—under the sunny skies of your native South. There, under the protection of this law, laboring in your own fields, living in your own houses, intrenched in your own castles, instructing your children in your own schools, and worshipping God in your own churches, you can demand and extort from your enemies justice and equality of civil rights before the laws.

This law is a notice to the ex-slaveholders of the South that each homestead erected under it is a "city of refuge" for the starving laborers, black and white, fleeing from the wrongs and extortions directed against them. With free lands to occupy and cultivate and own, no combinations of capital, no monopolies, no vagrant laws, nor all these combined, can make slaves of the laboring masses in any country. Where ever and whenever they can have homes and lands of their own, even if they be in the mountains and amid the swamps, there human nature and human manhood will assert its prerogatives and its freedom.

It has been said that liberty dwells in the mountains. Why does it dwell there? Because avarice and monopoly have driven men from the plains, where lands are valuable and where selfishness and capital could gather to themselves more of this world's goods; hence the poor and oppressed have been driven to the mountains. Not because they loved them better, but because only there could they enjoy their heart's greatest love, liberty. Sir, liberty is just as indignant to the broad plains of Illinois and Minnesota and other parts of this country as to the mountain districts; and it grows and flourishes there as it does in the mountain regions, because the people are protected in their homes and by their firesides by equal and just laws. Monopolies are discouraged, and the rights of free labor and free men maintained. So it will be

all over our beloved land, provided we do our whole duty in the difficult emergency which is now upon us; and that this will be accomplished I have an abiding faith. It is not possible, with the trials and sufferings of the last five years fresh in our memories, with our obligations to the noble soldiers and sailors who have saved the nation pressing upon us, that we can prove recreant to the high trust confided to our keeping. And, sir, with the blessing of God, we shall not, but shall complete the regeneration and redemption of the waste places of the South, and plant liberty and justice there, and protect their growth until they shall reach their full stature.

Now, Mr. Speaker, what does this bill do? It takes 6,700,000 acres of land in Alabama, 7,700,000 acres in Mississippi, 6,200,000 acres in Louisiana, 9,300,000 in Arkansas, and 20,000,000 or thereabouts in Florida, making a grand total of 46,900,000 acres, and under the liberal provisions of the homestead act, that act which shall live as a monument to the wisdom of the Congress that enacted it, and of the martyred patriot who approved it, and gives it all to the poor people of the South, and to others who may go and dwell with them. If the people of the South shall be protected in the homesteads which they shall take up under this bill, then I defy all the accursed enginery of oppression there to drive freedom from that God-favored, but man-accursed land. How many homesteads of eighty acres will this bill give? Five hundred and eighty-six thousand two hundred and fifty. It is a moderate estimate, that each homestead will provide a home and support for five persons each, thus giving homes to 2,931,250. But a portion of the lands may not be suitable for homesteads. If 40,000,000 acres are suitable for cultivation, then we have 500,000 homesteads, supporting 2,500,000 persons. Thirty million acres will give 375,000 homesteads, and at five acres each will support 1,875,000 persons. This last estimate, I believe, from the best information I can obtain, will be easily attainable under the bill, and the homesteads be made from good arable lands. But if oppression and wrong shall drive the people from remunerative labor in other fields and pursuits, this 30,000,000 acres of good land will give support and independence to at least double the number I have estimated, which will be 3,750,000.

Ay, sir, if aristocracy and capital and unjust laws shall do their worst in these States against the freedman and the loyal whites of the South, this bill, if it be enacted, and the rights of the people under it be maintained and protected by the Federal Government, will, of itself, secure to them *all* the God-given rights of "life, liberty, and the pursuit of happiness." Each and every acre of the fertile arable lands of the South will give support and independence to each able-bodied adult person who may own and cultivate it. If we admit that but one half of the landless laboring masses of the South are able-bodied adults, and that they number five millions, and that but twenty million acres of these lands are of good quality, then each adult may have a farm of four acres, which will be ample to support him and his helpless dependents. I doubt not that this last estimate reduces the farms to much smaller dimensions than the facts will warrant, which will make my argument so much the better. And the argument is based upon the supposition that the class of persons who have ruled and oppressed the southern people will continue to do so. But this, thank God, will be impossible, and the passage of this bill will give one of the most steadfast and abiding instrumentalities to prevent it. The laws which we may pass here may be effective to secure the people against wrong and injustice there while backed by the strong arm of Federal power, but no longer. This bill gives to the people the means whereby they may live independent of capitalists and land monopolists, and thus they will be enabled to protect themselves. No man can be made a slave so long as he has the means to support himself, and those whom nature has made de-

pendent upon him. Give him the choice whether to submit to extortion and oppression or to labor on his own land for his own and their support, even if the latter be eked out from the sterile mountain side, and he will accept the latter.

Again, this law and the protection which it will afford will be a better surety that the present land monopolists of the South will do what right and justice require toward their former dependents and slaves than all the laws that can be enacted to accomplish such results. Give freedom and independence to labor, and then the capitalist and the landholder will be forced to respect it. They must have labor, for they will not labor themselves, and they will contract for it and pay for it liberally and justly rather than to starve. Sir, I agree with the honorable gentleman who reported this bill, [Mr. JULIAN,] that the lands of the leading rebels of the South should have been confiscated and given out in homesteads to the loyal men of the South and to our gallant soldiers who, by their prowess, have saved them from the control of the most accursed despotism and aristocracy that can be imagined. More especially should the lands which belonged to the several rebel States have been so confiscated, if they did not inure and revert to the Federal Government by virtue of their conquest. Then, instead of being forced to give these forty-seven million acres for this purpose, we would have more than three times that amount, justly forfeited as the penalty of treason. I believe there are about one hundred million acres now owned or claimed to be owned by rebellious Texas alone, which should in justice be thus distributed. But, sir, we must do justice even if we do not exact it. We must give to the liberty-loving, loyal men of the South the means to live and to preserve their independence in proportion as we are generous and forgiving to the traitors who seek to oppress them. Up to this rule I trust even the gentlemen on the other side of the House may be induced to act.

I have said that we must strike to the very foundation of the difficulties existing in the South. We must educate the people in the rights and duties of freemen. This can be done in no other way than by planting them upon the soil and protecting them there. Why, sir, what is the use of giving liberty and the right of suffrage to men, if you say that they shall not have the right to live and support themselves by honest labor? Unless you grant them this, you give them a stone when they ask you for bread. Wherever there are small farms, there you find liberty and independence. Give the lands of any country into the control and ownership of great monopolies, and there the masses of the people will be oppressed, ignorant, and miserable. The greatest and most difficult problem to solve in this century is a political and social one combined; and that is to protect the poor and the ignorant against the wrongs and oppressions of capital and aristocracy. This is a labor which needs to be done everywhere, in the North as well as in the South, in the East and the West; and most abundantly in the monarchies and oligarchies of the Old World. May its solution be wrought out to its greatest perfection in our own favored country.

Mr. Speaker, this bill is free from the charge of class legislation. It operates upon all alike whether they be white or black. I admit that more of the black race will be able to avail themselves of its provisions than the white race of the South, for the reason that they are mostly loyal, and the whites are mostly disloyal; and the blacks, too, are more anxious to take up farms and labor upon them than the whites. The evidence comes up to us from every source that the great desire of the freedman is to have a small farm for the support of himself and family, and therefore they will speedily avail themselves of the provisions of this bill, and very soon release the Government from all expense on their account. The following is an extract from one of the letters of the com-

mercial correspondent of an association of cotton manufacturers as published in the Nation:

"ORANGEBURG, S. C., September 8, 1865.

"The sole ambition of the freedman at the present time appears to be to become the owner of a little piece of land, there to erect a humble home, and to dwell in peace and security at his own free will and pleasure: if he wishes to cultivate the ground to cotton on his own account, to be able to do so without any one to dictate to him hours or systems of labor; if he wishes instead to plant corn or sorghum or sweet potatoes, to be able to do that free from any outside control, in one word, to be free to control his own time and efforts without anything that can remind him of past sufferings in bondage.

"This is his idea, his desire, and his hope. It is common to all, but much stronger among the married and middle aged."

I also read the following from a southern man, as well illustrating the views which I have have had the honor to submit, and the importance and necessity of this measure:

"GEORGIA, BY A RESIDENT.—The negro's first want is not the ballot, but a chance to live; yes, sir, a chance to live. You say the Government has given him freedom, and that many good men in the North believe he must have the ballot to secure that freedom. I tell you he's not got his freedom yet, and isn't likely to get it right away. Why, he can't even live without the consent of the white man. He has no land—he can make no crops except the white man gives him a chance. He hasn't any timber—he can't get a stick of wood without leave from a white man. We crowd him into the fewest possible employments, and then he can scarcely get work anywhere but in the rice fields and cotton plantations of a white man who has owned him and given up slavery only at the point of the bayonet. Even in this city he can't get a pail of water from a well without asking a white man for the privilege. He can hardly breathe, and he certainly can't live in a house, unless a white man gives his consent. What sort of freedom is that? He has freedom in name, but not in fact. In many respects he is worse off than he was before you made him free, for then the property-interest of his master protected him, and now his master's hand, as well as the hand of everybody else, is against him. True, he has the military force for his protection, but there are a thousand things done here every day under the colonel's very nose that he don't know anything about—things he couldn't remedy if he did know about them. Then, besides, there are hundreds of wrongs of which he knows, that he can't reach and can't make right. 'Isn't such whippings as he told you about that most wrong the negro; it's the small, endless, mean, little injustice of every day that's going to kill him off. He's only partially protected now; take the troops away and his chance wouldn't be as good as a piece of light-wood in a house on fire.

"I have not much faith in the idea that capital and labor will reconcile themselves. Things are exceptional here. Our capital is all in the hands of a few and invested in great plantations. Our labor is all in the hands of a race supremely ignorant, and against whom we all have a strong prejudice. In my opinion, you can't reconcile these two interests unless you put the labor in subjection to the capital; that is, unless you give the white man control of the negro. Of course that can't again be allowed, and therefore there is an almost impassable gulf between the negro and freedom, unless the Government aids him. I will tell you what I think you should have done. The policy of confiscation should be rigidly carried out at once. Mercy to the individual is death to the State; and in pardoning all the leading men, the President is killing the free State he might have built here. The landed aristocracy have always been the curse of the State; I say that, as a man born and reared in Georgia, and bound to her by every possible tie. Till that is broken down there can be no real freedom here for either the negro or the poor white. The result of the war gave you a chance you never will get again to overthrow that monopoly. The negroes and the poor whites are bitter enemies in many respects, but they agree in wanting land. You should have carried out your confiscation policy; divided up the great plantations into fifty-acre lots, and sold them to the highest and best bidders. That would have thrown some of the land into other large plantations, but it would have been fair, and would have given the poor whites and the negroes a chance. Give a man a piece of land; let him have a cabin of his own, upon his own lot, and then you make him free. Civil rights are good for nothing, the ballot is good for nothing, till you make some men of every class landholders. You must give the negroes and poor whites a chance to live; that's the first thing you should do. The negro has a great notion to get him a piece of land, and you should help him along by that notion. What does he want of a vote? He wouldn't know how to use it, and 'twouldn't bring him anything to eat or wear if he had a dozen. Give him land, and then you touch his case exactly. He can get none now. There is not one planter in a thousand who would sell him any; but if you'd carried out your confiscation policy he could have bought it like anybody else."

Mr. Speaker, I fully concur in all this writer has said, unless he be understood as opposing the enfranchisement of the negro. I, sir, contend that he should in justice have this great right. I believe it is the greatest and best power which the poor man can have for his protection against the oppressions of capital.

Give him a homestead and the ballot, and he will soon understand his rights and maintain them. They should go together to be effectual. If we cannot confer but one now, let us give him that, the homestead, and with that he will soon extort and secure the others.

Mr. TABER. I ask the gentleman from Indiana to yield to me.

Mr. JULIAN. For how long?

Mr. TABER. Five minutes.

Mr. JULIAN. Certainly.

Mr. TABER. Mr. Speaker, the amendment, as I understand, conforms to the principle set forth in the letter of the Commissioner of Public Lands, and also, I understand, the principle stated by the gentleman who reported this bill: to wit, there would be great propriety in amending the homestead act. This is a special bill applying to these States, taking the public lands from market and providing that they shall be disposed of in a certain manner. If there is a propriety in establishing the principle of the homestead act, there is a propriety in establishing it at this particular time. It is known there may be difficulty and delay. If the bill be permitted to pass without the amendment, every man who has been forced to serve in the confederate army against his will is precluded from the enjoyment of the benefits of the act. I believe no one will deny, if these men are allowed to come under the homestead law they will be better citizens than if they are allowed to remain as they have been heretofore.

I hope that the further consideration of the bill may be postponed so that the bill, amendment, and report may be ordered to be printed. It is too important a bill to be disposed of so summarily. I hope that the action of the House will yet be that the subject may be thoroughly investigated before it shall be passed upon by the House.

Mr. CHANLER. Will the gentleman yield to me for five minutes?

Mr. JULIAN. Yes, sir.

Mr. CHANLER. I will draw the attention of the House to the fact that this bill is of equal importance to those which have already been referred to the Committee of the Whole on the state of the Union. It involves the rights of property. If it is for the purpose of preventing speculation from one section it seems to have the effect of promoting a speculation from another section. The whole object of the people of the United States is, it seems, to get possession of these lands that they may have homesteads, that they may have castles, according to the gentleman from Maine, [Mr. RICE,] where they may fight for liberty. The policy of this bill is to perpetuate strife between the races. It is to furnish castles at the expense of the United States, that the negro race may hold these lands at the point of the bayonet against the tide of emigration of white men. That is the object of the bill.

Gentlemen talk about southern rights and the southern people as if they were a foreign people. They exclude all those men who, whatever their acts may have been during the rebellion, still are bound to us by ties stronger than can be broken by any such acts. It excludes minors from the benefit of the homestead act.

This is a subject which requires the full and fair consideration of this House. We should know, not only the policy of the measure, but the results it will have upon the Government. It is colonization, it is establishing a new system of colonization equal to that that the Romans had after the conquest, by which the essential power of an empire was fastened upon the people that they had overthrown by arms.

The bill proposes to surrender a vast quantity of land to a race which the whole history of this country proves stands isolated and alone in all their acts and movements as a body. We may by our conduct show kindness to them, we may protect them, but here it is proposed to collect them in masses, and keep them in tracts as you would the Indian tribes, by setting apart to them whole sections of country where they must live under their own organization as

a people. Now, I contend that these people have never shown a capacity for self-government.

Sir, I protest against the centralizing principle of this bill, and I appeal to the gentleman, not for the purpose of delaying action, but to enable him with the eloquence, force, and cogency of argument for which he is so remarkable, to explain this measure so that this House and the country may know that we are not acting in the dark. Let us know whether in letting the negro have these lands the white man is to be excluded. Let us know all about the matter. The bill before us is not printed, and is not therefore in a proper condition to be debated and considered.

The gentleman from New York [Mr. TABER] has already stated his view of the question, and the gentleman from Indiana [Mr. JULIAN] has stated his, and now the House is called on to vote without further information and without further discussion. I have no opposition to granting men homesteads, nor do I wish to exclude the black man from the full enjoyment of every privilege God has granted to him. But I do wish that the progress of this Government shall be in the right direction, and shall be honest, open, and impartial. And I look upon this measure as both impartial and unjust. I may be mistaken. If so a fair presentation of the argument on the other side may induce me to withdraw my opposition to this bill, and the House may act unanimously in securing for the black man such a home as his friends assert he is so deserving and so worthy to possess. But until the gentleman allows discussion upon this matter in Committee of the Whole, or until this bill can be fairly examined, I consider it a farce to bring it to a vote.

Mr. HARDING, of Illinois. With the permission of the gentleman from Indiana, [Mr. JULIAN,] I will say a word on this subject. As I understand the object of this bill, it is that none but actual settlers shall have the benefit of the public lands of these States. I have been familiar with the disposition of public lands for nearly thirty years, and can bear testimony to the fact that capital first seizes them. Now, those who in my opinion, have the first right to the occupancy of these lands are actual settlers. But in Illinois they have had to pay on an average ten dollars per acre, because the capitalists have speculated on the public lands. And the capitalists now hold them in vast quantities in the West. I think if the gentleman should extend his observations to the States in the West he would be astonished at the result. I desire to say that I hope the system will be extended to all the public lands.

Mr. JULIAN. I move the previous question on the amendment.

The previous question was seconded, and the main question ordered.

Mr. TABER. On that amendment I demand the yeas and nays.

The yeas and nays were ordered; and the question being taken on the adoption of the amendment, it was decided in the negative—yeas 37, nays 104, not voting 41; as follows:

YEAS—Messrs. Delos B. Ashley, Bergen, Boyer, Brooks, Buckland, Chanler, Eldridge, Finck, Glossbrenner, Grider, Aaron Harding, Hogan, Chester D. Hubbard, Edwin N. Hubbard, James M. Humphrey, Kerr, Latham, Le Blond, Marshall, McCullough, McRuer, Niblack, Nicholson, Noell, Phelps, Ritter, Rogers, Ross, Shanklin, Sigourney, Strouse, Taber, Taylor, Thayer, Thornton, Trimble, and Voorhees—37.

NAYS—Messrs. Alley, Allison, Ames, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Deaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Brownell, Broomall, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Davis, Dawes, Deftrees, Deming, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Hale, Abner C. Harding, Hart, Hayes, Higby, Hill, Hooper, Hotchkiss, Demas Hubbard, John H. Hubbard, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Kuykendall, Latham, George V. Lawrence, William Lawrence, Longyear, Lynch, Marston, Marvin, McClurg, McIndoo, Mercier, Miller, Moorhead, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Sloan, Smith, Spalding, Starr, Stevens, Trowbridge, Upson, Van

Aernam, Burt Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—104.

NOT VOTING—Messrs. Ancona, Anderson, Culver, Dawson, Delano, Denison, Dixon, Dumont, Goodyear, Grinnell, Griswold, Harris, Henderson, Holmes, Asahel W. Hubbard, James R. Hubbard, Hulburd, James Humphrey, Johnson, Jones, Ketcham, Loan, McKee, Morrill, Pike, Plants, Pomeroy, Radford, Samuel J. Randall, Raymond, Rousseau, Scofield, Shellabarger, Stilwell, Francis Thomas, John L. Thomas, Robert T. Van Horn, Whaley, Williams, Winfield, and Wright—41.

So the amendment was disagreed to.

BANKRUPT LAW.

The SPEAKER. The morning hour having expired during the roll-call, this bill goes over until to-morrow during the morning hour, and the special order now is the consideration of the bankrupt bill, upon which the gentleman from Rhode Island [Mr. JENCKES] is entitled to the floor.

Mr. HOGAN. I ask that the bill reported from the Committee on Public Lands which we have just been considering be printed. I would like to know what it is.

Mr. JULIAN. The bill has been printed, and is on the files of members.

Mr. HOGAN. I would like to have the bill and the amendments printed. It can be done by to-morrow morning.

Mr. WASHBURN, of Illinois. I object.

The SPEAKER. There is a proviso reported by the committee at the end of the bill which has not been printed. With that exception the bill is printed.

Mr. WASHBURN, of Illinois. That will be in the Globe of to-morrow morning.

Mr. STEVENS. I desire to move to go into Committee of the Whole on the state of the Union on the special order.

The SPEAKER. The special order in the House is the consideration of the bankrupt bill. It was made the special order to come in immediately after the Freedmen's Bureau bill was disposed of, and to continue from day to day until disposed of. The gentleman from Rhode Island [Mr. JENCKES] is entitled to the floor.

Mr. CONKLING. Will the gentleman from Rhode Island state what is his intention in regard to the disposition of this bill as to time and manner?

Mr. JENCKES. I do not propose to debate the bill. It has been before the House and the country so long that every one understands it. I propose simply to explain some modifications which the committee propose to make in the bill, and then to ask the previous question on its passage, unless some gentleman who is opposed to the principle of the bill wishes to enter into a discussion of it. I have no desire to preclude debate.

EXPENSES OF A JOINT COMMITTEE.

Mr. STEVENS. Will the gentleman allow me to have taken from the Speaker's table a joint resolution from the Senate for the payment of expenses incurred by the joint committee to inquire into the condition of the States which formed the so-called confederate States?

Mr. JENCKES. I yield for that purpose.

Mr. ROSS. I object.

BANKRUPT BILL—AGAIN.

Mr. CONKLING. If I may now say a word in reply to the gentleman from Rhode Island, I will be glad to say to him that I have some amendments which I would like to offer to this bill, and some suggestions I would like to make; I do not wish to debate it. Other gentlemen, I know, have suggestions of more or less consequence that they would like to make.

The bill comes up quite unexpectedly to me this morning, and I confess that for one I would be very glad to have it lie over until to-morrow.

Mr. JENCKES. I shall be glad to hear the suggestions of the gentleman, if I do not lose my right to the floor.

The SPEAKER. The bill will be the special order to-morrow after the morning hour, and from day to day until disposed of.

Mr. JENCKES. I would ask the gentleman from New York, and other gentlemen who have amendments to propose, to submit them. Perhaps we may agree on them without discussion in the House.

Mr. CONKLING. They can be read to-morrow morning.

Mr. STEVENS. I move that the House proceed to the consideration of the business on the Speaker's table.

The motion was agreed to.

BURLINGTON AND MISSOURI RIVER RAILROAD.

Joint resolution of the Senate No. 12, extending the time for the completion of the Burlington and Missouri River railroad, was taken from the Speaker's table and read a first and second time.

Mr. WILSON, of Iowa. I ask that that bill be considered now. I think there will be no objection to it.

Mr. KASSON. I desire to say to my colleague that I understand there is a general bill extending the time to all railroads, and I have an amendment that I wish to offer to that bill, that will include this special proposition. I hope my colleague will let this resolution lie over until that bill comes up.

Mr. WILSON, of Iowa. My colleague [Mr. KASSON] is mistaken in relation to the effect of this bill. This bill does not relate to a general extension of time; but it provides that this company shall have its time extended from the 1st of July next until December to complete a section of twenty miles upon which they are now at work, and which they will not be able to complete by the 1st of July next, owing to the difficulties they have met with in bridging the Des Moines river.

Mr. KASSON. If that is all, I have no objection to it.

Mr. WILSON, of Iowa. That is all.

The bill was then read at length. It provides that in case the Burlington and Missouri River Railroad Company shall complete the section of twenty miles from the present terminus of its road by the 1st of December, 1866, and the certificate of the Governor of Iowa shall be filed with the Secretary of the Interior of such completion, the company shall be entitled to its lands, as provided in section eight of the act entitled "An act to amend an act entitled 'An act making a grant of land to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State,'" and its rights shall be in all respects the same as if the same sections should have been completed on the 1st of July next.

Mr. STEVENS. I would ask if this does not grant additional advantages in some way.

Mr. WILSON, of Iowa. It does not. The only effect of this bill will be to give this railroad company from the 1st of July next until the 1st of December following to complete the section of twenty miles upon which they are now at work.

Mr. STEVENS. If it was stated merely in the bill that the time was so extended, then I could understand it. But it goes further and speaks about giving other sections.

Mr. WILSON, of Iowa. The act to which this is an amendment provides that this railroad company shall be entitled to receive a certain amount of lands for this section of twenty miles whenever the same shall be completed and a proper certificate made thereof. The company have met with delay in the construction of a bridge over the Des Moines river. The high water and the ice this winter have carried away their temporary work; and it is necessary to give them this time, or they will forfeit that amount of land, to which they would be entitled if they complete that section of the road by the 1st of July next.

Mr. STEVENS. I do not object to the extension of time; but I do not like the wording and phraseology of this bill in other respects.

Mr. KASSON. I have the bill in my hands, and I find that it provides that in case the railroad shall complete the section of twenty miles from the present terminus of the road, by the

1st of December next, and the certificates are filed, then the company shall be entitled to these lands as provided in the original bill, in case it should be completed by the 1st of July. The objection may be taken to it, perhaps, that this would constitute a waiver in respect to lands to which it would be entitled by reason of subsequent sections to be completed.

There is another objection to the wording of the last clause. It says, "and its rights shall be in all respects the same as if the same sections should be completed on the 1st of July next." It is intended to apply to the first section, which includes the bridge, and that clause should be amended so as to make it clear.

Mr. WILSON, of Iowa. I will move to amend the bill by striking out the word "sections" and insert the word "section."

Mr. KASSON. And I would also suggest that after the word "lands," the words "by reason of the completion of said section" be inserted, so that it will then read, "then the said company shall be entitled to these lands, by reason of the completion of said section, as provided in section eight," &c.

Mr. WILSON, of Iowa. I have no objection to that amendment if my colleague [Mr. KASSON] will offer it. But that is just what the bill means now.

Mr. KASSON. I move that amendment.

Mr. DRIGGS. Why should not this bill take the ordinary course, and go to the Committee on Public Lands? It would seem that the bill is not matured, even in the minds of the gentlemen who are in favor of it. There may be some things in it which want looking into a little. And I hope it will take the usual course.

Mr. WILSON, of Iowa. The bill is understood by those who are in favor of it, and it is understood to mean just exactly what I have stated. The only confusion there is comes from putting in the title of the act of which this is an amendment, and which the gentleman from Pennsylvania [Mr. STEVENS] seems to think will cover up something that does not appear upon the face of the bill. But it is necessary, in order to describe the particular law to which this is an amendment, to copy the title.

I now call the previous question on the bill and the amendment of my colleague, [Mr. KASSON.]

The previous question was seconded, and the main question ordered; which was upon the amendment offered by Mr. KASSON.

The amendment was read, as follows:

Insert after the word "lands" the words "due by reason of the completion of said section of twenty miles;" so that the clause will read thus:

The said company shall be entitled to its lands, due by reason of the completion of said section of twenty miles, &c.

In the next to the last line strike out the letter "s" in the word "sections."

The amendment was agreed to.

Mr. DRIGGS. I now move that the bill be referred to the Committee on Public Lands.

The SPEAKER. That motion is not in order. The previous question does not exhaust itself till the third reading of the bill. The question now recurs upon ordering the bill as amended to be read a third time.

The bill as amended was ordered to a third reading, and was accordingly read the third time.

The question recurring on the passage of the bill.

Mr. WILSON, of Iowa, demanded the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was passed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INTERNAL REVENUE.

The SPEAKER. The Chair is informed by the Clerk that in the bill (H. R. No. 201) passed this morning, a bill to declare the meaning of certain parts of the internal revenue act, ap-

proved June 30, 1864, and for other purposes, there was an error in the printing of the bill. The word "continued," in the sixth line of the third section, ought to be "contained." If there be no objection the correction will be made in engrossing the bill.

There was no objection.

FRANKING PRIVILEGE TO MRS. LINCOLN.

The next bill taken from the Speaker's table was the bill (S. No. 86) entitled "An act granting the franking privilege to Mary Lincoln;" which was read a first and second time.

Mr. WASHBURN, of Illinois. I hope that this bill will be put on its passage now.

The bill, which was read, provides that all letters and packets carried by post to and from Mary Lincoln, widow of the late Abraham Lincoln, shall be conveyed free of postage during her natural life.

The bill was ordered to a third reading, read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PENSIONS.

The next bill taken from the Speaker's table was the bill (S. No. 69) entitled "An act to provide for the payment of pensions;" which was read a first and second time, and, on motion of Mr. STEVENS, referred to the Committee on Invalid Pensions.

CLERKS IN POST OFFICE DEPARTMENT.

The next bill taken from the Speaker's table was the bill (S. No. 96) entitled "An act authorizing an increase of the clerical force in the Post Office Department;" which was read a first and second time, and, on motion of Mr. WASHBURN, of Illinois, referred to the Committee on the Post Office and Post Roads.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was referred, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LAND DISTRICT IN OREGON.

The next bill taken from the Speaker's table was the bill (S. No. 30) entitled "An act to create an additional land district in the State of Oregon;" which was read a first and second time, and referred to the Committee on Public Lands.

COLLECTION OF SOLDIERS' CLAIMS.

The next bill taken from the Speaker's table was the bill (S. No. 88) entitled "An act to restrict the expenses of collecting soldiers' claims against the Government;" which was read a first and second time, and, on motion of Mr. STEVENS, referred to the Committee on the Judiciary.

JOINT COMMITTEE ON RECONSTRUCTION.

The next business on the Speaker's table was joint resolution (S. No. 26) for the payment of expenses incurred by the joint committee to inquire into the condition of the States which formed the so-called confederate States of America; which was read a first and second time.

The question recurring on ordering the joint resolution to a third reading.

Mr. LE BLOND called for the reading of the joint resolution, and it was read.

It appropriates \$10,000, or so much thereof as may be necessary, to pay the expenses of the joint committee of Congress appointed to inquire into the condition of the States which formed the so-called confederate States of America; which sum is to be drawn from the Treasury upon the order of the Secretary of the Senate, as it shall be required from time to time by the committee having such investigation in charge; and any portion of the sum thus appropriated that shall be allowed by the joint committee to witnesses attending before it, or to persons employed in its service for per diem, traveling, or other necessary expenses, and paid by the Secretary of the Senate in pursuance of

the order of the joint committee, is to be credited and allowed by the accounting officers of the Treasury Department.

Mr. STEVENS. I call the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. STEVENS demanded the previous question, which was on the passage of the joint resolution.

The previous question was seconded, and the main question ordered.

Mr. FINCK demanded the yeas and nays.

The yeas and nays were ordered.

Mr. ROSS. I hope the gentleman from Pennsylvania will explain the object of the joint resolution.

Mr. STEVENS. All that I can say is that witnesses are daily being examined before the committee on reconstruction in pursuance of the orders of this House.

Mr. ROSS. It is not proposed to deprive the House of the services of members and to let them go down South?

Mr. WASHBURN, of Illinois. They are not to have the same privilege that my colleague had at the last session of traveling over the plains at the expense of the Government. [Laughter.]

Mr. ROSS. I understand that the President of the United States has appointed individuals to make this investigation.

Mr. STEVENS. I have stated what the committee are now doing. Of course I do not know what the committee may hereafter resolve to do.

Mr. ROSS. I regard the resolution as unnecessary in every respect.

Mr. GRIDER. Does he know of any witnesses who have claimed mileage for attending before that committee?

Mr. STEVENS. I can tell the gentleman that the Sergeant-at-Arms has advanced considerable sums of money upon bills approved to pay witnesses.

The previous question was taken on the passage of the joint resolution; and it was decided in the affirmative—yeas 102, nays 25, not voting 55; as follows:

YEAS—Messrs. Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Barker, Beaman, Blaine, Blow, Brandegee, Brownell, Broomall, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Darling, Davis, DeForest, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farquhar, Ferry, Grinnell, Griswold, Abner C. Harding, Hart, Hayes, Higby, Hill, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James R. Habbell, Ingersoll, Jencks, Julian, Kasson, Kelley, Kelso, Ketcham, Kuykendall, Latham, William Lawrence, Longyear, Lynch, Marvin, McClurg, McIndoe, McKner, Mercer, Miller, Moorhead, Morris, Myers, O'Neill, Orin, Paine, Perham, Pike, Platts, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Seefelt, Sloan, Spalding, Stevens, Stillwell, Thayer, John L. Thomas, Trowbridge, Van Arman, Bert Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—102.

NAYS—Messrs. Bergen, Brooks, Chandler, Eldridge, Finck, Glossbrenner, Grider, Aaron Harding, Hogan, James M. Humphrey, Kerr, Le Blond, Marshall, Niblack, Nicholson, Ritter, Rogers, Ross, Sitgreaves, Smith, Strouse, Taylor, Thornton, Trimble, and Voorhees—25.

NOT VOTING—Messrs. Alley, Ancona, Delos R. Ashley, Baxter, Benjamin, Bidwell, Bingham, Boutwell, Boyer, Buckland, Conkling, Culver, Dawes, Dawson, Delano, Denison, Farnsworth, Garfield, Goodyear, Hale, Harris, Henderson, Holmes, Demas Hubbard, Edwin N. Hubbell, Hubbard, James Humphrey, Johnson, Jones, Ladlin, George V. Lawrence, Loan, Marston, McCullough, McKee, Morrill, Moulton, Newell, Noel, Patterson, Phelps, Radford, Samuel J. Randall, Raymond, Rousseau, Shanklin, Shellabarger, Starr, Taber, Francis Thomas, Upson, Robert T. Van Horn, Whaley, Winfield, and Wright—55.

So the joint resolution was passed.

Mr. STEVENS moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

KENTUCKY SOLDIERS' HOME.

Mr. SMITH, by unanimous consent, from

the Committee on the Militia, reported back resolutions in regard to the appropriation of certain property in Missouri and Kentucky for the establishment of Soldiers' Homes, and moved that they be referred to the Committee on Military Affairs.

The motion was agreed to.

TESTIMONY IN REFERENCE TO CLAIMS.

Mr. SMITH also, by unanimous consent, introduced a bill to perpetuate testimony in cases of claims against the quartermaster's and commissary departments; which was read a first and second time, and referred to the Committee of Claims.

EVENING SESSIONS.

Mr. STEVENS. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. At half past four the House, under the order which has been passed, will take a recess for an evening session. The Chair will state that last evening no member was prepared to go on; and if no member is yet prepared the evening session had better be dispensed with.

Mr. LAWRENCE, of Ohio. I understand the gentleman from Oregon is prepared to go on this evening.

ENROLLED BILL SIGNED.

Mr. GLOSSBRENNER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (H. R. No. 204) entitled "An act to regulate the registry of vessels;" when the Speaker signed the same.

REVENUE FROM REBEL STATES.

Mr. SMITH, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be, and is hereby, requested to furnish to the House of Representatives in tabular form the total amount of money paid into the Treasury of the United States from all sources since the 1st of April and May, 1865, to this date by the States lately in rebellion.

NAVY APPROPRIATION BILL.

Mr. STEVENS. I now demand a vote on my motion to go into Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair), and proceeded to the consideration of House bill No. 122, making appropriations for the naval service for the year ending June 30, 1867.

The CHAIRMAN stated that by order of the House general debate on the bill had been closed, and discussion was now limited to five minutes on amendments.

Mr. RICE, of Massachusetts. I would inquire whether we are going to have an opportunity to amend the bill in the House. The reason I make the inquiry is, that if the item for the purchase of Seavey's Island, which has been stricken out in committee is sustained in the House, then I wish to move to discontinue the bridge between Seavey's Island and the navy-yard.

Mr. KASSON. This bill consists of but one section, as I suppose, and the gentleman from Massachusetts [Mr. Rice] may, if he chooses, prepare a section for discontinuing that bridge and put it at the end of the bill. It is a new subject and can be put in at the end.

The CHAIRMAN. That cannot be considered in the House—only in Committee of the Whole.

Mr. WASHBURN, of Illinois. I move to strike out the provision contained in lines one hundred and twenty-four, one hundred and twenty-five, and one hundred and twenty-six:

For purchase of the right of drainage through the yard, now held by the city of Charlestown, \$25,000.

I do it on the ground that I do not know why Congress should be called upon to drain the city of Charlestown.

Mr. KASSON. I will answer the question why the United States should do this. There is now the right on the part of the city of Charlestown to drain the wastage of that city right through the navy-yard. It is obnoxious, in many respects, to the occupants of the yard. It will cost more than \$25,000 to the city of Charlestown to make a new drain and relieve the navy-yard from the nuisance. It is proposed by the Navy Department to allow this much (\$25,000) to be relieved from the existence of the nuisance. It will be applied by the city of Charlestown for a new drain.

Mr. WASHBURN, of Illinois. I would like to know what claim there is upon the Government of the United States, that owns this property, to permit the city of Charlestown to go through her property. The United States Government owns the navy-yard there, and the city of Charlestown has no right whatever to go through there without the consent of the Government. If we deny that consent, then they must build another drain at their own expense.

Mr. KASSON. The gentleman is in error. It is an easement.

The question was taken on the motion of Mr. WASHBURN, of Illinois, to strike out the provision in regard to drainage; and there were—yeas 34, nays 23; no quorum voting.

Mr. WASHBURN, of Illinois, demanded tellers, and they were ordered.

The House divided; and the tellers reported yeas fifty-eight, nays not counted.

So the motion was agreed to.

Mr. STEVENS. I move to strike out the item contained in lines one hundred and thirty-five and one hundred and thirty-six:

For building for offices, \$167,331.

I do it for this reason. The question was fully and largely discussed in this House as to Seavey's Island. There could be no more necessary item than that. But the House decided that that which we had done without during the war we could continue to do without awhile longer. I do not mean to test the sense of the House upon every question. I consider that vote as an instruction to us, and I mean to act upon it, that large items which we have done without during the war we can do without for another year. I mean to acquiesce in it, so far as I am concerned, and therefore I go for striking out this item which I think we can do without very conveniently.

The motion was agreed to.

Mr. WASHBURN, of Illinois. I move to strike out lines one hundred and thirty-eight and one hundred and thirty-nine, which are as follows:

For purchase of Oakman & Eldridge's wharf, \$135,000.

I do not know but that it would be only postponing the evil day to strike that section out now, but I propose to postpone it as long as we can. We had this matter up in the last Congress, as gentlemen who were here will well recollect, and it was very fully discussed. This provision passed this House, but the Senate struck it out, and the House concurred in the action of the Senate, and hence it failed. I did not suppose that the proposition would be here again quite so soon, and I am sorry that I have not more than five minutes to call attention to some facts which I have before me, and which were developed during the discussion in the last Congress. I hold in my hand affidavits of parties in Charlestown in regard to this whole matter. It was found, in the first place, that there is no real necessity for the purchase of this property, and in the second place that it is a mere matter of speculation. These facts were proved conclusively by affidavits which were read in the last Congress.

I have within the last few days received a letter from the mayor of Charlestown on this subject, to which I will call the attention of the committee. The mayor seems to have known what my action in regard to this matter in the last Congress was, and he has written to me on the subject. I may say that he is a patriotic gentleman, representing as patriotic a town as

there is in the United States, where Bunker Hill is. He addresses me as follows:

CITY OF CHARLESTOWN, MASSACHUSETTS,
MAYOR'S OFFICE, January 29, 1866.

SIR: It appears that the proposition of enlarging the navy-yard in this city is again before Congress for consideration.

Our city is decidedly opposed to the measure, as its enlargement will take more of our territory, and thereby withdraw it from municipal improvement and taxation. The feeling is quite general in this community that the project is fostered by speculators and those owning the land which it is proposed to purchase.

Was there a real necessity for the land, on the part of the Government, this city would not interpose a single objection, but there is good ground for believing that within the present limits of the yard there is ample space for all the requirements of the Government.

By the vote of the city council, passed January 22, 1866, I am instructed to take such action as shall tend to bring the whole subject fairly in view, and thereby secure the interests of the city.

I am informed by my predecessor, ex-mayor Stone, that you have interested yourself in this matter, which is my reason for addressing you at the present time.

Have you copies of the evidence which was presented two years ago? It was printed in the Charlestown Advertiser? How soon will the subject be brought up for discussion? Can I be of any service, and is any additional evidence required? If my presence is immediately required please telegraph to me at my expense. If not, write, and state if you desire any further evidence, or whether it is advisable for me to attend at Washington. By so doing you will confer a favor upon me.

I am, very respectfully, your obedient servant,
CHAS. ROBINSON, JR., Mayor.

Hon. E. B. WASHBURN, M. C.

That is the letter of the mayor. I cannot in the five minutes that are allowed me read the affidavits which were produced here during the last Congress, and which I have in the Globe before me, showing the facts in regard to the value of the property. If I recollect aright, it was shown that all of this property, half of which it is proposed to purchase for \$135,000, was purchased for less than one half of that sum.

On the ground, in the first place, that there is no real necessity for the purchase of this property, and on the further ground that it is a mere matter of speculation, I am opposed to the proposition of the committee.

Mr. SPALDING. I would ask the gentleman if this is the same mayor who was in office during the last Congress?

Mr. WASHBURN, of Illinois. No, sir; I believe not.

The question was taken on Mr. WASHBURN's amendment; and it was agreed to.

Mr. GRINNELL. I move to strike out lines one hundred and forty, one hundred and forty-one, and one hundred and forty-two, which are as follows:

New York:
For machine shop, main building, \$289,612.

Mr. KASSON. Will my colleague explain why he moves to strike out that provision? I should be glad to know his reasons.

Mr. GRINNELL. I make this motion to carry out the general policy that has been indicated by the House in regard to this appropriation bill. I think we have passed by objects fully as meritorious and fully as much required by the necessities of the country as this appropriation. That is the only reason I have.

We have here an appropriation of \$298,612. I do not believe there is any necessity for this appropriation at this time, and therefore I move to strike it out. I am for reducing our expenditures. With such a mighty Navy as we now have, and which has served all our purposes during the war, I think we can afford to let some of our ships lie up and some of our men rest.

Mr. KASSON. I find it in vain to call for reasons, under certain circumstances, where there are none to be given. If my colleague, [Mr. GRINNELL,] or any other gentleman here, has heard the testimony of any officer of the Department, or of any Representative upon this floor from the district in which this navy-yard is situated, or of any person who has investigated this subject or claims to have any personal knowledge upon it, I should be glad to hear it.

It is necessary here for me to say that while I did oppose the acquisition of Seavey's Island, upon the rule which I think the House ought to adopt touching these matters, that appropriations for mere convenience ought not to be

made, I also stated that where these appropriations were necessary for the commercial and effective conduct of the public business they ought to be made.

I find, now, this condition of things, to which I desire to call the attention of the House, that the effect of the indiscriminate striking out of these appropriations will be this: that when we come to vote upon this bill in the House there will be an effort to combine the interests of all parties and get back into this bill all these appropriations, some of which ought not to be adopted, and some of which ought to be adopted. I therefore call upon the true economists in this House to exercise their discrimination at this time, and retain those appropriations that ought to be retained, and reject those that ought to be rejected.

This navy-yard at New York, as is well known to all, is the great central navy-yard of the country; it is located at the great commercial center of the country. The provisions now existing for the conduct of the naval business at that navy-yard are inadequate for the proper execution of that business. And the committee, after reducing by some millions the entire estimates of the Navy Department, find themselves met here in this House by a general proposition still further to reduce the appropriations, without any reason being given for the particular application of the rule.

Now, I desire to say this much, to restrain the action of this committee and of the House upon the rule which they adopted by their action the other day; that I am not aware that a single member of the Committee on Appropriations was opposed to this appropriation for the navy-yard at New York. And unless, therefore, we adopt in Committee of the Whole the appropriations which should be adopted, we shall find the bill swollen by several hundreds of thousands of dollars when the vote comes to be taken in the House, by a combination of all interests to get these appropriations back. And for this reason I ask that this appropriation for the navy-yard at New York may be adopted as a necessary appropriation, one so certified to us by the officers of the Navy Department, and which I suppose is known to the gentlemen from the cities of New York and Brooklyn upon this floor.

Mr. RICE, of Massachusetts. I move to amend the amendment by striking out the last word of it. And I wish to add to what the gentleman from Iowa [Mr. KASSON] has said, that this is not an appropriation to commence a new work. The work has already been authorized by Congress, and a partial appropriation has already been made for its construction.

Mr. HARDING, of Illinois. Can the gentleman refer us to the law in which that appropriation was made?

Mr. RICE, of Massachusetts. I do not recollect whether it was made in the very last appropriation bill, or in the last but one. But the work is now in process of construction. Previous appropriations have been made for that purpose, and this appropriation is to pay for the work in part which has been constructed, and to pay for that which is yet to be constructed to complete the building. I presume that that statement will be sufficient to satisfy the gentleman from Iowa [Mr. GRINNELL] who made the objection.

Mr. PIKE. In the debate in the Committee of the Whole the other day, as has been very well said by the chairman of the Committee on Appropriations, it was argued that as we had got along through the war without these new works, we could now, at this period and in the present condition of our finances, get along for a year or two without these large appropriations. Upon that ground, an important appropriation for an increase of the navy-yard at Kittery was refused by the committee. It is now proposed that at a less advantageous place, where work is done, as is shown by the records of the Navy Department, very much less cheaply, an appropriation of \$1,500,000 shall be made, mainly for new works. Now, I think that the committee, in order to be consistent with itself,

should sustain the motion to strike out this appropriation, together with the other appropriations in this section for new works. For one, I am prepared to vote to sustain that proposition, so that when the time comes, if it ever shall come, when we are to increase the naval constructive forces of the country, we shall begin at the proper, the most economical place, and not at the most expensive place. I hope the motion of the gentleman from Iowa will prevail.

The CHAIRMAN. Debate is exhausted upon this amendment.

Mr. RICE, of Massachusetts. I withdraw the amendment.

Mr. DARLING. Mr. Chairman, I move *pro forma* to amend by striking out the word "eight" in line one hundred and forty-two.

It is well known, sir, that throughout the period of the war the navy-yard at New York city was entirely inadequate for the performance of the work demanded of it by the requirements of the country; and the Navy Department was obliged to get the necessary work performed outside of its own yards, in order to preserve the efficiency of its Navy, and to keep it afloat. A large amount of work has been contracted for and put under way in that yard, and without these appropriations that work must stop. It is, in my judgment, very poor economy to permit work in progress to decay and go to ruin for want of the necessary appropriations to complete such work.

Why, sir, are we to bid the nation pause in all its great works now in progress, because the rebellion has terminated? Have we, because the war has ended, ceased to be a nation? Have we ceased to need a Navy or an Army? If so, then let members vote against all appropriations of the public money for military or naval purposes.

Sir, in the name of my constituents in the city of New York, I demand that these great public works, which the interests of the country requires should be carried forward, shall not be crippled by a blow at all necessary appropriations. Sir, have not the Committee on Appropriations had this matter in their charge? Have they not carefully considered it? Certainly they have; and now, when they, after examining all the bearings of the question, ask the House to adopt these appropriations, I trust gentlemen will not, without sufficient reason, move to strike out appropriations which have received the sanction of the committee, because believed to be necessary.

I withdraw my amendment.

Mr. WASHBURN, of Illinois. I renew the amendment.

Now, Mr. Chairman, I think there was a great deal of force in what the gentleman from Pennsylvania [Mr. STEVENS] said, that the Committee of the Whole, in passing upon the question of Seavey's Island, had declared as a general principle that we are to strike out of this bill all expenditures not absolutely necessary. I am free to say that I think this bill embraced no more meritorious appropriation of this class than that for Seavey's Island. I know very well that the Portsmouth navy-yard is one of the best navy-yards for ship building in the United States. I believe that ships can be built better and more cheaply at that yard than at any other in the country. That appropriation for Seavey's Island was, therefore, one of the strongest possible cases of its kind that could be presented to us. But the House, after due deliberation, decided to strike out that appropriation, and in doing so initiated, in my view, a principle which, properly applied, will strike out from this bill appropriations amounting in the aggregate to millions of dollars.

Now, I call the attention of the committee to the stupendous appropriations which are here asked for the New York navy-yard, amounting to \$1,300,000—

A MEMBER. One million five hundred thousand dollars.

Mr. WASHBURN, of Illinois. I stand corrected—\$1,500,000, not for the commencement of new works, not for necessary repairs of great and permanent improvements; and

I have failed to be convinced by anything said by the gentleman from New York that there is any necessity, now that the war has closed, in the present state of the Treasury, to make this vast appropriation. And, sir, I shall move, if no one else does, item by item, that they be stricken out so far as regards the New York navy-yard.

Now, one word in reply to the gentleman from Iowa, [Mr. KASSON.] He said that by striking out these items, one by one, a combination may be formed so as to pass them in the House. I am willing to leave it to the House; I am willing to leave it to gentlemen of the House to form combinations to vote in these appropriations if they desire to do so. For one, I am against them, both here and in the House.

Mr. CHANLER. Mr. Chairman, I am sure the gentleman who has just taken his seat will not accuse the members on this side of the House of any combination in reference to the passing of appropriations contained in this bill, as the distribution of patronage is entirely in the hands of his own party. But, sir, there are questions which touch the interests, not only of that side of the House, but receive the approval of members on this side. Of these there is none more vital to the prosperity of the country than the strength and glory of your Navy. One of the great sources of wealth is the merchant marine which is protected by the Navy; and for the keeping up of that naval establishment the appropriations here set forth are absolutely necessary.

The gentleman asks for arguments on the necessity of this measure. I do not think the history of this war has had that effect on the gentleman's mind which it ought to have had. He is eternally bringing in resolutions in favor of some general or other.

But when appropriations are asked for the Navy, which did such splendid service, the gentleman opposes them. He praises generals, and is ready to vote for any appropriation that may be asked for the military establishment, but when appropriations are asked for the Navy and for those who labor for the profit and honor of the country in our various navy-yards, he raises his stentorian voice and attempts to roar them down. Why, sir, the navy-yards and machine shops of this country have to compete successfully with those of our great commercial rival. The gentleman in his hot haste seems to have forgotten that important fact; and it would seem also to be necessary to enlighten his mind by the repetition of the important truth that we should always make preparation in time of peace for any possible occasion of war.

Now, Mr. Speaker, one of the great requisites of the Navy and of the merchant marine in this country, is to have machine shops for the purpose of producing the most capable machinery to compete upon the high seas with the steam marine of any other nation. We are behind the world to-day on this question of building steam engines. Whenever we build a great steam-engine, it is at great cost to ourselves in the original outlay; and it is only in the shops of the Government we can compete at all with the Clyde steamers which are built abroad. It is known to everybody that Great Britain by her subsidies to lines of steamers in every part of the world, and by the immense amount of capital which is invested in the machine shops of Scotland, lends every aid to her mercantile marine. But the gentleman in his exclusive preferences for military commanders seems entirely to forget the Navy, and specially vents his indignation against that important body of laborers who are employed in our several navy-yards. He would deprive them of these appropriations, and of the means which are necessary for their support. There is a large number of apprentices in the navy-yards, who are employed directly at the public expense. They are brought up in these machine shops, and are educated so as to enable them to assist the country in securing that success which we all must desire in competing with the great nations of Europe, as well as with the great capitalists who are engaged in ship-building.

But we are told that it is necessary to strike these appropriations out so as to economize the expenditures of the Government. In view of the schemes which have been offered, on the other side during this session, this seems to be a very strange argument to be advanced by them. Why should we cripple the Navy by refusing these appropriations when we have measures not only for the appropriation of enormous sums of money but for the distribution of the public domain for every purpose under heaven? Why, sir, we have had this morning a bill before us distributing fifty million acres of the public land. Where, then, was the wrath of this Achilles? Why, sir, he was behind the ships of Greece, I suppose, in order to let the Trojans win.

[Here the hammer fell.]

Mr. WASHBURNE, of Illinois, withdrew his amendment.

Mr. RICE, of Massachusetts. I move to strike out the last three words.

Mr. Chairman, it is true, as the gentleman has said, the war being over, expenses heretofore incurred by the Navy may now be dispensed with. I had the honor to state to the House a few days ago, when speaking upon this bill, that according to my recollection the appropriations were \$150,000,000 for last year, and that the estimates of the Department were for \$23,000,000, and not \$123,000,000 as I was made to say; that from that comparatively small appropriation of \$23,000,000 the Committee on Appropriations deducted about five or six millions, leaving seventeen or eighteen millions as the amount in this bill. I quite agree with gentlemen that this is not the time to commence extensive works, but do not remember it has been advocated at any time to be expedient and advisable that the Government should abandon works which have already been commenced and are in a partial state of construction.

And I desire to call attention to the fact that the items, as far as I have looked at them on page 7 of this bill, are for works that are still in progress at the navy-yard in New York.

This bill is not in my charge, but I have taken pains to examine these items, and as I said when I was on the floor before, the appropriation asked for for this machine shop is to carry on and complete a building that has already been authorized, and for which an appropriation has been made. The same is true also of the next item; also for the third and fourth; also for the quay-wall.

Now, it is for the committee to consider at this time whether they will leave these buildings in an unfinished condition and abandon the work altogether in these yards, or whether they will go on and complete the work which has already been authorized, and upon which large sums of money have already been expended. These works were commenced, I am reminded, during the war. That is entirely true. But now by the recurrence of peace we do not abandon our Navy nor our naval establishments. These works were projected at a time when nearly all the private establishments of the country were in requisition to provide material for the Navy, and they were designed to be no larger than should be necessary after the return of peace. They are projected and established upon the basis of a peace establishment, and now if the Congress of the United States shall say that it is not expedient to have larger facilities for repairing vessels, when we have got two or three times the number that we had then, let them say so.

Mr. WASHBURNE, of Illinois. I would inquire of the gentleman how much has really been expended on these improvements when we were in war, and how much we would want. Of course the chairman of the Committee on Naval Affairs knows. I see an additional appropriation of \$587,000.

Mr. RICE, of Massachusetts. I will say that this bill comes not from the Committee on Naval Affairs, and is not in their charge. It comes from the committee authorized by the House, and by this House charged with the duty of exam-

ining the estimates that are sent in here by the Treasury Department, and of reporting upon those estimates, such as they think are well sustained, and rejecting those which they think are not well sustained. Now, sir, I desire to say that it will puzzle the gentleman from Illinois [Mr. WASHBURNE] or anybody else to carry in his head for three or four years the amount of money that has been expended in building or any other work for which appropriations have been repeatedly made. I have no desire to occupy the time of the committee. I will only ask permission to send to the Chair the report of the Secretary of the Navy.

The CHAIRMAN. The gentleman is speaking in the time of the gentleman from Illinois.

Mr. PIKE. How much is this building to cost?

Mr. RICE, of Massachusetts. Two hundred and ninety-eight thousand six hundred and twelve dollars.

Mr. PIKE. What is the aggregate appropriation?

Mr. WASHBURNE, of Illinois. I figure it up \$587,000.

The CHAIRMAN. Debate on this amendment is exhausted.

Mr. KASSON. I ask the gentleman to withdraw his amendment, and I will renew it.

The amendment was accordingly withdrawn.

Mr. KASSON. We have been for two or three years making appropriations for this identical machine shop and iron-plating shop. The works are in progress, they are nearly completed, and it will be found by looking a little further down this bill that there is an appropriation for machinery in this very building that this appropriation proposes to complete. Now, why will gentlemen, on general declarations, propose to have these uncompleted works to go to ruin? That is the simple question. We last year find an estimate of \$150,000 for the continuation of these works. This year it is proposed to appropriate an amount for their completion, putting the machinery in, and making them effective. The appropriation of last year was for all the purposes of the New York navy-yard. The appropriation this year is for the completion—although that language is not used—of the work on the machine shop, because you find below an appropriation also to put the machinery in.

With this simple explanation of facts I have discharged my duty as a member of the Committee on Appropriations, and I leave it to the Committee of the Whole to say whether they will abandon a work nearly completed or continue it. I withdraw my amendment.

Mr. RAYMOND. I renew the amendment. I do it for the purpose of saying that these sums seem very large, and it is always something that every one likes to do to get rid of large appropriations if possible, but I take it that gentlemen here must be aware that large undertakings require large expenses. It is for the House to decide, not whether it is worth while to undertake works, but whether it shall appropriate money for works already undertaken.

I desire simply to read from the report of the Secretary of the Navy what is there said upon the three first items under this head, and with that, furnishing the only explanation I think the committee will require, I will leave the subject.

With regard to the machine shop and other buildings for which an appropriation is asked, the Secretary says:

"Machine shop, main building.—A partial appropriation was made for this building, and the work commenced; but the experience of the past four years has demonstrated that the building as first proposed would not be of sufficient size to meet the wants of the yard. The plans have therefore been revised and the building enlarged, and consequently, the expense increased. To meet this increase and complete the building, the sum now estimated will be required."

"Boiler shop.—This building is much needed, the present shop being entirely too small for the work required. It is proposed to build a large boiler shop in connection with the machine shop, and this item is considered one of much importance."

"Iron-plating shop.—A small appropriation was made for this building, but, owing to the immense increase in the cost of materials and labor, it was found impossible to erect a proper building for the money."

An additional estimate is therefore submitted for the construction of such a building as will supply the facilities for executing this important work in an economical and expeditious manner.

Receiving-store.—This building has been authorized and is in rapid progress; but owing to the great advance in the cost of materials and labor since the estimate was made, as well as from the fact that a portion of the site has proved of such a character as to require heavy piling, it becomes necessary to ask for an additional appropriation. An estimate is therefore submitted.

Office building.—The office accommodations are entirely insufficient for the large number of officers now attached to this yard; they are inconveniently arranged, having been increased from time to time to meet the wants of the yard. It is proposed to erect a building for the purpose, so arranged that those officers having frequent business together may be located near to each other. The building is much needed, and an estimate is therefore submitted.

Officers' houses.—This yard is also deficient in quarters for the officers on duty; their presence is often required at night, and it is deemed important that they should be provided with houses in the yard, so that their services may be always available. An estimate is submitted for such houses as are necessary to supply deficiencies.

There is the whole of it; and I am quite willing to leave the committee to decide upon the question.

Mr. CHANLER. I wish to inquire of my colleague whether this document he has just been reading was committed to him by the Secretary of the Navy to communicate to the House, or whether it is merely at his own option that he has presented it, or was it given to him to communicate to the country through his paper?

I understood him to say, when he had an opportunity, through the kindness of the chairman of a certain committee, that he did not want at any time, and was unaware of any occasion when he could be in any especial combination or alliance with myself; and he rather insinuated that that sort of thing was not possible. I only want to give the gentleman an opportunity of withdrawing from his present position, for if he is advocating this appropriation because of its merits, he and myself are on the same side. I call his attention to the fact that the insinuation applies just as well to this case as it did to the question of lands in the South, when a matter was in his hands and he was expected to advocate an amendment which General Sherman's letter to the President was expected to aid him in advocating. I make this statement upon information; I do not know anything about it myself. I call the attention of the House to the fact that circumstances may occur under which I may be found in very bad company.

Mr. RAYMOND. I withdraw my amendment.

Mr. BERGEN. I renew the amendment to the amendment. The question arises whether navy-yards are necessary at all. According to the argument of the gentleman from Illinois, [Mr. WASHBURN], the country should have no navy-yards. But if navy-yards are necessary, let us make the appropriations which are required to make such improvements as the exigencies of the age demand. If the Government intends to build its own vessels in the public yards, then it is necessary that they should erect the necessary means, shops and buildings. They must either do that, or abandon the building of vessels in the public yards, and resort to the ship-yards of private individuals. If gentlemen desire to be so very economical, they better introduce a bill to sell all our navy-yards, and abandon altogether the idea of building vessels at the public expense.

So far as the city of Brooklyn is concerned, I have no doubt it would be to her interest to have this navy-yard closed. But that would not be to the interest of the Government. It is to the interest of the Government to put in that yard all that is necessary to carry on the business it desires to carry on there. I hope, therefore, that this appropriation will not be stricken out, as these buildings have been erected at a great expense, and this appropriation is necessary to complete them, and make them such as will enable the Government to carry on its business properly.

Mr. PATTERSON. I had supposed, when this bill was under consideration a few days

ago, that we then adopted a policy which was to be carried out in respect to all appropriations in this bill. And if the arguments of the gentleman from Iowa [Mr. KASSON] and the gentleman from New York [Mr. RAYMOND] are worth anything, they are as forcible in favor of the appropriation for the purchase of Seavey's Island as they are in favor of the appropriations for the machines, shops, buildings, and other materials in the New York navy-yard. Let me suggest to those gentlemen that during the pendency of the war the Government found it necessary to rent a portion of Seavey's Island; and they sent down there over one hundred marines, for whom they put up barracks upon the island, for the defense of the inner harbor of Portsmouth. And the Government is at this day paying a rent for that portion of the island. And the Secretary of the Navy tells us in his report that the inner harbor of Portsmouth cannot be maintained against an enemy without Seavey's Island and fortifications put upon it for that purpose.

The gentleman from Iowa [Mr. KASSON] also tells us that New York is the great commercial center of this country, and therefore the navy-yard at New York should be maintained, and made a first-class navy-yard. Now, in case of a war, I apprehend that the navy-yard at Portsmouth would have to protect as extended a coast as the navy-yard at New York. And the work of the Navy, according to the report of the Secretary of the Navy, is done more cheaply at the Portsmouth navy-yard than it is done at the New York navy-yard; so that every argument which holds in favor of this appropriation for the New York navy-yard would hold good in favor of the appropriation for the navy-yard at Portsmouth.

But the gentleman is opposed to that appropriation; and why? Simply because he does not understand the wants of that yard as well as he seems to understand the wants of the New York navy-yard. Now, I believe that all the Committee on Appropriations, with a single exception, were in favor of the appropriation of \$105,000 for the purchase of Seavey's Island. I believe also that every member of this House from the States of Maine and New Hampshire who are familiar with the wants of that yard are in favor of that appropriation. But the gentleman from New York [Mr. RAYMOND] said that he had some doubt about the propriety of the appropriation, and therefore he voted against it. Now, if we are to vote on our doubts, when those doubts have no foundation in fact, we might vote against all appropriations. I have serious doubts about the propriety of this appropriation for the New York navy-yard, and having those doubts, I shall be obliged to vote against it.

Mr. BERGEN withdrew his amendment to the amendment.

Mr. DAVIS. I renew the amendment to the amendment. I desire in all matters of legislation of this character to act with prudence and judgment. I have thought sometimes that while we are claiming to favor a system of economy, the result is that it is false economy we are favoring. But we should lay aside our prejudices in this matter, and try to understand, if we can, what appropriations are really necessary and what appropriations may be dispensed with.

Now, sir, we are told that large amounts of money have already been expended in the construction of these works at the Brooklyn navy-yard—

Mr. WASHBURN, of Illinois. The last Congress, if I am not mistaken, made an appropriation of \$150,000 for that purpose.

Mr. DAVIS. Well, sir, those appropriations, whatever they were, have been expended; and although the war is over, although gentlemen may think that further appropriations for construction are unnecessary, I ask them to consider whether it is wise or expedient for us to allow constructions already commenced to go to ruin; or whether it would not be wiser, now when the war is over, when the burdens of taxation are being reduced, to go on and put those works in such a state as to furnish adequate facilities whenever the changed condition of

our affairs shall require them. The war in which we have lately been engaged is over; yet I fear that the legislation which is being enacted by this Congress may yet invite foreign interference and a foreign war. Sir, I for one wish to be ready whenever that hour shall come; for come when it may, I shall stand by the flag of my country.

Mr. PIKE. Mr. Chairman, this appropriation is defended simply upon the ground of the necessity of the case. Now, it appears by the report of the Secretary of the Navy, which has been read by the gentleman from New York, [Mr. RAYMOND], that the appropriations already made for this work are partially expended; and it is urged, that in order to render effectual a former appropriation of \$100,000 or \$150,000 partially expended, it is necessary now to appropriate \$489,000.

It does not appear from the report of the Secretary of the Navy how much has been expended; while it does appear that the second item, \$191,000 for a machine shop, is altogether new work. So that we are called upon to appropriate the very handsome sum of half a million dollars simply for a building; and when we get down still further, we find almost two hundred thousand dollars more for machinery for that building. I hope the committee will pause before voting for this appropriation.

Mr. STEVENS. I move, for the purpose of closing debate, that the committee rise.

Mr. KASSON. I ask the gentleman to withdraw that motion for a single moment, that I may say a word in reply to the gentleman from New Hampshire, [Mr. PATTERSON], to correct a mistake of fact.

Mr. STEVENS. I must insist on my motion. The gentleman and myself have both had our full share in the discussion.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union, having had under consideration the Union generally, and particularly the bill (H. R. No. 122) making appropriations for the naval service for the year ending 30th June, 1867, had come to no conclusion thereon.

Mr. STEVENS. I move that when the House again resolves itself into the Committee of the Whole on the state of the Union on this bill all debate upon the pending paragraph and the amendments thereto shall terminate in two minutes.

The motion was agreed to.

Mr. STEVENS. I move that the House again resolve itself into Committee of the Whole on the state of the Union on the naval appropriation bill.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, and resumed the consideration of the special order, the bill (H. R. No. 122) making appropriations for the naval service for the year ending 30th June, 1867.

Mr. KASSON. Mr. Chairman, Kittery is responsible for a good deal of trouble about all these navy-yards, I find. Even for Kittery we appropriated for iron foundry, for shop, for iron-cladding, for condensers, for road and timber slips, and for various other things, a great many thousand dollars. For all the work which needed to be completed appropriations were made.

There should be no confusion as to the facts. A machine shop in New York has been commenced and is designed to be completed, and it is so certified by the report of the Secretary of the Navy. We have appropriated for it, I think, for two or three years already, and it will be ready with this appropriation, for work.

If there be works which are not commenced let them be stricken out—the committee desire it; but let no work go to wreck which has been already commenced. That is all I have to say.

The CHAIRMAN. Debate on the paragraph by order of the House is now closed.

Mr. SPALDING. I want to move a *pro forma* amendment in order to say a few words.

The CHAIRMAN. Debate is not now in order.

The question recurred on Mr. GRINNELL'S amendment.

The committee divided; and there were—ayes 43, noes 43; no quorum voting.

Mr. WASHBURN, of Illinois, demanded tellers.

Tellers were ordered; and Messrs. WASHBURN of Illinois, and BERGEN, were appointed.

The committee again divided; and the tellers reported—ayes 60, noes 46.

The Clerk read, as follows:

For machine shop, boiler wing, \$191,460.

Mr. PIKE moved to strike the appropriation out.

The amendment was agreed to.

The Clerk read, as follows:

For iron-plating shop, \$98,322.

Mr. SPALDING moved to strike the appropriation out.

The committee divided; and they were—ayes 52, noes 48.

So the amendment was agreed to.

The Clerk read, as follows:

For quay-wall extension at derrick, \$100,000.

Mr. WASHBURN, of Illinois, moved to strike the appropriation out.

The committee divided; and there were—ayes 41, noes 46.

Mr. WASHBURN, of Illinois, demanded tellers.

Tellers were ordered; and Messrs. SPALDING and CONKLING were appointed.

The committee again divided; and the tellers reported—ayes 51, noes 45.

So the amendment was agreed to.

The Clerk read, as follows:

For quay-wall extension at sewer, \$100,000.

Mr. BENJAMIN moved that the appropriation be stricken out.

The committee divided; and there were—ayes forty-four; noes not counted.

Mr. WASHBURN, of Illinois, demanded tellers.

Tellers were ordered; and Messrs. BENJAMIN and WARNER were appointed.

Mr. KASSON. There is no more reason for striking out this appropriation than for any of the others, but I suppose the vote will be the same; and I hope that there will be no division, but that the amendment will be considered as adopted, and go to the House with the other amendments.

The CHAIRMAN. If there be no objection, the amendment will be considered as adopted.

There was no objection, and it was ordered accordingly.

The Clerk read, as follows:

For dredging channels, \$65,000.

Mr. WASHBURN, of Illinois, moved that the appropriation be stricken out.

Mr. DAVIS moved to amend so as to appropriate \$80,000 for filling the channel up.

The CHAIRMAN decided the amendment was not in order.

The Clerk read, as follows:

For filling low places on new purchase, \$100,000.

Mr. ROSS moved to strike the appropriation out.

The motion was agreed to.

The Clerk read, as follows:

For machinery for new machine shop, boiler shop, pattern shop, and smithery, \$180,000.

Mr. SPALDING moved that the appropriation be stricken out.

The motion was agreed to.

The Clerk read, as follows:

For the purchase of the Ruggles property, \$90,000.

Mr. WASHBURN, of Illinois, moved that the appropriation be stricken out.

Mr. J. HUMPHREY. I rise to oppose the motion to strike out this item. In regard to this property there are certain reasons why it should not be stricken out, and I think they ought to be conclusive. I have examined the property

and thoroughly understand it. It is a piece of property which it is of the utmost importance that the Government should be possessed of. It is now under lease. The former owner of the property bought from the State of New York a grant to build out seven hundred feet into the channel. After the work commenced, the Government obtained a preliminary injunction. That suit is now in progress, and it is doubtful how it may terminate. If it should terminate in favor of the former owner or his estate—for he is now deceased, and his heirs are carrying on the litigation—it would almost entirely destroy the yard. At the time that Mr. Ruggles, the former owner, lived, holding this claim, he asked the General Government something like four or five hundred thousand dollars for the property. Since his death his heirs have agreed that they would sell it at an appraisal which was made at \$90,000, provided an appropriation was made for it during the present session of Congress. That also terminates the law suit. The property itself contains a portion of the very best water-front on the yard. It is worth more than the \$90,000 asked for it. The gas-houses adjoining it will give more than that if this appropriation is not made, and there is thus a forfeiture of the contract. Now, if this sort of economy, which is held out in the House by the gentlemen from Illinois [Mr. WASHBURN] and others, is to prevail, this appropriation may be stricken out; but it is a sort of economy which no gentleman will practice in his private affairs, and no man of business in any matter of which he has charge.

The report made by Admiral Smith—if I had time I would like to read it—contained in the report of the Secretary of the Navy, as well as that of the chief paymaster of the Navy, who is now using these buildings, states that this property is very necessary to the navy-yard. Now, if this item is stricken out, the property will pass from the possession of the United States Government, and it will prove a detriment to the yard of more than ten times the amount of the appropriation proposed.

Mr. BERGEN. I have made some inquiry in relation to this property. When I first saw the appropriation I was opposed to it; but on examination of the matter again I have arrived at the conclusion that it is to the interest of the Government to purchase the property. If the navy-yard is to be continued there then the Government will be compelled at some time or other to purchase it. It ought, therefore, to be purchased now. The Government at this time hires the property. It is now using it. It has found it necessary to rent it. Now, it is cheaper to buy than to rent it. We can buy it now on favorable terms. The former owner is dead, and it is in the hands of the heirs. They may sell it for division. They offer to sell now on fair terms. If the Government neglects to buy it, it will probably be cut up into small parcels, lots of twenty-five feet front, and instead then of having one set of owners to deal with, we shall have perhaps some thirty or forty, and it will cost double or treble the amount that it is now proposed to pay for it. I have known instances in that part of the country where land, under similar circumstances, has been sold for division and has been bought afterward for \$2,000, whereas before the division it was offered for \$800. Now the Government has an opportunity to buy this property at a fair price. It is to its interest to avail itself of this opportunity. The Government sometimes, like individuals, is penny wise and pound foolish. The water on this front is deeper than on any portion of the front of the navy-yard. It has a front of some three hundred feet on the East river. It is necessary for building large vessels. If it was not necessary for the use of the Government, it would not be occupying and renting it. I hope, therefore, that the appropriation will not be stricken out.

Mr. DARLING. I move to strike out the last line. Sir, I hope the House will pause before they strike out this appropriation. The matter has been fully explained by my colleagues. But there is one point I desire to

bring to the consideration of the House. This property is located between the street and the navy-yard. It is the only property not owned by the Government between that street and the yard. It is absolutely necessary for the protection of our Government property that this piece of land should belong to the United States. In addition to that, it gives us a very large additional water-front, not only the front immediately on the property, but the front on the street adjoining, which will come under the control of the Government and can be used by it by act of the Legislature of our State.

Now, sir, a mere appropriation of \$90,000 for a piece of property under such circumstances and of so much value should certainly find favor in this House as a mere matter of investment, the Government getting three dollars for one. It is not wasting money; it is not expending money that you are never going to see again. It is money expended for the actual, necessary uses of the Government, for the protection of its property and the convenience of its business. I therefore hope that the committee will consent to retain this appropriation in the bill.

Mr. PRICE. The only reply I have to make to the gentleman from New York [Mr. DARLING] in reference to this matter is simply this: that the Government of the United States is not now in a condition financially to go into any speculations in real estate. It will be time enough for us to undertake a measure of that kind when we shall have paid our honest debts that are pressing upon us at this time.

Another consideration is that the Government has got along without this property for the last thirty years, and if thirty years' experience has proven that the operations of the Navy of the United States can be successfully carried on without the Ruggles property, I presume it is safe to say that for the next few years, until we are in a better condition financially, we will be able to get along in the future as we have done in the past.

Mr. BERGEN. I withdraw my amendment to the amendment.

The question recurred on the amendment.

Mr. WASHBURN, of Illinois, called for tellers.

Tellers were ordered; and Messrs. KASSON and ALLEY were appointed.

The committee divided; and the tellers reported—ayes 46, noes 53.

So the amendment was rejected.

Mr. J. HUMPHREY. I move to insert after line one hundred and sixty the following:

For protecting from destruction and decay unfinished buildings and structures already commenced, for which no appropriation is made in this bill, \$20,000.

Mr. WASHBURN, of Illinois. I have no objection to that.

The amendment was agreed to.

Mr. TAYLOR. I move to strike out lines one hundred and sixty-seven, one hundred and sixty-eight, and one hundred and sixty-nine, which are as follows:

Philadelphia:
For dredging channels, \$4,023.

Mr. PIKE. I hope that will not be stricken out. It was demonstrated in the last Congress that the water is very shallow in the neighborhood of Philadelphia, and it is therefore necessary that this dredging should be done. [Laughter.]

The amendment was disagreed to.

Mr. CONKLING. I move to strike out lines one hundred and seventy-one and one hundred and seventy-two, which are as follows:

For Bulkley's patent dryer, with buildings complete, \$35,000.

Mr. STEVENS. I desire to say one word upon this subject. This is a new invention, which has been thoroughly tested, by which it is found that in one day you can season lumber that by ordinary processes it would take months to season. This is, perhaps, of as much importance as any item in the bill. The invention has been fully tested at the navy-yard here, and found to be of much service. I hope the

gentleman from New York will withdraw his motion to strike out.

Mr. CONKLING. Everybody knows that there is no braver man in this House than the gentleman from Pennsylvania, [Mr. STEVENS,] and he never showed his courage more than he does in proposing to this committee that they shall vote money to pay for a patent right, a new invention. Why, sir, I am perfectly astonished; after we have been striking out appropriations for necessary repairs, after the committee have voted over and over again to leave buildings partially completed, which the gentleman from Iowa [Mr. KASSON] says will go to wreck and ruin, that any gentleman should have the courage to rise here and propose that we shall pay such a sum of money as this for some bran-new patent right for doing something or other that has always been done in some other way. And I hope, upon the most ordinary principles of consistency and economy, such an outrage will not be committed as the making an appropriation for this purpose.

Mr. STEVENS. We have saved enough by striking out appropriations for the New York navy-yard to pay for this twenty times over. [Laughter.]

The question was taken upon the amendment of Mr. CONKLING, and there were, upon a division—ayes 57, noes 45.

So the amendment was agreed to.

Mr. INGERSOLL moved to strike out the following:

For repairs of all kinds, \$58,480.

Mr. WASHBURNE, of Illinois. I hope that will not be stricken out. We have not struck out appropriations for repairs.

Mr. INGERSOLL. That is no reason why we ought not to strike out any.

The motion was agreed to.

Mr. INGERSOLL. I move to strike out the clause reading "for completing saw-mill, \$25,000." I do not see what use there is for a saw-mill if we do not have a dryer. [Laughter.]

The motion was not agreed to.

Mr. WASHBURNE, of Illinois. I move to strike out this clause, in relation to the Norfolk navy-yard:

For repairs of dry dock, masonry, and gates, \$20,000.

And I shall move to strike out all of the part relating to the Norfolk navy-yard, as it is read, for the reason that I do not now want to rebuild these navy-yards. The rebels destroyed them, and I do not propose to rebuild them for them perhaps to again destroy and burn them.

Mr. DAVIS. I wish to ask my friend from Illinois, [Mr. WASHBURNE,] as this may have some connection with reconstruction, if our rule does not require it to go to the joint committee on reconstruction without debate? [Laughter.] But I wish to say that when we refuse to make appropriations for the necessary repairs of our navy-yards in the loyal States, I can see no reason why we should make appropriations for navy-yards in a foreign territory. If we are going to act on this system of economy, let us do so in our own dominions and not in our foreign dominions.

Mr. WASHBURNE, of Illinois. I ask unanimous consent of the committee to pass upon the question of striking out all these items in gross, in relation to the Norfolk navy-yard, as they all depend upon the same principles.

Mr. KASSON. I must object to that. And I wish to say a word on the motion to strike out this paragraph for repairs, &c., of the Norfolk navy-yard. That yard is already in a condition to be of essential service to the Government: the Government is already using it to a considerable extent. We made an appropriation for it last year, and it is now considered by the Navy Department of great consequence for the economical repair and use of the Navy. If gentlemen regard it simply as an appropriation for the benefit of certain persons residing in the neighborhood, it is eminently proper of course to strike it all out. If, on the contrary, they desire to make the yard fit for the economical administration of the Navy Department, and

give them facilities for repairs and the necessary buildings at the navy-yard, where it can be done cheaper than it would be to crowd all the work in other navy-yards, then these appropriations should be retained.

So far as I know, the Committee on Appropriations were perfectly unanimous in regard to these appropriations, and they are moderate in comparison with the magnitude of the yard. I think it would be about as appropriate to strike out the appropriation for any other navy-yard as to strike out these; and it would be no more to the detriment of an economical administration of the Navy Department. It is well known that between New York and Pensacola there is but this one navy-yard, and it is of very essential importance both as a station for the Navy and for repairs.

Mr. WASHBURNE, of Illinois. If this clause shall be stricken out by the committee, I will then move an amendment like the one moved by the gentleman from New York, [Mr. J. HUMPHREY,] in reference to the New York navy-yard, making an appropriation of \$20,000 to keep what Government property there is there in repair.

The amendment of Mr. WASHBURNE of Illinois was then agreed to.

Mr. WILSON, of Iowa. I would now suggest, for the purpose of saving time, that a vote be taken upon all the rest of the appropriations for the Norfolk navy-yard, as the vote just taken is probably a test vote.

Mr. KASSON. I must object to that. I think it ought not to be done, because we must make some of the appropriations here named in order to be able to continue to use the yard as it is now. It is the merest insanity to strike out in this sweeping manner appropriations for things of so much necessity for the proper administration of the Navy Department.

Mr. WASHBURNE, of Illinois, moved to strike out the following:

For quay-wall, \$15,000.

The motion was agreed to.

Mr. INGERSOLL moved to strike out the following:

For iron and copper store No. 11, \$35,000.

The motion was agreed to.

Mr. WASHBURNE, of Illinois, moved to strike out the following:

For ship-joiners' shop and timber shed No. 12, \$45,000.

The motion was agreed to.

Mr. WASHBURNE, of Illinois, moved to strike out the following:

For furniture and galley storehouse No. 13, \$36,000.

The motion was agreed to.

Mr. INGERSOLL moved to strike out the following:

For storehouse No. 14, \$16,000.

The motion was agreed to.

Mr. ROSS moved to strike out the following:

For completion of stables, \$10,000.

The motion was agreed to.

Mr. INGERSOLL moved to strike out the following:

For railway track and cars, \$8,000.

Mr. KASSON. If it is possible for gentlemen to pause a moment, I will say that this appropriation is necessary to make the property now there useful.

Mr. INGERSOLL. I withdraw the motion.

Mr. WASHBURNE, of Illinois, moved to strike out the following:

For new dredging machine, scows, and dredging, \$45,000.

The motion was agreed to.

Mr. INGERSOLL moved to strike out the following:

For new shears, \$30,000.

The motion was agreed to.

Mr. WASHBURNE, of Illinois. I move to amend by striking out line two hundred and eight, reading as follows:

For building for offices, \$15,000.

The amendment was agreed to.

Mr. INGERSOLL. I move to amend by striking out, in line two hundred and nine, these words:

For machinery and tools, \$50,000.

Mr. KASSON. That item is necessary to make effective the usual repairs at the yard.

The amendment was not agreed to.

Mr. WASHBURNE, of Illinois. I move to amend by striking out in line two hundred and ten the words "fifty-six" and inserting in lieu thereof "twenty;" so that the line will read:

For repairs of all kinds, \$20,000.

Mr. KASSON. In order to show the committee the character of the yard as it now is, and the importance of these appropriations, I will call attention to the fact that we appropriated last year for that yard \$468,500. This shows conclusively that there is there a very large and valuable property, which it is our duty to make useful to the Government; and in view of those specific works, the appropriations for which we have struck out, thereby rendering necessary some additional accommodations, the amount here appropriated for repairs ought not to be struck out nor even reduced.

Mr. INGERSOLL. In my opinion, Mr. Chairman, the Secretary of the Navy ought to be instructed to dispose of, at public sale, all the Government property at Norfolk not necessary for the naval service; and that which is necessary for that service ought to be removed to some other location more suitable for a navy-yard. As I understand, that is an unhealthy location for a navy-yard.

A MEMBER. Unhealthy politically, especially.

Mr. INGERSOLL. The navy-yard established there by the Government some years since has, within the last five years, gone to decay and ruin, simply from the unhealthiness of the location. I refer more especially to a disease known as "secesh on the brain;" and it will be remembered that it attacked that navy-yard with great violence in 1861. I think that not a single dollar ought to be appropriated for rebuilding that navy-yard. Let us appropriate only the amount that may be necessary for the removal of the Government property to a more suitable location. It seems to me absurd to appropriate fifty or sixty thousand dollars for repairs at that yard. If it is to be a navy-yard equal to the demands of the Government, appropriations of three or four hundred thousand dollars annually will be necessary to keep it up. Appropriations of fifty, sixty, or seventy thousand dollars are just so much thrown away, or, in other words, given to the beneficiaries of the Government there.

Mr. WASHBURNE, of Illinois. I withdraw my amendment, and offer the following:

Strike out line two hundred and ten, reading as follows: "For repairs of all kinds, \$50,000;" and insert the following:

"For the protection of the navy-yard at Norfolk, \$20,000, or so much thereof as may be necessary."

Mr. INGERSOLL. I desire to know from the gentleman from Iowa [Mr. KASSON] what amount of money will be required to put that navy-yard in as complete a condition as it was before the rebellion.

Mr. KASSON. I refer the gentleman to the estimates of the Navy Department as the only information that he or I can procure.

Mr. INGERSOLL. I want a direct answer. I do not wish to be referred to the report of the Secretary of the Navy. Does the gentleman himself know?

Mr. KASSON. If the gentleman will take the trouble which any legislator who desires to be well informed should take, if he will look at the book which has been placed in his hands, he will find that \$484,500 was the amount asked, and that we have now struck out a part of that.

Mr. INGERSOLL. Allow me a word.

Mr. KASSON. I will if it does not come out of my time.

Mr. INGERSOLL. It shall not.

Mr. KASSON. The gentleman can follow me.

At the Norfolk navy-yard, right there at that

unhealthy spot, at the beginning of the rebellion there were about one thousand laborers, as honest, as loyal, as devoted to the Government of the United States as men can be found anywhere; and whenever they had protection against the enemy's military force, they organized Union Leagues and established the operations of a loyal government there. And this bitter spirit to deprive these laborers of support, many of whom have gone from the North since the war has commenced, is unworthy of us.

We have millions of property useful to the Navy Department requiring these appropriations, and they ought to be granted, or we ought to have a proposition for the abandonment entirely of that navy-yard, and such a one should be referred to the Committee on Naval Affairs before it was acted on by the House.

Mr. INGERSOLL. Mr. Chairman, I wish to say the proposition of the gentleman from Iowa, even in a charitable point of view, cannot be supported, for \$20,000 would not keep one thousand men for thirty days.

When I asked the gentleman what amount of money it would require to put this navy-yard in the same condition it was in before the rebellion, and he responded if I had gone to the ordinary channels of information I could have found out, I considered his answer an impertinent one. Had he possessed the knowledge he would have answered my question. He only wanted an excuse to cover his ignorance.

The Secretary of the Navy asks for \$468,000. Next session of Congress we will be asked for half a million more; and then half a million more. So far as my knowledge goes, at least, it would require \$1,500,000.

A MEMBER. Five million dollars.

Mr. INGERSOLL. Some say \$5,000,000.

Mr. WASHBURN, of Illinois. Ten million dollars were appropriated and expended by the Government on that navy-yard before the breaking out of the rebellion.

Mr. INGERSOLL. It could not be restored for less than \$1,500,000. It is said to be a mass of ruins, and that the only object there is to protect the property of the Government. The gentleman from Iowa does not propose to make appropriations equal to the entire restoration of that navy-yard. Now, I say that appropriations for continuing a semblance of a navy-yard there is only so much money thrown away. I will vote only money enough to keep that navy-yard in condition until we can dispose of it; and then to establish one in a locality where the political sentiment of the people will protect it.

Mr. KASSON. I move to strike out the last three words. I think my friend from Illinois [Mr. INGERSOLL] has made another mistake for want of accurate information. I have been, as have many others, to that navy-yard, and I know of most of the appropriations both made and asked for. They have raised the Merrimac, and are now raising the Congress and Cumberland. A great naval store-house is necessarily there. I only ask you will appropriate as much as is necessary for the existing condition of that navy-yard. I withdraw my amendment.

The committee divided on the amendment of Mr. WASHBURN, of Illinois, and there were—ayes 64, noes 42.

So the amendment was agreed to.

The SPEAKER took the chair, and stated that the hour of half past four having arrived, the House resumed its session and took a recess until half past seven o'clock p. m.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m., (Mr. COBB in the chair,) and resumed, as in Committee of the Whole on the state of the Union, the consideration of the President's annual message.

RECONSTRUCTION.

Mr. WELKER. Mr. Chairman, nearly ninety years, with their great events, their grand progressions in science, the arts, and in society and Governments, have passed away since our fathers, in solemn assembly, proclaimed, as the

broad foundation of the Government then about to be erected, that "all men are created equal, and are endowed with certain inalienable rights," and that "among these are life, liberty, and the pursuit of happiness." They declared, also, "that to secure these rights Governments are instituted among men." To maintain these bold propositions, these new ideas of equality of man, to establish a republican form of government based thereon, for seven long years, amid defeat and disaster, sufferings and deprivations unknown to the history of war, these men of the Revolution, with firmness undaunted and patriotism unchilled, fought out the battles that won for us these grand principles and established this great Republic.

When this Government was first organized it was everywhere said by politicians and publicists of the Old World that this attempt to maintain a republic on these principles would be a failure; that, like other experiments of the same kind in other periods of the world's history, it would be short-lived, and soon go down and be forgotten, or only remembered on the pages of the history of the times. It was claimed that the people were not competent to govern themselves, and all such government would be too weak to stand when the time of trial would come; that when the storms of civil war would burst upon them they would crumble to the ground as other republics before had done. All these theories and prophecies are now overthrown. For five years past we have gone through the ordeal of fire and blood to maintain the life of the nation. No nation has ever been subject to so terrible a trial. The records of the world do not present so fearful a rebellion or scarcely any civil war in which such magnificent armies and munitions of war have been brought into conflict. With these great instrumentalities we have tested the power of the Government to maintain itself against enemies within as well as without; have established again these great principles of government laid down by our fathers, and presented an example to the world of the grand experiment of free government. In the war of 1812 we sustained the Republic against foreign foes. In this contest we have saved the nation from destruction by enemies at home.

Now, after the great conflict has been fought out by our armies upon the battle-fields of our country, we, as the Representatives of the people here assembled, have a great work to do in order to preserve and perpetuate the priceless inheritance of our fathers. Our brave soldiers, in the iron hail of battle, in the toilsome march, in rain and storm, heat and cold; in the lonely prison, with sacrifice of life and health upon their country's altar, have nobly done their whole duty. Let us equally well perform ours, and this, the grandest Government of the world, will continue its triumphant march in the bright pathway leading to the highest and truest freedom of mankind.

There ought to be no difference of opinion now on this floor as to one thing, and that is, that this Government shall remain one and indivisible, and that this great people shall be one people, with one destiny and one flag. That was clearly settled by the war. One other thing was settled, and that is that our people shall be a free people, that our

"Starry flag no longer waves
In splendid mockery o'er a land of slaves."

RECONSTRUCTION.

How the Government is to be reconstructed, or restored, or the best means to reach that end, are questions about which there may well be differences of opinion. In this difference of views there may, in the end, be safety.

What are these different opinions? One party here say that these eleven States, constituting the so-called confederate government, by this great war upon the Government lost none of their rights as States to participate in the Government now; that having ceased their warfare, surrendered their arms, and disbanded their armies, all they have to do is to elect members of Congress, and they are entitled to ad-

mission here, and no questions are to be asked and no conditions imposed. As the result of the war four million slaves, that in the apportionment for representation in the House of Representatives were counted in the ratio of three to five, in the next apportionment these States will have actually, by this rebellion, gained twelve members. So that in this effort to overthrow the Government they have really increased their power and influence in the administration of the affairs of the Government. If this be so, the declaration of our patriotic President, "that treason is a crime and must be punished," is entirely ignored, and in this insidious treason is rewarded rather than punished.

Some think that by this mad attempt to overthrow the Government they have only lost their right to participate in the governing power of the country, and still remain as States with suspended animation, subject to be vitalized by the joint action of the President and Congress.

Others believe that by this attempt to separate from the parent Government, and this bitter and terrible war upon it, they have lost their character of States, forfeited their State governments, and are now mere Territories, and subject to be governed by Congress as conquered provinces until readmitted as States.

At this late period in the discussion, the whole field having been occupied so ably by others, and the questions growing out of these different views so well and forcibly discussed, I will not now attempt any lengthy remarks upon this branch of the subject of debate.

In my judgment, it makes but little difference which of these last-named views shall be adopted so that we reach the same end in the grand result. The difference is more in theory than in practical application. It is very certain that their relations to the Government has been, in some way, affected by the rebellion. It cannot be that a war of such gigantic proportions, marshaling their millions of soldiers on each side, should not in some respect change the relations of the parties to each other. The rebels, just emerging from the leadership of a self-constituted government, cannot at once and without conditions take their original place in the Government against which they warred. This would be an anomaly in history. It would falsify all the records of the past. No rebels in any Government have ever been allowed such rights, no conquered people ever so treated.

CONDITION OF THE STATES.

I do not think these States are now out of the Union. They are a part of our Government, their territory is ours, their people belong to the Government, and are subject to its control and liable to its jurisdiction. But as States they are not entitled to representation here until loyal governments are organized within their territories, and until Congress and the President do something to restore or readmit them to their proper relations with the Government. Whether they shall be regarded as mere Territories, or as States with "suspended vitality," may, it is true, be a subject of much dispute and some difficulty of correct solution, but which I will not now discuss.

These States, one by one, passed ordinances of secession, and then banded together into a confederacy and declared themselves a separate government, denied allegiance to the United States Government, and set up one for themselves. The question then arose whether they should be allowed to thus separate, or whether by force of arms their separation from the Government should be prevented. The Administration made the issue of separation or no separation. The arts of statesmanship had been exhausted. No other forum was left in which to contest this issue but the battle-field; no other trial but that of battle was left to determine this question. So the contest went on for four years.

On the 26th day of May, 1865, the decision was made by the complete surrender of their army to the authorities of the Government, in favor of the Government, and against the rebellion. What did that determine? Whether

they were States in the Union or conquered provinces? No such thing. It settled that these States did not maintain their proposed separation from the Government, and their own separate existence as a government, and that this Government has a right to exercise jurisdiction over them. Those who claim that the issue was whether these eleven States were in the Union or out of it, mistake the issue. Theirs was an effort to separate, and ours to compel them to remain a part of our Government. We won and they lost. This leaves them to be judged of by the laws of civilized warfare. It is true that during the whole progress of the war, the Government treated these States and the people as subject to its control wherever it had power to do so. But in this I deny that they were treated as States in the Union, and with all their rights as States. In the last Congress, a law was passed providing that these States should not be entitled to cast any vote for President and Vice-President of the United States, thus refusing to recognize them as States entitled to the rights of other States. To say that these States had lost none of their rights as States by this war, and during its continuance and now, would be to ignore all the lights of international law, and all the authors who have written upon the subject. It is the universal testimony of the old authorities, that when separate States undertake rebellion to throw off their allegiance to a parent Government, and are subdued, they can be treated as conquered territory, and are liable to imposition of terms in reconstruction or restoration.

WHAT IS TO BE DONE.

But I will not pursue this branch of the subject further.

Now, Mr. Chairman, at the close of the war, we are met by political questions in relation to what is to be done to reconstruct or restore these States.

I am anxious that our Government shall be made a unit as soon as it can be done with safety to the great principles settled in the contest. But we should "make haste slowly" in this great work. The perpetuity, the very life of the nation, is now at stake. No graver or more responsible duties ever devolved on an American Congress than are now upon us. This is the time and this the occasion to settle for all time in this country the great ideas and principles lying at the foundations of our noble structure of government. Let these foundations now be made strong, that in coming time the winds and storms of rebellion and revolution may beat in vain against the grand fabric erected thereon. Our fathers made this for a free Government; one to which the persecuted and downtrodden of the world might fly and find secure asylum and equal rights. In the short period of less than a century, which is but a day in the life of a nation, the grand idea of our fathers was so far forgotten and departed from that we held four million of God's creatures as the brutes of the field to be sold in the market, and their unrequited toil used to nurture and support a purse-proud and haughty oligarchy of oppressors in the land.

Let us now make it what our fathers intended it to be, and secure to all their God-given rights, secure equal and exact justice to all men. To accomplish this we must not be in a hurry with the work. In this fast age we are apt to desire the accomplishment of too much in a given time. Let these men so lately engaged in the rebellion have time to satisfy us that they are thoroughly cured of many of the heresies they have heretofore entertained. They can afford to wait after what they have done against the Government, after the great injury they have inflicted upon the country—the deluge of blood, the ravages of war they have caused all over our broad land, the widows and orphans they have made, the crippled and maimed soldiers they have scattered everywhere among us. There is much for them to do in the way of improvements and reforms in their localities before they are ready to assume all the responsibilities of Government. As a matter of law most of them have forfeited their lives, and if the laws were

enforced strictly against them, many of them would be hung for treason, as they ought to be. They should remember that during these bloody four years they have caused the sacrifice of millions of precious lives and thousands of millions of treasure in this mad attempt to disconnect themselves from the Government, and establish forever the infernal institution of slavery.

From the first commencement of this unholy war until their final surrender to overpowering force, these rebels never for a moment entertained any love for our Government or regret for what they had done. Now that they are conquered by our arms, they have no right to complain upon the demand of them of conditions and guarantees for the future.

FREEDMEN.

As the results of this war four million people have passed from under the clouds and darkness of slavery into the sunlight of freedom. They are God's poor—made so by the wrongs and oppressions of centuries. They must be cared for in any measures of restoration of these States. This Government by their emancipation is as solemnly bound to secure their freedom and protect their rights, as it is to pay off the debts incurred in saving the life of the nation. These freedmen, in all the dark days of the rebellion, when many white men in the North proved false to the Government, and gave aid and comfort to the enemy, were always true friends. They helped us fight the battles for freedom and national existence. They stood side by side with our brave white soldiers on the field; with them went through the baptism of fire for the country that had oppressed them; were their friends in prison, and finding ways of escape from captivity. These men and their families are now left in the midst of their former masters and oppressors. Shall they be turned out to the tender mercies of their unfriendly legislation? That must not be done. These freedmen and women constitute the principal laboring population of these States. They are as necessary to the non-working population there as the capital they own. They are mines of wealth to that people. In their dark, strong arms and loyal hearts are reposed the future development of the great resources of the sunny climes of the South, when guided by intelligence and manly independence.

In the great contest just closed the rebellion staked the ownership of this labor, the bones and muscles that performed it, and they lost in the venture. It is a great change in their social relations, and it is not to be wondered at that they are slow to accept its reality. But they must understand that the logic of events will teach them, in truth and soberness, to accept this great change and adapt themselves to it. It is a fixed fact that these colored people must remain in the late rebellious States. They cannot go anywhere else. That is their home. Their labor has improved and built up the country and created the wealth in which their oppressors have reveled. It is said that the labor system there will work itself out in the protection of these freedmen; that it will be in the end to the interest of the former master to extend protection to the rights of his colored employé. From the spirit manifested in these States since the surrender of their armies this does not seem to be correct. A spirit of bitterness, a determination to oppress and harass them in every way possible, now pervades the legislation of most of these States. In many of them there is no protection afforded the colored men. Many of these States have now in force "black codes," in which all rights are denied them. Several of them will not allow a colored man to own or rent a foot of land; deny him the benefit of schools, protection under the poor laws, or rights in court by which he can obtain redress for grievances or secure protection. While these States and their people manifest this spirit, let them remain under military authority until a better spirit is manifested. I am not at present willing to trust to the interest of these men who so lately were engaged in deadly hostility against the Government to protect this large colored

population. Let us pass laws here protecting the rights of these freedmen, making the same laws for them that are made for the white man. We have already passed the Senate bill establishing the Freedmen's Bureau, and through its machinery the colored man will, in some measure, be protected from wrong and oppression.

GUARANTEES.

But before these States are represented upon this floor other guarantees should be secured. Not guarantees in the shape of State constitutions or State legislation alone, for they can at any time be altered or repealed, but irrevocable ones, incorporated into the Constitution of the United States. But we are told that these States are now in the Union, and we have no right to demand any guarantees for the future; that when they elected their Representatives to Congress they must be admitted. The men who say this are now claiming to be the peculiar friends and supporters of our present Chief Magistrate, and what they call his policy of reconstruction. But I do not understand this to be his policy. As a matter of fact, has not the President treated these States as having forfeited their rights as States in the Union? Since the close of the war he has been exercising authority looking toward the restoration of these States. He has proceeded upon the assumption that some conditions were to be attached to their restoration. What has he done? He found them without governments, except disloyal ones, and he sent them provisional governors to rule them. He found their old constitutions still in existence, but he ordered elections for members of conventions to form new, or amend old ones, and prescribed the qualifications of electors. He required the Legislatures that might assemble under these constitutions to adopt the amendment to the Constitution of the United States abolishing slavery. He required all the constitutional conventions to abolish slavery in the States, and put therein a prohibition against the payment of their debts incurred in the prosecution of the rebellion.

Now, following in the spirit of his example, and of the principle he has established, the President should not object, if Congress demands additional guarantees before complete restoration. The conditions of reconstruction, the terms of admission of members, are clearly within the authority of Congress, and a proper subject for their action. It is to be hoped that the legislative and the executive departments will, in this great duty, act in concert for the good of the country, and that harmony may prevail in the councils of the nation.

AMENDMENTS TO THE CONSTITUTION.

But how are we to obtain security for the future? It cannot be done by the action of these rebellious States. I fear that as soon as they should be represented here, all such guarantees would be repealed. It must be done by appropriate amendments to the Constitution of the United States. But what amendments are demanded?

1. Let the Constitution be so amended that representation in the House of Representatives shall be based substantially on voting population, and not general population. This is the true basis of representation. Under the present system the rebel States have largely increased their representation by the rebellion. The slaves were counted and the masters voted for them. Now the freed slaves will be counted same as white population, and their former oppressors still vote for them!

I have already said that by the emancipation on the present basis of representation these States actually gain twelve additional members of Congress. This changed condition of these people requires some amendment to be made by which but fair representation shall be given them. The basis of slave representation was always unfair to the free people of the North. It gave to the white man in the South more influence and power in the Government than that possessed by the northern white man. It thereby constituted a slave oligarchy there that

despised the voting "mud-sills" of the North. It gave them nineteen members of Congress based upon their slaves, and who were elected by the white slaveholders. It gives a rebel white man two and a half votes to one for the Union soldier in the North. It is true that this was given them by the makers of the Constitution as a compromise. The occasion now having passed away, let it be remedied.

As the Constitution now is, these States can so limit the franchise that but the "favored few" shall exercise it, and the great mass be deprived of participation in their government, and still not decrease the representation in Congress. They may do this either by the exclusion of races or by requiring property qualifications as condition of voting. If voting is the basis of equality of races, if this should be done their representation would be decreased. On the other hand, if they enfranchise the masses their representation will be increased. This will operate as a great inducement for the extension of suffrage.

I know that this power of disfranchisement is denied; and it is claimed that Congress can interfere to prevent it under the clause of the Constitution guarantying a republican form of government to the States. This may be so. But it will be found very difficult to determine the line defining the limits of what is republican, or what is not. How many, if any, must be disfranchised before it ceases to be republican? A majority, or a considerable minority? In the long history of oppression and tyranny in the South since the formation of our Government, in the darkest hour of its humiliation to the slave power, no congressional enactment was passed to assert this right in the General Government. It is better then to fix it sure and certain by fixing the voting population as the basis of representation, or as it is fixed in the amendment already passed the House, which excludes from count those who are denied the right of suffrage on account of race or color.

2. Amend the organic law so as to put it out of the power of these States to levy any tax or imposts to pay the rebel debt. Many loyal men are there who did not favor the rebellion who should be protected from the payment of this debt. Many men from the North will seek those States to make homes for themselves and children, carrying with them the capital, skill, and energy of our northern population, and they should be protected from such taxation. In the time to come the fertile lands of that beautiful climate will be made golden by the controlling influence of intelligent labor; its teeming population made prosperous and happy by an influx of northern enterprise and northern school systems, and the blessings of freedom and equality made perpetual among all the people.

3. If the power is not already contained in the second clause of the emancipation amendment already adopted, the Constitution should be so amended that Congress shall be fully authorized to protect the freedmen in all their rights of "life, liberty, and the pursuit of happiness" in the States, and prohibit the passage of all laws, by any of the States, making any difference in the civil rights of their inhabitants, but that all, both white and black, shall stand equal before the civil and criminal law.

4. That our public creditors shall be protected from any repudiation of the public debt of the nation; that our credit may at all times be sustained, and no dishonor shall ever attach to the American character as would follow a refusal to discharge our high obligations.

Without some such provision as this in the organic law, there may be danger that men may be found who will refuse to provide such means as may be required to meet and finally discharge the public debt necessarily incurred to overthrow the rebellion and save the Republic.

SECURITY FOR THE FUTURE.

I would make these amendments conditions to restoration, on the ground of security for the future. Men once engaged in a purpose to overthrow the Government, as these traitors were, cannot be trusted with participation in

managing the affairs of this great nation. Some such guarantees are necessary to insure us against a like attempt at a separation or destruction of the Constitution and Government.

LOYALTY.

More than this: some evidence should be given that the people of these States, the masses, are really cured of their political heresies, and desirous to "act justly toward all men," and live in harmony with the people of the loyal States. If we are correctly informed, however much it may be regretted, there is at this moment as much bitter feeling against the friends of the Union among them as there was during the war. This, no doubt, in the course of time will be changed, and a better and kindlier feeling prevail. There should also be satisfactory evidence that loyal governments are organized that will not array themselves against the execution of the laws that may be enacted by Congress, under the Constitution, for the common welfare.

SUFFRAGE.

It will not be doubted but that the four million freedmen in these States will be a difficult element to control. So large a population, denied rights of participation in the Government; denied proprietorship in the soil; denied all interest in the affairs of their State; kept simply to perform the labor of the country; made only "hewers of wood and drawers of water," will not quietly submit to their condition thus imposed. If it should be so, the lessons of history have not been rightly understood. In the late emancipation of the Russian serfs they were immediately enfranchised, and thus given an interest in the Government. In time the right of suffrage will be extended to our freedmen. This will be, in the end, the true theory for the solution of this great question of freedom. Those having served in the Union Army, and such as possess sufficient intelligence, should at least be admitted to this right, and others would follow in time. Those who used the musket against rebels should be armed with the ballot to defend themselves against the rebels they have fought in the battle-field.

This right of suffrage to colored men is no new thing. It was possessed by them at the time of the formation of our Government in many of the old thirteen States. It exists now in several of the States. South Carolina was the first to introduce the word "white" in her constitution, and she was the first to fire upon the glorious emblem of our nationality, as it waved over one of our forts. She has the dishonor to have taken the first step backward in the march of civilization, as she did the first step in the forward march of barbarism in the late infernal effort to found a government based upon human slavery. I hope to see the day when she may again set herself right, and return to her "first love" of the rights of man.

TRAITORS.

In this restoration no man whose heart was filled with sentiments of treason, whose hand is red with the blood of our martyred heroes, should ever be allowed to take a seat as a Representative in the American Congress. No traitor should ever be allowed to contaminate these beautiful Halls. The great and vital interests of this broad land should never, no, never, be placed in such hands. No pardons, no repentance should ever open these doors to him. These majestic emblems of freedom should never be desecrated by his presence.

UNION PARTY.

It is said, Mr. Chairman, that the Union party is opposed to the reunion of the States, and is trying to prevent its accomplishment. I deny any such purpose. The party that for four years carried on this war for the Union, that supported the Administration in the days of darkness and gloom against traitors at home as well as in the field, that strengthened its hands and sustained its policy, will not desert the cause now. This party, so far as I know, do not desire to keep the Representatives of those States lately in rebellion out of Congress

one moment longer than is necessary for the public good. But the great question settled by this war, the great principles of eternal justice, must not be sacrificed or ignored by any act of this Union party. We all desire, I hope, the accomplishment of union and harmony with all the States represented on our common flag. But it must be done so that we shall have no more rebellions and no more controversies to embitter our relations, growing out of the causes that led to the late rebellion. These should be settled now and forever. When that is accomplished, a grand and glorious future awaits us. Then will be realized the grand purpose of our fathers in the creation of this Government. With the finest soil, the most beautiful rivers and lakes, the most enterprising and intelligent population, we will then take our stand proudly and gloriously among the nations of the world, the model Republic, with universal intelligence, freedom, and equality, as the great lights to guide us in our advancement in the pathway of civilization. Then may we well exclaim of our country: How beautiful are thy tabernacles! What people are like unto thee? The high places are thine, and there shalt thou stand firmly, innocently, and securely.

PUNISHMENT OF TRAITORS.

Mr. HENDERSON. Mr. Chairman, I have no written speech prepared to read to you this evening, and the remarks that I shall make will be brief, and of an extemporaneous character.

I propose for a short time to investigate a subject brought to view in the message of the President, on the eleventh page, if I recollect right, where he speaks of treason against the Government having been committed, and of the necessity of trying traitors and punishing them, making the crime of treason infamous. I regard this as a very important question; and notwithstanding I have heard many able speeches and many hours of debate on this floor, I have heard but little allusion to this subject. I have no doubt that this subject is to some extent unpopular, from false impressions that have been made by many, by efforts that have been made to stigmatize those that believe treason is a crime, and that it ought to be punished, and to represent them as acting from motives of malice or hatred toward the South. Now, sir, I do not feel that I have any hatred to the South, or any disposition to take revenge upon any man. It was my fortune to be born in that portion of our country denominated the South. I spent more than thirty years of my life in that part of the world. I was born among slaveholders and was surrounded to some extent by slaves, and if I have prejudices—and I suppose I have, for it would be a very singular circumstance to find a man that was not to some extent under the influence of prejudice—those prejudices are in favor of the South and southern people.

But, sir, I believe that the happiness and the welfare of this great Republic demand that we shall have a Government, and that that Government shall be maintained inviolate.

The object of government, Mr. Chairman, I understand to be, not to confer rights and privileges upon men, but to secure to each and every inhabitant of the land the rights that God has bestowed upon him. Good government aims to secure, not the rights of a part of the citizens, but of each and every one; not a part of the rights of each and every one, but the full, free, and untrammelled exercise and enjoyment of all those rights that God has bestowed upon human nature. This I understand to be the design of government. And just in proportion as this enjoyment of all these rights is secured to the inhabitants of a country, just in that proportion are those inhabitants happy and prosperous. And just in proportion as these natural rights are invaded and trampled upon, so do the people become wretched and miserable.

Then, sir, it is not only necessary that we should have laws defining the duties of citizens to each other, but that those laws should have penalties annexed to them. Every man knows that laws without penalties amount to the same as no laws at all. It is admitted that laws must

have just and adequate penalties to secure the rights and the welfare of the citizens. And not only must there be just and adequate penalties, but those penalties must be inflicted upon the transgressor. This fact is so clear that it admits of no controversy.

That the penalty of laws must be inflicted has been acknowledged by all the nations of the earth from the earliest period of its history. In the case of Daniel, the prophet, who violated the law of the king of the Medes and Persians, the king became convinced that he had been led into error in promulgating the law that he did, but the law having been promulgated, and his favorite minister having violated it, he studied until the going down of the sun in order to devise some plan by which he might release Daniel from the penalty that he had incurred. But when he was reminded that the time was drawing near when the penalty of the law must be inflicted, he reluctantly, but at the same time firmly, ordered that the penalty should be enforced upon the transgressor, showing the deepest regret that he had been placed in circumstances where it was necessary to do such a thing. But at the same time the welfare of the empire demanded that it should be done; and the laws of the Medes and Persians changed not.

I remember also reading the history of another king, who issued a proclamation or enacted a law at a certain time, that any one of his subjects who committed a certain crime should have both his eyes put out; and the story is that the son of that monarch was the first individual that was convicted of violating the law. The monarch, as a matter of course, felt great reluctance to put out the two eyes of his son, and at the same time he felt that he could not extend the pardoning power; and with a view of accomplishing the same end without violating the spirit of the law, he ordered that one of his own eyes should be put out and one of his son's.

Mr. Chairman, the object of inflicting penalties upon transgressors is not to wreak vengeance or to gratify malice or anything of that description, but there is a great end to be accomplished by doing it. Let us inquire for a moment what good arises from the fact of inflicting the penalties of the law upon transgressors. What good, for instance, will it do to inflict the penalty of the law upon a man convicted of the crime of murder? Will it bring back the dead to life? No, sir. Then, if it will not bring the dead back to life, what benefit will arise from executing the murderer? It may be said by some that it will prevent him from committing a similar crime, but I say that there is no more certainty that he would commit the crime again than that any other man would commit it. And, men are not to be executed for fear they may commit crime. Under an administration of that kind none would be safe.

But, sir, there are two grand objects to be secured by inflicting penalties upon violators of the law. The first is to sustain the confidence of the law-abiding that the Government will be maintained. No country can prosper, and no people can be happy, unless they have confidence that their Government will be sustained. We have had an exhibition of the necessity of the exercise of this duty during the late rebellion. It has often been proposed to engage in enterprises and improvements in different parts of the United States, but the objection was made, "Wait till the rebellion is put down; we do not know what may be the result of this great rebellion." I remember in my own immediate neighborhood there was a proposition to erect a woollen factory. It was believed that it would be an important enterprise and a profitable investment; but the uncertain condition of the country was such as to forbid men investing capital, and they would not do it. Who would build a house or plant an orchard, or plow his fields and sow his grain, if he had no assurance that he would be permitted to partake of the fruits of his industry? Who would engage in industrial pursuits if he had no confidence in the stability of the Government?

Strike down the confidence of the people in the stability of their Government, and progress and improvement will come to an end; in a word, the Government will come to an end, and wreck and ruin would be the result.

Now, there is no one thing that can be done for the welfare of the American people that will more thoroughly promote enterprise, improvements, and industry, than to convince the great mass of the people that the Government will be maintained, and that every hand lifted against the Government shall be palsied or stricken down. Make this impression deep and lasting, and no one thing, in my judgment, will be better calculated to promote the general prosperity and general welfare of the nation.

This I understand, then, to be the first grand object of inflicting the penalties of the law upon transgressors: to sustain the confidence of the loyal and law-abiding.

In the next place, the object is to give warning to the refractory. When the penalty of the law is inflicted on a transgressor, when a murderer, for instance, is executed, a voice goes out to all throughout the country, telling them that if they violate the law they shall suffer in like manner. These I understand to be the great objects of inflicting penalties upon those who transgress the laws of our country.

I said, a few moments ago, that I did not understand it to be necessary for the whole letter of the law to be inflicted in every instance. I hold punishment to be an evil; that all punishment is an evil; and whenever it can be dispensed with without injury to the public it ought to be dispensed with. Whenever the Executive of the United States, or the Executive of any State in the Union, can extend the pardoning power without injury to the general welfare, then he ought to do so. I hold it to be the universal rule, that when it can be done, and no injury inflicted upon the community or upon the country, then the pardoning power ought to be exercised. Those that are in prison, if they can be liberated without injury to society, ought to be liberated. Where no good can be secured by retaining them in prison, it will be an evil to keep them there; and where the evil of their punishment would be overbalanced by the evil resulting to the community from their escape, then the punishment should be inflicted.

Now, the impression upon my mind is that there should be a sufficient number of leading rebels from each of the States lately in rebellion against the United States Government arraigned for their treason, tried as the President suggests, and if found guilty they should suffer the penalty of the law. I would not say that all who have been in rebellion should thus suffer. No good could result from such a course, because of the fact that a few of the leaders in each State suffering the penalty of the law would secure the very same good to the people of the United States that the execution of all who had been in rebellion would secure to them. Suppose that every one of those who have been engaged in this rebellion should be tried and the full penalty of the law inflicted upon them, what good would result from that? It would simply say that the Government will be maintained, and the confidence of the law-abiding portion of the people as a matter of course would be strengthened by such a course. And it is true the refractory throughout the country would be warned, those who had a disposition to rebel against the Government would be warned of the fate that would await them should they thus act. These are the great ends to be obtained. But I understand that the trial and condemnation and execution of a few of the leaders in each of these States would secure the very same end, would have the very same tendency to strengthen the general confidence in the Government.

We all know that if there are no leaders there would be no rebellion, there can be no rebellion without leaders. I know the people of the South say that Mr. Davis, for instance, was only their servant; and that other individuals were simply carrying out their will; and that those men are no more responsible than they are.

Now I deny the truth of that assertion. I say that those men have been agitating this question for the last ten, fifteen, or twenty years. They have been threatening to dissolve the Union and to rebel against the Government for at least fifteen or twenty years. And they are the guilty ones; they are the leaders; they are the prime movers. Had it not been for perhaps a dozen men that might be selected from among those who were leading rebels, there would have been no rebellion. I presume we all know this to be the fact. Select some ten or fifteen, perhaps not so many, perhaps a few more, from the various States lately in rebellion, and there would have been no rebellion. And if it is understood by the people of this Union that the leaders of a rebellion shall die, there never will be another rebellion. Just let that fact be fixed in the minds of the people, that all who lead in such an enterprise as this shall suffer, shall die for it, and rebellions would become very scarce throughout this country.

But if all those who have been engaged in rebellion against the Government are to be pardoned, if the entire number of the rebels are to be released from the penalty of the law, and are to be permitted to enjoy all the rights and privileges of citizens again, what would that proclaim to those who are to come in the future? What truth would it proclaim to those who are to come after us? Would it not be saying to them, "You may engage in a rebellion; you may try the experiment; if you fail you will be pardoned, and be permitted to enjoy all the rights of citizenship again; you will only incur the difficulty and expense of trying the experiment, and if you fail, it will be only a failure, but will produce no great harm to yourselves."

Suppose, Mr. Chairman, that all the men concerned in the late rebellion should be the objects of the pardoning power of the chief Executive; then, if in the course of a few years, other dissatisfied men should undertake a second rebellion against the Government, with what face could the Government attempt to inflict the penalty of the law upon such conspirators or rebels? If the Government should, in this aggravated case, this monstrous instance, set an example that the leaders in rebellion and treason shall go unpunished, how could the Government, with any degree of propriety, inflict punishment upon new transgressors of the same class? If the participants in the recent terrible war upon the Government be exempted from all responsibility for their crimes, future traitors, meeting with similar failure in their efforts, could with great propriety say to the Government, "Former criminals, whose guilt was more aggravated than ours, suffered the infliction of no penalty, and we expected, as a matter of course, that the Government would extend to us the same lenity."

But, sir, let the penalty of the law be inflicted, and confidence in the administration of justice will be strengthened, subordination to law will be fostered, and prosperity will bless our nation from ocean to ocean.

It is sometimes said, Mr. Chairman, that Christianity requires that the guilty shall be pardoned or forgiven. In the newspapers that advocate the pardon of all these men I sometimes see it urged that the Almighty forgives the vilest of the vile; that He pardons all; but the man who offers this argument overlooks or forgets one important fact: the God of the universe would not, and I will say could not, pardon one sinner till a great sacrifice, a vast atonement, had been made. The Son of God suffered and died upon the cross so as to render it possible for the great Ruler of the universe to forgive those who had rebelled against His government. I affirm that God would not and could not pardon one rebel against His government without this great atonement. It is true that the penalty was not inflicted in accordance with the letter of the law; but the spirit of the law was fulfilled, securing the same ends that would have been attained by inflicting literally the penalty of the law.

So, I affirm, when the Government of the United States has carried out in spirit the law

for the punishment of treason by inflicting the penalty upon a sufficient number of the leading traitors—and I will not pretend to determine how many would constitute a sufficient number—then the Executive of the United States can consistently extend his pardon to the less conspicuous and active criminals. In this manner the confidence of the law-abiding will be sustained, while the refractory will be warned; and in this manner pardon may, without injurious consequences, be extended to those offenders whose guilt is less aggravated.

In the commencement of my remarks I said that it was not on account of hatred to the South that I urged that the penalty of the law should be inflicted. I know that it is a very common thing to impute to us hatred of the South. Now, sir, where is the man in this assembly, or in this country, who hates the South? Why should we hate its pleasant climate, its fertile valleys, and flowery plains? No, sir, we do not hate the South.

But they say it is the institutions of the South; they have used these words for the last twenty years. We have been opposed, we have been told, to the institutions of the South; and the word has always been used in the plural. As one, I do not hate the institutions of the South.

Sir, I frankly say that I have from my boyhood hated one institution from the South, if it can be called an institution, and that is the institution of slavery which prevailed there.

I have no feeling of hatred to southern men. There are many good and loyal men in the South. I honor and respect them, and desire their welfare and happiness. I have no doubt a great many in the southern States were led into rebellion by the influence of others; they were deceived, and led by deception to do that which they would not otherwise have done. I have no feelings of enmity to them. The leaders in this great crime have not my hatred. They have my compassion and my pity. I hold the good of the nation demands they should suffer, and I think I express this sentiment with the same feeling a judge has upon the bench when he pronounces sentence of the law against a transgressor. He does not do it because he takes pleasure in the death of the transgressor, but from a conviction that the welfare of mankind demands it. On this ground we demand this penalty shall be imposed upon these transgressors, not from hatred to them, but from a love to the nation; not that we love them less, but the country more.

I acknowledge I have a feeling of hatred for an institution that authorizes one man to make a slave of another man; that authorizes him to rob him of everything that makes life dear; of the right of liberty and the pursuit of happiness; of the right to wife and children. I hate that institution be it found where it may.

Mr. Chairman, I sympathize with a southern man who has been raised under that institution; but for a man raised in the northern States, the free States, who has been permitted to read and study and investigate, who indorses the institution of slavery, I have a feeling of hatred. I know it is said by some to be wrong to hate a man. I find in reading the good Book that God hated the Nicolaitans. I say in a certain sense I hate the man who had an opportunity of having light in his pathway, and deliberately indorses the right of one man to enslave his fellow-man. If I hate any man, I hate him.

I recall the remark of one of our statesmen, made many years ago in this Capitol. When a northern man got up in his place and apologized for the institution of slavery, Mr. Randolph, pointing his finger at him, said he envied neither his head nor his heart. I say the same thing; if a man from the North, who has had the privileges of freedom, rises and apologizes for slavery, I envy neither his head nor his heart.

There is another branch of the subject I will refer to and then close. It is said these men claim the right of revolution. An honorable gentleman some time back said upon this floor they were to some extent justified on the eternal principle of revolution. He did not say boldly they were justified in rebellion, but he undertook

to excuse rebellion upon the ground that men have the right to revolution. I admit the right of revolution under certain circumstances. There are circumstances which will justify men in rising in rebellion against the Government. The circumstance which I suppose would justify men in engaging in revolution is this: when their natural rights are invaded, and when they cannot regain possession of them by civil means.

But, sir, did any of these circumstances exist in the case of those States that engaged in rebellion against the Government of the United States? Were their natural rights invaded? Had they no opportunity to recover their rights by civil means? I am not informed that any man has ever claimed that the United States had ever trampled upon one of their natural rights; not one, sir. I have not met the first man that claims that the rights of the citizens of those southern States were invaded by the General Government.

Again, it is sometimes said that our fathers rebelled against the Government of Great Britain; and that is cited to justify the rebels in revolting or rebelling against the Government of the United States; but is there any similarity existing between the circumstances under which the States rebelled against this Government and those under which our fathers rebelled against the Government of Great Britain? Our fathers had no representation in the government that was exercised over them. They had no voice in that Government. They had petitioned time and again, but in vain; it would procure no alleviation of their sufferings. So there was no alternative but rebellion.

Now, the southern States had representation in this Government. They not only had a large representation, but a much larger representation than justice would have given them. But not only that, but the South had control of at least two departments of the Federal Government at the time they rebelled. They had a majority of their friends at least in each House of Congress; and not only that, but they had a majority of the judges of the Supreme Court on their side; so that they might have controlled this Government for an indefinite time, if they had not attempted to revolutionize.

The only real ground that has been assigned, as I understand it, upon which the rebellion was inaugurated, was the fact that an anti-slavery man had been elected President of the United States. That was the ostensible and real ground upon which the rebellion was predicated and justified. But that was not a sufficient justification. We could not for a moment yield the right of a minority to rebel because the majority would not suffer them to rule. Calling themselves Democrats, the great Democratic party of the United States, they rebelled against the Government because the majority would not permit a minority to rule!

But it is said, as an apology for this act of rebellion, that they were sincere—they believed that they were doing right when they engaged in rebellion. Now, sir, that the ignorant portion of the people in the States that engaged in rebellion may have thought that they were right I will not pretend to dispute. But for men that called themselves statesmen, that professed to understand the principles of government—for such men to seriously maintain that they had a constitutional right to secede from the General Government is just a little more than I can believe. The very idea of States having a right to secede is too absurd to be entertained by statesmen. If a man takes the ground that one State has a right to secede from the Federal Government, then it follows that another State may do the same, and a third and a fourth, and so on until all secede. And if all have the right to secede at pleasure, of course there is no Government that is stable or permanent—none upon which we may rely.

And if a State has a right to secede, why not a county, and a town? And thus the principle might be carried out until you come down to an individual, who might claim that he had the right to withdraw from the Government and stand independent and alone. And if I re-

member correctly, this was the ground taken by one John A. Murrel some years ago, when he asked no favor of the Government, but demanded to be let alone and to be allowed to take care of himself, claiming that the strong had a right to triumph over the weak. Hence, if a man takes the ground that one State has a right to secede, I see no stopping-place until every man has a right to do the same; and then all government is gone, society is destroyed, and anarchy rules.

Therefore, I repeat that I cannot believe that any intelligent man ever believed that the States had a right under the Constitution of the United States thus to secede and disintegrate the Government of the nation.

But, sir, suppose that these men were sincere—admit for the sake of the argument—should they be screened from punishment on that account? If you take the ground that every man who believes he has a right to violate the law of the land may do so, you will have every violator of law coming up to your courts of justice and boldly proclaiming that he believed he had a right to do just what he did, that he had a right to kill, or to rob, or to commit whatever crime he committed. If men are to be excused upon that ground, there will be no security. Old John Brown, I presume, was just as sincere in what he did as any man in the rebel States, and as honest, too, and yet I hold that he was executed rightfully. I know this sentiment will come in conflict with the sentiments of many whom I love and respect, but I cannot help it. John Brown struck a blow at the very foundations of civil society, and if he could be permitted to strike such a blow, every other man would be allowed to do the same thing. But, sir, the blow that John Brown struck was aimed at slavery, and therefore, in my opinion, his crime was comparatively light. The blow struck by those who rebelled against the Government was infinitely heavier than the blow struck by John Brown, and that blow was aimed, not at slavery, but aimed at freedom and in defense of slavery. It was, therefore, an infinitely greater crime than John Brown's was; and if John Brown died righteously, how can these men escape who have committed a much greater crime?

Again, let me inquire how many of John Brown's associates were pardoned. I confess that I am not certainly informed whether any one of them was pardoned or not.

Mr. LAWRENCE, of Ohio. Not one.

Mr. HENDERSON. My friend says not one, and I presume it is the fact that not one of them was pardoned. Then, sir, how can these people in the rebel States expect that their traitors against the Government shall all be pardoned when they struck down poor old John Brown and all his followers? There is no consistency in it. They condemned John Brown and executed him and his associates in crime, and I hold that they did right. And at the same time, I claim that the leaders in this great rebellion are infinitely more guilty than he, and that they ought to suffer the same measure which they meted out to him. Then, sir, when this is done, when a sufficient number from each of these States have been brought before the tribunals, tried, convicted, and executed, then our Government will be sustained, and the confidence of the loyal people will be reestablished, our country will go on prospering and flourishing, while

"Old John Brown's body lies a moldering in the grave,
And his soul goes marching on."

[Applause.]

RECONSTRUCTION.

Mr. KELSO. In the consideration of this subject, our first duty is to ascertain the present status of the rebel States, to determine which seems to be a difficult matter even with some of our greatest statesmen.

No reasonable and loyal man, I think, will now contend, as did the rebels five years ago, that those States, by the mere act of secession, became foreign and independent governments. Those who advocate that doctrine now are five

years behind the rebels themselves, who now contend that those States are in the Union and have been all the time. I shall, therefore, regard it as a conceded fact that those so-called States have all the time *de jure* composed a geographical and political part of the United States, and now *de facto* constitute such a part. The only question, therefore, to be determined is, whether they are *de facto* States—governing partners in the Union—or merely United States Territories subject to the disposition of Congress. This leads us to consider, what is a State?

Politically speaking, a State is a body of people united for the purpose of government, and occupying a portion of country comprised within certain described limits. The land alone does not constitute the State; neither do the people alone, nor do both together, unless the people are united for governmental purposes. A State is a unit, and isolated inhabitants acting independently of each other cannot form such a unit.

This I regard as a correct general description of a State, and to constitute one of the United States, such State must be *bona fide* united with the other States for mutual protection. It must be constantly yielding its just proportion to the support of the General Government, which is only an embodiment or blending of the powers yielded by the several States, just as the light which illuminates a vast hall is the embodiment or blending of the lights which emanate from many individual lamps.

If a State ceases to blend its powers with those of the other States, it ceases, at the same time, to have any part or lot, as an active, governing partner in that united power or General Government; just as a lamp ceases to have any part or lot in illuminating the hall when it ceases to blend its rays with those of the other lamps.

Now, some of the members of this Union did, by secession, cease to blend their powers with those of the other States and, as a matter of course, they ceased to be governing partners in the Union, though the authority of the General Government continued to extend over them just as the united light from the lamps still burning illuminates every part of the hall even after some of the lamps have ceased to emit their rays.

The General Government was not diminished in extent by the defection of some of its members, though it certainly was in absolute power, just as the light in the hall is diminished in intensity, but not in extent, by the going out of the lamps.

The States that have thus ceased to be active partners in the Union have necessarily ceased to exist as States, or they have fallen into a protracted catalepsy, in which their functions are suspended while their vitality still remains. How long this political catalepsy can continue without terminating in political death I do not know, but I suppose our great and good Executive and the other advocates of the cataleptic doctrine could inform us. My own opinion is that those States, as such, have ceased to exist. They have, as I conceive, violated the essential conditions of their existence as States of this Union by refusing for nearly five years to have anything to do in our Government; and by waging a cruel war upon us, they violated all the stipulations of the contract into which they entered when they became States. Acting in their State capacity they disunited themselves from the Union, and having failed to sustain themselves as independent States, they have necessarily ceased to exist at all as States, for no State can possibly exist as such without being united with this Union, or independent of it, and they are neither.

Besides this, we find that at least one of the essential elements of a State has been destroyed or withdrawn from them. We have seen that a State is an organized body of people, and that without organization the people cannot constitute a State; and as the organizations were destroyed in the rebel States they perished as States, and their remaining elements returned

to their original or territorial condition, just as water ceases to exist as such when one of its essential elements, hydrogen, for instance, is withdrawn.

Besides the destruction of the governmental organizations in those States, the people composing those organization have become dead in law, and thus another essential element of a State is destroyed.

Whether we consider the rebels as traitors or as alien enemies, they have forfeited their lives, and though they have not perished literally, they certainly have in law, and they can have no life, politically, until it is given them by the Government to which their lives have been forfeited.

If all the people of one of the States should perish, literally, would that State still exist? For instance, if all the people of South Carolina should sink, as they ought to, would the uninhabited land constitute a State? If so, would it be loyal, or disloyal? If the land of South Carolina should sink, as it ought to, would the fugitive people who might escape, still form a State? If so, what State would it be, and where would it be situated?

The people have not perished literally, it is true, but they have, as we have seen, perished in law, which is just the same as literal death, so far as it affects the existence of the States. The land remains and the debris of the fallen State structures, just as the ground remains where a house has once stood, and the debris of the house may still cover that ground, but since it has fallen to pieces it can no longer be regarded as a house, nor can it perform the functions of a house until it is reconstructed.

So fully have the so-called rebel States become territorial in their condition, that Congress may form from them as many or as few new States as may be thought best, totally ignoring the names and boundaries of the defunct States. As a general rule, however, it would be better to give the same names and boundaries to the new States as were possessed by the old. As to South Carolina, however, I would like her name to be abolished were it practicable, and her territory divided between Massachusetts and southwest Missouri. We would soon take the aristocracy out of her.

I believe that all correct reasoners will arrive at the same conclusion I have in regard to the present *status* of the rebel States. The rebels, however, since they have been whipped, and many good loyal men, think otherwise; but as they have, as a general rule, resolved not to be convinced, I will not delay time by any further arguments. They contend that since the Constitution and laws of the United States do not provide for the withdrawal of any State from this Union, nor for its self-destruction, such withdrawal and such destruction are impossible.

This is a beautiful theory and would become universally popular did facts only bear it out. By it we could prove that Lincoln was not murdered. The attempt being unconstitutional and illegal was null and void and the end unaccomplished. The same could be said in regard to the half million of our brave soldiers that were slain in the war, but who, according to this theory, were not killed at all. In a word, since the Constitution does not authorize any crime or any evil, any attempt to commit or produce either would be null and void and the result unattained. All crimes and all evils must therefore be imaginary, and we may at once enter into the joys of the millennium without further delay, and without asking the Almighty any odds.

Facts, however, stubborn facts, are against this theory. The facts are that, in direct violation of the Constitution and the laws, men have committed murder, suicide, and other crimes. Individuals have perished contrary to law. The blow that caused their death was not rendered "null and void" by being unconstitutional and illegal, neither was the death-blow which rebellion gave to certain States of this Union rendered "null and void" merely because it was unconstitutional and illegal.

If the seceded States have been *de facto*

members of this Union all the time, they have, of course, had a right to vote for President and Vice President of the United States, to send Senators and Representatives to this Congress, and to participate in all the transactions of our Government; and they will continue to possess this right during any future rebellion which they may see fit to inaugurate. If treason in the past has deprived them of no rights, powers, nor privileges, it could not in the future deprive them of any of those things. They need, then, have no fear. A premium is placed upon rebellion. Let them then renew the war as soon as they please. They can lose nothing, and may gain much. If they succeed, and establish permanently their independence, they will, in addition to independence, possess all the advantages of members of this Union; for their independence, being "unconstitutional," will be "null and void." If they fail, they will still possess all the rights and privileges of loyal States. Their generals will be made Governors of States, and presidents of railroads, colleges, &c., and their leaders will generally be distinguished by their "instinctive frankness and honor." Let them understand that this is the manner in which "traitors" are to be hung and "treason" made "odious;" and what more could they ask?

If the theory which we are considering be correct, then we are the most cruel of tyrants and usurpers, for we have been and are still doing in the South what the General Government has no power to do in the States.

If instead of eleven States, all the States had, on the same day, seceded and set up independent governments, if each had refused to aid in electing a President and Vice President, and had refused to send Senators and Representatives to Congress, if each State had thus refused to have any part or lot in the Union, and had each seized all the Government property within its limits—if all the United States officers and employés, finding themselves unsupported, had gone home, where would the Union be of which all these States would still be "unimpaired members?" If rebellion in eleven States cannot destroy their membership as States in this Union, it could not destroy the membership of three times eleven States.

Every vestige of the Union might thus be destroyed, and yet, according to this theory, the Union would still be unimpaired; and I again ask, where would that Union be and what would it be? If under such circumstances it would be merely in a catalepsy, I fear the attack would be a very serious one.

We thus see that the theory of State immortality will not bear the test of reason and of facts, and we will therefore leave this part of the subject and proceed to consider the best mode of reconstructing into real States those territories which, as we have seen, have resulted from the suicidal destruction of the so-called rebel States.

At the very threshold of this subject, we are met by two questions of vast importance, neither of which have yet been answered: 1. What shall be done with the rebels? 2. What shall be done with the negroes?

The first of these questions would be easily answered if we had a hell to put our rebels in, as the Almighty had for His rebels; but as we lack that one little convenience, we should take that course which will best secure justice to them and safety to the nation.

Strict justice, according to the laws of all nations, would require that the rebels all suffer an ignominious death; but since the President of the United States has granted them their lives and the liberty of their persons, I will not now question their right to enjoy what has thus been given them. To grant them more than these, however, would at present be inconsistent with the safety of the loyal people of the South, and indeed of the whole nation, and I deny that the President or any one else has the right or authority to favor rebels at the expense of loyal people.

By the laws of nations, the rebels have forfeited every vestige of right and title to their

property, which is now, to all intents and purposes, vested in the United States; and once so vested I do not think that it can be divested, except by the people themselves, or by their Representatives in Congress.

Four billion dollars of this property may justly be regarded as funds in the United States Treasury for the payment of the public debt; and to give this vast sum to the aristocratic leaders of the rebellion would be conferring upon them a dangerous power, and would besides be indirectly taking the money from the pockets of loyal men, who would then be compelled, by taxation, to pay that debt. This would be very unjust, and I do not think that the President of the United States has any more right to give this property to the rebels than he has to give them any other property belonging to the people.

When the rebels inaugurated an unjust war against us, they knew what they were doing and what they were risking; and with their eyes open, they staked their lives and their fortunes upon the result. They expected to gain all or lose all. They neither expected to ask nor to receive any favors from the United States, and I assure you that they had no intention to grant any favors to loyal men in the event that victory decided in their (the rebels') favor. Does any man here suppose that if the rebellion had succeeded a Federal soldier could have gone South and regained possession of his property? Even as it is, it is a very dangerous thing for a Union man to return to his home in the South. Let us, then, confiscate the property of the rebels, or at least so much of it as will pay our entire war debt. This could be done without reducing any of the wealthy rebels to less than \$10,000 worth of property.

This would be but a trifling indemnity for the past; but it is, alas! all that we can ever hope to receive. Can the rebels ever restore the untold millions of property which they have destroyed? Can they restore to innocence and happiness the thousands whom their unholy war has lured or driven into the paths of vice? Can they bring joy to the hearts of the millions of widows and orphans whose loved ones they have slain? Can they restore to health and vigor the six hundred thousand mutilated forms that have returned, more wrecks, from the field of battle? Can they restore reason to the poor maniacs whom they drove to insanity by their unheard-of cruelty? Can they reanimate the four hundred thousand cold forms of our heroic dead? Can they reclothe in living flesh the sixty thousand wasted skeletons that they tortured to death by cold and hunger in the Libby, and at Salisbury, Andersonville, and Belle Isle?

Besides confiscating their property, I would disfranchise the rebels until they could show an unspotted record of loyalty for at least five years. This I would do, not so much as a punishment to them, as a security to the loyal people of the South and of the nation. If the rebels are allowed to vote, their ballots will be cast for our destruction, as their bullets have heretofore been, and it may be with more fatal effect. Can any one doubt this who has any knowledge of the bitter hatred which still exists among the rebels toward our Government and all its friends? Have the rebels ever admitted that they were wrong? Have they surrendered their treasonable doctrines of secession and State rights? Do they not laud as heroes those who have murdered the greatest number of Union men? Do they not regard their dead as sainted martyrs? Do they not sullenly show in a thousand ways that they still cling to the hope of ultimate success? Has treason made them more loyal? Has war made them more friendly? Has murder rendered them more humane? Has perjury rendered them more honest? Have all the horrible crimes of which they are guilty rendered them better men and more worthy of our confidence? One year ago, and were they not butchering, scathing, tearing out the hearts of our fathers and brothers, or torturing them to death by the most unheard-of cruelties? And now, with hands all covered with gore and wearing the very garments which they tore from the cold forms of our murdered dead, they have the

effrontery to ask equal rights and privileges with the brave defenders of our country; and oh! shame! they are met and embraced as brothers by thousands from the North who have always claimed to be loyal.

These traitors may be "high-toned gentlemen;" they may be possessed of an "instinctive frankness and honor," but I cannot so see them. I see them now as I saw them when they were burning our homes, when they were driving our wives and our little ones out in the winter storms, when they were butchering our gray-haired sires, tearing off their bloody scalps, roasting their feet, or burning out their tongues.

As a southern man, I speak in behalf of the loyal men of the South. Without a murmur we sacrificed all we possessed. We fought during four long years, and thousands of our bravest and best went down amid the thunder clouds of battle. Our families were reduced to want, and many sank under the weight of their sufferings, and the wild winds of winter are now waiving over their lowly beds.

We do not ask that the rebels be punished for all this. We are willing to forgive them; but, in the name of Heaven, we do ask for protection, or, at least, for the privilege of protecting ourselves. As to Missouri, we have but little to ask. There we have got the rebels under; and, by the Eternal, we mean to keep them under. There are, however, millions of loyal people just as true as ourselves, in other portions of the South, who are not so fortunate as we are. Their lives are never safe, and they will soon be crushed if the rebels are restored to power. For them I plead. By every principle of humanity, by its solemn pledges, by its sacred honor, this Government is bound to protect them; and this, in my opinion, can only be done by holding the so-called rebel States as United States Territories, and governing them as such until the loyal people, unintimidated by the rebels, can form and present republican constitutions and apply for admission as States. I believe that Congress has full authority to determine who shall vote in those Territories, and it is bound to see that all the loyal citizens are allowed a voice in the conventions that meet to frame the new State constitutions. The rebels should have no part nor lot in the formation of those constitutions, and their restoration to the elective franchise should devolve upon the loyal State governments after such have been established. In this way the safety of the loyal people can be secured, peace and order established, and slavery forever abolished.

But what shall be done with the negroes? I have sufficiently answered this question already by including them among the citizens of the Territories, concerning which I have been speaking. Of course all the loyal citizens should have a voice in the formation of the new State constitution; and if they were so unwise as to insert the word white in those constitutions I would have nothing more to say; while if none but whites were allowed a voice in framing those constitutions, I would not consider them republican in form if they ostracized any citizen on account of race or color. If none but blacks were allowed a voice in the framing of those constitutions, and they should ostracize any citizen on account of race or color, I would also reject their constitutions as not republican in form.

I am prepared to be met here by the thousand and one hackneyed objections to negro suffrage. These objections have been often and ably refuted in this House, and by the loyal press throughout the nation; and I do not now propose to notice them in detail. The only one, indeed, which is worthy of notice is the want of intelligence among the negroes. This is a reasonable, but by no means an insurmountable objection. The same objection could, with equal justice, be urged against four fifths of the whites of the South. Some evils would, no doubt, attend the enfranchisement of four million ignorant blacks and half a million equally ignorant whites, none of whom have ever been accustomed to think or act for themselves; yet those evils would be comparatively unimpor-

tant, and would soon disappear when those masses become more enlightened.

The experience of the past proves that the dangers we have to fear arise more from the corrupt principles of those who are intelligent than from the ignorance of those who are not. The most intelligent classes of the South were the most uniformly disloyal. Intelligence among the people is of vast importance, but dearly have we learned that pure and unswerving loyalty is of a thousand times more importance. The Union did not save the southern whites through their intelligence, nor did it lose the blacks through their ignorance. The whites with all their intelligence were traitors, the blacks with all their ignorance were loyal; and thus we have at least one instance in which the negroes, with all their disadvantages, have shown themselves worthy of trust; and I, for one, am willing to trust them again. They have shown themselves sufficiently intelligent to be, as a class, sober, honest, industrious, loyal, and brave; and this, among American citizens, is the most important kind of intelligence. They know enough to cast bullets with judgment, and I have no doubt but that they would soon learn to cast ballots with equal judgment. A very little intelligence is sufficient to distinguish between right and wrong, loyalty and treason, and whoever knows enough to do that is intelligent enough to fight and to vote. The philosopher who can explain the composition of gunpowder and the chemical and mechanical powers brought into action in the use of fire-arms, is very little superior in battle to the loyal and brave, but unlettered rustic who merely knows enough to clap one eye shut, take deliberate aim, and kill his rebel. The philosopher who has ransacked whole libraries only knows enough to cast his vote for the right; the rustic, guided only by the promptings of an honest and loyal heart, knows enough to do the same.

Somebody must vote in the South, and for my part I would rather it should be the loyal party, though they are mostly ignorant and black.

Of course they would commit some blunders at first, but they would soon learn. Practice in voting, as in all other things, makes perfect, and there can be no perfection without practice. If you wish them to learn the art of swimming will you forbid them the use of water until they have become expert swimmers? Will you refuse them the use of books until they have become good readers? Will you refuse them the use of pens until they have become good writers? Will you refuse them the use of instruments until they have become good musicians? And can you, with any more reason, refuse them the use of the ballot until they have become good voters? How can you expect them or anybody else to learn when you withhold from them the only means by which they could learn?

If, however, you must have a suffrage qualified by intelligence, fix your standard, apply it impartially to all without regard to race or color, and I will not so seriously object, though it would, at this time, cut off nineteen twentieths of the loyal people of the South, both black and white.

I have thus far considered the subject of impartial suffrage in the southern territories merely with reference to its practicability. I shall now proceed to consider it with reference to its justness and its necessity.

In the first place, then, though we may deny that the loyal blacks have any right to the elective franchise, we must nevertheless grant it to them in order thus to protect the loyal whites, whom all admit we are bound to protect. From the best accounts I can obtain, the loyal whites constitute less than one twentieth part of the entire population of these territories, and less than one twelfth of the white population. If, then, we disfranchise the loyal blacks, what hope will remain to the loyal whites after the Federal troops are withdrawn and the rebels restored to power? I venture the prediction that at the end of one year, there would not be a hundred thorough Union men in the South that would dare

to own their principles. They would be killed, driven out, or forced to succumb to the overwhelming tide of treason. This is the opinion of all my Union friends in the South with whom I am corresponding; it is the opinion of my old friend, the Delegate from Louisiana; it is the opinion of my colleagues here, and it is the opinion of all who know the real spirit of the rebels.

It would be folly to think of putting the governments of the South into the hands, exclusively, of the loyal whites. There are not enough of them who can read and write to fill the offices, and even if there were, their governments would be quickly swamped by the exasperated millions of rebels on one side, and the equally formidable hosts of justly incensed slaves on the other.

It would be still greater folly to think of always governing the South by military power. We could not bear the expense, and the longer we keep our armies there the worse the rebels hate us. Soon that burning hatred would burst out in war more terrible than has yet been known. Many of the rebels do not deny that they intend to renew the struggle at no distant day. Some of the nearest relatives I have on earth are rebels, and they refuse to correspond with me, on the ground that we will soon be again arrayed against each other in a more bloody struggle than that through which we have just passed. Having betrayed our faith with the loyal blacks in this struggle, we could hardly count on their aid in the next. If they did not help our enemies, they would be likely to help themselves, and who could blame them?

Thus we see that necessity compels us to give the elective franchise to the loyal blacks; and we will now consider whether the eternal laws of liberty and justice do not require the same.

If the negroes are men, they are entitled to the rights of men. If it be true that "all men" in regard to their rights "are born equal," then whatever is the inalienable right of one man or one race of men is undeniably the inalienable right of all men and all races. If it be true that we should do unto others as we would that they should do unto us, and if we would not that the African race should deprive us of any of our inalienable rights, how dare we, as a Christian people, do so unto them? And how can we hope for God's blessing while we continue to violate this His solemn commandment? Have not the judgments of the last five years been sufficient to teach us wisdom, coming upon us, as all admit they have, in direct consequence of the terrible crime of slavery? For my part, I am satisfied with our punishments, and am willing to do justice to all men, even to the despised negroes, though in so doing I must do violence to prejudices, old almost as my life, and strong as my innate passions.

Though I never was a pro-slavery man, yet reared up in a slave State, and by ultra pro-slavery parents, I unconsciously imbibed many of their prejudices.

Besides the arguments already advanced, the gratitude, the plighted faith of our nation binds us to bestow upon the loyal blacks all the rights of freemen. In the darkest hour of our country's need they never faltered, though their fidelity to us subjected them to unheard-of outrages and to death in a thousand terrible forms. Our poor starved prisoners, escaping from the rebel slaughter-pens, found no friend but the poor, despised negro. He shared with them his own scant fare, and in the darkness of the night led them through swamps and over mountains to the camps of their friends. When the war hung in even balance, we called upon these poor slaves to help us, and promised in return to make them free. No danger, no obstacle daunted them. By tens of thousands they poured into our ranks, and soon a hundred thousand threw themselves upon the foe. The scale soon turned in our favor. Fort Wagner, Fort Pillow, Port Hudson, Petersburg, a score of battle-fields the most bloody and the most glorious, all speak of their valor. As rushes the mighty avalanche from the Alpine heights, so rushed

they amid the hot smoke and the thunders of the battle upon the traitor foe. On, on, through trenches, over ramparts, up to the very mouths of the cannons that moved them down, they bore our flag to victory, while thousands, from whose bosoms the hot blood was gushing, turned their glaring eyes upward to that "brave old flag," and poured out their last breath in cheers for victory and liberty. Poor, brave, deluded men! They thought they were free. Our country had promised them freedom, and even in dying they were happy because they thought it was true. They did not know that the very people for whom they were dying would have shamelessly violated their solemn promise and turned them over helpless into the hands of their enraged and cruel masters. It would have been better had they all died. Alas for those who still live! They come home war-worn and weary to find that their fond hope of liberty was only a delusive dream.

They are greeted with, "We are done with you niggers; now lay down your arms and either leave the country, or go to work for your old rebel masters. This is a white man's country, and you have no rights here which a white man is bound to respect. We promised you freedom, it is true, and we have bargained with your old masters not to call you slaves in the future; but excepting the name, your condition is not likely to be any better. Your old masters are enraged and will wreak their vengeance upon your defenseless heads, but then you are black." Oh, God! if it be such a crime to be black, why hast thou made them thus?

Slavery is said to be abolished. In name it is, but not in reality. Of right the negroes always were free; but what good did the right do them when freedom itself was withheld? So with the name of freedom now, what good will that do them if the substance is withheld? They have been proclaimed free, but has that made them so? Were I to see you drowning, and were to proclaim you free from that danger, and then leave you without help, what good would my proclamation do you? Were I to find you hungry and cold, and were merely to proclaim that you were clothed and fed, would that proclamation be real food and clothing?

It would certainly be as real as the liberty which we have bestowed upon the slaves. We have only deprived them of the protection of their owners, who had the same interest in their safety that they had in the safety of their horses or oxen. Now they have the protection of no one, and are the slaves of all their enemies. When the negro was an ox, he had the protection of an ox. Now that he is half man and half ox, he is regarded as a monster, and receives no protection at all. Does not every southern breeze still bring to our ears the sound of the lash, the baying of the bloodhound, the cries of the slave, and the screams of murder? And will not this condition of things continue until the negroes are either annihilated or driven to terrible deeds of desperation. It certainly will, unless we put them in a condition to defend their own rights by giving them the elective franchise. Let us then by a solemn act of Congress declare the so-called rebel States to be mere Territories. Let us then call upon all the loyal people of those Territories, and none but the loyal, to form constitutions, republican in form, and apply for admission as States of this Union. The power being thus established in the hands of the loyal people, they would be able to keep the rebels in subjection, and we could recall our armies. Emigration, sure of protection, would pour into those States, and soon the element of treason would be swallowed up and lost.

In conclusion, I will say that I hope all the loyal States will soon erase from their statutes those disgraceful distinctions which many of them still make among their citizens on account of color. Of my own State I am truly proud. She is coming forth as a giant from the thunder clouds of war, and is free. She is educating her freedmen with reference to giving them the elective franchise at no distant day. I hope

the other States will do likewise, and that we may all live to see our redeemed country glorious among the nations, as indeed—

"The land of the free and the home of the brave."

[Applause in the galleries.]

And then, on motion of Mr. ECKLEY, (at twenty minutes to ten o'clock p. m.,) the House adjourned.

IN SENATE.

THURSDAY, February 8, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.
The Journal of yesterday was read and approved.

SENATOR FROM NORTH CAROLINA.

Mr. DOOLITTLE. Mr. President, I rise to present the certificate of election of Hon. JOHN POOL as a Senator from the State of North Carolina, for the term ending March 4, 1867. I owe it to the Senate and to Mr. POOL, as well as to myself, to state that he was, and is, and always has been, a devoted friend of the Union. He was a Union candidate for Governor of the State of North Carolina in 1860, before there was any imminent danger of secession. He canvassed the State, and opposed the secession movement by every means in his power to the very last moment. After the ordinance of secession was passed he retired to private life, and refused to take any part whatever in political affairs, even to vote in local elections, for two years. When the Union men of North Carolina commenced a peace movement in order to embarrass the rebellion, he threw himself into the movement and drew down upon himself both the anger and the persecution of the rebel authorities and the sympathizers with the rebellion. In 1864, when peace meetings were being held by the Union men of North Carolina, and were sometimes suppressed by the military authority of the rebels, and arrests were made under the proclamation of Governor Vance, he threw himself firmly into the opposition to those acts of the rebellion, and in favor of the peace meetings and the peace candidates. He took an active part in running Union or peace candidates for the Legislature of North Carolina, and consented himself to become a candidate for that purpose, in order to embarrass the movements of the rebellion. He introduced resolutions into the State Senate for the appointment of commissioners to treat with the United States for peace, and urged their passage, and came within two votes of succeeding in carrying them through the State Senate. From the beginning, during the whole rebellion, and since, he has done all in his power to sustain the cause of the Union. After the war of blood was over, he became actively engaged in favor of the reconstruction of the loyal State government of North Carolina. He was elected to the State convention for that purpose, and advocated the passage of the resolution annulling and declaring void from the beginning the act of secession and all things growing out of it. Under such circumstances has he been elected to the Senate of the United States.

As I said in the beginning, I deem it due to the Senate and to him and to myself, in rising to present his credentials as a Senator, to make this statement of his character as a devoted friend of the Government of the United States. I ask that the credentials, for the present, lie upon the table.

The PRESIDENT *pro tempore*. That order will be entered if there be no objection.

PETITIONS AND MEMORIALS.

Mr. GRIMES. I present the petition of J. E. Johnson, who prays Congress that the homestead law and all preemption laws of the United States, except such as are provided in the Freedmen's Bureau bill now pending before Congress, shall be suspended for the period of ten years, and he further prays that warrants for three hundred and twenty acres of land be issued to all soldiers, their widows, or heirs, who enlisted for three years prior to July 23, 1863, and who

did not accept of the veteran bounty. I move that it be referred to the Committee on Public Lands.

The motion was agreed to.

Mr. GRIMES. I also present a memorial of the General Assembly of the State of Iowa, praying Congress to establish certain mail routes and to pass a law declaring the Des Moines river and Turkey river in that State, so far as it runs between the town of El Dorado, in Fayette county, and the junction of the Volga with the Turkey river, to be not navigable streams. I move its reference to the Committee on Commerce.

The motion was agreed to.

Mr. LANE, of Kansas, presented a resolution of the Legislature of the State of Kansas in favor of a grant to that State for the use of common schools of the sixteenth and thirty-sixth sections on the Indian reservations or an equivalent thereto from the public lands; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. WILLEY. I present a memorial of twelve citizens of Stafford county, Virginia, setting forth that they have always been loyal and true to the United States Government; that during the occupation of that county by the Federal forces they furnished divers supplies to the Army. They pray that Congress will, at an early date, grant such needful legislation as will enable them to audit their accounts, and to provide compensation for them either now or at such time as Congress shall deem proper. As a kindred matter has been referred to the Committee on the Judiciary, I ask that this memorial be referred to that committee.

It was so referred.

Mr. COWAN presented a petition of manufacturers of agricultural implements, praying for a reduction of the taxes upon sales of agricultural implements; which was referred to the Committee on Finance.

He also presented the petition of Dr. William Schmoele, praying for the suspension or repeal of the homestead act, and for the passage of a law by which the price of our public lands be graduated and the minimum price fixed at five or six dollars per acre, and that the amount thus realized be dedicated to the payment of the national debt; which was referred to the Committee on Finance.

Mr. HOWE. I ask leave to present the petition of David Burdick, of West Milton, in Wisconsin, dated the 3d of February, 1866, in which he respectfully requests the Senate and House of Representatives to spend no more time in discussing the theory whether the rebellious States are in or out of the Union, and that we spend no more time in talking of amendments to the Constitution, for it will take a long time to secure such amendments, and, if made as ample and pure as could be made by angels, an element exists among traitors that would jump over any constitution, as in the case of the late rebellion; and that we immediately use our power to protect the loyal from oppression and put a stop to the shedding of innocent blood. I am not in a situation which enables me to say exactly that I indorse the whole of this petition, but I present it, and move that it be referred to the joint committee on reconstruction.

The motion was agreed to.

Mr. SUMNER. I present a memorial of citizens of Massachusetts, in which they set forth that the Constitution of the United States prescribes that the United States shall guaranty to every State a republican form of government; and they entreat Congress, in the execution of that power, to proceed to secure a republican form of government, which, in the opinion of these petitioners, is a realization of the principles of the Declaration of Independence. I ask the reference of this memorial to the joint committee on reconstruction.

It was so referred.

Mr. SUMNER. I also have, sir, a petition which comes from the State convention of the colored citizens of the State of Mississippi, as-

sembled at Vicksburg, on the 22d of November, 1865, in which they respectfully set forth their grievances, and call upon Congress to interfere for their protection by providing for them the safeguards promised in the Declaration of Independence, and, in other ways, securing to them the guarantee of a republican form of government. It is accompanied by a series of resolutions adopted by that convention. I ask their reference to the joint committee on reconstruction.

It was so ordered.

REPORTS OF COMMITTEES.

Mr. POMEROY, from the Committee on Public Lands, to whom was recommitteed the bill (S. No. 35) to grant one million acres of public lands for the benefit of public schools in the District of Columbia, reported it with an amendment.

Mr. HARRIS, from the Committee on Public Lands, to whom was referred a bill (S. No. 93) to quiet the title to certain lands within the corporate limits of the city of San Francisco, reported it without amendment.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred a bill (S. No. 121) to provide for the enlargement of the Winnebago reservation in the Territory of Nebraska, and for other purposes, reported it with an amendment.

Mr. DOOLITTLE. I move that the communication of the Indian superintendent and agent for Nebraska, in relation to the Winnebago reservation, accompanying the bill, be printed.

The motion was agreed to.

BILLS INTRODUCED.

Mr. CLARK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 134) in addition to the several acts to establish and amend the judicial system of the United States; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 135) to declare certain streams in the State of Iowa not to be navigable streams; which was read twice by its title, and referred to the Committee on Commerce.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 136) to repeal the act authorizing the settlement of claims against the United States by the quartermaster's department for property used or destroyed by the Army and Navy; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

SENATORS FROM COLORADO.

Mr. LANE, of Kansas. I move that the Senators-elect from the State of Colorado be admitted to the privilege of seats on the floor of the Senate.

The motion was agreed to.

AFFAIRS IN UTAH.

Mr. STEWART submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Judiciary Committee be instructed to investigate and consider what congressional legislation, if any, is necessary to secure the enforcement of the laws and the protection of citizens of the United States in their civil and political rights in the Territory of Utah, and to report by bill or otherwise.

THE Madder ROOT.

Mr. SPRAGUE. I offer the following resolution:

Resolved, That the Committee on Agriculture consider measures to promote the cultivation of the madder root in the country, and report by bill or otherwise.

Mr. President, in 1850 the State Department instructed the consular agents to investigate the subject of the cultivation of this article in the countries bordering on the Mediterranean. Their investigations were interrupted in consequence of the war. The consumption of this article, growing out of the uses to which it is

put, is perhaps \$10,000,000 worth annually. It grows somewhere in the latitude of thirty-five or forty degrees. It occupies the attention of nearly two hundred thousand people in France alone. It would occupy the attention of that number of people in this country if we raised it, and the article would be consumed in the country. It is easily cultivated. It is produced in the form of something like the potato; it has a vine something like the potato. It is planted in rows, and the first year the vine comes from the ground. Before the next year has passed, the vines are covered with dirt in order that the frost shall not interfere with the roots. That process is carried on for eighteen months or two years or three years, and the root is then dug up, dried, and prepared for market by kiln-drying and grinding.

I desire to direct the attention of the Committee on Agriculture to this important branch of the nation's industry, that the machinery of the Agricultural Department of the Government may have the matter under consideration in order that we may, as far as we possibly can, have the various products known to the consumption of this country raised here, and in order that we may find remunerative occupations for the people who come from abroad who are acquainted with the cultivation of this root. I consider it a matter of very essential importance that attention should be directed to it at once. Its introduction in France was from a party who had traveled in Italy, and the people were so gratified at the result of that trial that in one of the provinces of France they erected a monument that now stands overlooking the district that gives employment and profitable occupation to hundreds of thousands of people. I should be glad to award a monument or a reward of merit to any individual in this country that will introduce the article to successful cultivation in the United States. I send to the desk a bag of the seed of the article that I would have go to the Committee on Agriculture, that they may see what the article is in the form of seed.

The resolution was considered by unanimous consent, and agreed to.

J. B. RITTENHOUSE.

Mr. NYE. We had under consideration on Monday the bill (S. No. 80) for the relief of J. B. Rittenhouse, fleet paymaster of the Pacific squadron, and it was not finished on that day. I do not know whether it requires a motion now to take it up or not.

The PRESIDENT *pro tempore*. It does.

Mr. NYE. If so, I move that the Senate proceed to the consideration of that bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 80) for the relief of J. B. Rittenhouse, fleet paymaster of the Pacific squadron.

Mr. NYE. On this bill being taken up the other day, I gave a summary of the facts of the case. After a most careful examination by the Committee on Naval Affairs, I was instructed to report a bill for his relief. I find that there are objections to it of different characters. Among the objections was one from the Senator from Massachusetts, who declared that he would not vote for the bill, even though it was right, for fear of the precedent it would establish. I hardly understand the logic of the argument, for it seems to me to place the Senator in the attitude of doing injustice to others and to himself, and also of impeaching the intelligence of this body. I trust that there is sufficient intelligence here to scrutinize carefully and determine between what is just and what is unjust, and to act upon this question as upon all others and do what is exactly just and right.

This is an old servant of the public in the Naval Department. He has grown gray in the service. Having been placed on the most distant, in the most difficult and most dangerous position that the service to which he is attached requires, he has lived in and breathed the malaria of the Isthmus until a broken constitu-

tion and a diseased body give evidence to his fidelity in all respects. His record in the Navy Department stands among the first of its faithful officers. He was intrusted with that money at that important point; he used exactly all the means that the Government gave him for the purpose of its safe keeping; and the evidence shows, and this report shows, that he exercised to an extraordinary degree that diligence which was due to the position he held.

The Senator from Indiana, for whose opinions I have the highest regard and respect, asserts that when money is put into the hands of a paymaster and receipted for by him, the money becomes his own. With great diffidence I beg to differ from that conclusion, and I can state many reasons why it is not so. If I had time I could state many facts going to prove that that has not been the opinion of the Government to whom the money belongs. In the city of St Louis a paymaster gambled and lost the Government money. The Government pursued it and took it from the gambler. Why? Because it was the Government's money. An unfaithful servant had diverted it from its proper channel, and the Government pursued it because it was their own. I do not believe that this Government would consent for a moment to the doctrine laid down by the Senator from Indiana, because it would lead to great fraud. What are the bonds of a paymaster? One or two hundred thousand dollars; and how often have paymasters started from here with as many millions as their bonds were for thousands; but yet it did not become the paymaster's money; it is the Government's money until it reaches its destination. The doctrine can never be sustained for a moment that the Government parts with its title to the public money when one of its servants takes it to be disbursed.

Again, sir, there are peculiar laws and peculiar penalties to which the recipients of public money are liable, which would not be the case if the money became their own. I entertain no doubt about the justice of this bill. My advocacy of it rests upon its justice, after full and mature examination, seconded by as careful a set of gentlemen as are to be found in this circle. It rests, too, on a principle quite as important to the person to whom it is applied. It will be a poor encouragement for public officers, especially in the naval service, if an application of this kind is to be rejected on the ground that it may become a dangerous precedent. Sir, if this officer has been faithful in the discharge of his duty, every principle of economy on the part of this Government requires that he and his securities should be released from the payment of the money. If you deal justly with these men, instead of encouraging them in carelessness, it is the highest encouragement to prompt them to a faithful discharge of their duty.

My friend from Indiana suggested that the precedent had already been established that where money is burned upon steamers, and it is a matter of public record, the paymaster has been absolved. If we are to look on the suspicious side of everything, how much more apt would a fraudulent paymaster be to become a *particeps criminis* in the burning of a steamer after having rifled the chests, so as to bury all the evidences of his complicity? I say that if in that case the Government excuses these officers, and releases them and their securities, a stronger reason exists here.

I repeat, this man used all the means for the protection of the money that the Government furnished him. So careful was he, as the report shows, that he always kept the keys of the safe around his neck. The Senator from Oregon suggested that from the fact that he let a bundle of keys go into another room in the hands of an officer furnished by the Government as a guard, not of his choice—another Government officer whose fidelity he had no right to suspect—because he allowed him to take the key to go into another room, where the boy acknowledges that he took an impression of the key, that was such carelessness as forbids our entertaining the idea of releasing this man from responsibility for the

money that was feloniously taken from him. It was a room into which he could not go for the best reason in the world; he is paralyzed. Notwithstanding that misfortune, the Government find him so faithful that they keep him in their employ, even when by the rules of the service he could be mustered out.

I ask that Senators shall do an act of entire justice in this matter, and I press the bill, not for the reason of setting a precedent whereby others may come in with fraudulent claims. I will pledge myself to the Senator from Massachusetts to be as vigilant in ferreting out fraudulent claims as he could desire, so far as I am concerned, but I ask of him and every other Senator, upon the broadest principle of common justice, if a claim is here made that is right, that the Senate shall adopt it. I trust that this bill will pass. That the larceny was committed there can be no doubt, for almost half the money has been recovered by the vigilance of this officer. A thousand dollars reward he offered himself and the Government five thousand; and the whole body of naval officers on that coast come up here to testify to the entire integrity and honesty of this man. In his diseased condition, his suffering both in body and mind, I ask that the Senate shall do this act of justice toward him.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BONDED WAREHOUSES.

Mr. MORGAN. I now move to take up the motion to reconsider the bill (H. R. No. 135) to extend the time for the withdrawal of goods for consumption from public store and bonded warehouse, and for other purposes.

Mr. BUCKALEW. If this will elicit debate, I should like to have permission of the Senate to take up my resolution to appoint a committee on ventilation; I suppose that will create no debate, and will occupy no time. I understand that this subject will be debated. I hope the Senator from New York will permit me to submit that motion.

Mr. CONNESS. I wish to remind the Senator from Pennsylvania that in regard to this bill which the Senator from New York desires action upon, the day it passed the Senate, believing that it had passed both Houses, I telegraphed the entire bill to the city of San Francisco, as it is a very important measure to the mercantile community there, and it has been kept thus far pending in the Senate by a motion to reconsider. While I do not wish to interpose an objection to any proposition coming from the Senator from Pennsylvania, he will see the importance to us of disposing of this question.

Mr. BUCKALEW. I will await my chance afterward.

The PRESIDENT *pro tempore*. Is the Senate ready for the question on the motion to reconsider its vote passing the bill?

Mr. MORGAN. Some time having elapsed since this bill was before the Senate, and several Senators being present now who were not present at that time, I will, as briefly as possible, state the object of the bill.

By the laws of the United States the importer of foreign merchandise is permitted to deposit his goods in public store or bonded warehouse, and withdraw them on paying the duties at any time within the period of one year. After the expiration of that period he cannot pay the duty. He, however, has three modes of relief: he can come to Congress and ask for an extension of the time; this requires a special act, and has in some cases been granted; he can export his goods to the country from which they came or to any other foreign country, and thus the Government will lose the duty entirely; or he can export them to Halifax or the West Indies, as has frequently been done, being the nearest and least expensive ports, and then can import them again, place them in public stores where they can remain for a year and be subject, of course, to the laws of the United States. Now, it is proposed that there shall be some

additional relief. The first section of this bill permits all persons now having goods in public store in any of the ports of the United States to enter them for consumption on paying the duties at any time previous to the 1st of April next. There are now hundreds of thousands of dollars worth of goods in the situation I have stated. The passage of this bill will enable the importers to enter all those goods for consumption, and the Government will receive the duties upon them, and they will be entered prior to the 1st of April next. It is not proposed in this bill to extend the period for which goods are to be admitted beyond one year, except that by paying an additional sum of ten per cent. they may be entered at any time within two years thereafter. The effect of this ten per cent. clause will be to cause all merchandise to be entered for consumption within a period of twelve months.

It has been suggested, as a more equitable mode, to charge a specific sum, perhaps six per cent. a year, for any additional period beyond the first year, payable monthly; and it will readily be seen that that would bring some money into the Treasury, because it would be availed of to some extent. For example, an importer has goods beyond the period of one year which he wishes to enter; he would pay the percentage, whether it be one half of one per cent., or one per cent., or whether it ran one month, two months, or more. But the effect of imposing an additional duty of ten per cent. will be that all goods will be entered during the year. That will be the effect of this bill if it passes.

Mr. FESSENDEN. I will inquire if my friend is not mistaken about that. If they do not enter their goods during the first year, will they not have the privilege of exporting them then?

Mr. MORGAN. Certainly. This, sir, is all the explanation I shall make at this time.

Mr. SPRAGUE. The more I reflect upon the operations of this bill and the system it is intended to regulate, the more I am impressed with its injurious character and its injurious tendencies upon the industry of this country. The Senator from New York, on a former occasion, stated that the bill was right, and gave his reasons for that belief. He said that the Secretary of the Treasury assented to it as being beneficial, and that it was also fair toward American interests and industry; and he cited the laws which provide that American fabrics shall not be taxed until they are sold, or until they are distributed to the consumer. In the few remarks I had the honor to submit to the Senate on a former occasion I asserted that the bill under discussion gave to the importer a credit of three years before the duties were exacted, and that the importer and the Government combined to speculate upon the articles that were entered for consumption; and the facts are so clear, that if Senators will investigate them for a moment, they cannot be otherwise than convinced.

I desire to read a letter I have received from one of the practical and thinking men of the country in respect to the point raised by the Senator from New York, that the manufacturing products of the country stand upon the same fair relation to the Government as the imported article does; in other words, that the internal revenue tax upon the domestic product is not called for any sooner by the Government than is the assessment and collection of its duties on similar imported articles. He writes:

"Taxes are always unequal and will always be so; but the present excise tax is especially so upon our business. We use pig iron, bar iron, steel, copper, brass, bronze, lead, &c. Now, many of these articles come to us in a finished state and pay the full tax of six per cent. In making a paper roller we pay six per cent. tax on two ingredients before we can commence. Then we have to pay \$3.00 per ton on the castings. Then we have to pay six per cent. on all labor. Paper rollers are now ordered from England at a price that will not allow us to build them. Woolen machinery is also being ordered from England. Arguments are of little use, but facts are sure in their results. The taxes that are now imposed on machinery will ultimately result in producing less revenue than is now raised, and if continued as they are now will result in stopping many industrial pursuits; the laboring class will not be employed, and consequently our manu-

facturers will sell less and the Treasury will receive less. Raise the tariff or lessen the internal tax. There is no necessity of paying the national debt to-day, and it is hardly worth while to break down the industrial energies of the country to pay a debt which is not pressing for payment. Suppose we should be a hundred years in paying the debt, where is the harm? A national debt is a curse, and yet at the same time is a blessing. It keeps the Treasury in a more healthy state and prevents speculation.

"On some machinery that we make we pay five taxes, and then pay a tax of six per cent. on the machinery when we sell it."

Five taxes are paid to the Government in cash before the article that this gentleman produces is sold to the consumer—

The PRESIDENT *pro tempore*. The morning hour has expired. There was strictly no unfinished business yesterday, but the Chair is advised that, although the joint resolution (H. R. No. 51) to amend the Constitution of the United States was not made a special order for this hour, yet it was generally understood that it should be considered at this hour, and upon that the Senator from Indiana [Mr. LANE] is entitled to the floor.

Mr. MORGAN. I hope the Senator from Indiana will allow us to dispose of this subject. I do not like to encroach upon the time during which he expected to address the Senate; yet I wish to remind him, and to remind the Senate, that this bill is one of importance, and if it can be disposed of in a very short time I should be glad to have it disposed of.

Mr. LANE, of Indiana. I should like very much to extend the time for the investigation of the present subject before the Senate, but I see that it will lead to debate. The Senator from Rhode Island is in the midst of a speech in opposition to the bill, and I propose, therefore, to avail myself of the kindness and partiality so generously accorded to me last night by the Senate, and proceed to address them, if such be the will of the Senate.

APPORTIONMENT OF REPRESENTATION.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States, the pending question being on the amendment of Mr. HENDERSON to the amendment proposed by Mr. SUMNER.

Mr. LANE, of Indiana. Mr. President, I need not assure you that I approach the investigation of the grave subjects now before the Senate with constraint and embarrassment. No graver subjects have ever been submitted for your deliberation. I have not been able to make that thorough preparation which the importance of the subject demands, and which my profound respect for this high body under other circumstances would have prompted. I shall not be able to rise to the height of this great argument, yet I hope I feel and appreciate its dignity and importance. We approach the Constitution of the United States upon a proposed amendment, and I feel the full force of the injunction of the Hebrew prophet, "Take the sandals from off thy feet, for the ground on which thou treadest is holy ground." I hope that on this occasion I shall be enabled to merge the partisan in the patriot. This Chamber is no fit arena for political gladiatorship. The great questions to which we now address ourselves invoke our most calm and careful consideration and deliberation. An Athenian orator was wont to invoke the heathen gods, before he addressed the people of Athens, to enable him to say nothing but what the people of Athens desired to hear. My most humble and fervent prayer upon this occasion is to the Christian's God that I may say nothing which shall be unbecoming in a Senator of the United States to speak to his fellow-Senators and to the people of the United States.

What, then, are the grave considerations to which our attention is invited? I shall speak, in its order, of the present proposed constitutional amendment and of each of the pending modifications and amendments now before the body as a series of measures which form the congressional plan of restoration and reconstruction. But before I approach that subject it

will be proper to look at the present condition of the States lately in rebellion. What is their condition? A portion of the people of the country and a portion of the Senate of the United States take the ground that the States lately in rebellion are still States in the Union, existing and subsisting States, and entitled to all their rights and privileges under the Constitution of the United States. To Senators entertaining this opinion, I mean to address no argument. If they are at present existing States, the terms "restoration," "reconstruction," "rehabilitation," and "admission to representation," are idle and unmeaning words. If I understand the position of those who advocate this doctrine, it is this: that no action upon the part of the President and no action upon the part of Congress is necessary to restore these States to their natural and constitutional relation to the United States. How does that position agree with the present historic position of affairs in the country? For four years these rebel States have sought to overthrow and subvert the Government of the United States. They have been unable to accomplish that object. The Government of the United States has triumphed over them in the assertion of its unity and nationality and the supremacy of its laws. We have been at war for four years. The war has temporarily ceased; at least, there is no conflict of arms; and the question now is, who have triumphed, the Government of the United States or the rebels in arms? If you establish the proposition that the people of the United States have triumphed, they, exercising the rights of war over a conquered population, have a right to dictate and fix the terms of restoration, and establish the relations which should exist hereafter between these rebel States, so-called, and the Government of the United States.

It seems to me that counsel has been darkened on this subject in the statement of the question. A portion of the people and of the Senate believe that these States are yet in the Union; another portion believe that they are yet out of the Union; and the difficulty of dealing with that question is that both are right and both are wrong. Territorially these States are in the Union; the communities in these rebel States are in the Union; their citizens are citizens of these United States. Our national boundaries are fixed by treaties with Great Britain, Spain, France, and Mexico, and all the territory comprised within these boundaries belongs to the United States; every citizen is a citizen of the United States. But the practical question is, whether these citizens are now, at this time, in such a relation to the Government of the United States as to be entitled to participate in the legislation of the Republic. I take the ground that although, territorially, they are in the Union, although the Government by rebellion has lost no single power that it ever had to enforce the laws, to compel obedience, to appoint postmasters, judges, and marshals, to collect the revenue, and to carry on all the machinery of the General Government, these rebel States have abdicated and forfeited every right; they are no longer to be recognized as a governing power under the Constitution of the United States.

But we are told that the action of the executive department has from the beginning recognized them as States, and that Congress has by various acts recognized their existence as States. I shall now proceed to show how President Lincoln and President Johnson have regarded these rebel States. But before proceeding to that question, let me say a word on another point. We are asked now to recognize as existing State governments the present organizations in the rebel States. If we can recognize any State organizations there at all, it must be under one of three constitutions. For instance, the constitution of the State of North Carolina prior to 1861, the beginning of the rebellion, required the election of a Governor, the election of State officers, and fixed the qualification of voters. The people of North Carolina in their sovereign capacity met and overthrew, annihilated and subverted, the constitution ex-

isting prior to 1861, and ordained another constitution for the State of North Carolina. Then we cannot recognize the constitution existing prior to 1861. Can we recognize the constitution formed by the rebel authorities in 1861? Clearly not. They repudiated the authority of the United States, and formed their institutions in accordance with the constitution of the rebel confederacy; and that act was null and void. We cannot, therefore, recognize the State of North Carolina as existing under the constitution prior to 1861, or under the rebel constitution that subverted it. Then the simple question comes back, can we recognize the present constitution of North Carolina as republican in form and as a voluntary emanation from the people of North Carolina, who alone have a right to form their constitution? If the present State organization, under their existing constitution, cannot be recognized, then clearly no constitution exists in the State of North Carolina making that people a State under the Government of the United States.

What steps have heretofore been taken by the United States for the purpose of restoring these States to their constitutional relations to the General Government? Mr. Lincoln, in 1863, issued his proclamation for the organization of the States of Louisiana and Arkansas, stating that where loyal citizens to the number of one tenth of the loyal voters of the States, who had taken the amnesty oath prescribed by him, should get together and form a State government, so far as the Executive was concerned he should recognize such organizations as the States of Louisiana and Arkansas. You will recollect that under that proclamation of the President State constitutions were formed and State organizations perfected in Louisiana and Arkansas. You will recollect the further fact that when their members applied for admission here the Congress of the United States refused such admission, refused to indorse that policy of the President of the United States seeking a restoration of these States to the Union. So the question was left when the present Chief Magistrate of the United States became President. He, by his proclamation, issued first, I believe, in the case of North Carolina, directed that provisional governments should be instituted in these rebel States. In order to determine the validity of that organization in North Carolina we must look necessarily at the authority of the President for its inauguration. The President, in his proclamation, bases his authority to issue that proclamation upon two clauses of the Constitution of the United States. The first clause is that which declares that the President shall be Commander-in-Chief of the Army and Navy of the United States. He, under that provision, doubtless, in a time of war, had a right to appoint a governor for each of the different departments in the rebel States; he had a right to appoint a military officer there to command; or, if he chose, I doubt not he had the authority to appoint a provisional governor; but it was all under the military power; all under the provision of the Constitution making him Commander-in-Chief of the Army and Navy. How long does that military power exist? Clearly, during the existence of the war. With the termination of the war the power ceases.

Upon the subject of the President's plan of restoration I have only this to say: that upon the death of Mr. Lincoln, and the suppression of the rebellion, he found these rebel States without the benefit of civil law, in a state of anarchy and confusion. The confederacy having been overthrown and no constitutional authority having taken its place, it was temporarily his duty to preserve the peace and protect the Union men in those States; and I have no fault to find with the manner in which he has sought to execute this high duty. But the very fact that he has appointed a provisional governor for one or all of the rebel States is sufficient for my argument. It shows that the President himself regarded the civil authority in those States as having been utterly overthrown, abdicated, and annihilated; and although I regret to differ

with my distinguished friend from Wisconsin, [Mr. DOOLITTLE,] and to obliterate or dim the light of one single star that so gloriously blazes upon our meteor flag of beauty and of glory, yet I have to remind him that when this proclamation was issued, the President did not regard these rebel States as in the Union under the Constitution. If these rebel States constituted stars on your flag, they were as the lost Pleiades gone darkling through space, unobservable to any human eye. They could not be detected by the mightiest telescopic power that the judiciary of the country has ever been able to bring to bear upon them. They were not only out of the Union, but they were substantially and to all intents and purposes out of existence; and so the President must have regarded them in his proclamation.

Suppose they were present, subsisting, existing States under the Constitution, what rights had they? They had a right, first, to form their own constitution without outward pressure; they had a right to elect their Governor. The first act of the President was to appoint them a governor. The constitution existing in North Carolina prior to 1861, fixed the qualification of voters; the constitution under the rebel authority in North Carolina fixed the qualifications of voters. The President then exercised the power, as I have no doubt he had the right under the war power, to appoint for them a provisional governor, in which they were never consulted, for whom they never voted; and he fixed also the qualification of their voters. Was that a power derived by the President from the war power? Clearly not. The war power deals with a conflict of arms, the march of armies, the supremacy of the nationality as represented by the Army and Navy of the United States. It has no reference to the inauguration of a civil government, or to the administration of local, municipal, or civil laws.

But the President in his proclamation draws authority from another provision of the Constitution of the United States, and what is that? The provision that it shall be the duty of the President of the United States to see that the laws are faithfully executed. What laws? Evidently the laws of the United States, the laws of Congress, the treaty stipulations of the Government, so far as they are to be carried out by congressional legislation. These are the laws that the President is bound to enforce under the Constitution, and no other laws. He has no right to interfere with the local administration of justice in the several States. He has no authority to interfere with the rights of descent and distribution of estates, of ordinary contracts, of the punishment of crimes under the State laws. He is simply bound to see that the laws of the United States are faithfully executed. What law of the United States, or what constitutional provision, made it the duty of the President to appoint provisional governors? Clearly he had the power only as Commander-in-Chief of the Army and Navy of the United States; and under that authority he has appointed provisional governors. Under that power he has inaugurated State governments. Under that power alone these State governments have an existence. I contend that the power of the President of the United States over this subject ceased the moment the war ceased, and certainly ceased the moment that the Congress of the United States convened. Who has the power under the Constitution of the United States to determine in reference to the status and condition of these States? But first it is perhaps necessary to determine what under the Constitution is a State. A State, in public law, is thus defined by Chancellor Kent:

"A State, in the meaning of public law, is a complete or self-sufficient body of persons united together in one community for the defense of their rights."

This is the description of a State under the public law and as recognized by the laws of nations, and is applicable to the United States as a State, and is not applicable to any single State under the Constitution of the United States. They have not the rights of sovereignty; they may not declare war; they may not nego-

tiate peace; they may not enter into foreign alliances; they may not do a thousand things that sovereign and independent States may do. Then the term "State" in public law characterizes the position simply of the Government of the United States. That is the government of one State as recognized by the laws of nations. The States under your Constitution are essentially and entirely different things. Their whole power is derived from the Constitution, and must be exercised under the Constitution, and the moment they repudiate their allegiance to the Government and trample upon the requirements of the Constitution, that very moment they cease to be States under the Constitution, and never having been States by virtue of public law they have no entity and no existence. It seems to me, then, that the mere definition of a State under public law and a State under the laws of the United States is sufficient to answer this whole argument. But lest I may be suspected of unfairness I will read further:

"A State, in the meaning of public law, is a complete or self-sufficient body of persons united together in one community for the defense of their rights. It has affairs and interests; it deliberates and becomes a moral person, having understanding and will, and is susceptible of obligations and laws."

Such is the definition of a State as defined by the distinguished Senator from Wisconsin. Then I contend that these are not States; and yet, with an impudence without parallel in the history of the world, and with an insolence unknown before, these pretended States come here and claim to be represented in the Congress of the United States; and their claims are echoed by their sympathizers here and elsewhere. For four years they have sought to overturn the Government; they have brought upon the country this terrible war, involving an expense of \$3,000,000,000, and involving the loss of more than half a million of your brave, martyred soldiers, who now sleep the sleep of death, victims of this terrible rebellion; and at the end of four years they come here, without penitence, without contrition, without works meet for repentance, and demand under the Constitution the right to representation! These six million rebels in the South claim the right not only to represent themselves, but to represent four million loyal men whom they have disfranchised, in the councils of the nation! And the distinguished Senator from Wisconsin, in the close of his speech said—I quote his words:

"Mr. President, inasmuch as the people of the South had no cause for the commencement of the rebellion, let us be careful not to furnish them with one for the justification of similar attempts in the future by forcing upon them taxation without representation, placing them where they can avail themselves of the precedent sanctified by the struggle of our revolutionary fathers. Though they have been confessedly in the wrong and have committed a great crime, let us not violate our own sense of justice by heaping upon them the very outrages which justified the colonies in resistance to a similar exercise of power on the part of Great Britain."

Here, then, is the close of the argument of the distinguished Senator from Wisconsin. Hitherto, he admits, they have had no cause for rebellion; but the argument is, that if we refuse now to admit them upon equal terms as sovereign States, they will have the same right to rebel against our authority that the thirteen colonies had to rebel against the tyranny of Great Britain. The proposition is monstrous. What is it? Have we arrived at a point in the history of this country when these people have a right to demand recognition as sovereign States, a right to participate in the Government of the country? Less than twelve months ago mighty armies in hostile array were drawn up before Richmond and in different portions of the confederacy to contest the supremacy of the national authority. The green grass has not yet had time to grow upon the graves of your illustrious and martyred dead; the wail of the widow is yet heard in the land; the tear of the orphan yet falls; less than twelve months since the hired emissary of the rebellion struck down the President in the capital of the nation, and we are told at this time if we refuse representation to these people we give them

cause for rebellion; and they are compared to our fathers, who resisted British oppression; and that we should "conciliate," and yet further, that we should "compromise." What has ever been accomplished by conciliation and by compromise? I shall refer to that in a subsequent portion of my remarks. We are yet called upon to conciliate and to compromise! Let it be known now and forever, let it be recorded in history so that the waters of another deluge can never efface it, that this triumph of the nation was a triumph of arms, a triumph of force; that we owe nothing to the magnanimity of the rebels arrayed against the Government. Not one single step have we ever taken for the suppression of this rebellion looking to conciliation which has ever for one moment weakened them or strengthened us. The withdrawal of the proclamations of Fremont and Hunter giving freedom to the slaves of rebels, the delay of President Lincoln's proclamation of emancipation, these acts were attributed to our fears and weakness, not to our strength and magnanimity.

But, Mr. President, various plans of reconstruction are now proposed. I have referred to the plan of the President of the United States. It is said he left the qualification of electors and the right of suffrage to the States because it properly belonged to the States. I grant you that under my construction of the Constitution, it belongs to the States having a right to exercise it, not having forfeited their rights by rebellion, but I deny that these rebel States are in any such condition. What are the constitutional provisions upon the subject of suffrage? First—

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations except as to the place of choosing Senators."

The President in his proclamation takes it for granted that it is right and proper to leave this whole question to the determination of the States, and I agree with him so far as the loyal States, who have never forfeited their rights by rebellion, are concerned; but I contend there are no States in these rebellious districts having a right to exercise any such authority. Then there is another provision of the Constitution that the electors in each State to vote for members of Congress shall have the qualifications requisite for electors of the most numerous branch of the State Legislature. Then there is still another grand guarantee in the Constitution, that the Government of the United States shall guaranty to each State in this Union a republican form of government. Now, I suppose that in the formation of that Constitution, its framers and authors intended that, in the first place, these States should have a right to regulate the right of suffrage, but that right was to be limited and modified by the Congress of the United States whenever that limitation and modification was necessary to insure a republican form of government. That I suppose is the truth.

But, Mr. President, letting the past effort of the President of the United States to reorganize these rebel States go by without making war upon it, I have simply this to say: if the President of the United States had a right to regulate suffrage at all, he had a right to specify every condition under which suffrage should be exercised. In his proclamation, he has disfranchised fourteen classes of persons, all numerous, who were to have no right to vote, and who were voters under the constitution of North Carolina, and this exclusion was clearly right under the circumstances; and if the President had a right to say that a rebel under certain circumstances should not vote, he certainly had a right to say that a loyal man under all circumstances should vote. I make no war, as I before remarked, upon the President's plan of reconstruction if I understand what that plan is. If by the President's plan of reorganization you simply mean that we approve what the President under the necessities of the case has done with a view to the reorganization of the rebel States, I have only this to say: that I find fault with nothing

in the proclamations providing for a provisional government in North Carolina, and the other States lately in rebellion, except the right granted in those proclamations for rebels to vote and the disfranchisement of loyal people. As far as possible, for purposes of convenience, I would recognize the present State organizations, I would recognize the present State boundaries. But if the President's plan means that we shall now, here and to-day, open wide the doors for the admission to these rebel representatives into Congress, then I am against it; I am opposed to it; they cannot be admitted at present with benefit to themselves or safety to the nation, and the resurrection trump shall sound the summons of these rebels to the general judgment before my voice or vote shall summon them to these Halls. [Applause in the galleries.] I have seen no evidence that the President desires the immediate admission of rebel representatives.

The PRESIDING OFFICER, (Mr. CLARK.) Order! Order!

Mr. LANE, of Indiana. But, Mr. President, it has been said that we are already precluded, that our hands are tied, that Congress has already recognized the existence of these States. Let us, if you please, look for a moment at that position. I have already shown you that Presidents Lincoln and Johnson in their proclamations recognized the fact that these States are dead, dead *de jure*, dead *de facto*, and that they have no rights under the Constitution. They have no rights under their present organization—otherwise President Johnson would not have appointed provisional governors for them; otherwise he would not have fixed the qualifications of their voters, and by telegraphic communication, conveniently arranged, he would not have said to them, "Thus far shalt thou go and no further," do this and be States, do that and be out of the Union, until these organizations come to be the creatures of the Administration and not the voluntary act of the free people of the rebel States. It is of the very essence of a republican form of government that it shall have the approval of those to be governed by it.

Now, how has Congress regarded this question? You are told that Congress has recognized the present existence of these States, and how? That we have passed an apportionment bill apportioning certain representation to the southern States; that we have passed a bill for the collection of a direct tax, and have apportioned that among the people of the rebel States under the constitutional ratio and basis. All that we have done. What do these acts mean? They mean simply this: that the census had been taken; the duty of Congress to apportion the representation among the States was upon us; and we legislated upon that subject, not so much with regard to the present condition and relation of these States, as with regard to an anticipated condition to exist in the future, when these States then in revolt against the United States should be entitled to representation, and when we should be in a condition to collect taxes from them.

For instance, whenever the States were entitled to representation, their representation should be under that bill; and whenever we were prepared to collect taxes they should be collected under that bill. Thus far and no further has the action of Congress recognized these people as existing States. Yet we are told that Congress have by their legislation precluded themselves and tied their hands, that they have said in the apportionment act and in the direct taxation act that these were existing States. I have shown you that that legislation had reference, and by possibility could have had reference, to nothing except the future. For instance, when they were entitled to representation it was fixed; when we were prepared to collect taxes, that was the proportion in which it should be collected.

But let me show you other acts of the Congress of the United States proving that the existence of these States was totally and entirely ignored. By the Constitution of the United

States a majority of all the representatives in Congress in each House constitutes a quorum. By the deliberation of the House of Representatives and the Senate of the United States, it was determined that a majority of the Senators and Representatives of all the loyal States represented here should constitute a quorum. Now, one of two things is true: either that law was just and proper and constitutional, or all your legislation for the last three years has been unconstitutional. The Constitution fixes one quorum recognizing all the States; you fix another quorum recognizing simply the States that have never gone into the rebellion. Then, so far as that act is concerned, both Houses of Congress are precluded from taking the ground now that these are existing States under the Constitution.

But let me refer you to another instance showing clearly the view which the Congress of the United States took upon this whole subject. Prior to counting the votes for President and Vice President in 1865, both Houses of Congress passed a joint resolution that whatsoever candidate might receive or had received a majority of the electoral votes cast by the loyal States who had never gone into the rebellion, should be declared the legal constitutional President and Vice President of the United States.

There are two express acts of Congress utterly ignoring, for the time being, the existence of these States, and the President of the United States to-day holds his high office under Providence and under that joint resolution of the two Houses of Congress, utterly ignoring the present existence of the rebel States. Yet we are told that the annihilation of a State presupposes the annihilation of the Union. Is it so? By virtue of the Constitution itself, when nine States ratified the instrument we became the United States of America. Suppose that four States had never ratified it, then the argument is that though the Government of the United States would have been formed if four States had never ratified the Constitution, yet we are told the moment one State withdraws, that very moment the Constitution is rendered void, the nation is destroyed, the Union cannot exist. It was only necessary to get the concurrence of nine States, leaving four out, and we were a complete State under the laws of nations, having all the powers of a sovereign State even though four States had never entered the Union at all; and yet it is held that the annihilation of one single State would destroy the United States and the Union formed under the Constitution. If it had pleased Almighty God to strike out of existence, and to have caused the waves of the Gulf stream to roll a hundred fathoms deep over South Carolina in 1861, the United States would nevertheless have been a proud, prosperous, and mighty nation, entitled to all the rights of sovereignty under the laws of nations.

But, Mr. President, gentlemen state the argument very plausibly; they say that secession is unconstitutional, that rebellion is illegal, and therefore null and void, and that a null and void act cannot operate to take any State out of the Union. An act may be null, and far from being void. An act may be illegal and unconstitutional, and far from being void. This rebellion was illegal and unconstitutional, but it was fraught with terrible consequences to the people of the South and the people of the North.

But we are asked, did the ordinance of secession carry a single State beyond the pale of the Constitution? I answer you that the simple ordinance of secession did not. They might have resolved, and resolved, and resolved a thousand times, and it would not have operated to carry them out of the Union. It was not the act of secession, but the act of open, violent, and flagrant war made upon the Union. They might have resolved to secede every day in the year, and still have abided by the laws of the United States, and their resolutions would have had no effect. The moment they declared war and became not only domestic traitors but alien enemies and belligerents, that very moment, for the time being, their consti-

tutional relations to the United States were changed, and they can only be restored by the Congress of the United States. The people have too long looked to the President for a plan of restoration and reconstruction. They have looked to him for that which he has no power to grant. Look to Congress. Congress alone, embodying the will of the whole people, in whom resides the sovereignty of the nation, can recall and restore these States to their proper relations to the General Government.

Sir, that is the Constitution. The Constitution says that the United States shall guaranty to every State in this Union a republican form of government. How can the President carry out that guarantee? He may appoint his marshals with your consent; he may appoint his postmasters with your consent; he may appoint his revenue officers; but suppose in the mean time an aristocracy is organized in any one of these States, or an oligarchy, or a despotism, the President is powerless to enforce this guarantee of the Constitution. It can only be done by legislation—legislation in Congress; and lest I may state that principle too strongly, I desire to refer to the Supreme Court decision in the case of *Luther vs. Borden*, not for the purpose (I disclaim all such purpose) of endeavoring to shed additional light on this decision after the able and exhaustive argument which we have heard from the Senators from Massachusetts and Maryland, and other Senators, but simply for the purpose of preserving the consistency and continuity of my own argument. This is a decision of the Supreme Court that I refer to with much more pleasure than I shall have if I have occasion to refer to the decision in the *Dred Scott* case, for then the Supreme Court was the representative of the highest legal learning, ability, and integrity in the nation. Mr. Chief Justice Taney, in *Luther vs. Borden*, in 7 Howard, said:

"The fourth section of the fourth article of the Constitution of the United States provides that 'the United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion; and, on application of the Legislature, or the Executive, (when the Legislature cannot be convened,) against domestic violence.' Under this article of the Constitution it rests with Congress to decide what government is the established one in a State; for, as the United States guaranty to each State a republican form of government, Congress must necessarily decide what government is established in a State, before it can determine whether it is republican or not in form. And when the Senators and Representatives of the States are admitted to the councils of the nation, the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority, and its decision is binding upon every other department of the Government, and cannot be questioned in any judicial tribunal."

Here, then, is the broad ground asserted that Congress has the power to guaranty a republican form of government, and consequently in the event of a conflict, as was the case in Rhode Island, between two separate organizations, each claiming to be the State of Rhode Island, the Supreme Court says Congress has a right to decide, by the admission or the non-admission of members, which is the proper State government in Rhode Island, and that is a political question to be decided by Congress alone. It is not subject to any appeal to the courts of the country or to the President of the United States. It is final and conclusive; Congress alone has this power.

Now, Mr. President, conceding as all lawyers must the existence of the power, the duty necessarily results to exercise the power, and Congress is now called upon to decide whether there are any State organizations which can be recognized; and when Congress shall decide there is no appeal to the Supreme Court; there is no appeal to the President. The voice of the nation has been heard, and it is final, and final forever. And it is well that this high power is reposed in Congress. Otherwise you would make your President a dictator; otherwise the voice of the people might never be heard. Sir, we have not run to meet this issue; we have not forced it upon the country. It is upon us. We stand in the presence to-day of terrible realities. Timid counsels and illusory

and speculative theories will no longer prevail. We to-day are to stand true to our own grand mission, or we are to prove recreant to the high trust reposed in us. What is, under Providence, the sublime mission now devolved upon the Congress of the United States? "To break every yoke and let the oppressed go free;" to batter down prison walls and prison bars; to declare the equality of all men before the law, as they are equal before God. This is the grand mission which is now upon us, which we may not avoid or evade.

And, Mr. President, history is continually repeating itself. After three quarters of a century, after we have run the round of long outrage and oppression against the poor African, to-day we have come back to the proud standpoint where our ancestors stood when they gave utterance to that proud, that noble enunciation which shook the despotisms of the world, that "all men are created equal," have inalienable rights. After making the whole circle of history—it has taken us seventy-five years—we have come back to the proud position of the fathers, and we stand upon that principle, and there may stand with safety. Compromises, conciliations, temporary expedients, are evanescent and pass away, but principles are eternal, eternal as truth, eternal as the attributes of God himself. Then let us stand not upon expediency, but upon that grand principle enunciated by the fathers in the Declaration of Independence.

But, sir, I have been led aside from the investigation of the congressional and executive action upon this subject. I have shown you that some acts have been passed by Congress utterly ignoring the present existence of these States, as for instance in the quorum rule and the law regulating the election of President. I have shown you that, while the taxation bill and the apportionment bill seemed to recognize the present existence of the States, they evidently look to the future for execution, and are provided not for a present contingency, but for a possible contingency which may arise in the future. I have shown you that the presidential action on this subject on the one hand has recognized the existence of the States, and upon the other has utterly ignored that existence. The proclamation appointing provisional governors ignores to all intents and purposes the constitutional existence of these States. The proclamation of the Secretary of State recently issued, stating that the constitutional amendment had received the sanction of three fourths of the States, counting the rebel States, seems to recognize the existence of the States.

Then the action both of Congress and of the President on this subject has been contradictory; but for the purpose of my argument, I shall take it for granted that these States in their present anomalous and unanticipated position are not in such a condition as to participate in the government of the country. Then how shall we restore them? You have listened to the presidential plan for restoration. I now propose to show you some plans which have been suggested in Congress, and to direct your attention to the various congressional plans for the restoration of these States.

Some must vote under any plan of restoration, for, the consent of the governed, expressed and known through those whom they select for the purpose, is the foundation of government. It has been said that the right to vote gives the power to rule, and under our system of government that is a truism which needs not to be proven. Ours is a Federal elective Republic; representation is recognized, and the right to select rulers is the right to rule. Hence the importance of the right of suffrage in this country. Now, suppose that the loyal white voters alone in the South are recognized—a plausible theory and not without its supporters—let us see how that plan would work.

I have seen a calculation, which I accept as correct, that nine out of ten of the white voters in the rebel States have participated in the rebellion, excluding those excluded by the President's proclamation. We shall then have only

about one hundred and twenty thousand loyal white voters, a number far too small to inaugurate and carry into successful operation a government. Suppose you allow only loyal voters in the rebel States to organize government, and recognize simply the loyal citizens as the State, then how does it stand? You have in the eleven rebel States but one hundred and twenty thousand loyal voters—a basis too small, altogether too small, to answer the guarantee of a republican form of government. Then I take it for granted that no one will now contend that you can organize these eleven States with one hundred and twenty thousand voters; and if you could you would give those one hundred and twenty thousand voters as much power as one million voters in the North. Then the inequality of the measure, aside from its impracticability, would at once discard this as a basis of reconstruction. We cannot rely on the one hundred and twenty thousand loyal votes alone in the midst of a population giving one million two hundred and fifty thousand votes.

Let us take another plan of reconstruction; let all the loyal and disloyal white voters vote; what then? The rebels outvote the loyal voters in the proportion of ten to one. If you let the loyal whites and the rebel white voters reconstruct, the rebels outnumber the loyal in the proportion of ten to one, as before stated; you give over, tied hand and foot and cast into utter darkness, the loyal whites and the loyal blacks into the control of the million rebel voters. Is that to be tolerated for a single moment? That which they failed to accomplish by force of arms they seek to accomplish by the ballot. They belaguered the capital for long months, and their flaunting banner was seen in view of the Capitol. They failed to take it. Now they propose to take it, and you propose to give it to them by means of reconstruction. In the act of triumph have we been defeated, in the hour of victory are we the vanquished?

But we are told these gentlemen surrendered and they are entitled to magnanimous treatment and kind consideration. How did they surrender? When further opposition was perfectly hopeless. You owe nothing to negotiation. You owe nothing to compromise. This peace was achieved at the mouth of the cannon, was written in blood by the point of the bayonet upon a subjugated confederacy; and yet gentlemen talk about rights they have acquired by surrender! It was the triumph of force and nothing else.

Let us look at these other plausible plans of reconstruction, for bear in mind that in any plan devised somebody must vote, otherwise we cannot have a Federal elective republic, otherwise we cannot carry out the guarantees of the Constitution. Somebody must vote, and if the States are to be admitted immediately, somebody must vote now, and who shall that body be?

There is another inequality, a gross inequality, in permitting all the rebels and all the loyal whites to vote. By the freedom of the blacks there is added one and a half million to the representative population of the rebel States. Under the ratio as contained in the present provision of the Constitution three fifths of the black slaves are counted for purposes of taxation and representation; they are chattels for one purpose, things for another; persons for one purpose, property for another. We have come to the point now when we propose to strike down this anomaly in the Constitution of the United States. One and a half million is added to their representative population. Do you propose to have them come in with that increased power? I thought you were to punish traitors and to make treason odious; and how do you propose to punish traitors? By an amnesty wide and sweeping in its operation, and by inviting these rebels into the Halls of Congress with an increase of fourteen members to their representation? Is not this a strange mode of punishing traitors and making treason odious? And yet without the amendment now proposed

to the Constitution of the United States, we not only receive them back with all their rights and privileges under the present Constitution unimpaired, but it is proposed voluntarily to give them a representation of fourteen more members in the House of Representatives. What have they done that they appeal thus mightily to our sympathies, that we should not only invite them back, consider the past as utterly gone and obliterated, and ask them to share with us the equal privileges of this free Government, but with the privilege of fourteen additional members of Congress in the House of Representatives? I take it for granted, then, that this plan of reconstruction has no friends and no supporters in the Congress of the United States.

By the freedom of the blacks, as before stated, one million and a half is added to the representative population of the southern States. Before the rebellion six millions in the South had the political power of eight and a half millions in the free States, and if no amendment in the basis of representation as contemplated is made, they will have about the same political power with ten millions in the North, and then they would not represent their slaves as slaves, for every one has now become a freeman and is counted for the purposes of taxation and representation as a man—a free man.

Another plan is to let all the loyal white men vote and all the rebels vote. Let us see how this will operate. This great inequality will still exist in the relative political influence of a voter, North and South, and the latter would have about double the power. Very nearly the same inequality as exists under the President's proclamation would still exist, and the rule would be in the hands of the rebels, they being largely in the majority.

Another plan proposed is to let all the loyal whites and blacks vote, and as many rebels as these votes can control; and why as many rebels as these votes can control? Simply because we do not propose to give this Government, North or South, into the hands of rebel voters. We do not propose any such thing.

There is another plan, now exploded, of colonization, utterly impracticable, and so determined by the enlightened judgment of Congress and the whole people of the United States. I will not disguise the fact that I should prefer a separation of the races if it were practicable. I well know that prejudice exists against the colored race—a prejudice almost ineradicable; but it is wholly impracticable to separate them now. We have no territory for them; we have no means adequate to it, and we cannot force them as freemen to emigrate whether they will or not. Then I throw out of the calculation entirely this whole plan of colonization.

We are brought to the question, upon what safe basis can the States be restored to their constitutional relations to the United States? It cannot be done upon the basis alone of the loyal voters, for they are inconsiderable, and would be utterly overwhelmed by the rebel voters. It cannot be done by giving the rebel voters the power to control the legislation of the country. Now, suppose for one moment that you should determine that a reconstruction should take place based upon the votes of the rebels, what would be the result? What are the great questions now engaging the attention of the people, and which will engross the legislation of the country for the next half century? Questions of taxation and revenue. Do you suppose they will willingly tax themselves to pay the interest upon the immense debt created for their subjugation and overthrow?

There are other questions you will be called upon to decide. You will have to provide a fund for the payment of your invalid pensioners. Think you that they will vote willingly to raise money to pay the pensions of your invalid soldiers when their own invalid pensioners are excluded? Can you hope for any cordial cooperation between the rebels and yourselves upon any of these great subjects of national legislation? Suppose you admit them here in the Senate,

they not only vote upon all these high questions, but they counsel in reference to executive appointments; they counsel in reference to the confirmation of treaties; and their power for evil is almighty the moment you admit them with all the privileges of regularly organized and constituted States. I tremble in view of the evil consequences which would result, from the admission of rebel members, to your national debt, to the national credit, the plighted faith of the nation to your bondholders, the plighted faith of the nation to your invalid soldiers, the plighted faith of the nation to your living and dead heroes. For what have they contended during the last four years? The national Union and the integrity of the national territory. And to what lame and impotent conclusion have you arrived when you say now, after the war is over, these men are to be called upon in council with yourselves to determine all this legislation, and to fix the very terms upon which they are to be admitted to participate in the Government of the United States. I, for one, will never sanction any such plan.

But what is the remedy? I have already shown you that the rebels are not fit to vote. Let me show you further that they are not and cannot be fit to legislate. What is there in their antecedents, prior to the beginning of the rebellion, which can lead us to suppose they are at present qualified as voters? They rebelled without cause against a Government which they had only felt in its benefactions. They rebelled without cause against free institutions. They rebelled for the purpose of establishing an aristocracy of caste and color and wealth and blood upon the free institutions of the United States. It was the old war renewed a thousand times of pretended Democrats against democracy. This lay at the foundation of their rebellion. They had no single cause of complaint against the national Government—not one. They simply rebelled for the purpose of establishing an aristocracy founded upon slavery. Is there anything in the inception or prosecution of this war convincing you that they are now fit to participate with us in the government of the country? How was the war commenced? Under the administration of that weak and wicked old man, James Buchanan, treason was hatched in his own Cabinet. They commenced by betraying the country, by scattering your Navy, by taking possession of your arsenals, by stealing your arms, by violating their oaths to support the Constitution, abandoning your service and your flag. This was the commencement of the war; and how, I ask you, has it been prosecuted? At every step in open violation of the laws of civilized warfare; by the murder of prisoners in cold blood; by the starvation of your prisoners in prison pens; and by trampling under foot all the high sanctions of national law and of morals. These measures have characterized the prosecution of the war. What is their present position? How do they stand now? You find in the South various indications of their temper and disposition. You have a law upon your statute-book that no man shall hold office except he shall take a certain test oath that he has not willingly rendered aid and assistance to the enemies of the country. Under these pretended State organizations they have held elections, and in open defiance of that law they have elected rebels to seats in the Congress of the United States, men who boast of their services to the confederacy, whose only claim to support consisted in the fact that they were heroes of the rebellion.

We find the same tone evinced in many of the southern Legislatures. What is their legislation in reference to the freedmen? The slave codes in substance still in force. Some, I grant you, have repealed the ordinances of secession; some have declared them null and void, but not one of them has done justice to the colored freedmen—these orphan children of the Republic: these wards of the nation, whom you are bound to protect, and whose freedom before God and man you are bound to maintain. Not a single one of these rebel State Legislatures has protected the rights of the freedmen. They

hiss your national airs, they spit upon your national flag, they celebrate rebel victories, and they glorify rebel heroes; and yet you are asked to admit them into this body. Oh, yes; admit Toombs and Davis and Wigfall and Breckinridge and all the red-handed traitors who left these Halls so defiantly in 1861.

Look even to the State of Kentucky, who has maintained her loyal standing in the Union; what is her present position? You were told recently that the operations of the Freedmen's Bureau should not be extended to Kentucky. Oh! no. Leave loyal Kentucky untouched! She has filled her quota in the Army of the United States. Yes, sir; and more than filled her quota in the rebel army. When the President of the United States issued his first proclamation for troops how was it answered by the Governor of Kentucky? With insult, outrageous insult, and a refusal to furnish a man. The people of Kentucky then placed themselves upon the ground of neutrality—a ground as utterly unconstitutional and revolutionary as was secession itself; and recently, in the proud old Commonwealth of Kentucky, the Legislature has repealed all laws disfranchising rebel voters in that State. To-day they have a right to vote; to-day they have a right to hold office; to-day their slave code rules with a rod of iron the freedmen in that State; and yet we are told that it is improper to apply the provisions of the Freedmen's Bureau bill to the State of Kentucky.

I say these things "more in sorrow than in anger." A native of that proud old Commonwealth, I glory yet in her history; but it is in her history in her palmier days, when the clarion voice of Henry Clay in defense of the rights of mankind and the rights of the nation was heard throughout that old Commonwealth. I listen now in vain for that trumpet-toned voice which was like the bugle-call to battle for the right. If in Kentucky the rebel element is in such a condition, what is it in the States lately in rebellion?

Before I pass from the noble Commonwealth of Kentucky let me say that thousands upon thousands of her sons and citizens have sealed their devotion to the Union with their blood upon the battle-field. No braver and nobler troops have filled the armies of the Union than have gone from Kentucky. I speak not of loyal Kentucky in my censure, but of the rebel element in Kentucky, which I believe now predominates in that State. So much, then, for their present position. Are they in any fit condition to be invited here to participate with us in the government of this country? In my opinion they are not.

I have spoken of the presidential plan of reconstruction and of other plans. I now propose to speak of the congressional plans, and I invite the attention of the Senate and of the people to these plans of reconstruction, for they alone will prevail. You will look in vain to the President to inaugurate a system of reconstruction. He has no power under the Constitution, however patriotic his intentions may be. What, then, are the congressional plans? I shall first speak of the present proposed amendment to the Constitution, which has already passed the popular branch of Congress and is now before us. It is that the basis of representation shall be the actual number of inhabitants, casting out of the account Indians not taxed and all those that shall be excluded in any State on account of race or color.

This amendment, as I have already endeavored to show, will do away with much of the irregularity now existing, and which would exist under a different state of things, the blacks being all free. So far as the amendment goes, I approve of it, and I think I shall vote for it, but with a distinct understanding that it is not all that we are required to do, that it is not the only amendment to the Constitution that Congress is required to make.

Then there is a counter-proposition, introduced by the distinguished Senator from Massachusetts, [Mr. SUMNER] which proposes to declare by an act of Congress that no one shall

be excluded from the right of suffrage on account of race or color. If Congress had the undoubted and unquestionable authority to pass such a law, it gets at the result more readily than does the constitutional amendment; but it is doubtful to my mind whether Congress has this power. I believe, under the Constitution, the right to determine the qualifications of electors is left with the several States. This law would operate upon all the States. My State having forfeited by treason no one of her constitutional rights, I do not believe that Congress has a right to intervene between her and her people and fix the qualifications of voters. However I might be willing to yield the question that the rebel States having forfeited all their rights, such a law of Congress would be constitutional as applied to them, I cannot recognize the proposition that such a law is constitutional as applied to States in the Union who have forfeited none of their political rights or franchises; and even if I were clear upon the subject I should not be willing to leave the legislation in this shape, for it would open an everlasting controversy in the courts as to its constitutionality, and the matter would always be in doubt. However good in itself, it is, as I think, ineffective in its operation, for the reasons so ably set forth by the distinguished Senator from Maine [Mr. FESSENDEN] yesterday. It is a noble declaration, but a simple declaration, a paper bullet that kills no one, and fixes and maintains the rights of no one.

Then the same thing is sought to be achieved by the amendment proposed by the distinguished Senator from Missouri, [Mr. HENRISON], which is a simple amendment to the Constitution of the United States, that no one shall be excluded from the exercise of the right of suffrage on account of race or color. That begins at the right point. The only objection to it is that its operation cannot be immediate, and in the mean time the rebels may be permitted to vote, and its adoption by the various State Legislatures is exceedingly doubtful. I should not doubt, however, that we might secure its adoption by three fourths of the loyal States who have never seceded, and I believe that whenever that question is presented the Supreme Court of the United States will determine that a ratification by that number of States is a constitutional approval of an amendment so as to make it the supreme law of land. I have no doubt about it.

Mr. President, what do we propose to do? We see that it will not do to give power in the rebel States to the rebels. We see that the Union white men are but an inconsiderable minority, and they cannot be trusted there to organize States. Then if the States are to be organized immediately, the only question is whether the right of suffrage shall be given to rebel white men or loyal black men. The amendment of the Senator from Missouri meets that issue squarely in the face. Whatsoever I desire to do I will not do by indirection. I trust I shall always be brave enough to do whatsoever I think my duty requires, directly and not by indirection.

What is the argument in favor of this proposed amendment to the Constitution? That by limiting the basis of representation you will induce the people of the South to give the right of suffrage to the negro. In the first place, I do not believe it will have that effect; and in the second place, if it would, you are asking me to do by indirection that which I as a brave and honest man prefer to do directly. Still, this amendment having been passed by the House of Representatives, and having received the approval of the distinguished joint committee on reconstruction, and looking on it as a step in the right direction, I shall vote for it, but with the distinct understanding again expressed that other amendments are to follow.

What are some of these other amendments which, in my opinion, should follow prior to any restoration of the rebel States? You should first pass an amendment to the Constitution forbidding for all time to come the assumption of the rebel debts and forbidding the repudia-

tion of the national debt. This should be approved by the Legislatures of the rebel States, and any amendments of the constitutions of the rebel States should be approved by a vote of the people. The guarantees they have given in reference to the rights of loyal men and in reference to the rights of the freedmen are not enough. Though their conventions acknowledge emancipation to-day, they may call conventions the day after you admit them and fix their constitutions differently, or they may so legislate as to oppress the freedman and make his condition of freedom more intolerable than was his condition of slavery.

Then there should be another constitutional amendment passed requiring and empowering in express terms the Congress of the United States to carry out and give effect to every guarantee of the Constitution. Heretofore the guarantee of a republican form of government has been a dead letter. I wish Congress, by a constitutional amendment, to furnish power to carry out every single guarantee of the Constitution, most especially that provision of the Constitution guarantying a republican form of government to every State. The framers of the Constitution, the founders of the Republic, themselves recognized the existence of the separate States with these unrepugnant provisions in their constitutions; but we are required now to begin anew. Old things are done away, and all things have become new when four million people have been suddenly enfranchised in this our day. You are called upon to admit South Carolina, for instance. What questions have you to decide preliminary to that admission? What conditions precedent to admission exist in the Constitution? First, you are to say upon your oaths and upon your consciences that South Carolina presents a republican form of government. Can any man in his sober senses, reared in the light of free institutions, in the middle of the nineteenth century; can any free American citizen, with one single impulse or aspiration of liberty warming his heart, say that that State government is republican in form which disfranchises a majority of its citizens? It is not republican in form according to any American definition of republicanism. The freedmen are citizens of the United States; not citizens under the naturalization law, not citizens by virtue of any treaty, but citizens because they are born natives to the soil. That makes them citizens. To fortify this conclusion, let me read from Mr. Justice Story's Commentaries on the Constitution:

"It has always been well understood among jurists in this country that the citizens of each State constitute the body-politic of each community, called 'the people of the States'; and that the citizens of each State in the Union are *ipso facto* citizens of the United States."—3 Story, p. 595.

Colored men have been for long years citizens in many of the States, and are *ipso facto* citizens of any State of the United States into which they may choose to go. Let me read another authority:

"The citizens of each State constituted the citizens of the United States when the Constitution was adopted. The rights which appertain to them as citizens of those respective Commonwealths accompanied them in the formation of the great compound Commonwealth which ensued. They became citizens of the latter without ceasing to be citizens of the former; and he who was subsequently born a citizen of a State became at the moment of his birth a citizen of the United States."—Rawle on the Constitution, p. 88.

Chancellor Kent is still more explicit on the present point, for he says distinctly:

"If a slave born in the United States be manumitted, or otherwise lawfully discharged from bondage, or if a black man be born within the United States, and born free, he becomes thenceforward a citizen." [2 Kent's Commentaries, fourth edition, p. 257, note.

There is the direct declaration of Chancellor Kent that the moment the slaves are manumitted they become citizens of the United States. Before manumission they were held as slaves and treated as chattels; the moment they are manumitted they become citizens to all intents and purposes. I doubt not then, that this construction of the Constitution is true.

But I was proceeding further to speak in reference to the congressional plan of restoration

as considered not as antagonistic but as auxiliary to the presidential plan of reconstruction. We have these various propositions for the amendment of the Constitution of the United States. We have a bill lately passed by this body for the enlargement of the powers of the Freedmen's Bureau, giving protection to the freedmen whom we are bound to protect. By the most sacred of all obligations—obligations of gratitude, duty, and interest—we are bound to protect them. They are free by the proclamation of your President, by the amendment of your Constitution, by the valor and prowess and blood poured freely upon the battle-field. They are free, and it is ours to maintain their freedom. The bill to enlarge the powers of the Freedmen's Bureau is one of the most important measures in the series of congressional acts for the restoration of these States, every provision of it. Then there is another act recently passed by this body to secure the rights of all the citizens of the United States where the grand declaration is made, in affirmation of what was previously the constitutional enactment, that these manumitted slaves become citizens upon their manumission, and they are now to all intents and purposes citizens of the United States. Shall you enfranchise them or shall you hold them as a subject race? You are told, and told with some confidence, that if you permit them to exercise the right of suffrage you will invite a war of races which will end in their extermination. Let us look for a moment to that proposition.

In all of the thirteen colonies (with the single exception of South Carolina, whose treasonable history has marked and marred the annals of the nation from the revolution down) they were citizens; they were voters under the constitutions of the States under the Articles of Confederation; they were voters and citizens in almost every State whose constitution was formed during or immediately subsequent to the era of the Revolution. Did any such results follow? Were there any riots and bloodshed?

Gentlemen tell us that the cases are not analogous, because there were but few and sparse and scattered populations of blacks in the midst of a large population of whites in the northern States where they were permitted to vote, and therefore it is not a fair test. I say they were permitted to vote in North Carolina; they were declared citizens by the supreme court of that State. They were permitted to vote in Tennessee. There was no outbreak or insurrection in either of those States. If you wish to avoid a war of races, how can that be accomplished? By doing right; by fixing your plan of reconstruction upon the indestructible basis of truth and justice. What lesson is taught by history? The grand lesson is taught there that rebellions and insurrections have grown out of real or supposed wrong and oppression. A war of races! And you are told to look to the history of Ireland, and to the history of Hungary. Why is it that revolution and insurrection are always ready to break out in Hungary? Because, forsooth, the iron rule of Austria has stricken down the natural rights of the masses. It is a protest of humanity against tyranny, oppression, that produces rebellion and revolution. So in the bloody history of the Irish insurrections. Suppose the English Parliament had given equal rights to the Irish, had enfranchised the Catholics in Ireland in the reign of Henry VIII, long ere this peace and harmony would have prevailed between England and Ireland; but the very fact that a vast portion of a people are disfranchised sows the seeds of continual and ever-recurring revolution and insurrection. It cannot be otherwise. These insurrections and revolutions, which are but the protest of our common humanity against wrong, are one of the scourges in the hands of Providence to compel men to do justice and to observe the right. It is the law of Providence, written upon every page of history, that God's vengeance follows man's wrong and oppression, and it will always be so. If you wish to avoid a war of races, if you wish to produce har-

mony and peace among these people, you must enfranchise them all.

But we are told that they are not now fit to be voters. Grant it that they are not fit for voters; and what is the remedy? What are the elements which enter into the character of a man that makes him a fit voter? Intelligence and love of country. Those are the elements. Will you give the intelligent voter of the South who is a traitor the ballot and deny it the patriotic voter simply because he is black and it may be ignorant? There is more safety in an uneducated patriotic ballot than there is in a cultivated felon and scoundrel ready to destroy the Government at every moment by his treason. I grant that the blacks are unfitted at present to exercise the right of suffrage. They have groined for two hundred years, more than two centuries, under oppression. It was a crime for them to learn to read and write; the word of God was sealed to them; they were regarded as mere property and chattels; merchandise was made of their blood and bones, body and soul, and their manhood was utterly ignored. Is it anything strange that they should not be now as well prepared to vote as the white citizens? I grant they are not; and my plan of reconstruction would be this: to pass an amendment to the Constitution of the United States that after a certain length of time, say one, two, three, or five years, all persons, black and white, without any distinction of race or color, who could read the Constitution of the United States, should henceforth be voters, not disfranchising any now entitled to vote. I would give these people the inducement to learn and to cultivate themselves, and before that amendment took effect I would disfranchise the rebel voter just as long; and when the rebel voter was allowed to deposit his ballot, I would arm the freedman with the ballot to meet him. That is what I would do. This implies delay, and delay is now what we want. The danger is of precipitate action. Delay is now what we need. The infant in its tiny fingers plays to-day with a handful of acorns, but two hundred years hence, by the efflux of time, those acorns are the mighty material out of which navies are built, the monarch of the forest, defying the shock of the storm and the whirlwind. Time is a mighty agent in all these affairs, and we should appeal to time. We are not ready yet for a restoration upon rebel votes; we are not ready yet for restoration upon colored votes; but, thank God, we are willing and able to wait. We have the Government, we have the Constitution of the United States, we have the Army and the Navy, the vast moral and material power of the Republic. We can enforce the laws in all the rebel States, and we can keep the peace until such time as they may be restored with safety to them and safety to us.

There is another measure of reconstruction growing directly out of the necessity of the times, and that is the reconstruction of this District. I propose to reconstruct this District by voting for the passage of the House suffrage bill. I should prefer to vote for a qualified suffrage, requiring education. I hope the Senate will take that view of it; but if the Senate should not, and I am called to the rugged issue, I shall go straight forward and carry out the convictions of my own sense of duty, regardless of opposition upon the right or on the left—not exactly regardless, for I should regret to find myself compelled to differ with friends here and elsewhere, for whose good opinion I have such high regard; but in this as in all other questions I prefer to walk at peace with the man within, to satisfy my own conscience. I have arrived at a time of life when I only desire to do right and look not to the consequences. Visions of glory flit less properly before me; I am not as I have been; the airy halls which a young imagination had peopled with gratified ambition are now desolate. I propose to leave such a record as I shall not blush hereafter when I review it, to place myself upon the rock of eternal truth, the rock of the Constitution, the rights of man, and the rights of our common humanity. Upon

this rock I stand, firm as upon the earth beneath my feet, and the gates of hell shall not prevail against it.

But, Mr. President, gentlemen ask us when shall these States be restored. Not by my vote, until all these constitutional guarantees are placed utterly beyond all recall; not until the leading traitors in this rebellion shall have been punished, and shall have met the felon's doom. Caius Marcius sent these words to the prætor of Rome: "Tell the prætor that you saw Caius Marcius sitting amid the ruins of Carthage." I see Jefferson Davis sitting amid the ruins of eleven devastated and desolated States; but he was the artificer of this terrible ruin himself, and I have no sympathy or compassion for him. Mercy to him is cruelty to the Republic. Mercy to him is an insult to your living heroes. Mercy to him is a mockery of the dead. Justice requires that he should be punished, and punished sternly; and the rebels should be taught to know now and forever that this is a Government able to govern, capable of government, ready to forgive, but, if needs be, ready to punish. I believe that the cause of justice will not be thoroughly vindicated until some such example is made; not that I have any vengeance or any bitterness in my heart toward these people, but my heart is too full of compassion and sympathy and love for a bleeding Republic to entertain magnanimous feelings toward the traitors and enemies of the country.

But gentlemen ask us when shall this return take place? I answer the question thus: when the constitutional amendments shall all have passed Congress, and been ratified by a competent number of States; when the State legislation shall be conformed to the changed condition of public affairs; when the colored man shall be recognized as a citizen and as a man, and his rights shall be protected; when the Freedmen's Bureau bill shall have passed both Houses, and been put in practical operation; when the bill to preserve the rights of all the citizens shall have received the sanction of the President; when the State constitutions shall have been ratified by the popular vote—then, and not until then, shall I vote for the representation of the rebel States; but to this declaration I will make one or two exceptions.

I believe to-day, if I were called upon to vote upon my oath and upon my conscience, I should vote for the admission of the representatives from Tennessee. I should do it on peculiar reasons, not applicable to the people of the rebel States generally. The loyal people of Tennessee had organized their State government without any interference from abroad; their Legislature had met, their constitutional convention had assembled and had put in operation a new constitution and all the machinery of a State government complete prior to the surrender of Lee, prior to the collapse of the rebellion. They were in my opinion in a constitutional relation to the United States, so far as they could be under the circumstances, before the suppression of the rebellion and before the surrender of Lee. I know something of the history of that patriotic people. Those dwellers of the mountains and sons of the mist, proudly represented by President Andrew Johnson, of eastern Tennessee, stood by the flag, faithful among the faithless. They covered every rocky ravine and mountain pass in Eastern Tennessee with the imperishable glory of Thermopylæ; they in proportion to population furnished a larger number of troops to the Army than any other people. Every single man elected to either branch of Congress from Tennessee can take the oath prescribed by the Congress of the United States. Three or four of them have borne the flag of the country in the very forefront of battle; two of them bear wounds on their bodies, the evidence of their patriotism.

I should vote to admit Tennessee if she stood alone to-day. I am prepared to do it. There is an organization in Arkansas, looking to me very much like a legal organization, recognized by President Lincoln, recognized by President Johnson, having all the attributes of State life and State organization, and I am not sure but

that I should vote for it. When I am prepared to admit that the condition of any State is such as to entitle them to representation, I shall vote to admit their members, and lest I may be misunderstood I say now that when any representative is called to that desk in the presence of God and these Senators, if he falters in taking the test oath, he is no Senator by vote of mine.

But, Mr. President, not to detain the Senate longer, I hope that the time will speedily come when with all these guarantees and safeguards thrown around the loyal men and the freedmen of the South we may be permitted to hail them again as brothers, and to permit their participation in the councils of the nation. The storm cloud of war which so long has lowered over and darkened the land, excluding almost every star of hope, is now, thank God, spanned by the bow of peace and of promise, giving assurance that hereafter the rushing red tide of war shall no more deluge the land in blood.

Mr. JOHNSON. Mr. President—
Mr. DOOLITTLE. If the Senator from Maryland will yield, I will move an executive session.

Mr. TRUMBULL. I hope we may not go into executive session now. I desire to dispose of the Freedmen's Bureau bill, which has come back from the House of Representatives. I wish to bring that matter before the Senate.

Mr. GUTHRIE. I hope the bill referred to by the Senator from Illinois will not be taken up. I want to say a word for old Kentucky against the imputations that have been cast upon her.

Mr. JOHNSON. I will yield the floor to the honorable Senator from Kentucky if he desires to speak now.

Mr. HENDRICKS. Oh, no; he wants to speak on the Freedmen's Bureau bill, I understand, whenever it shall come up.

Mr. JOHNSON. I am in the hands of the Senate and willing to proceed now.

The PRESIDING OFFICER. This Senator is entitled to the floor.

Mr. FESSENDEN. My friend will allow me to say a word. I do not wish to interfere at all with the course of proceedings now. If he desires to speak to-morrow, I shall of course make no objection; but I wish to say simply that it is important to act upon this measure at some time, and if we go on making one speech a day on the subject, and then going into executive session or doing something else, it is not very likely that we shall act on the resolution until the Legislatures of the several States have adjourned. Although I do not desire to interfere particularly with the course of things at this moment, I must express the desire that hereafter we may be prepared to go on with the debate and occupy the ordinary time of the Senate until the usual hour of adjournment, by the addresses of such members as choose to express their views on the subject. After to-day I shall, with the leave of the Senate, if not disagreeable, ask that the ordinary time of the daily session, at least, may be taken up in the discussion of this subject when we begin upon it each day.

Mr. JOHNSON. I certainly shall do nothing now or at any time to delay a decision of the Senate on this amendment. I am perfectly willing to go on now, or wait until to-morrow.

Mr. TRUMBULL. If the Senator from Maryland will allow me, as he has the floor on this resolution, if he will give me the floor, I will move to take up another subject, and let him go on to-morrow.

Mr. JOHNSON. I have no objection to that; but, before giving the Senator the floor, I move that the joint resolution before the Senate be postponed until to-morrow at one o'clock.

Several SENATORS. The Senator from Kentucky desires to speak now.

Other SENATORS. No; on another bill.

The PRESIDING OFFICER. The question is upon the motion of the Senator from Maryland to postpone the joint resolution until to-morrow at one o'clock.

Mr. JOHNSON. And to make it the special order for that hour.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 85) for the disposal of the public lands for homestead actual settlement in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bill and joint resolutions; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 86) granting the franking privilege to Mary Lincoln;

A joint resolution (S. R. No. 20) extending the time for the completion of the Burlington and Missouri River railroad; and

A joint resolution (S. R. No. 26) for the payment of expenses incurred by the joint committee to inquire into the condition of the States which formed the so-called confederate States of America.

FREEDMEN'S BUREAU.

Mr. TRUMBULL. I am instructed by the Committee on the Judiciary to report back the bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau, with the amendment of the House of Representatives, with the recommendation that the Senate concur in the House amendment, with certain amendments, which I send to the Chair. I move that the Senate proceed to the consideration of this subject at this time.

The motion was agreed to.

Mr. TRUMBULL. If the Senate will give me their attention, I will endeavor to state what the difference is between the bill as it passed the Senate and the substitute for the bill which is sent to us from the House of Representatives, and what the amendments proposed by the committee are. The House of Representatives have adopted a substitute for the whole bill, but it is the Senate bill *verbatim*, with a few exceptions, which I will endeavor to point out. The title of the bill has been changed, to begin with. It was called as it passed the Senate "A bill to enlarge the powers of the Freedmen's Bureau." The House has amended the title so as to make it read, "A bill to amend an act entitled 'An act to establish a Bureau for the Relief of Freedmen and Refugees,' and for other purposes." Of course there is no importance in that.

The first amendment which the House has made, and the most important one, will be found to commence in the eighth line of the first section. The House has inserted words limiting the operation of the Freedmen's Bureau to those sections of country within which the writ of *habeas corpus* was suspended on the 1st day of February, 1866. As the bill passed the Senate, it will be remembered that it extended to refugees and freedmen in all parts of the United States, and the President was authorized to divide the section of country containing such refugees and freedmen into districts. The House amend that so as to authorize the President to divide the section of country within which the privilege of the writ of *habeas corpus* was suspended on the 1st day of February, 1866, containing such refugees and freedmen, into districts. The writ of *habeas corpus* on the 1st day of February last was suspended in the late rebellious States, including Kentucky, and in none other. The writ of *habeas corpus* was restored by the President's proclamation in Maryland, in Delaware, and in Missouri, all of which have been slaveholding States.

As the bill passed the Senate, it will be observed it only extended to refugees and freedmen in the United States, wherever they might be, and the President was authorized to divide

the region of country containing such refugees and freedmen, and it had no operation except in States where there were refugees and freedmen. The House has limited it so that it will not have operation in Maryland or Delaware or Missouri or any of the northern States.

The next amendment which was made in the House was in the third line of the second section. It read: "That the Commissioner, with the approval of the President, may divide each district into a number of sub-districts." The House amend that by making it read in this form: "That the Commissioner, with the approval of the President, and when the same shall be necessary for the operations of the bureau." I do not think the alteration at all material.

The House has also amended another clause in the same section, so as to limit the number of clerks and their pay. The House also attached a proviso to the third section defining who were suffering persons, in these words:

"That no person shall be deemed 'destitute,' 'suffering,' or 'dependent upon the Government for support,' within the meaning of this act, who, being able to find employment, could by proper industry and exertion avoid such destitution, suffering, or dependence."

They also inserted the word "former" before "owner" in the eighth line of the fifth section, which perhaps does not alter the meaning, and they attached a proviso to the fifth section, in these words:

"Provided, That whenever the owners of lands occupied under General Sherman's field order shall make application for restoration of said lands, the Commissioner is hereby authorized, upon the agreement and with the written consent of said occupants, to procure other lands for them by rent or purchase, not exceeding forty acres for each occupant, or to set apart for them, out of the public lands assigned for that purpose in section four of this bill, forty acres each, upon the terms and conditions named in said section."

The House also amended the sixth section, beginning with the word "but" in the seventh line. That is the section which relates to the purchase of lands for refugees and freedmen. The House make it read:

"But no such purchase shall be made, nor contract for the same entered into, nor other expense incurred, until after appropriations shall have been provided by Congress for such purposes. And no payments shall be made for lands purchased under this section, except for asylums and schools, from any moneys not specifically appropriated therefor."

The effect of that amendment is to limit and restrict the operation of the bill. As it passed the Senate the purchases could be made out of any moneys appropriated for the general purposes of the bureau. As amended by the House of Representatives the purchase can only be made after appropriations shall have been provided by Congress for the purpose, and no lands can be purchased except from moneys specifically appropriated therefor. It limits the operation of it.

In the seventh section the operation of the bill is limited to those States in which the writ of *habeas corpus* was suspended. As it passed the Senate it was general. The amendment is in the third line of the seventh section where the House inserted after "rebellion" the words "and in which the privilege of the writ of *habeas corpus* was suspended on the 1st day of February, 1866." As it passed the Senate the bill operated generally wherever the judicial authorities had been overborne by the rebellion.

There is also a slight amendment in the seventh section, thirteenth line. That is the section which declares that negroes and mulattoes shall have the same civil rights as white persons, and have the same security of person and estate. The House have inserted these words, "including the constitutional right of bearing arms." I think that does not alter the meaning.

They have also struck out of this section, in line seventeen, the words "except as a punishment for crime whereof the party shall have been duly convicted." I do not think that those words have any material effect whether they are out or in the section.

In section eight the House has limited the operation of the bill by inserting the words "and in which the privilege of the writ of *habeas corpus*

was suspended on the 1st day of February, 1866." These words are twice inserted in that section, so as to limit the operation of the bill to those States where the writ of *habeas corpus* was suspended.

In line twenty-five of section eight the House has inserted after the word "this" the words "and the preceding section," so that the jurisdiction conferred by this section and the preceding section on the officers and agents of the bureau are to cease and determine whenever the discrimination on account of which it is conferred ceases.

These, I believe, are all the changes of the Senate bill. The Committee on the Judiciary have considered the subject, and recommend to the Senate that the Senate concur in the amendment of the House with only one substantial exception. There are two or three formal ones.

The PRESIDING OFFICER. The first amendment recommended by the committee will be read.

The Secretary read the first amendment, which was in section one, line eight, of the amendment of the House of Representatives, after the word "country" to strike out the words "within which the privileges of the writ of *habeas corpus* was suspended on the 1st day of February, 1866;" so that it will read:

"That the act to establish a Bureau for the Relief of Freedmen and Refugees, approved March 3, 1865, shall continue in force until otherwise provided by law, and shall extend to refugees and freedmen in all parts of the United States, and the President may divide the section of country containing such refugees and freedmen into districts, &c."

Mr. TRUMBULL. I wish to explain the effect of the amendments recommended by the Judiciary Committee. The Judiciary Committee recommend a concurrence with the House with this exception. We propose to strike out of the House amendment the limitation which the House has put upon the operation of the bill. The effect of the amendment of the House is to prevent the operation of the bureau in Maryland, Delaware, Missouri, and in some of the other States. That is the only important amendment which the Judiciary Committee recommend. They recommend a verbal amendment in the fifth section which it is unnecessary to explain until we come to it. All the other amendments are verbal. I think there are two or three other verbal amendments. But the only substantial disagreement which the Committee on the Judiciary recommend with the House proposition is the one to strike out this limitation and leave the bill in that respect as it passed the Senate.

I wish to say upon that point that the bill as it passed the Senate can have no operation except in regions of country where there are refugees and freedmen. It is confined to those districts of country, and it could not have operation in most of the loyal States. But it is desirable, as I am informed, and it was so stated by one of the Senators from Maryland, that the operations of this bill should be extended to Maryland. It may be necessary that it should be extended to Missouri, and possibly to Delaware. I trust not; but the authority to extend it there ought to exist if there should be occasion for it. The only objection I have to limiting the operation of the bill to the late slaveholding States is that I think it bad legislation, when we are endeavoring to break down discrimination and distinction, to pass a law which is to operate in one State of the Union and not in another. I would rather that the law should be general, although I am fully aware that there is nothing for the law to operate upon in most of the States of the Union. I do not feel quite willing to vote upon Kentucky, for instance, a law that I am not willing to have applicable to the State of Illinois, if such a state of facts exists as that the law can operate in Illinois. I prefer, therefore, to have the bill in the shape in which it passed the Senate, and such was the opinion of the Committee on the Judiciary.

I submit to the Presiding Officer whether the question upon these amendments will be one

question or several. We recommend the adoption of the House amendment with certain amendments. Will they be considered separately?

The PRESIDING OFFICER, (Mr. CLARK.) Separately, the Chair thinks.

Mr. GUTHRIE. Mr. President, I do not mean to attempt to travel over the whole subject of this bill. I rose, in the first instance, because of the imputation the Senator from Indiana [Mr. LANE] chose to cast upon the loyalty of Kentucky. I will say to that Senator that he does not know Kentucky; that she is not in the hands of rebels, and never has been. A truer and more loyal people to the Union of these States never existed, and she has testified it throughout this whole war. That there have been rebels and disloyal persons in the State of Kentucky I do not pretend to deny; but what State in the Union is there that has not contained some men who were false to their Government? The Senator from Indiana, once a Kentuckian, is a Kentuckian no longer. He does not know the people of Kentucky or their sentiments. I stood in Kentucky during this long contest, a part of the time in the very midst of the strife, and almost in the midst of the war, and I know that Kentucky is loyal to the core, and since we changed the government from the existing Governor at the time the difficulties were breaking out, we have always had a loyal Governor and a loyal Legislature, and we have at this day. There are some local differences about men, and different men may have their friends, and they may defeat or postpone an election. They did postpone the election when I was sent here; but there was no disloyalty that caused the postponement. There was no disloyalty that caused the postponement last year. You cannot trust a better people, a more loyal people, or a people who have made more sacrifices for this Union than the people of Kentucky; but, gentlemen, you will pardon me for saying it, you treat them as though they were rebels, and upon false information you are led to believe it. It is an unpleasant thing to be told by gentlemen that we come from a disloyal State, and that they are not willing to listen to us, nor give us a fair hearing in the decision of questions here. But, sir, we were sent here to help the Government to the best of our ability and judgment, and no distrust shall make us fail in our duty.

Let me say to you, Senators, that you made a sad mistake when you raised the committee of fifteen. That was the foundation of postponing the acknowledgment of these southern States. You will have to acknowledge these States and let them in, or you will have to do worse. It is not worth while to speculate as to what will be the consequences. You have provided in this Freedmen's Bureau bill and another bill for governing them for five or twenty years as provinces, to be governed by military men, and military judges are provided, from whose decisions there is no appeal, with no provision for a jury, and the judgment of the officer of the Freedmen's Bureau is to be the sole measure of damages. Our experience in Kentucky is that the Freedmen's Bureau is a system for plundering the people. We know an instance where a man declared that it was too much power to give to any one, but he was living upon the country there and heintended that his books should show a balance. What is to be done with the fines that are imposed and collected by this bureau? This bill does not say. They are to go into the pockets of these officers; they have gone into their pockets in Kentucky; and hence, during this war, we have been plundered by Federal officers who have arrested our people and compelled them to pay large fines to be released, and we have been plundered by the rebels when they invaded our State. We have suffered all this, and our patriotism and our loyalty have endured through all those evils. You have not treated Kentucky as a member of this Union, and this very bill shows the prejudices that exist against her. Kentucky is the only loyal State that is selected by the bill, as it comes from the House, for this system of

punishment. The gentleman from Illinois says that he does not like congressional legislation which does not apply to all the States, but here is a proposition passed by Congress, which has no authority to pass anything but general laws, except in the disposition of lands in the Territories, confined expressly, if not in terms, to one section of this Union, which, with the exception of Kentucky, is without a representative here to be heard in behalf of its people.

I tell you, gentlemen, that the passage of this system of bills is a dissolution of this Union, and you cannot help it. You cannot govern them upon this system of government as conquered States. If they are conquered, they offer to come in. You refuse them; you are going to have guarantees. They fold their arms. They have knocked for admission and you have denied them. Their appeal now is to the American people, to the sound sense of the nation, to the honest feelings of a free people, is this right? Is this according to the examples of our revolutionary fathers? Is it what ought to be done? When that appeal is made, from the South and the North, the East and the West, a verdict will come up, either approving your course or condemning it. If it is approved, there can be no Union; it will be impossible for you to carry on this Government under any such system. As the war is now over, I think we should admit these States as a matter of policy. I do not go into the question of the justice of it. States govern by policy; States ought to govern by policy; but instead of that, instead of forgiveness, instead of receiving them with open arms, we heap upon them unmitigated abuse, and in this very bill are providing for their government for a term of years as conquered provinces.

I do not desire to go into a discussion of this measure again. I consider it, so far as Kentucky is concerned, as a warrant to plunder our people in the future as they have been plundered in the past. We have been a patient people because we thought that we were making a sacrifice to the Union. But when the Union is not to be restored, when there is nothing of that feeling to make the people endure, do you suppose they will endure forever? Do you suppose this bill will attach the people in these eleven States more thoroughly to the Union than they felt when they reorganized their State governments, passed laws manumitting their slaves, electing their Legislatures, and doing all that was indicated as necessary to be done? Do you suppose that there will ever come a time under this bill that they will desire to become members of this Union once more? I see in this bill exactly how Kentucky is tolerated here, for as to having part in this legislation, when she is charged openly with being ruled at home by rebels, our counsels can be of no good here; but still we are not to be driven from the Union, and from raising our voice in favor of it, and raising it in favor of conciliation and confidence from one section to the other. Gentlemen do not get these doctrines of hatred and vengeance from the Gospel. These are not the doctrines taught by the Saviour of the world. While you cry for justice to the African, you are not slow to commit wrong and outrage on the white race.

I always regret to feel as I do now, that this bill is doing an injustice to Kentucky, that it is impolitic to the balance of the States, that it is calculated for mischief, and that I and the rest of the representatives from Kentucky are mistrusted here because you have got it into your heads from some source or other that there are rebels in Kentucky.

Sir, there were rebels in all the States. There was in the beginning, and will be again if you drive these people to desperation. The Senator from Massachusetts, if I understood his language aright, threatened us with war or worse if we did not yield to his suggestions, and the Senator from Indiana intimated very strongly the same thing. You have strength enough to carry these measures, if it is the sentiment of the nation: but we are not a people to be alarmed by words or threats. Most of us are willing to impart to these colored people what the nation

has granted, and to accord it freely, and to the full extent. There are prejudices among our people that prevent some of them from coming to this now; but we think you are not yet prepared to drop your prejudices in relation to the necessary legislation for the South and what must be done with these people. They belong to the South; they belong to the States where they are; and it is for them to govern this question; and it is better for them and better for you and for us all that that system of government be early commenced, and that the two races get to understand each other. The Utopian hopes that gentlemen entertain in regard to the African population can never be realized, and if they are not realized they will not be so anxious to confer the right of suffrage upon them, nor so ready to denounce everybody that will not agree to it. I know that the passage of this Freedmen's Bureau bill is decreed, and that the degradation of Kentucky, so far as she can be degraded by congressional legislation, is decreed. I am prepared to counsel peace, to counsel fidelity to the Union, to counsel the people to await the day when a better feeling and a better sentiment will prevail throughout the Union that will do Kentucky justice.

Mr. SHERMAN. Senators will bear me witness that during this whole debate I have sat rather as a spectator than as a participant. I have desired not to commit myself too hastily upon any of the questions discussed, but to reserve my opinion and to act and vote understandingly without feeling or prejudice or passion. It was after full reflection that I voted for the two bills that have been so harshly characterized by the Senator from Kentucky. I listened with some surprise to the remarks made by him the other day. He evinced a degree of feeling that I thought was entirely uncalled for. I have nothing to say in regard to the present position of Kentucky and Indiana, and the remark made by the Senator from Indiana; and yet it is true that Kentucky at all periods of this war has been full of rebels; that hundreds and thousands of our brave soldiers have been killed by Kentucky rebels. It is also true that Kentucky has furnished brave Union soldiers and brave Union men. But Kentucky has probably furnished more men to the rebel army than any of the adhering States. The Senator will not deny that. Therefore, in legislating for the whole country we naturally do, sometimes, apply rules to Kentucky that we do not apply to other States. He should not complain of this, because he has been from the beginning to the end of this war true and faithful, loyal and obedient to the Government and to the laws. In the early portion of the war he certainly was very active and efficient in aiding our troops and doing all he could to maintain the Government, and I believe has sustained that position from the beginning to the end. But he will remember also that his fellow-citizens of Kentucky gave us more trouble than probably the same number of rebels in any portion of the country. Either because of their spirit, their devotion to their cause, or from the fact that they were far North, occupying a strong military position, the rebels in Kentucky were the most dangerous rebels in the country, and, therefore, in legislating against rebels, we naturally look to the rebels of Kentucky.

The only reason why I rose at this late period of the debate was to remove the impression from the minds of those around me of the character of the two bills that have been before us. I look upon this Freedmen's Bureau bill as simply a temporary protection to the freedmen in the southern States. We are bound by every consideration of honor, by every obligation that can rest upon any people, to protect the freedmen from the rebels of the southern States; ay, sir, and to protect them from the loyal men of the southern States. We know that, on account of the prejudices instilled by the system of slavery pervading all parts of the southern States, the southern people will not do justice to the freedmen in those States. We know that in the course of the

war these freedmen have been emancipated; that they have aided us in this conflict; and therefore we are bound by every consideration of honor, of faith, of public morals, to protect and maintain all the essential incidents of freedom to them. I have no doubt that in doing this we shall encounter the prejudices not only of rebels, but of loyal men; but still the obligation and guarantee is none the less binding on us. We must maintain their freedom, and with it all the incidents and all the rights of freedom.

With no other desire but to maintain this guarantee, I have read this bill several times with a sincere desire to ascertain, if I could, if there were any serious objections to it, with a view to their amendment, and to remove the objections made by the Senator from Kentucky and others; but I can see nothing in it but an agency in the hands of the President, completely in his power and under his control, to maintain the freedom of the negro of the southern States. The Senator says he has great confidence in the President. So have I. No single act can be done under this Freedmen's Bureau bill without the sanction of the President. Every officer under it is to be appointed by the President; every agent is to be appointed by the President. The whole bill is a mere machine in the hands of the President to maintain the freedom and the rights of the freedmen.

As to the other bill about which so much complaint was made by the Senator from Kentucky the other day, what was it? The first section of the bill simply declared that a negro emancipated by the constitutional amendment is a citizen of the United States. I believe he was a citizen of the United States before if he was free; but to remove all ambiguity or doubt about it this provision was inserted in that bill, and I think wisely. A portion of the same section, or perhaps the second section of the bill, defines what are the incidents of freedom, and says that these men must be protected in certain rights, and so careful is it in its language that it goes on and defines those rights, the right to sue and be sued, to plead and be impleaded, to acquire and hold property, and other universal incidents of freedom.

The honorable Senator from Kentucky in his remarks the other day said that there was not a single one of these rights but what he believed Kentucky would enforce. If Kentucky enforces those rights, that is the end of the whole controversy so far as she is concerned; but if Kentucky, or any other State, should fail to enforce those rights, then we are bound to do it. But I ask the honorable Senator from Kentucky, with all his knowledge of the feeling and excitement created by this contest, whether he is willing to trust the natural rights of these freedmen to the rebels of Mississippi, Alabama, and other southern States? I ask him whether he is willing to hand over to the tender mercies of the white population of those States, the whole of whom were engaged in this rebellion, the care and custody of these freedmen, who were made free in spite of their resistance, in spite of their war? I think I know the heart of the Senator from Kentucky too well to require an answer. He fears that this bill will affect the feelings of the people of Kentucky; but in legislating here we are bound not only to regard their feelings, but the enmity that pervades whole masses of the community in the southern States, and we are bound to protect these freedmen against the public sentiment and the oppression that will undoubtedly be thrown upon them by the people of the southern States.

Some one sent me a newspaper the other day from Mobile, Alabama, and I could not read that newspaper, said to be a loyal and friendly paper, without feeling convinced that the best of the southern people ought not to be intrusted with the care and custody of the freed population of the southern States. The character of the legislation that is proposed in several of those States shows that the people there are not in a temper or tone of mind to legislate for these freedmen, and we are bound to protect

them. The other features of that bill only provide the legal machinery by which these rights shall be secured to them; and the last section, which was most complained of, simply provides that the President of the United States may, if he sees proper, call into play the military and naval forces of the United States to enforce these rights; so that the whole bill is a mere machine in the hands of the Executive. The whole operation of the two bills about which so much complaint has been made is simply to place the powers of this Government in the hands of the President of the United States, to enforce to the freedmen of the southern States what the honorable Senator from Kentucky says Kentucky ought to and will secure to the freedmen in that State. I say then, so far as these two bills are concerned, it is my deliberate judgment that there has been no infringement of the Constitution, no oppression upon any portion of the people. They simply provide a way and manner in which the President of the United States may, in the exercise of his constitutional power, protect the freedmen of the southern States from oppression and wrong by loyal or disloyal people.

I do not intend to go into the discussion of the other question that is now pending before us involved in the constitutional amendment. Upon that question, also, I intend to reserve my opinion, and hear all that can be said about it. It is the gravest and most important question, as I think, that has ever been debated in the American Senate. But one thing I know, and which I can affirm in the outset, that never by my consent shall these rebels gain by this war increased political power, and come back here to wield that political power in some other form against the safety and integrity of the country.

Mr. HENDERSON. Mr. President, I, like the Senator from Ohio, have taken no part whatever in the discussion upon the two bills so very fiercely denounced by the distinguished Senator from Kentucky. I believe I did not say one word in reference to the bills while they were pending; nor have I said anything whatever upon the different propositions now pending for amending the Constitution. I am not going to detain the Senate at this hour, because I know the Senate is not disposed to hear any argument, but I desire simply to express one word of regret at a remark made by the Senator from Kentucky. I am from a border State. I know something of this rebellion. I have had strong sympathies with the people of Kentucky. The condition of the people of that State is much the condition of the people of my own State.

The Senator from Illinois introduced these two bills, had them referred to the Judiciary Committee, and they were reported back to this body, and passed. I voted for them. I believed then and I believe now that that legislation is improper legislation. I voted for them reluctantly, not because this Freedmen's Bureau was carried over my State, for I made no objection on that ground. I would not have voted for it if it had not been carried to my own State; and if this amendment of the House of Representatives is to be adopted I will not vote for the bill. I want the bill to be made general. If it is to be made special, if it is to be applied to Kentucky only, I appreciate the feeling that drove my friend from Kentucky to make the most unfortunate remark that has been made upon the floor of the Senate since 1861. I sincerely hope, for the good of the country, that the distinguished Senator may see fit to take back what he said a few moments ago. Smarting under a remark from my friend from Indiana, I think he has suffered himself to make a remark that he himself must be sorry for. Sir, we have had enough of disunion. I hope that no Senator in the future will rise upon this floor and talk, under any circumstances whatever, of another war of rebellion against the constituted authorities of this country. My God! are we again to pass through the scenes of blood through which we have passed for the last four years? Are we to have this war repeated? No Freedmen's Bureau bill, no bill

for the protection of the rights of anybody, shall ever drive me to dream of such a thing.

The objection to this legislation is apparent to my mind and always has been. How is it objectionable? Simply because it is an attempt to get around that which is a decree of Almighty God. Four million people have been made free; that is, the shackles of slavery have been stricken from their limbs, and they stand before us to-day, and we are called upon to say what we will do with them. It is useless to get up a Freedmen's Bureau bill to protect them. You may send your agents into Alabama, Georgia, and Louisiana, but let me tell you, you cannot thus protect the freedmen of those States. Did the southern States ever recapture any runaway slaves in the northern States? No, sir. Why? Because it was an attempt to bear down the religious and moral sentiment of the people, and it was utterly impossible to enforce that law among a people who did not believe that slavery was right in the sight of God or of man. And yet the attempt was vainly made from year to year to recapture fugitive slaves. Will you now go into these southern States and attempt by military officers, one in each county, to protect the rights of the freedmen? While that man is protecting three or four or five freedmen in his immediate vicinity, thousands will be killed in other portions of the country.

You cannot protect them in this way. But suppose I had voted against that proposition; I do not know that I can get what I want. I live in a State that was a slaveholding State until last January a year ago. I have been a slaveholder all my life until the day when the ordinance of emancipation was passed in my State. I advocated it, and have advocated emancipation for the last four years, at least since this war commenced. Do you want to know how to protect the freedmen of the southern States? This bill is useless for that purpose. It is not the intention of the honorable Senators on this floor from northern States who favor this bill to send military men to plunder the good people of Kentucky. It is an attempt to enforce this moral and religious sentiment of the people of the northern States. Sir, these freedmen will be protected. The decree of Almighty God has gone forth, as it went forth in favor of their freedom originally, that they shall be endowed with all the rights that belong to other men. Will you protect them? Give them the ballot, Mr. President, and then they are protected. [Applause in the galleries.]

The PRESIDING OFFICER. Order! order! Mr. HENDERSON. You want nothing else in the southern States. Away with all this nonsense! It is said that on one occasion, when a people undertook to leave bondage and the shackles of oppression, those who held them in slavery and in bondage objected to their going; plagues were sent upon those who held them; finally the waters of Egypt were made bloody. In order to get pure water, instead of going to the streams that had been made to run with blood—and the streams of the southern States have for the last four years been made to run with blood—the effort on the part of Pharaoh was to dig wells in order to get pure water, not supposing for an instant that that which came to the wells would be from the rivers and would be bloody also. This is an attempt on the part of my friend from Illinois—and I have said so to him privately, though I have taken no part in the debate—to dig a well in order to get pure water; but he will never get it. It is a vain attempt to protect men that you cannot protect except by the ballot. My excellent, good friend from Maine, [Mr. FESSENDEN,] a gentleman of distinguished abilities, a gentleman whose name will go down to posterity, a gentleman who will be known in the annals of fame when my name is entirely forgotten, and the names, perhaps, of many around me to-day—he, too, thinks that he can dig a well, and the committee on reconstruction has dug another well for pure water; but the blood will flow in it, and he will find that after all he has accomplished nothing; he has done that which our fathers never would

have done, separated representation and taxation; and in after years, when all this difficulty shall have been healed, when northern men shall have gone and settled in the South and southern men in the North, you by this amendment give in Congress to the northern States political power over these people in order to impose unjust and burdensome taxation on them; at least that will be said. Mr. President, away with this delusion! It is but another effort to do that which you cannot do except in one way.

I know that my Democratic friends will say that this is radicalism. Sir, if I were Robert E. Lee, if I were Jefferson Davis, if I were Forrest, or any other leader of the rebellion in the southern States, I would rather to-day take unadulterated negro suffrage than to take the badge this resolution imposes upon them. I would rather take it than the badge offered by the reconstruction committee. Why? Because it is equal all over the land. Introduce and pass in this body and the House of Representatives, by the requisite majority, a constitutional amendment declaring that all men throughout this broad land shall be entitled to the right of suffrage. Do not let Connecticut vote by every county in the State against negro suffrage, and then come and impose it on South Carolina, Georgia, Alabama, or any other State. Do not let New York come and say, "We, with the few free negroes we have, will deny negro suffrage, and yet force it upon South Carolina with a majority of negroes." Fellow-Senators, be just and fear not. Do that which is right in your own consciences and fear not the consequences. Consequences will take care of themselves. Do you intend to impose Federal taxes upon the negroes of the South? If you do, give them representation in Congress and give them representation at home. Do the States intend to impose taxation on the negroes? Of course they will do so. Then give them representation in the State Legislatures. When that is done, peace will reign throughout this land; and from this day until the day that it is done there will be no peace. I do not pretend to say what ought or ought not to be done in each particular State. I know that in the great State of Missouri we have one hundred and fifty thousand free negroes, while there is not a former non-slaveholding State in the Union that has perhaps one half of that number, and I say for my constituents that I will agree to take negro suffrage. Let other Senators from the northern and southern States come up to the same thing, and then we can have peace. Then you may repeal your Freedmen's Bureau bill. Why? The freedman will have the best protection in the world; he will have entire protection, because those canvassers for public favor who go before the people will be bound to go before the negro, and they will find in the negro ten thousand merits that they never found before.

I know perfectly well that that is the only protection. You give it at home, you give it at the fireside, you give it in the township, you give it in the county, you give it everywhere. You may send a legion of Federal office-holders to the southern States, and instead of conciliating the people, instead of protecting the negro, you will damage the negro and irritate the southern people.

Sir, are we doing any good here? Here is the Senator from Kentucky, [Mr. GUTHRIE,] a gentleman whom I met in the early days of this rebellion. I stood side by side with him in a convention in the State of Kentucky met for the purpose of putting down the iniquity then started against the authorities of this land, and I know his history during the whole war. He has, however, unfortunately used an expression to-day which, unless he takes an early opportunity to correct it, will influence the minds and hearts of the people of Kentucky, and in view of his immense influence and his standing as a statesman, and as a man of morality and integrity, I cannot tell what the consequences may be. It will inflame in all probability the people of that State, and perhaps produce in other States consequences that ought not to be pro-

duced. He may say that the people of Kentucky, if my plan be forced upon them, will feel more like rebelling against the national authority. But is it not just? Is it not applied to Illinois as well as Kentucky? Is it not applied to Missouri, and to every southern and northern State?

I do not say give the negro the suffrage immediately. I say just declare simply that no State shall discriminate against him, and then, if you wish to require as a qualification of a white man that he shall read and write, let it be required of a black man. If you wish to require of the black man that he shall own \$250 worth of property, let it be required of the white man. Make it equal; let the State laws be equal and let your own laws be equal, and not apply different and distinctive systems to the various States of this Confederacy.

Now, Mr. President, I have said all I desire on this occasion. It is too late to talk about arguing this proposition. I shall take occasion during the pendency of the resolution to amend the Constitution, to give my views more at length, to show the injustice of the pending amendment, and to show that we cannot have peace otherwise than by admitting that which is righteous in our own consciences; and that will commend us to the God of heaven by its justice to all men.

Mr. TRUMBULL. Mr. President, the zeal of my friend from Missouri seems to have run away with him. Having come from being a slaveholder to the position of advocating universal negro suffrage as the sovereign remedy for everything, he manifests a degree of zeal which I have only seen equaled, I confess, by some of the discoverers of patent medicines who have found a grand specific to cure all diseases! Why, he says this bureau is of no account; give the negro the ballot, and that will stop him from starving; that will feed him; that will educate him! You have got on your hands to-day one hundred thousand feeble, indigent, infirm colored population that would starve and die if relief were not afforded; and the Senator from Missouri tells you, "This is all nonsense; give them the right of suffrage, and that is all they want." This to feed the hungry and clothe the naked! He has voted for these bills; but if you will only just give the right of suffrage, you do not want to take care of any starving man, any orphan child, any destitute and feeble person that cannot take care of himself! It is the most sovereign remedy that I have heard of since the days of Townsend's Sarsaparilla. [Laughter.]

I am sorry that upon this bill, or rather upon the question of agreeing to an amendment which is proposed by the Judiciary Committee and which the Senator from Missouri is in favor of, he should have run off to make this speech, assailing everything that did not come up to his notions in regard to conferring the right of suffrage, which he regards as the cure-all for all troubles and difficulties. Sir, I shall not discuss that suffrage question; but as I am on my feet, I do want to say a word to the honorable Senator from Kentucky. I wish we could understand ourselves better. If I know my own heart, I am for harmony, I am for peace; and God forbid that I should put a degradation on the people of Kentucky. I never thought of such a thing. I would sooner cut off my right hand than do such a thing. What is it that so excites and inflames the mind of the Senator from Kentucky that he talks about the degradation that is to be put upon her, the plunder of her people, the injustice that is to be done her inhabitants? Why, sir, a bill to help the people of Kentucky to take care of the destitute negroes, made free without any property whatever, without the means of support, left to starve and to die unless somebody cares for them; and we propose in the Congress of the United States to help to do it. Is that a degradation? Is that an injustice? Is that the way to rob a people?

The Senator says they will take care of them themselves. I hope and pray to Heaven they will; and if they will, I will guaranty that the

President of the United States, under whose control this bureau is, will never send an officer to Kentucky. The Senator from Kentucky says that he will advise and is in favor of giving to the colored population equal civil rights. Do it, and no Federal officer will ever interfere with your regulations. All that is proposed is to secure to these people these very rights which you say they ought to have. Is that doing injustice to Kentucky? All that it is proposed to do is to feed and clothe the destitute and the hungry. Is it placing an indignity upon Kentucky to help to do that if she will not, and not to do it at all if she will? Sir, I have been astounded at the denunciations that have been heaped upon this measure.

The only question before the Senate is whether this bill shall be general in its operations, or whether it shall be confined to the rebellious States with Kentucky added. Upon principle I believe it ought to be general. The Judiciary Committee of the Senate, who have examined the subject, believe the bill ought to be general, and we have recommended to strike out from the substitute sent us by the House of Representatives that provision which confines its operation to the States in which the writ of *habeas corpus* is suspended. That is the question, and I hope we may come to vote upon it, and dispose of this bill before we adjourn.

Mr. McDUGALL. Mr. President, I would suggest to the Senator from Illinois that he make another reading of Gil Blas, and then he will be a better jester. The questions involved in this measure are not those that can be disposed of by accidental jests. They are grave, and lie at the foundation of things.

We had the war of the Revolution. We then had a war with Great Britain in 1812. In my early recollection, I remember there were such things as sailors' homes—a few in the Republic, three, I think, alone, where persons who had been impaired by the accidents of flood and field might have refuge.

I do not remember that there ever was a single soldiers' home. If it was a thing extant, it did not come within the scope of my observation, or was not in any printed paper that came within my cognition. We had the war with Mexico. These were the three wars precedent to this last. I do not know that we had anything more after that than a soldiers' home, and I believe the only soldiers' home there was, certainly the only one within my cognition, was in and about the District of Columbia. Here is a proposition to organize a system of asylums throughout the vast extent of the South. Asylums for whom? We may assume that they are for stalwart negroes from Africa, or their descendants; and in and about that business is to be employed the Federal Government, with all its power. They are to have houses of refuge and places of home all through this country. They are to be especially protected. I ask when and where were the white men of the Revolution, when and where were the men of 1812, when and where were the men of the war with Mexico, when and where were the white men of our people injured, damaged, suffering in battle or from flood, taken care of with the intense anxiety exhibited here, and when were such laws brought into force before, impinging, as they do, upon the Constitution?

Mr. TRUMBULL. Will the Senator from California allow me to say a word?

Mr. McDUGALL. Certainly.

Mr. TRUMBULL. The bill under consideration provides for white refugees, and under the very bill to which this is an amendment we have been feeding more white persons than colored persons in some localities, and I presume we are doing it to-day, and this bill is for white refugees as well as colored persons.

Mr. McDUGALL. Mr. President, I being a white man, say for the white men and white women, that they will take care of themselves except under very extraordinary circumstances. The Senator from Illinois, the chairman of this committee, knows very well that this bill was not made for white women or

white men, or white men and women's children. It was made to cover, as they say, a forlorn race—lost by whom? By the inconsiderate action of the Senate and the House of Representatives and the Government of the United States, for with consideration they would have all been properly taken care of and had opportunities to make homes for themselves and not to have needed your asylums of refuge.

Mr. TRUMBULL. Will the Senator allow me to give him a statement of the figures on that subject?

Mr. McDUGALL. Certainly, of course.

Mr. TRUMBULL. I have before me the official report, which shows the consolidated number of rations issued in the different districts and States during the months of June, July, August, September, and October, 1865. In June there were issued to refugees three hundred and thirteen thousand six hundred and twenty-seven rations, and thirty-six thousand one hundred and eighty-one to freedmen. In August in Kentucky and Tennessee there were issued to refugees eighty-seven thousand one hundred and eighty rations, and to freedmen eighty-seven thousand one hundred and ninety-five—almost an equality.

Mr. McDUGALL. That is a printed book from which the Senator reads those figures; and if I believed all the printed books I ever saw I should be confused with ten thousand lies. "Confusion worse confounded," as Milton said, would be nothing to it. I can perhaps illustrate how such things are made up. It was supposed when I came to the Senate hall that I would naturally hate a Republican, a Black Republican, as he was then called. I was applied to if I did not think so and so of a certain man. I inquired the cause for the question, and I was told that I was wanted before the committee on the conduct of the war. My opinion about such and such persons—I knew them well—I was free to give there, but I am not subject to questioning here in the Hall. I answered the committee. I did not want to know anything more about it. I felt that it seemed to be assumed that because the person who was challenged was a Republican, I would swear that he was a damned rascal! Excuse the "damn." That is the way these papers and these books and these statistics that are furnished here are made up, and I take this occasion to say that from the way they are made up they are not worth a farthing. I care not to discuss this question, for I have my own exact opinions; and regard it as my duty, having been clothed with the office of a Senator, to express my opinions. This bill in all its qualities, I think, is fraught with mischief, but I will not go into that now. I had occasion to say it once before; I take occasion to repeat it now. It is not mischievous to the South alone; it is not mischievous to any particular part of the country; it is mischievous to all who hope that we may at some future day see this Republic reintegrated. There is no one here in this Hall who has a right proper to be here as a counselor of the nation that does not seek to see us reintegrated and once again a common people. All this kind of legislation tends to disintegration as against integration.

I cannot add to what has been said by the Senator from Kentucky a single word, because he has spoken from his heart and I speak from my head, for I come from the far western coast where the question of negro or non-negro has no interest to my people; and yet as an American citizen, born in this country and thinking that I belong to every part of this Republic, from its extremest east to west and from north to south, I feel that I have a deep and abiding interest in the integrity of the whole Union for myself and those who shall come after me and who may call themselves by my name. I say that all these angry things which promote controversy and avoid exactly, avoid directly, avoid purposely, conciliation, are full of infinite mischief. I would not be here but that I feel it my duty to resist with what little strength I may possess all this disposition on the part of the Northeast, if you please, and of

those who inherit northeastern opinions, to compel and conquer love, a thing impossible, and the strangest paradox that could be named in thought. Can we be one unless we agree to be one? Can we be one without conciliation? Napoleon said that when he had conquered victory, Frenchmen were friends of the vanquished, enemies no longer; and that is the true law of all high, civilized races. There seems to be a disposition to trample down and destroy and tread in the dust all those who have been our adversaries. Now, I say after they are down, I want to give them my right hand and lift them up. They shall be my equals and peers again, and those who do not say thus are false to their high office in Senate hall or in council chamber.

Mr. JOHNSON. The immediate question before the Senate is the amendment proposed by the Committee on the Judiciary, the effect of which, if adopted by the Senate, is to make the bill general instead of local, as it was meant to be by the action of the House of Representatives.

Mr. HENDRICKS. Let us adjourn.

Mr. JOHNSON. I understood the honorable Senator from Illinois to say he desired a vote this evening.

Mr. TRUMBULL. I hope we may get a vote to-night and dispose of this bill.

Mr. JOHNSON. I have but a word to say. I cannot vote for the bill for reasons that I assigned very briefly on a former occasion, because I do not think we have the power to pass it. The object of the bill is a very correct one; these people should be taken care of; and as it is equally applicable to the whites and to the blacks, and the whites in many of the States requiring as much protection as the blacks, I would very willingly vote for the bill if I thought we had the power to pass it; but on the question of power I have no disposition now or perhaps at any time in the present stage of this bill to trouble the Senate. I rise principally for the purpose of saying that the information upon which my colleague acted—I only regret that he is not here; I would not speak on the subject if he would be here before the bill was disposed of—is not to be relied upon. I have upon my table a letter written by two of the Senators from the section of the State to which he referred.

Mr. LANE, of Kansas. If the Senator from Maryland will give way, I move that the Senate do now adjourn.

Mr. TRUMBULL. I hope not. I hope we shall dispose of the bill. I feel compelled to call for the yeas and nays on the motion.

The yeas and nays were ordered; and being taken, resulted—yeas 11, nays 28; as follows:

YEAS—Messrs. Brown, Cowan, Davis, Guthrie, Hendricks, Johnson, Lane of Kansas, Riddle, Saulsbury, Stockton, and Van Winkle—11.

NAYS—Messrs. Anthony, Chandler, Clark, Conness, Dixon, Fessenden, Foot, Foster, Grimes, Harris, Howard, Howe, Kirkwood, McDougall, Morgan, Morrill, Nye, Poland, Pomeroy, Ramsey, Sherman, Stewart, Sumner, Trumbull, Wade, Willey, Williams, and Wilson—28.

ABSENT—Messrs. Buckalew, Cragin, Creswell, Doolittle, Henderson, Lane of Indiana, Nesmith, Norton, Sprague, Wright, and Yates—11.

So the Senate refused to adjourn.

Mr. JOHNSON. As I stated when the motion to adjourn was made, I rose merely for the purpose of setting right the State which I in part represent, or that section of the State which was supposed to have been so insubordinate as to render it necessary to apply this law to Maryland. My friend and colleague received information that a great outrage had been perpetrated in a portion of Maryland which showed the necessity of having this bill operate in that State, and it was at his instance in part that the bill as it originally was drafted by the honorable member from Illinois, which as I think was confined to States that had been in rebellion, was extended so as to apply to all the States of the Union, and of course to Maryland. I hold in my hand a letter received this morning from two of the members of the Senate of Maryland now in session at Annapolis, from the two counties in one of which it

is supposed the supposed outrage existed, and in both of which it was supposed that combinations existed to interfere with the rights of the freedmen. I read, merely for the purpose of justifying that portion of my constituents, what they say:

"These facts, as we have learned them from unquestionable Union sources, (we use the term 'Union sources' in a party sense,) are substantially as follows: the 'colored man, John Mills,' referred to in Murray's letter."

The Senate will remember that my colleague said that a colored man named John Mills had been ruthlessly murdered by a rebel soldier—

"The colored man, John Mills, and a number of other persons, white and black, were assembled in a drinking shop in Worcester county, near the Virginia line. The negro Mills, and a Virginian, who is reported as having been in the rebel army, got into a drunken broil, and both, armed with clubs, fought. During the *mêlée* the negro John Mills received a blow on the head from the hand of his antagonist, from the effects of which he subsequently died. The civil authorities of Worcester county, as we have been informed, have used every means in their power to secure the arrest of the guilty party, whose flight to Virginia, beyond their reach, alone prevented its consummation."

And in relation to the ability of the State to protect all within her borders, the Senate will permit me to call their attention for a moment to what was said yesterday by the present Governor of Maryland, a man thoroughly loyal, elected because of his supposed ultra loyalty, in answer to the presentation to him of the proceedings of a convention of Union men in the city of Baltimore:

"He pointed out to the committee that they had failed to support his position regarding negro suffrage. On the contrary, by indorsing Mr. Pilkington, the only Union member of the Assembly who opposed the Governor's message, the convention had seemingly disapproved of the gubernatorial position, and acquiesced in the extreme radical party, who, like Mr. Pilkington, were urging their views upon the people of the State. He also thought that the indorsement of Mr. Creswell's vote in favor of the Freedmen's Bureau bill in Congress was disparaging to a Governor of a loyal State. For himself he did not want the aid of the United States, through this bureau, to guaranty in Maryland the negro all protection of person and property; and if need be was willing to invoke the whole power of the State to this end; but he considered himself, as Governor of Maryland, fully qualified to execute the duties of his office. He wished to be clearly understood that he was not in favor of thrusting negro suffrage upon the State, and could never indorse the course of Mr. Creswell in his attempt to introduce the Federal authority into Maryland, or any other loyal State, for the purpose of protecting the freedmen in their rights of person or property."

I have thought it my duty, Mr. President, to call the attention of the Senate, and all that portion of the country who may feel an interest in the present condition of the State of Maryland, to what I have just presented to the Senate coming from two loyal men, members of the Senate immediately from the locality where the supposed outrage was committed and the supposed combination was said to exist, and coming from the Governor who has recently been elected by a very decided vote, and elected by a vote confined, under the law of Maryland, to those who have been loyal throughout. I am now, if possible, more satisfied than I was before that there is no more necessity of applying this law to the State of Maryland than there is to the State of Maine or the State of Massachusetts.

Mr. DAVIS. Mr. President, this bill came back from the House of Representatives yesterday after the Senate had convened, if I recollect aright; and it was printed and laid on the tables of Senators only this morning after the session opened. I have not had an opportunity to read the substitute bill which was offered and accepted by the House as an amendment. I do not see any extraordinary reason for hurrying this bill so rapidly through the Senate. I therefore move that this subject be made the special order for half past twelve o'clock tomorrow, to give myself and other gentlemen who choose to examine the bill an opportunity of doing so.

The motion was not agreed to.

The PRESIDING OFFICER. The question is on the amendment proposed by the committee.

Mr. HENDRICKS and others. What is the amendment?

The SECRETARY. In the first section of the amendment of the House of Representatives the committee propose the following amendment:

In line eight strike out the words "within which the privilege of the writ of *habeas corpus* was suspended on the 1st day of February, 1866," so as to read:

The President may divide the section of country containing such refugees and freedmen into districts, &c.

Mr. HENDRICKS. I wish to inquire of the Senator from Illinois if that is an amendment from the committee or a proposition of his own.

Mr. TRUMBULL. It is the amendment of the committee, considered, I think, when the Senator was present. We considered it for an hour at the last meeting.

Mr. HENDRICKS. I thought the proposition was to limit it to the States in which slavery had been abolished since 1860.

Mr. TRUMBULL. No, sir, that was not the agreement of the committee. It was to strike this out and leave the bill as we passed it in this respect.

Mr. HENDRICKS. I remember I went to the Committee on Naval Affairs before it was concluded. I thought that was decided.

Mr. TRUMBULL. The conclusion to which the committee came was to strike out these words.

Mr. HENDRICKS. As the amendment extends the bureau all over the States, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HOWARD. I beg to say in behalf of my colleague, that he has paired off with the Senator from Delaware [Mr. RIDDLE] and has left the Chamber.

Mr. POLAND. I was desired by my colleague to say that he had arranged to meet Mr. Bancroft at the depot and accompany him to the President's House; and having to be absent for that reason, he has paired off with the Senator from Maryland, [Mr. JOHNSON.]

Mr. STOCKTON. My colleague [Mr. WRIGHT] desired me to state if his name was called, that he had gone home to New Jersey exceedingly ill, and was necessarily absent from the Senate.

Mr. JOHNSON. I agreed to pair off with one of the Senators from Vermont, who was called away by business connected with the orders of the Senate, which he was obliged to attend to. He would have voted for the bill, and I against it.

Mr. SAULSBURY. My colleague informs me that he has paired off on this bill with the Senator from Michigan, [Mr. CHANDLER.]

The question being taken by yeas and nays, resulted—yeas 29, nays 7; as follows:

YEAS—Messrs. Anthony, Clark, Conness, Dixon, Doolittle, Fessenden, Foster, Harris, Henderson, Howard, Howe, Johnson, Kirkwood, Lane of Indiana, Morgan, Morrill, Nye, Poland, Pomeroy, Ramsey, Sherman, Stewart, Sumner, Trumbull, Van Winkle, Wade, Willey, Williams, and Wilson—29.

NAYS—Messrs. Cowan, Davis, Guthrie, Hendricks, McDougall, Saulsbury, and Stockton—7.

ABSENT—Messrs. Brown, Buckalew, Chandler, Cragin, Creswell, Foot, Grimes, Lane of Kansas, Nesmith, Norton, Riddle, Sprague, Wright, and Yates—14.

So the amendment was agreed to.

Mr. GUTHRIE. The bill, I suppose, is subject to further amendments.

The PRESIDING OFFICER. The Chair was going through with the amendments of the committee, and will attend to the amendment of the Senator after going through with those amendments.

The next amendment was in section five, line eight, after the word "owner" to insert "his heirs or assigns;" so as to read, "unless a settlement shall be made with said occupant by the former owner, his heirs or assigns, satisfactory to the Commissioner of the Freedmen's Bureau."

The amendment was agreed to.

The next amendment of the committee was in section five, line fifteen, after the word "occupant" to insert "upon the terms and conditions named in section four of this act;" so as to read, "to procure other lands for them by rent or purchase, not exceeding forty acres for

each occupant, upon the terms and conditions named in section four of this act."

The amendment was agreed to.

The next amendment of the committee was in section five, line seventeen, after the word "the" to insert "same," and strike out after "conditions" the words "named in said section;" so as to read, "or to set apart for them out of the public lands assigned for that purpose in section four of this bill forty acres each upon the same terms and conditions."

The amendment was agreed to.

The next amendment was in section seven, line three, after the word "rebellion" to strike out "and in which the privilege of the writ of *habeas corpus* was suspended on the 1st day of February, 1866."

The amendment was agreed to.

The next amendment was in section eight, line five, after the word "rebellion" to strike out "and in which the privilege of the writ of *habeas corpus* was suspended on the 1st day of February, 1866."

The amendment was agreed to.

The next amendment was after the word "rebellion" in line thirty of section eight, to strike out the words "or in which the privilege of the writ of *habeas corpus* was not suspended on the 1st day of February, 1866."

The amendment was agreed to.

The PRESIDING OFFICER. The question is on concurring in the amendment of the House of Representatives as amended.

Mr. GUTHRIE. I move an amendment to come in at the end of section eight in the form of a proviso:

*Provided, That whenever the writ of *habeas corpus* shall be restored to any State not declared in rebellion, then and in that event the officers and machinery of the Freedmen's Bureau shall be withdrawn from said State at the discretion of the President of the United States.*

I ask for the yeas and nays upon this amendment.

The yeas and nays were ordered.

The Secretary proceeded to call the roll, and Mr. ANTHONY responded to his name.

Mr. DOOLITTLE. I desire to ask the Senator from Illinois a single question—

Several SENATORS. It is too late.

The PRESIDING OFFICER. The Senator from Rhode Island has answered to his name. The Senator from Wisconsin can, however, proceed by unanimous consent.

Several SENATORS. Go on with the call.

The call of the roll was concluded, with the following result:

YEAS—Messrs. Davis, Guthrie, Henderson, Hendricks, Johnson, McDougall, Saulsbury, and Stockton—8.

NAYS—Messrs. Anthony, Clark, Conness, Dixon, Doolittle, Fessenden, Foster, Howard, Howe, Kirkwood, Lane of Indiana, Morgan, Morrill, Nye, Poland, Pomeroy, Ramsey, Sherman, Stewart, Sumner, Trumbull, Van Winkle, Wade, Williams, and Wilson—25.

ABSENT—Messrs. Brown, Buckalew, Chandler, Cowan, Cragin, Creswell, Foot, Grimes, Harris, Lane of Kansas, Nesmith, Norton, Riddle, Sprague, Wiley, Wright, and Yates—17.

So the amendment was rejected.

The amendment of the House of Representatives, as amended, was concurred in.

Mr. TRUMBULL. I move that the Senate do now adjourn.

Mr. SAULSBURY. I hope not. It is too early to adjourn. There is important business—

The PRESIDING OFFICER. The question is not debatable.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, February 8, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

PUBLIC LANDS IN CALIFORNIA.

The SPEAKER, by unanimous consent, laid before the House a communication from the

Secretary of the Interior, transmitting a letter from the Commissioner of the General Land Office, in regard to receipts, &c., from the sales of public lands in California, in answer to resolution of the House of January 30, 1866; which was laid on the table, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the amendment of the House of Representatives to the joint resolution (S. R. No. 20) extending the time for the completion of the Burlington and Missouri River railroad.

THE PHILADELPHIA NAVY-YARD.

The SPEAKER, by unanimous consent, also laid before the House a letter from the Secretary of the Treasury, transmitting a copy of an appraisal made by the chiefs of the Bureaus of Yards and Docks and of Construction and Repairs in regard to the cost of the Philadelphia navy-yard; which was laid upon the table, and ordered to be printed.

TAX ON SPIRITS.

Mr. EGGLESTON. I ask the unanimous consent of the House to offer a resolution which I think of great importance to the country at this time. It is as follows:

Resolved, That it is unwise to reduce the revenue tax on spirits.

Mr. BRANDEGEE. I object.

QUARANTINE AT NEW YORK.

Mr. DARLING. I ask the unanimous consent of the House that the bill introduced by the chairman of the Committee on Commerce in regard to hulks for quarantine purposes in New York harbor be considered by the House now.

Mr. EGGLESTON. I object.

PRINTING OF A BILL.

Mr. MORRIS. I ask consent of the House to have bill No. 256, to secure equal political rights to all the people of the United States, printed.

No objection was made, and it was so ordered.

Mr. RICE, of Maine. I call for the regular order of business.

PUBLIC LANDS IN SOUTHERN STATES.

The SPEAKER. The regular order of business is the consideration of the bill reported yesterday from the Committee on Public Lands, being House bill No. 85, for the disposal of the public lands for homesteads to actual settlers in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida; the pending question being on the amendment reported by the committee.

Mr. RICE, of Maine. I move to amend by inserting after the word "lands" the words:

And in lieu of the sum of ten dollars, required to be paid by the second section of said act, there shall be paid the sum of five dollars at the time of the issue of each patent.

Mr. JULIAN. I accept that amendment.

The question recurred upon agreeing to the amendment reported by the committee, as modified.

Mr. JULIAN called the previous question.

The previous question was seconded, and the main question ordered.

The amendment of the committee, as modified, was then agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. JULIAN. I call for the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. TABER called for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 112, nays 24, not voting 46; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin,

Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Broome, Reader W. Clarke, Sidney Clarke, Cobb, Cullom, Darling, Dawes, DeGreese, Delano, Deming, Dixon, Donnelly, Dumont, Eckley, Eggleston, Eliot, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hubbard, Ingersoll, Jencks, Julian, Kasson, Kelley, Kelso, Ketchum, Kuykendall, Laflin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, McClurg, McIndoe, McKee, Miller, Moorhead, Morris, Moulton, Myers, Newell, Orth, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Seafeld, Sloan, Starr, Stevens, Stilwell, Thayer, John L. Thomas, Trowbridge, Upson, Bart Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—112.

NAYS—Messrs. Bergen, Boyer, Brooks, Chanler, Dawson, Driggs, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Harris, Hogan, James M. Humphrey, Kerr, Latham, Le Blond, Marshall, Nicholson, Samuel J. Randall, Rogers, Shanklin, Sitgreaves, Strouse, Taber, Taylor, Thornton, and Voorhees—24.

NOT VOTING—Messrs. Ancona, Barker, Bromwell, Buckland, Bundy, Conkling, Cook, Culver, Davis, Denison, Farnsworth, Hart, Hotchkiss, Edwin N. Hubbell, James Humphrey, Johnson, Jones, Marvin, McCullough, McRuer, Mercer, Morrill, Niblack, Noell, O'Neill, Phelps, Radford, Raymond, Ritter, Ross, Rousseau, Schenck, Shellabarger, Smith, Spalding, Francis Thomas, Trimble, Van Arnum, Robert T. Van Horn, Winfield, and Wright—46.

So the bill was passed.

Mr. DRIGGS, when his name was called, said, it was my intention to have supported this bill, but for reasons satisfactory to myself I am compelled to vote "no."

At the conclusion of the roll-call, but before the result was announced,

Mr. TRIMBLE said, I was just entering the Hall when the call of the roll was completed. If I had been in my seat in time I should have voted "no."

Mr. BROMWELL. If I had been here in time I would have voted "ay."

Mr. O'NEILL. I would have voted "ay," if I had been in my seat.

Mr. NIBLACK. I was detained from my seat until too late for me to vote upon the passage of this bill. If I had been here I would have voted "no."

Mr. GRIDER. I desire to state that my colleague, Mr. RITTER, is detained from his seat to-day on account of indisposition. If he had been here he would have voted against this bill.

The result was announced as above.

Mr. JULIAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. JULIAN. My colleague on the Committee on Public Lands [Mr. ECKLEY] has been instructed to report a bill from that committee. As he is not now in his seat, I would ask that his right to report that bill be reserved until he shall be present.

No objection was made.

LEAVE OF ABSENCE.

Mr. STROUSE. My colleague, Mr. DENYSON, has been called home on account of sickness in his family. I therefore ask for him indefinite leave of absence from attendance upon the sessions of this House.

Leave was accordingly granted.

PRINTING OF REPORTS.

Mr. CLARKE, of Ohio, from the Committee on Printing, reported the following resolution, upon which he called the previous question:

Resolved, That the report of the committee to investigate the condition of the Indian tribes be printed, and that three thousand additional copies be printed for the use of the House.

The previous question was seconded, and the main question was ordered; and under the operation thereof the resolution was agreed to.

Mr. CLARKE, of Ohio, from the same committee, also reported the following resolution; which was read, considered, and agreed to:

Resolved, That there be printed six thousand copies of the report of the Commissioner of Internal Revenue; two thousand copies for the use of the House, and four thousand for the use of the office of internal revenue.

R. L. B. CLARKE AND ABELARD GUTHRIE.

Mr. DAWES. Some few days since I entered a motion to reconsider the votes by which the House discharged the Committee of Claims from the further consideration of the petition of R. L. B. Clarke, and the bill for the relief of Abelard Guthrie, and referred the same to the Committee of Elections. They are cases which have heretofore been before the Committee of Elections, and were by them reported back and referred by the House to the Committee of Claims; and that committee have reciprocated the action of the Committee of Elections of last Congress by reporting them back and having them referred to the Committee of Elections. I entered the motion to reconsider the votes referring them to the Committee of Elections for the purpose of having an opportunity to state to the House the reasons which the Committee of Elections think should control the reference of these claims to the Committee of Claims.

They have been for a long time in Congress, and have been considered both by the Committee of Elections and the Committee of Claims.

The claim of Mr. Clarke is founded upon the fact that some ten years ago, he was a contestant for a seat in this House, and failed in that contest. It was considered a very fair contest upon his part by the whole Committee of Elections, who reported a resolution for his compensation; but it was so near the end of the session that they could not get the matter before the House during that Congress in which the contest was made. That resolution as then presented provided for the payment of the contestant out of the contingent fund of that House. It is the custom of the Committee of Elections, when they think it proper to compensate a contestant, to report a resolution to pay him out of the contingent fund of the House; but the contingent fund of that House in which Mr. Clarke made his contest has already been expended and the account closed, so that this House has no control over it. Therefore the Committee of Elections, according to the invariable custom, has no right to report a resolution to pay out of the contingent fund of this House compensation to a person who contested the right of a member to his seat in a former House. It would be altogether improper for the Committee of Elections to make such a report, even if the merits of the case justified the payment of compensation, as I do not doubt they do.

If this is a claim which ought to be paid, it should be paid by a bill passing both Houses of Congress, and providing necessarily for payment out of the Treasury of the United States. If this claim should be paid out of the contingent fund of this House the payment would not be approved by the Comptroller at the other end of the avenue, because it is not a matter belonging to the expenses of this House. Any claim that is to be paid out of the Treasury of the United States by a bill passing both branches of Congress should properly be examined by the Committee of Claims, not the Committee of Elections. It is true that this claim pertains to an election contest; but that is no reason why the Committee of Claims should desire to transfer it to the Committee of Elections, any more than that the Committee of Claims should report back all claims growing out of military affairs, pensions, or anything of the kind, and have them distributed among other committees. A claim for anything, no matter what, if it requires an act of Congress making an appropriation out of the Treasury, belongs properly, it seems to me, to the Committee of Claims. I hope, therefore, that that committee will not object to reconsidering this matter and reporting upon its merits.

The claim of Mr. Guthrie rests upon a different principle. It certainly has no place before the Committee of Elections; for Mr. Guthrie never claimed to have been elected to Congress. His claim has been examined by the Committee

of Elections in former Congresses, and it doubtless has some merit in equity; but it certainly should be considered by the Committee of Claims, and I trust it will be sent to that committee.

Mr. SLOAN. I would like to ask the gentleman whether the claim of Mr. Guthrie is not one arising under a contest.

Mr. DAWES. It is not. The circumstances, as I understand them, are these: some ten years ago, before Kansas and Nebraska were organized as Territories. Mr. Guthrie came here as the agent of the residents of that region of country to induce Congress to erect territorial governments; and he exerted, I have no doubt, a good influence in bringing about that result. He thinks that in acting as an agent of that character, he was a *quasi* Delegate, and as such has some claim upon Congress for compensation for the time and money he expended. He never, so far as I know, claimed an election in any shape.

Mr. SLOAN. Then it is substantially a claim to pay him for lobbying.

Mr. DAWES. Well, I suppose that is the fact. I do not express any opinion upon the claim; but it is such a claim as ought to be considered by the very able, intelligent, and firm Committee of Claims which I am glad to know we have.

Mr. NIBLACK. Mr. Speaker, as I reported back these claims to the House, it is proper I should say a word.

The Committee of Claims felt embarrassed in the consideration of these two cases to which the gentleman from Massachusetts refers, for the reason that they involved a precedent in reference to the payment of claims presented by contestants, by members, and by persons claiming to be Delegates from organized and unorganized Territories. As we understood the practice of the House, whenever a gentleman contests the seat of a sitting member, and fails to succeed in his contest, it is for the Committee of Elections to determine whether he has made such a *prima facie* case as would entitle him to the usual per diem and mileage.

When they do so report it is usual for the House to concur in that recommendation, as they do in their report on the merits of the case itself. It becomes, therefore, we think, a delicate question to determine whether the contestants should be compensated or not.

In this case of Mr. Clarke, of Iowa, it seems that the Committee of Elections did, at the time they reported in favor of the sitting member, Mr. Hall, report a resolution allowing Mr. Clarke, the contestant, per diem and mileage up to a certain date. When the report of the committee came to be considered, the Speaker decided, and I think properly, that the resolution relating to the sitting member involved a question of privilege, and it was immediately considered and acted on, and he further decided that the resolution for the compensation of the contestant was not a question of privilege, and therefore it went over and could not be acted upon, and was not reached during that session. At the succeeding session the question was referred to the Committee of Elections, and that committee reported a resolution allowing the contestant the same compensation; I do not recollect the amount. It seems to have been brought Congress after Congress before the Committee of Elections, until at the last session it was referred to the Committee of Claims.

We do not want to get rid of the labor, but we do not consider ourselves the proper committee to determine whether a *prima facie* case has been made out according to the precedents of the Committee of Elections, whether he should be compensated, and if so how much. It is alone on that ground we desire that the matter shall be referred for consideration to the Committee of Elections.

Mr. DAWES. The Iowa case has been before both committees. The gentleman overlooks the distinction I make. In this House the Committee of Elections cannot bring in a resolution to pay out of the contingent fund of the House any such claim as that. It puts the

Committee of Elections in a position where we must say what claims are to be allowed. That is the duty of the Committee of Claims, and I have great reluctance to take that duty away from the Committee of Claims.

Mr. ROGERS. By what law and authority has this House, by virtue of a mere resolution, to pay a contestant?

Mr. DAWES. There is an appropriation of money by Congress, called the contingent fund of the House, to be devoted to the payment of the contingent expenses of the House on a mere resolution. The act of Congress appropriating that money is the warrant upon the Treasury, and the Sergeant-at-Arms makes report to the Comptroller of the Treasury of such sums as are liable to be expended for the contingencies of the House. It is in that way contestants are paid out of the contingent fund.

And the Committee of Elections have no more ability to pass upon the merits of this Iowa case than the Committee of Claims, for they are as ignorant of the facts as the latter committee; they know nothing of the merits of the case except by tradition. I know about it, and you know about it, Mr. Speaker; all others, except a few venerable contemporaries, know of it only by tradition. The Committee of Elections are not looking into the past, but they are required to look into the future and see into the rights of members here to seats upon this floor; and we do not desire to be diverted from that duty by any collateral matters to be referred to us.

I do not see why it should be referred to the Committee of Elections any more than it should be referred to the Committee on Revisal and Unfinished Business. I demand the previous question.

Mr. HARDING, of Illinois, moved that the motion to reconsider be laid upon the table.

Mr. DAWES. I yield to the gentleman from Ohio.

Mr. SCHENCK. I am not going to engage in any argument at large upon this subject.

Mr. HARDING, of Illinois. I raise a point of order, that the question is not debatable after a motion is made to lay on the table.

Mr. DAWES. I hope the gentleman will withdraw that motion.

Mr. HARDING, of Illinois. I decline.

The SPEAKER. The Chair will state that the House a few days ago discharged the Committee of Claims from the consideration of the petitions in relation to Mr. Guthrie and Mr. Clarke, and referred the same to the Committee of Elections. The gentleman from Massachusetts [Mr. DAWES] moves to reconsider the vote by which they were referred, and the gentleman from Illinois [Mr. HARDING] moves to lay that motion on the table; the effect of which, if carried, will be to leave the petitions with the Committee of Elections.

The question was taken on the motion to lay the motion to reconsider on the table; and there were, on a division—ayes 55, noes 47.

Mr. DAWES. I demand tellers on the motion to lay on the table.

Tellers were ordered; and the Speaker appointed Mr. DAWES and Mr. NIBLACK.

Mr. GRINNELL. I ask the House to allow the gentleman from Ohio [Mr. SCHENCK] who has had this matter in charge to make a statement.

The SPEAKER. If the gentleman from Illinois [Mr. HARDING] withdraws his point of order the House may allow the gentleman from Ohio [Mr. SCHENCK] to speak.

Mr. HARDING, of Illinois. I withdraw the point of order.

Mr. SCHENCK. I desire that the House should understand this matter. Mr. Guthrie was formerly a constituent of mine, a worthy and excellent gentleman. He removed to Nebraska, and afterward came here, not under any special election law, but upon a vote of that Territory, as Delegate. He rendered efficient service in the organization of the Territory, which afterward took place. It has been thought—and I think truly—that he has an equitable claim upon the Government, under all the circum-

stances, for pay and mileage, at least for mileage. He has been kept, as many another claimant upon the Government, hung up between heaven and earth for a long time. At the last Congress his petition being presented was referred to the Committee of Elections, who reported it back, asked to be discharged for the same reason now stated by the chairman of the committee, [Mr. DAWES,] and asked that it should be referred to the Committee of Claims. This year the gentleman presents himself again, and the House, following the action of the last Congress, refers the matter to the Committee of Claims. Now the Committee of Claims come in and ask to be discharged from the consideration of the case, and that it may go back to the Committee of Elections. Thus between the two committees this claim is kept here without any apparent probability of having a fair and thorough investigation.

Now, all I have to say about it is, that for myself I feel indifferent as to which of these two able committees shall have charge of this case. But I am inclined to believe, with the chairman of the Committee of Elections, that inasmuch as the payment will have to be made out of the common Treasury by bill or joint resolution having the effect of law, it ought, perhaps, to go to the Committee of Claims. It is equally within the power and ability of either committee to give it a thorough investigation, and I am not afraid but that justice will be done to this gentleman. But I beg that this House will no longer keep his case going back and forth between the two committees with no apparent probability of getting justice done by Congress.

Mr. WASHBURN, of Illinois. I desire to ask the gentleman from Massachusetts [Mr. DAWES] what was the action of the Committee of Claims and of the House in the case of Mr. Clarke.

Mr. DAWES. That is another case.

Mr. WASHBURN, of Illinois. I desire to say a word in regard to that case of Mr. Clarke. It is the only case in which the contest was made in good faith and failed. It has been postponed from one Congress to another as an isolated case, and nothing has been done with it. I hope it will go to the same committee, and receive a fair consideration.

Mr. WILSON, of Iowa. I wish merely to state, in relation to the claim of R. L. B. Clarke, that it has been reported upon favorably by four committees, I believe. At the last session of the Thirty-Eighth Congress a bill for his relief passed both Houses, but it failed to reach the President in time for his signature. It was then reported from the Committee of Claims. The first report in the case was made by the Committee of Elections; and three favorable reports have been made by the Committee of Claims.

Mr. DAWES. And that is the question now before the House.

Mr. HARDING, of Illinois. And now that claim is presented with another hitch on it, that has been here for ten years.

Mr. SCHENCK. I have the floor, I believe.

Mr. ASHLEY, of Ohio. Will my colleague [Mr. SCHENCK] state to the House how this claim arose; how this gentleman, Mr. Guthrie, came to be here as a representative from Nebraska before it was organized?

Mr. DAWES. Do not mix the two cases together.

Mr. SCHENCK. I will not go into the merits of this case at all, for I do not think it proper that I should. The question now is, to what committee it shall go, and I am perfectly confident it will have fair treatment and full consideration, let it go to what committee it may.

Mr. DELANO. I desire to say to the House that the Committee of Claims have no disposition to shirk their duties in the recommendation they have made in reference to this matter. We considered that the Committee of Elections would be better prepared to report upon the merits of this subject than the Committee of Claims could be. The circumstances attending the contest, the facts connected with the whole subject, they supposed would be

within the reach of that committee, and that they would be more familiar with the principles upon which the failing contestant should receive his pay than could be the Committee of Claims.

It seemed to us that the exhaustion of the contingent fund would make no difference in regard to the propriety of the Committee of Elections considering this subject. I do not know that any committee necessarily holds the key to the Treasury. If the Committee of Elections find that there is a meritorious claim here, they have as much capacity to report a bill for the payment of it as the Committee of Claims have. I think that the subject is eminently one belonging to the Committee of Elections; that they are better prepared to judge whether the claim is surrounded by such circumstances as make it proper that it should be paid. And I think, therefore, they ought to report upon these facts, and, if they find it necessary, report a bill for the payment of the claim. And it is upon that ground that we deem it proper that this subject should be with the Committee of Elections; and I have not heard anything from the honorable gentleman, the chairman of the Committee of Elections, [Mr. DAWES,] to change my mind upon that subject.

Mr. DAWES. I will say that that might be true, if the present Committee of Elections had any knowledge whatever of this matter. That committee, every member of it, is just as much a stranger to that contest as the Committee of Claims. And they have no better access to information than have the Committee of Claims; they stand in relation to that claim just precisely as the Committee of Claims do; and their duties are very different from those required of the Committee of Claims. As I understand it, the duty of the Committee of Claims is to find out the evidence upon which such claims rest.

I will say, in behalf of the Committee of Elections, that they have no desire to shirk any proper duty that may be assigned to them. But the House is aware of the amount of duty that is unfortunately devolved upon them at this session. And it does seem to me that every reason requires the House to send this matter to the Committee of Claims. That committee has had this matter under consideration, and, as was stated by the gentleman from Iowa, [Mr. WILSON,] it has reported favorably upon it three times already; while it has been reported upon but once by the Committee of Elections, and that was far back beyond our recollection, and when the matter was fresh in their hands.

Mr. SCHENCK. I hope the House will not consider that I have abused its courtesy to me. I was permitted to take the floor to make an explanation of the facts in the case of Mr. Guthrie, how it was that he came here, and how his case came to be referred to the Committee of Claims, without going into an argument as to which committee should take charge of it. Now, I do not like this plan of putting into the belly of a speech an argument upon another subject, when that was not the object for which the speech was to be made. I say this with entire courtesy to gentlemen on both sides.

I repeat, Mr. Guthrie came here, and his claim was referred to the Committee of Elections at the last Congress, and it was decided then that it ought to go to the Committee of Claims. At this Congress the claim was referred to the Committee of Claims, and they refer it back to the Committee of Elections. I say that the House should decide upon that question one way or the other. Under the circumstances, I would prefer the Committee of Claims. But I think the case should be disposed of in some way.

Now, to answer properly the courtesy of the House in giving me the floor, I will call the previous question.

The SPEAKER. The pending question is upon the motion of the gentleman from Illinois, [Mr. HARDING,] to lay the motion to reconsider on the table.

Mr. SCHENCK. Then it is not necessary to

call the previous question, and therefore I will not do so.

Mr. HARDING, of Illinois. I withdraw the motion to lay on the table.

The question recurred on the motion to reconsider the vote by which the Committee of Claims was discharged from the further consideration of the petition of R. L. B. Clarke and the bill for the relief of Abelard Guthrie, and the same were referred to the Committee of Elections.

Mr. DAWES demanded the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the motion to reconsider was agreed to—ayes 61, noes 40.

The question recurred on the motion to discharge; and being put, the motion was agreed to.

The petition and bill therefore remain with the Committee of Claims.

NAVY APPROPRIATION BILL.

Mr. STEVENS. I move that the rules be suspended, and the House resolve itself into Committee of the Whole on the state of the Union on the special order, to finish the small remnant of the Navy appropriation bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair,) and resumed the consideration of House bill No. 122, making appropriations for the naval service for the year ending June 30, 1867.

Mr. INGERSOLL. I move to amend the bill by striking out lines two hundred and eleven, two hundred and twelve, and two hundred and thirteen, which are as follows:

Pensacola, Florida:
For muster office, \$8,104.

The amendment was disagreed to.

Mr. INGERSOLL. I move to strike out line two hundred and fourteen, which is as follows:

For new gate to dock basin, \$30,000.

That is a large price for a gate.

Mr. WASHBURN, of Illinois, called for tellers on the amendment.

Tellers were ordered; and Messrs. INGERSOLL and BOYER were appointed.

The committee divided; and the tellers reported—ayes thirty, noes not counted.

So the amendment was rejected.

Mr. HARDING, of Illinois. I move to strike out lines two hundred and sixteen and two hundred and seventeen, which are as follows:

For commandant's quarters, \$28,245.

Mr. KASSON. I wish to say that commandant's quarters are erected in every yard, if no other buildings are erected, he being the chief executive officer, who always resides in the yard. The commandant's quarters at Pensacola were destroyed, or nearly so, and this appropriation is necessary for the purpose of putting them in a condition for occupancy.

Mr. WASHBURN, of Illinois. Whether this amendment shall be adopted depends entirely on whether it is the policy of the Government to rebuild the navy-yard at Pensacola. I hope that policy will never be carried out.

This yard at Pensacola has been a greater expense to the country than any other yard in the country. There never was but one vessel built there, and that was the Pensacola, the greatest failure that ever was; she cracked and had seams in her through which a man could almost crawl, and she was finally brought to Washington and patched up here, and her whole cost was \$1,000,000. That has been the result of the Pensacola navy-yard. I do not want that yard rebuilt, nor the navy-yard at Norfolk. That is the reason why I am against all these appropriations. We have other and better navy-yards, where we can build ships better and cheaper than we can at these yards. They have destroyed the yards, and I am against rebuilding them.

Mr. KASSON. I desire only to say that it is not a question of reconstructing the navy-yard at Pensacola. The simple question is whether the property we have there shall be protected, and whether we shall provide quarters for the executive officer of the yard who has charge of that property. It is no proposition to rebuild the navy-yard. That is all I have to say.

The question was taken; and the amendment was agreed to—ayes sixty, noes not counted.

Mr. INGERSOLL. I move to amend by striking out line two hundred and eighteen, reading as follows:

For quarters for officers, \$50,000.

The amendment was agreed to.

Mr. INGERSOLL. I move to amend by striking out lines two hundred and nineteen and two hundred and twenty, in these words:

For repairs of all kinds, \$109,618.

Mr. ROGERS. Mr. Chairman, I would like to know what is the reason for striking out these appropriations, which have been examined and approved by the Committee on Appropriations, unless it is simply because these yards happen to be located in the southern States. Now, the truth is that no other navy-yard in the United States so much demands appropriations for its maintenance as this navy-yard at Pensacola. I suppose the House must know that we expect hereafter to have a whole, an undivided country, embracing both North and South, and that it may be necessary that we should protect the South from invasion as much as the North. I am opposed to what seems to be the policy of some gentlemen here—to strike out appropriations simply because the works for which they are designed are located in the southern States. At some future time, when we may be engaged in a war with a foreign country, it will be necessary that we should be able to protect localities in the South as well as in the North. It strikes me that it is but a narrow-minded prejudice which prompts members of this House to attempt to prevent legislation which may be necessary to prevent the southern portion of the country from being overrun by foreign enemies. This very unwise policy is not at all justified by the fact that we have just emerged from a rebellion in which the South was the main participant and the main actor.

Although Maximilian may soon cease to occupy his throne in Mexico, we may yet have a contest with England; and it is necessary that we should fortify our whole country, South as well as North, so that we may be prepared to meet the combined hordes of the European Powers, if they should attempt to infringe upon our just rights. Because I desire that we shall be able to protect our country, to repel invasion, to vindicate the rights of the nation against the assaults of any foreign enemy, I am opposed to striking out of this bill appropriations which may be necessary for the defense of the country in a time of peril.

Mr. THAYER. I move *pro forma* to amend the amendment by striking out the last word.

It appears to me, Mr. Chairman, to be of the utmost consequence that we should preserve the navy-yard at Pensacola. That is the point from which we must defend the Gulf of Mexico. That is the point from which our ships designed for the defense of the Gulf must issue forth, and to which they must go for repairs and supplies. It seems to me to be a very crazy kind of policy to abandon the only navy-yard on the Gulf that is competent to furnish the necessary means for our defense in that quarter. I hope the gentlemen of this House will reflect before determining to adopt any such policy. I trust that they will sustain the navy-yard at Pensacola as one which is necessary for the defense of the United States in that quarter.

Why, sir, if we are to send our ships from the Gulf of Mexico to northern navy-yards, the nearest navy-yard north of the Gulf is, I believe, at Norfolk, and that navy-yard is now in ruins. Hence, if this navy-yard at Pensacola be not maintained, every ship that may go to the Gulf of Mexico for the protection of our

commerce and the general interests of the United States in that quarter, must make this long voyage to a northern navy-yard in order to have any petty repair made. Now, sir, it is a most unwise and foolish economy contemplated by the amendment of the gentleman from Illinois. It is penny wise and pound foolish, and I do entreat gentlemen to consider the effect of their votes on questions of this magnitude on the general interests of the United States before they cast them.

Mr. INGERSOLL. Mr. Chairman, the committee, as I understand, in reporting in favor of the appropriations for the Pensacola navy-yard have not recommended that they be made solely for necessary repairs, but upon the idea of rebuilding that yard and putting it in as good condition as it was before the rebellion. If the only purpose of an appropriation was to place that yard in a suitable condition to repair our war vessels which may need repair in the Gulf of Mexico, I should not object to make such an appropriation; but the proposition is that there shall be a navy-yard there like the navy-yards at New York, Philadelphia, and Charlestown, and that we are to keep up there a navy-yard not only for repairs, but for the construction of ships. Sir, before this can be accomplished millions of money must be appropriated; and after all this is done, not one war vessel could ever be built there. Now, in an economical point of view, I do not think that my proposition is so absurd as the gentleman from Pennsylvania imagines. Economy in all things, in the present financial condition of the country, is imperatively demanded.

Mr. Chairman, I am looking to an economical administration of the Government. Economy must be exercised or the country will be ruined. Whether we shall be involved in a war with England or France I cannot say, but I assert that we have a sufficient naval force to-day, not only to defend our own territory, but to whip the navies of the world, if they should assail us, without building another vessel. We do not need a navy-yard at Pensacola. Especially is this the case as the building of wooden ships of war has been abandoned. Wooden war ships are now nearly valueless, except for store-ships. There has been a revolution in naval architecture; iron and steel have taken the place of wood. The material now used in the construction of naval vessels comes from the North. It comes largely from the gentleman's own State. It is in the northern States where iron is found in abundance; and there also are to be found the facilities in preparing it for use in the construction of naval vessels. It cannot be done at the navy-yard at Pensacola, and should not if it could; and if you continue that navy-yard you will have to ship from the North nearly all the materials which enter into the construction of a man-of-war. Then why should we not have those ships constructed at the North, where the material is at hand? A first-class war vessel built at Pensacola would cost at least twenty-five per cent. more than if built at New York. It seems to me that this Pensacola navy-yard is to be maintained, if maintained at all, more for the benefit of individuals than for the benefit of the Government.

I assert that this squandering of millions of dollars for dilapidated and out-of-the-way navy-yards is more than shameful. It is, in my opinion, nothing but a robbery of the Treasury, and is imposing enormous burdens of taxation upon the already heavily taxed people, for which any gentleman of this House may expect to be held responsible to his constituents.

I do not vote for appropriations for navy-yards simply because they are or have been navy-yards, and only vote for those which are essential to the maintenance of the Navy.

Mr. THAYER. Let me ask the gentleman a question. Does he think it advisable for the protection of the interests of the United States that we should have no navy-yard in the Gulf of Mexico?

Mr. INGERSOLL. Yes, so far as the construction of ships is concerned.

Mr. THAYER. For any purpose?

Mr. INGERSOLL. No, if you mean such navy-yards as we have at Portsmouth, New York, and Philadelphia. I would vote a reasonable appropriation for that navy-yard, so that ordinary repairs to vessels could be made there.

Mr. THAYER. How can repairs be made unless you have the necessary work-shops there?

Mr. INGERSOLL. Of course you cannot make repairs without the tools. If you mean by repairs the building of a ship over again; then I say better sink the ship and build a new one where the materials can be procured at a cheaper rate, for it would cost more to repair a ship in that sense at Pensacola than to build a new one in the North.

[Here the hammer fell.]

Mr. DARLING. I move to strike out the last line.

Mr. Chairman, I go upon the maxim that in times of peace we should be prepared for war. I hold that to be a safe principle for our Government; and in that view, what has been said by the honorable gentleman from Pennsylvania, [Mr. Thayer,] in regard to the navy-yard at Pensacola, is true, and ought to have weight with the House. While it may be true that no ship may be needed to be constructed at Pensacola, still we should have a yard there for the purpose of making repairs of our ships stationed in the Gulf and in our southern ports. I maintain we ought to have a united country, and for that purpose it is essential we should have navy-yards at different points. It is necessary that certain repairs should be made to our vessels stationed in the Gulf, and it is necessary that machinery and other facilities should be established there so as to preclude the necessity of sending ships to the North for repairs. I trust that the House will be more liberal in regard to these appropriations, and not strike them out because they happen to be for yards in the southern part of the United States of America.

Mr. KELLEY. Mr. Chairman, I have been willing to vote for appropriations for repairs at all the yards. But I can see no reason why more should be appropriated for this Pensacola navy-yard than for any other; and I think the proposed appropriation for it is far more than for any other save one. We have no need for a navy-yard for the construction or large repair of vessels at Pensacola. It is not a fit place for a yard. There should be a coaling station and repair shop there, but nothing more. Our Navy is not what it was—a fleet of timber ships dependent upon sails. It is an iron Navy, moved by steam and machinery. Naval supremacy among nations is hereafter to be settled on land. That nation which has the amplest supply of forges, furnaces, and rolling-mills, of iron and steel, and the most workshops and skilled workers in iron and steel, will be the master nation on the sea. The question is one merely of machine power and skill in working the metals I have named.

At Pensacola, or in that vicinity, there are neither forges, furnaces, machine shops, nor skilled workmen. Nor is the water at or near that yard fit to float an iron navy not on active service. To illustrate that I will read an article now going the round of the papers, which I clipped from the Philadelphia Inquirer of February 6:

"A discovery has been made at Toulon, where the iron-plated frigate *Provence* is undergoing repairs, which shows the danger that menaces the entire iron-coated fleet of France. The *Provence* was fitted out for sea only fifteen months since, and already a great number of her plates are nearly consumed with rust. The director of naval architecture is of opinion that if a composition be not discovered to prevent the action of rust, the iron-plated fleet must be renewed every five years."

In the fact thus disclosed is nature's guarantee of the supremacy of the American navy. More fortunate than England and France, we have fresh-water harbors in which we can float iron vessels. Fresh water is a cure for the diseases inflicted upon them by salt water. And I am opposed to making large appropriations for navy-yards in our warm southern regions, in the waters of which worms eat wooden vessels and the salt water rust consumes iron ones, and

around which treason holds its sway as completely now as it did in April, 1861. We should not establish a navy-yard or even an extensive repair shop there in the present unsettled condition of the country.

The CHAIRMAN. The debate on the amendment to the amendment is exhausted, and the gentleman withdraws it. The question now is on striking out lines one hundred and nineteen and one hundred and twenty.

Mr. BANKS. I move to strike out the words "for repairs of all kinds." I want to say a single word in explanation of the vote I have given and shall give on this subject. I do not vote against these appropriations because these yards are in the South at all. I vote against them, in the first place, because expenditures that are necessary and proper at another time have been refused to other yards—to one in which I have felt a special interest, and of which I am in some degree a Representative. I vote against these appropriations in the South for the same reason that the House has adopted in striking out appropriations for the navy-yards at the North.

I vote against them, in the next place, because the communities in which these southern yards are located are in an unsettled condition; and in the event of our having trouble with England or France, as the gentleman from New Jersey [Mr. ROGERS] suggested, it might be uncertain whether the sentiment of these communities would be for us or against us. And I am opposed to expending any money in that case not absolutely necessary until these communities or States are in a settled condition and we can count upon their support in the event of any trouble. As soon as that is accomplished—and I hope to see its accomplishment at the earliest possible moment—I will vote liberal appropriations for the navy-yards in the South as well as in the North. But I do not believe it is right for us to expend large sums of money which indirectly, if not directly, go to the support of the political sentiment of these communities until that degree of peace is established which we have a right to require. If it be absolutely necessary to sustain our national defenses at Pensacola, let an appropriation be recommended for that purpose, and I will vote for it. But if it be absolutely necessary that expenditures shall be made for repairs, I would rather vote additional appropriations for the navy-yards in Philadelphia, New York, and elsewhere, with instructions to see that the repairs are made in the southern yards, than to vote to make appropriations directly for them. It is not, therefore, on account of their location, but on account of the general condition of the country that I think we are justified, not in refusing, but in suspending, for the moment, appropriations of an extraordinary extent.

Mr. BLOW. I oppose the amendment to the amendment, and I rise to make a statement in behalf of the Committee on Appropriations. By reference to the estimates of appropriation it will be found that \$452,000 was the estimate sent us by the Navy Department for the Pensacola navy-yard; the committee have reduced that amount to \$200,000, and this committee has already cut down that amount to about \$150,000; and if this appropriation, which is absolutely necessary to sustain the yard, is stricken out, the whole amount claimed for this yard by the Navy Department will be absolutely reduced to \$137,000. Better, a thousand times better, strike down this navy-yard altogether, if you have no confidence in the Department which asks you to sustain it, or the committee which brings these carefully reduced estimates to your attention.

I hope, with all deference to gentlemen upon the other side, that this \$109,000 will not be stricken out, and that the Pensacola yard will at least be kept in a situation for the repair of our vessels until we determine on some policy in regard to all of the navy-yards of our country; and I beg gentlemen from the northeastern portion of the country—I mean especially from New York and New England—to examine this bill in connection with their own estimates

and notice the very small and partial reduction that has been made. I think we have voted \$500,000 simply for repairs at the New York navy-yard. It strikes me that this appropriation of \$109,000 is an absolute necessity; and the only point before this committee is whether they will strike out Pensacola altogether, as proposed by the gentleman from Illinois, or make this appropriation which, under existing circumstances, is an actual necessity.

Mr. RICE, of Massachusetts. I withdraw my amendment to the amendment.

Mr. STEVENS. I move to reduce the appropriation to \$20,000.

Mr. WASHBURN, of Illinois. I ask the gentleman from Pennsylvania to allow me to have read an amendment which I send to the Clerk's desk.

Mr. STEVENS. Certainly; let it be read. The amendment was read, as follows:

Amend the paragraph so as to read as follows: For the preservation of the property of the United States at the Pensacola navy-yard, or as much thereof as may be necessary, \$20,000.

Mr. STEVENS. I accept that as my amendment; and now I move that the committee rise, for the purpose of closing debate.

Mr. THAYER. Will my colleague allow me to ask him a question?

Mr. STEVENS. Certainly; I yield for that purpose.

Mr. THAYER. I simply want to ask whether my colleague has information that the yard at Pensacola is in such a condition that vessels of the United States coming into Pensacola from the Gulf of Mexico can be repaired?

Mr. STEVENS. I think it is in such a situation that partial repairs can be made, not full repairs.

Mr. THAYER. Can those repairs continue to be made without this appropriation?

Mr. STEVENS. I do not know of any reason why they may not. I think, however, that we had better wait to see whether this yard is to be seized by traitors again after we repair it. I must now insist on my motion that the committee rise.

Mr. RICE, of Massachusetts. Will the gentleman yield to me for a moment?

Mr. STEVENS. I will, if the gentleman will renew my motion.

Mr. RICE, of Massachusetts. I will do so.

Mr. Chairman, I hope the members of this committee will well consider the action which they propose to take upon this bill, forasmuch as the action which was taken yesterday, if it shall be continued to-day, will materially change the naval policy of this Government and the position of the United States among the other first-class Powers of the world. During the progress of the war this Government has assumed a high position among the nations of the earth as a naval Power; but I desire to state to gentlemen that the war in which we have been engaged on the ocean has been an offensive war against an enemy on our coast or in our own waters, and that the amount of money which we have expended during the last four years has been mainly expended in providing vessels and ordnance suited to repel invasion, and to put ourselves in a condition to carry on a defensive war at home. And the results which we have attained in that direction have been such as any American citizen may be proud of. They are such as have commanded the respect and admiration of mankind everywhere. They are the most gigantic achievements that have ever been made by any nation on the face of the earth in the same length of time. And if our territory were to be invaded to-day, and we were to wage a war at home, we are pretty well provided with iron vessels and with heavy ordnance to defend our territory.

But thus far our Navy is largely one-sided. We are very poorly prepared to go into a general war upon the ocean with any first-class naval Power. The reason is because our attention has not yet been directed to that subject. I desire to make this point here, particularly because my friend from Illinois [Mr. INGER-

SOLL] seems to give the impression to the House that we are fully prepared to measure strength to-day upon the ocean with the Governments of France and Great Britain in a general maritime war. I am not willing to sit here in silence, holding the position I do by the favor and courtesy of this House, and allow that statement to go out by my sanction and upon my responsibility. I desire to say to my associates in this body that we are not prepared for such a state of things. And any man who takes that impression to his heart deceives himself, and misleads this Government in regard to the position in which it will find itself, should we unfortunately be drawn into a foreign war.

Sir, great as are the navies of France and Great Britain to-day, they have navy-yards, a single one of which is greater than are all ours combined, and yet to-day every hammer and every anvil in those foreign yards is ringing out with the strokes of laborers employed in fabricating ships and machinery to defend the flags of France and England upon the ocean in the case of a foreign war.

Are the members of the American Congress prepared to sit here supinely and say that we are willing to take the hazards that may result from the political complications of the world without any preparation whatever? Are they prepared to say that we will not maintain properly and efficiently the limited naval establishments that we now have? Are they prepared to say that where rebels and traitors have come in and destroyed our property we will let the ruins forever stand there as monuments of the power of the rebellion against the only free republic on the face of the earth?

Sir, we have nothing local, nothing sectional in respect to these navy-yards, or in the appropriations that are made for them. For one, I disclaim the imputation that there is anywhere room for a feeling of sectional jealousy in relation to one or the other of these navy-yards. They are the property of our common country; they are your property as well as mine; the property of men of the East, men of the West, men of the middle States; and I hope there will be, if there are not now, some time men in the southern States to whom this will also be common property.

[Here the hammer fell.]

Mr. WASHBURN, of Illinois. I desire to say a word.

Mr. RICE, of Massachusetts. I promised the gentleman from Pennsylvania [Mr. STEVENS] to renew his motion for the committee to rise.

Mr. WASHBURN, of Illinois. I will do so, when I get through. I now move to amend the amendment of the gentleman from Pennsylvania, [Mr. STEVENS,] by striking out the last words of it. I do this for the purpose of replying to some extent to the speech which has been made by the honorable chairman of the Committee on Naval Affairs, [Mr. RICE,] representing here to some extent the Navy Department, and thus endeavoring to control the action of this committee.

Mr. RICE, of Massachusetts. Will the gentleman from Illinois [Mr. WASHBURN] allow me to finish my remarks?

Mr. WASHBURN, of Illinois. I will, if I can have as much time as the gentleman from Massachusetts [Mr. RICE] may have.

The CHAIRMAN. The gentleman from Illinois [Mr. WASHBURN] has five minutes' time.

Mr. WASHBURN, of Illinois. Then I will go on. I say that the gentleman from Massachusetts, [Mr. RICE,] as the chairman of the Committee on Naval Affairs, and the organ of the Navy Department, attempts to influence our action in regard to this appropriation bill. I dissent from the views he has expressed in regard to the wants of the Navy. We have gone through this war with the navy-yards we had provided by appropriations heretofore made. We have had for that purpose a naval marine of seven hundred vessels, nearly six hundred of which have now been discharged, and are out of the service, relieving the existing navy-yards to that extent. And yet at the very heel

of the suppression of this rebellion, when I say we want no further naval force, the Committee on Appropriations come in here and ask appropriations to the amount of millions upon millions for new works as well as for carrying on works already commenced. And now, sir, this committee has gone through with this bill item by item; and we have, in many cases with the assent of the Committee on Appropriations, struck out appropriations amounting to between three and four million dollars.

Sir, I protest in the name of the American people against these outrageous and extravagant appropriations of the people's money without a direct and pressing demand by the public interest. Sir, in the cases of the navy-yard at Charlestown, and the navy-yard at New York, what are the reasons which have been brought forward for the construction of these new works? Where are the reasons upon the record, in view of the public interest, that require us to vote away all these vast sums, all of which we must borrow?

The gentleman tries to appeal to the fears of this House. He tells us what France and England may do. Sir, I scorn to be controlled by such considerations. I agree with my colleague that we have to-day a Navy sufficient to meet the combined fleets of the world. I think we should not be called upon now to tax our constituents still further when they are ground down in the dust by the present taxation, when we are almost upon the eve of a financial panic, unless the strongest reasons shall be given for the appropriations. I do not think, sir, that the gentleman will be successful in his endeavor to imbue this House with the fear that France and England may whiten our seas with their men-of-war, and that we will not be able to meet all comers in the future as in the past.

I can understand very well, Mr. Chairman, how agreeable it is to parties interested to have these vast appropriations, how convenient it is for persons connected with those yards to have the disbursement of these monstrous sums of money, while our constituents foot the bills. As a Representative representing a frugal and patriotic people I protest against any further expenditures unless they are justified by the most pressing public necessity.

I agree with the gentleman from Pennsylvania [Mr. STEVENS] that this is no time to rebuild these navy-yards at Norfolk and at Pensacola. The ruins of those navy-yards destroyed by the rebels are almost smoking to-day; and if the present state of things goes on, you cannot tell, sir, how long it will be before they will again be seized and destroyed by rebels. I am willing to appropriate the money that may be necessary to protect the public property at Norfolk and Pensacola, but I am unwilling to go further. Hereafter if the States that have been engaged in the rebellion shall come back into the Union, if they shall prove themselves loyal and true to the Constitution and flag, then it may be well to consider in the light of the public interest whether it would be best to rebuild these yards. But at the present time I am opposed to these appropriations inaugurating the policy of re-establishing them.

Mr. RICE, of Massachusetts. Mr. Chairman, I desire to remind the House that during this discussion I have sat silent for a greater portion of the time. I have done so, not because I was uninterested in the work which the committee have been doing yesterday and to-day, but because I desired to see how far it would proceed in the way of defining a policy for the administration of the Navy, and whether in the progress of the discussion anything amounting to a system of naval administration should be developed. I have found nothing of that kind; and it is for that reason, and because this branch of the public service has seemed to be regarded as of small importance to us, either in our domestic or in foreign relations, that I wished to say what I have already said and what I shall add.

Now, sir, gentlemen argue the question of appropriations for these navy-yards on the theory that they are State institutions, and

as if it were true that in making an appropriation to a naval station at Portsmouth, New Hampshire, or Boston, or New York, or Philadelphia, or Norfolk, or Pensacola, we were making appropriation to the respective States or local communities where they are located. Why, sir, these appropriations are no more made for those local communities than are the appropriations that are made to build forts for the national defense at points where our coast is vulnerable.

There is no argument whatever that has been made in favor of withholding appropriations for these navy-yards that will not apply with equal force to withholding appropriations from United States arsenals and forts within the rebel lines. Are gentlemen prepared to say that this Government has not power enough to protect itself and its property in its navy-yards and in its forts and arsenals? If that be so, then the time has come indeed when it would not be wise to make appropriations for our naval stations.

But our ships are not upon one ocean only or one part of the seas; they are scattered where ever our commerce goes. Where our commerce goes there our ships must be. It is contrary to all economical theories and all economical facts that your ships shall be brought from all parts of the world to one point for repairs.

As to the particular appropriation for the navy-yard at Pensacola, it is not to build a navy-yard. It is to keep in condition what we have now there, for the purpose of repairing vessels attached to the Gulf and West India squadrons, and such other vessels as are in the waters adjacent thereto.

Let me say the argument in favor of bringing these vessels to New York and other places has lost all force since you have stricken out the appropriations necessary to keep those yards in an efficient condition. Let me tell you that if we have been able to sustain the Navy during the war it is partly because we have had all the private yards in the country to assist us. Without them the navy-yards would have been insufficient to sustain the Navy. Do gentlemen want to estimate the comparative cost of repairing ships and engines in public and in some private establishments? Let them look at the bills recently investigated and returned to the Navy Department, and they will be abundantly satisfied.

[Here the hammer fell.]

Mr. PIKE. I wish to say a word in reply to the gentleman from Massachusetts.

Mr. WASHBURN, of Illinois. I withdraw my amendment.

Mr. PIKE. I renew it. Mr. Chairman, I do not wish the committee to be disturbed by the eloquent remarks of the chairman of the Committee on Naval Affairs on the unpreparedness of our Navy to meet the armed Powers of Europe. The House will recollect that last year, during the discussion which occupied some two or three days in reference to the management of the Navy Department during the war, the question then to be determined was whether or not the large expenditures of money made under that Department had been properly made, and whether or not we had brought our Navy to that condition of preparedness, not only for the suppression of the rebellion, but for that great foreign war which we all then anticipated. My friend from Massachusetts, [Mr. RICE,] the chairman of the Committee on Naval Affairs, then demonstrated to the satisfaction of the House that in that great naval battle, when should be arrayed on one side all the power which centuries of effort have culminated in the navy of Great Britain, and on the other, the Navy of the United States, we would be in no danger; that in that great battle, the flag of the United States, now happily the flag of one common country, would float in triumph over a beaten and submissive foe.

I agreed with him then. And the same force that was to achieve such brilliant results then we have now. The Monadnock and the Ironsides, the Dictator and the Puritan, with their invulnerable associates, could now achieve the results we then predicted for them. For aggress-

sive as well as for defensive purposes our Navy may still be relied upon. The expenditures of the Department have been well made, and notwithstanding the alarms of my friend from Massachusetts, I have entire confidence that in any conflict that may arise the country will have no occasion to regret the confidence it places in our naval heroes.

Now, in regard to this navy-yard at Pensacola. We are told that it is simply for repairs. The repairs done at that yard are done at an expensive rate. If it be proposed to appropriate only for temporary repairs the amendment of the gentleman from Illinois will answer.

Mr. STEVENS. I move, for the purpose of closing debate, that the committee rise.

Mr. INGERSOLL. I ask the gentleman to withdraw that motion for a single moment, that I may say a word in reply to the gentleman from Massachusetts.

Mr. STEVENS. I must insist on my motion. The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union, having had under consideration the Union generally, and particularly the bill (H. R. No. 122) making appropriations for the naval service for the year ending 30th June, 1867, had come to no conclusion thereon.

Mr. STEVENS. I move that when the House again resolves itself into the Committee of the Whole on the state of the Union on this bill all debate upon the pending section shall terminate in half a minute.

The motion was agreed to.

Mr. STEVENS. I move that the House again resolve itself into Committee of the Whole on the state of the Union on the naval appropriation bill.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair,) and resumed the consideration of the special order, the bill (H. R. No. 122) making appropriations for the naval service for the year ending 30th June, 1867.

The CHAIRMAN stated that the House had ordered all debate on the pending section to close in half a minute.

The question being taken on the amendment to strike out lines two hundred and nineteen and twenty-two and insert in lieu thereof, "for the preservation of the property of the United States at the Pensacola navy-yard, or so much thereof as may be necessary, \$20,000;" it was agreed to.

Mr. ROGERS. I move to amend by striking out in lines two hundred and thirty-nine and two hundred and forty the item "\$10,500" and inserting "\$11,000."

Mr. STEVENS. The question is not open to debate.

Mr. ROGERS. I did not understand the motion as cutting off debate on the whole bill—only on that section.

The CHAIRMAN. The Speaker of the House inquired of the gentleman from Pennsylvania [Mr. STEVENS] what his motion was, and he answered that it was on that section; and there being but one section in the bill the Chair rules that all debate is cut off.

Mr. STEVENS. It was on the section, and there is but one section in the bill.

Mr. ROGERS. Then I move to reconsider that motion.

The CHAIRMAN. That is not competent. Mr. ROGERS. Then I move that the committee rise.

The motion was not agreed to.

The CHAIRMAN. Does the gentleman from New Jersey [Mr. ROGERS] press his amendment?

Mr. ROGERS. Not if I am not allowed to speak.

The reading of the bill having been concluded,

Mr. STEVENS moved that the committee rise.

Mr. RICE, of Massachusetts. I ask the gentleman to withdraw the motion.

Mr. STEVENS. I withdraw it.

Mr. RICE, of Massachusetts. I desire to offer two additional sections to this bill. I will state in advance that they call for no appropriations in money whatever, while they will enable the accounting officers of the Treasury in one case to settle their books properly, and in the other case to equalize the distribution of bounties for the destruction of enemies' vessels which have been already passed by Congress.

The CHAIRMAN. This proceeds by unanimous consent of the Committee of the Whole, because amendments are not debatable.

Mr. RICE, of Massachusetts. I offer to amend by adding the following as a new section:

Sec. 2. *And be it further enacted*, That so much of the first section of the act making appropriations for the naval service, approved May 21, 1864, as appropriates \$250,000 for bounties for the destruction of enemies' vessels, as per act of July 17, 1862, be amended so that said appropriations shall be applied to all cases of destruction of enemies' vessels during the recent rebellion, and at the same rate as is provided for in the act to which reference is made.

Mr. WASHBURNE, of Illinois. I wish to make a point of order. I hope the gentleman will not press it here.

Mr. RICE, of Massachusetts. I hope the gentleman will not object. This is merely explanatory of an appropriation that has already been made.

The CHAIRMAN. The Chair decides that the amendment is in order, as it only regulates an appropriation previously made.

Mr. RICE, of Massachusetts. Is debate in order on this?

The CHAIRMAN. No, sir; the proposition was received by unanimous consent.

The motion to add the foregoing section was agreed to.

Mr. RICE, of Massachusetts. I offer the following as another amendment:

Sec. 3. *And be it further enacted*, That for the purpose of settling the accounts of disbursing officers of the Navy, prior to the passage of the act making appropriations for the fiscal years 1863 and 1864, the Secretary of the Treasury be, and he is hereby, authorized to transfer from the appropriation for pay of the Navy to the appropriation for contingencies, the sum of \$265,404 12.

Mr. WASHBURNE, of Illinois. That certainly cannot be in order under any rule that ever existed on the face of the earth.

Mr. RICE, of Massachusetts. That relates to appropriations that—

Mr. WASHBURNE, of Illinois. It is in the nature of a private claim.

Mr. RICE, of Massachusetts. The gentleman from Illinois is mistaken. It is not an appropriation of one dollar. The object of the section is to save an appropriation of \$245,000.

Mr. WASHBURNE, of Illinois. Is debate in order?

The CHAIRMAN. It is not. And the Chair will rule the amendment out of order.

Mr. BENJAMIN. I have an amendment to offer to come in at the end of line twenty-seven on page 2.

Mr. STEVENS. You cannot go back to offer amendments.

The CHAIRMAN. It is not competent for the committee to go back to any portion of the bill that has been passed. An amendment in the form of an additional section to the bill would be in order.

Mr. BENJAMIN. Then I offer it as an additional section to the bill.

The Clerk read the amendment, as follows: No portion of the amount herein appropriated shall be paid in violation of the act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862.

The amendment was agreed to.

Mr. STEVENS. I move that the committee rise and report the bill to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union had had under consideration the special order, being House bill No. 122, making appropriations for the naval service for the year ending June 30, 1867, and had directed him to

report the same to the House with sundry amendments.

Mr. STEVENS. I desire to inquire whether if this bill is now postponed till to-morrow, it will come up before any other business after the morning hour?

The SPEAKER. If the House passes from its consideration now, it will go upon the Speaker's table and can only be reached by a motion to proceed to the business on the Speaker's table.

Mr. STEVENS. As the gentleman from Rhode Island, [Mr. JENCKES,] desires to go on with the bankrupt bill to-day, I move that the further consideration of this bill be postponed until to-morrow immediately after the morning hour.

The motion was agreed to.

Mr. JENCKES addressed the Chair.

PERSONAL EXPLANATIONS.

Mr. GRINNELL. I ask unanimous consent to make a personal explanation.

Mr. JENCKES. I yield for that purpose.

No objection was made.

Mr. GRINNELL. Mr. Speaker, the member from Kentucky, [Mr. ROUSSEAU,] who used unparliamentary language in reference to myself is, I observe, in his seat, and I embrace the first opportunity since the publication of his speech to show him what my *animus* toward him was in the remark I made, and "that I had no desire to do him injustice or to impugn his honor." Here is his own language in the Globe. It presents the question of fact, and I read it:

"If you intend to arrest white people on the *ex parte* statements of negroes, and hold them to suit your convenience for trial, and fine and imprison them, then I say that I oppose you; and if you should so arrest and punish me, I would kill you when you set me at liberty."

Here is the person to whom the member referred. I read from his answer to a question put by the chairman of the select committee:

"I refer to Colonel McCaleb, as one of the men connected with the Freedmen's Bureau in Kentucky, and he is the man whom I told that if he undertook to arrest me and my family as others had been arrested and punished I would kill him."

I give the member the full benefit of an explanation of his declaration that he would kill a white officer acting under oath and in the discharge of his duty, if that is a less unworthy act than to shoot an American citizen of African descent. That may not have been degrading to his State, and whether it was, as I said, language unbecoming an American officer is a question which I shall refer to the gallant soldiers of the State of Iowa who never fought, thank God! but upon one side, and whether it was language unbecoming an American officer I might refer to the code of the first of American generals, and to the greatest of American captains, the Lieutenant General of the United States.

I have nothing more to add, only to repeat that my *animus* toward the member was the kindest. I criticised barbarous laws and his language from a sense of duty, and I have given his own language in justice to him, although he first used the unparliamentary language toward me, which, as I repeat, I regarded as no offense.

Mr. ROUSSEAU. I ask the gentleman to read his own language in reference to what I said.

Mr. GRINNELL. I have it here, and I will read it:

"This discussion is not plainly promotive of the most commendable temper. The honorable gentleman from Kentucky [Mr. ROUSSEAU] declared on Saturday, as I caught his language, that if he were arrested on the complaint of a negro and brought before one of the agents of this bureau, when he became free he would shoot him. Is that civilization? It is the spirit of barbarism that has too long dwelt in our land, the spirit of the infernal regions that brought on the rebellion and this war."

I further said, in reply to the gentleman from Kentucky, [Mr. SMITH:]

"I occupied the Speaker's chair when the gentleman's colleague was speaking, and I heard the words; but the gentleman has seen fit, like other gentlemen, to withhold his speech for revision, and I cannot, therefore, refer to it. I have no desire to do him the least injustice or impugn his honor."

Mr. ROUSSEAU. It was to that language that I objected when I rose to a personal explanation the day before yesterday. This House

will see at a glance the difference between a gentleman saying that he will protect his wife and children against outrage, of which I was speaking when I alluded to that matter, and saying that he would kill a person who should attempt to arrest him on the *ex parte* statement of a negro.

And when I got up here the other day, and said in my place that I used no such language, I meant just what I said, and in that regard the speech, as published, has been changed in no line, word, or letter, from what it was as reported by the reporters of the Globe who took it down.

The gentleman can have his own ideas as to what he would do if his wife and children were arrested in the evening, as was the case to which I was speaking, and ordered to be held by the agent of the Freedmen's Bureau until the morning to be tried, at his convenience. The gentleman can have his own notions; I have mine. And I say here that a man who would allow such outrages to be committed as I indicated the other day, would do what I would not do. Gentlemen undertook to correct me the other day when I said these things were done while the bureau was under the orders of General Fisk. The agent was in charge of the bureau there under the orders of General Fisk. Be that as it may, if any gentleman would allow his wife and children to be arrested and taken from him without law, and led away between two bayonets in the hands of negroes, and imprisoned during the night to be tried at the convenience of the agent of the Freedmen's Bureau, he is at perfect liberty to do so; but I would not submit to it. I would resist it, and if bloodshed came of it, let it come. I hold that the freedom and liberty I claim to enjoy is worthless if my family and myself are to be taken away from my home under these circumstances.

This explanation, however, is a very small matter, and I do not wish to have these personal explanations taking up the time of the House in this way. I believe there is not a man upon this floor who would not indorse the sentiments I have uttered, that under any circumstances he would stand by his wife and children. And if the gentleman from Iowa [Mr. GRINNELL] chooses to tell the House here to-day that he does not indorse that sentiment, then let him do so; I shall not envy his position. He may attempt a fling at Kentucky by talking about fighting on both sides of this question. Kentucky does not care what he may say; and I must say I do not care one cent about anything he may say. But I will tell him one thing, that whether on the Union or on the rebel side, he cannot point to a Kentucky man who ever turned his back upon danger, or who has ever dishonored or degraded himself by deserting or failing to defend the cause he espoused.

And when that gentleman got up here the other day and said that I had degraded my State when I said I would defend my wife and children as well as myself from these outrages, he uttered what I then pronounced to be a slander, and what I now repeat to have been a slander. If I know myself, I know that I could do no act that would degrade either my friends, my family, or myself. And the language he then used was unnecessary and uncalled for; it was discourteous and unkind, and against the rules of this House, as I understand them. And I did not know what else to do than to get up in my place here and pronounce it false and a vile slander upon me; and that I did. And I think he should have done the same toward me, if I had assailed him in like manner. And what I accord to other men, I must and will claim for myself.

I regret that it is necessary to make these explanations. The language I did utter the other day, however, justified me in what I said here. If the gentleman had properly quoted my remarks I should have said nothing; but that he did not do. If there is a reporter here who will say that I have not given the true version of my remarks, that what is published is not just precisely what I uttered on this floor, then I will admit that I am wrong.

I hope to hear no more said about this matter. It is not worthy the attention of this House. I think enough was said about it the other day; more than I want to hear again.

Mr. GRINNELL. I have discharged my duty. I have allowed the member to report himself, and he does not seem disposed to take advantage of his own wrong to retract his words. He throws himself back upon his style of dignity, and he has a perfect right to do so.

Mr. ROUSSEAU. I wish the gentleman would indicate what words he expects me to retract. I do not understand him.

Mr. GRINNELL. I have not asked the gentleman to retract anything. I simply wished to allow him an opportunity to explain himself by his own speech, to show what was the difference between his declaration and my statement of it. I thought that he said that he would shoot a negro, while it appears by his speech that in two instances he said that he would shoot a white officer of the United States while on duty. That is all the explanation I wish to make, and I am willing to stand in that position.

If the gentleman means to say that Kentucky is the only State whose sons do not turn their backs in the day of danger, then I apprise him that there are other States northward whose sons I defend from cowardice. It is not for me to boast that I belong to the profession of gory Mars, and I have not had much experience in fast running, but trust I have a comfortable amount of that quality which means standing still and both awaiting and meeting the consequences of my acts and words at home and abroad.

Mr. ROUSSEAU. Mr. Speaker, I cannot allow the gentleman to become defender of the troops from the free States. I simply wish to say that I have made no reflection upon the soldiers of the various States. I have fought with them, sir, and I only wish that the gentleman from Iowa had been willing to be present to see how bravely and gallantly the troops from his own State and all the free States deported themselves in time of battle. I have fought with those men; I know them; and I would rather die than cast a reflection upon them.

Mr. McKEE. Mr. Speaker, I have nothing to say with reference to this question. I simply wish to make a correction of the report of my own speech telegraphed from this city by the Associated Press.

I am reported as having said that Kentucky was the most disloyal of all the rebel States. I am correctly reported in the Globe. My remark was that Kentucky has been one of the most disloyal.

A MEMBER. There is not much difference.

Mr. McKEE. I do not wish to withdraw that remark. I only mean to add that that State has not only been one of the most disloyal, but one of the most troublesome of all the disloyal; and she is the only State which has now practically succeeded by her legislation in carrying out the doctrine of secession. [Laughter.]

Mr. JENCKES. I think that the House will thank me for having yielded to these gentlemen; for we have now obtained an exact definition of the position of Kentucky; and I hope it will be ever remembered.

I desire now to call up the special order, the bankrupt bill.

ORDER OF BUSINESS.

Mr. MORRILL. I wish to inquire, Mr. Speaker, what is the position of the loan bill? As I understand, that bill was made a special order for to-day after the morning hour.

The SPEAKER. The loan bill was made a special order for to-day after the morning hour; but in accordance with the usages of the House, the bankrupt bill having been made a special order previously, antedates the loan bill, which will come up as soon as the bankrupt bill shall have been disposed of.

BANKRUPT BILL.

The House, agreeably to order, resumed the consideration of the special order, the bill (H.

R. No. 7) to establish a uniform system of bankruptcy throughout the United States.

Mr. JENCKES. I wish now to move the adoption of the amendments reported by the committee. All of those amendments except two are merely corrections of the printing, or are designed to make the provisions of the bill more clear. Two of the amendments are matters of substance.

The SPEAKER. The Chair would suggest that the bill as amended by the committee be offered as a substitute for the original bill. By this means the whole bill will be open to amendment, while otherwise only amendments to the amendments could be offered.

Mr. JENCKES. I thank the Chair for the suggestion; and I now offer the bill as amended by the committee as a substitute for the original bill.

Mr. CONKLING. I should like to make a suggestion to the gentleman from Rhode Island. A number of gentlemen have suggestions to make and possibly amendments to offer to the different sections of the bill; and I suggest that by unanimous consent the bill be considered, as in Committee of the Whole, and be read by sections for amendment and debate.

Mr. JENCKES. The only objection to that is in the time that would be consumed in the reading of this long bill; it consists of over fifty sections.

The SPEAKER. Any gentleman has the right at this time to have the bill read.

Mr. CONKLING. I do not propose that there shall be any waste of the time of the House. All I desire is that the reading of the bill may be by sections, and considered as in Committee of the Whole, so that amendments and suggestions may be made, and the whole subject be presented intelligibly to the consideration of members.

Mr. JENCKES. Mr. Speaker, I have no objection to that.

The SPEAKER. If there be no objection, the bill will be considered as in Committee of the Whole, and read by sections for amendment, on which the five minutes' debate will be in order.

There was no objection, and it was ordered accordingly.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed Senate bill No. 80, for the relief J. B. Rittenhouse, fleet paymaster of the Pacific squadron; in which he was directed to ask the concurrence of the House.

ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolutions and bill of the following titles, namely:

Joint resolution (S. No. 20) extending the time for the completion of the Burlington and Missouri River railroad;

Joint resolution (S. No. 26) for the payment of the expenses incurred by the joint committee to inquire into the condition of the States which formed the so-called confederate States of America; and

An act (S. No. 86) granting the franking privilege to Mrs. Mary Lincoln;

When the Speaker signed the same.

MISSOURI CONTESTED ELECTION.

The SPEAKER presented a deposition in the case of S. H. Boyd vs. John R. Kelso; which was referred to the Committee of Elections.

BANKRUPT BILL—AGAIN.

Mr. JENCKES. Mr. Speaker, before the bill is read I desire to submit a few remarks opening the debate.

This bill is the result of the careful study of the subject by two select committees of this House, and of the Judiciary Committee of the Senate in the last Congress. It may also be said to be the result of the studies of previous committees of Congress, who, in the light of the previous experience of this country and of

other commercial countries, have endeavored to provide for the necessities of our merchants and men of business. It is an attempt to establish the law of debtor and creditor upon an equal and just system, based upon the Constitution, and which shall have a salutary and satisfactory operation in all parts of our country.

The bill has been printed in large editions and liberally distributed throughout the country. Abstracts of it have been published in most of the newspapers, and in all of the legal periodicals. Every lawyer and man of business in the country has had an opportunity of becoming acquainted with its provisions. Many suggestions in amendment have been received from practical men, which have been duly considered and many of them accepted.

Since the bill was reported in the last Congress, its provisions have also received consideration in other countries. One fact is sufficiently illustrative of the commendation which it has received. In the last Parliament of Great Britain a select committee of the House of Commons had the question of the revision of their system of bankruptcy under consideration, and out of twenty-one propositions of amendment, eighteen were identical with the leading provisions embodied in the bill before the last Congress.

One criticism frequently made upon the bill is that it is too long and elaborate. But it should be remembered that it contains a code of positive law—embracing the relations of debtor and creditor in every State—superseding the local laws, and intended to be uniform and national in its operation. It has been deemed necessary, therefore, to set forth clearly every proposition that relates to the rights and remedies of parties affected by the system. All that relates to mere formalities of proceeding has been omitted, and provision made for the preparation of a code of rules which shall be the same in every court. With the simple and uniform machinery thus provided for, it is believed that the objections made to the operation of previous statutes will be entirely overcome.

Every commercial nation has adopted a system of bankrupt laws. It is too late to argue upon the soundness of the principle upon which such laws are founded. To question it would be to question the results of the experience of the whole world for centuries.

The bill is framed to take effect upon the business of the country as it now exists. Time is given for the framing and circulation of the code of rules, and for the men of business of the country to become acquainted with its provisions. When it once goes into operation it is believed it will become the basis of a permanent system. The careful manner in which the bill has been prepared and revised by the committees which have had the subject in charge; the length of time that the measure has been before the country; the universal favor in which it has been received by all mercantile interests; the general advocacy of the press; the intrinsic value and unquestionable good of the system, and the common consent that the present is a most favorable time for its introduction, induce me to take up no more time in opening the debate, but to ask that the bill may now be put upon its passage.

Mr. HALE. I desire to inquire of the chairman of the select committee whether it is proposed to bring this bill to a final vote to-day?

Mr. JENCKES. It will not be possible to do so.

Mr. HALE. There are many things, while approving the general idea of the bill, which, in the brief examination I have made of it, require amendment at least for its security and fair working in certain localities, depending on the size of the districts; and there are also other questions as to the practical details of the bill I think we ought fairly to consider.

Mr. JENCKES. It was for that purpose I agreed that the bill should be considered as in the Committee of the Whole, and read by sections for amendment.

Mr. HALE. Will time be allowed for the consideration of these matters?

Mr. JENCKES. Yes, sir.

The SPEAKER. The bill will be read for the amendment, on which the five minutes' debate will be in order.

The Clerk proceeded to read the bill.

Mr. HALE. Do I understand it is necessary to move an amendment in order to be entitled to speak on the bill?

The SPEAKER. Yes, sir.

The Clerk read the second section, as follows:

SEC. 2. *And be it further enacted*, That the several circuit courts of the United States within and for the districts where the proceedings in bankruptcy shall be pending, shall have a general superintendence and jurisdiction of all cases and questions arising under this act: and, except when special provision is otherwise made, may, upon bill, petition, or other proper process, of any party aggrieved, hear and determine the case as a court of equity. The powers and jurisdiction hereby granted may be exercised either by said court, or by any justice thereof, in term time or vacation. Said circuit courts shall also have concurrent jurisdiction with the district courts of the same district of all suits at law or in equity which may or shall be brought by the assignee in bankruptcy against any person claiming an adverse interest, or by such person against such assignee, touching any property or rights of property of said bankrupt transferable to or vested in such assignee: but no suit at law or in equity shall, in any case, be maintainable by or against such assignee, or by or against any person claiming an adverse interest, touching the property and rights of property aforesaid, in any court whatsoever, unless the same shall be brought within two years from the time the cause of action accrued, for or against such assignee: *Provided*, That nothing herein contained shall revive a right of action barred at the time such assignee is appointed.

Mr. HALE. I move to strike that section out.

Mr. FARNSWORTH. I understand the bill is now being read for information.

The SPEAKER. No; for amendment. The general debate will be in order when the bill has been gone through with for amendment, under the suggestion of the gentleman from New York, which was unanimously agreed to.

Mr. HALE. I make this motion for the purpose of inquiring of the chairman of the select committee what object is gained by giving concurrent jurisdiction to the Federal circuit and district courts. I fail to see any desirable object that is attained over what would be attained if the jurisdiction were confined to the district courts. It is well known that in practice ordinarily now the circuit courts are held by the district judges. It is very seldom that a justice of the Supreme Court is associated with a district judge. And it seems to me that there are objections to retaining the provisions of this section, by which any case of bankruptcy may, upon application of any party interested, be forced into the circuit court instead of the district court. In the northern district of New York, for instance, where I reside, there is a large territory. The circuit court is limited in its terms to, I think, only two, and at two points, practically, in the district. So that the party of the creditors may, by application of the adverse party bringing the case into the circuit court instead of the district court, be driven to a distance of four or five hundred miles to preserve their rights under this bill.

I simply desired to call the attention of the chairman of the committee to this fact.

Mr. JENCKES. If the gentleman from New York [Mr. HALE] would compare the language of this section carefully with that of the first section, he would see that there are many cases which could be very much speeded in the hearing and decision, by giving concurrent jurisdiction to the circuit courts. The first section provides that all original proceedings in bankruptcy—that is, all relating to bankruptcy itself, the discharge of the bankrupt, and questions growing out of his personal relations to his creditors—shall be first heard and determined there. But in regard to questions arising in the settlement of his estate, it may be to the advantage of all parties to have proceedings instituted in the circuit court and carried through as rapidly as possible. Thus, for instance, a great many cases arise in the settlement of a bankrupt's estate which can only be prosecuted in the equity side of the court. This gives to the assignee power to institute proceedings in the circuit court, or gives the

claimant the right to institute a suit against him, and thus place his case under the rule of practice of the circuit court of the United States, as established by the code laid down by the Supreme Court, and puts forward the case to an early decision, giving either of the parties an opportunity to carry it up by appeal to the Supreme Court of the United States. These sections are framed so that one is the complement of the other, and with a view, not of hindering proceedings or embarrassing anybody, but getting speedy action before the highest tribunal.

There are numerous terms of the district court, and two terms of the circuit court in all the districts. There are at least four terms of the district to two of the circuit court. It may be very desirable to have a suit brought in the circuit court, as one of the judges of the Supreme Court may sit there for the purpose of speeding the ultimate decision of the cause in the Supreme Court. If brought into the district court it has to be taken by appeal to the circuit court, or by writ of error if it is a suit at law. I hope the gentleman from New York will be satisfied that it is to aid in the administration of law, and not with a view to delay that this provision is made.

Mr. HALE. I wish simply to see if I misunderstood the provision of the bill, when I understood that by this section concurrent jurisdiction is given to the circuit court in all proceedings throughout.

Mr. JENCKES. Not in all. In that the gentleman is mistaken. If he will look at the first section he will find that the district court has jurisdiction upon all matters relating to the personal relations of the bankrupt with his creditors, and the circuit court has concurrent jurisdiction in all cases that relate to the property of the bankrupt.

The SPEAKER. The time for debate has expired. The question is on striking out the section.

Mr. CONKLING. I move, as an amendment to the amendment of my colleague, [Mr. HALE,] with a view of perfecting the section which he proposes to strike out, to strike out from the commencement of the section down to the word "assign," in the seventeenth line, as follows:

That the several circuit courts of the United States within and for the districts where the proceedings in bankruptcy shall be pending, shall have a general superintendence and jurisdiction of all cases and questions arising under this act: and, except when special provision is otherwise made, may, upon bill, petition, or other proper process, of any party aggrieved, hear and determine the case as a court of equity. The powers and jurisdiction hereby granted may be exercised either by said court, or by any justice thereof, in term time or vacation. Said circuit courts shall also have concurrent jurisdiction with the district courts of the same district of all suits at law or in equity which may or shall be brought by the assignee in bankruptcy against any person claiming an adverse interest, or by such person against such assignee, touching any property or rights of property of said bankrupt transferable to or vested in such assignee.

As I understand this section, despite the explanation of the gentleman from Rhode Island, [Mr. JENCKES,] it does give, to a very large extent, original and concurrent jurisdiction with the district court, and I call his attention to the language of the section commencing at the end of line ten:

Said circuit courts shall also have concurrent jurisdiction with the district courts of the same district of all suits at law or in equity which may or shall be brought by the assignee in bankruptcy against any person claiming an adverse interest, or by any such person against such assignee, touching any property or rights of property of said bankrupt transferable to or vested in such assignee.

It seems to me that this whole section is useless in its practical working in any district with which I am familiar.

I will mention as an illustration the district in which I live; and I avail myself of this opportunity to say that I do not believe this bill can be put into operation at all in the State of New York, as regards the largest district of that State, unless some judicial machinery is to be created that is not provided for in the bill.

The circuit court and the district court are practically the same thing in that district, be-

cause the justice of the Supreme Court does not sit; it is the district judge all round.

I do not forget that the gentleman provides for what under the English system are called registrars, and what are here called registers, to do clerical, chamber business. I remember that when I say that this bill, in my judgment, cannot be executed in the northern district of New York, whether with or without this section, because in either event the litigation to which it gives rise is to go up before the district judge, and business has so accumulated in that district within the last two or three years that no man can execute the provisions of this bill.

In addition to that, I concur with my colleague [Mr. HALE] in the objection he makes to this section, because the only effect, waiving the question whether it can be executed or not, is to carry parties from Albany to Buffalo and from Buffalo to Albany, to the end that they may say, in name and in form, now we are in the circuit court although we are before the same actual tribunal.

So, Mr. Speaker, I object to this section, first, as being unnecessary, inasmuch as it duplicates the jurisdiction conferred; and I object to it further upon a ground which goes more or less to all the other sections of this bill, namely, that without some additional machinery the bill itself cannot be executed either in the district court alone or in the district and circuit courts both.

Mr. SLOAN. I rise to oppose the amendment offered by the gentleman from New York, and in doing so, I entirely dissent from the statement made by him, that the district court of the United States and the circuit court of the United States are the same thing. I do not undertake to say what may be the condition of those two courts in the State of New York, or in the district to which the gentleman refers, but I undertake to say that in the State of Wisconsin, and in other States, those courts are distinct and different courts.

Mr. CONKLING. The gentleman has entirely misapprehended what I said.

Mr. SLOAN. I did not misapprehend the gentleman. In theory, of course, he understands that they are distinct; but I understand him to say that in practice the district judge holds the circuit court.

Mr. CONKLING. I mean to say precisely this, that so far as business accumulated in the Supreme Court of the United States, that the circuit judges, in other words, the justices of the Supreme Court, do not, and, from the nature of the case cannot, to any extent sit in the circuit court.

Mr. SLOAN. I so understand the gentleman; but while these courts are theoretically distinct, they are also practically distinct and different tribunals in the State of Wisconsin, and I believe in other States. A justice of the Supreme Court holds the circuit court; and one of the main merits of this bill, in my judgment, is that this section leaves a choice to parties whether they will have their rights determined by the district or the circuit court. There is danger that if exclusive jurisdiction were given to one court a district judge of any peculiarity of mind might endeavor to carry out the law upon strange principles.

Mr. JENCKES. If the gentleman will allow me to interrupt him, I will remind him that under the old law the district judge of Missouri held that the act was unconstitutional, and he would not open his court.

Mr. SLOAN. Certainly. And the giving the right to persons to choose the tribunal, and in important cases to appeal to the circuit courts of the United States, where the justices of the Supreme Court sit to determine upon their rights, is, in my judgment, one of the great merits of this bill. I should be very reluctant to see suitors, whose interests were involved in these proceedings, confined exclusively to the district courts. I admit that as a general thing their operations might perhaps not be prejudicial to the interests of litigants. But there certainly ought not to be any objection to giving litigants the right to go into the higher tribunals,

and the preferable tribunals in some States, for the purposes of justice. And I trust that no amendment will be favored by this House which at all impairs or interferes with the right of the circuit court to exercise concurrent jurisdiction and supervision over this matter. If the bill went further in that direction it would meet my approbation still more.

Mr. CONKLING. I withdraw my amendment to the amendment. And I will now move to amend the section by striking out all down to the end of the fourteenth line. I do so for the purpose of saying a word in reply to the gentleman from Wisconsin, [Mr. SLOAN.]

I understand that there is a local reason in the State of Wisconsin why the circuit judge does sit, and the district judge does not; or if the district judge does sit why causes are not brought before him with as much alacrity as they are before the circuit judge. That is a local reason.

Now, look for one moment at the operation of this bill elsewhere, so as to test the validity of the general assertion and argument of the gentleman from Wisconsin. Take the State of New York as an illustration, where there is nothing local that I am aware of, one way or the other, bearing upon this question, except the geographical extent of the district. Suppose that there some man, either the bankrupt himself or the creditor wishing to collude with the bankrupt, or having some motive of fraud in some way, proposes that proceedings shall take place in the circuit court; and the parties interested live in the county of Erie, or the county of Chautauqua, or the county of Niagara, or anywhere in the western part of the State. The proposition practically is that witnesses, counsel, parties, creditors, a crowd of people, are to be driven three hundred and twenty-five miles to find a term of the court.

Or if it takes place at another season of the year, and if it is applicable to the only other term, the parties may live in the northeastern part of the State, while the term is to sit in the county of Ontario, or the county of Onondaga. Thus the parties are to be carried a distance of four hundred and fifty miles to get into an appellate jurisdiction, to get before a different tribunal; to get not their rights—not to make one hair white or one hair black, not at all—but to get, in truth, before the same identical judge, with no other right but to have the same form of proceeding and the same result.

Mr. SLOAN. I would like to ask the gentleman from New York [Mr. CONKLING] if the circuit courts in New York are not held in the same places as the district courts?

Mr. CONKLING. No, sir. On the contrary, so seldom are circuit courts held, so much have they become a shadow, so far as relates to the idea of their being held by the judges of the Supreme Court, that a bill is now pending in the Senate to abolish them altogether, to sweep them away, because it is impossible for the judges of the circuit court to hold them. In the district where I live, I believe there are but three terms appointed of the circuit court. One of them is absolutely a shadow, and the other two are held by the district judge. So that in truth it is nothing but the same court in another name, with this fact added, that the circuit court is held but twice a year, and then at positions far from each other. The district court, however, is dotted about in so many localities, and is so frequent in occurrence, as to lessen very greatly the evils of which I speak.

Mr. JENCKES. The reasons stated by the gentleman from New York [Mr. CONKLING] for striking out the portion of the section which he has indicated are precisely the reasons which influence the committee in inserting it. The district of New York is undoubtedly the most difficult to manage of all the districts in the United States. The remedy for the difficulty is not in making provisions for that district alone, and causing inconvenience to all the rest of the districts in the United States, but in dividing that district. The reason which the gentleman dwells most upon is this: they have now in that district but four terms of the

district court in which to try cases arising under this act or any other. By giving the circuit court jurisdiction in these cases they have six terms; and if the same judge holds both courts, there will be six chances for the trial of a case, where, under the plan suggested by the gentleman, there would be but four. Nor will any peculiar inconvenience be experienced in this class of cases by reason of the extent of the territory. The same difficulty exists now in all revenue and all admiralty cases, and in every case of which that court has exclusive jurisdiction under the Constitution and laws of the United States.

Mr. CONKLING. Will the gentleman allow me to ask him a question?

Mr. JENCKES. Certainly.

Mr. CONKLING. Will the gentleman be good enough to explain how the northern district of New York differs in this respect from the whole of Kentucky, for example, a district by itself, or half of Ohio, a district by itself, or various other districts equal or nearly so in territorial extent?

Mr. JENCKES. I think the gentleman is mistaken about Kentucky; and certainly in Ohio there are three districts.

Several MEMBERS. Two.

Mr. CONKLING. The gentleman from Kentucky [Mr. McKEE] says that there is only one district in Kentucky.

Mr. JENCKES. Well, perhaps Kentucky may come in the same category as the northern district of New York; but the remedy for that is to divide the district. As I understand, a bill has been presented, or is to be presented, for the purpose of correcting that evil in the northern district of New York.

The gentleman makes one other suggestion; and as I suppose I shall have to meet it several times, I will just hint at it now. It is that other machinery than that provided in the bill is required. I think, however, that if the gentleman will examine the matter closely he will find that sufficient machinery has been provided. All the formal business in these proceedings will be done by officers called registers. Every issue in law which parties may raise in any case will be made up and stated by the register and certified to the court; and if a question is not of sufficient importance to justify parties in going three hundred miles to try it, they would be very foolish to have it stated and certified. If parties choose to have a case tried in which the question is frivolous, the burden is thrown upon them, not upon the courts or the officers of the courts.

The SPEAKER. Debate is exhausted upon this amendment.

Mr. CONKLING. I withdraw it.

The question recurring on the motion of Mr. HALE, to amend by striking out the second section, it was not agreed to.

Mr. ROGERS. I move to amend the third section by striking out in the nineteenth, twentieth, twenty-first, and twenty-second lines the following words:

And he shall, in open court, take and subscribe the oath prescribed in the act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862.

Mr. JENCKES. I would ask the gentleman from New Jersey whether, if those words be stricken out, the officers who may be appointed under this bill would not be obliged to take the oath required by the provisions of that act of 1862?

Mr. ROGERS. I do not see how that could be.

Mr. JENCKES. That act applies to all civil officers.

Mr. ROGERS. Very well, then; if that oath is now required to be taken under an act already in force, then it is unnecessary to insert here any provision for the taking of that oath.

But that is not the ground on which I propose to strike at this portion of the bill. My reason for making this motion is that I regard the requirement of this test oath as odious, unjust, and despotic. I object to the provision of the bill, because it is intended to prevent

any person in the South who has been in any way engaged in the rebellion from occupying a position under this bill. It will exclude all persons in the South who have given any aid or comfort to the rebellion, or who have been in any manner engaged in it, or who have held any position under the confederate government, no matter how unwillingly such persons may have participated in the rebellion. It may prove difficult or impossible to find in the southern States persons who are able to take this test oath. Some Departments of the Government have already found it necessary to dispense with that oath in order to carry on the machinery of the Government in the southern States.

I oppose this upon another ground: that a test oath of this kind is unconstitutional, that there is no authority in the Constitution of the United States to the Congress to inflict upon the consciences of any men any oath in regard to the support of the Federal Government except the oath laid down in the Constitution of the United States itself. It is an oath to support that Constitution; and any obligation attempted to be inflicted upon people by virtue of an act of Congress, different from that contemplated in the Constitution, is not binding upon the conscience, is in violation of law, is an infringement on liberty, an effort of despotism to strike down a people because they have disagreed with us on great political questions, and have seen fit to take up arms in defense of the position they occupied.

I am opposed to this, sir, for the reason that I want to restore harmony and good feeling to every section of the country. I do not want to see any more laws passed, after peace has been proclaimed and war has been declared to have ceased, making a discrimination against any person, whether that person was engaged in the rebellion or not. I hold that under the general amnesty and the manner in which they have been treated by the President of the United States, that immaculate man who has attempted to defend the integrity of the whole country and to restore it to its former grandeur, it is an infringement on the part of Congress to prevent persons, merely and simply because they have been engaged in rebellion, from holding office under this bankrupt law.

Mr. JENCKES. I do not rise for the purpose of opposing the motion to strike out.

Mr. ROGERS. I modify my amendment as follows: I move to strike out the words "the oath prescribed by the act entitled 'An act to prescribe an oath of office, and for other purposes, approved July 2, 1862,' and in lieu thereof to insert:

An oath that he will support the Constitution of the United States, and will faithfully perform the duties of said office according to law.

It seems to me, unless the gentleman wants to make a distinction between individuals situated in different parts of the country, in violation of the Constitution, he will be satisfied with the amendment I have offered.

The amendment was rejected.

The Clerk read the fourth section.

Mr. CONKLING. I move to strike out the first line, for the purpose of calling the attention of gentlemen who are interested in this bill to a feature which begins here. If the gentleman from Rhode Island is right in the suggestion that he made when he was up before, that they are to divide the districts and make requisite arrangements to bring into being men enough to carry this act into operation, it is well that the House should begin to understand this bill in this one section, implies, if it is to be carried out, an unlimited number of officers.

Mr. JENCKES. They are to be limited by the fees.

Mr. CONKLING. It provides that it shall be the duty of the circuit judges of the United States to appoint in such districts one or more registers in bankruptcy. It is only limited by the option and the discretion of the judge. It may be one and it may be one hundred.

Mr. JENCKES. It is limited also by the

fund from which these registers are to receive compensation.

Mr. CONKLING. It does not meet the point raised, that it gives the judge the power to appoint as many officers as he chooses, and for any purpose whatever. When appointed they can do nothing but what any clerk can do.

They are to perform an office which is purely clerical. They are to do chamber business, *ex parte* business, which the clerk or deputy clerk can do now. My objection is, that here is a corps of officers to be brought into existence useless for the purposes prescribed, to whom jurisdiction should be given, if they are to be created at all, to hear and determine litigated questions. The amendment, therefore, it seems to me, belongs either to this section or to the next. If these registers are to be appointed, then the next section should be so amended as to make them useful for some practical purpose, whereas now they perform a mere clerical duty which otherwise could be discharged by clerks or deputy clerks of the court.

Mr. JENCKES. The gentleman is under a misapprehension about the duties of these officers, and I wish to meet the objection here because we shall have to consider it hereafter. He says the duties may be performed by the clerks of the court. But the clerks are local. Take the northern district of New York. They are located at Utica and Buffalo; they cannot leave their offices. But suppose there are a dozen causes prepared in Ogdensburg, in Plattsburg, and elsewhere, then the judge of the northern district of New York, upon application of the parties or the counsel in those cases, can send a register to either of those towns to meet the parties—the applicant for bankruptcy or the creditors or the assignee, whoever is contesting—and whatever they agree upon he can enter as the order of the court and carry it back to the clerk's office. It is to save this very trouble and difficulty that this class of officers is provided for. They are movable, not fixed. They travel about to suit the convenience of the parties having business in the courts, and do not oblige parties or counsel to travel two or three hundred miles for the sake of making a formal motion, where entry might be made by the clerk without the presence of the judge.

Thus all the difficulties suggested by the gentleman from New York [Mr. CONKLING] in his previous and last remarks may be overcome by these officers if they do their duty; and it is the interest of the courts to provide the best officers they can for that purpose, because if they do not, the business which the registers do not do will come back upon them, and they will have to hear and decide upon these matters of formality.

Mr. THAYER. I wish the gentleman would state while he is up whether these officers are not in point of law and of fact, judges; whether their functions are not judicial; whether they do not decree bankruptcy and have cognizance of questions of law; and whether a mere clerk of the court is ordinarily competent to discharge such duties.

Mr. JENCKES. Certainly; it requires that the persons shall be counselors of the court and learned in the law. This is taken from the English law. There are these officers in bankruptcy there; but they are fixed, and it is the strongest objection to the law of 1861, that parties were obliged to seek these registers' offices. And one of the amendments I alluded to in my opening remarks, that was proposed in the English House of Commons, was to make these officers movable.

Mr. DELANO. I have not had time or opportunity to examine the provisions of this bill. I should like to ask whether it is retroactive in its effects.

Mr. JENCKES. Certainly; it takes the business of the country as it finds it.

Mr. DELANO. Then I suggest whether the gentleman had not better be strict in what he proposes by his amendment. We shall certainly require all the agents to go on with this business that the bill provides for if we give it the latitude and breadth that is proposed by the chairman of the committee.

Mr. JENCKES. I do not see how it can be limited without—

The SPEAKER. The time has expired on the amendment of the gentleman from New York.

Mr. CONKLING. I withdraw it.

Mr. LE BLOND. I move to strike out in lines twenty and twenty-one these words:

An act to prescribe the oath of office, and for other purposes, approved July 2, 1862.

That will simply leave persons to take the oath that is prescribed by law, and if there is any change afterward in the character of the oath necessary to be taken, it does not then become necessary to follow up this law or repeal it. I think that that will answer the purpose. I believe the chairman of the committee [Mr. JENCKES] fully understands that without this provision they would be required to take what is known as the test oath. And if that oath is subsequently changed, whatever the oath then may be, that is the one they would have to take. It is therefore unnecessary to incorporate this in this bill.

Mr. ROGERS. I do not understand that the test-oath law is applicable to officers of this kind, if there was no provision for it in this bill, and I understand the chairman of the committee to say that he is willing to have this provision stricken out. I hope the House will not refuse to do so, as long as he is willing to have it done. I do not suppose the House wants to prevent anybody from acting in the position of registrar, or whatever the office is, in the southern States. Yet there are places, I suppose, where there is nobody living who could take the oath unless some person who has gone there from the North.

Mr. PRICE. I only want to say to the gentleman from New Jersey, [Mr. ROGERS,] who considers himself the special friend of the President, that the President has solemnly declared that he proposes as the rule of his future conduct that traitors shall be punished and treason made odious. And that is a part of what is accomplished by this bill.

Mr. ROGERS. The President has issued a general amnesty that extends to all persons who have not held civil offices under the confederate government, and to all persons in the military service under the rank of colonel. Now this bill goes further than that. It provides that no man, even those who have not held civil office under the confederate government, and military officers under the rank of colonel, shall hold this office without taking an oath that they have not aided the rebellion. Therefore, in the State of South Carolina, and some of the other States, it is not probable that a single person competent to perform the duties required by this bill can be found to take that oath; because every person of any capacity in those States has been engaged in this rebellion. Therefore I do not see how this bill is to have the Federal features it ought to have to extend all over the United States with this requirement in it. And if there is any loyal man in the southern States, though he may have gone from the North, he is as much entitled to the benefits of the provisions of this bill as any man in the North can be. And to whom is he to apply under this bill? He can apply to nobody there, unless some one is picked up in the North and sent down there to perform the duties prescribed by this bill.

Mr. LYNCH. I rise to a point of order. My point is that this discussion is not relevant to any proposition before the House, but relates to a proposition that has been before the House and been voted down.

The SPEAKER. The Chair overrules the point of order. The question is upon the motion of the gentleman from Ohio [Mr. LE BLOND] to strike out a part of the pending section.

Mr. ROGERS. The chairman of the committee from which this bill comes, [Mr. JENCKES,] I understand is willing that those lines shall be stricken out. If that is done it will leave the person who is to hold this position in the same situation as any other officer would be. If he

comes within the requirements of the act requiring the test oath to be taken by him, then he will have to take it; otherwise he can discharge the duties of this office without being obliged to take that tyrannical and unconstitutional oath.

Now, I do not suppose the chairman of the select committee proposes to exclude persons from performing the duties required by the provisions of this bill, if they do not come within the provisions of the original act imposing that oath. I do not suppose that in time of peace, when the war is over and has been over for some seven or eight months, he intends to compel persons to take this test oath, which was only required to be taken in time of war, under the plea that it was necessary for the purpose of suppressing the rebellion. I do not suppose that we want to apply in time of peace this test oath any further than we did in time of war. And if a person who holds office under this bill does not come within the terms of the oppressive test-oath bill, why should you require him to take it, to do more than was required, tyrannically and unconstitutionally, of any one in time of war?

Mr. POMEROY. I move to amend the fourth section by striking out from the word "and" in the sixteenth line down to and including the word "court" in the twenty-first line, as follows:

And he shall also keep a docket of all cases in which he shall act, and make therein short memoranda of his action in all cases, which docket shall be kept in the office of the clerk of the district court, and shall form a part of the minute-book of the proceedings of said court;

And to insert in lieu thereof the following:

And he shall also make short memoranda of his proceedings in each case in which he shall act on a docket, to be kept by him for that purpose, and he shall from time to time, as proceedings are taken, forward to the clerk of the district court a copy of said memoranda, which shall be entered by the said clerk in a proper minute-book kept in his office.

As the section is now framed it provides that the register shall keep a docket in the office of the district court. Now, in a large district it is perfectly impossible that the register can keep a docket and enter memoranda of his proceedings in it in the office of the district court. The object of this amendment is to provide that from time to time, as proceedings are taken before the register, he shall forward to the clerk of the district court memoranda of those proceedings, and that the clerk shall enter them in a minute-book to be kept by him; which is practicable, while the other is not. It arrives at the same result that was arrived at by the committee in this section. It seems to me that as the section now stands it cannot be carried out in large districts.

Mr. JENCKES. Will the gentleman from New York allow me to ask him a question?

Mr. POMEROY. Certainly.

Mr. JENCKES. Is the object of his amendment to require the keeping of two dockets, one in the clerk's office and one by the register?

Mr. POMEROY. No; the register must necessarily keep at his own office the record of his own proceedings; but the official docket must be kept in the clerk's office as a matter of course. That is the source to which every person goes for information upon these subjects. The official register is the register kept by the clerk of the district court.

Mr. JENCKES. I think if the gentleman's amendment went a little further it would not be objectionable.

Mr. POMEROY. I will modify the amendment so as to make it acceptable to the chairman of the committee, provided that it will carry out the object.

Mr. JENCKES. The reason for this particular provision is this: that if the register of the court meets, at some place two or three hundred miles from the clerk's office, a dozen petitioners, and there is no objection to the entering of formal decrees, his act at that time is the act of the court, and that his minute-book or docket shall be carried back to the court and become a part of the records of the court; not that he shall keep a private docket of his own,

but that the contemporaneous act, that which he does in the presence of the parties, shall be the record of the court. I cannot see any hardship in that.

Mr. POMEROY. The amendment that I propose carries into effect the very result which the chairman of the committee aims at.

It is perfectly impossible, as I said before, that the register shall keep a docket in the office of the clerk, and all that he can by any possibility do is, wherever he may be, to keep a minute of his proceedings for his own information.

The amendment I propose provides that immediately upon any proceedings being taken before him, he shall send to the clerk of the district court a copy of those proceedings, which shall be entered in a minute-book to be kept by the clerk, and which minute-book is the regular docket of the proceedings. I do not see how it can be arrived at in any other way.

Mr. JENCKES. I see no objection to the gentleman's amendment.

Mr. DAVIS. I suggest to my colleague that he insert the word "certified" before the word "copy."

Mr. JENCKES. And I suggest to him to insert the word "forthwith" before "forward."

Mr. POMEROY. I accept both modifications.

Mr. POMEROY's amendment, as modified, was agreed to.

Mr. HALE. I move to amend the fourth section by striking out the word "administrative" in the thirteenth line, and the word "uncontested" in the fourteenth line; and also by striking out in lines twenty-four to thirty inclusive the following words:

Or to hear a disputed adjudication, or any question of the allowance or suspension of an order of discharge; but in all matters where an issue of fact or of law is raised and contested by any party to the proceedings before him, it shall be his duty to cause the question or issue to be stated by the opposing parties in writing, and he shall adjourn the same into court for decision by the judge.

My object, Mr. Speaker, in moving this amendment, is to enable the court to provide by proper rules for the transaction of business by these registers to a greater extent than it seems to me the bill now permits. I have a strong conviction that unless some provision of this kind be made, the insufficiency of the judicial force in the districts as now organized will render this bill substantially a nullity in practice so far as the larger districts are concerned. I believe that these subordinate officers may properly be clothed with powers much more ample than those to which they are limited by this bill. I believe that this may be done without raising any constitutional question. In many contested cases the constitutional objection which might perhaps be urged, that this register is a judicial officer appointed in a manner unwarranted by the Constitution, could undoubtedly be waived by the consent of the parties, as is done in the State of New York in proceedings before various officers. I desire that the provisions of this bill may be enlarged, so that judicial power may be conferred upon the register, at least whenever the parties desire to submit the question to him rather than be subjected to the expense of going to court.

Of course if this amendment be adopted, some further provisions relative to the powers of these registers may be necessary; but I believe that an amendment of this kind will be found absolutely essential to make this bill one that can be practically carried out in the larger districts.

Mr. JENCKES. If the amendment of the gentleman from New York should prevail and this bill should become a law, it would have the effect to create that class of officers called commissioners, who have been found so objectionable under every bankrupt law heretofore passed. The very object of the language which the gentleman moves to strike out was to prevent the establishment of any such courts of inferior jurisdiction. It was the intention that these registers should be administrative officers in every respect, except that they should be authorized to state questions for judicial decision,

the object being to maintain uniformity of practice in the administration of the law.

If the gentleman will examine the bill a little further, he will find in section ten a provision by which commissioners, to be appointed by the Supreme Court, are authorized to establish rules of practice and a uniform code of procedure throughout the United States. Hence all that these registers will have to do will be to go round and meet the parties and their counsel, and make up the questions for the decision of the court. If the gentleman recollects the practice under the old law, he doubtless remembers that where questions of this kind were left to commissioners in the different counties—local tribunals like justices of the peace—there were as many different rules of practice, even in the same district, as the number of these inferior officers. It is highly essential, it appears to me, that a measure like this should come within the constitutional requirement, and should be uniform throughout all the districts in the United States, and all the offices in the various districts.

Mr. HALE. I submit, Mr. Speaker, whether the commissioners to be appointed by the Supreme Court could not as readily provide uniform regulations for the practice before these registers as provide uniform regulations for the several districts.

Mr. JENCKES. The effect of the gentleman's amendment would be that in many cases there would be two hearings, one before the commissioner, as the register would in fact become, and another before the judge. That is just what we want to avoid.

Mr. HALE. It may be that the honorable gentleman desires to avoid precisely what I wish to accomplish. I desire that there shall be within the reach of every party interested in these proceedings a tribunal before which he may be heard without involving an expenditure of time and money greater than the amount in controversy would justify. This advantage he cannot have under the bill as it stands.

Mr. JENCKES. Does not the gentleman see that under his plan there must be two hearings in every disputed case?

Mr. HALE. Not necessarily.

Mr. JENCKES. In nine cases out of ten there would be two hearings. But if the parties come before a competent register, a counselor of the court, whose duty it is to make up a case for the decision of the judge, and both parties agree upon his statement, and he certifies the issue, then there is but one hearing, and that is before the judge. In this way, the practice is uniform.

Mr. HALE. Does not the bill now provide that uncontested matters shall come before the register and be decided by him?

Mr. JENCKES. If the gentleman from New York and myself were on different sides of a case, and happened to meet three hundred miles from the place where the court was held, I have no doubt we could agree to a statement of law that the register should make up, so that when we come to court we shall have a definite issue to work upon. It would be as much for our interest as for the interest of the party.

The question recurred on Mr. HALE's amendment, and it was disagreed to.

Mr. THAYER. I move to strike out "\$1,000" and insert "\$2,500;" so that it will read:

The salaries of said registers shall be fixed by the judges of the circuit court, and shall not exceed in any case the sum of \$2,500 per annum, in addition to the necessary traveling and incidental expenses, and shall be paid to the registers in each district, in the order of their appointment, out of the fees hereinafter required to be paid in the course of proceedings authorized by this act. No greater amount shall be paid for such salaries than shall be received for fees, and in case there shall be a surplus of fees after paying the salaries, such surplus shall be invested under the direction of the court to meet future deficiencies.

The subject of the amendment is the compensation of the registers. The compensation, as the House will perceive, is derived entirely from fees received in the several cases heard before them. It seems to me unjust to prescribe the same amount of compensation for

different amounts of labor. It may happen that one register may do ten times the work of another register, and where the fees are actually received in excess he ought certainly to receive a larger compensation than where the register has a few cases before him.

The House will see by reference to the fourth section of the bill that the functions of these officers are important. They are not merely clerical; they are judicial in their character. He must be a lawyer, or he cannot discharge the duties imposed on the office with any satisfaction to the interests of the parties who are before him. Now to expect a lawyer, who is competent to decide these questions and pursue these investigations, should be willing to serve for the small sum to which he is limited is not to expect what is reasonable. I do not think that a class of men who are fit to discharge these responsible duties can be had for this sum. In the amendment I have proposed that the compensation shall not exceed \$2,500. I suppose where a register of this kind is necessary his services will be worth that.

Mr. JENCKES. It is certainly one of the most difficult questions to fix the amount these officers should be paid. The idea was to make the bill self-sustaining, and that the officers should be paid out of the fees paid into court according to the labor, to be distributed fairly among the officers. The whole of their pay is under the direction of the judges. The clerk knows from the docket how many cases are entered in different places, and the judge can direct so many registers to this place and so many to another, so that a fair division may be made among them. And their traveling and other incidental expenses are paid.

If the gentleman will reflect a moment, it will occur to him that \$2,500 is more than we pay the district judges. The district judge of Connecticut gets only \$2,500, and he has to pay his own expenses.

Mr. THAYER. I think that the duties of these officers will be more laborious than those of the district judges.

Mr. JENCKES. Perhaps they will. But, sir, they will be attachés of the court and will have an opportunity to practice in a great many cases besides those in bankruptcy. It will be very easy, I think, to obtain the services of competent persons in the different districts, who, for the purpose of obtaining practice and skill under this act, if it become a law, will be willing to take the offices at a very low compensation.

The question being taken on the amendment of Mr. THAYER, it was not agreed to.

Mr. POMEROY. I move to amend in line forty-two, after the word "paid," by inserting the words, "by the clerk of the district court." That is evidently the intention of the bill, because the subsequent sections say that these fees are to be paid by the court.

Mr. JENCKES. I have no objection to accepting that amendment.

The amendment was accordingly made.

Mr. DAVIS. I move a verbal amendment in the forty-first line, by inserting the word "necessary" before the word "incidental."

Mr. JENCKES. No objection to that.

The amendment was accordingly made.

Mr. HARDING, of Illinois. I move to strike out the word "register" where it occurs in section five; or I will qualify it by moving to strike out the same word wherever it occurs in the bill.

I make this proposition that I may get some little information on this subject, not having had the benefit derived from the discussion of the bill at the former session. If I understand the provisions of the bill it is intended to give jurisdiction to the United States court of all matters relating to the estate of bankrupts, whether these questions arise between citizens of a particular State or between citizens of different States. In other words, I understand it to add largely to the jurisdiction of the United States court—to take from the State courts a large amount of business which now belongs exclusively to those courts.

Now, sir, in the State in which I live we

have, I believe, two United States courts associated at a point very distant from portions of the district. If I understand the effect of this bill it refers to the United States courts the adjudication of all questions pending in the State courts the moment the act of bankruptcy is committed. For instance, if an ejectment suit is pending in a certain court between parties, and either of the parties commits the act of bankruptcy, that very moment all proceedings in that court are suspended, relating to that particular cause, and all other causes of the suitors who may be prosecuting this debtor.

Mr. JENCKES. I beg to correct the gentleman. This bill takes effect upon the relation of debtor and creditor. It has nothing to do with real actions.

Mr. HARDING, of Illinois. I stand corrected. Then suppose a bankrupt has an interest in a lawsuit relating to a tract of land. The suit will have to be determined in the State courts, while at the same time his estate may be entirely administered upon by this register at the United States court; but all his personal property is transferred to the jurisdiction of the United States court.

Now, sir, I will undertake to say if this bill passes, that it will be extremely inconvenient to my constituents. In place of resorting to our State courts for a remedy against a man who has purchased a large amount of produce and who has failed to make the final payment, this bill requires the parties to travel hundreds of miles, perhaps to Chicago, or lose their claim.

I understand further that the register who may administer upon a gentleman's estate may be a lawyer who has been counsel in the State courts. For I call attention to the fact that if these registers are qualified in this way, they must be lawyers of some court of record in the State, or in the United States court. They cannot be interested in any case in their own district, but they may be interested in the State courts before the case is transferred to the jurisdiction of the United States court.

Now, sir, I will express the opinion that if this bill is to meet the approbation of the people, it must enable the people to have an adjudication of their rights in their home courts and not transfer them to courts at a great distance from their homes where their business is transacted and where under the State laws these questions are now determined. I will not add anything more.

Mr. JENCKES. Mr. Speaker, the committee must have used language very inaccurately if they have conveyed any such idea as that stated by the gentleman. I think it is provided in about as clear a manner as can be that these registers shall not act as counsel or attorneys for any parties in any matters connected with bankruptcy. And, sir, instead of creating the difficulty which the gentleman suggests, their office is created to remove that very difficulty. Instead of the gentleman's neighbors having to travel two hundred miles to Chicago, this bill authorizes the court to come down, by means of one of these registers, into his neighborhood, and instead of creating the embarrassment which the gentleman has referred to, it will have a tendency to relieve it entirely.

Mr. HARDING, of Illinois. I understand that in all cases of dispute the register has no jurisdiction and must refer them to the court.

Mr. JENCKES. Instead of increasing the difficulties of litigation, this machinery, if it will get well at all, will simplify the trial of every case, whether it be one growing out of the ownership of land or of common debts; because it brings all matters relating to the settlement of a bankrupt's estate within one jurisdiction at one place, and does not oblige his creditors to travel all over the country to pursue him in different courts wherever he may be found; everything is to be adjudicated at the place of his residence by a court of competent jurisdiction, and that lessens litigation instead of increasing it in almost every instance.

Mr. SPALDING. I move that the House do now adjourn.

Mr. GARFIELD. I ask my colleague to

withdraw that motion to allow me to introduce a bill for reference.

Mr. SPALDING. I withdraw it for that purpose.

HARBOR IMPROVEMENTS IN OHIO.

Mr. GARFIELD, by unanimous consent, introduced a bill to provide for the improvement of certain harbors in Ohio; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

HOLDING EVENING SESSIONS.

Mr. STEVENS. I wish to make a privileged motion. I find there are several religious and other meetings that gentlemen wish to attend. I therefore move that the order of the House for night sessions be suspended until next week Tuesday.

The SPEAKER. The House has ordered a recess to be taken each day at four o'clock and thirty minutes until otherwise ordered. It is under the control of the majority of the House at any time to suspend or change the order.

The motion of Mr. STEVENS was agreed to. Mr. SPALDING resumed the floor.

REVENUE REPORT.

Mr. WARNER. With the permission of the gentleman from Ohio, [Mr. SPALDING,] I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the revenue commission appointed to inquire into and report upon the best and most efficient means of raising and collecting a revenue be requested to report to the House of Representatives such portion of the testimony relative to the industry and revenue of the country taken by them as they may deem expedient.

Mr. SPALDING. I move that that resolution be referred to the Committee of Ways and Means.

Mr. WARNER. I wish to say that this information—

Mr. SPALDING. I cannot give way any further.

Mr. WARNER. I hope the gentleman will hear a suggestion.

Mr. SPALDING. I must decline to yield.

Mr. WARNER. I appeal to the gentleman's courtesy for one moment. This resolution comes from the committee—

Mr. SPALDING. I decline to yield.

Mr. WARNER. Then I withdraw the resolution.

Mr. SPALDING. I renew the motion that the House do now adjourn.

The motion was agreed to; and thereupon (at twenty-five minutes to five o'clock p. m.) the House adjourned.

IN SENATE.

FRIDAY, February 9, 1866.

Prayer by Rev. H. C. FISH, D. D., of Newark, New Jersey.

The Journal of yesterday was read and approved.

SENATOR FROM ALABAMA.

Mr. GUTHRIE. I hold in my hand the certificate of election of Hon. George S. Houston, as Senator from the State of Alabama for the term ending March 4, 1867. I hope that it may be received and laid on the table; and I deem it proper to state at this time that I understand that Mr. Houston has been a consistent Union man during the war.

The PRESIDENT *pro tempore*. That order will be made if there be no objection.

PETITIONS AND MEMORIALS.

Mr. RAMSEY presented a memorial of the Legislature of Minnesota in favor of a grant of lands to perfect the navigation of the Mississippi river to the falls of St. Anthony; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a memorial of the Legislature of Minnesota in favor of a grant of land to aid in the construction of steamboat and slack-water navigation on the Zombro river, from the Mississippi river to the Zombro falls,

in Minnesota; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. COWAN presented the petition of J. C. Rankin, and others, citizens of Pennsylvania, praying for such an amendment of the revenue laws, both as applied to internal taxation and duties on foreign imports, as will secure the amplest protection to American labor; which was referred to the Committee on Finance.

Mr. SHERMAN presented a petition of citizens of Ohio, engaged in the manufacture of agricultural implements, praying for a reduction of the taxes upon the sales of agricultural implements; which was referred to the Committee on Finance.

Mr. GUTHRIE presented the petition of Edward Lynch, praying that the Secretary of the Treasury may be authorized and directed to issue an American register to the British colonial-built steamer Prince Albert; which was referred to the Committee on Commerce.

Mr. FESSENDEN presented sixteen petitions, signed by six hundred and seventy-four citizens of the city of Philadelphia, Pennsylvania, praying for the passage of the amendment to the Constitution of the United States changing the basis of representation; which were ordered to lie on the table.

Mr. HENDRICKS presented the petition of James Tetlow, praying for relief for losses sustained by him in building for the Government on contract the iron steamer tug-boats Fortune, Speedwell, Standish, and Mayflower; which was referred to the Committee on Naval Affairs.

HOUSE BILL REFERRED.

The bill from the House of Representatives (H. R. No. 85) for the disposal of the public lands for homestead and actual settlement in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida, was read twice by its title, and referred to the Committee on Public Lands.

REPORTS FROM COMMITTEES.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred the bill (H. R. No. 154) to further secure American citizens certain privileges under the treaty of Washington, asked to be discharged from its further consideration, and that it be referred to the Committee on Commerce; which was agreed to.

BILL INTRODUCED.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 137) to amend the acts approved August 6, 1861, and July 16, 1862, establishing a metropolitan police in the District of Columbia, to increase the efficiency thereof, and for other purposes; which was read twice by its title, and referred to the Committee on the District of Columbia.

MEDICAL STATISTICS OF THE WAR.

Mr. SHERMAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to communicate to the Senate a compendium of the medical statistics collected during the war in the offices of the Provost Marshal General and the Surgeon General.

INVESTIGATION OF COTTON FRAUDS.

Mr. DAVIS. I offer the following resolution, and ask for its present consideration:

Whereas charges of fraud, peculation, and extortion have been made against agents of the cotton bureau by citizens, and especially cotton planters and cotton factors; and whereas said charges have also been made through the public press, and the serious attention of the Senate called thereto; and whereas it has been made to appear to the Senate that agents in some instances have been indicted by the State courts for swindling, and the jurisdiction of said courts in the premises having been denied, and the accused agents taken out of the hands of the civil authorities by military force:

Resolved, That a committee, to consist of—Senators, be, and the same is hereby, appointed to investigate the said charges, with authority to have brought before them persons and papers; and said committee will report the result of its investigation to the Senate for its action.

The PRESIDENT *pro tempore*. It requires

unanimous consent to consider the resolution to-day. Is there any objection?

Mr. SUMNER. I think it had better lie over.

The PRESIDENT *pro tempore*. Objection being made, it lies over under the rule.

Mr. SHERMAN. If the Senator from Massachusetts will withdraw the objection, I desire to make an explanation in regard to this resolution.

Mr. SUMNER. But that will open the way to its consideration to-day. If the Senator thinks it advisable, however, to consider the resolution to-day, I will withdraw it.

The PRESIDENT *pro tempore*. Does the Senator from Massachusetts withdraw his objection?

Mr. SUMNER. I do, at the request of the Senator from Ohio.

Mr. SHERMAN. I wish to say that a similar resolution, or a resolution looking to the formation of a committee of inquiry and examination, was offered by the honorable Senator from Minnesota [Mr. NORRIS] some time ago, and was referred to the Committee on Finance; and perhaps I should not be going beyond my duty in stating that the Committee on Finance informed the honorable Senator who introduced the resolution, that whenever specific charges were made against any one connected with the Government, whether the Secretary of the Treasury, or any of his subordinates, an inquiry would at once be instituted into the conduct of the agent accused; but this general mode of arraigning a whole class of employes of the Government without any specific charges to me seems the grossest and most palpable injustice. I cannot say that I know the name of a single one of the cotton agents of the United States. I do not now recall the name of one of them; and yet they are constantly arraigned here by resolutions of the Senate *en masse*, without any allegation and without any specification. It seems to me that this is gross injustice.

If the Senator from Kentucky will state that he has information that any agent, naming him, has been guilty of any fraud upon the Government of the United States, there will be no difficulty whatever at any moment in having an examination, either by a special committee or by properly authorized agents of the Government. It seems to me this wholesale arraignment of officers of the Government is unjust to them and improper.

As a matter of course this resolution ought not to be adopted unless the Senator from Kentucky will make specific charges against one or more of these agents. If he does, there is not a Senator upon the floor but what will eagerly give him, if he desires it, an opportunity to examine into those charges. I merely make this remark now so that the persons who are accused by this general form of resolution shall not lie under the burden of accusation, and that the matter may be promptly disposed of whenever anybody is arraigned.

Mr. DAVIS. Mr. President, I will ask no other assurance than that the Senate will raise such a committee upon probable cause being made out.

Mr. SHERMAN. On specific charges being made.

Mr. DAVIS. I am informed from various sources that the instances of corruption in relation to cotton and the bringing out of cotton are very numerous, and that they are of the most flagitious character, and upon the largest scale. A friend of mine in Kentucky who was engaged in cotton operations was in the whole of the West and Southwest. He spoke from his own personal knowledge, as he said, and with a solitary exception, in the sweep of a thousand miles, he did not know a solitary agent, military or civil, of the Government that had been brought into contact with cotton that had not been corrupted by it. He told me that General Canby was the only solitary man in the sweep of a thousand miles that had been connected with cotton transactions who had not been corrupted by it, and he knew the fact. There are

gentlemen in this city now that have given me information of the most extensive and flagitious corruptions of the agents connected with the sale and collection of cotton, these agents being in the service of the United States. If the honorable Senator from Ohio desires, as I do not doubt that he does desire, that light should be thrown in upon this subject, and if he will get his friends to agree to raise a committee to investigate cotton frauds, cotton swindling, and cotton speculations generally, upon a specification of the charges, I will promise to bring them in.

Mr. SHERMAN. I will say, in reply to the Senator from Kentucky, that whenever he or any other Senator makes specific charges against any agent of the Government employed in the purchase of cotton, and those charges are not immediately and promptly examined, or fairly dealt with by the Treasury Department, I will vote for a committee of this body at once to investigate them, and I believe that is the feeling here. Now, the Senator says that somebody, whom he does not name, tells him there is not an honest cotton agent in the United States, whether a military or civil officer. That is a very broad declaration, probably involving one or two thousand officers, because nearly all the officers in the southern States have had more or less to do with the operations of the Government in cotton. A charge of that kind, made so broad and sweeping, affecting the character of so many men, is a very peculiar one. I have heard the Secretary of the Treasury state that he has found the most clamor to be made against the most honest agents, and that sometimes, where a vigorous examination has been made into the alleged conduct of the agents, it was found that the only conduct complained of on the part of the agent was a faithful observance of the law and a strict discharge of his duty; and the more strictly an officer discharges his duty, the more clamorous will be the noise made about it. I say again, that if the Senator from Kentucky can arraign any officer of this Government for fraud and speculation connected with cotton transactions, he can have to-day and immediately a prompt and fair examination. Let him give the allegations and the names of the accused. It will first be the duty of the Treasury Department to examine into the conduct of the agent, and if they fail or neglect for a reasonable time to make that examination, there will be no difficulty in the Senator from Kentucky having the examination made here. Until that is done, it seems to me, these general allegations against a whole class of officers, including civil and military agents of the Government, ought not to be made.

Mr. DAVIS. If I am to be remitted to any Department of the Government I shall expect no success in this investigation. The way to reach it with certainty is by congressional investigation, and it is by the investigation being intrusted to the friends of the investigation. Let a committee be raised—as used to be the principle in relation to all committees—the majority of which are friendly to the object of the investigation. I will give one example of these frauds. There is a gentleman now in the service of the Treasury Department of the United States who is a cotton agent, and has been down the Mississippi and up the Red river engaged in purchasing cotton and bringing it out, and he told me that General Taylor, who is in the service in the Mississippi region of country, had lawlessly and fraudulently seized upon his cotton and had it appropriated out in such a manner as to reap himself a considerable portion of the avails of the sale of that cotton.

But I understand that the Senator from Ohio is receding from his position. All I want is for the Senator and the Senate to stand up to this position: let the Senate raise a fair committee to investigate any cases that may be specified, and let the friends of the investigation have the strength of the committee. It is certainly not a very fair way of investigating charges of fraud, or any other matter of maladministration, to place the investigation in the hands of

men who wish to stifle it. If the honorable Senator and his friends, the majority in the Senate, will stand up to what I understood to be his position in the first instance—that when there are cases specified of fraud in cotton transactions they will raise a committee to investigate those transactions, and a fair committee—I will ask nothing more; and when such a committee reports in favor of the exoneration of men to whom these frauds have been imputed, I shall be among the first to retract those charges.

Mr. SHERMAN. I have but a word to say in reply to the Senator from Kentucky. The rule that I adopted when a member of the House of Representatives was this: when allegations of fraud were made against the officers of the Administration—then a Democratic Administration, and I thought a very bad one—I refused to have anything to do with them until specific charges were made, reduced to writing, and signed by responsible parties. Then I undertook to investigate the charges, and then a committee was appointed by a Democratic House of Representatives, of which I was chairman, and the majority of which was not friendly to the investigation; but the investigation was had, a fair investigation, and various matters were disclosed. Now, if the Senator from Kentucky desires to investigate these charges, if he says to us that he is satisfied that fraud has been committed in the cotton operations of the Government, I am perfectly willing to vote for a resolution to be introduced by him organizing a committee to investigate those charges, of which he will undoubtedly be the chairman; and if he can discover any fraud in the operations of the cotton agents of the Government, I shall be most happy to sustain him in punishing the officers engaged in that fraud.

Mr. FESSENDEN. Mr. President—

Mr. DAVIS. Will the gentleman permit me to add one word?

Mr. FESSENDEN. The gentlemen from Kentucky and Ohio have addressed the Senate three times apiece on this matter, and I think I ought to have a turn by and by.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) Does the Senator from Maine yield the floor to the Senator from Kentucky?

Mr. FESSENDEN. Yes sir.

Mr. DAVIS. I will merely remark to the honorable Senator from Ohio that, with his permission, I will embrace other matters besides cotton frauds in an auxiliary resolution. I know that in the State of Kentucky officers in the employment of the Government have extorted money from the people to the amount of thousands and tens of thousands, and indeed hundreds of thousands of dollars, in the name, and ostensibly for the benefit of the United States, and the mass of that money, I have reason to believe, has gone into the pockets of these officers, and not a dollar of it into the Treasury. I hope that the honorable Senator's disposition to investigate will allow me to bring in other subjects.

Mr. FESSENDEN. Mr. President, in the perfect integrity and personal honor of the honorable Senator from Kentucky, I, with everybody else that knows him, have the most entire confidence; I have no doubt that he would discharge any duty imposed upon him with carefulness and ability and integrity; but at the same time I must say, that with regard to anything connected with this Government that he had to investigate and report upon, I am afraid he looks upon everything, no matter what, with so jaundiced an eye that it would be a little dangerous to intrust him with deciding upon anything that the Government or the Departments have done from the beginning to the end. Therefore I cannot agree with the honorable Senator from Ohio in saying that I should be very ready to commit the whole matter to the honorable Senator from Kentucky himself, and to a committee of his selection. I am very much afraid that, unintentionally, we might come to a wrong conclusion.

Having said this, I wish to remark further that I have had some experience with reference to

these cotton transactions. The Senate will recollect that it became my duty, under a bill that was passed in the first session of the last Congress, to organize these cotton agencies. I did so to the best of my ability. I put them under the best men that I could find. Of all that applied, I was exceedingly careful, exceedingly minute in the examination of the character and capacity of the men selected and their general reputation and fitness for the places to which they were appointed. They had not been in office a month, had hardly entered upon their duties so far as to have it understood that they had entered upon their duties, before I had precisely this kind of complaint, rumors, charges coming in that the officers were doing this and doing that and cheating the public, and putting money into their own pocket, and statements of a similar description. I investigated them at once in many cases. I told the individuals that if I found any man who had in any way shown a disposition to make private profit more than he was entitled to by law and by the regulations under it, I would dismiss him at once from the public service, and I think I would have kept my word. In every instance in which I made an examination, or caused one to be made, I found that the charges were totally unfounded; that they emanated from men who had been disappointed in effecting their own purposes, who had not been able to do what they desired to do; that the law, under the direction of the agents, as applied to them, had not met their wishes; and at last I came to this conclusion, and stated it: that whenever any persons came to me to make a charge against a public officer, they must put it in writing, specify the instance, and put their names to it. I received anonymous letters, letters making these general charges, but, after the establishment of that rule, I found that although I had plenty of general talk, I could not get any man to put himself on paper with regard to them.

I have no doubt that there have been instances in which the Government agents have acted improperly, perhaps corruptly. It would be singular if, in the very large number of agents appointed, it was not so. You could hardly expect not to be deceived in some instances. But from the experience I had in the Treasury Department, so long as I staid in it, from what I saw and from what I learned, I became satisfied that, as a general rule, the business was conducted on the part of the agents of the Government with great integrity and with great care; and that, as a general rule—not, perhaps, in all cases—when complaints were made, they came either from interested speculators, men who had been cut off in their own efforts to cheat the Government, or men who were honestly misled by general rumors and statements that they picked up somewhere. When they came to me and made these statements, and I said to them, "Will you put yourself in writing and make the charge?" the reply always was, "Oh, no, I do not like to be known as meddling with it; I would rather my name would not be used." My answer was, "Sir, if you come here as an honest citizen of the Republic making a complaint, trying to expose corruption, why not take the responsibility of making the charge if you believe it?" "They did not like to be mixed up in it." I found that that was so in almost all cases; and I tell my friend from Kentucky that when he comes to the examination of the cases that have been stated to him, and asks his informant, whoever he may be, to put himself on paper, make the specific charge against the specific officer, my belief is he will entirely fail; he will tell the Senator he is not sufficiently aware of the facts to be able to state them on his own responsibility; that he got them from somebody else; that somebody else said so.

Now, sir, the Secretary of the Treasury has a very difficult task to perform. He is obliged to pick up this rebel cotton where he can, and I know from his own statements that he finds himself embarrassed in every direction in the manner in which it is going on now. I think a very great mistake was made in upsetting the

system that was established at the time that I had the honor to be Secretary of the Treasury. The reason for it was, undoubtedly—and it seemed to be a good one—that the war had ceased and it was better to put an end to that system. I believe that it was the best system. It was the one pointed out by the statute, according to my reading of the statute. It was working well, and would have brought a great deal more money into the Treasury than any system that has been adopted since. However, the thing is done. It has led to embarrassment. Every man whose cotton is seized complains. I know of instances myself, if I may trust witnesses, where the most furious accusations are made against the cotton agents by the men who have had their own cotton seized, and who say that they are injured, and that this money has been taken for the benefit of the agent, and he is appropriating it for his benefit. Does the Senator from Kentucky think that, if a complaint is made to the Secretary of the Treasury that the Government is defrauded in an individual case, he will not investigate it and see if the Government is defrauded, and if so, whether the sum, whatever it is, cannot be secured and placed in the Treasury? I believe no man is more anxious, no man is more careful, no man is more ready to investigate and see that justice is done to the Government than the present Secretary of the Treasury. He labors in season and out of season to perform his very arduous and responsible duties—duties too great for any one man to perform in point of fact, as I happen to know by sad experience.

That being the case, I am opposed utterly to these fishing commissions before any attempt has been made to get an explanation from the proper quarter. The Senator says if he attempts to get justice from the Treasury Department he cannot obtain it. I repel the charge on the part of the Treasury Department. He can get it, or any other man can get it; and I will never vote for a commission to investigate the doings of the Treasury Department on the strength of a statement here by any Senator that he cannot get justice done at the Treasury Department. Let him prove that by specific facts stated to the Senate, and then we will see whether the Department itself wants investigation and not the inferior officers of the Department.

I am opposed in general to these appointments of committees of investigation on general statements and charges. They lead to great expense; they lead to great embarrassment; and they effect very little, in point of fact, one way or the other. But I agree with my friend from Ohio that when a case is presented, a specific charge made against an officer of the Government, with all the minuteness which will amount to a reasonable certainty, for I require no more, on the strength of the names of witnesses who are credible, and who make the charge, and whom we should know and hold responsible for them, then I am ready to have an investigation by a committee; but for us to appoint a committee of investigation on the strength of a mere resolution, founded, in its very terms, on newspaper rumors in part, and general statements of we know not whom, applying to nobody but covering the ground all over in this way, is a mere idle waste of time and of money, and a thing that we ought never to do. There is no end of it. It is departing from our proper duties to meddle with things that do not belong to us until it is satisfactorily shown to us that an examination on the part of Congress, one body or the other, is absolutely essential.

I hope, therefore, that we will take the ground in regard to this resolution, and with regard to all others of the kind, that we will not appoint these committees of Congress to make special examinations until we have something definite and fixed upon which to found it. That—as my friend from Ohio has stated; I may as well state it after him—was the unanimous opinion of the Committee on Finance on examining the resolution that was sent to us by the honorable Senator from Minnesota, and to that I feel disposed to adhere.

Mr. CONNESS and Mr. McDUGALL addressed the chair.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The Chair will recognize the Senator from California on the left of the Chair, [Mr. CONNESS.]

Mr. CONNESS. I move to postpone the further consideration of this resolution, and that the Senate proceed to the consideration of the motion to reconsider the vote on the passage of the bill (H. R. No. 135) to extend the time for the withdrawal of goods for consumption from public store and bonded warehouse, and for other purposes, which was pending yesterday when the morning hour expired.

Mr. DAVIS. If the honorable Senator from California will withdraw his motion, I will not detain the Senate more than a moment, and will then consent to it.

Mr. CONNESS. The morning hour has nearly expired, and the bill to which I refer is of great consequence. I hope we will be able to get to its consideration. However, I will give way to the Senator if he will only occupy a moment.

Mr. DAVIS. I was merely going to say—Mr. McDUGALL. I believe I am next entitled to the floor, if my colleague waives it to anybody. I addressed the Chair when he did.

The PRESIDING OFFICER. The Chair will feel bound to accord the floor to the Senator from California, if he claims it, the Senator from Kentucky having spoken twice in the same debate.

Mr. DAVIS. I have no objection to any gentleman occupying the floor who wishes it.

Mr. McDUGALL. I wish simply, if my colleague permits me to have the floor, to move an amendment to the resolution. It is to insert after the word "charges" the words, "and also all frauds on the part of Government officers where the matter may be inquired of at the port of New Orleans and in the States of Mississippi and Arkansas."

Mr. President, I am not much in favor of these police committees. I am inclined to think that it is somewhat inconsistent with the dignity of the Senate to be engaged in this kind of espial to find out things; but, nevertheless, it has been made the order of the day. Whenever a committee was asked from the opposite side of the Chamber, with a traveling commission, to inquire into anything concerning the war, it was always granted, and their expenses paid to go from here to St. Louis, from there to Louisville, and from there to New Orleans—a traveling legislative committee to go and inquire into things. The Senator from Maine now thinks that that is not a legitimate system of inquiry. I think with him in truth that it is not a legitimate system of inquiry. I think it would be very difficult to entice me to go off and play detective East, West, North, or South; but it has been done. Even this great committee that you have had here, the committee on the conduct of the war, was a detective committee. They wanted to know how a man would swear before he could be introduced there; at least some did.

It is the business of the majority here to affirm; it is the right of the minority to object, and, if necessary, to protest. We, the minority, questioning the exercise of administration by what we call an infirm majority, come in here and question the conduct of their administration through all their offices. Can we not question? Will you confine the business of questioning to yourselves, the majority; or will you permit us, who have to watch you—that is our business now as a minority—to question you? No, says the Senator from Maine, we will not permit you to watch us.

Now, there is no man on this Senate floor who does not morally know—I will not say mathematically—that there have been immense frauds in the cotton business. There is not a man who knows anything about the valley of the Mississippi that does not know that men who went in there poverty-stricken came out millionaires; or at least millionaires in francs. Undertake to say that a man who was rejected in this Sen-

ate Hall for a commission in the quartermaster's department, who was not worth \$10,000, who was a common gambler in my own State, and followed that business, went down to New Orleans, and it happened to be his multiple luck to have a general of the Federal Army who was a brother of his. Gentlemen ask for a statement of facts. What I state I do not doubt, for I heard it from a witness to a will—the climax of it at least. After being rejected by this Senate, he went down to New Orleans. He lay down at the Balize and controlled the entire commerce of the port of New Orleans while his brother commanded the forces at the city of New Orleans. He came back, and I suppose, by the providence of God, he died in the city of New York, and made his will there, and it is in the surrogate's office. He left \$2,000,000 to be divided between his heirs and his brother. No person will have any difficulty in ascertaining who I intend to remark about when I say these things. I believe that almost all Senators are acquainted with the name of Benjamin F. Butler. I dare say all I am informed about and all I think, and it shall not be laid to my door by the Senator from Maine, or any one else, that we do not challenge facts. I am satisfied that one of our principal general officers made \$1,000,000 in cotton down on the Mississippi while he was commanding our forces there. That it was a common business on the part of the officer I know. That it should be inquired into is due to justice and truth; and if the majority will not allow the minority to inquire into it, then the majority cannot be long predominant.

Mr. CONNESS. I move to lay this resolution on the table.

The motion was not agreed to.

Mr. DAVIS. I have not had the benefit of the experience of the honorable Senator from Maine in relation to the financial transactions of the affairs of the Government. He thinks that I would be too prone to inculpate these officers to be intrusted upon the committee. I do not believe that I would be more prone to inculpate them than he would be to exculpate them.

Now, sir, I know of my own knowledge many officers who have gone into their respective offices poor and penniless, and they have grown suddenly rich upon moderate salaries. I have known officers whose salaries were about three thousand dollars a year to sport their carriages and fine horses, to buy town lots, to erect costly buildings upon them, and to indulge in a great deal of extravagance in living. I cannot understand how this can come about unless it is by peculation and plunder and swindling.

The honorable Senator says that I am suspicious of the acts of this Administration and of its officers who are in office. I confess the impeachment. I have an extensive and a deep conviction that in a great many of the money transactions of this Government there is the largest amount of plunder and of swindling. I do not doubt it. I suppose the honorable Senator from Maine will not dictate who shall go upon this committee, or whether a committee shall be raised or not. I presume it is not his office to decide the one question or the other. I feel myself as competent on the score of ability to do justice to any man inculpated as that honorable Senator does, or any other member of the Senate. I know this: that if a man has a charge made against him and the evidence brought forward to sustain that charge is not sufficient, I should be as prompt and ready to exculpate him from the charge as any Senator whatever.

But I do not ask, I do not desire, I would prefer if a committee should be raised, not to be upon it. All that I ask is, that a fair committee, an independent and intelligent committee, that would have the industry and the courage to ferret out the truth in relation to all charges brought before them, shall be raised. I have no doubt if such a committee was raised, and it industriously and patiently performed its duties, and was allowed sufficient time and sufficient facilities, it could bring to the Treasury millions and millions of money that has been

plundered by faithless agents and which ought to be paid by them into the Treasury. I have no doubt that a large spoil of that description could be gathered up in the State of Kentucky, and in the South, in the whole cotton region, where cotton has been the subject of traffic and of trade by officers, civil and military, of the Government. I have no doubt that such a committee as I have indicated, if raised and allowed to explore patiently and thoroughly, in a spirit of truth and justice, all the charges of plunder and peculation, it would result in millions upon millions to the public Treasury, the honorable Senator's experience and protest to the contrary notwithstanding. I do not believe in the fruits or the utility of men who are interested in stifling the truth and in covering up an investigation of these charges being allowed the sole and exclusive privilege of investigating them.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the special order, which is House resolution No. 51, upon which the Senator from Maryland [Mr. JOHNSON] is entitled to the floor.

Mr. McDOUGALL. I ask the Senator from Maryland to yield to me for one moment.

Mr. JOHNSON. Certainly.

Mr. McDOUGALL. I wish to be understood on this subject. I do not approve of this resolution. Probably my objection to the resolution may have been sufficiently stated. I do not believe in Senators or Representatives belonging to a police commission. I would not vote for the resolution under any circumstances, because I am opposed to it upon principle. I think that the office of a Senator is something above a police officer. That is all I desire to say.

APPORTIONMENT OF REPRESENTATION.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States; the pending question being on the amendment of Mr. HENDERSON to the amendment proposed by Mr. SUMNER.

Mr. JOHNSON. Mr. President, in the remarks which I am about to make I shall address myself, first, to the consideration of the resolution immediately before the Senate in order to ascertain its exact meaning; secondly, the supposed necessity which calls for such an amendment; and thirdly, its effect upon the condition of the country. In this, as in every other case upon which human judgment is to be exercised, it is very important that we should distinctly understand what the measure under consideration is. The honorable chairman of the committee, the Senator from Maine, has, if I understood him correctly, done nothing more than state the difference between the resolution as it was originally reported by the committee, and as upon a recommitment it was subsequently amended. It is the amendment which was made upon that recommitment that is now before the Senate.

What, then, is the meaning of the resolution as it now stands? The second section of the first article of the Constitution regulates the mode in which representation and taxation are to be ascertained, and it makes both to depend upon the same facts. Representation is to be apportioned according to numbers. Direct taxation is to be apportioned in the same way. As the resolution was originally reported the committee left them, subject only to other changes, to stand in the same condition. Upon the recommitment, the provision originally contained in relation to direct taxation was omitted, and it stands now as a proposition to amend the Constitution so as to affect alone the second section of the first article of the Constitution as it now is, which provides the mode in which the number of Representatives is to be ascertained.

The Senate will remember that that was made to depend exclusively upon numbers, with two exceptions. The first of the excep-

tions was, that in ascertaining the numbers which were to regulate the amount of representation, Indians not taxed were to be excluded. The other was, that that portion of the people of the States in which the institution existed, which was held in a condition of slavery, was not to be taken into the estimate to their entire extent, but only to the extent of three fifths of the whole; so that, as the Constitution now stands, if slavery still existed, the southern States would be entitled to a number of Representatives to be ascertained by ascertaining the number of persons within each State generally, and secondly, by debiting the State as against such number with the entire Indian race who were not subject to taxation, and two fifths of the persons in such States who were not to be taken into the estimate.

Under that mode of ascertaining the representation to which these southern States were entitled, the country, from the time of the adoption of the Constitution up to the present moment, excepting only the four years through which we have so sadly but triumphantly passed, prospered wonderfully. Perhaps I am not going too far in saying that in the history of the world no people organized under any form of government ever prospered as much during the same period, or ever have prospered as much during the entire period of their existence, as the people of the United States have prospered since 1789, under this particular provision.

That being the case, Mr. President, let me for a moment call the attention of the Senate to the effect of the proposed amendment. The entire amendment, except the proviso, makes no change at all in the corresponding provision in the Constitution, except that it omits the provision that three fifths only of a certain class of the population is to be considered. The reason for that omission is of course apparent. There are no such persons now in existence in any of the States of the Union who are not entitled to be considered each for himself as a man, and not as property. The provision in relation to the estimation of three fifths instead of the whole number was made because there did at that time exist in the States a class of persons who held the double capacity of man and property, or, to speak more correctly, who were persons and chattels. There was great difficulty in the Convention in providing for the manner in which, as far as that class of persons was concerned, representation was to be ascertained, and an equal difficulty in ascertaining, as far as they were concerned, how the provision as to taxation was to be made, and they came (for in those days there was no such objection as seems now to be inseparable in the minds of some Senators to compromising) to the conclusion that the good of the country demanded that there should be a compromise, and they proposed, as a compromise, the provision as it now stands; and that is, that for the purposes of representation, a person held in slavery or in involuntary servitude shall be esteemed three fifths a man and two fifths property; and they established the same rule in relation to taxation. They very wisely concluded that, as it was all-important that some general rule should be adopted, this was the best rule, because promising more than any other rule to arrive at a just result of ascertaining the number of Representatives and ascertaining the quota of taxation.

Now, as far as relates to the quota of taxation, or as far as relates to the quota of representation, the state of things is materially changed. There are no men, so to speak, who are but three fifths men. We all stand upon the same platform. As we came from nature's God, we stand together upon an equality as far as relates to human rights, and it was entirely unnecessary, therefore, to change the mode of apportioning representation or of apportioning taxation except for some other purpose which did not enter into the estimation of the wise and good men by whom the Constitution was adopted in recommending this particular provision. This amendment says to the States, "You are to be entitled to a number of Representatives in pro-

portion to your numbers"—which is all right; that our fathers designed; that they gave; and under that, the country has gone on prosperously—"but if you, in the exercise of your right, think proper to exclude from the privilege of suffrage any portion of the numbers of your population on account of race or color, that portion is to be taken from the amount of numbers which is to regulate the number of your Representatives; your power in the Government is correspondingly to be decreased." It does more than that. It not only says that if there be, by State legislation, a distinction on account of race or color in the exercise of the elective franchise, not only shall the number of persons who shall be so excluded from the franchise be deducted from the number of persons which is to ascertain the number of your Representatives, but every man, whether entitled to vote or not by the laws of the State, of whom it may be said that he belongs to a race, and every man who comes under the denomination of color within the limits of the States, is to be deducted from the enumeration. If, therefore, as is done by the State of New York, and by several States of the Union, a distinction is made between the right to vote on the part of the colored man and the right to vote on the part of the white man in any way by requiring for the one a qualification not required for the other, the whole of that population in the State of New York is to be deducted from the enumeration. Under the constitution and laws of New York, if I am not misinformed, no person of color can vote in that State who has not a freehold and an acquired residence. The possession of a freehold estate by the white voter of New York is not required, and there is, therefore, in that State, at this moment, a distinction between the white and the colored race in the exercise of the right of franchise; and this resolution says that if there be any such distinction, then not only are the number of persons of that race who may be entitled to vote because they are freeholders to be deducted from the whole number of persons in the State, but the entire number of the race are to be deducted, and New York loses, or may lose, a portion of her representation.

Mr. CONNESS. Will the honorable Senator at this point allow me to ask him a question?

Mr. JOHNSON. With pleasure.

Mr. CONNESS. Suppose one of these States, the State of North Carolina for instance, if this amendment should be adopted, should enact that a property qualification should be required for the exercise of the franchise, not applicable to the colored people alone, but applicable to all alike, and such an amount was established as would lead to the exclusion of a large number of the colored population necessarily from the polls, would not that State, notwithstanding this amendment, be entitled to representation for its entire population, black and white, inasmuch as the exclusion was not on account of race or color, but a property qualification applying universally? I ask the Senator for information.

Mr. JOHNSON. Unquestionably; and I have said nothing that could be construed as denying that proposition. None are to be deducted from the number which is to regulate the representation except the entire class against whom some qualification is required for the exercise of the right of franchise that is not required of the white race. If the same qualification is required for both, of course there is no distinction; and the honorable member's question therefore is answered, as I think he will see by looking at the terms of the resolution. What I said was, that as the franchise is now regulated in New York, unless she changes it, either by abolishing the freehold qualification now demanded, or by requiring a like qualification upon the part of the white voter, the whole of the colored population of New York will be deducted in the estimate.

Mr. CONNESS. Will the honorable Senator allow me one instant?

Mr. JOHNSON. Certainly.

Mr. CONNESS. I wish to say that I did

not propound the interrogatory with a view of questioning the correctness of what the Senator had stated; but at this point I desired a discussion by him of the effect of such a statute in one of these States under this amendment; and with that view, I put the question.

Mr. JOHNSON. I do not object to the interrogatory at all, and I admit in answer to the interrogatory, that in the case supposed by the honorable gentleman there would be no deduction, they would all be embraced; but if other States as well as New York admitting the colored man to vote at all, require a qualification which they do not exact of the white man, then the entire colored men within the limits of the State are to be deducted from the estimate.

But, Mr. President, there is another question, which the Senate will have to meet and the country will have to meet if this amendment is adopted. How many States in the Union now admit the colored man to the exercise of the right of suffrage? Only six. In every State except Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, there is a distinction in regard to suffrage on the ground of color. In Massachusetts, only males of twenty-one years of age who can read the Constitution in the English language or write their names, can vote. I ask not how many States admit them to the exercise of the right of franchise by requiring of them a different qualification from that which they require of the white voter, but how many of them positively exclude them from the exercise of the right of franchise? We have thirty-six States in the Union, supposing the southern States not to be out. Eleven are supposed to be out. Now admit, for the sake of the argument, that they are to be esteemed as out, how many of those who are claimed to be in and who are admitted to be in, whose representatives are on this floor, give to the colored man the right of franchise? Only six; and unless the States change their policy—and I am by no means persuaded they will; on the contrary, as far as I have an opinion on the subject, I believe they will not, and that opinion is formed upon the occurrences of the time—if this amendment passes, there is hardly one of those States that would not lose a Representative, or more than one, provided they had this population among them. They may be willing—I do not speak of the Senators on this floor—to adopt an amendment of this kind, because it will not operate upon them, because it will not diminish their power. They may be willing to adopt it because it will operate upon and will diminish the power of the States in which the race is to be found.

Let me see. Four or five States are sufficient for the illustration of the proposition which I have just stated. I take from the census of 1860 the figures I am about to present. Massachusetts has a white population of 1,221,961, and a colored population of only 9,602. New York has a white population of 3,831,730, and a colored population of 49,005; Vermont a white population of 319,889, and a colored population of 709. The State of New Hampshire, which my friend before me [Mr. CLARK] represents with so much ability and so much zeal and so much usefulness to his State—he is in favor of this amendment in some form or other—has a white population of 325,579 and a colored population of 424.

The experiment is quite a safe one for them. They will not be affected by it injuriously. They will lose no Representative, but on the contrary they gain, not in the number of Representatives perhaps, but they gain in the relative influence of the Representatives that they will have on the floor. They will be met, not by the corresponding Representatives of the other States in numbers, such as the Constitution of 1789 designed those other States should have, but they will be met by Representatives less by one third than those that our fathers thought should be the number of Representatives of those States. The chairs in the other Hall that are placed there for the purpose of accommodating the Representatives of the southern States will be more

or less vacated, and what for? Is it from the danger of having them filled? Are not the North and the statesmen of the North equal to the South and the statesmen of the South on all subjects that may come before the councils of the nation? What is there, looking to the history of the two sections in the past, which would lead us to believe that the North is inferior to the South in anything of intellectual improvement or of statesmanship? You have proved, and I thank God you have proved, that if listening to evil counsels, rendered effective perhaps by your own misjudged legislation, and by the ill-advised course of your own population, exhibited through the press and the pulpit, a portion of the South involved the country in a war, the magnitude of which no language can describe—you have proved yourselves adequate to the duty of defeating them in their mad and, as far as the letter of the Constitution is concerned, their traitorous purpose. And now, having proved your physical manhood, do you doubt your intellectual manhood? Mr. President, in the presence in which I speak, I am restrained from speaking comparatively of the Senate as it is and the Senate as it has been; but I can say this with as much sincerity as man ever spoke, that there is nothing to be found in the free States calculated to disparage them properly in the estimation of the wise and the good. They are able to conduct the Government, and they will not be the less able because they have the advice and the counsels of their southern brethren.

And yet, applying for illustration to the population of my own State, you will see how the proposed amendment will operate upon her. She has a white population of 515,918 and a colored population of 171,131, about one fourth of the entire number within her territorial limits; and if she refuses to let any one black man vote in point of fact, or refuses it by requiring a qualification which she does not require from any white man, the whole of the 171,000 are to be deducted from the estimate. Is that just? The honorable member from Massachusetts thinks it is; and why? Because the declaration of rights proclaims all men equal and entitled to life, liberty, and the pursuit of happiness. The honorable member says that not to give all men the privilege of voting is to leave Maryland an oligarchy, an aristocracy, a monopoly, a caste. I say we have been under a very extraordinary delusion from 1776 to the present time. We have believed, and the country has believed with us, that the government of Maryland was of a republican form. It never entered into the imagination of the great men who framed her constitution of 1775, nor of their great contemporaries who constituted the Convention of 1789, that there was anything in the constitution of that State which gave anybody a right to characterize it as an oligarchy, an aristocracy, a monopoly, a caste. The honorable member from Massachusetts is the inventor of that proposition.

But if it be right, I ask the Senate why they do not seek to attain the right directly. Why endeavor to do it indirectly? If the existing constitution of Maryland—I instance Maryland only for the purpose of illustration—is not republican, and cannot be republican unless all the colored people within her limits are entitled to vote precisely as the white men within her limits are entitled to vote, tell her so; change your Constitution and make it our duty by your paramount law to place them on the same footing. But to do that, you must place your own States in the same condition. Then Maine is to be deprived of the right of regulating the suffrage in her State; New York is to be deprived of it; and so of all the other States. If it be right, if no government where a provision of that sort is not incorporated as one of its fundamental laws is republican in the sense of the Constitution of the United States, then it is consequently right that we should make it republican by constitutional enactment. Why do you not do it? I will not say because you know it cannot be done; but the fact is you ought to know that it cannot be ac-

complished, right or wrong. It is an evil, if it be one, without remedy. The States will not adopt it. They will stand upon the Constitution their fathers gave them. They will claim for themselves, and in my judgment even to the point of revolution, and I say it in no threatening sense, because such a proposition is not before us, but if it was they would claim even to the point of revolution that they should have a right to regulate suffrage within their own limits.

That brings me to consider whether they have not that right. The honorable member from Massachusetts has gravely told us in a speech elaborate in its preparation and full of the learning which ever characterizes the performances of the honorable member, that they have no right now, except only so long as Congress shall forbear to exercise its own power of regulating the right of suffrage. He derives the power so to regulate State suffrage from the declaration of rights; from the necessity growing out of the war; from that clause of the Constitution which guaranties to each State a republican form of government; and, finally, from the second clause of the recent amendment to the Constitution abolishing slavery. I will take these four up in their order, for the purpose of showing to the Senate that neither of them has the slightest application—I speak it with all respect to the honorable member—to the proposition for which he referred to them.

The question is, what did our fathers design? Where was the regulation of suffrage to be left? Until modern time—and I mean by modern time the last three or four years—no man was so wild as to imagine that the suffrage was not exclusively for State jurisdiction. The Constitution went into operation in 1789; and during the long period that elapsed from that time to the breaking out of this rebellion, no man anywhere suggested that it was in the power of Congress to interfere with the right of suffrage in the States; and it could not be otherwise, the Constitution from its very nature being a grant of specific powers, and nothing else. The principle is stated, with that rare felicity which characterized everything that came from his pen, by Chancellor Kent, in the first volume of his Commentaries in these words:

"The Constitution of the United States is an instrument containing the grant of specific powers, and the Government of the Union cannot claim any powers but what are contained in the grant, and given either expressly or by necessary implication. The powers vested in the State governments by their respective constitutions or remaining with the people of the several States prior to the establishment of the Constitution of the United States, continue unaltered and unimpaired except so far as they are granted to the United States."

I suppose that even the honorable member from Massachusetts will not deny that it was for Massachusetts to regulate her suffrage before 1789; and if it was, she has the power still, unless she has agreed to part with it by devolving it upon the General Government. Is there a word in the Constitution that intimates such a purpose? The second section of the first article deals exclusively with the manner in which the members to compose the House of Representatives of the United States are to be selected. It says in the first part of the clause nothing at all as to the right of suffrage. It provides, "the House of Representatives shall be composed of members chosen every second year by the people of the several States." If it had stopped there, it might perhaps be contended that it would have been in the power of the Congress of the United States to regulate the manner in which the people of the States were to choose Representatives; but the trouble is that it goes on to say who are to be the electors of the Representatives that are to compose in point of numbers the House; and it says, "and the electors in each State," that is to say the voters in each State, for "electors" as used here, is synonymous with "voters"—

"And the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

Who at that time was clothed with the power of prescribing the qualification of electors for

the most numerous branch of the State Legislature? The State; nobody else. The provision therefore means and is to be read in this way: the House shall be composed of members chosen every second year by the people, and the electors in each State shall be entitled to vote in the choice of such Representatives if they have the qualifications prescribed by their own constitution and laws for choosing the most numerous branch of their own State Legislature. Except in that clause, and another clause to which I shall refer presently, there is nothing in the instrument that says anything about the election of Representatives.

The honorable member has quoted Mr. Madison. He supposes that Mr. Madison was of the opinion that the right of suffrage might be controlled by Congress. He referred to the fifty-fourth number of the Federalist, and I think the honorable member attributed that paper to Mr. Hamilton. About that, as I am sure he is aware, there are more than serious doubts. It was given to Mr. Jay by Mr. Hamilton; but it was uniformly claimed by Mr. Madison. The edition which I hold in my hand was prepared as far as that particular question was concerned under the advice and inspection of Mr. Madison; and in it he takes to himself the authorship of number fifty-four; and I rather think, from a frequent and careful examination of these papers as written by the three eminent men to whom the country is so much indebted for their production, that the style is more the style of Madison than of Hamilton. It is more precise, and I was about to say more perspicuous because it is more precise. Hamilton was more in the habit of adorning his papers than Madison.

Now, what does Mr. Madison, or whoever is the author of number fifty-four, say? If the honorable member from Massachusetts will listen for a moment, I think he will see that he took it for granted that the States alone could regulate the franchise. The number is that which deals with the ratio of representation. I will read from it a sentence or two:

"It is not contended that the number of people in each State ought not to be the standard for regulating the proportion of those who are to represent the people of each State. The establishment of the same rule for the apportionment of taxes will probably be as little contested."

Then he goes on to state that, under all the circumstances, there is no better way of ascertaining the proportion of taxes which the several States should be made to pay than adopting the same standard by which the basis of representation was arrived at. The South was dissatisfied with one portion of the provision, and the North was dissatisfied with another portion. The South insisted that if their negroes were to be considered as persons at all the whole number should be counted. The North insisted that if they were to be considered as property no portion should be counted. Mr. Madison, after stating the objection to the clause made by each party, says that it is a fundamental principle of the proposed Constitution that the aggregate number of Representatives was to be determined by a Federal rule founded on the aggregate number of the inhabitants. He goes on to state, as another fundamental rule, that the right of choosing that number shall be left to the States. I shall make myself better understood by citing his language:

"It is a fundamental principle of the proposed Constitution that, as the aggregate number of Representatives allotted to the several States is to be determined by a Federal rule, founded on the aggregate number of inhabitants, so the right of choosing this allotted number in each State is to be exercised by such part of the inhabitants as the State itself may designate."

Words could not have been adopted more obviously leading to the conclusion that in the opinion of the writers of the Federalist, the States were to have the sole right of regulating the suffrage; otherwise what a contradiction would be the result. The honorable member from Massachusetts says we have a right to regulate the suffrage in the States, because we have the right to regulate the number of Representa-

tives in the other House. How are we to regulate the suffrage in the choice of members of Congress? It is not proposed to rescind that part of the provision which says that they are to be chosen by the electors who choose the most numerous branch of the State Legislature. That is to be left; that you do not propose to disturb; and if you do not propose to disturb it, what you would be compelled to do in order to accomplish your object is to have one mode of electing Representatives to Congress and another mode of electing members of the most numerous branch of the State Legislature. But nobody dreams of interfering with the right of the States to regulate suffrage with reference to their own officers, or of interfering with the right of the States to appoint their own officers; or to elect their own officers, and to prescribe the qualifications which the electors of their own officers are to have. Nobody has ever dreamed that this Government was to step within the limits of State lines and tell the States how their Legislatures shall be elected, how their officers shall be chosen. If the honorable member is right in the theory for which he contends, it would follow that we should have one mode for the exercise of the right of suffrage in electing Representatives, and another mode, if the States thought proper to adopt another mode, for electing members of the most numerous branch of the State Legislature; and yet the Constitution in its very terms prescribes that the mode of electing shall be the same. If you have no right—and that I assume in what I am now about to say—to interfere with the elective franchise by prescribing the qualifications of voters in the several States, is it right, is it just, is it fair that you should attempt to do it indirectly?

Mr. SUMNER. May I interrupt the Senator there?

Mr. JOHNSON. With pleasure.

Mr. SUMNER. Before the Senator passes from that part of his argument, if he will allow me, I wish to call his attention to a point on which I should like very much to have his opinion. The Senator is aware that last Friday we passed an act containing this provision:

That all persons born in the United States and not subject to any foreign Power (excluding Indians not taxed) are hereby declared to be citizens of the United States, without distinction of color; and there shall be no discrimination in civil rights or immunities among the inhabitants of any State or Territory of the United States on account of race, color, or previous condition of slavery.

Now, as I understand it, this act, which, as the Senator will see, actually annuls all State laws everywhere throughout the United States fixing any inequality in civil rights so far as it has constitutional sanction—and I do not doubt that it has constitutional sanction—is founded upon the second clause of the recent amendment to the Constitution abolishing slavery. Now, the point to which I ask the attention of the Senator before he passes from this branch of the discussion—I shall value very much his conclusion upon it—is whether, if we can annul all State laws declaring inequality in civil rights, we cannot also annul all State laws declaring inequality in political rights; whether if this act is constitutional, as I believe it is, such an act as I propose would not also be constitutional. And in that connection I would call the attention of the Senator to the famous judgment of Chief Justice Marshall (which he remembers so well) in the case of *McCulloch vs. The State of Maryland*, where the Chief Justice distinctly declared, having the point before him, that it was within the power of Congress to select its means, provided the means were appropriate to the end; it was not for the Supreme Court, or any other branch of the Government, to sit in judgment on the means that Congress chose to select. Therefore, if Congress shall now think that in order to enforce the abolition of slavery it is necessary, in the first place, to annul all inequality of civil rights, and in the second place to annul all inequality of political rights, I ask the Senator whether a proposition founded on the latter branch of the postulate can be called in question; whether an act of Congress annulling all State laws declaring any

inequality of political rights is not absolutely constitutional.

Mr. JOHNSON. It was my purpose, Mr. President, before ceasing to trouble the Senate, to allude to the proposition to which the honorable member has just called my special attention; but I can dispose of it now in a word or two.

Mr. SUMNER. I hope the Senator will pardon me; but I thought he was passing from that branch of the question; otherwise I should not have interrupted him.

Mr. JOHNSON. Perhaps it was more connected with this branch of my argument than any other, but it was not the branch of it in which I had proposed to refer to that proposition.

Mr. SUMNER. Then I beg the Senator's pardon, and I hope he will go on with his argument without reference to my interruption.

Mr. JOHNSON. There is nothing to ask pardon for. I am obliged to the honorable member for interrupting me at any time. I was about to say, before coming regularly to the consideration of the subject to which the honorable member draws my attention, that he will of course recollect that I have stated more than once that the bill upon which he now relies is unconstitutional. As far as it is an authority, with me it has no weight whatever except that weight which belongs to the respect I habitually pay to the opinions of the Senate when they happen to differ from my own. But even supposing it to be within the power of Congress to pass a law of that kind, it by no means follows that I think it has power to pass a law placing all the inhabitants of the States on the same political ground.

When the honorable member from Massachusetts interrupted me for a purpose of which of course I do not complain, I was asking whether it was right or proper to do this thing in the way proposed. The joint committee reported an amendment to the Constitution; and I think perhaps none of them is of the opinion that it can be done in any other way than by a change of the Constitution; certainly that is my own opinion. If it be right that such a change should be effected by a constitutional provision, is it not proper that it should be accomplished in that way, instead of accomplishing it indirectly? Why is it that we are afraid to trust the people? Are Senators on that side of the Chamber afraid to trust the people of their respective States with the decision of this question; and if they are apprehensive, what is the ground of their apprehension? That they believe it would not be sanctioned. They have reason to believe that they have the numbers now which will enable them to adopt this amendment, and that the consequence of this amendment will be to effect what they desire in the southern States without its producing the slightest effect in the northern States.

I had hoped, Mr. President, that the time had passed when we were to esteem ourselves as different peoples. Our fathers esteemed us as one. The Constitution deals with us as one. As one the Government from its organization has been conducted. All of our triumphs in the field and in the council, upon the land and upon the ocean, have been won by us as one. And I ask if it is not a mischievous proposition that Senators are unwilling to leave a change of the Constitution, which they propose to accomplish indirectly, to the people of the several States? Can it be for any other reason than that it would not be adopted? Would Connecticut adopt it? Recently she voted against that change in her own State by casting a majority of two thousand nine hundred and six against it. Would Minnesota adopt it? She voted against it by a majority of eight thousand six hundred and eighty-five. Would Wisconsin adopt it? Her vote against it was a majority of seventeen thousand five hundred and thirty-nine. Do you think they will change their opinion? Do you not know that they have not changed? And yet so far as the result is concerned upon the influence of the

representation of those States in the councils of the nation, it would be as nothing compared with the result which it would have upon the State of Maryland and other southern States.

How, then, do you propose to accomplish it? You say to States situated like mine, "We will reduce your representation if you do not let your negroes vote. We will not permit ours to vote, and you cannot present to us an inducement which will lead us to let ours vote; we have considered that question already, and we have decided it by a judgment which we have no idea of reversing; but we will put it to you in such a shape that unless you agree to it, the number of your representatives in the halls of Congress will be very sensibly diminished." Would you, gentlemen, do you think you would—I do not ask you to say now at once, any of you, but when you come coolly to reflect upon the operation of a provision of this description—would either of you agree to vote for it if the influence of it on your States was to be the same as it will be upon some of the southern States? Would you do it if we changed places? If in the dispensation of Providence the three million negroes were to find a home within the northern States and separated equally as among all the northern States, is there any man within the hearing of my voice who will coolly reflect upon the subject, who will not come to the conclusion that no representative from a northern State would venture to support a proposition which would diminish the representation of his State, and relatively increase the representation of the sister States? I apprehend not. It is because the proposed measure does not affect you as it affects us, that you may safely vote for it. It is because, whether it be adopted or not, your power and your influence in the Government remain the same, it having no operation upon you, but operating and designed to operate exclusively upon us.

Nobody has a higher esteem than myself for the members of the committee reporting this measure, whom I have the pleasure personally to know. I know that they are governed by what they believe to be pure motives. They think the denial of the right of suffrage to the blacks of the southern States is calculated to injure the whole country. They have brought themselves to believe that the possession of the right of suffrage by the blacks will promote the safety and quiet of the country. In my opinion it is a sad mistake. It is a sad mistake for both. It is a mistake in reference to the blacks to be found within the southern limits, and with reference to the whites. It is a still greater mistake, if possible, to the people of the other States. We have come out of this war with an immense debt, to meet which will require all the energies of the Government. There is not a foot of land that we should not have cultivated in order to enable us to meet our engagements. The peculiar productions of the South above all should be promoted. You think, perhaps, there is nothing in this measure which will interfere with either. I think you are sadly mistaken. Leave the blacks as they are, protected by the Constitution of the United States in every right which belongs to a freeman, entitled to claim the benefit of all the guarantees of personal liberty and protection to be found in the Constitution of the United States, as much as the white man. Leave him to work for his living, as the white man works for his living. Leave him free to contract, as he is. Leave him under the protection of laws that will enable him to enforce his contracts, as he is. Leave him to educate himself, as far as nature will permit, until he can raise himself to the elevation of the white race, as I think he may; and then, if possible, change your organic law; then, if possible, forget that nature has made the distinction.

The God of the white man and the God of the black man—I speak it with due reverence—is the Being who first made a distinction on account of color. Why was the negro created black? It is beyond the ken of man to ascertain. Why were we created white? Is not the mere difference in color sufficient to warn us that

Heaven designed a difference? And have not some of you acted on the fact that there is such a difference? Why is that separate places for the respective races even in your own Chamber? Why are they not put together? There is not a man within the sound of my voice—certainly I am not one—who has any feeling against the black race. There is nothing in the world that I am capable of doing that I would not do to elevate them. In a professional life of now more than fifty years' duration, I never failed to give them the benefit of my advice and services. But I feel with an instinct that nature has planted within us, and they perhaps feel it as strongly as we do, that nature has created the distinction, and there it must remain as long as white is white and black is black.

But by this amendment you not only seek to reduce (by appealing to our supposed love of power) the number of Representatives to which we are entitled, and forcing us thereby to yield our convictions, but you increase the amount of our taxation. The Constitution said that the mode of ascertaining taxation shall be the same as the mode of ascertaining representation. That mode was to deduct two fifths from that portion of the population which was held in a state of servitude. You have done away with that provision. You therefore now say that unless we agree to let every black man vote who possesses the qualification of age the whole number of the race is to be deducted in the basis of representation; but when we come to the question what proportion of taxes we are to pay, the whole number, instead of three fifths, is to be counted, so that the operation of the amendment is to diminish representation and increase taxation. Is that right? I think, and I have suggested it in another place, that the true rule would be to apportion representation according to voters, and taxation according to wealth. That is fair; that operates alike everywhere.

What does California do? What does Oregon do? What does Nevada do? They exclude the Chinese altogether; and yet they are counted in the basis of representation. They form a part of the basis upon which those States claim to be represented in Congress. But we, instead of having Chinamen whom we will not permit to vote, have colored men; and because they are colored we lose representation while you retain it, because your Chinamen are not "colored" in the sense in which the term "colored" is used. Now, I ask Nevada and Oregon if it is correct to claim for themselves one rule and to exact as against us another.

Mr. STEWART. Allow me to suggest that under this amendment I do not think Chinamen can be counted.

Mr. JOHNSON. Certainly they will be counted in the whole number.

Mr. STEWART. But not in the basis of representation under this amendment. I think the same rule would operate on Chinese as on negroes, for they are "colored." The provision of the amendment is in reference to exclusions on account of race or color.

Mr. JOHNSON. You are very much mistaken. Your State will be the first to say, "We are entitled to just as many Representatives after this amendment passes as before." If you think your people will be satisfied with losing any part of their representation, I submit it to you, perhaps you had better reconsider before you give this vote, because you may lose, and will lose.

Mr. STEWART. I think the Pacific coast would lose representation under this amendment.

Mr. JOHNSON. You would either lose or you would not lose. If you would not lose, it is because you would not fall within the proviso; and it is unjust for you to apply to us a provision which you are not willing to apply to yourselves. If you do lose because you fall within the proviso, then look to it.

Mr. KIRKWOOD. Will the Senator allow me to ask him a question?

Mr. JOHNSON. Certainly.

Mr. KIRKWOOD. I like to hear the Senator from Maryland argue a question, and he has argued this question on the basis of fairness. When we propose to change the organic law, of course what has been the organic law cannot be used as an argument why it should be continued as such. I ask the Senator now to consider for a moment a question of fairness. Iowa, which I in part represent, has about the same population as Maryland; our people are nearly all white people, whereas one third or one fourth of those of Maryland are colored people. Now, in fairness, if the colored men in Maryland cannot vote, if they are unfit to vote, why should they be counted in the representation against an equal number of white men in Iowa who can vote? In other words, in fairness, why should two Marylanders count equal to three Iowans?

Mr. JOHNSON. Will the honorable member tell me why it is fair that Iowa should be represented in part because of her female population?

Mr. KIRKWOOD. Maryland is; and it is equal.

Mr. JOHNSON. I know; but why is it that you are entitled to be represented because of your female population? It is not because you consider them competent to vote, for you do not let them vote.

Mr. KIRKWOOD. I did not know that the Senator from Maryland was such an adept in the Yankee plan of answering one question by asking another. To me and to my people the proposition seems very plain. This matter of the inequality of representation in the more popular branch of Congress has been a matter of complaint for a long time. Our people cannot understand why in fairness, when we are going back to lay the foundation of our organic law, two gentlemen in Maryland—and I respect them as highly as the Senator does, because I am myself a Marylander by birth—shall count in representation and in voting equal to three gentlemen in Iowa, or why one white man in South Carolina should count equal to two white men in Iowa. This is an idea which the Senator does not seem to have looked at. If these men are not fit to vote, why should they count against us who are fit to vote?

Mr. JOHNSON. I understand the honorable member, and I have answered him, I think, by anticipation, by calling his attention to what Mr. Madison said was the received opinion of the Convention, and I do not think any member on this floor is higher authority than Mr. Madison; I speak with all respect to my friend from Massachusetts:

"It is not contended that the number of people in each State ought not to be the standard for regulating the proportion of those who are to represent the people of each State."

Mr. KIRKWOOD. That was the argument in determining the present Constitution; but in an attempt to change it, we must look for a different rule.

Mr. JOHNSON. Of course, I understand that; but Mr. Madison says, in speaking of the sense of the fathers of that day, who were perhaps as wise as we are, that the true rule was that the whole number of people in a State ought to be the standard for regulating the representation of the State. The honorable member from Iowa confounds, as the honorable member from Massachusetts throughout his whole argument confounded, the right of suffrage with the right to be represented. They are altogether distinct. If they are not, the representation from Iowa ought to be diminished. If representation under the Constitution is to depend upon the exercise of the right of suffrage, Iowa should be confined to those whom she permits to vote, and the whole number of persons in her State, white or black, who are excluded from voting ought to be deducted from the enumeration. But it is one matter when you are considering the question of representation, and another when you are considering the question who is to vote. The negro who does not vote in Maryland, like the white woman or the infant who does not vote in Iowa,

is to be protected. Protected how? By having representatives from the State who have charge of the interests of the State, of everybody in the State. Nobody pretended when the Constitution was formed that the negroes would not be counted independent of the right to vote. Mr. Madison, in the same number of the *Federalist* already cited, dealing with the propriety of counting only three fifths of the slaves, says:

"It is the character bestowed on them by the laws under which they live; and it will not be denied that these are the proper criterion; because it is only under the pretext that the laws have transformed the negroes into subjects of property, that a place is disputed them in the computation of numbers; and it is admitted, that if the laws were to restore the rights which have been taken away, the negroes could no longer be refused an equal share of representation with the other inhabitants."

Not meaning by that, that they would be entitled to vote as the other inhabitants were entitled to vote, because they were not regulating by the Constitution suffrage qualification, but the right to be represented. Minors, women, black or white, with or without a property qualification, all within the limits of a State, have a right to have themselves considered in ascertaining who is to represent that State, numerically, because in proportion to the number of representatives do you increase the security of all the citizens who may be within the limits of a State.

Is there any difference in principle—I speak it certainly with no disrespect to the women of Iowa—between counting them and counting blacks in ascertaining the number of Representatives to which Iowa is entitled?

Mr. KIRKWOOD. We would feel some objection, if we felt in regard to negroes as the Senator does, to having our women balanced off all the time by negroes in Maryland.

Mr. JOHNSON. But you have not the prejudice.

Mr. KIRKWOOD. Some of us have.

Mr. JOHNSON. It ought to be with you a question of principle altogether. I understand you to say that the women of Iowa are to be considered in the same light with the blacks in Maryland. Well, if they are, and they are counted although not privileged to vote, why should not the negro be counted in Maryland although deprived of the privilege of voting? The honorable member confounds the question of representation with the question of the right of suffrage, two things, in my judgment, altogether distinct. Supposing now that the honorable member is in favor of this provision, while you lessen by it our representation by deducting from the whole number of our population the negro portion of the population, why is it that you increase our taxation? Is that just? And yet that is precisely what your resolution proposes. It does not leave it as the Constitution originally had it, because that subjected us only to taxation apportioned by considering a colored person as equal to three fifths of a man. You have increased it now by abolishing the institution of slavery so that every man within Maryland who may be black is to be counted, and you tax accordingly. Thus with one hand you deprive us of a portion of our representation and with the other you increase the amount of our taxation; and from what I know of the very astute, and I was about to say cunning, people of the State of Massachusetts, that is what they would not agree to if the principle was applied to them. [Laughter.]

I do not know, Mr. President, that I have succeeded in satisfying my friend from Iowa, although I think I ought to have satisfied him provided it be true that in his opinion there is no distinction between the ladies of Iowa and the blacks of Maryland. [Laughter.] I think there is a very material distinction.

I must hasten on to a conclusion. The honorable member from Massachusetts has presented a question not applicable to the measure before the Senate, but as he introduced it, I beg leave to say a word on the subject. He holds that, independent of any constitutional provision, the authority is in Congress to regulate suffrage because of the clause of the Con-

stitution guarantying to each State a republican form of government. That is a new idea; and the honorable member seemed to think that it was so novel that it required very extensive research. He began before the Revolution, and he brought up at the times of the Revolution, carried us into Faneuil Hall and gave us the bugle voice of James Otis heard in the morning sun, charming, electrifying, and invigorating every heart in the State of Massachusetts, and in the country; and he brought us down from 1775 even to the present time, and he said there was an aggregation of authority to show that the power was possessed, and one of the elements of the aggregation was the guarantee clause. How did he make it out that there is no republican form except where there is representation? Upon the ground of the declaration of James Otis, which must have had the effect attributed to it by the honorable member—and his name ought to be borne in reverence through all time by every American citizen—that taxation without representation is tyranny. But to what did he apply it? England claimed the right to tax us through her Parliament where we were not represented at all. Was he dealing with the question of the right of suffrage? Unquestionably not.

Mr. SUMNER. He did in all his arguments and speeches.

Mr. JOHNSON. No, I beg the Senator's pardon. Although by no means multifarious in my reading as the honorable member, I may say that all speeches of that description I have perhaps read as often as he has.

It was taxation without representation against which he spoke. Did he mean that Massachusetts and Rhode Island were not republican governments? If he did not mean to exclude them from the category of republican governments, then in the opinion of James Otis Maryland is yet a republican government, and so is every State in the Union a republican government. Here, as was the case with my honorable friend from Iowa, he is confounding the right of suffrage with the right of being represented.

Not only is the bugle voice of James Otis appealed to, but the action of the fathers, the sense and spirit of the Constitution, all, in the judgment of the honorable member, demonstrate that this right of suffrage should exist. A republican government, says the honorable member, is an American idea. Cicero and Aristotle and Socrates and all the worthies who have preceded us in times past knew nothing upon the subject. They were, in the sense of the term in American constitutional jurisprudence, behind the age. The first time the true thing was discovered, that which animates the heart and nerves the arm of all who may be within the reach of such a government, a republican government, was here within the limits of the United States. Suppose I concede it; and I have not time to question it with the honorable member. What was the idea here? Did our fathers consider that any one of the thirteen States who finally came under the provisions of that Constitution and have ever since constituted a part of the nation were not living under republican forms of government? The honorable member will pardon me for saying that to suppose it is to disparage the memory of those great and good men. There was not a State in the Union when the Constitution was adopted that was republican, if the honorable member's definition of a republican government is the one now to be relied upon. A property qualification was required in all at that time. Negroes were not allowed to vote, although free, in most of the States. In the southern States the mass of the negroes were slaves, and of course were not entitled to vote. If the absence of the universal right of suffrage proves that the government is not republican, then there was not a republican government within the limits of the United States when the Constitution was adopted; and yet the very object of the clause to guaranty a republican government—and the honorable member's citations prove it—was to prevent the existing gov-

ernments from being changed by revolution. It was to preserve the existing governments; and yet the honorable member would have the Senate and the country believe that in the judgment of the men who framed the Constitution there was not a republican form of government in existence. Here is what Madison says in the forty-third number of the *Federalist*. After reciting the clause—I have not time, nor is it necessary to read more than a sentence or two from it—he says:

"To the second question it may be answered, that if the General Government should interpose by virtue of this constitutional authority, it will be of course bound to pursue the authority. But the authority extends no further than to a guarantee of a republican form of government."

And what does that suppose? He tells us: "which supposes a preëxisting government of the form which is to be guaranteed. As long, therefore, as the existing republican forms are continued by the States they are guaranteed by the Federal Constitution."

So that the honorable member and the Senate will see that the very object of the clause was to secure by force of the guarantee the existing governments, and nothing else. Are we less republican now than we were then? Then these one hundred and seventy-one thousand people who now constitute a portion of the population of Maryland, or their ancestors, were slaves; now they are free. Is it less a republican government because the slave then is the free man now? If there was nothing inconsistent with the existence of a republican government in not only excluding the black man from the right of voting but claiming the right to hold him as a chattel, he being a man, is it not less anti-republican to exclude him now that he is a free man? What difference does it make, when we come to examine the question whether a republican government exists or not, that he is black? The definition of the honorable member places his charge of anti-republicanism as against the present forms of constitution upon the ground of the right to vote. I suppose the black man has no more natural right to vote than the white man. It is the exclusion from the right that affects the judgment of the honorable member from Massachusetts. Voting, according to him, is a right derived from God; it is in every man, inalienable, and its denial, therefore, is inconsistent and incompatible with the true object of a free government. If it be such a right, it is not less a right in the white man than in the black man; it is not less a right in the Indian than in the white man or the black man; it is not less a right in the female portion of our population than in the male portion. Then the honorable member from Massachusetts is living in an anti-republican government, and he ought not to stay there a moment if he can find any government which would be a government according to his theory. None has existed since the world commenced, and it is not at all likely that any will exist in all time to come; but if there is any such Government to be found on the face of the earth, let him leave Massachusetts, let him hug that angelic delusion which he hopes will encircle the whole world, and go somewhere where he can indulge it without seeing before him every day conclusive evidence that no such illusion exists at home. Do you let every black and white man in Massachusetts vote? No; he must be able to read and write; he must be able to read the Constitution of the United States, and he must be able to read it in English. German or Frenchman, Italian or Chinese, if he has not been here long enough to be able to read the Constitution of the United States in English, he cannot enjoy that inalienable right which it is tyranny to deny. He is taxed without representation, and that, in the language of Otis, is tyranny. Leave Massachusetts, I beg the honorable member, just as soon as you can, or you will never be supremely happy. [Laughter.]

Now, Mr. President, if I admit that the honorable member is right to that extent, if you are to take as a test of what a republican form of government is, the estimate entertained of it by our fathers, then every one of these gov-

ernments is republican, and so far from your being authorized to invoke the guarantee to accomplish the purpose the honorable member has in view, it is his sworn duty, according to my view of it, as a Senator of the United States, to insist that those governments shall stand as they are, that being the very object of the guarantee clause.

I omitted or was about to omit to remark upon another of the guarantees to which the honorable member referred, the authority to interfere by legislation with this right of suffrage consequent upon the second clause of the amendment of the Constitution abolishing slavery. He says it may be done under that section. With due deference to him, I think it is very obvious that it cannot be accomplished under it. In that I believe the whole of the committee of fifteen concurred. He proposes to regulate the right of suffrage in the States in order to secure to the negro the privilege given him by this constitutional amendment. What is that privilege?

"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or in any place subject to their jurisdiction."

In no court, before no tribunal of any description—executive, legislative, or judicial—of the United States, or of any State, would it be pretended that the institution of slavery now has any existence; it is abolished. What did we think? That difficulties might be thrown in the way of this constitutional provision by some of the States. This institution had been the growth of more than a century. It had wound itself into all their domestic arrangements. They were as much attached to it as the North is attached to any domestic institution of its own. They honestly believed that there was nothing wrong in it—I mean the majority of them. They honestly believed that there was nothing injurious in it to the country. They honestly believed that it was a divine institution. We have cured them of that, or if we have not, they have cured themselves by beginning this war. But looking to the condition in which the southern mind was at the time, we thought—I for one thought it, and for that reason I voted for this second section—that these negroes, although no one would have a right to hold them in slavery, might still in point of fact be enslaved. How enslaved? Be denied some right incidental to the destruction of slavery. Then we said, it may be, looking to the decisions of the Supreme Court, that the mere abolition of slavery will give to Congress no legislative power. That court in a variety of cases have decided that nothing can be done by Congress under any clause of the Constitution which does not confer upon that body some power. A mere negation of a right clothes Congress with no legislative authority. Now, if we abolished slavery at once and did nothing more, it might be that Congress could not legislate at all on the subject, and these people would be left to the mercy of the legislation of the States in which the institution had existed. In order to guard against that we adopted the provision to be found in the second section of the constitutional amendment. And what is that? "Congress shall have power"—to do what? "To enforce this article." By what? "By appropriate legislation." That is, Congress shall have power by appropriate legislation to enforce this article. And what is this article? An article declaring that slavery shall no longer exist in the United States. Does the honorable member mean to say that no man is a freeman who is not entitled to vote? You would make slaves of one third of the people of Massachusetts; you would make slaves of all the women of Massachusetts, if that be the test.

Mr. SUMNER. May I interrupt the Senator?

Mr. JOHNSON. Certainly.

Mr. SUMNER. My argument is, that if, to carry out the prohibition of slavery and to complete its abolition it shall be regarded as necessary to give the franchise, it is within the power of Congress to give it. And now I will ask

my honorable friend to give the Senate the benefit of his opinion on this precise point. If Congress under that clause can secure equality of civil rights, may it not, *a fortiori*, secure equality in political rights, under that clause? I do not ask the Senator whether in his opinion it may under that clause give equality in civil rights. I assume that. I most sincerely accept it, and the Senator, knows very well that the Senate has acted accordingly. Senators all about me have assumed that power; and now I ask the Senator, as a constitutional lawyer, to whom we refer every day, whether if you can do the one you cannot do the other?

Mr. JOHNSON. I answer that in the negative very decidedly, and have only time to give a few reasons for it. There are certain rights which belong to a freeman. He has a right to contract; he has a right to support himself; he has a right to do everything necessary to make him a freeman, or rather to enable him to enjoy life as a freeman, that any other freeman can do; but he is just as much a freeman without having the right to exercise the political right of franchise as he is with the right; for otherwise the result would follow which I have just stated, that there are a great many who are not freemen now in Massachusetts. The whole female sex not only are not, but never have been, free women. The whole object of this clause is not to give to Congress the right to interfere with the power of the States over the political status of their population, but to prevent the States from interfering with the right of one who has been a slave and remains in the State, to do what a white man can do under the general laws.

Mr. FESSENDEN. To secure the rights essential to freedom.

Mr. JOHNSON. Certainly, the rights essential to freedom, and nothing else.

Mr. WADE. Voting is essential.

Mr. JOHNSON. That is begging the question.

Mr. SUMNER. Is not the franchise more essential than the other?

Mr. JOHNSON. No.

Mr. SUMNER. Is it not foremost?

Mr. JOHNSON. No. I considered myself a freeman a good while before I was twenty-one years of age, and I had not the right of franchise. I should consider myself a freeman, if I was to go to Massachusetts, during the time that I was living out the residence which her laws require to enable me to vote; and I should consider myself a freeman, too, if I could not read the Constitution in English. How essential is it to secure freedom in Massachusetts that Congress should interfere with that? It is absolutely necessary.

Now, as to this "appropriate legislation;" the honorable member has referred more than once to the opinion of Chief Justice Marshall in the case of *McCulloch vs. The State of Maryland*. What was that? The question, with reference to which the observation alluded to by the Senator was made by the Chief Justice was, whether the Congress of the United States had the power to establish a Bank of the United States. They came to the conclusion that it had, and why? Upon several grounds: first, that it was included within the power to regulate commerce; and secondly, that it was included in the power to collect taxes; not that it was necessary, not that commerce could not go on and taxes could not be collected without it, but if Congress thought that such an institution was an appropriate one to enable them to have a better regulation of commerce and to collect the taxes and preserve the money of the United States better, and with more facility than they could without it, they had a right to select that institution. If the honorable member had read the whole of that decision—

Mr. SUMNER. I have.

Mr. JOHNSON. No doubt he has; if he has he must have found—he has not cited that passage—that the learned Chief Justice says it must not be entirely foreign to the object placed within the legislative power of Congress; it must be connected with, if not absolutely ne-

cessary to, the exercise of the power. Now he is begging the whole question when he says that it is absolutely necessary, in order to make a man a freeman, that you should give him the right to vote by legislation. That assumes that every freeman has a right to vote. Is that true? The honorable member from Maine [Mr. FESSENDEN] the other day said, and said what he is borne out in by all the authorities—it is not necessary to go to Cicero and Socrates and the many illustrious names that came so eloquently from the Senator from Massachusetts; you find it everywhere—that the right of suffrage, the right of voting, depends upon governmental regulation; there is nothing innate in it. The question who is to exercise it is submitted to the discretion of the Government. Shall a man without property vote? Every State in the Union at one time said no. Shall a man without property hold office? Every State said no. Shall the slaves vote? Every State said no. Shall the alien vote? Almost every State said no. In some of the States they are admitted to the right of suffrage, and I think improperly in any, as a matter of expediency, but not in all; but are they any the less freemen? Is any inherent and natural right violated by such an exclusion? Certainly not. The right grows out of political institutions, and exists, or does not exist, just as the Government who establishes them thinks proper to grant it or to deny it.

I could speak much longer upon this subject, but I am troubling the Senate and exhausting myself.

Now, a word or two as to the effect of this proposition. You think it will produce peace and quiet. I hold your opinions, gentlemen, in as much respect as I hold the opinions of any one; but I entertain a very different opinion.

Mr. SUMNER. There I agree with you.

Mr. JOHNSON. As to this particular amendment of the Constitution?

Mr. SUMNER. Yes.

Mr. JOHNSON. Then as to this, I am sure I must be right. The honorable member and all of us are very anxious to bring about a state of peace and quiet and harmony. We want to be brothers all; all sectional differences to be forgotten; all former animosities to be cast into oblivion. We want to be what our fathers were, what your ancestors of Massachusetts were in their relation to the men of South Carolina; in the language of Webster, going shoulder to shoulder through the perilous conflict of the revolutionary struggle, moistening every field of battle in which they were engaged with their joint blood, feeling the arm of Washington resting on them alike for support. We want the men of Massachusetts to be now in relation to the men of Maryland and Virginia what they were then. We invoke the memories of the past. We pray that the spirit of Washington may be over and around us to guide us to a correct conclusion. He went the moment he was called to defend Massachusetts. He drew his sword first in the struggle to maintain her rights, and he did not go alone. Every southern State rushed to her rescue. We came out of that struggle as we went in, brothers, animated by an equal love of country, hoping to achieve for the benefit of all a national renown, and a prosperity without example in the world's history. Madness separated us. The South, I beg you to remember, has not been wholly to blame; why it is unnecessary to say. There is no man conversant with the history of the times but must feel—I felt it in this Chamber, I felt it in the peace conference—that although the treason was culminated into actual perpetration by the South, it never could have occurred but for the misjudged conduct of the North. I do not designate any particular State. But we have gone through the struggle, and we are out of it, successfully out of it. How is that former concord to be reestablished? By seeking to deprive the southern States of any part of their political influence, leaving them subject to your taxing power, even increasing that power as against them? By passing laws ad-

verse to what is known to be the sentiment of their people—laws which assume, not that they are not competent, but that being competent they are unwilling to perform the duty which they owe to their country? Gentlemen, you misunderstand them.

No man in this Chamber raised his voice earlier, or did more, to the extent of his means, to defeat the parricidal effort to destroy this Government than I did; but I knew these people. I knew—and therefore my apprehensions were the greater—that if their leaders should be put in a situation in which they could arouse the hearts of those people, they had that within them that would cause them to go to the utmost limits men could go; and so far they have gone. It is idle to deny—I rather feel proud of the fact—that they exhibited upon the battle-field the highest elements of human courage which can be exhibited upon such an occasion. Some of them may have acted with an entire forgetfulness of all the injunctions of humanity. So have some of our soldiers. Private houses have been given to the flames, and innocent women and children driven out at night to seek shelter of whom and where they could. But these are exceptions; and these we should try to forget. How can this strife be soonest forgotten? Bring them back; take them by the hand; say to them, "You have wandered away from the household of your fathers; you have seen the error of your ways; you ask to return; we receive you with open arms and with warm and gushing hearts," and rely upon it that such men as will be sent here will be as faithful to the Constitution as either of us. Look at the conduct of their military men and our military men. How do they meet? How do Grant and Sherman and Meade and Sheridan and Thomas meet their former comrades, lately their enemies, now that the war is over?

Mr. FESSENDEN. They do not put them in command of the Army.

Mr. JOHNSON. They meet them as brothers. They do not put them in command of our Army, but they would have no objection to it, I am sure, because they have entire and absolute confidence in their honor. But you are not putting them in command of the Army. The honorable member and no member of the Senate has a right to say any southern man would be sent into this Chamber and take the oath that you require and not observe it or any oath that you may administer.

Mr. FESSENDEN. They have taken an oath and broken it.

Mr. JOHNSON. Certainly; but broken how, and broken when? The honorable member is not to be told that there existed throughout the country in every section of it a large class of intelligent men who believed that the States had a right to secede. Your late lamented President so announced in a speech made by him when he was a member of the House of Representatives. I thought I had by me a copy of the Kentucky resolutions known to have been written by Mr. Jefferson, but I cannot find it at present; but the first of those resolutions which was adopted by the unanimous vote of the Legislature of Kentucky says in so many words that the Government of the United States is nothing but a compact, and that the States have the right to decide for themselves whether it is broken or not and can act accordingly. A terrible doctrine, a mischievous doctrine; but who did it come from? From one who had taught the public mind of the South, from the very apostle of human liberty, from one who hated tyranny and loved freedom; and his teachings and the teachings of others who succeeded him made the South believe that they had that right. They just as firmly believed it as my honorable friend from Maine and myself believe in the contrary doctrine. You cannot deal with a people of that description as if they were criminals acting without the pretense of right.

Now, the honorable member from Massachusetts says they cannot come in because the case of Luther vs. Borden, as decided by Mr. Chief Justice Taney, reported in 7 Howard, holds that that is a matter to be passed upon

by Congress. That is a great mistake. With due deference, it says no such thing. It says that under the clause of guarantee Congress must necessarily decide whether the government which they are called upon to guaranty is republican. It says that under another part of the same clause which makes it the duty of the Government to protect a State against domestic violence or foreign invasion, Congress is to pass laws for that purpose. They passed the act of 1793 making it the duty of the President on the application of the Legislature of a State, if it was in session, or the Executive of the State if the Legislature was not in session to interfere; and the court go on to say that under the act of 1793—and I ask the honorable member's attention to it—the President is to decide and nobody else.

Mr. HOWE. Congress gave him the power.

Mr. JOHNSON. But as long as that law exists he must decide and nobody else. The act of 1793 has not been repealed, and all the subsequent legislation auxiliary to it is also upon your statute-book unrepealed.

Mr. HOWE. I take it it has not passed beyond the power of Congress to resume it.

Mr. JOHNSON. That is another matter.

Mr. HOWE. Under the Constitution the power belongs to Congress.

Mr. JOHNSON. But once executed, it does not belong to Congress. But now let me apply it to the honorable member from Wisconsin. Has not Congress exercised the power? Have you not admitted all these States into the Union long ago? You say they are out. I say they are not. That is a question to be tried.

Mr. HOWE. That is not the issue between the Senator from Maryland and myself. I never used the expression that any of these States were out of the Union. I have, on the contrary, constantly protested that nothing had gone out of the Union.

Mr. JOHNSON. I am glad that I misunderstood the honorable member. Then they are not. How did they get in? By being recognized by Congress; and if they are recognized by Congress, how is Congress to get them out? It is a power that is exhausted when it is first executed. Once in, they are in forever.

Mr. HOWE. I understand that is your position.

Mr. JOHNSON. That is my position. They are in forever, so far as Congress is concerned; but whether in or not, one thing is certain: we have a right to receive them into this Chamber.

Mr. SUMNER. Suppose they get out of practical relations with the Government, what then?

Mr. JOHNSON. They can resume their practical relations. Heaven forbid that a man the moment he stops any particular relation is supposed to be never thereafter capable of resuming it.

Mr. FESSENDEN. Both sides must agree, must they not?

Mr. JOHNSON. The honorable member from Maine says with the agreement of both sides. Did we agree that they should go out? I have heard the honorable Senator say from time to time that not only we did not agree, but we would not admit it, and we have been carrying on a war now for four or five years, costing countless treasure and half a million of lives to get them in, and I thought we had accomplished it, and I was never more surprised in my life than, when I thought we had succeeded in the object of the war, to find gentlemen advocating a position which made us a great deal worse off than when we began it.

However, that has nothing to do with the purpose I had in view when I was interrupted. I want them in. I think it is the only way in which you can pacify the country. I am not afraid of them.

Mr. FESSENDEN. The honorable Senator misapprehended my question, and I will state it now in order that there may be no misunderstanding on the part of the reporters. My friend from Massachusetts put the question, suppose they are out of practical relations to the Union, what then? The reply of the honorable Senator who is speaking is that they may

resume them. I ask, may they resume them at their own will entirely, or does it require the assent of the other party with whom those practical relations have been dissolved? That is my question.

Mr. JOHNSON. I say under the circumstances they can, just as much as the other party. Each party has the same right to resume that the other has. You do not deny to Congress the right to resume relations with them.

Mr. FESSENDEN. You cannot force it upon them.

Mr. JOHNSON. You can enforce it upon them, or you can—

Mr. FESSENDEN. You cannot compel them to send Senators and Representatives here if they do not choose to do so.

Mr. JOHNSON. That is the fault of the original Constitution. You say they have no organized governments. Have they not Governors and members of their Legislatures and of their judiciary? What branch of government is it that they are without? How are their people now governed? By you? No, except very partially. How are all their domestic concerns regulated? How are all their contracts enforced? How are their marriages solemnized? How is property conveyed? By your laws? No. By the State laws. Nobody doubts that; and yet although they are clothed with all the attributes of government, and just as absolutely clothed with them as they were before the war commenced, you say they are not governments within the sense of the Constitution because the moment you admit that they are State governments in the sense of the Constitution, then they have the right to be represented here.

But I have wandered from the purpose I had in view. What I wanted to say was—and I say it now in conclusion—that to quiet the country, to reinstate it in the prosperity which it had and which it has temporarily lost, to bring us all together again as one family, endowed with the capacity of winning a name which will make us the envy of the world, let us take them to our bosom, trust them, and as I believe in my existence, you will never have occasion to regret it. You will, if the event occurs, look back to your participation in it in future time with unmingled delight, because you will be able to date from it a prosperity and a national fame of which the world furnishes no example, and you will be able to date from it the absence of all cause of differences which can hereafter exist, which will keep us together as one people, looking to one destiny and anxious to achieve one renown.

Mr. CONNESS. If it would not trouble the Senator, I estimate very highly the value of his opinion upon the question I propose to suggest, and I would like to have it. In speaking of the relation of those States to the Government now, did I understand the honorable Senator to mean the State governments that now exist in those States, or the governments that existed there prior to the rebellion?

Mr. JOHNSON. They have a right to change their government. You know that is an inherent right.

Mr. CONNESS. Have they changed their government? Have they not organized the government now existing under compulsion?

Mr. JOHNSON. No, sir. I do not so understand it as a question of fact.

The PRESIDING OFFICER. (Mr. HARRIS in the chair.) The question is on the amendment of the Senator from Missouri [Mr. HENDERSON] to the amendment of the Senator from Massachusetts, [Mr. SUMNER.]

Mr. HENDERSON obtained the floor.

Mr. SHERMAN. I understand my friend from Missouri does not desire to speak upon the pending question this evening, and if it is the pleasure of the Senate to go into executive session, I will make that motion.

Mr. GRIMES. With the permission of the Senator, I desire to move that the Senate now proceed to the consideration of House bill No. 33.

Mr. SHERMAN. Very well. For the purpose of enabling the Senator from Missouri to

have the floor on Tuesday morning, I will move that the pending resolution be postponed until Tuesday at one o'clock, and be made the special order for that hour.

The motion was agreed to.

ADJOURNMENT TO MONDAY.

On motion of Mr. WILSON, it was

Ordered, That when the Senate adjourns to-day, it be to meet on Monday next.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 264) granting a pension to Mrs. Altazera L. Wilcox, of Chenango county, in the State of New York;

A bill (H. R. No. 265) granting a pension to John Hoffman, of Madison county, in the State of New York;

A bill (H. R. No. 266) granting a pension to Mrs. Elizabeth Fogg, of the State of Maine; and

A bill (H. R. No. 267) granting a pension to Virginia K. V. Moore.

The message further announced that the House of Representatives had concurred in the amendments of the Senate to the amendment of the House to the bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau.

CHARLOTTE BENCE.

Mr. GRIMES. I now move that the Senate proceed to the consideration of House bill No. 33.

The motion was agreed to; and the Senate as in Committee of the Whole, proceeded to consider the bill (H. R. No. 33) for the relief of Charlotte Bence, widow of Philip H. Bence, late captain of company F, thirtieth regiment Iowa volunteer infantry, which directs the Secretary of the Interior to place the name of Charlotte Bence, of Bloomfield, Davis county, Iowa, widow of Captain Philip H. Bence, of company F, thirtieth regiment of Iowa volunteers, on the pension roll, at the rate of twenty dollars per month, for and during her widowhood.

The bill was reported to the Senate without amendment.

Mr. TRUMBULL. Before the bill passes to its third reading, I will inquire what this case is. Is there any report about it? Does it come from a committee?

Mr. GRIMES. Yes, sir; it passed the House of Representatives, and met the approval of the Committee on Pensions in the House; was sent to the Committee on Pensions of the Senate, and has been reported back by that committee without amendment. The chairman of the committee is here and will explain it.

Mr. TRUMBULL. If it is not establishing any new precedent, I have no objection to it. Does it come within the rule of other pensions?

Mr. LANE, of Indiana. Yes, sir, it comes within the rule we have established with regard to those killed on detailed service and furlough. This man was sent to transact some business in Iowa and was shot down while on his way home by guerrillas.

Mr. TRUMBULL. Is it not a larger pension than is granted to most widows?

Mr. LANE, of Indiana. It is a captain's pension.

Mr. TRUMBULL. I will inquire if the widows of all captains receive the same pension.

Mr. LANE, of Indiana. They do.

The bill was ordered to a third reading, read the third time, and passed.

COURT OF CLAIMS.

Mr. TRUMBULL. I move that the Senate proceed to consider Senate bill No. 33.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 33) in relation to the Court of Claims. It proposes to repeal the fourteenth section of an act approved March 3, 1855, entitled "An act to amend an act to establish a court for the investigation of claims

against the United States," approved February 24, 1855; and from the final judgment, or decree, in all cases heretofore decided by the Court of Claims of the character mentioned in the fifth section of the act of March 3, 1853; an appeal is to be allowed to the Supreme Court of the United States at any time within ninety days after the passage of this act, except in cases where the amounts found due by the court have been paid at the Treasury; and the regular session of the Court of Claims is hereafter to commence on the first Monday of December in each year.

Mr. GRIMES. I will inquire of the Senator from Illinois what is this fourteenth section of the former act that is proposed to be repealed?

Mr. TRUMBULL. These are the words of it:

SEC. 14. *And be it further enacted*, That no money shall be paid out of the Treasury for any claims passed upon by the Court of Claims till after an appropriation therefor shall be estimated for by the Secretary of the Treasury.

Perhaps I had better explain in a word what the object of the bill is. The seventh section of the bill, which passed in 1853 I think, provided for appeals to the Supreme Court of the United States from the Court of Claims. That section is in these words:

SEC. 7. *And be it further enacted*, That in all cases of final judgments by said court, or, on appeal, by the said Supreme Court, where the same shall be affirmed in favor of the claimant, the sum due thereby shall be paid out of any general appropriation made by law for the payment and satisfaction of private claims, on presentation to the Secretary of the Treasury of a copy of the said judgment, certified by the clerk of said Court of Claims and signed by the chief justice, or, in his absence, by the presiding judge of said court. And in cases where the judgment appealed from is in favor of said claimant, or the same is affirmed by the said Supreme Court, interest thereon, at the rate of five per cent, shall be allowed, &c.

The seventh section of the act provided that the payments were to be made out of any general appropriation made by law for the payment and satisfaction of private claims. It has been the custom of the Treasury to make an estimate to pay the judgments of the Court of Claims each year, and out of that estimate the judgments are paid. The fourteenth section declares that no money shall be paid out of the Treasury for any claims passed upon by the Court of Claims until after an appropriation therefor shall be estimated for by the Secretary of the Treasury. I did not think when the fourteenth section was adopted that it altered the law as prescribed in the seventh section, but when a case went up to the Supreme Court of the United States they refused to entertain jurisdiction of the appeal on the ground that under this fourteenth section there was a discretionary power in the head of the Treasury Department to pay the judgment or not. Their opinion is very short, and I will read what they say upon that point:

"We think that the authority given to the head of an Executive Department, by necessary implication, in the fourteenth section of the amended Court of Claims act, to revise all the decisions of this court requiring the payment of money, denies to it the judicial power from the exercise of which appeals can be taken to this court."

Mr. GRIMES. Who gave the opinion of the court?

Mr. TRUMBULL. That opinion was announced by Chief Justice Chase. The law specially provided for appeals. They have refused to entertain appeals; but I understand if that fourteenth section were out of the way, they would entertain appeals. I do not think, and I did not think at the time, that the fourteenth section altered the previous provisions of the act; but the court have come to a different conclusion, and regard it as vesting a sort of discretionary power in the Secretary of the Treasury. The sole object of this bill is to remove this obstacle to taking appeals to the Supreme Court. I say the sole object; but another clause in the bill fixes the commencement of the term of the court on the first Monday of December instead of the first Monday of October. It does not make any difference in the old law, except to repeal the fourteenth section.

Mr. DAVIS. My own opinion is, and always

has been, that every debtor ought to pay his debts. If the honorable chairman of the Committee on the Judiciary would introduce a bill authorizing every creditor of the Government to pursue the Government just like a private individual, and that the Government, when a judgment was had against it, should at once pay the judgment debt, I think it would be the best policy that could be adopted.

I know of no higher obligation than to pay a debt due from the Government to its creditors. It to me is a farce, a denial of justice, for a Government to owe honest debts and to allow no mode for coercing payment. For myself, I am in favor of that obligation of the Government as far as practicable. I think, in relation to the bill now under consideration, that whenever there is a judgment of the Court of Claims against the Government for a debt, the law ought to instruct the Treasury officers at once to pay it. The idea of a Government that is intended to protect all people and to secure to them what are their rights, being bound by no practical obligation for the payment of its debts, has to my mind always been an absurdity and a piece of high injustice. I hope, therefore, that the honorable chairman of the Committee on the Judiciary will propose an amendment to this law requiring the Treasury officers, whenever there is a judgment in favor of a citizen against the Government for a debt, to pay *instantly* the amount of the judgment.

Mr. TRUMBULL. The Senator from Kentucky certainly will have no objection to this bill. It may not go as far as he desires, but the very object of this bill is to repeal a clause which the Supreme Court construe as giving a sort of discretion to the Treasury Department to pay a judgment or not. Now, I desire to repeal that, so as to take away any such implication. It was upon that very ground that the Supreme Court decided that they would not entertain jurisdiction of an appeal. We wish to remove that, so as to make the judgment what the law intended it to be, a final judgment.

Mr. GUTHRIE. The reason very often why judgments are not paid is because there is no appropriation for them, and the remedy would be to make appropriations. I know personally that a great many judgments are not paid because there is no appropriation out of which they can be paid, and it might be that if your Court of Claims worked very fast, they would draw upon what you provide to pay other things. In looking at this matter, therefore, it is right to look at your means and put your officers in possession of them.

Mr. DAVIS. I have no doubt that the suggestion of my colleague is altogether correct, and I would remedy the defect of want of appropriations by giving the same chancery proceedings in favor of a creditor against the Government that I would give in favor of a creditor against an individual debtor.

Mr. HENDRICKS. I will ask the Senator from Kentucky one question, with his permission, and it is this: if a party should present his claim to the Court of Claims, and that court should give a very close construction to the law or the contract upon which the claim is based and reject it, and the party thought he had a good case, would not the Senate be willing to give an appeal to the Supreme Court? That is one of the purposes of this bill.

Mr. DAVIS. Yes, sir; and I would be willing to vote a provision to make it mandatory upon the court to entertain the appeal. I would not leave it to their discretion at all.

Mr. HENDRICKS. This bill does not leave a discretion.

Mr. DAVIS. I understand the objection to the existing law, as made by the chairman of the Committee on the Judiciary, to be that the Supreme Court have assumed it as a principle of the law, that where it is discretionary with the Treasury officer to pay the debt or not, the court will not entertain an appeal. I would be willing to modify the law by requiring the court to entertain the appeal. I would not allow them to assume any such position, and in that way to baffle the right of a citizen who thought

he had not received justice in the Court of Claims from the benefit of his appeal. But the objection in my mind is this: that where a court of the United States, be it the Court of Claims or any other court, have rendered a judgment in favor of a citizen against the Government, the Government should be required to pay it, and the officers of the Treasury who disburse the public moneys should be required to make payment upon the rendition of the judgment; and if there is not on hand money with which to pay the judgment, the creditor of the Government should have the same right, by sequestration and other chancery proceedings, to seize upon the property or funds of the Government that he would have to seize upon the property or funds of an individual. I want the Government to set the highest example of the payment of debts, and I want the Government to be held to the most direct and reasonable responsibility for the payment of all its debts to the citizens of the United States. I think that is the duty of the Government toward every citizen.

Mr. FESSENDEN. I would prefer that this bill should lie over for the present. I should like to have an opportunity to look at it. I have some doubt about it myself, and unless my friend from Illinois is very anxious to have it considered to-day, I prefer that it should go over.

Mr. TRUMBULL. I am not at all anxious about it. I think it is a thing that ought to be attended to. The construction of the law has been such as not to carry out the intention of Congress. The Senator seems to have taken alarm, and supposes that here is a bill opening the Treasury. It does not affect the course of proceeding in any respect whatever, except to remove the obstacle which the Supreme Court say exists to entertaining appeals. The practice, ever since the passage of that law, has been for the Treasury to make an estimate for the judgments of the Court of Claims, and Congress appropriated in its appropriation bill last year a certain amount—I do not remember what it was; two or three hundred thousand dollars, I think—to pay the judgments of the Court of Claims; and out of that appropriation the judgments have been paid.

The Court of Claims is a very cautious court; and it has never rendered judgments up to the amount that was appropriated to meet them; and the Senator from Kentucky [Mr. GUTHRIE] who spoke on that subject must have spoken in reference to the law as it existed before the act of 1863 was passed. Before 1863 the judgment was not conclusive. In 1863 we amended the Court of Claims act, and made the judgment of the Court of Claims conclusive; and it was to be paid out of any money in the Treasury appropriated for the purpose of paying the judgments of the court. That was our law; but as a safeguard we also required the Supreme Court to take jurisdiction of all cases where the judgment amounted to more than three thousand dollars; and also of all cases where the judgment would form a precedent for the decision of other cases, or where a constitutional question was brought in issue; but the Supreme Court refused to entertain these appeals. The law of 1863 is a positive statute requiring them to do so. This is its language:

"That either party may appeal to the Supreme Court of the United States from any final judgment or decree which may hereafter be rendered in any case by said court wherein the amount in controversy exceeds three thousand dollars, under such regulations as the said Supreme Court may direct."

Now they refuse to entertain that jurisdiction, because of the fourteenth section of the act of 1863. That was not in the original bill as it was reported from the committee. The seventh section made provisions for paying the judgments of the Court of Claims out of appropriations made by Congress for that purpose. When the bill was pending, Mr. Hale, who was then a member of the Senate, and who was opposed to the bill, moved the fourteenth section, which is as follows:

"That no money shall be paid out of the Treasury for any claim passed upon by the Court of Claims till after the appropriation therefor shall be estimated for by the Secretary of the Treasury."

Mr. FESSENDEN. What does that have to do with the question of appeals?

Mr. TRUMBULL. The Supreme Court have decided that, it gives the Secretary of the Treasury a supervisory power to pay the judgment or not.

Mr. FESSENDEN. Even if it does, that does not affect the question of appeal.

Mr. TRUMBULL. They say that it affects it in this way: that the judgment of the Court of Claims is not a final judgment; that under the fourteenth section of this law, the Court of Claims is a mere commission to examine, a sort of board of auditors, and their judgment not being final, they are not a court that can enter judgments because they are subject to departmental supervision under the fourteenth section. Now, there is no such supervision exercised; it is not in point of fact done; but the judgments are paid out of the appropriation which we make; and the sole object of this bill is to repeal that fourteenth section. When it was moved in the Senate as an amendment—I recollect the circumstance very well—I thought it had no effect whatever, and I recollect making no objection to having it put upon the bill; but it has presented a very serious difficulty. The object of this bill is simply to repeal that fourteenth section, so that the Supreme Court will take jurisdiction of the cases. Now, if my friend from Maine wishes the bill to go over so that he may have an opportunity to examine it, I have no sort of objection.

Mr. FESSENDEN. I should like to have an opportunity to examine it.

Mr. TRUMBULL. I am entirely willing that it shall go over if any Senator wishes that course taken. I move, therefore, that any further consideration of the bill be postponed until to-morrow.

The motion was agreed to.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (H. R. No. 264) granting a pension to Mrs. Altazera L. Wilcox, of Chenango county, in the State of New York;

A bill (H. R. No. 265) granting a pension to John Hoffman, of Madison county, in the State of New York;

A bill (H. R. No. 266) granting a pension to Mrs. Elizabeth Fogg, of the State of Maine; and

A bill (H. R. No. 267) granting a pension to Virginia K. V. Moore.

STURGEON BAY SHIP-CANAL.

Mr. WILSON. I move to take up the bill (S. No. 85) granting to the State of Wisconsin a donation of public lands to aid in the construction of a breakwater and harbor and ship-canal at the head of Sturgeon bay, in the county of Door, in said State, to connect the waters of Green bay with Lake Michigan, which has been reported by the Committee on Public Lands.

The motion was agreed to; and the Secretary commenced the reading of the bill.

Mr. RAMSEY. I move that the Senate adjourn.

The motion was agreed to; there being, on a division—ayes 21, noes 10; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Friday, February 9, 1866.

The House met at twelve o'clock m. Prayer by Rev. B. W. CHIDLAW.

The Journal of yesterday was read and approved.

The SPEAKER. This being Friday, the first business in order is the call of committees for reports of a private nature, beginning with the Committee on Invalid Pensions, where the call rested on last Friday.

ADVERSE REPORTS.

Mr. BENJAMIN, from the Committee on Invalid Pensions, made adverse reports in the

following cases; which were laid upon the table and ordered to be printed:

The petition of Henry Pease and others, praying for pensions; and

The petition of citizens of Alleghany county, Pennsylvania, asking for pensions.

ALTAZERA L. WILCOX.

Mr. BENJAMIN, from the Committee on Invalid Pensions, reported a bill granting a pension to Mrs. Altazera L. Wilcox, of Chango, New York; which was read a first and second time.

Mr. BENJAMIN. I am instructed by the committee to ask for the consideration of this bill at the present time.

The bill was read at length. It provides that there shall be granted to Mrs. Altazera L. Wilcox, widow of a private of company B, one hundred and fourteenth regiment of New York volunteers, a pension at the rate of eight dollars per month, to commence from and after the passage of this act, and to continue during her widowhood.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BENJAMIN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

JOHN HOFFMAN.

Mr. BENJAMIN also, from the same committee, reported a bill granting a pension to John Hoffman, of Madison county, in the State of New York; which was read a first and second time.

Mr. BENJAMIN. I am instructed by the committee to ask the consideration of this bill at this time.

The bill was read at length. It provides that there shall be granted to John Hoffman, of Madison county, New York, a pension at the rate of eight dollars per month, to commence from and after the passage of this act, and to continue during his natural life.

Mr. SPALDING. Let the report be read, that we may understand the necessity for this bill.

The report was read. It states that John Hoffman enlisted in the United States marine service at Philadelphia on the 16th of August, 1827. While serving on the Grampus at Pensacola, he was twice admitted to the hospital there for disease contracted while in the line of his duty; and he was finally discharged at New York on the 6th of May, 1830. It is well established by the testimony of respectable persons that the petitioner has never recovered from the disease he contracted on ship-board while in the line of his duty. He is aged and in very destitute circumstances, and the committee therefore report a bill for his relief.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BENJAMIN moved to reconsider the vote by which the bill was passed, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ISABELLA FOGG.

Mr. BENJAMIN, from the Committee on Invalid Pensions, also reported a bill granting a pension to Mrs. Isabella Fogg, of the State of Maine; which was read a first and second time.

Mr. BENJAMIN. I am instructed by the committee to ask for the consideration of this bill at this time.

The bill was read at length. It provides that a pension shall be granted, at the rate of eight dollars per month, to Mrs. Isabella Fogg, of the State of Maine, to commence from and after the passage of this act, and to continue during her natural life; she having been totally disabled while acting as nurse on board a United States hospital boat, near Louisville, Kentucky.

Mr. WASHBURN, of Massachusetts. I no-

tice that this bill is not in the form usual with bills of this character, which generally provide that the pension shall continue during widowhood. I therefore move to amend the bill by striking out the words "natural life" and inserting the word "widowhood."

Mr. BENJAMIN. I think I can satisfy the gentleman from Massachusetts [Mr. WASHBURN] that his amendment should not prevail. I am aware that it is the general policy of the Government in granting pensions to confine them to the widowhood of the parties. That, however, is in the case of persons receiving pensions in consequence of being widows of those who have lost their lives in the service of their country. But this pension is proposed to be granted on account of the services the party herself has rendered; not because she is the widow of a soldier or sailor, or of any one who has lost his life in the service, but in consequence of her having been herself disabled while in the service. Hence the committee were in favor of granting her a pension during her natural life, thus placing her upon the same footing, in that respect, as if we were granting a pension to a soldier or a sailor. She appears to have been in the service as a nurse, and it is in consequence of disability incurred in that position that this pension is asked and granted by the committee.

Mr. WASHBURN, of Massachusetts. This is not a matter in which I am particularly interested, but I would suggest that the principle the House has adopted in all this class of cases is to grant the pension during widowhood. The object of the pension is to give support to the widow, and if that support is provided at any future time by marriage, the necessity for the pension ceases. I only make this suggestion from the fact that the action of the House has always been to give a pension to a woman during her widowhood.

Mr. STROUSE. I desire to ask the gentleman from Missouri a single question. I desire to inquire whether this class of persons are not provided for in the general law the same as males who have been in the service?

Mr. BENJAMIN. They are not provided for.

Mr. JOHNSON. I think they ought to be provided for by general law. There is a large class of persons who have rendered service in this way, and who are no doubt entitled to the bounty of the Government.

Mr. BENJAMIN. We have had the matter under consideration, and the law, we think, will undoubtedly be extended so as to embrace employes of the Government.

Mr. FARNSWORTH. I trust, Mr. Speaker, that the amendment of the gentleman from Massachusetts will not prevail. This is not, as I understand, the case of a woman who asks a pension on account of the disability or death of her husband. The pension is asked on account of a disability incurred by the lady herself while acting as a nurse attending on our sick soldiers. I see no reason why a woman who has contracted a disability in the service of the Government during this war is not as much entitled to a pension for life as a man who has contracted disability in the same way.

In the case of a woman who applies for a pension on account of the death of her husband or father or brother, a different principle, of course, applies. The pension in such a case is granted upon the principle that the woman is dependent upon her husband or father or brother for support, and when she marries she ceases to be thus dependent. But in such a case as this, where the woman herself has been in the service of the Government, and has while so engaged become disabled, she should have a pension for life. Thus far I am in favor of "women's rights."

Mr. WASHBURN, of Massachusetts. I desire simply that the House shall understand this question. There is one important distinction which gentlemen seem to overlook. In the case of a person disabled, the general law gives him a pension during that disability; and whenever the disability ceases—it may cease in the

course of a year or two—the pension ceases. But whenever we pass a special act, that act continues in force during the lifetime of the person receiving the pension, whether the disability continues or not.

Now, the controlling principle of all our legislation in regard to pensions granted to widows has been that such pensions are granted to aid the recipients to obtain a livelihood during their widowhood, and that in case of the remarriage of a widow, the necessity for her obtaining a livelihood by her own exertions ceases. Hence the pension, according to the principle of our pension law, continues only during widowhood.

My reason for offering my amendment is that I object to the provision of the bill in this respect, because it is contrary to the general rule which has been established by the House, limiting these pensions to the widowhood of the recipient. I only desire that the principle established in previous cases shall be followed in this instance.

If there is to be any change in this respect, it should, it seems to me, be a change in the general law. We should not say that in nine cases out of ten the pension shall be during widowhood, and that in the tenth case it shall be during the natural life of the party.

The object in such cases as this should be, I think, not to grant a certain stipend during the life of the pensioner, but to furnish her assistance so long as she may need it; and if she changes her condition so that she no longer requires assistance, the pension, according to the whole policy of our pension laws, should cease. The amendment which I have offered is in accordance with our previous legislation, and I think it should be adopted.

Mr. BENJAMIN. I call for the reading of the report accompanying the bill.

The report was read.

Mr. BENJAMIN. I desire to say a few words in reply to the gentleman from Massachusetts.

In my opinion—and it is the opinion in which the committee share—it would make no difference as to the granting of this pension, if this lady now had a husband. She herself has rendered the service; she herself has suffered the disability. I will add that her disability is total; but notwithstanding that, she would, by being placed on the pension rolls, come within the rule adopted at the Pension Office, and be obliged to undergo a close examination, as every other pensioner is obliged to do. Should she perchance recover, I apprehend the pension will cease.

As I said before, we are granting this pension in consequence of the disability she has received, as a reward for the services she has rendered, and not in consequence of the services of a husband or son, or any other person. This being the case, we cannot see why any distinction should be made between a soldier, one of the male sex, to whom this Congress would grant a pension, and one of the other sex. I trust, therefore, the amendment of the gentleman will not prevail, and that the House will grant the pension asked for during her natural life, whether she marries or not. She has rendered service, effective service; and the fact of that service has been attested by some of the most prominent officers who have served during the war. They certify to the assiduity with which she attended to the wounded soldiers during all the campaigns of the army of the Potomac, and the other armies of the country. Before the close of the war she was disabled in this way. She is totally disabled. There is no possibility of her recovery, and but little probability of her living for many years. I trust that the amendment will not prevail.

Mr. HENDERSON. Mr. Speaker, I understand that this bill asks for a pension in consideration of her own services, and not in consideration of the service of her husband. Now, I do not see why that pension should cease if she should marry. I hope that this House will not be so ungallant as to say that a lady who has rendered important service to the country shall only have her pension so long as she remains single and shall cease when she marries. It is wrong. I hope that the House will

be equally gallant to this lady as they are to the gentlemen to whom they may grant pensions. We do not say that the pension shall cease if a man marries, and I do not see why the pension should cease in the case of a female if she should happen to marry. I hope the amendment will not prevail.

Mr. BENJAMIN. We are not proposing to change the law on the subject at all. We do not put this upon the ground stated by the gentleman, although I may agree with his views in regard to the granting of this pension. This pension is granted upon the ground that this party has earned this pension, and does not claim it by virtue of any services of her husband. I demand the previous question.

Mr. STEVENS. I hope we will provide that all restrictions shall be taken off, and her pension doubled, when she gets married, for services rendered to her country. [Laughter.]

The previous question was seconded, and the main question was ordered.

Mr. JOHNSON. Is she not a married woman now?

Mr. BENJAMIN. I do not know. I suppose she is a widow.

Mr. JOHNSON. If she turns out to be a married woman she will have to kill her husband in order to get her pension. [Laughter.]

The amendment was rejected.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BENJAMIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

VIRGINIA K. V. MOORE.

Mr. TAYLOR, from the Committee on Invalid Pensions, reported a bill granting a pension to Virginia K. V. Moore; which was read a first and second time.

The bill provides that the name of Virginia K. V. Moore, daughter of Richard D. Moore, deceased, late of company K, seventy-second regiment of Illinois volunteers, shall be placed upon the list of invalid pensions, and there shall be paid to her guardians, from the passage of this act, eight dollars a month until she has attained the age of sixteen.

Mr. SLOAN. I move to strike out the words "from the passage of this act," and to insert "from December, 1863, the date of the death of Mr. Moore."

Under the general law the pension begins from the date of the death, if the application be made within one year. In this case the father died and soon after the mother, leaving a girl of some eight or nine years, and a year passed in proceedings for the appointment of a guardian. Now, in my opinion, there is no reason why the same rule of law should not apply. Here is an orphan whose case is manifestly just, and I hope that her pension will commence from the death of her father.

Mr. TAYLOR. Mr. Speaker, the bill I have reported is in conformity with the rule established by the Committee on Invalid Pensions, that in cases of this kind the pensions should commence at the passage of the act. I think myself this orphan child should receive a pension from the date of the death of her father; but on account of the rule I am precluded from accepting the amendment. There is no doubt from the investigation I have given this case that her father died of disease contracted in the line of his duty. The Commissioner of Pensions, for reasons satisfactory to himself, said it did not come under the general law, and therefore we have been compelled to report this special act.

While I am not authorized to accept the amendment of the gentleman, yet if the amendment is proposed to the House I certainly shall vote for it.

Mr. SLOAN. I am very glad to hear the gentleman who reported this bill announce that he thinks the amendment is just and that it

ought to be adopted, although the committee have adopted a technical rule in the other direction.

Mr. TAYLOR. I demand the previous question.

Mr. FARQUHAR. Will the gentleman withdraw that motion for a moment?

Mr. TAYLOR. I yield for a moment.

Mr. FARQUHAR. I desire to call the attention of the House to this question, which is one of some importance to the people of the country, one in which the whole of the people are interested. I exceedingly regret that the attention of this House once having been called to this question, it decided it as it did; and I exceedingly regret also that the attention of the House seemingly cannot be called to this question. It is one in which all our constituents are interested. I ask, sir, what is the object of the committee in making the distinction they do between these cases and those which arise under the pension law as it now stands? I see no reason for it. Why has the committee reported in favor of this case? It is because the party would have been entitled if they had come into this Congress, or if they had applied under the pension laws, to have drawn their pension from the time the pension is asked. It is because they are entitled to it by reason of the services which were rendered by the father and husband of the claimants. Then, sir, it is not a gratuity, as was expressed by gentlemen here when this question came up some days ago. It is not a charity, but it is a right that the laws do not provide for, and that is the reason the case is before this House. The parties under the rule of the pension department are not entitled to a pension. They come in here and ask us to supply the defect in the law. They come here and this committee reports to the House that they are entitled to a pension, but the House establishes a rule that it is inequitable or unjust to allow the pension to commence from the day of the death of the husband or father for whose services the pension is to be allowed.

Now, sir, I appeal to this House to reverse its decision on this subject. I believe that gentlemen will find that their constituents will demand at their hands another rule to govern in these cases than that which the House adopted a few days since. I very much regret to see a disposition shown on the part of this committee that is not so liberal and generous as I believe the people of this country will demand of their Representatives in the protection of the widows and orphans of our volunteer soldiers.

Mr. LAWRENCE, of Pennsylvania. I hope my friend from New York will withdraw the previous question for a moment.

Mr. TAYLOR. I will do so.

Mr. LAWRENCE, of Pennsylvania. Mr. Speaker, I am glad my friend from Indiana [Mr. FARQUHAR] has sought this opportunity to bring this question before this House. I think when it is fully understood by every member on this floor they will be ready to sustain this report of the committee in this as perhaps in every other case.

In reference to this question, if the Committee on Invalid Pensions were to grant all the prayers of the people all over this country, if we were to yield to all the appeals of members who come before us with appeals for sympathy, we would impoverish the Treasury. We cannot do it. We must establish some general rule by which we are to be governed. We have attempted to do justice in this and in all other cases. I will now refer more particularly to this case. It is the case of a mere child of eight years of age, whose father died of disease contracted in the service. The mother has since died, and the application is made on the part of the guardian for a pension.

Now, it does not come under the general pension law; it is, as my friend from New York says, a gratuity outside of the pension law; but upon a close examination of the whole case, believing that this claimant was a minor, and that her father died in consequence of his ser-

vices to the country, we came to the conclusion that we should give her eight dollars a month until she arrives at the age of sixteen years, and we have so reported.

Mr. SLOAN. Will the gentleman yield to me for a moment?

Mr. LAWRENCE, of Pennsylvania. Certainly, certainly.

Mr. SLOAN. I think the gentleman hardly states the case with fairness when he says that this child is not entitled to a pension.

Mr. LAWRENCE, of Pennsylvania. I did not say so.

Mr. SLOAN. I think the proof before the committee was overwhelming that her father died from disease contracted in the service, although upon the roll technically there had been placed, somehow or other, no one can tell how, a statement that he died of disease contracted before he entered the service.

Mr. LAWRENCE, of Pennsylvania. I beg the gentleman not to make a speech; I yielded to the gentleman to make an explanation, and not a speech.

Mr. SLOAN. I had expected—

The SPEAKER. The gentleman from Pennsylvania has censured the Chair for not compelling gentlemen to obey the rules. He now states that he declines to yield, and the gentleman from Wisconsin is therefore out of order.

Mr. LAWRENCE, of Pennsylvania. I yield to the gentleman for further explanation.

Mr. SLOAN. I understood the gentleman to yield.

The SPEAKER. The gentleman from Pennsylvania stated distinctly that he only yielded for explanation, and did not yield for remarks.

Mr. SLOAN. I only wish to add a word, and that is, that the Committee on Invalid Pensions have passed upon the proof which established the fact that the father died from disease contracted in the service, and for that reason they have awarded this pension to his orphan child. It is not a matter of charity, but a matter of justice. It is a case which not only appeals to the charity of the House and of the nation, but which is also sanctioned by the strictest principles of justice.

Mr. LAWRENCE, of Pennsylvania. The gentleman has stated the views of the committee exactly. The committee would not have reported in favor of paying this poor young girl eight dollars a month until she is sixteen if they had not been perfectly satisfied that it is a just and meritorious claim, but the committee did not feel themselves justified in changing the principle adopted not only by themselves, but also by the House, in reference to all these cases, and that is that the pension shall commence from the time of the passage of the act.

Mr. FARQUHAR. I would ask the gentleman if this pension is not to be given for the services of the party?

Mr. LAWRENCE, of Pennsylvania. I admit that, but it is utterly impossible in most cases to get all the testimony in reference to those services. In many cases the application is not made for five or ten years after the death of the parent. Would you go back in such cases and date the pension from the death of the individual, when the evidence by which you can establish the claim has been lost?

Now, I repeat again that this case is outside of the pension law. The Committee on Invalid Pensions considered themselves instructed by the House a few days ago in the adoption of this very principle by an almost unanimous vote, when they decided that the pension should commence at the passage of the act and not at the death of the petitioner whose case comes up outside of the law. And now we have reported not only in accordance with the opinion of the committee, but in accordance with the implied instructions from the House. I believe the report is right, and I hope it will be sustained by the House.

Mr. HILL. If I understand the principle upon which pensions are granted, it is upon the ground of services having been rendered. If this bill is placed upon the ground that it is a

gratuity, then I am opposed to it. I do not understand that it is the duty of this Congress to grant gratuities to any person or to any class of persons. But if, as I understand to be the true state of the case, this relief is to be granted upon the ground that service has been rendered to the country by the parent, and that the loss of the life of that parent deprives the infant of its natural guardian and protector, then I see no reason why the date of the compensation should not be the date of the loss of life. Why fix an arbitrary rule which is not governed by any reason or any good common sense, and say that the pension shall begin when the act granting it shall happen to be approved, although the application for the pension may not be made for years? Why do we say that some time in the future the pension shall begin to run, although the right to the pension began at the very time the husband or the father died, as the case may be?

If the members of this committee regard the vote of this House the other day as an instruction to them, then I think it is highly important that the House should give instructions the other way, should give instructions founded upon some principle of justice and equity and right, rather than upon an arbitrary rule that cannot be supported upon any of these grounds. The loss of the relative is the ground of the claim, and the compensation should be granted from the very moment that loss occurred, although the claim may not be presented for twenty years. In that way you will have a correct, clear, and well-defined principle—not one that is entirely arbitrary, but one based upon a sufficient reason. And I am in favor of such an amendment to the bill as will recognize that principle.

Mr. PERHAM. I feel that I ought to say a word in regard to this subject. The gentleman from Indiana [Mr. FARQUHAR] has taken it upon himself to censure the Committee on Invalid Pensions for what he is pleased to denominate a want of interest for the soldier, and to intimate that the committee is not coming up to the demands of the people in regard to this subject. Now, I am unable to state what information the gentleman has in regard to the action of the committee—

Mr. FARQUHAR. The report of the committee, which was acted upon by the House some ten or fifteen days ago.

Mr. PERHAM. I wish to say in reference to this matter, that we have now in this country, I believe, the most liberal pension laws that are in existence in any country upon the face of the earth; and that they are administered in the most generous spirit of any laws administered anywhere.

You also have a Pension Committee, which committee has labored incessantly, from the time of their appointment until now, two days every week, for the purpose of providing for such kind of meritorious cases as the present law fails to provide for. After we have labored in this way, I do not think it is for any member upon this floor, who has not the means of knowing what that committee is doing, to get up here and say that we are not meeting the expectations of the people.

Mr. HILL. Will the gentleman allow me to ask him a question?

Mr. PERHAM. Not now; I have but little time. We have measures now before us which we are maturing as rapidly as possible, and we will be ready to report them by and by, that no doubt will fully meet the expectations of the gentleman and the country. At least we mean that it shall do so; we mean to perform our duty in every sense of the word in regard to this subject.

Now, in regard to the special bill under consideration, I desire to state that there are propositions to go back for twenty, thirty, and I think in one instance, forty years for a pension. And others ask that we shall go back for ten years, or five years, or three years, and so on.

The committee came to the conclusion that they had better establish some principle by

which they would be guided as a general rule; not, however, an arbitrary rule, from which they would not deviate under any circumstances. With this view they prepared the bill that is now under consideration.

There may doubtless be a question in the minds of some whether this applicant is actually entitled to a pension. We have come to the conclusion that under all the circumstances it is proper that Congress should grant relief; and we are not aware of any better principle than that which we have adopted. Should there arise any isolated case which, in the opinion of the committee, should demand a departure from this general principle, we would hold ourselves at liberty to depart from it in such a case, unless the House should give us instructions to the contrary.

Mr. TAYLOR. The Commissioner of Pensions has ruled that this case does not come within the general pension law, for the reason, I believe, that he is governed by the record evidence in all such cases; and the record in this case shows that in the opinion of the surgeon who certified the disability this man had lung disease before he entered the service. Notwithstanding that certificate, however, there is overwhelming evidence that this man was in sound health at the time he entered the service, and that the sickness with which he died was contracted while he was in the service. I can only explain the certificate of the surgeon on the supposition that there must have been a clerical error by which this man's name may have been inserted in a certificate designed for another person. But for that opinion, expressed in the certificate of the surgeon, there would have been no difficulty with the Commissioner of Pensions, and this child would have received a pension under the general pension law.

In regard to the rule by which I was governed in drawing this bill, I felt that I was acting under the instructions of the committee. As the chairman of the committee has referred to this matter, I do not know that it will be deemed a breach of privilege for me to state that when the question was taken in committee upon the adoption of this rule, seven members were present, only five of whom voted, three voting for the rule and two against it. There was not a majority of the committee voting in favor of it; and therefore I can hardly regard it as an established rule of the committee. But if it is a rule, I consider it as wrong in its application to this case. I shall therefore vote for the amendment. I believe that this child should receive a pension from the date of the death of her father.

Mr. HILL. With the permission of the gentleman from New York, [Mr. TAYLOR]—it may be an excessive encroachment on his courtesy—I desire to ask him a question.

Mr. TAYLOR. Certainly.

Mr. HILL. Is not this bill now presented because technically the case does not come under the existing pension laws, while meritoriously it is a good case?

Mr. TAYLOR. That is the fact.

Mr. HILL. I will ask the gentleman further, whether in his view any valid principle which would deprive the child of the pension from the time of her parents' death (which gave her the ground for her claim) until the present time would not also deprive her of it for all time to come?

Mr. TAYLOR. Certainly. Now, if the gentleman has no further inquiry, I demand the previous question.

The previous question was seconded, and the main question ordered; which was upon the amendment of Mr. SLOAN.

The question being taken, there were, on a division; yeas 43, noes 43—no quorum voting.

Mr. WASHBURN, of Illinois, called for the yeas and nays.

The yeas and nays were not ordered.

Mr. INGERSOLL, called for tellers on ordering the yeas and nays.

Tellers were refused.

No quorum having voted upon the amendment,

The SPEAKER, under the rules, ordered tellers, and appointed Messrs. SLOAN and BENJAMIN.

The House divided; and the tellers reported—yeas 58, noes 43.

So the amendment was agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. TAYLOR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had concurred in the amendments of the House to Senate bill No. 60, to enlarge the powers of the Freedmen's Bureau, with sundry amendments, in which he was directed to ask the concurrence of the House.

ADVERSE REPORTS.

Mr. LAWRENCE, of Pennsylvania, from the Committee on Invalid Pensions, made adverse reports on the following cases; which were laid upon the table:

The petition of Mrs. Priscilla E. Hodge;

The petition of Henry May for increase of pension; and

The petition of David T. Stephenson for relief.

ALBERT NEVINS.

Mr. VAN AERNAM, from the Committee on Invalid Pensions, reported a bill for the relief of Albert Nevins; which was read a first and second time.

The bill provides that the name of Albert Nevins, late a private in company K, ninety-second regiment New York volunteers, shall be placed upon the list of pensioners at the rate of twenty-five dollars per month, in lieu of eight dollars per month heretofore allowed him, to commence from the passage of this act.

The SPEAKER. The morning hour has expired, and the bill will go over until next Friday.

PRINTING OF A REPORT.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution; on which he demanded the previous question:

Resolved, That five thousand copies of the report of the Committee of Claims of the 19th instant be printed for the use of the members of the House.

Mr. JOHNSON. What report is that?

The SPEAKER. The report of the Committee of Claims in reference to claims from persons in the disloyal States.

Mr. FARNSWORTH. What is the necessity for printing five thousand copies of this report?

Mr. LAFLIN. This is simply a report of the Committee of Claims concerning cases continually presented in regard to claims for damages sustained during the rebellion by persons claiming to be loyal residing in the rebel States. The resolution reported by the Committee of Claims was adopted by the House. Now, every member of the House daily has applications from individuals from every section of the country to know what will be the action of the House on this subject; and for the purpose of meeting this call it is desired that the report should be printed. I will state that the printing of this number of this report will cost \$4 50 per thousand, twenty-five dollars in all; and that is all it will cost.

The previous question was seconded, and the main question was ordered; and under the operation thereof the resolution was adopted.

Mr. LAFLIN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

RELIEF OF CITIZENS OF BENICIA, CALIFORNIA.

Mr. BIDWELL, by unanimous consent, introduced a bill for the relief of citizens of Benicia, in Solano county, California; which was read a first and second time, and referred to the Committee on Public Lands.

SELECTION OF LAND IN CALIFORNIA.

Mr. BIDWELL, by unanimous consent, also introduced a bill to facilitate the selection of lands granted to the State of California by the United States; which was read a first and second time, and referred to the Committee on Public Lands.

BUSINESS ON SPEAKER'S TABLE.

Mr. ELIOT moved that the House proceed to the consideration of the business on the Speaker's table.

Mr. LE BLOND. What business upon the Speaker's table does the gentleman wish to get at?

Mr. ELIOT. When we go to the table the gentleman will see.

Mr. LE BLOND. I simply wanted to know whether there was a negro in it, as I thought this was a "white man's day." [Laughter.]

RECEPTION OF MAJOR GENERAL OSTERHAUS.

Mr. SMITH. Mr. Speaker, the gentleman from Massachusetts yields to me for a moment.

I understand there is in the Hall a distinguished general of the United States Army, who represents a loyal foreign element in the country, and who has shown military skill and great personal courage upon many a well-contested battle-field during the war for the preservation of the Union. In order to pay him that honor and respect he deserves for his valuable services, I move that the House take a recess for five minutes, and that the Speaker present him to the House.

There was no objection, and it was so ordered. A recess was accordingly taken.

[The SPEAKER having conducted Major General Osterhaus to the Speaker's desk, said: Gentlemen of the House of Representatives, when the people of this Republic took up arms for its salvation there were thousands and scores of thousands born in other lands who had emigrated to these shores to live and to die under our flag, and who, impelled by the same patriotism as our native-born citizens, rallied to its defense on many a battle-field. Conspicuous among these is the gentleman whom by your order I have the honor of introducing to you to-day, Major General Osterhaus. [Applause.]

Major General Osterhaus said: Gentlemen, you must excuse me if I cannot speak your language as I ought. I came to this country and I tried to learn it very hard. But the troubles to overcome were stronger than my tongue. Mr. Speaker is right. I came to this country to find in the flag of the United States the symbol of individual freedom and of general liberty. I once opposed a confederacy in the years 1848 and 1849. I tried hard to defend the German union, and yet we had to succumb. But we were guided by the symbol of the stars and stripes. And when the question came up in this country to defend that symbol, I thought I was in duty bound to try to defend it again. And I did as far as I could. I did my best. But, gentlemen, I did not learn to speak English. You must excuse me. [Laughter and applause.]

General Osterhaus then came down from the Speaker's desk and was introduced to the members of the House by the Speaker, after which the House resumed business.]

FREEDMEN'S BUREAU.

Mr. ELIOT renewed his motion to take up from the Speaker's table the Freedmen's Bureau bill.

The motion was agreed to; and the House accordingly proceeded to the consideration of Senate bill No. 60, being a bill to enlarge the powers of the Freedmen's Bureau.

Mr. ELIOT. I move that the House concur

in the amendments of the Senate, and upon that I call the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the amendments of the Senate were severally agreed to.

Mr. ELIOT. I move to reconsider the vote by which the House agreed to the amendments, and to lay that motion on the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Colonel William G. Moore.

The SPEAKER. The Chair lays before the House a message of the President of the United States in response to a resolution of this House.

To the House of Representatives:

In reply to the resolution of the House of Representatives of the 10th ultimo, requesting the President of the United States, "if not incompatible with the public interest, to communicate to the House any report or reports made by the Judge Advocate General, or any other officer of the Government, as to the grounds, facts, or accusations upon which Jefferson Davis, Clement C. Clay, jr., Stephen R. Mallory, and David L. Yulee, or either of them, are held in confinement," I transmit herewith reports from the Secretary of War and the Attorney General, and concur in the opinion therein expressed, that the publication of the papers called for by the resolution is not at the present time compatible with the public interest.

ANDREW JOHNSON.

WASHINGTON, February 9, 1866.

WAR DEPARTMENT.

WASHINGTON CITY, February 7, 1866.

Mr. PRESIDENT: I have the honor to acknowledge the reference of the House resolution calling for the reports of the Judge Advocate General on the cases of Jefferson Davis, Clement C. Clay, D. L. Yulee, and S. R. Mallory. These reports were made for your own information, and contain abstracts of evidence and *ex parte* proofs in possession of the Bureau of Military Justice. Pending any action in respect to the parties accused, the publication of these reports is, in my opinion, incompatible with the public interest. The concurring opinion of the Attorney General is also herewith submitted.

Your obedient servant,

EDWIN M. STANTON,

Secretary of War.

Mr. CONKLING called for the reading of the report of the Attorney General; which was read, as follows:

ATTORNEY GENERAL'S OFFICE,
WASHINGTON, January 31, 1866.

SIR: Sundry reports of the facts that go to show that Jefferson Davis and other rebels have been guilty of high crimes have been made to you as the chief executive officer of the Government. Most of the evidence upon which they are based was obtained *ex parte*, without notice to the accused, and while they were in close custody as military prisoners. Their publication might wrong the Government or the accused, or both. While I see that much wrong may flow from the publication, I cannot see that any good would come from it.

In my opinion, then, public and private justice alike demand that they should not be made public. I am, sir, very respectfully,

JAMES SPEED,
Attorney General.

To the President.

NAVAL APPROPRIATION BILL.

The House then proceeded to the consideration of the bill (H. R. No. 122) making appropriations for the naval service for the year ending 30th of June, 1867, reported from the Committee of the Whole on the state of the Union yesterday with sundry amendments.

Mr. STEVENS. I call the previous question on agreeing to the amendments from the Committee of the Whole on the state of the Union.

Mr. RICE, of Massachusetts. I ask the gentleman from Pennsylvania to give me permission to offer an amendment to one of the amendments reported by the Committee of the Whole on the state of the Union before he moves the previous question.

Mr. STEVENS. I withdraw the previous question for that purpose.

Mr. RICE, of Massachusetts. I desire to move to insert a proviso after lines one hundred and thirty-eight and one hundred and thirty-nine, on page 7.

The SPEAKER. The amendment of the committee is to strike out lines one hundred and thirty-eight and one hundred and thirty-nine.

Mr. RICE, of Massachusetts. Then I will move to insert after line one hundred and thirty-seven the following:

For purchase of Oakman & Eldridge's wharf, \$135,000. *Provided*, That this amount shall cover the whole cost of the property, and that the purchase can be made upon terms mutually agreed upon by the Secretary of the Navy and the mayor and aldermen of the city of Charlestown.

Mr. WASHBURNE, of Illinois. I submit that that amendment is not in order; it contains an appropriation that has not been considered in Committee of the Whole.

The SPEAKER. The Chair sustains the point of order.

Mr. RICE, of Massachusetts. This matter was considered in Committee of the Whole on the state of the Union.

The SPEAKER. This amendment was not.

Mr. RICE, of Massachusetts. This is a proviso I propose to a clause that was considered in Committee of the Whole on the state of the Union.

The SPEAKER. The committee propose to strike out this clause. The gentleman can attain his object by voting against striking out these lines.

Mr. RICE, of Massachusetts. But that will not enable me to get in the proviso.

The SPEAKER. That may probably be.

Mr. STEVENS. I suppose any one who would vote against the appropriation would vote against the proviso also. It would make no difference.

The previous question was seconded, and the main question ordered.

The first amendment reported from the Committee of the Whole on the state of the Union was to insert on page 3, after line forty-five, the following proviso:

Provided, That there be transferred from the appropriation for fuel to the contingent expenses of the Bureau of Equipment and Recruiting, \$800,000.

The amendment was agreed to.

The second amendment reported from the Committee of the Whole on the state of the Union was to strike out lines one hundred and nineteen, one hundred and twenty, one hundred and twenty-one, and one hundred and twenty-two, as follows:

For purchase of Seavey's Island, \$105,000. *Provided*, That a perfect and approved title in fee to the whole island can be obtained and vested in the United States for that sum.

Mr. SPALDING. I demand the yeas and nays on that motion.

Mr. LYNCH. I desire to say a word on that amendment.

Mr. STEVENS. I hope the gentleman will be allowed ten minutes.

Mr. WASHBURNE, of Illinois. I object, unless I can have ten minutes to reply.

Mr. STEVENS. Am I not entitled to an hour to close the debate?

The SPEAKER. The gentleman should have claimed that right before the House proceeded to vote on the amendments.

Mr. STEVENS. I do not propose to speak myself, but I wish the gentleman from Maine to be heard.

Mr. WASHBURNE, of Illinois. I object.

Mr. SPALDING. And I object unless I can have ten minutes.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 62, nays 80, not voting 40; as follows:

YEAS—Messrs. Allison, Baker, Beaman, Benjamin, Boyer, Brandegee, Brownell, Buckland, Reader, W. Clarke, Cobb, Conkling, Cook, Culom, DeForest, Delano, Deming, Eckley, Eldridge, Farnsworth, Farquhar, Finck, Goodyear, Grider, Hale, Aaron Harding, Abner C. Harding, Henderson, Hill, Ingersoll, Johnson, Kelso, Kerr, Kuykendall, George V. Lawrence, William Lawrence, Le Blond, Loan, Marshall, McClurg, McCullough, McIndoe, Moorhead, Nicholson,

Orth, Paine, Plants, Price, William H. Randall, Ross, Scofield, Shanklin, Shellabarger, Sloan, Stilwell, Thayer, Trimble, Trowbridge, Ward, Elihu B. Washburne, Welker, Williams, and James F. Wilson—62.

YAYS—Messrs. Alley, Ames, Anderson, Baldwin, Banks, Baxter, Bergen, Bidwell, Bingham, Blaine, Boutwell, Broomall, Chanler, Sidney Clarke, Darling, Dawes, Dawson, Dixon, Donnelly, Dumont, Eggleston, Eliot, Ferry, Garfield, Grinnell, Griswold, Hart, Hayes, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, Hulburd, James Humphrey, James M. Humphrey, Jenckes, Kelley, Ketcham, Laffin, Latham, Longyear, Lynch, Marston, Marvin, McKee, McKuer, Mercer, Miller, Newell, O'Neill, Patterson, Perham, Phelps, Pike, Pomeroy, Radford, Samuel J. Randall, Alexander H. Rice, John H. Rice, Rogers, Rollins, Sitgreaves, Spalding, Starr, Stevens, Strouse, Taber, Taylor, John L. Thomas, Thornton, Upson, Van Aernam, Robert T. Van Horn, Warner, William E. Washburn, Whaley, Stephen F. Wilson, and Woodbridge—80.

NOT VOTING—Messrs. Ancona, Delos R. Ashley, James M. Ashley, Barker, Blow, Brooks, Bundy, Culver, Davis, Denison, Driggs, Glossbrenner, Harris, Higby, Hogan, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Jones, Julian, Kasson, Morrill, Morris, Moulton, Myers, Niblack, Noel, Raymond, Ritter, Rousseau, Sawyer, Schenck, Smith, Francis Thomas, Burt Van Horn, Voorhees, Wentworth, Winfield, and Wright—40.

So the amendment of the Committee of the Whole was not agreed to.

The next amendment was to strike out the following:

For purchase of the right of drainage through the yard, now held by the city of Charlestown, \$25,000.

The question was taken; and there were, upon a division—ayes 27, noes 56; no quorum voting.

Mr. BANKS called for tellers.

Tellers were ordered; and Messrs. BANKS and NICHOLSON were appointed.

The House divided; and the tellers reported that there were—ayes 35, noes 62.

Before the result of the vote was announced,

Mr. SLOAN called for the yeas and nays upon agreeing to the amendment of the Committee of the Whole.

The yeas and nays were not ordered.

So the amendment was not agreed to.

RECEPTION OF GENERAL CROOKE.

Mr. SCHENCK. I desire, at this time, to submit to the House a proposition similar to one that has before been submitted this morning. This House has shown a very proper disposition to receive with due respect and honor the defenders of the country.

I have the pleasure to announce the presence in the Hall of Major General George Crooke, whose services with General Sheridan in the valley of the Shenandoah, as well as his performances elsewhere, will be so well remembered by this House. I therefore move that the House now take a recess in order to enable the Speaker to introduce General Crooke to this House.

No objection was made.

The House accordingly took a recess.

[The SPEAKER having, amid applause, conducted General Crooke to the Speaker's desk, said:

Gentlemen of the House of Representatives, for a portion of the time in which the country was engaged in the war for its salvation, the valley of the Shenandoah was the scene of many defeats of our national arms. But toward the close of the rebellion there appeared a general, who, by his magnetic power over his men, and by his brilliant dash, stands perhaps equal to the bravest of all in the land; and he converted the valley of the Shenandoah from a valley of humiliation to a valley of victory for our national arms. Prominent among the generals who aided Phil. Sheridan in his heroic achievements was Major General George Crooke, whom I have now the pleasure, by your order, to introduce to you. [Applause.]

General Crooke. Gentlemen, I thank you. [Applause.]

The members of the House were then introduced to General Crooke by the Speaker.

At the conclusion of the recess the House resumed its session.]

RECEPTION OF GENERAL WARD.

Mr. SMITH. I desire to state to the House that when the war began, in 1860 and 1861, we

had in the western country some men who took the side of the Government in the most determined manner, and who have been promoted to high positions for meritorious conduct during the war. There is upon this floor to-day a general from my State, in whom I have the greatest confidence, and for whom I have the highest admiration. He entered the contest at the beginning of the war, when but few men from that State dared uphold the banner of their country. He not only fought in many of the battles in the beginning of the war, but he marched with his troops under General Sherman in his magnificent march to the sea.

I move that the House now take a recess for the purpose of giving the Speaker an opportunity to introduce to this House Major General William T. Ward, of Kentucky, who is one of the truest men of this country in every sense of the word.

No objection was made, and the House accordingly took a recess.

[The SPEAKER having, amid applause, conducted General Ward to the Speaker's desk, said:

Gentlemen of the House of Representatives, when the storm-cloud of war burst upon our land, the hearts of all loyal people from ocean to ocean warmed toward those brave men in the South who stood by the imperiled flag of the Republic. As you have just heard from the gentleman from Kentucky, [Mr. SMITH,] General Ward, who stands beside me, was one of those gallant men. The country does him honor, as the House does him honor to-day; and I have great pleasure in introducing him to you. [Applause.]

General Ward said: I cordially thank the House for the kind reception which I have met with at their hands. When this unnatural and terrible revolution broke out, I swore in the innermost recesses of my heart to assist the Government in sustaining itself against that rebellion, and never to lay down arms until the last armed rebel should have been overcome. I was faithful to that oath, and I have within the last two or three months returned to civil life. Among the recollections which I shall be gratified to transmit to my latest posterity is the cordial manner in which you have received me to-day, for which I tender you my heartiest thanks. [Applause.]

General Ward then came upon the floor and was introduced by the Speaker to members of the House.

At the expiration of the recess, the House resumed its business.]

NAVAL APPROPRIATION BILL—AGAIN.

The next amendment reported from the Committee of the Whole on the state of the Union was read, as follows:

On page 6 strike out lines one hundred and thirty-five and one hundred and thirty-six, as follows:

For building for offices, \$167,381.

The amendment was agreed to.

The next amendment reported from the Committee of the Whole on the state of the Union was read, as follows:

On page 7, strike out lines one hundred and thirty-eight and one hundred and thirty-nine, as follows:

For purchase of Oakman & Eldridge's wharf, \$135,000.

On agreeing to the amendment there were, on a division—ayes 43, noes 40; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Mr. WASHBURN, of Illinois, and Mr. RICE, of Massachusetts.

The House divided; and the tellers reported—ayes 46, noes 51.

Mr. WASHBURN, of Illinois, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 75, nays 73, not voting 34; as follows:

YEAS—Messrs. Allison, Baker, Barker, Baxter, Benaman, Benjamin, Bingham, Blaine, Boutwell, Brandegee, Broomall, Reader W. Clarke, Conkling, Cook, Cullom, DeFrees, Delano, Deming, Eckley, Eldridge, Farquhar, Finck, Garfield, Grider, Grinnell,

Aaron Harding, Abner C. Harding, Hill, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Ingersoll, Julian, Kelso, Kerr, Kuykendall, Latham, George V. Lawrence, William Lawrence, Le Blond, Loan, Marshall, McClurg, McIndoe, Mercer, Moulton, Niblack, Orth, Paine, Plants, Price, William H. Randall, Rogers, Ross, Schenck, Scofield, Shanklin, Shellabarger, Sloan, Smith, Stilwell, Thayer, Thornton, Trimble, Trowbridge, Ward, Elihu B. Washburne, Welker, Williams, James F. Wilson, Stephen F. Wilson, and Windom—75.

NAYS—Messrs. Alley, Ames, Baldwin, Banks, Bergen, Bidwell, Boyer, Buckland, Chanler, Sidney Clarke, Darling, Davis, Dawes, Dawson, Dixon, Driggs, Dumont, Eggleston, Eliot, Ferry, Glossbrenner, Goodyear, Griswold, Hale, Hayes, Higby, Holmes, Hooper, Asahel W. Hubbard, Hulburd, James Humphrey, James M. Humphrey, Jenckes, Johnson, Kasson, Kelley, Ketcham, Laffin, Longyear, Lynch, Marston, Marvin, McKee, McKuer, Miller, Moorhead, Morrill, Myers, Nicholson, Noel, O'Neill, Patterson, Perham, Phelps, Pike, Pomeroy, Radford, Samuel J. Randall, Alexander H. Rice, John H. Rice, Rollins, Spalding, Starr, Stevens, Taber, Taylor, Upson, Van Aernam, Burt Van Horn, Voorhees, Warner, William E. Washburn, and Whaley—73.

NOT VOTING—Messrs. Ancona, Anderson, Delos R. Ashley, James M. Ashley, Blow, Brooks, Bundy, Cobb, Culver, Denison, Donnelly, Farnsworth, Harris, Hart, Henderson, Hogan, Edwin N. Hubbell, Jones, McCullough, Morris, Newell, Raymond, Ritter, Rousseau, Sawyer, Sitgreaves, Strouse, Francis Thomas, John L. Thomas, Robert T. Van Horn, Wentworth, Winfield, Woodbridge, and Wright—34.

So the amendment was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The next amendment reported from the Committee of the Whole on the state of the Union was read, as follows:

On page 7, strike out lines one hundred and forty-one and one hundred and forty-two, as follows:

For machine shop, main building, \$298,612.

On agreeing to the amendment, there were, on a division—ayes 51, noes 54.

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 73, nays 66, not voting 43; as follows:

YEAS—Messrs. Ames, Baker, Barker, Benaman, Benjamin, Bingham, Blaine, Boutwell, Brandegee, Broomall, Buckland, Reader W. Clarke, Cobb, Cook, Cullom, Dawson, DeFrees, Delano, Deming, Donnelly, Eckley, Farquhar, Garfield, Grider, Grinnell, Aaron Harding, Abner C. Harding, Hayes, Hill, Asahel W. Hubbard, John H. Hubbard, James R. Hubbell, Ingersoll, Julian, Kelso, Kuykendall, George V. Lawrence, William Lawrence, Le Blond, Loan, Lynch, McClurg, McIndoe, Morrill, Moulton, Orth, Paine, Perham, Plants, Price, William H. Randall, John H. Rice, Ross, Sawyer, Schenck, Scofield, Shanklin, Shellabarger, Sitgreaves, Sloan, Stilwell, Thayer, Francis Thomas, Trimble, Trowbridge, Elihu B. Washburne, William B. Washburn, Whaley, Williams, James F. Wilson, Stephen F. Wilson, and Windom—73.

NAYS—Messrs. Anderson, Baldwin, Banks, Bergen, Boyer, Chanler, Sidney Clarke, Darling, Dixon, Eldridge, Eliot, Ferry, Finck, Glossbrenner, Goodyear, Griswold, Hale, Higby, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, Hulburd, James Humphrey, James M. Humphrey, Jenckes, Johnson, Kasson, Kelley, Kerr, Ketcham, Laffin, Latham, Longyear, Marshall, Marston, Marvin, McKee, McKuer, Moorhead, Myers, Nicholson, Noel, O'Neill, Patterson, Phelps, Pike, Pomeroy, Radford, Samuel J. Randall, Alexander H. Rice, Rogers, Rollins, Smith, Spalding, Starr, Strouse, Taber, Taylor, Thornton, Van Aernam, Burt Van Horn, Voorhees, and Warner—66.

NOT VOTING—Messrs. Alley, Allison, Ancona, Delos R. Ashley, James M. Ashley, Baxter, Bidwell, Blow, Brooks, Bundy, Conkling, Culver, Davis, Dawes, Denison, Driggs, Dumont, Eggleston, Farnsworth, Harris, Hart, Henderson, Hogan, Edwin N. Hubbell, Jones, McCullough, Mercer, Miller, Morris, Newell, Niblack, Raymond, Ritter, Rousseau, Stevens, John L. Thomas, Upson, Robert T. Van Horn, Ward, Welker, Wentworth, Winfield, Woodbridge, and Wright—43.

So the amendment was concurred in.

The next amendment was to strike out the following:

For machine shop, boiler wing, \$191,480.

The amendment was concurred in.

Mr. STEVENS. I hope that the next appropriation will be kept in, as it is necessary.

The next amendment was to strike out the following:

For iron-plating shop, \$98,922.

The amendment was non-concurred in.

The next amendment was to strike out the following:

For quay-wall extension at derrick, \$100,000.

The amendment was concurred in.

The next amendment was to strike out the following:

For quay-wall extension at sewer, \$100,000.

The amendment was concurred in.

The next amendment was to strike out the following:

For dredging channels, \$65,000.

The amendment was concurred in.

The next amendment was to strike out the following:

For filling low places on new purchase, \$100,000.

The amendment was concurred in.

The next amendment was to strike out the following:

For machinery for new machine shop, boiler shop, pattern shop, and smithery, \$180,000.

The House divided; and there were—ayes 16, noes 40.

Mr. WASHBURN, of Illinois, demanded tellers.

Tellers were ordered; and Messrs. SPALDING and DARLING were appointed.

The House again divided; and there were—ayes 57, noes 54.

Mr. SPALDING demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 73, nays 62, not voting 47; as follows:

YEAS—Messrs. Ames, Baker, Banks, Baxter, Boaman, Benjamin, Bidwell, Bingham, Boutwell, Brandegee, Brownell, Broomall, Buckland, Reader W. Clarke, Cobb, Cook, Culom, Dawson, Delano, Deming, Driggs, Eckley, Farquhar, Grinnell, Aaron Harding, Abner C. Harding, Hill, Asahel W. Hubbard, John H. Hubbard, James R. Hubbell, Ingersoll, Julian, Kelso, Kerr, Kuykendall, Latham, George V. Lawrence, William Lawrence, Le Blond, Loan, Marshall, McClurg, McIndoe, Mercer, Morrill, Moulton, Orth, Paine, Perham, Pike, Plants, Price, William H. Randall, John H. Rice, Ross, Sawyer, Schenck, Scofield, Shanklin, Shelbarger, Sloan, Smith, Stillwell, Thayer, Thornton, Townbridge, Elihu B. Washburne, William B. Washburn, Welker, Whaley, Williams, James F. Wilson, and Windom—73.

NAYS—Messrs. Alley, Anderson, Baldwin, Bergen, Boyer, Chanler, Conkling, Darling, Davis, Defrees, Dixon, Donnelly, Eldridge, Eliot, Ferry, Finck, Glossbrenner, Goodyear, Griswold, Hale, Hart, Hogan, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, Hubbard, James Humphrey, James M. Humphrey, Jenckes, Kasson, Kelley, Ketchum, Laffin, Longyear, Marston, Marvin, McCullough, McKee, McKuer, Miller, Myers, Nowell, Niblack, Nicholson, O'Neill, Pomeroy, Radford, Samuel J. Randall, Alexander H. Rice, Rollins, Sitgreaves, Spalding, Starr, Stevens, Strouse, Taber, Taylor, Upson, Van Aernam, Warner, and Woodbridge—62.

NOT VOTING—Messrs. Allison, Ancona, Delos R. Ashley, James M. Ashley, Barker, Blaine, Blow, Brooks, Bundy, Sidney Clarke, Culver, Dawes, Denison, Dumont, Eggleston, Farnsworth, Garfield, Grider, Harris, Hayes, Henderson, Higby, Edwin N. Hubbell, Johnson, Jones, Lynch, Moorhead, Morris, Noell, Patterson, Phelps, Raymond, Ritter, Rogers, Rousseau, Francis Thomas, John L. Thomas, Trimble, Burt Van Horn, Robert T. Van Horn, Voorhees, Ward, Wentworth, Stephen F. Wilson, Winfield, and Wright—47.

So the amendment was concurred in.

Mr. WASHBURN, of Illinois. I move to reconsider the vote by which the House struck out the paragraph, and to lay that motion on the table.

The latter motion was agreed to.

The next amendment of the committee was to strike out after line one hundred and sixty-six and insert the following:

For protecting from destruction and decay the unfinished buildings and other structures already commenced, for which no appropriation is made in this bill, \$20,000.

The amendment was agreed to.

The next amendment of the committee was to strike out lines one hundred and seventy-one and one hundred and seventy-two, as follows:

For Buckley's patent drier with buildings complete, \$30,000.

The question being taken on this amendment, no quorum voted.

Tellers were ordered; and Messrs. HILL and GLOSSBRENNER were appointed.

The House divided; and the tellers reported—ayes 51, noes 48.

So the amendment was agreed to.

The next amendment of the committee was to strike out lines one hundred and eighty-nine and one hundred and ninety, as follows:

For repair of dry-dock masonry and gates, \$20,000.

The amendment was agreed to.

The next amendment of the committee was to strike out line one hundred and ninety-one, as follows:

For quay-wall, \$15,000.

Mr. WASHBURN, of Illinois. I suggest that the vote may be taken on the amendments in gross, unless some gentleman wishes to take a separate vote on some one of them.

The SPEAKER. The Chair will regard the House as concurring in all these amendments unless some gentleman desires a separate vote.

The following amendments of the committee were then reported, to strike out the following items:

For quay-wall, \$15,000.

For iron and copper store No. 11, \$35,000.

For ship-joiners' shop and timber-shed No. 12, \$45,000.

For furniture and galley storehouse, \$36,000.

For storehouse No. 14, \$46,000.

For completion of stables, \$10,000.

For new dredging machine, scows, and dredging, \$45,000.

For new shears, \$30,000.

For building for offices, \$15,000.

The question being taken on the foregoing amendments, they were agreed to.

The next amendment of the committee was to strike out line two hundred and ten and insert in lieu thereof the following:

For the protection of property at Norfolk navy-yard, \$20,000, or so much thereof as may be necessary.

The amendment was agreed to.

The next amendments were to strike out the following items:

For commandant's quarters, \$23,245.

For quarters for officers, \$50,000.

The amendments were agreed to.

The next amendment was to strike out lines two hundred and nineteen and two hundred and twenty, and insert the following:

For the preservation of the property of the United States at the Pensacola navy-yard, or so much thereof as may be necessary, \$20,000.

Mr. THAYER. I ask a separate vote on that.

The question was taken on the amendment, and it was agreed to.

The next amendment of the committee was to add the following to the bill:

Sec. 2. *And be it further enacted*, That so much of the first section of the act making appropriations for the naval service, approved May 21, 1864, as appropriates \$250,000 for bounties for the destruction of enemies' vessels, as per act of May 17, 1862, be amended so that said appropriations shall be applied to all cases of destruction of enemies' vessels during the recent rebellion, and at the same rate as is provided for in the act to which reference is made.

Mr. STEVENS. I believe I must ask a separate vote on that.

Mr. CONKLING. Mr. Speaker, should anybody vote on that who does not know what it means?

The SPEAKER. The Chair cannot say.

Mr. HALE. I ask to have the section of the act to which this amendment applies repeated.

The SPEAKER. That can be done by unanimous consent.

Mr. STEVENS. Let the act be read.

Mr. RICE, of Massachusetts. The eleventh section of the act making the appropriation referred to contains this provision, that whenever it is necessary to destroy an enemy's vessel at sea instead of bringing it into port to be adjudicated upon under the prize law, a bounty shall be paid to the captors equal to \$100 per man on board of the vessel destroyed; and that it shall be equal to \$200 per man on board the enemy's vessel, provided the enemy's vessel be superior to the captors'. In case the enemy's vessel captured or destroyed is inferior to her captor, then the bounty to be paid is \$100 per man on board the enemy's vessel. That is the regular provision of the prize law.

Now, when that act was passed, no appro-

priation was made for such bounties. At a subsequent session of Congress an appropriation of \$250,000 was made to carry out the provisions of that law. The accounting officers of the Treasury construed the law to be applicable only from and after its passage. There is one case, however, in which an enemy's vessel was destroyed during this rebellion, anterior to the passage of the prize law, and the entire purpose of this amendment is to enable the accounting officers of the Treasury to include that case, and pay to the captors just what is paid by law to captors made since the enactment of this law. There is but one single case.

Mr. HALE. What is the case?

Mr. RICE, of Massachusetts. I cannot give the name of the vessel, but it is a case that occurred since the breaking out of the rebellion, but before the passage of the prize law, and the whole object is to include that vessel in the settlement that is authorized by law to apply to all captures made since the law was passed. I will state that this amendment was drawn up by the Fourth Auditor, and was made to fit the case in question.

Mr. BRANDEGEE. I hope this matter will not be tacked on to this bill; it does not legitimately belong here, and the subject has not been considered at all by the Committee on Naval Affairs. It can be put in some of the bills now being considered in that committee. I hope the House will vote the amendment down because we do not understand it.

Mr. RICE, of Massachusetts. I will yield to the chairman of the Judiciary Committee to read the law on this subject.

Mr. WILSON, of Iowa. I send to the Clerk to be read the eleventh section of the prize law, to which the gentleman from Massachusetts has referred.

The Clerk read, as follows:

"Sec. 11. *And be it further enacted*, That a bounty shall be paid by the United States for each person on board any ship or vessel-of-war belonging to an enemy at the commencement of an engagement, which shall be sunk or otherwise destroyed in such engagement by any ship or vessel belonging to the United States, or which it may be necessary to destroy in consequence of injuries sustained in action, of \$100 if the enemy's vessel was of inferior force, and of \$200 if of equal or superior force, to be divided among the officers and crew in the same manner as prize money; and when the actual number of men on board any such vessel cannot be satisfactorily ascertained, it shall be estimated according to the complement allowed to vessels of its class in the Navy of the United States; and there shall be paid as bounty to the captors of any vessel-of-war captured from an enemy, which they may be instructed to destroy, or which shall be immediately destroyed for the public interest, but not in consequence of injuries received in action, fifty dollars for every person who shall be on board at the time of such capture. All ransom money, salvage, bounty, or proceeds of condemned property, accruing or awarded to any vessel of the Navy, shall be distributed and paid to the officers and men entitled thereto in the same manner as prize money, under the direction of the Secretary of the Navy."

Mr. RICE, of Massachusetts. I have only to add that this clause does not call for any additional appropriation. It is only to enable the accounting officers of the Treasury to carry out the provisions of the existing law.

Tellers were ordered on the amendment; and Messrs. BRANDEGEE and UPSON were appointed.

The House divided; and the tellers reported—ayes 66, noes 36.

So the amendment was agreed to.

The last amendment reported by the Committee of the Whole on the state of the Union was to add to the bill the following as an additional section:

Sec. 3. *And be it further enacted*, That no portion of the amounts herein appropriated shall be paid in violation of the provisions of the act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862.

The amendment was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. STEVENS demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved

that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ORDER OF PROCEEDING TO-MORROW.

Mr. STEVENS. I desire to propose that the House hold a session to-morrow for the purpose only of debate in Committee of the Whole upon the President's annual message; and that it shall not sit later than three o'clock, so as to give the Doorkeeper an opportunity to prepare this Hall for the proceedings of next Monday. No objection was made.

D. H. BINGHAM.

Mr. DRIGGS. I desire to move that the Committee of Claims be discharged from the further consideration of the claim of Mr. D. H. Bingham, of Alabama; and that the same be referred to the Committee on Military Affairs. The motion was agreed to.

Some time subsequent thereto, Mr. DELANO said: I desire to make a motion to reconsider the vote by which the House has just ordered the Committee of Claims to be discharged from the further consideration of the claim of Mr. D. H. Bingham, of Alabama, and that the same be referred to the Committee on Military Affairs.

Mr. DRIGGS. I understood the gentleman from Ohio [Mr. DELANO] to agree to that disposition of the matter on yesterday.

Mr. DELANO. I want to inform the House of the character of this claim. It is one that comes within the rule which the House has already adopted, to reject all claims for damages of any citizens of disloyal States. I have here a report prepared to show that fact, and recommending that the claim of Mr. Bingham be rejected, which I was ready to make to the House when the committee was called. It is for the House to determine now whether they will reconsider the vote by which they referred the claim to the Committee on Military Affairs, or stand by the rule they have adopted.

Mr. DRIGGS. I desire to say a single word on this matter. Mr. Bingham, of Alabama, called on me and said that he had had referred to the Committee of Claims some papers in reference to certain claims, but he had understood that the matter properly belonged to the Committee on Military Affairs. He therefore requested me to make the necessary motion to get his papers before that committee. Before doing so I called upon the chairman of the Committee of Claims, [Mr. DELANO,] and he stated to me that I might make the motion and he would not object; that he did not like to make it himself, stating substantially what he has stated here to-day.

Mr. DELANO. I only wish the House to understand the case, and that it comes within the rule the House has already adopted.

The motion to reconsider was agreed to.

The question recurred upon the motion to discharge the Committee of Claims from the further consideration of the claim of D. H. Bingham, of Alabama, and to refer the same to the Committee on Military Affairs.

The motion was not agreed to.

CONTESTED-ELECTION CASE.

Mr. MARSHALL. I was not in the House when the report of the Committee of Elections was presented in the contested-election case of Baldwin vs. Trowbridge, of Michigan. As I do not concur with the majority of the committee in that report, I desire to present a minority report, and ask that it be printed.

The report was laid upon the table, and ordered to be printed.

AGRICULTURAL COLLEGES.

Mr. BIDWELL. I move that House bill No. 50, in relation to agricultural colleges, which was reported from the Committee on Agriculture, be recommitted to that committee.

The motion was agreed to.

THREE MONTHS' EXTRA PAY.

Mr. O'NEILL, by unanimous consent, introduced a bill extending the benefits of section four of the Army appropriation bill, approved

March 3, 1865, so as to give all officers of volunteers below the rank of brigadier general, who were mustered out of the service at their own request, or otherwise honorably discharged after the 19th of April, 1865, three months' pay proper, the same as if they had been mustered out with their respective regiments; which was read a first and second time, and referred to the Committee on Military Affairs.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. W. J. McDONALD, its Chief Clerk, informed the House that the Senate had passed, without amendment, bill of the House No. 33, for the relief of Charlotte Bence, widow of Philip H. Bence, late captain of company F, thirtieth regiment Iowa volunteer infantry.

BANKRUPT BILL.

The House, agreeably to order, resumed the consideration of the bill (H. R. No. 7) to establish a uniform system of bankruptcy throughout the United States.

The following section was pending when the House passed from the consideration of the bill on yesterday:

SEC. 10. *And be it further enacted*, That the justices of the Supreme Court shall designate one of their number, who, with the assistance of five commissioners, to be appointed by said justice so designated, and subject to the provisions of this act, shall frame general orders for the following purposes:

For regulating the practice and procedure of the district courts in bankruptcy, and the several forms of petitions, orders, and other proceedings to be used in said courts in all matters under this act;

For regulating the duties of the various officers of said courts;

For regulating the fees payable, and the charges and costs to be allowed, except such as are established by this act or by law, with respect to all proceedings in bankruptcy before said courts;

For regulating the practice and procedure upon appeals;

For regulating the filing, custody, and inspection of records;

And generally for carrying the provisions of this act into effect.

After such general orders shall have been so framed, they, or any of them, may be rescinded or varied, and other general orders may be framed in manner aforesaid, and all such general orders so framed shall, from time to time, when approved by the justice of the Supreme Court so designated, be reported to Congress with such suggestions as said justice may approve. The district judges shall be eligible to act as such commissioners.

Mr. HALE. I move to amend this section by adding the following:

No pay or compensation shall be allowed to such commissioners for services under this section.

Mr. JENCKES. I have no objection to that. The amendment was agreed to.

Mr. JENCKES. I move to insert in line forty-two of section eleven the word "to" before the word "send."

The amendment was agreed to.

Mr. HOTCHKISS. I move to amend by striking out in lines thirty-six and thirty-seven of section eleven the words "marshal of said district;" in line thirty-seven the words "as messenger;" in lines forty and forty-one the words "until the appointment of an assignee;" and also by inserting at the end of line thirty-six the following:

General assignee in bankruptcy residing in the county where such bankrupt resided at the time of filing his petition; and thereupon the estate of such bankrupt shall vest absolutely in such assignee for the purposes of this act; and the district judge of each district shall appoint a general assignee in bankruptcy for each county within his district, who shall be a resident of the county for which he is appointed, and shall give such bond as shall be required by such judge, and shall be an officer of the court, and subject to its rules and orders.

Mr. Speaker, the object of this amendment is to dispense with the services of a marshal, and avoid the increased expense of his fees to be charged upon the estate of the bankrupt. I deem it entirely unnecessary that, after the decree of the bankruptcy or the order declaring the applicant a bankrupt, the property should pass into the hands of the marshal before it vests in the assignee. No such proceeding was regarded as necessary under the former bankrupt law; but when the applicant was declared a bankrupt, the property vested in the assignee. I regard it as safer for all parties concerned—for a majority of the creditors and

for the bankrupt himself—that there should be appointed, as under the former bankrupt law, an assignee in each county, who shall take charge of the estate. The services of a messenger or marshal are entirely unnecessary, and only tend to create additional expense which would be a very onerous burden upon a poor bankrupt.

I desire to sustain this bill; but I wish to have it made a law for the benefit of poor bankrupts, and not exclusively for the benefit of those who are rich. This bill provides that where a man owes debts to the amount of \$500 he may take the benefit of the act; but if the system which we are to establish be burdened with the fees and expenses contemplated by the various provisions of this bill, it will cost a debtor \$1,000 to obtain the benefit of it. I think there should be a provision under which the bankrupt could pay his \$500, if he has that amount, in discharging his debts, instead of paying \$1,000 to go through the expensive process which would be inevitable under this bill as it stands.

I believe that I am correct in this view. I had some experience under the former bankrupt act. I trust that my amendment will be adopted. It will not interfere in the least with the general character of the bill, while it will relieve the proceedings under it from all unnecessary expense. The appointment of an assignee in each county, as I propose, will not increase the number of officers provided for by the bill. My desire is that we should not create an unnecessary number of officers to eat up the little substance of these bankrupts.

Mr. JENCKES. The committee had in view the object which the gentleman from New York [Mr. HOTCHKISS] states that he desires shall be attained. And I think that if the gentleman will consider the matter more attentively he will find that the system of proceedings proposed in the bill will have the advantage of being less expensive and more efficient than the system he proposes. There is certain business which must be done by somebody other than the bankrupt or petitioner. Notices must be made out; property must be taken in charge for safe custody. If the gentleman will look at the close of the bill, page 67, he will find a provision that the word "marshal" shall include a marshal's deputy; and when the petition is filed, the warrant authorizes some person, deputy marshal, or some person acting as deputy marshal, to do this clerical labor.

That is the ordinary proceeding upon voluntary petitions; and in proceedings in involuntary bankruptcy there may be need of a messenger to take possession of the bankrupt's estate.

Mr. HOTCHKISS. This does not interfere with that.

Mr. JENCKES. If the gentleman will allow me. The official assignee residing in the county is a local officer, and the property may be all over the State, or in half a dozen States, and there must be some one to go and take charge of this property in the intermediate time before the appointment of an assignee. It does not increase the expense one dollar, because the marshal is only allowed the fee established by law. He simply goes and puts his seal upon the property where he finds it.

Another thing; one of the great objections to the bankrupt law of 1841 and of 1860, and one of the most serious objections to the French bankrupt law, and to the English bankrupt law of 1849, was this appointment of local assignees. When they get property into their hands the creditors can never get it out of them. It was to prevent this waste of property that this provision was inserted.

I will show where it was obtained. I got it from the bankrupt law of Scotland, one of the best that I have ever seen. It was adopted into the bankrupt law of Massachusetts, and is now adopted into the bankrupt law of England. It has also been introduced into the bankrupt law of France. Having studied this subject carefully with the same object that the gentleman from New York [Mr. HOTCHKISS]

has in view, I say that the precedents and history of this matter are in favor of this course of proceeding.

Mr. HOTCHKISS. I do not see that the gentleman has answered my objection. My objection is to the intervention of the marshal when it is unnecessary. The assignee can take possession of the property as well as the marshal.

Mr. JENCKES. There must be some time before the filing of the petition either of the creditor or the debtor, and before an assignee can be appointed. Now, who is to take possession in the mean time?

Mr. HOTCHKISS. In the outset the district judge appoints an assignee for the bankrupt property in his district. He is there always on hand and performs the same duty that is required of the marshal. It is unnecessary that two officers shall be appointed to do the same thing.

Mr. JENCKES. He is a local officer.

Mr. HOTCHKISS. I am aware of it.

Mr. JENCKES. The marshal can go everywhere.

Mr. HOTCHKISS. The assignee can go everywhere. He is the owner of the property. It vests in him. He can take possession of property in any State of the Union.

Mr. JENCKES. The proposition of the gentleman is for one of two things, either to have a permanent official assignee, which, in my mind, is one of the greatest objections, or one in the intermediate time. It is better to have an executive officer.

Mr. HOTCHKISS. My object is to have a permanent official assignee to take possession of this property, who will act impartially between creditors and debtors. I object to special ones appointed by favoritism or superior vigilance on the part of the creditors.

Mr. JENCKES. The object of this law is to extricate the debtor from the hands of the creditors. I would rather have an officer of the court take charge of this matter than a favorite assignee selected by a portion of the creditors.

The SPEAKER. The ten minutes allowed for discussion for and against the amendment have now expired.

Mr. THAYER. I move to strike out the last word of the amendment.

The most efficient feature, in my judgment, in this bill is that which is assailed by the gentleman from New York. If there is any one feature in the bill which secures the judicious administration of bankrupt estates, it is that feature which gives to creditors the selection of the assignees. Every one knows, who is at all conversant with such matters, that the ability of an assignee to manage a bankrupt's estate depends necessarily often on the extent of his knowledge of the business in which the bankrupt has been engaged. If you have an official assignee who is to take charge of the estate, you must deprive yourself of the advantage of having an assignee who is acquainted in particular with the business which is to come into his hands, because it is impossible you could appoint a man who is so completely a master of all kinds of business as to make a proper assignee in all cases of bankruptcy.

If you have an official assignee he will in many localities be so overborne with the responsibilities and duties imposed upon him by this trust, that it will be impossible for him to discharge the duties of that position with that degree of efficiency which the interests of the creditor and the bankrupt alike demand. I hope, sir, the amendment of the gentleman from New York will not prevail.

Mr. SLOAN. In answer to the gentleman from Pennsylvania [Mr. THAYER] I desire to say that I believe it will save a large amount of expense if the proposition of the gentleman from New York is accepted. It will entirely obviate the expense of the marshal, acting as special messenger to take possession of the property of the bankrupt between the filing of the petitions and the final decree of bankruptcy. And if selections are properly made of assignees in each county, of men of character and integrity—and there is no presumption that such

men will not be selected—they will act not only in obedience to law, but also in obedience to the rule which this commission, containing one justice of the Supreme Court, shall prescribe for the government of all these cases of bankruptcy. It will simplify these proceedings by reducing the expenses, and making them in all cases uniform. Instead of having assignees selected, as the gentleman from Pennsylvania suggests, by the creditors and in the interest of the creditor, you will have an officer appointed as assignee who shall stand indifferent between the creditors and the bankrupt, who shall be responsible to the court, who shall govern his conduct entirely by the law and by the rule which this commission prescribes. It will simplify the proceedings, produce uniformity in their administration, and reduce the expenses, which I regard as a very important consideration in placing this law within the reach of all that unfortunate class who desire to obtain the advantage of it.

Mr. JENCKES. Will the gentleman yield a moment?

Mr. SLOAN. Yes, sir.

Mr. JENCKES. The gentleman has addressed the House upon a point that is not exactly before it. The question now is upon the appointment of a custodian of the property between the time of filing the petition, either by the debtor or creditor, and the appointment of an assignee by the court. This bill provides that the assignee may be nominated by the creditors, but the court may refuse to appoint that assignee and may appoint another man. This person has to do simply executive duties. It is just what the marshal now does if he is sent to attach property—nothing more. He has to give the notice, and he gets no more fees. It does not increase the cost of the proceedings. But if the official were to intervene he would have to pay three, four, or five times as much as the law now allows to deputy marshals.

Mr. SLOAN. The gentleman from Rhode Island misapprehends the object of this amendment. It is to have, before any proceedings are taken under this law, an assignee appointed for each county in the judicial district—an assignee for all cases of bankruptcy.

Mr. JENCKES. That is just the thing I desire to prevent. And I wish to make one remark on that subject, quoting an eminent authority—a decision of the court that has led to the abolishment of all these evils under the English and Scotch system. Lord Eldon said in a case that required his particular investigation, that he discovered that where there were official assignees, official solicitors, and local commissioners, the bankrupt's estate was simply something for them to live on just as they pleased; that the bankrupt never got his discharge and the creditors never got a dividend.

Mr. SLOAN. With all deference to that great authority, and in deference to the opinion of the gentleman from Rhode Island, I still believe that in an American system of bankruptcy an assignee who is responsible to the court and to the law for the discharge of his duty would be preferable.

Mr. JENCKES. These marshals are thus responsible; they give bonds.

Mr. SLOAN. If this officer is thus appointed before proceeding is commenced, it dispenses with the interposition of a marshal.

Mr. THAYER. I desire to ask the gentleman from Wisconsin what security he would require such an assignee as he describes to give. For instance, an assignee located in the city of New York, where millions of property must pass through his hands—what security would the gentleman require?

Mr. SLOAN. The gentleman evidently did not hear the amendment read.

Mr. THAYER. I did, and I understand it.

Mr. SLOAN. It provides that he shall give such security as the judge making the appointment shall require.

Mr. THAYER. The gentleman evidently does not understand my question. I ask what amount, in his opinion, would be adequate security, in the city of New York for instance.

Mr. HOTCHKISS. The same that you require from the collector of New York city.

Mr. SLOAN. The amount required by the judge. The gentleman must be well aware that in administering judicial and financial affairs in this country, of necessity a much larger amount of money passes through the hands of our officers than can be reasonably provided for by bonds of security. Something is due to the character for integrity of the officers who are appointed, and it is, in my judgment, to be presumed that men will be appointed in those districts where large amounts may come into their hands whose character will be a far higher security than any money bond that can be taken. And yet this provision requires that such an amount of security on a money bond shall be given, as the district judge, regarding all the circumstances, may require.

Mr. THAYER. I withdraw the amendment to the amendment.

The question recurred on Mr. HOTCHKISS's amendment.

Mr. CONKLING. I move to amend the amendment of my colleague by striking out the last word. I do so for the purpose of making one or two remarks applicable to this amendment and to this portion of the bill.

In the first place, I would like to know from the gentleman from Rhode Island about how many deputies he thinks it would be necessary, in either of the large districts, for the marshal to appoint in order to act as messengers in these cases.

Mr. JENCKES. Well, I can tell him that the practice, under the English law, and under the law of Massachusetts, and under the law of Scotland, is to appoint a special deputy. When the petitioning creditor or the petitioning debtor goes to the clerk's office with a petition there is a marshal present, or within immediate reach, for the purpose of protecting the property in the mean time. The party, creditor or debtor, as the case may be, makes application for the appointment of a special deputy to act in the intermediate time and to do the duties required by this act, which somebody must do, and it does not increase the number of standing deputy marshals in any district, and it does not increase the compensation of the marshal of the district to any extent except for his certificate upon the back of the warrant that he has appointed A or B his deputy or messenger for a particular purpose.

Mr. CONKLING. I am very happy to have afforded the gentleman an opportunity to make a speech, although upon a point different to that which I put to him. He does not seem inclined to state the number of deputies, whether special or general, that the marshal would appoint in any large district. I wish to state that it would be a multitude which no man could number in these large districts.

Mr. JENCKES. Will the gentleman allow me to answer his question by asking another? What device can he propose by which the property of a bankrupt can be taken care of in the intermediate time between the filing of the petition and the entering of the decree?

I am not particularly in favor of this provision, but it is the best I have found devised in any law, and hence I adopted it.

Mr. CONKLING. Precisely the device contemplated by the amendment of my colleague, [Mr. HOTCHKISS;] precisely the device which has been proposed in other bills—in the bill of 1862, in sections two and three for example.

Now, I want to make two or three practical suggestions. That there is no difficulty in providing for the preliminary custody of the property, I suppose the gentleman from Rhode Island does not propose to question.

Mr. JENCKES. I certainly do propose to question seriously the whole of this device.

Mr. CONKLING. Well, if I have any of my five minutes remaining, I will try to answer the gentleman. I say that there is not the slightest difficulty in providing for it. There is no magic in having a special marshal who could give no security practically for this purpose.

Mr. JENCKES. Yes, he does.

Mr. CONKLING. There is no magic in having a person to take charge called a marshal rather than somebody else. All you have to do is to provide for an assignee early enough in the proceedings.

My belief is that this section calls into existence an army of office-holders for no purpose under heaven. That is my first proposition. In the second place, I believe that the practical operation of this section and of the next section will be, in four cases out of five, to put into the hands of one or two fraudulent creditors the opportunity to manage the entire proceedings.

Mr. JENCKES. Will the gentleman state what he means by the phrase "fraudulent creditors?"

Mr. CONKLING. I will state it if I ever get the opportunity to do so. I was just going to state, when the gentleman interrupted me, that if some debtor, residing in the interior of the State of New York, owed \$100,000—I will state a strong case for the benefit of the gentleman—and all his creditors resided in the city of New York, and he was about to become bankrupt, the marshal publishes a notice in the papers. This bill does not provide that he shall have the politeness that the Chinese have, who, when they invite you to dinner, furnish you with a list of all the persons who are invited to meet you there. This does not provide that he shall furnish a list of the creditors. Suppose that I am a creditor residing in the city of New York, and a notice is sent to me. There are other creditors residing near me, but I do not know who they are. The notice is that a meeting of the creditors is to take place one hundred and fifty miles from New York city. I attend the meeting, and if any one man has been omitted accidentally, or by design, that is a cause for postponing the meeting. Now, it is not likely that I shall attend those meetings for the mere purpose of postponement, and the assignee then comes into existence as the creature of the two or three creditors who may get the control of the matter in this way.

I believe that this whole machinery is unnecessary; I believe it is vicious; I believe it is bringing into existence an army of office-holders for no necessary purpose whatever. Now, if assignees are appointed, as suggested by my colleague, [Mr. HORTON], it would be a protection in the first place against this unnecessary creation of officers, and in the second place against a creditor having hold of the entire proceeding of the bankrupt, or—and now I answer the question of the gentleman from Rhode Island [Mr. JENCKES]—fraudulent colluding of the creditor with the bankrupt, to have him discharged and his debt sponged out by some agreement that takes place between them. That is what I call a fraudulent creditor.

Mr. JENCKES. This is entirely a practical question. The committee in preparing this measure have not acted upon their own personal views upon the subject. They have taken the experience of all the systems of bankruptcy in the world.

Now, the objections made here are two, if I understand them aright. One is, that it will increase the expense of the proceeding in bankruptcy. The other objection is that some fraud may be helped, or some collusion may be established, between guilty parties in the conduct of these proceedings. Both gentlemen from New York, [Mr. CONKLING and Mr. HORTON], have failed to point out how the expense of the proceedings can be increased one dollar, and I make the assertion, and I challenge those gentlemen to show it is not correct, that no such increase takes place.

Mr. CONKLING. Who is to pay these messengers?

Mr. JENCKES. The work has to be done, and it must be paid for exactly as other work under other laws must be compensated for—to no greater extent and in no other way.

Now, in regard to the objection as to fraud and collusion, I have failed to understand the explanation of the gentleman as to what he

means by a fraudulent creditor. If this law has any merit whatever, it is that it prevents any possible collusion between fraudulent debtors and fictitious creditors. It provides that a debtor who places upon his schedule the name of a person to whom he is not indebted shall not receive his discharge. It also provides that a person who swears to a claim to which he is not entitled shall receive no dividend. It makes provision also for punishment incidentally, in certain ways, if such collusion or fraud is attempted to be practiced upon the court. Therefore, Mr. Speaker, I dismiss from consideration entirely this subject of fraudulent creditors, or fraudulent preferences, or collusion between the bankrupt and his debtor.

The gentleman made another point, not an objection to the bill as it stands, but by way of suggesting an improvement. He thinks that official assignees, such as he proposes, would be more efficient than these temporary officers who give bonds in every instance, who are responsible to the court and responsible to the parties, liable to the debtor in an action if they exceed their authority, liable to the creditor if they collude with the debtor. The gentleman thinks that these officers would not be so efficient as official assignees in the different counties. Why, sir, I ask the gentleman how many counties there are, for instance, in the State of New York, and whether his plan would not increase the number of standing officers under this bill by just the number of counties. And I should like to know from him, as a lawyer, by what process the title and custody of property (because both must go together in this intermediate stage of the proceedings) passes from the debtor to the official assignee, supposing that the debtor files his petition in the city of New York and the property is located in Chataquo. What is the official assignee in New York to do in such a case?

The practical proceeding is this: if it is the debtor who makes the petition, he wants his property taken care of as it ought to be, and he asks the marshal to appoint somebody for the purpose. If it is the creditors who file the petition, they want to prevent the squandering or wasting of the property by this very collusion between fraudulent debtors and fictitious creditors which the gentleman hinted at. Their object is that the property, during that intermediate period, shall be taken care of in the proper manner and at the least expense. It is their interest that the property should be in charge of a person upon whom they can rely, who is responsible to them under the bond of the marshal of the district, who is directly amenable to suit at law or in equity, and if need be, to the process of the court for contempt.

Mr. CONKLING. Let me state what I wish the gentleman to answer. His bill provides that in every case an assignee shall be appointed to begin with. Now, I want to know what the gentleman means by saying that it will not increase the number of officers to bring into existence also in every case a special deputy, when you have an assignee at any rate.

Mr. JENCKES. The messenger is simply an intermediate agent, just as a receiver is in case of an attachment of property. The assignee is the person authorized by the court, upon the nomination of the creditors, to administer upon the insolvent's estate.

Mr. CONKLING. As the gentleman is very technical with me in reference to terms, I must remind him that the messenger is not in the attitude of a receiver; far from it. The assignee is in the attitude of a receiver. The messenger is a mere preliminary go-between, serving no purpose under heaven, as I contend, except to perform the ministerial business of giving notice, first, that a warrant has been issued; second, that "the payment of any debts and the delivery of any property belonging to such debtor, to him or for his use, and the transfer of any property by him, are forbidden by law;" and third, that a meeting of the creditors is going to take place. I say that the appointment of a marshal for this purpose, if you must

have an assignee at any rate, is mere surplusage.

Mr. JENCKES. One of the duties of the messenger is to take possession of the estate, real and personal, of the debtor.

[Here he hammer fell.]

Mr. CONKLING. I withdraw my amendment.

Mr. THAYER. I move *pro forma* to amend by striking out the first three words of the section. I desire to make a suggestion in reply to the gentleman from New York, [Mr. CONKLING,] in addition to those presented by the gentleman from Rhode Island.

If the gentleman from New York had examined this bill somewhat more carefully, he would have perceived that it contains a provision which destroys entirely the force of his objection founded upon the apprehension that, by some possible legerdemain in practice, one creditor may, contrary to the right and equities of the other creditors, assume the entire control of the debtor's estate, or that some unfair advantage may possibly be taken by one creditor of another. He would have seen in a subsequent part of the bill this provision for elections or appointments.

Mr. SLOAN. What section?

Mr. THAYER. Section thirteen. It provides as follows:

All elections or appointments of assignees shall be subject to the approval of the judge; and when in his judgment it is for any cause needful or expedient, he may appoint additional assignees, or order a new election. The judge at any time may, and, upon the request in writing of any creditor who has proved his claim, shall require the assignee to give good and sufficient bond to the United States, with a condition for the faithful performance and discharge of his duties; the bond shall be approved by the judge or register by his indorsement thereon, shall be filed with the record of the case, and inure to the benefit of all creditors proving their claims, and may be prosecuted in the manner provided by law for the prosecution of marshals' and other bonds given to the United States. If the assignee fails to give the bond within such time as the judge orders, not exceeding ten days after notice to him of such order, the judge shall remove him and appoint another in his place.

So if there is any practice on the part of sharp creditors to get possession of bankrupts' estates to the exclusion of the just rights of the bankrupt and his own creditors, the matter is in the charge of the judge. He can set aside an election made and order a new election, or appoint the assignee himself. That disposes of that objection.

In the second place, I wish to point out the objection raised by the gentleman from Wisconsin, founded on the multiplication of officers, is precisely the reverse of what is the effect of this bill.

The assignee appointed by the creditors under this bill is a private trustee and not a public officer. The gentleman proposes to abolish the private trustees appointed in every case to manage the particular estate, and to substitute for private trustees an army of public officers, to be called official assignees, in every county and in every State of the United States. The effect of the amendment proposed is to reverse the objection of the gentleman from New York. Where an assignee is appointed under the bill as it now stands, he is in point of law and fact a private trustee for the management of a particular estate. He has nothing to do with any other estate. He is like a trustee appointed under a settlement or a trustee appointed under any system of writing to do a particular thing. His attention is confined to that thing and the faithful performance of that duty. The amendment of the gentleman from New York is to alter all that, and to make what is now a trust into an office, and make what is now a trustee into a public officer.

Mr. SLOAN. Will the gentleman yield to me?

Mr. THAYER. Yes, sir.

Mr. SLOAN. I ask the gentleman whether he calls these trustees or assignees, if it be not true that the amendment proposes only one such officer, while the bill proposes as many such officers as there may be estates of bankrupts to be adjudicated on? That is the first question which I wish to ask the gentleman.

Mr. THAYER. Let me answer that before

you ask another. I will answer the gentleman's questions as he goes along, one at a time. I answer the question which he has just asked by saying that the position of a trustee of a bankrupt's estate who is selected by the creditors is in no respect analogous to the position of a public officer.

[Here the hammer fell.]

Mr. ALLEY. I rise to oppose the amendment.

Mr. Speaker, I hope this amendment will not prevail. It seems to me this is a very plain matter. The gentleman proposes the appointment of official assignees, and complains that this bill provides for an army of office-holders. That seems to be his chief objection on that point. I agree fully with the gentleman from Pennsylvania, [Mr. THAYER,] that the amendment of the gentleman from New York itself increases rather than diminishes the number of office-holders. Every official assignee which the amendment proposes is an office-holder, but no assignees which this bill proposes to appoint are office-holders in any true sense. They are merely custodians of the property of these creditors and these debtors.

Now, Mr. Speaker, this provision has worked admirably in practice in the State of Massachusetts. We have had a bankrupt law there for many years, which I believe it is acknowledged by all who have studied the subject is a better bankrupt law than has ever before been devised in this country or in Europe.

Most of the features of this bill have been taken from the Massachusetts law, and there is no feature in the bill that commends it more to my judgment and approbation than this very feature that is now opposed by the gentleman from New York. What is the appointment of these messengers? Is it the creation of office-holders? Not exactly in a proper sense. It is simply the appointment of individuals to take charge of this property during the intervening time between the petition being presented to the courts and the appointment of the assignee. And that difficulty cannot be obviated in any possible manner, except by the appointment of official assignees who shall first take possession of the property. I suppose the gentleman from New York will concede that.

Mr. CONKLING. Will the gentleman state whether he has read the section he is speaking upon?

Mr. ALLEY. I have.

Mr. CONKLING. I could not suppose you had when you said these marshals were not public officers—marshals of the United States.

Mr. ALLEY. I was speaking of assignees if I said marshals. These marshals are merely to take possession of the property. In our State they are messengers simply. But these marshals that this bill provides, who are to take possession of the estate, simply act as custodians of the property merely for a few days, and are what we call messengers. They have not the slightest jurisdiction over the property of the creditors, so far as making any disposition of it is concerned.

Mr. HOTCHKISS. I would inquire of the gentleman whether in the law of Massachusetts there is such a provision as this:

There shall be excepted from the operation of this section necessary household and kitchen furniture, and such other articles necessary to such bankrupt as the said assignee shall designate and set apart.

Mr. JENCKES. That is another subject—another section.

Mr. THAYER. I withdraw the amendment.

Mr. SPALDING. I move to strike out the second line.

I wish to say, in reply to the gentleman from New York, that I do not think he intends to mislead the House when he says that in certain cases two of the creditors may appoint an assignee. When two make the assignee they would represent a majority in value of the creditors. Is it not so?

Mr. CONKLING. Very likely; I do not know how it is; I said nothing to the contrary.

Mr. SPALDING. Under any circumstances it would be a majority of the property that

would create the assignee. That is the intention. Now, I only wish to remark in addition; that I do consider this as one of the most valuable features of this whole scheme, which is so ably compiled by the gentleman from Rhode Island. I was conversant with the workings of the old act of 1842, and I know that nothing about it was more objectionable to the people than these county assignees. They felt no interest for those who really owned the property. Now, here the trustees are to hold and manage it for the interest of the creditors and subject to their ratification. And I appeal to the good sense of this House if this is not a fairer way of treating them than by putting it into the hands of county assignees, men appointed by this court. This bill proposes that the individual estate in insolvency shall pass into the hands of men who have an interest in protecting it.

Mr. CONKLING. I rise to oppose the amendment.

Mr. McINDOE. If the gentleman will give way, I will move to adjourn.

Mr. CONKLING. I will yield for that purpose.

MORNING HOUR OF TUESDAY.

The SPEAKER. The Chair will state that there will be no legislative session till next Tuesday. On Monday morning, however, the House will meet and the Journal will be read, but there will be but a very few moments for proceeding in the morning. The Chair will suggest, therefore, whether Tuesday shall not be considered the same as Monday, and whether the House shall not then go on with the morning hour as if it were Monday.

Mr. HALE. I move that the morning hour of Tuesday be considered the same as that of Monday.

No objection being made, it was so ordered.

Mr. McINDOE. I now move that the House adjourn.

The motion was agreed to, and thereupon (at four o'clock and thirty minutes p. m.) the House adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, February 10, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

The SPEAKER. No business is in order in the House to-day except debate as in Committee of the Whole on the state of the Union on the President's message, on which the gentleman from Ohio [Mr. ECKLEY] is entitled to the floor.

Mr. ECKLEY. I would inquire if an order has been made for an adjournment until Tuesday.

The SPEAKER. It has not, because the House must be in session on Monday morning in accordance with the programme of the joint committee.

Mr. PAINE. I would inquire of the Chair if the order of the House permits the filing of petitions to-day?

The SPEAKER. It does; they may be filed with the Clerk.

Mr. ECKLEY. I will yield the floor to the gentleman from New York, [Mr. WARD.]

RECONSTRUCTION.

Mr. WARD. Mr. Speaker, I should not thrust myself upon the attention of the House at this time, could I with justice to myself remain silent.

So varied and novel are the schemes of reconstruction and the resolutions upon that subject that are crowded through the House without opportunity for debate, under the operation of the "previous question," that it seems necessary for members who desire their true position understood upon this vexed question to take the opportunity offered for the discussion of the President's message to do so.

After so many great minds, at both ends of this Capitol, have exhausted so thoroughly all views and phases of this question, it will not

be expected that I will advance anything new. I shall only express the earnest, deeply fixed convictions of one of the humblest upon this floor, and you will receive them simply as such. Who can but tremble at the vast responsibility to our country, our countrymen, and to God, under which we rest as members of this Congress?

Never before in the history of nations has a legislative body met charged with such duties and obligations as have been imposed upon us. We are legislating for the present and the future. The effect of our action will not be circumscribed by our time and country alone; it will reach the whole earth and the remotest generation.

Ten million people, emerging from the chaos of war, stand before us powerless, disarmed, without government, without law, save from the strong arm of the military power, awaiting our action, demanding from us the full exercise of the rights they enjoyed in the better days gone by, when, true to the Union, they stood side by side with us in upholding the honor of our common flag. What have they done? Why are they knocking thus at the doors of our national councils? Why these vacant seats? Ah! they have committed the most fearful and gigantic crime known in the records of time.

They conspired to overthrow and blot from the book of nations the Government of their fathers, under whose protecting power they had grown rich, powerful, and enjoyed every blessing, without cause, save the desire to perpetuate human bondage. They conspired against popular rights and liberty. They sought to dishonor and degrade labor.

Governors, Legislatures, judges, municipal officers; the whole machinery of government, State and local; all collective and individual action of the people, were directed with awful power for long and terrible years for the destruction of this Republic.

In the cabinet, on the field, on the ocean, in foreign climes and capitals, with armed men, with the torch, with poison, with fire, by robbery, arson, murder, starvation, pillage, and all the crimes that a fiendish ingenuity could devise and put into execution, they pursued their work of death.

They declared the Union was dissolved, its mission ended, and that never while they lived on earth, while the last man could grasp the last musket, would they yield this pretension. And well they did their infernal work. They stand before God and man staggering under the murder of three hundred thousand of the noblest men that ever went forth to battle and to death. They have desolated and darkened every home in the land; \$3,000,000,000 of national debt, \$500,000,000 more obligations incurred by States and counties; two million men have shouldered arms for the Republic; one hundred and three thousand pensions upon our bounty caused by the war. These are some of the results of their action. They failed. Such men as were gathered into hosts and marched to the music of the Union and swept the armies of treason from the land were never before given to any country. How we should prize and cherish those who live, bind up their wounds, give them of our substance in their time of need. And those who died, whose precious dust reposes in the soil of every State, let us remember and sanctify their resting-places, and guard well their widows and orphans as the nation's treasure.

What is the condition of those States and people? What their relations to the General Government? What shall we do with them?

And now, without resentment or fear or looking backward or trimming our sails to catch some popular breeze, acting under our oaths, and with the desire only to do right as it is given us to "see the right," let us enter upon the consideration of these momentous questions.

All sovereignty rests with people in this country; by virtue of this sovereignty they have organized States and State governments, and been received as such States into the Union; and subject to the Constitution of the United States and the laws of Congress made in pursuance thereof,

each State, as long as the people thereof have observed their allegiance to the General Government, has been free and independent.

The legal union of the States cannot be broken by the action of the people of any State unless it is accomplished by successful rebellion. The rebellion failed, and therefore all the people who have upheld the Union and still control its Government can insist that the Union is not dissolved, and that territorially the States in rebellion still exist. Sovereignty is still inherent in the people of those States, to be exercised whenever in the judgment of the Government they can do so consistent with the national safety. I do not recognize any authority now existing in these States to represent this sovereignty or to carry out the powers which a loyal people instituting loyal State governments and sending loyal members to Congress can do, for the reason that the authorities and people of those States went into the rebellion, as I have stated, together with their Representatives in Congress who withdrew from these Halls for that purpose.

Their right to a new State government, to resume their practical and original relations with the loyal States, undoubtedly exists under certain conditions and restrictions. It seems to me that it necessarily follows from the relation of Government and people, which is of allegiance on the one hand and protection on the other, that if a portion of the people refuse their allegiance to the Government and make war upon it for its destruction, and are defeated in the attempt, they have forfeited the right of protection and are at the mercy of the Government. I said they were entitled to resume their original relations under certain conditions and restrictions. Who is to be the judge of those conditions and what they shall be? Shall the red-handed traitor be the judge? Is he to prescribe the conditions of his own return. No one will contend that. The whole practice of our Government under the last Administration and the present has been against it.

Shall foreign nations be the judge? No, thank God, in our darkest hour our Government resented even the advice of some of those nations as offensive and impertinent. And now we stand magnificent and peerless among the nations which of them shall thrust its judgment upon us? Will the autocrat of France? We say to him that if his intermeddling with affairs on this continent in defiance of the time-honored policy of this country does not cease, the army of blue will again be in motion and Maximilian will be hurled from the throne of the Montezumas.

I shall not perplex myself with abstract propositions or enter into any discussion as to whether the rebel States are in the Union or out of it. No one contends that they have legally severed their connection with the Union. The territorial boundaries of the States still exist; we have the right still to compel their obedience to the Government; they owe allegiance to no other; but as Mr. Lincoln, in his great good sense, in a speech made a few days before his assassination, says:

"They are out of their practical relation with the Union."

Practically, they have been out of the Union, and practically in feeling and sympathy they are out still; and ours shall be the task to bring them back, not simply to power without Union, but so to reconstruct as to secure a true Union with power. And while a State, considered as simply a legal institution, cannot be destroyed, still its government can be overturned and its members and people go into treason, so that practically it is destroyed; for after all—

"What constitutes a State?
Not high-raised battlements, or labored mound,
Thick wall, or moated gate;
Not cities proud, with spires and turrets crowned;
Not bays and broad-armed ports,
Where, laughing at the storm, rich navies ride;
Not starred and spangled courts,
Where low-browed baseness waits perfumes to pride—
No! men, high-minded men,"

not traitors.

Where do you get your constitutional power to keep their Representatives from Congress;

to organize military tribunals over them; suspend their courts, their Legislatures, their State functions? Ask gentlemen on the Democratic side—you are revolutionary, say they. The land groans under your despotism, they exclaim. These terrible assertions would alarm us did we not "consider the source." These same persons and their party said, when treason's gripe was at the nation's throat, and its guns commanded this capital, and our Government was trembling in the balance, "Oh! you cannot coerce a State!" "You must not make arbitrary arrests!" "You cannot make your Government credits legal tender!" "You cannot legally draft men into the Army; you are revolutionary; you disregard the Constitution." They said the war was a failure, at Chicago; they were the first after the war to grasp hands all red with the blood of our slain brothers; and now they are in these Halls still harping on the subject.

They had not long since the Democratic party with three quarters of the States; and year by year and one by one the people thrust them out as false prophets and guides; and now they have not a State (except a few reconstructed rebel ones in the South) that they can control; and here they are, a lean and hungry band of thirty-five or forty, uttering their notes of discord as ever, and now "crooking the pregnant hinges of the knee" to President Johnson, "that thrift may follow fawning." And they, thus repudiated and disowned, are still repeating their old cry of unconstitutionality. I say to them that they learn nothing by experience, nothing from history, or they would have seen ere this the "handwriting upon the wall," and read their own fate in that of the Tories of the Revolution and the Federalists of 1812. They assume to be the special champions of the President, whom not long ago they denounced a "usurper" and "tyrant." Do they think the President anxious to share their fate, to go down with them to a political death from which there will be no resurrection? No, gentlemen; be admonished; the President understands you as he did when the southern wing of your party drove him a refugee from his home and hunted him like a wild beast.

Had your counsel been followed in time of war the nation would have perished. The people will not listen to you now. When the difficult work of reconstruction is to be done, they will follow the earnest men who have brought them safely through the night now the morning is breaking. Call them radicals, call them revolutionists, denounce the reconstruction committee ordered by Congress as you denounced Lincoln, Johnson, Grant, and the "mercenary soldiery" that scared your rebel friends and rested like nightmares upon your copperhead slumbers, and yet the nation will come up to the great work, Congress will do its whole duty unawed by fear, unseduced by favor. The people will sustain that Congress in taking all the time necessary to reconstruct our Union on the foundations of immutable justice and equity to all classes and races under this broad flag, and woe to him, high or low, that stands in the way of it.

But I answer you that the Constitution does not provide for its own destruction; it was not so framed as to exclude all things that were needed for its own perpetuity. It provides for putting down rebellion, for the punishment of treason, for securing republican governments to the States; for rules and regulations to govern the Territories and other property of the United States; for raising armies and navies, and for the common defense. These are the grand objects of the Constitution; anything necessary to be done to carry out these objects is constitutional. It is constitutional to do all things necessary to preserve the Constitution and the nation which it founded.

It was constitutional to put down the rebellion; so it is constitutional to do all to prevent a return of rebellion—to provide for the future security of the nation.

You cannot invoke precedents in history to control our action; the situation is new. As

there never was such a framework of government—such a people, such a rebellion, such traitors to deal with—we have consequently no guides in the past to illumine our pathway in the future. We must do what is necessary, relying upon our own judgment and sense of duty to complete the work begun in the field; for I say to you we are still combatting our old enemy in another form.

Again, the rights we now claim to exercise spring from the war power which is inherent in all Governments. When civil governments fail to secure obedience to the Constitution and laws, resort is had to the military power, and military governments are established such as Tennessee possessed under Governor (now President) Johnson, and other States have had during the rebellion; and, since the disloyal armies were overthrown, the war power has still been exercised, and its exercise is still needed in those States. The President has insisted that they should ratify the constitutional amendment, give the freedman a standing in court as witness and party, and that they should repudiate the rebel debt before he would remit them to their civil rights, or advise the reception of their members by Congress. How can this extraordinary executive power be justified except upon the principles I have adverted to?

The only question remaining is, when are these former rebels to be admitted to a share in the Government? That will depend much upon their loyalty and the ability they manifest to take loyal part in the Government.

Thirty years the rebellion was hatching. Have all its teachings gone in nine months? Four years it fought with a desperation worthy of a better cause. Are its resentments, its pride forgotten? The same ministers that preached treason, the same presses that proclaimed it, now lead the people and control their opinions.

It must be remembered that these people are now on their good behavior. Everything that is printed, said, or done is with reference to their getting back into the Government as soon as possible, and so the cloven foot is hidden as much as possible.

But truth will assert itself in spite of all these precautions; facts crop out proving beyond all doubt their continued disloyalty.

Shouts are given for Lee in the loyal Legislature of Virginia. A former member of the rebel congress, once a Speaker of this House, whose lips are steeped in violated constitutional oaths, is elected Governor of South Carolina. Loyal Alabama has a rebel general for Governor.

"Whipped, but not conquered."—*Jackson (Mississippi) Free Trader*.

"The title of rebel is a proud one."—*Petersburg (Virginia) Daily News*.

"The southern people have not been guilty of any crime; they have only failed," says a leading southern divine.

"We have a right to elect our military heroes to office. Ought we to give up our cherished notions of policy to swallow a plum?"—*Macon (Georgia) Journal*.

"We vote for the late confederate soldiers because they represent the valor, honor, and intelligence of the people."—*The South Carolinian*.

The Richmond Republic thus illustrates the southern idea of loyalty:

"The other day two young men were talking on a street in a city. They were diving deeply into fundamental principles. One of them asked the other what loyalty was. Ideas have been so unsettled about what it really consists in that an answer did not come very readily to the respondent. After some deliberation and an anxious, puzzled expression of countenance, the other's face suddenly brightened up. 'Why,' says he, 'I'll tell you exactly what it is: it is swearing to a lie.' Did or did not this young man, in the candid impulse of youth, speak the popular sentiment, or describe in a few words the sort of loyalty which is manifested around us?"

See what the Memphis Argus said of Union men during the rebellion:

"The Daily Memphis Argus of December 2, 1861, contained a paragraph headed 'Hang 'em,' and commencing—

"'Hang 'em! yes, hang them every one! Every East Tennessean, every Tennessean found recreant to the will and interest of the State of Tennessee, and known to be actively contriving with its enemies, should be hung, and loyally.'"

See what the Memphis Appeal says now:

"The confederacy is gone, and while we hold in

sacred reverence its glorious memories, and treasure in our heart of hearts those "few in Sardis who did not defile their garments," those noble breed of men and women who showed most true metal the greater the sacrifices they were called upon to make, and who to the last gave an unreserved allegiance to their country, drinking

"Love in each life-drop that flowed from her breast," we, bitter rebels as we have been, can give the charity of silence to

"The slave
Whose treason like a deadly blight
Crept o'er the councils of the brave
To blast them in their hour of might."

"Yes, we can give him or her the charity of silence. If he sees fit to live in and seek a competence in the land he has betrayed, why let him eat the bitter bread of remorse in peace, and be assured that if a single element of a man remains within him, that bread will indeed be bitter."

Tennessee loyalists begging to have the military retained for the protection of loyal men, and saying that the rebels there are as cruel, malignant, and insolent as ever! This is indorsed by their Governor, the dauntless Brownlow. What do you think of reconstructed Tennessee?

Five hundred loyalists from the mountain fastnesses of Alabama say the same of that State. "They talk of insurrectionary violence yet in Alabama," says Major General Swayne.

The New Era, a loyal paper, published in Arkansas, sums up the whole situation thus:

"Arkansas, as she stands before the country now, can never be admitted upon a footing of equality with the loyal States, and we fervently trust never will until loyalty shall be supreme in the State. Arkansas is no worse than other insurrectionary States; on the contrary, she contains a considerable loyal element of the conservative stripe. But that element is even now in danger, if it has not already done so, of losing the prestige it so far possessed. Certain it is that when once admitted on the floor of Congress, and the military protection of the United States removed, the late disloyal element, which is as much opposed to republican principles as ever, and vastly superior to the loyal element, not only in numbers but brains, organization, wealth, and everything to make a partly successful, will make short work of the present State government, laws, and ordinances.

"Eternal vigilance is the price of liberty": the rebels are seeking to gain by the ballot what they could not gain by the bullet. Congress alone stands between the reestablishment of the power of the old slave oligarchy and the triumph of republican and radical Union principles.

"God grant that Congress remain firm and not abandon the principles for the especial vindication of which the Almighty seems to have raised up this nation."

This is but a type of the whole.

General Grant is sometimes cited as an authority to show that the South is pacified, trustworthy, and loyal. If so he has a queer way of showing it. See what he says in answer to an application from Governor Parsons, of Alabama, for withdrawing the military from that State:

"For the present, and until there is full security for equitably maintaining the rights and safety of all classes of citizens in the States lately in rebellion, I would not recommend the withdrawal of the United States troops from thence. The number of interior garrisons might be reduced, but a movable force sufficient to insure tranquillity should be retained. While such a force is retained in the South I doubt the propriety of putting arms in the hands of the militia."

And I might multiply these terrible proofs to any extent. Do you need any more evidence that the "leopard has not changed his spots?" If so, peruse carefully the official report of General Carl Schurz. He found no loyalty there, only bold, defiant treason.

In not a single southern State have they done justice by the freedmen. In not one have they passed just and equitable laws that will protect him in his rights. The courts are rebel, jurors rebel, Legislatures rebel; the men who fought our flag boast of scars won in behalf of treason as honorable, and receive in reward office, honor, and profit. They do not disguise their hate for Union men; who are excluded from all those honors and privileges because of their loyalty. Freedom of speech, as of old, is a mockery. In the name of God, is such a people entitled to representation on this floor? Are you ready to receive them back now, to make laws for the widow whose husband they have slain; for the orphan whose sire they have murdered; for the maimed and helpless soldier whom they have robbed of arms or legs or eyes, and left him to drag out a miserable life? Is he to be a pen-

sioner upon their bounty? Are you ready now to leave without protection the loyal men of the South both white and black, and hand over the whole power of your Government in those States to their enemies and oppressors? Who are these loyal white men of the South? They who fled to the mountains and the caves; who worshipped the old flag, though it trailed in the dust, with more than eastern idolatry; who suffered loss of home, family, property, all but death itself, for their country.

And the four million black men who were the slaves and under the control of the rebels, who were away from the Union lines and its protection, who only knew God because they saw Him in the stars and heard Him in the winds—for the Bible to them was a forbidden book—they who had only known the flag from the stripes it gave them and the Union from the chains it bound them with; they who from the first sent their morning and evening prayers to Heaven that the nation might live, who furnished our soldiers flying from captivity and death with guide and shelter, food and fire, while the master let slip bloodhounds on the fugitive's track; who of the four millions betrayed a loyal man? Not one who but exposed the traitor master. This faithfulness on the part of those poor, simple, ignorant men is to my mind one of the grandest phases that the war has developed.

How strange the contrast between the slave in his chains and the master who had been pampered by the Government. The former kissed and upheld the rod that had smitten him, the latter smote the hand that had fed him. And yet we are asked at this time to consign these loyal men, both white and black, to the mercy, as I have said, of these rebels and enemies.

I am free to say, Mr. Speaker, that if such is to be the policy of this Government it is all recreant to its high duty; it is unworthy of all the blood shed and treasure expended in its cause; it deserves to perish in its ingratitude and be blotted from the face of the earth.

We are told, sir, that they have ratified the constitutional amendment abolishing slavery. Ay, so they have; but their courts have sold the freedmen into slavery the next day under some pretense of punishing him for vagrancy or something else equally absurd.

You say that they have repudiated the rebel debt. Indeed they have, in form; but how long do you suppose it will be after they get their members back into Congress before they will repeal all such legislation? They will have the power to do so; do you doubt their will? Have they done another thing more important; have they given us any assurance that they in conjunction with their obsequious northern allies will not repudiate the national debt, which they say was incurred in their subjugation?

You say that they have given the colored man a standing in court. Ay, so had Robert Emmett before his English murderers! So had the early martyrs in councils convened to take their lives! So had Jesus of Nazareth in the court of Pilate! A standing in court, with, as I have said, hostile judges, jurors, witnesses, church and state all hostile. Such a standing in court is mockery; it is worse, it is insult.

But we are told that these are "honorable men," and will live up to the oaths they have taken. "Honorable men" who butchered helpless women and crushed out the brains of little children at Lawrence, who murdered in cold blood prisoners of war at Fort Pillow, who stood by with infernal malice and saw the flesh shrink month by month, week by week, day by day from the bones of thirty thousand as brave and noble men as ever went forth to save a nation, until their strong frames tottered, their eyes grew dim, and suffering all the tortures of the damned, gnashed their teeth and wailed for food until the mind went wandering back to home and wife, mother and child, and they called on sacred names and laughed the maniac's laugh, and then moaned and cried for bread, and died for want of food. In this land of plenty, in the land they had gone to save, on the slimy couch where vermin crawled, trampled into the wet earth or over the "dead

line," in tatters, in rags, in awful stench and filth, with dead men in heaps around them, they died, and Robert E. Lee and Jefferson Davis, and all the rest of these "honorable men," stood by upholding the hellish deed. God save the nation from such "honorable men!"

"But what would you do?" says the impatient inquirer. "Are you not weary of war and blood? Are you not for peace and Union?" I am for peace and Union—that peace which will be lasting, that Union which will be just; for the fearful lesson of the last four years will be lost upon us if we have reconstruction without justice—justice to the loyal men, justice to the freedmen. We tolerated injustice to a race until it was wiped out by the blood of a million men. Let us reconstruct now upon solid foundations. We have the power and the right, and it is our highest duty to do so. We should convict and hang for treason the leaders of the rebellion, that all ambitious demagogues hereafter shall be admonished that "treason is a crime" to be punished. Justice, by constitutional amendment fixed beyond the mutations of southern legislation, would give to every class and race of men in those States equality before the law, and all the power and franchises necessary to secure that equality. Justice and a due regard to our national safety would take the government of those States from the hands of our country's enemies and place it in the hands of its friends; and if special legislation is needed to create for the future, as in the past, territorial governments for them to secure those ends, let it be done. And let not any indecent haste to strike hands that are red with our brothers' blood and put on garments that are reeking with the odors of rebel prison pens throw away the opportunity to enforce justice. Take all the needed time to settle these grave issues upon the eternal principles of right, build up the new structure on the rock of justice and equality, so that the waves of war and sedition may dash against it unharmed through all the ages that are to come.

We are the judges, I have said, of the conditions of their return to power.

Congress, the loyal Congress, is to decide who shall take seats here. Loyal men, I am told, have come here as representatives from some of those States; as such men I take them by the hand. But I would ask them, do you represent a loyal constituency? It is the constituency we are rejecting, not the man. I would ask them what guarantee they can give, that when their brief term here is ended, that men in sympathy with their rebellious districts, who can swear hard enough to take the oath, (for they are a nation of oath-takers and oath-breakers,) will not succeed them. They should remember that they were elected while the war was still raging, while these rebel constituents were in the field; now they have returned to vote at the next election, do they expect a re-election from their hands? Can they assure me that they were not put forward for the present by design, to use their loyalty to edge their districts into Congress, and then to be laid aside (as Governor Holden of North Carolina was) as a cast-off mask when the object is accomplished? Suppose we let them in now, what excuse can we give, having established this precedent, for excluding others?

I will yield to none in my regard for the Union men of the South, but I can do nothing to jeopardize the great question of the time. I cannot sacrifice principle in my partiality for men. Congressmen and Presidents are but the objects of the day—

"That strut and fret their hour upon the stage,
And then are heard no more."

They pass away and are forgotten; but our acts here on these great questions will live forever, for the weal or woe of the Republic. We must make no mistakes, but build the edifice slowly and surely. And when the justice we have demanded is secured, the guarantees we ask for are given, and a returning Union sentiment is apparent, then we would lift no longer the veil of horrors, but consign to Heaven, that rights all wrongs, the guilty of our "mis-

guided countrymen;" and united with the South we would seek to lift it up to a purer patriotism and to the level of the olden time, when together we fought the common foe, cherished common glories and traditions, and reposed beneath the folds of a common flag. And then our country will march on to its imperial destiny, the greatest and the best of all the nations of the earth.

Mr. DELANO next addressed the House. During his remarks his hour expired.

On motion of Mr. ASHLEY, of Ohio, the time of Mr. DELANO was extended.

The SPEAKER. It was the understanding of the House on yesterday that there would be time for three speeches to-day by three o'clock. If there be no objection, the Chair will consider it proper to allow three speeches to be made, even should it extend the session till after three o'clock.

No objection was made.

Mr. DELANO then concluded his remarks, which will be published in the Appendix.

Mr. WILLIAMS. Mr. Speaker, nearly two years ago, and while the war was flagrant, I felt it my duty as a member of this body to look into the question of the relations that had been produced by it, the privileges that had been forfeited on the one hand, and the rights and powers that had been acquired on the other, with a view to the readjustment of the whole machine by the restoration of those parts that had been sundered from it by the disturbance. With some, the infirm of faith, the inquiry was thought to be premature. This, however, was not the judgment of the last Congress. It passed a bill which did not meet the approval of the Executive because it interfered with a plan of his own that had not proved acceptable to it, and the question was adjourned without advice from that body, and in such a way as to leave the field open for experiments with which it was not in a condition to interfere.

The people are here again in the persons of their representatives who are the law-making power of the nation, not on invitation but by constitutional mandate, to inquire what has been attempted, and to decide for themselves what shall be done with the Territories that have been conquered by their arms. It is agreed on all hands that they shall be eventually readmitted as members of the common family. It is not pretended by anybody that they can resume their places here of their own mere volition and without any consent of ours. It is not insisted, I think, by any well-read statesman, that our power to exclude depends only on our right to determine upon the qualifications of our own members. It is confessed that there is an organic lesion that forbids their return, and can only be supplied by a new organization which no act of spontaneous generation can produce. It will scarcely be contended now, I suppose, as it was by an eccentric committee of the last House, that our victory was crowned only with a lapse of sovereignty, or that the jurisdiction to restore a lost member is anywhere but here. I shall be excused, of course, for returning to this subject under circumstances that not only invite but compel its discussion. If it was not proper for Congress to prescribe in advance the law that was to govern this question in the last resort, at all events, while other agencies, mistaking perhaps its backwardness for an abdication of its rightful powers, were industriously employed in forestalling its own action, it is no longer possible, in view of what has occurred since the last adjournment, and of the forces that have been mustered to overbear our deliberations here, to avoid a conflict that has been so long foreshadowed.

To determine this great question, the greatest by far that has ever challenged the deliberations of an American Congress, it is important to inquire, in the first place, what is the posture of these Territories as it has been affected by the progress and results of the war, which has just been determined by their enforced submission to the authority of the nation?

So far, at least, as armed resistance is concerned, it may be assumed that the war is at an

end. The deluded communities that have so wantonly insulted this Government and defied its power now lie conquered, and helpless, and in social ruin at our feet, deprived, by their own act—I will not say, in the language of the proclamations that have been addressed to them, of "all civil government whatever," but certainly of all the organism that was essential to the maintenance of their old relations to the Union. To claim any more than this would be to assume a condition of anarchy where there is still a "supremelaw" under the Constitution, and where, even in the absence of such a rule, the territory reclaimed must necessarily pass under the jurisdiction and law of the conqueror. Taking it, however, to be true, as stated, then, by necessary inference, the civil law of the Union is dethroned, and its military power is all that remains to hold these States in subjection to our authority. In point of fact, we do so hold them now, except so far as they have been surrendered to the enemy, without other law than our own sovereign will. The supreme executive functionary of this nation, who, by virtue of his office, is the Commander-in-Chief of its armies, feeling that they were not in a condition to be trusted to themselves, instead of sheathing the sword, convolving the representatives of the people, advising them that these provinces were tranquillized, and submitting to them, as the law-making power, the grave question, what is to be done with them? has preferred to await the usual period of our assemblage, and appointed his lieutenants and proconsuls to govern them in the meanwhile with the aid of armies, and the terrors of that arbitrary code which is known by the name of martial law. We are here now, however, and it becomes our first duty to relieve that officer from this unusual and inappropriate task, and to furnish some security to the conquered people by the substitution of another and a gentler rule.

I would not be understood, however, as questioning the exercise of a sovereignty like this, so long as it was necessitated by the absence of a legislative power, since that is but a logical consequence of the position previously maintained by me on this floor, that these States had ceased to be members of the Union, and passed into the condition of Territories. If they continued to be States, within the meaning of the Constitution, the moment the resistance ceased it would have been the duty of the Executive to withdraw the armies, and they would have at once resumed their *status quo ante*, with all their constitutional rights and privileges unimpaired. If they were still States, all that has been done since, even though the power of Congress had been invoked to authorize it, would have been the clearest of usurpations. Taking them, however, to have been "deprived," in the language of the proclamations, "of all civil government whatever," it was but a legitimate inference of the Executive that they had not only forfeited their elective franchise, and lost their property in slaves, but placed themselves in a condition where they were no longer entitled even to the benefit of the constitutional guarantee without a new birth. The idea of any State, except that of nature, without any "civil government whatever," is as incomprehensible to me as that of a State being in the Union, or indeed anywhere, that is admitted to have no existence whatever.

No more would I be inclined to quarrel with those who, starting from these premises, are still disposed to insist that these States were never out. The difference is perhaps only the result of a want of precision in the use of terms, or a diversity of opinion in regard to their meaning. Mr. Burke has furnished us with a distinction here that meets the case precisely. "The word State," he remarks in his letter to Sir Hercules Langrishe, on the subject of the extension of the elective franchise to the Irish Catholics, "is one of much ambiguity. Sometimes it is used to signify the whole commonwealth, comprehending all its orders, with the several privileges belonging to each. Sometimes it signifies only the higher, and ruling part of the com-

monwealth, which is commonly called the government." In the former of these senses, it is not to be doubted that these communities still exist, and are in the Union, or of the Union, because their territories belong to it, and their people owe it allegiance. In the latter, however—and that is the one that connects them with our political system, as the proclamations concede—they are admitted by the same proclamations to have been destroyed, and can, of course, be nowhere. And this will be found to reconcile the apparent contradiction between the language of the proclamations and the accordant practice of the Government on the one hand, and the theory of those who are supposed to speak its opinions, and infer from some unhappy phraseology of the former, as well as from the more recent utterances of the message, the repugnant idea that there was a constitution of government left existing amid the general wreck, in a case where it had been previously declared in terms that there was "no civil government whatever."

There can be no real dispute, therefore, between the Executive and his northern friends as to the posture of these dilapidated members. Their entire treatment by him shows that they have only been regarded practically as conquered provinces. I deprecate, however, the encouragement that has been given to the enemies of the Government by the promulgation of the fallacious doctrine which has found so ready a currency among the disaffected of the North, and has proved so welcome to the unrepentant rebels of the South, that these disorganized States have never ceased to be members of the Federal Union. That is the present theory of every traitor, North or South, who has been insisting for four long years of war on the right as well as the fact of secession. With strong assurances of pardon, they can well afford to risk the consequences of treason by repudiating the belligerency upon which they have heretofore claimed immunity for their crime, if it will restore them to their original rights, and serve them as an argument against the legality of the proclamation that has stripped them of their property in slaves. Grant them the postulate that all their acts of secession were not a fact, but a nullity—that the crime which they committed was impossible, because it was forbidden—and if they cannot invalidate the war and the debt that was made by it, they will at least stagger your courts with the question, by what authority under the Constitution you have presumed to deprive the people of a State within the Union, by proclamation and without judgment of law, of any of their franchises or property. They will admit it now as an incident of the war—if there was a war, or could be where there was no secession, and therefore no belligerent—so far as the thing was consummated by an actual seizure, just as they are now ready to confess that the right of secession has been disproved by the logic of the sword, which means only by their present inability to maintain it by that argument, while their northern brethren still assert the very heresy upon which it rests. But once in, they will take you at your word, and insist that all your intermediate acts were nullities as well as theirs.

Agreeing, however, as we all do, that these States, without any local law or governments of their own, have passed under the law of the conqueror—and the attempt to reorganize them by Federal authority is an admission of it—the next question, into the discussion of which we are now prematurely hurried, is not how they are to be governed until they shall be in a condition to return—because that seems to have been assumed to be no business of ours—but whether that condition has been reached, and what are to be the agencies and terms through and upon which this consummation is to be effected.

If there be any one question that more than another falls within the exclusive cognizance of the people of the loyal States, and deserves and demands the thoughtful consideration of their Representatives, it is just this. Eleven of the columnar supports of our political edifice are now lying around us, like the giant columns

of Tadmor and Palmyra, with shaft and capital and architrave alike shattered by the mighty convulsion that has laid them all in ruins. Where is the hand that is to lift these columns to their place? Who is it that shall reunite the dissevered fragments, and wreath the ivy over the towers that have been rent from turret to foundation? What are to be the process and the conditions on which these great criminals, who, "like the base Judean," have wantonly flung away "a pearl richer than all their tribe," are to be readmitted into the enjoyment of the privileges they have rejected and despised, and received again into the fellowship of the men they hated, and the confidence and honors of the Government they have only failed to destroy because it has proved too strong even for a degree of treachery that has no parallel in history? How far are these baffled parricides to be trusted again, now that they are vanquished, and without power of resistance, after such an experience, after so bloody a lesson as they have taught us, and what are the guards that will be required to prevent a recurrence of any of the evils from which we have just escaped? All these are problems which, however simple they may have been considered in some quarters, might well embarrass the profoundest of our statesmen, and which all the collective wisdom of the nation will not be more than sufficient to solve. The war itself, stupendous as it has proved, was nothing in the comparison. There never was a reasonable doubt as to the suppression of the rebellion, provided the loyal States should prove true to themselves. It was a purely arithmetical problem, of which the elements were within the reach of everybody. If all the slave States had been united, eighteen millions of northern freemen, with the credit and resources and prestige of this great Government on their side, and man for man the peers of their enemy, were sure to subdue less than one half their number, with four millions of a disaffected population in their midst, as soon as they were allowed to strike at the heart of the rebellion, and it came to be understood that it was to be a war *à l'outrance*. The only real danger was in the prospective and inevitable process of reconstruction. It was a question only whether there would be wisdom enough in the councils of the nation to profit by the heroism of our soldiers in the field, or folly enough to throw away the fruits of the many sacrifices that this long and bloody war had cost us, by ignoring our past experience, and rushing with headlong precipitation and immature resolve into measures of restoration, resting on no system or principle, and reserving no guarantees for the future. We have just reached that point. The rebellion, so far, at all events, as armed resistance is concerned, is over. We still tread, however, on the ashes of an unextinguished volcano—"supposito cinere doloso." "An earthquake's spoils are sepulchered below." The ground still heaves and trembles; the fiery flood still surges and pulsates beneath our feet; and already, almost before the thunders of our artillery have rolled into the distance, and while the smoke of battle is still upon the plain—without a moment's pause to survey the wide field of ruin, and reach forward, if possible, with telescopic vision into all the bearings and all the remotest possible consequences of the act which we are called upon to do, a childish impatience is urging us upon a path where angels might fear to tread, and expecting us to crowd the structure of an empire—the ordinary work of centuries—into the deliberations of an hour.

Upon considerations such as these I would have preferred to wait until the two Houses, acting in their legislative capacities, and in the spirit of statesmen who are charged with the interests of half a continent, had matured some plan which would secure uniformity in our proceedings here, while it furnished to the whole country—to the loyal people of the returning States as well as to ourselves—all the safeguards which the circumstances of the case required. My judgment is that you can proceed lawfully in no other way. If restoration is the object;

if these State governments have been destroyed and must be organized anew; if the people of these States must be enabled to restore them to their old relations and put them in a way to entitle them to claim the benefits of the constitutional guarantee through the agency of the Federal authorities; if they must be readmitted; if the guarantee is to be fulfilled—all which things are conceded by the proclamations—then it is as clear as sunlight that nothing short of an act of Congress, a law in all its constitutional forms, can accomplish this work. But I am in no hurry even as to this. *Festina lente* is the motto for a statesman. States are of slow growth. A century is but a day in the life of a nation. A great poet has said—

"A thousand years scarce serve to form a State;
An hour may lay it in the dust."

To heal the wounds inflicted by a four years' civil war is not the work of a day. If we would do it well we must imitate the processes of nature, beginning at the bottom and working slowly to the surface. Sound statesmanship would declare in favor of this course in any case. It would tolerate no other where there is so little excuse for precipitancy, where there is no real pressure except that which is invited by ourselves, and where a mistake once made, however disastrous in its effects, would be absolutely irremediable. That privilege is, however, denied to us. Though we had declined to court this issue by going out to meet it, it has come to seek us here, and if we have not been allowed to provide by law, in advance of the occasion, a rule which shall govern all cases, we must at least meet it in the more questionable shape in which it presents itself, though under disadvantages not unlike those we had to encounter with the same parties at the beginning of the war.

The present Executive of the nation, acting upon the prevalent idea that it is the duty of the Government to take the initiative step in the process of restoration, instead of awaiting any spontaneous action or the expression of any desire on the part of the people of the rebel States to return to their original relations in the Union—which could be only properly conveyed by an appeal to Congress—has, in the recess of this body, and on the cessation of active hostilities in these States, concluded it to be his duty to direct their organization, along with the process by which it is to be effected, in order to entitle them to the benefit of the constitutional guarantee, and has accordingly indicated his plan in a series of proclamations, which are all of the like tenor, though differing in some respects from the plan of his predecessor. The presumption was that they would in all instances conform to the law that he had prescribed for them. Having so complied, they would naturally expect that their immediate lawgiver, although then understood to admit the ultimate decision to rest with Congress alone, would recommend their admission, and enforce that recommendation with all the influence that he could lawfully exert. It becomes important, therefore, to look into that process, and ascertain whether it was consistent with the spirit of our institutions; whether it rested on any correct view of the relations with which it had to deal; and how far it was calculated to secure the object for which it was professedly contrived.

These proclamations all recite and rest upon the constitutional obligation to guaranty to all these States a republican form of government. They do not declare the war to be at an end, but the contrary. They speak in the name and by the authority of the Commander-in-Chief, as well as the supreme civil executive magistrate of the United States. They assert that the rebellion has "in its revolutionary progress deprived the people of these States of all civil government whatever," and for the purpose of enabling the loyal people thereof to organize State governments, by virtue as well of the military as of the civil power vested in the Executive, commission sundry individuals as provisional governors for the occasion, with power to prescribe rules for the assemblage at the earliest practicable period of conventions

of delegates, to be chosen by that part of the people which is loyal, for the purpose of altering and amending the constitutions thereof, and with authority, moreover, to exercise all the power necessary to enable such loyal people to restore said States to their constitutional relations with the Federal Government, and to present such forms of government as will entitle them to the guarantee of the United States, and their people therefore to protection against invasion, insurrection, and domestic violence—with the proviso, however, that no person shall vote, or be eligible as a member, without having previously taken an oath to support the Constitution and Union of the United States, and all the laws and proclamations made during the rebellion with reference to the emancipation of slaves, and without having been duly qualified as an elector by the constitutions and laws of these States in force before the adoption of the so-called ordinances of secession. And they further enjoin upon the military commanders of the particular departments, and all officers or persons in the military and naval service, the duty of aiding and assisting the said provisional governors in carrying these proclamations into effect.

A careful analysis of these instruments will be found to result in the development of the following leading propositions:

1. They admit the continuing existence of a state of war, and profess to rest on the twofold authority of the President as Commander-in-Chief of the Army and Navy of the United States, as well as supreme civil executive magistrate of the Union.

2. They declare the people of these States to have been deprived by their own acts of all civil government whatever.

3. They confess the necessity of a new organization for the purpose of restoring their constitutional relations with the Federal Government, and presenting such form of government as will entitle them to the benefit of its guarantees, and therein admit that they are not so entitled in their present condition.

4. They concede that the new organization must receive its impulse and direction from without, and be assisted by the coöperative action of the Federal authorities.

5. Confessing, however, that these States are not now entitled to the benefit of the constitutional guarantee, they assert, in effect, that under it the Federal Government is bound to place them in a position which will enable them to claim it, and assume that the fulfillment of that guarantee is a purely executive function, to be performed in such a way as the judgment of the President may determine.

6. They direct, accordingly, the assemblage of conventions at the earliest practicable day, and define and ascertain the qualifications of the voters.

7. In fixing these qualifications they adopt a standard that is entirely new, by limiting the franchise, not to the white men generally, but to such only of the people who were invested with that prerogative under the government that is admitted to have been destroyed as are loyal, and will swear to support, not the Constitution only, but all laws and proclamations during the rebellion having reference to the emancipation of slaves.

8. Admitting, moreover, that these States are without any civil government whatever, and that they must necessarily organize anew, they insist that it shall be done upon the partial recognition of a government that has been destroyed, by a process, not of organization at all, but of amendment and alteration only, that shall work simply on that part of the defunct corpus which was left untouched by the ordinances of secession, and whose continued existence would involve a denial of the right of Federal interference, and is in direct contradiction of the premises on which these proclamations rest.

9. They look, moreover, to the employment of the military arm in the execution and enforcement of the scheme of restoration which they involve.

With all proper respect for the Executive, I am constrained to say that there are evidences here, either that these proclamations could not have been considered or digested with the care which so great an occasion would seem to have demanded, or that the case might not unprofitably have been transferred from the other end of the avenue to its appropriate forum in the great council of the nation, assembled here to deliberate upon its interests, and vested exclusively with the high power of legislating in regard to its Territories, of admitting new States, and of fulfilling all constitutional guarantees. My reasons for so thinking will, however, be better understood from the remarks I have to offer on the several propositions which I have extracted from them.

It may be safely affirmed, I think, that the existence of a state of war, whether that war be openly aggressive and demonstrative in its character, or exhibiting itself only in sullen discontent or disaffection or hatred of the Government, such as to necessitate the presence of a military force to compel obedience to the national authority or to prevent a seizure of the local power, is utterly irreconcilable with the idea of such an organization as the genius of our institutions and the very texture of our Government would demand. Without the spontaneous and unrestrained volition of the majority of the people, I cannot conceive the idea of the existence or constitution of a republican State. A form of government erected by or for a minority of the people, and depending upon armies for its existence or support, would be the merest mockery of a republic, and could not be recognized here consistently with the terms of the constitutional guarantee. It is a self-evident proposition that so long as it requires an army or a Federal legate—whether called by the name of provisional governor, lieutenant, commandant, proconsul, or pretorian prefect—to govern it, it is not in a condition to perform that task itself; and the very appointment, which would be otherwise unlawful, is a confession of it. While the Executive holds the Territory within his grasp as the Commander-in-Chief of our armies, he holds it under military law—which is the only law he can administer—and by a power that is absolute; and it is idle to talk about the restoration of the civil authority by the voluntary act of the people themselves, because he is essentially supreme. The power he wields is above the law, and silences the law. There can be no two codes, no divided *imperium* here. The man who so rules is essentially a dictator; and it makes no difference in principle whether he prescribes the law for a good purpose or a bad one. It is impossible that the people should act freely under such a domination. It is only when it ceases that they can truly be regarded as their own masters. The jealousy of our fathers has guarded against the very presence of the military on the election ground, even where the civil law reigned, and the subordination of the military was unquestioned. Where it knows no law, however, except its own will, and stands by to direct and execute that will, the acts done, which would be clearly invalidated thereby in the States, are its own. If it assembles conventions and names the voters, they are its creatures. If it elects Congressmen, they represent it only. If the product of its imperial rescript is a republic in form, it is a republic engendered from the decomposing remains of the dead sovereignty, under the fierce embrace of the military power—a republic hatched into life by the spirit of despotism brooding over a chaos of ruin. To say that a monstrous birth like this, tearing its way through the entrails of the State—a delivery by the sword—assisted by the matronly offices of a provisional governor, and graced by a more than royal attendance in the high functionaries of State, “the military commandant of the department, and all officers and persons in the military and naval service,” who are expressly summoned to be present on the august occasion—is the legitimate offspring of a free people, or has any of the features of a republic within the meaning of the Constitution, is to draw largely

on the imagination. Freedom recoils aghast at such an apparition, and shrieks out “death!” Nor will it be sufficient to assert that these sword-bearers were not actually present in the body, and that therefore no control was exercised over these provincial councils by their creator and lawgiver. We know that when the fiat went forth publicly to the hesitating synod of North Carolina that the debt of the rebellion must be repudiated, every knee went down in humble submission to the orders of the Commander-in-Chief. We know, too, from the very recent message of the rebel general and Governor of Mississippi, Humphreys, who was pardoned specially to qualify him for the place, that it was “under the pressure of Federal bayonets” that the people of that State “have abolished the institution of slavery;” and it is not uncharitable to infer that the members of all these bodies knew precisely how much would be expected of them, and were prepared to do the will of the Executive, even though it had extended to suffrage for the black man. Disguise it as we may, these so-called constitutions of government are but articles of capitulation after the fact; treaties between that officer, dealing with these questions as an absolute sovereign, and the chiefs of the rebellion; terms dictated by the President as a conqueror, in accordance with his own individual and imperial will; agreements reluctantly conceded by them, as the condition not only of pardon, but of restoration to power, but almost invariably repudiated by their followers in the refusal to ratify them by sending men here who were qualified under the laws of Congress to take their places amongst us. That they are so considered, even by themselves, is shown by the recent correspondence between the high contracting powers, represented by our Minister of Foreign Relations on the one hand and Governor Orr of South Carolina on the other, in which it is declared by the latter that the State convention, which he admits to be a revolutionary body, had been dissolved “after having done all that the President requested to be done.” It is shown, too, more strongly in the letter of the rebel General Hampton to the people of South Carolina, declining to be a candidate for Governor, on the ground that it might embarrass the Executive in his benevolent designs in favor of the South. Though not approving all that was conceded by the convention, he recommends their acquiescence in what he treats as the demands of the conqueror, on the ground of necessity, and for the special reason that the President “had exhibited a strong disposition not only to protect the South from the radicalism of the North, but to reinstate them in their civil and political rights.” “It may be assumed,” he adds, “that when the forms of government are restored, and freedom of speech allowed to us, your late convention will be subjected to harsh criticism, and its action impugned. Should such unhappily be the case, remember that you, the people of South Carolina, accepted the convention as part and parcel of the terms of your surrender. The President had no shadow of authority, I admit, under the Constitution of the United States to order a convention in this or any other State; but as a conqueror he had the right to offer, if not to dictate, terms. The terms offered by him you have accepted. I do not myself fully concur in all the measures adopted by the convention, but I shall cheerfully acquiesce in the action it took to carry out faithfully the terms agreed on. Entertaining these views, I think it our duty to sustain the President of the United States so long as he manifests a disposition to restore all our rights as a sovereign State. Above all, let us stand by our State. Her record is honorable, her escutcheon untarnished.” When a man like Hampton speaks of “the radicalism of the North,” we know that he intends the Union party of the free States, who favored the prosecution of the war and elected the President himself, and the men whom they have sent here to declare their will; and it is on the disposition of the President to protect them from his own friends in the country and in these Halls—the

feeling that they could make a better bargain with him, and were safer in his hands than in those of the people and their Congress, that without one word in favor of the Union, but with an earnest invocation to the people to stand, above all things, by their own honorable and untarnished State, he urges them to support, not the Union, but the President, and him only “so long as he manifests a disposition to restore all their rights as a sovereign State,” including, of course, the transcendent and inalienable right of secession. And the Executive responds to this presentation of the case by informing us in his late message that we have nothing to do with the terms of settlement; while the gentleman from New York, [Mr. RAYMOND,] who is supposed to reflect his opinions, is candid enough to put his vindication of the special requirements of that functionary on the same grounds, and in language almost identical with that of the traitor Hampton. It is a waste of time, however, to labor a point like this. If the orders of the Commanding General, as enunciated through the proclamations themselves were in point of fact obeyed, it is sufficient for the purposes of this argument. To deny his control over the creatures of his own will, because his subordinates did not stand over their deliberations with a drawn sword, would be the merest of subterfuges. As well might it be said that the Maker of all things, who launched the circumambient orbs through the immensity of space, and prescribed the law of gravitation for their government, was exercising no control, because He was not on sleepless watch at the center of the system, and telegraphing his special orders to Neptune and Uranus by way of keeping them on the track as they sped their unerring way through the mazy labyrinth of the stellar worlds.

It will be urged, however, as it has been, that this was a measure of peace; an instrumentality essential to the tranquillization of those States; a part of the process for the restoration of order that must precede the withdrawal of the national authority, and would enable the loyal people there to dispense with the further presence of its armies. The answer is, that if it was intended to place the reins in the hands of the loyal minority of white men, while it confesses a condition of things where a republic is impracticable and an election would be an absurdity, it could insure no peace and no permanent ascendancy to that element without continued protection, because it required a military power to inaugurate it, just as is now admitted by Governor Brownlow to be the case in Tennessee; and if it was intended merely to restore the disloyal majority who governed before the rebellion and hurried these States into it, then it was unnecessary. The idea is, in plain English, if not to make them our masters, at least to free them from our authority in the first place, in the hope that it will secure peace and submission in the future. I cannot consent to any such arrangement. I do not comprehend the value of that tranquillity which is only to be purchased by the abdication of our power, whether it be by the withdrawal of our troops, the restoration to the enemy of the arms that he was compelled to lay down on the last of his battle-fields, or the invitation—I should rather say command—to him to share our counsels in the adjustment of the results and the responsibilities of the war. If this be peace, it might have been secured at any time, with only the waiver of our right to insist that they shall sit down on the judgment seat and divide the empire with us. It may be secured now by allowing them to resume their power and places here upon the cheap consideration of a temporary acknowledgment that the negro is no longer an article of merchandise, because all their chances of success in this rebellion now depend on a change of weapons and the retransfer of the theater of war to the arena where it began. I say in this rebellion, because I am not sanguine enough to consider it at an end, as a very recent opinion of the Attorney General transmitted by the President, admits it is not. There are those, I know, who cannot comprehend a state of war

unless it comes home to their grosser senses in the rude shock of battalions and the groans of the wounded and the dying, and think, therefore, when the standard drops from the nerveless grasp, that this is peace. It is to form a very inadequate conception of a kind of arbitrament that depends as much on skillful tactics as on hard knocks. Resistance does not always cease when its arms are stricken from its hands. The victory is not always to the strong. It is as often the guerdon to the wise. True, we have conquered these people in battle, but what of that? No man was ever converted from an enemy into a friend by the summary logic of shot and shell.

"Who overcomes

By force, hath overcome but half his foe."

The demoniac spirit that animated this rebellion, the same that mutilated and starved and butchered our martyred heroes, that inoculated the veins and rotted off the strong arm of the northern warrior with the deadly venom of the lazarus-house, that baled the yellow fever as merchandise for this capital, and that ended by assassinating our President, still lives, unrepentant, unsubdued, ferocious, and devilish as ever. The battle still rages, as it did in these Halls long before the outbreak of the rebellion, but under a new phase.

"What though the field be lost?

All is not lost."

If arms have failed, there are other weapons, rejected by the South in its blind and unreasoning arrogance, which have proved in other times more potent in its hands than the puny sword that has just been shattered like a potsherd in its collision with the iron muscle of the sinewy laboring man of the free States. A bloody experience has taught them their mistake in crossing swords with the soldiers of the North instead of fighting the battle in the Union, and relying on the folly of its statesmen and the superior address that harnessed its fierce democracy to their triumphal car and made them the masters of the nation until the period of their revolt. Hurling to the earth like their great prototypes in crime, how natural to find the like consolation in the reflection:

"Henceforth their might we know, and know our own:

So as not either to provoke, or dread
New war provoked; our better part remains
To work in close design, by fraud or guile,
What force effected not."

But this is not the peace that we have been endeavoring to secure. This is not victory, but defeat—just such defeat as that which follows the astounding paradox that our supposed triumph on the Appomattox, that made every heart leap with joy, has only purged the guilt of our enemies and reinstated them here with no right impaired, to "beard us in our hall" and "push us from our stools." There is nothing, therefore, in the argument to drive us into such an inversion of the natural and logical order as would be involved in the imposition of State governments by the military arm, any more than there is to hurry us into a premature and ill-adjusted scheme of restoration, when there is abundant leisure to arrange our plans, and a false step would be irrevocable. I want a real peace before reorganization and readmission here. Invert the order, and we shall have no peace. It will only amount, as I have before hinted, to a change of weapons, and a retransfer of the seat of war to these Chambers, whence they went out four years ago to try the bloody issue that has been determined against them, just as they had before gone out in couples to seek the blood of some northern Representative.

And now, as to the admission that the people of the seceding States have been deprived of all civil government whatever.

During the last Congress, as I have already remarked, I took some pains to show that these States were, by construction of law as well as in point of fact, outside of the Union, because it was apparent that the whole question of our power to deal with them in such a way as to realize the legitimate results of the war and exact the necessary securities for our future

peace, must depend on the relation in which the war had left them. The phraseology, though sufficiently precise, was not perhaps as well chosen as it might have been to exclude the idea either that they were out rightfully as States, or out in point of fact territorially. The "*rari nantes*," the few citizens of those States who, though outlawed by the belligerent relation recognized by our courts, as well as by the whole conduct of the war, and positively established by our legislation here, still remained "faithful among the faithless" would naturally protest against a form of expression that seemed to shut them out from the relation of citizens, and to give them the character of alien enemies; and it is perhaps, therefore, no great matter of surprise that the doctrine should have found so little favor in high places. I do not care to reargue that question now, because it is perhaps not material. Taking the word State as contradistinguished from that of Government—for which there is unquestionably an example and a warrant in the language of the constitutional clause of guarantee—to mean, as it has been defined by so great an authority as Mr. Burke, "the commonwealth at large, with all its orders and all the rights belonging to each," and not "the ruling or governing power," it may be admitted without damage to the argument that they are still in. In that aspect of the case it must signify the territory, or the people, whether black or white, loyal or disloyal, or both. It cannot be the territory only, because it would then continue to be a State, although deprived of its inhabitants as well as of its government, in which case it was never pretended that it was out. It cannot mean the people only, because that would make them a State, though all disclaiming their allegiance, or all alien enemies, and owing none except such as was qualified, and temporary, and purely domiciliary. In this sense it is a compound idea, of which one of the elements is necessarily a loyal people, and a perception of which is discernible in the fact that under the plan of the proclamations the voters are to be confined to the loyal, or at least that portion of them which has the accidental advantage of having straighter hair or somewhat whiter skins than the residue.

It is enough for my purpose, however, that their political organizations, through which only they can maintain their appropriate relations to our governmental system, have been, as it is admitted they are, entirely destroyed; a point which could not be well contested in view of the common-law rules that govern in cases of public or municipal as of merely private corporations. The proclamations go further in affirming that they have been "deprived of all civil government whatever," which would imply a state of anarchy, and ignore alike the law of conquest and "the supreme law" under the Constitution, and thus exude them from the Union by a strict logical necessity. By this, however, the President intends, no doubt, the local governments alone. He cannot affirm a condition of anarchy, as this would be, so long as he maintains that they are still in the Union and subject to its laws, or in even asserting, as he does by the proclamations themselves, the continuing jurisdiction and authority of the national Government over them. Without any government whatever there can be no social state except that of nature. It is as impossible to conceive the existence of a civil or political State without an organism, as it would be that of an animal or vegetable body in like predicament. Stripped, however, of all the political organizations that held them together as members of this Union, they must of necessity have lapsed into a condition where everything was lost except their territorial relations and identity. In this condition, however, of local dissolution, it is admitted on all hands that they are without powers of self-resurrection; that without governments themselves they must receive their impulse from without—from their only remaining sovereign; and that these dry bones, these festering, decomposing elements must at least be breathed upon in order that they may live; and therefore it is that the Executive Magistrate, in the exercise of what

he conceives to be his duty, undertakes to impart the required movement by preparing and adjusting the whole machinery, setting it in motion with his own hand, and even prescribing the law by which that motion was to be governed. Whether these States are in or out, is no longer a question, when the rupture of their connections and their own incapacity to restore them without the direction of the ultimate sovereign, are admitted elements in the case. All that remains is to decide where this transcendent power is lodged, how it is to be exercised, and who it is that is to speak this chaos into order, and to recreate from this admitted anarchy, the future organism that is to claim its place in our system.

The proclamations assume that this high and imperial function is a purely executive one, and that on the ground of the constitutional obligation on the part of the United States to guaranty to every State in this Union a republican form of government, and the duty of the President to see that the laws are faithfully executed. It is only on the hypothesis either that this officer is, not in the modest language of Louis XIV, the State, but the United States; or that this executory agreement is in the nature of a law which may be enforced by the instrumentality of the sword, and without the exercise of any discretion on the part of its minister, that the case can be claimed to fall within the province of the executive department. The former of these views, which seems to find support in the argument of the gentleman from New York, I shall not trouble myself to answer. If the latter were true, and the duty itself a purely ministerial one, the claim would be unquestionable. It is so far from being true, however, that it would have been impossible even for Congress itself to provide in advance by any general enactment for the many different cases that might arise to demand its fulfillment. They have not even yet decided what is to be considered a republican form of government within the meaning of the clause, or how it is to be erected in case of the overthrow of any of the existing State governments. They have endeavored, it is true, to provide for these cases, but have been met by the argument that it would be time enough to cook their hare when it was caught, or the objection that the Executive had a better "plan" than their own, which was in itself a confession that it was a matter of doubt and discretion, and anything but the performance of a ministerial duty. That plan, like the present one, involved no less a task than the reconstruction of a State from its very foundations, and the declaration of the law that was to govern in the prosecution of that work. In the former case, the power was conferred on a title of the voters who might take the oath of allegiance and forswear the institution of slavery. In the latter, it is confined to the loyal men who had voted before, without reference to their numbers, and without any definition of the term, although it was clear that there was scarcely a loyal man in those States except those who were excluded. But will anybody say that the proclamation of the fundamental law of a State is an executive function? If there be any higher act of sovereignty than that which founds or reconstructs a State, and gives or denies the elective franchise to any of its citizens, I do not know what it is. The man who makes the elector makes the laws and the magistrates, and is practically in the enjoyment of a dictatorial power. There are occasions in the extremity of a State when such a power may be necessary for its safety. Nobody has questioned the right of the Executive to govern the conquered territories—and that by the rigors of martial law—in the recess of Congress and the absence of any other rule. No man has gone further than myself in the support of measures which were necessitated by considerations connected with the public safety. I can very well recollect the time when gentlemen upon the other side were startled by the boldness of my claims in favor of a quasi dictatorial power in the Executive, and Democratic presses held me up as the champion of absolutism. Then, however, it was

claimed but as the extreme medicine of the State, and not its daily bread; not to found an empire, but to save one. Thank God! the occasion for these things has passed away. It is no longer permissible to resort to the war power for apologies for extreme measures, and particularly such as are obviously unnecessary. But there never was anything in that power to warrant the erection of a State by executive proclamation. That is an act of legislation that goes far beyond any example in British history, even in the complying times of Henry VIII, when a servile Parliament made itself alike memorable and infamous by giving to royal proclamations the force of law. I trust we are not yet ready to emulate and even improve upon this example. I do not relish the exhumation from the repositories of the dead past of such engines of arbitrary power as these. I would as soon think of going to the Tower of London to borrow the material appliances that are still there to testify of the tyranny and barbarism of the buried centuries of England. There is a flavor about them that is neither pleasant nor wholesome. If the work done through such instrumentalities had been in all respects what my own judgment would have approved, I should have hesitated long, on grounds of principle, even in the absence of any intended interference with the rights of this body, before I would have given my sanction to a precedent so fraught with mischief for future times. I would not even mar the pedigree of the returning States by allowing a bar sinister in the escutcheon of any of them. I do not care to be associated in history as a member of the Thirty-Ninth Congress of the United States along with the dishonored council of the sixteenth century that betrayed the rights of Englishmen by abdicating its powers in favor of such claims as these. Crown lawyers have only defended them in high prerogative times as an expedient made necessary by the infrequency of Parliaments. There is no such apology in these cases. The very object, as confessed by the undisguised hurry to bring these new governments to our doors at the opening of the session in full panoply and compact array, was to anticipate the action of Congress in the premises. The present Executive, like his predecessor, has his plan of organization. The proclamations disclose it. He had a right, of course, to his opinions. He was, however, a southern man, and a citizen of one of the offending States. He was not likely, therefore, to think in the same way precisely as the twenty millions of the loyal States who had fought this great battle. He had never, if I mistake not, declared himself very strongly against slavery, except so far as it was in antagonism with the Union. His local associations and prejudices of education were *a priori* almost sure to arrest him at that point where a guarantee of the civil rights of the enfranchised class should be demanded. He had been loyal and faithful under great trials. That fidelity had made him the choice of the Union party of the North for the second office in the Republic. The bloody hand of treason opened the way for his succession to the first. It had become his right to advise, and his opinions were entitled at all events to the highest possible respect, but the mode of enforcing them was pointed out in the Constitution. It was only through Congress that he could properly make them known, and the very relation in which he stood toward the loyal States seemed to make it peculiarly appropriate that he should take no step without at least conferring with their representatives. He has not chosen to follow this course. He has preferred to treat directly with the rebels themselves, or to dictate as a conqueror such terms of restoration as were agreeable to himself. I will not say that this was done because he apprehended the existence of a different opinion here, but the effect is, that the opinion of the Executive hurried into act in advance of our assemblage—supposing such a difference not impossible—is thus staked against the will of the representative body. It is the sword of Brennus flung into the scale. It looks to me—nay,

in the light of the message it is—a challenge to Congress and the free North upon a question of jurisdiction in a case where their exclusive cognizance is not even open to dispute, which we cannot afford to decline, and upon the acceptance or refusal of which will depend the determination of the point whether, in the face of an executive edict, an opposing legislative will is possible.

If a claim of this sort was stoutly and successfully resisted by our ancestors, when asserted by the Tudors and the Stuarts, how are we to excuse ourselves to posterity for surrendering it now to a mere temporary Executive of our own choice, with powers so limited and so accurately defined? I trust we have not become so habituated to the exercise of a prerogative like this as to have forgotten that there are boundaries, which in a state of peace no department of the Government can safely be allowed to pass. The danger throughout—the one prefigured by some of the leading spirits of the Revolution; the one foreshadowed when Patrick Henry declared, "Your President will be a King"—has been in this direction only. The vast discretion necessarily lodged in the Commander-in-Chief in times like those through which we have just passed, the extreme prominence of his position, and the enormous influence arising from the control of an immense expenditure, were almost sure to give to that officer a greatly preponderating weight, and to make the world—accustomed only to royal laws and royal rule—believe that it was the President alone, and not the Congress or the people, who had saved this nation, and whose business it was to restore it in all its parts. And therefore it was that the same claim of power in the proclamation of December, 1863, provoked no animadversion here, while the details of the presidential plan were subjected to the severest criticism; and no special complaint was made when the will of the law-making power was disregarded and overruled. And therefore it was, too, that the House bill failed on a second trial. And for the same reason it is now that the press and politicians of the nation, instead of controverting the power of the Executive altogether to meddle with the reorganization of these States, and denouncing the attempt on his part as a clear usurpation, have only complained in whispers and with "bated breath," that he did not extend the right of suffrage to the black man, while even so intelligent a personage as Robert Dale Owen has referred to this work of reconstruction as the greatest of the many difficult and responsible duties which the termination of the war has devolved on the new President; and even the fierce Democracy itself, which made the night of the rebellion hideous with its insulations about arbitrary power, is either smitten dumb with admiration, or swells the peans of triumphant treason with a chorus of hallelujahs in honor of the wisdom, that surprises and anticipates its wildest hopes. It seems, indeed, to have been well-nigh forgotten throughout the country, as well as at the other end of the avenue, that we have a Congress which is, under the Constitution, the law-making power of this nation. People inquire only what does the President intend; while the Associated Press ministers to their curiosity by daily bulletins, reporting every phase of the imperial pulse, as though it were watching by the bedside of royalty, and kindly informing us all of the precise terms on which the President has determined to readmit the traitors on this floor. The time has now come, however, to rectify these errors, and to assert and maintain the rightful jurisdiction and powers of this body, if they are ever to be asserted again. With the highest admiration of the constancy and heroism of the present Executive under the severest trials, and with every disposition to support his Administration so far as fidelity to my own high trust will allow, I cannot consent that a question like this, in which the interests of so many generations are involved, shall be withdrawn from the people of the loyal States, who have suffered and sacrificed so largely, and settled by the decision of any one or even seven men,

no matter whence they come or what positions they may hold. No more can I allow myself to be instructed here, that while the power of settling the terms of readmission is with the President, I have no jurisdiction as an American legislator except to register the acts that he has done, and then humbly inquire as a member of this House only, whether the candidates who present themselves for admission here have complied with the mere formalities which his Legislatures have prescribed. It is here only, in these Halls, that American liberty can live. They are her inner sanctuary, her holy of holies, her strong tower of defense, her last refuge and abiding place. Here are her altars, and here her priesthood. It is only here, too, that my own great State, whose blood has been poured out like rain, and whose canonized dead are now sleeping on every battle-field of freedom, has been called into counsel during the last four years. She has no voice elsewhere. On the theory of the President and the results of his experiments she has given out no uncertain sound. She bids her sons whom she has placed on guard at the Capitol in this hour of the nation's trial, stand faithfully, as did her heroes in the bloody trench, by their trusts as Representatives, and resist with jealous watchfulness every attempt from whatever quarter to encroach upon the just powers which she has delegated to them. If the performance of this duty should involve a difference with the Executive of her own choice, while she would deplore the necessity, she will expect her Representatives to take counsel from those who sent them here, alike unawed by the frowns and unseduced by the blandishments of power. I dread the conflict, which is not a new one in the world's history, but I cannot choose but meet it when it comes; and I have a trust that we shall yet be able to discuss the great question of the times, and to settle it, too, without prejudice, and in utter oblivion of the fact that the Executive has any theory on the subject.

It has been said, however, by way of quieting the public fears, that these plans were merely experimental, and that no harm could come of them, because, under the Constitution, Congress must be the judge at last of the qualifications and eligibility of those who might present themselves for admission to seats in that body. The work accomplished, we are now awakened to the fact that the power referred to here is only that of each House acting separately upon the qualifications of its own members. While the Executive assumes the right himself of founding new governments by a new law declaring who shall vote, and settling by telegraph the terms of their constitutions, he is pleased to claim in his recent message for these creatures of his own—other but still the same—with their vitalities repaired at that fountain only—the right to resume, of course, and without inquiry into his work or theirs, the places which by an ingenious fiction they are supposed to have before held in both branches of the national Legislature, making, as he says, "the work of restoration thereby complete;" while we are instructed in terms of unusual emphasis that then it will be for us, "each of us for ourselves," to proceed to judge of the smaller matters of the law in regard to "the elections, returns, and qualifications of our own members." These instructions are, perhaps, somewhat unusual, and possibly not that kind of information precisely to which the Constitution refers, but I do not quarrel with them on grounds of etiquette, even though the advice may seem gratuitous, and the jealousy of a British Parliament might have regarded it as a breach of privilege. They are not, it is true, exactly in accordance with the tenor of the authorized report of Mr. Stearns, which did convey the opinion that we might "check these new governments at any stage, and oblige them to confess their errors," unless it was intended to affirm that power only as the special prerogative of the Executive himself. They are, however, the official utterances, and the apology assumes, of course, that there is no question of legislation involved. With this interpretation of its meaning there is nothing left

to Congress but to register the edicts and ratify the work of the Executive. Taking it, however, to be otherwise, they are still not less obnoxious to objection. It may be conceded that States have been admitted heretofore without any precedent legislation, though none, I think, where they were organized under the direction of the military power, and none, certainly, without the concurrent vote of the two Houses. By those, moreover, who think that these States were never out, it will be insisted, in accordance with the executive idea, that they want no recognition, and the refusal of Congress to admit their members will be only regarded as a denial of right. But the mere negative of either House upon the question of their admission is a power greatly inferior to that which presides over their organization and prescribes the law by which the formative process is to be regulated—just as inferior as the veto lodged by the Constitution in the hands of the Executive is to the initiative of the Legislature. The builders will work according to that law, and as it prescribes, so will the structure be. As we sow, we must expect to reap. "Men do not gather grapes from thorns, or figs from thistles." Thus, if a privileged class is to elect the delegates, their work will be in accordance with the principle of their origin, and will be submitted, if submitted at all, for approval or rejection to the same parties who inspired it; and if the government so framed is to be recognized because it professes to be a representative one, the right of declaring its whole fundamental law might as well be accorded to the Executive as that of declaring a part of it, and assembling a convention to alter or amend that part. There was no occasion, however, for experiments of this sort, whose only tendency is to forestall the action of the legislative power, or to bring about a mischievous conflict between the two branches of the Government. If this is properly a legislative and not an executive function—as nobody can successfully deny—the President has his veto, at all events, upon the action of Congress. He cannot invert the order and change the constitutional relation by initiating an act of legislation, and leaving to Congress only a negative voice thereon, particularly in a case where the voters named by himself are expressly endowed with the power to restore the State to its constitutional relations with the Federal Government, and to present such form of government as will entitle it to the guarantee of the United States, and where, of course, it is expected that their work shall be conclusive.

It will be said, perhaps, in reply to all this, that the object here was not to found a State government, but to allow the legal voters of the old *régime* the privilege of altering and amending their original forms of government, so as to restore them to their constitutional relations, and entitle them to the benefit of the guarantee.

It is not to be disputed that these are a part of the objects stated in the proclamations. I will not say that this was done by way of protest against the logical conclusion from their premises, from the whole character of the act itself, and the assumption of power which it involved, that the measure was a revolutionary one—as Governor Orr admits it to have been. I shall be excused, however, for suggesting that it was unfortunate that the law adviser of the Government—perhaps its political Nestor—should have overlooked in this a departure from his own premises, that could scarcely have been excused in a junior pleader in the northern States. He had obviously forgotten the recital on which these proclamations rest—the postulate that "the revolutionary progress of the rebellion had deprived these States of all civil government whatever," and the declaration that the purpose of these conventions was to enable the loyal people of these Territories not "to alter or amend" their constitutions, but "to organize," or construct anew, where the original government was admitted to have perished. Whenever he shall be able to explain how a constitution can exist in a Government that has been altogether destroyed, or why he should have treated the process of organization as a mere process of repair,

I should be glad to hear from him. The man who reaches this conclusion from his premises, will have "no narrow frith to cross." I hope I shall not be considered uncharitable, however, in suggesting that all this inconsequential logic looks to me as if it was the effect of an unhappy struggle to escape the consequences of a doctrine which was felt to be necessary in order to raise the power in the President, and is then discarded, after having served that use, in order to remove the case from the jurisdiction of Congress. It will require something more, I think, than either the subtlety of a northern place-man or the exploded metaphysics of a Kentucky statesman, to reconcile any one step in the action of the Government, with the idea of the continuing existence of the States.

In the same spirit, however, apparently, that prompted the softening down of an organization into a mere question of alteration and amendment, there is a studied avoidance of a phraseology that has found acceptance here without even provoking criticism. We called this heretofore, in our simplicity, by the harmless name of "reconstruction." The Attorney General protests, like Bardolph, "by this light I know not the phrase," and straightway our nomenclature falls into disrepute. Well, I am ready to maintain, if necessary, in the language of the same dramatic personage, that it is "a very soldier-like word, and of exceeding good command." It is the merest hypercriticism to object its application to the adjustment of our relations with the revolting States; but whatever difference there may be here, it is impossible that there can be any dispute among scholars in regard to its precise aptitude in describing the reorganization of a State. The question is too big, however, to be settled in this way. If anybody prefers the word "restoration," I have no objection apart from its historical significance. It was the phrase used on the return of the Stuarts. I hope it is not ominous. Charles II came back without conditions, notwithstanding the efforts of Hale, who endeavored to secure them, but was put down by the assurances of General Monk, (I hope we are to have no General Monk in this case.) Bishop Burnet says that this omission was the cause of all the errors of his reign, which it required the Revolution to cure. I know that there is a confidence here, and a longing in some quarters, not unlike that of the Jacobites of England, for the return of the self-exiled royal family of the South, but I trust we are not about to lay the foundation for another revolution by the same mistake. Apart from this, I repeat that I am indifferent as to the word. It is sufficient for me that it implies, if not destruction, at least derangement, disturbance, displacement. The revolting States have, by a new law, deflected from their orbits, gathered round a new center, and ceased to compose a part of our system, or to be obedient to its law. They want renewal or regeneration. They require to be brought back by an interior adjustment that will reinstate the law that has been broken. They are in the system, and compose a part of it only *de jure*. Nobody can say that they are there in point of fact, because that would contradict not only our knowledge, but our senses. Something, it is admitted on all hands, must be done to reestablish their relations with the Union. They cannot do it themselves. Nobody pretends that by the mere repeal of their secession ordinances they can resume their places here—as they might do if they have not withdrawn—in virtue of their original title, and with all their rights and privileges unabridged. Their Legislatures have been even forbidden to assemble. The Executive thinks that by their act of treason the citizens consenting thereto have forfeited their highest political right—that of self-government—and that to this extent their constitutions—not as they stand now, but as they stood before the rebellion—are practically abrogated. He thinks, too, obviously, that by their abdication or dereliction—as in the case of James II—the sovereignty has lapsed—but not to us. A committee of the last House insisted that it returned to the conquered people. He claims it for him-

self, and accordingly sets aside their Legislatures, Governors, and Judges, reconstitutes the body-politic, declares who shall be its members, and appoints a provisional governor to keep the peace and call the privileged parties together to organize a new government. And all this is called amendment, upon the ingenious suggestion that they are to build on the substratum of their dead constitutions! No cunning phraseology, no artifice of words, however, can change the nature of a thing. The reenactment of a part of an abrogated law, either with or without addition, is no amendment. They might as well have taken the constitution of Pennsylvania to work upon, and in either case the product would have been a new constitution.

But why so studiously insist on the avoidance of other phraseology than this? Because, as it is urged, although the people of a State may destroy their government, it still subsists in *gremio legis*, or, in the language of the message, following that of an ingenious southern Governor, "in abeyance," or, as lawyers would phrase it, in the clouds—on the charitable hypothesis that suicide is impossible, because it is forbidden, and, therefore, by a pleasant fiction, all those pregnant acts that have scarred a continent with fire, and covered it with ruins, are simply void, and to be ignored as nullities. And this we are now informed by the Executive is "the true theory." It is undoubtedly the convenient one—for the traitors—because it furnishes no solution of the great problem of the times, except in the surrender of all control over the rebellious States, and the restoration of their people without conditions and with absolute immunity for all their crimes. Why it is the true one, he has not vouchsafed to show. I know, of course, that the high functionary who dispenses the patronage of such an empire as this is not always expected to render a reason when he chooses to dogmatize, and that, in the view of but too many of the leaders of public opinion, it is impossible for such a man to err. With a practice, however, and an admission, too, in the same breath, that "the policy of military rule over a conquered territory"—the very rule under which all that region has been governed, and all these States reconstructed during the recess of Congress—"would have implied that, by the act of their inhabitants, they had ceased to exist," it would not have been unreasonable to expect an explanation of the course that has been actually pursued within the jurisdiction of independent States, that enjoyed the rare advantage—unhappily denied to our race—of being incapable of sin, and equally unobnoxious to the penalty of death. The only answer that he could have made would have been that the doctrine, although good as a theory, was good for nothing else, because it would not work, and was utterly inadmissible in practice. The State, however, in the judgment of the President, still lives, with only an "impaired vitality," although its government has been destroyed. It is dead, to be sure, as Lazarus; in no mere trance, where the vital forces are still holding the organization together, but with all its elements putrescent or decomposed; but then there is a power in the Executive, beyond the kingly touch that purged the leprous taint from the blood of the believing, that can awaken it from the sleep of death, lead it forth in its grave-clothes, tide it safely over the frith of a four years' rebellion, and bridge over the unfathomable gulf that during all this time has divided it from the living! Yes, while it is admitted again and again that the old State governments were lost beyond even the means of self-resurrection, this modern Phoenix is supposed by some mysterious conveyance, by some metempsychosis unknown to the philosophers of Greece or the priesthood of the Nile, and only rivaled by the imposture of the Grand Lama himself, to have inherited the vital breath of the defunct State government, though that State government, dead to us, if not dead altogether, has transmigrated into the confederacy, and now lies buried among its ruins. But let us examine this new revelation.

If the acts done by these States had involved only a question of excess of power, as in the case of a law enacted by a State Legislature in violation of the fundamental law, this view of the case might have derived support from the doctrine that prevails in such cases. Here, however, the fundamental law itself was changed by the very power that enacted it. Whether right-fully or not, in view of their Federal relations, is not now the question. It is sufficient that they did, in point of fact, erect new governments upon the ruins of the old. And this, although it had been expressly forbidden, could not, in the nature of things, be prevented. There was nothing in the Constitution of the United States that could hinder the perpetration of an act either of treason or suicide. They might have allowed their governments to perish by omitting to supply their integral members, or they might have withdrawn, as they did, from the Federal connection by entering into other alliances, disclaiming its authority, and refusing to obey its law, or take any part in the administration of its affairs. All this they did, and more. It was the act of the people themselves. There was no interregnum. They carried their constitutions into their new relations—changed, it is true, in this particular, but still republican in form. They might have changed them into monarchies. Their new establishments are now overthrown. But how is this to revive others that are admitted to have previously perished? Nobody pretends that it could. The proclamations themselves admit that they have been left without governments and without means of recovery except at the hands of the Executive. Can it be truly said, then, that any portion of the original structure was rescued from the general wreck? If there was, then how much, and who shall declare it? True, one of the objects stated is to enable them to restore themselves. But does anybody insist that they can do it? Is this consistent with the grounds on which the proclamations rest? If they can, what is to be said in apology for executive interference? If they can, what is to be said of the other object declared in these instruments, which is "to enable the people of these States to present such forms of government as will entitle them to the benefit of the constitutional guarantee, by restoring them to their constitutional relations, and their people, therefore, to protection from invasion, insurrection, and domestic violence?" What does all this mean? If they were States in the Union, it required no process of organization or restoration to confer on them the advantage of these rights, because they were entitled to them already by the very letter of the Constitution. It is because they are not, because they have been "deprived of all civil government whatever," that the President proposes to make them so, and to endow them with these rights anew by reannexing and bringing them again into the Federal connection—from which they have been confessedly detached—upon a new title, by his own act, and without any agency of ours. It is a confession of outlawry which no legal acumen, no ingenuity of phrase, can explain away, and it is worse than idle to quibble upon forms of expression in the face of such an admission.

But supposing these State constitutions to be still in force as they existed antecedently to the passage of the several ordinances of secession, on the ground that all that has been enacted since in violation of the Federal law was simply void, what then was the occasion for any amendment, and whence does the President derive his authority to interfere at all, and to change the law as it stood before, even on the subject of amendments? In that case they may return, of course, whenever they think proper, without any legislation whatever. Why await the repeal of an act that is absolutely void? What is to prevent them from coming back with their constitutions as they are? Taking it to be a question of amendment only, it is clearly in their discretion to amend or not; and if they are still in the Union, there is no power here or elsewhere to say what amendments they shall make, or that they shall not resume their places here

without alteration of any sort. The executive branch of the Government admits, however, that something must be done to restore these outlaws to their original *status* in the Union. The war has resulted, as we agree in thinking, in the emancipation of the slave, and the destruction of the elective franchise along with the government; and these things must be in some way acknowledged. They are unquestionably forfeitures; but should they refuse to recognize them, that refusal would, on his hypothesis, constitute no sufficient reason for excluding them. The question of the effect of the proclamation of freedom is one that belongs to the courts, and you cannot draw it within the jurisdiction of Congress or the President, except by assuming that these States are out and must be formally readmitted. In that case you may prescribe terms. Without that you must open when they knock, without inquiry as to their constitutions, with which you will then have nothing to do. To stipulate for the acknowledgment of these things is but to treat for their readmission on that basis, and amounts to no more or less than a compromise with a belligerent, and they may reject the conditions because you can impose no terms of amendment upon them.

Taking it, however, that their constitutions do require to be amended for these purposes, how is this work to be done? Not by executive direction certainly. The President has no more power to set up a new class of electors in South Carolina than in Massachusetts. There is but one way, and that is in accordance with the law which they prescribe themselves, which must have survived if any part of their constitutions did. The process which ignores that law, as the proclamations do, is radical and revolutionary, and is no less in effect than absolute reconstruction. The sovereign power of the people may act in this way undoubtedly, but when it does there is an end of the existing government.

A word now as to the answer that all this was intended only to allow to the people the privilege of doing this work themselves.

If the object had been only to keep the peace for the purpose of allowing these people to decide whether they would erect a new government and apply for readmission into the Union, nobody would have complained, although the necessity for interfering in this way was conclusive that they were not in a condition to exercise these rights, and that the act was not a voluntary one. But they were not asking the privilege of coming back again. It was not essential that they should come until they were ready for it. It was essential that when they did, it should be of their own pure volition. To compel it was as impracticable as it was undesirable. And yet the essence of the proclamations is a command. They are not permissive but imperative. The people might not be ready, but that made no difference. If any of them failed, it was a default. The right to vote was not a privilege, but a duty. The white men who were loyal and would take the oath must reconstruct their governments at all events. It is idle to say, therefore, that this was a mere indulgence to their prayers. It went in advance of the wishes of the people, and this is the construction placed upon it by the highest intelligences of the South.

And now as to the way in which the power claimed by the Executive has been exercised.

If the function were a purely executive one, it could not go, of course, beyond the mere permission for the assemblage of conventions, and the pledge of protection to the citizen in the exercise of this privilege. To favor classes—to proclaim that this or that citizen should not be allowed to vote, was something more than an executive act. In the case of a civil dissolution and the absence of all government, such as the proclamations admit, all were, of course, remitted to that natural equality which is recognized in the Declaration of Independence, and had only been suspended by force of the civil institutions which had then ceased to exist. The right of the negro, whether previously

bond or free, was in that condition of things as perfect as that of the white man, and the latter had no more right to say to the former that he should not vote than the former had to hold the same language to him. All privileges of caste or complexion that existed under their old constitutions were gone along with the constitutions themselves. And this is in accordance with the doctrine everywhere received throughout this nation, where all limitations upon this right, except those which depend on condition only, are the results of express enactment. It was no question, therefore, of grace or favor or indulgence, and it cannot, of course, be said in excuse for the prohibition, that it was not competent for the Executive to confer the privilege on this particular class. It was not his to confer on anybody, either white or black. If he had left the election to the citizens who owed allegiance, paid taxes, and were subject to bear arms, they must have voted without distinction of color. The only question was, not whether he could confer it, but whether he could take it away. He has taken it away from others—from all who were not qualified under the old constitutions, and from all who are disloyal or refuse the oath to support the laws and proclamations in regard to slavery. The old governments with their black codes, which were the fruitful nurseries of treasurable sentiment, and have destroyed themselves by hurrying their people into the rebellion, are allowed to furnish the rule and standard of electoral fitness, on the hypothesis that there is something left of them that still lives, like the tail of a defunct reptile after the very life has been crushed out of its body, and are only to undergo alteration and repair at the hands of the same cunning workmen who had destroyed their machinery altogether. It is the same class precisely that is to renovate the work. True, it is with the condition of loyalty, and a new oath, superadded. But what are these? Who are the loyal? Not certainly those who committed treason against the nation by waging war against it, or giving aid and counsel to its enemies? But if they are excluded who are to be the voters, when the only class that proved true to its allegiance is precisely the one which was excluded under the old *régime* that it is now sought to restore? How many of the original voters, beyond those who were driven into exile, have stood by the old flag in the hour of our trial? Was it a majority—was it even a tithe? Can there be as many such men found as would have saved Sodom from destruction? We know that there cannot, because we know that they would not have been tolerated on southern soil. We know it, too, from the declaration of the Governor of Virginia, that unless the law that disfranchised the traitors only from January, 1864, was repealed, there would not be men enough left to organize the State. And is it seriously proposed that the power of erecting governments, in order to enable these States to resume their places in the Union, shall be vested in a score of men out of a population counting by millions? But how is the question of loyalty to be determined? Not by the oath, because that is merely cumulative, and is not offered either as a test, or by way of purgation for past offenses. If as a test, the word might as well have been omitted altogether. How then? Is there a virtue in the amnesty which works not only oblivion for the past, but converts a pardoned traitor into a loyal man? Is it by judgment of law on conviction of crime? Is it by attainer on proclamation by the Executive? Is it by a trial *in pais* or by compurgators at the hustings? If the old constitutions are still in force, either by construction of law or by virtue of the proclamations, the exclusion even of those who may be impeached of disloyalty looks amazingly like the forfeiture of a legal franchise, without judgment and without law, and is too high a power to be exercised by any other than the sovereign.

But there is another condition superadded by way of abridgment of the right; and that is the exaction, even from the loyal, of the oath

to support the proclamations and laws relating to slavery. No friend of the country will of course object to any wholesome limitations upon the privilege; but if it was not competent to the President, not to confer, but only to permit it to the black man, what authority was there to limit it in this way to the white man? Neither the Constitution of the United States nor that of any of the States has ever required an oath of this sort from the voter. If he could impose this, what was there to prevent him from swearing them to the observance of all acts of Congress and all proclamations, or requiring them to swear that they had never given any aid or countenance to the rebellion? If he could disfranchise the unconvicted traitor, what was there to prevent him from enfranchising the loyal man who has become free? But what is the security which it furnishes? How long is the obligation to endure? Did it bind the members of the conventions? And if these bodies have defined the qualification in a different way, are the voters now free?

The programme is in effect to recommit these governments to the hands of the very men who hurried them into the rebellion, upon the sole condition of a new obligation of fealty, after having just broken a previous one, and to abandon the field to the conquered as soon as it is won! Was ever such a *dénouement* to such a drama? But is there anybody in the loyal States who is willing to release all the securities, all the rights and advantages acquired by the war, and prescribe no terms to those whose lips have just been dyed with perjury, and whose hands are still dripping with the blood of our butchered sons, except a renewal of their already broken vows, which they will make voluntarily, and then claim to have no binding force because they have been made under a sort of duress, on the ethics taught by a distinguished casuist of Maryland? What kind of a test is this for a statesman? Would any rational Government on earth be content with such a caution? Who does not know its utter worthlessness? What is it but the flaxen tie that bound the wrists of the Hebrew champion? What is its value, in view of the events of the rebellion that have now passed into history? How is our past experience? Have these people ever kept faith with us? Did it hold any of the rebel leaders who filled employments either civil or military under the Federal Government, or under those of the revolting States? Was not perjury exalted into honor of the highest chivalric type; children taught by their own southern mothers that they were under no obligation to keep faith with Yankees, and that they might swear and forswear themselves again and again, to save their persons or their property; and the very highest species of the *crimen falsi* canonized even by the tender and admiring regards of northern generals and northern statesmen? It may be safely assumed, as a general proposition, that those who were most forward to abjure their sworn allegiance here, will be the first to violate their new-made vows, by swearing themselves back again into legislative honors and governmental favors. But will you consent to turn over the few Union white men, and your thousands of faithful allies among the blacks, to the tender mercies of these unconverted and unrepentant rebels, and bring them back again into these Halls on pledges of fidelity that amount at last to no more than an engagement not to repeat an experiment against which you will now want no other security than the recollection of your power? If you are wise you will not be content with any assurances that are either purchased by interest or extorted by necessity. You will render it impossible for them to deceive you again, by refusing to trust them until they shall have reestablished their title to your confidence. Security is more important to you than punishment, ay, even than the demands of justice. Others may do as they please, but as for me, I must beg to be excused from giving my faith to these new-fledged neophytes, these unbaptized renegades, until they have stripped to the skin and bathed

themselves thoroughly in the waters of regeneration.

But, supposing this guarantee be a merely executive function, how does the manner of performance square with the object sought to be attained? The obligation is to assure a government that shall be republican. The meaning of this is that it shall be a government of the people. The process adopted, in direct contravention of the principles of the message, is to lodge the power in the hands of a privileged class, the same that held it before, distinguishable only by the accident of color, along with a disloyalty to the Union that was almost universal, and composing, in some instances, a minority of the whole population. Does this look like a fulfillment of the obligation, or even squint in that direction? The form, it is true, may be republican, because it looks to representation by election. But that is not the test. If it were, every constitutional monarchy in Europe might be brought within the category. It is the distinction of classes, the permanent limitation of the right of suffrage to a favored few, that makes the difference between the aristocratic and republican forms, and there is none other. In this case the right is confined to the loyal white man who will take the oath. This, however, if not an oligarchy or government of the few, is at least an aristocracy or government of classes, and furnishes a perfect exemplification of just that species of legislation which is so earnestly reprobated in those passages of the message where the President informs us that "this Government springs from and was made for the people;" that "it should, from the very consideration of its origin, be strong in its power of resistance against the establishment of inequalities;" that "monopolies, perpetuities, and class legislation are contrary to the genius of a free Government, and ought not to be allowed;" that "here there is no room for favored classes or monopolies," and that "we shall fulfill our duties as legislators by according equal and exact justice to all men, special privileges to none." If I have found occasion to commend his practice at the expense of his theory upon the question of State sinlessness and State immortality, subscribing as I do most heartily to these axioms of political science, I shall feel myself compelled to adjust the account by following his advice in opposition to his practice here. "Class legislation" and "special privileges" of a sovereign character, are the distinguishing features of his plan, and it is, therefore, by the erection of an aristocracy that the guarantee of a republic is to be made good!

Whether these States be in the Union or not, it is conceded by the Executive, in the effort to provide them with republican governments, that they are now without them; and this, I suppose, for the reason that they have no governments at all. The same result, however, would have followed from the change in the condition of the slave. A Government that not only denies to a majority, or even a large portion of its free citizens, the privilege of any share in its administration, but rejects their testimony as witnesses, interdicts to them the acquisition of knowledge, or refuses the advantages of the marital relation, is not republican, and the men who have made these laws, and insist on maintaining them now, will never make it so. Mr. Burke remarks that, taking the State to mean "the whole commonwealth, with all its orders, and all the rights appertaining to each," "to be under the State, but not the State itself, or any part of it—that is, to be nothing at all in the commonwealth, is a condition of civil servitude by the very force of the definition. *Servorum non est respublica* is a very old and a very true maxim. The servitude that makes men subject to a State without being citizens may be more or less tolerable from many circumstances, but these circumstances do not alter the nature of the thing." And this he regards as a modified form of slavery; while "the exclusion of whole classes of men from the higher or ruling part of the commonwealth, as in the case where a hereditary nobility possesses

the exclusive rule, is only held to imply a lower and degraded state of citizenship. But even there it is only the office, and not the franchise, that is denied to the subject."

"Our constitution," he continues, "was not made for great, general, or proscriptive exclusions. Sooner or later it will destroy them, or they will destroy the constitution. In our constitution there has always been a difference between a franchise and an office, and between the capacity for the one and for the other. Franchises are supposed to belong to the subject as a subject, and not as a member of the governing part of the State. The policy of the Government has considered them as things very different; for when Parliament excluded by the test acts Protestant dissenters from all civil and military employment, they never touched their right of voting for members of Parliament, or sitting in either House—both these being treated by him as franchises of which the subject could not be deprived. In a republic, however, there is no proper distinction between the governing part and the subject, and the office, of course, would stand on the same ground as the franchise.

An American statesman of the present day would say, perhaps, that the elective franchise, the most important of them all, is not the property of the citizen, because it is not a natural right, but a political one. I have heard such language here, even on this side of the House, again and again. I am too dull to comprehend the distinction. I take it that all governmental agencies, all political contrivances and privileges, are but the machinery for the protection of the great natural rights of humanity, which protection is admitted by the Declaration itself to be the only legitimate object of all government. Why are our institutions free? Because they allow to you and me the privilege of governing ourselves. Why am I a freeman? For no other reason than because I am armed with the ballot for my own protection as a citizen. Strip me of that and I am at your mercy. You may deal gently with me, it is true, and so might the Sultan of Turkey, but that makes no difference. I am still the slave of your caprice, and my rights and happiness may depend, like your temper, on the state of your digestion. You may designate this franchise by what name you please, but you cannot refine it away by verbal distinctions or scholastic subtleties, by calling it political or giving to it any other nomenclature. You might as well deny me all the rights of a citizen, because they are all political, as deny me that one—the most important of them all—which is essential to the protection of the residuum. Nor can you pilfer it from me by the jugglery of assigning to it the distinction of a prerogative or privilege. I know no prerogatives here, and no privileges that are not, or at least ought not to be common to us all. The message itself reprobates a subterfuge like this when it asserts the great republican idea of "equal rights for all, special privileges to none." No: you must either settle the principle that this is a white man's Government alone, or you must share all your political rights with men of all complexions who inhabit among you. The Democrats, *par excellence*, who love slavery for its own sake, and do not of course favor the doctrines of either liberty or equality as to the black man, accept the alternative that this is a white man's Government—as does the President himself in his one-sided argument with the dusky committee that waited on him a day or two ago, when he declines to answer as to South Carolina, assumes that they are not a portion of the people, and advises them to emigrate from the country which he had previously declared to be their own—and are therefore consistent and logical in denying the suffrage to the negro, as they are in favoring the policy that ignores the war and seeks to rehabilitate the aristocracy of the South. I wish I could say as much for the Union party as a whole on this floor. Gentlemen of that faith are without apology when they agree with them in either.

The proclamation has made the negro nom-

inally free. He counts in the representation. He pays taxes, and must bear arms if necessary, and he has done it. No sensible man now pretends to doubt that he is a citizen, or can doubt it in view of these considerations. The interference of the Executive is put expressly on the ground of the obligation of the national authority to secure a republican form of government to each of the States. To effect this, it is essential that a majority should be allowed to enjoy the political right of governing, and that all should share alike in its direction. To put any class under the State would be to deprive them of the rights of citizens, and to reduce them, in the words of the authority just cited, to a state of civil servitude. It is essential, moreover, that it should rest, in the language of the Declaration, on "the consent of the governed." An establishment that does not conform to these principles is not republican, whether the power be lodged with the *oligoi* or the *aristoi*. No matter as to its forms. We are not to be cheated by appearances or names. It was something more than the mere form that the Constitution intended to secure. And yet the process here ignores all these things and rests either upon the dimmest perceptions of free government, or upon the southern theory that the negro is not a man, or that this Government was only intended for white men. If the proposition were to exclude all men of Celtic blood, what a sensation would it not produce among the Democracy? If the difference, however, is only against the African, consistency would require that he should also be excluded from the enumeration hereafter. With the end of the "divine institution," the three-fifths clause, which stipulated for a representation, not of or for him, who was not then a man, but for his master, has ceased to operate. If the freed slave is now a citizen, he has a right to all the privileges, as he is confessedly subject to all the duties which that relation involves. If instead of rising from the fractional value to that of an integer, he is no longer a member of the State, he must cease to owe any other than a domiciliary allegiance, and the idea of a representation founded on his existence here, must be exploded forever. And from this dilemma there is no escape. If he is a citizen, the elective franchise is his right. If he is not, representation on that basis is logically inadmissible.

The effect of the oligarchic process is to reinstate the governing class as it was before, without any check upon it. This we cannot afford to do. There is, fortunately for us, a loyal element among them that has helped us to bring them back, and may be used to keep the peace, not by either arming or disarming it, but by the restoration of a mere right, which is essential to its protection as well as our own. It is a happy circumstance that the measure of security required by the people of the loyal States is precisely that which the Constitution has imposed on us as a duty. The obligation is to guaranty to every State in this Union a republican form of government. If "the whole commonwealth, comprehending all its orders, with the privileges belonging to each," is not republican, we are bound to make it so, and are endowed by the Constitution with all the powers necessary for that purpose. But how are these powers to be exercised? Not by the President, because he cannot prescribe the terms. Not by mere refusal on the part of Congress to admit, because that would be a refusal to perform, but by an act of legislation which it will be only the duty of the President to enforce. It is a narrow view of this duty which gives to it a merely negative character, such as to put down a usurpation, or drive out a tyrannical majority. There is a positive obligation to *warrant* or make sure to all the people, a republican form of government; and here is the power that has been sought for so diligently under the law of war, to deal with the conquered territories in such a way as to secure to all their loyal people the rights to which they would be entitled under a republican form of government, and to protect the Union itself from all future dis-

turbance. These States are without governments of any sort—those which existed and were disloyal having been overthrown. It is our constitutional duty to supply them with new ones of a republican character, and to provide that none other shall be erected. If their black population—if a majority of their loyal inhabitants—nay, if a mere minority demand the fulfillment of this guarantee, by insisting that we shall provide them with a government that shall admit them to the rights of citizenship, and be at least partly within their own control, we cannot evade the performance by the plea of a want of constitutional power. The declaration of the duty gives it to us, with all the incidental means. That duty is not denied; but we have wielded the sword so long to enforce the law, that many people have come to the conclusion that there is no other weapon for such a case, when in point of fact it is clearly inadequate to this part of the work, and the power of the Legislature is the only one that can successfully accomplish it. It is undoubtedly in accordance with our practice, as it is with the spirit of our institutions, that it should be left to the people themselves, in the first place, to be performed by them in that condition of freedom which our arms have given them. But if they will not do this of their own accord—if the class that has been accustomed to rule, will insist on holding the rein and denying to their fellows, even to a respectable minority of them, the rightful privilege of citizens under a republic, I know no possible way of meeting the case but by interposing ourselves and prescribing a fundamental law for the occasion. It will not be enough, as I have already remarked, to refuse the Congressmen who may apply on terms that are inadmissible to us. That would be only a denial of justice to the disfranchised which might prove indefinite, instead of the fulfillment of an admitted obligation. If there be any limitation of the right of suffrage it must come from the supreme authority, which is here. There is no power elsewhere, and certainly none in a society that is yet in a state of chaos, formless and void, and with nothing but darkness brooding over it. That authority, it is true, might well disfranchise individuals, such as the traitors themselves, for an enormous crime which showed that they could not be safely trusted with so important a function. It could not, however, proscribe a whole class, comprising a majority of the loyal people, all native to the soil and impeached of no crime, merely because they had black skins or woolly hair, without violating the essential principles of republicanism, and laying the foundations of an aristocratic government. No argument could defend it, except on the judicial hypothesis that the race so excluded had no rights at all that a white man was bound to respect, which would be fatal of course, as already shown, to the whole principle of representation as applied to it. But this hypothesis has no foundation in our early history or practice. The founders of this Government never dreamed of such a distinction. The great charter of our fathers had before affirmed the equality of all men. It was not race or color, but condition, that created the constitutional disability. The slave, of course, could not, in the nature of things, be admitted to the privileges of a citizen, because that would have been inconsistent with his condition. Everybody else was counted, except the Indian who paid no taxes—an incarnation, by the way, of the revolutionary formula, stereotyped on the hearts of the colonists, that condensed the causes of their struggle into two memorable and mighty words. The notion that a taint of African blood, or any diversity of complexion, was a disqualifying feature, is a purely modern invention, which is but the growth of that barbarous and unnatural system that has debauched the moral sentiment, and left in many minds only the feeblest conceptions of rational freedom. The free negro voted originally almost everywhere. It was a consequence only of his unquestioned citizenship. To admit him, it did not require a special grant

by the insertion of the word "black" in any republican constitution. To exclude him it did require the insertion of the word "white." The only color that the framers of the Constitution seem to have ostracized is the red. But even here it excepted the tax-payer, and was not by a designation of race. They had sense enough to know that a principle of exclusion resting on so uncertain a basis as color, would be unfitted for any constitution.

Apart, however, from the considerations already stated, there are special reasons in the present case for insisting that the guarantee shall be fulfilled in good faith; and these are, to recompense the black man for his unwavering loyalty in the hour of trial, to afford him the means of self-protection in the enjoyment of the rights he has so richly earned, and if these are not enough, to protect ourselves against any future disturbance from the same arrogant and presumptuous class which has just been chastised into a decent respect for ourselves and a reluctant submission to our laws.

We began the war by repelling the black man and returning him to his master; by doing everything, in short, to alienate him from ourselves, and prove to him that he had nothing to expect from us; and this was called statesmanship! If ever a people deserved to be chastised it was ourselves, for the ineffable baseness and fatuity which refused the aid of the negro, and sent a hundred thousand white men to die, rather than wound the pride, or harm the property of an enemy! We failed to drive him from our support even by the unkindest usage. When we plunged within the storm-cloud that overhung the South, and concealed everything from outside view, we were not long in discovering that the white skin was everywhere synonymous with the traitor heart, and that wherever we could meet a black man we were sure to find a friend. He took our soldier by the hand, led him through the outposts, pointed out the secret path, traveled with him by night, shared his last crust with him, and baffled the bloodhounds that were on his track. As the war progressed, we began to find that with such an auxiliary against us, success was impossible. We made him free. But still we could not lift him into the position of a soldier, which was a privilege of caste in ancient times. People who foresaw that the step was an easy one from the soldier to the citizen—themselves of craven hearts and more slaves than he—insisted that he was like his detractors, loved his chains, and was a coward by instinct, and that the white soldier was a fool, who would throw down his arms if you sent him an auxiliary whose skin was not quite as fair as his own. You listened and believed. But by and by, impelled by necessity, you allowed your brave and right-thinking Secretary of War to arm him quietly. You rather winked at than encouraged it; and before long the truth blazed upon you from the trenches of Port Hudson that the black man was in your ranks. He has now added to the title that God Almighty gave him, a claim upon your gratitude. How do you propose to pay it?

Nothing is clearer than that you have made the privilege of the ballot necessary for his protection, by making him nominally free, and using him to put down the rebellion of his master. That master will not soon forget the infidelity of the slave on whom he relied, or the humiliation that the proud chivalry has suffered at the hands of its own born thralls. Even the bond of interest that compelled him to treat that slave with kindness, because he was his money, is now broken. Unable to wreak his baffled vengeance upon you, he longs to pay back the debt he owes you, by visiting his impotent malice upon the humble instrument of your triumph, and proving to the world the truth of what he has so often told it, that you have only made his condition worse by elevating him to freedom. He begs you to withdraw your black troops. He wishes to be relieved from your authority, by being allowed to resume his place in the Union which he hates. For this he is willing to recognize the

results of the war in the nominal emancipation of the slave, if you will leave him subject to his authority, without rights of citizenship, and without any security for the practical enjoyment of the liberty you have given him. He can afford to make this offer, and others which the Executive hails as unexpected evidence of progress—because he cannot help it. The only surprise to me is that on such an invitation the whole South did not rush incontinently into the executive embrace. But will you accept it? If you do, what is your gift of freedom to the black man? It is but "the Dead sea fruit, that tempts the eye but turns to ashes on the lips." What will you have done for "the ward of the Republic," as he was characterized by our generous and noble-minded martyr President, if he is to pass into the condition of a Pariah, and to accept just such terms as his humbled and exasperated master may impose on him? You will only have mocked him with the mirage of liberty to make his condition tenfold worse than it was before. Is this the fulfillment of your pledged faith? Was it your purpose only "to keep the word of promise to the ear, and break it to the hope?" It was the very refinement of cruelty to have inspired such hopes, only to disappoint them. Better, far better, have left the miserable victim of your guile to the slavery in which you found him, content, perhaps, with his condition, and dreaming of no change, than thus to lift him from the earth, only to dash him down again under the feet of his oppressor. Better for yourselves, too, for your present credit and your future fame, if you had declined his services altogether. The world, in that case, would only have regarded us as fools. It will now justly point its finger of scorn at the Government which was capable of the meanness of turning its back on the benefactor to whom it appealed, and appealed successfully, in the hour of its sore distress. What is this but trusting the lamb to the vulture? Will the governing class, to whose tender mercies you are expected to turn him over, because they understand his nature and his interests better than you do, ever suffer him to rise from his degraded condition? What is your experience already on this point? What earnest, what foretaste, what assurances do these men give you of future reformation, even now that the motives for good behavior are so exigent and overwhelming? The condition of the black man as a slave disqualified him as a witness against the master race, who were thus practically in the exercise of a power that placed his person and his life at the mercy of his paler brother. He is now free. Without this privilege, he has no rights that a white man can be compelled to respect. It is essential to his security. No court within the wide area of civilization would exclude him or any other man from the witness stand on the ground of race or color. If admitted, and untruthful, as they insist he is, his credibility is still a question for a jury of white men. And yet with this advantage, this badge of servitude is still insisted on, and instead of closing the courts of justice—if they deserve that name, where evidence is excluded on system, and the tribunal of a Turkish *cadi* would be shamed—the Federal Government submits to the humiliating necessity of withdrawing all controversies, wherever the rights of a negro are involved—ignoring those wherein his testimony might be required between white men—within a special jurisdiction of its own, while it allows these people to make constitutions, just to enable them to escape its power, and do their own will in such particulars as these, as though they were really free of our rule and could be safely trusted with the performance of such a work! But how is it in regard to the marital relation, with all its incidents? How as to education and preparation for the ballot? Have the schools been thrown open to him? Is he free to work on his own terms, to acquire property, to go about wherever his interests or inclination may lead him, and to seek employment at such wages as he can fairly earn—or is he still subject to condemnation as a vagrant, and sale or apprentice-

ship for fines and jail fees? What says the official report of General Schurz, the result of a long and extended tour, which is so mysteriously ignored, while in the face of its authentic and overwhelming testimony the President is relinquishing our blood-bought conquests to the enemy without even taking the advice of Congress, though now sitting at the capital, and proving the tranquillity of the South by the result of a five days' sojourn in three of its principal towns, which developed the fact that black troops could not be employed to advantage because it would be necessary to accumulate them in large bodies for their own protection? How is it in Mississippi, where the local militia are already stripping the negro of the arms purchased from you as cherished heir-looms, dear memorials, consecrated by the war of liberty, and stained, perhaps, with their own blood, spilt in your own defense, or with the blood of the discomfited barbarians who are now so valorously disarming them? How is it in Tennessee? How in Virginia? It is not the overthrow of the rebellion, but of the abolitionists of the North, that constitutes the inspiring and exultant theme of the Speaker of its House of Delegates. He thanks God that Virginia can still trample on the rights of the black man, because, as he thinks—and as the Executive thinks of all these States—she has never been out of the Union. How, then, is the condition of the negro improved by emancipation, under a policy that cuts him off from the enjoyment of all protection in person or property, and is intended obviously to keep him in the bonds of servitude, and to prove to the world that the real victory is theirs, and that your boon of freedom was only a cheat and a delusion? What is there to prevent the reenactment of the whole black code in any of these States as soon as they shall have been relieved from our control by readmission into the Union upon the terms of the Executive? If you object—ay, even to the imprisonment of a northern seaman—you will be told as formerly that these are matters of State regulation only. Will you appeal to the courts or send ambassadors to Charleston to negotiate an amicable submission? They will set your courts at defiance, and drive you out with scorn and contumely, as they did before, and the Democracy of the North will clap their hands and exult over your discomfiture. Is the peace of the country to be secured in this way? You have carried the cup of freedom to the lips of the black man and he has drunk of it. If you would make of him a peaceful citizen, and an obedient member of the State, you must protect him in the enjoyment of the liberty you have given him. To do this it is only necessary to invest him with the defensive armor of the ballot. That will secure to him the consideration of the white man. That will make it the interest of the superior classes to cultivate him. That will educate him into an intelligent acquaintance with his duties. That will secure peace and harmony to the land. The black man has shown himself to be as docile, gentle, and humane as he has approved himself loyal and brave. He will make a valuable citizen if fairly dealt with. But remember! he is a man, who has tasted liberty, and felt the glow of an unaccustomed manhood, as his pulse danced with a new inspiration when he looked up at the folds of your starry banner on the perilous edge of the battle. Beware how you allow these men, who have never yet learned, and never will learn anything, to trample on him now. The policy foreshadowed in the proclamations will make only a discontented people. It is the slogan of battle—the herald's denouncement of that war of races, which is so strangely apprehended by those who urge the very opposite policy to heal up a war of sections. It is the preparation for these deluded people of a future, before which even the savage horrors of their own revolt may pale. The kindred policy that ruled our councils in the same interest for two long years—as it seems to rule them now—proved fatal to the system it was intended to serve by making its preservation impossible.

It may be that God Almighty intends to finish His great work by giving a further rein to the infernal spirit that precipitated these madmen into the revolt that melted the chains of their slaves. Let us see to it that we be not called upon to repress the outbreak of nature, by drawing our own swords hereafter upon our faithful allies in the war of freedom. We can prevent this now—and will if we are wise—by a mere act of justice that is simple and reasonable, and will trench on no man's rights, while it will extend the area of freedom by popularizing these governments and bringing them at once to the republican standard of the Constitution. That act is demanded by considerations of the highest wisdom, as well as of the strictest justice. It were a foul shame to refuse it, and a fouler still to add to that refusal the future possible infamy of turning our own arms, at the call of these delinquents, upon the trusty auxiliaries who have assisted in subduing them, when the tyranny of their oppressors and the instinctive yearnings of humanity, may drive them to resistance. I should blush for my country, and weep for it, too, if it was capable of an atrocity so unutterably base.

But though we were even insensible to the claims of justice and the emotions of gratitude, and entirely indifferent to the elevation of the negro race for its own sake, we want their vote for our own protection. Our best security is to erect a breakwater against the encroachments of the disaffected white man by enlisting the counteracting influence, the cheap support in peace, of the loyal black man, to whom we have so successfully appealed in war. We need his suffrage now to assist us in keeping that peace which he had so large a share in making. Take away his musket, if you please, but do not disarm him entirely. The question with me is not whether you can trust him, but whether you can trust the man who asks you to give him the rule again over his rescued bondsman. There are two classes of white men in the seceding States. The higher and more intelligent is essentially anti-republican in habit and sentiment, while the inferior and ignorant is even more abject and servile than the slave himself. He may be educated, however, into a just self-respect and a sense of his own interests. The governing class never can. To make them republican you must change their whole social system and their natures along with it. Until you do, and they are thoroughly regenerated, they will be unsafe depositaries of power in a Government like this. If you will not disfranchise the man who has already shown that he is unworthy of trust, you must at least render him powerless for mischief by placing a sentinel over him, with the bloodless but potent weapon of the ballot to keep him in order. I do not insist that you shall disfranchise the rebel who professes to have repented, because without him you will have no white element in the case. I have no objection that you should pardon his crime and even restore to him his lands, if you think that the interests of justice require no indemnity, and no examples. My object is not vengeance. I do not thirst for his blood, even with all his barbarities. Give him back everything else. But for the power which he has shown himself unworthy to hold, and which he has so justly forfeited, restore not that, I adjure and beseech you, by the recollection of the bloody trial through which you have passed; by the respect you owe to the bereaved, the widowed, the orphaned, the maimed who yet live; and above all, by the memory of your martyred, butchered, starved, and mutilated dead. Insult them not by the declaration that the earth has drunk their blood in vain. Expose not yourselves to the bitter reproach, that before their bones have been gathered by pious hands from the fields where they have been left to bleach unburied, their very murderers have been hurried back into your embrace like returning conquerors. If this reunion is to be solemnized on terms like these, wait at least until you have put off your mourning, and stripped your public places of the habiliments of woe. Bury your mur-

dered President out of sight. Cover up the graves of Andersonville, with all their horrid secrets, and then—then celebrate these unholy nuptials—if you can. Let it not be said, at all events, to your discredit, that “the funeral-baked meats have coldly furnished forth the marriage table.” Open no hall of Valhalla, where the returning braves of the South shall quaff their foaming ale, and pledge you from the grinning skulls of your own dead and forgotten heroes.

But there is another consideration that gives us the right, and makes it an imperative necessity, for our own protection, to insist that the negro shall be allowed to share the rights of citizenship in their highest sense, and that is the fact that the conversion of the chattel into a freeman will greatly enlarge the representation of those States, and bring into Congress some thirty votes on the basis of this peculiar population, while the loyal States must suffer from the increase. If they come, it must be in a representative capacity of course. But whose representatives will they be, if the whole class in whose names they come, and for whom they profess to speak, is to have no voice in their election? To call them representatives of any other than the ruling class would be a gross abuse of language. The benefit of your act of emancipation then is to inure to the master who has endeavored to break up your Government, while the black man still holds substantially the relation of a slave, and is only used to count for the benefit of his oppressors! And whom will they send to manage the affairs of the Union in the name of the slave? Will it be the man whom he would select himself? Will it be an advocate of his interests? Will it be those who will provide for the payment of the debt of the war, or the pensions pledged to the families of the brave soldiers whose very bones will be spurned aside with contumely by the rebel plowman? What is our experience thus far? Among the first men sent here from Louisiana was a signer of the secession ordinance, and all three gravitated at once, as by a natural law, into the ranks of the party that opposed the war. The first offering from Arkansas to the other end of the Capitol was a graduate of the same school. But will the holders of our public debt—will our brave volunteers agree to this? No! Ask the men here, however, who sympathized with the rebellion throughout, and denounced the war and the debt made by it as alike unlawful, and though professing to be Democrats, they will answer with one voice that this representation by proxy is right and proper, although they do not even admit the negro to be a citizen, and hardly confess him to be a man. While he continued a slave there was nothing unreasonable in the agreement that the master should speak for him, if he was to be heard at all, because he could have no will of his own. It was at all events the bargain, and we stood by it. That slave is now, however, a freeman. He has a will of his own, and the man who owned him no longer represents it, but the contrary. Looking to his present relations to the late slave, his assumption of the right to speak for him is a double outrage on the black man. It is not only to deny him a representative, but to give that office to his enemy. It is in effect to reenslave him.

If the white man of the South is of the opinion that the negro is not fit to vote at home, he decides at the same time that he is not worthy to be represented here; and in claiming that right, asks for himself a power in the Government that will make one unrepentant traitor the equal, in many instances, of two or three loyal northern men. He admits the injustice, too, while he preserves his consistency, by rejecting the negro himself in the interior apportionment of some of his own States. But is it just to the loyal States that he should exercise this power in the Federal Government? Will they consent to this inequality, now that the remedy is in their own hands? Are these people to be rated in their condition of subjugation at their own estimate before putting their armor on, as having vindicated their claim to be considered the master race, and so outweigh twice

or thrice their number of northern mudsills? Speaking for myself, I do not choose to have my delegated powers as the Representative of one hundred and thirty thousand northern freemen neutralized by a representative of this sort, whether he come here by the *congé d'élire* of a military commander, or is puffed in this direction by the arrogant breath of a feeble but aristocratic constituency. If the white men of the South will insist that the negro shall have no political rights in the States, while he is to appear here to claim a recognition at our hands only to add to the power of the oligarchy in this Government, then I would insist that he shall appear here either in person, or by his attorney, or curator, or next friend, and not by a guardian or trustee under the appointment of his quondam master, which would be the sublimest of farces. If they are not content with this, then I would say to them, wait until by a constitutional amendment we can offer you the fairer basis of suffrage, which will enable you to swell your numbers as soon as you shall be prepared to do justice to the black man.

It is insisted, however, and most especially by those who profit most by the laws of naturalization, and the principle of universal suffrage, of which they have therefore been the unvarying champions, that the negro is ignorant, and must be educated before he can be allowed to enjoy the privileges necessary for his own protection as a citizen—which is to say, in effect, that ignorance disqualifies for freedom, and ought to make a man a slave. It may be a question whether it were not well if that had been made a condition with all men. But why demand that of the indigenous black man who has been reared under our institutions, and has perhaps shouldered his musket in their defense, which is not asked of the foreigner whose vote and sympathies have been against us? Is he inferior in these respects to the Celtic Irishman who holds the destinies of your great metropolis in his hands? His instincts at all events—supposing them to be his highest faculty—have taught him to take the side of liberty when the savage who burned him was exerting himself in the interests of the governing classes of Europe, from whose oppressions he had sought an asylum here, to overthrow the very Government which had so generously opened its arms to receive him, and lifted him from the dust into the privileges of a citizen. I would take that instinct, and use it as a counterpoise against the crude, uninstructed element that comes to us from abroad. I do not fear that it will fall under the influence of the aristocratic class any more than it did during the war. The negro will be sure to look with jealousy and suspicion upon the task-master from whose arms he has been torn, and who will still continue to regard him as his rightful property. That aristocracy, moreover, landless as it is soon destined to be, under another and a better social system, is sure to be swallowed up ere long by the upheaval of the lower stratum, when labor, now become respectable, shall assert its rightful supremacy, and the strong sinews of toil shall reclaim their lost inheritance by seizing upon the soil.

But who are they that make this objection? Only the master himself and his northern friends. If they think so, however, why do they object? What harm can come to the lords from the maintenance of the patriarchal relation, by turning it into a bond of kinship and good offices that will rival the constitution of the Highland clan? But they do not think so. They affirmed with equal confidence that the negro would cleave to his master, and fight for him, if he would fight at all; but it turned out to be a mistake, as every man of common sense knew very well it would. If the power of the master had been equal to that of the northern demagogue, he might possibly have taken sides against the Government with the same unanimity as the imported Caucasian who was led as an ox to the shambles, and made, like a blind Samson, to lay his hands upon the pillars of our Constitution in that dark hour when all the powers of earth and hell seemed leagued together

for its destruction. The negro has already solved that question in a way that shames even the poor white man of the South, who is indeed obnoxious to this imputation, and from whose example it might have been plausibly inferred, but for the experience of this war, that he would have yielded to the same influences. But what authority is there for the assertion that the black man is more ignorant than the poor whites of the South who delight in shooting, or the imported patriots of the North who gratify their equally savage tastes by burning him? Look at the revelations of the census and see what they declare. I venture to say that, considering the difference of condition and opportunity, the black man is no way the inferior. It is sufficient, however, that he has proved intelligent enough to be loyal, when his highly educated master was not saved from treason by his superior instruction. But who shall say that this loyalty was the fruit of ignorance? Not those, certainly, who prize the republican State, and think that knowledge is essential to its preservation. Its chief advantage is, perhaps, its felicitous adaptation to the general standard of humanity in its extreme simplicity of form, and the fact that it requires so little of the learning of the schools to govern it. It would have perished in the recent trial, if it had been left to the wisdom of its statesmen. It was the uneducated common sense, the reasoning instinct only, of its own people, that saved it. God defend us from the statesmen and diplomatist whom this revolution has evolved!

But if the negro is ignorant, whose fault is it, and what is the remedy? Has he not been studiously denied the privilege which his white and zealous Democratic rival has so largely neglected, of learning even to read? And is the slave-owner, who is responsible for this, to meet us with the confession that he has purposely kept this man in darkness because he feared that a spark might fall upon his intellect that would kindle into flame and melt his chains, and then convert his own inextinguishable wrong into an argument against his freedom, and ask us to wait upon the education of the man who has just shown that he is better fitted for its enjoyment than himself? Thank Heaven! it does not require an education in the schools to make a man love liberty. The whole infernal system of black laws is founded on the dread of human instinct, and the fear that the natural struggles of humanity, if aided even by such feeble lights as might be accessible to him in his condition of servitude, would result in making him a freeman. They are themselves a pregnant confession that the slave is gifted with powers and susceptibilities that might be awakened into mischievous activity, and cultivated for the highest duties of citizenship in a free State. Whether the ignorance of the inferior class, either imported from abroad or thus diligently cultivated at home, ought to constitute a disqualification, it is perhaps too late to inquire, since the policy of the country, shaped and fashioned by the Democratic party, has settled it as a principle that the right of self-government cannot be justly made to depend upon the education or intelligence of the voter. It may be right for the twofold reason that the love of liberty is heaven-born, and the right to vote the best educator of the freeman. If gentlemen on the other side have come now to think differently, I have no objection to go back and trust the suffrage only to those who can read and write, and have been long enough among us to understand our institutions—to shake themselves loose from all foreign domination—to unlearn the Old World ideas in which they have been reared—and to appreciate the freedom which we enjoy. I cannot consent, however, that one rule shall be applied to the imported Celt and another to the home-bred African. The right to freedom is not a question of either race or color, but the common inheritance of humanity. There are no aristocracies in God's providence but that of understanding, which is not transmissible by descent, and which is the appanage of no particular race or class of men. I do not mean to say—for I

am no fanatic—that the negro race is, upon the whole, the equal of the white one in this particular, any more than I would affirm that any one white race is equal to any other, or that all the white races are equally fitted for the task of self-government. That is a proposition which no man can confidently affirm, in view of the past history and present condition of the world, but yet it involves no question as to the natural aspirations, which are only inspirations, of man for freedom or his right to its enjoyment. If I am to choose, however, between these two elements, I would take the black man, upon the evidence of the last few years, and reject the equally ignorant white, who is so debauched as even to love slavery—who allows his very instincts to be smothered—and who submits his conscience and his understanding to a direction whose dominion rests upon the same profound and sagacious policy that has locked up the treasures of knowledge from the black man. Everybody must have been struck with the marvelous unanimity with which both these elements arranged themselves, though on opposite sides, in the late contest. When men begin to reason for themselves they are almost sure to differ. "Instinct," says Mr. Burke, "when under the guidance of reason is always right." If it was instinct, however, that led the black man in the one direction, it was something other than reason that herded his jealous rivals into one solid mass in the other.

But it has been objected in some quarters, that if the negro is endowed with the power of the ballot, he will, under the guidance of the same instinct, combine with his fellows to seize the governments of the rebel States into his own hands. This argument is the very opposite of the one which I have just examined, and while the other has only been invented as an apology for refusing the ballot by those who had no fears of the master's influence, has not perhaps been without its weight upon both the northern and the southern mind. Nobody can doubt that in this latitude at least there is a morbid apprehension of what is called negro equality, but really means negro superiority; and it is perhaps not unnatural that now that the negro has shown that he will fight, the men who flinched from that ordeal in the hour of our danger, or even those who have been driven like cattle into the armies of the oligarchy, should dread the comparison, and feel that there was nothing now but the denial of the ballot to prevent the black man from asserting his natural superiority over themselves. This apprehension supposes, however, a power of combination and forecast without even the stimulus of oppression on his part, which is anything but consistent with the idea so studiously inculcated of his incorrigible inferiority, and surrenders all that has been affirmed by philosophers and divines in regard to his normal condition, while it admits that even the higher culture of the white man would give him no advantage in the contest. But in the few cases where the blacks are in a majority the difference in numbers is small. If it cannot be overcome by the superior training of the white man, then the ability of the negro and his consequent title to command, are established by the highest possible test. But in a quarrel of races what is to become of the mulatto? If the least perceptible infusion of negro blood, the very faintest suspicion of a twist in the hair, is sufficient to authorize us to deprive our unfortunate hybrid cousin of all participation in the Government, what assurance is there that the Caucasian flush will not prove equally fatal on the other side? History teaches us that this distinction is as likely to prevail as the other. But surely the chivalry, which has held in subordination by its superior address the turbulent but submissive Democracy of the North, would not shrink from the encounter in the same field with the despised and degraded African. But the idea of such a combination, as the result only of the most generous treatment, is the most extraordinary of paradoxes, if it does not deserve to be characterized as the wildest of chimeras. The people of the South will divide,

as before, upon the policy of the Government, and struggle, as before, for the possession of its offices. Both sides, of course, will seek to propitiate the black man because he has become a power in the State, and that one which will secure his confidence, and go farthest in its professions of regard for his interests, will be sure to secure the majority of his votes. If he be a child, as he perhaps in some sense truly is, he will be won by kindness, and ask nothing more than freedom of locomotion, protection to his person, and the means of enjoying, without molestation, the rewards of his own labor. Make it the interest of his late master to cultivate him. Give him a vote, and the "poor white trash" who despised him because he was a slave, will respect him because he is a sovereign. If it is necessary to educate him, because he is ignorant, give him an interest in the Government. It is the only school for the adult, and perhaps the best for all ages. The ripest thinkers of the times are agreed that it is a nursery of instruction that develops the man with wonderful rapidity, and it is this compensatory power that has perhaps served more than anything else to neutralize the evils of the prevailing system. To insist on a preliminary education is to begin at the wrong end. Leave him for instruction in the hands of his old master, and you offer a premium for the continuance of the old system, which kept him in ignorance of his rights and of his power. Knowledge will make him more formidable than ever. So long as he is kept under the State, and feels that he is no part of it, he is sure never to rise by this process. The men who control the Government will have the same interest in keeping him down as heretofore, reinforced as it will be by phantoms of terror that will haunt their pillows, along with the new feeling of resentment and jealousy which their compulsory enfranchisement has engendered. Cherish not the delusion that any good behavior on his part will ever secure for him an admission to the rights of citizenship. It is now or never. There is no case, I think, in history, where a privileged class has ever surrendered its prerogatives to those that were beneath it. Indulge not the hope that you will ever make of him a contented subject. It is as impossible with a people so numerous to maintain an intermediate grade between the slave and citizen, as it is to establish an intermediate variety in nature, or an intermediate condition here between the State and Territory. The black man knows that he is free. If he asserts his right to meet his fellows in council for purposes which touch the interests of his race, either in this world or the next, the rumors of insurrection will load the atmosphere. The white man will restrain his liberty by biting statutes and relentless cruelty. The black man will rebel, and the result will be a chronic war, which will repel the emigrant, and end in the extermination of the weaker race. The groundless panic that pervaded the South so recently foreshadows the evil that is to come. Has the kindred policy of the British Government toward the Celtic Irishman succeeded in conciliating his affection for the English race or nation? If those who favor it here had taken the trouble to look into the causes of that exodus that is unpeopling his ancient home, and flooding our shores with its living tides, they would have discovered that there was something more than a war of races to explain the undying hatred with which the Irish exile looks upon the Saxon Englishman, and they would have found its solution in the very policy which it is now proposed to inaugurate in order to prevent a war of races in the South. It is unnecessary, however, to go so far. The recent bloody disturbances in the island of Jamaica are but a type of the social horrors which a mistaken deference to its prejudices is preparing for that deluded people.

But it is objected by the President that this is a question for the States under the Constitution, and that the concession of the elective franchise by himself to the freedmen of the South must have been extended to all colored men wherever found, and so must have estab-

lished a change of suffrage in the North as well as in the South, and would have been an assumption of power which nothing in the Constitution or laws of the United States would have warranted.

This argument assumes, in the first place, that the defaulting States are already in the Union, free from the penalties of crime, and with all their rights and privileges as intact as those of their loyal sisters. If this be true, it is not to be questioned that the right of fixing the qualifications of their own voters has been left, *sub modo*, with themselves. But how then, it will be naturally asked, did the President himself acquire the power of defining the qualifications of the voters in the first instance? If he could do this—if he could either abridge or enlarge the privilege—and he could as well do one as the other—so, *a multo fortiori*, could the law-making power of this Government, in which the sovereignty resides. If he could do either, he might as well have conferred the privilege on the black man as on anybody else. But then he objects that this must have extended it to all the loyal States as well as those that have rebelled, which is an assertion that his jurisdiction has attached, by virtue of the rebellion of the delinquents, to the States that are without sin. I am constrained to say that this is an argument which I have not been able to comprehend. Taking it, however, to be true, as claimed, it must have equally followed from his summary disfranchisement of the voters, whether loyal or disloyal, who might decline to take the oath to support all proclamations and laws having reference to the emancipation of the slave, that we of the loyal States were all disfranchised, too, unless we submitted to the same conditions.

Taking it, however, only in the milder sense of a suggestion, not uncommon in the South, that the loyal States which now deny the suffrage to the black man, would be either expected—to save their own consistency—or might be compelled by Congress to conform to the same rule, there is a word more to be said in the way of answer.

Whether these States could be regarded as strictly republican with such a limitation of the elective franchise, if the necessities of the country or the protection of a numerous class of citizens required the presentation of the question to the consideration of Congress, is more than doubtful. The paucity of the blacks, however, in the northern States, where there is no disposition to oppress them, and their uniform enjoyment, without molestation, of every social and civil right, without the protection of the political privilege of the ballot, has made it a question of no practical importance to the country, and led to no formal complaint, although the overshadowing influence of the slave power has robbed them in many of the States of that privilege which the overthrow of slavery will sooner or later restore to them. Whether their inherent right as citizens to vote could be enforced by an appeal to the judicial tribunals of the country, upon the footing of the constitutional guarantee, is a question which I am not prepared to answer, and do not care to discuss. There is no issue now as to the loyal States to demand the consideration of Congress. There is none pending as to their admission here. It is only the criminals that are at your bar, not asking pardon, but demanding to be restored to power. They went out to found a slave empire. They still think that God and nature intended the negro only for that condition. He counts by millions in the rebel States. He is a freeman now. His master is his enemy. He obviously intends to reenslave him if he can. He wants power to enable him to do it. The negro wants protection, and has earned the right to it, if it was not his before. We want peace and security, if not indemnity for the past, and we are sure that they can be only secured by making these governments republican. They have placed themselves by their own act in a condition in which, by the confession of the President himself, it becomes our duty to execute the guarantees of the Constitution. When we shall have done this work it will be time

enough to enter upon another that will be purely voluntary; and if the reconstructed States shall insist, when they are in a condition to do so, that we shall deal with the negro ourselves as we have compelled them to deal with him, I doubt not that the justice of the North, with its vision purged by the rising beams of universal liberty, will anticipate any action here, by undoing what nothing but a base servility to the perished feudalism of the South could ever have accomplished.

But why hurry the return of these States? Why undertake the hopeless and preposterous task of resorting not only to temptation, but compulsion, for the purpose of bringing about a reunion which can only subsist where it is spontaneous, and can rest securely on no other foundation than mutual respect and good will? It is a great problem, and a difficult one. Is there any immediate overshadowing necessity for their reappearance here? Is there any adequate inducement to indemnify us for the admitted risks we must incur from immature and ill-considered action? What would be thought of the sanity of the man in private life who would insist on hurrying back to his embrace and confidence the unfaithful partner who had violated a sworn engagement of fidelity, purloined his goods, fired his dwelling, and murdered a part of its defenders; who instead of yielding had only been surrendered by his slaves, or overtaken and disarmed by the officers of justice, and had never even admitted his crime, or given one token of repentance? Is there not danger enough already in the rapid process of disbandment and surrender that has been going on under our own eyes, to the terror of our only loyal friends, both white and black, in the South, without reference to the wishes or opinions of the people or their Representatives here, and in defiance of official information collected by the Government itself that the spirit which inaugurated and directed this hellish revolt was as ripe as ever in the land, that we should insist on strewing palm-branches in their way, and inviting them to the honors of a triumph at the Capitol? The President admits that his policy "is attended with some risk," but excuses it by the suggestion that "it is a risk that must be taken." This, I humbly think, is a *non sequitur*. It was not necessary that he should have a policy, and a perilous one, or that we should take the risks that are admitted to be incidental to it. However it may be with the soldier, it is not out of "the nettle danger" that the statesman would "pluck the flower safety." He will take no risks if he can help it, and with only a rational treatment of this question, I think they are unnecessary here. The people of the loyal States, who fought this battle, are now in the possession of the Government. They may—and if they are wise they will—take their own time to determine how they will readjust its machinery, and heal over the wounds that the war has made. It is in their power now to exact every possible security for the future.

Why, then, this inexplicable eagerness to surrender all the advantage of our victory without any security at all? Why insist that the overthrow of these rebels in the bloody arbitrament to which they have appealed, is to be only the signal for their restoration to their former estate? Is it necessary that we should constrain the reluctant condescension of these haughty masters, who so lately spurned us as slaves, to the renewal of the domination which they had come to loathe from a very feeling of satiety? Has the attempt improved or mollified them? General Schurz is the witness that the policy of not only pardoning, but inviting the traitors themselves to reconstruct their States, has had the worst possible effect upon them. And it was but natural that it should. If they do not despise us for our weakness and our voluntary self-abasement, they will be at least prepared to conclude that they are more necessary to us than we are to them. They were not long out themselves, before they began to yearn for the scion of some royal house beyond the seas. Shall we furnish them reason to think that we are pining for the return of our natural lords, along

with our Democratic brethren, who have been wandering like sheep without a shepherd, and lamenting the desolation of the Capitol with more than the tenderness of the Moor, who wept the exile of the last of the Abencerrages under the deserted towers of the Alhambra? What reason beyond their mere repugnance to the association with the northern mudsills, will they have to lament their failure in the battlefield, when they are once more reinstated in their original dominion here? Are these the means by which a statesman expects to improve the lessons of the war? If kindness and submission could have won their hearts, they never would have left us. Is anybody weak enough now to think that they are so chastened and humbled by defeat that a restoration to power, instead of intoxicating, would only disarm them? That would not be in accordance with human nature or historical example. Did the catastrophe of Charles I result in any improvement of the family? Their restoration was but the prelude to another revolution that drove them from the throne. It is the same blind confidence in the reformation of these men that is now menacing this Government with ruin.

But is there any evidence that they are changed, or that they are yet in a proper frame of mind to come back and perform faithfully their duties here? We all know better. The special commissioner of the Executive says not, and his testimony is supported by all the presumptions in the case. It would be unreasonable to look for anything else. They are but men, like ourselves. Alienated in affection by a systematic education of thirty years, they went out with the determination never to return. The southern heart went with them. Inflated with pride and vainglory, they threw down the gage of battle, and defied us in the presence of a world that sympathized with them. We took it up, and they are at our feet, deeply wounded in their most sensitive point, smarting under the humiliation of a defeat at the hands of their own slaves, and realizing more than the bitterness of death in the depth of their fall, and the painful recollections that it suggests. How unreasonable to expect that hatred, the deepest and most undying—doubly intensified by such humiliations—could be converted into love by such a process, and the lessons of a generation unlearned in the twinkling of an eye! But they do not even affect it; and I am rather inclined to respect the pride that, under the greatest of temptations, has prevented them from condescending to the meanness of the hypocrite. They confess that they are subdued, but only, as they tell us, by the power of numbers—the mere brute superiority of the North. They do not profess contrition for their great crime. They do not even admit that they have sinned. Nay, they glory in the act, treat fidelity to their infamous confederacy as the most heroic of virtues, award public honors under the very Government that has crushed them—and which that Government ratifies—in recompense for treason against it, and visit the social ban, if not the bullet or the knife, upon such of their people as have fought valiantly in its defense. It is but reasonable, I say, that, coming as they do, out of the fires of the rebellion, they should feel thus. But that they should act thus under our own eye, is evidence either that they do not wish to return, or that the dejection that followed their defeat has given place to the assurance that they are not only to be pardoned their offense, but to return as conquerors. Their leaders certainly do desire to get back again, because they are overthrown in battle, and it is but to exchange the place of a subject for that of a ruler, or at least an equal. To accomplish this they would have been glad to ransom their lives and property for the cheap consideration of negro suffrage. They expected probably no terms more favorable. The lenity of the Government has assured them that treason is no crime, and that there is to be no atonement for the past. The tone of the proclamations and the tenor of the diplomatic negotiations have taught them that nothing was expected or desired by the President but

the recognition of the freedom of the slave, and the repudiation of the debt incurred in carrying on the war, and that there was to be no other security for the future. The outgivings of public functionaries have instructed them that they were wrong in claiming the rights of belligerents, and that they have a right to resume their places here upon such conditions as they can make with the Executive. They care nothing about you or your laws. They look only to the Chief Magistrate, while they defy the opinions of your constituents, and regard you only as the mere executors of his will. There is a providence in these manifestations that warns us of our danger if we would give heed to it. Ignoring them, we shall not have even the poor apology of saying that we were deceived in a case where even the largest professions—if they had vouchsafed to make them, as they have not—ought not to have been allowed to put us off our guard. I know that confidence is a generous plant, and that there are natures so unsophisticated as to be above suspicion or distrust. There are men certainly whose boundless charity would not only forgive offenses, however frequently repeated, but even persuade them to give their faith anew to those who have dealt treacherously with them—as these men have with us—while they would reject the counsels of the wise and prudent, on the ground that their suspicions were ungenerous, and the results apprehended by them improbable. These men may be good Christians, but they are poor statesmen, and they misconstrue the spirit of the Christian maxim which teaches forgiveness, if they suppose that it inculcates trust. The thing that has once happened may happen again. It is not sufficient that it is improbable. It is the business of the statesman to see that it is made impossible. No blind confidence, no false sense of security on his own part, will excuse him for hazarding the peace and welfare of a nation by giving his trust a second time where it has once been disastrously betrayed. He has no right to sport in this way with the life of a people. He cannot afford to be thus generous with other people's goods. It is not enough to tell us that the present Executive of this nation—with a strong feeling, of course, for the desolation of the South—is magnanimous enough to forgive, and generous enough to confide in the honor and loyalty of his old neighbors and associates in council, although they have so cruelly persecuted him—as they will do again as soon as the opportunity occurs. The twenty millions of the loyal States who have seen so little good come out of that Nazareth, must have something surer to rest upon than his oblivious charity. I think otherwise, and so do my constituents. I have great respect for his opinions, but the facts and the presumptions are all against him, and I must be governed by them. If we are wrong, the error may be corrected hereafter. If he is wrong, it is irremediable. True wisdom demands that we should "make assurance doubly sure, and take a bond of fate," while there is yet time to do it, by providing against all possible contingencies, where the interests involved are so vast and inappreciable. If the terms seem harsh, that is the fault of those who are precipitating the solution. A reasonable probation would enable us to make them easier. I would rather, for my own part, trust to the mellowing influences of time. If you desire a reunion that will be permanent and real, you must wait till their hearts are changed—wait until the bitterness of defeat is past, and until they are prepared to confess their errors, and ask forgiveness, and restoration in the spirit of the returning prodigal. Without repentance forgiveness is idle, and restoration worse. Philosophy and religion alike approve the soundness of this doctrine. You cannot accomplish a task of this sort by any forcing process. No wise Government would think of it. No sound or judicious statesman would advise it. If they cannot come back now in the right spirit, and will not come with such securities as we have a right to demand, it were better they should not come at all. I would hold them as they are—and with black troops

too—until their territories are peopled by men who will recognize the value of the Union—ay, hold them forever, if necessary, as subject provinces. But it will not be necessary. They will be glad to return in a very few years on just such conditions as you may impose, and will be grateful for the privilege. Admit them now, and withdraw your armies, and you leave your few white friends and your multitudinous black ones to an ostracism as merciless as the bloody proscription upon which they can no longer venture with safety. They tell you so themselves. While the President informs you that these States, or some of them, are ready to return, in the face of the admitted fact that their people, in almost every instance, have refused to ratify even the advantageous bargain made with him by their leaders, by sending loyal men to represent them here, every breeze from the South is laden with the earnest remonstrances of the loyal people of those States, telling you that the withdrawal of your power will be the signal for their flight and exile from their homes and altars, from the graves of their kindred and their household gods, and beseeching you, in piteous accents of despair and agony, not to abandon them to their remorseless enemies.

But before they do come in, whether by the door or window, there are duties to be performed to others, dangers against which we must provide, arising out of the obligations of the war that these men have forced upon us. We have incurred an enormous debt that is mainly owing to our own people. We must provide for the payment of its interest, as well as the redemption of all the pledges we have made to the disabled soldier, and to the widows and orphans of those who have perished in the field. Is it expected that these men will assist us in redeeming these obligations, that some persons are so anxious to associate them with us in the performance of this work of justice and mercy? Do you propose to summon these great criminals here and translate them from the dock to the bench, as joint assessors with yourselves, and those who have poured out their money or their blood in ocean streams in bringing them to justice, in the resettlement of the nation, in perfecting its securities, and in fulfilling the obligations you have incurred to the public creditor, and to the families of those brave men who have gone down to death upon so many southern battle-fields? Will you insist that they shall come into council with you on such a question as this? The ordeal would be too severe. They have denounced the war as not only unrighteous, but unlawful; and they are not alone in this particular. It is not the rebels militant only, the men who so cheerfully staked their lives on their opinions, who think so. Their old associates in the North, who want them back on the terms of the President, have taught their followers here upon the same argument, that the public securities were worthless and would be repudiated. Is there no risk of a new coalition on this basis? I venture to predict that the next phase of the reunited Democracy of the North and South, (for it will be a reunion of the party and not of the States,) will be opposition to the payment of this debt. It may not discover itself at once in the shape of absolute repudiation in the North, but this new alliance will find other means, not less effective, to accomplish its work. The South, with all its prejudices and pride, would rather consent even to negro suffrage than allow itself to be taxed for such a purpose, and you cannot compel it without the aid of the black man. The North will insist, at least, on scaling your securities down by the actual money value in the world's market of the paper that was invested in them. It will damage your credit by quarreling with your schemes of revenue. Knowing that taxation is always unpopular, and particularly among a people so unused to it as ourselves, it will at least flatter and delude the multitude with illusory promises of relief, and with the aid of a united South, will, at the next turn of the cards, win its way back to power, and enter once more upon the possession of the Government.

But the mischief will not end here. There is another debt that numbers cannot compute, incurred in the baffled attempt to overthrow this Union, and diffused throughout the entire South. There is, besides, a claim yet dormant for the value of the slaves made free by the proclamation. It may seem to some extravagant to talk of these, but it is no more extravagant than many other things that we have witnessed, and among them the assertion of a right to return to these Halls as though they had not sinned, and the presumptuous arrogance that has already taken our Constitution in charge, and undertaken to arraign our acts of self-defense against their treason as violations of that instrument. Admit these men, ignore their crimes by your votes here, give them your confidence and the eventual mastery as before, and your public credit will deservedly receive a shock that will tumble it into ruins. Re-admit them here, and every prudent man will endeavor to get rid of your securities. No sharp-sighted money-lender will trust a Government so administered. It will be in vain for you to profess in joint resolutions that you do not intend to pay any of the debt of the dead confederacy, or of the claims of the living slaveholder. The world will not believe it. It will say you mock it, when the makers of that debt, and the disloyal slaveholder himself, shall be exalted by your votes into legislators, to cooperate with the party here that has decied your obligations, and declared them to be worthless. The assumption by you of the one, and the payment of the other, would be but a logical sequence. If the makers of that debt are decided to be worthy of honor and trust in this Government, it will be an estoppel against the assertion that there was anything essentially immoral in hiring assassins to take our lives, or anything in reason to prevent the payment of the wages of their iniquity. It will be taken for granted that when you make a legislator of the criminal, you intend to pay his debts of honor at home. You may protest that you do not, but it will point you to these acts, and scoff, ay, it will scoff, at your empty protestations, as no more than sounding brass and tinkling cymbals.

But before I have done, allow me to come back once more to the great conflict of power—the gigantic and overshadowing issue which has been forced on us and on the country, by the process of restoration which it has pleased the President in the exercise of his own judgment to adopt. There are other considerations that demand our care beyond the mere rehabilitation of the conquered States. It is for us to see that in the execution of the guarantee the Federal Republic itself shall receive no detriment, and undergo no change. There are symptoms unquestionably of an alarming nature, developed, of course, by the high stimulus under which it has just been working, that forebode a serious disturbance of its balances—a revolution equivalent to a change in its organic structure, if not watched narrowly before it is too late. The time has now come to check those tendencies which a condition so unnatural has so largely encouraged. With a Union newly and doubly imperiled by a policy that, ignoring the sentiment of the loyal States, has thrust us an immeasurable distance back from the position which we occupied when the camp-fires of our legions were blazing along the heights of the Appomattox, by not only leaving treason and murder to go unpunished, but warming the former into life and hope and strength by withdrawing our troops, and endowing it with the power of reorganizing its broken columns for a fresh assault, and with the great problem of the restoration of its dissevered members complicated with another and perhaps a greater, in the tremendous question whether all these heterogeneous elements are to be flung into the crucible, and fused down under the fierce flames of war into an elective monarchy, it seems to me, with all due respect to the President, that we have reached a crisis in our affairs when it behooves the people to look to their securities, and their Representatives here to resume the

government of this nation, and to say to the advancing tide "thus far and no further."

Standing as I do upon the traditions of the fathers, upon the radical but conservative maxims of republican liberty, upon the great principles that have been consecrated by the struggles of more than two hundred years, I cannot but tremble for my country when, in addition to all this, I hear the national Representatives instructed by other than their lawful masters in regard to their duties here; when I find myself semi-officially advised by the executive head, who has just been thanked by a rebel Legislature for the act, that amendments to its fundamental law, proposed by its delegates here for its security, are unnecessary, or inadmissible, or entitled to no more respect than the resolutions of a town meeting, while bills that have passed this House, and are now actually depending in the Senate, are made the subject of public discourse and animadversion at the other end of the avenue; when I hear a high officer of that department confessing and justifying the exercise of a dispensing power over our laws, in the employment of traitors and the payment to them of moneys wrung from the sweat of the toiling millions of the loyal North; when I see members of both these Houses ready and anxious at such a time to abdicate their rightful power as a Legislature, not by a harmless reference to a committee of their own bodies, but by championing their own disability, and flinging down their crowns at the footstool of executive power; when I hear on this floor, from men who opposed the war throughout, and now, by a logic which I do not question, support the policy that gives the victory to the enemy, the appeal of the people to their own Congress compared to the howls of a drunken populace at the doors of the revolutionary Assembly of France, that in the name of liberty flooded its capital with blood, and in the name of religion dethroned the monarch of the world; when I read in newspapers controlled by gentlemen of this House who have discerned no sensibility to attacks upon its own privileges, the mere assertion of a right on its part to express an opinion in regard to the disposition of our troops, with no organized enemy in the field, denounced as an invasion of the prerogative; when I hear even the suggestion of the nation's sentiment in regard to the appropriate doom of the traitor chiefs, who now stand impeached before the world of a connivance in the starvation of our soldiers, and the butchery of our President, reprobated in the same way by public journals in the confidence of the Government; and when, to crown all, my own vision is blasted by appeals to the Executive from the disloyal papers of the North, to employ that patronage which the loyal people have alone bestowed on him to coerce their Representatives into submission to his views, and, failing that, to enact the rôle of another Cromwell or Napoleon in this Capitol, while an answering shout comes back upon the southern breeze that the bayonets of the soldiery, who flung that despotism to the earth must be invoked to re-instate it here. I think I am no alarmist. I am not apt to indulge in gloomy auguries in regard to the future of a nation that has outlived so many blunders, and been so often ransomed by an Almighty arm. The proverbial honors of a prophet of evil have no attractions for me. Poesy has told us the story of Cassandra. History has vouchsafed to hand down to us the name and fate of the madman who ran up and down the streets of Jerusalem crying "Woe! woe!" while the armies of Titus were encamped about its walls. But if I stood alone on this floor, and it were my last utterance, holding the high trust which God had given me, with a nation in travail, and in view of the dark portents that cloud the horizon, and shake the very atmosphere around us, I would say to the people, "Awake from your false security, or prepare yourselves for another holocaust. Your enemy still lives. His 'impaired vitality' has been restored. Red-handed treason rears its head as proudly and defiantly and insultingly as before. It menaces your

capital. It claims to dictate to your President. It presumes to use the very organs of your Government to denounce your attitude as a revolutionary one, and to arraign your servants here as though they were in rebellion against the South. It moves upon the citadel where your defenders are intrenched. See that no warder sleeps, no port is left unguarded. Look to it that no sentinel unbars your gates. Steel the hearts of your defenders against the weakness that would betray like treason. See that their mail is proof—no joint agape, no rivet out of place. See that no Trojan horse, no Tennessee with fair outside, but big with 'pestilence and war,' shall win its way within your walls. When these great criminals do return, if ever, let it be only through the door that you shall indicate, and with such infrangible and irreversible securities as you only have the right to demand." This is my position. Here I have taken my stand, and by the help of God I will maintain it to the end. Others may falter in the trial, but through me no right shall be abridged, no privilege surrendered, no single leaf plucked, no jewel torn from the crown of the representative body.

On motion of Mr. COOK, (at five o'clock p. m.,) the House adjourned till Monday.

IN SENATE.

MONDAY, February 12, 1866.

The following prayer was offered by the Chaplain, Rev. E. H. GRAY, D. D.:

O Supreme Ruler of the heavens and the earth, behold the nation prostrate at Thy feet at the terrible calamity, the staggering blow, the great bereavement. The scenes connected with the death of our lamented Chief Magistrate come back to the memory to-day. O God, we bless Thee for such a man, for such a President, that his life was spared so long, that he was permitted to accomplish so much, that when he died he fell covered with honors and glory, and not the nation only gathered about his bier, but messages of condolence were sent from all the nations of the earth. We pray that to-day we may be sufficiently humbled and chastened in view of our great affliction, and that we may be led as a nation to depend less upon man and more upon God. And wilt Thou sanctify to us all the afflictions, as individuals and as a people, that we are called to experience. To-day, especially, would we commend to Thy merciful regard the afflicted and bereaved family of our departed chief. May they continue to be supported by Thy grace, be guided by Thy Spirit, and be preserved in Thy mercy, that these great afflictions be sanctified to their present and future good. And bless our Government, the President of the United States, the ministers of state, the members of Congress, the defenders of our land, and all the people. Bless us, we pray Thee, in our relations to each other and to Thee, our Maker and Preserver. Prepare us for the solemn services in which we are about to engage. Oh, grant that we may look up submissively to Thee, remembering that God does all things well. And we pray that, being chastened by Thine afflictions, we may be better prepared as a nation for the great mission we have to perform in the world. Make us a blessing and make us an example to the nations of the earth of righteousness and truth and freedom, and save us at last, for Christ's sake. Amen.

The PRESIDENT *pro tempore*. The first business in order is the reading of the Journal of the last day's session.

Mr. CLARK. Unless some Senator desires to have it read, I move that the reading of the Journal be dispensed with.

The PRESIDENT *pro tempore*. The reading of the Journal can be dispensed with only by unanimous consent.

Mr. SHERMAN. I notice in the published order of proceedings that provision is made for the reading of the Journal; and I do not know but that it was for the purpose of consuming some time to enable the necessary preparation to be made in the other House. I have no desire

to have the Journal read, but the programme ought to be observed.

Mr. CLARK. I understand that the Journal of the other House is a very short one, and probably its reading has been concluded by this time, so that they are ready to receive us.

Mr. SHERMAN. With that understanding, I have no objection to the Senator's motion.

There being no objection made, the reading of the Journal of last Friday's proceedings was dispensed with.

The PRESIDENT *pro tempore*. In pursuance of previous arrangement, the Senate will now proceed to the Hall of the House of Representatives to join in the services which have been assigned for this day.

The Senate, headed by the President *pro tempore* and the Chief Clerk, and preceded by the Sergeant-at-Arms, proceeded to the Hall of the House of Representatives. At the conclusion of the services there, the Senate returned to its Chamber.

PRINTING OF MR. BANCROFT'S ADDRESS.

Mr. FOOT. I suggest to Senators—I suppose there is no business to detain us—that in a few moments a concurrent resolution will be received from the House of Representatives, and I trust Senators will remain until that resolution shall arrive; it will require our action in its concurrence. Meanwhile I move—the Secretary can put it in the proper form of a resolution—that ten thousand copies of Mr. Bancroft's memorial address on the life and character of President Lincoln be printed for the use of the Senate. That resolution will go, under the rules, to the Committee on Printing.

The PRESIDENT *pro tempore*. No objection being made, such a resolution will be drawn, and referred to the Committee on Printing.

Mr. FOOT. If there be no objection, that rule may be waived, and the resolution adopted at this time; and if there be no objection, I trust the Chair will put the question on the adoption of the resolution.

The PRESIDENT *pro tempore*. Under the rule it is required that such a resolution should go to the Committee on Printing; but by the common consent of the Senate the Chair will put the question to the Senate.

The resolution was agreed to unanimously, as follows:

Resolved, That ten thousand copies of the memorial address on the life and character of Abraham Lincoln, delivered at the request of both Houses of Congress, by Hon. George Bancroft, be printed for the use of the Senate.

JOURNAL.

Mr. SHERMAN. We might as well have the Journal read now. It was not read this morning.

The PRESIDENT *pro tempore*. The reading of the Journal of Friday's proceedings is called for. It will be read if there be no objection.

Mr. McDUGALL. There is objection. It was dispensed with by unanimous consent this morning.

Mr. SHERMAN. We may as well have it read. It will fill up the time while we are waiting to receive the message from the House.

The PRESIDENT *pro tempore*. The reading of the Journal will be proceeded with, if there be no objection.

The Journal of Friday's proceedings was read and approved.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. GRIMES, it was *Ordered*, That the petition and other papers in the case of Lieutenant Commander Greenleaf Cilley be withdrawn from the files of the Senate, and referred to the Committee on Claims.

MR. BANCROFT'S ADDRESS.

The following message was received from the House of Representatives, by Mr. McPHERSON, its Clerk:

Mr. President, I am directed by the House of Representatives to communicate to the Senate a concurrent resolution presenting the thanks of Congress to Hon. George Bancroft for the appropriate memorial address delivered by him

on the life and services of Abraham Lincoln, and requesting a copy for publication.

Mr. FOOT. I ask the unanimous consent of the Senate to consider that resolution at the present time, and move the concurrence of the Senate in it.

The resolution was considered by unanimous consent. It is as follows:

Resolved, (the Senate concurring,) That the thanks of Congress be presented to Hon. George Bancroft for the appropriate memorial address delivered by him on the life and services of Abraham Lincoln, late President of the United States, in the Representatives' Hall, before both Houses of Congress and their invited guests, on the 12th day of February, 1866, and that he be requested to furnish a copy for publication.

Resolved, That the chairmen of the joint committee appointed to make the necessary arrangements to carry into effect the resolution of this Congress in relation to the memorial exercises of Abraham Lincoln, be requested to communicate to Mr. Bancroft the foregoing resolution, receive his answer thereto, and present the same to both Houses of Congress.

The resolutions were concurred in.

Mr. FOOT. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, February 12, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON, as follows:

Our Father who art in heaven, hallowed be Thy name. We thank Thee that once more through the night watches we were safely guarded by Thee, and that our eyes have been opened in peace through Thy love to behold the coming of this gladly solemn day. And now that we are to be called away from the usual public duties of the positions that are occupied here to hold converse awhile with death and with the memories of one whom we all honored and loved so much, we beseech Thee, O God, that in Thine infinite mercy Thou wilt grant us all grace to profit as we should by the occasion. We turn away from all relations of a public nature, to country and to time, to think of those more solemn ones that we bear to eternity and to God. May every one be induced by Thy Holy Spirit to consider to-day what the tendency of life is—whether through faith in Jesus Christ it will end in everlasting life. O Lord, prepare all for the proper observance of this solemn day. May every one interested, and all who may participate in this service, be guided of God, so that all being done decently and in order, this magnificent and solemn testimonial of the nation to the worth of our departed and murdered President may make a due impression on the national heart.

And when all is over here, when all the pomp and the pride and the pageantries of earth have passed away, may we all be received into Thy heavenly kingdom, through Jesus Christ our Lord. Amen.

The Journal of Saturday last was then read and approved.

CHRISTIAN COMMISSION.

The SPEAKER. The Chair is requested by the president and officers of the Christian Commission to tender their thanks to this House for the use of this Hall on their four anniversary occasions.

MEMORIAL OF ABRAHAM LINCOLN.

To-day had been selected for services to commemorate the life and death of Abraham Lincoln, late President of the United States, in accordance with the following concurrent resolutions reported from the select joint committee appointed to consider and report by what token of respect and affection it may be proper for the Congress of the United States to express the deep sensibility of the nation to the event of the decease of their late President, Abraham Lincoln, and adopted unanimously by the two Houses of Congress:

Whereas the melancholy event of the violent and tragic death of Abraham Lincoln, late President of the United States, having occurred during the recess of Congress, and the two Houses sharing in the gen-

eral grief and desiring to manifest their sensibility upon the occasion of the public bereavement: Therefore,

Be it resolved by the Senate, (the House of Representatives concurring, That the two Houses of Congress will assemble in the Hall of the House of Representatives, on Monday, the 12th day of February next, that being his anniversary birthday, at the hour of twelve meridian, and that, in the presence of the two Houses there assembled, an address upon the life and character of Abraham Lincoln, late President of the United States, be pronounced by Hon. Edwin M. Stanton, and that the President of the Senate pro tempore and the Speaker of the House of Representatives be requested to invite the President of the United States, the heads of the several Departments, the Judges of the Supreme Court, the representatives of foreign Governments near this Government, and such officers of the Army and Navy as have received the thanks of Congress who may then be at the seat of Government, to be present on the occasion.*

And be it further resolved, That the President of the United States be requested to transmit a copy of these resolutions to Mrs. Lincoln, and to assure her of the profound sympathy of the two Houses of Congress for her deep personal affliction, and of their sincere condolence for the late national bereavement.

The Speaker's desk, and the desk of the Clerk of the House, which was to be occupied by the orator of the day, were draped in mourning.

The SPEAKER laid before the House the following letter from the Secretary of State:

DEPARTMENT OF STATE,
WASHINGTON, February 12, 1866.

SIR: I make my acknowledgment for the honor of the invitation which, in execution of a concurrent resolution of the Senate and House of Representatives, you have transmitted me to attend the exercises in honor of the memory of the late President of the United States, Abraham Lincoln.

It is with sincere regret that I find the state of my health is such as to forbid my attendance upon those very interesting national ceremonies.

I have the honor to be, sir, your very obedient servant,

WILLIAM H. SEWARD.

Hon. SCHUYLER COLFAX,

Speaker of the House of Representatives.

At twelve o'clock and ten minutes p. m., the members of the Senate, following their President pro tempore and their Secretary, and preceded by their Sergeant-at-Arms, entered the Hall of the House of Representatives and occupied the seats reserved for them on the right and left of the main aisle.

The President pro tempore occupied the Speaker's chair, the Speaker of the House sitting at his left. The Chaplains of the Senate and of the House were seated on the right and left of the Presiding Officers of their respective Houses.

Shortly afterward the President of the United States, with the members of his Cabinet, entered the Hall and occupied seats, the President in front of the Speaker's table, and his Cabinet immediately on his right.

Immediately after the entrance of the President, the Chief Justice and the Associate Justices of the Supreme Court of the United States entered the Hall and occupied seats next to the President, on the right of the Speaker's table.

The others present were seated as follows:

The Heads of Departments, with the Diplomatic Corps, next to the President, on the left of the Speaker's table;

Officers of the Army and Navy, who, by name, have received the thanks of Congress, next to the Supreme Court, on the right of the Speaker's table;

Assistant Heads of Departments, Governors of States and Territories, and the Mayors of Washington and Georgetown, directly in the rear of the Heads of Departments;

The Chief Justice and Judges of the Court of Claims, and the Chief Justice and Associate Justices of the Supreme Court of the District of Columbia, directly in the rear of the Supreme Court;

The Heads of Bureaus in the Departments, directly in the rear of the officers of the Army and Navy;

Representatives on either side of the Hall, in the rear of those invited, four rows of seats on either side of the main aisles being reserved for Senators;

The Orator of the day, Hon. George Bancroft, at the table of the Clerk of the House;

The Chairman of the Joint Committee of Ar-

rangements, at the right and left of the orator, and next to them the Secretary of the Senate and the Clerk of the House;

The other officers of the Senate and of the House, on the floor at the right and the left of the Speaker's platform.

When order was restored, at twelve o'clock and twenty minutes p. m., the Marine band, stationed in the vestibule, played appropriate dirges.

At twelve o'clock and thirty minutes the two Houses were called to order by the President pro tempore of the Senate.

Rev. Dr. BORNHORN, Chaplain of the House of Representatives, offered the following prayer:

Almighty God, Thou who dost inhabit eternity, while we appear but for a little moment and then vanish away, we adore Thy eternal name. Almighty God, wonderful in power, full of majesty art Thou, and before Thee all earthly distinctions vanish into nothing. We come into Thy presence to-day, O God, simply as men, fallen men, condemned alike by Thy law, and rightfully cut off through sin from all communion with God. But through Thy infinite goodness a new and living way of access has been opened through Thy Son, consecrated by His blood. We present ourselves in that better name, and plead Thy promises of pardon and acceptance, through faith in Him.

We are reminded, O God, by the imposing solemnities of this scene, of that hour when the nation heard, and shuddered at the hearing of it, that Abraham Lincoln was dead—was murdered. And we bow afresh submissively unto Him who ordered for the nation that solemn hour; we bow ourselves unto the blow that fell on this whole people in the very hour of their triumph and hushed all their shouts of victory to the voiceless silence of woe. O God, we feel that the shadow of that death has not passed away from the national heart, as this solemn gathering testifies full well. Yet we know that the gloom that falls on our hearts from this drapery of woe is gilded by the glory of a great triumph, and by the light of the memory of the illustrious dead. Still, O God, may we all of us learn the solemn lesson which Thou dost intend to convey unto us. "Be ye also ready, for ye know not the day nor the hour when the Son of Man cometh." "The Lord gave, and the Lord hath taken away, blessed be the name of the Lord."

We worship Thee as the God of our fathers. Thou didst mark out a path for them over the trackless seas, and didst bring them to these shores, bearing with them the seeds of a great dominion. We thank Thee that Thou didst so protect it and cherish it that it spread itself rapidly outward and over the breadth of a continent, bearing with it Christian freedom, churches, schools, intelligence, and all the blessings of a Christian civilization. We thank Thee, O God, that the power of Thy love in its unfolding was a resistless one, because backed by Thy eternal counsels and by Thy Almighty power. And because the might of God was in it we have seen it in its progress sweeping all obstacles away, crushing great systems and great parties, reforming public opinion, and advancing to the control of a continent.

And we bless Thee, O God, that in every hour of its peril heretofore Thou hast raised up for it heroic defenders. We thank Thee, O defender of Israel, that when treason was hatching its plot and massing its armies, then, O God of our fathers, Thou who didst of old bring David from the sheepfolds didst also bring one from the humble cabin of the pioneer to become the chieftain of this great people in their hour of danger, to shield them from disaster, and lead them to final triumph. We thank Thee that Thou didst give us an honest man; a man simple-hearted, loving as a child, and yet of rugged strength, who wanted only culture and discipline; and that discipline Thou didst grant unto him through stern public trial, through bitter domestic sorrow, through the wonderful leadings of Thy providence, until the mere politician was overshadowed by the nobler growth of his moral and spiritual nature; until he came,

as we believe, into communion with Christ; until he saw that our cause would prosper only by justice; and then, inspired by Thee, he uttered those words of power that changed three million slaves into men—the one act that has made his name illustrious forever.

We thank Thee, O God, that he did not die until he was assured of victory, until he had received all honor that earth could bestow; and then we believe Thou didst give him a martyr's crown. We thank Thee, O God, that we have this hope for our illustrious dead. We have great reason to bless Thee that the enduring strength of our institutions was such that they suffered no perceptible shock, even by the death of such a man, and at such a time.

And we thank Thee that Thou didst provide for us in that hour one who was strong enough to receive, and to bear steadily, the weight of Government. And we beseech Thee, O God, to give him strength and wisdom, so that he may work out this great problem to its solemn solution, and by universal freedom and equal right and equal law bind this whole people into one inseparable nation.

We thank Thee, O God, that the representatives of the nation have seen fit to come together to-day, and sit for awhile in the shadow of Abraham Lincoln's grave. O God, may they reconsecrate themselves to the principles and to the work which have caused him to be remembered and honored thus. And then, when that great work is accomplished, a disenthralled and regenerated land will be the fitting monument both for him and for them.

We beseech Thee, O God, to remember with a special mercy the President of the United States, and to grant him the wisdom and strength which he needs for the solemn responsibilities of his position. God grant that he may so live that a nation's sorrow shall be expressed when God shall call him, as he will all of us, home.

We pray Thee to bless all his Cabinet advisers. Bless, we beseech Thee, the legislators of the land. Remember the officers of the Army and of the Navy, illustrious as Thou hast made them, through whose courage and skill the great triumph was won. Remember our soldiers and sailors. Bless the whole people. Bless those who are struggling yet onward to a perfect manhood.

Remember those eminent men, the honored representatives of foreign Powers, who have come here to testify with us their respect for one who was honored abroad as well as at home. Remember their sovereigns, and the Governments that they represent. We thank Thee, O God, that they and we are all at peace. May that peace continue until the nations shall learn war no more.

And remember, O God, that bereaved woman, sitting in the desolation of her widowhood to-day. And bless the family in its sore bereavement; may they all be comforted by the thought how much the husband and the father is loved and honored still.

Remember, O God, the distinguished orator on this occasion. We pray Thee that Thou wilt give him to utter words of power and truth to-day, that shall make a deep and due impression on the heart and the mind of the nation.

May we, O God, all of us so live that when we have finished our course here, it may be with exceeding joy, through Jesus Christ, our Lord; to whom, with the Father, and the Holy Spirit, we ascribe all praise and honor, now and forever. Amen.

The PRESIDENT pro tempore of the Senate, in introducing the orator of the day, said:

No ordinary occasion could have convened this august assemblage. For four weary years the storm of war, of civil war, raged fiercely over our country. The blood of the best and bravest of her sons was freely shed to preserve her name and place among the nations of the earth. In April last the dark clouds which had so long hung heavily and gloomily over our heads were all dispersed, and the light of peace, more welcome even than the vernal sunshine, gladdened the eyes and the hearts of our people. Shouts of joy and songs of triumph echoed through the

* Mr. Stanton having declined, the committee selected Hon. George Bancroft to pronounce the address.

land. The hearts of the devout poured themselves in orisons and thanksgivings to the God of battles and of nations, that the most wicked and most formidable rebellion ever known in human history had been effectually crushed and our country saved.

In the midst of all this abounding joy, suddenly and swiftly as the lightning's flash, came the fearful tidings that the Chief Magistrate of the Republic, our President, loved and honored as few men ever were, so honest, so faithful, so true to his duty and his country, had been foully murdered, had fallen by the bullet of an assassin. All hearts were stricken with horror. The transition from extreme joy to profound sorrow was never more sudden and universal. Had it been possible for a stranger, ignorant of the truth, to look over our land, he would have supposed that there had come upon us some visitation of the Almighty not less dreadful than that which once fell on ancient Egypt on that fearful night when there was not a house where there was not one dead. The nation wept for him.

After being gazed upon by myriads of loving eyes, under the dome of this magnificent Capitol, the remains of our President were borne in solemn procession through our cities, towns, and villages, all draped in the habiliments of sorrow, the symbols and tokens of profound and heartfelt grief, to their final resting-place in the capital of his own State. There he sleeps, peacefully embalméd in the tears of his countrymen.

The Senate and House of Representatives of the United States have deemed it proper to commemorate this tragic event by appropriate services. This day, the birthday of him whom we mourn, has properly been selected. An eminent citizen, distinguished by his labors and services in high and responsible public positions at home and abroad—whose pen has instructed the present age in the history of his country, and done much to transmit the fame and renown of that country to future ages—Hon. George Bancroft—will now deliver a discourse.

Mr. BANCROFT (who, on coming forward, was greeted with warm demonstrations of applause) then proceeded to deliver the following

ORATION.

Senators, Representatives, of America:

That God rules in the affairs of men is as certain as any truth of physical science. On the great moving Power which is from the beginning hangs the world of the senses and the world of thought and action. Eternal wisdom marshals the great procession of the nations, working in patient continuity through the ages, never halting and never abrupt, encompassing all events in its oversight, and ever effecting its will, though mortals may slumber in apathy or oppose with madness. Kings are lifted up or thrown down, nations come and go, republics flourish and wither, dynasties pass away like a tale that is told; but nothing is by chance, though men in their ignorance of causes may think so. The deeds of time are governed, as well as judged, by the decrees of eternity. The caprice of fleeting existences bends to the immovable Omnipotence, which plants its foot on all the centuries and has neither change of purpose nor repose. Sometimes, like a messenger through the thick darkness of night, it steps along mysterious ways; but when the hour strikes for a people, or for mankind, to pass into a new form of being, unseen hands draw the bolts from the gates of futurity; an all-subduing influence prepares the minds of men for the coming revolution; those who plan resistance find themselves in conflict with the will of Providence, rather than with human devices; and all hearts and all understandings, most of all the opinions and influences of the unwilling, are wonderfully attracted and compelled to bear forward the change which becomes more an obedience to the law of universal nature than submission to the arbitrament of man.

GROWTH OF THE AMERICAN REPUBLIC.

In the fullness of time a republic rose up in the wilderness of America. Thousand of years

had passed away before this child of the ages could be born. From whatever there was of good in the systems of former centuries she drew her nourishment; the wrecks of the past were her warnings. With the deepest sentiment of faith fixed in her inmost nature, she disenthralled religion from bondage to temporal power, that her worship might be worship only in spirit and in truth. The wisdom which had passed from India through Greece, with what Greece had added of her own; the jurisprudence of Rome; the mediæval municipalities; the Teutonic method of representation; the political experience of England; the benignant wisdom of the expositors of the law of nature and of nations in France and Holland, all shed on her their selectest influence. She washed the gold of political wisdom from the sands wherever it was found; she cleft it from the rocks; she gleaned it among ruins. Out of all the discoveries of statesmen and sages, out of all the experience of past human life, she compiled a perennial political philosophy, the primordial principles of national ethics. The wise men of Europe sought the best Government in a mixture of monarchy, aristocracy, and democracy; and America went behind these names to extract from them the vital elements of social forms, and blend them harmoniously in the free commonwealth, which comes nearest to the illustration of the natural quality of all men. She intrusted the guardianship of established rights to law; the movements of reform to the spirit of the people, and drew her force from the happy reconciliation of both.

TERRITORIAL EXTENT OF THE REPUBLIC.

Republics had heretofore been limited to small cantons or cities and their dependencies; America, doing that of which the like had not before been known upon the earth, or believed by kings and statesmen to be possible, extended her republic across a continent. Under her auspices the vine of liberty took deep root and filled the land; the hills were covered with its shadow; its boughs were like the goodly cedars, and reached unto both oceans. The fame of this only daughter of freedom went out into all the lands of the earth; from her the human race drew hope.

PROPHECIES ON THE CONSEQUENCES OF SLAVERY.

Neither hereditary monarchy nor hereditary aristocracy planted itself on our soil; the only hereditary condition that fastened itself upon us was servitude. Nature works in sincerity, and is ever true to its law. The bee hives honey, the viper distills poison; the vine stores its juices, and so do the poppy and the opium. In like manner, every thought and every action ripens its seed, each in its kind. In the individual man, and still more in a nation, a just idea gives life and progress and glory; a false conception portends disaster, shame, and death. A hundred and twenty years ago, a West Jersey Quaker wrote: "This trade of importing slaves is dark gloominess hanging over the land; the consequences will be grievous to posterity." At the North the growth of slavery was arrested by natural causes; in the region nearest the tropics it thrived rankly, and worked itself into the organism of the rising States. Virginia stood between the two; with soil and climate, and resources demanding free labor, yet capable of the profitable employment of the slave. She was the land of great statesmen; and they saw the danger of her being whelmed under the rising flood in time to struggle against the delusions of avarice and pride. Ninety-four years ago the Legislature of Virginia addressed the British king, saying that the trade in slaves was "of great inhumanity," was opposed to the "security and happiness" of their constituents, "would in time have the most destructive influence," and "endanger their very existence." And the king answered them, that "upon pain of his highest displeasure, the importation of slaves should not be in any respect obstructed." "Pharisaical Britain," wrote Franklin in behalf of Virginia, "to pride itself in setting free a single slave that happened to land on thy coasts, while thy laws continue

a traffic whereby so many hundreds of thousands are dragged into a slavery that is entailed on their posterity." "A serious view of this subject," said Patrick Henry in 1773, "gives a gloomy prospect to future times." In the same year George Mason wrote to the Legislature of Virginia, "The laws of impartial Providence may avenge our injustice upon our posterity." Conforming his conduct to his convictions, in Virginia, and in the Continental Congress, Jefferson, with the approval of Edmund Pendleton, branded the slave trade as piracy; and he fixed in the Declaration of Independence as the corner-stone of America, "All men are created equal, with an unalienable right to liberty." On the first organization of temporary governments for the continental domain, Jefferson, but for the default of New Jersey, would, in 1784, have consecrated every part of that territory to freedom. In the formation of the national Constitution Virginia, opposed by a part of New England, vainly struggled to abolish the slave trade at once and forever; and when the Ordinance of 1787 was introduced by Nathan Dane, without the clause prohibiting slavery, it was through the favorable disposition of Virginia and the South that the clause of Jefferson was restored, and the whole northwestern territory—all the territory that then belonged to the nation—was reserved for the labor of freemen.

DESPAIR OF THE MEN OF THE REVOLUTION.

The hope prevailed in Virginia that the abolition of the slave trade would bring with it the gradual abolition of slavery; but the expectation was doomed to disappointment. In supporting incipient measures for emancipation, Jefferson encountered difficulties greater than he could overcome; and after vain wrestlings, the words that broke from him, "I tremble for my country when I reflect that God is just, that His justice cannot sleep forever," were words of despair. It was the desire of Washington's heart that Virginia should remove slavery by a public act; and as the prospects of a general emancipation grew more and more dim he, in utter hopelessness of the action of the State, did all that he could by bequeathing freedom to his own slaves. Good and true men had, from the days of 1776, proposed to colonize the negro in the home of his ancestors. But the idea of colonization was thought to increase the difficulty of emancipation; and in spite of strong support, while it accomplished much good for Africa, it proved impracticable as a remedy at home. Madison, who in early life disliked slavery so much that he wished "to depend as little as possible on the labor of slaves;" Madison, who held that where slavery exists "the republican theory becomes fallacious;" Madison, who in the last years of his life would not consent to the annexation of Texas, lest his countrymen should fill it with slaves; Madison, who said "slavery is the greatest evil under which the nation labors, a portentous evil—an evil, moral, political, and economical—a sad blot on our free country," went mournfully into old age with the cheerless words, "No satisfactory plan has yet been devised for taking out the stain."

NEW VIEWS OF SLAVERY.

The men of the Revolution passed away. A new generation sprang up, impatient that an institution to which they clung should be condemned as inhuman, unwise, and unjust; in the throes of discontent at the self-reproach of their fathers, and blinded by the luster of wealth to be acquired by the culture of a new staple, they devised the theory that slavery, which they would not abolish, was not evil, but good. They turned on the friends of colonization, and confidently demanded, "Why take black men from a civilized and Christian country, where their labor is a source of immense gain, and a power to control the markets of the world, and send them to a land of ignorance, idolatry, and indolence, which was the home of their forefathers, but not theirs? Slavery is a blessing. Were they not in their ancestral land naked, scarcely lifted above brutes, ignorant of the

course of the sun, controlled by nature? And in their new abode have they not been taught to know the difference of the seasons, to plow and plant and reap, to drive oxen, to tame the horse, to exchange their scanty dialect for the richest of all the languages among men, and the stupid adoration of follies for the purest religion? And since slavery is good for the blacks, it is good for their masters, bringing opulence and the opportunity of educating a race. The slavery of the black is good in itself; he shall serve the white man forever." And nature, which better understood the quality of fleeting interest and passion, laughed, as it caught the echo, "man" and "forever!"

SLAVERY AT HOME.

A regular development of pretensions followed the new declaration with logical consistency. Under the old declaration every one of the States had retained, each for itself, the right of manumitting all slaves by an ordinary act of legislation; now, the power of the people over servitude through their Legislatures was curtailed, and the privileged class was swift in imposing legal and constitutional obstructions on the people themselves. The power of emancipation was narrowed or taken away. The slave might not be disquieted by education. There remained an unconfessed consciousness that the system of bondage was wrong, and a restless memory that it was at variance with the true American tradition; its safety was therefore to be secured by political organization. The generation that made the Constitution took care for the predominance of freedom in Congress, by the Ordinance of Jefferson; the new school aspired to secure for slavery an equality of votes in the Senate; and while it hinted at an organic act that should concede to the collective South a veto power on national legislation, it assumed that each State separately had the right to revise and nullify laws of the United States, according to the discretion of its judgment.

SLAVERY AND FOREIGN RELATIONS.

The new theory hung as a bias on the foreign relations of the country; there could be no recognition of Hayti, nor even of the American colony of Liberia; and the world was given to understand that the establishment of free labor in Cuba would be a reason for wresting that island from Spain. Territories were annexed—Louisiana, Florida, Texas, half of Mexico; slavery must have its share in them all, and it accepted for a time a dividing line between the unquestioned domain of free labor and that in which involuntary labor was to be tolerated. A few years passed away, and the new school, strong and arrogant, demanded and received an apology for applying the Jefferson proviso to Oregon.

SQUATTER SOVEREIGNTY.

The application of that proviso was interrupted for three Administrations; but justice moved steadily onward. In the news that the men of California had chosen freedom, Calhoun heard the knell of parting slavery; and on his death-bed he counseled secession. Washington and Jefferson and Madison had died despairing of the abolition of slavery; Calhoun died in despair at the growth of freedom. His system rushed irresistibly to its natural development. The death-struggle for California was followed by a short truce; but the new school of politicians who said that slavery was not evil, but good, soon sought to recover the ground they had lost, and confident of securing Kansas, they demanded that the established line in the Territories between freedom and slavery should be blotted out. The country, believing in the strength and enterprise and expansive energy of freedom, made answer, though reluctantly, "Be it so; let there be no strife between brethren: let freedom and slavery compete for the Territories on equal terms, in a fair field under an impartial administration; and on this theory, if on any, the contest might have been left to the decision of time."

DRED SCOTT DECISION.

The South started back in appallment from 39TH CONG. 1ST SESS. No. 51.

its victory; for it knew that a fair competition foreboded its defeat. But where could it now find an ally to save it from its own mistake? What I have next to say is spoken with no emotion but regret. Our meeting to-day is, as it were, at the grave, in the presence of Eternity, and the truth must be uttered in soberness and sincerity. In a great republic, as was observed more than two thousand years ago, any attempt to overturn the State owes its strength to aid from some branch of the Government. The Chief Justice of the United States, without any necessity or occasion, volunteered to come to the rescue of the theory of slavery. And from his court there lay no appeal but to the bar of humanity and history. Against the Constitution, against the memory of the nation, against a previous decision, against a series of enactments, he decided that the slave is property, that slave property is entitled to no less protection than any other property, that the Constitution upholds it in every Territory against any act of a local Legislature, and even against Congress itself; or, as the President of the time tersely promulgated the saying, "Kansas is as much a slave State as South Carolina or Georgia; slavery, by virtue of the Constitution, exists in every Territory." The municipal character of slavery being thus taken away, and slave property decreed to be "sacred," the authority of the courts was invoked to introduce it by the comity of law into States where slavery had been abolished; and in one of the courts of the United States a judge pronounced the African slave trade legitimate, and numerous and powerful advocates demanded its restoration.

TANEY AND SLAVE RACES.

Moreover, the Chief Justice, in his elaborate opinion, announced what had never been heard from any magistrate of Greece or Rome—what was unknown to civil law and canon law and feudal law and common law and constitutional law; unknown to Jay, to Rutledge, Ellsworth, and Marshall—that there are "slave races." The spirit of evil is intensely logical. Having the authority of this decision, five States swiftly followed the earlier example of a sixth, and opened the way for reducing the free negro to bondage; the migrating free negro became a slave if he but entered the jurisdiction of a seventh; and an eighth, from its extent and soil and mineral resources, destined to incalculable greatness, closed its eyes on its coming prosperity, and enacted—as by Taney's decision it had the right to do—that every free black man who would live within its limits must accept the condition of slavery for himself and his posterity.

SECESSION RESOLVED ON.

Only one step more remained to be taken. Jefferson and the leading statesmen of his day held fast to the idea that the enslavement of the African was socially, morally, and politically wrong. The new school was founded exactly upon the opposite idea; and they resolved first to distract the Democratic party, for which the Supreme Court had now furnished the means, and then to establish a new government, with negro slavery for its corner-stone, as socially, morally, and politically right.

THE ELECTION.

As the presidential election drew on, one of the old traditional parties did not make its appearance; the other reeled as it sought to preserve its old position; and the candidate who most nearly represented its best opinion, driven by patriotic zeal, roamed the country from end to end to speak for union, eager at least to confront its enemies, yet not having hope that it would find its deliverance through him. The storm rose to a whirlwind: who should allay its wrath? The most experienced statesmen of the country had failed; there was no hope from those who were great after the flesh; could relief come from one whose wisdom was like the wisdom of little children?

EARLY LIFE OF ABRAHAM LINCOLN.

The choice of America fell on a man born west of the Alleghanies, in the cabin of poor

people of Hardin county, Kentucky—Abraham Lincoln.

His mother could read but not write; his father could do neither; but his parents sent him, with an old spelling-book, to school, and he learned in his childhood to do both.

When eight years old he floated down the Ohio with his father on a raft which bore the family and all their possessions to the shore of Indiana; and, child as he was, he gave help as they toiled through dense forests to the interior of Spencer county. There, in the land of free labor, he grew up in a log cabin, with the solemn solitude for his teacher in his meditative hours. Of Asiatic literature he knew only the Bible; of Greek, Latin, and mediæval, no more than the translation of *Æsop's Fables*; of English, John Bunyan's *Pilgrim's Progress*. The traditions of George Fox and William Penn passed to him dimly along the lines of two centuries through his ancestors, who were Quakers.

HIS EDUCATION.

Otherwise his education was altogether American. The Declaration of Independence was his compendium of political wisdom, the *Life of Washington* his constant study, and something of Jefferson and Madison reached him through Henry Clay, whom he honored from boyhood. For the rest, from day to day, he lived the life of the American people; walked in its light; reasoned with its reason; thought with its power of thought; felt the beatings of its mighty heart; and so was in every way a child of nature—a child of the West—a child of America.

HIS PROGRESS IN LIFE.

At nineteen, feeling impulses of ambition to get on in the world, he engaged himself to go down the Mississippi in a flat-boat, receiving ten dollars a month for his wages, and afterward he made the trip once more. At twenty-one he drove his father's cattle as the family migrated to Illinois, and split rails to fence in the new homestead in the wild. At twenty-three he was a captain of volunteers in the Black Hawk war. He kept a shop; he learned something of surveying; but of English literature he added to Bunyan nothing but Shakespeare's plays. At twenty-five he was elected to the Legislature of Illinois, where he served eight years. At twenty-seven he was admitted to the bar. In 1837 he chose his home at Springfield, the beautiful center of the richest land in the State. In 1847 he was a member of the national Congress, where he voted about forty times in favor of the principle of the Jefferson proviso. In 1854 he gave his influence to elect from Illinois to the American Senate a Democrat who would certainly do justice to Kansas. In 1858, as the rival of Douglas, he went before the people of the mighty Prairie State saying, "This Union cannot permanently endure, half slave and half free; the Union will not be dissolved, but the house will cease to be divided;" and now, in 1861, with no experience whatever as an executive officer, while States were madly flying from their orbit, and wise men knew not where to find counsel, this descendant of Quakers, this pupil of Bunyan, this child of the great West, was elected President of America.

He measured the difficulty of the duty that devolved on him, and was resolved to fulfill it.

HE GOES TO WASHINGTON.

As on the 11th of February, 1861, he left Springfield, which for a quarter of a century had been his happy home, to the crowd of his friends and neighbors whom he was never more to meet, he spoke a solemn farewell: "I know not how soon I shall see you again. A duty has devolved upon me greater than that which has devolved upon any other man since Washington. He never would have succeeded except for the aid of divine Providence, upon which he at all times relied. On the same Almighty Being I place my reliance. Pray that I may receive that divine assistance, without which I cannot succeed, but with which success is certain." To the men of Indiana he said, "I am but an accidental, temporary instrument; it is

your business to rise up and preserve the Union and liberty." At the capital of Ohio he said, "Without a name, without a reason why I should have a name, there has fallen upon me a task such as did not rest even upon the father of his Country." At various places in New York, especially at Albany before the Legislature, which tendered him the united support of the great Empire State, he said, "While I hold myself the humblest of all the individuals who have ever been elevated to the Presidency, I have a more difficult task to perform than any of them. I bring a true heart to the work. I must rely upon the people of the whole country for support; and with their sustaining aid, even I, humble as I am, cannot fail to carry the ship of state safely through the storm." To the Assembly of New Jersey, at Trenton, he explained, "I shall take the ground I deem most just to the North, the East, the West, the South, and the whole country, in good temper, certainly with no malice to any section. I am devoted to peace, but it may be necessary to put the foot down firmly." In the old Independence Hall of Philadelphia he said, "I have never had a feeling politically that did not spring from the sentiments embodied in the Declaration of Independence, which gave liberty, not alone to the people of this country, but to the world in all future time. If the country cannot be saved without giving up that principle, I would rather be assassinated on the spot than surrender it. I have said nothing but what I am willing to live and die by."

IN WHAT STATE HE FOUND THE COUNTRY.

Traveling in the dead of night to escape assassination, Lincoln arrived at Washington nine days before his inauguration. The outgoing President, at the opening of the session of Congress had still kept as the majority of his advisers men engaged in treason; had declared that in case of even an "imaginary" apprehension of danger from notions of freedom among the slaves, "disunion would become inevitable." Lincoln and others had questioned the opinion of Taney; such impugning he ascribed to the "factious temper of the times." The favorite doctrine of the majority of the Democratic party on the power of a Territorial Legislature over slavery he condemned as an attack on "the sacred rights of property." The State Legislatures, he insisted, must repeal what he called "their unconstitutional and obnoxious enactments," and which, if such, were "null and void," or "it would be impossible for any human power to save the Union." Nay, if these unimportant acts were not repealed, "the injured States would be justified in revolutionary resistance to the Government of the Union." He maintained that no State might secede at its sovereign will and pleasure; that the Union was meant for perpetuity; and that Congress might attempt to preserve it, but only by conciliation; that "the sword was not placed in their hands to preserve it by force;" that "the last desperate remedy of a despairing people" would be "an explanatory amendment recognizing the decision of the Supreme Court of the United States." The American Union he called "a confederacy" of States, and he thought it a duty to make the appeal for the amendment "before any of these States should separate themselves from the Union." The views of the Lieutenant General, containing some patriotic advice, "conceded the right of secession," pronounced a quadruple rupture of the Union "a smaller evil than the reuniting of the fragments by the sword," and "eschewed the idea of invading a seceded State." After changes in the Cabinet, the President informed Congress that "matters were still worse," that "the South suffered serious grievances," which should be redressed "in peace."

The day after this message the flag of the Union was fired upon from Fort Morris, and the insult was not revenged or noticed. Senators in Congress telegraphed to their constituents to seize the national forts, and they were not arrested. The finances of the country were grievously embarrassed. Its little army was not within reach—the part of it in Texas, with all

its stores, was made over by its commander to the seceding insurgents. One State after another voted in convention to secede. A peace congress, so called, met at the request of Virginia to concert the terms of a capitulation for the continuance of the Union. Congress in both branches sought to devise conciliatory expedients; the Territories of the country were organized in a manner not to conflict with any pretensions of the South, or any decision of the Supreme Court; and, nevertheless, the seceding States formed at Montgomery a provisional government, and pursued their relentless purpose with such success that the Lieutenant General feared the city of Washington might find itself "included in a foreign country," and proposed, among the options for the consideration of Lincoln, to bid the seceded States "depart in peace." The great Republic seemed to have its emblem in the vast unfinished Capitol, at that moment surrounded by masses of stone and prostrate columns never yet lifted into their places; seemingly the monument of high but delusive aspirations, the confused wreck of inchoate magnificence, sadder than any ruin of Egyptian Thebes, or Athens.

HIS INAUGURATION.

The 4th of March came. With instinctive wisdom, the new President, speaking to the people on taking the oath of office, put aside every question that divided the country, and gained a right to universal support by planting himself on the single idea of the Union. That Union he declared to be unbroken and perpetual; and he announced his determination to fulfill "the simple duty of taking care that the laws be faithfully executed in all the States." Seven days later, the convention of confederate States unanimously adopted a constitution of their own; and the new government was authoritatively announced to be founded on the idea that slavery is the natural and normal condition of the negro race. The issue was made up whether the great Republic was to maintain its providential place in the history of mankind, or a rebellion founded on negro slavery gain a recognition of its principle throughout the civilized world. To the disaffected Lincoln had said, "You can have no conflict without being yourselves the aggressors." To fire the passions of the southern portion of the people, the confederate government chose to become aggressors; and on the morning of the 12th of April began the bombardment of Fort Sumter, and compelled its evacuation.

UPRISING OF THE PEOPLE.

It is the glory of the late President that he had perfect faith in the perpetuity of the Union. Supported in advance by Douglas, who spoke as with the voice of a million, he instantly called a meeting of Congress, and summoned the people to come up and repossess the forts, places, and property which had been seized from the Union. The men of the North were trained in schools; industrious and frugal; many of them delicately bred, their minds teeming with ideas and fertile in plans of enterprise; given to the culture of the arts; eager in the pursuit of wealth, yet employing wealth less for ostentation than for developing the resources of their country; seeking happiness in the calm of domestic life; and such lovers of peace that for generations they had been reputed unwarlike. Now, at the cry of their country in its distress, they rose up with unappeasable patriotism; not hirelings—the purest and of the best blood in the land; sons of a pious ancestry, with a clear perception of duty, unclouded faith, and fixed resolve to succeed, they thronged round the President to support the wronged, the beautiful flag of the nation. The halls of theological seminaries sent forth their young men, whose lips were touched with eloquence, whose hearts kindled with devotion to serve in the ranks, and make their way to command only as they learned the art of war. Striplings in the colleges, as well the most gentle and the most studious; those of sweetest temper and loveliest character and brightest genius passed from their classes to the camp. The lumbermen from the forests; the mechanics from their benches, where they

had been trained by the exercise of political rights to share the life and hope of the Republic, to feel their responsibility to their forefathers, their posterity, and mankind, went forth resolved that their dignity as a constituent part of this Republic should not be impaired. Farmers and sons of farmers left the land but half plowed, the grain but half planted, and, taking up the musket, learned to face without fear the presence of peril and the coming of death in the shocks of war, while their hearts were still attracted to their herds and fields and all the tender affections of home. Whatever there was of truth and faith and public love in the common heart broke out with one expression. The mighty winds blew from every quarter to fan the flame of the sacred and unquenchable fire.

THE WAR A WORLD-WIDE WAR.

For a time the war was thought to be confined to our own domestic affairs; but it was soon seen that it involved the destinies of mankind; its principles and causes shook the politics of Europe to the center, and from Lisbon to Peking divided the Governments of the world.

GREAT BRITAIN.

There was a kingdom whose people had in an eminent degree attained to freedom of industry and the security of person and property. Its middle class rose to greatness. Out of that class sprung the noblest poets and philosophers, whose words built up the intellect of its people; skillful navigators, to find out the many paths of the oceans; discoverers in natural science, whose inventions guided its industry to wealth, till it equaled any nation of the world in letters, and excelled all in trade and commerce. But its Government was become a Government of land, and not of men; every blade of grass was represented, but only a small minority of the people. In the transition from the feudal forms, the heads of the social organization freed themselves from the military services which were the conditions of their tenure, and, throwing the burden on the industrial classes, kept all the soil to themselves. Vast estates that had been managed by monasteries as endowments for religion and charity were appropriated to swell the wealth of courtiers and favorites; and the commons, where the poor man once had his right of pasture, were taken away, and, under forms of law, inclosed distributively within the domains of the adjacent landholders. Although no law forbade an inhabitant from purchasing land, the costliness of the transfer constituted a prohibition; so that it was the rule of that country that the plow should not be in the hands of its owner. The church was rested on a contradiction, claiming to be an embodiment of absolute truth, and yet was a creature of the statute-book.

HER SENTIMENTS.

The progress of time increased the terrible contrast between wealth and poverty; in their years of strength, the laboring people, cut off from all share in governing the State, derived a scanty support from the severest toil, and had no hope for old age but in public charity or death. A grasping ambition had dotted the world with military posts, kept watch over our borders on the northeast, at the Bermudas, in the West Indies, held the gates of the Pacific, of the Southern and of the Indian ocean, hovered on our northwest at Vancouver, appropriated the whole of the newest continent, and the entrances to the old Mediterranean and Red sea; and garrisoned forts all the way from Madras to China. That aristocracy had gazed with terror on the growth of a commonwealth where freeholds existed by the million, and religion was not in bondage to the State; and now they could not repress their joy at its perils. They had not one word of sympathy for the kind-hearted poor man's son whom America had chosen for her chief; they jeered at his large hands and long feet and ungainly stature; and the British Secretary of State for Foreign Affairs made haste to send word through the palaces of Europe that the great Republic was in its agony, that the Republic was no more, that a head-stone was all that remained

due by the law of nations to "the late Union." But it is written, "Let the dead bury their dead;" they may not bury the living. Let the dead bury their dead; let a bill of reform remove the worn-out government of a class, and infuse new life into the British constitution by confiding rightful power to the people. [Applause.]

HER POLICY.

But while the vitality of America is indestructible, the British Government hurried to do what never before had been done by Christian Powers, what was in direct conflict with its own exposition of public law in the time of our struggle for independence. Though the insurgent States had not a ship in an open harbor, it invested them with all the rights of a belligerent, even on the ocean; and this, too, when the rebellion was not only directed against the gentlest and most beneficent Government on earth, without a shadow of justifiable cause, but against human nature itself for the perpetual enslavement of a race. And the effect of this recognition was that acts in themselves piratical found shelter in British courts of law. The resources of British capitalists, their workshops, their armories, their private arsenals, their shipyards, were in league with the insurgents, and every British harbor in the wide world became a safe port for British ships, manned by British sailors, and armed with British guns, to prey on our peaceful commerce; even on our ships coming from British ports, freighted with British products, or that had carried gifts of grain to the English poor. The Prime Minister in the House of Commons, sustained by cheers, scoffed at the thought that their laws could be amended at our request so as to preserve real neutrality; and to remonstrances now owned to have been just, their Secretary answered that they could not change their laws *ad infinitum*.

RELATIONS WITH ENGLAND.

The people of America then wished, as they always have wished, as they still wish, friendly relations with England; and no man in England or America can desire it more strongly than I. This country has always yearned for good relations with England. Thrice only in all its history has that yearning been fairly met: in the days of Hampden and Cromwell, again in the first ministry of the elder Pitt, and once again in the ministry of Shelburne. Not that there have not at all times been just men among the peers of Britain—like Halifax, in the days of James II, or a Granville, an Argyll, or a Houghton in ours, [great applause:] and we cannot be indifferent to a country that produces statesmen like Cobden and Bright, [tremendous applause that lasted for several minutes:] but the best bower anchor of peace was the working class of England, [renewed applause that could not be repressed:] who suffered most from our civil war, but who, while they broke their diminished bread in sorrow, always encouraged us to persevere. [Great and long-continued applause.]

FRANCE AND THE MONROE DOCTRINE.

The act of recognizing the rebel belligerents was concerted with France; France, so beloved in America, on which she had conferred the greatest benefits that one people ever conferred on another; France, which stands foremost on the continent of Europe for the solidity of her culture, as well as for the bravery and generous impulses of her sons; France, which for centuries had been moving steadily in her own way toward intellectual and political freedom. The policy regarding further colonization of America by European Powers, known commonly as the doctrine of Monroe, had its origin in France: and, if it takes any man's name, should bear the name of Turgot. It was adopted by Louis XVI, in the cabinet of which Vergennes was the most important member. It is emphatically the policy of France; to which, with transient deviations, the Bourbons, the first Napoleon, the house of Orleans have ever adhered.

THE EMPEROR NAPOLEON AND MEXICO.

The late President was perpetually harassed by rumors that the Emperor Napoleon III de-

sired formally to recognize the States in rebellion as an independent Power, and that England held him back by her reluctance, or France by her traditions of freedom, or he himself by his own better judgment and clear perception of events. But the republic of Mexico, on our borders, was, like ourselves, distracted by a rebellion, and from a similar cause. The monarchy of England had fastened upon us slavery which did not disappear with independence; in like manner, the ecclesiastical policy established by the Spanish Council of the Indies, in the days of Charles V and Philip II, retained its vigor in the Mexican republic. The fifty years of civil war under which she had languished was due to the bigoted system which was the legacy of monarchy, just as here the inheritance of slavery kept alive political strife, and culminated in civil war. As with us there could be no quiet but through the end of slavery, so in Mexico there could be no prosperity until the crushing tyranny of intolerance should cease. The party of slavery in the United States sent their emissaries to Europe to solicit aid; and so did the party of the church in Mexico, as organized by the old Spanish Council of the Indies, but with a different result. Just as the Republican party had made an end of the rebellion, and was establishing the best government ever known in that region, and giving promise to the nation of order, peace, and prosperity, word was brought us, in the moment of our deepest affliction, that the French emperor, moved by a desire to erect in North America a buttress for imperialism, would transform the republic of Mexico into a secundo-geniture for the house of Hapsburg. America might complain; she could not then interpose, and delay seemed justifiable. It was seen that Mexico could not, with all its wealth of land, compete in cereal products with our Northwest, nor, in tropical products, with Cuba; nor could it, under a disputed dynasty, attract capital, or create public works, or develop mines, or borrow money; so that the imperial system of Mexico, which was forced at once to recognize the wisdom of the policy of the republic by adopting it, could prove only an unremunerating drain on the French treasury for the support of an Austrian adventurer.

THE PERPETUITY OF REPUBLICAN INSTITUTIONS.

Meantime, a new series of momentous questions grows up, and forces themselves on the consideration of the thoughtful. Republicanism has learned how to introduce into its constitution every element of order, as well as every element of freedom; but thus far the continuity of its government has seemed to depend on the continuity of elections. It is now to be considered how perpetuity is to be secured against foreign occupation. The successor of Charles I of England dated his reign from the death of his father; the Bourbons coming back, after a long series of revolutions, claimed that the Louis who became king was the eighteenth of that name. The present Emperor of the French, disdaining a title from election alone, is called the third Napoleon. Shall a republic have less power of continuance when invading armies prevent a peaceful resort to the ballot-box? What force shall it attach to intervening legislation? What validity to debts contracted for its overthrow? These momentous questions are, by the invasion of Mexico, thrown up for solution. A free State once truly constituted should be as undying as its people; the republic of Mexico must rise again. [Loud applause.]

THE POPE OF ROME AND THE REBELLION.

It was the condition of affairs in Mexico that involved the Pope of Rome in our difficulties so far that he alone among temporal sovereigns recognized the chief of the confederate States as a president, and his supporters as a people; and in letters to two great prelates of the Catholic church in the United States gave counsels for peace at a time when peace meant the victory of secession. Yet events move as they are ordered. The blessing of the Pope of Rome on the head of Duke Maximilian could not revive in the nineteenth century the ecclesiastical policy of the sixteenth; and the result is only

a new proof that there can be no prosperity in the State without religious freedom.

THE PEOPLE OF AMERICA.

When it came home to the consciousness of the Americans that the war which they were waging was a war for the liberty of all the nations of the world, for freedom itself, they thanked God for giving them resignation to the severity of the trial to which He put their sincerity, and nerved themselves for their duty with an inexorable will. The President was led along by the greatness of their self-sacrificing example; and as a child, in a dark night on a rugged way, catches hold of the hand of its father for guidance and support, he clung fast to the hand of the people, and moved calmly through the gloom. While the statesmanship of Europe was scoffing at the hopeless vanity of their efforts, they put forth such miracles of energy as the history of the world had never known. The Navy of the United States, drawing into the public service the willing militia of the seas, doubled its tonnage in eight months, and established an actual blockade from Cape Hatteras to the Rio Grande; in the course of the war it was increased fivefold in men and in tonnage, while the inventive genius of the country devised more effective kinds of ordnance, and new forms of naval architecture in wood and iron. There went into the field for various terms of service about two million men; and in March last the men in service exceeded a million; that is to say, making allowance for two hundred thousand black troops, chiefly from the South, nine of every twenty able-bodied men took some part in the war; and at one time every fifth able-bodied man was in the field. In one single month, one hundred and sixty-five thousand were recruited into service. Once, within four weeks, Ohio organized and placed in the field forty-two regiments of infantry—nearly thirty-six thousand men; and Ohio was like other States in the East and in the West. The well-mounted cavalry numbered eighty-four thousand; of horses there were bought, first and last, two thirds of a million. In the movements of troops science came in aid of patriotism; so that to choose a single instance out of many, an army twenty-three thousand strong, with its artillery, trains, baggage, and animals, were moved by rail from the Potomac to the Tennessee, twelve hundred miles, in seven days. In the long marches, wonders of military construction bridged the rivers; and wherever an army halted ample supplies awaited them at their ever-changing base. The vile thought that life is the greatest of blessings did not rise up. In six hundred and twenty-five battles and severe skirmishes blood flowed like water. It streamed over the grassy plains; it stained the rocks; the undergrowth of the forests was red with it; and the armies marched on with majestic courage from one conflict to another, knowing that they were fighting for God and liberty. The organization of the medical department met its infinitely multiplied duties with exactness and dispatch. At the news of a battle, the best surgeons of our cities hastened to the field to offer the zealous aid of the greatest experience and skill. The gentlest and most refined of women left homes of luxury and ease to build hospital tents near the armies and serve as nurses to the sick and dying. Beside the large supply of religious teachers by the public, the congregations spared to their brothers in the field the ablest ministers. The Christian Commission, which expended \$3,500,000, sent four thousand clergymen chosen out of the best to keep unsoiled the religious character of the men, and made gifts of clothes and food and medicine. The organization of private charity assumed unheard-of dimensions. The Sanitary Commission, which had seven thousand societies, distributed, under the direction of an unpaid board, spontaneous contributions to the amount of \$13,000,000 in supplies or money—\$1,500,000 from California alone—and dotted the scene of war from Paducah to Port Royal, from Belle Plain, Virginia, to Brownsville, Texas, with homes and lodges.

THE EMANCIPATION PROCLAMATION.

The country had for its allies the river Mississippi, which would not be divided, and the range of mountains which carried the stronghold of the free through Western Virginia and Kentucky and Tennessee to the highlands of Alabama. But it invoked the still higher power of immortal justice. In ancient Greece, where servitude was the universal custom, it was held that if a child were to strike its parent, the slave should defend the parent, and by that act recover his freedom. After vain resistance, Lincoln, who had tried to solve the question by gradual emancipation, by colonization, and by compensation, at last saw that slavery must be abolished or the Republic must die; and on the 1st day of January, 1862, he wrote liberty on the banners of the armies. When this proclamation, which struck the fetters from three million slaves, reached Europe, Lord Russell, a countryman of Milton and Wilberforce, eagerly put himself forward to speak of it in the name of mankind, saying, "It is of a very strange nature;" "a measure of war of a very questionable kind;" an act "of vengeance on the slave-owner," that does no more than "profess to emancipate slaves where the United States authorities cannot make emancipation a reality." Now, there was no part of the country embraced in the proclamation where the United States could not and did not make emancipation a reality. Those who saw Lincoln most frequently had never before heard him speak with bitterness of any human being; but he did not conceal how keenly he felt that he had been wronged by Lord Russell. And he wrote, in reply to another cavalier, "The emancipation policy, and the use of colored troops were the greatest blows yet dealt to the rebellion. The job was a great national one; and let none be slighted who bore an honorable part in it. I hope peace will come soon, and come to stay; then will there be some black men who can remember that they have helped mankind to this great consummation." [Applause.]

RUSSIA AND CHINA.

The proclamation accomplished its end, for during the war our armies came into military possession of every State in rebellion. Then, too, was called forth the new power that comes from the simultaneous diffusion of thought and feeling among the nations of mankind. The mysterious sympathy of the millions throughout the world was given spontaneously. The best writers of Europe waked the conscience of the thoughtful till the intelligent moral sentiment of the Old World was drawn to the side of the unlettered statesman of the West. Russia, whose emperor had just accomplished one of the grandest acts [here the orator was interrupted by the longest and loudest applause] in the course of time by raising twenty million [applause renewed at the mention of the number] bondmen into freeholders, [great and long-continued applause,] and thus assuring the growth and culture of a Russian people, remained our unwavering friend. [Another burst of applause.] From the oldest abode of civilization, which gave the first example of an imperial government with equality among the people, Prince Kung, the Secretary of State for Foreign Affairs, remembered the saying of Confucius, that we should not do to others what we would not that others should do to us, and in the name of the Emperor of China closed its ports against the war ships and privateers of "the seditious." [Very long and loud applause.]

CONTINUANCE OF THE WAR.

The war continued, with all the peoples of the world for anxious spectators. Its cares weighed heavily on Lincoln, and his face was plowed with the furrows of thought and sadness. With malice toward none, free from the spirit of revenge, victory made him importunate for peace; and his enemies never doubted his word or despaired of his abounding clemency. He longed to utter pardon as the word for all, but not unless the freedom of the negro should be assured. The grand battles of Mill Spring, which gave us Nashville, of Fort Den-

elson, Malvern Hill, Antietam, Gettysburg, the Wilderness of Virginia, Winchester, Nashville, the capture of New Orleans, Vicksburg, Mobile, Fort Fisher, the march from Atlanta, and the capture of Savannah and Charleston, all foretold the issue. Still more, the self-regeneration of Missouri, the heart of the continent; of Maryland, whose sons never heard the midnight bells chime so sweetly as when they rang out to earth and heaven that by the voice of her own people she took her place among the free; of Tennessee, which passed through fire and blood, through sorrows and the shadow of death, to work out her own deliverance, and by the faithfulness of her own sons to renew her youth like the eagle—proved that victory was deserved and would be worth all that it cost. If words of mercy, uttered as they were by Lincoln on the waters of Virginia, were defiantly repelled, the armies of the country, moving with one will, went as the arrow to its mark, and without a feeling of revenge struck a death-blow at rebellion.

LINCOLN'S ASSASSINATION.

Where, in the history of nations, had a Chief Magistrate possessed more sources of consolation and joy than Lincoln? His countrymen had shown their love by choosing him to a second term of service. The raging war that had divided the country had lulled; and private grief was hushed by the grandeur of its results. The nation had its new birth of freedom, soon to be secured forever by an amendment of the Constitution. His persistent gentleness had conquered for him a kindlier feeling on the part of the South. His scoffers among the grandees of Europe began to do him honor. The laboring classes everywhere saw in his advancement their own. All peoples sent him their benedictions. And at the moment of the height of his fame, to which his humility and modesty added charms, he fell by the hand of the assassin; and the only triumph awarded him was the march to the grave.

THE GREATNESS OF MAN.

This is no time to say that human glory is but dust and ashes, that we mortals are no more than shadows in pursuit of shadows. How mean a thing were man, if there were not that within him which is higher than himself; if he could not master the illusions of sense, and discern the connections of events by a superior light which comes from God. He so shares the divine impulses that he has power to subject interested passions to love of country, and personal ambition to the ennoblement of his kind. Not in vain has Lincoln lived, for he has helped to make this Republic an example of justice, with no caste but the caste of humanity. The heroes who led our armies and ships into battle—Lyon, McPherson, Reynolds, Sedgwick, Wadsworth, Foote, Ward, with their compeers—and fell in the service, did not die in vain: they and the myriads of nameless martyrs, and he, the chief martyr, died willingly "that government of the people, by the people, and for the people, shall not perish from the earth." [Loud applause.]

THE JUST DIED FOR THE UNJUST.

The assassination of Lincoln, who was so free from malice, has by some mysterious influence struck the country with solemn awe, and hushed, instead of exciting, the passion for revenge. It seems as if the just had died for the unjust. When I think of the friends I have lost in this war—and every one who hears me has, like myself, lost some of those whom he most loved—there is no consolation to be derived from victims on the scaffold, or from anything but the established union of the regenerated nation. [Applause.]

CHARACTER OF LINCOLN.

In his character, Lincoln was through and through an American. He is the first native of the region west of the Alleghanies to attain to the highest station; and how happy it is that the man who was brought forward as the natural outgrowth and first fruits of that region should have been of unblemished purity in private life, a good son, a kind husband, a most

affectionate father, and, as a man, so gentle to all. As to integrity, Douglas, his rival, said of him, "Lincoln is the honestest man I ever knew."

The habits of his mind were those of meditation and inward thought, rather than of action. He excelled in logical statement, more than in executive ability. He reasoned clearly, his reflective judgment was good, and his purposes were fixed; but, like the Hamlet of his only poet, his will was tardy in action; and for this reason, and not from humility or tenderness of feeling, he sometimes deplored that the duty which devolved on him had not fallen to the lot of another. He was skillful in analysis; discerned with precision the central idea on which a question turned, and knew how to disengage it and present it by itself in a few homely, strong old English words that would be intelligible to all. He delighted to express his opinions by an apothegm, illustrate them by a parable, or drive them home by a story.

Lincoln gained a name by discussing questions which, of all others, most easily lead to fanaticism; but he was never carried away by enthusiastic zeal, never indulged in extravagant language, never hurried to support extreme measures, never allowed himself to be controlled by sudden impulses. During the progress of the election at which he was chosen President, he expressed no opinion that went beyond the Jefferson proviso of 1784. Like Jefferson and La Fayette, he had faith in the intuitions of the people, and read those intuitions with rare sagacity. He knew how to bide his time, and was less apt to run ahead of opinion than to lag behind. He never sought to electrify the public by taking an advanced position with a banner of a section; but rather studied to move forward compactly, exposing no detachment in front or rear; so that the course of his Administration might have been explained as the calculating policy of a shrewd and watchful politician, had there not been seen behind it a fixedness of principle which from the first determined his purpose and grew more intense with every year, consuming his life by its energy. Yet his sensibilities were not acute, he had no vividness of imagination to picture to his mind the horrors of the battle-field or the sufferings in hospitals; his conscience was more tender than his feelings.

Lincoln was one of the most unassuming of men. In time of success, he gave credit for it to those whom he employed, to the people, and to the providence of God. He did not know what ostentation is; when he became President he was rather saddened than elated, and his conduct and manners showed more than ever his belief that all men are born equal. He was no respecter of persons; and neither rank, nor reputation, nor services overawed him. In judging of character he failed in discrimination, and his appointments were sometimes bad; but he readily deferred to public opinion, and in appointing the head of the armies he followed the manifest preference of Congress. [Applause.]

A good President will secure unity to his administration by his own supervision of the various departments. Lincoln, who accepted advice readily, was never governed by any member of his Cabinet, and could not be moved from a purpose deliberately formed; but his supervision of affairs was unsteady and incomplete; and sometimes, by a sudden interference transcending the usual forms, he rather confused than advanced the public business. If he ever failed in the scrupulous regard due to the relative rights of Congress, it was so evidently without design that no conflict could ensue, or evil precedent be established. Truth he would receive from any one; but, when impressed by others, he did not use their opinions till by reflection he had made them thoroughly his own.

It was the nature of Lincoln to forgive. When hostilities ceased, he who had always sent forth the flag with every one of its stars in the field, was eager to receive back his returning countrymen, and meditated "some new announcement to the South." The amendment of the Constitution abolishing slavery had his most

earnest and unwearied support. During the rage of war we get a glimpse into his soul from his privately suggesting to Louisiana that "in defining the franchise some of the colored people might be let in," saying, "They would probably help, in some trying time to come, to keep the jewel of liberty in the family of freedom." [Long-continued and enthusiastic demonstrations of applause.] In 1857 he avowed himself "not in favor of" what he improperly called "negro citizenship;" for the Constitution discriminates between citizens and electors. Three days before his death he declared his preference that "the elective franchise were now conferred on the very intelligent of the colored men and on those of them who served our cause as soldiers;" but he wished it done by the States themselves, and he never harbored the thought of exacting it from a new government as a condition of its recognition. [Applause.]

The last day of his life beamed with sunshine, as he sent by the Speaker of this House his friendly greetings to the men of the Rocky mountains and the Pacific slope; as he contemplated the return of hundreds of thousands of soldiers to fruitful industry; as he welcomed in advance hundreds of thousands of emigrants from Europe; as his eye kindled with enthusiasm at the coming wealth of the nation. And so, with these thoughts for his country, he was removed from the toils and temptations of this life and was at peace.

PALMERSTON AND LINCOLN.

Hardly had the late President been consigned to the grave when the Prime Minister of England died, full of years and honors. Palmerston traced his lineage to the time of the Conqueror; Lincoln went back only to his grandfather. Palmerston received his education from the best scholars of Harrow, Edinburgh, and Cambridge; Lincoln's early teachers were the silent forest, the prairie, the river, and the stars. Palmerston was in public life for sixty years; Lincoln for but a tenth of that time. Palmerston was a skillful guide of an established aristocracy; Lincoln a leader or rather a companion of the people. Palmerston was exclusively an Englishman, and made his boast in the House of Commons that the interest of England was his shibboleth; Lincoln thought always of mankind as well as of his own country, and served human nature itself. Palmerston from his narrowness as an Englishman did not endear his country to any one court or to any one people, but rather caused uneasiness and dislike; Lincoln left America more beloved than ever by all the peoples of Europe. Palmerston was self-possessed and adroit in reconciling the claims of the factions of the aristocracy; Lincoln, frank and ingenuous, knew how to poise himself on the conflicting opinions of the people. Palmerston was capable of insolence toward the weak, quick to the sense of honor, not heedful of right; Lincoln rejected counsel given only as a matter of policy, and was not capable of being wilfully unjust. Palmerston, essentially superficial, delighted in banter and knew how to divert grave opposition by playful levity; Lincoln was a man of infinite jest on his lips, with saddest earnestness at his heart. Palmerston was a fair representative of the aristocratic liberality of the day, choosing for his tribunal, not the conscience of humanity, but the House of Commons; Lincoln took to heart the eternal truths of liberty, obeyed them as the commands of Providence, and accepted the human race as the judge of his fidelity. Palmerston did nothing that will endure: his great achievement, the separation of Belgium, placed that little kingdom where it must gravitate to France; Lincoln finished a work which all time cannot overthrow. Palmerston is a shining example of the abject of a cultivated aristocracy; Lincoln is the genuine fruit of institutions where the laboring man shares and assists to form the great ideas and designs of his country. Palmerston was buried in Westminster Abbey by the order of the Queen, and was followed by the British aristocracy to his grave, which after a few years

will hardly be noticed by the side of the graves of Fox and Chatham; Lincoln was followed by the sorrow of his country across the continent to his resting-place in the heart of the Mississippi valley, to be remembered through all time by his countrymen, and by all the peoples of the world. [Long-continued applause.]

CONCLUSION.

As the sum of all, the hand of Lincoln raised the flag; the American people was the hero of the war; and therefore the result is a new era of republicanism. The disturbances in the country grew not out of anything republican, but out of slavery, which is a part of the system of hereditary wrong; and the expulsion of this domestic anomaly opens to the renovated nation a career of unthought-of dignity and glory. Henceforth our country has a moral unity as the land of free labor. The party for slavery and the party against slavery are no more, and are merged in the party of union and freedom. The States which would have left us are not brought back as conquered States, for then we should hold them only so long as that conquest could be maintained; they come to their rightful place under the Constitution as original, necessary, and inseparable members of the Union. [Applause.]

We build monuments to the dead, but no monuments of victory. We respect the example of the Romans, who never, even in conquered lands, raised emblems of triumph. And our generals are not to be classed in the herd of vulgar conquerors, but are of the school of Lancelotti and William of Orange and Washington. They have used the sword only to give peace to their country and restore her to her place in the great assembly of the nations.

Senators and Representatives, as I bid you farewell, my last word shall be a word of hope; for now there is a nation which for the first time in the world is ready to live according to the laws of reason, and true republicanism is entrenched in a regenerated continent.

[The orator, on concluding, was greeted with an outburst of the heartiest applause, in which the whole audience joined.]

The exercises of the occasion were closed (at three o'clock and twenty-five minutes p. m.) by the following benediction by Rev. Dr. GRAY, Chaplain of the Senate:

God of a bereaved nation, from Thy high and holy habitation look down upon us and suitably impress us to-day with a sense that only God is great. Kings and Presidents die; but Thou, the universal Ruler, livest to rule undisturbed on Thine everlasting throne. A wail has gone up from the heart of the nation to heaven—O, hear, and pity, and save. We pray that Thou wilt command Thy blessing now upon the family of the President dead; upon the President living; upon the ministers of state; upon the united Houses of Congress; upon the officers of the Army and the Navy; upon the broken families and desolated homes all over the land; and upon the nation. And grant that grace and peace and mercy from the Lord Jesus Christ, and the love of God the Father, and the fellowship of God the Spirit, may rest upon and abide with us all, forever and ever. Amen.

The members of the Senate, preceded by the President *pro tempore*, then retired from the Hall.

The SPEAKER called the House of Representatives to order.

THANKS TO HON. GEORGE BANCROFT.

Mr. WASHBURN, of Illinois, by unanimous consent, introduced the following concurrent resolutions; which were read, considered, and agreed to:

Resolved, (the Senate concurring,) That the thanks of Congress be presented to Hon. George Bancroft for the appropriate memorial address delivered by him on the life and services of Abraham Lincoln, late President of the United States, in the Representatives' Hall, before both Houses of Congress and their invited guests, on the 12th day of February, 1866, and that he be requested to furnish a copy for publication.

Resolved, That the chairman of the joint committee appointed to make the necessary arrangements to carry into effect the resolution of this Congress in re-

lation to the memorial exercises in honor of Abraham Lincoln be requested to communicate to Mr. Bancroft the foregoing resolution, receive his answer thereto, and present the same to both Houses of Congress.

And then, on motion of Mr. WASHBURN, of Illinois, (at three o'clock and thirty-five minutes p. m.) the House adjourned.

IN SENATE.

TUESDAY, February 13, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 5th of February, the memorial of Brevet Brigadier General B. S. Roberts, setting forth his views of a plan for reclaiming the swamps and waste lands of the basin of the lower Mississippi river; which was, on motion of Mr. Foor, ordered to lie on the table, and be printed.

SENATOR FROM ALABAMA.

Mr. MORGAN. I present the credentials of Lewis E. Parsons, chosen a Senator from the State of Alabama for the term commencing March 4, 1865. As the State of Alabama is one of the States that during a period of four years has been in rebellion against the United States, and as Congress has not yet determined whether the political condition of affairs in that State is such as to entitle the State to representation in the Senate, I do not expect that Governor Parsons will be requested to come forward and take the oath at this time; but I ask that the credentials be received and laid upon the table to await the further action of the Senate.

The PRESIDENT *pro tempore*. That order will be entered, if there be no objection.

PETITIONS AND MEMORIALS.

Mr. MORGAN presented a memorial of residents of Lewis county, New York, late officers, non-commissioned officers, and privates in the recent war, praying for an equalization of bounties; which was referred to the Committee on Military Affairs and the Militia.

Mr. COWAN presented two petitions of manufacturers of agricultural implements, praying for a reduction of the tax on the sales of their manufactures, and for a removal of the tax now assessed on detached portions of machinery manufactured by them; which were referred to the Committee on Finance.

He also presented four petitions of persons engaged in mining and running coal from the Monongahela coal fields to market on the Ohio and Mississippi rivers, praying for such an amendment of the enrollment act as to exempt from its provisions all coal-boats, coal-barges, and coal-flats, which are used exclusively for running coal to market, and are not used for any other purpose; which were referred to the Committee on Commerce.

Mr. SHERMAN presented two petitions of manufacturers of agricultural implements, praying for a reduction of the tax on sales of their manufactures, and for the removal of the tax now assessed on detached portions of machinery manufactured by them; which were referred to the Committee on Finance.

He also presented a petition of mechanics and laborers in American manufacturing establishments, and a petition of citizens of Ohio, praying for such an adjustment of the tariff of duties on foreign imports as will afford the amplest protection to the labor and industry of the country; which were referred to the Committee on Finance.

He also presented a petition of citizens of Ohio, praying for an increase of the duty on imports of foreign wool; which was referred to the Committee on Finance.

Mr. SHERMAN. I present also the petition of a number of citizens of Ohio, praying that, as slavery has been abolished by the Gov-

ernment, the representation founded upon slavery be also abolished. The gist of the whole matter is in a few words, which I will read: "Those who refuse to others the right of being represented ought not to be rewarded for this injustice by having themselves an increased representation on their account." As this subject is under consideration in the joint committee on reconstruction, I think it had better be referred to that committee.

The petition was so referred.

Mr. LANE, of Kansas, presented resolutions of the Legislature of Kansas, in favor of altering the provisions of the land grant to the Leavenworth, Lawrence, and Fort Gibson railroad, together with a branch from Lawrence to Emporia, so as to make Burlingame a point on that road; which were referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. TRUMBULL. I ask leave to present a petition of sundry citizens of Will county, Illinois, on the subject of the restoration of the late rebel States. The petition is signed by R. W. French and others, objecting to the restoration of any of the States lately in rebellion until adequate security has been obtained against any renewed effort to secede; and they point out certain amendments to the Constitution which they believe necessary. I move that it be referred to the joint committee on reconstruction.

The motion was agreed to.

Mr. TRUMBULL also presented a petition of manufacturers of agricultural implements of Belleville, Illinois, praying for a reduction of the tax on sales of their manufactures; which was referred to the Committee on Finance.

He also presented additional papers in the case of Aaron Van Camp and Virginius P. Chapin, praying for indemnity for the alleged illegal seizure and confiscation of their property at Apia, in the Navigators' Islands, by the United States consul stationed there; which were referred to the Committee on Claims.

Mr. DIXON presented a petition of Augustus Hubbell, praying for a settlement of his accounts, and that he may be allowed credit for money alleged to have been stolen from him on or about July 17, 1865; which was referred to the Committee on Claims.

Mr. STOCKTON presented the petition of Captain Faircloth, praying for remuneration for property lost on board the steamer Boston, which was destroyed while on an expedition up the Ashepo river, in South Carolina, on the 26th of May, 1864; which was referred to the Committee on Naval Affairs.

He also presented a memorial of the mining board of Gilpin county, Colorado, remonstrating against the passage of any law affecting the present status of mining claims in that Territory; which was referred to the Committee on Mines and Mining.

Mr. RAMSEY presented a petition of citizens of St. Croix valley, Minnesota, praying that a grant of one hundred and sixty acres of land may be made to Lemuel Bolles for his services to the early settlers in that section; which was referred to the Committee on Public Lands.

Mr. WILSON presented the petition of Rev. Henry T. Cheever and the deacons and prudential committee of the Summer street chapel church, of Worcester, Massachusetts, praying Congress to grant justice to the colored population of the country; which was referred to the joint committee on reconstruction.

Mr. HOWE presented three petitions of citizens of Wisconsin, praying for a reduction of the tax on the sale of agricultural implements; which were referred to the Committee on Finance.

Mr. HOWE. I present a petition signed by Stoddard Judd, and many other citizens of Wisconsin, praying that all banks who go into liquidation and deposit lawful money of the United States for the full amount of their outstanding circulation with the banking department of the State where located, according to the provisions of its State banking law, may be treated in the same manner as though deposited with the Treasurer of the United States, accord-

ing to the one hundred and tenth section of the internal revenue act, in regard to exempting from tax notes of banks ceasing to issue notes for circulation. I move its reference to the Committee on Finance.

The motion was agreed to.

Mr. POMEROY, presented a petition of late officers of the United States Army, praying that officers promoted from the ranks may receive the bounties provided by Congress for volunteers; which was referred to the Committee on Military Affairs and the Militia.

Mr. WADE presented a memorial of citizens of Buffalo, New York, remonstrating against the restoration of any State lately in rebellion until adequate security has been obtained against a renewed attempt to secede, against any representation in Congress beyond a just proportion of voting population, against any payment of the rebel debt or for emancipated slaves, and against any distinction on account of color or descent, and praying for such amendments to the Constitution as will enforce the foregoing provisions; which was ordered to lie on the table.

He also presented the petition of Wyandt, Putnam & Co., of Milton, Stark county, Ohio, praying for a reduction of the taxes on the sales of agricultural implements; which was referred to the Committee on Finance.

Mr. WADE. I present a memorial, very numerously signed by colored soldiers in the department of the Mississippi, setting forth that they have faithfully served their country in the Army, and assisted in defending the country against its enemies, and praying for the right of suffrage to be extended to them and to all other colored persons. I ask the reference of this memorial to the joint committee on reconstruction.

Mr. SAULSBURY. Mr. President—

THE PRESIDENT *pro tempore*. Does the Senator from Ohio give way to the Senator from Delaware?

Mr. SAULSBURY. I simply wish to ask the Senator from Ohio one question, and it is in reference to a historic fact. He says the petition he presents is from "colored" persons. I want to know from him where he gets the origin of the term "colored," as applied to the negro population. I am not much of a student of history, sir, but yet sometimes I do mouse about in that department—

Mr. WADE. What is the question?

THE PRESIDENT *pro tempore*. The Chair understood the Senator from Delaware to propose to ask the Senator from Ohio a question, and the Chair inquired if the Senator from Ohio gave way.

Mr. SAULSBURY. The amiable Senator from Ohio will answer my question. Where does he get the term "colored?"

THE PRESIDENT *pro tempore*. The Chair will repeat the question to the Senator from Ohio whether he gives way to the Senator from Delaware.

Mr. WADE. I give way. I have nothing more.

Mr. SAULSBURY. Then I wish to ask the Senator from Ohio where he gets the term "colored," as applied to the negro population of the country? It is a term that has been used frequently in this Chamber; it is upon everybody's lips. Where does he get it? I know that term is used in the history of the West India islands; but the word "colored," as used in the history of San Domingo and Hayti, was applied to mulattoes, and never applied to negroes. I am simply inquiring for information of the Senator, when he applies the term "colored" to negroes, the origin of the term as applied to races. It is so frequently used in this Chamber that I want the attention of the country brought to that question, how the term "colored" is used in reference to the negro population.

The petition was referred to the joint committee on reconstruction.

BILL RECOMMITTED.

On motion of Mr. WILSON, it was

Ordered, That the bill (S. No. 67) to increase and

fix the military peace establishment of the United States be recommitted to the Committee on Military Affairs and the Militia.

REPORTS OF COMMITTEES.

Mr. COWAN, from the Committee on Finance, to whom was referred a petition of persons engaged in running coal to market down the Ohio river from Pittsburg, praying for an appropriation for the improvement of the Ohio river between Pittsburg, Pennsylvania, and Buffington Island, West Virginia, asked to be discharged from its further consideration, and that it be referred to the Committee on Commerce; which was agreed to.

He also, from the same committee, to whom were referred a petition of citizens of Pennsylvania, and a petition of citizens of Ohio, praying for an amendment of the act requiring the enrollment of boats, barges, scows, &c., as will exempt from its provisions all coal-boats, coal-barges, and coal-flats, which are used exclusively for running coal to market, and are not used for any other purpose whatever, asked to be discharged from their further consideration, and that they be referred to the Committee on Commerce; which was agreed to.

Mr. DIXON, from the Committee on Post Offices and Post Roads, to whom were referred the amendments of the House of Representatives to the amendments of the Senate to the bill (H. R. No. 61) to establish certain post roads, reported them with further amendments.

Mr. HOWARD, from the Committee on the Pacific Railroad, to whom was referred the bill (S. No. 20) granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast, by the southern route, reported it with amendments.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom the subject was referred, reported a bill (S. No. 188) to increase and fix the military peace establishment of the United States; which was read, and passed to a second reading.

SECURITY OF RIGHTS.

Mr. FESSENDEN. The joint committee to inquire into the condition of the States which formed the so-called confederate States have instructed me to report a joint resolution proposing an amendment to the Constitution of the United States. I move that for the present it lie upon the table, and be printed.

The joint resolution (S. R. No. 30) proposing an amendment to the Constitution of the United States was read the first time by its title.

Mr. BROWN. Let it be read.

Mr. SHERMAN. I should like to have it read in full.

The joint resolution was read the second time at length. It is as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring), That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of the said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE — The Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each State all privileges and immunities of citizens in the several States; and to all persons in the several States equal protection in the rights of life, liberty, and property.

The joint resolution was ordered to lie on the table, and be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a bill (H. R. No. 122) making appropriations for the naval service for the year ending 30th June, 1867; in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House of Representatives had signed an enrolled bill (S. No. 60) to amend an act entitled "An act to establish a Bureau for the Relief of Freedmen and Refugees," and for other purposes; which was thereupon signed by the President *pro tempore*.

BILLS INTRODUCED.

Mr. DIXON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 29) for the transfer of funds appropriated for the payment of salaries in the Post Office Department to the general salary account of that Department; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

EXPLORATION OF THE YELLOWSTONE.

Mr. MORRILL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to communicate to the Senate the report of Major Reynolds, United States engineer, made in 1859 and 1860, of his exploration of the Yellowstone and the country drained by that river.

DANGERS OF TUBULAR BOILERS.

Mr. BROWN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire what legislation is needed by Congress to protect the lives of passengers on the western waters from the danger of explosion incident to the use of tubular boilers.

PRESIDENTIAL APPROVAL OF LAWS.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President of the United States had approved and signed, on the 7th instant, a joint resolution (S. R. No. 17) directing the distribution of the writings of James Madison.

And that on the 10th instant he had approved and signed the following act and joint resolutions:

An act (S. No. 86) granting the franking privilege to Mary Lincoln;

A joint resolution (S. R. No. 20) extending the time for the completion of the Burlington and Missouri River railroad;

A joint resolution (S. R. No. 25) tendering the thanks of Congress to Vice Admiral David G. Farragut, and to the officers, petty officers, seamen, and marines under his command, for their gallantry and good conduct in the action in Mobile bay on the 5th August, 1864; and

A joint resolution (S. R. No. 26) for the payment of expenses incurred by the joint committee to inquire into the condition of the States which formed the so-called confederate States of America.

HOUSE BILL REFERRED.

The bill (H. R. No. 122) making appropriations for the naval service for the year ending 30th June, 1867, was read twice by its title, and referred to the Committee on Finance.

BONDED WAREHOUSES.

Mr. MORGAN. I move that the Senate proceed to reconsider the vote on the passage of House bill No. 185, which has been several times before the Senate.

The motion was agreed to; and the Senate resumed the consideration of the motion submitted by Mr. SPRAGUE on the 26th of January last to reconsider the vote by which the bill (H. R. No. 185) to extend the time for the withdrawal of goods for consumption from public store and bonded warehouse, and for other purposes, was passed.

Mr. SPRAGUE. Mr. President, this proposition has been before the Senate three times, and on each occasion the morning hour having expired during its discussion it went over. On the last occasion I had the honor to occupy the floor for a few moments. When I say that I believe the passage of this measure will be as injurious to the industrial interests of this country as would have been the dissemination of fever and the other diseases that Dr. Blackburn, the rebel emissary, endeavored to introduce into this country upon the lives of the people, the Senate of the United States will understand the position that I occupy and the earnestness with which I desire to call attention to this question. For the life of me, I cannot understand the reason for the haste manifested

in pressing a measure of this kind upon the attention of the Senate, when there are before every committee having cognizance of those matters petitions from every part of the country disclosing the distress under which the industrial, mechanical, and manufacturing interests of the country are to-day laboring. Why this haste in introducing this measure without any explanation as to its necessity or as to its uses? We are told that it is right, without any argument or proof to indicate that it is right. We are also told that the Secretary of the Treasury is in favor of its passage, and therefore it must be right. We are also told that it is only to place foreign importations on an equality with the manufacturing, mechanical, and industrial interests of this country as respects taxation; that those great interests of the people do not pay taxes prior to the time the imported article does, or, in other words, that the Government extends the time for the payment of taxes upon manufactures as much as it extends the time for the payment of duties upon imports.

I endeavored to state on a previous occasion that prior to the introduction of domestic commodities to the consumer, five taxes are already paid to the Government; and I know of repeated instances where the taxes due the Government have been paid a year before the goods have been delivered to the consumer; and yet here a proposition is presented to the Senate proposing to give to the importer of the foreign article that comes in competition with the domestic, it may be three years of credit. The answer to that is, that it is not desired, that three years are not deemed necessary. Why ask for three years, then? We are told that nobody purchases goods that they may remain so long unsold. Why ask, then, for that privilege? Is it not plain to the Senate that in giving a credit on the imported article of three years, or two years, or one year, the Government is deprived of interest on the amount of the duties for the time being? Does the Senate understand that in affording this privilege to this class interest, it not only unites the capital of the country with the power of the Treasury Department in the formation and in the successful carrying into execution of a grand speculation, but it deprives the country of it may be a year's interest, six months' certainly, and it may be three years' interest upon the duties on many of the articles already introduced into the country.

I ask Senators if the finances of the country are in such a condition that they desire to give credit or relief in the matter of interest to any class of articles imported into this country. Sir, during the last year you imported something like \$234,000,000, of which \$51,000,000 were not dutiable articles. Now, if you refuse, as you do by this bill, to collect the duties when they are payable on this \$234,000,000 of imports, do you not lose six, eight, or eleven per cent. on the amount of duty payable, according to the rate of interest which your bonds and other securities bear? Is it not plain to you that you deprive the Government of the interest which is due them upon this amount of dutiable articles? Certainly by the passage of this bill the Treasury and the revenues of the country will lose from \$10,000,000 to \$15,000,000. Sir, I speak of that which I know, of that which has come under my observation practically. I speak of these interests, commercial, mechanical, and manufacturing, because they have been brought under my personal supervision.

As to the opinion of the Secretary of the Treasury on this question, it is good for all that it is worth. I accord to him all the respect which his high office and his eminent qualities demand for him; but I am glad that the time has come when a Senator can stand up here in his place in the Senate and state his objection to the policy or plans of any officer of this Government without being held to a strict accountability for his words, and certainly without being termed disloyal. I do not believe that my constituents or the constituents of any Senator here desire that we shall take the opinions of any man, however eminent he may be, as a

guide for our conduct. Certainly when it is discovered that I am walking in the shadow of another man's greatness, I desire that some kind friend may inform me of that fact that I may hide my face from the gaze of men. Sir, it is nothing to the Senate that the Secretary of the Treasury approves of this measure, except so far as he may state good and satisfactory reasons for placing it before Congress; but he, or his agent, readily assents to the position which has been taken, that it is a union of the parties in intrigue and the Government to withhold from consumption in order to advance prices to consumers. He has, through his agent, who had the manipulation of this bill, assented to that proposition and assented to the correctness of the views that I state. If that is the case, if officers under the Government are willing to assent to that proposition, it is no plan that should be presented for the favorable consideration of the Senate.

Now, I assert, and challenge contradiction, that the object of this bill and the object of the similar bills which have been in operation in the past, is to regulate trade, to regulate prices. Does the Senate of the United States desire to regulate prices by law? Are Senators prepared to give their assent to propositions of that kind? If the importer or trader in articles not the production of this country can regulate the prices in one way, is it not competent for him to regulate them in another? If he can regulate them low, is it not competent for him to regulate them high as well? It is in my knowledge that they have succeeded in regulating prices very low for a time, destroying domestic competition, taking possession of the market, and then increasing prices at an enormous rate. As an illustration of that idea, let me state the fact, that in the introduction of tin plate into the consumption of this country, there were imported during the last year eight hundred thousand boxes of that article. The foreign manufacturers and the foreign capitalists succeeded in introducing it in the past in a way that has driven its manufacture entirely from the American market, so that there is not a manufacturer of that article in this country. There were imported last year eight hundred thousand boxes, forty thousand tons, of iron, at a cost of \$12,000,000 to the consumers of this country; and what does it cost to produce it? With an importation of \$12,000,000, that article costs, as laid down here, nine cents per pound. The foreign manufacturer makes seven cents a pound. That money goes for the payment of the industry, the manufacturing skill, the commerce, and all the appurtenances of trade in other countries. One half the profit goes to the importer of that article; he makes his three and a half cents per pound, and becomes an importer occupying one half of the situation, or, in other words, doing one half of the business, and he nets his \$1,250,000 a year out of that operation. I challenge contradiction to the position I take, that the result of this system has so operated to check the growth of the manufacturing interest of this country in that respect, (and that one article is a representative,) as to drive out its competition, to occupy its field, and then extort from the consumptive abilities of the country this enormous profit.

I state this simply from the fact that for the last six months Congress and the country have been flooded with statements of the immense profits of manufacturing. I ask any Senator here whether it is not better for this country to keep within itself the \$12,000,000 than to be satisfied simply with the \$2,000,000 or \$2,500,000 that the importer and the shipper receive for doing that business. It is a matter of simple calculation that should convince the mind of any individual, whether a Senator or a business man, that it is our true economy not to put ourselves in the hands of any other people. Now, as to the profits of manufacturing, I know something about them, and I know, and I challenge contradiction, that the same amount of capital invested in foreign commerce has produced three times the amount of the best dividends from manufacturing. I know

further, that the same capital engaged in banking has produced twofold that of the best manufacturing dividends in this country. In respect to the dividends from manufacturing, I desire to state that the dividends that have been declared were declared upon a reduced capital. In nine cases out of ten the manufacturing establishments that have given such enormous profits had been sold, many of them had become bankrupt, prior to the war, and they had been capitalized at one half, and in many cases one fourth, of their original capital. The consequences are plain, that if they made anything at all, they would make larger dividends than was ever known in the history of the companies.

We are told by those who advocate this bill that it is desired to introduce through this warehouse system goods that they may be convenient for reexportation, that they be at hand in bulk in order that they may be sent to foreign ports. Let us look at it. Out of the \$234,000,000 of goods imported into the country during the past year, but \$10,000,000 were reexported. I know within my own circle of half a dozen interests, each one as large as that, carried on for the benefit of the people in whose location they exist. For the sake of that \$10,000,000 reexported, it is proposed to introduce and continue a system which has its influence over every portion of the industrial system and interest of this country, which affects all our people, east, west, north, and south. For western gentlemen to say that they desire to have a market, not alone in their own country, but a market in their own country and in foreign countries, too, is not sensible and is not warranted by the facts and situation of the case. It is impossible for you to ship your corn or your wheat to any extent to France or to England. To-day the price of wheat in France is one dollar a bushel; in England \$1 09. If you are willing to sell your wheat for eighty cents, they will sell it for seventy-five cents. The people engaged in those countries in that occupation must live by it, and if they cannot live by it at a high price, they will live by it at a lower price; so that the agricultural interests of this country must depend for their success upon the markets which we have within our own limits and upon our border.

Sir, I shall be satisfied, and I think it will satisfy everybody, if the duties are paid when the foreign goods are entered for consumption, and that is no new idea. In the first tariff that the Congress of the United States under the Confederation submitted to the people, five per cent. was assessed upon all articles imported, to be paid at the time and place of importation. This new-fangled notion, this compromise between our own and foreign systems of industry, had not then gained force. The measure that is now endeavored to be perpetuated upon the industry of the country is one of the same system and plans that predated the monopoly of slavery upon your political system. For years you gave liberty some strength and slavery some strength, and you continued to keep them about even until you know the result. You have had a policy of tariff and a policy of free trade ingrafted upon your industrial system. You must accept one or the other. One or the other of those systems must prevail or both will be destroyed to the extent of the destruction of prosperity.

Now, sir, who are benefited by the foreign connection that is sought to be strengthened by this measure? One half your importers are foreigners who come here to make money and then return to their own country. More than three fourths of your shipping, bringing foreign commodities to this country, is owned by foreigners. It is certainly not for the interest of Congress to pass measures that may be beneficial to anybody except our own people. I was pained the other day to see a measure brought into Congress and passed in regard to the shipping interest, and I was happy indeed to record my vote against it. I did not expect that an interest would war upon itself; but a bill was introduced and passed here by which a

thousand ships were disfranchised and rendered out of the pale of American protection under the idea that, because during the war they had accepted the protection which another flag would give them in consequence of our inability to protect them, they must be disfranchised. That was not the real idea at the bottom of the measure. The idea was simply that there should be less competition in the shipping interest of the country; that a thousand ships should be withdrawn from the competition in that business. The consuming interest of this country must take heed, that if one half of the shipping engaged in the carrying trade is driven away from that trade the other half will demand and receive double the amount of freight money that they ever received while the competition was existing. If they are to receive double the amount of freight money, who pays it but the people of the United States? Is it not pretty evident that the idea endeavored to be brought about was to kill off all that you can in order that those who survive may have the field, and glory in the result when they are relieved from competition? A proposition of that sort was submitted to me in 1857. A wealthy capitalist engaged in trade said to me, "I will engage with you to keep off the suspension of specie payments; we can cause most of the smaller men engaged in the trade to fail, and then we will occupy the ground ourselves." In answer to that proposition I informed the gentleman that I preferred to live among the people that were most prosperous; that it was politic, as well as right and just, that others should live if you live. My experience is that it is far better to do business with and to legislate for a people and among a people that are prosperous, happy, and enjoy life, liberty, and happiness, than it is among a people who occupy the reverse position.

Mr. President, if I can ever see the time when the New England system of industry becomes the system of every State in the Union, it will be the happiest day of my life; and whatever aid it may be in my power to give, I shall always be ready to extend, and to devote my time and attention to that purpose. I desire that, because I desire to extend the prosperity of my own State and section, and to introduce that prosperity into every other State of this Union. I know the benefit that it confers upon the people in whose limits those interests are carried on and protected. I know that every interest of that people is made better, that their morals, their religion, their education, their desire to occupy higher grounds and positions in life, everything that goes to ennoble men and women receives a start from those industrial occupations; and it is because of that reason, among others, that I would, if it was in my power, push every manufacturing and mechanical interest of New England into the western and middle States that they might enjoy the benefits and the strength which those States are receiving to-day. I desire that New England should introduce into her system occupations and businesses that would produce the \$234,000,000 of goods that are now brought into this country from abroad. There are fields enough for a thousand New Englands, if properly directed, within this country. If the money which is now permitted to leave our borders were retained in the United States, there is business enough for a thousand New Englands in the production of articles the production of which is not now known to our country.

If in the State of my honored friend from Iowa, [Mr. GRIMES,] engaged in the production of corn and wheat, the people could divide, and one half be occupied with some other pursuit that was profitable, it is reasonable and easy for him to calculate that there would be but half the amount of corn and wheat produced and the same amount of mouths to feed, and, of necessity, the result would be either to increase the price or to afford opportunities to increase the product, and if his people obtained the same percentage of profit upon half the product that they did before upon the whole, they would obtain benefits in proportion. In

other words, as often as you can divide the occupations of the people you increase the advantages of each one of their interests. The great idea of other countries, which has made them so successful, (especially in France and in England,) has been that they have not run off upon leading interests so that they have overdone them and have destroyed them. It must become a settled policy with this country that the raw material must remain here. If they are willing in the future, as they have been in the past, that their lands shall be exhausted for the benefit of other nations I shall be disappointed. Take Virginia, North Carolina, South Carolina, as examples for the southern States, and Ohio and other States as illustrations for the western States. There is not a Senator or anybody here who will say that their productive capacity is as great as it was twenty years ago. You have exhausted your lands for the benefit of other Governments and other peoples. Why, sir, the policy of free trade, which it has been endeavored to foist upon the people, has not one element of fact in it as regards the Government of Great Britain or of France.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the special order, being House joint resolution No. 51, upon which the Senator from Missouri is entitled to the floor.

Mr. MORGAN. I hope the Senator from Rhode Island will be permitted to finish his argument. The bill which he has moved to reconsider has passed both Houses of Congress; it has been before us now on three several days, and I think it is quite important that the question should be disposed of, and perhaps it is better to finish it at this time. There cannot be much further discussion. After the Senator's argument, I hope there will be a vote this morning.

Mr. MORRILL. Let the special order be laid aside informally.

The PRESIDENT *pro tempore*. Does the Chair understand the Senator from New York to move to postpone the special order?

Mr. MORRILL. I should hope that the special order would by common consent be laid aside while we take a vote on the pending bill.

The PRESIDENT *pro tempore*. It is suggested that the special order for this hour, on which the Senator from Missouri is entitled to the floor, be laid aside by common consent to enable the Senator from Rhode Island to finish his remarks. Is there any objection to that course? No objection being made, the special order will be laid aside, and the Senator from Rhode Island will proceed.

Mr. SPRAGUE. I object to the bill on every consideration which has been presented by those who favor it. I can see no reason why this measure should prevail. I object to it on the ground that I stated in the beginning, that it did not come before the Senate properly; that it was sent to a committee that never had entertained jurisdiction of this subject before. It is not a commercial question; it is a question of revenue affecting the industry of this country, of every part of it. It is controlled, it receives its power from a few men who live and who prosper in the great commercial metropolis of the country, and it will operate on the industrial interests of the country as a rudder operates to bring a ship to or to direct its course. I object to it because it is a class interest; a few people obtain advantages from it, and among the few are those who have been enemies of the country, those whose interests are in foreign countries. I object to it because it is a hotbed that produces speculation, enabling parties to carry their goods to any time within the law in order to create a demand, and when that demand has been created, to reap the rewards of the speculation.

I object to this whole system whereby the Government become traders and lessors of stores, of all the appurtenances of a commercial house, rent warehouses and stores, fill them, have storekeepers and have draymen and drays, and have everything that a commercial

house has. For what purposes? To carry the resources of this country into foreign countries, to build up the people of foreign countries, and to strengthen Governments that have been for the past century endeavoring to destroy the power which has produced a republican Government. I object to it on that account, because I do not believe that this Congress is intended to operate in business.

I have come to the conclusion, in considering this bill, that it is not for the interest of the country to send men here to represent them who are engaged in a particular class of business. I have a right to make that statement. Imperceptibly to themselves they will introduce into legislation measures that harmonize with the ideas they have formed in the past in carrying on a prosperous business; and especially do I object to it when their honored associates are willing to take their word as law and approve a proposition which may be submitted to them. It is not true that the plan is simply for the benefit of the \$10,000,000 of goods that are reexported. That is nothing; it does not amount to anything; it is the feather in the weight of the desire that is intended to be accomplished. It is to have the whole \$234,000,000, the amount that is introduced into this country, as a leverage upon all our industrial interests.

Now, sir, if we will not follow the example of every other country that has been prosperous, let us at any rate look at that example. Let us see how England and France have become prosperous. It has been by taking the raw materials of other countries and enhancing their value. It is readily explained. I go down to the restaurant under the Senate Chamber and I buy a dozen raw oysters for thirty cents. Free-trade people would say that is all very well; but I want them cooked, and then they charge me sixty cents. Now, would it be policy for me, as a grower of oysters, to sell a dozen raw oysters for thirty cents and buy back cooked ones for sixty cents? I would like to ask any Senator how I am going to get rich at that operation. That is the policy and plan which has been carried into effect for the last twenty-five years in this country and has exhausted your lands. You have played into the hands of foreigners; you have given them the command of every product of this country, that they might increase its value and sell it to you at double the price that you got for it in the beginning. Just so long as you pursue that policy you will be poor. Just so long as you permit any instrumentality simply for the idea of getting rich to induce you to submit to that sort of thing, you will be poor, and you will be foolish, too.

I object to the bill upon every possible consideration. I object to it upon the ground that it hurts American interests, hurts the people of the United States, and benefits the people of other countries. I speak of that which I know. I know of thirty instances where we are to-day returning to foreign manufacturers thirty or forty per cent. of profit. In the papers of New York or Boston, or anywhere else, these profits never are mentioned; but if a poor, and hitherto poverty-stricken manufacturer is now able to get thirty or forty per cent., the cry is extortion on the part of the industrial interests of the country. I have endeavored to show that where there is no competition in this country, the foreigner obtains the monopoly of your market and increases the price of everything to the consumer. I have endeavored to show that where there is a competition in this country with foreign products, the article is introduced to the consumer cheaper.

I think, then, there is every consideration to influence the Senate, at any rate, to consider well before they present to this country a proposition of this character. All that I have asked of the Senate is that it shall go to the Finance Committee, to be considered by them in connection with the measures they propose to present to the consideration of the Senate in their policy to relieve the industrial interests of the country of some of its burdens. I have asked several times, why this mad haste, why not bring it in with other measures calculated and in-

tended for the benefit of other interests and of the great industrial interests of this country? There is no possible reason. Since the formation of this bonded warehouse system in 1846 you have found constant manipulations with the system, none of which seem to have been satisfactory. In the first place, it was established in 1846; and then in a year or two it was changed. In a year or two after that it was changed again, and then it was changed back to the system of 1846. It is constantly going forward and forward and back and back, to suit the convenience of those who are endeavoring to effect their personal interests in the establishment of a great public measure.

In 1861 the measure adopted was that the duties should be paid within three months, and if not paid within three months twenty-five per cent. additional should be levied and assessed on the duties within two years, and if not paid within two years and the goods remained in bond for three years they were regarded as abandoned to the Government. In 1862 that was changed so that the importers had a year wherein they could pay their duties, and the Government formed a partnership with them by which the goods could be kept in bulk in bond out of the market, so as to make a scarce market, and then when the market was just in the right trim for their purpose they would put them on the market and make a profit of them. In 1862 they had a year, and they got rid of the twenty-five per cent. requirement. They thought then that a year would answer their purpose. Since that they have not been satisfied with the year, but the time has been extended on several occasions by resolutions of the Senate and House of Representatives, approved by the President, so that they have had additional time without paying the twenty-five per cent. additional duty which the law of 1861 required to be paid. Now, this proposition is that they shall have three years within which time they may pay the duties.

Thus you see the time was extended from three months to a year and then from a year to three years. There is no knowing what they will ask next. The next proposition may be, "We desire to be relieved entirely from the payments of duties." One successful attack, the accomplishment of one position, induces efforts to accomplish another and another.

I must confess that the passage of this bill in the mad haste in which it was passed has affected me seriously. If the great interests of this country are to be so handled and managed by Congress, I can only say, God protect them. But, sir, there is one satisfaction I have in all this matter, that the American people during the past four years have had a schooling that has brightened their intellect and their perceptions, and they will see what is for their true interests. The power which created slavery for itself, and which antagonized itself against the industry and interest of the country, except wherein they could be for its profit, has been abolished and destroyed; and that poison will forever be kept from their lips, and their eyes will be opened and will continue to be opened from this time forward, and especially so as these aggressive attacks are leveled against their interests. I have an abiding faith that in the future—and that future is not very far off—Senators and Representatives will receive a reminder from their constituents; and I believe that a reminder from constituents comes with great power upon both Senators and Representatives; I am inclined to think that it works wonders at times; and I ask the American people to use a reminder when they find and see from the experiences in their business that it is depressed, that it is not prosperous. In nine cases out of ten that is owing to the unsteadiness of legislation here, which the people in the past have not realized and understood.

Sir, in studying the characters and lives of men who have governed the nations abroad, England, France, and Germany especially, it has occurred to me that the American representative might learn something by imitating their example, by devoting attention to the material interests of the people, by examining into

the everyday life of the everyday individual; and instead of soaring so far into the clouds of constitutional law and the practices and commercial relations between States, devoting some portion of his time to the material interests of the people he represents, to prevent them from going astray, to prevent them from having their interests gradually rusted and frittered away by a policy which takes their substance from them as certainly as the leech takes blood from life.

If the policy which has been pursued in the past shall be continued in the future, your lands, as I said before, will be exhausted for the benefit of other people; and the time will come—not in my day, perhaps, but in the day of some of those now living—when you will be poor, indeed. Every man engaged in the farming interest of this country knows full well the disadvantages of owning poor land. Poor land is the meanest property that is known in the category of property.

Now, sir, in conclusion, all I beg is, that this measure may go the Committee on Finance, and that an opportunity may be afforded, when the time of members of Congress is not as much taken up as now with the "society" of the capital, when we may have more leisure to give attention to the great interests which are before us. I want to investigate this subject in view of the light shed upon it by the men who have gone before us. When I opposed this bill in the beginning, I must confess I did not understand it fully; but my eyes were opened when the suggestion was made that "no one opposed it but your predecessor: old Simmons always opposed it." Finding that he had opposed it, I was led into asking the reasons of his opposition; and I have been growing stronger and stronger in the opinions that he endeavored to advance. All I ask is that the bill may go to the Finance Committee, that it may receive attention from them, and then that it come to the Senate, and I shall wish to have something to say upon it then.

Mr. MORRILL. I am so desirous of having the vote taken on this subject that I do not propose to occupy the attention of the Senate beyond a single minute. This is no question of finance; that suggestion strikes me as absurd. It is a question relating particularly and solely and exclusively to the bonded warehouse system, instituted for the benefit of commerce. That is all there is of it, and it is idle to send such a question to the Finance Committee. The question that my honorable friend from Rhode Island raises about the antagonism between the commercial and manufacturing interests is all misconceived, does not arise on this bill by any possibility; and if it did it is the most inopportune discussion that could possibly be started at the present moment. I pray how does the question of protection or free trade arise? What is the precise point of the bill? Simply whether it is fit and proper to allow the goods, which under the warehousing system are provided to be deposited in the Government warehouses, to lie there one year or two years under certain rules and regulations. That is all there is of it. This system is provided for. This bill does not interfere with it. This simply permits an extension of the time within which the parties may remove the goods by paying an additional sum of ten per cent. It is a very small matter anyhow, and can by no possibility affect the question of free trade or protection. The Secretary of the Treasury was fully consulted on this subject, and he said that no possible injury could come from it, either to the finances or the general interests of the country; and being fully of that opinion, the Committee on Commerce, who gave the subject careful consideration, reported the bill. I ask that we may have a vote.

Mr. SHERMAN. I shall only detain the Senate for a moment, merely to refer to the law as I find it in the statutes on this point. I think, under the act of 1857, the warehousing privilege was extended to three years, so that the importer of goods had the right to deposit his goods in bonded warehouse, retain them there for three years, and then put them in market. In 1861, by the act passed in August

of that year, at the beginning of the war, the duration of time allowed to importers to withdraw goods from bonded warehouse was reduced to three months, and pretty stringent rules and severe penalties were enacted, intended to compel the importer to withdraw the goods within three months, so that within that time they should contribute to the revenue of the country. In 1862, by the act of July 14, the time was extended to one year, leaving the old penalty under the law of 1861 in force, so that if an importer brought goods into this country and deposited them in warehouse, he might at any time within one year enter them for consumption; and if he did not within one year enter them for consumption, he paid a penalty or additional duty of twenty-five per cent. if he withdrew them in two years; or if he kept them three years in bonded warehouse, they were sold, although he was allowed after the three years to export them from the country upon paying a duty of one per cent.

Now, the bill that is reported from the Committee on Commerce extends the one year to three years, within which, by paying ten per cent. additional duty, the importer may withdraw the goods. I have nothing to say with regard to this branch of the bill, because it is purely a question of commerce, and would take the opinion of the Committee on Commerce on such a matter as readily as I would that of any other committee of the body. But the first clause of this bill does present a question of finance, and a very important one, to which I wish to call the attention of the honorable Senator from Maine. Under the present law, to all the goods imported one year ago now remaining in the bonded warehouses, there is attached an additional duty of twenty-five per cent. The amount of goods in store I have no means of stating. Perhaps gentlemen connected with the mercantile business can state the amount. All goods in bond for more than a year are liable to an additional duty.

Mr. FESSENDEN. Is not the Senator mistaken? That twenty-five per cent. law was repealed by a subsequent statute.

Mr. SHERMAN. I do not find it repealed in the law of 1862.

Mr. FESSENDEN. It is repealed substantially.

Mr. SHERMAN. When was the repeal?

Mr. FESSENDEN. In 1862, I think.

Mr. SHERMAN. As I intimated before, the only objection I have to the bill is the question of the remission of the penalty or additional duty. If the law imposing that has been already repealed, the remaining question is one on which I have formed no opinion.

Mr. MORRILL. That is repealed, according to the understanding of the committee, by the act of 1862.

Mr. FESSENDEN. This is the provision to which I referred, in the law of 1862:

Provided, That all goods which now are or may be deposited in public store or bonded warehouse, after this act takes effect and goes into operation, must be withdrawn therefrom or the duties thereon paid within one year from the date of original importation.

This is understood at the custom-house, I believe, as a repeal of the provision referred to by the Senator from Ohio.

Mr. MORGAN. It is so understood.

Mr. SHERMAN. Then I understand that the penalty of twenty-five per cent. is no longer imposed. Then the only question, it seems to me, between these two gentlemen [Mr. SPRAGUE and Mr. MORRILL]—it is a kind of friendly contest between commerce and domestic manufactures—is whether we shall extend the time within which imported goods may be taken from bonded warehouses and entered for consumption in the country. This bill proposes to extend it two years; the old law is one year. Upon that question I have not any very definite opinion. I think that if the goods are now entered for consumption we shall get the present rates of duty upon them. If they are not allowed to be entered for consumption they may be exported, and in that case we should lose the duties that are now levied upon them. This is the only view I can take of the question; and

in that view, as the goods are now here in our bonded warehouses, it would probably be better to have them entered for consumption; and if this bill will expedite that process, I see no very great objection to it. As a matter of course, the introduction into the market of the stock on hand in the bonded warehouses might tend to some extent to supply the market, and thus exclude domestic manufactures; but all importations do that to a greater or less extent; and with us it is rather a question of revenue than of domestic industry. If, as I supposed when I rose, the additional duty of twenty-five per cent. was still levied upon the goods in the bonded warehouses, I should feel disposed to insist upon the payment of that penalty before the goods were withdrawn; but if that is not now the law, if under the law these parties have the right to export the goods, I see no great objection to our getting the duties fixed by law and allowing them to enter into the consumption of the country.

Mr. HENDRICKS. I do not intend to discuss this question, but I think that the discussion which has already taken place should satisfy the Senate that the bill ought to be further considered. It has been considered by one committee; but I do not agree with the Senator from Maine [Mr. MORRILL] that this is altogether a commercial question. It is certainly a question affecting the coffers of the Government, when we propose to place it in the power of men not to pay us taxes for three years. Suppose it was proposed to allow the manufacturer three years within which to pay his income tax, that would be not a question of manufactures but a question of finance, because its immediate effect would be upon the Treasury. It seems to me that this is a time when we should adopt a policy that will secure the largest returns to the Treasury; and I am not able to agree with the learned Senator from Maine that this is altogether a commercial question. Without understanding it very well, I am inclined to vote in support of the proposition which has been so ably maintained by the Senator from Rhode Island. I think there is a great deal of force in this proposition. This bill would enable the importers to pile up in the Government warehouses for a period of three years, if they thought it was their interest, their importations, which would be an accumulated capital ready to be thrown upon the market of this country at any time; and certainly Senators will admit that that would be a constant embarrassment to the manufacturer. Would any Senator wish his own interest all the time to be under the shadow of a greater interest which the Government provides for? It seems to me there is force in the suggestion of the Senator from Rhode Island. I do not agree with him in his propositions in respect to protection; I do not agree with him in the proposition that every producer can be a manufacturer. In Indiana we are necessarily an agricultural people, not because we have that "meanest property" in the world, poor land, but because we have altogether rich land, and our labor must of necessity go into the cultivation of the soil.

I merely wished to say that I intended to support the proposition, and it will certainly do no harm to let the question be examined by the Finance Committee.

Mr. HENDERSON. Have you in your State any of the poor land spoken of by the Senator from Rhode Island?

Mr. HENDRICKS. No, sir; Indiana in that respect is next to Missouri. With Missouri and Ohio, she has no poor land. There is a little wet land in one or two localities—

Mr. MORRILL. "Swamp" land? [Laughter.]

Mr. HENDRICKS. Yes. Swamp land that, I believe, the State got under the law of 1850; but with that exception the land invites the people to its cultivation. The effect of legislation is apparent in regard to one interest in our country. I protested against it at the time, and was sorry to see a Senator, representing a neighboring State, giving his powerful influence in favor of the proposition that was made to

impose a tax of two dollars on whisky. That is a tax on the corn produced by my constituents, and by his constituents, and by the constituents of the Senator from Illinois, who also represents nothing but good land, so far as he represents property at all.

The people of those States and the people of Kentucky are largely interested in the production of corn. There was but one mode in which we could manufacture it, and that was in the production of whisky. This body deliberately said that we should not do it. I believe that the Senator from Ohio really thought that two dollars a gallon would produce a large revenue to the Treasury, but it is a mistake; the interest to-day is dead; the production is as nothing, and now, instead of getting one dollar a bushel for our corn, we are only able to get from twenty to forty cents for it. A gentleman from Illinois told me the other day that on one farm which he owned last year his taxes were \$400, and he got a dollar a bushel for his corn, and this year, because of the county bounties and township bounties, &c., his taxes were \$800 on that piece of land and he got twenty cents a bushel for his corn, so that in fact his taxes are increased a thousand per cent., and that in part owing to the fact that you have prohibited the possibility of manufacturing the corn. It is a heavy and bulky article, which cannot bear transportation. But I did not intend to discuss any of these questions; I rose simply to say that I should support the proposition of the Senator from Rhode Island.

Mr. CLARK. I think this question reaches much further than some gentlemen seem to apprehend. Take a simple illustration; suppose a very large manufacturing house in Europe chooses to fill your bonded warehouse with goods for three years; you manufacture the same goods in your own country, and whenever your manufacturer comes upon the market to sell his articles, that large establishment empty that bonded warehouse upon the market at auction, and where is your manufacturer? I state not an imaginary case; I state an actual fact, what is known to be done. You thus give the men who import three years to play upon your manufacturers. This should not be done without consideration. I have always been opposed to an extension of the time allowed for goods to lie in bonded warehouse. I think one year is too long; I would not give them one instant over three months for that purpose. When these men have three months in which to choose to put their goods upon the market or not, it seems to me they have all they ought to have. But now they have one year, and this bill proposes to give them two years more, or three years altogether in which to keep their goods in warehouse, during which time to compete with your manufacturers and undersell them. No new manufactory in this country can live under that system. I happen to know an instance where a large manufactory in this country was springing up, and the only way they could compete with the German houses was to go into the markets at auction at a great sacrifice, and drive them out at a vast loss of their own capital. The result of this bill will be to give the importers not only one year but three years during which to play this operation upon you. I think we ought to consider before we pass such a bill. I think the Senator from Maine does not mean any such result, but I fear he will have it; I fear that what has been will be again, and I ask the Senate to let us consider for awhile.

Mr. MORRILL. If this measure is likely to involve a discussion which was not anticipated, it is hardly fair, perhaps, to the Senator from Missouri, and I call therefore for the order of the day.

APPORTIONMENT OF REPRESENTATION.

The PRESIDENT *pro tempore*. The joint resolution (H. R. No. 51) proposing an amendment to the Constitution of the United States, is before the Senate as in Committee of the Whole, the pending question being on the amendment proposed by the Senator from Mis-

souri, [Mr. HENDERSON,] to the amendment of the Senator from Massachusetts [Mr. SUMNER.] On this question the Senator from Missouri is entitled to the floor.

Mr. SUMNER. With the indulgence of my friend I desire to submit an amendment which will be in order before we can be called upon to act upon his amendment. I propose to add words to the proviso recommended by the committee. Of course it is in order to perfect the original proposition before we come to the question of striking out. My object now is to amend the original proposition of the committee by adding these words, "and they shall be exempt from taxation of all kinds;" so as to make the phrase read, "all persons therein of such race or color shall be excluded from the basis of representation, and they shall be exempt from taxation of all kinds."

The PRESIDENT *pro tempore*. In the opinion of the Chair, the proposed amendment of the Senator from Massachusetts is not in order. It is not to perfect an amendment before action is had upon it. The Senator before offered an amendment to strike out the whole of the resolution and insert something else, and to that amendment an amendment was proposed. Now the Senator from Massachusetts desires to amend the original resolution, which is not in order at this time.

Mr. SUMNER. The question is on striking out the original resolution of the committee, and I submit, with deference to the Chair, that before we come to the question of striking out, it is in order to add to the proposition of the committee or to subtract from it; in short, to amend it in any way, and that must be considered before we come to the main proposition of striking out.

The PRESIDENT *pro tempore*. Then the Senator from Massachusetts proposes to withdraw the amendment heretofore offered by him?

Mr. SUMNER. I do, for this purpose.

The PRESIDENT *pro tempore*. That is in order. The Senator can withdraw his amendment for the purpose of proposing to modify or perfect the original resolution.

Mr. SUMNER. Very well, then let it stand so. I wish to have a vote on this as a preliminary question.

The PRESIDENT *pro tempore*. That is in order, and the question is on the amendment now offered by the Senator from Massachusetts.

Mr. HENDERSON addressed the Senate, and without concluding gave way to

Mr. DOOLITTLE, who moved that the Senate proceed to the consideration of executive business.

[The publication of Mr. HENDERSON's speech is deferred until it shall have been concluded.]

Mr. FESSENDEN. I do not see the necessity of having an executive session at this hour. We can sit until five o'clock. We shall never get through in this way.

Mr. DOOLITTLE. We have some Indian treaties that ought to be acted upon.

The PRESIDING OFFICER. The Senator from Wisconsin moves that the Senate now proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, February 13, 1866.

The House met at twelve o'clock m. Prayer by Rev. B. F. MORRIS.

The Journal of yesterday was read and approved.

LEAVE OF ABSENCE.

Mr. ORTH moved that his colleague, Mr. STILLWELL, have leave of absence for one week from Thursday next.

There was no objection, and it was ordered accordingly.

ORDER OF BUSINESS.

The SPEAKER. By the order of the House on Friday, the morning-hour business of Monday was transferred to this day. Committees will

be called for reports, not to be brought back by a motion to reconsider.

The committees were called, but no reports were submitted.

The SPEAKER stated the next business in order to be the call of States for resolutions, commencing with the State of California, where the call was arrested on last Monday.

CLERK TO COMMITTEE ON MINES, ETC.

Mr. HIGBY submitted the following resolution, on which he demanded the previous question:

Resolved, That the Committee on Mines and Mining be allowed to have a clerk, who shall receive the usual compensation fixed by the House for clerks of committees.

On seconding the demand for the previous question the House divided; and there were—ayes 30, noes 13; no quorum voting.

Mr. ROSS. I suggest to the gentleman to allow me to move an amendment, for a clerk to be allowed to each member.

Mr. HIGBY. I want the resolution to pass and not to be defeated.

The SPEAKER, (no quorum having voted,) ordered tellers; and appointed Messrs. HIGBY and LE BLOND.

The House again divided; and the tellers reported—ayes 48, noes 48.

The SPEAKER voted in the affirmative to make a quorum.

So the call for the previous question was seconded.

The main question was ordered.

The House divided on the adoption of the resolution; and there were—ayes 54, noes 49.

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 67, nays 64, not voting 51; as follows:

YEAS—Messrs. Alley, Allison, Anderson, Delos R. Ashley, James M. Ashley, Baker, Banks, Bidwell, Bingham, Blaine, Darling, Davis, Dixon, Driggs, Eggleston, Farnsworth, Farquhar, Garfield, Glossbrenner, Griswold, Hale, Abner C. Harding, Hayes, Henderson, Higby, Holmes, Hotchkiss, Demas Hubbard, James Humphrey, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Kuykendall, Ladin, Loan, Marvin, McClurg, McNair, Miller, Myers, O'Neill, Orth, Paine, Perham, Plants, Alexander H. Rice, Rousseau, Sawyer, Schenck, Seefeldt, Smith, Spalding, Stillwell, Strouse, Taylor, Thayer, Trowbridge, Upson, Robert T. Van Horn, Ward, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—67.

NAYS—Messrs. Beaman, Bergen, Boutwell, Bromwell, Brooks, Broomall, Buckland, Reader W. Clarke, Conkling, Cook, Cullom, Dawson, Deming, Donnelly, Eckley, Eldridge, Ferry, Finck, Goodyear, Grinnell, Harris, Hill, Asabel W. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, James M. Humphrey, Johnson, Kerr, Ketcham, Latham, George V. Lawrence, William Lawrence, Le Blond, Marshall, Marston, McCullough, McKee, Moorhead, Morrill, Morris, Moulton, Niblack, Radford, William H. Randall, Rogers, Rollins, Ross, Shellabarger, Sitgreaves, Sloan, Stevens, Taber, John L. Thomas, Thornton, Trimble, Van Aernam, Hurt Van Horn, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, and Williams—64.

NOT VOTING—Messrs. Ames, Ancona, Baldwin, Barker, Baxter, Benjamin, Blow, Boyer, Brandegee, Bundy, Chanler, Sidney Clarke, Cobb, Culver, Dawes, Deftrees, Delano, Denison, Dumont, Eliot, Grider, Aaron Harding, Hart, Hogan, Hooper, Chester D. Hubbard, Edwin N. Hubbard, Jones, Longyear, Lynch, McIndoe, Mercer, Newell, Nicholson, Noell, Patterson, Phelps, Pike, Pomeroy, Price, Samuel J. Randall, Raymond, John H. Rice, Ritter, Shanklin, Starr, Francis Thomas, Voorhees, Warner, Winfield, and Wright—51.

So the resolution was adopted.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. NIBLACK. I ask whether this resolution authorizes the payment of a salary to this clerk from the commencement of this Congress, or from the present time.

The SPEAKER. The resolution is not before the House, having been passed under the previous question.

IMPROVEMENT OF ZUMBRO RIVER, MINNESOTA.

Mr. DONNELLY introduced a bill granting lands to the State of Minnesota, to aid in the improvement of Zumbro river, in said State;

which was read a first and second time, and referred to the Committee on Public Lands.

MEXICO.

Mr. WHALEY submitted the following preamble and resolutions, on which he demanded the previous question:

Whereas this House at its last session, interpreting the sentiment of the American people, passed a resolution indorsing the traditional policy of this Government toward the republics of the continent, and reprobatly in unmistakable language the erection of a monarchy upon the ruins of the neighboring republic of Mexico; and whereas the flagrant infraction of this American continental policy occurred while this nation was in a conflict for its own unity, which conflict is now happily ended; Therefore,

Resolved, 1. That this House do hereby reaffirm the resolution of last session, and declare that the establishment of a political protectorate by France in behalf of an Austrian prince, over the republic of Mexico, and the introduction of a scheme of policy which carries with it a right to interfere with our own as well as in the affairs of all the republics of this continent, is a measure to which this country can never submit, and which should be resisted by all the means in our power.

2. That to the end of making good this resolution, the President solicit the alliance of all the republics of this continent, and the use of all the means at their command.

Mr. BANKS. I move to refer these resolutions to the Committee on Foreign Affairs.

The SPEAKER. The previous question has been moved.

Mr. BANKS. I ask the gentleman to yield to me to make that motion.

Mr. WHALEY. I decline to yield.

The question being taken on seconding the demand for the previous question, it was not seconded.

Mr. BANKS. I now move to refer it to the Committee on Foreign Affairs, and on that I demand the previous question.

Mr. ROGERS. I move to lay the whole subject on the table.

Mr. WASHBURN, of Illinois. I want to debate the resolution.

The SPEAKER. If debate arises it goes over.

Mr. ROGERS. I withdraw the motion to lay the subject on the table.

The question recurring on seconding the demand for the previous question on the motion to refer, it was seconded.

The main question was then ordered, and under the operation thereof the motion to refer to the Committee on Foreign Affairs was agreed to.

Mr. BINGHAM. I move to reconsider the vote by which the resolution was referred, and to lay that motion on the table.

The latter motion was agreed to.

ESUTCHEONS OF WEST VIRGINIA AND NEVADA.

Mr. WHALEY. I ask unanimous consent to offer another resolution.

The Clerk read the resolution, as follows:

Resolved, That the Commissioner of Public Buildings be directed to cause to be painted in the square panels of glass in the ceiling of the House of Representatives the esutcheons of the States of West Virginia and Nevada, and that the necessary appropriations be made therefor.

Mr. ELDRIDGE. I object.

Mr. LATHAM. I offer the same resolution, and demand the previous question thereon.

The previous question was seconded, and the main question ordered.

Mr. NICHOLSON. Can the resolution be divided?

The SPEAKER. It cannot; it must be so framed that the two parts will stand independently by themselves in order to be divided.

The resolution was agreed to.

Mr. ASHLEY, of Ohio. I move to reconsider the vote by which the resolution was adopted; and also move to lay that motion on the table.

The latter motion was agreed to.

INDIAN TRIBES.

Mr. CHAVES submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Indian Affairs be directed to inquire into the expediency of providing by law for placing upon suitable sites of reservation

the following tribes of Indians, namely, the several bands of Utah Indians, Jicarilla Apaches, Comanches, Kiowas, and Prairie Apaches.

LAND OFFICES IN WASHINGTON TERRITORY.

Mr. DENNY introduced a bill for the relief of land offices in Washington Territory; which was read a first and second time, and referred to the Committee on Public Lands.

WAGON ROAD IN COLORADO.

Mr. BRADFORD introduced a bill for the construction of a wagon road from Denver city, Colorado Territory, via Pueblo, to Fort Garland, in the San Louis Park; which was read a first and second time, and referred to the Committee on Territories.

The SPEAKER. The next business in order is taking up resolutions which were offered under the rule, debate having arisen thereon.

Mr. SCOFIELD. I rise to a question of privilege.

The SPEAKER. No question of privilege can be called up to-day during the morning hour, it being the same as on Monday.

Mr. KASSON. As I understand it, last Monday morning the State of Iowa was not included in the call of the States. I have a resolution in my hand, supposing that Iowa would be the first State called in order to conclude the call.

The SPEAKER. Iowa was called, and also Wisconsin which succeeded it.

Mr. KASSON. I thought Wisconsin came before Iowa.

The SPEAKER. In the printed list Iowa comes first and Wisconsin afterward. Both were called last Monday week.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had concurred in the resolution of the House tendering thanks to Hon. George Bancroft for the appropriate memorial address delivered by him on the life and services of Abraham Lincoln, late President of the United States.

ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act to amend an act entitled "An act to establish a Bureau for the Relief of Freedmen and Refugees, and for other purposes;" when the Speaker signed the same.

PRIVILEGE OF THE FLOOR.

The SPEAKER stated that the next business in order was the consideration of the following resolution, offered on the 21st of December last by Mr. SMITH, of Kentucky, and which laid over under the rule, debate arising thereon:

Resolved, That James M. Johnson, claiming to be a member-elect to the Thirty-Ninth Congress from the third district, State of Arkansas, be admitted to the privileges of the floor of the House during the pendency of his claim as a member thereof.

Mr. SMITH. I merely wish to remark in regard to this gentleman from Arkansas, Colonel Johnson, that he was an applicant for a seat upon this floor in the Thirty-Eighth Congress; his credentials were referred to the Committee of Elections, and while that committee was considering whether he was entitled to a seat or not, the House granted him the privileges of the floor. He is a gentleman known to the majority of this House, and one recognized as entirely worthy in every respect at least to the privileges of the floor. He was one of the original loyalists in the State of Arkansas, and one who never for a moment surrendered a single opinion or a single thought or feeling to the rebellion. He enlisted in our Army and served for over three years with distinction to himself, commanding a regiment on various occasions; and he feels, and has so expressed himself to me, that if he were denied at this time the same privilege that he received from the House before, which was merely one of courtesy, it would be a reflection on his loyalty which was so evidently manifested all the time during the war in a very rebellious State. I therefore hope the House will adopt this resolution and grant him this privilege.

So far as his credentials are concerned, they have been referred to the joint committee on reconstruction, and that committee can discuss the propriety of admitting him as a member just as well with this courtesy extended to him as though it were denied. It is unnecessary to debate this question as the remarks I have made show the House precisely what the facts are. I call for the previous question.

Mr. STEVENS. I hope the gentleman will withdraw the previous question for five minutes. I want to say a single word upon it.

Mr. SMITH. I wish to make a further statement, and I withdraw the previous question for that purpose.

At the last session of Congress, Colonel Johnson was paid his mileage and salary during the pendency of his claim here, by a resolution of the House, and during three years and a half, as I have already suggested, he commanded a regiment in the United States Army.

While I am upon the floor, I will allow the gentleman from Pennsylvania [Mr. STEVENS] to make his remarks.

Mr. STEVENS. I observe that this resolution proposes to admit some gentleman in the character of a claimant for a seat from a State which we have not yet admitted to be entitled to representation.

I made, some time since, perhaps not a very fortunate motion to admit five or six gentlemen without naming where they were from, or in what character they were here. I had known some of them here and elsewhere, but I did not venture to state that they were claimants for seats from any State. If I had I should have considered it a very bad precedent. It seems, however, to have been found out that some of them are claimants from Tennessee, and hence that unfortunate precedent has led to this resolution, aggravated by calling this gentleman a claimant for a seat from the State of Arkansas.

Now, I think it is premature to admit any of these gentlemen. The idea of admitting claimants as claimants from any one of these defunct States is monstrous, in my judgment, while the matter is still before the joint committee for investigation.

If the gentleman from Kentucky desires to call the previous question I have no objection, but I desire to move to lay the resolution upon the table.

Mr. SMITH. I have the floor now, and cannot yield for that purpose.

With all due deference to the opinion of the distinguished gentleman from Pennsylvania, [Mr. STEVENS,] I will say that he and I differ very materially upon the point he suggests, whether the State of Arkansas is defunct or not. We have differed since I have been here sitting in Congress, and as long as he entertains the opinions he now does we will continue to differ. He has heard me almost as often as I have heard him upon this question, presenting our different views in regard to this matter. I declare, as a rule of the Government, as a principle of the Constitution, and as a precedent of Congress up to this session, that these States have all been recognized as States, and not as defunct, and that these men have been invited to the privileges of this floor by a solemn vote of this House; and, further, sir, those who claimed seats from Louisiana and Arkansas in the last Congress were paid their salary up to the time the question was decided.

And further than that, sir, for over two years after the commencement of the war, not only claimants, but members were permitted to take their seats from those States which were declared to be in rebellion, and which had passed ordinances of secession.

I am proud, and it will be a source of gratification to me in the future, that I can rise in my place and declare as a great fundamental principle, one which has been maintained by arms, that no State is out of this Union, or ever has been, and that no State has become defunct by the rebellion.

It is a great and glorious privilege that I claim. It is a grand and glorious principle which was handed down to me by the fathers of the Revolu-

tion, and which the gentleman from Pennsylvania [Mr. STEVENS] will by and by acknowledge if God permits him to live a few years longer.

Gentlemen may say what they please about the admission of members from the States lately in rebellion, but the question is to be decided by us. This question of privilege and courtesy is not one that involves the eligibility of a man to a seat upon this floor. I have never asked that a man who has waged war against this Government, who has attempted to aid in its overthrow, should be admitted here either as a matter of privilege or a matter of right. But I have always held that one who comes before us bearing upon him the scars of battles fought for the maintenance of the Government, who has gone through this great campaign for independence and liberty, who has borne aloft the same flag that we have attempted to maintain, should, as a matter of courtesy, be admitted to the privileges of the floor in the national council. I say it is but a poor boon when granted, and we reflect upon our gratitude if we do not grant to him what we have granted to others.

Mr. KASSON. Will the gentleman yield to me for a few moments?

Mr. SMITH. I will presently; and here I may be permitted to say that when we wanted men from Arkansas and Louisiana and Alabama—I remember it well, and so does the gentleman from Pennsylvania, [Mr. STEVENS]—none were louder in their praises of the devotion of these men to the Union than was the distinguished gentleman from Pennsylvania and others who sit upon that side of the House, and also those upon this side of the House, because there is no division upon that subject in reference to the geography of this House. We all love to hear of those men from the South. And our generals and soldiers from the North wrote letters back to us that we read at our desks how those men were coming from their homes, from their mountain fastnesses and valleys, and rallying around the flag of their country and giving their aid to our side of the question.

But now when the war is over, the monstrous idea has been promulgated in this House that wherever you find a white man in the South there you find an enemy of the Government; and wherever you find a black man there you find a friend of the Government. That is a slander upon loyal men like Mr. Johnson; a slander that I throw back with indignation and contempt.

I now yield for a short time to the gentleman from Iowa [Mr. KASSON.]

Mr. KASSON. As I intend to vote for a proposition like this in the case of loyal men from Arkansas, I desire two or three minutes to state the reasons that will control my action. The first of all is that we shall be entirely unable to convince the people of this country that we have heard both sides of this question as long as we keep loyal men at arm's length from our presence, and so distant that we cannot have any interchange of views in regard to the interests they represent.

For myself, I stand committed to the admission of Representatives from no one State of this Union lately in rebellion except one that stands in an exceptional relation, and which was regarded as a State of this Union at the national Republican convention last held at Baltimore. I refer to the State of Tennessee. Touching the other States I am at perfect liberty to vote for or against their representation here just as my own convictions may prompt me.

Mr. HIGBY. Will the gentleman yield to me for a moment?

Mr. KASSON. I must be excused at the present time. Now, when men come here like Colonel Johnson, whose hands are not red with the blood of loyal men, and if red at all are red with the blood of rebels, for us to reject them from our presence as unclean men, not fit even to make a showing of their case, is an outrage upon the popular sense of justice in this country, against which we cannot sustain ourselves before the people.

I have always been taught to hear the other side, according to the old maxim, *audi alteram partem*, and I am unwilling, sitting as a legislator, to decide in a case of which I have not heard both sides, as I should be, as a judge upon the bench, to decide upon an *ex parte* statement, when both parties were before me.

The real question, it seems to me, which has not yet been passed upon by this House, or by any convention of the party to which I belong is, whether the power that is vacated by the usurpation of a rebel State government ascends to the United States Government in Congress assembled, or falls as a lapsed power into the hands of the people who are in allegiance to the Government of the United States within the particular State. I hold, sir, that the power of reorganization lapses to the loyal people within that jurisdiction, even if they number but one in every hundred. Other gentlemen on this floor hold that it lapses, so to speak, to the Government of the United States in Congress assembled, though in this view they are without any precedent in the history of the Government to sustain them. Far more logical is the position of my distinguished friend from Pennsylvania [Mr. STEVENS] that our power is that of conquerors, than to maintain that the power is transferred to the Congress of the United States from an original State of this Union whose government has been usurped.

Now, sir, on this question, and on the question of loyalty, and on all the questions involved, I desire that a loyal man, a fighting loyal man, whom the loyal people have sent to represent them here, shall be permitted to exchange his views with me and with us all on this floor before we decide against him. For that reason I ask that he may be allowed the privileges of the floor.

Mr. SMITH. Mr. Speaker, I did not intend to make a speech on this question; and as I desire the resolution to be acted on at once, I call the previous question.

Mr. STEVENS. I move that the resolution be laid on the table.

Mr. LE BLOND. On that motion I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 78, nays 69, not voting 83; as follows:

YEAS—Messrs. Alley, Allison, Ames, Delos R. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Bontwell, Bromwell, Broomall, Roder W. Clarke, Sidney Clarke, Conkling, Cook, Deming, Dixon, Donnelly, Driggs, Eggleston, Eliot, Farasworth, Garfield, Grinnell, Hart, Henderson, Higby, Holmes, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Hubbard, Jencks, Julian, Kelley, Kelso, William Lawrence, Loan, Longyear, Lynch, McClurg, McIntire, McKee, Moorhead, Morrill, Morris, Moulton, Myers, O'Neill, Paine, Perham, Plants, Alexander H. Rice, John H. Rice, Sawyer, Schenck, Scofield, Sloan, Spalding, Stevens, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Warner, Elihu B. Washburne, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Woodbridge—78.

NAYS—Messrs. Anderson, Bergen, Blaine, Boyer, Brooks, Buckland, Culom, Darling, Davis, Dawes, Dawson, Defrees, Eckley, Eldridge, Farguhar, Ferry, Finck, Glossbrenner, Goodyear, Grider, Griswold, Hale, Aaron Harding, Abner C. Harding, Harris, Hayes, Hill, James R. Hubbell, James Humphrey, James M. Humphrey, Ingersoll, Johnson, Kasson, Kerr, Kuykendall, Laffin, Latham, George V. Lawrence, Le Blond, Marshall, Marston, Marvin, McCullough, Miller, Newell, Niblack, Nicholson, Noell, Orin, Phelps, Pike, Radford, William H. Randall, Rogers, Rollins, Ross, Rousseau, Sanklin, Shellabarger, Sitgreaves, Smith, Stilwell, Strouse, Taber, Taylor, Thayer, John L. Thomas, Thornton, Trimble, Robert T. Van Horn, and Whaley—69.

NOT VOTING—Messrs. Ancona, James M. Ashley, Barker, Blow, Brandegee, Bundy, Chanler, Cobb, Culver, Delano, Denton, Dumont, Hogan, Hooper, Chester D. Hubbard, Edwin N. Hubbell, Jones, Ketcham, McKuer, Mereur, Patterson, Pomeroy, Price, Samuel J. Randall, Raymond, Ritter, Starr, Francis Thomas, Voorhees, William B. Washburn, Windom, Winfield, and Wright—33.

So the resolution was laid on the table.

Mr. BOUTWELL moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PROTECTION OF RIGHTS OF CITIZENS.

Mr. BINGHAM reported from the joint committee on reconstruction a joint resolution

proposing an amendment to the Constitution of the United States; which was read, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of the said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE —. The Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each State all privileges and immunities of citizens in the several States; and to all persons in the several States equal protection in the rights of life, liberty, and property.

The joint resolution was read a first and second time, and the question was on ordering it to be engrossed and read a third time.

Mr. ELDRIDGE. I rise to a question of order. Can this joint resolution be presented and considered at the present time without unanimous consent?

The SPEAKER. The joint committee on reconstruction is authorized to report at any time, and the report comes up for consideration at once, to be disposed of by the action of the House.

Mr. BINGHAM. The joint resolution having now been read a first and second time, I ask that it be printed and be made the special order for next Monday, after the morning hour, and from day to day until disposed of.

The SPEAKER. There are now two special orders, the bankrupt bill and the loan bill, which antedate this. As special orders must be taken up in the order of priority, this joint resolution may not be reached at the time named.

Mr. BROOKS. I rise to a question of order. Has the committee on reconstruction the right not only to report at all times, but the right also, under that power given to them by order of the House, to make special orders at all times?

The SPEAKER. They have not.

Mr. BROOKS. It then requires unanimous consent?

The SPEAKER. It does.

Mr. BROOKS. What is the question?

The SPEAKER. On ordering the joint resolution to be engrossed and read a third time. Mr. BROOKS. It may be done as well today, if it is to be done at all.

Mr. STEVENS. I suggest to my colleague on the committee to move that the joint resolution be recommitted, and we can consider it whenever it may be desired.

Mr. BINGHAM. I move that the joint resolution be recommitted to the joint committee on reconstruction, and that it be ordered to be printed; and on that motion I demand the previous question.

Mr. BROOKS. Permit me to ask a question.

Mr. BINGHAM. Yes, sir.

Mr. BROOKS. What is the use of reporting from a committee, and on the same day moving that the same subject be recommitted to the same committee? Why recommit to a committee which has already made up its mind?

Mr. BINGHAM. The gentleman ought to understand the use of it. If there had been no objection on the gentleman's part, we would have made it a special order for Monday next, after the morning hour. If recommitted to the joint committee on reconstruction, this being a privileged matter, and the committee being authorized to report at any time, the committee may designate the day on which they will report it back and ask for its consideration and the action of the House.

Mr. BROOKS. I understand; the committee can report it back and put it through at any time.

Mr. BINGHAM. We do not propose to put it through at any time without a fair hearing. The gentleman is not to prejudice this matter by any remark like that he has just made.

Mr. BROOKS. I want the country to understand how these things are managed.

Mr. BINGHAM. And I want it to understand who are opposed to enforcing the written guarantees of the Constitution.

Mr. BROOKS. I want it to understand that

the committee can report at any time, when nobody knows, and then pass it under the previous question—a system of gag law.

Mr. BINGHAM. There has been no proposition of that kind made, and the gentleman's remark is wholly gratuitous.

Mr. BROOKS. The facts are known, and the country will judge between us.

The previous question was seconded, and the main question ordered; and under the operation thereof the joint resolution was recommitted to the joint committee on reconstruction, and ordered to be printed.

LINCOLN EULOGIES.

Mr. STEVENS submitted the following joint resolution:

Be it resolved, &c. That one thousand copies of the memorial records of the nation's tribute to Abraham Lincoln, published by W. H. & O. H. Morrison, and compiled by B. F. Morris, containing the historical and official facts of his assassination and obsequies; the inauguration of Andrew Johnson as President of the United States; the action of members of Congress in the capital on the 17th day of April, 1865; the official orders of the various Departments of the Government, including those of the Army and Navy, on his death; the tributes of citizens of various States represented at Washington; of the courts of the District of Columbia, of foreign nations, and of American citizens abroad; and the orations of Hon. George Bancroft, at New York; of Hon. Schuyler Colfax, Speaker of the House of Representatives, at Chicago, Illinois; and of Rev. Bishop Matthew Simpson, D.D., at Springfield, Illinois, on the death and services of President Lincoln; together with the memorial services held in honor of his memory by the Congress of the United States on the 12th day of February, 1866, and the oration of Hon. George Bancroft delivered on that occasion, be published for the use of Congress.

The SPEAKER stated that the resolution would be referred to the Committee on Printing, under the law.

PAY OF ASSISTANT ASSESSORS.

Mr. SMITH, by unanimous consent, presented the petition of the assistant assessors of the sixth district of Kentucky, asking for increase of pay, and moved that it be referred to the Committee of Ways and Means.

The motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Colonel WILLIAM G. MOORE, his Private Secretary, notifying the House that he had approved and signed bills of the following titles, namely:

An act (H. R. No. 143) for the relief of Charles F. Anderson;

An act (H. R. No. 36) making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th of June, 1867, and additional appropriations for the year ending the 30th of June, 1866; and

An act (H. R. No. 204) to regulate the registering of vessels.

BREVET APPOINTMENTS.

Mr. SCHENCK, by unanimous consent, introduced a joint resolution in relation to brevet appointments and commissions in the United States Army; which was read a first and second time.

The joint resolution was read. It provides that hereafter every brevet appointment or commission conferred upon an officer of the Army shall state for what distinguished act of gallantry or meritorious conduct the same was conferred, and that the annual Army Register shall contain hereafter, appended to the name of each officer so brevetted, such particular act of gallantry or meritorious conduct for which his brevet was granted.

Mr. SCHENCK moved that the joint resolution be referred to the Committee on Military Affairs, and ordered to be printed.

ELLEN SANDERSON.

Mr. SHELLABARGER, by unanimous consent, introduced a bill for the relief of Ellen Sanderson, widow of Colonel John P. Sanderson, the provost marshal general of Missouri; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

DAVID DREXLER.

Mr. PAINE asked leave to withdraw from the files of the House certain papers in the case of the claim of David Drexler, of Louisiana, for losses incurred from military operations, copies of the same to be left on file.

No objection being made, leave was granted.

EXECUTIVE COMMUNICATION.

The SPEAKER laid before the House a communication from the Secretary of State, transmitting, in compliance with the acts of Congress of August 16, 1842, and August 18, 1856, a report on the commercial relations of the United States with foreign nations for the year ending September 30, 1865.

Mr. WASHBURN, of Illinois. I move that the report be laid on the table and printed, and that five thousand extra copies thereof be printed.

The motion was referred, under the law, to the Committee on Printing.

MICHIGAN CONTESTED ELECTION.

Mr. SCOFIELD. I rise to a question of privilege. I call up the majority and minority reports of the select committee on the Michigan contested seats. The gentleman from Michigan [Mr. BEAMAN] and the gentleman from Illinois [Mr. MARSHALL] wish to be heard on the subject, after which the contestants will be heard if they choose.

Mr. MARSHALL. I wish to state that the contestant, Mr. Baldwin, is quite unwell, and not able to speak.

Mr. SCOFIELD. When we reach that point, after these other gentlemen are heard, that question may be considered.

Mr. MARSHALL. I would like to know whether Mr. Baldwin will be permitted to have his speech printed without delivering it?

Mr. SCOFIELD. I presume there will be no objection; but it will be time enough to raise that question when Mr. Baldwin gets the floor.

Mr. MARSHALL. If he is not permitted that privilege, he would prefer that the House should postpone the subject until he is able to speak. He is not able this morning to do so.

Mr. SCOFIELD. I shall make no objection.

The Clerk read the majority report, as follows:

The Committee of Elections, to whom was referred the petition of Augustus C. Baldwin, claiming a seat in the Thirty-Ninth Congress as Representative from the fifth congressional district of Michigan, report as follows:

There is no question of fact, and only one of law, involved in this contest. The constitution of the State of Michigan, article seven, section one, reads as follows:

"Sec. 1. In all elections, every white male citizen, every white male inhabitant residing in the State on the 24th day of June, 1835; every white male inhabitant residing in the State on the 1st day of January, 1850, who has declared his intention to become a citizen of the United States, pursuant to the laws thereof, six months preceding an election, or who has resided in this State two years and six months, and declared his intention as aforesaid, and every civilized male inhabitant of Indian descent, a native of the United States, and not a member of any tribe, shall be an elector and entitled to vote; but no citizen or inhabitant shall be an elector, or entitled to vote at any election, unless he shall be above the age of twenty-one years, and has resided in the State three months, and in the township or ward in which he offers to vote ten days next preceding such election."

The first and second sections of an act of the Legislature of that State, passed February 5, 1864, are as follows:

"Sec. 1. The people of the State of Michigan enact, That every white male citizen or inhabitant of this State, of the age of twenty-one years, possessing the qualifications named in article seven, section one, of the constitution of the State of Michigan, in the military service of the United States or of this State, in the Michigan regiments, companies, or batteries, shall be entitled to vote at all of the elections authorized by law, as provided in this act, and every such citizen or inhabitant shall thus be entitled, in the manner herein prescribed, whether at the time of voting he shall be within the limits of this State or not.

"Sec. 2. Every soldier belonging to Michigan regiments and batteries or companies, in the military service of this State or of the United States, or volunteer soldiers, residents of Michigan, belonging to regiments, batteries, or companies, present on the day of election from other States, including officers and their staffs, surgeons, and assistant surgeons, chaplains and commissioners appointed under this act, shall, if possessed of the qualifications set forth in section one of this act, be entitled to the benefits of the provisions thereof."

Under this act of the Legislature, a large number of

votes were cast by soldiers outside the limits of the State. If these votes can be lawfully counted, Mr. Trowbridge has a majority of the whole, and is entitled to the seat; if not, Mr. Baldwin, having a majority of the home vote, is entitled to it. It will be observed that the elector is prohibited by the constitution of the State (taking the interpretation of its supreme court as correct) from voting outside of the township or ward in which he resides, but by the act of the Legislature is allowed, when absent in the military service of the country, to vote even outside the State. Here is an unmistakable conflict of authority. The constitution plainly prohibits what the Legislature as plainly permits. The one authorizes the election to be held only in the township or ward—the other at military headquarters. The power to act at all in the premises, so far as concerns Representatives in Congress, is derived from article one, section four, of the Constitution of the United States, which is as follows:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

Here the power is conferred upon the Legislature. But what is meant by "the Legislature?" Does it mean the legislative power of a State, which would include a convention authorized to prescribe fundamental law, or does it mean the Legislature *eo nomine*, as known in the political history of the country? The committee have adopted the latter construction. At the time the Constitution of the United States was written, there existed in the thirteen States for which it was designed, Legislatures, created or restrained by some fundamental law, in the shape of charters or constitutions, very much as they exist in the several States now. With this fact before them, it is not probable that the framers of the Constitution, if they intended to confer this power upon State organic conventions, would have chosen some word less liable to misconception. It is also apparent, from the manner in which this word is used in other parts of the instrument, that its framers recognized a wide difference between a continuing Legislature and a convention temporarily clothed with power to prescribe fundamental law. Article five provides that Congress "shall call a convention for proposing amendments"

"on application of the Legislatures of two thirds of the several States." Also that amendments shall be valid when "ratified by the Legislatures of three fourths of the several States, or by conventions of three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress." Article seven provides that "the ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same." The Convention closed their labors with the following resolution: "Resolved, That the preceding Constitution be laid before the United States in Congress assembled; and that it is the opinion of this Convention that it should afterward be submitted to a convention of delegates chosen in each State by the people thereof, under the recommendation of its Legislature."

In these extracts the words "Legislature" and "convention" are both used to denote different legislative bodies, and in such contrast as to clearly indicate that the former is employed in its historic rather than in its normal sense. In article one, section two, the words of the Constitution are, "the electors in each State shall have the qualifications requisite for the most numerous branch of the State Legislature." Did anybody ever hear of a constitutional convention in the history of this country composed of two houses? Article one, section three, provides that "the Senate shall be composed of two Senators from each State, chosen by the Legislature thereof." In article two, section one, it is said "each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors" &c. In section eight of article one, "the consent of the Legislature of a State" is required before the United States can purchase places for forts, &c. Again, in article four, section four, it is said that "on application of the Legislature, or the Executive, (when the Legislature cannot be convened,) Congress shall protect each State against domestic violence." It will hardly be claimed that a constitutional convention could perform the duties thus conferred upon the Legislature; much less that it could forbid the Legislature *eo nomine* from discharging them after its own dissolution.

But the legislation of Michigan may be sustained as against the constitution of that State even if the word Legislature is to be taken in its most enlarged sense. Whatever power the convention of that State possessed to prescribe the places of holding elections for Representatives in Congress was derived, not like its other powers, from the people, but from the Constitution of the United States, and that, too, because it was a constructive Legislature. The power conferred is a continuing power. It is not used up when once exercised, but survives the dissolution of the convention. The words of the Constitution are as potent then as before, and if there is any legislative body in the State that can be properly called a Legislature they appertain to it as strongly as to any prior legislative body. They do not authorize any convention or Legislature to tie the hands of its successors. The people authorize a convention to do that where they (the people) have power, but certainly the people of Michigan had no power to enlarge or restrict the language of the Constitution of the United States. This view of the case entirely harmonizes what was at first supposed to be a partially adverse precedent in the case of Shiel vs. Thayer, from the State of Oregon.

It was said in argument that the Legislature might abuse this power, but that does not disprove its existence. It would be equally liable to that objection if lodged in any other department of government. It is not claimed, however, that in this instance the power

was abused. Mr. Baldwin conceded that to allow a vote to be cast by a soldier detained in the service of his country was a very proper use of the power, provided the Legislature possessed it. If, however, it should in the future be abused, Congress has entire authority to correct it.

But, again, the contestant claims that a State has the power to prescribe the qualifications of electors, and may exercise it by an organic convention, to the exclusion of the Legislature. The committee are not disposed to controvert this position. That power has been conceded to the States, and exercised by them in the manner suggested, from the beginning of the Government to the present time. But it does not follow, as the contestant supposes, that the place of holding the election for a Representative in Congress may be prescribed as one of the electoral qualifications. Control over the place of voting is lodged in the Legislature by the unmistakable language of the Constitution, and cannot, however disguised by names or circumlocution of words, be transferred to another department of government. Now, the constitution of Michigan either fixes the place of holding the election or it does not. If it does not, there is no conflict between the law and the constitution, and the argument is at an end. If it does, then, as before shown, the convention which adopted it entirely exceeded its power, unless such convention is to be considered a Legislature by construction; and in that event its power, as has also been shown, was just as ample as that of any subsequent Legislature, and no more. The power to prescribe the place, whether called a qualification, limitation, or condition, is still vested in what the Constitution calls "the Legislature," and there it must remain. It cannot be divested by giving it another name, however apt it may be.

The committee, then, submit the following resolution, and recommend its adoption:

Resolved, That Rowland E. Trowbridge is entitled to a seat in this House as a Representative in the Thirty-Ninth Congress from the fifth congressional district in Michigan.

Mr. MARSHALL. I ask that the minority report, which I had the honor to submit, be now read.

The Clerk read the minority report, as follows:

The undersigned, having carefully considered the questions of law involved in this case, has come to the conclusion that Mr. Baldwin was duly elected, and is entitled to the seat which he claims.

It is admitted that of the votes cast within the State of Michigan for Representative in Congress from the fifth congressional district of that State Mr. Baldwin had a majority. It is also admitted that a large number of citizens of Michigan who were out of the State, and in the service of the United States on the day of said election, in pursuance of the provisions of an act of the Legislature of Michigan, approved February 5, 1864, voted at the places where they happened to be on the day of election; and that if these votes can be lawfully counted, Mr. Trowbridge had a majority, and was duly elected. If they cannot be lawfully counted, Mr. Baldwin was duly elected, and is entitled to his seat.

The question submitted is, therefore, purely a legal one, and involves some nice questions of constitutional law.

Article seven, section one, of the constitution of the State of Michigan, after prescribing the qualification of electors, provides that "no citizen or inhabitant shall be an elector, or entitled to vote at any election, unless he shall be above the age of twenty-one years, and has resided in the State three months, and in the township or ward in which he offers to vote ten days next preceding such election."

The supreme court of Michigan, in a case arising out of the identical election out of which this contest has arisen, (the case of *The People ex rel. Daniel S. Twitchell vs. Amos C. Blodgett*), have construed this provision of their constitution to mean that the elector shall be personally present, in the township in which he resides, on the day of election, and there in person present his ballot at the place of voting; and that the act of the Legislature of February 5, 1864, "is in direct conflict with the constitution, and for this reason void." This case was very thoroughly discussed and considered by the court, the judges all giving separate opinions, and it seems to me impossible to read the case without arriving at the same conclusion. This is the highest and most authoritative exposition of that provision of the State constitution that can be given. The supreme court of Michigan is the most authoritative expounder of the constitution and laws of the State, and all other tribunals, including even the Supreme Court of the United States itself, are bound to follow and abide by the construction which the State court has placed upon their own constitution.

I will not dwell upon this point in the case, as I do not understand the majority of the committee, or, indeed, any one in behalf of the claims of the sitting member, to seriously dispute the correctness of the construction placed upon their constitution by the supreme court of the State. It is admitted, I believe, that the act of the Legislature of February 5, 1864, was in direct conflict with the organic law of the State.

It is contended, however, that the Legislature, in determining the times, places, and manner of holding elections for Representatives in Congress, are not bound to conform to the provisions of the organic law of the State. That they have a power above and wholly independent of their State constitution. And this power is supposed to be found in section four of article one of the Federal Constitution, which is as follows:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may, at any time, by law make or alter

such regulations, except as to the places of choosing Senators.

In determining the proper construction to be placed on this clause of the Federal Constitution, it is important to inquire, first, what was the object of the framers of that instrument in infringing into its such a provision? Why was it deemed necessary and proper? It is hardly possible that there can be two opinions in regard to this.

The Convention had provided for a Federal Senate and House of Representatives, in which the legislative power of the proposed Government was to reside. The effective organization and continuance of these bodies were necessary to the very existence of the Government under the plan proposed. To have a Senate and House of Representatives it was necessary that members thereof must be elected at regular and stated periods; and it was argued with great force that a majority of the States, becoming refractory, might, by the simple act of refusing to provide the times, places, and manner of holding elections for Senators and Representatives, and thereby defeating the election of these officers, suspend the action, destroy the power, or even blot out of existence the Federal Government.

It became necessary, therefore, absolutely necessary, to secure the continued existence and effectiveness of the Federal Government, to reserve to Congress the power at any time by law to make or alter such regulations. The object was to secure to the Federal Government, for its own safety, the due election of these officers; not to confer upon the States, or any department thereof, any powers whatever, or to interfere in any way with them in their mode of electing these officers, as long as the exercise of this power was left to the States. The object manifestly was simply to leave to the States the power to determine the times, places, and manner of holding these elections, until Congress saw proper to exercise the powers conferred upon it for that purpose.

But it is argued that this power was by express terms left, not to the States simply, but to the Legislatures thereof, and that this is such a limitation upon the people of the States that they have no power to restrict their Legislatures in the exercise of this right conferred upon them by the Federal Constitution; but I submit, with all due respect, that not only the history and object of the section under consideration but the proper definition of the term "Legislature," as therein used, show the fallacy of this construction.

The "Legislature" of a State, in its fullest and broadest sense, signifies that body in which all the legislative powers of a State reside, and that body is the people themselves who exercise the elective franchise, and upon their power of legislation there is no limitation or restriction, except such as may be found in the Federal Constitution, or such as they may themselves provide by the organic law of the State. When they assemble in convention, which in large communities is from necessity done by the agency of delegates or representatives of the people, the whole legislative power of the State is then vested in such convention. It can abolish, or in whole or in part abrogate, the proceedings of the "General Assembly," or "Legislative Council," or "General Court," or whatever may be the designation of that subordinate body in which is usually lodged a portion or residuum of the legislative power of a State. Indeed, the people of a State might provide for the periodical assembling of their convention, which would exercise and perform all legislative powers and duties without the intervention of that body of limited and restricted powers, popularly called a Legislature, but which in the constitutions of most of the States is called by some other name. It is variously designated a "General Assembly," a "Legislative Council," a "General Court," and the like, and is nowhere understood to hold in its grasp all the legislative powers of a State.

In Missouri, during the late rebellion, the State convention continued its existence for years, performing all the ordinary acts of legislation, and its power to do so is not questioned. That that was a "Legislature" within the sense of the term as it is used in this clause of the Federal Constitution will hardly be controverted; and indeed every State convention called by the people to determine the form of government, or the powers and duties of the various officers thereby created, is a Legislature, and performs many of the ordinary acts of legislation.

Indeed, it is the Legislature *par excellence* of the State, and that other body usually created by it, whether called a "General Assembly," "General Court," or otherwise, is the creature of this paramount Legislature, and is liable to be modified or annihilated whenever this "Legislature" proper—the convention of a State—shall again assemble. This secondary or subordinate body is the creature of the organic law of the State, owes its existence to it, and can rightfully do nothing in contravention of its provisions.

If, then, this section of the Federal Constitution can be construed to refer to this secondary or subordinate legislative body of a State, it must be held to mean that the time, place, and manner of holding elections for Representatives shall be prescribed in each State by the Legislature thereof, such Legislature acting in subordination and in conformity to that organic law to which it owes its own existence. If the State constitution has fixed no limitation, the power of the Legislature is ample and complete. But if the constitution has fixed limits this Legislature cannot transcend them, but must act within the limits prescribed, and if it goes beyond them its action is to that extent absolutely void.

Indeed, from the adoption of the Federal Constitution until this time, it was never before contended, as far as I am informed, that the clause in question conferred upon that body in a State in which was reposed that residuum of legislative power, not exercised by the State convention, power to act utterly independent of, and in utter disregard of, the State constitution, by virtue of which alone it has any exist-

ence. The people have everywhere supposed that they had the power to fix a limitation upon the action of their Legislature, in determining the times, places, and manner of holding elections for all officers. They have exercised this power in most of the States by fixing limitations in their State constitutions, and in every instance, I believe, where a conflict has been found to exist in this respect between the State constitution and an act of their Legislature, the constitution has, by courts and legislative bodies, been sustained, and the acts of the Legislature, to that extent, held to be null and void. And this House is now, for the first time, called upon to decide that in this respect a State Legislature may override and utterly disregard the provisions of the very constitution that brings it into being. I admit that if there was an irreconcilable antagonism between the Federal and State constitutions, in such case there would be ground for the position taken by the majority of the committee. But no such antagonism exists; therefore, call upon the House to pause long before they establish a precedent that will operate as an invitation to the State Legislatures to disregard those wholesome limitations which the people have attempted to place around the action of their own servants.

This long and undisturbed construction of their power to fix these limitations upon the action of their servants, placed upon the constitution by the people themselves, and by all departments of the Government, ought not at this late day to be disturbed, unless it is rendered absolutely necessary by the very terms of the Constitution itself.

This House has a record of its own, and has ever attempted to adhere to the construction placed by itself in former adjudicated cases upon the Constitution and laws. This is not a new question, as far as this House even is concerned. It is, indeed, *res adjudicata*. And we should not without very strong reasons, indeed, depart from the precedents established by ourselves. These precedents are all in favor of the construction which I have here placed upon this clause of the Constitution.

The case of *Shiel vs. Thayer*, in the Thirty-Seventh Congress, reported in Bartlett's Contested-Election Cases, page 349, is directly in point. The syllabus of the case says:

"The constitution of Oregon has fixed beyond the control of its Legislature the time for holding an election for Representatives in Congress."

The report in that case was made by the then and now able chairman of the Committee of Elections, Mr. DAWES, and the right of Mr. Shiel to the seat was placed distinctly on the ground that the people of Oregon held the right, in their constitution, to fix the time for the election of a member of Congress.

The contestant says the report is "of opinion that the election held for Representative in Congress on the first Monday in June, 1860, was held in pursuance of, and in conformity with, the constitution and laws of Oregon, and that consequently the contestant is entitled to the seat." And again: "Notwithstanding this constitutional provision that general elections shall be held on the first Monday of June biennially, the Legislature of Oregon seems to have believed that it had power to fix another time for the election of Representative in Congress."

"The committee have not deemed it necessary to determine what those reasons are for. With all due respect to the opinions of the gentlemen composing that Legislature, they are of opinion that this House must, nevertheless, be the final judge of the meaning of this clause of the constitution of Oregon. And, for the reason stated, the committee have no doubt that the constitution of the State has fixed beyond the control of the Legislature the time for holding an election for Representative in Congress, at the general election to be held biennially, and that at such election, so held in pursuance of the constitution, the contestant was duly elected." And again, in the debate in the House on this case, Mr. DAWES said, "It occurs to me, sir, that the provision of the Constitution of the United States which says that the time and place shall be specified by the Legislature of each State, meant simply that they should be fixed by the constituted authority of the State until Congress itself should fix a time for the election in all the States."

In the case of *Farlee vs. Runk*, in the Twenty-Ninth Congress, it was held that where there was a conflict between the State constitution and an act of the Legislature in regard to the place of voting for Representatives in Congress the provision of the constitution was binding, and the act of the Legislature, so far as it conflicted with it, was void. (See Bartlett's Contested-Election Cases, page 87.) And, without troubling this House with a further citation of authorities, I respectfully submit that the ruling of the House on this point has been uniform in every case in which the question arose.

But admitting that the Legislature was acting, and had the right to act, by virtue of this section four, article one, of the Federal Constitution, without regard to the State constitution, I still submit that all votes cast out of and beyond the State of Michigan were cast without any due, legal authority, and cannot properly be counted in determining the result of elections in that State, for the reason—

First, it seems to me plain that neither Congress nor the State Legislature can, under that clause of the Constitution, fix or prescribe any places of voting for any office outside of the district, and especially outside of the State, within and for which the officer is elected. If the construction of all powers granted, we must have reference to the object for which the power is given. At and before the adoption of the Constitution, and ever since, until within the last five years, all voters, everywhere in the United States, were required to vote within the district and State for which the officer is elected. At the time of the adoption of this clause, it is not easy to suppose that any one member of the Convention for one moment

thought that they were granting to Congress the power to permit citizens to vote outside of the district and State for which the officers were to be elected. If the Legislature possesses this power, undoubtedly Congress possesses the same power. And if Congress possesses the power to prescribe places of voting outside of a district or State for a portion of its citizens, why not the power to prescribe places of voting outside of the State for all the citizens thereof? Why not prescribe that all the citizens of Michigan shall vote in Chicago for their members of Congress, and all the voters of Illinois go to St. Louis to vote for theirs? It may be said that this would be a gross abuse of power. But I deny the existence of any such power. And yet, if the power contended for by the committee exists, the other follows as a necessary consequence.

But the act of the Michigan Legislature (by virtue of which the votes were cast outside of the State) that it is proposed to count for the sitting member) does not prescribe the place or places of voting, and consequently the votes were not cast in pursuance of any competent authority. The provision of said statute is as follows:

"Sec. 7. At the elections herein provided for a poll shall be opened at every place, whether within or without the State, where a regiment, battalion, battery, or company of Michigan soldiers may be found or stationed, and at such election all persons may vote who are thereto entitled by law and by the provisions of this act."

Now, will any one pretend that that prescribes a place or places of election? What place or places? Would a law which provided that any elector of Michigan should vote at any place, within or without the State, where he might happen to be on the day of election, prescribe a place of voting? This is too clear. I submit with all deference, to admit of argument, if Congress or the Legislature can prescribe places of election outside of the State, I insist that the places must be named in the act; and that it is no compliance with the constitution to provide that a man, or a company of men, may vote at any place where they may happen to be on the day of election, and that such a law does not prescribe a place of election at all.

If the above positions, or any one of them, be correct, it follows that all votes cast for either Mr. Trowbridge or Mr. Baldwin outside of the State of Michigan were cast without any authority of law, and cannot properly be counted in making up the result, and, consequently, that Mr. Baldwin is entitled to the seat.

I therefore propose, as a substitute for the resolution reported by the committee, the following:

Resolved, That Hon. Rowland E. Trowbridge is not entitled to hold the seat now occupied by him in this House as a Representative from the State of Michigan.

Resolved, That Augustus C. Baldwin has been duly elected as a Representative from the State of Michigan to the Thirty-Ninth Congress, and is entitled to a seat in this House.

S. S. MARSHALL.

Mr. BEAMAN. Mr. Speaker, the question before us is one in which the people of my State have felt some interest. Its presence here renders it in some degree of national concern; but it more especially affects the citizens of Michigan, particularly the thousands of brave men who lately so generously exposed their lives in the defense of our common country. I feel impelled, therefore, to state the reasons for the vote I am about to give; but in doing so, I shall study brevity, avoid declamation, and confine my observations strictly to the subject under discussion.

This question originated under an act of the Legislature of the State of Michigan, entitled "An act to enable the qualified electors of this State, in the military service, to vote at certain elections; and to amend sections forty-five and sixty-one of chapter six of the compiled laws," approved February 5, 1864.

By this act, familiarly known as the "soldiers' voting law," every qualified elector of the State in the military service of the United States, is authorized to vote at all elections, "whether at the time of voting he shall be within the limits of the State or not." I understand that by the stipulation under which this case is to be heard and determined, all questions of fraud or irregularity in the proceedings under the law are ignored, and therefore it seems unnecessary to look into the details of the act. The allegation of the contestant is, that the act itself is in conflict with the constitution of the State, and therefore void; and that the soldiers' vote, upon which the sitting member's right to his seat depends, must be rejected.

In support of this position section one of article seven of the constitution of the State of Michigan is cited, in which it is provided that—

"No citizen or inhabitant shall be an elector or entitled to vote at any election unless he shall be above the age of twenty-one years, and has resided in the State three months and in the township or ward in which he offers to vote ten days next preceding such election."

It is insisted as the true construction of this section that it was intended to preclude every person

from voting at any election at any place other than the township or ward in which he resides, and upon such construction the contestant's case chiefly depends. Yet whether or not this is the true interpretation of the provision cited I at this time express no opinion, because I do not deem it at all material to the question before us. It is proper, however, to say that different tribunals of the State, competent in their respective spheres of action to determine the question beyond the power of revision, have arrived at diverse conclusions. A majority of the supreme court have given the construction urged by the contestant, though the chief justice delivered a dissenting opinion, while both branches of the Legislature, in determining upon the election and qualification of their own members respectively, have pronounced decisions coinciding with the views of the chief justice. The case before us, however, is in no way affected except in a single particular, which I shall refer to hereafter, by the decisions and opinions to which I have alluded. This question must be decided upon entirely different principles.

Section one, article one, of the Constitution of the United States, vests the legislative power therein granted in a Congress, to consist of a Senate and a House of Representatives.

Section two of the same article provides for choosing the members of the House of Representatives and defines their qualifications.

The first clause of the fourth section is as follows:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

Now, it is a fact worthy of notice, that the constitution of Michigan, though a very comprehensive instrument, embracing and treating upon almost every other imaginable subject, and possessing, in fact, many of the elements of a code, nevertheless, makes no allusion whatever to the creation, qualification, nature, or election of a Representative in Congress; nor is such an officer more than incidentally even referred to within all its very voluminous pages.

A Representative in Congress, then, is not a State officer. He is not a creature of the State, but of the national Government. The Legislature, in providing the times, places, and manner of elections of Representatives, does not derive its authority from the people of the State through their constitution, but from the Constitution of the United States. This delegation of power is not in terms conveyed through the people of the State, nor the constitution of the State, but it is conferred directly upon the Legislature. The power is not simply permissive, but mandatory; and it is of the most plenary character, subject only to the control of Congress. The soldiers' voting law, which is alleged to be unconstitutional, authorizes citizens of Michigan in the military service, absent from the State, but qualified electors, to vote for State and county officers and for members of the Legislature. It also empowers them to vote for Representatives in Congress. If the act is repugnant to the constitution of the State as it respects the places of election of State officers—a fact that I neither assert nor deny—then to that extent it is undoubtedly void. If it is framed in pursuance of and in accordance with the Constitution of the United States in regard to the election of Representatives in Congress, then to that extent it is just as clearly valid. In enacting the law in question, it will be observed that the Legislature acted in a twofold character, that is to say, as the law-making power of the State and as the agent of the United States. The Legislature was responsible for its doings in its respective capacities to two different principals—the will of the people of the State as determined by their constitution, and the Congress of the United States. It is not material that it attempted to execute both agencies in the same enactment. The one may be without sufficient warrant of authority, and

the other authorized and valid. An entire statute will not be void on account of an unconstitutional provision, unless that provision is of such a nature that the remaining part of the act cannot be executed without it. Did the Legislature violate or exceed the instructions given by the people of the State? Then to that extent their action was clearly void, and all votes cast by absent citizens for members of the Legislature, State and county officers, should be rejected as illegal. Did the Constitution of the United States authorize that body to prescribe the times, places, and manner of holding elections for Representatives in Congress? Then such legislation is not a subject for examination and control by the government of Michigan; and the Legislature is required to give an account of its stewardship to Congress alone. Did the constitution of Michigan prohibit an absent, patriotic, qualified elector from voting for Representatives in Congress? Then was such prohibition in conflict with the act of the Legislature, which had the authority, sanction, and command even of the Federal Constitution, and was absolutely null and void.

But, asks the contestant, "Are there no restrictions upon this exercise of power? Is there no control over State Legislatures?" Undoubtedly there are. The people by their fundamental law may restrain and control them in all matters within their jurisdiction, and by express provision of the Federal Constitution Congress may control the action of the Legislature in reference to the times, places, and manner of electing Representatives in Congress. But Michigan cannot control nor limit an express provision of the Constitution of the United States.

"The Legislatures," says the contestant, "are created by the people of the States, speaking through State constitutions, and are confined in the performance of their duties by the limitations of those instruments." Beyond all question they are created by the people of the States, "and undoubtedly they are speaking through," or by the authority of, "the State constitutions" when they declare the times, places, and manner of holding elections for State officers; but when they make enactments touching the election of Representatives in Congress, they are not speaking through State constitutions, nor are they "confined in the performance of their duties by the limitations of those instruments." So the judges of the State of New York are created by the people thereof, and their duties and powers are defined by the organic and statute laws of the State; but who will pretend that Congress could not authorize them to administer oaths and take testimony in cases of contested elections pending in this House, especially if there were an express provision of the Constitution of the United States charging such duties upon them? Nor can I agree with the contestant when he says, "The provision of the Constitution under consideration was never intended to confer powers upon a State Legislature in opposition to the constitution of the State." On the contrary, I am of the opinion that such was the precise, well-considered intention in framing that provision, or at least that it was intended to confer power upon the Legislature, subject to be regulated and controlled by Congress, that might be found to be in opposition to the constitution of the State. This is apparent from the latter part of the first clause of section four of article one: "But the Congress may at any time by law make or alter such regulations, except as to the place of choosing Senators." Not only is the power withheld from the people of the State, but the right is reserved to control the action of the Legislature. Nor was this reservation of power the result of mere accident. It required no great degree of sagacity on the part of the framers of the Constitution to foresee the necessity and wisdom of such a precaution.

Inconveniences have already been felt, occasioned by the various times and manner, if not of the places, of holding elections for Representatives in Congress adopted in the several States; and more than once it has been suggested that

Congress intervene to establish uniformity. The framers of our national Constitution having determined, as I have already said, that there should be a House of Representatives, it then became necessary, of course, to have elections of members. To that end there must be regulations touching the times, places, and manner of elections. To whom, or to what officers, persons, or bodies of men should these duties be confided? This question was not propounded to a constitutional convention of the State of Michigan. It was addressed to Washington and his compeers assembled in Convention at Philadelphia in 1777, and after due consideration, the answer was by them reduced to form and submitted to conventions of the several States, and it was ultimately decided before the State of Michigan had an existence, and placed beyond the control of State constitutions. These trusts might have been charged exclusively upon Congress. They might have been reposed in the Supreme Court of the United States. They might have been intrusted to the keeping of the supreme courts respectively of the several States. But the power was vested in the Legislatures of the several States, subject only to the control of Congress. And it was given to those bodies specifically *eo nomine*. Again, the duties of regulating the "times, places, and manner" might have been distributed among different persons, bodies, and officers. The power to determine the manner might have been given to the Legislatures, and that of assigning the times and places, with a view to uniformity, might have been reposed in the Chief Justice of the Supreme Court of the United States. The Chief Justice is in no sense of the word a State officer. In the case supposed his authority comes directly from the Constitution of the United States. Would his action be void if it should happen to come in conflict with some State constitution? Again, the Governors of the States respectively, instead of the Chief Justice, might have been selected to determine "the times and places." In such case would a proclamation of the Governor for that purpose be invalid by reason of being repugnant to the constitution of his State? For that duty the State Executive would be *ex officio* an officer or agent of the United States. Does the adoption of a different agency diminish the national authority? In this regard the Legislature is no less the agent of the United States because it is the law-making power of the individual State.

Well, sir, the Legislature of Michigan having the legislative power of the State, subject to the checks and limitations imposed by the State constitution, and being also clothed with certain legislative authority by the Constitution of the United States, has enacted a law touching the election of State as well as Federal officers, and prescribing the places of election. Now, if this act runs counter to the State constitution, as to the election of State officers, it is void. But having the sanction of the Constitution of the United States, as to Federal officers, it is valid. This is a familiar principle of construction. Let us suppose that by the constitution of Michigan land is conveyed by deed, but that every deed or conveyance thereof acknowledged before a notary public is declared to be absolutely null and void; that by the laws of the State of New York any deed or conveyance of realty may be acknowledged before a notary public of any State in the Union. Suppose that A conveys to B, in and by the same deed, land in Detroit and land in Buffalo, and that the instrument of conveyance is duly acknowledged before a notary public of the Peninsular State—the deed may be void as to the land in Michigan, but does any one doubt that it will operate as a good conveyance of the land in the State of New York?

The construction that I have given to the first clause of the fourth section of the first article of the Constitution of the United States is supported by the authorities. Indeed, I am not aware that any respectable writer or authority has ever doubted it, though I know that, at an early day, objections were made against the provision itself on the ground of policy.

Mr. Justice Story says (Story on the Constitution, volume two, section 813, page 280:)

"This clause does not appear to have attracted much attention or to have encountered much opposition in the Convention, at least so far as can be gathered from the journal of that body. But it was afterward assailed by the opponents of the Constitution, both in and out of the State conventions, with uncommon zeal and virulence. The objection was not to that part of the clause which vests in the State Legislatures the power of prescribing the times, places, and manner of holding elections; for so far it was a surrender of power to the State governments. But it was to the superintending power of Congress to make or alter such regulations. It was said that such a superintending power would be dangerous to the liberties of the people and to a just exercise of their privileges in elections. Congress might prescribe the times of election so unreasonably as to prevent the attendance of the electors, or the place at so inconvenient a distance from the body of the electors as to prevent a due exercise of the right of choice. And Congress might contrive the manner of holding elections so as to exclude all but their own favorites from office."

"In answer to all such reasoning, it was urged that there was not a single article in the whole system more completely defensible. Its propriety rested upon this plain proposition, that every Government ought to contain in itself the means of its own preservation." * * * "There seemed but three ways in which it could be reasonably organized. It might be lodged either wholly in the national Legislature or wholly in the State Legislatures, or primarily in the latter, and ultimately in the former. The last was the mode adopted by the Convention." —Section 814, p. 281.

I hope it is not necessary to make an elaborate argument in order to show that the framers of the national Constitution understood the import of the language employed by them in the construction of its various provisions. It would do great injustice to their intelligence and discrimination to suppose that when they used the word Legislature they intended to imply constitutional convention, or people of the State. In the distribution of the various grants of power they exercised nice discrimination; and in the use of terms they studied precision. Thus, by the first clause of section two, the members of the House of Representatives are to be "chosen every second year by the people of the several States." This provision would hardly warrant an election by the Legislature. By the fourth clause of the same section, "when vacancies happen in the representation from any State the executive authority thereof shall issue writs of election to fill such vacancies." Could the Legislature issue such writs, or could the Executive be restrained from the discharge of that duty by a provision in the State constitution?

By the first clause of section three "the Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof;" and in the very next section (four) the Legislature is directed to prescribe the times, places, and manner of elections. In commenting upon the first clause of section three in reference to the appointment of Senators, Mr. Justice Story says:

"They are to be chosen by the Legislature of each State. Three schemes presented themselves as to the mode of appointment: one was by the Legislature of each State; another was by the people thereof; and a third was by the other branch of the national Legislature either directly or out of a select nomination." —Commentaries, vol. 2, sec. 701, p. 182.

Certainly, in these propositions, the people of the State, whether in or out of constitutional conventions, and the Legislature are not synonymous nor convertible terms. The different modes suggested for the election of Senators were presented as rival propositions, and the Convention was called upon to determine whether the power should be given to the Legislature or to the people of the State. In order that we may clearly understand the intention of the founders of the Government in regard to these propositions, I continue to quote from the same commentator. The last scheme—

"Met, however, with no decided support, and was negatived, no State voting in its favor, nine States voting against it, and one being divided. The second scheme, of an election by the people in districts or otherwise, seems to have met with as little favor. The first scheme, that of an election by the Legislature, finally prevailed by a unanimous vote."

Now, I think I have shown that in section three the word "Legislature" does not mean State nor the people of a State. Has it a dif-

ferent or more comprehensive signification in section four? Again says Mr. Justice Story:

"Another question might be suggested, whether the Executive constitutes a part of the Legislature for such a purpose in cases where the State constitution gives him a qualified negative upon the laws. But this has been silently and universally settled against the executive participation in the appointment." —Section 703, p. 184.

These references to the national Constitution and the opinions of statesmen contemporary with its formation, show that when its framers used the word Legislature they meant by that term precisely what it imports. It was employed in no latitudinarian sense. They carefully distinguished the Legislature from the Executive and from the people. They did not comprehend under the term Legislature the entire government of the State. For that purpose they selected a more fit and comprehensive word. Thus we find them declaring that "the migration or importation of such persons as any of the States now existing shall think proper to admit," &c.; that "no State shall enter into any treaty," &c.; that "no State shall, without the consent of Congress, lay any impost or duties," &c.; and that "no State shall, without the consent of Congress, lay any duty on tonnage," &c.

But, Mr. Speaker, it is intimated that section four is limited and controlled by section two of article one of the Federal Constitution, wherein it is provided that "the electors in each State shall have the qualifications requisite for the electors of the most numerous branch of the State Legislature," and that soldiers absent from the State are not qualified electors.

The qualifications of electors are prescribed in section one, article seven, of the State constitution, a part of which I have already quoted, but I will now read the entire section:

"Sec. 1. In all elections, every white male citizen, every white male inhabitant residing in the State on the 24th day of June, 1835; every white male inhabitant residing in the State on the 1st day of January, 1850, who has declared his intention to become a citizen of the United States, pursuant to the laws thereof, six months preceding an election, or who has resided in this State two years and six months, and declared his intentions aforesaid, and every civilized male inhabitant of Indian descent, a native of the United States, and not a member of any tribe, shall be an elector and entitled to vote; but no citizen or inhabitant shall be an elector, or entitled to vote at any election, unless he shall be above the age of twenty-one years, and has resided in the State three months, and in the township or ward in which he offers to vote ten days next preceding such election."

Now, at this stage of the argument, in order to avoid confusion, it is important that we keep the two points of discussion, for there are two, separate and distinct. Let me be explicit. The first is, can the Legislature, without regard to the State constitution, but subject to alteration and control by Congress, determine the times, places, and manner of elections for Representatives in Congress? This I have already considered. The second is, conceding that the qualifications of electors may be prescribed by the State constitution, has the Legislature by their enactment attempted to dispense with any qualifications required by that instrument? If we bear this distinction in mind, and if I am right in regard to the first point, we shall see that whether or not there is repugnancy apparent or real between the organic law of the State and the act of the Legislature, as it respects the place of voting, is of no consequence whatever unless the place shall be found to be an element of the qualification of the election.

But our attention is specially called to that part of section one in which it is declared that "no citizen or inhabitant shall be an elector or entitled to vote," &c. And it is insisted, as the fair construction of this section, that the ballot must actually be deposited by the elector in the township or ward wherein he resides; and that the offering to vote in the township or ward is a part of the qualification of the elector; but that by the act of the Legislature the elector may vote outside of his township or ward, in fact out of the State. Now, this may be an ingenious mode of stating the proposition, but disguise it as you may it is but a reproduction of the first objection by the employment of

other language to express the same idea. The objection, in substance, in whatever words it may be couched, goes to the place of voting, and not to the qualification of the elector. There is no conflict between the soldiers' voting law and section one of article seven of the State constitution in the particular of qualification. Indeed, the act itself, in express terms, limits the franchise to "qualified electors." There is no complaint made on the ground of citizenship or age or sex or color. There is no question of residence made. Indeed, there could be none, because section five, article seven, of the State constitution expressly provides that "no elector shall be deemed to have gained or lost a residence by reason of his being employed in the service of the United States." I repeat, the objection respects the place of voting and not the qualification of the elector. Clearly the words "in the township or ward in which he offers to vote" are not words of qualification as pertaining to the competency of the elector. It would be a solecism to say that the act of depositing the ballot is a prerequisite element of qualification which must precede the act itself; that is to say, that the man is not and cannot be qualified to offer to vote until he has actually offered to vote. Suppose a white male citizen twenty-one years of age has resided in the first ward of the city of Detroit for three months next preceding the day of election, and is on that day actually present in his ward at the poll with his ballot in his hand, is he a qualified elector within the meaning of the constitution? Suppose he retires without offering his vote, is he any the less a qualified elector? Must he vote before he can be qualified to vote? Must he offer to vote in order to acquire those qualifications which alone will justify him in attempting to vote? The contestant falls into the extraordinary error of asserting that no citizen of Michigan can be a qualified elector until he has offered to vote in his township or ward, yet nothing can be more logical than the proposition that no citizen can legally and properly offer to exercise the elective franchise who is not already a duly qualified elector. Then is it not clear that the words "offers to vote" are not words of qualification, but that they are a limitation as to the place where the act is to be performed? If doubts still exist, I think they may be dispelled by reference to other provisions of the State constitution. Words of doubtful import in one section may be rendered certain by other parts of the same statute. In order to determine the meaning of a statute or other legal instrument all its parts should be construed together. Then let the constitution become its own expounder. Thus, section three, article seven:

"Every elector in all cases except treason, felony, or breach of the peace, shall be privileged from arrest during his attendance at election and in going to and returning from the same."

What is to be understood by the term elector as here used? Certainly it does not mean a citizen who has offered to vote in his township or ward, because he is exempt from arrest while going to the place of election. The contestant's theory would furnish an impertinent official a convenient defense to a prosecution for the illegal arrest of an elector on his way to the poll. It would be sufficient to show that the party alleged to be injured had not offered to vote, and therefore was not an elector.

"Sec. 4. No elector shall be obliged to do militia duty on the day of election except in times of war or public danger, or attend court as a suitor or witness."

Here, evidently, the person intended is one who, though absent from the poll, is a qualified elector; otherwise, the term citizen or other word of like import would have been employed instead of the one adopted.

And again:

"Sec. 5. No elector shall be deemed to have gained or lost a residence by reason of his being employed in the service of the United States."

This section recognizes the very class of men whom the contestant would disfranchise, designates them by the word electors, and saves their residence: though at the same time they

are without the State resisting the assaults of traitors. Of course, if they are electors at all, they are qualified electors.

But I return to section one, article seven. And here I suggest that whatever may be the construction of the constitution of Michigan in regard to the locality of elections, considered in and by itself alone, it cannot be fairly so construed as to apply to the election of Federal officers, nor as to establish any element of qualification inconsistent with the requirements of the Federal Government. In the creation of that instrument, what was the prominent idea that occupied the minds of its framers and of the people who adopted it? The constitution of Michigan is the framework of a State government. It declares by what officers and machinery the government shall be organized and conducted, defines the powers and duties of many of the officers, and also prescribes the places of their election and the qualification of the electors. But it utters not a single word in reference to the election of Representatives in Congress; and it cannot be presumed that it was intended in any way to conflict with the Federal Constitution. The main purpose that occupied the minds of the framers of the State constitution touching elections, the only purpose in that regard by them specially expressed, was to regulate elections for officers of their own State. But admit, for sake of the argument, that section one, article seven, is broad enough in its terms to embrace all elections within the State, and for all officers, State as well as national, and that it has prescribed the qualifications of electors, which it could do, and the place of voting, which it could not do; what then? Why, the United States accepts and adopts the prescribed qualifications, but rejects the provision as it regards the locality of voting. But yet the Federal authority does not assume to interfere with the local affairs of the State. Michigan has sent to the field during the war over eighty thousand men, a large portion of whom were legal voters. It is conceded that in the exercise of her discretion she may deny to her loyal sons and gallant defenders the sacred privilege of joining with their fellow-citizens at home in the selection of their State and county officers. If such be the construction of her organic law, just or unjust, expedient or impolitic, that is a matter of her own concern. But then the Legislature comes to their aid, and clothed with a higher, or, if you please, with an independent authority, declares that those heroic, qualified electors—qualified by their State constitution—shall be permitted to vote for Representatives in Congress, and by that means to aid in the maintenance of an Administration that will take care that the fruits of their expensive victories shall be preserved for the benefit of themselves and their posterity.

I think I have shown that by the terms of the State constitution the place of voting was not intended to constitute a part of the qualification of the elector. But I go further, and insist that whatever might have been their object, it was not in the power of the people of the State to make it a qualification. Had the State constitution been free from all uncertainty, and declared in unmistakable terms that "in no case whatever shall any person vote outside of his township or ward," and further declared that "the place of voting shall be taken and held to be an indispensable requisite of the qualification of the elector," yet such words in fact and in law would create no qualification as applicable to a voter for Representative in Congress. Why? Because such a limitation or restraint as against the Constitution of the United States would be void. That instrument has, in effect, prohibited the people of the State from designating in their constitution the places of holding elections for Representatives by conferring that power upon the Legislature, and they cannot evade that inhibition by converting the place of voting into an element of qualification. Commanding the Legislature to prescribe the places, subject to the control of Congress, is equivalent to a declaration that the people shall not inter-

pose obstacles to the performance of that duty. As to the age, residence, color, moral character, race, and perhaps sex, of the person, the constitution is supreme, but not so with reference to the place. Could the people of Michigan turn the place of voting into an element of qualification section four of article one of the Constitution of the United States would be rendered nugatory. Should the Congress of the United States, for the sake of uniformity, or for other sufficient reasons, fix the day of election of Representatives throughout the entire country on the first Monday of October, and also determine the places of elections, then could the several States designate other days and places and declare such days and places elements of the qualification of the electors, they might thereby preclude every man in the United States from voting for Representative in Congress, and, as a consequence, absolutely prevent an organization of the House. The States cannot, by evasion, or by indirection, or by a ridiculous employment of language, defeat the intention of the people of the United States, plainly expressed in their organic law. In truth, section four of article one of the Federal Constitution is in the nature of a proviso, or a limitation of the power of the State, to determine the qualification of electors. The legal effect would not be different had it declared, in so many words, "the people of the States may determine the qualification of electors, provided, however, the place of voting shall be no part of such qualification." If the State can make the place of voting a part of the qualification, then she can, at all times and under all circumstances, control the places of elections, the wishes and laws of Congress and the Constitution of the United States to the contrary notwithstanding.

But it is alleged that the question under consideration has been decided favorably for the claim of the contestant by the supreme court of the State of Michigan. I must beg leave to express the opinion that the assertion is founded in error. I do not understand that it has ever been discussed before that tribunal, or even brought before that court in any form whatever. The case relied upon as establishing the principle for which contestant contends is that of *Twitchell vs. Blodgett*, which involved the constitutionality of the soldiers' voting law growing out of the election of a prosecuting attorney for the county of Washtenaw, and the question was limited to the constitutionality of the act with reference to the election of officers created by the State. Neither the Constitution of the United States nor the qualification of electors were drawn in question. Lest I should be mistaken in this assertion, I will let each of the judges constituting a majority of the court speak for himself. Mr. Justice Christiancy says:

"With these preliminary observations I proceed to an examination of the specific question involved in the present case. Does the constitution prohibit the Legislature from authorizing, as they purport to have done by this act, the qualified electors of this State who may be in the military service of this State or of the United States, to vote for officers of the State and national Government, at any other place than the township in which they respectively reside, and while they are absent from such township?"

Mr. Justice Cooley states the question thus:

"This law is claimed to be unconstitutional, because, it is said, the latter part of the section above quoted from the constitution requires the personal presence of the elector in the township or ward in which he resides at the time of asserting his right to vote."

Judge Campbell says:

"And we are only concerned, therefore, in determining whether the constitution of Michigan has prevented the State Legislature from exercising complete control over the locality of elections, and whether, if such control is limited, the limitation is applicable to the subject before us."

These extracts from the opinions of the judges of the court show very clearly what was the "specific" question before them. It was not one growing out of the election of a Federal officer. It was not one touching the power of the Legislature under the Constitution of the United States. The court did not attempt an exposition of the qualifications of electors.

Indeed, the qualification of the class of voters

under consideration was assumed by the court as an undisputed fact. Thus, in the extract already quoted, Judge Christiancy inquires:

"Does the constitution prohibit the Legislature from authorizing, as they purport to have done by this act, the qualified electors of this State who may be in the military service?" &c.

The court simply decide that the constitution of the State restrains the Legislature from passing a law to enable a qualified elector to vote for members of the Legislature and State and county officers at a place out of his township or ward.

Misapprehension of the true import of this quotation from the opinion of Judge Christiancy seems to have led the contestant into error in another respect. He infers that the court has discussed the validity of votes cast by soldiers absent from the State for Federal officers. Not so. Judge Christiancy inquired whether the act was in conflict with the State constitution in regard to the place of voting for State as well as national officers; but he did not consider whether there was any repugnancy between the latter and the Constitution of the United States. The reference to the election of officers "of the national Government" was merely incidental in the statement of the question, and was made simply for the purpose of comparing the provisions of the act with the State constitution. The court decided that the votes cast out of the State for the office of prosecuting attorney for the county of Washtenaw were void. But they expressed no opinion in reference to the legality of ballots for Representatives in Congress. Indeed, section four of article one of the Constitution of the United States was not even mentioned or referred to by either court or counsel during the entire investigation of the case. Yet while no allusion is made to that instrument the reasoning of the court is clearly against the contestant in regard to the power of the Legislature. Judge Campbell says:

"It is conceded that the power of regulating the time and manner of elections and the places where they may be held is one which is legislative in its nature, and belongs to that body which is intrusted with the general legislative authority, unless the constitution has limited or destroyed this control over it."

And Judge Cooley says:

"I have no hesitation in holding that when the time, place, and manner of holding elections are not prescribed by the constitution they are within the discretion of the Legislature, and the reception of votes from persons actually out of the election district, or even of the State, may be allowed by statute. Applying this principle to the constitutions of Ohio and Wisconsin, we cannot well doubt the validity of their statutes; and I regard the decisions made to that effect as entirely correct and satisfactory."

And Judge Christiancy remarks that—

"Without any limitation of the legislative power in our constitution, that power would have been at least as absolute and unlimited within the borders of the State as that of the Parliament in England, subject only to the Constitution of the United States."

Now, in reference to the act of the Legislature, in so far as it is legitimately before us, there was no "limitation of the legislative power in our constitution," and could be none for the reasons already stated. But it is worthy of notice that the question of legislative power was properly before the court, and distinctly considered; and when we find that the act of the Legislature is relieved by the Constitution of the United States from the limitation and control of the State constitution, this decision of the supreme court of Michigan is a clear and explicit authority to establish the constitutionality of the act in question, in so far as it relates to the election of Representatives in Congress. For the learning and ability of the gentlemen constituting the majority of that court, who justly take high rank among the ablest jurists of the country, I entertain the most profound respect. Their judicial opinions upon a statute of their own State, when pertinent, ought to have great weight with the members of this House. Nevertheless I insist that the decision referred to makes nothing for the contestant. Upon the main question, the authority of the Legislature, under the Constitution of the United States, it is entirely silent.

Mr. Speaker, I have expressed my views as briefly as possible in reference to the legal rights of the parties respectively to occupy the seat now in dispute. Beyond this I shall not go. It is known to us all that during the dark and gloomy days of the war through which happily we have just passed successfully, while a large portion of the northern people openly pronounced the efforts of the Government to restore the Union "a failure," the soldiers of the Republic never repined, never faltered. They did not, however, in taking up arms throw off their citizenship; nor did they escape anxiety in regard to the conduct of civil affairs. We know that the sagacious, intrepid men of the Army often expressed more fear and apprehension of the disloyal ballot at home than of the treacherous bullet on the field of battle. While they watched the movements of the rebels in front, they kept a vigilant eye upon the enemy in the rear. They knew that peace must come from victory. They knew that hundreds of thousands of northern men were ready to make ignominious terms with traitors. They knew that without the retention of a loyal Congress all their toils, dangers, wounds, and sacrifices would be suffered in vain. We cannot marvel that they were anxious to keep the power to raise men and money for the prosecution of the war in loyal hands. We may see how difficult would be the task to convince them that a love of country strong enough to induce the hazard of their lives in her defense should render them unfit and unsafe to speak through their Representatives in the councils of the nation. And perhaps we may find it difficult to satisfy our own minds that men should be disfranchised because they stand bleeding in the defense of their country. These considerations, and many others of which they are suggestive, might appeal powerfully to our passions, our sympathies, and our gratitude; but I put them all aside. I look to the law in the case, which alone must be our guide. It would be disingenuous, however, to deny that it is satisfactory to know that in this case justice and law are commingled; that in recognizing the manhood and citizenship of the soldier, and his right to participate in the Government of that country in whose defense he is periling his life, we follow the dictates, as well of conscience as of gratitude, and uphold and maintain the supreme law of the land.

Mr. MARSHALL. Mr. Speaker, I do not know whether the resolutions appended to the minority report are properly before the House at this time. If not, I propose to offer these resolutions as a substitute for that submitted by the majority of the committee:

Resolved. That Hon. Rowland E. Trowbridge is not entitled to hold the seat now occupied by him in this House as a Representative from the State of Michigan.

Resolved. That Augustus C. Baldwin has been duly elected as a Representative from the State of Michigan to the Thirty-Ninth Congress, and is entitled to a seat in this House.

I wish at this time, also, to state that I have been requested by Mr. RADFORD, a member of the Committee of Elections, to say that he concurs with the minority report, and that he had directed that his name should be appended to the same. His name is omitted, as the report now appears, and I make this statement in order to place him right on the record in regard to this matter.

I do not propose, Mr. Speaker, to enter at any great length into the discussion of the questions involved in this contest. Most of the points which I desire to make have already been presented as fully as I desire to present them in the report of the minority which has been read at the Clerk's desk. I have listened with some attention to the elaborate and well-considered argument of the gentleman from Michigan, [Mr. BEAMAN,] and while it has satisfied me that a very ingenious argument may be made upon any side of almost any question, it has failed to convince me that there is any correctness in the position assumed by the majority of the committee. I am still satisfied that legally,

under the constitution and laws of Michigan, and under the Constitution of the United States, Mr. Baldwin, the contestant, is entitled to the seat on this floor which he now claims.

Mr. Speaker, we sometimes rush to conclusions without sufficient premises or authority for so doing, and it does seem to me that if honorable members of this House will for themselves look into the question involved in this case, if they will lay aside everything like partisan considerations and determine the question simply upon its merits, they cannot fail to arrive at a correct conclusion upon it. Sir, we are declared by the Constitution of the United States to be the proper judges of the election, returns, and qualifications of the members of this House. We are acting in the capacity of judges. But that does not authorize us to allow any considerations except the mere legal question involved to enter into the determination of the case. As judges we should decide all legal questions with as much solemnity as if we were sitting as judges on the bench of any court of the country under our solemn oaths and responsibilities as such.

The gentleman from Michigan has taken up a great deal of time in the argument that he has submitted to the House in attempting to prove that the absence of citizens of Michigan in the armies of the United States, and beyond the limits of the State of Michigan, does not disqualify them as electors in the State of Michigan. For myself I take no such position. God forbid that I should here or elsewhere hold or insist that the citizens of any State, because of the exercise of the highest duties of patriots and patriotism, in going into the armies of the country for the purpose of vindicating the honor and integrity of the country, should thereby be disfranchised. I take no such position. I do not say that the absence of a citizen from his State, called away in the discharge of any duty whatever, disqualifies him as an elector in the State; but I take this position, that under the constitution and laws of Michigan, one of the conditions necessary to the exercise of the elective franchise was wanting; not that the citizen himself was disqualified, but he could not be present at the election, and his presence was required by the constitution of the State of Michigan.

We here are all absent from our States and from our homes; we are all qualified electors of the States in which we live. If an election should happen to transpire to-day in any one of these States, the man who is here, absent from his home, cannot exercise the right or franchise of an elector. Why can he not? Not because he is disfranchised or disqualified as an elector by his absence, but because the law of the State requires that he shall be present in person for the purpose of depositing his ballot.

Mr. SCOTFIELD. If the gentleman will allow me, I will ask him if the law of the State did not prescribe the place of voting for the soldier in the military service of the United States at the military headquarters; and if he was not required to be personally present at the place prescribed by law?

Mr. MARSHALL. I will come to that in a moment. I am arguing upon the supposition, which I take to be borne out by the authorities submitted to the House, that the constitution of the State of Michigan does require that the elector shall vote in the township in which he resides.

Mr. SCOTFIELD. The act of the Legislature provides that he may vote in another place. The only question is whether the Legislature or the constitutional convention had a right to prescribe the place of voting for Representatives in Congress.

Mr. MARSHALL. That is unquestionably true, but the gentleman is coming to a point in the case that I have not yet arrived at. I am answering the argument of the gentleman from Michigan, [Mr. BEAMAN,] in regard to the question of qualification. He was combatting the idea that the place of voting is any part of the qualification of the elector. That is conceded,

and therefore that portion of his argument was wholly unnecessary. I do not contend that the place of voting is a part of the qualification of the elector although there are some decisions that use that language, but I think that it is a misuse of terms. It is a condition necessary to the exercise of the right at that time, and the elector not being able to be present at the time, one of the conditions necessary to the exercise of the elective franchise was wanting, and therefore he could not properly vote.

I was answering that proposition of the gentleman from Michigan, and had not yet come to the point which the gentleman from Pennsylvania [Mr. SCOTFIELD] presents.

Now, it is conceded, I believe—it certainly is in the report of the majority of the committee, and I understood it to be conceded by the gentleman from Michigan [Mr. BEAMAN] who has just taken his seat—that the constitution of the State of Michigan does require that the elector shall be present in his township and personally present his vote there on the day of the election. That is not denied; but it is said that the Legislature of the State of Michigan have passed a law authorizing polls to be opened outside of the State of Michigan, and at certain points beyond the limits of that State. Now, sir, the proper construction to be placed on the constitution of the State of Michigan has been settled by the supreme court of that State, and the judges of that court have done themselves immortal honor in deciding correctly the law of their State, although their decision was manifestly contrary to the natural feeling which they entertained in regard to what are considered the rights of the soldiers of the armies of the Republic. God forbid that any right should be denied to citizens who are exercising the highest privilege of patriots unless the organic law of the country requires that certain forms shall be observed.

The gallant soldiers who went out to fight for the Constitution and laws of the country will not demand that the Constitution and laws shall be trampled on for the purpose of securing them a right which is not taken from them, but only for a time suspended by the constitution of Michigan, and which they can exercise with the same privilege as all other citizens when they return to the townships in which they live, just as you and I can do when we return to the townships in which we live. We cannot exercise the elective franchise while we are here in the discharge of our official duties, and by the constitution of Michigan the electors of that State do not exercise the elective franchise when absent from the State in the discharge of their duty as citizens, not because they have not an equitable right to the exercise of this franchise, but because the fundamental law of their State prescribes that every vote cast by an elector shall be cast in the township in which he resides.

The supreme court, all four judges, were, as I am informed, of the political party to which the sitting member belongs. Their sympathies, and in fact the sympathies of all the good people of the country, went out with the soldiers as they marched on in defense of the rights and the Constitution of their country. The judges knew that the sympathies of the people were with the soldiers in declaring that their votes should be counted in every election in which they had been cast. But these judges arose above partisan considerations. They found the constitution of the State of Michigan, with its solemn guarantees, in their road, and, as honest judges, they declared that the act of the Legislature was in conflict with that constitution, and, in consequence thereof, it was null and void.

And their decision was approved by the entire people of Michigan, as I understand it. The leading judge of that court, who gave the ablest opinion, was reelected to that court by all parties of the people, because of his independence and manhood in thus construing properly the constitution of his State.

Mr. SCOTFIELD. I wish to inquire of the gentleman from Illinois [Mr. MARSHALL] if the supreme court of the State of Michigan had under

consideration at all the point that this case presents here; whether they were not deciding that the law of Michigan was unconstitutional so far as their State officers were concerned; leaving the construction to be given to the Constitution of the United States, that provides that the State Legislatures shall prescribe the place of holding elections for Representatives in Congress, entirely untouched by their decision?

Mr. MARSHALL. As a matter of course this case was not before the supreme court of Michigan. It was another and a different case, and of course they could not have decided, and they have no right to decide; the case now before this House.

Mr. SCOFIELD. That is not the question I put. I asked the gentleman whether the supreme court of Michigan had that point of constitutional law which rules this case under consideration at all.

Mr. MARSHALL. So far as concerns the construction of the clause of the Federal Constitution which is now to be considered by this House, as a matter of course that question was not before them; that question was not raised.

There are two points in this case. The first is, was the act of the Legislature of Michigan in harmony with the constitution of the State of Michigan? If it was, then there is an end of the question. If it was not, then as a matter of course the act was void as far as it had reference to any officer elected by virtue of the constitution and laws of the State of Michigan.

But there is, as the gentleman suggests, another question to be considered in this case. It is said that the Legislature of the State of Michigan, so far as this question was concerned, had a power independent of and above the constitution of the State, and this power is based upon a clause of the Federal Constitution which has already been read, but to which I will call the attention of the House for a short time. Section four of article one of the Constitution of the United States, says:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

Now, the answer to that argument I have stated briefly in the report of the minority of the committee, and I do not intend at this time to go into it at any length. That answer is at least satisfactory to my own mind, however fallacious it may be deemed by other gentlemen. The object of the Convention which framed the Federal Constitution was not to determine what branch of the State government, or what particular body in a State, should determine the times, places, and manner of holding elections for members of Congress, or for any other officers. The question arose whether it was not necessary to reserve to the Federal Government the power of fixing the times, places, and manner of holding elections for Representatives and Senators in Congress. It was suggested with great force that if the Federal Government did not reserve to itself this power, a majority of the States might become refractory, and by the simple act of refusing to elect Senators and members of Congress, destroy the Federal Government; because there being no Legislature, there not being a quorum of either branch of the national Legislature, the functions of the Federal Government would cease, and it would be destroyed by the mere non-action of the States, and there would be no remedy. They therefore said, "It is necessary to reserve to the Federal Government the power to fix or prescribe the times, places, and manner of holding elections; but we will leave this to the States in the first place if they will exercise it; but if they fail to exercise it, then the power must be reserved to Congress, so that the functions of the Federal Government shall not cease to operate." The idea, and the only idea in the mind of the framers of the Federal Constitution was this: "Let us reserve this power to the Federal Government as an ulterior power to be exercised for its preservation; but let us leave the exercise

of the power in the first place to the States." And, in expressing this power to be exerted on the part of a State, they used the term "the Legislature."

Now, the question arises very properly, what is meant by that term, "the Legislature?" I know, Mr. Speaker, that there is room for argument upon this point; but what is a "Legislature?" The body which usually enacts laws in my State is not legally and constitutionally called a "Legislature" at all; it is called a "General Assembly." In Massachusetts, I believe, the body usually enacting the laws is called a "General Court;" in some of the New England States that term is certainly used to designate the ordinary legislative body. Various terms are used in the constitutions of the various States; and I know of no instance in which the body usually enacting the laws for a State is in the constitution *eo nomine* denominated a "Legislature."

What is the meaning of a "Legislature" in its broadest and proper sense as used in this clause of the Federal Constitution? It is, as I maintain, that body in whose hands is reposed the legislative powers of a State. What body is that? It is the people themselves in their collective capacity—those who are electors of the State.

Mr. BEAMAN. I desire to ask the gentleman whether, in the Convention that framed the Constitution, there was not a distinct proposition made to give the power to elect Senators to the people of the State instead of the Legislature, and whether that proposition was not voted down.

Mr. MARSHALL. That question, sir, does not affect at all the argument which I am making; and if the gentleman will listen to me he will see in a moment that it does not.

I contend that the people of any State may provide that an assemblage of the representatives of the people, to be called a "convention," shall assemble periodically, say every second year, that it shall be constituted of but one body, that the whole legislative power of the State shall be vested in that body, and that, under the Federal Constitution, that body may elect Senators, for it would be the only Legislature of the State, under the other clause, although it should be called a convention of the people merely, and nobody should call it a "Legislature."

The question before the Convention at the time to which the gentleman refers was simply whether Senators, members of the other branch of this Congress, should be elected by the people directly or by the Legislatures; but that does not answer the argument which I am making. I say that a convention is, in the first place, the great Legislature of a State; the convention which is called for the purpose of framing the constitution of a State—its organic law—that is the sovereign Legislature. It is the only Legislature of the State that has sovereign power. The subordinate body, popularly called a Legislature, constituted by such a convention in the organic law, is a body that exercises but the residuum, a moiety of the legislative powers of a State. The Legislature proper of the State is the convention of the State, exercising the only sovereign power in the State. It is called for the purpose of legislating in regard to the organic and fundamental principles of the government of the State, and of delegating to another body, popularly called a "Legislature," certain subordinate powers which this convention may at any time take away.

Mr. SCOFIELD. Will the gentleman allow me to interrupt him for one moment?

Mr. MARSHALL. Of course I will.

Mr. SCOFIELD. If the word "Legislature" in the Constitution of the United States is broad enough in its meaning to include a constitutional convention of the State, I wish to inquire of the gentleman whether, in his judgment, such a convention can exhaust the power which the Constitution has conferred upon the continuing legislative power of the State. Suppose that the convention meets, acts upon the question,

and is dissolved forever; is the power which the Constitution of the United States confers upon the Legislature, and which, from its very nature, is a continuing power, exhausted forever, because the convention that exercised it once has adjourned?

Mr. MARSHALL. If the gentleman will hear me through, I will come to these points in their regular order. I certainly do hold that the convention of a State, in adopting the organic law of the State, may limit the power of the body popularly called a "Legislature" in regard to the elective franchise, and in regard to the times, places, and manner of holding elections; that this is a power which is delegated to a State, and to the Legislature of a State, if you see proper to use the term. But I insist the convention, assembled for the purpose of adopting the organic law of a State, is the Legislature proper, and that the General Assembly, the General Court, or Legislative Council, whatever it may be called, is a creature of the State constitution. The Legislature of a State is restricted in action by the limits placed upon it by the organic law of a State, and cannot transcend those limits unless there is some absolute and necessary conflict between the organic law of a State and the Constitution of the United States, and there is none in this case.

I believe I have already made the point that the term "Legislature" means the law-making power of a State, which power resides, in the first place, in the people, the aggregate body of electors; but in our country it is exercised usually by delegates of the people sent to a State convention, and afterward, in subordination to the constitution thereby framed, sent to the legislative body created by them, and authorized to exercise that residuum of power delegated to them by the "Legislature" proper.

Now, Mr. Speaker, I am strengthened in this position by the fact that the whole people of this country, from the adoption of the Federal Constitution down to the present time, have so understood the powers placed in the hands of a State Legislature; and I believe in nearly every State of this Union they have fixed and placed in their State constitutions limitations upon the powers of the Legislatures in prescribing the time, place, and manner of holding elections in the States. And by no judicial tribunal or legislative body has that power been disputed for one moment until this case arose before Congress.

I do not propose an exhaustive discussion of this question to-day. Indeed, I imagine all I may say will have no influence whatever upon the vote of a single member upon this floor; but as I differ decidedly and emphatically from the conclusions of the majority of the Committee of Elections, I feel it to be due to myself that I shall present briefly the points on which I differ from them, and the reasons for that difference.

This is no new question. The people of the States in the conventions which framed their organic laws, in nearly every one of them, placed limits upon the legislative bodies, the creatures of the constitutions, in regard to this question. This matter has been before this House; and it seems to me, Mr. Speaker, if we have regard to precedent and consistency in our own action, that for the sake of the future and for the sake of the effect this decision may have on the future, we ought to abide by the decisions of the past. This question in regard to the exercise of the elective franchise by citizens who are beyond the limits of their States, in the discharge of sacred duty as citizens, is one growing out of the late unhappy conflict.

It is to be hoped such a question will never again arise in our country. It is temporary in its character, but the questions of constitutional construction are of vast and paramount importance, not only to the people at this time, but for all future time. It is important that we should not make precedents which will hereafter come up in judgment against us in regard to these great constitutional questions. It is,

therefore, of vast importance that these questions should be considered carefully and decided properly.

I insist that this very House has time and again decided the very question now before us, and has uniformly decided it in favor of the position I have taken. There is not a decision to be found anywhere in antagonism to this position.

The case of *Shiel vs. Thayer*, in the Thirty-Seventh Congress, reported in Bartlett's Contested-Election Cases, page 349, is directly in point. The syllabus of the case says:

"The constitution of Oregon has fixed beyond the control of its Legislature the time for holding an election for Representative in Congress.

"The report in that case was made by the then and now able chairman of the Committee of Elections, Mr. DAWES, and the right of Mr. Shiel to the seat was placed distinctly on the ground that the people of Oregon had the right in their constitution to fix the time for the election of a member of Congress.

"The committee, says the report, are of the opinion that the election held for Representative in Congress on the first Monday in June, 1860, was held in pursuance of, and in conformity with, the constitution and laws of Oregon, and that consequently the contestant is entitled to the seat. And again: notwithstanding this constitutional provision that general elections shall be held on the first Monday of June biennially, the Legislature of Oregon seems to have believed that it had power to fix another time for the election of Representative in Congress."

"The committee have not deemed it necessary to determine what those reasons are for. With all due respect to the opinions of the gentlemen composing the Legislature, they are of opinion that this House must nevertheless be the final judge of the meaning of this clause of the constitution of Oregon. And, for the reason stated, the committee have no doubt that the constitution of the State has fixed beyond the control of the Legislature the time for holding an election for Representative in Congress, at the general election to be held biennially, and that at such election, so held in pursuance of the constitution, the contestant was duly elected. And again, in the debate in the House on this case, Mr. DAWES said, 'It occurs to me, sir, that that provision of the Constitution of the United States which says that the time and place shall be specified by the Legislature of each State, meant simply that they should be fixed by the constituted authority of the State until Congress itself should fix a time for the election in all the States.'

Mr. UPSON. I would ask the gentlemen whether the Legislature of the State of Oregon had passed any act in reference to the election of a Representative in Congress?

Mr. MARSHALL. The constitution of the State had fixed the time for holding the election, and the decision was placed distinctly upon the ground that the constitution of the State did govern as to the time, place, and manner of holding the election.

Mr. JOHNSON. Allow me to answer the gentleman's question. The constitution of the State of Oregon provided that the laws enacted by the Territorial Legislature should be in force until repealed by the State Legislature. The Territorial Legislature provided for the election of a Delegate to Congress. It was on that authority the decision was made.

Mr. UPSON. Does the Constitution of the United States recognize a Territorial Legislature in this connection?

Mr. JOHNSON. I was speaking of the constitution of the State of Oregon.

Mr. MARSHALL. I prefer going on myself. Now, sir, here is the language of the committee in that case, and the members of this House must determine for themselves whether this was not the point which at that time was before the committee and the House for decision:

"The committee are of opinion that the election held for Representative in Congress on the first Monday in June, 1860, was held in pursuance and in conformity with the constitution and laws of Oregon, and that consequently the contestant is entitled to the seat."

"The committee would have had no difficulty in coming to this conclusion had it not been for the action of the Legislature of Oregon upon this subject. Notwithstanding this constitutional provision that general elections shall be held on the first Monday of June biennially, the Legislature of Oregon seems to have believed that it had power to fix another time for the election of Representatives in Congress."

"Various reasons have been given for this action of the Legislature, about which the contestant and sitting member widely differ. The committee have not deemed it necessary to determine what those reasons are, for, with all due respect to the opinions of the gentlemen composing that Legislature, they are of opinion that this House must nevertheless be the final judge of the meaning of this clause of the con-

stitution of Oregon, so far as it touches the question under consideration. And for the reasons stated the committee have no doubt that the constitution of the State has fixed, beyond the control of the Legislature, the time for holding an election of Representative in Congress at the general election to be held biennially, and that at such election, so held, in pursuance of the constitution, the contestant was duly elected to the Thirty-Seventh Congress."

Thus it appears that the committee in that case placed the right of the party directly on the very question that is now before the House for its decision. That report was made by the present chairman of the Committee of Elections, [Mr. DAWES,] and the decision was placed distinctly on the ground that the people of Oregon had the right to fix limits, by their constitution, upon the action of their Legislature in regard to the time of holding elections. They fixed it beyond the control of the Legislature.

Mr. JOHNSON. I would like to inquire of the gentleman from Pennsylvania [Mr. SCOTFIELD] if he intends to have a vote upon this question this afternoon.

Mr. SCOTFIELD. If it can be reached tonight I wished to have the vote. I will not determine anything about it, only I do not believe it will be reached.

Mr. DAWES. Will the gentleman from Illinois [Mr. MARSHALL] yield?

Mr. MARSHALL. I would like to hear the chairman of the committee, but I would a little rather get through.

Mr. DAWES. I desire to say, as I agree with the committee in the conclusion to which they have arrived, and as I still adhere to the position assumed in that report which the gentleman has quoted from, that I would consider it a privilege if the gentleman would let me have a minute or two for the purpose of stating the grounds upon which I arrived at that conclusion, and the reason why I am still of the opinion expressed in that report.

Mr. MARSHALL. Mr. Speaker, how much time have I got remaining?

The SPEAKER. Nineteen minutes.

Mr. MARSHALL. I will yield if it is not taken out of my time.

No objection being made, Mr. DAWES was allowed to proceed as follows:

Mr. DAWES. I agree with the majority of the committee in the resolution reported by them, that the sitting member is entitled to his seat, and I think that resolution ought to pass. I do not, however, concur fully in the views set forth in the report of the committee by which they arrive at that conclusion; and as the position which was assumed by the Committee of Elections in 1861 upon this point has been summoned in aid of the minority report in this case, I desire briefly to state my view of the subject.

The report of the majority of the committee as well as that of the minority, proceeds upon what they concede to be the fact, that the statute of the State of Michigan is in conflict with the constitution of that State. It goes upon that concession very much to my surprise, for I think that nobody can read the constitution of the State of Michigan and be entirely clear that the statute of the State of Michigan is at all in conflict with that constitution. If, therefore, the statute of the State of Michigan allowing its soldiers to vote outside of the State is not in conflict with the constitution of the State, the whole argument, as well as the whole ground taken by the minority, falls.

Let me ask the House to listen to this clause of the constitution of the State of Michigan, which it is conceded in this whole argument this soldiers' voting law is in conflict with:

"No citizen or inhabitant shall be an elector, or entitled to vote at any election, unless he shall be above the age of twenty-one years, and has resided in the State three months, and in the township or ward in which he offers to vote ten days next preceding such election."

The provision in relation to "the township or ward in which he offers to vote" is claimed by those who pronounce this statute unconstitutional to require that the voter must be personally present in that township or that ward to deposit his vote. I do not think it by any

means follows that he must be personally present. The mode and manner of his depositing his vote in that township or ward is not prescribed in the constitution of the State of Michigan. It may be by proxy. It is just as competent for him to vote by proxy as it is for him to vote in person, inasmuch as there is no express provision that he shall vote in person. The State of New York has adopted that very method of voting, by proxy. The sole purpose, it seems to me, of the provision in the constitution of Michigan is to prescribe that in that township or ward his vote shall be deposited and be effectual and count, but on the mode and manner in which it shall be so deposited the constitution of the State of Michigan is silent, leaving it for the Legislature to prescribe. I do not believe the constitution of Michigan contemplated that it should not be in the power of the Legislature of the State to provide that all voters in a city might deposit their ballots in a single ballot-box. If this argument against the constitutionality of the soldiers' voting law is sustained, it prevents the Legislature of Michigan from providing that the electors of a given city shall deposit their votes in a single ballot-box at one place in the city, but they must be deposited in as many voting precincts as there are wards. I do not think the constitution of Michigan is open to that construction. At any rate it is not by any means free of doubt on that point, and I cannot pronounce a law of the State of Michigan unconstitutional unless there is some clearer reason for it than that suggested by this argument; and therefore it is that upon that ground alone I am able to sustain this position of the committee and still adhere to the position taken by the committee in 1861.

There is another point, however, upon which the decision of the committee in 1861 would stand unaffected by this case even were the law of the State of Michigan in conflict with the constitution of that State. It has been alluded to by my colleague on the committee, and also by the gentleman from Michigan, [Mr. BEAMAN.]

There was no law in the State of Oregon in conflict with its constitution. The State of Oregon had omitted entirely through its Legislature *eo nomine* to prescribe any other time for the election of a member of Congress than that which had been prescribed in the constitutional convention at the origin of the State, which was itself a legislative body in very many respects, so that there is no conflict between the position here assumed by the committee and the position assumed by the committee in that case, though there may be a conflict in the language used in the report, for I admit that the language of the report of the committee goes to the full extent claimed by the gentleman from Illinois [Mr. MARSHALL] at this time. I adhere to that language, for I am not of opinion that the Legislature of a State can, in conflict with its own constitution, prescribe a different time or a different manner of holding the election. A State or Territory derives its Legislature from its constitution, and when the constitution devolved upon the Legislature *eo nomine* this authority, it must have assumed that that Legislature must always act, when it did act, in conformity with the very law of its being and under such limitations as its creator had imposed upon it. I believe, as I did then, that whenever the Legislature of a State is required by the constitution of the State to perform any act, it presupposes that that Legislature would act in conformity with the very law prescribed for its existence by the constitution itself, which was its creator.

If the doctrine is assumed that the Legislature of a State can, in spite of its constitution, prescribe the mode and manner of election, then it is competent for the Legislature of Michigan to declare by a resolution that they will assemble in the city of Baltimore and choose their Senators in Congress, notwithstanding the constitution of the State says it shall assemble at the State capital. I do not think that the idea that a Legislature can disregard the limitations of the State constitution is at all necessary for

the support of this case. To my mind it is rather so dangerous a doctrine that I do not desire to stand committed to it unless I am compelled to do so.

Mr. UPSON. I wish to ask the gentleman from Massachusetts [Mr. DAWES] a question in relation to a restriction upon the Legislature by the constitutional convention of a State. If the convention should prohibit the Legislature from choosing a Governor of the State to the United States Senate, would the Legislature of a State be bound by that prohibition?

Mr. DAWES. If I understand the question of the gentleman, it is this: can the constitution of a State impose any additional qualifications upon a member of this body, or of the other branch of Congress, than those prescribed in the Constitution of the United States? Certainly not; for the Constitution of the United States is the supreme law of the land. That Constitution has prescribed those qualifications, and they can neither be added to nor taken from by the Legislature of a State. But if the Constitution of the United States had said that such and such qualifications shall exist, and then had further said, and such other qualifications as the Legislatures of the State shall severally prescribe, then if the Legislatures should act at all they would be obliged to act under the law prescribed by their own State constitutions.

Mr. SCOFIELD. I wish to ask the gentleman from Massachusetts [Mr. DAWES] a question. I do not quarrel with him at all because he comes to the same conclusion to which I have come by a different mode of reasoning. I would a great deal rather have any position which I take supported by two propositions than by only one. Therefore I have no conflict of logic with the gentleman from Massachusetts for coming to the same conclusion with myself, and I am not going to dispose of any of the arguments advanced by him.

But I wish to ask him this question: taking the Oregon case, for instance, is there in his judgment anything in the conclusions to which the committee came in that case that is at all in conflict with the logic used by the majority of the Committee of Elections in this case?

Mr. DAWES. I have already stated, in reply to the gentleman from Illinois, [Mr. MARSHALL,] that I did not think the Oregon case of itself, beyond some remarks made in the report, was at all in conflict with the positions assumed by the committee in this case. I do admit that there were some remarks in the report itself which are in conflict with the report of the committee now under consideration.

I have to say further only that I heartily support the resolutions which have been reported by the majority of the committee in this case, in which I join, and I desire merely to put upon record this explanation of the Oregon case, which has been cited as authority against that report.

Mr. SCOFIELD. I asked the question only that the gentleman might state it more distinctly than I thought he had stated it, that the House might not come to the conclusion that the majority of the committee were overriding all precedents.

Mr. DAWES. I think the gentleman from Pennsylvania [Mr. SCOFIELD] is right, that the Oregon case is not a precedent against him. All there is in the Oregon case that can be used against the gentleman from Pennsylvania, is the unfortunate reasoning of the chairman of the committee in that case. The chairman of the committee undertook to use arguments, unnecessarily as it turned out, to support a position which stood well enough with out that reasoning.

Mr. MARSHALL. I would like to ask the gentleman from Massachusetts [Mr. DAWES] a question. If there is a conflict between the constitution of a State and the act of its Legislature in regard to the place of holding elections, must not the act of the Legislature fall and the constitution of the State stand?

Mr. DAWES. I can come to no other conclusion than this: if there is a conflict between the law of the State of Michigan and the con-

stitution of the State of Michigan, the law made by the Legislature, which was itself created by the constitution, must yield to the constitution.

Mr. MARSHALL. Then I wish to put this further question: whether, if there is a conflict between the constitution of the State of Michigan and the act of the Legislature referred to, Mr. Baldwin is not entitled to his seat?

Mr. DAWES. If I entertained any doubt that the law of the State of Michigan, the "soldiers' voting act," as it is called, was constitutional, I should be led by the reasoning which I have just offered to the House, to vote for the resolution reported by the minority. But I am not of that opinion, and therefore I shall not vote for that resolution.

Mr. MARSHALL. I wish to ask the gentleman this further question: what is the rightful authority to determine the proper construction of the constitution of a State? Is not the decision of the supreme court of a State in regard to the proper construction of the constitution of a State binding upon all the tribunals?

Mr. DAWES. I agree with the gentleman from Illinois that, as to every matter within its jurisdiction, the supreme court of Michigan is the final arbiter, subject to the appellate authority of the Supreme Court of the United States.

Mr. MARSHALL. That is all that is necessary.

Mr. DAWES. But upon the point now submitted to this House, the supreme court of Michigan, as I doubt not the gentleman from Illinois will admit, had no jurisdiction.

Mr. MARSHALL. This case of course was not before the supreme court of Michigan, but the question as to the proper construction of their constitution was; and the honorable chairman of the Committee of Elections says that if there is a conflict between the constitution of the State of Michigan and an act of the Legislature of that State, the constitution must stand and the act must fall; and that the supreme court of the State of Michigan is the authoritative body to determine the proper construction of that constitution. That tribunal, Mr. Speaker, has determined the question as to whether there is a conflict between the constitution of that State and the act of the Legislature of that State.

Mr. DAWES. If the gentleman will allow me, I will say one word more. My opinion is that if there are two bodies—

Mr. MARSHALL. I would prefer not to yield any further as my time is nearly exhausted.

The honorable chairman of the committee has, it seems to me, if there is anything in logic, admitted away this whole case. He tells the House that, if there is a conflict between the constitution of the State of Michigan and an act of the Legislature of that State, the constitution must stand and the act of the Legislature must fall, and that the supreme court of that State is the proper tribunal to determine the correct construction of that constitution. That tribunal has determined it, and has declared that there is a direct conflict between the State constitution and the act of the Legislature. Therefore, according to the premises of the gentleman himself, he cannot, it seems to me, do otherwise than sustain the claims of Mr. Baldwin to a seat upon this floor. All the essential points of the case the gentleman admits to be in favor of the contestant.

It is true that the majority of the committee hold that, notwithstanding that conflict which they admit, the Legislature under the Constitution of the United States had power independent of the constitution of the State. But that is not the position which the honorable chairman of the committee takes; and I insist that there is nothing left for the majority of the committee to stand upon.

Now, sir, I do not agree with the honorable chairman in regard to the case from Oregon. I insist that is a case directly in point. But that is not the only case. In the case of Farlee vs. Runk, a case from New Jersey, in the first session of the Twenty-Ninth Congress, a question arose as to the validity of the votes of certain students at Princeton college, New

Jersey. The question was whether the place of voting fixed by the constitution of the State or that prescribed by an act of the Legislature was the proper place. The committee decided that the constitution must govern, and that it overrode the provision of the act of the Legislature on that subject.

Mr. SCOFIELD. That was a question of residence.

Mr. MARSHALL. Yes, sir, as to where the voter should cast his vote.

Mr. SCOFIELD. The question was not whether the Legislature or the constitutional convention of the State had the right to fix the place of holding the election, but whether those students voted in the place at which the law prescribed they should vote.

Mr. MARSHALL. The act of the Legislature prescribed one place, the constitution of the State prescribed another. The constitution, as the committee construed it, permitted those students to vote at Princeton; the act of the Legislature denied them that privilege. The committee held in that case that the constitution should govern, and that those students were legally qualified voters at that place; that they had the right to cast their ballots at Princeton, though that was prohibited by the act of the Legislature. The question as to the place of casting the ballot of the elector was the very question before the committee at that time; and they decided that the constitution of New Jersey and not the act of the Legislature should govern in regard to the place of voting.

But, Mr. Speaker, I will not consume further time in the discussion of this point. I will proceed to notice one or two other points in the case.

Admitting all that is contended for by the Committee of Elections and by the gentleman from Michigan who opened the argument in this case, I maintain that votes cast outside of and beyond the State of Michigan by the citizens thereof, cannot properly be computed in determining the right to the seat now contested in this House.

I insist that under this clause of the Constitution neither the Legislature of a State nor the Congress of the United States can prescribe a place of voting beyond the limits of the State where the officer is elected. We must look at the objects and purposes of this clause in the Constitution. Did the framers of the Constitution ever dream that they were granting to the Federal Congress power to prescribe places of voting for members of Congress beyond the district and State in which they were to be elected? Is it not clear that if Congress may prescribe a place of voting outside of the State for a portion of the electors, it may also prescribe a place or places for all of the electors outside of the State in which they reside?

We are told, I believe by Cicero, of a law enacted in one of the ancient States which provided that any one who drew blood in the streets should suffer death, and yet the judges very properly held that this did not apply to a surgeon, who bled a patient in the streets for the purpose of saving his life. They arrived at this conclusion by abandoning the literal sense of the words of the statute, and looking at the objects and purposes for which it was enacted.

Why, Mr. Speaker, in the construction of all powers granted, we must have reference to the object for which the power is given. At and before the adoption of the Constitution, and ever since, until within the last five years, all voters, everywhere in the United States, were required to vote within the district and State for which the officer is elected. At the time of the adoption of this clause, it is not easy to suppose that any one member of the Convention for one moment thought that they were granting to Congress the power to permit citizens to vote outside of the district and State for which the officers were to be elected. If the Legislature possesses this power, undoubtedly Congress possesses the same power. And if Congress possesses the power to prescribe places of voting outside of a district or State for a portion of its citizens, why not the power to prescribe places

of voting outside of the State for all the citizens thereof? Why not prescribe that all the citizens of Michigan shall vote in Chicago for their members of Congress, and all the voters of Illinois go to St. Louis to vote for theirs? It may be said that this would be a gross abuse of power. But I deny the existence of any such power. And yet, if the power contended for by the committee exists, the other follows as a necessary consequence.

But the act of the Michigan Legislature (by virtue of which the votes were cast outside of the State that it is proposed to count for the sitting member) does not prescribe the place or places of voting, and consequently the votes were not cast in pursuance of any competent authority. The provision of said statute is as follows:

"Sec. 7. At the elections herein provided for a poll shall be opened at every place, whether within or without the State, where a regiment, battalion, battery, or company of Michigan soldiers may be found or stationed; and at such election all persons may vote who are thereto entitled by law and by the provisions of this act."

Now, will any one pretend that that prescribes a place or places of election? What place or places? Would a law which provided that any elector of Michigan should vote at any place, within or without the State, where he might happen to be on the day of election, prescribe a place of voting? This is too clear, I submit with all deference, to admit of argument. If Congress or the Legislature can prescribe places of election outside of the State, I insist that the places must be named in the act; and that it is no compliance with the constitution to provide that a man, or a company of men, may vote at any place where they may happen to be on the day of election, and that such a law does not prescribe a place of election at all.

Mr. BEAMAN. I wish to say these places they have fixed in Michigan comprise whole counties. They have not fixed precise places at which the election shall be held.

Mr. MARSHALL. I suppose they have not fixed the house, but they have fixed the place.

Mr. BEAMAN. The place is fixed by the township clerk by law.

Mr. MARSHALL. I have read the act. I ask gentlemen to say whether that is fixing the place for voting? Is that prescribing the place? Is that writing down the place of voting according to the language of the constitution? The act does not prescribe the place or places for voting, and does not conform to this provision of the constitution. Would it be in conformity to this provision to have a commission go out to all places in Europe or America and take the votes of citizens of Michigan in the place or places in which they may happen to be found on the day of election?

It seems to me to be a most monstrous position for gentlemen to take for the purpose of maintaining the title of the claimant in this case to a seat. No place is fixed. It is as if you should go out with your ballot-box, wander over the country, and take the vote of every citizen of the State, wherever he happened to be on the day of election. I say that that is not prescribing or fixing a place at all. It is not naming it. It is in no sense acting in conformity with the Constitution of the United States.

Mr. Speaker, I have now said all I propose to say in regard to this matter. As a matter of course, I expect every gentleman to act in conformity with his own judgment. If there were no constitutional objection in the way, I should care but little as to which of the gentlemen claiming the seat should be preferred. I have no feeling whatever in this case, but I do think it is a matter of importance that we, sitting as judges here, should decide this question rightly, and in accordance with the Constitution and laws of the country.

Mr. SMITH. Mr. Speaker, I understand that Mr. Baldwin, the contestant, says it is impossible for him to be here to-morrow. I would like to ask him how long he desires to speak.

Mr. BALDWIN, (the contestant.) Having been confined to my bed for three days past, I

feel quite unable to proceed now. This is a matter in which I of course feel some interest, and I would like to have permission to print the argument I have prepared. The House may then dispose of the case this afternoon or to-morrow morning, as they please.

Mr. MARSHALL. I move that the contestant have leave to print his remarks.

No objection being made, leave to print was accordingly granted.

The following is the argument prepared by Mr. BALDWIN, (contestant.) Mr. Speaker, in appearing before this House as a claimant for a seat therein, the novelty as well as the importance of the matter places me in an embarrassing position. I would gladly defer to some other the task thus necessarily imposed, but justice to myself and those who gave me their votes at the congressional election in my district demand of me the performance of this duty. I do not come a mere suppliant for favors to be granted, but with a sincere belief that my title to a position in this body is equal to that of any of its members. The law has imposed certain forms in cases of contests. To those I must conform, and however much the final determination may not accord with my individual views it will be binding upon all. From it there is no appeal; and to make it equitable, just, and satisfactory to the parties and to yourselves it will require a careful examination of the questions involved in this contest. I shall endeavor to present the facts as plainly and with as much brevity as the case will admit.

The fifth congressional district of Michigan is composed of six counties; and in them, at the November election, 1864, of the votes polled I received a majority of 125. These were all in accordance with the established provisions of law, and of their validity no question has been raised. If no change had been made by the Legislature in the manner of conducting the elections in Michigan, my right would be undisputed. But, during the legislative session of 1864, a soldiers' voting law was enacted, allowing polls to be opened where ever a Michigan regiment, a company, or a detached portion of one was "found or stationed;" and all soldiers from Michigan, with certain restrictions, were allowed to cast their votes. The law, however, did not restrict this voting to the members of Michigan regiments, but permitted those from Michigan in the service of the United States, or soldiers "present from other States," to vote on those occasions. The electors were authorized to open polls and choose three inspectors of election; and, as those voting places were not fixed at any particular locality, it followed that any three soldiers from Michigan, "detached," could go through the ceremony of holding an election.

A sufficient number of votes are admitted to have been cast at these voting places, outside of the limits of the State of Michigan, at the election in November, 1864, to overcome my majority on the home vote, and give it to my competitor. These votes, I insist, were void by the Constitution of the United States and the laws and constitution of Michigan. It is assumed on the part of my opponent that the place of voting is not a qualification, and forms no part of it; that the constitution of Michigan cannot affect, control, or regulate the place of voting by the electors for Representatives in Congress, but that this matter is wholly delegated by the Constitution of the United States to the Legislatures of the respective States; and as the main question involved in the case under consideration rests upon the proper construction of the provisions of the national Constitution, and what is a "qualification" for a voter, I trust I may be permitted to go somewhat into detail relative to this subject.

Section two of article one of the Federal Constitution provides that—

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

Section four provides that—

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but Congress may at any time by law make or alter such regulations," &c.

It is by virtue of this section that it is assumed that a State Legislature have absolute, unlimited control in fixing the times and places of holding an election for members of Congress. I think it will not be denied but that the people of the various States have an undoubted right through their various constitutions to prescribe any qualification for electors for members of the State Legislature they may deem expedient, no matter how fanciful or severe may be that qualification, attached as a prerequisite to voting. By the Federal Constitution the same must apply to the electors of Representatives in Congress. The Constitution of the United States has so provided, and the Federal and State organic laws must go hand in hand, peacefully and harmoniously, in allowing the exercise by the electors of the privileges conferred. If the constitution of a State wholly discard color, sex, or residence, and it should permit every person twenty-one years of age to vote for State representatives, it will have thus fixed the qualifications for congressional electors, and the people of other States restricting suffrage to white male adult citizens, and that after a long residence, have no right to object. So, if a State constitution make place a qualification, it extends to and controls electors for members to this House. Here is where the issue is between my opponent and myself. He contends that "place" has nothing to do with the right to the exercise of suffrage, and that any law passed by a State Legislature authorizing voting at any place out of the State would be valid; and a person elected by such votes would be entitled to his seat, no matter if they were void for all other officers. As monstrous as is this doctrine, as destructive as it would be in overturning and annihilating every barrier to preserve the purity of the elective franchise, it has its advocates and supporters, and, it may be, will be sanctioned and adopted by this House.

The people of Michigan, in their first constitution of 1835, gave extensive voting privileges to the electors of that State. They provided that—

"In all elections every white male citizen, above the age of twenty-one years, having resided in the State six months next preceding any election, shall be entitled to vote at such election; but no such citizen or inhabitant shall be entitled to vote except in the district, county, or township in which he shall actually reside at the time of such election."

At that time our State composed only one congressional district, and an elector could vote anywhere in the State. A few years' experience taught the people that the privilege thus loosely conferred was open to fraud, and to avoid that difficulty, and to bring the voter face to face with his neighbors at the polls, the constitution was amended in 1839, restricting the casting the vote to the "township or ward." In 1850 we formed a new constitution, and with the experience of the two former, the people again provided in section one, article seven—

"But no citizen or inhabitant shall be an elector or entitled to vote unless he shall be above the age of twenty-one years, and has resided in this State three months, and in the township or ward in which he offers to vote, ten days next preceding such election."

It will be observed that this provision of the constitution fixes the qualification of electors for all the various elective officers, both State and national. No discrimination is made as to the electors, and the qualifications are as definite as language can make them—citizenship, &c., above the age of twenty-one years, residence in the State three months, and in the township or ward in which he offers to vote, ten days next preceding an election. This is all to be taken together; and if the age and residence are "qualifications," no sound reasoning can separate the place of voting from the category.

Without referring at present to the other aids in fixing a meaning to these words, they would

prove that all votes cast outside of the town or ward of a voter's residence would be invalid. But at the election of November, 1864, by virtue of the act to which I have referred, votes were cast beyond the bounds of the State for all the various officers to be chosen at that election. A case involving the constitutionality of the law authorizing those votes for a prosecuting attorney, and which votes were cast at the same time, in the same manner, and by virtue of the same law as those claimed by my opponent, was submitted to the supreme court of the State, and, after a patient, thorough examination, an opinion was given by each of the judges upon the matter. All of them proclaimed their desire to give the right of suffrage to the soldiers, but they alleged they had a stern duty to perform under the constitution, and that duty must override all mere personal considerations. The members of that supreme court were all Republicans. Three of them gave opinions adverse to the law, and one in favor of it—holding it to be unconstitutional and invalid.

It is contended that this case was one only involving votes for a local officer, and ought not to be allowed as an authority in the case now under consideration; that it was mere State authority, and to give it any validity would be sustaining the dogma of "State rights." I should be sorry if any gentleman possessed nerves sufficiently weak to be frightened by this; yet I know that in the past every species of fallacious reasoning, as well as perversion of the ordinary significance of language, has been resorted to to sustain the various positions assumed to thwart the evident object of the constitution. Whether this decision involved any question of State rights, according as that subject has been bruited upon this floor for years past, I must confess I am unable to determine. But it is certain it does concern those great fundamental rights of the people, upon which depend the preservation and the perpetuity of our grand system of free representative government—the inculcating a respect for the laws and an obedience to the interpretation given them by the constituted authorities of the States. Each State judiciary has a right to interpret a State constitution, and the interpretation given it is not only binding in the State, but is recognized and respected by all other bodies. Such has ever been the practice in this country. Such is the established rule in the Supreme Court of the United States. Story, in his work on the Constitution, section 385, upon this point says:

"We find the power to construe the Constitution expressly confided to the judicial department, without any limitation or qualification as to its conclusiveness."

In 1844 the supreme court of Michigan pronounced the general banking law of that State unconstitutional. Afterward, some parties, dissatisfied with the holding of the State court upon the question, brought suit in the Federal court, and the case was appealed to the Supreme Court of the United States. In giving the opinion in the latter court the Chief Justice said:

"It is the established doctrine of this court that it will adopt and follow the decisions of the State courts in the construction of their own constitutions and statutes, when that construction has been settled by the decision of its highest judicial tribunal."—*Howard*, 812.

The "highest judicial tribunal" of Michigan pronounced this law unconstitutional, holding that Michigan voters could only vote in the townships or wards in which they resided, and that votes cast in any other place were invalid. The position of those judges, their familiarity with the Michigan constitution and the Michigan statutes, gave them opportunity to be better informed concerning the provisions and requirements of that constitution and the validity of this law than can be had by those who probably never read either, and their opinion should be respected, obeyed, and followed, even by the Congress of the United States.

To show that they took into consideration the votes cast for Federal as well as State officers, let me call your attention to a few extracts

from their opinions. On page 9 of the printed papers in this case Justice Christiancy says:

"Does the constitution prohibit the Legislature from authorizing, as they purport to have done by this act, the qualified electors of this State who may be in the military service of this State, or of the United States, to vote for officers of the State and national Government at any other place than the township in which they respectively reside, and while they are absent from such township?"

Again, on page 10, speaking of the provisions of the constitution of 1835, he says:

"Under this provision an elector might vote for any State officer, and for President and Vice President, at any place in the State."

And in response to the question previously propounded by himself, after a course of reasoning unanswerable, he says:

"Now, I cannot bring myself to doubt that, in view of the amendment of 1839, avowedly for the purpose of confining the elector's right to vote within the township of his residence, this provision of the present constitution, so similar in its language and apparent purpose, was understood by the people as intended to have the same effect, so far as regards the place and act of voting. I am entirely satisfied that the people must have understood both to deny every elector the right of voting at any other place than the township or ward of his residence, or while absent from such residence."

"I am, therefore, reluctantly brought to the conclusion that the act is in direct conflict with the constitution, and for this reason void."

The act is not valid for any purpose, neither State nor national, but void, absolutely void.

Justice Cooley in giving his views is equally explicit, and I wish particularly to call your attention to his opinion to show that he had congressional votes in his mind at the time of announcing it, and that he at least did not believe that an election for members of Congress was separate and distinct from one for State officers. His opinion evinces that he took a broad view of the subject-matter, and came to the honest conclusion that the law was void for all purposes. On page 15, he says:

"We find, then, on looking into this history, that the constitution of 1835, after fixing the qualifications of electors, added the negative clause, that 'no such citizen or inhabitant shall be entitled to vote, except in the district, county, or township in which he shall actually reside at the time of such election.' (Article two, section one.) The evil supposed to exist under the provision was, that an elector might vote anywhere in the election district, and, as that district for the election of State officers was the whole State, and county officers the whole county, he might for those officers vote anywhere in the State or county, as he might also for member of Congress anywhere in the congressional district, and the usual safeguards, by challenge, &c., were rendered of little value, if he saw fit to vote where personally unknown. The people remedied that evil by an amendment, adopted in 1839, which substituted for the words 'district, county, or township,' the words 'township or ward,' thus clearly requiring the personal presence of the elector in the township or ward of his residence as a condition of the right to vote."

This is clear and explicit. He briefly refers to the changes made in the various constitutions, and substantially says that under that of 1835 a man might vote for member of Congress at any place in the congressional district, and to remedy the evils engendered by the latitude of the provisions of that instrument, the amendment of 1839 was adopted, (and which amendment is carried to the existing constitution) "requiring the personal presence of the elector in the township or ward of his residence as a condition of his right to vote." Right to vote! For what? The portion of the sentence immediately preceding shows that he distinctly refers to a member of Congress.

Justice Campbell, in giving his opinion, is equally explicit. He says:

"By examining the section we find that it makes provision for every possible election which can be held at all, under the authority of the State: 'No citizen or inhabitant shall be an elector, or entitled to vote at any election,' unless he shall come within the subsequent provisions. In the next place every election must be in some township or ward; for the voter, in order to 'vote at any election,' must 'offer to vote, in the township or ward' in which he has resided 'ten days next preceding such election.' Whether he gives in his vote on the spot, or whether it is given in fact somewhere else, to become by some legal construction a vote in the township, he must vote at the election in the township or not at all; for thus far there is no possibility of misconception. Again, the place in which he offers to vote is of necessity the place where he votes, if the offer is accepted, for the offer must be made to some one authorized to accept it; and when accepted the vote is complete; for the vote is by this section made the act of the elector him-

self; and when his offered ballot is accepted, there is no other act which he can perform to make it operative. That the township is a necessary place for the vital purpose of the law is manifest, for no offer to vote in any other township but that of the voter's residence is permitted by the constitution. And it being a necessary place for election purposes, and the only place which is referred to, it may be necessary to consider what purposes are to be subserved by any rules of locality; for we cannot be permitted to suppose that a restriction has been imposed without meaning; neither are we at liberty to disregard any word or phrase which has been inserted in the supreme law of the State.

"It has not been denied by any one, nor do I think it can be reasonably doubted, that the first impression any one would receive from reading this section would be that the voter must attend the election in his own township."

I have given from the opinion of the judges sufficient to show that they were very decided relative to the utter invalidity of the law, and that they made no discrimination in any elective office of or in the State. It was as well known to them as to us that Congressmen are elected by the same voters, and if, as it is said by Justice Christiancy, "the people must have understood both to deny every elector the right of voting at any other place than the township or ward of his residence, or while absent from such residence," I would ask in all sincerity, how can votes so cast be properly counted and allowed? Is this body to take this matter wholly from the control of the States? But the "bugbear" of State rights has been invoked, as if this would frighten men from their sense of propriety and arouse a spirit of determination to resist the State constitution and prostrate the salutary barriers the people have placed in their organic laws to protect the ballot-box. I trust the Congress of the United States will not, prior to the passage of some general law applicable to all the States, change from the practice that has long prevailed, assume to set aside the provisions of a State constitution, and ignore the decisions of a State court.

I might here leave my case and submit it for your arbitrament, were it not that I deemed the construction erroneous attempted to be put upon the Federal Constitution. I claim no perfection for my own views, but believing I have both the Federal and State Constitutions with me, as well as the precedents in election cases, I shall briefly continue my examination of the objections urged, and attempt their refutation. I do not pretend that all my citations of authorities are applicable to my entire case, but that from each can be gleaned principles tending to satisfy an impartial person that law and justice are with me. Neither do I pretend that any of the cases are precisely like the one under consideration, for until within the last four years we have had no laws in this country authorizing voting for Representatives in this House outside of the limits of a State. I am aware, too, that an adoption of some of the principles for which I contend will affect many individuals upon this floor; but the consciousness that I am right causes me to rise above all personal considerations, and regardless of the prejudices or interests of others give my own views upon the questions involved.

I shall insist, Mr. Speaker, that Congress, even under that provision of the Constitution authorizing this body to fix the "times" and "places" for holding elections, cannot fix that place outside of and beyond the State affected. Little is said upon this subject in the debates in the Convention to form the Federal Constitution. One of the rules for the construction of law, when a doubt may exist as to the meaning, is to examine the practices and the customs of the people at the time of its adoption. When the clause under consideration was placed in the Federal Constitution, our ancestors had just thrown off the yoke of England, and they were eagle-eyed in their endeavors to preserve the rights of the people. The members of that Convention had all been elected by the various State Legislatures; and, prior to the meeting of the first Congress under the Constitution, all the members of Congress had been so elected by the various colonial and the succeeding State

Legislatures. When this provision was under discussion, the debates show it was the intention to have the Senate elected by the State Legislatures, and the House of Representatives directly by the people of the States; and to effectually secure this measure, it was provided that it should "be composed of members chosen every second year by the people of the several States;" and to carry the election directly to them the clause that, "the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature," was inserted in the Federal Constitution. My view of this is that it was intended to include every disability that was imposed upon the electors of a representative in a State Legislature. In other words, that every person who could not vote for such representative was disqualified to vote for Representative in Congress, no matter from what cause this arose, and that voters were restricted to their homes in voting. In this view, "place" became an indispensable "qualification," equally with age, sex, color, or the possession of property.

Prior to the assembling of that Convention every member of the State Legislatures, from the earliest settlement of the various colonies, had been elected by the voters within their various townships and districts. Such a practice as has been adopted in many of the States recently was an unheard-of one. The manner in which their elections had been conducted at their various homes was in the minds of the members of that Convention, and though they were well informed of the fact of the supposed omnipotence of Parliament, and the general powers in many cases attempted to be exercised in various law-making bodies, their sole object appears to have been to bring voting directly home to the people, where every violation could be punished. The language they adopted, taken in connection with their customs, admits of no other construction, and permits no divided ballot-box.

As I have said, little can be found in the various debates in the national and State conventions to form and adopt the Constitution, that will enlighten us upon this subject, except in that of Massachusetts. In that body the provision authorizing Congress to fix the place of holding elections was severely animadverted upon by several of the members, and their fears were aroused that Congress might assume unreasonable and unjustifiable control over this matter. To show the understanding that then prevailed I wish to call your attention to a few extracts from the debates in that State, found in 2 Elliot's Debates, pages 59-61:

"Judge Sumner, in his remarks relative to this fourth section, demonstrated the absurdity of the supposition that Congress would remove the place of election to remote parts of the State, &c.

"Mr. West said, 'An argument which proves too much, it is said, proves nothing. Some say Congress may remove the place of election to the State of South Carolina; this is inconsistent with the words of the Constitution, which says, that the election in each State shall be prescribed by the Legislature thereof, &c., and that representation shall be apportioned according to numbers; it will frustrate the end of the Constitution, and is a reflection on the gentlemen who formed it.'

"Captain Snow said, 'It has been said, Mr. President, that there is too much power delegated to Congress by the section under consideration. I doubt it; I think power the hinge on which the whole Constitution turns. Gentlemen have talked about Congress moving the place of election from Georgia to the Mohawk river, but I never can believe it. I will venture to conjecture we shall have some honest men in our Congress. We read there were two who brought a good report, Caleb and Joshua. Now, if there are but two in Congress who are honest men, and Congress should attempt to do what the gentlemen say they will, (which will be high treason,) they will bring a report of it, and I stand ready to leave my wife and family, sling my knapsack, travel westward—to cut their heads off.'

These expressions of opinion of the power of Congress upon this subject are conclusive that they understood that the elections could be ordered to be held only within the limits of a State, and though an error was committed by one of the gentlemen in his reference to the clause, simply in the punctuation, yet their construction is plainly manifest—that the electors

were to be restricted, as I have stated, to voting within the limits of their State. As both Congress and the State Legislatures derive their authority for fixing a place of voting from the same clause of the Federal Constitution, it follows, as a direct legitimate consequence, that if one body be restricted the disability inevitably applies to the other. From the tenor of the debate I have read, and the jealous spirit of our ancestors upon every question where their political rights and privileges were involved, I can assert without fear of successful contradiction that if an intimation had then been given that this innocent clause permitted either Congress or a State Legislature to order an election for one of the States in this Union beyond the bounds thereof, the adoption of the Constitution would have been jeopardized.

Still, it is insisted that a State Legislature may fix the "place" of voting without restriction, and I am aware that such has been the decision of the judicial tribunals of a few of the States. Such was the opinion of the judges in Michigan, if the Legislature had not been restrained by the State constitution. With all due deference to the able and learned gentlemen who have given those opinions, I shall most respectfully dissent from their conclusions.

According to the election laws of Michigan that have been in force for years, the place of holding an election is known six months previously to every voter in a town or ward, and he can prepare his business so as to be present at the "place" designated. According to the provisions of the soldiers' voting law the "place" is unknown until the moment of the opening of the polls, and then the knowledge of the fact could easily be confined to a favored few, thus defeating the ostensible object of the law. I will give the sections entire referring to this point:

"SEC. 2. Every soldier belonging to Michigan regiments and batteries or companies in the military service of this State or of the United States, or volunteer soldiers, residents of Michigan, belonging to regiments, batteries, or companies, present on the day of election from other States, including officers and their staffs, surgeons and assistant surgeons, chaplains and commissioners appointed under this act, shall, if possessed of the qualifications set forth in section one of this act, be entitled to the benefits of the provisions thereof.

"SEC. 7. At the elections herein provided for a poll shall be opened at every place, whether within or without the State, where a regiment, battalion, battery, or company of Michigan soldiers may be found, or stationed, and at such election all persons may vote who are thereto entitled by law and by the provisions of this act.

"SEC. 8. Any company, or detached portion of a regiment or companies, if not practicable for all to vote together, may open a separate poll, and the electors present shall choose from their number three inspectors of election, from the qualified electors present, whose duty it shall be to act.

"SEC. 9. The inspectors of election shall appoint the clerks of the election."

"SEC. 12. The polls shall be opened at sunrise, or as soon thereafter as practicable, and shall remain open at least three hours; and if necessary, in the opinion of the inspectors, in order to receive the ballots of all the electors, they may keep the polls open until five o'clock p.m., and no longer. Proclamation thereof shall be made at or before the opening of the polls, and one hour before closing them."

The foregoing sections contain all there is tending to inform persons as to where the place of election will be held. Can it be possible that under the clause of the Federal Constitution authorizing either the State Legislature or Congress to prescribe the "places" of holding the elections, such an uncertain, migratory poll as is here provided for was contemplated? I do not believe it. No such intention as this ever entered the minds of one of those stern patriots who participated in the formation of our national Constitution. When they inserted and adopted that provision they intended to confine the voting within the respective States, as the practice had prior thereto been, and not to permit Congress nor the State authorities to construct a perambulatory ballot-box that might traverse the habitable globe and be beyond the jurisdiction of State control.

I will go as far as any one in aiding, assisting, or caring for our gallant soldiers. I voted in the last Congress for almost every proposition for their benefit, or to ameliorate their

condition; but our devotion to them does not require us to destroy all the safeguards our Constitution has provided for its protection and preservation. Our soldiers have gone forth with the patriotic object of sustaining the Constitution and Government; and it is not required of us that we shall strike a parricidal blow at that instrument, weaken it in one of its most essential parts to evince our frenzied devotion. They have not asked the sacrifice. It has been the work of enthusiasts—of demagogues. A true, devoted soldier only demands of us that we, in our various stations, should preserve the Government in its pristine purity at home, if possible, while he does his part in contending with armed foes upon the battlefield.

In this connection, before proceeding further with authorities in my own behalf, I will examine the arguments adduced and the authorities cited in opposing my claim. The whole reliance against me is upon that clause of the Federal Constitution providing "the times, places, &c., of holding elections, to be prescribed in each State by the Legislatures thereof." A fruitful theme of discussion might be here opened as to what constitutes a "Legislature" within the meaning of the Federal Constitution, as is suggested by the above-cited clause. If the passage of a bill is of no avail until the signature of the State Executive is obtained thereto, then these words lose all the potency attempted to be ascribed to them. If by the words is only meant the action of the Senate and House of Representatives of a State, then an act passed would have no validity under the constitution of Michigan, and none of the machinery requisite to put it in motion could be enforced, and it would require congressional legislation to give it that vitality. I do not propose to enlarge upon this subject, and having called your attention to it, I will proceed to the consideration of the other arguments employed.

It will have been observed that the whole reliance against me is based upon the clause I have last cited, and that places the whole action upon this matter in the hands of the Legislature, beyond the control of the people, speaking in their constitution. To do away with the effect of the decision in Michigan, the following extract from Justice Campbell's opinion is cited:

"The case is happily free from one class of questions which sometimes may introduce confusion. The ordinary disputes concerning the distribution of power between the people and their various departments and agencies of government do not arise in the present controversy. It is conceded that the power of regulating the time and manner of elections, and the places where they may be held, is one which is legislative in its nature and belongs to that body which is intrusted with the general legislative authority, unless the constitution has limited or destroyed this control over it. And we are only concerned, therefore, in determining whether the constitution of Michigan has prevented the State Legislature from exercising complete control over the locality of elections, and whether, if such control is limited, the limitation is applicable to the subject before us."

What consolation in opposition to my claim can be derived from this extract is more than I can divine. In attempting to make it applicable, the first portion is emphasized, and the clause "unless the constitution has limited or destroyed the control over it" is wholly ignored. Let me call your attention to the emphatic statement of the question by the judge, that they "were only concerned in determining whether the constitution of Michigan had prevented the Legislature from exercising complete control over the locality of elections," and the emphatic affirmative with which this pregnant question was answered. I have not pretended that if there were no restrictive words in our State constitution, but that the Legislature might provide for the holding an election anywhere in the district; but with those limitations they have no such power.

The case of Biddle and Richard vs. Wing, in Clarke and Hall's Election Cases, also cited, contains no principle applicable to the existing contest. That portion of the report relating to the position assumed by Richard is what is

relied upon. An examination of the facts in this case shows that a number of Richard's friends, as he alleges, were deterred from voting by reason of the interference of the deputy sheriff and constables in the city of Detroit, under pretense of keeping the peace, and by that means he was prevented receiving a majority of the votes. There were three candidates, one, Wing, receiving 728 votes, another, Biddle, 732, and Richard 722. He did not pretend he had a majority, but that he would have had if it had not been for the interference of the officers. In their report the committee say:

"They are of the opinion that the duty assigned to them does not impose on them an examination of the causes which may have prevented any candidate from getting a sufficient number of votes to entitle him to a seat. They consider that it is only required of them to ascertain who had the greatest number of legal votes actually given at the election. An election is the act of selecting, on the part of the electors, a person for an office of trust."

No one can dispute the principle contained in this report; but where is its applicability to the present case? Because a row occurred at an election precinct, and voters were frightened away, and a committee believe they cannot go behind the election returns and inquire how men would have voted, but determine the case upon those actually given and so place that fact upon record, therefore, an argument is attempted to be adduced that votes cast in the southern States for a Michigan Congressman, in defiance of her constitution, if those voting would have been electors if at their homes in that State, are to be held valid. In the case cited, the committee distinctly say one of their duties is to ascertain who had the greatest number of "legal votes." In my case I am insisting that the soldiers' votes were not legal. If those electors were at the polls and had refrained from voting, they would none the less have been citizens and electors, and it is claimed that the soldiers who voted were electors of Michigan. Grant it. The members of this House are electors at their several places of residence, and if an election should take place during the session of Congress, they would none the less be electors, but on account of their absence from the polls they could not exercise the right conferred upon them. They neither gain nor lose a residence by their position; but while absent from their "town or ward" the exercise of the right is in abeyance. Scarcely an election has ever been held in any precinct but that some citizens, qualified voters therein, have been prevented by fortuitous circumstances the exercise of one of the greatest privileges conferred upon man. No valid argument can be gleaned from such an authority as this, adverse to the justice of my claim to a seat. It was well said by the court in *Pennsylvania in the case of Chase vs. Miller*:

"The learned judge deprecates a construction that shall disfranchise our soldiers. It strikes us that this is an inaccurate use of language. The constitution would disfranchise no qualified voter; but to secure purity of election, it would have its voters in the place where they are best known on election day. If a voter voluntarily stays at home or goes a journey, or joins the army of his country, can it be said that the constitution has disfranchised him? Four of the judges of this court, living in other parts of the State, find themselves on the day of every presidential election in the city of Pittsburg, where their official duties take them, and where they are not permitted to vote. Have they a right to charge the constitution with disfranchising them? Is not the truth rather this, that they have voluntarily assumed duties that are inconsistent with the right of suffrage for the time being? Such is our case, and such is the case with the volunteers in the Army. The right of suffrage is carefully preserved for both them and us, to be enjoyed when we return to the places which the constitution has appointed for its exercise. It is forcing a gratuitous assumption upon the constitution to treat it as intending that the volunteer in the public service shall carry his elective franchise with him where ever his duties require him to go."

A decision of the supreme court of Michigan, made at a recent term, involving the constitutionality of a law passed at the session of 1865, has also been referred to. The majority that passed one of the acts of that session was made up of several of the individuals who were elected by the votes of the soldiers, and who were admitted to seats in that body. The validity of that law was subsequently attacked for

various reasons, and among them, one of the points was, that without the votes of those members elected by those cast beyond the State, the act would have been defeated. The court held, and very properly too, that they could not go back of the act for the purpose of examining into the qualifications of the members. The law books are full of cases justifying this doctrine, and, sir, it would be the height of folly to have any other rule prevail. The validity of the acts of those who assume to perform the functions of an office under a "color" of authority for the holding the same, are facts too well known to every legal gentleman in this House for me to waste time in their discussion. While a legislative body is made a "judge" of the qualifications of its members, and whether from mistake, ignorance, or corruption, as in the case I shall show, of Michigan, there is no power to go behind their acts and review their proceedings.

The action of the Michigan Legislature has also been adduced in behalf of my competitor, as affording a reason why this body should retain him in the seat. In the Michigan constitution is found the same provision that is contained in every one, I believe, in this country:

"That each House may judge of the qualifications, elections, and returns of its members;"

and that they construe as affording them the largest liberty for action in the premises. While I would not abridge any of the legitimate powers that a legislative body ought to possess, I contend the members are just as much bound by rules and established precedents as is a court of justice. Referring to the Federal Constitution, Judge Kent (1 Commentaries, 252,) says:

"Each House is made the sole judge of the election, returns, and qualifications of its members. The same power is vested in the British House of Commons, and in the Legislatures of the several States; and there is no other body known to the Constitution to which such a power might safely be trusted. It is requisite to preserve a pure and genuine representation, and to control the evils of irregular, corrupt, and tumultuous elections; and, as each House acts in those cases in a judicial character, its decisions ought to be regulated by known principles of law, and strictly adhered to for the sake of uniformity and certainty."

This is only a repetition of established law upon this subject; and to suit their own purposes a construction was given it by the Legislature of Michigan most unwarrantable and reprehensible. Before commenting upon that action, I will give a brief history of this law. It was first agitated during the session of 1863, and the proper committee of the House reported adversely to it. They say—

"There is no power in Michigan that can authorize the opening of election polls in any regiment, battalion, or company of Michigan soldiers while in the service of the General Government outside of the State."

And after exhausting the subject of its unconstitutionality, they close by saying—

"Your committee believe the passage of this bill would be unconstitutional as well as impracticable."

The bill failed, and passed over to the session of 1864, at which time, after much opposition, for the reason stated, it became a law. When the Legislature convened in 1865, ten members of the House and four of the Senate presented themselves as having been elected by the soldiers' vote, in accordance with its provisions. This was prior to the decision of the supreme court of Michigan. A few of the seats of those persons were contested in each House, but those having a majority of all the votes were admitted.

A few weeks after this the law was pronounced unconstitutional, and then all those elected by the home vote appeared and claimed their seats. The committee of the Senate to whom the matter was referred reported unanimously in favor of abiding by the decision of the court, and admitting the contestants. In their able report, giving their own as well as the opinion entertained upon this subject by all law-abiding people, they say:

"The contestants allege that the votes cast by virtue of that act are illegal, and rest their claims upon that point alone, and support their position by referring to a decision of the supreme court of our State

pronouncing that act unconstitutional, and the votes cast under it void. If the decision is correct it should at once put an end to the controversy, for no man can acquire office by means of illegal votes." * * * "But the decision of our highest judicial tribunal as to the validity of the soldiers' suffrage law has been made, not at the instance of the court, but in the performance of a duty imposed by the constitution." * * * "The decision has become the rule of action, by which, by the requirements of the constitution, the people, the Executive, and the judiciary itself are to be guided." * * * "But in the judgment of your committee, the petitioners, whose names appear below, are entitled to the seats in question."

Yet, notwithstanding this unanimous report of the committee, by a tie vote in each case, three of the modest Senators voting each time, as it were, in his own case, the decision of the court was ignored.

In the House, a majority of the committee reported in favor of treating the decision as a nullity, basing that action principally upon the fact that that body had, at the commencement of the session, acted upon and adjudicated the question, and that they would not reconsider it. That I may do no injustice to their report, and to show the action of the Legislature can have no influence in my case, I will offer a few extracts:

"At the commencement of the present session it appeared by some of the certificates held by members, and petitions presented by contestants claiming seats, that the only grounds on which seats were contested was, that the law authorizing soldiers to vote when personally absent from the township in which they resided had been enacted by the Legislature in violation of the constitution of this State. This was the direct question and only question presented for the House to pass upon."

This House, in its judgment and decision, passed fully upon that question, and did judicially determine and declare that said law, entitled 'An act to enable the qualified electors of this State, in the military service, to vote at certain elections,' &c., was a valid law, and that the same was not a violation of the constitution. Under and by virtue of said judgment and decision, the rights of membership became vested in all those whose elections depended upon the votes cast under and by virtue of said law. And in the opinion of your committee the question has become *res adjudicata*, and should be adhered to by this legislative body with even more tenacity than is exhibited by courts of law in adhering to their judicial judgments and determinations."

Prior to the decision of the supreme court, this House had decided that the soldiers' vote should be permitted to take effect in four several cases.

"We neither offer to nor accept any challenge from them which may lead to a conflict. Our judgment must control as to the election of our members; their judgment by the law of the land will control the action of all the inferior courts, the executive officers of the State, and the people in all the private walks of life. The effect of their judgment will be that no election can again be held under the law in question, because the officers who carry on the machinery of an election are properly under the control, and must yield their judgment to that of the courts."

"But, believing the question to have been heretofore settled, finally adjudicated, they have directed their chairman to report the several petitions and accompanying documents, with the following preamble and resolutions, the resolutions being numbered from one to ten, inclusive:

"Whereas by the constitution of Michigan, the judicial power and authority to 'judge of qualifications, election, and return of members are vested in each House of the Legislature; and whereas at the commencement of this session, in judging of the election of members, whose right to seats in this House depended upon the legality and validity of the soldiers' vote under the act entitled 'An act to enable the qualified electors of this State, in the military service, to vote at certain elections,' &c., it was then judicially declared by this House, that said votes should be regarded in determining the question of election, upon which determination and decision members were admitted to seats on this floor: Therefore,

"1. *Resolved*, That in the opinion and judgment of this House, it would be a dangerous and unjustifiable exercise of power on the part of this body to revoke and set aside said determination and decision, and thereby eject from this House such members as may hold their seats by virtue of the soldiers' votes, cast in pursuance of the act above recited."

From the foregoing it appears they treated the whole subject as *res adjudicata*, and that it would be a dangerous proceeding for them to interfere with and review their acts. I have little comment to make at this time concerning this action of the Michigan Legislature. It has become a part of the history of our State. Suffice it to say, that the principle then established, if persisted in and accepted as a precedent in the future, would unsettle every equitable rule of action that ought to obtain in legislative bodies, and bring them, as it did that Legislature, into utter contempt. Though that

Legislature was three fourths Republican their action was not sustained by the party press in the State, and their leading paper even charged them with "lax morals" and dishonorable motives in admitting those members:

Extract from the Detroit Advertiser and Tribune, February, 1865.

"We suppose, however, that the time for argument and appeal are both passed, and that lax morals and reckless partisan leadership have placed the Legislature, even while we now write, in an irretrievably false position. If so, it is a matter of proud consciousness that the Republican masses are uncontaminated. They will submit to the decision of the highest court of the State and repudiate the men who defy it. Every member of the Legislature who votes to defy the decision of the supreme court thereby digs his political grave and sets up his tombstone. He may take a long farewell of all his ambitions. The people could forgive his error and infatuation, were it not that so infirm a judgment and feeble a moral sense must ever render his elevation a public danger. We make no menace or forge no malediction, but claim to speak in the voice of prophecy that which is inevitable."

A distinction has also been made between the power of the people in forming a State constitution and that of the Legislature created by it, deriving its authority from its provisions, and acting under it. It is asserted that the Legislature have full authority, derived from the Federal Constitution, irrespective and in defiance of the provisions or limitations in a State constitution, to fix the place of voting where they please, and that the people, in their organic law, cannot make that "place" of voting a qualification without infringing the Federal Constitution. To sustain this theory no adjudicated authority can be found, and the only reference of any weight is in one of the sections of Story, in which he is merely giving the language of the Federal Constitution. Taking his whole chapter, the true meaning is, that what was intended in giving the State Legislature power to fix the time and "place," was simply conferring it upon the law-making power of a State. In referring to qualifications, Story says:

"Upon this clause, which was possibly adopted by a unanimous vote, the Federalist has remarked, 'the provision made by the Convention appears to be the best that lay within their option. It must be satisfactory to every State, because it is conformable to the standard already established by the State itself. It will be safe to the United States because, being fixed by the State constitutions, it is not alterable by the State government, and it cannot be feared that the people of the States will alter this part of their constitution in such a manner as to abridge their rights, secured to them by the Federal Constitution.'"—Section 586.

This extract I give to show both the opinion of Judge Story and the authors of the Federalist, that this whole power of defining "qualifications" was to be left in the care of the people of the States, to be incorporated in their organic law, and to be beyond the reach of their Legislatures. This extract must also be taken in connection with what is said in the subsequent section as to the Legislatures controlling the time and places of elections. In a note reference is made to the fact "that though in New England the voters generally give their votes in the townships where they reside, in the southern and western States there are few towns and the elections are held in counties," &c. I deem this unanswerable in giving a true meaning to the text, and that it was never intended to make a mere Legislature above the people, and allow power to be exercised for the election of a Representative in Congress that they were debarred from using for all other purposes.

To further sustain this opinion, I cite Curtis on the Constitution, 200:

"If the right of voting for any class of Federal officers were to be in each State the same as that given by the State laws for the election of any class of State officers, it was quite essential that the States should surrender to the General Government the power to determine as to persons of foreign birth." * * * "The committee of detail, after a review of all these considerations, presented a scheme that was well adapted to meet the difficulties of the case. They proposed that the same persons who by the laws of the several States were admitted to vote for members of the most numerous branch of their own Legislatures should have the right to vote for the Representatives in Congress." * * * "If then the State constitutions would refrain from imposing on the electors a property qualification for the very purpose of including all to whom the States might concede the right of voting within their respective limits," &c.

This all proves conclusively that it was the intention of the framers of the Federal Constitution that the entire subject of elections and qualifications be remitted to the control of the people of the several States, to be exercised by them as their judgment should dictate, and if they placed any restrictions, conditions, or qualifications in their constitutions, the Legislature was debarred from removing them.

As early as 1811 a case was decided in the supreme court of Massachusetts involving this question of qualifications. In the opinion of the court, given by Chief Justice Parker, is the following:

"But the qualifications of electors are settled by the constitutions of the United States and of this Commonwealth, and there is no power, while those constitutions remain, to add to or diminish from those qualifications."

"By the Constitution of the United States, the electors of a Representative in Congress are to have the qualifications requisite for electors of the most numerous branch of the State Legislature; and by the constitution of this State, one of the qualifications for an elector of a Representative is a residence in the town where he gives his vote for the space of one year next preceding an election."—11 Massachusetts, 433.

And in the case already cited from Pennsylvania, 5 Wright, 424, the court in giving the opinion said:

"These legislative regulations of residence are in accordance with that interpretation of the Constitution suggested above, and show clearly how essentially the place of voting has entered into the qualifications of suffrage."

Such has always been the doctrine, and no court, nor any legislative body, has prior to this attempted to distinguish between a "qualification," a "condition," or a "requisite" of voting until it became essential to prevent my obtaining the seat to which I am justly entitled. The Federal and State Constitutions have been taken and construed together as one.

Another reply to the theory assumed is, that for three fourths of a century during which our Government has existed under the Constitution, no attempt has been made by any State Legislature, I believe, to make a distinction between the two classes of electors. It has always been held that a man, debarred from any cause from voting for one, could not vote for the other. And while this question of permitting soldiers to vote in the field has been agitated, no distinction has been made in any State so far as I can learn between these two classes. Many of the courts of the various States have held these laws unconstitutional; sometimes a veto has intervened to arrest them, but no ingenuity, until my case arose, has tortured this provision of the Federal Constitution into making a distinction so that an elector could vote for a Congressman and not for a State officer.

Permit me to suggest that if a distinction is to be made, ought it not to be in a law specially adapted to the purpose? The Michigan law was not passed merely to enable soldiers to vote for Representatives in Congress, but it was a general election law for all State, county, and district officers, with no reference in it to a Congressman, except in giving the manner of making the returns. It was not passed by the "Legislature," as defined in the theory of my opponents, but by the law-making power of the State—the Senate, the House, with the approval of the Governor; the latter requirement indispensable to make it a law in Michigan, but it seems, not within the purview of the Federal Constitution.

If that Constitution is to govern in a case of this kind, and that of Michigan to be ignored, I ask in all sincerity, how you reconcile this intervention of our Governor in aiding the passage of this law? It either was or was not necessary. If the former, the law is not such as is contemplated by the Federal Constitution, and the State constitution must control. If the latter, as the law was only a State affair, incidentally referring to Congressmen, and impossible to be enforced except through the intervention of State laws and State authorities, therefore I again repeat, it was not such as was contem-

plated by the Federal Constitution. Take either horn of the dilemma, and your law fails.

There is another question connected with this law to which I will call your attention. By the adverse decision of the supreme court of Michigan, it, for any purpose, is no authority. The report of the House committee, which I have already quoted, referring to it, contains the following:

"The effect of their judgment will be that no election can again be held under the law in question, because the officers who carry on the machinery of an election are properly under the control and must yield their judgment to that of the courts."

The author of this has just been confirmed as a United States district attorney, and he is a lawyer of some eminence in western Michigan. Admit Mr. Trowbridge, and your action will present this anomalous feature: a member is received under a law continuing unrepealed, but by the circumstances surrounding it no subsequent votes can again be cast for another member of this House. It is not for me to unravel this web or remedy the difficulty; I take the law and the fact as the record presents them.

Many other nice distinctions and discriminations are urged in opposition to my claim. My experience in life has taught me that no legal or constitutional question has yet arisen but that it has found advocates for the most whimsical, fantastic, and forced construction. Unfortunately for me, a partisan political question has become involved with the facts in this case; and though individuals may honestly labor to rid themselves of its deleterious influence in adjudicating the matter, yet we all know the potency of preconceived ideas, and the murky atmosphere with which every object is surrounded that is examined while under their influence. I cannot follow all these refinements through their various ramifications. Suffice it to say, where there is a will there is a way, and an ingenious, inquisitive person, if inclined, can always satisfy himself in giving the most sophistical of reasons in justification of his action in any given case. I care not what effect such reasoning may have upon this House, or how prejudicial to my cause it may be, in my opinion I believe no sufficient reason has been or can be presented why my opponent should be entitled to retain his seat.

Having fully examined the various objections, I will now call your attention to a few adjudicated cases.

The question immediately involved in the present case has before this been twice before Congress, and in both cases decided in accordance with the principles for which I am contending. I believe those decisions were strictly correct, and that none other could have been made consonant with the intentions of the framers of our Government. The same general idea that the State constitutions were paramount in prescribing the place of holding an election pervades and controls in election cases extending back over fifty years. It is a well-established maxim in law that "principles should govern," and that State courts should construe and control State constitutions. The Michigan State court has construed the State constitution and rejected the votes cast as were cast against me. I will cite and comment upon the following cases to show the rule that this body has heretofore followed.

In *Farlee vs. Runk*, arising in 1844, in the Twenty-Ninth Congress, it appeared that by counting certain votes cast by students at Princeton, Mr. Runk had a majority. A law of New Jersey was passed March 18, 1844, prohibiting students from voting except at their place of residence.

During the same year a new constitution was adopted, and in the article on suffrage were provisions more liberal than those contained in the statutes. This constitution went into effect September 2, 1844, and in the November following an election was held, and the students of that institution voted, and Mr. Runk received sixteen majority. Here was a direct conflict between the law of the Legislature of March,

1844, and the constitution of the State of September, 1844, and was so treated and considered by the committee. The question of this conflict was brought before the Committee of Elections, a committee presided over by the late Vice President Hamlin, and in their report upon the matter they say:

"Under this statute the materialist alleges that the students were expressly prohibited from voting at said election.

"Your committee entertain a decided opinion to the contrary; for in the first place all doubt is at once removed by the conclusive circumstance that the said act was passed the 13th day of March, 1844, and the new constitution under which this election was held went into operation in September, 1844. The election taking place in November, 1844. The new constitution (the fundamental law) was adopted after that act, and the election was held after the adoption of the new constitution."

Other questions arose in the case, but this distinct one of a conflict between the act of the Legislature and a provision of the State constitution was expressly considered and decided by the committee, and no abstruse nor far-fetched dogmas were permitted to override the organic law of the people, for the committee expressly say in speaking of the legislative enactment:

"That section of the act was, in the opinion of your committee, clearly repugnant to the new constitution, and of course not in force."

I now call your attention particularly to the Oregon case, the one referred to in both the majority and minority reports. With all due deference to the author of the majority report, I cannot perceive how he makes it harmonize with his conclusion in this cause. I cannot on this occasion make more than a brief reference to this Oregon case; but I will present sufficient for a clear understanding of it.

At an election held in June, 1860, in accordance with the constitution of Oregon, Mr. Shiel was elected. The Legislature of that State attempted to change the law of election so as to have it alternate in November of the year of a presidential election, and the alternate election biennially in June. For some reason this plan failed; but in November, 1860, votes were cast for Mr. Thayer and he received the certificate of election. Now, it will be observed if the Legislature had passed the law making the proposed change, then that case and mine would have presented the precise points, but as it was the chairman of the Committee of Elections, the same gentleman who now holds the like position, speaking for the committee, in his able report went into a full examination of the question, and debated the point as to the power of a Legislature in making a change, and he argued it the same as if there were a conflict between them, and gave his reasons, reasons clear, honest, patriotic, and unanswerable, why a State constitution should not be considered a mere rope of sand to be trampled upon and set aside by a mere legislative body deriving its life, its existence, and all its authority from the constitution it seeks to condemn. That no injustice may be done I make a full extract:

"The committee are of opinion that the election held for Representative in Congress on the first Monday in June, 1860, was held in pursuance of, and in conformity with, the constitution and laws of Oregon, and that consequently the contestant is entitled to the seat." "Notwithstanding this constitutional provision, that general elections shall be held on the first Monday of June biennially, the Legislature of Oregon seems to have believed that it had power to fix another time for the election of Representative in Congress."

"The committee have not deemed it necessary to determine what those reasons are for. With all due respect to the opinions of the gentlemen composing that Legislature, they are of opinion that this House must, nevertheless, be the final judge of the meaning of this clause of the constitution of Oregon. And, for the reason stated, the committee have no doubt that the constitution of the State has fixed, beyond the control of the Legislature, the time for holding an election for Representative in Congress, at the general election, so held in pursuance of the constitution, the contestant was duly elected. And in the debate in the House on this case, Mr. Dawes said, 'It occurs to me, sir, that that provision of the Constitution of the United States which says that the time and place shall be specified by the Legislature of each State meant simply that they should be fixed by the constituted authority of the State until Congress itself should fix a time for the election in all the States.'"

It will be observed that this was not the language of the chairman but of the committee, and that, after due examination of the case, "they have no doubt that the constitution of the State has fixed beyond the control of the Legislature the time of holding an election for Representative in Congress."

Change time for place, and the case is identical with my own, and I have no doubt that the constitution of Michigan "has placed beyond the control of its Legislature the place of electing a Representative in Congress."

This was in 1861. Since that we have been making rapid strides. We live in a progressive age. When those cases were before this House State constitutions were of some avail, and their provisions were regarded as all-important. It had not then been attempted to enervate, emasculate, States, but the decisions of their courts, the reserved rights of the people, were paramount. I hope the Congress of the United States will still regard the decisions of the past, and at least hesitate before a new rule be established from which may spring a direful progeny of errors.

In concluding my remarks, I submit the following propositions:

1. That by the Constitution of the United States, and that of Michigan as defined by her supreme court, I had a majority of the legal voters.

2. That from the organization of our Government until 1861 it had never been supposed by any party, nor contended in any State, that a State Legislature had power to order an election outside of and beyond the bounds of a congressional district.

3. That long-continued practice in a particular manner, under a constitutional provision, is authoritative in construing the same; and as the various States had pursued for nearly eighty years the restrictive course of confining the voters to their home voting places, it affords an authority in my behalf difficult to be overcome.

4. That in giving effect to a constitutional provision we must look into the history of the times when it was framed, to ascertain what object its authors had in view; and if at that time all electors were restricted to their home voting places, it becomes an almost unanswerable fact that the construction upon which I rely is the correct one.

5. That the provision in the Federal Constitution authorizing the State Legislatures to fix the times and places for holding congressional elections is to be governed by the preceding proposition, and to be construed by reference to the practice prevailing at the time of its adoption.

6. That in defining the qualifications of electors it was the intention of the framers to leave this whole subject with the people of the several States, allowing them to act as their judgment should dictate, and fix such prerequisites as qualifications as they deemed essential to guard the ballot-box and preserve the purity of elections.

7. That the people of Michigan, in their organic law to protect their rights and as effectually as possible to prevent fraud, without distinction of office, made the voting in the "township or ward" an indispensable qualification of an elector.

8. That from the authorities I have shown, the "place" of voting has, when required, ever been held a qualification, and as it was so made by the constitution of Michigan, and the Federal Constitution requires like qualifications for electors of Representatives in Congress as is required for the State Legislature, it clearly follows that in Michigan no valid votes can be cast beyond the limits of a township or ward by a voter resident therein.

9. That Congress, by setting aside this provision, and allowing votes cast by Michigan soldiers then in other States to control an election for Congress, when those votes are void for every officer within the State, will weaken that respect for law and order that ought to be inculcated and to prevail in every free community.

10. That it is the duty of every class of people to respect the decisions of the highest judicial tribunal of a State upon a question legitimately brought before it, and though its decision be contrary to our prejudices, our judgment, or our wishes, yet it should be sustained as long as it is the constitutional exposition of the law of the land.

11. That it is the duty of this Congress to be governed in adjudicating litigated cases by the established rules laid down by the courts as well as this body; and that, as the case of *Farlee vs. Runk*, in 1844, involved a question of conflict between the constitution of the State of New Jersey and an enactment of its Legislature, in fixing a "place" for voting; and as the report of the honorable chairman in the Oregon case in 1861 announced the opinion of the committee upon the effect of an attempt by the Legislature of Oregon to change the "time," held that these questions were settled by the organic law of the State, and were beyond the control of the Legislature, I therefore insist they each contain the essential characteristic of my own case, and they have settled in my favor the principles by which this House ought to be governed.

And lastly, if one of the foregoing propositions be true, my right to the seat is placed beyond a doubt.

Mr. SMITH. I move that the House adjourn.

The SPEAKER. Does the gentleman from Pennsylvania [Mr. SCOFIELD] desire that this business shall come up after or before the morning hour to-morrow?

Mr. SCOFIELD. I desire to have it hold its place.

The SPEAKER. Then it will come up immediately after the reading of the Journal, to the exclusion of all other business.

LEAVE OF ABSENCE.

Mr. TAYLOR. I ask indefinite leave of absence for my colleague, Mr. HUBBELL.

No objection being made, leave was granted.

ENROLLED BILL SIGNED.

Mr. GLOSSBRENNER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 33) for the relief of Charlotte Bence, widow of Philip H. Bence, late captain of company F, thirtieth regiment Iowa volunteer infantry; when the Speaker signed the same.

DISCONTINUANCE OF EVENING SESSIONS.

Mr. STEVENS. As I do not learn that anybody wishes to speak to-night I ask the consent of the House that the evening sessions for the remainder of this week be dispensed with, or until further ordered.

The SPEAKER. The Chair has asked several gentlemen on the list if they wish to speak, and he has found none that desire to do so this evening.

No objection being made, evening sessions were discontinued until further order.

LAND TITLES IN ST. LOUIS.

Mr. THAYER, from the Committee on Private Land Claims, asked leave to report back House bill No. 15, authorizing documentary evidence of titles to be furnished to the owners of certain lands in the city of St. Louis, with an accompanying report, and to have the bill recommitted to the same committee, and the report printed.

No objection being made, it was so ordered.

Mr. SMITH. I now renew the motion to adjourn.

The question was taken; and there were upon a division—ayes 44, noes 57.

Before the result of the vote was announced, Mr. SMITH called for tellers.

Tellers were ordered; and Messrs. SMITH and SCOFIELD were appointed.

The House again divided; and the tellers reported—ayes 52, noes 44.

So the motion was agreed to; and accordingly (at four o'clock and twenty minutes p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, February 14, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.
The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States transmitting, for the consideration of Congress, a correspondence between the Secretary of State and the minister of France accredited to this Government, and also other papers, relative to a proposed international conference at Constantinople upon the subject of cholera; which, on motion of Mr. SUMNER, was referred to the Committee on Foreign Relations, and ordered to be printed.

The PRESIDENT *pro tempore* also laid before the Senate a communication from the Secretary of State, transmitting, in obedience to law, a report on the commercial relations of the United States with foreign nations for the year ended September 30, 1865; which was ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. WADE presented a petition of assistant assessors of the third district of Ohio, praying for an increase of compensation; which was referred to the Committee on Finance.

Mr. LANE, of Indiana, presented a memorial of citizens of Indiana and Illinois, remonstrating against the restoration of any State lately in rebellion until adequate security has been obtained against a renewed attempt to secede, against any representation in Congress beyond a just proportion of the voting population, against any payment of the rebel debt or for emancipated slaves, and against any distinctions in State constitutions on account of color or descent; and praying for such an amendment of the Constitution of the United States as will enforce the foregoing provisions; which was referred to the joint committee to inquire into the condition of the States which formed the so-called confederate States of America.

He also presented a petition of manufacturers of agricultural implements, praying for a reduction of the tax on sales of their manufactures; which was referred to the Committee on Finance.

He also presented the petition of Anna G. Gaston, widow of Lieutenant Albert G. Gaston, late adjutant of the sixteenth regiment Virginia volunteers, who is represented to have died from disease contracted while in the service of the United States, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. SUMNER presented a petition of citizens of Delaware county, Pennsylvania, praying for an amendment of the Constitution which will forever prevent any State from making any distinction in civil rights and privileges on account of race, color, or descent; which was referred to the joint committee on reconstruction.

He also presented three petitions of citizens of New England, praying that in the adoption of any measures establishing a new basis of representation there may be no distinction in the qualification of voters on account of race or color; which were referred to the committee to inquire into the condition of the States which formed the so-called confederate States of America.

Mr. SUMNER. I also present a petition from women of the United States, asking for an amendment of the Constitution that shall prohibit the several States from disfranchising any of their citizens on account of sex. I present this petition at this time, as it has been sent to me for this purpose; but I take the liberty of saying that I do not think this a proper time for the consideration of that question. I move its reference to the joint committee on reconstruction.

The motion was agreed to.

Mr. CHANDLER presented the petition of Thomas F. Wilson, United States consul at Bahia, Brazil, praying for compensation for

losses alleged to have been sustained by him in consequence of his being compelled to abandon the consulate by the action of the Brazilian Government; which was referred to the Committee on Commerce.

He also presented two memorials of citizens of Michigan, remonstrating against the restoration of any State lately in rebellion until adequate security has been obtained against a renewed attempt to secede, against any representation in Congress beyond a just proportion of the voting population, against any payment of the rebel debt or for emancipated slaves, and against any distinctions in State constitutions on account of race, color, or descent, and praying for such amendments to the Constitution of the United States as will enforce the foregoing provisions; which were referred to the joint committee on reconstruction.

Mr. CRAGIN presented the petition of George W. Johnson, and others, citizens of Buffalo, New York, praying for the adoption of the proposed constitutional amendment that no State shall make any distinction in civil rights and privileges among naturalized citizens of the United States within its limits, or among persons born on its soil of parents permanently resident there, on account of race, color, or descent; which was referred to the joint committee on reconstruction.

Mr. HENDERSON presented the petition of William N. Smith, praying for compensation for property burned in the town of Glasgow, Missouri, by order of the United States military officers on the 15th of October, 1864; which was referred to the Committee on Claims.

He also presented the petition of Washington Crosland, praying for compensation for damages alleged to have been occasioned by the seizure and use of his property in St. Louis, Missouri, by the United States authorities for railroad purposes; which was referred to the Committee on Claims.

Mr. HARRIS presented a memorial of manufacturers of agricultural implements, remonstrating against the heavy and burdensome tax now imposed on them, and praying for its reduction; which was referred to the Committee on Finance.

Mr. NYE presented a petition of the Humboldt Canal Company, and of the Governor, Lieutenant Governor, and other State officers of the State of Nevada, praying Congress to grant the right of way for a canal in that State; which was referred to the Committee on Public Lands.

Mr. HOWE presented the memorial of J. W. Warren, of Albany, Wisconsin, praying for compensation for damages alleged to have been sustained by him in consequence of the rescinding of the acceptance of his bid by the Postmaster General to carry the mail on the route from Mill Haven to Grand Rapids, in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. SPRAGUE. I desire to present a petition, in the form of a letter, of George W. Lewis, treasurer of the Union Horse Shoe Company, of Providence, Rhode Island, with reference to taxation of the product of the concern in which he is treasurer; and I desire to read a portion of it:

"As stated, the present revenue tax on spikes, nails, rivets, and nuts, articles of about the same value and cost as horse and mule shoes, cables, and toe-calks, pay a tax of \$2 40 per ton, while the articles of shoes, toe-calks, and cables pay a tax of six per cent., equal to ten or twelve dollars per ton. We think it impossible to assign a reason why one should pay a greater tax than the other."

I move its reference to the Committee on Finance.

The motion was agreed to.

STATE OF TENNESSEE.

Mr. GRIMES. I present the memorial of J. Edward Cooper, Horace Maynard, John W. Leftwich, and William B. Stokes, who claim to be Representatives-elect from the State of Tennessee to the House of Representatives, in which they represent that by the operation of the recent rebellion the officers of that State abdicated their offices, and left the govern-

ment without any agents to carry it on; that in this attitude of affairs one of their citizens, Andrew Johnson, was, on the 3d of March, 1862, by the President of the United States appointed military governor of the State, which office he continued to hold until the 3d of March, 1865. To remedy this state of things, the loyal people of the State of Tennessee, by their delegates, assembled on the 8th of January, 1865, in convention, at the capital of the State, Nashville, to take such steps as wisdom might direct to restore the State of Tennessee to its once honored status in the great national Union. Certain amendments were proposed to the State constitution, made necessary, in the opinion of the convention, by the altered relations of slavery, and by the action of persons engaged in the rebellion, who had temporarily usurped the machinery of the State government, and by the vacancy of the several State offices, for the filling of which there was at that time no provision by law. These amendments to the constitution the convention submitted to the vote of their constituents on the 22d of February, 1865, and they were by them adopted. While these proceedings met with the concurrence and coöperation of the military governor, they were the spontaneous action of the loyal people of Tennessee. Having thus provided the reorganization of the government under her preëxisting constitution so amended, the work was completed by the election of a Governor and Legislature on the 4th of March following, and on the 5th of April they entered upon the duties of their respective offices.

A copy of the several amendments incorporated into the organic law of the State, and of the proceedings of the Legislature at its first session, certified officially by the Secretary of State and published by authority, are herewith appended and adopted as a part of the memorial. The government so organized has been unresisted and has had uninterrupted jurisdiction of the State since. The memorialists respectfully submit that the government is republican in form as well as in spirit, and they ask that it may be recognized and its perpetuity guaranteed as the true and proper government of the State of Tennessee, entitled to the same immunities and prerogatives as the State enjoyed by virtue of an act of Congress approved on the 1st of June, 1796, until her relations with the Government were disturbed by the treason of a portion of the people.

I move that the memorial and the accompanying constitutional amendments and legislative proceedings be referred to the joint committee of fifteen.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. HENDERSON, from the Committee on Claims, to whom was referred the petition of John Ahern, praying to be indemnified for loss on his contract with the acting assistant provost marshal general of the northern division of New York, for board and rations furnished to soldiers and recruits for the United States Army at the city of Albany, submitted an adverse report; which was ordered to be printed.

Mr. HARRIS, from the Committee on Private Land Claims, to whom was referred a bill (S. No. 110) for the relief of Samuel D. Leconte, reported adversely thereon.

PRINTING OF A BILL.

On motion of Mr. DIXON, it was

Ordered, That the joint resolution (S. R. No. 29) for the transfer of funds appropriated for the payment of salaries in the Post Office Department to the general salary account of that Department be printed for the use of the Senate.

BILLS INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 139) to provide for surveys of the upper Mississippi and the Minnesota rivers; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 140)

to grant the right of way to the Humboldt Canal Company through the public lands of the United States; which was read twice by its title, and referred to the Committee on Public Lands.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 96) authorizing an increase of the clerical force in the Post Office Department.

The message further announced that the House of Representatives had passed a joint resolution (H. R. No. 57) authorizing the Secretaries of War and Navy to place hulks and vessels at the disposal of commissioners of quarantine or other proper authorities at ports of the United States; in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed an enrolled bill (H. R. No. 33) for the relief of Charlotte Bence, widow of Philip H. Bence, late captain of company F, thirtieth regiment Iowa volunteer infantry; which thereupon received the signature of the President *pro tempore*.

METROPOLITAN INSURANCE COMPANY.

Mr. WILLEY. If there be no further morning business, I move that the Senate take up the bill (S. No. 98) to incorporate the Metropolitan Fire and Marine Insurance Company of the District of Columbia.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

It proposes to declare William E. Spalding, John Van Reswick, Charles W. Boteler, jr., Augustus E. Perry, James L. Barbour, George W. Corcoran, Thomas P. Morgan, H. A. Chadwick, James Y. Davis, F. A. Lutz, Samuel P. Brown, John L. Kidwell, William Galt, John M. Barclay, John F. Ellis, William M. Shuster, John F. Callan, James T. Close, Charles Kloman, Frederick Koonen, and John B. Turton, and their present and future associates, a body politic and corporate by the name and style of the Metropolitan Fire and Marine Insurance Company of the District of Columbia, with the usual powers of a corporation, with a capital stock of ten thousand shares of \$100 each.

The Committee on the District of Columbia reported the bill with an amendment to strike out all of the bill after the second section, in the following words:

SEC. 3. *And be it further enacted*, That the affairs of this company shall be managed by a board of nine directors, to be elected annually from among the stockholders, and to continue in office until successors be chosen; five of whom shall be a quorum for transacting business, but a smaller number may adjourn from time to time. Vacancies happening in the board may be filled by the remaining directors for the balance of the year for which they were elected. The board shall choose one of their number as president, and may appoint a secretary and such other officers as may be necessary for conducting the affairs of the company.

SEC. 4. *And be it further enacted*, That the capital stock of this company shall consist of ten thousand shares of \$100 each, to be paid in such installments as the directors may determine.

SEC. 5. *And be it further enacted*, That the directors may declare such semi-annual dividends of the profits of the company as they may deem proper; but no dividend shall be declared of more than six per cent. per annum unless the company have on hand at the time a surplus of at least \$20,000.

SEC. 6. *And be it further enacted*, That the surplus funds of this company may be invested in such securities as the directors may deem expedient.

SEC. 7. *And be it further enacted*, That within twenty days after the passage of this act, the persons named therein, or any five of them, shall, after ten days' public notice, open books of subscription to the capital stock of the company, and as soon as ten thousand shares shall have been subscribed for, the stockholders shall be called together, by a notice of at least ten days in some Washington newspaper, when they shall proceed to the organization of the company.

And to insert in lieu thereof:

SEC. 3. *And be it further enacted*, That the stock of said corporation shall not be less than \$100,000, and may at any time hereafter be increased, at the pleasure of said corporation, to any sum not exceeding \$1,000,000, and shall be divided into shares of \$100 each; and each subscriber to said capital stock shall, at the time of subscribing therefor, pay into the treasury of said corporation an installment of twenty dol-

lars on each share of said stock by him subscribed; and shall, before said corporation shall commence business, secure the payment of the remaining eighty dollars on each share by him so subscribed, either by mortgage or mortgages of real estate, or by indorsed promissory note or notes, or by pledge of bonds or stocks as collateral security, said mortgages, notes, bonds, and stocks to be approved in writing by the directors of said corporation, and two thirds of the corporators herein named; and said corporation shall at all times have a lien upon the stock of such stockholder for all indebtedness of such stockholder to said corporation; and said securities shall, in all cases, be payable in such installments and at such stated periods as said directors may require, in and by a call or calls published in one or more of the newspapers published in the city of Washington: which said notes and mortgages shall in no case be sold or transferred by said corporation for a sum less than the par value thereof in cash: *Always provided*, That the call for the first installment upon said securities shall be published at least thirty days before the said installment is payable. And no stockholder of said corporation shall, after said corporation shall have commenced business, be indebted to said corporation, either as drawer or indorser, or in any other way, directly or indirectly, to an amount exceeding eighty per cent. on each share of the stock so subscribed or held by him.

SEC. 4. *And be it further enacted*, That all the business affairs of said corporation shall be managed and controlled by a board of not less than nine directors, who shall be chosen by ballot, solely from among and by the stockholders, which choice shall be made by a majority of votes cast; and said directors shall hold their respective offices at pleasure, for one year, and until others are chosen in their room; and the annual meetings for the choice of said directors shall, after the first election, be held in the city of Washington on the first Wednesday of January in each year, or within one month thereafter, as shall be appointed by said board of directors; and none but a stockholder in said corporation shall be eligible to the office of or shall act as a director thereof.

SEC. 5. *And be it further enacted*, That the said directors shall elect one of their number to be president of said corporation, who shall receive such salary or compensation as a majority of said directors shall determine; and in case of the absence of the president, or his inability or neglect to perform the duties of his office, said directors may, as often as necessity may require, elect from among themselves a president for the time being; and in case any vacancy shall occur in said board by death, resignation, or otherwise, between the annual meetings of the stockholders, said directors may fill such vacancy by choosing, from among said stockholders, a director or directors, who shall continue in office at pleasure until a successor or successors shall be chosen. And the said directors shall have power to appoint a secretary and treasurer of said corporation, who shall give bonds to the satisfaction of said directors for the faithful performance of their respective duties; and shall also have power to establish any and all such agencies in the District of Columbia and elsewhere, and appoint such agents, clerks, and other officers as they shall deem necessary and convenient, and also perform such other acts and exercise such other powers as they shall deem expedient and best for the interest of said corporation, and the well ordering of its affairs.

SEC. 6. *And be it further enacted*, That the said directors shall determine how many of their own body shall constitute a quorum for the transaction of business, and when that quorum is formed, if the president is not present, the directors shall appoint from among their number a president for the time being; and said directors shall have the power to prescribe the form and mode of issuing policies, to establish the rates and mode of payment of premiums, and to determine what disposition shall be made of the profits, if any, arising from the business of said corporation, either from premiums, interest, or loans, or in any other way whatever: *Provided*, That no dividend shall be declared for more than six per cent. per annum, unless the company have on hand, at the time, a surplus of at least \$20,000.

SEC. 7. *And be it further enacted*, That the president shall have power at any time to call a special meeting of the stockholders; and it shall be his duty to call such special meeting whenever thereto requested by the holders of one fourth of said stock; and public notice shall be given at least two weeks previous to any meeting of the stockholders, whether annual or special, by advertising in two newspapers published in the city of Washington; and all questions at any meeting of said stockholders shall be determined by a majority of votes cast; and each of said stockholders shall be entitled to a number of votes equal to the number of shares he may be the owner of: *Provided*, That no stockholder shall, by virtue of the number of shares he may be the owner of, in any case be entitled to more than two fifths of the whole number of said shares; and said stockholders shall be entitled to vote in person or by proxy duly appointed.

SEC. 8. *And be it further enacted*, That said corporation may issue policies stipulated to be with or without participation of profits on the part of the insured; and said corporation shall be liable to make good and to pay to the several persons who may or shall be insured thereby, for all losses sustained by them on the property insured by reason of fire and the other hazards aforesaid insured against, in accordance with the terms of the contract of insurance and with the form of the policies issued by said corporation; which said policies and all other contracts of said corporation may be made with or without the common seal of said corporation, and shall be signed by the president and countersigned by the secretary of said corporation, and being so signed and executed, and the premiums thereon being paid, shall be obligatory on said corporation. No stockholder shall be responsi-

ble in his private capacity and estate for any debt or liability of said corporation; but in case of fraud or intentional violation of the charter, the person or persons guilty thereof shall be personally liable to said corporation or to the assured, as the case may be.

SEC. 9. *And be it further enacted*, That the capital stock of the said corporation shall be transferable according to the by-laws and regulations prescribed by the directors; and every subscriber to the capital stock of said corporation who shall neglect to pay the installments aforesaid, or to secure in the manner aforesaid the residue of each share by him subscribed, shall forfeit to said corporation his share or shares, and all payments made thereon, together with all profits that may have accrued thereon.

SEC. 10. *And be it further enacted*, That the corporators named in the first section of this act, or a majority of them, are hereby authorized to make and receive subscriptions to the capital stock of the company hereby incorporated, and they, or a majority of them, are hereby empowered to open books for the subscriptions, in the city of Washington, at such time and place as shall be appointed by them, of which time and place two weeks' previous notice shall be given by publishing the same in two newspapers published in the said city of Washington; and should there be more than one hundred thousand dollars of said capital stock subscribed at said meeting, or at any other time or place to which said meeting may be adjourned by said corporators or a majority of them, then the amount last aforesaid shall be apportioned by them as they may deem best among the subscribers; and the corporators named in the first section of this act, or a majority of them, are hereby authorized to call a meeting of the stockholders, at some place appointed by them in the city of Washington, within thirty days after the capital stock to the amount last aforesaid shall have been subscribed, which meeting may be organized by the appointment of a chairman, and such committee or committees as may be deemed proper; and such meeting may adjourn from time to time, until said corporation is organized in conformity with this charter. The capital stock shall be subscribed to the amount of \$100,000, before said directors shall be chosen, and before said corporation shall make any insurance; and as soon as the installments upon said last-named amount shall have been paid, and the remainder of the stock secured as provided in the third section of this act, said corporation may commence business.

SEC. 11. *And be it further enacted*, That should it at any time be deemed advisable by said corporation to increase its capital stock, as is provided in the second section of this act, then a new subscription for such additional stock as may be desired, not exceeding the amount herein authorized, shall be opened by the directors of said corporation, at such time and place, and upon such notice as they may deem best; and in case the subscription should exceed the amount of such additional stock, then the same shall be apportioned among the subscribers therefor, by the said directors, at their discretion.

SEC. 12. *And be it further enacted*, That nothing in this act shall be so construed as to authorize the said corporation to issue any note, token, device, scrip, or other evidence of debt, to be used as a currency.

SEC. 13. *And be it further enacted*, That it may be lawful for Congress hereafter to alter, modify, or repeal the foregoing act.

Mr. WILLEY. I move to amend the amendment in section three, lines sixteen and seventeen, by striking out after the word "corporation" the words "and two thirds of the incorporators herein named;" so that it will read:

Said mortgages, notes, bonds, and stocks to be approved in writing by the directors of said corporation, and said corporation shall have at all times a lien upon the stock, &c.

I think the object is sufficiently secured without repeating those words.

The amendment to the amendment was agreed to.

The amendment as amended was adopted.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading; was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a joint resolution (H. R. No. 66) relative to the courts and post office of New York city, in which it requested the concurrence of the Senate.

STURGEON BAY SHIP-CANAL.

Mr. WILSON. I move to take up Senate bill No. 85.

The motion was agreed to; and the consideration of the bill (S. No. 85) granting to the State of Wisconsin a donation of public lands to aid in the construction of a breakwater and harbor and ship-canal at the head of Sturgeon bay, in the county of Door, in said State, to connect the waters of Green bay with Lake

Michigan, in said State, was resumed as in Committee of the Whole.

It provides for granting to the State of Wisconsin, for the purpose of aiding that State in constructing and completing a breakwater and harbor and ship-canal to connect the waters of Green bay with the waters of Lake Michigan, two hundred thousand acres of public lands, to be selected in subdivisions agreeably to the United States survey, by an agent or agents appointed by the Governor of the State, subject to the approval of the Secretary of the Interior, from lands subject to private entry. The selections are to be made from sections of land nearest the location of the harbor and canal not otherwise appropriated, and not from lands designated by the United States as "mineral" nor from lands to which the rights of preemption or homestead have attached. The lands granted are to be subject to the disposal of the Legislature of the State, or, if the Legislature shall not be in session, or shall adjourn within ten days after the passage and approval of the act, they are to be subject to the disposal of the Governor and board of commissioners of school, university, and swamp lands of the State. The canal is to be and remain a public highway for the use of the Government of the United States, free from toll or charge upon the vessels of the Government or upon vessels employed by it in the transportation of any property or troops of the United States.

Before it shall be competent for the State to dispose of any of the lands, the plan of the breakwater and harbor and the route of the canal shall be established, and a plat or plats thereof filed in the office of the War Department, and a duplicate filed in the office of the Commissioner of the General Land Office. If the breakwater, harbor, and canal, shall not be completed within three years from the passage of the act the lands granted and remaining unsold are to revert to the United States.

The Legislature of the State is to cause to be kept an accurate account of the sales and net proceeds of the lands granted, and of all expenditures in the construction, repairs, and operating of the canal, and of its earnings, and to return a statement of the same annually to the Secretary of the Interior. Whenever the State shall be fully reimbursed for all advances made for the construction, repairs, and operating of the canal, with legal interest on all advances until the reimbursement of the same, or upon payment by the United States of any balance of such advances over such receipts from the lands and canal, with interest, the State is to be allowed to tax for the use of the canal only such tolls as shall be sufficient to pay all necessary expenses for the care, charge, and repair of the same.

The first amendment of the Committee on Public Lands was in section one, line twelve, after the words "made from" to insert "alternate and odd-numbered," so as to read, "that said selections shall be made from alternate and odd-numbered sections of land nearest the location of said harbor," &c.

The amendment was agreed to.

The next amendment was to add at the end of the bill, as section six, the following:

Sec. 6. And be it further enacted, That said ship-canal shall be at least one hundred feet in width, with a depth of water not less than thirteen feet.

The amendment was agreed to.

Mr. FESSENDEN. I should like to know something about the bill. Where does it come from, and what are the peculiar reasons for making a grant of land to a State for the purpose of building a canal and breakwater? It seems to be rather a new thing.

Mr. HOWE. No, Mr. President, it is not a new thing, not a new thing either to the Senate or to Congress. A bill passed this body making an appropriation of land for this identical work at the last session, and during the last session another bill passed making a grant of lands to the State of Michigan for precisely such a work at the Portage near Lake Superior. Sturgeon bay, which makes out of Green bay, at its head comes within about a mile and a quarter

of Lake Michigan. A cut of a mile and a quarter in length will enable vessels to pass from the waters of Green bay to lake Michigan, and it will save to the commerce between those two sheets of water a distance of about one hundred miles. Besides that, it will make a harbor of refuge for all the commerce on the lake and the bay both, where such a harbor is very much needed, at a point where there is not a harbor within eighty or ninety miles. The Committee on Public Lands have unanimously recommended this measure at this session as they did the last session, and the Senate then agreed to it. It did not, however, get through the other House, but both Houses of Congress agreed to just such a grant for just such a work in the State of Michigan. The committee were entirely satisfied of the importance of this work and the propriety of it, and the bill appropriates land and not money, and it requires the work to be completed within three years. It appropriates land which you have, instead of money which you have not. Land we have and can spare; money we are a little short of. It effects the double purpose of building a canal between these two sheets of water and furnishing a harbor.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading; was read the third time, and passed.

HOUSE BILLS REFERRED.

The joint resolution (H. R. No. 57) authorizing the Secretaries of War and Navy to place hulks and vessels at the disposal of commissioners of quarantine or other proper authorities at ports of the United States, was read twice by its title, and referred to the Committee on Commerce.

The joint resolution (H. R. No. 66) relative to the courts and post office of New York city, was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

JANE W. NETHAWAY.

Mr. HARRIS. I move that the Senate proceed to the consideration of Senate bill No. 115.

The motion was agreed to; and the bill (S. No. 115) for the relief of Jane W. Nethaway was read the second time, and considered as in Committee of the Whole.

It directs the Secretary of the Interior to place upon the pension rolls the name of Jane W. Nethaway, of the town of Ohio, county of Herkimer, and State of New York, widow of David Nethaway, late of the eighty-first regiment New York volunteers; the pension to begin on the 20th day of September, 1864, and to continue during her widowhood, at the rate allowed by law to the widow of a first lieutenant. It also proposes to direct the proper accounting officers of the Treasury to settle and adjust the accounts of David Nethaway, late of the eighty-first regiment New York volunteers, as a second lieutenant, from June 3, 1864, to August 11, 1864, inclusive, and as a first lieutenant from August 12, 1864, to September 29, 1864, inclusive.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

APPORTIONMENT OF REPRESENTATION.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is the joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States, upon which the Senator from Missouri is entitled to the floor. The Chair would correct an error into which he fell yesterday in deciding that the amendment proposed by the Senator from Massachusetts, [Mr. SUMNER.] at the time he proposed it, was not in order. In the opinion of the Chair, on consideration, it was in order; and that is the pending question.

Mr. HENDERSON resumed and concluded the speech which he began yesterday. [It will be published in the Appendix.]

Mr. WILLIAMS obtained the floor.

Mr. POMEROY. With the consent of the

Senator from Oregon, I move that the further consideration of this subject be postponed until to-morrow.

Mr. SUMNER. Let us go into executive session.

Mr. FESSENDEN. I hope not. We never shall get through at this rate. Two or three days of this week have been spent already. If my friend from Oregon would rather speak in the morning, the Senator from New Hampshire, [Mr. CLARK,] who rose at the same moment, is perfectly ready to go on this evening. If my friend from Oregon will give way, or prefers speaking in the morning, the Senator from New Hampshire will go on now. It is of no sort of use to keep going on in this way.

Mr. WILLIAMS. I am willing to give way to the Senator from New Hampshire to go on this afternoon.

Mr. POMEROY. Then I withdraw the motion.

Mr. CLARK. Mr. President, we are now considering (for that is the real question) whether we shall recommend to the States of the Union an amendment of the Constitution granting to all the people of this country, both white and black, the right of suffrage; and as I state this question to the Senate, I cannot help recurring to what occurred in the Senate of the United States about six years ago. As the traveler who has passed a difficult road, when he comes to some high hill looks back to see the difficulties which he has passed, I turn back, and I ask the Senate to turn back, to consider what occurred, as I say, about six years ago.

In the session of 1859-60, in the old Senate Chamber, a bill was brought into the Senate of the United States by the then Senator from Mississippi, (Mr. Brown,) who was chairman of the Committee on the District of Columbia, a place which my friend from Maine [Mr. MORRILL] now so worthily fills—a bill in aid of the education of the children of this District. The bill proposed to grant certain fines and forfeitures to the use of the schools, and also proposed to tax the people ten cents on every hundred dollars of the property in this District for the purpose of educating the children. That bill proposed to tax the white man and the black man alike, and fearing that the property of the black man would be taxed to educate the child of the white man I proposed an amendment to the bill (that the tax collected from the black man should go to educate the black man's child. There was also a further provision of the bill that if the District raised a certain amount of money for the education of the children the Government of the United States would appropriate a like amount from the Treasury. If, for instance, you raised \$20,000 by taxes on the people in the District, the Government should pay \$20,000 more to be added to it for the education of the children of the District. I moved the amendment that no child whose father paid any portion of that tax for the education of the children should be excluded from the benefit of it, be he white or black; but that there might be no inconvenience felt I agreed to an amendment that the black child should not be put into the same school with the white child, but that they should be educated in different schools to be provided for them; but if the black man paid for educating the children of the District his child should be educated. There was at once an outcry, "Why, this is social equality;" and they would not consent that the black child should be educated, even with the money of the black father.

That amendment was declared to be carried in the Senate of the United States, and after declaring it was carried the Senate adjourned, and after the adjournment the chairman of that committee, Mr. Brown, appealed to me personally if I would not withdraw it. I said to him "No, I would never withdraw it; if you tax the black man, the black man should have a part of the money that you raise from him to educate his child."

After some days the bill came up again in the Senate of the United States, and the Sen-

ator from Mississippi, the chairman of the Committee on the District of Columbia, got up and in open Senate appealed to me, "Will the Senator from New Hampshire withdraw that amendment?" "Never, Mr. President." "Then," said the Senator from Mississippi, "I will lay the bill aside, and will not ask the Senate to pass it;" and so the whole scheme failed, because they would not consent that the money of the black man should educate his own child, and they could not vote it to educate a white child.

Now I turn back to that time six years ago, and I mark the road that we have come along. I mark where we struck the chains from the black man in this same District, whose child you could not educate six years ago. I mark in this Senate, at this very session, that we have passed a bill in aid of the Freedmen's Bureau to secure to him his rights in this District. I mark that all through this nation we have stricken off the chains of the slave and secured to the slave his rights elsewhere in the Union; and we have now come to the height of the hill and are considering whether we will not enfranchise those very black men through all the country.

Mr. President, when that bill, to which I have referred, was pending in the Senate of the United States, Mr. Mason, then a Senator from Virginia, who occupied relatively the same position in the old Chamber that my friend from New York [Mr. HARRIS] occupies here, got up and stated unblushingly and openly in the Senate of the United States—I think my friend from Massachusetts [Mr. WILSON] will remember it—that it always had been the policy of the State of Virginia, his "honored State," to keep the negro in ignorance. I read his words:

"Mr. MASON. I say that it is the established policy, and has been probably for a century—I do not know how long a time—of my own State, and I think equally so of the State of Maryland, the adjoining State, and, so far as I am informed, of the legislation of all the slave States, to prohibit the education of the negro race, and in my judgment a wise policy, an expedient and a just one. I am not going into the reasons for the policy, for that does not become me here. But such is the policy; and in my opinion the proper and wise administration of the affairs of the District of Columbia requires our legislation here to conform to the policy of the adjoining States in reference to this population, bond or free."—*Congressional Globe, Thirty-Sixth Congress, first session, p. 1080.*

Now, Mr. President, let me draw the contrast. Where is that Senator from Virginia? An outcast in a foreign land. Where is that Senator from Mississippi? A rebel in his own land. We propose to elevate the freedmen to all the dignities and privileges of a citizen, and to make him the equal of other men in regard to political privileges. Verily, Mr. President, the balances of God are just and true, and they need no sealer of weights and measures to test the allotments of divine compensation and retribution.

Mr. President, I am not one of those who believe or assent to the declaration that this is the Government of the white man, and then offer it as an excuse for neglecting or ostracizing the black man; but I hold it to be the Government of all men, and for all men and all classes of men. It is its crowning glory that no citizen or person living under it is so high or so powerful that he can refuse or deny its obligation; and none so low that its protection cannot reach him. Its great strength is in the universality of its principles, and its chief danger in attempts to narrow, contract, crib, and confine their application.

Whence comes this idea, Mr. President, that this is the white man's Government? Its founders did not so make it. They laid its foundations upon the rights of man—not of white men, or black men, but all men; and it was the sad, the wretched mistake we made in denying the application of this principle to the black man which has devastated the land with civil war and deluged it in blood; and every battle-field, and every soldier's grave, and every wound, and every drop of blood shed, and every twinge of pain and anguish therefor and thereby, is but the declaration of Omnipotence

that these men have rights which this Government must respect.

Mr. President, the question of the negro has troubled the nation long. His condition as a slave troubled you; and his condition as a freedman troubles you. Are you sick, heart-sick of this trouble? And do you inquire, when will it end? I will tell you. When you have given him equal rights, equal privileges, and equal security with other citizens; when you have opened the way for him to be a man. Then will you have rendered exact justice which can alone insure stability and content.

Sir, if I ever did hold that this Government was made or belonged exclusively to the white man, I should now be ashamed to avow it, or to claim for it so narrow an application. The black man has made too many sacrifices to preserve it, and endangered his life too often in its defense to be excluded from it. The common sentiment of gratitude should open its doors to him, if not political justice and equality.

Mr. President, my house once took fire in the night time; my two little boys were asleep in it, when I and their mother were away. The neighbors rushed into it, saved the children, and extinguished the flames. When I reached it, breathless and exhausted, the first exclamation was, "Your children are safe." Can you tell me how mean a man I should have been, and what execration I should have deserved, if the next time those neighbors came to my house I had kicked them out of it? Tell me then, I pray you, why two hundred thousand black men, most of whom volunteered to fight your battles, who rushed in to save the burning house of your Government, should not be permitted to participate in that Government which they helped to preserve? When you enlisted and mustered these men, when your Adjutant General went South and gathered them to the recruiting office, and persuaded them to join your ranks, did he, or any one, tell them this was the white man's Government? When they came to the rendezvous did you point to the sign over the door, "Black men wanted to defend the white man's Government?" When you put upon them the uniform of the United States did you say, "Don't disgrace it; this is the white man's Government?" When they toiled on the march, in the mud, the rain, and the snow, and when they fell out of the ranks from sheer weariness, did you cheer them on with the encouragement "that this is the white man's Government?"

When they stood on picket on the cold, stormy night to guard you against surprise, did you creep up and warm their congealing blood with an infusion of the white man's Government? When, with a wild hurrah, on the "double quick," they rushed upon the enemy's guns, and bore your flag where men fell fastest and war made its wildest havoc, where explosion after explosion sent their mangled bodies and severed limbs flying through the air, and they fell on glacis, ditch, and scarp and counterscarp, did you caution them against such bravery, and remind them that "this was the white man's Government?" And when the struggle was over, and many had fought "their last battle," and you gathered the dead for burial, did you exclaim, "Poor fools! how cheated! this is the white man's Government?" No, no, sir; you beckoned them on by the gerdon of freedom, the blessings of an equal and just Government, and a "good time coming."

And can you now deny it to them?

Do you say they have that freedom? Slavery is abolished. True; but what is that freedom worth which they have no means to maintain, and which depends upon the uncertain and undefined protection of another?

"White man's Government," do you say? Go to Fort Pillow; stand upon its ramparts and in its trenches, and recall the horrid butchery of the black man there because he had joined you against rebellion, and then say, if you will, "This is the white man's Government."

Go to Wagner. Follow in the track of the Massachusetts fifty-fourth, as they went to the terrible assault, with the guns flashing and roar-

ing in the darkness. Mark how unflinchingly they received the pelting iron hail into their bosoms, and how they breasted the foe! See how nobly they supported, and how heroically they fell with their devoted leader; count the dead; pick up the severed limbs; number the wounds; measure the blood spilled; and remember why and wherefore and in whose cause the negro thus fought and suffered, and then say, if you can, "This is the white man's Government."

Go to Port Hudson, go to Richmond, go to Petersburg, go anywhere and everywhere, to every battle-field where the negro fought, where danger was greatest and death surest, and tell me, if you can, "that this is the white man's Government."

And then go to Salisbury and Columbia and Andersonville, and as you shudder at the ineffable miseries of those dens, and think of those who ran the dead-line, and were not shot, but escaped to the woods and were concealed and fed and piloted by the black men, and never once betrayed, but often enabled to escape and return to their friends; and then tell me if "this is a white man's Government."

Then, sir, follow one of these exchanged prisoners to his home. See how lovingly the mother clasps the emaciated form of her "darling soldier boy" in her arms; how carefully she feeds and nurses him, how gently she tends him, how constantly she watches over him, and as she bends her ear to hear him tell how the black man saved him, whisper in the other ear, "This is the white man's Government."

Ay, sir, go to the grave of one of these devoted black men, where they lie all along the march of your armies, and upon every battle-field and rampart, and, remembering there by what fiery trials and struggles this nation has been saved, think of him who sleeps beneath your feet, and how and why he died, and then give thanks to God that you are not like other men, especially this poor negro, and that the "white man's Government" has been preserved.

Oh, what a cruel mockery to say to such men, as did the Senator from Pennsylvania, that "a right to vote was but a chance to get their heads broke in contact with a superior race." When these men went forth to fight did that Senator think of broken heads, or is it a new solicitude, born only when they ask to be acknowledged as citizens of a common country to which they have devoted their lives?

Galileo, to borrow an illustration used by the Senator from Wisconsin, [Mr. HOWE,] asserted, in spite of the Inquisition, "that the earth did move;" but, ah me! Mr. President, it seems sometimes to go backward.

In ancient Rome, when one not a citizen deserved well of the republic, he was rewarded by the rights of citizenship, but we deny them, and here in America—not in the confederate States of America, where, attempting to found a government upon slavery and the subjection of one race to another, it would have been fitting, if anywhere, but in the United States of America, the cardinal principle of whose Government is the equality of all men. After these black men have so nobly fought to maintain the one and overthrow the other, when they ask us for the necessary right of suffrage to protect themselves against the rebels they have fought, and with whom they are compelled to live, we coolly reply, "This is the white man's Government." Nay, more, and worse, we have refused it to them, and allowed it to their and our worst enemies, the rebels. Sir, from the dim and shadowy aisles of the past, there comes a cry of "Shame! shame!" and pagan Rome rebukes Christian America.

But not chiefly, Mr. President, do I advocate this right of the black man to vote because he has fought the battles of the Republic and helped to preserve the Union, but because he is a citizen and a man, one of the people, one of the governed, upon whose consent, if the Declaration of Independence is correct, the just powers of the Government rest; an intelligent being, of whom and for whom God will

have an account of us, individually and as a nation; whose blood is one with ours, whose destinies are intermingled and run with ours, whose life takes hold on immortality with ours, and because this right is necessary to develop his manhood, elevate his race, and secure for it a better civilization and a more enlightened and purer Christianity.

Mr. President, the honorable Senator from Nevada [Mr. STEWART] the other day asserted in this Chamber that if we conferred suffrage on the negro it was a boon—a gift from us to him—not something to which he had a right, but which we conceded or gave; and I understood the honorable Senator from Ohio [Mr. WADE] to assent to this idea. Sir, I dissent entirely—

Mr. WADE. What proposition does the Senator say I assented to?

Mr. CLARK. I will state it again, because I desired to call that Senator's attention to it, for I thought the expression was unguarded if he meant to make it. I say the honorable Senator from Nevada the other day asserted in this Chamber that if we granted the negroes the privilege of voting it would be a boon from us to them, a gift which we conferred, and not a right which belonged to them; and I understood the Senator from Ohio to assent to that position.

Mr. WADE. If I did, I did not understand it.

Mr. CLARK. I think the Globe will so show him, but I think he did not understand the proposition, and it is for that reason that I call his attention so particularly to it.

Mr. WADE. I entirely deny any such inference as being a sentiment of mine.

Mr. CLARK. So I supposed; for I think it would be in opposition to all his utterances and his whole life. The black man has just as much right to his vote as the white man has to his; and it is no more a gift or boon in the one case than in the other; and the white man has no more authority to confer or withhold it than the black man; and the black man of this city has just as good a right to vote that the white man shall not exercise the elective franchise here as the white man has that the black man shall not. Neither has the right to control or restrict the other; and the question comes to Congress to determine what is right, what is proper, and what is the best thing to be done.

I maintain that the black man has just as good a right to his life and liberty as the white man has to his; and that, if suffrage is necessary to protect that life and liberty, or for other purposes, it is just as much the right of the black man as it would be of the white man in similar circumstances. It is an individual right, to be regulated and limited for the good of the State; but these limitations should apply to all classes, and be clearly for the public good. It should never be needlessly violated or withheld. I do not assent, Mr. President, to a distinction sometimes made that suffrage is a privilege, in the sense of a thing permitted to be done, and not a right. I contend it is a right. If it is a privilege, who confers the privilege? The Government, it is answered. Whence does the Government derive the power to confer the privilege? Why, from the people surely—nowhere else. Then this is a statement of the case: the people confer on the Government the power or privilege to confer on the people the power or privilege of voting; which is as sensible as it would be for you to give me a dollar, which I had previously given you for that purpose, and call it charity.

Sir, government, according to the Declaration of Independence, derives its just powers from the consent of the governed. This implies that the governed may of right, not of privilege, give or withhold that assent. How do the governed do this? Why, by their votes, not otherwise, and thus the governed have the right to give or withhold their votes. It is their right, and not a privilege conferred.

Mr. WADE. God gave the right.

Mr. CLARK. I am stating the argument of some other people. Man derives the right from

his manhood and the equality of his manhood with his fellow-man.

Does any one say, Mr. President, this is negro equality? So it is—political equality, not social. This last is not the creature of legislation, or political organization, but of taste, propriety, and fitness. In some of the States the negro has now, and has for a long time had, the same political rights as the white man. The law makes no distinction for or against him, but he is left to acquire that position in society to which his abilities and behavior entitle him.

And why should not this be so? Was not your Government founded upon that idea—the political equality of all men? Is he not entitled to his life as clearly and fully as the white man? That life may not be of the same consequence in the community as another life, but be it of more or less value, is not the negro just as much entitled to it as any other man can be to his? And has he not a right just as good to have it protected by law? So, too, of all those rights known as personal rights. Has he not as good a right to come and to go at his pleasure as the white man? Just as much right to own a portion of the soil and have a home as the white man? And if he settles by the side of another who does not quite relish his being there, has that other any more right to drive off and exclude the black man than the black man has to drive off and exclude the white man? Has he not the same right to defend his person and his property? Should not the tribunals of justice be equally open to him, and should he not be permitted to tell his story?

"Certainly, sir, certainly, this is all proper. We grant you the negro should have all these rights; but he has no right to vote."

Let us see. You admit the courts should be open to the black man, and that he should have the protection of the laws as fully as the white man. Why, then, should he not have a part, a vote, in determining the laws which are to be administered to him, or in the selection of the officers who are to administer them? Do you tell me he is too ignorant for such functions? I reply he is no more ignorant than many whites, and ignorance is no worse in a black man than in a white man, and if one is disqualified by it, so, then, is the other. And yet, sir, I have never found one of those persons who oppose negro suffrage upon the ground of ignorance willing to exclude the white man for the same reason. I would put both on the same basis, whether with or without restriction or qualification. If the negro should learn to read and write before he votes, let the white man do the same.

Again, sir, it has been said in a very respectable quarter, we "do not wish to make the grant of the elective franchise by the late insurgent States to their emancipated slaves a condition of their being allowed to resume their political relations in the Union, because—one reason—before we grant the right to vote to any new elements we require a certain probation—of natives twenty-one years age, of adult foreigners five years' residence—and we ought to require some similar probation of the ignorant mass of the late slaves." Very good, sir. But of rebels—what probation would these same gentlemen require of them? None; not a day. They should at once be restored to their former relations—allowed to vote and to be voted for, to hold office, receive salaries, sit with loyal legislators to neutralize and paralyze the necessary legislation, and to accomplish with the ballot what they failed to do with the bayonet. Would you like, sir, to run your ship of state on a rebel torpedo? Then keep clear of southern waters until you have fished them out, or are made certain none are there. Sir, I would rather have the vote of the loyal black man, who periled his life to save the country, without probation, than of the rebel white man who periled his to destroy it, even with probation. One may be ignorant, the other certainly has been wicked; the one might vote wrong by mistake, the other by design has aimed the most deadly blows at the existence of the Government.

Tell me, sir, if called upon to put arms into

the hands of men in the disloyal States, into whose hands would you put them? Would you do as they have done, or attempted to do, in Mississippi—arm the rebel militia, and disarm the loyal black soldier?

Mr. WADE. Who has done that?

Mr. BROWN. The President did that.

Mr. CLARK. Gentlemen say the President did that. I was not commenting on the author; I was commenting upon the impolicy of the act.

Surely not, sir; you would retain the arms in the hands of the black men. Let, then, your ballots go where you would intrust your bayonets. Both are effective weapons; and if in time of war you needed the black man's bayonet to preserve your Government, you may equally, in time of peace, need his ballot to guard against acts more insidious but scarcely less pernicious than open rebellion. If the black man has intelligence enough to know on which side to fight, he certainly will know on which side to vote. And if amid the fire and smoke of rebellion he kept the old flag in sight, and prayed for it and fought for it, much more readily in time of peace will he discern and strive to preserve the great principles of constitutional liberty.

Mr. President, the restrictions which have been laid on the black man in many States are the outgrowth, the miserable brood and spawn of slavery, and they should perish with it.

The negro was denied land and home, because he was the chattel of his master; he was denied access to the courts, because he had no rights which a white man was bound to respect; he was not permitted to testify, because he might tell of the enormities practiced upon him; and he was denied a vote, that he might be of no sort of influence or consequence in human affairs. Sir, strike from him all these disabilities with his fetters, and give him the fullest opportunity, with all the necessary means, to elevate himself from his humble, despised condition. Does any one, I say again, complain that this leads to equality? Then let him go and complain of his Maker that He formed the negro at all; that He allowed him to breathe the same air, see the same light, hear the same sounds, or walk the same earth with the white man; that He gave him instincts, passions, hopes, desires, capabilities, a soul reaching to immortality; in short, that He made him a man! Here is the difficulty. The negro is a man! and however degraded, inferior, abject, or humble, it is our duty to elevate and improve him, and to give him the means of elevation or improvement; and the Senator from Kentucky may assert and prove that there are thirty-six, fifty-six, or a hundred and six points of difference between him and a white man, but until he shows he is not a man, the negro will be entitled to be treated by us as a man, and to demand and enjoy the same political privileges as other men.

Mr. President, open rebellion is ended and the Union is safe from its violence, but we are not through with our difficulties or dangers. Grave matters arising out of the war press themselves on our consideration and demand our resolute action. Among these stand foremost the protection of the freedmen, and the restoration of the rebellious States to their true relations with the Government. Both are of difficulty, but both of urgent necessity, and both are complicated, each with the other, by the fact, that the freedmen live in these rebellious States, and are to be protected there, while the people of these States are intensely hostile to them in many parts, and subject them to oppressive indignities, barbarous cruelties, stripes, and death.

All agree that the freedman must be protected. It has been said with equal beauty and force that "the poor man's life should never depend upon the rich man's pleasure." Nor should the freedman, whose shackles have been broken by the wrench and twist of war, be left to the indifference, neglect, control, or cruelty of his inexorable master. If that master has submitted to superior force, his submission will be coextensive only with that force; and

whenever opportunity shall offer, having no longer any interest in him as a chattel, he will wreak his malignity and his vengeance upon the freedman, as both the object of his rebellion and the cause of his defeat. His master will sell him no land, that he may have no home. He will allow him no home, that he may become a vagrant. Becoming a vagrant, he will arrest him as a vagabond, and visit him with imprisonment or stripes, or both. He will give him no work, that he may starve or steal; and if he steal he will convict him of crime, sell him into servitude, and hold him again as a slave. He will shut him from the courts, seal his mouth as a witness, and beat, kidnap, or murder him, as passion may instigate or instinct prompt.

Now, how shall this man be protected, and protected where he is? For I hold it essential that these men should remain where they are, to labor and develop the resources of the South, and make it a richer and more prosperous country than ever before. The country which exports its labor commits suicide.

You may open the courts to him by law, you may make him a competent witness, you may give him land for a home, you may sweep away all distinction by law between him and others, and leave him at liberty to go and to come, to sue and be sued, to contract and labor when and where and how he pleases; you may establish for him schools and give him the means of information, and all these are necessary and well. You may go further; you may order him food and clothing, you may set over him the Freedmen's Bureau to guard his interests and redress his wrongs, you may continue this bureau from year to year, and still, in my judgment, you will have failed to do what most of all you need to do—put the black man in a position to protect himself. You will have done much toward it, you will have fitted him to use his weapon, but not have supplied him with the weapon. To do this fully you must give him the ballot, make him a part of the Government, and thereby encourage a feeling of independence and self-respect. There is nothing like the ballot for this. Take it from your northern men and they would feel powerless and degraded. Leave it in their hands and they are as good as the best, and can hurl Governors, members, and Senators from their seats of power. Arm three or four million of people with this weapon, and they will protect themselves and teach their oppressors caution and respect. Make them respect themselves, and they will soon command the respect of others.

I now turn, Mr. President, to the consideration of the other point, to wit, the restoration of the rebellious States. And here, if I mistake not, we shall find the extension of suffrage to the loyal blacks of the utmost importance, if not a *sine qua non*.

Men differ somewhat as to the condition of these States; and there are those who would restore them at once to the exercise and enjoyment of the privileges and powers of loyal States. Restore them, say they, first, and settle the points of difference between you, and the terms and conditions, afterward. But I am not one of those. Settle the terms and conditions first, and, above all, do what you may to fix the proper status and condition of the freedmen; for rely upon it you will find it vastly more difficult afterward, if not impossible. But, say they, will you delay restoring these States to their rights for that purpose? Sir, I do not deem these rebels can claim many rights. They spurned them when they left us, and they forfeited them when they rebelled. Can these rights be put on or put off, cast away, lost, and recovered, just as the rebels choose? Nay, sir, I hold rather with the Roman orator, that they have no rights in the Republic who have been false to it: "*Attingam in hac urbe ii, qui a republica defecerunt, civium jura tenebunt.*"

Mr. President, I have often said I wished these States restored. I say it now. I do not wish, mean, or intend that one foot of territory or one particle of jurisdiction shall be lost to this Union. We fought to keep it, and we

have won the fight, and I will not tear the flag which treason could not rend. Not only upon it let every star be blazoned, but let every star bear its old name and be in its old place; and let the memories of the better days of the Republic be woven with the golden hues of a more prosperous future, and form a veil which shall conceal forever the hideous features of civil war. But I do not hesitate to declare here in my place that I would not now vote to admit any one of these States to a participation in the administration of the Government unless, as said by the Senator from Indiana, [Mr. LANE,] I might vote for the admission of the State of Tennessee. The State of Tennessee, in my judgment, stands upon a different foundation from any other rebel State, because before this rebellion was disarmed, when the rebels had them in their hands, she was enabled to form a government true to the Union, and she has preserved that government ever since. She is enabled to send us, I believe, men who can take the oath required of them as having ever been loyal men and having never directly or indirectly voluntarily aided the rebellion. But I do not believe that it would be safe to admit the other States; nor do I believe I shall ever vote at any time to admit to this floor men who have been actively engaged in this rebellion, in shooting, starving, and butchering our soldiers, or dismembering the Union, and seeking the life-blood of the nation. I shall stand by the oath which excludes such men from these seats. I shall subject the nation to no such danger; myself and associates to no such infamous companions. Traitors cannot thus be rewarded by any agency of mine. Treason cannot be thus honored. The President said "it must be made odious," and with that I agree. It may be pardoned, its punishment removed, and the rebels permitted to live under a Government which they have sought to destroy, but when this is done, there will still remain the damning fact, that they have been false to their country. Naught

"Can wash the guilty stain away."

They may be so again. Treason once committed is sufficient for all time, and there should be no space or opportunity for its repetition.

And, Mr. President, if I judge aright, the rebellion has been disarmed but not subdued. Much of its spirit, its malignity survives; and while those who have been engaged in it say they accept the situation, it is but too evident that had they now the strength they would throw off your authority and defy your power. Their lips acknowledge their allegiance to your Government, and they will keep it, because they have not strength to break it; but the heart is not warmed by any genuine loyalty. They allow the old flag to float because they dare not tear it down; but they will cheer a rebel song at the theater oftener and far more heartily, than the "Star-Spangled Banner." The Union man is despised and placed under the social ban. Treason is not made odious; but loyalty that never swerved, patriotism that never flinched is.

True, these men accept the situation, and ask you for offices, but they will fill them with rebels, and select those who have smitten your soldiers the oftenest and hardest. They will accept your salaries at Richmond, and plow up your dead at Cold Harbor.

The rebel States are not only full of such persons, but they are controlled by them, and whenever Senators are admitted here from those States, such men will be too often presented for admission.

The Senator from Wisconsin [Mr. DOOLITTLE] in discussing with his accustomed ability and force the position of these rebel States, and the policy of the President for restoring them to their true relations with the Government, very distinctly stated that he would not vote to admit to this Senate men whose hands were reeking with the blood of Union soldiers. Evidently he does not think it quite safe or prudent so to do. He does not think rebels should rule. Nor do I. The men who have sought to destroy the Government should not be intrusted with its safety. Now let me ask that Senator, if it

is not safe to admit a rebel to sit and vote here, in what respect is it safe for him to sit and vote anywhere else in this nation, and what sort of a way is it to make a disloyal State loyal, to allow rebels to rule it? And yet we have this astounding palpable fact, that the administration of the government in almost every instance in those rebellious States has been suffered to go into the hands of rebels, and to fall under their control. Nay, more, while there were three or four millions of loyal people in those States, they have been carefully excluded from all participation in the reorganization of those States. White traitors have been preferred to them. And thus it is, sir; elections have been held by traitors, conventions and Legislatures have been held by traitors, offices filled, and a public sentiment created which to-day is more hostile in many places than it was months ago. Sir, our dangers are not yet passed, and we must see to it that we do not lose in legislative halls what our soldiers secured in the field.

Sir, I do not hold that these rebellious States are out of the Union. They went out neither by the back door of secession nor the side door of rebellion. They are still States in the Union; but they have been in rebellion and are still disloyal at heart; and while in that rebellion they overthrew and destroyed the loyal State governments. And after their military power was broken, it became necessary to reconstruct those governments and put them again in motion. On this idea and assumption the President proceeded. He first established provisional governments. I will not now inquire by what authority, for I suppose by military authority as Commander-in-Chief, but I will inquire why and wherefore did he do it. The answer is plain and ready. Because the old State governments were gone, destroyed by the rebels in being made the instruments of treason; and there were no loyal governments in those States, and new ones must be formed. But yet, into the hands of the very rebels who had destroyed the old he intrusted the formation of the new; carefully excluding from all participation a very large proportion of the loyal people of those States, by declaring that the qualification of voters should be the same as when these States went into rebellion. Now, this is the point I make: the rebellion had overthrown all laws about the qualifications of voters in these States; and so the President understood it, else why did he declare what they should be? And he set up the old qualifications which excluded a very large share of the loyal men. Sir, in my judgment he should have rather excluded the rebels and let the loyal people vote; and I should about as soon have undertaken to stop the yellow fever by sending round infected clothes, as Blackburn did, as to have checked rebellion by letting rebels vote.

Do you tell me that the qualifications of voters, the determining who should vote and who not, had been left to the States, and that they had excluded the black man from voting? Then I reply, their State governments and their qualifications had all been swept away together, and, there being no State government or organization, there could have been no State limitation or restriction. The President himself did not understand that there was any State law in force prescribing who should be voters, for he undertook himself to prescribe the rule, even to exclude some persons who had been admitted to vote under the old State laws; and if these old State laws did exclude loyal men from voting, he could just as well have determined by military authority who should vote as set up a provisional government by military authority.

Sir, I sustain and will labor to advance the President's policy of restoring to their true position at an early day these rebellious States, when it shall be safe so to do. But I must confess I do not admire this method, nor am I surprised at the results. I do not wonder Union men are defeated and rebels elected, nor that traitors bear themselves haughtily, and "dispitefully use" those who never flinched in their loyalty.

Mr. President, I have made these remarks,

not to criticise the President's acts, nor to withhold or withdraw from him one grain of strength or support: but to make plain, if I can, the necessity of suffrage to every loyal person in these States to enable you to restore and hold them in their true relations. There is in all these States a large number of loyal people. In some sections they outnumber those who have been in rebellion. Most of them, it is true, have been slaves; they are ignorant, and perhaps as yet do not fully comprehend their condition. But they are loyal, and I would make their loyalty a counterpoise of treason, and secure the State against it by conferring on them the same civil and political rights which are enjoyed by other citizens of the same State.

There are, so far as I can see, but three ways to be taken with these rebellious States:

Either they must be intrusted to rebel hands; or they must be held by military power; or the loyal people must be admitted to control them.

The first method is entirely inadmissible; the second by no means desirable, except as a necessity; and the third is both practicable and desirable. I would no more admit the rebels to control these States than I would sail a ship with the mutinous part of a crew, and confine those who were faithful to the captain in the hold or put them in irons. Military rule is contrary to the very objects and aims of our Government, while suffrage to all men is but the practical application of its two cardinal principles, self-government and equality in that government.

I say the last method is practicable. Take, for instance, the State of Mississippi. In 1860 she had 350,901 white inhabitants and 437,404 colored. Now give these 437,404 men the ballot, and traitors never would be troubled with the "iron-clad oath," for they never would have a chance to take it. Would you let the negroes rule the State, do you ask? Yes, sir, in preference to rebels, for I am sure they will never carry it out of the Union, and will cause you no more blood and treasure in preserving it in its true relations.

Do you say this would be dangerous? Experience does not so teach. In many of these States negroes once voted, and no harm came of it. Down as late as 1828, in the State of Tennessee, they voted and elected a member of Congress. By every one who would exclude these colored men from voting should be remembered the words of Jefferson:

"With what excretion should the statesman be loaded, who, permitting one half the citizens thus to trample on the rights of the other, transforms those into despots and these into enemies; destroys the morals of one part and the patriotism of the other."

Mr. President, I have thus far but stated some of the general considerations which should govern us in our conclusions on this great question. I might follow out its details, and I think they would be found equally interesting and conclusive. I might notice, and I think successfully resist, the objections to it, and I might point out the means and method by which practically this grand result may be reached; but I must content myself by saying I will labor and toil for it in every practical way, and with earnest hope and faith that it will in time be reached.

Mr. President, if we are true, steadfast, earnest seekers of the right path, we shall find and pursue it. The difficulties which now surround us will vanish or be overcome; and as during these years of civil commotion and convulsions of the political elements, and the rockings of the very foundations of your Government, the dome of your Capitol has risen steadily and majestically upward, till it now stands finished in all its beautiful proportions, neither affected by the expansion of "summer's heat" or the contraction of "winter's cold," nor shaken by the tempest's gust, so shall your Government rise from the conflicting elements around it till, surmounted at last with a statue cut from the same precious stone on which its foundations rest—the equality of all men—it shall draw the admiring nations toward it, exclaiming, "How beautiful are thy tabernacles!"

Sir, if a stranger had come to yonder ro-

tunda a month ago and turned his face upward to look on the eye of the dome, he would have seen nothing but a rough scaffolding of boards and timbers, and known nothing of the glories of art beyond. If that same stranger should come now and look into the same eye of the dome, he would find the rough scaffolding gone, and behold beyond in beautiful staccos the mystic dance of these United States surrounded by Agriculture and Manufactures, Commerce and the Arts. And so, sir, when shall be withdrawn the rough scaffolding of strife and discord, we shall again behold all these States restored and united. And there shall be no more war, but agriculture and manufactures, commerce and the arts, education and Christianity, not in picture, but in effulgent reality, shall shed a glory over them hitherto unequalled.

Mr. WILLIAMS. Mr. President—

Mr. HENDRICKS. With the consent of the Senator from Oregon, I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 14, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

QUARANTINE AT NEW YORK.

Mr. DARLING. I ask unanimous consent at this time to consider a joint resolution authorizing the Secretary of War and the Secretary of the Navy to place at the disposal of the commissioners of quarantine at the port of New York such hulks and vessels as they have no use for. It is in anticipation of the cholera.

No objection was made.

Mr. WASHBURN, of Illinois. I send to the Clerk's table the joint resolution which was referred to the Committee on Commerce, with certain amendments, which the committee unanimously recommend, in the nature of a substitute.

The substitute was read, as follows:

Be it resolved by the Senate and House of Representatives, etc., That the Secretary of War and the Secretary of the Navy be, and they are hereby, respectively authorized in their discretion to place gratuitously at the disposal of the commissioners of quarantine, or the proper authorities, to be used by them temporarily for quarantine purposes, such vessels or hulks belonging to the United States as are not required for other use of the National Government, subject to such restrictions and regulations as the said Secretaries may respectively deem necessary to impose for the preservation thereof.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PETITION OF CITIZENS OF ALABAMA.

Mr. BOUTWELL, by unanimous consent, presented a memorial of people of Alabama; which was referred to the committee on reconstruction, and ordered to be printed.

NATIONAL BUREAU OF EDUCATION.

Mr. GARFIELD, by unanimous consent, presented the memorial of the convention of school superintendents lately held in this city, asking the establishment of a national Bureau of Education.

Mr. GARFIELD also, by unanimous consent, introduced a bill, which accompanied the above-mentioned memorial, to establish a national Bureau of Education; which was read a first and second time.

The bill, with the memorial, was referred, on motion of Mr. GARFIELD, to a select committee of seven, and ordered to be printed.

Mr. GARFIELD moved to reconsider the vote by which the bill was referred; and also

moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

BANKING LAW.

Mr. HOOVER, of Massachusetts, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Currency and Banking be instructed to consider the expediency of amending the bankrupt act, so that interest-bearing legal-tender notes shall not be included as part of the lawful money required to be held by national banks for the redemption of their liabilities.

PENSION LAW.

Mr. MILLER, by unanimous consent, introduced a bill supplementary to an act to grant pensions, approved July 14, 1862; which was read a first and second time, and referred to the Committee on Invalid Pensions.

AGRICULTURAL REPORT.

Mr. MILLER. I ask unanimous consent of the House to offer the following resolution:

Whereas the Agricultural Reports have been so ably conducted, and the subject-matter therein contained deemed very valuable by the farming community and others, that the number of copies heretofore printed are inadequate to meet the increasing demand: Therefore,

Resolved, That three hundred thousand extra copies be, and are hereby, ordered to be printed for each of the years 1863, 1864, and 1865, (including the extra copies heretofore ordered,) the same to be for the use of the members of this House for distribution.

Mr. WASHBURN, of Illinois. I must certainly object to that resolution in any shape.

Mr. DAWES. I would like the permission of the gentleman from Illinois to make an inquiry in reference to this matter.

Mr. WASHBURN, of Illinois. The gentleman has my permission.

Mr. DAWES. I would like to know if any response has been received to a resolution passed by the House with reference to the expenditures of the Agricultural Department?

Mr. MOULTON. I am opposed to the resolution as it now stands. It seems to me that it should be in the nature of an inquiry. I wish to say that some three weeks ago a resolution was submitted by me in reference to the condition of the Agricultural Bureau. No information has been received upon that subject, and I hope the resolution will not pass in the form it now is or until we receive that information.

Mr. DAWES. I desire to call attention to a defect in the resolution.

Mr. SPALDING. I object to the resolution.

TAX ON TOBACCO.

Mr. SCHENCK, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of amending the law imposing a tax on tobacco, so as to graduate such tax with reference to the relative value of cigars, or other manufactured forms of the article, or to make the same an *ad valorem* tax, and thus to equalize and apportion the burden and the protection more equitably and justly; and that the committee report by bill or otherwise.*

ORGANIZATION OF THE PENSION OFFICE.

Mr. EGGLESTON, by unanimous consent, introduced a bill to amend the several acts relating to the organization of the Pension Office; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ORDER OF BUSINESS.

Mr. HARDING, of Illinois, called for the regular order of business.

The SPEAKER. The regular order of business is the consideration of the contested-election case from the State of Michigan.

Mr. SCOFIELD. I would like to inquire of the Chair, if I allow this case to go over until after the morning hour, whether any business can arise during the morning hour that will take precedence of it?

The SPEAKER. The Chair cannot definitely answer the inquiry of the gentleman, because during the morning hour the House may go into Committee of the Whole on some special order, in which case the election case would

be superseded. If the morning hour is entirely occupied by its appropriate business, the gentleman from Pennsylvania [Mr. SCOFIELD] can call up that case. It being a privileged question, it can be called up by the gentleman at any time when the House is not engaged in the consideration of other business.

Mr. SCOFIELD. I will let the case go over until after the morning hour, and take my risk of the House going into Committee of the Whole.

The SPEAKER. The next business in order is calling committees for reports of a general nature, commencing with the Committee on the Post Office and Post Roads.

CLERKS FOR POST OFFICE DEPARTMENT.

Mr. ALLEY. The Committee on the Post Office and Post Roads have authorized me to report a bill to increase the clerical force of the Post Office Department. The Senate have already passed a bill of the same character, which was referred to our committee. And in order to save time I ask that the Senate bill be considered in the House at this time instead of the bill of a similar character from our committee.

No objection being made, the House proceeded to the consideration of Senate bill No. 96, to authorize an increase of the clerical force of the Post Office Department.

The bill was read at length. It provides that the Postmaster General may appoint, in addition to the clerical force now employed in the Post Office Department, four clerks of the first class, seven clerks of the second class, fourteen clerks of the third class, and four clerks of the fourth class; the same to be paid until the 30th of June, 1866, out of any money in the Treasury not otherwise appropriated.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Massachusetts [Mr. ALLEY] will give the House some reasons for this large increase of the clerical force of the Post Office Department, and the corresponding increase of the expenditures of the Government.

Mr. ALLEY. I will state, for the information of this House, that this increase was recommended by the Post Office Department. The Committee on the Post Office and Post Roads went into a very thorough and full investigation of the subject; and they were unanimously of the opinion, after several conferences with the Department, that their request should be granted.

And for the further information of the House I will send to the Clerk's desk a communication to me from the Postmaster General, which I ask to have read.

The Clerk read, as follows:

POST OFFICE DEPARTMENT,
WASHINGTON, January 10, 1866.

SIR: I have the honor to transmit herewith for your approval the draft of a bill authorizing an addition to the clerical force of this Department.

The great increase of clerical labor incident to the restoration of the postal service throughout the southern States, added to the largely increased postal business in the northern States, as shown by the recent annual report of the operations of this Department, has rendered the additional clerical force called for by this bill necessary to the prompt and satisfactory transaction of the business of this Department.

The number and classification of the additional clerkships required, have been carefully arranged by the heads of the respective bureaus, after consultation with each other, and with myself, and I am satisfied that a less number than those asked for in this bill would not be sufficient for the proper management of the business of the Department.

As the services of these additional clerks are greatly needed at this time, I trust that the bill may be acted upon with as little delay as practicable.

I shall be happy to make further explanations to your committee, if desired, either by letter or in person, as may be most agreeable.

I am, very respectfully, your obedient servant,

W. DENNISON,
Postmaster General.

Hon. JOHN B. ALLEY, Chairman Committee on the Post Office and Post Roads, House of Representatives.

Mr. STEVENS. I do not like to be captious in matters of this kind. Yet, on the other hand, I do not like to see appropriation bills considered out of Committee of the Whole. If I understand this bill aright, there is an appropriation in it.

The SPEAKER. There is,

Mr. STEVENS. Then I shall be obliged to ask that the rule be enforced, and ask that this bill be considered in Committee of the Whole.

Mr. WASHBURNE, of Illinois. Was not the bill read merely for information?

The SPEAKER. The gentleman from Massachusetts [Mr. ALLEY] asked to have the bill considered by the House at this time, and no objection was made.

Mr. STEVENS. I move to refer this bill to the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair decides that the objection of the gentleman from Pennsylvania [Mr. STEVENS] and his point of order come too late.

Mr. ALLEY. If the gentleman from Pennsylvania will give me his attention for a moment—

Mr. STEVENS. I think that is a pretty sharp point of order.

The SPEAKER. The Chair will state to the gentleman from Pennsylvania, [Mr. STEVENS,] who appears to object to the ruling of the Chair, that it was made under the same rule under which the gentleman himself has at different times reported appropriation bills, which have not been read at the Clerk's desk, and in regard to which he has claimed that the point of order could not subsequently be made. The gentleman knows that very well, because he has often insisted upon that ruling himself. The gentleman from Massachusetts [Mr. ALLEY] asked that the bill be considered in the House, and at this time. The Chair repeated the request audibly to the House, and there was no objection made.

Mr. ALLEY. Mr. Speaker, I will state for the information of the gentleman from Pennsylvania, [Mr. STEVENS,] and of the House, that I was aware that this bill contains an appropriation; but there is in this case a distinction without a difference. The Senate bill provides that the appropriation shall come from the Treasury Department instead of from the Post Office Department, as provided in the bill reported by the committee. That is all the difference. Under the rules of the House, I would have the right to report the bill from the committee, and have it considered and passed upon now; while in the other case it required the consent of the House. Certainly, it can make no possible difference to the Treasury, to the Government, or to the Post Office Department; while, as this bill had passed the Senate, the adoption of it by the House would avoid the necessity of sending it back to the Senate for concurrence. Supposing that the slight variation of this bill from the House bill could make no difference to anybody, I stated to the House the facts in the case, asking the consideration of the bill at the present time. The Speaker stated that request, and no objection was made.

If the bill contained an appropriation such as made any difference in point of fact, I should not object to a reference to the Committee of the Whole. But, as everybody knows, a reference to the Committee of the Whole would substantially kill the bill; and as I deem this bill one of consequence, I of course object to that reference. The passage of the bill has been asked for by the Post Office Department; and the subject has been thoroughly investigated by the committee. Several members of the committee, including myself, have had conferences, not only with the Postmaster General, but with several of the heads of the bureaus; and those officers of the Department all concur in the opinion that the passage of this bill is imperatively demanded. They convinced the whole committee of the propriety of the measure, and we have reported the bill unanimously.

The gentleman from Pennsylvania, as well as the gentleman from Illinois, [Mr. WASHBURNE,] has served with me in this House long enough to know that no member here is more careful than I am about such measures as this. Besides, Mr. Speaker, I think I can say with justice, and those who know the Postmaster General will doubtless concur with me in opinion, that that gentleman is as careful a public

officer in reference to these pecuniary matters as any officer we have ever had at the head of any Department. The Postmaster General says that the wants of the Department imperatively require this additional force.

Now, sir, let me say to the House that the additional force asked for is not so large as it appears to be, because the Department has for several months past employed under the name of laborers something like half the force asked for, these employés being paid as laborers out of the contingent fund. As this additional force is so imperatively demanded, and as the matter has been thoroughly investigated, I hope the House will not refuse to pass this bill.

Now, Mr. Speaker, if no further explanation is desired, I will call the previous question.

Mr. HARDING, of Illinois. I hope the gentleman will permit us to consider this bill in Committee of the Whole.

Mr. ROSS. I desire to inquire what number of clerks the bill provides for, and what additional expense will be incurred by their employment.

Mr. ALLEY. The number that will be actually put in service, in addition to those already employed in the manner I have stated, will be something like sixteen; and the additional expense will be perhaps twenty or twenty-five thousand dollars.

Mr. HARDING, of Illinois. Will the gentleman accept an amendment that the appointees of this Department shall be apportioned among the several congressional districts of the United States as nearly as practicable?

Mr. ALLEY. I could not accept such an amendment as that.

Mr. HARDING, of Illinois. I think that is fair. I shall vote against the bill unless such a principle be introduced into it, or be enforced by that Department.

Mr. ALLEY. I think that my friend from Illinois, if he will consider a moment, will not persist in asking for the adoption of such an amendment. He certainly cannot be in earnest, as there are not positions enough to allow one to each congressional district; and certainly he would not be in favor of turning out the officers now employed in that Department and substituting to such an extent new and inexperienced persons. Certainly such an amendment, as every one will see, is utterly impracticable.

I now call the previous question.

On seconding the call for the previous question the House was divided; and there were—ayes 67, noes 18; no quorum voting.

The SPEAKER ordered tellers; and appointed Messrs. ALLEY, and HARDING of Illinois.

The House was again divided; and the tellers reported—ayes eighty-four, noes not counted.

So the previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. HARDING, of Illinois, moved that the bill be laid upon the table.

The motion was not agreed to.

Mr. KUYKENDALL demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was passed.

Mr. ALLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

NEW YORK POST OFFICE.

Mr. ALLEY, from the Committee on the Post Office and Post Roads, reported a joint resolution relative to the courts and post office of New York city; which was read a first and second time.

The joint resolution was read at length.

Mr. ALLEY. Mr. Speaker, I will state for the information of the House that the gentleman from New York [Mr. RAYMOND] introduced a bill which was referred to our com-

mittee, providing for the purchase of a site, and the erection of a new post office in the city of New York. The committee, on inquiry, learned that a new post office, in the judgment of everybody whose attention had been called to the subject, was required. The committee did not feel authorized to report back the bill as referred to them, but concluded, on consultation with the Departments and some eminent citizens of New York, to report this joint resolution, which provides for the appointment of a commission to select a site and report the price to the Postmaster General and the Secretary of the Interior. We combine the two things. We thought, on consultation and examination of the subject, that the two could be combined very economically—the two propositions for the erection of a building for a post office and also for the accommodation of the United States courts in New York city. On the unanimous consent of all concerned it was concluded to put it in this form.

This commission is only authorized to report to the Postmaster General and the Secretary of the Interior. Then, in their judgment, if the price is right, and the site such as they can recommend, they are authorized and directed to report to Congress. Certainly this preliminary action cannot be objected to.

Mr. WASHBURNE, of Illinois. What provision is made for the payment of this commission?

Mr. ALLEY. They are United States officers, with the exception of two individuals, one of whom is mayor of New York city. Nothing is said about pay.

Mr. DARLING. I will say to the gentleman from Illinois, the gentlemen named in the joint resolution are but too happy to serve without compensation.

Mr. WASHBURNE, of Illinois. I do not know that there is any objection to the resolution, as Congress is not committed in any way, and the matter has to come back here.

Mr. CHANLER. I understand the gentleman from Massachusetts to state that this has been required by citizens of New York city—that they ask for the removal of the present site.

Mr. ALLEY. No, sir, I did not say that. The gentleman has misapprehended me. This is merely a commission to inquire into the matter. We found great difference of opinion. I would say, so far as the present edifice is concerned, that the majority were in favor of the present site if it can be adopted with propriety and will furnish the requisite accommodations.

Mr. CHANLER. I will ask one more question. The present New York post office is in what was an old church. I do not oppose the construction of a new building; but I would call the gentleman's attention to the fact that a commission to select a site for a new post office in New York is entirely distinct from the question of erecting proper accommodations for a post office. The present location is central, and there could not possibly be selected one more advantageous to the whole community. They have stations scattered through the city, and a central office is all that is required for the reception and distribution of letters. I hope the gentleman will so far modify his commission as to limit them in their action on this subject. A site was chosen and purchased under Mr. Buchanan's administration, if I am not mistaken. It cost the Government, I think, about seventy thousand dollars. The same property to-day would bring a great deal more. It is impossible at the present price of land in the city of New York for the Government to procure any place equal in availability at anything like that price; and I would suggest that the proposition looks more like a scheme for going in to buy lands than one to arrange for the site of a new post office. I believe economy is in favor of the present site.

Mr. ALLEY. I must say to the gentleman from New York that what he says now seems to me entirely irrelevant to the question under consideration.

Mr. CHANLER. I beg pardon, I did not mean to be irrelevant. I only wished to draw

attention to the fact that the question should be divided.

Mr. ALLEY. If the gentleman will hear me for a moment I think he will be convinced that his remarks are entirely unnecessary. A great difference of opinion existed in regard to the site. It was with reference to that difference more than anything else, perhaps, that it was finally agreed upon unanimously that this commission should be appointed, and it is the understanding most distinctly of all the parties in interest who have been conferred with, that that question is not to be prejudged at all, but is to be open to the fullest and amplest consideration, examination, and investigation with regard to all the sites proposed. I think as the question now stands, so far as those are concerned who have been consulted, that the majority of opinion and feeling is that the present site is the best and most economical that could be selected; and it is not by any means certain, if a new building is erected, that it will not be erected on the present site.

Mr. CHANLER. I would ask the gentleman's permission one moment to state that it is exactly on that point that I was speaking. If you have the best site why not leave the best alone? You cannot do better than the best. If a commission is to be appointed for the erection of a proper building or proper accommodations for the post office, why go and look for another site when you have a most appropriate one, on a most valuable piece of land, in the very heart of the commercial center of the city? I certainly think that suggestion is relevant.

Mr. O'NEILL. I desire to make a suggestion to the gentleman from Massachusetts [Mr. ALLEY] which is pertinent to the general subject of proper accommodations for Government officials and the convenience of the business community. We have in Philadelphia what is known as the Pennsylvania Bank building, which cost the Government of the United States a large sum of money, having been purchased some years ago for one of its Departments. In that city we have no accommodations belonging to the Government for the United States appraisers. I would like to ask the gentleman from Massachusetts if he would not be willing to incorporate in his resolution a request that the commission named by him should confer with the Postmaster General and Secretary of the Treasury, if necessary, in regard to the expediency of fitting up the Pennsylvania Bank building for the appraisers' department, and also of improving and enlarging it for the reception of bonded goods, so as to save the large expense of renting private warehouses for this purpose?

Mr. ALLEY. In reply to the gentleman from Pennsylvania, [Mr. O'NEILL,] I will say that that matter did not come before the committee in connection with this subject; and as the mouth-piece of that committee, I should hardly be warranted in traveling out of the record so far as to comply with that request.

Mr. O'NEILL. One word further. I cannot see why there should be any difficulty in the Committee on the Post Office and Post Roads including this proposition in the one submitted by its chairman. Now, I simply suggest that this is the very opportunity to bring up a question in which I may here say the merchants of Philadelphia are deeply interested, especially where the Government itself would be largely benefited by taking the building at the price set upon it by the Post Office Department. It comes in here, in my opinion, most pertinently as a matter about which this commission could inquire, the disposition of the building being still to a great extent under the control of the Post Office Department.

Mr. DARLING. Will the gentleman from Massachusetts yield?

Mr. ALLEY. Yes, sir.

Mr. DARLING. Mr. Speaker, I take issue with my colleague [Mr. CHANLER] in regard to the location of the post office in our city. I do not think that it would be necessary to spend a large sum of money, if any, for a new site, provided it be an eligible one. I think the city of New York, with its accustomed liberality,

would be willing to donate to the United States Government sufficient land for the erection of a post office which would be a credit to the Government and commensurate with its importance and with the accommodations requisite for the convenience of the people, embracing, also, accommodations for the United States courts. The present locality, it is well known, is contracted, illy ventilated, dark, and very difficult of approach. It is true the Government has paid a large sum of money there, but the land would sell at any time for more than you have paid for it. It is also true that private contributions were appealed to for the purpose of securing that site.

Mr. ALLEY. I must remind the gentleman that that has nothing to do with the proposition now before the House.

Mr. DARLING. I merely wish to say further, in reply to my colleague, that the present site is not, in my judgment, such as is calculated for the accommodation of the post office in the great city of New York, whose people have to fall into line like voters at a voting precinct, and stand up to their ankles in mud and water before they can be served with their letters. I think it a disgrace to the nation that we should have such a place for the post office in the city of New York as exists there to-day.

Mr. ALLEY. I will now call the previous question.

The previous question was seconded, and the main question ordered.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ALLEY moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

POSTAGE STAMPS AND STAMPED ENVELOPES.

Mr. ALLEY, from the Committee on the Post Office and Post Roads, reported a bill relative to the sale of postage stamps and envelopes on credit; which was read a first and second time.

Mr. ALLEY. This bill has passed the Senate precisely in the form in which I now report it, as Senate bill No. 71, which is now upon the Speaker's table. I propose to substitute that bill for the bill reported by the committee.

Mr. WASHBURNE, of Illinois. I think we had better consider the House bill first and see what it is.

Mr. ALLEY. It is precisely the same bill word for word, and there is no appropriation in it.

Mr. WASHBURNE, of Illinois. I think we had better hold back the Senate bill for a little while until we see what this bill is.

Mr. ALLEY. Do I understand the gentleman to object to taking up the Senate bill?

Mr. WASHBURNE, of Illinois. I think I am opposed to this whole measure, and if so, I would not desire to give the gentleman the advantage of getting up the Senate bill. That is frankly my reason.

Mr. ALLEY. Then I call for the reading of the bill I have reported.

The bill was read. It authorizes the Postmaster General, up to June 30, 1868, whenever, in his opinion, the public service shall require it, to deposit postage stamps and stamped envelopes with such persons as he may select for sale. It provides, further, that the person with whom the postage stamps and stamped envelopes are so left shall engage to sell and circulate the same under the instructions of the Postmaster General, and shall give bonds for the faithful keeping of such stamps and stamped envelopes, and for payment to the Postmaster General of the moneys received for the sale thereof.

The bill further provides that the Postmaster General may allow to such depositaries a commission not exceeding five per cent. on all such sales of stamps and stamped envelopes, the accounts of the parties to be audited and settled by the Auditor of the Treasury for the

Post Office Department, such parties to be deemed receivers and custodians of the public money, and be subject to all the pains and penalties, fines and forfeitures now provided by law in the case of receivers and custodians of the public money.

Mr. ALLEY. This bill was originally reported to the Senate by the Committee on Post Offices and Post Roads of that body. It was recommitteed to that committee and subsequently reported back in a little different shape, precisely in the same form in which we have it now. It underwent a very rigid discussion in the Senate. The opposition was very marked and determined to the passage of the first bill, but afterward, when it was presented to the Senate in its present form, it received, after a thorough and full discussion, I think almost a unanimous vote. I am not quite certain, because the yeas and nays were not called. It comes to us in this form.

I will send now to the Clerk's desk, to be read, a letter from the Postmaster General, stating the reason why he desires the passage of this bill.

The Clerk read, as follows:

POST OFFICE DEPARTMENT,
WASHINGTON, D. C., January 11, 1866.

SIR: I inclose a draft of a law authorizing the Postmaster General to sell stamps on credit.

The object of the law is to enable the Department to circulate its stamps through the States lately in rebellion.

This cannot now be done to any considerable extent for the reason that the law only authorizes the sale of stamps to postmasters or for cash.

There are many places in the southern States where there are neither persons who can take the oath required by law for the qualification of postmasters, nor persons of sufficient means to enable them to purchase stamps for cash.

I am advised that the demand for stamps is so great in those States that there may be found many persons of responsibility and integrity who, though unable to take the test oath, are able to give good bonds, and would cheerfully become responsible for the stamps intrusted to them, and sell them for the accommodation of the community where they reside.

It is my intention to appoint, so far as practicable, as receivers and venders of stamps persons who have already been appointed assessors, collectors, &c., and have therefore received the indorsement of the Government.

The compensation proposed is very light, but the penalties provided for are as severe as are now provided by law in all cases of receivers and custodians of public funds.

It is believed that a measure of the character proposed will not only produce considerable revenue to the Department, but will tend to promote a feeling of contentment and subordination among the people of the southern States, and at the same time protect the Department against loss.

Very respectfully, &c.,

W. DENNISON,

Postmaster General.

Hon. JAMES DIXON, Chairman Committee on Post Office and Post Roads, United States Senate.

Mr. WILSON, of Iowa. Will the gentleman from Massachusetts [Mr. ALLEY] yield to me for a moment?

Mr. ALLEY. Certainly.

Mr. WILSON, of Iowa. I notice that it is stated in the letter which has just been read that the assistant assessors and collectors in the southern States are persons who have already "received the indorsement of the Government." I wish the chairman of the Committee on the Post Office and Post Roads to state to this House in what manner these officers have received that indorsement, and whether those persons have taken the oath required by law; whether they have not, instead of that, sent on oaths, now filed in the Departments, that are unknown to the law; and whether, in at least one case, the officer has not omitted in his oath to state that he will support the Constitution of the United States.

It occurs to me that this bill is another departure from the general policy of the Government for the benefit of those who have been in rebellion against the Government, and I think it is time that this House should stop these departures. They have been made heretofore without the sanction of Congress, and it does seem to me that this is not the time for us to indorse, by this or any similar bill, these departures from the obligations imposed by the law upon the heads of our Departments, those departures being for the benefit of those who have been in rebellion against the Government.

Let this subject be considered fully in all its bearings before we attempt in this exceptional way to relieve all those persons who have been engaged in rebellion from the obligations which rest upon them equally with men who have been true to this Government throughout all the late struggle. I am opposed to special legislation for the benefit of rebels. Laws good enough for loyal men are good enough for those who are not loyal. I should like to have some explanation from the gentleman as to the character of the qualifications possessed by these officers, who are, in that letter, stated to "have received the indorsement of the Government."

Mr. ALLEY. I have no information in regard to these officers that the gentleman from Iowa [Mr. WILSON] or any other member of this House does not possess. I can only say that this bill does not provide, neither is it designed, that any of these officers shall be the custodians of these stamps unless they have the qualifications required by the laws of the United States.

Mr. WILSON, of Iowa. I will suggest to the gentleman from Massachusetts [Mr. ALLEY] that the letter which has been read does state that these officers may be selected.

Mr. ALLEY. I will state to the gentleman that this letter was read in the Senate and has been published in the Globe, from which I have had it read. The original letter was sent to the chairman of the Post Office Committee of the Senate [Mr. DIXON] and was there read, at the time the bill was first reported. The same objection was made there, and the same discussion arose. The bill was then recommitteed and finally reported back in an amended form, and after a very thorough and searching investigation and a full discussion of the whole question, the bill was passed, as I stated before, by the Senate unanimously. I know that the bill received the support by word and vote of some of the most radical members of that body, as being a measure not in favor of the rebels, but one imperatively demanded by the public interest.

Mr. KASSON. Will the gentleman from Massachusetts [Mr. ALLEY] allow me a word upon this bill?

Mr. ALLEY. If I yield to all who desire to say anything upon this bill, my time will be all taken up, and the gentleman must excuse me now.

Mr. STEVENS. I think this bill ought to be printed. We ought not to act upon such a bill as this in this way in the dark.

Mr. KASSON. I desire but a moment's time.

Mr. ALLEY. I will yield in a moment. I desire to say a word in reply to the gentleman from Pennsylvania, [Mr. STEVENS.] Of course I have no desire whatever to suppress information, and I am willing to give the House every opportunity to investigate this subject most fully. But this is a matter which has been before the Senate for some time, and was thoroughly discussed there, and the discussions have been published in the Globe, and I supposed that almost every member of this House had had his attention drawn to this subject and knew something about it. But if it is the case that the House is not well informed upon this subject, then I am quite willing, of course, that it should go over, and be printed. But, under the circumstances, I think I must insist upon its consideration now.

I now yield to the gentleman from Iowa [Mr. KASSON] for five minutes.

Mr. KASSON. Mr. Speaker, this bill is, in my judgment, purely a business bill, concerning the proper and profitable conduct of the business of the Post Office Department. While I am opposed to one or two of the provisions of the bill, I cannot see the necessity for lugging in a question of reconstruction in connection with this simple bill.

The Post Office Department, in order to maintain the revenues of the Department, wants to sell all the stamps it can. This bill proposes a measure to facilitate the selling of stamps. They cannot be sold where they cannot be bought. My objection, therefore, to

this bill does not rest upon the fact that it enables people in the South to buy the stamps which, under the laws of the United States, they must buy, or write no letters. My objection is that the bill contemplates what, it seems to me, is an interference with the system of administration adopted in recent acts touching the Post Office Department. Postmasters were formerly paid by commissions, dependent upon the number of postage stamps canceled; and they were charged and are now charged with the selling of stamps and stamped envelopes to anybody who may wish to buy them. It costs the Government nothing when it uses its own legitimate officers as the instrumentalities for the sale of these stamps and stamped envelopes. The proposition embraced in this bill is to allow five per cent. for the sale of these stamps to every one who shall be declared a depository. Considerably over ten million dollars' worth of stamps per annum are now sold; and an allowance of five per cent. would amount to half a million dollars annually.

I think that we should not subject the revenues of the Post Office Department to so serious a subtraction as is proposed by this bill. On the contrary, if there are not a sufficient number of postmasters in any localities to distribute stamps, I think it should be provided that the Department may in such cases deposit stamps for sale with any Government officer there, requiring that officer to attend to this business in connection with his other public duties, without any additional cost to the Government.

I am therefore opposed to this bill, as calculated to cause a serious reduction of the revenues of the Department. I think that the object sought can be much better accomplished by an amended bill. Hence I hope that an opportunity will be given for members to see the bill in print, so that we may propose such amendments as will arrive most effectually at the result desired.

I ought to add that I know full well, as does every gentleman who is acquainted with the Postmaster General, that no measure for the benefit or advantage merely of rebel interests will emanate from that Department. This bill involves a simple question of business. The Postmaster General is, beyond doubt, honest in his desire to facilitate the sale of stamps and increase the revenues of the Department. I do not like, however, the method in which he proposes to accomplish his object; and I hope an opportunity will be afforded to amend the bill.

Mr. BANKS. I hope that my colleague will allow me to say a word. I will not occupy more than one minute.

Mr. ALLEY. I yield to the gentleman.

Mr. BANKS. Mr. Speaker, the facilities of the post office rank among the highest privileges enjoyed by the people of this country. There is nothing so important to the people short of the protective power of the judiciary. Now, as I understand, this bill proposes to give to the States that are not in amicable relations with this Government the privileges of the post office, and to give them these privileges on credit, an advantage which no other part of this country enjoys. My opinion is that this privilege ought not to be given to those States, at least until they have settled their political affairs in a manner satisfactory to us.

Mr. ALLEY. My colleague will allow me to correct him by saying that this bill does not provide that any stamps shall be sold on credit. The bill first offered in the Senate did allow them to be sold in that way, but this does not.

Mr. BANKS. I certainly obtained that idea from the reading of the bill. This question, I submit, ought not to be decided upon a debate which has taken place elsewhere. It ought to be decided upon debate here, with the proposition in print before us, so that we can understand it. And let me say to my colleague that, in my view, there is no question before this Congress more important than the principle involved in this bill.

Mr. ALLEY. The gentleman from Iowa says he is opposed to the bill in its present

shape; that he would have a bill which should require these stamps to be placed in the hands of United States officers, and in the hands of none others. Did I understand him correctly?

Mr. KASSON. Not quite. I suggested some such thing, not having examined the bill; but some such mode which would not be attended with such serious reduction of the revenue of the Government.

Mr. ALLEY. His objection is that it takes from the Treasury half a million dollars.

Mr. KASSON. Over that.

Mr. ALLEY. More than half a million dollars if this provision is carried out! I think the gentleman is entirely incorrect in his judgment. I think the cost to the Government will be trifling indeed, and the revenues will be much increased by the adoption of this bill. A great many stamps will then be sold that are not now sold. The Government will lose five per cent., or rather it will have to pay, for the sale of the stamps, five per cent., but it will gain ninety-five per cent. on every stamp sold. The sale of the stamps in this manner will be so restricted in quantity that in my opinion the amount which will be paid out in commissions in this way will not reach the sum of \$20,000, instead of \$500,000, as the gentleman suggests. I think, therefore, so far as that objection goes, it has to my mind little force.

In regard to depositing these stamps in the hands of United States officers, I am opposed to that very thing, and there consists the real difficulty. I think that United States officers should not receive these stamps for sale unless they are of that description of officers which the Postmaster General has been careful thus far to appoint, men who can subscribe to the oath which the laws of the United States require. If the gentleman from Iowa wishes to have these stamps placed in the hands of those who are acting as United States officers, by whomsoever appointed, who are unable to take the oath which the laws of the United States prescribe, I am persuaded it would be unsafe.

Mr. KASSON. Let me say, right here, that I am opposed to requiring the oath from any such men. I am for shopkeepers or others being allowed to sell them as any other merchandise, without requiring them to take an oath, letting them have them at par and selling them at par.

Mr. ALLEY. The gentleman from Iowa knows that officers of the United States are required to take an oath. He knows that some have not taken the oath. They were appointed under what were believed to be the necessities of the case, which, in my judgment, have never existed. Such officers have been appointed; and for one, if left to me, I should be opposed to placing these stamps in their hands. I am willing to grant this privilege to the Union men of the South, and everybody else, if thereby it develops the resources of the country and increases the revenues of the Government, and does no possible harm, as in this case I do not think it would, to any interest or just cause. I defy any gentleman upon this floor to show that the Government, or any individual, is harmed in the slightest degree by this provision. To be sure it will accommodate and benefit the people of the South of all classes.

Mr. BOUTWELL. Let me ask my colleague a question. Why has not a postmaster been appointed in every village, town, and city of the South?

Mr. ALLEY. The reason is because the Postmaster General is so particular, and justly so, that he will not allow any man to serve in that Department who does not subscribe to the oath prescribed by the laws of the United States.

Mr. BOUTWELL. Does the chairman of the Committee on the Post Office and Post Roads inform the House that there is not at least one loyal man in each post office district of the South?

Mr. ALLEY. I mean to say there is not—or at least the Postmaster General has not found them. The Postmaster General has been only able to find something like two thousand,

only one fourth of the whole, who could take the oath which the laws prescribe.

Mr. STEVENS. Why are we to have post offices in such places? Why not withhold them until we can find men to fill them?

Mr. SPALDING. Has the morning hour expired?

The SPEAKER. It has not.

Mr. ALLEY. I move that the bill be printed, as we will not have time to vote on it to-day, so that it may be upon members' desks to-morrow morning.

The motion was agreed to.

Mr. FINCK. I ask my colleague on the committee to yield to me.

Mr. ALLEY. Certainly.

Mr. FINCK. I am unable, sir, to comprehend this determined opposition to this bill. What is it now pending before the House? A simple proposition to authorize the Postmaster General to appoint agents, wherever he may think the public interest requires it, for the purpose of disposing of postage stamps of the United States; and now gentlemen propose that the citizens of southern States shall not be appointed unless they can take the oath prescribed by Congress in July, 1862. It is a fact, sir, known to gentlemen on this floor, that the Post Office Department has been unable to obtain postmasters in the southern States, or contractors for carrying the mails, in order to afford all the necessary mail facilities required in those States.

We are told by the distinguished gentleman from Pennsylvania [Mr. STEVENS] that the people ought not to have the facilities of the Post Office Department if they are unable to take this oath. And another distinguished gentleman from Massachusetts tells us substantially the same thing. Sir, I say that the continuance of this oath is most unwise and unjust. Why, sir, this is a mere bill for the purpose of carrying out the business of one of the Departments of the Government. It is true that one of the objects of the bill is to allow the appointment of men who cannot take the oath of 1862, but it is a necessity, an absolute necessity, in order to carry on the business of this branch of the Government that such a bill should be passed, or that the test oath of 1862 be swept from the statute-book. Sir, I believe we should afford all the necessary mail facilities to the people of the southern States. I believe such a course will create a better feeling between the two sections, and tend to harmonize the country.

The SPEAKER. The morning hour having expired, the bill goes over till to-morrow, and the House resumes the contested-election case in the State of Michigan.

MICHIGAN CONTESTED ELECTION.

The House resumed the consideration of the contested-election case of Baldwin vs. Trowbridge of the fifth congressional district of the State of Michigan.

The majority of the Committee of Elections reported the following resolution:

Resolved, That Rowland E. Trowbridge is entitled to a seat in this House as a Representative in the Thirty-Ninth Congress from the fifth congressional district in Michigan.

The pending question was upon the following resolutions, moved by Mr. MARSHALL on the part of the minority of the Committee of Elections, as a substitute for the resolution of the majority:

Resolved, That Hon. Rowland E. Trowbridge is not entitled to hold the seat now occupied by him in this House as Representative from the State of Michigan.

Resolved, That Augustus C. Baldwin has been duly elected as a Representative from the State of Michigan to the Thirty-Ninth Congress, and is entitled to a seat in this House.

Mr. TROWBRIDGE was entitled to the floor.

Mr. TROWBRIDGE. I had hoped, Mr. Speaker, to have an opportunity to reply specifically and distinctly to the argument which might be submitted by the contestant in this case in this House against my right to represent the people of the fifth congressional district of Michigan in the Thirty-Ninth Congress of the United States. I have consented several times to the postponement of the consid-

eration of this subject by the contestant on one pretext or another, and now, in order to get a consideration at the present time, I have consented to the printing of an argument which has not been made in this House by him. I am, therefore, driven to my recollections in regard to the argument made before the Committee of Elections, and to this little pamphlet which he caused to be laid on our tables in the early days of the session, in order to ascertain what reasons he urges against that right. I shall therefore submit to this House, briefly as I may, the reasons why I claim to be possessed of that right, hoping that my line of argument may meet the positions which he may have assumed in the speech which he has not made.

Mr. Speaker, the right to participate in the selection of those who are to enact and administer the laws by which the country is to be governed is justly considered, under a republican form of government, one of the most sacred and invaluable rights of the people. And as each House is made "the judge of the elections, returns, and qualifications of its own members," the people look with jealous anxiety to this House to guard this right against all abuse or encroachment. There is no other tribunal before which this question can be brought. Whatever other questions may be taken to the courts for adjudication, this one of the election, return, and qualifications of a legislator, can obtain no hearing there. There is no appeal from the decision which shall here be made. And while the people demand that no person who does not possess the requisite and prescribed qualifications of an elector shall be allowed to exercise that high privilege, with equal pertinacity do they insist that all who do possess those qualifications shall be secured an opportunity to make themselves felt in the councils of the nation.

The present case comes here on an agreed state of facts which are substantially as follows, namely:

The total number of votes cast for member of the Thirty-Ninth Congress for the fifth congressional district of Michigan, as returned to the State board of canvassers, was 24,599, of which number I received 12,647, and the honorable gentleman who contests my right to this seat received 11,937; thus showing a clear majority in my favor of 710 votes.

But it is claimed by the contestant that of this total number of votes 1,538 should not have been counted by the board of canvassers; and that of these 1,538 votes, 1,179 were polled for me, and 344 for him, showing that my majority of these 1,538 votes was greater than my majority of the total vote as before mentioned; and therefore that if these votes had not been counted by the board of canvassers there would have been a majority in his favor of 125 votes. The whole question then turns upon this point, namely, whether these 1,538 votes are to be counted and allowed in arriving at the result. If they are counted there is no question as to my right to represent the people of that district in this House. If on the other hand they are not counted, then there is no question but that the seat belongs to him.

Wherein, then, do these 1,538 votes differ from the other votes which were counted and allowed by the board without challenge?

At the time of that election, and for long previous, war had prevailed in the land, and the Government had been obliged to call upon its brave and loyal citizens to go forth and do battle for the life of the Republic. These citizens, thus called from their peaceful homes and converted into armed warriors in defense of their Government, were most of them qualified electors in the various States from which they came.

The Legislature of Michigan, like the Legislatures of many of the other States, knowing that it was impossible for these electors to be present at the usual ordinary places of voting within the State, and feeling that this exhibition of the highest duty of citizenship should not deprive them of the opportunity to exercise this most sacred right of citizenship, had pro-

vided by law that the ballot-box should be carried to them and their votes received at designated places other than those where the great mass of our people would exercise that privilege. These 1,538 votes which give rise to this contest were cast by qualified electors belonging to the fifth congressional district of Michigan, pursuant to and in accordance with the provisions of that law. This is the only difference between them and the other votes which were counted and allowed without challenge—they were cast at a different place.

The contestant denies the power of the Legislature to pass the law by which these citizen soldiers were allowed to vote, because he alleges that the constitution of that State fixes the places where the elections must be held, and being fixed in the fundamental law of the State he denies the power of the Legislature to fix any other. The language of the constitution which he claims accomplishes this purpose is to be found in section one of article seven of the constitution of that State, and is in these words, to wit:

"But no citizen or inhabitant shall be an elector or entitled to vote at any election unless he shall be above the age of twenty-one years, and has resided in the State three months and in the township or ward in which he offers to vote ten days next preceding such election."

He claims that the clause of this sentence, "has resided in the township or ward in which he offers to vote," fixes the place where the vote must be cast; that to "offer to vote" requires the personal presence of the voter at the place thus designated. There is no other point made against the law. It is not a question of residence, which is an element of qualification in the voter, for by another provision of the constitution of that State, namely, the fifth section of the same article seven—

"No elector shall be deemed to have gained or lost a residence by reason of being employed in the service of the United States or of this State."

This settles the question of residence in regard to these men. They were "employed in the service of the United States," and wherever they resided when they entered that service there they continued to reside until, coming out of the service, they established some other residence, or at least abandoned the one previously acquired.

The honorable gentleman brings, in support of his position that the constitution of Michigan fixes the place where the elections must be held, and thus restrains the Legislature from fixing any other, a decision of the supreme court of that State, wherein it was held that certain county officers in that State could not hold offices to which they were elected by the soldiers' vote; and he claims that that decision decides this case, and ought to control this House. I hold that it does no such thing, and that if it did it ought not to control this House, because this House is expressly made by the Constitution the sole judge of the "elections, returns, and qualifications of its own members."

Let us examine and see what that decision is, and to whom it applies. It is conceded by the judges who made that decision, that the passage of such a law was undoubtedly an exercise of an ordinary legislative power, and clearly within the province of the Legislature, unless it was restrained or prevented by some controlling power. Judge Cooley, one of those judges, in his opinion in this case, says:

"I have no hesitation in holding that when the time, place, and manner of holding elections are not prescribed in the constitution, they are within the discretion of the Legislature, and the reception of votes from persons actually out of the election district, or even of the State, may be allowed by statute."

Judge Campbell, another of those judges, also in this case says:

"It is conceded that the power of regulating the times and manner of elections, and the places where they may be held, is one which is legislative in its nature, and belongs to that body which is intrusted with the general legislative authority, unless the constitution has limited or destroyed this control over it. And we are only concerned, therefore, in determining whether the constitution of Michigan has prevented the State Legislature from exercising complete control over the locality of elections, and whether, if such control is limited, the limitation is applicable to the subject before us."

The majority of the court find such a limitation of the power of the Legislature in the language of the constitution of that State, which I have already quoted, which provides that the elector must have—

"Resided in the township or ward in which he offers to vote ten days next preceding such election."

And hence they deny to the Legislature the power to pass this law, which prescribes other places for holding elections than the township or ward where the voter resides.

But to what elections does this language of the constitution of Michigan apply? Manifestly to the election of officers created by that constitution, and to no others. The court itself was a creature of that constitution, and had no authority to go beyond its limits and jurisdiction. If, then, I shall show that a higher power than State constitutions has prevented the State constitution, or the people in forming their State constitution, from thus limiting the Legislature in its control over the "locality of elections" of members of Congress, I shall then have shown that in the opinion of that court itself the Legislature of Michigan has undoubted power to fix the places where those elections shall be held.

It may be proper here to remark that this decision is the opinion of only a majority of the court. The chief justice of that court, in a very able opinion, maintains that notwithstanding this language of the State constitution, the Legislature has power to pass the law, and thus enable the qualified electors of that State who are absent in the military service of the United States to vote for their State and county officers. He claims, with great force, that if it had been the intention of the framers of the constitution to take away from the Legislature this undoubted authority, and prevent it from exercising this power, conceded to be an ordinary power of legislation, they would have used language plainer and more distinct than this expression, which is manifestly an incidental one, and is descriptive of the place of residence, and not the place of voting.

But I propose to show that the decision of that court, as well as the entire argument of the gentleman here, is irrelevant to the case now under consideration; because a higher power than the State constitution has restrained it from exercising any control over the places where the elections of members of Congress shall be held, and has expressly delegated that control to the Legislature of the State.

The fourth section of the first article of the Constitution of the United States reads as follows, to wit:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof."

Thus absolutely requiring the Legislature of the State to do in regard to the election of members of Congress precisely what the majority of the court decide and the gentleman claims the State constitution forbids it to do in regard to the election of State officers, namely, to prescribe the places of holding those elections. Can language be plainer than this? The constitution of the State is not the Legislature of the State. The people, in convention by delegates forming their State constitution, are not the Legislature of the State. And I claim that under this clause of the Constitution of the United States no power in the State had any right to touch this subject at all except "the Legislature thereof."

The people of the Territory of Michigan were restrained by the Constitution of the United States before they formed their State. The delegates in the convention forming their State constitution were restrained by it, and could certainly enact no matter into the fundamental law of their State which that restraining power had expressly reserved from their control and delegated to another body to act upon.

And, Mr. Speaker, this provision of the Constitution of the United States is a mandatory provision—

"Shall be prescribed in each State by the Legislature thereof."

It requires the Legislature of the State to prescribe the places where the elections for members of Congress shall be held. The members of that Legislature had sworn to support the Constitution of the United States, even before they had sworn to support the constitution of their State. And under that authority—nay, under that requirement—they enacted this law prescribing the places where those elections should be held. And in accordance with the provisions of that law these 1,538 votes, which the gentleman claims should not be counted and allowed, were cast. And the only question for this House to decide is, whether the requirement of the Constitution of the United States is a sufficient warrant for the Legislature of the State to pass the law.

The gentleman also brings forward several decisions of the House in contested elections, which he claims establish precedents under which the seat must be given to him. And he has discovered that in one of them, the Oregon case, I myself voted here to sustain the very principle upon which he expects to obtain his seat. Wonderful sagacity! The gentleman has seen performed the play of Hamlet, but failed to notice that the part of Hamlet was left out. That case lacked the very point which must control the decision of the one now before the House. That point is, whether the Legislature of a State, acting under the Constitution of the United States, has power to pass a law which conflicts with the constitution of the State? There was no such question in the Oregon case, because there was no such conflict. The Legislature had accepted and acquiesced in the provision of the constitution, and had passed no conflicting law. Mr. DAWES, the chairman of the Committee of Elections, in the debate on that case, says:

"The sitting member does not claim to have been elected in pursuance of any law, or any constitutional provision whatever, but on the general right to representation which the people have. The contestant is here by virtue of an election, at a time and place fixed in the constitution of Oregon itself; in compliance with which the Legislature have forbore to this day to fix any other."

In another place he says:

"Now, the Legislature of Oregon has acquiesced, if nothing more, in the time fixed by the constitution."

And further on in the debate, he says:

"Either the Legislature of Oregon can, notwithstanding the provision of the State constitution, fix the time of the election of a member, because of the Constitution of the United States, or else the people of Oregon can do it through their constitution as well as through their Legislature."

He does not say which of these theories he would adopt if a case were presented in which he would have to decide between them. But in the whole debate he claims that the Legislature had, by its silence, accepted and acquiesced in the provision of the constitution, and hence in that case that provision was as binding here as if it had been an act of the Legislature.

I voted for the admission of the man, although he was the advocate of political views to which I am unalterably opposed, who had been elected by the people of Oregon at a time when it was universally understood by them that a member of Congress was to be voted for, and not for the admission of a man who, appealing from that decision of the people, had had a few votes cast for him as a member of Congress at a time when no one else dreamed that a member of Congress was to be voted for, and on the strength of such an election had presented himself here for admission to a seat. I should do the same thing again. But I protest that, in doing so, I am not to be understood as passing on such a case as the present one, where the election took place at a time and places established by law, and all the people understood that they were to vote for a member of Congress, and accordingly all parties took part in the election.

But there is another principle running through all the cases of contest which I claim may well be considered to establish a ruling precedent. It is very briefly and clearly stated in the report of the Committee of Elections of the Nineteenth

Congress, in a case which came up from the then Territory of Michigan, in these words:

"The committee consider that it is only required of them to ascertain who had the greatest number of legal votes actually given at the election."

And in determining this fact the local law has been regarded as advisory and directory, and only so far essential as its violation was proof of fraud in the election. And the House has been controlled by the "greatest number of votes," provided they were actually given by qualified voters at a time when the whole people understood they were to vote for a member of Congress.

But the gentleman claims that under another provision of the Constitution of the United States the qualifications of an elector for a member of Congress are required to be the same as the qualifications of an elector for a member of the most numerous branch of the State Legislature; and inasmuch as these soldiers, under the decision of the court, could not vote for members of the State Legislature, therefore, they could not vote for members of Congress. The matter of fact is these soldiers did vote for members of the most numerous branch of the State Legislature; and when the question of the right of a member to hold the seat to which he had been elected by the soldiers' vote came up in that body, it was decided that they were entitled to hold the seats. And the men thus elected are to-day members of the Legislature of Michigan. This question, having been decided by the Legislature before the court made its decision, was reconsidered and reaffirmed after the court had made its decision. And that court itself has since recognized the complete right and duty of each House to decide this question upon its own judgment without reference to the action of the court.

I have here a copy of the Journal of the proceedings of the most numerous branch of the State Legislature of Michigan for 1865, and without going minutely into particulars, I find it here recorded that on the 7th of January the House took up the report of the select committee, to whom had been referred the contested-election case from the first district of Oakland county, and by vote awarded the seat to the claimant who had received the greatest number of votes, counting the soldiers' vote. The decision of this case seems to have been regarded as a virtual decision of all the cases, and the contestants either withdrew or suspended their claims and went to their homes. But after the decision of the court in regard to the county officers, upon which I have already commented, was made, they came back and renewed and pressed their claims. And I find recorded that on the 23d and 25th days of February the House again took up these cases and voted *seriatim* on each and every one of them, and confirmed the seats to those who had been elected by the soldiers' vote.

I have also in my hand a decision of the supreme court of Michigan, certified to by the reporter of that court, in which, in reply to an argument against the validity of one of the enactments of that Legislature, because its passage had depended upon the votes of these men, who it was claimed had not been legally elected, Judge Cooley, in giving the opinion of the court, which was concurred in by all the judges, distinctly affirms that upon the question of its own membership each House of the Legislature is clothed with "judicial power to decide both as to the law and the facts," and that "no other body or court has a right to review its decision." I plead this decision of the supreme court of Michigan, which the gentleman affects to so much respect, in answer to all his newspaper twaddle about the action of that Legislature with which he has attempted to enlighten this House.

But, Mr. Speaker, in regard to this matter of qualifications of electors. The votes of these soldiers were rejected by the court for no want of qualification in the elector. The offering to vote, the place of voting, or even the act of voting, forms no part of the qualifications of an elector. The supreme court of Michigan

made no such decision as the gentleman claims. They made no decision whatever in regard to the qualifications of an elector. They simply decided that the place where the vote must be cast must be in the township or ward where the voter resides. The gentleman asserts that "the supreme court of Michigan holds that the place of voting is a qualification." Let us appeal to the record and see. First, Mr. Justice Christianity in his opinion in that case says:

"With these preliminary observations I proceed to an examination of the specific question involved in the present case. Does the Constitution prohibit the Legislature from authorizing, as they purport to have done by this act, the qualified electors of this State who may be absent in the military service of this State or of the United States to vote for officers of the State and national Governments at any other place than the township in which they respectively reside, and while they are absent from such township?"

The specific question then involved in that case was, according to this judge, as to the place where the qualified electors may vote. If they were already qualified electors, as he distinctly calls them, the place of voting adds nothing to their qualifications. It is not Justice Christianity, then, who holds that the place of voting forms part of the qualification.

Next Mr. Justice Cooley says:

"We find, then, on looking into the history of this provision, that the constitution of 1835, after fixing the qualifications of electors, added this negative clause, that 'no such citizen or inhabitant shall be entitled to vote,' &c."

And it was this negative clause, subsequently amended by the people in 1839, which, he claims, "Clearly requires the personal presence of the voter in the township or ward of his residence as a condition of his right to vote."

Not as a qualification, but "as a condition of his right to vote." And this negative clause was added, he declares, "after the qualifications had been fixed."

It is not Justice Cooley, then, who decided that the "place of voting is a qualification."

Next, as to Justice Campbell; and these are all the judges who concurred in the decision. He says, quoting part of the paragraph to which I have already called the attention of the House:

"And we are only concerned, therefore, in determining whether the constitution of Michigan has prevented the State Legislature from exercising complete control over the locality of elections; and whether, if that control is limited, the limitation is applicable to the subject before us."

This is his method of stating the specific question involved in the case.

Now, let us see how he decides this specific question. In the concluding paragraph of his opinion he says:

"In 1838 an amendment was proposed, and subsequently adopted, in these words: 'that so much of the first section of the second article of the constitution as prescribes the place where an elector may vote, and which is in these words, to wit, 'district, county, or township,' be abolished, and the following be substituted therefor, to wit, 'township or ward.'"

Judge Campbell proceeds:

"Here we have the construction by the people themselves, as the authors of the constitution, declaring this provision to be one of place, and making a change which could be of no avail except on that supposition. I cannot, therefore, attach to it any other meaning than that the voter must cast his vote personally in his own township or ward."

Judge Campbell then distinctly affirms, as the people of Michigan themselves have affirmed, that this provision refers to the "place where an elector may vote." Of course the constitution speaks of no other electors but qualified electors.

So far from any of these opinions asserting that the place of voting is a qualification, they all concede that the qualifications exist prior to and independent of the place of voting. I am to-day standing here nearly a thousand miles from the township of my residence as undoubtedly a qualified voter of that township as if I had never been out of it.

So were these soldiers, and if they had gone home, as many did, and reached the voting places in the townships of their residence the last hour, nay, the last minute before the polls were closed, no power on earth could legally have prevented them from voting, notwithstanding the constitution of the State requires a ten days' residence immediately preceding the election.

No, sir, these men possessed all the qualifications of voters, and the decision of the court simply declares that their votes were null and void in the case then before it, because they were not cast at the places where, in the opinion of a majority of the court, the State constitution requires the election of State and county officers to be held.

And I here again call attention to the fact that by the Constitution of the United States these three things, call them by whatever name you may, elements of qualification or legal requisites, or mere incidents as they are, "the times, places, and manner of holding elections for members of Congress" are expressly reserved from the control of the State constitutions. And I apprehend no man will claim that the State constitution may, by indirection, by calling these three things qualification of electors, obtain a control over them which it is expressly restrained and prohibited from exercising.

This view is greatly confirmed by an examination of the concluding words of the paragraph under consideration:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

This exception of the "places of choosing Senators" shows that this very subject of the place of voting was in the minds of the framers of that instrument, and by these closing words of the paragraph the place of voting is distinctly reserved to the ultimate control of Congress. Now, then, it is claimed by the honorable gentleman, and I freely admit it, that the power to fix the qualifications of voters is granted to the States, beyond the control of Congress.

If, now, the State may make the place of voting part of the qualification, Congress, having no power to interfere with the qualifications of voters, cannot "make or alter" any regulations in regard to it.

Hence, we are driven to the conclusion that the framers of the Constitution either understood that the place of voting forms no part of the qualifications of an elector, or else they inserted into that instrument a meaningless and impotent provision to regulate a matter which they had already surrendered entirely to the control of the States.

I do not believe that the framers of that Constitution, whose adaptability to all times and all circumstances has been so gloriously illustrated in the terrible struggle through which we have just passed, have inserted into that instrument any meaningless provisions.

Hence, I adopt the other alternative, and confidently assert that they understood that the place of voting could form no part of the qualifications of the voter.

The Michigan soldiers' voting law was carefully guarded in this respect. None but qualified electors, nay, more, none but those who were registered as qualified electors in the townships of their residence, were allowed to vote. And the votes of many who claimed and desired to exercise the right to vote were rejected for want of proof of registration in the townships where they claimed to reside. So carefully did the law guard the sanctity of the ballot-box, that in all the contests which have arisen under it—and I believe there were about fifty cases of contest—I have heard no word of fraudulent voting. And the gentleman himself, in the papers which he has filed in this case, makes no question here on that score, but simply denies the validity of the law for want of power in the Legislature to pass it. I think I have shown that the Legislature does possess the power to pass the law in case of the election of members of Congress, deriving it from the highest source of authority, the Constitution of the United States, by which it is made the duty of the Legislature to prescribe "the times, places, and manner of holding elections for members of Congress."

I think I have also shown that there is no collision between the decision of the supreme court of Michigan and the decision which I ask

this House to make of the case before it. The court decided a case arising under the State constitution in regard to an officer created by that constitution, whose duties were all imposed by and whose responsibilities were to that constitution, and the majority of the court decided the case according to their views of the requirements of that constitution. I ask this House to decide a case arising under the Constitution of the United States in regard to an office created by that Constitution, whose duties and responsibilities are all imposed by that Constitution; and it seems to me that it can be decided only in view of the requirements of that Constitution; and it was under one of those express requirements that the law which alone gives rise to controversy in this case was enacted.

Mr. Speaker, I have also attempted to show that there is really no collision between these two constitutions. Each has acted in its own sphere, and has made such requirements upon the Legislature as the judgment of those who formed them pronounced necessary for the safety of the State.

But, sir, if there is a collision between these two constitutions, can it be questioned for a moment which is to give way? The Constitution of the United States is declared by itself to be "the supreme law of the land, anything in State constitutions or laws to the contrary notwithstanding." Why were these men not at home to vote at the places where the majority of the court decided they must cast their vote for State officers? Simply because Mr. Jefferson Davis and his accomplices, after proclaiming for years that State constitutions and State laws were superior to the Constitution of the United States, had finally taken up arms to maintain that heresy, and thus overthrew the Government of the United States. And you and I, Mr. Speaker, and many others who now surround me, voted here for the passage of a law under which these men might be called out—conscripted, if need be—to maintain the integrity and supremacy of that Government. We can justify the passage of that law in no other way but upon the ground that that Government is supreme and had a right to maintain its integrity. Under that call these men went forth, voluntary conscripts, to do battle for that great principle; and for four long years this question has been argued by the booming of cannon, the rattle of musketry, and the fierce bayonet charge upon the battle-field; and, sir, it has been decided. I shall not disparage that great argument by attempting, with any feeble logic of mine, to reargue here a question which has been thus decided there.

But I may appeal to this House, in the name of the thousands and tens of thousands of widows, to whom it is some consolation to believe that their husbands and protectors laid down their lives in a holy and justifiable cause while battling to maintain the integrity of their Government and the protection of that flag over those whom they loved more than life, not to take away that consolation by now declaring that after all these brave men were battling to maintain a falsehood, that the Government which they died to maintain is not a Government; in the name of the tens and hundreds of thousands of orphans scattered all over this broad land, whom we have taught to believe that the proudest memento in all their future lives will be the thought, "My father died at Gettysburg or Antietam or Vicksburg or in the Wilderness, to maintain the supremacy of that flag which I so much the more love," not to blot out that bright memento and cast disgrace upon the honored dead. And finally, in the name of the two million brave men whose living bodies for four long years formed the ramparts which protected our homes from the desolation of war, not to take away from them their only justification by declaring here that, after all, State constitutions are superior to the Constitution of the United States—the very heresy which they were exposing and sacrificing their lives to overthrow. I do not believe that such can be the decision of this House. I will not believe it

till I am compelled by your vote to go out from here to proclaim it.

Mr. SCOFIELD. I rise now to call the previous question, as I think this debate has gone far enough.

Mr. ROGERS. Will the gentleman from Pennsylvania [Mr. SCOFIELD] yield to me a few minutes?

Mr. SCOFIELD. I will yield to the gentleman from New Jersey, [Mr. ROGERS,] the leader of the Opposition, for five minutes, though I desire to retain the floor so that I may call the previous question when the gentleman gets through.

The SPEAKER. The gentleman from Pennsylvania [Mr. SCOFIELD] can move the previous question now, and if it shall be seconded and the main question ordered, the gentleman will then be entitled to one hour for the purpose of closing the debate.

Mr. SCOFIELD. Then I will move the previous question now, and yield to the gentleman from New Jersey [Mr. ROGERS] after it shall have been seconded.

The previous question was seconded, and the main question was ordered.

Mr. SCOFIELD. I now yield to the gentleman from New Jersey for ten minutes.

Mr. ROGERS. I thank the gentleman for the courtesy which he has extended to me in allowing me an opportunity to make a few remarks upon this question. But at the same time I do not exactly like the insinuation he has thrown out that I claim to be the leader of this side of the House.

Mr. SCOFIELD. I know the gentleman is too modest to make the claim; I merely assigned the position to him. If he likes it better I will say "the misleader of the House."

Mr. ROGERS. I do not presume that there is any leader on this side of the House, but each man acts for himself. And even upon the other side of the House I notice that the distinguished gentleman from Pennsylvania [Mr. STEVENS] himself sometimes fails to lead; and it would not be strange if members on this side of the House should even disagree with me.

This question, Mr. Speaker, is one about which I have never had any doubt before; but after looking into the different reports presented here, I must say that there is some question in my mind about the true construction of the law upon this subject. I have never heard it contended that the organic law of the State had not the right to control the qualifications of the voters in the State, or the times, places, and manner of holding elections. In my own State, Senators of the United States are elected in joint meeting of the two Houses of the Legislature assembled together for that purpose, in accordance with the requirements of the organic law of the State. If the theory of the report of the majority of the committee be true, then the Legislature might annul the action of the organic law of the State of New Jersey in regard to electing United States Senators for that State. They might by a simple act of legislation, in contravention of the organic law of the State of New Jersey, decide that a Senator should not be elected in the manner laid down by the organic law.

And it has always been understood; it was so understood in Pennsylvania; it was so understood in New York; and it has been understood by lawyers and attorney generals in all the States where this question has come up about soldiers voting in the field, that it required a change in the organic law of the State before soldiers could vote outside of the domain of the State. I have never heard that understanding questioned. It was so admitted in my own State; it was so admitted in the State of New York; it was so admitted in the State of Pennsylvania. It was so decided in the State of Pennsylvania by the supreme court of that State; and it has been clearly and expressly so decided, I take it to be granted, by the supreme court of the State of Michigan, which has passed upon this point.

By the organic law of the State of Michigan it appears that the rules laid down in that law apply to elections of every character, as well of

Federal officers as of State officers, and when the supreme court of Michigan passed upon this subject by its decision, it took into consideration the terms of the organic law, as they had the organic law before them, and they there decided that it prescribed the qualifications of voters, and that a part of those qualifications to entitle a person to vote was one which required him to have a residence in the township or ward a certain number of days before the election was held.

Now, I take it that when the Constitution of the United States gave the Legislature of a State the right to prescribe the times, places, and manner of holding elections, those rights were given subject to the organic laws of the different States, as they existed in the States at the time the Constitution of the United States was made. And every one of the States at the time the Constitution of the United States was formed had an organic law; and the Legislature of the State was the creature of that organic law, made by it to carry into operation certain powers within the limits of the grant given by its creator. And when the Constitution of the United States was made, our fathers had reference to the Legislatures as they existed in the States at that time, and they intended to confine the operation of the Legislatures to the powers conferred upon them by their creators—that is to say, the organic law of the different States as they existed at the time of the formation of the Constitution of the United States. In my own State the constitution was made before the Constitution of the United States was framed, and we remained under that constitution up to 1844. Then we had a new State constitution, and it was the first that we adopted after the adoption of the Federal Constitution.

Now, it does appear to me that we must look at the situation of affairs at the time when the Constitution of the United States was made. The States then existing under the power of their organic laws, had no power to enact any law except such as was given to their Legislatures by virtue of the organic law of the States, and the people that confirmed and ordained the Constitution of the United States did it with a view to the situation of the Legislatures as they existed at that time, and intended to give them no more power than they already had a right to exercise under their own organic law. And when they said that the Legislatures should prescribe the times and places of holding elections they meant that the State Legislatures were to be controlled by the organic law of the State. They did not mean by the adoption of the Constitution of the United States to override that organic law, and to allow the people of the States, in opposition to the express provisions of their own State constitutions, to regulate this matter in a different way from that which the organic law prescribed.

Therefore, if this be a correct view of the case, the only relation which "time, place, and manner" hold, is as to the time, place, and manner in which the elections shall be held, and it was never contemplated, intended, or dreamed of, that persons should have the right to vote at elections by proxy, or in any other manner except by coming up to the polls and voting in person, by ballot, each man for himself, so that the qualifications of the voter might be judged of, his demeanor when he came to offer his vote exhibited, and if any suspicion should be created by his actions or appearance, it might be an inducement for some one to challenge his right to vote.

Now, I presume it is not denied by the learned gentleman who is to close this debate, that the place of residence is a qualification of electors as much as the provision that the voter shall be twenty-one years of age.

The constitution of the State of Michigan lays down as a qualification that a man shall be twenty-one years of age before he can vote. I ask the gentleman whether the Legislature of Michigan, in contravention of that organic law, can say that a person of ten years of age may vote for Representatives?

Mr. SCOFIELD. The Constitution of the United States gives to each State the right to prescribe the places of holding elections, and it gives to the people of the State the right to prescribe the qualifications of voters; and age is one of the qualifications.

Mr. ROGERS. Is not residence one of the qualifications, too?

Mr. SCOFIELD. Well, if that is to be called a qualification, it is also fixing the place of holding the election, and that must govern. You cannot say that because the Constitution gives them the right of fixing the qualification of voters, therefore they have not a right to fix the place of holding the election. It is just equal to the stale anecdote of the doctor who converted all diseases into fits because his medicines were applicable only to that disease. The gentleman claims that because the State convention of Michigan could fix the qualifications of voters, they could, therefore, fix the place of holding the election as a qualification.

Mr. ROGERS. The gentleman does not answer my point at all. I will put it in a stronger light. Suppose the organic law of the State should say that no man should vote unless he has resided personally for ten days in the township where the election is to be held, and comes personally to the ballot-box on the day of election and puts his vote in the ballot-box, could the Legislature of the State, in defiance of that organic provision, pass a law that a citizen should not be required at all to come to the ballot-box and vote, but might vote by proxy, or in some other State, or Territory, or in some foreign country, wherever he might please?

The SPEAKER. The ten minutes allowed to the gentleman from New Jersey have expired.

Mr. SCOFIELD. I will answer the gentleman's question out of my time. It is just the question I answered before, and the gentleman from New Jersey has not understood my answer. The Legislature, by the Constitution of the United States, fixes the place where the ballot-box shall be kept; that is, where the election shall be held. The State fixes the qualification of voters, and among those qualifications requires a ten days' residence in the township and three months' residence in the State, and that the voter shall be twenty-one years of age. Now, the voter having these qualifications deposits his ballot at the place fixed by the Legislature.

Mr. ROGERS. Still the gentleman does not answer my question. Suppose the organic law of the State of Michigan prescribed as a qualification that an elector should reside ten days in the township before the election, and that when the day of election comes, the elector shall go in person to the ballot-box and deposit his ballot, would that be a qualification?

Mr. SCOFIELD. The depositing the ballot would not be a qualification; the residence of ten days would.

Mr. ROGERS. Suppose the State provided in its organic law as a qualification that the elector should not vote unless he went personally to the ballot-box and put his ballot into the box, would not that be a qualification?

Mr. SCOFIELD. That is just what they did do in this case, only the ballot-box was to be in the camp where the soldiers were.

Mr. ROGERS. Allow me a moment?

Mr. SCOFIELD. I cannot give the gentleman all my time.

Mr. ROGERS. The gentleman has not answered my question.

Mr. SCOFIELD. Well, if the gentleman thinks so, it is because he does not know the question he put.

I did not wish to give the gentleman an opportunity to make a speech, for I knew that, as he is a leader of the Opposition, "one blast upon his bugle-horn" is good for forty votes. I believe that is at present the number of the votes on the other side. They are diminishing so rapidly that it is difficult for one to keep himself rightly informed in reference to the matter.

Mr. ROGERS. Will not the gentleman yield to me for a question?

Mr. SCOFIELD. I yield for the present to the gentleman from Illinois, [Mr. Cook.]

Mr. ROGERS. Will the gentleman from Illinois yield to me for a question?

Mr. COOK. I must decline to yield, as I hold the floor by consent of the gentleman from Pennsylvania.

I desire, Mr. Speaker, to propound a question to my colleague, [Mr. MARSHALL.] I listened to his argument yesterday with great attention. I wish now to ask him whether at the election at which he was first chosen a member of this House every vote polled for him was not void by the constitution of Illinois?

Mr. MARSHALL. No, sir. The constitution of Illinois of 1848 attempted to add to the qualifications prescribed in the Constitution of the United States for Representatives and Senators of the United States. In 1854, Mr. TRUMBULL and myself, who had both been upon the bench as judges, were elected to seats in this House. Before taking his seat, Mr. TRUMBULL was elected to the United States Senate. Both Houses of Congress held that the provision of the constitution of Illinois, which attempted to add to the qualifications of Senators and Representatives in Congress, was entirely in conflict with the Federal Constitution, and consequently void.

That is my answer to the question of my colleague. If he sees any analogy whatever between that case and this, he can see much further than I can. I was very unfortunate in my argument yesterday, if my colleague understood me as maintaining that a State constitution could override the Federal Constitution. I certainly took no such position, and I do not now.

Mr. COOK. Let me ask my colleague one other question. Whether the Legislature of the State of Michigan, which met two years ago, was not empowered by the Constitution of the United States to fix the place of holding elections for members of Congress.

Mr. MARSHALL. I endeavored yesterday to answer that question. I sought to prove that that Legislature had no such power if their act was in conflict with the constitution of the State. I do not think it necessary to repeat my argument at that point, for I imagine that the House would not hear it with much patience.

Mr. COOK. Then, as I understand, Mr. Speaker, the position is assumed that the constitution of the State may limit the Legislature in its power to fix the place for holding elections, but may not limit the people by saying for whom they shall vote. It seems to me that the cases are exactly parallel. If the people of the State of Illinois, in their constitutional convention, transcended their power when they enacted the provision which, if valid, would have rendered void all the votes cast for my colleague, then the people of Michigan, in their constitutional convention, transcended their power when they provided that the Legislature, which met two years after, should not fix the place of holding elections. The principle is precisely the same in both cases.

I desire to add a single word more. I have here an authority which may be entitled to some weight upon this question. The Committee on the Judiciary in the Senate have had before them a question in reference to the election of a Senator from New Jersey. In reporting upon that question the committee use this language:

"The constitution of New Jersey does not prescribe the manner of choosing United States Senators; as, indeed, it could not, the Constitution of the United States having vested that power, in the absence of any law of Congress, exclusively in the Legislature."

The power of the Legislature to provide the places for holding elections for Representatives rests on precisely the same authority as the power to elect Senators. If the constitution of New Jersey could not prescribe the manner of choosing Senators, it could not prescribe the manner of electing Representatives. So far as the authority goes, it is precisely in point.

Mr. ROGERS. With reference to the choice of Senators, the Federal Constitution itself de-

clares that Senators shall be elected by the State Legislatures.

Mr. COOK. Yes, sir; and the Constitution itself declares that the Legislature shall prescribe the places of holding elections. The language of the Constitution with reference to the two cases is precisely similar.

Mr. SCOFIELD. Mr. Speaker, I now want five minutes myself.

The Constitution of the United States says that the Legislature of a State shall prescribe the place of holding an election. In Michigan the Legislature of that State did prescribe the place where the soldiers should vote; they prescribed the camp where they happened to be in the field as the place. Now, why is not that constitutional? The Constitution gives this duty as clear as language can give it to the Legislature, and the Legislature clearly performs that duty.

The gentleman from Illinois [Mr. MARSHALL.] told us yesterday that the reason why the Legislature of Michigan could not perform that duty was because it was the creature of the constitution of Michigan. Suppose the Constitution of the United States had used the word "creature," if he wants it so, could they not have prescribed the place of holding elections just as well as if they were called by the more dignified word of Legislature?

Again, he tells us that the Constitution of the United States did not mean the Legislature, but meant the people of the United States.

Mr. ROGERS. Let me ask a question.

Mr. SCOFIELD. Not now. I am talking to the gentleman from Illinois, [Mr. MARSHALL.]

The Constitution of the United States says, in one place, that the electors in each State shall have the qualifications requisite for the most numerous branch of the State Legislature. Take the gentleman's reading, and it will be, shall have the qualifications of the most numerous branch of the people, not of the Legislature of a State. Which is the most numerous branch of the people? I suppose they should be divided into sexes. If so, in New England the ladies would be the most numerous branch, and in the gentleman's State the gentlemen.

Mr. MARSHALL. The gentleman will allow me a word. He does not intend to misrepresent me, I know, although in fact he is doing so. I said that the term Legislature, in its broadest sense, meant the people, who, in the first place, held the legislative power which they delegated to the conventions assembled to form the State constitutions; and those conventions, in the organic laws, delegated it to the ordinary Legislatures.

Mr. SCOFIELD. I will give the gentleman another example if he thinks his definition is accurate. Last session we passed a law submitting an amendment to the Constitution of the United States to the different States, and the Legislatures of three fourths of them have adopted it. The language of the Constitution is that when the Legislatures of three fourths of the States shall adopt it, it shall be a part of the Constitution. Now, according to the logic of the gentleman from Illinois, the Legislature means the people, and it must be submitted to three fourths of the people of the States. Mr. Seward has announced that the amendment has been adopted, but according to his theory, as it has been only sanctioned by three fourths of the Legislatures of the States, and not of the people, it is not part of the Constitution of the United States.

The Constitution of the United States in another place says that Congress may submit these amendments either to the Legislatures of the States or to conventions. Under the Constitution the State of Michigan might say they should not have any convention and the Legislature should not act upon it, and the Constitution of the United States would be nullified. That, sir, is evidence that the framers of the Constitution knew what they were about when they used the word Legislature. They used it in the same sense that we do. It is enough to say there were thirteen States then in existence, and each one had a Legislature at the same

time this Convention was in session, and all those States either had a constitution or a charter in existence at that time, and if they had meant something besides a Legislature *eo nomine*, would they not have been likely to have said so? You may go through the Constitution of the United States and you will find the word Legislature used some dozen or fifteen times, and every time indicating it meant the same as we mean in the history of this country, the Legislature that originates under the Constitution.

Mr. ROGERS. Suppose the Legislature of the State of Michigan should refuse to elect Senators, how can we compel it to do so?

Mr. SCOFIELD. I do not know. My friend from New Jersey might issue a *mandamus* on them. It has nothing to do with this question.

Mr. SPALDING. I want to ask a question. I desire to know if there be any objection to the votes cast for the sitting member other than those which appertain to their being soldiers in camp away from home.

Mr. SCOFIELD. That is all.

Mr. SPALDING. Would they have been legal voters if at home?

Mr. SCOFIELD. Yes, sir, every one of them.

Mr. ELDRIDGE. I desire to ask a single question. I wish to know whether, if the proposition the gentleman maintains be true, it does not involve the question that the constitution of Michigan is itself unconstitutional so far as the Constitution of the United States is concerned?

Mr. SCOFIELD. It involves the question, then, whether the Constitution of the United States says that the Legislature shall fix the places of holding elections. Now, if the constitution of Michigan says it shall not do it, then these two constitutions are in conflict. And I suppose nobody, since the war, will say that the State constitution is so sovereign that it overrides the Constitution of the United States. As to the question to be settled, whether it is in conflict or not, I refer the gentleman to my colleague on the committee, [Mr. DAWES,] who said yesterday that they were not in conflict. I think they are, and, of course, I think the Constitution of the United States is supreme, and that that of Michigan must yield.

Mr. ELDRIDGE. Will the gentleman allow me one further question on this subject? Supposing the State constitution had existed at the time when this provision of the Constitution of the United States was adopted, would that provision of the Federal Constitution annul the provision of the Michigan constitution? Take the case, for instance, of New Jersey, referred to by our friend from that State, [Mr. ROGERS,] which had a constitution in existence prior to the adoption of the Constitution of the United States. Now, does it follow that the Constitution of the United States, subsequently adopted, abdicates or annuls the constitution of the State of New Jersey?

Mr. SCOFIELD. I take it that all State constitutions are subordinate to the Constitution of the United States without regard to age.

Mr. UPSON. Will the gentleman from Wisconsin [Mr. ELDRIDGE] answer me this question? The constitution of Michigan prohibits the Legislature from electing a Governor to the United States Senate, and declares any such vote void? Does the gentleman consider that as one of the qualifications that the Constitution of the United States was intended to regulate?

Mr. ELDRIDGE. I do not think that question is involved in this discussion. The question which I put to the gentleman from Pennsylvania [Mr. SCOFIELD] I think he has not undertaken to answer. But I wish to inquire further, whether the gentleman from Pennsylvania does hold that the adoption of the Constitution of the United States may, by its provisions, annul a prior existing constitution of a State.

Mr. SCOFIELD. I believe I have already answered that it does not make any difference how old the State constitution is.

Mr. DAVIS. I ask the gentleman from Pennsylvania to yield to me five minutes.

Mr. SCOFIELD. I will.

Mr. DAVIS. The question seems to have arisen here as to the intention of the people of this country in adopting the Federal Constitution, which is the organic law of the land, whether they intended, in adopting the Constitution of the United States, to detract from the power of any State constitution. I am surprised that in this day that question should be addressed to any member upon this floor. What was the very purpose of the adoption of our Federal Constitution? The Confederation had been tried, and it had failed. It was found that there was not power enough in the Confederacy to carry on the operations of the Government; that the Legislatures of all the States held all powers except those that had been delegated through the Articles of Confederation to the Government created by those articles; and when they came to adopt the Constitution of the United States, the people of all the States, everywhere throughout the whole country, made that the supreme law, and took away from every State constitution any power which conflicted in any wise with the provisions of the Federal Constitution. Therefore, when they said that the Legislatures of each State should prescribe the times, places, and manner of holding elections of Senators and Representatives, they meant that that power should be exercised by the State Legislature. It was a power given to them by the Constitution of the country, a power conferred upon the State, to prescribe the manner, the time, and the place in which those elections should be held.

The gentleman from New Jersey [Mr. ROGERS] asks whether it would be possible to compel a State to cause this election? Perhaps not. The southern States have already assumed the ground that they ought not to be compelled to do this. If they fail to do it they must suffer the consequence. But their failure does not alter the operation of the law.

Mr. KELLEY. Will the gentleman yield for a single statement?

Mr. DAVIS. Yes, sir.

Mr. KELLEY. I rise simply to express my surprise at the intimation which has been thrown out here, that if the Legislature of any State should fail to make provision for the election of Representatives to this House Congress has no power to remedy the default. Such an idea utterly ignores a vitally important provision of the fourth section of the first article of the Constitution, which declares that—

“The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.”

Now, sir, the proceedings of the Convention that framed the Constitution, the discussions in the various State conventions which ratified that instrument, and the action of the First Congress of the United States, in 1789, when an effort was made to restrict and practically destroy, by constitutional amendment, this supervisory power of Congress, combine to show that the ultimate control of the Congress of the United States over the elections for Representatives in the various States was deemed by the great men who framed the Constitution as of vital consequence, in order to enable Congress to protect the people's right of suffrage and representation, and in an extreme contingency to prevent the dissolution of the Government. The proceedings to which I have referred show clearly that the great object in authorizing Congress to “make or alter the regulations” in regard to the election of Representatives was that, if any State or States, by improper action or by refusal to act, should attempt to deprive the people of their rightful representation in this House, the Congress of the United States, acting in this respect as the ultimate guardian of the citizen, should interpose with controlling power to secure to the people the right of suffrage and a just and equal representation in the national councils.

Mr. DAVIS. It was not my purpose to bring up that point for discussion to-day. The gentleman from Pennsylvania the other day made an argument on that subject, and I am content with that. I pass it by. All I have to say is, that the Legislature of each State has a duty to perform under the Constitution, and that is, to prescribe the time, places, and manner in which elections shall be held for Senators and Representatives in Congress.

Now, I hold that if any conflict arises between the Federal Constitution and any State constitution, the State constitution is null and void, for, if we have a nation in this country, the Constitution of the Federal Government is supreme.

What has been done in this case? The constitution of the State of Michigan, as I understand, has not prescribed the time and places and manner of holding elections in that State, but it allows the Legislature to do it, and the Legislature has done it. There is no conflict. The Legislature of the State, in entire subordination to their own constitution, and without conflict with it, prescribed the mode, time, and places in which the election for Senators and Representatives of the United States should take place. They fixed the place of election in the field, where I think they had the constitutional power to do it. I think it is right to exercise liberality in our judgment in cases of this nature. By whom was this right of franchise to be exercised? By the soldier who had left his home and fireside to fight the battles of the Union, and he had left behind him too many men who were opposed to the interests and supremacy of this Union. I will not consent, unless I am compelled to it by convictions of duty, to withhold from any soldier in the field the right to protect his Government by his ballot as well as his bayonet.

The SPEAKER. The gentleman's five minutes have expired.

Mr. SCOFIELD. I will now yield to my colleague on the committee from Ohio [Mr. SHELLABARGER] for five minutes.

Mr. SHELLABARGER. Mr. Speaker, as a member of the Committee of Elections I thought, perhaps, it would not be amiss, even after all the discussion that has occurred, for me to allude to one or two propositions made by my excellent colleague on the Committee of Elections, [Mr. MARSHALL.]

One was this: he holds that where an act of the Legislature fixes the camp as the place of holding the election that it is not a fixation of the place within the meaning of the Constitution of the United States. Now, I suggest to my friend that if he is right in that, then all the laws of the several States—and there have been quite a number of them doing this same thing—are worthless, are void. My own State, the great State of Pennsylvania, I believe the State of New York, and quite a number of other States, have done precisely that thing, to wit, fixed the camp as the place of voting, and that was the only thing that could be done from the very nature of the case. If, therefore, this House should give significance and force to the suggestion of my learned friend, they would be simply deciding that all these laws fixing the places of soldiers voting are unconstitutional, and that not only now, but in all the future, we can never make it constitutional for a soldier to vote, because we cannot fix the place of voting. That is one point.

Mr. MARSHALL. Will the gentleman allow me one moment?

Mr. SHELLABARGER. If it is not an intrusion on the House, I certainly will.

Mr. MARSHALL. Well, I ask the gentleman to state, if a law providing that any citizen of a State might vote at any place where he might happen to be on the day of election, would be a law prescribing a place at all?

Mr. SHELLABARGER. No, no; oh, no.

Mr. MARSHALL. Well, then, let me ask the gentleman another question: if any number of men, say a dozen or a hundred, in a regiment shall vote at one place where they may happen to be on the day of election, is that fixing the place of election at all?

Mr. SHELLABARGER. I will answer that question in a way perfectly satisfactory, I think, even to my friend. Suppose that the law should provide that the place of election in a given county should be the court-house, of course the court-house may be moved, here to-day, there to-morrow, and in another place the next day. It is an old axiom in law that is certain which can be made certain. The fixing of the court-house is a fixation of the place, because it can be made certain; and so here, when you fix the camp of a given regiment as a place of voting, it is a fixed place.

Mr. MARSHALL. Another question, then. If an act was passed providing for taking the vote of an elector at any place in the world, where he might happen to be on the day of election, is not that a fixing of the place just as much as the other?

Mr. SHELLABARGER. We might get ourselves into a maze of difficulties by supposing unimaginable cases.

Mr. MARSHALL. Does not the gentleman get himself into just such a trouble?

Mr. SHELLABARGER. No, sir.

Mr. JOHNSON. Will the gentleman allow me to make a correction of his statement in regard to the laws of the State of Pennsylvania?

Mr. SHELLABARGER. I shall deprive myself of the opportunity of stating what I rose to state, if I am not permitted to finish my statement.

Mr. JOHNSON. Very well, go on and make misstatements.

Mr. SHELLABARGER. There is no importance anyhow in what I said about Pennsylvania.

Mr. JOHNSON. Then the gentleman ought not to have said it.

Mr. SHELLABARGER. It is said, in addition, as an objection to the majority report of this committee, that by the position we take we override the constitutions of the several States, and we thereby nullify the constitutions of the States. Now, I submit, in reply to that suggestion, that any position we can possibly take upon this subject will result in precisely the same thing, because the Constitution of the United States itself prescribes, in this same clause, that the place that is fixed, whether it be fixed by the State Legislature or the State constitutional convention, may be altered by act of Congress; so that a worse dilemma may arise on the other side. They might rise here and ask me, can you override the constitutions of the States by an act of Congress? Why, certainly you can.

Mr. DAWES. If the gentleman will allow me, it is not a question of overriding the constitution of a State by act of Congress, but of overriding the constitution of the State by the Legislature of the State.

Mr. SCOFIELD. The legislation of the State was in pursuance of the Constitution of the United States, and therefore it is an effort to override the Constitution of the United States.

Mr. DAWES. That is begging the whole question.

Mr. SHELLABARGER. Now, I do not know, nor is it necessary that I should know, that I fully comprehend the suggestion made by the chairman of the committee, [Mr. DAWES:] but I will answer any suggestion upon that point by saying this: suppose the constitution of my State should fix the county seat of my county as the place of holding elections within that county in all coming time. Is it not obvious to every one that although that provision was in the constitution of Ohio, yet it could be altered by act of Congress, under the last part of the clause in the Constitution of the United States providing that Congress may alter the times, places, and manner of holding elections? Who will get up here and say that that cannot be done? And yet the argument made on the other side, that we are undertaking to override the constitution of the State, is exactly as defective in the view I have now put as it is in the other view: indeed, more so, because it might be said with much more force that you shall not be permitted by act of Congress to over-

ride the terms of the State constitution when it might be overcome by the higher, the supreme provisions of the Constitution of the United States.

Then these are the only two points that I rose to notice: first, that the place of voting is fixed when you fix the camp where the regiment or the soldier may be, as much as it can be fixed in the nature of the case. And if you hold that a more definite fixation of the place is requisite, then you can never have a valid soldiers' voting law under the Constitution of the United States.

The other point is, that you do not override the constitution of any State by providing that the Legislature may change the places of voting fixed by that constitutional law of the State; because the provision of the Federal Constitution names the Legislatures of the States simply as the mere instrumentalities for fixing the places for elections of Federal officers.

Mr. SCOFIELD. I think we have had debate enough on this subject, and I now call for a vote upon it.

The question was upon the amendment of Mr. MARSHALL to strike out all after the word "resolved," in the following resolution, reported by the Committee of Elections:

Resolved, That Rowland E. Trowbridge is entitled to a seat in this House as a Representative in the Thirty-Ninth Congress from the fifth congressional district in Michigan.

And to insert the following:

That Hon. Rowland E. Trowbridge is not entitled to hold the seat now occupied by him in this House as a Representative from the State of Michigan.

Resolved, That Augustus C. Baldwin has been duly elected as a Representative from the State of Michigan to the Thirty-Ninth Congress, and is entitled to a seat in this House.

Mr. MARSHALL. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 30, nays 108, not voting 44; as follows:

YEAS—Messrs. Bergen, Boyer, Chanler, Eldridge, Fiske, Glossbrenner, Goodyear, Grider, Aaron Harding, Hogan, James M. Humphrey, Johnson, Kerr, Le Blond, Marshall, McCullough, Niblack, Nicholson, Radford, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Strouse, Taber, Taylor, Thornton, Trimble, and Voorhees—30.

NAYS—Messrs. Alley, Allison, Ames, Baker, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Brewster, Broomall, Buckland, Sidney Clarke, Cobb, Conkling, Cook, Darling, Davis, Dawes, Deffrees, Delano, Deming, Dixon, Donnelly, Briggs, Eckley, Eggleston, Eliot, Farquhar, Ferry, Garfield, Grinnell, Hale, Abner O. Harding, Hart, Hayes, Higby, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hulburt, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Kuykendall, Ladin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McKee, Miller, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Phelps, Pike, Plants, William H. Randall, Raymond, John H. Rice, Rollins, Rousseau, Sawyer, Schenck, Seefeld, Shellabarger, Sloan, Smith, Spalding, Stevens, Stillwell, Thayer, Francis Thomas, John L. Thomas, Upson, Van Aernam, Burt Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, and Windom—108.

NOT VOTING—Messrs. Ancona, Anderson, Delos R. Ashley, James M. Ashley, Baldwin, Barker, Blow, Boutwell, Brandegee, Brooks, Bundy, Reader W. Clarke, Cullom, Culver, Dawson, Denison, Dumont, Farnsworth, Griswold, Harris, Henderson, Chester D. Hubbard, Edwin N. Hubbard, James Humphrey, Jones, Kasson, Latham, Melndoe, McRuer, Mereur, Moorhead, Noel, Patterson, Perham, Pomroy, Price, Samuel J. Randall, Alexander H. Rice, Starr, Trowbridge, Robert T. Van Horn, Winfield, Woodbridge, and Wright—44.

So the amendment was rejected.

During the call of the roll,

Mr. DAWSON stated that he had paired with Mr. ASHLEY, of Ohio, and that Mr. ANCONA had paired with Mr. MOORHEAD.

Mr. RADFORD stated that Mr. WINFIELD was absent on account of sickness in his family.

Mr. COBB stated that Mr. McINDOE was detained from the House by indisposition.

Mr. BOYER stated that Mr. ANCONA was absent on account of his continued illness.

The result was then announced as above stated.

The question then recurred on agreeing to the resolution reported by the committee.

The resolution was agreed to.

Mr. SCOFIELD moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. SCOFIELD. I ask unanimous consent to report from the Committee of Elections the following resolution:

Resolved, That there be paid out of the contingent fund of this House to Hon. A. C. Baldwin, contestant of the right of Hon. R. E. Trowbridge to a seat in this House the sum of \$1,500, in full, for time expended and expenses incurred in said contest.

There was no objection.

Mr. SCOFIELD. I will only say that the sum named in this resolution was unanimously agreed upon by the committee as the amount that should be properly paid to this contestant.

Mr. STEVENS. I should like to know whether this sum is the amount of the regular per diem and mileage.

Mr. SCOFIELD. The mileage and monthly pay would be \$1,500. We have fixed an even sum.

Mr. STEVENS. I see no objection to that.

Mr. ELDRIDGE. Does this amount include the monthly pay from the commencement of the congressional term, or only for the session of Congress?

Mr. SCOFIELD. Only for the session. It includes three months' pay and mileage. I now call the previous question.

Mr. MARSHALL. I ask the gentleman to yield to me for a moment, that I may offer an amendment. I desire to move to add after the words "\$1,500" the words "and mileage."

Mr. SCOFIELD. I will yield to allow the amendment to be offered, if it will be understood, by unanimous consent, that the yeas and nays shall not be called upon it.

Mr. SPALDING. I will call the yeas and nays.

Mr. SCOFIELD. Then I cannot yield. I am confident that the amendment would not prevail.

Mr. WARD. I give notice that I shall demand the yeas and nays on the adoption of the resolution. I am opposed to the whole principle of paying contestants.

Mr. SCOFIELD. I insist on the call for the previous question.

The previous question was seconded, and the main question ordered.

Mr. WARD. I call for the yeas and nays on the adoption of the resolution.

The yeas and nays were not ordered.

The resolution was then adopted.

Mr. SCOFIELD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM SAWYER AND OTHERS, OF OHIO.

Mr. LE BLOND. I ask the unanimous consent of the House to introduce a joint resolution that it may be taken up and acted on at the present time. It provides that the Secretary of the Interior shall be authorized to appoint a commissioner to reappraise the lands described in an act entitled "An act for the relief of William Sawyer and others, of Ohio," approved July 2, 1864, provided, however, that the occupants of said lands shall pay the expenses of reappraisal.

Mr. SPALDING. I object.

Mr. LE BLOND. I ask my colleague to withdraw his objection, inasmuch as this is a matter peculiar to our own State. If it is desirable to him I will have it referred to the Committee on Private Land Claims.

Mr. SPALDING. I withdraw my objection.

Mr. LE BLOND. I ask that the resolution be put on its passage.

Objection was made.

The joint resolution was then read a first and second time, and referred to the Committee on Private Land Claims.

CHOLERA.

The SPEAKER laid before the House a message from the President of the United States

transmitting, for the consideration of Congress, correspondence between the Secretary of State and the minister of France accredited to this Government, and also other papers, relative to an international conference at Constantinople on the subject of cholera; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

SELECT COMMITTEE.

The SPEAKER also appointed the following as the select committee on a Bureau of Education ordered by the House:

Messrs. GARFIELD of Ohio, PATTERSON of New Hampshire, BOUTWELL of Massachusetts, RANDALL of Pennsylvania, DONNELLY of Minnesota, MOULTON of Illinois, and GOODYEAR of New York.

TAX ON DISTILLED SPIRITS.

Mr. STEVENS. I ask the unanimous consent of the House to introduce the following resolution:

Resolved, That, in the judgment of this House, the internal duty or tax on distilled spirits ought not to be reduced.

Mr. WENTWORTH. I object.

BANKRUPT BILL.

Mr. JENCKES. I call for the regular order of business.

The SPEAKER stated that the regular order of business was the consideration of the bill (H. R. No. 7) to establish a uniform system of bankruptcy throughout the United States.

The eleventh section was pending when the House passed from the consideration of the bill on Friday last.

The pending amendment, moved by Mr. HOTCHKISS, was as follows:

Strike out in lines thirty-six and thirty-seven of section eleven the words "marshal of said district;" in line thirty-seven the words "as messenger;" in lines forty and forty-one the words "until the appointment of an assignee;" and insert at the end of line thirty-six the following:

General assignee in bankruptcy residing in the county where such bankrupt resided at the time of filing his petition; and thereupon the estate of such bankrupt shall vest absolutely in such assignee for the purposes of this act; and the district judge of each district shall appoint a general assignee in bankruptcy for each county within his district, who shall be a resident of the county for which he is appointed, and shall give such bond as shall be required by such judge, and shall be an officer of the court, and subject to its rules and orders.

The SPEAKER. The gentleman from New York [Mr. CONKLING] is entitled to the floor on a *pro forma* amendment to the amendment.

Mr. CONKLING. Mr. Speaker, the object of the amendment pending is to improve one of the sections of this bill. If I could get some of the lawyers around me to attend to it I would like to inform them what the section is. It provides in every case of voluntary bankruptcy an assignee shall be appointed to administer the bankrupt's estate; and it provides also that in every one of these cases a deputy marshal shall intervene for a mere preliminary purpose. My point is, that the interposition of a marshal is quite unnecessary, that it necessitates an expense which is useless, and the creation of a large number of officers entirely useless.

I say, in answer to a suggestion made by the gentleman from Massachusetts, [Mr. ALLEY,] that my argument is not at all in favor of official assignees, but my point is, that the assignee which, under the section as it stands, is to be appointed in every case should, from the outset, be present and take charge of the estate, thus dispensing with the necessity for a deputy marshal. Now, there is but one objection to this which any one has struck, and that is, that the creditors will not be able, in the first instance, to select the assignee; that the trustees will not be nominated by the *cestui que trust*. In my judgment, that is no objection whatever to the matter. Under the section as it stands, a friendly and managing creditor will be quite apt to manage and control the proceedings in nine cases out of ten. So, if the section as amended gives to the court the power to appoint an assignee at once, and then to change it upon cause shown, two objects will be accomplished: first, the marshal and this

cloud of deputies will be dispersed; and second, the creditors will be assured of an assignee proper, active and acceptable to them, because, if the court makes a mistake, a change will be made on their suggestion.

Now, to my mind it is entirely clear that the whole purpose may be accomplished by allowing the assignee to be appointed, to begin with, to act as messenger and as assignee, and the glaring objection to this section at the same time can be avoided. I make this suggestion in friendship to this bill, for I would like to vote for a good bankrupt law—not an insolvent law, not a law which will sponge out debts and last till that is done and then be repealed; but a law which will take its place as part of the permanent commercial system of the country. If we can have that, I shall be very glad for one to give it my vote. And I suggest, with great respect to the committee, that they may make a mistake in adhering too strongly to all the technical parts of this bill.

The objection which I now seek to enforce comes to me from judges and from lawyers who understand this subject thoroughly, and from one lawyer especially—I might say it without disrespect to this committee—who knows as much about this subject as any gentleman who will take part in this discussion. He thinks, and others think, that this section is exceedingly objectionable. I agree that it is, and I suggest to the committee whether, without adopting necessarily the idea of an official assignee, they had not better dispense with a provision which, for the reason I have indicated, and which I would indicate more at length if I had time, is, I submit, unnecessarily objectionable.

The SPEAKER. Debate is now exhausted on the amendment to strike out the last line, and that amendment, the Chair understands, is withdrawn.

Mr. JENCKES. I move to strike out the last two lines, for the purpose of replying to the gentleman from New York, [Mr. CONKLING.]

It seems to me, and I think it will to every one who reflects upon this subject, that the objection of the gentleman from New York is based upon a misapprehension of the duties of this person called a messenger. There must be an intermediate time between the filing of a petition in bankruptcy, whether a voluntary petition or a petition *in invitum*, by the creditors before adjudication, by consent, by a register, or by the court upon hearing, and the—

Mr. HOTCHKISS. Will the gentleman yield while I correct a statement he is making? The section under consideration provides that the filing of the petition shall be an act of bankruptcy in and of itself, and that, therefore, the party shall be declared bankrupt. When that petition is filed the judge is obliged to decree him a bankrupt.

Mr. JENCKES. I yield no further. The gentleman convinces me more and more that he is mistaken. The person who files the petition may be adjudicated a bankrupt, it is true; but what is to become of his property between that time and the time of the appointment of the assignee?

Mr. HOTCHKISS. The assignee is appointed in advance.

Mr. JENCKES. Not at all.

Mr. HOTCHKISS. If the gentleman will read my amendment and say that it is not so, I will withdraw it.

Mr. JENCKES. I understand that. The principal merit of this bill, in the opinion of the committee, if there is any merit in it, is this: that the debtor and creditors may act together, and that the creditors appoint the assignee and not the debtor, subject to the approval of the court; and the business of these messengers is simply to perform the preliminary business required—to take custody of the property, give the notices, and see that the meeting of the creditors is held.

Mr. CONKLING. Why should not the court appoint the assignee?

Mr. JENCKES. Because insolvency is a matter between debtor and creditor, and if they

can arrange it, the court should simply indorse what they agree to. If they cannot, then it is for the court to interfere. Now, the duties of messengers are to take possession of the books, papers, and property of the bankrupt. The next step is to call the creditors together, and as soon as they meet the duties of the messenger are at an end; because the first duty of the creditors when they assemble is to nominate an assignee who will be confirmed by the court, if a proper person, if not, the court will appoint an assignee.

Now, the gentleman says that this appoints new officers. Not a single one. Supposing there is an official assignee; he would have to send the clerk or messenger or some one in his employment to take possession of the property.

Mr. CONKLING. Will the gentleman allow me to state what I am talking about? I am not advocating an official assignee.

Mr. JENCKES. Very well.

Mr. CONKLING. What does the gentleman mean by telling this House that this does not provide for the creation of new officers?

Mr. JENCKES. Not one. There must be some person to do this duty, must there not? I ask the gentleman the question as a lawyer.

Mr. CONKLING. If the assignee is to do it no one else is required to do it.

Mr. JENCKES. But the assignee cannot be appointed till nominated by the creditors.

Mr. CONKLING. That is begging the whole question. He can be, and should be.

Mr. JENCKES. That is another question. If the gentleman wishes the court to appoint an official assignee, let him say so. That is the precise objection to all previous systems of bankruptcy.

Mr. CONKLING. Does the gentleman mean to say, as a lawyer, that if the court designates an assignee, that of itself makes him the official assignee?

Mr. JENCKES. No; but if, when the creditors meet, they remove that assignee, if the creditors have the power to do that, the person the gentleman calls an assignee is but a temporary assignee, and performs simply the duties of a messenger.

Mr. CONKLING. Well, that obviates the necessity of all these public officers.

Mr. JENCKES. Not at all.

Mr. CONKLING. Surely it does.

Mr. JENCKES. The reason for calling him a deputy marshal is to get the advantage of the marshal's bond and not to intrust the property of the debtor to a person who is not responsible for it.

[Here the hammer fell.]

Mr. STEVENS. I rise to oppose the amendment of the gentleman from Rhode Island. I do not want anything stricken out or put in, or anything to pass. I think the most unpopular law the Congress of the United States ever passed was the last bankrupt bill. It killed a party, and I do not want a party, a good, respectable party, to be killed by another such law. [Laughter.] I do not think you could find any law ever passed or that could be passed so unpopular in an agricultural community as a bankrupt law. I should not have much objection to one applying to the cities, although, generally speaking, an honest insolvent there can always get a liberal arrangement and compound with his creditors.

Mr. JENCKES. Never.

Mr. STEVENS. But this is not the time, when all rebeldom is in debt to us, to pass a law to free them from their debts. It is the last day on earth—

Mr. JENCKES. I call the gentleman from Pennsylvania to order. He is not speaking to my amendment or to the subject before the House.

Mr. STEVENS. I thought the gentleman had moved to strike out the last three lines and I was opposing that.

The SPEAKER. The Chair sustains the point of order.

Mr. JENCKES. The gentleman is taking an opportunity to make remarks to which no reply can be made.

Mr. STEVENS. I am speaking against striking anything out.

Mr. JENCKES. Well, I call the gentleman to order.

The SPEAKER. The Chair sustains the point of order, but at the same time the Chair must state that the gentleman from Rhode Island did not confine his remarks very closely to his amendment.

Mr. STEVENS. I did not understand what he was talking about. [Laughter.]

Mr. JENCKES. I know you did not.

Mr. STEVENS. The gentleman did not talk about his amendment, I am sure; however, if the Chair thinks I am out of order, of course I will not persist.

The SPEAKER. The gentleman must confine himself to the amendment, which is to strike out the last three lines.

Mr. STEVENS. Well, sir, I do not think the House ought to strike out these lines, because the gentleman from Rhode Island thinks that would improve the bill, and I do not think the bill ought to be improved. [Laughter.]

Mr. JENCKES. Then I withdraw the amendment to the amendment.

The question recurred on Mr. HOTCHKISS's amendment, and being put, there were—ayes 81, noes 81; no quorum voting.

Tellers were ordered; and Messrs. HOTCHKISS and JENCKES were appointed.

The House divided; and the tellers reported—ayes 82, noes 60.

So the amendment was rejected.

Mr. HALE. I move further to amend this eleventh section, by inserting after the close of the forty-ninth line the words, "and stating the names and residences of the creditors, and the amounts of their respective debts, so far as the same are stated in the petition or schedule of the debtor;" so that that portion of the section will read, as follows:

Send written or printed notice, by mail or otherwise, to all creditors upon the schedule filed with the debtor's petition, or whose names may be given to him, in addition, by the debtor, and to give such personal or other notice to any persons concerned as the warrant specifies; which notice shall state:

First. That a warrant in bankruptcy has been issued against the estate of the debtor; and stating the names and residences of the creditors, and the amounts of their respective debts, so far as the same are stated in the petition or schedule of the debtor.

Mr. Speaker. I think the purpose of this amendment will at once be manifest to any gentleman who is acquainted with this bill. It is in effect requiring that when the notices in bankruptcy are served, each creditor shall be informed of the names and residences of those who stand in the same relation with himself to the estate of the debtor. It was, I think, a material defect in the former bankrupt bill that it omitted to give such information. It seems to me that it is in the highest degree proper and desirable that whenever a bankrupt issues notices, or whenever notices are issued upon the finding of the commissioner of bankruptcy, each creditor should be informed of the parties who are situated as he himself is, and of the amount due each. These creditors occupy a common position in regard to the estate of the bankrupt, and they should have some means of information as to who are the parties interested, in order that they may have an opportunity of consultation.

Is the amendment I have offered acceptable to the chairman of the committee, [Mr. JENCKES?]

Mr. JENCKES. Upon a voluntary petition that might be so. But the gentleman will see, by turning back, that that is a portion of the proceeding to be regulated by the commissioner upon an involuntary petition.

Mr. HALE. I do not understand that to be so. This is the first step to bring the parties together.

Mr. JENCKES. If the gentleman will allow me, I will show that it is unnecessary; because the duty of the messenger is to send notice to every creditor, and nothing is done until the creditors meet. When the petition is a voluntary one, the schedule must be filed, and

it shows who the creditors are. And as soon as the creditors meet they know each other.

Mr. HALE. I think the gentleman fails to understand my point.

Mr. JENCKES. I do not. But I think it ought not to be in the law, but left to the code to be prescribed.

Mr. HALE. I think it should be in the law. The law prescribes the contents of the notices to be issued by the messenger. And I say that the notice, the thing that gives the creditors information, ought to advise him who are the parties interested in the matter in like manner with himself, so that he may have an opportunity for consultation and comparison of views with them, before he decides that he will ever appear or take any steps whatever.

Take, for instance, the city of New York, which is perhaps the great creditor city of the country. A merchant of New York receives notice of the filing of a petition of his debtor. By this bill, as it stands, he is to have no other information. Now, if in that same notice he can be told, what can be told very briefly and readily, and with very little additional expense, who the other creditors are, and what are the amounts due them, he will have information which will be of great importance to him.

Mr. JENCKES. With the permission of the gentleman I will suggest an amendment to another portion of the section, which I think will accomplish the purpose he has in view: to insert after the words "creditors of the debtor" the words "their names and the amounts of their debts so far as the same may be known." That portion of the section will then read:

Send written or printed notice, by mail or otherwise, to all creditors upon the schedule filed with the debtor's petition, or whose names may be given to him, in addition, by the debtor, and to give such personal or other notice to any persons concerned as the warrant specifies; which notice shall state:

1. That a warrant in bankruptcy has been issued against the estate of the debtor.
2. That the payment of any debts and the delivery of any property belonging to such debtor to him or for his use, and the transfer of any property by him, are forbidden by law.
3. That a meeting of the creditors of the debtor, their names, and the amounts of their debts, so far as the same may be known, to prove their debts and choose one or more assignees of his estate, will be held at a court of bankruptcy, to be holden at a time and place designated in the warrant, not less than ten nor more than ninety days after the issuing of the same.

Mr. HALE. That is my proposition.

Mr. JENCKES. I will accept the one I have indicated, if the gentleman will move it.

Mr. HALE. I am satisfied with that, and will accept it.

The amendment, as modified, was agreed to.

Mr. HALE. I desire to offer two other but merely verbal amendments, in lines forty-two and forty-three. It now reads, "send written or printed notice, by mail or otherwise, to all creditors," &c. I move to amend by striking out the word "send" and insert the word "serve;" also to strike out the words "or otherwise to" and insert the words "or personally on;" so that it will read, "serve written or printed notice, by mail or personally on all creditors upon the schedule," &c.

Mr. JENCKES. I have no objection to that. The amendments were agreed to.

Mr. POMEROY. I move to amend the eleventh section by striking out after the word "bankrupt," in the thirty-first line, the following words:

And the judge of the district court, or if there be no opposing party, any register of said court, to be designated by the judge, shall forthwith, if he be satisfied that the debts due from the petitioner exceed \$500, issue a warrant, to be signed by such judge or register.

And inserting in lieu thereof the following:

And the clerk of the district court shall forthwith, if he be satisfied from such petition that the debts due from the petitioner exceed \$500, issue a warrant signed by him, under the seal of the court, and tested in the name of the district judge; and.

Mr. Speaker, I think that the chairman of the committee will consent to this amendment when he understands its effect. In all cases in the district court, when the proper paper giving the court jurisdiction is placed on file, the war-

rant or attachment, whatever the process may be, is issued by the clerk as a matter of course; and it is issued here as a matter of course, whenever a petition is filed showing more than \$500 worth of property on the part of the bankrupt.

Now, in order to make the proceeding under this bill harmonize with other proceedings of a like character in the district court, this warrant should be issued by the clerk under seal, and tested, as every other process is tested, in the name of the district judge. I do not see why a distinction should be made here, and the power given to a judge or to a register, such register being, perhaps, five hundred miles away from the clerk's office, to issue a warrant, when the seal is of necessity in the clerk's office.

Mr. JENCKES. If the proceedings were voluntary only, the amendment of the gentleman from New York [Mr. POMEROY] would be proper; but he will see at once that the subject which he wishes to cover by his amendment is one that must be embraced within the code of practice. In all cases of voluntary application, the course indicated by him would be pursued; but in cases of involuntary proceedings, there must be the act of a judge or a register.

Mr. POMEROY. This section relates to voluntary proceedings only.

Mr. JENCKES. But the gentleman, if he looks further, will see that the section relating to involuntary bankruptcy adopts all the proceedings prescribed for voluntary bankruptcy, so as to avoid having two codes in the same act. But the rules to be prescribed will meet the case which the gentleman desires to cover. The method of proceeding which he proposes could not be adopted and ought not to be adopted in proceedings against a debtor.

Mr. POMEROY. Then the section should provide that in cases of involuntary assignment the warrant shall issue only upon the direction of the judge or the register, while it should also provide that in all other cases the warrant shall be issued by the clerk.

Mr. JENCKES. The gentleman will readily see that in the cases for which he proposes to provide the warrant could be issued under a standing order of the court, without making a special provision in the law. The judge may delegate his authority to that extent, if there be no opposing party. But, in involuntary proceedings, there is necessarily an opposing party whose case requires the consideration and action of the judge. The phraseology of the bill in reference to this matter was adopted for the sake of simplicity, in order to cover both classes of proceedings, leaving it to the discretion of the judge to make a standing order with reference to voluntary proceedings. I think that the gentleman will see the propriety of withdrawing his amendment.

Mr. POMEROY. I have no objection to doing so if the gentleman will consent to a provision in the bill that the warrant shall be issued under the rules and regulations to be established by the court.

Mr. JENCKES. The bill already contains such a provision. The tenth section provides that a judge of the Supreme Court, with the assistance of five commissioners, shall frame general orders for the regulation of the practice and procedure in all cases.

Mr. POMEROY. Exactly. But they cannot regulate proceedings which are specifically provided for in the act. They cannot dispense with anything that the act requires to be done.

Mr. JENCKES. The provisions of this bill correspond with the provisions of our present statutes with reference to other proceedings in the district court. In a case in admiralty the clerk issues his warrant by virtue of the rules established by the Supreme Court of the United States. The law requires the judge to issue the warrant. The law also authorizes the judges of the Supreme Court to establish the rules of practice. Under the rules which will doubtless be adopted in these cases of bankruptcy the clerk will issue the warrant, as a

matter of course, where there is no opposing party.

Mr. POMEROY. If the gentleman thinks that that end can be effected, it is all I ask.

Mr. JENCKES. It can be, I have no doubt.

Mr. POMEROY. I withdraw the amendment.

The Clerk then proceeded with the reading of the bill.

The fourteen section was read, as follows:

SEC. 14. And be it further enacted, That as soon as said assignee is appointed and qualified, the judge, or, where there is no opposing interest, the register, shall, by an instrument under his hand, assign and convey to the assignee all the estate, real and personal, of the bankrupt, with all his deeds, books, and papers relating thereto, and such assignment shall relate back to the commencement of said proceedings in bankruptcy, and thereupon, by operation of law, all such property and estate, both real and personal, shall vest in said assignee, although the same is then attached on mesne process as the property of the debtor, and shall dissolve any such attachment made within six months next preceding the commencement of said proceedings: *Provided, however,* That there shall be excepted from the operation of the provisions of this section the necessary household and kitchen furniture, and such other articles and necessities of such bankrupt as the said assignee shall designate and set apart, having reference in the amount to the family, condition, and circumstances of the bankrupt, but altogether not to exceed in value in any case the sum of \$500; and also the wearing apparel of such bankrupt, and that of his wife and children, and the uniform, arms, and equipments of any person who is or has been a soldier in the militia or in the service of the United States; and such other property as now is, or hereafter shall be, exempted from attachment or seizure or levy on execution by the laws of the United States; and the determination of the assignee in the matter shall, on exception taken, be subject to the final decision of the said court: *And provided further,* That no mortgage of any vessel or of any other goods or chattels, made as security for any debt or debts, in good faith and for present considerations and otherwise valid, and duly recorded, pursuant to any statute of the United States, or of any State, shall be invalidated or affected hereby; and all the property conveyed by the bankrupt in fraud of his creditors; all rights in equity, choses in action, patents and patent rights and copyrights; all debts due him, or any person for his use, and all liens and securities therefor; and all his rights of action for property or estate, real or personal, and for any cause of action which the bankrupt had against any person arising from contract or from the unlawful taking or detention of the property of the bankrupt; and all his rights of redeeming such property or estate with the like right, title, power, and authority to sell, manage, dispose of, sue for, and recover or defend the same, as the bankrupt might or could have had if no assignment had been made, shall, in virtue of the adjudication of bankruptcy and the appointment of his assignee, be at once vested in such assignee; and he may sue for and recover the said estate, debts, and effects, and may prosecute and defend all suits at law or in equity, pending at the time of the adjudication of bankruptcy, in which such bankrupt is a party in his own name, in the same manner and with the like effect as they might have been presented or defended by such bankrupt; and a copy, duly certified by the clerk of the court, under the seal thereof, of the assignment made by the judge or register, as the case may be, to him as assignee, shall be conclusive evidence of his title as such assignee to take, hold, sue for, and recover the property of the bankrupt as hereinafter mentioned; but no property held by the bankrupt in trust shall pass by such assignment. No person shall be entitled to maintain an action against an assignee in bankruptcy for anything done by him as such assignee, without previously giving him twenty days' notice of such action, specifying the cause thereof, to the end that such assignee may have an opportunity of tendering amends, should he see fit to do so. No person shall be entitled, as against the assignee, to withhold from him possession of any books of account of the bankrupt, or claim any lien thereon; and no suit in which the assignee is a party shall be abated by his death or removal from office, but the same may be prosecuted and defended by his successor, or by the surviving or remaining assignee, as the case may be. The assignee shall have authority, under the order and direction of the court, to redeem or discharge any mortgage or conditional contract, or pledge or deposit, or lien upon any property, real or personal, whenever payable, and to tender due performance of the condition thereof, or to sell the same, subject to such mortgage, lien, or other incumbrances. The debtor shall also, at the request of the assignee, and at the expense of the estate, make and execute any instruments, deeds, and writings which may be proper, to enable the assignee to possess himself fully of all the assets of the bankrupt. The assignee shall immediately give notice of his appointment, by publication at least once a week for three successive weeks, in such newspapers as shall, for that purpose, be designated by the court, due regard being had to their general circulation in the district, and shall, within six months, cause the assignment to him to be recorded in every registry of deeds or other office within the United States where a conveyance of any lands owned by the bankrupt ought by law to be recorded; and the record of such assignment, or a duly certified copy thereof, shall be evidence thereof in all courts.

Mr. ROGERS. I move to amend by striking out in line twelve, page 17, the words

"within six months next preceding," and insert "any time after."

Mr. JENCKES. There are several amendments to be proposed to this section, and as they ought to be considered in a full House, I will let members give notice of them, and then I shall move that the House adjourn.

Mr. SLOAN gave notice of the following amendment:

In section fourteen, line fifteen, strike out all from and including the words "the necessary household" down to and including the words "of the said court" in line twenty-nine, and insert in place thereof, "all property, real, personal, and mixed, which is exempt from attachment or seizure, and sale on execution by the laws of the State in which the judicial district in which such proceedings are pending is situate: *Provided,* That the foregoing exception shall operate as a limitation upon the conveyance of the property of the bankrupt to assignee, and in no case shall the property hereby excepted pass to the assignee or the title of the bankrupt thereto be impaired or affected by any of the provisions of this act.

Mr. KASSON gave notice of the following amendment:

Add to the section:

And provided further, That the real property which, in any State and in accordance with the laws thereof, shall, at the time of the act of bankruptcy, be owned and used by any bankrupt as his homestead, exempt from execution in such State, shall be exempted from seizure and disposition by the assignee, and shall not be embraced within the operation of the law.

Mr. HALE gave notice of the following amendment:

After "detention of," in line forty-two, insert "or injury to."

Mr. JENCKES. I accept that amendment.

Mr. HUBBARD, of Iowa, gave notice of the following amendment:

Strike out all of line eleven after the word "and" in said line and lines twelve and thirteen, up to and including the word "proceedings," in line thirteen.

Mr. HOLMES. I move the following amendment to section eleven:

After the word "district" in line thirty-seven, page 13, insert the following:

Or to one of the creditors of said bankrupt, to be designated by said judge and residing in the same county with said bankrupt, whose debt shall not be less than \$300.

The SPEAKER. It is not in order to go back unless by unanimous consent.

Mr. THAYER. I object.

And then, on motion of Mr. JENCKES, the House (at four o'clock and fifteen minutes p. m.) adjourned.

IN SENATE.

THURSDAY, February 15, 1866.

Prayer by Rev. BYRON SUNDERLAND, D. D.
The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, in answer to a resolution of the Senate of the 18th instant, calling for the report of Major Reynolds of the exploration of the Yellowstone river, transmitting a letter from the chief of the engineer department, from which it appears that the report called for is not yet completed.

The PRESIDENT *pro tempore*. If there be no objection, this communication will be laid upon the table.

Mr. MORRILL. I move that it be printed.

The PRESIDENT *pro tempore*. It merely shows why the information cannot be sent.

Mr. MORRILL. Very well; I withdraw the motion.

The communication was laid upon the table.

PETITIONS AND MEMORIALS.

Mr. WADE presented a resolution of the Legislature of Ohio, against the passage of any law under which the General Government shall assume the war debt of the several States, incurred in raising and paying bounties to volunteers; which was referred to the Committee on Military Affairs and the Militia.

Mr. CHANDLER presented a petition of citizens of Michigan engaged in the manufacture of agricultural implements, praying for a

reduction of the taxes on the sales of agricultural implements; which was referred to the Committee on Finance.

Mr. TRUMBULL presented the petition of Lewis Tappan, praying that in all enactments the colored people may be treated as white citizens; which was referred to the joint committee on reconstruction.

He also presented the petition of Seward C. Nelson, J. F. Brooks, and others, citizens of De Witt county, Illinois, praying for such legislation as will equalize the bounties paid to volunteers; which was referred to the Committee on Military Affairs and the Militia.

Mr. NESMITH presented the petition of Colonel A. J. Slemmer and other Army officers, praying for increased compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. HARRIS. A few days ago I obtained leave to withdraw from the files of the Senate the petition and other papers relating to the claim for services during the revolutionary war of the heirs of Joshua Chamberlain. I now desire to represent the petition and papers accompanying it, and I move that they be referred to the Committee on Revolutionary Claims.

The motion was agreed to.

Mr. WADE. I present the memorial of five hundred colored soldiers of the fifty-sixth regiment United States colored infantry, stationed at Helena, Arkansas, in which they say:

"We the undersigned colored soldiers do respectfully petition your honorable body in behalf of ourselves and our colored brethren.

"We ask equality before the law, the same rights and privileges accorded to white men. Believing that without the safeguard of suffrage freedom will be of little permanent benefit to our people. We ask your honorable body not to admit the representatives of our late masters until we shall be allowed a voice in the elections.

"We do not ask social equality, for a higher law than human must forever govern social relations. Our people are now making zealous efforts to educate themselves, and if loyalty, wealth, industry, or intelligence be made the test of suffrage, we are willing to submit; but we beg that color be no longer permitted to exclude us from the rights and privileges of other men.

"In the name of four million people who have been under all circumstances loyal to the Government, of one hundred and eighty-six thousand loyal colored soldiers who have served in the late war, of sixty-eight thousand of our dead comrades, in the name of God, humanity, and justice, we implore you not to surrender us again to the mercies of the white people of the South."

I move that this memorial be referred to the committee on reconstruction.

The motion was agreed to.

Mr. WADE also presented a memorial of the "Friends' Association of Philadelphia for the Aid and Elevation of the Freedmen," praying that the right of suffrage be conferred irrespective of race or color; which was referred to the joint committee on reconstruction.

Mr. SUMNER. I have in my hands a memorial and protest signed by George T. Downing, Frederick Douglass, Lewis H. Douglass, A. W. Ross, and others, being a delegation representing the colored people of the several States now sojourning in Washington. They memorialize the Senate of the United States by way of protest against a proposed amendment to the Constitution which is now pending in this body. They set forth in their memorial that being here in Washington and charged with the duty of looking after the best interests of the recently emancipated, they most respectfully but earnestly pray this honorable body to favor no amendment to the Constitution of the United States which will grant or allow any one or all of the States of this Union to disfranchise any class of citizens on the ground of race or color for any consideration whatever. They further respectfully represent that the Constitution, as adopted by the fathers of the Republic in 1789, evidently contemplated the result which has now happened, to wit, the abolition of slavery. The men who framed it and those who adopted it, framed and adopted it for the people, and the whole people, colored men being at the time legal voters in most of the States. In that instrument, as it now stands, there is not a sentence nor a syllable conveying any

shadow of right or authority by which any State may make color or race a disqualification for the exercise of the right of suffrage; and they say they will regard as a real calamity the introduction of any words expressly or by implication giving any State or States such power; and they respectfully submit that if the amendment now pending shall be adopted it will enable any State to deprive any class of citizens of the elective franchise, notwithstanding it was obviously framed with a view to affect the question of negro suffrage only. For these and other reasons they respectfully pray that the amendment to the Constitution recently passed by the House and now before this body be not adopted.

"I do not know that I have at any time presented a memorial which was entitled to more respectful consideration than this, from the character of its immediate signers and from the vast multitudes they represent. I hope I shall not depart from the proper province of presenting it if I express my entire adhesion to all that it says, and if I take this occasion to entreat the Senate, if they will not hearken to arguments against the pending proposition, that they will at least hearken to the voice of these memorialists representing the colored race of our country. I ask that the memorial lie upon the table.

The *PRESIDENT pro tempore*. That order will be made.

Mr. SUMNER. And I am about to add that during my long service here, and the many petitions I have presented, I have never before asked to have a petition printed; but it seems to me, considering the character of these memorialists, the importance of the subject, and that it is bearing upon a proposition now directly before the Senate, that it ought to be printed. I therefore move that it be printed for the use of the Senate.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. WADE, from the Committee on Territories, to whom the subject was referred, reported a bill (S. No. 141) to provide for the erection of public buildings in the Territory of Dakota; which was read, and passed to a second reading.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred a bill (S. No. 38) to authorize the construction of a bridge across the Mississippi river at the city of St. Louis, State of Missouri, and at the city of East St. Louis, State of Illinois, reported it with an amendment.

Mr. BROWN, from the Committee on Military Affairs and the Militia, to whom was referred a bill (S. No. 31) to reimburse the State of Missouri for moneys expended for the United States in enrolling, equipping, and provisioning militia forces to aid in suppressing the rebellion, reported it without amendment, and submitted a report; which was ordered to be printed.

Mr. HARRIS, from the Committee on Private Land Claims, to whom was referred the petition of James Bawden, praying for relief, reported a bill (S. No. 142) for the relief of James Bawden; which was read, and passed to a second reading.

POST OFFICE BALANCES.

Mr. DIXON. I am directed by the Committee on Post Offices and Post Roads, to whom was referred a joint resolution (S. No. 29) for the transfer of funds appropriated for the payment of salaries in the Post Office Department to the general salary account of that Department, to report it back with an amendment. I am also instructed to ask that the joint resolution be considered at this time. It is a matter of considerable public interest.

By unanimous consent the joint resolution was considered as in Committee of the Whole. It proposes that the unexpended balances on the books of the Treasury Department, from the respective sums of money appropriated by Congress, as per different acts of Congress, for the salaries of Postmaster General, Assistants Post-

master General, clerks, temporary clerks, additional clerks, messengers, watchmen, laborers, and superintendent and clerks of the money-order system, including the amounts appropriated for the payment of twenty per cent. increase of certain salaries—all of the same being appropriations made by Congress for the Post Office Department—may be transferred on the books of the Treasury Department, from the respective headings under which they are now placed, to the credit of the Post Office Department, to the general salary account of funds placed to the credit of the Post Office Department.

The amendment proposed by the Committee on Post Offices and Post Roads was in line five to strike out the words "Congress, as per," so as to read:

That the unexpended balances on the books of the Treasury Department, from the respective sums of money appropriated by different acts of Congress.

Mr. FESSENDEN. I have no objection to the amendment, but I shall move, then, to refer the resolution to the Committee on Finance. It needs some consideration.

Mr. DIXON. I ask that a letter be read from the Postmaster General explaining the necessity for this bill.

The Secretary read, as follows:

POST OFFICE DEPARTMENT,
WASHINGTON, D. C., February 12, 1866.

Sir: The moneys appropriated for the payment of salaries in this Department are credited on the books of the Treasury Department, under different headings, corresponding to the respective acts of Congress by which such appropriations were made.

The disbursing clerks of this Department have not drawn from all these different classes of salary funds; hence large balances remain under certain heads, while under others there remain but small amounts, not sufficient to meet the current expenses of the office. The transfers asked for will enable the present disbursing clerk to draw from the general salary account, under which he can make settlements; and such transfer will neither increase nor diminish the amount of appropriations, nor divert funds from the objects intended by Congress, namely, the payment of salaries.

For example, none of the appropriation for the payment of "superintendent and clerks" of the "money-order system" has ever been drawn, they having been paid from the "general salary account;" and the transfer requested will be, in fact, a reimbursement of those accounts that have been exhausted in the payment of others.

The necessity for the adoption of the "resolution" is immediate, to enable the disbursing clerk to draw for the payment of the salaries of the current month. I have, therefore, to respectfully ask that the inclosed "resolution" be at once adopted, a request I would have earlier made had I been aware of the embarrassments referred to.

Very respectfully,

W. DENNISON,
Postmaster General.

Hon. JAMES DIXON, United States Senator.

Mr. FESSENDEN. Let the resolution lie over. The policy has always been against transferring from one account to another. I do not know but that this resolution is well enough, but I should like to examine it further before it is passed. I move that the resolution lie on the table for the present.

Mr. DIXON. I move that the joint resolution be referred to the Committee on Finance. The Senator then will have an opportunity to examine it.

The *PRESIDENT pro tempore*. The Chair will regard the motion to lay on the table as withdrawn, and the question is on the motion to refer the joint resolution to the Committee on Finance.

The motion was agreed to.

BILLS INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 143) to revive and extend the provisions of an act granting the right of way and making a grant of land to the States of Arkansas and Missouri to aid in the construction of a railroad from a point upon the Mississippi opposite the mouth of the Ohio river, via Little Rock, to the Texas boundary, near Fulton, in the State of Arkansas, with branches to Fort Smith and the Mississippi river, approved February 9, 1853, and for other purposes; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill

(S. No. 144) to provide for the improvement of the Rock Island or Upper rapids and the Lower or Des Moines rapids of the Mississippi river; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 145) for a grant of lands to the State of Kansas to aid in the construction of the Northern Kansas railroad and telegraph; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

ORDER OF BUSINESS.

Mr. WILSON. I move that the Senate take up for consideration the bill (S. No. 138) to increase and fix the military peace establishment of the United States.

Mr. STEWART. That bill will take considerable time and occupy the morning hour for many days. I have been waiting for an opportunity to call up the Colorado bill, but I have been postponed repeatedly. I think we ought to act upon it very soon, and I am opposed to taking up the bill of the Senator from Massachusetts until the Colorado bill has had a hearing.

Mr. WILSON. I suggest to the Senator that I do not think the Colorado bill can be very well acted upon in the morning hour, and I think he had better let that bill lie a few days until after we dispose of the constitutional amendment. As to the bill which I now propose to call up, I think we can have it read this morning and work upon it in the morning hour, so that we may be ready to dispose of it soon.

Mr. STEWART. If we put off the Colorado bill until we get done with the constitutional amendment we may wait for two months; indeed, I do not know that we shall ever see the day when that will be disposed of. If we can have the morning hour for a few days I think we can soon dispose of it; but this bill of the Senator from Massachusetts will occupy a great deal of time.

Mr. WILSON. I think we can make some progress in it this morning, and I hope there will be no objection to proceeding with it.

Mr. CONNESS. I hope this bill will not be thrust into the morning hour. I do not know of any bill that can better afford postponement than the bill to reorganize the Army of the United States. Not only is it more important to decide promptly on the bill concerning the admission of Colorado, but there are other questions pending that have been partly considered which are of great consequence, and which I think ought to have precedence.

Mr. WILSON. I differ from the Senator from California. I think the military bill ought to have been passed a month ago. There are several regiments of volunteers in the service to-day who say their time is out, who want to go home, who allege that they are held in the service in violation of the contracts made with them now that we have peace. There is a great deal of dissatisfaction in some localities.

Mr. CONNESS. And others who wished to remain in the service have been dismissed.

Mr. WILSON. I think we should go on with the bill. I do not wish to press it unreasonably; but I want it worked along with as far as reasonably can be done. I think we can have it read this morning, and that will call attention to it. I do not think there can be much opposition to the bill now.

Mr. LANE, of Kansas. What is the motion before the Senate?

The *PRESIDENT pro tempore*. The motion is that the Senate proceed with the consideration of the bill indicated by the Senator from Massachusetts.

Mr. LANE, of Kansas. I am merely desirous to have a vote of the Senate as to whether they will give preference to the Colorado bill, and with that vote we shall be content. I should like very much to have a vote.

The *PRESIDENT pro tempore*. The Chair will put the question as soon as the debate shall have terminated.

Mr. LANE, of Kansas. I want to antagonize this motion, if I can, by another motion, so as to get the sense of the Senate as to the question of taking up the Colorado bill.

Mr. SUMNER. I have no desire to interpose any delay to the consideration of the Colorado bill; but the Senate must see that that is a bill which will cause a certain amount of discussion; it remains to be seen how much. To take it up now, when we have but twenty minutes before the morning hour expires, it seems to me would not be an economical arrangement of our business. Now, as I understand, my colleague proposes to take up his bill, which is a very important one, and to have it read. It must be read; and it will then be launched before the Senate; and I presume he does not expect to go any further with it to-day. We really cannot make much headway with the Colorado bill between now and one o'clock.

Mr. STEWART. We can get the question before the Senate. I have deferred calling it up owing to suggestions from different quarters, and have yielded the preference to matters of which it had precedence for over two months. The Committee on Territories reported the bill over two months ago, and recommended its passage; it has been lying on our tables. The members-elect are waiting to know what action is to be taken. They desire action. If we do not get it before the Senate now, if we wait until the military bill shall have been considered in the morning hour for several days, the rest of the session being occupied by the constitutional amendment, it will be a long time before we get the Colorado bill up. I think it is due to the parties who have been elected to seats to have a decision on the question. It is a very simple proposition and ought to take but little time; it can be well understood in a few minutes; but if we are to have a discussion on it I think it due to the subject and to the parties who are waiting that that discussion should be commenced. If the bill of the Senator from Massachusetts was a bill that was to occupy but a few moments I should not be so tenacious, but to take up a bill which is to consume the morning hour for several days I consider unfair. This bill has precedence in point of time, and I hope the motion of the Senator from Massachusetts will be voted down.

Mr. LANE, of Kansas. Will the Senator from Massachusetts allow the friends of the Colorado bill to get the sense of the Senate on taking it up? Will he withdraw his motion and allow the Senator from Nevada to make his motion to take up the Colorado bill, so that we can get at the sense of the Senate?

Mr. GRIMES. The Senators who are in favor of immediate action on the bill for the admission of Colorado can vote against the motion of the Senator from Massachusetts, and that will be a test vote.

Mr. STEWART. I call for the yeas and nays.

Mr. LANE, of Kansas. I do not wish to place myself, nor do the friends of the Colorado bill wish to place themselves, in a position of antagonism to the bill of the Senator from Massachusetts.

Mr. WILSON. I express the opinion to the Senator from Kansas that the Colorado bill, from what I hear, will lead to quite an extended debate. I thought that the bill to which I called attention could be taken up this morning and read. There are only a very few sections as to which there will be any debate. I do not expect that the debatable portions will be reached this morning. I want to have the attention of the Senate directed to the bill. I shall not press it to-day or to-morrow, or make a speech on it.

Mr. LANE, of Kansas. The Senator from Massachusetts is aware that Congress almost unanimously passed an enabling act for Colorado. The people of that State have formed a constitution and elected their Senators and Representative, and they are here. The only question is as to their excluding one hundred negroes from the right of suffrage. That question, the question of negro suffrage, is being discussed on other bills. It seems to me that the

Colorado bill can be settled by a vote of the Senate without a great deal of discussion, but if we are to have discussion, the sooner we take up the bill the better. It is true, as the Senator from Massachusetts is aware, that the Colorado bill was first introduced, first reported by the committee, first before the Senate, and ought to be disposed of before the bill moved by the Senator from Massachusetts, [Mr. WILSON.] We have unanimously decided to admit their Senators on the floor of the Senate; they are here; and it partakes somewhat of a question of privilege. I again repeat that I would like to have the Senator from Massachusetts permit the motion to be made so that we can have a vote on it.

Mr. SUMNER. It seems to me that my friend from Kansas does not appreciate all the questions involved in what he calls the Colorado bill. He says that it is simply a little question—little to him, perhaps—of whether one hundred colored persons shall vote. A great question that, sir, whether one hundred persons on account of their color shall be shut out from the exercise of the elective franchise—not a little question as the Senator suggests.

But that is not all. The Senator assumes that Colorado has come here under an enabling act. When the Senate enter upon the discussion they will see very clearly that she does not come here under the enabling act; that she has called together a convention on her own motion, the operation of the enabling act passed by Congress having expired. I do not pretend to say at this stage of the discussion what will be the value of that conduct, to what extent it should affect our conclusions; but Senators will see that there is clearly a question involved beyond that great one to which the Senator from Kansas has alluded.

There is then also another question, whether the State of Colorado at this moment has a population such as would justify our receiving two Senators on this floor, putting her on an equality with New York and Pennsylvania. On that I express no opinion now. I merely open that question, that the Senate may see what is involved in what is called, compendiously, the Colorado bill. Now, sir, with ten months before us I think we had not better enter upon it.

Mr. LANE, of Kansas. I expressed no such idea as that this was a little question, and it does not come with a very good grace from the Senator from Massachusetts to say to me—

Mr. SUMNER. I understood the Senator to say so. If he did not, of course I stand corrected.

Mr. LANE, of Kansas. I undertake to say that one who has devoted eleven years of his life to the cause of freedom should be secure from such an imputation as that from the Senator from Massachusetts.

Mr. SUMNER. I only intended to quote the Senator's words. If I did not hear him correctly, of course I stand corrected.

Mr. LANE, of Kansas. I used no such language.

Mr. SUMNER. Very well; then I was mistaken.

Mr. LANE, of Kansas. I said that the only question was as to granting the suffrage to one hundred blacks in Colorado, and that that question was being discussed day by day upon other measures that are pending before the Senate. Let me say to the Senator from Massachusetts that the question of negro suffrage is as important to me as to him. It occupies and absorbs me as much as it does him, or any Senator, and that, and other questions connected with the freedom of the black man, has occupied me and my constituents for eleven long years. We may differ, and I presume we will, as to the manner and time of granting that right; but as to the great question of giving every man over twenty-one years of age the right of suffrage in this Union, who is qualified to exercise it, that question is as important to me as to him.

Nor did I say that Colorado came here under an enabling act. An enabling act was granted by Congress when Colorado had a less population than she has now. Nebraska is taking the same steps toward organizing a State govern-

ment, and under the same theory as Colorado is organized. What the friends of Colorado ask is, that we may have the sense of the Senate upon the proposition to admit her. It is but just to Colorado and important to Nebraska that such a vote should be had at an early day. The Senator from Massachusetts [Mr. WILSON] is not in his seat. I was going again to request him to withdraw his motion so that the question may come up on the naked proposition of the Senator from Nevada.

Mr. SPRAGUE. As one of the members of the Military Committee, I desire to draw the attention of the Senate to the fact that the volunteers of our Army are, as the war is now over, unwilling to serve as such any longer. The Lieutenant General is embarrassed day by day with constant complaints from officers and men, and by desertions from those volunteer regiments, and he is earnestly anxious that whatever is done by Congress in relation to this bill shall be done quickly. It is to me far more important that the matters connected with the States lately in rebellion should be attended to first, rather than those in the far West yet in their unorganized condition. I trust that the Senate will realize and understand the position of the Lieutenant General, the military authorities, and the people throughout the country who are anxious to have their military affairs strengthened in every possible way. I trust the bill indicated by the Senator from Massachusetts will be taken up, will be read, will be discussed, and will be acted upon finally and quickly, so that the country will have something before them upon which they may feel secure.

Mr. STEWART. I hope the Senator from Massachusetts will withdraw his motion and let us take the sense of the Senate on taking up the Colorado bill.

Mr. WILSON. The Senator can have the sense of the Senate just as well on my motion to take up the Army bill. The Senate will decide which it prefers to take up first.

Mr. STEWART. That is not fair, because a portion of the committee who reported that bill will have to sustain the chairman of the committee in calling it up, although they are favorable to the Colorado bill, and it is putting the Colorado bill under a disadvantage. If he will exonerate his committee, so as to let every man express his opinion, I do not know that I would object.

Mr. WILSON. I cannot withdraw the motion.

Mr. STEWART. Then I call for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. FESSENDEN. I think the Senator from Massachusetts had better withdraw his motion, as it will take more than the residue of the morning hour to call the yeas and nays, and of course his bill cannot then be considered, as we have a special order at one o'clock.

Mr. CLARK. But if he withdraw his motion, the question will come up on the motion of the Senator from Nevada.

Mr. FESSENDEN. Very well. I only made the motion to save time.

Mr. GRIMES. I hope the Senator from Massachusetts will not withdraw his motion. I think it vastly more important that we should carry out the suggestions that have been made by the chairman of the Military Committee and the Senator from Rhode Island, and do something toward disbanding the dissatisfied men who have volunteered into the service and been kept over what they claim to be the time for which they enlisted than that we should take up this Colorado bill, which can be disposed of at any time.

Mr. STEWART. I withdraw the call for the yeas and nays.

The PRESIDENT *pro tempore*. It can only be withdrawn by unanimous consent, the yeas and nays having been ordered. No objection being made, the call for the yeas and nays is withdrawn. The question is on the motion of the Senator from Massachusetts.

The motion was agreed to.

MILITARY ESTABLISHMENT.

The bill (S. No. 138) to increase and fix the military peace establishment of the United States was read the second time, and considered as in Committee of the Whole.

The Secretary proceeded to read the bill. It provides that the military peace establishment of the United States shall hereafter consist of five regiments of artillery, twelve regiments of cavalry, fifty regiments of infantry, the professors and corps of cadets of the United States Military Academy, and such other forces as are provided for by the act, to be known as the Army of the United States.

The five regiments of artillery provided are to consist of the five regiments now organized; and the first, second, third, and fourth regiments of artillery are to have the same organization as is now prescribed by law for the fifth regiment of artillery; but the regimental adjutants, quartermasters, and commissaries are hereafter to be extra first lieutenants.

To the six regiments of cavalry now in service there are to be added six regiments, having the same organization as is now provided by law for cavalry regiments, the first and second lieutenants of which, and two thirds of the officers in each of the grades above that of first lieutenant, are to be selected from among the officers and soldiers of volunteer cavalry, and one third from officers and soldiers of the regular Army who have served two years in the field during the war, and have been distinguished for capacity and good conduct; and four of the companies from each regiment may be armed and drilled as infantry at the discretion of the President; but each cavalry regiment is hereafter to have but one hospital steward, and the regimental adjutants, quartermasters, and commissaries are hereafter to be extra first lieutenants.

There are to be fifty regiments of infantry, to consist of the ten regiments of ten companies each now organized; the nine remaining regiments so distributed that each battalion, with the addition of two companies, shall constitute a regiment of ten companies, and five additional regiments of ten companies each, and all the vacancies in the grades of first and second lieutenant, and two thirds of the vacancies in the grades above that of first lieutenant, are to be filled by selection from the officers and soldiers of volunteer infantry or artillery, and one third from officers and soldiers of the regular Army who have served two years during the war, and have been distinguished for capacity and good conduct in the field; and eight regiments to be composed of colored men, to be officered by officers of colored troops, who have served two years during the war, and who have been distinguished for capacity and good conduct in the field; but promotions in the colored regiments are to be confined to the regiments of that corps.

The volunteer officers to be selected for appointment under these provisions are to be distributed as nearly as may be among the States, in proportion to the number of troops furnished during the war.

Each regiment of infantry is to have one colonel, one lieutenant colonel, two majors, one regimental commissary, (an extra first lieutenant,) one adjutant, (an extra first lieutenant,) one regimental quartermaster, (an extra first lieutenant,) ten captains, ten first and ten second lieutenants, one sergeant major, one quartermaster sergeant, one hospital steward, one commissary sergeant, two principal musicians, and ten companies, and each company is to have one captain, one first and one second lieutenant, one first sergeant, four sergeants, eight corporals, two artificers, two musicians, one wagoner, and fifty privates, and the number of privates may be increased to one hundred, at the discretion of the President, whenever the exigencies of the service require such increase.

Each regiment in the service of the United States may have a band, (as now provided by law,) and there are to be one ordnance sergeant and hospital steward for each military post, and the same number of post chaplains as now pro-

vided by law; and the President of the United States is to appoint for the national cemeteries already established, or to be established, a superintendent, with the rank, pay, and emoluments of an ordnance sergeant, to be selected from the non-commissioned officers of the regular Army and volunteer forces who have received certificates of merit for services during the war.

All enlistments into the Army are hereafter to be for the term of five years, and one major for each regiment is to be appointed when four companies shall have been organized, the lieutenant colonel when six companies shall have been organized, the colonel and second major when the organization of the regiment is completed; and not more than one officer for each company is to be appointed to any regiment or company until the minimum number of men shall have been enlisted and the command duly organized; and recruits may be collected at the general rendezvous in addition to the number required to fill the regiments and companies herein provided for, if the number does not exceed in the aggregate three thousand men.

There are to be one lieutenant general, five major generals, and ten brigadier generals. The adjutant general's department is hereafter to consist of the officers now authorized by law, namely, one adjutant general, with the rank, pay, and emoluments of a brigadier general; two assistant adjutant generals, with the rank, pay, and emoluments of colonels of cavalry; four assistant adjutant generals, with the rank, pay, and emoluments of lieutenant colonels of cavalry, and thirteen assistant adjutant generals, with the rank, pay, and emoluments of majors of cavalry. There are to be four inspectors general of the Army, with the rank, pay, and emoluments of colonels of cavalry, and eight assistant inspectors general, with the rank, pay, and emoluments of lieutenant colonels of cavalry.

The Bureau of Military Justice is hereafter to consist of one judge advocate general, with the rank, pay, and emoluments of a brigadier general, and one assistant judge advocate general, with the rank, pay, and emoluments of a colonel of cavalry, and they are to receive, revise, and have recorded the proceedings of the courts-martial, courts of inquiry, and military commissions of the armies of the United States, and perform such other duties as have heretofore been performed by the Judge Advocate General of the armies of the United States.

The quartermaster's department is hereafter to consist of one quartermaster general, with the rank, pay, and emoluments of a brigadier general; three chief assistant quartermaster generals, with the rank, pay, and emoluments of brigadier generals; four assistant quartermaster generals, with the rank, pay, and emoluments of colonels of cavalry; eight deputy quartermaster generals, with the rank, pay, and emoluments of lieutenant colonels of cavalry; sixteen quartermasters, with the rank, pay, and emoluments of majors of cavalry; and forty-eight assistant quartermasters, with the rank, pay, and emoluments of captains of cavalry, and the vacancies thus created in the grade of assistant quartermaster are to be filled by selection from among the persons who have rendered meritorious service as assistant quartermasters of volunteers during two years of the war. The provisions of the act for the better organization of the quartermaster's department, approved July 4, 1864, are to continue in force for one year longer.

The number of military storekeepers is not to exceed sixteen.

The subsistence department is hereafter to consist of the officers now authorized by law, namely, one commissary general of subsistence, with the rank, pay, and emoluments of a brigadier general; two assistant commissary generals, with the rank, pay, and emoluments of colonels of cavalry; two assistant commissary generals, with the rank, pay, and emoluments of lieutenant colonels of cavalry; eight commissaries of subsistence, with the rank, pay, and emoluments of majors of cavalry; and six-

teen commissaries of subsistence, with the rank, pay, and emoluments of captains of cavalry.

Officers of the line detailed to act as regimental quartermasters or commissaries, or as quartermasters or commissaries of permanent posts, or of commands of not less than two companies, are, when the assignment is duly reported to and approved by the War Department, to receive as extra compensation while responsible for Government property, ten dollars per month.

The medical department of the Army is hereafter to consist of one surgeon general, with the rank, pay, and emoluments of a brigadier general; one assistant surgeon general, with the rank, pay, and emoluments of a colonel of cavalry; seventy-five surgeons, with the rank, pay, and emoluments of majors of cavalry; one hundred and fifty assistant surgeons, with the rank, pay, and emoluments of first lieutenants of cavalry for the first three years' service, and with the rank, pay, and emoluments of captains of cavalry after three years' service; and five medical storekeepers, with the same compensation as is now provided by law; and two thirds of the vacancies thus created in the grades of surgeon and assistant surgeon are to be filled by selection from among the persons who have served as staff or regimental surgeons or assistant surgeons of volunteers two years during the war, and one third from similar officers of the regular Army; and persons who have served as assistant surgeons three years in the volunteer service are to be eligible for promotion to the grade of captain. Upon the recommendation of the Surgeon General, the Secretary of War may detail a surgeon as chief medical purveyor, who, while performing such duty, is to be in charge of the principal purchasing and issuing depot of medical supplies, and have the rank, pay, and emoluments of a colonel of cavalry; and not to exceed five medical officers as assistant medical purveyors, who, while performing such duty in the different geographical divisions or departments, are to have the rank, pay, and emoluments of lieutenant colonels of cavalry.

The pay department of the Army is hereafter to consist of one paymaster general, with the rank, pay, and emoluments of a brigadier general; two assistant paymaster generals, with the rank, pay, and emoluments of colonels of cavalry; two deputy paymaster generals, with the rank, pay, and emoluments of lieutenant colonels of cavalry; and sixty paymasters, with the rank, pay, and emoluments of majors of cavalry; and the vacancies created in the grade of major are to be filled by selection from the persons who have served as additional paymasters two years during the war.

The corps of engineers is to consist of one chief of engineers, with the rank, pay, and emoluments of a brigadier general, six colonels, twelve lieutenant colonels, twenty-six majors, thirty captains, and twenty-six first and ten second lieutenants, who are to have the pay and emoluments now provided by law for officers of the engineer corps.

The five companies of engineer soldiers, and the sergeant major, and quartermaster sergeant heretofore prescribed by law, are to constitute a battalion of engineers, to be officered by officers of suitable rank detailed from the corps of engineers, and the officers of engineers acting respectively as adjutant and quartermaster of this battalion are to be entitled to the pay and emoluments of adjutants and quartermasters of cavalry.

The ordnance department of the Army is to consist of the same number of officers and enlisted men as is now authorized by law, and the officers are to be: one brigadier general, three colonels, six lieutenant colonels, twelve majors, twenty captains, twelve first lieutenants, ten second lieutenants, and thirteen military storekeepers.

There is to be one chief signal officer of the Army, with the rank, pay, and emoluments of a colonel of cavalry. The Secretary of War may detail from the Army, upon the recommendation of the chief signal officer, six offi-

cers, and not to exceed one hundred non-commissioned officers and privates, to be taken from the battalion of engineers, for the performance of signal duty; but no officer or enlisted man is to be detailed to serve in the signal corps until he shall have been examined and approved by a military board, to be convened by the Secretary of War for that purpose; and officers, while so detailed, are to receive the pay and emoluments of cavalry officers of their respective grades; and enlisted men, while so detailed, are, when deemed necessary, to be mounted upon horses provided by the Government.

No officer of the regular Army below the rank of a colonel is hereafter to be promoted to a higher grade before having passed a satisfactory examination as to his fitness for promotion and past record of services before a board of three general officers or officers of his corps or arm of service, senior to him in rank; and should the officer fail at the examination, he is to be suspended from promotion for one year, when he shall be reexamined, and upon a second failure be dropped from the rolls of the Army; but if any officer be found unfit for promotion on account of moral disqualifications, he is not to be entitled to a reexamination.

The Adjutant General, Quartermaster General, Commissary General of Subsistence, Surgeon General, Paymaster General, Chief of Engineers, and Chief of Ordnance are hereafter to be appointed by selection from the corps to which they belong. No person is to be appointed to any vacancy created by this bill in the pay, medical, or quartermaster's departments, or be promoted to any higher grade therein, until he shall have passed the examination required. No person is to be commissioned in any of the regiments authorized until he shall have passed a satisfactory examination before a board, to be convened under direction of the Secretary of War, which shall inquire into the services rendered during the war, capacity, and qualifications of the applicant; and such appointment, when made, is to be without regard to previous rank, but with sole regard to qualifications and meritorious services. Persons applying for commissions are not to be entitled to any compensation for expenses incurred in reporting to the board for examination.

APPORTIONMENT OF REPRESENTATION.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is now before the Senate, being the joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States. The pending question is on the amendment proposed by the Senator from Massachusetts [Mr. SUMNER] to the joint resolution reported by the committee; and upon that question the Senator from Oregon [Mr. WILLIAMS] is entitled to the floor.

Mr. WILLIAMS addressed the Senate in support of the resolution. [His speech will be published in the Appendix.]

The PRESIDING OFFICER, (Mr. HENDRICKS in the chair.) Is the Senate ready for the question on the amendment proposed by the Senator from Massachusetts?

Mr. FESSENDEN. Let it be read.

The Secretary read the amendment, which was to add at the end of the joint resolution the words, "and they shall be exempt from taxation of all kinds;" so as to make the proviso read:

Provided, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation, and they shall be exempt from taxation of all kinds.

Mr. SUMNER. I withdraw that amendment for the present, in order that the first vote may be taken on the general proposition, and I shall offer it at a subsequent stage of the question.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The Senator from Massachusetts withdraws his proposition, and the question now before the Senate is on the amendment of the Senator from Missouri [Mr. HENDERSON] to the substitute offered by the Senator from Massachusetts, [Mr. SUMNER.]

Mr. HENDRICKS. I desired to submit some remarks to the Senate upon this proposition, but did not expect to do it this evening; and I forgot to bring with me the notes I intended to use. I do not like to ask a postponement of the vote, but I know that another Senator, who could not be here this afternoon, desires to speak, and I suppose what I shall desire to say, and also his remarks, may be made to-morrow. I know, also, that the Senator from Illinois [Mr. YATES] desires to be heard, but is not in a condition of health to speak either to-day or perhaps to-morrow. He was very desirous that the final vote should not be taken until Monday evening, so that he could be heard on Monday. I presume we could have a vote on Monday evening, if that would be agreeable to the Senator from Maine.

Mr. FESSENDEN. I have no interest in this matter other than that which I share in common with every other Senator. I am desirous, of course, to have this question disposed of as soon as it can be with propriety, giving every gentleman a chance to be heard upon the subject. It has dragged along now for nearly two weeks. It is not for me, simply because I have charge of this joint resolution, to insist upon pushing the matter beyond what is reasonable and proper. I do not desire to place myself in that position.

Mr. HENDRICKS. I do not think the Senator has done that.

Mr. FESSENDEN. But I wish to say to all gentlemen that this question has taken up a great deal of time, and it is important to finish it as soon as possible, as many of the State Legislatures are now in session; and I feel that if members desire to address the Senate they must be prepared to go on and do so without a postponement from day to day for the purpose of allowing every gentleman to make his speech in the morning, and then adjourning early every evening. We shall never get through in that way. It has not been customary, after a question has been under debate as long as this resolution has been, to extend that indulgence. I desire to get along with this measure as fast as I can without appearing discourteous; but I submit the matter entirely to the Senate.

Mr. CLARK. If the Senator from Indiana does not desire to go on now, and the Senate is not disposed to insist on further discussion now, I will move that the further consideration of this joint resolution be postponed, and that the Senate proceed to the consideration of Senate bill No. 132, to prevent and punish kidnapping.

Mr. FESSENDEN. I should like to have this joint resolution made the special order for to-morrow at one o'clock.

Mr. CLARK. I move that it be postponed to, and made the special order of the day for, to-morrow at one o'clock.

Mr. FESSENDEN. And I give notice to gentlemen that I shall begin to be a little more quarrelsome—I do not know that it will do any good—after to-day.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Hampshire.

The motion was agreed to.

PREVENTION OF KIDNAPPING.

Mr. CLARK. I now move that the Senate proceed to consider the bill (S. No. 132) to prevent and punish kidnapping.

The motion was agreed to, and the bill was read a second time, and considered as in Committee of the Whole. It provides that if any person shall kidnap or carry away any other person, whether negro, mulatto, or otherwise, with the intent that such other person shall be sold or carried into involuntary servitude, or held as a slave; or if any person shall entice, persuade, or knowingly induce any other person to go on board any vessel or to any other place, with the intent that he or she shall be made or held as a slave, or sent out of the country to be so made or held, or shall in any way knowingly aid in causing any other person to be held, sold, or carried away, to be held or sold as a slave,

he or she shall be punished, on conviction, by a fine of not less than \$500 nor more than \$5,000, or by imprisonment not exceeding five years, or by both.

If the master or owners, or person having charge of any vessel, shall receive on board any other person, whether negro, mulatto, or otherwise, with the knowledge or intent that such person shall be carried from any State, Territory, or district of the United States, to a foreign country, State, or place, to be held or sold as a slave, or shall carry away from any State, Territory, or district of the United States, any such person, with the intent that he or she shall be so held or sold as a slave, such master, owner, or other person offending, is to be punished by a fine not exceeding \$5,000 nor less than \$500, or by imprisonment not exceeding five years, or by both. And the vessel on board which the person was received to be carried away is to be forfeited to the United States.

Mr. CLARK. I desire simply to say that this bill is reported from the Judiciary Committee upon a resolution introduced by the Senator from Massachusetts. It seemed to the committee that there was a necessity for the passage of a bill of this kind, and it has been thoroughly considered by that committee.

Mr. SUMNER. As I understand it, then, the bill grows out of those outrages, of which we had a report, in the Gulf States—in Florida, in Mississippi, in Louisiana, and Texas—where freedmen were seized and carried off and sold as slaves. Since I called the attention of the Senate to those outrages, I have received three or four other communications, which I have not with me now, for I did not anticipate that the bill would be called up to-day, all communicating additional evidence with regard to those outrages. They are going on now in Florida, and perhaps not unnaturally, because Florida is the nearest to Cuba; and they are also going on in Texas, and even in Louisiana. In this way the proclamation of emancipation is set at defiance, and a new slave trade is opened. I am very grateful to the Committee on the Judiciary for the promptitude with which they have reported this remedial measure, and I hope the Senate will pass it.

Mr. CLARK. I have said that the attention of the committee was called to this subject by the resolution of the Senator from Massachusetts.

Mr. SUMNER. So I understood the Senator.

Mr. CLARK. And by reports in the newspapers and from other quarters that this traffic was carried on, and on an examination we found no sufficient protection in the statutes of the United States against it. There was some slight protection in the statute which regulated the coastwise slave trade, but that was repealed at the last session, and the committee could find no suitable provision, in fact no provision at all, on the statutes that would apply to this matter, and they therefore report this bill. They have no particular evidence as to how extensively this trade has been carried on, or what are the particular necessities for this measure, but there are reports of the kind that have been suggested by the Senator from Massachusetts, and I think the Senate will see that there ought to be such a bill to guard against any danger that there may be in this way.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

F. A. PATTERSON.

Mr. CLARK. I ask the Senate now to proceed to the consideration of a little bill for the relief of a Mr. Patterson, formerly an officer of the Army.

The motion was agreed to; and the bill (S. No. 117) for the relief of F. A. Patterson, late captain of the third Virginia cavalry, was read the second time, and considered as in Committee of the Whole. It directs the Secretary of War to pay Captain F. A. Patterson the full amount of pay and emoluments as a captain of the third Virginia cavalry, from the 24th of November, 1862, the date of his commission

by the Governor of Virginia, to the date of the muster out of his regiment.

Mr. GRIMES. What is that bill?

Mr. CLARK. I am inquired of by the Senator nearest me what this bill is, or what it means. Captain Patterson was commissioned by Governor Peirpoint, of the State of Virginia, to raise a regiment of cavalry for the Union Army. He proceeded to raise his regiment and repaired to Winchester, where he supposed he would be mustered in, but found no mustering officer there, and was very soon after taken prisoner with Milroy's command and carried to a rebel prison and kept there twenty-two months, and was unable to get any pay whatever. The committee think he should be paid. It was not his fault that he was not mustered, but the fault of the Government.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

POST ROADS.

Mr. DIXON. I now move that the Senate proceed to consider the amendments of the House of Representatives to the amendments of the Senate to the bill (H. R. No. 61) to establish certain post roads.

The motion was agreed to.

The amendments of the House of Representatives were to insert under the heads of the respective States and Territories the following specified routes:

In Indiana:
From Moneague, Illinois, via Beaver Lake Ditch, Stringham's Point, and Pilot Grove, all in Newton county, Indiana, to Adriance, Indiana.

From Fulton, via Millville, to Keenawa.

In Colorado:
From Central City, via Georgetown, to Argentine.
From Gold Dirt to South Boulder.
From Denver, via Mount Vernon and Idaho, to Empire City.

In Nebraska:
From West Point, Cumming county, to Rock Creek, in said county, ten miles.
From Pawnee City, via Frieses Mills, Nebraska, to Seneca, in Kansas.
From Dakota City, via West Point, to Columbus.
From Brownsville, Nebraska, to Rockport, Missouri.

From Big Sanday, Jones county, to Rose Creek, Nockolls county.
From Plattsmouth, via Glendale, South Bend, Ashland, Salt Creek, Rock Creek, Lancaster, Saline City, Salfillo, Centerville, Olive Branch, Clatona, to Beatrice.

From Plattsmouth, via Eight Mile Grove, to Weeping Water.

From Decatur, via Logan Valley, West Point, Saint Charles, and Jalapa, to Fremont.

From De Soto, via Arizona, to Decatur.
The road from South New Berlin, in the county of Chenango, to Morris, in the county of Otsego, in the State of New York, is hereby declared to be a post road.

The Committee on Post Offices and Post Roads reported in favor of concurring in the amendments of the House of Representatives with amendments, to insert the following additional routes:

Nevada:
From Carson, by way of Ophir, Washoe City, and Steamboat Springs, to Huffaker's Ranch, all in Nevada.

From Ione, by way of Canon City, to Austin, all in Nevada.

From Austin to Cortez, in Nevada.

From Austin, by way of Kingston, Twin River, and San Antonio District, to Silver Peak, all in Nevada.

From Virginia, by way of Sacramento District, Unionville, Star, Dungen, and Paradise Valley, in Nevada, to Boise City, in Idaho.

Kansas:
From Humboldt, Kansas, via Osage, Catholic Mission, and Chetopa, to Fort Gibson.

From Pleasant Hill, Missouri, via Bloomingrove, to Mound City, Kansas.

From Neosha Falls, Kansas, via Belmont, to Syracuse, in Wilson county.

From Fort Scott, via Mill Creek, Dayton, Mapleton, and Blue Mounds, to Garnett, tri-weekly.

From Verdigris Falls, via Virgil, to Pleasant Grove.

From Xenia to Walnut Hills.

From Council Grove to Abilene.

From Neosha Falls, via Mount Airy, to Liberty, in Woodson county.

From Emporia, via Madison, Shell Rock, Pleasant Grove, and Post Oak, to Fort Roe.

From Ottumwa, via Madison, Janesville, Eureka, and Darley's Mills, to Salt Spring.

From Lawrence, via Oskaloosa, to Grasshopper Falls.
From Perryville, (located on the route of the Union Pacific railroad,) via Oskaloosa and Easton, to Leavenworth.

Maine:
Woodman's Depot to New Gloucester, Upper Gloucester, West Gloucester, and North Raymond, in Cumberland county.

Poland to West Poland, in Androscoggin county.

Porter, via North Parsonsfield, Parsonsfield, and North Newfield, to West Newfield, in York county.

North Acton, Maine, via Wakefield, to Union, New Hampshire.

Iowa:
From Chariton, Lucas county, via Garden Grove, to Leon.

From Marshalltown, via Vienna, Wolf Grove, Fifteen-Mile Grove, and Grundy Center, to New Hartford.

From Decorah to Hespor, in Winneshiek county.

From West Mitchell, in Mitchell county, by Plymouth and Mason City, to Clear Lake, in Cerro Gordo county.

Minnesota:
From Paynesville, by Norway Lake, to Six-Mile Timber, on Chippeway river.

Washington Territory:
From Wallula, by Antoine Plants, Porn, D'Orville Lake, and Hell Gate, to Helena, Montana Territory.

Oregon:
From Dalles City, on the Columbia river, to Umatilla, in Umatilla county.

From Umatilla, by Le Grand, in Union county, to Baker City, in Baker county.

The PRESIDING OFFICER. The question is on agreeing to these amendments, reported from the Committee on Post Offices and Post Roads.

Mr. DIXON. I propose to amend the amendments in line thirty, page 7, under the head of "Kansas," by striking out the words, "From Emporia, via Neosho Rapids," and inserting, "Enterprise, via Ottumwa."

Mr. CLARK. That is an amendment in the third degree, and can only be made by unanimous consent. Probably there will be no objection to it.

The PRESIDING OFFICER. That amendment will be considered as made by unanimous consent if there be no objection. It is an amendment in the third degree and not strictly in order.

Mr. DIXON. There are some routes that have been omitted by the committee that I now propose to add. On page 7, after line thirty-two, under the head of "Kansas," I move to add, "From Council Grove to Marion Center."

The PRESIDING OFFICER. That amendment will be made if there be no objection.

Mr. DIXON. On page 8, after line fifty-six, under the head of "Iowa," I move to insert, "From Postville, via Lybrand and Ludlow, to Waukon, in Alamakee county."

The PRESIDING OFFICER. By unanimous consent that amendment will be made.

Mr. DIXON. At the end of the amendment reported by the committee I move to insert,

"Michigan: From Coopersville, via Mansfield Mills, Ravenna, Slocum's Grove, Whitney's Mills, and Moreland, to Squier's Ferry."

The PRESIDING OFFICER. That amendment will be made if there be no objection. The question is now on agreeing to the amendments reported from the Committee on Post Offices and Post Roads to the amendments of the House.

The amendments to the amendments were agreed to.

The amendments of the House of Representatives, as amended, were concurred in.

LAND TITLES IN SAN FRANCISCO.

Mr. HARRIS. I move that the Senate proceed to the consideration of Senate bill No. 93.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 93) to quiet the title to certain lands within the corporate limits of the city of San Francisco.

It proposes to relinquish and grant all the right and title of the United States to the land situated within the corporate limits of the city of San Francisco, in the State of California, confirmed to the city of San Francisco by the decree of the circuit court of the United States for the northern district of California, entered on the 18th of May, 1865, to the city of San Francisco and its successors, and to confirm the claim of the city to the land, subject, however, to the reservations

and exceptions designated in that decree, and upon the following trusts, namely, that all the land, not heretofore granted to the city, shall be disposed of and conveyed by the city to parties in its *bona fide* actual possession, by themselves or tenants, on the passage of this bill, in such quantities and upon such terms and conditions as the Legislature of the State of California may prescribe, except such parcels as may be reserved and set apart by ordinance of the city for public uses; but the relinquishment and grant by this bill is not to interfere with or prejudice any valid adverse right or claim, if such exist, to the land or any part of it, whether derived from Spain, Mexico, or the United States, or preclude its judicial examination and adjustment.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled joint resolution (S. R. No. 96) authorizing an increase of the clerical force in the Post Office Department; which thereupon received the signature of the President *pro tempore* of the Senate.

EXECUTIVE SESSION.

On motion of Mr. GRIMES, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, February 15, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BORTON.

The Journal of yesterday was read and approved.

POSTAGE STAMPS AND STAMPED ENVELOPES.

The SPEAKER stated the first business in order to be the consideration of House bill No. 299, relative to the sale of postage stamps and stamped envelopes on credit, reported yesterday from the Committee on the Post Office and Post Roads.

Mr. WASHBURN, of Illinois. Has the morning hour commenced?

The SPEAKER. It has. The bill was ordered to be printed yesterday, but has not yet reached the House.

WAR DEBT OF THE SEVERAL STATES.

Mr. SPALDING, by unanimous consent, presented joint resolutions of the State of Ohio, relative to the assumption by the General Government of the war debt of the several States; which were referred to the select committee on the war debt of the loyal States, and ordered to be printed.

Mr. SPALDING asked that the resolutions be read *in extenso*.

Mr. HARDING, of Illinois, objected, and called for the regular order of business.

POST OFFICE APPROPRIATION BILL.

Mr. KASSON. Is it in order, Mr. Speaker, to introduce a bill from the Committee on Appropriations for the purpose of having it printed?

The SPEAKER. It is in order at any time.

Mr. KASSON. Then I report the following bill from that committee: a bill making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1867, and for other purposes. And I move that it be printed and made the special order for this day week after the morning hour.

Mr. WASHBURN, of Illinois. I desire to ask whether there is anything in this bill in the shape of legislation? If there is, I shall have to raise a question of order.

Mr. KASSON. I will simply say, to avoid any question about it, that in the last section, in compliance with the request of the Postmaster General, he has the privilege of transmitting the mails by sailing vessels where it is necessary.

Mr. WASHBURN, of Illinois. I will reserve the right to make the point of order when the bill is reached in Committee of the Whole.

The SPEAKER. The bill will be considered as read a first and second time, and referred to the Committee of the Whole, to come up this day week after the morning hour until disposed of.

Mr. GARFIELD. I want to withdraw some papers before the Committee of Claims.

Mr. HARDING, of Illinois. I insist upon the regular order. I have been trying for two weeks to get some resolutions in, and I want to get the opportunity as soon as possible.

POSTAGE STAMPS AND STAMPED ENVELOPES.

The House proceeded to the consideration of House bill No. 299, relative to the sale of postage stamps and stamped envelopes on credit, on which Mr. ALLEY was entitled to the floor.

Mr. KASSON. I desire to make a motion to strike out all after the first section, and let the bill stand on the first section, simply as a matter of business management of the affairs of the Department in that respect.

Mr. ALLEY. I would like to know how the bill will stand then.

Mr. KASSON. Let the first section be reported.

The Clerk read the first section, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General be, and he is hereby, authorized, whenever in his opinion the public service shall require, until the 30th day of June, 1893, to deposit postage stamps and stamped envelopes with such persons as he may select, for sale. The persons with whom stamps and stamped envelopes are so deposited shall engage to sell and circulate the same, under the instructions of the Postmaster General, and shall give bond in such sum as the Postmaster General may direct, with one or more sureties, conditioned for the faithful keeping of the stamps and stamped envelopes so intrusted to them, and for the payment to the Post Office Department, in such manner as directed by the Postmaster General, of the moneys arising from the sale thereof.

Mr. KASSON. With the permission of the gentleman from Massachusetts, [Mr. ALLEY,] I will state that as far back as 1861, and subsequently, it was found desirable to increase the facilities for the purchase of stamps in all the large cities. It was and is still desirable to authorize depositories for the purpose of sale where they can be easily obtained in each ward, and perhaps in a dozen places in each ward of a city. So far as this bill will accomplish that result without cost to the Department I cannot see that there can be any objection to the adoption of that habit of business. But this remaining section which makes it in the nature of a public office and allows compensation for it is the one that I object to. There are parties in every part of the country, traders and shopkeepers, who would gladly have their offices made places of deposit and sale of stamps and envelopes without charge to the Department, because of the flow of custom it would naturally bring in. That we know to be the fact, and for that reason I propose the amendment.

Mr. ALLEY. I do not think that the amendment which the gentleman proposes will improve the bill. Neither do I think it is desired by the Department. For one I should be entirely opposed to it. The object of this bill is simply to provide means by which the people of the South, who are unable to enjoy the usual postal facilities, can secure stamps, instead of being compelled, as they now are, in a great many instances that have come to the knowledge of the Department, to purchase at great inconvenience and trouble, and pay, as they frequently have done, from twenty to twenty-five cents for a stamp.

To my surprise this bill encountered considerable opposition on yesterday, and for the simple reason, I believe, that the bill was not properly understood. This is a bill merely for business purposes. It is intended to increase the revenues of the Post Office Department, and in my opinion will do no harm to any interest of the Government, or to any individual in any section of the country. On the contrary, this bill is made in the interests of the Government,

of freedom, and humanity. If I believed otherwise, I certainly would not advocate it.

There is no man upon this floor who appreciates more fully than I do the danger arising from the moral effect of any legislation which may have a tendency to bring back into these Halls men who have done their utmost to destroy this Government, and who stand in such a position that in my judgment the Government ought not to trust them with the power that will be conferred upon them by their admission here. No man will go further than I will in that respect.

But I am willing to grant all needful facilities so far as we can with safety to the Government to promote the interests of the great mass of the people of the South. I feel no disposition to gratify any feelings of revenge or hostility to that people as a body. I feel that they have suffered everything that a people ought to suffer for their transgressions. I think their terrible and unfortunate condition challenges the sympathy and pity of all mankind. Yet, while I cherish no other feelings than those of kindness and commiseration toward the great mass of the people of the South, I do feel that those men who have led that people into rebellion, the leaders of the rebellion, deserve and ought to suffer all the torments of the damned. [Cries of "Good!" "That is right!"] And so far as this bill is concerned, those individuals will receive but little benefit from it.

It is the great mass of the people, including the Union people of the South, who will be benefited by the provisions of this bill. And as this bill is framed in the interests of the Government, and intended to grant additional facilities in the way of mail service to the great mass of the people, I think it ought not to meet with any opposition.

Mr. KASSON. Will the gentleman from Massachusetts [Mr. ALLEY] allow me to correct one misapprehension which I think he has fallen into in regard to the effect of my amendment?

Mr. ALLEY. Certainly.

Mr. KASSON. The proposed amendment accomplishes all the objects in the South which the gentleman himself desires except the one to pay the depositories a percentage on their sales. The amendment applies equally to the North and the South, and enables the Postmaster General to make deposits of stamps and take security for them as he may consider necessary and proper. If there be any neighborhood that has no public officer that will take that much trouble to accommodate the neighborhood, I do not think they ought to have this facility afforded them. And the amendment accomplishes the whole object of the gentleman except so far as relates to the allowance of five per cent. to the depositories upon the amount of their sales.

Mr. ALLEY. I did not misapprehend the gentleman at all, nor the force of the amendment, and I say that, so far as his object is concerned, in my opinion it is unnecessary, and is not required by the Department, and I have never heard that any section in the North is not now sufficiently accommodated.

Mr. WASHBURN, of Illinois. Will the gentleman from Massachusetts [Mr. ALLEY] tell the House why it is proposed to allow a commission of five per cent. for selling these stamps? It would be a better business than coming to Congress.

Mr. ALLEY. The bill provides that five per cent. shall be allowed upon these stamps; but the allowance is confined to the sales in those localities and by those individuals designated by the Postmaster General under this bill, and where stamps cannot be obtained in the usual mode, and it is not intended to apply anywhere else.

Mr. STEVENS. I want to know exactly what this bill means. Is it not intended to give to men in the South who cannot take the oath an opportunity of selling these stamps, and giving them five per cent. for selling, because they cannot find postmasters out there to do the business who can take the oath?

Mr. ALLEY. The whole object of the bill,

as I have stated over and over again, is to give the people of the South those mail facilities which they do not have now, and which they cannot have now for the reason the gentleman suggests. There is no disguise about that. I have stated to the House, and I state to the country, that this bill is not intended to provide for any one outside of the rebel States.

Now, I say for one, radical as I am, opposed as I am to the South coming back into these Halls as they desire to do, opposed as I am to that course of policy, yet so far as this bill is concerned I am for it, and for the very reason that it gives these people additional facilities that they cannot have now, the whole people, the great mass of the people, and it does nobody any harm. As I said before, I believe it is framed in the interest of the Government, in the interest of freedom, and in the interest of humanity, and no narrow-minded considerations shall deter me from its support.

Mr. HOOPER, of Massachusetts. Will my colleague inform me why the people of the South have not these mail privileges which this bill proposes to give them?

Mr. ALLEY. I have stated over and over again that the South have not these mail privileges because the Postmaster General is unable to find postmasters down there who can take the oath of office, or will take the oath of office and accept these offices.

Now, it will be understood, and I want the House to mark the fact, that the law requires that every postmaster shall live within the delivery district where the post office is established. Under that law it is impossible to send anybody down there from the North. They must be appointed from the districts in which they reside. Now, all over the South there were before the war little isolated post offices in the country that pay little or nothing, and it is really a favor to the Government for the incumbents to take these little offices. These are the reasons, and the chief reasons, why men will not take the oath of office. In that region there are few who can take the oath of office, and in many cases no one can be found willing to take upon themselves the responsibilities of postmasters, because the pecuniary consideration is so small. That is one of the chief reasons why it is so difficult to obtain loyal postmasters.

Mr. KELLEY. I interrupt the gentleman most unwillingly, but I feel it my duty, in behalf of the loyal people of the South, to say to him that I think he is most grievously misinformed; that there are loyal men in every district who would most gladly take any small office or emolument from this Government if public sentiment around them would permit or the Government would protect them in the exercise of their functions.

Mr. KASSON. Can they read and write?

Mr. KELLEY. Ay, they can read and write. I will mention one, whose letter communicating certain facts to the Government I had, who was elected to Congress by the few loyal men in his district, and who rallied the first regiment of loyal North Carolinians and fought through the whole war.

Night before last I had a visit from a soldier who fled from Texas into New Orleans as soon as our flag could protect him there, and who fought under Butler and Banks, and carries an honorable scar, and who has written a very clever book.

Mr. ALLEY. I really cannot yield any further.

Mr. DAWES. I would like to make an inquiry of the gentleman from Pennsylvania.

Mr. KELLEY. I will answer any inquiry if the gentleman from Massachusetts [Mr. ALLEY] will yield.

Mr. DAWES. I am also personally acquainted with the loyal North Carolinian to whom the gentleman from Pennsylvania refers, and I agree with everything he says in respect to him; that he was chosen by the loyal men of his district to represent that district in this Congress; that he fought at the head of his regiment during the whole war; that he came

on here to find some recognition of the difference between him and the rebels in North Carolina at the hands of the loyal men of this Congress. And the inquiry I wish to make of the gentleman from Pennsylvania is, whether officially, as a Representative in Congress, he has made any distinction between him and rebels from North Carolina.

Mr. KELLEY. Yes, sir; yes, sir; but I have not made that distinction which would require me to prostrate the Constitution of my country or to prostitute my office.

Mr. DAWES. What is the official distinction he has made?

Mr. ALLEY. I must decline to yield further. I yielded for a question, and not for a general discussion.

Now, a single word in reply to the gentleman from Pennsylvania. I do not know how it may be in regard to the statement which he has made; I presume it is so in the case to which he alludes; I am willing to take his word for it. I only know this, that as chairman of the Post Office Committee I have received innumerable letters from all parts of the South, from loyal men, judging from the expressions of sentiment in their letters, imploring Congress to take some action in this matter, to grant them additional facilities. In two or three instances I have received letters from the South, from men whom I have known in former years, who are as radical and as strongly Union as the gentleman from Pennsylvania himself, and they implored Congress to do something toward granting them additional mail facilities.

Now, Mr. Speaker, it was desired by the House last evening that this bill should be printed that they might have it before them, to reflect upon it, and look into it, and as it has but just come from the printer, and no opportunity has been given for its examination, if it is the wish of the House I am willing that it shall be postponed to a future day.

Mr. WASHBURNE, of Illinois. I suggest to the gentleman from Massachusetts that he refer the bill to the Committee of the Whole on the state of the Union, where we can discuss and amend it section by section.

Mr. KASSON. I hope, before the gentleman calls the previous question, he will allow an amendment to come in. I think we can vote on it now. It consists of only one section.

Mr. KELLEY. I hope the gentleman from Massachusetts will let the bill go over for debate in some form. I want to vindicate the really loyal men of the South against the aspersions which he has cast upon them for the want of proper information. I know he would not do them wrong for the world.

Mr. DAWES. I hope my colleague will give the gentleman from Pennsylvania that opportunity.

Mr. KUYKENDALL. I think we may as well decide the matter now as at any other time.

Mr. ALLEY. I move that the further consideration of the bill be postponed until this day fortnight.

Mr. WASHBURNE, of Illinois. I move to refer the bill to the Committee of the Whole on the state of the Union.

The SPEAKER. The motion to postpone takes precedence of the motion to refer.

Mr. ALLEY. I demand the previous question on my motion.

Mr. WASHBURNE, of Illinois. If that motion shall be voted down, will not a motion to refer the bill to the Committee of the Whole on the state of the Union be in order?

The SPEAKER. It will be. The previous question exhausts itself on the motion to postpone.

Mr. LAWRENCE, of Ohio. I move to lay the bill upon the table.

Mr. FINCK. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 30, nays 108, not voting 44; as follows:

YEAS—Messrs. Baker, Banks, Beaman, Benjamin, Broomall, Sidney Clarke, Cook, Deming, Donnelly,

Abner C. Harding, Hart, Hill, Asahel W. Hubbard, Hulburd, William Lawrence, Loan, McClurg, McKee, Orth, Paine, William H. Randall, Schenck, Scofield, Sloan, Spaulding, Stevens, Van Aernam, Elihu B. Washburne, Williams, and James F. Wilson—30.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Baldwin, Baxter, Bergen, Bidwell, Blaine, Boutwell, Boyer, Bromwell, Brooks, Buckland, Chanler, Cobb, Conkling, Callom, Darling, Davis, Dawes, Dawson, DeGreese, Delano, Briggs, Eckley, Eggleston, Eldridge, Eliot, Farquhar, Ferry, Finck, Glossbrenner, Good-year, Grider, Grinnell, Griswold, Hale, Aaron Harding, Harris, Hayes, Henderson, Higby, Hogan, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, James Humphrey, James M. Humphrey, Ingersoll, Jencks, Johnson, Julian, Kasson, Kelley, Kerr, Ketcham, Kuykendall, Latham, George V. Lawrence, Le Blond, Marvin, McCullough, McLean, Miller, Morris, Niblack, Radford, O'Neill, Perham, Phelps, Pike, Pomroy, Radford, Samuel J. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rogers, Rollins, Rousseau, Sawyer, Shanklin, Shellbarger, Sitgreaves, Strouse, Taber, Taylor, Thayer, John L. Thomas, Thornton, Trumble, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, William B. Washburn, Welker, Wentworth, Whaley, Stephen F. Wilson, and Windom—108.

NOT VOTING—Messrs. Ancona, Delos R. Ashley, James M. Ashley, Barker, Bingham, Blow, Brandegee, Bundy, Reader W. Clarke, Culver, Denison, Dixon, Dumont, Farnsworth, Garfield, Edwin N. Hubbard, Jones, Kelso, Longyear, Lynch, Marshall, Marston, McIndoe, Mercer, Moorhead, Morrill, Moulton, Myers, Newell, Noell, Patterson, Plants, Price, Ross, Smith, Starr, Stilwell, Francis Thomas, Voorhees, Ward, Warner, Winfield, Woodbridge, and Wright—44.

So the House refused to lay the bill upon the table.

The question then recurred on seconding the demand for the previous question on the motion to postpone the bill till Thursday, March 1, after the morning hour.

The previous question was seconded, and the main question ordered; and under the operation thereof the motion was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the motion to postpone was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

A bill (S. No. 98) entitled "An act to incorporate the Metropolitan Fire and Marine Insurance Company of the District of Columbia;"

A bill (S. No. 115) entitled "An act for the relief of Jane W. Nethaway;" and

A bill (S. No. 85) entitled "An act granting to the State of Wisconsin a donation of public lands to aid in the construction of a breakwater and harbor and ship-canal at the head of Sturgeon bay, in the county of Door, in said State, to connect the waters of Green bay with Lake Michigan, in said State."

AMENDMENT OF POSTAL LAWS.

Mr. ALLEY reported, from the Committee on the Post Office and Post Roads, a bill to amend the postal laws; which was read a first and second time.

The question being on ordering the bill to be engrossed and read a third time,

The Clerk commenced to read the bill *in extenso*, but was interrupted by

Mr. WILSON, of Iowa, who said: Mr. Speaker, I desire to inquire whether this bill has been printed.

The SPEAKER. It has not been.

Mr. WILSON, of Iowa. I suggest to the gentleman from Massachusetts [Mr. ALLEY] that he had better allow the bill to be postponed until it can be printed.

Mr. ALLEY. Well, Mr. Speaker, I will move that the bill be printed, and that it be postponed, like the other bill, until Thursday, March 1.

The SPEAKER. I suppose the gentleman understands that if the bill be postponed until that day it may not be reached then, nor until some time after.

Mr. ALLEY. Then let it be made a special order.

The SPEAKER. Unanimous consent is necessary to make it a special order. There

are now two special orders after the morning hour—the bankrupt bill and the loan bill.

Mr. WASHBURNE, of Illinois. I object to this bill being made a special order.

Mr. ALLEY. If the House will agree to fix some other time for the consideration of the bill, I am perfectly willing; but if gentlemen desire to push the bill aside, with no definite time fixed for its consideration, I cannot, of course, consent.

Mr. LE BLOND. I see that the bill proposes several very important changes in the postal laws; and I suggest to the chairman of the committee [Mr. ALLEY] that the bill be ordered to be printed, and then be recommitted, so that it can again be brought before the House whenever reports from this committee shall be in order.

Mr. ALLEY. The bill does propose several important changes in the law; but it is a bill which I think will encounter no opposition. I am perfectly willing to have it printed; indeed I desire that it shall be printed and that the House shall act understandingly upon it. I am willing to give all the opportunity for examination and discussion that anybody can desire; but I am not willing that the bill shall be pushed aside in such a way that it cannot be brought up again.

Mr. DAWES. I suggest to my colleague that he allow the bill to be recommitted, and then enter a motion to reconsider, which he can call up hereafter.

Mr. ALLEY. I cannot believe that there will be any opposition to the bill.

Mr. SCHENCK. Mr. Speaker, it is utterly impossible for members of this House to understand the provisions of a bill like this, consisting of many sections, unless it be before us in print; and I give notice to the gentleman that though I may stand alone, I will vote against every bill of a complicated character which is brought in in this way, and attempted to be forced through without a proper opportunity for examination by members of the House. I do not understand that the chairman of the Committee on the Post Office and Post Roads desires to force this bill through in that manner. Certainly he will allow the House some opportunity to know what we are legislating about; otherwise our measures cease to be the legislation of the House, and become the legislation of the committee alone.

Mr. ALLEY. It is what I want to do.

Mr. SCHENCK. That is all we ask. It has been suggested by my colleague over the way that the gentleman move the bill be printed and recommitted. He can have an opportunity of reporting it at any future time, when the House will have the bill before it, and an opportunity of knowing what are its provisions and voting understandingly on it. I hope he will take some such course as that, and not force us to vote upon a bill of such a complicated character before we know what it is.

Mr. ALLEY. I agree entirely with the suggestion of the gentleman from Ohio. I think he is perfectly right; and I am the last man who would compel the House to vote on a bill of this character without proper consideration. I move that the bill be recommitted and ordered to be printed.

The motion was agreed to.

Mr. ALLEY. I ask now to have entered a motion to reconsider.

The SPEAKER. It will be entered upon the Journal.

MISCELLANEOUS APPROPRIATION BILL.

Mr. STEVENS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union, to take up for consideration House bill No. 86, making additional appropriations and to supply deficiencies in the appropriations for sundry civil expenses of the Government for the fiscal year ending the 30th of June, 1866, and for other purposes. It is an important bill, and the appropriations are much needed.

The motion was agreed to.

The House accordingly resolved itself into

the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair.)

The CHAIRMAN stated the first reading of the bill for information would be dispensed with, if there were no objection.

Mr. BROOKS. I object until we can know what the bill is.

The Clerk proceeded with the reading of the bill.

Mr. BROOKS. I withdraw my objection to the first reading of the bill for information.

The CHAIRMAN. The bill will now be read by clauses, for amendment.

The Clerk read, as follows:

Survey of the coast:

For the survey of the Atlantic and Gulf coasts of the United States, including compensation of civilians engaged in the work, and excluding pay and emoluments of officers of the Army and Navy and petty officers and men of the Navy employed in the work, \$120,000.

Mr. BROOKS. I observe this bill is for additional appropriations, or what, in other words, is called a deficiency bill. I rise to say that, in my opinion, under the present heavy taxation of the people, our appropriations for the coast survey ought to be as few as possible, consistent with the interests of commerce. I should like to hear from the chairman of the committee whether it is not consistent with the public interest to make further reductions than is here made.

Mr. STEVENS. The committee will find this was an appropriation for 1866. We made no appropriation last year. This bill failed between the two Houses, and the department has been carried on on the faith of this having passed both Houses and having only failed in consequence of an amendment, we all understand, moved by the gentleman from Maryland, (Mr. Davis.) It is the same we passed last year and which failed, and is no new appropriation.

Mr. BROOKS. The explanation is satisfactory.

The Clerk read, as follows:

For continuing the survey of the reefs, shoals, and keys of South Florida, including compensation of civilians engaged in the work, and excluding pay and emoluments of the officers of the Army and Navy and petty officers and men of the Navy employed in the work, \$11,000.

Mr. DARLING. I move to strike that out.

Mr. STEVENS. Although we do not need a navy-yard there, yet our ships sail along that coast, and it is a dangerous coast, and of all others needs surveying.

Mr. WASHBURN, of Illinois. If New York does not need this let us know it.

Mr. STEVENS. I make the point of order that the committee had passed away from the paragraph, and the amendment is not in order.

The CHAIRMAN. The Chair sustains the point of order, and rules the amendment out.

The Clerk read, as follows:

For mates' and seamen's wages, repairs, supplies, and incidental expenses of forty-three light-vessels, \$230,917 75.

Mr. DARLING. I move to strike out the last three words "seventy-five cents."

Mr. Chairman, I would like to know from the gentleman from Pennsylvania whether this provides for light-house keepers in the southern States; and if so, whether they are required to take the oath of allegiance before they are inducted into office.

Mr. STEVENS. This bill was provided before the war ended. It is not based upon any appropriation for the southern States except in a few instances.

Mr. DARLING withdrew his amendment.

The Clerk read as follows:

For rebuilding outer-range light at Cedar Point, Sandusky bay, Ohio, \$10,000.

Mr. SPALDING. I move to strike out "ten" and insert "twenty."

Since this bill was reported, the principal engineer of the Light-House Bureau has come to me and satisfied me we have made a mistake in reference to the estimate; that the estimate was for \$20,000 instead of \$10,000; and that the former sum is imperatively necessary.

Mr. STEVENS. I have not been able to hear the gentleman.

Mr. SPALDING. I call the attention of the chairman of the committee to the fact that since this bill was reported, the engineer of the Light-House Bureau has come to me and stated that there is a mistake in the estimate; that the original estimate was \$20,000 instead of \$10,000; and that the board wish it restored to \$20,000, because their estimate shows that the light-house cannot be built for less than that sum.

Mr. STEVENS. Will my colleague on the committee turn to the estimate?

Mr. SPALDING. I cannot do it. I only rely on the statement of the engineer, Mr. Poe, that he was specially directed by Admiral Shubrick to have this correction made.

Mr. STEVENS. I have no doubt that what the gentleman states is correct, but I do not know where to find the justification of an increase on the record.

Mr. SPALDING. The mistake may have been in the manuscript that was sent to the printer. He says it was made \$20,000 and not \$10,000.

Mr. STEVENS. I leave it to the House. I only say that the committee would not feel justified in agreeing to that, because we have no record which requires more than \$10,000.

Mr. DAVIS. I beg leave to suggest to the gentleman from Ohio to amend so that the appropriation shall be \$20,000, or so much thereof as shall be necessary.

Mr. SPALDING. I accept that modification. I do not want any more than is necessary.

The question being taken on the amendment, it was agreed to.

Mr. SLOAN. I move to strike out lines one hundred and eighty and one hundred and eighty-one, as follows:

For completion of the Dubuque, Iowa, custom-house, \$15,000.

I would inquire of the chairman of the committee if there is any necessity for building such houses?

Mr. KASSON. The custom-house is just about completed, so far that it is now occupied not merely for a custom-house, but for a post office and court-room. And this was the estimate made last year and accepted by both branches of Congress for the purpose of completing the roof and details of the building, to make it comfortable for all the branches of the Government.

Mr. STEVENS. I am bound to say that since this estimate was made last year the Secretary has written us a letter, in which he asks that we appropriate at least \$5,000 more for the purpose of completing all that work. I move, therefore, to make it \$20,000 instead of \$15,000.

Mr. SLOAN. I believe I am entitled to the floor.

Mr. STEVENS. If there is any objection to it I withdraw it.

Mr. SLOAN. It seems to be conceded that there is no need whatever for a custom-house there. There are no foreign goods entered there, I believe; and if that is so, this appropriation for a custom-house evidently should be stricken out of the bill. If it is proper to make an appropriation for completing the post office in the city of Dubuque, that proposition ought to be presented to the House and voted upon. If it is the policy of the Government to erect post office buildings at places of the size of Dubuque, there are many other towns equal to Dubuque, some in my own State, that would like appropriations for the same purpose.

Mr. STEVENS. This building is very nearly completed. It has been in progress some time, and it embraces both custom-house and post office.

Mr. SLOAN. In answer to the chairman of the committee I will say that if there is no need whatever of a custom-house at Dubuque a clause should be reported authorizing the Government to sell the building and putting the money into the Treasury, instead of making further appropriations for the completion of a building which it is conceded that the Government has no earthly use for, at least for the purpose for which this appropriation is to be made. And I take

it to be very doubtful policy for the Government to complete these buildings for the purpose of post offices. It is establishing a principle which will become very expensive, if carried out, and we build post offices in every town in the country of the size of Dubuque.

Mr. WASHBURN, of Illinois. If this were a new proposition to build a custom-house, I should be decidedly opposed to it, as I believe the Committee on Commerce of the House has reported against all of these propositions. But this is a building which has already been erected, not only for a custom-house, of which there is not much need, but also for a post office and a United States court, as I understand. Fifteen thousand dollars were asked for at the last session of Congress to complete this building. I suppose that that will be a sufficient sum, and I trust it will be found sufficient. I merely rose to move as an amendment to add after the words "custom-house" the words "post office and United States court-room."

Mr. ALLISON. In answer to the gentleman from Wisconsin, [Mr. SLOAN,] I will say that this building is almost completed as a post office, and saves the Government an annual rent of at least fifteen hundred dollars for that purpose. The United States court for the northern district of Iowa is held at Dubuque, and the court-room is in this building. The office of the clerk of the district court is also in this building, and there is room for the office of the surveyor general. There will thus be a saving to the Government of a large amount of money annually in the way of rents; and this appropriation is certainly necessary now to complete the building, which has cost the Government at least one hundred and fifty thousand dollars in former years. I think it would be very unwise policy to undertake to sell the building, as proposed by the gentleman from Wisconsin. If that policy is undertaken, we might extend it to other cities, a little larger perhaps than Dubuque, yet having no more use for this class of public buildings.

Mr. STEVENS. I withdraw my amendment.

The question was taken on the amendment proposed by Mr. WASHBURN, of Illinois, and it was agreed to.

The question was then taken on Mr. SLOAN's motion to strike out the entire clause; and it was disagreed to.

Mr. WASHBURN, of Illinois. I move to strike out the following clause:

For payment of claims due for the constructing and furnishing the Baltimore court-house, \$100,000.

I desire some information in regard to this item. It is a very large sum, and I should like to know what part of the appropriation is for constructing the Baltimore court-house, and what proportion is for furnishing it. I have understood that the furniture placed in that court-house has been of a most extravagant character, and cost a very large sum. I hope we shall have some information on the subject.

Mr. STEVENS. I think the estimates do not separate the items, and therefore I am entirely unable to give the information the gentleman seeks. They are clubbed together in the estimates.

Mr. WASHBURN, of Illinois. I think the committee ought to have some information in regard to what the contract price was for the building and furnishing of this court-house, how it was built, and how this demand comes here. I do not understand it at all. We are asked to appropriate \$100,000 on very meager information.

Mr. STEVENS. This is the amount that was due at the time this appropriation was called for during the last Congress. This sum was actually due under contracts made before that time.

Mr. WASHBURN, of Illinois. I think my friend from Pennsylvania is mistaken in regard to this bill, because there are certainly some items in this bill that were not in the bill of the last Congress.

Mr. STEVENS. This appropriation is for

an amount that was due last year. This is one of the items of the old bill. It is to carry out contracts made under a former law.

Mr. WASHBURN, of Illinois. I think we had better strike it out and let it go to the Senate. We may be able to get more information on the subject there.

I will withdraw my amendment, however, and merely say one word in regard to the furnishing of this court-house. I was told at the Interior Department that they went on, without any authority of law whatever, and furnished the court-house in a most extravagant manner, and the Interior Department refused to pay for it; and now they come here and ask for this very large sum of money.

Mr. J. L. THOMAS. I do not know anything about the particular items in this appropriation. I know, however, one thing, that most of those articles that were furnished for the construction of the new court-house in Baltimore were furnished by men in New York and in the eastern States. I do not think any citizens of Baltimore have any interest in this appropriation.

The contractor for building the court-house was a man, I think, from Brooklyn, in the State of New York—a man who I understand has built court-houses elsewhere, and who is a man of great integrity and honesty. I agree with the gentleman from Illinois [Mr. WASHBURN] that there was perhaps a great deal of useless expense in relation to the inside work of that court-room; but the court-house was accepted by the Interior Department as constructed by the man with whom the contract was made by the Government. At least that is my understanding of it.

Mr. WASHBURN, of Illinois. What was the expense of the furniture for furnishing that Baltimore court-house?

Mr. J. L. THOMAS. I do not know. I have stated that I did not know anything about any of the items which go to make up this appropriation; and I did not know until I was just now called upon that this appropriation was in the deficiency bill. I do not know what are the items that go to make up this appropriation, nor who were the contractors. I suppose that the chairman of the Committee on Appropriations [Mr. STEVENS] can inform the House what are the items that go to make up this gross amount.

The CHAIRMAN. The gentleman from Illinois [Mr. WASHBURN] proposes to withdraw his amendment.

Objection was made.

Mr. WASHBURN, of Illinois. Then I must ask a new count.

The CHAIRMAN. As there has been some debate since the last count was taken, the Chair will regard the question upon striking out the appropriation for the Baltimore court-house as one just offered and open to debate.

Mr. STEVENS. I desire to say that I think the gentleman from Illinois [Mr. WASHBURN] is mistaken in regard to the Department of the Interior. That Department has recommended, as will be found on page 6 of the estimates, this very appropriation, and ask it to be made in order to enable them to pay a debt contracted.

Mr. HARDING, of Illinois. Did the Department expend this money without the authority of law and without any appropriation?

Mr. STEVENS. No, sir; authority was given, and a contract was made under that authority: and this is the amount due under that contract.

Mr. HARDING, of Illinois. And no appropriation has been made to pay the contract?

Mr. STEVENS. No appropriation has been made to finish it.

Mr. HARDING, of Illinois. Does the Department have discretionary power to make such a court-house as they please?

Mr. STEVENS. The Department report to us that the contract was made and executed; and this is the amount due on that contract.

Mr. HARDING, of Illinois. How was the Department authorized to make the contract?

Mr. STEVENS. By an old law.

Mr. HILL. I desire to ascertain from the chairman of the Committee on Appropriations [Mr. STEVENS] whether this court-house was built and the furniture supplied under a contract? I did not distinctly understand whether the contract to which he referred embraced both the building and the furniture, or whether the building was erected under a contract, and the furniture supplied without a contract.

Mr. STEVENS. We have no information except what we get from the Department. The Department informs us that this amount is due from the Government to the contractors, and we have reported it accordingly. Whether the appropriation shall be made or not is for the House to determine.

Mr. WASHBURN, of Illinois. I am not mistaken as to what the Assistant Secretary of the Interior told me in regard to this very appropriation; that they went on without any authority of law whatever and bought this furniture, and the Department refused to pay for it; they had no fund out of which to pay for it. What I protest against here, and always protest against, is the contracting of debts by a Department or by any one in the name of the Government without any authority of law. It is very true that the Interior Department has recommended us to pay this; but it is in our discretion whether we will sanction this sort of thing. I am opposed to it.

Mr. HILL. I am decidedly in favor of carrying out strictly and religiously all the contracts of the Government. But if any part of this expenditure has not been incurred pursuant to a contract entered into by the Government, I think that it is but right that the House should know what are the circumstances under which the indebtedness has arisen, before appropriating this large amount of money. For that reason I think the amendment is a proper one.

Mr. J. L. THOMAS. I will state for the information of this House, that this court-house has not only been built and all this furniture placed in it, but for some months past it has been used by the United States Government for the United States district and circuit courts. The lower floor is furnished for the use of the United States marshals and the United States district attorneys, together with all the other offices of the United States, with the exception of the post office and the custom-house, in that district.

Now, it appears to me, that inasmuch as the Secretary of the Interior has accepted this court-house with all the furniture and appurtenances therein, according to the contract, it is nothing more than right that the contractor should be paid. The citizens of Baltimore are not particularly interested in this, for we have our court-house built and all the furniture in it. The only question now is about paying for it.

Mr. HILL. I understand from the gentleman that he regards it as a correct principle that the Secretary of the Interior may, by the acceptance of any work or material, bind Congress to pay for it. I desire to know whether I am correct in my understanding.

Mr. J. L. THOMAS. No, sir; the gentleman has not understood me correctly. What I mean to say is this: that where the Secretary of the Interior, or any other officer of the Government as high in position as he is, accepts a contract, the presumption here is that everything done by him has been done in strict accordance with law. I do not go behind the acts of the Secretary of the Interior or any other officer of this Government occupying as high an official position as he does. If the Secretary of the Interior accepted that court-house, as the chairman of the committee states, it is presumable that he did not accept it contrary to the provisions of existing law, or contrary to the contract which was entered into at the time that the court-house was built. Now, somebody must be paid for the work which has been done. The court-house has been built; and, according to my information, as I have stated, not only was it built by men from the North, but the furniture was provided by them. I maintain that these men ought to be paid.

Mr. HILL. I think that I was correct in my understanding of the gentleman's views. At all events, I differ from him in this: I deny that an officer of this Government, whether high or low, can appropriate funds from the Treasury without authority of law. I approve of the time-honored principle that appropriations of money should be made by Congress, the legislative department of the Government, not by the executive or any other department. Hence I insist that the fact that the Secretary of the Interior or any other officer has accepted certain materials or certain work, does not impose upon Congress any sort of obligation to pay one dollar of the expense incurred, unless it has been incurred in pursuance of law.

Mr. STEVENS. Let me ask the gentleman from Indiana [Mr. HILL] a question. Suppose that some person should furnish him a horse, for which he did not contract, but which he accepted and used and kept, would he not consider himself bound to pay for it?

Mr. HILL. If I accepted it and used it I should doubtless consider myself bound as an individual to pay for it. But the point which I make is that the Secretary of the Interior has no authority to bind Congress by contracting without the authority of Congress, if that is the case, for any material or work or anything of the kind.

Mr. KASSON. I simply wish to state what I understand to be the position of this case.

The construction of this court-house was authorized by law. Appropriations were made in the usual way for its construction and for furnishing it. Those appropriations have proved insufficient. The work is done; the property is being used and worn out, so far as it is personal property, by the Government. The Secretary of the Interior, the only responsible party whom we know, has adjusted these claims, with the aid of the proper accounting officer, and he reports them now to Congress as amounting to this sum.

The only ground of the opposition to the present appropriation is that the gentleman from Illinois says that a subordinate officer of the Department, in personal conversation with him, has stated that the property (referring, as I understand, only to the furniture,) was contracted for without the prior direction of the Secretary of the Interior. We have no letter; we have no report; we have simply the statement of one of our colleagues, resting upon the statement, not in writing, of another man, and he a subordinate in the Department; and we are asked to accept this, in opposition to the express declaration of the head of the Department that the United States owes this much money for property which it is now using. If this committee should permit the unauthenticated statements—of course I intend no impeachment of the verbal statements of anybody; I mean officially unauthenticated statements, to override officially authenticated statements, it would be of course a rather bad precedent to adopt.

Mr. WASHBURN, of Illinois. I desire to ask the gentleman from Iowa [Mr. KASSON] what officially authenticated statement he has from the Secretary of the Interior in regard to this matter, except a statement of the gross amount which is due. I undertake to say that if the consideration of this bill be postponed until to-morrow, I will produce the evidence to support every statement that I have made, and to show that this appropriation is without authority of law.

Mr. KASSON. I want to vindicate my statement. The authority is the same upon which we make up all the bills which are made up by order of the House in the committee, the official authenticated reports of the proper Departments, concentrated at the Treasury Department, and reported in conformity to law to this department, and perfectly responsible in every particular. Among them is found an item for the payment of claims for furnishing and for the construction of the Baltimore post office building. It is thus authenticated to the committee, the amount given showing its adjustment,

and is recommended officially and regularly to us.

Personally I do not care what the committee does with it. I should be glad, however, if the House would act upon a rule which could be relied upon.

Mr. HILL. I desire to answer the gentleman from Pennsylvania, [Mr. STEVENS,] which I did not have an opportunity to do before. I understood the gentleman to ask me whether, if a horse should be put in my possession, and I should appropriate it to my own use, I would refuse to pay for it. Do I understand him correctly?

Mr. STEVENS. Yes, sir.

Mr. HILL. While I very cheerfully answer that I should not refuse to pay for it, I desire to know whether he regards this as an analogous case.

Mr. STEVENS. I do.

Mr. HILL. I understand him to say, then, that the Secretary of the Interior has power, without authority of law, or pursuant to contract, by accepting and making use of property to bind Congress to pay for it. In this proposition, sir, I do not concur. I think there is no analogy between the case supposed in the gentleman's question and the case under consideration. In the case supposed, I would act as an individual, and upon my own responsibility, and would be liable as an individual. But the power of disbursing, as well as raising, revenue belongs to Congress, and I do not understand that the Secretary of the Interior has been constituted its agent, even. Hence no act of his in taking possession of property can bind Congress to pay for it, and the analogy cannot exist.

Mr. STEVENS. The United States authorities are now using the building.

Mr. HILL. Has the Secretary of the Interior the authority to bind Congress in this way? Such has not been my opinion, and therefore I have opposed this appropriation.

Mr. HALE. I beg leave to inquire whether, if the Secretary of the Interior has this authority to bind Congress, how many other officers of the Government have the same authority? Let us know how many agents of the Government have the right to bind Congress to pay whatever debts they may choose to incur.

Mr. STEVENS. There was a law authorizing the construction of this building, and partial appropriations have been made and expended. The contract is executed and this is for a deficiency.

Mr. HALE. Will the gentleman allow me to ask him whether the law authorizing the contract also authorized the payment of more money than was appropriated?

Mr. STEVENS. We sometimes appropriate for the commencement of a work, sometimes for its continuation, and sometimes for its completion. Both branches of Congress made this appropriation at the last session, and it only failed on account of a difference on another subject.

Mr. J. L. THOMAS. I will state another fact. This contract was made before the war, and hence was made upon a gold basis; but in spite of the war, and in spite of the depreciation of our currency, the contractor went to work and fulfilled his contract. He has completed the building and furnished it, and the Government of the United States had possession of it six months ago. At the beginning of the war there was hardly anything done except that the foundation was built.

Mr. WASHBURN, of Illinois. What is the name of the contractor?

Mr. J. L. THOMAS. The gentleman will find on inquiry at the Department of the Interior that the name of the contractor was Mr. Osborne, from Brooklyn, or Rochester, New York, I do not know which. The date of the contract I do not remember, but it was some time in 1858 or 1859, perhaps 1860. It was just before the breaking out of the war. I know the law was passed during the time J. Morrison Harris was a member of Congress from the city of Baltimore. The contract was

entered into under the administration of Mr. Buchanan.

The amendment was rejected.

Mr. DRIGGS. I move to strike out the following:

For continuation of the north wing of the Treasury extension, \$200,000.

The CHAIRMAN. The amendment is not in order, as the paragraph has been passed. Each paragraph stands as a section for the purpose of amendment, and it is not in order to go back to a paragraph which has been passed.

The Clerk read, as follows:

For payment of claims due for the repair of Government warehouses and construction of wharves, Staten Island, New York, \$29,000.

Mr. WASHBURN, of Illinois. I should like to have some information in regard to this item, as it is one of many I do not understand. I think this is extremely exceptionable. What is this indebtedness contracted for? I know persons representing the city of New York are here clamoring for new quarantine grounds.

Mr. DARLING. I think there was no provision made for the erection of a building for the storage of goods from infected vessels, and this is for that purpose.

Mr. WASHBURN, of Illinois. If the gentleman will permit me, his hypothesis is contradicted by the very language of the paragraph itself:

For payment of claims due for the repair of Government warehouses, and construction of wharves, Staten Island, New York, \$29,000.

What I protest against, is our voting away these large sums of money without any full explanation of them. Now, I would like to know by what authority these repairs were made, and what they were before I am called upon to vote for this appropriation. It seems they desire to give up all these works, and if so, before we appropriate this money I want to know what it is for.

Mr. DARLING. I suppose the Committee on Appropriations have investigated this matter, as it is a part of their duty to investigate all such matters before they come into the House with a report asking for appropriations. If they have not done their duty, then we are not prepared to vote upon their recommendations. But concluding that they have done their duty, I am prepared to vote for any appropriation asked for by the committee unless I have some personal knowledge that it would be wrong so to vote.

Mr. BERGEN. I think I can enlighten the gentleman from Illinois [Mr. WASHBURN] in relation to these repairs at Staten Island. I have noticed a large number of shops built there for the purpose of storing cotton which the Government have captured and stored there. It is necessary to protect it from the weather and preserve it, and that I presume explains the repairs of the buildings. A fire occurred there some two or three years ago, and it may have become necessary to expend something on the wharves so as to enable them to land cotton and store it.

Mr. RADFORD. I rise to ask the chairman of the committee to give the reasons why this appropriation is asked. I think he can satisfy the House upon the subject. I would like the gentleman to state upon what the committee base their action.

Mr. STEVENS. It is impossible for me to hear what the gentleman inquires about, but I take it for granted it is in regard to the reason for this appropriation. If the gentleman from New York on my right, [Mr. DARLING,] had not so quickly interposed and delivered a short lecture in regard to the Committee on Appropriations I should have answered the inquiry before. I did rise to answer it, but inasmuch as the two gentlemen from New York [Mr. DARLING and Mr. TABER] have explained the matter so satisfactorily, I hardly thought it worth while to say a word. I will, however, as the gentleman from New York seems to suppose that a compliment to the committee was necessary, say a word.

The Government own warehouses at the

place spoken of, and they own a wharf which was necessary for their use. It became necessary to repair them. Last year the Government asked an appropriation as a deficiency to make up for these repairs of warehouses already built and in use, and which were necessary for the Government use. The Committee on Appropriations last year, of which I was chairman, agreed without any difficulty that these buildings, having been repaired and the money being due, it ought to be paid. We have now repeated what has been passed, as I said before, by both Houses of Congress. The money not having been paid, and having remained a year longer unpaid than it would but for the unfortunate failure of that bill, which we all of us recollect, we now insert the appropriation in this bill. As a matter of course it is indifferent to the committee whether it is stricken out or not, except as we are bound to ask to have it paid, the Government being indebted for the repairs.

The question being taken on the amendment to strike out the item, it was not agreed to.

Mr. WASHBURN, of Illinois. I move to strike out lines two hundred, two hundred and one, and two hundred and two, as follows:

For error in compensation of one messenger, at \$1,000, and two assistants at \$840 each, forty dollars.

The question being taken on striking out this item, it was not agreed to.

The Clerk read the following clause:

For refurnishing and repairing President's House, \$40,000.

Mr. WASHBURN, of Illinois. I would inquire if we have not already passed a separate bill appropriating thirty or forty thousand dollars for this very purpose.

Mr. STEVENS. The gentleman is not mistaken. We have already appropriated \$30,000 for furnishing the President's House. It is proper that I should say, under the circumstances, that heretofore the sum usually appropriated for furnishing the President's House upon the incoming of an Administration has been \$20,000. There has always been a small deficiency, however. In Mr. Buchanan's time it was \$4,000. In the case of Mr. Lincoln, owing to the dilapidations, it was something more, ten or fifteen thousand dollars. Then, in the last Congress, we voted \$30,000, but the bill failed, and we have repeated the appropriation this year. But owing to the confusion that took place after the death of the President and the long-continued sickness of his wife, the house was left a prey to almost everybody that chose to go there, and it was found upon examination, when Mr. Johnson was about to take possession of the house, that scarcely anything was left, and that it required not only the \$30,000, but upon a full estimate of what is wanted, made by the Commissioner of Public Buildings under the direction of the inmates of the house, it was found that to restore matters as they were and to add the usual ornaments and furniture, it will require \$46,000 more. It was found, after the \$30,000 were appropriated, that there had already been expended \$42,000, and that the sum appropriated was not only absorbed, but some \$12,000 more, and the house was still unfurnished. The servants and everybody had access to the house during the fatal period to which I have referred, for about six weeks, and I may say that it was open for anybody to plunder it that chose to go there. The result was that almost all the valuable furniture in the house was missing; and when the present President came in it was found necessary, even before he could be entertained with a single meal, that spoons should be bought in this city for the purpose of furnishing his table; that linen, sheets, bedding, and all those things were necessary, and even the beds themselves.

It was found that the house was in the custody of nobody. The steward who was there was responsible. But it was found that these goods had been taken everywhere. They were to be traced—I will not say among the employes; but they were gone; they were not to be found. It is enough for us to know that the things were not there, and it is due to the pres-

ent President and his family to say that their estimates of what is needed have been made, in my judgment, on the most economical scale consistent with the dignity of the nation. We find that less than this sum will not suffice. There is some \$15,000 unpaid after appropriating the whole of the \$30,000. I trust that enough has been said to show to the House the necessity of this appropriation, and that it will be made without objection.

Mr. UPSON. I would inquire of the gentleman if there was no public officer whose duty it was to see that this property was protected?

Mr. STEVENS. There was a steward appointed by the late President, but it turned out that he was not a responsible person. He was appointed by Mr. Lincoln himself, and it was his duty to take care of the property.

The Committee on Appropriations, under these circumstances, have prepared a bill making the steward responsible to the Government, and requiring him to give such security as will prevent anything of this kind in the future.

Mr. NIBLACK. I would inquire if the missing spoons are the same that Mr. Ogle talked about a few years ago? [Laughter.]

Mr. STEVENS. Yes, they are the same spoons. They are the gold spoons that were purchased, I think, by Mr. Van Buren, at great expense, and I may say that out of a large number of spoons, forks, and knives, which were very valuable, but one or two would be left out of two dozen; and all that has been done has been to furnish samples to the persons in New York who furnish these things, and they are being replaced, not to the extent that Mr. Van Buren had, but as nearly as the present humble and economical President deems necessary. I can say to the committee that nothing more is asked by the President and his family than is absolutely necessary to make the house decent.

Mr. UPSON. They left some for samples?

Mr. STEVENS. They left a sample or two, because they did not want to make them get an entirely different set. I have understood that some of these things are—well, it is no matter where they are.

No amendment being offered,

The Clerk proceeded with the reading of the bill, until the following clause was read:

For annual repairs of the Capitol, water-closets, public stables, water-pipes, pavements, and other walks within the Capitol square, broken glass and locks, and for the protection of the building, and keeping the main approaches to it unincumbered, in addition to old material sold, \$8,000.

Mr. SCHENCK. I move to amend by inserting after the clause just read the following:

For removing the unsightly double railing or fence erected across the old Hall of the House of Representatives in the Capitol, \$100.

Mr. STEVENS. I hope the gentleman will modify his amendment so as to include "the monsters." [Laughter.]

Mr. SCHENCK. I have been watching this bill carefully for some time, as it was read, in order to find an opportunity to offer this amendment. By a very general concurrence of sentiment in the last Congress an appropriation was made for the removal of that singular and strange structure across the old Hall of the House of Representatives. But in consequence of the failure of the miscellaneous appropriation bill of last session, or from some other cause, the appropriation failed. I propose to renew the proposition at this time, and in this Congress. It is not necessary that I should describe that which members here see every day.

The architect of this Capitol, whose acquaintance I have not the honor of enjoying, may be a man of exceedingly good taste, but if that be an indication of his capability and quality in that respect, then I have very much mistaken what constitutes good taste. There is a railing across that Hall, which, by previous legislation, had been appropriated as a gallery of statuary—a railing so clumsy, so rough, so high, that it seems in every sense to defeat the very object for which the old Hall, with all its former agreeable and sacred associations, was set apart.

Mr. STEVENS. Does the gentleman complain of the height of that railing?

Mr. SCHENCK. I do complain of the height. A man of ordinary stature like myself may be able to reach up and put his nose, or even his chin, on the top of the railing. My friend from Pennsylvania [Mr. STEVENS] may be able to do better than that; but he is taller than some of his peers. His colleague near me, [Mr. O'NEILL,] I think would have to look through the bars. The gentleman from Illinois, representing the Chicago district, [Mr. WESTWORTH,] no doubt can look entirely over it, and stand there and look with admiring sympathy upon the female form, his compeer in size at least, [laughter,] which is standing upon a pedestal there.

Mr. STEVENS. Is not that high railing necessary to keep that female from breaking out? [Loud laughter.]

Mr. SCHENCK. My friend from Pennsylvania [Mr. STEVENS] has suggested that I modify my amendment so as to require the removal of the monster erected there, which, I suppose, is that female figure. I will leave him to move that amendment. But I will say that that, too, is an instance of no very great good taste upon the part of the architect, or the Commissioner of Public Buildings, who had that prototype of the colossal statue upon the top of the dome put there for public admiration, as passers come and go through that Hall.

Mr. SPALDING. Will the gentleman accept a modification of his amendment, so as to include "and other nuisances in that Hall?" There are quite a number of them there besides that fence.

Mr. SCHENCK. I have no objection to that being ordered. But for the present I wish to make a remark about "the monster," as it is termed. I do not propose to criticise anything about it except the absence of the cap of liberty on the head of that figure. I suppose gentlemen know very well that it was for the purpose of yielding to the prejudices of a certain Jefferson Davis that that was taken off and the helmet or crown put upon her head. But that statue, whatever it may have on its head, is certainly out of place there. I had supposed that every principle of art required that a colossal statue should be elevated a sufficient distance to make it have some appearance of natural size. But this strange creature is brought down to within the near vision of every passer-by, thus converting the statue of George Washington, on the other side of the Hall, into a mere Tom Thumb in comparison.

Mr. RICE, of Maine. Will the gentleman from Ohio [Mr. SCHENCK] yield to me that I may make a statement in vindication of certain parties?

Mr. SCHENCK. Yes, sir.

Mr. RICE, of Maine. I simply wish to say, in vindication of the present architect in charge of the Capitol, that he is not the gentleman who ordered that huge fence to be put up. I think we all concur in the opinion that that fence should be removed; and I will say, for the information of the gentleman from Ohio and the House, that the present architect is now preparing to take that fence away and put another in its place. This amendment consequently will be of no advantage, because the matter will be attended to without it. The architect concurs with the gentlemen of this House in the opinion that a fence of that character in such a place is a flagrant outrage upon good taste and propriety. No appropriation is necessary for the removal of that fence, because the expense will come out of the fund for the Capitol extension.

Mr. SCHENCK. I am very glad to have that explanation, so far as it goes, in vindication of the architect; but in reply I would remark that in the last Congress the assurance was given to this House that that fence would be removed before Congress should again assemble.

Mr. RICE, of Maine. But we have now another architect. The gentleman who had that fence put up is no longer connected with the Capitol, and the gentleman from Ohio may rest assured.

Mr. SCHENCK. I would prefer to "make assurance doubly sure" by requiring to be done

that which no principle of good taste or sense of propriety has yet succeeded in bringing about. I must therefore insist on my amendment, though I am willing to reduce the amount to five or ten dollars. All that I desire is that we shall embody in this bill an indication of the judgment and the wish of Congress on this subject.

My friend from Illinois [Mr. WASHBURN] suggests that that railing, being upon either side of a path leading from this end of the Capitol to the other, ought to be preserved for the benefit of ambitious gentlemen who desire to go from this House to the Senate; and I suppose he intended to express his entire sympathy with me in my failure to effect that object. I wish to console him as well as myself by saying that, whatever may have been his experience, it has been ascertained that a straightforward path is not the best by which to reach the Senate; and perhaps on that account it might be better that some change should be made in the direction given to that railing. Perhaps if the fence were made so low that one could ride upon it, and be "on the fence" occasionally, it would be an advantage to aspirants to senatorial honors. [Laughter.] I shall not be moved from my purpose by any suggestion of the gentleman from Illinois on that point. In his interest as well as my own, I shall adhere to the proposition that the bill be so amended as to express the judgment of this House unmistakably to the architect or whoever else may have control of this matter, that that fence must be taken away.

Mr. RICE, of Maine. I have no objection to that.

Mr. WASHBURN, of Illinois. I move to amend the amendment of the gentleman from Ohio by adding to it the following:

And that all stands for the sale or display of any articles whatever in any of the entrances to the House be removed.

Mr. RICE, of Maine. I wish to say in this connection that the question with reference to the occupancy of the corridors or halls in the manner now complained of was referred some days since to the Committee on Public Buildings and Grounds. I send to the Clerk's desk a communication on this subject from the Commissioner of Public Buildings.

The Clerk read, as follows:

OFFICE COMMISSIONER OF PUBLIC BUILDINGS,
CAPITOL OF THE UNITED STATES,
WASHINGTON CITY, February 10, 1866.

SIR: I have the honor to acknowledge the receipt from you of an order of the House of Representatives directing the Committee on Public Buildings and Grounds "to inquire as to an alleged mutilation of the bronze doors at the south entrance to the old Hall; and also as to the occupancy for various purposes of said Hall and the passages leading thereto," with the request that I would furnish you with such information as I could, touching the subjects of the resolution.

The bronze doors were put up under the direction and supervision of the architect of the Capitol extension, they being considered a part of that structure. They had been up but a very short time, I have been told not over a week, when it was discovered that the sword in the hand of one of the figures, the chain upon the arms of a figure of Columbus, and the rein upon the neck of a mule, had been stolen. The moment my attention was called to the fact I placed the watchman who had been kept in the old Hall, in the passage south of the doors, and near them, with special directions to watch them closely, to suffer no one to handle them, and to seek that time to this, nothing has, to my knowledge, been stolen from them, and they have been constantly under the eye of that watchman whenever the Capitol has been open.

The old Hall is by law, made a hall for statuary to be furnished by the several States of the Union. Each State has been long since notified through the Department of State that the Hall is ready to receive such statuary, within the limit of the act of Congress, as they may think proper to send. None has yet been received. Several pieces of statuary had been deposited in the rotunda that it was desirable should be removed, and the old Hall being entirely empty, I thought it would be far better to place them there until the space should be wanted for the statuary that might be furnished from the States, than to have them incumbering the rotunda, and by my order the statue of Washington, the dying Tecumseh, and the statue of Kosciuszko were removed from the rotunda to the old Hall. Two busts, one of President Lincoln and one of President Johnson, have been placed in the old Hall by my permission. The statue of Freedom, by Crawford, being the original of the bronze figure which surmounts the dome was placed there through the agency of the Capitol extension,

by direction of the Secretary of the Interior, under the impression, as I know, that it would be a matter of interest to all to see that original at a nearer view than could be gained of the bronze copy on the dome. It is placed there temporarily, and will be removed whenever the room shall be wanted for the legitimate purpose to which it is by law devoted.

In relation to the occupancy of the passages leading to the old Hall, I have to say that the law of Congress, and the regulations founded upon it, require the consent of the Speaker of the House of Representatives and the Commissioner of Public Buildings for such occupancy, and the occupant of every stand for the sale of any commodity whatever, has leave so to occupy from the Speaker and Commissioner. And at any moment when the Speaker pleases to withdraw his permission all such stands will be forthwith removed.

I believe the foregoing embraces all the information I can give touching the inquiries of the House.

I return the order of the House herein.

I am, with high respect, your obedient servant.

B. B. FRENCH.

Commissioner of Public Buildings.

Hon. J. H. RICE, *Chairman of the Committee on Public Buildings and Grounds, House of Representatives United States.*

Mr. RICE, of Maine. It is ascertained that all the persons occupying the halls and corridors on the House side of the Capitol do so under the written permission of the Speaker of this House, and as the Speaker has the control of the matter, I do not think it exactly right for us to take the question thus summarily into our hands. I think we should permit these persons to remain so long as they have the permission of the Speaker to do so. I think, so far as some of them are concerned, it would be well to have them removed. Perhaps the great hunter from the Rocky mountains, who is out in the corridor, with his scalps and Indian curiosities, might well be put inside of the iron railing. [Laughter.]

Mr. COLFAX, (Speaker.) Mr. Chairman, I wish to say one word, as my name has been brought into connection with this matter. When I entered upon the discharge of my duties as Presiding Officer of this House, I found it had been the usage for those who occupied the position of Presiding Officer, in each branch of Congress, to allow a number of stands in the halls and corridors. My own judgment was strongly against the granting of any such permission. At first I declined absolutely, but members of Congress came to me protesting that certain parties who had been allowed to occupy particular places under previous Speakers should not now be turned out. I disliked to set up my own judgment against what had been the previous usage, and I went over to the Senate end of the Capitol to ascertain what was the condition of affairs there, and found that the President of the Senate had consented to the establishment of various stands there, so that, rejecting some, I granted permission to others at this end. At this session, the permission which had been granted to some was renewed.

It is difficult to draw the line, if any are allowed at all. One is allowed to sell explanations of the bronze doors illustrating the life of Columbus. It is difficult to say no, because a great many persons would like to obtain them. Members will see how difficult it is to draw the line of distinction. I should prefer Congress would order all to be removed from this floor of the Capitol. My own idea is whatever permission is granted should be for the lower floor. Then, if persons choose to go down upon the lower floor, through which is a communication from one end of the Capitol to the other, let them go down there and purchase whatever they may desire from these stands.

As the usage had been on the part of my predecessors to grant permission for these stands, as I have already said, I reluctantly granted them myself.

Mr. STEVENS. I will say, in justice to the Speaker, that there are fewer of these stands now than there have ever been before. They are an accommodation, it would seem, to some of the members, and perhaps they ought not to be disturbed.

Mr. RICE, of Maine. These stands are certainly in the way, and I think most of them should be removed. I do not think there would be any objection to their removal on the part of the House. I believe if we leave the matter

under the control of the Speaker, as heretofore, with a simple expression of our opinion on this question, it will accomplish the result we all have in view.

I will refer to a single instance, and that is in regard to the stand where refreshments are sold. I think its effect on the small boys—the pages about this House—is bad. They are constantly in the way, and the passage is being blocked up. I think all such stands should be removed.

Now, in regard to the model of the figure which is upon the top of the dome, every one must concede that it is in a bad place in the old Hall. No one can object to its removal. The Commissioner of Public Buildings says it was only placed there temporarily. But I suggest that the crest be taken from the head of the figure, and that something in accordance with the design of Mr. Crawford himself be put in its stead. The history of the matter is interesting. There was a long correspondence between the artist and Jefferson Davis on the subject. The first design of the artist was to put a wreath upon the head of the figure, but that Mr. Davis objected to. Then he proposed to put a liberty cap upon it, and that Mr. Davis objected to because it was the historical emblem of a freed slave and he said ought not to be there. I would have the present monstrous crest taken off, for as you look at the figure upon the dome of the Capitol coming up toward it, it looks precisely like a donkey's head. [Laughter.] Let us take off the donkey's head and put in its place the liberty cap as the artist intended.

A MEMBER. Is it a donkey's or a darkey's head? [Laughter.]

Mr. STEVENS. I also suggest she be provided with hoops, for she looks awfully as she is. [Laughter.]

Mr. JOHNSON. I move to amend by adding the following:

And especially that last and most egregious humbug, the woolly horse, with the horns and the bear's paw.

The CHAIRMAN. The amendment is not in order.

Mr. SCHENCK. I hope the gentleman will amend so as to provide for the removal of the stands from this floor in consequence of the suggestion of the Speaker, who anticipated in his explanation what I was myself going to propose.

Mr. WASHBURNE, of Illinois. I agree to that.

Mr. STEVENS. I must insist that this is new legislation altogether.

Mr. WASHBURNE, of Illinois. The gentleman is not quite so sharp as some of his friends. It is too late to make the objection.

Mr. STEVENS. It is not too late; it is just offered.

Mr. GARFIELD. I suggest that we simply require that at these stands where they sell cakes they shall use fresh lard instead of rancid. [Laughter.]

Mr. SCHENCK. If the gentleman from Pennsylvania [Mr. STEVENS] will allow me, I would like to make a single remark.

Mr. STEVENS. I consent.

Mr. SCHENCK. This may seem to be frivolous to the chairman of the committee; it seems to me, however, that it is worth a little consideration.

Mr. STEVENS. I pass the frivolity over to the gentleman from Illinois, [Mr. WASHBURNE.]

Mr. SCHENCK. Well, let it pass over to my friend from Illinois. I think it is well that we should legislate upon this subject. In the first place, so far as my original amendment is concerned, I am not satisfied with the explanation made by the chairman of the Committee on Public Buildings and Public Grounds, that we ought on that account to refrain from passing some rule that should be binding upon this subject; because, as I said before, we had the same assurance last year that if we would let alone those that were in charge of the Capitol as architects, the Commissioner of Public

Buildings would see that this nuisance was abated. It is not done. We are told now that there is a new architect, who in the matter of taste entirely concurs with what seems to be the prevailing judgment and wish of this House. If so, of course so much the better, for, as he concurs with the views of the House on that subject, he will willingly obey the rule when we lay it down to him. There is no harm done in directing it; there might be in omitting it. By directing it we have in the present architect one who will at once obey the order, while by failing to do so we might possibly have some delay that we need not wish to be subjected to.

Then so far as regards the removal of these stands for the sale of apples, ginger-nuts, and drinks of various kinds, to say nothing of deer skins and California curiosities, the Speaker has explained to us that he has yielded against his own better judgment and granted these privileges to various persons. Now, then, as we come to the aid of the good taste of the architect in backing him up by passing, as I hope we shall, the first portion of the amendment, let us also protect the Speaker against his own amiability. He will willingly obey us just as the architect does. But I fear that the architect under outside influences, and the Speaker under the influence of his amiability—and every one knows how kind-hearted he is—may be induced by the pressing solicitation of his friends, or by the parties themselves, to do that which he will feel glad not to have to do. If we make it a matter of legislation, he cannot yield to his amiable impulses by allowing an offense against the law.

Mr. STEVENS. I move that the committee rise.

Mr. MORRILL. I ask my friend to withdraw the motion.

Mr. STEVENS. Very well.

Mr. MORRILL. I hope, sir, that the committee will not leave this subject until they have taken decided action. Congress having taken upon itself the control of this building for its own use, I ask upon what authority any officer of the Government will take it upon himself to appropriate it for other purposes? And in addition to the removal of all these stands, which I regard as not only an inconvenience to the members of this House, but as a disgrace, because they clog up and interfere with the ingress and egress of members, I hope that all of these things, including the woolly horse and this huge monster that is behind the rail, will be removed. It is apparent that the large plaster cast of the statue of Liberty is not beautiful in itself where it stands. Being too high up, it destroys the beauty of that old Hall. Therefore I hope it will be excluded.

Mr. STEVENS. I move that the committee rise for the purpose of closing debate.

Mr. WASHBURNE, of Illinois. I think by unanimous consent we can agree to close the general debate without going into the House.

Mr. STEVENS. I hope we shall do that by unanimous consent. It will not cut off the five minutes' debate.

The CHAIRMAN. Is there objection?

Mr. ELDRIDGE. I object.

Mr. STEVENS. Then I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly bill of the House No. 86, making additional appropriations and to supply deficiencies in the appropriations for sundry civil expenses of the Government for the fiscal year ending the 30th of June, 1866, and for other purposes, and had come to no conclusion thereon.

CLOSE OF DEBATE.

Mr. STEVENS. I move to close the general debate in the Committee of the Whole on the state of the Union on the deficiency bill in one

minute after the committee shall resume its consideration.

The motion was agreed to.

Mr. STEVENS. I now move to close all debate on the pending paragraph of the bill in one minute.

The motion was agreed to.

ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act authorizing an increase of the clerical force in the Post Office Department; when the Speaker signed the same.

EVENING SESSION.

Mr. STEVENS. One or two gentlemen desire to make speeches to-night, and I will therefore move that the House take a recess from half past four o'clock until half past seven, and that the evening session be solely for debate on the President's message; no action to be taken.

The motion was agreed to.

Mr. STEVENS. I now move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being

THE DEFICIENCY BILL.

The CHAIRMAN. Did the gentleman from Ohio [Mr. SCHENCK] accept the amendment proposed by his colleague, [Mr. SPALDING?]

Mr. SCHENCK. I did not understand clearly what it was. I think it was met by the proposition made by the gentleman from Illinois, [Mr. WASHBURN.]

Mr. SPALDING. My amendment is supplied by the amendment to the amendment now pending, and I will not press it.

The question was taken on the amendment to the amendment offered by Mr. WASHBURN, of Illinois, and it was agreed to.

The question recurred on Mr. SCHENCK's amendment as amended.

Mr. SCHENCK. I modify my amendment so as to make the appropriation ten dollars instead of \$100, as I understand the change can be made without expense.

The amendment as amended was agreed to.

Mr. INGERSOLL. I offer the following amendment, to come in at the point in the bill that we have now reached:

For the removal of the crest from the head of the goddess of Liberty on the dome of the Capitol, \$500, or as much thereof as may be necessary.

Mr. SPALDING. I would ask the gentleman from Illinois if he refers to the statue in the Hall or to the one on the dome?

Mr. INGERSOLL. I mean the one on the top of the dome.

Mr. RICE, of Maine. I will state to the gentleman from Illinois, [Mr. INGERSOLL,] in regard to the removal of that crest, that that question was considered, and an estimate made as to the cost of removing it, when the stagings were up; and it was estimated that \$7,500 was the least for which it could be accomplished. And I undertake to say that it would now cost at least \$25,000 to remove that crest from the head of the figure and put on another.

Mr. STEVENS. This is all out of order, I think. It is new legislation.

The CHAIRMAN. The Chair sustains the point of order of the gentleman from Pennsylvania. [Mr. STEVENS,] and rules the amendment of the gentleman from Illinois [Mr. INGERSOLL] to be out of order.

The Clerk continued the reading of the bill to the close of the following paragraph:

For fitting up rooms in the basement, under the court-room of the Supreme Court, for a consultation room for the court, \$5,000.

Mr. BOUTWELL. I move to amend by

inserting after the clause just read the following:

For alterations and repairs of the court-house in the city of Boston, \$5,000.

Mr. WASHBURN, of Illinois. I raise the point of order that this amendment contemplates new legislation, and is therefore out of order.

The CHAIRMAN. The Chair sustains the point of order.

The following clause was then read:

For annual repairs of the President's House and furniture, improvement of grounds, purchase of plants for garden, and contingent expenses incident thereto, \$6,000.

Mr. INGERSOLL. I move to amend by inserting after the clause just read the following, being one of a series of amendments which I will send to the Clerk's desk:

For sewer in Four-and-a-half street, in front of reservation between Missouri avenue and the canal, \$1,000.

Mr. STEVENS. I think that had better be left out of this bill; it is out of order.

Mr. INGERSOLL. Why is it out of order?

Mr. STEVENS. I think the sewer is very much out of order. [Laughter.]

The CHAIRMAN. The Chair sustains the point of order, unless there is a law authorizing the work for which the appropriation is asked.

Mr. INGERSOLL. There is a law for it.

Mr. WASHBURN, of Illinois. Then find it.

Mr. INGERSOLL. I propose to find it. I do not know of a better time to offer these amendments than to this deficiency bill.

Mr. GRINNELL. I rise to a question of order, that this is clearly out of order.

The CHAIRMAN. The Chair decides the amendment to be in order if there is a law for the appropriation.

Mr. INGERSOLL. There has been expended the sum of about seventy thousand dollars for paving and improving the public streets, avenues, and reservations of this city; those which lie contiguous to the public reservations and public grounds.

The appropriation asked for in this amendment is authorized by law, and has been authorized by law. The money has been advanced by the city for the reason that the fund which had been provided by Congress had been exhausted. This money has been expended by the authorities of the city of Washington in payment of these improvements. And there are other appropriations asked for in the list of amendments which I have sent to the Clerk's desk.

They have all been thoroughly considered by the Committee for the District of Columbia; the accounts presented by the city to pay which this appropriation is asked have been examined; every voucher and every item of the expenditure have been examined, and the Committee for the District of Columbia have instructed me to ask that this money be appropriated to reimburse the city of Washington for the money it has expended under acts of Congress authorizing these improvements.

Mr. STEVENS. I understand this to be a claim of the city of Washington. There is no act of Congress authorizing the city to do this work.

Mr. INGERSOLL. I did not say there ever was. The money has been furnished the Commissioner of Public Buildings by the city, and this appropriation is to reimburse him.

Mr. KASSON. As the rule has been stated, I wish to speak upon that point a moment, to show that on previous occasions the decision of the Chair has been that any amendment is in order upon an appropriation bill in Committee of the Whole which is designed to carry on or complete works authorized by some previous law, of which I regard the one under consideration to be one, and in that point of view I suppose this amendment is in order.

The CHAIRMAN. The Chair will hold it to be in order if there is a previous law for it.

Mr. INGERSOLL. There is such a law.

Mr. WASHBURN, of Illinois. I ask for the law. And I suggest to my colleague [Mr.

INGERSOLL] that this is not the proper place for his amendment, but that as he is chairman of the Committee for the District of Columbia he can bring in his little matters in a bill from that committee.

Mr. INGERSOLL. I think this is the proper place for it.

Mr. WASHBURN, of Illinois. I think these things should not be let in here.

Mr. INGERSOLL. I know my colleague, [Mr. WASHBURN,] wants to let in all that should be let in. I am as strict in those matters as he can be, yet I am in favor of this Government paying every cent it ought to pay, and not one cent more. I want this Congress to make appropriations to discharge all the claims against the Government, just as an individual would do, and nothing more.

Now, in 1820, Congress passed a law providing for the sale of certain lots that were donated to the United States Government by the original proprietors of the city of Washington. More than ten thousand lots were given to the Government by this city. By an act passed May 15, 1820, Congress provided that the money arising from the sale of these lots should be expended for the improvement of the streets and avenues around the public grounds. In 1864 an act was passed declaring that the Government of the United States should pay its equitable proportion of all these improvements of the avenues and streets running around the public grounds.

The fund arising from the sale of those ten thousand lots donated to the General Government has been exhausted, and in view of its exhaustion Congress, in 1864, passed an act, the third section of which provides—

"That in all cases in which the streets, avenues, or alleys of the said city pass through or by any of the property of the United States, the Commissioner of Public Buildings shall pay to the duly authorized officer of the corporation the just proportion of the expense incurred in improving such avenue, street, or alley which the said property bears to the whole cost thereof, to be ascertained in the same manner as the same is apportioned among the individual proprietors of the property improved thereby."

[Here the hammer fell.]

Mr. WASHBURN, of Illinois. The Chairman, as I understand, has ruled that this amendment is out of order.

The CHAIRMAN. The Clerk will read the rule applicable to this question.

The Clerk read, as follows:

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several departments of the Government."

The CHAIRMAN. The Clerk will also read the law cited by the gentleman from Illinois.

The Clerk read the third section of the act of 1864, as quoted in the remarks of Mr. INGERSOLL.

The CHAIRMAN. The Chair decides that the amendment is in order, as an appropriation under the law of 1864 to improve the streets in front of the public grounds.

Mr. WASHBURN, of Illinois. I desire to inquire what obligation rests upon Congress, under that act of 1864, to make this appropriation?

Mr. INGERSOLL. If time be allowed me, I will read the various acts of Congress relating to this question.

Mr. WASHBURN, of Illinois. I hope that my colleague will not undertake to introduce his budget into this bill. I trust that he will withdraw his amendment.

Mr. INGERSOLL. No, sir; I will not withdraw it.

Mr. WASHBURN, of Illinois. Then I hope the House will vote it down. Let the gentleman report these propositions from the Committee for the District of Columbia when that committee shall be called.

Mr. INGERSOLL. If this committee do not desire to act honorably and fairly they will reject this amendment; but if they desire that the Government shall pay its just debts under existing laws, then they will adopt it.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. ROLLINS. I move to amend the amendment by striking out the last word. I yield the floor to the gentleman from Illinois, [Mr. INGERSOLL.]

Mr. INGERSOLL. I desire to read the section of the act of 1820, to which I have referred.

Mr. SPALDING. Will the gentleman yield to me for a moment?

Mr. INGERSOLL. Yes, sir.

Mr. SPALDING. I appeal to the gentleman to report these appropriations in a bill from the Committee for the District of Columbia; and then we will vote for them.

Mr. INGERSOLL. Is it not just as easy to consider them now?

Mr. SPALDING. It is not. It only confuses this bill.

Mr. INGERSOLL. If I thought that it confused this bill, I do not know but that I would bring in a separate bill; but I do not see why the House cannot consider this subject as well now as at any future time.

Now, Mr. Chairman, I desire to show that this amendment simply proposes to make provision for the payment of what is justly chargeable to the Government.

The fifteenth section of the act of May 15, 1820, provides:

"That the Commissioner of Public Buildings or other person appointed to superintend the United States disbursements in the city of Washington shall reimburse to the said corporation a just proportion of any expense which may hereafter be incurred in laying open, paving, or otherwise improving any of the streets or avenues in front of, or adjoining to, or which may pass through or between, any of the public squares or reservations, which proportion shall be determined by a comparison of the length of the front or fronts of the said squares or reservations of the United States on any such street or avenue with the whole extent of the two sides thereof; and he shall cause the curbstones to be set and footways to be paved on the side or sides of any such street or avenue, whenever the said corporation shall by law direct such improvements to be made by the proprietors of the lots on the opposite side of any such street or avenue, or adjacent to any such square or reservation; and shall cause the footways to be paved and the curbstones to be set in front of any lot or lots belonging to the United States when the like improvements shall be ordered by the corporation in front of the lots adjoining or squares adjacent thereto; and he shall defray the expenses directed by this section out of any monies arising from the sale of lots in the city of Washington belonging to the United States, and from no other fund."

Mr. STEVENS. I thought it was only \$1,000. All the items, of which the amendment now offered is one, amount to some sixty-nine thousand dollars.

Mr. INGERSOLL. That is true.

Mr. STEVENS. Then I hope this will be allowed to come in separately, so that we may be enabled to consider it properly. Let it not be brought in this way, but let it come regularly from the gentleman's committee.

Mr. INGERSOLL. That which was offered and under consideration was the first item and was for \$1,000.

Mr. STEVENS. That is what I mean. Does not the gentleman mean to follow it up with the others?

Mr. INGERSOLL. Yes, sir.

Mr. STEVENS. I want the members to understand, then, we are to appropriate \$70,000 under this one amendment.

Mr. INGERSOLL. Let me say that I would be glad to have it offered and discussed as one amendment. I would be glad if the gentleman would allow me to do so, so that the question may now be discussed. I believe that the rights of the people of the city of Washington are as sacred as the rights of the people of the city of Baltimore. We appropriated \$109,000 a little while ago to reimburse the contractor of the Baltimore post office building. Sixty-nine thousand dollars have been expended on these improvements on F street, Four-and-a-half street, and Missouri avenue. These permanent improvements of this city have been made and the money has been expended, and it is necessary that we should reimburse it. Here is the report of the Commissioner, and the report of the Committee for the District of Columbia, which sustain the amendment I have offered. The report

of the Commissioner specifies every item of the account, the amount of work done and the value of it, and the location in which it has been done.

[Here the hammer fell.]

Mr. BALDWIN. I must oppose the amendment. There can be no doubt, sir, that the sum here proposed under the act of 1864 has actually been incurred by the city by virtue of that act, but the trouble is as to the act itself. I do not know what were the influences which secured the passage of that act, but it is very certain that it is an act under which deficiencies of this kind will constantly occur, and perhaps to a very great amount, unless it be modified or repealed. It gives a very large charter to Washington city to tax the Government whenever it pleases and to any amount. If under the authority of that act this has occurred I wish to bring the attention of the committee and of gentlemen to the fact that larger amounts than this may come next year or the year afterward, and so long as that act exists. I think, therefore, we should take into consideration whether the act itself should not be modified or repealed.

Mr. ROLLINS. I withdraw my amendment.

Mr. SCHENCK. I renew the amendment, and mainly for this purpose: it has been decided, very correctly I think, that the amendment is in order. A law of Congress puts us in charge of these streets and avenues and public places, and I am in favor of the general policy which shall look to embellishing in some degree this city when that shall become practicable and consistent with economy; at least of taking care of it and making it habitable for those who live and who shall come here, and not a disgrace to the United States of which it is the capital.

As to the character of the amendments which have been offered, what is the character of legislation generally in reference to these appropriations? Your Committee on Appropriations bring in a bill providing for various items of public expenditure. Whence do they get their information? The head of a Department who has remitted his duty necessarily to the head of a bureau, and the head of a bureau to some clerk, who makes an estimate for a particular thing, and because they are unable to enter into a thorough investigation of every item, the Committee on Appropriations adopt these estimates, coming from the Executive Departments, and got up by some clerk on the information before him. That may be well enough; it is the settled practice, and it is not easy to escape from it. But should we accord more pertinence, more weight, more character to an estimate of appropriation in regard to any public expenditure coming from one of the Executive Departments in that way than we do when the same thing, perfectly within our power, is proposed by the appropriate committee, which has made a thorough investigation of the whole subject? I would not go for any expenses of this kind if they were brought forward on any side, on the suggestion of any individual, without clearly understanding there was some merit in them.

But without it, if we are disposed to follow our committees at all, it seems to me we ought at least to give as much weight to a serious recommendation after investigation made by one of the committees of this House to amend an appropriation bill, as to give weight and authority to a mere estimate sent to Congress by one of the Executive Departments. And I say, as a general principle of legislation, if I understand it, that is a right mode of proceeding. And I am disposed, therefore, to follow this committee when it has acted in that way, and to record my vote to sustain the conclusions to which it has arrived.

The chairman of the committee, however, says that this is improper, because, although the thing may be perfectly right, the Committee for the District of Columbia may bring in its own bill. Now, everybody knows that the committees of this House, with the exception of the Committee on Appropriations, have no op-

portunity of bringing in appropriation bills and getting them acted upon. There is a privilege granted to the Committee on Appropriations to make reports at all times, and have them considered, and the only way in which other committees can get their matters considered and acted upon is to propose them by way of amendment to one of the appropriation bills.

Mr. WASHBURN, of Illinois. The gentleman from Ohio, [Mr. SCHENCK,] is slightly mistaken in regard to that matter, because the House gives a certain number of days, when asked for by the Committee for the District of Columbia, to consider their business, and we go into Committee of the Whole and consider their business *seriatim*.

Mr. SCHENCK. I am aware of that. So the House gives certain days to private bills and other purposes, but those special days are almost always set aside.

Mr. WASHBURN, of Illinois. Never. I have never known the time when the District of Columbia did not have a full share of the time.

Mr. SCHENCK. I withdraw the amendment.

Mr. DAVIS. I renew it. I wish to say, from some little experience on the Committee for the District of Columbia, that my friend from Illinois [Mr. WASHBURN] is in error in respect to the time which has generally been awarded to that committee. I served on it two years, and I know it was with the greatest difficulty we were able to get a day assigned to begin with, and then when it came it was very difficult to get three bills through this House; and most of the bills which were passed were presented by the courtesy of the House upon leave.

And while on the floor, allow me to say that I believe it is due to the Government itself, to its character for honorable and fair dealing, that we should recognize the claims which exist against us by the city of Washington, and which have been incurred under congressional legislation. I know no reason why, if we are able to do justice, we should not be willing to do it. We certainly have authorized expenditures for the improvement of this capital. I believe that no question arises that the District of Columbia is not in the Union. That we have settled, at least, and therefore I think we may legislate as if this was, and is to continue to be, the capital of a great Republic, and we should make it worthy of the national character. I withdraw the amendment.

Mr. INGERSOLL. I renew it. We have been in session now for two months and over, and I am satisfied, if the committee see proper to disregard the recommendation of the Committee for the District of Columbia with regard to this matter, they would disregard it if we should bring in a special bill at some future time. And I am satisfied that we can never get that bill reported from that committee and go into Committee of the Whole in time to get an appropriation through Congress. I do not know how long we shall continue in session—whether thirty, sixty, or ninety days—but if the cholera should come at the end of thirty or forty days, I should move to adjourn. I want this appropriation made because it is just and authorized by law, and I hope the committee will consider it now and pay the money that has actually been expended under authority of law. I withdraw the amendment to the amendment.

The question was taken on the amendment of Mr. INGERSOLL, and it was agreed to—ayes 64, noes 30.

Mr. INGERSOLL. I propose now to offer all these items for the District of Columbia as one amendment.

Mr. WASHBURN, of Illinois. I shall demand a separate vote on each proposition.

Mr. INGERSOLL. Very well; then let us have them voted on separately.

I offer the following amendment:

For paving and graveling Seventeenth street in front of the President's grounds and down to canal, \$1,000.

Mr. WASHBURN, of Illinois. I am opposed to that amendment for the reason, in the

first place, that it has no business in this bill; and in the second place, because we are asked to appropriate \$70,000 for matters about which we literally know nothing. There are no reports on this matter, and we do not know how much the Government is entitled to pay in any case. We are called upon to vote blindly this vast sum of money to the city of Washington. If you look through this bill you will see the appropriations it contains for this city. I ask gentlemen to look at these appropriations before they vote away the money of their constituents. Here is an appropriation of \$85,000 for lighting the cities of Washington and Georgetown. We are no more called upon to light the city of Georgetown than to light the city of Galena. In voting away these sums of money we are adding to the burdens of our constituents, and I for one protest against it.

Mr. KASSON. I desire to correct one statement the gentleman has made. There is no appropriation in this bill for lighting the city of Georgetown at all. By referring to that clause he will find that it is for lighting the bridge on High street, a part of which is in Washington and a part in Georgetown, and there will probably be an expense for the lighting of one lamp on the Georgetown side of the bridge.

Mr. WASHBURN, of Illinois. The gentleman from Iowa is a member of the Committee on Appropriations, and he ought to know that this is an appropriation for lighting Bridge and High streets, Georgetown.

Mr. KASSON. The bridge on High street, I think.

Mr. WASHBURN, of Illinois. No, sir; Bridge and High streets, Georgetown, are to be lighted at the public expense.

Mr. INGERSOLL. That is a matter that does not interest me. It has nothing to do with my amendment, and I do not propose to have this appropriation which I ask in behalf of the District of Columbia prejudiced by any appropriations reported in the bill by the Committee on Appropriations.

I have this to say in reply to my colleague, that this appropriation of \$1,000 asked for has been authorized by law, and the Secretary of the Interior reports in favor of it. The amendment is offered by the direction of the Committee for the District of Columbia, and the Commissioner of Public Buildings is in favor of allowing this amount, because he has examined the claim and found it just.

Mr. RADFORD. I desire to ask the gentleman from Illinois whether the money has been spent?

Mr. INGERSOLL. Every cent of it.

Mr. RADFORD. By whom?

Mr. INGERSOLL. By the Commissioner of Public Buildings?

Mr. RADFORD. By what authority?

Mr. INGERSOLL. By the authority of the act of Congress of May 5, 1864.

Mr. RADFORD. Will the gentleman read the law to which he refers?

Mr. INGERSOLL. I have read it once, but I will read it again if the gentleman desires it, or I will hand it to him.

Mr. RADFORD. Just as the gentleman pleases. I only desire to vote understandingly.

Mr. INGERSOLL. I will read it, then. It is as follows:

"That in all cases in which the streets, avenues, or alleys of the said city pass through or by any of the property of the United States, the Commissioner of Public Buildings shall pay to the duly authorized officer of the corporation a just proportion of the expense incurred in improving such avenue, street, or alley which said property bears to the whole cost thereof, to be ascertained in the same manner as the same is apportioned among the individual proprietors of the property improved thereby."

Mr. WASHBURN, of Illinois. I desire to ask my colleague when this money was expended by the city?

Mr. INGERSOLL. I did not say that it was expended by the city at all.

Mr. WASHBURN, of Illinois. When was it expended by anybody?

Mr. INGERSOLL. I will tell you exactly.

Mr. WASHBURN, of Illinois. I under-

take to say that the money was expended ten years ago, and that it is a stale claim.

Mr. INGERSOLL. It is not a stale claim; I deny it. The money was not expended ten years ago.

Mr. RADFORD. Will the gentleman tell us when it was expended?

Mr. INGERSOLL. I will turn to the accounts. Let me explain this matter to the committee; but I cannot very well do it in five minutes.

Mr. WASHBURN, of Illinois. That was the very reason why I tried to persuade my colleague to let it go over until the Committee for the District of Columbia have a whole day, when we will hear him for an hour with pleasure.

Mr. INGERSOLL. If that is the only objection my colleague has, I am glad to know it. I thought he was on the economy side of the question, but it seems now it is a matter of time. [Here the hammer fell.]

Mr. SPALDING. I desire to ask for information, whether some of these expenditures were not made before the law was passed?

Mr. INGERSOLL. Not one cent of them.

Mr. SPALDING. Were not some of the expenditures made before the law of 1864 was passed?

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. INGERSOLL. I should like to have a little time to explain the amendment.

Mr. ORTH. I move to amend the amendment by striking out the last word of it; and I yield my time to the gentleman from Illinois, [Mr. INGERSOLL.]

Mr. INGERSOLL. I thank my friend for yielding to me. By the act of 1820, which I have read, the Government of the United States took upon itself to pay its equitable proportion of the expense of the improvements made by the direction of the city authorities on the streets which pass by or are contiguous to the public reservations and avenues.

Mr. SPALDING. Then the present item of expenditure does not come under the law of 1864?

Mr. INGERSOLL. No, sir. Under the act of 1820 a certain fund was appropriated by the Government to pay for these improvements. That fund was realized from the sale of lots which were given to the Government of the United States by the original proprietors of this city. In 1852 or 1853 that fund was exhausted. A quarter of a million of dollars had been realized in that way and had been expended. At least \$100,000 had been expended upon building the Presidential Mansion, and for other purposes of public improvement in this city. There were lots left for sale, but there was no fund to pay for the improvements which were continually being made, according to the law. In 1861 or 1862 the Commissioner of Public Buildings sold some more of the lots, the last of them, I believe. That fund was expended as far as it went. A portion of these claims run back as far as 1854.

Mr. SPALDING. Who owns the claims now?

Mr. INGERSOLL. The Government.

Mr. SPALDING. Are any of them in the hands of private parties?

Mr. INGERSOLL. Not one cent.

Mr. SPALDING. Who stated the account?

Mr. INGERSOLL. The city of Washington.

Mr. SPALDING. Why have not former committees of this House reported in favor of such an appropriation as this?

Mr. INGERSOLL. I do not know.

Mr. STEVENS. Was this work done in 1854 or 1855? If so, why should not this claim go to the Committee of Claims?

Mr. INGERSOLL. It ought not to go to that committee. I will read what the Secretary of the Interior says upon this point:

"In the year 1820 Congress provided that from the proceeds of the sale of public lots reimbursement should be made to the city of Washington of an equitable proportion of the expenses thereafter incurred in laying open, paving, and otherwise improving the streets and avenues adjacent to the public squares and reservations. I am informed that, since the passage

of this act, three thousand seven hundred and twenty-five lots of this class have been sold, and the proceeds paid into the Treasury of the United States, while no reimbursement has been made to the city for the sum of \$37,410 61 paid for improvements properly chargeable to this fund. An appropriation should be made for refunding this amount and the interest which has accrued thereon."

This relates to the amounts which I have presented here, and of which a portion is now under consideration. I do not ask for any interest, but only that the Government shall provide another fund, as the fund before provided was exhausted before this amount was liquidated. The Secretary goes on to say:

"During the past summer and fall the improvement of streets adjacent to public property has rendered the Government liable to a considerable amount, and an additional sum will be needed to meet similar expenses which will probably be incurred during the next fiscal year. It is hoped that Congress will at an early date make provision to meet these liabilities. Several of the streets of Washington have been paved in a neat and substantial manner since the adjournment of Congress, and the municipal authorities are making like improvements upon other streets, which will add greatly both to their beauty and their utility as public thoroughfares. It is submitted that Congress should encourage this spirit by corresponding improvements upon the avenues. The Commissioner of Public Buildings refers to the dilapidated condition of the pavement on Pennsylvania avenue, and recommends that an appropriation be made by Congress for the substitution of either the Belgian or the Nicholson pavement throughout its length, and also for the opening and grading of such of the remaining avenues leading to the Capitol as remain closed. These avenues are under the exclusive control of Congress, and justice seems imperatively to require that the national Government should defray the expense of paving and keeping them in repair. If the burden of paving the avenues, as well as the streets, is to be thrown upon the owners of contiguous property, the mayor suggests that the law be so amended as to reduce the width of the carriage-ways, and that the intervening space between them and the pavement be flanked with a line of curbstones, sodded, and planted with ornamental shade trees."

Mr. DAVIS. I wish to ask the gentleman a single question. For what amount did those lots sell? What amount was paid into the Treasury of the United States from the proceeds of that sale?

Mr. INGERSOLL. Over a quarter of a million dollars.

Mr. SCOFIELD. Is that all gone?

Mr. INGERSOLL. That is all gone.

Mr. STEVENS. I understand this amendment is put upon the ground of cleansing the city so as to prevent the cholera from coming here. Now, it may be very proper to pass this, for it is an old rotten claim which has been festering since 1855; and if we do not get rid of it soon, the cholera will certainly attack us. [Laughter.]

Mr. INGERSOLL. I do not care upon what grounds the gentleman from Pennsylvania [Mr. STEVENS] puts it, I put it upon the ground of justice; and so does the Committee for the District of Columbia. If Congress does not see fit to pass it I shall have discharged my duty.

Mr. DAVIS. If I now understand the question properly, it seems that the Government owning these lots, by donation from the original proprietors, undertook to improve them, and to pay for that improvement out of funds arising from the sale of a portion of the lots.

Mr. INGERSOLL. Yes, sir.

Mr. DAVIS. It was for that reason that I addressed the inquiry to the chairman of the committee, and now I desire to know whether he can inform us what amount has been expended from the fund thus created by the sale of the lots; whether there is in the Treasury to-day any money belonging properly to the fund arising from the sale of those lands.

Mr. INGERSOLL. In reply, I will state that not a single dollar of the money arising from the sale of those lots remains in the Treasury. But nothing like the whole of that amount was ever paid for improving the streets.

Mr. DAVIS. What I desire to know is, whether there is remaining to the credit of this fund any part of the sum arising from the sale of these lots. If the Government has appropriated that money to other uses, then it certainly does not rest with us to say that we will not recognize the equity created by the original arrangement and by the sale of the property. If the Government received the money, it is

bound honorably and honestly to pay it according to the terms of the contract.

Mr. SCOFIELD. I desire to ask the gentleman from Illinois whether this claim was ever presented before.

Mr. INGERSOLL. No, sir.

Mr. SCOFIELD. Why has it not been presented?

Mr. INGERSOLL. Well, I never inquired. It is immaterial about that. The facts are as I state them.

I now desire to add a word or two in reply to the inquiry of the gentleman from New York, [Mr. DAVIS.] As I have stated, a quarter of a million dollars has been realized and has gone into the Treasury of the United States by reason of the sale of these lots which were donated to the Government of the United States; and more than \$100,000 of that money was appropriated to building the Executive Mansion. If the city of Washington had had appropriated for its benefit all the money that has arisen—

[Here the hammer fell.]

Mr. STEVENS. I move that the committee rise to stop this talk.

Mr. INGERSOLL. The gentleman from Pennsylvania, I submit, has no right to speak about "stopping this talk."

Mr. STEVENS. Well, I withdraw the motion.

Mr. INGERSOLL. Then it is all right.

Mr. ORTH. I withdraw my amendment to the amendment.

Mr. CONKLING. I move to amend the amendment by adding thereto the following:

Provided, That no payment shall be made on account of any appropriations herein provided, to reimburse the city of Washington for improvements heretofore constructed in front of or through the public grounds, until the items have been properly examined and audited as to legality and amount by the proper officer of the Treasury.

Mr. INGERSOLL. I have no objection whatever to that amendment; I am willing that it shall apply to all these appropriations.

Mr. CONKLING. I want to be sure to apply it to everything that relates to the city of Washington. If there is any case in which we ought not to make doubtful appropriations it is the case of the city of Washington. For one, from motives both of economy and self-respect, I think it not worth while to overdo appropriations for Washington. We and our constituents get little in return, except the impositions to which all comers are subjected in this city. For one I mean to vote against appropriations for this city in every case in which I can justify myself in doing so, and in addition to that, I would like to be sure that the proper auditing officer shall scrutinize every item before it is paid.

Mr. INGERSOLL. I agree with the gentleman in his last proposition, that every item should be scrutinized before it is paid. I accept his amendment as a modification of mine.

The question being on the amendment of Mr. INGERSOLL as modified,

The committee divided; and there were—ayes 28, noes 38; no quorum voting.

The CHAIRMAN ordered tellers; and appointed Messrs. INGERSOLL and STEVENS.

The committee again divided; and the tellers reported—ayes 35, noes 67.

So the amendment was rejected.

Mr. INGERSOLL. I move the following amendment:

Paving carriage-way of Ninth street west, from B street to Pennsylvania avenue, \$2,882 16.

Mr. STEVENS. I make the point of order that that is an old claim, and ought to be referred to the Committee of Claims. It is certainly not in order to this bill.

The CHAIRMAN. The Chair supposed when the first amendment was offered it was under the act of 1864, which was read. It appears that these are appropriations made by the common council of Washington city some ten years ago, and the Chair rules the amendment to be out of order. It may be a claim against this Government, but it is not in order to an appropriation bill.

Mr. INGERSOLL. These are based upon acts of Congress prior to the act of 1864; but for the present I will confine myself to those under the act of 1864. I move the following, under that act:

For the improvement of Fourteenth street, across Ohio avenue, across Pennsylvania avenue, and in front of the reservation south side of avenue, in front of Franklin square, and across Vermont and Massachusetts avenues, one thousand one hundred and forty-five feet, \$9,918.

Mr. STEVENS. When was that work done?

Mr. INGERSOLL. It was done last summer, under the act of 1864.

Mr. STEVENS. We are making appropriations for the District of Columbia, when they are recommended. I make the point of order that the amendment is not in order to this bill.

The CHAIRMAN. The Chair sustains the point of order, as this expenditure was made, not under an act of Congress, but under an act of the common council of Washington.

Mr. INGERSOLL. Let me refer to the acts of Congress.

The CHAIRMAN. The gentleman can do so by unanimous consent.

Objection was made.

Mr. INGERSOLL. All the other amendments I proposed to offer rest upon the same basis.

Mr. CONKLING. I move to add the following to the amendment which has been adopted:

Provided, No payment shall be made on account of any appropriations herein contained to reimburse the city of Washington for improvements heretofore constructed in front of or through the public grounds until the items have been properly examined and audited as to legality and amount by the proper officers of the Treasury.

The amendment was agreed to.

The Clerk read, as follows:

For annual repairs of the President's House and furniture, improvement of grounds, purchase of plants for garden, and contingent expenses incident thereto, \$6,000.

Mr. RICE, of Maine. I move to strike that out. We have already appropriated \$46,000 for the repair of the White House, and I think we can dispense with this amount.

Mr. STEVENS. This is for the usual repairs. It is for the improvement of the grounds, purchase of plants, &c.

Mr. RICE, of Maine. I understand that.

Mr. STEVENS. It is different from furnishing the house.

Mr. SCHENCK. We have already passed an appropriation, as follows:

To enable the Commissioner of Public Buildings to properly refurnish and repair the President's House, in conformity with his estimate, \$46,000, the old furniture to be disposed of under the direction of the Secretary of the Interior.

Now, we propose another for annual repairs. Annual, monthly, or daily repairs, if necessary, ought to be made and paid for, but we ought to see that the same work is not paid for a second time under another name.

Mr. KASSON. The object will be accomplished by striking out the words "annual repairs of the," leaving the balance of the section, as something will be required to keep the grounds in repair.

Mr. RICE, of Maine. I accept that, leaving it \$2,000.

Mr. KASSON. Make it \$3,000.

The amendment was then stated, as follows:

For improvement of grounds, purchase of plants for garden, and contingent expenses incident thereto, \$3,000.

Mr. RICE, of Maine. Two thousand dollars, I said.

The amendment making the sum \$2,000 was agreed to.

Mr. WASHBURNE, of Illinois. I desire to call attention to the amount of appropriation for gas for Washington and Georgetown:

For lighting the Capitol and President's House, the public grounds around them, and around the executive offices, and Pennsylvania avenue, Bridge and High streets in Georgetown, Four-and-a-half street, Seventh and Twelfth streets across the Mall, and Maryland avenue west, and Sixth street south, \$85,000.

Now, I desire to propound this question to

the committee, whether it is right to vote this vast sum to light these two cities? I am willing enough to vote a reasonable sum to light the Capitol, the President's House, Pennsylvania avenue, and Four-and-a-half street. Therefore I move to strike out "Bridge and High streets in Georgetown, Seventh and Twelfth streets across the Mall, and Maryland avenue west, and Sixth street south, \$85,000," and make the appropriation \$50,000.

Mr. KASSON. Before that is put I ought to say that the committee have deemed it better to keep the streets that are traversed by members of Congress lighted at night—according to the custom of many years past, for there is not a particle of change in that respect in this bill—than to have robberies, thefts, and murders committed in the dark in those streets. It is simply a question of safety. The city is not required to do it, and it is the customary expenditure that has been adopted by Congress from year to year, according to existing rules. Of course, the House may strike it out if it sees fit. There is no possible feeling on the part of the committee.

Mr. WASHBURNE, of Illinois. I would like to know what public buildings or property are to be protected on High and Bridge streets, Georgetown.

Mr. KASSON. I have only to say that this portion of the expenditure is one that has been regarded as belonging to the United States Government, as distinct from the city's portion.

Mr. WASHBURNE, of Illinois. The United States Government has nothing in Georgetown.

Mr. KASSON. Officers of the Government have resided and now reside in both cities, and it is a system adopted by previous Congresses, having been regarded as proper expenditure to be borne by the Government.

Mr. WASHBURNE, of Illinois. I hope there will be a stop to it. These gas companies came in and got an enormous increase of their rates, and we are paying them now about twice as much as we have heretofore paid.

Mr. SCHENCK. Before the vote is taken I propose to amend the original clause by inserting the words "G street, west of Eighteenth street." It is a very respectable street, for I live in it, but it is as dark as Erebus. It is a well-built street, and light is very much needed in it, especially if one should be out late at night, going home in the small hours of the morning.

Mr. O'NEILL. Include also Thirteenth street west, between E and F.

Mr. SCHENCK. I have no objection, for I know that just as my locality needs to be lighted for the benefit of gentlemen who are called out at night on public business, it is still more essential to my friend from Pennsylvania that his district should be lighted.

Mr. RADFORD. Where does the gentleman from Pennsylvania reside? If it is his district I hope it will be added.

Mr. SCHENCK. We pay enormously for gas in this city, those who occupy houses, and the Government pays its proportion, and yet the city is not well lighted. Although the gas is good as far as it goes, yet the city is poorly lighted in many parts of it.

And while I am upon this subject I want to state a fact which I dare say is generally known to members of Congress who are confined upon committees and otherwise kept out late at night. There is a practice existing in this city, as in some other towns, of relying upon the moon, whether it shines or not, on certain nights in the month. But there is another unusual practice I have found here, of putting out all the lights, retaining only those on one or two of the principal avenues, at one o'clock in the morning. Now, I happen to have seen this thing done once or twice. I have seen the lamp-lighter about one o'clock, or a little before, with his ladder going from post to post extinguishing lights in a number of streets, no matter how intensely dark it might be, just as if it were a notification to burglars who suspend their work till a certain hour in the morning,

"Now, as you will not be troubled by the police, you need not be by gas-lights either." I should like to know from the gentlemen who have charge of this matter why, when we appropriate money for gas in Washington, the lamps are continually extinguished at that hour, and most of the streets left during the latter part of the night in utter darkness.

Mr. KASSON. I will say in reply, as one member of the Committee on Appropriations, that if you do not appropriate money enough to pay for the gas according to the rates that you have yourselves established, you must be left in the dark. If you will appropriate for the amount of gas consumed and direct that the lamps be kept lighted all night, then the gas company will furnish the gas and keep the lamps burning. That was the information of the Committee on Appropriations, and this amount was fixed upon with reference to that basis.

Mr. CONKLING. What is the difficulty in the Government paying like any other consumer for the gas actually consumed in the public business by the public authorities?

Mr. STEVENS. That is the way they do pay now.

Mr. CONKLING. According to this appropriation? This provides for extending the gas pipes.

Mr. STEVENS. This provides for the gas consumed by the Government at a little less than the rate other consumers pay.

Mr. CONKLING. What use is made by the public authorities of gas on these streets in Georgetown?

Mr. STEVENS. The Government owns the property up at the Circle, and owns the bridge, too; and the Government has always lighted those streets.

Mr. WASHBURN, of Illinois. High street is half a mile from the bridge.

The question was taken on Mr. SCHENCK's amendment, and it was disagreed to.

Mr. KASSON. In order to refer to a former law, I move to strike out the last three words of the clause.

It will be found that in 1864—and this appropriation was intended for 1865 and 1866—we appropriated \$63,500 for lighting these identical grounds, avenues, and streets; and if gentlemen will go back to former laws, they will find that we have done it habitually.

In consequence of the increase in the price of gas authorized by the last Congress, an additional amount is required in the appropriation for this year. There is not a single appropriation here for lighting any new street, avenue, or ground.

Mr. WASHBURN, of Illinois. We are required now to appropriate \$22,000 more than we did last year. By adopting my amendment we shall keep the appropriation down to the proper sum.

Mr. KASSON. The increase in the appropriations is in consequence of the action of Congress in authorizing an increase in the price of gas, owing to the increased price of coal.

Mr. WASHBURN, of Illinois. There was no necessity for it; it was only by lobbying that it was got through Congress.

Mr. KASSON. I withdraw my amendment. The question was then taken on Mr. WASHBURN's amendment, and it was agreed to.

Mr. SCHENCK. I move now to strike out the proviso, which is as follows:

Provided, That in order to enable the Washington Gas-Light Company to extend their pipes, and to accommodate the public in the remoter parts of the city, said company is hereby authorized to increase its capital stock \$500,000, subject to the same liability as is provided in the eleventh section of the original act of incorporation, approved July 8, 1843.

I will very frankly admit that I know upon this subject, I think, pretty nearly as much as almost any other member of this House. and that is scarcely anything at all. Although it is upon the subject of gas, we are legislating, I think, very much in the dark. This much, however, I do know, that Congress last year added something near fifty per cent., at any rate a very large proportion, of increase to the

cost of gas in this city, making it a very expensive necessary indeed. And now it is proposed, in order to enable the Washington Gas-Light Company to extend their pipes to accommodate the public in the remoter parts of the city, to authorize the company to increase its capital stock \$500,000, subject to the same liability as is provided in the original act of incorporation.

Five hundred thousand dollars would incorporate a pretty respectable gas company in almost any of our towns; but as a mere incidental increase to its existing capital stock it is proposed that this company shall now be permitted to add \$500,000.

Now, it may be or it may not be, that having made gas-making a very profitable business here, by largely increasing the cost of the article, the stock has become so valuable that it will bear watering, and that this proviso means that or something like it. I do not know that that is so; but putting the two things together, the large increase of the cost of gas last year, with the not very perceptible increase of facilities afforded for getting about, by means of the better lighting of the streets, I am inclined to suspect that in this proposition to add \$500,000 to the capital stock there may be a project for watering stock which has now become so valuable that it will bear a little dilution. If I am mistaken in that I shall be glad to have this proviso explained by the chairman of the Committee on Appropriations, who has introduced the appropriation and recommended it to the favorable consideration of the House.

Mr. RANDALL, of Pennsylvania. I think this proviso is an attempt at new legislation in an appropriation bill for an extension of a corporation which is not warranted, and therefore is out of order.

The CHAIRMAN. The objection of the gentleman from Pennsylvania [Mr. RANDALL] would have been good if taken in time; but it is made too late.

Mr. RANDALL, of Pennsylvania. Then I hope the House will vote to strike out this proviso, for it is clearly out of order.

Mr. DAVIS. I recollect when, during the last session of Congress, the law was so altered as to increase the amount of compensation which this gas company was to receive. From the knowledge which I then had, and from all the information I have since obtained, I think that the change in the law was entirely just. And I will add to that a statement I have received from responsible parties that the losses sustained by that company before relief was obtained were so great that to-day they are indebted more than \$70,000, which they have not the means to pay.

Mr. WASHBURN, of Illinois. For what can the stock be now bought?

Mr. DAVIS. I do not know, I never owned a share of it, and never had any interest in it. There was some stock owned by orphans which was sold before the law of last session was passed, and it was sold for fifty per cent. of its cost, although it was the only stock the orphans had. They sold it, because they despaired of any relief being afforded by Congress.

But I do object to this proviso in this bill, for I doubt whether there is any propriety in Congress adding to the chartered powers of a corporation in an appropriation bill.

The amendment of Mr. SCHENCK was then adopted.

Mr. RICE, of Maine. I move to amend the clause relating to taking up and relaying the brick pavements near the War and Navy Departments, by inserting after the word "relaying," the words "with stone flagging."

The amendment was agreed to.

Mr. DAVIS. I desire to ask the chairman of the Committee on Appropriations a question in relation to the paragraph making an appropriation to enable the Secretary of the Interior to pay the expenses of transporting convicts to State prisons. Under what law was the Secretary of the Interior authorized to select places elsewhere than the prison at Albany, New York?

Mr. STEVENS. He has the right to select any prison. He has found Albany to be the best place and he sends them there.

Mr. WASHBURN, of Illinois. I move to strike out the lines two hundred and fifty, two hundred and fifty-one, and two hundred and fifty-two of this bill in relation to collections of certain expeditions. I do not see why it should require \$4,000 to preserve these collections. They are already in a good state of preservation, and if they are minerals they will not spoil.

Mr. STEVENS. This is a provision which we were to have made a year ago, when they were putting these collections in order. It is not for a future but for a past expenditure. It was supposed to be important that these collections should be preserved, and I should be very sorry to have the House strike this out.

The motion to strike out was not agreed to.

Mr. KASSON. I am instructed by the committee to move the following amendment to come after line three hundred and fifty-two:

Office of Attorney General:

For deficiency in appropriations for salaries in act of March 3, 1865, \$3,300.

For deficiencies in appropriations for contingent expenses, \$1,500.

For pay of two temporary clerks from January 1 to June 30, 1866, \$1,200.

Mr. WASHBURN, of Illinois. I would like to know how these deficiencies happened. What right had they to expend this money without authority of law?

Mr. KASSON. The act referred to in the amendment was passed after the regular appropriations for the year had been made. In consequence of the increase of business, that act increased the salary of the Assistant Attorney General and certain clerks allowed to the Department. This appropriation is necessary to carry out that law.

The amendment was agreed to.

Mr. GRINNELL. I move to amend by inserting after line three hundred and seventy-eight, on page 17, the following:

Provided, That in the purchase of carpets for any of the public buildings or offices under any appropriations herein provided, they shall be of domestic manufacture.

Mr. Chairman, I think that we have gone far enough in the purchase of foreign carpets for our public buildings and offices. We have bought fully enough of such carpets for this Chamber. It is time that we should manifest some disposition to encourage in this respect American manufactures. I believe that we should now declare by our legislation that American carpets are good enough for the servants of the people to tread upon. It seems to me that we should long ago have inaugurated a reform in this respect.

Mr. KASSON. I have only to say that in reporting the appropriation embraced in this paragraph, it was not the intention of the Committee on Appropriations to include anything for carpets; and I am afraid that this proviso, if adopted, will occasion a necessity for an additional item in a deficiency bill next year.

Mr. GRINNELL. I have only to say, in reply to my colleague, that the bill does mention carpets; and therefore the amendment is proper.

Mr. KASSON. As an amendment to the preceding paragraphs of the bill, it would be out of order. I supposed that it was offered as an amendment to this paragraph.

The CHAIRMAN. It is only in order as an amendment to the pending paragraph.

Mr. GRINNELL. I had the sanction of the chairman of the Committee on Appropriations in presenting this amendment, and I supposed that of course it was in order.

The CHAIRMAN. The Chair sustains the amendment as an amendment to the pending paragraph. Does the gentleman insist upon the amendment?

Mr. GRINNELL. I do, most certainly.

On agreeing to the amendment, there were, on a division—ayes 30, noes 34; no quorum voting.

The CHAIRMAN, under the rule, ordered

tellers; and appointed Mr. GRINNELL, and Mr. WASHBURN of Illinois.

The committee rose; and the tellers reported—ayes 52, noes 40.

So the amendment was agreed to.

Mr. SPALDING. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the bill (H. R. No. 86) making additional appropriations and to supply deficiencies in the appropriations for sundry civil expenses of the Government for the fiscal year ending the 30th of June, 1866, and for other purposes, and had come to no conclusion thereon.

The hour of half past four o'clock p. m. having arrived, the House, agreeably to order, took a recess until half past seven o'clock p. m.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m., Mr. ROLLINS occupying the chair as Speaker *pro tempore*.

The House, agreeably to order, resumed, as in Committee of the Whole, the consideration of the President's annual message.

RECONSTRUCTION.

Mr. NEWELL. Mr. Speaker, I propose to submit some remarks upon the annual message of the President of the United States.

I may premise that my acquaintance with the President extends back nearly twenty years, when associated with him as a member of this body. We sat upon opposite sides of this Chamber, and seldom voted together; but I honored him and all his associates honored him as the advocate of progress, the friend of humanity, the able and uncompromising champion of the right of man to the fruits of his labor, and to the possession of so much of the unoccupied public domain as that labor could cultivate. I knew and honored him as the defender of all those rights which underlie the Declaration of Independence as living principles, pregnant with a meaning and an interpretation which he has lived to see accorded to them by many who in that day professed to regard them only as "glittering generalities." I have known him since that time as faithful among the faithless in the desperate ordeal through which we have passed, giving unmistakable testimony of fealty to the cause of liberty and the Union. Persecuted, defamed, plundered, driven from his home and family, hunted like a beast of prey, he upheld the cause of his country and bade defiance to the armed legions of treason and death. For all these the Union party elevated him to the place he occupies. For all these he has my confidence to-day, and I do not believe, as many would have us believe, that he will prove unfaithful to the great trust confided to his keeping. He may differ from Congress as to the particular method of reconstructing the Union; but I appeal to the debates and actions of the Senate and this House, as well as to the people and press of the country, and ask if there is unanimity anywhere on this most important matter. On the great questions of the preservation of the Government and the freedom and elevation of mankind he is eminently sound and consistent. There is no material difference on vital points between him and ourselves; none that may not be speedily adjusted by conference and conciliation. To denounce him as a traitor who, hand to hand, has throttled treason to the death; to brand him as a usurper whose whole energies have been devoted to the welfare and improvement of his race is to utter a malignant libel upon mankind. Sir, having so well fulfilled the varied duties of his life, let us not reproach and distrust him without cause, but rather sustain him in all just and reasonable measures, and leave the result to Him who guides the destinies of nations.

There are many subjects, Mr. Speaker, in

the excellent message before us to which I would like to advert, but time will not permit, and I shall therefore confine my remarks to the question which so properly engrosses so large a share of our attention as well as that of the whole country—the reconstruction of the Union.

The nature and character of the Government are such as to constitute it an anomaly in the family of nations. It represents the solidarity of the States combined with an individuality of each as respects all matters and powers not delegated to the General Government, which leaves it perfectly free and untrammelled in its appropriate sphere. It represents, in fact, in a community of nations that freedom of action which in a community of people is compatible with the greatest good of the body politic. As the latter is the highest type of individual existence in the social state, so the former is the most perfect representative of a community of nations having one paramount object and principle, namely, the greatest amount of individual national liberty compatible with the collective national security. It was evidently foreseen by the fathers of the Constitution that it behooved them to restrain on the one hand a too great latitude of individual State authority and action, and on the other a too great concentration of national power. Thus the Constitution gave to the States collectively the right to make war or declare peace; to impose taxes on imports; to create and maintain a standing Army and Navy; to dispose of the public lands; to regulate commerce between the States; to naturalize foreigners; to accredit to and receive ambassadors from foreign Powers; and to do certain other acts specified in the Constitution. To the States were left certain rights, powers, and duties, principally pertaining to local government, and having reference to matters which it was acknowledged they were better capable of supervising and regulating. The Constitution seeks to make the States sovereign in their sphere of duties and the national Government supreme in its sphere. In carrying out these ideas the framers found a difficult and delicate task.

From the organization of the Government to the present day it has been a subject of debate and discussion at all periods, giving rise, more or less, to bitter partisan strife and sectional animosity, which finally culminated in the late gigantic rebellion against the authority of the national Government and the Union of the States composing it. And in this connection I might add that history has been repeating itself in the case of that of our own country. The party strifes and revolutions, the contest for power in all nations, have been produced by the collisions of those who would strengthen the central power on the one hand, and those who would weaken it on the other. The history of Rome, from the earliest period to the time when power was almost entirely concentrated in the person of the emperors, is nothing but the record of such a contest, which had its beginning in the birth of the nation, its culmination in the period of its highest prosperity, and its end in its era of decay and dissolution. The aim of the fathers was to preserve such a happy mean between the concentration and diffusion of power that this contest should be reduced to its minimum of virulence, and that thus those violent collisions, political and revolutionary, which had marked the history of the world from the earliest period, should be so mitigated as not to endanger national safety and individual freedom. The combined wisdom of these patriotic men produced our present Constitution. It is a noble monument to their ability; but, unfortunately, like all human instruments, it was imperfectly constructed, not because the theory was wrong, but because of the existence in the country of an institution so contrary to the genius of free government, and to the very principles upon which the Constitution itself was founded, that it was impossible to incorporate it into the organic law so that the latter could be preserved free from its contaminating influence. It was as if the surgeon were to inoculate the living healthy body with the virus

of a loathsome disease. The result would certainly be that a contest for dominion between health and disease would be produced, in which life or death would eventually triumph.

The framers of the Constitution did what they considered best under the circumstances. They made freedom the rule and slavery the exception in the organization of the Government. They declared in favor of the former in language the most emphatic and sublime in history, while they placed the latter, as they fondly hoped, in a position favorable for ultimate extinction. Indeed, they so worded the organic act itself that slavery was decided to be so abhorrent to the sentiment of justice, liberty, and common humanity as to render it utterly unworthy to be named therein. I have before said that the fathers intended to organize a Government in which freedom should be the rule and slavery the exception. The whole drift of their action was toward such a consummation; and for years the tendency of the social life and industry of the people was to the same end. State after State abolished slavery, until finally the free predominated over the slave States in numbers and population. Slavery was driven toward a particular section of the country, where the cultivation of the cotton plant rendered it so profitable and at the same time constituted it such a monopoly in the hands of a few powerful, wealthy, talented, and ambitious men as to make it an element of political power and engine of ambitious designs so as to render its existence incompatible with individual liberty and national safety. Indeed, in such gigantic proportions did this institution loom up on the political horizon that the declaration, "this country cannot exist half slave and half free," burst from the lips of two of our leading statesmen as if forced from them in the agony produced by a contemplation of our political future. But it was not so much these men as the good men and true of the country speaking through them who uttered at that time words which were prophetic of the consummation which was so near at hand that for the first time prophecy blended itself with history. Yes, for the first time in the history of the world the prophet became the chief actor in the events which he foretold, even to the extent of sealing with his life the book which, under the direction of an overruling Providence, he was selected to open.

Thus, instead, as the fathers intended, of freedom being the rule and slavery the exception, on account of the encroachments of this institution, and the ambitious designs of those who used it as an engine of political power, there was danger that slavery would become the rule and freedom the exception. It aspired to make every department of the Government subservient to itself and its interests. It poisoned also the social life of the people, undermined their belief in self-government, weakened their faith in the principle on which the Government was founded, the principle of universal suffrage; in fine, it had so succeeded in debauching the conscience of a large mass of the people as to render them fit tools in the hands of men who were determined that slavery should rule the country or that they would dissolve the Union.

And so this Constitution of our fathers, because of the existence of an element foreign to its genius and principles, flatly subversive of the ideas on which it was founded, and which gave the lie direct to its declaration of rights, was in such danger of utter destruction that the patriotic people of the nation found themselves compelled to abandon it altogether as theegis of their liberty and safety or take up arms in its defense. This latter alternative was taken, and the result was that the contest so long waged between individual State liberty and national security was finally and forever decided by the *ultima ratio* of nations and of war.

For years the contest between the doctrines represented by Thomas Jefferson on the one hand, and Alexander Hamilton on the other, convulsed the country. The State-rights men demanded one concession after another in favor

of slavery. It was at one time the right to capture and to aid in capture; at another, the right to carry into Territories; at another, the right of passage through and domicile in the States; at another, the principle that the Constitution carried it everywhere, and at all times; and finally, the culminating right, that of secession from the Union in order to build up a confederation of which it was to be the chief cornerstone. Jefferson's idea of State rights was simply the conservation of individual and State rights. The idea of the latter-day pretended followers of Jefferson was that State rights was the liberty given to one man to oppress his fellow, and that no power, not even the central authority itself, could intervene to shield the oppressed. This was the degeneration of a great principle of individual liberty, subordinated to social welfare, to the principle of the pirate or the robber who regards no law but brute force. And such a degeneration only showed that State rights, as understood by these bad men, had passed outside and beyond the pale of civilization itself, and thus became inimical not only to the people, but actually menaced the national unity.

But, indeed, when the national authority found itself unable to protect the liberties of the people, it not only failed in the first principles of its organization, but degenerated into an instrument of oppression. The form of the original instrument, it is true, remained, but under the modern interpretation of the principle of State rights the soul which had originally animated it had long since departed. So that the contest between the so-called advocates of State rights, which had convulsed the nation more or less from its foundation, culminated in armed rebellion against the central authority, leaving the friends of a Government founded on the natural rights of a people and universal justice no other alternative but to defend with the sword that which they had so long and so nobly contended for with the tongue and pen. I consequently, then, regard this contest as much closed by the late war as that which for years preceded the Revolution was closed by the triumph of our arms at that period. As the country entered upon a new era at the close of the Revolution, so it enters upon a new era now. The Revolution settled the great principle that representation should follow taxation, and that so far as all men in these United States were concerned, this principle was true in theory but not in practice, and this because slavery existed as a disturbing element at that time. The result of the rebellion has made this principle for which the fathers fought not only true in theory but true in practice. The rebellion commenced in a desire either to destroy this Union or to decide that the principle for which the fathers fought for was applicable only to white men. It ended in the defeat and disgrace of the men who upheld and fought for this principle and the triumph of those who opposed it. During the contest, and while it was yet in doubt, it was found necessary to make the principles of the Declaration of Independence and of the Constitution practically as well as theoretically true by the elevation of the exceptional race to the *status* of free citizens. This was done, and the race was called upon to aid in the struggle, and they nobly responded to the appeal. They not only helped to win their own liberty, but aided to preserve ours.

The result of the rebellion, then, having made the principles of the Constitution not only theoretically but practically true, it is our duty to see that the principles of the Constitution are now carried out to the fullest extent of the idea of the framers; to have them carried out so as to embrace "all men" as truly as the fathers embraced them ideally, and would have embraced them truly but for the existence of slavery at that time. In doing this the country takes a new departure in the course toward the goal of universal freedom, and with the noble motto, "Equal and exact justice to all men," inscribed upon its escutcheon, stands forth, in the presence of all nations, thoroughly purged

from every impurity. Founded upon the rock of true republicanism, "universal suffrage," in the ages to come the waves of death and darkness may beat against it, but shall beat in vain.

From the very nature of republicanism, as understood by the fathers, freedom and suffrage are concomitant, twin sisters, inseparable, mutually dependent on each other for support and existence. Suffrage follows freedom as light follows the rising of the sun. It is by the ballot-box that freedom is upheld and perpetuated. Take away that sacred right of republican government, and you leave the people no means for the redress of grievances but those of revolution. You compel those who are denied this right to resort to force in order to obtain them. Indeed, universal suffrage is to such an extent the distinguishing feature of republican institutions that our people, from the highest to the lowest, our statesmen, our judges, and our journalists, have continually justified revolution in any nation of the Old World in which the right of suffrage is either denied to the great mass of the people or so abridged as to be practically a nullity. During the well-known Dorr rebellion of Rhode Island, indeed, I well remember that the Democratic journals of the country, almost without exception, justified the rebels on the ground that the constitution and laws of that State left the majority of the people no other alternative save revolution, because it denied the right of suffrage. Now, how can we stand up in the presence of the despotisms of the Old World and justify their oppressed people for waging war against a tyranny which exists in a more offensive and oppressive manner among ourselves? In most of the despotic nations of the globe a man may, by acquiring property, by performing some signal service to the State, or by some other means, place himself in the governing class; but in the United States, under our Constitution, as interpreted by certain politicians and statesmen, a large class of the people are forever excluded from the rights of freemen, from ever becoming a part and parcel of the people of the United States. Judge Taney, in the celebrated Dred Scott case, declares that no State has a right to make a citizen of the United States:

"The Constitution, upon its adoption, obviously took from the States all power, by any subsequent legislation, to introduce as a citizen into the political family of the United States any one, no matter where he was born, or what might be his character or condition."

Now, the question arises, what constitutes the political family of the United States? Why, certainly those born to the soil; those who pay taxes for the support of the Government; those who are called upon to bear arms in its defense against insurrection at home and against the public enemy abroad. Every man, then, who is not an alien who refuses allegiance to the Government comes under this category; and to the extent that you abridge or deny the right of citizenship, to that extent you violate the principles of the Constitution of the United States and the Declaration of Independence, which are based on those principles. Democratic interpreters of the Constitution claim that a State may make or unmake a citizen of the United States, and limit or deny him the suffrage. I deny this. A State may regulate and control the suffrage so as to prevent frauds, and for the convenience of voting, but it cannot take from one citizen of the United States within its borders that which it allows to another. Again I quote from Judge Taney's opinion in the Dred Scott case. He says:

"And if persons of the African race are citizens of a State and of the United States they would be entitled to all of those privileges and immunities in every State, and the State could not restrict them, for they would hold those privileges and immunities under the paramount authority of the Federal Government; and its courts would be bound to maintain and enforce them, the constitution and the laws of the State to the contrary notwithstanding. And if the States could limit or restrict them, or place the party in an inferior grade, this clause of the Constitution would be meaningless, and could have no operation, and would give no rights to the citizen when in another State. He would have none but what the State itself chose to allow him."

Now, Mr. Speaker, admitting, for the sake

of the argument, that at the time of the adoption of the Constitution, as Judge Taney claimed, the African was enslaved and subject, at the present day this is not the case. There is in this country now no subject or enslaved race. No foot of a slave or subject pollutes our soil. We are sovereign people. The constitutional amendment has elevated all the people into what? Is it into a distinct class, separate and defined by metes and bounds, or is it into the only class we or the Constitution recognize—the people of the United States? Certainly it is the latter class, and if it is, then they are citizens of the United States, possessing all the rights and immunities of such. Again I quote Judge Taney, who says:

"The words 'people of the United States' and 'citizens' are synonymous terms, and mean the same thing."

But he also says that no State can restrict the privileges and immunities of a citizen of the United States. I have shown that among those privileges and immunities the right of suffrage is the most sacred of all. It is, in fact, the ark of the covenant that overshadows, covers, and protects with its sacred wings every other right, civil as well as political. Take it away, and you take away the power of conserving and protecting all the rest. I cannot conclude but that freedom and suffrage are inseparable in our political system, just as people and citizens are synonymous terms in our Constitution. Every attribute of a truly republican government confirms this, and every departure from this principle testifies to our want of faith in the ability of the people to be sovereigns, and of a growing belief in the doctrine that the government of the select few, is more preferable and more in accordance with right, justice, and humanity than the government of the entire mass. Because, and only because, the African people were an enslaved and subject race at the time of the adoption of the Constitution, they had no right that the white man was bound to respect. The emancipation proclamation has removed the badge of servitude from off their necks, but does not in any word limit the freedom into which they have been introduced. On the contrary, it is provided that Congress shall have the power to carry out that freedom to the fullest extent. The old Roman acts of emancipation, previous to the period of imperial rule, limited the *status* of freedmen. The emperors abolished that limit, and the freedman when emancipated became at once a citizen. Our act of emancipation neither limits nor defines the *status* of the freedman. It elevates him at once into the ranks of the people. It casts him into the great mass with all disabilities removed and all political and civil rights granted him. The State that dares to limit or abridge or deprive him, altogether of those rights, violates the Constitution of the United States, and in so doing commits a high crime against the authority of that instrument as well as against the sovereignty of the people.

It may not be wise to extend this high prerogative of a citizen, the elective franchise, to that large class of people who have so recently become free; indeed, I fully agree with those who claim that it would be best to withhold it until they become more accustomed to think and act for themselves, and attain a degree of knowledge and intelligence necessary to a proper appreciation of that attribute of citizenship. But I see no way of escape from the force of truth and inevitable logic of the conclusion that freedom and citizenship carry with them, *pari passu*, the right of suffrage.

I have endeavored to show, Mr. Speaker, that in the foundation of the Government the people of all the States agreed that, in order to a more perfect Union for the sake of ourselves and our posterity, the States should give up certain rights that would otherwise inhere in them to the United States or new nation about to be formed. Among these rights were virtually the inherent rights of sovereignty, namely, the right to make war and declare peace, the right of citizenship to the extent that said citizen-

ship should be uniform throughout the Union and regulated by Congress. Thus the right of naturalization was declared to be a right of the new nation, while all the people of the United States were declared to be citizens thereof; and thus the citizens of any one State in the Union were given "the right to enter every State whenever they pleased." I again quote from Judge Taney's opinion in the Dred Scott case, "singly or in companies, without pass or passport and without obstruction, to sojourn there as long as they pleased, to go where they pleased at every hour of the day or night, without molestation, unless they committed some violation of the law." In fact, the Confederacy was changed into a great nation based upon the will of the whole people, and subject to such laws as would conserve the general weal. Certain modes of procedure were also laid down for altering or amending the Constitution, but nowhere do we find provision made for the secession of a State from the national Confederation; on the contrary, the idea of the framers evidently was, that as national unity was necessary to national safety and individual liberty, so every possible means was taken to preserve that unity for themselves and their posterity. The Constitution declares that Congress shall guaranty to every State a republican form of government. Now, suppose the majority in any one State decide in favor of a monarchical or despotic government, this is practically carrying out the right of secession, for such a government is incompatible with the Union of these States. In view of the formation of such a government, the minority in that State could appeal to the Congress of the United States for protection, and Congress would be compelled to intervene in order to vindicate the Constitution of the United States and the principle of universal suffrage on which it is founded. The duty devolving upon the United States of guarantying a republican government to the citizens of every State is one of the strongest evidences that the secession of a State was never contemplated by the fathers; but, on the contrary, the paramount duty of the Government was to preserve the liberty of the citizen, whether menaced by insurrection or despotism by the States or any confederation of them, or by any enemy from abroad.

Indeed, the contingency which rendered intervention necessary to preserve the liberty of the people has occurred in our day, and was caused not by any despotic act of the central authority itself, but by the attempt of an oligarchy based on the right of man to hold property in man, through the perversion of the doctrine of State rights, to trample on the liberties of the people and extinguish them forever under the worst despotism in all the annals of history. The right of a State to secede, then, is found to be incompatible with the principle of universal suffrage, and the fathers seeing that it might, and no doubt would, endanger it, so worded the organic act as to decree a perpetual Union for the purpose of perpetuating liberty with it. Liberty and union, one and inseparable, was inscribed on their banner; and their sons during the late rebellion have held it aloft amid scenes of blood and carnage such as the world had never previously witnessed. After such a contest, and such a triumphant termination thereto, is it possible that any true patriot can for a moment doubt that the idea of the fathers transmitted to their children became in them an article of political faith, so deeply engraven in their hearts and consciences that all the demoniacal powers of a despotism could not prevail to undermine or destroy it? It was this faith that sustained us through the late bloody struggle against the enemies of human rights. It is this faith in liberty and union that will always prove a wall of fire against any similar assaults in the future.

But, Mr. Speaker, the enemies of this Union and this liberty are still insidiously at work. They still talk of State rights and State sovereignty. But still, as before, with them State rights means the right of an oligarchy to deprive the people of their liberties, to say that

a citizen of the United States shall not be entitled to the privileges and immunities of the citizens of each State. This is the real *animus* of State rights; and secession means the determination to enforce the dogma outside the protectingegis of the Constitution, if they cannot do so within. We respect Rome, because she protected her citizens in all the provinces of her vast dominion, even the most remote. Saul of Tarsus, though a Jew, appealed to her for protection from the lash, and his appeal was heard. We admire Great Britain, because she also protects her citizens, and allows no State to make exceptive laws discriminating against them. But are we to deny to an American citizen, one of the sovereign people of our free Government, that supreme right of protection which despotic Governments are so careful to accord to their subjects or their slaves? We do deny this supreme right to our citizens when we acknowledge that a State can secede from the Union and thus deprive its citizens of that support and protection, of those rights of sovereign citizenship, to confirm and preserve which the Union itself was formed, and formed for no other purpose.

As regards the dogma of State suicide, so ably set forth by Mr. STEVENS and others, I cannot indorse it consistently with these views. A State may, by alteration or amendment of its organic act, place itself in a position that puts it without the pale of republican government. It still remains a State, however, subject to the Constitution, and Congress is bound to see that the penalties, if not privileges, of that instrument are visited upon it. It thus remains a State for correction and amendment, in order that its citizens, who are at the same time citizens of the United States, may be protected in their rights and privileges, at least that portion of them who continue true to their allegiance to the Constitution and the Union. The Constitution provides no way for the secession of a State from the Union, and no State having been taken out by the war it is plain that these States lately in rebellion have never been out, and are consequently still in the Union. The question whether it is in or out, theoretically, is not so important as the question of restoration, and that is the question with which we are now called upon to deal. It is a most important question, because that upon it depends the restoration and perpetuation of the Union.

And in approaching this question the first consideration should be the fitness of the late so-called seceded States to renew their allegiance to the Union. This fitness depends on, first, their loyalty to the Constitution; secondly, their loyalty to human rights, the rights and privileges of every citizen thereof. As regards loyalty to the Union, we should be satisfied that they will repudiate all their debts incurred in the prosecution of the late war; and on the other hand respect the debts contracted by us in putting down the rebellion. This would be such a practical exhibition of loyalty as to fully satisfy the Union man most doubtful as to the honesty of their future. True, this has virtually been repudiated by the collapse of the rebellion itself, but it remains a source of alarm to our loyal people and an engine of mischief with which demagogues may yet play to the injury of the country and its institutions.

Mr. Speaker, when the States lately in rebellion shall send loyal Representatives here, and when I see evidences of a desire on the part of the people to do justly and love mercy, and to walk as becomes members of a Christian republican commonwealth, I shall rejoice to admit them to the full and perfect rights and privileges of which they have by their own folly been deprived.

From some of the States lately in insurrection members have been elected to this Congress against whom not even a suspicion of disloyalty can be breathed. On the contrary, they are noble and worthy men who have periled all, property, family connections, and life itself, in the cause of the Union. The States which they represent having fulfilled the con-

ditions of admission understood by all to have been imposed upon them after the suppression of the rebellion, are entitled to representation by loyal men. I think in the cases of all of these States and of these loyal Representatives, the committee on reconstruction should report immediately and favorably. But at any rate, Mr. Speaker, the committee, having a proper sense of what is due to the intelligence, honor, and dignity of this House, should make a report setting forth its reasons for the exclusion of these States and their loyal Representatives. In that case we could act understandingly, and with all the lights on this subject before us. Such a report would also tend to greatly relieve the suspense and anxiety under which the country labors respecting the great questions of reconstruction and pacification of the Union.

I admit that on account of the factious conduct of the South, which, since the defeat of the great rebel armies in the field, has in many States been increasing rather than diminishing in virulence, a state of war virtually exists in the greater portion of that section; but in those States in which such a condition of things does not prevail, would it not be well to admit members by districts upon proper scrutiny of their antecedents? Indeed, is not this a legal mode of admitting members to seats in this House? The States are represented in the Senate and the people in the House of Representatives, whose members are elected by districts. If a State is not or cannot be fully represented, there is no reason that it should not be represented at all. Pennsylvania to-day is not fully represented, having but twenty-three instead of twenty-four members on this floor, in consequence of a contest for the representation in the sixteenth district. Because that district is not represented, shall we disfranchise the entire State? So it is with some of these States lately in rebellion. Take the case of Tennessee. It has established a loyal government. It stands by the Union to-day as firmly and steadfastly as Maryland, Missouri, or Kentucky. Tennessee was admitted to a seat in the last national Union convention, and one of her sons was selected for the Vice Presidency, and I can see no reason why its loyal Representatives shall be excluded here. Shall we exclude the noble Maynard and others of his colleagues because one or more of the Representatives may present so disloyal a record as to prevent their admission? These are certainly questions for the House to consider, and I respectfully urge the committee on reconstruction to report upon them, so that we may take the necessary action in so important a matter.

And while upon the subject of the reconstruction and readmission of the States, permit me to say a few words regarding amendments to the Constitution. I am opposed to all unnecessary and sweeping amendments of that instrument. They have a tendency to subvert insidiously our form of government, and to beget a want of reverence for the Constitution, which will finally make it subject to the sport of every wind of doctrine and the object of demagogical assaults, the most dangerous not only to our liberty, but to the stability of the Government. I am especially opposed to the proposition to elect the President directly by the popular vote. Such a proposition would tend to make the Government a consolidated democracy, which would as surely lapse into a consolidated despotism under the rule of some great military chieftain, or of some representative of sectional interest overriding State authority and State individuality. To preserve, as I have heretofore endeavored to show, State individuality in accordance with national unity, was the great purpose and labor of the fathers. Such an amendment, in my opinion, would sooner or later overthrow the first, and convert the second into an unmitigated despotism.

Before closing I am constrained to notice a statement made the other day by my colleague from the fourth district, [Mr. ROGERS], so aptly designated yesterday by the gentleman from Pennsylvania [Mr. SCOTT] as the "leader of the Opposition," who, I regret, is not now in his

seat, when delivering his very able speech upon the constitutional amendment, then before the House, which, unexplained, places our State in a false position, which I believe he did not intend. He stated that New Jersey "had sent no colored troops to the war." It is true that New Jersey sent no organized colored troops to the field, and for a reason well known to my friend and to the people of our State, but she did send many gallant negro soldiers—not a few of them from my own town—who were obliged to secure admission in organizations in Pennsylvania and Rhode Island. They fought well, and deserve the commendation of their State and country. Some of them found an honorable death, and to-day their bones bleach on the plains of Louisiana or lie buried in the bloody trenches of Petersburg and Richmond.

Mr. Speaker, New Jersey has never faltered, in any regard, in her obligations to the Government nor in her devotion to the Union. Her sons, imbuing their patriotism upon the gory fields of the Revolution, sent forth men and money freely as her waters course to the ocean. The seventy-nine thousand five hundred and eleven soldiers and sailors—besides many furnished to adjoining States—with the millions of her treasure expended in the war, furnish the most fitting reply to those who malign her patriotism or impugn her loyalty. Her sons fell on every field, the foremost in the fight, and were ever counted the bravest of the brave. She gave such men as Kearney, Bavard, the Taylors, Allen, Tucker, Ryerson, Zabriskei, Jaueway, Hatch, Vredenburg, Haines, and Arrowsmith, with thousands of other braves, counting them a fitting sacrifice to place upon the altar of liberty; and she cherishes their memories as a priceless heritage.

Mr. Speaker, the late gigantic rebellion having been subdued and the armies thereof utterly routed and dispersed, it is but natural that our people should turn with beaming eyes and grateful hearts to the heroic Union soldiers and sailors who have so nobly periled their all in defense of their country. Never shall their great deeds be forgotten. Forever shall the memory of our gallant dead be embalmed in the hearts of the living. On the banks of many a southern river; under the spreading foliage of many a southern forest tree; on the hillside and in the valleys of the South are the tens of thousands of those grassy mounds which mark the last resting-places of the noble Union dead. In many a northern home the widow and the orphan, the brother and the sister, the bereaved father and the disconsolate mother, await the footfall on the step without, that so often in the past had been the sweetest music to their ears, but await it in vain. Never more on this earth shall the form of that brave boy who proudly stepped from his father's door to take his place in the Union column as it filed past, be clasped again to that father's heart. Never more shall a mother's kiss be pressed upon his brow as he sleeps in his little cot, in the humble chamber of the old homestead:

"He has fought his last fight, he has won his last battle.

No sound shall awake him to glory again."

But in the grateful heart of a redeemed nation should his memory and the memory of his glorious death be enshrined as long as our mountains lift their heads to the heavens and our rivers bear the waters of the continent to the sea. Let it be our chiefest care to see that the survivors of this momentous and appalling strife be the objects of a nation's solicitude and a nation's care. Failing in not only our duty but our gratitude to these men, we fail in one of the noblest attributes of a nation—that sovereign attribute of justice to those who have helped to save it from destruction. And this justice includes the right of these men to equal bounties and equal pay as well as the right when incapacitated by sickness or wounds from earning their daily bread to a comfortable maintenance from the Government. Thus, fulfilling all our duties, protecting all who need protection, fostering the weak, and giving the strong every possible opportunity to build up the waste places of the land, let us so conduct our affairs as not only

to attract to our nation the admiring eyes of the world at large, but to draw down upon it the approving smile of Almighty God.

And now, Mr. Speaker, unmindful of all consequences to ourselves, individually, but impressed with our responsibility to all mankind, casting our vision beyond the present and into the far distant future, let us endeavor to reestablish this Government upon the enduring principle of "equal and exact justice to all men," and to lay its foundations deep and broad upon the eternal rock of liberty and a perpetual Union. So shall our beloved country, healed of her wounds, and disenthralled from the enchantment which has bound her for a hundred years, spring into a new existence, to exceed in grandeur and greatness the wildest visions of the patriot fathers, and her banner, planted high upon the everlasting hills of truth and justice, and illuminated by the sun of freedom, shall become a beacon to the oppressed children of men who shall come hitherward and find a refuge and a heritage for themselves and their children, and their children's children, till time shall be no more.

Mr. STROUSE. Mr. Speaker, in discussing the important question of the reconstruction of the States lately in rebellion, a subject which not only agitates Congress but the whole people of our country, I am aware that I find little countenance or sympathy from the majority of this House. But this will not deter me, as the Representative of one of the largest and most conservative districts in Pennsylvania, from giving my views upon a subject fraught with consequences involving the stability or downfall of our democratic system of government. The writings and speeches of public men received but little attention during the progress of the war. The public mind was excited; the public pulse was fevered; a vigorous prosecution of the war was demanded, and the almost unanimous prayer for victory to the Union arms and a restoration of peace was heard throughout the middle and western States. Victory at last perched on our banners. The rebels laid down their arms, acknowledged their defeat and complete failure of their attempted severance of our grand Confederation of States.

For four long years we continued a struggle so fierce, so desperate, and so bloody, that the civilized world was appalled, and the statesmen of Europe stood aghast at a spectacle unparalleled in the history of civilization and warfare. Brother was arrayed against brother! There stood the father pitted in deadly combat against the son! One million brave men consigned to untimely graves! The fields of the South whitened with the bones of the slain! Sadness and mourning brought to thousands of firesides! The public finances deranged; an enormous national debt created, with its burden of taxation entailed upon generations unborn. In addition to all this, the people have patiently borne grievances innumerable. The patriotic citizens, who sincerely loved their country and who opposed every effort at dismemberment of the Union, bore up submissively under all the impositions of power and violations of law—organic, statute, and local—for the sole and only purpose of preserving the Republic as it was established and founded by the heroes and sages of 1776.

In the month of April, 1865, through the bravery and heroism of our Army and Navy, the terrible contest was brought to a close. The rebels surrendered and disbanded their armies.

"Grim-visaged war has smoothed his wrinkled front."

"The war is over," was upon every tongue. The people assembled in town meetings, and gave vent to their feelings by the ringing of bells; bonfires were made, and other demonstrations of joy at the return of sweet, smiling, blessed peace. The religious community of all denominations assembled in their houses of worship and prayed and thanked most devoutly to Almighty God for the restoration of peace to our unhappy country, and that—

"Every man shall eat in safety
Under his own vine what he plants, and sing
The merry songs of peace to all his neighbors."

President Lincoln, only a day or two before his most diabolical assassination, announced to the rejoicing multitude in this city and to the country that peace had dawned upon us, and the glorious banner of the Union would again wave over our whole country.

The rejoicing at the cessation of hostilities and the return of peace was not confined to the North, but even in the States lately in revolt, many "good men and true," even of those who from compulsion and local pride had taken up arms against the Federal Government and the entirety of the Union, were glad that the unnatural and bloody strife was at an end. What were the expectations of the people at that time? What did our constituents demand of us, and what do they demand now of us, their Representatives, who have solemnly sworn to preserve and protect the Constitution? Do they want us or ask us to treat the eleven southern States as conquered Territories, and the ten million white people living therein as a conquered nation, a foreign country held by the iron grasp of conquest, and the people as subjects or vassals? No such demand is made by the people, the honest yeomanry of the great middle, western, and border States. Whatever the ideas of fanatics may be in other localities, whose motto has ever been, "Rule or ruin," certain it is that the great mass of American citizens, native and adopted, desire no arbitrary or tyrannical measures or acts on the part of their servants against the fallen and poverty-stricken people of the South. We can afford to be magnanimous. We have been victorious, and should not, and cannot, constitutionally or legally, act the part of oppressors against a brave but now submissive people. Mr. Speaker, let me not be misunderstood. I am not, and never have been, the defender of secession, or of any movement or act having a tendency to affect the Union of the States.

On the contrary, I have from the beginning opposed secession and disunion in every form. As a Representative of the people in the Congress of the United States I denounced secession as a crime most wicked and monstrous. While I deny the right of any State to secede from the Federal Union under any circumstances, I decidedly combat the idea that the southern States or any of them ever were out of the Union, or had lost their places in the Confederation of States. The Union was formed by the States, hence the title, the United States. Each one of the old colonial thirteen States ratified the Constitution of their own Union in their capacity of sovereign States, and by this act of ratification became the constituent parts of the Union. It requires no argument to show that the acts or ordinances of secession of Virginia, South Carolina, or any of the southern States, were utterly void and invalid, and that neither the State nor the people thereof were affected thereby. Notwithstanding the fact that the powers of the General and State Governments were suspended for a time on account of the usurpation by those in revolt in those States, yet *de jure* the States never ceased to be a part of the Union, and the people subject to the Constitution and the laws of the United States. President Johnson, in his excellent and patriotic message to this Congress very truly says:

"States, with proper limitations of power, are essential to the existence of the Constitution of the United States. At the very commencement, when we assumed a place among the Powers of the earth, the Declaration of Independence was adopted by States; so also were the Articles of Confederation: and when 'the people of the United States' ordained and established the Constitution, it was the assent of the States, one by one, which gave it vitality. In the event, too, of any amendment to the Constitution, the proposition of Congress needs the confirmation of States. Without States, one great branch of the legislative government would be wanting. And if we look beyond the letter of the Constitution to the character of our country, its capacity for comprehending within its jurisdiction a vast continental empire is due to the system of States. The best security for the perpetual existence of the States is the 'supreme authority' of the Constitution of the United States. The perpetuity of the Constitution brings with it the perpetuity of the States: their mutual relation makes us what we are, and in our political system their connection is indissoluble. The whole cannot exist without the parts, nor the parts without the whole. So

long as the Constitution of the United States endures, the States will endure; the destruction of the one is the destruction of the other; the preservation of the one is the preservation of the other."

For the enunciation of the sound truths contained in his message the President is attacked and aspersed by the radical leaders and their small followers, because he is determined to stand firmly by the landmarks of the Constitution, and refuses to become a traitor by aiding in the obliteration of eleven States and degrading the white inhabitants by making them the political inferior of the negroes. President Johnson has been most consistent in his course on the momentous questions that have agitated this country for the last five years. After his nomination for Vice-President, in a speech made at Nashville on the 10th of June, 1864, he held the following language:

"So far as the head of the ticket is concerned, the Baltimore convention had said, not only to the United States, but to all nations of the earth, that we are determined to maintain and carry out the principles of free government. [Applause.] That convention announced and confirmed a principle not to be disregarded. It was that the right of secession and the power of a State to place itself out of the Union are not recognized. The convention had declared this principle by its action. Tennessee had been in rebellion against the Government, and waged a treasonable war against its authority, just as other southern States had done. She had seceded just as much as other States had, and left the Union as far as she had the power to do so. Nevertheless the national convention had declared that a State cannot put itself from under the national authority. It said, by its first nomination, that the present President, take him altogether, was the man to steer the ship of state for the next four years. [Loud applause.]

"Next it said—if I may be permitted to speak of myself, not in the way of vanity, but to illustrate a principle—'We will go into one of the rebellious States and choose a candidate for the Vice Presidency.' Thus the Union party declared its belief that the rebellious States are still in the Union, and that their loyal citizens are still citizens of the United States."

If Tennessee in 1864, with thousands of armed rebels within her borders defying the Federal Government and denying its authority, was a good enough State to take a loyal Vice President from, I would ask whether the same Tennessee after the war has ceased, her courts of justice open, and the Constitution and laws fully recognized, is not *fortiori* a better State and quite good enough to be represented by a Paterson, a Cooper, a Maynard, and other tried and true Union men?

Mr. Speaker, is this Congress, in its exclusion of gentlemen elected in pursuance of law, and who are eligible under the Constitution, and under our own enactments, acting in a spirit of justice and in accordance with law; or is not the ruling majority of this House in its course revolutionary? Taxation without representation was a primary cause of the Revolution by the colonies against Great Britain. And here I beg to quote an extract from the speech of Senator DOOLITTLE on this subject, which states the case briefly but to the point:

"Is it of no practical importance whether eleven States, with their ten million people, shall be taxed and governed without representation?

"With less than one third of that number of people, our forefathers, because the Parliament of Great Britain, in which they had no representation, passed laws to tax them, declared the independence of those States. Is it of no practical importance whether these eleven States and ten million people shall govern themselves under a republican form of State government, subject only to the Constitution of the United States, or whether they shall be held as subject vassals, to be governed for an indefinite period by the unlimited will of Congress, or by the sword? Is it of no practical importance whether the flag of our country, for which half a million have laid down their lives, and which bears thirty-six stars as an emblem of a Union of thirty-six States, speaks a nation's truth or is a monstrous falsehood?

"This is a question which neither men nor parties can avoid or put aside. It demands and will have an answer. It is a question, too, upon which there is and there can be no compromise and no neutrality. They are States in the Union under the Constitution, or they are not. We must affirm the one or the other. We must stand upon one side supporting the Lincoln and Johnson policy, maintaining the Union of these States under the Constitution to be unbroken, or we must take our stand with the Senator from Massachusetts upon the other, and maintain that the Union is broken, that secession is a success and not a failure, so far at least to withdraw eleven States from the Union or reduce eleven States to the territorial condition."

It will be remembered that the Baltimore convention, which nominated Lincoln and Johnson in 1864, repudiated the idea of the right of

secession or that any State was out of the Union. The best evidence of this is the fact that Andrew Johnson, of Tennessee, (a State then in rebellion,) was nominated for Vice President. If the doctrine promulgated here by the leaders of this House and of the Senate, that the States lately in rebellion are only conquered territory and cannot be regarded as States, and that the people are a foreign nation, then the President of the United States is ineligible to the high office he holds and must be regarded as a usurper!

To sustain the extreme and radical propositions advanced here, copious extracts and quotations have been made from those great lights of the judicial firmament, Grotius, Puffendorf, and Vattel, in reference to the *jus gentium*, the rights of belligerents, civil war, &c. Now, while I regard these high authorities with the most profound respect, I take the liberty to say that the opinions of these eminent writers on the law of nations and the law of nature are not in all cases applicable to this age and to the peculiar question presented here on the condition of the southern States in their relation to the other States of the Union. Grotius wrote in Holland two centuries ago; Puffendorf was counselor of state for the Kings of Prussia and Sweden; Vattel wrote in France. Their writings on international law were well adapted to the time, to the interpretation of the kings of the continent of Europe, and are doubtless now in many cases safe precedents. Our case, the late rebellion, is *sui generis*, which cannot be classed under any ordinary description of war, civil or foreign. The law of nations, as construed by these old and eminent authors in monarchical Governments in a past age, ought not and cannot be fairly applied at this day in our dealing with a portion of our own people, inhabiting a part and parcel of our own territory. A war with a foreign Power, or with a sovereign nation, would place the legal question involved in a very different light. We quelled the rebellion among our own citizens and in our own country. We conquered nothing. We have not more territory, people, or property than we had before. This, in my judgment, is the rational and natural deduction from the premises, in law and in fact.

But, Mr. Speaker, we have now been in session nearly three months, and have done little else than legislate for the benefit of the negro. Constitutional amendments by the score for the benefit of the negro; universal suffrage for the benefit of the negro; Freedmen's Bureau for the benefit of the negro; and so on, *ad nauseam*. Important and most necessary legislation in view of our critical financial and commercial condition is delayed for the party purpose of engineering measures like the Freedmen's Bureau, which, in other words, means a gigantic negro almshouse, with extraordinary powers and unlimited ramifications, and a horde of local salaried agents, whose duty it shall be to take care of refugees and freedmen; that is, to feed and clothe runaway, lazy, and vagabond negroes at the expense and cost of the industrious and hard-working white people. I have been under the impression that the war was over, the rebellion quelled, and that peace reigns throughout the land. If this be so—and there can be no doubt about it—I would inquire what we, this Congress, or any branch of our Government, have to do with refugees, either black or white? Is the whole country to be turned into one vast almshouse? What is the operation of this measure? The Secretary of War is empowered to issue provisions, clothing, fuel, and other supplies, including medical stores and transportation to the emancipated negroes, and practically establish a poor-house on the largest scale for the benefit of a people who desire no greater inducement to idleness and indolence than just such an institution. The negro will not be slow to take advantage of this extravagant public charity. No good can possibly result from this bad law. The negro becomes demoralized, and is encouraged in habits of laziness. You give shelter and maintenance to the black, which you have never done, and

probably never will, to the most meritorious and deserving white man, North or South. The country is saddled with an army of officials, and with an additional blessing of some twenty million dollars a year expenses to sustain this extensive negro hospital, with its swarm of stewards, from little brigadiers to very small lieutenants.

The people want no such an establishment; it is unnecessary and useless. The States, North and South, under their local laws provide for the poor, aged, and decrepit. Let the able-bodied work! We have no power to pass such a law, and if we had, under any of the articles of the Constitution, why not begin with the indigent white people, or at least let them share in its benefits? There are thousands of white men disabled in the late war, unfit for work, and subsisting in many cases upon private charity. Why not extend to them a little of the munificence about to be bestowed upon a horde of negro drones? We have many brave men bearing honorable wounds—a number in my own home, Pottsville, the town that sent the very first company of patriot volunteers to this city to defend the capital in April, 1861; many widows and orphans of white soldiers; and why ignore them and only legislate for an inferior and lazy race?

It might not be out of place in this connection to bestow a passing thought on the poor, but honest and industrious emigrant who lands on our shores a stranger in a strange land. We might extend a little Government charity and aid and comfort to this truly valuable element of our population. No! Before this Congress the white man, however deserving, has no *status*. No "bureau" is established for the poor white soldier, or the poor German, Irishman, or other emigrant; he may get along as best he can. He is a white man! To justify this parental care of the pet lambs of our modern reformers we are informed by speeches here, and by reports of paid agents, humanitarian ex-generals and other women, some in petticoats and otherwise, who are now adventuring in the South on all sorts of spec and speculation, that the poor freedmen are most horribly treated; that their former masters are oppressing them, and committing all sorts of outrages on the "intelligent, docile, and gentle colored brethren and sisters." That this sort of stuff is manufactured for the purpose of inflaming the northern mind, and to affect legislation here for the benefit of the Republican party, or whatever you choose to call this mongrel combination, requires no elaboration at my hands; it is well understood. The condition of affairs in the South, the accommodation of the people to the change of circumstances, is well known and fully attested by the reports of President Johnson and General Grant.

But in order to show to this House, and to the people of the country, the shady side of the radical negro-loving picture, I copy an article from the Charleston Courier of February 2, giving an account of the treatment received by white men, Pennsylvanians, at the hands of the amiable colored "citizens" of South Carolina. I can say that the gentlemen alluded to are from my own county, Schuylkill, my own neighbors and friends men of character and means, who went to the South provided with letters here from General Howard and others, for the purpose of purchasing lands and engaging in agricultural pursuits. The Clerk will please read the statement.

The Clerk read, as follows:

[From the Charleston Courier, February 2.]

A "Freedmen's" Demonstration on Northern Emigrants—Extraordinary Affair on John's Island—Rough Experience of a Party of Pennsylvanians who wanted to buy Plantation Lands—Narrow Escape with their Lives—What the Negroes are Threatening to do.

Last Friday, a party of four gentlemen, on a visit here from Pennsylvania for the purpose of buying lands, &c., accompanied by two or three citizens, obtained the consent of General Sickles to visit all the islands adjacent to the city. The party were fortunate, also, in being tendered by General Sickles the use of the United States steam transport Mary Frances, and on Saturday morning they left the city and proceeded to the lower end of John's Island, at the junction of the Stono with the Kiawah river.

The party went ashore, but were unable to reach the plantation which they desired to examine and ascertain whether it would answer the purpose of their business. They returned to the steamer, previously agreeing to make another trial next morning. The party hailed a number of negroes in a small boat going to the next plantation, and were told not to land at night, or they would certainly be shot.

On Sunday morning they again landed and proceeded toward the settlement, inquiring the way of the negroes. They were shown how to reach the main land, but on approaching the houses observed considerable excitement among the people. They continued on their way, however, and on crossing from the marsh to the main land, on entering an old field, a body of negro men, armed with various kinds of weapons, approached them. When within twenty yards, the leader of the negroes cried "Halt!" The party stood still, the leader came up and demanded their business.

The nature of the visit was explained to them, and the desire expressed that the party be allowed to proceed unmolested. During the conversation, a gang of negroes surrounded them and became very threatening and abusive, and the party thinking they were not likely to succeed in their object, determined to return. This, however, the negroes promptly refused to allow, and threats of instant murder were made on all sides. Only two or three were willing to permit them to return to their boat.

After a violent altercation of words and several attempts at violence to the visitors, the negroes decided to escort their new prisoners to the quarters of the commissary, a sergeant of the thirty-fifth United States colored troops, about twelve miles distant. The party earnestly entreated the negroes to permit them to return to their boat, but their entreaties were unavailing, although the party agreed to steer directly to the commissary's post. They also suggested to the negroes to accompany them on the boat, but this was also refused.

They were then compelled to walk through the heavy sand the entire length of the island. The crowd of negroes continued to increase, all armed with muskets, rifles, shot-guns, revolvers, bayonets on sticks, scythes, hatchets, axes, clubs, &c., while the women had hoes, pitchforks, and clubs. Permission was given to send word to the captain of the Mary Frances to steam round to the place to which they were forced to walk.

On their route they were accompanied by a yelling, cursing, threatening crowd of negroes, freedmen, women, and children. As they advanced, they were continually met by other negroes running to the scene, all armed and breathing out the most severe and summary punishment for daring to land upon their island, where no white man had any right or should even dare to come.

After proceeding about a mile and a half they were halted, the crowd still increasing and becoming more violent. Here they were met by two freedmen, named Sam Flood and George Roberts, who quieted the crowd to some extent. Roberts being able to read, the party showed him their authority from General Sickles, General Devens, General Howard, at Washington, and General R. K. Scott, at Charleston. The crowd refused to recognize the papers, and said if the persons who wrote them were there they would serve them the same way.

Threats were also made against the captain of the steamboat, and regrets that they had not attacked the vessel the previous night and murdered the captain, crew, and all the party, and burned the vessel. Flood and Roberts endeavored to persuade the crowd to allow them to return, satisfied the party was right; but the crowd were determined to march them to the commissary's.

One of the party being crippled, efforts were made to procure a horse or mule, but this was also refused by the negroes. Finding entreaty of no effect, and that the crowd only continued to increase in number and fierceness, they proceeded on their way.

For four hours, from ten a. m. to two p. m., they were marched over the island. In front were about five to six horsemen, following them some eight to ten footmen, the prisoners bringing up the rear, with an armed guard on either side, followed by a mob of about one hundred and fifty, violently abusing and threatening.

At each plantation new accessions were made to the crowd, the women and children lining the road and joining in as the party passed. At one place a man stood with a pole, not less than twelve feet long, which he raised, intending to strike, but was prevented by the guard. At another place, a man named Armstrong came riding up, cocked his gun, and would have killed one of the party had not his horse been seized by the bridle by one and his gun taken from him by another.

About two o'clock they reached Townsend's place, where a freedman named Sam Johnson resides, who had been appointed by some officer of the Freedmen's Bureau as a general supervisor over the negroes on the island. This man being some distance from the house, the party were halted and compelled to wait for him, although within about two miles of the commissary's.

Here they were exhibited on the steps of the mansion, with a heavy guard of men in front of them, and a crowd of women behind; the former ready at any moment to fire upon them, and the latter abusing the prisoners not only with horrible language, but by poking them with sticks, &c. There was one United States colored soldier at the place, whom they desired to carry information of their condition to the sergeant, and offered to pay him for so doing, but he would not consent, handing the written note after he had talked with some of the captors, who evidently dissuaded him from complying with the request. Several times while waiting here, Flood, who still befriended the prisoners, was taken to one side by the gang, and efforts were made to let them take the party into the woods,

doubtless to murder them, but he stood firm in his refusal.

After sitting in the sun for two hours, not even allowed to enter the house, and all the time exposed to imminent danger and insult, one man having cocked his gun to shoot one of the party, Sam Johnson arrived. He acted with great promptness, and at once started with them to the commissary's, taking only a few men with him. When within about a mile of the commissary's they met the sergeant coming to the rescue.

The sergeant informed the men who had arrested the prisoners that they were acting entirely without authority, and that any person, white or black, was privileged to come upon the island whenever they chose and be unmolested. He relieved them at once from arrest.

The scene during the day beggars description, and resembled a scene in a heathen country, cannibals dancing around and floating over their intended victims before giving them the fatal blow, which was likely to descend at any moment. Reasoning with them was thrown away. They said they knew no law but their own, that the island was theirs and no white man should ever come upon it. They care for no general or no authority.

Mr. STROUSE. I know the facts here given to be true; good evidence of fitness for civil and political equality. The negro is not only free, but it seems he claims the richest lands in the South in fee, in consideration, I suppose, of his freedom. Surely with the freedmen's almshouse and the Sea Islands the colored brother and sister ought to be able to get along without any white intruders from the North, to say nothing of a few white persons in the South who labored under the delusion that they owned these lands.

What was this war waged for on our part? Was it a condition, when Pennsylvania sent three hundred and fifty thousand men in the field, that the slaves should be set free or that slavery should be abolished? Was that the object, or was it for that that a million white men gave up their lives and the country plunged in debt in thousands of millions? No such condition was made then; on the contrary, we were told, and it was proclaimed and enacted by Congress, that this war was not waged in any spirit of oppression or for any purpose of conquest or subjugation or purpose of overthrowing or interfering with the rights or established institutions of these States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired.

The war has ceased; we have accomplished all that could be expected or was demanded, and as much more as it was thought the most rabid abolitionist could desire. Slavery was abolished, not as a right, but as an incident of the war. The institution of slavery was destroyed, and many good men of all parties rejoiced thereat, because it was believed that the vexatious question between North and South was solved forever.

Not so. The end is not yet. Rampant radicalism and bigoted Puritanism are not yet satisfied. Fanaticism will not permit the Union of the patriarchs to exist; the strife must be continued; the President must be ignored; the Magna Charta of our liberties destroyed before Jacobinism can rest.

To prove to the country, to my constituents, and to the people of Pennsylvania that I deal not in generalities, I will cite from our own files a resolution offered by my esteemed friend from Wisconsin, [Mr. ELDRIDGE,] at the beginning of the session of this Congress, embodying the whole case, I may say, on the state of the Union. The resolution is as follows:

"Resolved, That there is no warrant or authority in the Constitution of the United States for any State or States to secede, and that all resolves or ordinances to that end or for that purpose are absolutely null and void; and that the war, having defeated the attempt to thus divide and break up the Union, it is of vital importance to the Republic and to all the States thereof that the States recently in revolt, and each and every one of them, should resume their appropriate and constitutional positions and functions in the Union without delay; and to this end, laying aside all party feeling and all personal or other animosity, waiving all minor differences, and seeking earnestly to maintain and preserve the Union of our fathers, we will cordially sustain and support the President in every and all constitutional efforts and policy of restoration, believing that thereby the political, commercial, financial, and general prosperity of the whole country will be most substantially and permanently subserved."

This resolution, so conservative, so just, so statesmanlike, so truly American, was treated with contempt by this House. Instead of passing it unanimously, as became true Representatives and men who lay claim to some statesmanship, it found its way into the great whirlpool or maelstrom of the reconstruction, or better, destruction, committee of fifteen. No balm will come from that Gilead. The remedy is with the people. No relief can be expected from this Congress. The President—may God spare him for many years—must be sustained in his wise and truly patriotic course. His policy is the policy of the country; his plan of reconstruction and restoration of the States to their proper positions and places in the Union is the only one that the free and honest citizens of the country will adopt. If we wish again to have a perfect Union, if we desire again to be a great, happy, and united people, we must hurl from power the men who betray their trusts, and who do not reflect the sentiments of those who elected them. The Union will be restored if the people will do their duty. The great Democracy of the nation must come to the rescue. Stand by the President, and all will yet be well. But if this fanatical malaria shall again sweep over the North and West, if the President in his sublime work of patriotism shall be thwarted, if the people in their strength and majesty will not come to the rescue of the country in its hour of peril, and will give heed to the ravings of demagogues and disregard the teachings of history and the warning of statesmen, then may indeed the patriot in sorrow and anguish hopelessly exclaim, "God save the Republic!"

Mr. DEFREES. Mr. Speaker, I did not intend taking any part in this discussion, and only do so now to comply with what seems to be a general feeling of the members of this House, to have as full an expression of sentiment upon the various perplexing questions that are before it as possibly can be had. And, sir, I do not expect to throw any very great light upon these subjects, but to define somewhat my position in regard to some of the most prominent of them.

And probably the most difficult problem to solve of any other, is the policy to be pursued in what is generally termed reconstruction of the States lately in rebellion. To me our duty seems to be plain. I do not think it matters much for practical purposes whether these States are in or out of the Union. We may speculate and theorize and talk about abstract questions the whole session and be no nearer the true condition of those States than when the session commenced. Why not accept of the facts as they are? These States attempted secession. Had they succeeded they would now be out of the Union—there can be no question of that fact—and we would have no trouble in defining their true position. But they failed in accomplishing their designs, consequently they are in the Union, and you cannot get them out now that the rebellion has failed, only in the same manner in which you admit States originally into the Union, and that with their consent. Now, that is my opinion, and let it go for what it is worth.

Now, Mr. Speaker, as to the facts of the case. After four years of an unsuccessful attempt at revolution we find the organized power of the insurgent States destroyed, their so-called confederacy collapsed, and its executive head safely confined in an American fort, to await that justice that is due to treason. The great armies organized under the authority of the rebel government are disbanded, and the people left without any government, either civil or military, for their protection. Under these circumstances it was evidently right that the President of these United States, as Commander-in-Chief of the forces of the Union, which were the conquering power that produced the result, should organize some kind of government that would restore tranquillity to the disturbed state of affairs then existing, and give protection as much as possible to all the inhabitants. This is a power that I suppose no one will deny properly belongs to the military character of

the executive department, and it matters not, in my judgment, whether he carries out that object by using a general of the Army, a military governor, or confers the power on such of the people as he may choose to select their own Governor and Legislature to assist in its accomplishment. The whole matter is under his control and supervision, and he employs these agencies to carry out his will until the civil power of the Government steps in and releases him from his military dictatorship. But it is argued by some gentlemen on this floor that the President has gone beyond the power conferred upon him by the Constitution; that he has no right given him by that instrument to organize governments in the disloyal States in the manner in which he has seen proper to do so.

Grant, for the sake of the argument, that in the confused condition of the country the President may have assumed some authority that is not clearly and distinctly defined, does it follow that we are to discard and throw away that that has been accomplished that is good? If these somewhat unauthorized governments in some of these States have made their organic law republican in form, and protected the personal and legal rights of all its citizens, why not adopt them as a foundation upon which to build up a more perfect superstructure? If Congress takes the matter of reconstruction in hand of these States, the same ceremony of proceedings will have to be gone through with that has already been done. The people will be called upon to select delegates to a convention, and a constitution will have to be made, all of which will take time and probably result in an organic law no better than the one now adopted. In revolutionary times it is quite possible that an Executive may exceed the strict letter of the law, whether from necessity or not; is it to be argued from that fact that all the benefits that may have inured to the Government are to be ignored; that all which is gained is to be surrendered back again to the foe? I think no man will take that position. Then, sir, I say whatever of good has been accomplished by the President in his reconstruction policy let us adopt it.

But, Mr. Speaker, I do not think the President has exceeded the power conferred upon him by the Constitution. Neither do I think his course is one without precedent. The late Chief Magistrate, the man whom the nation loved, marked out the course, and the present Executive is but following in the "footsteps of his illustrious predecessor." Let us see what Mr. Lincoln said upon this subject when referring to the State organization of Louisiana, in that last memorable address made a few days after the surrender of Lee, and but a short time before his assassination. It will be remembered that some twelve thousand citizens of Louisiana had taken the oath of allegiance, and had organized a government in pursuance to a plan that he himself had recommended. He says:

"Now, if we reject and spurn them, we do our utmost to disorganize and disperse them. We in effect say to the white men, 'You are worthless, or worse; we will neither help you nor be helped by you.' To the blacks we say, 'This cup of liberty which these, your old masters, hold to your lips, we will dash from you, and leave you to the chances of gathering the spilled and scattered contents in some vague and undefined when, where, and how.' If this course, discouraging and paralyzing both white and black, has any tendency to bring Louisiana into proper practical relations with the Union, I have, so far, been unable to perceive it. If, on the contrary, we recognize and sustain the new government of Louisiana, the converse of all this is made true.

"We encourage the hearts and nerve the arms of the twelve thousand to adhere to their work and argue for it, and proselyte for it, and fight for it, and feed it, and grow it, and ripen it to a complete success. The colored man, too, seeing all united for him, is inspired with vigilance and energy and daring to the same end. Grant that he desires the elective franchise, will he not attain it sooner by saving the already advanced steps toward it than by running backward over them? Concede that the new government of Louisiana is only to what it should be as the egg is to the fowl, will she sooner have the fowl by hatching the egg than by smashing it. [Laughter.] Again, if we reject Louisiana, we also reject one vote in favor of the proposed amendment to the national Constitution.

I repeat the question, 'Can Louisiana be brought into proper practical relation with the Union sooner

by sustaining or discarding her new State government?' What has been said of Louisiana will apply generally to other States."

No truer sentiment, Mr. Speaker, was ever uttered than is contained in this extract. Is it to be supposed that by holding these people off at arm's length after they have adopted constitutions that are republican in form, in which slavery is not protected, and the rights of all the people to "life, liberty, and the pursuit of happiness" are secured, that by so doing it will have a tendency to make them more loyal? Will it not, sir, have the opposite effect? Or is human nature so constituted that it needs to be goaded and stamped upon in order to induce love and affection for the power that wields the rod? In my opinion, no more successful way could be devised to drive out and extirpate all loyal feeling for the General Government that may now exist in those States than the course suggested to be pursued in reference to restoring them to their proper places in the Union by some gentlemen upon this floor. No healing balm is to be held out to increase the attachment of these people to the old flag of their country; but they are to be told that so long as there is a portion of their people disloyal, or a rebel left unhung within their limits, they are to receive no aid, no encouragement, from the conquering power.

Now, Mr. Speaker, I am no more in favor of compromising with traitors than the most radical man upon this floor, for I believe if there is one sin more heinous than another that man can commit, either toward God or his country, it is the sin of treason. But I am in favor of rallying around and sustaining whatever loyalty may be found in those disorganized States. I am in favor of holding up the hands of the weak, and saying to those who are earnestly engaged in endeavoring to bring order out of confusion, to persevere; and although your State organizations are not all that we could desire or wish, yet we will come to your relief and aid you in your great task.

A great many reasons might be urged why a reconstruction of these States should take place at as early a day as practicable, and why no trifling outside issue that does not legitimately belong to the subject be permitted to interfere with a speedy consideration of their return. It might be argued that the financial condition of the country, and the large debt that has been incurred by the Government in successfully prosecuting the rebellion to a close, imperatively demanded that some recognized government should speedily be put into operation so as to realize from that section of the country the full amount of revenue that can be obtained from its productions. It is confidently expected that a very large income by the way of revenue can be had from cotton alone, and that, too, legitimately, without imposing an enormous tax upon the article. I notice that some writer, who has evidently given some attention to this subject, says:

"The cotton crop of 1859 reached 5,198,077 bales of ginned cotton, of 400 pounds each. The crop of 1865, is estimated at 2,100,000 bales. It is fair to estimate the crop of 1866, at 2,750,000 bales, as labor has become better organized, and the extreme high prices will greatly stimulate production. The average exports are about three fourths of the crop. Allow that 2,000,000 bales of the crop of 1866 will be exported; ten cents per pound on this amount will give to the Government, \$80,000,000. The production for 1867 will reach 3,500,000 bales, of which, at the ratio of export above named, 2,625,000 bales will be exported, yielding to the Treasury \$105,000,000. The product of 1868 will probably amount to 4,500,000 bales, the export of which will be about 3,375,000 bales, and the tax would yield \$135,000,000; making a total revenue from the crops of the three years 1866, 1867, and 1868, of \$320,000,000."

This calculation is based upon the supposition that the Constitution will be so amended as to permit exports from the States to be taxed. But without any change in the fundamental law, I see no reason why a tax cannot as readily be placed upon cotton as it can be upon whisky and tobacco, or any other article of produce, as is now done.

There is another consideration that should be taken into the account that ought to have great weight in urging an early settlement of the difficulties that exist between the late rebellious

States and the General Government. It is this: the whole course of internal trade is partially checked, the avenues through which commerce between the States formerly flowed are unprotected, and there is a lack of confidence existing between the two sections of the country. Restore the State governments at an early day and it will naturally bring together the citizens of the different sections, and the enmity and ill feeling that now exists will in a great measure die out; trade, which is the life's blood of the nation, will pursue its wonted course and the people will soon feel again as one people of a great nation, whose interests are identical (slavery having been removed) and whose future destiny depends upon the Union of the States.

But, Mr. Speaker, I know that some gentlemen upon this floor, and men, too, in whose opinions I have confidence, talk as though before anything should be done toward reconstruction that the people, or at least a large majority of them, should do some kind of penance, should humble themselves and acknowledge in some public way their manifold transgressions. I will admit that they have been, and are, great sinners, and it requires a great deal of magnanimity to look upon them with any degree of allowance, yet human nature is the same now that it has been for ages. You may induce love by kind treatment, but never by force.

Now, sir, I do not wish to be understood that I am ready, without any further legislation, to fully recognize these States, and indiscriminately admit their Representatives to this floor. I only take the position that whatever is done, and well done, should be recognized as far as it goes, and serve as a means to assist in a speedy reorganization and as an encouragement to those loyal men who are making every effort in their power to regenerate their States and blot from them the stain of treason, and present them, as purified by fire, to their proper places in the galaxy of States that make up this Union.

In order to justice, and settling conclusively forever the basis of representation, it would be right to require those States lately in rebellion to adopt the amendment to the Constitution recently passed this House, excluding persons prohibited from the exercise of the elective franchise from forming a part of the basis of representation. This provision is a fair one, and it seems to me that no proper objection can be raised against it. The States are left at perfect liberty to say who shall be voters and who shall not, and the greatest stickler for the exploded doctrine of State rights ought not to take exceptions to it.

This amendment being adopted, and the necessary laws passed by Congress to secure to "the citizens of each State all the privileges and immunities of citizens of the several States," and to guaranty alike in the several States all the rights of person and property upon an equality, and securing access to the United States courts to vindicate those rights, where the States fail to make laws for the protection of all alike, and their courts of justice shut against any class of its citizens, I can see no good reason in keeping them any longer out of representation here. It cannot be possible that any member of this Congress can long expect to keep these people in their present relation to the Government. We have got to live with them, and all that we should ask is a sure guarantee for the future. The "iron-clad oath," that members are required to take before they get seats in this House, is a bulwark against traitors, and no disloyal man can pollute these Halls with his impious feet as long as that remains on the statute-book, and I think no man or political party dare suggest its repeal for years to come. Should any of these States send men here who cannot comply with the requirements of that oath, send them back again, and continue sending them back until you reach the loyal element, and find men who never bowed the knee to the false god of secession. Let every district in each State stand on its own merits. If but one man who has kept his hands clear of the blood of the martyrs of

the country can be found, let him come in and represent the constituency that sends him here. By pursuing a course of this kind it will not be many years before all this bitterness, hatred, and revenge that is now manifested in portions of this Republic will be forever gone, and this great nation will once more be united in a stronger bond of Union than ever before.

Now, Mr. Speaker, a few words in regard to the State of Tennessee. I think that State sustains to this Government a different relation from those of the other southern States. She kept a part of her delegation in Congress for two years or more after the rebellion was organized; and before that relation was broken off Andrew Johnson was appointed by Mr. Lincoln as provisional governor for the State. And even before the rebellion ceased an election for delegates to a convention of the loyal people was had for the purpose of framing a State constitution. That convention assembled and framed a constitution in which involuntary servitude is forever forbidden, and it has been submitted to the loyal inhabitants and by them ratified. A State government has been organized under that constitution, and the people have elected officers to fill the necessary positions in order to carry it into full operation. All this was done while yet the din of battle was heard within her borders, and her gallant sons were defending the old flag and their newly organized State government. I presume no one will say that that constitution is not republican in form; that it does not fill the requirements of the law.

Now, sir, I am in favor of admitting all the Representatives from that State to seats upon this floor who can take the required oath. It is said by some, as an objection to admitting these men, that the vote in the several districts was light, indicating but little loyalty there. That may be so, but I hold that whatever loyalty is there should be heard, that the heaven of loyalty that has been hid in her mountains, if encouraged, will in a short time leaven the whole people. Again, I do not think that the argument based upon a small vote would be considered a good one if applied to any of us who hold seats here. Suppose that there are sixteen thousand voters in my district, and but one half of that number should turn out to the election, would any man here pretend to say that in consequence of so small a vote that I would not be entitled to my seat? I think none would take that position. Let us admit Tennessee, and prove to the people of the southern States that we are not governed by any factious spirit, that the whole purpose of the Government is to restore each and all of these States to their proper position in the Union so soon as the rights of all the inhabitants are protected and a sufficient degree of loyalty is manifested by their people. This step taken, it will not be long before all the "erring sisters" will again be united in the bonds of peace and unity with the loyal States, and then we can once more adopt the language of New England's great statesman, "The Union, now and forever, one and inseparable."

And then, on motion of Mr. COOK, the House (at eight o'clock and forty minutes p. m.) adjourned.

IN SENATE.

FRIDAY, February 16, 1866.

Prayer by Rev. WILLIAM ADAMS, D. D., of New York.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Attorney General, transmitting, in answer to a resolution of the Senate of January 17, information relative to the case of the United States *vs.* The city of San Francisco; which was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

Mr. GRIMES. I present the petition of

Albert Greenleaf, who represents that from the 23d of December, 1854, until the 30th of March, 1855, he was the Navy agent at Washington, in the District of Columbia, and in that capacity was instructed by his superior officers to pay out certain moneys to seamen belonging to the United States service; that such service was not contemplated by the law under which he was appointed; that his predecessors in office have been allowed a percentage upon the amount that they paid out under similar circumstances; and he claims an allowance by Congress for services of that description rendered by him. I move its reference to the Committee on Naval Affairs.

The motion was agreed to.

Mr. HOWARD. I present the memorial of one hundred and seventy-five citizens of Alexandria, Virginia, in favor of the establishment of a territorial government for that State; and as the memorial is short, I ask the indulgence of the Senate while I read it. It expresses the opinions of the signers more clearly and distinctly than I should be able to do:

To the honorable Senate and House of Representatives in Congress assembled:

We, the undersigned, citizens of the United States, residing in Virginia, respectfully represent that, as soon as the military power of the nation had conquered the country so long held by the confederated rebels, which included Virginia, the same traitors who had set a price upon the heads of many of us because we were Union men, who were implicated in the murder of our neighbors for the same reason, and had destroyed by starvation and other cruelties thousands of national soldiers, possessed themselves of the political control of affairs within that portion of the lately conquered territory known as Virginia, and their Legislature now assumes to make laws binding upon the people.

One of the acts proposed, or already passed by that Legislature, provides for taxing the people of Virginia to pension the widow of Stonewall Jackson. Others aim to disfranchise loyal men by requiring a residence in Virginia of five years, as a qualification for voting. Others are intended to degrade and humiliate the colored population, to deprive them of the benefits of their freedom, and to subject them to the power of the whites by means of unjust and intolerably oppressive vagrant laws, and others, passed to satisfy the positive requirements of the national Government, ostensibly allow colored persons the right to testify in cases to which such persons are parties, but give even justices of the peace the power to decide, arbitrarily and peremptorily, upon the credibility of such testimony, and to exclude it from the jury, without appeal from such decision.

The only comment on the above measures that is needed is contained in the fact that the body which is about to enact them into laws received with great applause, only a few days since, a suggestion from its presiding officer that Robert E. Lee should be made Governor of Virginia. Meanwhile the majority of the people who were lately in open rebellion are not behind their Legislature in respect to disloyal conduct. Their feelings toward the Government of the United States are well illustrated by their demeanor toward their loyal neighbors, and have in an organized and official capacity, through the medium of their so-called courts of justice, already gone so far that the Lieutenant General of our Army has been obliged to interfere and prohibit the execution of the decrees of these courts during such time as the military power of the Government may extend to us its protection.

They have, with entire unanimity, excluded Union men from all participation in the management of the so-called State government, and are even threatening to call a State convention for the purpose of removing its executive head, who has at length arrived at a point where he seems disposed to act more firmly in dealing with these dangerous men. They assume that they have done no wrong, but acted nobly and honorably in rebelling against the Government of the United States, and, still wearing their confederate uniform, they demand, as a right, admission at Washington to a full participation with loyal men in the control of the General Government.

Finally, were anything more needed to exhibit the state of feeling on the part of the people of Virginia, we refer to the report of Major General Carl Schurz to President Johnson, as being a correct and truthful description of it in every particular. Nor has the Government of the United States been an idle spectator of all these things since the surrender of the military forces of the rebellion. A part of its Army, which for five years past has been employed in subduing rebellion in the field, is now employed in subduing rebellion in the so-called "Legislature of Virginia," and its presence among us is called for only by the notorious disloyalty of these people, who are so anxious to be admitted to the rights and privileges of State government.

The moment the military power is withdrawn from among us, and the loyal men of Virginia are left to the protection of the so-called "State government," their only safety will be in immediate flight.

Such being the facts, we respectfully represent that the experiment of State government in Virginia has proven an utter failure, and our only hope lies in a territorial government, under the immediate control of the national Administration."

We therefore pray your honorable bodies to set aside the government of which Francis H. Pickens is the head, and to establish in its place a territorial organization.

I present also eleven other petitions of citizens of Accotink, Fairfax county; Woodlawn, Occoquan, Prince William county, and other portions of Virginia, of like import with the one which I have just read. I move their reference to the joint committee on reconstruction.

The motion was agreed to.

Mr. WILSON presented the petition of Ralph Crooker, and others, citizens of Boston, Massachusetts, praying for an increase of the duties on foreign imports so as to encourage American industry; which was referred to the Committee on Finance.

Mr. POMEROY presented the petition of José Serafin Ramires y Casanoba, a citizen of the Territory of New Mexico, praying for the passage of an act confirming to him the grant of land known as the Cañon del Agua, in the county of Santa Fé; which was referred to the Committee on Private Land Claims.

Mr. RIDDLE. I present two memorials from citizens of Jefferson county, Virginia, praying Congress to withhold its assent to the proposed annexation of Jefferson county to West Virginia, or, should Congress deem it advisable, in order to obtain beyond all doubt the real desire of the people of that county on the subject, to refer the matter of the transfer to a vote of the people of said county, taken, as would be their right in such case, under the laws of the State of Virginia. As the chairman of the Committee on Territories has just informed me that the House bill on this subject has been reported to the Senate, and as twelve hundred of the thirteen hundred voters of Jefferson county have already petitioned against this proposed transfer, I wish to add fifty more petitioners to the list, and let these lie on the table along with the other petitions on the same subject.

The PRESIDENT *pro tempore*. That order will be made if there be no objection.

Mr. SHERMAN presented a petition of citizens of Ohio, praying for a reduction of the tax on the sale of agricultural implements; which was referred to the Committee on Finance.

Mr. DAVIS presented the memorial of Charlotte F. Buckner, praying that duplicate bonds may be issued to her in lieu of bonds stolen from the banking house of Winn & Simpson, at Winchester, Kentucky, by rebel soldiers on the 1st of May, 1864; which was referred to the Committee on Claims.

MR. BANCROFT'S ORATION.

Mr. FOOT. In pursuance of the concurrent resolutions of the two Houses of Congress adopted on the 12th instant, the chairmen of the joint committee of arrangements on the memorial exercises of the late President of the United States, Abraham Lincoln, have placed a certified copy of said concurrent resolutions in the hands of Hon. George Bancroft, and have requested of him a copy of his address on the occasion referred to for publication, as will appear from the following correspondence; which I move be read, laid upon the table, and printed.

The PRESIDENT *pro tempore*. The letters will be read, if there be no objection.

The Secretary read, as follows:

THE CAPITOL,
WASHINGTON, February 13, 1866.

SIR: We have the honor to present to you an official copy of two concurrent resolutions adopted by the Senate and House of Representatives on the 12th instant, expressing the thanks of Congress for the appropriate memorial address delivered by you on the life and services of Abraham Lincoln, late President of the United States, and in-structing us to request from you a copy of the address for publication.

Having shared the high gratification of hearing the address, we take pleasure, in accordance with the second of the concurrent resolutions, in requesting you to furnish a copy of the address for publication.

We have the honor to be, with very great respect, your obedient servants,

SOLOMON FOOT,

Chairman on the part of the Senate.

E. B. WASHBURN,

Chairman on the part of the House.

To Hon. GEORGE BANCROFT.

WASHINGTON, D. C., February 14, 1866.

GENTLEMEN: I have received your letter of yesterday and a copy of the two concurrent resolutions of Congress to which you refer. The thanks of the Senate and House of Representatives, for the performance of the duty assigned me, I value as a very distinguished honor, and I shall cheerfully furnish a copy of the address for publication.

I remain, gentlemen, very sincerely yours,

GEORGE BANCROFT.

Hon. SOLOMON FOOT,

Chairman on the part of the Senate.

Hon. E. B. WASHBURN,

Chairman on the part of the House.

REPORTS OF COMMITTEES.

Mr. CLARK, from the Committee on Claims, to whom was referred the report of the Court of Claims in favor of the claim of Sarah Weed, reported adversely thereon.

Mr. ANTHONY, from the Committee on Claims, to whom was referred the petition of Jerome B. Pillow, praying for compensation for cotton alleged to have been taken and appropriated by the officer in command of the United States forces at Helena, Arkansas, on or about the 12th of July, 1862, submitted an adverse report; which was ordered to be printed.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 90) enlarging the powers of the levy court of the county of Washington, in the District of Columbia, reported it with an amendment.

Mr. KIRKWOOD, from the Committee on Public Lands, to whom was referred a bill (S. No. 87) making a grant of lands in alternate sections to aid in the construction and extension of the Iron Mountain railroad from Pilot Knob, in the State of Missouri, to Helena, in Arkansas, reported it with amendments.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the bill (H. R. No. 184) to authorize the sale of marine hospitals and revenue cutters, reported it without amendment.

THOMAS F. WILSON.

Mr. CHANDLER. The Committee on Commerce, to whom was referred the petition of Thomas F. Wilson, United States consul at Bahia, Brazil, praying for compensation for losses sustained by him in consequence of his being compelled to abandon the consulate by the action of the Brazilian Government, have directed me to report a bill for his relief, and I will ask the unanimous consent of the Senate to consider the bill at this time. It will lead to no discussion, and I can explain it in one moment.

By unanimous consent, the bill (S. No. 146) for the relief of Thomas F. Wilson, late United States consul at Bahia, Brazil, was read twice by its title, and considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay him \$1,500 in full compensation for the loss of his personal effects in consequence of being compelled to abandon his consulate and residence at the time of the capture of the pirate Florida at Bahia.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time.

Mr. HARRIS. I should like to hear some explanation of this bill.

Mr. CHANDLER. I will give an explanation if any Senator desires it. This Mr. Wilson was consul at Bahia at the time the pirate Florida was cut out by the Wachusett. He was on board the Wachusett when the capture took place, and in consequence of the Wachusett being fired upon by the Brazilian fleet, he was carried out to sea, and that night a mob assembled and destroyed his residence, his library, his personal effects, and his clothing, all of which amounted to some fifteen or seventeen hundred dollars. He has never been able to return to recover anything. The Committee on Commerce deem it a fair and just and equitable claim on the Government, and have recommended the passage of the bill.

Mr. GRIMES. It occurs to me that this bill had better have a little further consideration. If we attempt to pay for the destruction of prop-

erty of citizens of this country done by mobs, we may find ourselves compelled to pay a great deal of money from the public Treasury. This may be simply the entering wedge by which we shall part with a large slice of the public money.

Mr. CHANDLER. I submit to the Senator from Iowa that this is the only case of the kind that ever has occurred, or that probably ever will occur. This is the only pirate Florida that was ever cut out of a foreign port and taken off the high seas while she was destroying our shipping by millions of dollars. This consul proved himself to be brave, energetic, active, prompt, the man for the place. He did his whole duty, in my judgment. I was not going to say a word in explanation of it, because the bill almost explains itself, and I hoped it would pass unanimously. I hope now that it will.

Mr. GRIMES. Is there any report accompanying this bill?

Mr. CHANDLER. I have made the report. The PRESIDENT *pro tempore*. There is no written report, the Chair understands.

Mr. GRIMES. It seems to me, when we are going to establish a precedent as important as this may be, that we should have at least a written report, so that the specific facts may be put upon the record that we may know when we are to depart from it in the future and when we ought in strictness to adhere to it. I do not like to vote in favor of the passage of such a bill as this. I do not know what the particular facts are. I understand the general facts as stated by the Senator from Michigan. Those general facts might compel us to pay for the destruction done by mobs in Washington or Baltimore or New York or elsewhere.

Mr. CLARK. I think the Senate should be very careful indeed before they establish a precedent like this. It is said by the Senator from Michigan that this is probably the only case of the kind that will ever occur, but I think that I could state to him a great many analogous cases. Let me state to him one now. A woman in the vicinity of Norfolk had a place called Ocean View, three or four years ago, at the time Norfolk was taken. She gave to the Union commander very important information which led to the capture of Norfolk. The next day or two the rebels burned her house down and destroyed the house and everything there was in it, and she was turned out of doors with six little children. She makes her application now to Congress to pay for that property which the rebels destroyed. That was but an armed mob. Can we do it? The committee would be very glad to see the ground on which they can go, but they have not been able to discover it. They are considering anxiously whether they can or not. It seems to me that is an analogous case. I think we had better not set such a precedent as this hastily. There may be merit in it, but before we pass this bill and make a precedent, let us be sure that we get upon a ground upon which we can stand and which will cover all these cases. I do not know that I shall be opposed to this bill in the end, but we certainly do want a little more time for consideration in regard to it. I hope it will not pass at the present time, and I suggest to the Senator that he had better let it lie over.

Mr. CHANDLER. I do not desire to press it if Senators wish to examine it. I think it is a perfectly clear case. I will let it lie over.

The PRESIDENT *pro tempore*. The bill will be laid aside.

BILLS INTRODUCED.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 147) to modify the act entitled "An act to prevent the spread of foreign diseases among the cattle of the United States;" which was read twice by its title, and referred to the Committee on Commerce.

Mr. DIXON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 148) to prevent the perversion of the mails to fraudulent and illegal purposes; which was read twice by its title.

Mr. DIXON. This bill involves some legal questions which will ultimately require the revision and examination of the Committee on the Judiciary, but I now move that it be referred to the Committee on Post Offices and Post Roads, and that the bill, with certain papers which I present with it, be printed.

The motion was agreed to.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 31) manifesting the sense of Congress toward the officers and seamen of the vessels, and others, engaged in the rescue of the officers and soldiers of the Army, the passengers, and the officers and crew of the steamship San Francisco from perishing with the wreck of that vessel; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

MARY C. HAMILTON.

Mr. LANE, of Indiana. There are two or three pension bills which can be passed without the slightest opposition in five minutes, and they may as well be disposed of. I move to take up Senate bill No. 56, for the relief of Mary C. Hamilton.

The motion was agreed to; and the bill (S. No. 56) granting a pension to Mary C. Hamilton, was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place the name of Mrs. Mary C. Hamilton on the pension rolls, at the same rate of pension allowed her under the act passed for her benefit, and approved June 3, 1858, payment to commence from and after the expiration of the term created by that act, and to continue for and during the term of her natural life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SARAH FITZGIBBON.

Mr. LANE, of Indiana. I now move that the Senate take up the bill No. 82.

The motion was agreed to; and the bill (S. No. 82) granting a pension to Sarah Fitzgibbon was read a second time, and considered as in Committee of the Whole. Its purpose is to direct the Secretary of the Interior to place the name of Sarah Fitzgibbon, widow of Thomas C. Fitzgibbon, late major of the fourteenth Michigan volunteer infantry, upon the pension rolls, at twenty-five dollars per month from the 1st day of May, 1865, subject to the limitations and restrictions now imposed by existing pension laws.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time, and passed.

PENSIONS TO ARTIFICERS.

Mr. LANE, of Indiana. I now move to take up Senate bill No. 116.

The motion was agreed to; and the bill (S. No. 116) to extend the benefit of the pension laws to artificers was read the second time, and considered as in Committee of the Whole. It provides that all persons either mustered or detailed as artificers in any branch of the service of the United States shall be placed upon the pension rolls, under the same limitations and requirements as privates now are under the present pension laws—eight dollars per month.

The bill was reported to the Senate without amendment.

Mr. FESSENDEN. I should like to have that explained.

Mr. LANE, of Indiana. The object is just this: the Commissioner of Pensions has determined by a decision that artificers in the service are not entitled to pensions. This bill only provides that those who are mustered in as soldiers or artificers and are afterward detailed and killed in the service shall be entitled to pensions. Under the law as it existed heretofore, an artillery regiment was entitled to, for instance, a blacksmith, who was called an artificer; and if he is killed in service, this bill embraces him. That is the whole of it.

Mr. DOOLITTLE. Was he a soldier?

Mr. LANE, of Indiana. He must be an enlisted soldier before the bill can apply to him.

Mr. FESSENDEN. I should like to have the bill read again.

The Secretary again read it.

Mr. HOWE. I should like to inquire of the chairman of the Committee on Pensions whether there is any objection to amending the bill by inserting "wagoners" after "artificers."

Mr. LANE, of Indiana. Yes, sir, there is great objection. Wagoners are not mustered into the service as soldiers at all; they are in under contract, and we thought we could not provide for wagoners. We had that question up. These are soldiers mustered or detailed as artificers; they fall within the spirit of the law but not within its letter, and we think they ought to be embraced, but we think great objection would apply to making wagoners pensioners. They were in under contract, and were not soldiers.

Mr. HOWE. I think they were enlisted under the act of 1861. The act provides for enlisting them, one to each company, I think, as wagoners. They are subject to the same discipline, the same obligations as other privates, and receive the same pay, I think, but I am not certain about the pay. The Commissioner has expressed to me precisely the same opinion about wagoners as is now stated to be his opinion as to artificers.

Mr. LANE, of Indiana. The committee had the whole subject under consideration, and thought it better not to embarrass this bill by any provision on that point. The committee thought this bill was clear as far as it went, and ought not to be embarrassed with other questions. Wagoners stand in a different relation from artificers. The quartermaster's department has been in the habit of hiring hundreds of wagoners who ran all these risks and were not soldiers. There may have been some soldiers who were detailed as wagoners, and probably they ought to be embraced, but I am clearly of opinion that any provision on that subject should not be attached to this bill. As far as the bill goes it raises no new question under the pension laws.

Mr. HOWE. But do I not understand that this bill provides for artificers enlisted and not detailed?

Mr. LANE, of Indiana. Yes, sir.

Mr. HOWE. Now, if "wagoners" be inserted in this bill after the word "artificers," it would not cover the case of wagoners who are employed by quartermasters on wages, but it would only apply to enlisted wagoners.

Mr. LANE, of Indiana. I do not know that there would be any objection to that, but I should prefer to have the committee look into the matter, because they once determined against including wagoners, and I should not like to decide the question in the Senate on the mere offering of an amendment here.

Mr. FESSENDEN. The principle has always been against allowing pensions for services not strictly military, and if we once depart from this principle there is no knowing where we should end. It may be that these persons come under some military division. If so, there would perhaps be no objection to including them within the pension laws; but the proposition ought to be very carefully examined. If we once begin to give pensions to any class not strictly military, there is no knowing where it will end.

Mr. HOWE. But the Senator will allow me to say that Congress has already made these services strictly military, because it has provided for enlisting one wagoner to each company.

Mr. FESSENDEN. But I should like to have the matter examined by a committee, that we may see exactly how the case stands.

Mr. HOWE. It is so much more convenient to include the case in this bill, that I wish the Senator from Indiana would take it into consideration.

Mr. LANE, of Indiana. There were a few enlisted men detailed as wagoners from special regiments during the war, but to every one

such there were twenty who were never detailed at all, but simply hired by the quartermaster's department. I think we ought to have a separate bill if we intend to include wagoners.

Mr. HOWE. The Senator does not understand me. I am only talking of those who were enlisted and mustered in as wagoners, instead of being mustered in as privates.

Mr. LANE, of Indiana. I should greatly prefer to have the committee look into the whole matter, and bring in a bill to cover the case, if it is to be provided for, because to insert the term of "wagoners" here may perhaps include forty thousand persons employed during the war.

Mr. HOWE. It will cover just one to each company.

Mr. LANE, of Indiana. One in each company of infantry was enlisted under a certain law, but in addition to that the quartermasters have been in the habit of hiring as many wagoners as they chose, for transportation. Why make a distinction?

Mr. HOWE. I am trying to make the Senator understand that if the word wagoners is introduced here it will only cover the cases of those who are enlisted and mustered. It would not cover the case of wagoners employed by the quartermaster's department. The law provided for enlisting one wagoner to each company. They have been enlisted and have been mustered; but the Commissioner of Pensions holds that inasmuch as wagoners are not named specifically in the pension laws, therefore he cannot grant them pensions. But they are subject to the same discipline, subject to the same exposures, to the same accidents, and to the same sufferings, and incur the same disabilities as private soldiers, and they have the same claim on the gratitude and support of the Government. However, I cannot hope to force this amendment on the bill against the opposition of the chairman of the committee. I wish he would consent to allow the bill to lie over that this question may be considered. I am satisfied that if he did consider it, he would consent to put in here the provision that I have suggested.

Mr. LANE, of Indiana. In order to make this matter a little more certain, I move to amend the bill by inserting in the third line, before the word "detailed," the words "having been mustered shall have been;" so as to read:

All persons either mustered or having been mustered shall have been detailed as artificers, &c.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, and was read the time and passed.

ADJOURNMENT TO MONDAY.

On motion of Mr. TRUMBULL, it was

Ordered, That when the Senate adjourns to-day, it be to meet on Monday next.

COURT OF CLAIMS.

Mr. TRUMBULL. I move to take up the bill in reference to the Court of Claims, which was under discussion the other day.

The motion was agreed to; and the consideration of the bill (S. No. 33) in relation to the Court of Claims was resumed as in Committee of the Whole.

The bill was reported to the Senate, and ordered to be engrossed for a third reading; it was read the third time, and passed.

JAMES BAWDIN.

On motion of Mr. HARRIS, the bill (S. No. 142) for the relief of James Bawdin was read the second time, and considered as in Committee of the Whole.

On payment to the United States of \$1 25 per acre therefor, it is provided that the Commissioner of the General Land Office shall cause a patent to be issued to James Bawdin for that tract of land lying and being at Eagle Harbor, on Lake Superior, situate upon the north part of section number six, in township number fifty-eight north, of range number thirty west, in the Sault Ste. Marie land district, State of Michigan, containing about six and fifty-four

hundredths acres of land, being all that part of the lands known as the light-house reservation at Eagle Harbor, which lies east of the dotted line marked "S. 86° 45' E. 12.76 chains," as shown on the plat of "Bawdin's survey" of the reservation in the office of the Commissioner of the General Land Office, except so much of the lands as may be required for the use of a road four rods wide, from the light-house across the six and fifty-four hundredths acres to the waters of the harbor, as the same is now laid out and used for that purpose. The act, however, is only to be construed to be a relinquishment of the title of the United States, and is not to interfere with the rights of third persons.

Mr. HARRIS. Since this bill was reported I have ascertained that the petitioner has died. I move therefore to amend the bill by inserting before the name of the party the words "the heirs of."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time, and passed. Its title was amended to read, "A bill for the relief of the heirs of James Bawdin."

INTERNATIONAL OCEAN TELEGRAPH.

On motion of Mr. CHANDLER, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 26) granting to the International Ocean Telegraph Company the right and privilege to establish telegraphic communication between the city of New York and the West India islands.

The bill, which had been referred to the Committee on Commerce, was reported by that committee with an amendment, to strike out all of the original bill and to insert the following in lieu of it:

Whereas James A. Strymser, Alfred Pell, jr., Alexander Hamilton, jr., Oliver K. King, Maturin L. Delafield, William F. Smith, and James M. Digges, their associates, successors, and assigns, persons composing the International Ocean Telegraph Company, an incorporated company chartered by the State of New York, are desirous of establishing a line of submarine telegraphic communication between the United States of America and the West India islands and the Bahamas: Now, therefore, in order to facilitate the said enterprise,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the said International Ocean Telegraph Company, incorporated under the laws of the State of New York, their successors and assigns, shall have the sole privilege for a period of twenty-five years, to lay, construct, land, maintain, and operate telegraphic or magnetic lines or cables in and over the waters, reefs, islands, shores, and lands, over which the United States have jurisdiction, from the said United States to the islands of Cuba and the Bahamas, either or both, and other West India islands.

SEC. 2. And be it further enacted, That the said International Ocean Telegraph Company, their successors and assigns, be authorized and empowered to import, free of duty, all material, manufactured or unmanufactured, necessary only for the construction, laying, and erection of said submarine cable or cables: *Provided always*, That the said International Ocean Telegraph Company shall, at all times during a state of war, give the United States the free use of said cable or cables, to a telegraphic operator of its own selection, to transmit any messages to and from its military, naval, and diplomatic agents: *And provided further*, That the said International Ocean Telegraph Company shall, within the period of five years from the passage of this act, cause the said submarine telegraphic cable or cables to be laid down, and that the said cable or cables shall be in successful operation for the transmission of messages within the said period of five years; otherwise, this grant to be null and void.

SEC. 3. And be it further enacted, That Congress shall have power, at any time, to alter or repeal the foregoing act.

Mr. SHERMAN. I think that this is too important a bill to be passed at this time when the morning hour is just expiring. I move that it be postponed.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) It is the duty of the Chair to announce that the morning hour has expired, and to call up the special order for one o'clock.

Mr. CHANDLER. I suggest that the vote be taken on this bill.

Mr. SHERMAN. I want to read the bill; it proposes to remit duties and to give an exclusive right to certain individuals.

Mr. CHANDLER. Do I understand the

Senator as desiring further time for examination?

Mr. SHERMAN. Yes, sir.

Mr. CHANDLER. Very well; let the bill go over.

APPORTIONMENT OF REPRESENTATION.

The PRESIDING OFFICER. The special order is the joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States, upon which the Senator from Indiana is entitled to the floor.

Mr. HENDRICKS. Mr. President, it has been the boast of the people of the United States that they are in the enjoyment of constitutional liberty, not liberty depending upon the will and pleasure of any man, but a liberty that is secured by the fact that the powers of the Government are defined and limited, and that the rights and privileges of the people are well secured. Our Constitution was made by men eminently qualified for the work. No one now questions that. The American people have been very fortunate in that regard. As patriotic, as pure, as intelligent, and able statesmen as ever united in the performance of any labor for their country were the men who made the Constitution of the United States. The time was auspicious. The war of the Revolution had just closed, and the people of the different States or colonies had become firmly united and cemented by the circumstances of that war. There was no sectionalism in 1789, but the men of South Carolina loved the men of Massachusetts as they loved the men of Virginia. Seven years of war had passed over the country and the men of every section had mingled in that war. The soldier of Virginia had been associated with the soldier from Massachusetts; they had dwelt under the same tent together; they had shared the hardships of the field, the dangers upon the rough edge of the battle; their comrades had fallen together and slept in a common grave.

The glories of that war were common to all. They did not belong to Virginia alone or to Massachusetts alone, but all had shared in common perils for a common purpose and had achieved a common glory and a common good. Under these circumstances our fathers met to frame a Government for the people; and for three quarters of a century we thought they had framed the best Government it was possible for the intelligence of man to devise, a Government adjusting the interests of the different sections so as that there could be no discord, leaving to the States the management and control of all domestic matters, and giving to the Federal Government the control of those general questions that affected all the people. Under that Government for three quarters of a century we lived and prospered, we prospered as no people had prospered, we grew in wealth and in population beyond all parallel.

A war came in 1861 upon the country again, the most unfortunate that can befall any people; and now, after a war not against a common enemy, but at the close of a war between different sections of this country, in which the men of the North have been arrayed in battle against the men of the South, when we have learned to hate one another as no people have ever hated, we now propose to amend the Constitution. I appeal to Senators to inquire of their own judgments and hearts and say to the country, are you now in the right spirit to change the fundamental law of the land? Eleven States are absent from our councils; they are not here to be heard. We say they shall not come in, and we, the men of the North, propose to make a Government for the whole country. We, without the hearing, without the counsel of the men of the South, propose to make a Government which they shall respect and obey. Are the circumstances favorable to this work? How different from the circumstances that surrounded our fathers when they made the Government! Peace then, peace now; but peace then after a war which had united the people; peace now after a war which has made such divisions among us as that you now say eleven States ought not to be represented in Congress.

Again, sir, the fact that there is such a desire to change the Constitution should admonish us that we ought not to attempt the work. I understand that there are seventy propositions to amend the Constitution. In this Hall there have been two or three upon the same subject-matter, two or three amendments that we shall not pay a debt of the South which the South itself has repudiated, which can never according to the terms of the debt itself become due. And covering nearly the entire instrument propositions for amendment are made.

I was once, when quite a young man, a member of the Legislature of my State, and nothing struck me as a greater curiosity than the fact that upon certain questions there was a great desire to offer propositions and bills, and especially the stray laws, the road laws, and the school laws. Members from different parts of the State seemed to make a race of speed which should succeed in first getting his proposition before the body. Such a spectacle we to-day witness in regard to the Constitution of our country. It seems to be a race among Senators and Representatives who shall offer the greatest number of amendments to the Constitution of the country. I do not expect to vote for the proposition that is now before us or any other that may be made. In some regards I think the Constitution could be improved, but I would not propose any amendment nor would I vote for any when I think we are not in a condition for the work.

This proposition comes from the committee of fifteen; a committee which was constituted and the powers of which were defined by this resolution:

"Resolved, That a joint committee of fifteen members shall be appointed, nine of whom shall be members of the House and six members of the Senate, who shall inquire into the condition of the States which formed the so-called confederate States of America, and report whether they or any of them are entitled to be represented in either House of Congress; with leave to report at any time by bill or otherwise."

Sir, there was one question upon which it was important that the action of the two Houses should be uniform, should agree, and that was in respect to representation. It seemed to be important that when Senators were admitted into this body from southern States, Representatives at the same time should be admitted into the House of Representatives. In other words, the Senate should not allow representation from a southern State and the House deny that representation to the same State; and therefore it was understood that there should be a joint committee on that subject, because it was a question relating to the organization of both bodies, and this committee was organized with a view to reach that question, and that only—to inquire into the condition of the southern States, whether they are entitled to representation; and upon that question to report to the Senate and to the House either by bill or otherwise. Sir, the Senate has never said to that committee that it might inquire into any other question.

Mr. FESSENDEN. Allow me to ask the Senator if he heard the explanation which I gave?

Mr. HENDRICKS. I did, and I am going to speak of that. This is an extraordinary committee to consider just one question, and that is the question whether the southern States ought to be represented in this Hall and in the Hall at the other end of the Capitol. That committee has not been authorized by the Senate and House of Representatives to inquire into any other subject, as I said. Upon that subject they may report by bill or otherwise. How is it that, passing from that subject, the committee has reported two amendments to the Constitution upon subjects not referred to them?

Mr. FESSENDEN. The Senator is very much mistaken. Allow me to explain; I do not wish to interrupt the Senator except to explain. The committee did not take that view of its powers. To be sure, by the original resolution under which the joint committee was appointed, the limitation was precisely as the Senator expresses it; but it was a joint com-

mittee, and the House of Representatives referred the resolutions originally offered by one of my colleagues [Mr. BLAINE] to that committee. Now, sir, it is a well-established principle in business here, that however a committee may be raised it can report upon any subject that is referred to it, for that is a new commission, so to speak; and that subject being specifically referred to the committee they understood that it was their duty to report upon it; and it being a joint committee, and each House making its reference, the committee supposed, and I as an individual supposed, that it was proper or at least competent for the committee to report to either branch; and it was thought best to make the report at the same time to both branches. That is a question as to the right or duty of the committee under the reference, which might be decided if there was any occasion to decide it. I make this explanation to show what view the committee of fifteen took of it. As to the other report which was made of a joint resolution, allow me to say that it was made specifically the duty of the committee to inquire into and report upon that subject by a resolution which was offered by the Senator from Missouri, [Mr. BROWN,] and which was adopted by the Senate.

Mr. HENDRICKS. Mr. President, I understood the facts precisely as the Senator has stated them; and if this were a committee of the Senate, or exclusively a committee of the House, his view of the subject would be right perhaps; but I suggest to him that if a committee of this body are to consider of the business of this body alone, has a defined jurisdiction, and the body inadvertently refers to that committee some subject that does not come within that jurisdiction, it is the custom of the committee without consideration of the subject to report it back to this body that it may go to the appropriate committee. But, Mr. President, this is not a committee of the Senate; it is not a committee of the House; it is a committee to represent both bodies upon a subject common to both, not a subject over which there should be the separate action of the two bodies, and therefore the House cannot add to the jurisdiction of a joint committee, nor can the Senate alone add to the jurisdiction. It being a committee representing both bodies, originated by a joint resolution and its jurisdiction defined, that jurisdiction can only be enlarged by a joint resolution.

Mr. FESSENDEN. The practice of the Senate is the other way every day. Take the case of the Joint Committee on the Library. Matters are referred by each body to the Library Committee which are entirely outside of the Library itself, or anything connected with it; but being referred by each House to that committee, which is a joint committee, a report is made by bill or otherwise to each branch. I have been a member of that committee, and know this to be the every-day practice.

Mr. HENDRICKS. If that be the every-day practice of the Senate, to which proposition I do not agree.

Mr. FESSENDEN. It is the fact at any rate.

Mr. HENDRICKS. If that be the practice of the Senate, it ought now to be abandoned. Why, sir, does the Constitution establish a House of Representatives and a Senate, and declare that the legislative power shall not belong to one body, but shall belong to two bodies, acting separately and independently? The purpose of the Constitution is that every important measure affecting the country shall, before it becomes a law, receive the consideration of two Houses separately, each giving its separate attention to the subject. And so far does the principle on this subject go that we cannot in debate in this body refer to the doings of the House of Representatives; we are not allowed by the rules of the body to refer to the action of the House; and why? Because it is the purpose that the action and judgment of the House shall have no influence upon the Senate, nor shall the judgment of the Senate have any influence upon the House; and the purity of

legislation requires that upon all grave questions each House shall act separately and independently, and that principle is not departed from except when there is a disagreement between the two bodies, and then a committee of conference attempts to reconcile that disagreement.

And, sir, if this is a sound principle of legislation, I ask, ought it to be departed from when we propose to amend the Constitution of the United States? Ought not a proposition to amend the Constitution to be considered by each branch without reference to the judgment of the other? Here, sir, is a large committee, nine of the House, six of the Senate, fifteen, holding a joint conference upon a subject before it comes to either body, and at the same time a report is made from that committee to both bodies, thereby defeating the very purpose of the Constitution in having separate branches of the Legislature. This committee had its birth in a party caucus and has constituted itself a new French Directory, set up in Washington to control the action of Government, to grasp in its hands the functions of Congress, and to dictate to the Executive.

It is composed of nine members from the House of Representatives, and of six members from the Senate. It meets in secret session, wholly free from the observation of the public, and at such place and time as may suit its own pleasure. Over the door of its meeting place might be appropriately written, "No admittance for the American people; this place is sacred to a political inquisition, whose will is law to the President and to Congress, and whose fiat binds the fortunes and determines the fate of eleven States and eight million people." The committee select witnesses according to their own good will. Their writs of subpoena run throughout the country, and they can draw upon the Treasury for their expenditures. They cogitate constitutional amendments for the operation of the previous question in the House of Representatives, and for the lash of party discipline in the Senate. The representation of eleven States stands suspended during their pleasure, and while they may devise how the President of the United States shall be broken to their will, or be degraded before the people. In the exercise of this fearful and odious power, one fourth of the people of the nation are arraigned before the secret bar of the tribunal of fifteen, and their fate may be determined upon the evidence of spies, informers, contractors, political agents, and hostile officials.

That, Mr. President, is the committee which proposes these amendments to the Constitution of the United States; a committee organized for party purposes; a committee that had its birth, as I said, in a party caucus; a committee that was carried through the House of Representatives the first day of the session, and, in my judgment, could not have been carried at any later day of the session; a committee that was carried through this body after some amendments of the House resolution. That committee proposes amendments to the organic law of the country, and we are expected, and I suppose it will be done, to pass them in this body.

Then, after speaking of the committee that brings the proposition before the body, I wish to inquire a little into the history of this constitutional amendment that is proposed. The first proposition that was talked of during the session, and the very first proposition that came before this body, was the proposition of the Senator from Massachusetts, [Mr. SUMNER,] offered on the first day of the session. That proposition was, as he has since very ably discussed the question, that taxation and representation shall rest upon the same basis. His proposition was that taxation and representation should rest upon the voting population of the United States, limited to those persons who are voters and over twenty-one years of age. I heard no objection to that proposition until it was made in the House of Representatives. I presume I may refer, under the rules, to what may be said in the House as a matter of history without re-

ferring to it for any purpose of influencing the judgment of the Senate. The objection made in the House to the proposition of the Senator from Massachusetts (for the same proposition was made there) was that it was unequal; and the Senator from Maine, [Mr. FESSENDEN,] who reported this resolution from the committee, expressed the same objection to the voting basis that was made in the House; that it was unequal; that the male population of New England was not so great in proportion to the female population as in the western States, and especially as in California, and therefore New England, under that proposition, would not receive so large a representation as the western States. There was force in the objection; for if you examine the census of 1860, it will be found that the female population of the six States of New England exceeds the male population by some fifty thousand, while in the six great agricultural States of Ohio, Indiana, Kentucky, Illinois, Missouri, and Iowa, the male population exceeds the female population by two hundred and ninety-seven thousand seven hundred and fifty-eight. Adopting the voting population, then, as the basis of representation and taxation, the six great agricultural States of the West that I have mentioned would have the advantage of New England by two or three Representatives. New England would not endure that. From the time the speech was made developing that fact in the House of Representatives, no man has raised his voice for the voting basis.

Mr. President, upon what should representation and taxation rest? The Constitution as it now stands provides:

"Representatives and direct taxes shall be apportioned among the several States, which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons."

This is the provision of the Constitution which it is proposed to amend. This provision rests upon the doctrine of the Revolution, upon the established principle and policy of the Government that representation and taxation shall have the same basis of support. The propriety and justice of the principle was not questioned in the Convention that made the Constitution, nor in the conventions of the States that ratified that instrument, and it is to-day the cherished doctrine of the American people that taxation ought not to go beyond representation. The opinion has been attributed to the President that taxation ought to rest upon property. In my judgment, it should be so, but at the same time I may say it will never be. Property is the proper subject of taxation, and taxes ought to be levied upon persons in proportion to their estates. That is the principle that prevails in the States, and in my judgment property should be the basis of Federal taxation; but it is not, and while New England, in proportion to her population, and New York and Pennsylvania are so much more wealthy than the other States of the Union, that basis never can be secured.

Then, sir, if taxation cannot be made to rest upon property, where I think it should rest, ought taxation to go beyond representation? I will not attempt to discuss the question so fully exhausted by the Senator from Massachusetts, [Mr. SUMNER,] One difficulty in forming the Constitution of the United States grew out of the relation of the slaves to the people. In some respects they were regarded as persons, and in other respects as property, and a compromise was the result of the consideration of the question—a compromise to the effect that three fifths of the slave population should be counted. But, sir, under the Constitution, as the slaves became free, they fell into the population that were counted man for man; and now as slavery has been abolished, the entire colored population is to be counted for the purpose of taxation and representation under the present Constitution; but it is proposed to change the Constitution so that they shall not be counted in States where they are not allowed to be voters.

This proposition when first brought before the body provided that representation and direct taxation should stand together and rest upon the same basis. After a further consideration of the subject, it was decided to strike out the words "and direct taxation," and that was the second report from the committee. The effect of that is, that taxation upon the southern States shall be increased, so far as it rests upon the colored population, two fifths, and representation, so far as it rests upon that population, shall be reduced three fifths. "Now, there is in the northern States a non-voting white population. You count them for purposes of taxation. You count them for purposes of representation. You do not for either purpose inquire whether they exercise the privileges of a citizen by voting. You simply count them, and you make no difference. But in the South you propose to tax the people of the States upon the colored population, and you deny them representation upon that population."

Mr. President, upon what principle does this proposition rest? Every great amendment to the Constitution of course ought to rest upon some principle. Neither its provision for taxation or for representation rests upon property, as I have said. It does not rest upon voters, because it allows persons to be counted who are not voters. White persons who are not voters are counted. It does not rest upon the entire population of the country, because it excludes nearly four millions who are not voters. In the North, I understand there are from fifteen to twenty Representatives upon a non-voting population, and this proposed amendment will not change it in that regard. I will read a very short extract from two speeches on this subject made by very distinguished supporters of this proposition:

"Again, many of the large States now hold their representation in part by reason of their aliens."

Another gentleman, the chairman of this committee in the House, said:

"Now, sir, there is another fatal objection to the proposition of my friend from Ohio."

That proposition was that representation and taxation should rest upon the voting population.

"If I have been rightly informed as to the number, there are from fifteen to twenty Representatives in the northern States founded upon those who are not citizens of the United States. In New York I think there are three or four Representatives founded upon the foreign population, three certainly. And so it is in Wisconsin, Iowa, and other northern States. There are fifteen or twenty northern Representatives that would be lost by that amendment."

Then, sir, there are to-day in the House of Representatives from fifteen to twenty Representatives based upon a population who are denied the right of voting by the laws of the country. If it be right to deny to southern States a representation in the House of Representatives because they do not allow a certain class to vote at the polls, as honest men wanting to deal justly and fairly, how can you deny a representation upon a non-voting population in the southern States? We are considering too grave a question to perpetrate inequality and injustice. If the North has upon a non-voting population the benefit of from fifteen to twenty Representatives, how is it that she can say that no other section of the country shall enjoy the same right, if it is the pleasure of the States to deny the right of voting?

Then, sir, as the proposition does not rest upon population, as it does not rest upon property, as it does not rest upon voters, upon what principle does it rest? Upon what principle do Senators propose to adopt this amendment to the Constitution? I can understand it if you say that the States shall be represented in the House of Representatives upon their population; I can understand it if you say that they shall be represented upon their voters; but when you say that one State shall have the benefit of its non-voting population and another State shall not, I cannot understand the principle of equity and justice which governs you in that measure. Sir, if it does not stand upon a principle, upon what does it rest? It rests

upon a political policy. A committee that had its birth in a party caucus brings it before this body, and does not conceal the fact that it is for party purposes. This measure, if you ever allow the southern States to be represented in the House of Representatives, will bring them back shorn of fifteen or twenty Representatives; it will bring them back so shorn in their representation that the Republican party can control this country forever; and if you can cut off from fifteen to thirty votes for President of the United States in the States that will not vote for a Republican candidate, it may be that you can elect a Republican candidate in 1868. Now, sir, upon this subject I ask the attention of Senators. These are no words of mine. I will put upon the stand the most influential Republican to-day in the Congress of the United States. He says:

"According to my judgment they ought never to be recognized as capable of acting in the Union, or of being counted as valid States, until the Constitution shall have been so amended as to make it what its framers intended; and so as to secure perpetual ascendancy to the party of the Union."

That is the phrase of these times by which men undertake to describe their own party, "the party of the Union." A party that to-day says this Union shall not be restored, a party that to-day says that eleven States shall stay out of Congress, arrogates to itself the name of "the Union party." Describing his party by that term, he says that the Constitution must be so amended as to secure the perpetual ascendancy of the Union party:

"If they should grant the right of suffrage to persons of color, I think there would always be Union white men enough in the South, aided by the blacks, to divide the representation, and thus continue the Republican ascendancy."

That is a little more distinct. Dropping the phrase, "the Union party," the head of this committee, the chieftain in the House, comes squarely out in the House of Representatives and says that the Constitution must be so amended as to secure the perpetual ascendancy of the Republican party. Mr. President, have we come to that in the Senate of the United States, that we abandon principle, that we seek no longer to base representation upon population, that we do not seek to base representation upon voters, but that we mingle the basis of representation so as to secure a party life? I hope that I shall never come to the consideration of a question of so grave importance with a partisan feeling.

There is another purpose, in my judgment, or if it be not a purpose it will be an effect of this measure, to cut off representation from the agricultural portion of the country, and to that extent to increase the representation of the manufacturing districts, and thus permanently fasten upon the country the New England policy and the New England power. My colleague has agreed to this, my colleague, who represents a portion of the agricultural section of the country, has agreed in a very able speech to the proposition that from the agricultural States shall be stricken a large proportion of their representation. Why, sir, is the right of voting given for the benefit of the party who casts the vote alone, or is it given for the benefit of the voter and the country? Is representation based upon population for the benefit of a single individual, or for the protection of the interests in which all the people have their fortunes? The States and country that rest upon the Ohio and Mississippi rivers and their tributaries have a common interest. They cannot cease to be agricultural States. The plow must turn wealth up to the men of the West. We need a representation in the House, and I say to my colleague that I cannot agree with his judgment that we have a right to consent that a portion of the representation which secures agriculture shall be cut off from the House of Representatives.

Mr. President, I would not say a word against New England. I honor and respect New England for her glorious revolutionary history, for her virtues of frugality, industry, and enterprise; but I cannot consent that she shall have an increased advantage in the representation

of the country. I will ask my colleague if he does not to-day know that advantage has been taken of the West during this war. I will not say by design; I will not say for the purpose of taking advantage; but I ask him if in fact the interests of the West and the Northwest have not been subordinated to the interests of another section of the country?

Mr. LANE, of Indiana. Does my colleague want an answer now?

Mr. HENDRICKS. After I am through. When was it known that such a tariff prevailed as governs the country at this time? When was it known that there was such an adjustment of the tariff, such an exclusion of foreign competition as that the manufacturer could charge the western consumer for his cotton products the same price that he asked when cotton stood at three hundred per cent. more than it does now? And yet, sir, such is the condition of the country. Whatever the western man to-day buys he pays from thirty to one hundred per cent. more for than if the trade of the world lay open to him; and this has been accomplished during the period when agriculture was but partially represented in the House of Representatives. My colleague is afraid of southern votes in Congress. I am not upon that question: Men will vote in accordance with their interests, when not controlled by a constitutional duty or by a sense of right. During the five years that have passed the southern agricultural States have not been represented in the House of Representatives, and a most unjust and unequal adjustment of the revenue system has been adopted, much to the prejudice of the State that my colleague and I represent in this body.

Now, sir, shall we so permanently arrange the representation of the country that agriculture cannot hold up its head? Shall we so permanently adjust representation as that the spindle and the loom shall always be more productive and honorable than the plow and the harrow? Sir, I do not consent to it; and without any reference to sectional feelings or sentiments, I ask for the West simply equality in the legislation of Congress. Demanding that much we ought to be heard; but we have not been heard during the past five years, as the taxpayers of the West very well know. While New England has been making her returns to those who have invested their capital in manufactures of from twenty to one hundred per cent., the western farmer, when he buys the necessities of life at the present charges and settles his accounts with the tax collector, can scarcely provide the comforts of life for his family and for the education of his children. Is it not known to every Senator that when manufacturing establishments can make dividends of from twenty to seventy per cent. there is wrong done to some interest in the country, and that is because agriculture has not been fully represented in Congress during the past five years?

Mr. ANTHONY. Will the Senator allow me a moment?

Mr. HENDRICKS. Yes, sir.

Mr. ANTHONY. I make it a rule never to interrupt a Senator, and I would not now interrupt the Senator if I did not know he was the most good-natured member of the whole body. [Laughter.]

Mr. HENDRICKS. I am much obliged to the Senator.

Mr. ANTHONY. I do not propose to go into the argument at this time, but I wish to say that there never has been a time since I have been familiar with public affairs when the protection on manufactured articles was so small, when the duty upon the foreign article compared with the excise duty upon the domestic article was so small as it is to-day. On many manufactures the excise duty is larger than the import duties.

Mr. HENDRICKS. The Senator's proposition upon its face may be so; I have not examined during this session the details of the revenue laws; but the importer pays his tax in gold and the manufacturer pays his in paper. Taking the schedule, I have no doubt the prop-

osition of the Senator is true as to some articles, but taking the whole of the manufacturing interest of the country, I think it is not true.

Mr. ANTHONY. I will say further, and it is the last time I shall presume on the indulgence of the Senator, that the manufacturer pays the excise duty in paper, but he pays it at the time when he manufactures the article. The importer pays the duty in gold, but he puts his goods into warehouse and pays the duty at the time that is most convenient to him and most embarrassing to the domestic producer.

Mr. HENDRICKS. I do not think there is any point in the remark of the Senator. I think the manufacturer pays his tax when he puts his goods upon the market. Is that not so?

Mr. ANTHONY. Not always.

Mr. HENDRICKS. Does he pay his tax before he desires to sell his goods?

Mr. ANTHONY. He does in some cases, not before he desires to sell them, but before he can sell them.

Mr. HENDRICKS. Very true. I say when he proposes to put his goods upon the market he pays his tax, and the importer when he proposes to put his goods upon the market pays his tax.

Mr. ANTHONY. The manufacturer pays his tax before he puts his goods on the market. He has to pay his tax as he manufactures the goods, every month.

Mr. HENDRICKS. Of course he has to pay his tax before he puts his goods in market, because he cannot sell until he pays his tax, nor can the importer sell his goods until he pays his duties. He cannot take them out of the bonded warehouse until he pays his duties.

Mr. SPRAGUE. Permit me to state that there are manufacturers in this country who have paid their tax a year prior to the time they sold their goods; that there are cases where there have been five or six taxes paid to the Government on domestic goods six or seven months prior to the time the manufacturers sold them. That is common, and known to the manufacturing and business interests all over the country.

Mr. HENDRICKS. I do not intend to discuss that particular feature of the revenue system of the United States any further. I believe the general statement to be true, that the revenue system adopted within the last five years is oppressive to the West, hard upon agriculture, and favorable to manufactures. I do not intend to go into an elaborate discussion of that question. If the revenue laws are again brought before the attention of the Senate, I propose to investigate them and to show just how and to what extent this is so. I have attributed it to the fact that agriculture is not represented in the House, and that this amendment proposes permanently to exclude a large interest to a considerable extent from representation in the House.

Now, Mr. President, if it is right to change the representation in the House of Representatives, that is, to disturb the foundations of the Government so as to readjust representation, and, as Senators claim, to make it equal and just, why is it not equally right to disturb the representation in the Senate? I know very well the reply will be that the Constitution itself forbids an amendment of that instrument in respect to representation in the Senate; but, sir, the power that made that provision can unmake it; the power to amend the Constitution can reach that very provision and change the representation in the Senate. I know it is said that representation in the Senate is one of the Federal features of the Government; but that argument has lost its force when we are taught in these latter times that State rights are not to be respected, and that all power is now in the Federal Government. Suppose we undertake to make representation in the Senate equal, how would it stand? The six New England States, with a population of 3,135,253, have twelve Senators in this body, while the six great agricultural States of the West—Indiana, Ohio, Illinois, Iowa, Kentucky, and Missouri—have a population of 8,414,525, with a representation

of twelve Senators. With nearly three times the population of New England, we have the same representation. If those States have this advantage in this body, is it fair to try to cut off the representation of agriculture in the other end of this Capitol? While Indiana has a population of 1,350,428, Rhode Island—a glorious, gallant little State—has a population of 174,620. So far as representation in the Senate is concerned, one man in Rhode Island has a voice and power in the legislation of this country equal to eight men in Indiana. Taking the entire New England States, one man in New England has the voice and power in legislation in the Senate of nearly three men in the West. Is that right, is that just, when you are talking about equality of representation? I do not want to change that feature in our Government. I wish to stand by the State representation as our fathers established it. I do not want to take any of the political power from New England that our fathers agreed she might have. I will stand by their representation as firmly as they will, but I do not like that they shall ask to reduce the representation of the West and Southwest.

This, then, Mr. President, as I have said, is a proposition, first, to perpetuate the rule and power of a political party; in the second place, it is a proposition the tendency of which is to place agriculture under the control and power of manufactures and commerce forever; and, in the third place, it is intended, I believe, as a punishment upon the southern States. Why will Senators say that the southern States may give to the colored people the right to vote and then they will be fully represented? Senators know very well that the southern white people cannot do that. They know very well that in two of the southern States, South Carolina and Mississippi, the colored population is larger than the white population, and they know that it is impossible for a white population to remain in either of those States if you place the colored man upon a platform of political equality with the white man. Sir, it is impossible. Instead of being controlled by white men, those two States would fall under the control of the colored people. Their Legislatures would be filled by colored people; Congress would be filled, so far as Representatives came from those States, by colored people; and colored men would be sent as Senators to this body if those States were forced to give political power to them. There is, then, no propriety in Senators saying that the southern States can confer the right to vote upon the colored people. It is impossible for them to do it. In the condition of their society it cannot be.

Then this proposition is simply to take from them a representation upon that portion of their population, and to adopt a rule in regard to them different from the rule that applies to the people of the North. We have from fifteen to twenty Representatives in the House of Representatives based upon a non-voting population. The same representation upon a non-voting black population you propose unjustly to deny to the South. Then, sir, is it a punishment? Now that the war is over, now that the southern people have laid down their arms, now that they have sought to come again fully and entirely into the Union, now that they have pledged their honors and their fortunes to be true to the Union and to the flag, now that they have done all that can be done by a conquered people, is it right, after a war has been fought out, for us to take from them their political equality in this Union for the purpose of punishment? The Senator from Maine, the chairman of the committee, says that the right to control the suffrage is with the States, but if the States do not choose to do right in respect to it, we propose to punish them. You do not punish New York for not letting the foreigner vote until he resides there a certain period. You do not punish Indiana because she will not allow a foreigner to vote until he has been in the country a year. These States are not to be punished because they regulate

the elective franchise according to their sovereign pleasures; but if any other States see fit to deny the right of voting to a class that is peculiarly guarded and taken care of here, then they are to be punished.

Mr. President, in this idea of punishment I think I may venture to say that Senators do not reflect the gallant Army that has been recently disbanded. That Army fought in a high cause, as they thought, and when the enemy fell down before them as a great Army, they felt that they should protect them; and you cannot find a bold soldier in the North who would take advantage of his prisoner and punish him. But we, as a nation, because we have succeeded in the great controversy, because we have subjugated the southern States, because they are conquered, in the language of some gentlemen, because they have laid down their arms, now propose to punish them in a manner unknown to the law heretofore.

Mr. President, as a punishment this thing cannot be done without violating the principles of humanity, as I have said, and the great principles of the common law, and the principle of the Constitution of the United States. That instrument provides that no *ex post facto* law shall be passed. That means that no law shall be passed punishing an act which was innocent at the time it was done, or punishing it by penalties not prescribed at the time the act was done, or punishing it upon less testimony than was required to convict at the time the act was done.

Now, sir, you say that these people have been in rebellion, that they have committed a great crime, which I agree to. How are they to be punished? They have been punished in that manner known to nations as the highest punishment that can be inflicted. They have gone through the battle and they have been defeated. They come before us as a conquered people; and this is the punishment, if this is to be regarded as a war between belligerents. Do Senators claim that prisoners of war taken by one belligerent from the army of the other can be punished because they are prisoners of war? That is a sentiment of the barbarous ages which, thank God, has passed forever, so far as Europe and America are concerned. One reason why I would like to see Maximilian driven from American soil is that he violates a sentiment that every American respects, and puts prisoners of war to death.

Now, Mr. President, is it possible that Senators will say, that in this condition of the country they are going to change the Constitution of the United States for the purpose of punishment or to gratify revenge? Is there such a sentiment here? If there be one here, there is not among the soldiers at home. If a soldier were to see a wrong being done to his captive he would interfere at the risk of his life to prevent that wrong. Let that sentiment be respected here. Let equality, justice, and right prevail in our legislation, especially in regard to amendments of the Constitution which must stand.

The Senator from Oregon [Mr. WILLIAMS] spoke yesterday of punishing States. I wish he were here, sir. That Senator dwells far off, his land resting upon the peaceful waters of the Pacific, and intervening mountains cast their shadow over his home and the homes of his people. I presume there is not a colored man in that country. If Indiana sees fit in her sovereign pleasure to deny to the ten or twenty or thirty thousand negroes in that State the right to vote, he, from Oregon, proposes to punish Indiana! What has he to do with the suffrage in Indiana? We do not let them vote, and unless you compel us to do it, we propose never to do it; and yet he says there is to be punishment for it. I do not like that word "punishment" between States of this Union. You have no right to punish a State because it does that according to its own pleasure which it has a right to do. If a State, as was admitted by the Senator from Maine, has a right to control the question of suffrage, no Congress

has a right to control her in the exercise of her power. But I wish to speak of that in another connection.

Is this a measure to coerce? On that point I desire to read what the Senator from Maine said. First, it is to punish, and in the second place to coerce, to do indirectly that which you cannot do directly. Let us see what the Senator said:

"But, sir, the great excellence of it"—

That is, this amendment of the Constitution. I think he might have left off the adjective.

"But, sir, the great excellence of it—and I think it is an excellence—is, that it accomplishes indirectly what we may not have the power to accomplish directly."

I presume this is the first time in the Senate of the United States that a boast was made, and it was claimed as a virtue for a measure, that it accomplished indirectly what could not be done directly. What the body has not the power to do directly, we boast we can do indirectly! Let me read the rest of the Senator's sentence, and you will see what he means:

"If we cannot put into the Constitution, owing to existing prejudices and existing institutions, an entire exclusion of all class distinctions, the next question is, can we accomplish that work in any other way?"

Why can you not put it in the Constitution directly, as the Senator from Missouri [Mr. HENDERSON] proposes to do? As much as I dislike his measure, I like it for its boldness and its frankness; and all men, when they come to reflect a little about it, I think will admire it for those qualities. But the Senator says, "Because of existing prejudices we cannot amend the Constitution to give the right of suffrage to colored people, and therefore we will do this thing indirectly." Why can you not do it directly? Because of the prejudices of the people; or, in other words, because the people will not let you do it; but as the people are against it we will do it indirectly. Was ever such an argument as that heard in the Senate of the United States—an argument in favor of amending the Constitution of the United States—that it does a thing indirectly that we cannot do directly! Indirection, I thought, was always a vice. I have always observed when I went into court to defend a client that if there was anything in his conduct that brought about a result by indirection the jury was sure to beat my case. They would say, "If he has been in the right, if he has had a fair contract, why has he not met it directly, and why is there indirection and shifting and winding in the business?" So I say to the Senator, if he cannot go before the American people with his amendment, and say to them, "Here is a proposition, based upon humanity and right; here are four million people that ought to be allowed to vote, and you are expected to come up and indorse the right." But he says he cannot carry it in that way, and he proposes a coercion upon the southern States, that they shall be compelled to do it. My colleague proposes to vote for it; and why? His voice has never been heard in Indiana to enfranchise the ten thousand negroes there; and although his party was in power in the lower House of the Legislature by a very large majority they could not pass it at the session just adjourned in that State. But here by indirection you propose to give the right of suffrage where all admit the negroes are not as well qualified as they are in the northern States. Up to this time, five States of the Union have allowed the elective franchise to the negro, and thirty-one have denied it; one out of seven have allowed it; and now the Senator says he dare not go before the Legislatures for the ratification of the direct proposition; but he will wrap this thing up—I was going to use an expression which I decline to use—he will so cover up his proposition as that the people will not understand the full force of it; or, in other words, so that he can appeal to the selfishness of the northern people to do in respect to other States what they will not do in respect to themselves, and thus carry a measure that will secure political power forever. Senators, do you concur in a proposition like

that? Can an Indian go before the Indiana Legislature and say, "Senators and Representatives, you must coerce the southern States to give the right of voting to the negro, but you must not give that right here at home?" That is what the Senator's proposition means. "We cannot trust these northern Legislatures, because they will not agree to the thing directly; but if we leave them out of it and make it applicable alone to the southern States, then we will get it through in some way."

Mr. President, I ask Senators the question: have the States, under the Constitution, the right to control the elective franchise? Does any Senator here question it? The Senator from Massachusetts does. He thinks that Congress may control the right of suffrage in the States, and upon the question of logic, I think he has the advantage of the majority of this body. Last week, or the week before, Senators voted for a bill which they themselves said was not constitutional except under the recent amendment. That amendment provided that slavery should be abolished and that Congress should have power to adopt appropriate legislation to carry it out; and you said that under that provision Congress had the power not only to declare the negro a freeman, but to go further, to go into the States and give him the right to testify in the State courts, and you did that upon the argument that it was necessary in order to protect him in his freedom. Was not that your argument? Then, when the Senator from Massachusetts says, "You may go still further; the right to testify in the courts is important to protect the colored man in his freedom, but the right to vote is more important," do you, Senators, deny that the right to vote is more important to protect the liberty of a man than the right to testify? Who denies that? Give the colored men of a State the right to vote, and if at all numerous they become a power in the State. They do not have to go to the Legislature and beg; they go there as the sovereigns, the makers of legislators, and say to those legislators, "You shall not come back here again unless you do us justice." Is not that the highest guarantee that can be given to a man for his liberty and his rights? I understand that to be the argument of the Senator from Massachusetts. If you said that in the exercise of your judgment to protect the freedom of the negro it was necessary to give him the right to testify in the courts, the Senator from Massachusetts has a right to demand your vote upon the other proposition, that the right to vote is important to protect him in his liberty and in his rights. I am not embarrassed by this question, for I did not vote for that bill. I do not believe in the construction that you put upon the constitutional amendment. I do not believe it authorizes such legislation, and therefore I am not embarrassed by it; but I think that when other Senators come to vote upon the proposition of the Senator from Massachusetts they will find some embarrassment.

Before this digression I was asking the question, does any Senator deny that the States, especially in the absence of legislation by Congress, can control the right of suffrage? If that is a constitutional right in the States, have you a right by any influence to attempt to control the States in its exercise? Can you send force into Indiana and demand of her Legislature that they shall enfranchise the colored men? Certainly not. Can you go into the Legislature of Indiana and persuade them to do that thing? Can you go there as a Senator for that purpose? Certainly not. Then can you send a bribe into the Legislature of Indiana to influence the action of that body upon a subject over which it has exclusive control? You say to Indiana, "You adopt a particular policy and you shall have enlarged representation in the House of Representatives." You say to Kentucky, "If you will adopt a particular policy in regard to a question over which you have exclusive control, we will bribe you by giving you a larger representation in the House." Sir, it is worse than force; it is a bribe, a bribe of political

power. The remark was made by a Senator—I think by the Senator from Maine—"You know the desire of men for power, and especially political power;" and that is the influence that is to be held out before independent States! Take Kentucky, which has a large colored population, a population so large that the enfranchisement of the colored people would materially affect the policy of the State, and the question is for that State to decide, shall they be voters? That is their question. We say so here. Kentucky is sovereign upon that question. We in Congress say to Kentucky, "You have that right, and we admit you have the exclusive right; it is so written in the Constitution; now, Kentucky, you have at present nine Representatives; if you enfranchise the colored people of your State you shall have ten; but if you do not you shall have but four or five or six." That is the influence which my distinguished friend from Maine says it is proper should be exercised. That is the indirection, that the Federal Government shall use its power to bribe a State by the offer of additional political influence in this Union if she will adopt a policy agreeable to us. I cannot believe that Senators will be influenced by that argument, although presented with so much ability; it is certainly impossible.

But, Mr. President, do we want to make all the colored people vote? I am very free to say that I do not. I do not want to make any of them voters. I am not going to discuss the question whether the colored man is the equal of the white man. I think there need be no discussion on a question like that. But without reference to that, without reference to the question of equality, I say that we are not of the same race; we are so different that we ought not to compose one political community. Had the white men of this country a right to establish a Government and thereby a political community? If so, they had a right to say who should be members of that political community. They had a right to exclude the colored man if they saw fit. Sir, I say, in the language of the lamented Douglas, and in the language of President Johnson, this is the white man's Government, made by the white man for the white man. I am not ashamed to stand behind such distinguished men in maintaining a sentiment like that. Nor was my judgment on the subject changed the day before yesterday by the lamentations of the Senator from New Hampshire [Mr. CLARK] sounding through this body like the wailing of the winds in the dark forest, "that it is a horrible thing for a man to say that this is a white man's Government," and asking "Would you have said so down in front of Petersburg?" or, "Would you have said so at the funeral of the colored soldiers?" &c.

Mr. President, there is a great deal said about the part the colored soldiers have taken in putting down this rebellion, a great deal more than there is any occasion for, or there is any support for in fact or history. This rebellion was put down by the white soldiers of this country. [Applause in the galleries.]

THE PRESIDING OFFICER, (Mr. POMEROY in the chair.) Order must be preserved in the galleries.

Mr. HENDRICKS. And it is not right to tear the laurels from white brows to put them on the brows of the colored people. They did not put down the rebellion. It was the white men that did it. I am asked if they did not both do it. I do not know that they both did it. I know that there was an attempt to take Port Hudson, and that there was no taking it when the colored soldiers were in the front. I think it possible, from my reading of that transaction, that they were placed in a hazardous position, where they should not have been placed when the mine was blown up at Petersburg; there was a good deal of boasting for a few days as to what had been accomplished by the colored soldiers, and a good deal of comparison between the colored soldiers and the white soldiers, much to the prejudice of the latter; but when we came to know all about it we found that the

colored soldiers did not accomplish much. The suppression of this rebellion was a great undertaking, and it took all the intelligence, the physical power, and the courage of the white men of this country to accomplish it. It was accomplished, and it is distasteful to me to hear claimed for a race that did but very little in it the honors that belong to the white men who were in the Army.

Now, sir, I am not in favor of giving the colored man a vote, because I think we should remain a political community of white people. I do not think it is for the good of either race that we should attempt to make the Government a mixed Government of white and black. I do not think it is for the good of the black man. I do not believe that the black man can maintain himself in that strife between him and the white man which that policy will establish. When it does come to a strife, we know what the result will be. We know when there comes that strife of races between the white men of the United States, the mixture of the best blood of Europe on this continent, and the black men, what will be the fate of the black man. I do not want it to come. I want a just policy, a fair policy, a safe policy, just to us, just to them, safe to us, safe to them, to be adopted now that they are thrown in this new position and relation. But I am not in favor of placing over the white man such a government as the Freedmen's Bureau establishes for such an end. I am not in favor of attempting to mix these races. I want to see the white race kept a white race, and the power in this country without mixture and without an attempt at mixture.

My colleague used a strong expression on this subject. That I may do him no injustice I will read his words:

"If you wish to avoid a war of races, if you wish to produce harmony and peace among these people, you must enfranchise them all."

That is a speech that I think he has never made in Indiana, and I am a little curious to see the impression it will make when he first repeats it there. I know very well my colleague will never repeat it with any argument drawn from the military achievements of the colored men in its support. I think he will never make an argument that they are entitled to it because they have done so much toward achieving the results of the war. But in support of the proposition my colleague reads from Chancellor Kent. He says:

"Chancellor Kent is still more explicit on the present point, for he says distinctly: 'If a slave born in the United States be manumitted, or otherwise lawfully discharged from bondage, or if a black man be born within the United States, and born free, he becomes thenceforward a citizen.'—Kent's Commentaries, 4th edition, p. 257, note."

My colleague stops there. That is not the question that we are discussing whether he is a citizen or not. A man may be a citizen and not a voter. He may be a voter and not a citizen. But my colleague stops at a comma. He ought to have read to the period and then he would have read to the Senate the following:

"But under such disabilities as the laws of the States respectively may deem it expedient to prescribe to free persons of color."

That is the entire sentence, that if they are made free they are citizens, but under such disabilities as the States may choose to prescribe.

Mr. LANE, of Indiana. Will my colleague permit me a moment?

Mr. HENDRICKS. Certainly.

Mr. LANE, of Indiana. Is not the power of the State to prescribe conditions precisely the same in regard to all citizens, whether white or black?

Mr. HENDRICKS. That is not the question I am discussing. It has not been a question in dispute whether the State had control of the elective franchise. It is absolute and perfect, and the exercise of it in the State of Indiana is in regard to white people. We say that when a foreigner comes to Indiana, after he has been in this country twelve months and in the State a certain length of time, he shall vote, because the people see fit to say so; and they

could, in the exercise of their power, have said three years instead of one. I do not dispute that the State has the control of the entire question. I believe I have answered my colleague.

My colleague, in support of his proposition that we must allow all men to vote, reads from Kent, that the colored people when manumitted become citizens; and I read the rest of the sentence, that they become citizens under such disabilities as the State may choose to prescribe. The difference between my colleague and myself is this: that I think the State has the right, she may at her pleasure discriminate when she comes to give the elective franchise, between the white men and the colored men, and I am in favor of the discrimination as she has made it.

Mr. YATES. I wish to address this question to the Senator from Indiana: whether, if I, as a citizen of Illinois, shall remove to Indiana and make my domicile there, there is any power in the Legislature of the State of Indiana to disfranchise me entirely? I admit that it can impose qualifications of residence; but is there power in the Legislature of the State of Indiana to disqualify me entirely, to exclude me from the franchise forever? That is the question.

Mr. HENDRICKS. Mr. President, if the distinguished Senator from Illinois should ever come to the State of Indiana, I have no doubt that he will be treated by the people of the State with all the courtesy that his high position in the country requires, and which he is entitled to. I do not think there would be any disposition in exercising the powers of the State to disfranchise any white man.

Mr. YATES. Could they do it?

Mr. HENDRICKS. I shall not answer that question, for I understand very well the next question the Senator is going to propose, and as that is a judicial question, I am going to leave that until the Supreme Court of the United States shall decide it, and perhaps the question will come up from the State of Indiana. We exclude colored people from the State by our constitution and laws. If they come in in contravention of the constitution, we deny them the right to vote. By a law passed at the last session of the Legislature, passed by the House of Representatives as well as the Senate, the House being largely Republican, it is enacted that the negro may testify in the courts of the State provided he came into the State before that constitutional provision was enacted; but if he has come in since, he shall not testify. These questions bring up the very one that the Senator is after. I am not speaking of the white people of Indiana. I am speaking about the right of the State to control the elective franchise, especially in regard to the colored people, answering the point that my colleague made in his citation from Kent.

Now, Mr. President, are these eleven States of the South in the Union? If not, what need is there that we shall amend the Constitution? Why amend the Constitution in respect to eleven States when you do not allow them to be represented here? If you hold that these States are in the Union, and if you intend ever to let them be represented here, is it not fair to let them be represented before you change the organic law to their prejudice? Is it not right that the humblest man, the poorest man, the guiltiest man shall be heard in his defense?

The criminal that sheds human blood upon your streets, you will not condemn to death until he has had an opportunity to be heard. You cannot cover up human nature with so much of crime and guilt as that you will deny his voice when he asks to be heard. Then, sir, if eleven States wish to be heard, if eleven States stand at the door of your Capitol and ask admission, that they shall be heard before you amend the Constitution to their prejudice, will you deny them that hearing? You deny that to them which you concede as a natural right to the poorest, the meanest, the vilest, and the wickedest of our race. If they are not here, we had better not legislate for them. If we do not intend to let them come back. My

colleague upon that subject, and it is a very grave subject, has used the following very eloquent language:

"If these rebel States constituted stars on your flag, they were as the lost Pleiades gone darkling through space, unobservant to any human eye. They could not be detected by the mightiest telescopic power that the judiciary of the country has ever been able to bring to bear upon them. They were not only out of the Union, but they were substantially and to all intents and purposes out of existence; and so the President must have regarded them in his proclamation."

That is a very beautiful figure, comparing these States to a system of planets going around the central power, the Federal Government. My colleague claims that these revolving stars have shot from their orbits, are lost, out of existence. Why, sir, to carry out his figure as drawn from astronomy a little further, what are the powers that keep the stars in their orbits? First, there is velocity that God has given them, which tends to throw them off in straight lines, and then there is the attraction to a common center tending to bring them to that common center, and the two powers operating equally they are held in their orbits. In the States there is a tendency, from an exaggerated view of State rights, to go off, but then there is the central power to hold them within the Union. Has the central power during the last five years been less than heretofore? The constitutional obligation is one of the central powers, the interest of each State to stand by the whole is another of the powers, but during these last five years we have resorted to the extraordinary power of war, and that war has brought them again within their orbits, and they are seen by the feeblest vision in their position.

As I said, Mr. President, it is not my province, nor perhaps would it be exactly in good taste for me to be the defender of the President in regard to his policy. I know nothing of his policy except as I have seen it in his acts, in his messages, and his proclamations. But in respect to these eleven States and his efforts to bring them into proper relations with the central Government, I do sustain him. I sustain him, not because I am of his party, but because I am of that common country which demands a restoration of this Union.

My colleague and other Senators have attacked the President, in very courteous language, I admit, in language becoming a Senator, in no coarse way, but in eloquent style and with force of argument, with regard to his policy establishing provisional governments. For awhile I hesitated to give my approval to that policy. It is not strange that I should hesitate, because I opposed the acts of usurpation which characterized to some extent the last Administration; but many of you Senators said these acts were right when the Constitution for the time being was not strictly regarded, when doubtful powers were exercised, and I can hardly see how you can find fault with the present Executive under circumstances of still greater embarrassment in the exercise of the powers to which he has resorted. I think the President did right in appointing provisional governors and setting up again the State governments; and why? I do not place it upon the war power. The war is over. It was over in May, when the President issued these proclamations and appointed these provisional governors. I cannot place it upon any war power.

But, sir, it was the duty of the President, as it is the duty of Congress, to guaranty to the States their republican form of government, and certainly that involves the guarantee of existence. When the war was over, when the people acknowledged themselves obedient to the laws of the country, these States were to some extent disorganized: at least they were not fully organized under this Government; their organization had relation more particularly to the southern confederacy. The President finding them in this disordered condition desired to bring them back, and he gave them all the aid and support he could in their efforts for that purpose. As an illustration, I will address the learned Senator from Ohio, the head of the Territorial Committee. In organizing a territorial government, where does he

find the express power in the Constitution? He does not find it there. It is not written that Congress may establish a government for the Territories, nor can he find it in the power that gives control over the public lands. That relates to property; but Congress is authorized to admit new States into the Union. [Mr. WADE nodded assent.] I am glad that the distinguished Senator agrees with me in that proposition. Congress has power to admit new States into the Union, and under that power Congress may set up such a government for the time being, for the temporary purpose of enabling the people of a Territory to form a State government. If for the purpose of enabling the people to form a State constitution with a view to come into the Union, Congress may set up a provisional government in the Territory, why is it under the power, or the duty rather, which is imposed upon Congress and upon the President to guaranty the existence of the States already in the Union, that that power shall not be exercised by the President by setting up a provisional government to enable the people in all respects to place their States in proper relations to the Federal Government?

Mr. WADE. But suppose the State governments stood intact; then how came the power in the President? Suppose his doctrine is true; that the State governments already existed as soon as peace was established.

Mr. HENDRICKS. I am not sure that the President ever said that the State governments already stood in their proper position. I rather think that the Senator has used a word that the President did not.

Mr. WADE. I will ask the Senator what his doctrine is upon that subject.

Mr. HENDRICKS. I thought you referred to the opinion of a more important person. I misunderstood the Senator.

Mr. WADE. Because it would not do for the President of the United States to set up provisional governors in Indiana, Ohio, or any other State that had not seceded. Why is it that he has the power to do it in these southern States if they occupied the same position when the war was over as they did before?

Mr. HENDRICKS. It is very clear that the President cannot appoint a governor in Indiana nor in Ohio, because those States are in a perfect state of organization. A war has not disturbed the State organization. But I think the President holds, and I think it is true, that a State as a State cannot cease to exist. There may be a government *de facto* for four years, and when the government *de jure* returns it is established, and it then simply wants the organization, the machinery, and for the temporary purpose of enabling the people to act, the President furnishes them a provisional governor. Under this power I think the President was justified in appointing these governors, to enable the people to fully organize and set in motion the State governments and place the States in all respects in proper relation to the Federal Government.

Mr. HOWE. Will the Senator allow me to ask him a single question, if it is not going to embarrass him?

Mr. HENDRICKS. Certainly. If I find it is embarrassing, I shall not answer it.

Mr. HOWE. Upon this point I have been extremely anxious to have some Senator explain what necessity there was for reorganizing what the Senator calls the government of one of those States. Take the State of South Carolina. What was the matter with the government of that State that it had to be reorganized? She having a Governor and her judges, having all the officers belonging to the government of a State, what was the necessity for reorganizing it?

Mr. HENDRICKS. I will answer that directly. I want to notice the position of my colleague, and in noticing that I think I shall answer the Senator from Wisconsin. My colleague says, taking the State of North Carolina for illustration, that North Carolina cannot be admitted here because she has not now a valid

State government which we can recognize, and he argues it thus: that the government of North Carolina up to 1861 was a State government under the Constitution and laws of the United States; that it was a valid government and a valid State constitution up to that time; then the war came and then there was a government established, he says, for the purpose of placing that State in relations with the southern confederacy, and the effect of that was to abolish, repeal, or abrogate the old law. I do not know about that. I think that the laws of a government *de facto* continue in force in relation to private interests and private matters and not political at all after the government *de facto* is gone, and will be respected by the government *de jure*; but a law or constitution that is political in its character, that was connected with the revolution, that was for the purpose of putting the State in relations with the southern confederacy, was *ab initio* invalid, it being part of the political machine which we do not regard as ever having had any validity. Then, I cannot quite see how an invalid constitution, established by the people during the rebellion for the purpose of placing the State in relations with the southern confederacy, had the power and force to abrogate and abolish a constitution valid up to that time. But I do not choose to consider that question. He may be right about that. But then he says that after the confederacy fell the constitution that is now over the State of North Carolina had no legitimate origin, has no validity, and therefore does not place the State in proper relation to the United States Government. I believe I have his assent that that is a correct statement of his proposition.

Now, sir, I do not believe that President Johnson himself could establish a State government. All that he could do was under the obligation to guaranty the existence of a State and its republican form. All that he could do would be to place the people, as far as was in his power, in a position to act themselves. When he does that, he appoints a provisional governor. That provisional governor calls a Legislature together. He has no power to call a Legislature; but under that call the people elect a Legislature, and that Legislature calls a convention, if you please, or the governor calls a convention and the people of that State respond to the call, and a convention representing the people fully and fairly is held for the purpose of establishing a State constitution, and that constitution is submitted to the people and approved by them in a fair vote. While it might be questioned whether the act of the governor in his proclamation for a Legislature and in his proclamation for a convention had any validity, yet, when the people acted upon it, and the people themselves establish a State constitution, it becomes as firm as the judgment and the will of the people can make it; and that, too, upon the common principle of law that a man may assume to be your agent and to transact your business and have no authority to do it whatever, yet if you approve his act it becomes your valid act.

Mr. HOWE. The Senator does not quite touch the point. What I want to know of the Senator is, what necessity there was for setting aside, for instance, Governor Magrath, who was elected by the people of South Carolina, I do not recollect in what year, perhaps in 1863 or 1864, and authorizing the same people to elect a new Governor? Has the Senator any reason for supposing that the people who elected Mr. Orr to be Governor of South Carolina in 1865 were dissatisfied with the election which they had made a short time before of Mr. Magrath? If they were not dissatisfied, where was the necessity for the President to authorize the same people who had elected Magrath to elect a new Governor?

Mr. HENDRICKS. That is not precisely upon the point I am discussing; but I shall attempt to answer the Senator. Governor Magrath was a part of the political movement establishing a southern confederacy.

Mr. HOWE. Now, what was the guilt, the

name given to the crime which that involved him in, and what was the legal punishment for it?

Mr. HENDRICKS. I am not discussing that question. That question the Senator knows very well goes before the courts. I might ask the Senator whether there can be treason after belligerency is recognized; but I am not going to be called off, and it is not fair, allow me to say, to try to divert a Senator from his argument by asking him something that may be regarded as sharp. It has nothing to do with the question.

Mr. HOWE. No, Mr. President—

Mr. HENDRICKS. I will not be interrupted further. Whether Governor Magrath was a traitor or not has nothing to do with the question as to whether the constitution of North Carolina is now valid. I am always willing and very well pleased to have Senators interrupt me in the few remarks I occasionally make, but I want it to be upon the subject I am discussing. That is fair to me; it is fair to the subject.

Mr. CLARK. Will the Senator allow me to interrupt him right upon the point, if I understand it?

Mr. HENDRICKS. Certainly.

Mr. CLARK. I understand the Senator to say that though the act of the President appointing provisional governors might not have any special validity, yet when the people of a State acted upon it by electing a Legislature and Governor, it would be a valid act of the people. I want to inquire how it was that after the people had elected a Governor in some of these States and elected a Legislature, the President still, in defiance of what the people in those States had done, kept the provisional governor in power and refused to recognize the Legislature until they had done certain things.

Mr. HENDRICKS. That is not the question I am discussing either, Mr. President.

Mr. CLARK. Then I misapprehended the question.

Mr. HENDRICKS. The Senator did misapprehend the question. If the President of the United States attempted to control the action of the Legislature where the Legislature was fully organized, and after the people had elected their Governor pursuant to his plan, it was an act which he was not justified, in my judgment, in doing under the circumstances.

Mr. CLARK. I have my question answered.

Mr. HENDRICKS. That is my answer. It is nothing but an opinion. No doubt he thought whatever he did was right. I say the President had a right to do what was necessary to be done to place the people, in their disorganized condition, in a position to continue the State of North Carolina as a State and place it in proper relations with the United States. Then the States had to be placed in proper relations to the Federal Government, and the President has attempted to do that. Now—I do not care about the Senator answering now, but at his leisure—I will ask the Senator from Wisconsin this question: if the President could not confer any legal power upon the provisional governor, and the provisional governor without any legal authority called a convention, and the people responded by electing delegates, and the delegates made a constitution which the people indorsed, is that not a valid constitution?

Mr. HOWE. I should like to answer the question now, if the Senator would prefer it.

Mr. HENDRICKS. Very well; I have no objection.

Mr. HOWE. If that was a State in which that thing was done, like the State of Ohio and the State of New York, where the people have prescribed in their organic acts when and how their constitutions may be altered, and the President of the United States had interfered, and in defiance of the provisions of their organic act had summoned the people, or a part of the people, to form a new constitution, and set up a new government overthrowing the existing one, I should say it was utterly illegal, utterly void, and revolutionary. That is what

I should say if South Carolina was such a State as these. I do not say these acts are to be characterized in that way, because I say South Carolina was not a State.

Mr. HENDRICKS. The Senator is known to us all as quite as clear-headed a gentleman as we could find anywhere, and it is astonishing that it requires so many "ifs" to answer a straight question.

Mr. HOWE. Only one.

Mr. HENDRICKS. The question was, if the people of the State have elected the convention, do not they breathe validity into the acts of that convention; and especially if the constitution is submitted to them and they vote for it, do they not breathe the breath of political life and power into that instrument? There is as far as I choose to go. There is where I rest it. The President, for the purpose of placing the people in a position to place their State governments in proper relations to the Federal Government, has done what he did, and then the people take it up, and they make the State constitution—a thing that no President can do. It is the voice of the people that makes a State government. Then that State government is established, established at the request of the President, if you please. Why is not that a valid constitution and State government? That is the argument that I present to my colleague. He took the ground that the governor being appointed without sufficient authority on the part of the President, and issuing a proclamation that he could not properly issue, therefore no legal government could result from it. Sir, how does the State of California appear here to-day? After the conquest from Mexico she never had a territorial government. Her birth was in military rule. A military commander inaugurated proceedings, and then the people took hold and established a State constitution, and Congress took the people of the State by the hand, not because the military governor had any power, not that he was appointed military governor, but that the people had acted upon his suggestion and the act of the people made a valid and powerful State government, which is now the pride of the Union.

Mr. President, this doctrine of my colleague, that there are no States in the South, that they are lost stars, that they have gone out of existence, I think one of the most dangerous heresies of those times, and if persisted in will lead us over a precipice that I hope neither we nor our children shall ever see. The distinguished Senator from Kentucky [Mr. Gurnie] told you the other day that you could not govern eight million people without representation. Do you think you can, permanently? If so, the men of 1866 are not the men of 1776. Three million people because they were taxed without representation defied the power of England and threw down defiance at her feet. Does any Senator suppose it is possible to govern so large a country as the South, so numerous a population, so brave a people, so gallant a people as they have shown themselves to be in this contest with the grandest people on earth, our northern soldiers? No, sir, it cannot be done. They must be brought into relations with this Government in every respect.

But, Mr. President, I ask my colleague and I ask other Senators, how is it that you maintain the doctrine? This war commenced in April, 1861, with the firing on Fort Sumter. Shortly after that there was a battle across the river here, at Bull Run. A few days after that Congress passed a resolution declaring the purpose and policy of the Government in the prosecution of the war, and I will read it. Although it has been so frequently read in this body, yet it is a necessary part of any argument that can be made on the subject:

"That this war is not prosecuted upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and all laws made in pursuance thereof, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; that as soon as these objects are accomplished the war ought to cease."

That was the battle-cry. When Congress passed that resolution almost unanimously—my colleague, I believe, supporting it, he then being a Senator from the State of Indiana—it was as if printed upon every banner at the head of every regiment of your Army; and wherever those banners were carried by the victorious hosts of the North that sentiment was carried. It was the boast of the soldier; it was the boast of the brave commander everywhere that this was not a war of oppression, that this was not a war of subjugation, but it was a war to bring the States again into their proper relations to the United States, and that they should be brought in with all their rights, privileges, and dignity unimpaired. That is what you said to the country, Senators; that is what the State Department said in its correspondence to the nations of the earth. And again, sir, President Lincoln, a year and a half later, in a proclamation to the country, dated September 22, 1862, used this language:

"I, Abraham Lincoln, President of the United States of America, and Commander-in-Chief of the Army and Navy thereof, do hereby proclaim and declare that hereafter as heretofore the war will be prosecuted for the object of practically restoring the constitutional relation between the United States and each of the States, and the people thereof, in which States that relation is or may be suspended or disturbed."

The purpose of the war, he said, was simply to bring the States into practical relations again to the Government. In various acts you have recognized these States; I will not trouble the Senate to repeat their provisions—among them were the act apportioning representation, and the act imposing taxes upon the people of the different States, and that act again referred to in the laws of 1864. These are instances in which Congress has recognized the States, but the great controlling action of Congress upon this subject is this resolution of 1861.

Mr. President, you said to the gallant men in the ranks, "You are not called upon to fight in a war of aggression, you are called upon to hold up the Constitution of your country, you are called upon to fight to restore this Union, not to destroy;" and in that cause and for that cause they went forth; they fought the battles; and now that the battles have been fought, and now that they come home, many of them wounded and scarred, after standing upon the rough edge of a hundred battles, can you, Senators, take that assurance back from them; can you now say to them that this was not a war for the restoration of the Union, but it was a war for conquest, and we will hold these States as subjugated and conquered provinces? When you do that you violate the highest faith of the nation, not only to the soldiers of the North, but the faith of the nation to the loyal men in the southern States, the faith of the nation to all the nations of the earth.

How did my colleague, how did other Senators, come to vote a few weeks ago for a bill which you all admitted was not constitutional except under the provisions of the constitutional amendment? The chairman of the committee who presented that bill said that the bill was not constitutional except for that amendment. He did not claim constitutionality for it unless that amendment was a part of the Constitution of the United States; and when did the amendment become a part of the Constitution? When was it adopted? When it received the vote of a portion of these southern States, together with the northern States, Mr. Seward published to the world that this amendment was adopted, because, of the thirty-six States, three fourths of them had agreed to it. You Senators who claim that these States are out of the Union, are willing to act upon a constitutional amendment which has no validity unless you recognize the action of those States in respect to it. You vote upon it. You say in the most solemn manner possible that these States are competent to approve a constitutional amendment, and you therefore adopt it as a part of the Constitution; but now you say they are not in the Union to be represented. Is that right?

But my colleague with great ingenuity has

referred to two instances in which he says Congress has ignored the existence of these States. The Senator from Ohio [Mr. SHERMAN] proposed a resolution that a quorum of the Senate consists of a majority of the Senators duly chosen. My colleague says that these States were not represented in the Senate at the time their existence was ignored by the adoption of this rule in the body. I think not; the Senate at the time thought not. That was adopted May 4, 1864. The Constitution provides that a majority of each House shall constitute a quorum. Now, what is a House? What is a House as applied to the Senate? A quorum of the Senate is a majority of the Senate. In respect to the other House there is no difficulty about this question, for the Constitution defines the House of Representatives as composed of "members chosen every second year." It is composed of members "chosen," not of members that might be chosen and those that are chosen, but of those who in fact are chosen. But the language of the Constitution in regard to the Senate is a little more difficult on this question. The Senate of the United States, the Constitution says, shall be composed of two Senators from each State chosen by the Legislature thereof for six years. The language is "chosen," and the Senate adopted this rule upon the ground that Senators who were chosen constitute the Senate as a body. It was upon that principle that the resolution was adopted, and I think the debate, which was mainly maintained by the Senator from Maryland, [Mr. JOHNSON,] holds that ground. This resolution was not adopted upon any ground that the States were out of the Union, but upon the ground that the Senators who had been "chosen" composed the Senate.

But my distinguished colleague has referred to another instance which I think he will find a little unfortunate for himself. He refers to the joint resolution of last winter in which we denied a vote to Louisiana and Tennessee in the Electoral College for President and Vice President. That resolution was reported to this body by the distinguished Senator from Illinois, [Mr. TRUMBULL,] and it read:

"Whereas the inhabitants and local authorities of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee rebelled against the Government of the United States, and have continued in a state of armed rebellion for more than three years, and were in said state of armed rebellion on the 8th day of November, 1864: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled. That the States mentioned in the preamble to this joint resolution are not entitled to representation in the Electoral College for the choice of President and Vice President of the United States for the term of office commencing on the 4th day of March, 1865; and no electoral votes shall be received or counted from said States concerning the choice of President and Vice President for said term of office."

My colleague holds that this resolution ignores the existence of these States as States. Let us see. The gentleman who reported the resolution offered an amendment to strike out from the preamble the words "and have continued in a state of armed rebellion for more than three years, and were in said state of armed rebellion on the 8th day of November, 1864," and to insert instead of them these words, "and were in such state of rebellion on the 8th day of November, 1864." The Senator from Illinois, in maintaining this resolution which he reported, said:

"The Committee on the Judiciary, by the amendment they have reported, propose to alter the preamble somewhat. The object of this alteration is to avoid as far as possible any commitment upon the subject which the amendment of the Senator from New Jersey brings up. The object of the amendment of the committee is simply to put the preamble in such form that if it is adopted, and the resolution passed, Congress will not have decided whether Louisiana is in the Union or out of the Union, whether she is a State or not a State. It will be time enough to decide that question when it is presented to us."

Now, I will call my colleague's attention to an amendment that was offered by the Senator from New Jersey, (Mr. Ten Eyck.) Mr. Ten Eyck said:

"I move to strike out of the preamble the word 'Louisiana.' I will simply state that it is a matter of history that the State of Louisiana has reorganized,

or at least attempted to do so, and in the opinion of many, and perhaps most, of the loyal citizens of that State, has reorganized as a State."

He said further:

"My object in moving this amendment is, under this state of facts, that some opportunity may be afforded to a loyal people who have suffered all the horrors of the rebellion, who have got the better of it and put it under foot, of coming back and resuming their place in the councils of the nation."

That is what Mr. Ten Eyck said in support of his amendment; he said he wanted these people to have the right to vote for President of the United States; the resolution of the Senator from Illinois said that because of the rebellion on the 8th day of November, 1864, the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Louisiana, Tennessee, and others, should not be allowed to cast a vote in the Electoral College for President and Vice President. The Senator from New Jersey, Mr. Ten Eyck, moved to strike Louisiana from the list, and to give her a right to vote for President and Vice President. That brought the very question up. In support of his amendment he urged that he wanted the loyal men of Louisiana to have an opportunity to place themselves properly in the Union, and that their voice should be heard. Some debate went on, and the vote was taken on Mr. Ten Eyck's amendment to strike out Louisiana from the disability, the effect of which would have been to allow her to vote for President and Vice President.

The vote being taken on the amendment was—yeas 16, nays 22.

The yeas were—

Messrs. Cowan, Dixon, Doolittle, Farwell, Harlan, Harris, Howe, Lane of Indiana, Lane of Kansas, Nesmith, Pomeroy, Ramsey, Ten Eyck, Van Winkle, and Willey.

I voted against striking it out, for I did not think the government established there by General Banks at the point of the bayonet was such a government as we ought then to recognize. The question had been very fully discussed, and on those grounds I opposed it; but my colleague voted to strike Louisiana from the resolution, to allow Louisiana to cast her vote for the President of the United States in the Electoral College; and upon what ground? He now says she is not in the Union; she is a lost star again wandering beyond the observance of any judicial telescope. That is her present condition; she is not to come here and plead her cause; but last year before it was announced that political power was to be held and permanently secured before Louisiana or any other southern State should come back, my colleague then voted as he thought was right, that Louisiana was a State in the Union, and that her vote for President cast on the 8th day of November, 1864, was a valid vote that ought to be counted. How is it that she is out of the Union now, but was in this Union then? I shall not pursue that argument further.

When, I ask, does my colleague propose that these States may come back? Is this Union permanently dissolved? My colleague repeats the question and says, "They cannot be admitted at present with benefit to themselves or safety to the nation," and he adds:

"And the resurrection trumpet shall sound the summons of these rebels to the general judgment before my voice or vote shall summon them to these halls."

"But, Mr. President, gentlemen ask us, when shall these States be restored?"

Yes, Mr. President, gentlemen ask that; two hundred and sixty thousand voters in Indiana ask it to-day; one hundred thousand soldiers in Indiana ask the question; the soldiers all over this country ask the question, when shall the fruit be gathered for which we plowed southern soil? When is this Union to be restored for which we fought and left many a comrade in a lonely grave behind? That is the question that is being asked, and it is a question, Senators will allow me to say, which must be answered. When? My colleague says when the judgment trumpet shall sound, not before, will he admit rebels. Then a generation must pass away. I say come back now; in all cases where the people of the southern States have formed State governments, have maintained peace and obeyed

the law, and ask that their States shall be placed in proper relation to the Federal Government, I say now, I say now as an avoidance of future trouble, restore the Union at once.

But, Mr. President, my colleague asks for some more blood. He says:

"But, Mr. President, gentlemen ask us, when shall these States be restored? Not by my vote, until all these constitutional guarantees are placed utterly beyond all recall."

When is that to be? That is distinct enough. All these constitutional amendments must pass the ordeal of Congress and then go before the States and take the round of years until twenty-seven of the States approve them; and not till then will my distinguished colleague hear the petition of the States of the Union at the door of the Capitol—

"Not until the leading traitors in this rebellion shall have been punished, and shall have met the felon's doom."

That is to be in the way. If the President will not cause to be hung all the men that my colleague thinks ought to be hung, he will not let the States come back at all! Upon what ground is that based?

But, Mr. President, we hear a good deal said about blood now. Yesterday the Senator from Oregon [Mr. WILLIAMS] criticised the President for his leniency toward the South. A few days ago the Senator from Ohio [Mr. WADE] made a severe criticism on the President for his leniency, and my colleague asks for blood. Mr. President, this war commenced with blood; ay, blood was demanded before the war. When the good men and the patriotic, North and South, representing the yearning hearts of the people at home, came here in the winter and spring of 1861 in a peace congress, if possible to avoid this dreadful war, right then the Senator from Michigan [Mr. CHANDLER] announced to his Governor and the country that this Union was scarcely worth preserving without some blood-letting. His cry before the war was for blood. Allow me to say that when the Senator's name is forgotten because of anything he says or does in this body, in future time it will be borne down upon the pages of history as the author of the terrible sentiment, that the Union of the people that our fathers had cemented by the blood of the Revolution and by the love of the people; that that Union, resting upon compromise and concession, resting upon the doctrine of equality to all sections of the country; that that Union which brought us so much greatness and power in the three quarters of a century of our life; that that Union that had brought us so much prosperity and greatness until we were the mightiest and proudest nation on God's footstool; that that grand Union was not worth preserving unless we had some blood-letting.

Mr. President, it is not the sentiment of the Senator's own heart; it is the expression of a bitter political hostility; but it will carry him down to immortality; he is sure of living in history; he has gained that much by it. Sir, the thirst was for blood before the war, and now that the war is over, that these people have fallen upon their knees in your presence and say, "We are a conquered people, we acknowledge it, we promise our allegiance to the Government, we promise obedience to the law, we have sent our soldiers home, we call for no armies in our midst to keep us in obedience to the law, we ask again that our States shall come back into the council chamber of the nation," and the cry is, "Blood! blood! blood!"

Mr. SHERMAN. I would like to ask the honorable Senator a single question—whether he thinks it is an unreasonable demand for us, who are the victors in the contest, to say to them that we are willing to let them come back into the Union on precisely an equal footing with ourselves, man for man, woman for woman, child for child. All we propose to say to them is, that if by their law they will exclude from all political power a race who have aided us, we will not allow them to exercise political power for that race. That, as I understand it, is the whole question. Now, I ask the honorable Senator to say whether he thinks that is a hard condi-

tion to impose on them in coming back into the Union?

Mr. HENDRICKS. I spent about half an hour, I think, of the time of the Senate, which I have occupied in discussing that very question, and trying to show why I thought it was not right and it was not expedient for the United States Government to attempt to control the right of suffrage in the States. If I failed in the course of that argument to satisfy the Senator, I cannot do it now, as I am about closing my argument. I am now discussing the question made by my colleague, whether these States shall be kept out until all the leaders of the rebellion have met a felon's doom. That is the proposition. I resist it. I ask that these States shall come in now. Congress has no control over the punishment of anybody; that is with the Executive, if the Executive has any control over it at all, or it is with the judiciary. You can judge for yourselves whether the reasons given by Chief Justice Chase why he will not hold courts in Virginia are satisfactory or not. You can judge for yourselves of the reasons given by the Attorney General of the United States why the trial of Mr. Davis cannot take place outside of Virginia. I do not choose to discuss these questions. If my colleague and other Senators are not satisfied with the decision of the Attorney General, let them go and argue it with him. I have not taken time to decide it for myself. The Attorney General says that he cannot be tried properly outside of Virginia. I do not suppose that any Senator asks that anybody shall be punished except upon some trial. You do not want anybody to go to Fortress Monroe and shoot Jefferson Davis. If you want it done, let the man who wants it done in that way go and do it. I want him and all others that are to be punished to be put upon trial before a court having jurisdiction of the cause; where the proceedings, where the finding, where the execution may be worthy of the great country and the great people with which we are connected.

But, Mr. President, these Senators want more blood, and they do not like the course of the President of the United States; and how is it between them and the President? I have spoken of the Senator from Oregon, he living out in the shades of the mountains, and beyond them, and his people having seen but little of the hardships and terrors of this war. They scarcely knew of it. The sound of the cannon could not pass beyond the mountains. They would scarcely know of it if the tax-gatherer did not go there. The Senator from Michigan, [Mr. HOWARD,] the Senator from Ohio, [Mr. WADE,] my colleague, ask for more punishment upon rebels than the President is willing to give. How do they know the war?

Mr. HOWARD. I ask the Senator from Indiana what measure it is for which I have voted or spoken that he refers to. I certainly presented a resolution in this body recommending respectfully to the President of the United States that he should put Jefferson Davis and others upon trial, not for treason, but for the crime of assassinating the late President of the United States, because the Secretary of War in an official report made to the President states expressly that he stands in that Department charged with the crime of inciting that assassination. Now, sir, I ask the Senator from Indiana whether he would or would not, if it were in his power, put Jefferson Davis and his accomplices upon trial for that atrocious crime; and if he would not, upon what ground it is that he has the assurance to charge other honorable men on this floor with thirsting for blood, more blood, a cry that is too ridiculous to receive any further answer.

Mr. HENDRICKS. If the Senator from Michigan is through I will answer him. If I were an officer of the Government upon whom the responsibility of deciding the question was thrown by the laws, and there was evidence before me that Jefferson Davis had been guilty of the offense of which the Senator speaks, I should certainly order him to be put upon trial, if I had the authority so to order, before some court that had jurisdiction of the case; and if

the penalty was death, found by a court having jurisdiction, I should feel it my duty, and as pleasant a duty of that sort as the law could impose, to see that the penalty was executed.

Mr. HOWARD. Upon what ground, then, does he charge other Senators who have supported the measure to which I have referred with merely thirsting for more blood? If that is his opinion; if he is willing to take blood, and would take it with pleasure, as he says he would, upon what ground does he make it a matter of reproach against others here that they would do the same thing?

Mr. HENDRICKS. The Senator has used one word that is not for the Senate, and if he were twice as old as he is I would throw it back to him. He asks upon what grounds I have the assurance to say a thing. Sir, I do whatever I think is right here, and in respect to it the Senator cannot use the word "assurance." [Applause in the galleries.] He is not entitled to do so. [Renewed applause.] Do not let him dictate to me. I have treated this subject fairly, and if he does not want to be included among the Senators who have asked for blood I exclude him from that category. I have made my remarks now to my colleague; I have been discussing my colleague's proposition, which I read and I will read it again. The question which my colleague asked in his argument, and which he answered for himself, was this:

"But, Mr. President, gentlemen ask us, when shall the States be restored? Not by my vote until all these constitutional guarantees are placed utterly beyond all recall; not until the leading traitors in this rebellion shall have been punished and shall have met the felon's doom."

The felon's doom is death, and this Union is not to be restored until that work is done!

Mr. LANE, of Indiana. Will my colleague pardon me for interrupting him for a moment?

Mr. HENDRICKS. I yield with pleasure.

Mr. LANE, of Indiana. My colleague surely does not intend to represent me as asking for the blood of these felons, except by a trial. I have never for a moment entertained such a thought. I have no doubt whatever that a military commission has full authority to try them; but without trial and without conviction, I should demand the blood of no man.

Mr. HENDRICKS. I did not understand my colleague as being in favor of somebody going and shooting them without authority. I am discussing the question whether he can, as a Senator here, say, "The President has been too lenient, he has not tried enough men, and I will not consent to his policy for the restoration of these States until there is more blood shed." I deny that proposition. If these States are here clothed with the rights of States, and their Senators come here with the proper certificates showing their election, neither my colleague nor any other Senator, in my judgment, has the right to say to these States, "Go back until some felons are executed."

Sir, the President of the United States has shown a great deal of leniency. When he came into power I was afraid that the extreme would be the other way. Consider the difference of position between the Senators on this floor, who criticise the President on this question, and the President himself. I say with all kindness and respect, that I think they have not considered the position the President has been thrown into during this war. These Senators of the North have friends and relatives to mourn for as we all have, but otherwise they have the prosperity that attended the war in our section of the country, enhanced prices of property, the results of an inflated currency. They have had prosperity in the North, from this cause, for a time. They have had political power. They have placed one star upon one man's shoulders; two stars, by their political influence and recommendations, upon another man's shoulders. They have enjoyed power, safety, peace, quiet at home, and high positions of honor here in the Senate; while Andrew Johnson, a citizen of Eastern Tennessee, when the war broke out, rallied the Union men around him. They stood their position among the mountains, as my colleague said the other day, as long as

it could be held, he, during that time, enduring scorn, derision, and threats of his foes. Finally danger became so imminent that he had to leave his State, an exile, and wander in other States for two years, to seek that safety and that quiet which he could not enjoy at home. Stung by personal abuse, his property gone, stung by being driven out of his home an exile, his family scarcely safe at home, brought, by the providence of God, to be President of the United States, he can be lenient and kind. He forgets for the time being his personal wrongs. He forgets any party allegiance in that high obligation and duty which he owes to his country. He wants to restore this Union. He wants these people to come together. I was taught by a soldier one night, in traveling from the city of New York to Philadelphia and onward west to my home, a lesson which I do not expect soon to forget. I fell into conversation with him. I found that he was from the camp in front of Petersburg. Among other things, he told me that the soldiers frequently stood together upon the lines of each army and fell into conversation, and they talked. One asked the other, "Don't you wish this was over and we could go home?" The reply from the enemy would be, "It would delight my heart." Said the soldier to me, "Stranger, if Abraham Lincoln and Jefferson Davis could stand together, face to face, as we soldiers stand face to face on the border line between the camp, and talk as we talk, this war could be closed in one month."

Now, sir, that soldier knew what was in the heart of man. He knew that kindness and conciliation could frequently bring peace when it would take long months of bloodshed to do so. But the bloodshed is over; the armies are disbanded; we are in a state of peace; and the President says that the resolution of 1861, which you Senators adopted, ought to be carried out. It is the pledge of Congress; it is the pledge of the Department of State to foreign nations; it is the pledge made to the Army, to the country, to the world, that when this war is over all these States shall come in with all their dignity, rights, and powers unimpaired. Mr. Johnson, President of the United States, standing upon that resolution, says, "Let them come." He has recognized them in all the relations to the Government to which he is competent to recognize them. The duty is ours, he says, to complete the work. It is a high duty. It is a duty, brother Senators, that we cannot discharge as partisans. It is too great a duty to discharge in that spirit, and I was astounded when I saw in the advocacy of this resolution the perpetuity of the power of the Republican party urged as a reason. We are in times that do not admit of that consideration.

Mr. President, my colleague referred to our public debt, I believe, and to the pensions to the soldiers, &c., as a reason why we ought not to admit Senators and Representatives from these southern States. I believe he intimated that these States being represented our public debt would become insecure, and the public credit impaired, on the ground that they might not vote for the necessary revenue. I look upon that question from another stand-point. What is the security for the public debt? The debt is large; but if the right policy be pursued it is not beyond the power of the people to pay. I am not for repudiation. I consider repudiation a deep disgrace. But where is the guarantee for that debt? Huge as it is, what is the guarantee? Peace, prosperity to the people. If you send out your duplicates into the country for the collection of \$350,000,000 every year, must you not have a prosperous people at home to meet that demand; and what shall bring us prosperity but union, cordial, hearty, permanent, so that we of the West can seek our natural market along the shores of the Mississippi and the Gulf, so that the people of the North may buy their cotton, their sugar, and the staples of the South from that section, so that commerce shall return to its ancient channels? These are some of the assurances. And in the judgment of the world, what is the highest

guarantee? A united people under the Constitution that all do love and respect. Let it be announced over this world that these States are again cordially united, that there is no longer schism or discord in our ranks, then, indeed, the credit of this Government will be established; but if it goes abroad that this Union cannot be restored, that the war has failed, that we keep the States out, that we intend to govern them by military power, let any sentiment of that sort go abroad, and as that sentiment gains power and influence in the country our credit must go down.

Does any Senator here fear foreign Powers? I do not. I do not think we need have any foreign wars. But we want foreign nations to respect us, and that is the best guarantee for peace. Let them know that they cannot hurt us, but we can hurt them, and we have the highest assurance for respect and peace from all nations. Now, sir, what is the best guarantee we can give? What is the best assurance to foreign nations? It is that we are able under all circumstances to defend ourselves. Let us be a united people, united heart and hand, the Constitution governing all over the land, the flag everywhere respected, men cordially heart to heart again. When that time comes foreign nations will look upon us as again one of the established Powers of the earth to be respected, and we will have peace.

This is the gravest question that has ever been discussed in America. Nothing like it has before been presented. The discussions of this Congress, in my judgment, will go down as the most important pages of American history. As we decide this question it may be—I will not prophesy—but it may be the most important decision ever made in this Government from the time our fathers agreed to lay the Articles of Confederation aside and adopt the Constitution of 1789. Why cannot we let these States come in? Are party considerations to govern us? Certainly not. What shall govern us, then? Are you afraid of the vote of Senators and Representatives from the South, that they will prevent your doing what is right in respect to the laws? When shall that cease? You have, as you claim, a strong guarantee here; you will not allow a man to come into this Chamber unless he takes the test oath. Is not that guarantee enough? These States have laid down their arms, they have complied with all the conditions required in the resolution of 1861. They come and ask again for representation. You say "No, no, no; we will not hear you, we will not even give you the courtesy of seats upon this floor."

Is that policy? Is it right? I know many have been traitors, (whether it can be defined treason in the courts is a question about which men differ,) but they have been guilty of moral treason in organizing a rebellion; but they have been conquered, and what is right between man and man, as a general thing, is right among nations and people. If either one of the Senators have a controversy with his neighbor, and it comes to blows, or even to weapons, and after the fiercest strife you disarm him, and have him entirely in your power, and he sues for mercy, I know there is not a Senator who would deny it. You would not say that you will lift the point of your dagger from his breast, and that you will let him up again if he will give you certain guarantees. No, you would say, "You are my conquered enemy; you acknowledge it; and I go no further in this contest;" and if attacked by another you will stand by him. That is human nature; it is honorable; it is right. Here are States that lay down all arms of opposition and ask to be admitted into the Union. Do not Senators believe the prospects of our country would be brighter at home and abroad, that every interest would be promoted by letting them come in? Mr. President, I shall do all in my power in a sense of right and duty and obligation to the country to restore these States. I hope that it will not have to go to the country as a political question, but I am not afraid of the judgment of the country upon it. The people say the war is over and

the States ought to be in. Peace is here and we ought to have the results of peace. I am not afraid of the people if this is to be made a question, but I seek no such question. In good faith I ask that these States shall come in. I believe they have a common interest in our prosperity, and our destiny may depend upon it.

Mr. CHANDLER. Mr. President, the Senator from Indiana has arraigned me upon an old indictment for having written a certain letter in 1861. It is not the first time that I have been arraigned on that indictment of "blood-letting." I was first arraigned for it upon this floor by the traitor John C. Breckinridge, and I answered the traitor John C. Breckinridge, and after I gave him his answer he went out into the rebel ranks and fought against our flag. I was arraigned by another Senator from Kentucky, and by other traitors upon this floor. I expect to be arraigned again. I wrote the letter, and I stand by the letter; and what was in it?

What was the position of the country when that letter was written? The Democratic party, as an organization, had arrayed itself against this Government—a Democratic traitor in the presidential chair and a Democratic traitor in every department of this Government, Democratic traitors preaching treason upon this floor and preaching treason in the Hall of the other House, Democratic traitors in your Army and in your Navy, Democratic traitors controlling every branch of this Government. Your flag was fired upon, and there was no response. The Democratic party had ordained that this Government should be overthrown, and I, a Senator from the State of Michigan, wrote to the Governor of that State, "Unless you are prepared to shed blood for the preservation of this great Government, the Government is overthrown." That is all there was to that letter. That I said, and that I say again, and I tell that Senator if he is prepared to go down in history with the Democratic traitors who then cooperated with him, I am prepared to go down on that "blood-letting" letter, and I stand by the record as then made. [Applause in the galleries.]

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) Order!

Mr. CHANDLER. What was the condition of the country when that letter was written? Sir, you had a band of Democratic traitors organized in this town as the National Rifles drilling every night to overthrow this Government by a mob. You had the Democratic traitor Buchanan in command of your navy-yard, where all your munitions of war were stored. You had the Democratic traitor Robert E. Lee in your War Department at that very moment. And now I am to be arraigned here as a blood-thirsty individual because when these Democratic traitors stood here in these Halls and proclaimed that this Government was overthrown, that they would not live with us in any event; because I wrote to the Governor of my State that unless he was prepared to shed blood for the preservation of this Government it was overthrown, now I am to be arraigned as going down to be remembered in history! Yes, sir, I shall be remembered, and I am proud of the record. May it stand, and stand as long as this Government stands. When that Senator and the men who cooperated with him shall have gone down to eternal infamy my record will be brilliant. [Applause in the galleries.]

The PRESIDING OFFICER. Will the Senator suspend his remarks? The Chair has repeatedly called the galleries to order; and if applause or any demonstration of this kind be repeated, he will feel it his duty to clear the galleries.

Mr. CHANDLER. I will take a future occasion to respond to this blood-letting accusation. I did not expect to make any remarks this afternoon. I have risen merely on the spur of the occasion; but at some future day I shall ask the indulgence of the Senate to go on with this subject.

Mr. YATES. Mr. President—
Mr. HOWE. If the Senator from Illinois will permit me to say a word, not interfering

with the right of the Senator from Illinois to the floor, but simply to make an explanation of a little matter that occurred during the remarks of the Senator from Indiana.

Mr. YATES. I yield the floor for that purpose.

Mr. HOWE. I rise not for the purpose of replying to the speech of the Senator from Indiana, for I have not had the advantage of listening to it all; but I was in the Senate a short time and by his permission put one or two questions to him. The question I wished to have answered particularly, to enable me to understand what necessity in his judgment existed for overthrowing the political organizations which were known as the governments of the rebelling States when the rebellion was suppressed, and when their armies surrendered. I put that question to the Senator, and he attempted to answer it. In the course of his answer, I thought I could induce him to be more explicit by interposing another question, which was as to the particular crime that the Governor of South Carolina had committed when he allied himself to the rebellion and to that political organization known as the confederacy. The Senator pronounced that question to be unfair to him, because he said that he was not prepared to enter into the discussion of the question whether Governor Magrath could be tried for treason or not. I rose for the purpose of explaining the purport of that question, seeing clearly that he misunderstood it. The Senator very abruptly refused to allow me to make the explanation. I think I can call him to the stand as a witness that I am not in the habit of pressing questions which are unfair. I did not mean to interpose one then which could be objected to upon any such ground.

What I wished to call his attention to was this one peculiarity of our Government: I do understand that it is essential to the character of an American State that it should have the right to choose its Governors. When the people of a State have chosen a Governor, I understand that two rights are secured: first, the right of that man to be Governor during the term for which he is chosen, and second, the right of the people to have his services as Governor. Now, in some year, I do not recollect when, the people of South Carolina, who he says constitute the State, chose Mr. Magrath for Governor. If South Carolina remained a State with the rights of a State, I think the right was secured to Mr. Magrath to continue Governor of that State during his term; and the right was secured to the people to have him for Governor. If Mr. Magrath committed a crime against that State, the government of that State might impose upon him the punishment which the law affixed to that crime; and so if he committed a crime against the United States, the Government of the United States might impose upon him the punishment that is by law affixed to the commission of that crime. But Governor Magrath was not arrested, as I know, not tried, not sentenced by any of the tribunals of South Carolina to be deposed from the office of Governor. Nevertheless he was in fact deposed from that office, and he was deprived of the emoluments and honors of it; and the people who had elected him were deprived of the right to have his services as Governor. I wanted the Senator from Indiana to explain why it was that all that was done. I did not put the question from any idea that it was a difficult question to answer; for I think I could answer it very readily and very satisfactorily to myself; but I thought that arguing from the Senator's stand-point it would be a difficult question for him to answer. It was that question I wished him to answer. I did not wish to draw him off in any discussion whether Mr. Magrath could be tried for treason or not.

Mr. YATES. Mr. President—

Mr. NESMITH. I ask my friend from Illinois to give way to a motion to adjourn.

Mr. CONNESS. I wish to suggest that there is special reason for a short executive session, and I hope we shall be allowed to have one.

Mr. NESMITH. I withdraw my motion for that purpose.

EXECUTIVE SESSION.

Mr. CONNESS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, February 16, 1866.

The House met at twelve o'clock m. Prayer by Rev. ZACHARIAH RAGAN.

The Journal of yesterday was read and approved.

PRINTING OF BILLS.

On motion of Mr. WILSON, of Iowa, it was ordered that bills of the following titles, heretofore referred to the Committee on the Judiciary, be ordered to be printed:

A bill (H. R. No. 141) to amend an act entitled "An act further to provide for the collection of duties on imports;"

A bill (H. R. No. 170) to amend the judicial system of the United States; and

A bill (H. R. No. 239) to prescribe an oath for public officers and members of the bar, and for other purposes.

PARIS INDUSTRIAL EXPOSITION.

Mr. BANKS, from the Committee on Foreign Affairs, presented a communication from the Secretary of State, inclosing a dispatch of the American minister at Belgium upon the action of that Government in relation to the Industrial Exposition at Paris in 1867; which was laid upon the table, and ordered to be printed.

WAR DEBT OF THE SEVERAL STATES.

Mr. GARFIELD, by unanimous consent, presented joint resolutions of the State of Ohio, relative to the assumption by the General Government of the war debt of the several States.

The SPEAKER. That joint resolution was presented yesterday and referred.

Mr. GARFIELD. I thought it was objected to.

The SPEAKER. Only the reading of the resolution *in extenso* was objected to.

Mr. GARFIELD. Then I withdraw the joint resolution.

Mr. BLAINE, from the select committee on the war debt of the loyal States, reported back a bill to reimburse the loyal States for advances made and debts contracted in support of the war for the preservation of the Union in an amended form, and moved that it be recommended, with accompanying papers, and ordered to be printed.

The motion was agreed to.

NEW YORK CONTESTED ELECTION.

Mr. DAWES, by unanimous consent, presented certain papers in the New York contested-election case of Dodge vs. Brooks; which were referred to the Committee of Elections.

AUTHENTICATION OF CLAIMS.

Mr. LONGYEAR, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Invalid Pensions be instructed to inquire into the expediency of so amending section three of the act entitled "An act supplementary to an act entitled 'An act to grant pensions approved July 14, 1862,' approved July 4, 1864," so as to allow declarations to be made and testimony taken before officers duly qualified to administer oaths without going before a court of record, or some officer thereof having custody of the seal, in case of physical disability of the claimant to go before such court or officer.

GETTYSBURG NATIONAL MONUMENT.

Mr. FERRY, by unanimous consent, introduced a bill to exempt the Gettysburg National Monument from duties and excises; which was read a first and second time, and referred to the Committee of Ways and Means.

RECIPROCITY TREATY.

Mr. HUBBARD, of West Virginia, by unanimous consent, presented joint resolutions of the Legislature of West Virginia opposing the

renewal of the reciprocity treaty with England, and asking that the duty on coal coming into the United States from the British Provinces or elsewhere, shall not be less than two dollars per ton; which were referred to the Committee of Ways and Means, and ordered to be printed.

GEORGE M. FAY AND NAHUM FAY.

Mr. BIDWELL, by unanimous consent, introduced a bill for the relief of George M. Fay and Nahum Fay; which was read a first and second time, and referred to the Committee of Claims.

CHARTER OF WASHINGTON CITY.

Mr. BALDWIN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee for the District of Columbia consider the expediency of repealing or amending the act approved May 5, 1864, to amend an act to incorporate the inhabitants of Washington, and report by bill or otherwise.

LINCOLN MEMORIAL.

Mr. WASHBURN, of Illinois. I rise to submit a privileged report.

In pursuance of the concurrent resolutions of the two Houses of Congress on the 12th of February instant, the chairman of the joint committee of arrangements on the memorial exercises of the late President of the United States, Abraham Lincoln, have placed a certified copy of said concurrent resolutions in the hands of Hon. George Bancroft, and have requested of him a copy of his address on the occasion referred to for publication, as will appear from the following correspondence, which I move be read, and that it lie on the table, and be printed.

The Clerk read, as follows:

THE CAPITOL,
WASHINGTON, February 13, 1866.

Sir: We have the honor to present to you an official copy of two concurrent resolutions adopted by the Senate and House of Representatives on the 12th instant, expressing the thanks of Congress for the appropriate memorial address delivered by you on the life and services of Abraham Lincoln, late President of the United States, and instructing us to request from you a copy of the address for publication.

Having shared the high gratification of hearing the address, we take pleasure, in accordance with the second of the concurrent resolutions, in requesting you to furnish a copy of the address for publication.

We have the honor to be, with very great respect, your obedient servants.

SOLOMON FOOT.

Chairman on the part of the Senate.

E. B. WASHBURN,

Chairman on the part of the House.

To Hon. GEORGE BANCROFT.

WASHINGTON, D. C., February 14, 1866.

GENTLEMEN: I have received your letter of yesterday, and a copy of the two concurrent resolutions of Congress to which you refer. The thanks of the Senate and House of Representatives for the performance of the duty assigned me I value as a very distinguished honor, and I shall cheerfully furnish a copy of the address for publication.

I remain, gentlemen, very sincerely yours,

GEORGE BANCROFT.

Hon. SOLOMON FOOT.

Chairman on the part of the Senate.

Hon. E. B. WASHBURN.

Chairman on the part of the House.

The motion was agreed to.

Mr. WASHBURN, of Illinois, moved that twenty thousand extra copies of the oration and correspondence be printed for the use of the House.

The SPEAKER stated that the motion, under the law, would be referred to the Committee on Printing.

Mr. ROGERS. I ask the gentleman from Illinois whether he will allow the Dred Scott decision to be printed with it.

Mr. WASHBURN, of Illinois. No, sir; I do not think that ought to be extended.

Mr. ROGERS. It is a contest between the Supreme Court and Mr. Bancroft, and I would like the people to have both sides.

Mr. WASHBURN, of Illinois. That has been decided and passed upon finally.

Mr. WENTWORTH. The Dred Scott decision has gone with its author.

LEAVE OF ABSENCE GRANTED.

Mr. ORTH moved that leave of absence be granted to his colleague, Mr. HILL, for ten days.

There was no objection; and it was ordered accordingly.

BOOKS.

Mr. LAFLIN, from the Committee on Printing, by unanimous consent, submitted the following resolution:

Resolved, That there be published for the use of the members of this House, by W. H. & O. H. Morrison, of Washington, one thousand copies of the book entitled "Memorial Record of the Nation's Tribute to Abraham Lincoln" and published together with the address of Hon. George Bancroft delivered February 12, 1866; said publication to be in strict conformity with section five of act of Congress passed August 16, 1853, which provides as follows:

"If any books shall hereafter be ordered to and received by members of Congress, the price paid for the same shall be deducted from the compensation hereinafter provided for such member or members: *Provided, however*, That this shall not extend to books ordered to be printed by the Public Printer during the Congress for which said member shall be elected."

Mr. LAFLIN. This resolution has two objects: first, that the publishers of the book in question may be enabled to ascertain how many of the members of this House desire the publication of this book at their private expense; second, that the publishers of all books may be thus publicly informed that without repealing an act of Congress passed in 1856, it is not within the power of the House to order for the use of its members any books, except at the private expense of members. Those of the members that desire the publication of this book at their private expense will of course vote in the affirmative; those that are opposed to it will vote in the negative.

I may state here that this has no reference whatever to the resolution that has just been introduced by the distinguished gentleman from Illinois, [Mr. WASHBURN.]

Mr. UPSON. I would ask the gentleman whether this is reported for the first time, or on reference to the committee.

Mr. LAFLIN. It is in answer to a resolution of the gentleman from Pennsylvania [Mr. STEVENS] which was referred to the Committee on Printing.

I move the previous question on the adoption of this resolution.

The previous question was seconded, and the main question ordered.

Mr. HARDING, of Illinois. I call for the yeas and nays on the adoption of this resolution.

The yeas and nays were not ordered.

Mr. HARDING, of Illinois. I call for tellers.

Tellers were not ordered.

The question being taken on the adoption of the resolution, it was not agreed to.

Mr. DAWES. I move to reconsider the vote by which the House disagreed to the resolution, and to lay that motion on the table.

The latter motion was agreed to.

Mr. UPSON. I rise to a question of privilege. I move that the House take up the contested-election case in the State of Pennsylvania, Coffroth vs. Koontz.

LEAVE OF ABSENCE.

Mr. DAVIS. With the permission of the gentleman from Michigan, I ask leave of absence for three or four days.

No objection being made, leave of absence was granted.

PAYMENT FOR CAVALRY HORSES.

Mr. BROMWELL. I ask the gentleman from Michigan to allow me to offer a resolution.

Mr. UPSON. I yield for the last time to the gentleman from Illinois.

Mr. BROMWELL. I offer the following resolution:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of providing by law for the payment to non-commissioned officers, musicians, and privates who served in the volunteer cavalry service during the late war, for horses furnished by them to the Government and lost without fault of the soldier, particularly in the following cases:

First, in cases in which during forced march, or retreat, or protracted engagement, or skirmishing, horses have been overcome by exercise and exhaustion, and have died in consequence.

Second, in cases in which horses have been captured by the enemy, without fault of the soldier, and when engaged in the line of his duty.

Third, in cases in which horses were ordered by commanding officers to be shot or otherwise destroyed

on account of infirmities caused by over-exercise and exhaustion in necessary and proper service.

And that said committee have leave to report by bill or otherwise.

Mr. THORNTON. I desire to make a suggestion to my colleague. This same subject was referred by a resolution heretofore introduced to the Committee on Military Affairs, and reported back to the House and referred to the Committee of Claims. The subject embraced in this resolution is now under consideration by the Committee of Claims, and I suggest to my colleague that he had better send his resolution to that committee.

Mr. BROMWELL. I will modify my resolution so as to refer the question to the Committee of Claims.

The resolution, as modified, was agreed to.

Mr. UPSON resumed the floor.

Mr. SCHENCK. I desire to say to the gentleman from Michigan that I hold in my hand a number of petitions referred improperly to the Committee on Military Affairs. They ought to go to the appropriate committees, to be reported on when the committees are called, and I ask him to permit me to have them referred to the proper committees.

Mr. UPSON. I will yield for that purpose.

AMENDMENT TO PENSION LAWS.

On motion of Mr. SCHENCK, the Committee on Military Affairs was discharged from the further consideration of a petition for increase of pension of soldiers who have lost an arm or a leg; and the same was referred to the Committee on Invalid Pensions.

CLEMENT REEVES.

On motion of Mr. SCHENCK, the Committee on Military Affairs was discharged from the further consideration of the petition of Clement Reeves for compensation for damages on account of the appropriation to its own use by the Government of the United States of a part of his land lying on the Delaware river, and the erection thereon of a fortification; and the same was referred to the Committee of Claims.

WOUNDED SOLDIERS.

On motion of Mr. SCHENCK, the Committee on Military Affairs was discharged from the further consideration of the petition of wounded soldiers, praying for increased pension; and the same was referred to the Committee on Invalid Pensions.

GEORGE P. REMSBERG.

On motion of Mr. SCHENCK, the Committee on Military Affairs was discharged from the further consideration of the petition of George P. Remsberg, asking compensation for injuries received by his son at Frederick, Maryland; and the same was referred to the Committee on Invalid Pensions.

PENSIONS TO SOLDIERS OF WAR OF 1812.

On motion of Mr. SCHENCK, the Committee on Military Affairs was discharged from the further consideration of the remonstrance of Samuel Lake, of Buffalo, New York, against the passage of an act granting pensions to soldiers of the war of 1812; and the same was referred to the Committee on Revolutionary Pensions.

PAYMENT OF COMMUTATION MONEY.

Mr. SCHENCK. I hold in my hand the petitions of John Marsh, Abraham Olger, and others, praying the refunding of commutation money paid by them respectively under the commutation law, which were referred to the Committee on Military Affairs. It has since been discovered that the only difficulty is that the parties have not made proper proof, and that the matter could be settled at the Department if they would amend the papers. I therefore move that the committee be discharged from the further consideration of the petitions, and that the parties have leave to withdraw the papers.

The motion was agreed to.

Mr. UPSON. I now yield for a moment to the gentleman from Ohio, [Mr. LAWRENCE,]

and then I will yield to the gentleman from New York, [Mr. VAN HORN,] and after that I will yield no further.

RAILROAD ACCIDENTS.

Mr. LAWRENCE, of Ohio, by unanimous consent, introduced a bill to punish for throwing trains from railroad tracks; which was read a first and second time, and referred to the Committee on the Judiciary.

PUNISHMENT OF LARCENIES, ETC.

Mr. LAWRENCE, of Ohio, also by unanimous consent introduced a bill to punish larcenies and robberies of the securities and other choses in action belonging to the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

UNITED STATES REVENUE COURTS.

Mr. LAWRENCE, of Ohio, also, by unanimous consent, introduced a bill to establish United States revenue courts, and for other purposes; which was read a first and second time, and referred to the Committee on the Judiciary.

DESCENDANTS OF JOSEPH SHERMAN.

On motion of Mr. VAN HORN, of New York, the Committee on Revolutionary Claims was discharged from the further consideration of the petition and papers of the descendants of Joseph Sherman and the officers of the Rhode Island infantry during the Revolution, and leave was granted for the withdrawal of the same from the files of the House.

PENNSYLVANIA CONTESTED ELECTION.

Mr. UPSON. I now call up the report of the Committee of Elections in the case of Alexander H. Coffroth and William H. Koontz of the sixteenth congressional district of Pennsylvania.

The following are the resolutions reported by the committee:

Resolved, That Alexander H. Coffroth, upon the certificates and papers relating to the election in the sixteenth congressional district of the State of Pennsylvania, has the *prima facie* right to the vacant seat from that district, and is entitled to take the oath of office and occupy a seat in this House as the Representative in Congress from said district, without prejudice to the right of William H. Koontz, claiming to have been duly elected thereto, to contest his right to said seat upon the merits.

Resolved, That William H. Koontz, desiring to contest the right of Hon. Alexander H. Coffroth to a seat in this House as a Representative from the sixteenth district of the State of Pennsylvania, be, and he is, required to serve upon the said Coffroth, within fifteen days after the passage of this resolution, a particular statement of the grounds of said contest, and that the said Coffroth be, and he is hereby, required to serve upon the said Koontz his answer thereto within fifteen days thereafter, and that both parties be allowed sixty days next after the service of said answer to take testimony in support of their several allegations and denials, notice of intention to examine witnesses to be given to the opposite party at least five days before their examination, but neither party to give notice of taking testimony within less than five days between the close of taking it at one place and its commencement at another, but in all other respects in the manner prescribed in the act of February 19, 1851.

Mr. UPSON. On the 5th of December last, this House by resolution directed that "the certificates and all other papers relating to the election in the sixteenth congressional district of Pennsylvania, be referred to the Committee of Elections, when appointed, with instructions to report at as early a day as practicable which of the rival claimants to the vacant seat from that district has the *prima facie* right thereto, reserving to the other party the privilege of contesting the case upon the merits without prejudice from lapse of time or want of notice."

In pursuance of that direction the majority of the committee in this case have made their report. By an investigation of this resolution by the House, which will be found on page 73 of the report, and the accompanying exhibits, it will be seen that there is no person now occupying that seat, but that the seat is vacant. The reason or excuse for that will be found in an extract from the Governor's proclamation, which will be found on page 23 of this report, in which, after enumerating the various persons who have been elected from the various districts

of Pennsylvania, the Governor says, in regard to the sixteenth district:

"And I do further declare that no such returns of the election in the sixteenth congressional district have been sent to the secretary of the Commonwealth as would, under the act of Assembly of 2d July, A. D. 1839, authorize me to proclaim the name of any person as having been returned as duly elected a member of the House of Representatives of the United States for that district."

The Clerk of this House consequently had the name of no person as Representative-elect from that district to enter upon the roll of Representatives at the opening of this session. And as no person is occupying the seat, of course no person could appear regularly as a contestant for it. And by the direction given to the Committee of Elections by the resolution of the House, they were instructed to ascertain and declare who had the *prima facie* right to the seat, so that the other party claiming the seat, if there were another, might be allowed to come forward and contest it.

The committee having examined the subject, have reported in favor of Alexander H. Coffroth as having the *prima facie* right to the seat. The reasons therefor are stated in the report of the majority of the committee. But I will briefly go over those reasons, and refer to some of the papers upon which the conclusion of the committee is founded.

The Governor's proclamation, as it will be seen, would be the first evidence of the right to the seat. But by examining an extract from the laws of Pennsylvania, which is found on page 23 of the report, paragraph forty-two, it will be found that after the returns from the various districts have been made to the secretary of the Commonwealth—

"It shall be the duty of the Governor, on the receipt of the returns of the election of members of the House of Representatives of the United States, as aforesaid, by the secretary of the Commonwealth, to declare, by proclamation, the names of the persons so returned as elected in the respective districts; and he shall also, as soon as conveniently may be thereafter, transmit the returns so made to the House of Representatives of the United States."

In pursuance of that law, which I notice has been perhaps inadvertently omitted in this connection by the minority of the committee in their report, the secretary of the Commonwealth not only transmits the proclamation of the Governor, but also the returns that have been made to him from that district, to the Clerk of this House, so as to be before the House.

Mr. PAINE. I understand the gentleman to say that the minority of the committee have omitted to refer to that law in their report.

Mr. UPSON. No, sir; I said that the minority of the committee had perhaps inadvertently omitted to refer to it in this connection.

Mr. PAINE. I beg pardon of the gentleman; it is especially referred to in their report.

Mr. UPSON. I shall be thankful to the gentleman to make any correction of what I may accidentally or incidentally omit to state; but the gentleman will find that he has said in that report that there is no authentication whatever of these returns. That is why I incidentally alluded to it. I hope the gentleman will not understand me as wishing to misstate the point I referred to. I was merely alluding to this to show how the returns from this district, of the majority of the board or of the entire board, came before this House. I consider it unnecessary even to make that reference, from the fact that as the authentication in all instances is only for the purpose of identification or of ascertaining the genuineness of the paper, and as both the parties in this case admit the identity of the paper or return, there need be no further authentication; and its legal effect is to be determined from the paper itself. The Governor's proclamation, then, not making out a *prima facie* case, we come next to the return made by the district judges of that district, the sixteenth congressional district of Pennsylvania.

Here, perhaps, it is proper that I should state in brief the manner in which the elections are conducted in the State of Pennsylvania, so far as regards certifying the returns. At the elec-

tions in the various election precincts in that State, there are one judge of election and two inspectors, and two clerks appointed by the judge and inspectors. When the canvass has been made in each election precinct and certified, the judge of the election takes the certificate to the board of judges of the county, so that the judges from these several election precincts meet after the election at the time specified by law, compare the returns, and add them up, making the county canvass. When an election district for member of Congress is composed of more counties than one, then one of the judges designated by the county board is selected to take the returns for that county to the board of district judges for that representative district, which board in this case met at Chambersburg, in the county of Franklin. This district is composed of five counties, Fulton, Adams, Somerset, Bedford, and Franklin; so that, in a full board, there would be five district judges.

But, on examining the papers, it will be seen that there are apparently two returns of district judges; it appears on the face of the papers that there were two boards and two different returns, one in favor of Mr. Koontz and the other in favor of Mr. Coffroth. The committee, therefore, were met in the first instance by this apparent ambiguity, and it was necessary in the first place to determine which was the genuine return, who were the genuine judges.

But before proceeding to this investigation in relation to the judges, I will refer to the rule laid down by the Committee of Elections in the last Congress in relation to cases of this kind, in which the *prima facie* right is to be determined. In the case of William Jayne vs. J. B. S. Todd, the Committee of Elections laid down the following rule, which I read from page 2 of volume one of the Reports of Committees of the first session of the last Congress:

"In considering the preliminary question, which of these gentlemen is entitled to occupy the seat as Delegate from Dakota, pending the settlement of the main question, which of them was duly elected thereto, the committee have refrained altogether from any investigation of the merits of the latter, and confined themselves entirely to the credentials each has offered as the *prima facie* evidence of his election, entitling him, according to law and usage, to be received as the sitting Delegate until investigation of the number of legal votes actually cast shall disclose a better right of another thereto."

In that very case of Jayne vs. Todd, each party had a certificate making it in that respect similar to the one now under consideration. The committee, therefore, considering that rule adopted by a former House as pertinent and proper in this case, applied themselves to an examination of the papers which were referred to them, in order to determine the *prima facie* right. When these two district returns were presented, the committee were led in the first place to inquire which was the genuine return. By these returns it appeared that there were two claimants to the seat, one Mr. Coffroth, the other Mr. Koontz. Both these gentlemen appeared before the committee, and submitted arguments in support of their respective claims. Each claimant produced the opinion of the attorney general of Pennsylvania, upon this very same question, which was submitted to the Governor of Pennsylvania before he issued his proclamation. The opinion of the attorney general will be found on page 69 of the report. Each of the claimants admitted that this opinion should be regarded as evidence so far as concerns the statement of facts it gives in relation to the genuineness of the two papers before the committee.

In the opinion of the attorney general of Pennsylvania, to be found on page 71 of the report, I find the following statement of his conclusion after having recited the facts:

"The result is that of the five persons who have signed the papers stating Mr. Koontz to be elected, three had no legal authority to act in the capacity which they assumed, and I am therefore of opinion that the Governor ought not to base his proclamation on that paper as a return."

In other words, he decided that the facts show the paper purporting to be a certificate in behalf of Mr. Koontz was not a legal and valid paper because the persons signing it were

not legal and valid judges and had no right to sign it, and the paper was therefore illegal and worthless.

Now hear what he states in regard to the other paper. He says that—

"It is signed by four persons who appear to have been legally designated by the judges of election in their respective counties."

But he claims their action was illegal for this reason. He says that—

"The judge from Somerset, though he had notice, neglected or refused to attend the meeting, or at any rate failed to attend it. The duty of the four judges who did attend is clearly pointed out by law. It was to 'cast up these several county returns and make duplicate returns of all the votes given' for the office in the district, 'and of the name of the person elected.' Instead of doing this, they omitted to count the vote of Somerset, apparently by reason of the non-attendance of the judge from that county. It has been suggested that as they had not those returns they could not count them, which is very true. But duplicate originals were accessible in the office of the prothonotary of Somerset county, and it was their duty, if necessary, to refer to them. They could not, of course, have obtained them on the same day; but though the law fixes the day of their meeting, it was perfectly legal for them to adjourn, if the business could not be completed in one day, and I think it was undoubtedly their duty to do so."

Although he holds that they were a legal board and legally met on the day and at the place fixed by law for determining the result of the election, yet, omitting to count the vote of Somerset county, their return, he says, is not sufficient upon which to base the proclamation of the Governor of Pennsylvania declaring that Mr. Coffroth was elected.

I will now refer to that return, to be found on page 26, commencing at the bottom of the page. It is as follows:

Election return of the sixteenth congressional district of Pennsylvania, composed of the counties of Adams, Bedford, Franklin, Fulton, and Somerset.

The undersigned, a majority of the return judges elected by the several boards of the return judges of the above-named counties to meet, examine said returns, and count the votes of the several counties in said district, do hereby certify that, in pursuance of law, we met in the court-house in the borough of Chambersburg, on Friday, the 4th day of November, A. D. 1864, and proceeded to examine and count the votes cast for Congress in said district at a general election held in the said counties on the second Tuesday of October, it being the 11th day of the month; that Alexander H. Coffroth had, in the county of Adams, 2,707; in the county of Bedford, 2,504; in the county of Franklin, 3,457; in the county of Fulton, 807; making a total of 9,475.

For the same office William H. Koontz had votes in the county of Adams, 2,366; in the county of Bedford, 2,033; in the county of Franklin, 3,508; in the county of Fulton, 535; making a total of 8,402; majority for Coffroth, 1,073.

Hon. Alexander H. Coffroth, having received a majority of all the votes cast, as counted before the board, is declared duly and legally elected "a member of the House of Representatives of the United States," and a certificate of election has accordingly been forwarded to him.

Now comes the point in which the difficulty is claimed to arise by the attorney general of Pennsylvania:

The county of Somerset was not represented by a judge, or otherwise, at said meeting. Notice of the time and place of meeting of said board was given the return judge elected from Somerset, who was in the borough of Chambersburg on the day of meeting.

In testimony whereof we have hereunto set our hands and seals this 4th day of November, A. D. 1864.

[L. S.] W. FINDLAY MANN,
Judge from Bedford county.

[L. S.] JOHN H. LAKER,
Judge from Franklin county.

[L. S.] NATHAN WINTER,
Judge from Fulton county.

[L. S.] F. DIETZ, Return Judge.

Attest: JOHN R. ORR, Clerk.

Now let me read further what the attorney general says on that point:

"The act of 1839 provides that the judges shall make returns of 'all the votes given for such office in said district, and of the name of the person or persons elected,' and further provides that it shall be the duty of the Governor, on the receipt of the returns of the election, as aforesaid, 'to declare by proclamation the names of the persons so returned as elected in the respective districts'; that is to say, returned as elected in a return which also purports to return all the votes given for the office in the district."

"The paper in question does not purport to return all the votes given for the office in the district. It shows on its face that the vote of one county in the district was not counted, and therefore that the judges had not before them the means of knowing who was elected; and, indeed, the return substantially is, that Mr. Coffroth had a majority 'of all the votes cast as counted before the board,' (that is to say, of the votes in four out of five counties which composed the dis-

trict,) and therefore is duly elected. This return is so essentially defective that I conceive it to be no return at all, and am of opinion that the Governor ought not to base his proclamation on it as a return."

It was on that opinion or conclusion thus given by the attorney general that the Governor of Pennsylvania acted when he came to the conclusion that he ought not to include any person in his proclamation as elected from that district.

I wish now to refer to the position taken by the committee in the report, and to show that the opinion of the attorney general on this point is not supported by the statute nor the decisions of the courts of that State.

"But it is claimed on the part of Mr. Koontz that the said return shows on its face that the county of Somerset was not included by the said return judges in the count, and, therefore, that return is void, though it also appears in the return, and also in the opinion of the attorney general, above referred to, that the return judge of Somerset county was present at Chambersburg on the day of the meeting, and was notified thereof, but neglected or refused to attend.

"The attorney general, in his said opinion, also takes this position, and claims that the district judges ought to have adjourned over, and referred to duplicate originals of the returns for Somerset county, which he says were accessible in the office of the prothonotary of said county of Somerset.

"To this it may be replied, that the statute makes no provision for any such adjournment or proceeding, and it does not appear by the said statute that, in case where a congressional district is composed of several counties, any such duplicate original is required to be filed in each of the counties of the district, but the original statement of votes given in each county for Representative in Congress, certified by the judges and attested by the clerks, is directed (section 63) to be taken charge of by one of said judges, who 'shall produce the same at a meeting of one judge from each county at such place in said district as is or may be appointed by law for that purpose;' and when the district return judges have met and cast up said returns, and made duplicate returns of all the votes given for such office in such district, it is then, and not till then, required (section 64) that one of said duplicate returns so made by said district return judges shall be filed in the office of the prothonotary of the court of common pleas of the county in which they shall meet."

I would say, as has already been stated in the report, that there is no provision in the statute of Pennsylvania authorizing the board to adjourn from day to day to obtain election returns after the time fixed by law for the board to meet and act, and that, in a matter of this kind, arising under a similar provision in a soldiers' voting law, previous to the present law, in a case decided in 4 Philadelphia Reports, the court adjudicated this point, and decided directly the reverse of the opinion of the attorney general. I refer to the case of Lawrence vs. Knight, 4 Philadelphia Reports, 355, in which the duty of return judges in regard to soldiers' votes is explained, and also some directions given to the prothonotary by Judge Ludlow. On page 861, he says:

"Having thus indicated what, in my opinion, is the simple duty of the prothonotary, it is necessary for me to say what is the duty of the return judges; and this advice is now given so that hereafter the court may not be applied to for that purpose. These gentlemen must meet and perform their duties on November 12, 1861, being the second Tuesday in November. They ought not to adjourn to another day.

"My opinion upon that question has, on an examination of the subject, undergone a change; at first it was presumed the body might adjourn to another day; but this cannot be the law, for if this right be admitted, they may adjourn for a period of six months or a year, and thus defeat the expressed will of the people.

"The duties of these gentlemen are simply, under the present law, ministerial; they can only inquire if the certified copies of company returns alone before them have been delivered to them by the prothonotary of the common pleas. I might at length state my reasons for this opinion, but it may be unnecessary."

On examination of the statute of Pennsylvania, which is now similar in its language so far as regards the proceedings of the board in relation to this matter of adjournment, I think there can be but little doubt that the construction given here by Judge Ludlow to the statute is correct, and that to allow any other construction would lead to very great irregularities, and be subject to the objections stated by that judge.

This decision was predicated, as I have just said, on the previous soldiers' voting law. The phraseology of the present law in relation to the action of the board is very similar, and the construction in relation to the powers and duties

of the board and as to adjournments it seems to me must be the same; although in one respect there seems to be this qualification: the present law is more strict in its requirements as to poll-books, tally-lists, oaths and certificates than the old law. And these papers, I insist, are a part of the returns, as I think I shall be able to show before I conclude this argument.

We then come to this conclusion, following out the decision of the court in Philadelphia, upon the principle involved in this case:

1. The opinion of the attorney general upon the facts conclusively shows that the board of return judges, or what purported to be such, and certified in favor of Mr. Koontz, was not a legal board, and therefore all its acts are void and of no effect in this investigation.

I think there was no difference in the committee on this point, that there was no legal board certifying to Mr. Koontz's election.

2. The facts admitted and stated in the attorney general's opinion show that the persons signing the Koontz returns were not return judges, and therefore they are illegal. If we should come down to common parlance we should call them bogus returns.

We find the attorney general sustaining the legality, on the facts which are admitted, of the other board, so far as their appointment is concerned, being regularly appointed judges for that district from the several counties, and only lacking one judge from Somerset county.

It is claimed by some that it required all to sign. In relation to that I will also quote the opinion of the attorney general, on page 70 of the report:

"It is well established that (unless otherwise expressly provided) an authority of a public nature, conferred on three or more persons jointly, may be executed by a majority at a meeting lawfully held, and of which all have had legal notice, and that the meeting and proceedings of such a body are presumed to be regular in the absence of proof to the contrary. But a minority of such a body cannot, by withdrawing (for whatever reason) from the majority and proceeding to act independently, vest in themselves the authority which the law has conferred on the whole, and permits to be exercised by a majority as above stated."

Having then found that they constituted a majority of the legal board, and having, in addition to that, found, from the face of the return itself, that the other judge from Somerset was notified and refused or neglected to attend, I submit that the action of that one judge cannot nullify or destroy the action of the majority; that when they acted, they did all the law authorized them to do, and all that they could do under the law. To say that the one judge could, by his own voluntary absence, nullify the action of the others, would certainly be rather a singular exhibition of the one-man power; it reverses the principle that the majority shall rule; and although injustice may sometimes be done where a majority is reckless, I submit to the gentleman raising this objection that far greater injustice would be done by allowing a minority to override the will of the majority and prevent all action. In such a case we must have sufficient confidence in the action of the majority not to allow them to be overridden by the action of one man, for whatever reason. And in this case it is seen that this judge had full notice and declined to attend. And if we go on still further, and go beyond, not behind the return of this board, to the return of Somerset county, which was not included in that district return, we shall find that the vote of the county of Somerset, if brought in and added to the district return, would not change the result.

I refer the House to the third page of the report, where they will find the vote, as so returned, of all the counties, Adams, Bedford, Franklin, Fulton, and Somerset. In Somerset the official return was—for Coffroth 1,592, for Koontz 2,512; if you add that to the other returns, it gives for Coffroth 11,067, for Koontz 10,974; leaving Coffroth a majority of 93 on the face of the official returns from all the counties of the district.

Mr. SCOFIELD. I wish to inquire of the gentleman if in obtaining that result the soldiers' votes are not entirely thrown out.

Mr. UPSON. Nothing appears on the face of the returns to show that, but they are not entirely thrown out; there are soldiers' votes here. If I may be permitted to go on now and anticipate the course of my argument, I think I can show that there are soldiers' votes counted in these returns from every county.

Mr. SCOFIELD. What I mean to ask is whether, if the soldiers' votes had been counted, the majority would not have been in favor of Mr. Koontz? By excluding a large portion of the soldiers' vote they make 93 majority for Coffroth.

Mr. UPSON. I will notice that when I come to investigate that question, but at present that question does not arise; when it does, I think I can satisfy the gentleman that no number of soldiers' votes that could legally have been counted would have altered the result.

We have shown that the vote of Somerset county was not in, and the reason why it was not in. We then show that the vote of Somerset county would not have changed the result, and therefore that there is no excuse for going behind the legal returns.

But suppose we waive that for the time being and resort to what comes next in order under the law of Pennsylvania, namely, the official returns of the county boards, and what do these show? I may say here in relation to these returns from the county boards, that those from the three counties of Franklin, Fulton and Somerset are admitted by both parties to be signed by all the return judges, and to be genuine returns. No question is raised about them. Then from Adams and Bedford counties there are what are called majority and minority returns, and those were both submitted and referred to the committee.

And here I wish to allude to a point which my friend from Wisconsin [Mr. PAINE] noticed in the opening of my argument. In the minority report the objection is made that the majority returns are admitted only in connection with the minority returns. The one is admitted and the other is admitted. I do not question anything in relation to that point, they are both admitted for the purpose of investigation.

But the question at once comes up in regard to their legality and effect. The identity of the papers is admitted by both parties, undisputed by either of them. When we consider the majority and minority returns the question comes up, which is the legal paper? We will see by reference to the opinion of the attorney general that the majority return is the legal return, and the minority return has no legal effect whatever. That opinion of the attorney general is quoted in the report of the majority of the committee on page 5 of their report. There was a judicial district embraced within this congressional district, which district was composed of the counties of Franklin, Bedford, Somerset, and Fulton. I will here read from the report of the majority of the Committee of Elections, as follows:

"But it is claimed on the part of Mr. Koontz that all the return judges in each county must sign and certify the returns of that county; that the judges must act as a unit, and that if they do not so unite in signing the certificate, the certificate is void and the return invalid. A similar position was taken by a Democratic district board of return judges of the counties of Franklin, Fulton, Bedford, and Somerset, composing the sixteenth judicial district of Pennsylvania, in regard to a return of soldiers' votes for judge, certified by the majority of the county return judges of Bedford, the same as in this case, (paper 9,) and said district return judges assumed to reject the return of soldiers' votes for judge, so certified by the majority of the return judges of Bedford county, because said return was not signed by the remaining nine return judges of said county, and in this way overcame the majority for King, the Union candidate for judge, and gave the certificate to Kimmell, the Democratic candidate, but included in their return a statement of this soldiers' vote, and the fact of their action in regard to it."

And the Governor referred the matter to the attorney general of the Commonwealth, because if these votes were rejected one man was elected, if they were counted another man was elected as judge.

Mr. PAINE. I would not interrupt the gentleman, as his time is passing away, but I desire to ask him a question. My question is this:

whether it is not true that in the case of the judicial election, of which he is now speaking, it does not appear from the papers which he cites that any of the judges who did not sign the majority report were present? The language of the law of Pennsylvania is that the report shall be signed by all the judges present; and from the papers in the case of the judicial election it does not appear that the judges who did not sign the report were present.

Mr. UPSON. In either case the law is the same. I have not here all the papers referred to; but I think that in that case there was a majority and a minority report, the same as in the other case. I know that the majority and the minority of the board disagreed; and it was on that very point, because they disagreed and did not sign the report, the district judges made the point that it should not be received and counted, and they threw out the votes, thereby electing the Democratic candidate. The Governor laid the matter before the attorney general, who says, in his opinion:

"The district return judges of the sixteenth judicial district, composed of the counties of Franklin, Bedford, Somerset, and Fulton, have transmitted to the secretary of the Commonwealth a return, in which they state that they have not included the Bedford county return of soldiers' votes, a copy of which they annex, and they assign as the reason for not including it that said return was not certified to by nine of the return judges of Bedford county. The return in question is signed by thirteen of the county return judges, forming therefore a majority of the whole number.

"The reason assigned for not including this return is palpably insufficient. As the authority of the return judges concerns matters of a public nature, a majority may act at a meeting lawfully assembled, and their meeting is presumed to be lawful in the absence of proof to the contrary. The clause of the seventy-ninth section of the act of 1839, providing that the returns shall be signed by all the judges present, does not govern the present case; and if it did, it would, first, be construed as directory merely, and second, it would be presumed that the return was signed by all the judges present in the absence of proof to the contrary."

Therefore, in either case it would be immaterial whether the judges who did not sign the report were present or absent, so far as the reasoning of the attorney general is concerned.

I now call the attention of the House to these returns, which will be found as follows: for Franklin county, on page 27 of the report; for Somerset county, on page 28; for Fulton county, on page 29; for Bedford county, on page 30; and of Adams, on page 32.

The returns from the counties of Franklin, Fulton, and Somerset are signed by all the judges. The return of the home vote of Bedford county is signed by all the judges. The return of the soldiers' vote of Bedford county and the return of the vote of Adams county, including the soldiers' vote, are signed by a majority only of the return judges. Now, when we compare these majority returns with the minority returns, and when we find that it has been decided by the courts of Pennsylvania, and by the attorney general of that State, that under the law of that State a majority of the judges may act, it at once does away with the whole action of the minority, because, as has been well said, the minority cannot represent the board, and they have no legal power to act separately and independently of the majority.

The identity or genuineness of these papers is not questioned; and the returns of these votes from Adams, Bedford, Fulton, Franklin, and Somerset counties, will be found summed up on page 4 of the report, giving 11,067 for Mr. Coffroth, and 10,979 for Mr. Koontz; leaving Mr. Coffroth's majority on the face of these county returns at 88, so that he still has the *prima facie* right to the seat. Now, I submit to this House, in considering a claim of this kind to a *prima facie* right to the seat, what authority have we to go beyond the official returns of those who were the proper officers for computing and certifying the returns of votes cast in that district? We consider that our duty is ended on this investigation of a *prima facie* right when we have compared these official returns and counted the number of votes given for the respective candidates, and find that on the face of them Mr. Coffroth has a majority of all the votes so certified.

In this *prima facie* case we are simply to inquire, whom does the certificate of the proper officers show to have received the greatest number of votes? An investigation on the merits must be had on evidence; and when that investigation is had, then the question as to whether any legal votes have been rejected or any illegal votes counted is a fit subject for examination. Until the time arrives for determining the contest on its merits, we cannot, I submit, go behind the returns of the proper certifying officers.

But, in addition to this, it will be seen that by the law of Pennsylvania, when the board of return judges for the congressional district have cast up and computed the votes and certified them to the secretary of the Commonwealth, it is also made the duty of those return judges in every case to transmit to each of the persons elected to serve in Congress a certificate of his election within five days after making up such returns. Such a certificate is presented here by Mr. Coffroth. That certificate, which will be found on page 87 of the report, is in these words:

We, the undersigned, return judges, elected by the board of return judges of the counties composing the sixteenth congressional district of Pennsylvania, viz: Adams, Bedford, Franklin, Fulton, and Somerset, to examine the returns and count the votes cast for member of the House of Representatives of the United States, cast in the counties for said office at a general election held on the second Tuesday of October, it being the 11th day of the month, having met in the court-house in the borough of Chambersburg, on the 4th day of November, and having examined the returns and counted the votes cast in said district, do hereby certify that you, having received a majority of the votes cast as counted by us, are duly and legally elected member of the House of Representatives of the United States.

In witness whereof we have hereunto set our hands and seals this 4th day of November, A. D. 1894.

[L. S.]	W. FINDLAY MANN, Judge of Bedford county.
[L. S.]	F. DIEHL, Judge of Adams county.
[L. S.]	JOHN H. LAKE, Judge from Franklin.
[L. S.]	NATHAN WINTER, Judge from Fulton.
	JOHN R. ORR, Clerk.

Attest:
Hon. A. H. COFFROTH,
Somerset, Pennsylvania.

The return judges who sign this are the same who signed the aforesaid district return sent to the secretary of the Commonwealth and laid before the Governor.

The other return judges—so-called return judges, for the attorney general of Pennsylvania decided that they were not legally return judges—gave a certificate to Mr. Koontz, but that certificate falls from the fact that the persons signing it had no legal authority, and therefore their acts are of no validity. The certificate which Mr. Coffroth presents stands, therefore, uncontroverted by any other official paper from any board authorized to act in the premises.

The *prima facie* right, therefore, of Mr. Coffroth appears first from the certificate given by the majority of the district judges, who are competent to act in the premises, and who acted, so far as appears here, in good faith. It does not appear in any way that the district board did anything to prevent the attendance of the other district judge. On the contrary, the papers show that they notified him to appear, and that he neglected to appear on notice. His purpose, it would seem, was to defeat the action of that board and prevent a certificate from being given. The action of the majority should be considered as sufficient. They did what they were authorized and required to do by law; they counted all the votes returned to them.

I will here say that I do not know how it is in other States; but I know that in my own State the State canvassers only canvass the votes returned to them at the time the canvass is made. It happens at times that counties may not make returns on account of the distance or other difficulties in respect to the transmission of returns; yet the board are required by law to act between certain days, and the result is determined without counting the returns which may come in afterward. I have been credibly informed that this is also the practice in the State of Pennsylvania. How true this may be

those who come from Pennsylvania may know best. We are told when an election is had and it becomes well known who is elected, that sometimes the return judge of some county in the district, knowing that the return from his county will not change the result, neglects to attend the meeting of the board and allows the remainder of the district board to add up the returns and declare who is elected. It is known that it is unnecessary to include their return, as it would not affect the ultimate result.

But it is claimed we still have a right to go behind these returns. Why? Because it is said that two of these returns are signed by only a majority of the board, and that all must sign the return or it is invalid. I have endeavored to answer that objection, and to show that the attorney general of Pennsylvania, in a case arising out of this very election, has decided directly the reverse. He evidently will not be accused of any partiality toward the minority in this House. If there were any partiality, it would be in favor of the majority of the House. We have seen what he has decided in relation to this matter, and that the Governor of Pennsylvania has acted upon it. He decided that it was legally sufficient if the return was certified by a majority of the board, and the commission was given by the Governor to the man who had the highest number of votes, counting the returns which were so signed and certified by a majority of the board.

Mr. DRIGGS. My colleague will let me interrupt him for a moment. I understand from his argument he settles these facts: that Mr. Coffroth has a majority of the votes certified to by a majority of the judges of election, that he has the certificate signed by the proper officers, and that a majority of the Committee of Elections has reported in his favor.

Mr. UPSON. These are the facts. He has the returns of the county boards and the return and certificate of the district board in his favor.

Mr. STEVENS. I want to know who has a majority of votes upon any certificate, because there is no legal certificate. If the committee take all the votes filed and in their possession, who has the majority?

Mr. UPSON. That depends upon many things.

Mr. STEVENS. Who has a majority of all the votes before the committee?

Mr. UPSON. If the gentleman wishes to know who has a majority of the legally returned votes, that is another thing.

Mr. STEVENS. I do not want to know about legal returns in a *prima facie* case. I want to know who has a majority of all the votes returned.

Mr. UPSON. I will read to the gentleman the decision of the court of Pennsylvania on that subject. So far as the returns can be considered on this investigation there is nothing outside of the certified returns.

Mr. STEVENS. The gentleman does not understand me.

Mr. UPSON. I say that a paper purporting to be a return with the names of no legal officers signed to it is no return.

Mr. STEVENS. Are certain votes attached to it?

Mr. UPSON. I do not know that there is any legal paper to show it.

Mr. STEVENS. That is a question on the contest.

Mr. UPSON. A *prima facie* case is what appears on the papers certified by proper officers. We are not investigating the case on its merit, and do not know what the result would be after hearing evidence on a contest.

Mr. PAINE. The gentleman has said, in reply to a question by his colleague from Michigan, [Mr. Driggs,] that Mr. Coffroth had the certificate of the lawful board, had a majority of the votes, and had a majority of the Committee of Elections. Now, I will begin with the committee. He had five out of the nine members constituting that committee. The names signed to the majority report are these: CHARLES URSON, H. L. DAWES, PORTUS BAX-

TER, S. S. MARSHALL, WILLIAM RADFORD; and the names signed to the minority report are these: HALBERT E. PAINE, J. W. McCLURG, S. STELLABARGER, G. W. SCOFIELD.

If the gentleman says that he has shown that Mr. Coffroth had a majority of the votes it is merely a matter of opinion as to what he has done and what he has failed to do, and the House must wait until the other side has been heard.

If he says that the certificate for Mr. Coffroth is the certificate of the lawful board, that is what we deny. If he says the return of Mr. Coffroth came from the lawful board and his certificate entitles him to a seat, that is what the minority of the committee firmly and conscientiously believe to be incorrect.

Mr. UPSON. My colleague asked me what I claimed, and I replied that I claimed certain things. Of course I expect to hear the argument of the gentleman who represents the minority, and of course the House will listen to him with pleasure.

In my answer to the question propounded by my colleague, whether I claimed such a state of things as he suggested, I replied that I did. But I did not intend to preclude the gentleman from expressing a different view or say that I considered it as decided beyond a peradventure so that nobody could answer it otherwise. And I answered it as I thought it satisfactorily appeared to the minds of a majority of the committee.

Mr. SCOFIELD. I would inquire if the gentleman considers he has answered the question of my colleague in this particular, and I am going to repeat pretty nearly the same question. If all the returns from the different precincts at home as well as from the boys that voted in the field, certified after some fashion or other as legal votes, and unquestioned as such before us—if all those votes were added up, would it not make a majority of some sixty or seventy for Mr. Koontz?

Mr. UPSON. I will answer that in the language of Justice Ludlow.

Mr. SCOFIELD. I would rather have the language of my honest friend from Michigan than that of any judge, because he was there and helped to count those very votes that were referred to us in committee. And if my friend cannot tell us without the circumlocution of an authority, there is no book that can enlighten us on the subject. I ask, if by counting all these returns, you do not make a majority of sixty or seventy for Mr. Koontz? Whether they are legal and to be counted or not is another question.

Mr. UPSON. I counted the votes with the gentleman in committee, and made out, in counting by a standard which I consider legal, that Mr. Coffroth had a majority on the face of the papers.

Mr. SCOFIELD. I desire to have the gentleman to say whether, if we counted all the returns, Mr. Koontz would not have a majority, not according to legality, but according to arithmetic.

Mr. UPSON. I will take the very position assumed by the minority in their report in relation to the soldiers' votes, and will say that there are no returns here sufficient to give a majority to Mr. Koontz.

Mr. SCOFIELD. No legal returns.

Mr. UPSON. No returns. If the gentleman will investigate the papers he will find that there are no formal returns, no returns on which to make out a majority for Mr. Koontz.

Now, I call attention to the decision of the courts of Pennsylvania on this subject, and I refer to the case of Lawrence vs. Knight, 4 Philadelphia Reports, p. 366:

"The act of Assembly, enacting upon the prothonotary of the court the duty of certifying returns. He must send the returns to the return judges. That responsibility, we have over and over again said, rested upon him, and he must act simply as a ministerial officer, having no right to reject a return regular upon its face, and unless it is regular it is no return."

Mr. STEVENS. I do not care about the returns. If the votes are here that is *prima facie* evidence.

Mr. DAWES. Suppose they are brought in my pocket.

[Here the hammer fell.]

Mr. PAINE. The gentleman has been interrupted a great deal; I move that this time be indefinitely extended.

No objection being made, the gentleman was allowed to proceed accordingly.

Mr. UPSON. I thank the House for this privilege. I will now proceed to the investigation of the matters which have been called out by the interrogatories propounded to me by various gentlemen on this floor.

I have referred to the decision made in the courts of Pennsylvania, supposing that my friends from Pennsylvania would certainly be willing to abide by the decision of their own court, and supposing also that the opinion of the attorney general, where it coincided with the views of the majority, would not be quarreled with, and that the rule adopted by this House in the previous contested-election case would be abided by. Now, if we are going to call everything that is on a piece of paper a vote, we may have any amount of such papers referred to a committee, and may elect anybody. But we are only to investigate papers that come from the proper certifying officers, that are legal on their face and are pertinent to the issue.

Now, let us refer to the law of Pennsylvania in relation to soldiers' votes, and then see what are called soldiers' votes in this case, for Heaven knows I desire to count every vote of every soldier. But in the investigation of the *prima facie* case, we are confined to papers that are *prima facie* regular, and where they are not regular and legal on their face we cannot give any weight to them in this investigation. When we find that the signature to a certain paper is not the signature of the officer that it purports to be, that moment that paper is out of the case; but the moment we determine that any paper on the same subject is certified by the proper officer, that moment it is a paper proper for our consideration, and is legal and valid.

A few words now in relation to the soldiers' vote. And here I wish to call the attention of the House to some decisions in relation to the very returns which it is claimed in the report are not properly before us in this investigation and could only be properly considered in an investigation of the merits. I refer now to the law of Pennsylvania allowing soldiers to vote. Section two provides that—

"A poll shall be opened in each company, composed in whole or in part of Pennsylvania soldiers, at the quarters of the captain or other officer thereof; and all electors belonging to such company, who shall be within one mile of such quarters on the day of election, and not prevented by orders of their commanders or proximity of the enemy, from returning to their company quarters, shall vote at such poll and at no other place."

Now, I wish the House to notice this one fact, the law expressly makes each company an election precinct, and this House would not hesitate in the case of a home vote where two election precincts came and voted in one place together to reject the vote. Now, it appears from the report that two companies of one regiment voted at one precinct and returned their vote as the vote of two companies, and no reason whatever is given for it; it is signed by officers purporting to be officers of both companies, and consequently was a merging of two election precincts into one without any legal authority whatever. The previous military voting law of Pennsylvania not only provided for company returns, but also provided for returns from those companies as election precincts to the headquarters of the regiment, and a regimental return to the secretary of the Commonwealth. In the case of Lawrence vs. Knight, the court, in giving instructions to the prothonotary under that law, in speaking of those regimental returns, says:

"In my judgment, you cannot certify a single regimental return; no provision whatever is made for so doing. If you should discover in any case that no company returns have been received, but only a regimental return it is not your fault. You have no more right to certify to the return judges than you have to send in to them a copy of any other paper on file in your office."

This shows that where there was a regimental return, but no company return, the regimental return could not be counted under the old law any more than two election precincts could vote in one precinct on the home vote. Two election precincts cannot vote together without nullifying the vote; and much less can two companies vote together, as the law expressly says that polls shall be opened in each company, and separate returns of the votes kept and returned for each company.

Mr. PAINE. Will the gentleman read the whole of that section?

Mr. UPSON. I will read the whole of it if the gentleman desires it. He will find that where there are exceptional clauses, those exceptional clauses have to be put in the return, showing that they are within the exceptions, or the votes cannot be counted; and he will find returns in one or two instances showing that very thing. I will read the whole section:

"A poll shall be opened in each company, composed in whole or in part of Pennsylvania soldiers, at the quarters of the captain or other officer thereof; and all electors belonging to such company, who shall be within one mile of such quarters on the day of election, and not prevented by orders of their commanders or proximity of the enemy from returning to their company quarters, shall vote at such poll and at no other place. Officers, other than those of a company, and other voters detached and absent from their companies, or in any military or naval hospital, or in any vessel or navy-yard, may vote at such other polls as may be most convenient for them; and when there shall be ten or more voters at one place, who shall be unable to attend any company poll or their proper place of election as aforesaid, the electors present may open a poll at such place as they may select, and certify, in the poll-book, which shall be a record of the proceedings at said election, substantially in the manner and form as hereinafter directed."

Now, let us turn to what is called the return of the election, and I ask the gentleman from Wisconsin to notice the position taken by him in relation to the law of Pennsylvania in relation to these votes.

The minority of the Committee of Elections in their report in this case, on page 14 of the same, lay down the rule that under the soldiers' voting law of Pennsylvania the military return is in substance the same as the return of home votes, and that the poll-book, tally-list, and certificates of oaths form no part of the return, and they assert that—

"The law requires the prothonotary to certify to the board copies of the returns, not of the poll-books or other papers."

And that—

"If the originals are used, it is only at the original returns that the judges are required to look."

If this position of the minority be correct, it follows conclusively that if there be no such return, nothing but the poll-book, tally-list, and certificates of oaths, then there is nothing for the prothonotary to certify to the board; and if he certifies this poll-book, tally-list, and certificates of oaths only, there is nothing for the board to correct, and no legal return, as the tally-list is a part of the poll-book. (See section 15.)

Mr. PAINE. In the minority report an alternative statement is made. It is shown that to adopt the rule which the minority of the committee are inclined to consider the true one, the result would be in favor of Mr. Koontz. Adopting the other rule, that you are to look not only to what are technically called the returns, but also to the tally-lists, poll-books, and the certificates accompanying them, under that rule also Mr. Koontz is entitled to his seat.

Mr. UPSON. I quote from page 14 of the report as made by the gentleman from Wisconsin, [Mr. PAINE.] The gentleman claims, as I understand, the very position which I asserted, on pages 37 to 41 of the report of the committee, being the return for company H of the two hundred and eighth Pennsylvania regiment. Commencing with the poll-book of the election the House will find the form, which is substantially that put down in the law of Pennsylvania upon this subject, except the filling up.

But in relation to that I will show that the law requires, different from the requirement in reference to home elections, that the returns shall be made in the poll-book, and with the poll-book and tally-list shall also be returned

to the prothonotary of the court, who is to certify them to the district judges. What is the law?

"Sec. 4. Before opening the poll on the day of election, the electors present at each of the places aforesaid shall elect, *ex officio*, three persons present at the time and having the qualifications of electors, for the judges of said election; and the judges so elected shall then appoint two of the persons present, who shall be qualified to act as clerks of said election; and the judges shall prepare boxes or other suitable receptacles for the ballots."

Now, what further?

"Sec. 5. Before any votes shall be received, said judges and clerks shall each take an oath or affirmation that he will perform the duties of judge or clerk (as the case may be) of said election, according to law and to the best of his abilities; and that he will endeavor to prevent fraud, deceit, or abuse, in conducting the same, which oath or affirmation any of the said judges or clerks, so elected or appointed, may administer to each other; and the same shall be in writing, or partly written and partly printed and signed by said judges and clerks, and certified to by the party administering the same and attached to or entered upon the poll-book, and there signed and certified as aforesaid."

These are the express provisions of the law made in this case, because those elections were to take place out of the State. And it was found under the former law, as I am credibly informed, which this law changed, where there were no poll-books and tally-lists required to be returned in this specific way, gross frauds had been perpetrated in Philadelphia, and in one case the sheriff elected by so-called soldiers' votes was afterward turned out on an investigation of the election, the returns being found to be forged or fraudulent. And I look upon this law as designed to prevent the perpetration of such frauds in elections.

Mr. SCOTFIELD. I wish to inquire of the gentleman whether in the law to which he refers there is not a provision that no informalities in the holding of the elections by the soldiers in the camps shall be allowed to defeat their purpose; that their votes shall be counted and the returns received, notwithstanding any informality. If the gentleman admits that such is the fact, then, considering this strong provision of the Legislature, designed to protect the soldiers against the consequences of any errors which they, unaccustomed to such duties, might commit in reference to the formalities of the elections, I ask the gentleman this question: if he cannot, for the sake of securing the rights of our patriotic soldiers, consent to waive any informalities or errors which their returns may exhibit, why is he so extraordinarily liberal in waiving all the informalities of these return judges at home? The gentleman has been arguing for an hour to show that there were great informalities in the action of the return judges. Yet he is willing to waive all those informalities when they would operate against Mr. Coffroth, while he is not willing to waive some little informalities in the returns of the soldiers' vote, although the act of Assembly under which the soldiers in the field voted declares expressly that no informality shall invalidate their action.

Mr. UPSON. I have not been arguing on formalities. I have been stating what I consider to be the law as enunciated by the attorney general of Pennsylvania and by the courts of that State; and I maintain that admitting the fact that certain officers who were in the minority did not do their duty does not invalidate the action of the majority, and that the action of the latter is to be regarded as perfectly legal.

But, sir, the gentleman from Pennsylvania [Mr. SCOTFIELD] has not correctly cited the language of the law of that State in reference to the soldiers' vote. Its language is, "no mere informality," not "no informality." There is a vast difference between the phraseology of the act and the phraseology cited by the gentleman.

Mr. SCOTFIELD. There is not much difference between the two phrases.

Mr. PAINE. I wish to ask the gentleman whether the provision of the law of Pennsylvania, which I am about to read, does not apply to the election held in this case as well as to all other elections, whether held at home or in the field:

"It shall not be lawful for said judges or clerks, in casting up the votes which shall appear to have been

given, as shown by the certificates under the seventy-sixth and seventy-seventh sections of this act, to omit or reject any part thereof, except where, in the opinion of said judges, such certificate is so defective as to prevent the same from being understood and computed in adding together the number of votes."

I wish also to ask the gentleman whether the law which applies only to elections in the field does not contain this provision:

"No mere informality in the manner of carrying out or executing any of the provisions of this act shall invalidate any election held under the same, or authorize the return thereof to be rejected or set aside."

Mr. UPSON. The first section which the gentleman from Wisconsin [Mr. PAINE] has quoted is a part of the general election law of Pennsylvania. The second is a provision of the soldiers' voting law. The question which the gentleman asks is substantially the same as that just propounded by my friend from Pennsylvania. If the gentlemen had allowed me to go on I should have reached the point which they suggest.

Mr. THAYER. Will the gentleman yield to me for a moment?

Mr. UPSON. Certainly.

Mr. THAYER. The gentleman has referred, I believe, to an instance in which two companies voted together, and the return is certified, I think he said, by the officers of the two companies. I desire to ask the gentleman whether, in that case the poll-books and tally-lists accompanying the return showed the respective companies to which the voters were returned as having belonged.

Mr. UPSON. The return is printed in the report; and I cannot answer the gentleman without referring to that document.

Mr. THAYER. The question is very material as regards the particular case which the gentleman puts. If the poll-books and tally-lists accompanying the return show that every man who voted belonged either to company B or company G, and also show to which of those companies each voter belonged, and if the commanding officers certify to that return, it seems to me to furnish so complete a guarantee against any possible fraud in the return that such a case would clearly come within the saving clause of the act of Assembly, which provides that no informality shall deprive the soldiers of their votes. It was with this view that I addressed my inquiry to the gentleman.

Mr. DAWES. Suppose this to have been just so; suppose this to have been as intimated by my friend from Pennsylvania, and it goes before the return judges, the liberal statute of Pennsylvania says that the return judges shall not reject any return for mere informality, if in their opinion, (I call his attention particularly to this,) if in their opinion it is so far formal that they can ascertain the facts, or something to that effect. Suppose the return judges were of the opinion that this return he has suggested was so far informal that they could not accept it, and suppose they made a mistake. I suppose if my friend and I had been those return judges we would have thought differently; but suppose these return judges thought it was so informal that they made a certificate without taking it in, what I want to ask is, whether when that certificate comes up and we are not asked to go back, but only to consider a *prima facie* case, we ought to go back of that certificate?

Mr. SCOTFIELD. There is no provision that in the opinion of these judges they shall invalidate any election—

Mr. DAWES. The law in another place expressly says what I have stated.

Mr. THAYER. I inquire for information in regard to the point made by the gentleman from Michigan on the theory that the House might be able, in consequence of the fact apparent on the returns so far held by both parties in this case, to go behind those original returns and inspect the papers in possession of the committee, which contain the original returns upon which the board acted.

Mr. UPSON. Perhaps the inquiry was proper enough at the time. If I had been permitted to go on I would have analyzed the whole law, and would have referred to all these points without any inquiry on the part of any

gentleman. If the gentleman from Wisconsin will permit me, I will say that the law he first quoted has been in existence since 1839, and that under that law the decision was made to which I have referred in the Philadelphia Reports. I wish to call his attention to the fact that the prothonotary or the district judges have to determine the identity or genuineness of any paper before them.

Mr. PAINE. I wish to correct an evident misunderstanding of the law of Pennsylvania, not on the part of the gentleman, but on the part of others. The law allows soldiers from two hundred companies to vote at the same precinct. Indeed, the members of a thousand companies may vote at one precinct, provided they are not organized companies. What we say is, there is nothing on the face of the return to warrant, but everything to negative, the conclusion that these were two organized companies; and we assume it as clear that they were two detachments, and could vote at one place. Will the gentleman point out anything which contradicts it?

Mr. UPSON. The law provides there shall be a poll at each company.

Now, I have stated the general law to which the gentleman has alluded, and which since 1839 has existed in the State of Pennsylvania. I have referred to the decision of Judge Ludlow, which is to be found on page 360 of the Philadelphia Reports. I will read from Judge Ludlow's advice to the prothonotary and return judges. He says:

"Your office is simply ministerial. You are to open the papers received by you and examine them, to discover if they contain the company returns, and if a paper presents itself to your notice which you are satisfied is a palpable forgery, and therefore no return, it is not a paper of which you can take any notice; but if the paper is of doubtful authenticity, it may be a 'return,' and you are not to judge upon the validity of any such document."

But still further in relation to this election law. I was speaking about the necessity, as those elections took place outside of the State, of having these provisions in the law, and the reason why they were incorporated, namely, for the greater security of the soldier whose vote might otherwise be tampered with and forged returns made, as was the case in New York where the votes returned were differed from the votes put in the ballot-box. I hold that the returns should have been made up and certified as the law required. But how were they made up? The law says:

"Separate poll-books shall be kept, and separate returns made, for the voters of each city or county. The poll-books shall name the company and regiment, and the place, post, or hospital in which such election is held. The county and township, city, borough, ward, precinct, or election district of each voter shall be indorsed opposite his name on the poll-books. Each clerk shall keep one of said poll-books, so that there may be a double list of voters."

"At the close of the polls the number of voters shall be counted and set down at the foot of the list of voters, and certified and signed by the judges and attested by the clerks."

"As a check in counting, each clerk shall keep a tally-list for each county from which votes shall have been received, which tally-list shall constitute a part of the poll-book."

See how carefully they sought to protect the rights of soldiers so as not to allow him to be imposed upon by fraudulent returns.

Then again:

"After the examination of the tickets shall be completed, the number of votes for each person in the county poll-books as aforesaid shall be enumerated under the inspection of the judges, and set down as hereinafter provided in the form of the poll-book."

The following shall be substantially the form of the poll-books to be kept by the judges and clerks of election, filling in the blanks carefully."

The form of the poll-book is then given.

"A return in writing shall be made in each poll-book, setting forth in words, at length, the whole number of ballots cast for each officer, (except ballots rejected,) the name of each person voted for, and the number of votes given to each person, for each different office; which return shall be certified as correct, signed by the judges and attested by the clerks; such return shall be substantially as follows."

The form of return is then given.

Now, I wish to call the attention of my friend from Wisconsin [Mr. PAINE] to the tabular lists which he has made here of votes given, to show him that not only is his construction of the law

as to the return incorrect, but the result is different from the conclusion he draws from the rule he has laid down himself. In regard to Mower hospital, Cuyler hospital, and McClellan hospital, none of them contain any return of votes. There is nothing but the poll-book and the tally-list; and if the gentleman says that those are no part of the returns, then there is nothing whatever to identify as returns. There is no return made out of any votes cast. There is not a single certified return outside of the poll-books and tally-lists in Mower, Cuyler, and McClellan hospitals. Nor is there any such return as to the election at Barracks No. 1, and if these are deducted from the tabular statements in the minority report, for want of these returns it overcomes the majority there claimed for Koontz, and gives it to Mr. Coffroth on the very rule laid down by the minority in their report.

In addition to that, at Barracks No. 1, it is certified to the poll-book in two places that there were only forty-eight persons voting, while the tally-list returned certifies to 78 votes cast for member of Congress, thus making the votes cast nearly double the number of voters in the poll-book for that county.

Mr. SHELLABARGER. Will the gentleman yield a moment?

Mr. UPSON. Certainly.

Mr. SHELLABARGER. They all voted, as they had a right to do, for member of Congress, and they were certified to have so voted; and in making the returns they returned the names to the proper county, properly certified—the entire aggregate vote for Congress to a single county. Now, I ask, is that a reason why their votes should be disregarded?

Mr. UPSON. I think my friend is mistaken. We have the returns which were made to the prothonotary of the county of Bedford and to the secretary of the Commonwealth, and in those returns we have the following certificate:

"It is hereby certified by us that the above list of electors voting at the said election is correct, and that the number of electors of Bedford county, State of Pennsylvania, voting at the said election, amounts to forty-eight."

Then it says, still further:

"Tally-paper or list of votes for each person voted for at the said election by the qualified voters of Bedford county, State of Pennsylvania, for Representative in the House of Representatives of the United States, sixteenth district:

"For Congress, William H. Koontz had 58 votes; A. H. Coffroth had 29 votes."

So that it gives some 89 votes above the amount certified.

And to show that I am not mistaken in this, I will give here the certificate given by the secretary of the Commonwealth:

PENNSYLVANIA, ss:

I do hereby certify that the foregoing is a correct copy of said election return so far as the same relates to the county of Bedford.

In witness whereof I have hereunto set my hand, [L. s.] and caused the seal of said office to be affixed, this 26th day of October, A. D. 1864.

W. H. ARMSTRONG,

Deputy Secretary of the Commonwealth.

And to show still further that this has been carefully prepared, I give you the certificate added to that of Mr. Shannon, the prothonotary of Bedford county, showing that he received from the secretary of the Commonwealth this very paper, and which is in these words:

BEDFORD COUNTY, ss:

I, O. E. Shannon, prothonotary of said county, certify that the foregoing is a full and true copy of a poll-book, (except printed form in blank,) or copy of poll-book, received in my office from the secretary of the Commonwealth.

In witness my hand and official seal at Bedford, [L. s.] the 27th day of January, A. D. 1865.

O. E. SHANNON, Prothonotary.

Now, there is the certified vote by the secretary of the Commonwealth, and on page 43 it is certified in the same way by the clerks of election to the prothonotary of Bedford county:

"It is hereby certified by us that the above list of electors voting at the said election is correct, and that the number of electors voting at the said election amounts to forty-six."

The only difference is that in the one case 46 votes are returned, and in the other 48 votes. By the return certified to the prothonotary of

Fulton county, there was no vote given for member of Congress; and I ask the gentleman from Ohio, [Mr. SHELLABARGER,] how he can presume that a vote was given where none is certified?

Mr. SHELLABARGER. I will answer my colleague on the committee when my turn comes.

Mr. UPSON. I did not expect an answer now. I merely called the gentleman's attention to it.

But still further. I was alluding to these returns in another aspect. We have been told that it is our business, in determining a *prima facie* case, to go into the merits and count all these votes.

I wish now to call attention to another section, to show that there are objections which may be made to these returns:

"Sec. 22. All said elections shall be subject to contest, in the same manner as is now provided by law; and in all cases of contested elections, all legal returns—"

Making a distinction between returns and legal returns—

"which shall have been *bona fide* forwarded by said judges, in the manner hereinbefore prescribed, shall be counted and estimated, although the same may not have arrived or been received by the proper officers to be counted and estimated in the manner hereinbefore directed before issuing the certificates of election to the persons appearing to have a majority of the votes then received, and the said returns shall be subject to all such objections as other returns are liable to, when received in due time."

I wish gentlemen to mark that returns that are not received in time, the law says, shall be subject to all such objections as other returns are liable to, and that when received in due time they are open to objections. Those objections I will now endeavor briefly to point out. I will not quote the section so often referred to by gentlemen containing the words "on mere informality," because I do not think it necessary now, and besides that, I do not see that it alters the course of reasoning in the least. I will now speak of the objections apparent on the face of the so-called returns, which, in my judgment, unless they are authenticated by evidence showing that the votes actually were cast, would not entitle them on the face of the papers to be received, but which it is possible may be helped by extraneous evidence showing that the election was held and proper proceedings taken to authorize the soldiers to vote. I read from page 7 of the report:

"One of these so-called returns for Bedford county of an election claimed to have been held at Barracks No. 1, Soldiers' Rest, Washington, District of Columbia, shows on the poll-book the names of only forty-eight electors as voting, which list is certified by the clerks and judges as correct; and yet the same clerks and judges of election return an aggregate of 87 votes as cast for Representative in Congress, or 38 more votes than electors voting, which is manifestly an absurd and illegal return, and should not and could not have been counted by the county return judges. The return also gives no company or regiment (section 7) to which the soldiers belong, nor states any facts or circumstances to bring them within any of the special provisions of section two of the act, which could authorize them to open a poll or hold an election there."

I may add, also, that it was not certified to the county board, as appears from the papers referred to the committee, and therefore it could not be counted if it had been before them.

"So also the poll-book in the other so-called return for Bedford county, purporting to be for company H, two hundred and eighth regiment, (paper 19) shows only thirty-six electors from Bedford county, while the return gives 56 votes for Representative in Congress. If it be claimed that the poll-book shows the names of electors from other counties, it is a conclusive reply that the law (section 7) expressly says that 'separate poll-books shall be kept, and separate returns made, for the voters of each city or county'; and we see no authority given to the return judges of Bedford county to count votes cast for other counties, and especially when, as in the case of this last return, some of the electors reside in counties not within the congressional district."

And this return was also not certified to the county board, and could not be counted by them.

"Of the eight alleged as rejected returns for Adams county, the three from the hospitals, namely, Mower, Cuyler, and McClellan, are by all the committee admitted to be too defectively certified and authenticated to be entitled to any consideration. The law in relation to the certifying, signing, and returning with the poll-book the evidence of the administering the oath to the officers of the election, was wholly disregarded. So also in the case of company C, two hundred and second regiment, where only one judge of election

appears to have been appointed, or sworn, or acted, the committee were alike unanimous in their opinion that the return was invalid, the law expressly requiring three."

And I find the minority agree with me in their report, and on page 15 they admit that this return is invalid, although it is counted in their second tabular statement given on page 18 of their report.

"The returns of company I, two hundred and tenth regiment, (paper 35,) do not show that two of the judges or the clerks were sworn, a certificate of which the law (sections 5 and 15) expressly requires. The returns for companies B and G, one hundred and thirty-eighth regiment, (paper 39,) show that these two companies voted together at one poll and having the same election officers, both judges and clerks."

"* * * * *
"The returns for company B, twenty-first Pennsylvania cavalry, either show the judges and clerks of election to have been sworn before one James Mickle, who was not an officer of the election and had no authority (section 5) to administer such oath, or else that neither of the judges or clerks of election were sworn, and in either case is in violation of the law."

Mr. THAYER. I wish to ask the gentleman whether he considers that return invalidated by the fact that the two companies of the one hundred and thirty-eighth regiment voted at the same poll, provided that there are accompanying papers to show that every man who voted had a right to vote. And I will ask the gentleman, whether, if there were representatives from half a dozen companies, he considers it would be necessary to have a separate return for every man who happened to be there from a different company.

Mr. UPSON. Where they voted under the exceptional clause of the law that would be so stated in the return; and I will answer the gentleman by propounding another question. Suppose that the voters from two different wards or election precincts in the city of Philadelphia should vote in one election precinct, would the gentleman call that legal? I wish he would answer it, yes or no.

Mr. THAYER. I answer that that would clearly be illegal. But I conceive that there is a great distinction between an election held at home and an election held by soldiers in the field. The two cases are not at all analogous; and it is because they are not analogous that the Legislature put in that clause, which protected their rights from being destroyed by want of compliance with immaterial formalities.

Mr. UPSON. The analogy is perfect; each company is equivalent to an election precinct, and is made so by the express language of the statute.

And now, in relation to this matter about judges of election, where it appears that there was only one judge appointed, and where there is no certificate of officers sworn, I refer to page 282, Bartlett's Contested Elections, in the case of Howard vs. Cooper, of Michigan. The report of the committee in that case was sustained by the House. The committee in that case say:

"Your committee have rejected the vote of the township of Van Buren. The law requires that the board of inspectors shall be constituted of three persons in number. The proof is clear that there were but two, and as there was no board of inspectors known to the law, your committee see no way by which any legal effect can be given to the returned vote. They have, therefore, deducted it, although it can in no way affect the decision of this case, whether it be deducted or retained."

And I refer to page 314, Contested Elections, in the case of Blair vs. Barrett, in relation to the fact where it is expressly required that the officers of election shall be sworn, &c.

"The committee are aware that it is sometimes held that public officers are presumed to be qualified, and to have taken such oaths of office as the law requires, and must be taken and deemed to have done so in the absence of proof to the contrary; but in this case the law of Missouri expressly required that a 'certificate of their qualification shall be returned with the return of the votes.' It was expressly charged, as a ground of contest, that they had not been sworn. It would have been a matter of the greatest case to have proved the fact, if it had been a fact, by summoning any one of those officers as a witness; yet the sitting member, though he called many other witnesses to other points, at no time examined either of the fifteen men officiating at those precincts, or any other person, as to this fact."

Now, it should be borne in mind here that

the law of Pennsylvania expressly requires that this oath should be administered, that it should be signed, that it should be certified by the person administering it, and the certificate appended. It is necessary that it should appear on the face of the return that this party has been sworn and has assumed the obligations of an election officer.

Now, on page 315 the committee further say:

"In the case of Joseph Draper vs. Charles C. Johnston, in the Twenty-Second Congress, (Contested-Election Cases, p. 701.) the Committee of Elections state the law, as your committee believe correctly, as follows:

"The neglect by the sheriff or other officer conducting the election to take the oath required by law vitiates the poll for the particular precinct or county, and the whole votes of such precinct or county are to be rejected. The legal presumption is that the oath required has been taken, every officer being presumed to have done his duty, and that the *onus* is thrown upon the party taking the objection to show the neglect or omission; but as the law of Virginia requires that the oath shall be duly returned by the magistrate before whom it is taken, and filed in the clerk's office, a certificate from the clerk that no such oath is filed will be sufficient *prima facie* (notice of the objections being previously served upon the opposite party) to throw the burden of proof upon the party claiming the vote."

"In this case the law of Missouri requires that the certificate of the qualification of the judges of election shall be returned with the return of the votes. An inspection of the record shows no such return at the precincts now under consideration."

This is exactly the case before us. Here are a number of returns, on the face of which there is not the least evidence that this oath was administered, unless you draw such an inference from the recitals in the headings given in the forms in regard to other matters but not intended for that part of the law relating to the certifying and authenticating the oath. In some cases there is no evidence whatever of the administering of the oath to any officer whatever.

The report continues:

"It was distinctly alleged, as a ground of contest, that these judges had not taken the oath, and the committee had come to the conclusion that the burden was upon the sitting member, claiming these votes, to show that these officers had actually taken the required oath, or to have shown affirmatively that the votes he asked to have counted for him at these precincts, if the officers were not qualified, were actually given by *bona fide* voters; and he, not having shown either the qualification of the officers or the fairness of the vote, but the contrary appearing, the votes at these precincts, namely, Gravois coal mines, G. Sappington's house, and Harlem House, are rejected."

Now, sir, in a case as to the *prima facie* right, are we to apply a different rule from that which was applied by this House in the case to which I have just referred, in which case the committee cite various other decisions to the same effect?

I will now call the attention of the House to page 18 of the report, where the minority of the committee present a tabular summing up of the votes, giving a majority to Mr. Koontz. I shall endeavor to point out where, as I consider, the return is plainly defective. The first summing up by the minority gives Mr. Koontz a majority of 32, while the second gives him a majority of only 14. Now, sir, when, by their own rule, you deduct from the first summing up the votes credited from Mower hospital, McClellan hospital, and Cuyler hospital, in reference to which there is no evidence of any oath having been taken, and no return outside of the poll-book and tally-list, and when you deduct also, by the same rule, the votes credited to Barracks No. 1, where there is no return appended, the entire majority is destroyed.

Taking the second summing up, making the same deductions, and also deducting the vote credited to company C, two hundred and second regiment, which in the minority report, page 15, is admitted to be void, (there being but one judge of election,) but which is here counted, the result is a large majority for Mr. Coffroth.

But, in addition to that, these other objections I have noticed in passing lie to every single return except one, that one being, I believe, the return of company K, one hundred and eighty-fourth regiment.

Hence, I consider that even if we should go behind the certificate of the return judges, which I hold we are not authorized to do in a *prima facie* case, still there are not, on the face of the

returns, enough votes that can be counted in favor of Mr. Koontz to authorize a different conclusion from that to which the majority of the committee have arrived, that Mr. Coffroth has a majority of the votes cast, on the face of the papers, and the *prima facie* right to the seat in question.

Mr. PAINE. Mr. Speaker, I move to amend the resolutions submitted by the majority of the committee, by striking out all after the word "resolved," and inserting in lieu thereof the following:

That William H. Koontz has the *prima facie* right to a seat in this House, as a Representative of the sixteenth congressional district of the State of Pennsylvania.

2. Resolved, That Alexander H. Coffroth, desiring to contest the right of William H. Koontz to a seat as Representative of the sixteenth congressional district, be required to serve upon the said Koontz, within fifteen days after the adoption of this resolution, a particular statement of the grounds of said contest; and that the said Koontz be required to serve upon the said Coffroth his answer thereto within fifteen days thereafter; and that both parties be allowed sixty days, next after the service of said answer, to take testimony in support of their several allegations and denials; notices of proposed examinations of witnesses to be given at least five days before such examinations; no such examination to be commenced at one place before the expiration of five days from the conclusion of the last examination at another place; such examinations to be regulated in all other respects by the provisions of the act of February 19, 1851.

Mr. Speaker, during the course of this debate the attention of this House has been called, by an interrogatory addressed to the gentleman from Michigan [Mr. UPSON] by his colleague [Mr. DRIGGS] to the fact that the report of the majority of the Committee of Elections in this case is in favor of Mr. Coffroth. While such is the fact, I feel it incumbent upon me to say that, in my view, the particular circumstances of this case entitle it to be considered by the House as an exception to the general rule which induces the House to follow the report of the committee. In a case of this kind, where the committee are so nearly divided, it seems to be the duty of the House to consider with more than usual care the reasons which ought to influence them in making up their verdict. Now, while it is true that five out of nine of the committee believe that Mr. Coffroth is entitled to the seat, it is equally true that four out of the nine have, after the most patient and laborious investigation, come to the conclusion that Mr. Koontz is entitled to the seat. On their behalf, as well as on behalf of what I believe to be the cause of truth itself, I ask the House to give this case more than their usual consideration. God knows I do not desire that the contestant in whose favor the minority has reported should have his seat here if the law and the facts of the case do not entitle him to it; but it is my duty as it is the duty of each one of the minority to show what these facts and legal principles are, and to ask the House to act upon them carefully and deliberately.

Mr. Speaker, I have to say, at the outset, that there is before this House, in this case, not one single legal instrument of evidence, not one single item of evidence upon which either party could act without the consent of the other, except the proclamation of the Governor of Pennsylvania, and possibly the soldiers' returns. No, sir, not one single item of proof, legal in its character, except the proclamation of the Governor of Pennsylvania, and, perhaps, the returns of the soldiers' votes.

All the lawyers in this House, of course, are familiar with the statute of the United States which provides for the authentication of the records of the several States; and most of them who are not lawyers are familiar with that law. I will, therefore, not refer to its provisions; but I will call the attention of this House to the statutory provisions of the State of Pennsylvania respecting the authentication of such instruments as have been used before this committee. On page 425 of Purdon's Digest of the laws of that State appears the following:

"Whenever provision has been or shall hereafter be made by law for recording in the proper office any paper, or papers, the record and records thereof made, and exemplifications of the same lawfully certified, shall be legal evidence in all cases in which the same would be competent testimony."

On page 379 it is provided, as follows:

"It shall also be the duty of the prothonotary of every county to record all the election returns in a book to be procured for that purpose, and to lay the returns of the election of county commissioners, and county auditors, and of all township officers, before the court of quarter sessions of such county."

"It shall also be the duty of every prothonotary to give a certified copy of the list of voters and other papers deposited in his office by the judges of an election to any person applying for the same, on payment of the usual fees as in other cases."

I suppose, Mr. Speaker, that in deciding upon the competency of evidence offered before this committee or this House, we should be at liberty to follow either the law of the United States or the law of the State of Pennsylvania. The proclamation of the Governor of Pennsylvania manifestly complies with the law of the United States, because it comes before this House with the great seal of that State and the attestation of the secretary of that Commonwealth. But the district board returns which are presented here, as well those in favor of Mr. Coffroth as those in favor of Mr. Koontz, do not come before this House or this committee properly authenticated, either under the law of the United States or the law of the State of Pennsylvania. They bear the seal of no prothonotary. They bear the seal of no officer. It is true, as the gentleman from Michigan [Mr. UPSON] has said, they are transmitted by the Governor of the State of Pennsylvania to this House. But it so happens that they do not come authenticated or accredited by any certificate or statement or credential of the Governor of the State. They come accompanied by his proclamation, in which he declares to us that he finds them both to be nullities as returns. If you go beyond them to look at the returns of the county boards, which come next, passing down from the Governor's proclamation toward the ballot-box, you find they cannot, by any possibility, have any official character as evidence before this committee or this House. They cannot by any possibility come before us as evidence unless they come by the admission of the parties, because, as the gentleman from Michigan has claimed before this House, there is no provision under the law of Pennsylvania or any other law for depositing these county board returns in any depository known to the law of Pennsylvania or any other law.

There is no authority to be found in the statute of Pennsylvania for depositing these returns in the office of the prothonotary of the county or of the secretary of the Commonwealth, or in any other office, in a case like this where a congressional district is composed of two or more counties. If there were but one county in the congressional district, then the case would be different, then a copy would be deposited in the office of the prothonotary and another sent to the secretary of the Commonwealth. But in this case the law makes no provision for a depository of the county court; therefore, it can come from no official depository hither. No official depository can send or bring such county board returns to this House. No officer of Pennsylvania is authorized to certify such returns.

It is true that in a regular contest before this House, where it is proper to take depositions, these returns might be brought as part and parcel of the depositions offered to this House, and it is true that they could be used as they have been in this case before the committee by the consent of the parties. But if they are received by the consent of the parties it must be with the conditions accompanying that consent. They must be received with the conditions which the parties see fit respectively to impose.

But the case is different with the returns of military elections. There are depositories for them. They are placed in the office of the prothonotary of the county, and they are sent to the office of the secretary of the Commonwealth, and hence they can be certified and can come before us as they have come before us as evidence of undoubted competency independent of the admissions of parties.

Mr. UPSON. I would like to inquire whether

there is any question raised as to the identity of any of the papers submitted by either party.

Mr. PAINE. I will answer the gentleman as I proceed in the case. There is no dispute as to the Governor's proclamation; there is no dispute that the return of the Coffroth district board was prepared by the men who appear to have signed it and presented to the Governor; there is no dispute that the return of the Koontz district board was prepared and sent or presented to the Governor by those who appear to have signed it; there is no dispute that the county board returns of Franklin, Fulton, and Somerset, were signed by all the judges whose names appear to be attached thereto, or that they are all proper and correct returns. But when we came to the county board returns of Adams and Bedford counties, it was insisted on the one hand that the papers which were signed by the alleged majorities of the judges of those two boards were lawful and correct returns, and on the other hand that the returns made by the alleged minorities of these two boards actually included the whole legal soldiers' vote, and were therefore better than the two majority returns of Adams and Bedford counties, which did not include these soldiers' returns which should have been included, and were therefore utterly and absolutely void.

Mr. UPSON. The gentleman does not answer my question. It is as to the identity and genuineness of the papers.

Mr. PAINE. I have answered it. It was admitted on all sides that these papers were signed by those whose names purported to be attached to them. But their official character was disputed, and the main object of this investigation was to determine the legality of those returns.

Mr. STEVENS. Having the several returns with the certified number of votes, what authority have we, on the *prima facie* case, to inquire into the legality of these votes?

Mr. PAINE. That brings me to the next question which I was about to consider. There were presented to the Governor as a basis of his proclamation under the law of Pennsylvania, and there has been presented to this House, as the basis for a *prima facie* claim on the part of each of these parties, two papers which purport to be district board returns for that congressional district, of which, to speak more strictly, one purports to be such a return and the other to be a return for four of the five counties of the district. One of these shows that Mr. Koontz received a majority of all the votes cast in that district, and was therefore legally elected. The other shows that Mr. Coffroth received a majority of the votes cast in four counties of that district, and is therefore declared to be elected.

Mr. Speaker. I will show that this return in favor of Mr. Coffroth is on its face a nullity. I will show that the return of Mr. Koontz is upon its face absolutely perfect. I will also show before I conclude that of the four men who signed the district board return in favor of Mr. Coffroth, only two had the shadow of a right to sit in that board, the opinion of the attorney general of the State of Pennsylvania and the majority of the committee to the contrary notwithstanding. I shall show that of those two who had the shadow of a right to sit in that board, neither had a right that can be admitted without the gravest doubt by this House.

Mr. SPALDING. I desire to ask my friend from Wisconsin a question, to enable me to form my own judgment. On page 2 of the report of the committee I find a paragraph in these words:

"Aided by the light thus thrown upon the case, the committee were unanimously of opinion that the persons signing the said return in favor of Mr. Koontz were not the legally constituted board of return judges for said district, and had no lawful authority to make any such return, and that the four persons signing the said return in favor of Mr. Coffroth were a majority of the legal return judges, and the only lawful board."

Now, I want to know if the gentleman controverts that passage in the report? My vote will turn very much on this fact.

Mr. PAINE. When the gentleman speaks of "that passage in the report," I take it he does not mean a passage in the views of the minority.

Mr. SPALDING. I want to know if you dispute that paragraph.

Mr. PAINE. The statement the gentleman has read is found in the majority report. In reply, I will read a passage from the minority report, which is found about the middle of page 17 of the printed reports.

Mr. SPALDING. Will the gentleman answer my question? Does he controvert the paragraph I have read?

Mr. PAINE. Of course we controvert it; of course we deny it. The committee were not only not unanimous in that opinion, but every one of the four members who signed the minority report disputes it. I will read the answer we have made; referring to Adams and Bedford counties, we say:

"Neither these returns nor the judges who bore them had any place in either of the district boards."

And again, on page 19:

"Looking behind the return of the district board, we find, as the attorney general did, that the district judges of Adams and Bedford counties were selected by majorities of their respective county boards; and we also find, what the attorney general had no occasion to inquire into, that the returns borne by those judges were nullities, and that therefore neither the returns nor their bearers had any place in the board."

Mr. DAWES. I would like to ask my friend from Wisconsin a question.

Mr. PAINE. Certainly.

Mr. DAWES. I wish to ask him if he holds that the board which signed what is called the Koontz return was a legal board.

Mr. PAINE. I hold that it was an illegal board.

Mr. DAWES. Then I would ask my friend if that was not also the opinion of his associates who signed the minority report.

Mr. PAINE. Perhaps I did not quite understand the gentleman's question.

Mr. DAWES. I ask my friend if he is of the opinion now that the board that signed what is called the Koontz return was a legal board.

Mr. PAINE. I am not; I am of the opinion that it was an illegal one.

Mr. DAWES. Was that the opinion of his associates of the minority?

Mr. PAINE. It was.

Mr. DAWES. Then I think the report of the committee is true when they say that the committee were unanimously of the opinion that it was an illegal board. I think my friend from Wisconsin must have misunderstood the question of the gentleman from Ohio, [Mr. SPALDING.] I understand him now to admit, speaking for the four minority members of the committee, that the Koontz board was an illegal board as it was constituted there. That certainly was the opinion of the majority of the committee, and if it was the opinion of the minority also, that makes it as nearly a unanimous opinion as well might be.

Mr. PAINE. I am sorry the gentleman from Massachusetts did not listen more carefully to the paragraph the gentleman from Ohio read. It contains two statements. The first is that the committee were unanimously of the opinion that the Koontz board was illegal; and the second is that they were unanimous in the opinion that the Coffroth board was legal.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed bills of the following titles; in which he had been directed to ask the concurrence of the House, namely:

Senate bill (No. 33) in relation to the Court of Claims;

Senate bill (No. 56) granting a pension to Mary C. Hamilton;

Senate bill (No. 82) granting a pension to Sarah Fitzgibbon;

Senate bill (No. 116) to extend the benefit of the pension law to artificers; and

Senate bill (No. 112) for the relief of the heirs of James Bawdin.

ORDER OF PROCEEDING TO-MORROW.

Mr. STEVENS. I will take this occasion to interrupt the business under consideration for a moment to submit a motion which I think should be decided now. Several gentlemen, I understand, desire to make speeches upon the general subject of the President's message. I would suggest that the House now agree to meet to-morrow for debate only on the President's message.

Mr. PLANTS. Meet at ten o'clock.

Mr. STEVENS. Some members say meet at ten o'clock. Those who desire to speak ought to govern that.

The SPEAKER. The first part of the proposition of the gentleman from Pennsylvania [Mr. STEVENS] in reference to restricting the session of to-morrow to debate only, can be decided by the vote of the majority. The second part, in relation to meeting at ten o'clock, will require unanimous consent.

The question was taken upon devoting to-morrow to debate only upon the President's message; and it was agreed to.

Mr. STEVENS. I now move that the House meet to-morrow at ten o'clock a. m., as some gentlemen who desire to speak seem willing to run the risk of having an audience at that time.

Mr. BROOKS. On behalf of the reporters of the Globe, whom we are working almost to death, I must object to that proposition. I want them to have a little rest.

Mr. STEVENS. Oh! if the gentleman makes it a question of humanity, [laughter,] I will withdraw the motion.

PENNSYLVANIA CONTESTED ELECTION—AGAIN.

Mr. STEVENS. I desire to make a remark to the gentleman from Wisconsin, [Mr. PAINE.] As I understand from this discussion, the question of the legality of these boards is now in question. By the law of Pennsylvania the election judges, not the board, make out the returns and send them to the boards. The boards under our law have no authority to judge of anything in regard to the votes, either their legality or anything else; they have only to add them up.

Now, I would ask, why are we discussing this question of the legality of these returns by the board, if the returns made by these election judges are here in any shape so that we can act upon them?

Mr. DAWES. If my friend from Pennsylvania [Mr. STEVENS] had listened patiently to the gentleman from Michigan, [Mr. UPSON,] and the gentleman from Wisconsin, [Mr. PAINE,] he would understand why they are doing it.

Mr. STEVENS. I want to get at the marrow of the thing, without so much bone.

Mr. DAWES. It is this: it is because the majority of the committee believe that one part is illegal, and the minority of the committee believe the other part is illegal.

Mr. STEVENS. Does it make a particle of difference whether they are legal or illegal? If we have the vote sent up here, what difference does it make?

Mr. PAINE. I will come to that question directly. I say that of these two district board returns, the one in favor of Mr. Coffroth was upon its face an absolute nullity. And I ask the attention of the gentleman from Pennsylvania, [Mr. STEVENS,] who desires to understand this case, to what I now have to say. The district board return in favor of Mr. Coffroth was upon its face an absolute nullity as a return. That is the opinion of the attorney general, who gave that advice to the Governor when the Governor consulted him as to its validity as the basis of his proclamation.

On the other hand, the district board return in favor of Mr. Koontz is upon its face absolutely perfect. The Coffroth return is a nullity, because it purports to be the return of only four counties of that district, and not of all the counties. It shows upon its face that the vote of Somerset county was excluded. It does not purport upon its face to be the legal return of that district. On the other hand, if you look at the Koontz return you will find that

on its face it does purport to be the return of all the votes of all the counties of the district, and that it is signed by five judges, by a full board of district judges. Now, these two reports were placed in the hands of the Governor; and the question is, why did he not, on the strength of the Koontz return, give Mr. Koontz a certificate? He himself pronounced the Coffroth return a nullity. Why, then, with that return in one hand, a nullity as he declares it to have been, and with the Koontz return in the other hand, perfect on its face, and signed by five judges, why did not the Governor give the certificate of election to the man who, upon the face of the papers, was entitled to it?

Mr. Speaker, if it be true, as the gentleman claims, and as I am willing to admit, that we are to take the papers on their face, I maintain that, beyond the possibility of controversy, Mr. Koontz was entitled to a certificate from the Governor, because his return was perfect, was signed by five judges, and was not impeached by any return which, as a return, had any validity. On the contrary, the only paper which attacked it was a paper which the Governor himself tells you was, as a return, a nullity. Why, then, did he, out of regard for that nullity, refrain from making his proclamation as he ought to have made it, in favor of Mr. Koontz? After it has been declared, in the opinion of the attorney general, that that return was a nullity, the Governor turns round and inquires into the legality of those two boards. What right had he to do that? Mr. Speaker, if he had a right to do that, we have the same right. But I believe that the Governor of Pennsylvania, looking only at the face of those papers, ought to have made his proclamation in favor of Mr. Koontz.

But it was represented to the Governor that the men who signed these papers were not all lawfully chosen judges; and he went into an examination—an examination nowhere provided for in the laws of Pennsylvania or the laws of the United States—in which he took testimony for the purpose of determining who were and who were not lawful members of these respective boards. By the consent of the parties he took the testimony of witnesses, and he found that the four men who composed the Coffroth board were lawfully chosen to that board. He found that only two of the Koontz board were lawfully chosen members of that board.

We have also examined all the evidence lawfully before us bearing upon these questions, and we find that only two of the Coffroth board had any shadow of a right to be members of that board. There were four judges who signed the Coffroth district board return. The judge from Franklin county, Mr. Winter, went first to the Koontz district board and signed the Koontz district board return on the same day on which he signed the Coffroth district board return.

Now, Mr. Speaker, whether he had any right to appear in that second board or not, whether he had any right to sign the return in favor of Mr. Coffroth or not, depends on whether the first board which he attended was or was not a lawful board. If it was a lawful board, then, when he had attended it and deposited his county return there, he was *functus officio*, and he had no right to attend the Coffroth board.

The member who represented the county of Fulton in the Coffroth board was Mr. Laker. I will read from the attorney general's opinion the agreed statement of facts, to show how Mr. Laker was chosen a member:

"Mr. Wilhelm, of Franklin, was selected as district return judge by the return judges of that county at their first meeting, and, of course, before the soldiers' vote had been counted. Mr. Laker, of the same county, was selected by the return judges of the county at their last meeting, and after the soldiers' vote had been counted. At that meeting, upon the suggestion of one of the clerks, Mr. Wilhelm, who was president of the board, stated that he had been informed that the selection of a district return judge, before all the votes had been counted, was illegal, upon which a motion was made and carried to proceed to a selection. The vote was taken and Mr. Laker had a majority, and the returns were accordingly placed in his charge. Mr. Wilhelm was nominated, but had not a majority. He never resigned the appointment which had already been made, but, no doubt, under the im-

pression that such appointment was illegal, he put the question on proceeding to a new selection, announced the result, and as president signed a certificate, under seal, of Mr. Laker's selection as district return judge.

"I can see no ground for the assumption that a judge cannot be designated for these purposes just as lawfully before the certificate has been made out and signed as afterward; and therefore I conceive that the selection of Mr. Wilhelm was entirely legal. But that selection did not constitute him the holder of an office. He was rather a committee of one to perform certain duties. But, whether he be styled an officer or a committee, in my opinion the subsequent selection of Mr. Laker, and the actual placing of the certificate in his charge, completely discharged Mr. Wilhelm and overrode his appointment."

Now, Mr. Speaker, it is to be observed that Mr. Wilhelm was chosen unanimously by the board at its first meeting, when that board had a right to choose the man to take the return to the district board. Mr. Laker was chosen at the second meeting of the board, not unanimously, but by a majority, in the face of the opposition of the minority, after it had been discovered that it would be necessary to manipulate the soldiers' returns in the district board, in order satisfactorily to decide this case. I will say, Mr. Speaker, that I have found it very difficult, indeed, to recognize this selection of Mr. Laker by a bare majority against the opposition of a minority as overriding the unanimous selection of the board made under those circumstances. Nevertheless the minority of the committee have decided, not without grave doubts, to recognize Mr. Laker as a legal member of the Coffroth board. If, then, he had a right to be there, and being present made the board legally complete as to numbers, and if Mr. Wilhelm had no lawful place in the Koontz board, then Mr. Winter, from Franklin county, had also a right to be a member of the Coffroth board.

Now I come to the question whether the two judges who represented Adams and Bedford counties in that Coffroth board were lawful judges. In my judgment, the county judge, who takes the county board returns to the district board, has no place in that district board, unless he has with him the returns for his county. Those returns are his credentials. Without them he has no right to be there, because the only provision of the law of Pennsylvania, respecting the selection of the men who shall carry these county returns to the district board, is a provision that these returns shall be taken in charge by one of the county judges, and by him presented to the district board.

There is no statutory provision there for the election of one of the county judges to act as district judge. Of course the county board has a right to designate, otherwise every member of the county board might claim to be the district judge. Only a valid return, then, can constitute the credentials of the judge who bears the county board return to the district board. I say the judge who represented Adams county did not have with him lawful credentials. He did not bear with him to the district board a valid return. Why? The return was invalid for the same reason for which the Coffroth district board return was declared by the attorney general to be a nullity. It did not embrace all the soldiers' returns for Adams county. It rejected certain soldiers' votes which ought to have been included, as I will now proceed to show.

I come now to determine this proposition:

If it was the intention of the Legislature of Pennsylvania to augment the difficulties which must always attend the exercise of the elective franchise by soldiers in the field, by hampering them with more stringent and minute formalities than incumbent the elective franchise within the State, the intention was certainly not well expressed in the military election act of 1864, which contains the following sweeping clause, not found in any other general law of that State:

"No mere informality in the manner of carrying out or executing any of the provisions of this act shall invalidate any election held under the same, or authorize the return thereof to be rejected or set aside."

By the law applicable to the home elections

a clear distinction is made between the return of the precinct judges, strictly so called, and the poll-book, tally-list, and certificates of oaths. One duplicate of the poll-book, tally-list, and certificates of oaths is scaled up in one or more of the ballot-boxes and deposited with the nearest justice, "to answer the call of any persons or tribunal authorized to try the merits of such election." The other duplicate is sent under seal to the office of the prothonotary of the county. But an entirely different disposition is made of the return. That, and that only, goes to the county board. To that only do the judges of the county board look to ascertain the vote of the precinct. The errors, defects, and informalities of the poll-books, tally-lists, and certificates of oaths are immaterial. If the returns are not so defective as to be unintelligible, the judges must count them, and leave to other tribunals the rectification of whatever wrongs may ensue. The county board must meet on the first Friday after the election, and may meet on the morning of that day. But the law does not compel the deposit of the poll-books, tally-lists, and certificates before the evening of that day. Hence, during the whole of the day on which the board meets they may be inaccessible, even though the judges should desire to inspect them.

In the military elections the same distinction exists between the return and the poll-book, tally-list, and certificate. The military return is in substance the same as the home return. It is true that the military return is sent to the office of the prothonotary, where also the tickets, poll-book, tally-list, and certificates of oaths are sent, all being written in the same book or series of papers. But the reason of this is to be found in the obvious propriety of sending the return to some known public office to await the call of the county board. And no office can be more appropriate than that of the prothonotary. This circumstance, therefore, does not affect the legal character of the return. The law requires the prothonotary to certify to the board copies of the returns, not of the poll-books or other papers. If the originals are used, it is only at the original returns that the judges are required to look.

But all of the ten rejected returns of Adams and Bedford counties, (using the word in its restricted and proper sense,) except those of company B, twenty-first regiment, Adams county, and company H, two hundred and eighth regiment, Bedford county, are free from such defects as would render them unintelligible or incapable of computation; those of companies B and G, one hundred and thirty-eighth regiment, and company I, two hundred and tenth regiment, are absolutely perfect; and those of the three hospitals and of Barracks No. 1 closely approximate to perfection.

Now, the home electors have no such sweeping provision in aid of informalities as has been enacted for the soldiers. If, then, the county board cannot inquire into the regularity of the poll-books, tally-lists, or certificates of oaths of home electors who come with returns which are not so defective as to be unintelligible or incapable of computation, why should they inquire into the regularity of these papers when soldiers come with intelligible returns?

If, notwithstanding the evident intention of the Legislature to lighten the burden of formalities, always so oppressive to electors in the field, and to intrust to courts and other tribunals the remedy of inevitable evils, we are to scrutinize the soldier's poll-books, tally-lists, and certificates of oaths, as well as his returns, while the home elector is merely required to bring intelligible returns, still the soldier will bear even this scrutiny in the present case. For such a scrutiny shows the illegality of the rejection of eight of these returns.

1. The return of company K, one hundred and eighty-fourth regiment, was rejected "because it embraced one voter from Franklin county."

For want of proper proof that this vote was not counted also in Franklin county, which is within this congressional district, Mr. Koontz,

who insists on his return, should lose one vote and the residue should be counted: for Mr. Coffroth, 21; and for Mr. Koontz, 38.

2. The returns of company C, two hundred and second regiment, was rejected for the alleged reason that the election was held and the return made by only one judge.

All three of the judges signed this return, which is not only intelligible, but almost perfect in form. And yet the accompanying poll-book and certificates do not show that more than one judge was sworn. We have therefore concluded, not without grave doubts, to reject this return, which would, if received, give Mr. Coffroth 15 and Mr. Koontz 27 votes.

3. The three returns for the Mower, Cuyler, and McClellan hospitals were rejected because the certificates of the oaths of the election officers were wanting. This was no lawful ground for their rejection, for it appears from the whole papers that the judges and clerks were actually sworn, and the returns, though defective in form, are perfectly intelligible, and clearly within the provisions of the statute applicable to mere informalities. They give Mr. Koontz 5 votes, Mr. Coffroth none.

4. The return of companies B and G, one hundred and thirty-eighth regiment, was rejected because two companies voted at one poll, before one set of election officers.

It does not, however, appear from the return, or from any other proof before the committee, that two companies voted at one poll or before one set of election officers. It does appear that electors of two companies so voted. But under the act of 1864 electors of two hundred companies may so vote. In order to invalidate this return, it must be shown that these thirty-three voters constituted two organized companies, and not detachments absent from their companies. This does not appear. On the contrary, the language of the return and of the poll-book is precisely such as would be proper if they voted as detachments. There could be no excuse for such rigor toward electors in the military service as would be involved in the rejection of this return, even if the liberal statutory provisions respecting defects and informalities were entirely wanting. This return gives Mr. Coffroth 1 and Mr. Koontz 32 votes.

5. The return of company I, two hundred and tenth regiment, was rejected because the certificates of the oaths of the election officers were wanting.

The poll-book recites that these officers were sworn. Their oath is annexed to the poll-book, duly signed by all the officers. The clerk's certificate is there. The return is substantially correct and duly signed. These papers clearly show that the election officers were duly sworn, and, in our judgment, are undoubtedly on the safe side of the line which separates essential defects from mere informalities.

6. The return of company B, twenty-first regiment cavalry, was rejected for three alleged reasons:

(1.) No copy of the return was certified by the prothonotary to the return judges.

It has already been shown that the judges might use the original which they had as well as a copy. And if there could possibly be any doubt as to their right to do that, there can be no doubt as to our right to use the certified copy which is before us.

(2.) It is alleged that the election of officers appears to have been affirmed by Captain James Mickle, who was not an officer of the election.

This, however, does not appear from the return, or from any of the papers connected with it, or from any other proofs before the committee.

(3.) The number of votes cast for Representative is alleged to have been greater than the number of Adams county electors present.

The poll-book does show that 2 votes were cast by electors of Franklin county, which is in the same congressional district. There being no proof that these 2 votes were not also counted in Franklin, they should be deducted from the vote of Mr. Koontz, and the rest counted—for Mr. Coffroth 4, and for Mr. Koontz 34.

The majority return from the Adams county board, then, was invalid for the same reason for which the return of the Coffroth district board was invalid. It did not embrace all the valid military precinct returns. It was claimed that it was also invalid because it was not signed by all the precinct judges present at the meeting of the board; that while it might not have been invalidated by the mere absence of a minority, yet the non-concurrence, and *à fortiori* the actual opposition of the minority being present, did destroy its validity. The considerations in favor of this position are not without weight. The phraseology of the law is peculiar and peremptory. "The clerks shall thereupon, in the presence of the judges, make out returns in the manner hereinafter directed, which shall be signed by all the judges present, and attested by said clerks." And if it would be a hardship to suffer a minority, by its opposition, to destroy a return, and so temporarily deprive a duly elected member of his seat, it would certainly be no less a hardship to suffer a majority, by a false return, to give the seat, despite the protest of the minority, to a claimant who was not in fact elected. Indeed, the injury in the former case would not be so great as in the latter. In the former case the rightful claimant would be subjected to a temporary delay in assuming his office, and the country to a temporary loss of his services; whereas, in the latter, an intruder, with no rights, would be thrust by individuals into the national Legislature at its organization, to remain until evicted after a contest. The right of a district to be always represented is nowise vindicated, but rather assailed, by the admission of an interloper to its place on this floor. The hazard of empowering a dishonest minority of county return judges to temporarily deprive a rightful claimant of his seat, and the country of his services, is as nothing compared with the hazard of empowering a dishonest majority to send hither men not chosen by the people to legislate for the country until driven from the House. It is true that this power must always reside somewhere, in Governors or other officers, authorized to furnish credentials to representatives in Congress. But only urgent reasons would warrant the extension of this power from responsible public officers to private individuals. If it were necessary to decide this question, we should find great difficulty in upholding the return of the majority against the objection that the minority opposed it.

The unlawful rejection, Mr. Speaker, of these soldiers' returns rendered the return of the Adams county board a nullity, and the man who bore that return to the district board had no legal character as judge in that board. For precisely the same reasons the return of the soldiers' vote, by the majority of the Bedford county board, was a nullity.

Neither this return nor the judge who bore it had any place in the Coffroth district board.

From the copy of military returns certified to the Bedford county board by the prothonotary, it appears that the returns rejected by the majority were those of company II, two hundred and eighth regiment, and Barracks No. 1, Washington, that the board had actual notice of the presence of the originals, in the prothonotary's office, and of his reasons for refusing to certify them.

The return of company II, two hundred and eighth regiment, was rejected for the alleged reason that the poll-book gives the names of only thirty-six Bedford county electors, while 52 votes are returned for members of Congress. This is true. But 16 votes are shown, by the poll-book, to have been cast by electors of Franklin and Fulton counties, of the same congressional district. They were sent to one county, instead of being distributed. Inasmuch as it has not been shown before the committee that these 16 votes were not also counted in the proper counties, they should be deducted from the vote of Mr. Koontz, who insists upon the return, and the rest counted—for Mr. Coffroth 18, and for Mr. Koontz 18.

The return of Barracks No. 1 was rejected for

the alleged reason that the poll-book contains the names of only forty-eight electors, and yet 87 votes were cast for Representative in Congress. Passing from the return, which exhibits no such discrepancy, and is very far from being so defective as to be unintelligible, to the poll-books, which present the apparent contradiction, we find in the proofs before us a satisfactory explanation. By the law the election officers are required to keep at each of the polls as many poll-books as there are counties represented by electors. At the polls for Barracks No. 1 there were two for the sixteenth congressional district, which were produced before the committee. There may have been others. Of these two, one was the return in question, and the other was for Fulton county. The latter return, coupled with paper 29, shows that 37 Fulton votes were cast at that election, and yet none were counted in that county for Representative in Congress. It appears that the votes were in this case, as in the last, sent through the mistake of the officers to one county instead of being distributed. This will not, in our judgment, warrant us in rejecting any of these votes except the 2 which are unexplained, and should be deducted from the vote of Mr. Koontz. Mr. Coffroth is entitled to 29, and Mr. Koontz to 56. In our judgment, then, the Adams and Bedford judges were not legal members of that district board which made the return in favor of Mr. Coffroth.

But the gentleman insists, and the majority of the committee seem to be of the opinion that we must stop at the county board returns, that even if we go behind the district board returns, we cannot go down nearer to the ballot-box than the returns of the county boards.

Mr. Speaker, the purpose being to ascertain who were and who were not the lawful members of these district boards, I would like to know by what rule we are limited to any particular kind of evidence for the purpose of arriving at a result. I would like especially to know how it happens that we are restricted to the evidence which the Governor used, which has no legal character, which was not provided for either by the law of Pennsylvania, or the United States, or by any other law.

It was insisted, I repeat, that if we should go behind the return of the district board, we ought to stop at the county board returns as conclusive, including the majority returns of Adams and Bedford counties. We cannot assent to this proposition. A scrutiny of the law will show that when two or more counties are embraced in one congressional district, as in the case before us, the county returns differ, in material points, both from the soldiers' elementary returns and from the district return. The law provides official depositories of the returns of the military election judges, and of the district board, namely, the offices of the secretary of the Commonwealth and of the prothonotary of the county. But for the return of the county board, when two or more counties are embraced in one district, no official depository is provided. It has but one office, namely, to transmit to the district board in an aggregate form the official declarations, made by the precinct judges, of the result of the elections by them held, and when that office is performed its mission is so completely ended that the law provides no place where it may be afterward preserved. Both the return of the district board and the soldiers' elementary returns are preserved in public offices, and coming from official depositories duly certified are of themselves lawful evidence before us. But the return of the county board, as an official paper, has no existence after the board has met and acted, and can come before us in no legal form of proof, except by the admission of the parties, although it might also in a regular contest be received as part of a deposition. The Adams and Bedford returns are before the committee by admission of the parties, but that admission is mutual, and embraces the papers of both or of neither. It will be a strange proceeding if Mr. Coffroth, after getting his majority returns before the committee by such

conditional assent of his competitor, shall be permitted to turn round and repudiate the conditions, and convert his papers, which are here only by sufferance, into conclusive returns. Mr. Koontz could, of course, with no greater injustice, make the same preposterous demand.

But, in addition to this, the majority return of Adams county is confronted by a paper of equal authority before us, signed by the same judges at the same time and place, which must be taken as a part of the instrument itself. From the two papers it appears that certain votes were not counted for reasons which the precinct returns show to have been unlawful, and the return is a nullity. It is also confronted by the minority return, which shows that the majority return was made in the face of the actual opposition of the minority, and is therefore of at least doubtful validity.

With reference to these two certificates which have been commented upon by the gentleman from Michigan, I have to say that the law of Pennsylvania evidently does not contemplate that they shall be used as credentials before this House. The law makes no provision for their transmittal either by the Governor or any other officer of the State of Pennsylvania to this House. It makes no provision for depositing them in any office of the State of Pennsylvania, and if they do come before this House, presented by the gentlemen themselves, they come flatly contradicted by the proclamation of the Governor, who declared, having all these papers before him, as is shown by the documentary proofs before this House, that there had been no election.

Mr. UPSON. If there is no office in which to deposit the returns, how could the district board obtain any returns for Somerset county by adjourning over?

Mr. PAINE. I am now speaking of the certificates given by the two district boards to the respective contestants. Does the gentleman ask me about those or something else?

Mr. UPSON. I was inquiring about the returns of the county board of judges to the district board.

Mr. PAINE. I was not speaking of those. The certificate of the district board is given to the successful candidate.

Mr. UPSON. This we have certified here.

Mr. PAINE. I am not now speaking of the technical returns, but of the certificate so-called, which is a mere notification to the candidate of his election, not required by law to contain any statement of the vote, but only the simple announcement of his election; an instrument provided by the Legislature as a mere notification to the successful candidate, and not designed to be kept here. I say that the certificate in favor of Mr. Coffroth comes before us, not authenticated, but contradicted by the proclamation of the Governor, signed only by four out of the five judges of that district, contradicted by the certificate and by the return in favor of Mr. Koontz, and contradicted by the return in favor of Mr. Coffroth himself, in which it is expressly stated that all the votes of that district were not counted, that the vote of Somerset county was excluded.

Now, I wish to call the attention of the House to the vote as it stands in the judgment of the minority of the committee. There is a portion of this vote about which there is no dispute. It embraces all of Franklin, Fulton, and Somerset counties, part of Adams county, the home vote of Bedford county, and part of the soldiers' vote of Bedford county. But there are military election returns which are disputed. The gentleman from Michigan [Mr. Upson] went through with those returns. He insists that they should be rejected. We insist that they should be counted. If they are counted, as we insist they should be, then in looking at the returns, poll-books, and tally-lists, all taken together, you have a majority for Mr. Koontz of 32 votes. Looking only at the returns and not at the tally-papers or poll-books, you have a majority of 14 in favor of Mr. Koontz. Now, if you throw out Barracks No 1, on which the gentleman from Michigan has dwelt so long,

you still have a majority in favor of Mr. Koontz. And if you throw out the whole of the Bedford county rejected soldiers' vote—both of those two returns—you still elect him by a majority of 5. You can throw out both those soldiers' returns over which the gentleman has been so sorely exercised, and still you must give the seat to Mr. Koontz, because he still has a majority of votes. And for the reasons which we have given at length in our minority report, and which, coupled with the majority report, I think it is but justice to both of these contestants that the House should read at length, I believe that Mr. Koontz is entitled to a seat on this floor.

But it is said that even though the district board return in favor of Mr. Coffroth was a nullity, though it did not embrace the vote of all the counties, you ought to accept it for the four counties which it does embrace, and look elsewhere for proof as to the Somerset county vote.

[Here the hammer fell.]

Mr. GARFIELD. I ask unanimous consent that the gentleman's time be extended indefinitely.

No objection was made.

Mr. PAINE. I thank the House, and will not trespass upon its time more than ten minutes longer.

It is urged that inasmuch as the vote of Somerset county would not affect the result, the return of the Coffroth district board ought to be held as conclusive in regard to the other four counties, for otherwise Mr. Koontz would be permitted to profit by the wrong of his own partisan. I will state in brief the reasons why we were unable to adopt that view, and then will leave the case to the House.

1. The Governor, if he had not gone behind the returns of the rival district boards to ascertain by testimony who were the real district judges, would have been compelled either to do nothing or proclaim Mr. Koontz elected. On its face his return was perfect. Every judge who signed it had been a county return judge, and if he appeared in a district board with a county return, had a *prima facie* right to be there, which could only be defeated by showing that some other judge had in fact been selected by the county board to represent it in the district board. The Coffroth return was, on its face, worthless as a return upon which to base the Governor's proclamation. The law requires the Governor "to declare by proclamation the names of the persons so returned as elected." It by no means permits him to base his proclamation in part on the return and in part on evidence obtained *aliunde*. For the same reasons we must, if we do not go behind the return to inquire who were the lawful district judges, give the seat to Mr. Koontz on his return alone.

2. The Coffroth return having, therefore, no legal character, either before the Governor or the committee, whatever regard we may give it will be a mere gratuity. It would certainly be a novelty if such an instrument should be conclusive. To withhold from it such conclusive character can be no real hardship to Mr. Coffroth, if he was not in fact elected. It cannot be a hardship to a claimant, who has neither a technical nor a substantial claim, to decline arbitrarily to provide him with a technical one, and hold it conclusive. On the contrary, to do so would be to wrong his competitor, if that competitor's claim, although not technically perfect, rested on a basis of real merit. If Mr. Coffroth had in fact a majority of the lawfully returned votes, it might well be called a hardship to suffer a partisan of Mr. Koontz, by a raid upon the district board, to rob him of his seat, but it cannot be said that this ought, of itself, to give the seat to Mr. Coffroth if he did not in fact receive a majority of the votes, and had no chance of success, except through a previous raid of his own partisans on the soldiers' returns.

Mr. UPSON. I am informed that two or three gentlemen wish to say a few words upon this subject who have left the House in the belief that no vote would be taken to-day. They

wish to be heard briefly before the vote is taken on Monday. I suggest, therefore, that the matter be postponed until after the morning hour on Monday, unless, indeed, there is a general desire to have the vote taken now.

Mr. WASHBURN, of Illinois. I think we should take no vote to-day, as I know several gentlemen have left the Hall with the understanding that no vote would be taken to-night.

Mr. STEVENS. I heard several gentlemen say they expected no vote would be taken to-night.

Mr. UPSON. Then I move that the further consideration of the subject be postponed until Monday next after the morning hour.

The motion was agreed to.

CALIFORNIA LAND TITLES.

On motion of Mr. BIDWELL, by unanimous consent, bill of the Senate, No. 93, to quiet the titles to certain lands within the corporate limits of the city of San Francisco, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, informing the House that that body had concurred in the amendments of the House to the amendments of the Senate to House bill No. 61, to establish certain post roads; and also notifying the House that that body had passed bills of the following titles; in which he was directed to ask the concurrence of the House:

An act (S. No. 93) to quiet title to certain lands within the corporate limits of San Francisco;

An act (S. No. 132) to prevent and punish kidnapping; and

An act (S. No. 117) for the relief of F. A. Patterson, late a captain of the third Virginia cavalry.

CONSTITUTIONAL AMENDMENT.

Mr. ORTH. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the committee on reconstruction be instructed to inquire into the expediency of reporting to this House an amendment to the Constitution providing that no person who held any office, civil or military, in the so-called confederacy, shall ever be eligible to hold any office of honor, trust, or profit under the Government.

Mr. LE BLOND. I object.

MEDICAL STATISTICS.

Mr. TAYLOR, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Appropriations be, and is hereby, requested to inquire into the expediency and utility of making such an appropriation as will enable the Surgeon General of the United States to compile from the reports and other facts and statistics within his possession, a medical and surgical history of the rebellion; and to report by bill or otherwise.

Mr. WASHBURN, of Illinois. I call for the regular order of business.

ALBERT NEVINS.

The SPEAKER. The morning hour having commenced, the House resumes the consideration of the bill reported on Friday last from the Committee on Invalid Pensions, and pending when the morning hour expired on that day, for the relief of Albert Nevins.

The bill was read. It provides that the name of Albert Nevins, late a private in company K, ninety-second regiment New York volunteers, shall be placed upon the list of pensioners at the rate of twenty-five dollars per month, in lieu of eight dollars per month heretofore allowed him, to commence from the passage of this act.

The report was read.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

CLERK TO SERGEANT-AT-ARMS.

Mr. ANDERSON. I ask unanimous consent to submit the following resolution, and ask that it be referred to the Committee of Accounts:

Resolved, That the Sergeant-at-Arms be authorized to employ an additional clerk in his office.

Mr. FINCK. I object.

PENSIONS IN CIVIL SERVICE.

Mr. HARDING, of Illinois, by unanimous consent introduced a joint resolution relative to pensions in the civil service; which was read a first and second time, and referred to the Committee on Invalid Pensions.

Mr. BANKS. I ask the unanimous consent of the House to proceed to the consideration of the private bills on the Speaker's table for reference to their appropriate committees.

Mr. WASHBURN, of Illinois. With the condition that they shall not be brought back by a motion to reconsider.

Mr. BANKS. Certainly.

No objection was made, and the House proceeded to the consideration of private bills upon the Speaker's table.

J. B. RITTENHOUSE.

A bill (S. No. 80) for the relief of J. B. Rittenhouse, fleet paymaster of the Pacific squadron, was then taken from the Speaker's table, read a first and second time, and referred to the Committee on Naval Affairs.

JANE W. NETHAWAY.

A bill (S. No. 115) for the relief of Jane W. Nethaway was taken from the Speaker's table, read a first and second time, and referred to the Committee on Invalid Pensions.

F. A. PATTERSON.

A bill (S. No. 117) for the relief of F. A. Patterson, late captain of the third Virginia cavalry, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Military Affairs.

MARY C. HAMILTON.

A bill (S. No. 56) granting a pension to Mary C. Hamilton was taken from the Speaker's table, read a first and second time, and referred to the Committee on Invalid Pensions.

HEIRS OF JAMES BAWDIN.

A bill (S. No. 142) for the relief of the heirs of James Bawdin was taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands.

SARAH FITZGIBBON.

A bill (S. No. 82) granting a pension to Sarah Fitzgibbon was taken from the Speaker's table, read a first and second time, and referred to the Committee on Invalid Pensions.

MINERALS OF THE UNITED STATES.

Mr. BANKS. There is on the Speaker's table a joint resolution of the Senate in relation to the exhibition of specimens of the minerals of the United States, which I ask to have taken up and referred to the Committee on Mines and Mining.

The title of the joint resolution was reported as follows: Joint resolution (S. No. 27) for the exhibition of gold, silver, and other minerals, the product of the United States.

The joint resolution was read a first and second time.

Mr. WASHBURN, of Illinois. Let it be read.

The joint resolution was read at length. It authorizes the Secretary of the Interior to set apart in the Patent Office building such space as may be spared for the arrangement and exhibition, in proper cases, of such specimens of gold, silver, and other minerals as may be contributed for the purpose by citizens of the United States; the specimens to be considered as deposits, to be duly receipted for, and to remain the property of the depositors, and subject to their orders.

Mr. BANKS. I move that this joint resolution be referred to the Committee on Mines and Mining.

The motion was agreed to.

SEWERAGE IN WASHINGTON.

Mr. INGERSOLL, by unanimous consent, introduced a bill to establish a uniform system of sewerage in the city of Washington, and for other purposes; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

WAGON ROAD TO MONTANA, ETC.

Mr. HUBBARD, of Iowa, by unanimous consent, submitted the following resolution:

Resolved, That the Secretary of the Interior be directed to communicate to the House of Representatives the report of Colonel James A. Sawyers, superintendent of the wagon road from Niobrara to Virginia City, made in 1865, of his explorations, survey, and location of said road, and also the report of W. W. Brooks, superintendent of the wagon road from the western line of Minnesota to Montana, showing his exploration and surveys.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration on this day.

There being no objection, the resolution was considered and agreed to.

JUDICIAL PROCEEDINGS.

Mr. COOK. I ask unanimous consent to report a bill from the Committee on the Judiciary, simply that it may be printed and recommitted. It is a bill to amend an act entitled "An act relative to *habeas corpus* and regulating judicial proceedings in certain cases," approved March 3, 1863.

Mr. HARDING, of Kentucky. I ask that the bill be read.

The bill was read *in extenso*.

The SPEAKER. Is there objection to the reporting of the bill for the purpose indicated?

Mr. HARDING, of Kentucky. I object.

Mr. WILSON, of Iowa. This bill is pending before the Committee on the Judiciary; and the only design now is to have it printed, in order that it may be in the possession of members of the House. Otherwise it must be reported without being printed.

Mr. HARDING, of Kentucky. Let the bill take the regular course. It is a measure which is designed to rob the State courts of their rightful jurisdiction; and I do not see why we should make any departure from the regular order for the purpose of facilitating its passage.

Mr. WILSON, of Iowa. If the gentleman from Kentucky desires it, the motion to recommit can be adopted, with the understanding that the bill shall not be brought back by a motion to reconsider. In that way the bill will occupy the same position that it now does.

Mr. SMITH. I trust that my colleague will withdraw his objection.

Mr. HARDING, of Kentucky. Does the gentleman see anything in the bill to admire?

Mr. SMITH. I do see in it a great deal to admire.

Mr. HARDING, of Kentucky. I do not.

The SPEAKER. Does the gentleman from Kentucky insist on his objection?

Mr. HARDING, of Kentucky. I do.

The SPEAKER. Then the order for the printing of the bill cannot be made at this time.

EXPORTATION OF ARMS TO MEXICO.

Mr. McKEE, by unanimous consent, submitted the following resolution:

Resolved, That the President be requested to communicate to the House, if not inconsistent with the public interest, any correspondence or other information in possession of the State Department, in regard to General Order No. 17, issued by the commander of the department of California, and dated San Francisco, October 11, 1865, instructing the United States officers commanding the districts of Arizona and southern California to suffer no arms or munitions of war to be exported over the frontier; and whether this discrimination is a breach of our neutrality toward our sister republic of Mexico; and whether the Government has taken any action in the premises.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration on this day.

Mr. BANKS. I object; and I move that the resolution be referred to the Committee on Foreign Affairs.

Mr. McKEE. I consent to that.

The motion of Mr. BANKS was agreed to.

INTERNAL REVENUE.

Mr. SPALDING. I ask unanimous consent to introduce the following resolution:

Resolved, That the Committee of Ways and Means be directed to inquire into the expediency and practicability of assessing the major part of our internal duties upon distilled spirits, tobacco, and cotton, and dispensing with those which affect our small domestic manufactures and the validity of instruments of writing.

Mr. ROSS. I object.

SWAMP AND OVERFLOWED LANDS.

Mr. HARDING, of Illinois, by unanimous consent, introduced a bill to amend an act entitled "An act for the relief of purchasers and locaters of swamp and overflowed lands," approved March 2, 1855; which was read a first and second time, and referred to the Committee on Public Lands.

STENOGRAPHERS FOR FEDERAL COURTS.

Mr. WILSON, of Iowa, by unanimous consent, introduced a bill to authorize the appointment of stenographers in certain courts of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

The bill authorizes the judges of the district court of the United States for the southern district of New York, of the circuit court of the United States for the southern district of New York, and of the district and circuit courts for the eastern district of New York, to appoint stenographers for said courts, as follows: one stenographer each for the district and circuit courts for the southern district, and one for the district and circuit courts for the eastern district jointly. It is made the duty of the stenographers so appointed to take full stenographic notes of all proceedings of trials had in said courts, and to make a transcript of such notes whenever the judge may so direct; and also to furnish a copy to any party to a suit who may demand the same upon payment of the fees allowed for such copy. The bill also provides for the compensation of such stenographers.

And then, on motion of Mr. RADFORD, (at four o'clock p. m.), the House adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, February 17, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BORTON.

The Journal of yesterday was read and approved.

PRESIDENT'S MESSAGE.

The SPEAKER stated, under the order of the House, no business was in order except debate as in the Committee of the Whole on the state of the Union on the President's message, on which the gentleman from Illinois [Mr. Cook] was entitled to the floor.

RECONSTRUCTION.

Mr. COOK. Every individual citizen of each State in the Union has rights in every other State—the right to acquire, possess, and dispose of property; the right to fix his domicile in any State, and to enjoy every civil and political right or privilege possessed by the citizens of such State; and to require that every State and every citizen of every State should contribute a proper share toward the common defense of the nation and bear a proportionate part of all public burdens. And these rights he has, not by virtue of any State authority, but by virtue of the Constitution of the United States. The individual citizen sustains no relation to the national Government through or by authority of the State governments, but through the Constitution of the United States; and this Constitution, which secures to him these rights in each State, is superior in authority, in respect to questions affecting the whole people, to any State authority. Hence it is impossible that the action of any State can take such State out of the Union in such sense that the rights of the citizens of any other State shall be abrogated therein, or the authority of the United States Government, which is the act

of all the people of all the States, shall be subverted or impaired.

State governments are political corporations, and derive their existence and powers as States in the Union from the assent of the whole people of the United States. The whole people of any State can go into rebellion against the national Government, and in such case there can be no State government in such State acting in accord with the national Government under the Constitution. And so when such a controlling majority of the people of any State have thrown off their allegiance to the Constitution and Government of the Union that the political authority of the State has been arrayed in active hostility to the nation, then such State government is destroyed and dead. It derives its life and power from its accord with the Federal Constitution and Government, and when it is hostile to them it ceases to have power rightfully to bind any loyal man in its borders. This must be conceded by all who admit that the Constitution and the laws enacted under it are the supreme law of the land. Then it follows that a State may go out of the Union in such sense as to lose all right to exercise any authority in the Government, and all right to be represented in the national councils.

It is said that there have always been loyal men in those States who have all the rights of representation in Congress that men in loyal States have, and that their right in this respect could not be affected by the action of any number of rebels in those States. The answer is, the manner of the exercise of these rights must be prescribed by State law; these men cannot act except through State organizations. There must be a Legislature to elect Senators and to prescribe by law the manner of electing Representatives, and the State governments necessary to do this may be, and actually have been, entirely destroyed in these southern States by the rebellion.

The question whether these States are in or out of the Union seems to me to be irrelevant to this discussion, darkening counsel by words without knowledge. There is no dispute, so far as I am aware, upon two propositions: First, the States lately in rebellion have never been out of the Union in such sense that the laws of the United States have not been rightfully in full force in their bounds, or in such sense that it has not been within the authority of Congress to levy and collect taxes in those States, or within the duty of the President to cause the laws of the United States to be faithfully executed to the full extent of the power which he could bring to bear for that purpose; second, that there has been a time extending through nearly four years when there was no loyal State organizations in those States, no States with State governments acting within the Union and under the Constitution. Whether gentlemen on this floor believe that the State of South Carolina has now a State organization capable of electing members of the Senate of the United States and of providing by law for the election of members of this House or not, no one will contend that there has not been a time extended for years when there was no Legislature in that State capable of electing any man, however loyal, to the Senate of the United States, or capable of enacting any law rightfully binding any loyal man. Now, whether you call a State which is in this condition in the Union or out of the Union, is a mere question of words. I should define it to be within the Union for all purposes of the execution of the national laws, and without the Union in so far that it has no government organized in accordance with the Constitution and acting in harmony with the Federal Government or capable of exercising any control in its affairs. When it is alleged that certain gentlemen upon this floor agree with the secessionists of the South because they say that certain States have no State governments within the Union, the argument is manifestly unreasonable and unfair, a mere trick of words, because a different meaning is attached to the words "out of the Union" in the two cases. The rebel means by that phrase out

from the control of the national law. The loyal man means under the national law, but having no State government capable of exercising any share in the national Government.

That these States were not in the Union for the purpose of electing President and Vice President at the last election was certainly the view of those who voted for the following resolution, which passed this House without dissent:

Whereas the inhabitants and local authorities of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee rebelled against the Government of the United States, and were in such condition on the 8th day of November, 1864, that no valid election for electors of President and Vice President of the United States, according to the Constitution and laws thereof, was held therein on said day: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the States mentioned in the preamble to this joint resolution are not entitled to representation in the Electoral College for the choice of President and Vice President of the United States, for the term of office commencing on the 4th day of March, 1865; and no electoral votes shall be received or counted from said States concerning the choice of President and Vice President for said term of office.

The real and practical question, however, before us is this: when the relations between a State and the Federal Union have been broken by treason; when the constitution of the State under which it became one of the United States is subverted; when the State has no relation to the other States in the Union than that of a public enemy; when this condition of affairs is recognized and affirmed by every department in the Government, by the Congress in solemnly declaring that such States are wholly in rebellion, and forbidding loyal men from carrying on any trade or commerce with them, by the President in proclaiming their ports blockaded, by the Supreme Court in solemnly deciding that their ships and vessels are lawful prizes of war; when the people have openly thrown aside all allegiance to the national Government, and have required all who exercise authority in the State to take an oath to overthrow instead of to support the Constitution, how shall such State be restored to its former relation to and authority in the national Government? By what action; whether by the action of the President alone, either as President or as Commander-in-Chief of the Army, or by the action of Congress and the President as the law-making power? This question I shall briefly discuss. The Constitution provides that the United States shall guaranty to each State a republican form of government at some time and in some manner; then the United States, including the whole law-making power, the Congress as well as the President, must have the right to pass upon the government of a State, and to decide whether it is in accordance with the Constitution. Accordingly this is done when new States present their constitutions and are received into the Union, or when they come into the Union in pursuance of enabling acts of Congress, in which the character of the constitution to be framed has been limited and defined. If these constitutions are afterward legally altered, it is by virtue and in pursuance of their own provisions, and the new government retains the character of the old, to which Congress has given its assent. But suppose an attempt should be made to change the government of a State by a majority of the people in a manner not authorized by the constitution in force, but wholly independent of it, could the State constitution be so changed without the assent of Congress?

This is not a question of first impression. It has been solemnly adjudicated by the highest tribunal in the land. In 1841 a portion of the people of the State of Rhode Island attempted to alter the organic law of that State, and a case afterward arose which was carried to the Supreme Court of the United States. In the trial of this case one party offered to prove that a large majority of all the voters of the State of Rhode Island voted for this new constitution and approved it, and so the case stood precisely as though it had been conceded that a majority of the voters of that State had ordained that

constitution as the fundamental law of Rhode Island.

The material question in that case was, what was the legal State organization in Rhode Island, and the Supreme Court do say where the decision of that question rests. I quote from the decision of the court in the case of *Luther vs. Boddell et al.*, Howard's Reports, page 42:

"The fourth section of the fourth article of the Constitution of the United States provides that the United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion. Under this article of the Constitution it rests with Congress to decide what government is the established one in a State; for, as the United States guaranty to each State a republican government, Congress must necessarily decide what government is established in a State before it can determine whether the established one is republican; and when the Senators and Representatives of a State are admitted into the councils of the Union the authority of the government under which they are appointed as well as its republican character is reorganized by the proper constitutional authority, and its decision is binding upon every other department of the Government, and could not be questioned in a judicial tribunal. It is true that the contest did not last long enough to bring the matter to this issue, yet the right to decide is placed there."

My colleague [Mr. BAKER] referred briefly to this decision; and in reference to his remarks upon it the honorable gentleman from New York [Mr. RAYMOND] says:

"The decision of the Supreme Court, in the case of the Dorr rebellion in the State of Rhode Island, has been quoted here to show that it was for Congress to decide when a republican form of government, which they are bound to guaranty, does exist in a State. I have not that decision by me at this time. But I think if gentlemen will read it with special regard for its language and especially qualifying clauses in it, they will discover that the decision was to this effect: that it was for Congress to decide what was a republican form of government by deciding upon the admission of members coming from that government, or elected under it. This is the mode and scope of the action of Congress upon this point, and having decided it the members thus admitted are members of Congress, and laws in the enactment of which they take part are binding upon all the departments of the Government. As I understand it, that is the extent to which upon that point that decision went."

I believe that if the honorable gentleman from New York will read the decision with special regard for its language, he will find that this case is not limited as he supposes, and that whatever it did decide, the points he suggests, which are, that Congress has the exclusive right of deciding who are its own members, and that when they are admitted, laws, in the enactment of which they take part, are binding upon all the departments of Government, were not even before the court. What was this case? It was not a question whether one man or another had been legally elected a member of Congress from Rhode Island; it was not whether laws enacted in part by men whose title to a seat in Congress was disputed were valid laws—by no means; and yet these would have been the questions if the decision had the extent only suggested by the gentleman from New York. But the question was this: two rival organizations were claiming to be the government of the State of Rhode Island: an officer acting under the authority of one was prosecuted by an adherent of the other. The only question was, was the organization under which the plaintiff was acting the legal State government of Rhode Island? It was conceded, for the purposes of that case, that this government was the act of the majority of the voters of Rhode Island. No Senators or Representatives had as yet claimed seats in Congress under its authority; and the decision was, that it was not a State government until Congress had recognized it; that no other department of the Government could give it this recognition; Congress alone could breathe into it the breath of life. "It is true," say the court, "that the contest did not last long enough to bring the matter to this issue, yet the right to decide is placed there, and not in the tribunals."

It has been solemnly decided, therefore, by the highest tribunal in the land:

1. That the right to decide what government is the established one in any State is in Congress.

2. The admission of Senators and Representatives is one mode of recognition by Con-

gress of the authority of the government under which they are appointed, and binds all the departments of the national Government to consider and treat it as the loyal, rightful government of the State.

3. The decision of Congress upon this question is final and conclusive upon the President and every department of the Government.

4. Until Congress has decided the question, it is undecided.

To apply these principles to the case before us. Here are eleven States asking the admission of their Senators and Representatives, and by what authority do they claim this recognition; because they are the old State organizations, once in full relations with the Federal Union organizations, overborne for a time by the violence of treason, but now resuming the authority they had before the war? By no means.

The State governments now seeking recognition in these States are not the same governments that existed before the war, not the same officers, not the same Legislatures, not men elected to office on the same basis of suffrage. They supersede and set aside the old State governments. The officers of many of those States, elected before the war, were commissioned to hold their offices until their successors were elected and qualified under the provisions of the State law then existing. Those successors have never been elected. Those old State governments are all destroyed; there is left no longer any through whom their functions can be exercised. Their Governors, legislators, State officers of every name, became traitors, civilly dead. New governments with reconstructed constitutions ask recognition at our hands. And by whom are they reconstructed? By the whole people, by the loyal people, even by those who have a right to be heard, by those who will truly support and defend the Constitution of the United States? These questions demand an answer, and the Congress of the United States is the only power in the Government that can give the answer.

If the assent of Congress must be given to the admission of a new State in order that it may be determined whether such new State has a republican form of government, if, when there are two organizations, each claiming to be the rightful government of a State, it rests with Congress finally to determine for every department of the Government which is the true State government, as the Supreme Court has expressly decided in the case I have cited, then it assuredly follows, that when the State organization has been subverted and destroyed, the relations between the State and the national Government broken, that Congress is the power that shall determine whether any new organization which claims to be the State government, but which has never been recognized by Congress, is the rightful republican government of the State, whether the organizations in the States lately in rebellion are governments organized by the loyal people of the States, and whether they are governments republican in form, are questions which must be at some time and in some way settled by Congress. It must decide what it has not yet decided—whether the organization in Georgia (I name one State for convenience of illustration) is the act and choice of the loyal people of that State, for it is as their act and choice only that it can have any claim to be considered as a government, or whether, if this organization is not fairly the act of the loyal people, and is not created in pursuance of any law of Congress, it is yet better to recognize it as the basis for a reconstruction of the Union; and I affirm, upon the authority of the case cited, that until Congress has decided these questions, they are not decided.

But one year ago the State of Georgia was in the power of traitors; the power of the State was used to subvert the Constitution and overthrow the Government; her citizens had been arrayed in arms against the soldiers of the Republic; she had no actual relations with the national Government except those which exist between belligerent communities. Now, by

whose act does that State resume its relations with the General Government and become entitled to be represented in Congress, to aid in directing the councils of the nation in making its laws and in preserving its life and power? Can it come back by its own State action? Can rebels and traitors, by their own act, become entitled to send Representatives to this House? Is there this element of death in our political system? If not, does the amnesty act or the special pardon of the President form the individuals thus pardoned into State governments fully invested with the powers of loyal States, and requiring no assent of the people of the United States, through their Representatives, to their resuming their place in the Union? Do those who have no State governments, because they are pardoned for acts of treason, become thereby State governments upon which Congress shall have no right to pass and to declare whether they are republican in form? A pardon confers only a capacity to take political rights, and thus enables individuals to become the bases of a political organization known as a State.

Has the President the power to restore these State governments? The Constitution gives to the President, as President, authority only to "take care that the laws be faithfully executed;" but it has not submitted to his judgment the question whether any State has a republican form of government.

So, too, as relates to the clause in the same article of the Constitution providing for cases of domestic violence. It rested with Congress to fulfill this guarantee. Congress provided that the President, upon application of the Legislature, or, when it could not be convened, of the Executive of any State, should call forth the militia to suppress insurrection. If the insurrection should assume such proportions as to destroy all State organizations and all civil government, then, when the insurrection is suppressed and there is no armed enemy in hostility to the Government, it is the duty of the President, as Commander-in-Chief of the Army, to control the rebellious States thus reduced to subjection, to keep order, to prevent anarchy; and if, in his judgment, the best way to do this is to appoint provisional governors, and to say to the people, if you choose, in a certain way which I point out, to get together and make regulations for the management of your own internal affairs, I will help you; and when I, as Commander-in-Chief of the Army, am satisfied with what you have done, I will do—what? Declare your reorganized governments republican in form, and now in full relations with the national Government, and of equal power in that Government with the loyal States? Not so. But I will withdraw the Army, and my direct control of your affairs shall cease.

Mr. SHELLABARGER. There is a class of opinion in this House, which I will say is not my own opinion, for I agree with the position taken by the gentleman from Illinois, there is a class of opinion here like this: although it is true, as indicated in the decision in the case of *Luther vs. Borden*, that the political department of the Government is to determine when a loyal State government or a republican State government is established in a State and decide which of two contending governments is the government of a State, yet under the act of 1795, the political department of the Government, to wit, Congress of the United States, has delegated the power to make that determination or recognition to the President of the United States, and that, therefore, as it is delegated by Congress to the President under the act of 1795, it is competent for the President in the exercise and execution of that power to make that recognition; that the President has in fact made that recognition; that in that way, through the delegated powers derived under the act of 1795, he has recognized those States in such a way as to be binding upon Congress. I should like to hear the gentleman's views as to this class of opinions.

Mr. COOK. In reply to the question proposed by the gentleman from Ohio, I have to

say my view is this: while the power has been delegated to the President by the act of 1795 for the purpose of putting down an insurrection which does not go to the extent of abrogating the government of a State; while he may decide under that law the rebellion is put down and the old Government is restored to the exercise of full power, yet, after the rebellion has gone to the extent of subverting the State government, it does not clothe him with the power to recognize another government set up in such way that its Senators and Representatives are entitled to seats in Congress. If it be true, when the State government is utterly subverted and overthrown, the President of the United States has the power to say, when the people of a State are again in accord with the people of the Union and the national Government, you will have the spectacle presented of a granted power overriding State and national authority. There is no escape from it. The case supposed is not applicable, for before the President can act under the law of 1795 there must be the demand of a State Governor or Legislature, and when the rebellion is suppressed such Governor and Legislature remain in power. There is no power of reconstruction here. Could Congress grant a power in 1795 which should conclude it now. Suppose the Executive two years ago had recognized the rebel government of South Carolina; would Congress have been bound thereby? If you reply that it was a rebel government, I answer, that is begging the question. I want to be sure that these southern governments are loyal, a proposition not entirely beyond question.

It is, however, to my mind too clear for argument that any government established in those States, or either of them, is, to the extent that it is the act of the Commander-in-Chief of the Army, a purely military government. A provisional governor appointed by the President, as Commander-in-Chief, as the provisional governors of these southern States were, is a military officer, a commander of an army; as such can make only military appointments and establish only military governments. A purely civil function of government cannot be performed by a purely military officer; and to judge and determine when States which have utterly destroyed their loyal civil governments, have established others republican in form, is a question purely for the civil authorities.

It then follows as well from reason as from the authority cited that these States which have been without any legally organized governments for four years, and have now reorganized their State governments, must submit to Congress the question whether these reorganized governments are the acts of persons authorized to form State governments, that is of loyal men, and whether they are republican in form. It is said with great earnestness that the President has the only power to determine when the rebellion is over and to end military authority, leaving the States to the restored and reconstructed governments. Where does this principle lead? Let me state it in other words: it is, the President has a right to determine when force is necessary to execute the law; has a right to set up military government in place of any overthrown by disloyalty; and then has the right to determine when those military governments shall end, which involves the right to determine how long they shall continue; and we might have the extraordinary spectacle presented of the different departments of the Government differing in opinion as to whether an organization claiming to be a State government was really so or not; the Executive holding that there was no legal State government, and that he, as Commander-in-Chief, must set up and continue military government in such State, and Congress admitting Senators and Representatives claiming seats under the authority of the State organizations thus set aside by the President, a conflict would result which would render the harmonious operation of our Government wholly impossible.

These States, it is said, cannot at any time be controlled by Congress. While the rebellion

exists and their people are in arms against the Government, they are to be controlled by military government, and when the rebellion ceases they are at once to be remitted to all their rights as States, and that it is purely in the discretion of the Commander-in-Chief to say when these military governments shall cease. But are not these military governments, while they exist, under the control of Congress? Is there in our Government any purely military officer, whether he be Commander-in-Chief of the Army, Lieutenant General, or any other officer who is independent of the law-making power? Could not Congress, by law, provide that no military officer should assume any function of civil government, or regulate by law the extent to which he might assume civil control? Did not Congress during the war prescribe by law what should be done by the military with slaves? Congress, says the Constitution, shall have power to make rules for the government of the land and naval forces, including, as I suppose, the commander of the forces and the military governments administered by them.

Those who deny to Congress all right to legislate for these States lately in arms against the Government must deny that military government could be established at any time and for any period in those States, that they must be left to anarchy, or they must affirm that there is a military power in the Government superior to the civil power, not under the control of the law-making power, and consequently not under the control of law.

Congress has by law provided that in case of insurrection in any State too strong for the civil power to suppress, upon the demand of the Legislature, or Governor, if the Legislature could not be convened, the President shall call out the militia to suppress it; but in the case before us there was no such demand—Governors and Legislatures were rebels alike. The President must see that the laws are faithfully executed, and under this power troops were called for and armies raised; but is it not too clear for argument that, in simply enforcing the laws, he must of necessity act in subordination to the law-making power?

If, then, any State which is rightfully under the control of a military government is rightfully under the control of Congress, ought not Congress to determine when such military government should cease and such State resume its relations with the General Government which have been broken? That recognition by Congress of the State government by the admission of Senators and Representatives should not be made until military control in those States ceases to be a necessity, unless this military control can exist after such State has thus resumed its equal place in the national Government.

The question then arises whether, when a State is in full relation with the General Government, when the State government has been recognized by Congress, authority yet remains in the President as Commander-in-Chief of the Army to exercise military control in that State. I admit that when an insurrection exists in any State too strong to be suppressed by the State, and when the proper State authority has called upon the President for aid, that the commander of the forces engaged in suppressing the insurrection may proclaim martial law, and may for the time suspend the action of the civil tribunals; but when a State has no legal State government, and is ruled by military authority alone, can a State government be organized, and the relations between that government and the national Government be fully restored, and yet military government exist in the State? In other words, if the people of any State are in rebellion and insurrection and so amenable to military law, ought they to be represented in Congress? If the rebellion has ceased and the insurrection is suppressed and the loyal State government restored, can military government longer be maintained in such State? In another form the question is, can the President as Commander-in-Chief of the Army in any State where no actual state of war is existing, set aside the civil authority and annul the enact-

ments of the Legislature? If this is so, there is no authority in this Government, State or national, except the Executive. And this is a fair statement of the question before us; for it is a matter of history that in six distinct instances have the military authorities, acting under the direction of the President in the southern States, set aside the laws enacted by the Legislatures of States which it is insisted are fully reorganized and have resumed their relations with the Union. If these governments, organized under the direction of the Commander-in-Chief, are military governments, such exercise of power was proper and right. If they are State governments, as is claimed, with equal authority in the Union with other States, the doctrine insisted upon would place all State governments within the control of the national Executive. I affirm that until the rebel States are loyal enough to remain peaceable members of the national Union of their own accord and without the coercion of the national armies, they are not entitled to assist in governing the nation.

In 1861 and 1862 the doctrine was to some extent received that although the loyal State governments had been overthrown, and all the men holding State offices and the controlling majority of the voters were traitors, yet the Representatives of such State might still remain in Congress; and disloyal men held seats upon this floor until the war began and then went from these Halls to join the ranks of our enemies in the field. Suppose all the Representatives and Senators had held their seats, and had thus retained the power in conjunction with the northern men who always voted with them to embarrass the action of the national Government, (and there was no two-thirds majority of loyal men to expel them at that time,) is it not apparent to every man that in those two years our country would have been ruined, and treason would have triumphed? If we have learned nothing by this experience, is it certain that those who to-day would destroy the Government if they could are equally dull of apprehension? It is certainly possible that the men who for four years have striven so earnestly to overthrow this Government, and have periled so much in their efforts to destroy it, cannot safely be intrusted with the control of it; and that to place the political power of the nation in their hands would only give them a weapon for its destruction more effective than the bayonets which they used against its life while they had the power to do so. Certainly there are precedents of this sort so fresh in our memories that they cannot pass unheeded. Five years ago men held seats in this Hall and in the Senate, ay, and in the Cabinet of the President, who were bound, so far as oaths can bind such men, to support the Constitution of the United States, and with the oath of God fresh upon their lips were plotting and earnestly endeavoring to secure its utter subversion. After four years of bloody war has intensified every feeling of bitterness then existing, have we the entire assurance that oaths of loyalty enforced by the power of the national armies will be more binding and more effective than the oaths which heretofore were so freely taken and so basely broken? Shall we have no guarantees from these men before we admit them once more to make laws for loyal men? Shall we intrust to their decision the questions whether we shall preserve the public faith by repaying the money which loyal men among us have advanced to sustain the Government in the time of its need, and whether we shall pay the pensions we have promised to the soldiers who, in endeavoring to sustain the Government, have by the hands of these same men been mutilated and disabled?

But it is said that we refuse to admit loyal men to seats in this House, and the names of honorable and loyal gentlemen from the State of Tennessee are sounded in our ears from day to day as if this question were a purely personal one to them. I have the honor of the acquaintance of some of them, and if the question of their admission concerned them alone

I should rejoice to vote for their admission, but it is not so. The admission of these loyal men from Tennessee means full recognition of the State with all the powers belonging to any State in the Union; it means the withdrawal of military government, not the troops, perhaps, but the Government, for it cannot be that it will be claimed that the old axioms of the fathers are to be reversed and the civil power of a State subordinated to the military power; it means the abandonment of the Union men of that State to the control of the Legislature and the courts of that State, and that, too, when the Governor of that State has publicly declared, in a letter to the Speaker of this House—

"If the removal of the Federal troops from Tennessee must necessarily follow upon the admission of our congressional delegation to their seats, why then and in that case the loyal men of Tennessee beg to be without Representatives in Congress. I tell you, and through you all whom it may concern, that without a law to disfranchise rebels, and a force to carry out the provisions of that law, this State will pass into the hands of the rebels, and a terrible state of affairs is bound to follow. Union men will be driven from the State, forced to sacrifice what they have and seek homes elsewhere. And yet Tennessee is in a much better condition than any of the other revolted States, and affords a stronger loyal population."

Where it is apparent that the judges who are holding their office by appointment of the Governor could not be elected by the people, and when the Union men of Tennessee are saying to us such words as are contained in the memorial of the Union State central committee—

"Supposing the supervising power of the General Government withdrawn from Tennessee, and assuming that, to some extent at least, the passions, prejudices, and resentments of the majority of the people will be reflected in their legislation, it is not difficult to anticipate the true policy and the character of the civil and judicial administration which will prevail. It may be safely assumed—

"First. That so far as possible, in legislation and the bestowal of patronage, and the management of all public affairs, the late rebels will be the preferred class, and that all the acts of the rebel State government, including the removal and destruction of the State banks and State treasury, the disarming and conscripting the people and the impressment of their property, and all the acts of rebel officers, soldiers, and guerrillas will be legalized. Those who have been robbed, wounded, and imprisoned will go unredressed, while those who have inflicted those injuries will be justified in law, as they now are in public sentiment.

"Second. As is even now the case in many localities, services rendered and wounds received in the confederate cause will be passports to preferment, while to have taken sides with the cause of the Union will be equivalent to a judgment of infamy, forever consigning the offender to obscurity and disgrace.

"Third. If the Legislature does not vote thanks and medals to southern heroes and unite with other southern States to pay the confederate debt, it will be from fear or policy, and not from want of sympathy or desire.

"Fourth. As far as possible, restrictions will be thrown around the negro, and his elevation in the scale of being discountenanced, if not actually prohibited; he will be excluded from the courts, from common schools, and probably from all means of education, from business and privileged occupations, and perhaps from the acquisition of property.

"The returned rebel soldiers, and those who affiliate with them, openly boast that at the next general elections they will obtain entire control of the State government. Indeed, it is now the case in many counties, that those who have been most notorious for their advocacy and support of rebellion are the first to receive the support of the people for office. Service in the rebel army is, in many parts of the State, the best passport to position and power, while to have been connected with the Union Army is regarded as affixing a stigma, 'deeper and more indelible than the brand upon the brow of Cain.'

"Under the appointing power, as exercised by Governor Brownlow, we now have a loyal judiciary; yet all their power and influence cannot prevent rebel injuries from practicing the grossest injustice toward loyal men, while it is almost impossible to bring rebel offenders to justice. Should the judiciary of our State fall into rebel control, sad indeed will be the condition of those who, trusting to the nation's faith, have breasted the storm of treason here. In a social and business point of view Union men and Union families are proscribed and insulted."

The mere presence of troops in Tennessee cannot prevent the ascendancy of disloyal men in her Legislature, and unless, as in Mississippi and in Georgia, the military actually do set aside the acts of the Legislature, the Union men and the freedmen can have no protection from us. I believe that the State of Tennessee is perhaps an exceptional case; that more of her people have been loyal during the war; that she has by law declared that black men may testify in court and enjoy equal civil rights with white men; and I know that the men she sends here are loyal men. What I want to know is this:

can those loyal men maintain their ascendancy in Tennessee? In recognizing them we recognize those who shall come after them, when it will be too late to deny such recognition. Can loyal men hold the Legislature of Tennessee? Will the judges appointed by Governor Brownlow, not elected, be succeeded by loyal judges elected by the people? Will the Union men and freedmen be safe if we place it out of our power to help them? If we recognize the State government of Tennessee without exacting any guarantees against the assumption of the rebel debt, shall we not set a precedent which it will be unsafe to follow with other southern States? I do not answer these questions; I only ask them. I look for the answer to the committee whom we have charged to inquire, and I will await their answer, at least until I am willing by my vote to brand them with bad faith or culpable remissness in their high duty.

But there can be no taxation without representation. The two are inseparable. The argument so persistently urged surely has not been well considered, or it would be seen that men may rightfully be deprived of representation for such period as may be necessary for the safety of the Government; and the very men who urge this maxim of no taxation without representation are acting upon this theory. Whom do they ask to be represented upon this floor? All Tennessee? No; a minority of the people of Tennessee. The State government they ask to be recognized forbids a majority of the tax-payers of the State from voting, (white tax-payers.) They ask recognition, because they exclude rebels from voting. It is taxation without representation on a grand scale, and it is necessary and just. Therefore, the application of the maxim in question is unjust, and the position of those who urge it is obviously illogical. If it is true that the military must be superior to the civil authority in those States, shall we recognize the supreme authority of the civil power and withdraw all military protection from loyal men at a time when evidence is accumulating before us that suits are being brought by hundreds in some of the southern States against Union men who have served in the armies of the nation for acts done under command of their officers; and that these courts are deciding that the command of a military superior furnishes no defense, because no officer had the right to direct that private property be taken for public use without compensation, and the Union soldier is held liable for property of rebels taken at a time when the Army was compelled to subsist upon the country through which it moved, and made to respond in damages for acts without which the country could not have been defended? But on the other hand, when guerrillas are sued for injuries to the property of Union men, these same courts hold that there is no liability, the United States having recognized them as belligerents, and their acts are acts of war; and so Union men are plundered and oppressed. Evidence is not wanting showing also that when Union men bring suits to recover estates which have been confiscated by sentence of the Confederate courts on account of the loyalty of their owners, the State courts are deciding that those sentences of confiscation, being the acts of a *de facto* government, are valid and binding, and the recovery of the estates of Union men seized by rebels is rendered forever impossible except by the action of the national Government. It is a fact not to be disguised that in all the southern States the spirit of the majority of the people is hostile to the Government of the United States, and that were they once restored to their old place in the Union and the military power withdrawn, the State laws that have been enacted by Legislatures elected by a minority of the people, and which were designed to protect Union men and freedmen, would be swept away, and the judges appointed by such loyal Governors as Brownlow would have to give place to men who would execute the will of the rebel majorities.

Can we now place the freedmen in the uncontrolled power of their former masters? The

negro codes enacted by the reconstructed Legislatures of Mississippi and South Carolina are our sufficient answer; codes so malignant in their spirit, so contrary to all the guarantees given to these men when we needed their aid to maintain the Government, that the military commanders, acting under the authority of the President, have set them aside; thus overriding the legislation of States which gentlemen tell us are reconstructed and in full possession of all the powers of any States of this Union. It is apparent that the men who have striven hardest to destroy the nation are the men to whom in many instances will be intrusted the execution of these negro codes. The very Senators and Representatives elected, for the most part are men who were elected because they could not take the oath of loyalty; and to have borne arms against the country, to have slaughtered most of our sons and brothers, is the surer passport to office in these States which we are told are now repentant and loyal.

The recognition of these States now means the abandonment of the loyal men and the freedmen of the South to the mercy of men who hate and despise them for their loyalty. It would present the strange spectacle of the conquerors accepting all the results of defeat; the institutions of the country preserved at a vast cost of life and treasure, only that loyal men should be placed more completely in the power of traitors. Sir, if we abandon these men who have risked all in the defense of the country, and are now defenseless without our aid: if we refuse to protect the freedmen who at our call have aided us to suppress the rebellion, and who are now thrown upon our hands with nothing on earth that they can call their own, helpless and defenseless, we shall be held faithless and dishonored before God and the civilized world. Before the military power of the nation is withdrawn, then, we must have guarantees, both for the security of the nation and for the protection of those who are the wards of the nation and for whose defense the national honor is pledged. And among those guarantees I would require ratification by those States of the amendment of the Constitution which has passed this House forbidding the levy of any tax or impost for the payment of the rebel debt in whole or in part. It is true that in their remodeled constitutions this debt is repudiated, but we cannot forget that this was done under the coercive power of the Government and under the direction of the Commander-in-Chief of the armies, and that they were exceedingly reluctant to repudiate this debt. How did they do it, of their own choice? No, by the stern dictation of the President declaring to them that unless the action which they earnestly desired to take, and did at first take, was reversed, that their reorganization as States in the Union was impossible. If this debt was repudiated with such intense reluctance, is it certain that when all political power is again given to their hands they will not rescind their action? Already in the Legislature of Louisiana resolutions have been offered for the calling of a new convention to amend the constitution of the State, and I venture the prediction that it will not be two years after that State is fully restored to all the rights of a State in this Union before this constitution, which is regarded with aversion by so large a mass of her people, will be replaced by a new organic law. We ought not to leave the question, whether the loyal Union men of the South, who have already suffered so much on account of their devotion to the Union, shall be taxed to refund to rebels the money advanced by them to secure the destruction of the lives and property of loyal men to the decision of the rebels who have advanced the money and seek its repayment.

The question whether Union men of the South shall be required to pay for the destruction of their own property and their own bitter persecution, when they were imprisoned in dungeons and were driven from their homes and hunted like a partridge upon the mountains, is a question to be decided by the loyal men of the nation, and not by the traitors who want the money.

If they, in good faith, have repudiated this debt, there can be no objection on their part to the ratification of this amendment; if not, its ratification is essentially necessary.

I would also require that the amendment of the Constitution, which has passed this House, should be adopted by those States, which should forever destroy the unequal and unjust apportionment of Representatives by which slavery so long succeeded in controlling the Government, and which should secure to loyal men the same influence in the Government which is accorded to rebels. I would say to these men, you must agree to relinquish all claim to a representation based upon the fact that you have among you persons whose education and development you have prohibited by law until you have made each one to amount to three fifths only of a human being, and whom you have never represented, whose views and wishes were never considered, and who were deemed guilty of a crime of unspeakable atrocity when they ventured to petition the men who were elected as their Representatives in this House. You shall not be any stronger in this Government because you have been slaveholders or rebels.

The passage of the bills now before Congress extending the duties of the Freedmen's Bureau, and for the abrogation of all distinctions in civil rights is, in my opinion, absolutely essential. The freedmen are by the action of the Government thrown upon our hands helpless and defenseless. Upon the call of the nation they rallied to its defense; by their aid the nation was saved, and we cannot permit them to suffer without our help. Our Government fed and protected those who had been stolen from Africa and were captured by our cruisers, and who had no claim upon us but one of a common humanity. We have at the present session of Congress passed an act appropriating \$500,000 to feed and clothe Indians who had been fighting against the Government in the cause of the rebels; it was passed, too, by the votes of gentlemen who claim that it is unconstitutional to save the helpless and infirm and wounded among the freedmen and refugees from starvation, although they are the families of men who have been fighting our battles, and are suffering on that very account. The same men who declaimed so earnestly upon the unconstitutionality of appropriating money to keep these helpless poor from starvation see clear constitutional power to pay masters for their slaves who were enlisted in the Army.

When the late President of the United States proclaimed the freedom of the slave, and when the nation called upon the colored men to arm in its defense, the pledge of the nation was solemnly given to them that their freedom should be maintained. Did this mean only that they should no longer be bought and sold like beasts in the shambles, or did it mean that they should have the civil rights of freemen; the right to contract for their labor and to compel the performance of contracts made with them; the right to seek their own happiness, restrained like other men only by such laws as should protect the rights of others; the right to acquire and possess property; the right to develop their higher natures by education and culture? If the first only was meant by the proclamation, the President might well have hesitated to have invoked upon that act "the considerate judgment of mankind and the gracious favor of Almighty God." If the nation did guaranty to them the civil rights of freedmen that pledge must be redeemed; and so far as it is necessary to carry into effect the constitutional amendment abolishing slavery it must be effected by the legislation of Congress.

For myself, I hope to see such amendments to the Constitution and such legislation as will secure impartial justice and equal rights to all men, and will make the grand enunciation of the fathers of the Republic, that God created all men equal, and endowed them with inalienable rights, among which are life, liberty, and the pursuit of happiness, and that all just Governments derive their power from the consent of the governed, living, practical truths

in all the land. I am well assured that these are the fundamental ideas which underlie all our theory of government, and that upon their complete development the life and progress of the Union depend. We have seen the sure results of injustice and oppression in this land of ours. Are we not wiser now than before we sought to establish iniquity by law, and to enter into a contest in which, to use the idea of Jefferson, every attribute of the Almighty was against us? In the light that streams so full and clear from the last four years of our history, do we not see that they, and they only, win at last who work with God for human liberty and progress?

Mr. LAWRENCE, of Ohio, obtained the floor but yielded to

Mr. BROOMALL, who said: Mr. Speaker, I ask the Clerk to read some resolutions which I propose to offer when I have the opportunity; but I wish to-day to have the benefit of the criticism of the gentleman from Ohio.

The Clerk read, as follows:

Resolved, 1. That in the language of the proclamation of the President of May 29, 1865, "the rebellion which was waged by a portion of the people of the United States against the properly constituted authorities of the Government thereof in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has in its revolutionary progress deprived the people" of most of the States, in which it was organized "of all civil government."

2. That whenever the people of any State are thus "deprived of all civil government," it becomes the duty of Congress, by appropriate legislation, to enable them to organize a State government, and in the language of the Constitution to guaranty to such State a republican form of government."

Mr. LAWRENCE, of Ohio. The resolutions proposed by the distinguished gentleman from Pennsylvania [Mr. BROOMALL] declare the fact and the constitutional law upon which rests the true theory of reconstruction. As a further basis for the remarks I design to make I also present resolutions which may be read for information.

The Clerk read, as follows:

Resolved, That it is the deliberate sense of this House that the condition of the rebel States fully justifies the President in maintaining the suspension of the writ of *habeas corpus* in those States.

Resolved, That it is the deliberate sense of this House that the condition of the rebel States fully justifies the President in maintaining military possession and control thereof, and that the President is entitled to the thanks of the nation for employing the war power for the protection of Union citizens and the freedmen in those States.

Mr. LAWRENCE, of Ohio. The overthrow of the military power of the great rebellion devolved upon the President and Congress and the country duties of unparalleled magnitude.

With all lawful civil State government abandoned and destroyed in the rebellious States, the foundations of political society are again to be laid or restored over a vast extent of country. It is not too much to say, then, that—

"If this work be done wisely now ages unborn shall bless us, and we shall have done in our day what experience approved and duty demanded. If this work shall be carelessly or badly done, countless millions will hereafter remember our folly as their curse; our names and deeds shall only call forth execration and reproach."

Among the great questions now before the country is that of the reconstruction, or, as I think, more properly the creation, of civil State governments in the rebel States, and to that question I propose briefly to speak.

CONDITION OF REBEL STATES—DIFFERENT THEORIES.

There has been much controversy over the condition of the rebel States. It has been said they "are not States," that "they are dead States," "reduced to Territories," "conquered provinces," are "States out of the Union," "out of their practical relations to the Union," and this is denied by asserting that "they never ceased to be States with all the rights of States," or at most that "lawful State government was suspended and is now restored" and is "entitled to resume every right."

But much, not all, of this is a conflict of words rather than of ideas, and may be reconciled by considering what a State is and the effect of rebellion on the several elements which compose it.

THE TRUE THEORY.

The position which I maintain is, that in legal contemplation every ordinance of secession was void; that no State was ever out of the Union; that all lawful State government was abandoned and destroyed in the rebel States; that rebel organizations in the form of State governments were set up unauthorized by and unknown to the Constitution, and with no rights under it; that these were overthrown by the military power of the Union, that the people were thus left without any State government; that it is the duty of the United States to guaranty it, and until this is done there can be no valid *de jure* permanent civil State government and no right to representation in Congress or the Electoral College.

THE PERFECT STATE—THREE ELEMENTS.

In support of this view let us consider what a State of this Union is. The perfect State consists of three elements, a district of country, a people, and a political corporation or government. (Grotius on War, 265; Phillimore, Int. L., 147; Atlantic Monthly, October, 1863; 3 Dallas, 93; United States vs. Maurice, 2 Brock., 109; 1 Brock., 177; 3 Wheat., 181; 5 Pet., 128.) The Constitution recognizes this threefold character, and for some purposes each of the three elements is treated as a State. It declares that—

"The judicial power shall extend" * * * * * "to controversies between two or more States."

Here the corporate State alone is called the State, since the geographical State or the people are never parties litigant. Again, no State shall—

"Be formed by the junction of two or more States or parts of States without the consent of the Legislatures of the States concerned as well as of the Congress."—Art. 4, sec. 3.

Here the geographical State and population are denominated the State, since the corporate State cannot be divided into parts.

Again:

"The United States shall guaranty to every State in this Union a republican form of government."—Art. 4, sec. 4.

Here, again, the geographical State and people are recognized as the State even without government, since that is to be guarantied to the State. The Constitution is full of similar examples. The distinguished Senator from Wisconsin, [Mr. DOOLITTLE,] though maintaining with plausible skill the unimpaired rights of the States, admits the distinction I have drawn by conceding that "a State" does not "consist of its form of government," but of "the people," to which he adds, rather in apposition than with legal accuracy, "the body-politic." Now, over these States, and over each element of them, as well as elsewhere, the national Government has certain executive, legislative, and judicial powers, sovereign powers, the exercise of which may by force be suspended, leaving the right unimpaired, with a unity of government, of territory, and of population indestructible.

CONDITION AND RIGHTS OF REBEL STATES.

No State in its geographical sense, therefore, has in legal contemplation ever been out of the Union, or dead. The people were never absolved from the duty of allegiance, nor the nation deprived of its rights of sovereignty and jurisdiction, though their exercise was interrupted in fact. No State ever became a mere territory, or could be governed as such, since the people and geographical State survived, entitled to the guarantee of State government so soon as Congress might deem practicable, or to military or civil provisional government as a means to that end, (4 Wheat., 316; 12 Coke, 130-338; 2 Bishop, Cr. L.,) and no change could be made in State boundaries except in the mode prescribed in the Constitution.

The constitutional ties which bound the geographical States and people in the Union were never sundered in the eye of the law, and they therefore continued to owe to the national Government every constitutional duty, though they in fact rendered none. Their State constitutions and laws remained in force to preserve every right of person and property, except such

as were changed by the war, but with no means of enforcing them, and incapable of securing the exercise of any political right when all title to office ceased with no authorized mode of resuming it.

PRACTICAL IMPORTANCE OF THE QUESTIONS.

We have been told that these are "metaphysical questions of no importance." I maintain that they involve vital principles of constitutional law more deeply affecting the character of the Government and the prerogatives and interests of the people than any which have arisen in our history.

If by rebellion and flagrant war the States incur all the penalties of war, subject to reconstruction by national authority, or if when State government is abandoned or destroyed, the Congress may interfere to guaranty it, then is the power of the people complete to preserve the national life, and prescribe the means and the terms and the time necessary therefor. (Wells *ex parte*, 18 Howard.) But if the power of reconstruction reverts to the States or their people, with no forms of law to guide them, and with no restraints; if they may at once without terms, or guarantees, or even loyalty of purpose, resume governments they have repudiated, contemned, despised, abandoned, and overthrown, or create new ones, the result will be only to transfer treason in arms to traitors in the councils of the State, and the nation, retaining the uncontrolled power to oppress all who have been faithful, and finally to destroy the nation itself.

If it is the unquestioned right of the President alone, without the authority or ratification of Congress, to set up State governments, then a result will follow which the President never intended—that South Carolina and all the rebel States, the moment when war in legal fact ceases, will, as a matter of absolute right, and without question, be entitled to have Senators and Representatives who can take the oath of office, at once admitted to Congress, no matter how disloyal and hostile and illy prepared to maintain State government may be the people. It is fearful to contemplate a power which in hands less faithful than those of our now respected Chief Magistrate, might be employed to perpetuate his own indefinite sway. Vast powers unrestrained in the hands of any one man are incompatible with republican government.

I speak in behalf of the majesty of the people, of the supremacy of their power through their Representatives in Congress, and in their name, and in the name of the Constitution and of the sainted dead who made and construed it, I demand that in our own good time and way, the Congress, "the United States, shall guaranty to each State" "a republican form of government." In the exercise of this high power I demand that if there may be no indemnity for the past there may be some terms, some security, at least the security of loyalty, for the future. (1 Black, 436-474; 5 Elliot's Debates, 492, August 29, 1787; 3 Howard, 589; 4 Wheaton, 316.)

NO REPRESENTATIVES OR PRESIDENTIAL ELECTORS IF NO STATE GOVERNMENT.

But if there be no State government, then the right of representation in Congress and the Electoral College does not exist. The Constitution declares that in the election of Representatives—

"The electors in each State shall have the qualification requisite for electors of the most numerous branch of the Legislature."

If there be no State government there can be no electors, no Legislature, and without the sanction of Congress no Representatives in Congress. If there be no Legislature there can be no Senators. And as presidential electors are to be appointed "in such manner as the Legislature may direct," there can be no electors if there be no legislative power and no authorized officers to hold elections.

TWO GROUNDS UPON WHICH STATE GOVERNMENT LOST.

There are two grounds upon which the nation may treat the rebel States as without any civil

State government: first, as against traitors and traitor government, by the military right of the conqueror; second, because in fact all lawful State government has been abandoned and forfeited by universal rebellion, and all rebel government has been destroyed.

THE RIGHTS OF THE VICTOR IN WAR.

And first as to the rights of the victor in war. It has already been settled that "in organizing this rebellion" the States "have acted as States." (2 Black, 673; 3 Dallas, 93.)

And further, that—

"The civil war between the United States and the so-called confederate States had such character and magnitude as to give the United States the same rights and powers which they might exercise in case of a foreign war."—2 Black, 635.

Every reason of this rule makes it applicable to local as well as to foreign government. The war power in civil as well as foreign war is limited only by necessity or the Constitution; and these alike unite in clothing the nation with all the powers of a conqueror. And this is so because the Constitution recognizes the laws of nations as a part of the law of the land. (Attorney General's opinion, July, 1865.) Yet who will say that a conquest by foreign war does not give the victor the right in the exercise of civil power to create new civil government and to overturn that which exists? (United States vs. Percheman, 7 Peters, 86; Boston Law Reporter, June, 1862, page 498.)

This right was asserted in our territorial conquests from Mexico, was affirmed by the Supreme Court, and was employed by the President when he dissolved rebel legislatures, prohibited their reassemblage, drove out of office all rebel officers, and set up provisional military governments over most of the States. (Cross vs. Harrison, 16 Howard, 194.) This right is asserted by all the writers on international law as between international States. Grotius says:

"Livius tells us that the Romans were willing that Capua should be inhabited as a town but that there should be no corporation, no senate, no common council, no magistrates, no jurisdiction but a dependent multitude, and that a governor should be sent from Rome to dispense justice among them; and therefore Cicero, in his first oration to the people against Tullius, says that Capua had not so much as the shadow of a State left. The same may be said of those reduced into the form of a province, and of them who are subjected to another people, as Byzantium was to Perinthus by the Emperor Severus, and Antioch to Laodicea by Theodosius."—Grotius, 265; 2 Macaulay Eng., 624.

And as applied to the rebel States, it exists qualified by the duty of the nation to guaranty State governments. Let me be understood; I do not apply this right to lawful State governments.

HISTORICAL SUMMARY.

But lawful civil State government does not exist in the rebel States upon other grounds.

In the years 1860 and 1861 eleven of the States adopted ordinances of secession. Each for itself set up in form, but not in legal fact, a new government, claiming to be an independent sovereign nationality. They united and formed a confederacy known as the confederate States. The States, the confederacy, and their people made war on the United States and waged it for four years. When conquered by our arms, the rebel State and confederate governments were dissolved, their officers dispersed, their assumed authority terminated. The President, by virtue of his undoubted military power, set up in most of these States a military provisional government, with each its military governor. (16 Howard, 194.) But the President went further. By proclamations, without any law of Congress, he required these governors severally to assemble conventions to create State constitutions, to provide for elections; and new State governments supplanting the military have been set up and now exist, purporting to be civil in form. But peace is not yet declared. A state of war exists. (Attorney General's Letter, January 4.)

REBEL STATE GOVERNMENTS NOT RECOGNIZED.

The rebel State governments have been overthrown and no State asserts any right under them. The war power in fact destroyed them.

As they were not republican in form in the sense of our Constitution, Congress might have interposed to overthrow them if the civil power could have accomplished it. The belligerent rights accorded to them did not "concede that they formed a State or that they were *de facto* such. There is a difference between belligerents and belligerent States." (President Woolsey, Yale College, International Law, 231.)

OTHER GOVERNMENTS NOT EXISTING.

If, therefore, there be any valid civil State government it must be because the State governments in force when the secession ordinances were adopted either—

1. Continued to be and are governments; or,
2. Were suspended by rebellion and are restored; or,
3. That new governments have been lawfully set in operation.

All of which I deny.

LOYAL GOVERNMENT ABANDONED.

And first, did those governments continue? That State constitutions might provide a mode of resuming government after all its functions have ceased might possibly be conceded. That no one has done so is certain.

During the four years of rebellion every function of these governments ceased, every duty was repudiated, every office was abandoned, every term of office had expired, there was no claimant or anyone entitled to hold any office, and no law provided any mode of electing or authenticating the election of any. If government can be abandoned, abdicated, or destroyed by war; if the corporate State may be dissolved, as may a private or municipal corporation, by any means; if the constitution, as its charter, may be incapable of operating for want of officers to constitute government, then did these governments cease. (Glover on Municipal Corporations, 408; Stat. 2 W. & M., c. 8.)

And that they may do so, and did so, I affirm on the authority of the Constitution, of the laws of nations, of Madison, of the Supreme Court, of the lamented Lincoln, and of President Johnson.

The Constitution declares that—

"The United States shall guaranty to every State" * * * "a republican form of government."—Art. 4, sec. 4.

This implies that a State may abandon all government, else why talk about guarantying government to a State if it could not cease to have one?

The Declaration of Independence affirms of George III, that—

"He has abdicated government here by declaring us out of his protection and waging war against us."

The rebel States declared themselves out of our protection and waged war against us.

Grotius, that highest source of international law, says:

"Sovereignty" * * * "may cease by being abandoned and deserted."

He adds:

"Isocrates, and after him the Emperor Julian, said that States were immortal; that is, they may possibly prove so." * * * "The frame and constitution of the body is dissolved and broken when the subjects either of their own accord are disunited on the account of a pestilence or a sedition, or are by force so scattered as that they cannot more reunite, which often happens in war."—War and Peace, 265.

Mr. Madison says of article four, section four, of the Constitution, its object was to authorize "Federal interposition" when there is employed "force to subvert the Government," that "the authority extends" to a case where there has been "a preëxisting government;" that to deny the power of "interference in the domestic concerns of the members" of the Union, "against changes to be effected by violence, usurpation, sedition," would "deprive us of one of the principal advantages of Union." (Federalist 21, 43.)

If a new State should—

"be formed by the junction of two or more States," as the Constitution authorizes, where would be the old corporate States, the governments? Overthrown, destroyed.

In Luther vs. Borden, 7 Howard, 42, Judge Taney says:

"Undoubtedly a military government, established as the permanent government of a State, would not be a republican government, and it would be the duty of Congress to overthrow it."

If the power should be exercised, would not the government cease?

In the amnesty proclamation of December 8, 1863, President Lincoln, distinguishing with great accuracy between the condition of national and State authority, says:

"The national authority has been suspended, and loyal State governments have been subverted;" and "have for a long time been subverted."

And in his message he suggests a plan by which new State governments may be "set up."

On the 18th of March, 1862, Andrew Johnson, in an address to the people of Tennessee, said:

"I find most if not all of the offices, both State and Federal, vacated, either by actual abandonment or by the action of the incumbents in attempting to subordinate their functions to a power in hostility to the fundamental law of the State and subversive of her national allegiance."

The President, in his several proclamations of 1865 appointing military provisional governors for the rebel States, declares that—

"The rebellion has in its revolutionary progress deprived the people of the State of all civil government."

And provisional governors were appointed, say the proclamations—

"For the purpose of enabling the loyal people of the [geographical] State to organize a [new] State government."

And the object is declared to be—

"To present [to Congress] such a republican form of State government as will entitle the [geographical] State to the guarantee of the United States therefor."

And so the people of the South have understood their condition ever since the surrender of their last army, on the 26th of May, 1865.

On the 15th July, 1865, James Johnson, in accepting the office of provisional governor, said to the people:

"According to the proclamation of the President, we, as Georgians, stand to-day without any civil government. We have no Governor, no Legislature, no judges, no inferior magistrates. This has been the result of the rebellion. It has deprived us of all the machinery necessary to carry on a civil government."

It was because these geographical States "had no Governor, no Legislature, no judges, no inferior magistrates"—no government, and no mode known to their constitution or laws of restoring any, that the President interfered. If such a "dependent multitude," incapable of exercising any function of State government or discharging any one national duty which depended on State government; if these constitute government, from such good Lord deliver us!

The gentleman from New York [Mr. RAYMOND] admits, upon the authority of Wheaton and Grotius and Burlamaqui, that—

"Habitual obedience to law is essential to the existence of a State" government.

If rebel government preserved the identity of the State, yet this was overthrown, and obedience ceased both to loyal and usurped government, and therefore all State government ceased.

And this has been solemnly decided by Congress by declaring that a majority of the Senators and Representatives from the loyal States should constitute a quorum, and that the loyal States alone had the right to elect a President and Vice President. The very title under which the President now holds his office, and the authority by which laws are made here, constantly admonish us that the geographical States of the South have ceased to have governments or the right to a voice in electing a President or Senators or Representatives. (Joint Resolution Congress, February 8, 1865, Laws 1865, p. 568.)

LOYAL GOVERNMENTS NOT RESUMED.

But could the original loyal State governments be resumed? It has been sufficiently shown that they were destroyed, not suspended merely, and therefore could not be resumed.

If they could be resumed it must be in obedience to some law, or under the war power

of the President, or because the right to do so was inherent in and reverted to the people.

But no law provided the means or a mode of resuming abandoned constitutions and government. No man can point to any provision of any constitution or law authorizing this.

The war power may set up military or provisional but not permanent civil government, for this is the exercise of a civil power. (Cross vs. Harrison, 16 Howard, 194; Federalist, No. 69, 85.)

The power to "execute the laws" does not authorize the President to do this, for there are no laws of the United States for this purpose to be executed. The power to guaranty government is granted, not to the President, but to the United States. If the President may lawfully do this, his decision would be final; but in our system "Congress must decide what government is established." (7 Howard, 42.)

The gentleman from New York [Mr. RAYMOND] declares that—

"We ought to accept the present *status* of the southern States, and regard them as having resumed, under the President's guidance and action, the functions of self-government in the Union."—*Speech, 29th January.*

And he quotes these passages from Wheaton to sustain him:

"But whatever be its internal constitution or form of government, or whoever may be its rulers, or even if it be distracted with anarchy, through a violent contest for the Government between different parties among the people, the State still subsists in contemplation of law until its sovereignty is completely extinguished by the final dissolution of the social tie, or by some other cause which puts an end to the being of the State." * * *

"The habitual obedience of the members of any political society to a superior authority must have once existed in order to constitute a sovereign State. But the temporary suspension of that obedience and of that authority, in consequence of a civil war, does not necessarily extinguish the being of a State, although it may affect for a time its ordinary relations with other States." * * *

And he proceeds to argue that "the coalition which attempted to restore order and the Bourbons to France," after the "great contest of the French Revolution," held "that France had [never] ceased to be a State;" that although in Mexico "sovereignty resides in" Maximilian "who holds its capital, its archives, and its laws," yet "when Juarez comes back to take possession of the Government" it will still survive.

I am free to concede that it is true of England, of France, of Mexico, and of our own nation, that the temporary overthrow of supreme national government will not destroy the Constitution or the right to resume it. And this is so upon two grounds: either because a rightful title to office survives in lawful officers who can resume the constitutional exercise of Government, or because when this is not so sovereignty reverts to the people and may be resumed by them in the constitutional forms, or by their own act if no such forms are prescribed.

The constitution of England, in essential features, was suspended during the reign of Cromwell, which interrupted but did not destroy the hereditary title of Charles II to the crown, to resume the exercise of sovereignty.

The same principle applies to all Governments with hereditary sovereigns.

In our own national Government the Constitution or Government cannot perish, because while a sufficient number of the States survives the means are provided of periodically supplying the executive and legislative branches of the Government with the appropriate officers to execute their duties, or if all this should fail sovereignty would revert to the people to be by them resumed under a constitution on its face of perpetual obligation and retaining vitality *ex proprio vigore*.

This principle is recognized in Grotius, who says:

"In an elective Government if the King or royal family (or President and Congress) should become extinct, the right of sovereignty would revert to the people."—*1 Cumbell's Grotius*, 336, chap. 9.

And this is necessarily so, since there is no superior power authorized to guaranty government.

But these, or European analogies can furnish no rule of international or constitutional law for States in our system. A State of the Union is not a nation in the sense of international law. The nation alone is recognized among the States of the world. And in the States, when all title to office has ceased and no mode of supplying any is authorized, it becomes the duty of Congress to guaranty government.

This cannot be done by the people without law, for if so, conflicting and hostile governments might be set up as numerous as the political parties or conventions that might assemble for that purpose, and discord would reign supreme.

The power of reconstruction or sovereignty did not revert to the people of the States, because the Constitution declares that no powers "are reserved to the States respectively, or to the people,"

which are

"delegated to the United States."—*Art. 10, Amendments.*

And the power of reconstruction is delegated to Congress in these words of the Constitution:

"The United States shall guaranty to every State in this Union a republican form of government."—*Art. 4, sec. 4.*

And as Bishop very justly observes:

"A State which has no government has not a republican form of government."—*2 Criminal Law*, section 1224, note.

This power is wisely delegated to Congress, because it is essential to the national life. If left to the States they might forever decline to exercise it under the promptings of the same spirit that would induce rebellion. The very occasion which would create the necessity to organize new State government would prove that the duty to do so could not be intrusted to those unwilling to maintain government.

In this respect a State of this Union is less in power than an international State. And in addition to this the power of reconstruction is a national power, not only inherent in the right of existence, with the incidental power to perpetuate it, but as an incident to the right of the continued exercise of every power of the national Government.

Unless we concede that the nation may lawfully die, we must maintain its power to employ all the means necessary to its continued existence.

THE PRESIDENT SANCTIONS THIS VIEW.

And the President in his proclamations treated the old constitutions like other corporate charters, as having ceased to constitute or be capable of constituting government:

1. By himself calling conventions to create new constitutions, thus denying that sovereignty had reverted to the people or that State constitutions as charters of government were in force.

2. By requiring delegates to conventions to be elected by citizens "loyal to the United States and none others," whereas the State constitutions made all male adult white citizens voters.

3. By requiring that "no person shall be qualified as an elector or shall be eligible as a member of such convention unless he shall have previously taken and subscribed the oath of amnesty," whereas the State constitutions required no such tests. (See act of February 25, 1865, 13 United States Statutes, 437.)

4. By requiring new constitutions to be made at times and in a manner unauthorized by the old ones.

5. By invoking, as in the proclamations he did, not the military, but the civil power of the Constitution "to guaranty" State governments as the authority for all this.

If the old constitutions were alive these things could not be done. They were alive in all things or dead in all things as charters of government. If dead as to the qualification of electors and the mode of amending, they were dead for all purposes of constituting government.

Let me illustrate this by an example. The constitution of South Carolina in force when the rebellion commenced provides that—

"No part of the constitution shall be altered unless a bill to alter the same shall have been read three

times in the House of Representatives and three times in the Senate, and agreed to by two thirds of both branches of the whole representation."

Yet a new constitution has been created for South Carolina and other rebel States in a manner wholly unknown to their constitutions or laws. The governments, then, which have been set up are new creations.

Provisional Governor Johnson, in the same address to which I have alluded, declared this in these words:

"Under this state of facts I have been appointed by the President provisional governor of Georgia. All the power which I can exercise over you in this office is derived by virtue of my appointment from him. I have not been elected Governor under the laws of Georgia, nor by the sovereign people of Georgia. I have not been appointed for the purpose of establishing government, administering government; but appointed, as the proclamation declares, for one single purpose, and that is to enable the people of Georgia to form a government."

that is, to create a new government.

It may be said these conventions amended the old constitutions. They set up new governments, as much so as the rebel confederacy which amended and adopted our national Constitution as the Magna Charta of a new government, a new creation, a new-born nation, that fortunately died before its birth was complete.

NEW GOVERNMENTS HAVE NOT YET BEEN LAWFULLY CREATED.

The same argument which proves that neither the President nor the people of the States could lawfully set in motion suspended State government as in abeyance, equally disproves the power of either to create new State governments. The gentleman from New York [Mr. RAYMOND] practically concedes this. His language is:

"He [the President] then appointed provisional governors by virtue of his authority as Commander-in-Chief of the Army and Navy, under whose direction and guidance, as representatives of the national authority, this process of restoration might proceed."

"Now, I know the question has been raised—and perhaps it is not quite clear and free from doubt—as to the precise legal authority he had to take this specific step."—*Speech, January 23.*

And my colleague [Mr. HUBBELL] says:

"I claim the right and power of Congress to review what has been done in the restoration of civil governments in the rebel States."

"There are irregularities in this plan."—*Speech, February 5.*

I am not now objecting to the measures taken by the President for reconstruction, for he has not yet denied the power of Congress to make laws authorizing the creation of new governments, nor has he asserted that the existing governments will be valid without congressional ratification. The people of California without authority organized State government, and it only became valid when ratified by Congress, and this is the condition of Colorado now.

The highest court has finally and forever settled this power of Congress to guaranty government and determine what one lawfully exists in a State by saying:

"It rests with Congress to decide what government is the established one in a State." * * *

"And when the Senators and Representatives of a State are admitted into the councils of the Union, the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority, and its decision is binding on every other department of the Government, and could not be questioned in a judicial tribunal."—*1 Calhoun's Works*, 332.

That the whole policy of reconstruction was in view of these principles and dependent for validity on the action of Congress is manifest, not only because it is not to be presumed that the President designed to transcend the Constitution, but because he has declared his reconstruction scheme to be an "experiment" only, and has in his message referred to Congress the question whether Senators and Representatives shall be admitted. If it had the effect of absolute law it could not be an experiment, and if the right of representation was absolute it could not be referred to Congress for the exercise of discretion.

In the report of General Schurz to the President, it is said:

"You informed me that your 'policy of reconstruction' was merely experimental, and that you would change it if the experiment did not lead to satisfactory results."—*Sent to Congress December 19.*

If the President may abandon the "experiment" may not Congress do the same?

The message concedes congressional ratification to be necessary, by saying that this "policy implies an invitation to those States" "to resume their functions," which can only be done under the power to guaranty government. If the corporate States survived, or awoke from abeyance, or if "sovereignty reverted to the people," neither executive or congressional power could interfere. The obligation to guaranty republican government is not to restore or preserve the original State government, but "a republican form of government"—one in the discretion of Congress; a new proof that the original corporate State may forfeit existence. (Madison Papers, 723, 734, 794, 844, 838, 861, 913, 1139, 1241.)

LINCOLN'S POLICY OF RECONSTRUCTION.

There can therefore be no valid *de jure* reorganized civil State government unless previously authorized by Congress or now ratified by it.

This is precisely the doctrine of President Lincoln and the Congress which ratified the new government created for Virginia in 1861. Governor Peirpoint, of Virginia, in his message of June 20, 1865, affirms in effect that the lawful government of Virginia was abandoned and destroyed by the rebellion; that the loyal people set up a new government without presidential intervention; but that it was unauthorized until ratified by Congress under the power to guaranty State government. His language is:

"I shall not here enter into a discussion of the causes of secession, but will state some of the political results of that act, and in doing so I shall quote freely from one of my former messages.

"In April, 1861, the State convention passed what was called an ordinance of secession, pretending to absolve the people of the State from the duties and obligations of citizens of the United States and thereby destroy our nationality. They attempted to transfer the allegiance of the people to a pretended foreign nation. This action was opposed by the loyal men of the State as unlawful and revolutionary, holding that the Constitution of the United States was adopted by the people of the United States and could only be altered or amended by them, acting in conformity with its own provisions for its amendment or alteration.

"The executive officers of the State having joined the insurrectionists, the loyal people of the State were thrown upon their original rights as citizens of the State and of the United States. They called a convention, composed of the members elected to the General Assembly, on the fourth Thursday of May, 1861, and, in addition thereto, doubled the number of delegates that each county was entitled to in the popular branch of the Legislature. The capital of the State being in the hands of the insurgents, the convention assembled at Wheeling, on the 11th day of June, 1861, to take into consideration what was best to be done for Virginia.

"Among the first ordinances which they passed was one to declare the offices of Governor, Lieutenant Governor, and attorney general vacant on account of the incumbents of said offices having taken an oath to support what they deemed a foreign government; and the convention proceeded to elect officers to fill their places for the term of six months, and until the loyal people of the State, by order of the General Assembly, should elect their successors.

"The Governor thus elected immediately notified the President of the United States of the domestic violence existing in the State, and of his inability to suppress it, and called for military assistance, in accordance with the provisions of the Constitution of the United States.

"To this call the President of the United States, through his Secretary of War, responded, both by promising and sending military aid, also expressing his knowledge of the acts and purposes of the confederation. The Executive of the State, thus recognized, immediately called together the General Assembly of the State. Messrs. Hunter and Mason, the United States Senators from Virginia, having also joined in the rebellion, the Legislature thus called proceeded to elect two United States Senators to fill their places. The Senators thus elected were admitted to seats in the United States Senate.

"The Wheeling convention made but a single alteration in the constitution of the State, which was to reduce the number of members in each House of the General Assembly necessary to constitute a quorum to do business. They directed that the seat of government should be for the time being at Wheeling. Before the State was divided, the Legislature passed an act directing the Executive, upon the organization of the new State of West Virginia, to establish the seat of government within the State at such place as he might deem fit. I chose Alexandria.

"The authority for this proceeding is derived from the fourth section of the fourth article of the Constitution of the United States, which is as follows:

"The United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion, and, on

application of the Legislature, or of the Executive, (when the Legislature cannot be convened,) against domestic violence."

This clause was inserted in the Federal Constitution to protect the minority, or the party weaker in available strength. Mr. Madison, in the Federalist, speaking of this clause, says:

"At first view it might seem not to square with the republican theory to suppose either that the majority have not the right or that a minority will have the force to subvert the government, and consequently that the Federal interposition can never be required but when it would be improper. But theoretic reasoning in this, as in most other cases, must be qualified by lessons of practice. Why may not illicit combinations for purposes of violence be formed as well by a majority of a State, especially a small State, as by a majority of a county or a district of the same State?"

"Among the advantages of a confederate republic enumerated by Montesquieu, an important one is, that should popular insurrection happen in one of the States, the others are able to quell it. Should abuses creep into one part, they are reformed by those that remain sound."

The great name of Lincoln has been invoked to sanction the power of reconstruction under presidential proclamation.

He did, indeed, by his amnesty proclamation of 1863 propose a plan for the creation of new governments.

But of this I remark:

1. This was done *flagrante bello*, as a war measure, to induce the people to abandon rebellion. The same reason does not exist now.

2. He did not maintain that governments could be set up without the authority or ratification of Congress, for his amnesty proclamation says:

"Whether members sent to Congress from any State shall be admitted to seats, constitutionally rests exclusively with the respective Houses, and not to any extent with the Executive."

And Congress refused to admit Senators and Representatives sent from Louisiana and Arkansas as reorganized *sub modo* under President Lincoln's proclamation of 1863.

3. He admitted the power of Congress, and as there could not be two absolute powers conceded he had none to create civil State government.

And President Johnson in his message admits the same thing, saying:

"In case of the usurpation of the government of a State by one man or an oligarchy, it becomes a duty of the United States to make good the guarantee to that State of a republican form of government."

In his proclamation of July 8, 1864, President Lincoln said:

"I am unprepared" * * * * "to be inflexibly committed to any single plan of restoration."

And referring to the bill passed by Congress authorizing the appointment of provisional governors to be charged with the administration of civil government until a State government therein shall be reorganized as therein provided, but which failed to become a law for want of his approval, he says:

"I am fully satisfied with the system for restoration contained in the bill as one very proper plan for the loyal people of any State choosing to adopt it, and that I am and at all times shall be prepared to give the executive aid and assistance to any such people," &c.

And in his speech of April 11, 1865, he speaks of "the new State governments" to be organized in these States.

4. He declared himself in favor of "constitutional conditions" as a right of the victor, and one inherent in the nation, and he affirmed that the idea of revived State government "was simply absurd." He recognized the right of imposing terms, a power already exercised when Missouri and West Virginia were admitted into the Union. (3 Howard, 609; 5 Elliot's Debates, 492.)

In his message of December 8, 1863, he says:

"It is also proffered that if in any of the States named a State government shall be in the mode prescribed set up, such government shall be recognized and guaranteed by the United States, and that under it the State shall on constitutional conditions be protected against invasion and domestic violence."

"An attempt to guaranty and protect a revived State government constructed in whole or in preponderating part from the very element against whose hostility it is to be protected is simply absurd."

STATE GOVERNMENTS NOT YET RECOGNIZED IN REBEL STATES.

But we are told that Congress has apportioned Representatives and direct taxes to all the States,

that national courts are held, post offices established, and revenues collected; and thus all the States have been recognized. I do not doubt the continued existence of the geographical States, but if it be said that State governments have been recognized, I deny it.

We hold national courts, collect revenues, and appoint postmasters in Territories, but they do not thereby become clothed with State governments. The existence of a State government is not necessary for any of these purposes.

Representatives and direct taxes were apportioned before the present State governments were set up, and they are not therefore recognized. (Act of March 4, 1862, and August 5, 1861.)

If this argument proves anything it proves too much. It would prove that the rebel State government of South Carolina was a valid State government of the Union, for that was the only State government exercising jurisdiction when these acts were passed.

If Congress should even declare that a State government existed when none in fact did, that would not make it so. These acts only fixed the number of Representatives and the amount of taxes apportioned to each geographical State in anticipation of the reestablishment of State government.

But it is said the Secretary of State is required by law to make publication of constitutional amendments when "officially notified" of their ratification by States, and that having done so as to the amendment abolishing slavery, certain State governments are thereby recognized. But his proclamation that he is "officially notified" when there is no valid State government to notify him, cannot change the fact. He is not clothed with power to recognize State governments, for that rests with Congress.

But we are gravely informed that the President has recognized the existing State governments as valid, and that his decision is "final and conclusive" and "could not be reviewed or reversed by any authority whatever."

We are not told by what acts they have been so recognized, but the message itself denies this by referring to Congress the question of admitting Senators and Representatives. In the *Dorr rebellion case*, (7 Howard,) the court said that as Congress had by law made it the duty of the President to suppress insurrection in a case of two conflicting State governments, "he must of necessity decide which is the government."

No such case has arisen for any decision of the President as to existing governments in the rebel States. But if so, the court did not declare that his decision would be "final and conclusive" on the Government of the United States. On the contrary, the court did say, "It rests with Congress to decide what government is the established one in a State."

And if the power may be transferred to the President, may it not be withdrawn?

The power is not treated as an original constitutional power of the President, for the court say that Congress, "if they had deemed it most advisable to do so, might have placed it in the power of a court to decide," instead of the President.

Congress is the source of original power, and no derivative authority can be final and conclusive against the Government. A power which for the time being might be conclusive, as between conflicting State governments or on the courts, is not conclusive on the nation.

This concession of "final and conclusive" power to any one man is a surrender of the Constitution itself. What security is there against the abuse of this power? States may be made and unmade by the will of one man; and we are told his decision is "final and conclusive."

If President Buchanan, in December, 1860, had recognized the rebel government of South Carolina as valid, would it be true that this—

"Was a final and conclusive decision in favor of that government, and such a decision as could not be reviewed or reversed by any authority whatever?"—*Globe*, February 15.

If it be replied that he could not recognize an unauthorized government, I answer, that is a *petitio principii*—the present State governments in the rebel States are also unauthorized.

HOW GOVERNMENT MAY BE ESTABLISHED.

Since all lawful civil State government has been subverted, the inquiry necessarily arises as to how and when it may be established. The mode is a question of constitutional law; the time is a question of constitutional duty and practicability.

That the power rests with Congress has been sufficiently shown. This power may be exercised by ratifying the present unauthorized governments, (2 Black, 671,) or by an enabling act, as proposed by the Congress of 1864, prescribing a mode of setting up State governments through authorized conventions of the people. Until this shall be practicable, government, as a means to that end, in the discretion of Congress, may be established, since—

"If the end be legitimate, all the means which are appropriate and not prohibited may constitutionally be employed to carry it into effect."—4 Wheaton, 316; 3 Howard, 609; 5 Elliot's Debates, 492; Martin vs. Hunter, 1 Wheaton, 325.

And Chief Justice Taney says:

"It rested with Congress to determine the means proper to be adopted to fulfill this guarantee."—7 Howard.

For this purpose the present governments may be accepted as provisional, or new ones created in their stead; and because these are grave questions, the whole subject has been referred to the joint committee of fifteen on reconstruction in order that we may be enlightened by their labors, and then decide.

DANGERS OF HASTY RECONSTRUCTION.

Let us pause before we validate and clothe with national power State governments created at the point of the bayonet, grudgingly approved by inconsiderable minorities, and held together by the sword of the nation.

The Governor of Mississippi says "Under the pressure of Federal bayonets the people have abolished slavery" and organized government. (Message, November 20.)

The military governor, Perry, of South Carolina, declared the convention assembled under the President's proclamation, "a revolutionary body." (Letter to Governor Orr, December 9, 1865.)

Let us inquire if local government intrusted to loyal men, under congressional law in some, perhaps most, of the rebel States, until military power shall be unnecessary, will not sooner bring permanent State governments with safety to all, than the hazardous "experiment" of turning over to infuriate rebels the loyal population and the freedmen, before time or adequate guarantees give assurance of its success.

Let us pause before we intrust with power in these Halls, to govern us, a people who are properly held by the President in military subjection, because they are unprepared to govern themselves, or soon that national death which could not be achieved in the field may be accomplished in the Capitol by conspirators,

"Whose treason like a deadly blight
Comes o'er the counsels of the brave
And blasts them in their hour of might."

The writ of *habeas corpus* remains suspended, while our military forces and commanders occupy every rebel State, and with the Freedmen's Bureau control the exercise of local jurisdiction, and set aside State laws and State elections at pleasure. I have unflinching confidence in the President, but let us pause before we make precedents for successors less worthy. If executive military power can make and unmake State governments, and at the point of the bayonet send Representatives to Congress and fill the Electoral College, we may live to see in them the reflected will of a military dictator and the end of the Republic. The President cannot desire this. Will it not rather be time enough to clothe rebels with political power, when they are prepared to do justice without national military constraint?

A State government created and controlled by national military power is after all in fact and legal effect but a military government under

another name. (Cross vs. Harrison, 16 Howard, 194.)

I do not condemn the exercise of this military power. The disloyal condition of the people renders it necessary. The necessity for its exercise is shown by military orders sanctioned by the President. Permit me to read some of them. Here is one:

[General Orders, No. 4.]

HEADQUARTERS DEPARTMENT OF VIRGINIA,
RICHMOND, VA., January 24, 1866.

By a statute law passed at the present session of the Legislature of Virginia, entitled "A bill providing for the punishment of vagrants," it is enacted, among other things, that any justice of the peace, upon the complaint of any one of certain officers therein named, may issue his warrant for the apprehension of any person alleged to be a vagrant, and cause such person to be apprehended and brought before him; and that if, upon due examination, said justice of the peace shall find that such person is a vagrant within the definition of vagrancy contained in said statute he shall issue his warrant directing such person to be employed for a term not exceeding three months, and by any constable of the county wherein the proceedings are had, be hired out for the best wages that can be procured, his wages to be applied to the support of himself and his family.

The said statute further provides, that in case any vagrant so hired shall during his term of service run away from his employer without sufficient cause, he shall be apprehended on the warrant of a justice of the peace, and returned to the custody of his employer, who shall then have, free of any further hire, the services of such vagrant for one month, in addition to the original term of hiring; and that the employer shall then have power, if authorized by a justice of the peace, to work such vagrant with ball and chain.

The said statute specifies the persons who shall be considered vagrants and be liable to the penalties imposed by it. Among those declared to be vagrants are "all persons who, not having the wherewith to support their families, live idly and without employment, and refuse to work for the usual and common wages given to other laborers, in the like work, in the place where they then are."

In many counties of this State, meetings of employers had been held, and unjust and wrongful combinations have been entered into for the purpose of depressing the wages of the freedmen below the real value of their labor, far below the prices formerly paid to masters for labor performed by their slaves.

By reason of these combinations, wages utterly inadequate to the support of themselves and their families have, in many places, become the usual and common wages of the freedmen.

The effect of the statute in question will be, therefore, to compel the freedmen, under penalty of punishment as criminals, to accept and labor for the wages established by these combinations of employers. It places them wholly in the power of their employers, and it is easy to foresee that, even where no such combinations now exist, the temptation to form them, offered by the statute, will be too strong to be resisted, and that such inadequate wages will become the common and usual wages throughout the State.

The ultimate effect of the statute will be to reduce the freedmen to a condition of servitude worse than that from which they have been emancipated—a condition which will be slavery in all but its name.

It is, therefore, ordered that no magistrate, civil officer, or other person, shall in any way or manner apply, or attempt to apply, the provision of said statute to any colored person in this department.

By command of Major General Terry:

EDWARD W. SMITH,

Assistant Adjutant General.

And I find it said:

"The withdrawal of the military from the interior of the State has opened the floods of rancor toward loyal men and negroes, and already cases of unprovoked abuse and unseemly horror have been reported to these headquarters. In order to properly check this alarming evil, General Terry has found it necessary, as follows, to clothe the officers of the Freedmen's Bureau with extraordinary power:

[General Orders, No. 5.]

HEADQUARTERS DEPARTMENT OF VIRGINIA,
RICHMOND, VIRGINIA, January 24, 1866.

All officers in the military service in this department, acting as superintendents or assistant superintendents of the Bureau of Refugees, Freedmen, &c., are hereby invested with all the power and authority usually exercised by provost marshals.

By command of Major General A. H. Terry:

EDWARD W. SMITH,

Assistant Adjutant General."

And in South Carolina, General Sickles has found it necessary to protect the freedmen by similar orders. Here is one:

[General Orders, No. 1.]

HEADQUARTERS DEPARTMENT SOUTH CAROLINA,
CHARLESTON, January 17, 1866.

I. To the end that civil rights and immanities may be enjoyed; that kindly relations among the inhabitants of the State may be established; that the rights and duties of the employer and the free laborer respectively may be defined; that the soil may be cultivated and the system of free labor fairly undertaken; that the owners of estates may be secure in the possession of their lands and tenements; that persons, able and willing to work, may have employment; that idleness and vagrancy may be discountenanced,

and encouragement given to industry and thrift; and that humane provision may be made for the aged, infirm, and destitute, the following regulations are established for the government of all concerned in this department:

II. All laws shall be applicable alike to all the inhabitants. No person shall be held incompetent to sue, make complaint, or to testify, because of color or caste.

III. All the employments of husbandry or the useful arts, and all lawful, trades or callings may be followed by all persons irrespective of color or caste; nor shall any freedman be obliged to pay any tax or any fee for a license, nor be amenable to any municipal or parish ordinance, not imposed upon all other persons.

IV. The lawful industry of all persons who live under the protection of the United States, and owe obedience to its laws, being useful to the individual, and essential to the welfare of society, no person will be restrained from seeking employment when not bound by voluntary agreement, nor hindered from traveling from place to place, on lawful business. All combinations or agreements which are intended to hinder, or may so operate as to hinder, in any way, the employment of labor—or to limit compensation for labor—or to compel labor to be involuntarily performed in certain places or for certain persons; as well as all combinations or agreements to prevent the sale or hire of lands or tenements, are declared to be misdemeanors; and any person or persons convicted thereof shall be punished by fine not exceeding \$500, or by imprisonment, not to exceed six months, or by both such fine and imprisonment.

V. Agreements for labor or personal service of any kind, or for the use and occupation of lands and tenements, or for any other lawful purpose, between freedmen and other persons, when fairly made, will be impartially enforced against either party violating the same.

VI. Freed persons unable to labor, by reason of age, or infirmity, and orphan children of tender years, shall have allotted to them by owners suitable quarters on the premises where they have been heretofore domiciled as slaves, until adequate provision, approved by the general commanding, be made for them by the State or local authorities, or otherwise; and they shall not be removed from the premises, unless for disorderly behavior, misdemeanor, or other offense committed by the head of a family or a member thereof.

VII. Able-bodied freedmen, when they leave the premises in which they may be domiciled, shall take with them and provide for such of their relatives as by the laws of South Carolina all citizens are obliged to maintain.

VIII. When a freed person, domiciled on a plantation, refuses to work there, after having been offered employment by the owner or lessee on fair terms, approved by the agent of the Freedmen's Bureau, such freedman or woman shall remove from the premises within ten days after such offer, and due notice to remove by the owner or occupant.

IX. When able-bodied freed persons are domiciled on premises where they have been heretofore held as slaves, and are not employed thereon or elsewhere, they shall be permitted to remain on showing to the satisfaction of the commanding officer of the post that they have made diligent and proper efforts to obtain employment.

X. Freed persons occupying premises without the authority of the United States or the permission of the owner, and who have not been heretofore held there as slaves, may be removed by the commanding officer of the post on the complaint of the owner and proof of the refusal of said freed persons to remove after ten days' notice.

XI. Any person employed or domiciled on a plantation or elsewhere, who may be rightfully dismissed by the terms of agreement, or expelled for misbehavior, shall leave the premises, and shall not return without the consent of the owner or tenant thereof.

XII. Commanding officers of districts will establish within their commands respectively suitable regulations for hiring out to labor, for a period not to exceed one year, all vagrants who cannot be advantageously employed on roads, fortifications, and other public works. The proceeds, of such labor shall be paid over to the assistant commissioner of the Freedmen's Bureau, to provide for aged and infirm refugees, indigent freed people, and orphan children.

XIII. The vagrant laws of the State of South Carolina, applicable to free white persons, will be recognized as the only vagrant laws applicable to the freedmen; nevertheless, such laws shall not be considered applicable to persons who are without employment, if they shall prove that they have been unable to obtain employment, after diligent efforts to do so.

XIV. It shall be the duty of officers commanding posts to see that issues of rations to freedmen are confined to destitute persons, who are unable to work because of infirmities arising from old age, or chronic diseases, orphan children too young to work, and refugee freedmen returning to their homes with the sanction of the proper authorities; and in ordering their issues, commanding officers will be careful not to encourage idleness or vagrancy. District commanders will make consolidated reports of these issues tri-monthly.

XV. The proper authorities of the State in the several municipalities and districts shall proceed to make suitable provision for their poor, without distinction of color; in default of which, the general commanding will levy an equitable tax on persons and property sufficient for the support of the poor.

XVI. The constitutional rights of all loyal and well-disposed inhabitants to bear arms will not be infringed; nevertheless this shall not be construed to sanction the unlawful practice of carrying concealed weapons; nor to authorize any person to enter with arms on the premises of another against his consent.

No one shall bear arms who has borne arms against the United States, unless he shall have taken the amnesty oath prescribed in the proclamation of the President of the United States, dated May 20, 1865, or the oath of allegiance, prescribed in the proclamation of the President, dated December 8, 1863, within the time prescribed therein. And no disorderly person, vagrant, or disturber of the peace, shall be allowed to bear arms.

XVII. To secure the same equal justice and personal liberty to the freedmen as to other inhabitants, no penalties or punishments different from those to which all persons are amenable, shall be imposed on freed people; and all crimes and offenses which are prohibited under existing laws, shall be understood as prohibited in the case of freedmen; and if committed by a freedman, shall, upon conviction, be punished in the same manner as if committed by a white man.

XVIII. Corporal punishment shall not be inflicted upon any person other than a minor, and then only by the parent, guardian, teacher, or one to whom said minor is lawfully bound by indenture of apprenticeship.

XIX. Persons whose conduct tends to a breach of the peace may be required to give security for their good behavior, and in default thereof shall be held in custody.

XX. All injuries to the person or property committed by or upon freed persons shall be punished in the manner provided by the laws of South Carolina, for like injuries to the persons or property of citizens thereof. If no provision be made by the laws of the State, then the punishment for such offenses shall be according to the course of the common law; and in the case of any injury to person or property not prohibited by the common law, or for which the punishment shall not be appropriate, such sentence shall be imposed, as, in the discretion of the court before which the trial is had, shall be deemed proper, subject to the approval of the general commanding.

XXI. All arrests, for whatever cause, will be reported tri-monthly, with the proceedings thereupon, through the prescribed channel, to the general commanding.

XXII. Commanding officers of districts, sub-districts, and posts, within their commands respectively, in the absence of the duly appointed agent, will perform any duty appertaining to the ordinary agents of the Bureau of Refugees, Freedmen, and Abandoned Lands, carefully observing for their guidance all orders published by the Commissioner or assistant commissioner or other competent authority.

XXIII. District commanders will enforce these regulations by suitable instructions to sub-district and post commanders, taking care that justice be done, that fair dealing between man and man be observed, and that no unnecessary hardship and no cruel or unusual punishments be imposed upon any one.

By command of Major General D. E. Sickles:
W. L. M. BURGER,
Assistant Adjutant General.

And these are but specimens of what is necessarily done in the rebel States.

CONDITION OF TENNESSEE.

Even in Tennessee, that most loyal of all the States of the South, although by law rebels are disfranchised, yet so great is their influence by fraud and force and terror, that the military power of the nation was invoked and employed to control the elections of last August, and then "a partial execution only of the laws was obtained," and—

"The Governor was constrained to declare the elections void in twenty-nine counties of the State."

And the State Union central committee, in their address of January 9, say of "the great secession majority of Tennessee" that—

"Their sentiments, sympathies, and passions remain unchanged. They welcome peace because they are disabled from making war. They submit because they can no longer resist. They accept results they cannot reject, and profess loyalty because they have a halter around their necks. They recognize the abolition of slavery because they see it before them as a fact, but they say it was accomplished by gross violations of the Constitution, that the negro is free only in fact, but not in law or of right."

And this is their condition while they have the hope of restoration to induce good behavior, and in the presence of the military. What it will be when the military is withdrawn and they have no favors to ask we may well imagine.

And the central committee further says:

"At the next general election the entire" * * *
"power of the State must pass into the hands of those who have so long oppressed them [the Union people] and made war upon them."

And they pray that—

"If our form of government is such that to admit our Representatives to seats in Congress will compel the withdrawal of the supervising control of the national Government over our internal affairs, thereby insuring the ascendancy of the rebel majority, your memorialists prefer, and they are sure the loyal people of the State prefer, to live in a territorial condition, and even under a military government."

And this address has been indorsed by a vote of the Senate of Tennessee.

Governor Brownlow, of Tennessee, recently declared in a speech that—

"If General Thomas and his military forces were to go away and leave us, this Legislature, at the head of which I am placed, would be broken up by a mob in forty-eight hours."

And in a letter to Hon. Horace Maynard, of January 15, he says:

"The rebels of the whole South daily grow more bitter and defiant. In Middle and East Tennessee they are daily increasing in bitterness; and take the troops away, and Union men could not live in the country."

And yet I am free to say Tennessee, in advance of and in a mode different from all other rebel States, commenced the work of reconstruction, and may be more speedily entitled to recognition and representation.

General Grant, in his report of December 18, to the President, says:

"Four years of war, during which law was executed only at the point of the bayonet throughout the States in rebellion, have left the people possibly in a condition not to yield that ready obedience to civil authority the American people have generally been in the habit of yielding. This would render the presence of small garrisons throughout those States necessary until such time as labor returns to its proper channels and civil authority is fully established. I did not meet any one, either those holding places under the Government or citizens of the southern States, who think it practicable to withdraw the military from the South at present."

General Carl Schurz, in his report, says:

"I may sum up all I have said in a few words.

"If nothing were necessary but to restore the machinery of government in the States lately in rebellion in point of form, the movement made to that end by the people of the South might be considered satisfactory."

"But if it is required the southern people should also accommodate themselves to the results of the war in point of spirit, these movements fall far short of what must be insisted upon."

"The loyalty of the masses and most of the leaders of the southern people consists in submission to necessity. There is, except in individual instances, an entire absence of that national spirit which forms the basis of true loyalty and patriotism."

"The emancipation of the slaves is submitted to only in so far as chattel slavery in the old form could be kept up. But, although the freedman is no longer considered the property of the individual master, he is considered the slave of society, and all independent State legislation will show the tendency to make him such. The ordinances abolishing slavery, passed by the conventions under the pressure of circumstances, will not be looked upon as barring the establishment of a new form of servitude."

"Practical attempts on the part of the southern people to deprive the negro of his rights as a freedman may result in bloody collisions, and will certainly plunge southern society into restless fluctuations and anarchical confusion."

"Such evils can be prevented only by continuing the control of the national Government in the States lately in rebellion until free labor is fully developed and firmly established, and the advantages and blessings of the new order of things have disclosed themselves. This desirable result will be hastened by a firm declaration on the part of the Government that national control in the South will not cease until such results are secured. Only in this way can that security be established in the South which will render numerous immigration possible, and such immigration would materially aid a favorable development of things."

The purpose to maintain the State-rights heresy of judging of the extent of and resisting the national authority, is shown in the recent convention in Mississippi called to reorganize civil government there. The convention ratified the constitutional amendment abolishing slavery, with three conditions; one providing—

"That the amendment shall not be construed to allow Congress to abolish slavery 'where it lawfully exists in any State that may refuse to ratify the amendment.'"

And another that—

"It shall not be construed into an approval or indorsement of the political principles or doctrines that the reserved rights of a State can, without the consent of such State, be usurped or abridged by the Federal Government, through the instrumentality of a constitutional amendment."

The whole question of our duty to ratify or provide for permanent civil State government then is resolved into this: is it expedient to set up and clothe with national and State power civil State governments which must themselves be controlled by our arms? Or while military force remains necessary, is it not better to continue provisional governments, limited to their appropriate functions? We may call government civil which is run by the military arm, but as such it is a mockery and a sham.

But when shall the States be restored to political power?

I answer that will depend on the people of the States themselves. When loyalty returns, when permanent civil government shall be practicable, in the sense that it shall bring obedience to national authority, and protect the Union population and the freedmen in the enjoyment of their rights, with security for the future assured, then can the work of restoration be made complete. When there shall be a loyal majority in any State able to control State government and prevent it from falling into the hands of traitors who will destroy it, then can State government be restored. No one can more devoutly desire the speedy coming of that day than I. I will greet and welcome to these Halls, with guarantees of peace and security and justice, the loyal Representatives of every State. But it will not come while as now in the South loyalty is regarded as a crime, and treason alone is the passport to office. It cannot come while people and Legislatures deride, despise, and set at defiance our Constitution and laws. It cannot come while Senators and Representatives are elected because they were conspicuous for treason and will continue to be traitors. We are asked to admit Herschel V. Johnson and Alexander H. Stephens as Senators from Georgia—the vice president of the rebel confederacy. If this be southern loyalty, Breckinridge and even Davis himself will speedily reënter this Capitol.

THE PRESIDENT'S POLICY.

I hear much said of the President's policy and the duty to pursue it. The great Union party of the country has, in the providence of God, been charged with the duty of preserving the national existence, and as a means to that end, of giving freedom to a race. In this work I was proud to follow its fortunes, and to hail as one of its champions the "faithful among the faithless"—Andrew Johnson.

In the hour of its triumph it is treason to mankind to desert it by betraying the interests and the hopes of the loyal into the hands of their worst enemies. No act of mine shall contribute to this result. I will yield all but patriotism, honor, and duty to preserve harmony among the depositories of its power, for if it shall perish, then, indeed, the hope of the Republic is gone. Let each department of the Government perform its appropriate function and pursue the policy marked out for us by the Constitution and the people, and the triumphs of peace will be as signal as the victories of war. The power to determine when State government is restored, to guaranty it with appropriate terms, and to say when Senators and Representatives shall be admitted is the power of the people speaking through Congress, and can never be surrendered. Let us believe that the President and Congress alike will accept their verdict and execute their will. The right of my own native State to speak in the decision of these great questions will never be surrendered by me. On this common platform all may harmoniously stand.

"The bases of our political system," said Washington in his Farewell Address, "is the right of the people to make and to alter their constitutions of government."

The right of Congress to submit to State Legislatures constitutional amendments for their approval or rejection is undoubted, and requires no action of the President. The President exacted terms of the conventions assembled under his proclamations—a ratification of the constitutional amendment abolishing slavery, a declaration of the nullity of secession, and a repudiation of the rebel war debt by State constitutions. He admits the justice of a constitutional change in the basis of representation and direct taxes. In his message he declares:

"That good faith requires the security of the freedmen in their liberty, their right to labor, and their right to claim the just return of their labor."

If the people demand that some or all of these or other principles be made irreversible law, a part of the Constitution, who shall deny their right or defeat their purpose to do so? In this

form can terms of reconstruction and guarantees of peace be made enduring and alike applicable to all the States. In all that we do let it be our purpose to guaranty government republican in form and in fact. Let us—

"Close forever the approaches of internal feud, and so return to the ancient concord and the old way of national prosperity and permanent glory."

And when we have done this—

"Let us here, in this temple consecrated to Union" on these altars, in the presence of that image of the Father of his Country that looks down upon us, swear to preserve honorable peace with all the world and eternal brotherhood with each other."

Mr. CULLOM. Mr. Speaker, in the commercial arena, the man of business who does not often post his books is not regarded by his fellow-men as very sure of success.

In accordance with that rule, as applied to men in the commercial world, it was announced a few days ago upon the other side of the House, by the gentleman from Kentucky, [Mr. HARDING,] "that it was time a little posting was done."

Unlike, however, the wise man in the commercial arena who posts his own books, and learns to a fraction his own commercial status and his relation to those around him, the gentleman seemed willing to pass silently over the record of himself and his party, and with a zeal only equaled by his bitterness, undertook to post the records of the Union party of this country, against which the gentleman and his party have been so stubbornly opposed for the last five years.

But, sir, as the gentleman proclaimed to this House and the country that it was time a little posting was done, I thought with him; and let me tell the gentleman and his political friends that the great Union party which has stood by the nation's flag and borne it aloft amid the fierce storm of war, are always willing that the books should be posted, and the great measures of the party, for the support of which they have received the unmeasured abuse of traitors and their sympathizers, held up to the inspection of the patriotic millions of this land.

We are not the men, sir, to shun such an examination. The party which has shaped the policy of this nation since the election to the Presidency of the great martyr to the cause of liberty, and which has never turned its back upon the Government in its contest with treason and rebellion, and which has procured the recognition of the great principles of freedom throughout the land, has no cause for alarm when it is proposed to spread before the world its political record.

Sir, we are willing that the items of the account shall be called over, the long columns added together, a balance sheet struck, so that the people may see at a glance how the matter stands. And may I call upon the loyal people to hold to strict accountability the party who is the debtor, as appears from a posting since the beginning of the accursed rebellion.

For a long series of years prior to the election of Mr. Lincoln, the gentleman's party was in power and had possession of all the departments of the Government; we had a Democratic President, a Democratic Congress, and a Democratic judiciary. And, sir, when the Union party sent a President to this capital to take upon himself the high trust confided to him, he found a country divided, a southern confederacy formally established by a secession of a part of the States from the Union, and a new government organized with a distinguished Democrat presiding over it at another capital in the State of Georgia.

Sir, when the Union party took possession of the various departments of Government, treason, avowed and secret, infested all the high places of trust and honor, and had scattered its deadly poison among the people until Union and liberty had almost perished away. And when the President, elected according to the forms of the Constitution, in pursuance of his oath had announced to the country that he could do no less than possess and hold the property of the Government and enforce the

laws, if necessary, by force; all about us we heard the cry that such declarations were unnecessary and only calculated to excite the southern heart. And, sir, when that good man from the kindness of his heart determined to supply the starving garrison at Sumter with bread, peaceably if he could, but forcibly if he must, that same party again sent up the wail, Do not undertake to send bread to that starving band of heroes; if you do, you will bring war upon our peaceful heads.

But, sir, the Government did make the effort to feed the little band of patriots, and although the shot and shell of traitors had driven them from the fort before the messenger of mercy reached them, yet, thanks to Him who rules the destinies of men and nations, they came out with flying colors, beating drums, and amid the booming of their own cannon; and from that hour the spirit of patriotism stirred the hearts of the people, and to-day we can stand in these Capitol Halls of a saved country, redeemed from the thralldom of treason and oppression.

Sir, let me remind gentlemen as we run over the items of the account and turn the historic leaves page by page, that in the Legislatures, in the White House, all over the land, prior to the inauguration of Abraham Lincoln, we heard the oft-repeated declaration that it was unconstitutional to wage a war against the rebels, because, as the gentleman's party by its President said, "You cannot coerce a State."

The people of the seceded States, as individuals, as Federal office-holders, as States, in all and every capacity in which they lived and moved and had their being, were organizing rebellion against the national Government and national Constitution; and yet that party, in possession of all the departments of the Government, by their President, told the people of this country, that notwithstanding secession was wrong and rebellion a crime, yet we cannot help it, because the States are committing these outrages and crimes, and there is no authority under the Constitution to coerce a State.

The great seal of State affixed to the ordinance of secession protected the people of the State in their conspiracy to overthrow the Government, notwithstanding each man alone and combined with all the rest was daily violating the statute-law of the Government, and committing the greatest crime known to the law in any country—the crime of treason.

But, sir, I will not dwell here. The loyal people of this country soon saw the shallowness and rottenness of such theories, and when the party now in power took possession of the several departments of the Government, these clogs which were dragging the nation down were thrown off, and the people, lead on by the great Union party, enunciated the old doctrine that the people could not commit treason, organize insurrections and rebellions, and secede from the Union at will, either as individuals, States, or combinations of States, and any attempt to do so would be resisted by all the power of the Government.

When the Union party by its Chief Executive asserted that this Union could not be dissolved at will, and that any attempt to do so would be promptly met, the war began, and I need not tell this House with what relentless fury it was waged for four years.

The old doctrine of nullification and State sovereignty had recovered from the staggering blows it received in 1832 and 1833 from the determined and heroic Jackson; and as it was nurtured into strength by the Administrations of Pierce and Buchanan, supported by the gentleman's party, it bid defiance to any national authority, and performed the quiet task of dissolving the Union by secession ordinances, and the erection on a part of the fragments of the old Union what they decreed should be a new confederacy, having for its corner-stone the divine institution of slavery, as they pleased to term it.

But, sir, to confine my remarks to a discussion and review of events as they occurred since the coming into power of the Union party. When the war began the great business of the

loyal people was to save the life of the nation and crush out all its enemies. In the judgment of that party it became necessary to pass laws for the enrollment and draft, if need be, of soldiers to fight the battles of the Union. As a war measure the Union party believed it right and necessary to authorize the confiscation of the property of rebels; to proclaim the freedom of all the slaves in the rebellious districts; to allow the colored man to shoulder the musket and help the Government hold up the banner of the Republic.

It became necessary, in the judgment of the Union party, to suspend the privilege of the writ of *habeas corpus*. It was thought wise and just to abolish slavery in the District of Columbia; to repeal that abominable fugitive slave law; and, finally, in the latter half of the nineteenth century, after the nation had given its best blood and treasure, contending against a foe blinded by the love of human slavery, it was thought proper to amend that great charter given to us by our fathers, whereby slavery should be forever prohibited within the jurisdiction of the United States.

Sir, all these great measures were originated and perfected by the Union party of this country for the sake of the Union, for the cause of humanity, and for the establishment of the American Government upon the solid foundations of justice.

Who is there in all the loyal North to stand up to-day in the light of a saved nation and a free country, and say that these measures were not right?

The man who believes in the Declaration of Independence, that all men are born free and equal, and are entitled to life, liberty, and the pursuit of happiness, and in the kindred sentiment, "Do unto others as ye would that they should do unto you," can have no remorse of conscience over the repeal of the fugitive slave law, the abolition of slavery in this District, or in the complete ratification of the amendment abolishing slavery throughout the land.

But as I post the books may I turn a leaf and learn the position of the gentleman's party as these measures, one by one, came before the country? They said they were opposed to the war because they said we had no power to coerce a State, that this Government could only be maintained by peaceable means, under the administration of which one third of the States had already seceded. They were opposed to the passage of a law providing for a draft to fill up the depleted ranks of our Army in the field, because they said we were making a despotism of the Government, and the liberties of the people were thereby taken from them. They were opposed to the policy of confiscating the property of rebels during the war, because they said such laws were unconstitutional. They were opposed to the suspension of the privilege of the writ of *habeas corpus*, because they said that men were ruthlessly dragged from their peaceful homes and the freedom of speech and of the press was denied, and personal liberty destroyed. They were opposed to the repeal of the fugitive slave law because they desired not to further aggravate the southern heart by refusing to stand guard for the southern slave-driver and stop the panting negro yearning for his freedom as he sought the land of protection to him. They were opposed to the proclamation of the President setting the slaves all free, because they said we were making the war a war against slavery, and not a war for the Union. They were opposed to the policy of allowing the black man to take his place in the Union Army and help our heroes to beat back the rebel horde, because they said our gallant men would thereby be disgraced. They were opposed to the adoption of the constitutional amendment prohibiting the existence of slavery in our land, because they said we were thereby taking away the vested rights of the people to their slaves.

Sir, those measures, originated and adopted by the Union party, and ratified by the loyal people, and opposed by the party to which the gentleman belongs, have all passed into history,

and under their operation and influence the life of this great nation has been purified and saved.

Sir, sir, we are charged with being false to our professions, and do not disclose to the people our real political designs. In what have we been false or hypocritical?

We declared we were for crushing the rebellion by force of arms, and we have done it. By plain legislative action we abolished slavery in this District. We repealed the fugitive slave law, and in doing it we sought to deceive no man.

The proclamation of the President freeing the slaves in the rebellious States was plain and simple, so plain that the poor down-trodden negro, unlettered and blind as he was, caught the spirit and sense of the immortal paper, and with heart full of joy and gladness, and songs of gratitude upon his lips, was ready to defend the nation so justly ruled by his great deliverer.

The amendment to the Constitution abolishing and prohibiting slavery within the jurisdiction of the United States had no secret meaning, and was designed to accomplish the great object declared by its terms.

Sir, I have given you the main items of the account as they occur in the official records of the country, though not in the order of time in which they were written. And I am willing to rest the matter in the hands of loyal people to decide.

The people know well the history of the great struggle through which we have been passing, and the relative position of the political parties, and they will be slow to believe that the Union party or its leaders have been false or hypocritical in their political action in shaping its policy or announcing its declarations of principles.

But, sir, the great question is, what is the condition of things to-day in our land, and what is our duty as Representatives of this Congress, under our sworn and registered obligations to our country, to the Constitution, to humanity, and before God, who controls the destinies of men and of nations?

The rebellion in its organized form is put down, the armies of the rebellion have surrendered, the flag that once waved in peace over the capitals of all the States of the Union again floats in triumph, with no hand even in the lately rebellious States that dare to molest it. The power of the nation has been vindicated, the problem of civil liberty has been solved, the doctrine of nullification has rightly been trampled in the dust, and to-day we find ourselves, as the Congress of the United States, charged with as great responsibilities as legislators as has rested upon any Congress since the formation of the Government.

We find among us four million free colored people. What shall be done with them? Shall we turn aside with indifference and pander to a morbid prejudice against a portion of the human race because of color? Sir, I shall not. Over one hundred and sixty thousand of these men have borne arms in defense of the Union: they came forward at the call of their Government. It is much to say their Government, when I refer to those who were slaves; but, sir, they called it their Government, and never has the instance been heard of during all the dreadful night of gloom and rebellion where one of them, old or young, bond or free, ever turned his back upon the American flag, or betrayed the cause of his country.

We have them among us, with these facts staring us in the face, and the nation is called upon by all the principles of gratitude, right, and justice to see to it that they are protected in all their natural and civil rights.

It remains for this Congress, the first since the close of the rebellion and the ratification of the constitutional amendment abolishing slavery, to say whether we shall show ourselves craven cowards and fail to protect these people, or whether we shall meet the responsibility and deal justly.

But, sir, as we come forward with measures

of protection to these helpless people we are met again by that same negative party, which has long been a party of negative rather than a party of affirmative principles, and the cry is that we have no power under the Constitution to pass such a law as has passed this and the other House of this Congress known as the Freedmen's Bureau bill.

But, sir, that bill has become a law, as I take it for granted the Executive will sign it, and when we pass that other bill now in the House, giving to all men, without regard to color, their civil rights under the law, we shall have done but simple acts of justice, and the doing less would be a dereliction of duty for which we should justly be called to account.

We find ourselves opposed again in the Senate of the United States, and among the people, by that same party as we present the bill which I have just referred to for their support; and when we come again with a measure declaring that if the elective franchise is denied to any persons on account of race or color, that then the people of that race or color shall not be counted in the basis of representation, again we are met by the gentleman and his party declaring that our purpose is to overturn the Government and violate the Constitution because we desire to amend it in the mode prescribed by its terms.

But, sir, the Union party has a mission to perform, and in spite of all opposition of gentlemen who are fond of the ancient order of things, when liberty of speech was abridged, and the bludgeon used to silence the voice eloquently pleading for the oppressed of the land, they will move steadily on to the accomplishment of the great ends of justice, for which Governments are formed, and should be maintained; the fires of liberty are lit anew in the hearts of the people, old traditional prejudices are passing away, and the "Union and liberty, one and inseparable, now and forever," is again the watchword among the patriotic sons of America.

Mr. Speaker, I do not mean to disregard the Constitution of my country. I regard it as the great palladium of our liberties. I am for a close observance of all its wise provisions; it was the work of wise and patriotic men. It will stand as a peerless monument to the memory of our fathers who made it, surpassing the wisdom of any former time; and we should hesitate long before doing an act of doubtful constitutionality. But let us not refuse to perform a great moral and political duty, and then, to protect ourselves from the just execrations of the people, dig up some vague doubt as to the constitutionality of the measure we opposed.

But, sir, there is another great question before us, which if we would, we cannot turn aside. The rebellion in its organized form is over; and the question now is, what shall be done with that portion of our country lately under its wicked control?

In the language of the lamented Lincoln, "We all agree that the seceded States are out of their proper practical relations with the Union," and that our object is to get them into "their proper practical relations" with the Union. It is hard, Mr. Speaker, to talk about this question without admitting the fact that they were practically out of the Union. They were out of their proper relations with the Union because as State organizations they had seceded from the Union so far as they were able. They were out of their proper practical relations with the Union because the people of the rebellious States had all or nearly all openly rebelled against the Union. For four years the whole power of the people in the rebellious States was used in waging war against the Union with a ferocity unparalleled in the history of civilization. To use the language of the Chief Justice of the United States in his letter to the President on the 12th of October last, the seceded States were declared by the executive and legislative departments of the national Government to be in rebellion, and their relations to the Government broken, and, sir, that broken relation continued until the power of the national Government became greater than the

power of the people of the States in rebellion. The people of the rebellious States attempted to destroy the Union by the separation of a part of the States from the Union, and by the erection upon the ruins of the old Union of another government in its stead. They failed to accomplish their design; their ordinances of secession; their resolving themselves out of the Union; their attempt to fight themselves out of the Union, all failed, and in spite of all their efforts to get out, the loyal people of the nation kept them in. No State can by any act of its own sever its connection from the Union. A State may forfeit its right to representation; its people may all commit crimes against the laws and Constitution of the Government; the proper relation of the State to the Government may be broken by the insurrections and rebellions of the people, yet the State is not out of the Union so as to lose the jurisdiction to the Government over it until all the balance of the people of the Union consent to let her go, or until a successful rebellion takes her out in spite of the efforts of the Government to keep her in.

But, sir, when I say this I do not mean to be understood as defending the theory that the Congress has no right to take hold of these States and people and examine their political condition most thoroughly. I say that, although these rebellious States are in, territorially, the Union, and cannot get out by any act of theirs, yet by their rebellion they have forfeited their right to representation in the Halls of Congress, and placed themselves where the national Government can determine at will when they shall resume again their original positions and have a voice in the legislative halls of the nation.

Sir, the very first act of rebellion was in the States passing their ordinances of secession, declaring their connection with the Union at an end; their acts of secession were followed up by confederating together in the formation of another government, and in the adoption of such measures as in their judgment would aid in the permanent establishment of that government. All the officers of state in each of the States operated together to destroy the old and build up a new government upon its ruins. By State legislation and State proclamations and State military orders, men, money, and credit were given to the organization which had for its object the dissolution of the Union by the separation of the seceded States. For four years the proper relation of these States to the Union was cut off by their separate and combined action. And yet we are told by gentlemen that after all this, after the nation has staggered under the load of debt and been sorely oppressed with taxes, after it has witnessed the sacrifice upon the battle-field and in the Libbys and Andersonvilles of three quarters of a million of her brave sons struggling with the armies of the rebellion, and after the last tragic act of the bloody drama is consummated, and the civilized world is startled as the Chief Executive is stricken down as with the dagger of a Brutus by the hand of a hired assassin—I say after all this, we are told that these people, fresh from all these scenes of carnage, are defiantly to take their places again in our national councils, and the loyal people of the always loyal States by their lawfully constituted Senators and Representatives have no constitutional power to tell them to stop one moment until we can look beyond their certificates, many of which are signed by newly-made Governors with *rebel straps upon their shoulders and pardons in their pockets*, and learn whether their States are now loyal or still cherishing that same spirit of rebellion and fiendish barbarity which characterized them in the struggle to destroy the nation.

Sir, before we admit these States to full fellowship again, have we not the constitutional right to stop and inquire whether they mean to come here and by political management attempt to do what they have not been able to do by the use of the sword?

But a few months ago, sir, while the honorable gentlemen now on this floor, who were

members of the last Congress, were sitting in these Halls voting, to defray the expenses of the war, a thousand million dollars, the deafening sounds of the thundering artillery still rang in their ears, as it told the mournful story that another sanguinary battle was raging.

We are still voting money, sir, and authorizing loans, making more stringent the revenue laws, and taxing all the energies of our intellects to raise money to pay the soldier yet in the field, and to pay the interest upon the war debt as it becomes due. Thousands of our gallant volunteers are still in the field, pleading to be permitted to return to their loved ones at home, but are kept in the service in these rebellious States because their presence is necessary to maintain order and protect the loyal people. Sir, is it to be the policy of this Government to keep a standing army on duty in the South, and at the same time open the doors and bestow upon its people full political rights in the Government? Even in the State of Tennessee, which sends distinguished gentlemen, some of whom I personally know, and believe they are loyal men, is now patrolled by national soldiery; and we are told by the Governor that their removal would result in the expulsion of their Legislature, and death or banishment from the State of all the active loyal men.

Brownlow says:

"I give it as my candid opinion, that if the military forces were all withdrawn from Tennessee the Legislature would at once be dispersed by a rebel mob."

A. J. Fletcher, the secretary of state, says:

"Indeed, if the military was withdrawn now, the Legislature could not reassemble, nor would the Governor, or any loyal Governor, be safe for a single day."

This is the testimony of two State officers of that State.

Can it be, sir, that we are compelled by our constitutional obligations, or by any reason or law, to admit to representation a State in such condition?

Sir, if we have not the rightful power to control this question, then our Government is a sham, having no inherent power to protect itself, and treason and death will soon paralyze every vital function of its unnatural existence. The plain, liberty-loving people, sir, do not so read and interpret the Constitution. They believe that when our fathers made that immortal instrument they made it broad enough to give protection to those who stood by it and to enable the loyal people to prevent its destruction.

I believe that Congress has the full power of reconstructing the rebellious States. When I say this, I make no quarrel with the course of our President in regard to the part he has performed in attempting to reorganize and govern them since their armies surrendered. What he has done he did as an experiment and with patriotic motives, believing it to be for the best, and to be the wisest course he could pursue.

These governments are merely temporary, dictated by the President, and founded upon no civil authority, State or national, but are the result of the judgment of the President in the absence of Congress, and enforced or set aside by the military power whenever deemed necessary by military commanders under the direction or sanction of the President as Commander-in-Chief. They are, in fact, substantially military governments taking the place of the civil governments which were displaced, being in the interest of rebellion.

If such is the fact, of which there can be no doubt, where is the authority for saying that the men, styling themselves Representatives and Senators, sent here by a military government established by the President of the United States in his own mode and manner, without consulting the laws or State governments as they existed at the close of the rebellion, are entitled to seats upon this floor? I am unable, sir, to discover that there is any legal or constitutional provision requiring us to admit them; and it behooves us to move exceedingly carefully as we perform the work of reorganizing these States and see to it that we do not fritter away the golden opportunity of placing the Govern-

ment upon a basis of just and right principles which, if rigidly adhered to by the people in the future, will be a sure guarantee against any more rebellions.

If the people of the rebellious States are still disloyal, there is no provision of the Constitution entitling them to representation in the Congress of the United States. If it is true that we are required to patrol those States with an army to protect the loyal white men and poor freedmen and to suppress treason, where is the propriety of admitting them to representation?

I read, Mr. Speaker, in the Constitution of my country that—

"Each House shall be the judge of the elections, returns, and qualifications of its own members."

I read that—

"Congress shall have power to lay and collect taxes, duties, imposts, and excises to pay the debts and provide for the common defense and general welfare of the United States."

I read in the Constitution that the United States shall guaranty to every State in this Union a republican form of government.

These, sir, are some of the plain provisions of the Constitution, and are intended as safeguards to the perpetuity and purity of the Republic. Under them, I am sure we are not required to admit Representatives from States not republican in form nor grant representation to a disloyal people. The "general welfare" of the country, by such a magnanimous proceeding, would not be very greatly subserved.

When the people of the United States declared to the world that they made the Constitution "in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to themselves and their posterity," they did not realize that those sublime declarations were all glittering generalities, and that under the Constitution so ordained the recognition of rebellious States to full fellowship in the Union was calculated to form a more perfect Union, to establish justice, promote the general welfare, insure domestic tranquillity, or secure the blessings of liberty to the people.

Sir, I will not dwell longer upon this subject; the proposition is too plain that when the people of a State rebel against the authority of the national Government, so that its proper practical relation to the Government is broken, the right of representation of such State by its rebellion is destroyed, and the State can be held to its obligations to the Union and restored to the privilege of representation when in the judgment of the sovereign Government it may be safe so to do.

I do not desire to deal harshly with these States or any fallen enemy. Rather would I turn from the scenes of rebellion and barbarity which have been enacted by those engaged in the attempt to overthrow the Republic, and look upon a brighter, better scene as we commence the great work of rebuilding upon the scattered ruins of those once prosperous States. I shall not be guided in my action as a legislator by malice or revenge. But, sir, I cannot forget the thousands of brave and gallant men who laid down their lives in the terrible struggle that the nation might live. I cannot forget that four long years were required to crush out the causeless, wicked rebellion against the best Government in the world.

Sir, I cannot forget that night in April last when that great man, so fitly styled the saviour of his country, was murdered by a fiend, pushed on by the maddened exasperation of a dying rebellion.

Sir, I perhaps feel as keenly the result of that last tragic act as any man upon this floor. Abraham Lincoln, a martyr for the cause of liberty and patriotism, murdered by traitors, now sleeps in the bosom of my own State and city; the patriotic sons of the Prairie State will closely guard his honored remains. And as we proceed in the performance of our responsible duties, let us stand by that old maxim, "Let justice be done though the heavens shall fall."

Mr. PLANTS. If it is the pleasure of the

House to adjourn now, or if some other gentleman desires to speak at this time, I will yield the floor. I am rather too hoarse to speak now without great inconvenience to myself.

Mr. GRINNELL. I will move that the House now adjourn.

The motion was agreed to; and accordingly (at three o'clock and fifteen minutes p. m.) the House adjourned till Monday next.

IN SENATE.

MONDAY, February 19, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of Friday last was read and approved.

CREDENTIALS PRESENTED.

Mr. WADE presented the credentials of Hon. JOHN SHERMAN, chosen as Senator by the Legislature of the State of Ohio for the term of six years, commencing on the 4th day of March, 1867; which were ordered to be placed on the files of the Senate.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented resolutions of the Legislative Assembly of the Territory of Arizona, expressing joy at the successful termination of the late war for the Union, and sympathy with those whose homes have been made desolate, and gratitude to Almighty God for His protection in the trying hour of conflict; also in favor of the plan of reconstruction inaugurated by the President of the United States in the States lately in rebellion; which were ordered to lie on the table, and be printed.

The PRESIDENT *pro tempore* also presented a petition of descendants of Joseph Sherman, an officer of the Rhode Island troops during the revolutionary war, praying for compensation for supplies furnished to the American Army in 1778; which was referred to the Committee on Revolutionary Claims.

Mr. LANE, of Kansas, presented resolutions of the Legislature of Kansas in favor of a grant of the sixteenth and thirty-sixth sections of the Cherokee Indian lands for the support of schools in that State; which were referred to the Committee on Public Lands.

He also presented three petitions of citizens of Texas, and a petition of citizens of Louisiana, praying for the construction of a railroad through the Indian Territory from the southern terminus of the Leavenworth, Lawrence, and Fort Gibson railroad to the Red river; which were referred to the Committee on the Pacific Railroad.

He also presented the petition of S. N. Goodale, praying for the construction of a railroad through the Indian Territory to the north line of Texas; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. SAULSBURY presented a memorial of citizens of Jefferson county, Virginia, remonstrating against the transfer of the counties of Jefferson and Berkeley from that State to the State of West Virginia; which was ordered to lie on the table, and be printed.

Mr. GRIMES presented resolutions of the Legislature of Iowa, in favor of a grant of lands to aid in the construction of the Iowa and Missouri State Line railroad; which were referred to the Committee on Public Lands, and ordered to be printed.

Mr. MORGAN presented the memorial of R. P. Parrott, of Cold Spring, New York, praying for an additional allowance beyond the contract price for building and completing an iron light house at Cape Canaveral, on the coast of Florida; which was referred to the Committee on Commerce.

He also presented a petition of citizens of New York, praying for the adoption of an international copyright law; which was referred to the Committee on Foreign Relations.

Mr. POMEROY presented resolutions of the Legislature of Kansas, in favor of a grant of the sixteenth and thirty-sixth sections of the Cherokee Indian lands for the support of schools in that State; which were referred to the Com-

mittee on Indian Affairs, and ordered to be printed.

Mr. COWAN presented a petition of mechanics and laborers in manufacturing establishments, praying for such an adjustment of the tariff of duties on imports as will afford the amplest protection to the labor and industry of the country; which was referred to the Committee on Finance.

He also presented two petitions of citizens of Pennsylvania, praying that the revenue laws as applied to internal taxation and duties on imports may be so adjusted as will secure ample protection to the labor and industry of the country; which were referred to the Committee on Finance.

Mr. COWAN. I beg leave to present the petition of John E. Gillett, and a large number of citizens of Philadelphia, setting forth that the specific tax of one dollar a barrel levied by the United States on crude petroleum is onerous and disproportionate to the tax on any other product of the mines, and praying that the law may be so modified that a percentage tax upon sales at the wells may be adopted. I move its reference to the Committee on Finance.

The motion was agreed to.

Mr. KIRKWOOD presented the petition of Jane Harris, widow of George H. Harris, late of the sixth regiment Iowa cavalry, alleged to have been wrongfully entered on the muster rolls as a teamster, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. TRUMBULL presented a petition of manufacturers of agricultural implements, praying for a reduction of the tax on the sales of their manufactures; which was referred to the Committee on Finance.

He also presented a petition of citizens of Decatur, Illinois, praying that a pension may be granted to Dr. Ira B. Curtis, who became paralytic while serving as a contract surgeon in the United States Army; which was referred to the Committee on Pensions.

Mr. STOCKTON presented a memorial of paper and envelope manufacturers and dealers in stationery, remonstrating against the passage of the bill (S. No. 70) to amend the postal laws, now pending in the Senate; which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of citizens of New Jersey, praying for such an amendment to the bill now pending in the Senate to provide for the national defense by establishing a uniform militia and organizing an active volunteer militia throughout the United States, as will provide for volunteer cavalry in the ratio of one third of the whole force to be established; which was referred to the Committee on Military Affairs and the Militia.

Mr. SHERMAN presented two petitions of manufacturers of agricultural implements, praying for a reduction of the tax on sales of their manufactures; which were referred to the Committee on Finance.

Mr. NORTON presented a petition of citizens of Winona, Minnesota, and four petitions of citizens of Wisconsin, praying for the establishment of a mail route from Winona, Minnesota, to Chippewa Falls, Wisconsin; which were referred to the Committee on Post Offices and Post Roads.

He also presented a petition of citizens of Minnesota, praying for compensation for property destroyed by the Indians in 1862; which was referred to the Committee on Indian Affairs.

Mr. SUMNER. I present a petition signed by the president and secretary of a convention of the colored people of the State of Florida, held on the 12th of December, 1865, for the purpose of setting forth the grievances and disabilities under which they are laboring. They set forth in this petition that, among other things, the white people refuse to rent to the colored people land for cultivation. They ask a remedy for that, and pray Congress to secure to them a homestead. They also ask Congress to secure to them an education, and they conclude their

prayer by asking from Congress protection of their civil rights, including the right of the elective franchise. I ask the reference of the petition to the committee on reconstruction.

It was so referred.

Mr. SUMNER. I offer several petitions, numerously signed by citizens of New York, asking Congress to secure in the rebel States a truly republican form of government, and in this way to carry out the solemn obligation of the Constitution; also, to establish irreversible guarantees, and to act on the principle that emancipation is not complete so long as any black code exists, whether affecting civil or political rights. I ask the reference of this petition to the committee on reconstruction.

It was so referred.

Mr. FESSENDEN. I have a petition, numerously signed, from Portland, in the State of Maine, and adjoining towns, representing certain guarantees as necessary in order to secure a proper reconstruction of the rebellious States. With the leave of the Senate I will read part of it. They pray Congress—

"Second. Not to allow any distinction on account of color or descent in the laws and municipal regulations of the District of Columbia, the national capital, whose institutions, ordained by Congress, stand before the world as representative of the national spirit and character."

They propose for ratification several amendments to the Constitution, the second of which is:

"If, by the constitution or laws of any State, persons are denied, on account of their race or color, the right of voting equally with others, then its inhabitants of that race or color shall not be counted in determining its number of Representatives in Congress."

The fourth is:

"In no State which shall hereafter be admitted into this Union, or which may have attempted to withdraw from it, shall there be any distinction in the constitution, laws, or municipal regulations on account of color or descent, or any payment, either by the State or the United States, for emancipated slaves."

There are several others which I have not read, which appear on the face of the petition. I move the reference of this petition to the committee on reconstruction.

The motion was agreed to.

Mr. TRUMBULL. I ask leave to present the petition of William C. Bryant, and others, officers of the American Free Trade League, asking for a continuance of the reciprocity treaty between the United States and the British Provinces, and that the scope of the treaty be so enlarged as to provide for an entirely free interchange of all goods between the Provinces and this country, subject to no other taxes or duties than are necessary to make the goods imported in this way contribute as much to our internal revenue as would be levied upon them if of domestic origin. I move the reference of this petition to the Committee on Foreign Relations.

The motion was agreed to.

Mr. SPRAGUE. I desire to present the petition of "mechanics and laborers in American manufacturing establishments, and members of that great creative force whose hands built and equipped our Navy and supplied the materials that armed, equipped, and kept the nation's armies in the field, and literally saved its life," on the subject of the tariff. The latter clause of the petition is in these words:

"The workmen of the United States ask only equality in the race between nations for supremacy in wealth and power."

I only desire to say that I am glad they have got in the word "equality" instead of "protection." I like the word better. I move the reference of this petition to the Committee on Finance.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. FESSENDEN, it was Ordered, That the petition of Daniel Winslow, with the accompanying papers on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. LANE, of Kansas, it was Ordered, That the Committee on Territories be discharged from the further consideration of a petition of citizens of Houston, Texas, praying for the construction of a railroad across the Indian Territory,

from the south line of Kansas to the Red river; and that it be referred to the Committee on the Pacific Railroad.

REPORTS OF COMMITTEES.

Mr. TRUMBULL. The Committee on the Judiciary, to whom were referred various petitions praying for such an amendment of the Constitution of the United States as will forever prohibit any State from making any distinction in civil rights and privileges among citizens of the United States on account of race, color, or descent, have instructed me to report them back, as that subject is under consideration, and has been acted on by the Senate; and to ask that the committee be discharged, and that the petitions lie on the table.

The report was agreed to.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the petition of Mrs. M. J. Dixon, of Alexandria, Virginia, praying to have certain property which has been sold under the law for the collection of direct taxes restored to her, or the avails of it, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the petition of Preston Starritt, formerly a messenger in the Senate, praying for compensation which he alleges has been illegally withheld from him, have instructed me to report it back accompanied by a resolution. I ask that it be acted upon at this time if there be no objection. It is an old matter, and the resolution will explain itself.

There being no objection, the resolution was considered and agreed to, as follows:

Resolved, That Preston Starritt, a former messenger of the Senate, having been paid the sum of \$480 50, in pursuance of a resolution of the Senate adopted March 2, 1865, being in full for his services to December 17, 1861, when his office was vacated, is not entitled to any further compensation.

Mr. CLARK, from the Committee on the Judiciary, to whom was referred a joint resolution (H. R. No. 17) giving the consent of Congress to the transfer of the counties of Berkeley and Jefferson to the State of West Virginia, reported it with an amendment.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred a bill (S. No. 126) granting lands to aid in the construction of a railroad and telegraph line from the city of Placerville, in the State of California, to the most feasible point of intersection with the Pacific railroad, in the State of Nevada, reported it with amendments.

He also, from the same committee, to whom was referred a bill (S. No. 133) granting lands to aid in the construction of a railroad and telegraph line from the waters of the bay of San Francisco to Humboldt bay, in the State of California, reported it with amendments.

He also, from the same committee, to whom was referred a bill (S. No. 140) to grant the right of way to the Humboldt Canal Company through the public lands of the United States, reported it without amendment.

Mr. WILLIAMS, from the Committee on Claims, to whom were referred the papers in relation to the claim of John Egenolf, submitted an adverse report; which was ordered to be printed.

Mr. NESMITH, from the Committee on Military Affairs and the Militia, to whom was referred a bill (S. No. 105) to grant the right of way to the Cascade Railroad Company through a military reserve in Washington Territory, reported it without amendment.

Mr. STEWART, from the Committee on the Judiciary, to whom was referred a bill (S. No. 107) to provide for a term of the district court for the district of Minnesota to be held at the city of Winona, in said district, reported it without amendment.

Mr. NORTON, from the Committee on Claims, to whom was referred the petition of Theodor G. Eiswald, submitted a report, accompanied by a bill (S. No. 150) for the relief of Theodor G. Eiswald. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. NYE, from the Committee on Territories, to whom the subject was referred, reported a bill (S. No. 155) concerning the boundaries of the State of Nevada; which was read, and passed to a second reading.

BILLS INTRODUCED.

Mr. FESSENDEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 149) for the relief of Daniel Winslow; which was read twice by its title, and referred to the Committee on Claims.

Mr. LANE, of Indiana, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 151) for the relief of George B. Simpson; which was read twice by its title, and referred to the Committee on Patents and the Patent Office.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 152) to grant the right of way through the public domain for the construction of highways and canals and ditches for mining, agricultural, and manufacturing purposes; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 153) granting certain lands to the State of Minnesota to aid in the improvement of navigation of the Zambro river in said State; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 154) concerning national banks in certain States and Territories; which was read twice by its title, and referred to the Committee on Finance.

Mr. NORTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 156) making additional grant of lands to the State of Minnesota in alternate sections to aid in the construction of a railroad in said State; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

DISBANDMENT OF MILITIA.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 32) to disband the militia forces in certain States, and to prohibit their reorganization; which was read twice by its title.

Mr. WILSON. I move that the joint resolution be referred to the Committee on Military Affairs and the Militia, and be printed. Before the vote is taken on the reference, I wish briefly to explain why I introduce the joint resolution at this time. I hold in my hand an extract from a letter of General Thomas, at the head of the Freedmen's Bureau in Mississippi, in which he says:

"Nearly all the dissatisfaction that now exists among the freedmen is caused by the abusive conduct of the militia. It has assisted to paralyze labor, and add to the combination of difficulties under which the State has labored." * * * "Only a short time ago, Governor Humphrey admitted to me that two companies of the militia had sworn that in their counties no negro who did not work for his old master, and no Yankee could live; that they would 'drive out the thieving Yankees and shoot the niggers.'"

I have also a letter from General Tillson, commanding in Georgia; and here let me say that General Tillson is an officer who was educated at West Point, and he is an officer of marked ability. He says:

"In almost every case as heretofore reported, the withdrawal of troops has been followed by outrages on the freed people; their school-houses have been burned, their teachers driven off or threatened with death, and the freed people by fraud, and even by violence, made to enter into unjust and fraudulent contracts. It requires the most careful nursing and culture to keep alive even a show of justice toward the freed people. Nearly all the females and young men * * * are open and defiant in their expressions of hate for Yankees and negroes. A large number of troops is not required, but * * * 'the highest and best interests of the State, as well as of the freed people, require an addition to the force now in the department.'"

He says that there are but two thousand soldiers in the State of Georgia, and that more

are necessary, and that as the troops are withdrawn from that State great outrages are perpetrated wherever they are withdrawn. I have a letter from General Swayne, commanding in Alabama, in which he makes the same complaint in regard to the withdrawal of troops. Referring to the local militia, he says:

"During the month we have come, though not exactly into collision, yet into very direct contact, with the militia system of this State." * * * "Every species of outrage is committed under them in some counties in this State."

In regard to the withdrawal of the troops, General Swayne says:

"Some time since, on an intimation from Major General Woods, commanding department, I filed with him my emphatic protest against the removal of the troops, feeling sure that their presence is as yet indispensable to the comfort and security, not only of the freedmen, but of other parties who naturally confide first in the General Government."

* * * "The talk of insurrection is nonsense. The solemn pledge of the United States to the free people of color that they shall be and remain free, requires that the law, by whomsoever made and administered, and including these provisions, shall be faithfully and equally applied to all men without distinction on account of color."

I have a letter from General Hartsuff, dated at New Orleans, stating the condition of affairs as he finds them in the State of Louisiana. General Hartsuff, who is known by many Senators here to be a man of ability and character and judgment, says:

"I have not been here long, but quite long enough to ascertain the temper and tendency of the people. Indeed, both are so apparent that 'he who runs may read'; their bitterness is increasing. If in any place of amusement a single bar of the 'Bonnie Blue Flag,' or any other air they have adopted is played, or a defiant or rebellious allusion made, it calls forth a perfect storm of applause. In social gatherings, I am told by those who visit them, the same feelings exist and grow. If a man meets his former slave, to whom he may have been kind, he not infrequently, in the presence of others, tries to cajole or extort from the poor fellow an admission of preference for the old condition, and if he succeeds through the desire of not offending the old master, as is sometimes the case, it is printed too, and quoted in triumph ever after. A small force, if under good officers, will preserve the peace, but there is much disaffection and carelessness in the performance of duty among the volunteers now, both officers and privates. I think justice to these men, who all want to go home, and to the best interests of the country, which requires on the part of officers that their heart shall be in their duties, absolutely demands that an Army bill shall quickly pass, and the Army organized under it take the place of those who now perform such unwilling duty."

Brevet General Howard, brother of Major General O. O. Howard, at the head of the Freedmen's Bureau, reports that he obtained information while in Georgia,

"From officers and agents of the bureau as well as from the military authorities and the newspapers, that the militia organizations of the opposite county, in South Carolina (Edgefield) were engaged in disarming the negroes. This created great discontent among the latter, and in some instances they had offered resistance. In previous inspection tours in South Carolina, much complaint reached me of the misconduct of these militia companies toward the blacks. Some of the latter, of the most intelligent and well disposed, came to me and said, 'What shall we do?' These militia companies are heaping upon our people every sort of injury and insult, unchecked. Our people are peaceably inclined, and we are endeavoring to inculcate good feeling; but we cannot bear this treatment much longer. Many are beginning to say, 'We have been patient long enough; we are free men now, and we have submitted to such usage as long as we can.' And again they ask, 'What shall we do?' I assured them that this conduct was not sanctioned by the United States military authorities, and that it would not be allowed."

They then asked what they should do when the United States troops were withdrawn, saying they had nothing but evil to apprehend from these militia organizations.

Now, at Augusta, about two months later, I have authentic information that these abuses continue. In southwestern Georgia, I learned that the militia had done the same, sometimes pretending to act under orders from United States authorities. I reported these facts to General Brannon, commanding the department of Georgia, and to General Sickles, commanding the department of South Carolina.

"I am convinced that these militia organizations only endanger the peace of the communities where they exist, and are a source of constant annoyance and injury to the freed people; that herein is one of the greatest evils existing in the southern States for the freedmen. They give the color of law to their violent, unjust, and sometimes inhuman proceedings."

"I would earnestly recommend that these organizations be abolished in these States for at least several years to come; and that some suitable substitute be instituted as a general police force, to preserve order and maintain the laws, until it again becomes safe to allow the organization of militia."

I have a letter from the western part of Louisiana, on the borders of Texas, written by an officer of the Army, a gentleman of intelligence and character, with whom I served twenty-five years ago in the Legislature of my State. He says:

"You have never conceived of the abuse, the cruelty, the premeditated butchery now practiced upon the colored race in this region and the bordering counties of Texas. Not a day or a night passes but what many victims are murdered by the white confederate citizens. In some instances the murderers black their faces and dress up like negro troops, go through the country robbing and killing all classes. One day I saw three bodies (colored) floating down the river at this place: one with his throat cut, one with his brains blown out, and the other mangled. The work of death is going on all the time, but on the increase. A week ago a black man led by his little boy called upon me. He had both eyes put out by a gunshot because he would not renew his contract to work, when, as he said, his master had refused to pay him under the old contract. All his family were threatened with death and turned out of their cabin, while he, blind and starving, was trying to find a shelter for them. All around in the country is one tale of abuse, woe, and misery, the master taking vengeance because his slaves are free. Their suffering beggars description."

The colored population are mild and peaceable, and all stories of risings and clamor are false. They work when they can get the promise of small pay, which they too frequently do not realize.

"There is not one spark of love for the Union in all that I have seen or can judge; but bitter, unrelenting hate, full of the spirit of hell and death to the black man and his white benefactor. A leading man in this place told me a few days ago that they should not rest till paid for their freed slaves; if they could not get this they would exterminate them. I can assure you, in the country away from notice the negro has not half the protection that he had five or even one year ago. The most ignorant, corrupt, and unprincipled set of men exist and rule society here on the earth. They have been forced back into the Union greater sinners now than when out of it. Could northern Senators travel through the South, stop and see it as it is, they would be appalled at the atrocities practiced and the undying hate toward northern men. With the troops away a northern life would be a thing of the past. I care not what freedmen's agents may say of the good condition of the blacks. I say their condition is wretched and heart-rending, and all by the abuse and studied persecution of their former masters. All the men from General Grant, General Howard, &c., down, who pay flying visits to the South, knowing of the state of society and suffering, nothing of the persistent determination to kill out the black race. Our officers and soldiers are tired and homesick, and conceal much information that they possess so that the necessity of their remaining shall not appear, and too frequently turn a deaf ear to suffering humanity."

From officers and soldiers in the rebel States, from truly loyal men there comes an unbroken chain of testimony going to show that the withdrawal of the troops of the United States is immediately followed by outrages upon the freedmen and upon men of known loyalty. There can be no doubt whatever that the arming of the rebel militia has been disastrous to peace and security of loyal men and freedmen. I trust Congress will see to it that armed rebels are not permitted to outrage the rights and endanger the lives of the people.

Mr. SAULSBURY. On the question of the reference of this resolution I should not say a word but for the remarks made by the Senator from Massachusetts in support of that motion. The proposition now before the Senate is to disarm the militia of a State. I shall vote against the reference of the subject to a committee of the body, because the Congress of the United States have no power under that old, obsolete instrument, the Constitution of the United States, to disarm the militia of a State. I know that there is one provision of the Constitution which says that Congress shall have power

"To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress."

That does not give power to Congress to disarm the militia of a State, or to destroy the militia of a State, because in another provision of the Constitution, the second amendment, we have these words:

"A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed."

The proposition here is not to carry out by legislation of Congress any right or authority

vested in Congress, but it is an application to Congress to do that which Congress has no right to do under the second amendment of the Constitution. Mississippi is a State in the Union recognized by the President of the United States, the chief executive officer of the country. As such, she has her own Governor, she has her own judiciary, she has her own State machinery, as any other State has, for protecting the interests of her people; and unless the power is lodged in Congress to disarm the militia of Massachusetts, it cannot be pretended that any such power is lodged in Congress in reference to the State of Mississippi.

We hear a great deal about the oppressions of the negroes down South, and a complaint here comes from somebody connected with the Freedmen's Bureau. Only the other day I saw a statement in the papers that a negro, in violation of the laws of Kentucky, was found with concealed weapons upon his person. The law of Kentucky, I believe, is applicable to whites and blacks alike. An officer of the Freedmen's Bureau, however, summoned the judge of the court before him, ordered him to deliver up the pistol to that negro, and to refund the fine to which the negro was subject by the law of Kentucky. The other day your papers stated that one of these negroes shot down a Federal officer in the State of Tennessee. Yet, sir, no petitions are here to protect the white people against the outrages committed by the negro population; but if a few letters are written to members here that oppression has been practiced against negroes, then the whole white population of a State are to be disarmed.

I protest, Mr. President, against even the reference of such a proposition to a committee, on the ground that if the committee were to report in favor of disarming the militia of the State of Mississippi, the Congress of the United States have no power under the Constitution, but are solemnly prohibited by the Constitution from taking any such action.

Mr. WILSON. I would simply say, Mr. President, that these men were once disarmed when General Lee and General Johnston and the other rebel generals surrendered. They are the same men. They have been organized again and arms put in their hands, and they are just as loyal and law-abiding now as they were when they were confederate soldiers. There is one unbroken chain of testimony from all people that are loyal to this country, that the greatest outrages are perpetrated by armed men who go up and down the country searching houses, disarming people, committing outrages of every kind and description. There cannot be any doubt about that. The generals commanding in these departments all understand it, and let me say to the Senator that there is in the rebel States to-day scarcely an officer of the United States who is not of one opinion about all these acts.

Mr. SAULSBURY. Will the Senator allow me to ask him a question?

Mr. WILSON. Certainly.

Mr. SAULSBURY. Has the Congress of the United States the power to disarm the militia of the State of Massachusetts?

Mr. WILSON. I am not prepared to answer that question. Jefferson Davis maintained here some years ago that the militia was a part of the Army of the United States.

Mr. SAULSBURY. I do not regard him as authority.

Mr. WILSON. The Senator will find that that was the doctrine laid down by that distinguished chief of the rebellion. I will say to that Senator that I believe this Congress has power to disarm ruffians or traitors, or men who are committing outrages against law or the rights of men on our common humanity. I have no doubt of our right to prevent the organization in the rebel States of any militia force, or any other force, until we define what it shall be.

To motion to print the joint resolution and refer it to the Committee on Military Affairs and the Militia was agreed to.

THOMAS F. WILSON.

Mr. CHANDLER. I move to postpone all prior orders and take up for consideration Senate bill No. 146.

The motion was agreed to, and the Senate resumed the consideration of the bill (S. No. 146) for the relief of Thomas F. Wilson, late United States consul at Bahia, Brazil; the question being on its passage.

Mr. GRIMES. I move that that bill be recommitted to the Committee on Commerce, with a view to having a report submitted.

Mr. CHANDLER. Before the question is put on that motion, I ask that the petition of the claimant be read; all the facts stated in it have been verified before the committee.

The Secretary read the petition, as follows:

To the Senate and House of Representatives of the United States in Congress assembled:

The petition of the undersigned respectfully sheweth, that during the years 1862, 1863, and 1864 he was in the service of the United States as consul at Bahia, Brazil.

That during that time the port of Bahia was the rendezvous of the pirates Alabama, Georgia, and Florida for the south Atlantic, where they met their tenders and supply ships and landed prisoners captured on board of American merchant vessels, having at one time landed over one hundred destitute persons on his hands.

That by reason of the visits of these pirates and their consorts to that port, additional duties and increased expenses were imposed upon him not incident to the consulate in a time of peace. That the salary, which was fixed at the sum of \$1,500 per annum, was inadequate to the increased duties and expenses of the consulate growing out of the state of war in which the United States was then involved.

That at the time the pirate Florida came into that harbor, he repaired on board the United States steam sloop-of-war Wachusett, which was lying in port at the time, and advised and participated in the capture of the pirate in the port of Bahia; and that after the pirate had surrendered to the Wachusett the Brazilian forts and vessels-of-war opened fire on the Wachusett and drove that vessel out of port, which prevented him from landing, and compelled him to abandon the consulate, together with his residence, which contained his household furniture, library, clothing, and personal effects, the greater part of which he has not been able to recover, and he has thereby sustained a loss of about fifteen hundred dollars.

He therefore prays for the passage of an act affording him relief for the above losses.

THOMAS F. WILSON.

Mr. CHANDLER. The facts in this case are set forth in the petition. It was under Mr. Wilson's advisement that the Wachusett did cut out the Florida and bring her into a United States port, and he came home on board the Wachusett and has never returned. If the Government of the United States had not repudiated his action he would have had through this Government a just claim upon the Government of Brazil which would have been paid, but this Government having repudiated his action it bars him from any claim against the Government of Brazil. Through his action the Florida was seized; a large number of our ships-of-war were released from their pursuit of the Florida, a great saving was made to the Government of many millions, as well as to the commerce of the United States. Although the Government repudiated his action, it never returned the Florida; nor would that return have been permitted even had any agent of this Government undertaken to return the Florida to the pirate in command of her. The Florida was not returned, thus barring the claim of Mr. Wilson against the Government of Brazil. The question now is, will this Government pay this claim when by its own act it has prevented him from collecting it where it ought to have been collected? I think that it is due to Mr. Wilson and it is due to the Government that the claim should be promptly paid. I wish that during the late rebellion we had had more Mr. Wilsons, and I wish that we had had more naval officers such as the captain of the Wachusett. I believe the civilized world would have sanctioned the cutting out of any one of the rebel piratical vessels from any port on earth. I wish it had been done. I wish our officers had sunk the crafts wherever they found them; but they did not. Here is a case now where we may do a little justice. I hope this bill will be passed, and passed promptly, and passed unanimously. It is not a precedent for any other case, for no

other case of the kind ever has occurred or probably ever will occur on earth. I ask for the action of the Senate on the bill.

Mr. GRIMES. Mr. President—

Mr. FESSENDEN. The Senator from Iowa will excuse me for interposing, but I must ask whether the joint resolution for the amendment of the Constitution is not now before the Senate.

APPORTIONMENT OF REPRESENTATION.

The PRESIDENT *pro tempore*. The morning hour having expired, it is the duty of the Chair to call up the unfinished business of Friday last, which is the joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States, upon which the Senator from Illinois [Mr. YATES] is entitled to the floor.

Mr. HOWARD. Before the Senator from Illinois proceeds, I wish to present an amendment to the resolution under discussion, and to ask that it be printed for the information of the Senate.

The proposed amendment was received informally, and ordered to be printed.

Mr. SUMNER. I should like to hear that amendment read.

The Secretary read the proposed amendment, which was to strike out all after the word "taxed" in the twelfth line of the resolution and to insert the following:

And the right of voting for electors of President and Vice President of the United States, for members of the House of Representatives, and for members of the most numerous branch of the State Legislature, is hereby granted to the following classes of persons of African descent, citizens of the United States, namely, all males of the age of twenty-one years who have during the late troubles been duly enrolled in the Army or Navy of the United States; all males of like age able to read and write the English, French, or Spanish language; all males of like age in the possession and enjoyment in their own right of property, real or personal, of the value of \$250; all such persons who have been domiciled in the proper election district for at least six months next before an election at which they claim to vote; but no such person to be allowed to vote who is of unsound mind, a pauper, or under conviction of an infamous crime. And Congress shall, in default of State laws necessary to carry into effect this provision, have full power so to do by legislation applicable to all the States.

Mr. YATES addressed the Senate. [His speech will be published in the Appendix.]

Mr. BUCKALEW. Mr. President—

Mr. TRUMBULL. I understand that the Senator from Pennsylvania desires the floor on the question now under consideration.

Mr. BUCKALEW. Yes, sir, for to-morrow.

Mr. TRUMBULL. The floor being awarded to the Senator, I move to lay this subject aside and make it the special order for to-morrow at one o'clock.

The motion was agreed to.

MESSAGE FROM THE PRESIDENT.

During Mr. YATES's speech the following message was received from the President of the United States, by the hands of Mr. ROBERT JOHNSON, his Secretary:

Mr. President, I am directed by the President of the United States to inform the Senate that he approved and signed, on the 11th instant, the bill (S. No. 96) authorizing an increase of the clerical force in the Post Office Department.

I am further directed by the President of the United States to return to the Senate, in which it originated, the bill (S. No. 60) entitled "An act to amend an act entitled 'An act to establish a Bureau for the Relief of Freedmen, Refugees, and Abandoned Lands,' with his objections thereto in writing.

FREEDMEN'S BUREAU—VETO MESSAGE.

Mr. TRUMBULL. I now ask for the reading of the message from the President, returning a bill with his objections.

The PRESIDENT *pro tempore*. The message will be read.

The Secretary read the message, as follows:

To the Senate of the United States:

I have examined with care the bill which originated in the Senate and has been passed by the two Houses of Congress to amend an

act entitled "An act to establish a Bureau for the Relief of Freedmen and Refugees," and for other purposes. Having, with much regret, come to the conclusion that it would not be consistent with the public welfare to give my approval to the measure, I return the bill to the Senate with my objections to its becoming a law.

I might call to mind in advance of these objections that there is no immediate necessity for the proposed measure. The act to establish a Bureau for the Relief of Freedmen and Refugees, which was approved in the month of March last, has not yet expired. It was thought stringent and extensive enough for the purpose in view in time of war. Before it ceases to have effect further experience may assist to guide us to a wise conclusion as to the policy to be adopted in time of peace.

I share with Congress the strongest desire to secure to the freedmen the full enjoyment of their freedom and property, and their entire independence and equality in making contracts for their labor; but the bill before me contains provisions which in my opinion are not warranted by the Constitution, and are not well suited to accomplish the end in view.

The bill proposes to establish, by authority of Congress, military jurisdiction over all parts of the United States containing refugees and freedmen. It would, by its very nature, apply with most force to those parts of the United States in which the freedmen most abound; and it expressly extends the existing temporary jurisdiction of the Freedmen's Bureau with greatly enlarged powers over those States "in which the ordinary course of judicial proceedings has been interrupted by the rebellion." The source from which this military jurisdiction is to emanate is none other than the President of the United States, acting through the War Department and the Commissioner of the Freedmen's Bureau. The agents to carry out this military jurisdiction are to be selected either from the Army or from civil life; the country is to be divided into districts and sub-districts; and the number of salaried agents to be employed may be equal to the number of counties or parishes in all the United States where freedmen and refugees are to be found.

The subjects over which this military jurisdiction is to extend in every part of the United States include protection to "all employés, agents, and officers of this bureau in the exercise of the duties imposed" upon them by the bill. In eleven States it is further to extend over all cases affecting freedmen and refugees discriminated against "by local law, custom, or prejudice." In those eleven States the bill subjects any white person who may be charged with depriving a freedman of "any civil rights or immunities belonging to white persons" to imprisonment or fine, or both, without, however, defining the "civil rights and immunities" which are thus to be secured to the freedmen by military law. This military jurisdiction also extends to all questions that may arise respecting contracts. The agent who is thus to exercise the office of a military judge may be a stranger, entirely ignorant of the laws of the place, and exposed to the errors of judgment to which all men are liable. The exercise of power, over which there is no legal supervision, by so vast a number of agents as is contemplated by the bill, must, by the very nature of man, be attended by acts of caprice, injustice, and passion.

The trials, having their origin under this bill, are to take place without the intervention of a jury, and without any fixed rules of law or evidence. The rules on which offenses are to be "heard and determined" by the numerous agents, are such rules and regulations as the President, through the War Department, shall prescribe. No previous presentment is required, nor any indictment charging the commission of a crime against the laws; but the trial must proceed on charges and specifications. The punishment will be, not what the law declares, but such as a court-martial may

think proper; and from these arbitrary tribunals there lies no appeal, no writ of error to any of the courts in which the Constitution of the United States vests exclusively the judicial power of the country.

While the territory and the classes of actions and offenses that are made subject to this measure are so extensive, the bill itself, should it become a law, will have no limitation in point of time, but will form a part of the permanent legislation of the country. I cannot reconcile a system of military jurisdiction of this kind with the words of the Constitution, which declare that "no person shall be held to answer for a capital or otherwise infamous crime unless upon a presentment or indictment of a grand jury, except in cases arising in the land and naval forces, or in the militia when in actual service in time of war or public danger;" and that "in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State or district wherein the crime shall have been committed." The safeguards which the experience and wisdom of ages taught our fathers to establish as securities for the protection of the innocent, the punishment of the guilty, and the equal administration of justice, are to be set aside, and for the sake of a more vigorous interposition in behalf of justice, we are to take the risk of the many acts of injustice that would necessarily follow from an almost countless number of agents established in every parish or county in nearly a third of the States of the Union, over whose decisions there is to be no supervision or control by the Federal courts. The power that would be thus placed in the hands of the President is such as in time of peace certainly ought never to be intrusted to any one man.

If it be asked whether the creation of such a tribunal within a State is warranted as a measure of war, the question immediately presents itself whether we are still engaged in war. Let us not unnecessarily disturb the commerce and credit and industry of the country by declaring to the American people and to the world that the United States are still in a condition of civil war. At present there is no part of our country in which the authority of the United States is disputed. Offenses that may be committed by individuals should not work a forfeiture of the rights of whole communities. The country has returned or is returning to a state of peace and industry, and the rebellion is in fact at an end. The measure, therefore, seems to be as inconsistent with the actual condition of the country as it is at variance with the Constitution of the United States.

If, passing from general considerations, we examine the bill in detail, it is open to weighty objections.

In time of war it was eminently proper that we should provide for those who were passing suddenly from a condition of bondage to a state of freedom. But this bill proposes to make the Freedmen's Bureau, established by the act of 1865 as one of many great and extraordinary military measures to suppress a formidable rebellion, a permanent branch of the public administration, with its powers greatly enlarged. I have no reason to suppose, and I do not understand it to be alleged, that the act of March, 1865, has proved deficient for the purpose for which it was passed, although at that time, and for a considerable period thereafter, the Government of the United States remained unacknowledged in most of the States whose inhabitants had been involved in the rebellion. The institution of slavery, for the military destruction of which the Freedmen's Bureau was called into existence as an auxiliary, has been already effectually and finally abrogated throughout the whole country by an amendment of the Constitution of the United States, and practically its eradication has received the assent and concurrence of most of those States in which it at any time had an existence. I am not, therefore, able to discern, in the condition of the country, anything to justify an apprehension that the

powers and agencies of the Freedmen's Bureau, which were effective for the protection of freedmen and refugees during the actual continuance of hostilities and of African servitude, will now, in a time of peace and after the abolition of slavery, prove inadequate to the same proper ends. If I am correct in these views, there can be no necessity for the enlargement of the powers of the bureau, for which provision is made in the bill.

The third section of the bill authorizes a general and unlimited grant of support to the destitute and suffering refugees and freedmen, their wives and children. Succeeding sections make provision for the rent or purchase of landed estates for freedmen, and for the erection for their benefit of suitable buildings for asylums and schools, the expenses to be defrayed from the Treasury of the whole people. The Congress of the United States has never heretofore thought itself empowered to establish asylums beyond the limits of the District of Columbia, except for the benefit of our disabled soldiers and sailors. It has never founded schools for any class of our own people, not even for the orphans of those who have fallen in the defense of the Union, but has left the care of education to the much more competent and efficient control of the States, of communities, of private associations, and of individuals. It has never deemed itself authorized to expend the public money for the rent or purchase of homes for the thousands, not to say millions, of the white race, who are honestly toiling from day to day for their subsistence. A system for the support of indigent persons in the United States was never contemplated by the authors of the Constitution, nor can any good reason be advanced why, as a permanent establishment, it should be founded for one class or color of our people more than another. Pending the war, many refugees and freedmen received support from the Government, but it was never intended that they should thenceforth be fed, clothed, educated, and sheltered by the United States. The idea on which the slaves were assisted to freedom was that, on becoming free, they would be a self-sustaining population. Any legislation that shall imply that they are not expected to attain a self-sustaining condition must have a tendency injurious alike to their character and their prospects.

The appointment of an agent for every county and parish will create an immense patronage; and the expense of the numerous officers and their clerks, to be appointed by the President, will be great in the beginning, with a tendency steadily to increase. The appropriations asked by the Freedmen's Bureau, as now established, for the year 1866, amount to \$11,745,000. It may be safely estimated that the cost to be incurred under the pending bill will require double that amount—more than the entire sum expended in any one year under the administration of the second Adams. If the presence of agents in every parish and county is to be considered as a war measure, opposition, or even resistance, might be provoked, so that, to give effect to their jurisdiction, troops would have to be stationed within reach of every one of them, and thus a large standing force be rendered necessary. Large appropriations would therefore be required to sustain and enforce military jurisdiction in every county or parish, from the Potomac to the Rio Grande. The condition of our fiscal affairs is encouraging; but in order to sustain the present measure of public confidence, it is necessary that we practice not merely customary economy, but, as far as possible, severe retrenchment.

In addition to the objections already stated, the fifth section of the bill proposes to take away land from its former owners without any legal proceedings being first had, contrary to that provision of the Constitution which declares that no person shall "be deprived of life, liberty, or property without due process of law." It does not appear that a part of the lands to which this section refers may not be owned by minors, or persons of unsound mind,

or by those who have been faithful to all their obligations as citizens of the United States. If any portion of the land is held by such persons, it is not competent for any authority to deprive them of it. If, on the other hand, it be found that the property is liable to confiscation, even then it cannot be appropriated to public purposes until by due process of law it shall have been declared forfeited to the Government.

There is still further objection to the bill on grounds seriously affecting the class of persons to whom it is designed to bring relief. It will tend to keep the mind of the freedman in a state of uncertain expectation and restlessness, while to those among whom he lives it will be a source of constant and vague apprehension.

Undoubtedly the freedman should be protected, but he should be protected by the civil authorities, especially by the exercise of all the constitutional powers of the courts of the United States and of the States. His condition is not so exposed as may at first be imagined. He is in a portion of the country where his labor cannot well be spared. Competition for his services from planters, from those who are constructing or repairing railroads, and from capitalists in his vicinage or from other States, will enable him to command almost his own terms. He also possesses a perfect right to change his place of abode; and if, therefore, he does not find in one community or State a mode of life suited to his desires, or proper remuneration for his labor, he can move to another, where that labor is more esteemed and better rewarded. In truth, however, each State, induced by its own wants and interests, will do what is necessary and proper to retain within its borders all the labor that is needed for the development of its resources. The laws that regulate supply and demand will maintain their force, and the wages of the laborer will be regulated thereby. There is no danger that the exceedingly great demand for labor will not operate in favor of the laborer.

Neither is sufficient consideration given to the ability of the freedmen to protect and take care of themselves. It is no more than justice to them to believe that as they have received their freedom with moderation and forbearance, so they will distinguish themselves by their industry and thrift, and soon show the world that in a condition of freedom they are self-sustaining, capable of selecting their own employment and their own places of abode, of insisting, for themselves, on a proper remuneration, and of establishing and maintaining their own asylums and schools. It is earnestly hoped that instead of wasting away, they will, by their own efforts, establish for themselves a condition of respect, ability, and prosperity. It is certain that they can attain to that condition only through their own merits and exertions.

In this connection the query presents itself, whether the system proposed by the bill will not, when put into complete operation, practically transfer the entire care, support, and control of four million emancipated slaves to agents, overseers, or task-masters who, appointed at Washington, are to be located in every county and parish throughout the United States containing freedmen and refugees? Such a system would inevitably tend to a concentration of power in the Executive, which would enable him, if so disposed, to control the action of this numerous class and use them for the attainment of his own political ends.

I cannot but add another very grave objection to this bill. The Constitution imperatively declares, in connection with taxation, that each State shall have at least one Representative, and fixes the rule for the number to which in future times each State shall be entitled. It also provides that the Senate of the United States shall be composed of two Senators from each State, and adds with peculiar force, "that no State, without its consent, shall be deprived of its equal suffrage in the Senate." The original act was necessarily passed in the absence of the States chiefly to be affected, because their people were then contumaciously engaged in

the rebellion. Now the case is changed, and some at least of those States are attending Congress by loyal Representatives, soliciting the allowance of the constitutional right of representation. At the time, however, of the consideration and the passing of this bill, there was no Senator or Representative in Congress from the eleven States which are to be mainly affected by its provisions. The very fact that reports were and are made against the good disposition of the people of that portion of the country is an additional reason why they need, and should have Representatives of their own in Congress to explain their condition, reply to accusations, and assist, by their local knowledge, in the perfecting of measures immediately affecting themselves. While the liberty of deliberation would then be free, and Congress would have full power to decide according to its judgment, there could be no objection urged that the States most interested had not been permitted to be heard. The principle is firmly fixed in the minds of the American people, that there should be no taxation without representation.

Great burdens have now to be borne by all the country, and we may best demand that they shall be borne without murmur when they are voted by a majority of the representatives of all the people. I would not interfere with the unquestionable right of Congress to judge, each House for itself, "of the elections, returns, and qualifications of its own members," but that authority cannot be construed as including the right to shut out, in time of peace, any State from the representation to which it is entitled by the Constitution. At present, all the people of eleven States are excluded—those who were most faithful during the war not less than others. The State of Tennessee, for instance, whose authorities engaged in rebellion, was restored to all her constitutional relations to the Union by the patriotism and energy of her injured and betrayed people. Before the war was brought to a termination they had placed themselves in relations with the General Government, had established a State government of their own; as they were not included in the emancipation proclamation, they by their own act had amended their constitution so as to abolish slavery within the limits of their State. I know no reason why the State of Tennessee, for example, should not fully enjoy "all her constitutional relations to the United States."

The President of the United States stands toward the country in a somewhat different attitude from that of any member of Congress. Each member of Congress is chosen from a single district or State; the President is chosen by the people of all the States. As eleven are not at this time represented in either branch of Congress, it would seem to be his duty, on all proper occasions, to present their just claims to Congress. There always will be differences of opinion in the community, and individuals may be guilty of transgressions of the law; but these do not constitute valid objections against the right of a State to representation. I would in no wise interfere with the discretion of Congress with regard to the qualifications of members; but I hold it my duty to recommend to you, in the interests of peace and in the interests of union, the admission of every State to its share in public legislation, when, however insubordinate, insurgent, or rebellious its people may have been, it presents itself not only in an attitude of loyalty and harmony, but in the persons of Representatives whose loyalty cannot be questioned under any existing constitutional or legal test.

It is plain that an indefinite or permanent exclusion of any part of the country from representation must be attended by a spirit of disquiet and complaint. It is unwise and dangerous to pursue a course of measures which will unite a very large section of the country against another section of the country, however much the latter may preponderate. The course of emigration, the development of industry and business, and natural causes will raise up at the South men as devoted to the Union as those of any other part of the land. But if they are all

excluded from Congress, if, in a permanent statute, they are declared not to be in full constitutional relations to the country, they may think they have cause to become a unit in feeling and sentiment against the Government. Under the political education of the American people the idea is inherent and ineradicable that the consent of the majority of the whole people is necessary to secure a willing acquiescence in legislation.

The bill under consideration refers to certain of the States as though they had not "been fully restored in all their constitutional relations to the United States." If they have not, let us at once act together to secure that desirable end at the earliest possible moment. It is hardly necessary for me to inform Congress that, in my own judgment, most of these States, so far at least as depends upon their own action, have already been fully restored, and are to be deemed as entitled to enjoy their constitutional rights as members of the Union. Reasoning from the Constitution itself, and from the actual situation of the country, I feel not only entitled, but bound, to assume that, with the Federal courts restored, and those of the several States in the full exercise of their functions, the rights and interests of all classes of the people will, with the aid of the military in cases of resistance to the laws, be essentially protected against unconstitutional infringement or violation. Should this expectation unhappily fail, which I do not anticipate, then the Executive is already fully armed with the powers conferred by the act of March, 1865, establishing the Freedmen's Bureau, and hereafter, as heretofore, he can employ the land and naval forces of the country to suppress insurrection or to overcome obstructions to the laws.

In accordance with the Constitution I return the bill to the Senate, in the earnest hope that a measure involving questions and interests so important to the country will not become a law unless, upon deliberate consideration by the people, it shall receive the sanction of an enlightened public judgment.

ANDREW JOHNSON.

The conclusion of the reading of the message was followed by loud applause and hisses in the galleries.

The PRESIDENT *pro tempore*. The Sergeant-at-Arms will proceed to clear those portions of the galleries where disturbances were made.

Mr. SUMNER. Let the whole gallery be cleared.

The PRESIDENT *pro tempore*. All portions of the galleries where disturbances were made will be cleared, if those portions can be discriminated; otherwise, the whole galleries will be cleared.

Mr. TRUMBULL. I suppose the bill which has been returned by the President is now before the Senate.

The PRESIDENT *pro tempore*. Order must be restored by first clearing the galleries before public business can be proceeded with.

Mr. SHERMAN. I suggest whether, at this late period of the day's session, it is worth while to clear the galleries.

Mr. TRUMBULL. I will state to the Senator from Ohio that this is a repetition of the disturbance this afternoon. There was one disturbance in the gallery in the early part of the day, and notice was distinctly given that if it was repeated the galleries would be cleared. The public business of the country cannot be transacted if we are to be disturbed by the noise of the galleries; and after having given them notice, if the galleries will persist in making disturbance, I see no other way but to enforce the rule and clear them.

The PRESIDENT *pro tempore*. The Chair will have the galleries cleared, unless otherwise directed by the Senate.

Mr. TRUMBULL. I hope only that portion will be cleared that created the disturbance.

The Sergeant-at-Arms, in pursuance of the order of the President *pro tempore*, proceeded to clear the western portion of the galleries.

Mr. LANE, of Kansas. It is now almost four

o'clock, and there is a necessity for a brief executive session. ["No." "No."] Do you, gentlemen, expect to have a vote upon this bill to-night? ["Certainly."] I shall certainly desire to have the message printed first.

The PRESIDENT *pro tempore*. This bill having been returned by the President of the United States with his objections, it becomes the duty of the Senate, this being the House in which the bill originated, to enter the objections at large upon their Journal and to proceed to reconsider the bill passed by them. It is the impression of the Chair that no vote of reconsideration is required, but the Senate proceed to reconsider the bill, and the question is taken whether the Senate will pass the bill, the objections of the President to the contrary notwithstanding, without any formal vote of reconsideration. The question therefore is, Shall the bill pass notwithstanding the objections of the President?

Mr. LANE, of Kansas. I now move that the message of the President, only a portion of which I have heard, being absent from the Chamber a part of the time, be printed for the use of the Senate, and that the vote on this bill be postponed until to-morrow at one o'clock. It is but respectful to the President that that be done.

Mr. GRIMES. Is the motion susceptible of division?

The PRESIDENT *pro tempore*. The Chair thinks it is.

Mr. GRIMES. If so, I call for a division of the motion, so that the question shall first be put upon printing the message. I am perfectly satisfied that that shall be adopted; but let us proceed to the consideration of the bill now. I call for a division of the motion.

The PRESIDENT *pro tempore*. Then the question will first be on printing the message.

Mr. LANE, of Kansas. I desire to say but one word. This is a message from the President of the United States, elected by the party holding the majority of this Senate. I am very anxious, so far as I am concerned, to preserve the unanimity, the union of the loyal party of the United States, the Republican Union party. I am anxious to read this message. I do not know what the custom of Congress has been, but my recollection is that heretofore these messages have been printed and that the vote has been taken after the message was laid upon the tables of Senators. I therefore hope that this message will be printed, and that the vote will be postponed until to-morrow.

Mr. McDUGALL. I desire to say that the President of the United States is recognized, I think, by this body as such, and he has sent to us a message which has been delivered within the past hour. He has with great care and great courtesy asked the consideration of this body on this question, and I do not think there is any one of the members of this body who would, out of common respect to the President of the Republic, undertake to discuss it now until he had the opportunity of consideration. I think it would be a rudeness to him, and if rudeness is intended, let it be asserted.

The PRESIDENT *pro tempore*. The question is upon the motion of the Senator from Kansas that the message of the President be printed.

The motion was agreed to.

The PRESIDENT *pro tempore*. The residue of the motion is, that the further consideration of this bill be postponed until to-morrow at one o'clock.

Mr. LANE, of Kansas. On that motion I ask for the yeas and nays.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. POLAND (when Mr. Foot's name was called) said: I desire to state that my colleague is detained by sickness and unable to be here.

The result was announced—yeas 17, nays 28; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Dixon, Doolittle, Guthrie, Hendricks, Lane of Kansas, McDougall, Morgan, Nesmith, Riddle, Saulsbury, Stewart, Stockton, Van Winkle, and Willey—17.

NAYS—Messrs. Anthony, Brown, Chandler, Clark,

Conness, Cragin, Creswell, Fessenden, Foster, Grimes, Harris, Howard, Howe, Kirkwood, Lane of Indiana, Morrill, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Trumbull, Wade, Williams, Wilson, and Yates—28.

ABSENT—Messrs. Foot, Henderson, Johnson, Norton, and Wright—5.

So the motion was not agreed to.

The PRESIDENT *pro tempore*. The bill is before the Senate, and the question is, Shall the bill pass, the objections of the President notwithstanding?

Mr. LANE, of Kansas. I move that the Senate do now adjourn, and on the motion I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 19, nays 25; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Dixon, Doolittle, Guthrie, Harris, Hendricks, Lane of Kansas, McDougall, Morgan, Nesmith, Riddle, Saulsbury, Sherman, Stewart, Stockton, Van Winkle, and Willey—19.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Creswell, Fessenden, Foster, Grimes, Howard, Howe, Kirkwood, Lane of Indiana, Morrill, Nye, Poland, Pomeroy, Ramsey, Sprague, Sumner, Trumbull, Wade, Williams, Wilson, and Yates—25.

ABSENT—Messrs. Cragin, Foot, Henderson, Johnson, Norton, and Wright—6.

So the Senate refused to adjourn.

Mr. LANE, of Kansas. There are several Senators absent, and I think it but just to them that they should have an opportunity to be present when the vote is taken on this bill. I cannot consent, as long as I can postpone this question by the rules of the Senate, to have a vote upon it to-night. I therefore move that the further consideration of the bill be postponed until to-morrow at two o'clock, and on that motion I demand the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 17, nays 29; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Dixon, Doolittle, Guthrie, Hendricks, Lane of Kansas, McDougall, Morgan, Nesmith, Riddle, Saulsbury, Stewart, Stockton, Van Winkle, and Willey—17.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Foster, Grimes, Harris, Henderson, Howard, Howe, Kirkwood, Lane of Indiana, Morrill, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Trumbull, Wade, Williams, Wilson, and Yates—29.

ABSENT—Messrs. Foot, Johnson, Norton, and Wright—4.

So the motion was not agreed to.

Mr. DAVIS. I think that the majority of the Senate ought, in propriety and magnanimity, to postpone the consideration of this question until to-morrow. The honorable Senator from Illinois who introduced the bill—

Mr. SHERMAN. Will the honorable Senator from Kentucky give way to me for a moment?

Mr. DAVIS. Certainly.

Mr. SHERMAN. Mr. President, before submitting a motion, I have a word to say, with the consent of the Senator from Kentucky. I have voted twice against the postponement of this question until to-morrow. I am prepared to give my vote upon it to-night; but when Senators here say they desire time to read so important a document as this, the time to consider and reflect upon the importance of the vote they are about to cast, I think it a very hard thing for us to refuse an adjournment.

Mr. LANE, of Kansas. I was not present when a portion of the message was read.

Mr. SHERMAN. The honorable Senator from Kansas, who is certainly a true friend to the cause in which we are engaged, says he has not heard this message. It seems to me it is rather hard to press a vote to-night, especially when the ordinary time of adjournment has arrived. I think a few hours' sober reflection will not do any of us any harm. It is manifest that to attempt to force a vote on this bill to-night would probably exhaust the strength of all of us. I do not believe it is possible to obtain a vote to-night. If four fifths of the Senate were in favor of it, they could not pass it to-night even against a minority of two or three.

Now, when the proposition is made by one of our own political friends to postpone this matter by an adjournment, so that it may come up to-morrow as unfinished business, I think we ought not to deny the motion. I therefore move that the Senate do now adjourn. This question,

as I understand, will come up as the unfinished business to-morrow and will overrule the special order.

The PRESIDENT *pro tempore*. That is the rule of the Senate.

Mr. SHERMAN. So that this bill will come up at one o'clock to-morrow and be the pending question. I therefore move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, February 19, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

The SPEAKER. The first business in order is the calling of the States and Territories for the introduction of bills on leave, to be referred to the appropriate committees, and not to be brought back into the House by motions to reconsider, beginning with the State of Maine.

EIGHT HOURS LABOR A DAY.

Mr. ROGERS introduced a bill constituting eight hours a day's work for all laborers, workmen, and mechanics employed by or in behalf of the Government of the United States.

Mr. BANKS. Let it be reported.

The bill was accordingly read. It constitutes eight hours a day's work for all laborers, workmen, and mechanics employed by the United States, and repeals all acts inconsistent therewith.

The bill was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

TAXATION OF GOVERNMENT BONDS.

Mr. ROGERS also introduced a bill repealing all acts of Congress exempting Government bonds and securities from Federal, municipal, or State taxation; which was read a first and second time.

Mr. ROGERS. Would it be proper to refer that to the Committee on the Judiciary?

The SPEAKER. A question of taxation goes to the Committee of Ways and Means unless a motion is made to refer it otherwise.

Mr. WENTWORTH. I move to refer it to the Committee on the Judiciary. The Committee of Ways and Means do not want it.

The motion was agreed to; and the bill was accordingly referred to the Committee on the Judiciary, and ordered to be printed.

BOUNTIES TO VOLUNTEERS.

Mr. ROGERS also introduced a bill to pay a bounty to the volunteers of 1861 and 1862 equal to the highest bounty paid to the volunteers of 1863 and 1864, equalizing the bounty according to the time of service, &c.; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CHAUNCEY B. SABINE AND PETER W. GRAY.

Mr. RAYMOND introduced a bill for the relief of Chauncey B. Sabine and Peter W. Gray, of Harris county, Texas; which was read a first and second time, and referred to the Committee on the Judiciary.

HOSPITALS AND BARRACKS IN THE SOUTH.

Mr. SPALDING submitted the following joint resolution; which was read a first and second time, and referred to the Committee on Military Affairs:

Resolved by the Senate and House of Representatives, &c., That the Secretary of War be, and is hereby, authorized to transmit to any benevolent institution designated by the Governors in any one of the southern States in which temporary encampments, barracks, and hospitals of the United States may be situated, the materials of which said encampments, barracks, and hospitals were constructed, whenever, in his judgment, the interests of the United States will not be prejudiced thereby: Provided, That no one transfer as aforesaid shall exceed in value the sum of \$5,000.

RIVER AND HARBOR IMPROVEMENTS.

Mr. BUCKLAND introduced a bill making appropriations for improving the harbors of

Sandusky city, Huron, and Vermillion, and the navigation of the Sandusky river and head of Sandusky bay; which was read a first and second time, and referred to the Committee on Commerce.

BOUNTIES TO ONE HUNDRED DAYS' MEN.

Mr. CLARKE, of Ohio, introduced a bill to give a bounty in land to the officers and soldiers of the one hundred days' men; which was read a first and second time, and referred to the Committee on Military Affairs.

CONSTITUTIONAL AMENDMENT.

Mr. McKEE introduced the following joint resolution; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed:

Resolved by the Senate and House of Representatives, etc., That the following amendment to the Constitution be proposed to the several State Legislatures, which, when ratified by three fourths of the several States, shall be valid to all intents and purposes as a part of the Constitution:

ARTICLE.—No person shall be qualified or shall hold the office of President or Vice President of the United States, Senator or Representative in the national Congress, or any office now held under appointment from the President of the United States, and requiring the confirmation of the Senate, who has been or shall hereafter be engaged in any armed conspiracy or rebellion against the Government of the United States, or who has held or shall hereafter hold any office, either civil or military, under any pretended government or conspiracy set up within the same, or who has voluntarily aided, or who shall hereafter voluntarily aid, abet, or encourage any conspiracy or rebellion against the Government of the United States.

HOSPITAL AT JEFFERSONVILLE.

Mr. FARQUHAR introduced a joint resolution confirming the transfer of the United States hospital at Jeffersonville, Indiana, to the State of Indiana as a donation for the benefit of Indiana soldiers and seamen disabled in the service of the United States; which was read a first and second time, and referred to the Committee on Military Affairs.

ILLEGAL ARRESTS AND PROSECUTIONS.

Mr. MOULTON introduced a bill for the protection of persons against illegal arrests and prosecutions for acts done under authority of Government or military authority; which was read a first and second time, and referred to the Committee on the Judiciary.

CONSTITUTIONAL AMENDMENTS.

Mr. BROMWELL introduced a joint resolution declaratory of the right of amending the Federal Constitution.

Mr. ELDRIDGE. Let the joint resolution be read.

It was read as follows:

Resolved by the Senate and House of Representatives of the United States in Congress assembled, That the States of this Union which did not renounce their allegiance to the Federal Government during the late rebellion, but stood together maintaining the same in the face of the enemy through a war waged against the Union for the subversion of the Federal Constitution, are the only States clothed with legal power to consider and decide upon amendments to that Constitution; and that States which did, by their Legislatures, call conventions for the purpose of expressly denying allegiance to the Federal Constitution and Government, and did by such conventions ordain denial of such allegiance; and did, by their conventions, Legislatures, judiciaries, executives, and people turn over their State governments and powers, civil and military, to another and distinct nationality sought to be created, for the purpose of waging war against this Government; and did abrogate all State government as States of this Union; and did abdicate all government as in and of this Union; and did by their organizations and people wage war against this Government and people, until overthrown by force; and who are not now by their military power in the field against our armies, because force and means fail them to make further war; and whose people claim their lives as public enemies conquered in battle, are incompetent at law, and have no right in conscience to vote upon any amendment of the Federal Constitution, or otherwise act so as to affect the rights of loyal States, until first restored to full power in this Union by Congress; but that when any amendment shall be proposed by Congress and ratified by the Legislatures of three fourths of the loyal and recognized States, the same shall be taken and held thereafter as part of the Constitution of the United States for all purposes.

Mr. ELDRIDGE. I move to lay the joint resolution on the table.

The SPEAKER. It is not in order, under this call, to move to lay the joint resolution on the table. The gentleman can object to grant-

ing leave for its introduction, and that question will be decided by a vote of the House.

Mr. ELDRIDGE. I object to leave being granted to introduce the joint resolution.

The question was taken; and upon a division there were—ayes 78, nays 21.

So leave was granted; and the joint resolution was received, read a first and second time, and referred to the Committee on the Judiciary.

SUITS AGAINST LOYAL MEN.

Mr. COOK introduced a bill to amend an act entitled "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases," approved March 3, 1863; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

PENSIONS IN CIVIL SERVICE.

Mr. HARDING, of Illinois, introduced a joint resolution relative to pensions in civil service; which was read a first and second time, and referred to the Committee on Invalid Pensions.

RAILROAD FARES AND RATES.

Mr. HARDING, of Illinois, also introduced a bill to amend an act to provide internal revenue to support the Government, approved June 3, 1864, as amended March 3, 1865, respecting railroad fares and rates; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

DUTY ON PRINTING PAPER.

Mr. INGERSOLL introduced a joint resolution reducing the duty on printing paper unsized, and used for books and newspapers exclusively; which was read a first and second time, and referred to the Committee of Ways and Means.

PAYMASTERS IN THE UNITED STATES ARMY.

Mr. ASHLEY, of Ohio, introduced a bill for the relief of paymasters in the Army of the United States; which was read a first and second time, and referred to the Committee on Military Affairs.

REIMBURSEMENT OF MISSOURI.

Mr. LOAN introduced a bill to reimburse the State of Missouri for moneys expended for the United States; which was read a first and second time, referred to the select committee on war debts of loyal States, and ordered to be printed.

EMIGRATION FROM EUROPE TO MICHIGAN.

Mr. FERRY introduced a bill for a grant of lands to aid and encourage emigration from Europe to the upper peninsula of Michigan; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

IOWA AND MISSOURI RAILROAD.

Mr. WILSON, of Iowa, introduced a bill granting land to the Iowa and Missouri State Line Railroad Company, and for other purposes; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

BRIDGE ACROSS THE MISSISSIPPI.

Mr. WILSON, of Iowa, also introduced a bill to authorize the Keokuk and Hamilton Mississippi Bridge Company to construct and operate a railroad, wagon, and foot bridge across the Mississippi river, and to declare the same a military road and postroad; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

SIoux INDIAN DEPREDACTIONS.

Mr. HUBBARD, of Iowa, introduced a bill for the relief of citizens of Iowa for damages sustained by reason of depredations and injuries by certain bands of Sioux Indians; which was read a first and second time, and referred to the Committee on Indian Affairs.

RECLAMATION OF SWAMP LANDS.

Mr. COBB introduced a bill to amend an act entitled "An act to extend the provisions

of an act entitled 'An act to enable the State of Arkansas and other States, to reclaim the swamp lands within their limits, to Minnesota and Oregon, and for other purposes,' approved March 12, 1860; which was read a first and second time, and referred to the Committee on Public Lands.

TRADE ON THE CANADIAN FRONTIER.

Mr. PAINE introduced a bill to regulate the foreign and coasting trade on the northern, northwestern, and northeastern frontiers, and for other purposes; which was read a first and second time, and referred to the Committee on Commerce.

POST ROADS IN CALIFORNIA.

Mr. BIDWELL introduced a bill to establish certain post roads in the State of California; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

DONATIONS OF PUBLIC LANDS.

Mr. McRUER introduced a bill to confirm to the State of California, and purchasers under her laws, selections of land made in part satisfaction of the various acts of donation by Congress; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

RAILROAD LAND GRANT TO MINNESOTA.

Mr. WINDOM introduced a bill making an additional grant of lands to the State of Minnesota, in alternate sections, to aid in the construction of a railroad in said State; which was read a first and second time, and referred to the Committee on Public Lands.

A. MORRISON.

Mr. HENDERSON introduced a bill to indemnify A. Morrison for property destroyed by Indians; which was read a first and second time, and referred to the Committee on Indian Affairs.

PACIFIC RAILROAD.

Mr. ASHLEY, of Nevada, introduced a bill to donate public lands for certain purposes to the parties therein named; which was read a first and second time, and referred to the Committee on the Pacific Railroad.

WAGON ROAD IN UTAH.

Mr. ASHLEY, of Nevada, also introduced a bill authorizing a wagon road in the Territory of Utah; which was read a first and second time, and referred to the Committee on Roads and Canals.

CAPITOL BUILDING IN NEW MEXICO.

Mr. CHAVES introduced a bill to appropriate the sum of \$30,000 for the completion of the capitol in the Territory of New Mexico; which was read a first and second time, and referred to the Committee on Territories.

NEW MEXICO AND ARIZONA.

Mr. CHAVES also introduced a bill for the relief of the inhabitants of towns and villages in the Territories of New Mexico and Arizona; which was read a first and second time, and referred to the Committee on Public Lands.

PORTS OF ENTRY.

Mr. DENNY introduced a bill to change the location of the ports of entry for the Puget sound collection district; which was read a first and second time, and referred to the Committee on Commerce.

INDIAN SUPERINTENDENT FOR COLORADO.

Mr. BRADFORD introduced a bill in relation to the office of superintendent of Indian affairs in Colorado Territory; which was read a first and second time, and referred to the Committee on Indian Affairs.

PUBLIC BUILDINGS IN COLORADO.

Mr. BRADFORD also introduced a bill to provide for the construction of public buildings in Colorado Territory; which was read a first and second time, and referred to the Committee on Territories.

SALARY OF JUDGES IN COLORADO.

Mr. BRADFORD also introduced a bill to increase the salary of the judges of the supreme court of Colorado Territory; which was read a first and second time, and referred to the Committee on Territories.

PUBLIC BUILDINGS IN BROOKLYN.

Mr. J. HUMPHREY introduced a joint resolution to appoint a commission to select a site for a building for a post office and courthouse in the city of Brooklyn, State of New York; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

INTERNAL REVENUE.

Mr. SMITH introduced a bill to amend the sixth paragraph of section seventy-nine of an act to provide internal revenue, &c., approved March, 1865; which was read a first and second time, and referred to the Committee of Ways and Means.

The SPEAKER stated the next business in order to be the call of States and Territories for bills and resolutions in an inverse order, commencing with the Territory of Montana.

PUNISHMENT OF REBELS.

Mr. HENDERSON submitted the following resolutions, on which he demanded the previous question:

1. *Resolved*, That it is the sense of this House all just and righteous Governments are intended not to confer rights and privileges upon the subjects thereof, but to secure to each and every individual the full, free, and untrammelled exercise and enjoyment of all those rights which God has bestowed upon him.

2. *Resolved*, That the safety, happiness, and prosperity of the people require that just and adequate penalties be annexed to the violation of law, and that those penalties be inflicted upon transgressors, not for the purpose of retaliation or revenge, but to insure subordination and obedience.

3. *Resolved further*, That we will stand by and sustain the President in executing the laws of the United States upon a sufficient number of leading rebels in each of the States lately in insurrection against the national Government to vindicate the majesty of the law, to sustain the confidence of loyal people, and warn the refractory for all time to come.

The previous question was not seconded.

Mr. BRANDEGEE stated he rose to debate the resolutions.

The resolutions went over under the rule.

IOWA AND MISSOURI STATE LINE RAILROAD.

Mr. KASSON presented joint resolution and memorial of the State of Iowa asking Congress for a grant of lands to aid in the construction of the Iowa and Missouri State Line Railroad; which were referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. GRINNELL presented a similar resolution; which had a like reference.

RECIPROCITY TREATY.

Mr. KASSON presented the memorial of the American Free Trade League in reference to the reciprocity treaty; which was referred to the Committee of Ways and Means.

RECONSTRUCTION.

Mr. LONGYEAR submitted the following, on which he demanded the previous question:

Resolved, That in the language of the proclamation of the President of May 29, 1865, "the rebellion which was waged by a portion of the people of the United States against the properly constituted authorities of the Government thereof in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has in its revolutionary progress deprived the people" of the States in which it was organized "of all civil government."

Resolved, That whenever the people of any State are thus "deprived of all civil government," it becomes the duty of Congress, by appropriate legislation, to enable them to organize a State government, and in the language of the Constitution to guaranty to such State a republican form of government.

Resolved, That it is the deliberate sense of this House that the condition of the rebel States fully justifies the President in maintaining the suspension of the writ of *habeas corpus* in those States.

Resolved, That it is the deliberate sense of this House that the condition of the rebel States fully justifies the President in maintaining military possession and control thereof, and that the President is entitled to the thanks of the nation for employing the war power for the protection of Union citizens and the freedmen in those States.

The previous question was seconded.

Mr. LE BLOND demanded the yeas and nays.

The yeas and nays were ordered.

Mr. BROOMALL. I ask for a separate vote on the first resolution.

Mr. LAWRENCE, of Ohio. I ask a separate vote on all of the resolutions.

The main question was ordered.

Mr. LE BLOND. I do not ask for the yeas and nays on each resolution, but on the entire proposition.

Mr. ELDRIDGE. I make the point of order that, after the yeas and nays were ordered, it was not in order to call for a division.

The SPEAKER. The rule provides that any member may call for a division of a question susceptible of a division, before the main question is ordered.

Mr. BROOMALL, and Mr. LAWRENCE of Ohio, withdrew the demand for a division.

Mr. FINCK moved that the resolutions be laid upon the table.

Mr. LE BLOND demanded the yeas and nays.

The yeas and nays were ordered.

Mr. RAYMOND. I wish to say, before demanding a division—

Mr. WILSON, of Iowa. I object to debate. The question was taken; and it was decided in the negative—yeas 29, nays 119, not voting 34; as follows:

YEAS—Messrs. Ancona, Bergen, Brooks, Chanler, Dawson, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Hogan, James M. Humphrey, Kerr, Le Blond, Marshall, McCullough, Niblack, Nicholson, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Shanklin, Taber, Thornton, Trimble, and Voorhees—29.

NAYS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Bromwell, Broomall, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Dawes, Deming, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hayes, Henderson, Higby, Holmes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, James Humphrey, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Kuykendall, Lathin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marvin, McClurg, McIndoe, McKee, McKuer, Mercer, Moorhead, Morrill, Morris, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Roussau, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Smith, Spaulding, Starr, Stevens, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—119.

NOT VOTING—Messrs. Alley, Ames, Barker, Blow, Boyer, Brandegee, Buckland, Bundy, Culver, Darling, Davis, Defrees, Delano, Denison, Dixon, Dumont, Harris, Hart, Hill, Hotchkiss, Edwin N. Hubbard, Johnson, Jones, Marston, Miller, Newell, Nocell, Sitgreaves, Stilwell, Strouse, Taylor, Francis Thomas, Winfield, and Wright—34.

So the resolutions were not laid upon the table.

Pending the roll-call,

Mr. LOAN stated that his colleague, Mr. BLOW, was detained from the House by sickness.

Mr. RAYMOND. I desire to ask a question. I will not trespass one minute.

Mr. WILSON, of Iowa. I object.

Mr. RAYMOND. Then I call for a division. I wished to ask a question which I thought might obviate the necessity of a division.

Mr. WILSON, of Iowa. Well, I will hear that.

Mr. RAYMOND. I desire to ask—

Mr. LE BLOND. I object unless the gentlemen on the other side permit us on this side to offer our reasons why we vote against some of these resolutions. I am perfectly willing to extend the courtesy to the gentlemen on the other side if it is only extended to us on this side.

Mr. RAYMOND. If the gentleman will allow me to state my question, perhaps he will withdraw his objection.

Mr. LE BLOND. I have no doubt the gentleman has good reason for his action, but I insist upon the objection unless it is understood that we have the same courtesy extended to this side.

Mr. RAYMOND. I then ask to have a separate vote taken on the first two resolutions.

Mr. WENTWORTH. I will ask a separate vote on each one of them.

Mr. LAWRENCE, of Ohio. I demand the yeas and nays on the first.

Mr. KASSON. Mr. Speaker, has not the morning hour expired?

The SPEAKER. The morning hour has expired, but the previous question has been seconded and the main question is now being put.

Mr. RANDALL, of Pennsylvania. I raise the question whether the last resolution is not susceptible of division; it states two distinct propositions, and I call for a division of it.

The SPEAKER. The Chair thinks it is.

The yeas and nays were ordered on the adoption of the first resolution.

Mr. SMITH. I raise the question of order whether these resolutions should not go, under the rule, to the committee on reconstruction.

The SPEAKER. The Chair has examined that question, and is of opinion that they would not go to that committee. But the point of order comes too late now after the previous question has been seconded, and the main question ordered.

The question was upon agreeing to the first resolution, which was as follows:

Resolved, That in the language of the proclamation of the President of May 29, 1865, "the rebellion which was waged by a portion of the people of the United States against the properly constituted authorities of the Government thereof in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has in its revolutionary progress deprived the people" of the States in which it was organized "of all civil government."

The question was taken; and it was decided in the affirmative—yeas 102, nays 36, not voting 44; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Broomall, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Defrees, Deming, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferry, Garfield, Grinnell, Abner C. Harding, Hayes, Henderson, Higby, Holmes, Hooper, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Kuykendall, Lathin, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McKuer, Moorhead, Morrill, Morris, Moulton, Myers, O'Neill, Orth, Paine, Perham, Pike, Plants, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Schenck, Scofield, Shellabarger, Sloan, Spaulding, Starr, Stevens, Thayer, Trowbridge, Upson, Van Aernam, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—102.

NAYS—Messrs. Ancona, Bergen, Boyer, Brooks, Chanler, Dawson, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Hale, Aaron Harding, Hogan, Chester D. Hubbard, Kerr, Latham, McCullough, Mercer, Niblack, Nicholson, Phelps, Radford, Samuel J. Randall, Raymond, Ritter, Rogers, Ross, House-seau, Shanklin, Smith, Taber, John L. Thomas, Thornton, Trimble, and Whaley—36.

NOT VOTING—Messrs. Alley, Ames, Barker, Blow, Buckland, Bundy, Cullom, Culver, Darling, Davis, Dawes, Delano, Denison, Dixon, Dumont, Farquhar, Griswold, Harris, Hart, Hill, Hotchkiss, Edwin N. Hubbard, James Humphrey, James M. Humphrey, Johnson, Jones, George V. Lawrence, LeBlond, Marshall, Miller, Newell, Nocell, Patterson, Sawyer, Sitgreaves, Stilwell, Strouse, Taylor, Francis Thomas, Burt Van Horn, Robert T. Van Horn, Voorhees, Winfield, and Wright—44.

So the first resolution was adopted.

The question was then upon agreeing to the second resolution, as follows:

Resolved, That whenever the people of any State are thus "deprived of all civil government," it becomes the duty of Congress, by appropriate legislation, to enable them to organize a State government, and in the language of the Constitution to guaranty to such State a republican form of government.

Mr. STEVENS. I call for the yeas and nays.

The yeas and nays were ordered.

The question being taken on agreeing to the second resolution, it was decided in the affirmative—yeas 104, nays 33, not voting 45; as follows:

YEAS—Messrs. Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Boutwell, Brandegee, Bromwell, Broomall, Reader W. Clarke, Cobb, Conkling, Cook, Cullom, Defrees, Deming, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding,

Hayes, Henderson, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hubburd, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Laffin, William Lawrence, Loan, Longyear, Lynch, Marvin, McClurg, McIndoe, McKee, McRuer, Mercor, Moorhead, Morrill, Morris, Moulton, Myers, O'Neill, Orth, Paine, Perham, Pike, Plants, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Seofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—104.

YEAS—Messrs. Ancona, Bergen, Boyer, Brooks, Chandler, Dawson, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Hogan, Kasson, Kerr, Latham, Le Blond, McCullough, Niblack, Nicholson, Phelps, Radford, Samuel J. Randall, Raymond, Ritter, Rogers, Ross, Shanklin, Smith, Taber, Thornton, Trimble, and Whaley—83.

NOT VOTING—Messrs. Alley, Allison, Ames, Barker, Blaine, Blow, Buckland, Bundy, Sidney Clarke, Culver, Darling, Davis, Dawes, Delano, Denison, Dixon, Dumont, Farquhar, Harris, Hart, Hill, Edwin N. Hubbell, James Humphrey, James M. Humphrey, Johnson, Jones, Kuykendall, George V. Lawrence, Marshall, Marston, Miller, Newell, Noel, Patterson, Rousseau, Sitgreaves, Stilwell, Strouse, Taylor, Francis Thomas, Robert L. Van Horn, Voorhees, Warner, Winfield, and Wright—45.

So the second resolution was adopted.

The question was then upon agreeing to the third resolution, as follows:

Resolved, That it is the deliberate sense of this House that the condition of the rebel States fully justifies the President in maintaining the suspension of the writ of *habeas corpus* in those States.

Mr. FINCK. I demand the yeas and nays.

The yeas and nays were ordered.

The question being taken on agreeing to the resolution, it was decided in the affirmative—yeas 120, nays 26, not voting 36; as follows:

YEAS—Messrs. Allison, Anderson, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Broomall, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Dawes, De-frees, Deming, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Hale, Abner C. Harding, Hayes, Henderson, Higby, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, James Humphrey, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Kuykendall, Laffin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McRuer, Mercor, Moorhead, Morrill, Morris, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Seofield, Shellabarger, Sloan, Smith, Spalding, Starr, Stevens, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—120.

YEAS—Messrs. Ancona, Bergen, Boyer, Brooks, Chandler, Dawson, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, James M. Humphrey, Kerr, Le Blond, McCullough, Newell, Niblack, Radford, Ritter, Rogers, Ross, Shanklin, Smith, Taber, Thornton, and Trimble—26.

NOT VOTING—Messrs. Alley, Ames, Delos R. Ashley, Barker, Blow, Buckland, Bundy, Culver, Darling, Davis, Delano, Denison, Dixon, Dumont, Harris, Hart, Hill, Hogan, Asahel W. Hubbard, Edwin N. Hubbell, Johnson, Jones, Marshall, Miller, Nicholson, Noel, Samuel J. Randall, Rousseau, Sitgreaves, Stilwell, Strouse, Taylor, Francis Thomas, Voorhees, Winfield, and Wright—36.

So the third resolution was adopted.

During the roll-call,

Mr. ORTH said that his colleague, Mr. DUMONT, was detained from his seat in consequence of serious illness.

The fourth resolution was again read, as follows:

Resolved, That it is the deliberate sense of this House that the condition of the rebel States fully justifies the President in maintaining military possession and control thereof, and that the President is entitled to the thanks of the nation for employing the war power for the protection of Union citizens and the freedmen in those States.

Mr. RANDALL, of Pennsylvania, demanded a division of the resolution.

The question was upon agreeing to the first clause of the resolution, as follows:

Resolved, That it is the deliberate sense of this House that the condition of the rebel States fully justifies the President in maintaining military possession and control thereof.

Mr. ASHLEY, of Ohio, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided

in the affirmative—yeas 117, nays 23, not voting 42; as follows:

YEAS—Messrs. Allison, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Broomall, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Dawes, De-frees, Deming, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hayes, Henderson, Higby, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hubburd, James Humphrey, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Kuykendall, Laffin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McRuer, Mercor, Moorhead, Morris, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Plants, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Rousseau, Sawyer, Schenck, Seofield, Shellabarger, Sloan, Smith, Starr, Stevens, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—117.

YEAS—Messrs. Ancona, Bergen, Boyer, Brooks, Dawson, Eldridge, Finck, Glossbrenner, Goodyear, Aaron Harding, James M. Humphrey, McCullough, Niblack, Nicholson, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Shanklin, Taber, Thornton, and Trimble—23.

NOT VOTING—Messrs. Alley, Ames, Anderson, Barker, Blow, Buckland, Bundy, Chandler, Culver, Darling, Davis, Delano, Denison, Dixon, Donnelly, Dumont, Grider, Harris, Hart, Hill, Hogan, Asahel W. Hubbard, Edwin N. Hubbell, Johnson, Jones, Kerr, Le Blond, Marshall, Miller, Morrill, Newell, Noel, Pike, Sitgreaves, Spalding, Stilwell, Strouse, Taylor, Voorhees, Winfield, and Wright—42.

So the first branch of the resolution was agreed to.

After the roll-call was concluded,

Mr. DONNELLY said: I would have voted in favor of this branch of the resolution if I had been in my seat when my name was called.

The question recurred upon agreeing to the last branch of the resolution, as follows:

And that the President is entitled to the thanks of the nation for employing the war power for the protection of Union citizens and the freedmen in those States.

Mr. BANKS called the yeas and nays.

The yeas and nays were ordered.

The question was taken, and it was decided in the affirmative—yeas 134, nays 8, not voting 40; as follows:

YEAS—Messrs. Ancona, Anderson, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bergen, Bidwell, Bingham, Blaine, Boutwell, Boyer, Brandegee, Bromwell, Brooks, Broomall, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Dawson, De-frees, Deming, Donnelly, Driggs, Eckley, Eggleston, Eldridge, Eliot, Farnsworth, Farquhar, Ferry, Finck, Garfield, Glossbrenner, Goodyear, Griswold, Hale, Abner C. Harding, Hayes, Higby, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hubburd, James Humphrey, James M. Humphrey, Ingersoll, Jenckes, Johnson, Julian, Kasson, Kelley, Kelso, Kerr, Ketcham, Kuykendall, Laffin, Latham, George V. Lawrence, William Lawrence, Le Blond, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, Mercor, Moorhead, Morrill, Morris, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Pomeroy, Price, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Rousseau, Sawyer, Schenck, Seofield, Shellabarger, Sloan, Smith, Spalding, Starr, Stevens, Taber, Thayer, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—134.

YEAS—Messrs. Grider, Aaron Harding, McCullough, Nicholson, Ritter, Rogers, Shanklin, and Trimble—8.

NOT VOTING—Messrs. Alley, Allison, Ames, Delos R. Ashley, Barker, Blow, Buckland, Bundy, Chandler, Culver, Darling, Davis, Dawes, Delano, Denison, Dixon, Dumont, Grinnell, Harris, Hart, Henderson, Hill, Hogan, Asahel W. Hubbard, Edwin N. Hubbell, Johnson, Jones, Marshall, McRuer, Miller, Newell, Niblack, Noel, Ross, Sitgreaves, Stilwell, Strouse, Taylor, Voorhees, Winfield, and Wright—10.

So the last branch of the resolution was agreed to.

Mr. UPSON moved to reconsider the various votes by which the House agreed to the several resolutions; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MONEYS FROM REBEL STATES.

The SPEAKER laid before the House a communication from the Secretary of the Treas-

ury, transmitting, in compliance with the resolution of the House of February 7, 1865, a tabular statement of the moneys paid into the Treasury since April 1, 1865, to date, by the States lately in rebellion; which was laid upon the table, and ordered to be printed.

REPORT ON COMMERCIAL RELATIONS.

Mr. LAFLIN, from the Committee on Printing, submitted the following resolution, upon which he called the previous question:

Resolved, That five hundred and fifty extra copies of the report on the commercial relations of the United States with foreign nations for the year 1865 be printed for the use of the State Department.

The previous question was seconded, and the main question ordered; and, under the operation thereof the resolution was agreed to.

Mr. WASHBURNE, of Illinois. I move to reconsider the vote on agreeing to the resolution just adopted. I make this motion for the purpose of asking a question of the gentleman from New York, [Mr. LAFLIN.]

I observe that the resolution provides only for the printing of a certain number of copies of the report on commercial relations for the use of the State Department. The resolution which I introduced provided for the printing of the usual number of extra copies for the use of members of the House. I would like the gentleman to state why the resolution, as reported, does not provide for furnishing any copies of this document to the House. So far as I am individually concerned, I am not particular about having any copies printed for the use of the House; but I do not see why the number specified in the resolution should be printed for the use of the State Department, while none are printed for this House.

Mr. LAFLIN. Mr. Speaker, of every document ordered to be printed by the House fifteen hundred and fifty copies are required by law to be printed. That is the regular number. In addition to that, the law provides for printing extra copies of certain documents. By the law it is provided that of the reports of the Secretary of State on the commercial relations of the United States with foreign countries there shall be printed two thousand copies for Senators, three thousand for Representatives, and four hundred and fifty for the State Department. But, sir, the State Department desires for its own use, inasmuch as there are nine hundred officials who require this work, a thousand copies. In order to meet the deficiency the committee have reported in favor of printing five hundred and fifty extra copies for the State Department, making one thousand copies. The matter now stands in this way: there will be printed for the use of the members of this House three thousand copies, and for the use of the State Department one thousand copies.

Mr. WASHBURNE, of Illinois. That explanation is entirely satisfactory. I now move that my motion to reconsider be laid on the table.

The motion was agreed to.

MEMORIAL ADDRESS OF MR. BANCROFT.

Mr. LAFLIN, from the Committee on Printing, also reported the following resolution, upon which he called the previous question:

Resolved, That there be printed for the use of members of this House twenty thousand extra copies of the memorial address of Hon. George Bancroft, and the proceedings thereon, on the death of the late President Lincoln, delivered before the two Houses of Congress and their invited guests, on the 12th instant.

Mr. ROGERS. I move to amend by adding "the Dred Scott decision."

The SPEAKER. That motion is not in order at this time.

The previous question was seconded, and the main question ordered, which was upon agreeing to the resolution.

The question being taken, there were, on a division—yeas 74, noes 18.

So the resolution was agreed to.

Mr. LAFLIN moved to reconsider the vote on agreeing to the resolution; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INTER-CONTINENTAL TELEGRAPH.

Mr. BANKS. I ask the leave of the House to present a joint resolution relating to the completion of telegraphic communication between the western and eastern continents. It is important that the coming season should be appropriated to this work; I therefore propose to ask the consideration of this resolution at the present time. I ask that it may be read for the information of the House.

The Clerk read the joint resolution. It recites in the preamble the provisions of the act of July 1, 1864, on the same subject, authorizing the Secretary of the Navy to detail a vessel to assist in surveys and soundings, laying down submarine cable, transporting materials connected therewith, and generally afford such assistance as may be deemed best calculated to secure a successful prosecution of the enterprise.

The preamble further recites that the Emperor of Russia, for the purpose of coöperating with the Government of the United States under the act of 1864, has ordered a steam corvette, the *Variay*, of two thousand one hundred and fifty-six tons burden, seventeen guns, and three hundred and six men, to be placed subject to the orders of the telegraph company; and that the company intend during the ensuing summer to lay the submarine cable required at Behring's straits, the cable and the material for the entire line being now in transit, and the vessels of the company, seven in number, being ready at San Francisco and Vancouver, and requiring immediate coöperation on the part of the United States in conformity with the act referred to.

The resolution, therefore, authorizes and requires the Secretary of the Navy to detail one steam vessel from the squadron of the Pacific station to assist in making surveys and soundings in that part of the Pacific coast both of America and Asia where it is proposed to establish said telegraph, in laying the submarine cable, in transporting materials connected therewith, and generally to afford such assistance as may be best calculated to secure the success of the enterprise and to carry out the purposes of the act of July 1, 1864, entitled "An act to encourage and facilitate telegraphic communication between the eastern and western continents."

Mr. WASHBURN, of Illinois. The gentleman from Massachusetts does not propose to act upon that now without further consideration.

Mr. BANKS. Of course I desire it to be considered now.

Mr. WASHBURN, of Illinois. I do not propose to legislate for the benefit of a telegraph or any other company in this way—to put our Navy under its orders.

Mr. BANKS. The resolution is nearly a transcript of the second section of the act of 1864, except that this requires the Secretary of the Navy to furnish this vessel, instead of placing it at his discretion, as the act of 1864 did. We were at war with the insurgent States. If action is to be taken, it should be disposed of early this season. If the House is not disposed to decide the question to-day, let it be introduced, so it shall take its place next after the Pennsylvania contested-election case.

The SPEAKER. Is there objection?

Mr. WASHBURN, of Illinois. I object.

Mr. BANKS. I move, then, that the rules be suspended.

Mr. BROOKS. I wish to ask a question in reply to a remark of the gentleman from Illinois. What difference is there whether this United States vessel shall idly cruise off the coast of California or be ordered to the discharge of this service?

Mr. WASHBURN, of Illinois. I have good reason for my objection. It would cost a great deal more to send out a vessel for this purpose than to keep one cruising there. I am opposed to directing the Secretary of the Navy to put a naval vessel at the disposal of any company, telegraph or otherwise.

Mr. STEVENS. Mr. Speaker, one word.

Last year we authorized the Secretary of the Navy to send one of our ships to the Pacific coast to aid this company in the great enterprise of laying this most important line of telegraph. The Russian Government at once ordered one of its vessels to attend the laying down of the line so far as its coast went. It went further, and ordered one of its vessels to coöperate with the vessel which we authorized, as that Government said, that the two flags of Russia and the United States might mingle in the execution of this great work. Our order is still out; but some clerk in the Navy Department says, notwithstanding that object is plain upon its face, yet it does not use the word "required," but the word "authorized," in the ordinary way, and it will not grant it. I hope we will allow the legitimate construction of the act to be carried out. We have a vast number of vessels now doing nothing.

Mr. WASHBURN, of Illinois. This is to amend the act of last Congress?

Mr. STEVENS. This is to say required instead of authorized.

Mr. WASHBURN, of Illinois. I hope the House will not agree to it.

Mr. BANKS. Pending the motion to suspend the rules, I ask the gentleman from Illinois to allow me to make a single suggestion.

Mr. WASHBURN, of Illinois. When the rules are suspended and it comes in we can then discuss it on both sides.

The House divided; and there were—ayes 97, noes 9.

So the rules were suspended.

The joint resolution was read a first and second time.

Mr. BANKS. Mr. Speaker, I desire to make a single suggestion in reply to the gentleman from Illinois.

This is one of the grandest enterprises of the age; and all that is asked of the United States is that our Government shall furnish a vessel to carry the flag of our country during the operation of laying the submarine telegraph line. There are two hundred thousand miles of telegraph in Europe and Asia, and one hundred thousand miles here, making three hundred thousand miles. It is necessary to connect these lines by a submarine cable at Behring's straits. This great line is completed except about twenty-five hundred miles, twelve or fifteen hundred miles in Asia and ten or twelve hundred on the American side. It will probably be completed this summer, certainly in 1867.

It is an American enterprise. Mr. Collins is the author of the enterprise; is a native of New York and a citizen of New York; and Colonel Bulkeley, with whom I served three years in the Army of the United States, the engineer charged with the execution of the work, is a citizen of New York. He is one of the most patriotic, courageous, and capable men I have known, and has few if any superiors in this country as a telegraphic engineer. In his hands it is certain to be successful. The enterprise will be completed this summer, at the farthest in 1867. The Secretary of the Navy will through this enterprise be able at any moment to communicate with his vessels at any naval station upon the face of the earth. All we ask is he shall allow the flag of the United States to attend our engineers and workmen in the completion of the work. The Emperor of Russia has given his whole heart to the success of the enterprise, and has voluntarily granted the use of a first-class vessel-of-war, as stated in the preamble; the British Government has granted everything required; and the United States Government has given everything except that which we now ask. I demand the previous question.

Mr. RICE, of Massachusetts. Will the gentleman yield?

Mr. BANKS. I will.

Mr. RICE, of Massachusetts. If I understand the resolution correctly, I think it limits the vessels that may be detailed for this service to the Pacific squadron. I would inquire whether my colleague knows that there is a suitable vessel there, and suggest whether it would not be expedient to enlarge the scope of

the resolution sufficiently to send a proper vessel fitted for this work from any quarter.

Mr. BANKS. I understood there were vessels proper for this service on the Pacific side. I have no objection, however, to modifying the resolution by adding after the words "Pacific squadron" the words "or elsewhere."

Mr. WASHBURN, of Illinois. I ask the gentleman to withdraw the previous question for a moment.

Mr. BANKS. I do not wish to open a general debate; if the gentleman wants to make a suggestion I will withdraw it.

Mr. WASHBURN, of Illinois. I wish to make this suggestion in reply to the gentleman from Massachusetts. This is a corporation which has been established for the purpose of building these telegraph lines. It is entirely a private matter. Congress at the last session placed this matter at the discretion of the Secretary of the Navy, and in the exercise of a very wise judgment, in my opinion, he declined to allow any vessel to be appropriated to this use. Now this corporation comes here and asks Congress to direct the Secretary of the Navy to place this vessel at its disposal, and the people of the United States are now asked to pay the expenses which this telegraph company should itself pay. That is just what it amounts to.

It is suggested that it is not going to cost any more to have this vessel go upon this expedition than it would to have it lie idle. That suggestion cannot be sustained. I make the prediction that we shall involve this Government in an expense of \$50,000 by the passage of this joint resolution. If the House is prepared to do this, it may do so; for one I am opposed to it.

Mr. BROOKS. Will the gentleman from Massachusetts yield to me for two or three words only?

Mr. BANKS. Certainly.

Mr. BROOKS. This is not a mere corporation. If it were I would not vote for it on that ground. The Government and the world are to act through the agency of this telegraph. It is a great act of civilization. It is stretching out the American continent to the Old World through the only successful route, and above all it is the only means of reaching the only European Power that is favorable to the people of the United States. It is indispensably necessary, therefore, situated as we are with regard to France and England, forthwith by telegraph to connect ourselves with Russia, our only friend in Europe.

Mr. BANKS. I have only a word more to say, and then I shall call the previous question. This is not strictly private enterprise. It is one in which the whole world is interested. It is true that it is effected through the agency of a corporation, as many other great works are, but it is sustained and will succeed through the assistance of Governments. If the Navy Department of this country has no interest in such a question as this, the people have. It puts us in communication with five hundred million people—the Russians and Chinese—who are friendly to us, and who are the only friends we have in the Old World. And in effecting communication with these friendly nations we dwarf in the future whatever of the European Powers that are hostile to us. Upon that consideration alone this enterprise is one of purely public character, and should be so regarded by every member of this House. I call the previous question.

The previous question was seconded, and the main question ordered.

The question was then taken on agreeing to the amendment to add after the words "Pacific station," the words "or elsewhere," and it was agreed to.

The joint resolution was then ordered to be engrossed for a third reading; and being engrossed, it was read the third time.

The question then was on the passage of the joint resolution.

Mr. BANKS. I demand the previous question on the passage.

The previous question was seconded, and the main question ordered; and under the operation thereof the joint resolution was passed.

Mr. BANKS. I move that the House reconsider the vote by which the resolution was passed; and that that motion be laid on the table.

The latter motion was agreed to.

MEXICAN LOAN.

Mr. SCHENCK. I ask unanimous consent to have the following resolution considered at this time:

Resolved, That the President be requested to communicate to this House, at as early a day as practicable, if in his opinion not incompatible with the public interests, any correspondence or other information in his possession or on file in the State Department having relation to any steps taken by the republican Government of Mexico directed to the negotiation of a loan in the United States for the purpose of procuring means to sustain that republic in its effort to maintain its independence.

Mr. RADFORD. I object.

INCOME TAX OF UNMARRIED MEN.

Mr. HUBBARD, of Connecticut, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of making such an amendment to the internal revenue law as will not allow the same amount of exemption from taxation to a single man as to a householder and a man having a family, and that they be permitted to report by bill or otherwise.

NAVY-YARD IN CONNECTICUT.

Mr. BRANDEGEE. I ask unanimous consent to submit the following resolution to be considered at this time:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the advantages of a site offered to the Government upon the river Thames, near New London, Connecticut, for naval purposes, and to report upon the expediency of accepting the same for the purpose of establishing thereat a navy-yard or naval station for the construction, repair, or laying up in ordinary iron-clad or other naval vessels, with leave to report by bill or otherwise.

Mr. CHANLER. I object.

CATTLE DISEASE.

Mr. J. M. HUMPHREY. I am instructed by the Committee on Commerce to report a bill to amend an act entitled "An act to prevent the spread of foreign diseases among the cattle of the United States," approved December 18, 1865, and ask for its consideration at this time.

Mr. RADFORD. Let the bill be read.

The bill was read at length. The first section provides that the act to prevent the spread of foreign diseases among the cattle of the United States, approved December 18, 1865, be amended so as to provide that the importation of neat cattle and of hides of neat cattle from any foreign country into the United States shall be prohibited; provided that the operation of this act, or any part thereof, may be suspended as to any foreign country or countries, or any parts of such country or countries, whenever the Secretary of the Treasury shall officially determine and give public notice thereof that such importation will not tend to the introduction or spread of contagious or infectious disease among the cattle of the United States; and the Secretary of the Treasury is authorized and empowered, and it shall be his duty to make all the necessary orders and regulations to carry this law into effect or to suspend the same as therein provided, and to send copies thereof to the proper officers in the United States, and to such officers or agents of the United States in foreign countries as he shall judge necessary.

The second section provides that the President of the United States, whenever in his judgment the importation of neat cattle and of hides of neat cattle may be made without danger of the introduction or spread of any contagious or infectious disease among the cattle of the United States, may by proclamation declare the provisions of this act to be inoperative, and the same shall be afterward inoperative and of no effect, from and after thirty days from the date of said proclamation.

Section three provides that any person con-

victed of an unlawful violation of any provision of this act shall be punished by a fine not exceeding \$500, or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court.

No objection was made to the introduction of the bill.

The bill was then read a first and second time, and ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. J. M. HUMPHREY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. LAWRENCE, of Pennsylvania. I ask leave of absence for my colleague, Mr. MILLER, for several days.

Leave was accordingly granted.

The SPEAKER. I am requested to ask leave of absence for Mr. LE BLOND for two weeks.

Leave was accordingly granted.

PAY OF OFFICERS IMPROPERLY DISMISSED.

Mr. ECKLEY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be requested to inquire into the expediency of providing for payment and allowance to meritorious officers who, while in service during the war of the rebellion were summarily dismissed without trial, and reinstated upon proper showing; said payment and allowance to cover the period from their dismissal until their restoration; and that they report by bill or otherwise.

CONTESTED-ELECTION CASE.

Mr. DAWES presented, from the Committee of Elections, a report on the contested-election case of Washburn vs. Voorhees, accompanied with the following resolutions, which were read:

Resolved, That Hon. Daniel W. Voorhees is not entitled to a seat in this House as a Representative from the seventh district of Indiana in the Thirty-Ninth Congress.

Resolved, That Henry D. Washburn is entitled to a seat in this House as a Representative from the seventh congressional district of Indiana, in the Thirty-Ninth Congress.

The report, with the accompanying resolutions, was laid on the table, and ordered to be printed.

Mr. DAWES. I desire to state that this report will, I suppose, be printed and ready for the perusal of members to-morrow. I wish to call it up for action on Wednesday, inasmuch as there will probably be no session of the House on Thursday, the 22d, and the business of the committee is such that they cannot attend to the matter on Friday. I hope that members will, by reading the report, relieve the committee of any necessity for consuming the time of the House in extended discussion. I shall be glad to have the action of the House upon the question without much debate.

PENNSYLVANIA CONTESTED ELECTION.

Mr. UPSON. I rise to a question of privilege, and call up the resolutions reported by the majority of the Committee of Elections on the contested-election case from the sixteenth congressional district of Pennsylvania. My colleague on the committee, the gentleman from Ohio, [Mr. SHELLABARGER,] desires to address the House. I give notice that when he shall have closed I shall call the previous question, unless some gentleman shall desire to reply to him.

Mr. STEVENS. I hope the gentleman will give me about ten minutes.

Mr. UPSON. Certainly.

The following are the resolutions reported by the majority of the committee:

Resolved, That Alexander H. Coffroth, upon the certificates and papers relating to the election in the sixteenth congressional district of the State of Pennsylvania, has the *prima facie* right to the vacant seat from that district, and is entitled to take the oath of office and occupy a seat in this House as the Representative in Congress from said district, without prejudice to the right of William H. Koontz, claiming to have been duly elected thereto, to contest his right to said seat upon the merits.

Resolved, That William H. Koontz, desiring to contest the right of Hon. Alexander H. Coffroth to a seat in this House as a Representative from the sixteenth district of the State of Pennsylvania, be, and he is, required to serve upon the said Coffroth, within fifteen days after the passage of this resolution, a particular statement of the grounds of said contest, and that the said Coffroth be, and he is hereby, required to serve upon the said Koontz his answer thereto within fifteen days thereafter, and that both parties be allowed sixty days next after the service of said answer to take testimony in support of their several allegations and denials, notice of intention to examine witnesses to be given to the opposite party at least five days before their examination, but neither party to give notice of taking testimony within less than five days between the close of taking it at one place and its commencement at another, but in all other respects in the manner prescribed in the act of February 19, 1851.

The pending question was upon the motion of Mr. PAINE to amend the resolutions submitted by the majority of the committee, by striking out all after the word "resolved," and inserting in lieu thereof the following:

That William H. Koontz has the *prima facie* right to a seat in this House as a Representative of the sixteenth congressional district of the State of Pennsylvania.

Resolved, That Alexander H. Coffroth, desiring to contest the right of William H. Koontz to a seat as Representative of the sixteenth congressional district, be required to serve upon the said Koontz, within fifteen days after the adoption of this resolution, a particular statement of the grounds of said contest; and that the said Koontz be required to serve upon the said Coffroth his answer thereto within fifteen days thereafter; and that both parties be allowed sixty days next after the service of said answer to take testimony in support of their several allegations and denials; notices of proposed examinations of witnesses to be given at least five days before such examinations; no such examination to be commenced at one place before the expiration of five days from the conclusion of the last examination at another place; such examinations to be regulated in all other respects by the provisions of the act of February 19, 1851.

Mr. SHELLABARGER. Mr. Speaker, my colleague [Mr. UPSON] has not stated the matter with precise accuracy in saying that I desire to address the House. I really desired very much to avoid speaking on the question, as I am confident that the House now feels weary of the subject. Gentlemen, however, whose interests are closely involved, are particularly desirous that I shall say something on the question, and I yield to them. I shall attempt to condense my remarks into the smallest possible compass consistently with the proper presentation of the points which strike me as important. And, Mr. Speaker, I think that this case, like almost every other case, turns upon two or three points. It is true that other matters connect themselves with these points, and will have to be looked at.

This is a case in which five counties compose the congressional district, the sixteenth district of Pennsylvania. In relation to three of those five counties there is no dispute or difference among the members of the committee. In order to get at the truth, then, we need only look at two of those counties, Adams and Bedford. Here, Mr. Speaker, let me attract, if I can, the attention of members to that which appears to my mind a controlling idea in this case: that, if you count all the votes that are returned to this House by official, and, as I deem, legal papers, there is no controversy in the case, and Mr. Koontz is entitled to the seat, because he received more votes than his antagonist, as indicated by the legal papers in the case. The whole question is, whether this House is in such a predicament that it dare not look at the papers in the case, whether, in other words, there has been got here by some process of technics such a state of things that the House of Representatives cannot get beyond a certain paper blockade and find out the truth upon official papers in the case?

Now, how does that happen? In just this way: it is said that there is here a certain return, made by what is called the district board of this sixteenth district, which return concludes Congress and prevents us from looking at those other papers which show that Mr. Koontz is elected.

Now, sir, that is a proposition which to my mind is utterly untenable and wrong, wrong in fact and wrong in that there is no legal principle upon which it can be rested.

Let us look at that a moment. The resolution referring this matter to us directs us to find

who has the *prima facie* title. What does that mean? I will state it in a sentence. It means, not that this House shall drift along and lodge upon the first paper which comes up, to wit, the return of the district board; but it means this House shall look at all the legal papers before it and find out who has received the largest number of votes. Now, sir, there is under the Pennsylvania laws, as disclosed in this case, but one judicial tribunal to determine who shall not vote; and that judicial tribunal are the judges who, under the law of Pennsylvania, decide when a man is entitled to vote or when he is not.

Sir, when that board has acted on the matter, and it has been received, then the vote has accomplished its high prerogative; it is then the determination and voice of the American constituent, and this Congress in finding out the question who has the *prima facie* title has nothing else to do than to cast up from the papers which show these votes admitted by this board of judges the whole number of them, and give the seat to him who has the most votes as shown by all the papers in the case, which are papers provided by law to show the number of these votes. To make that count is to find the *prima facie* title.

Mr. Speaker, under the act of Congress there is no *prima facie* case proved by any paper. That act of Congress reads thus:

"Before the first meeting of the next Congress, and of every subsequent Congress, the Clerk of the next preceding House of Representatives shall make a roll of the Representatives-elect and place thereon the names of all persons, and all such persons only, whose credentials show that they were regularly elected in accordance with the laws of their States respectively, or the laws of the United States."

Now, sir, no such credential as that is in this case. The Governor's proclamation announcing the election of members from the State of Pennsylvania would be such a credential. The Governor found there was no such return made to him as would permit him to issue that proclamation. Now, there is only one other possible credential which is known to the laws of Pennsylvania which could be such a credential as that contemplated by the act of Congress, and that is the paper which the district board is required to send to the person elected, or decided to be elected by that district board. Such a paper is said to be in this case. It is paper No. 16. Let me say to the House that the paper in this case, even if we were bound to stop upon it, even if I were mistaken in the proposition I announced a month ago, to wit, that Congress can look at all the papers before it, even though the certificate of the district board were in form perfect, and that there is no legal order in which we must take up the papers; even if I were wrong in that, and though we cannot go past a return legal in form, and count, as I insist we may, the returns from the election precincts; if we must on the contrary stop at the return of this district board, were it in due form, then still there is nothing in this case to prevent Congress from going back to those elementary returns, because this credential, which I say is the only other possible credential in the meaning of the act of Congress, the return made by the district board, is amenable to the following fatal objections: first, that it is confronted by another return, to wit, paper 15, on page 36 of the report, shows that Coffroth's certificate was based on a count which did not include all the counties of the district, but in fact excluded Somerset. Secondly, it is on its own face not in compliance with the law.

On that return held by Mr. Coffroth it is not indicated, as indeed the fact was not, that they had counted all the counties of the district, and on the face of that paper they professed to count only such as were before them. So that paper does not profess to comply with the law. And that is not all, nor the worst of it. Another paper in the case shows that they actually did reject or omit to count one county of the district. Now, I ask gentlemen, before saying they are bound by that return, to pause and look at the consequences a little.

Mr. RADFORD. Will the gentleman state why they did not count that one county?

Mr. SHELLABARGER. Certainly I will in the course of my remarks. They did not count one county, namely, Somerset. That fact is shown by their own return. They say so on the face of the paper. They say in their return to the secretary of state that they have not counted Somerset. Now, sir, is that return good for anything in law? The law says that they shall count all the votes cast. They say that they did not count Somerset. Will you say that that is such a return as concludes Congress?

Look, as I said a moment ago, at the consequences of that. There are five counties in my district. Four of those counties give me say 6,000 majority; but one, to wit, the county in which Columbus is situated, Franklin, has changed the result in one past election. Now, suppose that by sickness, by accident, by a bridge being swept away, or by some other unavoidable event, that county has not sent in its returns to the place of meeting where the returns are counted. The returns of the other four counties are counted, leaving out Franklin, and I am declared elected; whereas if the county of Franklin had been counted, it would have changed the result. And then it is gravely said to the House of Representatives that the papers are conclusive upon Congress. Why, sir, it seems to me simply preposterous.

And that brings me to the question suggested by my colleague on the committee, why Somerset county was not counted. The majority of the committee have referred to that in what seems to me to be a very singular argument. It was not counted, it is said, because the gentleman who represented that county absented himself. He was notified to attend and did not attend, and a majority of the committee use this expression:

"It is now claimed on behalf of Mr. Koontz that this voluntary neglect of duty on the part of his friend, the return judge of Somerset county, shall be made to redound to his benefit, and that he shall in fact be placed in a better position than if said judge had done his duty."

Mr. RADFORD. Will the gentleman yield? Mr. SHELLABARGER. Yes, sir.

Mr. RADFORD. I want to ask him whether or not it appears, from the report of the committee, that the gentleman who absented himself was in town at that time, and that he was a friend of Mr. Koontz.

Mr. SHELLABARGER. I take the statement I have just read from the report as true, that he was a political friend of Mr. Koontz; and I take it he was in town. I consider that it makes no conceivable difference as to what was the duty of the board, nor as to the invalidity of their action after they had excluded this county from their count.

Now, suppose we assume that it is possible for Mr. Koontz and the return officer for Somerset county to confederate together, if you please—a thing that is not claimed in this case—to absent themselves and deprive the board of the presence of that return. Will any gentleman in this House now get up and say that that will change the result of an election in any congressional district? Dare any gentleman here maintain that the fault of anybody in failing to bring in a county shall be held to change the result of an election by the people? Is the choice of the people to be defeated in order to punish the judge of Somerset for confederating to not bring it in? I reply to my friends of the majority of this committee, the law knows no friend of Mr. Koontz in this official duty which the return judge of Somerset has to pass upon and to discharge. I say that the law recognizes no such relation as that in the discharge of this official duty, and to punish Mr. Koontz and his friend will not defeat the election of the people.

Mr. RADFORD. I will not interrupt the gentleman again if he will answer me one question. In regard to the returns which that gentleman from Somerset county had in his pocket, if the candidate had gone in on that count on that day what would have been the result?

Mr. SHELLABARGER. I will answer that if the gentleman will bear with me until I come to one after another of the suggestions. Now,

my proposition is this: that the law of Pennsylvania requires this district board to count the votes of all the counties; that anything less than that is not a compliance with the law; that that is shown by the return itself not to have been done; that therefore the return is insignificant in law; and hence, just as the attorney general and the Governor of Pennsylvania decided, it was rejected as good for nothing.

Then we have these ideas, which I beg to impress upon any gentleman who desires information in regard to this question:

First, that the Governor of the State decided that this district return, in which Somerset county was omitted, was worthless, and could not be made the predicate of his action.

Second, that that opinion was based upon the opinion of Mr. Meredith, the attorney general of the State of Pennsylvania.

Third, that that is a return made in express, direct, and palpable violation, or rather disregard, of the requirements of the laws of Pennsylvania, which require that that board shall count all the votes given.

Fourth, that if you permit the sweeping away of a bridge or the sickness of a return judge or any other accident to deprive the people of their choice, and make a return binding which is made in absence of that part of the district kept out by such accident, then you have put it into the power of bad men, as well as of an accident, to change the result in any election in any congressional district in the United States; and

Fifth, that there is no such practical difficulty in the case as the majority of the committee suggest, to wit, that the vote of Somerset county could not be had. It could be had, at any rate upon a contest, or an inquiry into the merits of the case which would reach to and bring up the returns of the precincts.

And far better than to permit a man by absentsing himself to change the result in any congressional district, will it be to have no return at all, and let the body that has the control of the question, whether it be court or House of Representatives, send for the evidence that will show who is elected.

This report of the board is a mere instrumentality, a mere method of getting at the truth. Then why take a position which will enable a bad man to change the result rather than resort to that other expedient to await the sending for and procuring the returns that lie back of this return of the board.

Now, I come to the question last asked by my colleague, [Mr. RADFORD,] as to what would have been the consequence if this man from Somerset had gone into the board. Now, that is a very pertinent question; and it is one that it is exceedingly easy to answer. Had he gone into the board, as it was then constituted and convened, with the kind of returns that they had there, and had the return of Somerset county been counted in with those that were there on that day, then the result would have been a small majority for Mr. Coffroth.

Mr. RADFORD. Ah!

Mr. SHELLABARGER. But the trouble with the conclusion to which my friend seeks to arrive is just this: that that board had, previous to the meeting, been guilty, if not of conspiracy, as has been charged, to defeat the choice of the people, at least had been guilty of a gross violation of the law, and had fixed up the returns of two counties in such a way as to commit at least a fraud against Mr. Koontz.

Mr. DAWES. Will the gentleman from Ohio yield to me for a moment?

Mr. SHELLABARGER. I will, certainly.

Mr. DAWES. I want to give my colleague on the committee [Mr. SHELLABARGER] an opportunity to answer this point right here. He says that the district judges who composed that board had been guilty, previous to that, of what he calls a conspiracy.

Mr. SHELLABARGER. I did not say that. I said that had been charged.

Mr. DAWES. Very well; it is charged that they had been guilty of a conspiracy in fixing up the returns. I suggest to him now, as a law-

yer, to say in all fairness if that is not a question of fact to be proved on evidence in the trial of the case on its merits, and not in the trial of a case on the *prima facie* evidence? I would like to hear him answer that question.

Mr. SHELLABARGER. Now, that is a very pertinent question, and one I would as lief answer now as at any other time, and I will answer in a way which it seems to me will commend itself to the convictions and approval of the gentleman from Massachusetts; that if it were a question of fraud relating to the admission of a vote, then it would be a question to be contested on the merits; but if it be a fraud or a conspiracy or a blunder—and observe, Mr. Speaker, I am not saying that it was either, it is utterly immaterial for the purposes of this case which it was, it comes to the same thing—it is not only competent for this House, but it is the duty of this House, to see by a count and inspection of all the legal returns of votes which are before Congress, whether those judges that met at Gettysburg assumed judicial powers which they did not possess and threw out the legal returns of a part of the townships or military precincts of the counties of Bedford and Adams; and if they did violate the law and assumed powers which did not belong to them, and met there after having rejected enough of the legal returns of the townships to change the result, and invited Somerset to come in, then I say, Somerset did right in not coming in. This rejection of legal returns is shown by the very papers on which the majority rely to make out their *prima facie* case, and it is not going into the merits to find the blunder or fraud when they appear on the very paper which Mr. Coffroth relies on to make out his case. His case shows the illegality of this alleged *prima facie* title paper. I say, that when the conspiracy or fraud or blunder consists in arbitrarily rejecting part of the votes of Bedford and Adams counties, that is a conspiracy or fraud or blunder into which we are bound to look, because the papers themselves disclose it and it in turn invalidates the papers which it taints. And here is just where we part. My friend insists that we shall shut our eyes and be stone-blind here as to what is the truth in reference to the number of votes excluded by the returns. And this although the papers themselves show the illegal exclusion.

Mr. DAWES. My friend does not quite understand me. I understood our duty to be to look at the papers without evidence. What my friend has stated here is a charge made on one side and denied on the other. The only manner in which the committee or anybody else could ascertain whether that charge was false or true was by hearing evidence. But my friend and his colleagues, the minority of the committee, assume that the charge made as a justification for this man is true, while the majority of the committee do not assume it to be either true or false, but say that it is an issue of fact, upon which testimony should be taken on the one side and on the other; and as the truth may turn out on the merits of the case, so we ought to find.

Mr. SHELLABARGER. Mr. Speaker, my friend is again slightly in error as to a matter of fact; and in that slight error of fact he gets entirely into a vice as to the legal position and conclusions at which he arrives. His error consists in overlooking this fact: that neither the majority nor the minority of this committee have adhered to the papers and said that they would look at no fact outside of them. Sir, thereport which I am now combatting is supported on its face by extrinsic evidence, as will be seen by reference to the second page. Because the return in favor of Mr. Coffroth is not upon its face as good as the return in favor of Mr. Koontz, the majority of the committee have resorted to outside evidence in order to show that the men who signed the paper of Mr. Koontz were not judges.

So I say here, that it is not traveling out of the sphere indicated by the resolution referring this subject matter to us, to ascertain, not by

general parole evidence, but by certified papers filed in this case, the fact that these men who met there at the meeting of the district board representing four counties, had in their county boards rejected the soldiers' votes for reasons that were utterly frivolous. Let me mention one instance now, lest I forget it hereafter. There was one case in which a man living in Franklin county had voted along with fifty or sixty men from Adams county. The Adams county return was right in every particular; but because that one man from another county had voted along with the men from Adams county they rejected the whole return. This is a specimen of the way in which they get Mr. Coffroth elected, and this appears, not by outside evidence, but by the papers which contribute in part to make up the alleged title of Mr. Coffroth.

Now, sir, when such papers as these brought before the Committee of Elections show that those men had in their county boards arbitrarily and in violation of the express provisions of law assumed a jurisdiction they were prohibited from assuming, and rejected soldiers' votes, and had thus put the district returns into such a condition as that if Somerset had come in it would be only walking into a snare, then I allege that it was the duty of Somerset to stay out of that meeting and defeat the consummation of a great wrong. I will, on this point, read a sentence from an opinion given in this case. True, it was given by counsel, counsel for Mr. Koontz, a counsel, however, exceedingly eminent in the law, who certainly states it as well as I could, and I think a great deal better. I mean my idea in regard to the effect in law of the conduct of these men upon their ability to make any binding or valid count or return at Chambersburg after they had in the county boards so violated the law in making up the returns of Adams and Bedford counties. It is from the opinion of Judge Black, of Pennsylvania. Here it is:

"I maintain that where the majority of a county election board transcends its merely ministerial duty of counting the votes, undertakes to decide the legality of the township returns by throwing out a part of them, and so provokes a split with those who cannot concur, the proceeding becomes revolutionary, and the power of the body to give any certificate at all is destroyed."

I say any court, I do not care whether it is this one, the highest court of the nation, or the lowest court of the people, could hold that a board whose powers are merely to add up votes shall be tolerated in first exercising the high judicial power of deciding that the returns of enough of the soldiers' votes are illegal and shall be rejected to change the result in the district, and then that these men shall be permitted to bring into a district board what they have left of the returns, and upon these illegal county board returns make up a valid count and return for the district binding upon all men and this House.

Mr. JOHNSON. I have not had an opportunity of knowing anything about this case except from the rumors we have heard. I desire to inquire whether Judge Black appeared as counsel before the Committee of Elections.

Mr. SHELLABARGER. No, sir.

Mr. JOHNSON. I inquire whether it is not known to the gentleman, as a member of that committee, as well as to other members of the committee, that that opinion which comes from Judge Black is a newspaper article, written for the benefit of his friend and relative Mr. Koontz?

Mr. SHELLABARGER. I read it because it is good sense. I will say, whether it comes from Judge Black or not, it is right; and I read it because it was right and not because it is authority.

Mr. SCOFIELD. Allow me to say that was a legal opinion given by Judge Black, written by him on this particular case and signed by him and sent to the committee.

Mr. RANDALL, of Pennsylvania. And let me add, for which no doubt he was well paid.

Mr. SHELLABARGER. I yield to my colleague on the committee, [Mr. SCOFIELD.]

Mr. SCOFIELD. I wish to say to my colleague from Pennsylvania further in answer to

that question that Judge Black, in connection with one on this floor, said he had given it a great deal of time and consideration, and it was an opinion he was willing to stand by as applicable to all cases coming up under the law of Pennsylvania, and for all time.

Mr. DAWES. Did he also tell my colleague on the committee how much he got for it?

Mr. SCOFIELD. No, sir. I will say, furthermore, that I am politically hostile to Judge Black. Everybody in our State, Democrat and Republican, who has practiced under him as judge of the supreme court will say he is as pure a man as the chairman of the Committee of Elections, and he is as pure a man, in my judgment, as we have.

Mr. DAWES. Allow me to say I did not mean to say it would be anything but pure on the part of Judge Black to take a retainer and pay for a professional opinion. My friend has been in the profession long enough to know that I did not impute anything against his honesty for taking a retainer and pay for writing an opinion in behalf of a client and appearing before the committee to advocate it.

Mr. STEVENS. Does my friend insinuate—

Mr. DAWES. The gentleman will not put an insinuation into my mouth in order to answer it.

Mr. STEVENS. I suppose when he asked if that opinion was not the result of a fee, he meant to insinuate that lawyers taking a fee would give a legal opinion different from their sound judgment of the law, or else that question has no significance.

Mr. DAWES. I made no such insinuation. The gentleman from Pennsylvania [Mr. STEVENS] is too clear-headed to have supposed I did. But it is as good a way to answer a point as any—and the gentleman from Pennsylvania knows it better than anybody else in this House—to put words into a man's mouth and then answer the words he has put in.

Mr. STEVENS. What did you mean?

Mr. DAWES. The gentleman knows that I meant this: that attorneys that appear before committees to advocate the cause of their clients advocate it in the best way they can; and it is no more proper to bring into this House the opinion of Judge Black, prepared to be presented before the committee in support of the claim of his client, and say that it is an independent opinion of a judge than it is to bring in an opinion of the counsel on the other side which was brought to match it. It is precisely the same thing.

Mr. RADFORD. I want to ask the gentleman from Pennsylvania [Mr. SCOFIELD] one question.

Mr. SHELLABARGER. I think I had better decline. There will be plenty of time after I get through.

Mr. RADFORD. A single question.

Mr. SHELLABARGER. If it is such an accommodation to the gentleman, I will yield.

Mr. RADFORD. I desire to ask my associate on the committee [Mr. SCOFIELD] whether in his own judgment he believes that opinion of Judge Black to be an honest one, upon the information he has given to others.

Mr. SCOFIELD. Why, certainly I think so.

Mr. RADFORD. All right.

Mr. SHELLABARGER. Now, Mr. Speaker, the House that has done me the favor of listening to me will bear me witness that I introduced this extract from Judge Black with the careful statement that he was counsel for Mr. Koontz, and I adopted it not as authority, but as a better way of expressing my own ideas than I would perhaps be able to find.

Now, the point I have attained is this; four men have met at Chambersburg to count the vote of the sixteenth district. Before coming there they have, in what Judge Black calls a revolutionary proceeding, rejected enough soldiers' votes so that if Somerset should come in with the others, the man whom they desired to elect, as indicated by their rejection of the soldiers' votes, would still be elected although Somerset came in. Now, then, my colleague

must not get up and say to me that had Somerset come in it would not have changed the result; because the wrong is in the fact that they have been guilty of this revolutionary conduct before they met there, and have put themselves in a position where they have no right under the law of Pennsylvania to make a count. But, sir, they may well meet there now, having excluded enough votes to change the result with Somerset in arbitrarily in violation of law—they may well invite Somerset to come in and serve a notice on her to come—

"Won't you come into my parlor, says the spider to the fly,
I've the prettiest little parlor that ever you did spy."

That is Shakspeare. [Laughter.]

Mr. RADFORD. Does the law require them to meet there? [Laughter.]

Mr. SHELLABARGER. The majority of the committee tell us that we are bound to take the account which has been made up by these men thus guilty of conduct denominated revolutionary by Judge Black, and that we are not only bound to take it as good evidence, but that it has efficacy such as to shut the eyes of Congress to every other return and fact in the case, and this although the wrongs of these judges are shown by the very papers which they produce to make out their case. Sir, I deny both the positions. I say that the return judge from Somerset county did right in refusing to go into a board where he had knowledge that the returns had been so altered, in violation of law, as that the will of the district would surely be defeated.

Now, what is the consequence that comes from this position that it was right for Somerset to stay out of the board? Why, not that it enables the four other counties to elect a Representative, but it merely compels them to do as Mr. Meredith says they ought to have done, to wit, send and get the Somerset vote, or if that be impracticable, it sends all the votes here to Congress to be counted by this House.

The position that the gentlemen take is this: let four men exclude the legal votes of the soldiers, and let them count up the rest in violation of the express requirement of the law, which says that they shall count all the votes, and in violation of that other provision of the law which says no informality shall be regarded, and in violation of that still further provision of the law which says that—

(10th.) "It shall not be lawful for said judges or clerks, in casting up the votes which shall appear to have been given, as shown by the certificates, to omit or reject any part thereof, except where, in the opinion of said judges, such certificate is so defective as to prevent the same from being understood and computed in adding together the number of votes; in which case a certified copy of such paper shall be attached to the return, and the original deposited in the prothonotary's office."

Each one of these vital legal requirements was violated in the rejection of soldiers' votes in Adams and Bedford counties, and also in the making up of this district return which rejected or omitted Somerset county. And yet gentlemen say that these are good returns, binding in law, and such that Congress cannot only not go back of them but such as shut the eyes of Congress to all the other legal and certified returns in the case, including those of the soldiers' votes which had been rejected by boards having no jurisdiction to reject them; and that they are binding although these flagrant wrongs appear on the very papers which make out Mr. Coffroth's case.

Sir, I will be party to no such a proceeding. I say that it is the duty of Congress to do what those men ought to have done, namely, count the votes. And I was not surprised that my very skillful colleague on the committee, [Mr. URSON,] who is managing this case, felt unwilling to answer the question put to him by the distinguished gentleman from Pennsylvania, [Mr. STEVENS.] He managed to avoid one of the plainest and simplest questions in the world, to wit, who had the most votes as shown by the papers. Now, I will answer the question that my colleague would not answer. As shown by the legal returns in this case the largest number of votes were obtained by Mr. Koontz. And

it is only by rejecting the votes of the soldiers that you can possibly give this seat to Mr. Coffroth.

Mr. UPSON. Do I understand the gentleman to say that I did not answer that question?

Mr. SHELLABARGER. I heard no answer.

Mr. UPSON. I ask the gentleman if the question was not repeated by the gentleman from Pennsylvania [Mr. SCOFIELD] on my right here, and if I did not answer that by counting all the legal returns Mr. Koontz was not now entitled to the seat, and Mr. Coffroth was?

Mr. SHELLABARGER. That answer was not given at the time I was listening to the question of the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. SCOFIELD. I understood my colleague on the committee [Mr. URSON] to put in the words "legal returns."

Mr. UPSON. I go further, and say that if the gentleman will take all the returns now he cannot, by any sort of arithmetic, give a majority to Mr. Koontz.

Mr. STEVENS. The gentleman from Michigan [Mr. URSON] must mean the returns made by the board; he cannot mean anything else. If he will take the returns made by the primary officers he will find that they give a majority of 68 votes for Mr. Koontz. He therefore must be mistaken in that matter.

Mr. SHELLABARGER. In order that there may be no mistake about this matter, I will now state precisely what votes were cast, what votes are proved to be legal votes by the returns made to the committee, and what precincts and counties they are from, and what papers in this case prove each vote.

Here the entire vote received by the minority of the committee is:

Recapitulation.	Coffroth.	Koontz.
Franklin county, entire vote.....	3,457	3,508
Fulton county, entire vote.....	807	535
Somerset county, entire vote.....	1,592	2,512
Making.....	5,856	6,555
Bedford county, home vote, as per No. 8, page 30.....	2,410	1,740
Bedford county, part of soldiers' vote, as per No. 9, page 31.....	94	318
Adams county, including home and part of soldiers' vote, No. 11, page 2, 2,707	2,707	2,366
Making entire undisputed vote.....	11,067	10,979
Votes rejected by majority judges, but received by the minority of the Committee of Elections:		
Adams county, company K of 184, as per No. 30, page 65 (1 off).....	21	38
Adams county, companies B and G of 138, as per No. 26, page 54.....	1	32
Adams county, company I of 210, as per No. 27, page 57.....	9	19
Adams county, company B, 21 cavalry, as per No. 28, page 61 (2 off K).....	4	34
Bedford county, company H of 208, as per No. 19, page 1, and No. 18.....	18	18
Bedford county, Barracks No. 1, as per No. 20, page 43, and No. 31, page 68 (2 off of K).....	29	56
Adams county, Mower, Cuyler, and McClellan hospitals, pages 50 to 53,...	11,149	11,176
Koontz's majority.....	11,149	11,181
		32

And a part of the soldiers' vote for Bedford county which was counted by the majority of the committee, shows 94 votes for Coffroth and 318 for Koontz. In Adams county, including the home vote and the part of the soldiers' vote not included, there were 2,707 votes for Coffroth, and 2,366 votes for Koontz. This is the undisputed vote, and it aggregates 11,067 for Coffroth, and 10,979 for Koontz. That is undisputed, thus far, by both the majority and the minority of the committee; they all agree that that is right.

Now, I have shown the votes which I say elected Mr. Koontz. I have named every paper from every precinct that produces that result, and I ask my colleagues in this case—not now, but when they come to reply—to answer the exhibit of figures I have now made of the votes rejected by the majority. In Adams county, of company K, one hundred and eighty-fourth regiment of Pennsylvania volunteers, there were 21 votes for Coffroth and 38 for Koontz. Why were those votes rejected? Because one

man from Franklin county had voted along with these men from Adams county; and that was reason enough for rejecting the whole vote; and that is the way that Mr. Coffroth is to get his seat, if he does get it. One man from Franklin county voted with the soldiers from Adams county. The returns had been rightly made, even to the highest degree of technical correctness; and yet those judges rejected the whole concern and deprive Mr. Koontz of the benefit of the difference between 21 votes for his antagonist and 38 votes for himself. And that is the way the whole thing is manipulated all through. Then companies B and G gave 1 vote for Coffroth and 32 for Koontz.

And why, pray, was that rejected? Because soldiers from different companies voted at one election, a thing that, as has been shown by my friend on the committee, it was perfectly competent to do under the law. There is no law to prevent soldiers from a thousand companies from voting at one election, provided there is only one organized company at the place. There is nothing here on the face of the papers to show that there were two organized companies there. Yet, sir, running up to the most extreme and exquisite style of technicalities in order to do injustice to the American soldiers, these men at home had declared that they would throw out that soldiers' vote in order to elect the man against whom that vote was cast. There was nothing under heaven, I assert, to authorize the throwing out of that vote. That vote was rejected. I count it, sir.

Here, again, is company I, of the two hundred and tenth regiment, proved by paper 27, on page 57 of the report, giving 9 votes for Mr. Coffroth, and 19 for his antagonist, Mr. Koontz. Thus Mr. Koontz is deprived of 10 votes. Then, again, here is the vote of company B, twenty-first cavalry, proved by paper 28, on page 61 of the report. Throwing out, as the minority do, 2 of the votes for Mr. Koontz, you have 4 for Mr. Coffroth, and 34 for Mr. Koontz. All these votes are thrown out for reasons which are indicated in the report, and which are well understood by gentlemen who gave attention to the able remarks of my colleague, [Mr. PAINE.]

Now, sir, these votes which I have enumerated elect Mr. Koontz by precisely 32 majority. And if you reject all the votes from Bedford county which were rejected by the judges, Koontz is still elected by 5 majority.

Now, Mr. Speaker, let this House simply do what the returns in the case enable and bind Congress to do, to wit, simply count the legal votes presented, and Mr. Koontz is elected. Unless gentlemen can deny the papers in the case, they cannot deny that these votes elect Mr. Koontz by 32 majority.

Keep now in mind the three rules of the law that I have already named:

"First, no mere informality in the manner of carrying out or executing any of the provisions of this act shall invalidate any election held under the same or authorize the return thereof to be rejected or set aside.

"Second, the district board so constituted shall cast up the several county returns, and make duplicate returns of all the votes given for such office in the district, and the name of the person or persons elected. And

"Third, that provision prohibiting any return from being rejected that is intelligible, and even when not intelligible, requiring it to be returned to the body which tries a contest."

Also remember that we have before us in this House the identical papers, in reference to which those judges had no other duty than merely to add up the votes they showed. Remembering these, the members of this House are to decide whether they are going to permit a false adding up by these men, who in law are incapable of any other act than to add and return figures, to deprive the American people of their voice and their Representative of his seat and give it to another, when it is shown by the legal returns before the House that this false estimate has been attained by illegally, and without any jurisdiction over the matter, rejecting the votes of the soldiers.

The returns must be counted if capable of being deciphered, and if not, must still be re-

turned. Here, then, we have it provided by the laws of Pennsylvania that even those returns which are so defective that they cannot be counted by the return judges must be sent to Congress to be counted. Why send them here or to the other courts trying contests, if these county judges may pass upon and reject them forever? Now the majority of the committee have reported that Congress is impotent to count; that those men who disregarded the law and threw out soldiers' votes have concluded Congress; that, although we have returns here which may be technically accurate, and although they show Mr. Koontz was elected, yet by this false return of the district board, or false returns of these county boards, Congress shall be concluded on the *prima facie* case, so that we shall not give the seat to the man who was elected by the votes which were duly and regularly returned to be counted under the law.

That is all there is of this case, and here I leave it. I have merely sought to discharge my duties as a member of the committee. I leave it where I began by saying that the whole case turns upon the question whether this House is to be permitted to count votes which are legally returned to it; whether it is to be precluded from attaining the truth as shown by all the legal returns, and are to give conclusive validity to a paper shown to be illegal by its own face.

[Here the hammer fell.]

Mr. UPSON. I demand the previous question.

The previous question was seconded, and the main question ordered.

The SPEAKER. The gentleman from Michigan, who reported the resolution from the Committee of Elections, is under the rules entitled to one hour to close the debate.

Mr. UPSON. I yield ten minutes of my time to my friend from New York, [Mr. Hotchkiss.]

Mr. HOTCHKISS. Mr. Speaker, before casting my vote on this question I desire to explain my views as the case strikes me. I have examined the reports of the majority and minority of the Committee of Elections in this case, and in my opinion, allowing full force and effect to every paper presented on the side of Mr. Koontz, embracing every soldier's vote, certified to by papers, regular, irregular, and defective, the report of the minority fails to show the election of Mr. Koontz. I desire to meet the question upon that ground, and if I am mistaken about it it will be an easy matter to correct me, for I do not wish the soldiers' vote to be cast aside in this or in any other case if there is any paper which has any validity showing such a vote has been cast.

And now, if the House will hear me for a few moments, I will call their attention to page 18 of the report, where the minority of the committee give a table or statement of the vote certified to. This table states the number of votes cast at Barracks No. 1 for Bedford county to be 29 for Coffroth and 56 for Koontz, making 85. The votes cast at those barracks gave Mr. Koontz the entire excess of 37 votes, whereas in truth those papers show only 46 votes were cast at those barracks for Bedford county.

I am asked about Fulton county. I understand about that, and will show how the minority propose to transfer this excess over to Fulton county. They say the whole subject was examined and the excess should be returned for Fulton instead of Bedford, but that has no foundation in the papers. There is not a shadow of proof before the House to show that the fact exists. I will show what I mean, and I will make my statement so clear that it cannot be answered. The committee will observe, on page 18, that the votes in one table or one statement give Mr. Koontz 32 majority, and in the other 14 majority.

The minority, on page 18, speaking of this statement of votes, say:

"In our judgment, then, the certificate and other papers which were returned to the committee, and were competent as evidence, show the following to have been the whole number of votes legally returned for the respective claimants."

As I have said, this table gives 29 votes for

Coffroth and 56 for Koontz. If that statement is incorrect, then the minority report falls to the ground. But I now refer to page 48, in which they certify in their statements only 46 votes were cast for Bedford county.

They state in the tally-list that of these 46 Mr. Koontz had 58 and Mr. Coffroth 29! That tally-list does not override the statement. It goes on to state the votes cast for the other officers voted for, and it says that only 46 votes all told were cast for any officer at Barracks No. 1. But on page 16 the minority undertake to explain this, or rather they get up a theory to account for the 37 or 39 votes in excess stated in the tally-list. They say, in substance, that it should be carried to the credit of Fulton county. They say:

"The return of Barracks No. 1 was rejected for the alleged reason that the poll-book contains the names of only 48 electors, and yet 87 votes were cast for Representative in Congress. Passing from that return, which exhibits no such discrepancy—"

how can the minority say that it exhibits no such discrepancy when it gives the name of every voter and there are but 46 all told? It gives the number of votes that were cast on the Union side for the State officers and the number cast on the Democratic side for the same, making just 46. And then there is this statement showing that 85 votes were cast for Representative in Congress after giving the name of every voter, leaving 39 votes unaccounted for.

Sir, that paper on its face is a very great blunder or a very stupid fraud, and I do not think we can dispose of this question upon the basis of either a blunder or a fraud and give either party the benefit of it. Reject the blunder and Mr. Coffroth is elected, according to the report of the minority. Give Mr. Koontz the benefit of that blunder and it is a mere statement without any basis.

Now, the theory of the minority directly contradicts the returns from Fulton county, signed by all the judges and clerks of that county, where they say these votes should have been sent. But suppose you go behind the returns of the judges of Fulton county, which are unanimous and uncontradicted, and go to the soldiers' camp to search for these 37 or 39 votes. Then you have to turn to page 68, where the judges of election at the soldiers' barracks make their returns. They say that for Fulton county 37 votes were cast, all told. Now, those 37 votes the minority of the committee say were these 37 that were attempted to be incorporated in the returns for Bedford county; they say that they were all cast, and they give Mr. Koontz the benefit of all of them.

Now, how were those 37 votes divided politically? Why this same return which they refer to shows that 17 of them were Democratic votes and 10 were Union votes.

Mr. PAINE. Will the gentleman yield?

Mr. HOTCHKISS. I will.

Mr. PAINE. The gentleman has entirely misunderstood that point of the report. It is true that the return which is made for this county does embrace more men than are shown to have voted from that county for Representative in Congress. But when you look to the other counties of which the gentleman has been speaking, you find that enough men there voted to make out the entire congressional vote. It is not true, however, that in allowing these votes to be counted in this case you have all of them counted for Mr. Koontz. On the other hand, the distribution as between Mr. Koontz and Mr. Coffroth is made in that aggregate return which is before us. And if you look at the return which the gentleman is now speaking of you will find that there is a blank for the word "Representative." Return is made for Representative, blank, showing that on the part of the officers of the election there was a failure to send to the proper place the return for Representative. It is not true that there is no reference made at all to a Representative vote in that return.

Mr. HOTCHKISS. I am surprised that a gentleman who has labored so long in this committee as that gentleman has, and of his ability,

too, should so mistake his own report. The page to which I refer shows that every one of these 37 votes is allowed to Mr. Koontz to make out his majority of 32 in one case, and of 14 in the other. I refer to page 18 of the report, and if I am incorrect I will sit down and never speak again in this House.

Mr. PAINE. Will the gentleman—

Mr. HOTCHKISS. Will the gentleman hear me through? Now I state further, that in going back to the barracks to count the votes for Fulton county the gentleman includes all the votes cast for Fulton county, namely, 37, whereas five officers certify that 17 of these votes were Democratic votes. Now, how do they get along with that? They take all the Democratic votes cast there, and undertake to say that they were a part of this discrepancy of 37. Now, take the paper itself and give it all its force, and no lawyer can spell out of it sufficient to make a case.

Mr. STEVENS. Will the gentleman answer me this question? In making the count does he allow the whole 58 votes?

Mr. HOTCHKISS. On page 18 of the report Mr. Koontz is allowed 56 votes.

Mr. STEVENS. Fifty-eight votes.

Mr. HOTCHKISS. Some say 56 votes, and some say 58 votes. They allowed Mr. Coffroth 29 votes, which is the number of Democratic votes cast at Barracks No. 1 in this city. They allow Mr. Koontz the 56 votes, which include these 37 votes.

Mr. STEVENS. What I meant to ask is this: does the gentleman add up those 56 votes with the others?

Mr. HOTCHKISS. The minority of the committee—

Mr. STEVENS. I am asking about what the gentleman does in the statement he says he has so carefully made.

Mr. HOTCHKISS. I have not said that I had carefully made any statement. I said that I had carefully examined the statement made by the minority of the committee; and that statement had no foundation in the facts upon which the minority say they rely.

[Here the hammer fell.]

Mr. UPSON. I will now yield ten minutes of my time to the gentleman from Pennsylvania, [Mr. Stevens.]

Mr. STEVENS. In my judgment, Mr. Speaker, this discussion has taken a range not fully justified by the question before us. We sent to the Committee of Elections the question of the *prima facie* right to this seat, because the authorities at Harrisburg had said that no one had that *prima facie* right. It was the single question of who had the greatest number of votes according to all the papers before them. If there is any objection in regard to any of the votes contained in those papers, that is a question to be considered and decided in the consideration of the claim of the contestant afterwards. All we sent to the committee was the question of the *prima facie* right to this seat upon the papers before them. Yet here we have had an investigation into frauds and false returns and erroneous returns.

Now, a single word as to the law of Pennsylvania will show that all this is aside from the question and ought never to have been considered in this connection. By the law of Pennsylvania elections are held at the different polls by two inspectors and one judge of election. At night, when the poll is closed, these two inspectors and one judge add up the votes and make out tally-lists and return them. In order to aggregate all the votes, they are all to meet on a certain Friday following at the county seat; and by the express provisions of the law that county board can do nothing but add up the votes returned to them. They are not permitted to inquire into the regularity of the returns; they are not permitted to inquire into the fraudulent conduct or character of the officers or votes. The law is express upon that point, and it has been so decided over and over again, and no Pennsylvania lawyer dares dispute that. When the county board meets it takes the precinct returns as they are, good, bad, and indifferent, and adds them all up, and

upon that the county officers give their certificate. And that is tested in the proper body upon the question of the fraudulency or illegality of the votes upon a contest, and nowhere else. For State elections it is sent to Harrisburg to the secretary of the Commonwealth and contested in the Legislature and nowhere else on earth. Any man who undertakes to contest it anywhere else does not know his duty under the laws of Pennsylvania.

Now, what have we here? We have the votes taken in the different precincts of this district, and we have them taken at Barracks No. 1, in the District of Columbia. Under the soldiers' voting law the votes of the soldiers are to be returned to the prothonotaries of the district in which the soldiers reside, duplicate returns being sent to the secretary of the Commonwealth. And no man, in meeting in county board, dare inquire into the regularity of a single vote that was cast. His duties are in the law, and have been decided over and over again. The law is as plain as the nose on a man's face, that all the board has to do is to add up these returns as they receive them, and make return of them to the House of Representatives, or to Harrisburg, and whoever desires to contest the *prima facie* case of the right by a majority of the votes to a seat in this House must come here and do it, and nowhere else.

Now, we have a discussion here as to the irregularity of these votes, and what was struck out by the county boards. It is admitted, or if not the facts show it to be true, that if all the votes returned from this district and from the different precincts in the counties in the congressional district had been counted and returned, Mr. Koontz would have had 68 majority. There is no doubt about that; here are the figures as plain as day, and whoever says to the contrary, has not examined, and does not know the facts in the case.

It is said that in Bedford county there was a mistake of 37 votes. Now, the gentleman who has just sat down [Mr. Hotchkiss] has been misled by his examination of this matter. It appears that elections for the counties of Bedford and Fulton were held in this city at Barracks No. 1, and as the return was made out, the number of votes for Mr. Koontz was 58, and for Mr. Coffroth was 29. They were all credited to Bedford county. If that is taken as true, then no man can deny that Mr. Koontz is entitled to his seat *prima facie*, whatever may be the case when we come to consider the question of fraudulent votes.

But the gentleman who reported these resolutions says that those 58 votes and 29 votes are 37 more than the tally-papers show to have been cast for Bedford county. That is true; but if he had taken the tally-papers for Fulton county, they would have made precisely that sum—

Mr. UPSON. I desire to ask the gentleman where he finds any return from Fulton county certifying that they voted for a Representative in Congress.

Mr. STEVENS. They do not return from Fulton county the 37 votes as having been cast for anybody, because they had returned them all before in the Bedford county return.

Mr. UPSON. They certified from Bedford county that only 46 voted. Now, I desire to know how the gentleman finds that the others voted.

Mr. STEVENS. I have just referred to the document. But I will read it from page 41 of the report:

"Poll-book of the election held on Tuesday, the 11th day of October, in the year 1861, by the qualified electors of Bedford county, in the State of Pennsylvania, in the actual military service under the requisition of the President of the United States, and being unable to attend any company poll or other proper place of election; this election being held at Barrack No. 1, Soldiers' Rest, Washington city, District of Columbia, which placed the said electors, being present, have selected for opening a poll for the said election and certify herein:

"David Bollman, William Brallier, and John H. Akers, being then and there duly elected judges of the said election, and Barton A. Cooper and Josiah H. Anderson being duly appointed clerks of said election, and being all severally affirmed according to the certificates herewith returned."

Then below are given the "number and names of the electors voting at the said election, and their county, city, borough, township, ward, or precinct of residence." After that list, we find—

"Tally-papers or list of votes for each person voted for at the said election by the qualified voters of Bedford county, State of Pennsylvania, for Representative in the House of Representatives in the Congress of the United States, sixteenth district.

"For Congress, William H. Koontz had 58 votes; A. H. Coffroth had 29 votes."

Now, I say that, taking this as true, you cannot make out that Mr. Coffroth was elected; it is impossible.

But the gentleman says that the tally-papers show that there were not that many votes by 37—

Mr. UPSON. The gentleman reads from the tally-papers.

Mr. STEVENS. I read from the return.

Mr. UPSON. There is no return there.

Mr. STEVENS. What do you call this?

"For Congress, William H. Koontz had 58 votes; A. H. Coffroth had 29 votes."

Mr. UPSON. Will the gentleman read the caption of that paper?

Mr. STEVENS. I have already read it; but I will read it again. It is in these words:

"Tally-papers or list of votes for each person voted for at the said election by the qualified voters of Bedford county, State of Pennsylvania, for Representative in the House of Representatives in the Congress of the United States, sixteenth district.

"For Congress, William H. Koontz had 58 votes; A. H. Coffroth had 29 votes."

Now, taking that to be true, does it not elect Mr. Koontz?

The gentleman says, however, that the tally-papers do not agree with that return. But that is all explained when we find that those 37 votes from Fulton county are not included in the return from that county, but are included in the Bedford county return.

I maintain, sir, that on the face of the papers you cannot count out Mr. Koontz; and if you go into the merits of the question, everybody, I believe, admits that the merits are with him. This question may seem to some gentlemen to be a small matter; but in view of thick-coming events, one vote may prove to be of great value here.

Mr. SPALDING. Mr. Speaker, I know the impatience of the House to come to a vote on this question, and I am not far from members in that impatience; but I desire to say, on reading these several reports and listening attentively to the arguments pro and con, my mind is brought to the conclusion that the majority of the committee are right under the resolution of this House in giving the *prima facie* case to Mr. Coffroth. And when I say that, I hope I will not be considered as actuated by any partisan interest or feeling. I regard the resolution under which this committee has acted as being of some import; and what was it, sir? They were instructed to inquire into the *prima facie* right to a seat in this House, and then afterward to provide for a contest upon the merits. Now, I appeal to any well-informed man in this House if my friends of the minority have not uniformly put the claims of Mr. Koontz on the merits of the case and not upon the *prima facie* evidence as the committee have done.

One word in regard to the papers presented to this committee, and I shall be very brief. It seems that the proclamation of the Governor of Pennsylvania was wanting in regard to this sixteenth district, and why? Because the certificate of the election judges for the district in which this election was held was defective in this, that the county of Somerset was not returned and represented. Why was not the county of Somerset returned and represented, because in the absence of the proclamation of the Governor we must get the next best evidence in regard to this *prima facie* right? The next best evidence would be the certificate of this district board. We have here produced the opinion of the attorney general of the State of Pennsylvania, saying that the four district judges who certified in favor of Mr. Coffroth were all qualified to act, and that the five men

who certified in favor of his opponent, Mr. Koontz, were not legally constituted judges for that purpose.

Mr. SHELLABARGER. I ask the gentleman to yield to me for a single word.

Mr. SPALDING. I must decline to yield to the gentleman, as I have only ten minutes and I wish to use them. My friend from Ohio labored in this case, if I may borrow a trite expression, like a strong man wading through a morass. He knows he is deficient in his argument. He knows the evidence does not sustain him. He went into the merits and not the *prima facie* case. I want to show what is the *prima facie* case. The certificate of the four legally constituted judges with the consent of the judge from Somerset would have put an end to the whole question. If that certificate had been signed in Chambersburg by that judge on that occasion this difficulty would not have sprung up, Mr. Coffroth would have had his certificate and been the sitting member. No one controverts this.

Now, sir, the legitimate evidence was before the committee to show why the judge from Somerset did not go before the board and present the vote of that county: What was it? Because that vote was deficient 93 to give to Mr. Koontz the majority. He therefore availed himself of the privilege of retiring, although he was notified the board was ready to act and was in the town of Chambersburg. He stepped aside and withheld the vote of Somerset and let four of the five make a certificate which did not answer the requisitions of the law. The committee had evidence before them what that vote of Somerset was; if it had been presented by this judge on that occasion, it would have made the certificate complete. It was enough to give Mr. Coffroth a majority of 93 votes, and that man knew it. I claim this shall not be taken to benefit Mr. Koontz. I insist that the certificate shall be, whenever you go by evidence before the committee, as it would have been if that man had gone on and returned the votes of his county. I say, no fair-minded man will come to any other conclusion. That will settle the case *prima facie* in favor of the man who is reported by the committee entitled to it.

One word further. I know the weight of partisan feeling. I know full well how the majority of this House are pressed on this question in favor of the claimant, Mr. Koontz; but I say to that majority I have seen this man Coffroth more sorely pressed than any of us can be on this occasion in the last Congress when he had the independence to vote with us, which exposed him to the maledictions of his own party. I say I do no more than justice on this occasion. We should treat him with a spirit of fairness, irrespective of party feelings. I am done.

Mr. STEVENS. Who was in the bargain that led him to give that vote?

Mr. SPALDING. I am party to no bargain here either with the gentleman from Pennsylvania [Mr. STEVENS] or anybody else.

Mr. UPSON. I yield to the gentleman from Massachusetts [Mr. DAWES] a few minutes.

Mr. DAWES. I do not desire to weary the patience of the House at this time, nor do I intend in any degree to go over the ground that has been so ably gone over by the gentlemen who made the majority and minority reports in this case.

But, sir, I believe I understand very well where the trouble is. It is at the starting point. Both of the gentlemen have ably argued the case from the point of view at which they stand, and it is but for the House to determine what it was that they imposed upon this committee to do, and the whole thing is settled. Did they impose upon the committee the duty of inquiring into the merits of this case and ascertain who has received the greatest number of votes, or did they impose upon it the duty of ascertaining what the Governor of Pennsylvania was unable to do, who had the *prima facie* case? Let me read the resolution instructing the committee. Upon that hangs the whole case:

"Resolved, That the certificates and all other papers relating to the election in the sixteenth congressional

district of Pennsylvania be referred to the Committee of Elections, when appointed, with instructions to report at as early a day as practicable which of the rival claimants to the vacant seat from that district has the *prima facie* right thereto, reserving to the other party the privilege of contesting the case upon the merits without prejudice from lapse of time or want of notice."

With that resolution of instruction before us, it seems to me we had something else to do than to investigate this case on the merits. And I have only to call the attention of the House to-day to the able argument of my colleague on the committee, the gentleman from Ohio, [Mr. SHELLABARGER,] in support of the minority report, to answer the question, whether that minority have adhered to this rule or whether they have not, and whether the learned gentleman from Pennsylvania, [Mr. STEVENS,] has not put it entirely upon the ground that it was our duty to ascertain who had the greatest number of votes, and if so, we were required to do that without any testimony, without any examination into the case, but were to decide who had the greatest number of votes without stopping to inquire into the truth in reference to a single vote. I did not so understand my duty under this resolution. If I mistook it, then the majority on the committee have departed from what the House required of them. If I am right in this, that we were to leave the merits of the case until they could be examined in the light of the testimony taken on one side and the other, then the majority of the committee are right.

What is the *prima facie* case? What is the *prima facie* title to a seat which the gentleman from Pennsylvania [Mr. STEVENS] and every other gentleman brings to this House? It is the proclamation of the Governor. Neither of these parties had this proclamation. Is it not then our duty to betake ourselves to the position in which the Governor himself was and see if we can find the testimony properly and legally brought before him and in existence upon which to base a *prima facie* case? What does he base his *prima facie* case upon? He bases it in this instance upon the certificate of the return judges of five counties. And I appeal to the gentleman from Pennsylvania that until you go to the merits you cannot go behind that certificate.

Now, what was the difficulty with the return upon which the Governor was to base his certificate? Why, they did not embrace but four counties. It was a legal board of four out of five judges, but it did not embrace but four counties. Why not? Because one of those five judges chose not to go into that board—chose to absent himself from it because he thought some of these other four had made a mistake in their calculation which he had nothing to do with in their own counties. And here I will say in passing that it was the most natural thing in the world that he should have gone to Attorney General Black to support him in this idea of seceding from the board and breaking it up by that operation. And that is all I have to say about that opinion.

Well, sir, there was a competent board with four full returns of the four counties before them. They could not return five because they had not got the fifth. The man who was intrusted with it had gone out with the return in his pocket.

Now, what did the majority of the committee do? They just supplied that deficiency. They put in that return from the fifth county about which there is no dispute. Then they took what they had and put it with what the Governor and his attorney general said was all that was necessary. For the attorney general, in his printed opinion, says if they had not added Somerset county, that it would have been his duty to have given the *prima facie* title to Mr. Coffroth. So, as there was no dispute about it, we put it along with the four and we then had just what the Governor and his attorney general said they must do to give the *prima facie* case to Mr. Coffroth. Go behind those certificates and you get into a position that is presented here, of contesting and wrangling upon what this paper means, which can be settled only by

testimony on one side and on the other. It is because I agree with the gentleman from Pennsylvania [Mr. STEVENS] that we have no business to go behind these certificates on the *prima facie* case, that I say we did just what the Governor and the attorney general say is all that was necessary, put Somerset with the other four counties, and there it is.

Now, you go behind those certificates; you find something the matter with this return, and something the matter with that return, and there is diversity of opinion, but all of it susceptible of explanation by testimony, none of which was sent to the committee. Let me refer to an instance. This return of 78 votes for member of Congress, cast by 39 persons, is explained by the minority of the committee by the theory that the balance of these persons belonged in another county, and therefore ought to be counted. Now, to show you how unsafe it is to take that theory, let me state a single fact. That explanation was never thought of before the committee. On the other hand, a very different theory was urged by Mr. Koontz and his counsel to explain that discrepancy. They suggested that it had got to be almost night; that the Congress vote was the only one cared for; and in their anxiety to get in the Congress vote they allowed the balance of them to vote without recording their names. That was the statement made by them before the committee; and it was only after my learned colleagues on the committee began to make up their minority report that they adopt this other theory that they must be charged to another county.

Now, that may be right. I do not mean to say that it is not right. But I mean to say that it is the most unsafe thing in the world to take these theories in reference to these papers, when we are called upon, as the gentleman from Pennsylvania [Mr. STEVENS] well says, to stand by the certificates until we go into the merits of the case.

My friends, in this *prima facie* case, have counted returns that never have been sworn to, although the law requires that they should be sworn to. And they have counted those that have been sworn to before an officer contrary to the provisions of the law. Now, in going into the merits of the case that is all right; we should go behind those returns and examine them. But upon a *prima facie* case we should not do so. The gentleman from Pennsylvania [Mr. STEVENS] has acted with me over and over again, and unseated men upon the merits of the case because of such returns. I can refer the gentleman to reports that have unseated men on the merits of the case, because the returns were not sworn to. And yet on this *prima facie* case we are called upon, going behind all these returns, to count all these votes.

All I care for in the decision of this case is the precedent. Having had a great deal of experience on this Committee of Elections, for once I desire to leave a record behind me that shall be consistent with itself, if nothing else, and upon that record I am willing to be judged as a lawyer. I have called upon this House over and over again, and I have had the aid of every member from Pennsylvania then in this House, to sustain me upon the very points upon which this majority report has now been made. And they will be called upon within a week, perhaps, to do the very same thing again. And unless, like my learned friend from Pennsylvania, [Mr. STEVENS,] they can entirely disembarass themselves to-day of anything they said yesterday, they will come up and vote in the next case, or the next but one, or in some other case, precisely in accordance with the report of the majority of the committee in this case. This is all I desire to state.

The details of this case have been gone over very ably by my friend from Michigan, [Mr. UPSON,] who represents the majority of the committee, and by my friend from Wisconsin, [Mr. PAINE,] who represents the minority of the committee. I am not going into that maze of labyrinth. I mean to put this case simply upon the fact that we had what the Governor of Pennsylvania and his attorney general say

was all that was lacking to enable him to give Mr. Coffroth precisely the same *prima facie* title to a seat here that is asked by the majority of the committee. When the time shall come to go into the merits of the case, upon the evidence, I doubt not my friends of the minority of the committee will find the majority, as the majority of the committee believe they will find the minority, earnestly desirous of reaching every vote honestly cast by soldier or civilian, here or anywhere else, and of giving it its full effect. Till then, when I am called upon to state what is the *prima facie* case, excluding by the very terms of the resolution my entering into the merits of the case, I hold myself bound to do that only, and that is the reason why I join with the majority of the committee in this report.

Mr. UPSON. I now yield five minutes of my time to my colleague upon the committee from Pennsylvania, [Mr. SCOFIELD.]

Mr. SCOFIELD. I am astonished, Mr. Speaker, to hear the gentleman from Massachusetts [Mr. DAWES] claim that Mr. Coffroth has the papers, even if Mr. Koontz has the votes. I was astonished to hear my friend from New York [Mr. HOTCHKISS] take the same ground.

Mr. HOTCHKISS. I desire, with the gentleman's permission, to say one word by way of explanation.

Mr. SCOFIELD. I have only five minutes, and I cannot yield.

Sir, I deny that Mr. Coffroth has the papers. When the election day closed in Pennsylvania, and the three officers whose duty it was counted the votes, and made a written memorandum, signing their names to it—when such a count was made and signed, not only of the home vote but of the soldiers' vote—it must be conceded by every candid man that, as shown by the papers referred to the committee, Mr. Koontz had a majority of 68. The man who denies this greatly mistakes, in my judgment, the facts of the case.

Mr. UPSON. I desire to inquire of my friend whether the tabular statement made up by the minority of the committee does not give Mr. Koontz a majority of only 32. That being the fact, by what process does the gentleman now make the majority for Mr. Koontz more than double that number?

Mr. SCOFIELD. Upon one hypothesis his majority is 32; but counting some votes which are omitted from that summing up, his majority is 68.

Now, sir, as there was a majority for Mr. Koontz on the night of the election, when the votes had all been counted, why has he not received a certificate? Because, when the board, whose simple duty it was to add up the votes, and to do nothing else, met in Bedford county and Adams county, the Democrats said, "We will not count the votes, we will not add up the returns that come from the soldiers in the field;" while the Republicans said, "We will add up those votes." So the board divided. There was the point of departure.

Henceforth there never was a proper adding up of all the votes by a full board. The Republicans added all the votes, including the soldiers' vote; the Democrats added all the votes, including a portion of the soldiers' vote. Therefore we nowhere had a legal addition of all the votes. We had the summing up of the votes made by the judges in each election precinct. Those various precinct returns were referred by this House to the Committee of Elections. That committee added them up. No board had ever summed them up. One portion of the board had added together a portion of the votes; another portion of the board had added together the whole of the votes. But the minority of the Committee of Elections added them all together, making a majority of 68 for Mr. Koontz. [Here the hammer fell.]

Mr. UPSON. I now yield to my colleague, [Mr. DAWES,] who wishes one minute.

Mr. DRIGGS. Mr. Speaker, the gentleman from Pennsylvania [Mr. SCOFIELD] has expressed his surprise that gentlemen taking the

opposite view from that adopted by him should say, "Though Mr. Koontz has the votes, Mr. Coffroth has the papers." I was equally surprised when my friend from Pennsylvania [Mr. STEVENS] put his advocacy of the claims of Mr. Koontz upon the ground that we may, in view of events which are coming on, realize the value of one vote. Sir, I want to vote right on this question; and I will vote in the manner which I believe to be right, regardless of consequences. I believe that the votes, honestly counted, are in favor of Mr. Coffroth; and for that reason I shall vote to give him the seat.

Mr. UPSON. I now yield for a few moments to my friend from Connecticut, [Mr. HUBBARD.]

Mr. HUBBARD, of Connecticut. Mr. Speaker, I wish to give the views which will control my vote on this occasion, and peradventure may control the votes of others. I agree that we should not have any partisan feeling. This is a mere question of *prima facie* right to a seat upon this floor between two contestants. The majority of the committee have justly reported in favor of Mr. Coffroth as having that *prima facie* right. As I understand the minority I cannot vote with them, because they have passed over the question which was submitted to them and upon which the majority have made their report; that is, who has a *prima facie* right to a seat upon this floor. I have confidence in the Committee of Elections, but I have more confidence in the report of the majority than in the report of the minority, for I believe that in the multitude of counselors there is safety. [Laughter and applause.]

Mr. Speaker, all who are upon this floor know very well we cannot take up an election case here, consider it carefully, and come to a correct conclusion on the subject. We are all appointed by you, members of committees. We have submitted this to the Committee of Elections. They have considered it carefully. They have had all the evidence before them. They come in and make a report; and they make that report upon their oaths. I have confidence in that report, and shall vote in accordance with it. [Applause.]

Mr. UPSON. I do not think the House needs any further discussion of this subject; and I therefore yield the floor, that the vote may be taken.

The SPEAKER stated the first question in order to be on the following resolutions, offered as an amendment by the minority of the committee:

1. *Resolved*, That William H. Koontz has the *prima facie* right to a seat in this House, as a Representative of the sixteenth congressional district of the State of Pennsylvania.

2. *Resolved*, That Alexander H. Coffroth, desiring to contest the right of William H. Koontz to a seat as a Representative of the sixteenth congressional district, be required to serve upon the said Koontz, within fifteen days after the adoption of this resolution, a particular statement of the grounds of said contest; and that the said Koontz be required to serve upon the said Coffroth his answer thereto within fifteen days thereafter; and that both parties be allowed sixty days next after the service of said answer to take testimony in support of their several allegations and denials; notices of proposed examinations of witnesses to be given at least five days before such examinations; no such examination to be commenced at one place before the expiration of five days from the conclusion of the last examination at another place; such examinations to be regulated in all other respects by the provisions of the act of February 19, 1851.

Mr. SLOAN. Is it in order to move to refer the whole subject back to the committee with instructions?

The SPEAKER. It is not in order, as the main question has been ordered.

Mr. SLOAN. I move to reconsider the vote by which the main question was ordered.

Mr. UPSON. I move to lay that question on the table.

The latter motion was agreed to.

Mr. PAINE demanded the yeas and nays on the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 58, nays 82, not voting 42; as follows:

YEAS—Messrs. Allison, Delos R. Ashley, Baker,

Banks, Bidwell, Bingham, Blaine, Bontwell, Bromwell, Broomall, Reader W. Clarke, Sidney Clarke, Conkling, Cook, Eckley, Eggleston, Garfield, Grinnell, Abner G. Harding, Chester D. Hubbard, Demas Hubbard, James R. Hubbard, Hulburd, James Humphrey, Kelley, Keiss, Laffin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marvin, McClurg, McKee, Mercer, Moorhead, Myers, O'Neill, Paine, Perham, Pike, Price, Rollins, Sawyer, Scofield, Shellabarger, Sloan, Starr, Stevens, Thayer, Trowbridge, Van Aernam, Burt Van Horn, Warner, Wentworth, Williams, and Stephen F. Wilson—58.

NAYS—Messrs. Ancona, Anderson, James M. Ashley, Baxter, Beaman, Bergen, Boyer, Buckland, Chandler, Cobb, Cullom, Dawes, Defrees, Delano, Denning, Driggs, Eldridge, Elliot, Farnsworth, Farquhar, Ferry, Finck, Glossbrenner, Goodyear, Grider, Griswold, Hale, Aaron Harding, Hayes, Logan, Hooper, Hotchkiss, John H. Hubbard, James M. Humphrey, Ingersoll, Jenekes, Johnson, Julian, Kasson, Ketcham, Kaykendall, Latham, Le Blond, Marston, McCullough, McIndoe, McRuer, Morrill, Morris, Moulton, Niblack, Nicholson, Noell, Orth, Pomeroy, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rogers, Ross, Rousseau, Schenck, Shanklin, Smith, Spaulding, Tabor, Francis Thomas, John L. Thomas, Thornton, Trimble, Upson, Voorhees, Elihu B. Washburne, William B. Washburn, Welker, Whaley, James F. Wilson, and Wright—82.

NOT VOTING—Messrs. Alley, Ames, Baldwin, Barker, Benjamin, Blow, Brandegee, Brooks, Bundy, Culver, Darling, Davis, Dawson, Denison, Dixon, Donnelly, Dumont, Harris, Hart, Henderson, Higby, Hill, Holmes, Asahel W. Hubbard, Edwin N. Hubbard, Jones, Kerr, Marshall, Miller, Newell, Patterson, Phelps, Plants, Sitzgreaves, Stilwell, Strouse, Taylor, Robert T. Van Horn, Ward, Windom, Winfield, and Woodbridge—42.

So the resolutions were rejected.

During the vote,

Mr. GLOSSBRENNER stated that his colleague, Mr. DAWSON, was paired with Mr. DONNELLY, of Minnesota.

The vote was then announced as above recorded.

The question then recurred on the following:

Resolved, That Alexander H. Coffroth, upon the certificates and papers relating to the election in the sixteenth congressional district of the State of Pennsylvania, has the *prima facie* right to the vacant seat from that district, and is entitled to take the oath of office and occupy a seat in this House as the Representative in Congress from said district, without prejudice to the right of William H. Koontz, claiming to have been duly elected thereto, to contest his right to said seat upon the merits.

Resolved, That William H. Koontz, desiring to contest the right of Hon. Alexander H. Coffroth to a seat in this House as a Representative from the sixteenth district of the State of Pennsylvania, be, and he is, required to serve upon the said Coffroth, within fifteen days after the passage of this resolution, a particular statement of the grounds of said contest, and that the said Coffroth be, and he is hereby, required to serve upon the said Koontz his answer thereto within fifteen days thereafter, and that both parties be allowed sixty days next after the service of said answer to take testimony in support of their several allegations and denials, notice of intention to examine witnesses to be given to the opposite party at least five days before their examination, but neither party to give notice of taking testimony within less than five days between the close of taking it at one place and its commencement at another, but in all other respects in the manner prescribed in the act of February 19, 1851.

Mr. WENTWORTH. If the first resolution fails, does not this resolution go back to the people and let them fight it out there?

The SPEAKER. The Chair cannot answer that question.

The resolutions were adopted.

Mr. UPSON moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. COFFROTH presented himself at the Speaker's desk and was duly qualified.

BANKRUPT BILL.

The SPEAKER stated that the next business in order was House bill No. 7, to establish a uniform system of bankruptcy throughout the United States, upon which Mr. JENCKES had the floor.

Mr. MORRILL. I move that the special order now pending be postponed until the next special order is disposed of, which is the loan bill. I do this with the assent of the gentleman from Rhode Island, [Mr. JENCKES.]

Mr. JENCKES. The bankrupt bill will then come up next, after the loan bill is disposed of.

The motion was agreed to.

Mr. THAYER. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at four o'clock and fifty minutes p. m.) the House adjourned.

IN SENATE.

TUESDAY, February 20, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 268) for the relief of Albert Nevins; and

A joint resolution (H. R. No. 75) to encourage and facilitate telegraphic communication between the western and eastern continents.

PETITIONS AND MEMORIALS.

Mr. GRIMES presented resolutions of the Legislature of Iowa, in favor of the establishment of the following mail routes in that State: from the city of McGregor, Clayton county, to Strawberry Point, in that county; from the city of Des Moines, via Indianola, Chariton, and Corydon, to Lineville, on the State line between Iowa and Missouri; from Independence, Buchanan county, to Fayette, in the county of Fayette; from Ossian, in Winneshick county, to Charles City, in Floyd county; and from Des Moines to Grove City, in Cass county; which were referred to the Committee on Post Offices and Post Roads.

Mr. LANE, of Indiana, presented a petition of assistant assessors of internal revenue in the second district of Indiana, praying for an increase of their compensation; which was referred to the Committee on Finance.

Mr. MORGAN presented a memorial of citizens of Tarrytown, Westchester county, New York, praying for the establishment of a mail route from Tarrytown to White Plains, in that State; which was referred to the Committee on Post Offices and Post Roads.

He also presented resolutions of the Union League Club of the city of New York, in favor of certain guarantees in the restoration of the rebellious territory to practical relations in the Union, namely, the exclusion from office of all who have borne arms as officers in the military or naval service or held office under or willingly contributed money to the so-called confederate government; repudiation of all debts contracted in the prosecution of the rebellion; equality before the law to all men without regard to race or color; the prohibition of all class legislation, and the extension of the elective franchise to all classes; which were referred to the joint committee on reconstruction.

Mr. WILLEY presented the petition of Sarah Rodman, widow of Robert C. Rodman, late a sailmaker in the Navy of the United States, praying for a renewal of her pension; which was referred to the Committee on Pensions.

Mr. HOWE presented the memorial of Alfred Guthrie, supervising inspector of steamboats at Chicago, Illinois, praying for a modification of the steamboat law and for an increase of the salaries of steamboat inspectors corresponding with the increased duties imposed on them by the act of June 8, 1864; which was referred to the Committee on Commerce.

Mr. CRESWELL presented the petition of John McCollum, S. D. McConkey, and others, assistant assessors of the third district of Maryland, praying for an increase of their pay and allowances; which was referred to the Committee on Finance.

Mr. KIRKWOOD presented the petition of T. S. Briscoe, praying for compensation for his services in recruiting men for the Army in Iowa; which was referred to the Committee on Claims.

Mr. HENDERSON. I present the petition of twelve hundred citizens of the State of Mis-

souri, praying Congress to consider, in the restoration of civil government in the southern States, the principles involved in the following resolutions:

1. To the President of the United States belongs, according to the Constitution, only the executive power; he has no right to make laws; we therefore denounce as a usurpation his arbitrary proceedings in restoring the political status of the States lately in rebellion without consulting the Congress.

2. We just as sternly protest against his recognition of the constitutions of those States, framed by dubious representatives, elected by equally dubious electors.

3. The so-called sovereignty of the States was the main cause of the rebellion; it is therefore eminently necessary to get rid of this evil, and to take such measures as will make us in the future a nation of Americans, a purpose clearly aimed at by the founders of the Union. Class legislation and compulsory labor are two more cancers poisoning the very vitals of the Republic; it is therefore necessary radically to cure them. Treason, miserable treason, has menaced the life of our country; it is therefore necessary to treat it so as to secure us against its recurrence in time to come. The rebellion has burdened us with an almost unbearable debt, payment of which is closely connected with the honor and the welfare of the nation; it is therefore necessary that we guard against its repudiation. The policy, however, pursued by the President overlooks all these points, and restores the former pernicious and perilous state of things, thereby endangering all the results of the nation's bloody sacrifice.

4. We therefore pray that the Congress may resist these dangerous proceedings of the Executive, by annulling forthwith, and in an unequivocal manner, those experiments, and by providing ample securities against the alleged evils. Equal rights to all, without distinction of color or descent; let this be one of the safeguards! Verify the principles laid down in the Declaration of Independence, as SCHUYLER COLFAX, the Speaker of the House of Representatives, has advised.

We harbor no feelings of vengeance against the inhabitants of the South, being well aware that they have been a part of our people before, and will be a part of it again; we must recall, however, to the President's memory his own expression, that treason must be made odious, and that mercy to the individual is injustice to the whole community.

We are not crying for the blood of the rebels, but we emphatically protest against the restoration of any of the leaders, civil or military, to citizenship in the United States.

To admit any such man into Congress or to any Federal office would, in our opinion, be a wanton insult to the whole loyal people, a derision of common sense, and treason against the Republic.

5. We call upon our fellow-citizens elsewhere also to express themselves in regard to this important question, so that the true will of the people may be known.

6. These resolutions will be presented and communicated to President Johnson and to our Representatives in Congress.

I ask that the petition be referred to the joint committee on reconstruction.

It was so referred.

Mr. SUMNER. I offer a petition, numerously signed by citizens of Wisconsin, in which they ask Congress to see that governments truly republican in form are guaranteed in every State, and they insist that this shall be done by act of Congress. They further ask that irreversible guarantees for the future shall be insisted upon in all reconstruction, and that emancipation is not complete as long as any black code exists, whether what is called civil or political. I offer the petition, and ask its reference to the joint committee of fifteen.

It was so ordered.

Mr. SUMNER. I also offer a similar petition from citizens of New Jersey, and another similar petition from citizens of Kansas. I ask for them the same reference.

They were so referred.

Mr. SUMNER. I have another petition, which I have just received from citizens of Massachusetts, asking that Congress should see that no person shall be admitted as a governing partner in the Union until adequate security has been obtained for the future; that the national faith of the United States also shall be guarded carefully, both with regard to our creditors and with regard to our freedmen. I ask the reference of the petition to the joint committee on reconstruction.

It was so referred.

HOUSE BILLS REFERRED.

The following bill and joint resolution from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 268) for the relief of Albert Nevins—to the Committee on Pensions.

A joint resolution (H. R. No. 75) to encourage and facilitate telegraphic communication between the western and eastern continents—to the Committee on Foreign Relations.

REPORTS OF COMMITTEES.

Mr. GUTHRIE, from the Committee on Finance, to whom the subject was referred, reported a bill (S. No. 158) to facilitate the settlement of the accounts of the Treasurer of the United States, and to secure certain moneys to the people of the United States, or to the persons to whom they are due and who are entitled to receive the same; which was read, and passed to a second reading.

PAPERS WITHDRAWN.

On motion of Mr. POLAND, it was

Ordered, That the petition and other papers in relation to the case of the ship Niva be withdrawn from the files of the Senate.

Mr. McDOUGALL submitted the following resolution:

Resolved, That the papers relating to the claim of Dakin, Moody, Gilbert & Secor be permitted to be withdrawn from the files and referred to the Court of Claims.

Mr. CLARK. I think those papers should be examined; it should be known to the Senate what they are before they are sent to the Court of Claims.

Mr. McDOUGALL. It is important that they should be withdrawn to-day. They were referred a year ago to the Naval Committee and have been remaining there, and a question of limitation may arise. The Naval Committee never acted upon them.

Mr. CLARK. It is possible that we might give the Court of Claims jurisdiction where they have it not now, by a resolution of that kind. I would prefer that the papers go to some committee to be examined before they are sent to the Court of Claims. Then, if it is proper, they can be sent to the Court of Claims.

Mr. McDOUGALL. The Senator would not wish to have the statute of limitations bar the claim.

Mr. CLARK. I am not speaking particularly of the statute of limitations, but this resolution may give jurisdiction as to a class of claims of which the court would not have jurisdiction under the law.

Mr. McDOUGALL. Then I make the proposition to withdraw them without reference to the Court of Claims. That will not be objected to, I suppose.

Mr. CLARK. I have no objection to their being withdrawn from the files, if there has been no adverse report.

Mr. McDOUGALL. There has been no adverse report, and I modify the resolution so as to simply withdraw the papers from the files.

The resolution, as modified, was agreed to.

DIPLOMATIC GALLERY.

Mr. CHANDLER. I offer the following resolution, and ask immediate action:

Resolved, That the diplomatic gallery be open to the wives and families of Senators.

Mr. GRIMES. Let that resolution lie over.

The PRESIDENT *pro tempore*. Objection being made, it lies over.

CONDITION OF THE SOUTHERN STATES.

Mr. WILSON submitted the following resolution:

Resolved, That the committee on reconstruction be directed to inquire into and report how far the States lately in rebellion, or any of them, have complied with the terms proposed by the President as conditions precedent to their resumption of practical relations with the United States, which terms and conditions were as follows, namely:

1. That the several State constitutions should be amended by the insertion of a provision abolishing slavery.
2. That the several State conventions should declare null and void the ordinances of secession and the laws and decrees of the confederacy.
3. That the several State Legislatures should ratify the amendment to the Federal Constitution abolishing slavery.
4. That the rebel debt, State and confederate, should be repudiated.
5. That civil rights should be secured by laws applicable alike to whites and blacks.

The PRESIDENT *pro tempore*. Does the

Senator ask for the present consideration of the resolution?

Mr. WILSON. Yes, sir.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the resolution?

Mr. SUMNER. There can be no objection that I am aware of to the passage of that resolution, as it is addressed to one of our committees, and is in the nature of a resolution of inquiry; but I would remind the Senate that it is now some six weeks, if not two months ago, since the Senate passed a resolution addressed to the President of the United States calling upon him for precisely that information. The President has in his hands, or he ought to have, copies of all the correspondence between himself, telegraphic or otherwise, and the so-called governors of those States. The object of the resolution adopted by the Senate was to call upon the President to supply copies of that correspondence, and also of all the acts, organic or legislative, by any pretended bodies called Legislatures in those States in pursuance of the correspondence of the President. For some reason unknown to me, that call of the Senate has not yet been answered by the President. As the information is in his hands, and not in the hands of a committee of this body, I think it better, perhaps, that the Senate repeat this call once more upon the President, looking to him for the information which better than any other person he can supply.

At the same time, as I have already said, I see no objection to addressing this inquiry to a committee of this body. That committee, if it sees fit, I presume, may put itself in communication with the President, or by original inquiries of its own it may try to ascertain what we desire; but the most direct way is by calling upon the President himself for this information. My colleague says we have done it. I hope, then, that the President may still listen to the call of the Senate and communicate this needed information. It is essential in determining the duties of Congress at this important moment.

The resolution was considered by unanimous consent, and agreed to.

CHINA GRASS.

Mr. SPRAGUE. I submit the following resolution:

Resolved, That the Committee on Agriculture investigate the subject of procuring seed and cultivating the "China grass," as set forth in the letter of Mr. William H. Richards, and in the sample accompanying this resolution.

I desire, Mr. President, to direct the attention of the industrial interests of the country to another source of wealth, and I desire that the paper which I now present containing the sample and letter referred to in the resolution, may accompany the resolution to the committee.

The resolution was considered by unanimous consent, and agreed to.

PRESIDENTIAL TERM.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 33) proposing an amendment to the Constitution of the United States; which was read twice by its title.

Mr. BROWN and Mr. SUMNER. Let it be read at length.

The Secretary proceeded to read it.

Mr. SUMNER. Let the proposed amendment be read, and not the introductory part of the article.

The Secretary read the proposed constitutional amendment, as follows:

ARTICLE —. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and shall not again be eligible to that office during the term of his natural life.

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President, who shall not again be eligible to the office of President of the United States during the term of his natural life.

Whenever Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice President, declaring what officer shall then act as President, such officer shall not again be eligible to the office of President of the United States during the term of his natural life.

Mr. WADE. The offering of this resolution is no new impulse of mine, for I have been an advocate of the principle contained in it for many years, and I have derived the strong impressions which I entertain on the subject from a very careful observation of the workings of our Government during the period that I have been an observer of them. I believe it has been very rare that we have been able to elect a President of the United States who has not been tempted to use the vast powers intrusted to him according to his own opinions to advance his reelection. And when I say this of the Presidents who have preceded us I say it with no desire to depreciate their merits, but because the Constitution places before them temptations which we can hardly expect human nature to resist, and in the long run it never will resist them. Early in the history of our Government Washington himself, who was exceedingly sagacious respecting its workings, informed the people that in his opinion here was a weakness that ought to be remedied. He saw it early. He saw that a man intrusted with these more than regal powers during the period that he was President might be tempted to use them for his own advancement afterward. Almost all the Presidents who have come after him have in some way felt, and honestly felt, that some such check was needed upon the ambition of man. It is an injunction of more than human wisdom to pray to be relieved from temptation. If I had time I might trace it through all the preceding Administrations and show that this consideration had weighed like gravitation upon the mind of almost every President we have had.

How is it in the present case? I have no doubt that when the Chief Magistracy devolved upon the present incumbent he was perfectly single in his mind, sincere, truthful, and honest in the opinions he entertained. What were some of these opinions? He said, and reiterated it almost every day for nearly two months at the beginning of his administration, that treason was a great crime, that it ought to be punished, that it must be rendered infamous, and that he was the man who would do this. He said it to every delegation that visited him, until the words became stereotyped in the minds of the whole people. How has he performed that pledge? Has he punished anybody? Why, sir, we have the unheard-of spectacle of one of the greatest rebellions that ever cursed mankind, involving more people, more lives, more expense, more disasters than all the rebellions recorded in history, and yet no man has been punished in consequence of it. Something is wrong; or if it is all right, your whole system of punishments and penitentiaries throughout the Union ought to be abolished.

Sir, the President was right when he informed the people that treason was the greatest of crimes and ought to be made odious. Why did he not perform that promise? What has led him to change his position upon these questions? I will not say that the ambition which has tempted all that have gone before him weighed upon his mind to bring it to the conclusions to which he has come; but it is exceedingly singular that so far from rendering treason odious by punishment, he has foisted into the highest and most delicate trusts many of the worst traitors, the leading traitors in the Union. Who else at any period of the world ever thought of taking a rebel, red with the blood of his countrymen, and placing him in the position of a Governor of a State—yes, sir, placing as Governor of a State a man who had sought to overturn not only the government of the State, but of the Union, and had invoked foreign despots to aid and assist him in doing it? Is that the way to make treason odious among mankind?

Now, as to the policy about which we have heard so much, nobody has been able to tell us exactly what that policy was; but we all saw that there was a kind of policy in it that suited every rebel, every copperhead, every enemy of the Government of the United States, both foreign and domestic. As the policy has become

developed we all now see precisely what it is, and why it was so pleasing to the ears and to the hearts of all the enemies of the country. It is no less than this: that these States shall suffer nothing and forfeit nothing by the rebellion, but they shall be admitted, unwashed and red with the blood of their countrymen, in full communion with the honest and loyal men of the country in the councils of the nation. What has brought about this change? It all points to this fact, that it will not do to tempt men in this way.

Sir, this policy of bringing these States into the Union with all their rebellion and treason in their hearts is no better than treason itself; for I lay down the rule here, and I defy contradiction, that if there is any man, be he high or low, who is an advocate for bringing unwashed traitors into the councils of the nation, that man is a traitor in his heart; he is an enemy to the nation, to the Government, and nothing can wipe it out. He that invokes the aid of an unrepentant rebel to come into the councils of the nation and participate with us in its administration is no better than a rebel, and he is a rebel at heart.

How does the policy that has now been announced differ from the policy that would be announced in the same place by Jefferson Davis, were he to-morrow placed in the same position? Would he ask any more, and would he ask any less, than that his coconspirators should all be restored to precisely the same position of predominance that they had when they left these Halls? We all know the history of that period when those men in these Halls rebelled. How was it? When they went off they had the Government all in their own hands; and to the eternal infamy of the Democratic party be it said, that, with all their treason on their skirts, in this Senate Chamber there was but one man that I recollect on that side of the Chamber who protested against their treason. They stood faithfully by them during all that period of events that led to the open rupture of war. You may search the Journals of the Senate and of the other House and you will not find a single Democratic vote recorded against the will and measures enjoined upon them by the southern rebels just before they went out of Congress. They had it all their own way. Mr. President, you and I felt more relieved than we ever did on any other occasion when we saw them volunteer to leave these Halls. It was the greatest blunder that treason ever committed. They were infinitely more formidable here than they were in the field. There we could crush them by our superior forces and resources, but here they held us by the help of their serfs, the Democratic party, in perfect subjection. No man of the Democratic party undertook to gainsay whatever measure they proposed, or to protest against what they did. You cannot find it anywhere recorded in the Journals of this body.

Now, sir, suppose they had kept on here just as they are invited to come in now; suppose they had kept right along and had not committed that blunder, but held predominance in Congress and prevented any provision being made by the Government for resisting their treason; you could not have voted a dollar to carry on the war, you could not have enlisted a soldier, you could not have done the first act by which we could defend ourselves, had they not committed that blunder, for the Democratic party here would have stood by them and voted down every measure, as they undertook to vote them down after their masters had gone.

Some gentlemen are very much astonished at the number of constitutional amendments that are offered from time to time. I do not wonder at it at all. This great Government, now floundering through a crisis that never Government encountered before, is tried in all its parts; and if there be any weakness in it, it is revealed by the very difficulties that we encounter and overcome. As a great ship overtaken by a hurricane shows you all the weak spots in it, and shows where the carpenter ought to commence his work, so it is with this great Government. Men see, as it flounders through

these difficulties, where the weak spots are, and this one that I seek to mend now is among the most weakening of the deficiencies that exist in the Constitution of our fathers. It is no disparagement to them that we find a century afterward that their work was not complete and adapted to all time to come. It would have been more than a miracle of human wisdom if they had been able to accomplish such an event. It is absurd to suppose that a Constitution that worked well among a people spread over a small extent of country and not more than three millions in number should be in all particulars perfect when the nation had grown up to contain more than thirty millions and had spread over an entire continent. You might just as well expect that cloth cut for an infant would be the pattern for him in all time to come when he had arrived at manhood. There are defects in the Constitution, and this is among the most glaring. All men have seen it; and now let us have the nerve, let us have the resolution to come up and apply the remedy. It is singular that we probably have now an opportunity to do it. It is very rare in the history of nations that an opportunity like this arises. I hope everybody will join with me in this proposition, and the President among the rest; and he will, if he has a spark of patriotism, enjoin it upon us, as General Jackson did, as Washington did, as all the great statesmen that preceded us have done.

Therefore I shall move at a very early period to take up this resolution, and I intend to have the sense of Congress upon it. It is no new proposition emanating with me, but it has had the sanction of the most sagacious and eminent statesmen that ever graced the Halls of Congress or the executive chair. Of all the amendments that have been proposed to the Constitution I have no doubt this is the most conservative—however, I do not like to give it that bad name. It is the great remedy for the evils under which we now labor. I have no doubt about it.

This is all I wish to say about this proposition now. I repeat that I shall call it up at an early day, and I shall enjoin it upon this Senate to carry it through with me; and here I have the satisfaction of believing that I shall have the aid and assistance of all parties, because it is a measure that has heretofore met the approbation of everybody. I move that this joint resolution be printed and laid upon the table.

The PRESIDENT *pro tempore*. That order will be entered if there be no objection.

BILLS INTRODUCED.

Mr. CRESWELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 157) to protect children of African descent from being enslaved in violation of the Constitution of the United States; which was read twice by its title.

Mr. SUMNER. I should like to have that bill read at length.

The Secretary read the bill, which provides that it shall not be lawful in any of the States of the United States where slavery has been abolished since the year 1861, either by State constitutions, legislative enactments, or by the amendment to the Constitution of the United States abolishing slavery in the United States, to indenture as apprentice any child or children of African descent without the consent first obtained of the parents, or parent if only one be living, guardian, or next friend. Any indenture of a child or children of African descent as negro apprentices since the year 1861 without the consent of parents, or parent if one be living, guardian, or next friend, is declared to be in violation of the amendment to the Constitution of the United States abolishing slavery therein, and the indentures null and void. In all cases of indentures of negro apprentices made by any of the courts in the States, if it shall appear on investigation that the consent of the parents, parent, guardian, or next friend was obtained by fraud or misrepresentation, or that the indentures were obtained by fraud or misrepresentation of any kind, or that the age

or condition of the child or children indentured as negro apprentices was incorrectly stated in the indenture, then the indentures are to be null and void.

If any person or persons shall continue to hold in slavery in violation of the provisions of this bill, any child or children of African descent who may have been indentured as African apprentices without the consent of the parents, or parent if only one be living, guardian, or next friend, on complaint or information given to any circuit or district court of the United States, or any judge thereof, or to any court organized by the authority of the Freedmen's Bureau of the United States, those courts or judges are to cause to be issued the writ of *habeas corpus* directed to the person or persons who may be thus unlawfully detaining such apprentices to appear forthwith before such courts or judges, and upon a hearing and a full investigation of all the facts in the case, if they shall find that the child or children are held in violation of this bill, they shall set the apprentice or apprentices free from such slavery, and may impose a fine of not less than \$300 nor more than \$500 upon the offender, or imprisonment for not more than six months, or both, in the discretion of the court. Nothing in this bill is to apply to the trustees of the poor or to the managers of the houses of refuge of the several States who indenture children of African descent, on the same condition as white children are indentured.

Mr. CRESWELL. I ask the reference of this bill to the Committee on the Judiciary. It was so referred.

FREEDMEN'S BUREAU—VETO MESSAGE.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is the bill returned by the President of the United States, with his objections to its passage, it being Senate bill No. 60, to amend an act entitled "An act to establish a Bureau for the Relief of Freedmen and Refugees," and for other purposes; and the question is: Shall the bill pass, the objections of the President of the United States notwithstanding?

Mr. DAVIS. Mr. President, I propose to submit to the Senate an argument in support of the President's veto of the act to increase the powers of the Freedmen's Bureau. This act, and the law to which it is proposed as an amendment, are to "extend to refugees and freedmen in all parts of the United States," and authorize the President to "divide the section of country containing such refugees and freedmen into districts, each containing one or more States, not to exceed twelve in number, to appoint an assistant commissioner for each of said districts; or to detail from the Army a Commissioner and assistant commissioners."

The Commissioner, with the approval of the President, is required "to divide each district into a number of sub-districts not to exceed the number of counties, or parishes in each State, and shall assign to each sub-district at least one agent." "Each assistant commissioner may employ not exceeding six clerks," &c.; "the President, through the War Department and the Commissioner, shall extend military protection over the employés, agents, and officers of the bureau."

"The Secretary of War may direct such issues of provisions, clothing, fuel, and other supplies, including medical stores and transportation, and afford such aid, medicine, or otherwise, as he may deem needful for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen, their wives and children."

The President is authorized to reserve from sale or from settlement under the homestead or preemption laws, and to set apart for the use of freedmen and loyal refugees, unoccupied public lands in Florida, Mississippi, Arkansas, Alabama, and Louisiana, not exceeding in all three million acres (good) land; and the Commissioner, under the direction of the President, shall cause the same, from time to time, to be allotted and assigned, in parcels not exceeding forty acres each, to the loyal refugees and freedmen, who will be protected in

the use and enjoyment thereof, for such term of time and such annual rent as may be agreed on between the Commissioner and such refugees and freedmen—they to have the right of preemption at the end of the term. The possessory titles, granted in pursuance of General Sherman's field order of January 16, 1865, to a large quantity of the best Sea Island cotton lands are confirmed for three years, which will result in a fee-simple estate.

The Commissioner, under the direction of the President, is required to procure "in the name of the United States, by grant or purchase within the districts aforesaid, such lands," without limit as to quantity, "as may be required for refugees and freedmen dependent on the Government, and he shall provide or cause to be built suitable asylums and schools for them."

The seventh section provides "that in any State or district in which the ordinary course of judicial proceedings has been interrupted by the rebellion, and in which there are discriminations to the prejudice of negroes, mulattoes, freedmen, or refugees in the right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to have full and equal benefit of all laws and proceedings for the security of person and estate, or whenever they, or any of them, are subjected to any other or different punishment, pains, or penalties for the commission of any act or offense than are prescribed for white persons committing like acts or offenses, it shall be the duty of the President of the United States, through the Commissioner, to extend military protection and jurisdiction over all cases affecting such persons so discriminated against."

Section eight makes it a misdemeanor to deprive any negro, mulatto, freedman, refugee, or other person, on account of race or color, of any civil right secured to white persons; or to inflict on them any other or different punishment than white persons are subject to for the commission of like acts and offenses; and for such misdemeanor it declares punishment of fine not exceeding \$1,000, or imprisonment not exceeding one year, or both.

This section also makes it the duty "of the officers and agents of this bureau to take jurisdiction of and hear and determine all offenses committed against its provisions" "and also of all cases affecting negroes, mulattoes, freedmen, refugees, or other persons who are discriminated against in any of the particulars mentioned in the preceding section, under such rules and regulations as the President of the United States, through the War Department, shall prescribe."

This is a synopsis of the act. It organizes the largest and most expensive eleemosynary institution that ever existed, and adopts all the negro population of the United States, numbering about four and a half millions, as their wards; and it provides that the support of any of them may, as a large portion of them necessarily must, become a charge upon it. Four thousand officers, diffused over the United States, with an aggregate of more than five million dollars of salary, may be put into the service of this institution. Its annual expenditure of money will probably be not less than \$50,000,000, and could, to carry out its full purpose, be pushed to five times that amount; and the quantity of land required for it may be reasonably estimated at not less than thirty million acres.

But these are not by far the gravest and most objectionable features of the act. It establishes a military despotism in every State into which it may be carried, where "the ordinary course of judicial proceedings has been interrupted by the rebellion," and sustains it by the whole military power of the United States. It confers upon the officers of this bureau extraordinary and dangerous legislative, executive, and judicial powers, and requires them by force of arms to trample down all State laws which deny to negroes and mulattoes an equality

of the civil rights enumerated in it with white people; and to wrest negroes and mulattoes from all punishment different from what is declared by law against white persons for the same acts and offenses; and to substitute for the laws thus to be set aside an arbitrary code to be concocted in the War Office. It makes the enforcement of any State laws which make distinctions between the civil rights and punishments of negroes and mulattoes and white persons a high misdemeanor, and denounces against the State officers who enforce those laws heavy punishment, both by fine and imprisonment. It forces all causes of suit between the negro and white persons from the civil law and civil judge and juries, and requires them to be tried by the officers of this bureau, according to its military code. And it protects by United States bayonets "all employés, agents, and officers of this bureau" from any responsibility by the civil law and courts for any and every wrong perpetrated by them, however enormous.

Never before in this country did Congress attempt such legislation, and where is there any authority for it? It must be found in the Constitution, or the act can have no validity. We propose to examine that general question. The States and their governments existed before the United States and the General Government. The States and their governments cooperated in forming the Constitution and Government of the United States, and without such cooperation they could not have been formed. Before the adoption of the Constitution the States were, each for itself, possessed of all sovereignty; but by that instrument their people delegated a portion of their sovereignty, and organized it into a general but limited Government for the people of all the States; and the sovereignty with which they parted, and the form of the Government they instituted, are expressed in the Constitution. Every principle and every power of which they have become dispossessed, and their adjustment into a national Government, were written down in the Constitution. Neither the States nor their governments were dissolved by the formation of the Government of the United States; but they remained as they had previously existed, organized and possessed of all sovereignty and power, except the limited amount which they had parted with, and which is named in the Constitution.

The General Government was not only so framed as to leave the States in existence, but it was to some extent founded upon them, and for its existence and operation requires their cooperation, as Senators in Congress are to be chosen by their Legislatures, and "each State shall appoint, in such manner as the Legislature may direct," its presidential electors. If the States were to refuse to perform these functions it would bring the Government of the United States to an end. The Constitution of the United States, and the acts of Congress made in pursuance of it, are the supreme law of the land. But every act of Congress must be authorized by a power conferred upon it by the Constitution to pass that act. Within its constitutional sphere, even though it be in conflict with any or all the State governments, the authority of the United States Government is paramount and supreme; but outside of the powers delegated to the United States by the Constitution, and not prohibited by it to the States, they are paramount and supreme. All political sovereignty is thus divided between the United States and the States; and the maintenance of our complex system of blended governments, national and State, require that all the powers and sovereignty apportioned to either shall be held inviolate by the other; and if it is disadjusted by the encroachments of either, it is the highest duty of the people of the United States to readjust it.

These principles have often been pronounced in the opinions of the Supreme Court; and all of them are very clearly stated by Chief Justice Marshall in the opinion in the case of *McC*

Cullough vs. The State of Maryland, delivered by him. We will quote several passages from that rich mine of constitutional law:

"In America the powers of sovereignty are divided between the Government of the Union and those of the States. They are each sovereign with respect to the objects committed to it, neither with respect to the objects committed to the other."

"This Government is acknowledged by all to be one of enumerated powers. The principle that it can exercise only the powers granted to it would seem too apparent to have required to be enforced by all those arguments which its enlightened friends, while it was depending before the people, found it necessary to urge."

"The tenth amendment, which was framed for the purpose of quieting the excessive jealousies which had been excited, declares that 'the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.'"

Another great principle is thus stated in that opinion:

"The power of creating a corporation, though appertaining to sovereignty, is not like the power of making war or levying taxes, or of regulating commerce, a great substantive and independent power, which cannot be implied as incidental to other powers, or used as the means of executing them. It is never the end for which other powers are exercised, but a means by which other objects are accomplished."

"The power of creating a corporation is never used for its own sake, but for the purpose of effecting something else. No sufficient reason is therefore perceived why it may not pass as incidental to those powers which are expressly given, (to collect taxes, pay the debts of the United States, &c.) if it be a direct mode of executing them."

Again, he says:

"We admit, all must admit, the powers of the Government are limited. But we think a sound construction of the Constitution must allow to the national Legislature the discretion with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to the end, which are not prohibited, but consonant to the letter and spirit of the Constitution, are constitutional."

Also:

"Should Congress, in the execution of its powers, adopt measures which are prohibited by the Constitution; or should Congress, under the pretext of executing its powers, pass laws for the accomplishment of objects not intrusted to the Government, it would become the painful duty of this tribunal, should a case requiring such a decision come before it, to say that such an act was not the law of the land."

The American people are more indebted to Mr. Madison than any other man for their Constitution; and they are under not less obligation to Chief Justice Marshall for his able and luminous expositions of its great principles. If this act is examined in the clear light shed upon it by the principles stated in the extracts from this imperishable opinion which we have here presented, a correct judgment on the question of its constitutionality can be formed by all men of common honesty and understanding. But preliminary to this examination we will consider the two sources of power which its friends contend give authority to Congress to pass it:

I. From this provision of the Constitution: "The citizens of each State shall be entitled to the privileges and immunities of citizens of the several States." The correct interpretation of this clause, as to the persons comprehended by it, would seem to be without difficulty. It applies to two classes of persons: 1. The citizens of a State, who, without changing their residence, go temporarily into another State, *in transitu* or on business or pleasure. 2. The citizens of any State who may remove their residence into another State. Both these classes become entitled to the privileges and immunities of American citizens in the several States, but the precise extent and the particular kinds of those privileges and immunities are questions not of easy solution. This provision of the Constitution has been in a few cases before the United States circuit and two or three of the State courts for their considerations; and they have ruled definitely and unanimously that it does not extend to the citizens of any State who have not changed their residence or gone into another State for some temporary purpose. (See 3 Harris & McHenry, 554; 4 Wash. C. R., 580; 6 Pick., 92.)

But this bill by its terms applies to all the inhabitants of the United States, without regard to race or color, including the great mass of the people, those who have not changed their residence from one State to another, nor gone into another State for any temporary purpose, nor are claiming any privilege or immunity of an American citizen in any other State than the one in which they reside. Consequently this provision of the Constitution, allowing to it the broadest application which can be claimed under its language, would only authorize an act of Congress that would embrace but an inconsiderable portion of the people and their privileges and immunities, when this act, by its terms, is made to comprehend all. It is therefore palpably obnoxious to the objection of being in conflict with the Constitution. It is indeed flagrantly so, because Congress has no constitutional power to bring a single person in the United States, or his property or rights, under the provisions or operation of this act. I think this last position will be made good by my subsequent remarks.

II. But the second section of the last amendment of the Constitution is mostly relied upon by the friends of this measure as conferring upon Congress the power to pass it. That amendment is in these words:

"Sec. 1. Neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist in the United States or any place subject to their jurisdiction."

"Sec. 2. Congress shall have power to enforce this article by appropriate legislation."

The second section invests Congress with no more power than it would have possessed without it. Paragraph eighteen, section eight, article one, provides:

"The Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or any department or officer thereof."

This provision gives to Congress the same faculty of ancillary legislation to execute powers that might be conferred on the Government of the United States by all after amendments of the Constitution, as to execute those given and enumerated by the Constitution in the form in which it was first adopted; and it invests Congress with the same and equal power to pass auxiliary laws to give force and effect to the first section of this amendment that the second section does.

Between the words "Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the first section of article thirteen" and the words "Congress shall have power to enforce that section by appropriate legislation," I know no difference of sense and meaning. If there be any, the first import the larger power. "To execute" is to carry into complete effect; "to enforce" is to urge on.

They both confer this incidental power; but any legislation to be legitimate under either must be appropriate and consistent with the letter and spirit of the Constitution; and that character of legislation, to execute the first section of this amendment, would be authorized by both.

The first section simply abolishes slavery and involuntary servitude at that time, and inhibits them, prospectively, in the United States and every place subject to their jurisdiction. It neither does nor attempts to do anything more. It does not directly and positively give freedom to the slaves; that is done consequentially by the abolition of slavery. Slavery and freedom as here used are American terms, and import definite American ideas; and in the American sense are they to be treated. Slavery is the state of entire legal subjection of one person to the will of another, and freedom is the total absence of such subjection from a person. Whatever force entirely and permanently annihilates that subjection of a person, and remits him from the will of his owner to his own will, to govern and control himself, both abolishes his slavery and gives him his freedom. Slavery

is his individual personal condition of entire subjection to the will of another; his freedom is his personal, permanent deliverance from that subjection, and his protection by the law in this condition.

The first section of the amendment, having no other object or effect than to abolish all existing slavery and its prevention in the future, they are the only ends which would authorize any incidental and auxiliary legislation, and such legislation must be "appropriate to those ends," "plainly adapted to them," "most suitable, fit, and proper to give them effect;" "it must not be prohibited, but consistent with the letter and spirit of the Constitution." "It must not, under the pretext of executing" the first section of this amendment, "be in fact to effect objects not intrusted to the Federal Government by the Constitution." These are the tests, according to Chief Justice Marshall, of all such legislation. Unless this act can stand each and every one of them, it cannot, even with the approval of the President, become the law. Let us examine how it can sustain these tests.

This amendment of the Constitution does not enumerate the power to establish a Freedmen's Bureau as a congressional power; it does not expressly confer on Congress the power to create a Freedmen's Bureau. Then, if such a power exist, like the power to establish a bank, it is an implied power. It is not a "substantive, independent power," for the execution of which other and incidental powers may be invoked; but it is itself an incidental power, to be used only to execute some other and an express or enumerated power. All concede that the only express or enumerated power to execute or enforce which the Freedmen's Bureau can be claimed to be auxiliary is expressed by the first section of the amendment:

"Neither slavery nor involuntary servitude, except as punishment for crime, shall exist within the United States." &c.

Then the power of Congress to organize this bureau is implied and incidental; it is not for the purpose of creating the bureau itself, but because such a machinery "is necessary and proper," "appropriate," to enforce the abolition and prohibition of slavery in the United States. It might be plausibly, if not truthfully, argued that no legislation whatever was necessary to execute or enforce that section; that of itself it fully and completely abolished all existing, and prohibited all future, slavery in the United States; and that every being whose rights under it were infringed, would, by the principles of the common law, be entitled to redress, both in the form of civil suit and penal prosecution. But, if auxiliary legislation be necessary, it cannot appropriately and constitutionally do more than, to give to injured parties efficient legal protection, by suit and penal and criminal proceedings in court. No human laws can prevent the rights guaranteed by this provision of the Constitution from being invaded. All that is possible is to furnish the injured appropriate and constitutional redress.

It is an inflexible rule of construction of all writings, instruments, laws, treaties, and constitutions, that a clearly expressed provision shall not be nullified or restricted by any implication, but shall have its full effect according to the language embodied in it.

Article ten of the Constitution reads:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Yet this Freedmen's Bureau act, passed with no warrant of authority but the implied incidental power to enforce the first section of the amendment, nullifies this provision of the Constitution, by absorbing all the essential sovereignty and rights of the States, expressly, and so emphatically guaranteed by it.

The executive power only is vested by the Constitution in the President of the United States in the first section of article two; and the first section of article three says:

"The judicial power of the United States shall be

vested in one Supreme Court and such inferior courts as the Congress may from time to time ordain and establish."

Section two reads:

"The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States," &c., "between citizens of the different States," &c.

And section one, article one, provides—

"All legislative powers herein granted, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives," &c.

All these principles, established by express language, are flagrantly infringed by this act, in these respects:

1. It authorizes the President to detail "a Commissioner and assistant commissioners for the bureau from the Army; and to assign an officer of the Army, or an enlisted man, to act as agent in each sub-district; which officers and military men are invested by it with judicial powers and functions.

2. No appeal, writ of error, or transfer from the judgments of this bureau is permitted to the supreme or inferior courts of the United States, even though the case may arise under the Constitution or the laws of the United States, and be between citizens of different States.

3. It makes it "the duty of the officers and agents of this bureau to take jurisdiction of and to hear and determine all offenses committed against its provisions, and also of all cases affecting negroes, mulattoes, freedmen, refugees, or other persons, who are discriminated against in any of the particulars mentioned in the act."

4. It authorizes the President, through the War Department, to disperse with all laws, whether of the States or the United States, and to substitute such rules and regulations as he by that agency, in the possession of absolute and irresponsible power, may devise.

The third paragraph of section two, article three, provides:

"The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed," &c.

Article five defines the mode of accusation for crimes, and prescribes a "trial by due process of law," &c.

Article six declares:

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed," &c.

Article seven provides:

"In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States than according to the rules of the common law."

This last provision has been construed by the Supreme Court in a very careful opinion announced by Justice Marshall, in which it is ruled that in all civil cases in which the matter in contest is above twenty dollars, either party is entitled to a jury in every court into which it may be taken; and that this principle extends to all subjects of suit of which courts of equity and admiralty have not the exclusive jurisdiction. (See *Weston vs. Council of City of Charleston*, 2 Pet., 440, 449.)

The inestimable right of trial by jury, so prized by our ancestors, so sedulously guarded and assured to every person by those express provisions of the Constitution, is wholly repudiated, both in criminal and civil cases, by this act requiring them to be tried by the officers and agents of this military bureau; and for the law is substituted the will of a military despot. But this measure is not merely to secure freedom now and prospectively to the negro population of the United States. Besides being flagitiously unconstitutional in all its principal provisions, it is not as a means suitable, fit, appropriate, plainly, and directly adapted to those ends. Under the pretext of enforcing the first section of the amendment, the practical operation would be unfriendly, hostile to its true and honest purposes; and it has other objects altogether alien to them, transcending

the powers of Congress and the Federal Government, and subversive of the Constitution and the liberties of the people.

It has been devised by the leaders of the party in power as a most potent, extensive, and pervading party machinery; and while holding out to the negro the magic lure of liberty and homes and largesses at the cost of the white people of the United States, the design is to reenslave the freedmen and to reduce the white race of the southern States to a slavery even lower than that of the blacks, and with the aid of general negro suffrage to hold them permanently in that condition. If the negro is free in law and fact, why is he not in the enjoyment of the free will, the unfettered conduct and action of the white man? The plea that this bureau is necessary to protect the freedman from his late master is false, and those who make statements to that effect are holding places, public or private, in connection with this bureau or are plundering under its cover. These testimonies, as a general rule, originate in mercenary sources and are not entitled to any credit. Their former owners are a much surer reliance for justice, protection, kindness, and sympathy to their late slaves than this bureau, its officers and agents, and the plunderers who are living and fattening by it.

The white people of the South generally, almost universally, submit to the fact that the negroes are permanently free. The two races are living in the same country, and so must continue. They know each other better than they or either of them are known to the people of the free States. The white race, either natives of the South or from other localities, will be the proprietors of the land, and the black its cultivators; such is their destiny. The late owners and their slaves know, or would soon learn and recognize the fact, that mutual confidence and good will are essential to the welfare of both races. The white man would be taught that he could win these from the black man only by justice, kindness, and respectful treatment; and the latter would not be slow in understanding that a diligent and faithful performance of his duties to his employer, and an obliging disposition toward him and his family, would not only secure his rights, but also a generous sympathy. The general good of each State would require the establishment of such relations, and their legislation and policy would be faithfully and wisely applied to establish and perpetuate them. If Congress would refrain from all intermeddling with these matters, over which it has not a particle of legitimate authority, and would remit them to the respective States, where alone they properly belong, they would soon be adjusted upon a basis combining justice, humanity, and the soundest policy.

But it is the fixed purpose of the party which sustains the Freedmen's Bureau to prevent the late masters and the late slaves from coming to any friendly settlement. That party has two cardinal purposes to which it intends to appropriate the freedman: first, by military coercion to work the cotton and sugar lands of the southern States for the benefit of its section and of those who constitute the party; second, to confer on the freedman the right of suffrage and constrain them to vote for the perpetuation of their party power, and, with the aid of these allies, to control the elections in the late slave States and hold possession of the Government of the United States. To achieve these grand party ends the Freedmen's Bureau, with its enormous and irresponsible military powers, is a necessary engine. By its great largesses of lands, homes, and supplies it fixes the entire negro masses of the United States in the interests of the northern radical party; and by its diffused and vigorous military government it will hold together, control, and give direction to all their efficient labor. Its various, extensive, and arbitrary powers, grasping in its embrace the whole of both races in the late slave States and their property, business, and concerns, and especially their relations with each other, will enable it to depress the whites, to favor and hold up the blacks, to flatter the van-

ity and excite the insolence of the latter, to mortify and irritate the former, and perpetuate between them enmity and strife.

This is the state of relations between the two races which the Freedmen's Bureau will bring about and protract, to afford a pretext, in the absence of war and military necessity, for its continuance. The law of the last session organizing it, provided for its continuance only twelve months after the war should have closed; more than eight months of that time has passed, but the bureau is too important a party power to be allowed such an early termination. On its limited scale, it has shown great capabilities; and, magnified as it has been by this act, its efficiency for party service will be proportionably increased. The same real motives of having the freedman's labor in cotton and sugar fields and his vote at elections will continue indefinitely, and the operations of the bureau itself will furnish the simulated necessity of protection of the freedmen against their former masters for its continuance. In that way the design of the party is to make it a permanent institution. It has been clearly shown that this act is prohibited by the Constitution, inconsistent with both its letter and spirit—that under the pretext of executing another power, Congress has passed it for the accomplishment of objects not intrusted to the United States Government. Each and all of these objections to any act of Congress, Chief Justice Marshall has declared, would make it the painful duty of the Supreme Court to pronounce it "not to be the law of the land."

This act is unconstitutional also because it intervenes military power to prevent the officers and agents of this bureau from being held to any responsibility in civil courts, State or Federal, however wrongful, illegal, and criminal their acts may have been. If it be unconstitutional it is utterly void, and furnishes to those who may attempt to execute it no ground of defense if they should be sued or criminally prosecuted for what they may do under it. The great constitutional principle, that an act of Congress in conflict with the Constitution must yield to it, and is of no validity whatever, was first enunciated by the Supreme Court, Chief Justice Marshall being the organ, in the case of *Marbury vs. Madison*, 1 Cranch, 137, since which it has never been questioned. It is strange that it ever was controverted in the face of the provision:

"This Constitution, and the laws of the United States which shall be made in pursuance thereof," &c., "shall be the supreme law of the land."

This act, therefore, as a whole and in all its parts, is a flagitious infraction of the Constitution; and yet, under covert of it, the employees, agents, and officers of this bureau may commit the most outrageous wrongs, the most shocking crimes, and the President is required by it, "through the War Department and the Commissioner," to extend to them "military jurisdiction and protection."

Congress has no power to pass laws to organize a vast system of poor-houses, to endow them, and to establish and support in them the paupers of the United States, black or white; or to subject the whole people of the United States, black and white, or either race, and their civil rights, property, contracts, offenses, and punishments, their suits and legal responsibilities, to the civil, much less to the military authorities of the United States; all those matters are by the Constitution reserved to the States respectively; and in virtue of their original and ungranted sovereignty they have exclusive jurisdiction over them; and yet this act proposes to usurp absolute power as to this whole mass of reserved State rights, and to govern them by a military despotism to be organized in this bureau.

If the second section of the amendment could be tortured to give some semblance of authority to pass such an act, it could be claimed with any show of reason to extend only to the slaves freed by the first section, and not to those already free. This section was intended for and only operated upon slavery and the enslaved,

not upon freedom and the free. In 1860 the total free negro population of the United States was 488,005, and it may be assumed to have been 500,000 at the commencement of the rebellion. Maryland, Missouri, and Tennessee had liberated all their slaves before the adoption of the amendment. It is claimed by the friends of this measure that the slaves of the rebel States had been made free by the President's proclamation or having enlisted into the Army or by being the wives and children of those who had. In Kentucky about 35,000 slaves have become soldiers, and their wives and children were estimated by officers connected with the negro recruiting in that State to be 75,000. According to this computation there were about 140,000 slaves in Kentucky, not more, when this amendment of the Constitution went into effect, and could not have been 500,000 in the whole United States; and on this small amount of negro population only, by the principles contended for by its friends, is there even a pretext to make this act operate; and yet by its terms it extends not only to the whole negro, but also to the entire white population of the United States.

The original thirteen, as colonies and States, were all slaveholding for more than one hundred years, and that continued to be the condition of six of them down to this great insurrection. Nine of the new States adopted slavery, and with that institution were admitted into the Union as having a republican form of government, in accordance with the requisition of the Constitution. It was States holding slaves as property that formed the Constitution, and incorporated the provision that the United States should guaranty to all the States a republican form of government, and they each continued one of the United States, adhering to slavery as long as it was their will, and their republican form of government was never questioned. The position that a slaveholding State could not have a republican form of government in the sense of the Constitution is one of the senseless extravagances of the day.

Every slaveholding State, throughout the entire period of its continuance of that institution, had a mode established by its laws to enable the owners of slaves, by their own act, to emancipate them. In all the States but three, it is a well-known fact that the emancipation of a slave conferred on him no political right whatever; and we have met with no evidence that it had any such component part or consequence in either of those three States. Whenever a slave was manumitted, he became entitled to some civil rights by the laws of the State; but their number and extent varied in different States, and in none were they a part of the act of manumission. The deliverance of the slave from subjection to the will of all other persons, and the guarantee by the laws of that deliverance, are all there is of emancipation. His acquisition of civil rights is altogether a distinct matter; and until the adoption of this amendment of the Constitution, the power of each State over both subjects had been exclusive and sovereign, and it still continues so over the matter of civil rights.

Every State had some population that were neither slaves nor citizens, to which it extended some civil rights, but the quantum was not uniform or stable. This concession was determined by each State for itself, and the right to make it more or less, or to alter it according to the varying condition or sense of policy and justice, from time to time, was never doubted. On their emancipation, slaves, by general laws, were remitted to all the civil rights of that portion of the population of the State who were not citizens, unless some of them were withheld by special enactments or inflexible custom. Intermarriage with white persons, commingling with them in hotels, theaters, steamboats, and other civil rights and privileges, were always forbid to free negroes, until Massachusetts has recently achieved the unenviable notoriety of making herself an exceptionable case.

These observations are equally applicable to the general systems of emancipation of some of

the States, acting by their Legislatures or conventions.

But under the power to enforce the simple abolition and prohibition of slavery in the United States, the frantic friends of the negro claim that Congress has the authority and is bound to pass laws to secure to all the negroes in the United States farms of forty acres of good land, build houses upon them; to found churches and schools, and furnish them with preachers and teachers; to build and maintain the requisite number of poor-houses for that whole population, to supply the indigent and destitute with provisions, clothing, and medical service, and all with transportation; to secure the negro an equality of civil rights and disabilities, and of pains, penalties, and punishments; to guaranty to him suffrage in elections, and to give evidence in courts; and as a necessary sequel, eligibility to all the offices by which the laws are made, adjudged, and executed, State and Federal courts, inferior and supreme, shrievalties and marshalcies, governorships, and presidency. And to hold the negro up to this high estate, they say power enables and duty demands of Congress to organize a military autocracy in this Freedmen's Bureau, with absolute will to repudiate the laws of Congress and the States, the courts Federal and State, the supreme law of the land, the Constitution of the United States; and itself to absorb all political sovereignty and powers, legislative, executive, and judicial, concerning the negro generally, and particularly in all his relations with the white man.

This sketch falls below the enormity of the "act to increase the powers of the Freedmen's Bureau." It requires madness, or something worse, to pronounce such a measure just, wise, or constitutional.

The President has put his veto upon it. This power originated in Rome while Rome was yet a republic. It was raised up by the people, and by them vested in their tribunes to forbid the Senate to pass improper laws. In our Government it has a similar office. It is confided to the President, the tribune of the people of the United States, and chosen by them. It is a constitutional check upon Congress when they are about to pass unjust, mischievous, oppressive, and unconstitutional laws. It is one of the great defenses of the Constitution and popular liberty. It has been intervened on this occasion to check an act unparalleled in its enormous and profligate expenditure of the public money, in its grinding oppression of eight million white people, and in the number and enormity of its aggressions upon the Constitution. An act, the authors of which have dissolved the Union by excluding the eleven States which are to be enslaved by it from all representation in the two Houses of Congress, and which could not be passed if those States were represented. Never was there an occasion or a measure which so imperatively demanded the presidential veto.

MR. TRUMBULL. Mr. President, it was with surprise and profound regret that I read the extraordinary message of the President of the United States, returning with his objections the bill to amend an act entitled "An act to establish a Bureau for the Relief of Freedmen and Refugees," and for other purposes. It has been my desire that the various departments of the Government should harmonize in the restoration of all the States to their full constitutional relations in the Union. I have sought to forward such measures as would protect the loyal refugees and freedmen in the rebellious States, and would, as I supposed, harmonize with the views of the Executive. He had proposed to the rebel States, as conditions precedent to their resumption of practical relations with the United States, "that civil rights should be secured by laws applicable alike to whites and blacks," and had declared in his message, delivered to us at the commencement of the session, that "we shall but fulfill our duties as legislators by according equal and exact justice to all men, special privileges to none." The only object and design of the bill

was to secure these rights to all men; and I am greatly surprised that a bill designed for such a purpose should have been returned by the Executive with a statement that it is "as inconsistent with the actual condition of the country as it is at variance with the Constitution of the United States." Having taken a somewhat active part in the passage of this bill through the Senate, I feel called upon to vindicate myself from the charge of having urged upon the Senate a bill so unconstitutional and so inconsistent with the actual condition of the country as this is now declared to be.

What is this amendment to the Freedmen's Bureau bill? It is not a measure establishing a bureau, but merely amendatory of an act already in existence; nor does it, as seems to be supposed by some, materially enlarge the powers of the Freedmen's Bureau as it already exists. It is an entire misapprehension to suppose that such was the object of the bill or such its effect. It does little more than give the sanction of law to what is already being done without any statute authorizing it. The Freedmen's Bureau, as I have said, already exists. Courts are held by the Freedmen's Bureau throughout the entire region of country where that bureau is in operation. Under the military authority laws inconsistent, as is believed, with the safety of the Government and incompatible with military operations are set aside at this time in eleven States. The object of the bill was to continue in existence the Freedmen's Bureau—not as a permanent institution. Any such intent was disavowed during the discussion of the bill. It is true, no time is expressly limited in the bill itself when it shall cease to operate, nor is it customary to insert such a clause in a law; but it is declared that the bill shall operate until otherwise provided by law. It is known that the Congress of the United States assembles every year, and no one supposed that this bill was to establish a bureau to be ingrafted upon the country as a permanent institution; far from it. Nor is it a bill that is intended to go into the States and take control of the domestic affairs of the States.

The original act and this amendatory bill together were simply designed to protect refugees and freedmen from persecution, aid them to find employment, and to provide, not for four million emancipated slaves and millions of refugees, but only for the indigent, for those who were unable to take care of themselves, and that temporarily, until provision could be made so that they could become self-supporting. In consequence of the war, thousands of Union men had been driven from their homes all over the South, and particularly was this the case in Tennessee. They had been stripped of their property. Women and children had fled destitute from their homes. They had neither food to eat nor clothes to wear. They flocked around our armies, and during the whole progress of the war they were fed by our supplies. So also with the freedmen. Congress at an early day passed a law declaring free all slaves who should come within the lines of our Army. They came flying within our lines, without clothing, without hats, oftentimes wounded, foot-sore and distressed. Many of them entered our ranks to fight for the cause of the country, and others we fed and clothed from our stores.

While the war was progressing, and while these people were flocking around our Army, on the 3d of March, 1865, not yet one year ago, the Congress of the United States passed a law to create a special department of the military establishment whose duty it should be to look to their pressing wants. That was called the Freedmen's Bureau, and officers were assigned chiefly from the Army to take charge of it. Since that time the conflict of arms has ceased, but there are still upon our hands some of these destitute people who must be provided for—a far less number than would have been upon our hands if no system had been devised for taking care of them, for finding them employment, for settling them upon tracts of land wherever it could be done; and I undertake to say that there has been saved to the Government mil-

lions of money by the establishment of a system through which employment was found for these people, and they became self-supporting who otherwise would have been entirely dependent on the bounty of the Government for support.

Since this Freedmen's Bureau was organized an amendment has been adopted to the Constitution of the United States declaring that slavery shall no longer exist within the jurisdiction of the United States. By virtue of that enactment millions of slaves have become free. They have become free in the midst of a hostile population. They have become free without any of this world's goods, not owning even the hats upon their heads or the coats upon their backs, without supplies of any kind, not knowing often where to obtain the next meal to save them from starvation. Something must be done to protect them in their new rights, to find employment for the able-bodied, and take care of the suffering; and the Freedmen's Bureau, as originally established and now proposed to be amended, was designed to do that something—not by furnishing food and clothing for all formerly in slavery. Most of them, with the aid of the bureau, have been able to provide for themselves. The number of indigent freedmen receiving supplies has been comparatively few, and in many instances less than the number of white refugees receiving assistance in the same locality, as I shall presently show.

The President in his veto message—and I design to treat it candidly and without any feeling, for I have no other object in view than to adopt such measures as shall best tend to promote the peace and happiness of the whole country—says:

"I might call to mind, in advance of these objections, that there is no immediate necessity for the proposed measure. The act to establish a Bureau for the Relief of Freedmen and Refugees, which was approved in the month of March last, has not yet expired. It was thought stringent and extensive enough for the purpose in view in time of war."

Now, sir, when will that act expire, and what was it? It provided in its first section—

"That there is hereby established in the War Department, to continue during the present war of rebellion and for one year thereafter, a Bureau of Refugees, Freedmen, and Abandoned Lands."

By the terms of the act it was to continue "during the present war of rebellion and for one year thereafter." Now, when did the war of rebellion cease? So far as the conflict of arms is concerned we all admit that the war of rebellion ceased when the last rebel army laid down its arms, and that was some time in the month of May when the rebel army in Texas surrendered to the Union forces. I do not hold that the consequences of the war are over. I do not understand that peace is restored with all its consequences. We have not yet escaped from the evils inflicted by the war. Peace and harmony are not yet restored, but the war of rebellion is over, and this bureau must expire in May next, according to the terms of the act that was passed on the 3d of March, 1865, and according to the views of the President as expressed in his veto message.

The President says:

"The bill proposes to establish, by authority of Congress, military jurisdiction over all parts of the United States containing refugees and freedmen."

Sir, I desire to speak respectfully of the Executive, but I would like to know where in that bill is any provision extending military jurisdiction over all parts of the United States containing refugees and freedmen? The bill contains no such clause. It is a misapprehension of the bill. The clause of the bill upon that subject is this:

"And the President of the United States, through the War Department and the Commissioner, shall extend military jurisdiction and protection over all employes, agents, and officers of this bureau in the exercise of the duties imposed or authorized by this act or the act to which this is additional."

Is not the difference manifest to everybody between a bill that extends military jurisdiction over the officers and employes of the bureau and a bill which should extend military jurisdiction over all parts of the United States containing refugees and freedmen? This bill makes the Freedmen's Bureau a part of the War De-

partment. It makes its officers and agents amenable to the Rules and Articles of War. But does that extend jurisdiction over the whole country where they are? How do they differ from any other portion of the Army of the United States? The Army of the United States, as every one knows, is governed by the Rules and Articles of War, wherever it may be, whether in Indiana or in Florida, and all persons in the Army and a part of the military establishment are subject to these Rules and Articles of War; but did anybody ever suppose that the whole country where they were was under military jurisdiction? If a company of soldiers are stationed at one of the forts in New York harbor. the officers and soldiers of that company are subject to military jurisdiction; but was it ever supposed that the people of the State of New York were thereby placed under military jurisdiction? It is an entire misapprehension of the provisions of the bill. It extends military jurisdiction nowhere, it merely places under jurisdiction the persons belonging to the Freedmen's Bureau who, nearly all of them, are now under military jurisdiction. The Commissioner at the head of that bureau is an officer of the Army of the United States and under military jurisdiction. I believe every assistant commissioner is an officer of the United States Army and under military jurisdiction. But the bill does not authorize the President, if he thinks proper, instead of detailing military officers, to appoint civilians in some cases; and in case he does appoint civilians, then by the provisions I have read these civilians subject themselves to military jurisdiction and are entitled to military protection in the performance of the duties imposed by this act.

But passing over that objection, which I think I have sufficiently answered, the next which I will notice is the statement of the President that "the country is to be divided into districts and sub-districts, and the number of salaried agents to be employed may be equal to the number of counties or parishes in all the States where freedmen and refugees are to be found."

Now, sir, what is the provision of the bill on this subject? For a great deal seems to be made out of this objection urged here in the Senate, published to the country, and now reiterated in the veto message of the President, that the bill makes it necessary to appoint a large number of salaried officers and agents throughout the country, and it is said to be very objectionable upon that ground. I have already stated that a single officer need not be employed other than those we now have. I have already stated that it is in the power and discretion of the President to detail from the Army officers to perform all the duties of the Freedmen's Bureau, and in case they are detailed the bill provides that they shall serve without any additional compensation or allowance. But, sir, is it necessary, or was it ever contemplated, that there should be an officer or agent of the Freedmen's Bureau in every county and every parish where refugees and freedmen are to be found? By no means. What is the bill upon that subject? The second section provides that—

"The Commissioner, with the approval of the President, and when the same shall be necessary for the operations of the bureau, may divide each district into a number of sub-districts, not to exceed the number of counties or parishes in such district."

Does this make it imperative upon the President to appoint an agent in each county and parish? It authorizes him "when the same shall be necessary for the operations of the bureau;" not otherwise. He has no authority under the bill to appoint a single agent unless it is necessary for the operations of the bureau, and then he can only appoint so many as may be needed. Sir, it never entered the mind, I venture to say, of a single advocate of this bill that the President of the United States would so abuse the authority intrusted to him as to station an agent in every county in these States; but it was apprehended that there might be localities in some of these States where the prejudice and hostility of the white population and the former masters were such toward the ne-

groes that it would be necessary to have an agent in every county in that locality for their protection; and in order to give the President the necessary discretion, where this should be requisite, the bill authorized, when it was necessary for the operations of the bureau, the appointment of an agent in each county or parish; and the word "parish" was used to designate those districts of country in the State of Louisiana which are not known as counties, but as parishes, there being in that State no county organizations.

I should have been very glad, and I think I may say the committee who reported this bill originally to the Senate would have been glad, if we could have limited the officials in the law to a far less number of agents than it is possible to employ under it. But in order to vest the President with sufficient power in some localities, it was necessary, legislating by general law, to give him much larger power than would be necessary in other localities. And yet now this bill is arraigned, and it is said that "the country is to be divided into districts and sub-districts, and the number of salaried agents to be employed may be equal to the number of counties or parishes in all the United States where freedmen and refugees are to be found."

Sir, the country is not to be divided, I undertake to say, into districts and sub-districts unless the President of the United States finds it necessary to do so for the protection of these people; and if the law should be abused in that respect, it would be because he abused the discretion vested in him by Congress, and not because the law required it. It makes no such requirement. The original law required that there be appointed one Commissioner and ten assistant commissioners, and the amendatory act which the President has vetoed authorized the appointment of twelve assistant commissioners, two more than the present law. But as to this division into sub-districts and the appointment of this innumerable number of agents that have so alarmed the minds of Senators, not one of them is to be appointed, by the express terms of the bill, unless it is necessary to carry out its operations; and who believes that any such number would be necessary as one in each county? If one in each county were appointed under the bill, I undertake to say that it would be a most manifest abuse of the discretion which the bill vests in the officers who are to carry it into execution.

The President further says, in his veto message:

"The subjects over which this military jurisdiction is to extend in every part of the United States include protection to 'all employes, agents, and officers of this bureau in the exercise of the duties imposed' upon them by the bill. In eleven States it is further to extend over all cases affecting freedmen and refugees discriminated against by 'local law, custom, or prejudice.' In those eleven States the bill subjects any white person who may be charged with depriving a freedman of 'any civil rights or immunities belonging to white persons' to imprisonment or fine, or both, without, however, defining the 'civil rights and immunities, which are thus to be secured to the freedmen by military law. This military jurisdiction also extends to all questions that may arise respecting contracts."

After reading that most extraordinary statement, what will be said when I show from the bill itself that so far from extending this military jurisdiction over all questions arising concerning contracts, and so far from extending military jurisdiction anywhere, it is expressly provided by the very terms of the bill that no such jurisdiction shall be exercised except where the President himself has established and is maintaining military jurisdiction, which he is now doing in eleven States, and the very moment that he ceases to maintain military jurisdiction, that very moment the military jurisdiction conferred over freedmen by this act ceases and terminates. I will read from the eighth section of the bill, which is explicit upon this point:

"The jurisdiction conferred by this and the preceding section on the officers and agents of this bureau shall cease and determine whenever the discrimination on account of which it is conferred ceases, and in no event to be exercised in any State in which the ordinary course of judicial proceedings has not been interrupted by the rebellion, nor in any such State

after said State shall have been fully restored in all its constitutional relations to the United States, and the courts of the State and of the United States within the same are not disturbed or stopped in the peaceable course of justice."

Sir, the whole jurisdiction to try and dispose of cases by the officers and agents of the Freedmen's Bureau is expressly limited to the time when these States shall be restored to their constitutional relations and when the courts of the United States and of the States are not interrupted or interfered with in the peaceable course of justice. So far, then, from this bill establishing a military jurisdiction, it confers no jurisdiction to try cases one moment after the courts are restored and are no longer interrupted in the peaceable administration of justice. And, sir, let me ask, by what authority is it that military tribunals are sitting to-day at Alexandria, Virginia? By what authority is it that the writ of *habeas corpus* is suspended to-day in eleven States when the Constitution of the United States says the privilege of that writ shall not be suspended except when in cases of rebellion and invasion the public safety may require it. By what authority does the President of the United States object to the exercise of military jurisdiction by that part of the Army charged with the execution of the provisions of the Freedmen's Bureau when he exercises that military jurisdiction himself by other portions of the Army? It is not long since a military commission in the State of Georgia, without presentment or indictment of a grand jury, tried and convicted white men for the murder of a negro, and, as I understand, by the fiat of Andrew Johnson himself and by the judgment of this military commission, the men were executed for the murder. Not long ago Benjamin W. Ivey, of Robeson county, North Carolina, without presentment or indictment of a jury, was tried by a *military commission* (ordered by Major General Ruger) upon a charge of willfully and maliciously shooting a negro, was found guilty, and sentenced to ten years' hard labor in the State prison at Auburn, New York, and from the decision of this arbitrary tribunal no appeal was allowed. It is but a few days since a military commission was sitting in Alexandria trying persons charged with crimes; and they are held all over the South. And yet that part of the Army connected with the Freedmen's Bureau cannot exercise any such authority because it is unconstitutional! Unconstitutional to do by virtue of a law of Congress what is done without any law!

Sir, let me read what is being done in these southern States at this very time:

[General Orders, No. 3.]

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, January 12, 1866.

To protect persons against improper civil suits and penalties in late rebellious States:

Military division and department commanders, whose commands embrace or are composed of any of the late rebellious States, and who have not already done so, will at once issue and enforce orders protecting from prosecution or suits in the State or municipal courts of such State, all officers and soldiers of the armies of the United States, and all persons thereto attached, or in anywise thereto belonging, subject to military authority, charged with offenses for acts done in their military capacity or pursuant to orders from proper military authority; and to protect from suit or prosecution all loyal citizens or persons charged with offenses done against the rebel forces, directly or indirectly, during the existence of the rebellion; and all persons, their agents, or employees, charged with the occupancy of abandoned land or plantations, or the possession or custody of any kind of property whatever, who occupied, used, possessed, or controlled the same pursuant to the order of the President or any of the civil or military departments of the Government, and to protect them from any penalties or damages that may have been or may be pronounced or adjudged in said courts in any of such cases; and also protecting colored persons from persecutions in any of said States charged with offenses for which white persons are not prosecuted or punished in the same manner and degree.

By command of Lieutenant General Grant:

J. D. TOWNSEND,
Assistant Adjutant General.

There is an order issued necessarily under the authority of the President, who is Commander-in-Chief, directing department commanders everywhere to protect loyal citizens against prosecutions by rebels for acts done in

support of the Government, and to protect colored persons charged with offenses for which white persons are not punished in the same manner and degree. Where is the authority to issue that order, dated on the 12th day of January last? Sir, I want to know, if there was authority to issue such an order as that which is to-day being executed all through the South, whether it is possible that Congress has no authority to transfer that jurisdiction from department commanders to the commander of the Freedmen's Bureau, who is as much an officer of the Army as is Lieutenant General Grant himself?

But where does the Executive get the power? The President is but the Commander-in-Chief of the armies, made so by the Constitution; but he cannot raise an army or a single soldier, he cannot appoint a single officer without the consent of Congress. He cannot make any rules and regulations for the government of the Army without our permission. The Constitution of the United States declares in so many words that Congress shall have power "to make rules for the government and regulation of the land and naval forces" of the United States. Can it be that that department of the Government, vested in express terms by the Constitution itself with authority to make rules for the government and regulation of the land and naval forces, has no authority to direct that portion of the land and naval forces employed in the Freedmen's Bureau to exercise this jurisdiction instead of department commanders? Sir, it is competent for Congress to declare that no department commanders shall exercise any such authority, it is competent for Congress to declare that a court-martial shall never sit, that a military commission shall never be held, and the President is as much bound to obey the law as the humblest citizen in the land.

Sir, I will read another order issued within a few days, dated the 17th of February, of the present year:

HEADQUARTERS ARMIES OF THE UNITED STATES,
WASHINGTON, February 17, 1866.

You will please send to these headquarters, as soon as practicable, and from time to time thereafter, such copies of newspapers published in your department as contain sentiments of disloyalty and hostility to the Government in any of its branches, and state whether such paper is habitual in its utterances of such sentiments. The persistent publication of articles calculated to keep up hostility of feeling between the people of the different sections of the country cannot be tolerated. This information is called for with a view to their suppression, which will be done from these headquarters only.

By command of Lieutenant General Grant:

T. S. BOWERS,
Assistant Adjutant General.

There is an order issued within a week past, the object of which is to stop the publication of newspapers containing disloyal sentiments. By what authority, if this be a time of peace, does the military make such an order? Can we not confer that power, if the military can properly exercise it at all, on another branch of the Army? It is surprising to me that persons in the daily exercise of the very powers conferred by this amendment of the Freedmen's Bureau should deny the authority of Congress to pass the act.

But, says the President,

"The trials having their origin under this bill are to take place without the intervention of a jury, and without any fixed rules of law or evidence."

Do not all military trials take place in that way? Did anybody ever hear of the presentment of a grand jury in a case where a court-martial sat for the trial of a military offense, or the trial of a person charged with any offense cognizable before it? Again he says:

"The rules on which offenses are to be heard and determined" by the numerous agents as such rules and regulations as the President, through the War Department, shall prescribe. No previous presentment is required, nor any indictment charging the commission of a crime against the laws; but the trial must proceed on charges and specifications. The punishment will be—not what the law declares, but such as a court-martial may think proper; and from these arbitrary tribunals there lies no appeal, no writ of error to any of the courts in which the Constitution of the United States vests exclusively the judicial power of the country."

True—except the bill limits the punishment to "a fine not exceeding \$1,000, or imprison-

ment not exceeding one year, or both;" and yet that is precisely what is to-day being done, and has been done for the last four years under the direct sanction of the President of the United States. This Freedmen's Bureau bill confers no authority to do this except in those regions of country where military authority prevails, where martial law is established, where persons exercising civil authority act in subordination to the military power, and where the moment they transcend the proper limits as fixed by military orders, they are liable to be arrested and punished without the intervention of a grand jury, or without the right of appeal to any of the judicial tribunals of the country. What would have been thought of an appeal from the decision of the military tribunal that sat in the city of Washington and condemned the murderers of our late President, to the judicial tribunals of the country! Where military authority bears sway, where the courts are overborne, is it not an absurdity to say that you must have a presentment of a grand jury and a trial in a court? Sir, it is an old adage, that the law never requires impossibilities. There was a time when in all these rebellious States there was not one judicial officer recognizing the authority of the Government of the United States, when there was not one single court where a grand jury could be impaneled to maintain the law and Constitution of the United States; and are we to be told, and is it to be seriously argued, that in a district of country thus situated, where courts cannot be held, where in the conflict of arms the civil tribunals are overborne and expelled, and where martial law prevails, that no person can be tried or punished for any offense by the military power, which is the only power in existence at the time?

All parts of the Constitution of the United States are to be construed together and in harmony with each other; and although the Constitution does provide, for the protection of the citizen, that he shall not be tried for a criminal offense except on the indictment or presentment of a grand jury, and that he shall be entitled to a trial before a petit jury, manifestly these clauses of the Constitution apply to a condition of things where it is possible to have a court, to have a grand jury and a petit jury impaneled, and to bring the offender to justice before the civil tribunals; and the framers of the Constitution never intended, and such is not the meaning of the instrument, that when the civil tribunals were overborne and a grand jury could not be impaneled, still you must have the presentment or indictment of a grand jury. No, sir, the same Constitution that contains these guarantees for the protection of the citizen in localities where the courts are in operation, and where they are not interrupted in the peaceable administration of justice, contains also a clause authorizing the calling out of the militia to enforce the laws of the Union and to put down insurrection and rebellion; and when this army is called forth it operates, Mr. President, not as civil tribunals through juries and courts, but it operates as armies operate. It proceeds to put down rebellion by slaying the rebel if he is found in arms, without trial in court, without impaneling juries; but, sir, it does it in the exercise of the power which is conferred upon the Army. It acts as an army and not as a court, and the Constitution authorizes it to act as an army and not as a court, and the very reason of giving this power to call forth the Army is because the courts are unable to preserve the peace and punish offenders.

The President says:

"I cannot reconcile a system of military jurisdiction of this kind with the words of the Constitution."

Sir, if I might be permitted to ask a question of the President of the United States, I would inquire, if you cannot reconcile a system of military jurisdiction of this kind with the words of the Constitution why have you been exercising it? Why have you been organizing courts-martial and military commissions all over the South, trying offenders and punishing some of them with death? Why have you authorized

the present Freedmen's Bureau to hold bureau courts all through the South? This has all been done by your permission, and is being done to-day. Then, sir, if you are in the exercise of this power now, if you have been exercising it from the day you became President of the United States, how is it that you cannot reconcile a system of jurisdiction of this kind with the words of the Constitution?

Sir, does it detract from the President's authority to have the sanction of law? I want to give that sanction. I do not object to the exercise of this military authority of the President in the rebellious States. I believe it is constitutional and legitimate and necessary; but I believe Congress has authority to regulate it. I believe Congress has authority to direct that this military jurisdiction shall be exercised by that branch of the Army known as the Freedmen's Bureau, as well as by any other branch of the Army.

But the President tells us further that "the rebellion is, in fact, at an end. The measure, therefore, seems to be as inconsistent with the actual condition of the country as it is at variance with the Constitution of the United States."

Sir, in reply to that I need only ask a question which I believe I have once already asked. If the rebellion is at an end, will anybody tell me by what authority the President of the United States suspends the writ of *habeas corpus* in those States where it existed. The act of Congress of March, 1863, authorized the President of the United States to suspend the writ of *habeas corpus* during the present rebellion. He says it is at an end. By what authority, then, does he suspend the writ? The Constitution of the United States declares that the writ of *habeas corpus*, that great writ of right for the protection of the citizen, shall only be suspended when in cases of rebellion or invasion the public safety requires it. The President tells you officially that the rebellion is ended. We know there is no invasion. By what authority, then, does he declare the writ of *habeas corpus* suspended? Sir, the rebellion is ended, so far as the conflict of arms is concerned; but the consequences of the rebellion are not ended; peace is not restored; the safety of the citizens where the rebellion existed is not yet established, and till it is, till the courts can be reestablished, till they can administer justice peaceably, till the citizens can be protected from lawless bands, from prejudiced slaveholders, from incensed rebels, the military authority may properly be continued, and the President is authorized, in my opinion, to suspend the writ of *habeas corpus*. But, sir, by his own declaration let him stand or fall. If it is competent to suspend the writ, if it is competent for military tribunals to sit all through the South and entertain military jurisdiction, this bill, which does not continue military jurisdiction, does not establish military jurisdiction, but only authorizes the officers of this bureau, while military jurisdiction prevails, to take charge of that particular class of cases affecting the refugee or freedman where he is discriminated against, cannot be obnoxious to any constitutional objection.

The President further says that—

"This bill proposes to make the Freedmen's Bureau, established by the act of 1865, as one of many great and extraordinary military measures to suppress a formidable rebellion, a permanent branch of the public administration, with its powers greatly enlarged."

That is a mistake. It is not intended, I apprehend, by anybody, certainly not by me, to make it a permanent branch of the public administration: and I am quite sure that the powers of the bureau are not by the amendatory bill greatly enlarged. A careful examination of the amendment will show that it is in some respects a restriction on the powers already exercised. The President says:

"The third section of the bill authorizes a general and unlimited grant of support to the destitute and suffering refugees and freedmen, their wives and children."

Now, let us see if it does that. In the first place let us see what the original law was. The

second section of the original act is in these words:

"That the Secretary of War may direct such issues of provisions, clothing, and fuel as he may deem needful for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen, and their wives and children, under such rules and regulations as he may direct."

That is the present law enacted March 3, 1865. Now, what is the third section of the bill which the President says contains such an unlimited grant of support to the destitute and suffering refugees, their wives and children? I will read that third section:

"That the Secretary of War may direct such issues of provisions, clothing, fuel, including medical stores and transportation, and afford such aid, medical or otherwise, as he may deem needful for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen, their wives and children, under such rules and regulations as he may direct: *Provided*, That no person shall be deemed 'destitute,' 'suffering,' or 'dependent upon the Government for support,' within the meaning of this act, who, being able to find employment, could by proper industry and exertion avoid such destitution, suffering, or dependence."

This proviso is not in the original law. That authorizes the issuing of these supplies, all except the medical supplies and the transportation, just the same as the bill which the President has vetoed. Does he object to this bill on the ground that it authorizes medical aid to be furnished the sick? Or does he object to it because of the proviso which limits its operation, and declares that nobody shall be deemed destitute and suffering under the provisions of the act who is able by proper industry and exertion to avoid such destitution? Why, sir, it is a limitation on the existing law. Does that look much like taking care of four million people—a provision that expressly limits the operation of this act to those only who cannot find employment? A statement of the fact is all that is necessary to meet this statement in the veto message.

After commenting upon the third section of the bill, which I have just read, the President says:

"Succeeding sections make provision for the rent or purchase of landed estates for freedmen, and for the erection for their benefit of suitable buildings for asylums and schools, the expenses to be defrayed from the Treasury of the whole people. The Congress of the United States has never heretofore thought itself empowered to establish asylums beyond the limits of the District of Columbia, except for the benefit of our disabled soldiers and sailors. It has never founded schools for any class of our own people; not even for the orphans of those who have fallen in defense of the Union, but has left the care of education to the much more competent and efficient control of the States, of communities, of private associations, and of individuals. It has never deemed itself authorized to expend the public money for the rent or purchase of homes for the thousands, not to say millions, of the white race who are honestly toiling from day to day for their subsistence. A system for the support of indigent persons in the United States was never contemplated by the authors of the Constitution; nor can any good reason be advanced why, as a permanent establishment, it should be founded for one class or color of our people more than another. Pending the war many refugees and freedmen received support from the Government, but it was never intended that they should thenceforth be fed, clothed, educated, and sheltered by the United States."

I have read that whole paragraph in order to do no injustice to the views of the President. The objection which the President makes is that it has never heretofore been thought that Congress was empowered to pass provisions of this character. The answer to that is this: we never before were in such a state as now; never before in the history of this Government did eleven States of the Union combine together to overthrow and destroy the Union; never before in the history of this Government have we had a four years' civil war; never before in the history of this Government have nearly four million people been emancipated from the most abject and degrading slavery ever imposed upon human beings; never before has the occasion arisen when it was necessary to provide for such large numbers of people thrown upon the bounty of the Government, unprotected and unprovided for. But, sir, wherever the necessity did exist the Government has acted. We have voted hundreds of thousands and millions of dollars, and are doing it from year to year, to take care of and provide for the destitute and suffering

Indians. We appropriated, years ago, hundreds of thousands of dollars to take care of and feed the savage African who was landed upon our coast by slavers. We provided by law that whenever savages from Africa should be brought to our shores, or whenever they should be captured on board of slavers, the President of the United States should make provision for their maintenance and support for five years on the coast of Africa. He was authorized by law to appoint agents to go to Africa to provide means to feed them, and we paid the money to do it. And yet, sir, can we not provide for those among us who have been held in bondage all their lives, who have never been permitted to earn one dollar for themselves, who, by the great constitutional amendment declaring freedom throughout the land, have been discharged from bondage to their masters who had hitherto provided for their necessities in consideration of their services? Can we not provide for these destitute persons of our own land on the same principle that we provide for the Indians, that we provide for the savage African? Sir, they cannot provide for themselves. What are they to do? In one part of his message the President says they are permitted to go where they please. I will show by and by that by local legislation this privilege is not permitted them.

But what sort of protection would that be to the negro if it were so? Here are hundreds and thousands of these poor, ignorant, degraded human beings who never went off the plantation where they were born in their lives. They do not know how to travel. They do not know where to go; they have no means to pay for subsistence by the way; they do not know whether the railroads lead; the railroads would not carry them if they did, and were able to pay. As a friend suggests, they cannot read the finger-boards by the wayside; and where are they to go, and what is to be done with them? They are to go to the same place, and the same is to be done with them that would have been done with the hundreds of natives from Africa who a few years ago were landed destitute on our coast; they are to be taken and reduced into slavery again, or they are to perish and die for want of subsistence, or somebody must temporarily look after and provide for them.

But we have never rented lands, the President says, for the white race; we have never purchased lands for them. What do we propose to do by this bill? Does this bill provide for purchasing any land? Let us see:

"Sec. 6. And be it further enacted, That the Commissioner shall, under the direction of the President, procure in the name of the United States, by grant or purchase, such lands within the districts aforesaid as may be required for refugees and freedmen dependent on the Government for support; and he shall provide or cause to be erected suitable buildings for asylums and schools. But no such purchase shall be made, nor contract for the same entered into, nor other expenses incurred, until after appropriations shall have been provided by Congress for such purposes."

This authorizes, if the President thinks proper to direct it, the purchase or renting of lands on which to place these indigent people; but before any land can be purchased or rented, before any contract can be made on the subject, there must be an appropriation made by Congress. This bill contains no appropriation. If the President is opposed to the rent or purchase of land, and Congress passes a bill appropriating money for that purpose, let him veto it if he thinks it unconstitutional; but there is nothing unconstitutional in this bill. This bill does not purchase any land; but it prevents even a contract on the subject until another law shall be passed appropriating the money for the purpose.

But, sir, what is the objection to it if it did appropriate money? I have already undertaken to show, and I think I have shown, that it was the duty of the United States, as an independent nation, as one of the Powers of the earth, whenever there came into its possession an unprotected class of people, who must suffer and perish but for its care, to provide for and take care of them. When an army is marching through an enemy's country, and poor and des-

titute persons are found within its lines who must die by starvation if they are not fed from the supplies of the army, will anybody show me the constitutional provision or the act of Congress that authorizes the general commanding to feed the starving multitude from his army supplies? And has it not been done by every one of your commanders all through the South? Whenever a starving human being, man, woman, or child, no matter whether white or black, rebel or loyal, came within the lines of the Army, to perish and die unless fed from our supplies, there has never been an officer in our service, and thank God there has not been, who did not relieve the sufferer. If you want to know where the constitutional power to do this is, and where the law is, I answer, it is in that common humanity that belongs to every man fit to bear the name, and it is in that power that belongs to us as a Christian nation, carrying on war upon civilized principles.

If we had the right, then, to feed these people as we did, have we not the right to take care of them in the cheapest way we can? If, when General Sherman was passing through Georgia he found the lands abandoned; if their able-bodied owners had entered the rebel army to fight against us; if the women and children had fled and left the land a waste, and he had, as is the fact, thousands of persons hanging upon his army dependent upon him for supplies, I ask you, Mr. President, if it was believed that it would be cheaper to support these people upon these lands than to buy provisions and feed them, might he not do so? May we not resort to whatever means are most judicious to protect from starvation that multitude which common humanity requires us to feed?

Nor, sir, is it true that no provision has been made by Congress for the education of white people. We have given all through the new States one section of land in every township for the benefit of common schools. We have donated hundreds of thousands of acres of land to all the States for the establishment of colleges and seminaries of learning. How did we get this land? It was purchased by our money, and then we gave it away for purposes of education. The same right exists now to provide for these people, and it is not simply for the black people, but for the white refugees as well as the black, that this bill provides.

Again, the President says:

"The appropriations asked by the Freedmen's Bureau, as now established, for the year 1866, amount to \$11,745,000. It may be safely estimated that the cost to be incurred under the pending bill will require double that amount."

How much was expended last year for the benefit of refugees and freedmen—not through the Freedmen's Bureau, but through the Army? Have you any means of knowing? The President did not tell us, but I presume that a far larger sum in proportion to the number that were thrown upon our hands was expended before the creation of the Freedmen's Bureau in feeding and taking care of refugees and freedmen than since its establishment. Since that time the authority of the Government has been extended over all the rebellious States, and we have had a larger number of refugees and freedmen to provide for, but in proportion to the number I have no doubt that the expense is less now than it was before the establishment of the bureau.

Again, the President says:

"In this connection the query presents itself whether the system proposed by the bill will not, when put into complete operation, practically transfer the entire care, support, and control of four million emancipated slaves to agents, overseers, or task-masters, who, appointed at Washington, are to be located in every county and parish throughout the United States containing freedmen and refugees."

I scarcely know how to reply to that most extravagant statement. I have already shown that it would be a great abuse of the power conferred by this bill to station an agent in every county. I have already stated that but a small proportion of the freedmen are aided by the Freedmen's Bureau. In this official document the President has sent to Congress the exaggerated statement that it is a question

whether this bureau would not bring under its control the four million emancipated slaves. The census of 1860 shows that there never were four million slaves in all the United States, if you counted every man, woman, and child, and we know that the number has not increased during the war. But, sir, what will be thought when I show, as I shall directly show by official figures, that so far from providing for four million emancipated slaves, the Freedmen's Bureau never yet provided for a hundred thousand, and as restricted by the proviso to the third section of the present bill, it could never be extended under it to a larger number. Is it not most extraordinary that a bill should be retained with the veto from the President on the ground that it provides for four million people, when, restricted as it is in its operations, and having been in operation now since March last, it has never had under its control a hundred thousand? I have here an official statement from the Freedmen's Bureau, which I beg leave to read in this connection:

"The greatest number of persons to whom rations were issued, including the commissary department and bureau issues to persons without the Army, is one hundred and forty-eight thousand one hundred and twenty."

Who are they? I said there were not a hundred thousand freedmen provided for by the bureau.

"Whites, 57,369, colored, 90,607, Indians, 133. The greatest number by the bureau was 49,932 in September. The total number for December was 17,925."

That sounds a little different from four millions. Seventeen thousand and twenty-five were all that were provided for by the Freedmen's Bureau in the month of December last, the number getting less and less every month. Why? Because by the kind and judicious management of that bureau places of employment were found for these refugees and freedmen. When the freedmen were discharged from their masters' plantations they were assisted to find places of work elsewhere.

"The above figures are based on full rations. The number of persons aided by rations or parts of rations, for December, are, colored 36,016, whites 4,932." I have given you these figures hastily, from the records—will carefully review."

This communication is from Major General Howard, the Commissioner of the Freedmen's Bureau. In the same connection I wish to read the testimony (which has been kindly furnished me) that was given before the reconstruction committee by Major General Fiske, who is commissioner of the Freedmen's Bureau for the State of Tennessee—and I wish these gentlemen who are declaiming so loudly against feeding the negro to notice the statistics. The President says, in his veto message, that Congress has never thought of making these provisions for the white people. Let us see what provisions have been made for the white people. General Fiske was asked:

"Question. How large is the pecuniary support that you are obliged to extend to the freedmen in Tennessee?"

"Answer. I am not to-day issuing a single ration to freedmen in Tennessee except to about one hundred orphan children and thirty old people at Memphis, and about sixty orphan children and twenty-five old people at Nashville; that is all."

"Question. Do you issue rations to white people in Tennessee?"

"Answer. During the last year the rations issued to white people in Tennessee have been much in excess of those issued to freedmen. When I took charge of my district the Government was feeding twenty-five thousand people: in round numbers about seventeen thousand five hundred white persons and seven thousand five hundred blacks. The month preceding the establishment of the Freedmen's Bureau, for rations alone for that class of people the sum of \$97,000 was paid."

"My first efforts were to reduce the number of those beneficiaries of the Government, to withhold the rations and make the people self-supporting as far as possible. And in the course of four months I reduced the monthly expenses from \$97,000 to \$5,000."

That is what the Freedmen's Bureau has done in the State of Tennessee by the sworn testimony of General Fiske, whose word nobody would question, delivered within a few days before the reconstruction committee of the two Houses: and this is denounced as an expensive establishment! I undertake to say that the Freedmen's Bureau has already saved this nation millions of money, and if continued,

it will save it millions more. But it is not simply in money that the country is to be benefited. There are in schools seventy thousand colored children, chiefly placed there through the agency of the Freedmen's Bureau. An agency which redresses your expenses, educates colored children, and provides homes for the destitute, is now denounced as expensive and its establishment unconstitutional. General Fiske further says:

"And in the course of four months I reduced the monthly expenses from \$97,000 to \$5,000; saving within that time on subsistence ten times as much money as the whole Freedmen's Bureau cost in the entire district, including all salaries paid to officers and agents for the Government."

"Question. Is the military support of the Government required now in Tennessee in aid of your bureau?"

"Answer. It is."

"Question. Do you believe that the affairs of the bureau could be safely administered there without the military support of the Government?"

"Answer. I do not."

That is all I desire to read from the testimony of General Fiske in refutation of the assumption in this message that the bill is intended to provide for the education and support of four million black people, when the evidence shows that far more whites than blacks are provided for in Tennessee; that the bureau has been a means of economy to the Government, and that the expense of feeding refugees and freedmen has been reduced from \$97,000 to \$5,000 in one district in four months.

"In addition to the objections already stated"—says the President—

"the fifth section of this bill proposes to take away land from its former owners without any legal proceedings being first had."

I regret that a statement like that should inadvertently (for it must have been inadvertent) have found a place in this veto message. The fifth section of the bill does not propose to take away lands from anybody. I will read it, and we shall see what it is:

"That the occupants of land under Major General Sherman's special field order, dated at Savannah, January 16, 1865, are hereby confirmed in their possession."

Is not that a different thing from taking away land from anybody? Do you take a thing away from another person when you have it in your possession already? Here are certain occupants upon lands in pursuance of an order of one of the major generals of your Army, and it is proposed by an act of Congress to protect them there temporarily in that possession. Is that taking away land from somebody? I will read what the President says in reference to that section, and then I will read the whole section:

"In addition to the objections already stated, the fifth section of the bill proposes to take away land from its former owners without any legal proceedings being first had, contrary to that provision of the Constitution which declares that no person shall be deprived of life, liberty, or property without due process of law." It does not appear that a part of the lands to which this section refers may not be owned by minors, or persons of unsound mind, or by those who have been faithful to all their obligations as citizens of the United States. If any portion of the land is held by such persons, it is not competent for any authority to deprive them of it. If, on the other hand, it be found that the property is liable to confiscation, even then it cannot be appropriated to public purposes until, by due process of law, it shall have been declared forfeited to the Government."

That is what the President says. Now, I will read the section itself:

"Sec. 5. And be it further enacted, That the occupants of land under Major General Sherman's special field order, dated at Savannah, January 16, 1865, are hereby confirmed in their possession for the period of three years from the date of said order, and no person shall be disturbed in or ousted from said possession during said three years, unless a settlement shall be made with said occupant, by the former owner, his heirs, or assigns, satisfactory to the Commissioner of the Freedmen's Bureau: *Provided*, That whenever the former owners of lands occupied under General Sherman's field order shall make application for restoration of said lands, the Commissioner is hereby authorized, upon the agreement and with the written consent of said occupants, to procure other lands for them by rent or purchase, not exceeding forty acres for each occupant, upon the terms and conditions named in section four of this act, or to set apart for them, out of the public lands assigned for that purpose in section four of this act, forty acres each, upon the same terms and conditions."

Now, it will be seen that this fifth section, so far from taking land from anybody, provides simply for protecting the occupants of the land

for three years from the 16th of January, 1865, a little less than two years from this time. If the section does anything, it simply prevents the restoration of this property to its former owners within that period, except upon terms to be entered into, satisfactory to the Commissioner, between the occupant and the former owner. This is all there is of it. It is a very different thing from taking away land from its former owners. The President says that it is unconstitutional to take land from a person except by due process of law, and that this section violates that provision of the Constitution which declares that no person shall be deprived of life, liberty, or property without due process of law. Now, what are the facts about these lands? General Sherman was marching with a Union army through the State of Georgia, from Atlanta to the sea-coast. When he arrived at Savannah there was following his army a large number of persons whom he had been feeding by the way, who were dependent upon him for subsistence, and he found a large tract of country entirely abandoned and waste. He issued an order authorizing and directing these followers of his army, the negroes, to settle upon these abandoned lands and guarantying to them military protection. The possession which they took was to be temporary. It is so stated in the order. Under this order some forty or fifty thousand persons settled upon these abandoned lands with the sanction of the President more than a year ago; and notwithstanding the quotation contained in the veto message of the clause of the Constitution declaring that no person shall be deprived of life, liberty, or property except by due process of law, I insist that a major general, under the circumstances, had a perfect right to take possession of these lands and place these persons upon them. It was a right of war. I go further, and I care not whether a house in Savannah was occupied or vacant, nor whether it belonged to a loyal or disloyal man, it was entirely competent for the commander of your army who entered Savannah, whence the rebel army fled on his approach, to take possession of any property belonging to loyal or disloyal men that in his judgment the exigencies of his condition required. These persons, therefore, were rightfully placed upon this land. If General Sherman had called a court and impaneled a jury to ascertain whether he could take possession of these abandoned lands and put the followers of his camp upon them, he would have been laughed at by the civilized world. And yet we are told that this is taking property contrary to the Constitution of the United States! It has been practiced all through the war, and it is a necessity of war.

Now, sir, I insist that these persons went rightfully upon these abandoned lands; and being there they are entitled to protection for a reasonable time. The military authority is not yet withdrawn from Georgia. They are rightfully there now. The faith of this nation, through its commanding general in that department and the approbation of the late President of the United States, is committed to these people who went upon these lands, set up their little homes, put in a crop, and supported themselves and relieved the Treasury. The faith of the nation is pledged to them in writing to protect them in this possession so long as the military jurisdiction continues; and that is not yet ended: and upon every principle of equity and justice they are entitled to be protected even beyond that time on the familiar principle that where a person enters upon an estate rightfully, as these people did, and is to hold it for an uncertain period, depending, if you please, upon the life of another, he cannot be turned off the moment that other dies; but he is entitled to hold the possession until he shall have had a reasonable time to gather his crops and remove the improvements which he may have put upon the place. Whether the time fixed by this bill is a reasonable time or not may depend upon circumstances. The former owners of the lands may make arrangements with the occupants to leave at any time, and the Commissioner of the

Freedmen's Bureau is authorized to provide for them a home elsewhere. This provision of the bill is pronounced as unconstitutional, and as taking away land without due process of law. The land was taken by military authority, in the midst of war, and of course without process in any court, and rightly so.

But, says the President—

"Undoubtedly the freedmen should be protected, by the civil authorities, especially by the exercise of all the constitutional powers of the courts of the United States and of the States. He also possesses a perfect right to change his place of abode, and if, therefore, he does not find in one community or State a mode of life suited to his desires, or proper remuneration for his labor, he can move to another where that labor is more esteemed and better rewarded."

* Now, let us see how he will remove. I have in my hand a communication from Houston, Texas, dated December 15, 1865, from Colonel De Gress, addressed to Major General Howard, of the Freedmen's Bureau, which I will read:

"HOUSTON, TEXAS, December 15, 1865.

"SIR: I have the honor to respectfully report that in some portions of this State the negroes are not yet free, that the pass system is still in force, and when a freedman is found at large without a pass, he is taken up and whipped."

That is the liberty he has to go from one place to another; that is the civil protection that he has.

"That a freedman is not allowed to hire out without written permission from his former master; at least planters have held meetings and have agreed not to hire freed people without such permission. These facts are known to me from personal observation, and written statements of reliable men."

Here is a letter from Lieutenant Stuart Eldridge to Major General Howard, dated Vicksburg, Mississippi, November 28, 1865:

"I have the honor to inclose herewith for your consideration the freedmen's bill, which has just become a law in this State, and would respectfully ask your attention to the following points thereon:

"Section first prohibits the holding, leasing, or renting of real estate by freedmen."

The President says these people are to be protected by the courts and by the civil authority. This is the protection they get in Mississippi. They are prevented from holding, leasing, or renting real estate.

"Section third compels all freedmen to marry whomsoever they may now be living with, and to support the issue of what was in many cases compulsory cohabitation."

"Section fourth excludes freedmen from testifying in cases all white."

"Section five authorizes mayors and boards of police by their sole edict to prevent any freedmen from doing any independent business and to compel them to labor as employees, with no appeal from such decision."

"Section seven gives the power to any white citizen over the person of a freedman unknown to any other law, and denies the right of appeal beyond the county court."

A telegram from Colonel Samuel Thomas, assistant commissioner, dated Jackson, Mississippi, and addressed to Major General O. O. Howard, is as follows:

"The freedmen bill has become law. It does not allow freedmen to own or lease estate. Thousands of acres have been rented from owners of land by freedmen who expected that they would be allowed to cultivate land in this way. They are notified that they must give up their leases by citizens. What course must I pursue?"

To which the Commissioner replied as follows:

"While the bureau remains in Mississippi you will continue to protect the freedmen in the right to lease land. The act of the Legislature referred to in your telegram of the 27th is not yet recognized here."

Here is another letter from Colonel Thomas, dated Vicksburg, Mississippi, December 18, and addressed to General Howard:

"The organization of the militia has had about the effect upon the country that I predicted last September. Nearly all the dissatisfaction that now exists among the freedmen is caused by the abusive conduct of this militia. It has assisted to paralyze labor and add to the combination of difficulties under which the State has labored. I do not know of one instance in which it has assisted in the restoration of law and order, or that they have exercised any power unless in something which would bring on a conflict with the national troops or hang some freedman or search negro houses for arms. Only a short time ago Governor Humphreys admitted to me that two companies of the militia had sworn that in their counties no negro who did not work for his old master and no Yankee could live, that they would 'drive out the thieving Yankees and shoot the niggers.' This is an extreme case, in which the Governor revoked the commissions of the officers and disbanded the companies. I believe his Excellency is in favor of conservative measures, and that many of the militia would blush at the

recital of the outrages committed by some of the members."

I have here a number of communications of a similar character, showing that by the laws in some of the southern States a pass system still exists, and that the negro really has no protection afforded him either by the civil authorities or judicial tribunals of the State. I have letters showing the same thing in the State of Maryland from persons whose character is vouched for as reliable. Under this state of things, the President tells us that the freedman should be protected "by the exercise of all the constitutional powers of the courts of the United States and of the States!" In Kentucky, Major General Palmer, in response to a request that he should recommend the restoration of the *habeas corpus*, declined to do so—

"For the reason that returned rebels, of whom there are twenty thousand in that State, are openly regarded and treated as patriots, whereas loyal citizens and soldiers are objects of prejudice, dislike, and often of persecution; because courts in many instances are permitted to become the instruments of the vengeance of those who are hostile to loyal men; because laws are enforced tending to embarrass the citizens formerly slave but now freemen, and that the Government is bound to protect them until they shall have the same privileges as other citizens before the law; because outrages have been committed upon negroes which have been allowed to go unpunished; in fact, no single instance has existed in which punishment has reached the aggressors, because negroes have been murdered and their murderers have escaped because of the legal incompetency of negroes to testify against them; and finally, because there are illegal combinations of men in the State got up to drive colored men out of it to prevent them finding employment, and such persons are allowed to act with impunity."

Then, sir, is there no necessity for some supervising care of these people? Are they to be coldly told that they have a perfect right to change their place of abode, when if they are caught in a strange neighborhood without a pass they are liable to be whipped; when combinations exist against them that they shall not be permitted to hire unless to their former master? Are these people, knowing nothing of geography, knowing not where to go, having never in their lives been ten miles from the place where they were born, these old women and young children, these feeble persons who are turned off because they can no longer work, to be told to go and seek employment elsewhere, and is the Government of the United States which has made them free to stand by and do nothing to save and protect them? Are they to be left to the mercy of such legislation as that of Mississippi, to such laws as exist in Texas, to such practices as are tolerated in Maryland and in Kentucky? Sir, I think some protection is necessary for them, and that was the object of this bureau. It was not intended, and such is not its effect, to interfere with the ordinary administration of justice in any State, not even during the rebellion. The moment that any State does justice and abolishes all discrimination between whites and blacks in civil rights, the judicial functions of the Freedmen's Bureau cease.

But, sir, the President most strangely of all dwells upon the unconstitutionality of this act, without ever having alluded to that provision of the Constitution which its advocates claim gives the authority to pass it. Is it not most extraordinary that the President of the United States returns a bill which has passed Congress, with his objections to it, alleging it to be unconstitutional, and makes no allusion whatever in his whole message to that provision of the Constitution which, in the opinion of its supporters, clearly gives the authority to pass it. And what is that? The second clause of the constitutional amendment, which declares that Congress shall have authority by appropriate legislation to enforce the article which declares that there shall be neither slavery nor involuntary servitude throughout the United States. If legislation be necessary to protect the former slaves against State laws which allow them to be whipped if found away from home without a pass, has not Congress, under the second clause of the amendment, authority to provide it? What kind of freedom is that which the Constitution of the United States guarantees to

a man that does not protect him from the lash if he is caught away from home without a pass? And how can we sit here and discharge the constitutional obligation that is upon us to pass the appropriate legislation to protect every man in the land in his freedom when we know such laws are being passed in the South if we do nothing to prevent their enforcement? Sir, so far from the bill being unconstitutional, I should feel that I had failed in my constitutional duty if I did not propose some measure that would protect these people in their freedom. And yet this clause of the Constitution seems to have escaped entirely the observation to the President.

I come now to the last of the objections to this bill, and I rejoice that it is the last, both because I am exhausted, and because it has been an unpleasant duty to dwell upon this veto message. The last objection which the President takes is this:

"I cannot but add another very grave objection to this bill. The Constitution imperatively declares, in connection with taxation, that each State shall have at least one Representative, and fixes the rule for the number to which, in future times, each State shall be entitled. It also provides that the Senate of the United States shall be composed of two Senators from each State; and adds, with peculiar force, 'that no State, without its consent, shall be deprived of its equal suffrage in the Senate.' The original act was necessarily passed in the absence of the States chiefly to be affected, because their people were then contumaciously engaged in the rebellion. Now the case is changed, and some, at least, of those States are attending Congress by loyal Representatives, soliciting the allowance of the constitutional right of representation."

"At present all the people of eleven States are excluded—those who were most faithful during the war not less than others."

The President objects to this bill because it was passed in the absence of representation from the rebellious States. If that objection be valid, all our legislation affecting those States is wrong, and has been wrong from the beginning. When the rebellion broke out, in the first year of the war, we passed a law for collecting a direct tax, and we assessed that tax upon all the rebellious States. According to the theory of the President that was all wrong, because taxation and representation did not go together. Those States were not represented. Then, according to his argument—I will not read all of it—we were bound to have received their Representatives, or else not legislate for and tax them. He insists they were States in the Union all the time, and according to the Constitution each State is entitled to at least one Representative.

If the argument that Congress cannot legislate for States unrepresented is good now, it was good during the conflict of arms, for none of the States whose governments were usurped are yet relieved from military control. If we have no right to legislate for those States now, we had no right to impose the direct tax on them. We had no right to pass any of our laws that affected them. We had no right to raise an army to march into the rebellious States while they were not represented in the Congress of the United States. We had no right to pass a law declaring these States in rebellion. Why? The rebels were not here to be represented in the American Senate. We had no right to pass a law authorizing the President to issue a proclamation discontinuing all intercourse with the people in those rebellious States; and why? Because they were not represented here. They are States, says the President, and each State is entitled to two Senators, and to at least one Representative. Suppose the State of South Carolina had sent to Congress during the war a Representative; had Congress nothing to do but to admit him? Must he be received because he comes from a State, and a State cannot go out of the Union? Why, sir, is anything more necessary than to state this proposition to show its absolute absurdity? I agree, sir—

Mr. COWAN. If the Senator will allow me—

The PRESIDING OFFICER. (Mr. CLARK in the chair.) Does the Senator from Illinois yield the floor to the Senator from Pennsylvania?

Mr. TRUMBULL. If it is a simple question, I do; but if a speech, I prefer not at this hour. Mr. COWAN. I do not intend to make a speech, but I wish merely to ask, why not cite the President fairly?

Mr. TRUMBULL. I mean to do so.

Mr. COWAN. What does he say with regard to the reason why these States were not represented here during the rebellion?

Mr. TRUMBULL. I will read it. I wish the country to have the full benefit of the message. Certainly the whole country will read it. I could gain nothing by suppressing any portion of it. I did read this sentence:

"The original act was necessarily passed in the absence of the States chiefly to be affected, because their people were then contumaciously engaged in the rebellion."

I read that before. Does the Senator desire me to read further?

Mr. COWAN. No, that is the sentence.

Mr. TRUMBULL. I read that before. The Senator could not have observed it. But, sir, although the States "contumaciously engaged in the rebellion," the President states also in the same connection that each State is entitled to representation, and he insists that taxation and representation go together. The rebel States are surely no more entitled to representation before they have set up governments recognized as loyal than when contumaciously engaged in the rebellion, and no such recognition has yet taken place.

I agree that they are States. I have never argued that question. I have never thought there was any great practical importance in the question about which so much has been said, whether these States were in the Union or out of the Union. My view of it is this: they are and have been in the Union for national purposes; we have a right to establish post offices there; we have a right to appoint our custom-house officers there; we have a right to establish courts there. For national purposes they are States of the Union. What is their condition for State purposes? For State purposes, as State organizations, they were at one time certainly no part of the Union. Why? Because they set up an organization hostile to the Union. Every officer in the State of South Carolina, for instance, took an oath of allegiance to a government which had been set up in opposition to the Union. Now, while occupying that condition the State could not be represented here. Because in order to be represented there must be a State organization. There was no State organization in South Carolina for three or four years—none that we recognized. The State was there for national purposes; so far as the Federal Government legislated we held it in the Union; we kept it by our laws; we kept it by our arms; but that State by its own action destroyed its State organization, through which alone it could be represented in the national councils.

Mr. COWAN. If the Senator will allow me—

Mr. TRUMBULL. I shall be through with this point in a moment, and will then give way.

Mr. COWAN. I wish to ask one question on this point.

Mr. TRUMBULL. Let us have the question.

Mr. COWAN. I ask by what rule the rebel is to be treated after he submits—by what law?

Mr. TRUMBULL. He is to be hung, if he is a big rebel. [Great applause in the galleries.]

The PRESIDING OFFICER. The Chair will state to the occupants of the galleries that it depends upon themselves whether they will stay here or not. Another infringement of the rule will compel the Chair to direct that the galleries be cleared. It must not be repeated.

Mr. TRUMBULL. Now, sir, in order to have representation in Congress, there must be a State Legislature. The State Legislature of South Carolina, for illustration, was a disloyal Legislature at war with the United States. It could not elect Senators. It was not a Legislature vested with any such authority. The State government was overthrown. Now, what has happened? Another State government it

is said is set up. Is it the old State government? Not at all. It is not the old constitution of South Carolina which is in force, but a new one. It is not a restoration of the old State organization. It is the construction of a new State government.

Mr. CONNESS. By rebels.

Mr. TRUMBULL. My friend says by rebels. I do not say that, but I say we are to decide who it is made by. It does not necessarily follow that it is the proper State organization to elect Senators to this body. That is a question that we must judge of. It does not necessarily follow that it is a State organization that is to be recognized with all the powers of a State in this Union. That is a question we have to decide. Whether a State organization has been established in any of the rebellious States which has authority to elect Senators, is a question Congress must decide; and if decided affirmatively, then, when proper persons present themselves, they are of course to be admitted. But that is a question the President cannot determine. It is a question to be decided by the United States, by the representatives of the people in Congress assembled. I care not how these State organizations are gotten up, whether with the aid and assistance of the President, under an act of Congress, or by the people themselves, it is enough for me to know, and it is all I want to know, that an organization has been established in any of the late rebellious States, fairly representing the loyal people of the State, which organization is loyal and true to the Union, and has the disposition and ability to maintain its authority in obedience to the Constitution and laws of the United States, and I will thank God and welcome it into full communion with other loyal States.

Who is to decide what constitutes a legitimate State government in any State was settled years ago by the Supreme Court of the United States, in a case growing out of the Dorr rebellion in Rhode Island, reported in 7 Howard, a case that has often been referred to in this Chamber. The question there was as to which of the two governments set up in the State of Rhode Island was the State government. An action was brought by a party attached to one government against a party attached to the other, and the Supreme Court decided that it was for Congress to determine what was the legitimate State government of a State.

This part of the message I am considering is, as it seems to me, somewhat foreign to the bill, unless it be intended to assume that the Congress of the United States can pass no law in reference to these rebellious States because they are not represented here. Why, sir, is the fact that we impose taxes on them to authorize them to representation? We impose taxes on the Territories. We have imposed taxes all the time upon the people of these rebellious States; and it would be strange doctrine if a man by becoming a rebel and the enemy of his country was to deprive his country of the means of taxing his property.

The President says "the bill under consideration refers to certain of the States, as though they had not been fully restored in all their constitutional relations to the United States." It does; and that seems to be a matter of surprise to the President. I should be greatly surprised to learn that certain of the States had been fully restored. I certainly was credulous enough to believe, when the privilege of the writ of *habeas corpus* was suspended in them, when martial law was prevailing all over them, that they were not restored to all their constitutional relations as States in the Union. But it seems that the President is surprised that that should have been assumed in this bill.

In my judgment it constitutes no sort of objection to this bill that certain States were unrepresented in Congress when it passed. They are not represented in consequence of their own fault, and for the reason that the President himself gives, because they are contumaciously engaged, if not in open war, in hostility to the Government. Some of the State organizations are controlled by men who

are passing unconstitutional laws, as I have shown you to-day; by men, some of whom went from the rebel congress to the gubernatorial chairs in their States, and some from the field where they had been in hostile array against your Government. But, says the President, in this connection:

"The President of the United States stands toward the country in a somewhat different attitude from that of any member of Congress. Each member of Congress is chosen from a single district or State; the President is chosen by the people of all the States. As eleven States are not at this time represented in either branch of Congress, it would seem to be his duty, on all proper occasions, to present their just claims to Congress."

If it would not be disrespectful, I should like to inquire how many votes the President got in those eleven States. Sir, he is no more the representative of those eleven States than I am, except as he holds a higher position. I come here as a representative chosen by the State of Illinois, but I come here to legislate, not simply for the State of Illinois, but for the United States of America, and for South Carolina as well as Illinois. I deny that we are simply the representatives of the districts and States which send us here, or that we are governed by such narrow views that we cannot legislate for the whole country; and we are as much the representatives and in this particular instance received as much of the support of those eleven States as did the President himself.

Now, sir, I have gone through with this message; my comments have been made without an opportunity for preparation or much reflection. I have probably repeated much, but as I had taken an active part in urging this bill upon the consideration of the Senate before it passed, and as it was denounced as so unconstitutional, so extraordinary, and so unusual, I thought it due to myself, at least, that I should place before the Senate and the country the considerations by which I was governed in supporting the bill. The President believes it unconstitutional; I believe it constitutional. He believes that it will involve great expense; I believe it will save expense. He believes that the freedman will be protected without it; I believe he will be tyrannized over, abused, and virtually reenslaved without some legislation by the nation for his protection. He believes it unwise; I believe it to be politic. I thought, in advocating it, that I was acting in harmony with the views of the President. I regret exceedingly the antagonism which his message presents to the expressed views of Congress, not only as to the proper mode to be pursued in reference to protecting the refugees and freedmen, but as to the present condition of the rebellious States. I shall rejoice as much as any one to have those States restored in all their constitutional relations at the earliest period consistent with the safety and welfare of the whole people. I shall rejoice when those States shall abolish all civil distinction between their inhabitants on account of race or color; and when that is done one great object of the Freedmen's Bureau will have been accomplished.

The Senator from Kentucky [Mr. Guthrie] told us he believed the same civil rights ought to be extended to all inhabitants, now that slavery is abolished. Sir, if the southern States will do that, and protect the negro and the mulatto just as well as they protect the white man, there is no necessity and no occasion for the operations of the Freedmen's Bureau. I know that the bill contained powers which could be abused in reckless hands; but I knew, also, they were to be under the President's control, who, I trusted, would not suffer them to be improperly exerted; and if not abused I thought they were salutary provisions to accomplish the object which we all had in view.

Now, sir, with these remarks, made without any unkind feeling toward the Executive, with whom I should be glad to agree, but in justification of my own position, I submit the bill, so far as I am concerned, to the decision of the Senate.

Mr. COWAN. Mr. President, I had intended to reply at length to the argument of the honorable chairman of the Judiciary Committee

upon the objections of the President of the United States to the bill under discussion. I am, however, perfectly willing; if the vote can be taken this evening, to waive that reply, and let the speech to which we have listened with so much pleasure go to the country along with the message, and let the people determine, as they will have to do in their primary assemblies, whether this species of legislation is to be arrested here, or whether it is to continue in full current as it has been commenced.

Mr. WILLEY. Mr. President, I do not propose to address the Senate on this question, but I simply design to make a statement in regard to the vote which I shall give. It will be remembered that during the discussion of this bill prior to its passage by this body, I objected to a portion of it upon the ground that, in my judgment, it was unconstitutional; and having seen no cause to change my opinion in that respect, I shall feel bound to vote against the bill at this time. I beg to read a few sentences from the brief remarks which I then made. I said on that occasion:

"Mr. President, I know of scarcely a higher duty than has been imposed by the result of this war upon the Government to provide for the very contingencies embraced within the provisions of this bill; I know of no higher obligation than to make all necessary provision for the protection and the elevation of this race, for their protection in their civil rights and in the enjoyment of their proper pursuits, and for their protection in all the civil relations of life. I know of but one higher duty devolving upon the Senate, and that is the obligation to abide by the Constitution. I stand here under the obligation of an oath to support that Constitution, and having come to the conclusion, from the arguments that have been made during the progress of this discussion, that Congress has no power to grant the provisions contained within this section."

Alluding to the sixth section, then under discussion—

"I shall, since the yeas and nays have been called, be compelled to vote to strike it out."

The Senate failed to strike out that section, and the bill passed finally with that section in it. Recognizing the same obligation now which I did then, the solemn obligation of the oath under which I act, I shall be reluctantly compelled to vote against the passage of this bill now, as I was to vote against that section then. I have to make this explanation for the purpose of having it placed upon record that I vote against this bill simply because it has this sixth section in it. I do not wish it to be understood that I approve or that I disapprove of any of the positions in the veto message, whether relating to this bill or to other subjects, except that one which holds that this bill is unconstitutional because it contains within it the provisions of the sixth section. Having made these remarks, I must record my vote against the passage of the bill.

The PRESIDENT *pro tempore*. The question is, Shall the bill pass, the objections of the President of the United States notwithstanding? and the question must be taken by yeas and nays by the provisions of the Constitution.

The Secretary proceeded to call the roll.

Mr. POLAND, (when Mr. Foot's name was called.) I am desired by my colleague to state that he is confined to his room by sickness. If he were present he would vote for the bill.

The call was concluded, and resulted as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Foster, Grimes, Harris, Henderson, Howard, Howe, Kirkwood, Lane of Indiana, Lane of Kansas, Morrill, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Trumbull, Wade, Williams, Wilson, and Yates—30.

NAYS—Messrs. Buckalew, Cowan, Davis, Dixon, Doolittle, Guthrie, Hendricks, Johnson, McDougall, Morgan, Nesmith, Norton, Riddle, Saulsbury, Stewart, Stockton, Van Winkle, and Wiley—18.

ABSENT—Messrs. Foot and Wright—2.

The PRESIDENT *pro tempore*. On this question the yeas are 30 and the nays are 18. Two thirds of the members present not having voted for the bill, it is not a law. [Great applause in portions of the galleries and hisses in other portions, the disturbance being confined to the gentlemen's galleries.] The Sergeant-at-Arms will clear the galleries and will arrest any person making a disturbance.

The Sergeant-at-Arms proceeded to execute

the order of the President *pro tempore*, and cleared the western galleries.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a bill (H. R. No. 321) to amend an act entitled "An act to prevent the spread of foreign diseases among the cattle of the United States," approved December 18, 1865; in which it requested the concurrence of the Senate.

EXECUTIVE SESSION.

Mr. DOOLITTLE. I move that the Senate do now adjourn.

The question being put, the motion was declared not to be agreed to.

Mr. RIDDLE. I call for the yeas and nays. The yeas and nays were ordered.

Mr. CRESWELL. Will my friend from Wisconsin withdraw his motion? I desire to have a short executive session if it meet with the approval of the Senate.

Mr. DOOLITTLE. If it is regarded as important to have an executive session, I have no objection; and I withdraw my motion in order that the sense of the Senate may be tested on that question.

The PRESIDENT *pro tempore*. The motion to adjourn can be withdrawn only by unanimous consent, the yeas and nays having been ordered upon it. No objection being made, the motion is withdrawn.

Mr. CRESWELL. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, February 20, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read.

CORRECTION OF THE JOURNAL.

Mr. BANKS. I rise to a privileged question. I move to amend the Journal. I notice that in reference to the joint resolution relating to telegraphic communication, it is stated that it was reported from the Committee on Foreign Affairs. That is an error. It was not submitted to that committee.

Mr. WASHBURN, of Illinois. That is what the House understood; I certainly so understood it.

Mr. BANKS. It was not so stated; and I ask to have the Journal corrected in that respect.

The SPEAKER. The Clerk entered it as coming from the Committee on Foreign Affairs, and the Chair so understood it. The Journal will be corrected.

DISTILLED SPIRITS.

Mr. HOOPER. I am instructed unanimously by the Committee of Ways and Means to ask leave to report the following resolution:

Resolved, That it is the sense of this House that it is inexpedient to make any change in the excised duty on distilled spirits.

Mr. JOHNSON. I object.

RECONSTRUCTION.

Mr. STEVENS. Mr. Speaker, I report from the joint committee of fifteen, who have leave to report at any time, the following concurrent resolution:

Concurrent resolution concerning the insurrectionary States.

Be it resolved by the House of Representatives, (the Senate concurring,) That in order to close agitation upon a question which seems likely to disturb the action of the Government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven States which have been declared to be in insurrection, no Senator or Representative shall be admitted into either branch of Congress from any of said States until Congress shall have declared such State entitled to such representation.

Mr. STEVENS. Mr. Speaker—
Mr. GRIDER. Will the gentleman allow me to offer a minority report?

Mr. STEVENS. I do not see any objection to hearing it read.

Mr. ROGERS. I ask to be heard in opposition to the resolution.

The SPEAKER. The gentleman from Pennsylvania [Mr. STEVENS] is entitled to the floor.

Mr. STEVENS. I have only given way to the gentleman from Kentucky, [Mr. GRIDER.]

The Clerk commenced reading the minority report, as follows:

"The minority of the committee on reconstruction on the part of the House beg leave to report that said committee have directed an inquiry to be made as to the condition and loyalty of the State of Tennessee. There has been a large amount of evidence taken, some part of it conducing to show that at some localities occasionally there have been some irregularities and temporary disaffection; yet the main direction and weight of the testimony are ample and conclusive to show that the great body of the people in said State are not only loyal and willing, but anxious to have and maintain amicable, sincere, and patriotic relations with the General Government. Such being the state of the facts, and inasmuch as under the census of 1860 Congress passed a law which was approved in 1863, fixing the ratio and apportioning to Tennessee and all the other States representation; and inasmuch as Tennessee, disavowing insurrectionary purposes of said State, regularly elected her members and Senators to the Congress of the United States, in conformity to the laws and Constitution of the United States—

Mr. WASHBURN, of Illinois. I rise to a question of order. That is no minority report on this subject.

Mr. STEVENS. It is not; and if I had known what was in it I should not have been willing to have it received.

The SPEAKER. The gentleman can withdraw his consent at any time he pleases.

Mr. ELDRIDGE. I raise the question of order that the reading of the report having been commenced without objection it is now too late to object.

The SPEAKER. The Chair overrules the point of order. The floor is in possession of the gentleman from Pennsylvania, who has yielded to the gentleman from Kentucky.

Mr. GRIDER. I ask the gentleman from Pennsylvania [Mr. STEVENS] to allow the resolution to be read at all events.

Mr. BANKS. I hope the paper will be read through.

Mr. STEVENS. If it will have no effect upon my right I will waive any objection.

The SPEAKER. The gentleman does not lose his right to the floor.

Mr. STEVENS. I have no objection, inasmuch as it seems to be a speech of my friend.

Mr. GRIDER. Certainly, I am very much obliged to the gentleman.

The Clerk read the remainder of the report, as follows:

And said members are here asking admission, and inasmuch as the House by the Constitution is the "judge of the election, returns, and qualifications of its members," considering these facts and principles, we offer the following resolution, to wit:

Resolved, That the State of Tennessee is entitled to representation in the Thirty-Ninth Congress, and the Representatives elected from and by said State are hereby admitted to take their seats therein upon being qualified by oath according to law.

Mr. STEVENS. Having heard that paper read, I object. Now, Mr. Speaker, having heard that speech, which is ingenious, from my friend—

Mr. GRIDER. The gentleman says that having heard the report he objects: Objects to what?

Mr. STEVENS. I was saying that, having heard a speech upon that side of the question, and not intending to make any speech upon this side, as I hope our friends all understand a question which has agitated, not this body only, but other portions of the community, I propose to ask for the question. I think I may say without impropriety that until yesterday there was an earnest investigation into the condition of Tennessee, to see whether, by act of Congress, we could admit that State to a condition of representation here, and admit its members to their seats here; but since yesterday there has arisen a state of things which the committee deem puts it out of their power to proceed further without surrendering a great principle; without the loss of all their dignity; without surrendering the rights of this body to the usurpation of another power. I call the previous question.

Mr. ELDRIDGE. I desire to ask the gentleman a question. [Shouts of "Order!"]

Mr. FARNSWORTH. I object to debate.

Mr. STEVENS. After the question is taken I will yield to any gentleman.

Mr. ROGERS. I hope this resolution will not be driven through under the gag law. [Loud shouts of "Order!"]

Mr. ELDRIDGE. I rise to a point of order. [Renewed shouts of "Order!"]

The SPEAKER. The gentleman from Wisconsin rises to a question of order, and will state it.

Mr. ELDRIDGE. I submit that the committee of fifteen have not a right to report their proceedings by piecemeal in this manner; that they should make their final report; and that the House ought not to receive a report from them until they do make a final report.

The SPEAKER. The Chair overrules the point of order. The committee are authorized to report at any time, and to make such portions of their report as they please at any time.

Mr. GRIDER. I rise to a privileged question. I appeal to the courtesy of the gentleman from Pennsylvania to allow me to make one or two statements.

The SPEAKER. That is not a privileged question.

Mr. GRIDER. I make an appeal to the gentleman from Pennsylvania.

Mr. STEVENS. There are earthquakes around us, and I tremble; I dare not yield.

Mr. GRIDER. I ask to be heard on this proposition, and that it be postponed and printed. [Shouts of "Order!" "Order!"]

The SPEAKER. The gentleman from Kentucky is not in order.

Mr. ROGERS. I ask the gentleman from Pennsylvania to yield to me for a question. [Cries of "Order!"]

Mr. STEVENS. Not until after the vote is taken.

Mr. ROGERS. Will he not allow me to be heard? [Loud shouts of "Order!"] This is gag law. [Renewed shouts of "Order!"]

Mr. STEVENS. I ask that the resolution be again read.

The resolution was again reported.

Mr. RANDALL, of Pennsylvania. I rise to a question of order: that this House has no constitutional power to dismember the Union, and no authority in law to destroy the rights of the States.

The SPEAKER. That is not a point of order. A point of order can only arise under parliamentary law.

Mr. FINCK. I move to lay the resolution reported by the committee upon the table, and upon that motion I demand the yeas and nays.

Mr. STEVENS. The vote has not yet been taken on seconding the previous question.

The SPEAKER. The motion to lay on the table takes precedence of the demand for the previous question.

The yeas and nays were ordered.

Mr. ELDRIDGE. I rise to a privileged motion. I move that the House do now adjourn.

Mr. RANDALL, of Pennsylvania. I call for the yeas and nays on that motion.

The question was taken upon ordering the yeas and nays upon the motion to adjourn; and there were, upon a division—yeas 25, noes 110.

Before the result of the vote was announced, Mr. ELDRIDGE demanded tellers.

Tellers were ordered; and Messrs. ELDRIDGE and STEVENS were appointed.

The House again divided; and the tellers reported—yeas thirty-one; noes not counted.

So the yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 32, nays 121, not voting 30; as follows:

YEAS—Messrs. Ancona, Bergen, Boyer, Brooks, Chanler, Coffroth, Dawson, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Hogan, James M. Humphrey, Johnson, Kerr, McCullough, Niblack, Nicholson, Neell, Radford, Samuel J. Randall, Ritter, Rogers, Shanklin, Sitgreaves, Taber, Taylor, Thornton, Trimble, and Wright—32.

NAYS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Broomall, Buck-

land, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Darling, Dawes, Defrees, Delano, Deming, Donnelly, Driggs, Eekley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Hulburt, James Humphrey, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Laffin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McRuer, Mercer, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Pomeroy, Price, Rollins, Ross, Rousseau, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Smith, Spaulding, Starr, Stevens, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—121.

NOT VOTING—Messrs. Alley, Ames, Barker, Blow, Bundy, Culum, Culver, Davis, Denison, Dixon, Dumont, Harris, Hill, Edwin N. Hubbell, James R. Hubbell, Jones, Kasson, Kuykendall, Le Blond, Marshall, Miller, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Stilwell, Strouse, Robert T. Van Horn, Voorhees, and Winfield—30.

So the motion to adjourn was not agreed to.

The question recurred upon the motion of Mr. FINCK to lay the concurrent resolution on the table; upon which motion the yeas and nays had been ordered.

Mr. FINCK. I move that when the House adjourns to-day, it be to meet on Friday next and upon that motion I call the yeas and nays.

Mr. WASHBURN, of Illinois. I demand tellers on ordering the yeas and nays.

Tellers were ordered; and Mr. FINCK, and Mr. WASHBURN, of Illinois, were appointed.

The House divided; and the tellers reported—yeas thirty, noes not counted.

So the yeas and nays were ordered.

Mr. JOHNSON. I ask to be excused from voting on this question.

Mr. ANCONA. And on that I call for the yeas and nays.

The SPEAKER. The Chair, in conformity with the decisions of the Speaker during the Thirty-Seventh and Thirty-Eighth Congresses, declines to entertain a motion to excuse a member from voting on motions to adjourn or to adjourn over. The ground for that decision is very evident; for by calling the yeas and nays on such motions it might be in the power of one fifth of the members present to prevent a majority of the House from ever adjourning, or at least delay the adjournment for an unreasonable period.

Mr. ELDRIDGE. I appeal from the decision of the Chair.

The SPEAKER. The Chair declines to entertain the appeal, on the same ground that he refuses to entertain the motion to be excused from voting. Gentlemen will find precedents for this decision of the Chair in the proceedings of the Thirty-Seventh and Thirty-Eighth Congresses.

Mr. JOHNSON. I differ—

[Cries of "Order!" and much confusion.]

The SPEAKER. It should always be in the power of the majority of the House to adjourn whenever they shall see fit. But if gentlemen can ask to be excused from voting on a motion to adjourn, and demand the yeas and nays upon it, or take an appeal from the decision of the Chair refusing to entertain such motion, and demand the yeas and nays on the appeal, then one fifth of the House could prevent the majority from adjourning, and this could of course be prolonged for hours.

Mr. ELDRIDGE. This is not a motion to adjourn, but a motion to fix the time to which the House will adjourn.

The SPEAKER. It is a cognate motion, equally privileged, and one that takes precedence of the motion to adjourn.

Mr. ELDRIDGE. Would a motion to take a recess be in order?

The SPEAKER. Only by unanimous consent.

Mr. ELDRIDGE. I move a call of the House.

The SPEAKER. The previous question not having been seconded, the Chair is of opinion that the gentleman has a right to move a call of the House at this time.

Mr. ELDRIDGE. And on that motion I call the yeas and nays.

Mr. WASHBURN, of Illinois. I demand tellers on ordering the yeas and nays.

Tellers were ordered; and Mr. LAWRENCE, of Ohio, and Mr. ELDRIDGE, were appointed.

The House divided; and the tellers reported—ayes thirty, noes not counted.

So the yeas and nays were ordered.

Mr. JOHNSON. I ask to be excused from voting on this important question of ordering a call of the House.

The SPEAKER. The Chair declines to entertain that request during the pendency of the motion to adjourn, upon the same ground on which he has already decided not to entertain a similar request.

Mr. ELDRIDGE. I appeal from that decision of the Chair.

The SPEAKER. The Chair declines to entertain the appeal. He has already stated the reason. In declining to entertain an appeal under these circumstances, on account of the pendency of the motion to adjourn, the Speaker of course renders himself liable to the future censure of the House if his conduct should be disapproved; but the precedents are all in favor of the Chair's action.

The question was taken; and it was decided in the negative—yeas 23, nays 129, not voting 81; as follows:—

YEAS—Messrs. Ancona, Bergen, Boyer, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Hogan, James M. Humphrey, McCullough, Niblack, Nicholson, Noell, Radford, Ritter, Rogers, Shanklin, Sitgreaves, Taylor, Trimble, Voorhees, and Wright—23.

NAYS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Chandler, Reader W. Clarke, Sidney Clarke, Cobb, Coffroth, Conkling, Cook, Cullom, Darling, Dawes, Dawson, Defrees, Delano, Deming, Donnelly, Driggs, Eckley, Eggleston, Eldridge, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, James Humphrey, Ingersoll, Jenckes, Julian, Kelley, Kelso, Kerr, Ketcham, Laffin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, McClurg, McIndoe, McKee, McRuer, Mercur, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Rousseau, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Smith, Spalding, Starr, Stevens, Taber, Thayer, John L. Thomas, Thornton, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—129.

NOT VOTING—Messrs. Alley, Ames, Barker, Blow, Brooks, Bundy, Culver, Davis, Denison, Dixon, Dumont, Harris, Hill, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbard, Johnson, Jones, Kasson, Kuykendall, Le Blond, Marshall, Marvin, Miller, Pomeroy, Samuel J. Randall, Ross, Stilwell, Strouse, Francis Thomas, and Winfield—81.

So a call of the House was not ordered.

During the call of the roll,

Mr. WASHBURN, of Massachusetts, said: I desire to state that my colleague, Mr. ALLEY, has paired with the gentleman from Pennsylvania, Mr. JOHNSON.

Mr. JOHNSON. I am reminded by the gentleman from Massachusetts [Mr. WASHBURN] that his colleague, Mr. ALLEY, has left the House with the understanding that he had paired with me. My recollection of the conversation between that gentleman and myself is that I declined to pair with him upon questions requiring a two-thirds vote and upon contested-election cases, but I agreed that as to all matters generally in which the "nigger" was considered to be the great point, I would pair with him. Although our agreement was not clinched by any formal contracts, Mr. ALLEY, I am informed, has gone home with the understanding I have stated; and therefore I decline to vote on this question, considering this one of the biggest "nigger" questions that could be brought up.

The result of the vote was announced as above stated.

The question then recurred on the motion that, when the House adjourns, it adjourn to meet on Friday next.

Mr. ELDRIDGE. I move to reconsider the vote by which the House refused to order a call of the House; and on that motion I demand the yeas and nays.

Mr. FINCK. I move to lay that motion on the table.

The SPEAKER. Unless the gentleman from Wisconsin [Mr. ELDRIDGE] can point to some instance in parliamentary history in which a motion has been entertained to reconsider a vote on ordering a call of the House, the Chair must rule his motion out of order. A call of the House can always be renewed after other business has been transacted or other motions have intervened, except when a motion to adjourn is pending. But the Chair is not informed of any case in which a motion to reconsider a vote upon ordering a call of the House has ever been entertained. If the gentleman from Wisconsin can point to any parliamentary precedent in support of his motion, the Chair will be glad to be informed of it.

Mr. ELDRIDGE. I cannot refer the Speaker to any precedent; but I can conceive no reason why my motion cannot be entertained, as I voted with the majority of the House.

The SPEAKER. The same reason that would apply in reference to a motion to adjourn applies in this case. The gentleman certainly would not move to reconsider a vote by which the House had refused to adjourn, because the motion to adjourn could be renewed. The Chair therefore declines to entertain the gentleman's motion to reconsider the vote by which the House refused to order a call of the House. The pending question is on the motion that when the House adjourns, it adjourn to meet on Friday next.

Mr. ELDRIDGE. I move that when the House adjourns to-day, it adjourn to meet on Thursday next; and on that motion I demand the yeas and nays.

Mr. CONKLING. Is there not already one privileged motion pending?

The SPEAKER. One is an amendment to the other.

Mr. WASHBURN, of Illinois, demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs. GARFIELD and CHANLER were appointed.

The House divided; and the tellers reported—ayes twenty-nine, more than one fifth of those present.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 13, nays 132, not voting 38; as follows:

YEAS—Messrs. Bergen, Eldridge, Goodyear, Hogan, McCullough, Niblack, Nicholson, Radford, Samuel J. Randall, Ritter, Rogers, Sitgreaves, and Trimble—13.

NAYS—Messrs. Allison, Ancona, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Boyer, Brandegee, Brooks, Broomall, Buckland, Chandler, Reader W. Clarke, Sidney Clarke, Cobb, Coffroth, Conkling, Cook, Cullom, Darling, Dawson, Defrees, Delano, Deming, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Finck, Garfield, Glossbrenner, Grinnell, Hale, Aaron Harding, Abner C. Harding, Hart, Hayes, Henderson, Higby, Holmes, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, James Humphrey, Ingersoll, Jenckes, Kelley, Kelso, Kerr, Ketcham, Kuykendall, Laffin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, McClurg, McIndoe, McKee, McRuer, Mercur, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Ross, Schenck, Scofield, Shanklin, Shellabarger, Sloan, Smith, Spalding, Starr, Stevens, Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Robert T. Van Horn, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, Woodbridge, and Wright—132.

NOT VOTING—Messrs. Alley, Ames, Barker, Blow, Bromwell, Bundy, Culver, Davis, Dawes, Denison, Dixon, Dumont, Grider, Griswold, Harris, Hill, Hooper, Edwin N. Hubbard, James M. Humphrey, Johnson, Jones, Julian, Kasson, LeBlond, Marshall, Marvin, Miller, Noell, Phelps, Rousseau, Sawyer, Stilwell, Strouse, Taber, Voorhees, Ward, Warner, and Winfield—38.

So the motion was disagreed to.

The question recurred on the motion to adjourn until Friday next.

Mr. CHANLER. I move that when the House adjourns to-day, it adjourn to meet on Thursday next at two o'clock p. m.

The SPEAKER. That can only be done by unanimous consent.

Mr. FINCK. I move that the House do now adjourn.

Mr. ELDRIDGE. I demand the yeas and nays.

Mr. GARFIELD. I demand tellers on the yeas and nays.

Tellers were ordered; and Messrs. ALLISON and KERR were appointed.

The House divided; and the tellers reported—ayes twenty-eight, more than one fifth of those present.

So the yeas and nays were ordered.

The SPEAKER. The motion to adjourn over has priority of the motion to adjourn—

Mr. ELDRIDGE. I move that there be a call of the House.

The SPEAKER. The Chair cannot entertain the motion; and for the information of the House will have read the decision of Speaker Linn Boyd, in 1854, which was affirmed by a large majority.

The Clerk read, as follows:

"The SPEAKER decided the motion out of order.

"Mr. ISRAEL WASHBURN, Jr., moved a call of the House.

"The SPEAKER decided the motion to be out of order, on the ground that the House have, since the demand for the previous question which is still pending, refused a call, and thereby indicated a fixed purpose to vote on the main question without a call.

"From the decision of the Chair Mr. ISRAEL WASHBURN, Jr., appealed; pending which, Mr. WHEELER moved the appeal be laid upon the table; and the question being put on the latter motion, it was decided in the affirmative—yeas 118, nays 73."

Mr. ELDRIDGE. I respectfully appeal from that decision of the Chair.

The SPEAKER. For the reason already assigned, that such dilatory motions would prevent a majority of the House from adjourning when it desired to, the Chair cannot entertain the motion.

Mr. ROSS. Is it in order to move to go into Committee of the Whole on the loan bill?

The SPEAKER. It is not during the pendency of the motion to adjourn.

Mr. ELDRIDGE. Will it be in order to request the gentleman from Pennsylvania to withdraw his motion for the previous question for debate? If he will allow debate we will withdraw all opposition on this side and go on with the business.

Mr. STEVENS. It is simply the return of the rebels of 1861. I sat thirty-eight hours under this kind of a fight once, and I have no objection to a little of it now. I am ready to sit for forty hours.

Mr. ELDRIDGE. I appeal to the gentleman from Pennsylvania to—

[Cries of "Order!"]

The SPEAKER. Debate is not in order.

The question was then taken on the motion to adjourn to meet on Friday next; and it was decided in the negative—yeas 24, nays 121, not voting 38; as follows:

YEAS—Messrs. Ancona, Bergen, Boyer, Brooks, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Hogan, James M. Humphrey, Kerr, McCullough, Niblack, Nicholson, Radford, Samuel J. Randall, Rogers, Shanklin, Sitgreaves, Thornton, Trimble, Voorhees, and Wright—24.

NAYS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Boutwell, Brandegee, Bromwell, Broomall, Chandler, Reader W. Clarke, Sidney Clarke, Cobb, Coffroth, Cook, Darling, Dawson, Defrees, Delano, Deming, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Aaron Harding, Abner C. Harding, Hart, Hayes, Henderson, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, James Humphrey, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Laffin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McRuer, Mercur, Moorhead, Morrill, Morris, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Plants, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Ross, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Smith, Spalding, Starr, Stevens, Taber, Taylor, Thayer, John L. Thomas, Thornton, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—121.

NOT VOTING.—Messrs. Alley, Ames, Barker, Blaine, Blow, Buckland, Bundy, Conkling, Cullom, Culver, Davis, Dawes, Denison, Dixon, Dumont, Farnsworth, Harris, Hill, Edwin N. Hubbell, Johnson, Jones, Kasson, Kaykendall, Le Blond, Marshall, Miller, Moulton, Noell, Phelps, Pike, Rollins, Rousseau, Stilwell, Strouse, Francis Thomas, Robert T. Van Horn, Warner, and Winfield—38.

So the motion was not agreed to.

The SPEAKER. The question recurs on the motion that the House do now adjourn.

Mr. CHANLER. I move that when the House adjourn, it adjourns to meet on Thursday next.

Mr. FINCK. I demand the yeas and nays on that motion.

Mr. GARFIELD. I call for tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. HOOPER and NIBLACK were appointed.

The House divided; and the tellers reported—yeas thirty-one, noes not counted.

So the yeas and nays were ordered.

The question was then taken on the motion to adjourn to meet on Thursday next; and it was decided in the negative—yeas 18, noes 116, not voting 50; as follows:

YEAS.—Messrs. Ancona, Boyer, Eldridge, Finck, Goodyear, Grider, Aaron Harding, Kerr, Niblack, Nicholson, Noell, Radford, Samuel J. Randall, Rogers, Shanklin, Sitgreaves, Trimble, and Wright—18.

NAYS.—Messrs. Allison, Anderson, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bergen, Bidwell, Bingham, Blaine, Boutwell, Broomall, Broomall, Buckland, Chandler, Sidney Clarke, Cobb, Coffroth, Conkling, Cook, Cullom, Dawes, Dawson, Defrees, Deming, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farquhar, Ferry, Garfield, Glossbrenner, Grinnell, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hogan, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hubbard, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Kaykendall, Ladin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, McClurg, McIndoe, McKee, McKuer, Mercer, Moorhead, Moulton, Myers, Newell, O'Neill, Orth, Paine, Perham, Plants, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Ross, Rousseau, Sawyer, Schenck, Schofield, Sloan, Smith, Spaulding, Starr, Stevens, Thayer, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Upson, Van Aernam, Burt Van Horn, Elihu B. Washburne, William B. Washburne, Welker, Whaley, Williams, James F. Wilson, Stephen F. Wilson, and Woodbridge—116.

NOT VOTING.—Messrs. Alley, Ames, Delos R. Ashley, Barker, Blow, Brandegee, Brooks, Bundy, Reader W. Clarke, Culver, Darling, Davis, Delano, Denison, Dixon, Dumont, Farnsworth, Griswold, Harris, Hill, Edwin N. Hubbell, James Humphrey, James M. Humphrey, Johnson, Jones, Kasson, Le Blond, Marshall, Marston, Marvin, McCullough, Miller, Morrill, Morris, Patterson, Phelps, Pike, Pomeroy, Ritter, Stilwell, Strouse, Taber, Taylor, Robert T. Van Horn, Voorhees, Ward, Warner, Wentworth, Winfield, and Woodbridge—50.

So the motion was not agreed to.

Mr. CHANLER. Will it be in order now, without disturbing the motion before the House, to have a memorial read?

The SPEAKER. By unanimous consent.

Mr. BRANDEGEE. I object.

Mr. CHANLER. It is an interesting memorial.

The SPEAKER. The question recurs on the motion that the House do now adjourn.

Mr. CHANLER. If it be in order to amend, I move that the House adjourn to meet on Friday next.

The SPEAKER. That motion has been decided in the negative by yeas and nays.

Mr. CHANLER. To adjourn till Thursday.

The SPEAKER. Also till Friday.

Mr. CHANLER. Would it be in order to take a recess for the purpose of allowing my friend from Illinois [Mr. ROSS] to introduce his friend, the General, upon the floor?

The SPEAKER. It would, by unanimous consent.

Mr. STEVENS. I object.

The question was taken on the motion to adjourn; and it was decided in the negative—yeas 22, nays 111, not voting 50; as follows:

YEAS.—Messrs. Ancona, Bergen, Boyer, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Kerr, McCullough, Niblack, Nicholson, Radford, Ritter, Rogers, Shanklin, Sitgreaves, Taylor, Trimble, Voorhees, and Wright—22.

NAYS.—Messrs. Allison, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Brooks, Broomall, Buckland, Chandler, Reader W. Clarke, Sidney Clarke, Cobb, Cullom, Dawes,

Dawson, Defrees, Deming, Driggs, Eckley, Eggleston, Eliot, Farquhar, Ferry, Garfield, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Hogan, Holmes, Hooper, Demas Hubbard, John H. Hubbard, James K. Hubbell, Hulburd, Ingersoll, Jenckes, Kelley, Kelso, Ketcham, Ladin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Marvin, McClurg, McIndoe, McKee, McKuer, Moorhead, Morrill, Morris, Moulton, Myers, Newell, Noell, O'Neill, Orth, Paine, Patterson, Pike, Plants, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, Rollins, Ross, Rousseau, Sawyer, Schenck, Schofield, Shellabarger, Sloan, Smith, Spaulding, Starr, Stevens, Thayer, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Elihu B. Washburne, William B. Washburne, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—111.

NOT VOTING.—Messrs. Alley, Ames, Anderson, Barker, Blow, Bromwell, Bundy, Coffroth, Conkling, Cook, Culver, Darling, Davis, Delano, Denison, Dixon, Donnelly, Dumont, Farnsworth, Grinnell, Harris, Higby, Hill, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Edwin N. Hubbell, James Humphrey, James M. Humphrey, Johnson, Jones, Julian, Kasson, Kaykendall, Le Blond, Lynch, Marshall, Marston, Mercer, Miller, Perham, Phelps, Samuel J. Randall, John H. Rice, Stilwell, Strouse, Taber, Robert T. Van Horn, Warner, and Winfield—50.

So the House refused to adjourn.

The question recurred on the motion to lay the concurrent resolution upon the table.

Mr. JOHNSON. I ask leave to be excused from voting upon that question as I am already paired.

Mr. ELDRIDGE. I call for the yeas and nays on excusing the gentleman.

Mr. PLANTS. I rise to a question of order. The gentleman says that he has paired off on this question, and he is not entitled to vote upon it in that case.

The SPEAKER. The gentleman can, however, ask to be excused, although he has already notified the House that he did not intend to vote.

Mr. STEVENS. Let us excuse him by common consent.

Mr. JOHNSON. There is no law on the subject of pairs, and I ask to be excused from voting.

The SPEAKER. The gentleman asks to be excused from voting. He has already stated that he intends not to vote, being paired.

Mr. ELDRIDGE. I call for tellers on the yeas and nays.

Tellers were ordered; and Messrs. BOYER and ROLLINS were appointed.

The House divided; and the tellers reported—yeas 29, noes 111.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 88, nays 51, not voting 49; as follows:

YEAS.—Messrs. Ancona, James M. Ashley, Baldwin, Baxter, Beaman, Bidwell, Blaine, Boutwell, Boyer, Brandegee, Broomall, Cobb, Coffroth, Delano, Deming, Driggs, Eldridge, Eliot, Farnsworth, Ferry, Finck, Garfield, Glossbrenner, Grider, Grinnell, Abner C. Harding, Hart, Hayes, Hooper, Hotchkiss, John H. Hubbard, James Humphrey, Ingersoll, Jenckes, Kelley, Kelso, Ketcham, Kaykendall, Ladin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, McIndoe, McKee, McKuer, Morrill, Moulton, Myers, Niblack, Nicholson, O'Neill, Orth, Patterson, Perham, Pomeroy, Price, William H. Randall, Ritter, Rogers, Rollins, Schenck, Shanklin, Shellabarger, Sloan, Starr, Stevens, Taylor, Thayer, Trowbridge, Upson, Burt Van Horn, Elihu B. Washburne, William B. Washburne, Williams, James F. Wilson, Stephen F. Wilson, and Woodbridge—88.

NAYS.—Messrs. Allison, Anderson, Baker, Banks, Benjamin, Bergen, Bingham, Bromwell, Brooks, Chandler, Reader W. Clarke, Conkling, Cook, Cullom, Darling, Dawson, Donnelly, Eckley, Goodyear, Griswold, Hale, Aaron Harding, Henderson, Holmes, Chester D. Hubbard, Demas Hubbard, James K. Hubbell, Kerr, McClurg, McCullough, Mercer, Moorhead, Morris, Newell, Noell, Paine, Samuel J. Randall, Alexander H. Rice, Ross, Sawyer, Schofield, Sitgreaves, Smith, Taber, Francis Thomas, John L. Thomas, Thornton, Trimble, Wentworth, Whaley, and Wright—51.

NOT VOTING.—Messrs. Alley, Ames, Delos R. Ashley, Barker, Blow, Buckland, Bundy, Sidney Clarke, Culver, Davis, Dawes, Defrees, Denison, Dixon, Dumont, Eggleston, Farquhar, Harris, Higby, Hill, Hogan, Asahel W. Hubbard, Edwin N. Hubbell, Hulburd, James M. Humphrey, Johnson, Jones, Julian, Kasson, Le Blond, Marshall, Marston, Marvin, Miller, Phelps, Pike, Plants, Radford, Raymond, John H. Rice, Rousseau, Spaulding, Stilwell, Strouse, Van Aernam, Robert T. Van Horn, Voorhees, Ward, Warner, Welker, and Winfield—49.

So Mr. JOHNSON was excused from voting.

Mr. CHANLER. I move that when the House adjourns it adjourn to meet on Friday next; and on that motion I demand the yeas and nays.

Mr. GARFIELD. I call for tellers on the yeas and nays.

Tellers were ordered; and Mr. CHANLER and Mr. GARFIELD were appointed.

The House divided; and the tellers reported—yeas twenty-five, noes not counted.

So the yeas and nays were ordered.

The question was taken and it was decided in the negative—yeas 24, nays 113, not voting 46; as follows:

YEAS.—Messrs. Ancona, Bergen, Boyer, Brooks, Chandler, Eldridge, Finck, Glossbrenner, Grider, Aaron Harding, Kerr, Marshall, Newell, Niblack, Nicholson, Radford, Samuel J. Randall, Ritter, Rogers, Shanklin, Sitgreaves, Taylor, Trimble, and Wright—24.

NAYS.—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Broomall, Buckland, Reader W. Clarke, Cobb, Conkling, Cook, Cullom, Darling, Dawes, Dawson, Defrees, Deming, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hogan, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James K. Hubbell, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Kaykendall, Ladin, Latham, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, Mercer, Morris, Moulton, Myers, Noell, O'Neill, Orth, Paine, Patterson, Perham, Plants, Pomeroy, Price, Raymond, Alexander H. Rice, John H. Rice, Rollins, Ross, Sawyer, Schenck, Shellabarger, Sloan, Smith, Spaulding, Starr, Stevens, Thayer, John L. Thomas, Thornton, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Ward, Elihu B. Washburne, William B. Washburne, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—113.

NOT VOTING.—Messrs. Alley, Ames, Barker, Benjamin, Blow, Bromwell, Bundy, Sidney Clarke, Coffroth, Culver, Davis, Delano, Denison, Dixon, Dumont, Farnsworth, Goodyear, Harris, Hill, Edwin N. Hubbell, Hulburd, James Humphrey, James M. Humphrey, Johnson, Jones, Kasson, George V. Lawrence, Le Blond, McCullough, McKuer, Miller, Moorhead, Morrill, Phelps, Pike, William H. Randall, Rousseau, Schofield, Stilwell, Strouse, Taber, Francis Thomas, Burt Van Horn, Voorhees, Warner, and Winfield—46.

So the motion was not agreed to.

Mr. CHANLER. I move that the House now adjourn, and upon that motion I demand the yeas and nays.

INDIANA CONTESTED ELECTION.

Mr. MARSHALL. I rise to a privileged question. On yesterday the majority of the Committee of Elections presented a report in the case of Washburn vs. Voorhees, of the State of Indiana. I was not in my seat at the time that report was made. I now ask leave to present a report from the minority of that committee, and ask that it be laid on the table, and printed.

The SPEAKER. That can be done only by unanimous consent at this time.

Mr. MARSHALL. May I ask why it cannot be received now?

The SPEAKER. A motion to adjourn is now pending.

Mr. MARSHALL. I ask unanimous consent. It will take no time.

Mr. SPALDING. I object.

Mr. MARSHALL. May I ask the reason of the objection?

Mr. SPALDING. I object to any business until the subject is disposed of which we now have under consideration.

Mr. MARSHALL. If the gentleman from Ohio [Mr. SPALDING] will permit me to make a statement, I think he will withdraw his objection.

Mr. WASHBURN, of Illinois. I will not object to the report being received, but I object to any statement being made in regard to the case.

Mr. MARSHALL. I do not desire to make any statement about the case.

Mr. DAWES. I hope the gentleman from Ohio [Mr. SPALDING] will withdraw his objection, and allow the report of the minority to be received, and ordered to be printed.

Mr. SPALDING. Very well; I will withdraw my objection.

The report was received, laid upon the table, and ordered to be printed.

CORRECTION OF THE JOURNAL.

Mr. MARSHALL. I rise to another privileged question. On yesterday, when the elec-

tion case from Pennsylvania was under consideration, I was in my seat and voted to sustain the report of the majority of the committee. I find myself reported in the Globe of this morning as not voting, and I presume the Journal is to the same effect. I desire to have my name recorded in the affirmative.

The Journal was ordered to be corrected accordingly.

RECONSTRUCTION—AGAIN.

The House resumed the consideration of the concurrent resolution reported this morning from the joint committee on reconstruction.

Mr. ELDRIDGE. I move to reconsider the vote by which the House excused the gentleman from Pennsylvania [Mr. JOHNSON] from voting.

The SPEAKER. The motion to reconsider will be entered, but it cannot be voted upon at this time. The pending question is upon the motion to adjourn, upon which the gentleman from New York [Mr. CHANLER] has demanded the yeas and nays.

Mr. WASHBURN, of Illinois. I call for tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. PRICE and TAYLOR were appointed.

The House divided; and the tellers reported—ayes thirty, noes not counted.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 23, nays 101, not voting 59; as follows:

YEAS—Messrs. Ancona, Bergen, Boyer, Brooks, Chanler, Eldridge, Glossbrenner, Goodyear, Aaron Harding, James M. Humphrey, Kerr, Latham, Niblack, Nicholson, Radford, Samuel J. Randall, Ritter, Rogers, Rousseau, Shanklin, Sitgreaves, Taylor, and Trimble—23.

NAYS—Messrs. Allison, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Bromwell, Broomall, Reader W. Clarke, Cobb, Coffroth, Cook, Darling, Dawes, Dawson, Deming, Driggs, Eliot, Farquhar, Ferry, Finck, Garfield, Hale, Abner C. Harding, Hart, Hayes, Henderson, Hogan, Holmes, Asahel W. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, James Humphrey, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Kuykendall, Ladin, William Lawrence, Loan, Longyear, Lynch, Marshall, McClurg, McIndoe, McKee, McRuer, Mercour, Moorhead, Morrill, Morris, Moulton, Myers, Newell, Noell, O'Neill, Orth, Patterson, Perham, Plants, Price, William H. Randall, Raymond, John H. Rice, Rollins, Ross, Sawyer, Schenck, Shellabarger, Sloan, Smith, Spalding, Starr, Stevens, Thayer, Francis Thomas, Thornton, Trowbridge, Upson, Ward, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—101.

NOT VOTING—Messrs. Alley, Ames, Anderson, Barker, Blow, Brandegee, Buckland, Bundy, Sidney Clarke, Conkling, Cullom, Culver, Davis, Defrees, Delano, Denison, Dixon, Donnelly, Dumont, Eckley, Eggleston, Farnsworth, Grider, Grinnell, Griswold, Harris, Higby, Hill, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, Edwin N. Hubbell, Johnson, Jones, Kasson, George V. Lawrence, Le Blond, Marston, Marvin, McCullough, Miller, Paine, Phelps, Pike, Pomeroy, Alexander H. Rice, Scofield, Stilwell, Strouse, Taber, John L. Thomas, Van Aernam, Burt Van Horn, Robert T. Van Horn, Voorhees, Warner, Winfield, and Wright—59.

So the House refused to adjourn.

Mr. CHANLER. I rise to a privileged motion. I move that the House resolve itself into the Committee of the Whole on the state of the Union; and upon that motion I call the yeas and nays.

The SPEAKER. That motion would be in order if the previous question were not pending.

Mr. CHANLER. I understand that the motion to go into the Committee of the Whole on the state of the Union is in order at any time.

The SPEAKER. The pendency of the previous question and a motion to lay on the table would render the motion to go into the Committee of the Whole out of order until those questions were decided.

Mr. SMITH. I ask unanimous consent to make a personal explanation.

Mr. WASHBURN, of Illinois. I object. Let the gentleman wait till this question is settled.

Mr. SMITH. I ask the gentleman from Illinois to withdraw his objection. I desire to bring before the House and the country a matter that concerns me as well as my friends.

The SPEAKER. Is there objection to the

gentleman from Kentucky [Mr. SMITH] making a personal explanation?

Mr. BROOMALL. I object.

The SPEAKER. Objection is made. The pending question is upon the motion of the gentleman from Wisconsin [Mr. ELDRIDGE] to reconsider the vote by which the House excused the gentleman from Pennsylvania [Mr. JOHNSON] from voting.

Mr. SMITH. I ask the gentleman from Pennsylvania, [Mr. BROOMALL,] whether he knows anything about the subject which I desire to bring before the House.

Mr. BROOMALL. I do not; but I want to have a vote on this resolution.

Mr. SMITH. Mr. Speaker, allow me to say that it is very likely, from what has taken place here, that we shall not reach a vote for an hour or two at least; and I can make in a few minutes the explanation I desire to make. The explanation ought to go before the country in conjunction with the newspaper article which I hold in my hand, and which contains a personal reflection upon me and my friends.

Mr. SPALDING. I object.

The pending question being upon the motion of Mr. ELDRIDGE to reconsider the vote by which the House excused Mr. JOHNSON from voting,

Mr. ELDRIDGE demanded the yeas and nays.

Mr. FINCK. I rise to a privileged motion. I move that the House take a recess till half past seven o'clock.

The SPEAKER. That motion would be in order if it were to take a recess from half past four till half past seven. There is a resolution of the House that the House will take a recess daily at half past four o'clock p. m. till half past seven, unless otherwise ordered. But the House has ordered that to be suspended until otherwise ordered, and it is not now in operation.

Mr. FINCK. I rise to another privileged motion. I move that when the House adjourns it adjourn till Thursday next.

The SPEAKER. That motion is in order.

Mr. CHANLER. On that motion I demand the yeas and nays.

Mr. WILSON, of Iowa, demanded tellers.

Tellers were ordered; and Messrs. WILSON, of Iowa, and ROGERS were appointed.

The House divided; and the tellers reported—ayes twenty-eight, more than one fifth of those present.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 26, nays 104, not voting 53; as follows:

YEAS—Messrs. Ancona, Boyer, Brooks, Chanler, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, James M. Humphrey, Kerr, Marshall, McCullough, Niblack, Nicholson, Noell, Radford, Samuel J. Randall, Ritter, Rogers, Shanklin, Sitgreaves, Taylor, Trimble, and Wright—26.

NAYS—Messrs. Allison, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Broomall, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Darling, Dawes, Dawson, Deming, Driggs, Eckley, Eggleston, Eliot, Farquhar, Ferry, Garfield, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Holmes, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, Hulburd, James Humphrey, Ingersoll, Julian, Kelso, Ketcham, Kuykendall, George V. Lawrence, William Lawrence, Loan, Lynch, Marshall, Marston, Marvin, McClurg, McIndoe, McKee, McRuer, Mercour, Moorhead, Morrill, Morris, Moulton, Myers, Newell, Noell, O'Neill, Orth, Patterson, Perham, Plants, Price, William H. Randall, John H. Rice, Rollins, Ross, Rousseau, Sawyer, Schenck, Shellabarger, Smith, Spalding, Starr, Stevens, Taber, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Upson, Van Aernam, Burt Van Horn, Voorhees, Ward, Elihu B. Washburne, William B. Washburn, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—104.

NOT VOTING—Messrs. Alley, Ames, Anderson, Delos R. Ashley, Barker, Blow, Buckland, Bundy, Coffroth, Conkling, Cullom, Culver, Davis, Defrees, Delano, Denison, Dixon, Donnelly, Dumont, Farnsworth, Grinnell, Griswold, Harris, Hill, Hogan, Hooper, Demas Hubbard, Edwin N. Hubbell, James R. Hubbard, James Humphrey, Ingersoll, Johnson, Jones, Kasson, Latham, Le Blond, McIndoe, Miller, Myers, Perham, Phelps, Pike, Raymond, Alexander H. Rice, Scofield, Sloan, Stilwell, Strouse, Thayer, Robert T. Van Horn, Warner, Welker, and Winfield—53.

So the motion was disagreed to.

Mr. SMITH. I move that the gentleman from Pennsylvania [Mr. JOHNSON] be excused from voting for the rest of the session.

The SPEAKER. The Chair cannot entertain that motion.

Mr. SMITH. Why?

The SPEAKER. Because it would be too extensive.

Mr. ELDRIDGE. Is an appeal from that decision in order?

The SPEAKER. The Chair thinks not.

The question recurred on the motion to reconsider.

Mr. ELDRIDGE demanded the yeas and nays.

Mr. SPALDING demanded tellers.

Tellers were ordered; and Messrs. DEMING and BROOKS were appointed.

The House divided; and the tellers reported—ayes twenty-nine, more than one fifth of those present.

So the yeas and nays were ordered.

Mr. ELDRIDGE moved that there be a call of the House, and demanded the yeas and nays.

Mr. SPALDING demanded tellers.

Tellers were not ordered.

The yeas and nays were ordered.

Mr. CHANLER. I move to be excused from voting on the pending question.

Mr. ELDRIDGE demanded the yeas and nays.

Mr. SPALDING demanded tellers.

Tellers were ordered; and Messrs. WASHBURN, of Illinois, and BOYER were appointed.

The House divided; and the tellers reported—ayes twenty-six, more than one fifth of those present.

So the yeas and nays were ordered.

Mr. WASHBURN, of Illinois. I rise to a question of order. The gentleman from Pennsylvania [Mr. JOHNSON] has stated that he was paired with the gentleman from Massachusetts, [Mr. ALLEY,] and yet he has voted on ordering the yeas and nays.

The SPEAKER. That is a question the gentleman must decide for himself. The gentleman from Pennsylvania has the legal right to vote even if he is paired; but the Chair will state that when he votes on the yeas and nays his vote offsets four who differ from him.

Mr. JOHNSON. My pair did not extend to this question. I will explain, if allowed.

Objection was made.

Mr. NIBLACK. I move to be excused from voting on this question.

The SPEAKER. For the last twelve years the decisions have been uniform with that of Speaker Linn Boyd, in the celebrated Nebraska bill contest, that a motion cannot be entertained to excuse a member on a motion to excuse.

The question was taken on the motion to excuse the gentleman from New York, [Mr. CHANLER,] and it was decided in the negative—yeas 10, nays 110, not voting 63; as follows:

YEAS—Messrs. Ancona, Boyer, Kerr, McCullough, Niblack, Nicholson, Radford, Rogers, Sitgreaves, and Wright—10.

NAYS—Messrs. Allison, Anderson, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bergen, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Brooks, Broomall, Buckland, Sidney Clarke, Cobb, Conkling, Dawson, Delano, Deming, Eckley, Eggleston, Eldridge, Eliot, Farquhar, Ferry, Finck, Glossbrenner, Goodyear, Grider, Griswold, Hale, Aaron Harding, Abner C. Harding, Hayes, Henderson, Higby, Hogan, Holmes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Ingersoll, Julian, Kelso, Ketcham, Kuykendall, George V. Lawrence, William Lawrence, Loan, Lynch, Marshall, Marston, Marvin, McClurg, McIndoe, McKee, McRuer, Mercour, Moorhead, Morrill, Morris, Moulton, Myers, Newell, Noell, O'Neill, Orth, Paine, Perham, Plants, Pomeroy, Price, Samuel J. Randall, Alexander H. Rice, John H. Rice, Ritter, Rollins, Ross, Rousseau, Sawyer, Smith, Spalding, Starr, Stevens, Taber, Taylor, Francis Thomas, John L. Thomas, Thornton, Trimble, Trowbridge, Van Aernam, Burt Van Horn, Ward, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, and Stephen F. Wilson—110.

NOT VOTING—Messrs. Alley, Ames, Delos R. Ashley, Barker, Blow, Bromwell, Bundy, Chanler, Reader W. Clarke, Coffroth, Cook, Cullom, Culver, Darling, Davis, Dawes, Defrees, Denison, Dixon, Donnelly, Driggs, Dumont, Farnsworth, Garfield, Grinnell, Harris, Hart, Hill, Hotchkiss, Demas Hubbard, Edwin N. Hubbell, James Humphrey, James M. Humphrey, Jenckes, Johnson, Jones, Kasson, Kelley, Ladin, La-

tham, Le Blond, Longyear, Miller, Patterson, Phelps, Pike, William H. Randall, Raymond, Schenck, Scofield, Shanklin, Shellabarger, Sloan, Stillwell, Strouse, Thayer, Upson, Robert T. Van Horn, Voorhees, Warner, Windom, Winfield, and Woodbridge—63.

So the motion was disagreed to.

Mr. SMITH. I rise to a personal explanation.

The SPEAKER. The gentleman from Kentucky asks unanimous consent to make a personal explanation.

Mr. BROOMALL. I object.

Mr. SMITH. I would like to ask the gentleman from Pennsylvania why he objects to my making a personal explanation.

Mr. BROOMALL. I want a vote on the resolution.

Mr. SMITH. Let it come in as a sort of episode, as a relief. [Laughter.]

Mr. NIBLACK. I ask to be excused from voting on the pending proposition.

Mr. CHANLER. I call for the yeas and nays on excusing the gentleman.

Mr. ROSS. I rise to a privileged question. I move that the House take a recess for twenty minutes for refreshment. [Laughter.]

Mr. SMITH. I object.

The SPEAKER. It would require unanimous consent.

Several MEMBERS objected.

Mr. BROOMALL. I call for tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. BROOMALL, and RANDALL of Pennsylvania, were appointed.

The House divided; and the tellers reported—ayes twenty-six, noes not counted.

So the yeas and nays were ordered.

Mr. SMITH. I rise to a question of privilege. [Laughter.]

The SPEAKER. A question of privilege is one affecting the rights of a member to his seat.

Mr. SMITH. Mr. Speaker, I notice in the Pittsburg Gazette—

Mr. BROOMALL. I ask that the gentleman shall state his question of privilege, that we may see whether it is one or not.

Mr. SMITH. If the gentleman will keep his mouth shut for a few minutes I will state it. [Laughter.]

Mr. COBB. I object.

Mr. ROGERS. I move to suspend the rules to enable the gentleman from Kentucky to be heard.

The SPEAKER. A motion to suspend the rules is not in order, this not being Monday.

The question was taken on excusing Mr. NIBLACK; and it was decided in the negative—yeas 16, nays 110, not voting, 57; as follows:

YEAS—Messrs. Ancona, Baldwin, Boyer, Finck, Glossbrenner, Grider, Hulburd, Kelley, Kelso, Lathin, Rollins, Shanklin, Sitgreaves, Van Aernam, Elihu B. Washburne, and William B. Washburne—16.

NAYS—Messrs. Allison, Anderson, James M. Ashley, Baker, Banks, Beaman, Benjamin, Bergen, Bidwell, Bingham, Blaine, Boutwell, Brownell, Brooks, Broomall, Buckland, Chandler, Sidney Clarke, Cobb, Coffroth, Cook, Cullom, Darling, Dawes, Dawson, Deffrees, Deming, Dixon, Driggs, Eckley, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Hale, Aaron Harding, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hogan, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Ingersoll, Jenckes, Kerr, Ketcham, Kuykendall, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marshall, Marston, McClure, McKee, McRuer, Mercer, Moorhead, Morrill, Morris, Moulton, Myers, Newell, Nicholson, O'Neill, Orth, Paine, Perham, Plants, Pomeroy, Price, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Ross, Sawyer, Schenck, Scofield, Shellabarger, Smith, Spalding, Starr, Stevens, Taber, Francis Thomas, John L. Thomas, Thornton, Trimble, Trowbridge, Upson, Burt Van Horn, Voorhees, Ward, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Wright—110.

NOT VOTING—Messrs. Alley, Ames, Delos R. Ashley, Barker, Baxter, Blow, Brandegee, Randy, Reader W. Clarke, Conkling, Cullom, Culver, Davis, Dawes, Delano, Denison, Donnelly, Dumont, Eggleston, Eldridge, Goodyear, Grinnell, Griswold, Harris, Hill, Holmes, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbard, James Humphrey, James M. Humphrey, Johnson, Jones, Julian, Kasson, Le Blond, Marvin, McCullough, McKee, Miller, Niblack, Noel, Patterson, Phelps, Pike, Radford, Rogers, Rousseau, Sloan, Stillwell, Strouse, Taylor, Thayer, Robert T. Van Horn, Warner, Winfield, and Woodbridge—57.

So the House refused to excuse Mr. NIBLACK from voting.

During the roll-call,

Mr. ANCONA said: After this vote I have

agreed to pair off with Mr. ROLLINS for the remainder of to-day's session. I also ask to be excused from further attendance on the House to-day. The state of my health renders it impossible for me to remain here.

No objection was made, and leave of absence for the remainder of the day was granted to Mr. ANCONA.

The result of the vote having been announced as above recorded, the question recurred on Mr. ELDRIDGE's motion that there be a call of the House.

The SPEAKER. The Chair is compelled, under the decision which he had read before this afternoon, to decide that motion out of order, as the House has once refused a call of the House subsequent to the demand for the previous question, and unless the want of a quorum shall be disclosed, another motion for a call of the House is not in order.

Mr. ELDRIDGE. Does that apply when there has been business since the last motion for a call of the House was made?

The SPEAKER. In the case which the Chair had read, Speaker Boyd decided that the motion was not in order, on the ground that the House had already decided, since the previous question was demanded, to take the vote on the main question without a call of the House.

Mr. ELDRIDGE. My inquiry is, if there cannot be another motion for a call of the House after business has intervened?

The SPEAKER. The Chair would suppose not unless the absence of a quorum should be disclosed. When the demand for the previous question is pending, after a motion for a call of the House has once been voted down, it cannot be again received unless the fact that there is no quorum present should be disclosed, because the House has indicated its intention to vote on the main question without a call of the House. The question now recurs on the motion to reconsider the vote by which the House excused the gentleman from Pennsylvania [Mr. JOHNSON] from voting upon the motion to lay the resolution upon the table.

Mr. STEVENS. I demand the yeas and nays on that motion.

Mr. SCHENCK. I call for tellers on the yeas and nays.

Mr. ROGERS. I ask to be excused from voting on that motion.

The SPEAKER. The gentleman from Pennsylvania [Mr. JOHNSON] was excused from voting and the gentleman from Wisconsin [Mr. ELDRIDGE] moves to reconsider the vote by which he was excused. In accordance with the uniform usage, the Chair declines to receive a motion to excuse a member from voting on a question respecting the voting of another member. It is piling up questions one on the top of another.

Mr. SMITH. If the gentleman does not want to vote he can go in the cloak-room.

Mr. ROSS. I rise to a point of order. Mr. ROGERS is a leader of this side of the House, and we cannot excuse him. [Laughter.]

The SPEAKER. The Chair overrules the point of order.

Mr. FINCK. I move that the House do now adjourn.

Mr. CHANLER. I move that when the House adjourns it adjourn to meet on Friday, and on that motion I demand the yeas and nays.

Mr. SCHENCK. I call for tellers on the yeas and nays.

Mr. HALE. I rise to a question of order. I would inquire whether a motion to adjourn over until Friday is in order, the same motion having been already put and defeated by a vote of the House?

The SPEAKER. The Chair would state that such a motion has always been regarded as in order. During the contest in the Thirty-Third Congress on the Nebraska bill, which continued for a very long time, the Speaker uniformly ruled that the minority had a right to make such motions. On the day previous to that on which the bill finally passed he made the same decision, and for the only time in the his-

tory of Congress it was reversed by a strict party vote. But the Chair rules the motion as being in order on the ground that it has been the uniform usage with that single exception. It was after a prolonged session of several days on the Nebraska bill that the Chair was finally overruled.

Tellers were ordered; and Messrs. SCHENCK and CHANLER were appointed.

The House divided; and the tellers reported—ayes 32, noes 99.

So the yeas and nays were ordered.

Mr. ELDRIDGE. I think an accommodation can be had of this difficulty if gentlemen opposite will give this side of the House two hours on this question to-morrow. [Cries of "Say one hour!" and "Order!"] Well, say one hour.

Mr. ROGERS. We will compromise on one hour. [Loud shouts of "No!" "No!" and "Order!"]

Mr. VOORHEES. I call for the reading of the resolution. Let us know what we are about.

The concurrent resolution was again read.

Mr. ROGERS. I rise to a question of privilege. [Loud shouts of "Order!"] We propose to settle this difficulty. [Renewed shouts of "Order!"]

Mr. VOORHEES. Will the opposite side of the House allow me to make a proposition? [Cries of "No!" "No!"]

Mr. WASHBURN, of Illinois. I hope the gentleman from Indiana [Mr. VOORHEES] will be heard for a moment.

Mr. WARD. I trust our friends will allow it.

Mr. PRICE, Mr. BROOMALL, and others, objected.

Mr. ELDRIDGE. Will they allow nobody to make a proposition to them?

[Cries of "No!" "No!"]

The question was taken; and it was decided in the negative—yeas 11, nays 130, not voting 42; as follows:

YEAS—Messrs. Boyer, Glossbrenner, Goodyear, Grider, Kerr, Marshall, Newell, Niblack, Rogers, Shanklin, and Wright—11.

NAYS—Messrs. Allison, Anderson, James M. Ashley, Baker, Baldwin, Banks, Beaman, Bergen, Bingham, Blaine, Boutwell, Brandegee, Brownell, Brooks, Broomall, Chandler, Sidney Clarke, Cobb, Coffroth, Conkling, Cook, Cullom, Darling, Dawes, Dawson, Deffrees, Deming, Donnelly, Driggs, Eckley, Eggleston, Farnsworth, Farquhar, Ferry, Finck, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hogan, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, James Humphrey, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Lathin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, McClure, McKee, McKee, McRuer, Mercer, Moorhead, Morrill, Morris, Moulton, Myers, Nicholson, O'Neill, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rollins, Ross, Rousseau, Sawyer, Schenck, Scofield, Shellabarger, Sitgreaves, Sloan, Smith, Spalding, Starr, Stevens, Taber, Thayer, Francis Thomas, John L. Thomas, Thornton, Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Voorhees, Ward, Warner, Elihu B. Washburne, William B. Washburne, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—130.

NOT VOTING—Messrs. Alley, Ames, Ancona, Delos R. Ashley, Barker, Baxter, Benjamin, Bidwell, Blow, Buckland, Bundy, Reader W. Clarke, Culver, Davis, Delano, Denison, Dixon, Dumont, Eldridge, Eliot, Aaron Harding, Harris, Hill, Edwin N. Hubbard, James M. Humphrey, Johnson, Jones, Kasson, Kuykendall, Le Blond, Marvin, McCullough, Miller, Noel, Orth, Phelps, Radford, Stillwell, Strouse, Taylor, Robert T. Van Horn, and Winfield—42.

So the motion was not agreed to.

Pending the roll-call,

Mr. VOORHEES said: I wish to state that the President has been sustained in the Senate, and—

[Cries of "Order!" "Order!"]

The question recurred upon the motion of Mr. FINCK that the House adjourn.

Mr. VOORHEES. Will the House allow me to make a proposition?

Mr. SPALDING. I object.

Mr. INGERSOLL. I hope the gentleman from Ohio [Mr. SPALDING] will withdraw his objection.

Mr. BLAINE. Let us hear the proposition.

Mr. SPALDING. I will hear it, but reserve my right to object.

Mr. VOORHEES. I have been here in this Hall long enough to learn that there is no amusement or profit in remaining here all night. I certainly do not wish to do so, and I presume no one else does. There is nothing ever accomplished by it, except to gratify the passions and inflame the asperities of men who become excited over their favorite propositions. In this case a very important resolution has been introduced into the House by the distinguished gentleman from Pennsylvania, [Mr. STEVENS.] I have read it simply by going to the Clerk's desk and there examining it. It involves great and fundamental principles.

The proposition I have to make is simply this, and I do not make it captiously or for any partisan purpose. My proposition is that this concurrent resolution be printed and laid upon our desks by to-morrow, and that this side of the House be then allowed one hour to speak upon it if we desire to do so, and the other side take the same time if they desire, and then we will take the vote.

Mr. SPALDING. I object to that.

Mr. VOORHEES. I do not think it is an unreasonable proposition.

Mr. SPALDING. I object to any further remarks. We should have had that proposition two hours ago.

The question recurred upon the motion to adjourn.

Mr. ELDRIDGE. Upon that question I call the yeas and nays.

Mr. SPALDING. I call for tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. GOOD-YEAR and TAYLOR were appointed.

The House divided; and the tellers reported—ayes twenty-eight, noes not counted.

So the yeas and nays were ordered.

Mr. ELDRIDGE. It is proposed on this side of the House—

[Cries of "Order!" "Order!"]

The question was then taken; and it was decided in the negative—yeas 25, nays 104, not voting 54; as follows:

YEAS—Messrs. Bergen, Boyer, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Hale, James M. Humphrey, Latham, Marshall, Newell, Niblack, Nicholson, Radford, Rogers, Rousseau, Shanklin, Sitgreaves, Taber, Taylor, Thornton, Trimble, Voorhees, and Wright—25.

NAYS—Messrs. Allison, James M. Ashley, Baker, Baldwin, Banks, Beaman, Bingham, Blaine, Boutwell, Brandegee, Brooks, Broomall, Chanler, Cobb, Conkling, Cook, Cullem, Culver, Darling, Dawes, Dawson, Defrees, Deming, Donnelly, Driggs, Eggleston, Eliot, Farnsworth, Garfield, Grinnell, Griswold, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hogan, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hubard, Ingersoll, Jenckes, Julian, Kelley, Kelso, Kerr, Ketcham, Latham, George V. Lawrence, William Lawrence, Longyear, Lynch, McIndoe, McKee, Mercer, Moorhead, Morrill, Morris, Moulton, Myers, O'Neill, Orth, Paine, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Ritter, Ross, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Bart Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburne, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—104.

NOT VOTING—Messrs. Alley, Ames, Ancona, Anderson, Delos R. Ashley, Barker, Baxter, Benjamin, Bidwell, Blow, Broomall, Bundy, Chandler, Reader W. Clarke, Coffroth, Cullem, Culver, Darling, Davis, Delano, Denison, Dixon, Dumont, Eggleston, Goodyear, Grider, Aaron Harding, Harris, Hill, Chester D. Hubbard, Edwin N. Hubbell, Hubard, James Humphrey, Johnson, Jones, Kasson, Kuykendall, LeBlond, Longyear, Marston, Marvin, McCullough, McKee, Miller, Morrill, Morris, Noel, Patterson, Phelps, Plants, Samuel J. Randall, Raymond, Rollins, Smith, Stilwell, Strouse, Thayer, Robert T. Van Horn, Whaley, and Winfield—34.

So the motion to adjourn was not agreed to.

Mr. CHANLER. Is it in order to move that when the House adjourns to-day it be to meet on Thursday next?

The SPEAKER. That motion would be in order.

Mr. CHANLER. Then I submit that motion; and upon it I call the yeas and nays.

Mr. CONKLING. I demand tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. CONKLING and BERGEN were appointed.

The House divided; and the tellers reported—ayes twenty-nine, noes not counted.

So the yeas and nays were ordered.

Mr. ROGERS. I rise to a question of privilege. I want to ask the other side if they will give us any time at all.

Mr. CONKLING. I call the gentleman to order.

Mr. ROGERS. I want to ask—

[Cries of "Order!" "Order!"]

The question was then taken upon the motion that when the House adjourns to-day it be to meet on Thursday next; and it was decided in the negative—yeas 20, nays 110, not voting 53; as follows:

YEAS—Messrs. Brooks, Chanler, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Kerr, Marshall, Niblack, Radford, Samuel J. Randall, Ritter, Rogers, Rousseau, Shanklin, Sitgreaves, Trimble, Voorhees, and Wright—20.

NAYS—Messrs. Allison, Anderson, James M. Ashley, Baker, Baldwin, Banks, Barker, Beaman, Bergen, Bingham, Blaine, Boutwell, Boyer, Brandegee, Broomall, Sidney Clarke, Cobb, Conkling, Cook, Cullem, Darling, Dawes, Dawson, Defrees, Deming, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hogan, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Ingersoll, Jenckes, Kelley, Kelso, Ketcham, Latham, Latham, George V. Lawrence, William Lawrence, Longyear, Lynch, Marston, Marvin, McCullough, McKee, Mercer, Moorhead, Morrill, Morris, Moulton, Myers, Nicholson, O'Neill, Orth, Paine, Patterson, Perham, Pomeroy, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Smith, Spalding, Starr, Stevens, Taber, Francis Thomas, Thornton, Trowbridge, Upson, Van Aernam, Bart Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburne, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—110.

NOT VOTING—Messrs. Alley, Ames, Ancona, Delos R. Ashley, Baxter, Benjamin, Bidwell, Blow, Broomall, Buckland, Bundy, Reader W. Clarke, Coffroth, Culver, Davis, Delano, Denison, Dixon, Dumont, Eggleston, Aaron Harding, Harris, Hill, Chester D. Hubbard, Edwin N. Hubbell, Hubard, James Humphrey, James M. Humphrey, Johnson, Jones, Kasson, Kuykendall, LeBlond, McCullough, McKee, McKee, Miller, Newell, Noel, Phelps, Pike, Plants, William H. Randall, Raymond, Ross, Stilwell, Strouse, Taylor, John L. Thomas, Robert T. Van Horn, Whaley, and Winfield—83.

So the motion was not agreed to.

Mr. ELDRIDGE. I now move that when this House adjourns to-day, it be to meet on Friday next; and on that motion I call the yeas and nays.

Mr. CONKLING. I demand tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. TAYLOR and PRICE were appointed.

The House divided; and the tellers reported—ayes 29, noes 92.

So, one fifth voting in the affirmative, the yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 21, nays 102, not voting 60; as follows:

YEAS—Messrs. Brooks, Eldridge, Finck, Glossbrenner, Grider, Aaron Harding, Hogan, James M. Humphrey, Marshall, Newell, Niblack, Radford, Samuel J. Randall, Ritter, Rogers, Shanklin, Sitgreaves, Thornton, Trimble, Voorhees, and Wright—21.

NAYS—Messrs. Allison, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bergen, Bidwell, Bingham, Blaine, Boutwell, Boyer, Brandegee, Broomall, Sidney Clarke, Cobb, Conkling, Cook, Dawes, Dawson, Deming, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Hart, Hayes, Henderson, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Latham, Latham, William Lawrence, Loan, Longyear, Lynch, Marston, McCullough, McKee, McKee, Mercer, Moorhead, Moulton, Myers, Nicholson, O'Neill, Orth, Paine, Perham, Pike, Plants, Pomeroy, Price, John H. Rice, Ross, Rousseau, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Smith, Spalding, Starr, Stevens, Thayer, Francis Thomas, Trowbridge, Upson, Van Aernam, Bart Van Horn, Ward, Elihu B. Washburne, William B. Washburne, Welker, Wentworth, Whaley, Williams, James F. Wilson, Windom, and Woodbridge—102.

NOT VOTING—Messrs. Alley, Ames, Ancona, Anderson, Delos R. Ashley, James M. Ashley, Barker, Blow, Buckland, Bundy, Chandler, Reader W. Clarke, Coffroth, Cullem, Culver, Darling, Davis, Defrees, Delano, Denison, Dixon, Dumont, Eggleston, Goodyear, Abner C. Harding, Harris, Hill, Chester D. Hubbard, Edwin N. Hubbell, Hubard, James Humphrey, Johnson, Jones, Kasson, Kerr, Kuykendall, George V. Lawrence, LeBlond, Marvin, McCullough, McKee, Miller, Morrill, Morris, Noel, Patterson, Phelps, William H. Randall, Raymond, Alexander H. Rice, Rollins, Stilwell, Strouse, Taber, Taylor, John L. Thomas, Robert T. Van Horn, Warner, Stephen F. Wilson, and Winfield—60.

So the motion was not agreed to.

The question recurred on the motion to reconsider the vote by which Mr. JOHNSON was excused from voting on the motion to lay upon the table.

Mr. ELDRIDGE moved that when the House adjourns to-night, it adjourn to meet on Thursday next.

Mr. BIDWELL. I rise to a point of order. We have already voted on that motion more than half a dozen times.

The SPEAKER. The Chair sustains the gentleman so far as the fact is concerned; but the motion has been allowed to be repeated; and for this reason: on Friday the House may refuse to adjourn over to Monday, and afterward, wanting to do so, the motion can be renewed.

Mr. ELDRIDGE. I think we now find we can adjourn over.

Mr. MORRIS. Has the morning hour expired? [Laughter.]

The SPEAKER. It has not commenced.

Mr. KELLEY. I move that the gentleman from Kentucky be permitted to print his personal explanation.

Mr. SMITH. I wish to say to the gentleman from Pennsylvania—

Mr. SPALDING. I object to debate.

Mr. ELDRIDGE demanded the yeas and nays.

Mr. SPALDING demanded tellers.

Tellers were ordered; and Messrs. BROOMALL and SMITH were appointed.

The House divided; and the tellers reported—ayes thirty-one, more than one fifth of those present.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 20, nays 103, not voting 60; as follows:

YEAS—Messrs. Brooks, Finck, Glossbrenner, Goodyear, Grider, Hogan, Kerr, Marshall, Newell, Niblack, Radford, Samuel J. Randall, Ritter, Rogers, Shanklin, Sitgreaves, Thornton, Trimble, Voorhees, and Wright—20.

NAYS—Messrs. Allison, Anderson, James M. Ashley, Banks, Baxter, Beaman, Benjamin, Bergen, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Broomall, Broomall, Sidney Clarke, Cobb, Coffroth, Conkling, Cook, Dawes, Dawson, Defrees, Deming, Donnelly, Eggleston, Eliot, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Holmes, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Hubard, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Latham, George V. Lawrence, William Lawrence, Loan, Lynch, McCullough, McKee, McKee, Morrill, Morris, Myers, Nicholson, O'Neill, Orth, Paine, Patterson, Perham, Plants, Pomeroy, William H. Randall, Raymond, John H. Rice, Ross, Rousseau, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Smith, Spalding, Starr, Stevens, Taber, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Bart Van Horn, Robert T. Van Horn, Ward, Elihu B. Washburne, William B. Washburne, Welker, Wentworth, Whaley, Williams, Stephen F. Wilson, Windom, and Woodbridge—103.

NOT VOTING—Messrs. Alley, Ames, Ancona, Delos R. Ashley, Barker, Baldwin, Barker, Blow, Boyer, Buckland, Bundy, Chandler, Reader W. Clarke, Cullem, Culver, Darling, Davis, Delano, Denison, Dixon, Driggs, Dumont, Eckley, Eldridge, Farnsworth, Aaron Harding, Harris, Hill, Hooper, Asahel W. Hubbard, Edwin N. Hubbell, James R. Hubbard, James Humphrey, James M. Humphrey, Ingersoll, Johnson, Jones, Kasson, Kuykendall, Latham, LeBlond, Longyear, Marston, Marvin, McCullough, Mercer, Miller, Moorhead, Moulton, Noel, Phelps, Pike, Price, Alexander H. Rice, Rollins, Stilwell, Strouse, Taylor, Francis Thomas, Warner, James F. Wilson, and Winfield—60.

So the motion was not agreed to.

Mr. ELDRIDGE. I think this side of the House are prepared to acknowledge sufficiently their weakness to satisfy the majority.

Mr. HARDING, of Illinois. I object to debate.

Mr. STEVENS. Let us hear what the gentleman has to say.

Mr. WASHBURN, of Illinois. I hope my colleague will withdraw his objection.

Mr. HARDING, of Illinois. I withdraw my objection.

Mr. MCINDOE. I renew it.

Mr. WASHBURN, of Illinois. I appeal to my friend to withdraw his objection. Let us hear what the gentleman from Wisconsin has to say.

Mr. MCINDOE. I insist on my objection.

Mr. ELDRIDGE (at twenty-five minutes after six o'clock p. m.) moved to adjourn.

Mr. ROGERS demanded the yeas and nays. Mr. SPALDING demanded tellers.

Tellers were ordered; and Messrs. BEAMAN and THORNTON were appointed.

The House divided; and the tellers reported—ayes twenty-seven, more than one fifth of those present.

So the yeas and nays were ordered.

Mr. WRIGHT. I desire to inquire whether it would be in order to move that the House take a recess for one hour, in order that the Doorkeeper may have the Hall fitted up as a dormitory. [Laughter.] From present indications it would seem that accommodations of that sort will be necessary.

The SPEAKER. That motion would not be in order.

The Clerk proceeded to call the roll, but was interrupted by

Mr. ELDRIDGE, who said: I wish to make a statement by unanimous consent. I withdraw the call for the yeas and nays.

There being no objection, the further call of the roll was dispensed with.

Mr. FINCK. I withdraw the motion to lay the resolution on the table.

Mr. STEVENS. In what condition does this leave the question?

The SPEAKER. The previous question has been demanded by the gentleman from Pennsylvania, [Mr. STEVENS,] and that is the pending question.

Mr. STEVENS. Before the vote is taken I have a right to claim my hour. I will now give to the gentleman from Wisconsin [Mr. ELDRIDGE] five minutes of my time, and then I will proceed, perhaps.

Mr. ELDRIDGE. I thought when I made, or proposed to make, a proposition a few minutes ago to the House, that the minority would withdraw all dilatory motions in opposition to the resolution reported from the committee of fifteen, that I would show to the majority that we were willing to yield to the superior power of numbers sufficiently even to answer the arrogant demands of the other side. The opposition which we commenced to this resolution in the morning, Mr. Speaker, was in consequence of the extraordinary provisions of the resolution and the manner in which it was presented to this House. It was in consequence, too, I may say, of the remark which the gentleman from Pennsylvania [Mr. STEVENS] made, that what had recently transpired, referring to the veto of the Freedmen's Bureau bill by the President, had induced the committee on reconstruction at this time to make this report. We felt upon this side of the House that such a measure, introduced under such circumstances, containing such provisions, ought to receive the most deliberate and candid consideration of the country and of this House. It was for that reason, and that the resolution might be debated, and that alone, that we made the opposition which we have during the day to immediate action upon it.

But, sir, we know our weakness and the strength and power of the numbers of the majority. We have not had the assistance which we expected from the other side of the House in our effort to obtain the privilege of debating the resolution. We know perfectly well that it has become a question of physical endurance. We know perfectly well that we cannot stand out against the overpowering majority of this House any great length of time. We know if the majority will it, the resolution will pass without debate. We have done all we could. We therefore yield to that power and throw the responsibility of this most extraordinary, this most revolutionary measure, upon the majority of the House.

Mr. STEVENS. The gentlemen accept their condition just as Jeff. Davis did his—because they cannot help it. [Laughter.] I confess, sir, for so small a number they have made a most venomous fight. I am only sorry that the gentleman from New Jersey, [Mr. ROGERS,] who belongs to the same tribe, could not have had an opportunity also to shake his rattle and point his sting.

I insist on the call for the previous question. Mr. ROGERS. Will the gentleman yield to me five minutes?

Mr. STEVENS. Excuse me.

The previous question was seconded, and the main question ordered.

Mr. FINCK. I move to lay the resolution on the table; and on that I demand the yeas and nays.

The yeas and nays were ordered.

The Clerk proceeded to call the roll on the question to lay the resolution on the table, but was interrupted by

Mr. FINCK, who said: I withdraw the motion to lay on the table if the House will agree to adjourn.

Several MEMBERS. No, no; no agreement.

Mr. FINCK. Then I insist upon the motion.

The Clerk again proceeded with the calling of the roll, but was again interrupted by

Mr. FINCK, who said: I withdraw my motion.

No objection being made, the motion was accordingly withdrawn, and the further calling of the roll was dispensed with.

The question then recurred on agreeing to the resolution.

Mr. WASHBURN, of Illinois. On that I demand the yeas and nays.

The yeas and nays were ordered.

Mr. FINCK. I withdrew the motion to lay the resolution on the table with the understanding that there should be an adjournment.

Several MEMBERS. No, no; go on.

The question was then taken on agreeing to the concurrent resolution reported from the joint committee of fifteen, and it was decided in the affirmative—yeas 109, nays 40, not voting 34; as follows:

YEAS—Messrs. Allison, Anderson, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Dawes, DeForest, Deming, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Abner C. Harding, Hart, Hayes, Henderson, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Ladin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, McClurg, McIndoe, McKee, McRuer, Mercur, Moorhead, Morrill, Morris, Moniton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Pike, Platts, Pomeroy, Price, William H. Randall, John H. Rice, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—109.

NAYS—Messrs. Bergen, Boyer, Brooks, Chanler, Coffroth, Dawson, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Hale, Aaron Harding, Hogan, James M. Humphrey, Kerr, Latham, Marshall, McCullough, Newell, Niblack, Nicholson, Phelps, Radford, Samuel J. Randall, Raymond, Ritter, Rogers, Ross, Rousseau, Shanklin, Silsbees, Smith, Taber, Taylor, Thornton, Trimble, Voorhees, Whaley, and Wright—40.

NOT VOTING—Messrs. Alley, Ames, Ancona, Delos R. Ashley, Barker, Blow, Bundy, Reader W. Clarke, Culver, Darling, Davis, Delano, Denison, Dixon, Dumont, Harris, Hill, Edwin N. Hubbell, James Humphrey, Johnson, Jones, Kasson, Kuykendall, Le Blond, Marvin, Miller, Noell, Alexander H. Rice, Rollins, Stilwell, Strouse, Francis Thomas, Robert T. Van Horn, and Winfield—34.

So the resolution was agreed to.

During the call of the roll,

Mr. DONNELLY stated that Mr. AMES had paired with Mr. LE BLOND.

Mr. LAWRENCE stated that Mr. ROLLINS had paired with Mr. ANCONA.

Mr. HOOPER, of Massachusetts, stated that Mr. ALLEY had paired with Mr. JOHNSON.

Mr. STEVENS stated that Mr. MILLER had paired with Mr. HARRIS.

Mr. BOYER announced that his colleague, Mr. DENISON, was still detained from the House by continued illness.

Mr. STEVENS. I move to reconsider the vote by which the House adopted the resolution. Can I say a word without interruption? I desire to say this. In submitting the motion that I did I had intended, after the previous question was ordered, in pursuance of an understanding with the gentleman from Wisconsin

[Mr. ELDRIDGE] to move an adjournment so that we might take the vote on the resolution in the morning. Several of our friends who are absent this evening were very anxious to vote upon it. I intended, therefore, to have moved to adjourn, but a gentleman on the other side who had moved to lay the resolution on the table withdrew it in consequence of a remonstrance on our side. We were then half way through with the roll-call. I tried to get the ear of the Speaker and arrest further proceedings, and have the question go over till the morning. But so many gentlemen on this side, not understanding the arrangement that had been made, objected, as they had a right to do, that I gave up the effort. I hope the motion to reconsider will be entered that it may stand over till to-morrow morning in order that the votes of the absent gentlemen may be recorded, and then the gentlemen on the other side, if they choose to contest the matter, may try it again.

The SPEAKER. When does the gentleman wish to have it come up in the morning?

Mr. STEVENS. Immediately after the reading of the Journal.

Mr. ELDRIDGE. I wish to say one word about this matter.

Mr. STEVENS. If it is in explanation of what I have referred to, I yield.

Mr. ELDRIDGE. I desire to say simply this: that the opposition of this side of the House, by dilatory motions which have been made during the day, was withdrawn upon an understanding, intimated by the gentleman from Pennsylvania, [Mr. STEVENS,] and I am greatly surprised that the course which was agreed upon and understood between us was not pursued. I did not understand that that arrangement included the withdrawal permanently, but only temporarily, of the motion to lay the resolution on the table. When I found that it was so understood on the other side of the House, I instantly appealed to my friends here to withdraw the motion, and not insist upon the renewal of the motion to lay the resolution on the table. That motion was withdrawn by my friend from Ohio [Mr. FINCK] upon my personal appeal, and upon my assurance that the vote upon the resolution was by arrangement not to be taken to-night. I am greatly surprised that the vote has been taken to-night in violation, as I think, of the arrangement. I do not think, although perhaps the gentleman from Pennsylvania [Mr. STEVENS] is doing now all he can do in the matter, that he places this side of the House in the attitude they expected to stand, nor do I think that it is a carrying out in good faith of the arrangement which was understood by me to have been made between us. The vote upon the resolution was not to have been taken till to-morrow, and the House was to have adjourned when the previous question was seconded, as I understood the arrangement.

Mr. FINCK. I ask the gentleman from Pennsylvania to yield to me one moment.

Mr. STEVENS. I will do so.

Mr. FINCK. I made the motion to lay the resolution on the table, and withdrew it only upon an appeal from my friends from Wisconsin and New York [Mr. ELDRIDGE and Mr. BROOKS] with the express understanding that the question was to go over till to-morrow, and that no vote was to be taken at this time. I believe it was in violation of the understanding between this side of the House and the other on this matter, that the vote was taken to-night.

Mr. SLOAN. There was no understanding among gentlemen on this side of the House that the vote was to be postponed till to-morrow.

Mr. VOORHEES. I object to any remarks by anybody except the high contracting parties. I am willing that they should have the time.

Mr. STEVENS. I move that the House now adjourn.

The motion was agreed to; and thereupon (at seven o'clock and ten minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. ASHLEY, of Nevada: The memorial of the Legislature of the State of Nevada as to national banks in that State.

By Mr. CHANLER: The memorial of the Bishop Gutta Percha Company.

By Mr. COOK: The memorial of a mass convention of farmers of Lasalle county, Illinois, in favor of a ship-canal around the Falls of Niagara.

By Mr. DARLING: The petition of Christina Elder, for payment to her of pension due Jesse Elder, deceased.

By Mr. DRIGGS: The petition of W. W. Spaulding, and 40 others, citizens of Lake Superior, Michigan, in favor of an increase of duty on foreign copper.

By Mr. ECKLEY: A petition of the Association of the Society of Friends of the city of Philadelphia, in behalf of the freedmen.

By Mr. EGGLESTON: The petition of J. W. Windsor, and 87 others, citizens of Ohio, engaged in the business of photographing, praying for a modification of the revenue tax on pictures.

By Mr. FERRY: A memorial of citizens of Newaygo and Oceana counties, praying for a post route to be established from Newaygo, Newaygo county, via Fremont, to Pent Water, Oceana county, Michigan.

Also, a memorial of citizens of Benzonía, Benzie county, asking for a post route from Benzonía, via Empire, to Glen Arbor, Leelanaw county.

By Mr. HALE: The petition of George W. Palmer and others, citizens of Clinton county, New York, for improvement of Plattsburg harbor.

By Mr. HAYES: The petition of H. J. Appleton and 75 others, citizens of Cincinnati, Ohio, asking for protection to American labor.

By Mr. HOOPER, of Massachusetts: The petition of the assistant assessors of the fourth collection district in Massachusetts, for increase of pay.

By Mr. HUBBARD, of Connecticut: The petition of Cornelius B. Gold, acting assistant paymaster United States Navy, for allowance of loss of clothing.

By Mr. J. M. HUMPHREY: The petition of soldiers of Erie county, New York, for equalizing bounties.

Also, the petition of the Association of Friends of Philadelphia, for universal suffrage and education.

By Mr. JOHNSON: The remonstrance of John D. Young, and many others, citizens of Union county, Pennsylvania, against the passage of any law authorizing the selling of stamps and stamped envelopes at the cost of the stamps alone.

By Mr. JULIAN: The petition of 107 citizens of Henry county, Indiana, praying Congress not to restore any of the States lately in rebellion till adequate security has been had against further rebellion, against the payment of rebel debts, and praying sundry amendments of the Constitution, &c.

By Mr. KASSON: The petition of G. McNichols, and others, respecting the conditions of recognition of the southern States.

By Mr. LAWRENCE, of Pennsylvania: The petition from citizens of Washington county, Pennsylvania, asking that Congress may amend the Constitution of the United States so that no State shall be permitted to make distinction in civil rights and privileges among the naturalized citizens of the United States residing within its limits or among persons born on the soil, on account of race or color.

By Mr. LONGYEAR: The petition of H. Ingersoll, and others, manufacturers, of Lansing, Michigan, for abatement of internal revenue tax.

By Mr. LYNCH: The remonstrance of Bailey & Noyes, and others, against the passage of a law authorizing the Postmaster General to sell stamped envelopes at the value of the stamps impressed thereon.

By Mr. PAINE: The petition of Edward Ferguson, of Wisconsin, for increase of pension.

By Mr. PHELPS: The petition of United States assistant assessors of the third congressional district of Maryland, for an increase of compensation.

By Mr. PRICE: The petition of 132 citizens of Muscatine county, Iowa, asking that no Representative from any of the States recently in rebellion be admitted to Congress until sufficient security is given for the future.

Also, a petition of citizens of Cedar county, Iowa, for same purpose.

By Mr. RANDALL, of Kentucky: The petition of Richard M. Robinson, of Garrard county, Kentucky, for indemnity for use of and damage done to his property, known as "Camp Dick Robinson," by the United States military forces, from the 1st of December, 1861, to June 1, 1865.

By Mr. RICE, of Maine: The petition of Brigadier General H. M. Plaisted, and 640 others, in favor of land bounty to the soldiers of 1861 and 1862, and to the reëstablished veterans.

By Mr. SLOAN: The petition of O. S. Phelps, and 33 others, citizens of Wisconsin, praying that a commission may be appointed to proceed to Europe to investigate the disease among cattle prevailing there, with a view to adopting measures to prevent the spread of the disease in this country.

By Mr. J. L. THOMAS: The memorial of Hon. John Lee Chapman, mayor, and the city council of Baltimore, Maryland, praying payment for water rents of the forts and Government buildings in that city.

Also, the memorial of E. A. Dayton, praying that the taxes paid by fishermen on the Potomac river may be refunded.

Also, the memorial of J. W. Bond & Co., and others, envelope dealers in the city of Baltimore, remonstrating against the passage of the act authorizing the Postmaster General to give away envelopes.

By Mr. WENTWORTH: The remonstrance of sundry paper and envelope manufacturers, against the proposed law to use stamped envelopes in the postal service.

NOTICES OF BILLS.

The following notice for leave to introduce a bill was given under the rule:

By Mr. KUYKENDALL: A bill to establish a navy-yard and depot at Mound City, in the State of Illinois.

IN SENATE.

WEDNESDAY, February 21, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.
The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. HARRIS presented a memorial of the Bishop Gutta Percha Company, of the city of New York, remonstrating against the passage of the bill (S. No. 26) granting to the International Ocean Telegraph Company the right and privilege to establish telegraphic communication between the city of New York and the West India islands; which was ordered to lie on the table.

Mr. LANE, of Kansas, presented resolutions of the Legislature of Kansas, in favor of an appropriation to that State to reimburse its citizens for money expended by them under the call for volunteers of December 19, 1864, and the draft resulting therefrom, and that persons held to service under that draft may be allowed the same bounty paid to volunteers under the call in pursuance of which the draft was made; which were referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. JOHNSON presented a petition of residents, freeholders, and tax-payers in the county of Washington, District of Columbia, praying that the law organizing the levy court of the District of Columbia may be so amended as to authorize the election of its members by the legal voters of the county of Washington; which was referred to the Committee on the District of Columbia.

Mr. WILSON presented the petition of Oliver Holman, late additional paymaster United States Army, praying to be relieved from responsibility for public money alleged to have been stolen from him while acting in his official capacity in Boston, Massachusetts; which was referred to the Committee on Claims.

Mr. ANTHONY. I offer the memorial of F. A. Lewis, making representations in support of a previous claim made by him for damages. The petitioner represents that the two Senators from Massachusetts, the Senator from Ohio, [Mr. WADE,] and the devil, have entered into a conspiracy by which he has suffered great wrong, including the loss of fifteen negroes, a large proportion of which the rebels have taken, but for which he also holds those four persons responsible. [Laughter.]

The PRESIDENT *pro tempore*. Will the Senator suggest what disposition shall be made of this petition?

Mr. ANTHONY. As a report has been made in the case, I move that it lie on the table.

The motion was agreed to.

Mr. SHERMAN. I present joint resolutions of the General Assembly of the State of Ohio, on the subject of cigars. They recite that by the act of the last Congress the excise upon cigars is levied at the uniform rate of ten dollars per thousand; that this rule compels Ohio seed leaf, worth in the market ten cents per pound, to pay a tax of four hundred and fifty percent. *ad valorem*, while Connecticut tobacco, the market price of which is twenty cents per pound, pays only two hundred and twenty-five percent.; and imported Havana tobacco, rated at \$1 50 per pound, pays only thirty-three percent. They allege that this discrimination against the product of Ohio and other western States has cut off the demand for it, and, if continued, is likely to put a stop to the growing of tobacco in those States, and that this rule levies the heaviest per cent. of taxation on that kind of tobacco mainly used by the class least able to pay, and touches but slightly the high-priced luxury of the richer class. They therefore ask such a modification of the tax law as will

make it more equitable. I move the reference of these resolutions to the Committee on Finance, and that they be printed.

The motion was agreed to.

SUFFRAGE FOR WOMEN.

Mr. HENDERSON. I present the petition of Mrs. Gerritt Smith and twenty-seven other ladies of the United States, the most of them from the State of New York, praying that the right of suffrage be granted to women. Along with the petition I received a note, stating as follows:

"I notice in the debates of to-day that Mr. YATES promises, at the 'proper time' to tell you why the women of Illinois are not permitted to vote. To give you an opportunity to press him on this point I send you a petition, signed by twenty-eight intelligent women of this State, who are native-born Americans—read, write, and pay taxes, and now claim representation! I was surprised to-day to find Mr. SUMNER presenting a petition, with an apology, from the women of the Republic. After his definition of a true republic, and his lofty peans to 'equal rights' and the ballot, one would hardly expect him to ignore the claims of fifteen million educated taxpayers, now taking their places by the side of man in art, science, literature, and government. I trust, sir, you will present this petition in a manner more creditable to yourself and respectful to those who desire to speak through you.

"Remember, the right of petition is our only right in the Government; and when three joint resolutions are before the House to introduce the word 'male' into the Federal Constitution, 'it is the proper time' for the women of the nation to be heard, Mr. SUMNER to the contrary notwithstanding."

The right of petition is a sacred right, and whatever may be thought of giving the ballot to women, the right to ask it of the Government cannot be denied them. I present this petition without any apology. Indeed, I present it with pleasure. It is respectful in its terms, and is signed by ladies occupying so high a place in the moral, social, and intellectual world, that it challenges at our hands at least a respectful consideration. The distinguished Senators from Massachusetts and from Illinois must make their own defense against the assumed inconsistency of their position. They are abundantly able to give reasons for their faith in all things; whether they can give reasons satisfactory to the ladies in this case, I do not know. The Senators may possibly argue that if women vote at all, the right should not be exercised before the age of twenty-one; that they are generally married at or before that age, and that when married, they become, or ought to become, merged in their husbands; that the act of one must be regarded as the act of the other; that the good of society demands this unity for purposes of social order; that political differences should not be permitted to disturb the peace of a relation so sacred. The honorable Senators will be able to find authority for this position, not only in the common law, approved as it is by the wisdom and experience of ages, but in the declaration of the first man, on the occasion of the first marriage, when he said, "This is now bone of my bone and flesh of my flesh."

It may be answered, however, that the wife, though one with her husband, at least constitutes his better half, and if the married man be entitled to but one vote, the unmarried man should be satisfied with less than half a vote. [Laughter.] Having some doubts, myself, whether beyond a certain age, to which I have not yet arrived, such a man should be entitled to a vote or even half a vote, I leave the difficulty to be settled by my friend from Massachusetts and the fair petitioners. The petitioners claim, that as we are proposing to enfranchise four million emancipated slaves, equal and impartial justice alike demands the suffrage for fifteen million women. At first view the proposition can scarcely be met with denial, yet reasons "thick as blackberries" and strong as truth itself may be urged in favor of the ballot in the one case, which cannot be urged in the other.

Mr. SAULSBURY. I rise to a point of order. My point of order is, that a man who has lived an old bachelor as long as the Senator from Missouri has has no right to talk about women's rights. [Laughter.]

The PRESIDENT *pro tempore*. The Chair thinks that is not a point of order; and the Senator from Missouri will proceed.

Mr. HENDERSON. I had no idea that that was a point of order, sir. Whatever may be said theoretically about the elective franchise as a natural right, in practice, at least, it has always been denied in the most liberal States to more than half the population. It is withheld from those whose crimes prove them devoid of respect for social order, and generally from those whose ignorance or imbecility unfits them for an intelligent appreciation of the duties of citizens and the blessings of good government. To women the suffrage has been denied in almost all Governments, not for the reasons just stated, but because it is wholly unnecessary as a means of their protection. In the government of nature the weaker animals and insects, dependent on themselves for safety and life, are provided with means of defense. The bee has its sting and the despised serpent its deadly poison. So, in the Governments of men, the weak must be provided with power to inspire fear at least into the strong, if not to command their respect.

Political power was claimed originally by the people as a means of protecting themselves against the usurpations of those in power, whose interests or caprices might lead to their oppression. Hence came the republican system. But it was never thought the interests or caprices of men could lead to a denial of the civil rights or social supremacy of woman. People of one race have always been unjust to those of another. The ignorant and sordid Jew despised the Samaritan and scoffed at the idea of his equality. To him the learned and accomplished Greek was a barbarian, and all rights were denied him except those simple rights accorded to the most degraded Gentile. Chinamen, today, believe as firmly in the superiority of the Celestial race as Americans do in the superiority of the Anglo-Saxon. All races of men are unjust to other races. They are unjust because of pride. That very pride makes them just to the women of their own race. There may be men who have prejudice against race; they are less than men who have prejudice against sex. The social position of woman in the United States is such that no civil right can be denied her. The women here have entire charge of the social and moral world. Hence she must be educated. First impressions are those which bend the mind to noble or ignoble action, and these impressions are made by mothers.

To have intelligent voters we must have intelligent mothers. To have free men we must have free women. The voter from this source receives his moral and intellectual training. Woman makes the voter, and should not descend from her lofty sphere to engage in the angry contests of her creatures. She makes statesmen, and her gentle influence, like the finger of the angel pointing the path of duty, would be lost in the controversies of political strife. She makes the soldier, infuses courage and patriotism in his youthful heart, and hovers like an invisible spirit over the field of battle, urging him on to victory or death in defense of the right. Hence woman takes no musket to the battle-field. Here, as in politics, her personal presence would detract from her power. Galileo, Newton, and La Place could not fitly discuss the laws of planetary motion with ignorant rustics at a country inn. The learned divine who descends from the theological seminary to wrangle upon doctrinal points with the illiterate, stubborn teacher of a small country flock must lose half his influence for good. Our Government is built as our Capitol is built. The strong and brawny arms of men, like granite blocks, support its arches; but woman, lovely woman, the true goddess of Liberty, crowns its dome.

Mr. YATES. I wish to ask the Senator from Missouri a question. I understand that he has introduced a resolution to amend the Constitution of the United States so that there shall be no distinction on account of color. Will

the gentleman accept an amendment to that resolution that there shall be no distinction in regard to sex?

Mr. HENDERSON. I have given my views, I think, very distinctly, as the Senator would have found if he had listened, in the latter part of what I have just stated in reference to the question of voting. In reply to what he has said, I will say that I do not think that on the mere presentation of a petition it is in order to discuss the merits of the petition. I hope, therefore, that the Senator will not insist upon entering into a question of that sort now.

Mr. YATES. I shall not do so. I only wish to say that I am not proposing to amend the Constitution. I simply desire to give rights to those who have rights under the Constitution as it has been amended. When I propose to amend the Constitution then the question will come up whether I will allow women to vote or not.

Mr. SUMNER. Before this petition passes out of sight I wish to make one observation, and only one. The Senator from Missouri began by an allusion to myself and to a remark which fell from me when I presented the other day a petition from women of the United States praying for the ballot. I took occasion then to remark that in my opinion the petition at that time was not judicious. That was all that I said. I did not undertake to express any opinion on the great question whether women should vote or should not vote. I did venture to say that in my opinion it was not judicious for them at this moment to bring forward their claims so as to compromise in any way the great question of equal rights for an enfranchised race now before Congress.

The Senator has quoted a letter suggesting that I did not present the petition in a creditable way. I have now to felicitate my excellent friend on the creditable way in which he has performed his duty. [Laughter.]

Mr. YATES. Allow me to say that I think the two gentlemen, one of whom has arrived at the age of forty-nine and the other sixty-three, have no right to discuss the question of women's rights in the Senate. [Laughter.]

The PRESIDENT *pro tempore*. Will the Senator from Missouri suggest the disposition he wishes made of this petition?

Mr. HENDERSON. Let it lie on the table. The PRESIDENT *pro tempore*. That order will be made.

REPORTS OF COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the petition of James Dale Johnston, a naturalized citizen of the United States, praying to be protected against any claim which may be preferred against him as a former subject of Great Britain, he having, as is alleged, voluntarily transferred his allegiance to the United States; and also praying that Charles Underwood O'Connell, recently tried in Ireland for a connection with the Fenian Brotherhood, may be demanded of the Government of Great Britain to be surrendered to the Government of the United States, asked to be discharged from its further consideration; which was agreed to.

Mr. TRUMBULL. The same committee, to whom was referred the petition of citizens of Newbern, North Carolina, praying to be relieved from the payment of retrospective taxes claimed to be due under and by virtue of an ordinance of the convention of North Carolina ratified on the 18th of October, 1865, have instructed me to report it back and ask to be discharged from its further consideration, upon the ground that in the opinion of the committee no legislation can properly be had on the subject. If the parties have a remedy, they must find it in the courts and not in legislation by Congress.

The report was agreed to.

Mr. WILLIAMS, from the Committee on Claims, to whom was referred the memorial of George Warren, Daniel Hood, and C. R. Humphrey, praying for compensation for the

ship State of Maine, seized by the rebel authorities on the 24th of May, 1861, and burnt by them, submitted an adverse report; which was ordered to be printed.

Mr. NORTON, from the Committee on Claims, to whom was referred the petition of Kate Pettit, praying for relief for injuries alleged to have been received by her through the carelessness of the driver of a Government team, submitted an adverse report; which was ordered to be printed.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 102) to incorporate the National Mutual Protection Homestead Company, reported it with amendments.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 1) extending the right of suffrage in the District of Columbia, reported it without amendment.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred the bill (H. R. No. 218) for the relief of Charles Youly, reported it without amendment.

PAPERS WITHDRAWN.

On motion of Mr. JOHNSON, it was

Ordered, That Joseph O'Neal have leave to withdraw his petition and other papers from the files of the Senate.

REPRESENTATION OF SOUTHERN STATES.

The following message was received from the House of Representatives, by Mr. McPHERSON, its Clerk:

Mr. President, the House of Representatives have passed a concurrent resolution, in which I am directed to ask the concurrence of the Senate, declaring that no Senator or Representative shall be admitted into either branch of Congress from any of the eleven States which have been declared to be in insurrection until Congress shall have declared such State entitled to such representation.

INTER-CONTINENTAL TELEGRAPH.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred the House joint resolution No. 75, to encourage and facilitate telegraphic communication between the western and eastern continents, have had the same under consideration and directed me to report it back with certain slight amendments. It is important that the resolution should be acted upon promptly, and as the amendments are very slight, and the whole case can be easily explained, I ask the indulgence of the Senate to act upon it now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 75) to encourage and facilitate telegraphic communication between the western and eastern continents.

The preamble recites that, by an act entitled "An act to encourage and facilitate telegraphic communication between the eastern and western continents," approved July 1, 1864, the Secretary of the Navy was authorized to detail a vessel to assist in surveys and soundings, laying down submarine cable, transporting materials connected therewith, and generally to afford such assistance as might be deemed best calculated to secure a successful promotion of the enterprise; and that the Emperor of Russia, for the purpose of coöperating with the Government of the United States, under the act aforesaid, has ordered a steam corvette, the *Variay*, of two thousand one hundred and fifty-six tons burden, seventeen guns, three hundred and six men, to assist in the achievement of the telegraph, and has placed that steamer subject to the orders of the telegraph company; and that the company intend, during the ensuing summer, to lay the submarine cable required at Behring's strait, the cable and the material for the entire line being now in transit, and the vessels of the company, seven in number, being ready at San Francisco and Vancouver for the expedition, and require immediate coöperation on the part of the United States, in conformity with the act. The resolution,

therefore, proposes to authorize and require the Secretary of the Navy to detail one steam vessel from the squadron of the Pacific station, or elsewhere, to assist in making surveys and soundings in that part of the Pacific coast, both of America and Asia, where it is proposed to establish the telegraph, in laying the submerged cable, in transporting materials connected therewith, and generally to afford such assistance as may be best calculated to secure the success of the enterprise, and to carry out the purposes of the act approved July 1, 1864, entitled "An act to encourage and facilitate telegraphic communication between the eastern and western continents."

The first amendment was to strike out in lines eight and nine of the resolution the words "in transporting materials connected therewith."

The amendment was agreed to.

The next amendment was at the end of the joint resolution to add:

So far as the same can be afforded without dismantling her, or destroying her, or impairing her efficiency as a vessel of war.

The amendment was agreed to.

Mr. SHERMAN. I should like to inquire of the Senator from Massachusetts what reason is given by the Secretary of the Navy for not having furnished a vessel before under the original law. This simply makes imperative what was formerly discretionary, as I understand.

Mr. SUMNER. The Senator understands that when that act was passed we were engaged in suppressing the rebellion; our ships were employed in a very extensive blockade, and the Secretary of the Navy had not, as I understand, a proper vessel which he was disposed to send off on this distant service. There was a hitch of some kind there; and the object of this resolution is to get over that and to assure the participation of the United States in this very important enterprise. Already, I understand, ships are assembled at San Francisco in order to embark in the laying down of the cable. Russian ships are there, and there are also American ships ready to participate. It is desirable that the flag of the United States should be in this work side by side with the flag of Russia. However, I will not say anything more about it.

Mr. FESSENDEN. There was a vessel furnished by the Treasury Department at the time. The Navy Department had no vessel, to be sure, that it could furnish, and an application was made for the use of one of the revenue boats, and an arrangement was made between the Treasury and Navy Departments by which a revenue boat was furnished for this purpose and put into the possession of the persons managing this expedition, and the Navy Department, on its part, performed some duties on the coast of California in relation to the revenue. Perhaps the Senator from California can tell more about it than I can. I know, however, having been Secretary of the Treasury at the time, that that arrangement was made and went into execution, and a vessel was furnished under the act, and has been in the service of this company for the purposes named in the original act, and used by them. Now, this resolution must be something further than merely to make up a defect that occurred at that time, and I should like to be furnished with information on that subject before acting upon a resolution of this description.

Mr. CONNESS. The honorable Senator from Maine is right in saying that some service was performed in behalf of this company by the Government under the arrangement to which he refers, but it was of rather a temporary or preliminary character.

It will be remembered that a discretion was given by the original law passed in 1864 to the Secretary of the Navy to furnish a ship, but, as stated by the honorable Senator from Massachusetts, our national ships were then fully engaged, and the Pacific squadron at that time was so reduced that no vessel of any considerable proportions could be spared. The brig *Fauntleroy*, an old vessel connected with the coast survey, was at first set apart by the

Navy Department for that service; but considering the latitude in which the services were required to be performed, and the condition of that vessel, it was concluded that she was entirely unfitted to perform any service whatever.

Then the Navy Department and the Treasury Department made an arrangement by which the small revenue cutter *Shubrick* was transferred to this company for the purpose of a preliminary survey of a part of the route; and in the mean time naval ships in the port of San Francisco were transferred temporarily to the revenue department of the Treasury for revenue service. But the *Shubrick* is a steam revenue cutter of the smallest class; the service that she performed was of a very temporary and preliminary character, as I have said. It is now asked by this company, and I think with great propriety, that a national vessel shall be furnished, in accordance with the discretion originally conferred upon the Navy Department. I will say here, for the information of the Senator from Ohio, that the Secretary of the Navy did not feel that the law was sufficiently mandatory upon him to order one of the leading ships of the Pacific squadron into this service; and he seeks that this authority shall be given and made mandatory upon him, so that he will, in doing it, be performing his duty under provisions of law rather than doing an act discretionary with him which involves the Government in some expenditure of public moneys. He is not averse, and the Navy Department never have been, to facilitating the purposes of this company, but, on the contrary, are in favor of doing it, and wish the authority of Congress to engage in the performance of this service.

Then the statement made by the honorable Senator from Maine is correct, as I have stated, in detail; and it is now further necessary that a ship of the Government shall be placed along side of a vessel-of-war furnished by the Russian Government, as stated by the Senator from Massachusetts, to engage in the completion of the surveys. The company have so advanced and progressed with all their movements as to make this the opportune time for seeking this additional aid from the Government; and under the restriction proposed in the joint resolution, I think it should be given, and hope that the resolution will pass as amended.

Mr. FESSENDEN. My recollection of the original act—I may be wrong about it, but I should like to have it read—is that a vessel was to be furnished for taking out certain materials to be used by this company. That was all the duty which was imposed upon the Navy Department to furnish a vessel for the purpose of doing certain things. They had no vessel; and then, by this arrangement, a vessel was furnished by the Treasury Department to do all that the original act provided should be done by the Navy Department. I understood that the vessel was sufficient and satisfactory to the company. If that be so, this resolution proposes something more. I think it would be well for the Senate to hear the original act read, and then see whether this does not go further. I do not say that I have any objection to this, but I really think that instead of being a joint resolution to carry out the original act, it is a joint resolution to do something more than was intended to be done by the Government under the terms of the original law. If the Senator from California has the original law with him I should like to have it read that we may see what it is.

Mr. ANTHONY. Is there any appropriation in this resolution?

Mr. CONNESS. There is not.

Mr. FESSENDEN. It takes money from the Navy Department, of course, for the vessel.

Mr. ANTHONY. The last bill authorized but did not instruct the Secretary of the Navy to furnish a vessel, but it provided no money. He found that it would cost some two or three hundred thousand dollars. He did not wish to incur that expense and have it charged to the general cost of the Navy without the direct approval of Congress.

Mr. SUMNER. I have here the act of 1864. It is entitled "An act to encourage and facilitate telegraphic communication between the eastern and western continents," in five sections. The first section is, that Perry McDonough Collins and his associates and assignees may construct lines of telegraph through the Territories of the United States to the boundaries of British America, &c. The second section is as follows:

"And be it further enacted, That in order to encourage and aid the construction of said line of telegraph beyond the limits of the United States, the Secretary of the Navy is authorized to detail for the use of the surveys and soundings, along that portion of the Pacific coast, both of America and Asia, where it is proposed to establish said telegraph, one steam or sailing vessel, in his discretion, to assist in surveys and soundings, laying down submerged cable, and in transporting materials connected therewith, and generally afford such assistance as may be deemed best calculated to secure a successful promotion of the enterprise."

This act bears date July 1, 1864. I understand that in point of fact the Russian Government have sent one of their own vessels in order to meet the vessel assigned under this act and cooperate with it.

Mr. CONNESS. With the permission of the Senator, I will state that I hold in my hand a copy of the official letter of the Russian Minister of Marine giving the Russian vessel, and I send it to the desk to be read if there be no objection.

Mr. SUMNER. Before that is read, let me finish what I was going to say. I understand that the Russian Government, becoming aware of this statute, have sent a ship to cooperate in this great work, but on arriving at San Francisco there is no American ship to cooperate with them; they are alone, though they have come into this enterprise on the invitation of this act of Congress. Now, the resolution before the Senate is to require the Secretary of the Navy to send one of our national ships there to meet this Russian ship, which is already at its post of duty, where it has gone, as the Russian Government supposed, in pursuance of this act of Congress. It seems to me that in a certain sense—I do not like to use too strong an expression, but I was going to say the faith of our Government or its honor is pledged to see that we have a national ship to meet the Russian ship which has come there practically on our invitation.

Mr. CONNESS. Now let the letter be read. The Secretary reads, as follows:

St. Petersburg, November 27, 1865.

To Major P. McD. COLLINS:

MY DEAR SIR: The request of the American Union Telegraph Company, soliciting as a new grant the cooperation of one of the vessels of the imperial navy in the surveys to be done along the Russian territories, addressed to his imperial Highness the Grand Duke Constantine, was forwarded for my approval, and desiring to assist your company by all the means in my power, I gave my immediate consent.

I have now the pleasure to inform you that his imperial Majesty the Emperor, has been graciously pleased to give the order appointing one of the ships now on the Pacific station, the screw corvette *Variag*, to assist your company in the works for the construction of the telegraph line that is to unite America with Europe.

This particular favor is a new proof of the interest the imperial Government takes in the construction of this important telegraph line, and of the desire to facilitate as much as possible this great undertaking, in order to assist in carrying it to a speedy conclusion.

Wishing very naturally to know as much as possible about the proceedings of the works, I profit of this occasion to repeat my request of sending me all the details and intelligence concerning this interesting subject.

Believe me, yours truly, I. TOLSTOY.

MINISTER OF IMPERIAL POSTS AND TELEGRAPHS.

The screw corvette *Variag* is two thousand one hundred and fifty-five tons burden, three hundred-and-sixty-horse-power engines, seven-teen guns, and three hundred and six men.

Mr. GRIMES. I think there is no very valid objection to this resolution as amended by the Committee on Foreign Relations and reported by them to the Senate. If it shall be enacted into a law, Congress will substantially agree to do on the part of the United States what the Russian Government has agreed to do. It will be observed by the letter which has just been read, that the telegraph company applied to the Russian Government for a vessel-of-war to as-

ist in the surveys along the coast of Russia. As amended by the Committee on Foreign Relations, the vessel-of-war that will be detailed for this specific purpose will be authorized to make soundings and surveys between the Russian coast and the American coast, and to render any other assistance that it may be compatible for a vessel-of-war to render, provided such assistance shall not require her to be dismantled or her efficiency as a vessel-of-war to be destroyed or impaired. It is very proper, I think, that this Government, even if this telegraph company was not in question, should make surveys of that coast and of Behring's straits, and of the sea where it is said this telegraph cable was to be laid. I understand we have one hundred and sixty vessels that annually pass through Behring's straits; and I had intended during this session to introduce a bill providing for the Government taking up the surveys that were commenced some years ago by Commodore Ringgold and Commodore Rodgers, and carrying them forward. This resolution, if it passes, will be rather in anticipation of that which I think the Government ought to do. As it has been amended, I think there can be no particular objection to the resolution.

In regard to the bill which was passed two years ago, I will say that the great objection, and an objection which at the time I knew must be raised to it, was that there was no appropriation accompanying it. It authorized a vessel-of-war to be dispatched for a specific purpose without any appropriation accompanying the grant of that authority, and therefore there was no power in the Secretary of the Navy to carry it into execution; and that I suppose was one of the reasons why the Secretary of the Navy entered into an agreement with the Secretary of the Treasury by which a Treasury vessel was dispatched in that direction and a naval vessel performed Treasury duties on the coast of California.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed and the joint resolution to be read the third time. The resolution was read the third time, and passed.

A subsequent message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the amendments of the Senate; and also that the Speaker of the House of Representatives had signed the enrolled joint resolution (H. R. No. 75) to encourage and facilitate telegraphic communication between the western and eastern continents; and it was signed by the President *pro tempore*.

HOUSE BILL REFERRED.

The bill (H. R. No. 321) to amend an act entitled "An act to prevent the spread of foreign diseases among the cattle of the United States," approved December 18, 1865, was read twice by its title, and referred to the Committee on Agriculture.

NOTICE OF A BILL.

Mr. LANE, of Kansas, gave notice of his intention to ask leave to introduce a bill continuing in force until repealed by Congress the present Freedmen's Bureau bill.

BILLS INTRODUCED.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 159) to amend an act entitled "An act to incorporate the Guardian Society and provide for reforming juvenile offenders in the District of Columbia," and for other purposes; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 34) expressive of the gratitude of the nation to the officers, soldiers, and seamen of the United States; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

PRESIDENCY OF MEXICAN REPUBLIC.

Mr. McDUGALL submitted the following resolution, and asked for its present consideration:

Resolved, That the President of the United States be requested to communicate to the Senate, if in his judgment not inconsistent with the public interest, any correspondence or other information in possession of the Government with regard to the term of office of President Benito Juarez, of the republic of Mexico, and as to the period when, under the constitution, a popular election in that country should take place, and of any vote of confidence and extraordinary power given to him by the Congress of Mexico.

Mr. WILSON. I object.

The PRESIDENT *pro tempore*. Objection being made, the resolution lies over under the rule.

ADJOURNMENT TO FRIDAY.

Mr. WADE. I understand that to-morrow an oration is to be delivered by the Senator from Maryland, [Mr. GRESWELL,] on the lamented death of our friend, that noble patriot, Henry Winter Davis; and as I presume that many of the Senators would like to attend it, I move that when the Senate adjourns to-day, it adjourn to meet on Friday next.

The motion was agreed to.

REPRESENTATION OF SOUTHERN STATES.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the special order.

Mr. FESSENDEN. I move that the consideration of the special order be postponed. My object in doing so is that we may take up and proceed with the consideration of the concurrent resolution which has come to us from the House of Representatives this morning.

Mr. BUCKALEW. Is it not necessary under the rules that that resolution should be referred to a committee?

The PRESIDENT *pro tempore*. The motion of the Senator from Maine is that the special order, which is House joint resolution No. 51, and all prior orders be postponed, and that the Senate proceed to the consideration of the resolution just received from the House of Representatives. That motion is in order.

Mr. BUCKALEW. I desire to inquire of the Chair whether the resolution from the House of Representatives does not, under the rules, require a reference to a committee.

The PRESIDENT *pro tempore*. It does not require a reference. It is competent for the Senate to act upon it without a reference, if they shall so determine.

Mr. BUCKALEW. I call for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. DOOLITTLE. I desire to state, what may have escaped the recollection of my friend from Maine, that the Senator from Pennsylvania is entitled to the floor on the joint resolution which is the special order, and expected to address the Senate, and therefore I think it would be better to allow him now to address the Senate on that subject.

Mr. FESSENDEN. He will retain the floor whenever its consideration is resumed.

Mr. BUCKALEW. I wish to say that I do not ask that the special order be proceeded with at this time on my account. I hope members will not vote on the question with reference to any idea of that description. I called for the yeas and nays simply because I was opposed to proceeding with the consideration of the House resolution. As to the other question of my having the floor upon a prior measure, I am quite indifferent whether gentlemen vote with reference to that fact or not.

Mr. FESSENDEN. The Senator will retain the floor and will be entitled to it whenever that matter comes up again.

Mr. BUCKALEW. My speech has been coked up so long that I have lost to a great extent the interest which I felt in the matter.

Mr. SHERMAN. My vote on this motion will be controlled entirely by the wishes of the Senator from Pennsylvania. If having the floor he has made preparation to speak to-day, I would not deprive him of that right, although

I think it would be better to take up the House resolution and dispose of it. I suggest, therefore, that the Senator from Maine had better allow the Senator from Pennsylvania to make his speech, and then when that is over, his motion will be in order. I wish to know from the Senator from Pennsylvania definitely whether he desires to speak this morning or not.

Mr. FESSENDEN. The Senator from Pennsylvania, as I understand him, has already stated that it is a matter of indifference to him whether he speaks to-day or at another time.

Mr. SHERMAN. I should like him to state distinctly what his preference is.

Mr. BUCKALEW. I have said that I am entirely indifferent on that point.

Mr. DIXON. I rise to a question of order. I desire to inquire whether under the 26th rule this resolution must not lie on the table one day for consideration.

The PRESIDENT *pro tempore*. It is in order, in the opinion of the Chair, to proceed to the consideration of the resolution. It can, however, receive but one reading to-day unless by the common consent of the Senate.

Mr. SUMNER. Allow me to ask of the Chair whether a concurrent resolution need be read more than once.

The PRESIDENT *pro tempore*. The Chair is not yet advised what the character of the resolution is; he has not heard it.

Mr. COWAN. I suggest that the resolution be read. I do not know for my part what it is.

The PRESIDENT *pro tempore*. The resolution will be read if there be no objection.

The Secretary read the resolution, as follows:

Concurrent resolution concerning the insurrectionary States.

Be it resolved by the House of Representatives, (the Senate concurring.) That in order to close agitation upon a question which seems likely to disturb the action of the Government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven States which have been declared to be in insurrection, no Senator or Representative shall be admitted into either branch of Congress from any of said States until Congress shall have declared such State entitled to such representation.

Mr. COWAN. From the importance of that resolution I think it had better go over and be printed that we may have time to consider it.

The PRESIDENT *pro tempore*. The Chair will suggest that the resolution is not yet before the Senate. It has been read for information. The motion is that the Senate now proceed to its consideration.

Mr. COWAN. That is subject to debate, I presume.

The PRESIDENT *pro tempore*. It is so— not to debate the merits, however, of the resolution, but to state reasons why, or why not, the Senate should now proceed to its consideration.

Mr. COWAN. I am not so certain but that that is the most important resolution that has ever been offered in this body. I cannot conceive, myself, of anything of more moment than that we should decide upon the spur of the instant that eleven sovereign States of the Union shall be shut out from this body, without debate and without consideration. It may be that Senators have made up their minds to do this; it may be that it has been predetermined; but certainly I think no man who desires the continuance of this Union, no man who holds that this Union depends on the common consent of all its parts, and that it depends, further, upon a yielding by the remote parts of their particular desires and partialities to a certain extent in order to maintain that Union, can contemplate the proposition without apprehension.

Mr. President, after the struggles we have made for the Union, after the sacrifices we have made for it, after the dead have been buried, after the cost has been counted up, are we to determine here solemnly, as the Chicago convention determined, that the war was a failure and the Union cannot be restored?

I think that a question of such moment at least deserves the careful, cool, deliberate, calm, dispassionate consideration of this body. Senators will remember how many people have stakes in this resolution, how many people in

this country, how many people in all countries, what the hazard may be in suddenly coming to a determination of this kind. I appeal to my friend from Maine. I think he certainly would not desire a resolution of this kind to pass without at least that deliberation which becomes wise and prudent and careful men invested here with a high and solemn trust. I think no man will desire that this resolution be passed through this body suddenly, in haste, in heat, or without that careful consideration which the magnitude of the subject deserves; and I would therefore beg that it may go over for this time, and let us read it, think of it, consider it.

Mr. FESSENDEN. One would imagine, Mr. President, that the importance of this question, and attachment to the Union, and the proper consideration of all matters relating thereto, were exclusively confined to the breast of the honorable Senator from Pennsylvania, from the solemnity of his tone and the manner in which he addresses the Senate on that subject. One would naturally presume that the great majority of the Senate, composing, as it was supposed a day or two ago, something over two thirds of the body, had really a little attachment to the Union of the States, and a little power of considering what was best for the United States of America in the premises, and a reasonable degree of patriotism which should lead them to consider all these questions with care and with all that deliberation which belongs to them. Sir, we do not need the warning of the honorable Senator from Pennsylvania. I do not need it for myself, and I am not very much disposed to regard it.

The question which is submitted in the resolution that comes from the House is a very simple one. It is a question whether Congress has any power in relation to the great questions of reconstruction and the restoration of the Union to its former condition; whether it has any power except simply to judge whether a man who presents himself here with credentials from any portion of the country comes in due form, or whether the Congress of the United States, Senators elected by the States and Representatives elected by the people of the States, have or have not something to do with the organization of this Government in its former shape; whether they are anything more than mere tools and instruments to look at papers and decide whether they are in due form, or whether they have a right to bring their deliberate judgment to the consideration of the great questions before the American people.

Now, sir, all these questions should be considered deliberately, with conscientiousness, and with all the care that is necessary in order to understand them and to decide them well. I agree perfectly with the gentleman that all the time necessary for that purpose should be given. The rules of this body are such that all that time must necessarily be given. Every member of this body may speak *ad libitum*, in season and out of season, in breath and out of breath, in ideas or out of ideas, as we have sometimes witnessed speeches in this body to be. The rules allow all that. We cannot control the rules, and it has never happened in my day that a question of importance could pass or did pass from the consideration of the Senate until it had been thoroughly and ably and well discussed.

Now, sir, that was, if the honorable Senator will allow me to say so, all pretense. He has no fears of this resolution being passed without due consideration. The question is as to the time of bringing it before the body—the time we shall proceed to its consideration. That is all, and in my judgment—I speak only for myself, and the Senate will overrule me if it comes to a different conclusion—there is no time so proper as now to take up precisely that question, and ascertain before we go any further in the consideration of these great questions whether or not we have any power over the subject at all. We have done hardly anything from the beginning of this session but to debate this very question one way and another. Gentlemen of all shades of opinion have debated

it, some contending that the States that once called themselves the confederate States were not States in the Union; others contending that they were States for some purposes and not for others, and each one having his own notion. We have had acres of discussion, if I may be allowed to use that expression, though it is not very appropriate, upon those very questions, and it is hardly to be supposed that there is a gentleman here who has not his opinions upon them. I have mine; I have not taken occasion to express them; I may. If I should have strength enough to do it, I will.

But, sir, what I wish now, and what I insist upon, is that at the very earliest moment the Senate proceed to the consideration of this question, which lies at the foundation of all others. If we have the right to consider and discuss this question, if we have the right to do anything besides looking at credentials that come here to the Senate and to the House of Representatives and to see whether they are in due form, it is time that we should know it. If we have not that right it is time we should abandon all pretense of it and proceed to be the mere nobodies (when the great interests of this country are concerned) that we might be made, and that we shall be made unless we assert our own proper rights and our own proper dignity as the Congress of the nation, to look at these great questions arising at this time and pressing upon us as they are, as men who have something to do with the preservation of the character and the institutions of the country. That, sir, is the reason why I am unwilling to proceed with any other question until this is well considered.

I do not know what the rules of the Senate may be. If they require that the resolution shall go over for one day, let us take it up and then let it go over. But I wish to know of this Senate whether we are or are not to proceed at the earliest possible moment to settle this question that lies at the foundation of all others which we are now considering, and which are of so much importance to the country; and whether we are not to do it, and to ascertain what our powers are by our own decision, before we proceed to the consideration of others. When the proper time comes, I may have something to say upon the main subject.

Mr. DIXON. I renew the question of order which I raised, and I beg leave to read to the Chair and the Senate part of the 26th rule, which provides:

"And all other resolutions shall lie on the table one day for consideration, and also reports of committees."

Now, sir, I submit whether this resolution is not precisely in the condition of a resolution originally offered in this body, which cannot even be considered the first day on which it is offered without unanimous consent.

The PRESIDENT *pro tempore*. The Chair thinks it is so, but it is not yet offered. After the vote of the Senate, if the vote of the Senate shall be to proceed to its consideration, it will be precisely in the condition of a resolution offered in the Senate, and not till then.

Mr. COWAN. Mr. President, in any remarks that I made upon this question I hope that I was respectful. I hope, too, that I was earnest. I know no reason why I should not be; I know no reason, either, why the honorable Senator from Maine should be so exceedingly sharp about it. If he does not see fit to take my warnings, as he is pleased to call them, and if he does not see fit to care anything about me or what I say here, perhaps it would be decorous to conceal that in the Senate. I suppose that I have quite as much interest in the maintenance of the Union, and in the peace and prosperity of the country as the honorable Senator from Maine has. I do not know why I should be supposed to know as much about this question as he does, and to be as ready to take it up as he is. I have not the honor to be a member of the committee of fifteen who have charge of the condition of this Union, who carry about at their girdles the keys of the Union, at

whose nod sovereign States, as I said before, wait to be admitted into the Union. But, sir, I still have some interest. I represent a State and a people in the Union. Whether I do it well or ill, it is for that people to determine when the time comes. Whether I do it honestly and fairly, or whether I do it with sinister motives and sinister purposes, it is not for the Senator from Maine to decide, but it is for the people whose representative I am upon this floor.

I agree with him, and he agrees with me, that this is a great question, the overshadowing of all questions. What did I ask, sir? Anything improper? Anything out of the way? I asked that the question may be postponed until at least we have time and opportunity to see the resolution in print, to see the length and breadth of the proposition contained in it. I think there is nothing so extraordinary in all that as that I should be subject to the denunciation (for it amounts to denunciation) of the honorable Senator from Maine. Sir, I am not to be affected by those denunciations in the slightest degree; not to be moved to the right or to the left by a hair's breadth, come from what quarter they may. When I think a great question is presented here, one involving not only the interests of the people of my State, but the people of all the States, and I may say the people the world over, what I think about it and what I have to say about it I will say, no matter what the consequences may be.

Now, we have been considering another proposition from this same committee, day after day, which I understood was to be a fundamental proposition, which was to settle and determine all these questions, which was to avenge the dead, which was to console the living, and which was to restore the country again to that peace and prosperity which it enjoyed before. Shall we continue that discussion for a day or two longer, or must this new bantling that comes from this committee of fifteen be thrust in upon us suddenly and rushed through the Senate as it has been rushed through elsewhere? I hope not. I think it is not consistent with the dignity of this body. I think it is not consistent with the notions of this body entertained by the Senator from Maine that it should be pushed upon us in a hurried manner, or that it should be hurried through. I hope it will not be. I hope he himself will not insist upon it. If he means nothing more than that this resolution shall be taken up and that it shall then go over, certainly I have no disposition to resist that upon his part; but that is not the way I have understood it.

Mr. SAULSBURY. I rise to a point of order at this period of time. I am not much acquainted with the rules of order, but I believe that the subject-matter of this resolution should be placed in the form of a joint resolution, and not of a concurrent resolution, if there be a distinction between them, and under a provision of the Constitution—

"Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill."

Now, sir, although this resolution is in the form—"Resolved by the House of Representatives, the Senate concurring"—of a concurrent resolution, when the subject-matter of the resolution is inspected, when we hear it read, we see that it is such as can only be enacted either by a bill or joint resolution. I therefore raise an objection to its reception as a concurrent resolution, on the ground that the subject-matter of which it treats being the subject-matter of a joint resolution and not of a concurrent resolution, it cannot be received in this shape, and must be put in the form of a joint resolution.

The PRESIDENT *pro tempore*. The Chair has no difficulty in overruling the point of order. If, after the resolution is brought before the body, which it is not yet, by a vote of the Sen-

ate, it should, in their judgment, require any amendment, it will be competent in them to make such amendments as they deem proper. The Chair thinks the resolution, as coming from the House of Representatives, is to be received by the Senate; at all events, a motion to proceed to its consideration is in order; and until a vote of the Senate brings the resolution before it, the Chair certainly cannot rule it from the Senate on the ground that it is informal in its terms.

Mr. DOOLITTLE. With me the question of time, or when this resolution is to be taken up, is not material, and on that subject, as a matter of course, I have no objection to its coming up now or at any other time. But according to my recollection of the language of the resolution from its reading at the desk, there is a clause in it legislative in its character, binding not only upon this Congress, but binding upon any succeeding Congress, and of necessity the resolution must, if it passes at all, take the form of a joint resolution or of a law of Congress. We cannot by a concurrent resolution, in my judgment, undertake to carry out what is there declared. I do not rise to discuss the question now, for that would be going into the merits of the resolution and might be out of order.

Mr. SHERMAN. It is only proposed to take it up now, and then it will go over.

Mr. DOOLITTLE. If it is understood that as soon as it is taken up it will go over, I have nothing to say.

Mr. JOHNSON. I understood the proposition of the honorable Senator from Maine to be that we take the resolution up; but it is not his purpose to have a discussion on it now, and still less his purpose to ask for a decision upon it. My understanding of the rule—and I am glad that I am confirmed in its correctness by the Chair—is that it may be taken up now, but whether it can be considered when it is taken up until the expiration of a day, under the rule, is what I rose to suggest to the honorable member. The Chair, I understand, says that if the Senate agree to take it up and an objection should then be made to its immediate consideration it will go over until to-morrow.

The PRESIDENT *pro tempore*. The Chair is of the opinion that if the Senate should vote to proceed to the consideration of the resolution, it will then stand under the 26th rule, subject to the objection of any Senator to being considered to-day.

Mr. JOHNSON. So I understood; and I supposed that was the view of the honorable member from Maine.

Mr. FESSENDEN. My view is simply this: I am aware of the rule. I suppose the rule to be that any one objection can prevent its second reading to-day, if it requires a second reading. It is a concurrent resolution, and I suppose it might come within the terms of the rule. That I do not know. But unless I am prevented by the rules of the Senate, I shall ask the Senate to proceed with its consideration. If I am, I shall ask simply to have the earliest day assigned for the consideration of the resolution.

Mr. JOHNSON. As you are, in the opinion of the Chair, prevented by the rules of the Senate from considering it to-day, there is nothing to be discussed.

Mr. FESSENDEN. I cannot help that.

Mr. JOHNSON. So I understand. Now, as to the consideration of the resolution, either at this time or at any other time when it may suit the Senate to consider it, I have no possible objection. The resolution itself has come to my knowledge to-day for the first time, not owing to any fault on the part of the committee, of which I happen to be a member, but from the circumstance of my not having been in the city at the time when the committee were deliberating on the propriety of the resolution. It has, I confess, somewhat taken me by surprise; and as I may deem it necessary, after hearing the honorable member from Maine, or those who think such a resolution should be passed, to address the Senate upon the subject, I am sure the Senate would not hasten a vote

upon the question until we should all of us have an opportunity to form and to express, if we should deem it necessary, our opinion upon the subject. The Senator from Maine, I am sure, is the last man who would seek to arrest debate upon a question which he has correctly stated to be one of transcendent importance. Why it is important, how it is important, what may be its effect if adopted, or its effect if rejected, are matters about which I desire time for reflection, and I am satisfied that the Senator from Maine would not, even if he had the power, take from any Senator upon this floor the time which he might honestly and sincerely think necessary to enable him to discuss it understandingly.

Mr. BUCKALEW. I hope the vote will be taken on this subject without further debate. If the consideration of the constitutional amendment is to be proceeded with to-day, I do not desire to be pushed over into the latter portion of the session.

Mr. GRIMES. Let us take the vote on taking up this resolution, and then you can go on with your speech.

Mr. BUCKALEW. I hope there will be no further debate, and that we shall take up the resolution to amend the Constitution.

The PRESIDENT *pro tempore*. The Chair will put the question the moment debate ceases.

Mr. DAVIS. I understand that the resolution here offered is treated by the Chair under the rules, and in my judgment correctly, as a simple resolution offered to the Senate. We have that matter acted upon every day practically. The Chair announces, "Resolutions are now in order." A gentleman gets up and offers a resolution. Objection is made to it, and the objection throws it over, as a matter of course, under the 26th rule. Calling this a concurrent resolution gives it no other effect than it would have if offered simply as a resolution of the Senate. That language is adopted, I suppose, with a view to some result; it is not necessary to state it; but I think the Chair correctly suggests that this is a resolution offered in the Senate and is to be treated as a Senate resolution, and whenever it is offered to the Senate, an objection by any Senator throws over its consideration for a day.

Mr. TRUMBULL. It seems to me there is a wonderful sensitiveness on the part of some Senators here in advance objecting to something that is hereafter to arise. It will be time enough to determine what the resolution is when we get it before the Senate. It is a very extraordinary proceeding on the part of Senators to object when a resolution or bill comes from the House of Representatives to having it taken up. It is usually done as a matter of course. The Chair ordinarily—frequently in the midst of business—asks leave to lay before the Senate a resolution or bill from the House of Representatives. Who before ever saw Senators excited, one after another rising and wanting to know whether this can be put upon them, and what is the character of the resolution, whether it does not have to be read three times, and appealing to the Chair to know whether it is a concurrent or joint resolution, the Senator from Connecticut and the Senator from Kentucky equally alarmed and making common cause lest a resolution from the House of Representatives should be brought to the notice of the Senate? What would Senators have? Is it to lie here and never be considered? The proposition is to take it up, and that is all there is to it. It will be time enough to decide what it is when it is up. I think this is the first time I have ever known an objection of this kind interposed since I have been a member of the Senate. I cannot conceive what has so alarmed Senators. They certainly expect that the resolution will come up. It is entitled to come up. Usually a bill or resolution from the House of Representatives is presented to the Senate the day it is received from the House. I think the Senator from Connecticut will bear his testimony with mine that there has never been an instance since we have been members of this body where a resolution

of bill from the other House was not laid before the Senate either, by the Presiding Officer or somebody else, the very day it came in. If it is forgotten, the Presiding Officer usually before we adjourn, even after a motion to adjourn is made, will ask permission to lay the bill or resolution before the Senate. This is the first time I have known such scenting afar off of some danger in a resolution. I only make these remarks to show that there can certainly be no propriety in this objection to calling up the resolution. I have nothing to say about it when it is up.

Mr. DIXON. The Senate will remember that the honorable Senator from Maine stated to the Senate that his object was to have immediate action upon this resolution unless some rule of the Senate should prevent it. Now, the Senator from Illinois asks, what do we desire? What do we want? Why this eager anxiety to prevent immediate action upon the resolution? Sir, this is not the case of an ordinary bill or resolution from the House of Representatives, coming here to be considered and referred by general consent. It is a very different case from that. Here is a very important measure. Certainly Senators ought to have the privilege of reading it.

Mr. TRUMBULL. Before it is taken up?

Mr. DIXON. Before it is considered. What did I do? When the motion was under consideration to act upon it at once, and two or three speeches had been made, I barely called the attention of the Chair to the 26th rule, partly to prevent the consumption of time. And now the Senator says, why scent this danger in advance as if something very uncommon had been done? Why, sir, in my judgment, with deference to the Chair, whenever bills or resolutions come from the House of Representatives, and are acted upon at once by the Senate, it is by general consent. I of course am mistaken if the Chair differs from me, but by my reading of this rule the Senate cannot act on a resolution of any description in any manner on the first day on which it is presented. If the Senator from Illinois presents a resolution and asks immediate action upon it, what do we do in such a case? We read it for information. The Senate will not even allow it to be read except for information; and why? Because this rule provides that all resolutions shall lie on the table one day for consideration. I supposed that that rule applied to this resolution. Of course I am wrong if I differ from the Chair, but my only object was to have the rule of the Senate enforced.

Mr. HENDRICKS. I believe there is no question before the body except that this resolution shall be taken up and then laid aside.

Several SENATORS. That is all.

Mr. FESSENDEN. It will not be laid aside unless the rules require it.

Mr. HENDRICKS. This is a very interesting proceeding. We propose to take it up and then lay it down. Now, suppose we do it.

The PRESIDENT *pro tempore*. Is the Senate ready for the question?

Mr. FESSENDEN. The yeas and nays have been ordered.

Several SENATORS. Let the call be withdrawn.

Mr. BUCKALEW. I withdraw the call for the yeas and nays.

The PRESIDENT *pro tempore*. It can only be withdrawn by common consent, the yeas and nays having been ordered. The Chair hears no objection. The question is on proceeding to the consideration of the resolution named. The motion was agreed to.

The PRESIDENT *pro tempore*. The resolution is before the Senate.

Mr. DIXON. I now submit to the Chair that under the 26th rule, which provides that all other resolutions except those specified shall lie on the table for one day for consideration, this resolution cannot be acted upon without unanimous consent.

The PRESIDENT *pro tempore*. That is the opinion of the Chair.

Mr. CLARK. I hope the Senator from

Connecticut will not object to an order to print the resolution.

Mr. DIXON. I do not object to that.

Mr. CLARK. Let it be printed.

Mr. FESSENDEN. I do not understand whether the Senator from Connecticut objects to the consideration of the resolution or not.

Mr. DIXON. I do object.

Mr. FESSENDEN. Very well, then; if, under the ruling of the Chair, it must go over, I move that it be made the special order for Friday next at one o'clock.

The PRESIDENT *pro tempore*. The Chair thinks that a motion on the resolution cannot be entertained. An objection to it carries it over, and to fix a day for its consideration is considering the resolution.

Mr. FESSENDEN. Then I give notice that I shall call it up on Friday at one o'clock.

The PRESIDENT *pro tempore*. The resolution goes over under the rule.

PRESERVATION OF ORDER IN THE GALLERY.

Mr. SHERMAN. With the consent of the Senator from Pennsylvania, [Mr. BUCKALEW,] who I believe is entitled the floor, I desire to offer a resolution to promote the order of the Senate, to which I hope there will be no objection. If there is objection to it as a matter of course it will go over:

Resolved, That the Sergeant-at-Arms is hereby instructed to arrest, without further order, any person who by applause or dissent in the gallery shall disturb the order of the Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SHERMAN. I simply desire to say that I have noticed that the disturbance of the order of the Senate is generally started by one or two persons, and that we have put a great many orderly citizens to inconvenience by clearing the galleries. My own impression is that the messengers in charge of the different doors can very easily arrest any disturbance in the galleries by observing this resolution and arresting the first person who commits a violation of order and bringing him to the bar of the Senate.

Mr. GRIMES. You do not state in the resolution what he shall do with him.

Mr. SHERMAN. That must be subject to the order of the Senate.

Mr. GRIMES. Why not say so in the resolution, that the Sergeant-at-Arms shall hold the person arrested subject to the order of the Senate?

Mr. SHERMAN. If he arrests him, as a matter of course he will hold him subject to the orders of the Senate.

Mr. CLARK. You had better put it in the resolution.

Mr. SHERMAN. I have no objection to any amendment that will carry out the desired object.

Mr. GRIMES. I move to amend the resolution by adding the words, "and hold him subject to the order of the Senate."

The PRESIDENT *pro tempore*. The Chair understands that the Senator from Ohio assents to the amendment. The resolution is under his control, and that amendment will be made.

Mr. CLARK. I approve of the object of this resolution, but I think this whole matter ought to be under the control of the Presiding Officer, and that he should direct the Sergeant-at-Arms when to make the arrest. It is the duty of the Presiding Officer to preserve the order of the Senate, and if it is the sense of the Senate, as expressed in this resolution, that he should do it in this way, he would undoubtedly do it, and that would be the proper way of doing it.

Mr. SHERMAN. The Presiding Officer of the Senate is not always in the chair. Different Senators occupy the chair during the day, and it is not their business to attend to this matter. I think it had better be left to the Sergeant-at-Arms, who is charged with the duty of preserving the order of the Senate. He has messengers and agents scattered in different parts of the building, and they can promptly and readily, without awaiting the order of the Presiding Officer, arrest any person making a

disturbance. It will always be in the power of the Senate to control the whole matter.

Mr. CLARK. I suggest to the Senator from Ohio that the Sergeant-at-Arms is much more frequently absent than the Presiding Officer, and it will not do to leave the messengers at the doors to arrest anybody they choose. I should not like to do that. Let the Presiding Officer give instructions to do it when it is done.

Mr. SHERMAN. There is no danger of abuse under this resolution, because the person arrested would be at once brought to the bar of the Senate, and we would dispose of the matter promptly. No person's rights will be affected by it. The Sergeant-at-Arms acts through his deputies, and any person authorized to do so by the Sergeant-at-Arms would be authorized to make arrests. He would act, as a matter of course, through his doorkeepers and messengers. The person arrested would be brought to the bar of the Senate. I do not believe, myself, that there will be any necessity for making arrests. Citizens who come here to listen to our debates ought to be warned that if they violate the order of the Senate, especially after the repeated violations we have had here lately, they are liable to be arrested, and to be held subject to the order of the Senate. I submitted the resolution after I drew it up to several Senators, and they made no objection to it, and I hope, therefore, it will be adopted.

Mr. GRIMES. I concur with the Senator from Ohio that this authority ought to be vested in the Sergeant-at-Arms, who can place his various officers at the several doors. A recent major general, one of the bravest in our Army, was telling me about his being turned out of the gallery here one day this week, when there were only eight or ten who made any disturbance, some of whom cheered, and some hissed. He was listening very patiently to a speech that was being made. He referred the messenger to one man, and said to him, "There is a man that cheered, and there is another one that hissed, take them, and let me sit here; I have not disturbed anybody." In such cases as that, the Sergeant-at-Arms, or his deputies, ought to arrest those men and bring them before the Senate, and let the other persons who have been quiet, and come here for the purpose of listening to the debates, remain. The President of the Senate cannot specify these particular men who are thus disturbing the peace of the Senate, and before he can issue orders to the Sergeant-at-Arms to arrest them, they will have escaped, or passed from his observation. The resolution was adopted.

APPORTIONMENT OF REPRESENTATION.

Mr. BUCKALEW. I move that the Senate resume the consideration of the joint resolution proposing to amend the Constitution.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States.

Mr. SUMNER. With the indulgence of the Senator from Pennsylvania, I should like to say that there is important public business in executive session which ought to be acted on to-day. I shall not make the motion now, of course, while the Senator has the floor, but I give notice that I hope the Senate will allow me to move an executive session as soon as the Senator from Pennsylvania has finished his speech.

Mr. BUCKALEW. Mr. President, I shall not speak to-day as a party man, nor as a sectional man, but as an American, as a citizen of the United States anxious to maintain its unity, and to promote, so far as my humble efforts can do it, the welfare of our common country. I have looked forward during the weary months of the recent war to a time when a new class of subjects would arise for our consideration. The discussion of measures of force in the prosecution of the war and the discussion of the various questions connected with the subject of slavery did not provoke me upon any single occasion to address the Senate at length. Returning from a foreign country after the com-

mencement of the war, when it was in full progress, and when no human power could avert the storm which fell upon us, I found myself, as did most of the citizens of our country, absolutely controlled by the circumstances which surrounded us and which pressed us forward upon a course of conduct which we could not avoid. I thought then, and I think now, that there was but one thing to do. We were engaged in a contest which was, as it has been often described, a contest of life and death, and there was nothing to be done except to fight it out, to fight on, to promote or assist the collision of forces which were then arrayed against each other until some ultimate result should be reached.

As a member of the minority in this Chamber, I gave my vote for those measures of the majority which directly pointed to the use of the force of this Government to subjugate the insurrection which raised its head against us. I was opposed to the political policy of that majority, and have continued to entertain and evince that opposition down to this time in a respectful and proper manner. But upon the question of prosecuting the war to a conclusion, I never had any difficulty, I never had any hesitation. Upon an examination of my record—and humble as it may be, even it may by some persons at some time be examined—it will be found that from the time I assumed the seat to which my State had assigned me in this Chamber, my course was such as I have indicated, and was in exact accordance with the convictions that I held.

I thought that there was little to be attained by speech-making by a member, even from the great Commonwealth of Pennsylvania, upon political questions during the war. While the passions of the country were inflamed by the war, reason could not be heard. Logic is thrown away upon the passions. It can only be heard after they have subsided. But, sir, I looked forward to the days through which we are now passing, contemplating a condition of things entirely changed, the coming up of new questions, especially questions connected with economy, with revenue, with finance, with ordinary legislation, with the administration of justice wherever the jurisdiction of this Government extends—all those questions which require intelligence, which require investigation, which require labor, the habits of the student. I looked forward to that class of questions, intending to speak upon them on fit and proper occasions, and when, in my opinion, I might contribute something useful to the current of your debates.

But there was one thing which I did not anticipate. I did not anticipate that nearly one year after the termination of the war, one year after the great armies which were arrayed against us had submitted to our power and had capitulated to our forces in the field, nearly a year after open resistance to our authority had terminated, and when in point of fact there was no resistance to the Government of the United States in any portion of our country, we, in the Congress of the United States, should be discussing the question of whether the war had been a success or not, whether our country was, as formerly, entire and complete, a unit under the Constitution of the United States, no longer broken and severed into parts, but one homogeneous whole, united together by the fundamental law, the Constitution established by our fathers. I did not anticipate the necessity of debating subjects of this description, because I could not foresee either the passions or interests of party which precipitate upon us the questions out of which these debates arise. But, sir, these subjects are here, and they are to be met, and it is because with reference to some of these questions I have not heard my own ideas presented by others, that I now trespass upon the attention of the Senate and pray their attention for a brief time.

Among the other subjects which are brought before us by this celebrated committee of fifteen, which seems to have taken charge to a great extent of the affairs of the Government,

which seems to have assumed to itself the functions of Congress and the functions also of an advisory body to the Executive—among the other subjects thrown into Congress for the operation of the previous question in the House of Representatives and for the prompt lash of party discipline in the Senate, is the subject of representation in this Government, one that has undergone no consideration, or very slight consideration, from the year 1789, when the Constitution of the United States went into operation, to this day. We have talked about everything else, we have considered everything else except this great subject, because we supposed that representation in this Government had been established upon just and proper foundations by our fathers. We were content with their work. We took it for granted that they had made a proper arrangement in that portion of the Constitution which related to this subject. But the committee of fifteen have introduced to our attention a resolution proposing a limitation upon the representation of the States of this Union in the House of Representatives in all cases where the right of suffrage shall be abridged by such State as to any class of its inhabitants on account of race or color.

The resolution of the committee raises one of the questions which we are now to consider. That resolution had a swift passage through the House of Representatives, but here it has had a somewhat prolonged consideration, and it is well that it has been considered, because as the debate has progressed more and more of opposition to it has been manifested, and more and more plainly have appeared to the Senate and the people of the country who read our debates the imperfections of the plan of amendment proposed by that resolution.

Mr. President, I shall speak to-day upon the subject of representation of States in this Senate, and of the people of States in the House of Representatives; and the particular questions examined will be—

1. The senatorial representation of the eastern States;
2. The present admission of Senators and Representatives from the South;
3. The proposed amendment of the Constitution, limiting representation in the House of Representatives in future.

The provisions of the Constitution of the United States which will come under review in our present inquiry, are the three following; all to be found in the first article:

"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote."—Section 3, clause 1.

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."—Section 2, clause 1.

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons."—Same section, clause 3.

These provisions, regulating representation in the Government of the United States, have remained unchanged from the formation of the Constitution down to this day, or for more than seventy-five years. Shall they continue to stand, or shall they be changed? That question must now be met and answered, for the committee of fifteen has proposed, and the House of Representatives has passed, a resolution proposing a material change in one of these clauses; and other changes have been proposed in both Houses, and are now pending; and for the time being Congress declines or delays to execute these clauses of the Constitution so far as they relate to the representation of southern States.

I shall speak, in the first place, of the representation of the eastern States in the Senate; for although this subject has not been raised directly by any bill or resolution presented in either House, or been referred to in debate in either House, so far as I have observed, it is

intimately connected with the questions which have been raised, and which are undergoing public debate.

REPRESENTATION OF THE EAST IN THE SENATE.

The six States beyond the Hudson river, commonly called "New England," have twelve Senators on this floor by virtue of that clause of the Constitution relating to senatorial representation which I have read. Each State is to have two Senators—neither more nor less—without any regard to the number of inhabitants it may contain. And by the concluding clause of the fifth article of the Constitution, relating to amendments, it is provided that—

"No State, without its consent, shall be deprived of its equal suffrage in the Senate."

By referring to the census of 1860, the population of the eastern States is found to be as follows:

EASTERN STATES.	
Maine.....	628,279
New Hampshire.....	326,073
Massachusetts.....	1,231,066
Rhode Island.....	174,620
Connecticut.....	460,147
Vermont.....	315,098
Total.....	3,135,283

Six States with twelve Senators.

Dividing this total of population by the number twelve, will show the number of inhabitants to each Senator upon an equal apportionment according to numbers. The resulting ratio or number for a Senator will be found to be 261,273. In other words, there is one Senator to each 261,273 inhabitants. It requires a little over a quarter of a million persons in the East (the whole population there being considered in the computation) for one Senator in this body.

Having thus ascertained the ratio of apportionment for the East, let us ascertain what it will be for the other States represented in the Senate and which adhered to our Government during the war. Their population in 1860 was as follows:

CENTRAL AND WESTERN STATES.	
New York.....	3,880,735
New Jersey.....	672,035
Pennsylvania.....	2,906,215
Delaware.....	112,216
Maryland.....	687,049
West Virginia.....	349,698
Ohio.....	2,339,511
Michigan.....	749,113
Indiana.....	1,350,428
Illinois.....	1,711,951
Kentucky.....	1,155,684
Missouri.....	1,182,012
Wisconsin.....	775,881
Iowa.....	674,913
Minnesota.....	172,023
Kansas.....	107,206
California.....	379,994
Oregon.....	52,465
Total.....	19,259,129

Here are eighteen States with thirty-six Senators, and dividing their whole population by the number thirty-six will show a ratio for one Senator of 534,976. It requires, therefore, more than half a million inhabitants in those States for one vote in the Senate.

For the purpose of further comparison let us next turn to the States of the South, which are now unrepresented in Congress. Their population in 1860 was as follows:

SOUTHERN STATES.	
Virginia.....	1,246,620
North Carolina.....	992,622
South Carolina.....	703,708
Georgia.....	1,057,286
Florida.....	140,424
Alabama.....	804,201
Mississippi.....	791,305
Tennessee.....	1,109,801
Louisiana.....	708,002
Arkansas.....	435,450
Texas.....	604,215
Total.....	8,753,634

Here are eleven States with twenty-two Senators, and dividing their total population by twenty-two, there results a ratio or number to each Senator of 397,892. I have deducted from the population of Virginia the population of the forty-eight counties which were, under the name of West Virginia, admitted into the Union as a new State by the act of 31st of December, 1862.

The new State, with its proper number of inhabitants, appears in the table of the central States already given, inasmuch as it was represented in the last Congress.

Let us now consolidate these totals of population in the several divisions of the country, as just given, to obtain a common ratio of distribution:

Six eastern States.....	3,135,283
Eighteen central and western States.....	19,259,129
Eleven southern States.....	8,753,634
Total.....	31,148,046

Here are thirty-five States in all, with seventy Senators, and by dividing their total population by the number seventy, we obtain a common ratio for the whole country of 444,972.

We are now prepared for a comparison of eastern representation with that of other sections upon exact data. The Territories, not being represented, are excluded from the calculation, as is also the State of Nevada, which was not represented during the war.

But it is to be remembered that as the new States of the West increase much more rapidly in population than the old Atlantic States, the inequality between the East and the central and western sections is now greater than it was in 1860, when the census was taken.

But upon the figures as now stated, the case will sum up as follows:

RATIOS FOR A SENATOR.	
For the eastern States.....	261,273
For central and western States.....	534,976
For southern States.....	397,892
Common ratio.....	444,972

Deducting the ratio of New England from the common ratio for the whole Union will show a deficient population in the former, upon each Senator allowed her, of no less than 183,699; and multiplying this deficiency upon one Senator by twelve (the whole number of her Senators) will show a total deficiency to the enormous extent of 2,204,388, that is, she has representation in this Senate for nearly two and a quarter million persons who are actually located in the central and western States.

But, astonishing as these figures are, they do not exhibit the full extent of the inequality which now exists with the South unrepresented. The population of all the States is taken into account to produce the result just stated. But drawing the comparison between her and the central and western States, actually represented here, will show her deficiency in population greater than before by 258,936, or a total deficiency of 2,463,324. These two and a half million people exist. They are not a myth—not imaginary persons—but real, breathing men, women, and children in New York, Pennsylvania, Ohio, Indiana, Illinois, Kentucky, and Missouri. They are found along the Hudson and the Mohawk, by the Susquehanna, the Wabash, and the Ohio. And the men among them are a main support of this nation, bearing its industries forward and abiding by its laws. They turn the furrow in the field, or push the plane in the workshop, or smite the anvil in the smithy, or dig fuel from the bowels of the earth, or build great towns and smiling hamlets throughout the great States of the center and the West. Not one of them is found in the East, though men of the East vote for them in this Senate. Not a dollar of fishing bounties wrung from an impoverished Treasury ever reached them in its disbursement. They have been content to receive justice rather than favor from Government; their patriotism has been spontaneous, constant, and sure, without calculation of immediate advantage, and with no shrewd calculation of future profit or dominion.

When, therefore, the readjustment of representation in this Government is proposed; when Congress and the country are considering propositions of amendment and of change in the basis of political power, I insist that their views and interests shall be taken into account rather than those which exist in a section which has been, heretofore, favored at their expense if not to their injury.

But, before suggesting any change in the senatorial representation of the East, or show-

ing the connection which exists between the inequality already described and the question of southern representation in Congress, it will be instructive and useful to illustrate eastern influence in the Government (resulting from her senatorial representation) by some pertinent examples.

That influence is shown in the selection of Presiding Officers of the Senate. For four years from the 4th of March, 1861, an eastern Vice President occupied the chair at the opening of sessions and occasionally afterward, with the power of the casting vote. He was chosen by the people. But the officer who usually presides over our deliberations—the President *pro tempore*—is selected by the Senate itself, and, in selecting him, the power of the East is manifested. All our Presiding Officers recently have been from that quarter; in the Thirty-Seventh Congress the Senator from Vermont, [Mr. Foor;] in the Thirty-Eighth Congress the Senator from New Hampshire, [Mr. CLARK;] and in the present Congress, the Senator from Connecticut, [Mr. FOSTER.] In brief, the East has held the chair of the Senate during the whole war, and holds it now. Her grasp upon it has not been released for a moment, and still continues.

In caucuses or consultations of the majority, where very often the course of action in open session is determined; where the laws of party discipline are applied to crush out dissent and to overrule individual judgment, it is most evident that the twelve voices from the East must be very potential. But upon this point I must speak with some prudent reserve. The mysteries of the caucus-room are shut off from direct observation; and my curiosity is circumscribed by the limits of the possible. As I cannot know what occurs in those secret consultations I shall not speculate much upon them, and shall limit my remarks on this point to the general inference concerning eastern influence which naturally arises.

I pass to another point which is not obscure, the facts of which are open and known, or may be known, to all. I mean the constitution of committees, and particularly the selection of their chairmen. The Congressional Directory, just published, shows twenty-three standing committees of the Senate, and three joint ones established in connection with the House. Among them the following have eastern chairmen: Foreign Relations, Mr. Sumner, of Massachusetts; Finance, Mr. Fessenden, of Maine; Manufactures, Mr. Sprague, of Rhode Island; Military Affairs and Militia, Mr. Wilson, of Massachusetts; Post Offices and Post Roads, Mr. Dixon, of Connecticut; Claims, Mr. Clark, of New Hampshire; District of Columbia, Mr. Morrill, of Maine; Public Buildings and Grounds, Mr. Foot, of Vermont.

These are all standing committees. Of the three joint committees, that on Printing has for its chairman Mr. Anthony, of Rhode Island. The general result is, that while the population of the East is less than one seventh of the population of the States represented in the Senate, she has the chairmanships of one third of the committees, including the leading ones. The case was still stronger in the last Congress.

I observed, at one time, that of the twenty-eight joint, standing, and select committees then organized, fourteen, or one half the whole number, had New England chairmen. At the same time the great State of New York had none, and my own State a single one—that on Patents. Let us contemplate the figures which apply here for a moment:

Population of eastern States.....	3,135,283
Population of Pennsylvania.....	2,906,215
Population of New York.....	3,880,735

The East, with her three million, had the control of fourteen committees out of the twenty-eight, New York none, and Pennsylvania the Committee on Patents. Well, sir, New York has since been promoted in the senatorial scale. One of her Senators at the present session has been assigned to the head of the Committee on Private Land Claims. I am not sure that that committee ever meets, but it is displayed in

the list of committees in elegant type, doubtless very much to the satisfaction of the good people of the Empire State, who are thus honored through their representative.

As to the Committee on Patents, I look upon it with special affection. I have a faint recollection that some bill was reported from it at a former session; but my particular interest in it arises from the fact that it was assigned to my State as her particular post of honor during the war. Massachusetts took charge of Foreign Relations, Military Affairs, and Slavery and the Treatment of Freedmen. Post Offices and Post Roads and Public Buildings were in charge of Vermont; Connecticut attended to Pensions and matters in this District; New Hampshire had charge of the Navy and Claims; Maine looked after the Finances, while little Rhode Island burdened herself with the subject of Manufactures and the subject of Public Printing. Thus there was an engrossment by those States of the leadership of most of the committees which commanded effective power, patronage, and influence. But it is refreshing for a man from my own State to reflect that she was not altogether overlooked. Her modest claims received due recognition, and the position then assigned her she yet retains. Sir, whenever the Senator from Massachusetts, [Mr. WILSON,] chairman of the Committee on Military Affairs and the Militia, shall marshal the Senate committees in military array as a home guard, in defense of the Capitol, each with its appropriate organization, there, in the midst of that patriotic throng, will be seen the stalwart form of my colleague bearing aloft in proud defiance the banner of the Committee on Patents!

Mr. President, the chairmanship of a committee is a position of much influence and power. The several distinguished gentlemen holding that position have virtual control over the transaction of business, both in committee and in the Senate. Each one has also control of a committee-room, and the services of a competent clerk, not only for public business but for conducting private correspondence, and for the various other labors imposed upon a Senator by his station.

I will say here, in view of complaints made in the country, that I consider the employment as clerk of a son or other relative by a chairman as wholly unobjectionable. The relation of clerk and chairman is both confidential and intimate, and hence such clerkship is quite unlike any other office which may be filled by senatorial influence. A President of the United States may very properly employ his son as private secretary, and it has been the practice from the foundation of our Government for our ministers sent abroad, among whom have been the most distinguished and able men of the country, to take their sons with them as secretaries of legation.

The newspaper criticisms which have been directed against the employment of young gentlemen as clerks of committees who are related by ties of family or blood to chairmen are wholly misapplied. Nepotism, the appointment of relations to office, or the obtaining their appointment by the use of one's official influence, is justly odious, and should always be denounced as of evil example and corruptive tendency. But an appointment to private and confidential service or to duties which involve such service is not within the general objection, and is justified by the opinions and practice of the best of men.

Mr. President, the burden of correspondence and of other business, independent of ordinary legislative duties, thrown upon members from populous States is very great. Their time is consumed and their exertions expended upon various matters outside of public business transacted in the Senate. Their time for study and proper legislative labor is thus curtailed, and they are likely to be overtaken by the multifarious duties which press upon them.

Now, it is evident that in the last Congress, by the distribution of a dozen clerks or more among the twelve New England Senators, they obtained an amount of assistance which removed

from them a great part of the labor they would otherwise have borne, and enabled them to act with more efficiency and influence in their high office. But these advantages were not enjoyed by a large part of the members from other States to whom their allowance would have been more reasonable.

I know it may be said that many of the oldest members of the Senate, possessing fitness for chairmanships, are from the East. The same explanation was made in behalf of the South in former years when she was charged with engrossing too many positions of influence here. But the explanation is insufficient in the present case, as it was in the former, and besides it does not meet the main point of my argument, which is that the East is over-represented.

The over-representation of the East, and her consequent undue power in this Senate, must be taken into account by any one who would correctly understand past or present action in Congress and in the Government.

In the Thirty-Eighth Congress the Senate consisted of forty-nine members, including one from Virginia. By a resolution adopted by the Senate a quorum of the body for the transaction of business was declared to be a majority of the members from adhering States; in other words, a majority of members elected and admitted to seats.

Membership from insurgent States was wholly excluded from the computation. Twenty-five members, therefore, constituted a quorum for the transaction of business, and thirteen constituted a majority of that quorum. In other words, it was a possible case that a law should be enacted by the twelve eastern votes with a single vote added to them from all the rest of the Union. So nearly had the East approached complete control in this body!

Nevada has since been admitted into the Union, and is represented here by two Senators. A quorum under the resolution just mentioned is therefore at present twenty-six. If Colorado should be admitted as a State and her Senators to seats here, the quorum would be twenty-seven; but whether Colorado be admitted or not, the number of votes required to constitute a majority of the quorum under the existing resolution would be barely fourteen, requiring, to secure it, but two votes to be added to the vote of the East; and yet the whole population of the East is less than one seventh of the population of the States represented here!

It would require much more time than is at my command, and much more inclination for the task than I possess, to describe the effect upon the legislation of the country of the pre-dominance of the East. But I will mention two subjects which clearly illustrate it.

First, the fishing bounties, or donations of money from the Treasury of the United States to men along our northeastern coast, engaged in the fisheries of the ocean. This money is bestowed under pretense of encouraging the training and making of seamen; and the annual expenditure for the purpose amounts to three or four hundred thousand dollars. The whole amount heretofore expended exceeds twenty-five million dollars. This is the most questionable of all our appropriations of public money, and it would long since have been stopped—the laws authorizing it swept from the statute-book—if the disbursement were made in any other section of the country except the East. The enormous political power of that section has maintained these bounties in existence, and was found sufficient to maintain them even during the severest financial pressure of the war.

Take, next, the third section of the supplementary conscription act of July 4, 1864, by which the agents of States were authorized to go into the southern country and procure enlistments of men, white or black, to fill their quotas under the conscription laws. It was material to the East to retain her laborers at home to maintain her industrial interests and general prosperity, notwithstanding the war. Accompanying this measure was another for

the payment of liberal bounties by the United States, to meet the outlays of which the celebrated special five per cent. income tax was imposed. I need not recite the proceedings upon these measures—the debates and votes connected with their passage. The East triumphed throughout. Voted down or repulsed upon more than one occasion, she rallied her strength, and by persistence secured her objects.

We were coolly informed upon one occasion that if we did not assent to one of these propositions, the Massachusetts members in the House had determined to defeat, and would defeat, the whole of an important public bill in which it was contained. Of course, the point was conceded, and perfect harmony reigned over the concluding hours of a great session.

Very active and energetic efforts in obtaining recruits in other States of the North, negro recruits in the South, and foreign emigrants, enabled the East to fill her quotas without exhausting her laboring population at home, in consequence of which, in connection with the expansion of the currency secured by her votes, the dividends of her manufacturing companies became splendid, and her profits in furnishing Government supplies immense.

Her recruitment of southern negroes to fill her quotas was checked the following year by the repeal of the section authorizing it, upon a motion submitted by me.

There was a prolonged contest over the question of repeal, but for once there was a sufficient force rallied to overcome the eastern interest. One fact shown in the debate may be again mentioned. No sooner had the news been flashed North by telegraph that General Sherman had captured Savannah, than agents were dispatched by Governor Andrew, of Massachusetts, to enlist all the negroes that could be obtained at that point. Having done this, he applied to the Secretary of War for permission to his agents to go South and make the enlistments; and the computation of time was made with such exactness that it was believed the permission from the Secretary would reach Savannah precisely at the time when the negroes should be shipped North. Enterprise and smartness are fine things in times of war as well as in times of peace, and influence with Government opens a fine field for their exercise, as in the case in question.

It might be interesting to go on in this connection and examine the tariff acts and internal revenue laws which have been passed since 1860, and to show that in the particular arrangements made of duties and taxes the East received more than her due share of consideration and favor. But why multiply proofs that political power will always seek its own ends, and give such direction to Government as shall be, or be thought to be, favorable to its own interests? Look over the whole field of Government policy, whether political, sectional, or economical, and you will discover the marks of eastern power in every part. And by its alliance with, or rather mastership of, a great political party of the North, it is at this moment almost omnipotent in the Government.

Sir, the East controlled the Senate during the war, as she controls it now, and by virtue of that control she has dominated the House of Representatives and influenced powerfully and constantly the executive department. Her power here has been, in fact, a power over the whole Government, and when considered in its totality has been enormous and irresistible. Necessarily, the action of the House of Representatives has had reference to the action of the Senate whenever the concurrence of the latter in any measure was necessary. Besides, the House is frequently filled with new men, while the Senate, on account of the long duration of senatorial terms, and of frequent reelection of its members, is less subject to change. For this reason, and because of its participation with the President in the distribution of offices, and in the formation of treaties, the Senate must possess a larger measure of influence than the House, and must extend more

of influence to that body than it receives from it. For the same reasons, and for others equally obvious, the influence of the Senate over the executive branch of the Government (especially when the President is united by party bonds with a Senate majority) must be very considerable. In the case of Mr. Lincoln this influence was an important force in giving direction to executive policy and conduct. He complained sometimes of the "pressure" brought to bear upon him, but sooner or later he always submitted to it, and performed its behests. And unquestionably the same eastern power hopes ultimately to obtain from the present President an equal degree of acquiescence in its present and future demands. It is enthroned here; it grasps firmly the scepter of authority, and has no intention to abdicate its functions or surrender any portion of its power. Intrenched, as it believes, firmly and forever within the Constitution as to its senatorial representation, it is unwilling to weaken that representative power by the admission of members from the South. It resists the admission of members even from Colorado and Tennessee, and bases its opposition to increased representation upon grounds which must long continue to exist. And if representation must hereafter be conceded to southern States and to new States, she desires the concession to be made upon condition of negro suffrage. The protégés of her policy, the objects of her long continued agitation of the country, however unfit or unworthy of the elective franchise, are to be endowed with it as her political allies for the future.

Mr. President, it is in human nature that power once held or wielded should be surrendered unwillingly. The individual who has held high office very commonly retires from it with reluctance and under the pressure of some constitutional or popular power which he cannot resist. And thus, also, great sectional or social interests yield power unwillingly, and when compelled to do so bitterly regret the sacrifice. It required the stroke of war to loosen the grasp of the slaveholder upon his slave; he surrenders his power only when compelled by overwhelming force.

A manufacturing or agricultural population, protected by the most extravagant of tariffs or by the most oppressive of corn laws, will never willingly yield their power over markets and consumers. Political interests stronger than they must wrest from them the advantages which they possess if they are ever to be deprived of their enjoyment.

No one, therefore, need be surprised at the reluctance manifested by the East to surrender any portion of the power which she has held during the war, and now holds, in the Government. In this particular she but exhibits another illustration of that characteristic of human nature which I have mentioned, and which, outside the breasts of saints and heroes, is universal. Twenty-two Senators from the southern States and two from Colorado—being double the number of those from the East—would reduce the importance of the latter in the Senate and remit her back to the condition in which she stood in her relations to the Union before the war. True, she would even then possess much more than her proportion of weight in the Senate, regard being had to her population, but she would no longer dominate or control the Government of the United States. A balance of power in the Union, utterly broken by secession and war, would be restored, and existing interests in all sections of the country would be heard in Congress, and be regarded in the enactment of laws. And the effects of this change would be felt in the executive and judicial branches of the Government. The principles of the Constitution would waken to a new life. Justice and tolerance would return to the councils of the Government and to the hearts of the people. Public expenditures would be diminished, along with the pretended necessities which now create or excuse them. Trade would revive, production increase, and the public credit be established upon a sure foundation. More than

this, we would stand strong before the nations of the earth by being made thoroughly secure against their secret intrigues or open hostility.

Mr. President, I do not dislike or despise New England. I am content to acknowledge her merits, to deal justly by her people, and even to overlook in some degree what I conceive to be her errors of opinion and extravagancies of conduct. The man of the East is industrious, enterprising, and thrifty; his ingenuity is remarkable, and his achievements in the pursuits of private life and in public employment constitute a prominent part of the national history. He has reclaimed the forest and the prairie to the uses of man; has been active in educational improvement and in establishing a literature which, however defective, gives promise of future excellence. He has been a producer of wealth, and his activity has been a great element of national force and of national progress. And he has won distinction upon the ocean as well as upon the land, not only in naval conflicts in the late war, and still more in former wars, but also in the pursuits of peaceful commerce. He carries our flag over great seas, to distant islands, and to the uttermost parts of the earth. He drops the line as a patient fisherman off the Newfoundland banks, or follows, with poised spear, the walrus and the whale among the icebergs of the North. A hundred years ago the enterprise and thrift of the New England mariner was celebrated by Edmund Burke in language that will never die:

"No sea but what is vexed by their fisheries."

By the way, sir, that excellent word vexed—excellent in the connection in which it is used—I once thought was a scintillation of the fine genius of Burke himself. I thought so until I remembered that the great master before him had written about

"The vexed Bermoothes."

Sir, the passage is to be found in the Tempest.

Protesting, then, that I am not prompted by antipathy or jealousy toward the East, I proceed to mention the remedial measures which will remove the inequality complained of, or at least reduce it within tolerable bounds. The first remedy will be what has already been suggested, the admission of Senators into the Senate from the eleven States of the South; for by increasing the whole number of members in the Senate the existing inequality will sink in relative importance. Though it will not disappear, it will be less potent and pernicious than at present. The second and more effectual remedy will be an amendment of the Constitution readjusting senatorial representation upon a more just basis. Let it be provided that States containing less than one million inhabitants shall have one Senator; States containing more than one million and less than three millions, two Senators; and States containing more than three millions, three Senators. This arrangement will make representation in the Senate much more equal and satisfactory than it now is, and ought not to meet with objection in any quarter. It will make three classes of States, each class having representation somewhat in proportion to its relative importance in the Union, while the State basis for senatorial representation, one of the best features of our constitutional system, will be retained in complete integrity.

Premising that I shall recur to this point hereafter, I will now proceed to the second division of my subject, the question of

RECONSTRUCTION.

I use this term as including two points: first, the reorganization of southern State governments; and second, the admission of southern Senators and Representatives into Congress. This last point involves one of the remedies for eastern predominance in the Senate, already mentioned.

I was one of those who thought the provisional governments set up in the South under Mr. Lincoln's Administration were legitimate and proper. But I regarded them in a very different light from that in which they appeared